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Javanese Women Under A Marriage Contract In Indonesia

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Abstract

This article investigates the process of a marriage contract and the factors affecting the women entering into a marriage contract. Employing the descriptive qualitative method, the research was conducted in Pasuruan, East Java and Bogor, West Java, Indonesia. The results of this study indicate that the marriage contract is conducted as sirri (unregistered) marriage in Islam where there is ijab qobul (marriage consent), consisting of a man, a woman, a witness and a penghulu (Muslim leader). A man from outside the village who wants a marriage contract has to undergo a more complicated process. The factors underlying the marriage are a lack of formal education, Muslim clerics (kyai) who allow marriage contracts under the pretext of legalizing sexual relations between men and women, and cultural factors where this form of marriage has been practiced for generations that is entrenched in the consciousness of the community.

Keywords: marriage contract; Muslim leaders; women

Mujeres Javanesas Bajo Contrato De Matrimonio En Indonesia

Resumen

Este artículo investiga el proceso de un contrato de matrimonio y los factores que afectan a las mujeres que firman un contrato de matrimonio. Empleando el método cualitativo descriptivo, la investigación se realizó en Pasuruan, Java Oriental y Bogor, Java Occidental, Indonesia. Los resultados de este estudio indican que el contrato de matrimonio se lleva a cabo como un matrimonio sirri (no registrado) en el Islam donde hay *ijab qobul* (consentimiento de matrimonio), que consiste en un hombre, una mujer, un testigo y un *penghulu* (líder musulmán). Un hombre de fuera de la aldea que quiere un contrato de matrimonio debe someterse a un proceso más complicado. Los factores subyacentes al matrimonio son la falta de educación formal, los clérigos musulmanes (*kyai*) que permiten los contratos matrimoniales con el pretexto de legalizar las relaciones sexuales entre hombres y mujeres, y los factores culturales en los que esta forma de matrimonio se ha practicado durante generaciones que está arraigada en La conciencia de la comunidad.

Palabras clave: contrato de matrimonio; Líderes musulmanes; mujer

1. INTRODUCTION

A marriage contract is a contract between a man and an unmarried woman where there is an agreement in terms of the marriage and dowry. The marriage, which is based on the agreement between a man and an unmarried woman, does not require a witness and it is not recorded by the Office of Religious Affairs (HAERI, 1995). The marriage contract is interpreted by Muslim clerics as being free from the presumption of fornication. Islamic jurists place contract marriages in the category of worship (which is related to God) and not in the category of *muamalat*, where contracts are usually placed (HIBRI, 2009). *Jumhur ulama* says that the marriage contract is *haram* and illegitimate because they are not in accordance with the *Qur'an* and thus tearing down the joints of marriage (HAMIDI, 2008). Religious interpretation postulates that a legalized marriage contract is for the purpose of protecting women. However, the interpretations of the clerics who are all male indicate that it is only beneficial to men at the expense

of women. In Kalisat Village, Rembang sub-district, Pasuruan and in the Warungkaleng region in South and North Tugu, Cisarua subdistrict, Bogor, almost every house has a woman in such a marriage.

KINASIH (1999) conducted a preliminary study on marriage contracts which found that women entered into such a marriage at the age of 9 (when they have not yet started menstruation) and there was one woman who had changed partners 9 times due to divorce. Marriage that occurs at an early age is due to the cultural factors weighted against women by not allowing them to get along with men. This encourages sirri marriages (FITRIANY & FAJRIYAH, 2015). Marriage contracts are also the result of a patriarchal culture that not only subordinates women but also the children born from such marriages. (SHANLEY, 1979). "Married-then-divorced" is regarded as "fair" by the Kalisat people. Changing partners for women will affect their reproductive health and their risk of suffering from a Sexual Transmitted Disease (STD) or HIV/AIDS (ABDULLAH, 2001).

In Kalisat, Rembang sub-district, Pasuruan and Warungkaleng's South and North Tugu, Cisarua subdistrict, Bogor, the health service units that are closest to the local people are public health centers (PHCs). PHCs provide both general and reproductive health services. According to ADRINA (1998), when women complain about their reproductive health, they will come to the clinics. It seems that not much can be done by the health staff in the health centers given the limited availability of medicine, the lack of understanding about women's reproductive health and the women's tendency to regard their complaints as being unimportant. The location of the clinic is not in Kalisat Village, but around the Rembang District. It can be said that the health facilities in Kalisat Village are still minimal (ROCHMAH, 2015).

Additionally, ADRINA (1998) argued that many health staff think that the people (in this case, women) who come to them do not need to be informed or given access. In practice, many reproductive health services often treat their women patients unfairly, such as not giving them an explanation regarding their illnesses, both in terms of diagnosis and the treatment given to them, such as the drug content or received injections. Their unwillingness to inform the patient of the causes and treatment of reproductive health problems can be based on various causes. One of them is controlling the information. Their reluctance to inform the women of their condition

indicates that they disguise their limited knowledge or insecurity towards the diagnosis that may be complex. On the contrary, the women patients in a marriage contract may also have limited knowledge about reproductive health issues and thus they do not regard them as illnesses. Moreover, reproductive health problems have not received any attention in health centers and the reports of the health centers do not deal with the issue of reproductive health (MOHAMAD, 1996).

HEFNER (1999) who conducted research in Pasuruan stated that Pasuruan, according to its region and religion, is classified as both steeper highlands and lowlands. Highlands have a religious tradition called *kejawan* which strongly emphasises ceremonies to honor the *dhanyang-dhanyang* (guardian spirits) of the village. On the contrary, the lowlands are one of the most powerful Islamic centers in Java. Many Islamic institutions have been established there, including Islamic boarding schools ran by Muslim clerics (*kyais*). *Kalisat* village is one area that is located in the lowlands which also has a strong Islamic influence. Meanwhile, for the community in Warungkaleng, South and North Tugu, Cisarua subdistrict, Bogor regency, the marriage contract is assumed to be a part of worship as it aims to realise a peaceful family (*sakinah*, in Arabic), a loving family (*mawaddah*) and a family where those within love one another (*rahmah* or merciful). The village, located in the Puncak Bogor area, was dominated by Arab tourists who traveled there and studies have indicated the practice of prostitution and marriage contracts on the grounds of gaining a *sakinah* life, for reproduction, for biological purposes, for maintaining honor and for worship (MARIPAH, 2016). Tourists from the Middle East choose to visit Cisarua because they miss the cool, green atmosphere and the permissive social environment of Cisarua. They assess beautiful Cisarua women and the legality of the marriage contract which ultimately becomes an attraction for Arab tourists (UMMANAH, TANG & FARID, 2015). *Kyais* legalise the marriage contract and they do not see the condition of women who have reproductive health problems due to multiple partners. This is as women's reproductive health issues are considered by the clerics to be women's problems. Something similar happened in Jepara; marriage contracts were aimed at avoiding adultery and infidelity, but the most important aspect is that there were economic factors behind the phenomenon in that marriages contracts entered into by tourists also had an economic impact in the region concerned. (SAFITRI, 2013). In Cisarua, there is both cultural and religious manipulation in the form of marriages contract with-

in the Arab culture which strengthens women. This is actually a form of body exploitation and a form of poverty (ARIVIA & GINA, 2015).

A marriage contract is a marriage that is not legalised in Indonesia, but there are still many women who enter into one. This research focuses on investigating how the marriage contract is conducted and the factors affecting women entering into a marriage contract in Cisarua, Bogor, West Java Province and Rembang, Pasuruan, East Java Province, Indonesia.

2. RESEARCH METHODS

This study used a qualitative method. The study was conducted in the village of Kalisat, Rembang District, Pasuruan Regency and in the Warungkaleng area in South and North Tugu, Cisarua District, Bogor Regency. In these two regions, many contract marriages occur. The data was obtained through the in-depth interviews with 76 (seventy-six) women who had entered into a contracted marriage. In addition, in-depth interviews were also conducted with 6 (six) kyai who had knowledge of marriage contracts, 6 (six) brokers, 4 (four) villa guards, 4 (four) tour guides, and 10 (ten) motorcycle drivers. The data was collected, classified, identified and analysed according to the research objectives.

3. RESULTS AND DISCUSSION

3.1 Definition of marriage contract

The term ‘marriage contract’ is from an Arabic word, *mut’ah*. The word *mut’ah* etymologically has several meanings including “pleasure,” or “to have a legal status of something”. Ideologically, *mut’ah* needs to be distinguished from *nikah* (marriage). In a *mut’ah* marriage, it is stated that the criteria that must be met include *sighah* or consent granted without a guardian and no witnesses. It is also mentioned that there is a time limit, a dowry and that any children born from this marriage are the same in status as in permanent marriages. There are no inheritance rights between the husband and wife, the marriage will end in time without a divorce. *Mut’ah* marriage is commonly practiced by Shia Muslims, where the married woman is given all rights except for if they give birth to a girl (MELDRUM, LIAMPUTTONG, & WOLLERSHEIM, 2013). The purpose of *mut’ah* is to obtain sexual pleasure, while marriage is to get descendants.

In Islamic law, mut'ah is a "contract" between a man and an unmarried woman where the period of the marriage must be determined. If it is not specified, then the "contract" is not valid. Mut'ah marriage is based on the agreement between a man and an unmarried woman with no intervention from the woman's family (HAERI, 1995).

AL-AMILI (1992) argued that a marriage contract is a marital contract that ties a man and a woman together where the dowry has been agreed by both parties and it is mentioned at the time of the marriage ceremony. There is a time limit specified by the husband without requiring a divorce. After the divorce, a woman who wants to marry again with another man has to wait the prescribed period (iddah) for two months if her menstrual period is normal and 45 days if she is an adult but has never experienced menstruation. The iddah period for a pregnant woman is until she gives birth to the child that she is carrying. What happened in Warungkaleng Cisarua Bogor was that there were women who were married 11 times in an 8 month period. This deviated from the rules and indicates the practice of prostitution that was given a wedding dress (RAIS, 2014). The function of the iddah period is that each pregnancy from her husband will be in the clear and this can help to prevent divorce because it can be revoked at this time (HUSAIN, 2000).

According to NURDIN (1993), the terms and pillars of the marriage contract include: *ijab qabul* (marriage ceremony), the prospective husband and wife, the dowry and the time period agreed by both parties. As a result of the ease of the conditions to be fulfilled in the marriage contract, many foreign men make use of this for business and sexual pleasure (HANDOYO, 2013). Meanwhile in Bangladesh, marriages contracts that were previously allowed are now limited by polygamy laws. If a man wants to remarry, there is only one way to do so: divorcing his first wife (CARROL, 1982). Under the provisions of the pillars of the marriage contract, it can be seen that there is a difference between the pillars of ordinary marriage and the pillars of temporary (*mut'ah*) marriage. The difference is that a marriage contract does not require a witness, whereas in an ordinary wedding, the presence of a witness is a must. Furthermore, a marriage contract reconciles the restriction of time whereas in an ordinary wedding, there is no such thing.

From the conditions of marriage contract, it can be seen that all of the

terms highly exalt the position of the men and provide them with pleasant position. The man is free from the administration of his estate after breaking the bond of marriage. Marriage contracts are very unfair for the women. Meanwhile, men freely marry women and leave when their marriage period is over to look for other women (SHAFRA, 2010). Male marriages contract in Cisarua are still considered to be beneficial for the growth of sex tourism in the area because there is a syndicate behind this phenomenon. (QURTUBY, 2017). Marriage contract is a form of marriage that is limited by a time agreement and dowry without regard to any particular witness(es). Divorce then can occur when the contract period is over without being related to any law of divorce.

A marriage contract has some characteristics that are similar to the characteristics of a permanent marriage in general. They are the marriage contract (*ijab qabul*), mention a dowry, marry a Muslim woman or a scribe, have no *muhrim* bound between the two of them, and there is the prohibition of marrying two siblings at once. However, there are some traits in the marriage contract that distinguish it from permanent marriage (AL-QUSWAYNI, 1995). First, the need for the presence of a witness to the marriage is not explicitly stated. In other words, the marriage can be held on schedule despite being attended by only two people who will perform the marriage itself. The marriage contract process in Cisarua was attended by a witness, a driver in the area (ARIVIA & GINA, 2015). Second, the time limit agreed by both parties shall be stated clearly. At this point, it is clear that the meaning of the marriage is only temporary. This is different from a permanent marriage in that the time limit should not be said because the marriage is expected to last forever (HANDOYO, 2013). Because of their temporary nature, marriage contracts are not officially registered at the religious affairs office (JACUBOWSKI, 2008). Third, there is no obligation for the husband in the marriage contract to provide a livelihood for his wife, unless the wife requires it prior to the marriage. The negative impact is that the women are the backbone of the family and the main source of familial income because the husband returns to his home country (SAFITRI, 2013). Married contract partners also cannot inherit from each other; the women have less economic support but they have freedom in terms of traveling without a husband's permission (SHRAGE, 2013). Fourth, there is no obligation to bequeath individual property unless there is an agreement between both parties stated at the time of the contract. A wife cannot claim an inheritance because her marriage is not considered to be legally

existent and there is no authentic proof that they are married (ADILLAH, 2011). Fifth, there is no divorce because both parties have determined the duration of the marriage from when the contract was stated.

Among the five characteristics above, two things can be concluded. First, the marriage contract depends on the agreement of the two people who enter into it, particularly in terms of the advisability of the presence of witnesses, the time limit, being giving a living by the husband to the wife, and the inheritance of property. Second, the breaking of the rights and obligations of both parties are agreed after the marriage ends.

In a marriage that relies on the two things mentioned above, there are two consequences that will be experienced by the women. First, during the period of the marriage contract, women are declared legally to be a wife. However, in the absence of witnesses, the limited term of the marriage and being without an income and inheritance means that it is not easy for the women who are in a marriage contract to obtain social recognition as a wife. Second, this social recognition will not be easily obtained when the term of marriage ends. A woman who is married temporarily will not easily be regarded as a widow once she is divorced by her husband because of the breakdown of the rights and obligations of both parties and the absence of a divorce statement (talak in Islam).

3.2 Process of the marriage contract

The implementation of the marriage contract in Warungkaleng and Kalisat village, Pasuruan turns out to involve a network. The marriage can be entered into by a man from the village or outside of the village. If the person is a man from the village, then he just needs to come to kyai to look for a mate. Then the kyai must find a woman that does not have a husband yet. If a woman is found, the kyai will tell her parents that there is a man who wants to ask for their daughter. Usually, the parents will agree and give her photos without the consent of the child and in general, the woman also agrees does so due to the fear of being considered “rebellious” by her parents. The parents’ choice is considered to be the best option. The photos of the woman are then shown to the man who wants to marry her by the kyai, also known as amil. After he agrees, the man gives them money of around Rp 500,000 (five hundred thousand rupiah) to Rp 1,000,000 (one million rupiah) for the cost of the wedding. The money is not only used

for the wedding expenses but it is also distributed to the village staff as security costs. The wedding itself is simply attended by the neighbors of both sides. Such marriages contract can be handled by clerics, scholars, or people who are considered to understand religious and community law (RAZAK et al . 2018). The assistance given by the kyai is contradictory because it is against the law of marriage registration on the grounds of guiding the Muslim community to avoid adultery (YASIN, 2016).

On the other hand, for a man from outside of Warungkaleng, Cisarua, who wants a marriage contract, the process is more complicated. This is because he must go through the process of asking for help specifically of a motorcycle rider, taxi driver, tour guide or villa caretaker. These people also act as a “link-person” (liaison) to women who can be married temporarily. The liaison with this woman also works under a pimp who is involved in the practice of marriage contracts in Cisarua (HARAHAP, 2011). This practice is difficult to end because there are syndicates from the local government, security forces, police, business people, politicians, thugs etc., all of whom are united by money (QURTUBY, 2017). The liaison is called a biong. The bionsgs are from Java, so they are not village natives. The women who are married almost entirely come from other areas such as Cianjur, while the locals only work as biong. Biong is a term for a contract marriage syndicate that seeks to offer witnesses, guardians, and consent qabul, all of which are biong games. (WAHAB, KUSTINI, & ALI, 2018). They already are an acquaintance of the women who want to be married in a contract, usually by visiting male tourist lodgings and entering into marriage contracts that way (UTAMI, 2015). In general, bionsgs can also speak Arabic as stated by Dani, a tour guide, as follows: “I’ve started to learn Arabic since the age of 5 years old. Because Arabic is already part of the lingua franca in the area where I live.”

Dani worked as a tour guide and also as a biong because of his needs. Dani mentioned that looking for a job nowadays is very difficult, not to mention he only has a high school degree: “I had been a student in a private university in Jogja but I dropped out at the last semester.” From Dani’s view, it is clear that a marriage contract is easy to do. By having enough money to hire a penghulu (Muslim leader) and to pay for the dowry of the woman, the marriage can be done. In a marriage contract, the existence of a witness is not required; this type of marriage is easy to do because it looks legitimate in the eyes of customary law and the community (SAFITRI, 2013).

Even if it is forced to have no religious headman, a motorcycle taxi driver can disguise himself as a headman to carry out a marriage contract with a marriage dowry between 2.5 million to 3 million rupiah (PARAMITA, 2017). When it is done, Dani and people who work like him will get paid fairly well because they have successfully performed their role as liaisons. Dani mentioned that he could get 4 million rupiah for one marriage. Dani also stated that most of the penghulu and the parents of the women are usually paid for disguising themselves as the penghulu or because it is a condition of the marriage to be done.

Furthermore, this biong will bring the man to a kyai to obtain information on any unmarried women. He will then see them in person. The kyai, either in Cisarua or Rembang, is generally a “fake” one. In addition, to cover up this practice and to make it look legal, marriage contracts have a marriage certificate that is also fake (SAFITRI, 2013). The falsification of this document is done to avoid the complexity of the cost of legal marriages and it is a shortcut for the marriage contract. This practice indicates that the women’s awareness is very low (MALOKO, 2015). Usually before arriving at the kyai’s house, the man who wants a wife is invited to go around the village. This means that the cost of travel will be more expensive. After arriving at the kyai’s house, he will contact the woman’s “supplier”.

The “supplier” then comes up with a woman who normally wears a white headscarf and sits down. If the man wants her to be his wife, soon the *ijab qabul* is held, inviting their neighbors and the kyai. At the time of the *ijab qabul*, he specifies the terms of the marriage and the dowry, which costs around Rp 1,500,000 (one million five hundred thousand rupiah) and up to Rp 2,500,000 (two million five hundred thousand rupiah).

However, if the man has not found a suitable spouse, then other women will be searched for at a more expensive cost, around Rp 4,000,000 (four million rupiah) up to Rp 6,000,000,00 (six million rupiah). This fee is only for the *amil* or kyai, motorcycle/taxi drivers, “suppliers” and the village and security staff. Some of the money is donated to mosques. The cost for the woman is not included in this. The cost varies, ranging from 10 million to 20 million per month. However, there is also a contract which costs 70 million rupiah for a period of 3 to 6 months or even one year and there is also a contract which costs only Rp 500,000,00 per day. After the *ijab qabul*, the couple can go straight to bed together in a place that the groom

has prepared, as husband and wife. Out of all of these costs, the broker or biong gets the biggest profit, which is 50% of the costs paid by the men (FITRIANY, 2015). Women in Warungkaleng who enter into a marriage contract with men of Middle Eastern origin (known as the Arabs) generally occupy luxurious villas. Pimps often take female prostitutes from the locality. These local women enter into a marriage contract for a period of 3 - 6 months, or even up to one year. They will be married after a fee is agreed with the presence of the penghulu brought by the pimp. If during the term of marriage the woman does not become pregnant, then she will be released. If the woman has a child, then it is generally allowed. The age of the prostitute offered is from 14 years old up to approximately 30 years old. However, law enforcement cannot do much about the practice of prostitution in marriage contracts because the nature of this type of prostitution is confidential and not conducted in front of the public. (WAHAB, 2018). The phenomenon of the marriage contract with the help of pimps is also found in Saudi Arabia, which has become a normal phenomenon in the form of sex tourism with women from the lower and middle economic circles (DOE, 2008).

In general, the dowry given to the women temporarily is in the form of money, home improvement, jewelry and even cars etc. It is very pleasant for the families of the women who become temporary wives so it is understandable that on average, the women in Warungkaleng or Kalisat village have married more than once. The practice of polyandry has also become commonplace in Kalisat. Meanwhile Arab men have a polygamous and business culture in various regions so as to encourage them to get sexual pleasure (FITRIANY, 2015). The marriages that are carried out many times also provide benefits for the perpetrators and brokers in accordance with the number of marriages contracted (NAWAWI & ADI, 2017). In this case, the applicable condition is that a man is allowed to marry simultaneously as many as he wants at the same time. Meanwhile, women are only allowed to marry one man in one period.

In Warungkaleng, the Arabs rent a villa during their stay. The rent is around Rp 700,000 a night for the house, while for the price of each room is around Rp 350,000 to Rp 400,000. On average, the Arabs rent the villa from one week and up to 3 months. The agreement for the term of the marriage is one year at the longest, and 15 days or 3 months for the shortest. The process of the marriage contract is done the same as in a sirri marriage,

which consists of *ijab qabul* (marriage consent), a groom, a bride, a witness, and a *penghulu*. The person conducting the marriage or the *penghulu* does not have to be a native from the area. Mostly, the *penghulu* is a fake one. From the description of the marriage contract either in Warungkaleng, Bogor or Kalisat, Pasuruan, there are requirements that must be met, i.e. an agreement, a dowry and a time limit.

3.3 Factors affecting the women in a marriage contract

Economic Factor

From the further research conducted, it is known that the economic factor is the main cause behind a marriage contract. Girls who are relatively young are forced to marry with the expectation of reducing the burden on their families. The practice of child marriage still often occurs in Indonesia from generation to generation even though the government has limited it with regulations and policies (SUSANTI, 2018). As has happened in Jepara, economic factors are the reason why women are willing to enter into a marriage contract, as well as widows who need money to meet the needs of their children (HANDOYO, 2013). Marriage contracts are still performed due to various underlying reasons. For men, it is because they mostly want to have the freedom to enjoy the female body of his temporarily-married wife. On the other hand, for women (as said by all 6 informants), it is often done for economic reasons. Women who enter into a marriage contract hope for a welfare improvement by doing so. This is because the women who enter into the marriage usually get some financial support for becoming a temporary wife. As in the research conducted in Warurejo, the uncertainty of the population's income causes the community to have difficulty in meeting their economic needs (ARSAL, 2014).

The main objective of all marriage contracts is to facilitate sexual services from the women to the men with agreed material rewards. The main reason for these women doing so, who are willing to be married to a man temporarily under a contract, is to fulfill their needs.

Religion Factor

The implementation of religious teaching in Warungkaleng village, Cisarua Bogor and Rembang, Pasuruan is strong enough, particularly related to the norms and rules of marriage, which are based on Islamic law. Islam-

ic norms, with the concept of ‘sin’, are a basic principle of accountability to God where the characteristic of sexual drive as a weakness in each person must be confronted by their own beliefs. This is similar to the concept of the marriage contract that is permitted by Shiite scholars. Sayed Husein Nasr said that a permanent marriage does not provide sexual satisfaction for certain men while the practice of adultery is a deadly poison according to Islam, so the marriage contract is allowed so long as it meets certain conditions (SAFITRI, 2013). The marriage contractual habit carried out by Arab men is done while they are on vacation or at work in order for them to get sexual relations without committing a sin (OSMANI, 2010). This statement shows that sexual relations outside of marriage are forbidden and, in the perspective of Islam, women are sexually owned and controlled by men. It is a woman’s main duty to serve men.

In certain aspects, the marriage contract cannot be categorised as polygamy. The so-called polygamous marriage is entered into by a man who is already married to another woman with the permission of his first wife. On the other hand, the marriage contract cannot be categorised as a form of polygamy because in the practice of the marriage contract, there is no obligation for a man who is already married to ask permission from his wife. Meanwhile in Kalisat, what happened was that a marriage by an Arab man who already had a wife in his home country but he kept his marriage to a woman a secret. Cisarua (FITRIANY, 2015). The practice of polygamy is because there is no blessing from the wife and does not get permission from the court (KRISHARYANTO, HUTAGALUNG, & SUPRIATNA, 2019).

Traveling for a while will cause problems related to channeling the men’s sexual needs. Furthermore, as someone who has sufficient Islamic knowledge, the matter should be channeled through legal means so therefore a marriage contract becomes the solution. In this case, a married man does not need to ask permission from his previous wife, particularly because of the wife’s understanding of the possibility of such a marriage by her husband with a consideration to avoiding sin. Such an attitude held by the woman can be used by the man as a “ticket” for him to enter into a marriage contract. Based on these facts, the marriage contract cannot be categorised as polygamy.

The social legalisation obtained by a couple who enter into a marriage contract is not as simple as that of legal marriage. Marriage is a cultural event in which two people agree to live together. At the micro level, there is a certain reciprocity of perspectives in a marriage. Reciprocity of perspectives is a concept developed by Alfred Schutz to explain that every human being usually has the assumption that the events and actions in the social world are understood by others based on the perspective that they have (CUFF & PAYNE, 1984). This means that two people of different sexes with different experiences and family backgrounds have the same understanding of something that they do together, which in this case is marriage as a way to live together as a married couple. At the macro level, for people who institute the marriage, marriage of any sort (generally or temporary) is absolutely necessary for two people who wish to live together. Institutional marriages will become institutions that are fair and that protect the rights of married couples if they are built on the principles of equality, respect, cooperation, and good roles (ULFAH, 2011). This requirement has been practiced for generations and it is entrenched in the consciousness of the community. This is why, at the macro level, there is an awareness in every citizen that there is no other alternative outside of marriage if two people wish to live together. Both meanings are culturally the simplest form of social legitimation. Thus the marriage contract can be said to have an element of social approval. This was also experienced by almost all of the informants who have done it. The experience of Ayu, Maya, Esti, Rofiah, Umroh and Ratih indicates that marriage is an invitation from a man which is then accompanied by specific prayers and witnessed by several people. One of the social legitimations of marriage in general is the marriage certificate. This letter explains that the two names referred to therein have been officially recognised, especially by the state, as a married couple. Thus, for the six informants, the marriage contract that they enter into is socio-culturally obtained through an agreement with the men who take them. Although they are prostitutes, it seems that prayers are still a powerful instrument of ratification to assert that they have been the men's wives. The social legitimation of the marriage contract culturally given is something personal that needs not to be known or understood by others.

Education Factor

For the people in Cisarua and Rembang, the education factor leads women

to entering into a marriage contract. In Warungkaleng village, the informants, on average, only graduated from junior high and some were high-school dropouts. In Rembang, they only graduated from Islamic school which is similar to elementary school level. Some even dropped out of primary school. The education factor is a result of the poverty in the local population, meaning that they are unable to send their children to higher education (HANIFAH, 2008). Low education spreads to other social problems such as underage marriage, poverty, and the strong influence of religion and culture (AHMADY, 2019).

Especially in Rembang, although the opportunity for the girls getting an education at school is now very open, generally the parents are not so eager to send their children to a higher level of schooling, especially for girls. Most parents send their children to elementary school only. As long as they can read and write, the parents are quite happy.

For girls, after graduating from elementary/ Islamic elementary school, were sent to Islamic boarding school. Girls do not need to go to high school because they will end up doing domestic things at home as housewives. Even before graduating from elementary school, she will have been betrothed by her parents. There is the thought that girls are sent to Islamic boarding school to wait to be betrothed or until they are married off by their parents. Almost all of the women and girls do not know their future husband. This situation is motivated by the influence of the culture that is still prevalent. Poverty continues to have an impact on education so match-making can not be avoided even without the girl's consent (FITRIANINGSIH WAHYUNI, & ANI, 2015).

4. CONCLUSION

The findings of this study indicate that despite all of the rituals of the marriage contract executed according to their conceptual directions, the idea behind having the marriage remains initiated by the intentions of the men. If the idea of marriage comes from the woman, then it places the man as the protector. Here, the social construction places men in a decisive position. The factors underlying the marriage contract are due to economic, education, religion and cultural factors.

The main objective of all marriage contract cases is to provide sexual in-

tercourse for men with the agreed material rewards for women. The main reason why these women are willing to be married temporarily is to meet their needs. A lack of formal education, religious scholars who allow the marriage contract to take place under the pretext of legalising the sexual relations between men and women and cultural factors where the marriage has been practiced for generations and is entrenched in the consciousness of the community, confirm the existence of such a marriage. Pregnancy, birth and children born of a marriage contract are part of the deal. If the reproductive rights are not part of the agreement made by the couples involved in the marriage, then the male party does not need to comply further.

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REFERENCES

- ABDULLAH, I. 2001. Seks, Gender dan Reproduksi Kekuasaan. Yogyakarta: Tarawang. [In Indonesian]
- ADILLAH, S. A. 2011. “Analisis Hukum terhadap Faktor-Faktor yang Melatarbelakangi Terjadinya Nikah Sirri dan Dampaknya terhadap Perempuan (Istri) dan Anak-Anaknya”, *Jurnal Dinamika Hukum*. Vol. 11, pp 104-112. [In Indonesian]
- ADRINA. 1998. Hak-Hak Reproduksi Perempuan yang Terpasung. Jakarta: Pustaka Sinar harapan. [In Indonesian]
- AHMADY, K. 2019. The Nexus between the Temporary Marriage and Early Child Marriages. (<http://kameelahmady.com/wp-content/uploads/2019/08/The-Nexus-between-the-Narrative-of-TM-and-ECM.docx-fnal-1.pdf>)
- ALLENDRÖF, K. & GHIMIRE, D.J. 2012. “Determinant of marital quality in an arranged marriage society”. *Social Science Research*. Vol. 42, No 1: 59-70.
- AL-AMILI, J.M. 1992. Nikah Mut’ah Dalam Islam. Jakarta: Yayasan As-Sajjad. [In Indonesian]
- AL-QUSWAYNI, A. M. 1995. Nikah Mut’ah: Antara Halal dan Haram. Jakarta: Yayasan As-Sajjad. [In Indonesian]

- ANJARYANI, W.K. 2009. Kepuasan Pasien Rawat Inap terhadap Pelayanan Perawat di RSUD Tugurejo Semarang. Skripsi thesis: Universitas Diponegoro Semarang. [In Indonesian]
- ARIVIA, G. & GINA, A. 2015. "Budaya, Seks, dan Agama: Kajian Kawin Kontrak di Cisarua & Jakarta". *Jurnal Perempuan*. Vol. 20, No 1: 57-64. [In Indonesian]
- ARSAL, T. 2014. "Woman's Position in Undocumented Marriages". *Jurnal Komunitas*. Vol. 6, No 1: 26-37.
- CARROL, L. 1982. "Talaq-i-Tafwid and Stipulations in a Muslim Marriage Contract: important Means of Protecting the Position of the South Asian Muslim Wife". *Modern Asian Studies*. Vol. 16, No 2: 277-309.
- CUFF, E.C., PAYNE, G.C.F., SHARROCK, W., FRANCIS, D., SHARROCK, W.W., FRANCIS, D.W. 1984. *Perspectives in Sociology*. United Kingdom: Harper Collins Publishers Ltd.
- DECKER, M.R., McCAULEY, H.L, PHUENG SAMRAN, D., JANYAM, S., & SILVERMAN, J.G. 2011. "Sex Trafficking, Sexual Risk, Sexually Transmitted Infection and Reproductive Health among Female Sex Workers in Thailand". *Journal Epidemiol Community Health*. Vol. 65, No 4: 334-339.
- DOE, S. 2008. "Misyar Marriage as Human Trafficking in Saudi Arabia". *Global Tides*. Vol. 2, No 1: 1-32.
- FITRIANINGSIH, R., WAHYUNI, S., & ANI, H. M. 2015. "Faktor-Faktor Penyebab Kemiskinan Usia Muda Perempuan Desa Sumberdanti Kecamatan Sukowono Kabupaten Jember". *Jurnal Ilmiah Mahasiswa UNEJ*. [In Indonesian]
- FITRIANY, A. & FAJRIYAH, I. 2015. "Sejarah Budaya Kawin Sirri di Desa Kalisat Kecamatan Rembang Kabupaten Pasuruan". *Jurnal Edukasi*. Vol. 1, No 2: 253-274. [In Indonesian]
- GHORI, S. 2008. "The Application of Religious Law in North American Courts: A Case Study of Mut'a Marriages". *Journal of Islamic Law and Culture*. Vol. 10, No 1: 29-40.
- GLASIER, A., GULMEZOGLU, A.M., SCHMID, G.P., MORENO, C.G., & LOOK, P.A.F.V. 2006. "Sexual and Reproductive Health: A Matter of Life and Death". *World Health Organization Journal Paper*.
- HAERI, S. 1995. "Perkawinan Mut'ah dan Improvisasi Budaya". in *majalah Ulumul Qur'an*. Vol. 6, No 4.
- HANDOYO, E. & ROHAYUNINGSIH, H. 2013. "Kawin Kontrak: Latar Belakang, Keabsahan Hukum dan Dampaknya (Studi Kasus di Kabupaten Jepara)". *Forum Ilmu Sosial*. Vol. 40, No 2: 230-243. [In Indonesian]

- HANIFAH, A. 2008. "Perdagangan Perempuan dan Anak: Kajian dan Faktor Penyebab dan Alternatif Pencegahannya". *Sosio Konsepsia*. Vol. 13, No 2: 46-60. [In Indonesian]
- HARAHAP, P. 2011. *Kawin Kontrak di Indonesia (Problema Hukum dan Solusinya)*. Thesis: IAIN Sumatera Utara. [In Indonesian]
- HEFNER, R.W. 1987. "Islamizing Java? Religion and Politics in Rural East Java", *The Journal of Asian Studies*. Vol. 46, No 3: 533-554.
- HEFNER, R.W. 1999. *Geger Tengger: Perubahan Sosial dan Perkelahian Politik*. Yogyakarta: LKis. [In Indonesian]
- HIBRI, A.Y.A. 2009. *Marriage and Divorce: Legal Foundations*. in *The Oxford Encyclopedia of the Islamic World* (John L. Esposito, ed., Oxford University Press 2009).
- HUSAIN, F.A. 2000. "Reproductive Issues from the Islamic Perspective". *Human Fertility*. Vol. 3, No 2: 124-128.
- JACUBOWSKI, N. 2008. "Marriage is Not a Safe Place: Heterosexual Marriage and HIV-related Vulnerability in Indonesia". *Culture, Health, & Sexuality*. Vol. 10, No 1: 87-97.
- JOHNSON, A.M., MERCER, C.H., ERENS, B., COPAS, A.J., MC-MANUS, S., WELLINGS, K., FENTON, K.A., KOROVISSIS, C., MACDOWALL, W., NANCHAHAL, K., PURDON, S., & FIELD, J. 2000. "Sexual Behaviour in Britain: Partnerships, Practices, and HIV Risk Behaviours". *Sexual Health Lifestyles*. Vol. 358, No 9296: 1835-1842.
- KARA, T. 2011. "Mut'a and Hezbollah: The Politicization of Sex". *Cannons*. Vol II.
- KINASIH, S.E. 1999. *Analisis Gender: Peran dan Kedudukan Perempuan dalam Perkawinan Mut'ah*. Surabaya: PP/SW Unair. [In Indonesian]
- KRISHARYANTO, A.R., HUTAGALUNG, S.M., & SUPRIATNA, S. 2019. "Akibat Hukum Kawin Kontrak terhadap Kedudukan Istri, Anak dan Harta Kekayaan dalam Perspektif Hukum Islam". *Krisna Law*. Vol. 1, No 1: 1-12. [In Indonesian]
- KURNIAWAN, B., ASMIKA, Sarwono, I. 2013. "Hubungan Tingkat Pengetahuan dengan Partisipasi pada Pemeriksaan Pap Smear pada Wanita Pekerja Seks Komersial". *Jurnal Kedokteran Brawijaya*. Vol. 24, No 3. [In Indonesian]
- MAKSUM, A. 2015. "Politik Identitas Masyarakat Tengger dalam Mempertahankan Sistem Kebudayaan dari Hegemoni Islam dan Kekuasaan". *el Harakah*. Vol. 17, No 1: 18-35. [In Indonesian]
- MALEKAFZALI, A. 2004. "Population Control and Reproductive Health in the Islamic Republic of Iran". *Archives of Iranian Medicine*. Vol. 7, No

4: 247-250.

MALOKO, M.T. 2015. "Unregistered Marriage in Islamic Law Perspective a Critical Study of Islamic Law Compilation". *Al-Mawarid Journal of Islamic Law*. Vol. 15, No 1: 49-68.

MARIPAH, S. S. 2016. "Fenomena Kawin Kontrak di Kawasan Puncak Bogor". *Sosietas*. Vol. 6, No 2. [In Indonesian]

MATAHARI, R. 2012. "Studi Kualitatif mengenai Persepsi dan Perilaku Seksual Wanita Pekerja Seks Komersial (PSK) dalam Upaya Pencegahan IMS di Kota Semarang Tahun 2012". *Jurnal Kesehatan Reproduksi*. Vol. 3, No 3: 113-123. [In Indonesian]

MASDUQI, I. 2008. "Nikah Sirri dan Istbat Nikah dalam Pandangan Lembaga Bahtsul Masail PWNU Yogyakarta". *Musawa*. Vol. 12, No 2: 187-200. [In Indonesian]

MELDRUM, R., LIAMPUTTONG, P., & WOLLERSHEIM, D. 2013. "Caught between Two Worlds: Sexuality and Young Muslim Women in Melbourne, Australia". *Sexuality & Culture*. Vol. 18, pp 166-179.

MEYERSSON, E. 2009. "Islamic Rule and the Emancipation of the Poor and Pious". *Econometrica*. Vol. 82, No 1: 229-269.

MOHAMMAD, K. 1996. *Prioritas dalam Pelayanan Kesehatan Reproduksi di Indonesia dalam Seksualitas, Kesehatan Reproduksi dan Ketimpangan Gender*. Jakarta: Pustaka Sinar Harapan. [In Indonesian]

MOORE, H. L. 1998. *Feminism and Anthropology*. Great Britain: University of Minnesota Press.

NAWAWI, A.U & ADI, A.S. 2017. "Praktik Kawin Kontrak di Desa Kalisat Kecamatan Rembang Kabupaten Pasuruan". *Kajian Moral dan Kewarganegaraan*. Vol. 5, No 2: 176-192. [In Indonesian]

NINDREA, R.D. 2017. "Prevalensi dan Faktor yang Mempengaruhi Lesi Pra Kanker Serviks pada Wanita". *Journal Endurance*. Vol. 2, No 1: 53-61. [In Indonesian]

NURAENY, H. & KUSWANDI. 2019. "Legal Protection for Contract Marriage Victims in Indonesia". *Journal of Legal, Ethical and Regulatory Issues*. Vol. 2, No 3: 1-7.

NURDIN. 1993. "Nikah Mut'ah dalam Polemik". *Majalah Al-Muslimun*. Vol. 24, No 28.

PARAMITA, S. 2017. "Framing Portal Berita dalam Isu Akulturasi Kampung KNG Bogor". *Jurnal Muara Ilmu Soail, Humaniora, dan Seni*. Vol. 1, No 2: 14-23. [In Indonesian]

QURTUBY, S.A. 2017. "Arabs and Indo-Arabs in Indonesia: Historical Dynamics, Social Relations and Contemporary Changes". *IJAPS*. Vol. 13,

No 2: 45-72.

RAIS, I. 2014. "Praktek Kawin Mut'ah di Indonesia dalam Tinjauan Hukum Islam dan Undang-Undang Perkawinan". *Ahkam*. Vol. 14, No 1: 97-104. [In Indonesian]

RAZAK, M.R.R. 2018. "The Effect of Siri's Marriage on Government Administration", *International Journal of Sciences*. Vol. 42, No 3: 171-184.

ROCHMAH, D. 2015. *Perempuan yang Terbelenggu: Riset Pendampingan Perempuan Korban Nikah Sirri di Desa Kalisat Kecamatan Rembang Kabupaten Pasuruan*. Skripsi Thesis: UIN Sunan Ampel Surabaya. [In Indonesian]

SAFITRI, C.M.T. 2013. *Latar Belakang Kawin Kontrak (Studi Fenomenologis pada Wanita Pelaku Kawin Kontrak di Kabupaten Jepara)*. Skripsi Thesis: Universitas Negeri Semarang. [In Indonesian]

SHAFRA. 2010. "Nikah Kontrak Menurut Hukum Islam dan Realitas di Indonesia", *Marwah*. Vol. 9, No 1: 15-27. [In Indonesian]

SHANLEY, M.L. 1979. "Marriage Contract and Social Contract in Seventeenth Century English Political Thought". *Western Political Quarterly*. Vol. 32, No 1: 79-91.

SHRAGE, L. 2013. "Reforming Marriage: A Comparative Approach". *Journal of Applied Philosophy*. Vol. 30, No 2: 107-121.

SUSANTI, E. 2018. "Unequal Gender relations in the Practices of Girl Marriage in Poor Families at East Java Province". *Masyarakat, Kebudayaan, dan Politik*. Vol. 31, No 4: 440-450.

ULFAH, I. 2011. "Menggugat Perkawinan: Transformasi Kesetaraan Gender Perempuan dan Implikasinya terhadap Tingginya Gugat Cerai di Ponorogo", *Kodifikasia*. Vol. 5, No 1: 1-21. [In Indonesian]

UMMANAH, Hijjang, P., TANG, M., & FARID, M. 2015. "The Tourist Contract Marriage in Cisarua Sub-District, Bogor Regency, West Java", *International Journal of Scientific & Technology Research*. Vol. 4, No 2: 142-144.

WAHAB, A.J., KUSTINI, Ali, M. 2018. "Fenomena Kawin Kontrak dan Prostitusi 'Dawar' di Kawasan Puncak Bogor". *Alqalam*. Vol. 35, No 1: 127-152. [In Indonesian]

YASIN. 2016. "Kiai Lokal antara Penghambat dan Penyelamat dalam Pelaksanaan Undang-Undang Perkawinan No.1 Tahun 1974". *Yudisia*. Vol. 7, No 1: 54-73. [In Indonesian]



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