



Effectiveness of Article 53 On Marrying Pregnant Women In Compilation Of Islamic Law

Srirahma¹, Sri Nanang Meiske Kamba²

1 Faculty of Law, State University of Gorontalo, Indonesia. E-mail: rahmalapay@gmail.com

2 Faculty of Law, State University of Gorontalo, Indonesia. E-mail: Srinanangmeiskekamba@ung.ac.id

Abstract: The purpose of this writing is to find out how effective Article 53 of the Compilation of Islamic Law is for pregnant women married to men who do not impregnate them in the case study of Tojo Una-Una Regency. The method used in this writing is by way of observation, interviews, and documentation. This type of writing is sociological juridical writing. Approach to an empirical sociological juridical analysis by going directly to the object or field. The type of data used is primary legal material and secondary legal material. The results of the writing show that article 53 of the Compilation of Islamic Law against pregnant women marrying men who do not impregnate them is not yet effective. The causal factors include internal factors and factors external. The legal consequences that arise are that it has an impact on the child to be born because it can question how the position, rights, maintenance, and when the birth is a girl, what about the guardian, as well as inheritance problems.

Keywords: *Effectiveness; Islamic Law Compilation*

@2022 Srirahma., Kamba, S.N.M.

Under the license CC BY-SA 4

How to cite (Chicago Style) :

Srirahma., and Kamba, S.N.M. "Effectiveness of Article 53 On Marrying Pregnant Women In Compilation Of Islamic Law" *Estudiante Law Journal* 4, no. 3 (2022): 739-758.

<https://doi.org/10.33756/ESLAJ.V4I2.18362>

1. Introduction

Marriage is a physical and spiritual bond between a man and a woman as husband and wife with the aim of forming a happy and eternal family based on the Belief in One Almighty God.¹ The main characteristic of the state is the emergence of the government's obligation to realize the general welfare of its citizens.² From a legal point of view, marriage is a promise agreed upon between a prospective husband and a prospective wife, from a social perspective in society a person who has a marital status is valued more than those who do not have a marriage bond, and from a religious perspective, marriage is a level of sacredness in a husband and wife relationship that is where marriage is a sacred ceremony, the bride and groom are made husband and wife or ask each other for their life partners by using the name of Allah SWT.³

The formation of legal norms is essentially a statutory regulation.⁴ According to Law Number 16 of 2019 on amendments to Law Number 1 of 1974, marriage is a physical and spiritual bond between a man and a woman as husband and wife with the aim of forming a happy and eternal family (household) based on Belief in the One Supreme God.⁵ In the Compilation of Islamic Law, marriage is a very strong contract or *mitsaan* to obey Allah's commands, and carrying it out is worship. In the view of Islam, marriage is not only an inner and outer bond between husband and wife but rather a form of worship or we often refer to it as the *sunnah* of the Prophet because the meaning of a marriage bond is nothing other than abstaining from the sin of adultery or a proper relationship between husband and wife before marriage. .

In the field of law, effectiveness according to Ahmad Ali is a measure of the extent to which the law is obeyed or not obeyed. Meanwhile, according to Soerjono Soekanto effectiveness is the extent to which a law achieves its goals. Law can be said to be effective if there is a positive legal impact, at that time the law reaches its target in guiding or changing human behavior so that it becomes legal behavior.⁶

The relationship between husband and wife before marriage in Islam is a disgraceful act and is condemned by Allah SWT, it is clearly stated in the Qur'an and hadith regarding the prohibition of adultery, this relationship can obscure

¹ Witanto, *Hukum Keluarga Hak Dan Kedudukan Anak Luar Kawin Pasca Keluarnya Putusan MK Tentang Uji Mateil UU Perkawinan* (Jakarta: Prestasi Pustaka, 2012).

² Julius T Mandjo and Suwitno Y Imran, "Implementasi UUD Negara Republik Indonesia Tahun 1945 Pasal 27 Ayat 2 Tentang Hak Untuk Mendapatkan Pekerjaan Dan Penghidupan Yang Layak Bagi Kemanusiaan," *Jurnal Majelis* 8, no. September 2020 (2020): 84.

³ Mardani, *Hukum Keluarga Islam Di Indonesia* (Jakarta: Kencana, 2016).

⁴ Kadek Wijayanto, Lusiana Margareth Tijow, and Fence M Wantu, "Kedudukan Peraturan Desa Dalam Sistem Pembentukan Peraturan Perundang-Undangan," *Jurnal Ius Civile* 4, no. 2 (2020): 201.

⁵ Pemerintah RI, "Undang-Undang Perkawinan RI Nomor 16 Tahun 2019 Tentang Perkawinan" (2019).

⁶ Soerjono Soekanto, *Efektivitas Hukum Dan Penerapan Sanksi* (Bandung: CV. Ramadja Karya, 1988).

hereditary problems, destroy offspring, destroy families and households, spread syphilis, and moral decline.⁷

The prohibition against marrying a woman who is pregnant because of adultery and marrying a man who does not impregnate her is found in the Qur'an surah AN-Nur verse 3 which means: married except by a man who is an adulterer or a man who is a polytheist, and that is what is forbidden for believers."⁸

Rules regarding pregnant marriage are contained in Article 53 of the Compilation of Islamic Law, namely:

1. A pregnant woman out of wedlock can be married to a man who got her pregnant
2. Marriage with a pregnant woman referred to in Paragraph (1) can be carried out without waiting for the birth of her child
3. By getting married when a woman is pregnant, there is no need to re-marry after the child is born.⁹

In this context, the problem is the marriage of a woman who is pregnant but marries a man who does not impregnate her. The following is the opinion of the madzhab regarding pregnant marriage:

1. The opinion of the Hanafiyyah Madzhab allows the marriage of a pregnant woman and remains valid even with a man who is pregnant or not pregnant, with the condition that if the person who marries her is a man who does not impregnate her, then the woman may not have sexual intercourse before giving birth.
2. The opinion of Imam Syafi'I said that it does not mean that adultery is legalized. Pregnant women are allowed to get married to men who impregnate them, and are allowed to marry men who are not pregnant but are not allowed to have sex with their wives before giving birth.¹⁰
3. The opinion of Imam Abu Hanifah who explained that if the man who got pregnant is married to a pregnant woman, the law is permissible. Meanwhile, if the person who marries her is a man who did not impregnate her, then that man may not have intercourse with her until she gives birth.¹¹

⁷ Muammal Hamidi, *Halal Dan Haram Dalam Islam* (Surabaya: PT. Bina Ilmu, 2010).

⁸ Kemenag RI, *Al-Quran Dan Terjemahnya; Surah An-Nur Ayat 3* (Jakarta: PT. Hati Emas, 2014).

⁹ Mahkamah Agung RI, *Himpunan Peraturan Perundang-Undangan Yang Berkaitan Dengan Kompilasi Hukum Islam Serta Pengertian Dan Pembahasannya* (Jakarta: Mahkamah Agung Republik Indonesia, 2011).

¹⁰ Saipul Nasution, "Hukum Nikah Hamil Menurut 4 Madzhab," Gontor.ac.id, 2019, <http://pm.unida.gontor.ac.id/hukum-nikah-hamil-menurut-4-madzhab/>.

¹¹ Abdul Rachman, "Apakah Haram Menikahi Wanita Hamil?," Kemenag.go.id, 2019, <https://sumsel.kemenag.go.id/opini/view/1822/menikahi-wanita-yang-hamil-duluan-haramkah>.

In Article 26 of the Civil Code, marriage is only seen as civil, which means that marriage is only valid if it fulfills the conditions set out in the Civil Code. The following are the requirements for a valid marriage in the Civil Code:¹²

1. Both parties have met the age requirements set out in Law no. 16 of 2019, that is, must be 19 years old.
2. There must be agreement from both parties
3. If a woman has previously been married, 300 days must pass after the previous marriage
4. There is no prohibition in law for both of them to carry out their first marriage
5. For those who are still under age must have permission from their parents

With writing related to pregnant women who are married to men who are not pregnant, it can help to serve as counseling or education material to the public about what are the consequences and impacts that will result from the implementation of the marriage of pregnant women to men who are not impregnating them, because from the author's view from some people who marry pregnant women who are married to other men only maintain oblique stories from other people and think that the marriage has been carried out according to the recommendations in carrying out the marriage, but they do not think about the consequences after carrying out the marriage, usually those who get a lot of impact The negative of this marriage is the woman. Where pregnant women who are married off become the talk of the community so that it will result in giving rise to negative opinions in society, so pregnant women who are married away from social life, not to mention the child the woman is carrying, the father can easily not admit it and it will also be difficult later in life. get their rights, marriage like this can also affect harmony in the household.

2. method

The method used in this writing is by way of observation, interviews, and documentation. This type of writing is sociological juridical writing. The sociological juridical analysis approach emphasizes writing that obtains legal knowledge empirically by going directly to the object or field. The type of data used in this paper is primary legal material and secondary legal material. The population is pregnant women who are married to men who do not impregnate them in 2018 as many as 1 person, 2019 as many as 2 people, 2020 as many as 2 people, and 2021 as many as 1 person, where the implementation of the marriage of pregnant women to men who do not impregnate them is carried out from the woman's side with various factors that influence the occurrence of the marriage. As for the samples as raised in this writing are women who are pregnant or women who are married to men who do not impregnate them, parents of pregnant women, Bomba Village Government and Siatu Village Government,

¹² KUHPperdata, "BAB IV Perkawinan Pasal 26 Tentang Tentang Syarat Sahnya Perkawinan" (n.d.).

priests, religious leaders, Traditional Stakeholders. Techniques for collecting legal materials through literature studies, observations, and interviews with reliable sources. The analysis technique taken in this paper is descriptive analysis which is a basic analysis technique that cannot be avoided. observation, and interviews with reliable sources. The analysis technique taken in this paper is descriptive analysis which is a basic analysis technique that cannot be avoided. observation, and interviews with reliable sources. The analysis technique taken in this paper is descriptive analysis which is a basic analysis technique that cannot be avoided.

3. The Effectiveness of Article 53 Compilation of Islamic Law Against Pregnant Women Married to Men Who Didn't Get Her Pregnant Case Study of Tojo Una-Una District

The Compilation of Islamic Law is a source of Islamic law in Indonesia which was stipulated by the Government of the Republic of Indonesia through Presidential Instruction No. 1 of 1991 and has been agreed upon by the ulama and involves Islamic organizations in Indonesia. Thus, the Compilation of Islamic Law becomes positive law that applies to all Muslims in Indonesia, especially in family matters (al-akhwal asy-syakhsyah).¹³One aspect of family law regulated in the Compilation of Islamic Law is the marriage of a woman who becomes pregnant out of wedlock to a man who does not impregnate her or is married while pregnant. Compilation of Islamic Law Article 53 paragraphs 1 to 3 explains that basically pregnant marriage is legally valid. In addition, the Compilation of Islamic Law also stipulates that women who are pregnant out of wedlock are not required to 'iddah if they marry a man who impregnated them so that pregnant marriages can be carried out immediately, and another policy is that when a woman marries a man who does not impregnate her, she must wait for the end of the iddah period. first.

The Compilation of Islamic Law is a source of Islamic law in Indonesia which was stipulated by the Government of the Republic of Indonesia through Presidential Instruction No. 1 of 1991 and has been agreed upon by the ulama and involves Islamic organizations in Indonesia. Thus, the Compilation of Islamic Law becomes positive law that applies to all Muslims in Indonesia, especially in family matters (al-akhwal asy-syakhsyah).¹⁴One aspect of family law regulated in the Compilation of Islamic Law is the marriage of a woman who becomes pregnant out of wedlock to a man who does not impregnate her or is married while pregnant.

Marriage is a legal act, which requires conditions and pillars in order to be considered valid according to law. What is meant by conditions here are the conditions for marriage, namely those related to the pillars of marriage

¹³ Euis Nurlaelawati, *Modernization, Tradition and Identity: The Kompilasi Hukum Islam and Legal Practice in the Indonesian Religious Courts*. (Amsterdam: Amsterdam University Press, 2010).

¹⁴ Nurlaelawati.

themselves, including the conditions for a groom who is not a mahram of the bride, of his own volition, clearly the person and not currently undergoing ihram. The conditions for women include not being hindered by the syar'i, being clear about the person and not being in ihram. The conditions for a guardian include being male, mature, sane, fair and not currently practicing ihram. Meanwhile, witnesses must be male, mature, healthy in mind, fair, able to hear and see, not put into ihram and understand the language used in the ijab-kabul. While the pillars of marriage are the words of consent and qabul,¹⁵For this reason, it is necessary for prospective spouses to know and at the same time understand and apply this marriage with the existing spirit, including understanding the concept of marriage according to KHI.¹⁶

The right to independence and freedom is the foundation for a country in upholding the rule of law in its sovereign jurisdiction.¹⁷ In Indonesia, legally speaking, marriage in Indonesia is regulated in Law Number 16 of 2019 as an amendment to Law Number 1 of 1974 concerning Marriage and Presidential Instruction of the Republic of Indonesia Number 1 of 1991 regarding the Compilation of Islamic Law. These two laws regulate issues related to marriage, including interfaith marriages. In the Law of the Republic of Indonesia Number 16 of 2019 concerning Marriage Article 2 Paragraph (1) it is stated: "Marriage is legal, if it is carried out according to the laws of each religion and belief". The same thing is explained by several articles in the Presidential Instruction of the Republic of Indonesia Number 1 of 1991 concerning the Compilation of Islamic Law, as follows:

Article 4 :

"Marriage is legal, if it is carried out according to Islamic law in accordance with Article 2 paragraph (1) of Law Number 1 of 1974 concerning Marriage".¹⁸

There are three types of legal systems in force in Indonesia, namely the customary law system, civil law and Islamic law.¹⁹The definition of marriage according to the Civil Code can be interpreted as a legal relationship between subjects, namely men and women who bind themselves in marriage. The relationship is based on an agreement between them and binds one another. The Civil Code basically does not provide a definition of marriage. The elucidation of marriage in Article 26 of the Civil Code only stipulates that in principle marriage can only be seen from the perspective of civil relations, but the meaning or explanation of

¹⁵ Wahyu Wibisana, "Perkawinan Wanita Hamil Di Luar Nikah Serta Akibat Hukumnya: Perspektif Fiqh Dan Hukum Positif," *At-Ta'lim: Jurnal Pendidikan Agama Islam* 15, no. 1 (2017): 29–35.

¹⁶ Khoirul Anam, "Studi Makna Perkawinan Dalam Persepektif Hukum Di Indonesia," *Jurnal Fakultas Hukum Universitas Tulungagung*, 2010, 59–68.

¹⁷ Fence M. Wantu and Usman Rasyid, "Redefinisi Kewenangan Komisi Yudisial Dalam Konstitusi: Upaya Mengharmonisasikan Putusan Pelaku Kekuasaan Kehakiman Indonesia," *Jurnal Majelis* 08, no. September2020 (2020): 35.

¹⁸ Pemerintah RI, "Undang-Undang Nomor 1 Tahun 1974 Tentang Perkawinan" (1974).

¹⁹ Dolot Alhasni Bakung and Mohamad Hidayat Muhtar, "Determination of The Legal Protection of Rights Holders to Neighboring Rights," *Jambura Law Review* 2, no. 1 (2020): 67.

marriage cannot be found in the Civil Code. The agreement referred to here is not an agreement contained in book III of the Civil Code,²⁰

If viewed from the perspective of benefit, there are several things that can be categorized as benefit contained in article 53 KHI, namely protection of the child's nasab rights related to Islamic provisions which state that a child who is not born in a legal marriage is not a legitimate child and has no right to his father's lineage. In the absence of lineage rights to the father, the child will not be able to become the heir to everything related to his father. In addition, if the child does not have lineage to his father, in the administrative aspect in Indonesia, he will experience difficulties. Kemudain Protection of honor Honor which is one aspect of basic human needs according to Islamic teachings.²¹Pregnant women out of wedlock who are not immediately married to the person who impregnated them will have an impact on the loss of self-respect and that of their family. This is not an exaggeration because in the context of Indonesian culture, which tends to be an eastern morality culture, pregnant women out of wedlock who do not marry immediately are considered a taboo. Negative views will arise from the circumstances experienced by women. This view does not only concern the woman herself but also concerns the dignity of the woman's family.

Therefore, with the existence of article 53 KHI this will be a means to maintain the honor of women and their families after an incident that has the opportunity to undermine honor, namely pregnant out of wedlock. This is also reinforced by the immediacy aspect of marriage without having to wait for the birth of a child in the womb. Related to the existence of Article 53 KHI which allows the marriage of pregnant women with unspecified and limited causes and without prior sanctions, indirectly indicates a conflict with the implementation of God's commands. Because in the absence of restrictions or provisions that cause pregnancy for women who can be married, it implies that even pregnancies resulting from intentional adultery may be married without prior sanction. This of course will have a negative impact although not directly in the form of an assumption as a habit of pregnancy due to intentional adultery outside of marriage. This phenomenon will certainly be a separate problem for the continued implementation of Islamic law for Muslims in Indonesia.

The process of marriage in each region has always been a very interesting matter to discuss, both in terms of the complexity of the marriage itself. Because in marriage what happens is not just uniting two people who love each other. More than that, there are values that cannot be separated from being considered in marriage, such as social status, economy, and cultural values of each male and female family.

The following are the results of interviews with priests or princes in Siatu Village:

²⁰ Soedharyo Soimin, *Hukum Orang Dan Keluarga, Prespektif Hukum Perdata Barat/BW, Hukum Islam, Dan Hukum Adat* (Jakarta: Sinar Grafika, 2004).

²¹ Abi Ishaq Ibrahim ibn Musa al Lakhmi al Garnathi asy Syathibi, *Al Muwafaqat Fi Ushul Al Ahkam Jilid 1* (Mesir: Dar Al Fikr, 1990).

"The marriage of a pregnant woman to a man who is not pregnant with her is actually an illegal marriage according to the Qur'an and our religion. This marriage can be considered as a formality only to seek the status that this woman is married, we call this kind of marriage with Nika Turun. As the chieftain and at the same time as a family, I consider a decision that does not harm both parties."²²

The following is the result of an interview with the headman in Bomba Village:

"My reason as the prince of marrying a woman to a man who did not get her pregnant even though religiously the marriage is said to be invalid, but seeing the conditions and circumstances that require the woman to be married to a man who is not the biological father of the child she is carrying is that the woman is officially declared divorced with her legal husband being pregnant, this requires the woman to marry a man who is not the biological father of the child she is carrying. Related to the iddah period of this marriage is the completion of the iddah period during marriage from the first husband and then the iddah period of pregnancy. In this case the status can be said to be legal because after marriage the husband and wife are separated until after the woman gives birth."²³

The following are the results of interviews with Siatu Village customary stakeholders:

"For the marriage of a pregnant woman that took place in our village, from my point of view as a traditional leader, it really should not have happened unless the prospective groom who was supposed to be married to this pregnant woman had died. Circulating the fact that the woman is already pregnant, she must enter into a marriage to clarify the future of the child she is carrying, here it is customary for us to adopt policies for the benefit of the future, with the agreement that we often refer to here as only descending marriage, namely after marry sirih, the man has the right to choose whether to maintain his marriage or not."²⁴

The following are the results of interviews with the Indigenous stakeholders of Bomba Village:

"Our custom does not prohibit marrying women even if they are pregnant and the marriage is valid, seeing our history as a taa tribe it does not view religious prohibitions, and now our custom is not against marriage because the implementation of marriage is in accordance with Islamic law."²⁵

Islamic law recognizes custom as a source of law because it is aware of the fact that custom has played an important role in regulating social relations among

²² Haedar S. Toyo, Wawancara Selaku penghulu di Desa Siatu Tanggal 29 November 2022 (2022).

²³ Bahrudin Tungala, Wawancara selaku Imam atau Penghulu di Desa Bomba Tanggal 25 Oktober 2022 (2022).

²⁴ Ahmad Yaroradja, Wawancara selaku Pemangku Adat di Desa Siatu Tanggal 29 November 2022 (2022).

²⁵ Arman Husen, Wawancara selaku Pemangku Adat di Desa Bomba Tanggal 29 November 2022 (2022).

community members. Custom is an order that has been agreed upon by the community which is not written but is still obeyed because it is felt with awareness of its own law. Adat can be used as a source of Islamic law if it fulfills the following conditions:

1. Not contradicting the text
2. If the custom has become a custom that continues to apply and develop in society.
3. Repeatedly occurs and is common in society²⁶

The following are the results of interviews with Siatu village religious figures:

"Knowing about the occurrence of marriages that actually shouldn't happen, I discussed it with the priest who was the prince to marry the bride and groom, and at that time the priest or prince said that he was taking this action with several considerations, namely, the mother of a pregnant woman said this was just a nika down , and said that her child was already pregnant with a content of age that could not be postponed to carry out the marriage "²⁷

Following are the results of interviews with Bomba Village Religious Leaders:

"Seeing from Islamic teachings which are guided by the Al-Qur'an, there is indeed no recommendation in marrying a pregnant woman who is married to a man who is not pregnant with her, but returning to the basic policies, namely the hadith of Rasulullah SAW which allows but must complete the iddah period first. , and other policies that are seen from social status which will later make the innocent child confused. As long as the marriage is carried out in accordance with the provisions that do not violate existing policies, the marriage is still valid."²⁸

The law on marrying a pregnant woman because she is divorced or left by her husband to die is unlawful because she is still in a state of iddah. As for what is meant here is the law of marrying a pregnant woman because of adultery, so in general the scholars stipulate that a woman who is pregnant because of an act of adultery cannot be married, either to the man who got her pregnant or to another man who did not impregnate her. So far, there have been many teenagers who got pregnant out of wedlock and then got married right away just to cover up their shame, and what's even worse was that the man she married was not the one who got her pregnant.

As for the Compilation of Islamic Law (KHI) with the Instruction of the President of the Republic of Indonesia Number 1 of 1991 dated June 10, 1991, the implementation of which is regulated in accordance with the Decree of the

²⁶ Nanda Juniarsi, "Tinjauan Hukum Islam Terhadap Adat Botteh Suku Bajo Di Desa Kabalutan Kecamatan Talatako Kabupaten Tojo Una-Una Sulawesi Tengah" (UIN Alauddin Makassar, 2019).

²⁷ Abd Kasim, Wawancara selaku Tokoh Agama di Desa Siatu Tanggal 29 November 2022 (2022).

²⁸ Baharudin Tunggal, Wawancara selaku Tokoh Agama di Desa Siatu Tanggal 29 November 2022 (2022).

Minister of Religion of the Republic of Indonesia Number 154 of 1991 has stated the following matters:²⁹

1. A woman who becomes pregnant out of wedlock can be married to the man who made her pregnant.
2. Marriage with a pregnant woman referred to in Paragraph (1) can be carried out without waiting for the birth of her child.
3. With the marriage taking place when the woman is pregnant, there is no need for re-marriage after the child is born.

All opinions which justify pregnant women out of wedlock being married to men who impregnate them, depart from the following texts, From Aisyah ra said, Rasulullah SAW was once asked about someone who had adultery with a woman and intended to marry her, then he said:

"Initially dirty deeds and finally married. Something that is unlawful cannot forbid what is lawful." (HR Tabarany and Daruquthuny).

Also with the following hadith, Someone asked Rasulullah SAW, my wife is a person who likes to commit adultery. He replied:

"Divorce him." "But I'm afraid to incriminate myself." "Then mut`ahilah him". (Narrated by Abu Daud and An-Nasa`i) As for the opinion that it is forbidden for a man to marry a woman who is pregnant with someone else's child. Because it will result in the confusion of the child's lineage.

The evidence is the following texts, the Prophet SAW said:

"Don't get married to a pregnant woman (because of adultery) until she gives birth." (Reported by Abu Dawud and authenticated by Al-Hakim).

Also in another narration, the Prophet SAW said:

"It is not lawful for a Muslim who believes in Allah and the Last Day to sprinkle his water on other people's plants." (Reported by Abu Daud and Tirmizy).

The following are the results of interviews with the Bomba Village Government as an institution that has a role in minimizing the occurrence of betel marriages due to pregnancy.

"So far the role of the village government in minimizing the occurrence of marriage due to pregnancy out of wedlock is only in the form of an appeal to the public by announcing it in the mosque. However, this appeal is only related to early marriage, the consequences of marriages that cannot be registered at the KUA or perform Sirih Marriage. Regarding the rules that my sister conveyed regarding Article 53 of the Compilation of Islamic Law itself, to be honest, I just learned about the prohibition to allow pregnant women to marry men who do not impregnate them. With writing like this, new knowledge can be used

²⁹ Presiden RI, "Kompilasi Hukum Islam (KHI) Dengan Instruksi Presiden RI Nomor 1 Tahun 1991 Tanggal 10 Juni 1991" (1991).

regarding this type of marriage, and God willing, we will appeal to the public regarding the prohibition of marrying pregnant women to men who are not pregnant with them."³⁰

So in conclusion, if a man marries a woman who is pregnant with another person's child, it is illegitimate (according to Imam Malik and Imam Ahmad). Meanwhile, if a pregnant woman marries a man who impregnated her out of wedlock, then the law is permissible. Whereas if it refers to the Compilation of Islamic Law, a woman who is pregnant out of wedlock can be married to a man who made her pregnant.

4. Factor-Factors that encourage pregnancy out of wedlock

The occurrence of pregnancy before marriage (pregnant marriage) in a person is due to the relationship between a man and a woman like husband and wife that occur outside of marriage. In this regard, there are many things that directly or indirectly drive the occurrence of cases of pregnant marriage. As for a number of factors that cause sexual relations outside of marriage according to Sarlito are:

1. The large number of pornographic stimuli, both in the form of movies and even reading or in the form of chats with peers, which is the result of globalization
2. Availability of opportunities for sexual intercourse³¹

The occurrence of pregnancy out of wedlock, apart from promiscuity, is also due to weak faith on each side, there are also other factors that encourage pregnant marriage, namely the existence of internal factors and external factors. Therefore, to anticipate these heinous and forbidden acts, in-depth religious education and legal awareness are increasingly needed by every individual.

1. Internal factors

Humans instinctively have lust for the opposite sex. If lust is so great, it can overpower his reason or normal sense and control.³²

2. External Factors

There are two external factors that make it possible for pregnant marriages outside of marriage to occur, namely:³³

- a. Social Conditions, this social condition that tolerates promiscuity between men and women.
- b. The criminal law rules are very weak, the criminal law rules in the criminal law code (KUHP) do not include sexual relations outside of legal marriage carried out by bachelors and girls or people who are not bound by marriage which are carried out on the basis of consensual as an act of

³⁰ Novianti, Wawancara selaku Aparat Desa Bomba Tanggal 25 Oktober 2022 (2022).

³¹ Abdul Wahab Khallaf, *Kaidah-Kaidah Hukum Islam* (Jakarta: Rajawali Pers, 1991).

³² Abu Asma Anshari, *Etika Perkawinan* (Jakarta: Pustaka Panji Mas, 1993).

³³ M. Ali Hasan, *Masail Fiqhhiyyah Al-Haditsa* (Jakarta: PT. Raja Grafindo Persada, 2000).

adultery and the act of adultery in the Criminal Code is included in the absolute complaint offense

Nina Surtiretna in her book *Sex Guidance "Islamic and Medical Views"*³⁴, also gave information that there were at least three factors that trigger pregnancy out of wedlock, namely: internal individual factors, outside the individual and societal factors. What is meant by these three factors are: First, individual internal factors: including the inability to control lust and lack of strong faith. Second, factors outside the individual: which allow and even encourage adultery, such as a man and a woman being in the same house without anyone else (khalwat). Third, normative factors: society is increasingly pessimistic, tolerant, society no longer cares about the togetherness of two people of the opposite sex who are not husband and wife at one time and one place. In other words, society is increasingly lax towards matters related to sexuality so that adultery occurs.

5. Legal Consequences for Pregnant Women Who Marry Men Who Didn't Get Her Pregnant Case Study of Tojo Una-Una District

Currently, there is a phenomenon that can lead to unclear heredity status (nasab) infecting society as a result of promiscuity including adultery. There is not a single human being who does not hate adultery even if he is the adulterer himself. Allah says in the Qur'an Surat Al-Isra '(17) verse 32 about the prohibition of approaching adultery. Pregnant women out of wedlock are something that is strictly prohibited by religion, norms, ethics, and state legislation. Pregnancy out of wedlock causes an event of pregnant marriage which ends with the lineage of a child being born. Lineage is closely related to guardianship and inheritance law. When lineage issues are related to marriage law and inheritance, they will have juridical implications and influence so that there are things that absolutely must be considered.³⁵

Islam has prescribed marriage laws and strictly prohibited various forms of prostitution and adultery, because apart from being considered a disgraceful act, adultery is also seen as a cause of chaos and mixing of lineages between one and another.³⁶ Marriage for pregnant women is a marriage carried out by a woman who is already pregnant before entering into a marriage contract with a man who does not impregnate her. There are several things that motivate pregnant women to marry because of adultery, including:

- (a) To cover disgrace
- (b) Must be responsible for the actions he did, because he had impregnated the woman

³⁴ Nina Surtiretna, *Bimbingan Seks : Pandangan Islam Dan Medis* (Bandung: Remaja Rosda Karya, 1996).

³⁵ R. Tetuko Aryo Wibowo and Tohir Luth, "Akibat Hukum Anak Yang Dilahirkan Dalam Kawin Hamil," *Jurnal Ilmiah Pendidikan Pancasila Dan Kewarganegaraan* 5, no. 2 (2020): 236.

³⁶ Anshari, *Etika Perkawinan*.

- (c) To cover the shame because it is a disgrace to the family, good for the male family especially for the female family.³⁷

The implementation of a marriage preceded by a pregnancy resulting from adultery will bring legal consequences in the form of rights and obligations arising between the two. If you look at Paragraph (1) of Article 53 of the Compilation of Islamic Law which reads, "A woman who becomes pregnant out of wedlock can be married to a man who impregnates her" then that phrase alone is contradictory to the Qur'an Surah Al-Isra' (17) verse 32 which strictly prohibits adultery in a relationship between a man and a woman. Then if you look at Paragraph (2) of Article 53 of the Compilation of Islamic Law which reads "Marriage to a pregnant woman referred to in Paragraph (1) can take place without waiting for the birth of her child first", this provision is contrary to the Qur'an Surat At-Talaq (65) paragraph 4. The verse explains that in carrying out a marriage one should wait for the woman's iddah period, that is, the woman must give birth first and then may be married. Seeing the explanation of these verses, when it is related to the law of guardianship and inheritance, children born from marriages outside of marriage should follow the mother's lineage (illegitimate child).³⁸

In Article 53 of the Compilation of Islamic Law, it is permissible to marry a pregnant woman due to adultery. However, the origin stating that it is permissible to marry pregnant women does not directly explain the status of children born to women who are already pregnant before marriage. In another article explaining the status of children (Article 99 KHI), it is stated that (1) a legitimate child is a child born in or as a result of a legal marriage and (2) the result of the conception of a legal husband and wife outside the womb and born by the wife. . So it can be concluded that the Compilation of Islamic Law regulates the rights and obligations that arise between husband and wife, including for husband and wife whose marriage is caused by pregnancy outside of marriage (pregnant marriage).³⁹

Positive law in Indonesia distinguishes between legitimate offspring and illegitimate offspring. Legitimate offspring are based on the existence of a legal marriage, in the sense that the offspring are offspring based on birth in or as a result of a legal marriage. Such children are called legitimate children.⁴⁰ While illegitimate offspring are descendants who are not based on a legal marriage. People call such a child a child out of wedlock. A child can be said to be a legitimate child having a family relationship with his father if he is born in a legal marriage. And vice versa, that a child born outside of a legal marriage cannot be

³⁷ W. Wibisana, "Perkawinan Wanita Hamil Diluar Nikah Serta Akibat Hukumnya Prespektif Fikih Dan Hukum Positif," *Jurnal Pendidikan Islam-Ta'lim* 15, no. 1 (2017): 32.

³⁸ Wibowo and Luth, "Akibat Hukum Anak Yang Dilahirkan Dalam Kawin Hamil."

³⁹ Ibid, R. Tetuko Aryo Wibowo dan Tohir Luth, hlm. 237.

⁴⁰ J. Satrio, *Hukum Keluarga Tentang Kedudukan Anak Dalam Undang-Undang* (Jakarta: PT. Citra Aditya Bakti, 2005).

called a legitimate child, usually called a child of adultery or a child outside of a legal marriage.⁴¹

One of the rights of children born out of wedlock is the right of guardianship over the child who will enter into the wedlock. This right is an embodiment of Islamic law in order to protect and maintain the purity of lineage. There are three types of guardianship that applies in Islamic law to children after birth, namely: guardianship of parenting and breastfeeding; guardianship over him; and guardianship of his property.⁴²

According to Article 250 of the Civil Code (KUHPer) and Article 42 of Law Number 1 of 1974 concerning Marriage, what is meant by legitimate children are children born during marriage.⁴³ Whereas illegitimate children are not explained explicitly in both the articles of the Civil Code and the Marriage Law, but a contrario illegitimate children can be interpreted as children born to a woman who is not bound in a legal marriage with a man. According to the Criminal Code, each of these distinctions has different consequences. A child out of wedlock, also known as an illegitimate child in a narrow sense, is a child born as a result of a relationship between a man and a woman, both of whom are not bound by marriage to other people and there are no restrictions on marrying one another. A child of adultery is a child born from an extramarital relationship between a man and a woman, where one or both of them are married to another person.

Another legal consequence that arises is the existence of reciprocal rights and obligations between husband and wife and also the emergence of rights and obligations between parents and children. Children born outside of legal marriage are not legitimate children, so they do not have consequences in the field of inheritance. Because a child born out of wedlock only has a civil relationship with his mother and his mother's family.⁴⁴

In this writing, a child born to a woman who is married to a man who did not impregnate her is a child of adultery or an illegitimate child, which in the perspective of the Compilation of Islamic Law, namely that an adulteress child is a child born as a result of a relationship that is not lawful. Illegal relationships are sexual relations between two people who are not bound by marital ties and do not meet the terms and conditions.⁴⁵ Children out of wedlock can be divided into two types. First, children who are fertilized are not in a legal marriage, but are born in a legal marriage. According to Imam Malik and Syafi'i, a child born six months after the marriage between his mother and father was assigned to his father. If the child is before six months, then the child is assigned to his mother.

⁴¹ A. Nuruddin and A Akmal, *Hukum Perdata Islam Di Indonesia* (Jakarta: Prenadia Media, 2004).

⁴² Z. Idami, "Tanggung Jawab Wali Terhadap Anak Yang Berada Dibawah Perwaliannya (Suatu Penulisan Di Kota Banda Aceh)," *Jurnal Dinamika Hukum* 12, no. 1 (2012): 65.

⁴³ Satrio, *Hukum Keluarga Tentang Kedudukan Anak Dalam Undang-Undang*.

⁴⁴ R. Syahrani, *Seluk Beluk Dan AsasAsas Hukum Perdata* (Bandung: Penerbit Alumni Bandung, 1989).

⁴⁵ Hasan Makluf, *Al-Mawaris Fi Al-Syari'ah Al-Islamiah* (Kairo: Mathba'ah al-Qahirah, 1976).

Second, children who are fertilized and born outside of legal marriage. the status of children out of wedlock in the second category is equated with adultery and li'an children.

The rights of children according to Islamic law as contained in the Compilation of Islamic Law in principle have the same view as the Marriage Law, because Article 100 of the Compilation of Islamic Law contains a formulation that is no different from Article 43 Paragraph (1) of the Marriage Law, where a child out of wedlock only has a family relationship with his mother and his mother's family. In this way, the child as a result of adultery is protected by his rights as a child, his rights in the form of education, maintenance, and the right to inherit from his father and mother. So a husband has the right to deny a child born to his wife by confirming it through the li'an institution. Article 102 Paragraph (1). The Compilation of Islamic Law states that:⁴⁶

"A husband who will deny a child born to his wife, submits a lawsuit to the Religious Court within 180 days after the day of his birth or 360 days after the breakup of the marriage or after the husband finds out that his wife has given birth to a child and is in a place that allows him to submit his case to the court. religion."

A husband who succeeds in proving the denial of a child born to his wife will have an impact on the status of the child born to be illegitimate and will automatically terminate his civil relationship with the father. Article 102 Paragraph (1) of the Compilation of Islamic Law above provides a time limit for the husband to file a lawsuit against child denial, which is 180 days after the day the child is born or 360 days after the breakup of the marriage or the husband knows that his wife gave birth to a child if the husband's residence is located. possible to submit a lawsuit to the Religious Courts.⁴⁷

The rights of children out of wedlock in Islamic conception must be seen as a whole, not only limited to the actions committed by both parents. No one can deny that the act of adultery (intercourse without marital ties) is a grave sin, but it is not appropriate for a child born from that act to receive punishment for the sin committed by both parents. Because if every child is given a choice regarding his birth, then it is certain that no child will be born as a result of adultery.

5.1. Legal Consequences in Child Support Issues

According to HM Zuffran Sabrie, the person who is first responsible for providing for a child is the closest relative in the lineage and in this case is the biological father. Based on the description above, Islamic law provides a limitation that in order to determine whether a child can be related to the father or not, the duration of the fetus in the womb is calculated from the marriage of

⁴⁶ D. Y. Witanto, *Hukum Keluarga Hak Dan Kedudukan Anak Luar Kawin* (Jakarta: Prestasi Pustaka, 2012).

⁴⁷ Rinanti Alerida, "Perlindungan Anak Hasil Zina Menurut Persepektif Hukum Islam Dan Hukum Positif" (Institut Agama Islam Negeri Raden Intang Lampung, 2017).

the parents. So, if the child is born after six months or more after the marriage of his parents, then the child can be assigned to his father. But if the child is born before the parents' marriage is even six months old, then the child cannot be canonized by his father. The responsibility for all the needs of the child, both material and spiritual, is the mother who gave birth to it and the mother's family.⁴⁸

Legally, the father is not obliged to provide maintenance for the child, even though biologically and genealogically the child is his own flesh and blood. So kinship relations only take place in a humane manner, not legally.⁴⁹ Legally, the biological father of a child out of wedlock is not obliged to take care of and provide a living for the entire life of the child. In addition, when filling out the administrative requirements that require the father's name, the child out of wedlock is still not entitled to include the name of his biological father, even if he knows who that person is. So the child still has to empty the father's column.⁵⁰

5.2. Legal Consequences in Trust Matters

Based on the results of interviews with the Penghulu of Siatu Village, it was found that legal consequences in matters of guardianship for children out of wedlock include not being able to become marriage guardians for girls in the future and must be carried out by a judge's guardian or the head of the KUA.⁵¹ A different opinion was given by Penghulu, Traditional Leaders and Religious Leaders of Bomba Village that regardless of whether the father of a daughter out of wedlock is a biological father or not, the father who has recognized the child as his child through a legal marriage according to law or the child was born in wedlock, the father can and has the right to be the guardian of the marriage.^{52, 53, 54}

However, based on Islamic law as explained by Mustafa Rhaman, that adapun guardian marriage for children out of wedlock women is the judge's guardian. His father cannot be a marriage guardian for a woman's child out of wedlock who is about to marry, because the majority of scholars are of the view that people who become marriage guardians are those who are classified as *ashabah* in terms of inheritance.⁵⁵

5.3. Legal Consequences in Inheritance Issues

The problem is children born out of wedlock and the division of inheritance between Civil law (BW) and Islamic law, because of the different principles used.

⁴⁸ H. M. Zuffran Sabrie, *Analisa Hukum Islam Tentang Anak Luar Nikah* (Jakarta: Departemen Agama RI, 1998).

⁴⁹ Abd. Azis Dahlan, *Ensiklopedi Hukum Islam* (Jakarta: Ichtiar Baru an Hoeve, 1996).

⁵⁰ Santi Hartono, "Legalitas Ayah Biologis Anak Di Luar Nikah," *nakita.com*, 2022.

⁵¹ Toyo, Wawancara Selaku penghulu di Desa Siatu Tanggal 29 November 2022.

⁵² Tunggala, Wawancara selaku Imam atau Penghulu di Desa Bomba Tanggal 25 Oktober 2022.

⁵³ Husen, Wawancara selaku Pemangku Adat di Desa Bomba Tanggal 29 November 2022.

⁵⁴ Tunggala, Wawancara selaku Imam atau Penghulu di Desa Bomba Tanggal 25 Oktober 2022.

⁵⁵ Musthafa Rhaman, *Anak Diluar Nikah* (Jakarta: Atmaja, 2003).

According to Islamic law, the relationship of a child born out of wedlock to his parents is that he only has a legal relationship with his mother, not with the man who caused him to be born.

Inheritance of a child born out of wedlock to the inheritance of his parents according to BW Civil law that the child has inherited his inheritance rights, if the child is recognized as valid by the parents who acknowledge him and if he inherits together with group I then his share is 1/3 of the portion that should be he accepts if he is a legitimate child and if he inherits with groups II and III then his share of the entire inheritance if he is with group IV his share of all assets. Thus apart from the differences in inheritance for children out of wedlock between the Civil Code and Islamic law.⁵⁶

Classification of inheritance of children out of wedlock is divided into:

- a. Legitimate children (children born in legal marriages),
- b. Children out of wedlock can be divided into:
 1. Children out of wedlock can be legally recognized, namely: children born where the man and the woman are not married or the two are not related by blood
 2. Children out of wedlock who cannot be recognized as legitimate, namely discordant children (children born where the boy and girl are related by blood) and
 3. child of adultery, that is, a boy and a girl both of whom or one of them are bound by a legal marriage.

It is these illegitimate children who can be recognized as legitimate and may receive inheritance, while illegitimate children who cannot be recognized as legitimate only have the right to living expenses.

6. Conclusion

The effectiveness of Article 53 on the marriage of pregnant women as referred to in Article 53, namely allowing pregnant women to marry men who impregnate them, can be said to be ineffective. The causal factors are: First, Internal factors individuals including the inability to control lust and lack of strong faith, Second, factors outside the individual that allow even encourage adultery, such as men and women in one house without anyone else (khalwat), Third, the normative factors of society are increasingly pessimistic, tolerant, society no longer cares about the togetherness of two people of the opposite sex who are not husband and wife at one time and in one place. The status of a child out of wedlock is only assigned to his mother and his mother's family, the child has no relationship with his father. The responsibility for all the needs of the child, both material and spiritual, is the mother who gave birth to it and the mother's family.

⁵⁶ Okyvan, "Pembagian Kewarisan Anak Diluar Kawin," 2010, <http://okyvanhukumwaris.com/2010/06/pembagian-pewarisan-anak-di-luarkawin.html>.

The guardian of the marriage of a child who is not born to a pregnant woman married to a man who does not impregnate her is a judge's guardian or a guardian from her mother's side such as her uncle or grandfather. In the Principles of Islamic Law, inheritance is due to marital relations and kinship relations of children outside of marriage, both men and women are recognized as having a blood relationship with their father and not from a relative of their father as their father does not inherit them, because there is no cause for mutual inheritance between the two, that is blood relationship.

References

Book:

- Anshari, Abu Asma. *Etika Perkawinan*. Jakarta: Pustaka Panji Mas, 1993.
- Dahlan, Abd. Azis. *Ensiklopedi Hukum Islam*. Jakarta: Ichtiar Baru an Hoeve, 1996.
- Hamidi, Muammal. *Halal Dan Haram Dalam Islam*. Surabaya: PT. Bina Ilmu, 2010.
- Hasan, M. Ali. *Masail Fiqhhiyyah Al-Haditsa*. Jakarta: PT. Raja Grafindo Persada, 2000.
- Kemenag RI. *Al-Quran Dan Terjemahnya; Surah An-Nur Ayat 3*. Jakarta: PT. Hati Emas, 2014.
- Khallaf, Abdul Wahab. *Kaidah-Kaidah Hukum Islam*. Jakarta: Rajawali Pers, 1991.
- Mahkamah Agung RI. *Himpunan Peraturan Perundang-Undangan Yang Berkaitan Dengan Kompilasi Hukum Islam Serta Pengertian Dan Pembahasannya*. Jakarta: Mahkamah Agung Republik Indonesia, 2011.
- Makluf, Hasan. *Al-Mawaris Fi Al-Syari'ah Al-Islamiah*. Kairo: Mathba'ah al-Qahirah, 1976.
- Mardani. *Hukum Keluarga Islam Di Indonesia*. Jakarta: Kencana, 2016.
- Nurlaelawati, Euis. *Modernization, Tradition and Identity: The Kompilasi Hukum Islam and Legal Practice in the Indonesian Religious Courts*. Amsterdam: Amsterdam University Press, 2010.
- Nuruddin, A., and A Akmal. *Hukum Perdata Islam Di Indonesia*. Jakarta: Prenadia Media, 2004.
- Rhaman, Musthafa. *Anak Diluar Nikah*. Jakarta: Atmaja, 2003.
- Sabrie, H. M. Zuffran. *Analisa Hukum Islam Tentang Anak Luar Nikah*. Jakarta: Departemen Agama RI, 1998.
- Satrio, J. *Hukum Keluarga Tentang Kedudukan Anak Dalam Undang-Undang*. Jakarta: PT. Citra Aditya Bakti, 2005.
- Soekanto, Soerjono. *Efektivitas Hukum Dan Penerapan Sanksi*. Bandung: CV. Ramadja Karya, 1988.
- Soimin, Soedharyo. *Hukum Orang Dan Keluarga, Prespektif Hukum Perdata Barat/BW, Hukum Islam, Dan Hukum Adat*. Jakarta: Sinar Grafika, 2004.
- Surtiretna, Nina. *Bimbingan Seks : Pandangan Islam Dan Medis*. Bandung: Remaja Rosda Karya, 1996.

- Syahrani, R. *Seluk Beluk Dan AsasAsas Hukum Perdata*. Bandung: Penerbit Alumni Bandung, 1989.
- Syathibi, Abi Ishaq Ibrahim ibn Musa al Lakhmi al Garnathi asy. *Al Muwafaqat Fi Ushul Al Ahkam Jilid 1*. Mesir: Dar Al Fikr, 1990.
- Witanto. *Hukum Keluarga Hak Dan Kedudukan Anak Luar Kawin Pasca Keluarnya Putusan MK Tentang Uji Mateil UU Perkawinan*. Jakarta: Prestasi Pustaka, 2012.
- Witanto, D. Y. *Hukum Keluarga Hak Dan Kedudukan Anak Luar Kawin*. Jakarta: Prestasi Pustaka, 2012.

Journal article/Thesis/Research:

- Alerida, Rinanti. "Perlindungan Anak Hasil Zina Menurut Persepektif Hukum Islam Dan Hukum Positif." Institut Agama Islam Negeri Raden Intang Lampung, 2017.
- Anam, Khoirul. "Studi Makna Perkawinan Dalam Persepektif Hukum Di Indonesia." *Jurnal Fakultas Hukum Universitas Tulungagung*, 2010, 59–68.
- Bakung, Dolot Alhasni, and Mohamad Hidayat Muhtar. "Determination of The Legal Protection of Rights Holders to Neighboring Rights." *Jambura Law Review* 2, no. 1 (2020): 67.
- Idami, Z. "Tanggung Jawab Wali Terhadap Anak Yang Berada Dibawah Perwaliannya (Suatu Penulisan Di Kota Banda Aceh)." *Jurnal Dinamika Hukum* 12, no. 1 (2012): 65.
- Juniarsi, Nanda. "Tinjauan Hukum Islam Terhadap Adat Botteh Suku Bajo Di Desa Kabalutan Kecamatan Talatoko Kabupaten Tojo Una-Una Sulawesi Tengah." UIN Alauddin Makassar, 2019.
- Mandjo, Julius T, and Suwitno Y Imran. "Implementasi UUD Negara Republik Indonesia Tahun 1945 Pasal 27 Ayat 2 Tentang Hak Untuk Mendapatkan Pekerjaan Dan Penghidupan Yang Layak Bagi Kemanusiaan." *Jurnal Majelis* 8, no. September 2020 (2020): 84.
- Nurlaelawati, Euis. *Modernization, Tradition and Identity: The Kompilasi Hukum Islam and Legal Practice in the Indonesian Religious Courts*. Amsterdam: Amsterdam University Press, 2010.
- Wantu, Fence M., and Usman Rasyid. "Redefinisi Kewenangan Komisi Yudisial Dalam Konstitusi: Upaya Mengharmonisasikan Putusan Pelaku Kekuasaan Kehakiman Indonesia." *Jurnal Majelis* 08, no. September2020 (2020): 35.
- Wibisana, W. "Perkawinan Wanita Hamil Diluar Nikah Serta Akibat Hukumnya Prespektif Fikih Dan Hukum Positif." *Jurnal Pendidikan Islam-Ta'lim* 15, no. 1 (2017): 32.
- Wibisana, Wahyu. "Perkawinan Wanita Hamil Di Luar Nikah Serta Akibat Hukumnya: Perspektif Fiqh Dan Hukum Positif." *At-Ta'lim: Jurnal Pendidikan Agama Islam* 15, no. 1 (2017): 29–35.
- Wibowo, R. Tetuko Aryo, and Tohir Luth. "Akibat Hukum Anak Yang Dilahirkan Dalam Kawin Hamil." *Jurnal Ilmiah Pendidikan Pancasila Dan Kewarganegaraan* 5, no.

2 (2020): 236.

Wijayanto, Kadek, Lusiana Margareth Tijow, and Fence M Wantu. "Kedudukan Peraturan Desa Dalam Sistem Pembentukan Peraturan Perundang-Undangan." *Jurnal Ius Civile* 4, no. 2 (2020): 201.

Regulations and Legislation:

KUHPPerdata. BAB IV Perkawinan Pasal 26 Tentang Tentang Syarat Sahnya Perkawinan (n.d.).

Pemerintah RI. Undang-Undang Nomor 1 Tahun 1974 tentang Perkawinan (1974).

— — —. Undang-Undang Perkawinan RI Nomor 16 Tahun 2019 Tentang Perkawinan (2019).

Presiden RI. Kompilasi Hukum Islam (KHI) dengan instruksi Presiden RI Nomor 1 Tahun 1991 Tanggal 10 Juni 1991 (1991).

Online:

Hartono, Santi. "Legalitas Ayah Biologis Anak Di Luar Nikah." *nakita.com*, 2022.

Nasution, Saipul. "Hukum Nikah Hamil Menurut 4 Madzhab." *Gontor.ac.id*, 2019. <http://pm.unida.gontor.ac.id/hukum-nikah-hamil-menurut-4-madzhab/>.

Okyvan. "Pembagian Kewarisan Anak Diluar Kawin," 2010. <http://okyvanhukumwaris.com/2010/06/pembagian-pewarisan-anak-di-luarkawin.html>.

Rachman, Abdul. "Apakah Haram Menikahi Wanita Hamil?" *Kemenag.go.id*, 2019. <https://sumsel.kemenag.go.id/opini/view/1822/menikahi-wanita-yang-hamil-duluan-haramkah>.

Interview:

Husen, Arman. Wawancara selaku Pemangku Adat di Desa Bomba Tanggal 29 November 2022 (2022).

Novianti. Wawancara selaku Aparat Desa Bomba Tanggal 25 Oktober 2022 (2022).

Toyo, Haedar S. Wawancara Selaku penghulu di Desa Siatu Tanggal 29 November 2022 (2022).

Tunggala, Baharudin. Wawancara selaku Tokoh Agama di Desa Siatu Tanggal 29 November 2022 (2022).

Tunggala, Bahrudin. Wawancara selaku Imam atau Penghulu di Desa Bomba Tanggal 25 Oktober 2022 (2022).

Yaroradja, Ahmad. Wawancara selaku Pemangku Adat di Desa Siatu Tanggal 29 November 2022 (2022).