

LEGAL PROTECTION REGULATIONS FOR SECRET MARRIAGES ACCORDING TO POSITIVE LAW IN INDONESIA

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Abstract

Public awareness of marriage registration is still very low. This is evident from the increasing rate of unregistered marriages in Indonesia. Therefore, the problem of unregistered marriages must be resolved immediately with easier and more efficient procedures. The unresolved problem of unregistered marriages is not actually due to social problems of the perpetrators themselves, but rather the reluctance of the perpetrators of unregistered marriages to take care of it because the procedures are considered not easy and efficient. Therefore, this study examines the legal protection of unregistered marriages through *tajdidun nikah* in an effort to renew marriage law in Indonesia. This study is a normative-empirical study with case study and literature methods that look at the facts in the field and then review them from the perspective of applicable law. The results of this study indicate that the regulation of legal protection for unregistered marriages according to Positive Law in Indonesia is carried out through the submission of *isbat nikah* as regulated in Article 7 paragraph (3) of the KHI.

Keywords: Secret Marriage, Renewal of Marriage Law; Positive Law.

INTRODUCTION

As social beings, of course humans need other people to continue their lives. One way to continue or maintain their generation is through marriage. Marriage is a sacred and holy institution where men and women ¹ intertwined in a very strong bond (*mitshaqan ghalidhan*)² to form a *sakinah, mawaddah wa rahmah* family.³

Marriage has a noble meaning and is in accordance with the status held by humans as noble creatures before the Almighty Creator. Viewed from the ontological aspect, the basis of the existence of marriage lies in the agreement or spiritual bond that binds two different creatures, male and female. Philosophically, as a consideration or reason that illustrates that the regulations that are formed take into account the outlook on life, awareness and legal ideals that include the spiritual atmosphere and philosophy of the Indonesian nation which are sourced from Pancasila and the Opening of the 1945 Constitution of the Republic of Indonesia, then in Article 1 of this Marriage Law it states that the purpose of marriage that has been formed by husband and wife, namely a happy family and an eternal family.

A happy family is not measured by the amount of wealth, nor is it measured by the number of children who will become heirs to the next generation. Happiness in the family includes two sides, namely the physical side and the spiritual side. The external side must be seen in the harmony of life through honest attitudes, discipline, vitality, wise management of family finances, planning and regulation of child birth, relationships within the family both internally and externally, Resilience in facing trials and others. While the internal side is revealed to accept each other, support each other for the truth and honesty in behavior and actions, the ability to appreciate every difference between partners, respect and honor each other both

between partners and family members and others.⁴ Marriage is a sacred agreement, meaning worship to Allah SWT, following the sunnah of the Prophet and carried out on the basis of sincerity, responsibility, and following the legal provisions that must be carried out. In Law Number 1 of 1974 concerning marriage, it states that marriage is a physical and spiritual bond between a man and a woman as husband and wife with the aim of forming a happy and eternal family based on the Almighty God.⁵ marriage is a treasure of human civilization whose growth or development is directly or indirectly based on science, and from an axiological aspect, marriage is understood as one of the fundamental values of life so that marriage cannot be separated from values that have religious, ethical, and aesthetic dimensions. The religious value of marriage comes from religion which establishes marriage as the first seed of the embryo of community life, and a natural rule for the universe created by God in order to make life more valuable and noble. Therefore, the contract or bond in marriage must be understood as a contract that provides a balance of rights and obligations between husband and wife, and is used as a creative vehicle to build a just and civilized human civilization.⁶

In Islamic law, marriage registration is not regulated concretely. However, referring to the demands of the development of the times and various considerations of welfare, Islamic law in Indonesia regulates registration institutions for the purpose of realizing orderly marriages in society. This marriage is important in human life, both individuals and groups.⁷ Therefore, as one of the important aspects in human life, of course marriage is not free from law because a legal marriage, the association of men and women occurs honorably in accordance with the position of humans as honorable creatures. Therefore, recording each marriage is the same as recording important events in a person's life.⁸

The institution of marriage registration is one form of state that is made in the form of a law to protect the dignity and sanctity of marriage, and more specifically to protect women in their household life. With the registration of marriage which is evidenced by a Marriage Certificate and obtained by both partners, then if later there is disharmony in their household so that a dispute occurs, then one party (the other party) can take legal action to defend and obtain their respective rights. So, the marriage certificate functions as real evidence of the legal acts that the community has done.

The value of legal certainty provides attention to all Muslims to obey what has been stipulated in the Law on Marriage, because the Law on Marriage is the basis for the application of Islamic law in the field of marriage, divorce and reconciliation. For that reason, for the Indonesian nation, it is absolutely necessary to have a national law on marriage which simultaneously accommodates the principles and provides a legal basis for marriage which has been a reference and has been applicable to various groups and communities.⁹, and for the group of Muslims who must be subject to Law Number 1 of 1974 concerning Marriage, "the validity of a marriage according to Islamic law must fulfill certain pillars and conditions."

The above is also explained in the Compilation of Islamic Law (KHI) Article 5 that (1) in order to guarantee orderly marriages for the Islamic community, every marriage must be recorded, (2) the recording of the marriages referred to in paragraph (1) is carried out by a marriage registrar.

With the legal provisions governing the registration of marriages above, it can be understood that the registration is an administrative requirement, meaning that the marriage that is carried out remains valid if it has been carried out based on the beliefs (religions) of each. So, this registration of marriage is regulated so that one of the partners can take legal action if in their marriage there is someone who neglects their obligations as a husband and wife.

As Muslims, of course there are several phenomena that occur in marriage, such as divorce, polygamy, domestic violence and even the most unique, namely *Tajdid al-Nikah* (marriage renewal). The emergence of this phenomenon, especially in terms of *Tajdid al-Nikah*, is certainly caused by various factors, one of which is the feeling of anxiety felt by the husband and wife regarding their marriage, both from words and from actions that were considered less than good when they first started their marriage.

In Islam, it is known that renewing a marriage is actually not necessary. This is because in the absence of a divorce from the husband, there should be no such thing as a new contract carried out by the husband and wife. However, *Tajdid al-Nikah* in the community is still widely done due to several factors. The implementation of *Tajdid al-Nikah* is actually the individual belief of the community itself who wants their household to run harmoniously or as a form of their caution about what they do.

The state and government have an interest as well as an obligation to oversee and direct marriage as a social institution that protects and elevates the dignity of women. The political role of the state is vital for the establishment of a marriage institution that is able to realize a healthy, harmonious, religious, and democratic social order - of course while still paying attention to the interests, needs, and rights of women and children.¹⁰

Aware of the sacredness of marriage, the Indonesian government has a special concern for the implementation of marriage which is an institutionalization of the fulfillment of the instincts of its citizens. This is proven by the enactment of two special regulations on marriage that must be obeyed, namely Law Number 1 of 1974 and Presidential Instruction Number 1 of 1991 concerning the Compilation of Islamic Law (KHI). Both regulations are essentially the embodiment of Islamic marriage law. It is said so, because the values contained in the two regulations do not conflict at all with the values of marriage in Islam.¹¹

The most vulnerable thing to change of the three things is the limitation of the marriage age, namely Law Number 16 of 2019 concerning Amendments to Law Number 1 of 1974, in Article 7 paragraph (1) states that the marriage age of a man is when he reaches the age of 19 (nineteen) years, while the marriage age for a woman is when she reaches the age of 19 (nineteen) years. The next paragraph then provides an opportunity for dispensation for someone who has not reached the marriage age for certain reasons, and with the mechanisms that have been regulated.¹²

In essence, Islam does not stipulate a minimum age limit for marriage among Islamic legal experts themselves, this is still unclear which ultimately leads to differences of opinion. According to the majority opinion, underage marriage is a marriage carried out by a man who has not reached the age of puberty or to a woman who has not menstruated.¹³ And in *fiqh* it is

not explicitly regulated due to the absence of evidence that explicitly regulates it. While the principle of *usul* states that the original law of every act is permissible until there is evidence that prohibits it.¹⁴

The opposite of the legal indication above is reflected in one of the principles or principles of marriage according to Law Number 16 of 2019 concerning amendments to Law Number 1 of 1974. This principle is the principle of maturity of the prospective bride and groom which is then emphasized by the existence of restrictions on the age of marriage.¹⁵ This clearly reveals that there is a gap between two norms that are equally binding on every human being, namely religious norms and legal norms. In fact, both religious norms and legal norms also originate from social norms which are the umbrella of life in society. Denying both norms can be said to be uncivilized.¹⁶

Talking about the age limit for marriage, it seems unwise to completely close your eyes and ears to the fact that there are many early marriages (the term for marriages carried out by brides and grooms who have not reached the age of marriage) in the midst of society, especially among primitive communities. The question then is, whether these marriages are carried out based on the rules of the game and the model rules initiated by the Law or whether they actually justify any means to be able to carry out these marriages.¹⁷ It seems difficult to follow the mechanism that has been set. It is said that because there is a chance of dispensation in Article 7 paragraph (2) of Law Number 16 of 2019 concerning amendments to Law Number 1 of 1974 is an alternative path and of course for certain reasons only. This is intended to realize the purpose of marriage itself.¹⁸

These concerns are closely related to the implementation of the law enforcement system, especially in terms of the implementation of the marriage law system or the implementation of legal pluralism, namely regarding the age limit for marriage in the midst of society. Discussing this means discussing the working system of the law in regulating and/or forcing society to obey existing laws. In this case, there are at least four important factors that influence law enforcement in the midst of society, namely the legal rules/regulations themselves, law enforcers, the means used by law enforcers and public awareness as legal subjects.¹⁹

Legally and philosophically, this legal rule can be believed to have met the requirements for its implementation. However, sociologically, it can still be questioned. It is said so because it turns out that there are still many practices of secret marriages in the community with various reasons and methods. So it is natural that the implementation of the legal system is still questionable. And it is also natural that the question arises: if a regulation is considered good, but is not obeyed by the community, what factors cause it?

It seems that there is no doubt that the regulation of marriage registration did not arise from a vacuum, but was based on the foundations of the public interest. Therefore, it is the duty of law enforcers with all their authority to convey the meaning of this interest and to ground it as an important part of community life. The anxiety that then arises is why are there still members of society who do not comply with regulations that are not considered good if the enforcers have sufficient authority?²⁰

Based on the discourse above, the author tries to trace the consistency of law enforcers, in this case the KUA Sub-district officials, both the KUA Head and the Penghulu in the Mataram City area. However, in this study, the KUA Head and Penghulu are focused on six KUA Sub-districts in the Mataram City area, namely Cakranegara, Sandubaya, Mataram, Selaparang, Ampenan and Sekarbela Sub-districts. In general, the city can be considered quite advanced and the average education is middle to high, although there are many practices of unregistered marriages or unrecorded marriages. Based on pre-research conducted by the author in the city, it is known that almost 40% of all residents have unregistered marriages.²¹ Because there are several factors causing it, namely underage marriage, the marriage of a widower and a living widow who does not have legal standing in the form of a divorce certificate and a man who marries more than one (polygamy), then that is what causes unregistered marriages at the KUA, generally occurring among men and women. Various reasons behind it, such as not going to school (unemployment), feeling that it is time to get married, to strong reasons that are not prohibited by Islamic law.

This situation has a very large influence on the level of compliance of local people with the law (read: legal awareness) so that the majority of them prefer to marry underhand without being registered rather than having to apply for dispensation, divorce certificates and polygamy permits to the local Religious Court. This habit seems to be considered a normal action so that there is no attempt to improve it from year to year, even from generation to generation. This action is generally taken by parents even though their children are still very young and mentally not ready to build a household, let alone to achieve the value of *sakinah* in the form of a household as aspired to by Islam.

The question then is, do the KUA officials and local penghulu not know at all or are they actually turning a blind eye and ear (read: powerless) because they believe in the assumption that the greater the role of social control tools other than law, such as religion and customs, the smaller the role of law.²²

With the hope of providing a good contribution in the development of legal awareness, and providing legal certainty to renew unregistered marriages at the KUA and providing an alternative solution, namely by conducting *tajdidun nikah* as an effort to provide legal certainty, especially for the people of Mataram City. This consideration is a logical consideration considering that one of the underlying factors of a person's actions is depending on the values believed.²³ This research is entitled: "Legal Protection For Sirri Marriage Through *Tajdidun Nikah* In An Efforts To Reform Marriage Law In Mataram City"

METHOD

Types of Normative Legal Research

This research is normative legal research, namely using legal sources in the form of laws and regulations, court decisions/rules, contracts/agreements/contracts, legal theories, and opinions of scholars.²⁴ The same opinion by E Saefullah Wiradipradja in Muhaimin states that normative legal research is legal research that studies positive legal norms as the object of its study.²⁵ The

legal object used as the basis for the study in this research is of course positive law and Islamic law related to the status of tajdidun nikah as a new alternative from a legal perspective to the legality of secret marriage in Indonesia.

Research Approach

In this study, various approaches are used with the aim of obtaining information from various aspects regarding the issue being studied. The approach itself is interpreted as an effort to establish relationships with people or methods to achieve an understanding of the research problem. Therefore, in legal research there are several approaches, as mentioned by Johnny Ibrahim who divides the normative legal research approach into seven approaches, including;

a. Legislative approach;

Legislative regulatory approach (*Statute Approach*), is intended to examine all laws and regulations²⁶ and regulations related to the legal issues being discussed or researched. This legislative approach is used by researchers to see and analyze further the effectiveness of current legislation in force in society related to the regulation of secret marriages and the implications of tajdidun nikah on the legality of secret marriages.

b. Case approach

Case Approach is usually used by conducting a review of cases related to the issues faced that have become court decisions and have permanent legal force. This case can be a case that occurred in Indonesia, namely a secret marriage. Currently, the status of a secret marriage based on positive law is invalid (illegal), but it is also necessary to look at it from another perspective related to the position of tajddidun nikah in the concept of marriage.

c. Analytical approach

It is an approach to understanding the meaning contained in the terms used in legal regulations conceptually, as well as understanding their application in practice and legal decisions.

The analytical approach is carried out or used by researchers through two stages. First, researchers try to obtain new meanings contained in the relevant legal rules, second, testing the legal terms in practice through analysis of existing legal decisions, in this case related to the legal protection of secret marriages in Indonesia as stated in the decision related to marriage confirmation.

Types and Sources of Research Materials

The types of data used to study normative legal research are: secondary data and primary data. Secondary data sources are obtained through literature studies and document studies. Literature studies include books, journals, seminar proceedings, papers, legal dictionaries, legal encyclopedias, legal literature dictionaries or other written legal materials. In addition to literature studies, document studies also include; legal documents of Legislation Number 1 of 1974, and Law Number 16 of 2019, Compilation of Islamic Law, Government Regulation Number 48 of 2014, Regulation of the Minister of Religion Number 20 of 2019, Decree of the Director General of Islamic Community Guidance Number 473 of 2020 hierarchically or

hierarchically, jurisprudence, agreements/contracts and other documents. While primary data is data that comes from field data obtained from respondents and informants. Primary data sources are data obtained from primary sources. The primary data sources in question can be obtained from: respondents and informants and sources. Therefore, according to Muhaimin in his book "Legal Research Methods" states that data sources in normative-empirical legal research are secondary data (library data and legal documents) which are better known as legal materials including primary legal materials, secondary legal materials, tertiary legal materials and non-legal materials as well as primary data directly obtained from community members who carry out unregistered marriages, subjects studied at institutions such as; Ministry of Religion, KUA, Registrar, Village Head, Head of Environment and Head of RT who will provide information to the author who is known as the respondent and informant.²⁷

The data sources in this study are adjusted to the focus and objectives of the study. In qualitative research, Normative-empirical, samples, data sources are selected, and prioritize the emic perspective, in the sense of prioritizing the informant's view, namely how they view and interpret the world from their standpoint.²⁸ The author cannot force his will to get the desired data.

Legal Material Collection Techniques

The technique of collecting legal materials or secondary data in normative legal research is carried out by means of a literature study of legal materials, both primary legal materials, secondary legal materials, and tertiary legal materials and/or non-legal materials. Several steps taken in collecting legal materials are using literature studies and document studies.

Legal Material Analysis Methods

In analyzing the legal materials that have been collected by the researcher, the researcher then interprets the materials. The use of this interpretation method is carried out to ensure that it is related to the regulations governing sirri marriage, tajdidun nikah and its implications. The interpretation carried out by the researcher is using grammatical interpretation, systematic interpretation and extensive interpretation.

Conclusion

Withdrawal conclusion In this research, a deductive method is used, namely drawing conclusions from general things to be able to draw specific conclusions.

RESULTS AND DISCUSSION

Secret Marriage in Indonesia

As a pluralistic country, of course Indonesia has a variety of traditions and cultures in its marriage. Marriage is actually not only related to the groom or bride, but also the parents of both parties and their respective families. The role (blessing) of parents, especially when becoming the guardian of the bride, is very important in Islamic marriage. If there is no female guardian, then the marriage is considered invalid.

As the majority of the Muslim population, of course there are many phenomena and problems in carrying out marriage. Therefore, Islam as a religion that is rahmatan lil alamin regulates the procedures for formalizing a relationship between men and women called marriage. Marriage is a legal bond between a man and a woman to jointly make a household life orderly. However, in Islam itself, it is not clearly stated regarding the minimum age limit for marriage.

One of the common phenomena found in Indonesia is nikah sirri so that in practice in Indonesia there are not a few people who do nikah sirri. Nikah sirri can be interpreted as a secret or confidential marriage. It is said so because in this kind of marriage procession it is deliberately hidden from the community for various reasons, and is usually attended only by a limited circle of the closest family, not celebrated in the form of a walimatul usry reception open to the public. There are many factors why nikah sirri is widely practiced in society.

1) Factors Causing Secret Marriages in Indonesia

Secret marriage in Indonesia certainly has various reasons carried out by the community. Some factors or reasons include; (1) marriage without family approval; (2) polygamy; (3) registration is not required in religion; (4) difficult distance to the KUA; (5) high costs; (6) complicated in managing files, (7) administrative management. As for the procedure itself, namely by registering at the Religious Court, namely submitting an application to the Religious Court office, registering and paying a down payment on court costs, waiting for a court summons, attending the trial, completing the court decision/determination. Such things are then considered by the community as a difficult procedure so that many people are reluctant to register their marriages. From the description of the data above, the author can conclude several reasons why Indonesian people currently carry out secret marriages. Among them are;

First: Marriage between a man and a woman who are still minors according to the law, both of whom are still in school. This marriage came on the initiative of the parents of both parties, the prospective husband and wife, who agreed to match their children with the aim of further ensuring the match and establishing a closer brotherhood. However, at this time the author sees more and finds that marriages *sirri* under age is more often done by teenage couples who because of free association and get pregnant outside of marriage. In addition, one of the classic reasons that is often used is to keep these teenagers away from adultery, for that they are married which results in the marriage being secret.

Second : A marriage model between a man and a woman who are of legal age according to the law, but they deliberately carry out this marriage underhand (marriage *sirri*), not registered at the KUA for various reasons. This marriage may have occurred for the sake of saving money, as long as it was done according to religion so that it did not need to be registered at the KUA. Or perhaps, the marriage was carried out by someone who was economically capable, but because of reasons of not wanting to bother with all kinds of administrative and bureaucratic matters, or for other reasons, he preferred to just have a secret marriage.

A secret marriage itself is a marriage carried out by Muslims in Indonesia, where the marriage is sufficient to fulfill both the pillars and the requirements of marriage. So that makes some couples choose to legitimize their relationship, some take steps to marry with a secret marriage,

a marriage that is carried out without being registered or recorded with a marriage registrar as regulated and determined by Law No. 1 of 1974 concerning marriage.

2) The Impact of Secret Marriage

Secret marriage certainly has its own risks for the couple who do it, especially the status of the clarity of the wife and child. Where if something happens to the father/husband of the child's status, then the child will later lose their rights such as the right to support, inheritance if the father dies, and the wife who will not receive marital property when a divorce occurs.

Secret marriage will also make it difficult to implement the prophet's hadith, my house is my heaven. The hadith is not a description of the material aspect of the condition of the Prophet's household. In terms of material, he and his family lived in simplicity and modesty. Even in one of his prayers, he expressed his acceptance of life and death in a state of 'poverty'. This expression is a description of the psychological and sociological conditions that surround his household. A description that explains the atmosphere of peace, tranquility, harmony, the beauty of personal relationships between its members, and far from all forms of violence. In the context of community life, this expression is not merely an informative statement. His capacity as a role model implies the meaning that the expression is a sign of the ideal household conditions that should be built by his followers.

According to the Malikiyah scholars themselves, secret marriage is a form of marriage that is not publicized, even though it has been witnessed. However, in this case the presence of witnesses is still requested so as not to disseminate the secret marriage to the general public.²⁹ In fact, the main purpose of secret marriage in society is none other than to prevent adultery, to bind one family to another, to avoid bad views from the surrounding community, so that their sons and daughters do not socialize too freely with other parties because both are bound by the bonds of marriage according to religion and custom.³⁰

If we compare the formulation according to Islamic law with the formulation in Article 1 of the 1974 Marriage Law regarding the definition of marriage, there is actually no difference in principle, which from the perspective of Islamic law is included in the field of muamalat, namely the field that regulates relations between humans and worldly life.

Legal Protection of Secret Marriage According to Positive Law in Indonesia

As a country based on law and not based on power alone, the law must be made the commander in running the wheels of national and state life. In addition to certainty and justice, the law also functions for the welfare of human life. So it can be said that law is a field of struggle and struggle for humans in the context of seeking happiness in life.

Based on the above, the law must have a basic assumption of the relationship between law and humans. As has been explained in the theoretical study related to progressive law, progressivism is based on the view of humanity, that humans are basically good, have the characteristics of compassion and care for others. Thus, the basic assumption of Progressive Law starts from the basic nature of law which is for humans. Law is not present for itself as proposed by positive legal science, but for humans in order to achieve human welfare and

happiness. Such a position leads to a predisposition that law is always in the status of "law in the making" (law that is always in the process of becoming).

Related to the context of unregistered marriage, then the law should not only be seen from the perspective of the law itself, but rather see it from the social goals it wants to achieve and the consequences that arise from the operation of the law. The law is for humans". This basic belief, optic or belief does not see the law as something central in law, but rather humans who are at the center of the rotation of the law. The law revolves around humans as its center. The law is for humans, not humans for the law. If we hold on to the belief that humans are for the law, then humans will always be tried, perhaps even forced, to be able to enter into the schemes that have been created by the law.

In sub-chapter 3.1 above, it has also been explained regarding how unregistered marriages are in Indonesia and their position in positive law in Indonesia, where the results of the analysis obtained are based on the legal perspective applicable in Indonesia that unregistered marriages are marriages that are not carried out in accordance with the provisions of applicable laws and regulations. As understood, based on the provisions of Article 2 paragraph (1) and (2) of Law Number 1 of 1974 as amended by Law Number 16 of 2019 concerning Marriage in conjunction with Article 4 and Article 5 paragraph (1) and (2) of the KHI, a marriage, in addition to being carried out legally according to religious law, must also be recorded by an authorized official.³¹ In fact, the registration is a legal order as a manifestation of the government's sharia law which must be obeyed in order to realize the welfare of the people and fulfill the demands of the people's lives which continue to develop for the sake of legal certainty.

Thus, from the perspective of the legislation, unregistered marriage is classified as an illegal and invalid marriage. For Indonesian Muslims, there are two basic requirements that must be met as cumulative requirements that make their marriage valid according to positive law, namely: first, the marriage must be carried out according to Islamic law, and second, every marriage must be recorded. The registration of the marriage is carried out by the PPN according to Law No. 22/1946 in conjunction with Law No. 32/1954. Thus, failure to fulfill one of the provisions in Article (2) causes the marriage to be void or at least legally defective and can be canceled.

However, if the provisions of the Article are still understood as alternative requirements, then the marriage is considered valid even though it is only carried out according to religious law and is not registered at the KUA. The legal issue regarding the validity or otherwise of an unregistered marriage will always be a prolonged polemic if the provisions of the law itself do not regulate it explicitly. In the sense that the obligation to register must be stated explicitly and accompanied by sanctions for those who violate it.

From social problems, especially in terms of unregistered marriages that cannot be separated from the life of society, the State continues to provide legal protection for those who have carried out unregistered marriages. This is a form of the state's presence in protecting a society that is orderly by law and protecting them from the consequences of marriage. This protection is then realized from the community's ability to register their marriage if they have already

carried out an unregistered marriage and have not recorded it with the steps that have been provided or regulated in the law as follows;

- a. For people who have already had a secret marriage, they can hold a marriage whitening program (isbat nikah) by the Ministry of Religion. This is one of the programs of the Ministry of Religion itself in recording all people who do not have a marriage certificate, then it is confirmed by the court with costs borne by the government.
- b. For couples who have just entered into a secret marriage and have not yet been blessed with children, the marriage can be validated by repeating the marriage (tajdidun nikah) or by registering it at the local Religious Affairs Office.

Indeed, speaking in the narrow context of unregistered marriage, it will be found that unregistered marriage is one of the legal acts that is less desired by the Law, because there is a strong tendency from the perspective of the history of marriage law, that unregistered marriage is an illegal marriage. However, in Article 5 paragraph (1) of the KHI there is information that implicitly states that marriage registration is not a requirement for a valid marriage, but only as a tool to create order in marriage. Therefore, Article 7 paragraph (3) of the KHI regulates the confirmation of marriage for unregistered marriages.

So, in the context of resolving and protecting the community who carry out secret marriages, it can be resolved by submitting a marriage confirmation. The provisions of the marriage confirmation in Article 7 paragraph (3) of the KHI began with the issuance of marriage provisions in Law No. 1 of 1974 that marriages in the community must be registered with an authorized institution, so that there is a legal umbrella bond that can be maintained by the government to guarantee rights and obligations in marriage. Seen from historical thinking, marriages that have occurred in the community before the issuance of the provisions of Law No. 1 of 1974 have not been recorded with certainty. From there, the government made other provisions for the community who had been married before the formation of Law No. 1 of 1974, namely the provisions in Article 7 paragraph (3) of the KHI concerning Marriage Confirmation or the appointment of marriage.

Sociologically, many people today still do not understand how important it is to get married. In addition, Article 7 paragraph (3) of the KHI is used as a legal shield for those who have secret marriages in order to legally bind the marriage first in religion before being officially married by a Marriage Registration Officer.

The implementation of Article 7 paragraph (3) of the KHI in the Religious Court is largely due to the factor of letter e, namely "Marriage carried out by those who do not have obstacles to marriage according to Law No. 1 of 1974". The wording of this Article is the basis for couples who have carried out a secret marriage to submit a marriage confirmation to the Religious Court. Thus, it can be said that unregistered marriages do not violate the constitution, because they are carried out based on religious beliefs that are protected by the 1945 Constitution. In addition, unregistered marriages are a common phenomenon and are based on good intentions or emergency factors, so the judge must take this into consideration.³²

Legal Protection Regulations for Secret Marriages According to Positive Law in Indonesia

Some communities in Indonesia, especially rural areas, still adhere to a marriage system that is important to be valid according to religion. As a result, such marriages fall into the category of secret marriages. However, some communities, according to data collected by the author, do see that people are more indifferent or less concerned about their marriages that fall into the category of secret marriages. For them, marriage is an activity that is carried out according to the provisions of each religion and is considered valid according to religion. This certainly shows that public awareness of marriage registration is still low.

Secret marriages carried out by some people are caused by the lack of public knowledge about marriage. There are various reasons behind someone carrying out a secret marriage. Some people get married because of economic constraints, because some young people are unable to cover the costs of the party, prepare their own house and joint property, so they choose to marry by *misyar* as long as it is *halal*. There are also those who are unable to spend money to register with the KUA which they consider to be very expensive. Or even financially this couple is enough to pay for it, but because they are worried that their marriage will be widely spread, they finally cancel their intention to register officially with the KUA or civil registry.

This is to cover up traces and be free from legal demands and administrative penalties from superiors, especially for second and subsequent marriages (for civil servants). And there are also some people who carry out secret marriages by criminalizing secret marriages, with the aim of covering up someone's shame such as someone who wants to have polygamy but is afraid that his wife will find out. Or because a woman is pregnant outside of marriage. Those who carry out secret marriages, the dominant factor for those who have secret or underhand marriages is problems such as procedural issues that cannot be fulfilled.

Secret marriage between a man and a woman is the beginning of a disaster for women. The marriage will become a palace of torture for women, therefore according to the author, the view that justifies secret marriage is also incorrect on the grounds that: first, the state should not interfere in the religious affairs of its citizens. According to him, marriage registration is not intended to interfere in the religious affairs of its people. Marriage registration is basically the state's obligation to protect every citizen. Registration is not only intended for one religious adherent but all religious adherents.

There are too many social risks if the marriage is not registered. Women and children are the ones who suffer the most from unregistered marriages. The values of marriage which are considered sacred, profane and sublime are now increasingly fragile. Many marriages are carried out just to channel lust without being able to ascertain whether the marriage is valid according to the terms and conditions. How many children are abandoned due to unregistered marriages? This is an example of the bad consequences of an unregistered marriage, children from an unregistered marriage cannot get a birth certificate, are not listed on the family card, cannot get an ID card or passport based on the provisions of Law no. 23/2006.

Secret Marriage Registration Regulations in Indonesia

Sirri marriage is always associated with the marriage law, namely Law Number 1 of 1974. This is based on the reason that the term sirri marriage itself emerged since the issuance of the law. So, if we look at the position of sirri marriage in the perspective of positive law in Indonesia, the author can explain that the system of laws and regulations in force in Indonesia, sirri marriage is a marriage that does not have the basis of legal legality, in the sense that it does not comply with existing laws and regulations.

The issue of marriage registration is not only debated whether it is a legal requirement or an administrative requirement. But how to build a new perspective within the framework of Islamic family law renewal in Indonesia. Up to here it is interesting to analyze related to marriage registration must be seen as a new form of how to announce (advertise marriage). Furthermore, this registration is more beneficial especially for women and children.

Placing marriage registration as an administrative requirement is very disadvantageous to the efforts to socialize marriage law in Indonesia. In fact, if the methodological basis is traced, it is quite clear. Technically, the scholars of ushul call it Maslahat al-Mursalah. With the registration of marriage with a clear legal status, various forms of harm such as uncertainty of status for women and children can be avoided.

Maqashid al-Hajjiyat is defined as something that is needed by humans to facilitate the achievement of interests that are included in the category of dharuriyat. On the contrary, eliminating factors that complicate efforts to realize dharuriyat. Because of its function to support and complement the primary goal, the presence of this secondary goal is needed. This means that if the things that are hajjiyat do not exist, human life will not be destroyed, but there will be various imperfections, even difficulties. In Islam, recording is actually needed to maintain legal certainty. Even the wording in Surah Al-Baqarah 2:282 which means;

“O you who believe! If you have debts and receivables for a specified period of time, you should write them down. And let a writer among you write it correctly. Let the writer not refuse to write it as Allah has taught him, so let him write it. And let the person who owes it dictate, and let him fear Allah, his Lord, and let him not deduct anything from it. If the debtor is someone who lacks intelligence or is weak (in his condition), or is unable to dictate himself, then let his guardian dictate it correctly. And testify with two male witnesses among you. If there are not two male (witnesses), then (maybe) a man and two women among the people you like from the (existing) witnesses, so that if one forgets, the other reminded him. And don't let the witnesses refuse when called. And don't get bored of writing it down, for the deadline, whether (the debt) is small or large. That is more just in the sight of Allah, more able to strengthen testimony, and closer to you being beyond doubt, unless it is a cash trade carried out between you, then there is no sin for you if you do not write it down. And take witnesses when you buy and sell, and don't make things difficult for the writer or the witnesses. If you do (that), then indeed, it is an act of wickedness on your part. And fear Allah, Allah teaches you, and Allah is All-Knowing of everything.

From the translation above, it clearly shows that recording or having authentic evidence is very necessary and takes precedence over testimony, which in marriage is one of the pillars.

Marriage registration is regulated in Law of the Republic of Indonesia. No. 1 of 1974 concerning marriage (hereinafter referred to as the marriage law), PP RI. No. 9 of 1975 concerning the Implementation of the Marriage Law (hereinafter referred to as the PP marriage) and KHI. In the marriage law, the rules for marriage registration are regulated in Article 2:

- (1) *Marriage is valid if it is carried out according to the laws of each religion and belief.*
- (2) *Each marriage is recorded according to applicable laws and regulations.*

Meanwhile, in the PP on marriage it is regulated in Article 3:

- (1) *Every person who is going to get married must notify the Registrar of Marriages of their wishes at the place where the marriage will take place.*
- (2) *The notification referred to in paragraph (1) must be made at least 10 working days before the marriage takes place.*
- (3) *Exceptions to the time period referred to in paragraph (2) are due to an important reason, given by the sub-district head (on behalf of) the Regent or Head of the Region.*

In the KHI, marriage registration is regulated in Articles 4, 5, 6 and 7.

Article 4;

"Marriage is valid if it is carried out according to Islamic law in accordance with Article 2 paragraph (1) of Law no. 1 of 1974 concerning marriage."

Article 5;

- (1) *In order to ensure orderly marriages for the Islamic community, every marriage must be recorded.*
- (2) *The registration of the marriage referred to in paragraph (1) is carried out by the Marriage Registrar Officer as regulated in Law No. 22 of 1946 in conjunction with Law No. 32 of 195*

Article 6;

- (1) *In order to fulfill the provisions in Article 5, every marriage must be conducted in the presence and under the supervision of an Employee.*

Article 7;

- (1) *Marriage can only be proven by a Marriage Certificate made by a Marriage Registrar*

Article 2 of the Marriage Law, gives rise to various kinds of understanding, firstly that between paragraphs (1) and 2, cannot be separated and are one unit, a marriage is valid if it is in accordance with religious rules and is recorded. This understanding is understood from the inclusion of both paragraphs in one Article. At least if the law says otherwise, of course the two will be separated in different Articles.

Article (1) first and article (2) are not one package, so that the marriage is still valid even without registration. This interpretation is influenced by religious understanding contained in the books of Islamic jurisprudence. In the books of Islamic jurisprudence, the issue of registration has not been included in the pillars of marriage or the requirements for a valid marriage. Indonesian society, most of whom follow the Shafi'i school of thought, believes that the validity of a marriage depends on the fulfillment of the elements, namely the presence of a prospective groom and prospective bride, *ijab* and *kabul*, marriage guardian, witnesses and dowry. Ironically, society does not know that Islamic jurisprudence will continue to develop in line with developments in time and place.

The marriage law understands that the issue of registration has not been clearly regulated by religions. Because if it had been regulated, the marriage law would not need to bother mentioning it in the second paragraph or at least the two paragraphs would be combined into a marriage is valid if it has been recorded and is in accordance with religious rules. The separation of marriage registration in paragraph (2) is an affirmation that marriage registration must be carried out even though it has not been clearly regulated by religious texts.

The regulation of marriage registration in the law, government regulations and KHI emphasizes the necessity of registration. This requirement is based on the development of the "illat of order" of marriage in the Muslim community. Therefore, every marriage that is carried out without registration, especially those carried out outside the Marriage Registrar's Office, is a marriage that has no legal force. Legally, every marriage that has no legal force is considered to have never existed.

Thus, although the KHI does not explicitly outline registration as a formal factor in the validity of a marriage, in terms of legal technicalities, the provisions of Articles 4, 5, 6 and 7 clearly outline registration as a condition that determines the legal force of a marriage. Only marriages recorded by a Marriage Registrar have binding legal force.

If observed briefly, this unregistered secret marriage will have legal consequences for the perpetrators. From the perspective of laws and regulations, a secret marriage is a marriage that does not have legal force. A marriage that does not have legal force has a legal impact on the rights of public services by authorized agencies for the perpetrators. For some perpetrators of secret marriages, they do not receive protection and legal services from authorized agencies as they should. Their marriages are not recognized in the population register, their children cannot obtain birth certificates and so on. In other words, secret marriages bring a lot of harm to the life of society, nation and state.

When viewed from an Islamic perspective, the concept of marriage is actually not only for civil matters, nor is it merely a family matter and cultural issue, but is related to religious issues and events. Therefore, people prefer to marry to fulfill the provisions of Allah SWT and the Prophet Muhammad SAW and are carried out in accordance with religious instructions. This means that a marriage is considered valid if the requirements and pillars of marriage itself have been fulfilled.

Referring to the religious rules above, if a marriage has met the requirements and pillars, then the marriage is considered valid. However, the positive law in force in Indonesia, namely in the Marriage Law Number 1 of 1974, Government Regulation Number 9 of 1975, in addition to marriages must be carried out in accordance with the laws of each religion and belief, each marriage event must also be recorded by a Marriage Registrar and attended by two witnesses. This registration has an impact on the guarantee of legal protection for each married couple and their children. However, in society there is an understanding that if the requirements and pillars of marriage are met, then even without registration the marriage is considered valid. On this basis, there are many unregistered marriages in society.

Regarding marriage or marriage, positive law in Indonesia regulates it in several legal products, both in the form of Laws, Government Regulations, Presidential Decrees, and several other regulations that can be used as a legal basis. The first is the Republic of Indonesia Law Number 1 of 1974, Concerning Marriage. In this Law, in Article 2, Paragraph (1) it is stated, "Marriage is valid, if it is carried out according to the law of each religion and belief". For Muslims, of course, according to Islamic law which has clear and agreed pillars and conditions.

In the explanation of Article 2 paragraph (1) it is stated that there is no marriage outside the law of each religion and belief, in accordance with the 1945 Constitution and that what is meant by the law of each religion and belief includes the provisions of the legislation that apply to the religious group and belief as long as they do not conflict or are not determined otherwise in this law.

In paragraph (1) above, it can also be used as a loophole for protection, both directly and indirectly, against the secret marriage itself. This means that a secret marriage refers to the context of a marriage that has been carried out religiously and meets the regulations in positive law, namely Article 2 Paragraph (1). This shows that there is separate protection in the context of positive law for the perpetrators of the marriage as long as the marriage has met the pillars and requirements of marriage that have been regulated based on their respective religions.

In 1991, precisely on June 10, 1991, the President of the Republic of Indonesia gave official instructions to implement the Compilation of Islamic Law (KHI) as one of the references for Religious Court judges in resolving disputes including marriage.³³ In Article 7 paragraph (2) of the KHI it is stated that "In the event that a marriage cannot be proven by a Marriage Certificate, the marriage confirmation can be submitted to the Religious Court". This means that, in the future, those who have a secret marriage will still receive legal protection and to fulfill the elements of Article 2 paragraph (2) "every marriage is recorded according to applicable laws and regulations", the government in this case provides an opportunity for those who have a secret marriage to register their marriage by carrying out or submitting a marriage confirmation.

Regulation of Registration of Secret Marriage through Isbat Nikah in Indonesia

The phenomenon of secret marriage in society is indeed unavoidable. They have their own concepts and understanding of marriage. Therefore, the law in this case returns to its basic philosophy, namely the law for humans, which means that humans are the determinants and

orientation points of the law so that in this case the law is tasked with serving humans, not the other way around.

In the case of a secret marriage, the perpetrators of the secret marriage who want to divorce must first confirm their marriage, because an official divorce can only be carried out if there is also an official marriage. Isbat nikah in this case, functions as a control institution for unregistered marriages. Isbat nikah will function as a filter against things that damage the marriage contract. Isbat nikah fills the gap in the procedural space for registering marriages in secret marriages. In isbat nikah, an in-depth study will be carried out by the Panel of Judges whether the secret marriage meets the pillars and requirements of marriage regulated by laws and regulations.

The term Isbat nikah was popularized by the Compilation of Islamic Law. Before the Compilation of Islamic Law was drafted, the religious court law did not use the term, the law in its explanation only explained that one of the authorities of the religious court in the field of marriage is a statement on the validity of a marriage that occurred before Law Number 1 of 1974 concerning marriage and was carried out according to the regulations. Thus, before the Compilation of Islamic Law came into effect, the term "isbat nikah" was known as "a statement on the validity of a marriage".

The basis for the existence of rules regarding marriage confirmation in laws and regulations is based on the existence of marriages that are carried out based on religion or are not recorded by the authorized Marriage Registrar. Therefore, it can be understood that the state has actually known that unregistered marriages are carried out by the community. So that rules are needed regarding community behavior to minimize unregistered marriages with the "marriage confirmation" rule. Therefore, marriage confirmation is basically another form of marriage registration. Thus, marriage confirmation is a legally binding judicial decision regarding the validity of a marriage that has been carried out and meets the requirements, pillars and does not violate the prohibitions on marriage according to Islamic law. Marriage confirmation in the religious court law is limited only to marriages that occurred before the enactment of the marriage law and in the Compilation of Islamic Law it is added that marriage confirmation is permissible for marriages that occurred before the enactment of the marriage law but in the context of divorce.

From here it can be understood that marriage confirmation is one form of effort to determine and confirm a marriage carried out to obtain state recognition in accordance with applicable regulations. The regulation of marriage confirmation contained in laws and regulations is assumed to be a way out or solution to the problem of unregistered marriages. This step is an important step in terms of legal certainty and also a preventive step to avoid legal uncertainty due to unregistered marriages. However, it should be understood that there are other aspects related to the regulation of when and what kind of marriage can be confirmed and also the regulation of the registration of the marriage itself which is referred to as an "obligation" even though it is considered only administrative for some groups. So, it is very clear that positive law in Indonesia actually still provides a loophole for those involved in secret marriages to register their marriages so that they as those involved in secret marriages can obtain their rights

as citizens. This also means that by carrying out the marriage confirmation to obtain marriage registration, Article 2 paragraph (2) of the UUP is fulfilled, so that secret marriages in Indonesia can be valid both religiously and legally after submitting the marriage confirmation.

CONCLUSION

The regulation of legal protection of unregistered marriages according to positive law in Indonesia clearly states that marriages or marriages for Muslims, in addition to having to be carried out according to Islamic law, must also be carried out before and recorded by the Marriage Registrar (PPN). Marriages that are not carried out in accordance with these provisions have no legal force Article 2 of Law No. 1/1974 in conjunction with Article 2 paragraph 1 of PP. No. 9/1975. Article 4 of the Draft Law on Applied Law of Religious Courts in the Field of Marriage emphasizes that every marriage must be recorded by the PPN. Then Article 5 paragraph (1) states: "to fulfill the provisions of Article 4, every marriage must be carried out before the PPN".

The obligation to register as stipulated in Article 4 and Article 5 paragraph (1) is accompanied by the threat of criminal penalties for those who violate it. Therefore, in order to maintain legal order or to help the community who have not registered their marriage, they can submit a marriage confirmation according to the Decree of the Chief Justice of the Republic of Indonesia Number KMA/032/SK/2006. The legal basis for the implementation of the integrated Marriage Confirmation Trial between the Religious Court and the Regency/City Government (Dukcapil Service) and the Ministry of Religion (local KUA) is the Regulation of the Supreme Court of the Republic of Indonesia Number 1 of 2015 Concerning Integrated Services for Religious Court Mobile Trials in the Framework of Issuing Marriage Certificates, Marriage Books and Birth Certificates. In submitting a marriage confirmation, the requirements must be met in accordance with Article 7 paragraph (3) letters a to e of the KHI. Therefore, the basis for the judge in granting the application for marriage confirmation refers to the legislation, namely Article 2 paragraph (1) of Law Number 1 of 1974, Article 64 of Law Number 1 of 1974 and Article 7 of the KHI paragraph (3) letters a to e.

References

- 1) Women get a fairly large portion in the Qur'an. The Qur'an's attention to women means that women need to be empowered as well as protected and cared for. If currently there are still heartbreaking incidents against women such as Domestic Violence (KDRT) or marginalizing women in the social scene, or there are still many women who are powerless, all of that is our homework. "Women and the Qur'an", p. 42
- 2) In the Compilation of Islamic Law (KHI) in Indonesia in CHAPTER II concerning the Basics of Marriage, Article 2 states "Marriage according to Islamic law is marriage, namely a very strong contract or mitsaqan ghalidzan or obeying Allah's command and carrying it out is worship."
- 3) Then Article 3 of the Compilation of Islamic Law (KHI) reads "Marriage aims to create a household life that is Sakinah, Mawaddah and Rahmah.
- 4) Arif Zakiyudin, Age of Marriage in the Perspective of Islamic Legal Philosophy in <http://pakajen.go.id/v3/article/usia-cap-menikah-dalam-perspekti-filsafat-legal-slam>(accessed 22 February 2023), p.2.

- 5) Aisyah Ayu Musyafah, Marriage in the Philosophical Perspective of Islamic Law in <http://ejournal2.undip.ac.id/index.php/crepido/vol.2 no.2> (accessed 20 December 2020), p.1.
- 6) Salim HS & Erlies Setiana Nurbani, Application of Legal Theory in Dissertation and Thesis Research (Depok: Rajawali Pers PT RajaGrafindo Persada, 1st Ed., 3rd Ct., 2017), p.89.
- 7) Kaharudin, Philosophical Values of Marriage: According to Islamic Marriage Law and Law of the Republic of Indonesia Number 1 of 1974 Concerning Marriage, (Jakarta: Mitra Wacana Penerbit, 2015), p. 3
- 8) Yusuf Hanafi, Controversy over Child Marriage: Perspective of Islamic Jurisprudence, International Human Rights and National Law (Bandung: Mandar Maju, 2011), p.10.
- 9) Law No. 1 of 1974 is intended for Indonesian citizens in general, but the values contained therein are quite representative of Islamic marriage law. While KHI since its inception was intended to be implemented among the Islamic community so it is natural that its nuances are more Islamic.
- 10) State Gazette of the Republic of Indonesia 1975 Number 12 Law of the Republic of Indonesia Number 1 of 1974 Concerning Marriage. See also the Ministry of Religion of the Republic of Indonesia-Directorate General of Islamic Religious Institutionalization, Legal Counseling Materials (Jakarta: tp, 2001), p.18.
- 11) Hidayatullah, Young Marriage from the View of Internal Fiqh http://www.hidayatullah.com/indeks.php?option=com_content&view=article&id=7826:young-marriage-in-the-view-of-fiqh&cated=68 (accessed on March 03, 2012), 1.
- 12) In accordance with the rules of ushul which read: "al-asl fi al-shay'i al-ibahah, hatta yadulla al-dalil 'ala al-tahrim" Moh. Adib Bisri, Translation of al-faraid al-Bahiyah: Treatise on Qawaid Fiqh (Rembang: Kudus Tower, 1977), p. 11.
- 13) The maturity of the prospective bride and groom as one of the principles of marriage means that every prospective husband and wife who are about to get married must be truly mature physically and psychologically (both physically and spiritually). This is a manifestation of the meaning of marriage as a physical and spiritual bond between a man and a woman. See Muhammad Amin Summa, Islamic Family Law in the Islamic World, (Jakarta: Raja Grafindo Persada, 2004), pp. 173-183.
- 14) Saifullah, Reflections on the Sociology of Law (Bandung: Rafika Aditama, 2007), pp. 173-183.
- 15) Joel Feinberg & Jules Coleman, Philosophy Of Law Seventh Edition (New Zealand: Thomson Wadsworth, 2004), p.82
- 16) See general explanation, explanation of Law of the Republic of Indonesia No. 1 of 1974 concerning Marriage. See also Moh. Idris Ramulyo, Islamic Marriage Law: an Analysis of Law No. 1 of 1974 and Compilation of Islamic Law (Jakarta: Bumi Aksara, 2004), p. 73.
- 17) Zainudin Ali, Sociology of Law (Jakarta: Sinar Grafika, 2007), p.62.
- 18) Ahmad Arifin, Responding to the Increase in Cases of Early Child Marriage in NTB <https://www.Samaware.com/2022/06/19/responding-to-the-increase-in-early-marriage-cases-in-ntb/> (accessed on February 22, 2023), p.1. BPS data for 2022 stated that there were 153 cases, meaning that in 2019 to 2021 alone there was an increase in cases of early marriage of almost 300 percent. In the province of NTB, married at an early age who were asked for compensation to the Religious Court by their parents because they were pregnant without a legal marriage bond beforehand, the most cases of dispensation requests were in Central Lombok Regency with 307 requests, Bima Regency and Bima City with 249 requests, Sumbawa Regency with 163 requests, Dompu Regency with 146 requests, East Lombok Regency with 140 requests, West Lombok Regency and KLU with 88 requests, KSB with 27 requests and finally Mataram City with 12 requests.
- 19) Richard P. DeShon and Jennifer Z. Gillespie, A Motivated Action Theory Account of Goal Orientation, Journal of Applied Psychology Vol. 90, no. 6, 2005, p. 1096 –1127

- 20) Dr. Muahimin, Sh., M.Hum, "Legal Research Methods" Mataram: Matram University Press, 2020, p. 45.
- 21) Ibid, p. 46
- 22) The statutory regulations referred to here as an approach (Statute Approach) are as explained in Article 7 and Article 8 of Law Number 12 of 2011, concerning the Formation of Statutory Regulations.
- 23) Muhaimin, Legal Research Methods, (Mataram University Press, 2020), p. 124
- 24) Sugiyono, Understanding Qualitative Research (Bandung: Al-Fabeta, 2009), p. 181.
- 25) Ibn Rushd, BidâO Lord of the Worldşyah al Muqtasid, Juz. II, (Beirut: Dâr Al-Jiil 1409 H/1989M), p. 13.
- 26) Supriyadi, Secret Marriage in the Perspective of Law in Indonesia, (Journal: Islamic Legal Thought and Islamic Law, Vol. 8 No. 1, June 2017) p. 2
- 27) Cik Hasan Bisri, Compilation of Islamic Law (Jakarta: Logos Wacana Ilmu, 2015), p. 145
- 28) Hafifi, Lc.MH, Legal Certainty of Marriage Validation and Child Status after Law Number 1 of 1974 Concerning Marriage and Unregistered Polygamous Marriages, 2019. Web:<https://www.pacilegon.go.id/article/639-kepastian-Hukum-itsbat-nikah-dan-status-anak-after-undang-undang-nomor-1-tahun-1974>, (accessed on Monday, July 31, 2023)
- 29) Abdurrahman, Compilation of Islamic Law in Indonesia (Jakarta: CV. Akademika Pressindo, 2007), p. 53.