



# Comparative Analysis of The Family Law Systems in Indonesia and Saudi Arabia in The Context of Unregistered Marriage: Maqashid Al-Syari'ah Perspective

Ahmad Nawir<sup>1\*</sup>, Suarning<sup>2</sup>, Aris<sup>3</sup>, Sudirman L.<sup>4</sup>, Islamul Haq<sup>5</sup>

<sup>1,2,3,4,5</sup> IAIN Parepare, Kota Parepare, Indonesia

---

## Article Info

### Article history:

Received 20 July, 2024

Revised 29 September, 2024

Accepted 12 October, 2024

---

### Keywords:

Family Law;  
Marriage;  
Maqashid Shariah;  
Religion;

---

## ABSTRACT

This research analyzes family law systems in Indonesia and Saudi Arabia regarding marriage from a Maqasid al-Sharia perspective. It examines issues such as serial marriage practice, implications in both countries, and Maqashid al-Shari'ah's view on marriage registration. The study aims to analyze serial marriage practice, its implications, and Maqashid al-Shari'ah's perspective on marriage registration. It employs a library research method with a normative juridical approach. Primary sources include Islamic marriage regulations, Legal Regulations on Marriage KHI, Saudi law, and library literature. Findings reveal reasons for serial marriages in Indonesia and Saudi Arabia, influenced by social, cultural, and economic factors. Both countries face legal and social challenges for children from such marriages. Implications of serial marriages include legal uncertainty, limited access to public services, and health risks. In Indonesia, marriage status is not officially recognized, while in Saudi Arabia, women lack legal protection against health and domestic violence risks. Maqashid al-Shari'ah emphasizes maintaining religion, offspring, and property through marriage registration.

---

### Corresponding Author:

Main author  
IAIN Parepare, Indonesia  
Email: [ahmadnawir25@gmail.com](mailto:ahmadnawir25@gmail.com)

---

## INTRODUCTION

The discipline of law is fundamentally aimed at directing humanity towards a life characterized by prosperity and justice. The notion underscores the significance of taking into account factors related to human well-being in all deliberations concerning legal matters, whether pertaining to worldly affairs or the hereafter. Considering that individuals exist within dynamic societies and contexts, the development of legal frameworks must also adapt to the continuously evolving nature of the era (1). This evolution frequently results in notable advancements and modifications, often displaying a strongly progressive tendency. The State is an entity constituted by a collective of individuals who reside within a specific geographical region and share common objectives while adhering to relevant legislation. The state formulates diverse regulations and statutes to oversee the conduct of the populace in their pursuits. Each nation globally possesses a distinctive governmental framework for administering the operations of their respective authorities. Islam represents the faith of Rahmatanlil'alamin, consistently promoting a message of benevolence and tranquility for all creation and the welfare of humanity (2). Through adherence to Islamic sharia, individuals are envisioned to navigate through life's myriad challenges and attain an enhanced and harmonious existence. According to (3) understanding Islam requires understanding Islamic law. The link between Islamic law and

teaching Islam is very close. Legal aspects cannot be ignored in studying Islam as they are foundational. The relationship between Islam and the law is recognized by historical experts and academics. Islam is often discussed in connection with law, covering various topics like worship, social norms, and economic and political principles.

Islamic law integrates religious values and moral ethics, guiding Muslims to live in accordance with justice and truth. It is a divine teaching from Allah SWT aimed at the actions of the righteous who can uphold sharia. This law covers commands to do or avoid certain actions, the freedom to choose from various deeds, and the implementation of specific regulations. Marriage is viewed as a strong covenant when it aligns with marriage criteria. Sakīnah, mawaddah, wa rahmah values stress the significance of effective communication, understanding, and cooperation for a stable household. Each couple plays a crucial role in the household by working together to tackle daily challenges. Various laws and regulations in Indonesia align with values, especially regarding Muslims' social and personal lives. Despite being a positive law-based country, Indonesia incorporates sharia values within the legal system through democratic legislative processes. This illustrates Indonesia's commitment to diversity and addressing legal needs of different social groups, including Muslims, in a modern and inclusive rule of law framework. Indonesia acknowledges the significance of having a national law in a diverse country. Marriage law is essential for regulating and protecting rights within the institution of marriage (4). The document serves as a guideline for various aspects of marriage and different walks of life.

Marriage views have pros and cons. Unregistered marriage in Islam is valid with certain rules. Recording marriage in Indonesia is important for legal certainty. Social impact of marriage is a concern, especially for rights of wife and child in case of divorce. Unregistered marriage can lead to discrimination against women and children, and increase domestic violence risk. Unregistered marriage, though religiously legal, has many disadvantages for women and children (5). Muslims follow Islamic teachings, including sharī'ah law in their justice system. Legislation for family matters aims to provide fair guidelines based on religious teachings, ensuring justice and individual rights are protected. Islamic law helps resolve conflicts in line with its principles (6).

Saudi Arabia encompasses the majority of the Arabian Peninsula. The expansive expanse of land affords Saudi Arabia considerable sway in the realms of politics, economics, and culture within the Middle Eastern region (7). In Saudi Arabia, akin to any Muslim or Arab community, discussions pertaining to family invariably involve discussions about marriage. The institution of marriage necessitates the mutual agreement of both individuals involved, in addition to the approval of the female's paternal figure or guardian, the presence of two witnesses, a specified dowry provided by the husband to the wife, and a medical assessment (8). Arab regions have been experiencing and persistently encountering profound transformations and shifts in the institution of marriage. These alterations encompass a wide array of aspects, ranging from cultural norms to legal frameworks, and have a substantial impact on the societal fabric of these regions. The changing dynamics of marriage in Arab societies reflect broader socio-economic trends, evolving gender roles, and shifting perceptions of family structures (9).

The presence of Islamic law as the predominant legal framework underscores the significance of the Saudi Arabian government in upholding Islamic identity across various spheres of society, including the legal system. This underscores the robust religious authority and impact within Saudi Arabia's governing framework, alongside their dedication to Islamic doctrines, within the governmental structure. Furthermore, it contributes to the preservation of justice and individual liberties, while also aiding in conflict resolution in alignment with Islamic legal precepts (10). Saudi Arabia's government is encountering challenges in refining their matrimonial system to safeguard the entitlements and well-being of all individuals, including minors. To fortify and modernize the regulations governing matrimonial affairs (aḥwāl al-Shakhshīyyah), the government has opted for several pivotal measures that will be further delineated. Initially, the endorsement of the pre-formulated matrimonial regulations. Subsequently, establishing the legal age for marriage at eighteen, aligning with the framework of civil transactions and its enforcement. Furthermore, regulations pertaining to matrimonial health issues will be overseen by the Minister of Justice and the Minister of Health. A preliminary Royal Decree has also been formulated. Finally, the Ministry of Justice will scrutinize protocols concerning matrimonial status disputes to uphold the coherence of the household and ensure the entitlements of its members are upheld, in collaboration with the pertinent authorities.

Scholarly views on the Qur'an and Hadith suggest marriage pillars involve future spouses, guardians, ijab, and qabul. Imam Hanafi emphasizes ijab and qabul as main requirements, with witnesses needed. Legal conditions by Imam Hanafi include no prior contract, no time limit for ijab and qabul, observance, clear identity, no coercion, no iḥrām status, dowry payment, no secrecy, no chronic illness, and presence of guardians. This showcases a profound grasp of Islamic law in marriage, highlighting the significance of understanding marriage requirements across different Islamic branches (11). Sharia represents a legal framework originating from divine sources, whereas fiqh emerges as a result of human cognition in the interpretation and application of such legal principles. A comprehensive grasp of the distinctions between sharia and fiqh holds significance in elucidating the intricacies and development of Islamic jurisprudence and

its practical manifestation in daily affairs.

The uniqueness of this research lies in a comprehensive examination of the Maqāṣid al-Sharī'ah viewpoint, which serves as the legal foundation for the institution of consecutive marriage in both nations. Maqāṣid al-Sharī'ah represents a set of fundamental Islamic legal principles that underpin the establishment of specific laws, and this investigation will scrutinize further the application of Maqāṣid al-Sharī'ah within the realm of consecutive marriages in Indonesia and Saudi Arabia. An exploration of the comparative family law system in Indonesia and Saudi Arabia, particularly concerning consecutive marriage through the lens of Maqāṣid al-Sharī'ah, constitutes a highly significant inquiry that merits additional scholarly consideration. This is due to the current scarcity of research concentrated on this topic. Despite of this, the concept of the linguistic interpretation of Maqāṣid al-Sharī'ah involves an analysis of its components. Comprised of "Maqāṣid" and "Shari'ah," this term delves into the notions of goals and the Islamic law. In the Arabic language, "Maqāṣid" is the plural form of "maqṣud," denoting the concept of a goal. Meanwhile, "Sharia" can be translated as the path leading to a water source, symbolizing the essence of life itself.

## METHODOLOGY

This paper utilizes library research. Library research involves collecting information from various sources systematically to find solutions. Researchers gain insights, evaluate viewpoints, and identify knowledge gaps through exploring literature. Researchers use the juridical approach to examine legal objects linked to statutory products. Law is seen as a socio-empiric symptom in experience, considering both its normative aspect and reality. The Islamic legal approach is applied to study Islamic religion using specific sciences or theories. To prevent the discourse from deviating away from the fundamental aspects of the study, the author establishes a clear research focus. This focus serves to guide the direction of the research. The research delves into various areas including: (1) Examination of marriage laws series in Indonesia; (2) Analysis of serial marriage laws in Saudi Arabia; (3) Exploration of marriage series through the lens of Maqashid Al-Sharia; and (4) Investigation of supporting literature and references.

Sources of information used in this paper comes from primer and secondary data, which the primer sources is a compilation of Islamic Law Paragraph 2,4 and 5, National Law No.1 1974 which reform into National Law No.16 2019, Indonesia Ministry of Religion Regulations No. 20 2019, Government Regulation No.9 1975. Meanwhile for Saudi Arabia, there are National Law Paragraph 8, Ministry of Justice Regulations on Marriage Registration, and other sources of literature such as books, magazine, newspaper, journals, and other scientific article as well as supporting internet sources. The technique employed for data collection to acquire data and information is known as documentation. Documentation methods refer to procedures for data collection that entail investigating documented information. Data processing techniques involve various stages, including (1) Editing, which involves reviewing the obtained data to ensure integrity, clarity, and consistency of meaning; (2) Organizing, which entails structuring the gathered data as per the required format; and (3) Research findings discovery, which involves further analyzing the organized data results using established principles and theoretical approaches to derive specific conclusions in response to the problem statement. Data analysis employed by this researchers encompasses various stages such as data reduction, data presentation, conclusion derivation, and verification. The process of data analysis includes several key steps: (1) Data Collection, which comprises description and reflection. Description involves the direct observation of phenomena, while reflection entails personal interpretation and planning for future data collection; (2) Data Reduction, a crucial research phase that involves selecting, focusing, simplifying, and abstracting initial data; (3) Data Presentation, an essential research stage where data is structured and formatted for better understanding and to avoid analysis errors; and (4) Conclusion Derivation and Verification, which follows data presentation and focuses on grasping the data's meaning, patterns, and cause-effect relationships. Conclusions drawn must be meticulously verified through re-examination of records and deep reflection for accuracy. Researchers should further analyze and describe data clearly in alignment with the study's objectives to ensure consistency and objectivity in the research process.

## RESULTS

There are several findings after performing this research, in which this result will reflect the differences of unregistered marriage in Indonesia and Saudi Arabia, the result also explain the alignment of the research result and the concept of maqashid syariah in which this are one of the main topic of this research, the implication of this research however will be explain in the section of discussion, the findings of this result is going to breakdown as follow.

### Practice of Unregistered Marriage in Indonesia and Saudi Arabia

Marriage in society often deviates from Law, following Sharia rules. Legal decisions in family matters are influenced by religion. Unregistered marriage is based on religious beliefs, emphasizing spirituality and worship. Diverse views in society arise due to this phenomenon. Some view unregistered marriage as valid under Sharia criteria. Others suggest revisiting this model to avoid conflicts and problems. This type of

marriage is later known as unregistered marriage. The implementation of National Law No. 1 of 1974, some Muslim marriages occur without official registration. Families conduct ceremonies without involving Religious Affairs Office (KUA) officials present, sometimes to practice polygamy secretly. Husbands hide second wives to avoid detection, violating the law which mandates consent from existing wives and permission from Religious Courts for polygamy. This practice, called serial marriage, leads to non-compliance and family conflicts (12). In the context of unregistered marriage in Indonesia, it is perceived as a convenient option for couples seeking matrimony but facing unpreparedness or legal constraints. Various rationales contribute to the prevalence of unregistered marriage includes several reasons such as (13):

1. Unregistered marriage occurs as a consequence of a relationship that is deemed unacceptable by the parents of either one or both parties involved. An illustration of this is when the parents of one or both parties aim to arrange a marriage for their offspring with a selected candidate.
2. Unregistered marriage occurs due to forbidden relationships like previous marriages wanting to remarry. Polygamous marriages in Indonesia need court approval and first wife's consent. Some opt for serial marriage to bypass lengthy formalities and obtain desired results quickly.
3. Unregistered marriages arise from unhappiness in official marriages, prompting individuals to seek new partners. Divorce in Indonesia is a lengthy, expensive process with social stigma. Unregistered marriages provide a faster and easier escape route for those seeking new relationships without the formality of divorce proceedings.
4. Unregistered marriage is conducted to avoid sin of adultery. The relationship is progressing, causing concerns about sharia violations. Unregistered marriage is seen as a solution to formalize and prevent adultery fears.
5. Unregistered marriage occur due to couple's unpreparedness. Marriage status undisclosed. Formal weddings costly due to dowries, ceremonies, and administration. Serial marriage eases financial stress for young or economically limited couples. Unregistered nuptials help avoid costs and administrative complexities, especially for immigrants lacking ID cards. Administrative constraints also contribute to this type of marriage.
6. Unregistered marriage is chosen for polygamous reasons without legal knowledge. Some couples prefer ignorance of legal procedures. Remote villages or devout communities follow leaders' marriage decisions. Marriage by a leader is considered legal in Islam without registration.
7. Unregistered marriages are conducted with the purpose of uniting individuals from diverse religious backgrounds. Typically, one partner expresses readiness to embrace Islam as a muallaf, thus ensuring the legitimacy of their marital union.

Marriage practices in Saudi Arabia are influenced by Islamic family law and cultural norms. Islamic family law stresses marriage as a social contract with consent of both parties and a guardian for the bride. Cultural practices sometimes overlook legal requirements, leading to issues like early and forced marriages. Scholars argue that early and forced marriages are more cultural coercion than religious, rooted in traditions rather than Islamic teachings (14). Social and cultural barriers in Saudi Arabia limit women's rights and hinder their disclosure of domestic violence, impacting their access to healthcare (15). Family influence plays a major role in medical and personal choices, sometimes superseding individual autonomy, affecting women's decision-making in marriage regarding their health and well-being (16). Unregistered marriage ('urfi), an unregistered form of marriage, presents a multifaceted challenge in Saudi Arabia, shaped by a variety of socio-cultural and religious elements. Within Islamic societies, there exist profound cultural sensitivities surrounding themes like sexuality and matrimony, significantly influencing public consciousness and perspectives on such customs. Research on the knowledge and attitudes of Muslim women towards sexually transmitted infections (STIs) in Saudi Arabia, for instance, underscores deeply rooted religious perspectives and misconceptions concerning sexual well-being, which may also affect perceptions of practices like sequential marriage (17).

Unregistered marriage exhibits similarities with other forms of marriage, namely marriage 'urfi and marriage misyar. Discriminating between marriage unregistered and other types of marriage poses a challenge, unless a thorough elucidation of marriage 'urfi and marriage misyar is provided. The phenomenon of misyar marriage is evident within Arab societies, wherein a man expresses the intention to wed a woman under specific terms and conditions that align with his preferences. Despite this arrangement, the woman retains certain sharia rights as outlined in the marital agreement, including but not limited to financial support, housing, and time spent together. The interpretation of marriage misyar, as delineated by scholars and contemporary researchers (muashirun), is characterized by a plethora of expressions aimed at elucidating three distinct senses. These three interpretations can be outlined as follows (18):

1. Ahmad al-Tamimi, an academic specialized in misyar marriage research, whose findings were featured in the publication of Riyadh's Al-Usrah Magazine, delineated misyar marriage as a legitimate and cohesive marital arrangement, whereby the bride and groom mutually consented to the husband's exemption from financial responsibility and housing provision for the wife.
2. Irfan bin Sulaim Hassunah al-Dimasyqi articulated that the notion of a misyar marriage entails

adherence to Islamic sharia, with the unique stipulation that the husband and wife mutually consent to the husband not being obligated to financially support the household and reside with the wife (mabit).

3. The organization Al-Majma al-Fiqhi al-Islami, operating within the framework of the League of Muslims of the World (Rabithah al-Alam al-Islami), elaborated on the concept of marriage misyar during its eighteenth assembly in Mecca. This type of marriage was defined as a legitimate and balanced union, wherein the bride releases the groom from the responsibilities of financial provision, housing provision, and cohabitation, or alternatively, relinquishes a portion of these aforementioned duties.

In the context of Saudi Arabia, the phenomenon of serial marriage is predominantly shaped by a myriad of deeply ingrained cultural norms and longstanding traditions that have been passed down through generations. Despite the stringent regulations set forth by Saudi Arabian legislation pertaining to matrimonial unions, which encompass stringent prerequisites for consent from legal guardians and relevant authorities, it is noteworthy that numerous familial units persist in engaging in unregistered nuptials as a customary practice. Within the broader scope of Arab societal norms, the institution of marriage is commonly perceived as a significant communal event that involves the collective participation of extended family members, thus underscoring the paramount significance attributed to the endorsement of a designated guardian in the marriage process. Nevertheless, there exist certain scenarios wherein the formalization of a matrimonial bond encounters impediments or proves to be unfeasible owing to various factors, such as disparities in socioeconomic standing or the presence of financial constraints.

### **Similarity and Differences of Unregistered Marriage in Indonesia and Saudi Arabia**

Unregistered marriages, also known as unregistered marriages, pose considerable legal complexities for offspring born within the territories of Indonesia as well as Saudi Arabia. Within the Indonesian context, notwithstanding the existence of National Law No. 1 of 1974 concerning Marriage, subsequently modified by National Law No. 16 of 2019, stipulating the compulsory registration of marriages, a considerable number of marital unions persist in remaining unrecorded, thereby engendering a state of legal ambiguity with regards to the offspring who are parties to such unions (19). In a comparable vein, within the context of Saudi Arabia, offspring resulting from marriages that are not officially recorded frequently encounter complexities within the legal framework that significantly impinge upon their societal standing and ability to avail themselves of fundamental services deemed necessary for their well-being. Correspondingly, the scenario unfolding in Indonesia presents an even more intricate scenario characterized by a pattern of successive matrimonial unions involving individuals below the legally stipulated age threshold, a phenomenon actively promoted by pairs of individuals failing to meet the prescribed criteria for lawful matrimony registration (20). This phenomenon serves to compound the multifaceted legal and societal hurdles confronting the offspring of such unions, thereby amplifying the magnitude of the challenges faced by these vulnerable individuals.

These legal quandaries give rise to a state of ambiguity and inequity for the offspring of successive matrimonial unions. Said progeny mature in environments wherein their entitlements are inadequately acknowledged by governmental authorities, thereby fostering scenarios of bias and societal exclusion. The aforementioned uncertainty likewise exerts a profound influence on their mental and emotional welfare, engendering a sense of disorientation regarding their societal standing. In the realm of significance and application, it is noted that scholars and authorities specializing in Islamic jurisprudence within both the regions of Indonesia and Saudi Arabia adhere to a similar customary practice pertaining to the institution of marriage. This practice involves the solemnization of marriage in accordance with the requisite conditions and regulations, yet without formal endorsement from dedicated establishments operating under the patronage of the State. The phenomenon of Unregistered marriages emerges as a notable example, denoting marital unions that do not undergo official registration procedures at the Office of Religious Affairs (KUA) as mandated by the provisions outlined in Law No. 22 of 1946. This particular legislation underscores the imperative for each marital union to be overseen by an authorized marriage registrar, with the imposition of penalties in the form of monetary fines and potential incarceration as punitive measures.

In Indonesia, the adoption of this custom is frequently influenced by a wish to circumvent administrative obstacles or expenses linked to formal marriage documentation, particularly in instances of polygamous unions lacking endorsement from the initial spouse (21). Conversely, serial marriages in Saudi Arabia are predominantly instigated by cultural and traditional factors, often serving to navigate stringent official marriage regulations mandating the consent of guardians or authorities (22). Marriage marriages happen in polygamous settings. Indonesian law allows polygamy with first wife's consent and court approval. Some men prefer serial marriage to avoid legal procedures. Serial marriage is a practical way for polygamous intentions. In Saudi Arabia, cultural influences impact serial marriage. Despite strict laws, marriage nuptials are part of tradition. Arab culture values family approval in marriage. Official marriage can be challenging due to various reasons. Marriage marriages in Saudi Arabia meet complex requirements for the bride and groom, often maintaining family privacy and honor. Public marriages in a conservative society can attract gossip and social scrutiny. Matrimonial series help couples avoid public attention for a more private married

life.

Legal provisions in Indonesia require marriage execution in presence of a registry employee, with a penalty for unauthorized contracts. Fine of up to Rp50,00 may be imposed on the husband's side. Administrative penalty under Law No. 32 of 2006 is maximum IDR 1,000,000.00 (23). In Saudi Arabia, specific penalties for unregistered marriages are not explicitly stated, but the implications are considerable. For instance, the obstacles encountered by children born into marital partnerships pose significant difficulties in the acquisition of formal acknowledgment, consequently impacting their entitlements to succession, schooling, and communal amenities (24). The absence of official documentation can prove to be highly disadvantageous particularly for females, given that it renders them devoid of legal safeguards in instances of marital dissolution or familial conflicts, thereby magnifying their susceptibility and exposure to harm (25). The significance of registering a marriage is underscored by its function in ensuring legal certainty and protection for all individuals involved, in accordance with both affirmative legislation and principles of Islamic jurisprudence (26).

### **Maqashid Shariah Aspect on Unregistered Marriage**

Marriage registration is a government process simplifying household entry. Many find it complex due to various procedures. Positive impact seen for future couples, aiding in household affairs and state administration. Islamic concept supports easy marriage and life post-marriage for blessings. Laws don't hinder marriage, making registration process not difficult. Government aligns rules with citizen needs, aiming to simplify affairs including marriage registration. Islamic sharia aims to preserve religion, descent, property, and reason through marriage registration. Research by Harahap discusses Maqasid Sharia analysis of marriage registration (27):

1. **Maintain Religion.** The absence of marriage documentation can lead to future problems. Lack of proof of legality may result in legal actions to disrupt the family. Disputes between spouses often lead to divorce. Refusal to acknowledge the lack of marriage certificate can worsen the breakup. Starting a marriage without following procedures may lead to repeated issues. In some areas, serial marriages are common so legitimacy is not questioned. Moving to a new area may require proof of marriage, especially for Islamic marriages. Proof of marriage is essential to protect against slander and maintain family integrity. It is important to protect against slander and maintain a peaceful Islamic household.
2. **Maintains Generations.** The importance of a marriage certificate impacts the child's status. It includes guardianship, custody, inheritance, and other rights. During growth, the child requires affection, attention, education, mental health, and spiritual intelligence. A complete child status administration, including a birth certificate, is necessary when entering the education system. A birth certificate requires both parents' valid marriage certificate. Marital administrative order is crucial in safeguarding the child's future interests. Following marriage procedures is essential to secure the child's legal status, ensuring proper rights fulfillment, education, success, and benefit to society and religion. Marriage registration establishes the child's biological father, protecting the child's rights. The absence of marriage records causes inconvenience. Despite no specific rule in Islam, legal practices aim for welfare, including marriage recording for the benefit of society and the offspring.
3. **Maintains Wealth.** Legal consequences arise if marriage is not registered in a household. Having a valid marriage status makes resolving legal issues easier, especially with a marriage certificate. Joint property status in a family is protected if in a legitimate marriage. Without registration, it's hard to preserve property during separation or divorce. Sharia law emphasizes the importance of registering marriages for property protection. Unregistered wives may struggle to claim inheritance rights after their husband's death.
4. **Maintains Senses.** Judging from reason's guardianship, unregistered marriage offspring can be a psychological burden due to lack of state recognition. Difficulty in state-related administration may arise. Marriage requires calmness and comfort for maintaining mindset and producing happy families. Unregistered marriages may lead to problems like polygamy, neglect of rights, and divorce. Divorce, though not forbidden, is disliked by Allah especially without valid reasons. Negative marital issues can impact the couple's religious quality.

### **DISCUSSION**

Findings of this research exhibit that the phenomenon of serial marriages within the societal contexts of Indonesia and Saudi Arabia carries substantial ramifications that are noteworthy to explore and comprehend. Among these implications are the presence of legal uncertainties, the restriction of access to essential public services, and the emergence of health hazards. Within the Indonesian context, it is evident that the status of marriage does not receive official recognition, thereby leading to a myriad of challenges and complications. Conversely, in the context of Saudi Arabia, women find themselves vulnerable to encountering various health risks and instances of domestic violence without the necessary legal safeguards in place to protect their rights and well-being adequately. Moreover, a critical observation to note is that offspring born from serial

marriages encounter obstacles related to inheritance rights and are susceptible to experiencing psychological distress due to the lack of a clearly defined legal standing. These children are also found to have solely a civil connection with the mother and her family, lacking any legal ties with the father, thereby further emphasizing the intricate web of complexities surrounding the practice of serial marriages within these cultural settings. Several empirical studies reflecting same result as this research are a research by (28) states that the significance of unregistered marriage in uncertain legal power is substantial. Legal ambiguities and challenges arise from unregistered marriage, particularly impacting women's rights and legal norms enforcement. Unregistered marriage undermines marriage laws in Indonesia, leaving women and children vulnerable without legal recognition. This lack of recognition leads to issues like inheritance, child custody, and alimony problems for women. Non-compliance with legal procedures, like unregistered marriage, weakens the rule of law and legal institutions. Many individuals are unaware or choose to ignore legal requirements for marriage, impacting law enforcement. Uncertain legal power creates a gap between formal legal framework and actual practices, emphasizing the need for better legal education and enforcement mechanisms to protect all parties' rights. The multifaceted implications of unregistered marriage in the context of uncertain legal power are significant. The issuance of Family Cards for unregistered marriage couples may lead to an increase in unregistered marriages. This policy could unintentionally legitimize unregistered marriage, undermining the intended administrative order by the Marriage Law. The increase in marriage istbat applications to the Syar'iyah Court may result from this policy. The legal inconsistency created by Family Cards for unregistered marriage couples can complicate the existing legal framework and burden the courts (29). This disharmony with the Marriage Law can cause confusion and inefficiencies in implementing marriage laws.

The study of unregistered marriage reveals implications in legal and social contexts. Unregistered marriages lack official recognition, leading to legal and social disadvantages. Legal uncertainties arise, affecting marriage status, spousal and child rights. Vulnerabilities faced by women and children include neglect and economic instability. Legal reforms and social interventions are needed to protect all parties involved in unregistered marriage. Alternative regulations and support programs can help educate and safeguard individuals in such marriages (30). Explained by (31) The study discusses the implications of unregistered marriage in Islamic and national law, highlighting issues such as lack of legal recognition for the wife and children. This results in inability to claim inheritance, communal property, or assert rights. Unregistered marriage can lead to social stigma and psychological consequences for the wife. Overall, it is seen as detrimental as it lacks legal protection and social recognition, contradicting Islamic jurisprudence principles. Unregistered marriage (Nikah Siri) has social consequences like stigma and discrimination. Children from such marriages face legal uncertainties and lack important rights. Unregistered marriage practice can harm social stability and values, impacting harmony. Women and children in these marriages lack legal protection and may suffer from abuse (32). The social impact of unregistered marriage is significant, requiring legal safeguards and awareness to improve well-being.

The outcomes of this particular research demonstrate a significant finding regarding the correlation between unregistered marriage and Maqashid al-Shari'ah within the realms of family law within the jurisdictions of Indonesia and Saudi Arabia. Maqashid al-Shari'ah, a fundamental concept that directs attention towards the primary objectives of Islamic jurisprudence including the preservation of religion, lineage, and assets, accentuates the critical nature of formal marriage registration in ensuring the safeguarding of individual and familial entitlements. Within the domain of unofficial marriages, despite the religious validity attributed to such unions, the absence of official documentation results in a state of legal ambiguity giving rise to a myriad of adverse consequences. Within Indonesia, the status of a marriage that lacks formal recognition translates into a scenario where the partners and offspring of the union are devoid of clearly defined legal protections. Conversely, in Saudi Arabia, women engaged in unofficial marriages encounter grave health hazards and instances of domestic abuse due to inadequate legal safeguards. Consequently, the perspective rooted in Maqashid al-Shari'ah underscores the indispensability of marriage registration as a means to uphold the rights of progeny and assets, while simultaneously mitigating the challenges stemming from the legal and social uncertainties encountered by partners and offspring involved in unofficial marital bonds.

According to (33) The relationship between Maqashid Syariah and unregistered marriage is about preserving Islamic law goals. Maqashid Syariah focuses on protecting lineage, family, and social order. Unregistered marriage can cause legal and social problems due to its secretive nature and lack of official records. Thus, addressing unregistered marriage is crucial for upholding Maqashid Syariah and Islamic legal principles integrity. The concept of maqashid syariah is linked to the discussion of unregistered marriage. Maqashid syariah protects five values: religion, life, intellect, lineage, and property. In the case of unregistered marriage, these goals ensure the marriage follows Islamic law. Unregistered marriage is valid with proper requirements but can be forbidden if it causes harm. This is in line with saddan lidz-dzari'ah principle, aiming to prevent harm and ensure welfare (34). The research focuses on the relationship between maqashid syariah and unregistered marriage, emphasizing the safeguarding of human needs and rights.

Maqashid syariah aims to protect religion, life, intellect, lineage, and property within Islamic law. Unregistered marriage, an unregistered Islamic marriage, poses risks to these goals, especially concerning lineage and property protection. Unofficial unregistered marriage may cause harm to the wife and children due to lack of legal recognition, affecting legal rights and causing madharat. Official marriage registration is crucial from a maqashid syariah perspective to prevent harms and uphold justice and welfare principles (35). The research concludes that marriage registration aligns with maqashid syariah by providing legal certainty and protecting all parties' rights, ensuring family stability and well-being.

Research by (36) explores the relationship between maqashid syariah and unregistered marriage by aligning Islamic principles with gender equality. Maqashid syariah theory is used to reconcile Islamic principles with contemporary issues, including gender equality. Addressing motivations and consequences of unregistered marriage is significant due to its attempt to avoid zina, despite leading to negative social impacts. Unregistered marriage can result in legal status issues for children and exploitation of women. More on unregistered marriage explained by (37) states that unregistered marriage aligns with maqashid al-Syari'ah. Al-Syathibi's system includes preserving religion, life, intellect, lineage, and property. Unregistered unregistered marriage can harm wives and children due to lack of legal protection and inheritance rights. This contradicts maqashid al-Syari'ah's goal of safeguarding family and social order. Therefore, marriage registration is crucial to fulfill Islamic law's objectives. Meanwhile according to (38) relationship between maqashid syariah and unregistered marriage, focusing on the impact on family harmony. Maqashid syariah aims to safeguard religion, life, intellect, lineage, and property. Unregistered marriage, although legally valid in Islamic law, lacks official state registration, affecting lineage and property protection. Unregistered marriages pose issues for inheritance and legal rights. The study concludes that unregistered marriage contradicts maqashid syariah objectives, emphasizing the importance of legal marriage registration for safeguarding individuals and society.

## CONCLUSION

This paper delves into the multifaceted issue of unregistered marriages, commonly referred to as 'urfi marriages, with a focus on their prevalence in Indonesia and Saudi Arabia. These marriages often arise due to polygamous intentions, cultural traditions, and legal complexities. The study underscores the significant legal uncertainties and social challenges that unregistered marriages pose, including difficulties in accessing public services, health risks, and inheritance issues for children. The lack of legal recognition in these marriages can severely impact the rights and well-being of women and children, leading to social stigma and psychological consequences. The research highlights the importance of marriage registration in upholding Islamic principles, specifically through the lens of Maqasid al-Shariah, which aims to protect family rights and ensure justice. The study calls for legal reforms and social interventions to safeguard individuals in unregistered marriages. It also emphasizes the need for legal education and enforcement mechanisms to protect the rights of all parties involved. This paper concludes that unregistered marriages present significant legal, social, and psychological challenges, particularly for women and children. These marriages often lead to a lack of rights and legal uncertainties, contributing to social stigma and mental health issues. To address these challenges, the study recommends implementing legal safeguards and awareness programs to improve the well-being of individuals in unregistered marriages. It also stresses the importance of aligning marriage practices with Islamic principles through proper registration, thereby protecting family rights and ensuring justice. Legal reforms and better enforcement mechanisms are essential to mitigate the adverse effects of unregistered marriages and protect the rights of all parties involved.

## RECOMMENDATION

Reflecting on the findings of this research paper, it is imperative to address the multifaceted challenges posed by unregistered marriages in Indonesia and Saudi Arabia through a comprehensive approach. Future recommendations should focus on implementing robust legal reforms that mandate the registration of all marriages, thereby providing legal recognition and protection to spouses and children. Public awareness campaigns and legal literacy programs are essential to educate individuals about the legal and social implications of unregistered marriages, emphasizing the importance of marriage registration for safeguarding family rights and ensuring justice. Additionally, establishing support services, including legal aid, counseling, and health services, can help mitigate the adverse effects of unregistered marriages. Engaging community leaders and religious authorities in promoting marriage registration can lend credibility and encourage compliance within communities. Further research is needed to understand the prevalence and impact of unregistered marriages, which can inform targeted interventions and policy-making. International collaboration to exchange best practices and establish global standards for marriage registration can also be beneficial. Aligning these efforts with the principles of Maqasid al-Shariah will ensure that legal reforms and social interventions are culturally and religiously appropriate, thereby protecting the rights and well-being of all parties involved.



## REFERENCES

1. Darmawati H, Anggraini A. Hubungan Hukum Islam Dengan Hukum Positif. Sulesana. 2018;12(1):36–44.
2. Yudha AK. Hukum Islam Dan Hukum Positif: Perbedaan, Hubungan, Dan Pandangan Ulama. Jurnal Hukum Novelty. 2017;8(2):157–72.
3. Juliansyahzen MI. Pemikiran Hukum Islam Abu Hanifah: Sebuah Kajian Sosio-Historis Seputar Hukum Keluarga. Al-Mazahib [Internet]. 2015;3(1):71–85. Available from: <http://www.jstor.org/stable/20846978>.
4. Burhanudin AA. Konsep Perjanjian Perkawinan dalam Perspektif Perbandingan Hukum (Hukum Perdata dan Hukum Islam). Jurnal El-Faqih [Internet]. 2019;5(2):112–25. Available from: <https://ejournal.iaifa.ac.id/index.php/faqih>
5. Wahyudani Z. Keabsahan Nikah Siri Dalam Perspektif Masalah. Jurisprudensi: Jurnal Ilmu Syariah, Perundang-undangan, dan Ekonomi Islam. 2020 Jul 11;12(1):44–63.
6. Hamim A, Faisal A. Perbandingan Penerapan Hukum Keluarga Di Mesir Dan Di Indonesia. As-Syams: Journal Hukum Islam. 2022;3(2):118–28.
7. Kamila MZ. Hukum Keluarga Di Saudi Arabia. Al-Ahwal Al-Syakhsyiyah: Jurnal Hukum Keluarga dan Peradilan Islam. 2022 Mar 17;2(2):133–46.
8. Al-Hakami H, McLaughlin K. Debatable Marriages: Marriage and Child Marriage in Saudi Arabia. Marriage Fam Rev. 2016 Oct 2;52(7):654–64.
9. Rashad H. The Tempo And Intensity Of Marriage In The Arab Region: Key Challenges And Their Implications. In: DIFI Family Research and Proceedings. Hamad bin Khalifa University Press (HBKU Press); 2015. p. 1–18.
10. Rosadi A. Islamic Jurisdiction System In Saudi Arabic. Al-Ahwal Al-Syakhsyiyah: Jurnal Hukum Keluarga dan Peradilan Islam. 2021;2(1):1–14.
11. Arisman A. Fatwa MUI Tentang Nikah Dibawah Tangan Perspektif Sosiologi Hukum Islam. Jurnal Hadratulah Madaniah. 2021;8(2):33–48.
12. Syamdan AD, Purwoatmodjo D. Aspek Hukum Perkawinan Siri Dan Akibat Hukumnya. NOTARIUS. 2019;12(1):452–66.
13. Gunawan E. Nikah Siri Dan Akibat Hukumnya Menurut UU Perkawinan. Jurnal Ilmiah Al-Syir'ah. 2013;11(1).
14. Isa SA, Yaapar MS, Muhamad SH. Rethinking orientalism of muslims in Ayaan Hirsi Ali's Infidel. Indonesian Journal of Islam and Muslim Societies. 2019;9(2):241–65.
15. Alkhalidy AA, Alamri RS, Magadmi RK, Elshini NY, Hussein RAEH, Alghalayini KW. Dietary adherence of saudi males to the Saudi dietary guidelines and its relation to cardiovascular diseases: A preliminary cross-sectional study. J Cardiovasc Dev Dis. 2019 Jun 1;6(2).
16. Alfahmi MZ. Patients' preference approach to overcome the moral implications of family-centred decisions in Saudi medical settings. BMC Med Ethics. 2022 Dec 1;23(1).
17. Alomair N, Alageel S, Davies N, Bailey J V. Muslim women's knowledge, views, and attitudes towards sexually transmitted infections in Saudi Arabia: A qualitative study. PLoS One. 2023 Jun 1;18(6).
18. Hasbulloh AS. Fenomena Nikah Misyar Di Arab Saudi. Indonesian Journal of Islamic Jurisprudence, Economic and Legal Theory (IJIJEL) [Internet]. 2024;2(1):167–92. Available from: <https://shariajournal.com/index.php/IJIJEL>
19. Pujiningsih D. Legal Protection Of Children From The Results Of Sirri's Marriage In The Perspective Of Marriage Law In Indonesia. JTUS. 2023;1(5):214–23.
20. Al-Shroby WA, Sulimani SM, Alhurishi SA, Dayel MEB, Alsanie NA, Alhraiwil NJ. Awareness of premarital screening and genetic counseling among saudis and its association with sociodemographic factors: A national study. J Multidiscip Healthc. 2021;14:389–99.
21. Farid D, Pakarti MHA, Fathiah I, Hendriana H, Nu'man MH. Marriage and Divorce Practices in the Society of Bandung: Contestation of Islamic and State Law. Al-Qadha : Jurnal Hukum Islam dan Perundang-Undangan. 2023 Jun 13;10(1):65–78.
22. Fauzan F, Zaelani AQ, Muzakki MH, Syafi'i I, Bustomi B. Endogamous Marriage of Prophet's Descendants on the Perspective of Sociology of Islamic Law. Al-Ihkam: Jurnal Hukum dan Pranata Sosial. 2023;18(1):1–26.
23. Pratama EP, Nanang SA, Sulistiani SL. Dinamika Pengaturan Pencatatan Perkawinan Di Indonesia Pasca Permendagri No. 9 Tahun 2016. Jurnal MEDIASAS: Media Ilmu Syari'ah dan Ahwal Al-Syakhsyiyah [Internet]. 2022;5(2):110–21. Available from: <https://jurnal.kopertais5aceh.or.id/index.php/mediasas>
24. Laraszaty G, Hasibuan SA, Purba JEM. Analyzed of Legal Siri Marriage Registration in a Population Administration (Family Card) a Study on Legal Protection for Children. Polit Journal: Scientific

- Journal of Politics. 2022 May 31;2(2):86–94.
25. Wicaksono A. Implications of Unregistered Marriage for Women: Profitable or Detrimental. *NORMA*. 2021 Mar 5;18(1):26–32.
  26. Kasim NM, Zakiyah Z, Kamba SNM, Karim F. Optimization of Marriage Registration as Legal Certainty of Children's Rights in the Perspective of Maqasid Shariah. In: 3rd International Conference on Law Reform (3rd INCLAR). Knowledge E DMCC; 2022. p. 1–9.
  27. Harahap ST. Tinjauan Maqasid Syari'ah Terhadap Pencatatan Perkawinan. *AL-SYAKHSHIYYAH: Jurnal Hukum Keluarga Islam dan Kemanusiaan*. 2023;5(1):38–56.
  28. Khasanah F. Poligami Di Arab Saudi, Tunisia Dan Indonesia Dalam Perspektif Sosiologi Hukum. *JUSTITIA: Jurnal Ilmu Hukum dan Humaniora* [Internet]. 2021;8(6):1663–75. Available from: <http://jurnal.um-tapsel.ac.id/index.php/>
  29. Fadli F. Implikasi Yuridis Terhadap Penerbitan Kartu Keluarga Bagi Pasangan Nikah Siri Di Indonesia. *Mediasas: Media Ilmu Jurnal dan Ahwal Al-Syakhsyiyah*. 2021;4(1):82–91.
  30. Sepiyah S, Hardiyatullah H, Nuriskandar LH, Jayadi N. Konsep Hukum Islam Mengenai Pernikahan Siri Di Indonesia Dan Implikasi Hukum. *Al-Balad: Jurnal Hukum Tata Negara dan Politik Islam* [Internet]. 2023;2(2):67–79. Available from: <https://ejournal.stisdarussalam.ac.id/index.php/juridar>
  31. Akmal AM, Asti MJ. Problematika Nikah Siri, Nikah Online Dan Talak Siri Serta Implikasi Hukumnya Dalam Fikih Nikah. *Al-Risalah*. 2021;21(1):45–59.
  32. Suwarno Putro R, Anaba DB, Nugroho RA, Erowati DEM. Perkawinan Siri Antara Legalitas Hukum Dan Implikasi Sosial. *Journal of Global Humanistic Studies* [philosophiamundi.id/](http://philosophiamundi.id/) e-issn. 2024;2(4):29–36.
  33. Mariani M. Ikrah Sanksi Pidana Atas Pelaku Pernikahan Di Bawah Tangan. *Journal Of Islamic And Law Studies*. 2021;5(3):314–25.
  34. Munawar FA Al. Telaah Fatwa tentang Nikah Siri. *Istidlal: Jurnal Ekonomi dan Hukum Islam*. 2020 Apr 15;4(1):55–63.
  35. Sani H. Problematika Nikah Siri (Analisis Urgensi Pencatatan Perkawinan Perspektif Ushul Fiqh). *Jurnal Abshar: Jurnal Hukum Keluarga Islam, Pendidikan, Kajian Islam Dan Humaniora*. 2018;1(1):1–7.
  36. Arsyad A. Evolusi Problem Sosial Nikah Siri: Rekonseptualisasi Hukum Perkawinan Dalam Islam. *Sipakalebby* [Internet]. 2020;4(1):306–31. Available from: [www.youtube.com](http://www.youtube.com)
  37. Firdaus SN, Sj F, Thoriquddin Moh. Dampak Nikah Siri Terhadap Istri Dan Anak Perspektif Maqashid Al-Syari'ah Alsyathibi (Studi Desa Bangsalsari Kecamatan Bangsalsari Kabupaten Jember). *Jurnal Al-Ijtima'iyyah* [Internet]. 2021;7(2):165–94. Available from: <https://jurnal.ar-raniry.ac.id/index.php/PMI/index>
  38. Arifudin YF, Madinah D, Sutarsih DS. Dampak Pernikahan Siri Terhadap Keharmonisan Rumah Tangga Dalam Perspektif Maqasid Syariah. *El 'Ailaah: Jurnal Kajian Hukum Keluarga* [Internet]. 2022;1(2):33–48. Available from: <https://journal.stishusnulhotimah.ac.id/index.php/el-ailah>