

Legal Aspects of Unregistered Online Marriage with the Perspective of Law Number 1 of 1974 Concerning Marriage

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Abstract. *The development of technology has many influences on all aspects of people's lives, including marriage. The emergence of the phenomenon of unregistered online marriage is a new thing that is foreign to the community. This marriage model is a marriage where the implementation of consent granted is assisted by internet media such as video calls. Various factors are underlying the occurrence of unregistered online marriage, such as economic factors, the desire of polygamy men without the permission of the first wife, the existence of parties underage, the absence of parental approval, and the factor of service/work ties. Unregistered online marriage raises the pros and cons of various parties because it is not in accordance with the Marriage Act. Based on this background, this article was made to find out how the legal status of unregistered online marriage is based on the provisions of Law No. 1 of 1974 concerning Marriage. In addition, this article also finds out how to legalize unregistered online marriage. The method used in this article is juridical-normative approach. It reviews written legal material in the form of legislation and other written sources relevant to the research topic. This study is supported by field data obtained from interviews with the Religious Affairs Office in Kesambi Sub-district and the Religious Affairs Office in Harjamukti Sub-district, Cirebon City. The study results concluded that the legal status of unregistered online marriage is illegal in Islamic law and positive law. In practice, marriage does not meet the terms and conditions of marriage. Therefore, marriage has no legal force because it is considered never to have happened. Thus, the way to legalize the marriage is to remarry according to the respective religious law legally and must be registered as stated in Law No. 1 of 1974 concerning Marriage.*

Keywords: *Unregistered online marriage, Legal Status*

1.INTRODUCTION

The main point of the marriage is the agreement in the form of handover between the prospective bride's parents and the prospective bridegroom. In principle, the surrender and acceptance of responsibility occur when the marriage contract is signed, signifying the validity of both parties as a married couple. [1]

In the current era of globalization, technological developments are rapidly changing and affecting people's lives. This change also affects the realm of marriage. In 2017, news emerged about the existence of the nikahsiri.com site. This site offers clients, both men, and women, to easily get a partner and is claimed to be full of certainty. With the tagline: "Siri Marriage, Turning Adultery into Worship," this site can attract thousands of people. [2] Besides providing brides and grooms, this site also provides head, guardians,

and witnesses who can be chosen according to the client's wishes. The perpetrators of this online serial marriage argue that the activity is an alternative means of adultery.

Unregistered marriage comes from Arabic, consisting of two vocabulary words, "marriage" and "*siri*". Marriage is defined as collecting or interlocking. The term "marriage" is often used to refer to coitus, also to refer to a marriage contract. Furthermore, the word *Siri* comes from the Arabic "*Sirr*" which means secret. Thus, *siri* marriage can be interpreted as a marriage of secrecy. It is said to be a secret marriage because this kind of marriage procession is deliberately hidden from the public for various reasons. *Siri* marriage is usually only attended by a limited circle of close relatives, not enlivened by a *walimatul ursy* reception openly. [3]

The phenomenon of unregistered online marriage is still commonly found in Muslims in Indonesia. Not only by the grassroots but also by the middle and upper classes. The legal status of this unregistered online marriage still causes much debate; with this kind of marriage, there is a lot of potential for violations in the field of law.

2. RESEARCH METHODS

The approach used in conducting research uses juridical-normative methods. The juridical-normative approach is a method of implementing the provisions of the law carried out by looking at the reality that exists in practice.

3. DISCUSSION

In an unregistered online marriage or *siri* marriage, both parties can have a marriage through technological facilities such as video calls without having to deal directly.

A marriage contract held through video calls is theoretically the same as the implementation of marriage in general. However, the parties in the marriage ceremony are not in one place. In this case, the parties do not face each other in one place. Therefore, the marriage contract's implementation via video call is not much different from the marriage contract that is represented or through a letter.

The procedure for the marriage contract's implementation using a teleconference begins with a statement made by the woman and then pronounced by the man to declare the marriage agreement. This marriage contract is carried out through teleconferences (meetings conducted by two or more people through a network connection) using sound (Audio Conference) or using audio-video (Video Conference) that allows conference participants to see and hear what is said, as in ordinary meetings. [4]

The negative impact of unregistered online marriage not only arises for the wife but also children. Children born to parents who do unregistered online marriage are considered illegitimate children, so they only have a civil relationship with the mother who gave birth to them.

The unregistered online marriage site has also been criticized by the Minister of Women and Child Empowerment, Yohana Yambise. She said that "this program is the same as covert prostitution wrapped in virgin auction processions and contract marriages with religious modules". According to him, this action was a form of female exploitation. [5]

Based on these regulations, it can be concluded that any marriage subject to positive Indonesian law implemented in the territory of the Unitary Republic of Indonesia must be registered. Although unregistered marriage is religiously justified, it is not legal in the state administration. Legal marriages by state administration are regulated in the Marriage Act.

Marriage practices implemented in Indonesia must refer to the applicable law to minimize the wrong steps or procedures of marriage and cause problems that are prolonged and detrimental to the parties concerned. In this case, the case of unregistered online marriage service providers has violated existing regulations.

In addition, unregistered online marriage does not follow Islamic teachings because it does not meet the terms and conditions of marriage. In this case, witnesses and guardians of marriage are provided by unregistered online marriage service providers. Ideally, marriage guardians and witnesses should come from those who are getting married.

In Cirebon's City itself, unregistered online marriage is a new thing and is still not widely known by the public. Mr. Ade Purwanto confirmed this fact as an officer Religious Affairs Office in Kesambi Sub-district and by Mr. H. Rudin, S. Ag, M. Ag, as the Chief of the Religious Affairs Office of Harjamukti Sub-district, Cirebon City. They said they did not know about the mechanism of the unregistered online marriage. However, both of them have heard the news about this marriage through the news on television and social media.

According to Ade Purwanto and H. Rudin, S.Ag, M, Ag, unregistered online marriage is not justified by religious law or state law. Thus, the Religious Affairs Office itself appeals to the community to conduct formal marriages registered in the Religious Affairs Office. Apart from this marriage being illegitimate by state law and religious values, unregistered online marriage also has many negative impacts that are detrimental to women. Furthermore, women also need to consider carefully when a man invites a relationship and intends to settle down. Ideally, the man would have the good faith to form an official marriage and be registered at the Religious Affairs Office and the Civil Registry Office (for non-Muslims). The marriage will have permanent legal force and have authentic evidence in the form of a marriage certificate as a sign that a marriage has taken place. [6]

The case of unregistered online marriage has never happened in Cirebon City. However, H. Rudin, S.Ag, M.Ag, Head of the Religious Affairs Office in the Harjamukti Sub-district, stated that in the Harjamukti Sub-district, especially in the Kopiluhur Argasunya area, an unregistered marriage had occurred. This marriage was carried out because religious figures were highly respected by the surrounding population so that he had an essential role in marrying a partner in unregistered marriage. Socialization is often carried out in this area, but it highly respects the figure of religious leaders. Thus, most of them prefer to unregistered marriage. [7]

In principle, not all unregistered marriages will bring harm. In practice, some couples remain happy and prosperous, like married couples who are officially registered. Those who remain happy are usually based on strong religious knowledge. If they abandon their wives or do not provide for them, God will punish them, and if they are fair, then God will give them merit and heaven. However, not everyone has an understanding of religion like this. Various reasons were also used so that the marriage for both parties continued despite violating the positive law. In this situation, unregistered marriage becomes an alternative and therefore has the potential to cause harm.

Unregistered marriage has the potential to cause criminal offenses such as pornography and human trafficking. This potential can occur because, in its implementation, unregistered online marriage is conducted through auction activities. This auction impressed human trafficking through auction activities. This process is considered to be an act that demeans women's dignity.

CONCLUSION

The legality of marriage is regulated in the Marriage Act Article 2 paragraph (1). A marriage is considered valid if it is carried out with a marriage procession based on both parties' religious teachings, which have fulfilled the terms and conditions of marriage. Marriage registration must be done to get the benefit of marriage. Therefore, the state has the right to regulate it in one strict rule. However, if there is no record in a marriage, the marriage becomes invalid according to religion and is therefore null and void and can be canceled. In the case of marriages that are legal according to religion but are not registered, the state must provide convenience for every citizen who wishes to register the marriage. Married couples can apply for marriage confirmation in the Religious Court.

In conclusion, unregistered online marriage is illegal because it does not meet the terms and conditions of marriage. In addition, in the Marriage Act, a marriage is considered valid if it is carried out according to their respective religion and beliefs and is registered.

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