

Marriage Services During the Covid-19 Pandemic; Friedman's Legal System Study Against the Mandatory Rule for Antigen Swab Test

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Abstract:

Antigen swab test is new to the people of Tempursari District during the COVID-19 pandemic. Circular of the Director-General of Islamic Community Guidance No: P-001/DJ.III/Hk.007/07/2021 is the basis for the mandatory antigen swab regulation for the two prospective brides, a guardian, and two witnesses, which is carried out 1x24 hours before the marriage contract. The Puskesmas is the only place that can be used for an antigen swab test in Tempursari District, while to get the test in another place, you have to travel quite a long time and distance, considering that Tempursari is located at the end of Lumajang Regency. The purpose of this study was to determine the implementation of the mandatory antigen swab regulation at KUA Tempursari, as well as a review of Lawrence M. Friedman's legal system theory on the implementation of the regulation. This field research uses a qualitative descriptive method. Data mining is done by document study, observation, and in-depth interviews. This study resulted in several conclusions: (1) the mandatory rules for antigen swab can be implemented properly by KUA Tempursari employees, as evidenced by the existence of socialization and coordination with various parties, such as P3N and Puskesmas employees, (2) based on Friedman's legal system theory, the implementation of mandatory rules The antigen swab at the KUA Tempursari has covered three aspects, namely the legal structure, legal substance, and legal culture, it can be judged to have been effectively implemented at the KUA Tempursari.

Keywords:

Marriage Services, Antigen Swab Tests, KUA, Law



Introduction

Starting from the end of 2019 until now, the world is being hit by the Corona Virus Disease 2019 (COVID-19) pandemic which has an impact on all aspects and lines of life. Millions of lives have been lost in various parts of the world, including Indonesia. Based on this, the Government is paying great attention to resolving the onslaught of the COVID-19. Various efforts have been made by the government to overcome this problem. One of them is by issuing a policy for the Enforcement of Community Activity Restrictions (PPKM) to break the chain of transmission of the virus. The COVID-19 pandemic has succeeded in changing the existing order, including the practice of marriage. In the field of marriage, the problems that occur in society are increasingly complex. One of the problems that developed during this pandemic is in terms of the implementation of the marriage contract. Before the marriage contract is carried out, the bride and groom must be met the requirements and pillars of marriage, as well as complete the required documents for registration of the will of marriage. For every Indonesian Muslim's citizen, his marriage registration is carried out by the Marriage Registrar at the District Office of Religious Affairs (KUA). The employee is obliged to supervise, witness, and register the marriage.

In the Regulation of the Minister of Religion (PMA) Number 20 of 2019 concerning Marriage Registration, it has been explained in detail regarding the administrative requirements that must be completed by the two prospective brides. The COVID-19 pandemic, which is still engulfing Indonesia, has made the Government continue to monitor developments, including in terms of marriage services. For this reason, the Directorate General of Community Guidance (Directorate General of Community Guidance) of Islam issued Circular (SE) No: P-001/DJ.III/Hk.007/07/2021 concerning Technical Guidelines for Marriage Services at the District KUA for the Emergency PPKM Period. One of the additional rules contained in the SE mentioned above is that the two prospective brides, a guardian, and two witnesses are in good health as evidenced by a negative antigen swab result which is valid at least 1x24 hours before the implementation of the marriage contract. Based on this, the Head of the

Sub-district KUA began to apply the mandatory antigen swab rule for brides who have registered their marriages, including the KUA in Tempursari District, Lumajang Regency.

The antigen swab test is an immune test that functions to detect the presence of certain viruses, the results of which can later indicate the presence or absence of a viral infection in our body at this time, using a sampling technique in the form of oropharyngeal or nasopharyngeal swab samples. Antigen swabs are commonly used to diagnose respiratory pathogens, such as the influenza virus. This antigen swab test is also used as a screening test, with repeated testing can quickly detect people who are exposed to the COVID-19. Within 15-20 minutes the results of the antigen swab test can be seen, so that later preventive measures can be taken to prevent the spread of infection widely ¹. If the result is positive, the doctor still needs to do a Polymerase Chain Reaction (PCR) test to confirm the diagnosis. The PCR test aims to check the presence of the genetic material of the COVID-19 ².

Tempursari District is one of the sub-districts located at the end of Lumajang Regency, East Java Province. The distance from Tempursari District to the center of the Regency is 67 kilometers (km), which can be reached in approximately three hours. Pronojiwo sub-district is the closest sub-district to the Tempursari sub-district, 20 km away, and can be reached in about 50 minutes. Access to the nearest sub-district or the center of Lumajang Regency, which is so far and difficult, makes the people of Tempursari District prefer to carry out daily activities in their area. Tempursari sub-district has a Community Health Center (Puskesmas), which is the only place that can be used for antigen swab tests. The number of officers who can perform an antigen swab test at the Tempursari Health Center is also limited. In addition, the understanding of the Tempursari community regarding the antigen swab is still relatively common, because the antigen swab test was only known to them during this pandemic. With the limited facilities and

¹ Gomgom T P Siregar et al., "Penipuan Penggunaan Alat Antigen Bekas (Studi Kasus Bandara Kualanamu , Medan-Sumut)," *Rectum* 03, no. 02 (2021): 131.

² Kartika Komara et al., "Webinar Awam : Tata Laksana Pemeriksaan Covid-19 Dan Penanggulangan Demam Pada Anak Di Masa Pandemi Covid-19 Public Webinar : Covid-19 Testing Procedures and Overcoming Fever in Children During Covid-19 Pandemic," *Jurnal Panrita Abdi* 6, no. 1 (2022): 123-33.

infrastructure, as well as the lack of public understanding, the Head of KUA Tempursari is still required to pay full attention so that the implementation of the SE Director General of Islamic Guidance regarding the mandatory antigen swab regulation can run optimally.

To measure the extent to which the SE Director General of Islamic Community Guidance regarding the mandatory regulation of antigen swab for the bride and groom, a guardian, and two witnesses has been successfully implemented, the author will use Lawrence M. Friedman's legal system theory as an analytical tool in this study. Friedman interprets the legal system theory as an interaction between the structure, substance, and legal culture, where these three aspects must go hand in hand according to their respective duties and take care of each other so that the system can run effectively. For Friedman, legal system theory is a unit that runs within certain limits and is used as social control, which has special characteristics and techniques in its study³.

A lot of scientific research related to COVID-19 has been carried out, considering its impact on various aspects, so many have been studied from aspects of health, administrative policy, education, law, and politics. As for the context of marriage services, several previous studies have been carried out, such as those conducted by Shofiatul Jannah regarding the obligation of a swab test as a condition for marriage from an Islamic legal perspective⁴. Similarly, research on the formulation of marriage service policies during the Emergency PPKM period was conducted by Muhammad Sudartono and Muh. Shulthon Rachmandhani⁵. In addition, there is also research on the implications

³ Lawrence M. Friedman, *Sistem Hukum Perspektif Ilmu Sosial* (Bandung: Nusa Media, 2017), 41

⁴ Shofiatul Jannah, "Islamic Legal Analysis of Obligation for Swab Tests as a Requirement for Marriage in the Era of Covid-19 Pandemic in Indonesia Abstract: Keywords: Abstract: Keywords: Protect the Citizens from the Contagion Attack . These Policies Include and Implemen," *Al-Ihkam* 16, no. 2 (2021): 450-75.

⁵ Muhammad Sudartono et al., "Perumusan Kebijakan Pelayanan Pernikahan Selama Masa Pemberlakuan Pembatasan Kegiatan Masyarakat (Ppkm) Darurat," *Journal of Law and Family Studies* 3, no. 2 (2021): 214-37.

of marriage registration procedures during the PPKM period from the archipelago Fiqh perspective by Ahmad Muhtadi Anshor ⁶.

Based on several previous studies, it is understood that issues related to wedding services are one of the crucial aspects of the COVID-19 pandemic. The problems that arise are posed challenges for the Heads of Sub-District KUA throughout Indonesia, especially in taking policies related to implementation in their respective working areas. The position of this research is increasingly felt needed because it is interesting to see that what extent the antigen swab rules before the implementation of the marriage contract can be effectively applied in the Tempursari District community, which incidentally is an area with many limitations, both in terms of facilities and infrastructure, the number of human resources, and understanding of the community.

Marriage in Indonesian Positive Law

Description of the Terms, Pillars, and Purpose of Marriage

The basis of the word marriage is marriage. Linguistically, marriage means having intercourse or sexual intercourse; forming a family with the opposite sex ⁷. The term mating is generally used for humans, animals, and plants to denote a natural generative process. In contrast to the term marriage, marriage is only used for humans because it contains religious legal validity, positive Indonesian law, and customs. In Article 1 of Law no. 1 of 1974 (UUP), marriage is stated as an inner and outer bond between a man and a woman as husband and wife with the aim of happiness and eternity in their household based on the One Godhead. Meanwhile, in Article 2 of the Compilation of Islamic Law (KHI), marriage is a very strong contract as a form of obedience to Allah's commands and is considered worship when doing it.

The validity of a marriage bond in state law depends on the fulfillment of the conditions of marriage. Marriage is valid if it is carried out according to the laws of each religion and is also recorded based on

⁶ Ahmad Muhtadi Anshor, "Implikasi Prosedur Pencatatan Perkawinan Pada Masa Pemberlakuan Pembatasan Kegiatan Masyarakat (PPKM) Perspektif Fiqih Nusantara," *Analisis : Jurnal Studi Keislaman* 21, no. 2 (2021): 203-30.

⁷ Kementerian Pendidikan dan Kebudayaan RI, *Kamus Besar Bahasa Indonesia* (Jakarta: Balai Pustaka Departemen Pendidikan dan Kebudayaan RI, 1994), 40

the provisions of the legislation in force in Indonesia. The conditions for marriage in positive Indonesian law are divided into two, namely material conditions contained in Articles 6 to 11 of the UUP, and formal conditions in Article 12 of the UUP⁸. Unlike the UUP, the terms and pillars of marriage in the KHI seem to follow the fiqh systematics. The pillars of marriage are contained in Article 14 of the KHI. While the explanation regarding the marriage requirements as stated in Article 15 of the KHI and several separate articles from the discussion of the pillars and conditions, such as Articles 19 to 23 concerning marriage guardians, Articles 24 to 26 concerning marriage witnesses, and Articles 27 to 29 concerning marriage contracts⁹.

In positive Indonesian law, the purpose of marriage is no longer seen only as a biological relationship. But it is also an inner relationship, which contains aspects that are more substantial and have long-term dimensions. The dimension of time in question is made explicit by the words happy and eternal based on the One Godhead. The existence of a goal to obtain happiness makes the UUP not only look at it from a formal legal perspective but also from a social point of view of a marriage that incidentally is to form a family as a community principle. Likewise, with the word eternal, it gives the impression that the UUP also leads so that marriage aims to be maintained until the end of life. The purpose of marriage is also contained in Article 3 of the KHI, namely, to realize a household life that is *sakinah* (peaceful), *mawaddah* (love), and *rahmah* (love). Presumably, the formulation and basis for this goal are derived from the Word of Allah in Surah al-Rūm verse 21.

Marriage Registration Rules at the Office of Religious Affairs (KUA)

In the context of Indonesia, marriage is considered valid if it is carried out based on the laws of each religion and belief and is recorded according to the applicable laws and regulations. Marriage registration for the Muslim community is carried out by the Marriage Registrar at the District KUA. The employee is obliged to supervise, witness, and

⁸ Amiur Nuruddin dan Azhari Akmal Tarigan, *Hukum Perdata Islam Di Indonesia* (Jakarta: Kencana Prenada Media Group, 2016), 16

⁹ Abdurrahman, *Kompilasi Hukum Islam Di Indonesia* (Jakarta: Akademika Pressindo, 2010), 67

register the marriage. Marriage registration is very important to do because to get legal protection and certainty for those concerned according to the mandate of Minister of Religion Regulation (PMA) Number 20 of 2019 concerning Marriage Registration.

The rules for registering marriages are regulated in Article 2 paragraph (2) of Law no. 1 of 1974. Further regulated in Article 3 paragraph (1) PP No. 9 of 1975, everyone who is going to get married must notify the Registrar of his wishes at the place where the wedding will take place. Based on this, it can be understood that marriage registration is a formal requirement for the validity of a marriage bond. These requirements are procedural and administrative. That way, marriage registration is an inseparable series in the implementation of marriage, considering that it is also a determinant of the validity of marriage as a legal act. In PMA No. 20 of 2019 it is stated that marriage registration is an administrative activity of marriage events, starting from registration, examination, the announcement of marriage will, implementation of marriage registration to submission of marriage books. Registration of the will of marriage is regulated in Article 3, which is carried out at the District KUA where the marriage contract will be carried out.

Registration is done no later than ten working days before the wedding is held, by filling out the application form and attaching the following documents: Marriage cover letter from the village chief where each prospective bride and groom live; Photocopy of birth certificate or a birth certificate issued by the local village chief; Photocopy of identity card/receipt of a certificate of having recorded electronic identity card for those who are 17 (seventeen) years old or have been married; Copy of family card; Marriage recommendation letter from the local KUA for the bride and groom who will marry outside the sub-district where they live; Approval of the bride and groom; Written permission from parents or guardians for the bride and groom who have not reached the age of 21 (twenty-one) years; Letter of permission from a guardian who maintains or cares for or a family who is related by blood or guardian if both parents or guardians have died or are in a state of inability to express their will; Permission from the court, if parents, guardians, and guardians are not present; Dispensation from the Court for prospective husbands and/or wives who have not reached the age of 19 years; Permission letter from

superior or unit if the prospective bride is a member of the Indonesian National Armed Forces or the Indonesian National Police; Stipulation of a polygamy permit from the Religious Courts for husbands who wish to have more than one wife; Divorce certificates or quotations from divorce registration books or divorce registration books for those whose divorce occurred before the enactment of Law no. 7 of 1989 concerning Religious Courts; Death certificate or certificate of death of husband or wife made by the village head or an official at the same level for widows or widowers because they have been left dead.

Furthermore, the Head of the District KUA/*Penghulu* checks the marriage documents by presenting the prospective husband, prospective wife, and guardian to ensure that there are or are no obstacles to marriage. If the marriage documents are declared complete, then the results of the examination are stated in a marriage examination sheet signed by the two prospective brides, guardians, and the Head of KUA/*Penghulu*, to then announce their marriage intention. Marriage registration is carried out after the marriage contract is carried out in front of the Head of KUA/*Penghulu* who is in charge of the place where the marriage contract is held. Then the marriage contract is recorded in the marriage certificate by the Head of KUA, and books and marriage cards are given to the bride and groom shortly after the marriage contract process is completed.

Marriage Rules During the Implementation of Emergency Community Activity Restrictions (Ppkm) in Se Director General of Islamic Community Guidance no: P-001/Dj.Iii/Hk.007/07/2021

After observing the development of cumulative cases of Corona Virus Disease 2019 (COVID-19), which is increasing, especially in various regions, the Directorate General of Community Guidance (Directorate General of Community Guidance) of Islam issued Circular (SE) No: P-001/DJ.III/Hk. 007/07/2021 concerning Technical Instructions for Marriage Services at the District Office of Religious Affairs (KUA) for the Enforcement of Emergency Community Activity Restrictions (PPKM). The urgency of making this SE is considering that marriage services are one of the essential sector government services. The aim is to prevent and reduce the risk of the spread of the COVID-

19 outbreak and to protect District KUA employees and the public during the implementation of marriage services.

This Circular includes provisions for the implementation of marriage during the Emergency PPKM period while still being guided by the Minister of Religion Regulation Number 20 of 2019 concerning Marriage Registration. In general, marriage services at the District KUA during the COVID-19 pandemic and the implementation of the Emergency PPKM are guided by the applicable laws and regulations. Meanwhile, KUA Sub-districts outside the Java and Bali regions during the Emergency PPKM period follow the provisions stipulated in the Circular of the Director-General of Islamic Community Guidance Number P-006/DJ.III/Hk.007/06/2020 concerning Marriage Services Towards a Productive Society. Safe COVID.

The special provisions in this Circular Letter apply to KUA Sub-districts located in the Java and Bali regions, where marriage services are regulated by the following rules: first, All KUA employees who work in the office (Work from Office) are a maximum of 25% (twenty-five percent) of the total number of employees. Second, KUA service time starts at 08.00 until 14.00 local time. Fourth, Marriage registration services can only be done online through the simkah.kemenag.go.id site. Fifth, Marriage registration for the implementation of the marriage contract on the 3rd until July 20, 2021, was abolished. Sixth, the implementation of the marriage contract during the Emergency PPKM period is only for prospective brides who have registered before July 3, 2021, and have completed the required documents. Seventh, Prospective brides who have registered for marriage online must immediately submit all marriage requirements documents to the KUA officer. Eighth, the bride and groom, marriage guardian, and 2 (two) witnesses are in good health as evidenced by a negative result of the Antigen Swab which is valid at least 1x24 hours before the implementation of the marriage contract. Ninth, the marriage contract held at the KUA, or home is attended by a maximum of 6 (six) people. Tenth, the implementation of the marriage contract held in the meeting building or hotel is followed by a maximum of 20% (twenty percent) of the room capacity and may not be more than 30 (thirty) people. Eleventh, the implementation of marriage contracts must implement strict health protocols. Twelfth, the bride and groom sign a statement of ability to comply with the stamped health protocol.

Thirteenth, If the health protocol cannot be fulfilled, the Head of the District KUA/*Penghulu* may postpone/cancel the implementation of the marriage contract along with the reasons in writing. Fourteenth, The Head of District KUA/*Penghulu* coordinates with the COVID-19 Handling Task Force in their respective regions to ensure security and order in the implementation of marriage services. Fifteenth, The Head of KUA issues a Letter of Assignment for the *Penghulu* who will oversee carrying out the service of the marriage contract.

Sixteenth, The Head of the Regional Office of the Ministry of Religion of the Province and the Head of the Office of the Ministry of Religion of the Regency/City shall seriously monitor and control the implementation of this Circular. In the closing section of this Circular, it is explained that to be guided and carried out with full responsibility during the Emergency PPKM period, and this Circular is declared to remain valid if the Emergency PPKM is extended.

Description of Lawrence M. Friedman's Theory of Legal Systems

Lawrence Meir Friedman is a professor of law in America. He was born on April 2, 1930, and is usually called Friedman. Friedman's expertise in the sociology of law has been internationally recognized. History records that he was a researcher at the American Academy of Arts and Sciences and was President of the Law and Society Association¹⁰. Friedman's works are widely used as references and have become textbooks in legal education.

The legal system is interpreted by Friedman as an interaction between structure, substance, and legal culture, where these three aspects must go hand in hand according to their respective duties and take care of each other so that the system can run effectively. For Friedman, legal system theory is a unit that runs within certain limits and is used as social control, which has special characteristics and techniques in its study¹¹. In his work, *American Law an Introduction*, Friedman explains that the legal system includes three aspects, with the following explanation:

¹⁰ SLS, "Lawrence M. Friedman," accessed December 10, 2021, <https://law.stanford.edu/directory/lawrence-m-friedman/#sIsnav-featured-video>.

¹¹ Lawrence M. Friedman, *Sistem Hukum Perspektif Ilmu Sosial*.

First, legal Structure is closely related to institutions that are authorized to make and implement regulations or laws, such as the Religious Courts and the Office of Religious Affairs (KUA) in the field of marriage. The officers who are authorized and are part of the legal structure in the field of marriage are court judges and KUA employees. This component has an important role in the formulation, implementation, and enforcement of the law. In applying a law, two components must be considered by the legal structure, namely: First, the required facilities and infrastructure must be well and complete so that in its application it can make it easier for law enforcers to carry out their duties. Second, Law enforcement officers on duty must have authority so that there is no longer such a thing as bargaining by each individual who has their interests.

Second, legal substance. All rules or legal products because of preparation by parties within the legal system and authorized to regulate public order are called legal substances. In general, legal substance includes all legal rules, whether in the form of laws, circulars, or unwritten laws. The law is formed so that it can function properly as a guide for everyday behavior. Therefore, the substance of the law must not conflict with the law that lives in society. So that later, the public can understand the law that is enforced and obeys it in full.

The legal substance can be considered valid if three components have been collected, namely¹²: from a philosophical point of view, the laws that are made must be based on the values that become the philosophy of social life so that they do not conflict with the moral values and principles of life that have been built by the community. Sociological aspect, that the law made can be accepted by every individual in society. From a juridical point of view, the laws made do not conflict with one another so that people are not confused when the law is applied in their environment.

Third, legal culture. Legal culture is the behavior of society towards the law, its values , and expectations, which is another definition that states that the atmosphere of thought and social forces determine how the law is applied, or even avoided by society. Legal culture is also synonymous with legal awareness, where the indicators

¹² Mohamad Nur Yasin, *Politik Hukum Ekonomi Syariah Di Indonesia* (Malang: UIN MALIKI Press, 2018), 51

are knowledge of the rule of law, knowledge of the content of the rules, attitudes towards rules, and patterns of legal behavior. Operationally, legal culture will give birth to two derivative practice concepts, namely awareness, and legal compliance. Legal awareness is born when individuals begin to animate in their daily behavior, while legal compliance can be seen in the moral and social commitment of everyone in obeying the law, regardless of the situation and conditions he is living¹³.

The analogy is given by Friedman to the three aspects of legal system theory, namely the legal structure is likened to a machine that can move objects, the legal substance is likened to the result of what the machine does, and legal culture is likened to a determinant in the use of the machine, whether it will be turned on or even turned off. . That way, these three aspects are a unity that must go hand in hand so that the goal can be realized. Therefore, socialization of the existence of a rule is necessary so that the law can be effectively applied in society¹⁴.

Implementation Of Circular (SE) of The Directorate General of Community Guidance (Directorate General of Community Guidance) Islam no: P-001/Dj.Iii/Hk.007/07/2021 Regarding the Mandatory Rules for Antigen Swab Tests at KUA Tempursari

The Office of Religious Affairs (KUA) is a work unit within the Ministry of Religion (*Kemenag*) in the district, which plays a role in carrying out some of the tasks of the Regency/City Ministry of Religion Office in the field of Islamic Religious Affairs. Therefore, the duties and functions of the KUA cannot be separated from the duties and functions of the Ministry of Religion. KUA is the front line that is in direct contact with the various needs of the community. So that in carrying out its duties and functions, the KUA is faced with several problems, such as administrative problems, lack of human resources (HR), system and policy governance, inadequate facilities, a large work area with a level of difficulty in the field, and other problems, other.¹⁵

¹³ Mohamad Nur Yasin, 52

¹⁴ Lawrence M. Friedman, *Sistem Hukum Perspektif Ilmu Sosial*, 52

¹⁵ Neila Sakinah and Ahmad Arif Masdar Hilmy, "Implementasi Sistem Informasi Manajemen Nikah Ganda: Studi Kebijakan Strategis Transformatif Dan Efektivitas

The duties and functions of the KUA have been determined by the Regulation of the Minister of Religion (PMA) No. 34 of 2016 is stated in Article 3, among which are: a) implementation of services, supervision, recording, and reporting of marriage and reconciliation, b) compilation of statistics on services and guidance of Islamic society, c) management of documentation and information system management of the District KUA, d) implementation administration and housekeeping of the District KUA. KUA is located in every sub-district throughout Indonesia. KUA Tempursari District is one of the KUA in Lumajang Regency, East Java Province. KUA Tempursari has a wide area of jurisdiction, overseeing 7 villages, namely Tempursari Village, Pundungsari Village, Tempurejo Village, Purorejo Village, Bulurejo Village, Kaliuling Village, and Tegalrejo Village.

This Circular Letter (SE) of the Directorate General of Community Guidance Islam No: P-001/DJ.III/Hk.007/07/2021 was born after observing the increasing number of cumulative cases of Corona Virus Disease 2019 (COVID-19). in various regions throughout Indonesia. Therefore, the Government needs to re-regulate marriage services during the Implementation of the Emergency Community Activity Restrictions (PPKM), considering that the Office of Religious Affairs (KUA) is one of the essential sector government services. The aim is to prevent and reduce the risk of the spread of the COVID-19 outbreak and to protect the sub-district KUA employees and the community during the implementation of marriage services.

In this study, the focus of the author's study is on the mandatory rules for antigen swab for the groom, bride and groom, a guardian, and two witnesses contained in the SE. The obligation for an antigen swab to the five people is so that their condition is healthy and not exposed to COVID-19, considering that they have carried out an antigen swab test with a negative result which is valid at least 1x24 hours before the implementation of the marriage contract.

With the issuance of the SE, all Heads of the Sub-District KUA in Java and Bali are required to implement the SE, including the Tempursari District KUA. Tempursari District is located at the end of Lumajang Regency, East Java Province, so access to the nearest sub-

Hukum," *Al-Hukama'* 9, no. 2 (2019): 373-98, <https://doi.org/10.15642/alhukama.2019.9.2.373-398>.

district or the center of Lumajang Regency is very difficult to reach, considering the distance is quite far, rocky terrain, and surrounded by mountains.

Tempursari sub-district has a Community Health Center (Puskesmas), which is the only place that can be used for antigen swab tests. The number of human resources who can perform an antigen swab test at the Tempursari Health Center is also limited. In addition, the understanding of the Tempursari community regarding the antigen swab is still relatively common, because the antigen swab test was only known to them during this pandemic. With the limited facilities and infrastructure, as well as the lack of public understanding, the Head of KUA Tempursari continues to make full efforts so that the implementation of the SE Director General of Islamic Guidance regarding the mandatory antigen swab regulation can run optimally.

The first policy taken by the Head of KUA Tempursari in implementing the mandatory antigen swab rule was to conduct face-to-face socialization with all Marriage Registrar Assistants (P3N) or commonly known as *Pak Modin*. In this socialization, the Head explained all the rules contained in the SE, including the mandatory antigen swab rule for the groom, bride, and groom, a marriage guardian, and two witnesses at least 1x24 hours before the marriage contract. In addition, the Head of KUA provided an understanding of the antigen swab test, considering that this test had only been known since the COVID-19 pandemic hit the country. With this socialization, it is hoped that all P3N can bridge between the KUA and the community regarding the understanding of the rules in the SE.

In the second policy, the Head of KUA Tempursari invites the bride and groom or their families who still do not understand the mandatory antigen swab rules to be able to ask directly through the WhatsApp application or make calls to the Head or other KUA employees. This is intended so that the community gains more understanding when they still do not understand the explanation contained in the SE or after being given an explanation by P3N in their respective regions.

In the third policy, the Head of KUA Tempursari asked KUA employees to help in scheduling the antigen swab test and communicate directly with officers at the Puskesmas Laboratory. Previously, the Head of KUA had coordinated with the Head of the

Puskesmas regarding the mandatory rules for the antigen swab in the SE. Because the Puskesmas is the only place that can be used for antigen swab tests, the policy to help schedule the antigen swab test is considered a solution so that there are no schedule errors and it is difficult to meet swab officers due to the limited number of human resources in the Puskesmas Laboratory, considering that the staff is only one person only.

In the fourth policy, the Head of the KUA Tempursari permits the two prospective brides, a marriage guardian, and two witnesses if they wish to take an antigen swab test outside the Tempursari District. However, in this case, the KUA Tempursari employees could not help to communicate to their destination. The employees will only remind two days before the implementation of the marriage contract, so that the next day (D-1 of the marriage contract) they can carry out an antigen swab test at the place they want, so that the swab results can be valid, considering that in the SE it is stated that the validity of the negative swab result antigen if issued at least 1x24 hours before the implementation of the marriage contract (M. Salim Arifin, personal interview, 2021, Desember 13).

Based on the four policies made by the Head of KUA Tempursari, it can be assessed as a service that makes it easier for the public to comply with the mandatory antigen swab regulations in the SE. That way, there is no longer any reason for the community to feel that they do not know the existence of the regulation or feel that it is difficult due to the lack of facilities and infrastructure in the Tempursari District. However, if the public does not want to follow the mandatory antigen swab rule, then the implementation of the marriage contract that has been registered will be postponed accompanied by a written postponement letter. For those who are ready to take the antigen swab test, the two prospective brides are also required to sign a statement of willingness to comply with health protocols during the implementation of the marriage contract accompanied by a stamp on the letter.

The Dialectic of Lawrence M. Friedman's Legal System Model on the Implementation of Mandatory Antigen Swab Rules in the Circular (SE) of the Director-General of Islamic Community Guidance no: P-001/Dj.Iii/Hk.007/07/2021 at Kua Tempursari

As explained in the previous discussion, the writer in this study uses Lawrence M. Friedman's legal system theory as his analytical knife. With this theory, we will examine the implementation of the mandatory antigen swab regulation in the Circular (SE) of the Director-General of Islamic Community Guidance No: P-001/DJ.III/Hk.007/07/2021 at KUA Tempursari. To achieve that goal, the author uses three dialectical models initiated by Friedman, to see the effectiveness in the application and enforcement of the law, namely the legal structure, legal substance, and legal culture.

In the dialectical process, the dynamic life order, making the individual the object of his study also always changes as a form of construction. In the aspect of legal structure, in the field of marriage, it is closely related to institutions that are authorized to make and implement regulations or laws, namely judges at the Religious Courts and employees of the Office of Religious Affairs (KUA). In the aspect of legal substance, it covers all legal rules, whether in the form of laws, circulars, or unwritten laws. Meanwhile, the aspect of legal culture is the behavior of the community towards the law, its values, and expectations.

From the three dialectical models above, it can be understood that the three aspects are a unity that must go hand in hand so that the goal can be realized. Thus, if we look at the legal system theory of Lawrence M. Friedman, it is necessary to see to what extent the mandatory antigen swab regulation in the SE Director General of Islamic Community Guidance No: P-001/DJ.III/Hk.007/07/2021 is effectively implemented at KUA Tempursari. To facilitate understanding regarding the interpretation of the data generated in the field, namely the implementation of the mandatory antigen swab regulation in the SE Director General of Islamic Community Guidance at KUA Tempursari, three dialectical models will be presented as follows:

Legal Structure. In implementing the mandatory antigen swab regulation for the groom, the bride, a marriage guardian, and two witnesses, the authorized official is the KUA employee. Thus, KUA Tempursari employees are the legal structure in this research. The employees at KUA Tempursari play an important role in the effective implementation of the mandatory antigen swab regulation in their area. Therefore, several efforts have been carried out by the employees,

so that these rules can be effectively applied in the Tempursari District area.

First, KUA Tempursari employees have coordinated with Puskesmas employees, considering that Puskesmas is the only place that can perform an antigen swab test in Tempursari District. So that coordination is needed so that the bride and groom and their families do not feel confused by this new rule. The KUA Tempursari employee will contact the prospective bride and groom the day before the antigen swab test, to inform the schedule that has been agreed upon by the laboratory staff (Nasiah Usnawiyah, personal interview, 2021, Desember 13).

Second, KUA Tempursari employees have also coordinated with the Marriage Registrar Assistants (P3N). This coordination is also important, considering that P3N is the person who can pass on information regarding the mandatory antigen swab regulations. That way, the public can know this rule in its entirety. If people are still confused, they can also contact me online or go directly to KUA Tempursari.

Third, the Head of the Lumajang Regency Ministry of Religion has coordinated with the Lumajang Regent regarding this mandatory antigen swab regulation. A positive response was given by the Lumajang Regent so that the Head of the Lumajang District Health Office has made a written letter to all Heads of Health Centers throughout Lumajang Regency. In Letter No: 441/5325/427.55/2021 regarding the Rapid Antigen Examination for Prospective Bride and Grooms, it is explained that the prospective bride and groom must undergo a rapid antigen examination free of charge, while for witnesses and guardians a fee is required.

Based on the three things mentioned above, it can be understood that the legal structure in implementing the mandatory antigen swab rules has played a full role so that the regulations in the SE Director General of Islamic Community Guidance can be effectively implemented. With the coordination built by the legal structure, making the prospective groom, bride-to-be, a marriage guardian, and two witnesses easy to understand the rules, the scheduling of the antigen swab test at the Tempursari Health Center has been assisted by KUA employees, as well as the cost of the test. Two people have also

been freed, considering that previously they had to pay a test fee for five people.

Legal Substance. The files required as an application for marriage will have been clearly stated in Article 4 PMA No. 20 of 2019 concerning Marriage Registration. The evidence file for negative antigen swab results is an additional rule contained in the SE Director General of Islamic Community Guidance No: P-001/DJ.III/Hk.007/07/2021 concerning Marriage Services during the Emergency PPKM Period. That way, the legal substance related to the administrative requirements for prospective brides who want to register their marriages at the KUA has increased again in the form of submitting a negative antigen swab result which is carried out at least 1x24 hours before the implementation of the marriage contract. The antigen swab must be carried out by the groom, the bride, a marriage guardian, and two witnesses.

Explicitly, the mandatory regulation for antigen swab is to prevent and reduce the risk of the spread of the COVID-19 outbreak and to protect District KUA employees and the public during the implementation of marriage services. However, when examined further, it can be found other goals that contain the benefit side. First, the benefit side will certainly be felt by the *penghulu*, who is tasked with overseeing the implementation of the marriage contract. With this SE, it makes the *penghulu* feel protected, given the number of prospective brides who continue to grow, making the risk of transmission to him even greater. It doesn't stop there, you can imagine without an antigen swab test, then when the *penghulu* is exposed at the location of the marriage contract, the transmission will continue in many places, starting from the location of the next contract, office, home, or other places he visited. The Director of KUA and Sakinah Family Development, Muhammad Adib Machrus, said 125 people had died during the COVID-19 pandemic¹⁶.

Second, the benefit side will be felt by KUA employees and also the community, considering the interaction and intensity of meeting every day related to marriage services. So, the risk of contracting

¹⁶ Muhammad Ilman Nafi'an, "125 Penghulu Meninggal Selama Masa Pandemi COVID-19," 2021, <https://www.idntimes.com/news/indonesia/muhammad-ilman-nafian-2/125-penghulu-meninggal-selama-masa-pandemik-covid/3>.

COVID-19 is real. Thanks to this SE, it is a manifestation of the Government to suppress the rate of transmission of COVID-19, so that it is hoped that after the antigen swab test is carried out the day before the wedding ceremony, the head of the community who attends can be protected while protecting the employees who are in the office, as well as the people who visit the office. Based on the above, the SE rules related to the mandatory antigen swab regulation can be judged to contain a benefit side that can be felt by many parties. Thus, the legal substance in the SE has fulfilled the requirements of the effectiveness of the law itself. Considering that it can bring many positive changes on various lines in dealing with the current pandemic period in Indonesia.

Legal Culture. Talking about legal culture means looking at the atmosphere of thought and social forces that determine how the law is applied, or even avoided by society. After the mandatory antigen swab regulation was enforced at the KUA Tempursari, there were various responses from the Tempursari District community. First, after the Head of the KUA Tempursari socialized the mandatory antigen swab rule to P3N, many people in the Tempursari District began to understand the rules. This is evidenced by people who tend to be more active in asking questions about the antigen swab test, either to P3N or directly contacting KUA employees or coming directly to KUA Tempursari (Ridwan, personal interview, 2021, Desember 16).

Second, the people who initially rejected the mandatory antigen swab rule, so that later they were given a written postponement of the implementation of the marriage contract, but now many are starting to dare to do an antigen swab test (Sanatun Makruf, personal interview, 2021, Desember 16). That way, the understanding that is accepted by the community has begun to enter their soul, to be later applied in their behavior, namely being willing to do an antigen swab test the day before the implementation of the marriage contract. The mental stage here is the essence of legal awareness.

Third, the public is beginning to understand the urgency of the mandatory regulation of the antigen swab test during the COVID-19 pandemic. This is evidenced by the active attitude of the prospective bride and groom who first contacted the KUA employee to ask what additional rules must be implemented at the time of the marriage contract. Some of them expressed concern and fear about the number

of people who died recently, so they wanted the marriage to be carried out smoothly and to realize the goal of marriage to form a household life that is peaceful (*sakinah*), and love (*mawaddah* and *rahmah*) (M. Yusuf, personal interview, 2021, Desember 15). That way, the legal compliance of the Tempursari District community has been built and can be seen in the moral and social commitment of each individual in complying with the mandatory antigen swab rules, regardless of the situation and conditions they are living.

Effectiveness is used to measure the level of success in achieving predetermined goals and objectives. Based on the description above, it can be understood as a whole using the effectiveness point of view from Lawrence M. Friedman's legal system theory, that the implementation of the mandatory antigen swab rule in the SE Director General of Islamic Community Guidance No: P-001/DJ.III/Hk.007/07 /2021 at KUA Tempursari has covered three aspects related to the legal structure, legal substance, and legal culture. Thus, the mandatory regulation of antigen swab for the two prospective brides, marriage guardians, and two witnesses that is valid at least 1x24 hours before the implementation of the marriage contract has been effectively implemented at the KUA Tempursari.

Conclusion

Based on the explanation above, several conclusions can be drawn as follows: first, In implementing the SE Director-General of Guidance No: P-001/DJ.III/Hk.007/07/2021 regarding the mandatory regulation of antigen swab for prospective grooms, prospective brides, a guardian and two witnesses at KUA Tempursari, the Head of KUA took several policies in the form of socialization, opening an online or offline question and answer service, assisting in scheduling an antigen swab test, as well as granting permission if desired for an antigen swab test outside Tempursari District.

Second, by arguing on Lawrence M. Friedman's legal system theory, the implementation of the mandatory antigen swab regulation at KUA Tempursari has covered three aspects, namely legal structure, legal substance, and legal culture, so that it can be judged that it has been effectively implemented at KUA Tempursari. In the aspect of legal structure, KUA Tempursari employees have coordinated with P3N and

Puskesmas employees, considering that Puskesmas is the only place that can carry out antigen swab tests in Tempursari District. In addition, the Head of the Ministry of Religion of Lumajang Regency has also coordinated with the Lumajang Regent, so that in the end a decision was made that prospective brides and grooms must undergo a rapid antigen examination free of charge, while witnesses and guardians are subject to a paid examination.

From the aspect of legal substance, it can be understood that there is a beneficial side that is felt by many parties, starting from the *penghulu*, KUA employees, and the Tempursari District community, namely in the form of self-protection efforts and suppressing the spread of COVID-19 in various places. In the aspect of legal culture, currently, many people in Tempursari District understand the urgency and content of the issuance of the regulation, as evidenced by the people who initially rejected the rule, but now many have dared to do an antigen swab test. That way, a legal culture has been born in the current Tempursari District community, so that their awareness and legal compliance have been reflected in their soul and daily behavior.

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