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Implications of Unregistered Marriage for Women: Profitable or Detrimental

Abstract:

In Islam, marriage is a form of worship recommended by the Prophet Muhammad, so that the law is Sunnah. Marriage is something very sacred where a man and woman are ² united by a marriage bond and become a couple as husband and wife. Marriage is declared valid if it is carried out in accordance with the religious law. In Indonesia there is very much the term unregistered marriage. However, the law in Indonesia considers marriage to be invalid if the KUA institution does not register the marriage even though it has carried out a marriage procession according to its religious law. This certainly has implications, both positive and negative for couples, especially women.

Keywords: Unregistered Marriage, Law in Indonesia, Implication

INTRODUCTION

In fact, in Indonesia it is not uncommon for couples to carry out unregistered marriages. A siri ¹⁴ marriage is a marriage that is carried out based on their religious beliefs but there is no registration by the state so they do not get a marriage book. This creates a big question about the implications or consequences of a siri marriage. Therefore, this article will discuss the factors behind or the motive of a person choosing to carry out a siri marriage, then discuss the fundamentals of a siri marriage from a religious perspective and from a legal perspective that applies in Indonesia to its implications, especially for women.

Marriage is not a strange thing to hear in Indonesian society. Marriage is something sacred, where a man and woman create a strong bond with the aim of producing a lot of good for each partner, relatives, to children

and grandch'ildren and even the community. The bond that is created is a physical and mental bond with an inner emotional bond. Most couples marry ² on the basis of mutual love and perform the sunnah worship recommended by the Prophet. In a marriage, it is hoped that the presence of offspring or the baby. In addition, couples are also expected to become happy families that achieve physical and spiritual prosperity with the blessing of God Almighty.

In etymology, marriage derived from the language arabic which has a meaning that is the same with zawa'j that later in the language of Indonesia called by mating. When viewed from an intrinsic or true perspective , marriage means pressing, pressing, gathering, gathering or combining. Meanwhile, when viewed from a metaphoric or figurative sense, marriage means having intercourse with a contract. In terminology, ⁸ marriage is a

¹³ physical and mental bond between a man and a woman in a household based on religious guidance or the status of an agreement or contract between a man and a woman to legalize bodily relations as a legal husband and wife partner and contains terms and conditions. which has been determined by Islamic law.

¹ Meanwhile, Law no. 1 of 1974 concerning Marriage, states that marriage is a physical and spiritual bond between a man and a woman as husband and wife with the aim of forming a happy and eternal family (household) based on the One Godhead.

¹ Choiruddin, A. (2013). Juridical Analysis Of The Policy Of Village Chairman Who ⁵ded The Age Of Married To A Prospective Wife Husband Who Is Not Enough Age In The Village BARENG KEC. SEKAR KAB. BOJONEGORO (Doctoral dissertation, UIN Sunan Ampel Surabaya).

The term series also comes from the language of Arabic which is etymologically means secret or hidden. Meanwhile, in terms of fiqh science, siri nikah is a siri marriage based on the husband's message, the witnesses keep it a secret for his wife or congregation, even if the local family. ¹¹ Based on the above understanding, it can be concluded that unregistered marriage is a marriage that is carried out secretly or hiddenly without being known or recorded in state institutions. Thus, a siri marriage is a marriage between a female guardian and ⁶ a man and witnessed by two witnesses, but not reported or recorded at the Office of Religious Affairs (KUA).

DISCUSSION

Driving Factors for Siri's Marriage

In a marriage that is carried out in a series, of course there are factors behind it. Factors that includes factors economics, factors of age, factors working ties, free association factors, social factors, and the lack of understanding on the importance of a formal wedding. Here's the explanation:

a. Economic factors

Lower middle class people who are unable to meet the cost of registration of marriage. Sometimes the cost of registering a marriage can be double the actual cost. This happened because there was an irresponsible KUA party. This is evident from the many complaints from the public regarding the transparency of the normative costs of recording. Then the habit is ingrained in society that celebrated the wedding with the wedding party which would create costly expenses were not a little. In fact, of the bridegroom man is also obliged to pay a dowry. This is what

makes men who are not yet established tend to choose marriage independently .

b. Age Factor

Based on Law no. 16 Year 2019 on the Amendment of Act 1 of 1974 on Marriage, in Article 1 states some provisions in Act 1 of 1974 amended. One

of them is Article 7 paragraph (1) and (2) which now reads as follows:

(1) Marriage is only permitted if the man and woman have reached the age of 19 (nineteen) years.⁴

(2) In the event of deviation from the age requirement as stipulated in paragraph (1), the parents of the male and / or the parents of the woman may request dispensation to the Court on the grounds that they are very urgent accompanied by sufficient supporting evidence .

Related provisions age above, encourage marriage in the series since the one of the groom or the bride or the bride and groom do not have enough age, and do not want to bother to take care of it on the court. In this case, there is actually an influence from economic factors. Sometimes families with daughters marry off their children at an early age to reduce the burden on the family.¹⁰

c. Work Bonding Factors

Some companies or service agencies enforce regulations not to marry within a certain period. Then civil servants and soldiers were only allowed to marry once. Reporting from kemhan.go.id, "No, civil servants and soldiers are not allowed. Don't want civil servants and soldiers. There are rules. The point is you can't. If someone gets married in two, I will fire them," said Defense Minister Ryamizard to reporters after attending the Veterans Day commemoration at the Jakarta Convention Center, Senayan, Central Jakarta, Tuesday (11/8).² It is this work or service association that encourages people to carry out marriages independently .

d. Free promiscuity factors

Over time, cultural influences from the west began to enter Indonesia. As a result, many societies between men and women ignore religious norms and prohibitions, who dare to have sexual relations outside of marriage, resulting in pregnancy outside of marriage. Pregnancy outside of marriage is a family disgrace that can damage the image of the family, so that the family marries their children in a series so that the image of the family is maintained in front of the community. Sometimes a man who already has a wife but has sex with another woman who is not his wife and the woman becomes pregnant. So as a form of male responsibility, they marry in a series without the wife's prior knowledge. If the first wife finds out, it is suspected that it will cause a dispute that will complicate matters. So that

² Akbar, M. Minister of Defense: If There Are Two Married, I Fire ! (2015, 11 August). Accessed on January 13, 2021, from <https://republika.co.id/berita/nsxa4b336/menhan-kalau-ada-yang-kawin-two-l-fired>

the marriage becomes an alternative to polygamy to 'secure' the household building with the previous wife

e. Social Factors ³

Sometimes in a certain society there is a negative stigma against men who are polygamous. So that a man who has a desire for polygamy decides to do a siri marriage.⁴

f. Low understanding of the importance of formal marriage

Their contention that the marriage siri alone already be declared invalid so as not to bother to take care of registration by the state is not especially religious order because it is not done at the time of the Prophet. People who underestimate the registration of marriage by the KUA are people who do not know the consequences of unregistered marriage. This lack of public awareness is what causes siri marriages to exist increasingly in Indonesia. Whereas in the Al-Quran in fact it has been emphasized that a couple wishing to marry is obliged to record their marriage. Then in the time of Prophet Muhammad SAW, married who do it quietly banned. The principle of announcing marriage means that marriage secretly or unregistered marriage is not allowed⁵

Marriage Siri in Islamic Perspective

³Khoiriyah, R. Legal Aspects of Protection of Women and Children in Siri Marriage. *Sawwa: Journal of Gender Studies* , 12 (3), (2018). H. 397-408..

⁴ Budiono, B. Marriage Sirri and Social Justice. *Al-Qanun: (2014. Journal of Islamic Law Thought and Renewal ,)* h.328-344.

⁵ Susanto, H. *What are the benefits of a marriage series?* (2007). Visimedia.

The term siri marriage has been known among scholars, at least since the time of the priest Malik bin Anas, it's just that a siri marriage that was carried out in the past has a different meaning from a siri marriage in the present.⁶ In the past, unregistered marriage was defined as a marriage that still fulfills the pillars of marriage and its requirements according to the Shari'a. However, those involved in the marriage and the witnesses agreed to keep it a secret or not notify the public about this intention. So there is no *walimatul 'ursy* event. Siri marriage or what is commonly referred to as an under-hand marriage if today it is understood as a marriage that is carried out according to the conditions of marriage in Islamic law, but does not record marriage on the state party or the KUA as an institution that deals with marriages in Indonesia.

Marriage Siri in the View of State Law

⁷states that the Compilation of Islamic Law (KHI), as a positive state legal institution for Muslims in Indonesia, does not recognize the term unregistered marriage. KHI only recognizes marriages that are recorded and marriages that are not recorded. Based on ⁹ Law No.2 of 1946 concerning the Registration of Marriage, Divorce and Referral, which reads as follows:

- (1) Marriage is supervised by a Marriage Registration Officer

⁶ Arsal, T. Marry Siri in Demographic Overview. *Journal of Rural Sociology*, (2012). 6 (2), 160.

⁷Faizah, S. Dualism of Islamic Law in Indonesia regarding Marriage Siri.(2014).*Istid al: Journal of Islamic Law Studies*, 1 (1).

(2) A spouse who performs a marriage without the supervision of a marriage registration employee is subject to punishment because it constitutes an offense.

Actually, marriage registration aims to provide legal certainty and of course legal protection, especially for women. From the above statement it can be concluded that unregistered marriage is considered illegal because it is not recorded by the Marriage Registration Officer and there is also a law which states that unregistered marriage is an illegal act. Even though it is declared valid according to fiqh science, it is still not valid according to state law .

Siri Marriage Implications

Every human decision in this world is always faced with several choices where one must decide on one of these choices, and in every decision there are implications that are borne. The implication of everything that has been generated by the policy formulation process. In other words, implications are the consequences or consequences caused by the implementation of certain policies or activities⁸. The consequences or consequences that occur can bring or the individual involved or implementer, towards a positive, negative, or both. Likewise with the decision of a person who chooses to

⁸ Yasmin, P. (2020, September 7). Marriage in Islam ³ Complete Purpose, Conditions and Hadith . Accessed on January 13, 2021, from <https://wolipop.detik.com/hijab-update/d-5162600/marriage-in-islam-purpose-requirements-and-hadith-complete>

marry in unison, there are consequences in the form of a positive impact and a negative impact from a siri marriage, namely as follows:

a. Positive Impact of Siri Marriage

First, with a siri marriage, the interests of the parties behind the conduct of a siri marriage can be covered, for example because of pregnancy outside of marriage, the siri marriage is carried out so that the disgrace in the family can be covered. Likewise, for example, due to an official bond or work bond, a person can do his / her wish to get married even though he is in the period of an official bond or work bond⁹. Both, in fact, even though the marriage siri can supposedly devastating impact on women, it turns out the women also had a positive impact which is obtained from a wedding series. The positive impact is the reduced burden on women to earn a living, either to fulfill their daily needs or as the backbone of their family. Third, this marriage can also eliminate the worry of adultery, given that promiscuity is increasingly rampant in the present. Actually, that's what's become one's background, both men are already married and women who are still under age, so do not

fall into a black circle of adultery, then the best solution for them at that time is to carry out unregistered marriages. This is in accordance with the hadith narrated by Bukhari and Muslim which explains that marriage aims to protect oneself from adultery. So that there is no worry about sin that can

⁹ Adillah, SU. Legal Analysis of the Factors Behind the Occurrence of Sirri Marriage and its Impact on Women (Wives) and Children. (2011). *Journal of Legal Dynamics*, 11, 104-112.

be obtained from adultery. Not only that, unregistered marriage can also make someone fulfill their desires, where it turns out that intimate relationships between husband and wife can create health in a number of human organs.

b. Negative impact of unregistered marriage

The implication of a siri marriage actually affects all those involved in the marriage, namely men, women and children. Although there are positive implications, there are more negative implications of unmarried marriages, especially for women. Following are the negative impacts of unregistered marriage on women.

First, a woman whose marriage siri tend not recognized as a wife because by the law of nations, marriages were made invalid and no marriage certificate as proof. So that if he married is a man who does not bertanggug responsible, then the woman will be with easily dumped or not regarded as a wife and the absence of proof of authenticity makes women can not do anything.

Second, when a man is married in siri, especially when he already has a wife who is legally married, the woman is threatened that her rights will be neglected or neglected. Most cases in Indonesia are related to siri marriages, namely the intention of men to neglect their siri wives . Sometimes, a man who is married to a siri married without the knowledge of his wife, when within a certain period of time he is married to a siri wife , he will tend to return to his official wife. So that women as siri wives will be neglected. Based on the science of fiqh, herein lies the haram which is caused by the existence of a siri marriage, when a husband persecutes his wife. In fact, the right of a wife

who is married legally, has the same rights as a wife who is legally married, both in terms of religion and state law. When a husband does not provide for his wife and children whether it is from an official marriage before a state institution or not, the man or husband is tantamount to committing an unjust act and of course getting a sin. Indeed compulsory legal for a husband to provide for his wife. In this case the negative implications are also borne by the men.

Third, when the husband dies, then as a siri wife, the woman does not have the right to inheritance and share the assets together. However, regarding a husband who dies, if the man is a responsible husband, he will make and administer a statement beforehand so that his wife will get a share of the assets he has.

Fourth, the woman or the siri wife can not claim her husband's share of the property when he divorces. It is happening because the marriage was not considered in Indonesian law. In fact, in dasrnya KHI has set about treasures in the house of stairs, which is composed of property together and treasure default. When a divorce occurs, the wife has the right to legally receive joint property .

The situation will be more complicated for the woman if in her wedding , she is pregnant or already has a child. Then he will bear the cost of living his child alone. Because he can not sue his man to pay for his child's education. Then as a mother, a woman who is married in a siri must be able to show her great affection for the child from the siri marriage that she does. Because the child will also be mentally affected when he finds out

that he is the child of an illegitimate marriage. Not to mention, if the local community gossip or even isolate him.

Fifth, the presence of anxiety or fear when traveling far away or out of the environment because they do not have a marriage certificate, while sometimes unexpectedly occur raid against the tuna discretion. Without the certificate of marriage, the pair husband and wife were married by the way the series will have difficulty in proving that they had legitimate religion as husband and wife.

Sixth, nowadays people are very fond of looking for loopholes in someone's ugliness and making them a topic of conversation which is very susceptible to slander. Women who are married in a series must have a strong mentality to face and listen to the people in their environment who gossip about them. If you do not have a strong mentality, then the woman will experience mental health problems.

CONCLUSION

The existence of various factors behind the occurrence of a series of marriages supports the many people who carry out these marriages. So it is not surprising that Siri marriages have a high enough existence in Indonesia. If viewed from a perspective

science religion of Islam, nikah siri does not lead to sin but the impact sequel that may pose a sin for the man. If viewed from a legal

perspective in Indonesia, marriages that are unregistered or unregistered are considered invalid so they do not have the power and legal protection. This is what causes many negative implications that must be borne by women. Even though there are implications in the form of a positive impact from the marriage, but still the negative implications that are borne are greater than the positive ones. So it can be concluded that the unregistered marriage is very detrimental to women.

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⁵ Age In The Village BARENG KEC. SEKAR KAB. BOJONEGORO (Doctoral dissertation, **UIN Sunan Ampel Surabaya**).

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¹⁵ Indonesian government. 1974. **Law No. 1 of 1974 concerning Marriage**

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