

The Problems of Siri Marriage for Women in Tambang District, Kampar Regency: A Gender Swot Analysis Study

by Jumni Nelli

Submission date: 02-Mar-2023 09:04AM (UTC+0700)

Submission ID: 2026630925

File name: 4740-21630-2-PB.pdf (774.47K)

Word count: 10910

Character count: 56964

The Problems of Siri Marriage for Women in Tambang District, Kampar Regency: A Gender Swot Analysis Study

*Jumni Nelli

Universitas Islam Negeri Sultan Syarif Kasim Riau, Indonesia

*jumni.nelli@uin-suska.ac.id

DOI: <http://dx.doi.org/10.29240/jhi.v7i2.4740>

Received: 12-08-2022

Revised: 16-09-2022

Published: 20-11-2022

Cite this article:

Nelli, J. (2022). The Problems of Siri Marriage for Women in Tambang District, Kampar Regency: A Gender Swot Analysis Study. *Al-Istinbath: Jurnal Hukum Islam*, 7(2 November), 553-578.
doi:<http://dx.doi.org/10.29240/jhi.v7i2.4740>

Abstract

This paper aims to reveal the problems of sirri marriage, and find a solution. Sirri marriages, which are considered religiously valid, have caused many problems that have an impact on women's losses. But there are still many women who are comfortable doing it. This study used a SWOT gender analysis data analysis. The results of this study revealed that in general sirri marriages were carried out for reasons of wanting to obtain religious legitimacy, so as to create inner peace, at least avoiding immoral acts. The basic problems felt by women who do unregistered marriages are psychological problems and mental stress as a result of legal uncertainty about their marital status. Seeing more weaknesses and threats that occur in sirri marriages, then the existing advantages will not be able to overcome the problems faced unless they take advantage of existing opportunities, namely itsbat nikah. According to Islamic marriage law, if the consequences of marriage are known to be strongly suspected of causing harm, then the law is haram. Furthermore, it is necessary to enter registration as a condition for a valid marriage.

Keywords: *Sirri* marriage; gender; swot analysis; women; kampar

Introduction

The practice of unregistered marriage has become a quite widespread social phenomenon in Indonesian society. It does not only happen in people unfamiliar with the law, but it is not uncommon for those who already

Copyright © 2022 Jumni Nelli

This work is licensed under a Creative Commons Attribution-NonCommercial-ShareAlike 4.0 International License

understand it, especially Islamic law (*fiqh*). Notably, if they think that unregistered marriage is allowed in Islam, so they don't feel there is an element of sin when carrying out.¹ They also have different motivations in carrying out *Sirri* marriages.² The *Sirri* marriage they carried out raised several problems that would be very detrimental to the women and children born in the marriage.³

In the reality of life in society, the practice of unregistered marriage has become a widespread social phenomenon in Indonesian society, especially in Tambang Sub-District, Kampar Regency. There are several allegations about why *sirri* marriage, with all its risks, is still used as an alternative. Among people who are not familiar with the law and those who are economically weak, it may be possible due to limited funds that marriages can be carried out with practical procedures free of charge.⁴ From the religious aspect, there is a possibility for fear of committing a sin and being trapped in immoral acts,⁵ marriage with a fast procedure and is considered valid has given its own inner peace.

Studies on unregistered marriages can generally be grouped into three (3) groups. *First*, a study aims to explain and uncover the law of unregistered marriage in Islam and positive law. The studies that belong to this group are Bambang Kusumanto,⁶ Imam Hafas,⁷ Y Triastono,⁸ dan Rahmatullah.⁹ The

¹ Imam Hafas, "Pernikahan Sirri Dalam Perspektif Hukum Islam Dan Hukum Positif," *Tabkim (Jurnal Peradaban Dan Hukum Islam)* 4, no. 1 (2021): 41–58, <https://doi.org/10.29313/tahkim.v4i1.7018>. Lihat juga, K Sirin et al., "Sirri Marriage of Indonesian Woman Migrant Workers in Saudi Arabia," 2020.

² Muhamad Taufiq, "Nikah Sirri Perspektif Maqashid Syariah," *Al-Manhaj: Journal of Indonesian Islamic Family Law* 1, no. 2 (2019): 114, <https://doi.org/10.19105/al-manhaj.v1i2.3138>.

³ N A Suraya, A Khisni, and ..., "Research on Inheritance for Children from Sirri Marriage Based on the Compilation of Islamic Law," ... *Notary Law ...*, 2021, [http://download.garuda.kemdikbud.go.id/article.php?article=2482993%5C&val=23580%5C&title=Research on Inheritance for Children from Sirri Marriage Based on the Compilation of Islamic Law](http://download.garuda.kemdikbud.go.id/article.php?article=2482993%5C&val=23580%5C&title=Research%20on%20Inheritance%20for%20Children%20from%20Sirri%20Marriage%20Based%20on%20the%20Compilation%20of%20Islamic%20Law). Lihat Studi Kasus, "Konstruksi Sosial: Jurnal Penelitian Ilmu Sosial Tinjauan Yuridis Akibat Hukum Nikah Sirri Bagi Kedudukan Anak?" 1, no. 1 (2021): 26–32. Lihat juga, B Bunyamin, K Abror, and B Solihin, "ISLAMIC LAW VIEWS ON SIRRI MARRIAGE," *PRANATA HUKUM*, 2021, <http://jurnalpranata.ubl.ac.id/index.php/pranatahukum/article/view/255>.

⁴ Endang Zakaria and Muhammad Saad, "Nikah Sirri Menurut Hukum Islam Dan Hukum Positif," *Kordinat: Jurnal Komunikasi Antar Perguruan Tinggi Agama Islam* 20, no. 2 (2021): 249–64, <https://doi.org/10.15408/kordinat.v20i2.21933>.

⁵ Hafas, "Pernikahan Sirri Dalam Perspektif Hukum Islam Dan Hukum Positif." Lihat juga, B A Kusumo, R I Rosyadhi, and ..., "Sirri Marriage Review from Islamic Law and Positive Law," *Issue 2 Int'l JL Mgmt. & ...*, 2022, https://heinonline.org/hol-cgi-bin/get_pdf.cgi?handle=hein.journals/ijlmhs16%5C§ion=6.

⁶ Bambang Ali Kusumo, "Perkawinan Sirri Ditinjau Dari Hukum Islam Dan Hukum Positif," n.d., 75–88.

⁷ Hafas, "Pernikahan Sirri Dalam Perspektif Hukum Islam Dan Hukum Positif."

⁸ Y Triastono, *Tinjauan Yuridis Pernikahan Sirri Berdasarkan Hukum Islam Dan Undang-Undang Nomor 1 Tahun 1974 Tentang Perkawinan* (core.ac.uk, 2020), <https://core.ac.uk/download/pdf/322774947.pdf>.

study found that unregistered marriage violates the legal provisions in force in Indonesia and according to Islamic law at least in the makruh category because it is suspected that it will cause harm to the people in the sirri marriage.

Second, the study finds the reasons (motives) why women do unregistered marriages and the consequences that occur. The studies that fall into this group are research, Sulistiani,¹⁰ Safila,¹¹ Rahman,¹² Kusumo,¹³ Pangaribuan¹⁴ dan Bunyamin.¹⁵ Research concludes that there are many negative impacts on people who do unregistered marriages, especially the impact on children born and women in unregistered marriages.

Third, the study explains the solution for unregistered marriage, Suhaeri,¹⁶ Abdullah M,¹⁷ Sulistiani,¹⁸ and this study concludes, that the solution to overcome the problems that occur due to unregistered marriages is to perform itsbat nikah. The study in this study is in the third group, but this research focuses more on women's studies by unraveling the problems that occur and finding solutions by using swot gender analysis.

This research is essential considering that many women still feel "comfortable" with their status as wives of the *sirri* marriage process. It is where gender sensitivity has not been touched, even by women themselves. With a

⁹ N Rahmatullah, "Marginalisasi Perempuan Dalam Perkawinan (Telaah Atas Nikah Sirri Dan Nikah Anak Di Bawa Usia Perspektif Hukum Islam)," *Familia: Jurnal Hukum Keluarga*, 2021, <http://jurnalfamilia.org/index.php/familia/article/view/29>.

¹⁰ S L Sulistiani, "Analisis Yuridis Aturan Itsbat Nikah Dalam Mengatasi Permasalahan Perkawinan Sirri Di Indonesia," *Tabkimi (Jurnal Peradaban Dan Hukum Islam)*, 2018, <https://ejournal.unisba.ac.id/index.php/tahkim/article/download/4103/2419>.

¹¹ S S Safila, *Status Hukum Dan Hak Keperdataan Anak Yang Terlabir Dari Pernikahan Yang Tidak Dicatat: Tinjauan Yuridis Hukum Islam Dan Hukum Positif Indonesia* (digilib.uinsgd.ac.id, 2021), <http://digilib.uinsgd.ac.id/43485/>.

¹² M L Rahman, "Nikah Sirri: Keabsahan Dan Akibatnya," *Al Hikmah: Jurnal Studi Keislaman*, 2018, <http://ejournal.kopertais4.or.id/pantura/index.php/alhikmah/article/view/3315>.

¹³ Kusumo, Rosyadhi, and ..., "Sirri Marriage Review from Islamic Law and Positive Law."

¹⁴ M I Pangaribuan, "... Yuridis Status Hukum Anak Hasil Perkawinan Sirri Dan Akibat Hukumnya (Menurut Hukum Islam Dan Hukum Positif Indonesia) ...," *Jurnal Civil Law*, 2019, [Http://Download.Garuda.Kemdikbud.Go.Id/Article.Php?Article=1427609%5c&Val=4116%5c&Title=Tinjauan Yuridis Status Hukum Anak Hasil Perkawinan Sirri Dan Akibat Hukumnya Menurut Hukum Islam Dan Hukum Positif Indonesia](Http://Download.Garuda.Kemdikbud.Go.Id/Article.Php?Article=1427609%5c&Val=4116%5c&Title=Tinjauan%20Yuridis%20Status%20Hukum%20Anak%20Hasil%20Perkawinan%20Sirri%20Dan%20Akibat%20Hukumnya%20Menurut%20Hukum%20Islam%20Dan%20Hukum%20Positif%20Indonesia).

¹⁵ Bunyamin, Abror, and Solihin, "Islamic Law Views On Sirri Marriage."

¹⁶ S Suhaeri, "Mengurai Benang Kusut Dualisme Nikah Sirri (Upaya Meratifikasi Rancangan Undang-Undang Nikah Sirri)," *Musawa Jurnal Studi Gender Dan Islam*, n.d., <http://ejournal.uin-suka.ac.id/pusat/MUSAWA/article/view/841>.

¹⁷ M Abdullah, "Marriage In Islam and the Problem of Gender Equality: A Philosophical Perspective," *Ulumuna*, 2018, <https://ulumuna.or.id/index.php/ujs/article/view/333>.

¹⁸ Sulistiani, "Analisis Yuridis Aturan Itsbat Nikah Dalam Mengatasi Permasalahan Perkawinan Sirri Di Indonesia."

legal phenomenological approach, the researcher formulates the problems to be studied 1) What are the factors behind the occurrence of *Sirri* marriages in Tambang Sub-District, Kampar Regency? 2) What are the problems of unregistered marriages in the Tambang Sub-District, Kampar Regency? 3) What is the solution for unregistered marriage for women in Tambang Sub-District, Kampar Regency?

This research was conducted in Tambang Sub-District, Kampar Regency, because based on initial observations, Tambang Sub-District, Kampar Regency is one of the areas where many perpetrators of *Sirri* marriages encounter. This qualitative research aims to gain a deep understanding of the phenomena of unregistered marriage and its problems. Data analysis uses SWOT gender analysis. The research population is women who do unregistered marriages and all communities related to unregistered marriages. Considering time and funds, the 30 research samples were randomly selected, including ten spouses who had unregistered marriages, five community leaders, and five Religious Affairs Office (KUA) employees.

This research is systematized by examining the importance of registering marriages in Islamic law and positive law, describing the reality of the field, the problems that occur; the causes and consequences of unregistered marriages carried out, and identifying solutions for unregistered marriages, to reduce the impact of unregistered marriages that have occurred. Even though unregistered marriages that occur will still hurt women, at least it will reduce the impact on the children born.

In order to fulfill the validity of a marriage, scholars based on the Qur'an and hadith conclude several conditions and pillars of marriage. The pillars of marriage are a prospective husband, future wife, marriage guardian, two witnesses, consent and acceptance. Among the five pillars, the presence of witnesses is a pillar that scholars dispute. However, most of the *mazhab* scholars include witnesses as part of the pillars of marriage.¹⁹

The existence of witnesses in a marriage is vital to ensure the benefit of both parties. If something unwanted happens, including accusations from other parties about the validity of their marriage, witnesses can be used as evidence about the validity of the marriage. Likewise, with children born from such marriages, the husband cannot refuse by saying the child is not his unless the child is born one year after the marriage ends.²⁰

In modern times, the presence of two witnesses is not enough, and higher human mobility demands written proof. Therefore, a marriage must be

¹⁹ Wahbah Al-Zuhaily, *Al-Fiqh Al-Islam Wa Adillatuhu Jilid X* (Beirut: Dar al-Fikr, 1997), hlm. 125.

²⁰ Al-Zuhaily. *Ibid.*

accompanied by a marriage registrar's certificate (PPN), although it does not have to be included as a condition and pillar of marriage. Marriage registration in the form of a marriage certificate or certificate benefits the owner. In addition, the marriage witnesses are sometimes challenging to find again because the places are far apart, died or were unable to do so.²¹

Marriage is an important event in a person's life because it must be enshrined in a written deed. As in Indonesian marriage law, every marriage must be registered. It does not only apply to people who are Muslim. However, this applies to those of other religions, Christians, Hindus, and Buddhists.²²

A new marriage is said to be legal action if it is carried out according to the provisions of the applicable positive law. The justified legal provisions governing marriage procedures by the law are those as regulated in Law no. 1 of 1974 on marriage. Marriage based on this law has legal consequences, recognition, and legal protection.²³

According to Article 1 of Law no. 1 of 1974, marriage is an inner and outer bond between a man and a woman as husband and wife to form a happy and eternal family (household) based on God Almighty. For the implementation and validity of marriage, Article 2 paragraph (1) of Law No.1 of 1974 states that marriage is legal if it is carried out according to the law of each religion and belief. This article states that with the formulation of article 2 paragraph (1), there is no marriage outside the law of each religion and belief, based on the 1945 Constitution. 'By the law of each religion and belief' means the applicable statutory provisions of their religious group and belief as long as they do not conflict with or are determined otherwise by this law.²⁴

Marriage has a close relationship with the religion of each prospective husband and wife, and a new marriage is considered a legal marriage if it is

²¹ Taufiq, "Nikah Sirri Perspektif Maqashid Syariah." *loc. cit.* F Karim, "Optimalisasi Pencatatan Nikah Terhadap Fenomena Perkawinan Sirri Di Kabupaten Boalem," *Humantech: Jurnal Ilmiah Multidisiplin Indonesia*, 2022, <https://journal.ikopin.ac.id/index.php/humantech/article/view/1809>.

²² In Indonesia, the laws and regulations governing marriage for Muslims have been enforced since 1946, namely Law no. 22 of 1946 in conjunction with Law no. 32 of 1954 concerning the Registration of Marriage, Divorce, and Reconciliation and the last one was enhanced by Law no. 1 of 1974 concerning marriage which has been effective since October 1, 1975, with the enactment of Law no. 1 1974 concerning Marriage with PP No. 9 of 1975 as an implementing regulation, there has been a shift in terms of the validity of marriage from being regulated by Islamic law. Mardjono, *Hukum Islam Di Indonesia* (Yogyakarta: Liberty, 1995), hlm. 21. Muslim Dan et al., "Reformasi Sistem Hukum Pencatatan Perkawinan Warga," n.d. A Khumairoh, *Tinjauan Maqashid Syariah Terhadap Kehidupan Istri Pasca Perceraian Pernikahan Sirri (Studi Kasus Di Desa Jleper Kecamatan Mijen Kabupaten Demak)* (repository.iainkudus.ac.id, 2022), <http://repository.iainkudus.ac.id/7047/>.

²³ Mardjono, *Hukum Islam Di Indonesia. loc. cit.*

²⁴ Mardjono. *Ibid.*

carried out according to the law of their religion. For Muslim people, the legal marriage relationship must be woven with Islamic marriage law, and the marriage contract must be based on the procedures of Islamic law.

Because marriage as a legal act requires legal certainty, Article 2 paragraph (2) states that every marriage is recorded according to the applicable laws and regulations. The contents of the article are formulated organically by Article 2 paragraph (1) PP No. 9 of 1975 that the registration of marriages of those who carry out their marriages according to the Islamic religion is carried out by Registrar Officers as referred to in Law no. 32 of 1954 concerning Registration of Marriage, Divorce and Reconciliation. Marriage registration is carried out according to Articles 3 to 9 of 1975, which regulates the notification procedure of the marriage will and the completeness of its administration to the Marriage Registrar (PPN). Article 10 paragraph (3) stated that marriage procedures are according to each religion, hosted by the registrar, and attended by two witnesses.²⁵

In turn, for marriages carried out according to Islamic law, the marriage is hosted by PPN. Article 11 paragraph (1) states that shortly after the marriage takes place, based on Article 10 of this PP, both the bride and groom sign the marriage certificate and then officially register the marriage. In other words, the marriage is officially registered according to law after signing the marriage certificate, and each husband and wife get a copy of the marriage certificate so that their marriage gets legal protection.

Every marriage for a Muslim must comply with the provisions of Islamic law and state law. Fulfilling the provisions of Islamic law means that it is based on the pillars and conditions for the validity of marriage according to the provisions of fiqh law, while fulfilling the provisions of state law in question is that marriage must be carried out before an authorized official appointed.

Unregistered Marriages or registered in the civil registry or marriage registrar are called *Siri* marriages, also known as underhand marriages or illegal marriages. This kind of marriage is considered to have no legal force because it does not have official written evidence that can be acknowledged by the parties concerned. (KHI Article 7 paragraph 1).²⁶

The provision of recording issues as an essential element in marriage is a new thing in the fiqhiyah treasures in Indonesia, and this model did not exist before. Muslims who want to get married before the Marriage Law is enacted is enough to carry out the consent (*ijab*) and acceptance (*qabul*) in front of the marriage officiant. This recording stems from the view that this issue is a public policy closely related to the public interest (in this case, the interest of the State

²⁵ Mardjono. *Ibid.*

²⁶ Mardjono, hlm. 22.

to regulate its citizens). The concept used is *maslahab al-mursalab*, a method of *ijtihad* taking the law based on the public interest, first developed by the Maliki and Shafi'i.²⁷

It was emphasized by the chairman of the MUI, KH Ali Yafie, who views the issue of registration as an essential and decisive issue in marriage according to the law. Although this is not directly sourced from religion because it has elements of the benefit of the people, scholars include it as one of the provisions regarding marriage. He states, "this registration element is also applied in the Islamic State, and they agree that this element brings benefits to humans."²⁸ It was reiterated through the MUI fatwa contained in the MUI Fatwa Association in December 1997 that marriage procedures for Muslims in Indonesia must be based on Islamic teachings (KHI) and the provisions of the Marriage Law. In this case, it includes the matter of recording.

In line with the above reasons, Sheikh Jaad al-Haq Ali Jaa al-Haq, as quoted.²⁹ The element of marriage registration is a legal requirement for marriage based on two categories:

1. *Syara'* rules determine whether a marriage is legal or not and set by Islamic law, and its experts formulate it in fiqh books from various mazhab. It is necessary to have *ijab* and *qabul* from each of those with a contract pronounced at the same assembly. Using a pronunciation shows that consent and qabul have taken place, spoken by each of the two people who have the skills to perform the contract according to sharia law and are attended by two witnesses who are required to listen directly to the pronunciation of the *Ijab* and *qabul*.
2. Regulations that are *tawsiqy* (juridical in terms of positive law) are additional regulations that intend that marriages among Muslims are not illegal but are recorded using an official marriage certificate issued by authorized officials. Juridically positive laws require that marriage be recorded according to the applicable laws and regulations. Its purpose is that the marriage institution, which has an important and strategic place in Islamic society, can be protected from harmful effects from irresponsible parties. For example, to anticipate denial of a marriage contract by a husband behind the day, even though protected by the presence of two witnesses, will undoubtedly be more protected by having an official record in the authorized institution.

Wahbah al-Zuhaily also emphasized the existence of various conditions for marriage, namely the *syar'i* and *tawsiqy* requirements. The shar'i condition is about the validity of worship or contract depending on it. The requirement for

²⁷ Ahmad Zaki Yamani, *Syari'at Islam Yang Kekal Persoalan Masa Kini* (Jakarta: Lembaga Studi Ilmu-ilmu Kemasyarakatan, 1977), hlm. 53.

²⁸ Yamani. *Ibid*.

²⁹ Jumni Nelli, *Menelusuri Fenomena Nikab Sirri* (Pekanbaru: Suska Press, 2011).

tawsiqy is used as evidence of the truth of action to anticipate future obscurity. This condition is also called a juridical requirement in terms of positive law.³⁰

For the benefit of the people in the state's life, it is crucial to have a marriage according to religious provisions and following the existing state law. Because of the importance of this issue of marriage registration, KHI provides a way out by giving the right to those who do not have a marriage book to apply for a marriage certificate (ratification) of marriage to the Religious Court.³¹ Article 7 KHI states that:

1. Marriage can only be proven by a Marriage Certificate made by a Marriage Registrar.
2. If a marriage certificate cannot prove the marriage, *Itsbat* marriage (confirmation of marriage) can be submitted to the Religious Court.
3. The *Itsbat* marriage that can be submitted to the Religious Courts is limited to matters relating to marriage:
 - a. The existence of a marriage in the context of a divorce settlement
 - b. Loss of Marriage Certificate
 - c. There is doubt about the validity of one of the conditions of marriage
 - d. The existence of a marriage before the enactment of the Marriage Law
 - e. Marriages are carried out by those who do not have marriage barriers according to Law No. 1 of 1974
4. Those with the right to apply for a marriage certificate are the husband or wife, their children, marriage guardians and parties with interest in the marriage.

The existence of a provision that allows an application for *Itsbat* marriage as regulated in Article 7 implies a principle that substantially the applicable regulations in Indonesia recognize the validity of an unregistered marriage, and then for the reasons stated in the details of paragraph (3) of the Compilation of Islamic Law. In this case, the marriage can be registered and certified and administratively recognized. On the one hand, Article 7 means it is an opportunity for improperly registered marriages,³² and this opportunity benefits the parties carrying out private marriages. At the same time, it is the responsibility of the competent body to realize these opportunities for those who wish to fill the opportunity.³³

³⁰ Efendi. *Ibid.*, h. 33-37

³¹ H Uni, *Tinjauan Yuridis Nikah Siri Dalam Perspektif Hukum Islam Dan Hukum Positif (Studi Komparasi)* (repository.ummat.ac.id, 2021), <http://repository.ummat.ac.id/4039/>.

³² Abdullah, "Marriage In Islam and the Problem of Gender Equality: A Philosophical Perspective."

³³ A Nurozi et al., "Establish Family Card Towards Unregistered Marriage Couple (Implications of Law No. 1 Of 1974 And Compilation of Islamic Law)," *KnE Social ...*, 2022, <https://knepublishing.com/index.php/KnE-Social/article/view/11360>.

Discussion

Cases Description of *Sirri* Marriage in Tambang Sub-District

This research was conducted on couples with unregistered marriages in several places in Tambang Sub-District, Kampar Regency. Some of the respondents who were met, not all of them were willing to provide information. Respondents who are willing to provide information, not all of them provide complete information. The explanation is concise and does not want people to know that his marriage is a *Sirri* marriage. Of the several respondents, there were only five whom the researchers considered sufficient to provide data for this study. To support the accuracy of the data, the researcher also conducted interviews with several people, religious leaders, judges and academics. In addition, the researchers also reviewed several comparative cases.

Based on the results of interviews about the description of unregistered marriages conducted by respondents, it is categorized as *sirri* marriages carried out to obtain offspring. Respondents are willing to become second wives by doing a *sirri* marriage. As happened with respondent Ati³⁴ She chose to marry *Sirri* even as a second wife because her husband wanted offspring. So far, the husband did not get it from the first wife. Even though he has a high school education background, he knows and understands that the marriage will be legally risky because it is not registered with the KUA. For the sake of inner peace so that there would not be much slander circulating in the community, then in 1999, with the approval of Ito's first wife (50), her future husband, she married with the conditions of a valid Islamic marriage pillar without being registered at the local KUA.³⁵

Conflicts began to arise when her position as an unofficial wife slowly disturbed her inner peace. Ati is aware that with his position, he will not have any right to sue and defend himself if unexpected things happen. Her whereabouts as a second wife were never announced to office friends. When there are official office invitations related to husband and wife, the first wife is always involved. This condition is only one example of several events that, over time, have greatly disturbed his position. Ati begins to approach her husband to rethink his status officially. Ito also tried to find information at his workplace if there might be a gap that could be taken to marry his second wife legally. However, a new conflict emerged in which the superiors began to question the status of their second wife. Instead of getting permission, he has to choose one of his two wives or quit his job.³⁶

³⁴ Respondents' names have been disguised.

³⁵ Ati dan Ito, *Summarized the results of interviews with respondents*, 25 Agustus 2020

³⁶ *Ibid.*

This conflict then began to trigger tension in Ito's household. In the end, Ito prefers the first wife. *Sirri* Ati and Ito's marriage ended in divorce after eight years without producing children. The divorce that occurred in Ati and Ito's family was sole because they wanted a clear legal status for Ati. However, this wish could not be realized. It indicates that *Sirri* marriages, which were initially not problematic, will gradually lead to serious legal problems that affect women. When a question was asked of Ati about his willingness to return to an unregistered marriage, he answered firmly, "no", because no matter how comfortable it is, it will not last long, and legally it will significantly complicate the position of women and their children.

The following is a serial marriage carried out by Tini (26) with Tono (27). Both were students from Tembilahan who, at that time, studied at a PTN in Pekanbaru. The two began to know and be close two years before the *Sirri* marriage. They got to know each other at a student study run by a particular group. Worried that the turmoil of their youth would not be controlled, they ventured to ask each parent to marry off religiously without being registered with the KUA to avoid immoral acts. In addition, to officially marry, both felt they were not ready mentally and materially, considering their status as students. However, both Tono's and Tini's parents disapproved of marriage before college was over. The intention was then consulted with the Islamic scholar. In consideration of avoiding immoral acts, in 2011, the scholar was willing to marry them even though his parents did not know.³⁷

The most fundamental problem faced by Tono and Tini is the internal problem of controlling their lusts. Before getting married, they did not get together until they finished college. However, on the contrary, with the new status as husband and wife who are legally married, the desire to fulfill biological needs is even more unstoppable. Conflicts with parents who feel 'belittled' are alarming inside. Assumptions as a child of disobedience and feelings of sin always haunt his mind. During the marriage, their parents never sent money, so they had to work alone to meet their daily needs and tuition fees. Luckily after learning of Tini's pregnancy, their respective parents began to agree to the marriage. Recently, the couple lives in Pekanbaru and already has one legal child because the marriage was registered a year after the serial marriage.³⁸

The third case is experienced by Wiwi (36), who currently has three children. Wiwi's case is a dramatic one. Wiwi died in 2006 when her first husband with two children died. Hari, a friend of her husband, wants to save orphans and widows, marrying Wiwi *Sirri* because Hari is the husband of his first wife. Wiwi accepts Hari because he does not have a job while he has children. At first, the marriage without the first wife's permission was safe.

³⁷ Tono dan Tini, *Summarized the results of interviews with respondents*, 20 Agustus 2020

³⁸ Tono dan Tini, *Ibid.*

However, after Wiwi got pregnant, Hari's first wife discovered Hari and Wiwi's marriage. Wiwi was sought after by Hari's wife when he arrived at the Rimbo Panjang Housing Estate and was abused by Hari's wife, causing Wiwi to be embarrassed by the neighbors where he lived. Since then, Hari has rarely returned to Wiwi's house, even though at that time, Wiwi was pregnant. To fulfill her daily needs, Wiwi sells jengkol crackers at Panam Market. Finally, Wiwi's child with Hari was born without being accompanied by her husband. Neighbors help Wiwi. At the beginning of the child's birth, Hari was never visited, but after that, He neither gives a living allowance nor visits the child.³⁹

As time went on, Wiwi was proposed to again by Twins. He had just divorced in a *Sirri* manner with his wife. Without a second thought, Wiwi accepted the Twins' proposal. Meanwhile, the status of Wiwi's divorce from Hari is unclear. However, Wiwi considers that it has been more than a year that he has not been supported, so he considers that he is divorced. Finally, Wiwi married *Sirri* again with twins with a guardian appointed by them and not a legal guardian according to religion and state. Wiwi was left again by Twins in the second year of their marriage. Twins left divorce papers at the shop in front of his house. At the time Wiwi left, Wiwi was already positive for pregnancy, but because it was still less than two months away, Wiwi finally decided to abort the pregnancy. During the marriage period, Wiwi's children with their previous husbands felt pressured by their stepfather. Wiwi's savings were used to increase Kembar's capital. With the two marriages, Wiwi felt wronged and traumatized to remarry. When asked if she wanted to marry again in a *Sirri* way, she replied that it would be enough for me to raise three children. If I remarry, only children will increase while men leave the burden of Wiwi's lead.⁴⁰

Yur and Wandu had a different case. Yur married Wandu, who was already married because Wandu loved Yur. While the family betrothed his first wife, he did not love her. When he married Yur, his first wife was pregnant with their third child. Yur and Wandu's marriage was carried out in a *Sirri*, because they did not get the first wife's permission. As time passed, the first wife finally found out and asked her husband to divorce Yur, feeling guilty that Wandu had divorced Yur, who already had a child who was less than a year old. Their love story does not seem to stop there. After their first child was three years old, Wandu and Yur remained in a relationship and eventually became pregnant, and they married *Sirri* again. Wandu's first wife did not accept her husband's treatment and finally filed for divorce, so the court decided to leave five children from the first wife. At the time of this research, Yur and Wandu already had three children from Yur. Currently, Wandu is taking care of the

³⁹ Kembar dan Wiwi, *Summarized the results of interviews with respondents, 23 Agustus 2020*

⁴⁰ Kembar dan Wiwi. *Ibid.*

marriage contract with Yur. The irony is that Wandî's children from his first wife did not get a living allowance from Wandî.

Although Yur and Wandî got married in the end, Yur's life so far and now has also become public gossip because it is considered to steal other people's husbands and take pleasure in the suffering of other women. In this case, two women were abused, and the children also felt the consequences of not getting the rights and responsibilities of their father.⁴¹

The factors of *Sirri* marriages are:

Looking at the cases that occurred, each of them had a different background, but in general, they were the same, namely wanting to obtain legitimacy. In this case, what is understood by the community is that *Sirri* marriages are religiously legal. Mr Zul as a community leader in Rimbo Panjang said that there are still many who think marriage is a private matter in carrying out religious teachings, so there is no need to involve the competent authorities in this case, the Office of Religious Affairs (KUA). Besides, *Sirri* marriage is also considered a shortcut for couples who want marriage but are not ready or other things do not allow them to be legally bound.⁴²

Analyzing the cases above, the researcher can state why respondents chose unregistered marriage: *first*, unregistered marriage was carried out because of a relationship that the parents did not approve of both parties or one of the parties. For example, the parents of both parties or one party intend to match their child with their selected candidate. The reason for this can be seen in the case of Ida. His parents had arranged an arranged marriage with Joko without Ida's knowledge. Knowing Ida already has a boyfriend, her parents married *Sirri* to tie her up first so she would not be taken by someone else.⁴³

Second, *Sirri* marriages are carried out because someone feels unhappy with their partner, so the intention arises to find another partner. An example of this case occurred in Ito. Whether they are happy or not, marriage feels incomplete because they do not have children. Under the pretext of wanting to have children, he marries Ati as his second wife. *Third*, *Sirri* marriage is carried out under the pretext of avoiding the sin of adultery. This concern was experienced by the student pair Tono and Tini. The relationship is getting closer daily, raising fears of actions violating sharia. *Sirri* marriage is considered a way out that can justify the turmoil of love and eliminate the fear of adultery.⁴⁴

⁴¹ Yur dan Wandî, Summarized the results of interviews with respondents, 20 Agustus 2020

⁴² Zulfikar KUA Rimbo Panjang, *Interview*, 2 September 2020

⁴³ Dadi dan Nurhaedi, *loc. cit.*

⁴⁴ Tono dan Tini, *loc. cit.*

Fourth, *Sirri* marriage is conducted because the couple feels they are not ready materially and socially. Students usually practise it. Apart from being afraid of adultery, they are still in college, not yet prepared if they have to be burdened with household problems. Marital status is still hidden so as not to hinder the association and activities with friends on campus. *Sirri* marriage is only applied to justify sexual intercourse. If, after marriage, it turns out that there is no match, it will be easy to divorce him without having to go through complicated procedures in court. From its purpose, it is very degrading to women who are merely objects, without any respect for the institution of marriage, both Islamically and legally.

Fifth, *Sirri* marriages are carried out to avoid the burden of costs and complicated administrative procedures. Usually, this kind of marriage is carried out by immigrants who do not have an ID card. In Pekanbaru, many immigrants live in slums and do not settle down. Besides cost reasons, administrative reasons are also a problem. Sixth, unregistered marriages are due to polygamy for various reasons, including not having children, like the case of Ita and Ito. KUA and Judge were interviewed about the causes of unregistered marriages " *Sirri* marriages usually occur for the second marriage and so on because getting permission from the first wife is very difficult. To justify sexual relations, they quit avoiding adultery. Even though marriages like this do not have legal certainty or have no legal force, the most disadvantaged are women," they said.⁴⁵ Those are the results of unregistered marriage factors. Generally, the factors that cause unregistered marriages are social, cultural, economic, religious, and low levels of education.⁴⁶

Problems in *Sirri* Marriage

Marriage is a legal act, so everything caused by marriage is legally valid. Since *Sirri* marriages are legally flawed, there is no legal protection for husbands, wives and children. The problems that arise in the majority are legal problems that may never be imagined when someone first decides to marry *Sirri*. In this case, the wife is the most disadvantaged party while the husband has almost nothing to lose.

The problems that accompany unregistered marriages include:

1. Family problems. Conflict in this family can arise when:
 - a. Not with parental consent or otherwise coercion from parents. It can be seen in the cases experienced by Tini and Tono and the Ida case.

⁴⁵ Fitriati, Hakim PA Kampar, *Interview*, 7 July 2020, and Zulfikar, *loc. cit.*

⁴⁶ N Aziz, "The Great Phenomenon of Online *Sirri* Marriage for Male and Female," ... *International Research and Critics Institute (BIRCI) ...*, 2018, <https://pdfs.semanticscholar.org/ee2b/9f8933d81e6c40bac1db9a9e3f37cd51e70b.pdf>.

- b. Infidelity. *Sirri* marriages due to infidelity usually lead to more complicated family problems. The problem with his legal wife certainly cannot be taken lightly, as in the case of Wiwi, who had to endure a prolonged conflict with his first wife's family.
- c. Polygamy. As happened to Ati, although there was no problem with his first wife, her status and position as a second wife were not accepted by her husband's workplace. Polygamy in the Totok and Tatic families causes family problems which result in losses on the women's side.

2. Economic and Study Problems

This economic problem usually accompanies students who, without the knowledge or consent of their parents, perform unregistered marriages. They have to find their own money to meet their daily needs. In his activities as a student, he must be able to divide the time between college, work and his new family. It, of course, will impact his studies that are not smooth, even stopped because the marriage is enough to include serious problems. For example, Tini is forced to work to fulfill her daily needs, and Ida, under severe stress, can no longer complete her studies.

3. Legal Problem

Sirri marriage is a violation of the law. If only the government could be more assertive, then the perpetrators of *Sirri* marriages could be subject to legal sanctions. According to KUA Rimbo Panjang, the sanctions contained in Law No. 1 of 1974 concerning criminal provisions are relatively rarely applied to violators. Even though the punishment was imposed, the punishment turned out to be very light. It could be that criminal law is difficult to apply because it has to conflict with Islamic law. Indeed, the context of unregistered marriage brings much harm, and Islam views its case as not necessarily legal.⁴⁷

Legal problems in unregistered marriages occur on the part of women and children. As a religiously legitimate wife, the wife cannot claim the right to live physically and spiritually, the right to inheritance in the event of a divorce, the right to complain in the event of domestic violence, or the right to legal protection if left without a message. The husband's position remains untouched by the law and creates a vast space for the occurrence of domestic violence by the husband against his wife. This violence is often found in physical, psychological, economic and sexual violence.

4. Social and Psychological Problems

Living at home without being able to show an official marriage certificate is something that not everyone can understand. People will question why they have to marry *Sirri* and why they have to be secretive. These questions

⁴⁷ Zulfikar, *loc. cit.*

will spread to bring a negative image of women who do unregistered marriages. Are you pregnant? Mistress? Do parents disapprove of them?, and various other prejudices trigger gossip in the community. This condition can make it challenging to adapt to the environment, difficult to open because the marriage is carried out abnormally, and finally can be isolated from the environment, which will impact the psychological condition, especially in women whether it is *Siri* marriages carried out by ordinary people and public figures. Seeing these conditions, in the end, smooths out the public's opinion that *Siri* marriage is the fastest alternative to legalizing husband and wife relationships. Is it true that Islam is like that?

5. Religious Problems

Given the many negative impacts, the role of religious leaders should be to provide an understanding that *Siri* marriage is not a positive thing, especially for women. What happened was that *Siri* marriages were carried out by religious leaders. It is where the real problem of unregistered marriage, even though it is religiously legal, actually brings more significant harm.⁴⁸

The Impact of *Siri* Marriage on Women

Although religion or customs are considered legal, marriages carried out without the knowledge and supervision of the marriage registrar have no legal force and are considered invalid in the eyes of the law. The impacts of unregistered marriages on women are:

1. By Law
 - a. The wife is not considered his legal wife.
 - b. The wife cannot get legal protection in case of domestic violence. If there is violence against the wife, whether physical, psychological or sexual, the wife cannot get legal protection as stated in Law no. 23 of 2004 concerning Domestic Violence.
 - c. The wife is not entitled to get such property in the event of a separation or divorce.
 - d. Women are not entitled to livelihood and inheritance rights if the husband dies.
 - e. The worrying impact is that later married couples try to falsify data, such as marriage and childbirth certificates.
2. By Society
 - a. Women usually find it difficult to socialize with the surrounding community. The assumption that living in the same house without legal

⁴⁸ a Alifi And M Munir, "Tinjauan Yuridis Dan Sosiologis Terhadap Fenomena Pernikahan Dan Perceraian Di Bawah Tangan Di Dusun Tanjung Limau Kecamatan Sapeken," *Proceedings UIN Sunan Gunung ...*, 2021, <https://proceedings.uinsgd.ac.id/index.php/proceedings/article/view/218>.

ties will impact various kinds of negative prejudices from society, which ultimately demean women. Pregnant before marriage, mistress, or other prejudices that lead to harassment of women's status.

- b. As parties who should be protected, women are disadvantaged in various aspects.
- c. The social burden will certainly also affect the child's soul. A child will feel excluded from the association if his status as a biological child begins to be questioned. Especially in times of school age. The unclear legal status causes the relationship between father and son to be not strong, so the father may deny that the child is not his biological child at any time.

***Sirri* marriage is legal but disturbing for women.**

Women should firmly reject holding unregistered marriages because *Sirri* marriage brings total losses to women, while men benefit from this condition. At first, it is a form of accountability for men willing to have a more serious relationship. However, unavoidable problems, especially those related to law, will always accompany the journey of the perpetrators of *Sirri* marriages.

Mr Hardi (31), a resident of one of the areas in Tambang District, Tarai said that it was his fault for women wanting to be married in a *Sirri* way. He should have known the risks that would occur. If the risk has been faced, let her cry out, asking for protection from the injustice. Hearing his comments, it is nice that he claims women are like creatures who want to be fooled. Women have to be good at observing conditions that can degrade women's dignity.⁴⁹

Mr Hardi is not wrong. Indeed some women prepare themselves to be married even though they are *Sirri*. However, his statement is to corner women who should be protected, thinking about the solution instead of being viewed with negative stereotypes that seem inseparable from women. A woman cannot marry without a man.

According to the head of the Kampar Religious Court, one of the factors behind a man doing a *Sirri* marriage is the reason for wanting to be polygamous. For married men who want to have another wife (polygamy), unregistered marriage is a shortcut that does not require a long process (because there must be permission from the Religious Court). The Religious Courts will only allow marriage if there is permission from the previous wife. But the road is considered too convoluted, and *Sirri* marriage is considered a quick solution.

Mr Jos (36) is a community member who once served as the head of RT (Neighborhood) in one of the villages of Tarai Kab. Kampar said that in the end, *Sirri* marriages were a hassle for the local community. For example, a husband who is married *Sirri*, lives in one house. It will be difficult for village

⁴⁹ Pak Jos Ketua RT, *Interview*, 8 Juli 2020

administrators to record their marital status. If the public gossips, why did you marry *Sirri*, what's wrong, why not just make it official and so on. It will undoubtedly provoke the curiosity of the surrounding community. Initially, the environment was safe without prejudice, and must be disturbed by the existence of the *Sirri* marriage. It should be underlined that *Sirri* marriage has become part of a social problem that must be firmly anticipated.

According to Andy Dermawan (38), an academic at one of Pekanbaru universities, *Sirri* marriage is an irrational marriage. According to him, marriage is grace and happiness; why should it be covered up like someone who gets grace is to share gratitude to others, not even hidden. If it has to be hidden, which creates conflict, can it be called grace? Still, according to him, *Sirri* marriage is very detrimental to women because no legal law protects the unregistered wife.⁵⁰

It should be re-examined that the Apostle recommends getting married for those who are able. In the context of the *Sirri* marriage, is it true that the "capable" criteria can be applied? Are not the perpetrators of *Sirri* marriages only "able" to fulfil the requirements of the pillars of marriage in Islam but "not yet able" to fulfil the requirements in the law? The inability to meet the requirements of the law, which will lead to a series of problems, can be tolerated, while the legitimacy of *Sirri* marriages in Islam is used more as an alternative to legalizing practical and inexpensive sexual relations. In this case, women are the most disadvantaged.

According to the researcher's opinion, the "capable" criteria here need to be clarified that being able to carry out marriage according to the pillars and requirements of Islam is also able to meet the requirements in the Marriage Law. The review from the point of view of Islamic law also needs to be re-examined. The opinion that Islam does not regulate the registration of marriages must be related to Islam's incredible attention to recording every debt transaction and sale and purchase. If it is for *muamalah* matters, such as debts, the recording is done, especially for matters as important as marriage. The reason is that marriage will give birth to other laws, such as marital relations, child care, and inheritance rights.

Solutions for *Sirri* Married Perpetrators

The data analysis technique of this study used a SWOT gender analysis. The SWOT analysis identifies internal factors, namely strengths and weaknesses, and external factors in the form of opportunities and threats. In the case of unregistered marriage, there are many weaknesses and threats. The existing strengths cannot avoid the weaknesses and threats that will arise. The only way

⁵⁰ Andy Dermawan, *Interview*, 8 Juli 2020

to overcome the problems that have occurred is to take advantage of existing opportunities to eliminate almost all weaknesses and threats that will arise.

The following is a SWOT Gender Analysis in the case of *Sirri* Marriage in Tambang Sub-District, Kampar Regency in 2020:

	Strengths:	Weaknesses:
Internal Factors	<p>Legal based on religion</p> <p>Avoid promiscuity and sin</p> <p>Temporary inner peace</p>	<p>Violation of positive law</p> <p>There is no legal protection, especially for the wife.</p> <p>Conflict with public opinion</p> <p>Difficult to socialize because they are considered to live in the same house without legal ties</p> <p>Harming the child because, legally, the state does not recognize the child's existence.</p> <p>Brings up various other internal conflicts in the family.</p>
External Factors		
Opportunity:		
<i>Walimatul Ursy</i> (Wedding reception)	<i>Walimatul ursy</i> (without <i>Itsbat</i>) – valid based on religion and society.	<i>Walimatul `ursy</i> --- minimize the negative image in society, but there are still legal obstacles.
<i>Itsbat</i> marriage	<i>Itsbat</i> marriage (without <i>walimatul `ursy</i>) – valid based on religion and law.	<i>Itsbat</i> marriage (withou <i>walimatul ursy</i>) -- has received legal certainty, all that remains is to straighten out public opinion.
	<i>Walimatul ursy</i> and <i>Itsbat</i> marriage – valid based on religion, law, and public.	<i>Walimatul ursy</i> dan <i>Itsbat</i> marriage -- legal certainty and clarity in the community.

<p>Threat</p> <p>Wife's status as legally unregistered creates opportunities for domestic violence. The wife does not receive legal protection if there is a violation from the husband regarding the wife's rights (birth/inner livelihood, inheritance rights)</p> <p>Biological children do not get their rights (birth certificates, inheritance rights, education rights, guardianship rights for girls who want to get married).</p> <p>Negative perceptions from the community (pregnancy before marriage, polygamy, disapproving parents, avoiding inevitable conflicts, not being prepared morally and materially, and so on)</p> <p>There is a possibility that the spouses will falsify documents for smooth administration.</p>	<p>This strength can be said to be temporary. If the spouses do not take the current opportunities as a choice, then the threats identified here will bring up aspects of domestic violence, disrupting household harmony</p>	<p>The weakness of unregistered marriage raises various detrimental threats to women and even the children they give birth to. Weaknesses and threats are problems that must immediately find the best solution.</p>
--	---	--

The table above explains that a very unbalanced condition between strengths and threats will arise. In principle, the only strength is religiously legitimate. The legitimacy will internally bring inner peace to the couple. However, this calm is only temporary on the side of weakness because problems and clashes from various parties will bury it. The most apparent weakness is the conflict with positive law. In a sense, the marriage carried out violates the Marriage Law, namely Law No.1 of 1974 article 2, detailed in Articles 5-7 of the KHI. These weaknesses will pose many threats in the future. Marriage is a legal act because it will lead to other legal consequences. If the marriage is not legally

valid, then all matters relating to the legal consequences will not apply. If the husband, wife and children violate the law, they cannot get legal protection. Likewise, in the event of a divorce, the wife cannot claim rights such as the right to maintenance or inheritance rights. Meanwhile, children cannot take care of birth certificates, education rights, and inheritance rights.

Unregistered marriages also allow for violence against women. Because he feels it is legal, a husband is free to do anything to his wife, and if there is violence or violations that harm the wife, the wife cannot sue, while the husband has legal freedom. Even if the husband is legally married to another woman, the wife cannot do anything about it. It is indeed very detrimental to women. When a woman is willing to be married in a *Sirri* way, she automatically gives herself up to live without legal protection, while the husband has almost no loss.

Besides being flawed in the eyes of the law, *Sirri* marriages are also socially flawed. Not all people understand because the background of holding a *Sirri* marriage gives rise to opposing views, for example, the assumption of living together without official ties due to infidelity, polygamy, disapproval of parents, already pregnant and so on. In addition to the strengths, weaknesses, and threats, there is an opportunity (Opportunity) that can be used as a solution to anticipate emerging threats. Two opportunities are offered according to the level of Strength, namely, *Itsbat* Marriage and Walimah Al-Ursy.

1. Recording Marriage with *Itsbat* marriage

For Muslims, whose marriage cannot be proven by a marriage certificate, the *Itsbat* marriage can be submitted to the Religious Court (KHI, article 7 paragraph 2).

Itsbat marriage is possible concerning the following matters: a). In the context of Divorce Settlement, b). Loss of Marriage Certificate, c). There are doubts about the validity of one of the conditions of marriage, d). Marriages occurred before the enactment of Law No. 1 of 1974, e). Those with no marital barriers marry according to Law No. 1 of 1974 (KHI, article 7, paragraph 3).

According to the author's interview with the judge at the Kampar Religious Court, Article 7 of the KHI, especially in points a and e, is still ambiguous. These articles stand alone or form a single unit which is still challenging to identify. The case of legalizing *Sirri* marriages officially, even though not in the context of divorce, is automatically included in the reason for submitting *Itsbat* point e, namely that their marriage has no marital obstacles. In fact, according to Ahsan, marriages were often proposed before the enactment of Law No.1 of 1974. As for the *Sirri* marriage, it is very much up to the judge's

discretion. For example, judges are more concerned with the benefit of the *Sirri* married couples who already have children and want official approval.⁵¹

Although some things are not following the provisions of Article 7 KHI, the consideration of *maqashid ash-syari'ah* is prioritized. With the application of *Itsbat nikah*, everything related to the law in *Sirri*'s marriage will be resolved. In the case of *Sirri*'s marriage that has taken place immediately, the women actively question their status again through the *Itsbat* of marriage. Therefore, there is immediate legal protection not only for religious legitimacy, but there must also be legal validity against it. The purpose of marriage is to create inner and outer peace in this world and the hereafter.

2. Mengadakan Walimatul Ursy

Walimatul Ursy, or this wedding reception, is only a form of gratitude by informing the surrounding community that there has been an official marriage between a man and a woman. It will reduce social problems and reduce public opinion about negative prejudices against marriages that occur. With this *walimatul ursy*, it is hoped that the bride and groom can socialize with the community well without worrying that there will be gossip that burdens his mind. So there is no reason marriage should be kept a secret if it is physically and mentally capable and ready because marriage is a legal act, which must be confirmed in a marriage certificate, so marriage is a blessing, which must be spread to others so as not to cause slander.

Re-digesting the problems of *Sirri* marriage depends on how women position their status in marriage. If women stick to the legitimacy of *Sirri* marriage by putting aside the rights that they should get, then men will feel more comfortable positioning themselves as husbands without the slightest legal burden. However, if women realize that there is a principle of equality in marital relations, a principle of balance between husband and wife, and rights and obligations, then the legal regulation by the Government through the Marriage Law should be utilized.

In principle, the concept of marriage, according to *maqasid al-syari'ah*, is intended to last a marriage that is *sakinah mawaddah wa rahmah* until the end of time. The *Sirri* marriage process may be religiously valid, bringing inner peace and avoiding adultery. However, only for a moment because a series of problems are predicted before the marriage occurs. The fiqh rule "*dar'ul mafasid muqaddamu ala jalbi al-mashalih*" should be more appropriate to apply because avoiding harm must take precedence over closing the benefit. It is evident in *Sirri* marriage that, although legally valid, people deliberately turn a blind eye to the risks and harm that will occur.

⁵¹ Ahsan Hakim PA Kampar, *Interview*, 12 Agustus 2020

Speaking of marriage law in Islam, according to Jumhur Ulama, the law of origin of marriage is sunnah, but marriage law can turn out to be unlawful if the marriage that is held is strongly suspected of causing harm to the perpetrator and the children born in the marriage. If it is observed from the research data above, it is clear that the unregistered marriages carried out by the perpetrators cause harm to the perpetrators, especially women and children born in the marriage.

A child born in a marriage cannot file a lawsuit against his father; the child cannot apply for a birth certificate in the name of the father, and other rights and obligations towards the father. While children born as a result of such marriages do not contribute to the occurrence of a sirri marriage of their parents, they are not born of their will, but the child bears the risk due to the actions of his parents. With so many harms that arise as a result of sirri marriages, it can be said that this marriage has made many children neglected and oppressed. An act of injustice is a sin. The solution in the future is that recording should be included in the conditions for a valid marriage, at the end of which the problems of unregistered marriages that occur can be avoided.

Conclusion

Based on the results of the research and discussion above, it can be concluded as follows: Basically, sirri marriages are carried out because there are things that are deemed impossible for couples to marry formally. There are many factors behind the occurrence of unregistered marriages, according to the researcher, all of these reasons lead to the position of sirri marriages being seen as an easier shortcut to justify the husband and wife relationship.

The most obvious problems that accompany unregistered marriages are legal problems, especially for women, but also internal problems in the family, and social and psychological problems involving public opinion that cause mental pressure for perpetrators. considered a legal wife, not entitled to inherit if the husband dies, not entitled to the gono-gini property in the event of separation. This impact also applies to biological children resulting from sirri marriages. The social impact is more about clashes with the community's negative view of the status of unregistered marriages, which can cause mental stress for perpetrators, especially women, as well as the possibility of being isolated from the community. There are so many impacts that must be borne by women who do unregistered marriages, the opportunities that must be caught are to do istbat marriage and hold walimah for inner comfort in society.

Although in this research there are solutions found, in practice it always does not work well, especially for children born as a result of the sirri marriage. For this reason, in Islamic marriage law, it is stated that if the marriage that is carried out is strongly suspected of bringing harm, then the law is haram. Thus

the solution to the development of Islamic family law in Indonesia in the future must establish registration as a legal requirement for marriage. So that harm and injustice can be avoided.

References

- Abdullah, M. "Marriage In Islam and the Problem of Gender Equality: A Philosophical Perspective." *Ulumuna*, 2018. <https://ulumuna.or.id/index.php/ujis/article/view/333>.
- Al-Zuhaily, Wahbah. *Al-Fiqh Al-Islam Wa Adillatuhu* Jilid X. Beirut: Dar al-Fikr, 1997.
- Alifi, A, and M Munir. "Tinjauan Yuridis Dan Sosiologis Terhadap Fenomena Pernikahan Dan Perceraian Di Bawah Tangan Di Dusun Tanjung Limau Kecamatan Sapeken." *Proceedings UIN Sunan Gunung ...*, 2021. <https://proceedings.uinsgd.ac.id/index.php/proceedings/article/view/218>.
- Aziz, N. "The Great Phenomenon of Online Sirri Marriage for Male and Female." ... *International Research and Critics Institute (BIRCI ...*, 2018. <https://pdfs.semanticscholar.org/ee2b/9f8933d81e6c40bac1db9a9e3f37cd51e70b.pdf>.
- Bunyamin, B, K Abror, and B Solihin. "Islamic law views on sirri marriage." *Pranata hukum*, 2021. <http://jurnalpranata.ubl.ac.id/index.php/pranatahukum/article/view/255>.
- Dan, Muslim, *Perlindungan Hukum, Anak Dari, and Nikah Sirri*. "Reformasi Sistem Hukum Pencatatan Perkawinan Warga," n.d.
- Efendi, Satria. *Problematika Hukum Keluarga Islam Kontemporer*. Jakarta: Kencana, 2004.
- Hafas, Imam. "Pernikahan Sirri Dalam Perspektif Hukum Islam Dan Hukum Positif." *Tahkim (Jurnal Peradaban Dan Hukum Islam)* 4, no. 1 (2021): 41–58. <https://doi.org/10.29313/tahkim.v4i1.7018>.
- Hoy, Wayne K. *Educational Administration*. USA: McGray-Hill, 1991.
- Karim, F. "Optimalisasi Pencatatan Nikah Terhadap Fenomena Perkawinan Sirri Di Kabupaten Boalem." *Humantech: Jurnal Ilmiah Multidisiplin Indonesia*, 2022. <https://journal.ikopin.ac.id/index.php/humantech/article/view/1809>.

- Kasus, Studi. "Konstruksi Sosial : Jurnal Penelitian Ilmu Sosial Tinjauan Yuridis Akibat Hukum Nikah Sirri Bagi Kedudukan Anak : " 1, no. 1 (2021): 26–32.
- KHI, n.d.
- Khumairoh, A. Tinjauan Maqashid Syariah Terhadap Kehidupan Istri Pasca Perceraian Pernikahan Sirri (Studi Kasus Di Desa Jleper Kecamatan Mijen Kabupaten Demak). repository.iainkudus.ac.id, 2022. <http://repository.iainkudus.ac.id/7047/>.
- Kusumo, B A, R I Rosyadhi, and ... "Sirri Marriage Review from Islamic Law and Positive Law." Issue 2 Int'l JL Mgmt. \& ..., 2022. https://heinonline.org/hol-cgi-bin/get_pdf.cgi?handle=hein.journals/ijlmhs16%5C§ion=6.
- Kusumo, Bambang Ali. "Perkawinan Sirri Ditinjau Dari Hukum Islam Dan Hukum Positif," n.d., 75–88.
- Mardjono. Hukum Islam Di Indonesia. Yogyakarta: Liberty, 1995.
- Nelli, Jumni. Menelusuri Fenomena Nikah Sirri. Pekanbaru: Suska Press, 2011.
- Nurozi, A, B M Sary, M F Nuraziimah, and ... "Establish Family Card Towards Unregistered Marriage Couple (Implications of Law No. 1 Of 1974 And Compilation of Islamic Law)." KnE Social ..., 2022. <https://knepublishing.com/index.php/KnE-Social/article/view/11360>.
- Pangaribuan, M I. "... Yuridis Status Hukum Anak Hasil Perkawinan Sirri Dan Akibat Hukumnya (Menurut Hukum Islam Dan Hukum Positif Indonesia)" Jurnal Civil Law, 2019. [http://download.garuda.kemdikbud.go.id/article.php?article=1427609%5C&val=4116%5C&title=Tinjauan Yuridis Status Hukum Anak Hasil Perkawinan Sirri Dan Akibat Hukumnya Menurut Hukum Islam Dan Hukum Positif Indonesia](http://download.garuda.kemdikbud.go.id/article.php?article=1427609%5C&val=4116%5C&title=Tinjauan%20Yuridis%20Status%20Hukum%20Anak%20Hasil%20Perkawinan%20Sirri%20Dan%20Akibat%20Hukumnya%20Menurut%20Hukum%20Islam%20Dan%20Hukum%20Positif%20Indonesia).
- Rahman, M L. "Nikah Sirri: Keabsahan Dan Akibatnya." Al Hikmah: Jurnal Studi Keislaman, 2018. <http://ejournal.kopertais4.or.id/pantura/index.php/alhikmah/article/view/3315>.
- Rahmatullah, N. "Marginalisasi Perempuan Dalam Perkawinan (Telaah Atas Nikah Sirri Dan Nikah Anak Di Bawah Usia Perspektif Hukum Islam)." Familia: Jurnal Hukum Keluarga, 2021. <http://jurnalfamilia.org/index.php/familia/article/view/29>.
- Safila, S S. Status Hukum Dan Hak Keperdataan Anak Yang Terlahir Dari Pernikahan Yang Tidak Dicatat: Tinjauan Yuridis Hukum Islam Dan

- Hukum Positif Indonesia. digilib.uinsgd.ac.id, 2021. <http://digilib.uinsgd.ac.id/43485/>.
- Sirin, K, M Suparta, I Subchi, M Maksum, and R Latifa. "Sirri Marriage of Indonesian Woman Migrant Workers in Saudi Arabia," 2020.
- Suhaeri, S. "Mengurai Benang Kusut Dualisme Nikah Sirri (Upaya Meratifikasi Rancangan Undang-Undang Nikah Sirri)." *Musawa Jurnal Studi Gender Dan Islam*, n.d. <http://ejournal.uin-suka.ac.id/pusat/MUSAWA/article/view/841>.
- Sulistiani, S L. "Analisis Yuridis Aturan Isbat Nikah Dalam Mengatasi Permasalahan Perkawinan Sirri Di Indonesia." *Tahkim (Jurnal Peradaban Dan Hukum Islam)*, 2018. <https://ejournal.unisba.ac.id/index.php/tahkim/article/download/4103/2419>.
- Suraya, N A, A Khisni, and ... "Research on Inheritance for Children from Sirri Marriage Based on the Compilation of Islamic Law." ... *Notary Law* ..., 2021. [http://download.garuda.kemdikbud.go.id/article.php?article=2482993%5C&val=23580%5C&title=Research on Inheritance for Children from Sirri Marriage Based on the Compilation of Islamic Law](http://download.garuda.kemdikbud.go.id/article.php?article=2482993%5C&val=23580%5C&title=Research%20on%20Inheritance%20for%20Children%20from%20Sirri%20Marriage%20Based%20on%20the%20Compilation%20of%20Islamic%20Law).
- Taufiq, Muhamad. "Nikah Sirri Perspektif Maqashid Syariah." *Al-Manhaj: Journal of Indonesian Islamic Family Law* 1, no. 2 (2019): 114. <https://doi.org/10.19105/al-manhaj.v1i2.3138>.
- Triastono, Y. *Tinjauan Yuridis Pernikahan Sirri Berdasarkan Hukum Islam Dan Undang-Undang Nomor 1 Tahun 1974 Tentang Perkawinan*. core.ac.uk, 2020. <https://core.ac.uk/download/pdf/322774947.pdf>.
- Uni, H. *Tinjauan Yuridis Nikah Siri Dalam Perspektif Hukum Islam Dan Hukum Positif (Studi Komparasi)*. repository.ummat.ac.id, 2021. <http://repository.ummat.ac.id/4039/>.
- Yamani, Ahmad Zaki. *Syari'at Islam Yang Kekal Persoalan Masa Kini*. Jakarta: Lembaga Studi Ilmu-ilmu Kemasyarakatan, 1977.
- Zakaria, Endang, and Muhammad Saad. "Nikah Sirri Menurut Hukum Islam Dan Hukum Positif." *Kordinat: Jurnal Komunikasi Antar Perguruan Tinggi Agama Islam* 20, no. 2 (2021): 249–64. <https://doi.org/10.15408/kordinat.v20i2.21933>.

This page belongs to the Al-Istinbath: Jurnal Hukum Islam

The Problems of Siri Marriage for Women in Tambang District, Kampar Regency: A Gender Swot Analysis Study

ORIGINALITY REPORT

2%

SIMILARITY INDEX

%

INTERNET SOURCES

%

PUBLICATIONS

2%

STUDENT PAPERS

PRIMARY SOURCES

1

Submitted to Universitas Brawijaya

Student Paper

1%

2

Submitted to Sriwijaya University

Student Paper

<1%

3

Submitted to Universitas Pendidikan
Ganesha

Student Paper

<1%

4

Submitted to IAIN Pekalongan

Student Paper

<1%

5

Submitted to University of Sydney

Student Paper

<1%

Exclude quotes On

Exclude matches Off

Exclude bibliography On