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Development and Challenges: Marriage Laws and the Influence of Technology

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Abstract

In this millennial era, the influence of technology on marriage law presents both development and challenges. It is evident that technology now provides convenience but also brings about various challenges. Therefore, it is important to respond to mitigation efforts to address the rapidly evolving impact of technology on marriage law. This study focuses on how the development and challenges of marriage law concerning the influence of technology and why it is crucial to respond to these developments and challenges. This research used qualitative library research with a descriptive analysis method. The results of this study indicated that: First, the development and legal challenges of marriage are as follows: On one hand, marriage law needs to be adaptive to the changing situations and conditions as a requirement for the practice of marriage in the era of technology. On the other hand, there is a need for the reform of marriage laws to cope with technological advancements in order to facilitate the process of marriage and ensure that it is not in conflict with marriage applications in technological developments. Therefore, marriage laws should align with and be adjusted to the technological advancements that have become part of people's lives. Secondly, it is crucial to implement legal reforms that are in line with technological advancements for the future. This will contribute to providing easy access to various conveniences for the society and prevent the negative impacts and influences of technology on marital affairs in people's lives in a preventive manner.

Keywords: development and challenge, marriage laws, the influence of technology.

Abstrak

Di era milenial ini, pengaruh teknologi terhadap hukum perkawinan menghadirkan perkembangan sekaligus tantangan. Terbukti bahwa teknologi saat ini memberikan kemudahan namun juga menghadirkan berbagai tantangan. Oleh karena itu, penting untuk menanggapi upaya mitigasi untuk mengatasi dampak teknologi yang berkembang pesat terhadap hukum perkawinan. Kajian ini berfokus pada bagaimana perkembangan dan tantangan hukum perkawinan terkait pengaruh teknologi dan mengapa penting untuk merespon perkembangan dan tantangan tersebut. Penelitian ini menggunakan penelitian kepustakaan kualitatif dengan metode analisis deskriptif. Hasil penelitian ini menunjukkan bahwa: Pertama, perkembangan dan tantangan hukum perkawinan adalah sebagai berikut: Di satu sisi, hukum perkawinan perlu adaptif terhadap perubahan situasi dan kondisi sebagai syarat praktik perkawinan di era teknologi. . Di sisi lain, perlu adanya reformasi undang-undang perkawinan untuk menghadapi kemajuan teknologi guna mempermudah proses perkawinan dan tidak bertentangan dengan penerapan perkawinan dalam perkembangan teknologi. Oleh karena itu, undang-undang perkawinan harus selaras dan disesuaikan dengan kemajuan teknologi yang telah menjadi bagian dari kehidupan masyarakat. Kedua, sangat penting untuk melaksanakan reformasi hukum yang sejalan dengan kemajuan teknologi untuk masa depan. Hal ini akan turut memberikan kemudahan akses berbagai kemudahan bagi masyarakat dan mencegah dampak negatif dan pengaruh teknologi terhadap urusan perkawinan dalam kehidupan masyarakat secara preventif.

Kata kunci: *perkembangan dan tantangan, hukum perkawinan, pengaruh teknologi.*

INTRODUCTION

The era of technological advancements has indirectly transformed human life, activities, and patterns of social interaction in society. These changes were projected due to the access to information, social media, and social structures that facilitate individuals, ranging from children, teenagers, adults, to elderly individuals who have embraced technology as a lifestyle. In this context, it facilitates long-distance and close-range communication, streamlines public service delivery through applications or websites, and simplifies administrative matters for both private and government sectors with the aid of technology. It was undeniable that these conveniences were due to the influence of advancing technology in society. However, its development has brought about significant changes that have both impacts and challenges on social life. These impacts and challenges were part of the process of shaping change towards a better future Indonesia, transitioning from the digital era 0.4 to the society era 0.5, which needs to be carefully prepared. For example, the influence of technology on social order, community life, and its

impact on the implementation of laws, which then becomes a challenge, especially legal challenges, in addressing technological developments in society's life.

The influence of technology can indeed have both positive and negative effects within households, presenting certain challenges. As for the negative impact, technology has opened up wide access to information, which can potentially lead to various issues. For example, it has provided ample opportunities for extramarital relationships to develop, as people can easily connect and interact with others through social media platforms like Michat, Facebook, Twitter, or other applications. Additionally, there are services available, such as "girlfriend for hire" through Instagram, and the emergence of cybersex. These technological advancements have expanded the possibilities for individuals to engage in relationships or connections without boundaries. Other negative impacts in marriage, such as virtual or online weddings, have sparked controversy in Indonesian society and have faced pros and cons amidst the spread of the Covid-19 pandemic, which requires social distancing. Additionally, there are many positive aspects of technological advancements on society, particularly in marriage. In the realm of marriage, specifically in Islamic legal regulations, there are challenges and legal developments influenced by technology. Marriage laws have undergone a lengthy process, starting from the colonial era to the enactment of Law No. 1 of 1974 with the Compilation of Islamic Law. This becomes a collective task, then how does marriage law respond to the negative impacts of technological influence?

Thus, this writing attempts to examine the development of law and legal challenges, as well as the emerging challenges in society due to technological influence. When technology affects the applications and implications of marriage in society, what should be done to respond as preventive measures and how should marriage law be implemented in light of technological influence? Lastly, why is it important to study the development and challenges as a form of future projection for Indonesia in the face of technological influence? Therefore, from here, we can emphasize the urgency of responding to the development and challenges of technological influence, viewed from the perspective of the enactment and implementation of laws, where society is influenced by the current technological advancements.

RESEARCH METHODS

The approach used in this research is qualitative library research. The method used is descriptive analysis. In this study, the writer describes the development and challenges in the influence of technology on marriage law, which is then analyzed using the theory of

response and challenge as an analytical framework to understand the extent of technology's impact on marriage in society today and the steps taken to embody marriage law in the era of technology, facing various challenges and changes. This research aims to dissect and analyze the influence of technology and evolving marital changes in the current millennial era, in order to identify the necessary actions to address preventive measures against the impact of technology on marriage and respond with alternative problem-solving approaches to both the negative and positive effects on the law. For example, cases of online marriage using platforms like Zoom, virtual weddings, the influence of social media leading to infidelity or factors contributing to polygamy in marital stability, and the ease of access to technology such as streamlining administrative procedures related to marriage registration, consultations, data management, and others.

RESULTS AND DISCUSSION

Development of Marriage Law

Before delving further, it is essential to understand the concept of "*marriage law development*" to facilitate describing and analyzing it in this study. At least it can be understood that "development" is an English term, meaning "growth/progression." In terms of legal context, development refers to all changes over time that are structured, clear, and directed towards improving the progressiveness of the law in response to the development and changing situations and conditions in society. In society, the problems in the 0.5 era have become increasingly complex, primarily due to the influence of technology, social changes, and social media, which have significant impacts on people's lives. Therefore, the discussion of legal development is necessary to address and respond to contemporary challenges and issues, especially in the realm of marriage, both in the short and long term, as legally based resolutions.

Thus, we can describe a paradigm of thinking that stems from the fundamental concept of legal development. In the conceptual development of marriage law, for the author, it is the process of constructing a cluster of legal development from changes in socio-cultural and socio-political situations and conditions, an effort to adapt the law to reality. In principle, the law must be dynamic and relevant to the needs of society. Essentially, the law governs society as the subject of implementing regulations. The law governs the life of society with the ultimate aim of achieving tranquility, peace, and security. Peace that is free from disputes, conflicts, disputes, and safe from various problems and threats.

When looking at the history of legal development in Indonesia from its early days to the present, there are at least four phases that can be traced in the formation and implementation of marriage laws in Indonesia: the Dutch colonial phase, the Old Order era (ORLA), the New Order era (ORBA), and the reform era until the present. *First*, the Dutch colonization phase began with the formation and implementation of laws. The implementation of marriage laws during this phase used the Compendium Freijer, which regulated marriage and inheritance laws according to Islam (May 25, 1970). In 1919, Article 134 paragraph (2) of the I.S. (Indische Staatsregeling) came into effect, which continued Article 75 of the Regelings Reglement (R.R) of 1854, referring to customary law on marriage. In 1946, Law No. 22 of 1946 concerning the Registration of Marriage, Divorce, and Reconciliation was enacted, which was established by the President of the Republic of Indonesia (November 22, 1946) in Linggarjati, Cirebon. Subsequently, the marriage law applied throughout Indonesia since the issuance of Law No. 32 of 1945.

Secondly, during the Old Order era (ORLA), the first law that was enacted after Indonesia's independence was Law No. 2 of 1954 concerning Marriage, Divorce, and Reconciliation Registration. This law was a continuation of Stbl. No. 198 of 1895, replacing Huwalijks Ordonantie Stbl. No. 348 of 1929 jo. Stbl. No. 467 of 1931, and Vorstenlands Huwelijks Ordonantie Stbl. No. 98 of 1933. Furthermore, in 1954, Law No. 32 of 1954 was enforced, which incorporated Law No. 22 of 1946 throughout Indonesia. There were two stages of the implementation of Law No. 22 of 1946: (1) on February 1, 1947, for the Java and Madura regions, and (2) on November 2, 1954, for other regions. However, according to Wirjono, there were three stages of the implementation of Law No. 22 of 1946. Firstly, on February 1, 1947, Law No. 22 of 1946 was implemented for Java and Madura based on the Minister of Religious Affairs' decree dated January 21, 1947. Secondly, for Sumatra, it became effective on June 16, 1949, based on the Emergency Government of the Republic of Indonesia's decree dated June 14, 1949, No. 1/PDRI/KA. Thirdly, for other regions, it took effect on November 2, 1954, based on Law No. 32 of 1954 dated October 26, 1954.

We can describe in legal development that Law No. 1 of 1974 is the first marriage legislation in Indonesia, which was a pressing demand and desire from women's organizations due to cases that emerged and threatened the existence of family law, such as underage marriages, forced marriages, polygamy, and divorce. In response to the challenges posed by these cases, the Advisory Board for Marriage Guidance and Preservation (BP4) was established in 1950 to handle and assist in resolving such marriage issues, including the practice of underage marriages, arbitrary divorce (talak), and irresponsible polygamy.

The author's perspective is that the birth of Law No. 1 of 1974 represents the legal development from the remnants of Dutch law to the unification of Indonesian legal products. This development was initiated in response to criticism and the struggle of women's organizations based on these cases, in order to secure women's rights and achieve justice at that time. The focus was on women who became victims of polygamy, divorce, and divorce.

The process of formulating marriage laws and legislation in the development of marriage law recorded three important meetings in 1960 and 1963, namely: (1) the National Conference on Family Welfare organized by the Ministry of Social Affairs in 1960; (2) the Conference of the Advisory Board for Marriage and Divorce Settlement (B.P.4) organized by the Ministry of Religious Affairs in 1962; (3) the National Legal Seminar organized by the National Law Development Institute (L.P.H.N) in collaboration with the Indonesian Association of Legal Scholars (Persahi) in 1963. This is a step-by-step development of marriage law, discussing the legal issues of marriage through several important meetings, resulting in relevant laws and regulations that align with the values and character of Indonesian society.

Third, during the New Order era (ORBA), Law No. 1 of 1974 was enacted, followed by Government Regulation (PP) No. 9 of 1975 concerning the implementation of Law No. 1 of 1974, and regulations from the Ministry of Religious Affairs and the Ministry of Home Affairs. They were promulgated on April 1, 1975, and implemented in October 1975. More recently, the formation of Law No. 16 of 2019 on Amendments to Law No. 1 of 1974, formatted as Constitutional Court Decision No. 22/PUU-XV/2017.

The enactment of Law No. 1 of 1974 was followed by several regulations mentioned above in the legal development process. Then, in Article 67 of Law No. 9 of 1975, it is stated that the Government Regulation will be effective from October 1, 1975, and its implementation is an effective implementation of Law No. 1 of 1974 regarding marriage. In the legal development of marriage, for Muslims, it is regulated by Ministerial Regulation (Menag) No. 3 of 1975 and No. 4 of 1975, which were later replaced by Menag Regulation No. 2 of 1990. For non-Muslims, it is regulated by Ministerial Decree (Mendagri) No. 1 221a of 1975 concerning the Registration of Marriage and Divorce at the Civil Registry Office, effective from October 1, year 1975.

In legal development, PP No.10 was also issued on April 21, year 1983, regulating Marriage and Divorce Permits for Civil Servants (PNS). From a political and legal perspective, the issuance of PP No.10 in 1983 had two sides. On one side, there were instances of state officials marrying without proper registration, where the women they

married (mistresses) were previously babysitters for the officials' children. On the other side, there was a demand from the wives of President Soeharto to establish rules that could protect the wives of PNS. Consequently, an instruction from BAKN (State Administration Body) was issued, and the PP governing polygamy and divorce for PNS was established and implemented on April 21, year 1983. Then in 1990, PP No. 45 was issued, containing amendments to PP No. 10 of 1983, which consisted of two articles.

One year later, based on legal developments, the Compilation of Islamic Law (KHI) on marriage, inheritance, and endowment has been successfully formulated. It was established through Presidential Instruction No. 1 of 1991, dated June 10, 1991, and further implemented by the Decision of the Minister of Religious Affairs No. 154 of 1991 regarding the Implementation of Presidential Instruction No. 1 of 1991. Subsequently, through legal developments, the KHI was designated as the legal representation related to: (1) the Joint Decision of the Chief Justice of the Supreme Court and the Minister of Religious Affairs No. 07/KMA/1985 and No. 5 of 1985, enacted in Yogyakarta on March 21, 1985, concerning the Appointment of the Implementation of the Projection of Islamic Legal Development through Jurisprudence. (2) Presidential Instruction No. 1 of 1991, established in Jakarta on June 10, 1991, regarding the Dissemination of the Compilation of Islamic Law. (3) Minister of Religious Affairs Decision No. 154 of 1991, enacted in Jakarta on July 22, 1991, regarding the Implementation of Presidential Instruction No. 1/1991. (4) Circular Letter from the Director of Islamic Judiciary Development Supervision No. 3694/EV/HK.00.3/AZ/91, regarding the Dissemination of Presidential Instruction No. 1 of 1991.

Fourth, the phase of reform. In this phase, there was a proposal to revoke Government Regulation No. 10 of 1983 concerning Marriage and Divorce Permits for Civil Servants (PNS). However, it was rejected by the First Lady (Nyi Sinta Nuriyah Abdurrahman) because Government Regulation No. 10 is a form of protection for women. At the same time, there was a proposal to revise the Compilation of Islamic Law (KHI). This is because the KHI reflects Middle Eastern fiqh that refers to schools of thought (madzhab), rather than being based on the local wisdom of the Indonesian society. Based on legal development, the KHI should ideally be a product that is derived from and incorporates the local values of the Indonesian nation, in accordance with the cultural needs of Indonesian Islamic society. It should not be a literal interpretation of fiqh schools of thought, but rather a contextualization of fiqh in the Indonesian style.

Fifth, the current phase is focused on the future. In this phase, technology has become a basic necessity in people's lives. The Indonesian society is estimated to have reached 82 million internet users. This means that the influence of technology on society is

incredibly rapid and extensive. As a result, technology has begun to spread and reach the entire population, even affecting social patterns of life, particularly the behavior of teenagers, with negative consequences. For example, the influence of gadget technology on sexual behavior among teenagers due to the ease of accessing various pornographic websites, the high divorce rate in Pangkep Regency is attributed to the trend of social media in the current technological development. In response to the negative impacts of technological influence, it is necessary to have firm legal measures in handling marriage issues to evaluate the future of technology.

Therefore, in the current phase, technological advancements demand the need for updated marriage regulations that are relevant to the influence of technology, both in terms of administration and the online marriage process, which is still a subject of debate. The availability of technology that is highly accessible allows individuals to conduct marriages not in one assembly, but in separate assemblies and locations for the prospective bride and groom, guardians, and witnesses. This is not yet regulated in the Compilation of Islamic Law (KHI) and the Marriage Law (UUP), which explain marriage in the current era of technological development. Even in terms of administration, for example, the registration of marriages through the Simkah system, e-cards after marriage, and online marriages, there are still differing opinions.

Challenges in Marriage Law and the Influence of Technology.

The legal challenges of marriage in this millennial era are evident, where the influence of technological advancements easily and rapidly affects social order, especially in terms of how technology influences marriage laws. Therefore, it is crucial to approach and respond to this matter seriously. If not addressed adequately, at the very least, studying the positive and negative impacts and then making improvements (evaluation) to find solutions and utilizing technology to the fullest extent, one might be overwhelmed by the influence of technology. The influence of technology also affects the enforcement and establishment of laws. For example, the influence of technology on marriage can be seen in virtual weddings, online marriage contract, electronic marriage certificates, investigation and evidence collection, and marriage mediation.

Thus, the development and influence of technology give challenges to marriage laws. The legal challenges of marriage is a new advancement in society, resulting from the ease of access facilitated by technology. For example, the use of technology in wedding ceremonies is referred to as a virtual wedding. The two prospective spouses do not need to be physically present in one location but can utilize technology to facilitate the wedding

process. This is further emphasized by the spread of COVID-19, which demands social distancing or stay-at-home measures. As a result, weddings can be conducted virtually. It cannot be denied that technology brings convenience and challenges, although behind it all, there are controversies surrounding the practice of virtual marriage.

The case of virtual marriage is still a subject of debate and there are many differences, both within society, similarly, in several countries such as the United States, Canada, United Kingdom, Australia, and others, the issue of virtual marriage is strongly debated, and some countries have implemented virtual marriage as a response to the global spread of COVID-19. It serves as an alternative solution to ensure that marriage ceremonies can still take place. The presence of technology has facilitated the execution of virtual wedding ceremonies during the COVID-19 pandemic. However, virtual marriages are not widely accepted by society, as they are considered to contradict traditional customs and go against established laws. Nonetheless, the advancement of technology necessitates change, as it has already influenced social norms. These developments present future challenges that require marriage laws to adapt and respond accordingly.

In this era of technological advancements, everything relies on information technology, including marriage-related matters. For instance, the Gamping District Office of Religious Affairs (KUA) utilizes technology as the foundation for registering the marriage process. This includes administrative tasks, document submissions, scheduling of the wedding, managing online-based marriage registration data, and providing other information through applications or websites to facilitate the public in registering or recording their marriage at the KUA office. Harnessing technology in marriage helps the community by facilitating online registration, thereby reducing the time required. Meanwhile, for the KUA, it streamlines the management of registration data and speeds up the process of searching for information.

Challenge and Response to the Influence of Technology in Marriage Law

The theory of challenge and response, proposed by A.J. Toynbee, explains that every situation and condition is subject to change, but the nature of that change depends on the stimuli caused by influences and interactions. The presence of influence and being influenced occurs due to the existence of stronger domination, resulting in the emergence of new changes that will form a new civilization. In the context of marriage, marriage law governs somethings related to marriage, which must fulfill certain requirements and conditions. However, the existence of these requirements and conditions represents textual rules, while the contextual aspect encompasses what is related to the specific

situation and conditions. For example, customary and cultural marriages vary in each region, as they apply different wedding customs and traditions.

Therefore, marriage, on one hand, adheres to the principles of Islamic law, which requires fulfilling certain requirements and conditions. On the other hand, marriage needs to adapt to customary and cultural laws. At the same time, marriage is expected to keep up with the advancements of the current era, such as preuptial and virtual (online) weddings. The dominating influence of technological development provides various conveniences, although some of these conveniences may contradict Islamic law and lead to differing opinions among different groups. For example, the process of virtual weddings may be prohibited by some and allowed by others with specific conditions. However, with the continuous advancement of technology, it is possible that virtual (online) marriages could be allowed under certain conditions in the future.

The changes brought about by the influence of technological advancements in marriage matters undoubtedly present challenges that need to be responded to. One of these challenges is virtual weddings. Virtual weddings, which are conducted through online platforms, emerged as an alternative during the COVID-19 pandemic, affecting the entire world, to facilitate the marriage process. Virtual weddings offer both convenience and challenges. The convenience lies in the fact that there is no need to physically gather in one location; instead, individuals can participate from a distance, such as through Zoom, video calls, or other telecommunication tools. However, from a legal perspective, virtual marriages are not widely recommended due to differing opinions and the traditional basis of marriage laws. From a cultural standpoint, virtual weddings may potentially deviate from the customary rituals associated with marriage, thus presenting a challenge for society to accept or reject the concept of virtual marriages.

Secondly, there is the influence of administrative marriages. Technological advancements have provided convenience in administrative matters and data management, which serve as the basis for the District Office of Religious Affairs (KUA) in handling marriage registrations and records using application or web-based systems that facilitate online marriage registration. Moreover, since August 2021, the implementation of digital marriage cards has been introduced, which serves as a supplement to the physical marriage book rather than a replacement. This allows couples to possess both a physical marriage book and a digital marriage card after getting married. The digital card contains the couple's information encoded in a barcode, including their names, date of the marriage ceremony, registration number, and the KUA's location.

Thirdly, after marriage, the influence of technology through social media platform. The influence of social media has caused numerous changes in social life. These changes are a result of the ease of communication and access to various platforms such as WhatsApp, Twitter, Facebook Messenger, Instagram, TikTok, and others, enabling connections with other people. The impact of social media presents a challenge in marital law, thus requiring preventive measures to prevent the effects of infidelity within marriages. In this regard, the necessary responses are as follows: Firstly, providing education on the positive and negative impacts of social media. Secondly, unifying marital laws to respond to the challenges and influences of technology. Thirdly, strengthening and fortifying the relationship between husband and wife through the principle of consultation (*musyawarah*) to reduce the negative effects of social media resulting from technological advancements. These measures aim to address the challenges posed by social media and ensure that marital law takes preventive steps to mitigate the effects of infidelity within households.

CONCLUSION

Therefore, there are several points that can be concluded from this study, including the following: Firstly, Marital law, in the era of technological development and influence, must provide a new formula to integrate marital law with the changing social conditions due to technological influence. Marital law needs to adapt to technological advancements as a requirement in this millennial era. Secondly, There is a need for the renewal of marital laws to respond to the development and influence of technology, which provides various conveniences while not neglecting the negative impacts of technological influence. Thirdly, It is important to recognize the urgency of implementing the renewal of marital laws through challenges and responses to the development and influence of technology. The influence and development of technology provide both conveniences and challenges. Therefore, marital law must keep up with advancements and adjust its application relevantly to the current technological updates. Likewise, responding to challenges with alternative approaches, with the ultimate output being the establishment of a law oriented towards *sakinah*, *mawaddah*, and *warahmah* (tranquility, love, and mercy) amidst the influence of technological advancements in this millennial era.

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