

# Marriage Contract in Gender Perspective

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**Abstract:** The phenomenon of contract marriage that occurred in Puncak Bogor is a marriage between tourists from the Middle East with local women within a certain time already written in the contract. This study aims to determine the contract marriage from a gender perspective. This research uses qualitative approach and descriptive study, with data collection technique that are interview, observation and documentation. Based on the results of research on married offenders contract that the perpetrator considers marriage contracts just like ordinary prostitution just do the contract first before doing the biological relationship. And the married contractor considers that his marriage is illegitimate and the fulfillment of his rights and obligations is limited to biological and economic fulfillment.

## 1 INTRODUCTION

Humans as social beings cannot live alone but always need other individuals. Every individual will grow into adulthood and need a companion in his life. How to meet those needs by way of marriage or marriage legally according to religion and country.

As the era and the number of prostitution problems that exist in Indonesia today, there is a phenomenon that involves a sacred thing that is a marriage that becomes an object of fulfillment of biological and economic needs (Safra, 2010). This contract marriage phenomenon occurs in some parts of Indonesia, there are some areas that are quite famous for its contract marriage, one of them in the Puncak of Bogor.

The marriage phenomenon of this contract is born from the act of prostitution in disguise. The meaning of the contract marriage to legalize adultery (Haryono, 2011). Marriage contract in Islam is called mut'ah marriage. Marriage mut'ah is not allowed because there is a limitation that should be in Religion should not be. Marriage of its own contract in Islam in particular, becomes an unlawful thing because the marriage is only based on the symbiosis of mutualism between the biological needs of male actors and the economic needs of female actors.

In fact, marriage contract has become the object of business involving many parties. In sociology studies known as "dramaturgy", that contract marriage is full of engineering to convince the man

from the Middle East who will hold a marriage contract (haryono 2011). Basically male tourists from the middle east who vacation in the Puncak area want to be accompanied by the opposite sex but in order to avoid adultery then men from the middle east want to do marriage contract. Because of this, there is a marriage contract process involving the headman, witness, dowry, guardian and so on in accordance with the legal requirements of marriage, but all the elements are paid people so that in the design in such a way. In a capitalist society the consumer marriage contract consumer is interpreted as something commodity traded. In this case that sex and women become promising trade commodities. It is undeniable that the presence of middle eastern tourists has stimulated the economic wheel in the peak area is marked by the number of facilities that support tourists to vacation in the Puncak (lestari and Dharmawan, 2011). Although the presence of middle eastern tourists has made the wheels of the economy exposed, but the marriage contracts leave an impact to female actors. Female offenders are often labeled negatively by the surrounding community and if the woman is pregnant her child will not be recognized by her father. So there is injustice to women by marginalization or economic pecking process.

In reality women are still controlled by economic conditions as if helpless when women do not have economic power. This is due to the low education that is owned by women. When women possess the power to resist and have power in terms of education and

economy, cases involving marriage contracts that harm women will not happen again. Contract marriage positions women inferior to men or under male authority and control. Weak position of women is a consequence of the values through the process of socialization and reproduction in various forms in society and country (Tektona, 2011).

## 2 LITERATUR REVIEW

In this study the author presents several other studies that have been done by previous researchers on contract marriage. The first study (Afifi, 2014) answer the question how juridical law in contract marriage. The contract marriage that occurred in the peak area is considered to deviate from the principles that serve as the guideline for the implementation of marriage in Law No. 1 of 1974. In the contents of this law it is stated that a marriage is lawful if done according to the laws of each his religion and the purpose of marriage is to form a happy and complementary family so that each can develop his personality in order to achieve his happiness. In the marriage contract the female actor admits that marriage is sacred but to meet his economic needs he is willing to contract marriage for profit. The contract marriage woman considers that the marriage contract is invalid because it is full of engineering and does not exercise her rights and obligations as a wife. In addition, when the contract is completed then the offender can do it with another man.

The second study (Shafra, 2010) examine the contract marriage according to Islamic law and reality in Indonesia. Marriage contract rampant occurred in the Puncak areas that took place in July, August, and September but did not rule out in other months' contract marriage. Perpetrators marriage contracts are usually tourists who come from the middle east. Tourists from the Middle East are visiting Indonesia for just a vacation, but there are also some tourists who come just want to marry a local woman even if only temporary. Tourists from the middle east do marriage just seek pleasure to have sex legally. Perpetrators of women who do marriage contract not only the original citizens of Cisarua Bogor but from other areas such as Cianjur, Sukabumi, and Indramayu.

The third study (Tektona, 2011) undertook research on the protection of women's law against children of mixed marriage in Indonesia. In his journal expressed about women in the feminist legal theory perspective. Women are already imprisoned in the ideology of male preference as if it were normal

and unchangeable. As long as women are still trapped in that, then marginalization and gender discrimination will continue to be preserved (Arief 1996). Through feminist legal theory, there is criticism against the dominance and hegemony of the patriarchal world view in law which results in marginalization and oppression of women.

The fourth study (Haryono, 2012) answers research questions about the impact of women contract marriage. The impact for women contract marriage is physical (physiological) impact, such as men / husbands' awards are merely physical. Because inside the marriage contract does not fulfill the inner need just to satisfy outwardly. In addition, the psychological impact is mainly felt by the marriage contractors who became widows and have children but have no husbands. So to bear the shame, lamented the fate and let the father go home when the contract is over. The sociological impact for women contract marriage actors in label is negative by the surrounding community.

## 3 METHODS

This research was conducted by using qualitative approach with descriptive study method. This approach is used to describe contract marriage phenomena in a gender perspective. This research is done in the peak of Bogor, especially in the village of Tugu Utara. Informants in this study amounted to 13 people belonging to the principal informant of contract marriage actors consisted of two prostitutes and two middle east men and nine others as supporting informants i.e. community consisting of community leaders, village apparatus, ordinary people, chairman mass organizations and the head of RT (Neighborhood)/RW (Hamlet). Data collection techniques used by researchers include in-depth interviews, participatory observation, and documentation studies. Test data validity is done by triangulation and member check based on data source. Data analysis techniques using data reduction, display data and conclusion drawing verification.

## 4 RESULTS AND DISCUSSION

### 4.1 Results

In this section, the results of research on contract marriage in a gender perspective are discussed about the views of contract marriage perpetrators on a

marriage, the driving force of the perpetrator to contract marriage and the consequence of the marriage contract on the fulfillment of the marriage obligations within the marriage contract. The view of contract marriage actors against marriage

Based on research states that the views of women marriage contract marriage actors that they consider marriage something sacred and holy, bringing together two people who like each other and make something that has not legal become lawful. The purpose of a marriage to have offspring and avoidance of the treatment of adultery. The female perpetrators of contract marriage know the legitimate requirements of a marriage that must be the prospective groom and woman, the headman, guardian, witness, and of course his dowry. However, the marriage contract process of all the perpetrators is engineered so that the female marriage contractor acts that the marriage is not valid. The contract marriage cannot be equated with the real marriage and married contract women do not feel to be a wife after marriage contract. In contrast to the male view of the perpetrators of marriage contracts on the same basis that they regard the marriage of an obligation in Islam, agreement through the marriage contract, meet the needs of one another, and continue the offspring. What distinguishes this is the view of the contract marriage, the male contract marriage actors assume that there is no such thing as a marriage contract they assume that it is equally valid as marriage in general because it already qualifies legitimate marriage.

#### **4.1.1 The Driving Force of Contract Marriage**

The occurrence of contract marriage in the Puncak area, especially in Arab village begins with the existence of factors that encourage the perpetrators so they are involved in the contract marriage. Factors consist of internal factors and external factors.

Factors that encourage women to contract marriage because of the low level of education so as not to have special skills and cannot work so that the lack of income to meet daily life. External factor is low economic level so it must be the backbone of the family, before contracting marriage this woman has sex outside marriage, and environmental factors affecting women marriage contract perpetrator to repeat the action. While the factors that encourage men to contract marriage is to think that contract marriage something kosher and most important to comply biological needs. In addition, the geographical conditions of the peak of the cold so that makes comfortable travellers from the middle east for

a vacation and the presence of facilities to facilitate middle eastern tourists to contract marriage.

The consequences of contract marriage against the fulfillment of the obligations of the husband and wife in the contract marriage

In every marriage there must be consequences to be acquired by both husband and wife, in the presence of a new status automatically they will also have new obligations previously unusual. Unlike the real marriage, marriage done by contract marriage has no special rules governing the obligation of husband and wife. Returning again to the original purpose of the marriage contract to channel the male sexual appetite (perpetrator) and the main task for women from contract marriage is to serve the sexual needs of men. In this study obtained the results of the rights and obligations of marriage contractors both women and men. The husband has the right to receive sexual services until satisfied from the contract marriage partner and has the right to ask his wife (marriage contract) to accompany his holidays and obligations such as paying (marriage) to his contract marriage partner in accordance with the agreement and treat his partner well without violence. The right as a wife is to receive a sum of money from the agreed marriage contract and receive good treatment and the right to be angry if her couple of marriage contract violent conduct. Obligations to be done by a wife that is serving the sex needs her partner anytime until her partner satisfied, also accompany and entertain her husband of marriage contract.

There are things that should not be done by the perpetrators of contract marriage is that if the woman contains to have children, male offender is not obliged to provide for a living. While the wife does not need to perform other obligations such as cooking, washing, and doing household chores.

#### **4.2 Discussion**

Viewed from a gender perspective that the marriage contract has much to the detriment of the unempowered women. Stereotypes against women are casually deceiving women. Men generally show more power than women in a marriage relationship. One way to express such a force is through a role in a cruel marriage, where the person is usually stronger while the woman is a less powerful and often abused person (Gerber, 1991).

The results of this study indicate that no party is harmed. Perpetrators both benefit from this marriage contract. In the rights and obligations of husband and wife in the marriage contract is limited to channelling

biological desires and the women get material benefits.

Factors that encourage why women are still controlled by economic conditions because of the inability of women to compete in the world of work, the low level of education of women that causes women cannot work. But she needs income to support her costs so she chooses to contract marriage. This condition is still clearly visible, especially in the West Java community, especially the traditional society who see women should stay at home. The public view that women do not have to be highly educated is constrained to economic growth (Klase and Lumanna 2009) whereas if women have a high education there will be no gender inequality, especially for women.

In developed countries, for example in East Asia, the state has a role to involve women that women should be educated and have equal employment opportunities that will affect economic growth in the country (Klase, dan Lumanna 2009). In contrast to Indonesia, especially in the Puncak area is still a lot of women who are controlled by the economy so that women should be resigned to accept the situation.

Apart from economic factors, that the husband's duty should be responsible in his household, but this marriage contract has been arranged in accordance with the contract agreed by both parties. If there is a problem that is outside the contract, then the men will not be responsible. In the results of this study there is a case that the woman was pregnant and gave birth to a child. The child who was born by the woman was not supported by her father because in the contract agreement there is no obligation of men from the Middle East to support the child. Women who bear their children alone must bear a very heavy burden such as the judgment of society by judging naughty women. The woman also has a heavier burden that is to work to earn a living because as the backbone of his family and role as mother and father to his son.

## 5 CONCLUSIONS

According to the perpetrators that marriage is a sacred thing, but in contract marriage is an unlawful marriage according to religion, and the law in Indonesia because this marriage only meets the biological needs only. The woman who is the contract marriage actor only accepts payment in accordance with the agreed contract. In a gender perspective that women are still controlled by economic conditions to contract this marriage. Because of the limitations and lack of expertise possessed by women make this woman become the perpetrator of the marriage

contract. Women must be highly educated in order to help the wheels of the economy in the family.

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