

MANSOUR FAKIH'S GENDER ANALYSIS OF THE FULFILLMENT OF HUSBAND AND WIFE'S RIGHTS AND OBLIGATIONS IN SIRI MARRIAGE: Case Study in Padangsidempuan City, West Sumatra Province, Indonesia

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Abstract: This study analyzes the practice of sirri marriage in the City of Padangsidempuan, Province of West Sumatra, Indonesia. The focus of this research is to see whether gender bias occurs according to gender analysis according to Mansour Fakih in fulfilling the rights and obligations of husband and wife in unregistered marriage families in Padangsidempuan City. This type of research is field qualitative with the approach of Legal Sociology, Legal Psychology, and Anthropology. Based on research findings, unregistered marriages in the city of Padang Sidempuan do not only have an impact on wives and children, but also have an impact on husbands both in the household and in social life including 1) Marginalization, such as husbands having difficulty getting their rights from where they work and it is difficult to get social assistance from the government because they do not have a marriage certificate and family card, 2) Subordination: the impression that women are objects in marriage so that a woman can be published as a wife or kept secret, 3) Stereotypes: Women who are married in unregistered ways are considered mistresses, having an affair, or living at home without being married, 4) Violence: unregistered marriages are prone to domestic violence because there is no evidence that shows the existence of marital ties, and 5) double burden that must be borne by the wife, namely having to earn a living that should be borne by the husband, as well as take care and care for their children..

Keywords: *sirri marriage; Mansour Fakih; rights and obligations*

Abstrak: Penelitian ini menganalisis praktek nikah sirri di Kota Padangsidempuan Provinsi Sumatera Barat Indonesia. Fokus Penelitian ini adalah melihat apakah terjadi bias gender sesuai analisa gender menurut Mansour Fakih dalam pemenuhan hak dan kewajiban suami Istri pada keluarga nikah sirri di Kota Padangsidempuan. Jenis Penelitian ini adalah kualitatif lapangan dengan pendekatan Sosiologi Hukum, Psikologi Hukum, dan antropologi. Berdasarkan temuan penelitian, nikah sirri di kota Padang Sidempuan ternyata tidak hanya menimbulkan dampak terhadap istri dan anak saja, tetapi juga berdampak kepada suami baik itu dalam rumah tangga maupun dalam kehidupan sosial diantaranya 1) Marginalisasi, seperti suami sulit mendapatkan hak-haknya dari tempatnya bekerja dan sulit mendapat bantuan sosial dari pemerintah karena tidak memiliki surat nikah dan kartu keluarga, 2) Subordinasi: kesan bahwa perempuan adalah objek dalam pernikahan sehingga seorang perempuan bisa saja dipublikasikan sebagai istri atau dirahasiakan, 3) Stereotype: Perempuan yang dinikahi secara sirri dianggap perempuan simpanan, selingkuhan, atau tinggal serumah tanpa ada ikatan pernikahan, 4) Kekerasan (Violence): Nikah sirri rentan mengalami kekerasan dalam rumah tangga karena tidak ada bukti yang menunjukkan adanya ikatan perkawinan, dan 5) beban ganda (double burden) yang harus ditanggung istri, yaitu harus mencari nafkah yang seharusnya ditanggung suami, sekaligus mengurus dan mengasuh anak-anaknya.

Kata Kunci: *nikah sirri; Mansour Fakih: Hak dan Kewajiban*

Introduction

Husband and wife are partners closely related to each other without being subordinated in fulfilling their rights or obligations.¹ If there is an imbalance between the two, this is what is called gender inequality which results in gender bias.² Both of them must be able to work together compactly and continuously, understand each other and maintain a balance between rights and obligations so that a safe, peaceful and prosperous household atmosphere will be created. If these things can be maintained and preserved, household life will be harmonious and family happiness can be achieved.³

There are many cases of divorce between husband and wife due to non-fulfilment of material and immaterial rights and obligations between the two parties and end in divorce.⁴ Therefore, to guarantee the fulfilment of rights and obligations between husband and wife and avoid various problems that may arise in the future and for other important needs, it is necessary to have evidence in the form of recording the marriage contract by an official institution. Muslim governments around the world require registration of marriages at this legal institution. Many benefits are obtained, and much Mafsadah is eliminated, at least minimizing it by recording this marriage

contract, even though it is not a legal condition for Marriage. Marriage remains religiously legal as long as the conditions and pillars are fulfilled according to the Shari'a.⁵

In the context of Indonesia, a marriage is considered valid if it has fulfilled the provisions stipulated in Law no. 1 of 1974 concerning Marriage and emphasized in General Explanation number 4 which explains the validity of Marriage, namely: first, Marriage is (considered) valid if it is carried out under the provisions of the regulations (laws) of religion and or beliefs; secondly, marriages, as mentioned, must be and have been recorded by the applicable laws and regulations, and the implementing regulations contained in Government Regulation No. 9 of 1975 (PP 9 of 1975).⁶

This is emphasized again in articles 5-7 of the Compilation of Islamic Law (Instruction of the President of the Republic of Indonesia number 1 of 1991). All these regulations aim to provide legal protection and certainty in marriage. Thus, all legal consequences resulting from marriage (husband and wife relations) concerning rights and obligations are effective after the elements stipulated in the regulation are fulfilled. These laws are fulfilled.⁷

With these provisions, all forms of marriage which are carried out without the existence of 2 principles (principles) of validity,⁸ as mentioned, are considered

¹ Agus Hermanto and Habib Ismail, 'KRITIK PEMIKIRAN FEMINIS TERHADAP HAK DAN KEWAJIBAN SUAMI ISTRI PERSPEKTIF HUKUM KELUARGA ISLAM', *JIL: Journal of Islamic Law*, 1.2 (2020) <<https://doi.org/10.24260/jil.v1i2.61>>.

² Moh. Nurarrouf, 'Pembagian Tanggung Jawab Hutang Suami-Istri Perspektif Teori Gender', *Al-Qadlāya : Jurnal Hukum Keluarga Islam*, 1.1 (2021) <<https://doi.org/10.55120/qadlāya.v1i1.407>>.

³ Umi Khusnul Khatimah, 'Hubungan Seksual Suami-Istri Dalam Perspektif Gender Dan Hukum Islam', *AHKAM: Jurnal Ilmu Syariah*, 13.2 (2013) <<https://doi.org/10.15408/ajis.v13i2.936>>.

⁴ Khoirudin Nasution, 'Women's Right in the Islamic Family Law of Indonesia', *Unisia*, 28.56 (2005), 192-204 <<https://doi.org/10.20885/unisia.vol28.iss56.art10>>.

⁵ Sauqi Noer Firdaus, Fadil Sj, and Moh. Thoriquddin, 'DAMPAK NIKAH SIRI TERHADAP ISTRI DAN ANAK PERSPEKTIF MAQASHID AL-SYARI'AH AL-SYATHIBI (STUDI DESA BANGSALSARI KECAMATAN BANGSALSARI KABUPATEN JEMBER)', *JURNAL AL-IJTIMAIIYYAH*, 7.2 (2021) <<https://doi.org/10.22373/al-ijtimaaiyyah.v7i2.9726>>.

⁶ Nurhasan Nurhasan and Fitri Yani, 'Akibat Hukum Perkawinan Di Bawah Tangan Terhadap Istri, Anak, Dan Harta Kekayaan Dalam Perspektif Hukum Islam Dan Undang-Undang Nomor 1 Tahun 1974 Tentang Perkawinan', *Wajah Hukum*, 3.2 (2019) <<https://doi.org/10.33087/wjh.v3i2.70>>.

⁷ SULASTRI CANIAGO, 'PENCATATAN NIKAH DALAM PENDEKATAN MASLAHAH', *JURIS (Jurnal Ilmiah Syariah)*, 14.2 (2016) <<https://doi.org/10.31958/juris.v14i2.308>>.

⁸ Muhammad Sodik, 'DUALISME HUKUM DI

invalid and have no legal force, but in reality, some people do not register their marriages for certain reasons, as researchers found in Kota Padangsidempuan. Based on the 2021 Population Administration Master System Application (SIK) database at the Padangsidempuan City Population and Civil Registration Service, reports of ownership of marriage certificates in Padangsidempuan City are still low.

The population of Padangsidempuan City with married status is 94,520 people; 41,405 residents already have a Marriage Certificate, according to reports that have been updated in the SIK population database (Population Administration Main System) for 2021, but residents who already have a Marriage Certificate from the Office of Religious Affairs much larger, it is just that the population concerned has not reported it to the Population and Civil Registration Office of Padangsidempuan City, so it can be seen that the percentage of ownership of marriage certificates in the database is still low. Marriage registrar, so they do not have a Marriage Certificate.

This unregistered marriage is known as unregistered marriage. The term Siri marriage has yet to be well known in fiqh books. Siri marriage is more famous than fiqh marriage in Indonesia.⁹ Therefore, there is no definite interpretation of Shari'a, so there is also no standard and mutually agreed upon law. In order to recognize its legal status, we must first determine the nature or boundaries of such a thing. Because the rules of fiqh say, the law is for those who are named, not on their behalf.

Some people view that marriage

registration is not very important because marriage is still valid religiously if the pillars and conditions are fulfilled,¹⁰ as well as the fulfilment of rights and obligations between husband and wife; there is not much difference between unregistered marriages and marriages registered at marriage registrars, both must fulfil their respective rights and obligations, it is just that unregistered marriages are very vulnerable to denial and neglect of the rights and obligations between husband and wife. While legal marriage, according to state law, there is much denial of the fulfilment of rights and obligations, it can be seen from the various cases where divorce that occurred in the Religious Courts was caused by the non-fulfilment of the rights and obligations of each party,¹¹ both material and immaterial, it is said again with unregistered marriages which are actually If you do not have proof of marriage in writing, of course, it will be difficult to claim your rights, not to mention that acts of violence that occur in the household cannot be prosecuted according to the domestic violence law because there is no evidence of marriage.¹²

This has led to accusations that Islamic teachings legalize marriage which is unfair and unfair and gender biased, especially by liberal feminists. The notion of feminism aims to claim equal rights between men and women and break down the patriarchal ideology, which is considered a form of discrimination. This demand then gave birth to criticism of the family institution, which is considered a shackle for women's freedom.

Feminists view the family as the first "enemy" whose role must be eliminated or

INDONESIA: Kajian Tentang Peraturan Pencatatan Nikah Dalam Perundang-Undangan', *Al-Ahwal: Jurnal Hukum Keluarga Islam*, 7.2 (2016) <<https://doi.org/10.14421/ahwal.2014.07201>>.

⁹ Asripa Asripa, 'NIKAH SIRRI DALAM PERSPEKTIF ISLAM', *Imtiyaz: Jurnal Ilmu Keislaman*, 4.1 (2020) <<https://doi.org/10.46773/imtiyaz.v4i1.64>>.

¹⁰ Sukiati Sukiati and Ratih Lusiani Bancin, 'PERLINDUNGAN PEREMPUAN DAN ANAK: STUDI AKIBAT HUKUM PENGABAIAN PENCATATAN PERKAWINAN', *Gender Equality: International Journal of Child and Gender Studies*,

6.1 (2020) <<https://doi.org/10.22373/equality.v6i1.5633>>.

¹¹ Fathur Rahman Alfa, 'PERNIKAHAN DINI DAN PERCERAIAN DI INDONESIA', *Jurnal Ilmiah Ahwal Syakhshiyyah (JAS)*, 1.1 (2019) <<https://doi.org/10.33474/jas.v1i1.2740>>.

¹² Fadli Fadli, 'IMPLIKASI YURIDIS TERHADAP PENERBITAN KARTU KELUARGA BAGI PASANGAN NIKAH SIRI DI INDONESIA', *Jurnal MEDIASAS: Media Ilmu Syari'ah Dan Ahwal Al-Syakhshiyyah*, 4.1 (2021) <<https://doi.org/10.58824/mediasas.v4i1.275>>.

reduced. The family is considered the forerunner of all existing social inequalities, especially starting from unequal rights and obligations between husband and wife. The family institution places women in a weak position.

It is not only the family institution that has received criticism from liberal feminists but also considers that the Marriage Law Number 1 of 1974 concerning marriage has also strengthened the division of roles based on gender and traditional roles (stereotypes), namely that women as housewives are obliged to manage household affairs, while The man as the head of the family is obliged to protect his wife and provide for the necessities of life for the household. It is said that again the emergence of the polemic on unregistered marriages, which is full of negativity towards women and children, adds a long record of accusations of not being good to Islamic teachings.

Therefore, the author looks at another point of view in this unregistered marriage case with gender analysis to see whether there is a gender bias in the fulfilment of rights and obligations in unregistered marriages. This review is very meaningful considering that among the existing Islamic conceptions, it is about women that are most often discussed, especially the issue of gender equality. Many books, articles and journals have been published to address this issue. However, this is also often misinterpreted, misunderstood, and attacked, especially by liberal feminists. In this matter, not a few thoughts of liberal feminists raise doubts and doubts among Muslims.

Experts offer many gender analysis tools to solve the problems of the roles, rights and obligations of men and women. However, in this thesis, the author uses a gender analysis tool, according to Mansour Fakhri. Thus, in

this thesis, the author attempts to raise this issue in a thesis entitled: "Application of Mansour Fakhri's Gender Analysis on the Fulfillment of Husband and Wife Obligations in Siri Marriage (Case Study of Padangsidempuan City)."

Literature Review

The general theoretical basis used in this thesis research is the "Theory of Legal Certainty". To support the grand theory, "Gender Equality Theory" is used as the middle theory. Meanwhile, the applied theory uses "Sadd al Zariah", which leads to preventive action and legal protection of the rights and obligations of husband and wife in marriage.

Theory of Legal Certainty

Certainty is a condition (state) that is certain. The law must be certain and fair. *Legal certainty* is a question that can only be answered normatively rather than sociologically. Normative Legal Certainty is when regulation is made and promulgated with certainty because it regulates definitely and logically.¹³

Legal certainty is one of the goals of law and is an effort to achieve justice. The natural form of legal certainty is the implementation and law enforcement of action regardless of who is doing it. With legal certainty, everyone can estimate what will happen if they take legal action; certainty is needed to bring justice. Certainty is one of the characteristics that cannot be separated from law, especially for written legal norms. Law without certainty value will lose meaning because it cannot be used as a guideline for behaviour for everyone.¹⁴

Gender equality theory

Discussing gender issues means discussing women's and men's issues in society, including the division of social,

¹³ John Bradford Braithwaite, 'Rules and Principles: A Theory of Legal Certainty', *SSRN Electronic Journal*, 2005 <<https://doi.org/10.2139/ssrn.329400>>.

¹⁴ H. Z. Ogneviuk, 'ANTROPOLOGICAL APPROACHES IN LEGAL CERTAINTY RESEARCH', *Anthropological Measurements of Philosophical Research*, 0.14 (2018) <<https://doi.org/10.15802/ampr.voi14.150573>>.

economic and political roles. In discussing gender, gender equality and justice cannot be separated.¹⁵

Gender Equality Theory, or feminist theory, is a strategy to influence societal changes towards a just relationship between men and women. A core tenet of feminism is that, although men and women are naturally different, these differences should not be used to compare their lives unfairly. Even though there may be biological differences, these differences should not lead to differences in legal status; one is entitled to another.¹⁶

Experts use many analytical tools to look at gender issues, but specifically, in this study; the authors used the analytical tools offered by Mansour Fakihi. He said that gender inequality is a social phenomenon supported by a structural system. Both men and women can become victims of the system. Gender inequality manifests itself in various forms of injustice, such as processes of marginalization or economic impoverishment, subordination or not being considered significant in public decision-making, stereotyped assumptions or through negative labels, violence (violence), and heavier workloads¹⁷

Maqashid Asy-shariah Theory

In addition to gender theory as an analytical tool and supported by other theories such as maqashid ash-shariah. Inwardly, Islam is a just religion that upholds gender equality; at least, this message can be seen from the formulation of Muslim scholars, intellectuals, and Muslim feminist figures regarding the purpose of religion revealed by Allah to achieve maqashid ash-

shari'ah. The application of Maqashid emphasizes the certainty of justice and gender equality.¹⁸

Marriage has at least 3 (three) benefits to be achieved by Maqâshid Asy-Syariah, namely maintenance of religion (*Hifz al-Din*), maintenance of generations (*Hifz al-Nasl*) and maintenance of the soul (*Hifz al-Nafs*). Marriage can be said to maintain religion as long as marriage describes worship that coexists with human needs and nature and protects humans from disobedience, such as adultery and other immoral acts. Next, marriage fulfils half of the religion (*Nisfu ad-Din*), so married people are considered to have perfected religion.¹⁹

Marriage is one form of maslahat regulated by the Shari'a to fulfil biological needs. However, what if the expected benefits come simultaneously as losses for others?

About actions that have benefits and harm, some rules can be used as an analogy, including:

درء المفاسد مقدم على جلب المصالح

Meaning: "Preventing harm is preferable to bringing good."

It has become a mutual agreement that marriage has benefits, both in terms of religion and in terms of human biology itself. Marriage ideally will bring good in life if it.

Method

This type of research is field qualitative with the approach of Legal Sociology to study law in a social context, Legal Psychology to see what factors cause people

¹⁵ Andrea Teti and others, 'Gender Equality in Theory and Practice', in *European Union in International Affairs*, 2020 <https://doi.org/10.1007/978-3-030-33883-1_8>.

¹⁶ Sue Williamson and Marian Baird, 'Gender Equality Bargaining: Developing Theory and Practice', *Journal of Industrial Relations*, 56.2 (2014) <<https://doi.org/10.1177/0022185613517468>>.

¹⁷ Janu Arbain, Nur Azizah, and Ika Novita Sari, 'PEMIKIRAN GENDER MENURUT PARA AHLI: Telaah Atas Pemikiran Amina Wadud Muhsin,

Asghar Ali Engineer, Dan Mansour Fakihi', *Sawwa: Jurnal Studi Gender*, 11.1 (2017) <<https://doi.org/10.21580/sa.v11i1.1447>>.

¹⁸ Ahmad Rajafi and Ressi Susanti, 'Membangun Kesetaraan Gender Tentang Wali Nikah Dan Saksi Dalam Hukum Keluarga Islam Di Indonesia; Maqashid Al-Syari ' Ah Approach', *Aqlam*, 1.1 (2016).

¹⁹ Zulkarnain Abdurrahman, 'Teori Maqasid Al-Syatibi Dan Kaitannya Dengan Kebutuhan Dasar Manusia Menurut Abraham Maslow', *Al-Fikr*, 22.1 (2020).

to carry out unregistered marriages and what factors affect the non-fulfilment of rights and obligations in it, and Anthropology to see the custom of unregistered marriages carried out at the research location, whether there are cultural factors in the community at the research location. The informants were: Religious Court officials, Lawyers, KUA officers, Civil Registry Office officials, Penghulu, the Head of Environment, and related officials, community leaders, traditional leaders, and others

Result and Discussion

Impact of Unregistered Marriage

Based on the results of the interviews with the participants above, it seems that it is this third category of unregistered marriage that occurs a lot in the City of Padang Sidempuan; religiously valid marriages fulfil the pillars and conditions but are not recorded in a marriage registration institution, with the majority reasons:

1. Understanding of religion because it is enough for a religious marriage to fulfil its pillars and conditions;
2. Marriage registration is not very important or can be done later;
3. Due to ignorance/negligence;
4. Underage age for marriage (male 19 years and female 16 years) because there must be a dispensation from the Religious Court;
5. The marriage is held in less than 10 (ten) working days because there must be a dispensation from the Camat;
6. The status of a widower husband without a divorce certificate from the religious court / private divorce;
7. Less fortunate.

As for unregistered marriage in the city of Padang Sidempuan, based on the gender analysis tool used, it does not only have an impact on women (wives) and children but also has an impact on men (husbands), both in the household and in their social life, including:

Marginalization

The impact on the wife is that it is difficult for the wife to claim her rights, both

in the form of physical and spiritual maintenance, as well as inheritance rights from her husband if the husband dies or property in the event of a divorce, because without a marriage certificate, the marriage is considered never to have happened. As for the child, the absence of a marriage certificate creates an unclear status of the child before the law, which results in the relationship between the child and the father not being strong so that one day the father may deny that the child is his son, what is detrimental is that the child is not entitled to living expenses, education, maintenance and inheritance from his father.

Moreover, it is difficult for men (husbands) to take care of work administration files to make a living or pension files to get their rights from the agency/place where they work because of the requirement to have a marriage certificate and family card.

Likewise, there is social assistance from the government for the poor or economically weak. In that case, getting assistance will only be easy if they have an identity card (KTP) or family card because their marriage is not registered.

Subordination

Unregistered marriage creates the impression that women are objects in marriage, not the same subject, in which case a woman can be published as a wife or kept secret from the general public. This positions women as subordinate to men and fosters the impression that women are created only for men and not vice versa. It could make women only a momentary outlet for lust for men or make them concubines.

Moreover, husbands and wives who carry out unregistered marriages also experience subordination as Indonesian citizens, such as the difficulty in obtaining their rights, such as in arranging identity cards and family cards, as well as other administrative interests such as managing work, BPJS, administrative requirements for Hajj and Umrah, birth certificates of children, administrative files for child school registration and so on.

Stereotype

Women who are secretly married by someone can get stereotypes (negative labelling) from society and will find it difficult to socialize because they are considered mistresses, lovers, or live in the same house without marriage ties (cohabitation partners) or are pregnant out of wedlock and can cause various slander in society. Likewise, for their children, they are forced to get an unpleasant stereotype as a child of adultery or an illegitimate child whose status is unclear. Not only for wives and children but for men (husbands), some feel they experience stereotypes, especially in unregistered marriages where underage marriages are considered to be married because the wife is pregnant before marriage. Not only for those carrying out unregistered marriages but Islam also gets stereotyped as a religion that legalizes marriage, negatively impacting women and children.

Violence

Unregistered marriages are prone to experiencing domestic violence because there is no evidence to show the existence of marital ties, and it could be that the perpetrators are only sentenced to ordinary crimes and have nothing to do with the problem of domestic violence (domestic violence). Meanwhile, in the field (Kota Padangsidempuan), it is difficult to find cases of violence against unregistered marriage families because they are personal, usually resolved amicably, and are not brought to justice.

Double Burden

As a result of economic impoverishment (marginalization) experienced by the wife, it will create a double burden that must be borne by the wife, namely having to work outside the home to earn a living while simultaneously caring for domestic affairs at home and caring for their children. A mother's double burden can also impact children because her main task as a housewife can be neglected. After all, it will affect the development and education of

children.

Educating children is a shared responsibility between father and mother, even though, theoretically, the mother is closest to the child. As a result of the lack of attention from both parents can lead to juvenile delinquency, such as fights between teenagers/between schools, abuse of drugs, alcohol, theft, rape, and so on due to lack of communication between parents and children and can cause social rifts. Children feel neglected by their parents. Their courtesy towards parents will fade away. They do not even want to listen to their parent's advice. In general, this is because the child feels no coolness and comfort in his life, so his soul rebels.

Solutions to Siri Marriage Problems

Islam, as a religion suitable for all places and times, should have a solution to all the problems of its people. The previous scholars had tried to warn against all the problems that might arise due to the absence of marriage registration, including the problem of marital claims, in which a man claims that a certain woman is his wife. However, the woman refuses, or conversely, a woman claims that a certain man is her husband, but the man refuses, then the person who claims must present evidence, while those who refuse must take an oath.

The scholars of the madhhab agree that the evidence must be in the form of witnesses from two fair men and that the testimony of women, whether consisting only of women or a combination of men and women, cannot be accepted except by Hanafi. They can accept the testimony of two women plus one man on condition that it is fair. Fairness is a condition for determining marriage when there is denial and disputes. However, it is not a condition for the validity of the contract when the contract takes place.

In further developments, to anticipate the problem of this unregistered marriage, Sheikh Dr Jaad al-Haq Ali Jaad al-Haq, one of the sheikhs of al-Azhar, once wrote about the problem of urfi marriage, divided the provisions governing marriage into two

categories:

1. Sharia regulations,

Namely regulations that determine the validity or invalidity of a marriage. This regulation is a regulation stipulated by Islamic law as formulated by experts in fiqh books from various schools of thought, the essence of which is the requirement for consent and Kabul from each of the two people who are in the contract (guardian and prospective husband) which is said on the same council, using the pronouncement that shows that the consent and Kabul have taken place which are said by each of the two people who can carry out a contract according to the share and are attended by two witnesses are required to hear the pronouncement of the hijab and qabul themselves directly the. Two witnesses must understand the contents of the consent and acceptance, as well as other conditions as explained in the study of fiqh.

2. easy Regulations,

Namely additional regulations that mean that Muslim marriages are not illegal but are recorded using an official marriage certificate issued by the competent authority. Some regulations require that marriage be recorded according to the applicable laws and regulations. Its use is that a marriage institution which has a very important and strategic place in an Islamic society can be protected from having a marriage contract by a husband later on, which, although basically can be protected by having witnesses, of course, it can be protected even more by having official registration at the authorized institution for that. However, according to the fatwa of Sheikh Jaad al-Haq Ali Jaad al-Haq, without complying with the statutory regulations, according to the stars, the marriage is considered valid if it has completed all the conditions and pillars as stipulated in the Islamic Shari'ah.

As for Indonesia, marriage registration is held with the Acting Marriage Registrar to anticipate all problems related to marriage, as well as disputes arising out of marriage, such as maintenance, inheritance, divorce, child custody, and so on. This is regulated in

law no. 22 of 1946 jo. Law No. 32 of 1954 jo. Law No. 1 of 1974, see articles 5-7 Compilation of Islamic Law (RI Presidential Instruction No. 1 of 1999).

Article 2, paragraph 2 of Law no. 1 of 1974 stated:

Every marriage is recorded according to the applicable regulations.

This is clarified again in the Compilation of Islamic Law (KHI) articles 5-7 for Muslim Muslims. Article 5 stated:

1. In order to ensure the orderliness of marriage for the Islamic community, every marriage must be recorded;
2. The marriage registration referred to in paragraph (1) is carried out by employees of the marriage registrar as stipulated in

Law no. 22 of 1946 jo. Law No. 32 of 1954. Meanwhile, in article 6 it states:

1. To comply with the provisions in Article 5, every marriage must take place before and under the supervision of a Marriage Registrar;
2. Marriages held outside the supervision of marriage registrars do not have legal force.

Moreover, in chapter 7 it states:

1. Marriage can only be proven by a marriage certificate made by a marriage registrar;
2. If a marriage certificate cannot prove a marriage, the marriage certificate can be submitted to the Religious Court.
3. The itsbat of marriage that can be submitted to the Religious Court is limited to matters relating to:
 - a. There is a marriage in the framework of a divorce settlement;
 - b. Loss of Marriage Certificate;
 - c. There is doubt about whether or not one of the conditions of marriage is valid;
 - d. The existence of marriages that occurred before the enactment of Law no. 1 the Year 1974 and
 - e. Marriages conducted by those who do not have marital obstacles

according to Law No. 1 of 1974. Unregistered marriage is considered illegal even in the Draft Law on Religious Courts on

Marriage. Couples who undergo this type of marriage will be criminalized, including those who marry or are married in unregistered, polygamy, or mut'ah (contract) marriage, including every prince who marries someone with a problem. For example, still bound in a previous marriage or marrying off the bride and groom without complete conditions.

Conclusion

Based on research findings, unregistered marriage in the city of Padang Sidempuan does not only have an impact on women (wives) and children, but also has an impact on men (husbands) both in the household and in social life including

1. Marginalization or economic impoverishment such as husbands having difficulty getting their rights from the agency/place where they work because of the requirement to have a marriage certificate and family card, it is difficult to get social assistance from the government because they do not have a family card because their marriage is not registered,
2. Subordination: Unregistered marriages give the impression that women are objects in marriage, not equally subjects, in which a woman can be published as a wife (marriage is registered) or kept secret (not recorded),
3. Stereotypes (negative labeling): Women who are married in series are considered mistresses, mistresses, or live in the same house without being married,
4. Violence: Unregistered marriages are prone to domestic violence because there is no evidence to show the existence of marital ties,
5. As a result of economic impoverishment (marginalization) experienced by the wife, or the wife who is left behind Siri husbands will cause a double burden that must be borne by the wife, namely having to earn a living that should be borne by the husband, as well as taking care of and caring for their children.

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