



He Yokal Himago: A Sociological Review of Law on Nikah Siri in the Dani Muslim Community, Papua

Eko Haryanto ^{a,1,*}, Moh. Wahib ^{a,2}, Faisal ^{a,3}, Athoillah Islamy ^{b,4}

^a Postgraduate of Fattahul Muluk State Islamic Institute of Papua, Indonesia

^b Wangsa Syaileandra Institute, Indonesia

¹ ekoharyanto2573@gmail.com; ² wahibstainjaya@gmail.com; ³ faisalsaleh329@gmail.com;

⁴ athoillahislamy@yahoo.co.id

* corresponding author

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ABSTRACT

This qualitative study intends to identify and explore the trigger factors for the practice of nikah he yokal himago (nikah siri) in the dani tribal muslim community in Jayawijaya, Papua. This qualitative study uses an empirical legal approach. The theory of effectiveness by Sarjono Soekanto became a theory of analysis. Data collection techniques use observation and interviews. Meanwhile, data analysis uses reduction, presentation, and verification. This study concludes that the factors of he yokal himago marriage vary, among others, the weak legal culture that assesses he yokal himago marriage has implications for financial attachment and social prestige for the woman. Then the low legal awareness that considers marriage as a private matter, and also yokal himago can be a solution for marriage that gets formal legal barriers. Furthermore, the role of non-legal legal structures is in the form of the role of religious figures in the implementation of he yokal himago marriage. The theoretical implications of this study show that serial marriage can be triggered by the complexity of the factors behind it, both socioeconomic, cultural, legal and religious. The limitations of this study have not examined the obstacles or challenges of government agencies, religious leaders and community leaders in preventing or minimizing he yokal himago marriage in the Dani tribal Muslim community in Jayawijaya.

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1. Introduction

The phenomenon of *nikah siri* is still a topic that is always debated among the Indonesian Islamic community.¹ The discourse cannot be separated from the dualism of the legal status of marriage in Indonesia itself, namely *nikah sirri* is seen as a valid marriage even without being registered with government administration, and legal marriage is registered.² Even though the existence of serial marriage often reaps problems in the future.³ The adverse effects of the serial marriage far outweigh the benefits.⁴ Not only that, the practice of serial marriage can also have an impact on the psychological perpetrators, especially for women (wives).⁵ It is even vulnerable to sexual exploitation of girls,⁶ and also the neglect of children's legal rights from the results of serial marriages after divorce.⁷ Such problems are contradictory when marriage is carried out legally according to marriage law in Indonesia which complicates divorce and must be accompanied by various strong reasons before the court.⁸ Moreover, related to the rights of wives in relation to joint property in actual marriage in the legal apparatus of marriage in Indonesia has been regulated.⁹ However, in the context of serial marriage, it will be difficult to fight. From this it can be concluded that the adverse effects of serial marriage are very complex, both in philosophical, juridical, sociological, and even psychological aspects.

Although the adverse effects of *nikah siri* are very complex, its existence in the midst of the life of the Indonesian Muslim community is still common in various regions.¹⁰ One of them is the phenomenon of *nikah he yokal himago* as a serial marriage practice in the Muslim community of the Dani tribe in Jayawijaya Papua. Although the occurrence of *he yokel himago* marriage may be triggered by various factors. If viewed from a sociological point of view, the existence of the practice of marriage *he yokal himago* shows that the marriage registration rules are still not effective optimally in the Dani Muslim community

¹Eva F. Nisa, "The Bureaucratization of Muslim Marriage in Indonesia," *Journal of Law and Religion* 33, no. 2 (2018): 1.

²Abdullah Suwanti; Saleng, "Dualism of Unregistered Marriage Law in Indonesia," *JL Pol'y & Globalization* 67 (2017): 110.

³Syafruddin Syafruddin, "Siri Marriage in Positive Legal Perspective," *Budapest International Research and Critics Institute-Journal (BIRCI-Journal)* 4, no. 4 (2021): 13359.

⁴Idris, Raya Lestari, and Zetria Erma, "The Problems of Siri Marriage For Couples Who Have Not Married According to The Law in Marriage Legal Perspective," *Legas Brief* 11, no. 6 (2023): 3520.

⁵Al Khanif, "Women, Islam, And Modern Family Construction In The Perspectives Of Legal Pluralism In Indonesia," *PETITA* 4 (2019): 141.

⁶Hari Sutra Disemadi, Sholahuddin Al-Fatih, and Mochammad Abizar Yusro, "Indonesian Children Protection against Commercial Sexual Exploitation through Siri Marriage Practices in Maqashid Al-Shariah Perspective," *Brawijaya Law Journal* 7, no. 2 (2020): 195.

⁷Made; Hufron Minan; Warka, "Legal Protection Children of Siri Marriage in Indonesia," *Technium Soc. Sci. J.* 36 (2022): 244.

⁸Aidil Aulya and Ahmad Irfan, "Koeksistensi Hukum Perkawinan Islam di Indonesia: Interpretasi Mahkamah Konstitusi Terhadap Pernikahan Beda Agama di Indonesia," *Al-Adalah : Jurnal Hukum dan Politik Islam* 8, no.1 (2022):116.

⁹Ibnu Elmi AS. Pelu, and Ahmad Dakhoir, "Marital Property within the Marriage Law: A Debate on Legal Position and Actual Applications," *Al-Jami'ah : Journal of Islamic Studies* 59, no.2 (2021):288.

¹⁰Ipandang Ipandang and Syamsul Darlis, "Passampo Siri'in the Bugis Marriage Practies in East Kolaka, Indonesia: A Sociological Perspective of Islamic Law," *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam* 6, no. 2 (2022): 874.

in Jayawijaya. Therefore, the initial argument of this study states that there are various social and cultural factors that trigger the practice of *he yokal himago* marriage in the Dani Muslim community in Jayawijaya.

This qualitative study aims to identify and explore the trigger factors for the occurrence of *he yokel himago* marriage in the Dani tribal Muslim community in Jayawijaya Regency, Papua Province. In this case, although studies on the practice of Muslim marriage and Jayawijaya are still relatively not widely conducted, based on research, several previous studies were found that have a close correlative on the subject of this study, among others, studies by Umar Yelipele and Moh. Hefni explained that there are still various customary practices in the tradition of Muslim marriage practices that contradict Islamic teachings, such as the use of pigs as dowry.¹¹ This is also corroborated by the study of Ibrahim Kuan, and Anwar Mochammad Roem who said that although the Dani Muslim community has embraced Islam, elements in traditional marriage that are contrary to Islamic teachings are still practiced, such as the use of pork dowry.¹²

Unlike the previous studies above, which are more on Islamic juridical review of the tradition of using pork dowry, this study will focus on identifying and exploring various factors triggering the practice of marriage in the Muslim community and Jayawijaya through the perspective of legal effectiveness theory.

This study is important to be carried out in the midst of the still rampant serial marriage with various forms in various regions in Indonesia, which is not registered in the KUA for Muslims and the Civil Registration Office for non-Muslims with various factors and legal problems that accompany it.¹³ Whether it's done between fellow Indonesian citizens or with foreign nationals.¹⁴ Therefore, the results of this study are theoretically expected to contribute to the discourse of factors that trigger *siri* marriage in Indonesian society, and in practice it is expected to be an evaluation material for the government, religious leaders, community leaders, traditional leaders, and all elements of society in minimizing and preventing the practice of serial marriage, both those that occur in the Dani Muslim community in Jayawijaya or other regions.

2. Legal Material and Methods

This qualitative study uses an empirical legal approach. The theory of legal effectiveness formulated by Sarjono Soekanto became a theory of analysis of the subject matter of study. Data collection techniques use observation and interviews. The informant

¹¹Umar Yelepele and Moh Hefni, "Perkawinan Adat Muslim Suku Dani Di Papua," *AL-IHKAM: Jurnal Hukum & Pranata Sosial* 7, no. 1 (2012): 48.

¹²Ibrahim Kuan and Anwar Mochammad Roem, "Hukum Perkawinan Adat Suku Dani Lembah Baliem Papua (Ditinjau Dari Hukum Islam Dan Undang-Undang Nomor 1 Tahun 1974 Tentang Perkawinan)," *Legal Pluralism* 8, no. 1 (2018): 44.

¹³Singgih Susilo et al., "Impact of Geographic Conditions on Sirri Marriage Phenomenon in Situbondo District," *Geosfera Indonesia* 1, no. 7 (2022): 87.

¹⁴Muhammad Ngizzul Muttaqin, "Unregistered Marriage Between Indonesian Citizens And Foreign Citizens With The Legal Perspective Of Marriage In Indonesia," *Jurnal Ilmiah Mizani: Wacana Hukum, Ekonomi, Dan Keagamaan* 7, no. 2 (2020): 149.

subjects in this study include serial marriage perpetrators (*he yokal hemago*), the head of the Office of Religious Affairs, community leaders, religious leaders, female leaders and other information related to the practice of *he yokal himago* marriage. This research was carried out on the lives of Muslims of the Dani Tribe of Jayawijaya Regency which includes Wamena, Welesi, Assotipo, Asolokobal, Napua and Pelebaga Districts. Meanwhile, data analysis through data reduction, presentation, and verification.

3. Results and Discussion

3.1 Legal Effectiveness in Public Life

Soerjono Soekanto became one of the figures of the sociology of law in Indonesia, he stated that one of the functions of law in the context of Indonesia's development, namely the renewal of society in a better direction.¹⁵ In Soerjono Soekanto's view as quoted by Djaenab, the effectiveness of legal implementation in the community can be identified from its impact, namely success or failure in order to build community behavior attitudes to be in line with the purpose of formulating the law.¹⁶ In this context, there are at least five aspects that can cause the law to run effectively in the community, including legal rules, law enforcement, legal facilities, public awareness, and legal culture.¹⁷

First, the rule of law. In this case, there are three characteristics of the enactment of the rule of law. (1) Can be applied juridically, which is based on legal rules whose hierarchy is higher or formed from the legal basis 'previously established. (2) Can be applied sociologically, that is, it has binding force by the government, even though it is not accepted by the community (power theory), or the rule of law has received public recognition. (3) Can be applied philosophically, which is parallel to the ideal of law as the highest positive value in life in society (state). Second, law enforcement. The role of law enforcement referred to here, namely people or legal entities that have authority related to the application of legal rules, such as judges, prosecutors, advocates, police, and so on. Sociologically, the existence of law enforcement has a position and also a role. Third, legal facilities. The existence of the legal facilities in question, namely urgent things used for effective implementation of legal rules, just as a police officer can carry out his duties properly if equipped with a variety of facilities that support his duties. Fourth, public awareness. The purpose of public awareness here is the existence of the community to comply with the existence of applicable laws. Fifth, legal culture. The purpose of legal

¹⁵Soerjono Soekanto, "Kesadaran Hukum Dan Kepatuhan Hukum," *Jurnal Hukum & Pembangunan* 7, no. 6 (1977): 462.

¹⁶Djaenab, "Efektifitas Dan Berfungsinya Hukum Dalam Masyarakat," *Ash-Shahbah: Jurnal Pendidikan Dan Studi Islam* 4, no. 2 (2018): 149.

¹⁷Zaenuddin, "Efektivitas Undang Undang Nomor 16 Tahun 2019 Tentang Perkawinan Dalam Meminimalisir Problematika Perkawinan," *Tahkim, Jurnal Peradaban Dan Hukum Islam* 4, no. 1 (2021): 105–6.

culture here, which is an indicator of public acceptance or rejection of applicable legal rules.¹⁸

Based on the elaboration of the theory of legal effectiveness above, it can be concluded that there are various factors that are mutually synergistic in realizing effective law enforcement in the midst of people's lives. In this study, the existence of the five legal effectiveness factors above will be used as an analytical theory in identifying and exploring the construction of the practice of serial marriage in the dani Muslim community in Jayawijaya Regency.

3.2 Ontological Discourse About *Siri* Marriage in Indonesia

The term *nikah siri* in the midst of Indonesian public life is generally understood as a marriage that follows the customary procedures and normative provisions of religious teachings and beliefs, but is not recorded by the provisions of government regulations (Marriage Registration Employees).¹⁹ Therefore, the term *nikah siri* is defined as a marriage that is in accordance with Islamic law (has met the requirements and gets along well), but registration is not carried out at the marriage registration officer and in practice there is also no reception or wedding party.

As for the development of the term, the term *nikah siri* has developed and also its implementation in the midst of the lives of Indonesian Muslims has become wider. At least in this there are three classifications of definitions of serial marriage, including the following. First, *nikah siri* is a marriage that has fulfilled the rules of Islamic law. Seta has been registered by the Marriage Registration Officer and obtained a marriage certificate. However, the marriage is in the family or because one or both of them are still in education and have not found a job and have not lived together as husband and wife. Second, *nikah siri* is a marriage that is celebrated in accordance with the provisions of religious law. In this case, it is family in nature and is not recorded for the purposes of the Marriage Registration Officer and the marriage reception is not carried out, and the marriage couple has not lived together. Third, *nikah siri* as a marriage that is only according to normative Islamic law, does not follow the administrative rules of the government. In this marriage, the future husband secretly marries his future wife and hides the marital relationship to avoid discipline from officials who have authority. Usually this marriage occurs because there is no permission from the previous wife, superiors, or officials who have authority. In addition, it is also due to avoid adultery as well as the permission of religious courts.²⁰

Furthermore, to find out whether a marriage has elements of *siri* or not, it can be seen from the presence or absence of three indicators in a legal marriage. If one factor is not met, then the marriage can be said to be a serial marriage. These three indicators, among

¹⁸Mifathul Huda and Athoillah Islamy, "Menakar Efektivitas Hukum Tentang Batas Minimal Usia Kawin Pada Kantor Urusan Agama (KUA) Kota Jayapura," *Al Hikmah: Jurnal Studi Keislaman* 13, no. 01 (2023): 22–23.

¹⁹M. Thahir Maloko, "Nikah Sirri Perspektif Hukum Islam," *Jurnal Sipakalebbi* 1, no. 3 (2014): 220.

²⁰Yusuf, "Perlindungan Korban Perkawinan Bawah Tangan" 14 (2018): 49–50.

others. First, the subject of marriage contract law consists of the prospective husband, the future wife, the guardian, and two fair witnesses. Second, authentic legal evidence of the marriage, namely at the time of the marriage contract presents the Marriage Registration Officer. Third, wedding receptions or weddings are carried out deliberately to publicize the existence of the marital status.²¹

The three indicators above show various fundamental elements that always exist in a legal marriage in Indonesia. Therefore, if one of these indicators does not exist then it can be said that the marriage is a serial marriage or contains hidden elements (*siri*).

3.3 The Factor of *He Yokal Himago* Marriage in Dani Tribe Muslim Community in Jayawijaya

Before further describing the various factors that trigger the practice of *siri* marriage (*he yokal himago*) in the dani Muslim community in Jayawijaya, then first at the beginning of the description of this core chapter will be explained what is the meaning of *he yokel himago* marriage. Etymologically, the term *nikah he yokal himago* in the language of the Dani Muslim Wamena tribe is composed of the words *He* (female), *Yokal* (Sali / Sili), and *Himago* (stealth). So the term *nikah he yokal himago*, namely the existence of women married serially by Muslim men from the Dani Wamena tribe. Therefore, *he yokal himago* marriage according to the indigenous people of the Dani tribe is interpreted as the practice of marriage secretly or *siri*. Although the serial marriage is not registered in the Marriage Registration Officer, the serial marriage contract is carried out in accordance with the provisions of the terms and pillars of marriage stipulated by conventional jurisprudence.

Efforts to minimize or prevent the occurrence of serial marriages have actually been carried out by the Wamena District Religious Affairs Office, namely through a mass marriage practice program carried out several times in collaboration with all components of Islamic mass organizations, such as the Indonesian Ulema Council, the National Amil Zakat Agency, the Islamic Big Days Committee, and the Contact Board of the Taklim Council. The mass marriage program is oriented to be able to provide opportunities for the Muslim community of the Dani Wamena Tribe to obtain the legitimacy of Islamic marriage and also government regulations regulated in Marriage Law Number 1 of 1974.²² This shows that there have actually been concrete steps by the government in preventing and minimizing the practice of *he yokal himago* marriage.

The causes of the practice of *he yokal himago* marriage among dani Muslims in Jayawijaya Regency vary. Based on the results of interviews, observations and various available information data, broadly speaking, the trigger factors for the practice of marriage *he yokel himago* in Muslim circles can be classified into three major factors,

²¹Faiz Rahman and Rizka Nur Faiza, "Perkawinan Siri Online Ditinjau Dari Prespektif Hukum Perkawinan Islam Yang Berlaku Di Indonesia," *Jurnal Penelitian Hukum-Fakultas Hukum Universitas Gadjah Mada* 1, no. 1 (2014): 36–52.

²²Interview with Adnan Yelipele as Dani's Muslim Intellectual Figure and Head of the Wamena District Religious Affairs Office, October-November 2022.

including weak legal culture, low legal awareness and legal structure. Both big factors have their own type details. Further details are as follows.

3.3.1 Weak Factors of Legal Culture

It is undeniable that the dialectic between Islamic law and local customs has become a major feature of Islam in Indonesia.²³ This is no exception in the context of Islamic law regarding marriage. It is important to note that the practice of *he yokal himago* marriage as a type of serial marriage that occurs among the Muslims of the Dani tribe of Baliem Valley is partly due to the motive of improving family economic conditions. This is as explained by one of the respondent women who performed *he yokal himago* marriage with one of the Chiefs. In the early process of her marriage, she married usually as is the custom of the local indigenous people. The wedding was also held a traditional party and was also very crowded. It even invites local residents by doing the tradition of Bakar Batu. However, the wedding was not attended by the Marriage Registrar. In other words, it is not recorded at the local Office of Religious Affairs. The intention of the series was also driven by the hope of obtaining wealth or increasing the socioeconomic strata of the family, especially marrying a chief. Although the woman who became the wife at the serial marriage was not entirely based on love for the husband as explained directly by the woman. But in the end try sincerely to marry an unloved person.²⁴

In addition to the motive of improving the financial condition of the women's family, the practice of *he yokal himago* marriage in the Muslim community of the Dani Jayawijaya tribe is also motivated by the motive of increasing social prestige. This is because some people think that if you marry a rich person or a tribal chief or a prominent person, you will have more social prestige in the midst of local social life.²⁵

The existence of the two triggering factors for the practice of *he yokal himago* marriage above shows that there are indications of weak legal culture in the Muslim community and the urgency of marriage registration regulated by the government through various existing regulatory devices. Although based on data in the field, this cannot be separated from economic motives and social prestige which are seen as a positive impact of *he yokel himago* marriage. Because, the habit of views and attitudes towards the practice of marriage *he yokal himago* as a way of increasing economic and social prestige for women in the realm of practice can construct the weak legal culture of the Dani Muslim community in Jayawijaya on the importance of marriage registration. Therefore, it is not an exaggeration to say that the weak legal culture is one of the factors in the marriage registration regulation cannot run optimally in the Dani Muslim community in Jayawijaya.

²³ Muh. Fathoni Hasyim, Liliek Channa AW, Moh. Mufid, "The Walagara Marriage Ritual The Negotiation between Islamic Law and Custom in Tengger," *Journal of Indonesian Islam* 14, no. 1 (2020): 139.

²⁴Interview with Tekogohe Asso as Indigenous Leaders, Fatimah Elopere as Dani Muslim Women Intelektual, and Adnan Yelipele as Dani Muslim Intellectuals, May, 2022.

²⁵Interview with Nawan Kuban as Young Married He Yokal Himago and Sodik Asso as Chief of Walesi Tribe, December 2022.

3.3.2 Low Legal Awareness

Based on data found in the field, that among the factors that are part of the cause of *he yokel himago* marriage in the Muslim community of the Dani Lembah Baliem tribe, there is still a view that marriage is a private matter related to the implementation of religious teachings, so there is no need to involve the authorities, such as the Office of Religious Affairs. Consequently, *he yokal himago* marriage can be perceived by the perpetrators as a shortcut who wants marriage, but is not ready or there are other things that do not allow to do so. In other words, to smooth the desire to marry with these various forms of obstacles, *he yokal himago* marriage was chosen as a substitute for the marriage registered by the government.²⁶ This factor is also the case of the practice of *he yokal himago* marriage which is motivated by the desire to legalize polygamy informally, so that in that context the practice of polygamous marriage is carried out in *hilama*. Abdul Latif Asso explained that *nikah he yokal himago* is one way to have more than one wife, especially for a State Civil Apparatus who must obey formal rules. Because it must comply with the rules as a State Civil Apparatus, especially when the intention to polygamy is not approved by the previous legal wife.²⁷ Related to polygamy is also corroborated by Nina Nurmila's study which confirms that most polygamous practices are carried out through serial marriage.²⁸

Apart from the various factors that trigger serial marriage above, it is understandable that serial marriage, namely unregistered marriage, tends to be generally due to short-term interests, and is risky for the long term, especially for women, and their children. This is as the impact of the practice of marriage *he yokal himago* Muslim Dani tribe which shows sad conditions, namely many children abandoned, and out of school.²⁹ In the point of view of the theory of legal effectiveness, social and cultural views that tend to be permissive towards the practice of marriage *he yokal himago* show weak legal awareness of the implementation of marriage registration rules in the Dani Muslim community in Jayawijaya. In this case, it is urgent to realize again that public awareness of the ins and outs of legal benefits which is the orientation of marriage registration becomes urgent and non-negotiable. This is because public awareness of all the positive and bad impacts of the importance of marriage registration in the realm of practice encourages the construction of an attitude of compliance with the marriage registration law can support the effectiveness of the enforcement of the law. On this basis, it can be said that among the factors that there is still a practice of serial marriage in the form of *nikah he yokal himago* due to the low legal awareness of the Muslim community and Jayawijaya over the urgency of marriage registration.

²⁶ Interview with Sodik Asso as Chief of Walesi Tribe, and Muslimin Yelipele as Muslim Intellectual Figure of Interview with Sodik Asso as Chief of Walesi Tribe, and Muslimin Yelipele as Muslim Intellectual Figure of Dani Tribe, December, 2022.

²⁷ Interview with Abdul Alatif Asso as a second-generation Islamic figure of Dani Wamena tribal Muslims, December 2022.

²⁸ Nina Nurmila, "Polygamous Marriages In Indonesia and Their Impacts On Women's Access To Income And Property," *Al-Jami'ah : Journal of Islamic Studies* 54, no.2 (2016):427-428.

²⁹ Interview with Basori Asso, War Chief, Young Islamic Leader, Wamena, December 2022.

3.3.3 The Role of Non Legal Structures

The existence of Islamic law (fiqh) for the lives of Muslims is not limited to theological dimensions, but is closely related to the rules of social life in society and state.³⁰ In this context, the urgency of marriage registration for Muslims in Indonesia deserves to be appreciated. Because the fact of modernity of human social life requires the importance of administrative matters, so that written evidence of the occurrence of marriage must not be neglected in order to establish legal order of marriage in society.³¹ It also shows the universalism of Islamic law through its various universal values and character adaptable to the dynamic social conditions of society.³²

Although the urgency of marriage registration cannot be ignored, the phenomenon of serial marriage, namely unregistered marriage, is still rampant in Indonesia. Regardless of the various reasons that trigger it, empirical facts show that marriage without being registered causes many legal problems, both for the life of the family concerned, society and the state.³³

In addition to the weak legal culture and legal awareness of the urgency of marriage registration described earlier, the occurrence of *nikah he yokal himago* as a form of serial marriage by the Muslims of the Dani Jayawijaya tribe in the realm of praxis, is also inseparable from the role of local religious figures. There were even respondents who stated that the practice of *he yokal himago* marriage was due to the intervention of the role of local religious leaders who helped the process of carrying out the serial marriage. However, the religious leaders who have a large share are mostly dominated by parents.³⁴

The role of religious figures in the implementation of the practice of marriage *he yokal himago* is unfortunate. Because, the Indonesian Ulema Council itself actually in 2008 has issued a fatwa related to the legal status of serial marriage, namely Fatwa of the Indonesian Ulema Council Number 10 of 2008 concerning marriage without being registered by the government. In the fatwa, it is affirmed that *nikah siri* is a marriage that meets all the requirements and pillars that have been determined in jurisprudence, but is not accompanied by official registration by Indonesian government agencies as stipulated in laws and regulations. In this case, the fatwa states that the serial marriage is punished as valid, but can be punished as *haram* when there is *madharat* (harm or damage) arising from the serial marriage.³⁵

³⁰Athoillah Islamy, "Pemikiran Hukum Islam Nurcholish Madjid" (Disertasi, Semarang, Pascasarjana Universitas Islam Negeri Walisongo, 2021), 173.

³¹Athoillah Islamy, "Dinamika Historis Otoritas Hak Kepenghuluan Nikah Di Indonesia," *Islamitsch Familierecht Journal* 1, no. 01 (2020): 2.

³²Athoillah Islamy, "Landasan Filosofis Dan Corak Pendekatan Abdurrahman Wahid Tentang Implementasi Hukum Islam Di Indonesia," *Al-Adalah: Jurnal Hukum Dan Politik Islam* 6, no. 1 (2021): 61.

³³Muhammad Aziz and Athoillah Islamy, "Memahami Pencatatan Perkawinan Di Indonesia Dalam Paradigma Hukum Islam Kontemporer," *ISLAMITSCH FAMILIERECHT JOURNAL* 3, no. 02 (2022): 95.

³⁴Interview with Adnan Yelipele as Head of Wamena Religious Affairs Office, and Riki Lani as Islamic Figure of Yagara Village, Takmir Masjid Al-Muhtadin, October 2022 2022.

³⁵Mohammad Syahrul Wardana, "Penanggulangan Nikah Sirri Di Kota Samarinda," *Legitima: Jurnal Hukum Keluarga Islam* 4, no. 1 (2021): 159–60.

Based on the above considerations, religious leaders should be more careful and vigilant to facilitate the practice of carrying out *he yokal himago* marriage, which in fact is a type of serial marriage. Because juridically, the status of a serial marriage in Indonesia will not have a marriage certificate, and pay the law for all legal rights and obligations arising from the serial marriage. This often triggers adverse effects, especially for women (wives) and their children born from serial marriages. Such an explanation can be seen in the Compilation of Islamic Law as a product of modernization of modern family law applicable to Muslims in Indonesia.³⁶ In the Compilation of Islamic Law, Article 7 paragraph (2) affirms that marriages that cannot be proven through a marriage certificate, can be submitted for *isbat nikah* to the Religious Court. In addition to the Compilation of Islamic Law, in the Marriage Law no. 1 of 1974 it is also affirmed that a marriage is valid if its implementation is in accordance with the religion and beliefs of the bride and groom as well as recorded by applicable legal provisions. The legal consequence of serial marriage is that if there is a legal problem in the future, it will not get legal guarantees for the parties, both husbands, wives and even children because the state views serial marriage as never existing. Because there is no proof of marriage registration. In this context, the victims are often the victims, namely women and children.³⁷

Based on the above considerations, if viewed from the point of view of legal effectiveness, then all religious figures in the Muslim community and Jayawijaya as part of the non-legal legal structure, namely as figures who have a major influence in the formation of religious social life can exert their ability to direct the wider community not to perform *nikah he yokal himago* which notabe as *nikah siri*, i.e. not recorded by the Marriage Registration Officer. It is not part of the factor that lacks the maximum effectiveness of marriage registration in the Dani Muslim community in Jayawijaya. The importance of an active role, both legal and non-legal structures in the context of overcoming the practice of serial marriage in the community is also in line with the results of a study by Ahmad Tholabi Kharlie, Fathudin, and Windy Triana which emphasizes the bottom-up approach by each Office of Religious Affairs with solid and innovative leadership tends to be successful in improving marriage administration in Indonesia compared to top-down bureaucratic policies.³⁸

4. Conclusion

Based on the description of the main discussion of this study, it can be concluded that the practice of *he yokal himago* marriage is included in the category of serial marriage that occurs in the life of the Dani tribal Muslim community in Jayawijaya. The trigger

³⁶Athoillah Islamy, "Eksistensi Hukum Keluarga Islam Di Indonesia Dalam Kontestasi Politik Hukum Dan Liberalisme Pemikiran Islam," *Al-Istinbath: Jurnal Hukum Islam* 4, no. 2 (2019): 164.

³⁷Kharisudin, "Nikah Siri Dalam Perspektif Kompilasi Hukum Islam dan Undang-Undang Perkawinan Indonesia," *Perspektif* 26, no. 1 (2021): 55.

³⁸Ahmad Tholabi Kharlie, Fathudin Fathudin, Windy Triana, "Reforming Islamic Marriage Bureaucracy in Indonesia: Approaches and Impacts," *Al-Jami'ah : Journal of Islamic Studies* 59, no.2 (2021):255-256.

factors for the marriage of *he yokel himago* vary. First, the weak factor of legal culture. In this case, *he yokal himago* marriage is triggered by socio-cultural views that assess the practice of *he yokal himago* marriage can have implications for financial attachment and social prestige for the woman. Second, the factor of low legal awareness. This is caused by the view that the marriage contract is a private matter, so there is no need for intervention from the government in its implementation. In addition, *he yokal himago* marriage can also be a solution for marriages that get formal legal obstacles from government regulations and from the family (wife), as well as obstacles to polygamy. Third, factor in the role of non-legal legal structures. In this factor, the existence of the role of religious figures has a role in the implementation of *he yokal himago* marriage.

The theoretical implications of this study show that the practice of serial marriage can be triggered by the complexity of factors that trigger it, both socioeconomic, cultural, legal and religious. The limitations of this study have not focused on examining the obstacles or challenges of government agencies, religious leaders and community leaders in preventing or minimizing *he yokal himago* marriage in the Dani tribal Muslim community in Jayawijaya. This matter is urgently studied, with the hope that the results of the study can also be used as material for government evaluation in handling cases of rampant serial marriage in other regions.

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