



The Practice of Siri Marriage by Police Members Judging From the Regulation of the Chief of the Police of the Republic of Indonesia Number 6 of 2018

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Abstract

Currently, many unregistered marriages are carried out, including by members of the police. The purpose of this study was to identify and analyze unregistered marriages carried out by members of the police with the aim of having more than 1 (one) wife or having polygamy and the sanctions in terms of the Chief of Police Regulation No. 6 of 2018. This type of research is normative with a legal approach. The type of data used is secondary data consisting of primary, secondary and tertiary legal materials, while data analysis is carried out qualitatively. Members of the police are not allowed to carry out unregistered marriages to have more than 1 (one) polygamous wife because they violate Article 4 of the Regulation of the Chief of Police Number 6 of 2018 and the sanction is that they can be dishonorably dismissed (PDTH) or expelled from the Indonesian National Police Agency without receiving a salary or severance pay.

Keywords: Member; Police; Siri's Wedding.

A. Introduction

In essence, humans are individual beings who cannot live alone. In living his life, he will always depend on other humans. Humans need each other and must socialize with other humans. This is because humans cannot fulfill their own needs.¹Every human being really needs other people to run life together. Humans who have grown up have a desire to find a life partner to live together in the ark of life in the family. In accordance with the nature of human events, men need women and women need men in their lives, because both parties need each other, so they look for each other so that the seeds of love, love and protect each other grow. This affectionate and mutual love relationship is then manifested in a marriage bond that is in accordance with the norms of life and the rules of law that apply in the society in which they live.²Therefore, humans need the institution of marriage.

Marriage has a very important meaning and position in human life, because marriage can be formed by ties of social relations between two people of the opposite sex officially in one family. The family can continue to develop into a community group, the goal to be achieved in marriage is to achieve happiness in this world and in the

¹Herimanto and Winarno, Basic Social and Cultural Sciences, PT. Earth Literacy, Jakarta, 2018, p. 43.

²Abdul Kadir Muhammad, Basic Socio-Cultural Sciences, PT. Citra Aditya, Bandung, 2019, p.15.

hereafter.³ Law Number 1 of 1974 concerning Marriage (hereinafter abbreviated as the Marriage Law) in Article 1 and Article 2 states that "Marriage is an inner and outer bond between a man and a woman as husband and wife with the aim of forming a happy family (household). and eternal based on the One Godhead". The inclusion of the One Godhead is because the State of Indonesia is based on Pancasila, whose first precept is Belief in One God. This states that marriage has a very close relationship with religion. In Islamic law, a marriage is considered valid if it has fulfilled the pillars and conditions for a valid marriage. Unlike the case with applicable law in Indonesia, According to the Marriage Law, Article 2 Paragraph (2) states "Every marriage is registered according to the laws and regulations". So on the one hand marriage is more directed at the administrative order but on the other hand marriage is a very sacred event. This difference gave rise to the term unregistered marriage or marriage in the community after the enactment of the Marriage Law and the Compilation of Islamic Law (KHI).

In Indonesian society, it is known as siri marriage or underhand marriage. Basically, this kind of marriage is allowed in Islam if it fulfills the terms and conditions that apply. But in some groups, this marriage is used as a shortcut to legalize their polygamous intentions. Based on several cases of unregistered marriages that occur in the community, it can be seen that the factors causing the occurrence of unregistered marriages are pregnancy outside of marriage, lack of understanding and public awareness about marriage registration, the difficulty of polygamy rules, economic factors, property factors, workplace factors, social factors and religious factors. ⁴This is due to the relatively light requirements for a person to carry out an underhand marriage or unregistered marriage which is only carried out with a guardian judge. By carrying out unregistered marriages, it will certainly hamper the effectiveness of the applicable legal regulations and it is clear that the women are harmed. The things that cause unregistered marriages are seen in terms of social factors due to the difficulty of registering a second marriage, the age limit for marriage according to legislation, moving places of residence make it difficult for people to pay for marriage costs so they prefer to marry unregistered. Furthermore, there is also a religious factor where unregistered marriage is carried out to justify a relationship so that it is kept away from adultery and sin.

The issue of unregistered or unregistered marriages can be carried out by all levels of Indonesian society who are Muslim without exception, including members of the Indonesian National Police who are Civil Servants. As a state apparatus, a member of the police, of course, must be able to serve as an example for the community and must comply with applicable regulations.

The practice of unregistered marriage which is now widely practiced by Muslim communities in Indonesia cannot be separated from the influence of Islamic traditions in Arab countries which were carried out in the period after the Prophet Muhammad and his companions. The term siri marriage or secret marriage is indeed known

³Mufti Wiriadja, Indonesian Book of Laws, Gajah Mada Publishing Foundation, Yogyakarta, 2015, 5th Print, p. 40.

⁴ Zulfan, The phenomenon of Siri Marriage in Indonesia from the Sociological Aspect of Law and its Relation to the Legalization of Marriage Registration, Journal of Sharia Faculty at IAIN IB Padang, 2014, p. 1.

among scholars, at least since the time of Imam Malik bin Anas.⁵ Even the term siri marriage is developing and in Indonesia it will become an underhand marriage.⁶ Unregistered marriages or unregistered marriages are a reality that occurs in society, the reasons range from the high cost of registering marriages to rational reasons that must be kept secret. It is undeniable that this unregistered marriage creates pleasure in the front, brings disaster in the back, has a negative impact because the legal rights are not fulfilled.⁷ Unregistered marriages or unregistered marriages are a reality that occurs in society, the reasons range from the high cost of registering marriages to rational reasons that must be kept secret.⁸ The negative effect that arises from unregistered marriages is a conflict of interest between the perpetrators of unregistered marriages who do not want to register their marriages on the one hand and the interests of the state to regulate population administration on the other hand so that marriages that are not registered are not recognized by the state. One form of this recognition is a marriage certificate as authentic evidence that a marriage has occurred. With this marriage certificate, the marriage has legal force, its rights are protected by law.

B. Literature review

Marriage is a human right of every citizen, including members of the Indonesian National Police. The purpose of marriage is to create an eternal and happy family based on God Almighty. The purpose of marriage can be achieved if husband and wife love, cherish, respect, appreciate and cooperate. According to Law no. 1 of 1974 concerning Marriage, an alliance between a man and a woman is seen as husband and wife, if their bond is based on a legal marriage if it meets the requirements determined by law, both internal and external conditions. Legal marriage according to Islamic marriage law has a positive impact on the survival of the household he lives. On the other hand, an illegal marriage according to Islamic marriage law will have a negative impact on the life of the partner. This regulation applies to all Indonesian people, including members of the police. Marriage must be registered in order to protect the rights of the parties. Marriage for members of the police, the implementation of marriage refers to the Regulation of the Chief of Police Number 6 of 2018 concerning Procedures for Filing Marriage, Divorce, and Referral for Civil Servants at the Indonesian National Police.

C. Research Method

This research is descriptive analytical, namely research that describes or explains the practice of unregistered marriage by members of the police in terms of Police Chief Regulation Number 6 of 2018 concerning Procedures for Filing Marriage, Divorce, and Referral for Civil Servants at the Indonesian National Police. This type of

⁵ Abdullah Wasian, *Consequences of Siri's Marriage Law on the Position of Children, Assets, Review of Islamic Law and Marriage Law*, Diponegoro University, Semarang, 2017, p. 35.

⁶ [?]KH. M'aruf Amin, *www. Law. Online, Chairman of the MUI Fatwa Commission Uses the Term Underhand Marriage for the equivalent of Siri's Marriage*, Accessed March 12, 2022, 14.00 WIB.

⁷ [?]Nurul Huda Haem, *Beware of Illegal Weddings, From Wild Leaders to Infidelity*, Wisdom Publisher, Jakarta 2007, p. 104.

⁸ [?]*Ibid*, p. 56.

research is normative legal research, namely research aimed at finding and formulating legal arguments through analysis of the subject matter.⁹ Normative legal research, also known as library law research, is legal research conducted by examining library materials or secondary data.¹⁰ The approach used in this research is the statutory approach. The type of data used in this study is secondary data consisting of primary legal materials consisting of laws and regulations related to the research title. In addition, there are also secondary legal materials consisting of books, journals and tertiary legal materials providing explanations such as dictionaries related to research titles.

Data analysis was carried out qualitatively, namely the analysis was carried out by describing in the form of sentences or statements. Then conclusions are drawn using the deductive method of thinking, namely the method of drawing conclusions that are specific in nature from general analysis. Bambang Sunggono mentions the pattern of deductive procedures, starting from a general proposition whose truth is known (believed) and ending at a conclusion (new knowledge) that is more specific in nature.¹¹

D. Result and Discussion

1. Siri Marriages Performed by Members of the Police In view of the Regulation of the Chief of Police Number 6 of 2018 concerning Procedures for Filing Marriage, Divorce, and Referrals for Civil Servants at the Indonesian National Police.

Marriage is a holy, strong and sturdy agreement to live together legally between a man and a woman to form a happy and eternal family, where husband and wife must support each other, love each other, there is a safe and peaceful condition full of happiness. both morally and spiritually and materially based on the One Godhead. In civil law marriage is defined as a legal relationship between a man and a woman for a long time.¹² Marriage is a process of human sexual relations that must be carried out in the spirit of peace by respecting human rights as equal beings between men and women to lead a better life in the world.¹³ Musfir Aj-Jahrani said that marriage is a bond between a man and a woman's guardian or their representative and it is permissible for men and women to have fun in accordance with the way that has been prescribed.¹⁴ Marriage is essentially the meeting of two beings of the opposite sex who have interests and views of life that are in line with the aim of realizing a *sakinah, mawaddah and warahmah* household life. Along with this, it can also be interpreted that marriage aims to

⁹ Philipus M. Hadjon and Tatiek Sri Djamiati, *Legal Arguments*, Gadjah Mada University Press, Yogyakarta, 2005, p.3.

¹⁰ Soerjono Soekanto and Sri Mamudji, *Normative Legal Research: A Brief Overview*, Rajawali Press, Jakarta, 2009, p. 13.

¹¹ Bambang Sunggono, *Legal Research Methodology*, PT. Raja Grafindo Persada, Jakarta, 2013, p. 41.

¹² M. Idris Romulo, *Islamic Marriage Law, An Analysis of Law no. 1 of 1974 and the Compilation of Islamic Law*, Bumi Aksara, Jakarta, 2013, p. 287.

¹³ Imam Jauhari, *Legal Protection of Children in Polygamous Families*, Pustaka Bangsa, Jakarta, 2018, p. 15.

¹⁴ Musfir Aj-Jahrani, *Polygamy From Different Perceptions*, Gema Insani Press, Jakarta, 2015, p. 5.

form a happy, eternal and eternal family and does not just break up.¹⁵ Therefore, marriage can be said to be a partnership between a man and a woman who is recognized by the state for eternal life together. It is said to be an alliance because there are two kinds of interests that are incorporated in the marriage institution, namely the interests of a man combined with the interests of a woman to build a household that is recognized by the state. Therefore, marriage must meet the requirements determined by religion and Law no. 1 of 1974 so that the interests of the parties can be protected by the state. Nowadays, there are many serial marriages for various reasons. It is undeniable that the practice of unregistered marriage does not meet the requirements and pillars of marriage. The implementation is due to various reasons, such as the difficulty of registering a marriage that is more than 1 (one) or polygamous, parents or guardians are far from it, to avoid adultery, due to promiscuity resulting in pregnancy out of wedlock, and others. The practice of unregistered marriage is also carried out by members of the Indonesian National Police. According to Satjipto Raharjo, "the police are an instrument of the state in charge of maintaining security and public order, providing protection, and providing protection to the community".¹⁶ Furthermore, Satjipto Raharjo, quoting Bitner's opinion, stated that if the law aims to create order in society, including fighting crime. In the end, the police will determine concretely what is called the enforcement of order.¹⁷ Law Number 2 of 2002 concerning the National Police of the Republic of Indonesia in Article 1 point 1 explains that the Police are all matters relating to the functions and institutions of the police in accordance with the laws and regulations. The term police in this law contains two meanings, namely the function of the police and the police institution. In Article 2 of Law Number 2 of 2002 concerning the Indonesian National Police, the function of the police is as one of the functions of the state government in the field of maintaining security and public order, law enforcement, protector, protector and service to the community. As a consequence, members of the police must be able to become role models for the community, supported by a harmonious, safe, peaceful and happy family. The implementation of marriages for members of the Indonesian National Police is regulated in the Regulation of the Chief of Police Number 6 of 2018 concerning Procedures for Filing Marriage, Divorce, and Referrals for Civil Servants at the Indonesian National Police. Usually the practice of unregistered marriage is carried out by members of the police who are Muslim because they already have a wife. So a siri marriage is done to add a wife or have more than 1 (one) wife or have polygamy. Usually the marriage is done secretly and without the permission of the first wife. Basically Law no. 1 of 1974 concerning marriage whose implementing regulations are regulated in Government Regulation Number 9 of 1975, including regulations concerning having more than 1 (one) wife or having polygamy. The law that regulates marriage in Indonesia and applies to all Indonesian people without exception including members of the police as state civil servants. To have more than 1 (one)

¹⁵ Tutik Quarter Point, *Civil Law in the National Legal System*, Kencana, Jakarta, 2006, p. 76.

¹⁶ ?Satjipto Rahardjo, *Law Enforcement A Sociological Review*,

Genta Publishing, Yogyakarta, 2019, p. 111.

¹⁷ ?Ibid, p. 117.

wife or have polygamy, the husband must follow the provisions of Law Number 1 of 1974 concerning Marriage, namely:

1. The wife cannot carry out her obligations as a wife.
2. The wife has a disability or an incurable disease.
3. The wife cannot give birth to children (Article 4 paragraph (2) of Law No. 1 of 1974 concerning Marriage).

In addition to these requirements, the reasons for applying for more than 1 (one) wife or polygamy to the court must meet supporting requirements such as:

1. There is the consent of his wife/wives.
2. There is certainty that the husband is able to guarantee the necessities of life for his wife and children (Article 5 of Law Number 1 of 1974 concerning Marriage).

The basis for the issuance of Regulation of the Chief of Police Number 6 of 2018 concerning Procedures for Filing Marriage, Divorce, and Referrals for Civil Servants at the State Police of the Republic of Indonesia are:

1. Law Number 1 of 1974 concerning Marriage (State Gazette of the Republic of Indonesia of 1974 Number 1, Supplement to the State Gazette of the Republic of Indonesia Number 3019).
2. Law Number 2 of 2002 concerning the Police (State Gazette of the Republic of Indonesia of 2002 Number 2, Supplement to the State Gazette of the Republic of Indonesia Number 4168).
3. Government Regulation Number 10 of 1983 concerning Marriage and Divorce Permits for Civil Servants of the Police (State Gazette of the Republic of Indonesia of 1983 Number 13, Supplement to the State Gazette of the Republic of Indonesia Number 3250).
4. Presidential Decree Number 70 of 2002 concerning Organization and Work Procedure of the State Police of the Republic of Indonesia.

The principles in this regulation include:

1. Legality, namely every process of filing for marriage, divorce, and reconciliation is carried out in accordance with the provisions of laws and regulations in order to guarantee rights and obligations;
2. Accountability, namely every process of filing for marriage, divorce, and reconciliation is carried out procedurally and can be accounted for;
3. Transparency, namely that every process of filing for marriage, divorce and reconciliation is carried out openly;
4. Justice, i.e. every process of applying for marriage, divorce, and reconciliation is carried out fairly without discrimination.

The purposes of this regulation are:

1. As a guideline in filing divorce marriages, and refer for Civil Servants to the Police; and
2. Ensure the establishment of an orderly administration of divorce marriages, and refer civil servants to the Police for divorce marriages, and refer within the Police.

Meanwhile, the scope of this regulation includes:

1. Requirements for applying for a divorce marriage permit, and refer;
2. Officials authorized to issue divorce marriage licenses, and refer;
3. Procedures for applying for a divorce marriage permit, and refer.

The regulation in the Regulation of the Head of the State Police of the Republic of Indonesia Number 6 of 2018 concerning Amendments to the Regulation of the Head of the National Police of the Republic of Indonesia Number 9 of 2010 concerning Procedures for Filing Marriage, Divorce, and Referrals for Civil Servants at the State Police of the Republic of Indonesia, in Article 4 it is stated that:

1. Civil servants at the National Police are only allowed to have a wife/husband.
2. Female Polri members and female Polri Civil Servants are prohibited from becoming second wives and so on.

The provisions of Article 16 of the Regulation of the Head of the State Police of the Republic of Indonesia Number 9 of 2010 are declared deleted. So based on the provisions of Article 4 it is stated that marriage for members of the police adheres to the principle of monogamy because in principle civil servants in the police are only allowed to have a wife/husband and female police officers and female police civil servants are prohibited from being second wives and so on.

Based on these provisions, the practice of unregistered marriage with the excuse of polygamy cannot be carried out by members of the police. So if someone does it, it is considered a violation of the applicable provisions, especially the provisions in Regulation of the Head of the State Police of the Republic of Indonesia Number 6 of 2018 concerning Procedures for Filing Marriage, Divorce, and Referrals for Civil Servants at the State Police of the Republic of Indonesia

2. Sanctions Against Police Members Who Conduct Siri Marriages Judging from the Regulation of the Chief of Police of the Republic of Indonesia Number 6 of 2018

After the enactment of Regulation of the Head of the State Police of the Republic of Indonesia Number 6 of 2018, members of the State Police of the Republic of Indonesia are not allowed to have more than one wife (polygamy) because in accordance with the provisions of Article 4 it is stated that marriage for members of the police adheres to the principle of monogamy because in principle Civil Servants at the Police only allowed to have a wife/husband and female Police Members and female Police Civil Servants are prohibited from becoming second wives and so on. So, if there is a member of the police who carries out an unregistered marriage secretly without the knowledge of the first wife and so on with the aim of polygamy, then the marriage is considered invalid in accordance with the regulations concerning marriage for members of the state police of the Republic of Indonesia. If there is a report from the first wife, the case will be investigated to reveal the case. The examination of the case is carried out by presenting evidence and witnesses and victims are then made an examination report (BAP). Regulation of the Head of the State Police of the Republic of Indonesia Number 6 of 2018 as an ideal rule in the handling of marriage for members of the police which also refers to the Regulation of the Head of the State Police of the Republic of Indonesia Number 14 of 2011 concerning the Professional Code of Ethics of the State Police of the Republic of Indonesia.¹⁸ The

¹⁸?Nur Ekowati, et al, 2020, Handling of Violations of the Code of Ethics of Police Members on Marital Status, Journal of USM Law Review Vol. 2 No. 2 of 2020, e-ISSN: 2621-4505, 2020, p. 449.

stages of the ideal handling of police officers who violate the professional code of ethics regarding having more than one wife (polygamy) are:

1. Members who are suspected of committing acts that violate the code of ethics will be investigated and investigated.
2. After that, an examination of the case was carried out which presented evidence and witnesses and victims.
3. After collecting evidence and information from witnesses and victims, an examination report is made and an examination report is made (BAP).
4. This inspection report (BAP) is then submitted to the Professional Code of Ethics Commission (KKEP) for follow-up.
5. A trial was conducted against the alleged violators and the witnesses and victims.
6. After the trial, the Professional Code of Ethics Commission (KKEP) decides the case by providing witnesses in accordance with applicable laws and regulations.
7. After it is decided, the suspect/convict receives and undergoes the sanction of the decision with the heaviest punishment being dishonorable discharge (PDTH) or in other words the member is expelled from the Indonesian National Police Agency without receiving a salary or severance pay.¹⁹

So, the handling of police officers who violate the code of ethics, especially those related to carrying out unregistered marriages for polygamy secretly, must go through the receipt of a report from the legal wife. Further investigations and investigations were carried out to reveal the truth of the case. After the truth of the case is revealed, a case examination is carried out by presenting evidence, witnesses and victims, then collecting evidence, statements from witnesses and victims. After that, the minutes of the examination of the alleged violators, witnesses and victims are made and sentenced if they are found guilty according to the applicable regulations. The basis for handling the case is to refer to Regulation of the Head of the State Police of the Republic of Indonesia Number 6 of 2018 concerning Amendments to the Regulation of the Head of the State Police of the Republic of Indonesia Number 9 of 2010 concerning Procedures for Filing Marriage, Divorce, and Referrals for Civil Servants at the State Police of the Republic of Indonesia and Regulation of the Head of the State Police of the Republic of Indonesia Number 14 Year 2011 concerning the Professional Code of Ethics of the Indonesian National Police. The sanction for the decision against a member of the police who conducts an unregistered marriage for polygamy secretly is by dishonorable discharge (PDTH) or in other words the member is expelled from the Indonesian National Police Agency without receiving a salary or severance pay.

For example, the case of police officers who practice polygamy is Bripka AHN Bripka AHN, a member of the Pasuruan City Police, was detained for 21 days because he was proven to have committed disciplinary actions, namely polygamy by way of unregistered marriage. The decision was read out in a disciplinary hearing regarding the code of ethics of the non-commissioned officer. The Head of the Public Relations Subdivision of the Pasuruan City Police, AKP Endy Purwanto, accompanied

¹⁹ *ibid*, Thing. 459.

by the Head of the Pasuruan City Police, AKBP Agus Sudaryatno, said that the AHN's rights during the disciplinary trial process had been fulfilled. The verdict regarding remarriage without going through the KUA process was issued in decision number PUT/6/VII/2019, dated July 24, 2019. On the results of this trial, the AHN Brigadier General said he accepted. Although the first wife approved, in the Police it is not justified. The violation is contained in Police Regulation Number 6 of 2018. Furthermore, the examinee will serve his sentence in a special detention cell.²⁰ So from the case example above, it can be stated that if a member of the police is proven to have committed polygamy, after undergoing a code of ethics trial, it will be dishonorably dismissed (PDTH) or in other words the member is expelled from the Indonesian National Police Agency without receiving salary or severance pay.

E. Conclusion

The practice of unregistered marriages carried out by members of the police with the aim of having more than 1 (one) wife or having polygamy is an act that is prohibited or not allowed because it violates the provisions of Article 4 of the Regulation of the Head of the State Police of the Republic of Indonesia Number 6 of 2018 concerning Amendments to the Regulation of the Head of the State Police. Republic of Indonesia Number 9 of 2010 concerning Procedures for Filing Marriage, Divorce where it is stated that marriage for members of the police adheres to the principle of monogamy because in principle Civil Servants at the National Police are only allowed to have a wife/husband and female Police Members and female Police Civil Servants are prohibited from being wives second and so on. The penalty is After undergoing a code of ethics trial and being proven guilty of having an unregistered marriage, will dishonorably discharged (PDTH) or in other words expelled from the Indonesian National Police Agency without receiving salary or severance pay.

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²⁰ <https://kumparan.com>, Found Polygamy, A Brika at the Pasuruan Police Detained for 21 Days, Accessed June 23, 2022, 14.00 WIB.

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