

The Legal Position of Wives and Children Resulted from Siri Marriage in the Distribution of Inheritance Based on Equity

Anisya Devi Aprilia Damasynta^{*)}

^{*)} Faculty of Law, Universitas Islam Sultan Agung (UNISSULA) Semarang, E-mail: damasynta@gmail.com

Abstract. *This study aims to determine and analyze the legal position of the siri wife and the children of the siri marriage in the division of inheritance based on justice. To find out how the position of the siri wife, the position of the children resulting from the siri marriage and the legal consequences of the position of the siri wife and children in the distribution of inheritance based on justice. The approach method in this study is a normative juridical approach. The research specifications are analytical descriptive. The type of data required includes primary data, which includes the Civil Code, UUP No. 1 of 1974, KHI, PP No. 9 of 1975 concerning Implementation of UUP No. 1 of 1974, MK Decision No. 46/PUU-VIII/2010, Al-Qur'an and secondary data, namely books, magazines, websites, research results and/or scientific papers from legal circles that are related to the topic to be discussed. Collecting research data by reviewing and reviewing document studies or library materials. The data analysis method used in analyzing the data is a qualitative analysis method. The results of the study show that the position of a siri wife according to religious law is valid if it fulfills the pillars and conditions for a valid marriage even though it is not registered. According to the provisions in Article 2 paragraph (1) of the Marriage Law, a marriage is valid if it is carried out according to the laws of each religion and belief. This means that if a marriage meets the requirements and the pillars of marriage or Ijb Kabul have been carried out (for Muslims), then the marriage is valid, especially in the eyes of religion and public beliefs. But the validity of this marriage in the eyes of religion and public belief needs to be legalized again by the State, in which case the provisions are contained in Article 2 paragraph (2) of the Marriage Law. However, there are still many people who do not care about the registration of marriages, which results in the status of children being born. Second, related to the position of the siri children born from the siri marriage only having civil relations with the mother and the mother's family, the illegitimate child from the siri marriage does not obtain his rights to the maximum in a country based on law. And third, related to the legal consequences of the siri wife and siri children in the distribution of inheritance that the siri wife is not entitled*

to a living and assets gono like this in the event of a divorce and the siri children only have an inheritance relationship with their mother and her mother's family.

Keywords: Distribution; Inheritance; Marriage; Wife.

1. Introduction

Article 1 of the Republic of Indonesia Act No. 1 of 1974 concerning Marriage states that, "Marriage is a physical and spiritual bond between a man and a woman as husband and wife with the aim of forming a family, a happy and eternal household based on Belief in the One Supreme God.

Marriage in Islamic Law, is so that humans need to live as husband and wife in pairs in order to build a peaceful, peaceful and happy household, then a marriage bond or consent qabul must be held. The marriage bond is a basic element in the formation of a harmonious and loving family, so in the implementation of the marriage, legal norms are needed to regulate it. The application of legal norms in the implementation of marriage is especially necessary in order to regulate the rights, obligations and responsibilities of each family member, in order to form a happy and prosperous household.

The purpose of marriage according to Islam is to calm the eyes and protect Indonesia's self-respect as a constitutional state. It has regulated the Law on Marriage as contained in Act No. 1 of 1974, supplemented by Government Regulation Number 9 of 1975, namely regarding the implementation of Act No. 1 1974 concerning Marriage, and Presidential Instruction No. 1 of 1991 concerning the Compilation of Islamic Law (KHI) and other regulations regarding marriage.¹

In terms of marriage, Islam has talked about many things starting from the conditions and pillars of marriage, namely having to make consent and qabul as a sign of the validity of a marriage that is carried out to justify intercourse between a man and a woman who are married. This is a regulation determined by Islam, the purpose of the regulation is to make humans in pairs, make marriage legal, reduce disobedience and forbid adultery.

In carrying out a marriage, various preparations both externally and spiritually are the most important elements that must be fulfilled, the conditions and pillars of marriage become an inseparable unit. In general, marriage is a sacred bond that is closely related to religious teachings, therefore every religion always

¹Ending Sumiarni and Dewi Krisna Hardjanti, 2018, Textbook of Islamic Law, Atma Jaya University, Yogyakarta, p. 3.

connects marriage rules with religious principles. An eternal marriage is the ideal of every normal human being and no human wants their marriage to break up in the middle of the road. The aim is to preserve and develop the children of Adam, as well as to find authentic descendants.

As the basis for marriage in Indonesia, the Compilation of Islamic Law (hereinafter referred to as KHI) was formed through Presidential Instruction No. 1 of 1991 on June 10, 1991. In Article 2 of the KHI it states that "Marriage according to Islamic law is a marriage, namely a very strong contract or *miitsaaqan ghaliidhan* to obey Allah's commands and carry them out in worship."², the sound of this article in accordance with Article 2 paragraph (1) of Act No. 1 of 1974 concerning Marriage (hereinafter referred to as the Marriage Law) states "Marriage is valid if it is carried out according to the law of each religion and belief".³ So marriage is one of the religious orders for those who are able to carry it out immediately. Marriage is also the only ritual that unites two people that is officially recognized in state law and religious law.

The basic rule in a marriage is the fulfillment of the conditions and pillars of marriage. The conditions for a valid marriage are; the presence of prospective grooms and brides; prospective grooms and prospective brides must be *baligh* (smart); there is a free agreement between the groom and the bride, which is not forced from anywhere; a woman who is about to be married by a man is not one of the types of women who are forbidden to marry. Marriage pillars namely; the presence of prospective grooms and brides; marriage guardian from the bride's side; two witnesses; consent and acceptance.⁴

According to the positive law perspective, marriage is considered valid if it fulfills the material and formal requirements. The implementation of marriages in Indonesia according to Act No. 1 of 1974 concerning Marriage Article 2 paragraph (2) must be registered. The institutions authorized to register marriages are the Office of Religious Affairs (KUA) for those who are Muslim, and the Civil Registry for non-Muslims. The goal is to obtain legal legality, because marriage also includes civil ties.

Along with the development of the times, the government made laws to regulate the registration of marriages so that the establishment of marriage order in society, the husband and wife will have authentic evidence of the legal actions that have been carried out through the registration of marriages in the form of a marriage certificate. Husband or wife can take legal action if there is a dispute or if one of the parties is not responsible, this effort is to obtain their respective

²See Compilation of Islamic Law Article 2.

³See Marriage Law Number 1 of 1974 Article 2 paragraph (1).

⁴Ahmad Rofiq, 2003, *Islamic law in Indonesia*, PT. Raja Grafindo Persada, Jakarta, p. 73.

rights.⁵Marriage aims to create a *sakinah, mawaddah, and rahmah* household life. So in order to realize the purpose of the marriage, it is necessary to register the marriage.

In the implementation of marriage in Indonesia there are always various forms. Starting from marriages through the Office of Religious Affairs (KUA), runaway marriages, to marriages that are popular among the people, namely unregistered marriages. Marriages that are not registered or known by various other terms such as 'unregistered marriage', 'siri marriage' or 'sirri marriage', are marriages carried out based on religious rules or customs and are not registered at the KUA (for those who are Muslim) and Civil Registry Office (for non-Muslims). The term *siri* comes from the Arabic *sirra*, which means secret. *Siri* marriage, according to the meaning of the word, is a marriage that is carried out secretly or secretly.⁶In other words, the marriage was not witnessed by many people and was not performed in the presence of a marriage registrar. Marriage is considered legal according to religion but violates government regulations.

Unregistered marriage or unregistered marriage is one of the forms of problems that are currently still occurring in Indonesia. In fact, there are Muslim communities in Indonesia who do not follow the procedures or rules that apply, some people still practice unregistered marriages, religious marriages or private marriages (which are not officially recorded and not published).⁷However, until now some scholars and the public still do not have the same formula regarding unregistered marriage, giving rise to different perceptions of unregistered marriage between the two, namely that normatively, the assessment of the practice of unregistered marriage is valid and can bring positive wisdom even though there are those who consider it illegitimate and give rise to negative implications. Thus unregistered marriage is considered as an aberration or deviation if there is a positive legal perspective and social norms.⁸

As one of the consequences of marriage will have legal consequences. One of the legal consequences of marriage is that the child born from the marriage is a legitimate child. Legitimate children have perfect civil relations with both parents, as stipulated in Article 42 of the Republic of Indonesia Act No. 1 of 1974 concerning Marriage in conjunction with Article 99 of the Indonesian Presidential Instruction Number 1 of 1991 concerning the Compilation of Islamic Law. The civil relations referred to include the child's *nasab* rights linked to the father and mother, the right to provide for the child, the right to care and education

⁵Ibid. p. 107.

⁶Mahmud Yunus, 1979, *Marriage Law in Islam*, Cet. Eighth, Hidakarya Agung, Jakarta, p. 176.

⁷Dadi Nurhaedi, 2003, *Marriage under the Hand (Practice of Yogyakarta Student Sirri Marriage)*, Saujana, Yogyakarta, p. 26.

⁸Ibid. p. 27-28.

(hadhanah), the right to inherit, the right of marital guardianship for the father over the daughter, and other civil rights. Unlike the case with relationships outside of marriage, it does not have any legal consequences.

Marriages that are not registered at the KUA do not have legal force, and these marriages are not recognized by the State even though the law is valid according to Islamic law. It is said so, because such a marriage model does not have proof of marriage, namely the existence of a Marriage Certificate / Marriage Book. While in Article 7 paragraph (1) KHI explains, that⁹"Marriage can only be proven by a marriage certificate drawn up by a marriage registrar." Legally, women are not considered as legal wives. She is not entitled to maintenance and inheritance from her husband if the husband dies. In addition, the wife is not entitled to joint property if there is a separation because legally the marriage is deemed to have never happened. As a result, children from unregistered marriages are also not legal under state law.

A child born as a result of a biological relationship between a man and a woman will have status and position in the eyes of the law based on the marriage of his parents. A legal marriage will give birth to a child who has legal status and position in the eyes of the law, while a child born from an illegal relationship without a legal marriage will have the status of an illegitimate child when he is born.¹⁰Those who are victims of this type of marriage and who usually arise if there are problems, clashes and an interest in the form of denial of the occurrence of underhanded marriages that are carried out are children. Not infrequently the children born in the marriage are not recognized. Sometimes problems also arise in terms of inheritance distribution.

For the inheritance status of children out of wedlock or children from unmarried marriages, in practice many people do not know whether or not it is permissible to give their inheritance to children from unmarried marriages and sometimes they are even treated like legitimate children, because indeed the child is legally religious so that the entire inheritance will be given to him which ultimately sparked the anger of the other heirs, but when a dispute arose in court, it was stated that he only received a small portion of the assets or received nothing because of his weak position in positive law in Indonesia.

There are also many children from siri marriages who are not legalized and their parents also do not carry out itsbat nikah until the child is an adult and his

⁹See Compilation of Islamic Law Article 7.

¹⁰Ari Eko Mulyani, 2015, Comparison of the Legal Protection of the Right to Inherit a Child of Wedlock in the Perspective of Compilation of Islamic Law with the Decision of the Constitutional Court No.46/PUU-VIII/2010 Concerning the Status of Natural Children out of Wedlock, Thesis, UNISSULA, Semarang, p. 4.

parents die. As a result, the child has no civil relations and any relationship with his parents, especially his father. Children resulting from siri marriages also often receive discrimination from their own families when inheritance occurs, such as reducing the inheritance from what should be given to them, even though both parents have recognized the child or have carried out itsbat marriage so that the child becomes a legitimate child. This is certainly not in accordance with the rules of inheritance law in force in Indonesia. Therefore, the registration of marriages as evidenced by the existence of a Marriage Certificate / Marriage Book, is a means of protecting the law in the context of upholding justice.

Based on the problems described above, of course we can observe that the life of children born out of wedlock to men and women is very difficult. On the one hand, children born out of wedlock to their biological parents are looked upon with contempt and often receive ridicule, ostracism and even bad treatment from the local community. In fact, children born out of wedlock are not sinful and guilty, it is the fault of both parents. But it is the child out of wedlock who is always the victim of this despicable act. Apart from being looked down upon and even receiving bad treatment from society, on the other hand in terms of the welfare and civil rights of children out of wedlock they are still subject to restrictions.

Since birth humans become supporters of rights and obligations, as well as children out of wedlock, they are also supporters of rights and obligations as other members of society. Therefore, children out of wedlock are also entitled to legal protection, including in the civil field, as enjoyed by other children. There should be no discrimination in matters relating to human rights. This is in accordance with the provisions of Article 27 paragraph (1) of the 1945 Constitution of the Unitary State of the Republic of Indonesia, which states that: "all citizens have the same position before the law".¹¹

2. Research Methods

The approach method in this study is a normative juridical approach. The research specifications are analytical descriptive. The type of data required includes primary data, which includes the Civil Code, UUP No. 1 of 1974, KHI, PP No. 9 of 1975 concerning Implementation of UUP No. 1 of 1974, MK Decision No. 46/PUU-VIII/2010, Al-Qur'an and secondary data, namely books, magazines, websites, research results and/or scientific works from legal circles that are related to the topic to be discussed. Collecting research data by reviewing and reviewing document studies or library materials. The data analysis method used in analyzing the data is a qualitative analysis method.

¹¹Rosnidar Sembiring, 2016, Family Law, Property in Marriage, PT. Raja Grafindo Persada, Jakarta, p. 117.

3. Results and Discussion

3.1. Position of Siri's wife according to applicable law in Indonesia

In some Indonesian people, marriages are only carried out according to the rules of religious law, but no registration is carried out so that the husband and wife do not have a marriage certificate as authentic proof of the marriage that has been carried out. Meanwhile, according to Article 2 paragraph (1) of the Marriage Law, it states that "marriage is considered valid if it is carried out according to the laws of each religion and belief". And in Article 2 paragraph [2] states "every marriage is recorded according to the applicable laws and regulations". Then deepThe Compilation of Islamic Law also states that "In order to ensure order in the Islamic community, every marriage must be recorded" (see Compilation of Islamic Law article 5 paragraph [1]). So if a marriage is carried out according to religious law but is not registered at a marriage registration institution such as the KUA for those who are Muslim and the Civil Registry Office for those who are not Muslim, then the marriage is considered invalid because it is not in accordance with statutory regulations.

So that what is called the term unregistered marriage or underhand marriage appears. The term arose because the marriage was hidden from the general public, or was enlivened but not in front of the Marriage Registrar. Because the most important thing is that the marriage contract is religiously valid. The case of unregistered marriage is a legal choice based on a religious context where the emphasis on its existence is not just a legal relationship, but rather the consequence of the practice of worshiping God. From here then cases of unregistered marriages or underhanded marriages spread to become a separate phenomenon.

Even though it is widely known that in principle unregistered marriage harms women, until now this phenomenon is still common. The practice of unregistered marriages does not only occur in communities that are law-abiding, have low education, or are in the middle and lower economic class, but also occur in many educated people who understand the law, or in middle and upper class societies which can be said to be very economically independent. Not infrequently found among the general public, students, artists, scholars and even officials.

There is a need for arrangements regarding unregistered marriages, because it turns out that in the course of time such marriages are far from being touched by the law. Women as perpetrators of unregistered marriages or children born as a result of unregistered marriages do not receive legal protection when there is neglect of the household by their siri husband. Thus unregistered marriage is a momentary pleasure, which brings long and never-ending suffering for women who become perpetrators of unregistered marriages.

Ali Mansyur emphasized that the wife in a siri marriage does not have authentic evidence that is recognized by law as a legal wife. If the dispute is in the household either when it is still alive or dead, one party or both cannot demand a settlement through an official state institution (cannot go through a judicial

institution). The emergence of legal obligations regarding rights and obligations with unregistered marriage cannot be prosecuted formally except in a family manner. Regarding legal actions taken against other rights, they are only personal in nature, not as husband/wife (both regarding compensation, dependents on pension rights, benefits and others).¹²

Unregistered marriages are not recognized and recognized by state law, and they do not have the right to legal protection for the marriages they undertake. The husband's rights and the rights of the new wife can and can be protected by law after obtaining authentic evidence regarding their marriage. Siri marriages have no legal force, this violates Article 6 KHI, only because the sanctions and threats of punishment have never been enforced, the regulation does not work as it should.

Starting from the description above, the position of unregistered marriage seen from the laws and regulations on marriage in Indonesia, then this unregistered marriage is an invalid marriage, because it does not fulfill the provisions of article 2 paragraph [1] and paragraph [2] of the Marriage Law. So that such marriages will lead to very complex legal issues for children born from this unregistered marriage.

It is said so, because marriages that are not recorded at the KUA or unregistered marriages, according to the author, will actually harm the perpetrators themselves, especially for their wives and children. So that it can be understood, that marriage registration is not just to complete the administration, but to protect the rights of every family member, both husband, wife and children born. In addition, to protect material rights, such as the right to inherit, assets gono like this in the event of divorce and other civil rights.

Based on this explanation, siri marriage does not have the meaning of guaranteeing legal certainty over marital status with all the consequences it causes. Even though unregistered marriages are considered valid under Islamic law, this has caused many problems in which the rights of those who carry out unregistered marriages are not protected by law, because they are not legally married. In addition, laws and regulations clearly regulate the validity of marriages that must also be recorded. Texts from the Al-Qur'an and Hadith do not explicitly discuss the prohibition of unregistered marriages. Therefore, the registration of marriages as evidenced by the existence of a Marriage Certificate / Marriage Book, is a means of protecting the law in the context of upholding justice. Justice in question is guaranteeing the rights of every family member.

3.2. The Position of Siri's Children From the Perspective of the Law Applicable in Indonesia

¹²Zainuddin and Afwan Zainuddin, 2017, Legal Certainty on Siri Marriage & Its Problems in View of Law Number 1 of 1974, CV Budi Utama, Sleman, p. 29.

The illegality of unregistered marriages according to state law has a negative impact on the status of children born before the law. The status of the child born is considered as an illegitimate child. Consequently, the child only has civil relations with the mother and the mother's family. Information in the form of status as a child out of wedlock and the absence of the father's name will have a very deep impact socially and psychologically for the child and his mother. It could be, one day his father denied that the child is not his biological child. What is clearly very disadvantaged is that children are not entitled to living expenses and education, maintenance and inheritance from their father. This causes psychological disturbances for children, even though legally the child does not have legal consequences from the actions of his parents.

Furthermore, how is the legal protection of children from a marriage that is not recorded. The stigma of illegitimate children or children illegitimate in Indonesian legal language for children born from extramarital relations or illegitimate marriages has clashed the relationship between Islamic law and state law in terms of the recognition of children born from unregistered marriages.

Children born from unregistered marriages are considered as children outside of marriage (considered illegitimate) by the State so that the child only has civil relations with the mother and the mother's family, while there is no civil relationship with the father (Articles 42 and 43 of the Marriage Law and Article 100 KHI) .¹³This can be found when an application for a child's birth certificate is submitted to the Civil Registry Office. If the parents cannot show the marriage book, then the child's status at the birth of the child is considered as a child out of wedlock, the name of the biological father is not written and only the name of the biological mother is written.

Children out of wedlock, according to articles 42 and 43 only have civil relations with their mother and their mother's family, as well as their inheritance rights. This causes injustice to the mother and child because in order to instill the child in the mother's womb, there must be a role from the man as the biological father. According to Article 872 of the Civil Code, the requirement for a child out of wedlock to be able to obtain inheritance rights from his biological parents is if he has been recognized by his biological parents.

The position of children according to Islamic law as contained in the Compilation of Islamic Law (KHI) has the same view as the Marriage Law, because Article 100 KHI contains a formulation that is no different from Article 43 paragraph (1) of the 1974 Marriage Law, where a child out of wedlock is only Has a family relationship with his mother and his mother's family. In addition, Article 103 KHI states that the origin of a child can only be proven by means of a birth certificate or other evidence. Meanwhile, children from unregistered marriages do not have

¹³Zainuddin Op. cit. p. 77.

birth certificates because their parents' marriages are not registered at the civil registry office and the office of religious affairs.¹⁴This means that according to the Marriage Law and the Compilation of Islamic Law above, it states that a legitimate child is a child born from a legal marriage. The meaning of a valid marriage is that it is legal according to the rules of the religion or belief one adheres to and is recorded at the KUA. And a child born out of wedlock only has a family relationship with his mother and his mother's family.

The ambiguity of the child's status before the law resulted in the relationship between the father and the child not being strong, so that one day the father might deny that the child was his biological child. A further consequence of unrecorded marriages is that children born out of these marriages are not entitled to claim maintenance, educational expenses or inheritance from their father. Unless his father still wants to be responsible and still based on his rights and obligations according to Islamic law¹⁵. In a siri marriage, it cannot be denied that there is a blood relationship and heredity between the biological father and the child himself. Likewise, the natural (genetic) father/father is not legal as a guardian to marry off his natural (genetic) child. If the child happens to be a daughter and wants to get married, the marriage guardian is the judge's guardian, because it belongs to a group that does not have a guardian.

One of the most crucial problems for children is that children do not get proper treatment compared to children from official families. According to Islamic Shari'a, the child's relationship with his father and mother is not problematic but when faced with state law, civil relations with his biological father are not recognized. The child's suffering increases if the father and his father's family do not recognize and are only recognized by the mother and the mother's family, so that life support facilities are cut off. If the mother has been abandoned or divorced by the father, all the rights of the mother and child cannot be obtained unless there is awareness from the father to carry out religious provisions.

Considering that this unregistered marriage has a very vulnerable impact on the growth and development of children born from this marriage, it is better as a reference for analysis is the case of singer Machica Muchtar and his son Iqbal Moerdiono who sued former Minister of State Secretary Moerdiono to admit that his son was indeed It is true that they are related by blood to Mr. Moerdiono, because they are legally married according to Islamic law, but until now Machica Muchtar's demands have never materialized to fight for the normative rights of his son as a legitimate descendant of Moerdiono.

¹⁴Nurul Akhwati, 2017, *Inheritance Status of Children in Siri's Wife's Womb According to Islamic Law and Civil Law*, Thesis, UIN Alaluddin Makassar, p. 43.

¹⁵Zainuddin op. cit. p. 78.

In relation to the position of illegitimate children born from unregistered marriages only having civil relations with their mothers and their mothers' families, illegitimate children from unregistered marriages do not obtain their rights to the fullest in a country based on law. Therefore, it is appropriate for the State which has a service function to the community to provide legal protection for the normative rights of children out of wedlock.

3.3. Legal Effects on the Position of Siri's Wife and Siri's Children in the Distribution of Inheritance Based on Justice

From the point of view of applicable law in Indonesia, unregistered marriage is a marriage that is carried out not in accordance with the provisions of the applicable laws and regulations. As we understand that based on the provisions of Article 2 paragraphs [1] and [2] of the Marriage Law jo. Article 4 and Article 5 paragraphs [1] and [2] KHI, apart from having to carry out a marriage legally according to religious law, must also be registered by an authorized official. Thus, in the perspective of legislation, unregistered marriage is an illegal and invalid marriage.

The phenomenon of unregistered marriages cannot be separated from legal marriages. Marriages that are carried out legally will have legal consequences, such as the rights and obligations of the husband and wife, marital assets, reciprocity between the two parents and children (nasab), child care obligations, and inheritance.

One of the consequences of a legal marriage is that a child born from this marriage is a legitimate child, has a perfect civil relationship with both parents, as stipulated in the provisions of Article 42 of the Marriage Law in conjunction with Article 99 KHI. The civil relations referred to include nasab (lineage) rights for children to be connected to the father (in Islam), the right to fulfill a living from parents to children, rights to care and education (hadhanah), mutual inheritance rights, marital guardianship rights for fathers over daughters, and other civil rights.

Unlike the case with legal marriages, illegitimate marriages do not have any legal consequences for the parties bound in the marriage. If we relate it to the provisions of Article 2 paragraph (1) of the Marriage Law by using an a contrario legal interpretation, an invalid marriage is a marriage that is not carried out according to the laws of each religion and belief, so that there are no rights and obligations arising from the marriage. , because according to the law of the state the marriage is deemed never to have existed. So there is no legal standing for each party to file a lawsuit for negligence against a particular party.

Unregistered marriage raises various problems, including that the marriage is not registered with the marriage registrar as referred to in Article 2 paragraph [2] of Act No. 1 of 1974, so that the marriage cannot be legally proven. This has

implications for the non-recognition of marriage events by state law. Such a marriage event has the meaning that the marriage event is considered non-existent so that it cannot be legally processed. Unregistered or unregistered marriages have no legal consequences and do not have legal recognition. So the marriage does not fulfill the administrative elements as stipulated in Article 2 paragraph (2) of the Marriage Law, so from the point of view of the Marriage Law the marriage is invalid and has no legal force.

Therefore, it is not possible for a woman who is in an unregistered marriage to a man to obtain a marriage certificate from the KUA. Considered illegal, unregistered marriages are generally very detrimental to wives and women in general, including the children obtained from such unregistered marriages. This can be seen in several ways as follows:

a. Consequences of the law of siri marriage. Even though religion or customs are considered legal, marriages carried out outside the knowledge and supervision of marriage registrars at the KUA have no legal force and are considered illegal in the eyes of the law.

b. Siri marriage is not recognized in the Indonesian legal system. The Indonesian legal system does not recognize the term "siri marriage" and the like and does not specifically regulate it in a regulation. However, sociologically, this term is given to marriages that are not registered and are considered to have been carried out without fulfilling the provisions of the applicable laws, particularly regarding the registration of marriages as regulated in Article 2 paragraph (2) of the Marriage Law.

c. The impact of unregistered marriages on wives is very detrimental to wives and women in general, both legally and socially. Legally, the wife is not considered as a wife; the wife is not entitled to maintenance and inheritance if the husband dies; also the wife is not entitled to the assets of the gono gini if there is a separation, because legally a siri marriage is considered never to have happened; whereas socially, the wife will find it difficult to socialize because women who carry out unregistered marriages are often considered to have lived in the same house with men without marital ties (*kumpul kebo*) or the wife is considered to be a mistress.

d. Impact on children; Meanwhile with regard to children, the invalidity of unregistered marriages according to state law has a negative impact on the status of children born, namely: First, the status of children born is considered illegitimate. Consequently, the child only has civil relations with his mother and his mother's family. This means that the child has no relationship with his father (articles 42 and 43 of the Marriage Law) and Article 100 KHI. On his birth certificate his status is considered as a child out of wedlock, the name of the mother who gave birth to him is stated. Information in the form of status as a child out of wedlock and the absence of the father's name will have a very deep impact socially and psychologically for the child and mother. Second, the unclear

status of the child before the law results in a weak relationship between father and child.

Thus, the legal consequences of such unregistered marriages create legal uncertainty for the children who are born as well as for the women who enter into this unregistered marriage. For the legal consequence, the child will not get his rights as a child from his biological father if the biological father is not willing to provide living expenses as is the case with the rights of a legitimate child. Meanwhile, the woman who enters into a siri marriage will not get her rights as a wife from her siri husband.

4. Conclusion

The position of unregistered marriage is seen from the laws and regulations on marriage in Indonesia, so this unregistered marriage is an invalid marriage, because it does not comply with the provisions of article 2 paragraph [1] and paragraph [2] of the Marriage Law. So that such marriages will lead to very complex legal issues for children born from this unregistered marriage. The legal certainty of siri marriage is that it does not have the meaning of guaranteeing legal certainty over the status of marriage with all the consequences it brings, because in practice siri marriage does not cover the conditions and pillars and creates many problems where the rights of those who carry out a siri marriage are not protected by law, because legally formally they are not married. The legal consequences of unregistered marriages create legal uncertainty. So that the marriage is invalid because it has no legal force, and results in children from the marriage, whether those who have been born or who are still in the womb of the siri wife, do not have a civil relationship with their biological father, where he only has civil relations with his mother and his mother's family, both in terms of inheritance and other civil matters. For the legal consequence, the child will not get his rights as a child from his biological father if the biological father is not willing to provide living expenses as is the case with the rights of a legitimate child. Meanwhile, the woman who enters into a siri marriage will not get her rights as a wife from her siri husband, including inheritance.

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Regulation:

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- [2] *Act No. 1 of 1974 Concerning Marriage.*