

**MALAYSIAN MOSLEM SOCIETY RESPONSES ABOUT HUMAN
IMMUNODEFICIENCY VIRUS TEST AS A REQUIREMENT OF MARRIAGE
REGISTRATION IN THE HUMAN RIGHT PERSPECTIVE**

(Study In Hulu Langat Selangor Darul Ehsan Society)

Thesis

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2015

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In the name of Allah (SWT),

With consciousness and responsibility towards the development of science, the writer declares that the thesis entitled:

**MALAYSIAN MOSLEM SOCIETY RESPONSES ABOUT HUMAN
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(Study in Hulu Langat Selangor Darul Ehsan Society)

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MOTTO

وَنُنزِّلُ مِنَ الْقُرْآنِ مَا هُوَ شِفَاءٌ وَرَحْمَةٌ لِّلْمُؤْمِنِينَ ۗ وَلَا يَزِيدُ الظَّالِمِينَ إِلَّا
خَسَارًا. (سورة الإسراء: 82)

"And we send down of the Qur'an that which is a healing and a mercy to those who believe (in Islamic monotheism and act on it), and it increases the *Zalimun* (polytheists and wrongdoers) in nothing but loss"

(AL-ISRA': 82)

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Malang, 16th of April 2015
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TRANSLITERATION GUIDANCE

A. Consonant

Arab	Latin	Arab	Latin
ا	a	ط	Th
ب	B	ظ	Zh
ت	T	ع	'
ث	ts	غ	Gh
ج	J	ف	F
ح	H	ق	Q
خ	kh	ك	K
د	D	ل	L
ذ	dz	م	M
ر	R	ن	N
ز	Z	و	W
س	S	ه	H
ش	Sy	ء	'
ص	Sh	ي	Y
ض	Dl		

B. Vocal, long-pronounce and diphthong

Vocal *fathah* = A

Vocal *kasrah* = I

Vocal *dlommah* = U

Long-vocal (a) = A e.g. قال become Qala
 Long-vocal (i) = I e.g. قيل become Qila
 Long-vocal (u) = U e.g. دون become Duna

Diphthong (aw) =	و	e.g.	قول	become	Qawlun
Diphthong (ay) =	يـ	e.g.	خير	Become	Khayrun

C. Ta' marbûthah (ة)

Ta' marbûthah transliterated as “*t*” in the middle of word, but if *Ta' marbûthah* in the end of word, it transliterated as “*h*” e.g. السنة become *al-sunnah* and the word حقوق الانسانية الضرورية become *huquq al-insaniyah al-dharuriyyah*, or in the standing among two words that in the form of *mudlaf* and *mudlaf ilayh*, it transliterated as *t* and connected to the next word, e.g. فى رحمة الله become *fi rahmatillâh*.

D. Auxiliary Verb dan Lafdh al-Jalâlah

Auxiliary verb “*al*” (ال) written with lowercase form, except if it located in the first position, and “*al*” in lafadh jalâlah which located in the middle of two words or being or become *idhafah*, it remove from writing.

- Al-Imâm al-Bukhâriy said ...
- Wahmah al-Zuhailiy said....
- Al-Bukhâriy in muqaddimah of his book said ...

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ABSTRAK

ST. Sariroh, 11210037, 2015. *Respon Masyarakat Muslim Malaysia Tentang Tes Human Immunodeficiency Virus Sebagai Syarat Akad Nikah Perspektif Hak Asasi Manusia*. Skripsi. Jurusan Al-Ahwal Al-Syakhsiyah, Fakultas Syari'ah, Universitas Islam Negeri Maulana Malik Ibrahim Malang. Pembimbing: Jamilah M.A

Kata Kunci: Tes HIV, Hak Asasi Manusia.

Pemeriksaan kesehatan pra nikah tidak disebutkan secara eksplisit dalam al-Qur'an, al-Hadis or ulama fiqih. Namun pada saat ini, tes HIV diwajibkan oleh Jabatan Agama di Malaysia terhadap setiap pasangan yang akan menikah. Mereka tidak bisa register untuk menikah jika tidak mempunyai sertifikat tes HIV. Sedangkan, dalam fiqh Munakahat, test HIV tidak diwajibkan sebelum manikah. Namun, Dalam program pencegahan penularan HIV harus mempertimbangkan aspek hak asasi manusia. Karena, saat ini banyak orang yang hidup dengan HIV dikucilkan oleh masyarakat dan keluarganya.

Dari masalah ini peneliti mengajukan dua rumusan masalah: pertama, bagaimana respon masyarakat Hulu Langat Selangor terhadap kewajiban tes HIV sebagai syarat nikah dan respon masyarakat Hulu Langat Selangor tentang hak asasi manusia terhadap kewajiban test HIV. Tujuan utama kajian ini adalah untuk menjelaskan bagaimana respon masyarakat Selangor tentang hak asasi manusia terhadap kewajiban tes HIV sebagai syarat akad nikah.

Adapun metode yang digunakan dalam penelitian ini adalah penelitian empiris dengan menggunakan metode kualitatif dan menggunakan metode pendekatan kasus. Data primer dalam penelitian ini diperoleh langsung dari informan dengan menggunakan metode wawancara melalui e-mail. sedangkan analisis dalam penelitian ini dilakukan dengan cara mengklasifikasikan data yang didapat dari informan sesuai dengan masalah dalam penelitian ini. Sehingga bisa disimpulkan sesuai dengan tujuan penelitian ini.

Hasil dari penelitian ini terdapat dua temuan. Pertama, menjelaskan bahwa mayoritas masyarakat Hulu Langat Selangor setuju terhadap kewajiban tes HIV sebagai syarat akad nikah. Namun, mereka berbeda pendapat dalam menanggapi masalah itu. Mereka menganggap bahwa kewajiban tes HIV sebagai syarat akad nikah adalah untuk menjamin kesehatan pasangan, menjamin kesehatan keturunan, menjamin kesejahteraan teraan keluarga dan untuk mengurangi kasus perceraian dikalangan masyarakat. Kedua, tentang hak asasi manusia terhadap kewajiban tes HIV, mereka menganggap bahwa peraturan ini tidak menentang hak asasi manusia dan peraturan ini sesuai dengan syari'at islam, yaitu *maqashid syari'ah*, seperti untuk menjaga nasab dan menjaga jiwa.

ABSTRACT

ST. Sariroh, 11210037, 2015. *Malaysian Muslim Society Responses about Human Immunodeficiency Virus Test as a Requirement of Marriage Registration in the Human Rights Perspective (Study of Hulu Langat Selangor Darul Ehsan Society)*. Thesis. Al-Ahwal Al-Syakhsyah Department, Sharia Faculty, Maulana Malik Ibrahim State Islamic University of Malang. Supervisor: Jamilah M.A

Keywords: HIV Test, Human Rights.

HIV test before marriage is not explicitly mentioned in the Qur'an, Hadith or scholars of fiqh. However, at this time, HIV tests is required by State Religious Department of Malaysia for each couple who wants to marry. They cannot register to marry, if they do not have HIV test certificate. Whereas, in *fiqh Munakahat*, HIV test is not required before married. However, in HIV prevention programs must consider the aspect of human rights. Because, many people living with HIV ostracized by society and family.

From mentioned problem, the writer proposes two formulation of the problems: the first, what are Hulu Langat Selangor society responses about obligation of HIV test as a requirement of marriage?, and the second, what are their responses about Human rights on obligation of HIV test?. The main point of this study is to explain Hulu Langat Selangor society responses about human rights on obligation of HIV test as a requirement of marriage registration.

The method used in this research is empirical research by using qualitative method and by using case approach method. Primary data are collected directly from informants by using interview method through via e-mail. The analysis of data in this research by classifying data collected in line with the specific issue. So that, it can be concluded in line with the purpose of this research.

The results of this study reveals two findings. The first, most of Hulu Langat Selangor society agree to the obligation of HIV test as a requirement of marriage registration. However, they have different opinion about it. They assume that the obligation of HIV test is to ensure the health of spouse, the health of descendent, welfare of families and to reduce divorce cases. The second, about the human rights on obligation of HIV test before marriage, they assume that this regulation does not against human rights and it is in line with the Islamic Sharia, namely *Maqashid Syari'ah*, such as to preserve descendent and to preserve human life.

ملخص البحث

ستى سريرة، 11210037، 2015. ردود المجتمع ماليزيا عن اختبار فيروس نقص المناعة البشرية (*Human Immunodeficiency Virus*) كشرط عقد النكاح من نظرية حقوق الإنسان. بحث جامعي. شعبة الأحوال الشخصية، كلية الشريعة بجامعة مولانا مالك إبراهيم الإسلامية الحكومية بمالانج. المشرف: جميلة، الماجستير.

الكلمات الرئيسية: اختبار فيروس نقص المناعة البشرية (*HIV*)، حقوق الإنسان. الفحوص الصحية قبل الزوجية لا تذكر صراحة في القرآن أو الحديث أو الفقهاء. ولكن في الوقت الحاضر، رفض الموقف الديني في ماليزيا اختبار فيروس نقص المناعة البشرية (*HIV*) على من ستزوج ولا يؤذن الإذن لمن ستزوج دون شهادة اختبار فيروس نقص المناعة البشرية (*HIV*). وبالعكس، لايرفض في فقه المناكحة عنه قبل الزواج. بجانب ذلك، ينبغي أن يهتم بحقوق الإنسان في مجال الوقاية من انتقال اختبار فيروس نقص المناعة البشرية (*HIV*) لأن من أصابه فيروس نقص المناعة البشرية (*HIV*)، فمعيشته مكروه عند أسرته ومجتمعه.

من هذا، وجدت الباحثة مشكلتين: أولاً، كيف ردود المجتمع هولو لانجات سيلانغور بالتزامات اختبار فيروس نقص المناعة البشرية (*HIV*) كشرط عقد النكاح؟ ثانياً، كيف ردود المجتمع هولو لانجات سيلانغور بالتزامات اختبار فيروس نقص المناعة البشرية (*HIV*) كشرط عقد النكاح من نظرية حقوق الإنسان؟ الأهداف الرئيسي من هذا البحث لشرح كيف ردود المجتمع بالتزامات اختبار فيروس نقص المناعة البشرية (*HIV*) كشرط عقد النكاح من نظرية حقوق الإنسان.

استخدم هذا البحث البحوث التجريبية بالأسلوب النوعية وأسلوب رقابة القضية. صلت الباحثة على البيانات الأساسية في هذا البحث من أجل المقابلة عن طريق البريد الإلكتروني (*email*). أما التحليل يستخدم عن طريق تصنيف البيانات التي تم الحصول عليها من المخبرين وفقاً للمشاكل في هذا البحث حتى يمكن أخذ الاستنباط وفقاً لأهداف البحث.

هناك نتائج التي توصل إليها. أولاً، شرح أن غالبية المجتمع هولو لانجات سيلانغور موافقون على التزامات اختبار فيروس نقص المناعة البشرية (*HIV*) كشرط عقد النكاح رغم أنهم في مختلف الآراء لتلك المشكلة. يرون أن التزاماته كشرط عقد النكاح لضمان صحة الزوجين وذريتهما، ورفاهية الأسرة، وتقليل حالات الطلاق في المجتمع. ثانياً، عن التزامات اختبار فيروس نقص المناعة البشرية (*HIV*) من نظرية حقوق الإنسان. يرون أن التزاماته لا تختلف بحقوق الإنسان ومقاصد الشريعة الإسلامية، وهي حفظ النسل والنفس.