

13724_Gani_2020_E_R.pdf
by

Submission date: 24-Nov-2020 06:31AM (UTC+0700)

Submission ID: 1455506340

File name: 13724_Gani_2020_E_R.pdf (260.26K)

Word count: 6677

Character count: 35465



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Marriage at the Balee Giri, is it for Pleasure or Displeasure? A Critique on the Fatwa of Legality of Unofficial Marriage

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This article provides a valuable contribution of knowledge, as its content has not been published previously. It is based upon research findings in Aceh, Indonesia, discussing the unofficial marriage, which is not registered with the Government, and that occurs at the Balee Giri. The Balee Giri refers to a place where the procession of an unofficial marriage is held. According to the fatwa of the Islamic cleric, an unofficial marriage is a legal marriage in the Islamic view, if fulfilling an Islamic obligation. However, in Indonesian marriage law, the marriage procession which is not registered with the government office is considered an illegal marriage, although fulfilling an Islamic obligation. In fact, most couples tend to choose marriage at the Balee Giri as a low-cost marriage and fulfilling Islamic principles, as opposed to the government office. Unfortunately, marriage at the Balee Giri has created a new problem because the marriage is not recognised by the Government, and thus consequentially, the marriage cannot obtain relevant government documents, including birth certificates for children.

Keywords: *Marriage law, Fatwa of ulema, Unofficial marriage, Islamic law, Indonesian law.*

Introduction

This paper investigates the unofficial marriage in Aceh, Indonesia, which is known widely as marriage at *Balee Giri*. This kind of marriage has been identified as an illegal marriage in Indonesian marital law. However, in Islamic law, this marriage is acceptable, as long as it



fulfils the Islamic marital requirement. The existence of the marriage law, the ² compilation of Islamic law, the fatwa of the Indonesian Ulema Council, and the fatwa of the Aceh's Ulema Consultative Council on *nikah siri*, are all essential to protect women's rights. Surely, the gap between the legal basis and community practice has implications for the legal issues that may potentially harm women. Consequently, the effect of an unofficial marriage has a significant impact for couples. Despite receiving pleasure, most of couples, in fact, are displeased. Thus, the authors will explore this research finding in the present paper.

Considering the widespread practice of marriage at *Balee Giri*, also known as *nikah siri* or the unofficial marriage in Aceh, it is crucial to conduct this research. Thus, it is necessary to explain the meaning of marriage. In the compilation of Islamic law, marriage is a very strong *akad* (contract) or *mitsaqan ghalizha*, which aims to obey Allah's command, and to carry it out; this is considered worship (Lukito, 2019). Therefore, marriage is not only interpreted as a permit for biological pleasure alone, as defined by a majority of *fiqh* or Islamic jurisprudence scholars, but also aims to build a strong family institution that will impact upon rights and obligations (Alkhanif, 2019). Marriage is also intended to maintain the *nasab* or lineage purity because a legal marriage may result in legitimate offspring (Saebani, 2013).

Based on the *maqashid al-shariah* theory, the purpose of marriage is to maintain the offspring, which is an essential (*dharuri*) need for all individuals. Apart from having a humanist perspective, the purpose of marriage also has a worship perspective. The husband and wife have a balanced position, live in harmony, and show mutual respect. Husbands are obliged to guide and protect their wives in the path blessed by Allah. Furthermore, husbands are obliged to provide religious education to their wives, as well as ⁵ provide opportunities to learn knowledge, which are religiously useful, and beneficial (Instruksi Presiden Nomor 1 Tahun 1991 Tentang Kompilasi Hukum Islam, 1991). In addition, the wives must maintain their husband's trust and obey their husbands within reasonable limits, meaning they must not engage in immoral acts according to Allah (Naqiyah, 2016).

Currently, one of the most urgent requirements is marriage registration (Jamaluddin, 2019; Moge, 2018). Although this requirement is not discussed by the *fuqaha* or jurists in the *fiqh* literature, and does not constitute provisions in the religious rules, however, the prevailing legal norms stress that marriages must be documented by the marriage registrar (³ Siddiq Armia, 2018a; Siddiq Armia, 2018b; Künkler, 2017). This is stated in the Marriage Law Number 1 of 1974, Article 2 (2): "each marriage is documented according to the applicable laws and regulations".

In the compilation of Islamic law, the provision of marriage registration is clearly stated in Article 5 (1): "to guarantee the marital order ³ in the Islamic community, every marriage must be documented". Next, Article 6 (1) mentions that to fulfil the provisions of Article 5: "every



marriage must take place in the presence and under the supervision of a marriage Registrar”. In paragraph two, it is emphasised that “marriages that are held outside the supervision of the marriage registrar have no legal force” (Abdurrahman, 1992; Velasco Regulez, 2019).

An unregistered marriage is known as a *nikah siri* or an unofficial marriage (Arsal & Thriwaty, 2016). Ibn Mansur explained the origin of the word, *sirrun*, which means secretly and clandestinely. If it is related to marriage, then *nikah siri* is a secret marriage which is carried out illegally (Mansur, 1707). Although it is deemed legitimate in terms of the religious norms, *nikah siri* is not recognised by the Indonesian law.

There are two possible meanings of *nikah siri*. Firstly, a marriage without the presence of either *wali* or an Islamic legal guardian or witnesses; or with a present guardian but without witnesses. This form of marriage is religiously invalid because it does not meet either the *rukun* or the requirements of a marriage. Secondly, marriages that are carried out based on religious norms, such as being attended by guardians and witnesses but not officially documented at the Office of Religious Affairs. Such marriages are legal according to the religious norms (Zulfan, 2014) because they fulfil the *rukun*, and requirements for a marriage. The only issue is that there is no supervision, and documentation by designated officials.

Nikah siri, as referred to in this article, is the second model. The issue that may arise is the inability to obtain the rights as a continuation of the marriage. The women are the most disadvantaged parties in achieving their civil rights. For example, the rights for living support, as well as shared wealth and inheritance. Due to the absence of marriage registration evidence, the marriage that has taken place cannot be proven as legitimate. Therefore, women may experience difficulties obtaining their rights if their husband dies. Edi Gunawan mentioned that a woman who is married in a *siri* way, is not considered as a legal wife (Gunawan, 2016). The practice of *nikah siri* in Aceh remains relatively high. Based on the research finding, there are many cases of *nikah siri* which is practised in the community, and the reasons supporting the *nikah siri* practices are driven by a variety of factors (Syahrati, 2018).

Discussion

Marriage Documentation

The provision for marriage registration is stipulated in Law Number 1 of 1974 regarding marriage, specifically Article 2 (2): “Every marriage is documented according to the applicable laws and regulations”. The presence of this article is critical in terms of the existence of a marriage. Although, marriage is legal if it is carried out according to the religious provisions, as stipulated in Article 2 (1): “Marriage is legal if carried out according to the law of each religion and belief”, but marriage documentation by the marriage registrar



is utterly essential. Marriage registration is one of the state-determined administrative requirements which are important to achieve marital order (Kurniawan & Setyawati, 2019). Ignoring the process of marriage registration may lead to prolonged difficulties. A state-registered marriage may bring great benefit to the marriage life itself, including the protection of the wife's civil rights, in terms of living support from the husband, inheritance, and even recognition of their existence in the family.

In the compilation of Islamic law, the provision on marriage registration is stated in Article 5 (1): "To guarantee a marital order in the Islamic community, every marriage must be registered". Article 6 (1) states: "to fulfil the provisions in Article 5, each marriage must take place in the presence and under the supervision of a Marriage Registrar". Paragraph two states: "marriages conducted outside the supervision of the Marriage Registrar do not have legal force". Whereas, Article 7 (1) states: "Marriage can only be proven by a Marriage Certificate made by a Marriage Registrar" (Abdurrahman, 1992).

The above provisions aim to regulate marital order in the community because unregistered marriages may potentially lead to future legal issues (Hasanah et al., 2019; Sadegh, et al., 2018). In principle, marriage registration is a basic right in achieving a *sakinah, mawaddah* and *warahmah* or tranquil, affectionate, and forgiving family. Marriage registration is also an effort to protect the rights of women and children. A marriage which is not documented at a marriage registration institution is not recognised by the State, although it is considered to be legal from a religious perspective (Debnár, 2016). Due to the importance of marriage registration, some experts believe that this should not be understood as an administrative requirement only, but also as a legal requirement.

Ulema's Fatwa Regarding Nikah Siri

The fatwa of the Indonesian Ulema Council Number 10 of 2008 regarding unofficial marriage was a response to the issues that occur in the Indonesian community, such as the widespread practices of *nikah siri* or marriages that are not registered and based on the applicable laws and regulations. The contents of the fatwa are as follows:

First general provisions: an unofficial marriage referred to in this fatwa is "A marriage that meets all the *rukun* and requirements stipulated in the *fiqh* (Islamic law) but without official registration, at the competent authority as regulated in the legislation".

Second general provision:

1. An unofficial marriage is legitimate because it meets the requirements and *rukun* of a marriage, but it may become *haram* (forbidden) if a *mudharat* (harmful) aspect occurs.



2. A marriage must be officially registered as a preventive measure to avoid negative impacts or *mudharat* (*saddan lidz-dzari'ah*) (Fatwa Majelis Ulama Indonesia No 10 Tahun 2008, 2008).

An important note that needs to be highlighted in the fatwa is that marriage cannot refer to religious provisions⁸ only because adhering to State regulations is also a necessity. The consideration is the Quran Surah An-Nisa, verse 59: “O you who believed, obey Allah and obey His Messenger and those in authority (*ulil amri*) among you”.

Obedying *Ulil Amri* or the authority, as mentioned in that verse, is part of obeying Allah and his prophets. Considering the context, every intelligent, and faithful human being must obey their leader regardless of who the leader is.

Both texts above show that Muslims are required to obey their leaders. However, as emphasised in the Hadith above, the leader's order must not contradict and violate the *sharia* or Islamic law provisions (Nasir, 2016). Marriage registration is a government provision that is stipulated to regulate marriages and protect women's rights.

The Aceh Ulema Consultative Council also imposed Fatwa No. 1 of 2010 regarding *nikah siri*, as a response to the practice of *nikah siri* in the Acehnese community as follows:

1. *Nikah siri* is a marriage that is carried out in the absence of a marriage registrar and is not registered at the District Religious Affairs Office or other legal institutions.
2. According to *syara'* or Islamic law views, there are a legitimate *nikah siri*, and an illegitimate *nikah siri*:
 - a. A legitimate *nikah siri* is an unofficial marriage that meets the *rukun*, and requirements of a marriage.
 - b. An illegitimate *nikah siri* is an unofficial⁶ marriage that does not meet the *rukun*, and requirements of a marriage.

The basic reason for the fatwa is due to the widespread practice of *nikah siri* in Aceh. However, the regulations are not in place, and there are no sanctions for perpetrators of *nikah siri*. It has been an unsettling issue in the community due to its uncertainty in the Shariah law. The legal consideration is the Quran Surah An-Nisa, verse 21: “And how could you take it back while some of you have gone in unto each other as husbands and wives and they (your wives) have taken from you a solemn covenant?”.

Marriage is a sturdy and robust agreement that is characterised as *mitsaqan ghalizha*. In



Arabic, the documents of the significant treaties are termed, *wastiqah*. Likewise, a marriage agreement must be accompanied and proven with a valid marriage document, as the *wastiqah* of an agreement.

Mudharat or harmful deeds that possibly and often occur in *nikah siri* includes the behaviour of most husbands that can be troublesome for their wives and children. The fatwa above explained that if there are no other verses in the Quran, and Hadith regarding the provision of marriage registration, then the above *fiqh* rule is sufficient as a provision. Furthermore, *sad az-zariyah* was also used as the legal basis for the fatwa, such as closing the path towards forbidden deeds by not providing living support to the family, not paying for children's education, and so on. Therefore, marriage registration is necessary to avoid potentially harmful events.

Legitimacy of Marriage

In the case of *nikah siri*, there are a couple of things to consider in relation to marriage legitimacy. Firstly, marriage legitimacy is associated with the fulfilment of all *rukun*, and requirements of a marriage. Although marriage registration is regarded as an administrative requirement, it has significant benefits for the community. Therefore, some Islamic family law experts have argued that marriage registration could not be considered as an administrative requirement only, but it also has a normative value which can determine the marriage legitimacy (Nurudin, 2006; Sportel, 2016). The justification for this opinion is an analogy to the provision in Surah Al-Baqarah, verse 282, as follows: “O you who have believed, when you contract a debt for a specified term, write it down. And let a scribe write [it] between you in justice”.

Therefore, marriage registration is a necessity because marriages will be well documented by the State. Registering marriages may lead to a marital order in the community. In addition, it may prevent the deviations and manipulations of marital identities (Rofiq, 1997; Shanneik, 2017). This will suppress the number of unofficial marriages which is a practice that violates the laws and regulations and threatens women's protection.

Secondly, it is related to valid evidence. Marriages that do not meet the *rukun*, and requirements are certainly not religiously recognised. For example, the *rukun* of a marriage requires a marriage guardian or *wali* to be present. Therefore, marriage is not legitimate if a guardian is not present. A bride must be married off by a guardian, and no other person may act as her guardian, unless appointed by her guardian, who is usually the *qadi*. A magistrate guardian is also acceptable, if the original guardian is reluctant to marry off the bride. The magistrate guardian may take over the lineage or *nasab* guardian's right to marry off the couple, if the lineage guardian does not approve the marriage without a valid reason (*'adhal*)



(Zubaidi, 2018).

The next *rukun* for marriage is the presence of witnesses. A marriage without the presence of witnesses is considered illegitimate. The testimonies from two fair witnesses are evidence of a marriage contract. In practice, a marriage contract that is carried out at the Office of Religious Affairs requires two people to sign the minutes of marriage, as witnesses. The existence of other people in the procession is merely for watching and they are not required to sign the document. Thus, not only as a *rukun* of a marriage, the presence of witnesses also serves as marriage evidence.

If there are future marriage issues between a husband and a wife, the evidence can be requested to the people that have witnessed and signed the minutes of marriage at the Office of Religious Affairs. The problems in proving a couple's marriage may arise if the two witnesses are deceased or the married couple lives far away from their marriage witnesses. Under these conditions, witness testimony is no longer the primary evidence of marriage, although it is included as a *rukun* of a marriage. Al Yasa` Abubakar argued that, currently, witness testimony is no longer considered beneficial. His article revealed that governments in many countries stipulate that a certificate or an official letter issued by an appointed officer is the primary evidence. In fact, in some cases, it is the only evidence (Abubakar, 2015).

Currently, in Indonesia, the events of birth, death, and marriage must be proven by a certificate; Birth Certificate, Death Certificate, and Marriage Certificate. A marriage certificate is in the form of a marriage book. A marriage can be proven by a marriage book, thus neither the letter of a statement issued by the village head or a witness testimony is necessary anymore. Accordingly, a certificate is vital as the primary evidence of a contract (*akad*). Therefore, the presence of witnesses is only required for the *rukun* of a marriage, and it no longer serves as evidence of the marriage legitimacy. A marriage certificate functions as legal evidence regarding the occurrence of a marriage in the community.

Ulema's Views on Nikah Siri

The term *nikah siri* was introduced in the Rashidun Caliphate era. The term came from the words of caliph Umar bin al-Khathab, when a friend told him that a marriage had taken place but was only attended by a man and a woman, and without the presence of witnesses. Then Umar said: "From Abi Zubair al-Makky said that Umar bin al-Khattab was asked about the marriage attended by a man and a woman, then he said this was a *nikah siri*, I would not allow it, and if I had known beforehand, then I would have them stoned" (Baqy, 2003).

Ali Hasan stated that there are several opinions regarding the concept of *nikah siri* in the views of the ulema (Saat, 2018). According to Imam Maliki, *nikah siri* is driven by the



husband's wishes, and the witnesses must maintain the secrecy of the marriage, including from the family. The Maliki *madhhab* or school of thought within *fiqh*, does not allow the practice of the above model of *nikah siri*. According to this *madhhab*, *nikah siri* can be cancelled, and the perpetrators can be subjected to caning or stoning, if the couple has had sexual relationships, and were noticed by four other witnesses. Likewise, the Hanafi and Shafi'i *madhhabs* do not allow *nikah siri*, and if they do occur, it must be cancelled by the Religious Court. Whereas, according to the Hanbali *madhhab*, *nikah siri* is permissible if it is carried out according to Islamic *sharia* provisions, even though it is kept secret by the couple, their guardians, and the witnesses. Nevertheless, it is considered as *makruh* or is disliked (Hasan, 2006).

Based on the views of the different *madhhabs* above, there are differences in justifying the legitimacy of *nikah siri*. The difference is possibly due to the differences in the concept of *nikah siri*. There are two possible understandings of *nikah siri*, including a marriage carried out in the presence of a guardian and witnessed by two people but not announced to the public or a marriage which is not attended either by guardians or witnesses. The first concept of *nikah siri*, in the presence of a guardian and two witnesses, is legitimate, although the witnesses are ordered by the guardian to keep the event a secret. Only Imam Malik considers to *fasakh* or cancel such marriages because the absolute legal requirement of marriage is the announcement (*i'lan*). According to Imam Malik, witnesses are only complementary in a marriage. Therefore, a marriage that is carried out in the presence of witnesses but without any announcement, is unacceptable. Malik's views are related to the Prophet's words as follows: "From Amir bin Abdullah bin Zubair from his father that the Prophet said: announce the marriage" (asy-Syaibani, 2003).

Based on Malik's concept of *nikah siri*, the *siri* aspect of a marriage is related to the marriage announcement. Therefore, in a *nikah siri*, a *walimatul urs* or wedding party, which is an effort to announce a marriage to the society, is not conducted. This is because, in practice, *nikah siri* are never announced to the public. Meanwhile, a *walimatul urs* aims to announce the marriage to the community, at least to the families, and close neighbours. It is done to avoid defamation and prejudice.

Meanwhile, Abu Hanifa and Shafi'i argued that such marriages are legitimate. Abu Hanifah and Shafi'i considered that such marriages are not *nikah siri* because the meaning of *i'lan* is related to the presence of witnesses. The presence of witnesses in a marriage may serve as a notification to them, that the marriage has taken place. Thus, according to these two views, it can be concluded that *nikah siri* is related to the presence of witnesses. Therefore, marriage evidence is based on the presence of witnesses, instead of an announcement through a *walimatul urs* party.



The Practice of Nikah Siri in Acehese Society and its Factors

Nikah siri remains widely practised in Acehese society. The perpetrators are not only ordinary people but are also government officials and businessmen; it is such a remarkable fact. An online media platform in Aceh reported that an unofficial *qadi* claimed to marry off thousands of couples, including government officials, and businessmen, as well as ordinary young couples (Serambinews, 2014). A marriage using the services of an unofficial *qadi* is carried out in a *tahkim* approach. For example, a woman appoints a *qadi* because their guardian refuses to marry them off (*wali adhal*).

The compilation of Islamic law Article 23 stated that: “A magistrate guardian may act as a marriage guardian if the lineage guardian (*wali nasab*) is unavailable or impossible to attend or have an unknown residence or invisible or refused (*adhal*) or reluctant. In the case of *wali adhal* or reluctant guardian, the magistrate guardian can only act as a marriage guardian upon a decision issued by the Religious Court” (Redaksi, 2008).

The issue remains of who may become the legal magistrate guardian. Al Yasa` Abubakar mentioned that the legal magistrate guardian is a State-appointed official, i.e. *penghulu* or Islamic marriage officer of the District Religious Affairs Office. Other than State-appointed officers, they do not have the authority to supervise a marriage (Abubakar, 2015).

Detecting the exact number of *nikah siri* perpetrators in Aceh is as difficult as finding out the number of unofficial *qadi* that marry off couples unofficially. Furthermore, detik.com, disclosed an institution in Aceh was established during the Aceh conflict, Muhakkam Nanggroe Aceh Darussalam, which issued marriage certificates similar to the ones issued by the Office of Religious Affairs (Detik.com, 2013).

The enormous practice of *nikah siri* in Aceh can also be detected from the large number of couples who conduct marriage *isbat* or legalisation in the Sharia Courts throughout Aceh. Although the exact number of marriages *isbat* in each Sharia Court in Aceh is not released in detail, the mobile court system shows that submitted proposals for marriage *isbat* are relatively high. This situation shows that the need for State-recognition of marriage is considered critical by the community (Ribat, 2013).

By observing the factors influencing *nikah siri* in the community, there are differences in the decision-making regarding *nikah siri* in the different regions in Indonesia. Kasjim Salenda's research concluded that couples conduct *nikah siri* due to the notion that a marriage certificate is not important. Thus, couples decide to marry outside the jurisdiction of the Office of Religious Affairs (Salenda, 2017). On the other hand, the phenomena of *nikah siri* in Acehese society is driven by several factors, including domestic disputes with the first



wife. This case is reflected in an interview with Amin, a resident of the Aceh Besar Regency. Amin mentioned that due to a domestic dispute, he decided to divorce his wife. Later on, he decided to remarry unofficially (*nikah siri*) because his divorce certificate had not been issued by the Regency Sharia Court (Amin, 2018). ³ witness interview conducted by the researcher revealed that Amin's second marriage was not registered at the Office of Religious Affairs. Although Amin administratively remains the legitimate husband of his first wife, religiously, they are no longer considered to be married because he has divorced his first wife. Conversely, Amin and his second wife are legitimately married from a religious perspective. However, administratively, there is no evidence of the marriage due to the absence of a valid marriage certificate.

In the case of Ainul, she claimed to marry a man at the *Balee Giri*. She was married off by his biological father, as her guardian, and it was witnessed by two people. Her marriage was blessed with a six-month-old child, but it did not last long. During her marriage to her *siri* husband, she claimed to live with her husband's first wife, and in the same house. This condition was uneasy and uncomfortable for her, so she decided to return to her parents' house. The husband did not provide physical, and spiritual living support. Furthermore, he never visited his child. She considered that her husband was irresponsible to her, and her child (Ainul, 2018).

Ainul is a victim of *nikah siri* practice, also known as the marriage performed at the *Balee Giri*. She is part of the community who are not familiar with the requirements, and procedures of marriage. It is unlikely that she expected such events to occur to her. Since the husband is still married to his first wife, it is very easy for him to give up the responsibility to provide a living allowance to his second wife. In Ainul's case, normatively, there are several important notes to highlight. Firstly, Ainul's marriage has no legal force, and therefore, it is difficult for Ainul to demand responsibility from her husband. Secondly, Ainul's husband did not provide an adequate residence. Whereas, Article 81 of the compilation of Islamic law states that the husband is obliged to provide a place to stay for his wife, and children or his ex-wife during the period of *iddah*, which is the waiting period before a divorced woman may remarry.

Next, is the case of Hanafi, who conducted *nikah siri* in the year 2000, and already had a child. Although Hanafi had no domestic problems, he faced difficulties in processing his child's birth certificate due to the absence of an official marriage certificate. His marriage was also carried out at the *bale giri* because it was challenging to carry out marriage at the District Religious Affairs Office. The difficulty in registering his marriage was due to the conflict between the Government and the Acehnese armed groups in his residential area. According to his statement, this was one of the factors that lead to his marriage not being registered by the official marriage registrar (Hanafi, 2018).



Fakh's father is a perpetrator of *nikah siri* due to polygamy. Based on his information, his marriage was not documented at the District Religious Affairs Office because he already has a first wife, and children from her (Fakh, 2018). The marriage to his second wife was conducted secretly, known as marriage at the *bale giri*, according to a religious leader. The *nikah siri* practised by Fakh's father is an example of a secret marriage driven by polygamy. Fakh's father's marriage to his second wife was performed as is generally practised. It was 'married off' by the bride's guardian and witnessed by two people. However, the marriage was not registered because the marriage itself requires permission from the Religious Court, and based on the approval of the first wife (Syarwan, 2018).

The next *nikah siri* perpetrator interviewed by the researcher was Bang Tar. He claimed to follow the marriage procedure and registered his marriage at the Office of Religious Affairs. According to his confession, a few days after the marriage, his wife no longer accepted him as a husband, and she did not fulfil her obligations as a wife. He acknowledged carrying out his responsibilities as a husband and providing physical, and spiritual living support. He admitted that he had provided spiritual needs for his wife three times before she took actions that led to *nusyuz* or an act of a wife which can be considered as disobedient or against the will of the husband. Various approaches were made to persuade his wife, but it was pointless, so he decided to remarry unofficially. He married his second wife because he could no longer maintain a harmonious relationship with his first wife. Registering the second marriage to the marriage registrar was not possible because administratively, he is still married to his first wife. Bang Tar is unable to go through a divorce trial to obtain a divorce certificate because he is reluctant to divorce (*talak*) his wife, if she does not deliver an *iwadh khulu* or divorce compensation, as a ransom for his divorce (Mukhtar, 2018; Idrus, Nurul Ilmi, 2016).

The interviews with several perpetrators of *nikah siri* revealed several interesting facts related to their practices. All the cases interviewed by the researcher were marriages that can be accounted for in religious norms. This is because the marriages were carried out by their respective guardians, and in the presence of witnesses. Besides, Sharia wedding parties were also held.

The Impacts of Nikah Siri to Acehese Women

By observing several cases of *nikah siri*, as described above, questions arise on the impact of *nikah siri* upon women. Based on interviews with a perpetrator of *nikah siri* in the Aceh Besar Regency (Amin, 2018), he got married with good intentions, and there was no desire to toying with his wife. Although the marriage is not yet registered at the Religious Affairs Office, they have intentions to resort to other methods to obtain a marriage certificate. The marriage was not intended to violate the law but resulted due to the lengthy process of the



Sharia Court decision. Furthermore, there is a great distance between the residence, and the Sharia Court. However, going through a *nikah siri* path resulted in prolonged difficulties that were never expected. Therefore, the obstacle faced by Amin's wife is not related to the provision of the living allowance by her husband, but the difficulties in registering their population data. They experience difficulties in processing their population data as a single-family unit. His wife remains listed in her father's family, and her husband is still listed as the head of his first wife's family. This situation is challenging for them because the population data collection system has been very systematic, and orderly. Thus, it is impossible to register as a single-family unit, unless supported by other authentic evidence.

In the case of Ainul, she did not obtain her rights as a wife, as the consequence of *nikah siri*. Her husband did not fulfil his responsibility to provide living support for the family. Ainul's efforts to obtain her rights to living support, as a legitimate wife, were unsuccessful because her marriage was not approved by her husband's family and was not acknowledged by the village officials in her husband's residential area. This situation left Ainul with no choice but to wish that one day her husband will have good intentions to provide living support to her. She mentioned that she cannot legally claim the responsibility of living support from her husband. In this case, Ainul is a victim of the type of husband who targets second, third or fourth wives for polygamy purposes.

Based on the compilation of Islamic law Article 56 (3), a marriage to a second, third or fourth wife without permission from the Religious Court, has no legal force. Therefore, the marital status in cases similar to the case of Fakh's father, has no legal force. It means that the marriage may potentially lead to prolonged difficulties to the marital status, as well as the position of the wife, and her rights. So far, Fakh's father has a secure marriage with his second wife. There are no domestic problems, although there is a lack of communication. Also, the relationship between his first and second wife is good. However, it is uncertain if their marriage may deteriorate in the future.

Conclusion

Marriage at the *Balee Giri (nikah siri)* in some circumstances has created pleasure for the perpetrators. However, the displeasure has outweighed the pleasure. The marriage at the *Balee Giri* has formed a future problem, including those pertaining to official documentation. Both a wife, and a child, will experience difficulty in obtaining official legal documents, such as marriage identity, and birth certificates. After marriage at the *Balee Giri*, most of the women assume a vulnerable position in relation to their marriage rights. They will experience hardship in receiving inheritance rights, as their marriage not recognised by the Government. Children of the marriage may also have trouble in becoming enrolled in their nursery class, due to not owning a birth certificate. Thus, the Government of Indonesia is reluctant to issue



official documents for the unofficial marriage of a couple. This fact has been caused by the fatwa of the Islamic cleric, which legalises the unofficial marriage, as well as not registering the marriage with a Government officer. Thus, the Islamic cleric must reconsider their fatwa and adjust it in accordance with the Indonesian marital law.



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