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Hak Anak dalam Perkawinan Poligami Sirri Menurut Hukum Islam dan Undang-Undang Perkawinan

Children's Rights in *Sirri* Polygamy Marriage According to Islamic Law and Marriage Law

Hazar Kusmayanti

Faculty Of Law Padjadjaran University

E-mail: hazar.kusmayanti@unpad.ac.id

Dede Kania

Faculty of Law UIN Sunan Gunung Djati Bandung

E-mail: dedekania@uinsgd.ac.id

ABSTRACT

This study to determine the right to inherit and the position of children born from polygamous sirri marriages of religious courts relates to Islamic law and marriage law. The research method used in this case study is descriptive analytical, with a normative juridical approach. Based on research, it can be concluded that it cannot bequeathing rights for children born from polygamous marriages not through the establishment of religious courts according to the Marriage Law, but according to Islamic Law, the child has the right to inherit. Meanwhile, the position of children born from polygamous marriages does not go through the establishment of religious courts according to the Marriage Law, it is considered state invalid, because the marriage is not registered with the Office of Religious Affairs. However, the state provides legal protection for children from sirri marriages in the Constitutional Court's decision No. 46/PUUVIII/2010 that the child can have a civil relationship with his biological father if there is evidence of DNA similarity.

Keywords: *Child, Polygamy, Sirri*

ABSTRAK

Penelitian ini untuk mengetahui hak mewarisi dan kedudukan anak yang dilahirkan dari perkawinan sirri poligami di pengadilan agama dihubungkan dengan hukum Islam dan hukum perkawinan. Metode penelitian yang digunakan dalam studi kasus ini adalah deskriptif analitis, dengan pendekatan yuridis normatif. Berdasarkan penelitian, dapat disimpulkan bahwa tidak dapat mewarisi hak waris bagi anak yang lahir dari perkawinan poligami yang tidak melalui penetapan pengadilan agama menurut Undang-Undang Perkawinan, namun menurut Hukum Islam, anak tersebut berhak mewarisi. Sedangkan kedudukan anak yang lahir dari perkawinan poligami tidak melalui penetapan pengadilan agama menurut UU Perkawinan dianggap tidak sah secara negara, karena perkawinan tersebut tidak dicatatkan di Kantor Urusan Agama. Namun, negara memberikan perlindungan hukum terhadap anak dari perkawinan sirri dalam



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putusan Mahkamah Konstitusi No. 46/PUUVIII/2010 bahwa anak tersebut dapat memiliki hubungan keperdataan dengan ayah biologisnya jika terdapat bukti kesamaan DNA.

Kata Kunci: *Anak, Poligami, Sirri*

INTRODUCTION

Before the coming into force of the Act in Indonesia, there are various kinds of regulations governing marriage for community groups, ranging from customary law to religious law.¹ The promulgation of the Law No. 1 of 1974 on Marriage, as a national law applicable to all Indonesian citizens, especially in the field of marriage, would be expected to provide a solution to any complex marriage problem of the Indonesians, the rules concerning polygamy are also regulated in it.² Although it is generally assumed that marriages continue forever, not all husband and wife partnerships are happy ones. Issues might arise from ongoing arguments, adultery, or a husband's desire to become multiple wives without his wife's consent.

This time, the author will look at the issue of polygamy in marriage. In essence, the word "polygamy" is made up of the terms "poly" (many) and "*gami*" (wife). According to its etymology, polygamy is a lot of religion. On the other hand, polygamy is defined as a guy having multiple wives,³ which is the root of the language comes from the Greek words "Gamein" (Gamos), which signifies marriage, and "Poly," which means numerous.⁴ In order for the word to have meaning when it is combined, it must be understood to signify that polygamy is the marriage of several people in an infinite number. From an Islamic perspective, polygamy, on the other hand, refers to the marriage of more than one, two, three, or four women (it cannot be more than that).⁵

Polygamy is not forbidden by Islam; rather, it merely lessens and eases the practice among Arabs who do enjoy it. Verses three and four of Sura an-Nisa simply

¹ Hazar.Kusmayanti, "Divorce Caused by Hypersexual Psychological Disorders In Husband", *NURANI*, 19, No. 2, (DESEMBER 2019): 161 -172, <https://doi.org/10.19109/nurani.v19i2.4025>

² Romli, M., Huda, N. and Aspandi, A., "Pencatatan Perkawinan Beda Agama di Indonesia", *Al-'Adalah: Jurnal Syariah dan Hukum Islam*. 7, 2 (Desember 2022), 377-405. DOI: <https://doi.org/10.31538/adlh.v7i2.2877>.

³ Bustamam Usman, "Poligami Menurut Perspektif Fiqh, Samarah", *Jurnal Hukum Keluarga dan Hukum Islam*, Volume 1 No. 1. (Januari-Juni 2017), 276-288

⁴ Abdul Gahazaly, *Fiqh Munakahat*, Jakarta: Perpustakaan Nasional, 2016, 129

⁵ Nasution, K. *Riba Dan Poligami*. Yogyakarta: Pustaka Pelajar Dengan Academia, 2016, 65

state that a husband, in his haste to be as fair as possible, will not be able to treat his wife fairly. However, in contrast to society's view of polygamy and the rules found in polygamous marriages, different groups of fuqoha understand polygamy, which is also a marital problem that is still frequently addressed in society. Family law in Indonesia is governed by a variety of laws, not just one. Polygamy implementation has actually been governed by Law No. 16 of 2019 Amendments to Law No. 1 of 1974 concerning Marriage (henceforth referred to as the Marriage Law).⁶

The Marriage Law not only defines and controls polygamy but also its application, preventing undesirable outcomes. Regarding polygamous marriages, the author understands that this refers to a man who possesses multiple wives concurrently and is duly registered in the Religious Courts as well as at the Office of Religious Affairs level. Polygamy is a complex issue that needs to be addressed and thoroughly investigated to determine whether polygamy laws can be implemented in Indonesia, how the legal system works there, and what the implications are. These questions are examined from the perspective of Islamic scholars, and there are differing views on the matter.

As a result, the government passed the Marriage Law. A husband can have more than one wife if both parties agree to it, but only under specific circumstances and after a court ruling. This law upholds the principle of monogamy, which states that neither gender may have more than one spouse unless it is desired by the individual and is permitted by law or religion.⁷ The Government Regulation No. 9 of 1975, which governs the Law's implementation requirements, has been released. The husband must submit a written application to the religious court stating his intention to marry more than one woman. The religious court will then decide whether to approve or reject the application. Because polygamy is becoming more common in Indonesia, scholars are interested in looking at how polygamous marriages without religious court rulings affect the status of the children born into these marriages and their right to inherit in Indonesia.

Article 24 (1) of the Indonesian Constitution of 1945, which states that "the judicial powers shall be independent with authority to organize the judiciary in order to uphold law and justice," governs the function of the court. Thus, the primary goals of

⁶ Mega Mutiara Putri, Hazar Kusmayanti, Djanuardi, " Tinjauan Perkawinan Periparan Berdasarkan Perspektif Hukum Islam Dan Hukum Adat", *Jurnal Poros Hukum Padjadjaran*, 3 No. 1, (2021), 85-98 10.23920/jphp.v3i1.693.

⁷ Yumarni, Ani dkk, *Kapita Selekta Hukum Islam*. Bogor, UnidaPress, 2022, 90

the judiciary authorities are to protect the law and guarantee justice for everyone in society.⁸ Enactment of Religious Justice Law Number 3 of 2006 The Religious Court now has complete authority over all matters pertaining to Indonesian nationals who follow Islam, including marriage disputes, as per the second amendment to Law No. 50 of 2009 concerning Religious Justice.

The author has restricted the problems to be studied based on the background that has been previously described. These include how Islamic law and Indonesian marriage law relate to the right of children born from polygamous marriages to bequeath, and how the position of children born from polygamous marriages without the determination of religious courts is related to Indonesian marriage law.

RESEARCH METHODS

The study's objectives are to acquire a complete understanding of early marriage in accordance with Islamic law, marriage law, and the Compilation of Islamic Law. Its specifics include analytical descriptive. This study's normative juridical methodology places a strong emphasis on investigating relevant legal provisions. Using primary legal materials (related regulations), secondary legal materials (civil procedural law books), and tertiary legal materials (articles, papers, internet surfing), this research step is conducted with literary study to gather secondary data. The normative analysis method is used to draw conclusions from the findings of previously conducted research.

RESULTS AND DISCUSSION

Rights of Polygamous Children in Islamic and Marriage Law

Marriage, also known as *zawaj*, is defined as a contract between a man and a woman that binds them to one another to fulfill the aim of life, which is to glorify Allah SWT. .⁹ In Indonesian society today, a siri marriage is defined as one that is performed by a guardian or deputy guardian and witnessed by witnesses, but it is not performed in front of a marriage registrar as an official government official or one that is not registered

⁸ Anita Afriana, Hazar Kusmayanti, "Review of Syaria Economy Disputes in Religious Courts within the Perspective of Small Claims Court (SCC)", *Fiat Justitia Jurnal Ilmu Hukum*, 15 No. 1, (2021), 183-194, <https://doi.org/10.25041/fiatjustisia.v15no2.2086>

⁹ Hazar Kusmayanti Nindya Tien Ramadhanty, " Legitimacy of A Sirri Marriages (Second and So On) By The Pair Of Civil Servants", *DiH: Jurnal Ilmu Hukum*, 17 No. 1 (Februari 2021): 84-93, DOI: <https://doi.org/10.30996/dih.v17i1.4512>

at the Civil Registry Office for non-Muslims or the Office of Religious Affairs for Muslims, meaning that it lacks a government-issued marriage certificate on its own. In the community, this kind of union is referred to as both illegal marriage and *sirri* marriage.¹⁰ Thus, although the term "underhand marriage," also known as "*sirri* marriage," is not used in the Indonesian legal system, it refers to marriages that are not officially registered and are thought to have taken place in violation of the relevant laws' provisions, particularly those pertaining to marriage registration as outlined in Article 2 paragraph (2) of the Marriage Law. Marriages performed outside the knowledge and supervision of the registrar of marriages do not have a marriage certificate from the "Kantor Urusan Agama" (Religious Affairs office) and are deemed invalid before the state or the Marriage Law, even though they are recognized as lawful according to religion or custom.

The position of the child born out of this *sirri* marriage is affected legally in terms of both the child's status under Indonesian law and his parents' inheritance. Although it is not recognized in Islam, an underhand marriage is one that is carried out covertly. One kind of "*sirri* marriage is one that takes place without being registered with the Office of Religious Affairs' officer of the Registrar of Marriages. This is because one of the tenets of national marriage law, which is founded on Law Number 1 of 1974 concerning Marriage, is the registration of marriages.¹¹ The legal religion recognizes the *sirri* marriage as valid, while official law declares the marriage to be invalid.

"Marriage is valid if it is carried out according to the laws of each religion and its beliefs," reads Article 2 paragraph (1) of the Marriage Law, which unifies marriage legally.

Sirri Polygamy is a common type of marriage, even though it is legal under certain restrictions and has certain justifications for people who choose to practice it. The Marriage Law's Article 3 on polygamy stipulates the following:

(1) A guy ought to be limited to having a wife in theory. A woman ought to be limited to one husband.

¹⁰ Olivia, F, "Akibat Hukum Terhadap Anak Hasil Perkawinan Siri Pasca Putusan Mahkamah Konstitusi", *Lex Jurnalica*, 11 No.2, (2014), 132

¹¹ *Rachmadi Usman*, "Makna Pencatatan Perkawinan Dalam Peraturan Perundang-Undangan Perkawinan Di Indonesia", *Jurnal Legislasi Indonesia*, Vol 14, No 3 (2017): 255 – 274, <https://doi.org/10.54629/jli.v14i3.80>.

(2) If the parties in question accuse a husband, the court may grant him permission to marry more than one wife.

To put it another way, the marriage law permits a man to engage in polygamy if the interested parties so desire, hence it follows the open monogamy concept rather than the strict monogamy standard.¹²

Islamic law also allows polygamy with certain restrictions. Polygamy in Islamic Law is regulated in the letter An-nisa verse 3 which means:

"And if you are afraid that you will not do justice to (the rights of) orphan women (if you marry them), then marry the (other) women whom you please:two,three or four. Then if you are afraid that you will not be able to do justice, then (marry) only one, or the slaves you own. That is closer to not persecuting."

The Indonesian people should have legal protection from polygamy under Islamic law and marriage law. However, it goes without saying that there are infractions of all sizes in people's daily lives. Polygamy is entirely possible without adhering to legal requirements in the state.

In addition to being wanted by all parties involved, a person must be polygamous for specific reasons, as stated in Article 4 paragraph (2) of the Marriage Law.

1. Wife unable to carry out her obligations.
2. Wife has a disability or incurable disease.
3. The wife cannot bear offspring.

Certain other requirements are as contained in Article 5 paragraph (1) of the Marriage Law

1. The consent of a wife/wife
2. There is certainty that the husband can guarantee the necessities of life of their wives and children.
3. There is a guarantee that husbands will do justice to their wives and children.

Therefore, before a polygamy marriage is consummated, a polygamy permit must be obtained from the Religious Court, regardless of whether the requirements for polygamy have been met. The Judge will then decide whether to approve the polygamy

¹² Esther Masri, " Poligami Dalam Perspektif Undang-Undang Nomor I Tahun 1974 Tentang Perkawinan Dan Kompilasi Hukum Islam (KHI)", KRATA BHAYANGKARA, 13 No.2 (Desember 2019) 223-241, <https://doi.org/10.31599/krtha.v13i2.7>

application. The Compilation of Islamic Law's Article 56, paragraph (1), contains these clauses and says,

"Husbands who wish to marry more than one person must obtain permission from the Religious Court."

But in actual society, a lot of people still don't know the legislation, and for a variety of reasons, they disregard polygamy permits. To make things easier, some people choose to practice *sirri* marriage or covert polygamy, even though in Indonesia, a marriage can only be formally recognized by a marriage certificate issued by a marriage registration employee. Article 2, paragraph (1) of the Marriage Law states that marriage is legally required to be registered. Parties who engage in polygamy without registering with the KUA or seeking authorization from the court are in violation of this law.

Obviously, a *sirri* marriage, or a marriage not recognized by the state, is polygamy that takes place without registration or judicial approval. If the *sirri* marriage is performed in accordance with Islamic law, it is valid in Islam, and the offspring of the *sirri* marriage is recognized as a legitimate biological child in Islam as, according to Islamic law, a legitimate child is one who is born of a valid marriage contract. As a result, the child and mother have a cordial relationship.¹³

As opposed to those outlined in the Marriage Law and the Compilation of Islamic Law, which treat children born within *sirri* marriages as illegitimate offspring. As a result, the child's contact with the mother and her family is limited to civil ones. This indicates that the youngster and his father do not have a cordial relationship. This is in line with the provisions of Article 100 of the Compilation of Islamic Law as well as Articles 42 and 43 of the Marriage Law.

" The child resulting from a polygamous *sirri* marriage according to Islamic Law is one of the heirs of his parents. As it is known that there are several basic provisions regarding inheritance law regulated in Islamic Law, therefore, that the causes can obtain inheritance, namely the existence of a close blood relationship (*nasab*), the existence of a marital relationship, and the promise of *wala'*.¹⁴ "

¹³ Fatahullah et al, " Wife and Children Problems In *Sirri* Polygamy Marriage In Indonesia", *Jurnal Kompilasi Hukum*, 7 No. 1, (Juni 2022), 223- 240, <https://doi.org/110.29303/jkh.v7i1.99> .

¹⁴ Anwar Sitompul, *Hukum Waris Islam*, Bandung: Unpad Press. 2019, 45

Islamic law recognizes children born out of hand-arranged polygamous marriages as heirs due to the intimate blood link (*nasab*).

The Quran and Hadith, as well as Presidential Instruction Number 1 of 1991 concerning the Compilation of Islamic Law in Book II (Inheritance Law), serve as the basis for Indonesia's Islamic Inheritance Law regulations. These regulations essentially derive from the fiqh books of eminent scholars, the legal foundation of which is drawn from roseist fiqh books. Verse 7 of Surah An-Nisa in the Quran contains specific regulations pertaining to the Islamic Inheritance Law, meaning.¹⁵

"For a male person there is a right of part of the estate of the parents and their relatives, and for the person of the woman there is the right of part (also) of the estate of the mother-father and his relatives, either a little or much according to the established section."

The heirs of *dzaul faraidh* and the heirs of *ashabah* make up the class of heirs in accordance with Islamic law. Offspring of *sirri* polygamous marriages performed in accordance with Islamic law fall under the category of heirs of *ashabah*, who as heirs are entitled to all inherited property once it has been reduced or eliminated for the purpose of paying debts and has been granted a portion of *dzaul faraidh*.¹⁶ Given that Islamic law bases its inheritance on a close blood link (*nasab*), it follows that the child of a polygamous *sirri* marriage conducted in accordance with Islamic law is an heir.

The Marriage Law View of the Polygamous's Child Position Without the Decision of the Religious Court

A man and a woman go through a sacred experience when they are married. There is both inner and outside serenity, according to the marriage. The Islamic law compilation states that the goals of marriage are to achieve *warramah* (affection), *mawaddah* (love), and *sakinah* (peace). As mentioned in the Qur'an Surah An Nisa verse 3, the goal of marriage is to establish the religion of Allah in the sense of abiding by His prohibitions and fulfilling his commands.

¹⁵ Hazar Kusmayanti, Lisa Keisnayanti, " Hak dan Kedudukan Cucu Sebagai Ahli Waris Pengganti Dalam Sistem Pembagian Waris Ditinjau Dari Hukum Waris Islam dan Kompilasi Hukum Islam," *Jurnal Ilmiah Islam Futura*, (2019). 68-85, DOI:10.22373/jiif.v19i1.3506

¹⁶ Hazar Kusmayanti, Nindya Tien Ramadhanty, "Legitimacy Of A Sirri Marriages (Second And So On) By The Pair Of Civil Servants", *DIH Jurnal Ilmu Hukum*, 17 No. 1 (Februari 2021), 84 – 93, <https://doi.org/10.30996/dih.v17i1>

Actually, marriage is sufficient for a man (a husband) and a woman (a wife) unless there are problems, then marrying more than one is allowed such as barren wives, illnesses and so on. The basic principle of marriage is monogamy. However, in community practice, polygamy or monogamy is a one-sided (partial) issue, the legal culture of polygamous marriage perpetrators is not solely influenced by the tight laws on polygamy but also other non legal factors.¹⁷ The conditions of space and time will be included for clarity of its legal status. Although polygamy is the Sunnah of the Prophet, it shows that the issue of polygamy can change and differ according to the conditions of the marriage.¹⁸ This polygamy is also one of them done to get offspring, as the purpose of Islamic marriage listed in The Prophet Muhammad SAW stated that the goal of marriage is to produce legitimate children:

"Marry a loved one and a thriving (to awful)". The legal offspring is obtained from a valid marriage, then the marriage must be carried out legally.

A legitimate kid is one who is born into or because of a valid marriage, according to Article 42 of the Marriage Law. In addition to having the same civil rights as a biological child, the legal child is also entitled to use his father's name to identify his ancestry and descendants. Because the void of the marriage created by the court's ruling does not apply retrospectively to the children born in the marriage, children born from an annulled marriage remain the legal children of both parents and get rights in line with laws and regulations.

As stated in Article 3 Paragraph (2) of the Marriage Act, polygamy can only be carried out with the consent of the court and cannot be carried out by anybody at will or for the sole desire of the parties involved. The individual in question must first make a written application to the court at the applicant's location to do this. A husband can only be granted permission by the court to engage in polygamy if he meets the requirements and has reasonable justifications.

¹⁷ Shinta Dewi Rismawati, Muhammad Abral Bin Abu Bakar, Polygamy Marriage: Legal Culture, Optional Political Identity And Marital Status Dilemma (A Case Study in Pekalongan), *Al-Ihkam*, Vol. 14 No.2 (2019), 236-266, <https://doi.org/10.19105/al-lhkam.v14i2.2396>

¹⁸ Dayan Fithoroini, Poligami Melalui Nikah Sirri Pada Kelompok Salafi (Studi Pada Keluarga Salafi di Kelurahan Ciwedus Kota Cilegon Banten), *A-adalah: Jurnal Syariah dan Hukum Islam*, 7 No.2 (Desember 2022), 250-272, DOI: <https://doi.org/10.31538/adlh.v7i2.2644>

There is no doubt that polygamy without religious discernment affects the status and standing of the child born into the marriage.¹⁹ It is well known that children born into marriage can be separated into two groups, specifically:

- a. Legal child, i.e. a child born in or because of a legal marriage.
- b. An illegitimate child, that is, a child born outside of marriage.

The provisions in Article 42 of the Marriage Law state that a legitimate child is a child born in or because of a legal marriage. This means that the legal child includes:

- a. Children born in a legal marriage, that is, children born after a legal marriage is carried out.
- b. Children born because of a legal marriage, that is, children born after a legal marriage is carried out, but after which the parents divorce or cancel the marriage.²⁰

Studies on the positive law aspects of unregistered weddings focus on the fundamental provisions of the Government Regulations and the Law of the Republic of Indonesia. A sirri marriage is defined by Indonesian law as one that is not founded on the legality premise. The subject of unregistered marriage in Islam was founded on hadith and the Qur'an. It is therefore not enforceable by law. Islamic law recognizes as legitimate weddings those that follow the tenets and requirements of marriage, as does Indonesian law, which defines sirri marriages as unions between unmarried parties.²¹ Marriages done under the hands, or sirri marriages, are polygamous unions that do not have the approval of religious courts. Consequently, offspring born inside a married relationship possess the same legal standing as offspring born outside of it, specifically as illegitimate offspring.²² The legal ramifications for children born outside of marriage state that all children born outside of marriage have numerous obstacles in obtaining a birth certificate from the civil registry office, whether they are the product of extramarital affairs or religious nikahan siri. However, every child born outside of marriage has the right to legality in the form of a birth certificate as an identity of legal certainty to meet

¹⁹ Fitri Ramadana, Abdul Halim Talli, "Kedudukan Anak Dalam Kandungan Dari Perkawinan Yang Dibatalkan Akibat Tidak Ada Izin Poligami Perspektif Imam Syafi'i Dan Imam Hanafi", *Jurnal Shautuna*, 2 No. 1, (Januari 2021), 265-279

²⁰ Eidy Sandra, Hazar Kusmayanti, *Perkawinan poligami di Indonesia dalam perspektif hukum Islam dan peraturan perundangan-undangan*, Bandung, Unpad Press, 2020, 40

²¹ Endang Zakaria, Muhammad Saad, "Nikah Sirri Menurut Hukum Islam Dan Hukum Positif", *KORDINAT Jurnal Komunikasi Antar Perguruan Tinggi Agama Islam*, 20 No.2 (2021), 249-264, DOI: 10.15408/kordinat.v20i2.21933

²² Zakyyah Zakyyah, "Nasab Anak Luar Kawin Menurut Hifzhu Nasl", *Jurnal Yudisial*, 9, No.2, (Agustus 2016), 195-214, <http://dx.doi.org/10.29123/jy.v9i2.24>.

the requirements of taking care of various community services, such as entering school, making family cards and passports, and applying for jobs.

The child's parents are unable to produce the biological father and mother's marriage book, the village birth certificate, the doctor or midwife's certificate, or the hospital that assisted with the birth process, which is why the officer in charge of the birth certificate is needed. Article 43 paragraph (1) of the Marriage Law states that a child born outside of an official marriage only has a civil relationship with his mother and her family. Nevertheless, if a birth certificate can be obtained, the status is that of the mother's kid. As a result, the child does not have the right to his father's life insurance, education, means of subsistence, or inheritance.

Subsequently, the child's birth certificate from the *sirri* marriage contains both the mother's name and the father's name, subject to the court's decision regarding the child's origins, following the Constitutional Court's decision Number 46/PUUVIII/2010 on the matter of the child's civil relationship with the biological father. A birth certificate bearing the father's name can be issued once the child's parents apply for a court ruling regarding the child's endorsement and present evidence, such as an affidavit of recognition of the child, proof from science and technology, or other evidence as required by law that establishes the child's blood relationship.²³

In accordance with Article 55 paragraph (1) of the Marriage Act, which states that "the origin of a child can only be proved by an authentic birth certificate, issued by an authorized official," the marriage should be legally registered and then registered through civil registration. This will allow the birth certificate to be issued based on the valid marriage certificate. Naturally, this will involve listing the names of the mother and father because it is impossible for a child to be born casually from the mother's womb; instead, there must be a man's role as the child's biological father.²⁴

²³ Lidya Muis, "Eksistensi Hak Anak Hasil Perkawinan Siri Dalam Perspektif Hukum", *Jurnal Widya Pranata Hukum*, 2 Vol. 2 (September 2020), 18-31, DOI: <https://doi.org/10.37631/widyapranata.v2i2.242>

²⁴ Sihombing, E. N. *Kedudukan Anak Luar Nikah Pasca Putusan MK Nomor 46/PUUVIII/2010*. Retrieved from Kemenkumham: Eka N.A.M. Sihombing, *Kedudukan Anak Luar Nikah* <https://sumut.kemenkumham.go.id/berita-kanwil/berita-utama/kedudukan-anakluar-nikah-pasca-putusan-mknomor-46puu-viii2010>, (2022).

CONCLUSION

1. Polygamy without the establishment of a religious court has an impact on the inheritance of the child statefully therefore the child has only a civil relationship with the mother and the mother's family. This means that the child has no civil relationship with his father. This is in accordance with those stated in Article 42 and Article 43 of the Marriage Law, as well as Article 100 of the Compilation of Islamic Law. Meanwhile, the child resulting from a *sirri* polygamous marriage according to Islamic Law is one of the heirs of his parents because one of the things that causes a person to get an inheritance is the nasab / descendant.
2. Polygamy committed without registration and court ordering is a marriage not recognized by the state. If a *sirri* polygamous marriage is carried out based on the Islamic religion, then it is legal in Islam and the child resulting from the *sirri* polygamous marriage is domiciled as a legal biological child in Islam the status of the child born from a *sirri* marriage is considered an illegitimate child. In its development, the state protects the status of this *sirri* marriage child through the Constitutional Court decision Number 46/PUUVIII/2010, the child can have a civil relationship with his biological father if it can be proven to be similar in DNA.

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