

# Juridical Analysis of Marriage Status Writing “Not Recorded” in Family Card by Department of Population and Civil Registration of Tegal District

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**Abstract.** The development of the population administration information system application (SIAK) version 7 includes changes in marital status from previously married and unmarried, now to registered marriage, unregistered marriage and unmarried. The development of the population database that switched to SIAK 7 indirectly caused the position of marriage registration which originally functioned to guarantee legal order as an instrument of legal certainty through marriage evidence to be contrary to the obligation to register marriages as regulated in Law Number 1 Year 1974 concerning Marriage. Article 2 Government Regulation of the Republic of Indonesia Number 9 of 1975 concerning the Implementation of Law Number 1 of 1974 concerning Marriage. In addition, it is explained in the KHI (Compilation of Islamic Law) contained in article 5 which states that marriage registration functions as a tool of order for Muslims and the obligation to register marriages is contained in the Regulation of the Minister of Religion of the Republic of Indonesia Number 19 of 2018 concerning Marriage Registration which is mentioned in article 2 become lawless because the writing of marital status has not been recorded in the blank of the family card

**Keywords:** Marriage, Marital, Status

## 1. Introduction

Administrative and legal problems caused by Unregistered Marriages continue to emerge and tend to increase in society. The government then tried to respond and provide a solution by means of unregistered marriages that could be written on the family card (KK). This policy is stated in the Minister of Home Affairs Regulation Number 9 of 2016 and updated at number 108 of 2019 concerning the Acceleration of Increasing the Coverage of Birth Certificate Owners. The policy of unregistered marriage, which can be written on the Family Card (KK), has created a polemic in the community[1]. Supporters of this policy see the spirit of protecting the rights of citizens, especially for children born to unregistered married couples through Minister of Home Affairs Regulation No. 9 of 2016 Acceleration of Increasing the Coverage of Birth Certificate Ownership and Minister of Home Affairs Regulation Number 118 of 2017 concerning Blank Family Cards, Registers and Quotations of Deeds Civil registration. Every marriage is now recorded on the family card[2–4]. Meanwhile, those who oppose the policy see that the policy will have a negative impact in the form of increasing the

practice of unregistered marriage, making it difficult to register marital status at the Office of Religious Affairs and weakening the protection of women.

The problem of law and order also occurs when it is associated with Law Number 1 of 1974 concerning Marriage. Changes in marital status from previously married and unmarried, to registered marriage, unregistered marriage and unmarried in the development of this population database, indirectly led to the position of marriage registration which originally functioned to ensure legal order (legal order) as an instrument of legal certainty through marriage instruments. becomes contrary to the obligation to register marriages as regulated in Law Number 1 of 1974 concerning Marriage. Policies related to the fulfillment of population administration rights for unregistered marriages are suspected to be contrary to the prevailing laws and regulations in Indonesia[5]. In Law Number 1 of 1974 concerning Marriage, it has been explained that a marriage is valid if it is carried out according to the laws of each religion and belief and in addition, each marriage must be recorded according to the applicable laws and regulations[6,7]. The regulation explains that marriages will only have formal legality before the law if they are recorded by a marriage registrar (PPN) appointed by the state, while those that are not registered are considered illegal according to law. The marriage certificate or marriage certificate issued through the marriage registration makes it easier for husband and wife to carry out other legal needs.

The Compilation of Islamic Law (KHI) article 5 states that marriage registration functions as a tool of order for Muslims and the obligation to register marriages as contained in the Regulation of the Minister of Religion of the Republic of Indonesia Number 19 of 2018 concerning Marriage Registration which is mentioned in article 2 become lawless because the writing of marital status has not been recorded in the form of the family card. Marriage is actually an inner and outer bond between a man and a woman as husband and wife with the aim of forming a happy and eternal family (household) based on the One Godhead. This is the mandate of Article 1 of Law Number 1 of 1974 concerning Marriage which is now being updated/revised in Law Number 16 of 2019 concerning Amendments to Law Number 1 of 1974 concerning Marriage[5].

In Islamic marriage law, marriage contains the main elements that are psychological and spiritual, including inner and outer life, humanity, and truth. Every marriage is not only based on biological needs between men and women who are recognized as legitimate but as executors of the natural process of human life. In addition, marriage is also based on religion, meaning that religious aspects become the main basis of domestic life by carrying out faith and devotion to God. The basics of understanding marriage are based on three things that a person completely needs to have before implementing it, namely: faith, Islam, and sincerity. Marriage is one of the dimensions of life that is very important in human life in any world. Once the importance of marriage is so important, it is not surprising that the world's religions regulate marriage issues, even the traditions or customs of society and also state institutions do not lag behind in regulating marriages that apply among their people. There are several types of marriages in Indonesia, for example legally and religiously legal marriages, and also religiously legal Unregistered Marriages. In the event of a marriage, there are rules and norms that underlie a marriage that must be obeyed by the bride and groom. Based on the above background, the problem that will be studied in this paper is "how is the recording of the status of "unregistered marriage" in the Family Card of the Tegal Regency Population and Civil Registration Service?"

## **2. Method**

This type of research is library research. Library research is research that is carried out by examining library materials or secondary data[8,9]. Literature research is carried out by reading, reviewing, and recording various literature or reading materials that are in accordance with the subject matter, then filtered and poured into a theoretical framework. This research includes library research because the data used are secondary data in the form of legal documents. Furthermore, secondary data is grouped into primary legal materials and secondary legal materials. Primary legal materials are binding legal materials as contained in the hierarchy of laws and regulations. While secondary legal materials are legal materials that provide explanations of primary legal materials such as Draft Laws, research results, and scientific works of legal experts. This study uses primary legal materials because it makes several relevant laws and regulations as a reference. While using secondary legal materials because it makes several books, journals, and other writings as references.

### **3. Result & Discussion**

Marriage is an important event that is seen as an inner and outer relationship between a man and a woman who have met the requirements to enter into a marriage. To prove the existence of a marriage, it is not enough just to prove the event itself without any written evidence based on records at the implementing agency appointed by the government. The recording, is followed up with the issuance of a marriage certificate or marriage certificate by the authorized official as perfect (authentic) evidence. Marriage registration in Indonesia is part of positive law even though religion or belief is considered legal, but marriages carried out outside the knowledge and supervision of marriage registrar employees are considered invalid. In this case, unregistered marriages do not have legal force in the eyes of state law. The rules for registering marriages are contained in Law Number 1974 concerning Marriage which is general in nature and the Compilation of Islamic Law (KHI) which is special because it is only intended for Indonesian people who embrace Islam.

However, since the issuance of a new regulation related to population administration which is explained in the Minister of Home Affairs Regulation Number 118 of 2017 concerning Blank Family Cards, Registration, and Quotation of Civil Registration Deeds related to changes in the column on the family card, the government has developed a population data collection application in the SIAK 7 version. The population administration data collection in SIAK 7 states that marital status has not been recorded in the blank of the family card. The development of the SIAK 7 application makes it easier for residents to know which people have registered marriages according to applicable laws and regulations or are only religiously valid. That is, through this policy, people who do not register marriages with marriage registrar employees still get population administration rights easily. Policies related to the fulfillment of population administration rights for marriages that have not been recorded are very contrary to the prevailing laws and regulations in Indonesia. In Law Number 1 of 1974 concerning Marriage, it has been explained that a marriage is valid if it is carried out according to the laws of each religion and belief and in addition, each marriage must be recorded according to the applicable laws and regulations. The regulation explains that marriages will only have formal legality before the law if they are recorded by a marriage registrar (PPN) appointed by the state, while those that are not registered are considered illegal according to law. Marriage certificates or marriage certificates issued through marriage registration make it easier for husband and wife to carry out other legal needs. Marriage registration is regulated in Article 2 of Government Regulation Number 9 of 1975 which states that:

1. The registration of the marriage of those who hold their marriage according to the Islamic religion shall be carried out by the registrar as referred to in Law Number 32 of 1954 concerning the registration of marriage, divorce and reconciliation.
2. Marriage registration of those who carry out their marriage according to their religion and belief other than Islam, is carried out by marriage registrar employees at the civil registry office as referred to in various laws regarding marriage registration. Marriage registration for Muslims at the Office of Religious Affairs (KUA) will be recorded on the SIMKAH application (Marriage Management Information System). Presentation of data on SIMKAH builds an integrated network between KUA ditin at the regional level to the head office. The data on SIMKAH will be integrated directly into the SIAK application which is managed by the Department of Population and Civil Registration, so that every citizen who is legally married according to state administration or only married religiously is easily known. For people who are Catholic, Christian, Buddhist and Hindu, marriage registration is carried out at the civil registry office after the bride and groom marry according to their respective religions. The function of marriage registration in Islamic law is so that someone has evidence to prove that everyone has really do marriage. Marriage registration for Muslims in Indonesia is regulated in the KHI (Compilation of Islamic Law) which is contained in article 5 paragraph 1 and 2 as follows:
3. In order to ensure the orderliness of marriage for the Islamic community, every marriage must be recorded.
4. Marriage registration as referred to in paragraph (1) is carried out by the Marriage Registrar as regulated in Law Number 22 of 1946 in conjunction with Law Number 32 of 1954.

Obligations related to marriage registration for Muslims are also regulated in the Regulation of the Minister of Religion of the Republic of Indonesia Number 19 of 2018 concerning Marriage Registration which is stated in article 2 that marriages between a man and a Muslim woman must be recorded in a marriage certificate. Marriage registration for Muslims in the marriage certificate as referred to in Article 2 is carried out by the Head of the sub-district KUA. Registration of marriages at institutions appointed by the government of course makes a person have official documents that can be used as evidence before the trial court in the event of a dispute related to marriage, such as inheritance, child custody, divorce, maintenance and so on.

The development of the population administration information system application (SIAK) version 7 in Indonesia does have a positive impact on the government to know and obtain population data accurately and completely and to fulfill the rights of the population administration of the community as a whole. However, the negative impact arising from the fulfillment of administrative rights for residents who do not register their marriages can open up opportunities for Indonesian people to carry out marriages without VAT supervision and are only legal based on religion or belief. The official state document issued in the form of a family card can provide legal protection for unregistered marriages, so that marriage registration can be seen as an administrative requirement that no longer has formal legality in the eyes of the law.

Marriage registration in Indonesia which was originally inseparable from the spirit to carry out reforms in the field of family law which requires improving the status of women to avoid

the evils of marriage, such as arbitrary divorce, polygamy without justice, forced marriage, and protecting rights. children of the marriage. Through the granting of population administration rights in the form of a family card without including a marriage certificate at the time of registration and adding a marriage certificate that has not been recorded in the form of a family card, it can cause people to ignore the obligation to register marriages because the state through the Office of Occupation and Civil Registration facilitates official state documents in the form of blank cards. family for marriage has not been recorded.

Ownership of a family card has great benefits for the population, apart from being a valid and strong proof of the identity status of the family and family members regarding the position of a person's residence, it is also used as a condition for issuing an ID card, a requirement for making a birth certificate for children and so on. The existence of the family card makes unregistered marriages recognized by the government and has no difference between registered marriages. These official state documents can be used as the basis for the fulfillment of the rights of other citizens and for the government to be the basis for decision/policy making.

The development of the population database that switched to SIAK 7 indirectly caused the position of marriage registration, which originally functioned to guarantee legal order as an instrument of legal certainty through evidence of marriage, to become lawless because in the long term marriages have not been registered but are facilitated by the state. through the fulfillment of population administration rights. The worst possibility that occurs due to the issuance of family cards for unregistered marriages is that the number of unregistered marriages will increase. Implementing agencies in the field of population administration services, in addition to being required to be more careful in checking the requirements for a family card application, should ask the reason for people who cannot attach a marriage certificate or marriage book so that they are advised to register their marriages through marriage isbat (marriage ratification) and re-manufacture the marriage certificate or marriage certificate. marriage if lost, so that in the blank of the family card it is not written that the marriage has not been recorded. Thus, the state continues to play a role in suppressing the increase in the number of unregistered marriages and minimizing the occurrence of unregistered marriages.

#### **4. Conclusion**

The legal basis for making the category of marriage not registered as one of the marital statuses in the form of a family card is explained in the Minister of Home Affairs Regulation Number 118 of 2017 concerning Blank Family Cards, Registration and Quotations of Civil Registration Deeds. As for writing, it is regulated in Article 33 which states that the writing of registers and quotations of civil registration deeds must use the SIAK application no later than 1 (one) year after this ministerial regulation is promulgated. The development of the population administration information system application (SIAK) version 7 includes changes in marital status from previously married and unmarried, now to registered marriage, unregistered marriage and unmarried.

The development of the population database that switched to SIAK 7 indirectly caused the position of marriage registration which originally functioned to guarantee legal order as an instrument of legal certainty through marriage evidence to be contrary to the obligation to register marriages as regulated in Law Number 1 Year 1974 concerning Marriage. Article 2 Government Regulation of the Republic of Indonesia Number 9 of 1975 concerning the Implementation of Law Number 1 of 1974 concerning Marriage. In addition, it is explained in the KHI (Compilation of Islamic Law) contained in article 5 which states that marriage

registration functions as a tool of order for Muslims and the obligation to register marriages is contained in the Regulation of the Minister of Religion of the Republic of Indonesia Number 19 of 2018 concerning Marriage Registration which is mentioned in article 2 become lawless because the writing of marital status has not been recorded in the blank of the family card.

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