

Unregistered Marriages in Tanah Datar Regency: Causes, Impacts, and Solutions

Elimartati*, Arifki Budia Warman, Firdaus, Ariful Akmi and Mulyadi Putra

Universitas Islam Negeri Mahmud Yunus, Batusangkar, West Sumatera, Indonesia

*Corresponding author: elimartati@iainbatusangkar.ac.id

Abstract

Objective: This article seeks to elucidate the causes, impacts, and potential solutions to the issue of unregistered marriages in Tanah Datar Regency. Research on unregistered marriages has been extensively conducted in Indonesia, revealing an increasing array of reasons for their occurrence. Prior studies identified three to five primary causes of unregistered marriages. This article presents additional findings regarding these causes, highlights specific violations of customary law provisions, and discusses the solutions implemented by relevant agencies to address the problem of unregistered marriages. The research adopts a qualitative approach and utilises both primary and secondary data sources. **Methods:** Data collection techniques involved interviewing 35 community leaders, analysing documentation from pertinent agencies, and conducting Focus Group Discussions (FGDs) with 50 participants from related sectors. **Results:** The research identified 11 distinct causes of unregistered marriages, including specific violations of customary rules, tribal marriages, non-conforming marriages, and marriages involving 'melompat pagar'. The negative consequences stemming from unregistered marriages are significant; most unregistered marriages within the community lack legal validity. This situation leads to complications for children born as a result of these unions, as issues surrounding custody and divorce in unregistered marriages are often resolved solely through customary law, lacking formal legal recognition. **Conclusion:** Given the substantial prevalence of unregistered marriages in Tanah Datar Regency, various solutions have been implemented by relevant agencies to address the challenges faced by individuals involved in such marriages. Initiatives by the DUKCAPIL include the issuance of a letter of absolute responsibility (SPTJM) for the purpose of creating family cards, birth certificates, and ID cards. The Batusangkar Religious Court addresses cases of isbat marriage and cumulative requests for divorce and polygamy. Additionally, the KUA offers solutions such as remarriage and the formalisation of new marriages.

Keywords: Legal Discoveries, Marriage Tradition, Unregistered Marriage.

Abstrak

Tulisan ini bertujuan untuk mengungkap penyebab terjadinya nikah siri, dampak, dan solusi penyelesaian masalah nikah siri di Kabupaten Tanah Datar. Penelitian mengenai nikah siri telah banyak dilakukan di Indonesia, dengan peningkatan jumlah studi yang mencerminkan penyebab yang mendasarinya. Informasi dari hasil penelitian terdahulu menemukan tiga hingga lima penyebab nikah siri. Tulisan ini mengungkap lebih banyak temuan mengenai penyebab nikah siri, dengan fokus khusus pada pelanggaran ketentuan hukum adat, serta menjelaskan solusi yang diambil oleh instansi terkait dalam menyelesaikan masalah nikah siri. Penelitian ini merupakan pranata sosial yang menggunakan metode kualitatif, dengan sumber data primer dan sekunder. Teknik pengumpulan data dilakukan melalui wawancara dengan 35 tokoh masyarakat, dokumentasi dari instansi terkait, serta diskusi kelompok terfokus (FGD) yang dihadiri oleh 50 peserta. Penelitian ini menemukan 11 penyebab terjadinya nikah siri dan mengidentifikasi penyebab khusus pelanggaran aturan adat, nikah sesuku, sumbang nikah, dan nikah melompat pagar. Dampak negatif yang timbul dari pernikahan siri termasuk ketidakabsahan secara hukum dari kebanyakan nikah siri yang dilakukan masyarakat, masalah yang dihadapi anak-anak yang lahir akibat pernikahan siri orang tua mereka, serta banyaknya penyelesaian perceraian nikah siri yang hanya dapat diselesaikan melalui hukum adat dan tidak mempunyai kekuatan hukum. Mengingat masifnya praktik nikah siri di Kabupaten Tanah Datar, beragam solusi telah diambil oleh instansi terkait untuk mengatasi masalah yang dihadapi pelaku nikah siri, antara lain solusi yang dilakukan oleh Dinas Kependudukan dan Pencatatan Sipil (DUKCAPIL) dalam bentuk pemanfaatan Surat Pertanggungjawaban Mutlak (SPTJM) untuk pembuatan kartu keluarga, akta kelahiran, dan Kartu Tanda Penduduk (KTP). Pengadilan Agama Batusangkar juga menawarkan solusi melalui perkara itsbat nikah dan permohonan kumulatif itsbat yang berkaitan dengan perceraian dan poligami. Sementara itu, solusi yang diberikan oleh Kantor Urusan Agama (KUA) mencakup nikah ulang dan nikah baru.

Kata Kunci: Nikah siri, Solusi, Penemuan Hukum.



Introduction

Marriage institutions are promoted within Islamic family law to regulate the legal relationship between a man and a woman, serving as a means of preserving humanity in the world (Nasohah, 2024). Marriage establishes the rights and obligations of both husband and wife, which bear legal implications for lineage, maintenance, inheritance, and joint property. To ensure legal certainty, marriages must be registered (Arifuddin, 2024). Consequently, unregistered marriage (*nikah siri*), results in a lack of legal certainty regarding the consequences of such unions. Data from the Population and Civil Registry Office indicates that a significant number of unregistered marriages persist within Indonesian society, suggesting that many individuals enter into *nikah siri* for various reasons (Baihaqi et al., 2024).

Unregistered marriage has detrimental effects on wives and children. However, in certain contexts, and sometimes due to the necessity of sustaining and meeting basic needs, women may feel compelled to consent to becoming the second, third, or even fourth wife in a unregistered marriage arrangement (Daniela et al., 2024). They recognise that a unregistered marriage carries consequences and risks for themselves and their descendants. On one hand, there may be a sense of pride associated with marrying a prominent figure or religious scholar (Nisa, 2018). Within a context of mutualism, men may find comfort in the polygamous nature of unregistered marriages, while women perceive that their lives can continue within a specific social construct (Umi Supraptiningsih, 2017: 250).

Several studies have identified various factors contributing to unregistered marriages. Rahmaniar and colleagues elucidate three primary causes of unregistered marriage involving minors: parental concerns regarding their children's behaviour, such as engaging in promiscuity; underage matchmaking; and the perpetuation of their parents' experiences. Couples desiring to marry but facing rejection from the KUA (Religious Affairs Office) also contribute to this phenomenon. Alfiro and colleagues identified causes of unregistered marriage in Lintau Buo Utara, including being underage, lacking a divorce certificate, and marrying during the iddah period. Komang Pendi and colleagues revealed causes of *nikah siri* in Kampung Singaraja, encompassing economic, social, and age-related factors. Iyan Hidayah's research further supplements previous findings by indicating an increase in unregistered marriages during the COVID-19 pandemic. In addition to the three aforementioned causes, a study conducted in Wonoboyo District revealed that unregistered marriages during COVID-19 were motivated by fears surrounding swab procedures; should the swab result be positive, prospective couples would be unable to marry. Furthermore, circumstances arose where pregnancies had already occurred, wedding celebrations had taken place, and religious figures had officiated *nikah siri*, compounded by high swab test costs, leading couples to prioritise unregistered marriage (*nikah siri*).

This study builds upon earlier research that identified various causes of unregistered marriages by enumerating eleven distinct types of causes of unregistered marriages in Tanah Datar Regency. It also elucidates the impacts of unregistered marriages and inventories the solutions adopted by the community to mitigate unregistered marriages and address the challenges encountered by couples in such unions.

Unregistered marriage constitute a violation of marriage regulations in Indonesia, as delineated in Law No. 1 of 1974, Government Regulation No. 9 of 1975, and Presidential Instruction No. 1 of 1991 concerning the Compilation of Islamic Law. Unregistered marriage yield negative consequences for wives, children, and husbands themselves, who lack legal certainty regarding lineage, financial support, inheritance, and joint property (Horii & Wirastri, 2022). Nevertheless, a considerable number of individuals continue to enter into unregistered marriages to navigate economic hardships and fulfil their basic needs. Women often find themselves compelled to agree to become siri wives, despite their awareness of the implications and risks associated with unregistered marriages for themselves and their descendants (Schenk, 2019). They require assurances of livelihood that enable them to manage daily expenses without excessive labour, alongside practical solutions to the challenges they encounter.

Methods

This study constitutes a normative empirical investigation into the phenomenon of unregistered marriage. The methodological approach employed is phenomenological, incorporating qualitative research techniques. Primary data sources were drawn from a diverse group of participants, including active and retired administrators of the Indonesian Ulema Council (MUI) in Tanah Datar, comprising a total of six individuals; Bundo Kanduang, represented by four individuals; the Head of the Population and Civil Registration Office along with two staff members; the Chairperson of the Nagari Adat Council (KAN) and seven members; Village Chiefs, numbering five; Bundo Kanduang, comprising three individuals; members of the Village Community Empowerment Agency (BPRN), numbering three; and the Head of the Office of Religious Affairs (KUA) along with four counsellors. Secondary data were procured from various documents, including records from the Population and Civil Registration Office, which provided statistics on the population, unregistered marriages, unregistered divorces, the number of family cards, and birth certificates.

Additionally, documentation from the Batusangkar Religious Court was analysed, which included information pertaining to marriage validation and the procedures associated with it. Previous research addressing issues related to unregistered marriages in Tanah Datar Regency includes studies conducted by Bella Yanda in the Lintau Buo Utara Sub-district, Ariful Akmi in the Batipuh Sub-district, Khalillul Rahman in the Sungai Tarab Sub-district, and Ainul Mardhiyah in the Lima Kaum Sub-district. A Focus Group Discussion (FGD) was convened, involving ninik namak, religious scholars, *cadiak pandai*, and relevant agencies such as DUKCAPIL, the Head of the Religious Court, and the District KUA, with a total of 50 participants. Data analysis was conducted following the framework established by Huberman and Miles, encompassing data reduction, presentation, and verification. The categorised data were then subjected to interpretative analysis, which involved restatement, description, and interpretation.

The Practice of Unregistered marriages in Tanah Datar Regency

Marriage occupies a significant position in human life. It constitutes a bond that unites two individuals of different genders within a familial context, with the

objective of attaining happiness in both this world and the hereafter. In recent times, a growing number of individuals have opted for clandestine marriages for various reasons. The data presented below indicates that the prevalence of unregistered marriages in Tanah Datar Regency in 2022 reached 45%.

Table 1. Community Participation Scores for Family Cards Lacking Marriage Certificates in 2022 in Tanah Datar Regency

No.	Subdistrict	Number of Families
1	X Koto	4733
2	Batipuah	4264
3	Rambatan	5405
4	Lima Kaum	4262
5	Tanjung Emas	3407
6	Lintau	1967
7	Sungayang	1139
8	Sungai Tarab	4636
9	Simabur	2483
10	Salimpaung	2814
11	Padang Ganting	2461
12	Tanjung Baru	2166
13	Lintau Buo Utara	4841
14	Sumpur	1245
Jumlah		45823

The results of interviews and group discussions indicate that several factors contribute to the occurrence of unregistered marriages in Tanah Datar Regency. First, the couple may not yet be of legal age to marry according to applicable regulations, and there may be instances of promiscuity. Datuk Dubalang noted that *nikah siri* occurs as a result of infidelity between couples, where one or both parties are below the legal marriage age stipulated by relevant regulations. He stated, “It often happens because of infidelity or because the age is still below the legal age specified in the laws of our country, and they cannot obtain permission from the state to marry (*biaso dek selingkuh atau tajadi dek usia masih dibawah umur yang di tetntukan dalam Undang-Undang yang berlakuka di negara kita , nan alun dapek izin dari negara untuk manikah*)” (Dubalang, 2022). Dt Paduko emphasised, “*Nikah siri* occurs because the marriage is urgent; if they do not marry quickly, they may commit adultery (*nikah siri ko tajadi kan dek nan manikah ko tadasak, karano kalau tidak cepat manikah nanti tajadi bazina beko*)” (Paduko, 2022). In agreement with this, DT Kayo explained that “this marriage must be expedited because the children are already involved with one another if the marriage is delayed (*nikah ko dek harus di pacapek, nan anak-anak ko la kamo-kamo baduo-duo kalau di urus lamo*)” (Kayo, 2022).

Second, a prospective husband or wife may be of advanced age, such as a widow or widower. Individuals who are widowed or of advanced age are categorised as elderly, with an average age exceeding 45 to 50 years. They often believe that a marriage certificate is unnecessary, particularly if the marriage is not expected to produce children. Third, couples may enter into marriage while already

pregnant. Dt Simarajo highlighted the diverse causes of nikah siri, stating, “Diverse causes include pregnancy outside of marriage, as well as temporary marriages for the sake of marriage (*beragam seperti, hamil lua nikah, ado juo nikah iming-iming sementaro sajo untuk manikah*)” (Simarajo, 2022). He noted that unregistered marriages often occur because “the child is still young, taken to the KUA and rejected because she was already pregnant.” Supporting this view, several respondents in focus group discussions stated, “She is already pregnant; it is difficult to care for her properly, so just marry her off, let her go with her uncle (*inyo la hamil, paya ma urus elok dinikah kan sajo lai, japuik angku kali*)” (Simarajo, 2022).

Fourth, couples may be unable to obtain permission from their parents. Unregistered marriages are often conducted because parents do not approve of the union. Dt Paduko stated, “He got married secretly because his parents did not allow him to marry, so he took the shortcut of getting married secretly (*nikah sirinyo dek orang gaek dak buliah manikah, caro pinteh dilakukan dengan nikah siri tu*)” (Paduko, 2022). Fifth, sasuku marriage, which violates traditional marriage customs, is another factor. Marriages between individuals considered siblings or forbidden to marry according to traditional customs are referred to as sasuku marriage. Such unions are prohibited because the prospective spouses belong to the same clan; in Minangkabau culture, being from the same clan is akin to being siblings or “*Badunsanak*.” Dt Kayo remarked that “many unregistered marriages occur because of forbidden sasuku marriages (*nikah siri ko banyak dek manikah sasuku talarang dek adat*).” Nikah siri is often the result of “marriages performed due to sasuku, leading them to elope and marry secretly (*nikah nan dilakukan dek sasuku, sahinggo dak dapek izin nyo lari dan nikah sirinyo*)” (Kayo, 2022). This sentiment was echoed by respondents such as Dt. Palindiah and Dt. Tan Kayo. In Lintau Buo Utara Subdistrict, the term “*tamakan dunsanak*” is used to describe those who, according to custom, are considered siblings and are prohibited from marrying according to village adat, known as “*sumbang nikah*.” Dt. Simarajo indicated that nikah siri can result from an unofficial divorce, explaining, “this marriage occurs because they have already divorced, then found another partner, and to formalise it, they must also divorce in court (*nikah ko dek la carai, lalu dapek jodoh baliak, untuk maurus harus carai di Pengadilan pulo*)” (Simarajo, 2022).

Sixth, there may be uncertainty regarding the divorce status of the prospective husband or wife. Several interviewees, such as Dt. Mangguang, revealed, “The woman has already divorced, but there is no divorce certificate. If it takes too long to process, then just have a unregistered marriage (*nan padusi la bacarai, tapi surek kuniang indak ado, kalau di urus lamo, mako nikah siri sajo*)” (Mangguang, 2022). This was corroborated by Dt. Paduko and Dt. Simarajo, who stated that unregistered marriages occur due to unofficial divorces, remarking, “This marriage happened because they were divorced, then they found a new partner. To formalise it, they must also get divorced in court (*nikah ko dek la carai, lalu dapek jodoh baliak, untuk maurus harus carai di Pengadilan pulo*)” (Paduko, 2022; Simarajo, 2022). Dt. Palito mentioned instances of repeated marriages. In an interview with a participant in a nikah siri or unregistered marriage, Mrs. AM disclosed that her marriage to her former husband was initially registered, but an informal divorce occurred due to the lengthy and complicated court procedures. When she sought to marry someone else, she opted for nikah siri. Similarly, Mr. DS indicated that he divorced his wife with

three *talaqs* outside of court; legally, they are still considered married, yet from a fiqh perspective, since three *talaqs* were issued, his wife entered into a *nikah siri*, and he subsequently married someone else through *nikah siri*.

Seventh, husbands may abandon their households without notice. A husband may leave to work and not return for years, prompting someone to approach the woman and marry her. Given this unclear status, she may remarry. Eighth, prospective husbands may engage in polygamy. As noted by Z Dt. R, “Many unregistered marriages occur because they fear being discovered by the first wife (*banyak nikah siri ko dek takuik ketahuan dari bini nan partamo*)” (R, 2022). Unregistered marriages may also take place when the first wife does not grant permission, as mentioned by P Dt Paduko, who asserted, “The second marriage is not permitted by the first wife whom he also desires (*nikah nan kaduo dek dak di izinkan dek bini partamo nan awak nak iyo juo*)” (Paduko, 2022). In another case, unregistered marriages occur as stated by DT Is (2022:10), who noted that “he married a second wife secretly so that his first wife would not find out (*inyo la nikah kaduo dilakukan sembunyi nak jan tau bini nan tuo*).”

Ninth, the cost of formal marriage registration at the KUA can be prohibitively expensive. The process of registering and conducting the marriage in front of a KUA official entails high fees for obtaining recommendations from the head of the family and for processing the NA form at the Nagari office, along with additional costs for registration and the marriage ceremony at the KUA office. Due to the considerable financial burden associated with formal marriage under state law, many individuals who cannot afford it or are economically disadvantaged choose to pursue *nikah siri*. A Dt. Bijo remarked, “They believe that marriage at the KUA is expensive, while *nikah siri* is inexpensive,” noting that *nikah siri* only requires payment to the officiant of Rp 300,000 or Rp 250,000, with varying costs depending on who performs the marriage and the location of the ceremony (Bijo, 2022).

Tenth, individuals may opt for *nikah siri* to ensure that pension payments are not interrupted. Women whose husbands are civil servants or men whose wives are civil servants (ASN) and whose spouses have passed away are entitled to widow's or widower's pensions as long as they do not remarry. Widows or widowers wishing to remarry without jeopardising their pension may choose *nikah siri*, as explained by Dt. Katik: “There are widows or widowers who select unregistered marriage (*nikah siri*) because, as the widow of a deceased pensioner, she continues to receive her pension. If she marries officially, her pension would be discontinued (*ado juo jando atau duda nan manarimo pensiun dari almarhum/ah pasangannya, kalau inyo manikah resmi mako uang pensiun nyo ilang*).” He added, “There are also widows or widowers who receive pensions from their deceased spouses; if they marry officially, their pension funds are lost” (Katik, 2022).

Eleventh, unregistered marriages occur due to the absence of records concerning marriage and divorce. This phenomenon arises from informal divorces, wherein “this marriage is due to divorce, and then they find another partner; to formalise it, they must also divorce in court (*nikah ko dek la carai, lalu dapek jodoh baliak, untuk maurus harus carai di Pengadilan pulo*).” Dt. Palito further commented that unregistered marriages result from repeated marriages, stating, “This occurs because of repeated marriages; the husband has left, found a new partner, and thus

it was rushed through (*iko kan kan dek manikah baulang, laki la pai, dapek jodoh mako dipacapek sajo*)” (Palito, 2022).

The Adverse Effects of Unregistered Marriages

Most secret or unregistered marriages conducted within the community lack legal validity. Research data from the Population and Civil Registration Office (DUKCAPIL) indicates that 45% of families in Tanah Datar Regency do not possess marriage certificates, while only approximately 1.8% of unregistered marriages seek legal recognition from the Religious Court. Court rulings exhibit variability; some applications are rejected, revoked, or annulled on the grounds of invalidity. Data analysis from informants in the Sungai Tarab Sub-district reveals that numerous legally conducted marriages are, in fact, invalid, as exemplified by the case of DF and EZ. This couple engaged in a *nikah siri* in Tabek Patah but failed to fulfil the requisite conditions and requirements. In 2022, they applied for marriage validation at the Batusangkar Religious Court; however, the court rejected their application, necessitating the couple to remarry at the Sungai Tarab KUA. According to interviews with Mr. Beni (Head of the KUA in Sungai Tarab Sub-district) and Mr. Taufiq (KUA staff member), DF and EZ's marriage did not satisfy the legal requirements, and nearly all individuals who sought marriage validation or reported informal marriages in the Sungai Tarab Sub-district encountered similar issues, prompting the KUA to frequently repeat the marriage ceremony (Beni, 2022; Taufik, 2022).

Wafirman, a religious counsellor in Sungai Tarab District, corroborated the information provided by the KUA. During religious counselling sessions, it was observed that many individuals continue to practise unregistered marriage, with the majority of these marriages presenting various complications. Contributing factors include the inflated egos of many village elders and a lack of understanding among religious leaders regarding the principles of marriage registration in Indonesia.

Moreover, additional factors such as out-of-wedlock pregnancies and parental disapproval further exacerbate the situation. The challenges faced by children born from clandestine marriages are substantial. These children often lack clear legal status and are unable to obtain a standard birth certificate, as a marriage certificate or parents' marriage book is a prerequisite for issuance.

In instances where the child is female, the biological father is legally barred from marrying her due to her status as an illegitimate child. Should the biological father fail to provide financial support for children resulting from unregistered marriage, these children are unable to claim maintenance, which frequently results in abandonment. When mothers are unable to support them, these children are compelled to earn a living by selling crackers, small snacks, or assisting their mothers with agricultural work. Additionally, these children do not receive administrative rights from the state and are often denied access to administrative services. There was a recorded case in which a child who won the overall championship in Tanah Datar Regency was awarded a prize by the regent but was unable to travel to Malaysia due to the absence of a marriage certificate. Consequently, the child was denied rights within the village, at school, and at health centres or hospitals, and was frequently subjected to criticism or mockery by the community. Dt PKY highlighted the repercussions of *nikah siri*, stating, ‘Children

face difficulties, especially in administrative matters.' Meanwhile, K Dt Intan B emphasised that the consequences of nikah siri hinder children's educational opportunities and other aspects of their lives. DC Dt Bagindo Ratiah further asserted that children from nikah siri marriages do not receive state entitlements and are at times equated with children born out of wedlock.

Most divorces arising from unregistered marriages can only be resolved through customary law and lack legal standing. Wives often possess no authentic documentation to substantiate the occurrence of the marriage, which impedes their ability to claim property rights, particularly in matters concerning joint property, in the event of divorce. An interview with Malin Mudo revealed that the negative impacts experienced by women include the forfeiture of their rights due to the marriage, such as the lack of entitlement to spousal allowances for civil servants or private sector employees. In the event of the husband's death, they are also denied inheritance, death benefits such as insurance, compensation funds, and other entitlements.

Solutions Implemented by Relevant Institutions to Address Issues Arising from the Practice of Unregistered Marriages

The diverse causes of unregistered marriages and the numerous challenges faced by couples and their descendants in Tanah Datar Regency underscore the necessity for intervention from relevant authorities. Consequently, institutions engaged with communities practising nikah siri, along with the associated issues, must seek solutions to address these concerns, at least to mitigate some of the problems identified in accordance with applicable regulations and the primary responsibilities or jurisdiction of the relevant agencies, such as the Population and Civil Registration Office (DUKCAPIL). In line with applicable regulations, DUKCAPIL issues family cards and birth certificates indicating that the couple is not registered as married. However, couples who have entered into a nikah siri are required to obtain a Letter of Absolute Liability (SPTJM). According to information from DUKCAPIL staff, there are two types of family cards typically issued to married couples: one for couples possessing a marriage certificate, which includes the marriage certificate in their population data, and another for couples who are not registered as married, which utilises the SPTJM. Birth certificates for children are categorised into four types: a regular birth certificate for parents with a marriage certificate, a birth certificate for children born out of wedlock, a birth certificate for children of unregistered married parents, and a birth certificate for children of unknown origin (MM, 2022).

The Batusangkar Religious Court is responsible for reviewing and resolving issues encountered by couples in informal marriages, such as applications for marriage validation. Only 1.8% of the population avails themselves of marriage validation from the 45% of family cards that do not possess marriage certificates. The court also processes divorces for couples lacking divorce certificates and issues permits for polygamy. Additionally, there are couples who submit cumulative applications, which encompass divorce and marriage validation, polygamy permits, and determination of the origin of children for couples who do not have marriage certificates (NM, 2022).

Many couples in unregistered marriages who do not meet the requirements for marriage also visit the Sub-District Religious Affairs Office in Tanah Datar Regency to seek advice on resolving their issues. Some opt to remarry or repeat the marriage ceremony in accordance with the challenges they face. The Ministry of Religion of Tanah Datar District, through the Head of the Religious Affairs Office and Religious Counsellors, conducts counselling and socialisation regarding aspects related to nikah siri (NMM, 2022).

The Settlement of Unregistered Marriages in Tanah Datar from the Perspective of Family Law

Specific causes identified in Tanah Datar Regency, which are not prevalent in other regions, include marriages between individuals of the same clan, arranged marriages, and elopement. The elevated incidence of unregistered marriages in Tanah Datar Regency can be attributed to advice from certain individuals, a lack of understanding of the applicable marriage regulations, and a reluctance to engage with marriage administration processes, such as completing NA forms and other requisite paperwork. The adverse consequences of unregistered marriages include the fact that such unions are not legally recognised. Most unregistered or unregistered marriages conducted within the community lack legal validity, thereby impacting the wife, who is not acknowledged as a lawful spouse. Since women involved in unregistered marriages do not possess a marriage certificate as proof, if the husband fails to fulfil his responsibilities, she is not regarded as his wife (Alfitri, 2020). Legal protection for children and women who are polygamous or married in secret is unavailable, whether in administrative, civil, or criminal contexts. Issues arise for children born from a unregistered marriage with respect to legal matters such as lineage, maintenance, guardianship, and inheritance, as well as social ramifications where the wife is colloquially referred to as a 'kept wife' and encounters difficulties in socializing (Fakhria et al., 2024; Pradikta et al., 2020).

The dissolution of nikah siri marriages can only be addressed through customary law and lacks legal standing concerning the implications of the marriage. Although initially, the wives who entered into nikah siri marriages did not perceive this negatively, they often lacked understanding or awareness of their rights as wives when divorce occurred. The insufficient understanding of marriage registration procedures or handling affairs post-divorce has emerged as a significant issue. Article 6 of the Compilation of Islamic Law stipulates that there are no legal consequences for marriages that are not registered or cannot be substantiated by a marriage certificate. This implies that if one of the spouses fails to fulfil their obligations, neither party can claim anything, including maintenance for the couple's children or jointly acquired property during the marriage. A wife is unable to inherit from her husband or vice versa, even in the event of one party's death. A woman whose husband has passed away cannot file for khuluk and cannot remarry officially, as her marital status remains ambiguous. She is regarded as married but possesses no proof, considered a virgin yet already a widow, and many even have children.

Unregistered marriages are perceived by the KUA as unions of unmarried couples, despite the existence of children from their nikah siri marriage. Consequently, their marriage is recorded at the KUA with the status of an unmarried

woman or man. Some women are compelled to become siri wives to survive and meet their material needs. They are cognisant that marriages conducted through nikah siri entail consequences and risks for themselves and their descendants. Their primary requirement is assurance that they can cover daily expenses without excessive effort. Furthermore, although the marriage is conducted through nikah siri, there is a certain pride associated with having descendants linked to a prominent figure or religious leader. This creates a form of mutualistic symbiosis, where men feel at ease with polygamy and unregistered marriages, while women perceive their livelihoods as secure within a particular social framework. Such phenomena have become commonplace in rural communities in Proppo Subdistrict, Pamekasan Regency. Unregistered marriage is also referred to as religious marriage or marriage under the hand.

The solution implemented by the relevant agencies to address the issue of unregistered marriages in Tanah Datar Regency involves the Population and Civil Registration Office, the Religious Court, and the Office of Religious Affairs. Population registration related to marriage in the Civil Registry refers to Article 33 of Presidential Regulation (PP No. 96 of 2018 on Requirements and Procedures for Population Registration and Civil Registration), which stipulates that birth registration must fulfil several criteria: 1) a birth certificate; 2) Marriage Certificate/Marriage Contract or other valid proof; 3) Family Card (KK); 4) Electronic ID Card (KTP-el). Furthermore, Article 34 elucidates that residents may submit a Statement of Absolute Liability (SPTJM) regarding the accuracy of the data if the married couple does not possess a Marriage Certificate/Marriage Contract or other valid documentary proof. This regulation was further complemented by the Regulation of the Minister of Home Affairs No. 109 of 2019 concerning Form 105 and Books Used in Population Administration.

One of the disadvantages of lacking a marriage certificate is the incompleteness of the requirements for populating data by the Population and Civil Registration Office (DUKCAPIL). The government issued a policy regarding the Absolute Liability Statement (SPTJM) to register individuals who have entered into unregistered marriages (nikah siri). The issuance of the SPTJM serves as a substitute for the marriage certificate in the processing of Birth Certificates and Family Cards. The need for the SPTJM process, particularly for Birth Certificates, generally pertains to the education of children. However, the SPTJM has also engendered new issues since the unwritten marriage status is classified as an unregistered marriage. This unregistered marriage status impinges upon the basic rights of children and spouses, leading to complications in courts and KUA offices. Individuals who entered into nikah siri using Form F 1.05 encounter various legal complications related to marriage. The low rate of marriage validation, legal uncertainty due to nikah siri, and the stigma associated with nikah siri as a means to legitimise a marital relationship and circumvent adultery contribute to many cases remaining unresolved. This results in the couple becoming cohabiting partners, which is prohibited under Islamic law (QS. 24:3, QS. 25:68).

The Batusangkar Religious Court, as an institution designated for resolving marriage issues, is underutilised by individuals confronting problems associated with unregistered marriages. Consequently, 1.8 couples seeking marriage registration were rejected and unable to file for divorce officially, which is a

prerequisite for remarriage at the KUA. In cases involving cumulative marriage validation requests, the Religious Court of Solok established a new legal precedent to address a legal void by not validating the marriage but granting the divorce request arising from the unregistered marriage. Judges possess the authority to create law, particularly in cases not encompassed by existing regulations, by drawing upon the prevailing legal values of society (KHI Article 222). Judges also retain the discretion to deviate from established written law (*contra legem*) based on principles of justice. A judge's decision that embodies justice subsequently becomes a legal precedent, which is consistently followed by other judges in analogous cases. Such a decision is referred to as jurisprudence.

Conclusion

Identifying eleven causes of unregistered marriages and specific causes of violations of customary rules, including marriages between individuals of the same clan, arranged marriages, and marriages between individuals from different social classes is essential. The negative consequences of clandestine marriages encompass: the fact that most unregistered marriages conducted within the community lack legal validity, the challenges faced by children born from such unions, and the reality that most divorces arising from unregistered marriages can only be resolved through customary law, which lacks legal enforceability. In light of the prevalent practice of *nikah siri* in the Tanah Datar District, various measures have been implemented by relevant agencies to address the issues experienced by those involved in *nikah siri*. These measures include initiatives by the Population and Civil Registration Office (DUKCAPIL), which utilises Absolute Responsibility Letters (SPTJM) for the issuance of family cards, birth certificates, and identity cards (KTP). The Batusangkar Religious Court offers solutions in the form of marriage validation cases and cumulative requests for validation related to divorce and polygamy. Concurrently, the Religious Affairs Office (KUA) has implemented solutions that include the conduct of remarriage ceremonies and the facilitation of new marriages.

References

- Alfitri, A. (2020). Protecting Women from Domestic Violence: Islam, Family Law, and the State in Indonesia. *Studia Islamika*, 27(2), 273–307. <https://doi.org/10.36712/sdi.v27i2.9408>
- Arifuddin, Q. (2024). Registration of Marriage as Fulfillment of Marriage Requirements According to Islamic Principles. *Nurani: Jurnal Kajian Syari'ah Dan Masyarakat*, 24(2), 317–328. <https://doi.org/10.19109/nurani.v24i2.24529>
- Baihaqi, B., Tutik, T. T., Musadad, A., Khazin, A. M., & Simun, M. G. bin. (2024). Legal Non-Compliance and Kiai Hegemony: The Practice of Unregistered Marriages among the Madurese Muslim Community of Kubu Raya. *Journal of Islamic Law*, 5(2), 242–268. <https://doi.org/10.24260/jil.v5i2.2819>
- Daniela, N. P., Hanapi, A., Husnul, M., & Fahri, M. (2024). The Granting of Family Card for Siri Marriage in Banda City: Perspective of Islamic Family Law. *El-Usrah: Jurnal Hukum Keluarga*, 7(1), 150. <https://doi.org/10.22373/ujhk.v7i1.23317>
- Fakhria, S., Mustofa, K. N., Ma'mun, M., Wahidi, A., & Rachmatulloh, M. A. (2024).

- Securing Muslim Children's Civil Rights: Debate on State Legal Policy towards The Issuance of Family Cards for Unregistered Marriage Couples. *El-Mashlahah*, 14(2), 303–322. <https://doi.org/10.23971/el-mashlahah.v14i2.8008>
- Horii, H., & Wirastri, T. D. (2022). Living in a Legal Limbo: Mechanisms to “Fix” The Legal and Social Positions of Unregistered Children in Indonesia. *The Indonesian Journal of Socio-Legal Studies*, 2(1). <https://doi.org/10.54828/ijsls.2022v2n1.1>
- Nasohah, Z. (2024). Dynamics of Islamic Family Law in Facing Current Challenges in Southeast Asia. *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam*, 8(1), 1. <https://doi.org/10.22373/sjhk.v8i1.16553>
- Nisa, E. F. (2018). The Bureaucratization of Muslim Marriage in Indonesia. *Journal of Law and Religion*, 33(2), 291–309. <https://doi.org/10.1017/jlr.2018.28>
- Pradikta, H. Y., Muhammad, H., & Asmara, M. (2020). Poligami di Malaysia dan Indonesia Serta Relevansinya dengan Pemenuhan Hak Gender. *Al-Istinbath : Jurnal Hukum Islam*, 5(2), 213. <https://doi.org/10.29240/jhi.v5i2.1932>
- Schenk, C. G. (2019). Legal and spatial ordering in Aceh, Indonesia: Inscribing the security of female bodies into law. *Environment and Planning A: Economy and Space*, 51(5), 1128–1144. <https://doi.org/10.1177/0308518X19836119>

Interview:

- Beni. (2022). *Interview with Head of the KUA in Sungai Tarab Sub-district.*
- Bijo, D. (2022). *Interview with KUA Principle.*
- Dubalang, D. (2022). *Interview with Traditional Leader (October).*
- Katik, D. (2022). *Interview with Civil Servant in Tanah Datar.*
- Kayo, D. (2022). *Interview with Traditional Leader (October).*
- Mangguang, D. (2022). *Interview with Traditional Leader (October).*
- MM. (2022). *Interview with DUKCAPIL staff.*
- NM. (2022). *Interview with the Head of the Batusangkar Religious Court.*
- NMM. (2022). *Interview with the Head of the Religious Affairs Office.*
- Paduko, D. (2022). *Interview with Traditional Ledaer (October).*
- Palito, D. (2022). *Interview with Goverment Staf.*
- R, D. (2022). *Interview with Community.*
- Simarajo, D. (2022). *Interview with Traditional Leader (November).*
- Taufik. (2022). *Interview with KUA staff member.*