



Unregistered Marriage in Cases of Out-of-Wedlock Pregnancy: A Legal-Psychological Analysis of the Practice and Its Implications

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Abstract: Although Indonesian law requires marriages to be performed according to religious principles and officially registered, unregistered marriages remain a common practice, particularly in cases of out-of-wedlock pregnancy. This article examines the legal consequences of unregistered marriage and its psychological implications for adolescents who enter marriage following premarital pregnancy. The study employed a normative juridical method using a statutory approach by analysing relevant legislation and legal literature. The findings indicate that children born from unregistered marriages face limitations in obtaining legal recognition of paternal affiliation and related civil rights, including inheritance and administrative documentation, unless the marriage is subsequently validated through itsbat nikah or officially registered. From a psychological perspective, out-of-wedlock pregnancy frequently places adolescents under substantial emotional, social, and familial pressure, often resulting in early marriage despite limited psychological and economic readiness. Such circumstances may increase vulnerability to mental health difficulties, educational disruption, social stigma, and marital instability. These findings highlight the interconnected legal and psychological consequences of unregistered marriage and underscore the importance of strengthening marriage registration, enhancing legal awareness, and providing accessible psychosocial support

for adolescents and families affected by out-of-wedlock pregnancy.

Keywords: *Secret Marriage, Pregnancy Outside of Marriage, Legal and Psychological Impacts.*

Abstrak: Meskipun hukum di Indonesia mengharuskan perkawinan dilangsungkan sesuai dengan ketentuan agama dan dicatatkan secara resmi, praktik perkawinan tidak tercatat masih banyak dijumpai, terutama dalam kasus kehamilan di luar nikah. Artikel ini bertujuan menganalisis konsekuensi hukum dari perkawinan tidak tercatat serta implikasi psikologis yang dialami remaja yang memasuki perkawinan akibat kehamilan di luar nikah. Penelitian ini menggunakan metode yuridis normatif dengan pendekatan perundang-undangan melalui analisis terhadap peraturan perundang-undangan dan berbagai literatur hukum yang relevan. Hasil penelitian menunjukkan bahwa anak yang lahir dari perkawinan tidak tercatat menghadapi keterbatasan dalam memperoleh pengakuan hukum atas hubungan keperdataan dengan ayah serta hak-hak sipil, termasuk hak waris dan dokumen administrasi kependudukan, kecuali setelah dilakukan itsbat nikah atau pencatatan perkawinan secara resmi. Dari perspektif psikologis, kehamilan di luar nikah sering menimbulkan tekanan emosional, sosial, dan keluarga yang mendorong terjadinya perkawinan usia dini meskipun remaja belum memiliki kesiapan psikologis maupun ekonomi. Kondisi tersebut dapat meningkatkan kerentanan terhadap gangguan kesehatan mental, terhambatnya pendidikan, stigma sosial, dan ketidakstabilan dalam kehidupan rumah tangga. Temuan ini menegaskan keterkaitan antara konsekuensi hukum dan psikologis dari perkawinan tidak tercatat serta pentingnya penguatan pencatatan perkawinan, peningkatan literasi hukum, dan penyediaan dukungan psikososial bagi remaja dan keluarga yang menghadapi kehamilan di luar nikah.

Kata Kunci: *Unregistered marriage, Hamil di Luar Nikah, Dampak Hukum dan psikologi.*

INTRODUCTION

Nikah Siri (unregistered marriage) is a form of marriage conducted secretly or without public knowledge, carried out only by certain parties and without official authorization from the Office of Religious Affairs (KUA), which serves as the authorized institution for recording marriages in accordance with religious and state law (Jafar, 2025; Mutaqin & Sopyan, 2024). On one hand, unregistered marriage may be perceived as a solution to prevent acts considered illicit, such as fornication; however, on the other hand, it can give rise to a number of serious problems, particularly for women and children.

In the legal context, they do not have an officially recorded status and are considered uncertain because their marital union is not legally recognized. Without legal proof of the marital relationship, both parties cannot claim their rights since there is no legal basis supporting them. The child's lineage status also becomes unclear, because according to the law, a legitimate child is one born within a legally recognized marriage. Meanwhile, a child born outside a lawful marriage only has civil relations with the mother and her family (Lukman & Abdussahid, 2021).

The Rising Number of Marriage Dispensations (Early Marriages) in Indonesia refers to the increasing trend of underage marriage approvals granted by religious courts or authorized institutions. This phenomenon indicates that, despite legal restrictions on minimum marriage age, many families still request official permission for early marriage due to factors such as pregnancy outside wedlock, economic pressure, cultural traditions, or concerns about social stigma. The rise in these dispensations reflects broader social dynamics and highlights ongoing challenges in protecting children's rights, ensuring educational continuity, and preventing long-term psychological and economic impacts associated with early marriage (Masriani, 2020; Mursyid & Yusuf, 2022).

Although unregistered marriage an unregistered marriage may be regarded as religiously valid, it often creates significant vulnerabilities, particularly for women. One of the most critical issues arises when physical violence occurs, expressed through acts such as slapping, striking, kicking, throwing, or even more severe assaults including stabbing or burning. In many cases, physical abuse is preceded or followed by emotional violence, indicating a pattern of continuous psychological harm.

Emotional abuse targets the victim's mental and psychological well-being, manifesting through verbal aggression, humiliation, threats, and other forms of degrading treatment. Women who experience such psychological violence frequently report persistent feelings of distress, fear, and emotional instability. These forms of abuse collectively fall within the scope of Domestic Violence (KDRT), as defined in Article 5 (c) and (e) of Law No. 23 of 2004 on the Elimination of Domestic Violence. The regulation clearly states that domestic violence encompasses not only physical harm but also psychological abuse and neglect within a household setting.

Unregistered marriages create legal uncertainty, as the absence of official recognition may limit women's access to legal protection and remedies in cases of domestic violence (Fitriana et al., 2024). This issue is particularly relevant among adolescents, who are undergoing rapid physical, psychological, and social development. Their increasing curiosity and limited maturity may heighten vulnerability to risky sexual behaviour, potentially leading to unintended pregnancy and early marriage, with subsequent legal, psychological, and social consequences (Fajri & Novira, 2023; Khoiroh et al., 2022).

Data from the Central Statistics Agency (BPS) indicate that the increasing trend of early marriage in Indonesia is often associated with cultural traditions, economic conditions, and religious norms (Muntamah, Latifiani, & Arifin, 2019). This phenomenon occurs across various provinces. As illustrated in Figure 2.7, results from the 2020 Population Census (SP2020) show that the percentage of girls aged 10–14 who have ever been married varies by province. East Java records the highest proportion at 1.43 percent, followed by West Papua and West Sulawesi at 1.16 percent. Additionally, adolescent pregnancy rates in Indonesia remain high, reaching 48 per 1,000 girls aged 15–19 (Nisa & others, 2023).

METHOD

This study employed a normative juridical research method using a statutory approach. Normative juridical research focuses on examining legal norms through the analysis of secondary data, including legislation, legal doctrines, judicial decisions, and scholarly literature (Widiarty, 2024). Rather than relying on empirical data, this method aims to interpret and evaluate legal principles and their application within the existing legal framework. The

statutory approach was adopted because the research examines legal issues based on the provisions of applicable laws and regulations. This approach enables a systematic analysis of statutory provisions, allowing the researcher to interpret legal norms, identify their underlying principles, and assess their consistency and relevance to the legal issues under investigation. The analysis is primarily based on primary legal materials, including legislation, complemented by secondary legal materials such as legal textbooks, journal articles, and other authoritative scholarly publications to provide a comprehensive understanding of the subject matter.(Dr. Wiwik Sri Widiarty, S.H., 2024)

RESULTS AND DISCUSSIONS

Civil Law: Marriage Validity and Registration

Marriages that do not comply with the applicable procedures or regulations will bear legal consequences. The registration of marriage plays a crucial role in the marital bond between husband and wife, particularly concerning their rights and responsibilities, especially in the context of the relationship between parents and the children born from the marriage. Children born from an unregistered or unregistered marriage only have a legal relationship with their mother and her family, in accordance with Articles 42 and 43 of the Marriage Law. Meanwhile, they have no legal relationship with their father, meaning they cannot claim rights from him.

Marriage registration serves as evidence that a marriage has occurred and constitutes official recognition by the state. This registration process is essential as a formal acknowledgment of the marriage and aims to establish legal certainty and clear proof of the event, both for the parties involved and for the wider community. Unregistered marriage marriages have negative implications for the children born from them, particularly regarding the fulfillment of their rights (Ediningsih Dwi Utami & Yahya, 2022).

Children born from unregistered marriages often experience various difficulties in obtaining clear legal status. Dari From the perspective of Islamic law, children born from a recognized marriage, including unregistered marriage, are considered legitimate and entitled to maintenance, education, and protection from both parents. Islamic law also safeguards their inheritance rights from both parents, as stipulated in the Qur'an and Hadith.

However, this differs under state law. According to existing regulations, children born from marriages that are not officially registered with the government are not recognized as legitimate under the Marriage Law No. 1 of 1974, Article 2, Paragraph (1). Without valid marriage registration, such children risk being denied a birth certificate, a crucial document for accessing fundamental human rights, including education, healthcare, and legal protection. Even regarding inheritance, although Islamic law grants children from unregistered marriage the right to inherit, they are often not acknowledged as heirs within the state legal system due to the lack of official documentation proving their parents' marital status (Daharis et al., 2024).

In Indonesia, the legal status of children born from unregistered marriage is classified as children born out of wedlock. This is because Article 4 of the Marriage Law states that recognized children are those born from a legitimate marriage. A marriage is considered legitimate if it fulfills the requirements set out in Article 2 of the Marriage Law, which mandates that a marriage must be conducted in accordance with the respective religion and beliefs of the parties and must be registered at the Office of Religious Affairs (*Kantor Urusan Agama*) or the Civil Registry Office (*Kantor Catatan Sipil*).

Meanwhile, unregistered marriage marriages are not recognized as legitimate marriages, and thus, children born from such unions are considered illegitimate. Article 4 of the Marriage Law clearly stipulates that recognized children are those born from lawful marriages, while Article 2 emphasizes that a lawful marriage must adhere to the religious beliefs of the parties involved. Furthermore, Article 2, Paragraph (2) specifies that all marriages must be officially registered with the Office of Religious Affairs or the Civil Registry Office. (Daharis et al., 2024).

A birth certificate is a document produced through civil registration that records the event of a person's birth. Its importance lies in its function as an official identification for a newborn child, as well as serving as the initial data for the government to determine the child's nationality and first legal identity. With a birth certificate, a child has the right to seek support from their parents—for example, in cases of divorce, where children from the marriage may request parental assistance to meet their living needs.

A birth certificate is essential for establishing a child's legal identity and securing access to civil rights, including inheritance, education, healthcare, and legal protection. However, children born from unregistered marriages

often face difficulties obtaining a birth certificate because their parents lack a legally recognised marriage certificate. To ensure equal legal recognition and protection, parents may pursue *itsbat nikah* or officially register their marriage, enabling the child to obtain valid civil documentation and the rights recognised under Indonesian law.

Through *itsbat nikah*, children from unregistered marriages gain the same legal status as children born from officially registered marriages. Their father's name will be listed on the birth certificate, and they will obtain additional rights, including inheritance rights from their parents. One of the objectives of *itsbat nikah* is to obtain a marriage certificate required to register the child's birth certificate and to secure health-related rights from the father. This allows them to access health insurance, similar to children of civil servants. Without it, these rights cannot be exercised because the parents' marriage was conducted secretly and is not officially recognized by the state, which also affects other civil rights they are legally entitled to (Mangayuk, 2022).

Psychological and Social Consequences

The phenomenon of out-of-wedlock pregnancy among adolescents is a deeply concerning issue. During adolescence, young people should ideally engage in various positive activities that prepare them for the future, such as developing achievements in academic and non-academic fields, expanding social networks, preparing for careers, and gaining experiences that foster personal maturity. Adolescence is a critical period for psychosocial development and educational attainment, which are essential for future workforce readiness.

However, when adolescents experience pregnancy outside of marriage, their opportunities to achieve academically, build social networks, and establish a career are significantly hindered. They are confronted with complex consequences arising from such pregnancies. One of the major challenges is that they must assume the roles of mother and wife at a very young age a responsibility they are not yet prepared to face, as they are still in the stage of preparing for family life. Social risks also emerge due to negative societal stigma associated with out-of-wedlock pregnancy, which can lead to social exclusion, discrimination, loss of rights, and other adverse outcomes. (Z. J. Putri et al., 2024)

Generally, the phenomenon of early marriage occurs as an “unplanned consequence” of premarital sexual activity. As a result of such behavior, early marriage emerges as a response to these circumstances. The primary purpose of this marriage is often to preserve family honor and avoid social shame, as there may appear to be no alternative other than marrying the couple at that time, even though they are still very young.

When out-of-wedlock pregnancy occurs, it becomes a burden on the family. To conceal this perceived disgrace, the couple is often married quickly to prevent social embarrassment for the family. In such situations, early marriage is viewed as a solution to the problem of pregnancy occurring before an official marital bond has been established. Unplanned pregnancies resulting from uncontrolled premarital relationships often drive adolescents to marry early as a means to address and resolve the issue. (Sari & Puspitasari, 2022).

From a psychological perspective, adolescents who marry at a young age often experience instability, including feelings of regret, stress, and emotional burden. The psychological impact of early marriage indicates that young couples are not yet capable of adapting to new roles or managing the responsibilities of household life, resulting in regret over lost schooling and the curtailed experiences of adolescence. Anxiety experienced by adolescents in early marriages increases their vulnerability to mental health issues, which can lead to stress and depression.

From a health perspective, individuals who marry at a young age face higher risk of maternal and infant mortality, as well as greater likelihood of complications during pregnancy, childbirth, and the postpartum period, including miscarriage and premature birth.

From a social perspective, early marriage restricts adolescents' opportunities for self-expression and personal development, limits their social space, and generates feelings of shame and fear toward neighbors due to premarital pregnancy. Consequently, adolescents may be reluctant to interact with their surrounding community. Teen pregnancy resulting from premarital sexual activity produces sociological impacts, particularly social stigma and shame, and the common solution imposed is to compel the couple into marriage. This sense of embarrassment often leads adolescents to withdraw from social interactions and spend more time confined to the home (Sari & Puspitasari, 2022).

One of the consequences of early marriage is the potential onset of baby blues syndrome due to a young mother's unpreparedness in caring for her child. Childbirth is a complex event that can induce stress, particularly for first-time mothers, who must adjust to entirely new circumstances. Inability to adapt and postpartum stress increases the risk of experiencing baby blues. Maternal age below 20 years is identified as a factor that can trigger this syndrome.

Physical, mental, and financial preparation is crucial when transitioning from girlhood to motherhood. Adolescents under 20 years of age generally lack the cognitive maturity and emotional readiness necessary to manage a household and care for a child effectively. Ideally, women should give birth between the ages of 20 and 30, as readiness for motherhood is a key factor in welcoming a newborn. When a woman does not feel prepared for motherhood, it can lead to significant psychological stress following childbirth (Khairunnisa & Abdullah, 2022).

Early marriage increases vulnerability to domestic violence due to psychological immaturity, emotional instability, and economic hardship. Domestic violence may take the form of physical, emotional, sexual, or economic abuse, including assault, intimidation, humiliation, and neglect. These behaviours are often driven by emotional immaturity, poor conflict resolution, aggressive personality traits, and financial stress, all of which undermine individual well-being and family stability. External factors often relate to economic conditions. If domestic violence is unchecked, it can lead to neglect. For instance, when a husband does not receive what he expects, he may commit acts of psychological, economic, or physical violence. It is evident that early marriage has highly negative consequences, one of which is domestic violence. Harsh treatment, including shouting, coercion, hitting, kicking, hair-pulling, and slapping, frequently occurs, driven by low economic conditions, the psychological immaturity of the child, and unstable thinking patterns, ultimately disrupting family harmony and resulting in domestic violence (M. D. Putri & others, 2023).

CONCLUSION

Unregistered marriages following out-of-wedlock pregnancy create significant legal and psychological challenges in the Indonesian context. From a legal perspective, the absence of marriage registration limits the formal

recognition of the marital relationship and may restrict children's access to civil rights, including legal affiliation with the father, inheritance, and administrative documentation, unless legal remedies such as itsbat nikah or subsequent marriage registration are pursued. From a psychological perspective, out-of-wedlock pregnancy frequently places adolescents under considerable emotional, social, and familial pressure, often leading to early marriage despite limited psychological and economic readiness. Such circumstances may increase vulnerability to mental health difficulties, disrupted education, social stigma, and marital instability. These findings highlight the importance of strengthening legal awareness, improving access to marriage registration, and providing comprehensive psychosocial support to adolescents and families facing out-of-wedlock pregnancy.

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