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Examination of Karo Customary Marriages That Are Not Registered

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Abstract

In the Karo region's settlement of Pergendangen, marriage is still typically performed only according to custom and without formal registration. That approach is wholly at odds with Indonesia's Marriage Law Number 1 of 1974. The empirical juridical approach, also known as sociological law, was used in the research to determine and assess the contributing variables to these problems. The study's findings revealed a number of elements, such as premarital pregnancies, education, and economic issues, that are linked to the reasons behind unregistered Karo customary weddings in the government. According to Law Number 1 of 1974, which addresses the status of the husband and wife as well as the situation of the children, Karo traditional marriages that are not formally documented are deemed to be void and nonexistent. To prevent future issues, the indigenous Karo group must marry in accordance with the relevant laws.

Keywords: Examination, Karo, Customary, Marriages, Registered.

Introduction

Every marriage must be recorded in accordance with the relevant rules and regulations, according to Law Number 1 of 1974's Article 2 Paragraph 2 (Weitzman, 1974). This highlights how crucial marriage registration is as a legitimate and official document. Speaking about marriage is not only outside of religious and customary norms. Additionally, in marriage, highly educated people exchange their standing for their less educated partners' ethnic advantage (Schwartz et al., 2016).

A community's cultural values are typically communicated through written, spoken, or performative means. In indigenous tribes, marriage is one of the customs that has been maintained (Jotam Kalalo et al., 2020). Depending on the social framework, marriage encompasses not just concerns pertaining to men and women but also issues pertaining to family, relationships, dignity, and personal matters. One phase of a lengthy first-level life cycle is marriage. That eternal relationship will be forged together through the bond of marriage. Human life's fundamental components—love, brotherhood, and bringing up children to be ideal members of society—form the basis of marriage (volwaardig) (Formichi, 2012).

The degree of education has a big impact on how people think. The likelihood of an early marriage is higher for women from low-income families and those with less education. Young marriage is a problem that affects not just marital law but also human rights and child welfare.

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Humans are God's creatures with a variety of requirements, and, in order to exist as ideal human beings both as individuals and as members of society, every human wishes to have those needs met. Humans are always motivated to satisfy their wants, according to Maslow, and these requirements have a hierarchy (Reid-Cunningham, 2008).

Indonesia is a unitary state consisting of various ethnic groups and cultures. Some Indonesian ethnic groups found in the northern part of Sumatra Island are the Karo people (M. E. R. Tarigan et al., 2018). One of the ethnic groups in North Sumatra that live in the Karo highlands, Deli Serdang, Binjai, Langkat, Tanah Deli (Medan), and Dairi is the Karo people. The Karo people are dispersed throughout Indonesia and work in a variety of occupations (Situmorang, 2011). In one of their home areas (the Karo Highlands), Tanah Karo, the tribe's name is utilized as one of the names of a regency. A male child will inherit the clan name from his offspring in the Karo tribe's patrilineal kinship structure, which is similar to those of other tribes in North Sumatra.

Marriage in Karo indigenous society is called nerek empo or erjabu (Kaban & Sitepu, 2017). The bride is called serai from the word si reh which means the one who comes from her family to the place of the person who becomes her husband (the empo). For the groom, he is called empo from the word empuna which means owner (master). This traditional ceremony is attended by both brides and grooms along with their relatives who hold the status of Anakberu, Senina, and Kalimbubu (Rakut Sitelu) (Rosdiana Tarigan et al., 2021). A community dinner usually precedes the traditional rite of Maba Belo Selambar, which is followed by Runggu (deliberation) to decide how the celebration would unfold on the wedding day.

Unregistered Karo customary marriages have been carried out for generations by some Karo indigenous communities (Reid, 2014). This marriage is seen as legal in Karo customary culture since it is an ancestor's legacy that needs to be respected and maintained. Marriage demonstrates a high level of conformity to kinship structures and cultural norms. Rather than individual needs and wants, the group's shared values serve as the foundation for the decision to select a spouse and be married. Economic, educational, and premarital pregnancy-related circumstances are the causes of the unregistered Karo customary marriages. Without taking the marriage's outcome into account, social inequality and unemployment also have a significant impact on marriages (Edin & Reed, 2005).

According to the customs of the past society, wedding ceremonies were carried out through mutual cooperation (Wu & Xu, 2023). The marriage contract has evolved from being simple to becoming consumerist. According to Karo customary culture, a marriage is deemed lawful if both of the bride and groom's siblings concur and perform the Karo customary marriage ceremony without official marriage registration (Steadly, 1989). This is against marriage law and has legal ramifications for the child's status as well as the marital status. Customary marriage will lead to problems and legal issues.

When it comes to regulating human behavior, marriage is the most effective relationship. Men and women seek to marry for a variety of reasons, including political, social, cultural, religious, and economic ones (Brake, 2012). Because cultural elements are products of human creation, emotions, and will, they are inherited from birth and have distinct traits. Consumer habits, behaviors, and material behaviors are influenced by popular culture, lifestyle globalization, and a lack of understanding of the importance of traditional wedding rites (De Mooij, 2019). Marriage is one of the steps done to ensure legal protection in a partnership.

Method

The type of research used is empirical juridical, which involves examining the legal realities present in society. It is used to observe the legal aspects of social interactions within the community and serves to support the identification and clarification of non-legal findings for the community research or study. The purpose of legal writing. This research falls under sociological legal research or empirical juridical research, where the form of legal regulation regarding marriages conducted according to Karo customs that are not recorded in the village of Pergendangen, Karo Regency, will be identified. The empirical juridical approach is a procedure used to solve research problems by first examining secondary data and then continuing with field research on primary data. Sociological research is used to collect and seek data and information through field studies, namely through observation and interviews with the Karo indigenous community in Pergendangen Village, Karo Regency, regarding Karo customary marriages that are not recorded in Law Number 1 of 1974 on Marriage. Interviews were conducted with several customary leaders, namely: A. Tarigan (67 years old) and S. Pinem (65 years old). Both were appointed as customary leaders to continue the position of their parents as customary leaders. Interviews were also conducted with several couples who had married according to Karo customs and were not officially registered.

Discussion

Knowledge of the Karo Indigenous Culture's Marriage System

Marriage Getting married Karo Customary Culture claims that According to Karo culture, marriage is a way of life that is developed and adhered to by a group of people over the course of many generations. The cultural values that define a community's life are typically documented in oral, written, and moving sources. In indigenous tribes, marriage is one of the customs that has been maintained. Marriage involves more than simply men and women; it also involves family, relationships, dignity, and personal considerations that are contingent on the social structure of the community in question (Frantz & Dagan, 2004). Marriage is a stage in the long cycle of life.

Marriage for the Karo indigenous community is not just about uniting the two brides and grooms, but it holds a deeper social meaning, which is marrying into the extended families of both parties. At that time, the family bond develops from a small family to a large family. Marriage according to Karo customs is a bond of body and soul between a man and a woman, encompassing the entire family and ancestral spirits (E. E. Tarigan, 2020). Strengthening the ties of brothers is one of the many goals of marriage in the Karo culture. Additionally, since only male children can carry on the clan name, marriage attempts to perpetuate the male bloodline or clan (Hudson et al., 2015).

The patrilineal kinship system known as the honest money payment is upheld in Karo customary marriages. Known as replacement money or exchange money for the handover of the female side, an honest marriage is one in which a number of magical items or a certain amount of money from the male family's side are given to the female family's side. The magical equilibrium in the female party's family must be preserved by the male party. Gantang tumba and perunjung (dowry) are other names for tukur or dowry. In the beginning, the female party received the male party's heirlooms as the dowry. But when heirlooms grew harder to locate over time, their form evolved into currency (Joyce, 2000).

The Karo customary marriage system is exogamous, meaning that a person must marry someone

who is not from their clan (Needham, 1978). Someone is required to marry someone outside their family clan (outside the Klein). In its development, the exogamy system experienced a softening, where the marriage prohibition was only enforced on very small families. Thus, this system in the region will eventually evolve towards the Eleutherogami system. The form of marriage in Karo customs is divided into several parts and stages in the process of marriage implementation. The form of Karo customary marriage is as follows:

1. The type of marriage is an honest unregistered marriage, meaning the man pays the dowry in cash to the woman, and after the marriage, the woman is transferred to her husband's clan;
2. The children enter the father's clan;
3. The husband dominates the family (the entire household);
4. It is known that there are levirate marriages (marriages of friends that change with the medun bed, namely a widow marrying her deceased husband's brother) and sororate marriages (wulu marriages, namely a widower marrying his deceased wife's sister);
5. In essence, the wife does not have a right to marital property;

Causes of Traditional Karo Marriages That Are Not Registered

Marriage is the strongest relationship in terms of controlling human behavior. There are various reasons why men and women want to get married, such as religious, economic, social, cultural, and even political factors (Waite & Lehrer, 2003). Since human creativity, emotions, and volition are inherited from birth and passed down through the generations, cultural influences have unique qualities. Law Number 1 of 1974 regulating Marriage stipulates that marriage shall be recorded in accordance with its rules (Zainuddin et al., 2022). According to the relevant law, a marriage is effectively deemed void if it is not registered. Every marriage is documented in accordance with the relevant rules and regulations, as specified in Article 2 paragraph (2) of Law Number 1 of 1974 respecting Marriage. Economic, educational, and premarital pregnancy-related considerations are some of the reasons why the Karo indigenous group continues to engage in unregistered Karo customary marriages.

1) Economic Factor

Economic limitations greatly affect a person's values and way of life. Economic hardship can lead to behavior that is beyond reason. The inability of a girl to earn a living and the very high level of dependence on men to support herself greatly influence the acceleration of marriage for women. Economic factors are an unrecorded issue related to Karo customary marriages. Parents who marry off their children have the principle that Karo customary marriages can reduce costs and family burdens.

2) Education Factor

including exchanges between highly educated people and their native, uneducated mates in which the former exchange their position for an ethnic advantage. The degree of education has a big impact on how people think. Women from low-income families and those with less education are more likely to get married young. Young marriage is a problem that affects not just marital law but also human rights and child welfare. According to Karo customs, one of the factors contributing to the prevalence of unregistered marriages is education. The lack of knowledge among the Karo indigenous people about the legality of marriage results in the

absence of Karo customary marriages.

3) **Factors of Premarital Pregnancy**

Because of premarital pregnancies and promiscuity, the community tends to be positive and does not want underage marriage, but it does cover it up. Although the majority of the community is already aware of the effects of home poverty brought on by underage marriage, it still chooses to overlook it and does not view it as an issue. In Karo customs, marriages are not documented in order to erase the family's shame due to the prevalence of premarital pregnancies. Because Karo customary marriage allows women to join men's households and become a part of their family.

Marriage in Accordance with 1974 Law No. 1

The provisions of Article 1 of Law Number 1 of 1974 concerning Marriage state that marriage is a spiritual and physical bond between a man and a woman as husband and wife to form a happy and eternal family or household based on the belief in the One and Only God. A valid marriage will create a bond between a man and a woman as husband and wife (Becker, 1974). The resulting link is a formal relationship that is genuine for both the community or other people and the society that binds itself. According to that definition, marriage consists of five (five) components, specifically. Body and soul are linked: a) As husband and wife, b) Between a man and a woman, c) Establishing a happy and enduring family (home), d) Predicated on faith in the Almighty God.

According to Law Number 1 of 1974 respecting Marriage, Article 2 paragraph (2), every marriage is documented in accordance with the relevant laws and regulations. According to the general explanation, registering a marriage is equivalent to registering other significant life events, including births and deaths, which are documented in a formal certificate and added to the registration list. The registration is only administrative in nature because it certifies that the event did, in fact, occur and does not establish the validity of the marriage.

In essence, the couple is already aware of the significance of registering their marriage, but for a variety of reasons, they have chosen not to do so. Despite being married for a long period, they do not possess a marriage certificate. Two phases of activities must be completed in order to accomplish this goal: (1) legal advice covering the introduction, use, and advantages of marriage registration as well as the legal ramifications of not registering a marriage, and (2) support for the construction of marriage books.

Marriage is recorded as one of the efforts to ensure legal protection in marriage. If problems arise in the household and divorce occurs, each party can obtain protection of their rights (Xiangwei, 2022). A marriage certificate will assist the husband and wife in fulfilling other legal requirements, whether for the husband, wife, or the child born from the marriage. On the other hand, annulment of marriage. The legal consequences of annulment of marriage have a positive impact on the child from the annulled marriage. This has legal implications that children born from annulled marriages remain legitimate children with civil rights.

The marriage registrar is supposed to provide a clear marriage record for supporters and other parties so that it can be read in the documents used by official parties and included in every list, according to R. Wantjik Saleh, who said this in the marriage registration application. When required, special statements are given, mostly as written proof that is acceptable under the law. Such proof can be used to defend or stop others from acting in a different way. The English and

Indonesian marriage systems are comparable in a number of ways, particularly with regard to the wedding rites (Katz & Katz, 1975).

1. Indonesia

- a. Marriage notification by the prospective bride, either verbally or in writing to the court clerk at the location where the marriage will take place, no later than 10 working days before the marriage is held (Article 3 and 4 of Government Regulation Number 9 of 1975).
- b. Marriage announcements are made by posting them in the designated area at the Marriage Registration Office. The purpose of this announcement is to inquire from anyone concerned to obstruct the intention of the marriage if there is a legal violation or for any other reason. The announcement is made after the Registration Officer records the implementation requirements and the documents needed to obtain the approval of both parties.

2. Inggris

Announcements of marriage are posted in the Marriage Registration Office's authorized area. This notification is meant to ask everyone who might be preventing the marriage from happening whether there is a legal infraction or for any other reason. Following the Registration Officer's recording of the implementation requirements and the documentation required to secure both parties' approval, the announcement is issued (Infrastructure & Council, 1997).

The difference in the informality of marriage between Indonesia and England is that according to English law, marriage can only be conducted in a church that has a marriage license, resulting in the issuance of a marriage certificate or as proof of marriage registration. Whereas in Indonesia, marriage must be conducted according to religious practices and applicable laws (marriage registration). Meanwhile, the similarity in marriage formalities between Indonesia and England is that both must carry out the announcement process that the marriage will be conducted by the prospective couple who are going to marry.

The Effects of Unregistered Marriages on the Law in Karo Traditions

According to R. Wantjik Saleh, in relation to marriage registration, it can be said that marriage registration aims to clarify the marriage ceremony, both for the parties involved and for others, because it can be read in an official letter and included in a specially provided list if necessary, especially as an authentic written proof. Marriage shows a high degree of alignment with cultural values and kinship systems. The decision to choose a partner and marry is based on the shared values of the group rather than personal desires and needs. In married life, satisfaction can also become a goal for couples. Many factors influence the achievement of marital satisfaction; failure to fulfill them will lead to dissatisfaction and can result in unhappiness.

Unregistered marriages will nullify the status and position of husband and wife. This is related to the failure of the marriage, which results in the state's claims on rights during the marriage (inheritance and child support) because the marriage does not meet the requirements and provisions of the Marriage Law. The status and position of a marriage conducted according to Karo customs that is not registered is invalid and the marriage is considered non-existent because Article 2 of Law Number 1 of 1974 states that every marriage must be registered according to the applicable laws and regulations.

The Child's Status and Position

Marriage is a rule to legitimize the relationship between the two genders to become husband and

wife (Thompson, 1993). According to sociology, there are weddings performed in accordance with religious law that are not officially documented by the government, even though they may have children. As long as it can be demonstrated through science and technology or other legal proof that establishes a blood link as the father, the Constitutional Court ruled that a child born from an unregistered marriage has a civil relationship with their biological father. According to Article 2's provisions, a child born out of a marriage has the legal consequence of being deemed illegitimate and never having been, regardless of the status of the couple. Provisions of marriage law additionally specify that:

- (1) Legitimate children are those born from or as a result of a lawful marriage.
- (2) Children born out of wedlock only have a civil relationship with their mother and relatives. Children born from customary Karo marriages that are not registered have legal consequences that are detrimental to their development. In this case, the child's status is only recognized by customary law but not by the state.

Conclusion

According to the study's findings, some indigenous Karo people continue to follow traditional marital practices, or pernikahan siri. The significant elements are economic issues, educational factors, and those associated to pregnancy before marriage. According to Article 2 paragraph 2 of Law No. 1 of 1974, which mandates that all marriages be recorded in accordance with the applicable law, marriages performed in accordance with Karo customs are not recorded as children born out of wedlock and are regarded as nonexistent. There is no genuine certificate proving that the marriage was performed legally, so there is no legal protection or certainty regarding the marital status, the status of the husband and wife, the child, and their civil rights. As a result, the legal consequence is that the marital status, the position of the husband and wife, and the position of the child are all deemed invalid, and the marriage is deemed to have never existed.

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