

TRAINING HALAL PRINCIPLES IN CONTRACT MARRIAGE

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Abstract

Contract marriage not religiously _justified , though by condition acknowledged , thing thereby because Marry contract result in problem fulfillment right livelihood and inheritance for wife and children results Marry contract post expiry _ agreement Marry contract run out . See reality the need wish discussed related Settings related Marry current contract in Indonesia this and the impact from existence Marry contract . Marriage contract in reality could result in not explanation to wife and children results Marry contract , in particular related fulfillment right , fine right accept living until right receive inheritance . such thing the more quaint with no arranged Marry contract in law positive marriage in Indonesia.

Keywords : *Halal , Contract Marriage , Principle*

A. preliminary

according to Constitution Number 1 of 1974 concerning Marriage , marriage is legitimate if conducted according to law each religion and belief , a valid marriage also demands existence Recording by Employee Authorized Marriage Registrar (PPN) . Marriages that take place outside supervision Employee No Marriage Registrar have strength law . Provision this set good by the Marriage Law as well as by the Compilation of Islamic Law. Marriage conducted with destination for shape family or House happy and eternal ladder _ based on Almighty God _ Esa (article 1 UUP). Temporary Therefore , Article 3 of the Compilation of Islamic Law formulates : that marriage aim for realize life House sakinah , mawaddah , ¹and rahmah steps .

Marriage Law and the Compilation of Islamic Law (KHI) are not looking at marriage just as formal aspects . Another aspect is religion and social also important as substance a marriage . The religious aspect determines validity law something marriage , other than formal aspects that is recording marriage at KUA for Muslim community and the Office of Records Civil for those who are religious other than Islam.² Not lost urgent from second aspect the is aspect social , where marriage will bring consequence formation a family as pillar urgent for building social society . Marriage permanent or sunnah marriage (according to demands Rasulullah SAW) is a ordinary marriage _ happened and already in progress centuries , although in the modern era began questionable . Men and women who mutually love and already there is compatibility usually carry on connection they to level more tall that is marriage permanent To use build the family they crave . However in development such a society fast especially fueled by the spirit industrialization and modernization , causing appearance marriage another kind that those business men choose __ a bit long in one the place without bring family (children and wife). Marriage-

² Farida Novita Sari and Umar Ma'ruf , Legal Protection Against Treasure In Deed Marriage Agreement Made by Notary For Indonesian Citizen Who Is *Muslim* , *Jural Deed* , Vol. 4 No. 2, 2017, p . 265.

meant is marriage contract or in common Islamic literature called mut'ah³ marriage .

Contract marriage or mut'ah selected because the procedure no convoluted no like case in marriage permanent . The cost is also cheap , because perpetrator no too burdened must organize reception wedding as common happens in marriage permanent. Term time marriage no permanent , yes set together even sometimes more determined by the man , depending on how old he is need it . Likewise, a burden social must visit routine or be friendly to family wife no there is . Administration complicated population _ start from RT, RW, village , to to districts no will experienced by the perpetrators Marry contract . That's why in some city big , even until to city small Marry contract Becomes phenomenon only later _ become a trade-mark of marriage that is lived by men working foreigners _ seasonality in Indonesia. A number of quite city _ widely mass media reported about practice Marry contract the is Pasuruan , Bogor and Jepara .⁴

Marriage contract between _ society in its development cause pros and cons or debate fierce especially Among group devout Muslim _ Shia and group Sunni Muslim . _ From various the view that developed among school Shia and Sunni can abstracted tree thinking they as following. Sunni school states if any time the cancellation of mut'ah is disputed , if agreed existence prohibition , then ban that 's what it should be Becomes handle although no known by certain when happening prohibition . Temporary that , Shia scholars think that something to believe in no could canceled by something doubtful believed , according to _ they is permission perform mut'ah by the Messenger of Allah,⁵ while the doubtful is the cancellation . This meaning , according to circles Muslim stream Shia , married contract or mut'ah is legitimate the law ; whereas according to sunni thought of marrying contract or mut'ah no legitimate .⁶

Contract marriage or mut'ah basically have impact negative , impact negative the could seen with weak position _ for the woman who became bride in marriage contract , thing this caused woman prone to abandoned after the period of Marry contract ends . Then child born _ from marriage no contract either will get right share a child after Marry contract ends . This thing clear far from mandate Please The five Pancasila as well as Article 28D of the Constitution of the Republic of Indonesia (UUDNRI 1945).

B. Formulas Problem

The issue that will discussed in article this is Settings related Marry current contract in Indonesia this and the impact from existence Marry contract .

C. Discussion

1. Arrangement Related to Marriage Contract In Indonesia

Itself Marry contract this if reviewed from corner look law marriage Indonesian national , will could seen clear if parsed through approach concept (*conceptual approach*). Through approach draft this believed will found the general , universal meaning of the word marriage according to law is something action law , which can covers to particular things . _ Including to

3 Idrus Umarama , Agus Hamzah, Jamaludin Al Ashari , Arie Widyantoro , and Faradina Mar'atus Shofia , Comparison Mut'ah Marriage According To Islamic Law And National Law , *Jurnal Legal Update* , Volume 7, Number 3, 2020, p . 263-265.

4 Nurlailiyah Aidatussholihah , Contract Marriage in the Peak Region between Normative , Juridical and Reality , *Al- Ahwal* , Vol. 5, No. 2, 2012, p . 32-33.

5 Muhammad Saleh Ridwan, Mut'ah Marriage Perspective of Islamic Law and National Law, *Journal of Al- Qadāu* , Volume 1 Number 1 Year 2014, p . 36-38.

6 A. Khisni , Controversy Decision Court Constitution About Underhand Marriage (Study _ About the Law of Marriage Between Normative With Empirical For Dig Maqashid -Al- Shari'ah In Effort Realize Indonesian Jurisprudence), *Journal Legal Reform* , Volume 1 No. 3, 2014, p . 312.

Marry contract . In law marriage national law , in particular Law Number 1 of 1974, there are two draft marriage in it that can said that each stand up alone However each other related . First draft marriage (only) as contained _ in Article 1. Second , the concept legal marriage _ as contained _ in Article 2 paragraph (1).⁷

Draft first that is draft marriage as contained _ in Article 1 of Law Number 1 of 1974. Article this reads “ Marriage “ is bond born inner Among a Men with a woman as husband and wife with destination shape family (home ladder) that is happy and eternal based on Almighty God _ One .” Based on the concept marriage contained in __ chapter that , form or a model of marriage carried out by Muslims, which can enter to inside is existing marriage _ element the contract and the daim ‘s marriage . On the basis of that so term Marry contract no known at a time no there is set in law marriage Indonesian national .⁸

more again if Marry contract that conceptualized with bond born inner Among a Men with woman as husband wife in period time certain , clear very leave behind with draft loaded marriage _ in Article 1 of Law Number 1 of 1974 mentioned above earlier . The eternal word that exists in draft included marriage _ in Article 1 of Law Number 1 of 1974 is clear contrary with the word “ term “ time certain “ existing “ in draft Marry contract . That’s why our could say that law marriage national no know as well as no arrange problem Marry contract . If in form term concrete about Marry contract that no is in the set or not yet there is in draft law Indonesian national , then can and need seen and explored draft marriage in law national it .⁹ Draft general about marriage meant is __ abstract , universal, can reach or represent meanings particular , including Marry contract .

Draft second , that is draft valid marriage , as stated __ in Article 2 paragraph (1) of Law Number 1 of 1974. Article this reads “ Marriage “ is valid , if conducted according to law each his religion and beliefs it “. regarding with provision the law contained in chapter this , has called and explained by long wide on the discussion chapter two earlier , that reference or size for validity something marriage according to law Indonesian nation is the religious law of the person who performs marriage . With so , then for people who are Muslim, the reference , size , or benchmark for legitimate whether or not their marriage _ do it in view from rule law national is Islamic law . First , marriage in daim marriage category , second marriage in category of mut’ah marriage. though for mut’ah marriage to happen difference opinion about its legitimacy now . However all Muslims agree _ that the mut’ah marriage once lawful and legal in the early days of Islam (at the time of the Prophet). And when now by some public Muslims (including in Indonesia) are understood , believed , and practiced as something lawful and legal marriage .¹⁰

On the basis of exposure as above , then _ Marry contracts that exist and occur in Indonesia grouped or categorized as to four kind of . First category prostitution masquerading as religion with give term marriage . The two marriages of the daim who don’t legitimate according to fiqh

7 Image Pearl Overview Juridical Against Marriage Contract In Perspective of Covenant Law and Islamic Law, *JOM Faculty of Law* , Volume III number 1, February 2016, p . 3-5.

8 Eko Handoyo and Heri Rohayuningsih , Contract Marriage : Background Back, Legal Legality and Its Impact (Study Case in District Jepara), *Social Science Forum* , Vol. 40 2013, p . 222.

9 Sri Hariati , Contract Marriage According to Islam, Law and Reality In Society, *JATISWARA Legal Journal* , Vol 30 No 1 (2015), p . 94-95.

10 Muhammad Saleh Ridwan, Mut’ah Marriage Perspective of Islamic Law and National Law, *Journal of Al- Qadāu* , Volume 1 Number 1 Year 2014, p . 36-38.

the deception that started with agreement second bride regarding the length of the marriage before marriage ceremony (outside marriage contract) . The three legal daim marriages according to fiqh the deception that started with agreement second bride regarding the length of the marriage before marriage ceremony (outside marriage contract) . Fourth is a mut'ah marriage.¹¹

From the explanation above , it can be drawn something conclusion that even though by concrete or by real , clear and firm law marriage national no there is loading and setting about problem Marry contract , however from corner studies and approaches draft found existence abstract universal elements that can be represent draft Marry contract it 's inside law marriage the Indonesian national . Abstract universal elements that can be represent draft Marry contract meant is draft existing marriage _ in editor Article 2 paragraph (1) of Law Number 1 of 1974 in conjunction with Article 4 of the Presidential Instruction Number 1 of 1991 concerning Compilation of Islamic Law (KHI). Meaning , that what happened here _ according to economical Writer more tend to not explanation or blur Constitution about law for Marry contract that than emptiness law against him .¹²

2. Halal Principles in Contract Law

Effect negativity that arises from Marry contract is collision two interest Among perpetrator Marry a contract that doesn't want to write down marriage in one parties and interests of the state to put in order administration population on the other hand so that unregistered marriage ___ not recognized by the state. one _ form confession this is authentic marriage certificate has happening something marriage . With existence this marriage certificate marriage his have strength law , rights his protected by law ,

Impact Marry contract very feel for circles wife in wedding contract . Wife have the same rights and obligations . But marriages that are not registered this , state law is not admit it so that problem House the stairs including when later _ day happen it's over something agreement contract or divorce so only can be done outside _ track state law alias done by deliberation . Wife no can sue husband , when left by husband and wife _ no get allowance what when husband died , by law married woman _ contract not considered _ as Legal wife , the consequences will reduce rights civil they as citizens , they prone to to be played by men who do n't responsible answer because they no have strength law for sue , easy abandoned, no given living with enough and not there is certainty of the status of husband , because Marry contract not recognized by law . _ Impact another social , a _ marriage that is not ideal and not make atmosphere House ladder harmonious .¹³

Marriage contracts also have an impact for child from results wedding contract . position child born _ from Marry contract considered as child out of wedlock (considered lidak legal) by the state so that child only have connection civil with mother and her family currently connection civil with his father no there is (Articles 42 and 43 of Law No. 1 of 1974 in conjunction with Law No. 16 of 2019 and Article 100 of the KHI) Consequences more jauii from Marry contract this , is born child _ from marriage the no entitled demand living expenses _ education even though legacy

11 Muhammad Saleh Ridwan, Mut'ah Marriage Perspective of Islamic Law and National Law, *Journal of Al-Qadāu* , Volume 1 Number 1 Year 2014, p . 36-38.

12 Muhyidin , Navanya Gabriel Weather , Muth'ah Marriage (Contract Marriage) In Positive Indonesian Legal Perspectives and Legal Consequences on Assets Marriage And Wealth Waris , *Diponegoro Private Law Review* , VOL. 7 NO. February 1 , 2020, p. 736.

13 Andreas Resa Ari Krisharyanto , Sophar Maru Hutagalung , and Slamet Supriatna , The Law of Contract Marriage To position Wife , Children, and Property Riches In Islamic Law Perspective , *Journal Krisna Law* , Volume 1, Number 3, 2019, p . 16,

from his father .¹⁴ state thereby clear far from halal principle according to Islamic law .

3. Contract Marriage in Turkey

Contract marriage by implied and marriage legitimate by written in Turkish set in *Turkish Civil Code*, marriage contract based on agreement a contract which implied based on agreement civil law based on agreement law family in turkey ,¹⁵ temporary divorce from Marry contract in turkey based by clear in agreement Marry contract before did marriage .¹⁶

D. Conclusion

Marriage contract in its development is executed marriage _ no based on state law and no recorded with clear by the state, though religiously a lot base that can made as base Marry contract , however religiously married _ no contract either justified , thing this because Marry contract could result in not explanation to wife and children results Marry contract , in particular related fulfillment right , fine right accept living until right receive inheritance . such thing the more quaint with no arranged Marry contract in law positive marriage in Indonesia.

14 Erni Agustina, as a result law right inherit child results marriage series based on Mark justice , *Journal Legal Reform* , Volume II No. May 2 , 2015 , p . 385.

15 JE Glick, Connecting Complex Processes: A Decade of Research on Immigrant Families, *Journal of Marriage and Family* , No. 72, 2010, p . 498–515.

16 DJ Ghimire, W.G. , Axinn ST Yabiku , and A. Thronton , Social Change, Premarital Nonfamily Experience, and Spouse Choice in an Arranged Marriage Society , *American Journal of Sociology* , No. 111, 2006, pp. 1181–218.

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