

## Marriages Not Recorded Perspective Enakmen 8 Year 2004 State of Sabah and Marriage Law Number 1 Year 1974

Yunitasari<sup>1</sup>, Nihrul Bahi Al Haidar<sup>2</sup>, Ita Ma'rifatul Fauziyah<sup>3</sup>

<sup>1</sup>Universitas Islam Negeri Sunan Kalijaga Yogyakarta

<sup>2</sup>Universitas Islam Malang

<sup>3</sup>Universitas Islam Negeri Sunan Kalijaga Yogyakarta

yunitasarisamsul@gmail.com, nihrulhaidar@gmail.com, ita.fauziyah97@gmail.com

### Abstract

*Marriages that are not registered in perspective Ekamen 8 of 2004 in the State of Sabah and the Marriage Law No. 1 of 1974 is a normative study in order to answer two questions, namely: first, about the problem of what if a marriage is not registered while marriage is required to be registered, second, how is the analysis of a marriage that is not recorded the perspective of enactment 8 of 2004 and Law No. 1 of 1974. The data of this study were collected using the documentation method, then analyzed using a descriptive method, namely by using a deductive mindset. The results of this study conclude that if there is a marriage that is not registered then it violates the law and the perpetrator himself is subject to a fine of RM1000 (ringgit) or imprisonment for approximately 6 (six) months, as well as marriages that do not recorded in Indonesia, it will be subject to a fine of Rp. 7,500,000, - (Seven Million Five Hundred Rupiah). In line with the conclusions above, suggestions for the future should be further developed with research with the theme of marriage that is not recorded. And more mastering theories about his knowledge so that as a legal academic at least he can provide enlightenment or solve problems or cases that will occur in the future. will decrease, so that people will respect the applicable laws*

### Keywords

Innovation; e-government; local government; good government



### I. Introduction

Several laws and special Islamic Laws concerning the Law of Divorce and Reconciliation are enacted, namely: Law Number 1 of 1974 then there is the Compilation of Islamic Law, which used to be S.1937 No. 638 jo.1937 No. 610 and No. 116 jo. Government Regulation No. 45 of 1957 jo. Law No. 22 of 1946 jo. Law No. 32 of 1954.

Based on the Legislative Regulations, marriage registration is an action in carrying out an administration which is carried out by the authorities such as the KUA (Office of Religious Affairs) and is proven by the Marriage Book and Marriage Certificate of the person who married the marriage. also explains about Marriage Registration and there are several laws that regulate it.

Law Number 1 of 1974 concerning Marriage is enacted. So the basis for the application of Islamic law regarding marriage, divorce and reconciliation, of course, uses Law Number 1 of 1974, and emphasizes article 2 paragraphs (1 and 2) and the rules set out as follows:

1. It is said that a marriage is valid when it is carried out in accordance with the rules and the law that applies in his religion and belief.
2. Every marriage that exists must be registered according to the regulated laws.

If there is a marriage registration, then there is also a marriage that is not registered, so a marriage that is not registered is a marriage that is carried out in accordance with religious law but is not registered at the KUA (Religious Affairs Office), there are two terms of marriage that are not registered and marriages that are not recorded. If a marriage is not recorded, then there is no intention to intentionally not register the marriage. Meanwhile, marriages that are not registered contain the intention to intentionally not register their marriages. So the two words are similar but have different meanings.

In the Qur'an Surah An-Nisa verse 21 which reads:

أَفْضَىٰ لِي مِنْكُمْ أَمَّا لِنِيطًا

*"how will you take it back, even though some of you have mixed (mixed) with others besides husband and wife and they (wife) -your wife) has taken from you a strong agreement".*

If the debt contract or relationship due to another job must be recorded, the marriage contract which is so noble, noble and sacred is even more important to be recorded." important as marriage.

The concept of marriage that is not recorded in the Civil Law, namely Law Number 1 of 1974 then Government Regulation Number 9 of 1975 and then Enforcement Number 8 of 2004, the Islamic Family Law of the State of Sabah, is a law that regulates marriage and then how marriages are not recorded.

### 1.1 Problem Formulation

Based on the background of the problem described in the relation to the problem, then the main problem can be formulated that were raised in this study, namely:

1. What is the perspective of the enactment 8 of 2004 in the State of Sabah against unregistered marriages?
2. What is the perspective of the Marriage Law Number 1 Year 1974 against unregistered marriages?

### 1.2 Research Objectives

In line with the formulation of the problem written above, the thesis This aims as follows:

1. To describe how marriages that are not registered are the perspective of the enactment of the 8 of 2004 in the State of Sabah.
2. To explain how unregistered marriages are the perspective of Law Number 1 of 1974.

## II. Research Method

**Methods** The research method used by the author in this journal is the Normative Method or it can also be called library research. This research uses library sources to explore theory, as well as to obtain data. In general, in legal research methods, there are two types of research, namely Doctrinal Normative and Non-Doctrinal Empirical. The clear difference between Doctrinal/Normative research and Non-Doctrinal/Empirical research lies in the research targets of the two methods. Doctrinal/Normative Research focuses more on Doctrine or Norms, while in Non-Doctrinal/Empirical research it focuses more on finding out about law in its application and social context. The differences in research between Doctrinal and Non Doctrinal have consequences for each step that must be taken, even though the methodological differences between the two are not different. However, the technical steps in the two studies are different. One emphasizes speculative-

contemplative and normative-qualitative analysis, while the other focuses on empirical-quantitative observation and analysis.

### **III. Result and Discussion**

#### **3.1 The definition of marriage registration**

From the point of view of language science, the word marriage comes from the word "marriage" which is originally from the translation of the Arabic word "marriage". In addition, there is another word used, namely "ziwaaj". And it contains two different meanings, namely the actual (haqiqat) and in the other, the figurative meaning (majaaz). In the true sense, namely "gathering", then in a figurative sense or (majaaz) namely aqd or "conducting a marriage agreement".

In Law Number 1 of 1974 Chapter 1 Article 1 it is stated that "marriage is an inner and outer bond between a man and a woman as husband and wife with the aim of forming a happy and eternal family (household) based on God Almighty". Marriage is a contract which in its entirety is contained in the word marriage or tazwij and is a sacred ceremonial speech.

Marriage registration is an administrative act based on the applicable laws and regulations carried out by the authorized agency (Office of Religious Affairs for those who are Muslim and the Office of Civil Registry for those of non-Muslim religions) which is marked by the issuance of Marriage Certificates and Marriage Books for the bride and groom.

There are several terms of marriage used in society that are contrary to the provisions of the registration of marriages above. It is important to discuss these terms to show the forms of deviation that occur in society from the provisions for recording marriages that have been outlined by law.

The term sirri marriage we often hear people often call it a marriage that is carried out secretly and without being registered at the District Office of Religious Affairs. Umar bin Khattab once punished sirri marriages because the so-called sirri marriages at that time were hidden marriages and did not meet the requirements and pillars of marriage in Islamic law. This case is considered illegal and the perpetrator is convicted of adultery and must be bound.

#### **3.2 The legal basis for**

Registering marriages is a rule regulated in several laws and these laws clearly explain that it is obligatory to register marriages, and these laws are:

- a. Law Number 22 of 1946 concerning registration of marriages, divorce, and Refer.;
- b. Government Regulation Number 9 of 1975 concerning the Implementation of Law Number 1 of 1974 concerning Marriage;
- c. Islamic Law Compilation;
- d. Law Number 23 of 2006 concerning Population Administration;
- e. HMPABP Bill;

#### **3.3. According to Law Number 1 of 1974**

The definition of "unregistered marriages" is different from "sirri marriages". What is meant by "unregistered marriage" in this paper is a marriage that meets the pillars and conditions in accordance with Islamic law, but is not registered or has not been recorded at the Office of Religious Affairs (KUA) as a unit of Technical Implementation Service

(UPTD) Implementing Agencies in the District area. local government, as stipulated in Law Number 23 of 2006 concerning Population Administration.

The term “not recorded” is not the same as the term “not recorded”. The two terms have different meanings. The term "unregistered marriage" means that the marriage does not contain the element "deliberately" that accompanies a person's intention or intention not to register his marriage. The term "unregistered marriage" contains bad intentions or intentions from the husband, especially those who mean that marriage is "deliberately" not registered. Because of that, the writer equates “unregistered marriages” with “unregistered marriages” which is different from unregistered marriages.

As already stated, “unregistered marriages” are different from “sirri marriages”. Because what is meant by "unrecorded marriage" in this paper is a marriage that has fulfilled the pillars and conditions based on Islamic law. According to the Marriage Law in Indonesia, if a marriage is legally valid, then it is legal according to the legislation. “Unregistered marriages” are legal according to the laws and regulations because they are in accordance with the Islamic Marriage Law in force in Indonesia. Based on Article 2 Paragraph (1) of Law Number 1 of 1974 in conjunction with Article 4 of the Compilation of Islamic Law (as ius constitutum).

Sanctions Based on the Marriage Law Number 1 of 1974 in this law it does not explain how the marriage is if it is not registered in this Law, only discussing that the marriage should be registered. For marriages that are not recorded, it is clarified in Government Regulation No. 9 of 1975 concerning the implementing regulations of Law No. 1 of 1974 article 45 letter (a) which reads: "Whoever violates the provisions stipulated in Article 3.10 paragraph (3) , 40 This government regulation is punishable by a maximum fine of Rp. 7,500 (seven thousand five hundred rupiah)”.

### **3.4 Marriages that are not registered according to Enakmen 8 of 2004 Islamic Families in the State of Sabah**

As previously discussed in Malaysia, even though there is a law or law that stands there, there are still violations and marriages such as sirri, mut'ah marriages occur. For those who violate the existing legal rules, they will be subject to a penalty or punishment by paying RM1,000 (one thousand) or the equivalent of Rp. 3,400,000,00;- or can be sentenced to imprisonment for six months.

In general, marriages that are not registered can be classified into two categories according to the convenience, namely the first category is a marriage which is held not in front of the registrar where the fault is that it is the couple who wants to get married, while the second category is a marriage that is carried out without permission from the Sharia Court. This case includes cases of polygamy, underage marriage, widow marriage and marriage that uses a guardian or guardian judge. Therefore, the marriage can be carried out if it manages to get permission from the party.

Therefore, based on Enabling 8 of 2004, the author categorizes that marriages that are not registered are due to errors including:

#### **1. Errors in the marriage contract.**

It means that a marriage that has been held is valid because it is not carried out according to the applicable law, this is as with section 40 which reads as follows: "All forms of marriage that are held without the truth of the marriage registrar are a mistake and may be categorized as marriages that do not follow procedures. Spouses shall be subject to a fine not exceeding one thousand ringgit or imprisonment not exceeding six months or both.

2. Permautautinan (people who live in a country, but are not citizens) there are two mistakes in this mastautin point, namely the first when the marriage contract is carried out without permission it is carried out with a woman who lives in the territory of the alliance, then the question arises as to what permission is meant here? What is meant by permission here is to carry out a marriage contract without permission from the marriage registrar, divorce and Rujuk (registrant).
  3. Making false statements to be able to marry The Islamic family before the majlis contracted this
  4. Performed a marriage contract to be able to perform polygamy without permission.
- Opinion of Legal Experts Regarding Unregistered Marriages

### 3.5. Bagir Manan

Bagir Manan argues that a marriage is said to be valid if it has complied with the provisions of Article 2 paragraph (1) of Law Number 1 of 1974, which is legal according to religion, which has legal consequences as well. Marriage registration as stipulated in article 2 paragraph (2) of Law Number 1 of 1974, does not show equal qualifications, which means that the validity of marriage according to religion is the same as registration. According to Bagir Mannan "not so" he argues that marriage according to each religion (religious requirements) is the sole requirement for a valid marriage, for the following reasons:

First, article 2 paragraph (1) explicitly states, "a marriage is legal if it is done according to each religion". A very clear formulation (plain meaning), so it is impossible to interpret, add or subtract.

Second, the explanation of article 2 paragraph (2) states: "the recording of each marriage is the same as recording important events in a person's life, such as births, deaths.

Based on the explanation of Article 2 paragraph (2) above, birth registration, death registration, as well as marriage registration are only seen as important events, not legal events. Volcanoes erupt, tsunamis are important events but not legal events. Likewise with marriage registration according to Law Number 1 of 1974, it is not a legal event or legal requirement but because marriage as a legal event is determined by religion, therefore (marriage registration) is not necessary and will not have legal consequences, let alone can override the validity of a marriage. marriage.

"Unregistered marriages" should be registered at the KUA, but marriage registration is not a legal event, but an important event, as well as births, deaths and other events. As explained in Article 1 number 17 of Law Number 23 of 2006 concerning Population Administration.

### 3.6 MUI Ma'ruf Amin's fatwa

On marriages that are not registered in the community, some say it is legal and some are invalid, therefore the MUI issued a fatwa regarding underhanded marriages, and according to the opinion of MUI (Indonesian Ulema Council) is of the opinion that if marriages that are not registered or A siri marriage is legal if the intention is to build a sakinah mawaddah warrahma family, and of course the conditions and pillars of marriage are fulfilled, but the marriage may become unlawful if there is harm or negative impact. said the chairman of the MUI Fatwa Commission Ma'ruf Amin at a press conference in Jakarta (30/5/2006).



### **3.7 Mahmud MD (Chairman of the Constitutional Court)**

In the opinion of Mahfud Md as the Chairman of the Constitutional Court, he stated that he agreed that if the perpetrators of siri or those who did not register their marriages were subject to criminal law, why did he agree with this because of the basis of unregistered marriages or unregistered marriages? harming children and women, press conference at the Court building (Tuesday/16/2). Not only that, children born from unregistered marriages are not recognized by the law, not only that, even though Islamic law varies, all rules must be applied in order to achieve a life that is beneficial and benefits the people, so this useful rule must take precedence over other rules. harm society. In other words, Mr. Mahfud Md does not agree with this unregistered marriage because it is harmful to his wife and children.

### **3.7 Doctor Harifin A. Tumpa (chairman of the Supreme Court in 2011)**

Then according to the opinion of Doctor Harifin A. Tumpa (chairman of the Supreme Court in 2011) said that unregistered marriages are a common symptom and are based on good faith or because indeed there is an emergency factor, therefore the Judge should really consider it in deciding the case.

Analysis of unregistered marriages from the perspective of enactment 8 of 2004 State Sabah and the Marriage Law Number 1 of 1974

As previously discussed in Malaysia, even though there is a law or law that stands there, there are still violations and marriages such as sirri, mut'ah marriages occur. For perpetrators who also violate the existing legal rules, they will be subject to a penalty or punishment by paying one thousand ringgit or the equivalent of Indonesian money of Rp. 3,400,000,00;- or can be sentenced to imprisonment for six months.

As explained in chapter three, those who make mistakes in the enactment are people who do not register or register their marriages properly and among those mistakes are errors related to polygamy, underage marriage, marriage of a widow, and marriage that uses a guardian king or guardian judge. This regulation was made to guard or regulate the marriage law there and so also includes the marriage procedure there.

a. For example, errors related to the Marriage Contract.

For this rule, it has been explained in section 40 of the Islamic Family Law that marriages must be carried out in front of a marriage registrar, if this is violated, it will definitely be subject to a fine of RM 1000 or imprisonment not exceeding 6 (Six months).

Usually this often happens for couples who marry from different countries, for example the case of the Hasmah bint Sharie pair against Juhari bin Abdul Ghani, this case is about whether the marriage they carried out in Thailand was legal or not, after they held their marriage first in Thailand then they returned to Malaysia to file a divorce for this case, it is necessary to refer to the 1985 Islamic Family Administration Enforcement which first looked at section 10 and reviewed whether their immediate marriage had complied with Islamic sharia law or not, then in the second section, namely section 107 paragraph (1 ) for marriages that take place abroad, it is necessary to carry out itiraf first before the marriage ceremony takes place at the embassy, high command or consul official in Malaysia under section 22. and in this case the judge of the Shariah court decided that the marriage took place in Thailand and used an authorized wali am to marry women who are disconnected from their guardians is legal according to sharia law.

b. Permastautinan (people who live in a country, but are not citizens)

An example is the case of Sharudin bin Hamzah. The Court of Appeal rejected the respondent's application for ratification of marriage on the grounds that both parties do not live in Sabah, the first respondent is from Perlis and lives in Sabah, while the second respondent is from Kelantan and lives in Sabah as well. The court cannot decide that they may marry according to sharia law, both of them should apply at the court of the fellowship area where they live, and the court of appeal will issue a letter so that they can make the application at the sharia court of Sabah where they maintain this as per section 20 of the Act on Islamic Family Law (union territories) 1984.

c. Polygamy without permission

This error about polygamy often occurs in society, as we know in Malaysia to practice polygamy is a complicated and long process, such as having to attach reasons why marriage. For what reasons, polygamy must be done, and not only for reasons but also requires permission from the first wife, then commitment in carrying out family responsibilities.

And the mistake that occurs in society is that husbands practice polygamy without the permission of the first wife, this is done so that there is no quarrel between the first and second wives. Therefore polygamy is carried out without the wife's permission and this violates Section 40 and Section 123 of the Deed of the Islamic Family Law (areas of association) 1984, if a marriage is carried out with anyone prohibited in part II, it will be subject to punishment. This is in accordance with section 39 of the Enforcement 8 of 2004, the 2004 Islamic family law in the State of Sabah regarding marriage contracts that are not allowed, for this perpetrator is subject to a sentence of RM 1000 (Ringgit) or imprisonment of 6 (six) months.

An example of a case is Harun bin Malik against Nur Aisyah Binti hisyam, the Shariah court decided that the petition for polygamy by the applicant was rejected, the court considered two things, namely the first: that the applicant's reason for polygamy was reasonable and supported by the first wife, secondly the wife's ability first for polygamy and the husband's ability to provide for the two wives, but the Judge refused for reasons of doubt that the applicant could bear the life of polygamy and be responsible for his family, the Sharia Court Judge not only granted it but looked at the aspects of the requirements for polygamy so that those who want to be polygamous are not arbitrary.

From the examples of cases above, it is clear that the State of Malaysia is a country that has very strict laws in implementing the registration of marriages, even though there are still many who carry out marriages without the KUA truth. For people who do not register their marriages or in Indonesian, the marriages that are not registered will be subject to sanctions in the form of a fine of RM1000 (Ringgit) or imprisonment of 6 (six) months or can also be seen from the case.

Furthermore, marriages that are not registered in Indonesia or which are more familiar in the community are called unregistered marriages, these unregistered marriages are not legal in the community, and the validity of marriages is not recognized in front of the State. As already discussed, in Malaysia the language used is unregistered marriages, but in Indonesia it is unregistered marriages.

The validity of a marriage in Malaysia is if the conditions and pillars of marriage are fulfilled, this is in accordance with Section 11: a legal marriage "a marriage is invalid unless all the necessary conditions, according to sharia law, are fulfilled".

According to the perspective of Law Number 1 of 1974 marriages that are not registered with unregistered marriages are different because what is meant by "unregistered marriages" are marriages that meet the pillars and conditions based on Islamic law. According to the Marriage Law in Indonesia, if a marriage is legal according to the syar'i

law, then of course it is also legal according to the statutory regulations. So marriages that are not recorded are legal according to the laws and regulations because they are in accordance with the Islamic Marriage Law in force in Indonesia based on Article 2 paragraph (1) of Law Number 1 of 1974 in conjunction with Article 4 of the Compilation of Islamic Law (as *ius constitutum*).

Law Number 1 of 1974 does not explain how the punishment for perpetrators who commit marriages without being registered in this Marriage Law only explains that marriages must be registered in accordance with article 2 paragraph (2) which reads "Every marriage is recorded according to applicable laws and regulations."

However, in Indonesia itself, there is actually a discussion on punishment for perpetrators who carry out this unregistered marriage in the decision stipulated by the Minister of Religion Law Number 22 of 1946 which contains sanctions for perpetrators who do not register their marriages, and impose divorce and reconciliation which are not registered. .

In article 3 paragraph (1) of Law Number 22 of 1946 which reads "whoever performs a marriage contract with a woman not under the supervision of the employee referred to in paragraph (2) article 1 or her representative, shall be punished with a fine of Rp. 50,- (fifty rupiah)". Article 3 is an administrative violation, not a punishment or criminal crime, only that the law applies to areas outside Java and Madura. Then on November 21, 1946, Law Number 32 of 1954 was issued concerning the enactment of the Law of the Republic of Indonesia Number 22 of 1946 concerning the Registration of Marriage, Divorce, and Reconciliation in all areas of Java and Madura.

The essence of article 3 is that the first is if someone marries or divorces or reconciles without registering the marriage registrar at the KUA, he will be subject to a fine of Rp. 50, - up to Rp. 100, - or confinement for those who marry under hand. Then the second for the VAT party will also be subject to a fine of Rp. 100, - or imprisonment for a maximum of 3 months if they receive more than the stipulated administrative fee.

According to the Circular of the Supreme Court (SEMA) No.74K/Sip/1969, coinciding with June 14, 1969, the value of the money must be adjusted to the price of gold. 33 the price of gold is considered to be Rp. 2, - per gram divided by a fine of Rp. 50, - equal to 25 grams of gold or a fine of Rp. 100 equals 50 grams of gold. if 34 the calculation is the imposition of a fine: Rp. 50,- for couples who violated the assumption that the current gold price was IDR 2,- per gram Total equal to 25 grams of gold, assuming the current gold price was IDR 300,000 per gram, the total fine today is IDR 7,500,000 (Seven million five hundred rupiah).

The marriage should be registered according to the procedure even though this marriage has been regulated in Law Number 1 of 1974 Juncto article 2 paragraph (1) Government Regulation Number 9 of 1975, there are still many cases of marriages that are not registered or are familiar in the community in Indonesia. Call it *sirri* marriage, for example, the case of *sirri* marriage which was carried out by Aceng Fikri, the former Garut Regent who married a woman named Sinta, and Sheikh Puji who married an underage woman named Ulfa.

The marriages listed above are marriages that often occur in society and these are all marriages that are not registered, for more clearly in understanding the marriages above, it will be explained globally as follows:

a. *Sirri*

marriage *Sirri* marriage is a marriage performed by a man and a woman, they marry but they do not register it in the (KUA), but in religion In Islam, this marriage is valid because the marriage is in accordance with the *Munakahat fiqh*, fulfilled for the



elements are just that in the eyes of the state in front of the applicable law or law it is not valid.

They are considered to have no legal force, if there is a dispute they fight and eventually divorce, the Religious Court cannot accept and examine their case because there is no evidence that they have married.

b. Marriage Mut'ah (Contract)

marriage is a marriage that has a time limit, if it has reached the time limit, the marriage will also end without a divorce process in court. During the time of the Prophet Muhammad, this mut'ah marriage was permitted but only during the Tabuk war, after that the marriage was forbidden.

c. Misyar Marriage Misyar

marriage is a marriage that occurs because of changing times, where this marriage is carried out by a woman who has a career and is a bear and is wealthy where she feels she does not need a man to protect her and earn her a living, so she marries only to be able to have sex and when she does not need her husband then she will not call her husband, this marriage does not live in the same house if the woman needs to have sex then she will call the man she married the misyar.

Basically, the practice of misyar marriage is the same as marriage in general, the elements of marriage are fulfilled, but this marriage is not registered so legally this marriage is not valid and violates the law.

Sirri marriages have often occurred in the community and are legal even though they are not registered, although we know that there is a law that regulates it, but we cannot blame one hundred percent on the community because since the establishment of Law Number 22 of 1946 in conjunction with Law No. Number 32 of 1956 has never been enforced or implemented by the government and law enforcers in a real and clear way, especially the Religious Courts and the Office of Religious Affairs which manages Marriage. And in enforcing the law regarding the rules of marriage, the laws of Indonesia and Malaysia are very different. In Malaysia, they openly apply the rules regarding the registration of marriages and the punishments, but in Indonesia they do not.

Actually, in Indonesia itself, there is a history of reforming the rules regarding sanctions for perpetrators of unregistered marriages, namely about criminal sanctions for people who have unregistered marriages, and this is regulated in the HMPABP Bill, namely the Material Law Draft. Religious Courts in the Field of Marriage. What is stated in Article 143 which reads as follows: "Everyone who intentionally holds a marriage not before the Marriage Registrar as referred to in Article 5 paragraph (1) shall be sentenced to a maximum fine of Rp. 6,000,000 (six million rupiah). rupiah) or a maximum imprisonment of 6 (six) months.

Then Article 148 states that: "A marriage registrar who violates his obligations as referred to in Article 4 is subject to a maximum imprisonment of 1 (one) year or a maximum fine of Rp. 12,000,000, - (twelve million rupiah)", in Article 148 This punishment is for marriage registrar officials who violate their obligations.

In order for the registration of marriages to be orderly and run according to the applicable rules, the author agrees that if the laws in Indonesia are enforced as applicable laws in Malaysia, strict laws, clear rules and strictly enforced, there is no legal leniency so that people can also comply. that rule. So this HMPABP Bill can be used as a solution for people who have unregistered marriages, because the punishment made is expected to create a deterrent effect on people who take the law lightly and they become arbitrarily in Indonesia, as we know if Indonesia is a country that has applicable laws, norms and rules.

In the opinion of Mahfud Md as the Chief Justice of the Constitutional Court, he stated that he agreed if the perpetrators of siri or those who did not register their marriages were subject to criminal law, why did he agree with this because on the basis of unregistered marriages or unregistered marriages it was detrimental to children and women, press conference at the Court building (Tuesday/16/2). Not only that children born from unregistered marriages are not recognized by the law, not only that even though Islamic law varies, all rules must be applied in order to achieve a life that is beneficial and benefits the people so this useful rule must take precedence over other rules. harm society.

#### IV. Conclusion

Marriages that are not registered in the perspective of Enabling 8 of 2004 in the State of Sabah are that there is already a law or law that stands there, but there are still violations and marriages such as sirri, mut'ah marriages occur. For perpetrators who also violate the existing legal rules, they will be subject to

a penalty or punishment by paying one thousand ringgit or the equivalent of Indonesian money of Rp. 3,400,000,00;- or can be sentenced to imprisonment for six months. Therefore, marriages that are not registered there are prohibited and there are sanctions for those who violate them.

In general, marriages that are not registered can be classified into two categories according to the convenience, namely the first category is a marriage which is held not before the registrar where the fault is that it is the couple who wants to get married, while the second category is a marriage that is carried out without permission from the Sharia Court. This case includes cases of polygamy, underage marriage, widow marriage and marriage that uses a guardian or guardian judge. Therefore, the marriage can be carried out if it manages to get permission from that party.

Then marriages that are not registered according to the perspective of Law Number 1 of 1974, namely, that marriages that are not registered before the marriage registrar are invalid, in accordance with article 2 paragraph (1) and (2) that it is said that marriage is legal if it is carried out in accordance with religious rules and the second one is registered And the same as in Malaysia that in Indonesia also provides sanctions for perpetrators who do not register their marriages. That is regulated in the decision stipulated by the Minister of Religion Law Number 22 of 1946 which contains sanctions for perpetrators who do not register their marriages, and impose divorce and reconciliation which are not registered. Then in article 3 paragraph (1) of Law Number 22 of 1946 which reads "whoever performs a marriage contract with a woman not under the supervision of the employee referred to in paragraph (2) article 1 or her representative, is sentenced to a fine of Rp. 50, -(fifty rupiah)" which was then adjusted to the price of gold to Rp. 7,500,000,- (Seven Million Five Hundred Rupiah).

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