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THE ROLE OF THE STATE IN LEGALLY RECOGNIZING THE VALIDITY OF SILARIANG MARRIAGES IN BULUKUMBA REGENCY

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ABSTRACT

The type of research used in this study is qualitative with the research approaches used are normative sharia and juridical normative. The data collection methods used were observation, interviews, and document studies. Data processing and analysis techniques were carried out through several stages: display, data reduction, editing, data analysis, and drawing conclusions. The results of this study indicate that the background of several social backgrounds for the occurrence of silariang marriages in Bulukumba Regency is the difference in social strata for the nobility and the lower classes as well as differences in educational background, the existence of economic pressure felt by the groom due to the high dowry and wedding costs, the existence of a matchmaking system carried out by parents, and the existence of bad behavior carried out by one or both of the bride and groom which is considered to be able to tarnish the value of siri Bugis society. The impact on the perpetrator of silariang is not recognized by the family, experiencing psychological pressure, experiencing economic pressure, physical violence against the perpetrator of silariang, and not recognized by the state. The role of the state in the legal recognition of the validity of silariang marriages is in Article 7 of the Compilation of Islamic Law paragraph (2) that in the case of a marriage that cannot be proven by a marriage certificate, itsbat nikah can be submitted to the religious court.

Keywords: State law; Validity of marriage; Silariang

1. INTRODUCTION

Indonesia is a country with a rich cultural diversity. These cultures are invaluable assets that deserve continued preservation. Failure to preserve the deeply rooted cultural heritage of our nation will lead to cultural extinction and the erosion of our national identity. Indonesia boasts a diverse array of traditions, including wedding traditions. Generally, all appreciation for Indonesian wedding ceremonies, traditions, and rituals is the same: the goal is to achieve a harmonious family for both the bride and groom.[1] Allah SWT created humans as male and female, created in pairs. No human being can live alone but needs someone to accompany them or to help them. As social creatures, humans need to build good relationships with each other. The

[1] Maulida Al-Manafy, *Ketan (Filosofi Budaya Perkawinan)* (Guepedia: Indonesia, 2020), h. 95.

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purpose of creating humans in pairs is to continue the lineage by marrying to reach a new level of family.

In essence, Indonesian marriage practices are heavily influenced by customary law. This is because Indonesia's diverse ethnic groups, along with the diverse customary laws, exist. Marriage, according to customary law, is a union between a man and a woman to form a household, conducted according to custom, involving both families, relatives, and friends.[2] Marriage plays a vital role in human life, serving as a cultural pattern for controlling and establishing a strong foundation for marriage. In Islamic law, marriage is based on the Qur'an, Hadith, consensus (Ijma'), Islamic jurisprudence (fiqh), and ijtihad, demonstrating that marriage is a form of worship ordained by Allah and the Prophet. While the marriage laws applicable to each religion differ, they are not always contradictory. In Indonesia, marriage law is authentically regulated by Law Number 1 of 1974. For a nation and state like Indonesia, a national marriage law is essential, encompassing the principles and providing a legal basis for marriage, which has long been a pillar of our society and applies to various groups.[3]

Bulukumba Regency, one of the areas in South Sulawesi with a Bugis majority, is the Bugis people. Bugis marriages are characterized by traditions and rituals that possess cultural and symbolic value. Bugis marriages, particularly in Bulukumba Regency, have stringent requirements for the bride and groom. This burdensome requirement is the bride price, or dowry, which is quite high.

The silariang phenomenon is a social phenomenon practiced by some communities. Silariang is considered a last resort for couples who are in love but do not have the blessing of their parents or other family members, and run away from home. They then stay with relatives, the imam's house, or go to a distant location to hold their wedding. Silariang is a term used by the Bugis Makassarese people, meaning "elopement." Elopement is triggered by several factors, such as a rejected proposal or the lack of a bride price.[4]

In this marriage, both parties leave home to live far from their respective parents, making it difficult to obtain the consent of their guardians. They then hold their wedding in their new location. In such cases, it is difficult to determine who will be the guardian in their new residence, without clarity regarding the guardian or permission from the guardians, namely the parents of both parties. One of the requirements for a valid marriage is the consent of the prospective bride's guardian, and without one, the marriage is invalid.[5]

The practice of elopement cannot be allowed to continue among young people, even though it has positive effects that can keep them away from sin. However, young people must still be aware of the negative impacts of elopement. The Bugis people, in particular, must adhere to traditions to avoid tarnishing their ancient culture. Furthermore, those involved in elopement must ensure the legality of their marriage by registering it. A registered marriage is considered valid by the state and carries legal consequences for the family. In this case, demonstrating religious validity and legal validity are two crucial factors for a marriage.

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[2] Dewa Putu Tagel, "Pelaksanaan Pencatatan Perkawinan pada Dinas Kependudukan dan Pencatatan Sipil", *Vyavahara Duta*, vol. 14 no.2 (2019), h. 84. http://ejournal.ihdn.ac.id/index.php/VD/article/

[3] Kartika Septiani Amiri, "Perkembangan dan Problematika Hukum Perkawinan di Indonesia", *Journal Of Islamic Family Law*, vol. 1 no. 1 (2021), h. 51-52. http://dx.doi.org/10.30984/jifl.v1i1.1639.

[4] Ismar, "Praktik *Silariang* dalam Perkawinan Adat Suku Mandar Perspektif 'Urf (Studi Kasus di Desa Kuajang Kecamatan Binuang Kabupaten Polewali Mandar", *Skripsi*, h. 7.

[5] Sinarti, "Legalitas wali nikah *Silariang* (Kawin Lari) Perspektif Hukum Islam dan Kompilasi Hukum Islam (Studi Kasus di Kelurahan Bontokadatto, Kecamatan Polongbangkeng Selatan, Kabupaten Takalar", *Skripsi*, (2017), h. 3.

2. METHODS

This type of research is descriptive qualitative field research. Qualitative research is a research procedure that uses descriptive data in the form of written or spoken words from observable individuals and actors.[6] This type of qualitative research was chosen because it is field research, requiring researchers to go directly into the field to observe events and problems experienced by the community. Using qualitative research makes it easier for researchers to identify the underlying issues and the community's response to them. This type of research also helps researchers describe events, symptoms, and incidents. The research will be conducted in Bulukumba Regency, South Sulawesi Province. This location was chosen because it has all the necessary factors for successful research, and it has a large Bugis population. Furthermore, there are families who have performed the ritual and returned to their parents to apologize and seek their blessings, and they are also located in the researcher's residence.

The research approach used is a normative sharia and normative juridical approach. The data sources used are primary and secondary data. The data collection methods used in this study are observation, An interview is a face-to-face question and answer session between researchers and informants who have information or statements related to the problem being studied, guided by interview guidelines. In determining informants before conducting the interview, a purposive sampling technique was used to determine informants intentionally based on certain criteria that match the needs or information required. The sources of information in this study were employees of the Bulukumba Regency Religious Affairs Office. I chose employees of the Religious Affairs Office because I believe they can provide accurate information regarding the validity of silariang. The list of informants in this study includes employees of the Religious Affairs Office, Bugis people, RT heads, Bugis elders, mosque imams, children of silariang practitioners, and silariang practitioners in Bulukumba Regency., and document study. The research instruments used are the researcher as the primary instrument, interview guides, a mobile phone, and stationery.

To analyze the data in this study, the researcher used processing techniques with the following stages: Data display or presentation, which involves collecting data systematically and easily understood to draw conclusions; Data reduction, which involves eliminating excess data or data unrelated to the research title and adding necessary data; Editing, which involves re-examining the collected data to determine whether it aligns with the research title; Data analysis, which involves examining and processing the data to transform it into useful information, drawing conclusions, and solving the research problem; and Conclusion drawing, which involves drawing conclusions based on the data analysis and providing explanations for the collected data.

To ensure data accuracy, data validity testing is necessary. Incorrect data will lead to incorrect conclusions, and vice versa, while correct data will lead to correct conclusions. In this data validity, this is done by extending observations, increasing diligence in research, triangulation (efforts to check the accuracy of data or information obtained), and discussions with colleagues.

[6] Marinu Waruwu, 'Pendekatan Penelitian Kualitatif: Konsep, Prosedur, Kelebihan Dan Peran Di Bidang Pendidikan', *Afeksi: Jurnal Penelitian Dan Evaluasi Pendidikan*, 5.2 (2024), h. 198–211.

3. RESULTS AND DISCUSSION

Social background of Silariang

Silariang can occur due to forced marriage. Some parents, when choosing a spouse for their children, always seek a close relative, whether it's a first, second, or third cousin. The goal is to prevent inheritance from falling outside the family. For the nobility, they generally seek a spouse from their own family or from a noble lineage. This is done to maintain the purity of their bloodline. However, as life progresses, children don't always follow their parents' choices. They also have their own preferences for marriage. The deep love between the two partners leads them to reject their parents' choices.[7] As previously known, the forms of marriage that can occur in Bugis society are marriage by proposal of marriage, which is permitted by religious, customary, and legal provisions, and marriage by running away, which violates these three provisions. This form of elopement is still common in Bugis society.[8]

Some of the most common factors causing and influencing silariang marriages are:

a. Opposition to Arranged Marriages (Forced Marriages)

Some parents often choose close relatives, including first, second, or third cousins, to find a partner for their children. This is to prevent inheritance from falling outside the family. Among those descended from kings and nobles, they generally seek a partner from their own family, descendants of nobles, or descendants of the karaeng (the descendants of the karaeng). This is done to maintain the purity of their blood and lineage.

b. Economic Factors

According to Bugis marriage customs, before a marriage takes place, the groom first proposes, along with requirements such as a dowry (doi panai), a dowry (dowry), and several other requirements. If the groom cannot meet these requirements due to financial constraints, the marriage may be annulled. Offering too high a dowry is often used as an excuse to reject a man's proposal. A high dowry can discourage a man from proposing to his daughter. If they cannot afford the exorbitant dowry requirements, they may resort to the silariang (a type of marriage offering). A high dowry is considered a source of pride for themselves and their families. Demanding a high dowry is not a problem as long as the groom can afford it.

c. Rejected Proposal

The bride's parents reject the groom's proposal to their daughter. The reason the groom's proposal is rejected by the bride's family is differences in social strata or social status. Every society has differences in social strata, education, wealth, and even differences in lineage.

d. Behavior that does not align with the expectations of either party's parents

Every parent wants their child to live a happy life. Therefore, they must seek a husband from a good family. If parents see the life of the young man who proposes to their daughter, such as poor behavior or unemployment, they will reject the proposal, even if they love each other. Because of this rejection, they resort to the silariang (a type of marriage offering).

[7] Ismar, 'Praktik Silariang Dalam Adat Perkawinan Suku Mandar Perspek Tif 'Urf (Studi Kasus Di Desa Kuajang Kecamatan Binuang Kabupaten Polewali Mandar)', Al-Istinbath: Jurnal Ilmu Hukum Dan Hukum Keluarga Islam, 1.2 (2024), h. 31–36.

[8] Putri dkk, 'Kedudukan Uang Panaik Sebagai Syarat Perkawinan Dalam Adat Suku Bugis Menurut Hukum Islam'.

e. Social stratification in society.

There is a division of social classes into nobles, commoners, and commoners. In this regard, a person of higher status in society is prohibited from marrying a person of lower status; marriages are usually conducted between members of equal standing. If such a marriage takes place, the couple is considered to have violated customary law, which requires them to pay a fine or even receive customary sanctions. Traditionally, these penalties are imposed by a traditional leader. Ideally, marriage should be between someone of the same race, status, and wealth.

f. Lengthy Processes According to Customary Regulations

The bride and groom must undergo a lengthy process to achieve marriage, with the hope that they will not violate customary law and avoid the sanctions imposed on those who violate it. The many stages that must be passed through this process encourages couples to engage in silariang marriages.

The dynamics of human life journey in adolescence along with the characteristics and psychological conditions that tend to be full of curiosity make the motivation that he has so burning that the potential for conflict becomes an inevitable problem when his wishes get a reaction that is not approved by his parents, inevitably the conflict makes him brave and reckless with his own choice. The phenomenon of elopement (silariang) as the culmination of rebellion against the attitude of parental decisions in the legal perspective that has been constitutionally regulated by the state and religious law, needs to consider the aspects that are the motives for parents' reluctance to marry their children. In general, what is meant by elopement or running away is a form of marriage that is not based on the approval of the parents' proposal, but is based on the unilateral will or the will of both parties concerned. The proposal and or approval for marriage between both parents occurs after the incident of running away.[9]

Social Impact of Silariang

For the Bugis people, customary law has long been in effect, particularly regarding the issue of siri'. Customary law states that killing someone who commits silariang for siri' is not punishable, as they are considered heroes who defend their siri'. According to customary law, marriage is a matter of kinship, family, community, and dignity, and can be a private matter, depending on the social structure of the community in question. For the Bugis, a girl who is taken away or eloped without parental consent is a great disgrace, an act considered to tarnish the family's reputation and demean the dignity of the extended family, especially the woman's family. Furthermore, those who commit silariang are considered to be the living dead. They are considered dead and are no longer considered part of the family. Thus, their familial ties with their parents are severed, including inheritance issues. Although in this case, the perpetrator of silariang still has the status of a legitimate child under state law.[10]

The act of silariang is considered to violate the customs and traditions that have developed in Bugis society, and is considered an act of mappakasiri' of the family, which not only tarnishes the good name of the family, especially the parents, but silariang can also cause conflict between families. If the siri' of a person or group of people has been tarnished (dipakasiri'), then all members within it will manifest their actions to uphold siri'. The manifestation of upholding siri' in practice, can risk property, possessions and even risk lives. In addition to the tarnished siri',

[9] Puput Nurmarhama dkk, 'Eksistensi Perkawinan Silariang dalam Perspektif Hukum Adat di Desa Kapita Kecamatan Bangkala Kabupaten Jeneponto', h. 185-187.

[10] Hilma Nurullina Fitriani Fitriani, 'Silariang Cinta Yang (Tak) Direstui: Dari Kode-Kode Budaya Ke Interpretasi Semiotik Umberto Eco', Sanggam, 2.1 (2025), h. 47–60.

various impacts can be felt by parents, such as social impacts, namely becoming a topic of conversation in their neighborhood, affecting social relationships within the kinship environment, especially family members for an indefinite period, to the loss of dignity among the community where they live. When parents in the Bugis tradition are faced with the event of silariang carried out by their children, it is usually difficult for the perpetrators of silariang to obtain parental blessing. Deciding to give blessing to the marriage of a child who has carried out silariang is certainly not done immediately.[11]

The act of silariang violates Bugis marriage customs. The Bugis hold siri' (a sense of marriage that is not official) in high regard, making silariang a disgraceful act for the family of the person committing the silariang. Silariang has numerous consequences, both for the perpetrator and for their respective families.

Negative Impacts

a. Family Disintegration

The family is the smallest unit in a community. A silariang marriage is an act that humiliates or tarnishes the family's dignity and reputation because it is a disgrace. This is why relationships between families often deteriorate after a silariang marriage, sometimes even declaring the family broken. Therefore, those who engage in a silariang marriage should be aware of their responsibilities when reconciling and trying to repair their relationship so that harmony can return to their former family, especially the woman's family.

b. Violating Custom

A silariang marriage violates applicable regulations. A silariang marriage (elopement) is an act that violates customary law. Although the participants in a silariang marriage have been married by the marriage registrar, this does not mean the problem is resolved. Many challenges remain for those who engage in a silariang marriage. Traditional sanctions cannot be released until the maddeceng ceremony takes place. Therefore, communication is necessary to reconcile both parties. Hatred and resentment from parents toward their children or their children's husbands do not last forever, especially when the children have given birth to grandchildren. Thus, the family, especially the woman's family, has more or less opened their hearts to accept her back and eliminate the hostility between the two parties.

c. Not recognized by the State

A silariang marriage is a marriage that is not recognized by the state and does not require a marriage certificate from the religious affairs office, as one of the requirements for obtaining a marriage certificate is the consent of both parents.[12]

The act of elopement has a significant impact on the "siri'" (shame) held dear by the Bugis people. Therefore, if an elopement occurs, the family of the woman whose dignity and honor has been violated by her daughter's flight or being run away will kill the man who took her. This elopement also significantly impacts the dignity and honor of the man's family, so they, in addition to experiencing shame, must always be vigilant against possible attacks from the woman's family. Based on this description, it can be concluded that elopement has consequences

[11] Ismar, 'Praktik Silariang Dalam Perkawinan Adat Suku Mandar Perspektif 'Urf (Studi Kasus Di Desa Kuajang Kecamatan Binuang Kabupaten Polewali Mandar)' (Institut Pesantren KH. Abdul Chalim, 2023).

[12] Agus Muchsin, Rukiah, dan Muhammad Sabir, 'Legalitas Perkawinan Yang Tidak Tercatat Pada Masyarakat Pinrang: Analisis Perma No. 1 Tahun 2015 Tentang Pelayanan Terpadu Pencatatan Nikah', *DIKTUM: Jurnal Syariah Dan Hukum*, 17.1 (2019), h. 31–48.

for the "siri'" (marriage) held by the Bugis people. Elopement can have the following consequences:

1) Due to shame, the woman's family will move from their residence;
2) The daughter's relationship with her parents may be severed;
3) Hostility between the man's and the woman's families will arise;
4) One or both parties involved in the elopement will be killed if discovered by the woman's family.[13]

As a consequence, the marital status of those involved in silariang can be considered invalid because their parents, acting as guardians, do not give their blessing. Normatively, parental consent from both parties involved in a marriage is the most substantial requirement for a marriage to be valid under positive law, religious law, and customary law. However, this silariang case is highly problematic, as the parents of those involved in silariang are sometimes unwilling or refuse to give their blessing, leaving the perpetrator's marital status unclear.[14]

Silariang marriage is an act that should not be carried out by young men and women because it will have consequences for the perpetrator and their families. The impacts of silariang marriage are 1) hatred between the man's family and the woman's family (both in actions, words, and attitudes) which contain negative traits usually have an impact on the perpetrator. This is because the decision to marry silariang is usually made in a state of urgency. Silariang marriage is the result of thoughts when emotions are unstable. A relationship that is not approved but is still stubbornly maintained will certainly elicit a negative response from the family. Whether it is not considered a child anymore, being thrown out of the house, or even worse, if the man's family and the woman's family hate each other just because their children try to unite their relationship to a more serious level, namely marriage.[15]

The Role of the State in Legally Recognizing the Validity of Silariang Marriages

The state plays a crucial role in ensuring the validity of marriages in Indonesia, as it has institutions that validate, register, and provide legal protection for married couples. Ensuring that marriages are conducted in accordance with existing laws provides legal certainty. Marriages that are valid according to religion but not registered by the state can lead to legal issues.

Marriage practices in Indonesia vary widely, from the requirements to the ceremonies. This is because Indonesia embraces a diverse range of ethnicities, customs, races, and religions, each of which plays a significant role in the marriage process. South Sulawesi is no exception. The marriage system in South Sulawesi is deeply rooted in Bugis-Makassar customs and is known for its complex traditions, with a lengthy series of ceremonies and stringent requirements.[16]

The requirements for marriage according to Law Number 1 of 1974 are regulated in Articles 6 through 12 as follows:

a. The consent of both prospective bride and groom (Article 6 paragraph (1)).
b. The consent of both parents/guardians for prospective brides and grooms under 21 years of age (Article 6 paragraphs (1), (2), (3), (4), (5), and (6)).

[13] Muhaemin dkk, 'Analisis Pembunuhan Dalam Ikatan Hubungan Keluarga: Studi Kasus Pembunuhan Anak Di Jagakarsa', EKOMA: Jurnal Ekonomi, Manajemen, Akuntansi, 3.3 (2024), h. 790–97.
[14] Safrin Salam, 'Dispensasi Perkawinan Anak Di Bawah Umur: Perspektif Hukum Adat, Hukum Negara & Hukum Islam', Pagaruyuang Law Journal, 1.1 (2017), h. 110–24.
[15] Megawati dkk, 'The Phenomenon of Silariang in Legal Sociology Review'.
[16] N Zahrum and Anita Marwing, 'Tinjauan Hukum Islam Terhadap Uang Panai'Dalam Tradisi Pernikahan Suku Bugis-Makassar', BUSTANUL FUQAHA: Jurnal Bidang Hukum Islam, 4.2 (2023), . 266–282.

c. The prospective bride and groom must be 19 years old and the prospective bride must be 16 years old (Article 7 paragraph (1)).

d. The prospective groom and bride must not be related by blood/family ties that prohibit marriage (Article 8).

e. They must not be married to another party (Article 9).

f. For husband and wife who divorce, then remarry and divorce again for a second time, their religion and beliefs do not prohibit them from marrying a third time (Article 10).

g. There is no waiting period for a widowed bride.[17]

In Chapter I, Article 2, paragraph (1) of the Marriage Law, it is stated that: "A marriage is valid if it is carried out according to the laws of each religion and belief." From this formulation, it is clear that the religious factor is the first basis for the validity of a marriage. The laws of each religion and belief determine whether a marriage is valid or not. In the explanation of Article 2, paragraph (1), it is stated that: "there is no marriage outside the laws of each religion and belief." Every Indonesian person, including Muslims who wish to marry, must comply with the marriage provisions of their religion. So for Muslims, there is no possibility of marrying in violation of their own religious laws.[18]

Based on Article 2 paragraph (1), it firmly defends the interests of religious people, so that they can carry out marriages according to the laws of their respective religions and beliefs of the Indonesian people. Then in Article 2 paragraph (2) it is also emphasized that every marriage is recorded according to the applicable laws and regulations. Registration of marriages is to be officially recognized by the state regarding the legal status of husband and wife and children born from the marriage. Registration of marriages is not only to complete the administration of marriage, but also as a legal means to protect the rights and obligations of the parties involved in the family relationship.

In Indonesia, the state guarantees the rights of citizens to form a family and continue their lineage through legal marriage. In addition, Marriage Law Number 16 of 2019 concerning Amendments to Law Number 1 of 1974 concerning Marriage also guarantees the rights of children to survival, growth, and development and the right to protection from violence and discrimination as mandated in the 1945 Constitution. Marriage is a physical and spiritual bond between a man and a woman with the aim of building a household based on the first principle of Pancasila, namely Belief in the One Almighty God. Therefore, a woman and a man who want to carry out a legal marriage must fulfill various required provisions.[19]

Silariang in the Bugis tribe is a marriage that is not approved by the parents of the bride or the groom. A factor influencing this is generally the very high dowry that is beyond the means of the groom, so the groom takes the girl to marry. The dowry is a Bugis tradition in which a sum of money or property is given by the groom to the bride. The dowry tradition in Bugis society is a requirement for a marriage to take place, often burdening the groom if the dowry is considered high. In Islam, the dowry is not one of the pillars or requirements for a valid marriage. The dowry given to the bride as a form of respect for the bride is a requirement for a valid marriage. Therefore, the dowry is not obligatory under Islamic law.

[17] Waluyo, 'Sahnya Perkawinan Menurut Undang-Undang Nomor 1 Tahun 1974 Tentang Perkawinan'.
[18] Rizky Perdana Kiay Demak, 'Rukun Dan Syarat Perkawinan Menurut Hukum Islam Di Indonesia', *Lex Privatum*, 6.6 (2018).h.123
[19] Yuliani Catur Rini, 'Dinamika Perubahan Undang-Undang Nomor 1 Tahun 1974 Tentang Perkawinan Mengenai Batas Usia Minimal Perkawinan', AL WASATH Jurnal Ilmu Hukum, 3.2 (2022), h. 79–92.

In the practice of silariang marriage, the two men and women agree to elope together to a new place to hold a wedding without their parents' blessing. Therefore, if viewed from a legal perspective according to Indonesian law, its validity cannot be ascertained. As previously explained in Article 2 paragraphs (1) and (2) that every marriage takes place according to each person's religion and beliefs and every marriage must be registered in accordance with applicable law. If a silariang marriage has fulfilled religious requirements and has been officially registered, then the marriage is legally valid and recognized by the state and receives legal protection if any problems arise in the marriage.

Unregistered marriages will result in losses for certain parties. The consequences of unregistered marriages include:

a. The husband and wife lack authentic proof that they have entered into a legal marriage. Consequently, from a legal perspective, the marriage is not recognized by the government and therefore has no legal force. Therefore, the marriage is not protected by law and may even be considered non-existent. The state cannot provide protection regarding marital status, joint property, inheritance, and other rights arising from a marriage, because to prove the existence of a wife's rights, the existence of a marriage between the husband and wife must first be proven.
b. In the event of a breach of the marriage promise, the opportunity for dissolution of the marriage is freely open to the husband or wife at will, without any legal consequences. Consequently, almost all cases impact women, which in turn negatively impacts their children. These impacts include: neglect of wives and children, domestic violence, the phenomenon of contract marriages, the phenomenon of concubines (whose wives are other women), and the practice of unofficial polygamy.
c. This violates the objectives of Islamic law (Maqasid al-Shariah or Maqhasidus-Shari'i), one of which is to preserve offspring (souls). When a marriage is not registered, and this occurs in multiple marriages conducted by a single man, there is concern that the offspring (children) from the first, second, and subsequent marriages will marry without knowing that they share the same father.
d. Children born from unregistered marriages will face difficulties obtaining birth certificates. This is based on the fact that one of the requirements for obtaining a birth certificate is the marriage certificates of both parents (marriage book). Furthermore, children without birth certificates will face difficulties in registering for school, obtaining family allowances, and so on.[20]

Unregistered marriages risk not being legally recognized by the Republic of Indonesia. This results in several problems in the household, including the lack of legal guarantees or certainty, as the couple lacks the right to a marriage certificate. The biological father's name is not automatically listed on the child's birth certificate, as there is no marriage certificate for the parents. The child also does not receive inheritance rights from the parents, and the wife does not have the right to claim maintenance owed by the husband. If a husband and wife have already married but are not registered, then in Indonesia there is a dispensation, namely, to obtain itsbat nikah (marriage confirmation) at the local religious court. This refers to Article 7 of the Compilation of Islamic Law, which states that unregistered marriages can be submitted for itsbat

[20] Dyah Ochtorina Susanti dan Siti Nur Shoimah,, 'Urgensi Pencatatan Perkawinan Perspektif Utilities', *Rechtidee*, vol. 11 no. 2 (2016), h. 176-178.

nikah to a religious court. The application for itsbat nikah can be submitted by the husband, wife, child, guardian, or any other interested party in Indonesia.[21]

Article 7 of the Compilation of Islamic Law states that: (1) A marriage can only be proven by a marriage certificate made by a Marriage Registrar. (2) If a marriage cannot be proven by a marriage certificate, a marriage confirmation can be submitted to the Religious Court. Marriage confirmation is an attempt to determine a marriage that is not registered or not carried out before a Marriage Registrar at the Office of Religious Affairs (KUA). Based on the law, marriage confirmation is the authority of the Religious Court.[22] The legal solution for unregistered marriages is through marriage validation (itsbat) at the Religious Court. This validation includes the validation or recognition of the marriage at the time of the marriage and the validation or recognition of any children born after the marriage.[23]

In national marriage law, Law Number 1 of 1974 stipulates that a marriage is considered valid if it is conducted according to the laws of each religion and belief and is officially registered by the state. A silariang marriage is valid according to religion but is not recognized by state law because it is conducted without official registration. In this case, the state does not recognize the validity of the marriage until it is registered in accordance with applicable regulations. The state, through religious courts, can play a role in formalizing the marriage through itsbat nikah. The state, through the itsbat nikah mechanism, can act as a bridge to provide legal validity for silariang marriages or other marriages that were previously unregistered.

4. CONCLUSION

Article 2 paragraphs (1) and (2) of Law Number 1 of 1974 concerning Marriage expressly states that the validity of a marriage is based on the laws of each religion and belief and is registered according to applicable laws. Silariang marriages are valid according to religion, but are not officially recognized by the state. This occurs because silariang marriages are conducted without official registration. The registration referred to is not merely a formality, but rather a legal means to protect the rights and obligations of the parties involved in family relationships. The state is present through a marriage registration system through Marriage Registrars (PPN) at the Office of Religious Affairs. Silariang marriages can be recognized by the state by submitting a marriage confirmation at the Religious Court. The state, through the marriage confirmation mechanism, can act as a bridge to provide legal validity for silariang marriages or other marriages that were previously unregistered. Through the marriage confirmation process, it provides positive legal clarity regarding the validity of silariang marriages.

[21] Andreas Resa Ari Krisharyanto, Sophar Maru Hutagalung, and Slamet Supriatna, 'Akibat Hukum Kawin Kontrak Terhadap Kedudukan Istri, Anak Dan Harta Kekayaan Dalam Perspektif Hukum Islam', *Krisna Law*, 1.3 (2019), h. 7–16.
[22] Rinandu Kusumajaya Ningrum, 'Itsbat Nikah Sebagai Upaya Pencatatan Perkawinan Terhadap Perkawinan Yang Belum Dicatatkan', Hukum Pidana Dan Pembangunan Hukum, 6.1 (2023), h. 13–19.
[23] A Hasyim Nawawie, 'Perlindungan Hukum Dan Akibat Hukum Anak Dari Perkawinan Tidak Tercatat (Studi Di Pengadilan Agama Tulungagung)', Ahkam: Jurnal Hukum Islam, 3.1 (2015), h. 111–136.

REFERENCES

A Hasyim Nawawie, 'Perlindungan Hukum Dan Akibat Hukum Anak Dari Perkawinan Tidak Tercatat (Studi Di Pengadilan Agama Tulungagung)', Ahkam: Jurnal Hukum Islam, 3.1 (2015).

Agus Muchsin, Rukiah, dan Muhammad Sabir, 'Legalitas Perkawinan Yang Tidak Tercatat Pada Masyarakat Pinrang: Analisis Perma No. 1 Tahun 2015 Tentang Pelayanan Terpadu Pencatatan Nikah', *DIKTUM: Jurnal Syariah Dan Hukum*, 17.1 (2019).

Andreas Resa Ari Krisharyanto, Sophar Maru Hutagalung, and Slamet Supriatna, 'Akibat Hukum Kawin Kontrak Terhadap Kedudukan Istri, Anak Dan Harta Kekayaan Dalam Perspektif Hukum Islam', *Krisna Law*, 1.3 (2019).

Dewa Putu Tagel, "Pelaksanaan Pencatatan Perkawinan pada Dinas Kependudukan dan Pencatatan Sipil", *Vyavahara Duta*, vol. 14 no.2 (2019).

Dyah Ochtorina Susanti dan Siti Nur Shoimah,, 'Urgensi Pencatatan Perkawinan Perspektif Utilities', *Rechtidee*, vol. 11 no. 2 (2016).

Hilma Nurullina Fitriani Fitriani, 'Silariang Cinta Yang (Tak) Direstui: Dari Kode-Kode Budaya Ke Interpretasi Semiotik Umberto Eco', Sanggam, 2.1 (2025).

Ismar, 'Praktik Silariang Dalam Adat Perkawinan Suku Mandar Perspek Tif 'Urf (Studi Kasus Di Desa Kuajang Kecamatan Binuang Kabupaten Polewali Mandar)', Al-Istinbath: Jurnal Ilmu Hukum Dan Hukum Keluarga Islam, 1.2 (2024).

Kartika Septiani Amiri, "Perkembangan dan Problematika Hukum Perkawinan di Indonesia", *Journal Of Islamic Family Law*, vol. 1 no. 1 (2021).

Waluyo, 'Sahnya Perkawinan Menurut Undang-Undang Nomor 1 Tahun 1974 Tentang Perkawinan'.

Marinu Waruwu, 'Pendekatan Penelitian Kualitatif: Konsep, Prosedur, Kelebihan Dan Peran Di Bidang Pendidikan', *Afeksi: Jurnal Penelitian Dan Evaluasi Pendidikan*, 5.2 (2024).

Maulida Al-Manafy, *Ketan (Filosofi Budaya Perkawinan)* (Guepedia: Indonesia, 2020).

Megawati dkk, 'The Phenomenon of Silariang in Legal Sociology Review'.

Muhaemin dkk, 'Analisis Pembunuhan Dalam Ikatan Hubungan Keluarga: Studi Kasus Pembunuhan Anak Di Jagakarsa', EKOMA: Jurnal Ekonomi, Manajemen, Akuntansi, 3.3 (2024).

N Zahrum and Anita Marwing, 'Tinjauan Hukum Islam Terhadap Uang Panai'Dalam Tradisi Pernikahan Suku Bugis-Makassar', BUSTANUL FUQAHA: Jurnal Bidang Hukum Islam, 4.2 (2023).

Rinandu Kusumajaya Ningrum, 'Itsbat Nikah Sebagai Upaya Pencatatan Perkawinan Terhadap Perkawinan Yang Belum Dicatatkan', Hukum Pidana Dan Pembangunan Hukum, 6.1 (2023)

Rizky Perdana Kiay Demak, 'Rukun Dan Syarat Perkawinan Menurut Hukum Islam Di Indonesia', *Lex Privatum*, 6.6 (2018).

Safrin Salam, 'Dispensasi Perkawinan Anak Di Bawah Umur: Perspektif Hukum Adat, Hukum Negara & Hukum Islam', Pagaruyuang Law Journal, 1.1 (2017).

Sinarti, "Legalitas wali nikah *Silariang* (Kawin Lari) Perspektif Hukum Islam dan Kompilasi Hukum Islam (Studi Kasus di Kelurahan Bontokadatto, Kecamatan Polongbangkeng Selatan, Kabupaten Takalar", *Skripsi*, (2017).

Puput Nurmarhama dkk, 'Eksistensi Perkawinan Silariang dalam Perspektif Hukum Adat di Desa Kapita Kecamatan Bangkala Kabupaten Jeneponto'.

Putri dkk, 'Kedudukan Uang Panaik Sebagai Syarat Perkawinan Dalam Adat Suku Bugis Menurut Hukum Islam'.

Yuliani Catur Rini, 'Dinamika Perubahan Undang-Undang Nomor 1 Tahun 1974 Tentang

Perkawinan Mengenai Batas Usia Minimal Perkawinan', AL WASATH Jurnal Ilmu Hukum, 3.2 (2022).