



**Government's legal policy on the protection of women and children pre
and post-illegal marriages**

Syarifah Rahmatillah*✉, Amrullah Bustamam**

**Universitas Islam Negeri Ar-Raniry, Banda Aceh, Indonesia
Email: syarifah.rahmatillah@ar-raniry.ac.id*

***Universitas Islam Negeri Ar-Raniry, Banda Aceh, Indonesia
Email: amrullah@ar-raniry.ac.id*

ABSTRACT

This study focuses on efforts made by the Aceh government to protect women and children before and after illegal marriages. The author uses a victimology theory approach to see the efforts made by the government in these cases. The author examines two problems; how the modus operandi of illegal marriage under state law occurs in Aceh and what countermeasures the Aceh Government has taken to protect women and children of Pre and Post-Illegal Marriage in Aceh. This research is a combination of Normative and Empirical research. The results indicate that the modus operandi of illegal marriage under state law occurs in Aceh includes siri marriage (unofficial, unregistered marriage) and its legal consequences, illegal polygamy by civil servants, early marriage, polyandrous marriage, Cina Buta marriage (muhallil or a proponent to reconcile a couple (wife and husband) who had divorced by triple divorce). The countermeasures implemented by the Aceh Government to protect women and children Pre and Post Illegal Marriage in Aceh include: conducting socialization to secondary schools about marriage following state law, issuing Aceh Governor Regulation no.25 of 2017 concerning the implementation of one-day service marriage validation (isbath nikah-marriage legalization-program during the conflict and tsunami), isbath nikah as a benchmark for data on the number of siri marriages, marriage dispensation for early marriage by teenagers, qanun policy on legalizing polygamy through qanun family law in Aceh illegal polygamy, and implementation of The Constitutional Court decisions on civil recognition of the status of children out of wedlock with biological fathers.

Keywords: Protection of women; children; illegal marriage.

✉ Corresponding author:

Email Address: syarifah.rahmatillah@ar-raniry.ac.id

Received: December 16, 2022; Accepted: March 22, 2023; Published: March 31, 2023

Copyright © 2023 Syarifah Rahmatillah, Amrullah Bustamam

DOI: <http://dx.doi.org/10.22373/equality.v9i1.16124>

ABSTRAK

Studi ini lebih memfokuskan pada upaya yang dilakukan Pemerintah Aceh dalam melindungi perempuan dan anak pra dan pasca perkawinan ilegal, penulis menggunakan pendekatan teori viktimologi sebagai upaya melihat upaya pemerintah dalam hal ini. Ada dua masalah yang peneliti kaji yaitu bagaimana modus operandi kawin ilegal secara hukum negara yang terjadi di Aceh dan apakah upaya penanggulangan yang dilakukan Pemerintahan Aceh untuk melindungi perempuan dan anak pra dan pasca pernikahan ilegal di Aceh. Penelitian ini sendiri merupakan penggabungan antara penelitian normatif dan empiris. Hasil penelitian ini menunjukkan bahwa modus operandi kawin ilegal secara hukum negara yang terjadi di Aceh, yakni: nikah siri dan konsekuensi hukumnya, poligami ilegal oleh aparat sipil negara, pernikahan oleh pasangan anak-anak di bawah umur, pernikahan poliandri, pernikahan modus cina buta. Sedangkan upaya penanggulangan yang dilakukan Pemerintahan Aceh untuk melindungi perempuan dan anak pra dan pasca pernikahan ilegal di Aceh yakni: melakukan sosialisasi ke sekolah-sekolah menengah tentang pernikahan yang sesuai hukum negara, mengeluarkan Pergub Aceh No. 25 Tahun 2017 tentang Pelaksanaan Pengesahan Nikah Pelayanan Satu Hari (Program Isbath Nikah Saat Masa Konflik dan Tsunami), isbath nikah sebagai tolak ukur data banyaknya kawin siri, dispensasi nikah bagi anak di bawah umur, kebijakan qanun tentang legalisasi poligami melalui qanun hukum keluarga di Aceh poligami ilegal, pelaksanaan putusan MK tentang pengakuan secara perdata status anak di luar nikah dengan ayah biologis.

Kata Kunci: Perlindungan perempuan; anak; nikah ilegal.

1. INTRODUCTION

Siri marriages or marriages without involving legal registration have been declared a violation of the law by the Ministry of Religious Affairs. The reason is that *siri* marriages violate Law No. 22/1946, which states that every marriage must be supervised by a marriage registration officer. Furthermore, the status of contract marriage is the same as *siri* marriage, meaning it is not legal according to the state. Contract marriage, or *mut'ah* marriage, which is widely known in several regions in Indonesia, is a marriage contract conducted by two prospective brides with an agreement for a certain time. Because it is done illegally, this marriage is not registered with the authorized agency.

In law, contract marriages are not allowed because, as stipulated in Law Number 1 of 1974 concerning Marriage. Article 1 of the Marriage Law states, "Marriage is the inward and outward bond between a man and a woman as husband and wife to form a happy and lasting family (household) based on God Almighty." Furthermore, Article 2, paragraph (1) states that "Marriage is valid if performed according to the laws of each religion and belief." It means that if a marriage is not carried out based on the religion and beliefs of each party, it will not be legally approved (Hermawan 2021).

The existence of unregistered marriages, in any form and construction, is an obstacle and carries risks for the recognition and fulfilment of children's rights in family law. Protecting offspring is a human right recognized as part of human rights in Islam. In the

concept of human rights, al Ghazali states that *al-Kulliyat/al-Maqashid al-Khamsah*, or 5 (five) universal basic rights are (1) related to the protection of the soul and body (*Hifdz an-Nafs*); (2) related to the protection of the mind (*Hifdz al-Aql*); (3) protection of religion/belief (*Hifdz ad-Din*); (4) protection of property (*Hifdz al-Mal*); (5) protection of honor and descent (*Hifdz al-Irdl wa al-Nasl*).

In reality, children born from unregistered marriages have an impact on the fulfilment of children's rights in family law. At the same time, it also affects the fulfilment of children's rights as human rights and as subjects of citizenship, such as the right to identity (birth certificate, kinship relations, citizenship). Even worse, children born from unregistered marriages with exploitative indications or who are not recognized by the *nasab* (family lineage) and are excluded from social relations with family/relatives lose their social status as children of their father. It is then possible that such a situation would seem like a non-marital child.

Empirically, the reality of children born out of marriage who are then qualified as non-marital children is an undeniable and unconcealed social fact. Therefore, the State should not be ignorant and not protected by regulations. This fact is a common phenomenon worldwide because it is not only a specific Indonesian problem.

Unregistered marriages on children imply that unregistered marriages will harm the interests and threaten the fulfilment, protection, and enforcement of children's rights. As a legal event, marriage is undoubtedly directly correlated with the children born, concerning family law and children's rights, which are guaranteed as human rights (child's rights are human rights).

In fact, in various cases reported to The Indonesian Child Protection Commission (KPAI), unregistered marriages for polygamy are carried out by educated people with positions and economic capabilities, which ultimately have long consequences for other legal problems. In *siri* marriages, the potential for domestic violence remains high. If violence occurs, the victim cannot process it as domestic violence. There must be a marriage book to process the problem of domestic violence. If she reports it to the police, it will only be processed as a general crime. The position of women in *siri* marriages is awry. When she or her legal spouse reports it, she remains a victim because she could be caught in adultery law.

Furthermore, CNN Indonesia revealed that several people who claimed to be *ustadz* (religious teachers) were successfully met and contacted. From them, confessions show how many marriage practices occur without state supervision. Economic motives are thought to be the target of the headmen who dare to marry couples under the hand (www.cnnindonesia.com, 2019).

Siri marriage, contract marriage, and illegal polygamy are frightening spectres in a civilized society. However, these marriages continue to occur for various reasons. On the other side, the government must also increase protection for all women and children, both pre and post-illegal marriage by law. The question is whether or not the order focuses on preventing this illegal marriage.

Since the study of the phenomenon of illegal marriage above has not received proper attention from the government, it is of considerable interest to be investigated. The research will focus on the efforts made by the Aceh government in dealing with these illegal marriages

with a victimology theory approach as a government effort to protect women and children before and after the unlawful marriage itself.

2. LITERATURE REVIEW

Regarding the literature review, the author has traced that there has been no writing on the Protection of Women and Children Before and After Illegal Marriage by the Government of Aceh. However, there is a study written by Sobari (2018) about *siri* (unregistered) marriage. This marriage is a term that has developed in society which means marriage under the hands; namely a marriage process in accordance with the rules and regulations that apply in Islam, such as the presence of guardians, witnesses and consent qabul, it's just that registration is not carried out at the Office of Religious Affairs (KUA) as an official official from the office of the Ministry of Religion for those who carry out their marriage according to Islam, and in civil offices for those who marry according to religion and belief other than Islam. Without records, the government has not directly acknowledged the existence of this official bond, so that there are matters relating to the rights of children and wives that cannot be fulfilled.

Furthermore, writing from Fadhli et al. (2022) who examines the political law of marriage age limits and marriage dispensation in Indonesia, in this study Fadhli only limits it to knowing the dialectics of formulating child marriage age limits, because this has been explicitly voiced by the women's movement during the colonial period because many daughters are married off. This means that this study is limited to studying the age limit for marriage and marriage dispensation, not to studying increased protection for women and children specifically in Aceh.

3. METHOD

This research uses two types of research simultaneously: normative and empirical. This research sees the law as an existing norm and its societal application. There are two meanings regarding this empirical normative research. First, Normative Legal Research is legal research that includes research on legal principles, legal systematics, legal history research and comparative legal research. This normative research in practice is called legal research that uses secondary legal sources or data obtained through library materials.

Second, Empirical Legal Research is research by looking at empirical realities or problems in research locations based on the perspective of normative foundations of legislation. Based on the validity of the situation in the field, the new author conducts a study or examines it in order to find the truth. The author conducted empirical legal research to review the practices of illegal marriages in Aceh Province and the government's efforts to overcome them.

The approach method used in this research is sociological juridical. It means that law research will be conducted sociologically or pay attention to other social aspects and institutions.

4. FINDINGS AND DISCUSSION

4.1. *Modus Operandi of Illegal Marriages Under State Law in Aceh*

Truthfully, Islam respects the dignity of a woman. One way to elevate women's status is by marrying a good man. The primary purpose of marriage is to continue good offspring, be

legal according to religion, and avoid adultery. During the *Jahiliyah* period, their culture was to lower women's status; even if a baby was born and the baby was a woman, the baby's father did not hesitate to kill her because she was considered to lower the status of men.

Based on several Prophetic hadiths, it is explained that in the early days of Islam, there were at least 7 Islamic revisions to the *Jahiliyah* culture that discriminated against women, namely:

- a. Women in Islam are people whose rights are protected by law.
- b. Women have the right to choose a life partner independently.
- c. Women have the right to break the bond of marriage.
- d. Women have the right to inheritance and property.
- e. Women have the right to care for children (*Hasanah*)
- f. Women have the right to *tasaruf* (spend/manage) their property.
- g. Women have the right to life by establishing a ban on the killing of girls, which became the tradition of the Arabs of *Jahiliyah* (Sarong 2009).

Marriage has the meaning of gathering or collecting. Law No. 1 of 1974 explains that marriage is a physical and mental bond between a man and a woman as husband and wife to form a happy and lasting family based on the Almighty God. While marriage, according to Islam, is the mixing or gathering of two people (men and women) who are not *mahram* (a family member who is forbidden to marry) in the bond of *akad* (agreement) to be allowed to have sexual intercourse.

The legal basis for marriage in Islam is the Quran and Sunnah. Several *surah* in the Quran discuss the legal basis of marriage. Here are those verses: Quran Surah Annisa verse 1: "O mankind! Have piety (*taqwa*) towards your Lord, Who created you from a single soul (Adam may peace be upon him) and from him created his mate and from the two of them dispersed a multitude of men and women. Have piety towards Allah by whose Name you request one of another and be careful of the wombs (the rights of kinship). Surely, Allah is Watcher over you." Furthermore, Allah said in Quran Surah An Nuur verse 31: "And let those who do not find the means to marry, keep themselves chaste, until Allah enriches them of His Virtue. In addition, those who ask for writing (of emancipation) from among those whom your right hands possess (your male and female slaves), give them the writing (of emancipation) if you know any good in them, and give them of the wealth which Allah has given you. And do not compel your slave girls to prostitution when they desire to protect their chastity in order to seek the frail good of this world's life. Whoever compels them, then surely after their compulsion, Allah is Oft-Forgiving (the One converts the sins into merits), Most Merciful (the One that manifests with His mercy attribute)."

Moreover, Allah said in Quran Surah Ar Rum verse 21: "And as of His Signs, He created mates for you from your souls that you may find rest in them. And He put between you love and mercy (compassion). Most surely there are Signs (proofs) in this for a people who reflect (reckon)". Lastly, Al Quran Surah An Nahl verse 72 said that "And Allah has made for you from your own souls *Azwâc* (mates, spouses) of your own kind, and has made for you, from your mates, sons and grandsons and has provided you with good (and pure) things. Is it then in the falsehood that they believe while it is in the Blessing of Allah that they disbelieve?"

In the hadith or sunnah, there are several that become the basis of the law of marriage, namely: "Women are married for four things, namely for their wealth, their offspring, their beauty, and for their religion. So, get a woman who is religiously observant and you will be lucky." (Narrated by Bukhari and Muslim). "But I pray, sleep, fast, break my fast, and marry women. Whoever hates my sunnah does not belong to my Ummah." (Narrated by Bukhari and Muslim). "If a person marries, he has completed half of his religion. Therefore, fear Allah in the other half." (Narrated by Baihaqi).

Indonesia has legally created various laws and regulations to protect women and children from all acts that will torment them throughout their lives. For instance, it is stipulated in Law No. 1/1974 on Marriage. This marriage law explains the definition of a valid marriage according to state law, which has logical legal consequences. As a result, children from a valid marriage will get legal facilities from the state in the form of birth certificate registration and others.

Nevertheless, in this millennium era, some Indonesians, especially Acehnese, still conduct marriages that are not valid under state law even though they are valid under sharia law. However, the consequences of marriages that are not legally valid in Indonesian state law cause many women to become victims after being divorced by their husbands. For example, children who do not get birth certificates cannot claim inheritance and others. According to Alidar, the Head of the Aceh Islamic Sharia Office, the prevalence of marriages that are not following state law, such as *siri* marriage, harms married life because many men are not responsible for their wives and children (<https://www.cnnindonesia.com/>). Therefore, the legislators in Aceh for the 2020-2024 period plan to legalize Polygamy. It means this is an effort to maintain the rights of women who become second wives supported by state law.

As of April 2020, the massive spread of the coronavirus in Indonesia has disrupted various community activities, one of which is marriage. Through the Ministry of Religious Affairs, the government has issued a regulation where marriage registration will only be carried out at the Office of Religious Affairs (KUA) and only for those registered before April 1, 2020. However, for prospective brides who register after April 1, the KUA will not conduct marriages until an undetermined time limit. Therefore, *siri* marriage is "an alternative way" for couples who still want to get married during this pandemic.

On the other hand, the Secretary General of the Indonesian Ulema Council (MUI), Anwar Abbas, said that *siri* marriage is legal as long as the conditions and pillars of marriage are fulfilled. "The pillars of marriage in Islam are the groom, bride, guardian, two male witnesses, dowry, and *ijab* and *kabul* (proposal and consent in marriage) (Anon n.d.-b).

In general, the author's data in Aceh shows that there are still many modes of illegal marriage according to state law that is carried out by the community both secretly and openly. The modes of illegal marriage are:

- a. *Siri* marriage and its legal consequences
- b. Illegal Polygamy by the Civil Servant
- c. Early Marriage by Teenagers
- d. Polyandry Marriage
- e. *Cina Buta* Marriage

4.2. *Government Countermeasures to Protect Women and Children Pre and Post-Illegal Marriage under State Law in Aceh*

Siri marriage is not prohibited; however, it would be better if it was also legally valid. It is because women and children will be disadvantaged without a marriage book. "The child will find it difficult to have a birth certificate. He also bears social impact and is ashamed. Furthermore, women who illegally marry cannot claim their rights. They have no legal basis for asking for financial support.

Previously, the country was shocked by the nikahsirri.com website, which led to the site's closure by the Ministry of Communication and Information. It is known that the registrants on this site reached around 5,000 people. In addition, there are about 300 people who register as partners of nikahsirri.com. From this number, it can be concluded that many Indonesians are still interested in conducting *siri* marriages, even though they know the consequences of these marriages not being registered in formal law in Indonesia. Obviously, by not being recorded, couples who conduct *siri* marriages cannot receive legal protection.

In Aceh, according to the statement of the Head of the Aceh Islamic Sharia Office, EMK. Alidar stated that *siri* marriages are increasingly common in the community. According to him, the rise of *siri* marriages negatively impacts married life because many men are not responsible for their wives and children (<https://www.cnnindonesia.com/>).

As the author mentioned above, various illegal modes of marriage, according to Indonesian law, will negatively influence the wife, the divorced ex-wife, and many children. Therefore, the Aceh government has made several efforts to protect women who are married illegally according to state law, namely:

4.2.1. *Conducting Socialization to Secondary Schools on Marriage in accordance with State Law*

Various efforts have been made by the Ministry of Religious Affairs of Central Aceh to prevent illegal marriages according to state law, such as *siri* marriages among teenagers. The program conducts socialization in junior and senior high schools (SMP/SMA). With the implementation of this program, it is hoped that early marriage can be prevented.

4.2.2. *Issuing Aceh Governor Regulation No. 25 of 2017 concerning the Implementation of One-Day Service Marriage Validation (Isbath Nikah Program During the Conflict and Tsunami)*

There is no need to worry for couples who have already married during the conflict and after the 2004 Tsunami disaster and whose marriages are not registered with the Office of Religious Affairs. In order to obtain legal protection in Aceh, the couple can obtain *Isbath*/Marriage Validation in accordance with the rules in Aceh Governor Regulation No. 25 of 2017 concerning the Implementation of One-Day Service Marriage Validation.

Isbath Nikah is the marriage legalization for the Muslim community by the Religious Court (Governor Regulation No.25 of 2017: Article 1 Point 16). In consideration of point b of this governor regulation, it is written that a large number of Acehese Muslims who were married during the conflict and tsunami was not recorded in state documents, which is the main consideration for re-registering all marriages, and this is an official program of the Aceh government.

4.2.3. *Isbath Nikah* as a Benchmark for Data on the Number of Siri Marriages

According to Nasruddin, *Siri* marriages in Aceh so far have occurred due to conventional reasons such as elderly couples who are embarrassed to get married at the Religious Affairs Office, couples caught in *khalwat* because they have committed adultery, and others. However, the Religious Affairs Office does not record the number of illegal marriages legally automatically to measure the presence or absence of unlawful marriages in actual data in society, namely by looking at data from the proposed *isbath nikah* itself (Anon n.d.-d).

The total number of *Isbath Nikah* recorded at the Central Aceh District Ministry of Religion office is as in 2020, only 13 *Isbath Nikah* were regularly submitted in 2019, the number of *isbath* marriage was 263 Submissions.

According to Nasruddin, for the Central Aceh Regency area, those who know about the existence of *siri* marriages and their number are usually the *Reje Kampung* (Village Head). However, the data is not forwarded to the local Religious Affairs Office District. Getting married at the Religious Affairs Office is free; why should people choose *siri* marriage?

In line with Nasrudin's question from the Ministry of Religious Affairs of Central Aceh, Zulfikar, as the Public Relations Officer of the Sharia Court of Central Aceh District, explained that the Court would only *Isbath* a marriage that was previously under Sharia (Anon n.d.-e).

Then Fauzi, as the Registrar at the Central Aceh Sharia Court, said that the data on *isbath* marriage that was decided from 2014 to 2017 was 1,936 decisions (Anon n.d.-c). As for 2019, the files submitted for *isbath* were 201 cases, but only 168 cases were decided.

4.2.4. *Marriage Dispensation for Early Marriage*

Law No. 1 of 1974 concerning marriage in Indonesia has formulated the principles of marriage, including that the prospective husband and prospective wife must be mature "mentally and physically" to be able to proceed with marriage in order to realize the purpose of marriage properly without thinking about divorce and get good and healthy offspring. In line with these marriage principles, Article 7, paragraph 1 of this law states "marriage is only permitted if the man has reached the age of 19 years and the woman has reached the age of 16 years". As mentioned in the Compilation of Islamic Law Article 15 paragraph 1, this age limit is based on the *maṣlahat* (use and benefit) of the family and the marriage household. For this reason, marriage between underage husbands and wives must be prevented. This age limit can avoid confusion over the interpretation of age limits in customary and Islamic law.

Furthermore, it is stated that prospective brides who have yet to reach the age of 21 must obtain permission from their parents as stipulated in Article 6, paragraphs 2, 3, 4, and 5 of the Marriage Law. In this case, the Compilation of Islamic Law (KHI) provides the same rules as the Marriage Law. If analyzed further, this marriage age limit regulation is reasonably closely related to population issues. With the age limit, there is an assertion that the Marriage Law intends to restrain the rate of marriage, which impacts the population growth rate.

Juridically, the issue of marriage dispensation is regulated in Article 7 of Law Number 1 of 1974, but not in the detail that can be used as a source of material law for religious court judges or sharia courts in determining marriage dispensation applications. Therefore, judges,

with their authority and powers, will make legal deviations with the problem of marriage dispensation faced. Article 6 of Law Number 48 of 2009 concerning Judicial Power states that "judges and constitutional judges are obliged to explore, follow and understand the legal values and sense of justice that live in a society."

As a comparison of decisions, in the Determination of the Jantio Syar'iyah Court Number 198/Pdt.P/2016/MS-Jth, the judge has granted marriage dispensation to a teenager. The applicant has provided reasons, is not against the law, and is even in line with the provisions of Article 7 paragraph (2) of Law Number 1 of 1974; therefore, the petition can be granted.

According to M. Syuib, the application for marriage dispensation is a form of discretion given by the judge to the applicant and his child, which does not contradict the law's or Islamic law's provisions. A person's age is also not a standard for determining someone's maturity in thinking or acting in fulfilling a marriage (Syuib and Filzah 2018).

According to the author, the government's policy in providing marriage dispensation for teenagers guaranteed by their parents is very humane and upholds the value of Human Rights (Zamharira, Irma, and Jamilah 2022).

In the data of the Sharia Court of Central Aceh Regency, many cases of Dispensation of Marriage exist. For data from 2014 to 2018, there were 167 cases decided. Meanwhile, for 2019 there were 54 cases submitted, but the Central Aceh District Court determined only 50 cases (Syuib and Filzah 2018).

According to the author, this Dispensation was a humane policy when the Constitutional Court issued a Decision on changing the age limit for marriage as contained in the Constitutional Court Decision Number 22/PUU-XV/2017. It is an anticipatory or preventive measure so that negative implications can be eliminated and minimized in order to maintain the existence of the soul, offspring, and intellect at the *dharuriyyat* and *hajiyyat* levels. If ignored, it will physically, psychologically, and sociologically harm spouses and children, causing social problems that will eventually become a community disease and even disrupt the stability of society and the state (Rizki and Syariah 2020).

4.2.5. *Qanun Policy on Legalization of Polygamy through Qanun Family Law in Aceh Illegal Polygamy*

The procession of legalizing polygamy in Aceh is still a polemic until now. Basically, this discussion was carried out by the Aceh Government because the Acehnese community had many *siri* marriages, which led to many cases of parents who were not responsible for their children and wives.

Deputy Chairman of the Indonesian Ulema Council (MUI) Zainut Tauhid Saadi said polygamy is not a practice that tarnishes Islam. It is because polygamy is a sunnah with requirements in accordance with Islamic law. Polygamy can be a sunnah if it meets the requirements. Even so, he said polygamy could become makruh (disliked or offensive act, literally "detestable" or "abominable") and even haram (forbidden) if it causes harm or injustice and abuse to wives and families (Anon n.d.-a).

Data from the Central Aceh Sharia Court states that from 2014 to 2018, only 8 cases have been issued polygamy permits. While in 2019, there were zero polygamy permits (Anon n.d.-c).

In the author's opinion, even though the Aceh Government will later issue a Family Law Qanun that regulates Legal Polygamy, this cannot guarantee that wives and children resulting from polygamy will be guaranteed legal protection unless the Aceh government regulates the substance of further protection with several governor regulations oriented towards the protection of wives and children from polygamy (Fauzy Marasabessy 2016).

4.2.6. The Implementation of the Constitutional Court Decision on Civil Recognition of the Status of Children Outside of Marriage with Biological Fathers

The Implementation of the Constitutional Court Decision on Civil Recognition of the Status of Children Outside of Marriage with Biological Fathers. In Indonesia, the Constitutional Court (MK) has decided on the status of children out of wedlock. These children must receive civil rights with their biological father. This decision amends Article 43 paragraph (1) of Law No. 1/1974 on Marriage, which previously did not recognize children out of wedlock (Jenayah Banduan Wanita di Malaysia et al. 2019).

However, this decision has challenges because the implementation requires time for adjustment and socialization with the community. Furthermore, the problem will be recording the child's marriage certificate at the Religious Affairs Office. In the past, children out of wedlock could not get a certificate because the parents did not have a marriage certificate, but now that can change.

5. CONCLUSION

The modus operandi of illegal marriages under state law that occur in Aceh is:

- a. *Siri* marriage and its legal consequences
- b. Illegal Polygamy by the Civil Servants
- c. Early Marriage by Teenagers
- d. Polyandry Marriage
- e. *Cina Buta* marriage

The Aceh Government took countermeasures to protect women and children pre- and post-illegal marriage in Aceh, namely:

- a. Conducting Socialization to Secondary Schools on Marriage in Accordance with State Laws (Sukiati and Bancin 2020).
- b. Issuing Aceh Governor Regulation No. 25 of 2017 concerning the Implementation of One-Day Service Marriage Validation (*Isbath Nikah* Program During the Conflict and Tsunami)
- c. *Isbath Nikah* as a Benchmark for Data on the Number of *Siri* Marriages (Hermawan 2021).
- d. Marriage Dispensation for Early Marriage by Teenagers (Botha and Mokone 2021).
- e. Qanun Policy on Legalizing Polygamy through Qanun Family Law in Aceh Illegal Polygamy.
- f. Implementing the Constitutional Court Decision on Civil Recognition of the Status of Children Outside of Marriage with Biological Fathers.

References

- Anon. n.d.-a. <https://www.cnnindonesia.com/nasional/20181217095503-32-354160/Mui-Sebut-Poligami-Memang-Berat-Tapi-Tak-Nodai-Islam>.
- Anon. n.d.-b. "Interview with Fauzi, S.Ag, Registrar of the Syariah Court of Central Aceh District, 29 February 2020."
- Anon. n.d.-c. *Interview with Nasruddin S.Ag, Head of the Headship Compilation Division of the Ministry of Religious Affairs of Central Aceh District, 28 February 2020.*
- Anon. n.d.-d. "Interview with Zulfikar, Public Relations Section of the Syariah Court of Central Aceh, 29 February 2020.
- Botha, Joanna, and Glancina Mokone. 2021. "Gender equality." *Encyclopedia of Law and Development* 8(1):95–98. doi: 10.4337/9781788117975.00030.
- Fadhli, A., Rahmiati, R., Rahmi, F., & Ramadhan, J. (2022). Politik Hukum Dispensasi Kawin: Membatasi Perkawinan Anak melalui Politik Batas Usia. *Al-Qisthu: Jurnal Kajian Ilmu-Ilmu Hukum*, 20(2), 110-127.
- Fauzy Marasabessy. 2016. "Restitusi bagi korban tindak pidana: Sebuah tawaran mekanisme baru." *Jurnal Hukum & Pembangunan* 45(1):53–75.
- Gusti Ketut Ariawan, I. 2009. *Penelitian hukum normatif suatu tinjauan singkat*. Jakarta PT Raja Grafindo Persada.
- Hasibuan, Supri Yadin. 2019. Pembaharuan hukum perkawinan tentang batas minimal usia pernikahan dan konsekuensinya. *Teraju* 1(02):79–87. doi: 10.35961/teraju.v1i02.88.
<https://www.cnnindonesia.com/nasional/20181217095503-32-354160/Mui-Sebut-Poligami-Memang-Berat-Tapi-Tak-Nodai-Islam>.
- <https://www.validnews.id/nikah-siri--alternatif-perkawinan-selama-pandemi-rvy>.
- Ismi Tri Septiyani. 2022. Analisis Hukum Islam Terhadap Pembatalan Perkawinan Atas Dasar Praktik Pencatatan Perkawinan Ilegal. *Jurnal Riset Hukum Keluarga Islam* 95–100. doi: 10.29313/jrhki.vi.1269.
- Nashriyah, N., Alfiatunnur, A., & Hermawan, T. D. (2021). Examining the efforts of the Aceh Government in dealing with child victims of sexual violence. *Gender Equality: International Journal of Child and Gender Studies*, 7(2), 273-287.
- Nor, S. N. M., Kamaluddin, M. R., & Sulaiman, W. S. W. (2019). Profil jenayah banduan wanita di Malaysia: Satu kajian kualitatif. *Akademika*, 89(2), 43-56.
- Rahayu, Sri Walny. 2016. Yang akan melaksanakan TGA di MPH sebagai mata kuliah wajib bagi.
- Sarong, Hamid. 2009. *Fiqh perempuan*. Banda Aceh: Bandar Publising.
- Sobari, Ahmad. 2018. Nikah siri dalam perspektif Islam. *Mizan: Journal of Islamic Law* 1(1):49–56. doi: 10.32507/mizan.v1i1.117.
- Sukiati, Sukiati, and Ratih Lusiani Bancin. 2020. Perlindungan perempuan dan anak: studi akibat hukum pengabaian pencatatan perkawinan. *Gender Equality: International Journal of Child and Gender Studies* 6(1):121. doi: 10.22373/equality.v6i1.5633.

- Syuib, M., and Nadhilah Filzah. 2018. Kewenangan hakim menerapkan diskresi dalam permohonan dispensasi nikah (Studi kasus di Mahkamah Syar'iyah Jantho).” *Samarah* 2(2):433–64. doi: 10.22373/sjhc.v2i2.4747.
- Zamharira, C., Irma, A., & Jamilah, J. (2022). The role of South Aceh Regency Women's Empowerment Office for child protection and family planning (DP3AKB) in preventing underage marriage. *Gender Equality: International Journal of Child and Gender Studies*, 8(1), 86-97. doi: 10.22373/equality.v8i1.12741.