



Unregistered marriages in islamic law: Ensuring children's rights amidst legal validity

Sarkanto ^{a,1,*}, Fouad Larhzizar ^{b,2}

^aINISNU Temanggung, Indonesia; ^bHasan First University, Morocco

¹sarkantoedo@gmail.com; ²gh.fouad@gmail.com

*Correspondent Author

ARTICLE INFO

Article history

Received:

25-04-2024

Revised:

29-06-2024

Accepted:

13-07-2024

Keywords

Unregistered Marriages,
Islamic Law, Children's
Rights, Legitimacy.

ABSTRACT

This study aims to analyze the validity of Unregistered marriages from the perspective of Islamic law and its impact on children's rights, focusing on the decision of the Singaraja Religious Court Number 17/Pdt.P/2024/PA.Sgr. Unregistered marriages, although valid in Islam, are not legally recognized by the state without official registration. This has various legal implications, especially for children's rights. Children from serial marriages often do not get alimony rights, inheritance rights, and official identity recognition. This study uses a normative legal approach with descriptive analysis to explore the phenomenon of Unregistered marriages and its impact on children's rights from the perspective of Islamic law and positive law in Indonesia. The study results show that the court's determination of a child's origin provides a legal and recognized status, allowing access to rights such as education, health, and inheritance. Awareness of married couples and policy support from the government is needed to protect children's rights and ensure better legal certainty.

This is an open-access article under the [CC-BY-SA](#) license.



Introduction

Marriage siri, a practice not officially registered at the Office of Religious Affairs, is a common phenomenon in Indonesia, especially among people who adhere to traditional and religious norms. This practice was chosen for various reasons, such as cost constraints, a desire to avoid complicated bureaucracy, or as a form of protest against marriage regulations that were considered burdensome. Although it is religiously valid because it meets the requirements of Islamic marriage, siri marriage is not legally recognized positively in Indonesia, which raises several problems, primarily related to the rights of children and wives (Dwiasta, Hasan, and Syarifudin 2019).

In Islamic law, the Marriage siri is still valid as long as it fulfills the pillars and conditions of marriage, such as ijab kabul, wali, witness, and dowry. However, although it is valid religiously, the Marriage siri does not have legal force in Indonesia's eyes of positive law. This has resulted in several problems, especially related to the rights of children and wives. Children born from serial marriages often face difficulties in obtaining legal recognition, inheritance rights, and access to public services (M. Yusuf, 2020).

From the perspective of Indonesia's positive law, Marriage siri is considered illegal and unlawful. This shows the difference in views between religious law and positive state law. The position of Siri's wife is also vulnerable to her legal protection (Manurung and Lusia Sulastri 2021). The impact of the Marriage siri also extends to more complex social and legal issues. Children born into serial marriages often face challenges in obtaining legal recognition, legal rights, and access to public services. This shows the need for better legal protection for children

and wives in the context of serial marriage (Wahyudani 2020).

Child protection from serial marriage is also an essential focus in the context of Indonesia's positive law. With the existence of regulations that regulate the protection of children from serial marriages, it is hoped that children's rights can be guaranteed even if they are born from an unofficially registered marriage (Hanapi and Manshur 2024). From the perspective of Islamic law, the Marriage siri is still considered valid as long as it meets the specified conditions. However, Marriage siri is not officially recognized in Indonesia's positive law. This creates a conflict between religious law and the state's positive law, impacting families' rights in serial marriage (Lubis et al., 2023).

The non-registration of serial marriage in state institutions causes serious problems related to the rights of children born from this marriage. Without a valid birth certificate, children from serial marriages are often considered to have no clear legal status. This significantly impacts their access to various public services, such as education, health, and population administration. In addition, they are also not listed in the Family Card, which is an essential document for various administrative matters. This creates real discrimination, as children from serial marriages are often considered "non-existent" in the eyes of the law, even though they are legal citizens. In addition, this lack of clarity of legal status can also hinder the inheritance rights of these children, leaving them vulnerable to violations of fundamental rights that the state should protect. In this context, the state needs to pay attention and find solutions so that the rights of children from serial marriages are protected, as well as ensure that they receive proper legal recognition and protection.

The case faced by the Singaraja Religious Court, in decision Number 17/Pdt.P/2024/PA. Sgr highlighted the importance of legal recognition for children from serial marriages. In this case, married couples in siri had difficulty obtaining birth certificates for their children because the marriage was not officially registered at the Religious Affairs Office. As a result, the child has no clear legal status, hindering their access to fundamental rights such as education and health. The Singaraja Religious Court then determined to recognize the child as the legal child of the couple, even though the initial marriage was carried out in siri (Decision No. 17/Pdt.G/2024/PA. Sgr 2024). This decision provides a solid legal basis for the couple to take care of the child's birth certificate, an essential document for various administrative matters. This decision also emphasizes the need for a more inclusive and sensitive legal approach to social realities, where serial marriages still occur frequently. By providing legal recognition, the court seeks to protect the rights of children and ensure that they do not become victims of their parents' marital status. This decision is an essential precedent in fighting for children's rights in the context of serial marriage in Indonesia.

This study aims to analyze nikah sirs' validity from the perspective of Islamic law and its impact on children's rights. Focusing on the Singaraja Religious Court ruling, this research will explore how Islamic law and national law can work together to provide better protection for children from serious marriages.

Method

This study uses a normative legal approach with descriptive analysis to explore the phenomenon of Marriage siri and its implications for children's rights from the perspective of Islamic law and Indonesia's positive law. Secondary data, including legal literature, legal documents, and online sources, are used. This literature includes books, scientific articles, and journals that discuss serial marriage, children's rights, and Islamic family law. The leading case study is the Decision of the Singaraja Religious Court Number 17/Pdt.P/2024/PA.Sgr. Data was collected through literature and document studies, focusing on court decisions and laws and regulations. Data analysis was carried out using a descriptive method, reviewing expert views and comparing them, and case analysis to assess legal recognition for children resulting from serial marriages. The legal evaluation was carried out to assess the conformity between Islamic law and Indonesia's positive law regarding the protection of children's rights in serial marriage.

Result and Discussion

The Validity of Siri's Marriage in Islamic Law

Marriage siri, or unofficial marriage in Islam, is a practice in which marriage is performed religiously without being officially registered by the state. In Islamic law, the Marriage siri is considered valid if it meets the essential elements and conditions of marriage that Sharia regulates. The pillars of marriage in Islam consist of five main aspects, namely the presence of men and women who are willing without Sharia barriers to marry, the presence of guardians for women, two male witnesses only, a statement of consent by both parties in one meeting, and the giving of dowry from a man to a woman.

Marriage siri with husband and wife who live together: One of the main issues is the uncertainty of legal status. Because serial marriages are not officially recorded, couples do not have legal evidence confirming their marital status. This can lead to confusion and conflict, especially in situations involving the rights and obligations of each couple. Marriage siri has raised various legal and social issues, such as the uncertainty of children's legal status, inheritance rights, and women's protection. This requires serious attention from the government and the public. Although it can be recognized as legitimate in religious terms, it is considered illegal in Indonesia's positive law, contrary to established legal norms; this problem can cause legal problems for couples who marry in siri, especially related to family and child rights. This distinction between religious and state law has posed challenges, especially regarding the rights and protection of women and children resulting from the marriage (Eka and Rahayu 2024).

The social impact of Marriage siri has been recorded to be detrimental, primarily affecting women's rights, child maintenance, property rights, and housing (Wahyudani 2020). In addition, the growing social problems related to the Marriage siri have prompted a re-evaluation of the concept of marriage in Islamic law. Scholars have suggested reinterpreting the concept of marriage to address modern challenges, emphasizing the importance of theological, philosophical, methodological, and ethical foundations in reformulating Islamic jurisprudence (Arsyad 2020). In addition, the wife's legal protection vulnerability in the marriage arrangement has been highlighted, demonstrating the need for enhanced legal protection (Manurung and Lusia Sulastri 2021).

Although the Marriage siri can be considered religiously valid as long as the above harmony and conditions are met, in the context of state law, especially in Indonesia, unregistered marriages can cause various legal problems. Although it should be valid religiously, marriage registration is highly recommended to provide better legal protection for all parties involved. Thus, couples need to consider the legal and social consequences of the marriage.

يَا أَيُّهَا النَّاسُ اتَّقُوا رَبَّكُمُ الَّذِي خَلَقَكُمْ مِنْ نَفْسٍ وَاحِدَةٍ وَخَلَقَ مِنْهَا زَوْجَهَا وَبَثَّ مِنْهُمَا رِجَالًا كَثِيرًا وَنِسَاءً
وَاتَّقُوا اللَّهَ الَّذِي تَسَاءَلُونَ بِهِ وَالْأَرْحَامَ إِنَّ اللَّهَ كَانَ عَلَيْكُمْ رَقِيبًا

"O man, fear your Lord who created you from one soul and created from him his spouse and spread out from both many men and women. Moreover, fear Allah, whom you always ask in His name, and (keep) the friendship relationship. Indeed, Allah is always watching over you." (Q.S An Nisa:1)

The above verse emphasizes the importance of piety to Allah in all aspects of life, including in marital relationships. According to Islam, The purpose of marriage is to fulfill religious guidelines to establish a harmonious, prosperous, and Bahasian out (Ghazaly 2016). Legitimate marriage in Islam is not only about an emotional bond or personal commitment between two individuals but also about official and legal recognition that provides legal protection for the rights and obligations of each spouse. Registering a marriage is essential to ensuring their rights and child protection can be implemented correctly. Without a valid registration, couples may face difficulties obtaining legal recognition of their marriage, which can negatively impact fulfilling their rights.

The importance of piety to Allah in marriage relations is reflected in efforts to organize marriage through religious teachings and applicable laws. Registering marriage as a legally recognized act is essential evidence in upholding the rights and obligations of the couple. Thus, piety to Allah in marriage includes spiritual and moral aspects and involves obedience to applicable laws to protect individual rights in marriage.

In this context, the reference (Jamal, Makka, and Rahmatillah 2022) asserts that registering marriage at the religious affairs office as a fact of marriage law for the Muslim community is an important step to provide fair legal recognition and equal treatment before the law. This is in line with the principles of justice and legal certainty, which are part of the purpose of Islamic law. Therefore, piety to Allah in marriage includes the spiritual dimension and obedience to the applicable law to maintain rights and obligations in the marital relationship.

In addition, marriage registration also functions as a form of protection for the parties involved. For example, women who, in some cases, may experience vulnerability in marital relationships get stronger legal protections if their marriage is officially registered. This also applies to children born from such marriages, as the registration of marriages provides legitimacy and legal guarantees to their status.

Marriage registration helps maintain friendship and order in a social and community context. The community can recognize and acknowledge the status of relationships between members, which helps maintain harmony and avoid disputes that may arise due to unregistered marriages. Overall, marriage registration is essential from a religious perspective and social and legal aspects, ensuring that all parties involved have protection and rights recognized by the state.

Legal Implications for Children Resulting from Siri Marriage.

The rights of children born from serial marriages are often a complex issue in the context of positive law in Indonesia. One necessary rights affected is the right to maintenance, where children are entitled to financial support from their parents. However, in a siri marriage that is not officially registered, the child often faces difficulties in obtaining alimony rights because the father's name is not listed in the marriage certificate, so the father can avoid the responsibility of alimony on the grounds of the legal status of the marriage that is not officially recognized. In addition, inheritance rights are also a crucial issue because children from serial marriages may not be recognized as legal heirs, so they have the potential to lose the right to inherit their parents' property.

In Indonesia's positive law, serial marriage is not recognized as a valid marriage. To be recognized as legally valid marriage must be recorded (Law No. 1 of 1974 concerning Marriage, n.d.). Therefore, married couples in siri do not have legal evidence confirming their marital status. This has implications for various legal issues, especially family rights, inheritance rights, and protecting women and children. This uncertainty of legal status can lead to conflict and hardship for spouses and their children.

This problem reflects the misalignment between religious law and positive law in Indonesia regarding the protection of children's rights in the context of serial marriage. Although religious marriage is considered legal, in practice, this can cause harm to women and children, primarily related to the right to alimony and inheritance (Gunawan 2013). In addition, the lack of official registration of serial marriages also has an impact on the recognition of the child's status in official documents such as birth certificates, which can result in the child losing his rights, including the right to alimony and inheritance (Manurung and Lusua Sulastri 2021). The lack of clarity of official documents puts children in a vulnerable position and can affect their future.

Concrete steps are needed from a legal and social perspective to overcome the complexity of this problem. Efforts to protect children from serial marriage need to be improved, including in terms of providing alimony rights and recognizing the status of children in official documents such as birth certificates (Syafi'i and Dzulkifli 2024). In addition, there is a need for firmer policies in protecting the rights of children and women related to serial marriage and more effective law enforcement to ensure the fulfillment of these rights (Anggelia and Purwanti

2020).

The legal implications for children born from illegitimacy include several vital aspects, primarily related to the legal status, rights, and welfare of children. First, children resulting from serial marriage are still considered valid in the view of Islam as long as the marriage meets the requirements and is a marriage principle according to Sharia. However, from the perspective of state law, the child often has difficulty obtaining legal rights such as birth certificates, which has implications for other rights such as inheritance, educational, and social welfare.

Second, because the marriage is not officially recorded, the children of this marriage may experience discrimination in terms of legal and administrative recognition. Without a parent's marriage certificate, it is difficult for a child to obtain a valid birth certificate, which is the basis for accessing various public services. The absence of official registration in a "Marriage siri" marriage can result in legal and administrative challenges for children, potentially leading to discrimination in accessing essential services and rights. Without a marriage certificate, it becomes difficult for children to obtain a valid birth certificate, which is essential for accessing various public services.

The law stipulates that children born from registered marriages are entitled to maintenance and inheritance from both parents, while children born from unregistered or informal marriages can only receive these rights from their mothers; this is the same in Malay and Turkish countries (Azwar et al. 2024). An important decision by the Constitutional Court regarding the legal status of children born out of wedlock has explained the legal complexity surrounding these cases (Pancasilawati 2014). This decision has implications for the rights and protections afforded to children in informal marriages. In addition, it is emphasized that legal protection for the civil rights of children born out of wedlock is essential to ensure that these children are not deprived of their rights due to the circumstances of their birth.

Third, the protection of children's rights is hampered. Children's rights can be challenging or impossible to obtain because there is no official registration of the parent's marriage. Islamic law recognizes these rights, but its implementation at the state level requires valid administrative evidence.

Overall, although children from serial marriage are considered legitimate in Islam, the non-registration of marriage in state institutions has significant legal implications, potentially hindering the fulfillment of children's rights and their welfare. The invalidity of the marriage of parents who perform a siri of marriages can result in difficulties for their children to obtain birth certificates, which are essential documents for accessing fundamental rights such as education, health services, and social security. Without official registration, such children can face administrative discrimination that prevents them from getting the protection and welfare they deserve. This is contrary to the mandate of Article 28B paragraph (2) of the 1945 Constitution, which affirms the right of every child to be protected from discrimination (1945 NRI Constitution, n.d.). Therefore, it is essential for couples who perform a siri of marriage to consider the official registration of their marriage to ensure that their children's rights are fully recognized and protected by the laws of the country, in line with the principles set out in the Indonesian constitution. This step will provide legal certainty and support the fulfillment of children's fundamental rights by the constitutional mandate.

Case of Determination of Children's Rights from Siri Marriage: Court Decision Number 17/Pdt.P/2024/PA. Sgr

In the decision of the Singaraja Religious Court Number 17/Pdt.P/2024/PA. Sgr, it was stated that the application for the child's origin was submitted by the applicant, who was married to Siri and experienced difficulties taking care of their child's birth certificate. The Singaraja Religious Court granted the application, declaring that the child from the Siri marriage was valid, and provided a legal basis for issuing the child's birth certificate. This shows that even though Marriage siri is not administratively recognized, the court can provide legal recognition through its *bat nikah* and determination of the child's origin, ultimately providing legal protection for children's rights.

The judge's consideration in granting the decision of case Number 17/Pdt.P/2024/PA. Sgr involves several essential aspects. First, the judge considered that the serial marriage carried out by the petitioners had met the requirements and harmony of marriage according to Islamic law, including the existence of a marriage guardian, witnesses, and a valid Kabul ijab. Although the marriage was not recorded at the Religious Affairs Office (KUA), the judge considered that religiously, the marriage was legal and had been carried out by the provisions of sharia. Second, the judge considers the evidence submitted by the applicants, such as a copy of the Identity Card, Self-Report Certificate, Marriage Certificate Citation from KUA, Family Card, and Birth Certificate, all of which have met the formal and material requirements. These evidences show that the petitioners are legally married and that the children born from the marriage are their biological children. In addition, the judge also listened to the testimony of witnesses who corroborated the applicants' arguments. The witnesses gave testimony under oath stating that the marriage happened and that there was no obstacle to the sharia to get married. Finally, the judge considered that the granting of this application was by the principles of justice and protection of children's rights, as well as in line with applicable legal provisions, including Article 28B paragraph (2) of the 1945 Constitution, which mandates the protection of children's rights from discrimination. Therefore, the judge decided to grant the petitioners' request and establish the child as the legitimate child of their marriage.

In the context of the mandate of Article 28B paragraph (2) of the 1945 Constitution of the Republic of Indonesia, which affirms that every child has the right to survival, growth, and development, as well as the right to protection from violence and discrimination, it is essential for couples who perform a siri marriage to consider the official registration of their marriage. Failure to register a parent's marriage in a siri marriage can result in administrative discrimination against children, hindering their access to fundamental rights such as education, health care, and legal protection. This is because birth certificates, which are the essential documents for accessing these rights, are often difficult to obtain without valid proof of parental marriage.

Official marriage registration provides legal certainty to married couples and ensures that the rights of children born from the marriage are recognized and protected by the state. Children from undocumented marriages often face a variety of administrative difficulties that can negatively impact their development and well-being. They may not be legally recognized as biological children, which can affect their rights to inheritance, custody, and maintenance.

In addition, the official registration of marriage supports constitutional principles that guarantee the protection of children's rights. With a valid marriage certificate, parents can more easily take care of their child's birth certificate, ensuring children have a clear legal identity. This is crucial in protecting children from discrimination and ensuring they have equal access to all the rights they deserve.

When couples marry in siri, even though it is religiously valid, registering the marriage in a state institution is an essential step to fulfilling the provisions of the law and the Indonesian constitution. This process also helps avoid conflicts regarding children's legal status and rights. This step provides legal certainty and supports constitutional principles fulfilling children's fundamental rights. Therefore, it is essential for couples who perform a siri of marriage to officially register their marriage to ensure maximum legal protection for their children, per the mandate of Article 28B paragraph (2) of the 1945 Constitution. Therefore, Child Protection Law No. 35 of 2014 states that every child has the right to receive protection and fulfillment of his rights without discrimination (Law No. 35 of 2014 concerning Child Protection, n.d.), including children born from siri marriages.

Children born from serial marriages in Indonesia are often only recorded in the name of their mothers on the birth certificate because serial marriages are not legally recognized without official registration at the Religious Affairs Office (KUA) or related agencies. As a result, the child is considered an illegitimate child who only has a legal relationship with his mother. Parents must go through a legal process called the child's origin hearing to include the father's name on the birth certificate. In this process, they can apply to the court to recognize the blood relationship between the child and his father. If this application is accepted, the child can obtain

a birth certificate with his father's name. This process is essential not only to recognize the child's legal status but also to protect the child's rights, including the inheritance and maintenance rights of the father. Therefore, the recording of a valid birth certificate is essential for children born from serial marriages so that they get the proper legal protection.

In the legal context in Indonesia, it is essential to understand that children born from a serial marriage do not have a clear legal status due to the absence of official registration of marriage. This is strengthened by research that discusses the legal status of children resulting from serial marriage based on the Compilation of Islamic Law, where children born out of wedlock only have a nasal relationship with their mother (Ardani and Suhadi 2024). In addition, the study is also relevant because it examines the preparation of a child's birth certificate from a siri of marriages, highlighting the importance of the legal process to include the father's name in the child's official document (Asmarandani Ramelan, Mohammad Kasim, and Nanang Meiske Kamba 2023).

Thus, efforts to officially register serial marriages and recognize the blood relationship between children and fathers through the trial of the origin of children is an important step to protect the rights of children born from serial marriages. This process provides legal certainty for children and ensures that their rights, including inheritance and maintenance rights, are fully accessible by the principles of justice in Islamic law and applicable laws in Indonesia.

In the above decision, the court considered that the purpose of the petitioners to apply for the determination of the child's origin was to obtain legal recognition and take care of the administration of the child's population. This determination is essential to ensure that the child gets his or her fundamental rights, such as official identity and proper legal protection. Without legal recognition, children from serial marriages are often not officially registered, thus hindering their access to various fundamental rights guaranteed by law. Determining the child's origin gives the child a birth certificate that lists the parents' names, providing the legal legitimacy necessary for various aspects of life, including education, health, and inheritance. This process also ensures that children are not discriminated against and can enjoy the same protections and rights as children born from legally registered marriages. Therefore, the purpose of law and population administration in this context is to provide justice and legal certainty for children so that their rights as Indonesian citizens are protected and fulfilled by the principles of justice in Islamic law and applicable laws and regulations in Indonesia.

In the context of child protection law Law Number 35 of 2014, the position of a child after being ratified by the court through the determination of origin has essential implications in ensuring the protection and fulfillment of the fundamental rights of children. The court's determination of the child's origin gives the child legal status, officially recognized in a population document such as a birth certificate. This is according to Article 27 of the Child Protection Law, which states that the identity of each child must be given from birth and stated on the birth certificate.

Having a valid birth certificate gives the child the right to an official identity, which is the basis for accessing various other rights such as education, health, and inheritance. Article 28 of the Child Protection Law emphasizes that the making of birth certificates is carried out by agencies that carry out government affairs in population administration and must be issued no later than 30 days after all requirements are met. This birth certificate is essential to ensure that the child does not experience discrimination in obtaining public services and other fundamental rights by the principle of non-discrimination mandated by law.

The determination of the origin of the child also provides broader legal protection by the provisions of Article 59 and Article 59A of the Child Protection Law. These articles stipulate that the government and relevant agencies are obliged to provide special protection to children in certain situations, including children facing the law, children from minority groups, and children who are economically and sexually exploited. The lack of official registration in Siri marriages in Indonesia has led the government not to recognize this union, resulting in potential problems related to child and wife rights that may remain unfulfilled (Sobari 2018). Thus, the status of a child after being legalized by the court not only provides identity rights and access to essential services but also ensures comprehensive protection of children by the

principles of child protection law in Indonesia.

To obtain the rights of children in legal recognition from the results of serial marriage, the step that must be taken is to carry out a remarriage with the estimated *nikah* process first. *Istibat nikah* is a re-legalization of marriage before a religious court to obtain a legal marriage recognized by the state. After the marriage estimate process is complete, then the child can be submitted for legalization in court. This process is essential because serial marriages are not legally recognized by the state, so children born from serial marriages do not automatically get legal recognition and rights guaranteed by law. Birth registration protects children's fundamental rights and provides them with identity, citizenship/citizenship, and legal protection against violence, abuse, and human rights violations (Dake & Fuseini, 2018).

In Indonesia, legal protection for children born from *Siri* marriages is emphasized to ensure equal treatment for all individuals regardless of age or gender (Minan, Warka, and Hufron 2022). According to Article 43, paragraph (1) of the Marriage Law, a child born out of wedlock only has a civil relationship with his mother and his mother's family. However, the Constitutional Court has issued a ruling that expands the interpretation of this article. The decision states that Article 43 paragraph (1) of the Marriage Law does not have binding legal force as long as it is interpreted to eliminate a civil relationship with a man who can be proven to be his biological father. Thus, a child born out of wedlock can be recognized as having a civil relationship with his biological father if it can be proven through science and technology, such as DNA tests or other evidence according to applicable law.

In addition to recognizing a civil relationship with the biological father, the child endorsement process also ensures that the child gets the rights that should be received, such as the right to identity, maintenance, inheritance, and legal protection. This recognition is essential to ensure that children do not experience discrimination and can enjoy the same protections and rights as other children born from legally recognized marriages. With a court ruling certifying the child's origins, the child will have a valid birth certificate, which includes the names of both parents, and has the necessary legal legitimacy for various aspects of his or her life, including education, health, and inheritance rights. Ensuring the fulfillment of the principle of justice in issuing birth certificates for children born outside of a legal marriage between parents is very important to uphold their rights and legal status (Purwasaputri, Sudarsono, and Fadli 2021). One of the postulates of QS. Al-Baqarah (2):233

وَالْوَالِدَتُ يُرْضِعْنَ أَوْلَادَهُنَّ حَوْلَيْنِ كَامِلَيْنِ لِمَنْ أَرَادَ أَنْ يُنِيْمَ الرِّضَاعَةُ ۖ...

Means: "Mothers should breastfeed their children for two full years, for those who want to complete breastfeeding."

The above verse states that mothers should breastfeed their children for two years for those who want to complete breastfeeding. The father must provide sustenance and clothing to the mother in a *ma'ruf* way. This shows the responsibility of fathers to their children, including children from serial marriages, in terms of maintenance and fulfillment of life needs.

To protect the rights of children in serial marriages, the *istibat nikah* process needs to be carried out. *Istibat nikah* is a re-legalization of marriage before a religious court to obtain the legal marriage recognized by the state. After the marriage estimate process is complete, then the child can be submitted for legalization in court. This process is essential to ensure that children from serial marriages get rights guaranteed by state law, such as the right to official identity, maintenance rights, and inheritance rights.

Singaraja Religious Court Decision Number 17/Pdt.P/2024/PA.Sgr The Decree is in line with Islamic law principles, which recognizes the validity of a religiously valid marriage and protects the rights of children born from the marriage. In Islamic law, a serial marriage that meets the principles and conditions, such as the presence of a prospective husband and wife, a marriage guardian, and two witnesses, as well as *ijab* and *kabul*, is considered valid. Although this marriage is not officially recorded, children born from a serial marriage have the same rights as children from an official marriage, including alimony, education, and inheritance

rights. With this determination, the child gets clear legal recognition, essential for fulfilling his fundamental rights and welfare.

Positive law in Indonesia also provides comprehensive recognition and protection of children's rights, including children born from serial marriages, through various laws and regulations. Law No. 23 of 2002 concerning Child Protection, Law No. 1 of 1974 concerning Marriage, and ensuring that every child has the right to obtain an official identity, birth certificate, and the right to be recognized as a legitimate child (Law No. 24 of 2015 concerning Population Administration, n.d.). In addition, it provides a mechanism for recognizing children by determining the child's origin in the religious court (RI 2018). With this ruling, children from serial marriages can obtain birth certificates and other population documents, ensuring access to fundamental rights such as education and health services. This recognition also ensures that children get the inheritance rights and legal protection they need to grow and develop properly. The alignment between Islamic law and positive law in Indonesia demonstrates a solid commitment to protecting children's rights, regardless of their parent's marital status, and ensuring legal certainty and the overall welfare of children.

Conclusion

Marriage siri, although valid in Islam by fulfilling the principles and conditions of marriage, is not legally recognized by the state without official registration. This has led to significant legal implications, especially in protecting children's rights. Children born from serial marriages often do not get fundamental rights such as alimony rights, inheritance rights, and official identity recognition because there is no registration of their parent's marriage. Therefore, it is essential for couples who are married to a siri to consider registering their marriage to provide better legal protection for their children.

In the context of child protection law in Indonesia, determining the child's origin by the court is essential to ensure that the child gets the rights recognized by law. The marriage estimate and child legalization in court provides the legal legitimacy necessary for the child to obtain a valid birth certificate, including both parents' names. With this birth certificate, children have a legal basis to access other rights such as education, health, and inheritance and ensure they do not experience discrimination in obtaining public services.

To overcome this problem, awareness and concrete steps are needed from married couples in siri, as well as firm policy support from the government in protecting children's rights. The official registration of marriage and the legalization of children through legal proceedings is an essential effort to ensure that every child, regardless of birth status, receives proper protection and rights by the principles of justice and the provisions of the law applicable in Indonesia. Thus, children's rights can be well protected, and the uncertainty of legal status that has been a problem can be overcome.

References

- Anggela, Anggela, and Ani Purwanti. 2020. "Kebijakan Perlindungan Anak Terhadap Eksploitasi Seksual Melalui Marriage siri Dalam Perspektif Hukum Nasional Di Indonesia." *Jurnal Jurisprudence* 10 (1): 109–26. <https://doi.org/10.23917/jurisprudence.v10i1.10974>.
- Ardani, Mochamad Fakhri Bimo, and Manan Suhadi. 2024. "Analisis Yuridis Isbat Nikah Terhadap Status Hukum Anak Hasil Marriage siri Berdasarkan Kompilasi Hukum Islam." *Indonesian Journal of Law and Justice* 1 (4): 7. <https://doi.org/10.47134/ijlj.v1i4.2212>.
- Arsyad, Aisyah. 2020. "EVOLUSI PROBLEM SOSIAL MARRIAGE SIRI: REKONSEPTUALISASI HUKUM PERKAWINAN DALAM ISLAM." *JURNAL SIPAKALEBBI* 4 (1): 306–31. <https://doi.org/10.24252/jsipakalebbs.v4i1.14600>.
- Asmarandani Ramelan, Sukma, Nur Mohammad Kasim, and Sri Nanang Meiske Kamba. 2023. "Pembuatan Akta Kelahiran Anak Terhadap Pernikahan Siri." *Jurnal Sosial Teknologi* 3 (1): 27–33. <https://doi.org/10.59188/jurnalsostech.v3i1.607>.
- Azwar, Zainal, Mhd. Ilham Armi, Zulfan Zulfan, Ahmad Bakhtiar Bin Jelani, and Ahmad Luthfy Nasri. 2024. "Child Filiation and Its Implications on Maintenance and Inheritance Rights:

- A Comparative Study of Regulations and Judicial Practices in Indonesia, Malaysia, and Turkey." *Journal of Islamic Law* 5 (1): 62–85. <https://doi.org/10.24260/jil.v5i1.2326>.
- Dwiasa, Gema Mahardhika, K. N. Sofyan Hasan, and Achmad Syarifudin. 2019. "FUNGSI ITS BAT NIKAH TERHADAP ISTERI YANG DINIKAHI SECARA TIDAK TERCATAT (MARRIAGE SIRI) APABILA TERJADI PERCERAIAN." *Repertorium : Jurnal Ilmiah Hukum Kenotariatan* 7 (1): 15. <https://doi.org/10.28946/rpt.v7i1.265>.
- Eka, and Hilma Rahayu. 2024. "Status Anak Pasca Perceraian Marriage siri Dalam Hukum Positif Dan Hukum Islam." *El 'Aailah: Jurnal Kajian Hukum Keluarga* 3 (1): 57–72. <https://doi.org/10.59270/aailah.v3i1.224>.
- Ghazaly, Abd Rahman. 2016. *Fiqih Munakahat*. 2nd ed. Jakarta: Kencana Prenada Media Group.
- Gunawan, Edi. 2013. "MARRIAGE SIRI DAN AKIBAT HUKUMNYA MENURUT UU PERKAWINAN." *Jurnal Ilmiah Al-Syir'ah* 11 (1). <https://doi.org/10.30984/as.v11i1.163>.
- Hanapi, Agustin, and Manshur. 2024. "PERLINDUNGAN ANAK DARI MARRIAGE SIRI MENURUT HUKUM POSITIF INDONESIA." *Kalam: Jurnal Agama Dan Sosial Humaniora* 12 (1): 11–22. <https://doi.org/10.47574/kalam.v12i1.250>.
- Jamal, Ridwan, Misbahul Munir Makka, and Nor Annisa Rahmatillah. 2022. "Pencatatan Nikah Di Kantor Urusan Agama Sebagai Fakta Hukum Perkawinan Masyarakat Muslim." *Al-Mujtahid: Journal of Islamic Family Law* 2 (2): 111. <https://doi.org/10.30984/ajifl.v2i2.2132>.
- Lestari, Yunia. 2022. "Tindakan Penyalahgunaan Marriage siri Menurut Ketentuan Hukum Pidana." *Bhirawa Law Journal* 3 (2): 155–63. <https://doi.org/10.26905/blj.v3i2.7151>.
- Lubis, Irpan Husein, Khairul Riza, and Nicha Suwalla. 2023. "Sidang Itsbat Bagi Pasangan Marriage siri Ditinjau Dalam Perspektif Hukum Islam." *Jurnal Ilmiah Hukum Dan Hak Asasi Manusia* 2 (2): 59–65. <https://doi.org/10.35912/jihham.v2i2.1575>.
- M. Yusuf, M Yusuf. 2020. "DAMPAK MARRIAGE SIRI TERHADAP PERILAKU KELUARGA." *At-Taujih : Bimbingan Dan Konseling Islam* 2 (2): 96. <https://doi.org/10.22373/taujih.v2i2.6530>.
- Manurung, Agus, and Lusia Sulastri. 2021. "Polemik Pencatatan Anak Dari Marriage siri." *Jurnal Hukum Sasana* 7 (2): 321–32. <https://doi.org/10.31599/sasana.v7i2.858>.
- Minan, Minan, Made Warka, and Hufron Hufron. 2022. "Legal Protection Children of Siri Marriage in Indonesia." *Technium Social Sciences Journal* 36 (October): 244–50. <https://doi.org/10.47577/tssj.v36i1.7534>.
- Pancasilawati, Abnan. 2014. "Perlindungan Hukum Bagi Hak-Hak Keperdataan Anak Luar Kawin." *FENOMENA* 6 (2): 171. <https://doi.org/10.21093/fj.v6i2.168>.
- Purwasaputri, RR. Alysia Gita, Sudarsono Sudarsono, and Moh. Fadli. 2021. "Fulfillment of the Principle of Justice in Making Birth Certificates for Children Born Outside of Legal Marriage Between Both Parents." *International Journal of Multicultural and Multireligious Understanding* 8 (7): 259. <https://doi.org/10.18415/ijmmu.v8i7.2837>.
- Putusan No. 17/Pdt.G/2024/PA.Sgr. 2024. RI, Kememang. 2018. *Kompilasi Hukum Islam Di Indonesia*. <https://simbi.kemenag.go.id/eliterasi/storage/perpustakaan/slims/repository/b5c07c0ce34195adb3cd15ad059b33f2.pdf>.
- Sobari, Ahmad. 2018. "Marriage siri Dalam Perspektif Islam." *Mizan: Journal of Islamic Law* 1 (1). <https://doi.org/10.32507/mizan.v1i1.117>.
- Syafi'i, Alfian, and Diki Dzulkifli. 2024. "Praktik Pemberian Nafkah Anak Hasil Pernikahan Siri Di Kawahmanuk, Kabupaten Kuningan." *El 'Aailah: Jurnal Kajian Hukum Keluarga* 3 (1): 1–15. <https://doi.org/10.59270/aailah.v3i1.221>.
- UU No. 1 Tahun 1974 Tentang Perkawinan. n.d.
- UU No. 24 Tahun 2015 Tentang Admintrasi Kependudukan. n.d.
- UU No. 35 Tahun 2014 Tentang Perlindungan Anak. n.d.
- UUD NRI Tahun 1945. n.d.
- Wahyudani, Zulham. 2020. "KEABSAHAN MARRIAGE SIRI DALAM PERSPEKTIF MASLAHAH." *Jurisprudensi: Jurnal Ilmu Syariah, Perundang-Undangan, Dan Ekonomi Islam* 12 (1): 44–63. <https://doi.org/10.32505/jurisprudensi.v12i1.1508>.