



The Consequences of Contract Marriage Law on the Position of Wives, Children, and Wealth in the Perspective of Islamic Law

Jitha Kemala Putri Lumingkewas

Faculty of Law, State University of Gorontalo, Indonesia. E-mail: jithalumingkewas84@gmail.com

Abstract:

This article discusses the highest factors that hinder the settlement of property disputes. The legal status of contract marriages according to Islamic law, a marriage is said to be valid if it meets the requirements for a valid marriage and is carried out according to religion and belief, this is based on Article 2 of Law Number 1 of 1974 and Article 4 Islamic Law Compilation. Or in other words marriage is legal according to Islamic law if it fulfills the marriage requirements. The legal status of contract marriages in an unregistered marriage when viewed from Law Number 1 of 1974 concerning marriages does not have permanent law, because contract marriages are a form of marriage that is not registered so that it cannot be proven by an authentic certificate in the form of a marriage certificate. In this writing, the author uses a normative research method in which this method is a legal research method that is carried out by examining library materials or secondary data. Legal arrangements for contract marriages (mutah marriage) in the perspective of the Marriage Law are illegal marriages and have no legal force, as a result the contract marriage law for the position of wife and children is that the wife must carry out all obligations as a wife and child status. who was born illegitimate, because the marriage of his parents was not recorded in a legal marriage. If the marriage ends in a contractual marriage, there is no distribution of assets, even though assets were produced during the marriage. In addition, there is no inheritance right from the contract wife to the contract husband.

Keywords: *marriage contracts, the position of wives, children and wealth.*

How to cite (Chicago Manual Style):

Lumingkewas, Jitha Kemala Putri. 2022. " The Consequences of Contract Marriage Law on the Position of Wives, Children, and Wealth in the Perspective of Islamic Law." *Damhil Law Journal* 2 (2): 112-130

© 2022 – Lumingkewas, Jitha Kemala Putri
Under the license CC BY-SA 4.0

Introduction

Marriage is one of the most important parts of the human life cycle, where two people of different sexes are brought together with terms and laws that apply for the same purpose, namely to form a family for an unlimited period of time and are valid for life. Generally, marriage is motivated by a feeling of mutual love for one another.



It is this feeling of love that then encourages a person to commit to the mastery of household life. In addition, physical and psychological maturity also plays an important role in forming a family (Hariati 2015)

Marriage is felt as a sacred and special moment, because it is carried out once in a lifetime. Marriage is eternal without knowing a time limit. However, marriage is a sacred part of life, because it must pay attention to the norms and rules of law that apply in society. However, in reality, not all humans have such principles. With a variety of reasons that are reasonable and acceptable in society, marriage is often not respected as the sacredness of the people who are getting married. Basically marriage is intended for a period of time forever until death do them part, but in practice it is often the case that people who enter into temporary marriages are called contract marriages. The term contract marriage in Islam is often referred to as *mut'ah* marriage (Alif 2015).

Mut'ah etymologically means to have fun or to enjoy. *Mut'ah* marriages are also called temporary marriages or interrupted marriages (Mardani 2011a). The important purpose of contact marriage is only the desire to gain pleasure from their partners without the intention of perpetuating offspring and continuing the marriage and overriding other important goals of a marriage (Prof. Dr. Yusuf ad-Duraiwisy; Muhammad Ashim 2010). Contact marriage has no purpose to form a household that is eternal, everlasting, *sakinah*, *mawadah warahmah* and it is contrary to the purpose of marriage which is prescribed in Islam. contract marriages where it is certain that the perpetrator himself made an agreement in it, the provisions of Article 1320 of the Civil Code are not fulfilled. In contract marriages there is also a marriage agreement. However, the marriage agreement in contract marriage is very contrary to the marriage agreement in Law no. 1 of 1974. According to Law no. 1 of 1974, marriage agreements are allowed as long as they do not violate the boundaries of law, religion and decency. The marriage agreement in contract marriage is very much against the boundaries of law, religion and decency. Because the contents of the marriage agreement in contract marriages regulate the time/length of the marriage, the compensation to be obtained by one of the parties, the rights and obligations of each party, and so on. The contents of the marriage agreement cause contract marriages to become temporary marriages because the time is limited, and it



emphasizes economic value, so it is very contrary to the law, religion, and decency norms that apply in society.

Furthermore, (Mardani 2011a) the factors are even more specific that these women do because of the following:

- 1) Economic factors and poverty. Under the pretext of poverty, and to meet the economic needs of their families, they are forced to enter into contract marriages;
- 2) Factors weak faith and appreciation of religious teachings, mut'ah marriage or contract marriage. They even argue that contract marriages are legal according to religion, they do contract marriages rather than commit adultery;
- 3) Community environmental factors are less concerned about eradicating contract marriages. Certain communities, there are those who do not care about the practice of contract marriages, so that there are still contract marriages in the community;
- 4) Biological factors. Biological reasons, usually done by people who are assigned to leave their families for a long time, as a wrong solution, they do contract marriages, because they are afraid of committing adultery;
- 5) Factors of failure in the household. Household failure factors are used as an excuse by women to enter into contract marriages;
- 6) The factor is that there are no strict rules in the form of laws or other things that prohibit contract marriages;
- 7) Polygamy that does not get the blessing of the wife; And
- 8) Polygamy that does not get permission from the court.

Contract marriages are inseparable from the negative impacts that are far from benefiting humanity, including:

- 1) Wasted children. Children from contract marriages are hard to touch by the love of their parents (father). His life without knowing his father kept him away from the responsibility of his parents' education, foreign to society, while mentally retarded;

- 2) Possible illegitimate marriage. The lack of interaction between families in contract marriages, especially after divorce, opens the way for marriages between children of the same father who have different mothers, or even child marriages with their fathers. Because none of them knew each other; And
- 3) Complicates the process of dividing the inheritance. Fathers of children born in contract marriages, especially those who are far apart, are usually difficult to get to know each other. Determination and distribution of inheritance is certainly not possible before the number of heirs is ascertained (Sukiati and Bancin 2020).

The marriage period will end with an agreement period agreed by both parties with no divorce and there is no obligation for a person to inherit between the two according to Islamic law. Conditions for contract marriages include making a consent form with the words of marriage or with the word mut'ah, there is a dowry, no guardian, no witnesses, there are provisions limited by time, there is no inheritance between husband and wife and no divorce. Even though a contract marriage has consent granted, the consent granted in a contract marriage is different from the consent granted in an ordinary marriage. The difference lies in the limitation on when the marriage is carried out (DELVIANANDA CIZZA 2018).

Meanwhile for Indonesian citizens, especially women, namely women who are involved in contract marriages, they do so for economic reasons. Financial problems are the main reason for contract marriages. Because in contract marriages the price set is quite high. The longer the time period, the higher and more expensive the rate. This method is considered better than committing adultery, because marriage justifies the relationship between husband and wife (PRATIWI PUJI RAHAYU 2017).

In a mut'ah marriage, the procedure is not complicated, unlike in a permanent marriage. The costs are also cheap, because the perpetrators are not overly burdened with having to organize a wedding reception as is common in permanent marriages. The duration of marriage is not permanent, it can be arranged jointly and sometimes it is determined more by the man, depending on how long he needs it. Likewise, there



is no social burden of having to make regular visits or be hospitable to the wife's family. Complicated population administration starting from RT, RW, village, to sub-district will not be experienced by contract marriage actors.

Method

In this writing, the author uses a normative research method in which this method is a legal research method that is carried out by examining library materials or secondary data.

Discussion

1. Definition of Contract Marriage

Contract marriage is a marriage between a man and a woman with a contract (agreement) within a certain time limit and there is a dowry (an amount of money). If the period (contract) is over, then by itself the separation (*thalaq*) occurs without the word '*thalaq*' or inheritance. However, the time limit for contract marriages can also be extended according to the agreement of both parties.

The contract marriage process is like a marriage contract in general. There are witnesses, dowry, prince and consent accept. However, contract marriages have a clear difference from ordinary marriages (*daim*), that is, contract marriages have a specified period of time, for example, for three days, a week or a month according to the agreement and without being registered at the Office of Religious Affairs (KUA). This type of marriage is like a house contract, the name of the contract is not forever. If when the contract takes place and there is no time limit for the marriage, then the marriage will be permanent (*daim*). So this type of marriage has no clear purpose, other than just having fun (sexual affairs) for a moment, not for the purpose of building a harmonious and eternal family life (*daim*) (Citra, Lestari, and Hendra 2016) .

2. The Legality of Contract Marriages

The validity of a marriage is based on fulfilling the conditions and pillars of marriage. In positive law, the pillars of marriage are discussed in Article 14 of the Compilation of Islamic Law (KHI), which consists of a prospective husband,



prospective wife, marriage guardian, two witnesses, as well as consent and qabul, existing regulatory provisions, both marriage laws and legal compilations Islam does not include the types and forms of marriage that are prohibited, although the provisions in Articles 39 - 44 of the Compilation of Islamic Law (HKI) include prohibitions and cancellations of marriages (Jamaluddin and Nanda 2016).

Meanwhile the provisions of Islamic law regulate in detail several types of marriage that are prohibited, such as *mut'ah* marriage, *syigar* marriage, *muhallil* marriage, marrying a woman who is undergoing an *iddah period*, and so on. Furthermore, etymologically, *mut'ah* means to have fun or to enjoy. *Mut'ah* marriages are also called temporary marriages or interrupted marriages. The important purpose of contract marriage is simply the desire to obtain pleasure from the partners without the intention of perpetuating offspring and continuing the marriage and overriding other important goals of a marriage.

With regard to *mut'ah marriage*, the Malikiyah, Syafi'iyah, and Hanabilah scholars agree that *mut'ah marriage* is the same as *mu'qqat marriage*. While the Hanafiyah scholars require the word *mut'ah* in *mut'ah marriage*, such as "I married *mut'ah* with you". The essence of *mut'ah* marriage is to link the marriage contract with a certain time. The time limit is considered to be contrary to the purpose of marriage as stated in Article 1 of the UUP as mentioned above, namely to form a happy and eternal family. The essence of a marriage is in the context of fulfilling the right to fulfill the needs of human nature, and in practice a marriage is a bond, or a transaction in which conditions, obligations and rights are contained, there are even several forms of agreements made before and in a marriage.

Apart from differences of opinion regarding the legitimacy of *mut'ah* marriages, in Indonesia there is a practice of contract marriages. In practice, there are similarities between contract marriages and *mut'ah* marriages, namely the existence of a certain time limit. Fuad M. Fahrudin interprets contract marriages as marriages that are only temporary according to what has been determined. This time may be three days, one month or one year according to the needs and agreement of both parties without any coercion and pressure from anyone or anything (DELVIANANDA CIZZA 2018).

3. Arrangements for Contract Marriage Law in the Perspective of Islamic Law.

In Islamic Law, mut'ah marriage is a contract made by a man to a woman by using the pronunciation "tamattu, istimta" or the like. Some say that mut'ah marriage is also called contract marriage (*mu'aqqaḥ*) for a specified or unspecified period of time, without a guardian or witness (Bunyamin and Hermanto 2017)

Mut'ah marriage according to Abdul Wahab is a marriage that is prohibited (*bathil*). Jumuhur Ulama agreed to this prohibition. By stating that no one followed the marriage (Hasan 2011)

All madhhab priests forbid muta marriage for the following reasons :

- 1) Mut'ah marriage is not in accordance with the marriage intended by the Koran, nor is it in accordance with issues related to divorce, iddah, and inheritance. So, the law is void as other forms of marriage which are canceled by Islam.
- 2) There are many hadiths that expressly state the prohibition of mut'ah marriage. As a hadith from Subrah Al-jahmy, that he had accompanied Rasulullah SAW. in the conquest of Mecca. At that time, Rasulullah SAW allowed them to marry mut'ah. Saburah said, "do not leave this marriage until then it is forbidden by Rasulullah SAW." In a hadith narrated by Ibn Majah, Rasulullah SAW. forbids mut'ah marriage with the words which mean: "O people! I once permitted you to do mut'ah marriage, but now know that Allah has forbidden it until the Day of Judgment." Zufar is of the opinion that the mut'ah marriage is stated explicitly and the time limit is clear, so the marriage is valid, but the time limit is cancelled. This is if the words tazwij (marriage) are used in the consent qabul, but if the words mut'ah (temporary) are used, the law is unlawful and null and void. Another hadith raised by Ali bin Abi Talib states which means: "From Ali, Rasulullah SAW. had prohibited mut'a marriage during the Khibar War and forbade the eating of donkey meat by its inhabitants."
- 3) When he became caliph, Umar made a speech declaring the prohibition of mut'ah marriage. At that time, the friends immediately agreed even though



they would not want to agree on something that was wrong, if Umar's statement about the prohibition of mut'ah marriage was wrong. Mut'ah marriage was actually forbidden only in the year of the conquest of Mecca, as it is narrated in Sahih Muslim that the companions at the time of the conquest of Mecca were still permitted by the Prophet to carry out mut'ah marriage. If it is true that at the time of the Khibar War it was forbidden, it means that there were two nasakh (annulment of the law). In fact, there has never been an annulment of the law up to two times, because of that there has been confusion among the scholars regarding the hadith in question. There are those who argue that the Prophet once prohibited eating donkey meat from the people of Khibar during the Khibar War and prohibited mut'ah, but it was not stated explicitly since when mut'ah marriage was prohibited, while the Muslim hadith above explains it, namely in the year of the conquest of Mecca. Imam Syafi'i still adheres to the outward appearance of this hadith. He said, "I have never known anything that Allah has made lawful and then He has made forbidden, then He has made it lawful and then He has made it illegal again, except for the matter of mutah marriage."

- 4) Al-Khatthabi stated that mut'ah marriage had been agreed upon as forbidden by the scholars of the school of thought, except for the Shi'a scholars of Imam 12 who permitted it. The evidence they refer to is the history that allowed this marriage during the early periodization of the emergence of Islam, before the evidence behind it was revealed. Another argument that is used as an excuse is the word of Allah in the letter An-Nisa verse 24 which means: "So because of the pleasure you have received from them, give them their dowry as an obligation." The verse obliges women to give property to women in exchange for "having fun" with them. The verse calls it *ajran* (wages). 'Having fun' with a woman means not marrying her. Wages there also do not mean dowry. This becomes the argument for the permissibility of mut'ah. Sayyiq Sabiq said that when the Shia Imamiyah group faced the problem of *ikhtilaf*, they always referred to the arguments issued by Ali bin Abi Talib, but this time, the argument stating that mut'ah marriage had been abolished was the argument stated by Ali. bin Abi Talib with a hadith whose position is valid. In fact, it was reinforced by Baihaqi

- who narrated from Ja'far bin Muhammad when he was asked about mut'ah marriage. Baihaqi answered that mut'ah marriage is the same as adultery.
- 5) Mut'ah marriage is only aimed at expressing lust, not to get offspring and maintain them. Mut'ah marriage is just an outlet for lust that makes women the object of male sexuality in the name of an emergency. Therefore, mut'ah marriage is equated with adultery, when viewed from the point of view of its sole purpose to have fun. In addition, mut'ah marriage can endanger the position of women, because it is like an object that is passed from one hand to another, it is also detrimental to children because they do not get a place to live and do not receive proper care and education (Rais 2014).

The characteristics of mut'ah marriage or contract marriage (Citra, Lestari, and Hendra 2016)

- 1) Ijab qabul uses the words marriage or the word mut'ah;
- 2) Without guardians and witnesses;
- 3) There are limited time provisions;
- 4) There is no inheritance between husband and wife;
- 5) No divorce.

A marriage carried out without witnesses and guardians is void, because guardians and witnesses are included in the pillars of marriage. A marriage ends when there is a court decision, divorce and death.

Unlike the case with contract marriages ends when the agreed time limit has expired, and without divorce. This is clearly contrary to Islamic teachings.

Based on the description of the statement above, it is clear that contract marriages or mut'ah marriages are strictly prohibited and contrary to the teachings of Islam. Marriage that does not fulfill the pillars and conditions in Islam is null and void. So that the law is unlawful or vanity, because it does not heed the goals and principles of a very sacred marriage, namely marriage for ever and not for a while.



4. Legal Protection Provided to Children as a Result of Contract Marriages

The Constitutional Court stated in Article 43 paragraph (1) of the Marriage Law which stated "Children born outside of marriage only have civil relations with their mothers and their mothers' families", contrary to the 1945 Constitution (Mardani 2011). The Constitutional Court also stated Article 43 paragraph (1), stating:

"The Marriage Law does not have binding legal force as long as it is interpreted as eliminating the civil relationship between children and men which can be proven based on science and technology or other valid evidence according to law, it turns out that they have blood relations as the father".

All children who are born outside of official marriage as is generally done, then the child only has blood relations and civil relations with their father. What is meant by "outside of official marriage" includes unregistered marriages, extramarital affairs, and living together without marital ties (collective cohabitation).

With children born outside of official marriage so far not having birth certificates, of course they will obtain state rights for these children. Or as long as this child is born out of wedlock, the child's birth certificate does not contain the name of the father, only the name of the mother as a single parent. Children born outside of official marriage do not have family ties according to law with the one they marry. Therefore, the child only inherits from his mother and his mother's family as stated by SA Hakim in the book *Individual Customary Law, Marriage and Inheritance* (Soimin 1992). Children born outside of official marriage still have a civil relationship with their father even though the father's name is not in the child's deed. By saying that all children are born equal, there is no need for a difference in legal status for children born outside of official marriage or in an official marriage.

In Islamic law, children outside of marriage cannot be recognized or separated by their father (biological father). The children only have a legal relationship with their mother. However, the child still has a mother, namely a woman who gave birth to the child, with the understanding that the child and the mother have a legal relationship and are the same as legitimate children who have a father. According to Wirjono's book, *Itself in Islamic Law*, it is stated that it is possible for a child to only have a mother and not have a father. So, according to Islamic law, the status of a child born outside of marriage is an



illegitimate child who has no legal relationship with his father, namely the man who passed him on, but still has a legal relationship with the mother who gave birth to him (Cuaca 2020).

In civil law, children born outside of official marriage can be recognized by their father or mother. With only offspring outside of marriage, there has not been a family relationship between the child and his parents. Only after there is recognition, there is a family affinity with all the events that result between the child and the parents who acknowledge their child. So, the child out of wedlock has the status of a recognized child.

As for the legal status of children born out of wedlock as unification in the field of marriage law as stated in Law Number 1 of 1974 which is stated in Article 43 paragraph (1). This means that the child has a family relationship with the consequences, especially inheritance rights, so it is almost the same as a family status with a legitimate child, the only difference is that a child out of wedlock has no relationship with his father. On the other hand, a legitimate child has civil relations besides with his mother and with his mother's family, he also has civil relations with his father and his father's family.

5. Legal Consequences of Contract Marriage on the Position of Wives, Children, and Assets.

a) Legal Consequences of Contract Marriages on the Position of Wives and Children at the time of the Contract Marriage.

In this case, according to the terms of a contract marriage, several consequences will arise, such as: As a result of contract marriages to husbands, the husband has the full right to enjoy the body of his contract wife. As long as they are bound in a contract marriage, a husband whose status is a contract husband has the right to receive treatment and service as a husband and wife in general who are married. In spending expenses to live while bound in marriage, of course, these costs are incurred from all activities coming from the contract husband. For wives in contract marriages, the occurrence of contract marriages has the opposite effect on what is experienced by the husband. The contract wife is obliged to give her body to be enjoyed by her contract husband with no right to ask or demand a living or some money for herself. The contract wife is obliged to serve all the needs and requests of her contract husband as befits a wife in general.



In the marriage contract, marriage is not only a moment where sexual intercourse between the two sexes is legalized, but in a sad statement that one has to bear the burden on the family and their future offspring. Along with the legalization of the right to mix or live in the same household with a contractual marriage bond between a man and a woman, the responsibility also automatically falls on the shoulders of the man to provide a living, educate his wife and if he has children, and protect both physically and mentally. Whether requested or not, the husband must give his wife his obligations and responsibilities.

Even though the husband and wife both have rights and obligations in marriage, when talking about the balance between rights and obligations, it should be difficult in the case of contract marriages to create a balanced condition. Nearly 100 percent of orders or anything issued from the husband's mouth are rules that must be obeyed and carried out by his contract wife. Without the slightest right for the wife to refuse or express her opinion. In Warung Kaleng Cisarua Bogor, it was found that the contract husband was willing to provide for his contract wife as long as the contract husband was still the husband of the contract wife.

In this case the contract wife is very dependent on her contract husband. If you happen to get a good-natured husband, then the income provided while undergoing a contract wife can be more than enough, but if you get a contract husband, a man who is married to a contract wife and lives life with his contract husband, the contract husband really only aims to fulfill just biological desire. So don't expect him to give a lot of money as a living while being his contract wife. Men like this only think that having a contract wife is the same as paying a prostitute (PSK) to sleep with, so that the dowry he has given to his contract wife when undergoing a marriage ceremony is already the living he gives to his contract wife.

Because a marriage that is fostered on the basis of a contract marriage is no more than hiring a prostitute for how long to live together and serve a man who has the status of a contract husband, the contract wife also cannot protest if the contract husband will separate according to before the contract and if there are things other things, such as bickering, not getting along, and too many protests, if this happens the contract husband will enter into another contract marriage with another woman. On the other hand, for a contract wife, as long as she is the contract wife of a man,



she has no right to remarry with another man, either in a contract marriage or in an official marriage.

This is clearly very unfair to women and very much against Article 9 of Law no. 1 of 1974 which states that "A person who is still married to another person cannot remarry, except in the case referred to in Article 3 paragraph (2) and in Article 4 of this law." As is known that Law No. 1 of 1974 adheres to monogamous (single) marriages. This means that in marriage there is only one husband and one wife. This is to ensure that the relationship between the two partners is always happy in the household because marriages carried out with more than one woman or man are difficult to achieve happiness in the household. However, as has also been determined that there are exceptions to this matter, namely in matters regulated in Article 3 paragraph (2) and Article 4 of Law no. 1 of 1974, namely in the case of subsequent marriages it must be desired by the parties, but it is not enough to just want it, but also must have the permission of the court (Article 3 paragraph (2) of Law No. 1 of 1974. In this case the court will only grant permission if one of the conditions stipulated in Article 4 of Law No. 1 of 1974 is fulfilled, namely if the wife cannot carry out her obligations as a wife, the wife has a disability or an incurable disease, or if the wife cannot give birth to offspring. On the human side, this article implies only a sense of mutual disloyalty between the husband and wife relationship (Munawar 2015).

b) Legal Consequences of Contract Marriages on the Position of Wives and Children after the Expiration of Contract Marriages.

As a contract, in the end when what has been promised has arrived, the contract marriage ends. With the end of contract marriages, the end of households that are fostered on the basis of contract marriages. With the end of the contract marriage, all rights and obligations arising from contract marriages also end. A wife who does not enjoy the facilities owned by her contractual husband, when the contract marriage ends, will not receive these facilities again.

A man who has finished his contractual marriage period has no obligation to give anything more to a woman who has become his contractual ex-wife. This is very sad, considering that the reason most women enter into contract marriages is to make ends meet. Thus, after the expiration of the contractual marriage period, the woman



will return to live life as usual, a life of deprivation. This is very burdensome for women, because after undergoing a contract marriage, it is difficult for a woman to get another man as her true husband, so that from a woman's point of view, child contract marriages are very detrimental to women.

However, in practice, the contract husband still gives money/sangu to his contract wife in the form of a certain amount of money to support or lighten his burden of living needs. However, giving this money is not an obligation for the contract husband, so whether or not this money is given depends very much on the kindness of the contract husband. Likewise in relation to children, the end of a contract marriage makes the contract husband not have the obligation to provide for the living expenses of his child, even though the child is his own biological child.

When viewed from the position of the former contract wife, the end of the contract marriage makes her return to single status. However, the single status here does not mean being a widow or a virgin. This is because if you are considered a widow, then there should be a divorce process regulated in Law no. 1 of 1974. As is known that divorce according to Law no. 1 of 1974 can only be made before a court session. However, this is not the case with divorce according to contract marriages, there is no trial or other ways for divorce to occur, for example divorce through the amil who previously married the couple. So in marriage the marriage contract just ends without any process. After arriving at the agreed time, the contract marriage that was carried out by them ended.

Therefore, in society, especially in Warung Kaleng Cisarua Bogor, women who have been contract wives will usually return to become contract wives for other men. This is because it is difficult for them to find a husband who really wants to accept their situation as it is. From this description it can be said that anyone, both men and women, whether pro or con, will agree and judge, who benefits and who loses in the issue of contract marriages. When a divorce or separation between husband and wife occurs, it is very clear that it is the woman who feels the sap most in contract marriages, women who are innocent, innocent, sincere, full of devotion, full of sacrifice, and loyalty, they are the ones who end up being the victims whose lives are miserable. Meanwhile, the man who has married her will not necessarily pay more attention to his ex-contract wife.



The suffering experienced by contract wives after the end of the contract marriage also includes psychological suffering. For women, marriage is one of their life goals. For them to love someone and serve him is everything. If a woman finds the right person and fits her mooring, then she can make no matter how big a sacrifice because it is in her nature to be a woman. On the other hand, for children born from contract marriages, there are also many sufferers who are abandoned. Society no longer argues about how terrible the consequences must be for children if their parents have to divorce. The evidence has already spoken, children who are brought up in this condition later when the child grows up have a tendency to become problematic, difficult to manage, and so on. In general, the education of new children will be optimal if it is handled by the father and mother. Children born from mut'ah marriage will usually experience suffering. From a life perspective, it is certain that children born in contract marriages must accept the consequences of their father's indifference to the cost of his life. Besides that, it is also possible that all his life he will become the object of humiliation by his friends and the people around him, as a child who does not have a father. Besides that, the child must give up never getting love from his father from birth to adulthood.

c) Legal Consequences of Contract Marriage on Assets.

A marriage, even though it only lasts for a while, nevertheless has a time when the husband and wife live together. Likewise in contract marriages. In this case, the author uses the basis of the Marriage Law and Compilation of Islamic Law because in principle marriages performed by couples who are in contract marriages are Islamic marriages.

In the Marriage Law, assets created in marriage become joint assets, and therefore in the event of a divorce the assets are divided equally. However, in contract marriages this provision does not apply at all. Thus the breakup of a marriage in a contract marriage, apart from no joint property, contract marriages also do not cause a mutually inherited relationship between the husband and the contract wife. Because as stated in the terms of a contract marriage, wrongdoing will not result in the division of joint assets. One stated that "The wife or female partner has no inheritance rights". This means that even if the contract husband dies while the contract marriage is still going on, the contract wife is not entitled to receive the inheritance from her husband.



In the legal system in Indonesia, the contractual wife's desire to inherit the contract husband's property cannot be legally requested. This is because legally contract marriages cannot be said to be legal actions, so the consequences are:

- 1) Wives are not considered legal wives;
- 2) The wife is not entitled to maintenance and inheritance from her husband if she dies; And
- 3) The wife is not entitled to marital assets if there is a separation, because legally the marriage is deemed to have never happened.

The existence of such a fact cannot be protested by the wife or brought before the court. This is because their marital status is not recognized in the legal system in Indonesia. Apart from that, from the start the contract wives also realized the consequences of the contract marriage that they entered into would make her have no rights like marriage in general (Krisharyanto, Hutagalung, and Supriatna 2019).

Conclusion

Based on the explanation above, it can be concluded as follows:

- 1) The legal arrangement for contract marriages (mutah marriage) in the perspective of the Marriage Law is an invalid marriage and has no legal force, because the marriage is very contrary to Article 1 and Article 2 of Law Number 1 of 1974. From a Legal Perspective In Islam, contract marriages are marriages that are forbidden forever or until the Day of Judgment and



the marriage becomes void because it does not fulfill the pillars and conditions of marriage.

- 2) The concept of contract marriage in the Marriage Law No. 1 of 1974 is not recognized. This is implied in the contents of the articles contained therein, so that it can be concluded in all aspects specified in Law no. 1 of 1974 contract marriages are not known. In contract marriages, the nature of the marriage is only temporary, making it inconsistent with the purpose of a marriage, besides that, marriages that are carried out with the existing system in contract marriages are also not in accordance with what is in the Marriage Law, which in the Law Marriage Law, the marriage is registered so that it has legal force. In addition, there is no wife's right to earn a living from her husband, there is no inheritance right from the contract wife to the contract husband, the status of an illegitimate child, there is no obligation for the contract husband to provide for children born out of contract marriages, and how the contract marriage ends. not through a court hearing, so that all of these aspects are not in accordance with the articles contained in the Marriage Law. The negative impact of the phenomenon of contract marriages, namely the existence of covert localization, in addition to the increase in the population that is not well controlled as a result of the birth of children from contract marriages, because the marriage is not recorded.
- 3) The legal consequence of contract marriages on the wife's position is that the wife must carry out all obligations as a wife in general. The position of a wife who does not have a marriage certificate and marriage certificate means that the wife does not have any legal power to demand all obligations from her contractual husband, to protect herself which they do is not recognized in the legal system in Indonesia because it is not recorded. Even though from the beginning contract wives also realized the consequences of a contract marriage that they entered into would make them have no rights as marriages in general



Recommendation

The concept of contract marriage in Marriage Law No. 1 of 1974 is not known. This is implied in the contents of the articles contained therein, so that it can be concluded on all aspects specified in Law no. 1 Year 1974 married unknown contract. In a contract marriage, the nature of the marriage is only temporary time, making it not in line with the purpose of a marriage, other than that it's not Disability of marriages carried out using the existing system of contract marriages also not in accordance with what is in the Marriage Law which is in The Marriage Law, the marriage is registered so that it has strength law. In addition, there is no wife's right to earn a living from her husband, no there is the right to inherit from the contract wife to the contract husband, the status of children who are not legally, there is no obligation for contract husbands to provide for the children born from contract marriages, as well as how to end contract marriages without going through trial court, so that all these aspects are not in accordance with the articles listed in the Marriage Law. The negative impact of the phenomenon of contract marriages, namely the existence of covert localization, in addition to an increase in population which are not well controlled as a result of the birth of children from contract marriages because their marriage is not recorded.

References

- Alif, M. 2015. "Akibat Hukum Kawin Kontrak Dan Pembagian Harta Bersama Terhadap Anak Dan Isteri Menurut Hukum Perdata." *Skripsi Thesis: Universitas Muhammadiyah Palembang*.
- Bunyamin, Mahmudin, and Agus Hermanto. 2017. "Hukum Perkawinan Islam." *Bandung: CV Pustaka Setia*.
- Citra, Mutiara, Rika Lestari, and Rahmad Hendra. 2016. "Tinjauan Yuridis Terhadap Kawin Kontrak Dalam Perspektif Hukum Perjanjian Dan Hukum Islam." *Jurnal Online Mahasiswa (JOM) Bidang Ilmu Hukum* 3 (1): 1–15.



- Cuaca, Muhyidin Navanya Gabriel. 2020. "NIKAH MUTH'AH (KAWIN KONTRAK) DALAM PERSPEKTIF HUKUM POSITIF INDONESIA SERTA AKIBAT HUKUM ATAS HARTA PERKAWINAN DAN HARTA WARIS." *Diponegoro Private Law Review* 7 (1): 92–102.
- DELVIANANDA CIZZA, DELVIANANDA CIZZA. 2018. "TINJAUAN YURIDIS KAWIN KONTRAK DAN AKIBAT HUKUMNYA DALAM PERSPEKTIF UNDANG-UNDANG PERKAWINAN DAN HUKUM ISLAM." Universitas Mataram.
- Hariati, Sri. 2015. "Kawin Kontrak Menurut Agama Islam, Hukum Dan Realita Dalam Masyarakat." *Jatiswara* 30 (1).
<http://jatiswara.unram.ac.id/index.php/js/article/view/92>.
- Hasan, Mustofa. 2011. "MAg, Pengantar Hukum Keluarga, CV." *Pustaka Setia, Bandung*.
- Jamaluddin, Jamaluddin, and Amalia Nanda. 2016. *Buku Ajar Hukum Perkawinan*. Unimal Press.
- Krisharyanto, Andreas Resa Ari, Sophar Maru Hutagalung, and Slamet Supriatna. 2019. "Akibat Hukum Kawin Kontrak Terhadap Kedudukan Istri, Anak Dan Harta Kekayaan Dalam Perspektif Hukum Islam." *Krisna Law* 1 (3): 7–16.
- Mardani. 2011a. *Hukum Perkawinan Islam Di Dunia Islam Modern*. Graha Ilmu.
- . 2011b. "Praktik Nikah Mut'ah (Kawin Kontrak) Dalam Perspektif Hukum Islam." *Binamulia Hukum* 1 (2): 96.
- Munawar, Akhmad. 2015. "Sahnya Perkawinan Menurut Hukum Positif Yang Berlaku Di Indonesia." *Al-Adl: Jurnal Hukum* 7 (13).
- PRATIWI PUJI RAHAYU, DILLA. 2017. "TINJAUAN YURIDIS STATUS ANAK DARI PERKAWINAN KONTRAK DALAM PERSPEKTIF HUKUM POSITIF INDONESIA." Universitas Mataram.
- Prof. Dr. Yusuf ad-Duraiwisy; Muhammad Ashim, Lc; 2010. *NIKAH SIRI, MUT'AH & KONTRAK Dalam Timbangan al-Qur'an dan as-Sunnah*. Darul Haq.
http://maktabah.pesantrenalirsyad.org/index.php?p=show_detail&id=516&keywords=.
- Rais, Isnawati. 2014. "Praktek Kawin Mut'ah Di Indonesia Dalam Tinjauan Hukum Islam Dan Undang-Undang Perkawinan."
- Soimin, Soedharyo. 1992. "Hukum Orang Dan Keluarga." Perpustakaan Sekolah Tinggi Ilmu Kepolisian (STIK). Sinar Grafika. 1992. <http://library.stik-ptik.ac.id>.
- Sukiati, Sukiati, and Ratih Lusiani Bancin. 2020. "PERLINDUNGAN PEREMPUAN DAN ANAK: STUDI AKIBAT HUKUM PENGABAIAN PENCATATAN PERKAWINAN." *Gender Equality: International Journal of Child and Gender Studies* 6 (1): 121–34.