

ABSTRAK

Hadirnya virus baru COVID-19 menimbulkan keadaan darurat di berbagai negara dunia yang membuat setiap negara mengeluarkan kebijakan untuk memutus penyebarannya. Akibatnya terjadi pembatasan wilayah dan beberapa kegiatan beralih dilakukan secara virtual, salah satunya akad nikah. Namun beberapa ulama *mazhab* memiliki perbedaan pandangan dalam keabsahan akad nikah melalui daring. Indonesia, Malaysia, dan Singapura merupakan negara yang memiliki penduduk muslim. Malaysia dan Singapura telah melegalkan akad nikah daring, sementara di Indonesia belum memiliki aturannya. Oleh karena itu, penelitian hukum ini bertujuan untuk memperoleh kejelasan mengenai keadaan darurat yang dijadikan sebagai alasan melakukan akad nikah daring dan pengaturan yang lebih tepat mengenai pengaturan akad nikah daring.

Metode penelitian ini menggunakan penelitian hukum normatif dengan menggunakan pendekatan perundang-undangan (*legal approach*) dan pendekatan perbandingan (*comparative approach*).

Hasil dari penelitian ini adalah keadaan darurat dapat dijadikan alasan untuk melaksanakan akad nikah daring berdasarkan kaidah darurat yaitu kesukaran mendatangkan kemudahan. Sementara pengaturan yang lebih tepat mengenai akad nikah secara daring adalah Fatwa JAKIM Malaysia karena mengatur secara rinci syarat dan ketentuan serta pertimbangan hukum yang menjadi dasar untuk melegalkan akad nikah daring. Berbeda dengan Singapura yang tidak menyebutkan syarat dan ketentuan pelaksanaannya, sedangkan Indonesia hingga kini belum mengeluarkan aturan meskipun prakteknya telah banyak dilakukan. Dengan demikian, aturan yang membolehkan akad nikah daring sebaiknya mengatur secara spesifik hal-hal yang harus dipersiapkan oleh pelaksana demi keabsahannya dan sebaiknya DSN MUI segera mengeluarkan fatwa mengenai keabsahan akad nikah secara daring yang merujuk pada Fatwa JAKIM agar dapat menjadi pedoman bagi pasangan yang akan melaksanakan akad nikah daring.

Kata Kunci : Akad Nikah, Daring, Keadaan Darurat, Pandemi

ABSTRACT

The appearance of the recent COVID-19 virus has triggered an emergency in several nations throughout the world, prompting each to adopt regulations to prevent its spread. As a result, there are regional restrictions and some activities such as marriage contract, are now carried out virtually. However, some mazhab (school of thought concerning Muslim law) scholars hold differing viewpoints on the validity of online marriage contract. Muslim populations may be found in Indonesia, Malaysia, and Singapore. Online marriage contracts are legal in Malaysia and Singapore, but not in Indonesia. Indonesia has no regulation yet. Therefore, the purpose of this legal research is to get clarity about the emergency situation that is used as the reason for performing online marriage contracts, as well as to make more specific provisions surrounding online marriage contracts.

The method used in this research is normative legal research with a legal approach and comparative approach.

According to the result of this research, an emergency circumstance can be used as a reason to perform an online marriage contract based on emergency principles, namely difficulty bringing convenience. Meanwhile, the instructions of JAKIM Malaysia (Malaysian government agency that regulates Islamic religious affairs in Malaysia) is a more specific regulation addressing online marriage contracts since it controls in detail the terms and conditions as well as legal factors that constitute the basis for legalizing online marriage contracts. In contrast to Singapore, which does not specify the terms and conditions for implementation, Indonesia has yet to publish a regulation, despite the fact that numerous practices have already been carried out. Thus, the regulations that allow online marriage contracts should specifically regulate the things that the implementer must prepare for its validity, and the DSN MUI (Institutions that serve as guidelines for sharia economic and financial law in Indonesia) should immediately issue an instruction regarding the validity of the online marriage contract that refers to the JAKIM's instructions so that it can be used as a guide for couples who will carry out online marriage contracts.

Keywords : Marriage contract, Online, Emergency State, Pandemic