

LEGAL PROTECTION FOR WOMEN AND CHILDREN IN UNREGISTERED MARRIAGES: AN ANALYSIS OF SOCIOECONOMIC IMPACTS IN INDONESIA

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ABSTRACT

This study examines the social and economic impacts of unregistered marriages on women and children, especially in relation to the protection of civil rights, access to economic resources, and social security. The findings indicate that women in unregistered marriages are more vulnerable to the loss of legal protection concerning marital rights, inheritance, joint property, and child support. Furthermore, children born from such marriages often encounter administrative obstacles in obtaining birth certificates, educational access, healthcare services, and other forms of social protection. The absence of marriage registration also weakens the legal standing of women and children within the national legal framework, despite the marriage being religiously recognized. Therefore, this study emphasizes the importance of policy reform and the strengthening of the marriage registration system to ensure comprehensive legal protection and social justice for women and children affected by unregistered marriages in Indonesia.

Keywords: unregistered marriage, siri marriage, women's rights, children's rights, legal protection, social impact.

BACKGROUND

Unregistered marriages (often referred to as siri marriages) remain a social phenomenon in Indonesia, as they are still widely encountered; based on available data, one indication of this is the increase in applications for marriage validation. Unregistered marriages lack legal certainty for the parties involved, which can lead to various legal and social consequences for the couple.

A valid marriage gives rise to legal consequences in the form of the establishment of a legal relationship between a man and a woman as husband and wife. This legal status subsequently provides legal certainty regarding various civil law aspects, including the status of children born as legitimate children, the status of assets acquired during the marriage as joint property, and certainty regarding inheritance rights to the estate in the future.

An unregistered marriage results in a lack of legal certainty. Normatively, legal certainty exists only in a valid and registered marriage. Marriage registration is a legal obligation as stipulated in Law No. 16 of 2019 on the Amendment to Law No. 1 of 1974 on Marriage (Law No. 16-

Year-2019, n.d.), which stipulates that every marriage must be registered in accordance with applicable laws and regulations. In the context of the Muslim community, these regulations are further reinforced through the Compilation of Islamic Law (Compilation of Islamic Law, n.d.).

The phenomenon of illegal marriages has a negative impact on efforts to create peaceful households, as it gives rise to numerous issues, such as legal uncertainty among husbands, wives, and children, the uncertain legal status of children, and the disregard of civil rights for the parties involved. (Jauhari et al., 2023)

Although from a religious perspective, a siri marriage may be considered valid if it fulfills the pillars and conditions, the absence of state registration leads to serious legal consequences, particularly regarding the protection of the economic rights of the wife and children. From a law and economics perspective, marriage registration serves as a formal legal instrument that provides certainty regarding rights to alimony, inheritance, joint property, as well as access to social security and public services.

From a microeconomic perspective, households are viewed as units of resource allocation responsible for managing the economic well-being of family members. However, in unregistered marriages, the wife's legal standing tends to be weak when it comes to claiming rights to joint property or spousal support in the event of divorce or the husband's death. Additionally, children born from unregistered marriages may face various administrative barriers, such as obtaining a birth certificate, accessing social security, and fulfilling inheritance rights. These conditions ultimately create economic uncertainty and increase the risk of financial vulnerability for women and children.

Furthermore, from a public economic perspective, unregistered marriages can incur social costs. Disputes over child recognition, lawsuits to validate marriages, and alimony cases in Religious Courts increase the administrative burden on the judiciary. The state also risks bearing additional costs through social assistance programs when women and children do not receive adequate economic protection.

This phenomenon indicates that unregistered marriages are not merely a matter of formal legal status but have structural economic implications for the distribution of well-being within families. Legal uncertainty contributes to the wife's weak bargaining power within the household structure and increases the risk of the feminization of poverty. In the long term, this situation impacts reduced investment in children's education and health, which affects the quality of human capital.

Nevertheless, the practice of unregistered marriage persists for various reasons, ranging from economic and cultural factors to a desire to avoid administrative procedures. The primary issue with this practice is not merely the aspect of religious validity, but its legal implications regarding the protection of the economic rights of wives and children.

Therefore, it is important to analyze the economic impact of unregistered marriages on the protection of the economic rights of wives and children, in order to assess the effectiveness of the marriage legal system in ensuring distributive justice and minimizing socio-economic losses. Van Mourik, a French legal scholar, defines marriage as a contract formed upon the fulfillment of certain formalities. The existence of a marriage gives rise to various

consequences, namely regarding the relationship between husband and wife, the relationship between parents and children, and marital property. Marriage law offers a different perspective through the provision that “a marriage is valid if conducted in accordance with the laws of each party’s respective religion and belief.” This explanation states that no marriage exists outside the laws of each party’s respective religion and belief, in accordance with the 1945 Constitution. The implication is that a marriage must absolutely be conducted in accordance with the laws of the respective religion and belief; otherwise, the marriage is not valid. Meanwhile, Article 2(2) of this law emphasizes the registration of marriage.

From a law and economics perspective, marriage registration serves as a formal legal mechanism to ensure certainty regarding rights to joint property, inheritance, alimony, and social protection. Without registration, wives and children face structural barriers in accessing these economic rights. In the event of divorce or the husband’s death, the absence of administrative evidence often hinders claims to joint property (gono-gini), inheritance rights, or social benefits. One of the problems arising from the failure to register a marriage between a husband and wife is that if one party dies, the surviving spouse and children are ultimately left without the right to inherit the deceased’s estate. (Rosa & Ridwan, 2024)

From a microeconomic perspective, this situation creates uncertainty regarding property rights (property rights insecurity). Institutional economic theory states that certainty of property rights is a primary prerequisite for economic stability and asset protection. Without legal certainty, the wife’s bargaining position becomes weak, increasing the risk of economic vulnerability, particularly for women who lack financial independence.

Additionally, children born from unregistered marriages may face administrative barriers in obtaining birth certificates and certain civil registration documents, which ultimately affect access to education, health insurance, and social protection. In the long term, this situation implies a decline in human capital investment and has the potential to reinforce the intergenerational cycle of poverty.

From a public economics perspective, the rise in itsbat nikah disputes and alimony cases in Religious Courts indicates the existence of social costs resulting from the practice of unregistered marriages (). The state must allocate resources to resolve these cases, which could fundamentally be minimized through an effective registration system.

Thus, unregistered marriages are not merely administrative and religious issues, but economic issues that directly impact the protection of the economic rights of wives and children as well as the efficiency of the legal system. Therefore, it is important to conduct an analysis that integrates legal and economic aspects to assess the extent to which the absence of marriage registration causes economic losses and social burdens for the state.

DISCUSSION

Legal Protection for Women and Children in Unregistered Marriages: An Analysis of Socio-Economic Impacts in Indonesia. In the national legal system, marriage is regulated by Law No. 1 of 1974 on Marriage, as amended by Law No. 16 of 2019 on Amendments to the Marriage Law.

Article 2 paragraph (1) states that a marriage is valid if it is conducted in accordance with the laws of the respective religion and belief. However, Article 2 paragraph (2) stipulates that every marriage must be registered in accordance with applicable laws and regulations.

This means that, normatively, there are two key elements: namely 1. Valid under religious law, and 2. Valid under state administrative law. A marriage that is not registered may indeed be considered valid under religious law, but it lacks administrative legal standing before the state. This situation gives rise to legal consequences, particularly regarding the proof of a wife's and children's legal status. These consequences primarily impact the family's social and economic environment.

Marriage is a vital aspect of human life, and this means that marriage requires regulations to ensure its validity, as it cannot be separated from the legal. This validity enables men and women to commit to the institution while avoiding promiscuity. (Miqat et al., n.d.) Women in unregistered marriages are often in a vulnerable position because: They lack legal proof of being a legally recognized wife.

Women in unregistered marriages are often in a vulnerable position due to the lack of administrative legal recognition from the state. Additionally, women's bargaining power within the household is weakened. Because there is no legal proof in the form of a marriage certificate, women find it difficult to assert their rights in the event of conflict, violence, or divorce. In certain situations, a husband can easily deny the existence of the marriage. This situation creates an imbalance of power within the household, where women are in a subordinate position and are entirely dependent on their partner's good faith. This legal uncertainty leads to a constant sense of insecurity.

When a marriage is not registered in accordance with statutory regulations, the relationship lacks legal standing, even if it is considered valid under religious or social norms. This situation has serious consequences, particularly for women, who are the most affected party in domestic relationships. Without legal proof in the form of a marriage certificate, women do not have a clear status as wives in the eyes of the state, making it difficult for them to assert their rights in the event of conflict, divorce, or domestic violence.

Normatively, marriage registration is a crucial instrument for ensuring legal certainty and the protection of rights within the family. When a marriage is not registered, women lose access to various legal mechanisms, such as the right to file for divorce, receive alimony, or seek legal protection against domestic violence they may experience. In practice, women in unregistered marriages often cannot prove their marital status in court, leaving them in a very weak bargaining position. This aligns with research findings indicating that wives in unregistered marriages lack a strong legal basis to manage administrative matters or assert their rights before the state.

Additionally, women's vulnerability is evident in social and economic aspects. Without legal recognition, women tend to face economic dependence on their partners, as they lack guarantees regarding alimony rights or the division of joint property. In many cases, women cannot even claim inheritance rights or rights to shared property upon separation. Unregistered marriages result in various detrimental consequences, particularly for wives and children, such as the lack of legal recognition and difficulties in accessing basic rights

Furthermore, in the context of modern legal protection, women in unregistered marriages also face a higher risk of experiencing domestic violence without adequate protection. The absence of administrative evidence makes law enforcement suboptimal, as the legal relationship between husband and wife cannot be formally proven. This is reinforced by recent research highlighting that women who are victims of violence in unregistered marriages often face obstacles in obtaining justice and the fulfillment of their rights. (Legal Protection, Emanuel, n.d.)

Thus, it can be affirmed that marriage registration is not merely an administrative formality but an essential form of legal protection for women. Without registration, women lose their legal identity as wives, which results in the loss of access to justice, protection, and well-being. Therefore, optimizing the marriage registration system, including through digitization, is a strategic step in strengthening the protection of women's rights and realizing the principles of justice and legal certainty within the institution of marriage.

Vulnerable to being left without legal protection. Women and children in unregistered marriages (siri marriages or those not administratively registered) are in a highly vulnerable position, particularly in social and economic aspects. The absence of official registration means that such marital relationships are not recognized by the state, so women often lose access to the legal protections that should be inherent in their status as lawful wives. The impact becomes even more complex in the event of domestic conflict, divorce, or the death of a spouse, as women lack a strong legal basis to claim their rights, such as alimony, shared property, or inheritance.

Women in unregistered marriages often face social stigma, particularly in communities that still view formal legality as the measure of a family relationship's legitimacy. They may be considered "not a lawful wife," leading to social and psychological pressure. Other social impacts are evident in access to public services. Without a valid marriage certificate, women often face difficulties in handling civil registration matters, such as having their husband's name listed on the Family Card or obtaining a birth certificate for their child. This not only affects women as wives but also impacts the social status of their children in the community. Women are often blamed for this situation, even though the underlying causes can be highly complex, including limited access, economic factors, and cultural norms. Children born from unregistered marriages also face the potential stigma of being labeled "children born out of wedlock." This situation can affect the child's psychological development and social relationships, particularly within educational and community settings.

This contradicts the principles of non-discrimination and the best interests of the child as guaranteed under Law No. 35 of 2014 on Child Protection. Consequently, women in unregistered marriages frequently face stigma and marginalization. In many cases, this "unregistered" status places them in a subordinate position both within the family and in society. This also impacts the children born to these unions, who often face civil registration issues, such as difficulties in having the father's name included on the birth certificate. Although regulations in Indonesia have evolved—including through Constitutional Court rulings that have expanded recognition of children born out of wedlock—their implementation on the ground still faces various administrative and social obstacles.

In addition, this form of marriage, which is considered unconventional, often leads to social stigma and discriminatory treatment from the surrounding community toward those who practice it, particularly from neighbors or people in their immediate surroundings. Negative comments or gossip from others can make these women feel ashamed and uncomfortable, even leading to social isolation. Difficulty socializing with the community can make them feel alienated and hinder their ability to integrate into broader social life. This can impact their psychological well-being, increasing the risk of stress, anxiety, and depression. (Junita Friska et al., 2024)

From an economic perspective, women's vulnerability becomes increasingly evident due to the lack of guarantees regarding financial rights. In cases of abandonment, women lack a strong legal standing to hold their husbands accountable. This situation often forces women to become the family's breadwinners without adequate support, ultimately increasing the risk of poverty. Children born from unregistered marriages also face potential limitations in accessing education, health services, and social security due to incomplete legal documentation.

Furthermore, this phenomenon highlights the interplay between low public legal awareness, cultural factors, and limited access to marriage registration services, particularly in remote areas. The digitization of marriage registration actually presents an opportunity to overcome administrative barriers, but it has not yet fully reached vulnerable groups. Therefore, comprehensive efforts are needed from the government through policy strengthening, improved legal literacy, and simplified registration procedures to ensure that the rights of women and children are optimally protected.

The purpose of marriage registration is to make the marriage event clear, both to the parties involved and to others and the community, as it is documented in an official document and recorded in a special registry provided for that purpose, so that it can be used whenever necessary, particularly as authentic written evidence. (Factors Leading to Unregistered Marriages, Unes Law Review, n.d.-a)

Thus, marriage registration is not merely an administrative formality, but an important instrument in ensuring legal protection, social justice, and economic well-being for women and children in Indonesia Barriers to access to education and certain public services.

Women and children in unregistered marriages in Indonesia face various serious barriers, particularly in accessing education and public services. The absence of official registration renders the family's legal status unclear, directly impacting the fulfillment of basic rights that should be guaranteed by the state. In this context, the issue extends beyond formal legal aspects to encompass social, administrative, and economic dimensions.

One of the main obstacles faced is limited access to civil registration documents, such as birth certificates and family cards. Children born from unregistered marriages () are often legally recognized as having a civil relationship only with their mother, while their relationship with their father is limited or requires a specific verification process. This situation creates difficulties in educational administrative procedures, such as school enrollment, as many educational institutions require official documents as proof of identity and family relationships. Without these documents, children may face delays or even be unable to access education optimally.

Additionally, limited access to public services is a significant issue. Children and women in unregistered marriages often face barriers in accessing healthcare, social assistance, and other welfare benefits. This is due to the reliance of public service systems on valid civil registration data. Studies show that children from unregistered marriages are at risk of not receiving birth certificates, which ultimately limits their access to education, health services, and social assistance. In other words, an unclear legal status creates systemic social exclusion.

From a women's perspective, these impacts also limit access to empowerment and social protection programs. Without legal recognition as a wife, women struggle to access various government family-based programs, including educational assistance for children and social security. This exacerbates the family's economic conditions and has the potential to increase poverty rates, particularly in households left without support from the husband. Furthermore, barriers to education also have long-term consequences. Low educational attainment among girls, for example, correlates with an increased risk of early marriage and intergenerational cycles of poverty. Thus, the issue of unregistered marriages not only affects a single generation but also has the potential to perpetuate social inequality in the future.

Factors driving couples to enter unregistered marriages include a lack of understanding regarding the importance of marriage registration, the presence of prospective spouses who have not reached the legal marriage age, and economic constraints. From a legal perspective, unregistered marriages give rise to various legal implications, such as the marriage not being recognized by the state administration, weak legal certainty regarding the status of children, difficulties in issuing birth certificates that list the identities of both biological parents, and limited legal ties between a child and their biological father, particularly regarding inheritance rights and guardianship in the case of the marriage of a daughter.(Latifiani, n.d.)

The causes of this situation are quite complex, including low public legal awareness, cultural factors that still tolerate the practice of unregistered marriages, and limited access to civil registration services, particularly in remote areas. Although the government has sought to implement administrative policies to provide minimum protection—such as noting a specific status in family documents—their implementation has not been fully effective in ensuring equal rights.

Consequently, more comprehensive efforts are needed, including improving legal literacy, expanding access to civil registration services (including through digitization), and strengthening policies that prioritize the protection of women and children. Without systematic intervention, barriers to access to education and public services will continue to be structural issues that hinder the realization of social justice in Indonesia.

From a psychosocial perspective, legal uncertainty can lead to prolonged mental distress. Feelings of not being recognized, fears of being left without legal protection, and uncertainty about a child's future are sources of stress in themselves. In the long term, these conditions can affect women's quality of life—including their self-confidence, social participation, and economic independence.

Thus, unregistered marriages are not merely an administrative issue, but a social issue that directly impacts women's dignity, protection, and standing in society. Therefore, marriage registration must be viewed as an instrument of social and legal protection for women, to ensure

state recognition of their status and to strengthen their position within social and family structures.

Marriages that are not officially registered with the competent authorities have significant economic consequences for women. Normatively, the obligation to register marriages is affirmed in Law No. 1 of 1974 on Marriage, as amended by Law No. 16 of 2019 on Marriage. The absence of registration means that the marriage lacks full legal standing, leaving women in a vulnerable position when asserting their economic rights.

First, women are vulnerable to losing their rights to alimony and maintenance. In practice, when disputes or separations occur, wives in unregistered marriages often face difficulties in claiming alimony, whether during the marriage or after divorce. Without a marriage certificate as authentic proof, women's legal standing is weakened. This situation directly impacts economic instability, particularly for women without independent sources of income.

Second, the issue of joint property (gono-gini) becomes problematic. Legally, the division of joint property requires a valid and provable marriage. In unregistered marriages, women often struggle to prove their contribution to the acquisition of assets during the period of cohabitation. Consequently, when the relationship ends, women risk losing access to assets that were, in fact, built together. This reinforces economic inequality and increases the risk of poverty for women following the dissolution of the relationship.

Third, economic impacts are also evident in access to social security and financial services. Without a valid marriage certificate, women may face obstacles in managing inheritance rights, insurance claims, spousal pension benefits, or accessing financing that requires a clear legal family status. This lack of administrative recognition not only affects women's economic sustainability but also the well-being of children.

Fourth, in a structural context, unregistered marriages exacerbate the feminization of poverty. Women who lack legal protection regarding their marital status tend to be economically dependent on their partners. When such relationships end without legal certainty, women are placed in a highly vulnerable position regarding economic exploitation and marginalization. This situation demonstrates that marriage registration is not merely an administrative matter but a crucial instrument for women's economic protection.

Claims to these rights in the event of a dispute will be difficult to fulfill due to the absence of evidence of a valid official marriage record. It cannot be denied that determining the legal status of a child born to such a union is inextricably linked to the validity of the marriage entered into by the child's parents. (Factors of Unregistered Marriage, UNES

Thus, the economic impacts of unregistered marriages are multidimensional: they include the loss of alimony rights, uncertainty regarding shared assets, barriers to accessing social security, and an increased risk of poverty for women. Therefore, strengthening the marriage registration system and raising public legal awareness are strategic steps to ensure the sustainable protection of women's economic rights.

In unregistered marriages, if the husband abandons his wife or a divorce occurs, women face difficulties in claiming alimony rights because they lack authentic evidence in the form of a

marriage certificate (). Legally, an alimony claim requires proof of a valid marital relationship. Consequently, women often bear the family's economic burden unilaterally, especially when they have children who are still financially dependent. The Indonesian marriage law system recognizes the concept of joint property (gono-gini). However, without a registered marriage, women will face difficulties proving their rights to property acquired during the marriage.

This results in:

1. Loss of access to family assets
2. Inequality in wealth distribution
3. Increased risk of poverty among women following separation

These conditions reinforce the phenomenon of the feminization of poverty, namely the increasing number of women living in economically vulnerable conditions due to structural injustice. Children born out of wedlock may face obstacles in obtaining inheritance rights from their biological fathers. Although legal developments have created space for the recognition of civil relationships with biological fathers, the process of proving such relationships remains a significant challenge.

Economically, the loss of inheritance rights means the loss of access to long-term economic resources, which can affect the continuity of a child's education and well-being. The literature indicates a consensus among scholars that while unregistered marriages may be considered valid under religious provisions, such practices are increasingly deemed inconsistent with the principles of contemporary Islamic legal governance and the legal protection system within the context of modern Indonesia. Therefore, marriage registration is viewed not only as a form of compliance with statutory regulations but also as a manifestation of moral responsibility aligned with Islamic ethical values and the principle of legal certainty at the national level. (Sonu et al., 2025)

CONCLUSION

Unregistered marriages have significant social and economic impacts on women and children, particularly regarding the protection of civil rights, economic access, and social security. Although valid under religious law, the absence of administrative registration weakens the legal standing of women and children within the national legal system. Therefore, policy reforms and the strengthening of the registration system are necessary to ensure comprehensive protection of rights.

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