

The Status of Children Due to Underhanded Marriages after Marriage is Recorded without Marriage *Isbat*

Iskhaq^{*)} and Sri Kusriyah^{**)}

^{*)} High Judge of the Banjarmasin Religious High Court/ Master of Law Program, Faculty of Law Universitas Islam Sultan Agung email elhaq10.eh@gmail.com

^{**)} Faculty of Law Universitas Islam Sultan Agung

Abstract

This study aims to determine the status of children due to underhanded marriages whose parents have remarried (new) and are registered with the Marriage Registrar, without marriage isbat for their previous marriages. This study uses a normative juridical research method, which focuses on examining the laws and regulations and the determination of the Religious Courts regarding the status of children born as a result of underhanded marriages. Based on the results of the study, it can be concluded that the Religious Courts in determining the application are guided by the rule that the legal status of a child born as a result of an underhand marriage depends on the validity of the marriage (marriage contract) of both parents which at that time was carried out under the hands, namely the marriage must meet the pillars and conditions of marriage and there are no obstacles to marriage according to Islamic law in accordance with statutory regulations. If these things are not fulfilled, then the child's status is only related to his mother and his mother's family. The re-marriage (new) that is registered is not retroactive so that it does not necessarily have legal consequences on the legitimacy of the child.

Keywords: Child status, underhanded marriage, registered marriage, marriage *isbat*.

1. Introduction

Children are the nation's assets that will play a very strategic role in the future of a nation, so they must receive protection from an early age.¹ Including children born as a result of *sirri* marriages. The phenomenon of children born as a result of *sirri* marriages or popularly called underhand marriages². There is an increasing trend with various underlying factors. Such a marriage will have an administrative impact and a juridical impact because there is no marriage certificate as authentic evidence of marriage.³

¹ Fiska Ananda, "Penerapan Diversi Sebagai Upaya Perlindungan Hukum Terhadap Anak Pelaku Tindak Pidana", *Jurnal Daulat Hukum*, Vol. 1 No. 1 (2018), <http://jurnal.unissula.ac.id/index.php/RH/article/view/2566/1923>

² Masjfuk Zuhdi, in *Mimbar Hukum*, Number 28 of 1996, page 8. Underhand marriage is a marriage that is not registered with the relevant agency, but is carried out according to religion and belief (Islam). The term underhand marriage is often called *sirri* or *sirri* marriage, in Arabic it is called *Nikah Urfi / Zawaj Urfi*, has 2 (two) meanings, namely: (1) marriage without a guardian and witness, which is invalid because the pillars are not fulfilled. and conditions of marriage, (2) marriage that fulfills the conditions and pillars perfectly, but is not widely disseminated and is not registered with the Marriage Registrar (KUA) for the Islamic community, and according to the strongest opinion, this kind of marriage is legal, but it is a sin for not obeying the law. Government regulations/*Waliyyul Amri*. Raehanul Bahraen, *Apa itu Nikah Sirri?*, Muslim Article.

³ Abdullah Wasian, 2010, Abdullah Wasian, 2010, *Akibat Hukum Perkawinan Sirri terhadap Kedudukan Istri, Anak, dan Hartanya*, Faculty of Law UNDIP, p. 19.

Efforts are made to provide legal protection for children in such marriages by submitting an application to the Religious Courts through the application for the origin of the child.⁴

The norm governing the status of the child was previously contained in Article 43 paragraph (1) of Law Number 1 of 1974 concerning Marriage that "a child born out of wedlock only has a civil relationship with his mother and his mother's family". The Constitutional Court through Decision Number 46/PUU-VIII/2010 has changed the norm so that it becomes: "A child born out of wedlock has a civil relationship with his mother and his mother's family as well as with a man as his father which can be proven based on science and technology and/or other evidence according to the law to have blood relations, including civil relations with his father's family."⁵

The decision of the Constitutional Court affects the mindset of the community regarding the status of children due to underhanded marriages (*sirri*) so that the assumption arises that every child born as a result of underhanded marriages is easy to solve the problem of legal certainty of child status. However, in practice it is not that simple. This can be observed from various cases of applications for the origin of children submitted in the Religious Courts.

The practice of applying for the origin of the child can be seen in the case at the Pati Religious Court. There are 2 (two) similar cases, namely the case of a request (volunteer)⁶the origin of the child as a result of an underhanded marriage, both are submitted to the same Religious Court, for the same interest, and tried by the same panel of judges, but the results of the decisions handed down by the panel of judges are different. One application was rejected, while the other was granted. The case for the rejected application was case Number 291/Pdt.P/2020/PA.Pt, while the case which was granted was case Number 243/Pdt.P/2021/PA.Pt.

Case Number 243/Pdt.P/2021/PA.Pt which was granted was filed by the Petitioners who had married according to the Islamic religion on April 24, 2008, in that marriage a child was born on January 4, 2009 and has a birth certificate. However, the deed only contained the name of the biological mother without the name of the father. Then the Petitioners performed another marriage which was registered with the Marriage Registrar of the KUA Jaken District, Pati Regency, on April 1, 2011, without a marriage certificate.⁷ On previous marriages. When the Petitioners took care of changing the child's birth certificate, it turned out that the Population and Civil Registration Office of Pati Regency emphasized that the marriage certificate was not sufficient to be used as the basis for changing the child's birth certificate before a court ruling regarding the status of the child born as a result of an underhanded marriage. The Petitioners submitted the child's proposal in order to include the child's father's name

⁴As with the cases at the Pati Religious Court Class IA 2020-2021, including cases Number 291/Pdt.P/2020/PA.Pt and Number 243/Pdt.P/2021/PA.Pt.

⁵Constitutional Court Decision Number 46/PUU-VIII/2010, p. 230.

⁶A. Khisni, "Peradilan Agama sebagai Peradilan Keluarga serta Perkembangan Studi Hukum Islam Indonesia", Jurnal Hukum, Vol XXV, No. 1, April 2011, <https://www.neliti.com/journals/jurnal-Hukum-unissula/catalogue>. See also Subekti, 1982, *Hukum Acara Perdata*, Bina Cipta, Bandung, p.50. Voluntary jurisdiction is only valid if it is determined by law.

⁷Isbat Nikah is an application for ratification of marriage that is submitted to the Court to be declared a marriage valid and has legal force.

in the birth certificate, and it turned out to be granted by the Religious Court.

The case of case position Number 291/Pdt.P/2020/PA.Pt which was rejected was submitted by a married couple as Petitioners who postulated that they married Islamically on February 12, 2019 in Taiwan and had a child born on September 9, 2019. The Petitioners remarried on June 19, 2020 in the presence of a Marriage Registrar at the Office of Religious Affairs, Kayen District, Pati Regency, in accordance with the Marriage Certificate Number 133/49/VI/2020, dated June 19, 2020. Then the Petitioners submitted their original application. The child's proposal to the Religious Court to determine the status of the child as a legitimate child of the Petitioners, was rejected by the Religious Court.

The two cases of the application can be described as follows.

No	No. Case	Case Type	Interest	Confirmation Marry	Determination
1.	291/Pdt.P/2020/ PA.Pt	Child Origin	Child status for birth certificate	Without <i>Isbat</i>	Rejected
2.	243/Pdt.P/2021/ PA.Pt	Child Origin	Child status for birth certificate	Without <i>Isbat</i>	granted

The case description in this case shows that the application for the origin of the child as a result of an underhanded marriage was submitted to the Religious Court and after examination at the trial it was possible that the application was granted or rejected, even though the requirements for submitting the application are the same, submitted to the same Religious Court, and put on trial. by the same panel of judges. Therefore, it is urgent to do research on the status of children due to underhanded marriages after another marriage is registered without doing *isbat* of marriage on the previous marriage which was carried out under the hands.

The purpose of this study was to determine and analyze the status of children due to underhanded marriages after marriages were registered without doing *isbat* marriage to the Religious Courts.

2. Research methods

This research uses normative legal research methods⁸ which focuses on examining the laws and regulations and the determination of the Religious Courts regarding the determination of the status of children born as a result of underhanded marriages. The research approach used is a statutory approach and a conceptual approach. The data used is secondary data or data obtained indirectly through literature study. The secondary data is divided into primary legal materials, secondary legal materials, and tertiary legal materials.⁹ The legal materials obtained are then analyzed using

⁸Amirudin and Zainal Asikin, 2010, *Pengantar Metode Penelitian Hukum*, Raja Grafindo Persada, Jakarta, p.118.

⁹Peter Mahmud Marzuki, 2006, *Metode Penelitian Hukum*, Gramedia, Jakarta, p. 141.

descriptive-qualitative analysis techniques to obtain conclusions as answers to the formulation of the problem that can be justified scientifically.¹⁰

3. Results and Discussion

The laws and regulations have provided legal solutions for those who carry out underhand marriages so that they can be protected and have legal force for their marriages by submitting an application for ratification (*isbat*) of marriage to the Religious Courts as stipulated in Article 2 paragraph (5) of Law Number 22 Year 1946 junctis Article 49 Letter a number 22 of Law Number 7 of 1989 concerning Religious Courts as amended by Law Number 3 of 2006 and the second amendment by Law Number 50 of 2009 and Article 7 paragraph (2), paragraph (3), and paragraph (4) Compilation of Islamic Law.¹¹ If the application for *isbat* marriage is granted, then the marriage under the hand is a valid marriage and its legal consequences.

To provide legal certainty for children as a result of underhanded marriages and various problems with the status of children in birth certificates, Law Number 1 of 1974 concerning Marriage as amended by Law Number 16 of 2019 in Article 55 stipulates that:

- “(1) The origin of a child can only be proven by an authentic birth certificate, which is issued by an authorized official.
- (2) If the birth certificate referred to in paragraph (1) of this article is not available, the Court may issue a determination regarding the origin of a child after a careful examination is carried out based on evidence that meets the requirements.
- (3) On the basis of the provisions of the Court in paragraph (2) of this article, the birth registration agency in the jurisdiction of the relevant Court issues a birth certificate for the child in question.”

This norm is the legal basis for submitting an application for the origin of a child to the Religious Courts to obtain legal certainty regarding the inherent status of a child due to an underhand marriage which requires legal certainty regarding its status on a birth certificate.

The legal solution for ratification (*isbat*) of marriage as regulated in the legislation for those who perform underhand marriages is not always followed, because there are still those who do not go through the marriage *isbat* process, but they do remarriage (new) and are registered with the Registrar. Marry. As a result, the legal consequences of remarriage are valid since the marriage was registered, while previous marriages carried out under the hands have no legal force and legal consequences, including for children born. This fact is what happened in the case of the application for the origin of children at the Pati Religious Court which is the focus of this research and discussion.

There are 2 (two) cases of application for the origin of children, namely case

¹⁰See also Sri Kusriyah, “Politik Hukum Penyelenggaraan Otonomi Daerah dalam Perspektif Negara Kestuan Republik Indonesia”, *Jurnal Pembaharuan Hukum* Volume 3 of 2016, https://scholar.google.co.id/citations?view_op=view_citation&hl=en&user=X9g4c0oAAAAJ&aleart_preview_top_rm=2&citation_for_view=X9g4c0oAAAAJ:2osOgNQ5qMEC

¹¹ Mahkamah Agung RI, Direktorat Jendral Badan Peradilan Agama, 2014, *Pedoman Pelaksanaan Tugas dan Administrasi Peradilan Agama*, Jakarta, p. 61-62.

Number 291/Pdt.P/2020/PA.Pt. and Number 243/Pdt.P/2021/PA.Pt. Both have similarities, namely the application is filed in the same Religious Court, the application is submitted to obtain certainty of the child's status, the Petitioners remarry and are registered without marriage certificates, and the case is tried by the same panel of judges, but the results are different. Case Number 243/Pdt.P/2021/PA.Pt. was granted, while case Number 291/Pdt.P/2020/PA.Pt was rejected.¹²

The Petitioners in case Number 243/Pdt.P/2021/PA.Pt argue that the essence is as follows:

- "The Petitioners have married according to the Islamic religion on April 24, 2008 at the house of the marriage guardian witnessed by 2 marriage witnesses, as well as a dowry in the form of cash in the amount of IDR. 100,000.00 (one hundred thousand rupiah), with the status of a widower and widow with one child woman.
- In this marriage, they were blessed with a child named MWA, born January 4, 2009, and a birth certificate was made, but in the deed only the name of the biological mother was written without the name of the biological father because the marriage was not registered.
- the Petitioners remarried and were registered by obtaining the Marriage Certificate Number 86/0/IV/2011, dated April 1, 2011, however, the existence of the marriage certificate was not sufficient to be used as a basis for the parties to change the birth certificates of the Petitioners' children prior to the existence of the marriage certificate. Court ruling regarding the status of children born as a result of such underhanded marriages."¹³

After the Panel of Judges examined the case, in their legal considerations, they emphasized that based on the evidence at the trial of the implementation of the marriage contract, the Petitioners did not have a marriage ban and had fulfilled the pillars and requirements of marriage in Islamic law, even though the status of the groom was still the husband of another woman and just divorced from his first wife after 6 months after the marriage was under hand, but the status of the bride at that time was a dead divorced from her first husband.

Marriage is a legal act regulated by the provisions of Islamic law. A legal marriage or marriage must be in accordance with and fulfilled the pillars and conditions of marriage.¹⁴ The validity of the marriage contract is very important and a principle for every Muslim who carries out the marriage contract.¹⁵The main elements of a marriage are men and women, there are the groom, the bride, the marriage guardian, 2 (two) witnesses to the marriage, the consent and the *qabul*. The five pillars of marriage must exist in a marriage contract procession, there should not be one that is not fulfilled. If there is one pillar of marriage that is not fulfilled, then the law of the marriage contract

¹²The approval and rejection are contained in the determination as a legal product of the application. Sudikno Merto Kusumo, 1985, *Hukum Acara Perdata Indonesia*, Liberty, Yogyakarta, p. 4. See also in the Big Indonesian Dictionary, Determination is interpreted as unilateral action to determine concrete legal rules that apply specifically. WJS Poerwodarminto, *Kamus Besar Bahasa Indonesia*, Balai Pustaka, Jakarta, p. 305.

¹³Application letter for the origin of the child case Number 243/Pdt.P/2021/PA.Pt.

¹⁴HSA Alhamdani, 1989, *Risalah Nikah*, trans. Agus Salim, Jakarta, Amani Library, p. 30-31.

¹⁵M. Anshary MK. 2010, *Hukum Perkawinan di Indonesia*, Yogyakarta, Student Library, p.10.

becomes null and void in the sense that it is not valid.¹⁶

The Panel of Judges, in their legal considerations, is of the opinion that because the marriages of the Petitioners are not prohibited from marriage and have fulfilled the pillars and conditions of marriage in Islamic law, the Petitioners' application is granted and the child's status becomes the legal child of Petitioner I and Petitioner II because he was born in or as a result of a marriage that was illegal. legitimate.¹⁷

Stipulation Number 243/Pdt.P/2021/PA.Pt. which stipulates the legitimacy of children due to underhanded marriages is an answer to the Circular Letter of the Supreme Court Number 3 of 2018 which stipulates that the application for polygamous marriage *isbat* on the basis of sirri marriage with reasons for the benefit of the child must be declared unacceptable (niet ontvankelijke verklaard). To ensure the interests of the child, an application for the origin of the child can be submitted as stated in the application.

In case Number 291/Pdt.P/2020/PA.Pt which was rejected by the Religious Courts, the Petitioners argued that the essence was as follows:

- "The Petitioners are a married couple who married in Islam on February 12, 2019 in Taiwan with a religious figure as their guardian, the dowry in the form of 1000 (one thousand) NTD (Taiwan currency), the status of a widow and a widow.
- The Petitioners have been blessed with a child named JIM, born September 9, 2019.
- The Petitioners have remarried on June 19, 2020 in the presence of a Marriage Registrar in accordance with the Marriage Certificate Number 133/49/VI/2020, dated June 19, 2020."¹⁸

After the Panel of Judges examined the case, in their legal considerations the Determination Number 291/Pdt.P/2020/PA.Pt. stated the facts found at the trial relating to the marriage guardian and the marital status of Petitioner I (wife) as follows:

First, In this marriage, the status of the marriage guardian of Petitioner I is not clear, and the Petitioners have been ordered by the Panel of Judges to present the guardian of Petitioner I's biological father in court to hear his testimony directly, it turns out that the Petitioners are not willing to present him, so it is reasonable to suspect that the marriage of the Petitioners is without a marriage guardian. which resulted in the marriage being annulled according to Islamic law. Even if using a guardian judge, it should be suspected that the guardian judge in question is a guardian judge who does not meet the criteria for a guardian judge as stipulated in the Regulation of the Minister of Religion of the Republic of Indonesia Number 2 of 1987 concerning Guardian Judges, because marriage with such a guardian is void according to Islamic law.

According to Abdullah Kelib, the guardian in marriage is the person who is responsible for the marriage carried out under his guardianship, so that the marriage is considered invalid if there is no guardian who hands the bride over to the groom.¹⁹ The

¹⁶Sayyid Sabiq, 1998, *Fiqh Sunnah*, trans. Mahyuddin Shaf, Volume VII, Bandung, PT al-Ma'arif, p. 23.

¹⁷J. Satrio, 2005, *Hukum Keluarga tentang Kedudukan Anak dalam Undang-Undang*, Revised Edition, Citra Aditya Bakti, Bandung, p. 5

¹⁸Application letter for the origin of the child case Number 291/Pdt.P/2021/PA.Pt.

¹⁹Abdulloh Kelib, *Ahkam*, Volume 5, Number 1, July 2017, p. 85-116.

Petitioners stated that the marriage contract held in Taiwan used a judge's guardian, even though the provisions of Article 23 paragraph (1) of the Compilation of Islamic Law stipulates that "The guardian of the judge can only act as a marriage guardian if the lineage guardian is not present or it is impossible to present him or his place of residence is unknown or supernatural or lawful or reluctant."²⁰

The problem that becomes a question in this case is who acts as guardian of the judge when the Petitioners enter into the marriage contract in Taiwan, because Article 1 letter (b) of the Regulation of the Minister of Religion of the Republic of Indonesia Number 2 of 1987 concerning Guardian Judges stipulates that "guardian judges are officials appointed by the Minister of Religion or officials appointed by him to act as marriage guardians for prospective brides who do not have guardians." Furthermore, Article 2 paragraph (1) stipulates that:

"For the prospective bride who will marry in the territory of Indonesia or abroad/extra-territorial territory of Indonesia it turns out that she does not have an eligible lineage guardian or her lineage guardian does not meet the requirements or *mafqud* or is unable or *adhal*, then the marriage can be carried out with a guardian judge."

Based on these considerations, the Panel of Judges considered in its legal considerations that the marriage guardian in the implementation of the marriage contract of the Petitioners in Taiwan on February 12, 2019 was a guardian who had no right, or even without a marriage guardian at all.

Secondly, It was proven that when the marriage contract was held in Taiwan, the status of Petitioner I (the bride) was still bound by marriage to another man, thus violating the marriage ban as stipulated in Article 40 letter a of the Compilation of Islamic Law which stipulates: "It is forbidden to enter into a marriage between a man and a woman because of certain circumstances:

- because the woman in question is still bound by one marriage to another man.
- A woman who is still in the period of *iddah* with another man.
- A woman who is not Muslim."

Likewise, the provisions of Article 24 of Law Number 1 of 1974 concerning Marriage as amended by Law Number 16 of 2019 stipulates that: "Anyone who because of marriage is still bound by himself with one of the two parties and on the basis of the existence of the marriage can apply for the annulment of a new marriage, without prejudice to the provisions of Article 3 paragraph (2) and Article 4 of this Law."

After examining the trial, the Panel of Judges in their legal considerations concluded that the marital status of Petitioner I was still in a marital bond as the legal wife of a man, because the divorce only occurred in March 2020 or one year after being married under the hands in Taiwan (evidence of the Divorce Deed No. 664/AC/2020/PA.Pt and Decision Number 323/Pdt.G/2020/PA.Pt, dated February 18, 2020), so that the argument of Petitioner I which stated that on February 12, 2019 had widow status was not proven to be true. Therefore, the Panel of Judges is of the opinion that the Petitioners' argument is proven to be incorrect and the Petitioners' marriage

²⁰Director General of the Religious Courts of the Supreme Court of the Republic of Indonesia, Op.cit. p. 1026.

violates the provisions of Article 40 letter a of the Compilation of Islamic Law which results in the marriage contract which was carried out by the Petitioners under the authority of Islamic law.²¹ Because the marriages of the Petitioners are invalid, the status of the child named JIM who was born as a result of the marriage cannot be attributed to Petitioner II as his father so that JIM remains as a child who is related to his mother (Petitioner I).

Based on the provisions of the marriage law, the marriage of the Petitioners is annulled. Thus, the Petitioners are unable to prove that the underhanded marriage has fulfilled the pillars and conditions of marriage or there is no prohibition against marriage. Because the Petitioners failed to prove the argument of their petition, the legal consequences that must be borne for their failure to prove the argument of their petition were rejected.²²

Based on the results of the research and discussion, the legal considerations for the rejected and granted application for the origin of the child can be described as follows.

No	No. Case	Case Type	Determinati on	Legal Considerations
1.	291/Pdt.P/2020/ PA.Pt	Child Origin	Rejected	The guardian of the marriage is not clear and the status of Petitioner I (the bride) is still bound by marriage to another man
2.	243/Pdt.P/2021/ PA.Pt	Child Origin	granted	Has fulfilled the pillars and conditions of marriage and there is no marriage ban

The (new) marriage of the Petitioners in case Number 291/Pdt.G/2020/PA.Pt. which is registered with the Marriage Registrar is not sufficient as a juridical basis that the child named JIM is the legal child of the Petitioners. The facts at the trial showed that the marriage registration of the Petitioners at the Marriage Registrar was preceded by a new marriage contract procession by complying with the provisions of the legislation. The official registered marriage was carried out after the status of Petitioner I was actually divorced from the first husband, while the child named JIM was born long before the Petitioners registered their marriage with the Marriage Registrar of KUA Kayen District, Pati Regency. Marriage certificate issued by KUA Kayen District,

As a result, the status of children born as a result of underhanded marriages remains an illegitimate child according to the law so that the child named JIM remains in line with his mother (Petitioner I) and his mother's family. The same applies to inheritance rights which are limited to the mother and her mother's family.²³ Thus, the judge's legal considerations who rejected the petition for the origin of the Petitioners'

²¹Director General of Badilag MA.RI. *Kompilasi Hukum Islam*, Op.cit. p. 1029.

²²M. Yahya Harahap, 2010, *Hukum Acara Perdata*, Sinar Graphic, 10th printing, Jakarta, p. 812.

²³Bahrudin Muhammad, 2014, *Hak Waris Anak di Luar Perkawinan*, Studi Putusan Mahkamah Konstitusi Nomor 46/PUU-VIII/2010, Fatawa Publicizing, Semarang, p. 197.

children from a normative juridical perspective (written legal rules) and Islamic law were appropriate and correct, and in accordance with one of the objectives of Islamic law, which was to protect offspring (الذسل).²⁴so that the purity of blood can be maintained and the continuation of the human race can be continued. The existence of the norms for the status of children as a result of marriage below is not only a product of state functions in the field of regulation, but also one of the powerful methods and instruments to regulate and direct people's lives and shows the way for the realization of the ideals of the nation's life through the laws it establishes.²⁵

4. Closing

Based on the results of the research and discussion, it can be concluded that the legal status of children born as a result of underhanded marriages is very dependent on the legality of the marriage of both parents. If the marriage fulfills the pillars and conditions of marriage, then the status of the child becomes a legal child. On the other hand, if the marriage does not fulfill the pillars and conditions of marriage, the child is only related to his mother. The re-marriage (new) which is registered has legal consequences since the marriage took place, so that children born as a result of underhanded marriages do not automatically become legal children of both parents.

The solution in the future, further regulation is needed in laws and regulations that can provide legal protection to children born as a result of underhanded marriages and conduct intensive socialization to the community regarding appropriate legal solutions to overcome the status of children due to underhanded marriages and also the impact of marriage. under hand. One of the objectives of Islamic law is to protect offspring so that blood purity can be maintained and the continuation of mankind can be continued, so judges when adjudicating cases of child origin requests must be extra careful in making decisions and/or stipulations, because the stipulation (decision) The judge will greatly determine the rights and responsibilities of the child in the future, including in the matter of fulfilling the civil rights of the child.

5. References

- [1] A. Khisni, "Peradilan Agama sebagai Peradilan Keluarga serta Perkembangan Studi Hukum Islam Indonesia", *Jurnal Hukum*, Vol XXV, No. 1, April 2011, <https://www.neliti.com/journals/jurnal-Hukum-unissula/catalogue>.
- [2] Abdulloh Kelib, *Ahkam*, Volume 5, Number 1, July 2017
- [3] Fiska Ananda, "Penerapan Diversi Sebagai Upaya Perlindungan Hukum Terhadap Anak Pelaku Tindak Pidana", *Jurnal Daulat Hukum*, Vol. 1 No. 1 (2018), <http://jurnal.unissula.ac.id/index.php/RH/article/view/2566/1923>
- [4] Masjfuk Zuhdi, in *Mimbar Hukum*, Number 28 of 1996

²⁴Abdul Wahab Kholaf, *Kaidah-kaidah Hukum Islam*, translation, Jakarta, Bulan Bintang, tt, p. 16.

²⁵ Endang Sutrisno Endang Sutrisno, *Bunga Rampai Hukum dan Globalisasi*, Genta Press, Yogyakarta, 2007, p.16, in Zulfi Diane Zaini, "Perspektif Hukum Sebagai Landasan Pembangunan Ekonomidi Indonesia (Sebuah Pendekatan Filsafat)", *Jurnal Hukum Vo. XXVIII, No. 2, December 2012.* p.931. <http://jurnal.unissula.ac.id/index.php/jurnalhukum/article/view/220/196>

- [5] Sri Kusriyah, "Politik Hukum Penyelenggaraan Otonomi Daerah dalam Perspektif Negara Kesatuan Republik Indonesia", *Jurnal Pembaharuan Hukum* Volume 3 of 2016, https://scholar.google.co.id/citations?view_op=view_citation&hl=en&user=X9g4c0oAAAAJ&alert_preview_top_rm=2&citation_for_view=X9g4c0oAAAAJ:2osOgNQ5qMEC
- [6] Zulfi Diane Zaini, "Perspektif Hukum Sebagai Landasan Pembangunan Ekonomi di Indonesia (Sebuah Pendekatan Filsafat)", *Jurnal Hukum Vo. XXVIII, No. 2, December 2012.* <http://jurnal.unissula.ac.id/index.php/jurnalhukum/article/view/220/196>

Books

- [1] Abdullah Wasian, 2010, *Abdullah Wasian, 2010, Akibat Hukum Perkawinan Sirri terhadap Kedudukan Istri, Anak, dan Hartanya*, Faculty of Law UNDIP, p. 19.
- [2] Amirudin and Zainal Asikin, 2010, *Pengantar Metode Penelitian Hukum*, Raja Grafindo Persada, Jakarta.
- [3] Bahrudin Muhammad, 2014, *Hak Waris Anak di Luar Perkawinan*, Studi Putusan Mahkamah Konstitusi Nomor 46/PUU-VIII/2010, Fatawa Publicizing, Semarang.
- [4] HSA Alhamdani, 1989, *Risalah Nikah*, trans. Agus Salim, Jakarta, Amani Library.
- [5] J. Satrio, 2005, *Hukum Keluarga tentang Kedudukan Anak dalam Undang-Undang*, Revised Edition, Citra Aditya Bakti, Bandung.
- [6] M. Anshary MK. 2010, *Hukum Perkawinan di Indonesia*, Yogyakarta, Student Library.
- [7] M. Yahya Harahap, 2010, *Hukum Acara Perdata*, Sinar Graphic, 10th printing, Jakarta.
- [8] Peter Mahmud Marzuki, 2006, *Metode Penelitian Hukum*, Gramedia, Jakarta.
- [9] Sayyid Sabiq, 1998, *Fiqh Sunnah*, trans. Mahyuddin Shaf, Volume VII, Bandung, PT al-Ma'arif
- [10] Subekti, 1982, *Hukum Acara Perdata*, Bina Cipta, Bandung
- [11] Sudikno Merto Kusumo, 1985, *Hukum Acara Perdata Indonesia*, Liberty, Yogyakarta
- [12] WJS Poerwodarminto, *Kamus Besar Bahasa Indonesia*, Balai Pustaka, Jakarta

Laws and regulations:

- [1] Law Number 7 of 1989 concerning Religious Courts as amended by Law Number 3 of 2006 and the second amendment by Law Number 50 of 2009.
- [2] Law Number 1 of 1974 concerning Marriage as amended by Law Number 16 of 2019.
- [3] Law Number 22 of 1946 concerning Registration of Marriage, Divorce, and Reconciliation.
- [4] Minister of Religion Regulation Number 2 of 1987 concerning Guardian Judges.