

## Analysis of the Application of Disciplinary Penalties Against Police Members Who Perform Siri Marriage in the Legal Area of Rokan Hilir Police Station

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ARTICLE INFO	ABSTRACT
<b>Keywords:</b> Implementation, Disciplinary Punishment, Police Members, Siri Marriage.	<i>This research aims to find out about the Analysis of the Application of Disciplinary Penalties Against Police Members Who Perform Siri Marriage in the Rokan Hilir Police District. This research uses Normative-empirical legal methods, namely through a qualitative approach. The data in this study uses secondary data (literature review). The discussion results in the application of disciplinary penalties against members of the Indonesian National Police who commit Siri marriage in the Rokan Hilir Police Legal Area by Government Regulation (PP) No. 2 of 2003 concerning Disciplinary Regulations for Members of the Indonesian National Police. By Article 1 number 5, disciplinary actions that are constructive are imposed directly on members of the Indonesian National Police." number 6 states: Disciplinary punishment is imposed by superiors who have the right to punish members of the Indonesian National Police through a Disciplinary Hearing." further Article 13 Discipline violators can be dishonourably discharged if they repeat the offence within the time of assignment to the same unit. So, violators will get punishment in the form of dishonourable dismissal if members of the National Police commit the same offence at the time of assignment and in the same unit. The implication of this research is the importance of maintaining discipline in the police institution, including enforcing rules related to Siri marriage to ensure good police performance and image in the eyes of the community.</i>

### INTRODUCTION

The act of Siri marriage is currently going viral on social media. The perpetrators are not only from ordinary circles but also from law enforcement officials, such as members of the Indonesian Republic police, taking part in conducting siri marriages today.

Siri marriage is often called secret marriage, and this still invites polemics in the community; in Islam, Siri marriage is indeed valid, as long as the conditions and pillars are fulfilled, but not according to state law that Siri marriage is not legal and is not recognized by the State (Riyanto & Esa, 2018). For perpetrators of Siri marriage whose partner's status is single, it may not be too problematic because Siri marriage is not only to hide certain things to make it legal but most likely to avoid adultery because of the long and complicated marriage documents, then the Siri marriage is carried out. After the marriage documents are completed, it remains only to do isbat nikah or re-conduct the marriage officially through the Office of Religious Affairs (KUA) for Muslims and the Civil Registry Office for non-Muslims. However, what if the perpetrator of the nikah siri turns out to be a man who already has a partner? Of course, this will impact pre-existing family relationships, especially if the perpetrator is a Police member; it significantly affects the work carried out. Even if there is a report from the previous wife, this will be followed up by the unit because this is included in disciplinary violations as stated in the Regulation of the Indonesian National Police Number 6 of 2018 concerning Procedures for Applying for Marriage, Divorce and Reconciliation for Civil Servants in the Indonesian National Police (Asnawi & Azmi, 2022).

The National Police of the Republic of Indonesia Number 6 of 2018 Regulation about Amendments to the Regulation of the Chief of the National Police of the Republic of Indonesia Number 9 of 2010 concerning Procedures for Applying for Marriage, Divorce, and Referral for Civil Servants in the National Police of the Republic of Indonesia governs marriage for members of the National Police (Dirja et al., 2021). This regulation has explained that members of the Police Force, when carrying out marriage, divorce, and reconciliation, must be based on the provisions of laws and regulations to provide legal certainty regarding their rights and obligations in domestic life and the Indonesian National Police organization.

In Article 3 of the Regulation of the National Police of the Republic of Indonesia Number 6 of 2018 concerning Amendments to the Regulation of the Chief of the National Police of the Republic of Indonesia Number 9 of 2010 concerning Procedures for Applying for Marriage, Divorce, and Reconciliation for Civil Servants of the National Police of the Republic of Indonesia, that civil servants in the National Police who will carry out marriage, divorce, and reconciliation must obtain permission from an authorized official. Furthermore, Article 4 Paragraph 1 states, "Civil servants in the Indonesian National Police are only permitted to have one wife/husband." Article 4 Paragraph 2 states: "Female Polri members and female Polri civil servants are prohibited from becoming a second wife and so on." Thus, Polri members with a legal husband/wife cannot remarry, including conducting Siri marriages.

National Police Chief Regulation Number 6/2018 is an amendment to National Police Chief Regulation Number 9/2010 (Aziz, 2023) The old National Police Chief regulation in Article 16 states that: "The granting of a marriage license to have more than one wife may be considered if the following conditions are met:

- a. Does not contradict the provisions of the first wife's religion;
- b. Unable to bear offspring or unable to fulfil her obligations as a wife as evidenced by a doctor's certificate;
- c. There is a wife's statement/consent;
- d. There is a statement from the prospective wife stating that she has no objection and is willing to become the second, third and fourth wife;
- e. There is a statement from the husband that he will be fair."

However, the article is currently no longer valid, so members of the National Police are prohibited from having more than one wife, and a Polri or ASN is not allowed to become a second wife, let alone enter into a Siri marriage.

Enacting marriage rules particularly for members of the National Police and ASN is hampered by the prevalence of numerous Siri weddings performed by National Police personnel. In fact, there are infractions committed by police officers in the unitary state of the Republic of Indonesia that lead to the adoption of disciplinary regulations. These officers are supposed to serve, protect, and uphold the law in the community. So, with the enactment of disciplinary regulations for the offence in question, can it change the original marital status, and what are the circumstances of the Siri marriage that has already been carried out? As stated in Article 2 of Law Number 2 of 2002 concerning the Indonesian National Police, the police function as one of the state government's functions in maintaining public security and order, law enforcement, protectors, protectors and servants to the community (Arif, 2021). Meanwhile, a police institution is a government organ designated as an institution and given the authority to perform its functions based on statutory regulations (Hariyanto, 2018).

Siri marriage, in general, is a crime against legal norms that must be interpreted or should be taken into account as an act that is very detrimental to the victim (wife), which can be considered as an act of neglecting the family. This should not continue without a legal settlement of the crime. Therefore, every criminal offence Anyone commits must be dealt with firmly regardless of status, even though the perpetrators are law enforcement officers such as members of the National Police (Dibrata, 2018).

This is why the author raised the title "Analysis of the Application of Disciplinary Penalties Against Police Members Who Perform Siri Marriage in the Legal Area of Rokan Hilir Police Station." The hope is that with this research, the formulation of the problem of how the Application of Disciplinary Penalties Against Police Members Who Perform Siri Marriage in the Legal Area of the Rokan Hilir Police Station can be adequately answered. So that the community or members of the National Police can understand and understand that Siri marriage is considered to violate the rules in the Law, for the perpetrators will be subject to strict sanctions and the application of the Law according to the procedures in the police rules, marriage laws and the Criminal Code.

## **METHOD**

This research uses Normative-empirical legal methods, namely through a qualitative approach. The data in this research uses secondary data (literature review).

## RESULTS AND DISCUSSION

### Definition of Marriage (Marriage), Its Purpose and Legal Basis

Marriage or marriage in Arabic fiqh is referred to by two words, namely *nikah* and *zawaj* (Zulkifli, 2019). Furthermore, according to fiqh science, marriage is one of life's most important basic principles in a perfect association or society (Baroroh, 2023). So, marriage forms more of a social bond between a man and a woman for a family.

Law Number 1 Year 1974 Article 1 states: "Marriage is a physical and mental bond between a man and a woman as husband and wife to form a happy and lasting family (household) based on the Almighty God." Therefore, the understanding of marriage in Islamic teachings has the value of worship. Article 2 of the Compilation of Islamic Law emphasizes that marriage is a firm contract to obey Allah's commands, which is worship (Al-Amruzi, 2020).

Marriage is a life partnership between a man and a woman that is formally confirmed by Law, which is juridical and mostly also religious according to the goals of husband and wife and the Law, and is carried out for life according to the institution of marriage (Munib, 2022).

Wirjono Prodjodikoro says marriage is the cohabitation of a man and a woman who fulfil certain conditions. (Ahyani, 2016). Meanwhile, according to Subekti, marriage is a legal relationship between a man and a woman that lasts for a long time (Sembiring Meliala, 2015).

From the above understanding of marriage, the conclusion is that marriage is an alliance or physical and mental bond between a man and a woman in a husband-wife relationship to form a happy, eternal household based on the value of worship or divinity.

One of the Marriage Objectives stated in Law Number 1 of 1974 is that the purpose of marriage is to form a happy and eternal family (Prasetyo, 2018). The husband and wife need to help and complement each other so that each can develop their personality to help achieve spiritual and material welfare. In other words, the purpose of marriage is to form a happy and eternal family, so the Law adheres to the principle of making divorce difficult; there must be specific reasons, and it must be done in front of the court (Hayati, 2015).

Other primary purposes of marriage include Upholding and upholding religious Law. That marriage is a legal bond so that it can also have offspring. By obeying the rules of sharia, one indirectly upholds the existence of the sharia, legalizing biological relations between men and women who are not mahram. That by doing marriage directly legalizes two people of different sexes to have biological relations legally. Maintaining peace of mind because with a legal marriage, men and women no longer think about looking for other partners who are not legal because a legal marriage protects one's honour not to have an illicit relationship outside of marriage, free from negative thoughts and views other than those of a couple who have been legalized; establishing kinship, that marriage will unite two families who do not and know each other into one family bond so that with marriage family relations increase due to the increase in family members from each party, namely the male family and the female family.

The Legal Basis for Marriage is regulated by national law, namely Law Number 1 of 1974 concerning marriage. Meanwhile, the legal basis for marriage according to Islamic Law, namely the Koran, among others:

1. Al Quran Surah Annisa verse 1 means: *"O humanity, fear your Lord, who created you from a single person, and he created his wife, and from the two of them Allah multiplied men and women. Moreover, fear Allah by whose name you ask one another and (maintain) the bonds of friendship. Verily, Allah is always guarding and watching over you."*
2. Quran Surah An Nuur verse 31 means: *"And, marry those who are alone among you, worthy (of marriage) of your male and female servants. If they are poor, Allah will enable them with His bounty. Moreover, Allah is All-Wise, All-Knowing."*
3. Al Quran Surah Ar Ruum verse 21 means: *"And, among the signs of His power is that He created for you wives of your kind, that you may tend to them and be at ease with them, and that He may establish between you love and affection. Verily, in such things, there are signs for those who think."*
4. Al Quran Surah An Nahl verse 72 means: *"Allah made for you wives of your kind and made for you from your wives children and grandchildren, and gave you sustenance from good things. So why do they believe in what is false and deny the blessings of Allah?"*

The conclusion is that with marriage, the goal of forming a happy, eternal household and having legitimate offspring can be realized. In addition, by getting married, someone has obeyed the religious Law. Marriage is one of the recommendations for avoiding sin.

The provisions on whether or not a husband may remarry are set out in the Law, the terms and conditions of which must be met. The Law states that a husband may remarry with the court's permission, which also requires the first wife's permission. If a husband is caught polygamous without the permission of the first wife, then criminal sanctions can threaten him. This is as regulated in Article 279 of the Criminal Code (KUHP), which carries a maximum imprisonment of five years. Article 279 Paragraph (1) states: "Anyone who marries while he knows that his existing marriage is a legal obstacle for him will marry again. The penalty is imprisonment for a maximum of five years." As mentioned in Paragraph (1) point two, a similar threat also applies: "Whoever marries, knowing that the existing marriage of the other party will become a legal obstacle for the other party to marry again." If the person guilty of the act described above conceals to the other party that the existing marriage of the other party will be a legal obstacle to his remarriage, he shall be punished by imprisonment for a term not exceeding seven years."

### **Application of Disciplinary Penalties Against Police Members Who Perform Siri Marriage in the Legal Area of Rokan Hilir Police Station**

Government Regulation (PP) No. 2 of 2003 concerning Disciplinary Regulations for Members of the National Police of the Republic of Indonesia contains the disciplinary guidelines for National Police personnel (Hermansyah et al., 2023). Police members are prohibited from doing things that can degrade the honour and dignity of the government and the National Police.

Article 5 states that In order to maintain the life of the State and society, members of the Indonesian National Police are prohibited:

- a. Doing things that can degrade the honour and dignity of the State, government, or the Indonesian National Police;
- b. Conducting practical political activities;
- c. Follow a sect that can cause division or threaten national unity and integrity;
- d. Cooperate with other people inside or outside the work environment to obtain personal, group, or other party benefits that directly or indirectly harm the interests of the State;
- e. Acting as an intermediary for entrepreneurs or groups to obtain work or orders from the office/agency of the Indonesian National Police for personal gain;
- f. Owning shares/capital in a company whose business activities are within the scope of his/her authority;
- g. Act as a patron at gambling, prostitution and entertainment venues;
- h. Become a debt collector or a protector of people who have debts;
- i. Becoming an intermediary/broker;
- j. Abandoning the family.

Furthermore, Article 8 explains that the initial reprimand can be in the form of verbal and written reprimands. However, if the act is more severe disciplinary punishment can be applied as stated in Article 9, which states that Disciplinary punishment can be in the form of:

- a. Written reprimand;
- b. Delay in attending education for a maximum of 1 (one) year;
- c. Postponement of periodic salary increases;
- d. Postponement of promotion for a maximum of 1 (one) year;
- e. Demotion mutations;
- f. Release from office;
- g. Placement in a special place for a maximum of 21 (twenty-one) days.

So, a member of the Police has been sentenced to disciplinary punishment more than three times and is considered unfit to be defended. In that case, the punishment can be up to dismissal. As Article 13 states: "Members of the Indonesian National Police who are sentenced to disciplinary punishment more than 3 (three) times and are considered no longer worthy of maintaining their status as members of the Indonesian National Police, may be honourably or dishonourably dismissed from the service of the Indonesian National Police through a hearing of the Indonesian National Police Professional Code of Ethics Commission."

Some of the stages of handling Polri members who violate the professional code of ethics related to Siri's marital status are as follows:

- a) Investigation and investigation were conducted.
- b) Examination of cases that present evidence and witnesses.
- c) After collecting evidence and testimony from witnesses, an investigation report (BAP) is made.

- d) The minutes of examination (BAP) are then submitted to the Professional Code of Ethics Commission (KKEP) for follow-up.
- e) A trial was held with witnesses present.
- f) After the trial, the Professional Code of Ethics Commission decides the case by imposing sanctions on applicable laws and regulations.
- g) After being decided, the violator must accept and undergo the sanction of the decision, with the heaviest penalty being dishonourable dismissal (PTDH) or, in other words, the member is expelled from the Indonesian National Police Agency without getting a salary or severance pay.

When a police member in the Rokan Hilir jurisdiction violates the code of ethics pertaining to Siri marriage, the law is applied against them through a number of channels, starting with a report from the spouse or family. A follow-up inquiry is conducted in response to the received report. An investigation is conducted to ascertain the case's veracity; if it is determined that the report is accurate, a case examination is conducted through the presentation of witnesses and evidence; following the gathering of information and witness testimony, an examination report (BAP) is prepared; a trial is held against the accused violator and witnesses, and the latter are sentenced in accordance with applicable regulations. Government Regulation (PP) No. 2 of 2003 concerning Disciplinary Regulations for Members of the Indonesian National Police outlines the disciplinary penalties that apply to police officers who perform sir marriage in the Rokan Hilir Police Legal Area. Article 1 number 5 stipulates that constructive disciplinary actions are directly applied to Indonesian National Police members. Number 6 says that supervisors have the authority to apply disciplinary punishment to members of the National Police through a Disciplinary Hearing. Additionally, Article 13 If discipline violators commit the same offense again while assigned to the same unit, they risk being dishonourably discharged. Therefore, if National Police personnel commit the same offense at the same time, they will be punished with dishonorable discharge.

## CONCLUSION

They are implementing Disciplinary Penalties Against Police Members Who Perform Siri Marriage in the Rokan Hilir Police Legal Area by Government Regulation (PP) No. 2 of 2003 concerning Disciplinary Regulations for Members of the Indonesian National Police. By Article 1 number 5, disciplinary actions that are constructive are imposed directly on members of the Indonesian National Police." number 6 states: Disciplinary punishment is imposed by superiors who have the right to punish members of the Indonesian National Police through a Disciplinary Hearing." further Article 13 Discipline violators can be dishonourably discharged if they repeat the offence within the time of assignment to the same unit. So violators will get punishment in the form of dishonourable dismissal if members of the National Police commit the same offence at the same time of assignment and in the same unit...

## REFERENCES

- Ahyani, S. (2016). Pertimbangan Pengadilan Agama Atas Dispensasi Pernikahan Usia Dini Akibat Kehamilan Di Luar Nikah. *Jurnal Wawasan Yuridika*, 34(1), 31–47.
- Al-Amruzi, M. F. (2020). Pencatatan Perkawinan Dan Problematika Kawin Siri. *Ulumul Syar'i: Jurnal Ilmu-Ilmu Hukum Dan Syariah*, 9(2), 1–18.
- Arif, M. (2021). Tugas dan fungsi kepolisian dalam perannya sebagai penegak hukum menurut Undang-Undang Nomor 2 Tahun 2002 tentang kepolisian. *Al-Adl: Jurnal Hukum*, 13(1), 91–101.
- Asnawi, E., & Azmi, B. (2022). Penerapan Larangan Berpoligami Bagi Anggota Polri Berdasarkan Peraturan Kepolisian Negara Republik Indonesia Nomor 6 Tahun 2018. *UIR Law Review*, 6(2), 55–60.
- Aziz, H. F. (2023). Analisis Kebijakan Larangan Berpoligami Bagi Asn Polri Dalam Peraturan Polri Nomor 6 Tahun 2018 Perspektif Siyasah Syar'iyah. *Analisis Kebijakan Larangan Berpoligami Bagi Asn Polri Dalam Peraturan Polri Nomor 6 Tahun 2018 Perspektif Siyasah Syar'iyah*.
- Baroroh, U. (2023). *Fiqh Keluarga Muslim Indonesia*. Penerbit Lawwana.
- Dibrata, Y. (2018). Kebijakan Kriminal Terhadap Pungutan Liar. *JIAGANIS*, 3(2).
- Dirja, M., Judiasih, S., & Rubiati, B. (2021). Sidang Badan Pembantu Penasehat Perkawinan Perceraian dan Rujuk (BP4R) sebagai Syarat Materil Perkawinan bagi Anggota Polri ditinjau dari Hukum Perkawinan Nasional. *Padjadjaran Law Review*, 9(2).
- Hariyanto, B. P. (2018). Pencegahan dan Pemberantasan peredaran narkoba di Indonesia. *Jurnal Daulat Hukum*, 1(1).
- Hayati, V. (2015). Dampak Yuridis Perceraian di Luar Pengadilan. *Jurnal Hukum Samudra Keadilan*, 10(2), 215–227.

- Hermansyah, H., Renggong, R., & Oner, B. (2023). Penegakan Sanksi Pelanggaran Terhadap Disiplin Anggota Kepolisian Negara Republik Indonesia Daerah Sulawesi Selatan. *Indonesian Journal of Legality of Law*, 6(1), 157–162.
- Munib, A. (2022). Kompilasi Tujuan Perkawinan dalam Hukum Positif, Hukum Adat, dan Hukum Islam. *VOICE JUSTISIA: Jurnal Hukum Dan Keadilan*, 6(2), 36–48.
- Prasetyo, B. (2018). Perspektif undang-undang perkawinan terhadap perkawinan di bawah umur. *Serat Acitya*, 6(1), 135.
- Riyanto, M. H., & Esa, K. Y. M. (2018). Nikah Siri: Apa Sih Hukumnya. *Tersedia Di: <https://Pasoreang.Go.Id/Images/Pdfs/Artikel/Nikah%20Siri%20Apa%20Sih>*, 20.
- Sembiring Meliala, D. (2015). *Perkawinan beda agama dan penghayat kepercayaan di Indonesia pasca putusan Mahkamah Konstitusi*. Nuansa Aulia.
- Zulkifli, S. (2019). Putusnya perkawinan akibat suami menikah tanpa izin dari istri. *Jurnal Hukum Kaidah: Media Komunikasi Dan Informasi Hukum Dan Masyarakat*, 18(3), 14–26.