

## **Legal Protection of the Issuance of Birth Certificates of Children from Unregistered Marriages: An Analysis of Islamic Law and Indonesian Civil Law**

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### **Abstract**

The issuance of birth certificates for children born from unregistered marriages is a very important issue. In practice, there are still many places where children who will be born in an unregistered marriage relationship cause the absence of a valid certificate. The purpose of this study is to reveal legal protection, both from the aspect of legal status and legal consequences of the issuance of birth certificates of children from unregistered marriages. This paper is a qualitative empirical research with a comparative law approach. Data sources are obtained from interviews and literature studies. The results of the study found that children born from unregistered marriages have legal status as legitimate children of the father and mother because they have fulfilled the pillars and conditions determined by each religion. Every child is entitled to legal protection of their rights by providing a birth certificate as an identity, also makes it easier for children to a public service and get protection from violence and discrimination. As a result of the issuance of a birth certificate of a child from an unregistered marriage, the child will have a birth certificate with only the mother's name listed, resulting in the recognition of nasab or lineage, inheritance rights, maintenance and living expenses, even affection and parental responsibility for the growth and development of the child. The government should make a definite rule regarding the requirements that must be attached in terms of recording the birth certificate of a child born from an unregistered marriage. Legal certainty for the issuance of birth certificates of children from unregistered marriages should be synchronized in accordance with the relevant laws and regulations.

**Kata Kunci:** Legal Protection; Birth Certificate; Unrecorded Marriages; Islamic Law; Civil Law.

### **Abstrak**

Penerbitan akta kelahiran untuk anak yang lahir dari pernikahan yang tidak terdaftar merupakan masalah yang sangat penting. Dalam praktiknya, masih banyak tempat di mana anak-anak yang akan lahir dalam hubungan perkawinan yang tidak terdaftar menyebabkan tidak adanya surat keterangan yang sah. Tujuan dari penelitian ini adalah untuk mengungkap perlindungan hukum, baik dari aspek status hukum maupun konsekuensi hukum dari penerbitan akta kelahiran anak dari perkawinan yang tidak terdaftar. Makalah ini merupakan penelitian empiris kualitatif dengan pendekatan hukum komparatif. Sumber data diperoleh dari wawancara dan studi literatur. Hasil penelitian menemukan bahwa anak yang lahir dari perkawinan yang tidak

terdaftar memiliki status hukum sebagai anak sah dari ayah dan ibu karena telah memenuhi pilar dan syarat yang ditentukan oleh masing-masing agama. Setiap anak berhak atas perlindungan hukum atas haknya dengan memberikan akta kelahiran sebagai identitas, juga memudahkan anak untuk mendapatkan pelayanan publik dan mendapatkan perlindungan dari kekerasan dan diskriminasi. Sebagai hasil dari penerbitan akta kelahiran anak dari pernikahan yang tidak terdaftar, anak akan memiliki akta kelahiran dengan hanya nama ibu yang tercantum, sehingga pengakuan nasab atau garis keturunan, hak waris, biaya pemeliharaan dan hidup, bahkan kasih sayang dan tanggung jawab orang tua atas tumbuh kembang anak. Pemerintah harus membuat aturan yang pasti mengenai persyaratan yang harus dilampirkan dalam hal pencatatan akta kelahiran anak yang lahir dari pernikahan yang tidak terdaftar. Kepastian hukum penerbitan akta kelahiran anak dari perkawinan tidak terdaftar harus disinkronkan sesuai dengan peraturan perundang-undangan yang relevan.

**Keywords:** Perlindungan Hukum; Akta kelahiran; Pernikahan yang Tidak Tercatat; Hukum Islam; Hukum perdata.

## 1. Introduction

Marriage holds a crucial role in the life of a society, particularly in social interactions (Muttaqin, 2020). The act of marrying, living together, and having children as descendants serves as a foundational component in the formation of a nation and state. The well-being and happiness of individuals within a marital relationship significantly influence the overall welfare and happiness at both societal and national levels. Children, in essence, are the future generation who will carry forward the responsibilities and aspirations for national progress (Ali et al., 2022). Article 3 of the 1945 Constitution of the Republic of Indonesia affirms that every child has the right to education and instruction in accordance with their interests, talents, and developmental stage. Every child is entitled to education, and the state is expected to provide the best possible opportunities for their educational development. As young shoots of the nation, children possess potential and serve as the next generation to inherit national values. They play a strategic role in ensuring the survival and continuity of the state and nation in the future (Andrea V Margulis, Brian Calingaert, Alison T Kawai, Elena Rivero-Ferrer, n.d.). Agar mereka dapat mengambil tanggung jawab dimasa kedepannya, maka Mereka To prepare them for their future responsibilities, children must be given the greatest opportunities to grow and develop optimally—physically, mentally, socially, and spiritually. They must be respected, protected, and ensured a prosperous life. Therefore, all forms of violence against children must be eliminated and effectively addressed.

Marriage is regarded as a divinely ordained institution by Allah, established as a means for humanity to reproduce and preserve life (Kautsar & Lestari, 2021). This occurs once both partners are prepared to assume the responsibilities required to achieve the objectives of marriage. In the Islamic context, marriage is strongly encouraged as a legitimate means for two individuals of opposite sexes to procreate, framed within a religious covenant that sanctifies the relationship. It serves as a mechanism to prevent adultery and to unite two families from potentially diverse ethnic and national backgrounds (Nur Hikmawati Dan Abdi Wijaya, n.d.). The foundations for this encouragement are clearly outlined in Islamic teachings, particularly in the Qur'an and Hadith. Allah SWT states in Surah al-Nisa [4]:1:

*"O mankind, fear your Lord, who created you from a single soul (Adam), and from it He created its mate (Eve), and from both He dispersed many men and women. So fear Allah, through whom you ask one another, and maintain the ties of kinship. Indeed, Allah is ever watching over you."*

The issuance of birth certificates for children born from unregistered marriages has become a significant legal issue, particularly regarding the protection of children under the law. In practice, many children born into unregistered marital relationships across various regions lack legally recognized birth certificates. This legal deficiency often results in these children facing considerable obstacles in accessing basic rights such as education, healthcare, and legal protection. Furthermore, the absence of a birth certificate means that the child lacks an official identity and is not legally recognized by the state, thus denying them access to public services and fundamental citizenship rights.

The challenge of issuing birth certificates for children born out of unregistered marriages is particularly prevalent in remote and hard-to-reach areas. Consequently, it is essential to analyze both Islamic legal perspectives and Indonesian civil law to understand their relevance and responses to the issue of legal protection for children, especially regarding the issuance of official documentation recognizing their birth. Such an analysis is expected to contribute to public awareness and foster more effective solutions to this issue, ultimately ensuring that children born from unregistered marital unions are granted their rightful legal recognition and protection.

## **2. Research Methods**

The type of research employed is a normative-juridical approach using library research, which involves the analysis of written sources such as books, classical texts, and other relevant materials related to the specific topic. The objective is to obtain concrete and clear data to support the discussion. The normative-juridical approach applied in this study is a method that relies on the exploration and analysis of literature as the foundation of the research, by collecting sources that are directly related to the issues under investigation. The attempt to reconstruct Islamic legal reasoning (*istinbāṭ al-ḥukm*) and Indonesian civil law through the objective and systematic collection of information and arguments represents the approach adopted by both scholars under examination.

## **3. Discussion**

### **3.1. Legal Status of Children Born from Unregistered Marriages**

The role of children in fostering a happy family life holds significant importance within the context of marriage. Children not only help form and strengthen the marital bond but also contribute to the happiness and well-being of the family. Furthermore, they serve as a unifying element and ensure the continuity of lineage. From the perspective of Islamic law (*sharī'ah*), the validity of a marriage depends on the fulfillment of the essential pillars (*arkān*) and conditions (*shurūṭ*) of marriage. Unregistered marriages are considered to lack legal

documentation and official recognition, in contrast to formally recognized marriages. The primary difference lies in the failure to register the marriage with the Office of Religious Affairs. Children born from such undocumented marriages face legal ambiguity regarding their status and are often not recognized as legitimate under state law. This situation poses significant disadvantages, especially for the child and mother, both legally and socially. Children without legal identity due to unregistered marriages are at risk of neglect and the loss of the legal protections to which they are entitled (Aditya & Waddington Lisa, n.d.).

a. Legitimate Children

According to Article 42 of Law No. 1 of 1974 on Marriage, "A legitimate child is a child born in or as a result of a legal marriage." Meanwhile, Article 99 of the Compilation of Islamic Law (Kompilasi Hukum Islam or KHI) provides two definitions of legitimate children: those born from a legal marriage or from a lawful relationship between a husband and wife that results in the child being born by the wife. A marriage is considered legitimate under the Marriage Law—as stipulated in Article 2 paragraphs (1) and (2)—when it is conducted in accordance with the religious laws of the parties involved and is registered according to applicable statutory regulations. A child legally recognized as legitimate automatically has a valid lineage with their father and the father's family, unless the father (the husband of the mother who gave birth to the child) denies such lineage. If the husband doubts the child's legitimacy and can provide evidence of the wife's adultery, either through a *li'ān* oath or other forms of proof, he may file a denial of paternity with the Religious Court. If the court finds the claim to be valid and in accordance with legal provisions, the denial will be accepted, and the child will be considered a product of adultery.

The denial of paternity must be submitted to the Religious Court within 180 days after the child's birth, 360 days after divorce, or after the husband becomes aware of the child's birth while residing in a place that allows him to file the lawsuit. Any claim filed after these time limits will not be accepted.

b. Children Born Out of Wedlock

The Constitutional Court Decision No. 46/PUU-VIII/2010 dated February 17, 2012, ruled that Article 43(1) of Law No. 1 of 1974, which states "Children born out of wedlock have a civil relationship only with their mother and their mother's family," does not eliminate the possibility of establishing a civil relationship with a man who can be proven, through science and technology or legally acceptable evidence, to be the biological father (Muh Fiqam, n.d.). Children born out of wedlock hold a different status from those born without any form of marriage. The distinction can be illustrated with the analogy of "a person working outside the office" versus "a person working without an office." The former implies the existence of an office but work is conducted elsewhere, while the latter implies the absence of an office entirely.

In the context of birth out of wedlock, the child is born to parents who have a factual marital relationship but lack formal legal recognition because the marriage was not officially registered with the Marriage Registrar. Common terms for such unregistered marriages include “under-the-table marriage,” *nikah syar’i*, *nikah modin*, or *nikah kyai* (Mukhlisin Muzarie, *Kontroversi Perkawinan Wanita Hamil*, p. 110). Although such marriages may fulfill the substantive requirements under Islamic law—as indicated in Article 2(1) of the Marriage Law—they do not satisfy the formal legal requirements outlined in Article 2(2) of the same law and Article 10(3) of Government Regulation No. 9 of 1975.

Articles 4, 5, and 6 of the Compilation of Islamic Law acknowledge the validity of these marriages under Islamic law but note their lack of legal force. To formalize their legal standing, a petition for marriage validation (*itsbat nikah*) must be filed with the Religious Court, as stated in Article 7(2) of the KHI. As these marriages meet the criteria set forth in Article 2(1) of the Marriage Law, children born from such unions are considered legitimate according to Islamic jurisprudence (Jamuna Ulfah Una, n.d.). These children have a legitimate lineage with their biological fathers (i.e., the husbands of their mothers), along with the full legal consequences thereof. Based on this explanation, it can be concluded that the author interprets Constitutional Court Decision No. 46/PUU-VIII/2010 as applicable to children born into marriages that meet the religious requirements but are not formally registered. This interpretation aligns with the explanation of Prof. Dr. Moh. Mahfud MD, SH (then Chief Justice of the Constitutional Court), who emphasized that the term “child born out of wedlock” does not refer to a child of adultery but to a child born from an unregistered marriage. The civil rights granted to such children do not affect *nasab* (lineage), inheritance, or marital guardianship (*wali nikah*). Rather, these children may claim rights related to education, compensation for harm caused by legal violations (Article 1365 of the Indonesian Civil Code), or breach of contract (Ayu Selaeman, n.d.). In essence, these are civil rights unrelated to *munakahat* (family law) principles governed by Islamic jurisprudence.

#### 1) Children Born Without Marriage (Children of Adultery)

Children born as a result of illicit relationships are those who have a biological link to both a man and a woman without the bond of legal marriage. Although they are the biological offspring of an extramarital affair, they are born in a state of innocence and free of inherited sin. However, such children are not recognized as having lineage with the man involved in the relationship; their lineage is only linked to the mother who gave birth to them. To ensure the protection of the fundamental rights of children born out of adultery, the Indonesian Council of Ulama (MUI) issued a fatwa in 2012 affirming the government's obligation to impose *ta'zir* (discretionary punishment) on the man involved in the act of adultery that resulted in childbirth by requiring him to: Provide the child with a basic standard of living and Allocate assets to the child through a mandatory bequest (*wasiat wajibah*) upon his death (Anna Veronica Pont et al., n.d.).

Concerning the Marriage Law, the validity of a marriage is explained in Article 2(1) and (2), which state that a marriage is legally valid if conducted according to the religion and beliefs of the parties involved and is registered in accordance with the applicable laws (Lewa, n.d.). There are two differing interpretations of marriage validity under this law. The first holds that a marriage is valid solely based on compliance with Article 2(1), without the need for official registration. The second interpretation considers both paragraphs as inseparable; thus, if one requirement is unmet, the marriage is deemed invalid.

Regarding the status of children under Law No. 1 of 1974, those born from unregistered marriages are considered legitimate children but do not possess the legal authority to exercise rights related to inheritance. Although they are deemed legitimate, the state does not recognize their legal standing. Therefore, special legal protection is necessary for children born from unregistered marriages, especially in relation to their inheritance rights. This protection includes both public and private legal aspects and extends to social, health, and educational protections unrelated to legal recognition.

Article 47 paragraph (1) of Law Number 1 of 1974 stipulates that a child under the age of 18 or who has never been married is under the authority of their parents, provided that such authority has not been revoked (Fajar Nessa, Asni, n.d.). Problems arise when a marriage is not legally registered, as the absence of a legal basis such as a marriage certificate renders the marriage legally invalid, thereby obstructing the resolution of family disputes in court, particularly in matters concerning the legal status of the child. In such circumstances, children born from unregistered marriages are not granted clear legal protection, especially regarding their recognition as legitimate children.

Establishing a biological link between a child born out of wedlock and the father through proof of lineage can serve as a basis to uphold the child's civil rights. Nonetheless, the social and psychological consequences experienced by such children are not easily remedied. Many children born from unregistered marriages aspire to change their status from illegitimate to legitimate in order to be part of a complete family structure, which includes a legally recognized father who also serves as the legal guardian. The registration of marriage is therefore crucial to ensure legal certainty. This necessity is reinforced by Constitutional Court Decision Number 46/PUU-VIII/2010, which affirms that children born out of wedlock may have civil relations not only with their mother and her family, but also with their biological father, provided that scientific and legal evidence can prove a biological connection.

Indonesian positive law, as stated in Article 42 of the Marriage Law, asserts that legitimate children are those born in or as a result of a legal marriage. Furthermore, Article 43 paragraph (1) of the same law, in conjunction with Article 100 of the Compilation of Islamic Law, explains that children born out of wedlock have civil relations solely with their mother and maternal family, unless scientific and legal evidence proves a paternal lineage (Maaïke Voorhoeve, n.d.). Although children from unregistered marriages may obtain birth



certificates, typically only the mother's name is listed. Legal recognition of the father requires a court ruling based on the father's acknowledgment or legal action affirming his relationship to the child.

Without such a court decision, the child is not entitled to inherit from the father. In Islamic law, children from unregistered marriages are only entitled to a *wasiat wajibah* (obligatory will), rather than full inheritance rights. However, Article 863 of the Indonesian Civil Code provides that children born out of wedlock who are legally acknowledged may inherit up to one-third of the estate, provided this does not infringe upon the rights of legitimate heirs.

Article 3 paragraph (1) of Law Number 1 of 1974 further asserts that children born from unregistered marriages have legal ties only with their mother. This legal stance causes administrative challenges, such as difficulties in obtaining a family card or birth certificate, as a marriage certificate is often a required document (Wulandari, Zulfahmi Alwi, n.d.). In most cases, only the mother's identity is recorded in the child's civil documents, which may lead to psychological distress for the child, fostering a sense of being born from an illegitimate union in the eyes of the law.

### **3.2. Legal Protection of the Rights of Children from Unregistered Marriages**

Islamic teachings guarantee the protection of children's rights beginning from the prenatal stage. These rights extend even to children born from unregistered marriages, as children are not yet capable of defending their own rights. This principle is grounded in the Qur'anic verse from Surah al-Nisa (4:9):

*"Let those (guardians) be as fearful (in their duty to Allah) as they would be if they had left weak offspring behind and feared for them. So let them fear Allah and speak appropriately."*

Just as children born from officially registered marriages are recognized by law, children from unregistered marriages also have legally protected rights, provided they are considered legitimate under Islamic law. These rights are comprehensively outlined in the Child Protection Act:

1. Article 4 states that every child has the right to live, grow, develop, and participate in society with dignity in accordance with human values, and must be protected from violence and discrimination.
2. Article 5 emphasizes that every child has the right to a name, personal identity, and citizenship status. According to Article 280 of the Indonesian Civil Code (KUHPerdata), in order for a child born outside of marriage to have a legal relationship with both biological parents—especially the father—the child must be acknowledged and legitimized through a formal validation process. Without such acknowledgment, the child has no legal connection to the biological father (Andi Husnul, n.d.).

Child protection involves ensuring that children can exercise their rights and fulfill their responsibilities as stipulated in Law No. 4 of 1979 on Child Welfare. It includes:

- a. Deliberate efforts by individuals, governmental institutions, and private entities to ensure the physical, mental, emotional, and social well-being of children, based on their fundamental rights.
- b. A collaborative effort involving individual awareness, family, community, and governmental institutions to safeguard and nurture the physical and spiritual development of children aged 0 to 21 years who are not yet married, in alignment with their human rights and best interests, enabling optimal development.

To ensure legal security for children born from unregistered marriages, a Religious Court may issue an *Isbat Nikah* (marriage legalization) ruling to affirm the validity of the marriage and thereby confirm the child's lineage. Since unregistered marriages are an undeniable reality, the state bears responsibility for protecting these children through mechanisms involving law enforcement, judicial institutions, and civil administration at both central and regional levels, placing children under the care of the state. This aligns with Prajudi Atmosudirjo's classification of the five governmental duties:

- 1) Governance includes regulation, public guidance, law enforcement, and judicial systems.
- 2) Public administration is carried out through bureaucratic development.
- 3) National administration is executed through institutional management and local governance.
- 4) National development is implemented by agencies such as the National Development Planning Agency.
- 5) Environmental protection and conservation are state responsibilities.

Anak dari hubungan perkawinan tidak tercatat menjadi keturunan hasil luar Children from unregistered marriages are considered born outside a legally recognized union and, as such, are not formally acknowledged by the state. Legally, they are only connected to their mother and her family, while their relationship with their biological father is not recognized under the Marriage Law (UUP) and the Compilation of Islamic Law (KHI). This is stated in Article 43 of Law No. 1 of 1974:

1. A child born outside of or from an unregistered marriage has a civil legal relationship only with the mother and her family.
2. The child's status is as defined in the above clause.

For unregistered marriages recognized under Islamic law, the process to obtain an official birth certificate acknowledging parental lineage must proceed through an *Isbat Nikah* ruling from the Religious Court, as stipulated in Article 7 of the KHI. Once granted, this ruling enables the Office of Religious Affairs (KUA) to issue a marriage certificate for the couple. The *Isbat Nikah* ruling applies retroactively to the date the unregistered marriage occurred. The resulting marriage certificate allows for the child's birth to be registered with the Population and Civil Registration Office without requiring proof of lineage.



The court may approve the Isbat Nikah if the marriage fulfills the legal pillars and conditions according to Islamic law, as stipulated in Articles 8–10 of Law No. 1 of 1974 and Articles 39–44 of the KHI.

The Indonesian Civil Code (KUHPerdata) defines a legitimate child as one who is conceived and born within a legal marriage. This grants the child biological status and associated rights, including the use of the father's surname as a marker of lineage (Andi Husnul Amalia, n.d.). Additionally, Article 251 of the KUHPerdata allows a husband to deny the legitimacy of a child born less than 180 days after the marriage.

From a legal standpoint, the categorization of children includes:

1. Biological children: Born from a legally recognized marriage.
2. Stepchildren: Offspring from the spouse's previous marriage.
3. Illegitimate children (*anak sumbang*): Born to biological parents who are prohibited from marrying due to close familial ties.
4. Adopted children: Non-biological children legally accepted into a family through adoption.
5. Children born out of wedlock: Divided into those acknowledged by the father and those not acknowledged. A child can be legally recognized if the parents marry and formally acknowledge the child. Without acknowledgment, the child remains legally unrecognized as an out-of-wedlock offspring.

### **3.3. Legal Consequences of Issuing a Birth Certificate for a Child Born from an Unregistered Marriage**

An unregistered marriage can negatively affect the rights and interests of the child, potentially threatening the fulfillment, protection, and enforcement of those rights (Nurmila, 2016). As a legal event, marriage has a direct impact on the status of children born from such a union, both within the framework of family law and from a human rights perspective. The existence of undocumented marriages, with their various forms and structures, can become an obstacle and present risks to the recognition and fulfillment of children's rights within the legal system governing family matters. Although a child may be biologically connected to both parents, the absence of marriage registration can influence numerous legal aspects, including filiation, inheritance rights, child custody, financial support, as well as the emotional bonds and parental responsibilities necessary for a child's development—requiring dual parental roles. Islam teaches and guides its adherents to avoid actions that may cause harm. The family plays a vital role in Islamic education and its Shari'a, as it is the fundamental unit of both societal and national life.

Islam does not explicitly regulate marriage or birth registration in the Qur'an or the Sunnah. The obligation to register marriages and births in Islamic teachings is derived analogically (qiyās) from the Qur'anic command related to debt agreements (muḍāyanah)

(Kharlie, 2018), where documentation is encouraged in specific circumstances, as stated in Surah al-Baqarah (2:282):

*"O you who have believed, when you contract a debt for a specified term, write it down. Let a scribe write [it] between you in justice. Let no scribe refuse to write as Allah has taught him. So let him write, and let the one who has the obligation dictate. And let him fear Allah, his Lord, and not leave anything out of it."*

Although this verse does not explicitly mention registration of legal events such as marriage and birth, the importance of having reliable documentation has increased over time. Therefore, registering births and marriages is believed to bring significant positive impacts for society (Hijra Wati, Zulfahmi Alwi, n.d.)

According to Article 1(1) of Law Number 23 of 2002 concerning Child Protection, a child is defined as an individual under the age of 18, including unborn children. Both unborn and born children are entitled to legal protection from the state. One form of such protection is the right to a birth certificate, as guaranteed by Article 28B paragraph (2) of the 1945 Constitution of the Republic of Indonesia, which states that every child has the right to live, grow, and develop, and to be protected from violence and discrimination.

A child may be denied access to a birth certificate if the parents' marriage is unregistered, although Article 2 of Law Number 1 of 1974 on Marriage outlines the legal requirements for a valid marriage:

1. A marriage is valid if conducted according to the religious beliefs of the parties involved.
2. Every marriage must be registered in accordance with the applicable laws and regulations.

Considering the importance of registration, every child should possess a birth certificate to emphasize the value of such legal documents. Marriage must comply with all prevailing laws and regulations in Indonesia for a birth certificate to be issued. In practice, marriages must be officially registered at the Civil Registry Office for non-Muslim couples or at the Office of Religious Affairs for Muslim couples. A child's birth certificate can be obtained through these channels. The birth registration process for a child without a birth certificate is regulated under Article 55(2) of Law Number 1 of 1974 on Marriage. However, issues may arise concerning the required legal evidence. The article stipulates:

- a. An official birth certificate issued by the government is the only document that can determine a child's place of origin.
- b. If the birth certificate is lost, the court may determine the child's origin through in-depth investigation and relevant factual considerations.
- c. The birth certificate will be issued by the civil registration office within the jurisdiction of the respective court.

Based on Article 43 of the Marriage Law and the Constitutional Court Decision Number 46/PUU-VII/2010 dated February 17, a child born out of wedlock has a civil relationship with the mother and her family, as well as with the man proven to be the biological father based

on science, technology, and/or other legal evidence, including a civil relationship with the father's family. Under these provisions, if a mother wishes to establish a legal civil relationship between her husband and the child born out of wedlock, two legal pathways may be followed:

- a. Acknowledgment of Paternity, which refers to the legal act of a man officially acknowledging a child born outside a legally recognized marriage—with the biological mother's consent. It is important to note that this acknowledgment is applicable if the parents have married in accordance with religious beliefs, though not yet legally recognized by the state. The process involves:
  1. Preparing supporting documents for the paternity acknowledgment.
  2. The biological mother must provide written consent for submission of the acknowledgment.
  3. Within 30 days after the father's acknowledgment letter is sent, the parents must submit it to the authorized authority.
  4. The civil registry will record the acknowledgment in the official register and issue a copy of the acknowledgment certificate.
- b. Legitimation of the Child, which refers to granting legal status to a child born outside of lawful marriage, thereby recognizing the child as legitimate. This can only occur if the parents undergo a valid marriage according to both religious and national law. The process includes:
  1. After obtaining a marriage certificate, the parents have 30 days to notify the competent authority of the legitimation.
  2. The civil registry will issue a legitimation certificate and enter the details into the legitimation register.

The registration of children born from unregistered marriages is also governed by Government Regulation No. 37 of 2007, implementing Law No. 23 of 2006 on Population Administration. Article 55(2) of the regulation states that a child born outside of marriage can be registered with details including the child's name, date of birth, birth order, mother's name, and mother's date of birth. Accordingly, a birth certificate issued in such cases will only list the biological mother's name. However, Article 36 of the Population Administration Law states that in cases where marriage cannot be proven by a marriage certificate, proof can be provided through a court ruling.

The birth registration process is carried out after fulfilling the required documentation as stipulated in Presidential Regulation No. 25 of 2008 on Population Registration and Civil Registration Procedures:

1. Birth document from a medical professional or birth attendant;
2. Data and identity of witnesses to the birth;
3. The parents' Family Card (KK);
4. Parents' Identity Cards (KTP);

5. A copy of the parents' marriage certificate.

Once these requirements are fulfilled, all documents are compiled and submitted to the nearest Civil Registry Office (Disdukcapil). The registration process involves the following steps:

1. Submission of all required documents to the service counter;
2. Verification of data authenticity by the officer;
3. Data entry into the system;
4. Printing of the birth certificate;
5. Signing of the birth certificate by the Head of the Civil Registry Office.

Birth registration can still proceed even without the parents' marriage certificate. Article 52(2) of Presidential Regulation No. 25 of 2008 states that if a birth report is not accompanied by a marriage certificate or extract, the registration must still be carried out. Moreover, vital events such as births outside of marriage must be recorded with details including the child's name, date and time of birth, birth order, mother's name, and mother's date of birth (PP No. 37 tahun 2007 pasal 55 ayat 2).

The registration process as outlined in Minister of Home Affairs Regulation No. 9 of 2016 concerning the Acceleration of Birth Certificate Ownership Coverage is similar to the Population Administration Law, with some distinctions in the documentation requirements for children born from unregistered marriages.

#### **4. Conclusion**

A child born from an unregistered marriage still holds a legitimate legal status as the lawful child of both parents, provided that the marriage has fulfilled the essential elements and conditions prescribed by their respective religious laws. However, due to the absence of official registration, such a child lacks a clear legal status under state law and is consequently not recognized as legitimate according to national legal standards. In contrast, a child born outside of wedlock maintains a civil relationship with the mother and her family, as well as with the man acknowledged as the father, provided that the paternity can be established through scientific and technological means, as well as through various forms of legal evidence confirming biological and civil ties to the father's family.

Islam ensures the protection of children's rights from the moment of conception. These rights are equally extended to children born from unregistered marriages, as they are not yet capable of advocating for their own legal interests. Every child is entitled to legal protection of their rights, one of which is the issuance of a birth certificate. Beyond serving as a form of identity, a birth certificate facilitates access to public services and offers protection against violence and discrimination. Islam does not provide explicit regulations regarding the registration of marriages and births, including in the Sunnah. Nevertheless, the obligation to register marriages and births in Islamic jurisprudence may be analogized with the obligation

to record transactions in cases of *muḍāyanah* (debt agreements), which under certain circumstances must be documented. The legal consequence of issuing a birth certificate for a child born from an unregistered marriage is that the certificate will list only the mother's name. This condition affects the child's lineage recognition (*nasab*), inheritance rights, guardianship, financial support, and the emotional and parental responsibilities essential to the child's growth and development.

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