

The Registration of Marriages and Urgency after the Tsunami in Aceh

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Marriage is a legal event that gives rights and obligations to a couple. It must be registered legally following the provisions of the law. A marriage is valid if it is done according to Article 2 of Law Number 1 of 1974 about Marriage. The objective of this study is to analyse the recordings of post-tsunami marriages in Aceh. There are still many marriages are not recorded in the community after the Tsunami disaster. This is qualitative research that used a socio-legal approach. The specific research locations are Lhokseumawe, North Aceh, Middle Aceh, Bener Meriah, and Meulaboh. It was found that the registration of marriage as an administrative requirement (to obtain legal recognition and citizens' rights protection) has not been understood clearly by Acehnese people. The research produced a model to strengthen the roles and responsibilities of a Marriage Registration Assistant. This was done by means of a marriage registration assistant collaborating with village officials (RT). The unregistered marriages of residents was aggressively recorded and reported to the local KUA (the Office of Religious Affairs), in order to process them and get a marriage book.

Key words: *Marriage Registration, Legal Recognition and Post-Tsunami.*

Introduction

Marriage registration is a must to provide legality for the parties involved in marriage. The importance of marriage registration has been known since 1973, when the draft of Marriage Law (RUUP) was established. Despite this fact, Indonesian citizens do not record their marriages with marriage registries (PPN). Their marriage is only valid under the provisions of their religion and beliefs without meeting administrative demands.

The legal uncertainty of marriage registration is one of the reasons that marriages do not get certificates as marriages with authentic evidence. Marriage does not have legal security, which means no protection for the husband or wife legally exists. Consequently, they could not take civil legal action regarding the marriage matters. The children born are also recognised by the state as children out of wedlock. The implications of this are that they could be abandoned by their father. It is difficult to make lawsuits against the fulfillment of economic rights, especially when there is shared property (Masruhan, 2013).

In 2012, research results of Stijn Cornelis Van Huis and Theresia Dyah Wirastri, titled 'Muslim Marriage Registration In Indonesia: Revised Marriage Registration Laws Cannot Overcome Compliance Flaws', explained that unregistered marriages are largely ignored. This has existed in the history of marriage registration law in Indonesia since the colonial era. The problem is not about the factor of legal action, but more about the lack of the community's legal knowledge regarding the importance of marriage registration, which has been an issue to date.

According to Sedarmayanti (2012), marriage registration is a part of public administration, which is the implementation of good governance. Good governance is a picture of the quality of the relationship between the government and the people. The latter have the right to be served and protected. Thus, the implementation of good governance requires accountability, transparency, openness, and the rule of law.

Liky Faizal revealed that the registration of marriage is important for the validity of marriage. Besides, registered marriage will provide legal security for the husband, wife, and children, as well as providing guarantees and the protection of certain rights arising from marriage. These include the right to inherit, the right to obtain a certificate of birth, the right to a living, and so forth. Unregistered marriages are called Siri marriages. Such marriages are considered illegal according to state law and harm the status of the child. The status of the child that is born is considered an illegitimate child.

Itsnaatul Lathifah (2015), in the presentation of the results of her study, mentioned that a legal marriage is a marriage where the requirement of religious rules are fulfilled. There exists a bride and groom, a guardian for the bride and two witnesses. From the results of

research entitled ‘The Urgency of Marriage Registration (perspective utilities) by Dyah Ochtorina Susanti, and Siti Nur Shoimah (2016), it is explained that marriage registration is an administrative obligation based on statutory regulations. These are aimed at providing guarantees of protection, and the fulfillment of human rights. Jeremy Bentham argued that an action should be done or not seen from the benefits it generates. This utility theory, as quoted by Saphiro (2006), means that the principle of benefit underlies the consideration of all activities to the extent that such actions will increase or contradict happiness.

The results showed that in reality, the high demand for marriage in various regions in Indonesia is due to unregistered marriages (married but not recorded), such as the cases in Aceh (Republika, 2019). Unregistered marriages become a legal issue, but as is common in Aceh under the beliefs of the community, if they have been married religiously, then the marriage is legal. This is so even if it is not recorded or issued with a marriage certificate. More unregistered marriages occurred after the earthquake and Tsunami in December 2004. This event destroyed most of the infrastructure and public service facilities, such as schools, hospitals, roads, bridges, and offices. Included in this destruction was the Office of Religious Affairs (KUA), which serves the marital affairs and marriage registration of Muslims.

However, after the Tsunami, reconstruction was carried out to rebuild people's lives as a whole. This was done to realise prosperity and progress in their lives (BRR & International Partners, 2005) through community development and supporting infrastructure, including the strengthening of government institutions. 15 years after the tsunami in Aceh, people still have various problems. Unregistered marriages and their impact trigger conflict in people's lives.

Although the provisions of governing marriage registration already exist, in reality, many unregistered marriages continue to harm society. Thus, this article will analyse the factors that cause many Acehnese to not register their marriages and will find solutions to the issue.

Research Methodology

This research is qualitative research. It uses the method of law with an empirical juridical approach and socio-statutory legislation. Research was conducted in Lhokseumawe, North Aceh, Central Aceh, Benar Meriah, and Meulaboh. The data collection techniques used are observations (field research) and interviews. Chartterjee (2000) stated that this method is used to open space for researchers to criticise, improve and provide suggestions for revisions, cancellations and changes in laws that are weak and ineffective. In this context, it is related to the rule of law regarding the importance of marriage registration.

Results and Discussion

Marriage Registration and Expediency

Marriage registration is an activity to report a marriage that has been held between a man and a woman by registering it with the Office of Religious Affairs (KUA). According to Muhammad Amin Sayyad (2018), the importance of marriage registration is that it becomes the basis of marriage in order to avoid various negative impacts caused by unregistered marriages.

The benefits of registering marriages function as a prerequisite for determining the legality of a marriage in state law. The mandatory requirements for marriage registration function in order. Provisions can provide a statement of a legal marriage and the marriage is recognised and protected by law. The importance of marriage registration is to provide a means of obtaining authentic proof of marriage (Anshary, 2010) so that husbands, wives, and children get the protection of their rights as citizens.

According to the utility theory of Jeremy Bentham, an action deserves to be done or not seen from the benefits it generates. The utility theory from Bentham, cited by Saphiro (2006), states that the principle of benefit underlies the consideration of all activities, to the extent that these actions will increase or contradict happiness. This research is used to analyse the issue by finding the answer based on the benefits incurred for many people. It is related to marriage registration and the urgency in the present age. The ethical quality of an action is obtained if the objectives of an action are achieved. The benefit is obtained in the form of legal protection to the parties related to the marriage, with legal certainty through the strength of authentic evidence before the law (Witanto, 2012). Unregistered marriages mean the marriages are held by the parties who do not have legal force and evidence of a marriage (Usman, 2017).

Unregistered marriages often trigger conflict in the community. This is caused by violations of regulations or the background of someone who behaves deviously. In the perspective of conflict that emphasises the pluralistic nature of society, the emergence of unrest in society is caused by the imbalance of social and economic positions and status. This is also as a result of legal status, which impacts legal protection in the midst of the community. This occurs between various groups because they do not get recognition by the state for its existence. According to Sorokin, the basis and core in society is the imbalance of the distributions of rights, obligations and the responsibility of social values along with their direction among community members (Soekanto, 1995).

The conflict theory from Ralf Dahrendorf mentioned that conflicts of interest and coercion unite the community under various pressures. Society is united by restraints when society is delegated power and authority over other parties. The difference in the benefits of authority has always been a determining factor for systematic social conflict. This theory understands society in terms of conflict that starts from the fact that community members consist of two categories; those who are in power and those in control. This dualism includes the structure and nature of their life together so as to cause different interests. They may even conflict with one another, thereby triggering a conflict between them (Ritzer, 2004).

The conflict theory, as a perspective, views society as a social system consisting of different interests. There is an attempt to conquer other components in order to fulfil other interests or obtain maximum benefits. An unregistered marriage, recorded in accordance with statutory provisions, is a paradigm. It considers as a marriage legal if it has been done in accordance with respective religions and beliefs, so it does not feel it is important to record the marriage.

Marriage Registration and Conflict in Society

Conflict (Confligo) means strike, destruction or crushing. It could be caused by differences of opinion among members who have a dispute or conflict. Conflicts can have a direct or indirect impact on social capital and human resources that carry out governance related to marriage registration procedures. Together, the government, social or political systems maintain the functionality of marriage registration and guarantee the protection of citizens' rights.

Conflict will have a negative impact and long-term implications for the welfare of society with political, social and economic consequences. The implementation of an ineffective marriage registration mechanism will leave an increasing number of marriages to be conducted underhand. There is no recognition and protection of the state when it comes to the rights of citizens. Thus, good marriage registration is a serious concern. The purpose of marriage registration is to guarantee the rights of citizens, so that society is prosperous.

The Urgency of Marriage Registration in Post-Tsunami Aceh

It is important to investigate the existence of marriage registration in post-tsunami Aceh. It becomes urgent due to the habits of the community that is close to this matter. However, family and marriage institutions have a very important meaning in this new millennium, which is seen as an era that highly upholds human rights (Riaz, 2013).

On 2 June and 30 July 2019, FGD and personal research in Lhokseumawe, North Aceh, Aceh Tengah, Benar Meriah, Meulaboh provided results on the issue of unregistered marriage. 14-years after the tsunami in Aceh, there are still various problems that tend to trigger conflicts in the community. One of the cases is a resident of Neuheun, Great Aceh, named Aminah

who was married 14 years ago, but his marriage has not been registered due to lack of funds (Tribunnews Aceh, 2019).

After the tsunami and conflict in Aceh, it was found that many marriages were without certificates (Siri). This was also because of ineffective government administration processes. Besides, some other factors were there. These include the poverty factor, remote service access to the KUA office, complicated processes and limited community knowledge (especially concerning women) in remote areas about the importance of marriage registration (Kumparan, RPuK Aceh, 2019). Furthermore, polygamy that is not in accordance with the provisions of the law also became another factor that caused the problem in the community.

The consequence of illegal marriage was that the wives and their children could not get recognition and legal protection from the state. They are not eligible to get the common rights of a citizen, such as to get certificates of marriage for wives, or birth certificates for children. Children born in unregistered marriages are negatively impacted. They are given a lack of attention, guidance, affection and proper education (Usman, 2019). In reality, wives and children who have such a family background are dominant among those involved in criminal activities such as drug use (methamphetamine), online gaming and promiscuity that increasingly disturbs the lives of the general public (Wali, 2019). In fact, many of them are now convicts (Hayani, 2019).

Nowadays in 2019, there are still many married couples who do not have certificates of marriage. Most of them are impoverished (Hasan Nusi, 2019). This study resulted in a model of strengthening the roles and responsibilities of Marriage Registration Employee Assistants (P4). It was done by P4 officers in cooperation with village officials (RT) by getting the initiative and being proactive. They aggressively record residents who do not have a marriage book. Subsequently, the Head of the Sub-District Religious Affairs Office is reported to cumulatively on a quarterly basis and marriage ceremonies are carried out by the district KUA officer.

Conclusion

From an explanation of the post-tsunami marriage records in Aceh, the conclusion is that the registration of marital requirements is administrative. It obtains legal recognition and protects the rights of the parties as citizens. The study produced a model of strengthening the roles and responsibilities of P4.



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