



## Journal of Advanced Research in Social and Behavioural Sciences

Journal homepage:  
<https://karyailham.com.my/index.php/jarsbs/index>  
ISSN: 2462-1951



### Nikah Express and Its Development in Malaysia

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#### ARTICLE INFO

##### Article history:

Received 28 February 2025

Received in revised form 15 March 2025

Accepted 4 March 2025

Available online 30 April 2025

##### Keywords:

Nikah express; polygamy; Sharia Law

#### ABSTRACT

Nikah Express is rising rapidly in Malaysia because of its faster and simpler method where no need to go through the lengthy legal and administrative procedures of Malaysian Sharia law. This practice is especially prevalent among individuals seeking polygamous marriages. However, it raises several concerns, as such marriage may not be officially recognized by Malaysian authorities, which can lead to problems related to inheritance rights, child custody, and spousal rights. The objective of this study is to understand the nature of Nikah Express, its challenges and development in Malaysia. This study uses a qualitative approach by analyzing documents, relevant literature and case studies to understand the development and consequences of Nikah Express. The results of this study indicate that there has been an increase in Nikah Express in Malaysia in recent years, although Nikah Express provides a faster marriage option, it's also often leads to complications, such as a lack of legal recognition in Malaysia, disputes over inheritance rights, and social stigma. The study concludes that, addressing these challenges requires stricter enforcement of marriage registration regulations and greater efforts to raise public awareness.

### 1. Introduction

Nikah Express is a fast marriage method that enables couples to get married without going through the frequently difficult legal and administrative processes instructions by Sharia law, especially in Malaysia. In nations like Thailand, where marriage rituals can be finished in a few hours, this accelerated procedure is typical [1]. People looking to avoid bureaucratic obstacles, particularly in polygamous situations where the husband wants to remarry without revealing the first wife, are the main reason for Nikah Express's appeal [2]. Although this method simplifies the marriage process, it violates the formal rules set down by Malaysia's Islamic Family Law, which presents serious ethical and legal issues [3].

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<https://doi.org/10.37934/jarsbs.39.1.5866>

In Malaysia, the practice of Nikah Express has grown in popularity [4], especially in the late 20th and early 21st centuries. Particularly among those looking for polygamous relationships, this trend indicates an increasing demand for quick weddings. The procedure has generated discussions on the validity and moral implications, even if it provides a faster option to Malaysia's drawn-out legal and religious procedures. Islamic clerics (imams) emphasize that fairness, openness, and consent principles that are sometimes disregarded in Nikah Express marriages must be the foundation of a marriage. Although these fast marriages are lawful in nations like Thailand, Malaysian law frequently requires the right paperwork and consent [5]. Because of this, individuals could have trouble getting legal recognition and being accepted by society, with families.

## **2. Definition of Nikah Express**

Nikah Express is a type of marriage that is conducted quickly and easily, bypassing lengthy procedures. This is often done to avoid strict bureaucracy in the couple's home country, particularly for those who wish to practice polygamy without informing their first partner. According to Rafiz, Nikah Express allows couples to marry without going through extensive formalities or confirmations [6].

Typically, this marriage can be finalized quickly and requires fewer documents compared to what is usually needed under Sharia law in the couple's country [3]. Many Malaysians choose to perform Nikah Express abroad, especially in Thailand, where marriage regulations are simpler and do not require the involvement of local authorities. This option is often preferred by couples looking to avoid complicated procedures related to marriage, particularly in cases of polygamy, where a man may wish to marry again without disclosing his first marriage [2].

This trend often arises when couples want to sidestep cultural differences, religious constraints or family pressures [6]. Although polygamy is legal in some countries like Thailand, it may not be recognized in the couple's home country, potentially leading to legal and social issues [2]. Overall, Nikah Express represents a way for couples to marry quickly and with fewer formalities, often conducted outside their home countries to avoid bureaucratic challenges.

## **3. Nikah Express Procedure**

The Nikah Express procedure allows couples to marry more easily than the strict requirements set by Malaysian law. This method is faster but goes against Malaysian Sharia law, which has specific rules, especially for polygamy. In Malaysia, marriages, especially polygamous ones, need permission from the Sharia court and the consent of the first wife to avoid unfairness [3].

In contrast, countries like Thailand have simpler processes, allowing marriage without checking the husband's financial status, which is required in Malaysia [6]. While Nikah Express makes it easier to marry multiple partners, these marriages still need to be registered with the Malaysian Sharia court to be recognized as legal.

## **4. Differences between Nikah Express and Traditional Nikah**

Nikah Express and traditional Nikah represent two distinct approaches to marriage, each with its own processes and requirements. Nikah Express is characterized by its speed and simplicity, often completed in less than a day and requiring minimal documentation, typically occurring abroad where marriage laws are more relaxed and local government involvement is not necessary [6]. In contrast, traditional Nikah involves a lengthy and complex procedure, particularly in Malaysia, where couples

must navigate several steps such as obtaining permission from the Shariah Court for polygamy, completing pre-marriage education, and securing confirmation from the Islamic committee. These requirements ensure that the marriage is recognized under Shariah law [3]. Ultimately, the main distinction lies in the efficiency of Nikah Express, which allows for quick marriages with fewer formalities, whereas traditional Nikah demands more time and effort to comply with religious and legal standards.

## **5. Polygamy in Islam**

According to Surah An-Nisa (4:3) in the Qur'an, a man can marry up to four women if he can treat each one fairly. This rule makes polygamy a responsible choice rather than something done without thought. The verse also shows that Islam values fairness and the well-being of women. If a man cannot be just to multiple wives, he is advised to marry just one [3].

Polygamy is allowed in Islam under certain conditions, but it is not encouraged. The Prophet Muhammad warned against favoritism, saying that those who do not treat their wives equally will face serious consequences in the afterlife. This approach highlights that polygamy should only happen when it serves a good purpose and when the husband can fulfill his duties. It reflects Islam's focus on justice, fairness, and protecting women's rights in marriage.

Before Islam, women had little control over their lives. They often lacked rights like inheritance or divorce and were treated like property [4]. Islam improved their status by giving them rights, property, and assurance of fair treatment in polygamous marriages [3]. However, polygamy has been controversial, as some believe it can lead to inequality in families and strengthen male dominance.

On the other side, Prophet Muhammad's teachings and actions help us understand polygamy in Islam. While polygamy is permitted under certain conditions, the Prophet stressed the importance of justice, fairness, and compassion in its practice. His marriages were based on social, ethical, and protective reasons, focusing on the well-being and dignity of women and children.

The Prophet had a total of eleven wives, but his marriages aimed to support widows, strengthen relationships, and enhance the Muslim community. His first wife, Khadijah bint Khuwaylid, was a successful trader, and their marriage was marked by deep love and respect. After Khadijah's passing, he married widows like Sawdah bint Zam'ah to offer them protection. His marriage to Aisha bint Abi Bakr helped form a social and political alliance, while his marriage to Hafsa bint Umar contributed to the preservation of Islamic knowledge [3].

Despite having multiple wives, the Prophet treated each with respect, kindness, and fairness. He ensured that each wife received equal attention, affection, and financial support, so no one felt neglected. He dedicated specific days to each wife, promoting a sense of equality and care in his relationships.

A Hadith narrated by Abdullah ibn Abbas (Sahih Muslim 1468) highlights the importance of justice: "Whoever has two wives and does not treat them justly will come on the Day of Judgement dragging one side of him." This emphasizes the challenge of maintaining fairness in polygamous marriages and shows the Prophet's commitment to justice.

To ensure equality among his wives, the Prophet sometimes used a casting of lots to decide which wife would accompany him. This practice, as recounted by Aisha, helped him avoid favoritism.

## **6. The Legal Process of Polygamy in Malaysia**

To ensure that polygamy is fair and not abused, Malaysia's Islamic Family Law (Federal Territories) Act of 1984 established stronger guidelines for the practice. A man who wishes to marry more than

one person must follow this law's requirements and obtain Shariah court approval before engaging in polygamy. Getting the first wife's consent is one of the primary prerequisites. An associated request must be filed by the husband, together with the reasons for the need for polygamy, the state of their finances, and their obligations and responsibilities [5].

A full copy of the application and the husband's approval will be delivered to the first wife by the Shariah court. A summons or notification letter notifying the first wife to appear in court will be attached to this document [5]. To determine whether the husband truly has the right to polygamy, the court requires an explanation from the first wife. This includes an assessment of the husband's social, emotional, and financial well-being to fairly take on several wives. Apart from that, the first wife's viewpoint is crucial to guarantee that polygamy won't violate their rights or lead to unfair treatment in their marriage.

This procedure aims to prevent oppression or injustice against the wife and children while also ensuring that polygamy is practiced equitably and following the specified conditions. Even though some individuals view this process as a burden, it serves to safeguard all parties, especially the first wife, and guarantee that polygamy won't be abused. This law aims to prevent unfairness in polygamy and provide a forum for the first wife's voice.

However, the procedure at Terengganu differs slightly from the other states in Malaysia [5]. In Terengganu, the polygamy procedure is considered lighter because it does not require for approval from the first wife. Despite that, polygamy still needs approval from the Shariah judge before proceeding with the polygamy. Based on Section 21 of the Administration of Islamic Family Law Enactment of Terengganu, a man is allowed to polygamy if he get the written approval from the Shariah judge. This means that polygamy only need to undergo court process just to get the result either the request has been approved or not. However, all the requirements that has been stated in the law still need to be obeyed and the judge will only make a fair decision based on the file received.

As stated in surah An-Nisa' verse 3, which permits polygamy only when it is founded on justice and fairness, it is evident that the Islamic Family Law (Federal Territories) Act 1984 and the Administration of Islamic Family Law Enactment of Terengganu are in accordance with the Quran and hadith.

## **7. Development History of Nikah Express**

The lengthy approval process from Malaysian Syariah courts and complex regulations prompted many to look for simpler solutions abroad, such as Thailand where marriage process often can be completed within hours [6]. This trend emerged in the late 20th and early 21st centuries, driven by a high demand for quick marriages, particularly for those seeking polygamous arrangements.

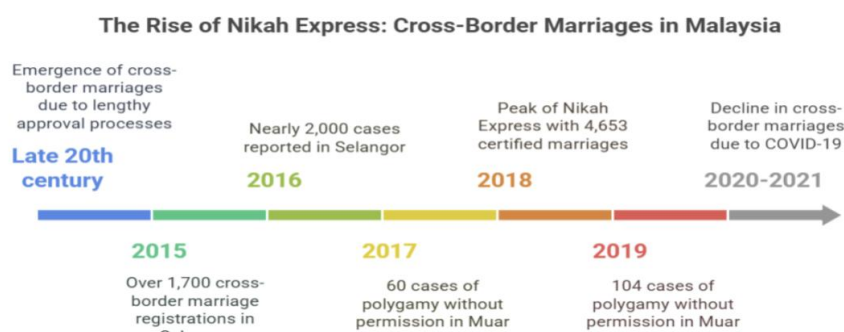
Recently, Nikah Express become a common issue in Malaysia, with varying definitions across different states. For instance, Selangor refers to such unions as "marriage against enactment," indicating marriages performed without regulatory approval from local religious authorities [6]. In 2015, Selangor reported over 1,700 cases of cross-border marriage registrations, which rose to nearly 2,000 in 2016, with many cases reported to the Consulate. Additionally, a study revealed that between 2015 and 2019, more than 5,877 marriage registration applications were filed, averaging around 1,175 cases per year, mostly involving neighbouring countries like Thailand. However, the COVID-19 pandemic in 2020 and 2021 caused a decline in these cases due to movement restrictions that closed religious offices and Sharia courts, hindering marriage registrations [1].

The total number of Nikah Express in Kota Bharu, Kelantan between 2009 and 2015 was 18,813 cases., with more than 15,500 of them being monogamous marriages, and the rest being polygamous marriages [6]. Although data for polygamous marriages is not available in 2009 and 2010, it is clear

that polygamous marriages have been on the rise since 2011, indicating that more and more couples are choosing to marry more than one person, even across borders. In addition, statistics from the Muar Syariah High Court [3] shows an increase in cases of polygamy without permission, with 57 cases in 2016, 60 cases in 2017, 63 cases in 2018, and a sharp spike to 104 cases in 2019.

On the other hand, the statistics Nikah Express certified by the Malaysian Consulate in Songkhla from 2011 to 2018, we can see that the number of these marriages continues to increase every year. The total number of marriages certified by the Malaysian Consulate was 30,951 cases during the period. In 2018, the number of certified marriages reached its peak with 4,653 cases, indicating that Nikah Express are increasingly popular and are becoming the choice of many Malaysian couples. Perhaps this is due to the easy access to neighbouring countries, or more couples choosing to get married abroad.

However, if we combine statistics from all 14 states in Malaysia, the number of cross-border marriages that occur is much higher than the figure recorded by the Malaysian Consulate. This difference occurs because not all marriages that take place in Thailand are reported to the Consulate, and some do not go through the registration process at the Malaysian Syariah Court, especially if the marriage ends in divorce before it can be registered. Although there has been a decrease in the registration of illegal marriages in recent years, public awareness is increasing on the importance of registering marriages and following the correct procedures. Figure 1, shows the Development of Nikah Express in Malaysia.



**Fig. 1.** Development of Nikah Express in Malaysia

## 8. Challenges in Nikah Express

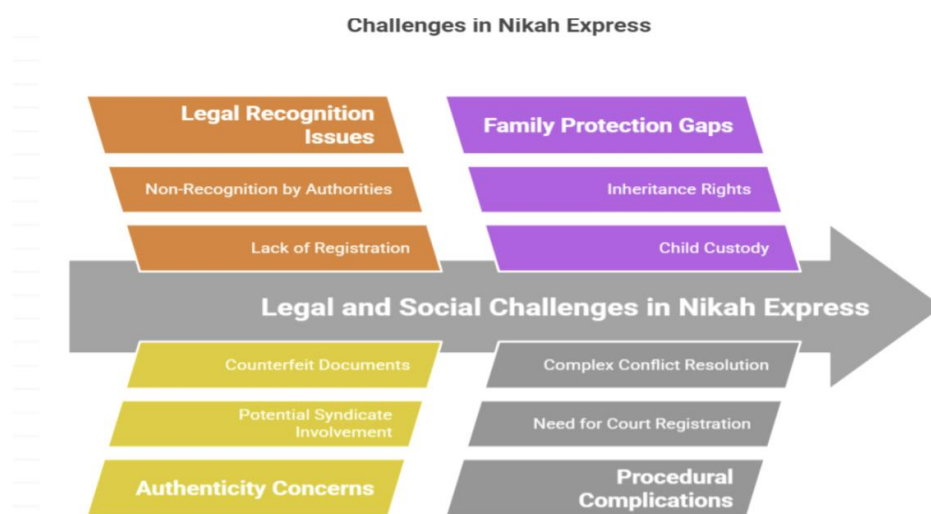
Although Nikah Express offers a quick alternative to traditional marriage procedures, it presents several challenges [7]. One of the major concerns is the lack of legal recognition in some countries, where the marriage might not be validated by the home country's authorities [8]. Unlike traditional nikah, which usually has a clear and established procedure for registration and authorization, Nikah Express may not meet the legal requirements, leading to complications [2]. For instance, although Nikah Express marriages may be performed with a valid certificate from a religious official abroad, they are not automatically recognized by all legal systems. Couples who choose to use Nikah Express will obtain a valid marriage certificate before a religious official in the place they remarry, however, for the marriage to be legally recognized in Malaysia, they will need to register the marriage with the Malaysian Syariah Court [2].

Additionally, there are concerns about the authenticity of some Nikah Express marriages, particularly in cases where syndicate marriages are involved [2]. The validity of the wali, which is the guardian conducting the marriage, may be questioned, as they may not be authorized by law, and no

proper documentation is provided. In some instances, the documents related to the marriage or the certificates issued may be counterfeit or falsified, raising further concerns about the legitimacy of the marriage.

Another significant issue with Nikah Express marriages is the absence of legal protection for the second wife or children. The second wife's and her children's rights could be impacted by improper registration, particularly about inheritance, child custody, and financial support [2]. When a marriage has problems, this can also cause problems because there might not be a clear legal structure to resolve conflicts or offer protection to the parties.

Therefore, Nikah Express may be convenient to the couples who want to avoid any strict regulations or procedures, but it raises a few challenges such as legal recognition issues, potential family conflicts, and concerns about the authenticity of the process. These factors highlight the complexities of choosing this alternative to traditional marriage. Figure 2, highlights the challenges in Nikah Express.



**Fig. 2.** Challenges in Nikah Express

## 9. Scholars' Views and Malaysia's Fatwa on Nikah Express

Nikah Express which are usually carried out in a hurry and often abroad such as Thailand, has sparked a variety of views among Islamic scholars. In general, scholars insist that marriage in Islam must be carried out following the basic principles of Sharia, including the consent of both parties, the presence of legal witnesses, and a guardian for the woman [10]. In this case, express marriages carried out without involving a formal process are considered to violate these principles.

Some scholars are more lenient and allow marriages carried out abroad, as long as they meet the requirements of Sharia and do not violate the rights or responsibilities of the first wife [12]. Priority is given to justice in polygamy, where the husband is obliged to be fair between his wives [13], and this is a major issue in express marriages [14]. Therefore, justice, accountability and openness in marriage are values that should be prioritized, including in situations of quick marriages and marriages abroad [15].

However, more conservative views consider that marriages carried out in a hurry, without the knowledge of the first wife or the involvement of religious authorities, are invalid and contrary to Islamic ethics. Such marriages are often associated with fraud [16], which is clearly against the

teachings of Islam which emphasizes honesty, transparency, and good communication between husband and wife.

Mohd Kori Jusoh, Director of the Syariah Coordination, Enforcement and Prosecution Division at the Malaysian Islamic Development Department (JAKIM) [2], stated that around 70% of cases of unauthorized marriages involving syndicated or express marriages that are not valid according to Islamic law are related to the problem of guardianship [17]. A hadith narrated Aisyah R.A where Rasul S.A.W said "Any woman who marries without the permission of her guardians, her marriage is invalid, three times. If he has consummated the marriage with her, then her dowry is due to her for what he has received from her. If there is a dispute, then the Sultan is the guardian for those who have no guardian"[18].

In the context of Islamic marriage, the role of a guardian is very important to ensure the validity of the marriage [8]. This shows how important the procedures and conditions set out in Islamic law are to ensure that the marriage is valid and following religious law. In Malaysia, the issue of Nikah Express has been discussed by the National Fatwa Council [9]. On 1 July 2002, a Fatwa on overseas marriages implemented in Thailand outlined several conditions to ensure that the marriage is valid according to Sharia law. According to the fatwa, overseas marriages are valid if they meet several basic conditions set by sharia, such as:

1. Consent of the Husband and Wife: Both parties must consent clearly and without coercion.
2. Presence of Guardian and Witnesses: The marriage must be performed in the presence of a guardian on behalf of the woman and two legal witnesses.
3. Payment of Mahr (Mas Kahwin): As in Islamic marriages, the payment of mahr is obligatory and must be done.
4. Travel Distance: Overseas marriages are considered valid if the distance between the place of marriage and the original residence is more than two stages of travel, or approximately 80 kilometers.
5. No Court Ban: No court decision prevents women from getting married in their home country.
6. Execution by a Legal Guardian: A legal guardian must perform the marriage in the country where the marriage is held.

This fatwa clarifies that marriages performed abroad, including in Thailand, are valid according to sharia as long as they meet the stipulated conditions. This confirms that foreign marriages are not necessarily null and void, as long as Sharia procedures and local regulations are followed.

Meanwhile, in the context of ethics, scholars emphasize that marriage is an institution that requires justice, responsibility, and openness. Therefore, when a marriage is performed hastily, without the involvement of religious authorities or without the knowledge of the first wife, it is considered contrary to the moral principles of Islam.

As stated by Sheikh Dr. Yusuf Al-Qaradawi [19], a polygamous husband must ensure justice between his wives [20]. In polygamy, justice is a very important requirement in Islam, and when a husband remarries without the knowledge of the first wife or without going through legal procedures, this is considered a violation of the principle of justice [21]. In addition, scholars have emphasized that marriages performed in secret, without the consent of the first wife or a legal process, risk causing injustice, deceit, and disharmony in the household [22].

Imam al-Ghazali in his work [23], *Mizan Al 'Amal*, emphasized that marriage in Islam must be carried out with love, based on mutual consent, and occur in a dignified manner. Secret or hasty marriages that do not go through legal procedures are considered to not meet these principles[24]. Therefore, marriages performed hastily, without or involvement of religious authorities, can be

considered an injustice that contradicts the teachings of Islam which emphasizes transparency and justice in the relationship between husband and wife.

Nikah Express without official registration or recognition can cause serious problems, such as inheritance rights, maintenance, and the status of children [11]. According to Shafi'i scholar Imam al-Nawawi, every Islamic marriage must adhere to the principles of accountability, fairness, and transparency, which protect each party's rights [25]. If the second marriage is not legally recognized by Malaysian authorities, this will cause problems in determining individual rights, especially in cases such as child custody or the division of inheritance. The Mufti of the Federal Territory of Malaysia also stated that although Nikah Express are religiously permissible, they can create complex legal difficulties if not performed according to the legal procedures in the country of origin. Even though, Nikah Express not forms of sexual deviant behaviour which includes: a. Men who like men (homosexuals), b. Women who like women (lesbians), c. Bisexual d. Lover of child sex (pedophilia erotica), e. Transgender f. Showing off vital organs (exhibitionism), g. Peeping tom (voyeurism), h. Incestuous sexual relations (incest), i. Violent sex (sadism), j. Attraction to inanimate objects/sexual objects (sexual fetishism), k. Lover of corpses (necrophilia), l. Have sex with more than one person at the same time, m. Satisfaction when seeing a partner having sex with someone else (triolism), n. Sex with animals (bestiality); and any sexual behaviour or activity that is religiously, culturally, socially, psychologically and/or medically declared as sexual deviant behaviour [26].

## 10. Conclusion

Nikah Express is gaining attention in Malaysia, especially among individuals involved in polygamy or those who want to avoid the long and complicated marriage process. While this method facilitates marriage in a faster way, it raises several major issues in terms of legal recognition and social impact. Nikah Express, which is commonly performed abroad, such as Thailand, often does not meet the requirements of Sharia law in Malaysia, especially regarding registration in the Sharia court.

This study shows that although Nikah Express may be religiously valid if it meets several important requirements such as the consent of both parties, the presence of a legal guardian and witness, and the payment of dowry, it still poses problems when it comes to legal recognition in Malaysia. Without valid registration in the Sharia court, this marriage can confuse matters of inheritance rights, child custody, and the rights of the spouses involved. On the other hand, this practice can affect family harmony, especially when the second marriage is conducted without the knowledge of the first wife. This risks creating injustice in polygamy and creating stigma in society. Therefore, it is important to raise awareness about the importance of registering marriages according to proper legal procedures and ensuring that every marriage is carried out with the principles of fairness and transparency.

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