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**LEGAL IMPLICATION OF UNREGISTERED POLYGAMOUS MARRIAGES WITHOUT COURT PERMISSION IN NEGERI SEMBILAN**<sup>i,\*</sup>Laila Salikin Wan Ibrahim, & <sup>i</sup>Norsuhaida Che Musa<sup>i</sup>Faculty of Syariah and Law, Universiti Sains Islam Malaysia (USIM), 71800, Nilai, Negeri Sembilan, Malaysia\*(Corresponding author) e-mail: [wlailasalikin@raudah.usim.edu.my](mailto:wlailasalikin@raudah.usim.edu.my)**ABSTRACT**

All Muslim countries, including Malaysia, have struggled with the issue of polygamous marriages. Due to the instability of families in society caused by individuals who misuse the authority granted by the Quran, a special rule regarding polygamy has been enacted in the Islamic Family Law. Cases involving polygamous marriages without court permission are one kind of case that arises regularly in the Syariah High Court. In keeping with the goals of Syariah, the court introduced a method that fundamentally preserves each polygamous couple's rights and obligations. If a man is previously married, he cannot marry another woman without the court's approval. The principal aim of this study is to increase consciousness regarding the need to safeguard the rights of co-wives and their children in unregistered polygamous marriages. Being unaware of unregistered polygamous marriages puts the majority of co-wives and children in this position at risk of persecution. Additionally, this article aims to investigate the legal implications of unregistered polygamous marriages without court permission for co-wives and children in Negeri Sembilan. Determining and assessing the level of knowledge and practice of polygamy among Malaysian polygamous spouses is essential to safeguarding the rights that ought to be obtained. Thus, this research refers to actual case law from Syariah High Court, Negeri Sembilan and the enactment of the Islamic Family Law (Negeri Sembilan) Enactment 2003, which will determine how compatible they are. In doing so, to avoid misconceptions under Islamic Law, a husband should register a polygamous marriage to support legal co-wives. Addressing maintenance, inheritance and legitimacy of children requires formal registration for a legally recognized marriage certificate in Malaysian law.

**Keywords:** *Unregistered polygamous marriages, rights of co-wives and the children, legal implications*

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## Introduction

In terms of rights and responsibilities, marriage marks the start of a social union between two individuals. Legally, a marriage must be properly registered in line with the Islamic Family Law's marriage administration method for Malaysia to officially recognise the married status of Muslim. Based on the marriage certificate that was issued during the marriage registration, the existence of a marriage relationship is proven. Because registration is a crucial step in the marriage procedure, therefore, being unregistered does not invalidate an otherwise lawful marriage, but it does prevent such a marriage from being recognised by national law in certain situations, particularly when rights that should come from the marriage contract are at issue (Nurcahaya et al., 2017). An unregistered marriages have significant legal implications, which may affect child status, inheritance and the connection between Islamic law and state law (Gufron, 2021). In addition, this will have the same implications and repercussions as unregistered marriages under Malaysian law.

In Islam, a man is allowed to marry more than one wife with the condition that he is able to treat his wives with equality (Wan Ismail et al., 2022a). It is provided in Surah An-Nisa' verse 3: as translated "and if you fear that you cannot act justly towards orphans, then marry such women as seem good to you but if you fear that you will not do justice between them, then marry one only...". Most elopement situations or polygamous marriage outside Malaysia result in legal issues because the marriage is not registered. Because the marriage was solemnised outside of the legal framework in these situations, the partners typically decided not to register the marriage. As is well known, there are restrictions on a man's ability to marry four women in Islam. Other hadiths that Imam Ash-Shafi'i recounts in his Musnad come from Naufal bin Mu'awiyah ad-Daili, who said, "I converted to Islam while having five wives. The Messenger of Allah, may God bless him and grant him peace, then told me, 'Choose four, which of them those whom you love, and divorce the rest.'" Then, after spending 60 years with the elderly and infertile woman who had been my constant companion, I proceeded to divorce her." The provided evidence demonstrates that a man may engage in polygamy, but only if he complies with specific requirements.

Hukum Syarak's validation of the marriage does not, by itself, grant the entitled parties their rights. The purpose of this article is to address the rights of co-wives and the legal implications when their marriage is not legally registered as required by written law. This study examines the legal implications for co-wives of a marriage that is not legally registered as required by written law. These legal implications include inheritance, maintenance and the legitimacy of the children resulting from the marriage. The principles that support the rightful heirs as well as the provisions of the Islamic Family Law (Negeri Sembilan) Enactment 2003. Since unregistered polygamous marriages typically cause loss, grief and harm to co-wives, the discussion was limited to the deprivation rights of co-wives in unregistered polygamous marriages. Marriage registration is crucial for ensuring legal validity and preventing unfavourable consequences for women and their children (Putri, 2021). Unregistered marriages negatively impact property ownership and the rights of the wives, making it illegal for the citizens to carry out such marriages (Alias, 2022). This has led to the realisation that unregistered marriages have numerous detrimental repercussions, one of which is that they lack legal standing, which means that the wives' rights are affected, and no legal guarantees are provided (Tanjung, 2022). In the same way, when it comes to property ownership, the wives suffers because they are not granted the rights acquired during the unregistered marriage.

## Methodology

This article will employ a qualitative research methodology and its main sources will be a thorough examination of stated enactments which are Section 12, Section 23, Section 24, Section 61, Section 123 and Section 124 Islamic Family Law (Negeri Sembilan) Enactment 2003, case law that have been registered at Syariah High Court Negeri Sembilan, pertinent literature, including academic journals and articles. In order to determine the legal implications and effects on co-wives when marriages are not legally registered as required by written law, as well as the solutions to problems arising from the oppression and disregard of the rights of co-wives and the penalties imposed on married couples for unregistered polygamous marriages in the state of Negeri Sembilan. The case files from the Syariah High Court in Negeri Sembilan is referred to in this article as actual case law. The major source of data

for this article was the Syariah High Court in Negeri Sembilan case files. The application for marriage registration from 2020 to 2023 is the subject of the Negeri Sembilan Syariah High Court case.

Additionally, the writer conducted fieldwork to gather important details for an article about the marriage registration application cases in Syariah High Court, Negeri Sembilan. The writer was granted access to the actual case files pertaining to Negeri Sembilan marriage registration application cases from 2020 to 2023. The writer discovered cases relevant to the article through fieldwork conducted in as many as two cases in 2020, one case in 2022, and two cases in 2023.

## Discussions and Findings

### *The Registration of Polygamous Marriages in Malaysia*

Marriage registration legally binds both parties to marry within the confines of the law. Both parties are legally required to get married within the bounds of the law upon registration of the marriage. The registration will aid the court in making a decision if there was any fraud committed during the marriage. The law suggested to the Ministry of law that registration be required (Wan Ismail et al., 2023). All states in Malaysia required registration to guarantee the accessibility of marriage records whether it is a first marriage or a second or third or fourth marriage. For a marriage to be legally recognized in Malaysia, all Malaysians must register with the National Registration Department, often known as JPN (National Registration Department).

Large number of individuals marry without completing the necessary legal requirements, which might lead to issues for the newlyweds. In addition to providing legal recognition to the partnership, the registration process offers the husband and wife several protections in the event that something goes wrong. An officially recognized marriage facilitates a more amicable divorce settlement. Furthermore, a legally recognized marriage facilitates the surviving spouse's life after the death of the spouse. A marriage certificate must be produced by the surviving spouse if they seek to make a life insurance claim after their spouse passes away. In certain instances, nevertheless, the Marriage Registrar must make a referral to the Syariah Court for the Syariah Judge to grant a marriage license which one of the cases are application to be polygamous.

Non-compliance with marriage procedures in Terengganu, Malaysia, can lead to unregistered polygamous marriages which affecting the marriage registration and affecting the married couple's rights (Bidin & Hamid, 2019). Each Malaysian state's Administration of Islamic Family Law Enactment has established protocols for the implementation of marriage. The marriage registration process will be impacted by any non-compliance with the requirements. Many instances of procedure breaches occur even though there are explicit provisions regarding them. By the virtue of Section 12 Islamic Family Law (Negeri Sembilan) Enactment 2003, marriages that are not lawful under this enactment are not permitted to be registered. However, according to subsection (2), in accordance with Hukum Syarak, a marriage that has been solemnized in violation of any provision of this Part may be registered under this enactment with a court order, notwithstanding subsection (1) and without affecting subsection 40(2).

For the purpose of this topic a marriage that has been solemnized in violation of any provision of this Part, is Section 124 which stated that if a man commits an offense and faces up to a thousand ringgit fine, six months in jail, or both if he remarries in any polygamy despite the fact that his previous marriage has not yet ended without first receiving written consent from the court. This section demonstrates that the Islamic Family Law (Negeri Sembilan) Enactment 2003 penalizes certain offenses if a man found guilty.

In the case of Lokman bin Jamaan v Ruhaizah binti Mohd Rawi (Case no: 05100-012-0512-2021), the spouse has made an application for their polygamous marriage filed at the Syariah High Court, Negeri Sembilan. According to the facts of the case, the marriage between the applicant and the respondent was held at Desajaya Villa Apartment, Seremban on 24 May 2021. Before this marriage was held, the applicant already had an existing wife and had two children from the first marriage while the respondent was a widow. The legal wali for this polygamy marriage was her male brother (Wan Ismail et al., 2022b). The court is satisfied that the marriage between applicant and the respondent, which was held at Desajaya Villa Apartment, Seremban is valid and in accordance with Hukum Syarak. Besides, the court

allowed the marriage to be registered under Section 23(2) Islamic Family Law (Negeri Sembilan) Enactment 2003. (Case file Syariah High Court 2020). As a result, this polygamous marriage was registered to safeguard the rights of the co-wives and the children.

Although marriages abroad are permitted, Syariah Court or Syarie Judge written consent is still required for the married spouse. In Section 23(1) Islamic Family Law (Negeri Sembilan) Enactment 2003 states that a man cannot get married to another woman while he is still married, unless the court gives prior written consent. Nevertheless, the specifics of what constitutes an authorized polygamous relationship significant difference amongst each state. Applications for polygamy in states like Perlis, Kedah, Penang, Selangor, Federal Territories, Negeri Sembilan, Melaka, Johor, Pahang, Sabah and Sarawak are subject to a few requirements that must be met before the Syariah Court will approve them. Under Malaysian Islamic family law, polygamy is permitted if the husband first gets formal approval from the Syariah Court.

The husband's application needs to be filed with the court in the format specified by Section 23(3) Islamic Family Law (Federal Territory) Act 1984, along with a declaration. The declaration outlines the financial circumstances of the husband, including the number of dependents, including individuals he will support after the proposed new marriage and the reasons why a polygamous marriage is desirable and necessary. Additionally, the applicant must indicate whether their wife's consent or input has been sought on the topic. After receiving the application, the court will convene in closed session to hear the application and, if satisfied, grant permission to the applicant, the applicant's current wife, her future wife, her future wali wife, and any other person deemed by the court to have been granted information about the proposed marriage. The following standards will be used by the court in its evaluation;

- i. The suitability or necessity of the proposed marriage is determined by taking into account various factors, such as sterility, physical weakness, unsuitability for sexual activity, wilful disregard for the order to restore rights to sexual relations, or the existing wife's insanity;
- ii. The applicant's capacity to support all of its dependents, including those who will come to be his dependents after the proposed marriage, as required by Hukum Syarak;
- iii. The applicant will be able to treat each of his wives fairly in accordance with Sharia law's requirements;
- iv. The current wife won't experience an abortion because of the proposed marriage. Every wife will receive a summons containing a copy of the application submitted under subsection (4) and the necessary iqrar required by that subsection.

### **The Factors Influencing Unregistered Polygamous Marriages in Negeri Sembilan**

Unregistered polygamous marriages may result in challenges to the bliss of matrimony, including the need for rights toward co-wives and children. The majority of them had to keep their marital status a secret from the general public. Regardless of whether the polygamy takes place inside or outside of Malaysia, it still has a significant impact, particularly on the legal aspect. According to the research, there are a number of factors that cause the practice of polygamy occurs without a court permission, including;

#### *Strict Polygamy Application Procedure*

The regulations incorporated in the states' drafting of Islamic family laws are frequently perceived by certain parties as being complicated, complex and time-consuming. Each state in Malaysia, which include the Islamic Family Law Act, are designed to govern and control matters pertaining to marriage, divorce and related subjects. Nonetheless, a small number of Negeri Sembilan residents believe that the established legal provisions are extremely onerous and burdensome. For example, the regulations that demand time, effort and money from each couple include purchasing a form, filling it out and completing it attending a pre-marriage course which obtaining a single declaration letter, a residence declaration letter, a confirmation letter from the National Registration Department for holders of permanent residence, attending interviews and so on. In fact, in some cases like those involving guardianship refusals, applications for polygamy and divorces, it will be referred to the Syariah Court

prior to approval and permission. This rule is extremely onerous for some spouse and ends up being the primary barrier to their desire to get married. Alternatively, because marriage in certain countries such as Thailand is easier to accomplish than in own country. Therefore, they are more intended to break the law and get married outside of Malaysia. However, in accordance with Section 24 Islamic Family Law (Negeri Sembilan) Enactment 2003 stated that (1) Subject to subsection (2), the Registrar designated at the Embassy by subsection 28(3) may perform marriages in compliance with Hukum Syarak. If the Malaysian government is not informed that it objects to the marriage ceremony at the Embassy, High Commission, or Consul, Suruhanjaya Tinggi or the Malaysian Consul Office in that country will take action.

Muslim marriage disputes fall within the Syariah Court's jurisdiction including polygamous marriages. Power to draft and determine the enactment of state-specific family legislation is delegated to each state. Islam requires the court's approval before allowing any marriage that involves humans, according to the requirements. After all paperwork and procedures are completed and approved by the court, the marriage is officially recognized and registered (Khairul Azhar, 2018). Polygamy without permission is becoming more common due in part to the court's rejection of the application for written permission to practice polygamy. The couple decided to take the easy route and get married in other nations, for instance in Thailand, without the court's approval after the court determined that the applicant did not meet the requirements for polygamy. Being able to pay out maintenance based on dependents is largely dependent on the husband's ability to earn a living, which is one of the requirements for eligibility under polygamy. There is no set income threshold that the court will accept in order to permit polygamous couples. Instead, the Court will look at the husband's financial resources and consider the ability factor, particularly with regard to the husband's commitment to the number of dependents. Even in the absence of the first wife's consent, the court will approve the polygamy application if it is satisfied that the applicant has complied with all the requirements.

Although the existing wife's approval or disapproval of her husband's polygamous marriage is not legally binding, the information she provides serves as evidence to support the court's decision to approve or reject the husband's application for polygamy. This demonstrates that to practice polygamy, husbands must treat their wives fairly in all of their obligations. As a result, it is not surprising that some spouse will choose to practice polygamy in short order in countries where the process is simpler, like Thailand, if their application is denied on the grounds that the court finds that the applicant's income is insufficient to support his wives fairly and reasonably. Nonetheless, in compliance with Section 123 of the Islamic Family Law (Negeri Sembilan) Enactment 2003, a man may still practice polygamy by filing an appeal with the Syariah Court. According to Section 123 of the Islamic Family Law (Negeri Sembilan) Enactment 2003, any person who aggrieved by an appeal judgment made by a court or by a registrar under this enactment may file an appeal with the Syariah Court.

In the case of Abdul Mahadi bin Abu Hassan & Roslina binti Abu Kassim v Nora binti Samsudin (Case no: 05100-012-0327-2022), the applicant and the respondent has made an application for their polygamous marriage filed at the Syariah High Court, Negeri Sembilan. According to the facts of the case, the marriage was held at Yala, Thailand on 23 December 2013. Before this marriage was held, the applicant had an existing wife named Nora binti Samsudin while the respondent was a widow. The wali of the respondent at the time of the marriage was in Selangor and was not notified about this. It was decided that the court was satisfied that the marriage of the applicant with the respondent which was held at Yala, Thailand is valid in accordance with Hukum Syarak. The court allowed the marriage to be registered under Section 23(2) Islamic Family Law (Negeri Sembilan) Enactment 2003. By the virtue of Section 61 Islamic Family Law (Negeri Sembilan) Enactment 2003, the court ordered the applicant to pay monthly kitchen expenses, maintenance, child maintenance and rental house payments for the first and second wives, with the applicant spending one day at each wife's house and the other at their workplace. (Case file Syariah High Court 2022). Therefore, the applicant certifies that they were married in Yala, Thailand and practiced polygamous marriage. However, the court will decide how much maintenance to pay and whether to assign a night shift in line with Section 61 Islamic Family Law (Negeri Sembilan) Enactment 2003.

### **Misunderstanding of First Wife's Consent**

In addition, the lack of consent from the husbands' current wives is another reason why they practice polygamy without court's permission occurs in Negeri Sembilan. Setting the wife's consent required before engaging in polygamy is not entirely accurate. According to section 23(2) of the Islamic Family Law (Negeri Sembilan) Enactment 2003, a marriage that was solemnized without permission under subsection (1) is not eligible for registration under this Enactment unless the court certifies that the marriage is legitimate in accordance with Hukum Syarak and orders that it be registered in accordance with section 124. However, under Section 23(5), the Court will hear the application in closed session and if satisfied, the Court will grant the requested permission. The Court will call the applicant, the current wife or wives, the future wife, the future wife's wali, if any, and other people the Court believes can provide information about the proposed marriage. Thus, it is evident that a man can practice polygamy without the consent of his current wife. All decisions are binding on court decisions.

After receiving the polygamy application, the court must call the applicant and current wife to testify in private about the intended marriage in order to determine the applicant's eligibility for polygamy marriage. This is one of the provisions included in the state's Islamic Family Law Act. As the court determines the husband's application's status, this obliquely illustrates the significance of truth and the wife's testimony. However, the court will consider other factors when determining whether allow or not the husband is eligible for polygamy. In fact, the wife's consent is not the only factor that influences the court's decision. In certain instances, the husband has not demonstrated his capacity to support multiple wives, so the court rejects the application for polygamy even after receiving the first wife's consent. It shows that the court's decision does not rely on the first wife's consent.

In the case of Mohammad Sofian bin Mohd Khairy v Azeyan binti Othman (Case no: 05200-012-0170-2020), the applicant and the respondent has made an application for their polygamous marriage filed at the Syariah High Court, Negeri Sembilan. According to the facts of the case, this polygamous marriage was held at MAIW Songkhla, Thailand on 2 November 2019. The wali of the respondent knows about this marriage which was held at Songkhla, Thailand. The court held that their polygamous marriage was valid accordance to Hukum Syarak and allowed the marriage to be registered under Section 23(2) Islamic Family Law (Negeri Sembilan) Enactment 2003. The applicant practices polygamous marriage due to not getting the consent of the first wife (Case file Syariah High Court 2020). Therefore, the applicant practiced a polygamous marriage and registered the marriage because of not having the first wife's consent.

### ***The Implications of Unregistered Polygamous Marriages in Negeri Sembilan***

Mandatory marriage registration is mandated by the Islamic Family Law Act and Enactment in Malaysia. In Section 25 Islamic Family Law (Negeri Sembilan) Enactment 2003 has stated about the registration of marriage in the state. Although failing to register is a crime in most jurisdictions, it is clearly stated by law in every state that registration only verifies a marriage that would otherwise be void under Islamic law and unregistered marriages does not invalidate a legitimate marriage. The reason for this is because a marriage must be lawful in accordance with Hukum Syarak in order for it to be recognized as lawful. Thus, the marriage will continue to be lawful if it complies with Hukum Syarak. In addition to the individuals involved, proper registration is crucial for other parties as well, such as government agencies that might need documentation of the marriage.

Among other things, registration as part of the marriage's legal requirements will guarantee that the couple is legally wed and has a marriage certificate. Unregistered polygamous marriages negatively impact women and children, with the legal consequences affecting their rights and legal status, highlighting the need for legal protection from parents and the government (Syarifuddin, 2021). The goals of marriage are to establish a *sakinah*, *mawaddah*, *warahmah* family, as well as to bring about social order, legal stability for spouses and the right to procreate. Women and children suffer the most from the legal implications of unregistered marriages because the state does not recognise their rights or legal status because of not registered their marriage.

The co-wives and the children are the most impacted parties in an unregistered polygamous marriage in terms of its implications. This is because, despite the fact that the marriage is lawful under Syariah law, the co-wives cannot exercise their legal rights in the event of a dispute because there is no marriage contract, and the marriage is not officially registered in Malaysia. Marriage registration is crucial for protecting women and children's rights as unregistered marriages weaken women's positions and children's status as illegitimate children. A crucial component for the legality of a marriage is marriage registration. The wives and children from an unregistered marriage are directly impacted. One of the references for the significance of marriage registration is this issue. To uphold women's and children's rights as legal subjects, marriage registration (Sukiati, 2020). The case will not be heard by the Syariah Court if the marriage certificate is not provided. Furthermore, in the event that a polygamous marriage is not officially registered, the couple getting married will not acquire a valid marriage certificate.

Unreported marriages have been a common occurrence in several social contexts (Sururie, 2020). Due to these marriages, co-wives frequently lack legal authority and are unable to get marriage licences, birth certificates for their children and other legal identification rights. They are also frequently denied access to material rights like joint property and property ownership. The state provides legal protection for women in unregistered marriages through preventive and restitutive protection, enabling them to obtain clear legal positions and protection.

The registration agency will not record the birth of a married child without this certificate. The relationship between an unregistered polygamous marriage and the child's paternity will also be complicated by this. The birth will occasionally be recorded. On the birth certificate, the father's name won't appear. When the child learns his position in later years, this will be a frightening circumstance for him. It will be challenging to record a child's admission to school due to the issue with birth registration, particularly at government-sponsored schools. This is due to the fact that the parties are unable to register for school without a marriage license and a birth certificate. The children from unregistered polygamous marriages still lack legal protection and inheritance rights, as they lack nasab relationship with the mother and mother's family. By applying for a marriage certificate, one can obtain the legal protection for the children from unregistered polygamous marriages. The offspring of unregistered polygamous marriages will acquire legal status as legitimate children according to the court's decree. According to (Wijaya, 2020), the Compilation of Islamic Laws, children can only inherit rights if they are biologically related to their mother and her family through a nasab relationship.

In the case of Mahizah binti Rahmat v Hamidah binti Ahmad (Case no: 2311-H0105-131-0519), the spouse has made an application for their polygamous marriage filed at the Syariah High Court, Negeri Sembilan. According to the facts of the case, they married at Masjid Muhammadiyah Chikbilang, Satun, Thailand on 5 January 1992. Before marriage, the applicant is a virgin and knows about the marital status of his husband, Razali bin Aziz who has an existing wife. The court held that their polygamous marriage was valid in terms of Hukum Syarak and allowed the marriage to be registered under Section 23(2) Islamic Family Law (Negeri Sembilan) Enactment 2003. The applicant has made a registration of polygamous marriage due to the guardianship of their daughter's marriage since the husband died (Case file Syariah High Court 2023). Therefore, the guardianship of their daughter's marriage, who desired marriage after her husband's death, led to the confirmation of this polygamous marriage.

Islam stipulates that a man must provide evidence of his ability to treat his wives equally and fairly for him to be permitted to have more than one wife and could practice polygamy. The proposed marriage must not negatively impact the man's current wife or wives, and the man must be able to treat each of his wives equally as required by Syariah law. In regard to the co-wives, they will have a hard time filing for divorce since they need to show, during registration, that their marriage is lawful under Hukum Syarak. This can be accomplished by presenting the marriage certificate. If not, they will need to provide additional proof of their marriage to the court. In the event that the court denies their divorce, they will lose their rights to pursue any ancillary remedy, such as conjugal property (marital property), iddah maintenance, deferred dowry and mutaah (consolation gift). During the alleged of unregistered polygamous marriage, the same holds true whether the co-wives requests maintenance or asks the court for support in any marital conflict. Until they can demonstrate that their marriage is lawful, the court will not consider the application. An unregistered polygamous marriage results in the same circumstance as described above when a death occurs. The exercise of property rights, including those

pertaining to faraid and the division of marital property, will provide the same challenges for the married parties especially for the co-wives.

In the case of *Abu Samah bin Dolet v Siti Halijah binti Apani* (Case no: 2306-H0105-131-0398), the applicant who residing at Kuala Pilah, Negeri Sembilan, with his new spouse has made an application for their polygamous marriage filed at the Syariah High Court, Negeri Sembilan. According to the facts of the case, this spouse was married in Songkhla, Thailand on 16 December 2010 but this marriage was invalid according to Hukum Syarak. This is because there are some doubts in the marriage such as whether this marriage was held in Pattani, Thailand or in Songkhla, Thailand. Other than that, the marriage counsellor and general guardian cannot be authentically confirmed whether this marriage was managed by an individual named Umar Yusuf or someone else. The court held that this marriage cannot be registered under Section 23(2) Islamic Family Law (Negeri Sembilan) Enactment 2003 due to the invalid according to Hukum Syarak. (Case file Syariah High Court 2023). Therefore, the applicant has registered this polygamous marriage due to his spouse's faraid property, where the deceased who passed away on 16 December 2016.

Unregistered polygamous marriages currently have a negative impact on the co-wives and children from the marriages. As the consequences, the husband can easily ignore his responsibilities because there isn't a legally binding agreement in the form of a marriage certificate. The worst scenario would be for the husband to abandon the family and for the co-wives to be unable to sue him because their lacks legal documentation of their marriage. Unregistered polygamous marriages are regarded in society as being concealed from both the government and the public. Islamic law states that hiding is forbidden because it violates moral standards and is done with reckless intentions by the husband who want to practice polygamy. Women's rights are highly valued in Islam, particularly their rights as wives. Polygamists are also protected and have their own set of responsibilities. This is evident in the third verse of Surah An-Nisa', which states that a man should marry in accordance with his abilities. The fact that Islam encourages polygamy, though conditionally, cannot be denied. But the condition is very clear which polygamy should be practiced by men who can manage it successfully and demonstrate an uncompromising certainty that they will treat their wives equally (Surah An-Nisa' verse 129). This condition cannot be fulfilled, at least, absolutely. Islam is fully aware of that.

According to (Shaikh Mohammad Abduh, 1997), the verse has to do with polygamy and lays down two fundamental requirements which are firstly, he must be content with a single wife if there is a contract for a second marriage, as he may not be fair in giving his favours to multiple wives and secondly, he must be able to support multiple wives in addition to his current obligations to the family. In order to register a second marriage, individuals must first fulfil the conditions of polygamy, which are not only deemed to be binding on their consciences but also enforced by the court. Shaikh Abduh therefore recommended that until the court is certain that a man who already has one wife will be able to meet both demands, he should not be allowed to marry another. (Rohaya & Supendi, 2020), they stated that this study suggests solutions to provide legal protection for wives and the children in unregistered marriages, highlighting the need to apply existing laws and regulations to ensure their rights. We need to provide the public with information and suggestions about the steps that can be taken by the parties to give legal protection to wives and children in unregistered marriages, which are recognized by syariah as legitimate marriage even though they are not officially registered.

## Conclusion

From the standpoint of Islamic law, a marriage that satisfies the requirements for a valid marriage is valid, regardless of whether it is registered or not, as the discussion above makes clear. A husband and wives shared right to succession is one of the outcomes of a lawful marriage. However, because of the laws that apply in each of Malaysia's states, which require marriages to be registered, it can be extremely difficult for a co-wives, in particular, to prove that she is entitled to her husband's property upon his death. To solve this challenge and prevent misconceptions under Islamic Law if her husband predeceases her, it is suggested that a husband should be in charge of registering a polygamous marriage in order to support his legal co-wives in an unregistered marriage. There is only one way to address the



issues of maintenance, inheritance, and the legitimacy of children in unregistered polygamous marriages, and that is to formally register the marriages to receive a legally recognized marriage certificate in accordance with Malaysian law.

Strict polygamy application procedures and misunderstanding of first wife's consent are some of the factors that lead some spouse to practice unregistered polygamous marriages where some of them take the easy way to conduct a polygamous marriage in Thailand. Due to the unregistered marriage law, the agreement is void under national laws. Additionally, there is no birth certificate naming the child's mother and biological father, there is no legal connection between the child and the biological father in terms of inheritance and there is no wali for the daughter's marriage. A child of an unregistered marriage and his father are not legally recognized unless their relationship can be scientifically demonstrated. According to the research, most polygamous marriages that go unreported are caused by a variety of causes as stated above. A man commits an infraction if he remarries anywhere while his prior marriage is still in force without first obtaining written authorization from the court, according to Section 124 Islamic Family Law (Negeri Sembilan) Enactment 2003. In the event that he is found guilty, he might be hit with a fine of up to a thousand ringgit, six months in prison, or both. Therefore, if polygamous marriages are not officially recorded under the established rules, it may be determined that this is a huge problem for society and that it particularly affects co-wives and their children.

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