

Between Religious Legitimacy and Statelessness: A Juridical-Sociological Study of Siri Marriage and Its Gender Consequences in Coastal Indonesia

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This study examines the practice of unregistered marriage in Tambakrejo Village and its legal implications for women and children. Nikah siri, which is not recorded by the state, remains prevalent in this coastal area due to economic factors, cultural traditions, limited legal education, and complex administrative procedures. Using a juridical-sociological approach and a case study method, the research involved in-depth interviews with community leaders and the collection of secondary data from statutory regulations and previous studies. The findings reveal that local residents do not fully understand the legal consequences of nikah siri, leaving women without rights to alimony, inheritance, or legal protection in divorce cases. Children born from nikah siri also face administrative obstacles in obtaining birth certificates that include their father's name, which affects access to education, healthcare, and other civil rights. The study emphasizes the need for preventive legal interventions and public legal awareness campaigns by the government to safeguard the rights of women and children, and to encourage the official registration of marriages to ensure legal certainty.

ABSTRACT

Kata-kata kunci:

Perkawinan Siri;

Legitimasi Keagamaan;

Tanpa Kewarganegaraan;

Ketimpangan Gender;

Wilayah Pesisir

Indonesia.

Di Antara Legitimasi Keagamaan dan Tanpa Kewarganegaraan: Kajian Yuridis-Sosiologis tentang Perkawinan Siri dan Dampak Gendernya di Wilayah Pesisir Indonesia. Penelitian ini mengkaji praktik perkawinan tidak tercatat di Desa Tambakrejo serta implikasi hukumnya terhadap perempuan dan anak. Nikah siri, yang tidak dicatatkan oleh negara, masih banyak terjadi di wilayah pesisir ini akibat faktor ekonomi, tradisi budaya, keterbatasan pendidikan hukum, serta prosedur administrasi yang kompleks. Dengan menggunakan pendekatan yuridis-sosiologis dan metode studi kasus, penelitian ini melibatkan wawancara mendalam dengan tokoh masyarakat serta pengumpulan data sekunder yang bersumber dari peraturan perundang-undangan dan penelitian terdahulu. Hasil penelitian menunjukkan bahwa masyarakat setempat belum sepenuhnya memahami konsekuensi hukum dari praktik nikah siri, sehingga perempuan berada dalam posisi rentan karena tidak memiliki hak atas nafkah, warisan, maupun perlindungan hukum dalam kasus perceraian. Anak-anak yang lahir dari nikah siri juga menghadapi hambatan administratif dalam memperoleh akta kelahiran yang mencantumkan nama ayah, yang berdampak pada akses terhadap pendidikan, layanan kesehatan, dan hak-hak sipil lainnya. Penelitian ini menegaskan pentingnya intervensi hukum yang bersifat preventif serta kampanye peningkatan kesadaran hukum oleh pemerintah guna melindungi hak-hak perempuan dan anak, sekaligus mendorong pencatatan perkawinan secara resmi demi terwujudnya kepastian hukum.

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Introduction

Marriage in the Indonesian legal system is a fundamental institution defined as a physical and spiritual bond between a man and a woman to form a happy and eternal family based on the One Almighty God. Legally, this is the explanation of marriage according to Article 1 of Law Number 1 of 1974 concerning Marriage, hereinafter referred to as the Marriage Law = UUP). In general, marriage is one of the journeys of the human life cycle, created by God in pairs. Article 2 of the UUP stipulates two cumulative requirements for the validity of a marriage: it must be carried out according to the laws of each religion and registered according to applicable laws and regulations. This registration is not merely a formality, but a legal act that provides certainty, protection, and perfect evidentiary power before the state.

Marriage is not only seen as a sacred bond between two individuals, but also as a legal event that gives rise to rights and obligations for the parties and their descendants. The Unitary State of the Republic of Indonesia has provided a solid legal basis for the institution of marriage through Law Number 1 of 1974 concerning Marriage (hereinafter referred to as UUP), which was later updated by Law Number 16 of 2019. Article 1 of the UUP defines marriage as "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 (household) based on God Almighty."

The basic philosophy of the UUP is to provide legal certainty and protection for all family members. This is emphasized in Article 2 paragraph (1) which states that a marriage is valid if it is conducted according to the laws of each religion and belief, which is then strengthened by Article 2 paragraph (2) which requires that "every marriage must be registered according to applicable laws and regulations." This marriage registration is not merely an administrative formality, but is an important legal action that transforms the personal-religious bond into a bond that is recognized and protected by the state. With registration, the marriage becomes valid and has perfect evidentiary power before the law (Hadikusuma, 2007).

However, amidst the idealism of state law, social reality in Indonesia reveals a persistent and widespread phenomenon: unregistered marriages. The term "religious marriage" comes from the Arabic word *sirr*, meaning secret or hidden. In this context, unregistered marriages refer to marriages that fulfill the pillars and requirements of religious law (particularly Islam), such as the presence of the bride and groom, a guardian, two witnesses, and *the ijab kabul* (contract of marriage), and are therefore considered religiously valid. However, these marriages are not registered with the authorized state institution, namely the Office of Religious Affairs (KUA) for Muslims or the Civil Registry Office for non-Muslims. Consequently, these marriages have no legal force and are considered never to have taken place in the eyes of the state (Mubarok, 2017).

The phenomenon of unregistered marriages occurs across all levels of society, in both urban and rural areas, for various reasons. Some driving factors include the desire to avoid procedures perceived as complicated and expensive, public ignorance about the importance of marriage registration, the desire to practice polygamy without fulfilling legal requirements, and attempts to legitimize extramarital relationships based on religious norms without being bound by state legal consequences (Subekti, 2015).

In rural areas like Tambakrejo Village, where customary and religious norms often exert a stronger influence than state law, the practice of unregistered marriage presents a complex dilemma. Communities may view these marriages as legitimate and honorable from a religious and socio-communal perspective. However, behind this social legitimacy lies significant legal vulnerability, and those most affected by this vulnerability are the women (wives) and the children born from these marriages.

When a marriage is not registered, a woman loses almost all of her civil rights as a wife. She has no right to maintenance, inheritance, or joint property in the event of divorce or the husband's death.

She also cannot sue her husband if he abandons her or commits domestic violence (KDRT), because their relationship is not legally recognized as a marriage (Ministry of Women's Empowerment and Child Protection of the Republic of Indonesia, 2021). Women's position is extremely vulnerable, completely dependent on their husband's good faith.

The impact on children is no less serious. Children born from unregistered marriages are considered illegitimate. As a result, the child only has blood and civil relations with the mother and her mother's family, as stipulated in Article 43 paragraph (1) of the Marriage Law. This creates difficulties in processing birth certificates that include the father's name, which in turn hinders the child's access to basic rights such as the right to education, health services, and social security, which often require complete proof of identity. Furthermore, the child automatically loses inheritance rights from the father. Although Constitutional Court Decision Number 46/PUU-VIII/2010 has opened up space for the recognition of civil relations with biological fathers through scientific evidence, the process remains complicated and not easily accessible to the general public.

Given the widening gap between religious and social legitimacy and the lack of state legal protection, this research is relevant and urgent. The analysis will focus on Tambakrejo Village, a representative location for examining how the legal and social dynamics of unregistered marriage operate within the local community context. By understanding the resulting consequences in depth, it is hoped that more effective policy recommendations and social interventions can be formulated to protect the fundamental rights of women and children.

A siri marriage is a form of marriage that is valid according to religion but is not registered with the state, thus having no legal force before the state. According to a study by Wahyuni (2018), one of the main factors in siri marriages is the public perception that religious legitimacy is sufficient, as well as a lack of awareness of the importance of official registration. Furthermore, economic reasons, complex bureaucracy, and even a desire to avoid certain legal obligations (such as providing financial support for the previous wife in polygamy) also encourage this practice to continue. In traditional societies, religious and customary laws often have greater legitimacy than state law (Saragih, 2020).

Unregistered marriages pose serious challenges to the fulfillment of the civil rights of wives and children. Without official registration, women have no legal recourse in the event of disputes, domestic violence, or divorce. Children born from these marriages also risk not having a valid birth certificate and face difficulties accessing inheritance rights and other legal protections (Wahyuni, 2018). This imbalance arises from differences in religious recognition and legal legitimacy. The practice of unregistered marriages remains widespread in various regions, particularly in the coastal areas of Tambakrejo Village, Sumbermanjing Wetan District, Malang Regency.

In coastal communities like Tambakrejo, which still strongly adhere to local religious and cultural structures, the practice of unregistered marriage is accepted as a form of normalizing relationships without regard to the legal consequences. This demonstrates the existence of "legal pluralism" in societal practices, where state law is not always the primary reference. Preventive legal protection is protection provided by the government with the aim of preventing violations before they occur. It is contained in laws and regulations, with the aim of preventing violations and providing guidelines or limits for fulfilling obligations.

Studies on unregistered marriage generally focus more on normative-theoretical aspects, such as the legality of marriage or the conflict between Islamic law and state law. Previous research by Hasibuan (2020) showed a strong correlation between limited access to legal education and the high prevalence of unregistered marriage in coastal areas. Unfortunately, there is limited research specifically examining the impact of unregistered marriage laws on women and children in the context of coastal communities in South Malang, particularly in Tambakrejo. Although this area is strategically located for the fisheries and tourism sectors, it still faces limitations in social and legal infrastructure.

This research will examine the practice of unregistered marriage in the coastal community of Tambakrejo Village in greater depth, as well as the impact of unregistered marriage law on the fulfillment of women's and children's rights in Tambakrejo Village. This research is expected to contribute to the development of national legal policies that are more responsive to the needs of marginalized communities, in accordance with the spirit of social justice as mandated by Pancasila and the Constitution.

Method

This research uses a juridical-sociological approach with a qualitative case study method to explore the practice of unregistered marriage in Tambakrejo Village in depth. The researcher used a *purposive sampling technique* to identify key informants, consisting of community leaders, village officials, and women and children directly affected by this practice to ensure the acquisition of relevant data. Primary data was collected through in-depth interviews guided by a protocol of questions regarding the sociological reasons and legal impacts felt by the subjects, while secondary data was obtained through document studies of laws and regulations and related scientific literature. The data analysis process was carried out using thematic analysis techniques, including data reduction, narrative presentation of the legal reality at the research location, and drawing conclusions based on the theory of legal pluralism. To ensure the validity and ethics of the research, the researcher applied the principle of *informed consent*, maintained the anonymity of informants through the use of initials, and triangulated sources to ensure data reliability. All research activities were consistently focused on Tambakrejo Village, Sumbermanjing Wetan District, to provide a comprehensive picture of legal protection for the basic rights of marginalized communities in this coastal area.

Result and Discussion

This research was conducted in the Tambakrejo Village, Sumbermanjing Wetan District, Malang Regency, which comprises 18 sub-districts. According to information from a source, namely the Head of Tambakrejo Village, the practice of unregistered marriage, or nikah siri (unregistered marriage) in this village is a complex social phenomenon that has persisted for generations. Field data indicates that this practice was initially introduced by immigrants and gradually adopted by the native population. The main factor driving this phenomenon is economic considerations, where residents consider nikah siri (unregistered marriage) to be much cheaper and more practical than formal marriage, which requires administrative costs and procedures that are considered complicated. Furthermore, there are socio-psychological motives such as efforts to legitimize sexual relations religiously to avoid accusations of adultery, underage marriage to avoid the hassle of permits, and the lack of parental consent that leads couples to choose informal channels. Low public legal awareness and minimal outreach from relevant agencies regarding the long-term impacts of unregistered marriage further exacerbate the information gap in the region. The efforts made by the Head of Tambakrejo Village were carried out from house to house to residents with the assistance of the village and sub-district heads in order to reduce the number of unregistered marriages, until now there are still 10 couples whose marriages are not registered.

This phenomenon is exacerbated by a lack of public understanding of the legal consequences of unregistered marriages, particularly their impact on women and children. The lack of public awareness campaigns by government agencies or legal institutions regarding the impact of unregistered marriages in Tambakrejo Village creates a significant information gap. This aligns with general findings that unregistered marriages are quite common in Malang Regency due to economic and cultural factors, as well as a lack of legal education. The high number of marriage validation applications at the Malang Regency Religious Court, reaching hundreds of couples annually from 2022 to 2024, confirms that this practice is a widespread problem and not an isolated case.

Despite this, there have been proactive efforts by local village officials. The head of Tambakrejo Hamlet, with the assistance of the heads of the neighborhood associations (RT) and community associations (RW), has conducted door-to-door outreach to educate residents. This effort has successfully reduced the number of unregistered marriages, with only a few remaining at the time of the study. Officially, the Tambakrejo Village Government has also issued Village Regulation No. 4 of 2024 concerning Public Security and Order. This regulation specifically requires those involved in unregistered marriages to report to village officials within one month and encourages them to legalize their marriages at the Religious Affairs Office no later than three months after being registered in village documents. The threat of legal and customary sanctions for violators demonstrates local awareness of the need to regulate population administration, although it has not fully addressed the root of the problem.

Numerous studies have been conducted on unregistered marriages from various perspectives. Research conducted by Aini (2019) in Madura shows that cultural factors and influential religious figures are the main drivers of unregistered marriages, where the fatwa of a religious leader is often more widely obeyed than state regulations. This study highlights how women are often left in a position of resignation to the decisions of their husbands and families. Furthermore, research by Pratiwi & Suryani (2020), which focused on the psychological impact of children from unregistered marriages in urban areas, found that these children are vulnerable to identity crises and bullying at school due to their unclear legal status, especially when civil registration processes are discussed.

Meanwhile, from a legal perspective, Harahap (2018) extensively researched the legal vacuum experienced by unregistered wives in joint property disputes. He concluded that without authentic proof in the form of a marriage certificate, judges in Religious Courts find it extremely difficult to grant wives' claims to property acquired during the marriage. The only legal remedy, namely through a marriage ratification (marriage validation) hearing, is often hampered by the cost and complexity of the process for members of the lower classes.

Unregistered marriages create serious legal vulnerabilities for women in Tambakrejo Village. Legally, because they lack a marriage certificate as authentic proof, wives lack the legal authority to assert their basic rights before the state. This results in wives being denied the right to a share of joint property (*gono-gini*) and unable to claim physical or spiritual support from their husbands in the event of neglect. In situations of domestic conflict or domestic violence (KDRT), wives lose access to state legal protection because their marital status is deemed invalid under positive law. This impact is exacerbated sociologically and psychologically, where wives are often in a weak bargaining position, bear a moral burden in the eyes of society, and experience discrimination because their relationship status is considered secret (*sirri*).

Sirri marriage is regulated in Tambakrejo Village based on Regulation Number 4 of 2024 concerning Security and Order Article 25 paragraph (1) which explains "Siri marriage is a marriage conducted by a man and a woman who is religiously valid but has not been officially legalized by the State". Article 25 paragraph (2) reads "Tambakrejo Village residents or non-Tambakrejo Village residents who have conducted a siri marriage are required to report to the RT or RW administrators and the Village Government within one month by bringing two marriage witnesses or supporting evidence". Article 25 paragraph (3) explains "Tambakrejo Village residents or outside the area who conduct a siri marriage are required to register at the Religious Office or officially marry before a marriage registrar no later than 3 months after being recorded in the siri marriage document by the village government". Article 25 paragraph (4) reads "Violations of the provisions of siri marriage can be subject to sanctions as regulated in Article 22 concerning cohabitation". Meanwhile, regarding the sanctions written in Article 22 paragraph (4) which states "Violations of the provisions of paragraphs (1), (2), and (3) will be subject to sanctions in accordance with applicable legal and customary provisions." So it can be

concluded that in Siri Marriage in Tambakrejo Village, if anyone violates it, they will be subject to applicable legal and customary sanctions.

The trend of informal marriages in Malang Regency in general between 2022 and 2024 shows hundreds to thousands of couples who married informally and then submitted applications for marriage validation (a procedure to legalize a marriage) to the Malang Regency Religious Court. In 2022-2023, the total number of applications reached 321, with 258 decisions granted. In 2024, 233 couples applied for marriage validation. This phenomenon indicates that informal marriages are quite common in Malang Regency, for various reasons, including economic factors, cultural factors, and a lack of education regarding the impact of informal marriages.

The etymology of unregistered marriage comes from the Arabic word "sirrun," which means secret, stealthy, or hidden. The word "sirri" was then combined with "nikin" to form nikah siri, which means a marriage conducted in secret. The general understanding of unregistered marriage is similar to marriage without a marriage bond, namely a marriage process in accordance with the rules and regulations applicable in Islam, the presence of a marriage guardian, witnesses, and ijab qabul (Sobari, 2013). Based on the UUP, this siri marriage is considered invalid, because in Article 2 paragraph (1) of the UUP it is stated that "A marriage is valid if it is conducted in accordance with the laws of each religion and its beliefs." However, in the next paragraph, the UUP requires marriage registration to obtain a marriage certificate, which is contained in Article 2 paragraph (2) which states that "Every marriage is recorded in accordance with applicable law." Thus, a marriage certificate is proof that a marriage has occurred, not only determining whether the marriage is valid or not. The absence of this proof of marriage is what causes the children and wives of siri marriages to have no legal standing before the state (Danar, 2019).

Marriage is a legal process, so matters or actions arising from it are legally protected. If a marriage is not legally registered, matters related to the consequences of the marriage cannot be legally resolved. For example, the wife's right to receive physical and spiritual support, the inability to obtain a child's birth certificate, child custody, the right to education, the wife's inheritance rights, the right to guardianship for daughters who are about to marry, and many other issues. Violence against wives is rooted in many factors that essentially lead to the dominance of patriarchal concepts in society. This concept is defined as a system of male domination that oppresses women through social, political, and economic institutions.

Marriage is a sacred bond between a man and a woman, aimed at building a harmonious, loving, and caring family. However, in reality, many marriages experience problems, one of which is unregistered marriage, also known as marriage without a certificate. An unregistered marriage is a marriage conducted based on certain established religious provisions, or must meet customary requirements, but is not registered with the Office of Religious Affairs (KUA). A Siri marriage is a marriage conducted using provisions that have been outlined and determined by religion or must meet customary requirements by fulfilling the specified requirements but is not registered, so that the marriage is considered valid by some but is considered invalid by the state.

The Compilation of Islamic Law states that unregistered marriages are invalid. This section will further explain how existing legal regulations can deviate from public understanding. Personal factors include societal characteristics in understanding unregistered marriages, which are used as justification. Legal awareness, namely the level of public understanding of existing laws and regulations in Indonesia, particularly Law Number 1 of 1974 and the Compilation of Islamic Law (KHI), is less recognized. The results of this study indicate that understanding of the legal consequences of unregistered marriages is demonstrated by cases involving such unregistered marriages.

Existing social facts show that if a marriage is not legally registered or is not legally valid, it is likely to be abused by certain parties seeking personal gain. Some common reasons for conducting

secret marriages include: (1) Secret marriages are considered a solution for couples who want to marry but are not financially or socially ready, or who lack parental permission. They believe it is better to marry in secret than to commit a religious offense (adultery). (2) An illicit relationship prevents them from being legally married, for example, one or both parties have previously been legally married and have a wife or husband, but want to remarry someone else and engage in an illicit relationship that results in pregnancy. (3) Marriage with minors, because they do not know the procedures for arranging underage marriages, they are lazy to take care of the administration so they prefer to marry secretly. (4) Secret marriages were conducted solely for exploratory purposes and to legitimize sexual relationships. If after marriage, incompatibility was discovered, divorce would be easily obtained without the need for complicated procedures.

The legal impact of unregistered marriages on women is (a) Legally, the validity of the marriage has no legal force because it does not have an authentic deed in the form of a marriage book; (b) Psychologically, the wife bears a heavier burden if a child is born in the marriage; (c) Sociologically, the wife will feel ashamed in the eyes of society because their marriage is not announced so that society does not know and can cause slander; (d) If problems occur in the marriage, such as the husband committing domestic violence against his wife, ignoring his wife, this cannot be protected by law; (e) The wife cannot sue her husband in court if the husband intends to divorce her, because there is no authentic evidence of the marriage; (f) The wife's right to maintenance is not protected by state law, if problems occur.

In an unregistered marriage, the wife has no right to a share of joint property and cannot claim maintenance from her husband. In cases of domestic violence, wives in unregistered marriages also lack access to legal protection because their marital status is not legally valid. A study by Nurbani (2020) shows that women in unregistered marriages also experience social discrimination and a weak bargaining position, especially when facing domestic conflicts. The lack of legal documentation makes it difficult for women to prove their rights in the eyes of the law, including in divorce proceedings or widowhood after their husband's death. In this context, the state has not been fully present to guarantee substantive justice for women living in unregistered marriages.

The most detrimental impact of unregistered marriages in Tambakrejo Village affects the children born from these relationships. Legally, these children are considered to be born out of wedlock, so they only have a civil relationship with their mother and her mother's family. As a result, children lose their inheritance rights from their father and their right to state-protected support. Furthermore, the process of obtaining a birth certificate that includes the father's name becomes very difficult and requires a costly and time-consuming court procedure. This lack of legal identity places children at high risk of experiencing obstacles in accessing basic services such as education and health insurance, which fundamentally contradicts the principle of children's human rights and the constitutional mandate of Article 28B paragraph (2) of the 1945 Constitution.

Based on the Minister of Home Affairs Regulation Number 9 of 2016, children from unregistered marriages can only list their father's name through a court decision process. This creates significant administrative and psychological burdens, and increases the possibility of discrimination (Hasibuan, 2020). According to Lestari (2021), children from unregistered marriages are at high risk of experiencing limitations in accessing education, health services, and social security due to the lack of a valid legal identity. This situation contradicts the principle of non-discrimination in the Convention on the Rights of the Child which has been ratified by Indonesia through Presidential Decree Number 36 of 1990. If a child's identity is not fully recognized by the state, then the state also fails to carry out its constitutional responsibilities as mandated in Article 28B paragraph (2) of the 1945 Constitution concerning the basic rights of children, namely: (1) Right to survival: Every child born has the right to life and must not be arbitrarily deprived of his or her life; (2) The right to grow and develop: Every

child has the right to conditions that enable them to grow and develop optimally, both physically, mentally and socially; (3) The right to be protected from violence: Every child is protected from all forms of violence, both physical and psychological, which may interfere with their growth and development; (4) The right to be protected from discrimination: Every child should not be discriminated against on the basis of gender, religion, ethnicity, race or other background.

The unclear legal status of women and children born from unregistered marriages has devastating legal and social consequences. Marriages outside the religious framework are considered particularly detrimental to women and their children. If one spouse leaves the household, the other spouse has no right to any material or social benefits.

On the other hand, understanding of sexual violence remains weak, there is a lack of commitment from leaders to address sexual violence, there is still a culture of doubt and a tendency to cover up cases of sexual violence, and enforcement of regulations related to sexual violence is still weak, for example in Islamic boarding schools (Safitri & Hanun, 2024). In the context of sexual violence in Islamic boarding schools, the theory of legal positivism argues that as long as there are applicable positive laws such as the TPKS Law, the Child Protection Law, and PMA 73/2022, these norms must be enforced by law enforcement officials and the internal authorities of Islamic boarding schools, without considering the perpetrator's social status, power relations, or the institution's internal moral considerations.

Responding to this requires a stronger commitment from the Ministry of Religious Affairs and the Ministry of Women's Empowerment and Child Protection. By implementing a systemic approach focused on victims' rights, encompassing integrated prevention, protection, treatment, and recovery, and supported by more progressive, inclusive, and substantive justice-oriented policies, Islamic boarding schools (*pesantren*) have significant potential to transform into spaces for religious education. These spaces can not only produce generations with noble character and high knowledge, but also build an institutional culture that respects human dignity, upholds the principles of justice, upholds gender equality, and ensures the safety, security, and well-being of every individual, including students, teachers, and administrators, who live and develop within them.

The government has a solution for couples who don't yet have a marriage certificate or whose marriage hasn't been registered: the *Itsbat Nikah* (marriage confirmation). This *Itsbat Nikah* certainly has a positive impact in alleviating the problems couples face when re-registering their marriages. Under applicable Indonesian laws and regulations, marriage registration is the sole proof of marital status. However, from another perspective, the existence of legislation can provide a solution for those who cannot prove their marital status, which can be done by registering their marriage through *Itsbat Nikah* at the local Religious Court.

Marriage Confirmation is the registration of a marriage for those whose marriage has not been registered due to other reasons as stipulated in the relevant regulations. The requirement for registering *Marriage Confirmation* is if the marriage is considered valid according to the religion and belief. Regarding the validity of a marriage, it is further emphasized in Article 4 of the Compilation of Islamic Law which states that a marriage is valid if it is carried out according to Islamic law in accordance with Article 2 paragraph (1) of the UUP. Furthermore, Article 5 of the Compilation of Islamic Law states that in order to ensure orderly marriages for the Islamic community, every marriage must be registered. Marriage registration is carried out by a Marriage Registrar as regulated in Law No. 22 of 1946 in conjunction with Law No. 32 of 1954. The purpose of registering a marriage is to create order in society. This is an effort regulated by legislation, to protect the dignity and sanctity (*mitsaqan galidza*) of marriage, and more specifically women in married life.

This is regulated in Article 7 paragraph (2) of the Islamic Law Code which explains "In the event that a marriage cannot be proven by a Marriage Certificate, the Marriage Certificate can be submitted to the Religious Court." In relation to legal certainty, laws to protect children born from unregistered

marriages are essentially necessary. The state and government have responsibilities regarding the availability of facilities and flexibility for these children (Lelliott, 2022). Especially related to obtaining authority and obligations as children born from their parents' marriage, as well as the need for legal protection with the aim of obtaining legal certainty regarding their status as children.

The existence of a legally binding marriage legalization as the basis for the obligations and rights of parents towards their children who have been born with legal consequences that may arise from the existence of legal status in marriage, in religious law and according to state law. In the articles of Law No. 1 of 1974 and the Compilation of Islamic Law there are still many weaknesses, especially those related to the issue of Gender and Human Rights, which among other things have an impact on the increase in cases of siri marriage or clandestine marriage which is a form of abuse against the institution of marriage, this is also caused by the absence of provisions on criminal sanctions in these laws and regulations. Meanwhile, the Draft Law on the Material Law of Religious Courts (RUU HMPA) is a model offered and is expected to break the deadlock in the relationship between religion and culture. Especially to provide protection for women and children who are quite vulnerable to discrimination. However, this Draft Law still needs to be studied and refined in order to better fulfill the sense of justice for every Indonesian citizen.

In response to the high number of unregistered marriages, the Tambakrejo Village Government has taken proactive steps through a regulatory approach. The issuance of Village Regulation Number 4 of 2024 concerning Security and Public Order serves as a local instrument for regulating population administration. This regulation explicitly requires residents engaged in unregistered marriages to report within one month and encourages them to officially register at the Office of Religious Affairs (KUA) no later than three months later. This effort is supported by door-to-door outreach campaigns by village officials to provide legal education to residents. As a further legal solution, the state provides a *Marriage Validation mechanism* through the Religious Court for couples seeking legalization of their marriages to ensure legal certainty. The high number of *Marriage Validation applications* at the Malang Regency Religious Court between 2022 and 2024 demonstrates growing public awareness of the need to improve their legal status.

The phenomenon in Tambakrejo Village demonstrates a dichotomy between living law *and* state law. Based on the theory of legal positivism, a marriage is only considered formally valid if it meets the administrative procedures established by the competent authorities. However, in the context of Tambakrejo Village, religious norms often have stronger legitimacy in the minds of the community than marriage registration regulations. Weaknesses in the Marriage Law and the Compilation of Islamic Law, which do not yet include criminal sanctions for those who engage in unregistered marriages, contribute to the persistence of this practice. Therefore, an integration of preventive policies through education with repressive-administrative policies through village regulations and easy access to legal services such as *Marriage Confirmation (Imbat Nikah)*, is needed to ensure substantive justice for vulnerable groups in coastal areas.

Conclusion

Based on the research results and discussion, it can be concluded that the practice of unregistered marriage, or nikah siri (unregistered marriage) in Tambakrejo Village, is a persistent social phenomenon resulting from the interaction of economic, cultural, and low legal literacy factors. The primary reasons people choose this route are cost efficiency and the desire to legitimize their relationships religiously to avoid adultery without going through what are considered complicated state administrative procedures. Legally, this practice has very detrimental legal consequences for vulnerable groups; wives lose their rights to legal protection, maintenance, and joint property, while children experience a legal identity crisis because they are considered illegitimate children who only have a civil relationship with their mothers. This directly hinders children's access to basic rights such as education and health insurance.

Despite this, significant mitigation efforts have been made through local policies, such as the issuance of Village Regulation No. 4 of 2024, which requires reporting of unregistered marriages and encourages official registration at the Office of Religious Affairs (KUA). Furthermore, *the Itsbat Nikah mechanism* provides an important administrative solution for couples in unregistered marriages to gain legal recognition from the state. The success of village government efforts to reduce the number of unregistered marriages demonstrates that a systemic approach combining persuasive education and progressive local regulations is crucial to ensuring substantive justice and protecting the human rights of coastal communities .

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