

IJLACOS
International Journal of Law and Constitution Study

Journal homepage : https://jurnal.asrypersadaquality.com/index.php/ijlacos

THE EFFECTS OF SIRI MARRIAGE LAW ON THE POSITION OF CHILDREN AS SEEN FROM ISLAMIC LAW AND MARRIAGE LAW

Aditiya
Middle East Technical University (METU), Ankara, Turky
Aditiya@gmail.com

A B S T R A C T

Many people have been carrying out siri marriages for a long time, that is, marriages which are only carried out according to the Islamic religion without the marriage being registered by a government registrar, so that it cannot be proven by a marriage certificate, with several allegations emerging about the reasons why siri marriage with all its risks is still used as an alternative. Among people who are unfamiliar with the law and economically weak communities, it is possible due to limited funds that with practical procedures at no cost, marriages can be carried out. In this writing, the author conducted research with the aim of knowing the legal perception of unregistered marriages from the perspective of the Compilation of Islamic Law and Marriage Laws in Indonesia. The approach in writing this scientific work is carried out using the statute approach. The Compilation of Islamic Law states that unregistered marriage is an invalid marriage. Here it will be clearer how existing legal regulations can be different from the understanding in society. Siri marriages, which are considered legal according to religion, in reality actually give rise to many problems that result in losses for women. Siri marriage is often taken as a shortcut for couples to legalize their relationship, even though this action is basically a violation of Law no. 1 of 1974 concerning marriage.

A R T I C L E I N F O

Article History:
Received 23 Jan 2024
Revised 30 Jan 2024
Accepted 29 Jun 2024
Available online 30 Mei 2024

Keywords:
Siri Marriage, Compilation of Islamic Law, Marriage Law.

To cite this paper (in APA style):
Adaitiya Vol 1 No 1 2024

INTRODUCTION

Every human being goes through lifeTheir daily lives are interconnected with each other, one of the bonds arranged by God for living in pairs is through the marriage process. In carrying out a marriage, various preparations, both physical and spiritual, are the most important elements that must be fulfilled, the conditions and pillars of marriage become an inseparable whole. In general, marriage is a sacred bond that is closely related to religious teachings, therefore every religion always connects the rules of marriage with religious rules.

Marriage is a physical and spiritual bond between a man and a woman who is institutionalized in a strong institution and is recognized both religiously and legally. The Qur'an, normatively, recommends that humans live in pairs with the aim of creating a happy and peaceful family. Regarding marital status, the Qur'an also mentions in An-Nisa 4:21 that marriage is a mitsaaqan galidhan, namely a strong bond. This bond begins to be recognized after an agreement is expressed in the form of an agreement and qabul.

One of the initial frameworks for obtaining legal guarantees in a marriage is to register it with the authorized agency. This does not only apply to people who are Muslim, but also to those who are Christian, Catholic, Hindu or Buddhist. As stated in Law no. 22 of 1946 jo. UU no. 32 1954 concerning Marriage Registration, Divorce and Reconciliation (Explanation of Article 1) also in Law no. 1 of 1974 concerning marriage article 2 paragraph 2, which was strengthened by RI Presidential Instruction No. 1 of 1991 concerning the Compilation of Islamic Law Articles 5 and 6.

In Islamic law, marriage law is one of the aspects that is most widely applied by Muslims throughout the world compared to other muamalah laws. Marriage is a mitsaqan ghalidan, or a strong bond that is considered valid if it meets the requirements and pillars of marriage. Based on the Qur'an and hadith, the scholars concluded that the things that constitute the pillars of marriage are the prospective husband, prospective wife, marriage guardian, two witnesses, consent and qabul. This obligation to have witnesses is the opinion of the Shafi'is, Hanafis and Hanbalis.

The definition of marriage according to the Compilation of Islamic Law (KHI) is formulated as follows; Islamic marriage is a strong agreement to obey the commandments

Allah SWT and whoever carries out a marriage means he has carried out one of Allah SWT's commands. A siri marriage is a secret marriage, meaning that there is no notification or announcement of the marriage to the public or society. In general, unregistered marriages are carried out only in the presence of an ustadz or a traditional figure and are not reported to the Office of Religious Affairs (KUA). Unregistered marriages are a problem and still occur frequently in Indonesia, because they are not known to the authorities.

The birth of the marriage law does not necessarily completely eliminate marriage practices or patterns that are not in accordance with state legal procedures. Article 2 paragraph (1) of the Marriage Law states that "Marriage is valid if it is carried out according to the laws of each religion and belief." Understanding this article gives rise to various perceptions regarding marriage being valid as long as the law according to one's religion has been declared valid. In Islamic religious law, marriage is valid if the conditions and pillars are met. The requirements and pillars of marriage in Islamic religious law do not include marriage registration as a legal condition for marriage, whereas Article 2 paragraph (2) of the Marriage Law states that [3]Every marriage is recorded according to the applicable laws and regulations". From the 2 (two) paragraphs in Article 2 of the Marriage Law, a legal debate arises regarding the validity of marriages that have been carried out in accordance with religious teachings but have not been recorded in a valid document in the state. The result of this problem is that there are marriages that are valid according to religion, but do not have legality according to state law. Thus, the rights and obligations between husband and wife do not receive full guarantees from the State. In connection with the various problems that arise from this marriage pattern, in this research, the author wants to examine in more depth about underhand marriage (sirri marriage) and its legal consequences.

METHOD

The approach used in this research is approximation qualitative. A qualitative approach is a research procedure that produces descriptive data in the form of people's written or spoken words and observable behavior. The qualitative approach has characteristics natural (Natural serfing) as a source of direct, descriptive, more process data more important than results. Analysis in qualitative research tends to be carried out inductive analysis and the meaning of meaning is something that is important essential. (Lexy Moleong, 2006: 04)

The aim of this research is to determine the concept of siri marriage according to Islamic law and the Marriage Law, apart from that, also to find out the legal consequences of siri marriage on the status of children according to Islamic law and the marriage law.

RESULTS AND DISCUSSION

It is a historical record that women have always been placed in a subordinate position. This happens because various myths that corner women are always maintained, until they become a kind of dogma that is rooted in local society. one of these myths is the story about the creation of women and the exit of Adam from Heaven to earth. Eve was created from Adam's rib, therefore the function of her creation was to complete Adam's desires, and Eve was the cause of Adam's fall from Heaven to earth. Women are considered a source of temptation from Satan, the cause of sexual harassment, are dangerous and require control from men.

In the event of marriage, legal norms and regulations are needed to regulate it. The application of legal norms in marriage events is especially necessary in order to regulate the rights, obligations and responsibilities of each family member, in order to form a happy, eternal and prosperous household. We see in society that there are patterns of marriage that are covered by religious law but whose spirit is contrary to religious teachings, and patterns of marriage in the western way that are contrary to the way of life of the Indonesian people, as well as patterns of marriage according to customs that are no longer in accordance with the development of society and progress over time. The marriage patterns referred to are; forced marriages, marriages of minors, marriages carried out too easily, free polygamous marriages, and illegal marriages. As a result of the large number of marriages that are carried out by force, under age, without registration, without careful planning and preparation, and without consideration, many divorces occur.

The issuance of Marriage Law no. 1 of 1974 with a set of implementing regulations in force in the Republic of Indonesia, is a juridical effort to bring about changes and reforms to marriage patterns in our society which have many negative consequences. From marriages which were previously carried out freely and at will, they became marriages with good and orderly procedures. From a marriage that is so easily resolved by divorce to a marriage that truly brings eternal happiness based on the Almighty Godhead.

When viewed from Law no. 1 of 1974 concerning Marriage, in article 1 it explains the meaning of marriage, [3]Marriage is an inner and outer bond between a man and a woman as husband and wife with the aim of forming a happy and eternal family (household) based on the belief in God Almighty[3]. This understanding explains that marriage is not just a legal act, but is also a religious act, so whether a marriage is valid or not must be based on the laws of each religion and belief held by the Indonesian people. This is clearly seen in the inclusion of the words "based on belief in the Almighty God" in the definition of marriage.

Some people view unregistered marriage as a religious marriage that is declared valid, as long as it fulfills all the marriage conditions set by the religion. This is the understanding that until now some people still adhere to this understanding by ignoring the registration of marriages in accordance with existing and applicable laws and regulations.

The understanding that "according to religious law is valid" is the reason why many people carry out unregistered marriages. In addition, there is an attitude of doubt regarding the regulations regarding marriage which regulate the existence of marriage isbat. As Article 7 paragraph (2) of the KHI states that "in the event that the marriage cannot be proven by a marriage certificate, a marriage isbat can be submitted to the Religious Court." Furthermore, Article 7 paragraph (3) states that "the isbat referred to in paragraph (2) is limited and only concerns matters relating to:

a. Matters in the context of divorce settlement;

b. There is a loss of your marriage certificate;

c. There is doubt in a marriage whether the marriage is valid or not;

d. Marriages carried out before the enactment of Marriage Law no. 1 of 1974;

e. There are marriages carried out by those who do not have obstacles to marriage according to Marriage Law no. 1 of 1974.

Meanwhile, Article 7 paragraph (4) of the KHI further states that "those who have the right to apply for a marriage isbat are the husband and wife, their children, the marriage guardian and parties interested in the marriage." As for the marriage isbat mentioned in Article 7 of the Compilation of Islamic Law, it explicitly explains that there is an indication of recognition of the validity of a marriage that is not registered so that it can be registered at a later date. And of course, the existence of this marriage isbat means that the unregistered marriage that is carried out can be registered and can provide benefits to the party who deliberately carries it out. This

is often done by Religious Courts in Indonesia on the basis of what is permitted by the KHI. If the reasons stated in the KHI have been carried out and used as guidelines by the Religious Courts, this means that for unregistered marriages a marriage isbat can be carried out.

Discussion

Unregistered marriages, meaning marriages without registration, also occur in Egypt, known as al zawaj al 'urfiy. Sheikh Ali Jad al Haq, who is one of the sheikhs of al Azhar, divided the rules governing marriage into two, namely:

1) Sharia rules are the rules that determine the validity or invalidity of a marriage. This regulation is the result of the formulation of Islamic jurisprudence scholars as elements forming a marriage contract, namely: the existence of a marriage contract, the presence of a prospective husband, the presence of a prospective wife, the presence of a guardian, and two people as witnesses;
2) Tawsiqy regulations are additional regulations which aim to ensure that marriages are registered in a legal deed issued by officials appointed by the government

By registering marriages, the state can protect married couples from negative efforts carried out by irresponsible parties. Even though marriages that meet the requirements in accordance with the provisions of religious regulations without official documents are considered valid, it goes back to the opinion of Sheikh Jad al Haq Ali "tawsiqy regulations" which emphasizes that registration of marriages must be carried out by all Muslims who carry out marriages which serves to anticipate if necessary in dealing with the courts.

The legitimacy of unregistered marriage from a fiqh perspective opens up a gap in the practice of unregistered marriage in society. Not having a marriage registered will have an impact on guaranteeing legal certainty, especially for women and children who will be born from the unregistered marriage. Efforts to reconceptualize the pillars and conditions of marriage that have been carried out are to eliminate the practice of unregistered marriages.Concept of Siri Marriage according to Islamic Law and Marriage Law

This is stated in Presidential Instruction Number 1 of 1991 concerning the Compilation of Islamic Law. Article 2 of Presidential Instruction Number 1 of 1991 concerning the Compilation of Islamic Law states: "Marriage according to Islamic Law

is a marriage, namely a very strong contract or miitsaaqan gholidhan to obey Allah's commands and carrying them out is worship."

Islam has made legal marriage bonds based on the Koran and Sunnah the only means to fulfill the demands of human instincts which are very basic, and a means to build an Islamic family. Islam's respect for the marriage bond is so great, to the point that the bond is determined to be comparable to half the religions

a. State Laws Concerning Children

Children are the heirs and continuers of the nation's future. But in reality, the situation of Indonesian children is still and continues to worsen. The world of children, which should be colored by playing, learning and developing their interests and talents for the future, is in reality colored by dark and sad data regarding several laws related to this matter, namely:

1) Definition of Children in Law Number 4 of 1979concerning Child Welfare as stated in Article 1 paragraph (2): A child is someone who has not reached the age of 21 (twenty one) years.

1) According to Republic of Indonesia Law Number 39 of 1999 concerning Human Rights which is defined in Article 1 paragraph (5) as follows: A child is every human being under the age of 18 (eighteen) years and is not married, including children who are still in the womb if this is the case. for his sake.

2) Definition of Children according to the Convention on the Rights of the Child(Convention on the Rights of the Child) in 1989 as follows: A child is every human being under the age of 18 (eighteen) years unless according to the law applicable to children, maturity is reached earlier.

3) The definition of children in the 1945 Constitution The definition of children or the position of children as determined according to the 1945 Constitution is contained in Article 34. This article has a special meaning regarding the definition and status of children in the political field, because it is the basis for the position of children, in these two meanings, namely Children are legal subjects of the national legal system who must be protected, cared for and fostered to achieve prosperity.

The definition of children according to the 1945 Constitution and the political understanding gives birth to or prioritizes the rights that children must obtain from the community, nation and state or in the right words the government and society are more responsible for the social, juridical and political problems that exist in a child.

4) Law Number 39 of 1999 concerning Human Rights. Based on Article 1 paragraph (5) of Law Number 39 of 1999 concerning Human Rights, the meaning of a child is anyone aged 18 (eighteen) years and unmarried, including children who are still in the womb. .
5) Legal Status of Law Number 23 of 2002 concerning Child Protection. Children are a trust and gift from God Almighty who must always be safeguarded because they have inherent honor, dignity and rights as human beings which must be upheld.

In the Islamic view, a siri marriage is still valid because in Islamic law, a marriage is considered valid if it fulfills the requirements and pillars of the marriage, namely the presence of a guardian, two witnesses, consent and qobul, while a siri marriage is a marriage that is valid in accordance with provisions in Islam, but the marriage or the prospective husband and wife are not registered in a religious registry, such as the KUA or Civil Registry Office. Those who commit unregistered marriages are not considered sinners, immoral people, immoral people (because of cohabitation/adultery) or criminals, so they can easily receive punishment from the state or be subject to other sanctions. The reason is that someone can be said to have committed immorality or sin if they do things that are prohibited by religion, namely haram acts.

The Constitution also regulates the marriage of citizens, especially regarding marriage registration, which reads:

a. Article 143 Bill million to IDR 2 million. Apart from unregistered marriages, the draft bill also touches on mut'ah marriages or contract marriages.

b. Article 144 of the Draft Law Article 144 states that every person who enters into a mutah marriage is sentenced to prison for a maximum of 3 years and the marriage is annulled by law. The bill also regulates mixed marriages (between two people of different nationalities). Article 142 paragraph 3 states that the prospective husband who is a foreign citizen must pay a security deposit to the prospective wife

through a sharia bank of IDR 500 million.

In reality, unregistered marriages have more harm than good. The public should be educated that in unregistered marriages, the ones who are most disadvantaged are women and children. According to state law, unregistered marriages mean that women and children cannot obtain their rights. For example, regarding mutually beneficial assets, if one day there is a divorce because of whatever happened, the marriage will be deemed to have never existed and occurred by law.

From a social point of view, men and women who carry out unregistered marriages are often considered to be cohabiting. 19 Because basically from a social point of view, a woman and a man as perpetrators of an unregistered marriage live under the same roof and there is no legal marriage bond because it cannot be proven. with a marriage book as the implementation of the registration of a marriage.

Where in a society there is a structuremeaning which can also be interpreted as common value, Weber put forward a concept. This explains that what members of a society do cannot be separated from the meaning or values that exist and apply in that society. Furthermore, Weber also explained that individual actions basically have special goals.

This is a manifestation of an effort to understand an action and at the same time an effort to understand the purpose of that action. So, in understanding a community action, you should understand the context of meaning or value in the community's own culture.

If a siri marriage is carried out, there must be a reason involved, such as the marriage should not be known to the legal wife or first wife. In Islamic law, if a marriage has fulfilled the pillars of marriage, namely with the presence of a guardian, there is a consent and acceptance, and there are no obstacles according to religion, then the marriage is declared valid.

Law 1/1974 Article 2 paragraphs (1) and (2) explains: "A marriage is only valid if it is carried out according to religion and belief, and is recorded according to the applicable registration regulations." Furthermore, based on PP no. 9/1975, in Article 2 paragraphs (1) and (2) for those who are Muslim registered at the Religious Affairs Office, for non-Muslims registered at the Civil Registry office.

Regarding children, they are legitimate children according to religious law. However, because the marriage is not yet legal according to Law 1/1974, which means that a valid and legal marriage certificate has not been issued, the child born from an unregistered marriage does not have valid evidence according to Indonesian law. Another problem that arises is that in matters of inheritance, it will be difficult to prove in the sense that he does not have valid proof.

Article 5 paragraph (1) states; “To ensure marital order"For Islamic society, every marriage must be recorded" and paragraph (2) states; "Registration of marriages as stated in paragraph (1), is carried out by Marriage Registrar Employees as regulated in Law no. 22 of 1946 jo. Law no. 32 of 1954.”

So it is clear here that according to the KHI and the Indonesian Marriage Law, unregistered marriages are invalid because they violate Indonesian laws and regulations and are not in accordance with the law. Islamic law regarding marriage itself has long been implemented long before there were regulations requiring the legalization of marriage certificate records, so it is very difficult to stem the tide of unregistered marriages which are rife in society. Although in this case there is still a problem related to the rights of women and children, which is often the fundamental question.

In Indonesia, there are actually regulations that legally can determine whether a marriage is valid or not. Among other things, juridically, there are efforts to protect women from various unfair behaviors which have been accommodated in the Universal Declaration of Human Rights (UDHR) by the UN Assembly on 18 December 1948. Furthermore, this declaration is explained in more detail through the UN convention on the elimination of all forms of discrimination against women. which was announced on December 18 1979. The rest at the local level or countries that have ratified the UDHR, as well as the UN convention must explain further which has been adapted to the needs of each country. In this case, Indonesia also ratified it, so it was explained later according to its needs.

A siri marriage that meets the requirements for marriage according to religion is valid and has the legitimacy of religious law in accordance with Article 7 paragraph (2) KHI which states that "in the event that the marriage cannot be proven by a

marriage certificate, the marriage isbat can be submitted to the Religious Court" meaning that the siri marriage is permitted by applying for marriage isbat at the Religious Court. On the other hand, Law 1/1974 states that a valid marriage is a marriage whose implementation is in accordance with the religion and beliefs of the bride and groom and is recorded according to applicable legal provisions. Therefore, according to the Marriage Law, unregistered marriages are declared invalid because they are not registered. The legal consequence of an unregistered marriage is that if problems occur in the future, there will be no legal guarantees for the parties, because the state considers that the marriage never existed because there is no proof of marriage registration. In this case, the victims will be women and children.

Siri marriage in the perspective of KHI and the Indonesian Marriage Law is clearly stated as an invalid and unlawful marriage, therefore the consequences
The laws resulting from unregistered marriages are very clear and those who suffer the most or become victims of unregistered marriages are women and the children they give birth to.

The Marriage Law (UU) in Indonesia in Article I 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 the belief in the Almighty God. Based on the formulation of Article I above, we can conclude several things, namely:

First: the use of the words "a man and a woman" implies that marriage is only between different sexes. This rejects same-sex marriage which is starting to be legalized by several countries.

Second: the use of the expression "as husband and wife" implies that marriage is the meeting of two different sexes in a household, not just in terms of "living together".

Third: in the definition it is mentionedAlso, the aim of marriage is to form a happy and eternal household, which at the same time negates temporal marriage as is the case in mul 'ahl2 marriages and lahlil marriages.

Fourth: the mention of being based on the Almighty Godhead shows that marriage is a religious event for Islam and is carried out to fulfill religious commands.

Compilation of Islamic Law in Indonesia Article 2 provides another definition which does not reduce the meaning of the definition of the Marriage Law, but adds to the explanation, with the following formulation: Marriage according to Islam is a

marriage, namely a very strong contract or miitsaaqan ghaliizhaan to obey Allah's commands and carrying it out is worship.

The phrase: very strong contract or miitsaaqan ghailizhaan is an explanation of the expression "inner and outer bond" contained in the formulation of the Marriage Law which means that the marriage contract is not merely a civil agreement. Marriage is a very strong contract (miilsaaqan ghaaliizhaan) to obey Allah's commands and carrying it out is an act of worship, which aims to create a household life of sakinah, mawaddah and rahmah.

LEGAL CONSEQUENCES OF SIRI MARRIAGE ACCORDING TO ISLAMIC LAW AND THE MARRIAGE LAW

A woman will bear the legal consequences, such as if there is a divorce or separation during an unregistered marriage, the woman will not be able to claim the joint assets obtained during the unregistered marriage, because there is no evidence. there is a marriage. Likewise, a child born from a siri marriage cannot claim inheritance rights from his father because legally the child does not have proof that he is an heir because the marriage of his parents cannot be proven by the registration of the marriage which in law states that the marriage is not ever existed.

a. Legal Problems

Siri marriage is a violation of the law. If only the government could be more strict, then perpetrators of unregistered marriages could be subject to legal sanctions. According to the Chairman of the Karanganyar Religious Court, the sanctions contained in Law No. 1 of 1974 concerning criminal provisions are relatively rarely applied to violators, even though the punishment is enforced, the punishment is very light.

b. Religious Problems

The phenomenon that is happening now is that unregistered marriages are being pursued by various groups who seem to only want to find a solution to their unstoppable sexual desires. If society's negative opinion about unregistered marriage has been formed like this, isn't this the same as negative opinion towards Islam? This is where a siri marriage whose legality is religious actually brings greater prosperity.

In Indonesia, both the Marriage Law and the Compilation of Islamic Law require marriage registration. In the Marriage Law, it is stated in Article 2 paragraph (1) that a marriage can only be said to be valid if it is carried out according to the laws of each religion and belief. Furthermore, paragraph (2) states that every marriage is recorded according to the applicable laws and regulations. The explanation to this article explains that there is no marriage outside the law of each religion and belief, in accordance with the 1945 Constitution. The purpose of the law of each religion and belief includes the statutory provisions that apply to that group of religions and beliefs. as long as it does not conflict or is not otherwise specified in this Law.

Registration of marriage in the General Explanation sub 3 of the Marriage Law is one of the principles of marriage, namely the principle of registered marriage. Every marriage conducted according to the laws of each respective religion and belief will be deemed to have legal force if it is recorded according to the applicable laws and regulations, as confirmed in Article 2 paragraph (2) of the Marriage Law?' It was also explained that recording marriages is the same as recording important events in a person's life, for example death, birth which are stated in certificates, an official certificate which is also included in the registration register.

Meanwhile, in the Compilation of Islamic Law regarding marriage registration, it is regulated in Article 5 which regulates marriage order for Muslims. Every marriage must be recorded. And in paragraph (2) it is said that the registration is carried out by the Marriage Registry Officer
as regulated in Law Number 22 of 1946 in conjunction with Law Number 32 of 1954. Marriage Registrar Employees according to this Law are the Office of Religious Affairs. The Office of Religious Affairs is an administrative institution that operates in the field of religion. 23 Based on this provision, a marriage is not considered legally positive if it has not been registered. However, there are two opinions regarding the meaning of Article 2 paragraph (2).

Underhand marriage is also known as unregistered marriage. The word siri in the term siri marriage comes from Arabic, namely sirrun, which means secret. Through this root word, siri marriage means a secret marriage, different from the general rsada marriage which is carried out openly (jahri).

Marriage under the hand untilcurrently still happening in Indonesia. The perpetrators of these underhand marriages are not only from low-educated and economically weak circles, but also from those with upper-middle education and economic background. The factors that cause this marriage to occur are varied, such as to avoid committing adultery, so the marriage must be hastened, and economic factors. The bride and groom cannot afford the costs of the marriage registration process. In general, they don't really care about the legality of the marriage in terms of state law, the most important thing is that it is legal according to their religion and beliefs. Apart from the two reasons mentioned above, there are also those who carry out unregistered marriages in order to carry out polygamy because the prospective groom does not get permission from his wife as mandated by law. It can also happen because one of the parties is still bound by an agreement with their place of work regarding the prohibition of getting married until the time limit determined by the company. A husband who is in the process of divorcing his wife and who believes that marriage registration is not a religious order.

The Marriage Law does not recognize private marriages, because as previously explained, Article 2 paragraph (2) of this law requires registration. marriage. So that marriage under the hand is not valid according to state law even though it is valid according to the law of religion and belief. This marriage is not a legal act because it does not follow applicable law so that a private marriage has no legal force.

The Compilation of Islamic Law also requires the registration of marriages, but only for administrative purposes, as regulated in Article 5 of the Compilation of Islamic Law, which considers marriages valid under the hand if they fulfill the pillars and conditions of marriage. Likewise, the Draft Law on Applied Religious Courts in the Marriage Sector requires the registration of marriages, even if a marriage is held and it is not registered, you will be subject to criminal sanctions as previously explained.

To overcome this, Islam provides a way out, namely by submitting a marriage itbat to the Religious Court, so that this unregistered marriage becomes registered and has certainty and legal force.

CONCLUSION

The factors behind the occurrence of unregistered marriages include; Betel marriage is carried out because the relationship is not approved by the parents of both parties or one of the parties, because of a forbidden relationship, a person feels unhappy with their partner, so the intention arises to look for another partner, avoid sin (adultery), the partner feels that he is not ready yet. materially and socially, not getting permission to engage in polygamy, the couple does not know and does not want to know the legal procedures, to explore and justify sexual relations only, to avoid the burden of costs and complicated administrative procedures, for reasons of marriage of different religions, and many other factors .

In Marriage Law no. 1 of 1974 Article 2 paragraph (1) states that marriage is valid if it is carried out according to the laws of each religion and belief. In paragraph (2) it is stated, Every marriage is recorded according to applicable laws. Every marriage that has been legally carried out according to the provisions of the religion adhered to by the bride and groom must be recorded by the Marriage Registrar (VAT), for Muslims at the Religious Affairs Office (KUA) of the Indonesian Ministry of Religion, and for non-Muslims at the Civil Registration Office. The purpose of marriage registration is to protect the rights and obligations of society (both of the husband and wife) as a result of the legal consequences arising from the existence of a marriage bond, which concerns property, inheritance, child care, living, and so on.

REFERENCES

Ali, Mohammad Daud. *Islamic law*. Turkey :Angakara, 2015.

Maloko, M. Thahir. *Sirri Marriage Preceptive Islamic* Law, Vol. 1 No. December 2, 2014.

Aisyah Arsyad. (2017), "Polemics of Siri Marriage: Legal Dualism Establishes a Patriarchal System", in M. Nabiel (ed.). Muslim Subjectivity: The Indonesian Islamic Spectrum. Turki : Insan Madani Library

Sulaiman Rasjid. (2016). Islamic Fiqh 73. Bandung: Algensindo's New Rays.

Rahmalia, daughter. Rejection of Determination of Isbat Nikah Regarding Sirri's Marriage (Study of Decision 1155/Pdt.P/2013/Pajp), Thesis, Faculty of Law, YARSI University, Jakarta, 2017.

Moh. Amen. “Dualism of Siri Marriage Lawin Indonesia from the Perspective of Indonesian Fiqh (Reflection on 42 Years of Law No. 1 of 1974 concerning Marriage)”. Journal of Islamic Studies. Vol. 15 Number 1 June 2015.

Siti Aminah. "Law on Underhand Marriage (Nikah Siri)". Scholar. Vol. 12 Number 1 January