

Sirri Marriage

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Siri Marriage in Lombok: Study Perceptions and Causal Factors

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Abstract- Siri marriage is a marriage that is not recorded before the Registrar of Marriage but meets the pillars and conditions of marriage in Islamic law. Although Siri marriage is religiously valid because it meets the pillars and conditions outlined in Islamic law, in Indonesian legislation it has no legal force. The purpose of this study is: 1) To analyze and find the perception of society and the perpetrators of Siri marriage about Siri marriage. 2) To analyze and find the cause of Siri marriage in Muslim communities in Lombok. This type of research is a type of empirical legal research with a qualitative approach. To support this method, primary data sources are used through interviews, FGD, and observations as well as secondary data sources in the form of books and related literature. The results showed that: (1) In general, Siri marriage actors have the perception that Siri marriage is a legal form of marriage according to Islam, but it does not meet the requirements by country. The requirement is the recording by the Registrar of Marriage. (2) Siri marriage conducted by Sasak Lombok community is caused by: a) Being in Rantauan; b) Limited Knowledge about the importance of recording marriage; c) Practical reasons; d) Reasons for polygamy; e) Due to eloping; f) Not obtaining the permission of the first wife; g) Pregnant out of wedlock; h) Not getting parental consent; i). Reasons for religious law; j) Negligence on the part of the maid of marriage registrar in the village; k) Reasons for the absence of costs; l). Has not reached the specified age of law; m) Consider marriage registration important; n) Do not have divorce papers; o) Often divorced marriage; p) Reasons for employment, and q) Economic reasons. Based on the theory presented by Lawrence M. Friedman, non-compliance with the marriage law can be analyzed from three factors, namely the legal structure factor, legal substance factor, and legal culture factor.

Index Terms- Siri Marriage, Perception, Causes

I. INTRODUCTION

Marriage, in addition to being valid according to the laws of each religion and beliefs of married couples, must also be recorded according to the prevailing laws and regulations as stated in Law No. 1 the Year 1974 about Marriage Article 2 paragraphs (1) and (2). Paragraph (1) confirms that marriage is valid if it is performed according to the laws of each religion and its beliefs, and paragraph (2) specifies "each marriage is recorded according to the prevailing laws and regulations".

Marriage registration is very necessary because the recording of marriage is essentially intended to provide legal certainty and legal protection for both parties (husband and wife), including certainty and legal protection against the consequences resulting from the marriage itself.

About the principle of marriage registration, the Government provides information on the application for testing

Law No. 1 the Year 1974 that according to law a quo, the validity of the marriage is based on the laws of each religion, however, a marriage cannot be recognized for validity if it is not recorded by the provisions of the laws and regulations. The recording of marriage as referred to in Article 2 paragraph (2) aims to: a) the orderly administration of marriage; b) provide certainty and protection of the legal status of the husband, wife, or child; and c) provide guarantees and protection of certain rights arising from marriage such as inheritance rights, the right to obtain a birth certificate, etc. The DPR explained that the purpose of recording marriage is intended to: a) to the orderly administration of marriage; b) guarantee of obtaining certain rights (obtaining a birth certificate, making an Identity Card, making a Family Card, etc.); c) provide protection of marital status; d) provide certainty of the legal status of husband, wife or child; e) protect civil rights resulting from marriage.

But in practice, there are still those who do not record their marriage. Unless recorded marriage is popular with the terms under-hand marriage and Siri marriage. Indonesians currently know siris as marriages that are performed following the pillars and conditions of marriage in Islamic law but not performed in front of the Registrar of Marriage or not recorded in the Office of Religious Affairs. Siri marriage referred to in this paper is a marriage that meets the pillars and conditions of marriage stipulated in Islamic law but is not recorded by the Registrar of Marriage or not recorded in the Office of Religious Affairs (KUA).

It must be recognized that Siri marriage is one of the most problematic forms of marriage that occurs in Sasak society in particular and Indonesian society in general. This is because this problem is very difficult to monitor by the authorities. After all, the perpetrators who carry out this series of marriages do not report their marriage to competent parties in the field, namely the Office of Religious Affairs (KUA) for Muslims and the Office of Civil Records for non-Muslims. The practice of marriage series can only be known or detected if there is a submission of marriage to the Court of Religion. Based on the data contained in the case tracking information system, it appears that the application for a marriage license at the Mataram Religious Court as many as 4,536 cases, Giri Menang Religious Court as many as 8,663 cases, Praya Religious Court as many as 9,172, Selong Religious Court as many as 5,017 cases.

Although religious or religious serial marriage is considered valid, it causes dissent in society. In addition, Siri marriage does not have legal force before the laws of the State, as stated in Article 6 paragraph (1) KHI which states that every marriage must be held before and under the supervision of PPN, and in paragraph (2) it is stated that marriages conducted outside the supervision of PPN have no legal force. It is in this context that this research is important to do with the objectives: first, to discover and analyze how the perception of Lombok people and

serial marriage actors about siri marriage; second, to find and analyze the causes of marriage series.

II. RESEARCH METHODS

This type of research is empirical legal research with a qualitative approach. The population in this study is the Lombok Muslim community that performs Siri marriages. Snowball sampling was chosen as a technique to perform sample withdrawals because marriage actors Siri is not easy to find due to the absence of quantitative data about their number and whereabouts. Snowball sampling is one of the reliable and very useful ways to find the informant in question as a research target so that the required sample is achieved. Initial identification starts with a friend or resident, or family or case that falls within the research criteria. Then from them, can be found the next informant or the next sample unit. Thus, this sampling process runs. Using snowball sampling techniques found informants marriage series as many as 160 people scattered in several regions in Lombok. The data types in this study are primary and secondary data. Primary data (basic data) is data obtained directly from respondents (related parties in this study). The primary data in this study is field data obtained directly from the source, either through interviews, observations, and FGD. The collected data is then categorized, grouped, organized systematically, then analyzed with qualitative-descriptive techniques that are by describing what is stated by the respondent in writing or oral and real behavior, so that a clear, logical, and systematic description is obtained.

III. RESULT AND DISCUSSION

In general, according to the perpetrator of Siri marriage, Siri marriage is a form of marriage that is valid according to Islam, but it does not meet the requirements according to the state. The requirement is the recording by the Registrar of Marriage. Based data in the field revealed that various things behind or that became the reason and motivation for the perpetrators of marriage Siri to perform Siri marriage. The things behind or the reasons and motivations of the practice of Siri marriage are because In Rantauan; Become a migrant worker; Limited Knowledge of the importance of recording marriage; Practical reasons; Reasons for polygamy; For eloping did not obtain the permission of the first wife; Getting pregnant out of wedlock; Not getting parental consent; Negligence on the part of the maid of marriage registrar in the village; Reasons for the absence of costs; Do not have divorce papers; Often marriage divorces; Reasons for employment; Economic reasons; Reasons for remote geographical location.

Based on the description above, researchers see that the practice of marriage Siri conducted by Sasak people with various reasons and real causes has shown that there has been disobedience or disobedience to the rules of Indonesian marriage legislation, especially disobedience to the recording of marriage. Based on the theory presented by Lawrence M. Friedman, non-compliance with the marriage law can be analyzed from three factors, namely the legal structure factor, legal substance factor, and legal culture factor.

First, the substance factor of the law.

The substantive substance consists of substantive rules and rules on how institutions or the judiciary should act. It can be said that the real norms, rules, and behaviors of humans are in that system. Substance law also includes living law, not just the rules contained in the Law (law books).

Judging from the substance of the law, Siri marriage occurs due to:

1. The existence of a different substance between religious law that develops in society in this case Islam with provisions in the laws of the state. State law requires the recording of marriage while Islamic law does not regulate the recording of marriage. This difference in substance then gives rise to the term Siri marriage for updated marriages.
2. Article 2 paragraph (2) UUP is unclear, vague, and contradictory with Article 2 paragraph (1) of Law no. 1 of 1974 about Marriage, as well as impacting on the marriage of a person who has qualified and pillars in Islam but because it is not recorded in the KUA then his marriage becomes without the force of law.
3. Article 2 paragraph (1) and (2) of Law No. 1 of 1974 on Marriage is ambiguous and has the potential to weaken each other even contradictory. As stated by Judge Maria Farida Indrati who has a different reason (concurring opinion) against the Decision of the Constitutional Court No. 46/PUU-VIII/2010 which states: "The existence of Article 2 paragraph (2) of Law 1/1974 creates ambiguity for the use of Pasal 2 ayat (1) UU 1/1974 because of the recording referred to by the Pasal 2 ayat (2) Law a quo is not affirmed whether it is merely administrative recording that does not affect the validity or absence of marriages that have been conducted according to their respective religions or beliefs, or whether the recording affects the validity or validity of the marriage performed. The existence of religious norms and legal norms in the same legislation has the potential to weaken each other even contradict. In this case, the potential for mutual negation occurs between Article 2 paragraph (1) and Article 2 paragraph (2) of Law 1/1974. Article 2 paragraph (1) which guarantees that marriage is valid if done according to the laws of each religion and its beliefs, turns out that blocking and vice versa is also hindered by the applicability of Article 2 paragraph (2) which stipulates that marriage will be valid and have legal force if it has been recorded by the authorities or officials of the registrar of marriage. If Article 2 paragraph (2) of Law 1/1974 is interpreted as an administrative record that does not affect the validity or invalidity of a marriage, then it is not contrary to the 1945 Constitution because there is no addition to the terms of marriage. Accordingly, the word "marriage" in Article 43 paragraph (1) The Law a quo will also be interpreted as a valid Marriage of Islam or marriage according to the five marriage pillars. However, based on a sociological review of the institution of marriage in society, the validity of marriage according to certain religions and beliefs cannot directly guarantee the fulfillment of the civil rights of wives, husbands, and/or children born from such marriages because the implementation of religious and customary norms in society is left entirely to the individual consciousness and public awareness without being protected by an official authority (state) that has the power of coercion.

4. Article 2 Paragraph (1) and (2) Law no. 1 of 1974 concerning Marriage has led to a different understanding or interpretation in society that causes blurring of norms. The first opinion states that paragraph (1) and paragraph (2) of the Indonesian Law No. 1 of 1974 on Marriage is an integral entity as a condition of the validity of marriage according to the law. A chapter cannot be broken down because an article shows the substance of the law. With this opinion, the validity of a marriage depends on two factors, namely: (1) performed according to religious law, and (2) recorded according to the laws and regulations. The second opinion states that the validity of a marriage is determined by Paragraph (1), which is valid according to religion, while paragraph (2) only indicates the necessity to record for administrative purposes, but not to be a valid measure or not of marriage. In other words, according to this opinion, marriage is valid when performed according to religious law even if it is not recorded.
5. The existence of provisions on each marriage must be held before and under the supervision of the Registrar of Marriage and marriages conducted outside the supervision of the Registrar of Marriage, Officers do not have the force of law, causing marriage that is already valid according to Islamic law has an impact on the ins and outs of women's rights after divorce because the marriage is considered to have no legal force according to the laws of the State.
6. Indonesian laws and regulations on marriage require not to be prohibitive because in general prohibit laws are easier to implement than mandatory laws.
7. Sanctions contained in Government Regulation No. 9 of 1975 concerning the Implementation of Law No. 1 of 1974 on Marriage whose sanctions are fined as high as Rp. 7,500.- (seven thousand five hundred rupiah) is not comparable to the nature of the Violated Law so as not to cause a deterrent effect.

The second, the legal structure factor.

The legal structure is manifested in the form of institutions or individuals of the implementing officer of the institution. The government and the House of Representatives that have the authority to make the Law should accommodate the law that is entrenched in the Muslim community so that no dissent opens the gap in the occurrence of siri marriage. Similarly, the judge as the enforcer of justice in the marriage of Siri must have the same attitude or must have the same verdict in terms of itsbat nikah. Not only accept the application for monogamous marriage but also accept the application of polygamous marriage, despite its casuistic nature. This is done to avoid smuggling polygamy laws. Office of Religious Affairs/KUA as an institution where the marriage and Marriage Registrar Officer as the implementing officer must be proactive in involving the Head of Hamlet who is closer to its citizens to close the gaps in the occurrence of marriage siri.

Socialization of various regulations related to the marriage must continue to be socialized by the government, from the central level to the village level to provide understanding to the community so that the community becomes legal literate.

From the results of research on the causes of siri marriage, researchers found that all the reasons that cause the perpetrators

of Siri marriage can be avoided if they know and understand the existing rules.

Third, in terms of legal culture.

Legal culture is a human attitude towards the law that is born through its system of beliefs, values, thoughts, and expectations that develop into one in it. Legal culture becomes an atmosphere of social thought and social power that determines how the law is used, avoided, or abused. This legal culture is very closely related to public legal awareness. If the community is aware of the regulation and willing to comply then the community will be a supporting factor, if otherwise, the community will be an inhibitory factor in the enforcement of regulations related to.

In the context of Siri marriage that occurred in Lombok, it appears that the legal culture of the society that is still permissive to the practice of Siri marriage makes Siri marriage practice still difficult to stop. This can be seen from the thoughts or perceptions of those who say that Siri's marriage is valid.

IV. CONCLUSION

In general, according to the perpetrator of siri marriage, siri marriage is a form of marriage that is valid according to Islam, but it does not meet the requirements according to the state. The requirement is the recording by the Registrar of Marriage.

Siri marriage conducted by Sasak Lombok community is caused by: a). Being in Rantau; b). Limited Knowledge about the importance of recording marriage; c). Practical reasons; d). Reasons for polygamy; e) Due to eloping; f). Not obtaining the permission of the first wife; g). Pregnant out of wedlock; h). Not getting parental consent; i). Reasons of religious law; j). Negligence on the part of the maid of marriage registrar in the village; k). Reasons for the absence of costs; l). Has not reached the specified age of law; m). Consider marriage registration important; n). Do not have divorce papers; o). Often divorced marriage; p). Reasons for employment; and q). Economic reasons.

Based on the theory presented by Lawrence M. Friedman, non-compliance with the marriage law can be analyzed from three factors, namely the legal structure factor, legal substance factor, and legal culture factor.

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pillars in Islam but because it is not recorded in the KUA then his marriage becomes without the force of law; Article 2 paragraph (1) dan (2) Law No. 1 Tahun 1974 about Marriage is ambiguous and has the potential to weaken each other even contradictory. As stated by Judge Maria Farida Indra² who has a different reason (concurring opinion) against the Decision of the Constitutional Court No. 46/PUU-VIII/2010; Article 2 paragraph (1) and (2) UU RI No. 1 Tahun 1974 about Marriage has caused a different understanding or interpretation in society to cause blurring of norms.; The existence of provisions on each marriage must be held before and under the supervision of the Registrar of Marriage and marriages conducted outside the supervision of the Registrar of Marriage Officers do not have the force of law, causing marriage that is already valid according to Islamic law has an impact on the intricateness of women for post-divorce rights because the marriage is considered to have no legal force according to the laws of the State; Indonesia's laws and regulations on marriage are non-prohibitive because in general prohibit laws are easier to enforce than mandator laws; Sanctions in the Government Regulation Number 9 of 1975 implementation of Law No. 1 of 1974 on Marriage whose sanctions are punishable by a fine as high as Rp. 7,500,- (seven thousand five hundred rupiahs) is not comparable to the nature of the Law violated so as not to cause a deterrent effect.

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