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Social and Legal Implications of Contractual Marriage on Child Support Responsibility

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Abstract [11 pt]:

The phenomenon of contract marriage (temporary marriage) in Indonesia often causes social stigma and legal uncertainty, especially regarding the rights of children born from these relationships. This research explores the social and legal implications of contract marriage on fulfilling child support obligations and proposes legal solutions to protect children's rights. Using a juridical-sociological approach and empirical legal methods, the research results show that children often face discrimination due to unregistered marriages and difficulty obtaining birth certificates or claiming support. Strengthening marriage registration regulations, retrospective registration through marriage certificates, as well as comprehensive child protection services are essential to ensure these children receive proper recognition and support.

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Contract marriage, child support, social stigma, legal implications

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The phenomenon of contract marriage (temporary marriage) in Indonesia often causes social stigma and legal uncertainty, especially regarding the rights of children born from these relationships. This research explores the social and legal implications of contract marriage on fulfilling child support obligations and proposes legal solutions to protect children's rights. Using a juridical-sociological approach and empirical legal methods, the research results show that children often face discrimination due to unregistered marriages and difficulty obtaining birth certificates or claiming support. Strengthening marriage registration regulations, retrospective registration through marriage certificates, as well as comprehensive child protection services are essential to ensure these children receive proper recognition and support.

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Introduction [12 pt]

The phenomenon of contract marriage, or temporary marriage, has become quite a controversial issue in Indonesia because it is considered to violate social, religious and legal norms. This practice involves an agreement between a man and a woman to marry within a certain period of time for a certain reward. Even though in Article 2 paragraph 2 of Law no. 1 of 1974 concerning Marriage states that every marriage must be registered, contract marriages are generally carried out without official registration so their status is not recognized by law. This gives rise to various legal implications, especially regarding the rights of children born from the marriage.

In Islamic law, the majority of Sunni scholars prohibit the practice of muta'ah marriage or contract marriage because it is considered to violate the principles of valid marriage. The arguments that prohibit this practice include referring to the Hadith narrated by Imam Muslim: "Indeed, Allah and His Messenger have forbidden muta'ah marriages until the Day of Judgment." However, in the Shia tradition, temporary or muta'ah marriages are still recognized and considered valid. This controversy is one of the reasons why contract marriages continue to exist in several regions of Indonesia, especially in areas with certain cultural and religious influences. Therefore, the practice of contract marriage has become a debate between aspects of religion and civil law in Indonesia. Even though this practice is often carried out in certain areas such as Puncak and Bogor for various economic, social and cultural motives, the unclear legal status and the absence of official registration have resulted in a negative impact on the protection of the rights of children and women involved in contract marriages.

From the perspective of Islamic law, the majority of Sunni scholars prohibit the practice of muta'ah marriage or contract marriage because it is considered to violate the principles of valid marriage. The arguments that prohibit this practice include referring to the Hadith narrated by Imam Muslim: "Indeed, Allah and His Messenger have forbidden muta'ah marriages until the Day of Judgment." This hadith shows that a valid marriage according to Islam must be permanent and not for a temporary period. This view of Sunni clerics is supported by the fatwa of the Indonesian Ulema Council (MUI), which emphasizes that temporary marriage is not in accordance with the principles of marriage recognized in Islamic family law.

However, in the Shia tradition, temporary or muta'ah marriages are still recognized and considered valid. In the Shia view, muta'ah is a valid marriage in accordance with their interpretation of religious postulates. They refer to the Qur'an Surah An-Nisa verse 24 which reads: "Then the wives whom you

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have enjoyed (*istamta'tum*) among them, give them their dowries as an obligation." Based on this interpretation, they argue that *muta'ah* is permitted by Islamic law. However, in the context of Indonesian family law, the opinion of the majority of Sunni ulama which prohibits contract marriages is more accepted, and Indonesian civil law also does not recognize the validity of contract marriages without official registration in accordance with Article 2 paragraph 2 of Law no. 1 of 1974 concerning Marriage.

The social implications of contract marriage are complex, especially when children are involved. Children born from these relationships often do not receive proper recognition and rights. They face social stigma because their parents' marital status is considered invalid. In some cases, children resulting from contract marriages are often referred to as "illegitimate children" or "out-of-wedlock children," so that they are marginalized and isolated from their social environment. This causes these children to lose self-confidence and feel ashamed of their identity. This condition is exacerbated by society's lack of understanding of children's rights, so that they often receive discriminatory treatment that limits their access to education and health services.

Legally, children from contract marriages have the potential to lose their rights to support from their fathers because contract marriages are usually carried out without official registration. According to Article 7 paragraph 1 of Law no. 23 of 2002 concerning Child Protection, every child has the right to personal identity, which in this context is a birth certificate and other official identity documents. However, children from contract marriages often have difficulty obtaining birth certificates because their parents do not have legal proof of marriage. As a result, they experience obstacles in obtaining basic services such as education, health services and social assistance from the government. In addition, without official

registration, mothers often have difficulty demanding maintenance responsibilities from the children's biological father, even though Article 41 letter (c) of Law no. 1 of 1974 concerning Marriage clearly requires a father to bear the costs of maintaining and educating his children. Apart from social implications, contract marriage also has significant legal impacts on child support responsibilities. Article 41 letter (c) Law no. 1 of 1974 concerning Marriage confirms that a father is obliged to bear the costs of maintaining and educating his children, whether the children are born from a legal marriage or from an extramarital relationship. This principle is also in line with the teachings of Islamic law which emphasizes the father's obligation to provide for his children until they reach adulthood.

In Article 105 letter (b) of the Compilation of Islamic Law (KHI) it is also emphasized that the father is responsible for the maintenance of the child after divorce. However, contract marriages are generally carried out without official registration, so the status of children born from these relationships is often questioned. Without birth certificates and proof of marriage registration, children resulting from contract marriages have the potential to lose their rights to support from their fathers. In certain cases, the father even refuses to recognize the child resulting from the contract marriage. Wahyu's (2021) research in the Bogor and Puncak areas shows that 70% of children resulting from contract marriages do not receive a decent living from their fathers. This condition is exacerbated by a lack of adequate legal protection, so that mothers and children are often left without financial support. This phenomenon illustrates the importance of stricter regulations and stronger legal protection for children born from contract marriages. Therefore, it is important to find a legal solution that protects the rights of children resulting from contract marriages. One important step is to strengthen regulations regarding marriage registration and sanctions against perpetrators of contract marriages. In addition, legal education and outreach to the public is needed to increase

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awareness of the social and legal risks of this practice. This research will attempt to identify the social and legal implications of contract marriage on fulfilling child support obligations and find solutions that can be implemented to protect children's rights.

Methods [12 pt]

This research uses a juridical-sociological approach with empirical legal methods to understand the legal and social implications of contract marriage on child support responsibilities. Primary data was collected through in-depth interviews with contract marriage victims, family law experts, and other related parties, while secondary data came from family law literature, related legislation, and previous research. Qualitative analysis techniques with a thematic approach are used to examine the social and legal implications of contract marriages on fulfilling child support obligations and formulate legal solutions that protect the rights of children resulting from contract marriages.

Results and Discussion [12 pt]

Social Implications of Contractual Marriage on Child Support Responsibility

The social implications of contract marriage for child support responsibilities reflect the negative impact of this temporary marriage practice. Children born from contract marriages often face social stigma as "illegitimate children" or "out-of-wedlock children," which makes it difficult for them to integrate into society. A study by Wahyu (2021) found that 68% of children resulting from contract marriages in the Puncak area, West Java, felt ostracized by their social environment. This stigma makes them feel ashamed of their identity and reluctant to admit their family background, so they often become victims of bullying at school.

Apart from social stigma, children from contract marriages also experience discriminatory treatment from society and social institutions. This is related to society's lack of understanding of children's rights as well as negative perceptions of contract marriage itself. Based on in-depth interviews with several mothers who were victims of contract marriages, it was found that their children were often rejected by local schools or treated differently compared to other children because their parents' marital status was considered invalid. In the National Commission for Child Protection report (2019), around 70% of children from contract marriages experience discrimination in access to education and health services. Legally, children from contract marriages often do not have official identities because their parents' marriages are not registered. This makes it difficult for them to obtain birth certificates, which are important documents for accessing education and health services. In research by the Indonesian Institute for Child Rights Studies and Advocacy (2020), only around 30% of children from contract marriages have birth certificates, while the rest do not have valid identity documents. These conditions make it difficult for them to access basic rights such as free education and health services, so they remain trapped in a cycle of poverty and underdevelopment.

In addition, these children often do not receive adequate support from their biological fathers because contract marriages are usually carried out without official registration. Based on Article 41 letter (c) Law no. 1 of 1974, a father is obliged to bear the costs of maintaining and educating his children. However, because contract marriage does not have strong legal recognition, the fulfillment of support responsibilities is often neglected by the man. In Wahyu's (2021) research, it was found that 70% of children resulting from contract marriages in the Bogor and Puncak areas did not receive adequate support from their fathers, and only around 20% of them received financial

support sporadically. Furthermore, research also shows that mothers of children resulting from contract marriages face major obstacles in demanding maintenance responsibilities from their children's biological fathers. Without proof of a legal marriage, many mothers have difficulty proving their relationship status in court, making child support rights difficult to enforce. According to data from the Women's Legal Aid Institute (2022), around 85% of mothers who were victims of contract marriages failed to claim responsibility for their livelihood through legal channels. As a result, children from contract marriages often grow up in unstable economic conditions and lose access to their basic rights.

Legal Implications of Contract Marriage for Fulfilling Child Support Obligations

The legal implications of contract marriage for fulfilling child support obligations are very complex because the legal status of this marriage is often in a gray zone. This marriage is usually not officially registered at the Religious Affairs Office (KUA) or Civil Registry Office. As a result, children born from contract marriages often have difficulty obtaining birth certificates, an important document on which their identity is recognized. According to data from the Indonesian Child Protection Commission (KPAI), around 70% of children resulting from contract marriages in the Bogor and Puncak areas have difficulty obtaining birth certificates because their parents' marital status is not registered. This causes them to face problems of access to education and health services.

Apart from the lack of birth certificates, children from contract marriages also tend not to receive a decent living. Article 41 letter (c) Law no. 1 of 1974 concerning Marriage requires a father to bear the costs of maintaining and educating his children. However, because the legal status of their parents' marriage is unclear, fulfilling this obligation is often neglected.

The results of interviews with victims of contract marriages in the Puncak area, West Java, showed that only 20% of them received support from their biological father. Most fathers shirk their responsibilities after the contractual marriage agreement ends, leaving the mother to cover the costs of raising the child independently.

In the context of Islamic law, children from contract marriages are often not considered legitimate and only have inheritance rights to their mother. Article 100 of the Compilation of Islamic Law (KHI) states that children born outside of marriage only have a civil relationship with their mother and her mother's family. This makes it difficult for mothers to claim child support rights from their biological father. Research conducted by Wahyu (2021) found that of 50 mothers who were victims of contract marriages, only 10 succeeded in getting support for their children through the family mediation process. Moreover, their legal efforts are hampered by the absence of proof of a legal marriage.

Social stigma also worsens the conditions for children of contract marriages. They are often called "illegitimate children" or "out-of-wedlock children," which creates a psychological burden. According to research conducted by the Institute for Community Studies and Advocacy (ELSAM), children who receive social stigma are more vulnerable to mental disorders and tend to experience difficulties in social interactions. For example, one of the child victims of a contract marriage in the Cisarua area experienced severe depression after being shunned by his friends because of his family status. This shows that the legal implications of contract marriage have a direct impact on the social and psychological conditions of children.

Without strong legal protection, children from contract marriages continue to be victims of the unclear legal status of their parents. Cases found in the field show the need for regulatory reform and a more humane legal approach. One of the proposed solutions is to strengthen marriage registration

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regulations and provide a retrospective recording mechanism for children resulting from contract marriages. In addition, there needs to be synergy between child protection agencies, NGOs and local governments to provide comprehensive legal and social support. In this way, children from contract marriages can obtain their rights properly and free from discrimination.

Legal Solutions to Protect the Rights of Children from Contractual Marriages

Legal solutions to protect the rights of children resulting from contract marriages must begin by strengthening regulations regarding marriage registration. One of the main problems in contract marriage cases is the lack of official documentation which causes the marriage to have no legal recognition. Based on research by Wahyu (2021), 80% of contract marriages are not registered with the Office of Religious Affairs (KUA), making it difficult for mothers and children to demand support from the biological father. Therefore, regulations that require registration of marriages and stricter sanctions for perpetrators of contract marriages are needed. Revision of Law no. 1 of 1974 concerning Marriage needs to be considered so that marriage registration becomes more inclusive and can protect children resulting from these marriages.

Another important step is to enable retrospective registration of marriages for unregistered marriages. This can be done through the **itsbat nikah** mechanism or determining the validity of the marriage by a religious court. Data from the Supreme Court (2022) shows an increase in **itsbat nikah** requests of 15% per year, reflecting society's need for legal recognition for unregistered marriages. With **itsbat nikah**, contractual marriages carried out according to religion can be legally recognized, so that children born from these marriages get proper rights, including the right to support from their father.

Education and legal outreach also need to be strengthened to increase public awareness about the social and legal risks of contract marriage. A survey by the NGO "Save Our Child" (2022) shows that 65% of women involved in contract marriages do not fully understand the legal implications, including difficulties in demanding maintenance rights for children. Socialization campaigns through collaboration between the government, non-governmental organizations and religious leaders can help provide a better understanding of the importance of marriage registration. In addition, this effort can also help reduce stigma towards children born from contract marriages by promoting equal rights for all children.

Strengthening child protection services by the government and NGOs is also needed. The Integrated Service Center for the Empowerment of Women and Children (P2TP2A) can play an important role in providing legal and psychological assistance to children of contract marriages and their mothers. Data from the Ministry of Women's Empowerment and Child Protection (2023) shows that the number of cases related to the protection of children resulting from contract marriages increases by 10% every year. Services such as counseling, legal aid, and advocacy can help these children gain their rights, including access to education and health. Ultimately, a comprehensive legal solution to protect the rights of children resulting from contract marriages requires the cooperation of various parties. The government, non-governmental organizations and society must work together to increase legal awareness, strengthen regulations and provide adequate protection services. Only with this holistic approach can children from contract marriages gain proper recognition and rights as Indonesian citizens.

Conclusion [12 pt]

From this research, it can be concluded that contract marriage has significant social and legal implications for child support responsibilities. Children born from contract marriages

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often experience social stigma as “illegitimate children” or “out-of-wedlock children,” which makes them vulnerable to discrimination in access to education and health services. Legally, unregistered marital status means these children often do not have birth certificates and other identity documents, making it difficult for them to obtain basic rights such as free education and health services. Without strong legal protection, they also do not receive adequate support from their biological father, even though Article 41 letter (c) of Law no. 1 of 1974 requires a father to bear the costs of maintaining and educating his children.

To protect the rights of children resulting from contract marriages, a comprehensive legal solution is needed through strengthening regulations regarding marriage registration as well as stricter sanctions for perpetrators of contract marriages. Apart from that, retrospective registration of marriages through the *itsbat nikah* mechanism needs to be optimized so that these children receive legal recognition and their rights are guaranteed. Education and legal outreach need to be strengthened to increase public awareness about the social and legal risks of contract marriage. Finally, synergy between the government, non-governmental organizations and religious leaders is very important in providing comprehensive legal and psychological protection services for children from contract marriages. With this approach, it is hoped that children resulting from contract marriages can obtain proper rights as Indonesian citizens without discrimination.

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