

Unregistered Marriage Practices and Their Consequences: A Case Study in Pesisir Selatan Regency

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ABSTRACT

This research examines unregistered marriages in Pesisir Selatan Regency, obtaining marriage certificates that can be used. The problem formulation for this research is how marital status is not recorded in Pesisir Selatan Regency. The research questions are: 1. What is the background to the existence of unregistered marriages and the implementation of unregistered marriages? 2. What is the validity of unregistered marriages? 3. What is the validity of marriage books, their use and legal consequences? To answer this question, field research was used using interview and documentation data collection techniques. Next, the data that has been collected is analyzed using qualitative methods to provide an overview of the object under study through the data that has been collected and make generally accepted conclusions. The results of this research are: 1. The factors behind the existence of unregistered marriages in Pesisir Selatan Regency are due to inter-ethnic marriages, the absence of a husband or wife's divorce certificate and the existence of a marriage book as proof of the marriage. The wedding was not recorded as taking place at Katik's house, because Katik was the facilitator and/or the marriage provider. 2. The validity of an unregistered marriage has fulfilled the pillars and conditions of marriage in accordance with Islamic religious law. It turned out that there was one couple who did not fulfill the pillars and requirements for a valid marriage. 3. The marriage certificate obtained was fake. The reason it is said to be fake is because there are differences with the original marriage book, even though the marriage book is fake, it can actually be used to make a child's birth certificate.

Keywords: Marriage, Not Registered, Marriage Book.

ABSTRAK

Penelitian ini mengkaji tentang perkawinan tidak tercatat di Kabupaten Pesisir Selatan mendapatkan buku nikah dan dapat dipergunakan. Rumusan masalah penelitian ini adalah bagaimana status perkawinan tidak tercatat di Kabupaten Pesisir Selatan. Adapun pertanyaan penelitiannya adalah: 1. Apa yang melatarbelakangi adanya perkawinan tidak tercatat dan pelaksanaan perkawinan tidak tercatat 2. Bagaimana keabsahan perkawinan tidak tercatat 3. Bagaimana keabsahan buku nikah, penggunaan, serta akibat hukumnya. Untuk menjawab pertanyaan tersebut maka digunakan jenis penelitian lapangan (*field research*) dengan teknik pengumpulan data wawancara dan dokumentasi. Selanjutnya data yang telah dikumpulkan dianalisis menggunakan metode kualitatif untuk memberi gambaran terhadap objek yang diteliti melalui data yang telah terkumpul dan membuat kesimpulan yang berlaku umum. Adapun hasil penelitian ini adalah: 1. Faktor yang melatarbelakangi adanya perkawinan tidak tercatat di Kabupaten Pesisir Selatan karena adanya perkawinan sesuku, tidak adanya akta cerai suami atau istri dan adanya buku nikah sebagai bukti dari perkawinan yang

dilaksanakan. Pelaksanaan perkawinan tidak tercatat dilaksanakan di rumah katik, karena katik sebagai fasilitator dan atau menikahkan. 2. Keabsahan perkawinan yang tidak tercatat telah memenuhi rukun dan syarat dalam perkawinan yang sesuai dengan syari'at agama Islam. Ternyata ada satu pasangan yang tidak memenuhi rukun dan syarat sah perkawinan 3. Buku nikah yang didapatkan tersebut adalah palsu. Alasan dikatakan palsu karena terdapat perbedaan dengan buku nikah yang asli, meskipun buku nikah itu palsu ternyata dapat dipergunakan untuk pembuatan akta kelahiran anak.

Kata Kunci: Perkawinan, Tidak Tercatat, Buku Nikah.

INTRODUCTION

Unregistered marriages are those that are not recorded at the Office of Religious Affairs but are considered valid according to the religion of the couple involved (Nurzannah, Sagala, & Lubis, 2023). This practice is commonly referred to as "nikah siri" (Khairani, 2020) or, by some, as "under-the-counter marriage" (Sudarsono, Asmuni, 2023). However, both terms share the same meaning: marriages that are based solely on Islamic law, disregarding state law (Dwiasa, Hasan, & Syarifudin, 2019). Marriages that do not involve legal registration are deemed illegal (Maria Ana Liwa, Eli Tri Kursiswanti, & Yanuel Albert Faisan, 2022). Unregistered marriages are a recurrent issue where the parties involved often do not face deterrent consequences for conducting such marriages (Khatija Hafsari, Sahruddin, & Salat, 2023). As indicated in the title, this problem pertains to the community in Pesisir Selatan Regency, specifically in Pasir Nan Panjang, Kenagarian Aur Duri, Sutera District, where five married couples have conducted unregistered marriages. The couples are: first, IP and RO; second, RD and WIS; third, AD and SM; fourth, AN and RK; and fifth, BD and EM. These five couples have received marriage books, and these books are usable.

In the context of the state, marriages cannot be recognized if they are not registered. Marriage registration is the administrative process of recording a marriage handled by marriage registration officers (PPN) with the aim of establishing legal order (Pratama, Nanang, & Sulistiani, 2022). Marriage registration is the administrative activity of a marriage carried out by Marriage Registration Officers (PPN) stationed at the Office of Religious Affairs (KUA) in the area where the two prospective spouses, who are Muslims, are getting married (Mardani, 2016). Law No. 16 of 2019, which is based on marriage registration, aims to achieve the desired societal order and facilitate the desired changes (Basuki Prasetyo, 2020). Marriage registration is crucial, even becoming an essential administrative requirement that must be fulfilled, as it helps achieve the purpose of marriage (Syofiyullah, Moh Aqil, Dyah Ochtorina Susanti, 2023). It serves as an authentic proof that provides legal certainty and strength, thereby ensuring the orderliness of a marriage within the community (Teuku Yudi Afrizal, 2023).

Based on the data obtained by the researchers, the practice of unregistered marriages still frequently occurs in Pasir Nan Panjang, Kenagarian Aur Duri, Sutera District, Pesisir Selatan Regency. The community members engaging in unregistered marriages are not only widows and widowers but also bachelors and maidens. Those who conduct unregistered marriages in Pasir Nan Panjang, Kenagarian Aur Duri, Sutera District, Pesisir Selatan Regency, typically have their marriages facilitated or officiated at the house of a "katik". A "katik" is the person who facilitates or officiates these marriages. This katik also resides in Pasir Nan Panjang, Kenagarian Aur Duri, Sutera

District; however, the marriage certificates they provide are issued by the KUA (Office of Religious Affairs) of Sungai Penuh District.

The katik who officiates these marriages is not part of the KUA but can provide marriage certificates under the name of the KUA Sungai Penuh District. This research focuses on the phenomenon of unregistered marriages that nevertheless result in obtaining marriage certificates, which can be used as legitimate documents. As is well known, unregistered marriages should not be able to result in obtaining marriage certificates. However, in the case of the community in Pasir Nan Panjang, Kenagarian Aur Duri, Sutera District, Pesisir Selatan Regency, the couples involved in unregistered marriages are able to obtain marriage certificates. These certificates have registration numbers that are identical to those of genuine marriage certificates.

There have been several previous studies related to this issue, the first of which was conducted by Amanda Zubaidah Aljarofi on the category of unregistered marriages in family card forms from a juridical perspective. Her research findings indicate that the legal basis stating that the category of unregistered marriages is not one of the statuses listed on family card forms is explained in the Minister of Home Affairs Regulation No. 118 of 2017 concerning Family Card Forms, Registration, and Excerpts of Civil Registration Certificates. Regarding the documentation, this is regulated in Article 33, which mandates that the writing of registers and excerpts of civil registration certificates must use the SIAK application within a maximum period of 1 (one) year after this ministerial regulation is promulgated. The development of the version 7 of the population administration information system (SIAK) application also includes changes in marital status from the previous categories of married and unmarried to married registered, married unregistered, and unmarried.

The transition to the SIAK 7 database indirectly caused changes in the marriage registration process, which previously played a role in maintaining legal order as evidence of marriage to ensure legal certainty, becoming inconsistent with the marriage registration obligations regulated by Law No. 1 of 1974 on Marriage. This provision also violates Article 2 of Government Regulation No. 9 of 1975 concerning the Implementation of Law No. 1 of 1974 on Marriage. Furthermore, in the Compilation of Islamic Law (KHI), explained in Article 5, marriage registration is considered a means to maintain order among Muslims, with marriage registration obligations regulated by the Minister of Religious Affairs Regulation No. 19 of 2018 on Marriage Registration mentioned in Article 2 becoming inconsistent with legal regulations because the status of unregistered marriage is not included in the family card form (Aljarofi, 2019).

Secondly, Harry Pribadi Garfes conducted a study on the enforcement of law against the practice of unregistered marriages in Indonesia from the perspective of Meir Friedman's effective law theory. His research findings indicate that the parties involved in unregistered marriages can be divided into two categories: The first category includes the main actors such as illegal marriage officiants, prospective grooms, prospective brides, or guardians. The second category involves individuals who participate in the execution of unregistered marriages, such as witnesses, brokers, and intermediaries. The regulations governing unregistered marriages are stipulated in Law No. 32 of 1954 concerning the Implementation of the Law of the Republic of Indonesia dated November 21, 1946, No. 22 of 1946 concerning the Registration of Marriages, Divorces, and Reconciliations throughout regions outside Java and Madura, in Article 1 paragraph (2) and Article 2 paragraphs (1) and (2), followed by sanctions in Government Regulation No. 9 of 1975 concerning the Implementation of Law No. 1 of 1974 on Marriage, in Article 45 paragraph (1) letter (a).

Additionally, this issue is also regulated in the Indonesian Criminal Code (KUHP) in articles 279, 280, and 284. However, when evaluated based on Lawrence Meir Friedman's Theory of Legal Effectiveness, the enforcement of the law against unregistered marriages is ineffective. This ineffectiveness is due to the irrelevance of existing legislation regulating the criminality of unregistered marriages, thus necessitating substantial reform to consider the legal consequences for those involved in the practice of unregistered marriages. Furthermore, law enforcement officers tend to be apathetic in enforcing the law, although some are actively involved. Indonesia has a long history of efforts to document legal activities to achieve legal certainty and protection, influenced by Western legal principles (Garfes, 2022).

Thirdly, Zuhrah conducted a study on the phenomenon of unregistered marriages in the city of Bima. The findings of the research are as follows: As a country founded on law, Indonesia has regulations governing the lives of its citizens. However, in practice, not all citizens fully comply with these regulations, resulting in violations. One of the causes is the lack of severe sanctions for regulation violators. In the domain of marriage, administrative violations also pose a problem that can lead to detrimental legal consequences, especially for wives and children, such as marriages that are not registered at the marriage registration office (KUA). Based on research conducted in two sub-districts and six urban villages in the city of Bima, several factors contributing to unregistered marriages include low levels of education, the desire for polygamy (without the previous wife's consent), accidental marriages (resulting from premarital pregnancy), and second marriages after becoming widowed or divorced (Zuhrah, Mahmudah, & Juhriati, 2020).

Fourthly, Agus Muchsin conducted a study on the legalization of unregistered marriages in the Pinrang community. The findings of his research are as follows: In the Bugis Pinrang community, marriage is considered a sacred and special event because it serves to strengthen family ties. Firstly, marriage brings together and reunites kinship relationships that may have become distant. Secondly, marriage establishes new kinship bonds between the bride and groom, who previously had no familial relationship. Socially, the Bugis Pinrang community has shown obedience and compliance with the law. However, this does not universally apply to all aspects of the law, particularly in terms of marriage registration. Although marriage laws have been enacted, the implementation of marriage registration has not been fully realized. There are still couples whose marriages are unregistered due to the habit of not documenting their marriage events. This indicates that the culture of legal compliance is still not well established. Unregistered marriages have legal implications in civil matters, where a child only has a civil relationship with the mother and the mother's family. This is clearly stipulated in Law No. 1 of 1974 on Marriage, Article 43 paragraph (1). As a result, the wife and children from unregistered marriages are not considered as primary members of the husband's family and are not recognized as rightful heirs entitled to inheritance shares according to Islamic law. Unregistered marriages, which have such significant impacts, should receive legal protection and not be left unresolved. One form of protection can be provided through the process of itsbat nikah or the formal recognition of marriages conducted according to Islamic law, even if they are not administratively recorded. This can be done by submitting an application for itsbat nikah in accordance with the provisions outlined in Article 7 paragraph (3) of the Compilation of Islamic Law. Thus, unregistered marriages can be substantively recognized and become legally valid (Agus Muchsin, Rukiah, & Muhammad Sabir, 2019).

Fifthly, Risma conducted research on the problems of unregistered marriages at the Office of Religious Affairs (KUA) in Lintau Buo District, Tanah Datar Regency, West Sumatra Province. The findings from this research are as follows:

From the results of this study, it can be concluded that the issue of unregistered marriages at the KUA in Lintau Buo District, Tanah Datar Regency, West Sumatra Province, is caused by several factors:

1. Marriages that do not receive parental approval.
2. Marriages of widowers or widows hindered by administrative requirements at the KUA (e.g., divorce certificates).
3. Marriages that occur suddenly and are only known to the community.
4. Pregnancies outside of marriage.
5. The marriage is not reported to the local marriage registrar (P3N) (Risma, Vensuri, & Januardi, 2022).

The issue of unregistered marriages is a well-discussed and classic problem (Nasrudin, Mohamad Kasim, & Margareth Tijow, 2021). Communities practicing unregistered marriages will face difficulties in obtaining birth certificates for their children (Alifianti, Izzah, Zudin, Gunawan, & Ulya, 2023). However, based on previous studies, what differentiates the current findings from previous ones is that prior research has not found cases where unregistered marriages still receive marriage certificates that can be used. Meanwhile, this research found unregistered marriages where the parties received marriage certificates that could be used. These marriage certificates can be used as authentic data for their children, even though the legitimacy of the marriage itself might be questionable. Consequently, the child is recognized by the state through the authentic data provided by the certificate.

Therefore, the researcher aims to investigate further how unregistered marriages in Pasir Nan Panjang, Aur Duri Village, Sutera District, South Coastal Regency, can result in obtaining marriage certificates. This research is important because the law clearly states that marriage registration is highly recommended. Unregistered marriages do not have clear legal standing, meaning that every marriage, whether between widowers and widows or single individuals, must be registered. If not, the marriage is not recognized by the state and is legally defective. Marriage registration serves as an effort or as valid legal evidence to be recorded by the Office of Religious Affairs (KUA) (Raafilia Khairunnisa & Ramdan Fawzi, 2022). Unregistered marriages have negative legal and social impacts (Hamdani, Mansar, & Erwinskyahbana, 2022).

The aim of this research is twofold. Firstly, to understand the factors underlying unregistered marriages and the execution of unregistered marriages. Secondly, to ascertain the validity of unregistered marriages. Thirdly, to examine the validity of marriage certificates, their use, and their legal consequences. These three objectives will be addressed in this paper.

METHODS

This research falls under the category of field research. The research method employed involves collecting data directly from the field through semi-structured interviews with relevant respondents. The data collected includes information on the practice of unregistered marriages, the reasons behind them, the involvement of parties in the process, and obtaining marriage certificates from unregistered marriages. After gathering the data, the next step involves data processing. Interview data is recorded, photographed, analyzed, and categorized based on specific themes or categories, such as reasons for unregistered marriages, influencing factors, and their impact on

individuals and society. The processed data is then analyzed to identify relevant patterns or findings. The analysis is conducted using a practical and operational approach, seeking cause-and-effect relationships among factors influencing the practice of unregistered marriages. The results of the analysis are used to draw conclusions and formulate operational recommendations focused on solutions. These recommendations may include concrete steps to enhance law enforcement, provide community education, or update regulations related to marriage registration. The ultimate goal of this research method is to provide practical contributions to resolving identified issues in the field.

RESULTS AND DISCUSSION

Background to the Existence of Unregistered Marriages in Pasir Nan Panjang Kenagarian Aur Duri, Sutera District, Pesisir Selatan Regency

As stipulated in Law Number 1 of 1974 concerning Marriage, Article 2 paragraph (2) states that marriage must be conducted before a Marriage Registrar in order to obtain a marriage certificate as the sole authentic proof recognized by the state. The existence of this marriage certificate signifies that the marriage is legally valid according to both religious principles and the laws of Indonesia. Generally, an unregistered marriage refers to a marriage that has materially fulfilled the Sharia provisions as intended in Article 2 paragraph (1) of Law No. 1 of 1974 but does not meet the requirements of paragraph (2) of that article in conjunction with Article 10 paragraph (3) of Government Regulation No. 9 of 1975 (Taherong, 2021). In contrast, the situation in Pasir Nan Panjang, Kenagarian Aur Duri reveals that the community there practices unregistered marriages where they do not marry before a Marriage Registrar but still obtain a marriage certificate. There are five couples in Pasir Nan Panjang, Kenagarian Aur Duri, Sutera District, Pesisir Selatan Regency who have conducted such unregistered marriages and possess marriage certificates. Below is the data of these couples:

Table 1
Couples Who Have Fake Marriage Books in Terms of Year of Marriage

No	Partner's Name (Initials)	Marriage Date
1	IP/RO	29 April 2013
2	RD/WIS	20 July 2015
3	AD/SM	23 December 2016
4	AN/RK	14 October 2020
5	BD/EM	25 Juli 2021

Source: Interview (Pesisir Selatan, 2022)

Based on the table above, it can be concluded that from 2013 to 2021, there were five couples who got married with the assistance of katik (local traditional marriage facilitators) and obtained marriage certificates.

Through the research, several reasons were identified for why these couples did not register their marriages at the Office of Religious Affairs (KUA). Based on the interview results, the researcher concludes that there are several factors contributing to this decision:

1. Interracial Marriage

The community of Pasir Nan Panjang, Kenagarian Aur Duri, prohibits marriage between individuals of the same tribe due to the lack of permission from the uncles of both the husband and wife. Consequently, these couples proceed with their marriages through katik (local traditional marriage facilitators). In this community, the custom of prohibiting marriage between individuals of the same tribe is prevalent. They acknowledge that such marriages are not forbidden by religion, but it is the community's own tradition that restricts same-tribe marriages.

2. Absence of Husband or Wife's Divorce Certificate

The reason for the absence of a divorce certificate for these couples is that they did not process their first divorce through the local court. As a result, this becomes an obstacle when they wish to remarry. According to the applicable laws in Indonesia, specifically in the Compilation of Islamic Law (KHI) Article 129, it is stated that: "A husband who wishes to divorce his wife, either verbally or in writing, must submit an application to the Religious Court in the jurisdiction where the wife resides, along with the reasons and a request for a hearing for that purpose." This regulation mandates that a husband who wants to divorce his wife must file a petition with the local Religious Court to conduct a divorce hearing. Only after the court issues a ruling allowing the divorce can a divorce certificate be issued as an authentic proof recognized by the state.

This procedure also applies to wives who wish to file for divorce from their husbands. They must follow the procedures outlined in the Religious Court, as stipulated in Article 132 of the Compilation of Islamic Law (KHI), which states that: "A divorce lawsuit filed by the wife or her representative must be submitted to the Religious Court in the jurisdiction where the plaintiff resides, except when the wife leaves the marital home without the husband's permission." These regulations make it clear that divorces processed through the Religious Court are highly recommended. Divorces conducted outside the Religious Court are not recognized by the state. Consequently, those who divorce outside the Religious Court face the complication of being unable to remarry through the state-recognized institution, the Office of Religious Affairs (KUA).

The community members who marry outside the KUA often do so because they feel reluctant to manage their divorce certificates through the Religious Court. They perceive that resolving issues in court is very difficult and time-consuming. As a result, they opt for marriages facilitated by katik because they consider it an easier process. However, they are unaware of the legal consequences due to their lack of legal knowledge, often stemming from their educational background. Their lack of legal understanding leads them to choose an easier path, which can have significant repercussions later on.

3. Marriage Book as Proof of Carrying Out a Marriage

The presence of marriage certificates obtained after conducting the marriage through a katik makes these couples choose the easier route, despite incurring costs. They believe that the cost for the marriage certificate is fixed and clear, while the expenses associated with processing a divorce in the Religious Court are unknown and can become extensive due to the repeated visits required. Based on interviews with the katik, it was found that the katik only receives payments based on the couples' voluntary contributions, which are considered a fee for the katik's services as a facilitator and/or officiant. However, the katik does not acknowledge any payments specifically for the marriage certificate. According to the individuals who paid for the marriage certificate, the fees have increased over the years. In 2013, the fee was Rp. 900,000 for two marriage certificates. In 2015, the fee remained Rp. 900,000 for two

certificates. From 2016 to 2021, the fee increased to Rp. 1,500,000 for two certificates. For those who received only one marriage certificate, the fee was Rp. 1,000,000.

The reason these couples choose to get married through a katik is that they can obtain a marriage certificate by paying for it, whereas marriage conducted at the KUA (Office of Religious Affairs) is free. Among the five couples, two did not receive permission from their guardians due to the same clan (suku) prohibition. The other three did not have divorce certificates from their previous marriages. They were reluctant to process their divorces through the Religious Court due to the perceived difficulties and time-consuming nature of the process. Therefore, they opted to marry through a katik.

According to the information obtained from the katik and the couples, unregistered marriages in Pasir Nan Panjang Kenagarian Aur Duri are not a new phenomenon but have been ongoing for a long time. These unregistered marriages are conducted not only by widows and widowers but also by single individuals. They prefer to marry according to religious rites only, without adhering to the state laws of Indonesia, which require marriages to be conducted in front of a marriage registrar.

In these unregistered marriages, all the religious requirements are fulfilled, including the presence of the two spouses, a guardian from the bride's side, two witnesses, a dowry, and the ijab and qabul (marriage vows). Despite the katik's claims, in reality, the katik sometimes acts as a guardian in these marriages, as evidenced by the accounts of participants AD and SM. However, these marriages are not recognized by the state because they are not conducted in front of a marriage registrar. The unregistered marriages are usually held at the katik's house and are private events attended only by the couple, two witnesses, the guardian, family members, and close neighbors or friends.

If the guardian cannot attend or delegate someone to represent them, the katik acts as the guardian, witnessed by both families, as was the case with participants IP and RO. The number of attendees at these unregistered marriages is minimal, typically around 10 or 7 people. The time between informing the katik and the actual marriage ceremony is usually 2 to 3 days, according to interviews conducted by the researcher.

After the marriage ceremony, those who wish to have a marriage certificate receive it. Not all couples opt for a marriage certificate; some only request a simple white paper as proof of marriage, due to financial constraints. After receiving proof, whether it be a marriage certificate or a white paper, the couple usually holds a small prayer gathering with immediate family and close neighbors instead of a large wedding celebration. This gathering typically takes place at the bride's house. The unregistered marriage ceremonies are usually held at the katik's house around 9:00 PM to maintain privacy and avoid public attention. The minimal number of attendees, often no more than 10, ensures the event remains low-key. If the marriage were to draw a large crowd, it could cause a commotion and attract unwanted attention.

The Validity of the Marriage is Not Registered

Marriage is considered valid if it is conducted according to the laws of each religion and belief, as explained in Law No. 1 of 1974 Article 2 Paragraph 1 (Julir, 2018). In the context of Islamic jurisprudence (fiqh munakahat), the requirements include the presence of a prospective groom and bride, two witnesses, a guardian (wali), an offer and acceptance (ijab and kabul), and a dowry (mahar). However, the actual situation in Pasir Nan Panjang, Kenagarian Aur Duri, reveals different practices. Based on the interviews, the researcher concludes that the couple IP and RO have met all the

requirements for marriage, including the presence of two parties (the bride and groom), a guardian, witnesses, and the ijab kabul. Despite the fact that the guardian was directly represented by a 'katik' (local religious leader) because the bride's father was ill and other eligible family members refused to be guardians due to disapproval of the marriage as both were from the same clan. The witnesses included the groom's brother and a friend of the katik. The researcher sought confirmation from the witnesses about whether the bride's parent had indeed delegated authority to the katik. The first witness, a friend of the katik, could not provide testimony as he had passed away. The second witness, the groom's brother, could not be interviewed because he was working out of town. Considering the time constraints of the research, the researcher obtained information from the bride's family, specifically her mother.

Next, the couple RD and WIS fulfilled all the marriage requirements, including the bride, groom, guardian, witnesses, and ijab kabul. The researcher chose to collect data from RD and WIS because they did not marry under the local katik in Pasir Nan Panjang, Kenagarian Aur Duri, Sutera District, Pesisir Selatan Regency but instead married in Padang and received a marriage certificate from KUA Pauh Kota Padang. This case was included in the study because it concerns marriages that are unregistered but still receive marriage certificates.

In the third case, the marriage between AD and SM is considered invalid because the katik directly acted as the guardian. A nasab (lineage) guardian can transfer authority to a hakim (judge) guardian only if there are no lineage guardians available, whether close or distant. The bride's father was not informed to act as the guardian. The witnesses at the time were the maternal uncles of both the bride and groom. The researcher found an anomaly: the katik himself acted as the guardian during the marriage, yet the marriage certificate issued by KUA Sungai Penuh lists the KUA officer as the guardian, not the katik.

For the fourth case, based on interviews, the researcher concluded that the couple AN and RK met all the requirements for marriage. The bride's parent acted as the guardian, and they presented two witnesses: one from the bride's side (a neighbor) and one from the groom's side (his brother). The ijab and kabul involved a handshake between the bride's parent and the groom, facilitated by the katik.

Finally, for the fifth couple BD and EM, the researcher concluded from interviews that all marriage requirements were met. The bride and groom, guardian, witnesses, and ijab kabul were present. The bride's parent acted as the guardian, while the witnesses were the groom's sibling and brother-in-law. The ijab kabul process involved a handshake between the bride's parent and the groom, with the parent stating the ijab and the groom accepting (kabul).

Validity of Marriage Books and Their Use and Legal Consequences

3. Validity of the Marriage Book

Marriage certificates serve as authentic proof of a marriage and also provide legal security in cases where either spouse engages in misconduct. The aggrieved party can seek recourse through the courts using the marriage certificate (Faishol, 2020). In relation to the researcher's case study on unregistered marriages, comparisons were made between registered and unregistered marriage certificates, as well as birth certificates. Based on the observed images from the marriage certificates, the researcher concluded on the authenticity between the original and counterfeit certificates, which are compared as follows:

- a. Stamp on the First Page Cover

The original marriage certificate bears a Garuda-shaped stamp beside the Minister of Religious Affairs' signature on the cover page. In contrast, the counterfeit certificate lacks a stamp and only features a holographic image of the Garuda beside the Minister of Religious Affairs' signature.

b. Bride and Groom's Identification Pages

In the original marriage certificate, there is a stamp in the middle of the page between the photos of the bride and groom. The page begins with "Bismillah" and Surah An-Nisa' verse 19, with a large Garuda image in the middle. The original certificate is not laminated. The counterfeit certificate also has a stamp between the photos of the bride and groom. However, it lacks "Bismillah" and Surah An-Nisa' verse 19 at the top, only featuring a small Garuda image. There is no Garuda image on the paper itself, and the counterfeit certificate is laminated.

c. Serial Number with Hole Pattern

The original marriage certificate has a serial number with a neat hole pattern that pierces from the back to the front cover of the certificate. The counterfeit certificate has a serial number, but its hole pattern is less tidy, and it does not pierce through to the front cover, only on the back.

d. Size

The original marriage certificate is wider than the counterfeit certificate. The counterfeit certificate is longer than the original.

e. Front Cover

The counterfeit certificate has a darker color compared to the original. The original certificate features a Garuda image in gold ink, as does the counterfeit certificate.

f. Content of Each Page

The original marriage certificate includes the rights and responsibilities of the husband and wife on the second page. This information is absent in the counterfeit certificate. The original certificate includes Surah Al-Isra' verse 34 at the top of the Taklik signature page, which is missing from the counterfeit certificate. Following the Taklik page, the original certificate includes a guide to a happy and prosperous family, whereas the counterfeit certificate lacks such content.

g. Paper Format

In the original marriage certificate, each page features a Garuda image in the middle and has margins on the left, right, top, and bottom. The counterfeit certificate lacks a Garuda image on each page and has margins only at the top and bottom of each page.

These differences highlight the discrepancies between the original and counterfeit marriage certificates, emphasizing the importance of authentic documentation in legal matters concerning marriages.

2. Use of Marriage Book

In Indonesia, according to Ahmad Rafiq's book on Islamic civil law, a marriage certificate not only serves as authentic proof of a marriage but also acts as a legal guarantee. For instance, if one spouse fails to provide financial support despite having the means to do so, or if a husband violates the conditions of talak (divorce pronouncement) as stipulated in the taklik, the aggrieved party, typically the wife, can seek legal recourse by presenting the marriage certificate in court (Rofiq, 2015, p. 99).

Additionally, the marriage certificate is crucial for proving the legitimacy of children born from the marriage.

However, in cases where marriages are conducted outside the authorized Marriage Registry Office (Kantor Urusan Agama/KUA), such as unregistered marriages, couples often acquire marriage certificates from these ceremonies. While these certificates can be used to register a child's birth, they do not carry the legal weight to resolve marital disputes in court. This limitation arises because these marriage certificates lack official registration at the KUA, which is essential for their recognition in legal matters. Thus, while marriage certificates obtained from unofficial ceremonies may serve certain administrative purposes like registering births, they do not provide the necessary legal recourse in marital disputes or other legal matters that require the validation of a registered marriage certificate issued by the KUA.

3. Legal consequences of having a marriage book

As a consequence of the legal implications arising from the existence of a marriage certificate obtained from an unregistered marriage, the certificate can be used as a requirement for issuing a birth certificate. The marriage in question is unregistered and therefore lacks legal validity. However, the marriage certificate can still serve as documentation for obtaining a birth certificate. The birth certificate serves as authentic proof of the child's identity, indicating that the child can obtain a birth certificate from the marriage certificate obtained by their parents who entered into an unregistered marriage. In other words, the child is recognized by the state as legitimate. Meanwhile, the marriage conducted by the parents cannot be considered legally valid because it was not performed before a marriage registrar but rather informally, outside the Office of Religious Affairs (KUA). The child already has a birth certificate, which signifies their recognition by the state, and this recognition extends to inheritance matters. Therefore, the child is considered legitimate and has a biological relationship with their father, as evidenced by the birth certificate.

CONCLUSIONS

Based on the research conducted, the researcher concludes that the background of unregistered marriages in Pasir Nan Panjang Kenagarian Duri is primarily due to intra-tribal marriages. The absence of divorce certificates for husbands or wives stems from a lack of legal awareness between spouses, with marriage certificates serving as evidence of the marriages conducted. Unregistered marriages in Pasir Nan Panjang Kenagarian Aur Duri are performed at home by local religious figures, facilitating and officiating the marriages. The validity of these marriages meets the requirements and conditions of Islamic Sharia. However, there is one couple that did not meet the necessary requirements for a valid marriage. The marriage certificate they obtained is found to be fraudulent, differing from the genuine marriage certificate. Despite its fraudulent nature, this certificate was still used to register the birth of their child.

REFERENCES

Agus Muchsin, Rukiah, & Muhammad Sabir. (2019). Legalitas Perkawinan yang Tidak Tercatat pada Masyarakat Pinrang (Analisis Perma Nomor 1 Tahun 2015 tentang Pelayanan Terpadu Pencatatan Nikah). *DIKTUM: Jurnal Syariah Dan Hukum*, 17(1), 31–48. <https://doi.org/10.35905/diktum.v17i1.653>

Alifianti, S. D. S., Izzah, A. N., Zudin, M. F. H. F., Gunawan, A., & Ulya, Z. (2023). Degradasi Otoritas KUA sebagai Lembaga Pencatatan Perkawinan Pasca Berlakunya SPTJM

dalam Permendagri No. 9 Tahun 2016. *Ma'mal: Jurnal Laboratorium Syariah Dan Hukum*, 4(1), 59–80. <https://doi.org/10.15642/mal.v4i1.241>

Aljarofi, A. Z. (2019). Kategori Perkawinan Belum Tercatat dalam Blangko Kartu Keluarga Perspektif Yuridis. *Al-Hukama'*, 9(2), 296–324. <https://doi.org/10.15642/ahukama.2019.9.2.296-324>

Basuki Prasetyo, A. (2020). Akibat Hukum Perkawinan Yang Tidak Dicatatkan Secara Administratif Pada Masyarakat Adat. *Administrative Law and Governance Journal*, 3(1), 23–34. <https://doi.org/10.14710/alj.v3i1.23-34>

Devi, R. S. (2019). Tinjauan Yuridis Perceraian Atas Perkawinan Yang Tidak Tercatat Di Dinas Kependudukan Dan Pencatatan Sipil Kota Medan. *Jurnal Retentum*, 1(01), 62–79. <https://doi.org/10.46930/retentum.v1i01.298>

Dwisia, G. M., Hasan, K. N. S., & Syarifudin, A. (2019). Fungsi Itsbat Nikah Terhadap Isteri Yang Dinikahi Secara Tidak Tercatat (Nikah Siri) Apabila Terjadi Perceraian. *Repertorium: Jurnal Ilmiah Hukum Kenotariatan*, 7(1), 15. <https://doi.org/10.28946/rpt.v7i1.265>

Faishol, I. (2020). Implementasi Pencatatan Perkawinan di Indonesia (Studi atas Undang-Undang Perkawinan No. 1 Tahun 1974). *Ulumul Syar'i : Jurnal Ilmu-Ilmu Hukum Dan Syariah*, 8(2), 1–25. <https://doi.org/10.52051/ulumulsyari.v8i2.53>

Garfes, H. P. (2022). Law Enforcement of Unregistered Marriage Practices in Indonesia Lawrence Meir Friedman's Legal Effective Perspective. *Jurnal Ilmiah Kebijakan Hukum*, 16(3), 515. <https://doi.org/10.30641/kebijakan.2022.v16.515-538>

Hamdani, H., Mansar, A., & Erwinskyahbana, T. (2022). Hibah Wasiat Bagi Anak Yang Lahir Dari Perkawinan Tidak Tercatat. *Legalitas: Jurnal Hukum*, 14(1), 166. <https://doi.org/10.33087/legalitas.v14i1.324>

Julir, N. (2018). Pencatatan Perkawinan Di Indonesia Perspektif Ushul Fikih. *Jurnal Ilmiah Mizani: Wacana Hukum, Ekonomi Dan Keagamaan*, 4(1). <https://doi.org/10.29300/mzn.v4i1.1010>

Khairani, F. (2020). Penegakan Hukum Terhadap Oknum Anggota Tentara Nasional Indonesia Angkatan Darat Yang Melangsungkan Perkawinan Tidak Tercatat. *SOSEK: Jurnal Sosial Dan Ekonomi*, 1(2), 111–123. <https://doi.org/https://doi.org/10.55357/sosek.v1i2.61>

Khatija Hafsari, S., Sahruddin, S., & Salat, M. (2023). Tinjauan Hukum Pengesahan Perkawinan Melalui Itsbat Nikah. *Private Law*, 3(2), 519–527. <https://doi.org/10.29303/prlw.v3i2.2615>

Mardani, Sardjana Orba Manullang, Y. K. (2022). *Problematika Perkawinan Tidak Tercatat (Nikah Siri Dan Solusi Hukumnya)*. 10, 255–268. <https://doi.org/10.52431/tafaqquh.v10i2.1086>

Mardani. (2016). *Hukum Keluarga Islam di Indonesia*. Jakarta.

Maria Ana Liwa, Eli Tri Kursiswanti, & Yanuel Albert Faisan. (2022). Efektifitas Penegakan Undang-Undang Nomor 1 Tahun 1974 Tentang Perkawinan Terhadap Pernikahan Siri. *Collegium Studiosum Journal*, 5(1), 31–38. <https://doi.org/10.56301/csj.v5i1.496>

Nasrudin, N., Mohamad Kasim, N., & Margareth Tijow, L. (2021). Pencatatan Perkawinan Berdasarkan Penerapan Objektifikasi Hukum Perkawinan Islam di Indonesia. *Jurnal Syntax Admiration*, 2(10), 1944–1959. <https://doi.org/10.46799/jsa.v2i10.317>

Nurzannah, A., Sagala, A. F., & Lubis, F. (2023). AS- SYAR ' I: Jurnal Bimbingan & Konseling Keluarga AS- SYAR ' I: Jurnal Bimbingan & Konseling Keluarga. *AS-*

SYAR ’ I: *Jurnal Bimbingan & Konseling Keluarga*, 5(3), 533–544. <https://doi.org/10.47476/assyari.v6i1.3345>

Pratama, E. P., Nanang, S. A., & Sulistiani, S. L. (2022). Dinamika Pengaturan Pencatatan Perkawinan di Indonesia Pasca Permendagri No.09 Tahun 2016. *Jurnal Mediasas: Media Ilmu Syari'ah Dan Ahwal Al-Syakhsiyah*, 5(2), 110. <https://doi.org/10.58824/mediasas.v5i2.440>

Raafilia Khairunnisa, & Ramdan Fawzi. (2022). Analisis Hukum Islam dan Implementasi Permenag Nomor 20 Tahun 2019 tentang Pencatatan Pernikahan. *Jurnal Riset Hukum Keluarga Islam*, 33–38. <https://doi.org/10.29313/jrhki.vi.880>

Risma, W., Vensuri, H., & Januardi, H. (2022). Problematika Perkawinan Tidak Tercatat Di Kantor Urusan Agama (Kua) Lin-Tau Buo Kabupaten Tanah Datar Provinsi Sumatera Barat. *Qiyas: Jurnal Hukum Islam Dan Peradilan*, 7(1), 73–78. <https://doi.org/10.29300/qys.v7i1.6617>

Sudarsono, Asmuni, T. E. (2023). Legal Protection Of Second Wife's Inheritance Rights From Unregistered Marriages Associated With The Function Of Marriage Registration. *Jurnal Das Sollen*, 9(1), 593–604. <https://doi.org/https://doi.org/10.32520/das-sollen.v9i1.2385>

Syofiyullah, Moh Aqil, Dyah Ochtorina Susanti, F. S. (2023). *HUKMY: Jurnal Hukum Volume 3, No. 1, April 2023*. 3(1), 211–230. <https://doi.org/10.35316/hukmy.2023.v3i1.263-284>

Taherong. (2021). *PROBLEMATIKA KEWARISAN AKIBAT PERKAWINAN TIDAK TERCATAT MENURUT HUKUM ISLAM DAN PERUNDANG-UNDANGAN* Taherong. 1, 35–48. <https://doi.org/10.30863/arrisalah.v1i2.4197>

Teuku Yudi Afrizal. (2023). *Pernikahan Tidak Tercatat Dalam Perspektif Undang-Undang Perkawinan dan Akibat Hukumnya 2023 Madani: Jurnal Ilmiah Multidisiplin dengan seorang perempuan sebagai suami isteri dengan tujuan untuk membentuk rumah tangga (keluarga) yang bahagia dan kekal.* 1(7), 573–584. <https://doi.org/https://doi.org/10.5281/zenodo.8278177>

Zuhrah, Z., Mahmudah, H., & Juhriati, J. (2020). Fenomena Perkawinan Tidak Tercatat Di Kota Bima. *Jurnal Ilmiah Mandala Education*, 6(2), 26–32. <https://doi.org/10.58258/jime.v6i2.1430>