

## Woman in the Shadow of Sirri Polygamy in Masbagik District, West Nusa Tenggara: A Legal and Psychological Analysis of the Loss in Inheritance Rights

Gita Utami<sup>1\*</sup>, Murdan<sup>2</sup>

<sup>1-2</sup> Universitas Islam Negeri Mataram, Indonesia

\*Corresponding Author: [gitautm@gmail.com](mailto:gitautm@gmail.com)

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### Abstract

The practice of unregistered marriage is no longer a strange thing in community life. Unregistered marriage or so-called underhand marriage or unregistered marriage is a marriage that is carried out legally according to Islamic law but is not registered administratively by the state. Although the provisions of the law have expressly regulated the requirement for marriage to be registered by authorized officials, the practice of unregistered marriage is still widespread. Unregistered marriages have quite serious impacts. Not only problems in the legal field, but also include the social, economic, and psychological aspects of the perpetrators. The purpose of this study was to determine 1) the legal position of wives who are polygamized unregistered; 2) the psychological impact of wives who do not receive inheritance rights due to unregistered polygamy. In discussing the problems contained in this study, the approaches used are normative legal and empirical legal approaches. Based on the results of the discussion, the position of the wife in unregistered polygamy is a legal wife according to religion, but because the marriage is not registered at the KUA, then according to the applicable positive law, the marriage does not have legal force so that the consequences is that the marriage cannot have legal consequences. The loss of inheritance rights due to an unregistered marriage has a major impact on a wives psychological condition.

*[Praktik perkawinan sirri menjadi hal yang tidak asing lagi dalam kehidupan bermasyarakat. Kawin sirri atau disebut kawin di bawah tangan atau kawin tidak tercatat adalah perkawinan yang dilakukan sah menurut syariat Islam namun tidak dicatatkan secara administrasi negara. Meskipun ketentuan perundang-undangan telah secara tegas mengatur keharusan perkawinan untuk dicatatkan oleh pejabat yang berwenang, namun praktik perkawinan sirri masih marak terjadi. Perkawinan yang tidak dicatatkan menimbulkan dampak yang cukup serius. Tidak hanya permasalahan pada bidang hukum, tetapi juga meliputi sosial, ekonomi, dan psikologis pelakunya. Tujuan penelitian ini adalah untuk mengetahui 1) kedudukan hukum istri yang di poligami secara sirri; 2) dampak psikologis istri yang tidak mendapatkan hak waris akibat di poligami secara sirri. Dalam membahas permasalahan yang terdapat dalam penelitian ini, pendekatan yang digunakan, yaitu pendekatan secara yuridis normatif dan yuridis empiris. Berdasarkan hasil pembahasan, kedudukan istri dalam poligami sirri adalah istri sah secara agama namun oleh karena perkawinan tersebut tidak dicatatkan di KUA, maka secara hukum positif yang berlaku, perkawinan tersebut tidak memiliki kekuatan hukum sehingga konsekuensinya yaitu perkawinan tersebut tidak dapat menimbulkan akibat hukum. Hilangnya*

*bak waris akibat perkawinan yang tidak tercatat sangat berdampak terhadap kondisi psikologis seorang istri.]*

**Keywords:** Legal Psychology Analysis, Inheritance Rights, Secret Polygamy.

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## INTRODUCTION

The practice of *sirri* marriage remains a common phenomenon within Indonesian society. *Sirri* marriage—also referred to as an unregistered or unofficial marriage—is a form of marital union considered valid under Islamic law but not formally recorded by the state authorities (Rohman & Maddarik, 2020). This practice persists despite the fact that marriage registration is a legal requirement, as mandated by Article 2, Paragraph (2) of Law No. 1 of 1974, which states: “Every marriage shall be registered in accordance with the prevailing laws and regulations.” This provision is reinforced by Article 5, Paragraph (1) of the Compilation of Islamic Law (Kompilasi Hukum Islam, KHI), which asserts that, “To ensure the orderliness of marriage among the Muslim community, every marriage must be registered.” Furthermore, Paragraph (2) stipulates that, “The registration of the marriage referred to in Paragraph (1) shall be carried out by a Marriage Registrar Officer, as regulated under Law No. 22 of 1946 concerning the Registration of Marriage, Divorce, and Reconciliation, in conjunction with Law No. 32 of 1954 regarding the enforcement of Law No. 22 of 1946 throughout all regions outside Java and Madura.” In addition, Article 6, Paragraph (1) of the KHI states that, “To comply with Article 5, every marriage must be conducted before and under the supervision of a Marriage Registrar Officer.” Paragraph (2) further provides that, “Marriages conducted without the supervision of a Marriage Registrar Officer have no legal validity.

The provisions outlined in the aforementioned articles explicitly mandate the registration of marriages by authorized officials. In the context of the Muslim community, this responsibility is carried out by officers of the Office of Religious Affairs (*Kantor Urusan Agama*, KUA) at the sub-district level (Islami, 2017). The primary objective of marriage registration is to ensure the validity of the marital bond both in religious and legal terms, thereby granting legal legitimacy to all rights and obligations arising from the marriage, and ensuring their protection under the prevailing statutory laws (Rinny et al., 2025). Nevertheless, despite the clarity and firmness of existing regulations concerning marriage registration, the practice of unregistered marriage continues to persist within society. This lack of compliance in marriage documentation often results in negative consequences, particularly for women and children, who are frequently disadvantaged due to the lack of legal recognition of their status. One of the most serious consequences of unregistered marriages is the loss of a wife’s right to marital property in the event of divorce, as well as the denial of inheritance rights over her husband’s estate should he pass away (Samsidar et al., 2019).

Most studies on the practice of *sirri* (unregistered) polygamy and its impact on women and children tend to focus on regions such as East Java, Madura, or urban areas. In contrast, Masbagik Subdistrict in East Lombok Regency, West Nusa Tenggara, possesses

distinct social and cultural characteristics that remain largely underexplored in academic research. As a result, there is a limited understanding of how *sirri* polygamy affects women within this specific local context.

One field finding that illustrates the practice of unregistered marriage in this region is the case of Mrs. Pipit Resi Indrianingsih and Mr. Khairul Hadi, who were married on February 4, 2013, in Masbagik Subdistrict. At the time, Mrs. Pipit was unmarried, while Mr. Khairul Hadi was legally still married, although separated from his first wife. The official divorce between Mr. Hadi and his first wife was not finalized until 2018 through a decision of the Selong Religious Court—five years after his marriage to Mrs. Pipit took place. Legally speaking, this means the marriage between Mrs. Pipit and Mr. Hadi occurred before Mr. Hadi's divorce was ratified by the court.

Due to the absence of an official divorce decree from the Selong Religious Court at the time, their marriage could not be officially registered at the Office of Religious Affairs (KUA) in Masbagik Subdistrict. According to Article 115 of the Compilation of Islamic Law (KHI), "Divorce can only be carried out before a session of the Religious Court after the court has attempted, and failed, to reconcile both parties." This case, therefore, illustrates a significant gap between prevailing social practices and the legal framework in force.

Previous research titled "*Poligami Sirri dalam Perspektif Hukum Islam dan Dampaknya terhadap Perempuan*" (Tsuroya 2020) reveals that polygamous marriages conducted without official state registration fail to provide adequate legal protection for wives. Many women are placed in subordinate and powerless positions, primarily due to their limited knowledge of the legal provisions that safeguard their rights. These findings are particularly relevant as a foundation for examining the practice of *sirri* polygamy from the perspective of legal protection for women.

Similarly, the study entitled "*Perlindungan Hukum Bagi Perempuan dalam Praktik Poligami Sirri di Indonesia*" concludes that the state has yet to effectively ensure the protection of women's rights in *sirri* polygamous arrangements. The absence of official documents, such as a marriage certificate, often results in women being denied access to inheritance and other forms of legal protection. These studies provide a critical basis for the present legal analysis, especially as this research also explores the legal, psychological, and local sociocultural dimensions of *sirri* polygamy, as well as the issue of inheritance rights.

According to the prevailing legal framework, the marriage between Mrs. Pipit and Mr. Hadi can be categorized as a form of *sirri* polygamy, given that it was conducted while Mr. Hadi was still legally married to his first wife. In 2022, Mr. Hadi passed away. When the family attempted to distribute his estate informally, in the presence of a notary, among the heirs from both marriages, Mrs. Pipit was unable to provide authentic proof in the form of a marriage certificate to establish the legality of her union with the deceased. As a result, she was denied her right to inherit Mr. Hadi's estate, as she did not hold legal standing as a lawful wife in the eyes of the state.

Based on this background, the objectives of this study are: 1) To analyze the legal status of wives in the practice of *sirri* polygamy; 2) To identify the psychological impact experienced by wives who are denied inheritance rights due to their involvement in *sirri* polygamous marriages.

## METHOD

To address the research problems, the study employs two approaches: normative juridical and empirical juridical. This legal research is qualitative and descriptive in nature, a methodology aimed at providing an in-depth, naturalistic, and non-manipulative depiction

of phenomena, events, or situations (Sari et al., 2022). The primary focus of the research is to understand the meanings, perspectives, and experiences of the research subjects.

The data sources consist of two types: primary and secondary data. Primary data were obtained through interviews, while secondary data were collected via a literature review of relevant laws, regulations, and scholarly works related to the research issues. Data collection techniques included observation, interviews, and documentation.

## RESULT AND DISCUSSION

### Legal Status of Wife Who Is Polygamous Sirri

Based on the case presented in the background section, the legal position of the wife, Mrs. Pipit, is clearly precarious. From the perspective of Islamic law, the marriage between Mrs. Pipit and Mr. Hadi is considered valid as it fulfills the essential conditions and pillars stipulated by Islamic jurisprudence. However, from an administrative standpoint, the marriage has not been officially registered according to the state's legal requirements. Mr. Hadi's failure to finalize the divorce process with his first wife at the Religious Court prior to marrying Mrs. Pipit resulted in his status being legally and formally recorded as the husband of his first wife. Consequently, this marriage falls under the category of *sirri* polygamy.

*Sirri* polygamy refers to a marital arrangement where a man has more than one wife but does not register the marriage with the Office of Religious Affairs (*Kantor Urusan Agama*, KUA). The most notable similarity between *sirri* polygamy and other forms of unregistered (*sirri*) marriages is that neither is officially documented at the KUA. (Rosyid, 2023). The provisions concerning the validity of marriage and its registration are regulated in Article 2 of Law Number 1 of 1974 on Marriage, which states:

- (1) A marriage is valid if it is conducted according to the laws of the respective religion and belief of the parties involved;
- (2) Every marriage must be registered in accordance with the prevailing laws and regulations.

Based on these provisions, a marriage is considered valid if it fulfills the essential conditions and pillars of marriage according to the religious laws adhered to by the parties, including the proper execution of *ijab* and *qabul* (offer and acceptance). However, for the marriage to receive official recognition by the state, registration at the Office of Religious Affairs (*Kantor Urusan Agama*, KUA) is required as a form of administrative legalization. This registration aims to provide legal certainty for the parties involved in the marriage.

Marriages that remain unregistered are considered valid solely from a religious perspective due to the fulfillment of the marriage pillars. The registration of marriage constitutes an administrative requirement that ensures the marriage has legal force. Without official registration, the marriage lacks legal validity; consequently, if one party neglects their obligations, the other party cannot pursue legal remedies due to the absence of authentic and valid proof of the marriage.

The legal consequences of a valid marriage include the rights and obligations of husband and wife, the management of marital property, the establishment of parent-child lineage (*nasab*), child custody obligations (*hadhanah*), and inheritance rights (Khusnia, n.d.). Conversely, unregistered marriages do not give rise to these legal consequences. Bagir Manan explains that the function and legal status of marriage registration are to ensure legal order, serve as an instrument of legal certainty, facilitate legal processes, and act as proof of marriage (Bafadhal, 2014). Therefore, unregistered marriages lack permanent legal validity and are considered legally invalid under state law. This situation adversely affects the wife both legally and socially, as well as any children born from the marriage.

From the perspective of Islamic law, the researcher argues that the marriage between Mrs. Pipit and Mr. Hadi is valid because it fulfills the conditions and pillars of marriage as prescribed by Islamic jurisprudence, thereby establishing Mrs. Pipit's status as a legitimate wife according to religion. However, since the marriage was not registered at the Office of Religious Affairs (*Kantor Urusan Agama*, KUA), it holds no legal force under positive law. Consequently, the marriage does not produce legal consequences such as the rights and obligations between husband and wife, joint property ownership, parent-child lineage (*nasab*), child custody obligations (*badhanah*), and inheritance rights.

The absence of marriage registration means there is no legal protection from the state despite the marriage being valid religiously and according to the parties' respective beliefs. Should one party commit a breach of obligation, the aggrieved party will face difficulties in filing a claim due to the lack of authentic documentation that legally proves the existence of the marriage bond.

### **The Psychological Impact of Wives Who Do Not Get Inheritance Rights as a Result of Polygamy in Sirri**

The term psychology is derived from the Greek words *psyche*, meaning soul, and *logos*, meaning knowledge or study. Etymologically, psychology is defined as the science that studies the soul, encompassing its phenomena, processes, and underlying causes. However, there is a fundamental distinction between the concept of the "science of the soul" (*ilmu jiwa*) and psychology: (1) the science of the soul is more abstract, often involving imagination and speculation about the soul; (2) psychology, by contrast, is a systematic science of the soul obtained through empirical and scientific methods. (Roni.HB, 2020).

Psychology is defined as the scientific study of behavior and mental processes of organisms (Mastiyah, 2024). Based on this definition, psychology is a discipline that examines and analyzes human behavior in relation to their environment. This understanding comprises several key elements: (1) science, which refers to a systematically organized body of knowledge acquired through scientific methods; (2) behavior, encompassing biological manifestations such as cognitive, affective, and motor behaviors; and (3) environment, the setting in which humans live, interact, adapt, and develop. The environment is generally categorized into two types: the internal environment and the external environment (Jahja, 2011).

Psychology does not study the soul or mental directly because of its abstract nature, but psychology limits it to the manifestation and expression of the soul or mental, namely in the form of behavior and its processes or activities, so psychology can be defined as the science that studies behavior and mental processes. So, the meaning of psychology is literally the science of the soul (Yusuf, 2019).

The study of psychology about humans integrally includes several dimensions, namely *Bio-Psycho-Socio-Spyual* as a determinant of human behavior and personality (Al-Qosam, 2022). The fields of psychology are quite wide, where there are human beings where psychology works, including developmental psychology, social psychology, personality psychology, clinical psychology, school psychology, educational psychology, industrial psychology, and organization and many more fields of psychology, including family psychology which is part of social psychology (Maslahat, 2021).

The term psychology was first used by a German physicist named *Philip Melancbhton* in 1530. The term psychology as the science of the mind has been discontinued since 1878 which was pioneered by *J.B. Watson* as a science that studies behavior because science wants its objects to be observed, recorded and measured, whereas the soul is seen as too abstract, and the soul is only one aspect of an individual's life (Bantali, 2022).



This series of marriages is a marriage that is not registered at the Marriage Registration Office (Akbar, 2022). This series of marriages will later have legal consequences for married couples, children born and property in the marriage, because the series of marriages they carry out do not have authentic evidence so they do not have legal force (Tanjung & Ziaulhaq, 2022). In Indonesian society, there are two types of marriages, namely (Rohman & Maddarik, 2020) 1) Marriages that are recorded at the marriage registrar's office; 2) Marriages that are recorded but hidden from others, because they are worried about disturbing their family. The causes of nikah sirri are: 1) No cost; 2) Underage marriage; 3) Polygamy.

Unregistered marriages have a huge impact on the wife because the wife's position is very weak before the law. The wife will lose the right to alimony, inheritance rights if one day the husband dies, and in the event of divorce, the wife will not be able to claim her rights because there is no authentic evidence that can prove the existence of the marriage (Ma'arif, 2019). The loss of rights due to unrecorded marriage has a great impact on the psychological condition of a wife. Psychological condition is a condition that exists in an individual that can affect the individual's attitude and behavior (Pratiwi & Rusinani, 2020)

As a widow who had to support her two children, Mrs. Pipit felt the impact of the loss of inheritance rights to her husband's inheritance due to her marriage not being recorded by state law. Based on the results of the researcher's interview with the sparrow, the psychological impact felt and received were:

1. Affecting the mental state of a wife, because she feels uncomfortable, haunted by guilt, and even loss of confidence due to not having authentic evidence in the form of a marriage book, so that she cannot fight for her inheritance rights to meet the needs of her life and her children;
2. Feeling uneasy, feeling embarrassed, insecure and lacking confidence when interacting with their environment, because they are worried that their status as Sirri's wife will be discussed in their environment;
3. Feeling helpless and powerless because they are unable to claim their rights;
4. Feeling pressure both internally and externally to work harder to be able to provide for herself and her children so that she does not pay attention to her own health and also to take care of her children.

## **CONCLUSION**

The legal status of a wife in a *poligami sirri* (unregistered polygamous marriage) is valid according to religious law; however, since the marriage is not officially recorded at the Office of Religious Affairs (KUA), it holds no legal standing under positive law. Consequently, such a marriage does not entail legal consequences concerning the rights and obligations of husband and wife, joint marital property, the lineage relationship between parents and children, child custody (hadhanah), or inheritance rights.

The absence of legal protection significantly affects the wife's psychological condition, manifesting in several ways: (1) mental distress characterized by feelings of discomfort, guilt, and loss of self-confidence due to the lack of authentic documentation such as a marriage certificate, which could be used to assert inheritance rights essential for her and her children's livelihood; (2) emotional unrest, including shame, inferiority, and reduced confidence in social interactions caused by fears that her status as a *sirri* wife might become a subject of gossip; (3) a sense of powerlessness and diminished capacity to claim her rightful entitlements; and (4) internal and external pressures that compel the wife to work harder to provide for herself and her children, often at the expense of her own health and the proper care of her offspring.

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