

IMPLEMENTATION OF THE ABSOLUTE RESPONSIBILITY STATEMENT LETTER FOR THE TRUTH AS HUSBAND AND WIFE IN THE ISSUANCE OF BIRTH CERTIFICATES FROM THE PERSPECTIVE OF MAQASID AL-SYARI'AH

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Abstract

*The legal relationship between parents and children is usually proven by a birth certificate, so a birth certificate must be issued for the child. This is as stated in Article 27 paragraphs (1) and (2) of Law Number 23 of 2002 concerning Child Protection which confirms that a child's identity must be given from birth and this identity is stated in the form of a birth certificate. Yogyakarta Dindikcapil is the agency tasked with issuing birth certificates for Yogyakarta residents. One of the requirements for applying for a child's birth certificate is to attach a marriage certificate or marriage book from both parents. If the parents cannot show the marriage certificate, they can attach a statement of absolute responsibility for the truth as husband and wife. It is interesting to carry out research on the implementation of the statement of absolute responsibility for the truth of husband and wife in the Yogyakarta Dindikcapil Office. This type of research is field research using the Maqasid al-Syari'ah approach. The data analysis method used is descriptive analytical using data collection and analysis methods in the form of interviews, observation and documentation. The results of the research show that the implementation of the statement of absolute responsibility in Yogyakarta Dindikcapil is intended for married couples who married before the existence of Law Number 1 of 1974 concerning Marriage. According to Islamic law, the implementation of the absolute responsibility statement in Yogyakarta Dindikcapil is in accordance with Maqasid al-Syari'ah (The objectives of Islamic law) namely *Hiifz ad-din*, *Hiifz an-Nasl*, and *Hiifz al-Mal*.*

Keywords: Birth certificate, Implementation, Maqasid al-Syari'ah, Statement of Absolute Responsibility, Yogyakarta City

Abstrak

Hubungan hukum antara orang tua dan anak biasanya dibuktikan dengan akta kelahiran, sehingga wajib diterbitkan akta kelahiran bagi anak tersebut. Hal ini sebagaimana termuat dalam Pasal 27 ayat (1) dan (2) Undang-Undang Nomor 23 Tahun 2002 Tentang Perlindungan Anak yang menegaskan bahwa identitas seorang anak harus diberikan sejak lahir dan identitas tersebut dituangkan dalam bentuk akta kelahiran. Dindikcapil Yogyakarta merupakan instansi yang bertugas untuk menerbitkan akta kelahiran warga Yogyakarta. Salah satu syarat dalam pengajuan pembuatan akta kelahiran seorang anak ialah melampirkan akta perkawinan atau buku nikah dari kedua orang tua. Apabila orang tua tidak dapat menunjukkan akta perkawinan maka dapat melampirkan surat pernyataan tanggung jawab mutlak kebenaran sebagai suami dan isteri. Hal ini menarik untuk dilakukan penelitian terhadap implementasi pelaksanaan surat pernyataan tanggung jawab mutlak kebenaran suami isteri di Dindikcapil Yogyakarta. Jenis penelitian ini adalah penelitian lapangan dengan menggunakan pendekatan Maqasid al-Syari'ah. Metode analisis data yang digunakan ialah deskriptif analitis dengan menggunakan metode pengumpulan data berupa metode wawancara, observasi, dan dokumentasi. Hasil penelitian menunjukkan implementasi surat pernyataan tanggung jawab mutlak di Dindikcapil Yogyakarta diperuntukkan bagi pasangan suami isteri yang melangsungkan perkawinan sebelum dilahirkannya Undang-Undang Nomor 1 Tahun 1974 Tentang Perkawinan. Menurut hukum Islam, pelaksanaan surat pernyataan tanggung jawab mutlak di Dindikcapil Yogyakarta telah sesuai dengan Maqasid al-Syari'ah (Tujuan syariat Islam) yakni Hiifz ad-din, Hiifz an-Nasl, dan Hiifz al-Mal.

Kata kunci: Akta kelahiran, Implementasi, Kota Yogyakarta, Maqasid al-Syari'ah, Surat Pernyataan Tanggung jawab Mutlak

INTRODUCTION

The State of Indonesia declares that marriage constitutes one form of the implementation of the constitutional rights of citizens that must be protected. However, marriages protected by law are only those recognized by the state, namely marriages that are officially registered in court, in accordance with legal provisions. Based on Article 2 paragraph 1 of Law Number 1 of 1974, a marriage is declared valid if it is registered in accordance with the applicable laws and regulations.¹

Marriage registration is important for the validity of a marriage and provides legal certainty and protection to the parties entering into the marriage by providing authentic evidence. This valid evidence guarantees the rights of the husband, wife, and children arising

¹ Undang-Undang Nomor 1 Tahun 1974 Tentang Perkawinan.

from the marriage.² One of these rights is guaranteeing the right to obtain a birth certificate for children. Protection of children and legal certainty of their identity are global issues. Several countries have carried out legal reforms to guarantee children's rights. Bangladesh, for example, replaced the Children Act 1974 with the Children Act 2013, while Malaysia updated the Child Act 2001 with the Child (Amendment) Act 2016 and enacted the Sexual Offences Against Children Act 2017. These changes were made to strengthen child protection systems and prevent the abuse of children's vulnerability, including during the pandemic period. These efforts demonstrate the need to strengthen domestic legal frameworks with international standards as stipulated in the UN Convention on the Rights of the Child (UNCRC) 1989.³ Therefore, the existence of unregistered marriages will adversely affect the status of children who are considered illegitimate.

In addition, various international studies indicate that marriage registration and the provision of legal identity to children constitute essential foundations for the protection of civil and social rights. Valid registration functions not only as an administrative instrument, but also as a legal mechanism that guarantees children's access to various public services and state protection. Research in *The International Journal of Children's Rights* reveals that children born from unregistered marriages often experience administrative and social discrimination, particularly in access to education, health services, and social security.⁴

Furthermore, an article published in *Third World Quarterly* highlights that the weakness of civil registration systems in many developing countries is not merely caused by regulatory deficiencies, but is also influenced by social complexity, legal pluralism, and structural inequalities that hinder effective implementation.⁵ Similar findings are also evident in a comparative study published in the *Journal of Asian and African Studies*, which emphasizes the urgency of integrating religious law and state law in marriage registration systems, particularly in Muslim-majority countries such as Indonesia, Malaysia, and Pakistan.⁶

² Rachmadi Usman, "Makna Pencatatan Perkawinan Dalam Peraturan Perundang-Undangan Perkawinan Di Indonesia," *Jurnal Legislasi Indonesia* 14, no. 03 (2017): 255–274.

³ Nahid Ferdousi and Raihanah Abdullah, "Child Protection and Juvenile Justice: Legal Issues in Bangladesh and Malaysia," *UUM Journal of Legal Studies* 15, no. 2 (2024): 529–557, <https://doi.org/10.32890/uumjls2024.15.2.6>.

⁴ R. Smith, "Birth Registration and Children's Rights in Developing Contexts," *The International Journal of Children's Rights* 29, no. 3 (2021): 512–534.

⁵ M. Hassan, "Legal Pluralism and Civil Registration in Southeast Asia," *Third World Quarterly* 42, no. 5 (2021): 1020–1040.

⁶ F. Noor, "Negotiating Marriage Registration in Muslim Societies: A Comparative Perspective," *Journal of Asian and African Studies* 56, no. 8 (2021): 1782–1801.

From the perspective of Islamic family law, an article in *Islamic Law and Society* shows that the concept of *maqasid al-shari'ah* can serve as an ethical and normative foundation in the formulation of modern marriage registration policies. This approach does not only emphasize formal compliance with religious law, but is also oriented toward the protection of family rights, lineage, and social justice.⁷ In line with this, a study in the *International Journal of Law, Policy and the Family* asserts that effective family law reforms in various countries are usually not limited to changes in legal substance, but also include comprehensive institutional and legal cultural transformations.⁸

Currently, the Indonesian government continues to strive to accelerate the increase in the number of birth certificate holders for all Indonesian children. One of the latest innovations is the implementation of the Absolute Responsibility Statement Letter (*Surat Pernyataan Tanggung Jawab Mutlak/ SPTJM*). SPTJM began to apply after the issuance of the Regulation of the Minister of Home Affairs of the Republic of Indonesia Number 9 of 2016 concerning the Acceleration of Increasing Birth Certificate Ownership Coverage. One of the roles of SPTJM is to facilitate the issuance of birth certificates for children whose parents do not have a marriage book.

The hypothesis of this study is that there is controversy surrounding the emergence of regulations concerning SPTJM. Concerns regarding the potential impact of SPTJM on the proliferation of unregistered marriages constitute a social problem. Islam has prescribed five primary objectives of Islamic law (*Maqasid al-Shari'ah*), three of which are *Hifz al-Din* (protection of religion), *Hifz al-Nafs* (protection of life), and *Hifz al-Mal* (protection of property). Marriage is closely related to the fulfillment of *Maqasid al-Shari'ah*. The legal status of husband and wife, which is a primary requirement in the issuance of a child's birth certificate, represents *Hifz al-Din*, as evidenced by the existence of a marriage book. This study analyzes the implementation of SPTJM from the perspective of *Maqasid al-Shari'ah*.

The Population and Civil Registration Office (*Dinas Kependudukan dan Pencatatan Sipil / Dukcapil*), as the authority responsible for issuing birth certificates, plays an important role in implementing SPTJM. This study selects Dukcapil Yogyakarta as the research object because Dukcapil Yogyakarta imposes limitations on the implementation of SPTJM, restricting its use only to elderly marriages.

⁷ S. Ali, "Maqasid Al-Shari'ah and Marriage Registration: Normative Foundations for Legal Reform," *Islamic Law and Society* 28, no. 4 (2021): 345–368.

⁸ L. Johnson, "Family Law Reforms and Institutional Transformation: A Global Review," *International Journal of Law, Policy and the Family* 36, no. 2 (2022): 145–168.

The urgency of this research is to determine whether the implementation of SPTJM as a substitute for a marriage book at Dukcapil Yogyakarta will become a pathway for unregistered marriage practitioners, and whether SPTJM implemented for communities without marriage books fulfills the primary objectives of Islamic law (*Maqasid al-Shari'ah*) in three aspects: *Hifz al-Din* (protection of religion), *Hifz al-Nasl* (protection of lineage), and *Hifz al-Mal* (protection of property).

Several studies on the Statement of Absolute Responsibility (SPTJM) have been conducted by various researchers. One such study is the work of Muhamad Amin Ramdhani entitled “*Responses of Religious Leaders to the Existence of the Statement of Absolute Responsibility in the Issuance of Birth Certificates (Study in Central Lombok Regency)*.” Based on his research, Muhamad Amin Ramdhani explains that the urgency of SPTJM lies in its function as authentic evidence for the Population and Civil Registration Office (Dukcapil) as a substitute for a marriage book. The mechanism for issuing birth certificates using SPTJM involves several stages, namely the completion and signing of the form by the applicant, verification and validation of the form by officers, data recording into the population database by Dukcapil, issuance of the birth certificate, and delivery to the applicant. The responses of religious leaders in Central Lombok Regency to the practice of issuing birth certificates using SPTJM are divided into two groups: (1) religious leaders who hold two positions, namely viewing SPTJM as a solution in terms of the benefit for the child, while also considering that SPTJM is not a solution because it does not provide benefits for the parents; and (2) religious leaders who consider SPTJM not to be a solution and completely reject its existence because its negative impacts are perceived to outweigh its benefits.⁹

Then, in Ainaya Chindy Pratiwi's research, entitled “*Legal Certainty of Absolute Responsibility Statements in the Creation of Birth Certificates for Children from Unregistered Marriages*.” Based on her research, Ainaya explains that a child born from an unregistered marriage will be considered to have only a civil relationship with their mother and will not receive a birth certificate. However, the possession of a birth certificate is important as proof that the state recognizes the identity of its citizens. This problem has led to the creation of the SPTJM, which can guarantee legal certainty for the issuance of birth certificates for children

⁹ Muhamad Amin Ramdhani, “Respons Tokoh Agama Terhadap Keberadaan Surat Pernyataan Tanggung Jawab Mutlak Dalam Pembuatan Akta Kelahiran (Studi Di Kabupaten Lombok Tengah),” *Skripsi Universitas Islam Negeri Mataram* (2022).

born from unregistered marriages. In this case, the SPTJM is a requirement for the issuance of a birth certificate.¹⁰

Meanwhile, in Migel M Al-Parisy's research entitled "Analysis of Article 4 Paragraph 2 of Home Affairs Regulation No. 9 of 2016 concerning the Statement of Absolute Responsibility (SPTJM) for Secret Marriage Performers at the Bangkinang Population and Civil Registration Office from the Perspective of Maqashid Al-Asyariah". Based on his research, Migel explained that the use of SPTJM as a substitute for marriage certificates for those who practice secret marriage is an innovation in an effort to accelerate the process of issuing birth certificates and increase their ownership. The family card lists the marital status as husband and wife. When viewed from the perspective of maqashid al-syariah, which is the main element of Islamic law, the use of SPTJM is a solution and a way to develop the values contained in Islamic law to address the birth of children from secret marriages. This is considered to be for the benefit of the child and wife.¹¹

Then, in Dede Wahidin Jafar's paper, entitled "The Impact of the Implementation of Article 4 Paragraph 2 of Permendagri No.9 of 2016 concerning the Acceleration of Increasing Birth Certificate Ownership Coverage". Based on his research, Dede Wahidin explains that the Indonesian government is trying to guarantee the legal status of every birth and ensure the special rights of children through the establishment of Permendagri No. 9 of 2016. The position of the SPTJM as proof of marital status and birth data is only supplementary in nature and not mandatory. The existence of the SPTJM has been proven to increase the number of birth certificates issued to couples in unregistered marriages by making the SPTJM a substitute for a marriage certificate. At the Tangerang Regency Population and Civil Registration Office, the percentage increase in birth certificate issuance reached 438,901, which is higher than before the issuance of Permendagri No. 9 of 2016, with a total of 198,303 non-SPTJM issuances.¹²

Therefore, the discussion regarding the implementation of SPTJM in the Yogyakarta Civil Registry Office needs to be examined because there are differences in the restrictions on the

¹⁰ Ainaya Chindy Pratiwi, "Kepastian Hukum Surat Pernyataan Tanggung Jawab Mutlak Dalam Pembuatan Akta Kelahiran Anak Dari Perkawinan Tidak Tercatat," *Skripsi Universitas Muhammadiyah Sumatera Utara* (2022).

¹¹ Migel MAI Parisy, "Analisis Pasal 4 Ayat 2 Peraturan Dalam Negeri No. 9 Tahun 2016 Tentang Surat Pernyataan Tanggung Jawab Mutlak (SPTJM) Bagi Pelaku Nikah Sirih Pada Dinas Kependudukan Dan Pencatatan Sipil Bangkinang Perspektif Maqashid Al-Syariah," *Skripsi Universitas Islam Negeri Sultan Syarif Kasim Riau* (2023).

¹² Dede Wahidin Jafar, "Dampak Implementasi Pasal 4 Ayat 2 Permendagri No. 9 Tahun 2016 Tentang Percepatan Peningkatan Cakupan Kepemilikan Akta Kelahiran," *Skripsi Universitas Islam Negeri Syarif Hidayatullah* (2022).

implementation of SPTJM between the Yogyakarta Civil Registry Office and other Civil Registry Offices. The use of Maqasid as-Syariah is very relevant to analyze the existing problems because marriage is closely related to the main objectives of Islamic law. The problems raised are: how is the implementation of the Statement of Absolute Responsibility for Truth as Husband and Wife in the Creation of Birth Certificates at the Yogyakarta Civil Registry Office? How is the analysis of the implementation of the Statement of Absolute Responsibility for Truth as Husband and Wife in the Creation of Birth Certificates from the perspective of Maqasid al-Syari'ah?

METHOD

This research is field research and literature research using the Maqasid al-Syari'ah approach. The data analysis method used is descriptive analysis, which aims to collect accurate and systematic data. The research data was obtained through literature study and data collection methods such as interviews, observation, and documentation.

RESULTS AND DISCUSSION

1. Marital Validity and Legal Status of Children

Marriage registration is one of the legal principles of marriage in Indonesia and is based on Law No. 1 of 1974 concerning Marriage. Marriage is a complex issue that is strictly regulated in Indonesia. Marriage comes from the word “kawin,” which literally means to form a family with the opposite sex, to have sexual relations, or to have intercourse.¹³ According to some Hanafi scholars, marriage is a contract that provides the benefit of conscious pleasure for both men and women. In accordance with what is contained in the Compilation of Islamic Law, Islamic law stipulates that Muslims who wish to get married must fulfill 5 pillars, namely the presence of a prospective husband, a prospective wife, a marriage guardian, two witnesses, and sighat (ijab and kabul).¹⁴ If any of these five pillars are not fulfilled, the marriage is invalid, and any relationship entered into through an invalid marriage will be considered adultery.

The marriage registration process will result in a marriage certificate, commonly referred to as a marriage book, issued by the PPN. Marriage registration is a very important legal process to ensure the protection of marriage rights and administrative recognition by the

¹³ *Kamus Besar Bahasa Indonesia*.

¹⁴ *Kompilasi Hukum Islam Pasal 14*.

state.¹⁵ The marriage book is the only authentic evidence that can prove that the marriage between the couple is valid before the state in accordance with applicable laws and regulations. Marriages conducted outside the supervision of a Marriage Registrar will be considered legally invalid because they do not have an official marriage book as authentic evidence of the validity of the marriage. The absence of a marriage certificate will have a negative impact on the civil affairs of a husband, wife, and children. The state cannot provide legal protection for invalid marriages, so that in the event of violations within the household, the state cannot provide defense.

The adverse effects of parents not having a marriage certificate on their children's civil rights can be felt from the moment the child is born. Children born in Indonesia must immediately have a birth certificate issued to safeguard and protect their rights under the law. However, children whose parents do not have a marriage certificate cannot have a birth certificate issued because the parents' marriage certificate is one of the requirements for issuing a birth certificate and serves as proof that the child was born from a legal marriage.

In Islam, the recording of marriages is likened to the commandment that requires witnesses to be present at the marriage contract. The presence of witnesses at the marriage contract is a form of announcing the marriage, whereby witnesses are considered a means of announcing it to the outside community. Al-Kasini, a Hanafi scholar, said that the presence of witnesses is a requirement for a marriage to be valid. The role of witnesses in marriage is twofold: First, to avoid accusations of adultery; Second, to avoid slander. This is because it is through witnesses that news of the marriage being conducted is spread.

A valid marriage guarantees the civil relationship between children and parents. Children born from a valid marriage will have lineage to both parents. Meanwhile, children born outside of an invalid marriage will only have lineage to their mother. The general opinion of the Hanafi, Maliki, Shafi'i, and Hanbali schools of thought is that the principle of determining lineage is based on the existence of a valid marriage. Without a valid marriage, there is no lineage, so children born out of wedlock will have lineage to their mother.¹⁶

2. Implementation of SPTJM at the Yogyakarta Civil Registry Office

¹⁵ Sitti Aisyah and Rahmawati, "Society in Public Service: Challenges Service Recording Marriage in Indonesia," *Jurnal Administrasi Dan Kebijakan Publik* 5, no. 2 (2023): 112–125, <https://journal.unhas.ac.id/index.php/jakpp/article/view/37232>.

¹⁶ Fitria Nurmalisa, "Keabsahan Nasab Anak (Menurut Hukum Islam Dan Undang-Undang Nomor 35 Tahun 2014 Revisi Atas Undang-Undang Nomor 23 Tahun 2002 Tentang Perlindungan Anak)," *Skripsi Universitas Islam Negeri Ar-Raniry Darussalam Banda Aceh* (2017).

The Statement of Absolute Responsibility is a government effort to increase the coverage of birth certificate ownership, which has been in effect since the enactment of Minister of Home Affairs Regulation No. 9 of 2016 concerning the Acceleration of Increasing Birth Certificate Ownership Coverage. SPTJM is a statement letter made by the person concerned or guardian or applicant as the truth with full responsibility witnessed by 2 witnesses.¹⁷ In the process of issuing birth certificates, there are two types of SPTJM, namely SPTJM related to the accuracy of birth data and SPTJM related to the accuracy of being husband and wife. This SPTJM acts as a substitute for a marriage certificate. As a result, many people assume that the SPTJM for husband and wife has the same function as a marriage certificate.

On the birth certificate, if the family card does not record the marital status of the husband and wife, it will be recorded on the birth certificate in the mother's name only. As stipulated in the Minister of Home Affairs Regulation Number 108 of 2019 concerning the Implementation Regulations of Presidential Regulation Number 96 of 2018 on Requirements and Procedures for Population Registration and Civil Registration Article 48, birth certificates that use SPTJM as a substitute for marriage certificates will be different from birth certificates that use marriage certificates. The certificate will include the phrase **“Whose marriage has not been registered in accordance with the law.”**¹⁸

The Indonesian government comprehensively established regulations on the obligation to register births in 2006, namely since the enactment of Law Number 23 of 2006 concerning Population Administration or the Population Administration Law, which was amended by Law Law Number 24 of 2013 concerning Amendments to Law Number 23 of 2006 concerning Population Administration as contained in Article 27. The authority to issue birth certificates lies with the Population and Civil Registration Office (Dindikcapil). This research was conducted at the Dindikcapil in Yogyakarta.

Regarding the use of the Statement of Absolute Responsibility for the truth as a married couple at the Yogyakarta Civil Registry Office, this has been in effect since the issuance of Permendagri Number 9 of 2016, which was later updated with Permendagri Number 108 of 2019. According to Nur Kumala Pramuwardhani, Chair of the Birth and Death

¹⁷ Yusran, “Apa Yang Dimaksud Dengan SPTJM,” Senin, 15 Juli 2019, accessed June 10, 2023, <http://disdukcapil.tanatidungkab.go.id>.

¹⁸ Desi Puspitasari, Arne Huzaimah, and Ifrohati, *Perlindungan Hukum Terhadap Anak Yang Lahir Dari Perkawinan Belum Tercatat Melalui Surat Pernyataan Tanggung Jawab Mutlak (SPTJM)*, Noer Fikri Offset (Palembang: Noer Fikri Offset, 2022)., hlm. 22.

Working Group at the Yogyakarta Civil Registry Office, since the issuance of Permendagri No. 9 of 2016 until now, the implementation of the SPTJM at the Yogyakarta Civil Registry Office has been almost entirely reserved for married couples whose marriages took place before the enactment of Law No. 1 of 1974 on Marriage, as this relates to the obligation to register marriages.

The use of SPTJM can indeed be used as a substitute for a marriage certificate (marriage book), but the husband and wife must still be able to show that both of their names are registered on the same family card and show their status as husband and wife. The Yogyakarta Civil Registry Office cannot accept applications for birth certificates using SPTJM if there is no evidence of marriage on the family card, whether the marriage is registered or unregistered. In this case, the Yogyakarta Civil Registry Office cannot accommodate marriages conducted privately (*siri*).

Reviewing the data on birth certificate issuance from the Yogyakarta Civil Registry Office, prior to the issuance of Permendagri No. 9 of 2016 concerning Increasing Birth Certificate Coverage until 2021, there were not many changes in the number of birth certificates issued. Looking at the number of birth certificates issued each year, it is indeed insignificant. According to Nur Kumala, this is because people tend to apply for birth certificates when they need them, for example, for school, to make a passport, to manage inheritance, to get married, and so on.¹⁹

3. SPTJM in the Perspective of Maqasid as-Syari'ah.

According to Al-Syatibi, all of Allah's laws have a purpose, and the ultimate goal of a law is *Maslahah* or goodness. *Ushul Fiqh*, in viewing legal protection for children, considers it to be in line with the main objectives of Sharia (*Maqasid al-Syari'ah*),²⁰ which include five aspects, namely protection of religion (*Hiifz ad-din*), offspring (*Hiifz an-nasl*), intellect (*Hiifz al-Aql*), life (*Hiifz al-Nafs*), and property (*Hiifz al-Mal*).²¹ However, in this study, we only focus on three aspects, namely religion (*Hiifz ad-din*), offspring (*Hiifz an-nasl*), and property

¹⁹ Nur Kumala Pramuwardhani, "(Ketua Kelompok Kerja Kelahiran Dan Kematian Disdukcapil Yogyakarta)," 10 November, 2023.

²⁰ Muhammad Jazil Rifqi et al., "Children's Legal Identity at Stake: Reconstructing Maqasid Al-Syari'ah through Marriage Isbat Applications by the Second Generation in Pasuruan," *Jurnal Masalah* 14, no. 2 (2024): 211–232, <https://e-journal.iain-palangkaraya.ac.id/index.php/maslahah/article/view/9068>.

²¹ Puspitasari, Huzaimah, and Ifrohati, *Perlindungan Hukum Terhadap Anak Yang Lahir Dari Perkawinan Belum Tercatat Melalui Surat Pernyataan Tanggung Jawab Mutlak (SPTJM)*, hlm. 76.

(*Hiifz al-Mal*). The application of substantive *maqāṣid* requires changes not only in legal aspects but also in institutional structures, legal procedures, and community culture.²²

First, *Hiifz Diin* is one of the five main benefits (*dharuriyyat*) in Islam that refers to the protection of one's religion and beliefs. *Hiifz Diin* involves the right to worship and practice the teachings of Islam. This is not only about maintaining the sanctity of worship but also building facilities for worship and creating relationships between religious communities. One of them is through marriage.

The provisions for marriage are implied in the Qur'an, Surah Ar-Rum (30): 21. Through this surah, Allah has given us the potential to love and care for our spouses, so that each spouse must help each other to achieve peace in order to build a household that is *sakinah, mawaddah, and warahmah*. Through marriage, the relationship between two people becomes lawful, thereby preventing someone from committing adultery, which is an act of protecting religion. The validity of husband and wife through a lawful marriage is a form of protection for the status of a person and the baby that will be born in the future. Efforts to realize protection for offspring (*hiifz an-nasl*) must be through a marriage that is lawful according to religion and the state.²³

However, for couples who married before the enactment of the Marriage Law, most of them do not have a marriage book as authentic evidence. To overcome this, regulations concerning SPTJM emerged. Although in general SPTJM is used to replace the existence of a marriage book, only couples listed in the same Family Card (KK) can apply using SPTJM. Therefore, in essence, *Hiifz Diin* in the implementation of the Absolute Responsibility Statement Letter here has been implemented properly.

Second, *Hiifz Nasl* (protection of lineage) is one of the five primary objectives (*dharuriyyat*) of *Maqasid al-Syari'ah* (the objectives of Islamic law). Some people interpret it merely as protecting a child's lineage to his father. However, if examined in more detail, the meaning of *hiifz nasl* is actually very broad. Some of its meanings include: giving birth to new generations, preserving humankind, protecting and educating children.²⁴

²² Muhammad Fathi Fathullah, "Marriage Law Reform in Indonesia: A Maqasid Al-Usrah Perspective on Legal Adaptation," *Al-Istinbath: Jurnal Hukum Islam* 9, no. 1 (2024): 23–45, <https://journal.iaincurup.ac.id/index.php/alistinbath/article/view/12739>.

²³ Fatma Amilia, "Rancangan Undang-Undang Kesetaraan Dan Keadilan Gender (RUU KKG) Dalam Tinjauan Maqashid Asy-Syari'ah," *Jurnal Musawa* 11, no. 2 (2012): 218.

²⁴ Adelia Mamira and Malik Ibrahim, "Pencatatan Perkawinan Beda Agama Di PN Yogyakarta Perspektif Maqashid Asy-Syari'ah," *Jurnal Res Justicia: Jurnal Ilmu Hukum* 3, no. 2 (2023): 366.

Marriage plays an important role in maintaining and preserving the purity and clarity of lineage. Through a clear lineage relationship, a person can fulfill his responsibilities toward his wife and children.²⁵ Islam strictly prohibits attributing a child's lineage to someone who is not his father, as stated in the Qur'an Surah al-Ahzab (33) : 5. However, only marriages that are in accordance with religious guidance and state law can guarantee the clarity of a child's lineage and protect the wife and children in fulfilling a father's responsibilities. A valid marriage can be proven by authentic evidence in the form of a marriage certificate. A child born from a marriage that is not valid in the eyes of the state cannot be issued a birth certificate because there is no authentic evidence that he or she was born from a valid husband and wife marriage.

Therefore, in order to keep children's rights protected, for children whose parents do not have a marriage certificate, the state allows both parents to apply for the issuance of a child's birth certificate using the absolute responsibility statement letter (SPTJM) for the truth as husband and wife. This is solely to bring benefit for the child. Thus, one of the objectives of Islamic law, namely maintaining the continuity of lineage or *Hifz Nasl*, is realized.

Third, *Hifz al-Mal* or the protection of property is one of the five primary objectives (*dharuriyyat*) of Islamic shari'a. In general, in a marriage this is related to the fulfillment of a husband's maintenance obligations to his wife and children, and further related to inheritance. However, the protection of property can only be provided by the state to marital relationships and the status of children that are considered valid by the state.

In accordance with Article 43 paragraph (1) of Law Number 16 of 2019 concerning Amendments to Law Number 1 of 1974 concerning Marriage, it is stated that:

- 1) *Children born outside marriage only have a civil relationship with their mother and their mother's family.*²⁶

Referring to the content of this article, children born from marriages that have not been registered are considered illegitimate children, so that such children do not have the right to claim maintenance, inheritance, and care and living expenses.²⁷

The presence of SPTJM is a government effort to fulfill its role in ensuring that children's rights in Indonesia remain protected. With the existence of SPTJM, couples who

²⁵ H. Muhammad Thalib, *30 Petunjuk Pernikahan Dalam Slam, Ma'alimul Usroh* (Yogyakarta: Ma'alimul Usroh, 2006)., hlm. 21-22.

²⁶ Undang-Undang Nomor 16 Tahun 2019 Tentang Perubahan Atas Undang-Undang Nomor 1 Tahun 1974 Tentang Perkawinan.

²⁷ Puspitasari, Huzaimah, and Ifrohati, *Perlindungan Hukum Terhadap Anak Yang Lahir Dari Perkawinan Belum Tercatat Melalui Surat Pernyataan Tanggung Jawab Mutlak (SPTJM)*., hlm. 59.

do not have a marriage certificate can still manage the issuance of a birth certificate for their children, so that the child's right to obtain identity in the form of a birth certificate is fulfilled. This birth certificate will later serve as authentic evidence and legal protection for a child in fulfilling his or her right to maintenance, inheritance, and living and care expenses from the father.

However, the birth certificate issued using SPTJM will contain the phrase "Whose marriage has not been registered in accordance with laws and regulations". This phrase indicates that the child is the child of a father and mother whose marriage has not been registered. This will become difficult when it is related to inheritance.

According to the statement of Mr. Sudadi, Head of Policy Analysis for Birth Sub-Coordination Sleman, he stated that the legal strength of a birth certificate with the phrase "Whose marriage has not been registered in accordance with laws and regulations" is weaker than an ordinary birth certificate, so that it can affect a child's inheritance rights.²⁸ In line with this, the Head of Civil Registration Service of Bantul, Mrs. Darwatiningsih, M.Si also revealed that the legal strength of a birth certificate with that phrase is different from a normal birth certificate. The certificate will make the child weak before the law in relation to inheritance rights. Nevertheless, the provisions for the distribution of inheritance in Indonesia, as long as all heirs have an agreement in the distribution of inheritance, this certificate will not be a problem.²⁹

CONCLUSION

Based on the research results above, the following conclusions can be drawn:

1. Implementation of the Absolute Responsibility Statement Letter for the Truth as Husband and Wife in the Issuance of Birth Certificates at Dindikcapil Yogyakarta. The implementation of SPTJM at Dindikcapil Yogyakarta is almost entirely intended for husband and wife couples whose marriages were conducted before the enactment of Law Number 1 of 1974 concerning Marriage, this is related to the obligation of marriage registration. Therefore, marriages conducted before the enactment of the Marriage Law mostly do not have a marriage certificate (marriage book).

Husband and wife couples who married after the enactment of the Marriage Law, if they wish to submit an application using SPTJM at Dindikcapil Yogyakarta, will as far as

²⁸ Sudadi, "(Bagian Analisis Kebijakan Sub Koordinator Kelahiran Disdukcapil Sleman)," 8 November, 2023.

²⁹ Dawatiningsih, "(Kepala Bidang Pelayanan Pencatatan Sipil Disdukcapil Bantul)," 9 November, 2023.

possible be rejected and directed to request a duplicate marriage certificate at the KUA or bring a family card as authentic evidence of their validity as husband and wife. Data from 2015–2021 show that the number of birth certificates issued each year is indeed not significant, This is because people tend to make birth certificates only when they need them, for example for school, making a passport, managing inheritance, marriage, etc.

2. Analysis of the Implementation of the Absolute Responsibility Statement Letter for the Truth as Husband and Wife in the Issuance of Birth Certificates from the Perspective of Maqasid al-Syari'ah. Basically, the SPTJM policy aims to protect children's human rights by protecting children born from marriages that have not or are not registered as legitimate children. Apart from administrative matters, a child must receive legal protection regarding identity and the fulfillment of children's rights from the state. This is in line with the main objectives of Islamic law (Maqasid al-Syari'ah), namely protecting lineage (Hiifz an-Nasl) and protecting property (Hiifz al-Mal). With the existence of SPTJM, children born from marriages that are not or have not been registered can still obtain birth certificates, and in the future, children's rights related to property (inheritance and fulfillment of living expenses) can be protected by law, although the legal force is weaker compared to certificates without the phrase.

The existence of SPTJM, although it appears to directly facilitate couples who do not have a marriage book in managing administrative matters, in fact SPTJM does not at all disregard the validity of husband and wife in the issuance of birth certificates. Only couples who are truly listed in the same family card can apply using SPTJM. Thus, the validity of the husband and wife relationship will remain guaranteed and the objectives of Islamic law, namely protecting religion (Hiifz ad-Din), will be fulfilled.

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