

Legal Protection of Women and Children in the Practice of *Nikah Sirri* (Unregistered Marriage)

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Abstract

The practice of *nikah sirri* (unregistered marriage), which still occurs in several regions including Gampong Ajuen, Peukan Bada District, Aceh Besar Regency, raises serious issues, particularly regarding legal protection for women and children. This study aims to describe the practice of *nikah sirri* in Gampong Ajuen, analyze its impact on legal protection, and identify preventive, mitigative, and solution-oriented measures to minimize its negative consequences. The research applies a qualitative method with a sociological-empirical approach through field data collection. The findings show that *nikah sirri* creates various problems, such as wives losing their legal rights when abandoned, and children facing difficulties in obtaining birth certificates, legal recognition, and inheritance rights due to the absence of official marriage registration. This situation highlights the legal and social vulnerabilities experienced by women and children as a result of unregistered marriages. To address these issues, strategic measures are required, including public education on marriage registration through the Office of Religious Affairs (KUA), documentation of *nikah sirri* couples by village authorities, social assistance from DP3A and the Civil Registry Office, and marriage legalization through *isbat nikah* at the Sharia Court. The contribution of this research is expected to serve as a reference for formulating legal protection policies while strengthening the fulfillment of women's and children's rights at both local and national levels.

Keywords: Impact, Preventive Mitigative and Solution Oriented Measures, *Nikah Sirri*, Legal Protection, Women and Children.

Abstrak

Praktik *nikah sirri* yang masih terjadi di berbagai daerah, termasuk di Gampong Ajuen, Kecamatan Peukan Bada, Kabupaten Aceh Besar, menimbulkan persoalan serius terutama dalam perlindungan hukum bagi perempuan dan anak. Penelitian ini bertujuan mendeskripsikan praktik *nikah sirri* di Gampong Ajuen, menganalisis dampaknya terhadap perlindungan hukum, serta mengidentifikasi langkah preventif, mitigatif, dan solutif untuk meminimalisir dampak negatifnya. Penelitian menggunakan metode kualitatif dengan pendekatan sosiologis empiris melalui pengumpulan data lapangan. Hasil penelitian menunjukkan bahwa *nikah sirri* menimbulkan berbagai persoalan, seperti istri kehilangan hak hukum ketika ditelantarkan dan anak mengalami kesulitan memperoleh akta kelahiran, status hukum, maupun hak waris karena tidak diakui sebagai anak sah. Kondisi ini menunjukkan kerentanan hukum dan sosial yang dihadapi perempuan dan anak akibat pernikahan tanpa pencatatan resmi. Untuk mengatasinya diperlukan langkah strategis, antara lain edukasi pencatatan nikah melalui KUA, pendataan pasangan *sirri* oleh pemerintah gampong, bantuan sosial dari DP3A dan Disdukcapil, serta pengesahan nikah melalui *isbat* di Mahkamah Syar'iyah. Kontribusi penelitian ini diharapkan menjadi

rujukan dalam perumusan kebijakan perlindungan hukum sekaligus memperkuat pemenuhan hak perempuan dan anak di tingkat lokal maupun nasional.

Kata Kunci: Dampak, Langkah Preventif Mitigatif dan Solutif, Nikah Sirri, Perlindungan Hukum, Perempuan dan Anak.

INTRODUCTION

Marriage is a sacred and fundamental institution in human life. Islam views marriage as a *mitsaqan ghaliza* (a solemn covenant) which aims not only to unite two individuals but also to realize a household life that is *sakinah, mawaddah, wa rahmah* (tranquil, loving, and merciful).¹ In a social context, marriage also functions to preserve lineage, honor, and social order. Therefore, the state establishes various regulations to guarantee order and legal protection for all parties in a marriage.² One of these is regulated in Law Number 1 of 1974 concerning Marriage, which asserts that every marriage must be officially recorded in accordance with the provisions of the prevailing laws and regulations. A similar provision is reaffirmed in Article 5 paragraph (1) of the Compilation of Islamic Law (KHI), which states that marriage registration is necessary to ensure marital order for the Muslim community.³

The practice of marriage that is not officially recorded, or known as *nikah sirri* (unregistered marriage), is still widely prevalent, both in rural and urban areas.⁴ *Nikah sirri* essentially fulfills the pillars and conditions of marriage according to Islamic law, but it lacks legal force before the state. Consequently, women and children born from such marriages often experience legal vulnerability, especially regarding civil status, inheritance rights, alimony, and social protection.⁵ The Fatwa of the Indonesian Ulema Council (MUI) also states that *nikah sirri* is valid religiously but not legally valid administratively in the state, potentially leading to future legal and social problems.⁶ This phenomenon indicates a disparity between positive legal provisions and religious practices existing in society, which in the long run can weaken the function of law as a protector for vulnerable parties.

¹ Abdi Samra Chaniago, "Memaknai Mitsaqan Ghalizha sebagai Kunci Harmoni Keluarga Islam," *Landraad: Jurnal Syariah & Hukum Bisnis* 2, no. 2 (2023): 181–96, <https://doi.org/10.59342/jl.v2i2.409>.

² Alfian Andri Wijaya, "Perlindungan Hukum Terhadap Pelaku Perkawinan Campuran Atas Status Hak Atas Tanahnya Di Indonesia," *Jurnal Rechtsens* 11, no. 1 (2022): 17–34, <https://doi.org/10.56013/rechtsens.v11i1.1156>.

³ Rian M. Sirait, "Pencatatan Perkawinan dalam Peraturan Perundang-Undangan Perkawinan di Indonesia," *Jurnal Juristic* 1, no. 1 (2021): 1–8, <https://doi.org/10.15642/juristic.2024.27.1.1-14>.

⁴ Fatmawati Balagaize et al., "Pandangan Masyarakat Terhadap Fenomena Nikah Siri Dan Dampaknya Bagi Kehidupan Sosial (Studi Kasus Di Kecamatan Manggala, Kota Makassar)," *JICN: Jurnal Intelek dan Cendekiawan Nusantara* 1, no. 6 (2024): 10832–47.

⁵ Sudirwan, "Studi Kritis Tentang Nikah Sirri Antara Hukum Islam dan Perlindungan Hukum Negara," *Depositi: Jurnal Publikasi Ilmu Hukum* 1, no. 4 (2023): 388–98, <https://doi.org/10.59581/depositi.v1i4.5373>.

⁶ Arisman, "Fatwa MUI tentang Nikah dibawah Tangan Perspektif Sosiologi Hukum Islam," *Jurnal Hadratul Madaniyah* 8, no. 2 (2022): 33–48, <https://doi.org/10.33084/jhm.v8i2.3079>.

Various recent studies have been conducted to review the aspect of legal protection for women and children in the practice of *nikah sirri* and unrecorded marriages. Some of these include the research by Sururie and Wicaksana, who highlighted the protection of women in unrecorded inter-citizen marriages in Indonesia.⁷ Second, the research by Akmal et al., which discussed how the principle of *maqāṣid al-syarī'ah* can strengthen the protection of Domestic Violence (KDRT) victims in *nikah sirri*.⁸ Third, the research by Sudirman and Hamzah, which explored marriage culture and how women and children are protected in the marriage traditions of Muslim communities in East Java.⁹ Fourth, the research by Rahmi et al., which examined the causative factors and practice of *nikah sirri* at the local level and the challenges of marriage registration.¹⁰ Fifth, the research by Darmawan et al., which examined how the recognition of marital status through court confirmation can be a solution for different ethnic groups in Indonesia.¹¹

From the review of these five studies, there are several gaps that have not been comprehensively addressed, thus this research is present to fill that void. First, most studies focus on the normative aspect or cultural studies, but very few conduct in-depth fieldwork at the local community level with a specific focus on women and children in the practice of *nikah sirri*. Second, although there is a discussion about the general protection of women and children, not many have analyzed preventive, mitigative, and solutive steps that are contextual and operational in specific regions. Third, research that integrates positive law, Islamic law, and social reality—including marriage registration regulations, community awareness, and registration services—within one research framework is still rare. Fourth, some studies examine ethnicity or culture in general, but none have specifically targeted a region with specific local characteristics, such as in Gampong Ajuen, Peukan Bada District, Aceh Besar Regency. Thus, this research offers novelty in the form of: a local empirical study focusing on the practice of *nikah sirri* in Gampong Ajuen, with an analysis of the background, legal impacts on women and children, and the identification of preventive, mitigative, and solutive steps that can be applied in that context. This research also strives to connect social, religious, and legal aspects simultaneously, which is expected to provide scientific and policy contributions in the development of Islamic family law in Indonesia, particularly in strengthening

⁷ Ramdani Wahyu Sururie and Dio Ashar Wicaksana, “Legal Protection of Women In Unregistered Inter-Citizen Marriage,” *Al-Adalah* 16, no. 2 (2019): 355–74, <https://doi.org/10.24042/adalah.v16i2.5361>.

⁸ Andi Muhammad Akmal et al., “Legal Solutions for Domestic Violence in Unregistered Marriages in Indonesia: Integrating Maqāṣid al-Sharī'ah,” *El-Usrah: Jurnal Hukum Keluarga* 7, no. 2 (2024): 768–88, <https://doi.org/10.22373/ujhk.v7i2.25971>.

⁹ Sudirman and Intan Suria Hamzah, “Legal Protection for Women and Children in the Marriage Tradition of Muslim Communities,” *IBDA: Jurnal Kajian Islam Dan Budaya* 22, no. 1 (2024): 123–40, <https://doi.org/10.24090/ibda.v22i1.9681>.

¹⁰ Nailur Rahmi et al., “Building Legal Compliance: A Study on the Practice of Unregistered Marriages in Tanjung Raya Subdistrict, Agam Regency, West Sumatra, Indonesia,” *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam* 9, no. 1 (2025): 416–37, <https://doi.org/10.22373/sjhk.v9i1.28306>.

¹¹ Aldy Darmawan et al., “Legalization of Nikah Sirri: A Solution to Obtain Marital Status Recognition Among Diverse Cultural Groups in Indonesia,” *Kawanua International Journal of Multicultural Studies* 4, no. 2 (2023): 165–74, <https://doi.org/10.30984/kijms.v4i2.728>.

protection for women and children through a contextual approach that is local and practical.

RESEARCH METHOD

This research uses a qualitative approach with an empirical-sociological research type,¹² aiming to deeply understand the practice of *nikah sirri* and its impact on the legal protection of women and children in Gampong Ajuen, Peukan Bada District, Aceh Besar Regency. This approach was chosen to obtain a comprehensive understanding of the social and legal realities occurring in the community through direct observation and in-depth interviews.¹³ The research subjects consist of three couples who conducted *nikah sirri*, the *Keuchik* (village head) as a community figure, and several residents aware of the practice. Informant selection was done purposively, considering their involvement and knowledge of the phenomenon under study.

The research implementation began with initial observation to determine the location and subjects, followed by in-depth interviews with key and supporting informants to gather information related to the motives, process, and impacts of *nikah sirri* practices. Furthermore, the researcher also conducted documentation of various supporting data such as village administrative records, legal provisions, and relevant literature to strengthen the field findings. The data sources in this research consist of primary and secondary data.¹⁴ Primary data was obtained from the results of direct interviews with informants, while secondary data came from legal documents such as Law Number 1 of 1974 *junto* Law Number 16 of 2019 concerning Marriage, the Compilation of Islamic Law (KHI), *fiqh* books, scientific journals, and online sources related to the research topic.

Data collection techniques were carried out through semi-structured interviews and documentary study.¹⁵ Interviews were conducted face-to-face to gain a deep understanding of the social, legal, and cultural realities surrounding *nikah sirri* practices, while documentation was used to complement legal and administrative data. The acquired data was then analyzed using the qualitative descriptive analysis method, which includes the stages of data reduction, data presentation, and conclusion drawing. Through these stages, all data is systematically processed and interpreted to describe the actual conditions in the field and generate a complete understanding of the form and

¹² Depri Liber Sonata, "Metode Penelitian Hukum Normatif dan Empiris: Karakteristik Khas dari Metode Meneliti Hukum," *FIAT JUSTISIA: Jurnal Ilmu Hukum* 8, no. 1 (2015), <https://doi.org/10.25041/fiatjustisia.v8no1.283>.

¹³ Adhi Kusumastuti and Ahmad Mustamil Khoiron, *Metode Penelitian Kualitatif* (Lembaga Pendidikan Sukarno Pressindo, 2019).

¹⁴ Muhaimin, *Metode Penelitian Hukum* (Mataram University Press, 2020); Risanna Aulia Adha Lubis, "Perlindungan Hukum Terhadap Hak Istri Dan Anak Pasca Cerai Talak," *Al-Rasikh: Jurnal Hukum Islam* 13, no. 2 (2024): 240–55, <https://doi.org/10.38073/rasikh.v13i2.1824>.

¹⁵ Ardiansyah, Risnita, dan M. Syahran Jailani, "Teknik Pengumpulan Data Dan Instrumen Penelitian Ilmiah Pendidikan Pada Pendekatan Kualitatif dan Kuantitatif," *Jurnal Ihsan: Jurnal Pendidikan Islam* 1, no. 2 (Juli 2023): 1–9, <https://doi.org/10.61104/ihsan.v1i2.57>.

effectiveness of legal protection for women and children in the practice of *nikah sirri* in Gampong Ajuen.

RESULTS AND DISCUSSION

General Overview of Gampong Ajuen, Peukan Bada District, Aceh Besar Regency

Gampong Ajuen is one of the villages located in the Peukan Bada District, Aceh Besar Regency, Aceh Province. This village has existed since the Dutch colonial era. Although there is no official record regarding the origin of the name "Ajuen," there is a local legend that suggests the name originated from the word "Ajudan," referring to the Admiral's Adjutant (*Ajudan Laksamana*). This is reinforced by data indicating that in 1940, when Indonesia was still under Dutch rule, there was already a village leader or *keuchik* named Keuchik Hasyim. When the Japanese military defeated the Dutch and entered Aceh, Gampong Ajuen became a region that offered resistance. Its strategic location, right on the Cut Nyak Dhien highway, made this village an important point in blocking the movement of the Japanese military. Evidence of this resistance can still be found today, such as two heroes' graves, one of which is the grave of the Admiral located in Laksamana Hamlet (*Dusun Laksamana*).¹⁶

Gampong Ajuen is divided into four hamlets (*dusun*), each named after past figures as a form of honor for their services: (1) Dusun Ayahanda (taken from the nickname of a community figure). (2) Dusun Laksamana (the name of a hero). (3) Dusun Teungku Malem (a freedom fighter figure). (4) Dusun Teungku Panglima Raden (a freedom fighter figure). Geographically, Gampong Ajuen is within the region of Kemukiman Lam Barueh, Peukan Bada District, Aceh Besar Regency, with an area of approximately 100 hectares. Administratively and geographically, Gampong Ajuen has the following boundaries: (1) West borders Gampong Rima Keneurum. (2) East borders Banda Aceh City. (3) North borders Gampong Darul Imarah. (4) South borders Gampong Lam Hasan.

Based on the latest census data in 2024, the total population of Gampong Ajuen, spread across four hamlets, is recorded as 767 Households (KK) with a total of 2,865 residents. Of this number, 1,404 residents are male and 1,461 residents are female. The detailed breakdown is presented in the following table:

Table 1. Population of Gampong Ajuen

Hamlet	KK (Households)	Male	Female
Ayahanda	268	497	505
Laksamana	281	528	547
Tgk. Malem	116	231	253
Panglima Raden	82	148	156
Total	767	1,404	1,461

*Source: Population Data by Hamlet.*¹⁷

¹⁶ "Rencana Pembangunan Jangka Menengah Gampong (RPJMG)," 2024.

¹⁷ "BPS Kecamatan Peukan Bada Dalam Angka 2024," 2024.

In general, the livelihoods of the community in Gampong Ajuen are quite diverse, including traders, entrepreneurs, civil servants (ASN), TNI/Polri members, livestock farmers, laborers, craftsmen, tailors, and others. Specifically for community members involved in the agricultural sector, they generally have multiple livelihoods. This is due to the uncertainty of harvest yields, which are heavily influenced by seasons, weather conditions, pest attacks, and harvest time. Gampong Ajuen also has a Village-Owned Enterprise (*Badan Usaha Milik Gampong* or BUMG) established based on Gampong Qanun Number 03 of 2014, with the appointment of management through Decree Number 17 of 2014. Currently, BUMG Gampong Ajuen manages one business unit, which is a savings and loan unit.¹⁸

The author chose Gampong Ajuen as the research location because three cases of *nikah sirri* occurred in this village between 2022 and 2024. This indicates that the practice of *nikah sirri* still happens in the community despite existing legal regulations and government socialization. These three cases reflect various issues that are interesting to study, especially concerning how legal protection is provided to women and children involved in the *nikah sirri* practice.

The Practice of *Nikah Sirri* in Gampong Ajuen, Peukan Bada District, Aceh Besar Regency

Based on the research findings conducted in Gampong Ajuen, Peukan Bada District, Aceh Besar Regency, it was found that the practice of *nikah sirri* (unregistered marriage) still occurs significantly, with 5 cases recorded in the last three years, from 2022 to 2024. This number indicates that although the laws and regulations have stipulated the validity of marriage through official registration, *nikah sirri* remains existent in the community. In this study, the researcher selected 3 cases considered the most representative for deeper analysis, taking into account the diversity of backgrounds and motivations of the perpetrators of *nikah sirri* which reflect a common pattern in the local community.

The practice of *nikah sirri* discovered is not without cause but is influenced by various interconnected factors. The following are the results of interviews with local community members:

First, the couple with initials I (48) and K (35), residents of Laksamana Hamlet, Gampong Ajuen, held a *nikah sirri* in 2022 without official registration at the Office of Religious Affairs (KUA). This marriage was conducted because the husband intended to marry again (polygamy) with K, a living divorcee residing in Gampong Ajuen, but did not obtain permission from his first wife in Sigli. In Indonesia's marriage legal system, as regulated in Law Number 1 of 1974 and the Compilation of Islamic Law (KHI), the first wife's permission is an absolute prerequisite to obtain a dispensation or approval from the Religious Court for polygamy. Because they failed to obtain this consent, the couple ultimately chose the path of *nikah sirri* as a solution for their relationship to be considered

¹⁸ "Rencana Pembangunan Jangka Menengah Gampong (RPJMG)."

valid according to religion, although not legally recognized by the state. The *nikah sirri* process they undertook began with a private agreement between the two, then proceeded to find a *teungku* (religious leader) willing to act as the officiant. The marriage contract (*akad nikah*) was performed at the *teungku*'s house, witnessed by a few close relatives and two pre-arranged witnesses. There was no administrative recording or reporting to the KUA or Gampong authorities, as the couple consciously avoided official procedures to maintain the secrecy of their polygamous status. Their primary motivation for *nikah sirri* was to be able to live as husband and wife, deemed valid religiously, while simultaneously avoiding social sanctions from the community and legal obstacles from the first wife. The parties involved in the marriage were the husband and the *sirri* wife, two male witnesses from the surrounding area, and a *teungku* who was considered to have religious knowledge and was often asked by the community to be the officiant in unregistered marriages. In this marriage, the *teungku* acted as the marriage guardian (*wali hakim*) because no lineage guardian (*wali nasab*) from the female side was present or directly approved. From this marriage, the couple has been blessed with a child who is now one year old. However, due to the unregistered marital status, the child does not have a birth certificate that includes the father's name, potentially facing administrative difficulties in accessing education, health services, and inheritance rights in the future.[1]

Second, the couple with initials M (36) and N (33), residents of Panglima Raden Hamlet, Gampong Ajuen, held a *nikah sirri* in 2023. Based on the interview, this couple were migrants from outside the area, specifically from Medan, who decided to marry religiously without official registration at the KUA because they did not receive consent from their respective parents. Family disagreement was the main reason that drove them to carry out what is known in the community as *nikah lari* (elopement marriage), which is marrying without the family's knowledge or consent and then settling elsewhere to avoid ongoing pressure and conflict. In this context, *nikah sirri* became a perceived safe and *shari'a*-compliant way out, despite not gaining recognition under state law. The stages of their *nikah sirri* were simple and conducted secretly. After migrating to Gampong Ajuen, they sought a *teungku* willing to lead the marriage contract ceremony. The marriage was held at the *teungku*'s house with only two witnesses and the *teungku* (as officiant/guardian) present, without the involvement of the extended family from either side. No administrative process such as obtaining a marriage permit from the sub-district or marriage recommendation from the original KUA was conducted, as they lacked the required complete documents and did not want their families to know. The lack of complete identity documents and their status as migrants further reinforced their reasons for not conducting the marriage officially before the state. The couple's motivation was more emotional and spiritual: to keep their relationship within religious boundaries, avoid *zina* (fornication), and prove their genuine commitment to live together through thick and thin, irrespective of family rejection or administrative obstacles. The parties involved in this marriage were a *teungku*, two witnesses who were their neighbors, and a distant relative of the wife who happened to live in Banda Aceh and supported their decision. In the marriage contract, the *teungku* acted as the *wali hakim* because there was

no *wali nasab* from the wife's side. From this marriage, M and N are now blessed with a child who is currently one year old. However, similar to the previous case, the child is not officially recorded in state administration because the parents have not legally registered their marriage, which certainly creates various issues related to the child's civil rights in the future, such as birth certificate, access to formal education, and social security.[2]

Third, the couple with initials R (40) and S (38), residents of Laksamana Hamlet, Gampong Ajuen, held a *nikah sirri* in 2024. Based on the interview, their decision to marry religiously without official registration at the KUA was driven by administrative constraints. R was a widower whose wife died in the 2004 Aceh Tsunami. However, until the marriage with S was planned, he did not possess official documents in the form of a divorce certificate or a death certificate for his former wife. The unavailability of these documents became the primary barrier for R to legally proceed with the marriage in the eyes of the state, as the official marriage procedure in Indonesia requires the document of the last marital status as one of the main prerequisites. Facing this obstacle, the couple eventually chose to conduct a *nikah sirri* as a temporary solution. They assumed that by marrying religiously, their relationship was valid according to Islamic *sharia*, even if not yet administratively recognized by the state. This step was also taken as a precaution so that they would not live together in a status considered a violation of religious norms. The marriage ceremony was conducted privately at the house of a close relative, featuring a local religious figure as the unofficial officiant, and two male witnesses who were local residents. The couple's primary motivation was more practical: to wait for the document completion while living within the bond of marriage according to Islam. They realized that the *nikah sirri* status had not provided adequate legal protection, both for themselves and for any children who might be born later. However, due to limited access and the complicated, time-consuming process of document management, they chose to postpone the official registration until the necessary documents were complete. The parties involved in the execution of this *nikah sirri* included the couple themselves, a *teungku* considered knowledgeable in religion, and several trusted witnesses. As of now, R and S have not been blessed with a child but continue to live their household life like any other married couple, albeit still in legal uncertainty.[3]

Based on the interview results, the *Keuchik* of Gampong Ajuen stated that he did not explicitly reject the practice of *nikah sirri* occurring in his area. He explained that in the view of the local community, a marriage is considered valid as long as it fulfills the pillars and conditions according to religion, namely the presence of a guardian (*wali*), two witnesses, and the *ijab qabul* (offer and acceptance) between the couple. For residents who highly uphold the values of Islamic *sharia*, the religious validity of the marriage is sufficient to live as husband and wife. Therefore, when a couple is administratively hindered or has document issues, they still choose to marry religiously to avoid *zina* and be considered *halal* by their social environment. The *Keuchik* also conveyed that some couples who engage in *nikah sirri* come to him for consultation or advice before proceeding with the marriage. In such situations, he tries to provide guidance so that the marriage process still complies with religious rules, such as suggesting the couple involve

a local *teungku* who understands *sharia* law. He believes that rather than the couple living together without a clear bond and being vulnerable to slander, it is better for them to marry religiously even if not yet legally recorded by the state. However, he also warned that marriages not recorded at the KUA could cause serious problems in the future, especially regarding the rights of women and children, such as the issuance of birth certificates, inheritance rights, recognition of the child's legal status, and other legal protection. The *Keuchik* acts not only as the head of the village government but also as a respected figure in social, cultural, and religious decision-making. He often mediates family conflicts, including marriage issues involving parental rejection or disputes between parties. Although he is not directly involved in the execution of *nikah sirri*, he provides space and understanding to residents who choose this path, as long as it is done validly according to Islamic teachings and does not cause harm to others. For him, the main task is to maintain social harmony, strengthen religious values, and ensure that married couples still live a respected life in accordance with *sharia* principles, even if not officially recorded by the state.[4]

According to the author, the practice of *nikah sirri* occurring in Gampong Ajuen indicates that the community prioritizes religious validity over state legal registration. For them, as long as the marriage is performed by fulfilling religious requirements such as the presence of a guardian, witnesses, and *ijab qabul*, the marriage is considered valid and *halal*. However, marriages not officially recorded at the KUA actually create many problems, especially for women and children. Children born from *nikah sirri* can struggle to obtain a birth certificate, which will impact access to education, health services, and inheritance rights. This is clearly detrimental and can complicate the child's future. Furthermore, many couples choose *nikah sirri* for reasons such as wanting to practice polygamy without permission, lack of parental consent, or incomplete documents. This shows that legal understanding in the community is still low, and they prefer an easy route despite the poor impact later on. The role of community figures like the *keuchik* and *teungku* is also very influential. Although the *keuchik* does not directly support it, his attitude of providing space and understanding to this practice allows *nikah sirri* to persist. Therefore, collaboration is needed among the government, religious figures, and the community to increase awareness about the importance of officially registering marriages so that the rights of women and children can be properly protected.

The Impact of *Nikah Sirri* (Unregistered Marriage) on Legal Protection for Women and Children in Gampong Ajuen, Peukan Bada District, Aceh Besar Regency

The perspective of Law Number 1 of 1974 concerning Marriage and the Compilation of Islamic Law (KHI) holds that the status of women in *nikah sirri* is not legally recognized by the state. Consequently, women lack legal certainty and protection for their rights as wives. This is because *nikah sirri* is not officially registered by the state, despite Article 6 of the KHI mandating that every marriage be conducted in the presence and under the supervision of the Marriage Registrar. Legal rights and protection for the husband and wife can only be obtained if the marriage is registered and they possess an official marriage certificate from the Office of Religious Affairs (*Kantor Urusan Agama*

- KUA). Therefore, *nikah sirri* is considered a violation of state law which requires the registration of marriage.¹⁹

Marriage registration is not merely an administrative matter; it also serves the crucial function of protecting women and children born from the marriage. There are two main objectives of marriage registration. First, to prevent marriages that violate regulations and lack responsibility. Second, to provide legal protection for women and children who may become victims of such marriages. Therefore, marriage registration is an important step to ensure that the rights of women and children are guaranteed.²⁰

The research findings of Basri et al. indicate that children born from unregistered marriages often face difficulties obtaining birth certificates because their parents' marital status is not recognized by the state.²¹ Another study by Windani et al. (2025) emphasizes that children from *nikah sirri* encounter administrative barriers in accessing education and health services due to the lack of valid legal identity.²² Furthermore, Sonu et al.'s (2025) research reveals that although *nikah sirri* is valid religiously, this practice creates structural injustice for women as they lack the legal basis to claim rights to maintenance, inheritance, and protection from neglect.²³ Meanwhile, Ningrum and Saronu also highlight that polygamous marriages conducted without official registration directly impact the loss of children's and women's rights to shared property and inheritance.²⁴ The research by Ismail and Mustapa even asserts that the national legal system is not yet fully effective in providing protection for children resulting from *nikah sirri* due to weak implementation of regulations and low public awareness.²⁵

In relation to children born from *nikah sirri*, based on Law No. 1 of 1974, the issue of children is regulated in Articles 42, 43, and 44. A legitimate child is a child born in or as a result of a legal marriage, which is a marriage officially registered by the state. Article 44 states that the court has the authority to decide the legitimacy of a child upon the request of the interested party. Meanwhile, a child born out of wedlock, including from

¹⁹ Addin Daniar Syamdan and Djumadi Purwoatmodjo, "Aspek Hukum Perkawinan Siri dan Akibat Hukumnya," *Jurnal Notarius* 12, no. 1 (2019): 452–66, <https://doi.org/10.14710/nts.v12i1.28897>.

²⁰ Pristiwiyanto, "Fungsi Pencatatan Perkawinan Dan Implikasi Hukumnya," *Fikroh: Jurnal Pemikiran dan Pendidikan Islam* 11, no. 1 (2019): 34–52, <https://doi.org/10.37812/fikroh.v11i1.33>.

²¹ Herlina Basri et al., "Legal Status of Children Born as a Result of Unregistered Marriage (Siri) on the Position of Children According to Marriage Law," paper presented at Proceedings of the 2nd Multidisciplinary International Conference, MIC 2022, 12 November 2022, Semarang, Central Java, Indonesia, February 14, 2023, https://eudl.eu/doi/10.4108/eai.12-11-2022.2327364?utm_source=chatgpt.com.

²² Sri Windani et al., "Legal Protection for Children in Unregistered Marriages (Nikah Siri) in Indonesia," *International Journal of Research and Review* 12, no. 4 (2025): 215–23, <https://doi.org/10.52403/ijrr.20250426>.

²³ Emilda Sonu et al., "The Dynamics and Legal Implications of Unregistered Marriages in Indonesia," *Antmind Journal of Jurisprudence and Social Justice* 1, no. 1 (2025): 45–56, <https://doi.org/10.63077/9e5wjt36>.

²⁴ Ajeng Triana Ningrum and Agus Saronu, "Implications of Unregistered Polygamy Marriage Ratification in Indonesian Marriage Law," *International Journal of Law* 9, no. 1 (2023): 129–32.

²⁵ Rifki Ismail and Agil Mustapa, "Juridical Analysis of Unregistered Marriages' Effects on Children's Legal Status and Civil Rights," *Estudiante Law Journal* 7, no. 3 (2025): 758–71, <https://doi.org/10.33756/eslaj.v7i3.32282>.

an unregistered *nikah sirri*, only has a civil relationship with their mother. Therefore, a child resulting from *nikah sirri* is viewed as the same as a child born out of wedlock, and thus legally only has a civil relationship with the mother and the mother's family.²⁶

Law Number 1 of 1974 regulates the status of children born from *nikah sirri*, namely in Articles 42, 43, and 44. According to the law, a legitimate child is a child born in or as a result of a marriage officially recognized by the state. Article 44 mentions that the court can determine the legitimacy of a child's status upon the request of the interested party. Meanwhile, a child born from a relationship outside of an official marriage, including from an unregistered *nikah sirri*, only has a legal relationship in a civil capacity with their mother. Thus, a child resulting from *nikah sirri* is considered the same as a child born out of wedlock, and legally only has a civil relationship with the mother and the mother's family.²⁷

Based on the explanation above, three cases of *nikah sirri* in Gampong Ajuen show that women and children are the most vulnerable parties because their marriages are not registered at the Office of Religious Affairs (KUA), leading to a loss of important rights such as a marriage certificate, birth certificate, inheritance, health services, and education. In the first case, couple I and K entered *nikah sirri* because the husband wanted to practice polygamy without the first wife's permission, causing the second wife to lack legal certainty, be unable to claim maintenance, and not be officially recognized. In the second case, couple M and N entered *nikah sirri* due to lack of family approval and insufficient documents, so the child born is only legally recognized as the mother's child and loses rights to identity, inheritance, and paternal recognition. Meanwhile, in the third case, couple R and S entered *nikah sirri* because the husband did not yet have a divorce certificate or death certificate for his previous wife due to the tsunami, causing the new wife to not be legally recognized and lose the right to protection as a legitimate wife. These three cases affirm the importance of marriage registration so that women and children obtain clear and just legal protection.

According to the author, the practice of *nikah sirri* in Gampong Ajuen, Peukan Bada District, Aceh Besar Regency, has a considerable impact on women and children, especially concerning legal protection. Because the marriage is not officially registered at the KUA, the wife does not have the legal standing to claim her rights, such as maintenance, residence, inheritance, or protection if neglected or divorced. Children born from *nikah sirri* are also not immediately recognized as the father's legitimate child under the law, making it difficult for them to obtain a birth certificate, inheritance rights, and access to education or other services. This demonstrates that women and children are the most disadvantaged parties in unregistered marriages. Therefore, according to the author, it is crucial for the community to realize the importance of officially registering marriages

²⁶ Prihati Yuniarlin, "Kedudukan Anak yang Lahir Dalam Perkawinan Siri Setelah Perkawinan Orang Tuanya Dicatatkan di Kantor Urusan Agama," *Unes Journal of Swara Justisia* 7, no. 3 (2023): 1085–96, <https://doi.org/10.31933/ujsj.v7i3.418>.

²⁷ Ahmad Akhil Adib, "Perlindungan Hukum Bagi Perempuan Dalam Praktek Perkawinan Siri Di Kepulauan Kangean," *Egalita: Jurnal Kesetaraan dan Keadilan Gender* 18, no. 2 (2023): 88–97, <https://doi.org/10.18860/egalita.v18i2.24176>.

so that the rights of all family members, especially women and children, can be properly protected by law.

Preventive, Mitigative, and Solutive Steps that Can Be Implemented to Protect Women and Children from the Negative Impacts of *Nikah Sirri* (Unregistered Marriage)

Cases of *nikah sirri* occurring in Gampong Ajuen show that women and children often become victims, both legally and socially. Although *nikah sirri* is considered valid according to religion, because it is not registered at the Office of Religious Affairs (KUA), women and children lack guaranteed legal protection such as inheritance rights, the legal status of the child, and maintenance allowance. In this regard, the primary responsibility lies with structural stakeholders, namely the Ministry of Religious Affairs, Local and Gampong Governments, the *Mahkamah Syar'iyah* (Islamic Court), and the Office of Women's Empowerment and Child Protection (DP3A). Each has an important role in implementing preventive, mitigative, and solutive approaches to the negative impacts of *nikah sirri*.

Preventively, the Ministry of Religious Affairs through the KUA actually has the responsibility to educate every prospective bride and groom about the importance of marriage registration. This education is crucial so that couples understand that registering a marriage is not just an administrative matter but also a form of legal, social, and religious protection, especially for women and children. This counseling can be carried out through pre-marital guidance, family law counseling, and other socialization activities involving cooperation between the KUA, religious counselors, and other agencies such as the DP3A and the Population Office. On the other hand, the gampong government also plays an important role in facilitating its citizens to process marriage application letters and other necessary documents. Gampong officials are expected to actively encourage the community to conduct valid and registered marriages at the KUA so that their marital status is recognized by the state.

Empirical support for this preventive strategy is reflected in studies showing that low legal literacy regarding marriage and minimal awareness of registration are among the main factors contributing to the practice of *nikah sirri*. For example, the research by Basri et al. found that when a marriage is not registered, children born from that marriage often do not obtain a birth certificate because the population office refuses to issue one if the parents' marital status is unclear.²⁸ Another study by Windani et al. mentions that the practice of *nikah sirri* is strongly related to the lack of counseling and low public understanding of the legal implications of marriage registration.²⁹

Mitigatively, if *nikah sirri* has already occurred, especially for couples who already have children, the role of the gampong and sub-district governments becomes very important in conducting data collection. This data collection aims to identify couples and children from *nikah sirri* who are potentially unprotected by law. This data then

²⁸ Basri et al., "Legal Status of Children Born as a Result of Unregistered Marriage (Siri) on the Position of Children According to Marriage Law."

²⁹ Windani et al., "Legal Protection for Children in Unregistered Marriages (Nikah Siri) in Indonesia."

becomes the basis for related agencies, such as DP3A and the Social Office, to provide legal assistance, psychological counseling services, and social aid for affected women and children. Additionally, the Office of Population and Civil Registration (*Disdukcapil*) also has a role in seeking solutions so that children from *nikah sirri* can still obtain a birth certificate and access other civil rights such as education and social security, even if their parents' marital status is not yet officially registered.

The research by Horii and Wirastri highlights that one of the keys to mitigation is data collection and the availability of administrative access services for children and couples in *nikah sirri*—because without administrative intervention they are often trapped in legal uncertainty.³⁰ The Suhera et al. study also found that children from unregistered marriages face barriers in obtaining a birth certificate and education due to unclear legal status.³¹

Solutively, to resolve the legal issues of unregistered marriages, the *Mahkamah Syar'iyah* is the most authorized institution through the *isbat nikah* (marriage ratification) mechanism. *Isbat nikah* is a legal process aimed at validating or legalizing a *nikah sirri* that has already taken place. With a ruling from the *Mahkamah Syar'iyah*, the marriage will be legally recognized by the state. This is important so that the status of the wife and children born from the marriage receive legal protection, such as rights to maintenance, inheritance, and recognition of legal family status. After the court's decision, the KUA is obliged to register the marriage and issue a marriage book (*buku nikah*) as official legal proof. With this step, the couple is not only valid religiously but also gains recognition and protection under state law. This is supported by the research of Windani et al. which affirms that *isbat nikah* and administrative resolution are important for improving the legal position of children and couples from unregistered marriages.³²

According to the author, the handling of *nikah sirri* should not only be done after the event has occurred but should begin with planned prevention steps. The KUA, as the extended arm of the Ministry of Religious Affairs, has an important role in providing broad and communicative legal education on marriage, in collaboration with women and child protection agencies. Marriage registration is not just an administrative matter but a form of protection for the rights of women and children, such as maintenance, inheritance, and legal status. The gampong and sub-district governments also need to play an active role in recording couples and children resulting from *nikah sirri* so that they still receive state protection. Support from DP3A, the Social Office, and Disdukcapil is important to help children obtain legal identity. Furthermore, *isbat nikah* at the *Mahkamah Syar'iyah* must continue to be socialized, as many couples do not understand the procedure.

³⁰ Hoko Horii and Theresia Dyah Wirastri, "Living in a Legal Limbo: Mechanisms to 'Fix' The Legal and Social Positions of Unregistered Children in Indonesia," *The Indonesian Journal of Socio-Legal Studies* 2, no. 1 (2022), <https://doi.org/10.54828/ijsls.2022v2n1.1>.

³¹ Suhera et al., "Status of Children from Unregistered Marriage Based on Minister of Home Affairs Regulation No. 109 of 2019 (Study of the Barru Regency Capil Population Service)," *International Journal of Health, Economics, and Social Sciences (IJHES)* 6, no. 2 (2024): 301~313-301~313, <https://doi.org/10.56338/ijhess.v6i2.4617>.

³² Windani et al., "Legal Protection for Children in Unregistered Marriages (Nikah Siri) in Indonesia."

Cooperation between the *Mahkamah Syar'iyah*, KUA, and the gampong government is key to legalizing *nikah sirri* and protecting family rights both religiously and legally by the state.

CONCLUSION

Unregistered marriage (*Nikah Sirri*) which is not officially recorded at the Office of Religious Affairs (KUA) places women and children in a legally weak position or without legal protection. They can lose their rights, such as the right to maintenance (*nafkah*), inheritance, and legal recognition of their status. Yet, according to the Marriage Law and the Compilation of Islamic Law (KHI), every marriage must be registered to obtain legal protection from the state. Cases of *nikah sirri* in Gampong Ajuen prove that if a marriage is unregistered, the wife can lose her legal rights, and the child is only recognized through the mother's side.

The preventive, mitigative, and solutive steps that can be implemented include: Preventively, the Ministry of Religious Affairs through the KUA is obliged to educate prospective couples about the importance of marriage registration for legal protection, especially for women and children. The *gampong* (village) government also assists with administrative matters and encourages registered marriage at the KUA through direct socialization to the community and integrated cross-sectoral counseling. Mitigatively, the *gampong* and sub-district authorities need to collect data on *nikah sirri* couples, especially those with children, for social protection and the assurance of basic rights continuity. The Office of Women's Empowerment and Child Protection (DP3A) and the Social Office provide counseling, assistance, and aid, while the Civil Registration Office (*Disdukcapil*) ensures children still receive birth certificates and other civil rights without discrimination. Solutively, the *Mahkamah Syar'iyah* (Islamic Court) processes marriage ratification (*isbat nikah*) as a legalization of *nikah sirri*. After a court decision is issued, the KUA registers the marriage and issues a marriage book (*buku nikah*) so that the legal status of the wife and child is protected comprehensively and sustainably.

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