

Among State Authorities in Providing Services to The Public: A Study on the Registration of Unregistered Marriages in Jakarta

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ABSTRACT

The phenomenon of the registration of unregistered marriages in Jakarta highlights the ambiguity of authority between the Office of Religious Affairs (KUA) and the Religious Court as two institutions responsible for the administrative and legalization functions of marriage. Although formal regulations under the Marriage Law and the Compilation of Islamic Law stipulate that the legalization of unregistered marriages must be carried out through the isbat nikah mechanism at the Religious Court, practice on the ground shows that many KUAs register unregistered marriages through a renewed marriage contract or administrative verification without a court ruling. This study aims to analyze the causes of this policy ambiguity and its impact on public services and legal certainty. Using a qualitative research method with in-depth interviews with KUA heads, KUA staff, those involved in nikah siri, Religious Court judges, academics specializing in Islamic family law, and members of the MUI Fatwa Commission, this study found that the ambiguity of the policy stems from the discretion of KUA staff, variations in registration procedures and marriage contracts, as well as the role of the local village administration as either an enabler or an administrative obstacle. This ambiguity of authority has led to weak legal certainty, a decline in the quality of public services, and increased vulnerability of women and children in accessing legal protection. This study recommends the harmonization of technical guidelines and inter-agency coordination to achieve a uniform, accountable, and equitable marriage registration system.

Keywords : KUA; Policy Ambiguity Public Service, Unregistered Marriage.

INTRODUCTION

The State, through its legal framework and formal institutions, has a responsibility to provide fair and inclusive public services. One such service is the registration of marriages, which serves as the legal recognition of the marital relationship. This is regulated under Law No. 1 of 1974 on Marriage, which has been amended to Law No. 16 of 2019, and Government Regulation No. 9 of 1975 on the Implementation of Law No. 1 of 1974 on Marriage. A matter regulated in these laws concerns the registration of marriages.

Marriage registration can be conducted at the KUA for members of the Muslim community. The purpose of this registration is to ensure the legal validity of the marriage, establish legal certainty within the institution of marriage, protect the rights of both spouses and the children born of the marriage, and promote order in matters of marriage within society. (Hanapi, A., & Yuhermansyah, E. 2020). Although the Marriage Act stipulates that a marriage recognized by the state and having legal certainty is one that has been registered with the KUA for those of the Islamic faith,

in reality, there are still many marriages that take place without registration. Unregistered marriages are referred to as 'siri' marriages. (Salma, S. 2022).

The practice of unregistered marriages occurs not only in rural areas but also in urban areas, such as Jakarta. Unregistered marriages are conducted in the presence of religious and community leaders, such as kyais and ustadz, as well as RT and RW officials, who provide social legitimacy even though the marriage is not registered at the Office of Religious Affairs (KUA). Although unregistered marriages were not initially recorded, the state still provides records.

An opportunity for those involved to obtain recognition and registration for legal purposes. This recognition may be obtained by submitting an application for the validation of marriage to the Religious Court with jurisdiction over the place of residence of the parties to the unregistered marriage, in accordance with Article 7 of the Compilation of Islamic Law (KHI). The competent Religious Court may accept, examine, and rule on the application for esbat niah provided the marriage was conducted without contravening the provisions of the law. The outcome of the application for marriage validation is a copy of the judgment/decision. Upon presentation of this copy of the judgment/decision, the KUA will register the marriage of the parties to the unregistered marriage and will receive a marriage certificate in accordance with Article 25 of PMA No. 20 of 2019.

The explanation above makes it clear that an application for the legal recognition of a marriage should be the step taken to legalize a siri marriage. In reality, however, there are still many instances of behavior that do not comply with existing laws, one example being the actions of those involved in siri marriages in Jakarta.

Those in Jakarta who have entered into unregistered marriages and wish to obtain a marriage certificate tend to visit the KUA. The KUA then re-registers these marriages, thereby making the previously unregistered marriages legally valid and providing a marriage certificate as proof of their legality. This trend is evidenced by the large number of applications regarding a child's parentage decided by the Religious Courts in Jakarta; for example, the East Jakarta Religious Court has decided 81 such applications (Report on the Activities of the East Jakarta Religious Court for 2024, n.d.), whereas the Central Jakarta Religious Court has decided 49 applications regarding a child's parentage (Report on the Activities of the Central Jakarta Religious Court for the Year 2024, n.d.), and the South Jakarta Religious Court has adjudicated 77 applications regarding the parentage of a child (Report on the Activities of the South Jakarta Religious Court for the Year 2023, n.d.). The Jakarta Barat Religious Court ruled on 38 applications regarding a child's parentage (Report on the Implementation of Activities of the Jakarta Barat Religious Court for the Year 2024, n.d.). Applications regarding a child's parentage were filed by the parents, as the child was born from a nikah siri marriage, after which the parties to the nikah siri subsequently registered their marriage at the KUA.

The willingness of the KUA in Jakarta to accept and perform remarriages raises an interesting question for examination, particularly given that the role of the KUA in relation to unregistered marriages should be limited to directing those involved in such marriages to submit an application for the validation of marriage to the religious court, as stipulated in Article 7 of the KHI. This causes ambiguity. This ambiguity reflects a discrepancy between formal regulations and the social practices that have developed within society.

This article aims to explain the causes of the ambiguity regarding the respective authorities of the KUA and the Religious Court in the registration of unregistered marriages and analyze its impact on public services and legal certainty.

RESEARCH METHODOLOGY

This study employs a qualitative approach using field research methods. Primary data were obtained through in-depth interviews with three key informants representing significant perspectives on the issue of the legalization of nikah siri: the Head of the KUA, a KUA official, a person involved in a nikah siri marriage, a judge at the Religious Court, an academic specializing in Islamic family law, and a member of the MUI Fatwa Commission.

Data collection techniques included semi-structured interviews, documentation of relevant regulations, and a literature review of previous research. Data were analyzed through the stages of reduction, organization into thematic categories, triangulation between informants, and theoretical interpretation.

The analysis is underpinned by three theoretical frameworks: street-level bureaucracy theory to explain staff discretion; public administration and good governance theories to assess the quality of public services; and legal policy implementation theory to analyze the gap between formal law and practice on the ground.

RESULTS AND DISCUSSION

Causes of Policy Ambiguity

Official Discretion Based on the Children's Status

The phenomenon of couples who enter into a siri marriage and subsequently register their marriage at the KUA without going through the isbat nikah process indicates the existence of administrative discretion on the part of KUA officials.

Based on an interview with the Head of the "A" KUA, Ns (2025), the policy regarding the registration of unregistered marriages is often decided based on the couple's child status. If the couple does not yet have children, the KUA tends to permit a renewal of the marriage contract and register the marriage immediately; whereas if they already have children, the couple is directed to apply for a marriage validation at the Religious Court first. (Ns. 2025, September 2)

This policy, based on the child's status, demonstrates the exercise of moral discretion by KUA officials. KUA staff considers formal legal provisions but also

social aspects and the welfare of the family. Such practices indicate that the implementation of marriage law in Indonesia does not entirely proceed in a positivist manner but is influenced by ethical and social considerations. (Az. 2025, September 4)

According to data from the Remarriage Database (2025), all couples applying for re-registration at the KUA already had children from their unregistered marriages. This reinforces the assumption that KUA officials are more responsive to cases involving the interests of children. The factor of “child status” serves as the primary basis for administrative justification to expedite the legalization of unregistered marriages without going through the courts.

However, the exercise of this discretion creates policy ambiguity. On the one hand, KUA officials are tasked with safeguarding the public interest (*maṣlahah*) by ensuring that children have a clear legal status; on the other hand, such actions risk violating the legal hierarchy that designates the Religious Court as the sole authority competent to conduct marriage validation (*isbat nikah*).

This ambiguity arises because of the absence of clear technical guidelines regarding when registration may be conducted without *isbat*. Within the context of *maqāṣid al-sharī'ah*, this discretion can be justified as an implementation of the principles of *ḥifẓ al-nasl* (protection of lineage) and *ḥifẓ al-'ird* (preservation of family honor). In other words, KUA officials exercise social discretion for the welfare of the child and to avoid negative stigma against families that are not yet legally recognized by the state. (Al-Shāṭibī, A. I. 1997).

However, from a constitutional law perspective, such actions create inconsistencies within the national legal system. KUA officials face a dilemma between administrative compliance and humanitarian considerations. Without clear regulations, discretion based on the child’s status will continue to be an ambiguous and difficult-to-control practice. (Fauzi, A. 2022)

Thus, it can be concluded that the primary cause of policy ambiguity is the existence of official discretion influenced by children born of unregistered marriages. This factor transforms the KUA’s function from that of a mere registrar into a social mediator between religious norms, state law, and humanitarian values. This discretion is pragmatic in nature, but without legal clarity, it can actually undermine the principle of legal certainty enshrined in the Marriage Law No. 1 of 1974.

Variations in Registration Procedures and Marriage Ceremonies

A further ambiguity in policy arises from differences in registration procedures and marriage ceremonies across various KUA offices. Based on an interview with the KUA “A” officiant, Az (2025), there are two distinct practices in operation. Firstly, the officiant registers a *siri* marriage without repeating the marriage contract if they are certain of its validity. Secondly, the officiant still

performs a repeat contract before registration if there is any doubt regarding the validity of the previous contract. (Az. 2025, September 4)

These procedural differences indicate the absence of standard operating procedures in handling cases of siri marriage. Such variations stem from the officiants' personal interpretations of Islamic law and administrative regulations. Some marriage registrars adopt the Shafi'i school of thought, which is cautious about repeating the marriage contract, as there is a concern that this could nullify the previous contract and may even be considered a form of adultery if there is no valid religious reason. (Az. 2025, September 4)

Meanwhile, an interview with Prof. AD revealed a contrasting view. He argued that the renewal of the marriage contract (*tajdid al-nikāḥ*) does not conflict with Islamic law and may be carried out to comply with state administrative requirements. In his view, the renewal of the contract at the KUA serves as a reaffirmation of compliance with the national legal system without undermining the validity of the previous contract. (AD. 2025, August 5).

This divergence of views directly impacts policy variations at the local level. Some KUA opt for a purely administrative approach, whereas others adopt a normative theological approach. Consequently, the public faces procedural uncertainty: whether they must renew their marriage contract or simply register it. This variation highlights the lack of coordination between the Ministry of Religious Affairs and the Religious Courts in the formulation of technical guidelines for the registration of marriages following a siri marriage.

From an implementation perspective, variations in procedures also reflect the flexibility of the KUA in dealing with complex social realities. However, this flexibility can create disparities in legal services between regions. Couples at the "B" KUA may only need to present proof of a *nikah siri*, whereas couples at the "C" KUA must undergo a renewed marriage ceremony and fulfill additional administrative requirements. (Azh. 2025, August 6).

From an Islamic legal perspective, these differences illustrate the application of the principle of *istiḥsān* (legal preference for the public good), but from a positive law perspective, they actually give rise to inconsistencies in the application of the rules. The lack of harmony between religious interpretation and state regulations reinforces the ambiguity of policy at the implementation level. (Halim, R. 2021).

Consequently, the second cause of policy ambiguity is the lack of standard guidelines regarding the procedures for registering and conducting marriage ceremonies for those entering into unregistered marriages. The KUA operates based on the individual interpretations of officials and the local social context. As a result, the law becomes situational and dependent on personal interpretation rather than on clear legal norms, thereby undermining the certainty and consistency of the marriage law system in Indonesia.

Role of the Subdistrict Office as Facilitator or Obstacle

In the practice of registering marriages following a customary marriage, the sub-district office plays an important role. Initial administrative role in the process of submitting documents to the KUA, particularly in issuing marriage referral letters (N1–N4) and certificates of unmarried status. Based on the results of field interviews, many cases indicate that the attitude of the sub-district office can be a factor that either facilitates or hinders the marriage legalization process. This is because sub-district officials often interpret regulations subjectively, particularly when they discover that the prospective couple had previously entered into a siri marriage. (Azh. 2025, August 6)

The sub-district office's role as a facilitator is evident when officials understand the social and moral context of the community. In some areas, such as the "D" and "B" Religious Affairs Offices (KUA), the village head and civil registry staff actually assist couples by expediting the issuance of the marriage referral letter so that the marriage can be registered promptly. They argue that official registration will provide legal certainty for children born of an unregistered marriage, and thus, this action is a form of social support. (Ns. 2025, September 2).

However, not all local councils take this approach. Some act as administrative obstacles by refusing to issue marriage certificates if they discover that the couple has already entered into a religious marriage. Local council officials argue that such a marriage violates procedures because the previous marriage has not yet been recognized by the Religious Court. Consequently, the couple must first go through the legal process, which is both time-consuming and costly. (S. 2025, August 19).

This inconsistency in the sub-district office's stance indicates that the institution acts as a 'filter for local policy', which can strengthen or weaken national policy. In policy implementation theory, this is known as a form of street-level bureaucracy, whereby field-level officials have the freedom to interpret and adapt policies in accordance with local social conditions. (Lipsky, M. 1980).

Furthermore, an interview with Dr. Azah also revealed that some sub-district officials actually view cases of niah siri as a moral issue rather than an administrative one. They feel it is necessary to uphold social order by refusing to issue certificates to couples considered "violating norms." This kind of moralistic approach highlights the tension between social norms and formal legal rules. (Azh. 2025, August 6). Nevertheless, in many cases, the kelurahan actually reinforces legal legitimacy by facilitating couples in re-registering their marriage at the KUA. Local officials view the legalization of marriage as a form of 'social rehabilitation' for couples who have previously breached administrative norms. This stance reflects the dual moral role of the kelurahan: upholding norms while simultaneously protecting its residents from social stigma. (AD. 2025, August 5).

Policy ambiguity then arises due to the absence of national guidelines that explicitly regulate the authority of the kelurahan in handling cases of siri marriages.

This lack of standards leads each kelurahan official to interpret regulations locally and subjectively. In some areas, the kelurahan functions as a facilitator of legalization policies, whereas in others, it acts as a moral filter that slows down the process. (Halim, R. 2021).

Consequently, the role of the kelurahan in the context of registering marriages following a siri marriage cannot be viewed as a purely administrative function. It acts as a local sociopolitical actor that can effectively either strengthen or hinder national policy on marriage registration. This ambiguity stems from the weak vertical integration between the Ministry of Religious Affairs, local governments, and religious courts in the administrative governance of marriage in Indonesia.

Special Discretion in Pregnancy Cases

Research findings indicate that cases of premarital pregnancy are one of the most compelling reasons driving discretionary practices by KUA (Religious Affairs Office) and village officials. According to an interview with Dr. Azah, many couples engage in unregistered marriages in urgent situations due to pregnancies outside of a legal marriage. In such circumstances, the KUA often uses special discretion to expedite the registration process in order to protect the woman's honor and the child's lineage. (Azh. 2025, August 6).

This practice is grounded in social and religious considerations. In Islamic law, safeguarding honor (*ḥifẓ al-'ird*) and lineage (*ḥifẓ al-nasl*) are fundamental principles that permit legal flexibility for the greater good. Consequently, some KUA officials consider that repeating the marriage contract or registering the marriage without proof of the original union may be done in cases of pregnancy, provided that the previous unregistered marriage is proven to be valid under Islamic law. (Al-Shāṭibī, A. I. 1997)

An interview with Prof. AD revealed support for such a policy. In his view, the renewal of the marriage contract at the KUA for couples who are pregnant before the marriage is officially registered is not a violation of the law but rather a moral step to avoid slander and safeguard the child's lineage. He emphasized that this action is in line with the principle of *tajdīd al-nikāḥ*, namely, the renewal of the contract for the sake of social welfare. (AD. 2025, August 5).

However, G, a judge at the Jakarta Religious High Court, considers that although such practices may be socially justifiable, from a formal legal perspective, they should still be preceded by an application for the validation of marriage. He argues that the discretion exercised by the KUA in cases of pregnancy needs to be more strictly regulated to avoid overlapping jurisdictions between the KUA and the courts. (G. 2025, September 16).

In practice, special discretion in cases of pregnancy is often exercised without official documentation. KUA officials apply humanitarian principles by disregarding certain administrative requirements, such as a certificate of unmarried status or the waiting period (*iddah*). This indicates a real procedural relaxation

undertaken to maintain social stability and avoid public scandal. (Ns. 2025, September 2).

Although considered morally justified, this practice creates legal ambiguity as there is no regulatory basis explicitly permitting such exceptions. Not all KUA offices apply the same policy: some refuse to register the marriage until the isbat hearing is concluded, whereas others proceed with registration immediately on grounds of moral and social urgency. (Ns. 2025, September 2).

From a sociological perspective, this policy exemplifies a form of responsive law at the grassroots level where officials adapt legal norms to the social realities of the community. However, in the absence of written regulations, such discretion risks creating legal disparities between regions and undermining the principle of equality before the law. (Nonet, P., & Selznick, P. 2001)

Thus, the specific discretion exercised in cases of pregnancy illustrates how Islamic law and state law intersect in a gray area. KUA officials prioritize the public interest over procedural requirements, but in the absence of explicit rules, such actions create room for policy ambiguity. This highlights the need to reformulate marriage law guidelines to strike a balance between legal certainty and humanitarian principles.

Impact of Ambiguity on Public Services

Weak legal certainty

Policy ambiguity regarding the registration of marriages following unregistered marriages has had a serious impact on the quality of public services, particularly within the KUA and related agencies. Based on field data and interviews, inconsistencies in the application of regulations between the KUA, the Religious Court, and the sub-district offices have left the public facing legal uncertainty when seeking to formalize the legality of their marriages. (Azh. 2025, August 6).

This situation has led to a lack of public confidence in the clarity of state administrative procedures in the field of family law. Legal certainty is a fundamental principle of public service, as enshrined in Law No. 25 of 2009 on Public Service. However, in practice, citizens do not receive the same procedural certainty when registering their marriages. Some KUA offices allow direct registration without isbat, whereas others require a court process first. This disparity in treatment indicates that public services in the field of matrimonial law are still based on personal interpretation rather than clear legal standards. (Fauzi, A. 2022)

According to an interview with the Head of the A Religious Affairs Office, this difference in treatment is often driven by the couple's social circumstances, particularly where there are already children from an unregistered marriage. In such circumstances, the KUA exercises administrative discretion to protect the child. Although well-intentioned, this action reinforces legal uncertainty as it has an explicit regulatory basis. In other words, legal certainty is sacrificed in the name of the public good. (Ns. 2025, September 2).

The impact of this legal uncertainty is evident in the differing registration practices across regions. Couples who have entered into a siri marriage in “B”, for example, can immediately register their marriage at the KUA, whereas couples in the C must repeat the marriage ceremony. These procedural differences lead to inequalities in public service delivery, where the speed and outcome of services depend on location and the interpretation of the relevant officials. (Az. 2025, September 4).

G, a judge at the Jakarta High Court of Religious Affairs, acknowledged that such practices lead to an overlap of jurisdiction between the KUA and the courts. In his view, some members of the public no longer regard the isbat process as important, as they believe that the KUA can issue marriage certificates without going through legal channels. This not only undermines legal certainty but also diminishes the authority of religious courts as an official judicial institution. (G. 2025, August 1)

From a legal theory perspective, such ambiguity can be categorized as a form of regulatory fragmentation—where two or more institutions perform similar functions without clear vertical coordination. (Halim, R. 2021). Consequently, the law no longer functions as a definitive guide but merely as a negotiable framework. Public services lose consistency, and the public must interpret procedures that should be certain and uniform.

This ambiguity also influences the public perception of the state. Based on an interview with Prof. AD, some members of the public consider the state indecisive in regulating marriage. When the KUA in one region permits registration without isbat, whereas another KUA prohibits it, citizens perceive state law as relative. This view undermines the state’s role as a guarantor of legal certainty and social justice. (AD. 2025, August 5).

Furthermore, legal uncertainty leads to disparities in administrative rights. A child born of an unregistered marriage in one region may obtain a birth certificate stating the father’s name, but in another region, this is not possible because the parents’ marriage registration has been rejected. This disparity in treatment violates the principle of equality of citizens before the law as stipulated in Article 28D(1) of the 1945 Constitution, which affirms every citizen’s right to fair legal certainty. (Halim, R. 2021).

In the context of public services, legal uncertainty also imposes psychological and financial burdens on the public. Couples whose registration is rejected must make repeated trips to the courts and the KUA, incurring additional costs, and facing social stigma. This situation demonstrates that policy ambiguity is not only an administrative issue but also has a direct impact on the social and economic dimensions of citizens’ lives. (Azh. 2025, August 6)

From the perspective of Islamic law, ambiguities in the registration of marriages also exist. Cause confusion regarding the legal status of the family. According to the principle of maqāṣid al-sharī‘ah, one of the objectives of the law is to establish certainty regarding lineage and the protection of the family (ḥifẓ al-

nasl). When the state fails to provide legal certainty in the administration of marriage, these maqāṣid principles are not achieved. (Al-Shāṭibī, A. I. 1997).

Furthermore, this legal ambiguity fosters a culture of pragmatism in public services, where officials prioritize quick solutions over formal procedures. This phenomenon aligns with the concept of street-level discretion, (Lipsky, M. 1980). where frontline officers adapt rules to local conditions. While this flexibility streamlines service delivery, in the long term, it undermines the quality of legal certainty and public trust in public institutions.

Overall, the lack of legal certainty resulting from policy ambiguity demonstrates that Indonesia's matrimonial law system remains in a transitional phase between a normative and a responsive approach. The state endeavors to uphold legal formalities, while officials on the ground tend to adopt a social approach to resolving issues. The disharmony between the two creates uncertainty that undermines the effectiveness of public services and the state's legal authority.

Thus, it can be concluded that the primary impact of policy ambiguity on public services is the erosion of the principle of legal certainty. The public no longer has confidence in the applicable procedures, while officials lack clarity regarding the limits of their authority. If this situation persists, the substantive justice expected from Islamic marriage law in Indonesia will be difficult to achieve without policy reforms that strengthen inter-institutional coordination and clarify guidelines for marriage registration.

The Vulnerability of Women and Children

The ambiguity surrounding policies on the registration of marriages following a siri marriage has a direct impact on the legal status of women and children. Based on interviews and analysis of field data, it was found that differences in procedures between the KUA, the local administrative office, and the religious court lead to uncertainty regarding the legal status of women who marry and children born from such marriages. (Azh. 2025, August 6). This lack of harmonization makes women and children the most vulnerable group within the public service system for family law.

When the KUA lacks uniform guidelines for handling the registration of unregistered marriages, women often become victims of convoluted administrative procedures. In some cases, the KUA refuses to register the marriage on the grounds that there is no esbat niah, whereas in other areas, registration is carried out immediately. Consequently, women lack certainty regarding how to protect their legal rights, particularly the right to marital recognition, maintenance, and social protection. (Ns. 2025, September 2).

For women, this ambiguity is not only an administrative issue but also relates to social honor and moral protection. As explained by Dr. Azah, many women choose unregistered marriage due to social or family pressure resulting from an out-of-wedlock pregnancy. When the state delays the registration process or refuses to

issue a marriage certificate, women bear the heavy burden of social stigma, being regarded as 'illegitimate' both legally and socially. (Azh. 2025, August 6).

From the perspective of public services, women in unregistered marriages face covert discrimination. Some administrative staff at local councils even refuse to issue marriage certificates upon learning that the woman has entered into an unregistered marriage without legal validation. This action demonstrates how the personal moral values of officials often interfere with legal procedures, reinforcing the marginalization of women within the public service system. (Halim, R. 2021).

In addition to social stigma, the most tangible impact of policy ambiguity is the loss of women's legal rights following an unregistered marriage. Without official registration, women have no access to inheritance rights, social security, or the right to legal protection in the event of divorce. In an interview with S, a judge at the South Jakarta Religious Court, it was explained that many women only realize their vulnerability after being abandoned by their husbands, as their marriage is not registered with the state and cannot be used as a legal basis in court. (S. 2025, August 1).

Women's vulnerability is further heightened by the lack of standardized procedures in cases of marriage validation. Some religious courts readily accept applications for *isbat*, whereas others reject them on the grounds that they do not meet formal requirements. This inconsistency prolongs the period of legal uncertainty for women. According to Nonet and Selznick, (Nonet, P., & Selznick, P. 2001) such a situation demonstrates "unresponsive law," where the rules fail to adapt to the real social needs of society.

Policy ambiguities also have a direct impact on children born of unregistered marriages. These children often face administrative difficulties, such as the refusal to include the father's name on the birth certificate. In some cases, it is only after the couple has remarried or obtained legal recognition of the marriage that the child acquires full civil rights. Prior to this, the child's status is legally vulnerable, often being regarded as a 'child born out of wedlock'. (Az. 2025, September 4) This situation demonstrates that policy ambiguity indirectly violates the principle of *ḥifẓ al-naṣl* within the *maqāṣid al-sharī'ah*, namely, the preservation of lineage and descent. When the state fails to provide clear and equitable procedures, the protection of the child's lineage and honor is neglected. In the context of Islamic law, this constitutes a failure on the part of the state to fulfill its function as *ḥākim*, the protector of society against social injustice.⁶⁰ (Al-Shāṭibī, A. I. 1997)

Furthermore, children born of unregistered marriages often face social discrimination in educational and administrative settings. Without a birth certificate listing their father's name, they find it difficult to enroll in school or access social security benefits. Delays in the legalization of their parents' marriage mean delays in the state's recognition of the child's identity.

Consequently, policy ambiguity not only leads to legal uncertainty but also restricts the child's fundamental rights as a citizen. (Fauzi, A. 2022). This

phenomenon illustrates how gender inequality and structural weaknesses in the law are intertwined. As heads of households, men often have greater control over legal matters, whereas women must rely on their husbands' willingness to re-register their marriage or obtain a marriage certificate. When husbands are unwilling to do so, women and children automatically lose access to legal and social protection. (AD. 2025, August 5).

Furthermore, policy ambiguities result in public services being "selective" and non-inclusive toward women. Some officials argue that legal procedures must be strictly enforced, whereas others adopt a more flexible social approach. Consequently, women in similar situations may receive different treatment simply because of location or the attitude of the officials serving them. This contradicts the principle of non-discrimination in public services. (Halim, R. 2021).

In the context of family law, women are the group most affected by this ambiguity because their position—both socially and administratively—is more vulnerable. When the KUA handles cases differently from one region to another, women's rights to marriage registration, recognition of marriage, and social security become inconsistent. This situation reinforces the finding that legal uncertainty results in i These systemic shortcomings also have psychological consequences. Many women interviewed expressed fear of applying for marriage registration or validation due to concerns about stigma or administrative rejection. The absence of legal support mechanisms at the KUA level leaves women without adequate support to advocate for their rights. Policy ambiguities thus intensify the disparity in access to justice between men and women. (Ns. 2025, September 2).

From a public service perspective, this situation highlights the state's failure to ensure the principle of equitable access—that is, equal access to public services without discrimination. When local officials exercise discretion without clear guidelines, they unwittingly create structural injustice for women and children. This situation illustrates a form of "institutional ambiguity," where public policy loses its moral compass and clarity of responsibility. (Lipsky, M. 1980)

Overall, it can be concluded that the impact of policy ambiguity on women and children lies not only in legal aspects but also in social, economic and psychological ones. When public services fail to provide certainty and procedural equality, women and children become the most tangible victims of a system that fails to balance formal law with humanitarian values. In the context of maqāsid al-shar'ah, this reflects the weak implementation of the principles of ḥifz al-nasl and ḥifz al-'ird within the Islamic marriage law system in Indonesia.

Decline in the Quality of Public Services

Policy ambiguities regarding the registration of marriages following unregistered marriages not only lead to legal uncertainty and social vulnerability but also have a direct impact on the quality of public services within the KUA, sub-district offices and Religious Courts. Based on interview findings and field document

analysis, this decline in quality is evident in the reduced consistency, accountability, and efficiency of marriage administration services. Public officials face a dilemma between adhering to formal rules and adapting to social realities. (Azh. 2025, August 6).

Ideal public service quality requires clear procedures, equal treatment, and timely service delivery. However, in the case of the registration of unregistered marriages, differences in procedures between regions make it difficult for the public to predict the process they will face. In some areas, the KUA registers unregistered marriages directly without a court ruling; in other areas, registration can only occur after the court hearing has concluded. This variation in policy leads to inconsistencies in service delivery, which directly lowers the standards of public service quality. (Fauzi, A. 2022).

According to an interview with the Head of the “A” KUA, Ns, KUA staff often have to make quick decisions outside the formal regulations due to social pressure from the community. Many residents come with urgent registration requests, particularly when a child needs a birth certificate issued immediately. In such circumstances, staff tend to prioritize flexibility over strict adherence to the law. Whilst this practice does assist the public, it also sets a bad precedent as decisions are made on a case-by-case basis rather than following universal guidelines. (Ns. 2025, September 2).

Such flexibility indicates a shift from rule-based public service to service based on personal discretion. In line with Lipsky’s theory of street-level bureaucracy, (Lipsky, M. 1980). public officials often act on the basis of personal judgment to strike a balance between regulatory demands and social realities. However, without clear guidelines, such discretion risks lowering the quality of service, as outcomes are inconsistent and difficult to evaluate objectively.

Policy ambiguity also creates an administrative burden for KUA officials. In the absence of standardized criteria, each application must be manually examined to verify the validity of the unregistered marriage. This verification process slows down service delivery and increases staff workload, thereby reducing the efficiency of public services. This situation becomes even more complicated when there is pressure from the community or religious leaders to issue marriage certificates immediately without a complete legal process. (Az. 2025, September 4).

As well as reducing efficiency, ambiguity also undermines the principle of accountability. In some cases, decisions regarding marriage registration are made without a written legal basis and without a clear accountability report. According to an interview with “G”, a judge at the Jakarta High Court of Religious Affairs, this phenomenon creates a gray area where administrative policies can no longer be legally monitored because decisions are made based on “humanitarian considerations,” rather than regulations.

The absence of consistent oversight mechanisms leads to variations in bureaucratic behavior. Some KUA offices tend to be permissive and process

registrations swiftly, whereas others rigidly refuse. These differences reflect variations in legal interpretation and highlight disparities in professionalism among staff. In the context of public service, such conditions reflect a decline in institutional quality. (Halim, R. 2021).

From the perspective of service users, the public is the group most affected by policy ambiguities. When information and procedures are inconsistent, citizens lose trust in public institutions. Many couples interviewed admitted to being “confused about where to go first” whether to the KUA, the local council, or the court. This confusion highlights the weakness of inter-agency coordination within the government in delivering integrated services. (Azh. 2025, August 6).

The quality of public services has also declined due to fragmented communication between agencies. Sub-district offices, Religious Affairs Offices (KUA), and Religious Courts operate in isolation without an integrated information system. Consequently, data on couples who have entered into unregistered marriages, whose marriages have been validated through court proceedings, or who have been registered at the KUA is often inconsistent. This situation creates opportunities for double registration or discrepancies in administrative data. (Ns. 2025, September 2).

In addition to administrative issues, policy ambiguities foster an inefficient bureaucratic culture. Public servants become more cautious and tend to delay decisions for fear of being perceived as breaching regulations. In the terms of Nonet and Selznick (Nonet, P., & Selznick, P. 2001)., this phenomenon is referred to as ‘defensive bureaucracy’, that is, when officials prefer to withhold action rather than take legal risks. Consequently, public services become slow, rigid, and unresponsive to the needs of the community.

Furthermore, policy ambiguities also undermine the principle of service transparency. There is no single standard procedure that is openly accessible to the public. Information regarding registration requirements, service times, or the possibility of rejection is not communicated clearly. When the public lacks adequate access to information, the potential for abuse of authority increases. This creates the impression that public services are opaque and unpredictable. (Fauzi, A. 2022)

According to an interview with Prof. AD, these inconsistent administrative practices reflect weak policy coordination between religious and state institutions. He describes this situation as “epistemic disharmony”—where religious officials interpret the law normatively, while administrative officials interpret it formally. This difference in paradigms results in fragmented and inefficient services. (AD. 2025, August 5).

Another consequence of the decline in the quality of public services is the loss of a sense of administrative justice among the public. Couples whose registrations are accepted feel they have been favored, whereas those whose applications are rejected feel they have been treated unfairly. When public services

fail to deliver consistent outcomes for similar cases, trust in the government system also declines. (Halim, R. 2021).

This situation is exacerbated by the absence of an evaluation system and ongoing training for KUA officials. In field interviews, several marriage registrars admitted they had never received guidance on the procedures for registering unregistered marriages. Consequently, they make decisions based on personal experience or input from fellow religious officials. This situation demonstrates that the decline in the quality of public services is also driven by the lack of capacity-building within the bureaucracy. (Az. 2025, September 4).

From an Islamic legal perspective, this decline in service quality contradicts the principles of *ḥifẓ al-dīn* and *ḥifẓ al-'ird*, as unfair and inconsistent public services can erode public trust in religious and state institutions. Trust (*amānah*) is a fundamental value in Islamic public service, and when officials fail to deliver services transparently and consistently, the value of *aminah* is consequently eroded.⁸⁰ (Al-Shāṭibī, A. I. 1997).

Consequently, policy ambiguity regarding the registration of unregistered marriages leads to a decline in the quality of public services in three key areas: efficiency (slow and inconsistent service), accountability (decisions lacking a clear legal basis), and fairness (unequal treatment of similar cases). When these three aspects are compromised, public services lose their fundamental role as a means of administrative justice and legal certainty. (Lipsky, M. 1980)

Overall, the findings confirm that policy ambiguity is not merely a matter of formal law but also reflects a crisis in the governance of public services at the grassroots level. Without regulatory reform and the standardization of procedures across institutions, public services in the field of family law will remain trapped in a pattern of inconsistency and subjectivity, which ultimately undermines the state's legitimacy as the guardian of justice and the public good.

CONCLUSION

The ambiguity regarding the respective powers of the Office of Religious Affairs (KUA) and the Religious Courts in the registration of unregistered marriages in Jakarta arises from the absence of clear standard procedures, meaning that policy implementation is heavily dependent on the discretion of frontline staff. This discretion is particularly evident in cases involving pregnancy, the status of children, or moral and social considerations that prompt the KUA to register or remarry unregistered couples without going through the *isbat nikah* mechanism as stipulated in national law. Variations in procedures between KUA offices, differing interpretations of jurisdiction, and weak technical guidelines further intensify the inconsistency in policy implementation. On the other hand, the role of the *kelurahan* as the initial administrative point of contact adds complexity, as the *kelurahan* can act as a facilitator or, conversely, an obstacle to the marriage legalization process, depending on the interpretation and attitude of its officials.

This ambiguity has a significant impact on legal certainty, the quality of public services, and the protection of citizens' rights, particularly those of women and children, who are the most vulnerable parties within social and administrative structures. Procedural irregularities lead to disparities in treatment across regions, undermine the principles of accountability and equality in public services, and blur the boundaries of authority between state institutions. Therefore, regulatory harmonization is required, along with the development of standard operating procedures (SOPs) binding on all KUA offices, improved vertical coordination between the Ministry of Religious Affairs and the Religious Courts, and the strengthening of public service officials' capacity so that marriage registration policies can be implemented consistently, fairly, and in line with the principles of legal certainty and the public interest.

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