

ABSTRAK

Kajian ini berkenaan perkahwinan tanpa kebenaran di Mahkamah Syariah Daerah Kota Setar. Berdasarkan kajian daripada tahun 1996 – 2000, secara keseluruhan perkahwinan tanpa kebenaran berlaku kerana beberapa faktor antaranya ialah halangan ibubapa, poligami, berkahwin dengan rakyat asing, sudah terlanjur dan sebagainya. Perkahwinan yang berlaku ini menimbulkan banyak permasalahan seperti tidak boleh menuntut hak dalam perkahwinan, tidak boleh mendaftar anak, boleh dituduh khalwat, merenggangkan hubungan kekeluargaan, masyarakat memandang serong dan dikenakan tindakan undang-undang. Disertasi ini mengandungi lima bab. Dalam bab Pertama, dibincangkan tentang Metodologi Penyelidikan. Manakala di dalam bab yang kedua, dibincangkan tentang perkahwinan tanpa kebenaran sebagai satu jalan mudah yang dipraktikkan oleh setengah masyarakat. Ia juga menyentuh faktor-faktor berlakunya perkahwinan tanpa kebenaran beserta dengan contoh-contoh kes. Dalam bab Ketiga, dibincangkan peruntukan **Enakmen Undang-Undang Keluarga Islam Negeri Kedah 1979** mengenai perkahwinan tanpa kebenaran dan kesan penguatkuasaan undang-undang beserta penalti terhadap kesalahan ini. Dalam bab Keempat, dibincangkan keraguan dan masalah akibat daripada kahwin tanpa kebenaran serta analisis kes-kes dari tahun 1996 – 2000. Dalam bab Kelima, dikemukakan cadangan dan penyelesaian yang dirasakan perlu dilakukan oleh pihak yang terlibat. Dalam bab ini juga dilontarkan beberapa cadangan serta mengemukakan kaedah dalam membendung seterusnya membenteras kegiatan perkahwinan tanpa kebenaran.

ABSRTACT

The purpose of this study is to reveal about the marriages without permission within the jurisdiction of the Syariah Court in the District of Kota Setar. According to the statistics made from 1996-2000, the marriages conducted due to certain identified factors namely objections from parents, polygamy, and illicit intercourse before marriage and marrying foreigners. Such marriages finally turned bitter as their rights will not be addressed. They are also can be charged for 'hallway' offence which later will break their family ties and can be penalized. This dissertation contains five chapters. The First chapter will discusses the Research Methodology pertaining to this study. Second chapter deals with the introduction of Marriages Without Permission that has been regarded as an alternative or an easy way by some people in the society. It also touches the factors, which led into this kind of marriage together with examples taken from the reported cases. In the Third chapter, the discussion were based generally on the Islamic Family Law Enactment of Kedah State 1979, and focused on marriage which took place without permission from the Registrar of marriage and divorce, and effect on law enforcement and the penalties. In this chapter it discusses the enforcement of law which has been provided to prevent such marriages without permission. The current enactment which known as Islamic Family Law Enactment of Kedah State 1979 has provided the procedure in marriage application. This enactment also provides the offences according to unlawful marriages. The writer discusses the structure of Kedah State Syariah Court. The fourth chapter discusses the doubts that arouse and the problem faced by the couples due to the unlawful marriage based on the reported cases from 1996-2000. While the fifth chapter, concludes this study and brings