

## **Synergy of Islamic Law and Family Counseling: Socio-Anthropological Analysis of No Marriage Annulment Decision in Pemalang Religious Court**

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### **Abstract**

The phenomenon of increasing marriage annulment cases in Religious Courts indicates complex issues in the understanding and practice of Islamic family law at the community level. One interesting case is the non-acceptance (NO) decision on a marriage annulment lawsuit in the Pemalang Religious Court, which illustrates the disharmony between formal legal aspects, socio-cultural values, and public legal awareness. This study aims to analyze the synergy between Islamic law and family counseling in handling marriage annulment cases through a socio-anthropological approach. Using descriptive qualitative methods and a study of court decisions, this study found that the failure of lawsuits that were ruled NO was mostly due to formal legal factors and the community's lack of understanding of Islamic civil law procedures. From a social perspective, this is rooted in the strong influence of customs and the community's perception of the validity of marriage without regard to administrative legality. The Islamic family counseling approach plays an important role in providing emotional support, legal education, and spiritual guidance so that couples and families understand the essence of marriage as a form of worship and a social contract. This study emphasizes the importance of synergy between the legal system and Islamic family guidance as a preventive and restorative solution to family disharmony that leads to marriage annulment lawsuits.

**Keywords:** islamic family law, family counseling, socio-anthropology, marriage annulment, pemalang religious court

### **Introduction**

In its history, Islamic law was first formally written and enacted by the Prophet Muhammad in Medina in the first century AH, in accordance with the Constitution of the Medina Charter. One of the statements in the Charter's introduction was that everyone who accepted and believed in Islam, including members of the yasrib and Quraysh tribes, was covered by the Medina Charter. In addition, the Medina Charter also applies to individuals who embrace, join, and engage in combat with the Islamic community (Ahmad, 1973). Agreements made between Muslim and non-Muslim communities, such as Christians and Jews, form the core of the charter and form the foundation of legislation. They were guaranteed life, property, and freedom of religion from the Prophet Muhammad, who gave them complete freedom to follow the teachings of their respective religions. With the Medina Charter, it gives an idea that a rule is not only born on the consideration of a certain group, but must be adapted to the circumstances of the society in which

the Constitution was born. One of the factors is socio-cultural factors, where there is a socio-cultural linkage that cannot be released upon the birth of legal decisions in Islam.

Marriage is a social and religious institution that has a central position in the life of Muslims. In theological perspective, marriage is seen as *mitsāqan ghalīẓan*, which is a strong covenant between two people witnessed by Allah and society, as stated in Q.S. An-Nisa': 21.

وَكَيْفَ تَأْخُذُونَهُ وَقَدْ أَفْضَىٰ بَعْضُكُم إِلَىٰ بَعْضٍ وَأَخَذْنَ مِنْكُم مِّيثَاقًا غَلِيظًا

How can you take it when you have married one another and they have made a firm Covenant with you.

In addition to the spiritual dimension, marriage also has a social and legal dimension because it gives birth to rights and obligations for the husband, wife, and children born from the marriage. In the context of a legal country such as Indonesia, the validity of marriage is not only determined by the fulfillment of the conditions and pillars of marriage according to Islamic law, but also by the administrative provisions of the state as stipulated in Law No. 1 of 1974 jo. UU No. 16 of 2019 on marriage and the compilation of Islamic law (KHI).

But in practice, not a few marriages that cause legal problems because they do not meet the formal and material provisions. One of its forms is a lawsuit for annulment of marriage (*fasakh an-nikāh*) filed in a religious court. Among the cases that attracted attention was Case Number 3597/Pdt.G/2017 / PA.Pml in Pemalang Religious Court, where the panel of judges handed down the verdict with amar “unacceptable (Niet Ontvankelijke Verklaard/NO)”. The verdict indicates that the marriage annulment lawsuit filed by the plaintiff does not meet the formal requirements as specified in the Islamic Civil Procedure Code.

This decision is interesting to study because it illustrates the complexity of the relationship between legal norms, customs, and social awareness. In terms of procedural law, judges adhere to the principle of *lex fori* and the principle of prudence in examining formal requirements, including the legal standing of the plaintiff, the subject and object of the case, and the evidence presented. However, from the socio-anthropological point of view, the Pemalang people (like many rural communities in Central Java) still interpret marriage culturally as a legitimate social event if it has fulfilled religious and customary elements, without emphasizing the aspect of official state registration. This difference in perspective often gives birth to a gap in understanding of the law between society and the judiciary.

Judging from the social history of Islamic law, court decisions derived from the application of Islamic legal theory have developed since the time of the Prophet Muhammad until today. Over a long period of time, the output of Islamic legal

theory has experienced fluctuations driven by several elements that cover various aspects of social and cultural society. In addition, geographical factors also contribute to the formation of Islamic law in a number of regions, including the Islamic world itself, Europe, and Western countries such as Indonesia, whose majority population is Muslim.

Thus, the study of Decision number 3597/Pdt.G/2017/PA.Pml becomes important not only from the positive legal aspect, but also from the socio-anthropological side and Islamic Family Counseling. This study puts the issue of family law in an interdisciplinary frame, by trying to uncover:

1. Juridical and sociocultural factors that cause the lawsuit annulment of marriage terminated NO;
2. How do people view the legality of marriage and the role of culture in influencing legal behavior;
3. How synergy between legal institutions (religious courts) and the Islamic Family Counseling approach can build legal awareness and prevent similar cases in the future.

This study is expected to contribute to the strengthening of an integrative paradigm between Islamic Family Law, Social Sciences-Anthropology, and religious counseling, in order to create a family dispute resolution approach that is not only legalistic, but also humanistic, educative, and oriented to the benefit of the family.

### **Methods**

This research uses qualitative approach with socio-legal paradigm combined with socio-anthropological approach and guidance of Islamic Family Counseling. The socio-legal approach is chosen because law is not only understood as a written norm (law in the books), but also as a social reality that people live and practice (law in action) as stated by Friedman (1975). Socio-anthropological approach is used to examine the social, cultural, and religious values that shape the legal behavior of society in the context of marriage and its settlement. While the Islamic Family Counseling approach is used to see how the principles of *islah*, *deliberation*, and *rahmah* play a role in the prevention and resolution of domestic conflicts.

This type of research is descriptive qualitative with the method of case studies on the decision of the Religious Court of Pematang number 3597 / Pdt.G/2017 / PA.Pml on the annulment of a marriage terminated with amar is inadmissible (NO). This case study aims to understand in depth the interaction between legal, social, and religious aspects behind the occurrence of marriage annulment lawsuits, as well as their implications for the practice of Islamic Family Counseling in the community.

Data collection techniques are carried out through three main stages: (1) documentation of court decision files and archives; (2) semi-structured interviews with key informants; and (3) literature studies to strengthen theoretical analysis. Furthermore, the data were analyzed by Miles and Huberman (1994) interactive analysis model which includes the stages of data reduction, data presentation, and conclusion/verification. The analysis was carried out by linking the empirical facts of the verdict and interviews with the theory of the legal system (Friedman), the theory of legal anthropology (Koentjaraningrat, Soekanto), and the theory of Islamic Family Counseling (Muflih, 2021).

To maintain the validity of the data, triangulation techniques of sources and methods are used, namely by comparing the results of interviews, legal documents, and academic literature. The researcher also conducted a member check to ensure the validity of the interpretation of the informant. Ethically, this study upholds the principle of confidentiality of the identity of the parties, obtaining official permission from the relevant institution, and using the data solely for academic purposes.

### **Results**

This study found that the increase in cases of annulment of marriage in the Pematang religious court, especially the case with the verdict of *Niet Ontvankelijke Verklaard* (NO), was caused by two main factors. First, the formal aspects of law, namely the incompleteness of the document, the error of the subject of law, and the incompatibility of the lawsuit procedure with the Islamic Civil Procedure Law. Second, socio-cultural factors include the low legal literacy of the community, the dominance of customary values in the meaning of the validity of marriage, as well as the lack of legal awareness of the importance of official marriage registration.

From a socio-anthropological perspective, society still views marriage as a fairly legitimate religious and cultural event if it has fulfilled religious and customary elements, without emphasizing administrative legality. This leads to a gap between formal law and the social practice of society. The Islamic Family Counseling approach has proven to have a strategic role in bridging this gap, by providing legal education, emotional assistance, and spiritual strengthening for couples facing marital conflicts. Integration between the legal system and Islamic Family Counseling resulted in a more humanistic and restorative paradigm of case resolution, where the law serves as a regulator and protector, while counseling serves as a means of healing and family education.

## Discussion

### **Legal analysis and socio-anthropological dynamics of Decision No. 3597 / Pdt.G/2017/PA.Pml**

The purpose of marriage is to create a family that is happy, eternal and sustainable forever for the realization of a family that *sakinah Mawaddah warahmah* as ideals and expectations of husband and wife. However, in reality not as long as the purpose of the marriage can fulfill the ideals as expected, because in sailing the ark of domestic life there are sometimes shocks and disharmony that cause the household to be disharmonious again and lead to divorce. In this case, if a wife considers that her household no longer provides happiness for her as a result of her husband's actions, then the court gives space to the wife to be able to apply for annulment of marriage.

Islamic law does not recognize the existence of prevention in marriage, and also as a result there is no preventive vocabulary in Islamic law. In contrast to abrogation, this term has been known in Islamic jurisprudence and the word abrogation itself comes from the Arabic “*بطل*”. In Islamic jurisprudence actually famous two different terms despite the same legal *nikah Al-fasid* and *nikah Al-batil*. Al-Jaziry there are those who say that a *fasid* marriage is a marriage that does not meet one of the conditions of its conditions, while a false marriage is when it is not fulfilled in harmony. The law of *nikah Al-fasid* and *nikah Al-batil* are both invalid.

In contrast to the Prevention of the problem of annulment of marriage is regulated in Islamic jurisprudence known as a marriage of falsehood as has been mentioned at the beginning of this discussion. In Article 22 of Law No. 1/1974 expressly states: “a marriage may be annulled if the parties do not meet the conditions for the marriage to take place”. In the explanation of the word “can” in this article can be interpreted to be void or not void, if according to the provisions of religious law, each does not determine the other.

The term “nullity” of marriage can cause misunderstanding, because there are various variations on the definition of *neitig*. Void means *neitig zonder kracht* (no power), *zonder waarde* (no value). Cancellable means *neitig verklaard*, while absolute *neitig* is absolute cancellation. There is an impression that the annulment of this marriage occurred because of the malfunctioning of supervision from both the family and the authorities so that the marriage was already carried out even after it was found a violation of the marriage law or the *munakahat* law. If this happens, the religious court can cancel the marriage at the request of the interested parties. As for the parties who can apply for annulment of marriage, they are the families in the straight line of the husband and wife and those who have a direct interest in the marriage.

Thus a marriage can be canceled if the parties do not meet the conditions for marriage as in the case studied by researchers who in this case applies Article 72 paragraph 2, namely:

“A husband or wife can apply dissolution of marriage at the time of marriage, marriage fraud or misconceptions about the husband or wife”.

In general, the annulment of marriage is carried out because the conditions of marriage are not met in accordance with the provisions of applicable legislation. Marriage is a covenant that creates legal consequences for the parties. In the teachings of Islam, marriage is not just as an ordinary agreement, but is a sacred agreement, where both parties are connected to become husband and wife or ask each other to be his life partner by using the name of Allah.

In the religious justice system, amar “unacceptable (NO)” means that the court does not assess the subject matter of the case, but rejects the lawsuit because of administrative or formal issues (Manan, 2019). This suggests that the procedural aspect has a crucial role in the validity of the lawsuit. In Islamic Family Law, the cancellation of marriage is regulated in articles 22-27 of Law No. 1 of 1974 and articles 70-77 of the compilation of Islamic law (KHI), which states that cancellation can only be made if there are defects in the conditions or pillars of marriage, such as an invalid Guardian, an unqualified witness, or coercion. However, implementation in court requires a strict procedure to ensure the validity of the claim.

In addition, in the context of legal anthropology, marriage in Pematang has a strong social function as a mechanism of integration between families and communities. Marriage is seen as a social and religious event involving religious figures, extended families, and local customs. Therefore, domestic conflicts are often first resolved through informal mechanisms such as family mediation or the role of religious figures. When these mechanisms fail and the case goes to court, the parties are often unprepared for a formal legal system based on documents and written evidence. This phenomenon shows that the no decision is not merely a failure of law, but a reflection of the weak literacy of Family Law at the community level. Thus, the analysis of decision number 3597 / Pdt.G/2017 / PA.Pml not only shows the procedural problems in Islamic family law, but also confirms the need for a social and educational approach so that people understand the function of the law more substantively, not just administrative.

### **Islamic Family Counseling perspective and synergy with the legal system**

The relationship of a father with a mother, when it does not go well, tends to generate conflicts for both himself and his children, causing tense and conflict-prone conditions. This happens because the father and mother in the subsystem not

only play the role of spouses (husband and wife), but rather exist in the combined subsystem as parents of its children's subsystem. The subsystem of marriage or couple is different from the subsystem as a parent, because the duties and responsibilities are also different.

The therapeutic process in marriage counseling can utilize the functions and models of family therapy, which is based on the relationship between family subsystems. This is an important step, because in this therapy the family and each of its members are directed to gain understanding, awareness of the meaning of Family, Family Relationship Problems, family dynamics, to solutions that can be obtained and released independently by each family.

Indeed, with material principles and logic as the basis of the paradigm of modernity, then humans can achieve luxury in accordance with what they want. But these luxuries often eliminate the orientation of human life as a social being which will result in saturation in the face of this life, even humans even lose the dignity of life, the art of respecting life and the lives of other creatures and the crisis of self-identity. And on the contrary, inner peace and craving for happiness of the soul are increasingly sought after by many people. Facing the complexity in modern life and also there is a great challenge on modern life for humans in society. The family is the smallest unit in society must have resilience and resilient ability, so it is not easily affected by the negative impact of modern life. At this time many found a family materially well-off, but spiritually do not find happiness in life.

If analyzed from the dimension of Islamic Family Counseling, the case of marriage cancellation that led to the no decision illustrates the emotional, spiritual, and social unpreparedness of the litigants. Based on a search of several cases of marriage cancellation that occurred in Pa Pemalang, it was found that most cases of marriage cancellation were initiated by interpersonal conflicts between spouses and extended families, such as incompatibility, social pressure, or economic problems, which then prompted one party to take legal action without going through a mature family settlement process.

In the context of the Pemalang religious court, the synergy between Islamic law and family counseling is a real need. Judges mediators and religious extension workers should play an active role in providing an understanding to the public that the annulment of marriage is not just a legal process, but a process of moral and spiritual awareness. Decision NO can be used as a reflective momentum to improve family communication, deepen religious understanding, and re-mediation before proceeding with a new lawsuit.

Conceptually, this synergy reflects an integrative model between law as a normative structure and counseling as a humanistic value system. The law provides procedural justice and formal certainty, while Counseling provides an empathic, spiritual, and educative approach. If these two aspects go in balance, then the

resolution of family conflicts not only stops at the administrative level, but also leads to moral and social coaching.

The synergy between Islamic Family Counseling and the legal system becomes crucial when domestic matters enter the juridical realm, such as in cases of annulment of marriage. The law, in this case, is in charge of maintaining social order and protecting the rights of litigants, while family counseling plays a role in facilitating emotional and spiritual understanding of the meaning of marriage itself. As stated by Hasanah (2020) in the scientific journal BKI UIN Sunan Kalijaga, the integration of counseling with an approach to Islamic law can reduce the divorce rate and encourage peaceful and equitable problem solving.

In the socio-anthropological context, the Islamic Family Counseling approach can be a bridge between state law and local culture. Pematang people who are religious and thick with family values can more easily accept settlement based on deliberation and religious values. By involving religious counseling, family counselors, and community leaders, this synergy can strengthen contextual legal awareness and is not separate from social reality.

The results of this study are in line with the findings of Yusuf (2022) in a study on the role of Islamic Family Counseling in the Makassar Religious Court, which shows that the spiritual counseling approach is able to reduce the intensity of domestic conflicts and speed up dispute resolution. In the context of Pematang, these results confirm that the success of Islamic Family Law depends not only on the application of the law, but also on the emotional and spiritual readiness of the community to understand and live the values of marriage.

### **Conclusion**

This study confirms that the synergy between law and Islamic Family Counseling is an urgent need in handling domestic matters that have legal implications, such as the case of decision number 3597/Pdt.G/2017 / PA.Pml in Pematang Religious Court. The ruling “unacceptable (NO)” in the context of the annulment of a marriage must not only be understood from a juridical-formal point of view, but also from the Social, Psychological and spiritual dimension that underlies it.

From a legal perspective, the results of the study show that the no verdict is often rooted in formal inaccuracies or lack of valid legal evidence in the lawsuit. However, behind the juridical aspects there are social and cultural realities that show the still weak understanding of the community towards the legal procedure of marriage. This is where the importance of socio-anthropological approach to uncover the social factors (such as customs, local values, and power relations in the family) that influence the dynamics of Family Law at the grassroots level.

Thus, the synergy of Islamic Family Law and counseling is a holistic approach to realizing substantive justice in family matters. The law provides reassurance and protection, while counseling brings empathy, moral awareness, and inner peace. In the context of the Pemalang religious court, the integration of these two approaches can strengthen the function of the judiciary not only as law enforcers, but also as servants of humanity and Guardians of Muslim family harmony.

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### **Conflict of Interest**

The author states that there is no potential conflict of interest in the research, writing, or publication of this article. All research processes are carried out independently and adhere to the principle of scientific objectivity.

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