

Deviant Marriage Practices in Lolo Hilir Village According To The Marriage Law and Islamic Law

Riko Pirman¹, Riski Hariyadi²

^{1,2}State Islamic University Sunan Kalijaga Yogyakarta
thepirman07@gmail.com¹, riskihariyadi0018@gmail.com²

Abstract

This paper discusses the basis of the Lolo Hilir community who must comply with the orders of the marriage law as a means of addressing marriage issues in the modern era. This research includes *field research*, which is Descriptive-Analytical in nature, using a sociological-normative approach. The results showed that the UUP must be obeyed by the Indonesian people, especially the village of Lolo Hilir by looking at the basis of the obligation in Article 27 paragraph (1) of the 1945 Constitution in positive Indonesian law and in Islamic law also regulated in QS. An-Nisa': 59 and 83. According to Muhammad Abduh, the result of thinking in this law is *ijmâ'*, the third source of Islamic law, which occurs because there is no definite *nash* or proposition regarding the problems that occur in this modern era and the law was formed by many experts including scholars, jurists, women experts and including the community, it must be obeyed for the benefit and peace so that there is a sense of security and tranquility in carrying out daily life in the community of Lolo Hilir village.

Keywords: Marriage, Law, Islamic Law

Abstrak

Tulisan ini membahas tentang dasar masyarakat Lolo Hilir yang harus mematuhi perintah dari undang-undang perkawinan sebagai sarana untuk menyikapi masalah perkawinan pada era moderen. Penelitian ini termasuk penelitian lapangan (*field research*), yang bersifat Deskriptif-Analisis, dengan menggunakan pendekatan sosiologis-normatif. Hasil penelitian menunjukkan bahwa UUP wajib di patuhi oleh masyarakat Indonesia terutama desa Lolo Hilir dengan melihat dasar dari kewajiban itu dalam Pasal 27 ayat (1) UUD 1945 dalam hukum positif Indonesia dan dalam hukum Islam juga diatur dalam QS. An-Nisa': 59 dan 83. Hal tersebut menurut Muhammad Abduh yaitu hasil pemikiran dalam UU ini yaitu merupakan *ijmâ'* sumber hukum Islam yang ketiga hal tersebut terjadi karena tidak adanya *nash* atau dalil yang pasti menyangkut tentang permasalahan yang terjadi di zaman era modern ini dan UU tersebut dibentuk oleh banyak para pakar ahli termasuk ulama, ahli fikih, ahli perempuan dan termasuk masyarakat hal tersebut wajib dipatuhi untuk kemaslahatan dan ketentraman supaya terjadinya rasa aman dan tentram dalam melaksanakan kehidupan sehari-hari di Tengah Masyarakat desa Lolo Hilir.

Kata Kunci: Perkawinan, Undang-Undang, Hukum Islam

Introduction

Marriage can be thought of as a formal institution in which a man and a woman live in a house and establish a family. In short, marriage can be interpreted as men and women working together under one roof, which we usually call a family to find comfort in married life. The comfort obtained in a family is not necessarily immediately obtained or arises after marrying, this comfort exists because of the rules that govern a family, be it positive law, customary law

or Islamic law. In addition, to get comfort in a family and be recognized in society and the state must follow the applicable provisions.

A marriage can be considered valid if it is registered at the KUA and at the civil registry office where both spouses reside. The reason for registering a marriage is to work to ensure the legal certainty of the family, especially for children and spouses (Nurhadi Nurhadi, 2018). In the modern era where many marriages are held by young people who can still be said to be not old enough to cause an increase in the divorce rate and the occurrence of poverty due to the neglect of children who are still young. Causing the need for changes to occur in regulations and public awareness in knowing the UUP itself.

The Marriage Law (UUP) is a regulation compiled by various experts to solve problems that occur in Indonesia. After the enactment of the marriage law, it became the basis of every legal activity regarding marriage throughout Indonesia. However, the marriage law has not been fully recognized by the Indonesian people. Many groups of people who do not recognize the UUP come from the interior (far from the city) including in the village of Lolo Hilir, making it difficult to reach important information about changes to the regulation with strict considerations by the government (Rozi Andriani, 2021). The people of Lolo Hilir who do not recognize these regulations or oppose the regulations drafted by the government generally argue by saying "the law only applies in the world, not for the end" (DM, 2024).

Based on the above understanding, the marriage law is a solution to a problem arising from the modern era in Lolo Hilir village. The many new problems that arise such as interfaith marriages, irregular marriages, early marriages and contract marriages that occur in the community, make the previous law no longer relevant to the current era, where the old law can no longer answer the new problems that exist in the middle of society, especially in Lolo Hilir village.

The marriage law is a very appropriate socialization to be the basis for answering problems in this modern era. UUP is known as the codification of previous laws including from the Qur'an, hadith and conventional fiqh books. The contents of the UUP cover the scope of the family in this modern era, such as marriage, inheritance, divorce, child custody, polygamy and many others about family problems in the present era.

As according to Muhammad 'Abduh obeying / submitting to the Marriage Regulations (UUP) is the same as obeying the Qur'an and the Sunnah of the Prophet. Because the UUP is a statement, choice, and understanding between the delegates of the DPR, the lawmaking body and public officials (executive). Obeying laws and regulations is an attitude of obedience to the leader. The obligation to obey the leader by obeying the rules that have been agreed upon by various institutions for the benefit of society in the form of provisions / regulations is an acknowledgment of the command to submit to Allah, obey the Messenger and submit to the leaders, as stated in al-Nisâ' (4): 59 and 83 (Khoiruddin Nasution, 2019) .

In the opinion of Khoiruddin Nasution, the election of the DPR as an individual delegate is a recognition of the understanding of all individuals. Individuals are generally handled by individuals from parliament (DPR, delegates), because for all Indonesian people to participate in the determination of regulations and the establishment of laws and regulations is very unlikely. Considering the large number of people, tribes, races, religions and cultures, it is impossible for them to participate in the planning of laws. As a solution, the representative system that we call the People's Representative Council (DPR) is a very practical and easy way

to run. Thus, the choice of the people's representative (DPR) lies in the individual choice of the people's representative (DPR) for the whole. Therefore, the guidelines that have been set out in official meetings must be adhered to. The decision of the deputies is now also *ijmâ'*, the third source of Islamic law after the Qur'ân and the Sunnah of the Prophet Muhammad.

Based on the description above Khoiruddin Nasution concluded that the UUP is *ijmâ'* in Indonesia. As a result of the many institutions that participate in the selection and determination of the mentioned *ijmâ'* in Indonesia which produces new ideas or *sosuli* that we call the marriage law or UUP. *ijmâ'* is the third source of Islamic law from the sunnah and the Qur'an. *Ijmâ'* is taken because there is no previous law on new issues or the previous law can no longer be used because of cultural and geographical differences.

There are several writings related to this paper including Khoiruddin Nasution's research explaining that there are three bases used by Muhammad "Abduh" to state that obeying the Marriage Law (UUP) is the same as obeying or obeying the Qur'an and Sunnah of the Prophet Muhammad SAW. First, obeying the UUP stipulated by the people's representatives (DPR, parliament) is a form of obedience to the government (*uli al-amr*). This is the implementation of the command to obey Allah, obey the messenger, and obey the government (*uli al-amr*), as mentioned in al-Nisa' (4): 59 and 83. Second, the third source of Islamic law, after the Qur'an and the sunnah of the apostle Muhammad, is *ijmâ'*, which is the current source of popular consent and/or popular representation. Third, compared to *fiqh*, *fatwa*, *tafsir*, and jurisprudence, which are products of Islamic legal thought, the UUP has the most authoritative and comprehensive position (Nasution, 2019).

Muhammad Afarat's research explains that the obligation to comply with the Marriage Law as a way to serve the Indonesian government and realize the verses of Surah an-nisa: 59 and 83. In addition, the law is the result of the thoughts of experts in various fields and experts who have resolved debates in society. Basically, jurisprudence and *fatwas* are products of Islamic law made by individuals, while the law itself is the result of the thoughts of experts in various fields. As a result, we follow the laws in force, particularly the marriage law (Muhammad Afarat, 2022).

Research by Rozi Andriani, Mawardi Muhammad Saleh, Indra Hadi explains that there are three reasons underlying the need to comply with the Marriage Law (UUP). First, complying with the UUP stipulated by the DPR and the president is a form of obedience to the government (*uli al-amr*), which is the realization of obeying the commands of Allah Swt, the messenger and the government (*uli al-amr*), as requested in al-Nisa' (4): 59 and 83. Second, the UUP is the result of a government decision, so it can be considered as a form of *ijmâ'*, a source of Islamic law after the Qur'ân and Sunnah that must be obeyed by Muslims. The UUP is the product of the thoughts of many experts from various scientific fields, so it is the most important compared to other Islamic law products. However, there are still problems with the implementation of government laws in Indonesia regarding the level of public compliance with state laws that are based on religious principles (Andrini, Muhammad Saleh, and Hadi, 2021)..

Ramadhan Syahmedi Siregar's research explains that Marriage is an important part of the human life cycle, where two people of different genders are brought together under the same terms and laws to form a family for an indefinite period of time. Feelings of love for each other are usually the basis of marriage. It is this love that drives a person to make sacrifices for the sake of domestic happiness. In addition, physical and mental maturity are also important to

form a family. According to Article 2 paragraph (1) of the Marriage Law, "Marriage is valid if performed according to the laws of each religion and belief." Marriages that are not known or not recorded in a state institution or that are conducted secretly and not announced to the public are called underhand marriages. Early marriage is when one or both partners are under 18 years of age or in high school. Contract marriage means being married only for a certain period of time. For example, married for a month, a year, or even 10 years (Siregar, 2022).

Trusto Suberti's research explains that the study of the validity of marriage according to Law Number 1 of 1974 from the point of view of Covenant Law will provide systematic clarity about the application of legal principles which are the basis of thought in determining the validity of marriage because the Law must not only be understood grammatically, but must also be understood by systematic interpretation. (Subekti, 2010). Sri Rahayu and Rasyidah's research explains that Deviant Behavior in Marriage (Case Study of Household Infidelity in the Kota Lintang Community), that many people still do not fully understand the meaning of marriage. So, after they get married, problems and conflicts easily arise in their households. This often happens because both of them have infidelity. Other factors that exist inside and outside the couple also influence the infidelity that occurs. Infidelity behavior arises due to interconnectedness and people's lack of understanding of the meaning of marriage. However, things like economics and life satisfaction can influence this behavior. Furthermore, individualistic attitudes, not caring about society, and being indifferent to society. So, this behavior or problem still occurs in the community of Kampong Kota Lintang until now without any solution or problem solving, and the parties involved still have not changed (Rasyidah, 2019).

Research by Yasmin Saleha Iman and Sri Poedjiastoeti explains that Law Number 16 of 2019 concerning Marriage and the Compilation of Islamic Law regulate the prohibition of inbreeding. Article 8 states that marriage is prohibited for two people who are related by blood, consanguinity, or consanguinity. Article 39 of the Compilation of Islamic Law also states that marriage between a man and a woman is prohibited because of the relationship of blood, kinship, or consanguinity. In accordance with the Marriage Law, the Polahi have violated these rules because they do not comply with Articles 8 and 39 of the Compilation of Islamic Law on Marriage (Sri Poedjiastoeti, 2020).

Research Methods

This paper uses the method of *field research* or field research. The process carried out in this research is interviews in the middle of the modern era community of Lolo Hilit village as well as data from writings that have a relationship with the subject under consideration, for example books and articles that examine and/or research results on the basis of the community's obligation to obey the Marriage Law (UUP). The nature of this research is descriptive analytical, namely describing the basic reasons why people are obliged to obey the UUP, then analyzing the reasons for requiring compliance with the problems that develop in the modern era now, which is very helpful in answering problems surrounding marriages that occur in Lolo Hilir village and this makes it mandatory to obey the UUP.

Results and Discussion

A. The Early History of the Creation of the Marriage Law (UUP) in Indonesia

In the past when Islam had not yet entered Indonesia, which is called the archipelago, people carried out all social activities, especially in marrying, by following their respective traditional customs. After the entry of Islam in the archipelago around the 6th century to the 7th century AD, especially during the establishment of the Islamic kingdom in the archipelago. Islamic law began to spread widely in the middle of society through various methods of spreading the teachings of Islam, but the most prominent is mixing Islamic teachings with traditions practiced in the middle of society. In managing problems in the public eye at that time, especially marriage problems, groups of Muslims around then resolved the problem by delegating a specialist among them to take care of the problem in view of the Qur'an, sunnah and fiqh law books (Hermawati, 2015).

During the colonial period carried out by the Dutch (VOC) on May 25, 1760, around that time the Islamic guidelines used were made by D. W. Friejer with the title *Freijer's Abridgement* which was then followed up by being overhauled and idealized by the rulers. When the Dutch East Indies Government colonized and succeeded in holding power in 1828, precisely on August 3, the writing of D. W. Friejer with the title *Freijer's Compendium* was abolished and the provisions that occurred previously did not apply during the Dutch East Indies rule, as a result of the abolition of Islamic law caused other problems so that the rules regarding marriage returned to their respective customary regulations that applied, except for a handful of people. After the Dutch East Indies had absolute power, they began to make regulations that applied to the island of Java and its surroundings, not including all of Indoneusa by issuing the *Indische Staatsregeling* in 1919, which was the first Dutch statutory regulation, the core of which was in their respective customary laws.

After the Dutch East Indies Constitution based on customary law was implemented, there were many injustices in the midst of society, causing many people to form organizations consisting of people who agreed with them, especially women's groups who were severely disadvantaged. In 1928 led to the formation of the Indonesian Women's Congress (KWI), where many women gathered and discussed their rights and demanded justice in the KWI. The discussion at the congress included customary marriages that caused women a lot of harm, mistakes that occurred in marriage according to Islam (klasik), including erratic polygamy, constrained husband and wife relationships, and also inconsistent separation. The result of the discussion that took place at the Indonesian Women's Congress was to demand a regulation regarding marriage that was fair and not detrimental to women. since 1879 the issue has continued to be debated both among the public and from government officials to establish regulations that do not harm women in marriage (Ahmad Rifai et al, 2015).

After the Dutch lost and withdrew from Indonesia, the laws left by the Dutch became the basis for the formation of new laws according to the needs of the Indonesian people, this was shown by the emergence of Regulation No. 22 of 1946 concerning the registration of marriages, separations and compromises, which was the result of the unification and refinement of all *Staatblaad* regarding similar matters. This regulation only applied to the islands of Java and Madura. In 1954, the law became applicable to all regions in Indonesia

with the enactment of Law No. 32 of 1954, the provisions of which requested that Law No. 22 of 1946 be implemented throughout Indonesia (Muhammad Fadli, 2018).

In 1930, the oppression of women based on the law that allowed polygamy forced women to demand justice by forming women's groups to demand justice by forming women's associations that were clearly against polygamy, especially Isteri Sadar. However, there were pros and cons to the demands of the Isteri Sadar organization and the Islamic women's organization, because polygamy according to the Islamic women's organization was legal according to Islam and not against religion. In 1935 experts were mobilized from women's groups to explore the position of women in Islamic law. However, this activity was restricted by the Japanese government, so the association could not move freely as it wished and received no attention from the Japanese government at the time on the grounds that a small number of associations/groups of organizations were allowed, including Fujinkai (Khiyaroh, 2020).

After Indonesia became ruler and independent until the destruction of the old demand (old order), it was only during the new demand (new order) that the development of women's associations that had been restricted became free again. Religious organizations were given free space to work in their fields. Then in 1973 the DPR received a draft marriage law from the public authorities. After going through several stages of careful study and checking of the draft regulation, it was only in 1974 that it was legalized with the issuance of the Marriage Law (UUP), specifically Law Number 1 of 1974 concerning Marriage.

With the UUP No. 1 of 1974 has not been satisfactory for Muslims, the government also issued laws or regulations specifically for the people of Indonesia who are Muslims listed in the book (KHI) Compilation of Islamic Law. After the many reforms of these regulations, many more laws were made or codified old laws by adjusting changes to the Indonesian people, so the formation of Government Regulation (PP) Number 9 of 1975 concerning the implementation of Regulation Number 1 of 1974. This was followed by the issuance of Regulations of the Minister of Religion and the Minister of Home Affairs containing the implementation of the Marriage Regulations. In an increasingly modern era and the problems that arise are increasingly new and different, the previous regulations may not be able to adjust to an increasingly sophisticated era with different problems, so the government reformed the UUP by changing the age limit for marriage to be the same, namely 19 years for men and women in 2019 (Muhammad Afarat, 2022).

From this description, it is clear that the process of the birth of the Indonesian marriage law was very long and full of struggles. It can be concluded how many struggles and individuals were involved in the process of planning and determining the UUP, from planning to its ratification. The parties involved in the enactment of the UUP can be grouped into several segments, especially in state terms referred to as the legislative, executive, and representatives of the people (DPR). These people can also be organized into groups of experts (*'ulama*), rulers (*'umara'*), and representatives of the people (*ru'asa'*). The arrangements made by these experts, rulers, and local leaders can be adjusted to the choice of *uli al-Amr* in the language of the Qur'an (Khoiruddin Nasution, 2019). The decision of *uli al-Amr* according to 'Abduh is obligatory to be obeyed and followed by the people living in a country without exception.

Based on the description above, the many changes that occur from time to time cause the previous law to no longer be relevant to the people of Indonesia. This causes the pros and cons of the results of the law. Starting from the Dutch government until now there is still codification to solve problems that arise in the middle of Indonesian society. New problems that occur in society are always a dilemma in society, causing people to demand the government to solve the problem with the principle of justice together, this is indicated by the existence of community organizations that speak out to the government to demand justice together.

Researchers assume that the history of the birth of the UUP cannot be separated from the culture, religion and many races in Indonesia. So that it causes a big difference from the point of view of each. This makes the UUP a solution to these differences so that everything related to family matters can be resolved fairly with the same laws and considerations.

B. The Basis of the Obligation to Comply with the UUP Based on Muhammad Abduh's Opinion, Positive Law and Islamic Law

According to Muhammad 'Abduh As stipulated in al-Nisa' verses 59 and 83, the obligation to obey the various rules and regulations is a manifestation of the obligation to obey the Indonesian government (*uli al-amr*). According to Khoiruddin Nasution, laws formed by several groups of people who are experts in their respective fields of knowledge to solve problems that are in the territory of Indonesia have a legitimizing force that is more far-reaching and grounded (definitive and objective) compared to matters of individual law, fatwa and jurisprudence.

Laws and fatwas are separate outcomes of Islamic regulations. Meanwhile, statutory regulations are the result of the musings of various experts (in *aggregate*), and 'Abduh positioned regulations as *ijmâ'*, the third source of Islamic law after the Qur'an and the sunnah of the Prophet Muhammad. Obeying the legal guidelines (UUP) is tantamount to obeying *uli al-amr* (the government) and is *ijmâ'* which in Indonesia is the third source of Islamic law after the Al-Quran and Sunnah of the Prophet Muhammad SAW (Khoiruddin Nasution, 2019). Briefly, according to 'Abduh, there are three basic reasons for the obligation to obey the Marriage Law in Indonesia, namely the same as obeying *uli al-amr* in the Qur'an, is *ijmâ'* and the results of experts who lived in his time.

From 'Abduh's view in Khoiruddin Nasution's writing, it is clear that the marriage law (UUP) is obligatory to obey as long as it is in the territory of Indonesia. Both Indonesian citizens and foreigners who are tourists if they are already in Indonesia then they are obliged to comply with the laws in Indonesia. There are three reasons according to 'Abduh that are very concrete and binding that the UUP is the result of many thoughts to solve problems in Indonesia making it mandatory to obey.

As for the obligation to comply with the UUP based on Positive Law because positive law is a law produced from various experts who apply to resolve people's concerns and must be obeyed by people who are within the scope of the UUP area. Positive law in Indonesia consists of two structures, namely written and unwritten regulations, while the source of regulation is material and formal, where the source of material regulation itself is the thinking of the community in conducting legal demonstrations (Samidjo, 1985).

Law No. 1 of 1974 concerning Marriage is a legal regulation that already existed during the New Order government. Complying with applicable regulations in Indonesia is stated in Article 27 paragraph (1) of the 1945 Constitution. The regulation has become the legal basis for the Indonesian people when carrying out marital activities, as for the scope that exists in the regulation of Law No. 1 of 1974, namely around the scope of marriage starting from the conditions of marriage to the causes of divorce to children's rights.

It is clear that the regulation covers almost everything about marriage, from the requirements for marriage to the consequences arising after divorce. In the regulation there are still incomplete explanations that are explained through Government Regulations or often called PP, Supreme Court Circular Letters also called SEMA and others. However, according to the researchers, there are still irregularities in the regulation which can no longer adjust to the times in Indonesia and need to be updated further.

With this basis, Indonesian citizens must comply with the laws that have been applied. Because, the applicable laws were formed to solve problems in the community itself. So it is clear that we as Indonesian citizens are obliged to agree to Regulation Number 1 of 1974 without exception in accordance with Indonesian law. (Dermina Dalimunthe, 2017).

The State of Indonesia itself has explained that the laws in Indonesia must be obeyed by all Indonesian people without exception, be it the UUP, KHI, Criminal Code and other laws that are legally recognized by Indonesia. Article 27 paragraph (1) of the 1945 Constitution itself explicitly says that it is obligatory to obey the law in Indonesia. For researchers, this is something that is very obligatory to obey considering the long history of the law in the form and the many spilled blood and ideas of our fighters who demand justice so that the UUP is created.

However, there are still many certain individuals who are still shackled by the customary system and the thoughts of their previous ancestors so that they find it difficult to accept these changes. In an effort to reform the UUP, it seeks to change traditions that could previously be said to be inhumane to become more humane with the help of the UUP. This is homework for the state apparatus to find *sosuli* to provide positive awareness about the obligation to comply with the UUP.

The obligation to comply with the UUP based on Islamic law is illustrated in QS. An-Nisa' verses 59 and 83. Which reads:

"O you who believe! Obey Allah and obey the Messenger (Muhammad), and the Ulil Amri (those in authority) among you. Then, if you differ in opinion about anything, then refer it back to Allah (the Qur'an) and the Messenger (his sunnah), if you believe in Allah and the Last Day. That is better for you and better for the outcome."

Based on QS. An-Nisa'(4): 59, researchers can conclude that it is true that the UUP is obligatory to obey. Because, there is a sentence from the verse that we must obey Ulil Amri (the holder of power). The form of compulsory obedience to Ulil Amri is in the form of a stipulation given by the leader of the power such as the UUP and other laws.

The next reason according to researchers to comply with the UUP is also illustrated in the sentence "if you differ in opinion about something, then return to Allah (the Qur'an) and the Messenger (his sunnah)", according to researchers this clearly shows that if a

problem occurs in the middle of society then the leader is the first to solve the problem, if there are many differences then we can draw qiyas from Allah (the Qur'an) and the Messenger (his sunnah). This is reaffirmed by QS. An-Nisa' (4): 83.

"And when news of security or fear comes to them, they (immediately) broadcast it. (If they had submitted it to the Messenger and the Ulil Amri among them, surely those who wish to know the truth would have been able to find it out from them (the Messenger and the Ulil Amri). Were it not for the grace and mercy of Allah upon you, you would have followed the devil, except for a few (among you)."

The verse describes that if they want to know the truth or the real news then they should hear directly from the Messenger and Ulil Amri. According to researchers, the verse explains that receiving news from other people who do not have insight can cause other conflicts that should not occur. So the verse tells us to listen to news that is officially issued by our leaders such as the UUP so that there is no confusion about the marriage regulations. Hearing news from the person is not necessarily true because there is no relevant evidence for the news by listening to official news then it is certainly something that is true and must be obeyed.

In short, the three bases for compulsory compliance with the UUP are very clear, that it is not only found in Indonesian regulations themselves with Article 27 paragraph (1) of the 1945 Constitution which explicitly orders compliance with all existing regulations in Indonesia. In Islam there is also mention of something similar listed in QS. An-Nisa' verses 59 and 83, which realize that obeying the UUP is the same as obeying the leader. Muhammad 'Abduh's opinion also explains that the UUP is a form of *ijmâ'* in Indonesia.

C. The Relevance of the UUP as a Solution in Responding to Irregular Marriage Practices in Lolo Hilir Village

Along with the times, new problems are increasingly occurring, making these problems more complex over time. In connection with the new problems surrounding marriage that occur in the modern era in Lolo Hilir Village, as well as communication equipment that is increasingly sophisticated and easily accessible, it makes it easier for people to find out new information through virtual media. Information spread in cyberspace creates pros and cons in the community, especially problems about marriage. For example, what has happened in the community of Lolo Hilir village, such as interfaith marriages, shirri marriages, early marriages, contract marriages (Novita Lestari, 2017).

Many marital problems that occur in this modern era occur because of the weak knowledge of the Lolo Hilir community about the laws or regulations in Indonesia. Legislation in Indonesia that discusses marriage is contained in UUP No. 1 of 1974 concerning marriage. In this law, it is clear that it regulates the problems that occur in this modern era, although according to researchers, there is still a lot that needs to be improved considering that there are now many loopholes in the marriage law to carry out marriages that should not be. The types of marriages that are contrary to the rule of law that have gone viral and occurred in Lolo Hilir village are, namely:

1. Interfaith Marriage

Interfaith marriage is a marriage between a man and a woman who have different religions, for example, the man is Muslim while the woman is Christian. The teachings of Islam are very clear and clearly prohibit the existence of marriages with these religions and are punished as haram. The problem that exists in this interfaith marriage is none other than the lack of firmness of the regulations governing interfaith marriages, so there are still some loopholes for individuals to carry out interfaith marriages.

Based on the results of interviews with the head of Lolo Hilir village, he explained that there are several ways in which people carry out marriages of different religions, namely: *First*, marry outside the country and return to be registered. *Second*, pretending to change religions to get married. *Third*, marry outside the legal official (MRM, 2024). The marriage law already mentions in Article 2 Paragraph (1) of Law Number 1 Year 1974.

The article explains that the conditions for marriage in Indonesia are said to be valid if the marriage is carried out by one religious law only. This means that marriage cannot be done using two religions at once, because the laws of each religion must be different in conducting marriage. If a marriage occurs using both religious laws, it is feared that conflict will occur in the Lolo Hilir community.

In an interview with a neighbor of the perpetrator with the initials RH, it was explained that the Muslim woman who got married was a childless widow from Lolo Hilir village and a Christian widower from Medan. They got married in an Islamic way at the Istiqomah mosque in Lolo Hilir village. The community did not know the man's true religion. In the marriage, it is stated that the man is Muslim, but after marriage, the man became a Christian by seeing the way the man went to pray at the church in Sungai Penuh City (RH, 2024).

Based on this, of course it is still clear that the loopholes played by these perpetrators are still visible. So if the head of the community and community leaders and traditional leaders of the Lolo Hilir village community know more about the UUP as the basis for marriage. Then the UUP can be a guideline to avoid cases of interfaith marriage.

2. Sirri marriage

A sirri marriage is a marriage entered into by a bridegroom and bride without being recorded at the Office of Religious Affairs (KUA) or Civil Registration. Sirri marriage is also a legal marriage in Islam. A marriage is valid if it is carried out by following the terms and conditions in full. This sirri marriage is considered valid by Islam, but is not considered married according to Indonesian law.

Problems experienced in irri marriages that have not received dispensation for marriage and remarriage are at the time of divorce, domestic violence, inheritance, child custody battles and others (Nasiri, 2010). Government officials cannot interfere in their family matters because there is no valid marriage record according to positive law in Indonesia. Even the Religious Courts (PA) cannot accept complaints from these parties to decide their cases.

Based on the results of an interview with a former perpetrator of a sirri marriage named ST explained, when ST was working with a single status, ST was interested in a

widowed woman but did not have enough funds and decided to get married only at home by bringing an ustadz without the knowledge of the general public. The marriage was held in Jambi city with a man from Lolo Hilir and a woman from Jambi City. The man brought his sirri wife back to Lolo Hilir village, telling her parents and the community that they were married (ST, 2024).

Problems in the household of ST and his sirri wife worsened and decided to divorce, when ST filed for divorce at the PA but was rejected because he did not fulfill the formal requirements, namely the marriage certificate / book and others. The problem also made it difficult to divide the inheritance that they got, as well as the one child that was born. ST confessed to her parents and the family deliberated. Based on these deliberations, ST and her family asked the customary institution to decide the case (ST, 2024).

The problems of sirri marriage can be avoided if couples who want to get married follow the marriage law (UUP) in entering into marriage. Law No. 1 of 1974 Article 2 paragraphs (1) and (2) explain "*paragraph one, Marriage is valid, if it is carried out according to the laws of each religion and belief. Paragraph two, Every marriage is recorded according to the applicable laws and regulations.*"

Article 2 paragraphs (1) and (2) explain that marriage in Indonesia is not only valid when it follows the legal rules of one religion, but must also follow the registration process recognized by positive regulations in Indonesia. When a man and woman marry only following their religion then it is considered valid according to their religion but not yet valid according to the state. Marriage is considered valid according to religion and the state in Indonesia when after fulfilling paragraphs (1) and (2). By fulfilling these two paragraphs, state officials or the Religious Court have the right to resolve cases that occur between them.

3. Contract Marriages

Contract marriage or mut'ah marriage is a marriage between a man and a woman that includes a time limit on the marriage. Many contract marriages are carried out only to satisfy lust under the pretext of "having halal intimate relations rather than committing adultery outside the contract". The problems that occur during contract marriage lie in the law of doing it and the consequences of doing contract marriage on their children.

According to M. Shiddiq Al Jawi Completing a marriage agreement that basically lasts for a certain period of time is not valid, because it contradicts the verses of the Qur'an and Hadith which do not specify a time limit in a marriage at all. (M. Shiddiq Al Jawi, 2013). It is very clear in Islam that marriage is a very sacred thing to do without a time limit for life. Based on Article 2 paragraph (1) of UUP No. 1 of 1974 explains that marriage is valid if based on their respective religions and beliefs. The beliefs referred to there are not personal beliefs but beliefs in religious and normative terms.

Based on an interview with the customary deputy with the initials PH, he explained that there had been contract marriages in Lolo Hilir village between migrants from Kalimantan who aimed to climb Lake Kaco tourism with widows from Lolo Hilir village. At first, the woman was promised 3 million rupiah after completing the Lake Kaco tour with the condition of becoming a lustful servant with a contract marriage.

After the news spread, the customary institution and the community immediately imposed customary punishment on the two perpetrators, namely slaughtering 2 goats, as well as social sanctions with accompaniment to make a deterrent around the village with cheers (PH, 2024).

Contract marriage is a problem that should not exist in the modern era, because there are laws and regulations that address this problem. Lack of insight into religion is again a serious problem in the modern era where technology is increasingly sophisticated, many people are more concerned with technology than religion and affirmative.

From the descriptive and analysis that researchers have conveyed, researchers can take the core of the discussion that it is obligatory for Indonesian people, especially the village of Lolo Hilir, to comply with the marriage law. Several tests concerning the regulation of laws in Indonesia and even in the Qur'an and hadith mention to obey the rules that have been set by the current leader we are in, as well as the opinion of the leading jurist Muhammad 'Abduh who obliges us to comply with the UUP.

As the opinion of Khoiruddin Nasution that the Law, as a result of the consideration of various experts in different logical fields, and experts in dealing with different cultural problems, has a more comprehensive and strong legitimizing power (definitive and objective) (Khoiruddin Nasution, 2019). Khoiruddin Nasution positions the UUP as *ijmâ'* in Indonesia as the third form of Islamic law. Conventional jurisprudence is a source of Islamic law that is made based on experts with their individual views to solve problems in their time, so if you continue to use conventional jurisprudence, it becomes less realistic to answer new problems in this modern era.

From the above opinion, researchers can analyze that the role of law in addressing new problems and there is no definite legal provision must prioritize *ijmâ'*. The agreement and thoughts of various experts who lived during the occurrence of this new problem can answer with various ideas to solve the problems that arise. Just as there were many pros and cons about the formation of the UUP to solve every new problem that occurred in Indonesia and developed until now to solve new problems that continue to arise.

The UUP is also the result of the thoughts of experts including the scholars who relate to the teachings of Islam, namely the Qur'an and sunnah by forming new methods to adapt to the times, for example, such as the issue of polygamy, where initially polygamy in Indonesia initially had no definite law that made women independent because of demands from the women's side to form a new law on polygamy where the husband only had to have 1 wife or vice versa but did not rule out the possibility of polygamy but with strict rules for the benefit of the people in Indonesia. This is in accordance with the teachings of Islam because the teachings of Muslims are basically for the benefit of people throughout the world.

Another example is the issue of the age of marriage where there have been several changes to adapt to the current era because to apply the fiqh law in ancient times only limited to baligh in the current era will only bring more harm and experts from various fields including scholars are looking for solutions to this with various binding and concrete reasons causing the age limit to change with the times and stop in Law No.

16 of 2019 where the age limit for men and women is equalized, namely 19 years. Of course this UUP solves the problems that occur in this modern era and of course must be obeyed by its citizens because this UUP is not arbitrarily formed by only a group of groups or certain people but by various experts in their respective fields and creates a UUP that can be applied according to the times.

In short, the causes of marriage problems in the midst of modern society are due to a lack of insight into science, lack of reading or understanding of religious content and not understanding the regulations of the marriage law (UUP). These causes are homework for the government to address further to prevent new similar problems from arising. By providing an understanding to the community that complying with the UUP is a form of obeying Allah and His Messenger.

Conclusion

The number of marriage problems in the modern era of Lolo Hilir society shows that there is a lack of understanding of science, religion and marriage law (UUP). Addressing the problematic issues in this modern era requires many experts from various scientific fields to gather and devote new ideas to solve the problem.

The association of experts can be grouped into religious groups (ulama), scientific groups (experts) and community groups represented by the DPR. The formation of the marriage law regulation as a solution to the results of the many experts who issued their opinions to solve the problem, the marriage law (UUP) was created as a national-scale alternative solution to all marriage problems in Indonesia, so it must be obeyed.

Muhammad 'Abduh mentioned that the obligation to obey the UUP is a form of obeying Allah (al-Qur'an) and His Messenger (sunnah). Khoiruddin Nasution explained that the UUP is a form of *ijma'* that exists in Indonesia, namely the third source of Islamic law after the Qur'an and sunnah. The law of complying with the UUP is clear, which is mandatory. The number of problems that still arise after the UUP becomes homework for all of us and the government to provide understanding to the public that complying with the UUP is a form of obeying Allah and His Messenger.

References

- Ahmad Rifai, Ibnu Sodik, and Abdul Muntholib, 'History of the Marriage Law on Opinions and Opposition from the Public and the House of Representatives in 1973-1974,' Journal of Indonesian History, Vol. 4, No. 1 (2015): 1-9.
- Andrini, Rozi, Mawardi Muhammad Saleh, and Indra Hadi. 2021. "The Basis of Compulsory Compliance with the Marriage Law in Review of Islamic Law." *An-Nida'* 45 (1): 95. <https://doi.org/10.24014/an-nida.v45i1.16533>.
- Dermina Dalimunthe, 'The Process of Law Formation According to Law No. 12/2011 on the Formation of Legislation,' *Yurisprudencia: Islamic and civil sciences*, Vol. 3, No. 1 (2017): 66-82.
- Khiyaroh, 'The Reasons and Objectives of Law Number 1 Year 1974 on Marriage,' *Al-Qadha: Journal of Islamic Law and Legislation*, Vol. 7, No. 1 (2020): 1-15.

Khoiruddin Nasution, 'The Basis for Compulsory Observance of the Marriage Law (UUP): A Study of Muhammad Abduh's Thought,' ADHKI, Vol. 1, No. 1 (2019), pp. 2.

M. Shiddiq Al Jawi, *Contract Marriage According to Islamic Law*, (2013).

Muhammad Afarat, 'The Basis for Compulsory Observance of UUP No. 1 of 1974 concerning Marriage (2022): 6-7.

Muhammad Fadli, "Law Formation that Follows the Development of Society," *Indonesian Legislation Journal*, Vol. 15, No. 1 (2018), pp. 49-58.

N. Hermawati, 'Response to Marriage Law in Indonesia,' *Al-Mizan*, Vol. 11, No. 1 (2015): 33-44.

Nasiri, "*Prostitution Practice of Gigolo ala Yusuf Al-Qardawi (Islamic Law Review)*," (Surabaya: Khalista, 2010): 45-46.

Nasution, Khoiruddin, "The Basis for Compulsory Compliance with the Marriage Law (Uup): A Study of Muhammad 'Abduh's Thought." *Adhki: Journal Of Islamic Family Law* 1 No 1 (2019): 1-16. <https://doi.org/10.37876/Adhki.V1i1.8>.

Novita Lestari, "Problematics of Marriage Law in Indonesia, Mizani: Legal, Economic and Religious Discourse," Vol 4, No 1, (2017): 45.

Nurhadi Nurhadi, 'Law No. 1 of 1974 on Marriage in Review of Maqashid Syariah,' *UIR Law Review*, vol. 2, no. 2 (2018): 414-429.

Rozi Andriani, Mawardi Muhammad Saleh, and Indra Hadi, 'The Basis of Compulsory Compliance with the Marriage Law Reviewed According to Islamic Law,' *An-nida'*, vol. 45, no. 1 (2021): 94-116.

Samidjo, *Introduction to Indonesian Law*, (Bandung: C.V Armic, 1985), p. 22.

Siregar, Ramadhan Syahmedi, "Deviant Marriage Practices from the Perspective of the Law and the Compilation of Islamic Law." *Taqnin: Journal of Sharia and Law* 4 No 1 (2022): <https://doi.org/10.30821/Taqnin.V4i1.12309>.

Sri Rahayu, and Rasyidah. 2019. "Deviant Behavior in Marriage (Case Study of Infidelity in the Community of Kampong Kota Lintang, Kualasimpang District, Aceh Tamiang Regency)," *Scientific Journal of FISIP Unsyiah Students* 4 (2): 1-14.

Subekti, Trusto, . "The Legality of Marriage According to Law Number 1 of 1974 Concerning Marriage in View of the Law of Treaties." *Journal of Legal Dynamics* 10 (3). <https://doi.org/10.20884/1.jdh.2010.10.3.103>.

Interview with DM (initials), Traditional Leader, Lolo Hilir, May 7, 2024

Interview with MRM (initials), Village Head, Lolo Hilir, May 9, 2024.

Interview with PH (initials), Depati Adat, Lolo Hilir, May 9, 2024.

Interview with RH (initials), Neighbor of the Perpetrator, Lolo Hilir, May 7, 2024.

Interview with ST (initials), Perpetrator of Sirri Marriage, Lolo Hilir, May 8, 2024.

Yasmin Saleha Imam, and Sri Poedjiastoeti. 2020. "Enforcement of Law Number 16 of 2019 concerning Marriage in the Context of Preventing Inbreeding as Deviant Behavior Conducted by the Polahi Tribe in Gorontalo Regency in Relation to Indonesian Positive Law," 6 (1): 51-54.