ABSTRAK

ZAHIDIN, 105261126520, *Pembagian Harta Bersama Pasangan Nikah Siri Yang Bercerai Dalam Pandangan Fikh Islam,* Program Studi Ahwal Syakhsiyyah (Hukum Keluarga), Fakultas Agama Islam Universitas Muhammadiyyah Makassar Dibimbing Oleh M.Ilham Muchtar dan Rapung.

Pernikahan siri, meskipun sah menurut hukum Islam jika memenuhi syarat dan rukun, sering kali menimbulkan berbagai persoalan hukum dan sosial di Indonesia karena tidak tercatat secara resmi. penilitian ini bertujuan untuk 1). menganalisis hak-hak pasangan dalam pernikahan siri dan 2). ketentuan pembagian harta bersama saat perceraian menurut perspektif fikih Islam.

Penelitian ini menggunakan metode studi pustaka (library research) dengan pendekatan kualitatif. Data primer diperoleh dari kitab-kitab fikih klasik dan kontemporer, sedangkan data sekunder diambil dari regulasi hukum positif di Indonesia, seperti Undang-Undang Perkawinan Nomor 1 Tahun 1974 dan Kompilasi Hukum Islam (KHI). Teknik analisis data dilakukan secara deskriptif-analitis, dengan membandingkan prinsip-prinsip fikih Islam dan regulasi hukum positif terkait pernikahan dan pembagian harta bersama

Hasil penelitian menunjukkan bahwa hak-hak pasangan nikah siri dalam Islam mencakup hak nafkah, kasih sayang, dan perlindungan, namun pelaksanaannya sering terkendala oleh tidak adanya pengakuan hukum negara. Dalam hal pembagian harta bersama, fikih Islam memberikan fleksibilitas untuk menyelesaikan konflik melalui musyawarah, (ṣulḥ) ataupun prinsip keadilan berdasarkan kontribusi masing-masing pasangan. Akan tetapi, kurangnya pencatatan pernikahan siri menyebabkan perempuan dan anak berada dalam posisi rentan, terutama dalam mengakses hak-hak hukum seperti warisan, nafkah, dan perlindungan setelah perceraian.

Penelitian ini menyimpulkan pentingnya pencatatan pernikahan untuk memberikan perlindungan hukum yang lebih baik bagi pasangan, terutama perempuan dan anak. Skripsi ini juga merekomendasikan peningkatan kesadaran masyarakat tentang pentingnya pencatatan pernikahan serta peran pemerintah dan institusi agama dalam memberikan solusi hukum bagi pasangan nikah siri.

Kata kunci: harta bersama, Nikah siri, perceraian, fikih Islam.

ABSTRACT

ZAHIDIN, 105261126520, Division of Joint Property for Unregistered Marriages (Nikah Siri) in the Event of Divorce from the Perspective of Islamic Jurisprudence (Fiqh), Study Program of Ahwal Syakhsiyyah (Islamic Family Law), Faculty of Islamic Studies, Muhammadiyah University of Makassar, Supervised by M. Ilham Muchtar and Rapung.

Unregistered marriage (nikah siri), while valid under Islamic law if the essential requirements and pillars are fulfilled, often creates various legal and social challenges in Indonesia due to the absence of official documentation. This study aims to (1) analyze the rights of spouses in unregistered marriages and (2) determine the provisions for the division of joint property upon divorce based on the perspective of Islamic jurisprudence (fiqh).

This research employs a library research method with a qualitative approach. Primary data were sourced from classical and contemporary Islamic jurisprudence texts, while secondary data were derived from Indonesia's legal regulations, such as the Marriage Law No. 1 of 1974 and the Compilation of Islamic Law (KHI). Data analysis was conducted descriptively and analytically, comparing Islamic jurisprudence principles with Indonesia's legal framework concerning marriage and property division.

The findings reveal that the rights of spouses in unregistered marriages include maintenance (nafkah), affection, and protection. However, their implementation is often hindered by the lack of legal recognition. Regarding the division of joint property, Islamic jurisprudence offers flexibility, allowing conflicts to be resolved through reconciliation (ṣulḥ) or justice principles based on the contributions of each spouse. Nevertheless, the absence of marriage registration makes women and children vulnerable, particularly in accessing legal rights such as inheritance, maintenance, and protection after divorce.

This study concludes that marriage registration is essential for better legal protection, especially for women and children. It also recommends increasing public awareness about the importance of marriage registration and the active role of the government and religious institutions in providing legal solutions for unregistered marriages.

Keywords: joint property, unregistered marriage, divorce, Islamic jurisprudence.