
*Collections On The Implementation Of The Marriage Contract By
The Penhulu (Study Of Gratification In Law Number 20 Year 2001
About Eradication Action Criminal Corruption)*

Aldri Riyaldi Deriawan

Fakultas Ilmu Hukum Universitas Khairun Ternate, Email: aldrideriawan@gmail.com.

Syawal Abdulhajid

Fakultas Ilmu Hukum Universitas Khairun Ternate

Faisal

Fakultas Ilmu Hukum Universitas Khairun Ternate

Abstract

Provisions in Government Regulation no. 48 of 2014 which has been amended in Government Regulation Number 19 of 2015 which was later changed back to Government Regulation Number 59 of 2018 concerning Types and Tariffs for Non-Tax State Revenues applicable to the Ministry of Religion, there are several obligations that must be fulfilled in carrying out the marriage contract. one of them is the fee rate that must be completed when registering a marriage in Office of Religious Affairs (KUA), the provisions are that if it is carried out during working hours and in the Office of Religious Affairs (KUA), the bride and groom are not charged for carrying out the marriage contract or at a cost of Rp. 0.00 (zero rupiah) and if it is carried out during working hours but the place of the marriage ceremony is outside the religious affairs office, the fee is Rp. 600,000 (six hundred thousand rupiah) is valid until now. it is realized that these provisions have been implemented but have not run optimally or have not been as expected because gratification practices have been found which are still accepted by the the chief in the period 2018-2021 in the city of Ternate. In 2018 the total marriage registration was 1,314, in 2019 it reached 1,193, in 2020 it reached 1,120, in 2021 (as of May) it reached 401, accounting for the total of the total marriage registration reaching 404,627 marriage registration. the practice of gratification in the field, even though the existing regulations do not explain or legalize the actions taken. 2) There are several obstacles faced by the author, namely the first factor is the ignorance of the community, the second factor is the lack of understanding of the the chief about the concept of gratification, the third factor is the indiscipline of the the chief.

Keywords: *Marriage Fee, Office Religious Affairs, Gratification.*

Abstrak

Ketentuan dalam Peraturan Pemerintah no. 48 Tahun 2014 yang telah diubah dengan Peraturan Pemerintah Nomor 19 Tahun 2015 yang kemudian diubah kembali menjadi Peraturan Pemerintah Nomor 59 Tahun 2018 tentang Jenis dan Tarif Atas Penerimaan Negara Bukan Pajak yang Berlaku pada Kementerian Agama, ada beberapa kewajiban yang harus terpenuhi dalam melaksanakan akad nikah. salah satunya adalah tarif biaya yang harus dipenuhi saat mendaftarkan pernikahan di Kantor Urusan Agama (KUA), ketentuannya jika dilakukan pada jam kerja dan di Kantor Urusan Agama (KUA), kedua mempelai tidak dikenakan biaya untuk melaksanakan akad nikah atau dengan biaya Rp. 0,00 (nol rupiah) dan apabila dilakukan pada jam kerja tetapi tempat akad nikah berada di luar

kantor urusan agama, dikenakan biaya sebesar Rp. 600.000 (enam ratus ribu rupiah) berlaku sampai sekarang. disadari bahwa ketentuan tersebut telah dilaksanakan namun belum berjalan secara optimal atau belum sesuai dengan yang diharapkan karena masih ditemukan praktik gratifikasi yang masih diterima oleh para the chief periode 2018-2021 di kota Ternate. Pada tahun 2018 jumlah pencatatan perkawinan sebanyak 1.314, tahun 2019 mencapai 1.193, tahun 2020 mencapai 1.120, tahun 2021 (per Mei) mencapai 401, sehingga total pencatatan perkawinan mencapai 404.627 pencatatan. praktek gratifikasi di lapangan, padahal peraturan yang ada tidak menjelaskan atau melegalkan tindakan yang dilakukan. 2) Ada beberapa kendala yang dihadapi penulis yaitu faktor pertama ketidaktahuan masyarakat, faktor kedua kurangnya pemahaman the chief tentang konsep gratifikasi, faktor ketiga ketidak disiplin penghulu.

Kata Kunci: Uang Perkawinan, Kantor Urusan Agama, Gratifikasi.

PRELIMINARY

Humans are social beings with coexistence that can interact with each other, depending on the needs of human life itself. In Indonesia itself adheres to the rule of law which has been explained in Article 1 paragraph (3) of the 1945 Constitution which explicitly says "The State of Indonesia is a State of Law". by the community to create a sense of justice. The regulations that have been made determine attitudes, ethics, actions for the community and all state administrators and are binding on anyone up to create a sense of order so that they can live in an orderly and prosperous manner which regulates what is allowed and what is not to be done in the life of the state. The same regulations in the State of Indonesia, for example, sometimes change according to the times, in carrying out marriage registration for Muslims, namely at the Office of Religious Affairs (KUA). The Office of Religious Affairs (KUA) is an agency that is given authority in the field of religion in the regions. Duties and functions that are located in each sub-district that directly deal with the community with the aim of facilitating the implementation of marriage for Indonesian citizens in an effort to develop and foster religious life in the community so as to create orderly and orderly conditions.

The Office of Religious Affairs (KUA) located in each sub-district is the spearhead of the Ministry of Religion in serving the community, especially Muslims. Furthermore, KUA which incidentally is the smallest and lowest working unit, but has a big role as the spearhead or front guard in carrying out the tasks of the Ministry of Religion in serving the community. The duties and authorities of the KUA can provide an example in the community, especially the development of religious moderation, and be more proactive in responding to problems that occur, especially with regard to household and other social problems, the KUA does not only provide services to married people, but also to serve the community regarding zakat, waqf, mosques and sakinah families¹.

Law Number 1 of 1974, article 1 which explains the general understanding that marriage is an inner and outer bond between a man and a woman as husband and wife with the aim of forming a family (household) that is eternally happy based on the one and only God. Furthermore, Article 2 paragraph 2 explains that every marriage must be registered according to the applicable laws and regulations. This is then every married couple will get authentic evidence, namely a marriage certificate book².

The government is in charge of formulating regulations that will be obeyed by all communities in a country in order to realize justice, certainty and benefit. The regulations that have been regulated regarding the implementation of the marriage contract were later changed to Government Regulation no. 47 of 2004, In carrying out the marriage contract it must be at the KUA, the one who allows it must also be his own guardian and must be during working

¹ Moch Jasin, *Biaya Nikah Problematika & Solusi* (Jakarta: ItjenNews, 2013). P 10

² Pemerintah Republik Indonesia, *Undang-Undang Nomor 1 Tahun 1974 Tentang Perkawinan* (Lembaran Negara Republik Indonesia, 1974). P 2

hours. Even though the rules are like that, in practice it is not like that. There are people who carry out marriages outside the KUA hall and outside working hours. With the reason that they live far from the office of religious affairs.

The issue of the cost of marriage the rules are also changing. Based on Government Regulation No. 47 of 2004 explains the cost of marriage is Rp. 30,000 (thirty thousand rupiah) If the marriage contract is carried out at the religious affairs office and according to working hours³. Meanwhile, the cost of a wedding whose contract is carried out outside the office of religious affairs and outside working hours is not regulated in the government regulation. This is where the problem arises, so that previously there was no clarity regarding the cost of marriage for brides who wanted to carry out outside working hours and outside the religious affairs office, causing costs from each region to vary. in addition, it can lead to illegal levies carried out by employees of the religious affairs office. In the implementation of the marriage contract, it is generally divided into two, namely the implementation in the marriage hall, the religious affairs office itself and there is also outside the marriage hall, for example at the house of one of the prospective bride and groom which is usually a woman's house, in buildings, mosques, and so on. Next One

The chief in his position commonly called PPN representative (marriage registrar) is a civil servant who has been appointed by the head of the regional office of the ministry of religion as a PPN representative to assist the smooth running of services to the community in terms of carrying out marriage supervision and acceptance of reconciliation. When VAT is absent or unavailable, the work is carried out by a VAT representative, and if more than one VAT Representative is present, the Head of VAT assigns one VAT representative to carry out VAT duties which cannot be rejected because he carries out the duties of authority from the Rules itself.⁴

Along with the times, the marriage registration itself was then renewed and contained in the Minister of Religion Regulation Number 11 of 2007 article 21 explaining that related to the implementation of the marriage contract for the bride and groom, it can be carried out at the religious affairs office (KUA) and can also be carried out outside the KUA office on the request of the bride and groom with the approval of the marriage registrar. However, the provisions of this regulation do not clearly explain the provisions for the cost of marriage with certainty regarding the implementation of the marriage contract which is carried out outside the office of religious affairs. Especially with the tradition of society, the majority of which prefer to carry out the marriage contract outside the KUA by presenting a the chief.

For the cost of marriage, the KUA has carried out socialization to the public by providing an announcement of the cost of marriage in accordance with the rules in force at that time and has been posted on the board of the office of religious affairs making it easier for the public to see it. If viewed from the juridical aspect, the additional payment exceeds the fee officially stipulated in the category as a form of gratuity. The excess in payment of the provisions of the applicable regulations is considered a bribe or gratuity according to Article 12B of Law Number 20 of 2001 for the amendment of Law Number 31 of 1999 concerning the Eradication of Criminal Acts of Corruption.

However, there are additional costs incurred by the bride and groom for the cost of registering the marriage. It is always seen from the perspective of the implementation of the professional duties of the marriage registrar by the KUA outside of working days. The argument is that the costs incurred are not only the cost of registering the marriage but also other additional costs. Such as the cost of the road for the head of the village, transportation costs because the house is far from the place of marriage. With this experience, the Ministry of Religion is currently formulating a new policy that can regulate the provisions for registration of marriages

³ Jasin. Opcit. P 13

⁴ Pemerintah Republik Indonesia, *Undang-Undang Nomor 22 Tahun 1946 Tentang Pencatatan Nikah, Nikah, Talak Dan Rujuk* (Lembaran Negara Republik Indonesia, 1946). Article 2. P 2

at a predetermined fee, and the the chief also do not easily accept other additional fees that have been set because they are included in the realm of gratification..

To avoid increasing the practice of gratification and other illegal levies, the government issued a regulation that clearly stipulates the tariffs/costs for weddings which are carried out in the office of religious affairs or not. So the 2007 Minister of Religion Regulation was replaced with Government Regulation No. 48 of 2014.

Government Regulation No. 48 of 2014 has set a wedding fee of Rp. 600,000 (six hundred thousand rupiah). The fee is charged if the marriage is held outside working hours and outside the religious affairs office. However, if the marriage contract is held at the religious affairs office on weekdays, the fee is Rp. 0.00 (zero rupiah) and if it is carried out outside the office of religious affairs, the fee is Rp. 600,000 (six hundred thousand rupiah) until now the provisions are valid⁵. Although the rules of Government Regulation no. 48 of 2014 has been amended in Government Regulation Number 19 of 2015 which was later changed to Government Regulation Number 59 of 2018 concerning Types and Tariffs of Non-Tax State Revenues that apply to the Ministry of Religion. This provision is applied in all circles of society to this day the determination of the cost of marriage has never been changed.

However, this provision does not explain in detail the timing of the wedding ceremony of the prospective bride and groom on holidays which still legalizes the head of the head of the work in the world of work. There is no problem if the bride and groom complete all the administrative / marriage contract costs at the KUA of the sub-district where they live before the work holiday, so it does not become a problem if the marriage contract is on a holiday which will then be carried out outside the KUA. According to the researcher, based on yesterday's pre-research results, the researcher distributed questionnaires by interviewing several parties such as Mr. AKP. Sarmin Kalam (Head of Human Resources Division of Ternate Police), Mrs. IPDA Farida (Section of Satreskrim Polres of Ternate), Mr. AIPDA Zulkifli (Section of Spkt of Ternate Police), Mr. Subhan Abas (Head of Religious Affairs Office of Central Ternate) and in 20 different bridal families -different and the results of the interview from the Ternate Police Department itself have not looked into the matter much because there has been no reporting to them and although they also have a cyber crime team that takes care of the problem, in the latest records at the Ternate Police there is no reporting at all. related to corruption and gratification issues in recent years. And the results of the interview at the head of the Central Ternate Kua also said that it was a secret position and it can be realized that indeed the practice of gratification still exists within the KUA and can be said to be very influential on the results of cases that researchers get in the field with different budgets when received by the the chief, anticipating on various aspects, for example. first, the practice of gratification by the the chief for receiving and paying additional fees provided by the bride and groom. Second, marriage registration by the the chief also affects the number of underhand marriages (marriage siri) in order to receive additional money outside the working hours of the the chief as a marriage registrar at KUA.

A small note related to the evaluation carried out by the KPK to the North Maluku Provincial government on Thursday, April 8, 2021, which was covered by the Malut post, which concluded that the discussion on preventing corruption eradication in North Maluku was still minimal after monitoring of several programs that were carried out and then an evaluation was carried out.

Therefore, based on the above background, the researcher is interested in taking the title of the study "Fees on the Implementation of the Marriage Contract by the The chief (Study of Gratification in Law Number 20 of 2001 concerning Eradication of Criminal Acts of Corruption)

⁵ Pemerintah Republik Indonesia, *Peraturan Pemerintah Nomor 48 Tahun 2014, Tentang Tarif Atas Jenis Penerimaan Negara Bukan Pajak Yang Berlaku Pada Departemen Agama* (Indonesia: Lembaran Negara Republik Indonesia, 2014). Article 6. P 3

RESEARCH METHODS

Research Type

Research according to Prof. Dr. H. Zainuddin Ali, M.A is a desire which is basically a search effort to obtain data or information that is very useful to know something. Solve problems or develop knowledge. This activity will be carried out by researchers to obtain data or information from the Head of the Ternate City KUA regarding KUA's efforts to prevent Gratification after the application of PP No. 48 of 2014 has been changed in government regulation number 19 of 2015 which was later changed to government regulation number 59 of 2014. 2018 concerning types and rates of non-tax state revenues applicable to the ministry of religion. To solve problems or develop knowledge. To obtain information in accordance with what is formulated in the PP for use as research purposes, a research method is needed⁶.

The type of research used in this study is Empirical. Empirical legal research or legal sociology is research that starts from primary or basic data, meaning data obtained directly from the community as the first source obtained through observations and interviews, so this research is called field research⁷.

Research Sites

In preparing this research, the researcher chose the Ternate City Religious Affairs Office as the location. The city of Ternate has 4 Offices of Religious Affairs, but researchers limit the Office of Religious Affairs of the City of Ternate, which are taken to only 3 offices, because the 3 KUAs are located around the domicile of researchers that can be reached.

DISCUSSION

Overview Of Marriage Law

Explanation of Marriage Law It has been explained in detail in Law Number 1 of 1974 concerning Marriage, namely in article 1 explaining that marriage is an inner and outer bond between a man and a woman as husband and wife with the aim of forming a happy and eternal family or household. based on God Almighty. In this provision, the explanation regarding marriage has been completed, but there are several articles which were later changed to Law Number 16 of 2019 concerning marriage, but only a few articles were changed to complete the shortcomings of the existing provisions.

However, it does not necessarily carry out a marriage just like that, as for the conditions that must be met in order to carry out a marriage, namely:

- 1) Marriage is based on the approval of the two prospective brides.
- 2) To carry out a marriage, a person who has not reached the age of 21 (twenty one) years must obtain permission from both parents.
- 3) In the event that one of both parents dies or is unable to express their will, then the permission referred to in paragraph (2) of this article is sufficient to obtain from parents who are still alive or from parents who are able to express their will..

Overview of the Office of Religious Affairs

Office Scope of Affairs

Religion (KUA) is the spearhead of the ministry of religion in the region to carry out general duties in the field of religion (Islam) in the sub -district led by a KUA head who has the task of leading, coordinating, implementing, and reporting on the implementation of duties and functions of KUA to the head of the office of the ministry of religion of the district/city who has

⁶ Ali Zainuddin, *Metode Penelitian Hukum* (Jakarta: Sinar Grafika, 2019). P 1

⁷ Peter Mahmud Marzuki, *Penelitian Hukum*, revisi (Jakarta: Kencana Prenada Media Group, 2005).

been carrying out its duties and functions. Because as a technical implementing unit in the ministry of religion trained by the head of the district/city ministry of religion, it is given the duties, functions, authority of the Religious Affairs Office in each District to provide services and guidance to the Muslim community in its work area.

a. Functions of the Office of Religious Affairs

Carrying out its duties, there is also the function of the religious affairs office in each sub -district which has been described in article 3 of Regulation of the Minister of Religion Number 34 of 2016, namely:

1. Perform services, supervision, recording, and reporting of marriages and referrals
2. Compile service statistics and guidance Islamic society
3. Manage the documentation and management information system of KUA Kecamatan
4. Provide loving family guidance services
5. Provide mosque guidance services
6. Provide rukyat calculation guidance and coaching services sharia
7. Provide guidance and information on the religion of Islam
8. Provide zakat and waqf guidance services, and
9. Implementation of administration and household KUA District.

Rules regarding the Duties and Functions of the Office of Religious Affairs in providing guidance to the Islamic community in their work environment, provide positive direction to the community, one of which is reporting on marriage registration and reconciliation in their work environment as the legality of marriage as indicated by the existence of a Marriage Certificate. The need for a marriage certificate, among others, can be used to take care of a child's birth certificate, needs related to marital status, and so on. Marriage registration is in principle a basic right in a family. Because without a marriage certificate, the rights of a wife or child in obtaining their rights in the family can be doubted.

Provisions for the implementation of the marriage contract to be carried out at the sub-district religious affairs office (KUA) are coordinated in advance by the section head or organizer in charge of religious affairs (Islamic religion) at the district/city ministry of religion office.

b. Legal Basis of Registration Marriage and Marriage Fees

Article 2 paragraph 1 explains about the legitimacy of marriage based on the religious parameters of the two prospective brides: "*Marriage is valid if it is carried out according to the laws of each religion and belief*". The statement of this article implicitly emphasizes that interfaith marriage is not allowed. Thus, in the context of Islamic law, the validity of marriage is determined by the fulfillment of the pillars and conditions of marriage. So the existence of the pillars and conditions of marriage can be said to be Primary Conditions. Because without both the marriage is considered never existed, aka null and void by law. However, simply basing it on religious provisions is not enough because it means that the marriage does not yet have the power of juridical proof, therefore it is necessary to register the marriage in front of the head of the KUA or KCS. Meanwhile, the implementation of marriage registration requires administrative services, where because of these services, the interested community must pay administrative fees as determined.

It is important to note that in recording the marriage contract, the cost of the marriage contract is included in Non-Tax State Revenue which is all Central Government Revenue that does not come from tax revenues. So the Non-Tax State Revenue that applies to the Ministry of Religion includes:

1. Revenue from the provision of educational services
2. Acceptance from the Religious Courts
3. Acceptance of Marriage Registration and Referral

In 2014 the Government issued a new regulation on PNBP that applies to the Ministry of Religion, namely Government Regulation 48 of 2014. Where Government Regulation (PP) Number 48 of 2014 is a change from Government Regulation Number 47 of 2004 the sound of Government Regulation 48 is as follows⁸:

1. Provisions regarding the cost of marriage are as follows:

Article 6

- (1) Every citizen who performs marriage or reconciliation at the Sub-District Religious Affairs Office or outside the District Religious Affairs Office is not subject to a marriage registration or reconciliation fee.
- (2) In the event that marriage or reconciliation is carried out outside the Sub-District Religious Affairs Office, transportation and professional services fees are charged as receipts from the Sub-District Religious Affairs Office.
- (3) Citizens who are economically incapable and/or disaster victims who marry or reconcile outside the District Religious Affairs Office as referred to in paragraph (2) may be subject to a tariff of Rp. 0.00 (zero rupiah).
- (4) Further provisions regarding the terms and procedures for a tariff of Rp. 0.00 (zero rupiah) to be imposed on citizens who are economically incapable and/or disaster victims who marry or reconcile outside the office.

Sub-district Religious Affairs as referred to in paragraph (3) shall be regulated by a Regulation of the Minister of Religion in coordination with the Minister of Finance.

2. The provisions in attachment number II regarding receipts from the sub-district religious affairs office are amended so that they read as follows:

| | | |
|---|--------------------------------|------------|
| I. Jenis Penerimaan negara Bukan Pajak | Satuan | Tarif (Rp) |
| II. Penerimaan Dari kantor Urusan Agama Kecamatan | Per peristiwa Nikah atau rujuk | 600.000,00 |

Overview of Corruption Crimes

a. Definition of Corruption

The term corruption comes from one word in Latin, namely *corruptio* stau *corruptus* which is copied into various languages. For example, it is copied in English to become *corruption* or *corrupt* in French to become *corruption* and in Dutch it is copied to the term *corruptie* (*korruptie*). It seems that from the Dutch language the word *corruption* was born in Indonesian⁹.

As a bad understanding, rotten, corrupt, moral depravity, deviant behavior, bribery. In a social sense, it seems that people do associate corruption with embezzlement of money (owned

⁸ Pemerintah Republik Indonesia, *Peraturan Pemerintah Nomor 48 Tahun 2014, Tentang Tarif Atas Jenis Penerimaan Negara Bukan Pajak Yang Berlaku Pada Departemen Agama*.

⁹ Adam Chazawi, *Hukum Pidana Korupsi Di Indonesia* (Jakarta: Raja Grafindo Persada, 2016). P 1

by the state or office) and accepting bribes in relation to their position or work, although from a legal point of view they are not exactly the same¹⁰. Considering from a legal point of view, there are many conditions/elements that must be met for a behavior to qualify as one of the criminal acts of corruption as formulated in the law¹¹.

Literally it can be concluded that the term corruption actually has a very broad meaning, namely:

3. Corruption, misappropriation or embezzlement (state or company money and so on) for personal and other people's interests.
4. Corruption: rotten; damaged; likes to use goods or money entrusted to him; can be bribed (through his power for personal gain). Meanwhile, according to subketi and tjitrosoedibio in the legal dictionary, what is meant by corruption is corruption; fraudulent acts; criminal acts that are detrimental to state finances.

The legal basis for eradicating corruption is Law Number 31 of 1999, but that has been amended considering that there are still many articles that have weaknesses so that it is changed in Law Number 20 of 2001 concerning Eradication of Criminal Acts of Corruption. The problem of corruption has been found. As a result, many have been subject to criminal sanctions for the corruption they have committed to account for.

b. Types of characteristics of corruption

Eradicating corruption cases. The characteristics of corruption that can be qualified are included in corruption, the explanation is as follows¹²:

1. Corruption always involves more than one person. This is not the same as a case of theft or fraud. A corrupt operator doesn't really exist and the case usually falls under the definition of embezzlement (fraud).
2. Corruption is carried out in secret, unless the corruption has become so rampant that powerful individuals and those within their environment are not tempted to hide their actions. However, even so, the motive for corruption is maintained secrecy
3. Corruption involves an element of mutual obligation and benefit. Obligations and benefits are not always in the form of money
4. Those who practice corrupt methods usually try to cover up their actions and hide behind them legal justification
5. Those involved in corruption want firm decisions and are able to influence those decisions
6. Every form of corruption is a betrayal of trust.

c. The formulation of the elements of the criminal act of corruption

Article 2 paragraph 1 of the Anti-Corruption Law, "everyone who unlawfully commits an act of enriching himself or another person or a corporation that can harm state finances or the state economy is punished with imprisonment for a minimum of four years and a maximum of 20 years and a maximum fine of 20 years. a little RP. 200,000,000.00 (Two hundred million rupiah) and a maximum of Rp. 1,000,000.00 (one billion rupiah)".

The elements in this crime, namely:

1. Against the law;
2. Enrich yourself or another person or a corporation;
3. which can harm state finances or the state economy.

¹⁰ Kansil Dkk, *Tindak Pidana Dalam Undang-Undang Nasional* (Jakarta: Permata Aksara, 2009).

¹¹ Evi Hartanti, *Tindak Pidana Korupsi* (Jakarta: Sinar Grafika, 2016).

¹² Chazawi. Ibid. P 10

General Overview of Gratification

a. Definition of Gratification

In accordance with the Law on the Eradication of Corruption Crimes, Law Number 31 of 1999 which has later been changed to Law Number 20 of 2001, which is specifically in the provisions of Articles 12B and 12C which explains about Gratification, namely "*gifts in a broad sense which include giving money, goods, rebates (discounts), commissions, interest-free loans, travel tickets, lodging facilities, tourist trips, free medical treatment, and other facilities. The gratifications are received both domestically and abroad and which are carried out using various facilities electronic or without electronic means*"^{13 14}.

Gratification is one of the new types of corruption regulated in Articles 12B and 12C of the Anti-Corruption Law since 2001. However, if the recipient of the gratification reports to the KPK no later than 30 working days, the Pn/PN is exempted from the threat of criminal gratification. Exception: In the provisions for eradicating criminal acts of corruption, Article 12 C paragraph (1), the provisions referred to in Article 12B paragraph (1) do not apply to criminal sanctions, if the recipient reports the gratuity he has received to the commission for the eradication of corruption.

b. Gratification Article Formulation

The provisions governing gratification will explain many of the levels of Pn/PN in anticipating the occurrence of gratification, the criminal sanctions when the suspect is found to have received gratification fees. The following is an article that regulates gratification, that is:

Article 12

- (1) Fined with life imprisonment or imprisonment for a minimum of 4 years and a maximum of 20 years and a minimum fine of Rp. 200 million and a maximum of Rp. 1 billion:
- (2) A civil servant or state administrator who accepts a gift or promise, even though it is known or reasonably suspected that the gift or promise was given to motivate them to do or not do something in their position, which is contrary to their obligations.
- (3) Civil servants or state administrators who with the intention of unlawfully benefiting themselves or others, or by abusing their power, force someone to give something, pay or receive a discount, or to do something for himself;

Article 12B

- (1) Every gratuity to a Pn/PN is considered a bribe, if it is related to his/her position and which is contrary to his/her obligations or duties, with the following provisions:
 - a. whose value is RpM10,000,000.00 (ten million rupiah) or more, proof that the gratification is not a bribe is made by the recipient of the gratification;
 - b. whose value is less than RpM10,000,000.00 (ten million rupiah), proving that the gratification was bribed by the public prosecutor.
- (2) The punishment for Pn/PN as referred to in paragraph (1) is life imprisonment or a minimum imprisonment of 4 (four) years and a maximum of 20 (twenty) years, and a minimum fine of Rp. 200,000,000.00 (two hundred million rupiah) and a maximum of Rp. 1,000,000,000.00 (one billion rupiah).

¹³ Chazawi Adami, *Lampiran Hukum Pidana Materil & Formil Di Indonesia* (Bayumedia). P 11

¹⁴ Pemerintah Republik Indonesia, *UU No. 20/2001 Tentang Perubahan Atas UU No.31/1999 Tentang Pemberantasan Tindak Pidana Korupsi* (Indonesia: Lembaran Negara Republik Indonesia, 2001).

Article 12C

- (1) The provisions as referred to in Article 12B paragraph (1) shall not apply, if the recipient reports the gratification he has received to the Corruption Eradication Commission.
 - (2) The report as referred to in paragraph (1) must be submitted by the recipient of the gratification no later than 30 (thirty) working days from the date the gratification is received.
- c. Guidelines for Gratification by the Corruption Eradication Commission (KPK)

Article 16 of Law Number 30 of 2002 concerning the Corruption Eradication Commission (KPK) also stipulates that every Pn/PN who receives gratuities must report to the KPK no later than 30 working days from the date of receipt. Furthermore, the KPK issued KPK regulations (Perkom) Number: 02 of 2014 and Perkom Number: 06 of 2015 concerning guidelines for reporting and determining the status of gratuities. To explain further, The KPK also issues guidelines for controlling gratification as mandated by Article 16 of the Perkome.

The provisions of the Perkom (commission regulation) have been explained regarding the systematic reporting, securing the gratuity fees obtained from the results of the report, but it is further emphasized that Pn/PN who are given Gratification are apparently more prohibited. Various actions taken in carrying out their duties must be maximally responsible for the authority of the tasks given in carrying them out, the action that must be taken by the Pn/PN is to refuse the grant. If there are certain conditions that the Pn/PN cannot refuse, for example, gratification is conveyed through the intermediary of the wife/husband/child, the identity of the giver actually maintains a good relationship with the Pn/PN, so he/she may accept it. 30 working days from the date of receipt, if it is not reported, it is referred to as gratuity received by the Pn/PN, So To Anticipate the existence of criminal sanctions against the Pn/PN, the person concerned must reject the gratification in order to build anti-corruption habits and culture.

Charges on the Implementation of Marriage Contracts by the The chief (Gratification Study in Law Number 20 of 2001 concerning Eradication of Corruption).

In Government Regulation No. 48 of 2014 which has been amended in Government Regulation Number 19 of 2015 which was later changed back to Government Regulation Number 59 of 2018 concerning Types and Tariffs for Non-Tax State Revenues applicable to the Ministry of Religion, there are several obligations that must be fulfilled in carrying out the marriage contract. one of which is the fee rate that must be completed when registering a marriage at the Office of Religious Affairs (KUA). And the stipulation is that if it is carried out during working hours and in the Office of Religious Affairs (KUA), the bride and groom are not charged for carrying out the marriage contract or at a cost of Rp. 0.00 (zero rupiah) and if it is carried out during working hours but the place of the marriage ceremony is outside the religious affairs office, the fee is Rp. 600,000 (six hundred thousand rupiah) is valid until now.

In the city of Ternate itself, with the habit of the dominant community wanting to carry out their marriage contract outside the religious affairs office, sometimes they provide additional fees to the marriage registration employee, in this case the the chief, so that problems are found from this practice because it is related to professional ethics or civil servants in carrying out their duties or authorities. which should not be accepted by the the chief, and even if it is accepted, it must be submitted to the corruption eradication commission (KPK) within 30 working days.

According to Mr. Subhan Abas as the Head of the Office of Religious Affairs in the District of Central Ternate City, said that, related to the cost of marriages carried out at the religious affairs office and working hours of Rp. 0.00 (zero rupiah) can no longer be debated, then for working hours but carried out outside the religious affairs office for Rp. The 600,000

is transferred to any bank in all government banks that have collaborated and then entered into the Central Ministry of Religion Bank Account, 80% of which is returned to the religious affairs office that carries out the marriage contract in this case to the the chief and the remaining 20% to the Ministry of Religion individually. stages. And when it comes to the practice of gratification that occurs in the field when the the chief carries out his duties, it still occurs within the scope of the Office of Religious Affairs (KUA), especially those who carry out the marriage contract outside the KUA, but it is a secret of the position because the the chief who received it never reported how much the additional costs were. What has been given is about personal relationships with the bride and groom, the bride's family, which is related to the issue of giving and receiving when talking about the practice of gratification

Whereas the head of the religious affairs office should have emphasized more regarding the prohibition of receiving additional fees in the marriage contract procession by evaluating the the chief who carry out their duties so that the practice of gratification within the KUA is known by giving a warning to the the chief on duty. It is not necessary to wait until a gartification problem is reported to the Cyber Extortion team which is on the side of the police or from the Ministry of Religion regarding the matter.

One example is when I distributed questionnaires while interviewing the bride and groom, Br. Amelia Putri With Br. Nendy Siregar Yang has married in 2019 at the Duafa Center by making a payment of 5,500,000 (Outside the Office of Religious Affairs). As for the other brides, namely Br. Sahrul Buamona with Br. Dessy Aldjokja has additional expenses for a different marriage from the previous bride, amounting to 3,000,000 (three million rupiah) even though the place for the ceremony is the same, namely outside the Office of Religious Affairs, precisely at the Al-Munnawar Grand Mosque in Ternate.

According to Mr. Rusdy as the Head of the Office of Religious Affairs, Kota Ternate Selatan District, said that the efforts made by KUA regarding the cost of marriage and unregistered marriages had been confirmed by the ministry of religion so that all of them were obedient, obedient, and firm in following the latest rules related to these provisions through socialization/affirmation dialogue between the ministry of religion and all heads of religious affairs offices in each sub-district within the district/city by signing the fact of integrity and that has been appealed to the public.

Meanwhile, the data obtained from the community has never been disseminated related to the marriage budget determined by the ministry of religion itself and only attaches information on the cost of marriage at their respective religious affairs offices, so that the impact of additional costs is given as a thank you to them for assuming there is no charges are passed on to them again after they are on duty. this is a sign that the efforts made by the office of religious affairs in eradicating and preventing the practice of gartification and the potential for unregistered marriages by not evaluating the impact of giving and receiving additional fees for the marriage contract which can automatically legalize the chief who are still active outside of working hours or on holidays suddenly marry off the bride and groom to get the additional costs so that the potential for unregistered marriages occurs because minimal effort has never been confirmed and socializes to the community through syara judges in the village / village and also between religious affairs offices through the ministry of religion with counseling about marriage costs and ethics The profession of the the chief who carries out the task of marrying people, especially in the city of Ternate, is still minimal.

Results of Interview with Mr. Irham S.

Ibrahim Head of the religious affairs office of North Ternate District said that in carrying out marriage registration related to the problem of marriage registration carried out by P3N this could be called a problem in marriage registration as well because for now the legality of P3N

is no longer enforced which was previously carried out by previous people who commonly referred to by the community as a syara judge / syara body. The syara judges / syara bodies used to help the the chief to register marriages but over time it was changed its name to P3N, including priests, community religious leaders, and community traditional leaders so that practice legalized the practice of gratification for the first time so the ministry of religion abolished these provisions in order not to happen again.

From the results of the interview by Mr. Subhan Abas, the Head of the Office of Religious Affairs in the District of Central Ternate City, said the previous regulation legalized the existence of P3N for activities which were directly appointed by the head of the ministry of religion through a recommendation from the office of religious affairs and for the current rules have been abolished, according to the provisions which applies especially in the City of Ternate, there is no longer P3N because it has typologies B and C, more specifically to D1 and D2 and that in the City of Ternate there is no longer P3N application, because P3N itself is more specialized if the service is a religious affairs office. i.e. marriages span across the sea or far from the implementation of the marriage contract so they must be picked up so as to facilitate the marriage service and it has been SK.

Special Office of Religious Affairs

In the results of interviews, the North Ternate City District no longer legalizes P3N in the field, although they are also aware that there are still many P3N professions that are still active without having a SK to serve. Specifically, the religious affairs office in Central Ternate District does not exist except for the number of the chief teams including the head of the religious affairs office who doubles as the the chief as well as 5 people when in 1 week there are many marriages or events that exceed the officers at the religious affairs office in Central Ternate District. and every the chief, including the head of the religious affairs office, has been according to a set schedule so that it requires additional personnel due to a shortage of the chief or people on duty in the field for the incident so that they use ASN officials who have been registered with the Ministry of Religion or people who have been entrusted to carry out these tasks to carry out these tasks. become P3N. Especially for the Office of Religious Affairs in the District

Interview with Head of Office of Religious Affairs, Central Ternate City District, Subhan Abbas) in 22-April-2021

South Ternate actually in the application of P3N is no longer valid, but there are still many people and the P3N that was applied in the past are still active until now, so there are also gratification practices carried out by both of them.

Then from that habit, it is also legal for the the chief who are active in carrying out marriage records up to holidays according to the request of the bride and groom for an additional fee that is not known how much is given by catin and it is still accepted with the reason that the community in this case catin gives alms with sincerity to us (the chief) who work from Monday to Friday during working hours and are free to choose what day the marriage contract will be held until a holiday. It is very dangerous if the marriage registration employee does not have an awareness of the profession in carrying out work duties as determined by existing regulations. Marriage registration data in each region by the the chief to the bride and groom from 2018-2021 (as of March) it is uncertain how many people carry out the marriage contract, the data is as follows:

Tabel 1.1 Number of Marriage Registration By the The chief to the Bride and Groom

| Year | Number of Marriage Records | | | |
|----------------|----------------------------|----------------------------|---------------------------|---------|
| | North Office of Religious | Centre Office of Religious | South Office of Religious | Total |
| 2018 | 318 | 253 | 743 | 1.314 |
| 2019 | 262 | 198 | 733 | 1.193 |
| 2020 | 284 | 176 | 660 | 1.120 |
| 2021 (/may) | 118 | 56 | 227 | 401 |
| Amount | | | | 404,627 |

M,xSource: Office of Religious Affairs

In the table above, it can be seen that the marriage registration carried out by the the chief to a prospective bride and groom is uncertain every year because it depends on the catin's will in the 2018-2021 period (as of May). In 2018 the total implementation of marriage registration reached 318, in 2019 the total implementation of marriage registration reached 262, in 2020 the total implementation of marriage registration only reached 1,120 because it is still in a pandemic situation and has not been allowed to carry out activities that are gathered or crowded, in 2021 (as per -May) the total implementation of marriage registration has only reached 401, Starting from 2018 until now there has been no firmness regarding the reporting of additional costs for not being given or accepted by the the chief to register marriages even though it is calculated from 2018-now there have been 404,

627 marriage contract registrations and indeed Until now, there has also been no report to the cyber extortion team of the ministry of religion or the corruption eradication commission (KPK) to secure the proceeds of gratification even though the regulations regarding marriage registration and marriage fees do not legalize additional fees, but this practice is still ongoing. still doing.

Based on the researcher's observations, seen from the results of the table above, it becomes a problem if the practice of gratification continues to be carried out in recording marriages plus the indecisiveness of the head of the ministry of religion and the head of the office of religious affairs in dealing with the problem. From the results of interviews, each of the the chief in the religious affairs office in each sub-district said the same thing, namely the most important thing was the sincerity of the people who were willing to give additional fees as much as how much it was up to them, whether we like it or not, we as the chief have to accept it. The results of interviews with several people who at that time carried out their marriage contracts outside the religious affairs office, such as Shahira Maulida, who was the catin at that time, said that it was true that they had given money to the the chief after the marriage contract was completed as much as 1,000,000 (one million rupiah) with the reason for the money for the initial the chief. At first the the chief refused, but when forced, the the chief immediately accepted the money, where the marriage contract was carried out at home with a marriage registration management fee of Rp. 1,600,000 (one million six hundred thousand rupiah), there is also a losari diamond who also gives the the chief to take care of and complete the registration of his marriage by paying Rp. 4,000,000 (four million rupiah) directly to the head of the village, Fauzi Lapuha by giving Rp. 2,500,000 to the the chief on the grounds that the road fees must be

replaced with money that has been issued by the the chief when traveling to their marriage contract.

As much as the author knows, the money should have been reported to the Corruption Eradication Commission (KPK), moreover the KPK has issued regulations through (Perkom) Number: 02 of 2014 and Perkom Number: 06 of 2015 concerning guidelines for reporting and determining the status of gratuities, but it still doesn't matter. because of the lack of action by the head of the office and employees in carrying out marriage registration.

However, from the data that has been written above, there are several factors that support the practice of gratification and become an important point in realizing the elements of gratification in practice in the field. One of them regarding the results of the claim of the goods referred to in the gratification section is the value of the goods given or taken or received by the the chief. The embodiment of the goods taken is also bound by the initial agreement that must be made by catin to give something and this is part of the current habit of determining the goods in the process where the marriage contract has not yet taken place.

According to the author's opinion, based on the results that have been stated above that it is not implemented correctly in Article 6 of the provisions regarding marriage fees in government regulation no. 48 of 2014 because there are still additional costs that are received outside of the marriage registration fee and it is a gratuity that is carried out but has never been assertive in the profession. religion. Should not only make continuous appeals about gratification within the scope of marriage registration, but actions from the competent authorities in terms of the ministry of religion or the head of the religious affairs office that are needed if caught in the field still receive gratifications and keep and never report when registering the marriage. And also the marriage registration employees, in this case the the chief or employees at the religious affairs office, have not properly understood the concept of gratification referred to by the existing regulations.

Therefore, it can be concluded that the obligation to pay the marriage fee in accordance with the existing regulations has indeed been implemented in the City of Ternate with the marriage fee charged to the catin in accordance with the applicable regulations, namely Rp. 0.00 rupiah for a marriage contract held at the KUA. Conversely, if the marriage contract is outside the KUA, the marriage fee will be Rp. 600,000 and it has been implemented but it is still not fully running optimally or not as expected because there are still other additional costs that are inserted by catin to be given and are still being accepted by the the chief and that is included in the gratification process which is still legalized until now. this.

How is the Legal Accountability for the Behavior of the The chief Who Receives Gratification Outside the Working Hours of the Office of Religious Affairs (KUA).

At the time of the application of Government Regulation Number 48 of 2014 whose provisions were still the reference point regarding the rate of marriage fees for prospective brides who wished to carry out a wedding, the provisions of the fee were Rp. 0.00 (zero rupiah) to be carried out at the KUA and during working hours and if it is carried out during working hours but the place of the marriage ceremony is outside the religious affairs office, the fee is Rp. 600,000 (six hundred thousand rupiah), the behavior of the the chief on duty outside of Kua is not problematic if the catin has carried out the wedding fees first for those who carry out the marriage contract outside of Kua in the amount of Rp. 600,000 to be transferred to the bank and then the catin shows the results of the transfer to the bank to the party employees then the Kua and catin determine when the marriage will be, if it is outside the working hours of the the chief then it will not be a problem because they have completed the costs and administration of the wedding first, and vice versa sometimes there are prospective brides (catin) who suddenly call the chief who still want to do activities with In return, the marriage fee will be given directly to

the head of the marriage ceremony, so this is one of the practices of gratification and also legalizes unregistered marriage in the area, this practice is then still found and often found in the field and it still happens today.

As for the problem of gratification within the scope of the ministry of religion at each office of religious affairs, the issue of gratification itself is actually given legal responsibility to each civil servant or ASN who accepts it, but there is a legal route in carrying out legal accountability to an ASN/civil servant. who are caught practicing gratification, and the route must be carried out by the Ministry of Religion on behalf of the accountability to each religious affairs office through a recommendation or report from the head of the religious affairs office. And if a civil servant/ASN is found at the KUA who receives the results of the gratuity, on the recommendation of the head of the local religious affairs office, the civil servant/ASN who receives it will receive a sanction from the head of the religious affairs office and report to the ministry of religion, otherwise if this is done by the head of the religious affairs office, on the recommendation/reporting from the local religious affairs office to the ministry of religion, the head of the religious affairs office will be sanctioned by the ministry of religion.

Marriage registration fees / other additional costs in carrying out their professional duties as a the chief which as described above does not have to accept these costs, the authors found several obstacles. From the results of research through interviews and observations there are several factors that cause there are still many people and marriage registrar employees in terms of This is a the chief who still does not obey these regulations, these factors are::

Factors of Community Ignorance and Misunderstanding of the The chief About the Gratification Concept.

There are several communities/catin who commit violations because they provide additional costs to the the chief on the grounds that they do not know the concept of gratification. The majority do not know, from the results of the author's research in the field by interviewing 15 people of them, 5 people in each sub-district of the northern, central, and southern city of Ternate which is the location of the author's research.

The data taken with the excuse of not knowing turned out to be one of the polemics of the community when they gave additional fees. The results of interviews with people who are in the district of North Ternate, one of them in Mrs. Gaya Humazah, said that apparently they also just found out about it, it's just that there are still habits of people who still want to give, plus there are still many people who lack education so they are still fooled by people who are smarter than them, so that they are told to give, they still give, especially in the registration of marriage, the bride and groom are already pregnant outside of marriage or are getting married quickly, so the additional costs will be given to the head of the village as a thank you for their help. the ruler's own request.

The ministry of religion through the KUA in this case should be more familiar with the situation of the community by way of socializing about the cost of marriage or the prohibition of additional fees for the the chief on duty, not only notified through a board in their own KUA office, because later the community will not have access to know unless you come directly to the KUA, limited information by not being disseminated, at least giving a notification to be informed to the village to get access to these provisions for dissemination to the surrounding community.

The following is data regarding the amount of ignorance of the community and the the chief about the concept of gratification:

Tabel 1.2

Questionnaire Data Processing Based on Sample of Public Ignorance About the Gratification Concept

| Answer | Frekuensi percentage |
|------------|----------------------|
| Lost | 0% |
| On Purpose | 40% |
| Sincere | 60% |
| Amount | 100% |

Source: processed data

The table above shows that from 100% of respondents there are 20% of respondents who know and 80% of respondents who do not know about the concept of gratification, especially since it has been included in the law on eradicating corruption. From these data, it can be concluded that there are still many people who do not know about this rule, so there is still potential for gratification practices that are still being carried out by the the chief in taking this opportunity.

The indiscipline factor of the the Chiefis also, according to the author, this factor is also a very difficult factor to overcome because a person's discipline depends on the person himself that he lives above a state of law which is entirely regulated especially the profession he runs so he has important responsibilities when carrying out tasks by therefore he should be aware of and obey the rules so that no violations occur.

There are also sanctions given to civil servants/ASN who are caught practicing gratification by using 3 legal instruments including administrative, civil, or criminal. Administration is dismissed from civil servants/ASN from the local religious affairs office, civil by compensating for a minimum loss of Rp. 200,000,000 (two hundred million) a maximum of Rp. 1,000,000,000.00 (one billion), imprisonment for life or a minimum of 4 years, a maximum of 20 years.

Non-compliance with applicable regulations, a the Chiefin this case as an ASN or civil servant who is gathered in the Ministry of Religion assigned to the office of religious affairs can actually be subject to sanctions if in practice he does not comply with existing regulations in terms of carrying out his obligations and authorities, one of which is to register marriages. those who still receive additional fees and it is included in the gratuity whose potential if allowed to practice in the field continuously it will become a habit and it must be accounted for if it is related to their profession.

The violation has been regulated in Law Number 20 of 2001 concerning the Eradication of Criminal Acts of Corruption, especially in articles 12, 12B, 12C which explain the criminal provisions if it is found that there is Gratification practice related to the profession being carried out or related to civil servants, the criminal sanctions are: life imprisonment or imprisonment for a minimum of 4 (four) years and a maximum of 20 (twenty) years, and a minimum fine of Rp. 200,000,000.00 (two hundred million rupiah) and a maximum of Rp. 1,000,000,000.00 (one billion rupiah). As for additional sanctions to be given to the gratification headmaster, according to the results of an interview with the Head of KUA, Central Ternate City Sub-district, Mr. Subhan Abas, that the the Chiefwho is found to be in trouble or receives gratuity money in additional costs for marriage registration will be dismissed from the employee of the religious affairs office through the head of the policy head. If the office of religious affairs is carried out by the head of the office of religious affairs, the recommendation from the office of religious

affairs is to the ministry of religion to be dismissed or dismissed from office as of the date of receipt. It has also been explained in the chapter on gratifications carried out by civil servants in Law Number 20 of 2001 concerning the Eradication of Criminal Acts of Corruption, especially in articles 12, 12B, 12C which explain the criminal provisions if it is found that there are Gratification practices related to the profession being carried out or carried out. related to a civil servant, the criminal sanction is life imprisonment or a minimum imprisonment of 4 (four) years and a maximum of 20 (twenty) years, and a minimum fine of Rp. 200,000,000.00 (two hundred million rupiah) and a maximum of Rp. 1,000,000,000.00 (one billion rupiah).

The basis of the reason that gratification is included in the scope of the office of religious affairs at the ministry of religion is due to the authority, responsibility, which must be completed in carrying out its duties and functions in serving the community, plus the profession within the KUA environment that has ASN or civil servant standards. Articles of gratification in Law Number 20 of 2001 concerning the eradication of criminal acts of corruption can be imposed on KUA employees who have been proven to have practiced such gratifications.

Based on interviews with all heads of the religious affairs office and every the Chief who is in the religious affairs office in Ternate City, especially at the research location, the researcher said, the practice of receiving additional fees is still there, but who wants to report especially for reasons of sincerity in providing these additional fees . This is due to a lack of awareness and obedience the legal observance of the the Chief in the office of religious affairs against the procedures or the application of rules that have been in effect which are still deviating from the duties and authorities in carrying out the duties of the chief.

CONCLUSION

Based on the results of the discussion, it can be concluded that in the legal framework Indonesia has provided guarantees for human rights (both women and men) as stated in the second amendment of the 1945 Constitution of Article 28 A-J and Law No. 39 of 1999 on Human Rights. UU no. 7 of 1984 concerning the Elimination of Discrimination Against Women or the Ratification of the Women's Convention, which states that the state will make maximum efforts to eliminate all forms of discrimination against women, including violence against women, in particular sexual violence is regulated in the Child Protection Law and the Criminal Code, while other forms of protection for victims of sexual crimes (rape) it is regulated in Article 14a and b, 14c paragraph (1), of the Criminal Code which states that judges can impose a crime by stipulating special conditions for the convict with the intention of compensating for the loss caused to the victim. The Criminal Procedure Code (KUHAP) Chapter III Concerning the Merger of Compensation Cases, Article 98s/d101, in which the victim can file a lawsuit regarding the crime he has experienced as well as the loss he has suffered. However, the implementation is experiencing obstacles because it is influenced by several factors, including:

- a. The provisions governing the protection of women are implicit, not direct and not explicit.
- b. These provisions are the result of transplanting other countries that have ideological values that are different from Indonesian culture.
- c. A very positivistic law enforcer who does not have the courage and ability to get out of rigid and rigid legal rules.
- d. A patriarchal dimension of culture

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