

THE PRINCIPLE OF *MASLAHAH* IN MARRIAGE REGISTRATION POLICY: Preventing the Exploitation of Women and Children in Mandailing Natal Regency

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Abstract: The phenomenon of unregistered marriages in Mandailing Natal Regency remains a serious issue that weakens legal protection for women and children and increases the risk of exploitation of these vulnerable groups. This study aims to analyze the implementation of the *maslahah* principle in marriage registration policies and evaluate their effectiveness in preventing the exploitation of women and children. This research employs a qualitative method with a descriptive-analytical approach to explain the application of the *maslahah* principle in marriage registration and its relevance in exploitation prevention. The study location was selected purposively due to the high incidence of unregistered marriages and child marriage in Mandailing Natal Regency, as well as the strong influence of local cultural practices. A normative-empirical approach was applied by integrating the analysis of *maslahah* principles in Islamic law with the social realities within the community. Primary data were obtained through in-depth interviews with religious leaders, community leaders, and affected residents using purposive sampling, while secondary data were collected from literature and official documents. Data were gathered through interviews and observation, then analyzed qualitatively through data reduction, data display, and conclusion drawing, supported by source triangulation to ensure data validity. The results show that low legal awareness, perceptions that marriage registration is merely administrative, limited access to services, economic constraints, and widespread child marriage are key factors contributing to the high rate of unregistered marriages. The novelty of this research lies in the comprehensive integration of the *maslahah* principle with local empirical findings, producing a *maslahah*-based policy recommendation through legal education, expanded service access, and digital innovation as preventive measures to protect women and children.

Keywords: *maslahah* principle; marriage registration; legal protection

Abstrak: Fenomena pernikahan tidak tercatat di Kabupaten Mandailing Natal masih menjadi persoalan serius yang melemahkan perlindungan hukum bagi perempuan dan anak serta meningkatkan risiko eksploitasi terhadap kelompok rentan tersebut. Penelitian ini bertujuan untuk menganalisis implementasi prinsip *maslahat* dalam kebijakan pencatatan pernikahan serta mengevaluasi efektivitasnya dalam mencegah eksploitasi terhadap perempuan dan anak. Penelitian ini menggunakan metode kualitatif dengan sifat deskriptif-analitis untuk menggambarkan penerapan prinsip *maslahat* dalam pencatatan pernikahan dan relevansinya dalam pencegahan eksploitasi. Lokasi penelitian dipilih secara purposive karena tingginya kasus pernikahan tidak tercatat dan perkawinan anak di Kabupaten Mandailing Natal serta kuatnya pengaruh budaya lokal. Pendekatan normatif-empiris digunakan dengan mengintegrasikan analisis prinsip *maslahat* dalam hukum Islam dan realitas sosial masyarakat. Data primer dikumpulkan melalui wawancara mendalam dengan tokoh agama, tokoh masyarakat, dan warga terdampak menggunakan teknik purposive sampling, sementara data sekunder diperoleh dari literatur dan dokumen resmi. Pengumpulan data dilakukan melalui wawancara dan observasi, kemudian dianalisis secara kualitatif melalui reduksi data, penyajian data, dan penarikan kesimpulan, serta dilengkapi triangulasi sumber untuk menjamin keabsahan data. Hasil penelitian menunjukkan bahwa rendahnya kesadaran hukum, anggapan bahwa pencatatan hanya formalitas administratif, terbatasnya akses layanan, faktor ekonomi, dan maraknya perkawinan anak menjadi penyebab utama tingginya pernikahan tidak tercatat. Kebaruan penelitian ini terletak pada integrasi komprehensif antara prinsip *maslahat* dan temuan empiris lokal, menghasilkan rekomendasi kebijakan pencatatan pernikahan berbasis *maslahat* melalui edukasi hukum, perluasan akses layanan, dan inovasi digital sebagai langkah preventif melindungi perempuan dan anak.

Kata kunci: prinsip *maslahat*; pencatatan pernikahan; perlindungan hukum

Introduction

Unregistered marriages are still a widespread phenomenon, influenced by various cultural and social factors, as well as limited access to marriage registration.¹ In Mandailing Natal society, marriage is often considered a private family matter that does not need to involve the state, so marriage registration is seen as merely an administrative formality that does not affect the religious validity of the marriage. However, this situation has various negative impacts, especially for women and children who are vulnerable to losing legal protection.² In Islamic teachings, marriage is not merely a bond between two people, but also a contract that has legal, social, and moral consequences.³ Therefore, the sharia provisions governing marriage aim to ensure that marriages are valid, fair, and beneficial to both parties, especially women and children as the more vulnerable groups.⁴

In Mandailing Natal society, unregistered marriages are still a fairly common practice. This is supported by cultural factors that place marriage as a private family matter without state intervention.⁵ In addition, there is still a perception that marriage registration is only an administrative formality that does not affect the validity of a marriage from a religious perspective. In practice, however,

unregistered marriages risk causing various legal problems, especially for women and children whose rights are not legally protected.⁶

Furthermore, from a child protection perspective, unregistered marriages have serious implications for the legal status of children born from such marriages. Children born from unregistered marriages often experience difficulties in obtaining birth certificates, which ultimately affects their access to education, health services, and legal protection. In some cases, children who do not have official documents experience discrimination and limited rights in the country's population administration system.⁷

Mandailing Natal Regency still faces serious problems related to child marriage. Economic and cultural factors play a role in perpetuating this practice. Many families with limited economic resources view child marriage as a solution to reduce financial burdens, while cultural factors consider early marriage to be normal, especially for girls.⁸ However, child marriage has widespread negative impacts, including increased school dropout rates, the risk of dangerous early pregnancy, and increased domestic violence against girls who marry before adulthood.⁹

Lack of awareness about the importance of marriage registration is one of the main reasons this practice continues.¹⁰ In addition, limited access

¹ Y Yusmita, "Dinamika Pencatatan Pernikahan Di Indonesia Dalam Kajian Masalah Mursalah," *Berasan: Journal of Islamic Civil Law*, 2023, <https://journal.iaincurup.ac.id/index.php/berasan/article/view/7218>.

² Pijri Pajjar, "Problematisa Pasca Nikah Siri Dan Alternatif Penyelesaiannya," *Al-Ahwal Al-Syakhsyiah: Jurnal Hukum Keluarga Dan Peradilan Islam* 3, no. 1 (2022): 67–80, doi:10.15575/as.v3i1.17463.

³ Puji Kurniawan, Ahmatnijar Ahmatnijar, and Muhammad Ridwan, "The Transformation of Islamic Family Law in the Digital Era: A Sociological Legal Analysis of Marriage and Divorce Regulations in Indonesia," *Madania: Jurnal Kajian Keislaman* 28, no. 2 (2024): 179, <https://ejournal.uinfasbengkulu.ac.id/index.php/madania/article/view/5146>.

⁴ Asra Nur Hasanah Acha, "Mitsâqan Ghalîzan Dan Problematika Kotemporer Dalam Pernikahan: Kajian Tafsir Terhadap Ayat-Ayat Al-Qur'an," *Al-Manhaj: Journal of Indonesian Islamic Family Law* 6, no. 1 (2024): 44–67, doi:10.19105/al-manhaj.v6i1.13839.

⁵ Defel Fakhyadi, "Kriminalitas Praktik Nikah Siri Dan Poligami Di Indonesia," *El-Ahli : Jurnal Hukum Keluarga Islam* 5, no. 2 (2024): 106–25.

⁶ S Jannah, N Syam, and S Hasan, *Urgensi Pencatatan Pernikahan Dalam Prespektif Hukum Islam Dan Hukum Positif Di Indonesia* (repository.unisma.ac.id, 2021), <https://repository.unisma.ac.id/handle/123456789/2592>.

⁷ Laila Nadia dan Sumriyah, "Akibat Hukum Perkawinan Tidak Tercatat Terhadap Legalitas Anak Di Dsn Tanjung Desa Taman Jrengik Sampang," *Referendum : Jurnal Hukum Perdata Dan Pidana* 1, no. 4 (2024).

⁸ Dedisyah Putra, Zuhdi Hasibuan, and Rahmat Linur, "PENGARUH PERNIKAHAN DI BAWAH UMUR TERHADAP TINGKAT PERCERAIAN STUDI KASUS DESA MOMPANG JULU KABUPATEN MANDAILING NATAL," *TAQNIN: Jurnal Syariah Dan Hukum* 5, no. 02 (2023), doi:10.30821/taqnin.v5i02.16078.

⁹ Asrul Hamid, Raja Ritonga, and Khairul Bahri Nasution, "PENGUATAN PEMAHAMAN TERHADAP DAMPAK PERNIKAHAN DINI," *MONSU'ANI TANO Jurnal Pengabdian Masyarakat* 5, no. 1 (2022), doi:10.32529/tano.v5i1.1543.

¹⁰ Erna Ikawati and Darania Anisa, "Analisis Meningkatnya Permohonan Dispensasi Kawin Masa Pandemi Covid 19 Di Pengadilan Agama Padangsidimpuan Dan Pengadilan Agama

to marriage registration services, especially in remote areas, exacerbates the situation.¹¹ Many couples do not register their marriages because it is difficult to reach the Office of Religious Affairs (KUA) or the Population and Civil Registration Office (Disdukcapil).¹² Therefore, marriage registration policies must be implemented with a *maslahah* approach that guarantees protection for vulnerable groups, especially women and children. *Maslahah* in this context requires the active role of the state to prevent greater harm, such as legal uncertainty, discrimination, and the loss of civil rights. Marriage registration is not merely an administrative formality, but part of a legal protection effort that provides certainty of status for married couples and children born from the marriage.

Mandailing Natal Regency has a high rate of child marriage and unregistered marriages. Based on data from the Panyabungan Religious Court Case Tracking Information System, requests for child marriage dispensations show a fluctuating trend: 49 requests (2020), 63 requests (2021), 46 requests (2022), 30 requests (2023), and 47 requests (2024), with a total of 235 requests in the last five years. Meanwhile, data from the Population and Civil Registration Office (Disdukcapil) shows that in 2024 there were 207,687 marriages, and only 92,170 (44.38%) had marriage certificates.¹³ The rest were marriages that were not officially registered. This phenomenon poses a serious problem because unregistered marriages often result in a lack of legal protection for women and children.

Efforts to raise public awareness about the importance of marriage registration need to be strengthened through various socialization and education programs, whether through government

agencies, religious organizations, or local community leaders. The government can also initiate mobile marriage registration services or utilize digital technology to facilitate the marriage registration process for people facing geographical constraints. With the implementation of a marriage registration policy based on the principle of *maslahah*, it is hoped that cases of exploitation of women and children due to unregistered marriages can be minimized, and their rights can be better protected legally and socially.

Previous relevant research related to this research topic includes:

Linda Hanafiyah (2022) Marriage Registration Obligation Policy (From Fiqh Munakahat to Marriage Law),¹⁴ with the conclusion that: Marriage is an important part of human life and must be carried out in accordance with religious teachings and social order. Although during the time of the Prophet Muhammad Saw there was no marriage registration, Indonesian law requires it as a form of *fiqh* adaptation to the needs and developments of the times.

Muhammad Jazil Rifqi (2024), Marriage Registration for All Religions at the Office of Religious Affairs: Between Debate and Promoting Moderation,¹⁵ with the conclusion that the proposal to make the Office of Religious Affairs the place for recording marriages of all religions aims to provide a more inclusive and moderate service, but has sparked controversy. This proposal presents a new challenge to eliminate old dichotomies and build a more inclusive marriage registration system.

Haidir and Muhammad Hizbullah (2025) Islamic Education Values in Marriage Mandailing Indigenous People,¹⁶ with the conclusion that marriage among

Panyabungan,” *Palita: Journal of Social Religion Research* 8, no. 1 (2023), doi:10.24256/pal.v8i1.3198.

¹¹ Based on observations of the community conducted in 2025.

¹² Based on observations at the Population and Civil Registration Office of Mandailing Natal Regency and several Religious Affairs Offices (KUA) in Mandailing Natal Regency in 2025.

¹³ Dinas Komunikasi dan Informatika, *Statistik Sektoral Daerah Kabupaten Mandailing Natal Tahun 2025* (Kab. Mandailing Natal: Dinas Komunikasi dan Informatika Kabupaten Mandailing Natal, 2025).

¹⁴ Linda Hanafiyah, “Marriage Registration Obligation Policy (From Fiqh Munakahat to Marriage Law),” *International Conference on Islamic Studies (ICIS)* 2, no. 2 (2022): 704–12.

¹⁵ Muhammad Jazil Rifqi, “Marriage Registration for All Religions at the Office of Religious Affairs: Between Debate and Promoting Moderation,” *Al-Hukama* 14, no. 1 (2024): 25–45, doi:10.15642/alhukama.2024.14.1.25-45.

¹⁶ Haidir Haidir and Muhammad Hizbullah, “Islamic Education Values in Marriage Mandailing Indigenous People,” *Al-Hayat*:

the Mandailing people is not merely a social ritual, but an important medium for instilling Islamic educational values through a series of pre-marriage, marriage, and post-marriage customs. The local wisdom of Mandailing marriage customs has proven effective in maintaining a strong and relevant Islamic identity amid the tide of globalization.

Although there have been many studies on marriage registration, there is still a research gap regarding the application of the principle of *maslahah* in marriage registration policies as an instrument to prevent the exploitation of women and children, including in Mandailing Natal Regency. This study aims to fill this gap by integrating normative-ethical aspects (*maslahah*) in Islamic law and the empirical reality of the Mandailing Natal community, thereby producing a model for recommending marriage registration policies based on *maslahah* through legal education, expanded access to registration services, and digital innovation.

Based on this, this study is important to examine how marriage registration policies can be effectively implemented to prevent the exploitation of women and children using the *maslahah* concept in Islam. The purpose of this study is to analyze the implementation of the *maslahah* principle in marriage registration policies and evaluate its effectiveness in preventing the exploitation of women and children, emphasizing that marriage registration not only functions as an administrative instrument but also as a form of legal protection that can reduce the negative impacts of unregistered marriages on vulnerable groups, especially women and children.

Method

This study uses a qualitative method with a descriptive-analytical nature to describe the implementation of the *maslahah* principle in marriage registration policies and its relevance in preventing the exploitation of women and children in Mandailing Natal Regency. This location was chosen purposively

due to the high number of unregistered marriages and child marriages, as well as the strong influence of local culture. A normative-empirical approach was used by integrating the principle of *maslahah* in Islamic law and social reality. Primary data was obtained through in-depth interviews with religious leaders, community leaders, and affected residents using purposive sampling, while secondary data was obtained from literature and official documents. Data collection was conducted through interviews and observation, then analyzed using the stages of data reduction, data presentation, and conclusion drawing, as well as triangulation of sources to ensure the validity of the research findings. This study reveals the application of the principle of *maslahah* in marriage registration policies as an effort to prevent the exploitation of women and children.

Result and Discussions

The *Maslahah* Principle in Marriage Registration

The principle of *maslahah* in Islam is the main basis for implementing the marriage registration policy.¹⁷ *Maslahah* is defined as everything that brings benefits and prevents harm to a person and society.¹⁸ In the context of marriage registration, this principle aims to provide legal protection, certainty of rights, and social welfare for married couples, children, and society as a whole.¹⁹

In Islamic law, *maslahah* is divided into three main levels: (1) *Maslahah Dharuriyyah* (primary), (2) *Maslahah Hajiyyah* (secondary), and (3) *Maslahah Tahsiniyyah* (tertiary).²⁰ Marriage registration is closely related to *maslahah dharuriyyah*, which is a fundamental interest that guarantees the safety of

Journal of Islamic Education 9, no. 1 (2025): 59–76, doi:10.35723/ajie.v9i1.103.

¹⁷ Amiruddin Aminullah, "Urgensi Maslahat Dalam Pengembangan Hukum Islam," *Dirasat Islamiah: Jurnal Kajian Keislaman* 2, no. 2 (2021): 67–88.

¹⁸ Akbar Sarif and Ridzwan Ahmad, "Konsep Maslahat Dan Mafsadah Menurut Imam Al-Ghazali," *TSAQAFAH* 13, no. 2 (2018), doi:10.21111/tsaqafah.v13i2.1183.

¹⁹ Kosim Kosim, "PENCATATAN PERKAWINAN DALAM KAJIAN TEORI MUSHLAHAH DAN HILAH," *Mahkamah : Jurnal Kajian Hukum Islam* 6, no. 2 (2021), doi:10.24235/mahkamah.v6i2.9148.

²⁰ Fathurrahman Djamil, *Filsafat Hukum Islam* (Jakarta: Logos Wacana Ilmu, 1997).

religion, soul, mind, offspring, and property.²¹ With marriage registration, a person gets legal guarantees in the aspects of inheritance, alimony, and childcare, thus avoiding the potential for exploitation and injustice in marital relationships.²²

In addition to the *maslahah dharuriyyah*, marriage registration also fulfills the *maslahah hajiyyah* by providing administrative convenience in various aspects of life, such as the processing of civil documents, access to education, and social security. Without official registration, many couples face legal obstacles in accessing basic services to which they are entitled. The *maslahah tahsiniyyah* is also realized in marriage registration by strengthening social and legal ethics oriented towards order and justice in society.²³ In the Quran, Allah Swt has stated the importance of every action to be recorded as in Q.S al-Baqarah [2]: 282:

يَا أَيُّهَا الَّذِينَ آمَنُوا إِذَا تَدَايَنْتُمْ بِدَيْنٍ إِلَىٰ أَجَلٍ مُّسَمًّى فَاكْتُبُوهُ وَلْيَكُنْ بَيْنَكُمْ كَاتِبٌ بِالْعَدْلِ

O you who have believed, when you enter into debts for a fixed time, record them. Let a recorder among you write it down correctly ... (Q.S al-Baqarah [2]: 282).²⁴

This verse emphasizes the importance of recording in doing business, this implies that every life activity including marriage must be recorded in order to have clear legal validity. In addition, the Prophet Muhammad also said:

حَدَّثَنَا قُتَيْبَةُ حَدَّثَنَا حَمَّادُ بْنُ زَيْدٍ عَنْ ثَابِتٍ عَنْ أَنَسٍ أَنَّ رَسُولَ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ رَأَى عَلَى عَبْدٍ

الرَّحْمَنِ بْنِ عَوْفٍ أَثَرَ صُفْرَةٍ فَقَالَ مَا هَذَا فَقَالَ إِنِّي تَزَوَّجْتُ امْرَأَةً عَلَى وَزْنِ نَوَافَةٍ مِنْ ذَهَبٍ فَقَالَ بَارَكَ اللَّهُ لَكَ أَوْلِمَ وَلَوْ بِشَاةٍ

Qutaibah narrated to us, Hammad bin Zaid narrated to us from Tsabit, from Anas bin Malik: The Messenger of Allah saw a yellow mark on Abdurrahman bin Auf, so he asked, "What is this?" Abdurrahman replied, "I have married a woman with a dowry of one grain of gold." The Messenger of Allah said, "May Allah bless you, and make a wedding feast." The Prophet said, "May Allah bless you, and make a walimah (reception) even with a goat." (H.R At-Tirmidhi).²⁵

The above Hadith emphasizes the importance of announcing a marriage, so the recommendation to carry out *i'lan al-nikah* (announcement of marriage) aims to inform the public that a marriage has taken place and prevent the prejudice of adultery. Implicitly, marriage registration in *fiqh* has been reflected in the tradition of *i'lan al-nikah*, which is then realized in the form of *walimah al-'urus* celebrations as a form of recognition from the community.²⁶

Although marriage registration was not implemented at that time, the spirit and objectives to be achieved through marriage registration had actually been realized, albeit in a simpler form.²⁷ As explained earlier, the tradition of *walimah al-'urus*, which is a form of *i'lan al-nikah*, is considered proof of a marriage. As such, the government has an obligation to establish a marriage registration policy to protect the rights of women and children, and to ensure that marriages operate in accordance with the principles of justice and *maslahat* for the people. This is in line with the *fiqh* rule which states:

²¹ T Ma'arif, "Pencatatan Pernikahan (Analisis Dengan Pendekatan Qiyas, Istihsan, Sadd Al-Dzari'ah, Maslahah Mursalah Dan Hukum Positif Di Indonesia)," *Asas*, 2019, <https://ejournal.radenintan.ac.id/index.php/asas/article/view/4647>.

²² Imam Faishol, "Pencatatan Perkawinan Dalam Hukum Kekeluargaan Di Indonesia," *Ulumul Syar'i : Jurnal Ilmu-Ilmu Hukum Dan Syariah* 8, no. 2 (2019).

²³ Yanti Rosalina Naitboho, "PENCATATAN PERKAWINAN DALAM HUKUM KEKELUARGAAN DI INDONESIA DAN RELEVANSINYA DENGAN TEORI MASLAHAH AL-SYATIBI," *SANGAJI: Jurnal Pemikiran Syariah Dan Hukum* 4, no. 1 (2020), doi:10.52266/sangaji.v4i1.444.

²⁴ Kementerian Agama Republik Indonesia, *Al-Qur'an Dan Terjemahnya*, Al-Qur'an Dan Terjemahnya, 2010.

²⁵ Muhammad Ibn Isa At-Tirmidzi, *Sunan At-Tirmidzi* (Beirut: Dar Al-Fikr, 1994).

²⁶ Mohsi Mohsi, "PENCATATAN PERKAWINAN SEBAGAI REKONSEPTUALISASI SYSTEM SAKSI PERKAWINAN BERBASIS MASLAHAH," *Al-'Adalah : Jurnal Syariah Dan Hukum Islam* 4, no. 2 (2019), doi:10.31538/adlh.v4i2.529.

²⁷ Iwan Iwan, "Akta Nikah Sebagai Bukti Otentik Perkawinan Di Indonesia; Analisis Maqashid Syariah Terhadap Pencatatan Perkawinan," *Al-Usrah : Jurnal Al Ahwal As Syakhshiyah* 10, no. 1 (2022), doi:10.30821/al-usrah.v10i2.14713.

تَصَرُّفُ الْإِمَامِ عَلَى الرَّعِيَّةِ مَنُوطٌ بِالصَّلَاحَةِ

Meaning: A leader's policy towards his people must be based on the benefit.²⁸

The rule emphasizes that when the government sets a regulation, the rule can be a unifier in overcoming differences of opinion. Therefore, the law that must be used as a guide, obeyed, and applied in solving a problem is the law that applies in accordance with the provisions set by the government.²⁹ In the perspective of Islamic law, although marriage registration is not included in the pillars or conditions of the validity of marriage, its existence has significant importance in maintaining the public interest. This is in accordance with the principle of *sadd al-dzari'ah*, which means closing loopholes to prevent potential harm, as the basis for requiring marriage registration to avoid various potential harms, such as disputes over marital status, neglect of the rights of wives and children, and abuse of the law that could harm one of the parties.³⁰

By considering the principle of *maslahah*, which is a policy taken for the sake of public benefit without contradicting the *shar'i* arguments, marriage registration is a form of legal *ijtihad* carried out by the government. It aims to provide legal certainty, protect the rights of married couples, and maintain social order in the institution of marriage. Therefore, although it is not an essential element in the validity of the marriage contract, marriage registration still has an important position as a legal instrument that supports the principles of justice and protection in social life.

Implementation of Marriage Registration Policy in Mandailing Natal Regency

Marriage registration is one of the important aspects of population administration and family law in Indonesia. The government has established regulations related to marriage registration through Law Number 1 of 1974 concerning Marriage and Government Regulation Number 9 of 1975 concerning the Implementation of the Marriage Law.³¹ In the regional context, the implementation of marriage registration policies can experience different challenges according to local social and cultural conditions.³²

In general, marriage registration in Indonesia is conducted by the Office of Religious Affairs for marriages conducted according to Islam, and by the Population and Civil Registry Office for marriages conducted according to other religions. In the context of Mandailing Natal Regency, marriage registration has a lot to do with the Office of Religious Affairs, given that the majority of the population is Muslim. The marriage registration policy aims to provide legal certainty to married couples, protect the rights of wives and children, and facilitate access to administrative services such as the making of family cards, ID cards, as well as inheritance rights and guardianship of children.

However, the implementation of this policy presents a number of complex challenges. Lack of public awareness about the importance of marriage registration is often a major factor hindering the implementation of this policy. There is still a view among the community that a legal religious marriage is sufficient, without the need for official registration. This is exacerbated by the lack of understanding of the legal consequences for couples who do not register their marriage, such as the absence of legal

²⁸ H.A.Djazuli, *Kaidah-Kaidah Fikih (Kaidah-Kaidah Hukum Islam Dalam Menyelesaikan Masalah-Masalah Yang Praktis)* (Jakarta: Kencana Prenada Media Group, 2006).

²⁹ Achmad Musyahid Idrus, "KEBIJAKAN PEMIMPIN NEGARA DALAM PERSPEKTIF KAIDAH FIKIH : TASARRUF AL-IMAM MANUTUN BIL MASLAHAH," *Al Daulah : Jurnal Hukum Pidana Dan Ketatanegaraan* 1, no. 1 (2021), doi:10.24252/ad.v1i1.26278.

³⁰ Ma'arif, "Pencatatan Pernikahan (Analisis Dengan Pendekatan Qiyas, Istihsan, Sadd Al-Dzari'ah, Maslahah Mursalah Dan Hukum Positif Di Indonesia)."

³¹ Ansori, "Qawâ'id Fiqhiyyah as Islamic Epistemology and Its Application at Marriage Law in Indonesia," *Juris: Jurnal Ilmiah Syariah* 21, no. 1 (2022), doi:10.31958/juris.v21i1.5529.

³² Moh. Wahib Mohammad Irsad Abdul Anam, M. Thohar Al Abza, "Problematika Minimnya Pencatatan Perkawinan Di Wilayah Kantor Urusan Agama (KUA) Distrik Arso Kabupaten Keerom," *Al-Qânûn: Jurnal Pemikiran Dan Pembaharuan Hukum Islam* 27, no. 1 (2024): 1-14.

protection for the wife and children in the event of divorce or inheritance rights issues.³³

In addition, limited access to registration services in remote areas is also a serious obstacle. Mandailing Natal Regency has a geographical condition consisting of hills and areas that are difficult to reach, so couples who want to register their marriages often experience transportation barriers and limited information. In this situation, many people have to travel long distances just to take care of marriage registration, which ultimately discourages them from doing so.³⁴

A community leader stated that long distances and limited access to transportation are obstacles for people living in remote areas.

“Many people in remote areas have difficulty registering their marriages due to long distances and limited access to transportation. Many end up choosing not to register because the process is considered too troublesome.”³⁵

The practice of *unregistered* marriages is also still quite common among the community, whether for cultural, economic or limited reasons of fulfilling administrative requirements. Many couples engage in this practice because they are unable to fulfil administrative requirements or because of a lack of understanding about the importance of marriage registration.³⁶ This phenomenon poses a major challenge for the government in ensuring that all marriages are legally registered so that the rights of the couple and their offspring can be maximally protected.³⁷

³³ Observation of the community in Mandailing Natal district in 2025.

³⁴ Observation of the community in Mandailing Natal district in 2025.

³⁵ Interview results with community leaders of Mandailing Natal Regency in 2025.

³⁶ Mu'tashim Billah, “The *Maslahah* of State Policy in Responding to Unregistered Marriage: Inclusion of Unregistered Marriage on The Family Card,” *Ulul Albab: Jurnal Studi Dan Penelitian Hukum Islam* 6, no. 2 (2024): 136, doi:10.30659/jua.v6i2.31138.

³⁷ Uswatun Hasanah, “PROBLEMATIKA NIKAH SIRI DI KECAMATAN MUARA SIPONGI DALAM TINJAUAN HUKUM

A resident who had experienced the negative impact of unregistered marriage shared her experience,

“I got *unregistered* married because I didn't have enough money for the registration fees. However, when my husband died, I found it difficult to apply for inheritance rights and our child's birth certificate. Now I realize how important it is to register a marriage in the first place.”³⁸

A religious figure also added,

“Many people come to us for advice after experiencing difficulties due to unregistered marriages. We always emphasize that religiously valid marriages should also be legally registered to provide protection for the couple and their children.”³⁹

Therefore, the role of the Religious Affairs Office is important in registering marriages for Muslims in Mandailing Natal Regency. This recording process includes various stages such as registration of prospective brides and grooms, administrative examinations, and the execution of marriage contracts. In practice, the Religious Affairs Office also often plays a role in providing pre-marital guidance to increase couples' understanding of their rights and obligations in marriage. In addition, Religious Affairs Office also have the challenge of ensuring that all married couples actually register their marriages officially, especially in areas with low levels of legal awareness.

According to one head of the Religious Affairs Office (KUA) in Mandailing Natal District, there are still many people who are reluctant to register their marriages due to economic factors and ignorance.

ISLAM DAN HUKUM NEGARA,” *Jurnal AL-MAQASID: Jurnal Ilmu Kesyarahan Dan Keperdataan* 8, no. 2 (2023), doi:10.24952/almaqasid.v8i2.6194.

³⁸ Interview results with the community of Mandailing Natal Regency in 2025.

³⁹ Interview results with religious leaders of Mandailing Natal Regency in 2025.

“We often encounter couples who have been married for years but do not have official documents because they do not feel the need or do not know how the process works. We continue to educate the community so that they understand the importance of this registration.⁴⁰

Therefore, the Mandailing Natal District Government and the Office of Religious Affairs must work together to make various efforts to increase public awareness of the importance of marriage registration. One of the programs carried out is a socialization campaign involving religious leaders, community leaders and religious institutions. This effort aims to reach more people who still underestimate marriage registration. The socialization also includes education on the negative impacts of unregistered marriages, such as the difficulty of obtaining birth certificates for children, unclear inheritance rights, and weak legal protection for wives and children in cases of divorce or family conflict. In other words, this effort aims to ensure that all marriages should be officially registered to provide better legal protection for the community.

Implementation of *Maslahah* in the Marriage Registration Policy to Protect Women and Children in Mandailing Natal Regency

Marriage is a social institution that has legal implications for married couples, children, and society at large. In Islamic law, the principle of *maslahah* is the main basis in every law formation including marriage.⁴¹ *Maslahah* refers to the benefits generated for society in a policy or law that is implemented. In the context of marriage registration, *maslahah* is applied to ensure that every marriage has clear legality and can provide benefits, especially for women and children.⁴² Marriage registration provides

legal certainty that prevents disputes in the future in accordance with the words of Allah Swt in Q.S al-Baqarah [2]: 282 and also the Prophet's hadith. Thus, marriage registration serves not only as an administrative requirement but also as a means of legal protection for women and children.⁴³ The implementation of *maslahah* in this policy aims to prevent the community from harm.⁴⁴

The Prophet Muhammad also emphasized in a hadith that:

حَدَّثَنَا أَبُو مُوسَى الْأَنْصَارِيُّ حَدَّثَنَا عَبْدُ اللَّهِ بْنُ إِدْرِيسَ حَدَّثَنَا شُعْبَةُ عَنْ بُرَيْدِ بْنِ أَبِي مَرْيَمَ عَنْ أَبِي الْحَوَّارِ السَّعْدِيِّ قَالَ قُلْتُ لِلْحَسَنِ بْنِ عَلِيٍّ مَا حَفِظْتَ مِنْ رَسُولِ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ قَالَ حَفِظْتُ مِنْ رَسُولِ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ دَعَا مَا يَرِيْبُكَ إِلَى مَا لَا يَرِيْبُكَ فَإِنَّ الصِّدْقَ طُمَأْنِينَةٌ وَإِنَّ الْكَذِبَ رَيْبٌ.

Abu Musa Al Anshari narrated to us, Abdullah bin Idris narrated to us, Shu'bah narrated to us, from Buraid bin Abu Maryam, from Abu Al Haura' As-Sa'di, who said: I said to Hasan ibn 'Ali: "What have you memorized from the sayings of the Messenger of Allah?" He replied: "I have memorized a hadith from the Messenger of Allah: 'Abandon that which doubts you, (and replace) it with that which does not doubt you. Verily, truth causes tranquility and falsehood causes doubt'." (H.R At-Tirmidzhi).⁴⁵

This hadith teaches that marriage registration is a form of legal certainty that can prevent people from being unclear about the status of marriage and the rights that come with it. Without legal registration, women often face challenges in asserting their rights in the event of divorce or domestic disputes. Children

⁴⁰ The results of an interview with one of the Heads of KUA in Mandailing Natal Regency in 2025.

⁴¹ Ahmad Mafaid and Dhiauddin Tanjung, "Pencatatan Perkawinan Menurut Undang-Undang Perkawinan Dan Hukum Islam Perspektif Maslahat," *Kabilah: Journal of Social Community* 9, no. 1 (2024): 21–32.

⁴² M. Rafli Kurniawan Rizki Amar, Agung Pratama Dharma,

M. Aulia Urrahman, "Kedudukan Pencatatan Terhadap Keabsahan Perkawinan: Telaah Pencatatan Perkawinan," *Jurnal Tana Mana* 4, no. 2 (2024), <https://ojs.staialfurqan.ac.id/jtm/>.

⁴³ Maulidia Mulyani, "Marriage Registration in the Qur'an: Historical Insights and Contemporary Legal Relevance," *Legitima : Jurnal Hukum Keluarga Islam* 6, no. 2 SE-Articles (June 30, 2024): 1–12, doi:10.33367/legitima.v6i2.5354.

⁴⁴ Taufiqurohman and Nelli Fauziah, "The Evaluation of Maqâshid Asy-Syarî'ah on Discourses of the Islamic Family Law," *El-Usrah* 6, no. 1 (2023), doi:10.22373/ujhk.v6i1.13035.

⁴⁵ At-Tirmidzi, *Sunan At-Tirmidzi*.

born from unregistered marriages will also have difficulty in obtaining legal recognition. Therefore, marriage registration is a form of implementation of *maslahah* that protects a person from social and legal disadvantages.⁴⁶

The implementation of marriage registration, including in Mandailing Natal District, still faces major challenges. One of the main obstacles is the low level of public awareness of the importance of marriage registration. Many couples assume that a religiously valid marriage is sufficient without the need to be supported by an official legal document. This misconception causes many women and children to lose their rights when domestic problems occur. In addition to the prevalence of unregistered marriages and child marriages, the implementation of marriage registration must be strengthened to ensure the protection of vulnerable groups, especially women and children. The government's efforts to socialize the importance of marriage registration must continue to be expanded through educational approaches, legal counseling, and cooperation with religious leaders, community leaders and religious institutions.

Economic factors are also an obstacle in the implementation of marriage registration. Many couples perceive that the registration process requires high costs and complicated administrative procedures. This view makes some people prefer not to register their marriage, even though the legal consequences that arise in the future can be more severe than the registration process itself. In addition, limited access to marriage registration services is also an obstacle. Many areas are still difficult to reach, so couples who want to get married have to travel long distances to register their marriage. This makes people reluctant to register, especially in remote rural areas.

Therefore, marriage registration is an important step in maintaining the benefit of society. In Islam,

the concept of *maslahah* (benefit) is the main basis for determining the law, including in matters of marriage. With official registration, the rights and obligations of husband and wife can be guaranteed legally, so that no party is harmed in the marriage relationship. This is in line with the *fiqh* rule *الْعَادَةُ مُحْكَمَةٌ* (*Customs can become law*),⁴⁷ where the custom of marriage registration that has become a state decree has benefits in maintaining social order.

In addition, marriage registration serves to prevent disputes and disputes in the future, especially in terms of marital status, inheritance rights, and child custody. The *fiqh* rule *الدَّفْعُ أَقْوَى مِنَ الرِّفْعِ* (*Preventing is preferable to eliminating bad consequences*)⁴⁸ confirms that preventive measures, such as marriage registration, are better than solving problems after they arise.

More fundamentally, marriage registration serves to uphold the main objectives of sharia (*maqâsîd al-syarî'ah*), which is to bring about benefits for all human beings.⁴⁹ Imam al-Ghazali⁵⁰ and Asy-Syatibi⁵¹ state that the benefit of sharia is based on the protection of five basic aspects, namely: *hifz al-dîn* (religion), *hifz al-nafs* (soul), *hifz al-'aql* (mind), *hifz al-nasl* (progeny), and *hifz al-mâl* (wealth). In this context, direct marriage registration directly supports *hifz al-nasl*, because through a marriage certificate, the status of children becomes legally valid and avoids social stigma and administrative barriers in obtaining birth certificates, education, and health services.

With proof of legal marriage, children's lineage becomes clear, so that their rights, such as inheritance rights and legal protection, can be

⁴⁷ Jalaluddin Abdurrahman Asy-Suyuti, *Al-Asybah Wa an-Nazhair Fi Qawaid Wa Furu' Fiqh Asy-Syafi'iyyah* (Beirut - Libanon: Dar al-Kutub al-'Ilmiyyah, 1983).

⁴⁸ Jalaluddin Abdurrahman Asy-Suyuti, *Al-Asybah Wa an-Nazhair Fi Qawaid Wa Furu' Fiqh Asy-Syafi'iyyah*.

⁴⁹ Al-Juwayni, *Al-Burhân Fi Ushûl Al-Fiqh* (Kairo: Dar al-Ansâr, 1980).

⁵⁰ Abu Hamid Al-Ghazali, *Al Mustashfa Min Ilmi Al Ushul* (Beirut: Al-Risalah, 1997).

⁵¹ Asy-Syatibi, *Al-Muwafaqat Fi Ushul Al-Syari'ah* (Beirut: Dar al-Kutub al-Ilmiyah, 1996).

⁴⁶ Qadriani Arifuddin, "Registration of Marriage as Fulfillment of Marriage Requirements According to Islamic Principles," *Nurani: Jurnal Kajian Syari'ah Dan Masyarakat* 24, no. 2 (October 10, 2024): 317–28, doi:10.19109/nurani.v24i2.24529.

maintained. This is in accordance with the *fiqh* rule *يَتَحَمَّلُ الضَّرَرَ الْخَاصَّ لِذَفْعِ ضَرَرٍ عَامٍ* (A specific harm may be endured to prevent a general harm),⁵² which indicates that efforts to protect children must be a priority. In addition, marriage registration also guarantees *hifz al-mâl*, because economic rights such as alimony, inheritance, and the division of joint property can be clearly determined.

On the other hand, marriage registration is a form of compliance with *ulil amri* (government) in matters that bring benefits to society. In the *fiqh* rule *حُكْمُ الْحَاكِمِ إلْزَامٌ وَيَرْفَعُ الْخِلَافَ* (Government decisions can eliminate differences of opinion),⁵³ it is emphasized that rules made by the government in the context of benefit must be respected and obeyed. Therefore, marriage registration not only has administrative value, but also serves as a legal guarantee based on sharia principles.

Thus, marriage registration is a must in order to maintain order and justice in social life. Through this registration, the rights of husband and wife and children can be protected, and potential legal problems that are detrimental can be prevented from the start. The application of the concept of *maslahat* in marriage registration is also in line with efforts to prevent the exploitation of women and children. With legal registration, women gain better legal protection in marriage, children also gain legal certainty regarding their status, so they can access basic rights such as education and health services without administrative constraints. Thus, the implementation of the *maslahah* principle in marriage registration, including in Mandailing Natal District, is a strategic step in creating a more just social system and protecting vulnerable groups from exploitation. Therefore, synergy between the government, religious leaders, community leaders and religious institutions as well as all levels of society is needed to ensure that every marriage is properly registered for the common good.

⁵² Lajnah Ulama dan Fuqaha Dinasti Utsmaniyah, *Majallah Al-Ahkam Al-Adliyah*, ed. Najib Hawawaini (Karachi, Turkey: Nur Muhammad, n.d.).

⁵³ Jalaluddin Abdurrahman Asy-Suyuti, *Al-Asybah Wa an-Nazhair Fi Qawaid Wa Furu' Fiqh Asy-Syafi'iyah*.

Conclusion

Marriage registration plays an important role in protecting the rights of women and children in Mandailing Natal Regency. Lack of public awareness of the importance of marriage registration, the rise of unregistered marriages and child marriages, as well as economic factors and limited access to registration services are the main causes of the high number of unregistered marriages. The application of the *maslahah* principle in the marriage registration policy can be a solution to overcome this problem, so that marriage registration is not just an administrative procedure, but also an instrument of legal protection that guarantees justice and welfare for married couples and children born from these marriages. To increase the effectiveness of this policy, synergy between the government, religious leaders, community leaders, religious institutions, and all levels of society is needed to increase awareness of the importance of marriage registration. Efforts such as education, digitization of services, and simplification of registration procedures can help overcome various barriers. With more affordable and accessible marriage registration, it is hoped that the number of exploitation of women and children due to unregistered marriages can be minimized, so that their rights are more legally and socially guaranteed.

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