

Utang Mahar Menurut Perspektif Hukum Perikatan Islam Studi Kasus Masyarakat Adat Bayan Beleq = Dowry Debt According to Islamic Bond Law Perspective Case Study of Bayan Beleq Indigenous People

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Abstrak

Utang mahar dalam masyarakat Adat Bayan menjadi kebiasaan dalam perkawinan Adat Bayan Beleq karena ketimpangan antara besarnya permintaan mahar calon pengantin wanita dengan kemampuan ekonomi calon pengantin pria. Masyarakat adat Bayan mayoritas beragama Islam. Besarnya mahar sudah ditentukan menurut strata sosial (keturunan) namun dikembalikan lagi kepada kesepakatan dua keluarga dengan disaksikan tokoh adat. Jatuh tempo utang mahar menurut kebiasaan adalah dua tahun. Rumusan masalah terkait bagaimana perikatan utang mahar perkawinan Masyarakat Adat Bayan, perspektif hukum perikatan Islam terhadap utang mahar yang belum terbayar pasca perceraian dalam kasus Masyarakat Adat Bayan. Solusi alternatif penyelesaian utang mahar dalam kasus perceraian Masyarakat Adat Bayan. Penelitian ini merupakan penelitian hukum normatif dengan jenis data primer dan sekunder jenis metodologi penelitian yaitu preskriptif. Teknik pengumpulan data selain menggunakan bahan hukum primer, sekunder dan tersier, penulis melakukan wawancara kepada beberapa narasumber yang berkaitan dengan penelitian. Terdapat sembilan ritual adat termasuk nikah secara agama untuk sampai kepada acara nikah adat. Perikatan terjadi dengan cara musyawarah antara keluarga laki laki dan keluarga perempuan disaksikan oleh beberapa tokoh adat. Pelaksanaan akad utang mahar tidak sesuai dengan ketentuan Hukum perikatan Islam. Utang mahar harus dilakukan dengan cara suami meminjam uang atau kerbau kepada keluarga perempuan atau calon pasangannya.

.....The dowry debt in the Bayan Indigenous community has become a habit in the Bayan Beleq Indigenous marriage because of the disparity between the magnitude of the request for the bride's dowry and the economic capacity of the groom. The majority of the Bayan indigenous people are Muslim. The amount of the dowry has been determined according to social strata (descendants) but is returned to the agreement of two families in the presence of traditional leaders. The maturity of the dowry debt according to custom is two years. The formulation of the problem is related to how the marriage dowry debt of the Bayan Indigenous Community, the legal perspective of the Islamic engagement on the unpaid dowry debt after the divorce in the case of the Bayan Indigenous Community, alternative solutions for the settlement of the dowry debt in the divorce case of the Bayan Indigenous Community. This research is a normative legal research with secondary data types. The type of research methodology is prescriptive. Data collection techniques in addition to using primary, secondary and tertiary legal materials, the authors conducted interviews with several sources related to research. There are nine traditional rituals including religious marriage to arrive at the traditional wedding ceremony. The engagement occurs by means of deliberation between the male and female families witnessed by several traditional leaders. The implementation of the dowry debt contract is not in accordance with the provisions of Islamic law. Dowry debts must be made by the husband borrowing money or buffalo from the woman's family or potential partner.