



Unregistered Marriage and the Legal Impact, A Book Review “Kepastian Hukum Perkawinan Siri dan Permasalahannya” Zainuddin SH MH & Afwan Zainuddin SH MH, Deepublish Yogyakarta, 95 Pages, ISBN: 978-602-435-120-1

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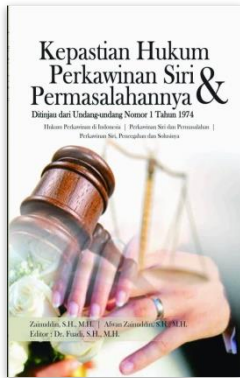
Abstract: This book explains the legal certainty aspects of unregistered marriages in Indonesia. Unregistered marriages have many implications, especially with regard to law, child status, and inheritance. The book “Kepastian Hukum Perkawinan Siri & Permasalahannya”, explains how is the connection between the Islamic law and the State law in marriage cases and how unregistered marriage is most certainly a bad thing. The book also explains what effects and consequences that caused by the unregistered marriage according to law.

Keywords: Sociology of Law, Book Review, Soerjono Soekanto

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A. Data of Book



Title	: Kepastian Hukum Perkawinan Siri & Permasalahannya
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B. Introduction

From my point of view marriage law is a bit tricky, why? Because it combined many source of law, like from religion, Indonesia also has six official religions, custom and tradition, which is diverse in Indonesia. This is the reason why I choose this book to read and review. Marriage is process of binding two couples of man and woman as husband and wife so they can build a family of their own.

Marriage is legitimate if it suit the condition. Each religion has their own qualification and condition that needs to be fulfilled, so that the marriage is legitimate in the perspective of religion. Like for example, in Islam religion, the man who wants to marry a woman, needs to give the woman some sort of gift. The gift that needs to be given has to be agreed by the man and the woman, it doesn't have regulation on how much the man has to give to the woman, as long as they agree, the man can't give any kinds of gift. there's also a law that regulate marriage and qualification that needs to be fulfilled so that the marriage is legitimate in the perspective of law.

Marriage has to fulfill the administrative requirement. If the marriage is not recorded in the Legal entity system, then the marriage is not legitimate. Even if that marriage is considered legitimate in the perspective of religion. This kinds of marriage which fulfill the regulation of law of religion but

doesn't fulfill the requirement of the state legal system is called unregistered marriage, or we know in our language as "nikah siri".

In article 2 paragraph 1 of constitution Number 1 of 1974 it says that "The marriage is legitimate if it done according to each of religions and believes". The article 2 paragraph 2 of constitution number 1 of 1974 also says that. "Every marriage needs to be recorded in accordance with the act of institution that apply". If the marriage is not recorded even if it's legitimate according to religion, that marriage is not recognized by the state.

The existence of the law has a really close relation with the legality of that legal action. If there's a marriage that is done without law, the consequence that appeared is the invalidation of that marriage. The child that was born by an invalid marriage is not valid according to the law. That child is illegitimate. There are several reasons why people would want to do "nikah siri" or unregistered marriage like:

1. No approval from parents
2. To approval from wife
3. Wife is sick and cannot be healed.
4. Relationship with the current wife is bad
5. Wants to get married before the legal age
6. The lack of knowledge and awareness from the society about the recording of marriage.

That's what I learn after reading this book. The concern of the authors, that the society have a lack of knowledge and awareness about unregistered marriage. The authors want to warn us about the disadvantage of unregistered marriage and how to avoid it.

C. Review

I this book in digital version online, so I can't tell how is the quality of the cover and the paper that is used to make this book. This book cost about Rp.65.000 rupiah but I got discount from google book, so the book price was

down to Rp.45.000. It's a bit expensive I think for a book that have 42 page, if I don't get the discount. The book has 42 pages with 5 chapters which contains:

- Preliminary
Contains Act of constitution that regulate marriage and minor definition about marriage.
- Marriage Law in Indonesia
Contains a more detailed definition of marriage, act of constitution that regulate it, procedures of marriage, the position of wife and children, and the position of wealth and holding.
- The Unregistered Marriage and its Problem
Contains the definition of unregistered marriage, the practice of unregistered marriage, and the factor that caused unregistered marriage happen.
- Unregistered Marriage, Prevention, and Solution
Contains the certainty of marriage law in Indonesia, the effort that the law gave to prevent an unregistered marriage, and the protection of wife and children.
- Closing
Contains the conclusion and suggestions that the authors have in mind.

From what I see, the author of this book is a member of a University, because it has "Greeting of The Dean of University" in it. The book itself is well written and well organized, I didn't get any distress and trouble reading this book. Usually, I can't understand a book that was written for university student because the language is bit tricky and too formal.

The previous book that I read called "Ilmu Hukum" is very hard to read because of the choices of words that the authors takes are very bad. I have to read one sentence over and over just to understand what it means, sometimes even if I read it over and over, I still didn't get what that sentence mean. I

use this as a comparison of book that I read, even a book that discuss a basic material of law like the book I mentioned before, is sometimes too hard to understand for a college student like myself.

The book that I review now, “Kepastian Hukum Perkawinan Siri & Permasalahannya” is very different from the book I mentioned before. It’s way easier to read, even if the material is not a basic material but a more advanced material that discuss deeper in legal system, in this case marriage law. The material arrangement is also good, so I can get the point of each paragraph and each chapter in order. The authors use Islamic point of view and methods to see certain problem in marriage. The authors use some Islam Cleric opinion to give certain explanation relating to Islamic marriage law. They also use sources from Compilation of Islamic Law.

Besides from Islamic point of view, the Authors also see the problem from Legal system point of view. He mentioned a couple of Act of institution that arranged the regulation and administration that needs to be fulfilled in before marriage. They explain how is the connection between the Islamic law and the State law in marriage cases and how unregistered marriage is most certainly a bad thing. They also explain what effects and consequences that caused by the unregistered marriage according to law.

The substance of this book is a combination of theory, practice, and some opinion and thinking from the expert of law and religion law related to marriage law, make this book more reliable. The material is well wrapped and delivered in a good intention. There’s no offending matter in this book. Even though this book is talking a lot in Islamic view, I think that’s fair enough, it doesn’t affect the fact that unregistered marriage is bad.

*“Wahai ananda belahan jiwa
Kerja menyalah jangan hampiri
Berbuat maksiat jangan sekali
Supaya hidup mudi berkah ilahi
Wahai ananda mustika hati
Pandai-pandailah membawa diri
Hasutan orang jangan peduli*

*Serahkan diri pada ilahi
Wahai ananda tambatan hati
Jauhkan sifat iri dan dengki
Bekerjalah dengan bersungguh hati
Itulah bekal hidup dan mati”*

I like that poetry a lot and it is kind of interesting that they put a poetry in the front page of their book. They also talk about the right of the children that is a result of unregistered marriage. The children that is the result of an unregistered marriage count as illegitimate children, which is very crucial because the rights of that kid will then be reduced because of this unregistered marriage. Just imagine, what will happen to that kid. Not only it is bad for the kid, but it will also be bad for the mother. The mother and the kid can't have any inheritance from the father. The children will count as a child that born outside marriage, so that children can't have birth certificate.

The society stigma about children outside of marriage is usually negative. So it is possible that the children of unregistered marriage couldn't be accepted in the society easily. The child can't have birth certificate, this can also affect the kid mentally, he will felt different from the other kid, he will then feel that he is not wanted by their family.

This book has a very good material in it, if you want to know deeper about Unregistered marriage or maybe just marriage in general, you can read this book, because even if this book just contains 42 pages, it contains a lot more materials in it.

D. Acknowledgments

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E. Declaration of Conflicting Interests

The authors states that there is no conflict of interest in the publication of this article.

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