

Legal Protection for Children from Unregistered Marriages in Namorambe, Indonesia

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Abstract: This study aims to examine the legal protection of children born from unregistered marriages under Indonesian law and to analyze its implementation in Namorambe District. It specifically examines the legal provisions governing children's rights and the fulfillment of their rights to care, custody, financial support, legal identity, and protection. This study employs a qualitative socio-legal approach, combining analysis of relevant legal regulations with empirical data collected through interviews and direct observations in Namorambe District. The findings show that several children experience the consequences of parental separation or divorce, with inadequate marital preparation identified as one contributing factor. The situation becomes more complex when the parents' marriage is unregistered, as the absence of formal documentation may weaken the practical enforcement of parental responsibilities. Some parents demonstrate limited responsibility after separation, particularly regarding childcare, custody, and financial support, resulting in the inadequate fulfillment of children's rights. The study concludes that although Indonesian law provides a legal basis for protecting children regardless of their parents' marital registration status, implementation remains constrained by limited parental responsibility, legal awareness, and access to protection mechanisms. This study contributes to socio-legal scholarship on Indonesian family law by providing empirical insight into the relationship between marriage registration, parental responsibility, and child protection at the local level. It emphasizes the need for stronger legal awareness, institutional protection, and parental accountability to ensure the fulfillment of children's rights and welfare.

Keywords: Child Protection, Continuing Offense, Criminal Liability, Islamic Law, Sexual Abuse

1. Introduction

Child protection is an essential component of ensuring children's survival, development, participation, and dignity.¹ Parents have a fundamental responsibility to provide education, health care, maintenance, religious guidance,² and social protection, particularly because children spend much of their early lives within the family environment.³ However, the fulfillment of these responsibilities may become problematic when children are born from unregistered marriages. Although unregistered marriages may be recognized within certain religious contexts,⁴ their absence from the state's administrative records can create difficulties in establishing a child's legal and civil identity.⁵ These difficulties may affect access to birth certificates, maintenance, inheritance, education, health services, and other rights. Indonesian child

¹ Jennifer B Kane, "Marriage Advantages in Perinatal Health: Evidence of Marriage Selection or Marriage Protection?," *Journal of Marriage and Family* 78, no. 1 (2016): 212–29, <https://doi.org/10.1111/jomf.12257>.

² Jeremy Sarkin, "A Methodology to Ensure That States Adequately Apply Due Diligence Standards and Processes to Significantly Impact Levels of Violence Against Women Around the World," *Human Rights Quarterly* 40, no. 1 (2018): 1–36, <https://doi.org/10.1353/hrq.2018.0000>.

³ Sebastian Franke and Hill Kulu, "Mortality Differences by Partnership Status in England and Wales: The Effect of Living Arrangements or Health Selection?," *European Journal of Population* 34, no. 1 (2018): 87–118, <https://doi.org/10.1007/s10680-017-9423-7>.

⁴ Jehan Khalid Al-Zubi et al., "Progress and Challenges in the Legal Framework of Women's Rights in Jordan," *International Journal of Criminal Justice Sciences* 19, no. 1 (2024): 519–31, <https://doi.org/10.5281/zenodo.19128>.

⁵ Alison Gash and Judith Raiskin, "Parenting without Protection: How Legal Status Ambiguity Affects Lesbian and Gay Parenthood," *Law and Social Inquiry* 43, no. 1 (2018): 82–118, <https://doi.org/10.1111/lsi.12233>.

protection legislation establishes broad guarantees concerning children's rights and protection from violence, discrimination, exploitation, and neglect. Nevertheless, children born from unregistered marriages may continue to experience practical vulnerabilities because their family relationships are not adequately documented within the formal legal system. This situation demonstrates that child protection cannot be understood solely through the provision of material needs. It must also include legal recognition, administrative access, social security, and protection from discriminatory treatment. Therefore, the condition of children born from unregistered marriages represents an important social and legal phenomenon requiring further empirical investigation, particularly at the local level where families directly encounter the consequences of regulatory limitations.

Existing literature has examined various dimensions of children's rights and parental responsibility, including education, maintenance, *hadhanah*, and children's welfare following parental divorce. Previous research has found that parental responsibility encompasses both material and spiritual dimensions, requiring parents to provide children's worldly needs while developing their character according to Islamic values and social norms. Research on children's rights after parental divorce has demonstrated that parental fulfillment of children's rights may remain incomplete and may not fully reflect the objectives of child protection legislation.⁶ Other studies have similarly examined parental responsibility concerning *hadhanah* and maintenance following divorce, emphasizing the continuing obligations of parents toward their children.⁷ Research has also specifically discussed children born from unregistered marriages and identified difficulties concerning legal status, inheritance, maintenance, and official documentation. Although these studies provide important explanations regarding parental obligations and the rights of children in vulnerable family circumstances,⁸ they generally focus on specific aspects such as custody, maintenance, legal status, or post-divorce responsibilities.⁹ The existing literature therefore has not sufficiently examined how weaknesses or gaps in the regulatory framework influence the practical fulfillment of children's rights within unregistered marriages.¹⁰ In particular, empirical evidence concerning this relationship remains limited at the district level. This gap indicates the need for research that moves beyond identifying the legal status of children and instead examines how regulatory limitations operate in everyday family and social contexts.

The previous studies provide an important foundation for understanding the multidimensional nature of parental responsibility and children's rights, but they also reveal several limitations that justify the present study. Research on parental responsibility demonstrates that fulfilling children's rights involves more than providing food, clothing, education, and financial support; it also encompasses religious, emotional, social, and character development.¹¹ Studies concerning children after divorce further demonstrate that the formal recognition of parental obligations does not automatically guarantee their implementation in practice. Meanwhile, research on children born from unregistered marriages has identified legal and administrative barriers affecting birth registration, maintenance, inheritance, and access to official documents.¹² These findings suggest that the existence of legal norms alone is insufficient to ensure effective child protection when families encounter institutional and administrative constraints. However,

⁶ Muhammad Fitri Adi, "Hadhanah Rights of Children (Not Mumayyis) Based on Compilation of Islamic Law and Child Protection Act," *Nusantara: Journal of Law Studies* 2, no. 1 (2023): 9–22, <https://doi.org/10.5281/zenodo.17388734>.

⁷ Bushra Sabri, Michelle Simonet, and Jacquelyn C Campbell, "Risk and Protective Factors of Intimate Partner Violence Among South Asian Immigrant Women and Perceived Need for Services," *Cultural Diversity and Ethnic Minority Psychology* 24, no. 3 (2018): 442–52, <https://doi.org/10.1037/cdp0000189>.

⁸ Zahra Mirzaee et al., "Stakeholders' Perspectives on Girls' Early Marriage in Maneh and Samalqan, Iran," *Children and Youth Services Review* 122 (2021), <https://doi.org/10.1016/j.childyouth.2020.105900>.

⁹ Long Thanh Giang, Tham Hong Thi Pham, and Phong Manh Phi, "Productive Activities of the Older People in Vietnam," *Social Science and Medicine* 229 (2019): 32–40, <https://doi.org/10.1016/j.socscimed.2018.09.054>.

¹⁰ Germeen Riad and Carie Forden, "If We Didn't Talk, We Would Be Like Ostriches Burying Our Heads in the Sand': Attitudes Toward Sexuality, Gender, and Sex Education Among Child Protection Social Workers in Egypt," *Children and Youth Services Review* 129 (2021), <https://doi.org/10.1016/j.childyouth.2021.106205>.

¹¹ Bradley Heim, Ithai Lurie, and Kosali Simon, "The Impact of the Affordable Care Act Young Adult Provision on Childbearing: Evidence From Tax Data," *Demography* 55, no. 4 (2018): 1233–43, <https://doi.org/10.1007/s13524-018-0692-5>.

¹² Faisal Ahmmed, Mohammad Shahjahan Chowdhury, and Sharif Mostafa Helal, "Sexual and Reproductive Health Experiences of Adolescent Girls and Women in Marginalised Communities in Bangladesh," *Culture, Health and Sexuality* 24, no. 8 (2022): 1035–48, <https://doi.org/10.1080/13691058.2021.1909749>.

previous research has generally treated these issues separately rather than examining the relationship between regulatory gaps and the actual fulfillment of children's rights. The present study is therefore positioned at the intersection of child protection, parental responsibility, and the legal consequences of unregistered marriages. By focusing empirically on Namorambe District, the study seeks to identify how regulatory limitations are experienced by families, how parents fulfill their responsibilities toward children, and what forms of protection are practically available. This positioning distinguishes the study from previous research by emphasizing the interaction between legal structures and social practices rather than examining children's legal status or parental obligations in isolation.

The objective of this study is to examine how legal protection for children born from unregistered marriages is implemented in Namorambe District and to identify the factors that influence the fulfillment of their rights. The study specifically investigates how parents, communities, and relevant institutions respond to the legal and administrative difficulties experienced by these children. It argues that the vulnerability of children born from unregistered marriages is not caused solely by the absence of formal marriage registration, but also by the interaction between regulatory limitations, administrative barriers, parental practices, and institutional responses. Accordingly, effective child protection requires an approach that connects legal recognition with the substantive fulfillment of children's rights. Strengthening protection should therefore not depend exclusively on imposing parental obligations, but must also address institutional mechanisms through which children can obtain legal identity, maintenance, education, health services, inheritance, and protection from discrimination. Through an empirical examination of Namorambe District, this research seeks to demonstrate how gaps between normative guarantees and their implementation affect children's welfare and legal protection. The findings are expected to contribute to a more comprehensive understanding of child protection within unregistered marriages and provide a basis for strengthening legal, administrative, and institutional mechanisms to ensure that children's rights are fulfilled regardless of their parents' marital registration status.

2. Method

This study employs a qualitative descriptive approach to obtain an in-depth understanding of the legal and social realities concerning the protection of children born from unregistered marriages. The research was conducted as field research in Namorambe District, Deli Serdang Regency, North Sumatra Province, Indonesia. The study uses primary and secondary data sources. Primary data were obtained from three families selected purposively based on their direct experience with unregistered marriages and issues concerning the fulfillment of children's rights. Data were collected through semi-structured interviews and direct observation. The interviews focused on parental responsibility, childcare, custody, financial support, children's legal status, and the fulfillment of children's rights. Direct observations were conducted to obtain contextual information concerning the circumstances of families and children affected by unregistered marriages. Secondary data were obtained from relevant Indonesian laws and regulations, particularly Law No. 35 of 2014 concerning Child Protection, the Compilation of Islamic Law, relevant journal articles, books, and other supporting legal documents. The researcher served as the primary instrument for collecting and interpreting qualitative data, while interview guidelines and observation notes were used as supporting instruments. The combination of primary and secondary sources was intended to provide a comprehensive understanding of both the normative legal framework and its implementation in practice.

The collected data were analyzed using a descriptive-interpretive approach through systematic stages of data organization, reduction, classification, interpretation, and conclusion drawing. Interview data were documented and reviewed to identify recurring information and significant statements related to the research objectives. The data were then classified into several analytical themes, including parental responsibility, childcare, custody, financial support, legal status, and the fulfillment of children's rights. Observation data were used to complement and contextualize information obtained from the interviews. The empirical findings were subsequently compared with the applicable legal framework to examine the

relationship between legal norms and their implementation in the field. The analysis focused on identifying patterns, challenges, and gaps between formal legal protection and the actual protection experienced by children born from unregistered marriages. To ensure methodological rigor, the credibility of the findings was strengthened through source triangulation by comparing information obtained from interviews, observations, and secondary legal and academic sources. The researcher also conducted repeated reviews of the collected data to ensure consistency in interpretation. This procedure was designed to produce a systematic and credible socio-legal analysis while maintaining a close connection between the research objectives, collected evidence, and conclusions.

3. Result and Discussion

3.1. Fulfillment of Children's Rights in Families with Unregistered Marriages

Parents in Namorambe continue to provide several fundamental needs for their children despite living in unregistered marriages. Across the three families, children receive food, clothing, housing, educational expenses, health-related needs, and other forms of financial support. Family A migrated to Batam to obtain employment and generate income for the household. Family B relocated to Tanjung Balai because employment opportunities in Namorambe were considered inadequate, whereas Family C migrated to Malaysia in an effort to improve the family's economic condition. Such practices reflect continued parental commitment to maintaining children's material welfare. However, parental responsibility is largely expressed through financial provision rather than comprehensive involvement in children's daily lives. Direct childcare, supervision, emotional support, character formation, psychological assistance, and the development of children's abilities, talents, and interests receive considerably less attention. The three cases therefore reflect a pattern in which parental responsibility is primarily associated with meeting economic needs. Basic necessities are generally provided, but other dimensions of child development remain less consistently addressed. Material assistance consequently becomes the dominant expression of parental care, while emotional, psychological, social, and developmental needs receive comparatively limited attention. This pattern illustrates that the fulfillment of children's rights within families affected by unregistered marriage remains partial rather than comprehensive.

Several conditions shape the extent to which parents are able to fulfill children's rights comprehensively. Economic pressure represents the most prominent factor, particularly because stable employment opportunities in Namorambe are limited. Parents consequently seek employment outside the area or abroad to secure income for their families. Family B associated its relocation to Tanjung Balai with the lack of adequate employment in the local area, while Family C moved to Malaysia because of family circumstances and the need to earn a livelihood. Limited awareness of the broader implications of marriage registration also contributes to the situation. Marriage tends to be understood primarily as a religious relationship, while its administrative consequences and potential effects on children receive less attention. Parental migration creates another significant condition because daily childcare is subsequently transferred to relatives. Relatives may provide essential supervision and practical assistance, but their involvement cannot fully substitute for continuous parental interaction. Distance also limits opportunities for parents to provide emotional guidance, monitor children's activities, and participate directly in their development. Economic constraints, perceptions of marriage, limited awareness, migration, and reliance on extended family therefore operate simultaneously in shaping the pattern of child-rights fulfillment. The resulting arrangement prioritizes immediate economic needs while reducing opportunities for sustained parental involvement.

Parental migration and the transfer of caregiving responsibilities affect several aspects of children's development and protection. Family C provides a clear illustration, as the child remained with relatives after both parents migrated abroad. Economic support from the parents could continue, but everyday emotional interaction and direct supervision became less frequent. Similar circumstances may reduce opportunities for parents to provide character education, moral guidance, psychological assistance, and close monitoring of children's social and developmental activities. Relatives can assume important

caregiving functions,¹³ particularly in meeting daily needs, yet their involvement does not necessarily provide the same form of emotional attachment and parental guidance.¹⁴ Children may therefore experience adequate material support alongside reduced parental presence in everyday life. The consequence extends beyond the provision of basic necessities because childhood development also depends on continuous interaction,¹⁵ guidance, affection, supervision, and opportunities to develop personal abilities.¹⁶ This situation creates a distinction between economic care and comprehensive protection. Economic care ensures that immediate physical needs are met, whereas comprehensive protection requires sustained involvement in emotional, psychological, social, moral, and educational development. Within the three families,¹⁷ the former receives greater attention than the latter. Child protection consequently needs to be understood not only as the provision of financial resources but also as active parental participation in children's everyday development and family relationships.

3.2. Legal and Administrative Vulnerability of Children from Unregistered Marriages

Children born within unregistered marriages encounter vulnerabilities related to identity, lineage, maintenance, and inheritance. The absence of formal marriage documentation can complicate the administrative recognition of the relationship between a child and the biological father. Birth registration becomes one of the situations in which this difficulty is particularly visible, especially when parents are unable to provide formal documentation of their marriage. Although a child may establish a civil relationship with the biological father through evidence of biological connection or acknowledgment, access to the relevant mechanism can remain difficult for families unfamiliar with the required procedures. Financial support from fathers may continue on a voluntary basis, but such arrangements do not necessarily provide lasting certainty concerning maintenance. Similar uncertainty may arise in relation to inheritance because the absence of clearly established legal relationships can complicate the child's position when inheritance becomes relevant. The vulnerability therefore encompasses both administrative recognition and the continuity of civil entitlements. A child may receive financial assistance during childhood while remaining uncertain about the long-term enforceability of that support. Administrative documentation, recognition of lineage, maintenance, and inheritance consequently represent interconnected areas of vulnerability. The condition affects not only the immediate administrative position of the child but also the security of civil rights that may become important throughout later stages of life.

Legal vulnerability emerges from the interaction of limited legal awareness, economic constraints, administrative complexity, and the absence of easily accessible mechanisms for addressing the circumstances of children from unregistered marriages. Parents and community members may understand marriage primarily through its religious dimension and have limited knowledge of the administrative procedures required to formalize marital status or strengthen a child's legal position. Procedures relating to marriage confirmation, establishment of biological relationships, birth registration, and supporting documentation may consequently remain unfamiliar. Economic limitations create an additional barrier because families with restricted resources may find it difficult to allocate time and expenses for administrative or legal processes. Migration can further complicate access when parents live or work outside the local area. The combination of these conditions means that formal mechanisms may exist while remaining difficult for affected families to utilize effectively. The situation is therefore not attributable solely to the absence of marriage registration. Limited understanding of legal procedures

¹³ Joanna Syrda, "The Impact of Marriage and Parenthood on Male Body Mass Index: Static and Dynamic Effects," *Social Science and Medicine* 186 (2017): 148–55, <https://doi.org/10.1016/j.socscimed.2017.05.033>.

¹⁴ Mohamed Yassine Braham et al., "Epidemiological Aspects of Child Abuse and Neglect in Sousse, Tunisia: A 10-Year Retrospective Study," *Journal of Forensic and Legal Medicine* 54 (2018): 121–26, <https://doi.org/10.1016/j.jflm.2018.01.003>.

¹⁵ Charles Courtemanche et al., "Early Impacts of the Affordable Care Act on Health Insurance Coverage in Medicaid Expansion and Non-Expansion States," *Journal of Policy Analysis and Management* 36, no. 1 (2017): 178–210, <https://doi.org/10.1002/pam.21961>.

¹⁶ Katherine Marshall et al., "Religious Engagement in Development: What Impact Does It Have?," *Review of Faith and International Affairs* 19, no. S1 (2021): 42–62, <https://doi.org/10.1080/15570274.2021.1983347>.

¹⁷ Marianne Bitler, Hilary Hoynes, and Elira Kuka, "Child Poverty, the Great Recession, and the Social Safety Net in the United States," *Journal of Policy Analysis and Management* 36, no. 2 (2017): 358–89, <https://doi.org/10.1002/pam.21963>.

reduces families' ability to respond to administrative problems,¹⁸ while financial constraints and geographical distance restrict their practical capacity to pursue available remedies. Administrative complexity can reinforce these difficulties, particularly for families who lack assistance in navigating the relevant procedures. Legal vulnerability consequently develops through the interaction between individual awareness, family circumstances, economic capacity, and accessibility of administrative mechanisms.

Administrative and legal uncertainty can affect the continuity and accessibility of children's civil rights. Difficulties in obtaining birth certificates and other identity documents may complicate access to education, social services, and administrative facilities that depend on formal documentation. Questions concerning lineage can also create difficulties in establishing the child's civil relationship with the biological father,¹⁹ particularly when documentary evidence or formal acknowledgment is unavailable. Maintenance represents another area of concern because financial assistance may depend primarily on voluntary parental commitment rather than arrangements that provide long-term certainty.²⁰ The same situation can affect inheritance,²¹ where uncertainty concerning family relationships may generate disagreements when property or succession rights become relevant. Such disputes may increase the responsibilities carried by mothers and maternal relatives, particularly when paternal support becomes inconsistent.²² The consequences of unregistered marriage therefore extend beyond the status of the parental relationship and can influence children's long-term social and legal security. A distinction emerges between the formal recognition of children's rights and their practical realization. Rights may be recognized in principle, yet children and families can still encounter obstacles when attempting to obtain the documentation, recognition, financial support, and administrative services necessary to exercise those rights. Effective protection consequently depends not only on normative guarantees but also on accessible procedures that enable families to translate those guarantees into concrete civil rights.

3.3. Child Protection in Unregistered Marriages through *Maqashid al-Shariah*

Children living in families with unregistered marriages in Namorambe experience a pattern of protection that combines material support with limitations in direct care and legal recognition. Parents generally provide food, clothing, housing, education, and financial assistance, demonstrating continued responsibility for children's basic needs. Nevertheless, economic provision is not consistently accompanied by daily childcare, emotional support, supervision, character formation, psychological assistance, and developmental guidance. Parental migration for employment further reduces direct interaction, while relatives assume part of the caregiving responsibilities. Alongside these family conditions, children encounter vulnerabilities concerning birth registration, lineage, maintenance, inheritance, and other civil matters. Difficulties in obtaining formal documentation can affect the practical realization of rights associated with recognized family relationships. Material welfare may therefore be maintained while emotional, developmental, administrative, and legal protection remains incomplete. This pattern demonstrates that child protection in families with unregistered marriages involves more than fulfilling immediate physical needs. Economic support, parental presence, developmental assistance, administrative recognition, and civil rights constitute interconnected dimensions of protection. The experiences of the three families illustrate that children may receive material assistance while

¹⁸ Carmen M Gutierrez, "The Institutional Determinants of Health Insurance: Moving Away from Labor Market, Marriage, and Family Attachments under the ACA," *American Sociological Review* 83, no. 6 (2018): 1144–70, <https://doi.org/10.1177/0003122418811112>.

¹⁹ Barbara L Zust, Jaclyn Housley, and Anna Klatke, "Evangelical Christian Pastors' Lived Experience of Counseling Victims/Survivors of Domestic Violence," *Pastoral Psychology* 66, no. 5 (2017): 675–87, <https://doi.org/10.1007/s11089-017-0781-1>.

²⁰ Virginia Caputo, "Children's Participation and Protection in a Globalised World: Reimagining 'Too Young to Wed' Through a Cultural Politics of Childhood," *International Journal of Human Rights* 21, no. 1 (2017): 76–88, <https://doi.org/10.1080/13642987.2016.1248124>.

²¹ Ashrita Saran et al., "Mega-Map of Systematic Reviews and Evidence and Gap Maps on the Interventions to Improve Child Well-Being in Low- and Middle-Income Countries," *Campbell Systematic Reviews* 16, no. 4 (2020), <https://doi.org/10.1002/cl2.1116>.

²² John Hoddinott and Tseday J Mekasha, "Social Protection, Household Size, and Its Determinants: Evidence from Ethiopia," *Journal of Development Studies* 56, no. 10 (2020): 1818–37, <https://doi.org/10.1080/00220388.2020.1736283>.

simultaneously facing reduced parental involvement and uncertainty concerning aspects of their legal and social position.

Several conditions explain the incomplete realization of these dimensions of child protection. Economic vulnerability constitutes a major factor because limited employment opportunities in Namorambe encourage parents to seek livelihoods in other regions or countries. Migration enables parents to generate income and maintain material support, but geographical separation reduces their ability to participate directly in children's daily lives.²³ The resulting caregiving arrangements require relatives to assume responsibilities that would ordinarily be performed by parents. Another factor concerns the community's understanding of marriage, which tends to emphasize religious validity while giving less attention to state registration and its implications for children. Limited awareness of procedures relating to marriage confirmation, birth registration,²⁴ and recognition of biological relationships further restricts families' ability to obtain administrative protection. Economic constraints may also prevent families from accessing transportation,²⁵ documentation, legal assistance, and relevant government services. These circumstances reinforce one another: economic hardship encourages migration, migration reduces direct parental care, limited legal awareness contributes to the continuation of unregistered marriages, and administrative complexity makes existing mechanisms difficult to access. The situation should therefore not be interpreted simply as parental unwillingness or negligence. Parental capacity is influenced by socioeconomic pressures,²⁶ cultural perceptions, legal awareness, geographical mobility, and institutional accessibility. Child protection consequently requires attention to the structural conditions surrounding families rather than focusing exclusively on individual parental responsibility.

The consequences extend beyond the immediate provision of food, housing, education, and financial assistance. Prolonged parental absence can reduce opportunities for emotional interaction, psychological support, character formation,²⁷ moral guidance, and developmental supervision. Relatives may maintain children's daily routines and basic welfare, but their involvement does not necessarily provide the same continuity of parental attachment and guidance.²⁸ From the perspective of *maqashid al-shariah*,²⁹ these consequences involve several dimensions of protection. *Hifz al-nasl* is associated with the protection of lineage and recognition of the child's relationship with the biological father, making difficulties concerning identity and lineage significant. *Hifz al-nafs* encompasses physical and psychological well-being, including emotional security and parental affection. *Hifz al-aql* relates to education,³⁰ intellectual development,³¹ character formation, and appropriate supervision. *Hifz al-mal* concerns maintenance and inheritance, both of which may become uncertain when paternal legal relationships are inadequately established. *Hifz al-din* also relates to moral and religious formation, which may receive less consistent parental attention when parents live apart from their children. The effects therefore operate simultaneously across legal, emotional, educational, economic, and religious

²³ Nuruddin, Aisyah Wardatul Jannah, and Dwi Martini, "Evaluating the Effectiveness of Age Restriction on Marriage in Indonesia," *Volksgeist: Jurnal Ilmu Hukum Dan Konstitusi* 6, no. 2 (2023): 313–30, <https://doi.org/10.24090/volksgeist.v6i2.9844>.

²⁴ Anak Agung Istri Ari Atu Dewi et al., "The Role of Human Rights and Customary Law to Prevent Early Childhood Marriage in Indonesia," *Sriwijaya Law Review* 6, no. 2 (2022): 268–85, <https://doi.org/10.28946/slrev.Vol6.Iss2.1885.pp268-285>.

²⁵ Nitya Rao, "Global Agendas, Local Norms: Mobilizing around Unpaid Care and Domestic Work in Asia," *Development and Change* 49, no. 3 (2018): 735–58, <https://doi.org/10.1111/dech.12390>.

²⁶ Eva Noble et al., "State of the Evidence: A Systematic Review of Approaches to Reduce Gender-Based Violence and Support the Empowerment of Adolescent Girls in Humanitarian Settings," *Trauma, Violence, and Abuse* 20, no. 3 (2019): 428–34, <https://doi.org/10.1177/1524838017699601>.

²⁷ Novita Dewi Masyithoh et al., "Unregistered Polygamous Marriage of Civil Servants and Its Implication for Wives' Financial Problem, Social Fate and Loss of Children's Welfare," *International Journal of Early Childhood Special Education* 13, no. 2 (2021): 312–18, <https://doi.org/10.9756/INT-JECSE/V13I2.211067>.

²⁸ Hoko Horii, "Walking a Thin Line: Taking Children's Decision to Marry Seriously?," *Childhood* 27, no. 2 (2020): 254–70, <https://doi.org/10.1177/0907568220901758>.

²⁹ Musleh Harry et al., "Examining the Provision of Legal and Religious Education to Islamic Families to Safeguard the Rights and Well-Being of Women and Children: A Case Study Conducted in Malang Regency, East Java," *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam* 8, no. 3 (August 24, 2024): 1526, <https://doi.org/10.22373/sjhk.v8i3.19566>.

³⁰ Ahmad Rusyaid Idris, Muhammad Khusaini, and Syaiful Anwar Al-Mansyuri, "Contemporary Islamic Law in Indonesia: The Fulfillment of Child Custody Rights in Divorce Cases Caused by Early Marriage," *MILRev: Metro Islamic Law Review* 3, no. 1 (April 4, 2024): 1, <https://doi.org/10.32332/milrev.v3i1.8907>.

³¹ Sheri R. Levy et al., "A Human Rights-Based Approach to the Global Children's Rights Crisis: A Call to Action," *Journal of Social Issues* 78, no. 4 (December 2, 2022): 1085–97, <https://doi.org/10.1111/josi.12563>.

dimensions. Material assistance alone cannot fully realize these objectives because children's welfare depends on the interaction between economic security, family relationships, developmental guidance, and legal recognition.

Previous research generally identifies parental responsibility as extending beyond material provision to include care, religious education, character formation,³² *hadhanah*, and financial support. Other studies concerning children from unregistered marriages emphasize vulnerabilities involving legal status, birth registration,³³ lineage, maintenance,³⁴ inheritance, and official documentation.³⁵ The present evidence is consistent with these concerns but differs in connecting legal vulnerability with the socioeconomic and caregiving circumstances experienced by families.³⁶ In particular,³⁷ parental migration provides an important link between economic responsibility and reduced direct involvement.³⁸ Financial support can be maintained despite geographical distance,³⁹ whereas emotional care, supervision, character formation, and developmental guidance become more difficult to sustain.⁴⁰ Earlier research frequently addresses particular rights or legal consequences separately, while the cases examined here demonstrate how several dimensions of vulnerability occur simultaneously within the same family context. The interaction between economic pressure,⁴¹ migration,⁴² childcare transfer, limited legal awareness, and administrative barriers provides a broader explanation of why children's rights may remain incompletely realized. Unregistered marriage therefore represents more than a formal problem concerning marital documentation.⁴³ Its consequences are connected to the everyday capacity of parents to provide comprehensive care and to the ability of children to obtain effective legal recognition. This perspective contributes a more integrated understanding of child protection by connecting civil rights with family welfare and developmental needs.

This study recommends positioning the present evidence in relation to previous research that has examined children's rights through parental responsibility, child maintenance, *hadhanah*, and the legal consequences of unregistered marriage. Earlier studies generally emphasize that parental responsibility extends beyond material provision to include religious education, character formation, care, and financial support.⁴⁴ Other research highlights the vulnerability of children from unregistered marriages in relation

³² Imron Rosyad, Helmy Ziaul Fuad, and Ashlaha Baladina Zaimuddin, "Criminalization of Unregistered Marriage in Indonesia: A Legal System Analysis Based on Friedman's Theory," *Al-Adalah* 22, no. 1 (2025): 147–80, <https://doi.org/10.24042/adalah.v22i1.22779>.

³³ Nanda Nabilah Islamiyah, "When Religious Leaders Become Marriage Brokers, Penghulus, and Marriage Consultants: The Authority of Kyai in the Process of Unregistered Marriage," *Al-Ahwal: Jurnal Hukum Keluarga Islam* 17, no. 1 (June 7, 2024): 21–40, <https://doi.org/10.14421/ahwal.2024.17102>.

³⁴ Elimartati et al., "From Custodians to Bystanders: Tigo Tungku Sajarangan's Responses to Unregistered Marriages Practices in Minangkabau," *Al-Ahwal: Jurnal Hukum Keluarga Islam* 18, no. 1 (2025): 47–64, <https://doi.org/10.14421/ahwal.2025.18103>.

³⁵ Aslati et al., "Utilizing Science and Maqāṣid Al-Sharī'ah in Resolving Contemporary Issues of Islamic Family Law," *Al-Manahij: Jurnal Kajian Hukum Islam*, March 16, 2024, 17–36, <https://doi.org/10.24090/mnh.v18i1.10571>.

³⁶ Baihaqi Baihaqi et al., "Legal Non-Compliance and Kiai Hegemony: The Practice of Unregistered Marriages among the Madurese Muslim Community of Kubu Raya," *Journal of Islamic Law* 5, no. 2 (August 29, 2024): 242–68, <https://doi.org/10.24260/jil.v5i2.2819>.

³⁷ Encep Taufik Rahman et al., "How Does the State Regulate the Administration of Unregistered Marriages in Muslim Minority Communities? The Practice of Mass Weddings in Jayapura City," *Jurnal Ilmiah Al-Syir'ah* 22, no. 2 (December 30, 2024): 207, <https://doi.org/10.30984/jis.v22i2.3210>.

³⁸ Maaïke Voorhoeve, "Law and Social Change in Tunisia: The Case of Unregistered Marriage," *Oxford Journal of Law and Religion* 7, no. 3 (October 1, 2018): 479–97, <https://doi.org/10.1093/ojlr/rwy027>.

³⁹ Safrin Salam et al., "The Erosion of Customary Authority and The Riset of Local Ulama In The Normalization of Unregistered Marriages In Indonesian Muslim Communities," *Mawaddah: Jurnal Hukum Keluarga Islam* 4, no. 1 (2026): 351–75, <https://doi.org/10.52496/mjhki.v4i1.72>.

⁴⁰ Sheila Fakhria et al., "Securing Muslim Children's Civil Rights: Debate on State Legal Policy towards The Issuance of Family Cards for Unregistered Marriage Couples," *El-Mashlahah* 14, no. 2 (December 26, 2024): 303–22, <https://doi.org/10.23971/el-mashlahah.v14i2.8008>.

⁴¹ Azni Azni et al., "Pseudo-Maṣlaḥah and Epistemological Failure in Marriage Dispensation at Indonesian Religious Courts," *Jurnal Ilmiah Peuradeun* 13, no. 2 (May 30, 2025): 1399–1420, <https://doi.org/10.26811/peuradeun.v13i2.2047>.

⁴² Andi Muhammad Akmal et al., "Legal Solutions for Domestic Violence in Unregistered Marriages in Indonesia: Integrating Maqāṣid Al-Sharī'ah," *El-Usrah: Jurnal Hukum Keluarga* 7, no. 2 (December 31, 2024): 768, <https://doi.org/10.22373/ujhk.v7i2.25971>.

⁴³ Muhammad Khalilurrahman, Eficandra Eficandra, and Dodon Alfiander, "Sharia-Based Customs in Unregistered Marriage Rules (Case Study in Rambatan Village, West Sumatra)," *Al-Istinbath: Jurnal Hukum Islam* 7, no. 2 (December 1, 2022): 595, <https://doi.org/10.29240/jhi.v7i2.5543>.

⁴⁴ Rusdi Rizki Lubis et al., "Towards Legal Justice: Expanding Criteria for Obligatory Bequests in Unregistered Wives in Polygamous Marriages," *Al-Ahkam* 35, no. 1 (April 29, 2025): 117–46, <https://doi.org/10.21580/ahkam.2025.35.1.25358>.

to legal identity,⁴⁵ lineage,⁴⁶ birth registration,⁴⁷ maintenance, and inheritance. The present research is consistent with these perspectives but provides a broader empirical explanation by connecting children's legal vulnerability with the socioeconomic and caregiving conditions experienced within families. In particular, parental migration emerges as an important link between economic responsibility and reduced direct parental involvement.⁴⁸ Financial support can continue across geographical distance, whereas emotional care, supervision, character formation, and developmental guidance become more difficult to maintain. Previous research has generally examined particular rights or legal consequences separately, while the present analysis integrates material welfare, parental care, child development, and legal recognition within a single context. This distinction demonstrates that the consequences of unregistered marriage cannot be understood solely through the absence of formal documentation. The condition is also shaped by economic pressures, family arrangements, legal awareness, and access to administrative mechanisms. The contribution of this research therefore lies in presenting child protection as an integrated legal and social issue rather than merely a consequence of unregistered marital status.

4. Conclusion

The findings indicate that the protection of children born from unregistered marriages remains a significant legal and social issue in Namorambe District. Both parents generally continue to assume responsibility for their children by providing financial support, adequate housing, education, and daily necessities. In several cases, however, children are entrusted to relatives on the mother's side, who assume responsibility for their daily care and educational needs. Although parents and extended family members attempt to fulfill children's rights, their fulfillment remains incomplete because parental responsibilities are not always exercised consistently. The unregistered status of the marriage may also create difficulties in establishing and enforcing parental obligations, particularly when parents separate. Existing legal arrangements do not fully address all practical problems concerning parental responsibility, child custody, financial support, and neglect in such circumstances. Consequently, the protection and welfare of affected children depend substantially on the commitment and capacity of parents and extended family members. This situation demonstrates that the absence of formal marriage registration can contribute to uncertainty in the practical realization of children's rights. It also indicates that legal protection requires mechanisms capable of ensuring parental accountability and safeguarding children's welfare regardless of the marital registration status of their parents.

This study contributes to socio-legal scholarship by demonstrating the relationship between marriage registration, parental responsibility, and the practical fulfillment of children's rights. Its conceptual significance lies in emphasizing that child protection should be centered on children's rights, welfare, and best interests rather than determined solely by the formal status of their parents' marriage. The findings reveal a gap between normative commitments to child protection and the practical mechanisms available to protect children affected by unregistered marriages. From a legal policy perspective, the study highlights the importance of establishing clearer mechanisms for determining parental responsibility and ensuring children's access to care, education, financial support, legal identity, and other fundamental rights. Strengthening marriage registration, public legal awareness, administrative services, and institutional protection is therefore necessary to reduce children's vulnerability. The study further emphasizes the importance of parental accountability as an essential component of effective child protection. These measures can contribute to the development of a more child-centered approach to

⁴⁵ Lauren Kaminsky, "No Rituals and Formalities! Free Love, Unregistered Marriage and Alimony in Early Soviet Law and Family Life," *Gender & History* 29, no. 3 (November 14, 2017): 716–31, <https://doi.org/10.1111/1468-0424.12320>.

⁴⁶ Bayturrochmah Siti, Fitriani A. Sjarif, and Heriyono Tardjono, "Practice in Making Notarial Agreements in Unregistered Marriage in Indonesia," *Nurani: Jurnal Kajian Syari'ah Dan Masyarakat* 22, no. 1 (July 4, 2022): 145–58, <https://doi.org/10.19109/nurani.v22i1.10226>.

⁴⁷ Peter Jeremiah Setiawan et al., "Juridical Implications of Unregistered Marriage Against Legal Protection in the Domestic Violence Law," *Media Juris* 6, no. 3 (October 26, 2023): 457–78, <https://doi.org/10.20473/mi.v6i3.43219>.

⁴⁸ Ahmad Bunyan Wahib, Muhammad Jihadul Hayat, and Nurulbahiah Awang, "Unregistered Marriages in Sabah: Indonesian Migrant Workers at the Crossroads of Faith, Law, and Livelihood," *Journal of Human Rights, Culture and Legal System* 5, no. 2 (September 8, 2025): 608–29, <https://doi.org/10.53955/jhcls.v5i2.702>.

Indonesian family law, in which children are protected from the adverse consequences of parental decisions and are guaranteed their fundamental rights regardless of their parents' marital status.

This study has several limitations that should be considered when interpreting its findings. The research was conducted within the specific social and legal context of Namorambe District and involved a limited number of families. Therefore, the findings cannot be generalized to all children and families affected by unregistered marriages throughout Indonesia. The study also focuses primarily on qualitative evidence and does not provide statistical measurements concerning the prevalence of unregistered marriages, the frequency of parental neglect, or the extent to which children's rights remain unfulfilled. In addition, the analysis primarily considers the perspectives of families and the applicable legal framework, while the perspectives of government institutions, legal practitioners, community organizations, and children themselves could provide additional insights. Future research should therefore involve broader populations and multiple geographical settings to identify variations in legal protection and parental responsibility. Comparative and mixed-methods studies could further examine the relationship between marriage registration, parental accountability, institutional capacity, and children's welfare, thereby providing stronger empirical foundations for future legal and policy reforms.

Declarations

Author Contribution Statement

Ahmad Nubli Sitepu contributed to conceptualization, methodology, investigation, formal analysis, and writing—original draft. Amal Hayati contributed to supervision, validation, writing—review and editing, project administration, and manuscript approval. All authors approved the final manuscript.

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The data that support the findings of this study are available from the corresponding author upon reasonable request. No publicly archived datasets were used or generated during the current research.

Declaration of Interests Statement

The authors declare no competing interests.

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