



THE PHENOMENON OF SIRI MARRIAGE AND ITS IMPLICATIONS FOR ISLAMIC FAMILY LAW

FENOMENA PERNIKAHAN SIRI DAN IMPLIKASINYA TERHADAP HUKUM KELUARGA ISLAM

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DOI: <https://doi.org/10.62567/micjo.v3i1.2302>

Abstract

From an Islamic perspective, marriage is not merely a civil matter, nor merely a family or cultural matter, but also relates to religious issues and events, as it is conducted to fulfill the provisions of Allah SWT and the Prophet Muhammad (peace be upon him). A siri marriage is a marriage conducted without official state registration, thus having significant legal implications for women and children. While religiously, this marriage is considered valid, from a state legal perspective, unregistered marriages result in women losing their rights as wives, such as the right to maintenance, inheritance rights, and legal protection within the household. Furthermore, women in siri marriages lack a strong legal basis to file for divorce or assert their rights in court. Meanwhile, children born from siri marriages have only a civil relationship with their mothers, thus facing obstacles in obtaining birth certificates listing the father's name, inheritance rights, and rights to care and education from the father. Siri marriages are also often used as a way to freely practice polygamy without following proper procedures.

Keywords : Siri Marriage, Implications, Islamic Family Law.

Abstrak

Dalam pandangan Islam, perkawinan bukanlah hanya untuk urusan perdata semata, bukan pula sekedar urusan keluarga dan masalah budaya, tetapi berkaitan dengan masalah dan peristiwa agama, oleh karena perkawinan itu dilakukan untuk memenuhi ketentuan Allah SWT dan Nabi SAW. Nikah siri merupakan pernikahan yang dilakukan tanpa pencatatan resmi oleh negara, sehingga memiliki dampak hukum yang signifikan bagi perempuan dan anak. Secara agama, pernikahan ini dianggap sah, tetapi dalam perspektif hukum negara, ketidaktercatan pernikahan menyebabkan perempuan kehilangan hak-



haknya sebagai istri, seperti hak nafkah, hak waris, dan perlindungan hukum dalam rumah tangga. Selain itu, perempuan dalam pernikahan siri juga tidak memiliki dasar hukum yang kuat untuk mengajukan gugatan cerai atau menuntut hak-haknya di pengadilan. Sementara itu, anak yang lahir dari pernikahan siri hanya memiliki hubungan perdata dengan ibunya, sehingga menghadapi kendala dalam memperoleh akta kelahiran yang mencantumkan nama ayahnya, hak waris, serta hak pemeliharaan dan pendidikan dari ayahnya. Pernikahan siri juga sering dijadikan suatu cara untuk melakukan poligami secara bebas tanpa mengikuti prosedur.

Kata Kunci : Nikah Siri, Implikasi, Hukum Keluarga Islam.

1. INTRODUCTION

Islam considers a marriage to be recognized and considered valid when the pillars and requirements of marriage are met, such as the presence of a prospective bride and groom, a guardian, two witnesses, a marriage contract, and a dowry. Under positive law, besides fulfilling these Islamic requirements, registration is also mandatory, so that the marriage can be legally recognized as evidenced by an authentic deed (marriage certificate) (Basyir, 2000).

A siri marriage is a form of marriage conducted without formal procedures recognized by law or authorized authorities. This practice is usually conducted privately without official registration with a state institution or a specific religious institution. Couples who choose a siri marriage are often motivated by various reasons, such as maintaining privacy, avoiding legal obstacles, or influenced by several factors, one of which is culture. The main characteristic of a siri marriage is the lack of official recognition, either from state law or religious institutions. This marriage does not involve legal procedures such as registering a marriage contract and does not involve official authorities such as a registrar or official tasked with registering marriages. Furthermore, siri marriages are usually conducted secretly without announcement to the public or the couple's community (Dina, 2025).

In religion and community beliefs, a secret marriage is a marriage that has fulfilled the pillars and requirements set out in Islam, but is not officially registered by the authorized agency as stipulated in the law. Basically, Islamic law does not require marriage registration at every marriage contract, but seen from the perspective of its benefits, marriage registration is very necessary because it can be used as authentic evidence (Marriage Certificate) so that the family has legal certainty (Prodjohamidjojo, 2007). Secret marriages should not be practiced because the greatest harm is to the woman and the children born from them. Therefore, it must be prevented before it becomes rampant and is considered the best decision by a society that does not yet understand and comprehend the true meaning of marriage (Kurniawati, 2019).

The impact of unregistered marriages on women's rights is significant. Women who marry unregistered often lack legal protection in the event of divorce. Wives and children born of unregistered marriages have no legal basis to pursue their rights through the courts in the event of divorce. They cannot claim maintenance, housing, inheritance, or joint property from their husbands. Meanwhile, children born of unregistered marriages have only a civil relationship with their mothers. Consequently, these children have no right to claim lineage,



maintenance, inheritance, maintenance, or education from their father's inheritance (Ningrum, 2025).

To address the problems caused by unregistered marriages, the Indonesian legal system provides a marriage validation mechanism. It is the process of legalizing a marriage in a religious court for couples who have married under unregistered marriages. Through *isbat nikah*, couples can obtain legal recognition for their marriage, providing women and children with greater legal protection. This process is especially important for women seeking their rights after a divorce or for children seeking clarity on their legal status (Paputungan, Moonti, & Ahmad, 2025).

The phenomenon of unregistered marriage (*nikah siri*) is the practice of unofficial marriages, without following legally established procedures, and therefore not registered with government agencies, such as the Office of Religious Affairs (KUA). Although in some circumstances unregistered marriages are considered valid according to religion, many couples are trapped in this practice due to a lack of legal understanding or social pressures, such as premarital pregnancy. This can lead to legal issues related to marital status, inheritance rights, and child protection. Furthermore, unregistered marriages often lead to social stigma and conflict within families, making them a difficult issue to address, especially among less educated communities (Balagaize, Juhanis, & Samudin, 2025).

The phenomenon of unregistered marriages in Indonesia is reflected in statistics showing the continued high prevalence of unregistered marriages. According to the Directorate General of Islamic Community Guidance at the Ministry of Religious Affairs of the Republic of Indonesia, by 2025, it is estimated that around 34.6 million couples will marry without official registration, while only around 1.5 million will have legally registered marriages.

The high prevalence of unregistered marriages is also reflected in the large number of applications for marriage confirmation (*isbat nikah*) filed with religious courts in an effort to obtain legal recognition for unregistered marriages. In the past five years, the number of applications for marriage confirmation (*isbat nikah*) has ranged from 46,930 to 61,208 per year, indicating that unregistered marriages are not only a religious and social phenomenon but also have legal consequences that encourage couples to seek state legitimacy. At the regional level, population data shows that the practice of unregistered marriages remains quite high. This situation confirms that unregistered marriages are not simply a matter of religious legitimacy, but rather a structural issue in family law that impacts legal certainty, social justice, and the protection of women's and children's rights (Siregar & Hasanah, 2026).

2. RESEARCH METHOD

The research method used qualitative descriptive analysis in data collection. This data collection technique is a type of secondary data used to assist the research process, namely by collecting information contained in newspaper articles, books, websites, and scientific works from previous research (Hendarsih, 2017). The existing data set is analyzed to produce a



conclusion. The goal is to gain a more comprehensive understanding of the problem being studied (Sugiyono, 2018).

3. RESULT AND DISCUSSION

a. Unregistered Marriage

1) Definition of Unregistered Marriage

Unregistered marriage is a marriage that remains secret, meaning it has not been announced to the public. It is usually performed in a limited circle, in front of a religious leader (kyai) or a religious institution without the presence of a KUA (Religious Affairs Office) official, and of course without an official marriage certificate. Article 2, paragraph 2 of Marriage Law Number 1 of 1974 stipulates that marriages must be registered according to applicable laws and regulations. This provision stipulates that unregistered marriages are invalid. Therefore, because unregistered marriages are unregistered, they are considered invalid under positive law because they are not recognized by the state. Marriage in Islam holds a noble position because its purpose is to seek the pleasure of Allah SWT by procreating children, maintaining honor, and as a means to perfect one's religion. Therefore, Islam regulates marriage matters in its sharia as best as possible, so that it can lead to its true purpose.

Ibn Taimiyah conveyed a question to Sheikh al-Islam (ra), regarding a man who married a woman through a mushafahah or unregistered marriage, which is a marriage without a guardian and without witnesses, with a dowry of five dinars and half a dinar annually, and he has lived with her and has intercourse with her. According to Ibn Taimiyah, Sheikh al-Islam (ra) answered that a man who marries a woman without a guardian and without witnesses, and keeps it secret, according to the consensus of the Imams, the marriage is invalid. Ibn Taimiyah stated that unregistered marriage is a type of marriage between prostitutes, because without a guardian and without two witnesses, unregistered marriage is also included in dzawatil akhdan, namely a woman who has a pet man (concubine). This act is forbidden (Djubaedah, 2010).

2) The Law of Unregistered Marriage According to Islamic Law

The word "sirri" in the term "unregistered marriage" comes from the Arabic word "sirrun," which means secret. This word, "unregistered marriage" is defined as a marriage that is kept secret, unlike most marriages, which are conducted openly. Therefore, an unregistered marriage can be defined as "a form of marriage conducted according to religious law or customs, without public announcement and without official registration at the marriage registrar's office" (Susanto, 2007). In Islamic law, marriage is regulated in accordance with the commands contained in the Al-Qur'an and al-Hadith, which is usually known as fiqh munakahat. In classical fiqh books, there is not much that specifically explains the issue of unregistered marriages. because during the time of the Prophet Muhammad SAW what was popular and common was ordinary marriage (jahri). Marriage is a serious contract and also a very happy moment in a person's life, so it is recommended



to hold a wedding celebration party (walimatul 'urs), and share that happiness with other people. Such as with relatives, friends or those who are less fortunate. And the wedding celebration party is also a form of gratitude to Allah SWT for all the blessings He has given us (Zakaria & Saad, 2021). Among Islamic scholars, the validity of unregistered marriages remains a matter of debate. This is because many scholars and some members of the public still believe that unregistered marriages are better than adultery. However, based on various cases, unregistered marriages appear to cause more harm than good.

The unregistered marriages practiced in Indonesia are still considered valid from a religious perspective if the necessary pillars and requirements are met. However, this contract can have detrimental legal consequences for the husband, especially the wife and their children. Ali Uraidi explained the legal consequences of unregistered marriages, including:

- a) There is no permanent legal force regarding the legality of the marriage, so if the wife's rights are violated by the husband, the wife cannot sue.
- b) The marriage contract tends to be legally incapable of proof, and the husband and wife who perform unregistered marriages cannot prove that they are a legal couple under Islamic law or the state. Even if there are witnesses, due to age limitations, they cannot serve as witnesses when needed. Furthermore, we may live nomadic lives, so when proof of the marriage is required, the husband and wife who perform unregistered marriages are unlikely to attend.

3) Types of Sirri Marriage

The following is an explanation of the various types of sirri marriage, namely: (Setiawan, 2005)

- a) Marriage performed without a guardian

This type of marriage is clearly invalid, as according to Imam Shafi'i, because a guardian is a prerequisite for a valid marriage.

- b) Marriages performed without registration by a PPN officer under the authority of the Office of Religious Affairs (KUA), also known as private marriages.

Such a marriage is legally valid according to religion, but from a formal legal or statutory perspective, it is invalid. Essentially, the purpose of registering a marriage with a civil registry office is to provide evidence (bayyinah) to prove that they have truly married another person. One form of evidence considered valid as sharia (bayyinah syar'iyah) is an official document issued by the state. When a marriage is registered with a civil registry office, a person naturally has an official document that can be used as evidence (bayyinah) before a court of law in the event of a dispute related to the marriage or arising from it, such as inheritance, child custody, divorce, alimony, and so on (Susanto, 2007).

The legal basis for marriages to be registered with a government agency (KUA/Civil Registry) is as stated in the word of Allah SWT: Meaning: "O you who believe, if you do not pay in cash for the specified time, you should write it down. And let



a writer among you write it correctly. And let the writer not be reluctant to write it) ...". (QS. Al-Baqarah: 282).

- c) Marriages performed without witnesses: Most Islamic scholars require witnesses at marriages, as witnesses are a prerequisite for a valid marriage.

Therefore, a marriage contract performed without witnesses is invalid. Witnesses must be present at the marriage contract, and merely reporting them is not sufficient. According to Islamic scholars, marriage is different from buying and selling. The purpose of buying and selling is property, while the purpose of marriage is to obtain pleasure and procreate. Therefore, it must be conducted carefully by having two witnesses present. This contrasts with the Maliki jurisprudence, which permits marriage without witnesses.

- d) A wedding attended by witnesses and a guardian, but not announced to the public (walimah).

Some scholars argue that holding a walima at a wedding is obligatory. Announcement of the wedding is considered essential to the requirement for witnesses. In other words, the presence of witnesses is not a requirement for a valid marriage, but merely to ensure public awareness of the marriage. Once the objective of public awareness has been achieved, witnesses are no longer necessary (Setiawan, 2005).

4) Factors Leading to Unregistered Marriages

Cases of unregistered marriages have different backgrounds, but the common goal is to obtain religious legitimacy. Many people believe that unregistered marriages are a private religious matter, thus eliminating the need for involvement with the Religious Affairs Office (KUA). Furthermore, unregistered marriages are also seen as a shortcut for couples who desire marriage but are not yet ready or for other reasons that prevent them from being legally bound. Factors behind unregistered marriages include:

- a) A secret marriage is performed because the relationship is not approved by the parents of both parties or one of the parties, for example, if the parents of both parties or one of the parties intend to match their child with a candidate of their choice.
- b) A marriage is not performed because of an illicit relationship, for example, if one or both parties were previously legally married but wish to remarry.
- c) A marriage is performed under the pretext of avoiding the sin of adultery. This concern is often experienced by student couples. As their relationship grows closer, it raises concerns about committing an act that violates Sharia law. Marriage is not considered a solution that can justify the passion of love while eliminating the fear of adultery.
- d) A siri marriage is carried out because their partner is not yet financially and socially ready. This is usually done by students in addition to being worried about committing adultery at work. They are still in college and are not prepared if they have to be burdened with household problems. My marital status is still hidden so as not to hinder social activities with friends on campus.
- e) A siri marriage is often placed as an option when someone wants to practice polygamy for a number of reasons. If it is done because the couple does not know and does not



want to know the legal procedures. This can occur in a remote village community that rarely has contact with the outside world. Another is with certain congregational communities, for example, who consider that the kyai or congregational leader is the main reference in all matters, including marriage matters. As long as the marriage has been married by the kyai, the marriage is completed according to Islam and does not need to be registered.

- f) A sirih marriage is performed solely for exploratory purposes and to legitimize sexual relations. If, after marriage, there is no compatibility, it will be easy to divorce without having to go through the complicated procedures of court proceedings. This is highly demeaning, as women are treated as mere objects without any respect for the institution of marriage, both in Islam and law.
- g) A sirih marriage is performed to avoid the burden of costs and complicated administrative procedures. This type of marriage is usually performed by immigrants who do not have an ID card. Besides the cost, administrative reasons are also a barrier.
- h) A marriage is performed for interfaith reasons; usually one partner is willing to convert to Islam to validate the marriage (Herlina, Rifa'i, Fhirley, & Noviani, 2024).

b. Implications of Unregistered Marriage

1) Positive Impacts of Unregistered Marriage

Unregistered marriages actually have both positive and negative impacts on a household, both for the husband, wife, and children. However, the positive impacts are not balanced by the negative impacts. In many cases, the negative impacts are experienced more by the women (wives) and children than by the husbands. Below, we will outline several aspects of the legal impacts of unregistered marriages, both positive and negative, for women (wives) and children. The positive impacts of unregistered marriages on women (wives) and children can be detailed as follows:

- a) Individual rights can be violated. The interests of the parties behind the practice of unregistered marriages can be hidden. For example, due to pregnancy outside of marriage, unregistered marriages are performed as an effort to conceal the family's shame, preventing the public from learning about the pregnancy. Similarly, due to work obligations or schooling, a person may be bound by a work contract, while there are pressing circumstances requiring marriage, and an unregistered marriage may be performed. Similarly, for those still in school, for reasons such as one of the prospective bride and groom's plans to study abroad, an unregistered marriage may be performed to bind the couple and their families.
- b) Eliminating the fear of adultery. This fear of adultery is sometimes the reason behind unregistered marriages, both among adults (where the man is already married or has a wife) and teenagers still in school or college. Rather than falling into adultery or committing sin, the best solution is considered to be to have an unregistered marriage.



2) Negative Impacts of Unregistered Marriages

According to Abdul Manan, as quoted by Harpani Matnuh, the impacts of unregistered marriages, or so-called unregistered marriages, include:

- a) The husband and wife do not have a marriage certificate as proof of their legal marriage according to religion and the state.
- b) Children cannot obtain a birth certificate from the authorized wife because obtaining a birth certificate requires a marriage certificate from their parents.
- c) Children cannot inherit their parents' property because there is no authentic proof that they are their parents' heirs.
- d) They do not receive other rights in the implementation of state administration that must be fulfilled as proof of identity.

Furthermore, the negative impacts on wives from a legal perspective are as follows:

- a) Not recognized as a wife, because the marriage is considered invalid. Because a woman in a siri marriage does not have proof in the form of a marriage certificate, if the husband is irresponsible, she is not considered a wife. Even though the marriage was conducted according to religion and belief, in the eyes of the state, a siri marriage is considered invalid if it has not been registered by the KUA (Religious Affairs Office) or Civil Registry Office.
- b) Neglect of rights and obligations. A husband who practices a siri marriage easily neglects his rights and obligations, both physically and mentally.
- c) Lack of rights to maintenance, inheritance, and division of joint property (aka marital property). A further consequence of a siri marriage is that the wife has no right to demand maintenance if her husband is still alive and irresponsible, cannot claim inheritance from her husband if he dies, because the marriage never existed under Indonesian law, and cannot demand division of joint property in the event of divorce.
- d) It cannot provide legal certainty, for example, in the event of a legal dispute (e.g., when attempting to engage in legal actions such as buying or selling land or a house, applying for a bank loan, etc.) because there is no authentic evidence, so the marriage is never considered to have existed under Indonesian law. Furthermore, unregistered marriages are vulnerable to domestic violence, as if the husband is irresponsible, he can act arbitrarily.
- e) It makes it difficult to identify whether someone is married or not. Unregistered marriages, or marriages that are not broadcast or kept secret, result in many people not knowing the identity of the couple.
- f) There is anxiety/concern about carrying out unregistered marriages due to the lack of a marriage certificate. Concerns arise that if they travel long distances or are caught out at night, they will not be able to prove that they are husband and wife.

The negative impacts of unregistered marriages are not only experienced by the woman (wife), but also by the children born from the marriage. The negative impacts on children born from these marriages include the child only having a civil relationship with



the mother and the mother's family. Unregistered marriages have a negative impact on the status of the child born in the eyes of the law, namely the status of the child born is considered illegitimate. The child has no legal relationship with his father (Article 42 and Article 43 of Law No. 1 of 1974, Article 100 of the Compilation of Islamic Law).

3) Social Impacts of Unregistered Marriage

Furthermore, unregistered marriages, in addition to positive impacts, also have negative social consequences for those who engage in unregistered marriages. Among the social impacts of unregistered marriages are as follows:

- a) Social sanctions from society against those who engage in unregistered marriages include slander, which the community assumes is an attempt to cover up the shame of an out-of-wedlock pregnancy. Although this speculation may not be true, it may also conceal other hidden facts, leading to prejudice.
- b) Wives will have difficulty socializing because women who engage in unregistered marriages are often perceived as living with men without marriage ties or as being kept as mistresses.
- c) If issues arise in the future involving the bride and groom and requiring public testimony, the community will find it difficult to provide such evidence. Because of secret marriages, many people do not know that the bride and groom are married. As a result, if there is a dispute between the couple in a secret marriage or if the wife or children are neglected economically, for example, the community will have difficulty providing assistance or providing testimony.

c. Islamic Legal Perspective on Siri Marriage

According to classical Islamic jurisprudence, the validity of a marriage contract is determined by the fulfillment of the pillars and requirements of marriage, namely the presence of a prospective husband, a prospective wife, a guardian, two witnesses, and the consent and acceptance of marriage. Islamic jurists from the four major schools of thought (madrassas) of Hanafī, Maliki, Shafī'i, and Hanbali fundamentally agree that marriage registration is not included in the pillars or requirements for a valid marriage but is instead an administrative matter (*tadbīr idārī*) that does not affect the validity of the marriage contract (Al-Zuhaili, 2011).

Nevertheless, Islam places great emphasis on the social dimension of marriage. Marriage is not merely viewed as a private contract, but also as a public institution that demands transparency. Therefore, Islam encourages the public announcement of marriage as part of the principle of social transparency to prevent the emergence of slander and negative prejudice (al-Qaradawi, 2012).

This recommendation has a normative basis in the hadith of the Prophet Muhammad (peace be upon him), which states, "Announce the marriage and play the tambourine as a sign of celebration" (Narrated by Tirmidhi). This hadith shows that a secret marriage, although valid according to Islamic jurisprudence, is not entirely in line with Islamic social ethical values, which prioritize openness and the protection of family dignity (al-Zuhaili, 2020).



According to Islamic law, a secret marriage is valid, provided the requirements for the pillars of marriage are met. However, from a legal perspective, this type of marriage is incomplete because it has not been registered (Nurrahmah & Sa`adah, 2025). Marriage registration is merely an administrative act that does not affect the validity of the marriage. The victims of this type of marriage are often denied the existence of the secret marriage, and children born within the marriage are often not recognized. This sometimes leads to problems in inheritance distribution (Hafas, 2021).

Therefore, unregistered marriages conducted without publication and registration, although valid according to Islamic jurisprudence, are considered morally and socially undesirable because they have the potential to harm women, particularly in terms of legal recognition and protection of their rights (al-Qaradawi, 2012). Contemporary scholars such as Wahbah al-Zuhaili and Yusuf al-Qaradawi are of the view that registration of marriages in the modern era falls into the category of *maṣlaḥah mursalah*, namely benefits that do not have a direct textual basis in the text, but are in line with the objectives of sharia (*maqāṣid al-syarī`ah*). Registration of marriages is considered important for preserving offspring (*ḥifẓ al-nasl*), maintaining honor (*ḥifẓ al-`ird*), and ensuring legal certainty and protection of family rights (*ḥifẓ al-ḥaqq*).

d. Implications of Siri Marriage for Islamic Family Law in Indonesia

Siri marriage, although often considered valid under Islamic law (provided it meets the pillars and requirements), has serious implications for Islamic family law in Indonesia because it is not registered with the Office of Religious Affairs (KUA). The main impacts include the loss of legal protection for the wife and children, the child not having a birth certificate (which makes it difficult to obtain inheritance rights/legal lineage), and the wife not being entitled to marital property or maintenance in the event of a divorce. The following are the detailed implications of siri marriage for Islamic family law in Indonesia:

- 1) Marital Status Not Recognized by the State: Based on Law No. 1 of 1974, marriages must be registered. Unregistered marriages are considered legally void, making them vulnerable to conflict without state protection.
- 2) Children Lack Birth Certificates and Lineage: Children born from unregistered marriages have difficulty obtaining birth certificates listing the father's name, which impacts guardianship and inheritance rights. Although the child is considered legitimate under Islamic law, administratively, the state considers him an illegitimate child.
- 3) Wives Lose Civil Rights: Unregistered wives do not have the right to claim maintenance, joint property (*gono-gini*), or inheritance under state law if their husband dies or divorces.
- 4) Vulnerability to Divorce: Unregistered divorces are often unilateral (oral divorce) and cannot be processed in the Religious Court without prior marriage confirmation (*itsbat nikah*).
- 5) Risk of Criminal Acts (Polygamy/Adultery): If one of the parties is still bound by a legal marriage, a siri marriage can be reported as adultery or illegal polygamy with the threat of criminal penalties.



4. CONCLUSION

A siri marriage is a form of marriage that is legally valid under Islamic law, but is not registered with the state administration. In the Indonesian legal system, siri marriages often occur for various reasons, including economic and cultural factors, and even polygamy without the permission of the first wife. Although considered valid under Islamic law, siri marriages do not have binding legal force under civil law because they are not registered with the authorized official institution, such as the Office of Religious Affairs (KUA) for Muslims or the Population and Civil Registration Office (Dukcapil) for non-Muslims. As a result, couples who enter into siri marriages often encounter legal obstacles related to civil rights. While siri marriages are often considered valid under Islamic law (meeting the pillars and requirements), they have serious implications for Islamic family law in Indonesia because they are not registered with the KUA. The main impacts include the loss of legal protection for the wife and children, the lack of birth certificates for children (making it difficult to obtain inheritance rights/legal lineage), and the wife's lack of rights to joint property or maintenance in the event of a divorce.

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