

REPRODUCTION OF UNREGISTERED MARRIAGES: RELIGIOUS POWER AND RESOURCES LIMITATIONS

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Abstract

Research related to habitus work on religious leaders or village penghulu (chiefs) in reproducing unregistered marriages and the KUA structure that has an impact on the perpetuation of unregistered marriages has not been studied much compared to studies on the causes and effects of unregistered marriages on women and children. This study was conducted in Badau, the border region of Indonesia and Malaysia. Bourdieu's theory of habitus and social practice was chosen as the lens for analyzing the data. The research method was qualitative, with data collection techniques through interviews and observations. Informants were varied, including religious leaders or village penghulu, heads of religious organizations, heads of KUA, ustazah, majlis taklim administrators, and religious teachers in formal schools. The findings show that habitus that works for village penghulu to reproduce unregistered marriages includes religious schemes to avoid sin, help others, and discriminatory customs. The village penghulu are supported by resources which become a strong capital to reproduce his social practices. Meanwhile, the KUA structure, with various limitations, such as limited institutional and human resources, which should create new narratives related to preventing unregistered marriages, actually strengthens such social practice.

Keywords: *habitus, social reproduction, social practice, unregistered marriage, capital*

INTRODUCTION

Unregistered marriages are an important issue, especially in the border areas of Indonesia and Malaysia, such as in Badau and Tawau. However, it has not been completely resolved. On the contrary, it causes the transformation of unregistered marriages from one generation to another. Wahidah R. Bulan's research (2021) shows that in Tawau, unregistered marriage has occurred in three generations. *Komnas Perempuan* noted that 77 unregistered marriages were reported in 2015 (*Komnas Perempuan*, 2021). This

number does not represent the actual data because unregistered marriages are like an iceberg. It looks small on the surface, but underneath it is very large. The Tawau Consulate in Sabah, Malaysia, found that when they announced there would be a marriage ceremony for 300 people, ten times as many people came to register, which was more than 3000 people (Bulan et al., 2018)

Unregistered marriages also still occur in Badau District, the border area of Indonesia and Malaysia, which is located in the Kapuas Hulu region, West Kalimantan. This unregistered marriage does not only occur between Indonesian citizens but also

between Indonesian citizens and foreign nationals. In 2019, four female Indonesian citizens in Badau married foreign nationals, Chinese-Malaysians, through unregistered marriages that were reported in an online national newspaper, *Republika*. They already have children and an essential food shop business on behalf of their wives (Christiyaningsih, 2019).

Unregistered marriages are contrary to Chapter II, article 2, paragraph 2 of Law Number 1 of 1974 concerning marriage which states that every marriage must be registered. For Muslims, marriage registration is carried out at the Religious Affairs Office or *Kantor Urusan Agama* (KUA) in accordance with PMA Number 34 of 2016. Marriage registration is essential for the validity of a marriage, protection, guarantee, certainty, and legal force for each family member regarding their rights, such as inheritance rights, child status, proof of settlement when a divorce occurs, and so on (Abdurrahman, 2007; Harahap, 1975; Subekti & Tjitrosudibio, 2006). Therefore, unregistered marriages can be categorized as an inequality in the women and men relationship and a type of violence against women (Kustini, 2021).

Previous research generally examines the factors causing unregistered marriages (Kustini & Rofiah, 2013; Rosyidah & Muzayyanah, 2013; Usman et al., 2020), the impacts of unregistered marriages and women (Latifiani, 2014; Romadhoni et al., 2015; Wicaksono, 2021), and child marriage in some generations (Bulan, 2021). This research is more focused on examining how do the habitus of religious leaders or village *penghulu* and the use of their capital to reproduce unregistered marriages work? How do the limitations of the KUA's structure and resources impact the reproduction of unregistered marriages? This article aims to describe and analyze how habitus, social capital, and limited KUA resources impact the perpetuation of unregistered marriages. Through this study, it is hoped that state policies, especially the Ministry of Religion, will strengthen the understanding of religious leaders about the importance of registered marriages for the legal protection of family members. Therefore, the number of unregistered marriages can be eliminated or minimized in the future.

Literature Review

State border areas are always interesting to study because they are not limited to economic, political, and defense dimensions but include religious and sociocultural issues (Segara, 2020). One of the phenomena related to the religious life of border communities is unregistered marriages. In some literature in Indonesia, unregistered marriages are often referred to as *siri* marriages or secret marriages or underhanded marriages (Kustini & Rofiah, 2013; Usman et al., 2020; Widiasmara, 2010). The various kinds of literature provide a similar explanation that unregistered marriages are legal in Islam as long as it fulfills the requirements for a valid marriage but is considered to deviate from state regulations because it is not registered with the authorized institution (Arsal, 2014; Romadhoni et al., 2015).

Unregistered marriages in Indonesian occur in many places, even for Indonesian citizens who are abroad, such as in Saudi Arabia (Kustini & Burhani, 2019), the Netherlands (Wahab et al., 2018), and Malaysia (Bulan, 2021). Several factors cause unregistered marriages, including a religious understanding that a marriage does not require registration, the influence or role of religious leaders, or bureaucratic administration (Kustini & Rofiah, 2013). Other factors are the relationship is not approved by their parents, avoiding the sin of adultery, marriage is polygamous, the couple does not feel ready materially and socially, or the couple does not know and does not want to know the marriage procedure (Usman et al., 2020). Meanwhile, unregistered marriages in Jeddah occurred because of unfulfilled administrative requirements, especially the marital status identity. Many Indonesian citizens claim to be widows but do not have a divorce certificate (Kustini & Burhani, 2019).

In addition, the researchers revealed the negative impact of unregistered marriages. Except for research in the Netherlands (Wahab et al., 2018), research results generally show that unregistered marriage has negative effects, especially for women in the legal and social fields. In law, unregistered marriages cause the couple to have no legal proof of marriage and the loss of women's rights, which are protected by the state (Romadhoni et al., 2015; Rosyidah &

Muzayyanah, 2013; Wicaksono, 2021). The rights include the wife, children, and other families from the wife's side cannot claim their rights to the husband, and even the child cannot use the birth certificate using his father's name as the parents (Matnuh et al., 2016). Meanwhile, the social impact includes experiencing stigma as a couple who live together without marriage or, in Indonesia, is often called "*kumpul kebo*". Partners are certainly not comfortable with such a stigma (Kustini & Rofiah, 2013).

Unregistered marriages that occur in Indonesia's border areas have a more complex impact. Even though Indonesian citizens living in border areas have national insight and love for the homeland (Syuhudi, 2020), an unregistered marriage with another citizen can cause a separate problem for a child citizen's identity (Kustini & Burhani, 2019). Research on unregistered marriages in Tawau Sabah, Malaysia, has been going on for so long and passed down from generation to generation. One of the causes is the Malaysian Government's stipulation that migrants are prohibited from marrying. The impact of this issue is complex, including for children who do not have access to education due to their unclear citizenship identity.

Research on Indonesian citizens at the border has been more focused on economic problems, limitations in receiving religious services, security issues, and national insight (Humaedi, 2013; Putro & Kustini, 2018; Syuhudi, 2020). Research related to the dynamics of marriage, primarily unregistered marriages, is still limited. This study complements previous research carried out with the same focus (Bulan, 2021), unregistered marriages in border areas.

Conceptual Framework

This study used the theory of habitus as the analytical framework considering that in Bourdieu's perspective, unregistered marriages are a habitus that has long existed in the Badau community and has become part of the social practice of some people. This long-standing social practice results from the dialectic between structure and agent (between the cognitive structure of norms and customs that become habitus and religious leaders or village *penghulu* who carry out unregistered marriages). In addition, due to various limitations, state agents or actors

cannot optimally produce new knowledge about legal marriage. As a result, unregistered marriages are still institutionalized in Badau.

Bourdieu (in Ritzer & Douglas J. Goodman, 2003) is one of the sociological figures who try to combine theories emphasizing structure (objectivity) with theories that are too inclined to the role of actors (subjectivity). Bourdieu calls his theory constructivist structuralism or structuralist constructivism. Through this theory, Bourdieu wants to explain an interplay and intertwined relationship between subjectivity and objectivity or between agent and structure. One of the well-known propositions in Bourdieu's theory is habitus, arena, and capital. According to Bourdieu (1977), habitus is "a subjective but not individual system of internalized structures, schemes of perception, conception, and action common to all members of the same group or class constituting the precondition for all objectification and apperception". In other words, habitus is a collective entity or structure in a schema of perception, conception, and general action reproduced and internalized by an individual so that it becomes his worldview.

Individual social world view or perception results from the dialectic of merging between internalizing externalities and externalizing internalities, or the dialectic of combining objectification and subjectivity (Bourdieu, 1977). Thus, the relationship between structure and agent is not deterministic because it includes an agent's role. The agent is not static, which simply absorbs the entire cognitive structure of the external world. Still, the agent tries to internalize the structure according to his individual capacity.

According to Fuchs (2003), in the internalization process, individuals try to interpret the external structure according to their abilities so that not all members of a group or class will act, think, and feel the same way. On the other hand, the institutionalized structure in society can be understood differently by different actors according to their social class or group.

Related to this study, someone who lives for a long time in an area where marriage practices are still highly not recorded will affect individual perceptions and conceptions so that individuals will

experience a process of adjustment to these historical perceptions. However, borrowing from Bourdieu's (1977) concept related to habitus, unregistered marriages carried out by village *penghulu* are also not solely because of the structure that influences it but also individual thoughts that affect the structure. As explained by Bourdieu (in Funch, 2003) that individual social practices are not only influenced by structuring structure but also by agents or actors influencing the structure, known as structured structure. It is where the dialectic of structure affects the agent, and the agent also affects the structure. The process of internalizing the structure occurs through various socializations in different arenas, such as at home, at school, and in the community, through parenting, play activities, and education in the community, consciously and unconsciously.

Bourdieu's other concepts are arena and capital. An arena is a field or space that exists in society as a place for agents or actors to compete with each other to achieve goals. Furthermore, Bourdieu and Wacquant (1992) define the field as a network or configuration of objective relations between positions and a structured social space in which agents influenced by structure continue competing for and maintaining resources or capital. Actors who have stronger capital or resources will become the winner.

Bourdieu (in Andrews, 2021; Funch, 2003; Huang, 2019) explains four types of capital: economic capital, social capital, cultural capital, and symbolic capital. Economic capital, including money capital, commodities, and social capital, can be seen in social relations or networks, social origins, etc. Cultural capital is a value related to tastes, consumption patterns, attributes, and skills that are culturally validated and is an award. Meanwhile, symbolic capital includes attributes that have symbolic meanings, such as prestige, status, authority, vehicles, or identities, and images that show the owner's high status, including titles, clothes, etc. In the context of Badau, high economic, social, cultural, and symbolic capital is owned by the village *penghulu* so that he can reproduce unregistered marriage.

On the contrary, the perpetrators of unregistered marriages have limited economic, social, cultural, and symbolic capital. It happens because of the loss of

income and identity cards since most of them are illegal immigrants who are repatriated or run away from their employers. Their weak skills make it difficult to find a decent job, and they lack a network because they are newcomers. This reality is what drives them to have unregistered marriages.

RESEARCH METHOD

This research used the qualitative method, with a case study and exploratory type. The qualitative approach was chosen because it can describe phenomena naturally and holistically, so researchers can explore the informants' actual experiences, including understanding the context (Creswell, 2009; Hardani et al. 2020). In addition, a qualitative approach can explore information related to significant differences and uniqueness and closer to the phenomenon being studied (Aspers & Corte, 2019).

Intensive data collection was carried out through in-depth interviews, observations, literature studies, and documentation in July 2017. Additional interviews were conducted by telephone in January 2022 to update the currently available information about unregistered marriages. The informants were religious leaders, heads of religious organizations, heads of KUA, *ustadzah*, administrators and congregations of *majlis taklim*, and religious teachers in formal schools. Primary data were also obtained from direct observations. Meanwhile, secondary data was obtained through BPS data on social, educational, religious, and trade conditions in this border area.

The research location was in Badau District, a border area in Malaysia. Various previous studies reveal that the border area is a location that is prone to unregistered marriages due to the large number of immigrant workers who have administrative problems. Most population consists of Dayak (Iban) and Malays, and only a small proportion are other ethnic groups such as Javanese, NTB, Flores, Medan, and others.

The population of Badau Village is 7174 people, consisting of 3710 men and 3464 women. This reality shows that there are more men than women. From educational background, the population of Badau who graduated from elementary school still dominates (1211 people), followed by senior high school graduates (971 people) and junior

high school graduates (815 people). Meanwhile, the Badau residents are interested in working as entrepreneurs/traders (598 people), farmers (535 people), fishermen (265 people), teachers (59 people), civil servants (50 people), POLRI and TNI (29 people). Regarding religion, Catholics and Protestants dominate this area, 4678 people, while the Muslim population is 2805 people.

Most population of Badau consists of Malay and Dayak ethnic groups. A few residents come from other parts of Indonesia. Social relations between the two ethnic groups have been well established. If a Christian Dayak community holds a feast, then the nearest Muslim community will help with the preparations and during the party. The host will provide a buffet with separate facilities and amenities. Halal food is provided for Muslims. The Dayak people, as indigenous people, also emphasize the norms of politeness, solidarity, loyalty, trust, and social ties. Meanwhile, the Malay community and other immigrants adjust to the prevailing customs. One informant recounted his experience receiving a one-hectare land grant in the mountains because of his good relationship with his neighbor, who was Dayak ethnic.

DISCUSSION

Unregistered Marriages: The Habitus of a Long History Product

Unregistered marriages have been going on for quite some time in Badau. Marriage has existed since the presence of the Malay Muslim community in Badau and continues to grow. There are several reasons why unregistered marriages are the choice of the Badau community. First, before the 1990s, Badau had no KUA, so marriage registration had to be done in Putusibau city, the capital of Kapuas Hulu Regency. The only transportation available was a canoe which took a three-day trip. Second, people face difficulties in administrative management because it requires significant funds and takes a long time, while economically, most people are classified as poor. *“My great-grandmother, grandmother, grandfather, and mother all married without registration. The most important point for them is that they were legally married according to their religion,”* said MF, a native of Badau.

Since 1992, after the construction of the North Cross road from Putusibau City through Sempadan Village to Badau Village, transportation began to develop with buses and motorbikes with a travel time of approximately 5–6 hours. Then the KUA was built to make it easier for couples to register their marriages. However, unregistered marriages are still quite high in Badau. The village *penghulu* stated that more than 200 unregistered marriages had been carried out for about ten years. KUA Badau data shows that in 2015 there were 28 marriage registrations. The number decreased to 17 cases in 2016 and slightly decreased to 16 cases in 2017. The data shows that the old habitus related to unregistered marriages is still the community's choice.

Although KUA has started to play its role in encouraging Muslim communities in Badau to register their marriages, it is still quite high due to the arrival of immigrant workers from Malaysia who were arrested by the police and returned to Indonesia. They do not have an identity as a requirement for a registered marriage. In addition, some immigrant workers ran away from their employers or deliberately surrendered themselves to the Malaysian police in Lubok Antu because they could not stand the actions of their employers. Lubok Antu is an area in the Sri Aman section, Sarawak, Malaysia. It borders Badau in West Kalimantan, Indonesia.

One of the informants described his experience accommodating immigrant workers who returned to Badau and witnessed this unregistered marriage since the early 1990s.

In the 90s, 2000s, and even up to 2011, my house was often accommodated by female and male TKI/TKW from East Java, West Java, Lombok, and Bali, who were repatriated from Malaysia. They were tricked. He said his salary was 1000 ringgit, but it turned out to be 500-600 ringgit. He said later, they would work in factories, but they would work as domestic workers or in food stalls. My husband is close to Libas soldiers. When I go there, my husband says, "There are workers from Java". I quickly followed them and invited them to stay at home. I feel that I live far away, my son goes to school, and whenever he strays, someone will help. That's my mind. Some are married to people here. If there is a family contact, I

tell him to contact his family and take care of the administration. Now, those who do not have family contact are the ones who ask *Ustadz Zul* for help. They were married off by *Ustadz Zul* without any letters or handover from their families (interview with Sur, 15 July 2017).

The explanation above indicates that unregistered marriages have occurred in Badau for a long time. There have been changes to village *penghulu*, who marry off illegal immigrant workers.

In historical records, this unregistered marriage may have started with the policy regarding sending Indonesian migrant workers to Malaysia. History records that in 1887, the Dutch colonial Government sent Indonesian workers to Suriname, New Caledonia, Thailand, and Sarawak (East Malaysia) through a forced labor program. Traditionally, Indonesian workers migrate to Malaysia for a long time due to geographical proximity. Still, the Indonesian Government under the Ministry of Labor only officially legalized migrant workers in 1969, which was followed by the passage of the 1970 Labor and Government Regulation No. 4 of 1970 (Maksum & Surwandono, 2017).

The Indonesian people's interest in working in Malaysia is very high. It is indicated by about 20% of the workforce consisting of foreigners, who are generally placed as workers in oil palm fields and domestic workers. The Embassy of the Republic of Indonesia (KBRI) in Kuala Lumpur reported that, in 2012, Indonesian citizens working in Malaysia reached two million people, and half of them were illegal immigrant workers (Caraka dalam Maksum & Surwandono, 2017). This condition causes various social and security problems. Joseph Liow (in Maksum & Surwandono, 2017) noted that around 36% of inmates in Malaysian prisons were Indonesian in 1987. However, the number of Indonesian migrant workers in Malaysia has been decreasing yearly. Data from BNP2TKI shows that the number of legal Indonesian TKI in Malaysia was around 87,616 people in 2016. Nevertheless, many illegal Indonesian workers in Malaysia are not recorded.

They live in oil palm plantations without official documents. When the Malaysian police conduct patrols, they run deep into the interior of the plantation so as

not to be caught. Once safe, they will return to their homes (Interview with Nar, 20 January 2022).

These immigrant workers do not always get a safe working place. Data from BNP2TKI during January-March 2019 shows a variety of TKI complaints, including unpaid salaries (195 people), termination of employment before the work agreement period ends (62 people), work not in accordance with the Work Agreement (40 people), salary below standards (18 people), acts of violence from employers (13 people), running away from employers (5 people), trafficking in people (3 people) and others.

This condition is also faced by Indonesian migrant workers in Malaysia who were repatriated or fled to Badau. Those who run away generally do not have any identity because their employers detain them. Economically, their lives are increasingly difficult because salaries have not been paid, and the available job opportunities in Badau are very limited. Taking care of administrative needs costs a lot because they come from outside Badau, such as Banyuwangi, Lombok, Bali, Majalengka, Bandung, West Nusa Tenggara, and others. Thus, unregistered marriage is an alternative for them to get married, and this reality has been around for a long time. From Bourdieu's perspective, unregistered marriages in Badau have become a habitus created through a long historical process. As stated by (Bourdieu, 1977), "Habitus, the product of history, produces individual and collective practice, and history in line with the schema depicted by history". Thus, unregistered marriages were created and became an institutional structure, which generally occurs in illegal Indonesian workers.

Unregistered Marriages in the Village Penghulu's Eyes: Reproduction of Religious Power

Unregistered marriages are also reproduced by religious leaders who use religious language to legitimize their social practices. However, not many religious figures perpetuate this social practice in Badau. Only one religious figure wants to marry off a couple without legal support. This religious figure's argument was for religious reasons, to avoid adultery, immorality, and sin.

They are married through the village *penghulu* because it cannot be done at the KUA, so they come to me, the village *penghulu*, the *siri* marriage. They are [mostly] widows and widowers. Because the administration cannot go to KUA, the KUA cannot give marriage certificates twice unless they are divorced. The letter is clear. First, they were divorced, not in court. Second, they are not residents of this place. If we let them, they have already reported asking to be married. Then we do not marry them, yes, it is our sin. It is me in particular and religious figures forbid adultery and immorality. They have reported means that they really want to get married (Interview ZI, 16 July 2017)

Another habitus that affects the village *penghulu*'s attitude toward marrying couples in *siri* is his moral responsibility as a village *penghulu* who is appointed and trusted by the community to solve the problems faced by its citizens, including difficulty in getting married due to administrative obstacles. As a village *penghulu*, Zulkarnaen is not afraid of attacks, complaints, and anger from families who are disappointed because his social actions hurt them. For Zulkarnaen, it is a risk he must bear to fight for the truth of religion. A firm mental attitude, strong self-confidence, firmness, and courage to take risks to become a strong enough cultural capital owned by the village *penghulu* who can strengthen his social practices. This cultural capital is reflected in his narrative when interviewed.

Her husband came here, having an affair with another woman, and was finally caught and married off. His old wife came with people from the village and brought a courtier to sue me. Then I called them. I can punish you for entering my village without permission and intending to sue me. In the end, they said, "We apologize. We ask for forgiveness, *Penghulu*", he said. They came from the area near Putus Sibau, another sub-district. Finally, I ask what is the meaning of policy? We were appointed as village *penghulu* with a policy and a solution. Do you want to be punished by millions of customs with the villagers? also a punishment from Dayak and Malay customs. You do not think I actually want to save him (ZL interview, 18 July 2017).

The wife's family finally accepted the explanation that seemed logical because the village *penghulu* used religious schemes and

violated custom as reason, which for most Muslims was often burdensome. Normatively, the customary rules in Badau are the result of joint deliberation between Iban and Malay traditional leaders. However, on the implementation, the Muslim community often experiences discrimination, especially related to moral violations and other informal retributions that are considered irrational.

One case can have many violations depending on the deliberation outcome between the Iban and Malay traditional leaders. For example, in the case of pregnancy out of wedlock by a couple of different religions. They will count the number of violations by analyzing the order in which they occurred. Before they had sex, were there any promises a man gave to his girlfriend? Whether these promises are fully kept or broken. They then mapped out any promises that were broken. If all of them are fulfilled, the value of money that must be paid will be much smaller compared to those who do not fulfill their promises.

For instance, a man forced a relationship and promised to marry his girlfriend, and a Muslim promised to convert to Christianity. It turns out that he is not responsible after getting pregnant, which is called the level of error. The lowest level is if both parties refuse to marry off because they hold their respective religions. And the highest is if he is irresponsible, like the man running away. One time, someone had to pay 80 million because the man refused to convert to Christianity (interview Iy, Head of Majang Island Village, Badau District, 16 July 2017).

The Muslim community considers the money paid for customary violations of pregnancy out of wedlock, which fellow Ibans carry out, to be cheaper than between tribes and religions. This discriminatory attitude makes Muslims or Malays feel unfairly treated, but they tend to accept day-to-day decisions for harmonious interfaith relations in the future.

"Because the Christian Iban tribe is larger, about 70%, compared to only 30% Muslims, we usually obey, fearing that in the future relations will deteriorate if no agreement is reached" (interview with Iy, Head of Majang Island Village, Badau District, 16 July 2017).

In addition, some ethnic Malays consider the *Tumenggung* and *Patih* of the Dayak Iban to be "*brocker-brocker*" who profit from any custom violation. Therefore,

Abdul Ghani, a young religious leader and activist of the *Jamaah Tabligh*, suggested the need for changes in determining community violations. According to Ghani, this discriminatory attitude harms the Malay community or other Muslim immigrants. "If there are cases involving people from outside the Iban ethnicity, they will pressure us. It's different if it happens between them," said Ghani (interview, 19 July 2021). That is why people who complain immediately comply when the village *penghulu* uses the discriminatory habitus of customary violations as an argument for his social practices.

The village *penghulu* has a variety of resources that become a strong capital so that he can continue to perpetuate this unregistered marriage. Economically, the village *penghulu* has a variety of businesses, including an arowana farming business. He refused when many accused him of using religion as a commodity to enrich himself through the practice of secretly marrying couples. "I don't really think about self-interest, that's why I look more outside," he said (interview with Zulkarnaen, 18 July 2017). From the social capital, this village *penghulu* is not only a respected religious figure but also an administrator in religious organizations and parties, so he has a fairly wide social network. Zulkarnaen was the Chairman of the NU branch of Badau in 2014, the Chairman of the Sub-Branch Leadership Committee (PAC) of the United Development Party (P3) in Badau District for two terms, and currently the Coordinator of the Sharia Council, an organization under P3, throughout the District, Kapuas Hulu. Zulkarnaen also became the Deputy Chairperson of a large mosque in Badau. Its social network is not only limited to Badau but has expanded to the district. This social capital has been initiated since moving from Singkawang to Badau.

Meanwhile, in terms of education, the village *penghulu* only graduated from high school. Still, from a young age, he was diligent in gaining knowledge from various religious leaders in Singkawang and Pontianak, including studying with *ustadz* in the *Tarekat Naqsabadinyah*, *Jama'ah Tabligh*, and others. In addition, the village *penghulu* has religious knowledge that is considered qualified. It all becomes social

capital that places him in the middle class in society. His style of dress, speech, manners, and performance shows the appearance of an educated person. During the interview, the village *penghulu* wore a suit with a *turban* neatly folded over his shoulders. His knowledge of the norms that apply in society is quite extensive. It is a cultural and symbolic capital that the village *penghulu* expresses.

The social practice of unregistered marriage is based on a religious concept or scheme to avoid sin, help others who are in trouble, and as a solution to retribution for customary discriminatory violations into a habitus that continues to be reproduced in Badau. From Bourdieu's theory, it is included in a structured structure. The existing structure influences the agent, and the agent creates new narratives and arguments that affect the structure. It is the duality of intertwined interactions between agents and structures. In addition, the village *penghulu* has economic, social, cultural, and symbolic capital, which is the basis for his social practice.

KUA and Reproduction of Unregistered Marriage Social Practices

Unregistered social practices in Badau are not only reproduced by structures based on the understanding of religious leaders but also shaped by state structures represented by the Office of Religious Affairs (KUA) in providing services. According to the Regulation of the Minister of Religion Number 34 of 2016, one of the tasks of the KUA is to provide services, supervision, recording, and reporting of marriage and reconciliation. Based on the PMA, six KUA functions related to religious services include *sakinah* family services and Islamic religious information guidance services. Thus, ideally, the KUA's task is to provide services, record and report marriages, and supervise marriage registration violations. The Head of KUA has not been able to minimize or track unregistered marriages, contrary to Law Number 1 of 1974. It is shown by the acknowledgment of the village *penghulu*, who is still conducting unregistered marriages when this regulation was made in 2017. In fact, according to his confession, he has married off more than 200 couples in less than 15 years in Badau.

Many obstacles cause KUA to appear less proactive in minimizing or tracking unregistered marriages in Badau, including limited institutional and human resources. These two elements can become capital for the Head of KUA in strengthening the structure and producing new habits related to the records.

The institution's limited resources can be seen from the number of employees at KUA Badau. Only one employee is at KUA Badau, the Head of KUA, who doubles as a Marriage Registrar (PPN) or penghulu. Even though the KUA office looks quite magnificent in physical infrastructure, it still faces a problem from soft infrastructures, such as work ethic. The Head of KUA describes the multi-task he carries out:

As the Head of KUA, my duties include several. The main task is the Marriage Registration Service. The nameplate in front of the office says *Balai Nikah* and *Manasik* Hajj. However, I also conduct training for Muslims through recitations, fostering Non-PNS Religious Counselors, making reports to the Ministry of Religion, listing places of worship, performing joint rituals with other KUA for prospective pilgrims, recording the number of Muslim residents, coordinating with Muspika for various affairs, coaching zakat, fostering *sakinah* families, and collecting data on waqf land (interview with the Head of KUA, 18 July 2017).

The Head of KUA, according to his confession, has tried to carry out his duties following the Regulation of the Minister of Religion Number 34 of 2016. On the contrary, in the eyes of the public, the performance of the Head of KUA is seen as not optimal. Therefore, there are often complaints from the public regarding the performance of Ministry of Religion employees at the Religious Affairs Office.

We often get complaints from the public that a Head of KUA is not in the office during working hours. It is assumed that the performance of the head of KUA is not good because when the community needs him, he is not in the office. After we checked, it turned out that when the community came for a purpose, the Head of KUA had other needs, such as getting married off outside the office or attending an event. Therefore, we suggest that an inscription on the window or door of the office is placed containing the mobile number of the Head of the KUA, so

that he can be contacted at any time when the community needs him" (interview with Z, Urais and Sharia Guidance Staff, 20 July 2017).

Such complaints were also addressed to almost all KUA in Kapuas Hulu District. Of 23 sub-districts in Kapuas Hulu Regency, only KUA in Hulu Gurung and Bina Tanjung have one staff member other than the Head of KUA. However, specifically for the KUA of Hulu Gurung Sub-district, the staff member is not very effective because he was transferred from the Ministry of Religion Office of Kapuas Hulu Regency due to illness. It aimed only to ease his health because his house was close to the KUA. The multitasking of the KUA may cause the KUA's performance to be less optimal.

In addition, an excellent service indicator from the Religious Affairs Office is a marriage book directly owned by the couple after the marriage registration is complete. At the KUA Badau District, the public still complains that the marriage book is not always given immediately after the marriage registration is complete. The researcher observed that the couple who married Sukardi and Marina (not his real name) did not immediately get a marriage certificate. On another occasion, the researcher also witnessed a young man around 23 years who came to see the Head of KUA to ask for a marriage book, but his hopes were dashed because the marriage book was not yet available.

I got married three months ago. However, until now, I have not received the marriage certificate. There are various reasons the Head of KUA has given. I was just told I must bring a certificate from the KUA where my wife lives, in Yogyakarta. It is a bother even though I need a marriage book to make a passport and other interests (interview with Rahman, 18 July 2017).

This delay happens not only to one or two but many couples. It was also acknowledged by the Head of KUA that there were still delays because the administrative requirements had not been met. "*Most of them do not bring a photocopy of the witness' ID card, while the photocopy near the office is not always open. If I refuse, I feel sorry*" (interview with Head of KUA, 19 July 2017). The number of cases of delays of marriage books and the absence of the head of the

KUA during office hours constructs public perceptions regarding the low performance of the KUA. The performance of KUA should be cultural capital in building its bargaining position and influence in the Badau community.

Another obstacle is the low human resources of KUA, especially related to the intellectual capacity of unregistered marriages, legal implications for perpetrators of unregistered marriages, knowledge of gender, women's rights, and CEDAW (*Convention on Elimination of All Forms of Discrimination Against Women*) and others. The lack of understanding causes the Head of KUA less motivated to explore various strategies to minimize or eliminate unregistered marriages.

Several members of the *Majlis Taklim* interviewed confirmed that the lectures of the Head of KUA were only related to the fiqh of worship. Still, topics related to the fiqh of *munakahat*, including tips on building a *sakinah* family or the urgency of registered marriages for women and children, were almost never touched. In this context, the Head of the KUA cannot play the available arena or spaces to convey the applicable regulations regarding his duties as an extension of the Ministry of Religion.

Ustadz, who have filled in, are Mr. Hakim, Mr. Sukirman, and Mr. Gani. The lecture taught how to pray, the wisdom of praying in a congregation, and so on. And the lecture goes on and on. He [Mr. Hakim] filled out two weeks in a row, then Mr. Sukirman and Mr. Gani. Those are the teachers. But Mr. Hakim and Mr. Sukirman are often because they are the easiest to contact (interview with Az, MT Permata administrator and religion teacher at SDN 01 Badau).

Thus, it can be concluded that the Head of KUA does not yet have the initiative and innovation to minimize unregistered marriages. On the contrary, the attitude of the Head of KUA seems to support the practice of unregistered marriages. As stated by the village *penghulu*:

Yes our man, we know he is our man. But it cannot be managed by KUA. They also reported to the KUA before, Sir, we want to get married and first check with the head of KUA, but they cannot because the data is incomplete. Try asking Mr. Zul for help. The Head of KUA also handed it over to me. If KUA can't help, can I not help either? Where

will they be? Do not be afraid that Mr. Zul will be sued later. What do you want to be imprisoned for? We follow Islamic law. I'm not even afraid of humans willing to sue and punish me. Those who want to punish are not necessarily right (interview with ZI, 18 July 2017).

When analyzed using Bourdieu's theoretical framework, the Head of KUA does not yet have the strong cultural capital to minimize the social practice of unregistered marriages. It is indicated by the public's perception of the low performance of KUA, a less assertive attitude, and low knowledge. The results of observations also found that economically, the Head of KUA was relatively simple. This simple attitude can also be seen in the clothes worn by the Head of KUA and the vehicles used. Meanwhile, social capital is also limited because the social network is mostly among religious leaders and *majlis taklim* at the local level. This situation is certainly very different from the village *penghulu*, who has relatively stronger social, cultural, economic, and symbolic capital than the Head of KUA. From the perspective of Bourdieu (1996), those who have the most capital, and are used in the appropriate arena, are the ones who will excel or be dominant in the social world. This dominant position will continue to be maintained by using various strategies. The same thing happened to the village *penghulu*, who had a more dominant position. He will continue to seek various strategies to maintain his position as a village *penghulu* and reproduce his social practices.

CLOSING

This study found that unregistered marriages in Badau Sub-district have been going on for a long time. Until now, it has become a habitus that is understood, internalized, and practiced by some people, especially those who do not have legal documents. Religious leaders who act as village *penghulu* use habitus, including religious interpretations related to unregistered marriages, to avoid sin and immorality, a culture of discrimination in the implementation of customary violations, and help others who are experiencing difficulties.

Unregistered marriages are also supported by village *penghulu*'s social practices, who have resources in the

economic, cultural, social, and symbolic capital. Such resources are superior to the average resources of the Badau community, especially cultural capital. His extensive network at local and district levels, particularly his close relationship with the Regent and party officials, placed him as a respected religious figure in the community so that not many dared to remind him of his actions.

On the other hand, the Head of KUA, who should be the agent to carry out new products related to the marriage importance, is noted to have not worked optimally in providing education and information in the community. On the contrary, the Head of KUA seems to allow and support the reproduction of unregistered marriages. Limited institutional and human resources are obstacles for KUA to play its role as an agent in structuring registered marriages following state regulations.

This research needs to be followed up with further research related to the role of women as an agency in rejecting unregistered marriages. Strengthening women also need to be carried out so that women can oppose unregistered marriages. It can also be done through an understanding of religious interpretations that are more in favor of women's interests.

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