

Chinese blind Marriage (Muhallil) as an Effort to Legalize Marriage after three Divorces in Acehese Society



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ABSTRACT: Blind Chinese marriage is never regulated in the National Marriage Act, however, marriage between a man (muhallil) and a woman who has been rejected by her husband for the purpose of justifying the woman's able to remarry by her former husband (muhallah), this often happens to communities in Aceh. This kind of marriage practice is a grave sin. It is classified as a heinous act, which is not allowed, whether the two men concerned determine the conditions when the marriage contract or they both agree before the marriage contract occurs to return immediately, or one of the two intends in his heart to divorce him again. The deed is haram for those who do (Muhallil and Muhalla lah), and even Allah will circumcise it, as the Hadith of Ahmad's History which means "Allah circumcises Muhallil (who married in blind China) and his muhallal (the former husband who told people to be muhallil)". (HR. Ahmad). This kind of marriage has never been banned by the authorities, even though this marriage is legalized, especially by the kadhi/ guru ngaji who are in the gampong of the muhallil marriage partner. The purpose of this paper is to find out and explain the Chinese blind marriage as an attempt to justify marriage after talak three in some communities in Aceh and What factors cause the occurrence of Chinese blind marriage.

KEYWORDS: Blind Chinese Mating; attempts to justify marriage

A. INTRODUCTION

Basically, marriage is a contract that justifies association, limits rights and obligations, and helps between a man and a woman who is not a mahram, because marriage is one of the most important principles of life in society. (Sulaiman Rasyid, 2000: 397). Marriage also has agreements and agreements (commitments), to carry out the obligations and responsibilities of each one (husband and wife), one of the purposes of carrying out marriage is to justify something that is forbidden by religion (sex / bodily relationship), diin addition also to get offspring and build a family. The purpose of marriage can be achieved if the marriage carried out is permanent and is based on provisions in accordance with existing religious rules, norms and traditions. Getting married is the most *afdhal* path, in an effort to realize the purpose of marriage and maintain honor. Islamic teachings encourage young men to marry immediately, in order to protect them from various kinds of moral decay. Rasulllah ﷺ which means; "O young men, whoever of you has been able to marry, then should marry. So indeed mating hinders the view (of those forbidden by religion) and nourishes the pubic. And whoever is unable should fast. Because that fast is a shield for him". (H.R. Bukhari and Muslims). "(<http://liza-fathia.com>)

The noble purpose of marriage is for a husband and wife to practice Islamic Sharia in their household. In the opinion of Imam Shafi'i, the law of enforcing households based on Islamic Sharia is mandatory, therefore every Muslim and Muslim woman is obliged to build an Islamic household. (<http://liza-fathia.com>) The national marriage law also emphasizes that a marriage is eternal, as mentioned in Article 1 of Law Number 1 of 1974 concerning Marriage, namely Marriage is a bond born between a man and a woman as husband and wife with the aim of forming a happy and eternal family (household) based on the One True Godhead.

According to Chief Justice Rifyal Kabah who stated, that in principle marriage is a contract, but marriage is not a contract alone. Marriage is a sacred contract because it promises in front of guardians, witnesses and also before God, that he will treat his spouse well. The problem arises, if the marriage is performed within a certain time limit (Contract Marriage) for biological and material satisfaction, perhaps this kind of marriage proves to be quite appropriate and well-founded, but what about the survival of a family, this is almost the same as a blind Chinese marriage (*muhallil*), whether happiness will be created turns out that there is a certain time limit in living a domestic life. (Teuku Edi Faisal Rusydi, 2007: 3).

Chinese blind Marriage (Muhallil) as an Effort to Legalize Marriage after three Divorces in Acehese Society

Regarding Chinese blind marriage (contract) in Islamic law is known as *muhallil*. The meaning of *muhallil* itself based on the Big Dictionary of Indonesian is: a person who marries a woman who has been rejected by her husband three times, after which she divorces so that the woman can remarry with her former husband who is *terdahulu*.

If the woman was married by another man correctly, after a long time and coincidentally a divorce, then the marriage with her original husband is considered valid by Islam. This is explained by the Messenger of Allah ﷺ in the hadith which means "The wife of Rifa'ah al Qardh once came to the Messenger of Allah ﷺ, then said I used to be his wife Rifa'ah, then I was rejected by him (divorces has been three times), then I married Abdurrahman bin Zubair, but unfortunately he was like the tip of the cloth (weak shahwat), then the Prophet smiled, as he said: do you want to return to Rifa'ah? yes, no, before you actually taste his little honey (Abdurrahman bin Zubair) and he tastes your little honey."

According to KH. Husein Muhammad explained that blind Chinese marriage is a popular term in a number of regions in Indonesia, including Aceh. The prevailing custom in Acehese society concerns blind Chinese marriage (*muhallil marriage*) which is still a pro and con, which allows a husband to return to his wife who has been rejected three times after the *iddah* period.

Based on the urian above, the problem in this study is;

1. What is the legality of Chinese Blind Marriage as an effort to legalize marriage in the community in Aceh?
2. What factors cause the occurrence of Chinese Blind Mating?

B. TEORI FOUNDATION

a. The Meaning Of Blind Chinese Marriage

Mating china blind in Islamic literature is called *nikah muhallil* (justifying), and also istilah *cina buta* comes from the Malaysian Society. There are two interpretations of the word blind Chinese; **First**, *cina buta* in the true sense i.e. a descendant (Chinese) citizen who is blind in his eyes, and **Secondly**, *cina buta* in the figurative sense i.e. a person who becomes a temporary marriage redeemer (*muhallil*) with a former wife who has *ditalak* three, with a covenant Mating china blind in Islamic when it is *disetubuhi* (intercourse) must be re-rejected, so that the first husband can remarry his former wife who has been sentenced to *talak tiga (bain kubra)*". (<http://www.butang-emas.net>).

b. Legal Basis Of Muhallil Marriage

Muhallil marriage is strongly reproached in Islam and the law is haram and void according to *jumhur ulama*, Islam desires that the conjugal relationship in the marriage ark be eternal and lasting forever, until the time comes that only death separates, the temporary marriage (*mut'ah*) has been annulled by Islam in *ijma'*. Islamic Shari'a does not want a divorce even if *talaq* is justified, *k* the *talaq* work itself is very hated by Allah Swt. Muhallil marriage is only a quasi-marriage and has a period of time, so the purpose of marriage desired by Islam is not achieved, and even received strong condemnation from the Messenger of Allah ﷺ. As *Hadiś Rasulullah* ﷺ, said about the marriage of *muhallil* these include: *Hadith of Abdullah bin mas'ud* narrated by Imam Tirmizi which means: From *Abdullah bin Masu'd* that he has said, "Messenger of Allah ﷺ, Allah circumcises *muhallil* (the man who justifies) and *muhallal lahu* (the man he kosher)". (HR, Tirmizi And He Said This *Hadiś Sahih*) (Ibn Katsir, 1999: 414).

c. Causes Of The Occurrence Of Blind Chinese Mating

A marital bond often occurs *talaq* three, but it is not uncommon for it to cause *sedition*. The household established by a husband and wife in the course of their lives was harmonious and peaceful, because of the *spele* thing that was forced to leave the bond. Often divorce occurs outside of careful consideration and thought, usually when there is a conflict that seems to be just a mistake, but if it is divorced, remember the kindness that exists. In Islamic Sharia it is possible to return to the original marriage, provided that the wife must establish a valid marital relationship with another man, Then the path that is tried to be taken in order to reunite is by the path of marriage *muhallil*. The causes of *muhallil* marriage are inseparable from the emergence of divorce between husband and wife. The marriage desired by religion is an eternal marriage, but in certain circumstances sometimes in the marriage there are several challenges that must be faced by the husband and wife. (Moh. wahyul Huda, thesis, 2017: 21).

d. The Practice Of Blind Chinese Mating In Aceh

The practice of blind Chinese marriage is a blend of forced divorce and forced marriage. Blind Chinese marriage is believed to be mandatory for women who want to reconcile with their husbands after the husband and wife declare divorce up to three times. This divorce is considered valid even without prior ratification and reference process from the assigned party, namely the *Syar'iah* Court or the *KUA* officer. Because it has been divorce up to three times, in order to be able to refer back, both the husband and wife must first marry someone else. With polygamy allowed, the husband can keep his new wife, while for the wife's side the marriage must end in divorce. This deed is haram for those who do (*Muhallil* and *Muhallah*) and even Allah will circumcise it.

Chinese blind Marriage (Muhallil) as an Effort to Legalize Marriage after three Divorces in Acehese Society

In order to enter into the marriage, the woman must provide all the costs of the marriage including dowry and "wages" to carry out the process of the husband and wife relationship before finally divorcing. The woman also has to wait for the iddah period (3 months and 10 days) before being able to reconcile with her first husband. The practice of marriage that must be carried out by the female side is referred to as a blind Chinese marriage. (<http://www.komnasperempuan.or.id>).

C. RESEARCH METHODS

This research uses normative research methods, namely legal research by examining library research, (Peter Mahmud Marzuki, 2005: 35), namely research related to library data collection methods, or research whose research objects are explored through various library information (books, encyclopedias, scientific journals, newspapers, magazines, and documents), The description is contained in the theoretical framework used to discuss in the presentation of data. Material analysis uses content analysis with the aim of limiting the findings of literature information so that it becomes an orderly and organized and more meaningful material. From the findings of the literature, it is connected with the existing theoretical foundations. In this case it is material related to the law of marriage.

D. RESULTS AND DISCUSSION

1. Legality of Chinese Blind Marriage As An Effort To Legalize Marriage In The Community In Aceh.

Establishing a household is based on a marriage between a man and a woman who meets the pillars and conditions of marriage, in which case the community strongly adheres to the provisions of the Islamic law, and also by getting closer to the Ulama or Teungku, through recitation institutions or direct consultation when they face problems surrounding the household. The domestic life built by a human life partner does not always go smoothly, even resulting in divorce, even though divorce is a lawful act but is hated by God.

Marriage for the people in Aceh is very much attached to religion and customs, but sebahagian small community is very thick with its customs, as occurs in the practice of blind Chinese marriage. This situation is already a custom in life for households, which proves that they performed the blind Chinese mating as had been done by earlier people.

The practice of blind marriage is part of the forced marriage, this is mandatory for women who want to return with their husbands, after the husband has declared divorce up to three times. This divorce is considered valid even without prior ratification and referral process from the assigned party of the Syariah's Court or the KUA officer. Since there have been three talaks, then to be able to refer to is not justified by law, unless the wife must first marry another man. In the case of a blind marriage, the woman must provide all marital expenses including dowry and "wages" to carry out the conjugal relationship process before finally divorcing. The woman also has to wait for the iddah period (3 months and 10 days) before being able to reconcile with her first husband.

Basically a blind Chinese marriage (Muhallil marriage) occurs naturally as Allah explains in the Qur'an surah al-Baqarah verse 230, it is clear that if the husband is mentally ill (after the second divorces), then the woman is no longer lawful to her, the former husband must wait for his former wife until he remarries another husband, which here there is no coercion against the former wife. If the former wife has married another man, then the former husband may return to his former wife, and if the second husband divorces her, then it is not a sin for the two to remarry.

Furthermore, the Messenger of Allah ﷺ, in the hadith, which means "The wife of Rifa'ah al Qardh once came to the Messenger of Allah ﷺ, then said I used to be his wife Rifa'ah, then I was rejected by him (divorces has been three times), then I married Abdurrahman bin Zubair, but unfortunately he was like the tip of the cloth (weak shahwat), then the Apostle also smiled, as he said do you want to go back to Rifa'ah? yes, no, before you actually taste his little honey (Abdurrahman bin Zubair) and he tastes your little honey."

The practice is to tell a man (*muhallil*) to marry his former wife. Previously, an agreement was made between her former husband/*muhallal lah* (the one who was justified) and the *muhallil* (the one who justified), that a few days later it should be divorced by her new husband (*muhallil*) and then *muhallal lah remarried* to his former wife.

The agreement is made outside the marriage contract and should not be mentioned in the marriage contract. The agreement is merely a commitment or desire whose execution should not be imposed and does not cause any consequences. (Sayyid Sabiq, 2007 : 134). Article 2 paragraph 1 of Law Number 1 of 1974 concerning Marriage, where marriage is valid if it is carried out according to the laws of each religion and belief. If the marriage has been legalized in shari'a, then the marriage has no hindrance, so it should not be prevented or prohibited, such as blind Chinese marriage. According to him, the marriage can be carried out as long as it is in accordance with applicable regulations. (Rahman I Doi, 1996: 185).

Chinese blind Marriage (Muhallil) as an Effort to Legalize Marriage after three Divorces in Acehese Society

Blind Chinese marriage includes sinful/haram acts, when referring to the Qur'an and the Hadith, that the marriage is haram if it is performed in willful ways, as Allah says in the Qur'an Surah Al-Baqarah Verse 230 which means; Then if the husband is mentally ill (after the second Talak), the woman is no longer kosher to her, until she marries the other husband. Then if the other husband divorces her, there is no sin for the two (the former first husband and wife) to remarry if both believe they will be able to live the laws of God. Those are the laws of God, he explained to those who (will) know. (Al-Baqarah: 230). This deed is haram for those who do (Muhallil and Muhallal lah) and even Allah will circumcise it, as the Hadith of Ahmad's History which means "Allah circumcises Muhallil (who married in Blind China) and his muhallal (ex-husband who told people to be muhallil)". (HR. Ahmad).

From the description above, when viewed from the roots of social and culture that blind Chinese marriage can be acceptable and relevant, but from a legal point of view it does not have the power/legalization between the two of them.

2. What Factors Cause the Occurrence of Blind Chinese Mating

A couple involved in a muhallil marriage is a couple who have children. Former husbands and wives want to build a once-ruined home and nurture children. The only way to be able to reunite between a divorced husband and wife with a triple divorce is to have a muhallil marriage first

1. Factor Muhallil

A divorced husband with three can only remarry his former wife if the former wife has been married to another man and then divorced. In his position, the man serves as the one who justifies the ex-husband to remarry with his ex-wife.

2. Educational Factors

Orang is poorly educated, poor, and is at the bottom of the structure of society. The reason for getting rewarded for his role as a muhallil is the most dominant factor. In addition, they are also not afraid or embarrassed over the negative stigma that develops in society.

3. Children's Factors

The existence of children is a strong motivation for divorced couples with three talaks to perform muhallil marriages in order to return to their original partners. The wife is willing to perform a muhallil marriage because of her desire to be able to remarry her ex-husband in order to continue and build a household, and the most important thing is to jointly care for and educate their children.

E. CONCLUSION

1. The legality of blind Chinese kawin that occurs in people's lives in Aceh, more to customs, only aims to save the family, even the possibility of negative things arising in the eyes of the people. If by law religion can cause monasticism in domestic life, because the methods carried out are not in accordance with the pillars and requirements based on Islamic law

2. There are several influencing factors, firstly the muhallil factor itself, because there are people who are willing to marry a former wife who is rejected by three, secondly the educational factor, all couples who perform blind Chinese marriage, both muhallil and muhallal lahu never acquire knowledge. The three factors of children, children are the hope of the future for the family, but because of the marriage law that makes the couple of three unable to return again, so they have to resort to the methods of forced marriage (blind Chinese marriage).

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Chinese blind Marriage (Muhallil) as an Effort to Legalize Marriage after three Divorces in Acehese Society

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