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## Wallimahtul Ursy as the Embryo of the Birth of Marriage Registration According to Islamic Law

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### Abstract

This research aims to provide an illustration that by carrying out a marriage according to Islamic religious law without going through a marriage notification at the KUA, known as nikah sirri, then making a walimah to announce the marriage shows that there are no obstacles to the marriage being carried out. This research uses normative juridical research methods using primary, secondary and tertiary legal materials as well as statutory regulations and legal concepts. The results of the research show that if the sirri marriage is carried out by the guardian as a form of announcement to the public, then the marriage is considered valid because the conditions have been fulfilled and are in harmony and can be published which can be interpreted as a form of recording. because previously there was no institution for marriage registration. Walimah shows that a valid marriage has been carried out according to Islamic law, so that there are no longer any obstacles to the marriage. The function of recording according to state law is for everyone to know and serve as evidence for the parties. Making a walimah means wanting to announce the marriage and provide evidence to the public and government that a valid marriage has been carried out so that it can be reported administratively for recording.

**Keywords:** Walimatul Ursy Embryo; Marriage Registration; Islamic law.

### Introduction

Marriage is an inner and outer bond between a man and a woman to form an eternally happy home based on the belief in the Almighty Godhead. This means that to carry out a marriage two bonds must be fulfilled, namely an external bond that is clearly visible to other people in its implementation and an inner bond that is a will. the parties expressed in the form of love for them between a man and a woman, an inner bond is a bond that comes from the bottom of a person's heart, the bottom of a pure heart in accordance with the teachings of their respective religions, both husband and wife are determined to form a household mahligai, in good times and

bad. Inner ties according to Islamic law are expressed in the will of a couple who love each other and are willing to live together in marriage.

According to Christian religious law, spiritual ties can be seen from the will of both parties who are bound by declaring women and men as spirit and flesh as mandated in Ephesians 5:2.3.<sup>1</sup> In Catholicism, an inner bond is characterized by an agreement with mutual love between a man and a woman that occurs and cannot be withdrawn as an inner bond. According to Hinduism, it is the will between a man and a woman to marry in the sacred bond of marriage, to obtain offspring where the bond This inner self shows the will and agreement between the parties in the form of love expressed in the responsibility of living together in a family through the bond of marriage.<sup>2</sup> To strengthen this bond, the marriage is carried out in accordance with the religious laws of each party. After the marriage is legally carried out, it needs to be proven by registering the marriage according to the respective religious laws. This is in accordance with the legal regulations in the law in our country, so that what is called a valid marriage according to religious law is fulfilled, then it is registered according to state law.

It should also be noted that there is a form of marriage called sirri marriage, which according to the public's understanding, many marriages are carried out by those who are Muslim, and this is considered not in accordance with state law so it is considered that the marriage is invalid. Sirri marriage is a marriage. who do not go through the marriage notification stage by the person who is getting married or who represents the party who is getting married. A marriage notification that is accompanied by the identities of the parties is in accordance with legal regulations. The marriage registration officer will carry out research on this marriage notification. This research is an effort made by KUA and KCS officers to equate field data and administrative data entered by the parties, and if there are no obstacles or problems,

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<sup>1</sup> Jabes Pasaribu, Yunardi Kristian Zega and Desetina Harefa, 'Responsif Gereja Terhadap Pernikahan Beda Keyakinan' (2022) 3 Vox Dei: Jurnal Teologi dan Pastoral.[46].

<sup>2</sup> I Nyoman Gede Remaja, 'Makna Perkawinan Dalam Perspektif Hukum dan Agama Hindu' (2020) 1 Pariksa: Jurnal Hukum Agama Hindu.

an announcement will be made to the public. The community can object if it turns out that there are parties who have obstacles and cannot carry out the marriage. In a sirri marriage, these steps are not carried out, they are only carried out according to religious law.

In Islamic law it is recommended that after the marriage takes place, a walimah should be made for the public to know. This is so that if there are obstacles and objections they can be identified, but if there are no obstacles or objections from other parties, then the marriage is considered valid. In fact, if an unregistered marriage has been made a walimah without registering it according to the provisions of the law, it is already valid, because after the Ijab Kabul has been carried out, it must be published in a simple way by the walimah. This walimah is a means of introducing the bride and groom to the general public that they are officially married. This is also so that there will be no slander if the woman becomes pregnant in the future, as well as to inform that this woman is married and that other men are no longer allowed to propose to her, and also to introduce her husband to the community. By holding a walimah, it shows that a valid marriage has been carried out according to religious law and published to the wider community so that everyone knows.

For this reason, if a sirri marriage is carried out and then a walimah is made to publicize the marriage, it is no longer considered an invalid marriage or a private marriage. This sirri marriage can be registered according to state law because it is deemed that there are no obstacles to the marriage, considering that it has been carried out by the guardian and has been known to the wider community without any objection. It is clear that if a sirri marriage is carried out by the walimah, it is a form of announcement to the public, then this marriage is considered valid because the conditions and terms and conditions have been fulfilled and its publication can be interpreted as a form of recording because in the past this institution did not exist.

This article aims to unite views and understanding that sirri marriages are not all marriages which cannot be registered according to state law because it needs to be interpreted that if a marriage has been performed by a walimah according to Islamic law, then there are no longer any obstacles to carrying out the marriage. This research

uses normative juridical research methods using primary, secondary and tertiary legal materials as well as concepts of statutory regulations relating to marriage, legal concepts and legal theories which are carried out with qualitative analysis to answer legal issues that occur in society regarding views and understanding of marriage. *sirri* does not include all marriages which cannot be registered according to state law because it needs to be interpreted that if a marriage has been carried out by a *walimah* according to Islamic law then there are no longer any obstacles to carrying out the marriage because the function of registration according to state law is for everyone to know and serve as evidence for the parties. party. Making a *walimah* means wanting to announce the marriage and provide proof to oneself and the community that a valid marriage has been carried out according to religious law so that it can be reported administratively for recording.

## **Theoretical Framework**

### **1. Sociological Theory**

Sociological theory explains that law is a reality of what is a reality in society and how in fact law is accepted, grows and applies in society. This theory was pioneered by Roscou Pound, Eugen Ehrlich, Emil Durkheim and Max Weber. According to Max Weber, law is a very important aspect that dominates society David Émile Durkheim is a figure who expanded sociology into a scientific discipline. He views that sociology is a science that studies facts in society and can become a social institution in the order of social life. From the facts that describe society's way of thinking, attitudes and acting.<sup>3</sup>

Émile Durkheim believed there was a pattern that could be used to control this group of individuals. Comte defined sociology as a positive science that can be used to understand and study social phenomena in social life based on rational and scientific logical analysis. In this way, social phenomena that exist

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<sup>3</sup> Sabine Frerichs, 'Studying Law, Economy, and Society: A Short History of Socio-Legal Thinking' [2012] *Economy, and Society: A Short History of Socio-Legal Thinking* (March 15, 2012). Helsinki Legal Studies Research Paper.

in society can be recognized and the worst possibilities can be anticipated before they actually occur. Max Weber Max Weber had the view that sociology could be used as a study that could look at social action. In this way, certain social phenomena can be explained by cause and effect. Herbert Spencer This British philosopher stated that sociology is a science that can be used to observe social processes and social structures as a system that has related elements.

## 2. Creed Theory

This theory was put forward by Prof. Juhaya S. Praja. This theory requires everyone who has taken a vow or pledged two sentences of the creed to carry out Islamic law as a logical consequence of pronouncing the creed. This theory according to Juhaya S. Praja was formulated from several verses of the Koran, namely: Al-Qur'an letter 1 verse 5; 2nd letter verse 179; 3rd letter verse 7; 4th letter verses 13, 14, 49, 59, 63, 69, and 105; 5th letter verses 44, 45, 47, 48, 49, 50, and 51; 24th letter verses 51 and 52.<sup>4</sup> This Creed theory is a continuation of the principle of Tauhid in Islamic legal philosophy. People who have acknowledged that there is no god but Allah and that Muhammad SAW. He is a messenger of Allah, so he must be obedient and obedient to what Allah SWT has commanded. And what was exemplified by His Messenger as found in the Qur'an and Sunnah.

This Creed Theory, continued Prof. Juhaya, is identical to the theory of legal authority explained by H.A.R. Gibbs. Furthermore, according to Gibb, Islamic law as a legal order that is adhered to (obey) by the Indonesian population and people is a law that has lived in society, is part of the Islamic teachings and beliefs that exist in people's lives, the history of the growth and development of Islamic law in Indonesia, which concerns the theory of the application of Islamic law in Indonesia, it appears that there are several theories that have been established. From Islamic teaching sources, it can be seen that there are many verses in the Koran and the Sunnah of the Prophet which illustrate that believers (Islam) are obliged to obey Islamic law. The level of a Muslim's religious life is associated with his attitude

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<sup>4</sup> Juhaya S Praja, *Filsafat Hukum Islam* (LPPM Unisba 1995).

and obedience to the provisions of Allah SWT. and His Messenger. Research and social studies have found a social reality (society) that if a person is Muslim, then he accepts the authority and power of Islamic law over him.<sup>5</sup>

### **The Conditions of Marriage and Walimah in Islam**

Various legal rules set forth in Islamic law and the law of other religions in Indonesia, including customary marriage, regulate marriage and its conditions, but after the birth of the marriage law, all Indonesian citizens are subject to these rules. Marriage according to Act Number 1 year 1974 related with Act Number 16 year 2019 regarding marriage is listed in Article 1 which reads Marriage is an inner and outer bond between a man and a woman to form an eternal happy family based on the Almighty God. According to the compilation of Islamic law, the definition of marriage is contained in Article 2 which is berbunyi : marriage is a very strong contract or miitsaaqanghaliizhan to obey the commands of Allah and do it is worship.

Religion teaches that marriage is something holy, good and noble. Marriage is a strong wall that protects people from committing sins caused by uncontrolled lust. There are many lessons contained in marriage, including perfection of worship, fostering peace of life, creating inner peace, continuity of offspring, being protected from blemishes and sins, and so on. The main essence of marriage is the contract, namely the handover between the guardian of the prospective bride and the prospective groom. Submission and acceptance of responsibility in a broad sense to achieve one goal.<sup>6</sup>For this reason, it can be said that marriage is an inner bond between a woman and a man as husband and wife enter a new life for two people who initially lived separately who agreed based on mutual affection and love to marry and live together forever based on the laws of their religion.

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<sup>5</sup> Rahman Rahman, Zikri Darussamin and Ahmad Fauzi, 'Tolerance Towards Multiculturalism in the Diversity of Cultures and Traditions as a Form of Moderation in the Implementation of Muhammad's Prophetic Attitude' (2023) 3 International Journal of Cultural and Religious Studies. [1].

<sup>6</sup> A Zaenurrosyid and Abd Kahfi, 'The Problem of Unregistered Marriage (Siri) in Pati Coastal Java' (2021) 3 Al-Manhaj: Journal of Indonesian Islamic Family Law.[81].

In carrying out a marriage in Islam, you must fulfill the marriage requirements, in the book of Islamic fiqh by Ábd al-WahhabKhalaf, the requirements are divided into two parts; al-syart al-syarí and al-syart al-ja'li. Al-Syart al-Syarí are conditions whose determination is based on sharia law. Meanwhile, al Syart al-Jali' is a condition set by themukallaf.<sup>7</sup> According to the author, in a marriage with these additional conditions, the marriage remains valid and the conditions added must not violate religious law and must be an agreement between the two parties Islam recommends that if a person wants to get married, he must fulfill several conditions that are the pillars of marriage, namely:

1. The bridegroom

The legal condition for marriage is that there is a bridegroom. In Islamic law, it is permissible for a man to marry a woman and it is forbidden for a man to marry a man. Marriage begins at the time of the marriage contract and the validity of marriage at the time of the marrying say ijab then the bridegroom say kabul.

2. The Bride

The second marriage is the marriage of a righteous woman. In Islam, it is forbidden for a woman to marry a man of the same sex and it is also forbidden for her to marry a woman who is haram to be married, such as by blood, breastfeeding, or marriage. At the time of the pronouncement of consent by The Guardian of marriage and Kabul by the groom, the bride has changed the status of a young woman into a wife who must submit to the orders of her husband.

3. The the presence of a female marriage guardian

The next legal condition for marriage is the presence of a marriage guardian. The guardian of the marriage is the bride's parents and if the parents or father are absent, the Guardian can be replaced by the grandfather, and so on according to the degree of closeness of the biological brother (brother or sister), father's brother, father's brother and son of the father's brother. If at the time of marriage all the parties who are domiciled as guardians do not exist, the bride can be asked

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<sup>7</sup> Sardjana Orba Manullang and others, 'Tradisi Perkawinan Bersyarat Dalam Perspektif Hukum Islam' (2023) 7 Jurnal Pendidikan Tambusai.[6558].

for a guardian judge with the consent of the family.

#### 4. The Witness Of Marriage

Marriage is legal if there are witnesses to the marriage. It is illegal to marry someone without witnesses. The condition of being a witness in Islam the witness is a man who is a Muslim, has grown up or reached puberty, is not mentally handicapped in the sense of reason, this man is not in the bullying of the old days a man who must be free is not in slavery and this man must be fair. Witnesses consist of two witnesses who are represented by family, neighbors, or people who can be trusted to be a witness.

#### 5. There is the Ijab and Qabul

Finally, the legal terms of marriage are *ijab* and *qabul*. The Holy Quran is the word of God, and it is a book for studying, understanding, and acting in accordance with, in order for mankind to maintain a prosperous life. When the sentence "I accept the marriage", then at the same time both the bride and groom are legitimate to be a married couple who have the same rights and obligations in the household and social relations in society.

The conditions for a valid marriage based on sharia are:<sup>8</sup>

1. The bride and groom truly have a halal marriage, for example the woman has completed *iddah* (if she is divorced) or has not joined two sisters.
2. There is a guardian for the bride because a marriage is considered invalid if a guardian is not included in the marriage contract.
3. The presence of two Muslim witnesses. The witness that is required for the marriage contract is a Muslim witness who is mature, sensible, able to hear the words of the parties to the contract, and understand the meaning of the words of the bride and groom in the *ijab* and *Kabul* that what they say is a marriage contract.

A conditional marriage is a marriage that is preceded or accompanied by conditions proposed by one party to the other party concerned. This means relying

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<sup>8</sup> Mokhammad Rohma Rozikin, 'Konsepsi Pernikahan Dalam Islam dan Perannya Dalam Menjaga Adab Interaksi Pria-Wanita' (2019) 2 WASKITA: Jurnal Pendidikan Nilai Dan Pembangunan Karakter 71.



(ta'liq) on the continuation of the marriage contract on conditions. The phenomenon of conditional marriage in society refers to the practice of marriage which involves determining additional conditions that must be met by the prospective bride and groom or their families in order for the marriage to occur.<sup>9</sup>

Some examples of the phenomenon of conditional marriage that occur in society can include the following:<sup>10</sup>

1. dowry request based on the groom's economic capabilities.
2. marriages are carried out based on culture by determining the requirements of caste, tribe from a certain ethnic background.
3. Educational or Skill Requirements: In some societies, there is a tradition of conditional marriage that involves certain educational or skill requirements. For example, the prospective bride and groom must have a certain level of education or have special skills as a condition for getting married.
4. Family or Kinship Requirements: Some conditional marriage traditions are related to family or kinship requirements. For example, a prospective bride must meet requirements set by the man's family, such as approval from parents or extended family, or fulfill certain kinship requirements, such as marrying a distant relative.
5. Religious Requirements: In the context of Islamic law, conditional marriage traditions can also involve certain religious requirements. For example, prospective brides and grooms must meet certain requirements in terms of religious observance, such as obedience in worship or consistent understanding and practice of religion.

These additional conditions for marriage can be suspended based on agreement, but the conditions for marriage according to sharia must be fulfilled in order to fulfill the legal conditions for a marriage according to Islamic law. In Islamic marriage, in addition to the pillars of marriage, there are complementary requirements for the pillars of marriage that must be prepared in marriage, namely the provision of dowry which is read at the time of consent and there is an obligation after marriage to be held walimah. In every Islamic marriage is recommended walimah should be done even if only with a goat this shows that walimah is considered important in a marriage because it has meaning to introduce and strengthen family relationships

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<sup>9</sup> Mardani Mardani, Sardjana Orba Manullang and Yessy Kusumadewi, 'Problematika Perkawinan Tidak Tercatat (Nikah Siri) Dan Solusi Hukumnya' (2022) 10 *Tafaqquh: Jurnal Penelitian dan Kajian Keislaman*. [255].

<sup>10</sup> Manullang and others (n 7).

The word walimahjama ‘ from the word walaim means banquet, party. The word al - ‘ursy means marriage, so walimah al -’ ursy means marriage party. In terms of language walimah means Al-jam’u is gathering.<sup>11</sup> For between husband and wife gather, even relatives, relatives, and neighbors. While in terms of the term walimah comes from the Arabic word al walima meaning bridal food, meaning food provided specifically in the manner of the wedding party. It can also be interpreted as food for invited guests or others.<sup>12</sup> Walimah means good to share food and invite people.<sup>13</sup>

Walimah it self absorbed in the Indonesian language into “walimah al-ursin”.<sup>14</sup> Islamic jurisprudence contains a general meaning and a special meaning. So the general meaning of walimah al - “ urs is the whole form of celebration that involves many people. While the meaning of walimah al - “ urs in a special sense is the inauguration of marriage whose purpose is to tell the public that the bride and groom have officially become husband and wife, as well as the gratitude of the families of both parties for the marriage.<sup>15</sup> According to Imam Shafi’i, walimah occurs at the time of *Da’wah* (celebration by inviting someone) which is carried out in order to obtain new happiness. The most famous in the absolute opinion, that the execution of walimah is only known in a marriage.<sup>16</sup> Walimah means all kinds of food served for a party or other.<sup>17</sup> Amir Syarifuddin said, the term walimah al - “ urs is a term that is specifically used for weddings only, and is not meant for other

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<sup>11</sup> Amir Syarifuddin, *Hukum Perkawinan Islam Di Indonesia: Antara Fiqih Munakahat dan Undang-Undang Perkawinan* (Cet 4, Ed, Kencana Prenada Media Group 2009).

<sup>12</sup> Sofian Syaiful Rizal, ‘Use Of Public Roads For Weddings In The Perspective Of Islamic Law And Positive Law’, *Proceeding Of International Conference On Education, Society And Humanity* (2023).

<sup>13</sup> Novita Aulia Lubis and Jorge O Brusa, ‘Implementation Of Walimatul’urs In The Middle Of The Covid-19 Pandemic A Review Of Maqhasid Syari’ah In New Village Communities Deli Serdang District’ (2023) 1 *Journal of International Islamic Law, Human Right and Public Policy*. [17].

<sup>14</sup> Departemen Pendidikan Nasional, *Kamus Besar Bahasa Indonesia* (Gramedia Pustaka Utama 2011).

<sup>15</sup> Benediktus Peter Lay, Stefanus Don Rade and Maria Theresia Geme, ‘Implementation of Customary Law Values in a Traditional Marriage of the Timorese in Realizing Laws Based on Local Wisdom’ (2023) 11 *The International Journal of Politics and Sociology Research*. [349].

<sup>16</sup> Nurzannah Nurzannah, Wahda Z Imam and Faissal Malik, ‘The Urgency of the Sirri Marriage Pre-Marriage Agreement Regarding Joint Property’ (2023) 4 *Journal of Social Science*. [426].

<sup>17</sup> Syaikh Kamil Muhammad Uwaidah, *Fiqih Wanita* (Pustaka Al-Kautsar 2000).

parties.<sup>18</sup> Based on the understanding of walimah above, it can be concluded that Walimah is basically a special celebration with a serving of dishes to be grateful for the favors that have been carried out a wedding.

### **Islamic Marriage Must Have A Walimah**

Islamic law teaches that marriage is a sacred event that should be welcomed with gratitude and happiness. Marriage in islam is known as marriage experts define a lot about marriage. There are two meanings of the word marriage: in the true sense (*haqiqat*) and figurative sense (*majaaz*). In the true sense of the word marriage means gathering while in a figurative sense it means aqad or entering into a marriage agreement<sup>19</sup> according to Zahry Hamid, which is called marriage according to syara ‘ is a contract (*ijabkabal*) between the Guardian and the bridegroom with a certain speech and fulfill the pillars and conditions. In a broad sense, marriage or marriage is “a bond between a man and a woman for the life of posterity, which is carried out according to the provisions of Islamic law.”<sup>20</sup> Abu YahyaZakariya Al-Anshary, giving the meaning of marriage according to the term syara is aqad which contains the legal provisions of the permissibility of sexual relations with lafadz marriage or with words that semakna with him,<sup>21</sup> according to Fiqh experts, marriage is essentially a contract arranged by religion to give men the right to possess and enjoy the vagina and or the entire body of the woman and form a household.<sup>22</sup>

Marriage isa contract or agreement to bind themselves between a man and a woman who legalize sexual relations between the two parties on a voluntary basis and the willingness of both parties, to realize a happiness of life that is

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<sup>18</sup> Syarifuddin (n 11).

<sup>19</sup> Lili Rasjidi, *Hukum Perkawinan Dan Perceraian di Malaysia dan Indonesia* (Alumni 1982).

<sup>20</sup> Abd Shomad, *Hukum Islam* (Kencana 2012).

<sup>21</sup> Hariswati Rachmadani Putri and others, ‘Increasing Understanding of the Sakinah Family Concept in Brides-to-Be through the SMART BIMWIN E-Booklet (Study on KUA West Bunguran District)’ (2022) 6 Himmah: Jurnal Kajian Islam Kontemporer.[606].

<sup>22</sup> Annisa Fristyarini and Muhammad Yogi Galih Permana, ‘The Inheritance Status of Test Tube Baby Children in the Perspective of Islamic Law and Inheritance Law in Indonesia’ (2023) 8 WARAQAT: Jurnal Ilmu-Ilmu Keislaman.[18].

covered by compassion and peace in a way that is approved by Allah SWT.<sup>23</sup> WirjonoProdjodikoro, said marriage is the cohabitation of a man and a woman who meet certain conditions.<sup>24</sup> Whereas, according to the subsection, marriage is a legal relationship between a man and a woman for a long time.<sup>25</sup> Based on what the experts described above about marriage, it can be said that marriage is a relationship between a man and a woman whose actions are lawful by Allah.

Marriage is a worship that is recommended by Allah SWT and the Prophet Muhammad SAW is a holy and sacred act so that its implementation must meet the prescribed pillars. Walimah is not a pillar but a condition of marriage that must be done based on the advice of the Prophet Muhammad in every marriage is done even if it is simple. Walimah is a celebration party held on the occasion of marriage. Because marriage according to Islam is a sacred promise and also a very happy moment in one's life, it is recommended to hold a wedding celebration party and share that happiness with others such as with relatives, friends or for those who are less fortunate. And the wedding feast is also a gratitude to Allah SWT for all the favors he has given to the bride and her family. Besides that, walimah also has another function, namely announcing to the public about the wedding itself. There is no better way than through a wedding party that can be enjoyed by many people. The person who is married should hold a walimah (celebration) according to his ability, give food by inviting people, intended for the event held as a form of happiness for marriage, in addition, so that all families be it close family or distant relatives and neighbors are gathered to pray for the bride of families who have a wish.

As for the wisdom of being ordered to hold a walimah, this is in order to announce to the public that the marriage contract has taken place so that all parties know about it and there is no sin against the bride in the future. According to Malikiyah scholars, holding a walimah for the purpose of announcing the marriage

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<sup>23</sup> Soemiyati, *Hukum Perkawinan Islam dan Undang-Undang Perkawinan Undang-Undang Nomor 1 Tahun 1974* (Gramedia Pustaka Utama 1986).

<sup>24</sup> Wiryono Prodjodikoro, *Hukum Perkawinan di Indonesia* (Sumur 1984).

<sup>25</sup> R Subekti, *Pokok – Pokok Hukum Perdata* (PT Intermasa 1992).

is more important than presenting two witnesses in the marriage contract. The presence of the Prophet's command, either in the sense of sunnah or mandatory holding walimah implies sunnah invite the public to attend the feast and feed the audience who came. It is obligatory to attend the walimah when he is invited. from Ibn ' Umar in the Hadith muttafaq'alah that the Prophet Muhammad said if one of you is invited to attend walimah al-'ursy, should come to him.<sup>26</sup>

All the scholars agree on the importance of the feast of the marriage, although they differ on its ruling: some scholars argue the ruling to hold a walimah of marriage is obligatory while generally the scholars argue the ruling is a highly recommended Sunnah. Islam teaches that marriage is an event that should be welcomed with gratitude and joy. For that, there needs to be a wall. In islam, marriage is a sacred duty. Therefore, the Prophet taught that the occasion of marriage is celebrated with an instrument or walimah.

The obligation to hold a Walimah for the bride and groom is to introduce the parties and to share happiness with other parties so that in the implementation of the walimah it is necessary to invite people to attend the walimah, both from among the underprivileged and economically capable people. There is no compulsion for the walimah to be celebrated on a large scale with just one goat or more if it has a large area of sustenance, and it is okay if the walimah is held with a potluck meal even in the absence of meat.

### **Walimah as the Embryo of the Birth of Marriage Registration According to Islamic Law**

Marriage must comply with the provisions of Article 2 Paragraph 1) on the validity of marriage according to religious law and Paragraph (2) followed by marriage registration. The registration of a marriage is very important for it is contained in a number of laws and regulations such as the Marriage Act Article 2 Paragraph (2), Act Number 22 year 1946 on the registration of marriage, divorce

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<sup>26</sup> Rizal (n 12).

and reference related with Act Number 32 year 1954, Act number 23 year 2006 on Population Administration which has undergone changes is replaced by Act Number 24 year 2014 on Population Administration. Registration of marriage conducted by the marriage registration officer, is only for the benefit of the state administration as proof that the marriage really has happened.

Registration of marriage is indeed an administrative requirement, but it has a great influence on the recognition and protection by the state of marriage that has been done according to the religious law of each party.<sup>27</sup> The record does not determine the validity or invalidity of a marriage. Marriage is valid if it has been carried out according to the provisions of their respective religions, even if it is not or has not been registered. However, a legal marriage that is performed according to religious law and is not followed by marriage registration will cause harm because the parties will not be recognized and protected by law in the decree of the high Islamic court, in 1953 number 23/19 confirms that if the pillars of marriage are complete, but not registered, then the marriage is valid.<sup>28</sup>

Sirri marriage there are two forms of sirri marriage or marriage under the hidden hand is a marriage that is carried out by not meeting the pillars and conditions and procedures of legislation because it can not be listed. And there is another sirripersi marriage where all the pillars and conditions of marriage are fulfilled and performed legally according to religious law but no recording is made for various reasons. Referring to the decision of the high Islamic court, the marriage without being registered will be sanctioned. Many views of experts who justify that religious marriage alone is enough do not need to be recorded again this is still based on the marriage of the past because after the consent is no longer recorded because the past has not been regulated about the recording institution and all recording is not done considering that many do not know how to read and write for that every legal act carried out by the parties at that time was only used the ability to remember

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<sup>27</sup> Barzah Latupono, *Prinsip Pencatatan Perkawinan di Indonesia* (Universitas Airlangga 2015).

<sup>28</sup> Sayuti Thalib, *Hukum Kekeluargaan Indonesia* (UI Press 1986).

important things that were done. Marriage at that time there was no command to record but there is a command after marriage must be done walimah to introduce legal acts both parties to the brothers and neighbors this is in order to avoid the occurrence of misconceptions to the parties when they are already living together.

In the days of the Prophet of Islam marriage never knew what the name of recording but every marriage must be announced to the public in the form of walimah. Walimah is a wedding celebration to introduce or publicize the marriage so that the general public knows that there has been a marriage and if there are objections because the bride and groom already have a previous legal relationship with other people can also be known and can be sought a solution to the settlement of the marriage that has been done. Similarly, stipulated in the Marriage Act that those who will marry must report their marriage to the Office of Religious Affairs (KUA) for Muslims and non-Muslims in the Registry Office (KCS) then officers from both agencies will conduct research into the addresses of both parties to adjust the data entered the same as those obtained at the address of the parties who will marry and if all the data is appropriate and there are no obstacles will be announced to the public at large that the marriage will be held by the parties. This announcement is affixed in public places so that if the parties who have a legal relationship with the married party can object to the marriage can not be done.

The announcement of marriage in the present is done before the marriage but walimah which is a form of marriage announcement in moslem is done after the marriage occurs this means there is no obstacle and the marriage is justified because it has fulfilled the pillars and conditions. If there is no impediment to marriage, it is necessary for the parties to report to the registrar to register the marriage in order to strengthen the marriage with evidence. The command to record important things in Islam is a suggestion to do such as recording and presenting witnesses in the sale and purchase agreement in Al-baqarah letter verse 282. For sale and purchase agreements and debts and receivables alone are recorded, moreover, marriage which is a sacred and sacred agreement must also be recorded in order to prove that a valid marriage has been carried out according to religious law.

The recording of marriages in the days of the Apostles was not written, but by collective memory. Every time there is a wedding, it will be advertised or notified through the walimah, so that many people come and remember the event.<sup>29</sup> That's how it's recorded. Collective memory consists of two words, memory and collective. According to *Kamus Besar Bahasa Indonesia (KBBI)* memory is awareness of past experiences that come back to life. The memory is in the form of memories, notes containing explanations, warnings and information. While the collective is defined jointly or in combination. With collective memory involves the interaction of the surrounding people so it is difficult to be forgotten by the person who experienced the event the memory is also passed down by an older generation to the next generation or younger generation, so that the memory becomes alive.

Walimah is a warning that will continue to be remembered and used as evidence that there was a marriage at that time because how it will be written when the era was not yet known writing. From the above opinion, it can be seen that although the registration of marriage has not been done at that time, but implicitly the spirit and substance to be achieved from the registration of marriage has been manifested, albeit in a simple form with a walimah. This was the time of the Prophet Muhammad (peace and blessings of Allah be upon him). enough with the announcements to the local community. But along with the development of society, the progress of administration and governance, the form of recognition of society and the guarantee of Rights is also developing. This form of recognition and guarantee in the present appears in writing, in the form of a marriage certificate. So the marriage certificate is a form of community recognition and guarantee of rights in the present. In other words, the context of the announcement to the public as a means of recognition and guarantee of Rights is for communal people who are accustomed to oral. While the context of the marriage certificate as well as a means of recognition and guarantee

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<sup>29</sup> Muchimah Muchimah, 'The Shifting Meaning of Walimatul 'Urs in the Era of Society 5.0 in Indonesia: Islamic Law Perspective' (2023) 7 *Samarah: Jurnal Hukum Keluarga dan Hukum Islam*. [1514].



of Rights is for the writing community.<sup>30</sup>

For today, of course, it is no longer possible just to hold a walimah to be followed by a recording made by an institution that has the authority Registry Office and Office of Religious Affairs as evidence considering that proof of marriage is very important as a proof of marriage registration so that the parties will receive recognition and protection by law. Evidence of marriage registration also has many benefits, including written documentation will last longer than the age of witnesses who are more limited. But along with the Times and cultural changes in society as well as advances in administration and governance, the form of community recognition and guarantee of Rights is also developing.

This form of recognition and guarantee in the present appears in the form of writing, that is, the registration of marriage in the form of a marriage certificate.<sup>31</sup> Khoiruddin Nasution stated that there are at least three things that can be taken as the core of a number of sunnah of the Prophet who ordered that the announcement of walimah<sup>32</sup> in marriage, namely: First, that marriage enters into public affairs that anyone should know, both parties who are directly interested in marriage and the general public whose interests are indirect. Second, public knowledge is expected as a means of recognition and guarantee of rights, both the rights of the parties to the marriage (husband, wife, and children) and the right of the community to be protected from acts of slander. Thirdly, this form of public recognition and guarantee of Rights appears in the form of announcements (walimah, advertisements, and the like) and witnesses.

Based on the descriptions presented above can be described that after the marriage it is required for the bride and her family to hold walimah with the aim:

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<sup>30</sup> Lathifah Munawaroh, Ahmad Munif and Ahmad Rofiq, 'Disharmony of Sirri Marriage Registration Regulation on the Family Card (Analyzing The Ministry of Interior Affairs' Regulation No. 9/2016)' (2023) 17 *Fiat Justisia: Jurnal Ilmu Hukum*. [93].

<sup>31</sup> Sehabudin Sehabudin, 'Pencatatan Perkawinan Dalam Kitab Fikih dan Undang Undang Nomor 1 Tahun 1974 Tentang Perkawinan (Perspektif Maqasid Syari'Ah)' 2 *Al-Mazaahib: Jurnal Perbandingan Hukum*.

<sup>32</sup> Khoiruddin Nasution, *Hukum Perdata (Keluarga) Islam Indonesia dan Perbandingan Hukum Perkawinan di Dunia Muslim* (Academia 2009).

### 1. Introducing the bride to the public

At the time of the walimah, of course, every invitation that comes will see this couple if there is one between this couple who is related to the other party, of course, it can be conveyed to the Walimah parties which is a command from the Prophet to do this is a way to introduce the parties to marriage to the wider community. It is also a means to keep in mind these events by the public or the invitees who attend. So in practice, if the marriage is not qualified, of course, when the walimah is held for the marriage, the community will know its status, both its original status before marriage and its new status after marriage. in our country's rules when reporting for marriage there are 3 things that are considered:

- a. Application, this is related to the personal data entered by the bride and groom to marry.
- b. Research, this is the obligation of the marriage registrar employees to check the personal data provided to the field whether it is in accordance with reality or not.
- c. Announcement, if in checking the data there is no problem then the announcement of the date and time of marriage will be made but if at the time of research to check the data provided is problematic in terms of not in accordance with reality suppose there is an element of fraud in one of the identities that he said for male virgins when married and not divorced then the announcement of marriage can not be done.

In the implementation of walimah, if there is a couple who is proven to have a conjugal relationship with the other party, one party can cancel the marriage for a new marriage. For that every marriage must be recorded Islam also recommends that it must be done walimah is a form of publishing the marriage which is one form of recording in the past, the issue of recording this marriage is often debated whether it is a legitimate condition of marriage or administrative requirements but can be seen as a renewal in the framework of Islamic Family Law in Indonesia. Citing the opinion of AutoMufsaahar who stated that marriage registration should be seen as a new form of way of announcing (advertising

marriage) because this registration is more beneficial to women and children.<sup>33</sup>

## 2. Grateful for the blessings given

Marriage is one of the sunnah ordered by the prophet to be performed by a mature man who is already capable. because this couple has found a mate and given health and longevity until the implementation of marriage for it, they make Thanksgiving in order to thank God for the blessings of health, longevity to carry out the marriage by making the best food and drink for those who can afford and for those who can not afford potluck alone to be served to invited guests who come at the time of execution walimah and invited guests who come of course will remember what is there at the time of the walimah.

## Conclusion

The conditions and pillars determined in marriage according to Islamic law, namely that there is a male and female bride, there is a guardian, there is a witness, and additional requirements are also fulfilled after that the walimahtul urs is carried out which aims to inform the general public that The bride and groom have officially become husband and wife. For this reason, every marriage in Islam, even though it is carried out without an administrative process according to the applicable legal rules, but a walimah has been made, this marriage is a valid marriage because it fulfills the validity of marriage according to religious law and a walimah has been made to state that a valid marriage has been carried out. according to religious law. Walimah is a way of introducing couples who are legally married according to Islamic law. Registration of marriages according to state law is to prove that a valid marriage has been carried out according to religious law. In Islam centuries ago registration was carried out in Islam by means of walimah, namely inviting guests to introduce the bride and groom in public, giving thanks for the blessings of the marriage carried out and at the same time proving that it had been carried out. legal marriage. Walimah was used as a means of remembering events that occurred

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<sup>33</sup> M Auto Mufshar, *Membaca Gelombang Ijtihad, Antara Tradisi dan Liberasi* (Titian Ilahi Pers 1998).

which would be told from one generation to another because at that time they did not know how to read and write, so if problems occurred in a marriage, they just had to rely on their memory.

Every marriage that is carried out fulfills the pillars and requirements of marriage in Islam and has been carried out by a walimah, so the marriage, even without an administrative process, is valid and is no longer called a sirri marriage so it can be registered for registration because nowadays administrative registration is very important for every marriage that occurs. If the walimah has done so, it needs to be recorded to receive recognition and protection by law.

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