

# The Important Benefits of Marriage Itsbat from The Compilation of Islamic Law Perspective

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## Abstract:

*A marriage itsbat is an application to legalize a marriage before the Religious Court for Muslim people. If you cannot prove the marriage occurred with a marriage certificate, then you can apply for a marriage itsbat to the Religious Court. In this case, the application for a marriage itsbat is submitted to the Religious Court if the marriage has fulfilled the provisions of the Islamic religion and does not conflict with the pillars and conditions of marriage. According to Article 7 of Presidential Instruction No. 1 of 1991 on the Compilation of Islamic Law, marriage can only be verified by a marriage certificate issued by a marriage registrar.*

*The study method employed is normative juridical, which includes research on legal principles, which are fundamental concepts in law that can be used to guide decisions. The research conducted was descriptive, meaning it was described and explained in clear and thorough language. The analysis is qualitative. A qualitative analysis is a study that examines the integration of the substance of legislative rules.*

*According to research findings, marriage applications itsbat are made to obtain their child's birth certificate, register for school, and register for civil service tests, or TNI/POLRI. Given this reality, they obtain a marriage certificate by referring to their marriage; also, it provides legal protection for their children born from the marriage, as children are not at fault and their status must be preserved.*

*Marriage itsbat seeks to ensure that the marriage is conducted with valid evidence in the form of a marriage certificate extract and that it is legalized both legally, formally, and throughout the community.*

**Keywords:** *Benefits; Compilation of Islamic Law; Marriage Itsbat*

## I. Introduction

Marriage is implemented in Indonesia based on religion, which is thought to be their law, and the recording is just for administrative purposes; the marriages they perform are known as underhand marriages based solely on religion. <sup>1</sup> Marriage registration is becoming increasingly necessary. <sup>2</sup> Marriage registration, according to Neng Djubaidah, is

the recording of a valid marriage according to Islamic law, that is, a marriage that meets the pillars and criteria of marriage as prescribed by Islamic law and is performed at

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<sup>1</sup> Muhammad Khusnul Yakin, "Ratio Decidendi Penetapan Pengesahan (Itsbat) Nikah Di Pengadilan Agama," *Yuridika* 30, no. 2 (2015): 254–77.

<sup>2</sup> Yayan Sopyan, *Islam Dan Negara: Transformasi Hukum Perkawinan Islam Dalam Hukum Nasional* (Jakarta: PT Wahana Semesta Intermedia, 2012).

the local sub-district Religious Affairs Office.<sup>3</sup>

Marriage registration seeks to establish that the validity of marriage is legally binding. According to Article 2 Paragraph (2) of Law Number 16 of 2019, which amends Law Number 1 of 1974, hereinafter referred to as the Marriage Law, "Every marriage is registered by the applicable laws and regulations." This conveys the notion that marriage registration is critical in a marriage since it determines whether a marriage is acknowledged or not.<sup>4</sup>

According to Law No. 22/1946 on Marriage Registration, the goal of recording a marriage is to obtain legal certainty and order. According to the explanation of Article 1 paragraph (1) of Law Number 22/1946, "according to Islam, marriage, divorce, and reconciliation are recorded to obtain legal certainty".<sup>5</sup> Marriages that are not recorded will have a negative consequence.

Marriage has legal ramifications for both the husband and wife, including the legal relationship between them, the development of marital property, the position and status of children, and inheritance rights. Failure to document a marriage at the Civil Registry Office has a variety of consequences, including:

1. The kid's status: According to Article 42 of the Marriage Law, a legitimate child is born from a recognized marriage. A lawful marriage adheres to each religion's beliefs. Marriages between Muslims are recorded at the Office of Religious Affairs.
2. Inheritance: If the parents' marriage is not registered, their child inherits the same as if they were unmarried. As a result of the

right to inherit, the child can only inherit from their mother. According to Article 43 Paragraph (1) of Law Number 16 of 2019, which amends Law Number 1 of 1974 regulating Marriage, "Children born outside marriage only have a civil relationship with their mother and their mother's family". As a result, the child is unable to inherit from his father and has no civil ties with his father's family.

3. Educational impact: Children who continue their schooling require a birth certificate for administrative purposes.
4. Economic impact: Lack of evidence for marriage certificates might cause administrative challenges, including credit applications.

Unregistered marriages will impair the interests of children and jeopardize the fulfillment, protection, and enforcement of their rights. Marriage, as a legal act, is inextricably linked to the birth of children, both in terms of family law and the rights given.

Marriage registration is the only legal means of ensuring the existence of marriage in Indonesia, according to laws and regulations. Logically, the regulations are a way for those who violate the provisions of marriage to resolve their problems legally, but on the other hand, the laws and regulations allow those who cannot prove the existence of marriage with evidence of a marriage certificate to resolve their problems through an official agency, namely the Religious Court, with the establishment of a means for determining marriage or (*marriage itsbat*).

*Marriage itsbat* refers to the validity of a marriage. *Marriage itsbat* is a combination of the words *itsbat* and marriage, which are

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<sup>3</sup> Neng Djubaidah, *Pencatatan Perkawinan Dan Perkawinan Tidak Dicatat* (Jakarta: Sinar Grafika, 2012).

<sup>4</sup> Dea Pitri Maelani, Ani Yumarni, and Innayatullah Abd Hasyim, "Akibat Hukum Itsbat Nikah Terhadap Perkawinan Tidak Dicatat Berdasarkan Kompilasi

Hukum Islam Pada Pengadilan Agama Cibinong Kelas 1B," *JURNAL HUKUM DE RECHTSSTAAT* 3, no. 1 (2017): 91.

<sup>5</sup> Khoiruddin Nasution, *Hukum Perdata (Keluarga) Islam Indonesia* (Yogyakarta: Taffaza, 2009).

derived from Arabic (*tsabata*, *yusbitu*, *itsbatan*) and imply determination, confirmation, and acceptance (*itsbat*).<sup>6</sup> In Indonesian, *itsbat* refers to determination, confirmation, and determination. *Marriage itsbat* is an application for legalization filed with the Religious Court to have their marriage declared lawful and legally binding. *Marriage itsbat* is the procedure of registering marriages performed by religious beliefs to get a marriage certificate as proof of the marriage's legality.

*Marriage itsbat* is the legalization of a marriage at the discretion of a Religious Court judge. *Marriage itsbat* is carried out for a variety of reasons, including siri marriage, underage marriage, and underhanded marriage. *Marriage itsbat*, as a legalization of marriage, does not invalidate the marriage entered into by husband and wife as long as it meets the pillars and conditions of marriage in Islamic law.<sup>7</sup> *Marriage itsbat* is a legal process that husband and wife must go through before the Religious Court to convert an "unrecorded" marriage, which is valid according to Islam, into a "recorded marriage" under State law.<sup>8</sup> Presidential Instruction No. 1 of 1991 on the Compilation of Islamic Law provides a way out for those who enter into an underhand marriage or polygamy because the marriage cannot be proven by a marriage certificate, but can submit their case to the Religious Court for a decision. The formulation of Article 7 Paragraph 3 letter (e) of the Compilation of Islamic Law is limited; this limitation is necessary to ensure that there is no error in determining it because if all those who apply for *itsbat* to the Religious Court

are determined, it will allow many practices of underhand marriage or nikah siri, which can only be obtained through *itsbat* to the Religious Court.

The Religious Court's total authority includes receiving, examining, hearing, and resolving *marriage itsbat* cases for married couples who do not have a marriage certificate. The marriage validation rule, or *marriage itsbat*, is based on the existence of a religious marriage that has not been recorded by an authorized Marriage Registrar.<sup>9</sup>

The Religious Court can only grant an application for *marriage itsbat* if the marriage meets the terms and conditions of marriage in Islamic terms and does not violate the marriage law rules outlined in Articles 8 through 10 of the Marriage Law and Presidential Instruction No. 1 of 1991 concerning the Compilation of Islamic Law.<sup>10</sup>

The regulations governing *marriage itsbat* are specifically stated in Article 7 of Presidential Instruction No. 1 of 1991 on the Compilation of Islamic Law. The conditions for the permissibility of *marriage itsbat* are:

1. A Marriage Certificate issued by a Marriage Registrar is the only proof of marriage.
2. If a marriage cannot be confirmed through a Marriage Certificate, *marriage itsbat* can be submitted to the Religious Court.
3. *Marriage itsbat* can only be submitted to the Religious Court for the following reasons:
  - a. The existence of a marriage during a divorce settlement
  - b. The loss of a marriage certificate

<sup>6</sup> Ahyuni Yunus, *Hukum Perkawinan Dan Itsbat Nikah: Antara Perlindungan Dan Kepastian Hukum* (Humanities Genius, 2020).

<sup>7</sup> Farida Nurun Nazah and Husnia Husnia, "Kepastian Hukum Itsbat Nikah Dalam Hukum Perkawinan," *Jurnal Hukum Replik* 6, no. 2 (2018): 241–63.

<sup>8</sup> Muhammad Syafiuddin, *Hukum Perceraian* (Jakarta: Sinar Grafika, 2013).

<sup>9</sup> Mahkamah Agung Republik Indonesia, *Pedoman Teknis Administrasi Dan Teknis Peradilan Agama* (Jakarta, 2009).

<sup>10</sup> Nurhidayah Nurhidayah, "Kajian Yuridis Penetapan Permohonan Isbat Nikah Di Pengadilan Agama Watampone Kelas IB," *Al-Risalah: Jurnal Hukum Keluarga Islam (Ahwal Al-Syakhsiyah)* 3, no. 2 (2019): 129–53.

- c. Doubts about the validity of marriage conditions
- d. The existence of a marriage before Law Number 1 Year 1974.
- e. Marriages without impediments under Law Number 1 of 1974.
- f. Applicants for *marriage itsbat* include husband and wife, children, marriage guardians, and individuals with an interest in the marriage.

Husband and wife have the right to apply to the Religious Court to legalize their marriage. The function of *marriage itsbat* is a marriage validation performed by an authorized institution on the applicant to obtain recognition of personal status and legal protection. Only those who apply for *marriage itsbat*, like the husband, wife, and children, bear the brunt of the impact. When an application for *marriage itsbat* is granted by the Court, it will have the following favorable consequences on the justice-seeking community:

- 1. Obtain legal certainty for the marriage.
- 2. State recognition of marriage requires legitimate evidence, such as a judge's judgment to allow an application for marital validity and get a marriage book.
- 3. Protecting women's rights as wives.
- 4. If parents divorce, children may struggle to receive inheritance as the marriage is not legally recognized by the state. Additionally, the woman and children are not entitled to maintenance or inheritance if the husband dies.

In addition to the good impact, granting an application for *marriage itsbat* has a negative influence, namely:

- 1. The public believes that *marriage itsbat* is simple to perform at the Religious Court.
- 2. Those who do not register their marriages with an authorized agency miss out on the benefits of religion, including calm, quiet, legal certainty, and avoiding litigation.

Non-registration of marriages can occur for a variety of reasons including:

- 1. marrying in front of community leaders, kyai, or kodi who lack the jurisdiction to issue marriage certificates.
- 2. The couple marries in front of an official who is not authorized to administer marriage ceremonies.
- 3. Due to financial constraints, the marriage is performed but not legally registered.
- 4. Pregnancy leads to a siri marriage, which is unrecorded.
- 5. Failure to meet polygamy conditions, such as not obtaining consent from the first wife.
- 6. Underage marriages.
- 7. Overseas marriages

It is also known that the community's motives for submitting *marriage itsbat* vary, such as the need to produce childbirth certificates and other administrative requirements. It is understood that *marriage itsbat* is required as a solution to the community's marriage registration dilemma, as the practice of siri marriage continues.

## II. Legal Materials and Methods

The study approach employed is normative juridical, which includes research on legal principles, which are fundamental concepts in law that can be led. The research was descriptive, meaning it was described and explained in clear and thorough language. The analysis is qualitative. Qualitative analysis is a study that examines the integration of the substance of laws and regulations.

## III. Result and Discussion

According to Peter Salim, the phrase *marriage itsbat* means determining the correctness of marriage. According to the Indonesian Dictionary, *marriage itsbat* is the legal recognition of a marriage that was performed by Islamic law but was not recorded by the Office of Religious Affairs or the authorized Marriage Registration

Officer. The existence of *marriage itsbat* nikah is required by the community since there are still numerous underhand marriages, siri marriages, and underage marriages that are not registered with the Office of Religious Affairs.

*Marriage itsbat* is a marriage validation presented to the Religious Court to proclaim the legitimacy of a marriage held by Islamic law for it to be legitimate.

Itsbat (decision) is a product of the Religious Court in the sense that it is not a legitimate court and uses the phrase *jurisdiktio voluntair*. It is claimed that it is not a true court because there is only one applicant who wishes to be resolved about something, specifically *marriage itsbat*. According to Decree No. KMA/032/2006 of the Chief Justice of the Supreme Court of the Republic of Indonesia Concerning Guidelines for the Implementation of Duties and Court Administration, *marriage itsbat* is the validation of an Islamic marriage that was not recorded by the Office of Religious Affairs or the authorized Marriage Registrar.

*Marriage itsbat* is a procedure used by a married couple who married legally under religious law to acquire recognition from the state of the marriage entered into by both of them and the children born during the marriage, giving the marriage legal power. So, *marriage itsbat* is the marriage of a man and a woman as husband and wife that is carried out in compliance with Islamic religious laws, namely the fulfillment of the terms and conditions of marriage, but is not recorded.

Marriage can only be proven by a marriage certificate issued by a Marriage Registration Officer; nevertheless, a marriage that cannot be proven by a marriage certificate may be brought to the Religious Court for *marriage*

*itsbat*. Article 7 paragraph (3) of the Compilation of Islamic Law outlines the requirements for *marriage itsbat*, including:

- a. the existence of a marriage in a divorce settlement,
- b. loss of a marriage certificate,
- c. doubts about the validity of one of the marriage conditions,
- d. marriages before Law No. 1 of 1974,
- e. marriages conducted by those without a marriage impediment.

According to the above-mentioned standards for *marriage itsbat*, the Religious Court cannot consummate all marriages. If the trial procedure reveals that the juridical prerequisites have been met, the Panel of Judges will grant the application for *marriage itsbat*. If these prerequisites are not met, the judge will legally refuse the application for *marriage itsbat* since it does not comply with the existing legal laws, but the opposite can also occur. The Panel of Judges will grant the application if it includes psychological, sociological, or other arguments that, if denied, would affect the family. Thus, based on his authority, the judge issues *ijtihad* and then grants the application for *marriage itsbat*, which does not legally meet the standards that have been established.<sup>11</sup>

There are various prerequisites in applying for *Marriage Itsbat* to the Religious Court, including the following a letter of application/sue, a certificate of non-registration from the local Religious Affairs Office, a marriage certificate from the local Village Head, a photocopy of the applicant's identity cards (husband and wife must be valid), and a copy of the applicant's Family Card.

*Marriage itsbat* seeks to profit. This purpose differs from Ash-Syatibi's ideas regarding the

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<sup>11</sup> Meita Djohan Oelangan, "Isbat Nikah Dalam Hukum Islam Dan Perundang-Undangan Di Indonesia," *Pranata Hukum* 8, no. 2 (2013): 139–40.

theory of *al-muqashid al-syari'ah*, also known as al-maslahah theory, which states that the goal is to reap benefits while avoiding harm.<sup>12</sup> This theory can disclose the law's aim, notably *marriage itsbat*, which states that every married couple obtains a marriage certificate through the marriage registration process.

The legal grounds for *marriage itsbat* are given below:

- a. Law Number 32 of 1954: Registration of Nikah, Talak, and Rujuk.
- b. Marriage Law Number 1 of 1974;
- c. Government Regulation Number 9 of 1975 Implementing Marriage Law Number 1 of 1974;
- d. Presidential Instruction Number 1 of 1991 Disseminating the Compilation of Islamic Law;

### **Importance of *Marriage Itsbat***

Some Muslim groups that do not grasp marriage regulations favor a fiqh-centric approach. According to this understanding, marriage is regarded lawful if the prerequisites and pillars of fiqh rules are met without the need for recording, as indicated by the existence of a marriage certificate. Some people practice this condition by performing nikah siri without consulting a Marriage Registration Officer who is allowed to record the marriage. Such disclosure is intended to help all parties understand and appreciate the value of justice and order in a marriage, which is the foundation of the establishment of a household life, as well as the factors that influence whether or not to avoid greater negative consequences.

### **Purpose of *Marriage Itsbat***

The goal of *marriage itsbat* is the same as analyzing the aim of the law itself. According to Islamic law, the goal of the regulations governing itsbat nikah is to benefit. Asy-Syatibi proposed this goal in his philosophy of *al-maqashid al-shari'ah*, which is to realize advantages while avoiding harm. This can disclose the aim of the law, specifically *marriage itsbat*, which essentially compels every married couple to obtain a marriage certificate through the marriage registration process.

*Marriage itsbat* strives to provide legitimate evidence in the form of a Marriage Certificate quotation and legalization both legally, formally, and throughout society. Furthermore, it tries to regulate and safeguard the community's rights because registration and *marriage itsbat* strive to order weddings in the community, which has ramifications for efforts to preserve the rights engaged in marriage.

The objective of marriage, according to Article 1 of the Marriage Law, is to establish a joyful and eternal family (home) founded on God Almighty. Meanwhile, the purpose of marriage according to Islam encompasses some noble and holy goals, including:<sup>13</sup>

- a. Preserving vulnerable women from destruction. Women are known to have a weaker nature than men. If there is no marriage, women become a way of releasing lust for men, but marriage allows women to be adequately protected.
- b. Preserving human dignity and civilization. Marriage prevents people from committing adultery.
- c. To restore legitimate offspring to holiness. When a married couple has children, the offspring's lineage is obvious.
- d. Maintaining the advantage of the people. Marriage is regarded as beneficial because

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<sup>12</sup> Imam Syaukani, *Rekonstruksi Epistemologi Hukum Islam Indonesia Dan Relevansinya Bagi Pembangunan Hukum Nasional* (RajaGrafindo Persada, 2006).

<sup>13</sup> Ramayulis (H.), *Pendidikan Islam Dalam Rumah Tangga* (Kalam Mulia, 2001).

if there is no marriage, humans will develop tendencies that can cause dissension and animosity, potentially leading to murder.

e. Foster a loving and harmonious home life.

The purpose of marriage according to the Marriage Law does not conflict with the purpose of marriage under Islamic law. According to Article 3 of the Compilation of Islamic Law, marriage aspires to create a domestic life that is *sakinah*, *mawaddah*, and *rahmah*. *Itsbat nikah*, or marriage determination, focuses on civil components, specifically the existence of legitimate evidence of a marriage that has occurred, because the marriage may only be confirmed by a marriage certificate under applicable legislation. The marriage certificate will provide legal protection to the parties involved because they have taken legal action and acquired legal protection.

The Religious Court's determination of *marriage itsbat* is based on the Law of Religious Courts Procedure, both from the HIR and applicable laws and regulations, the general procedure for applying for *marriage itsbat*, namely:

1. Applicants must submit a written application to the President of the Religious Court (Article 142 paragraph (1) R. Bg.)
2. Applicants who are unable to read and write may apply orally before the President of the Religious Court, who will record the application (Article 144 R. Bg.).
3. The petition is filed with the Religious Court, numbered, and registered in the register book after the petitioner or attorney pays the case fee to the BRI Branch with a bank deposit slip determined by the President (Article 145 paragraph (4) R. Bg.).
4. The application should include the following information:

a. Name, age, religion, occupation, education, nationality

b. Place of residence

c. Posita (incident and legal facts)

d. Reasons or interests

e. Petitem (requests based on the posita).

5. The petitioner attends the trial based on a summons issued by the bailiff or substitute bailiff of the Religious Court under Article 26 paragraph (4) of Government Regulation No. 9 of 1975.

6. Court decision

Based on research on the procedure for implementing the *marriage itsbat* determination at the Religious Court, which includes registering with the Religious Court, paying court fees, waiting for a trial summons, attending the trial, and the final decision or court decision regarding the *marriage itsbat* case. The parties who file a *marriage itsbat* case, as well as the parties who apply for it, must meet the requirements in the form of documents or letters. This *marriage itsbat* case can be filed by the husband or wife, their children, family in a straight line of descent up and down, or interested parties, and is based on the Religious Court's power to hear and decide on an appropriate marriage case. According to Article 7 paragraph (4) of the Compilation of Islamic Law, "those allowed to apply *marriage itsbat* are the husband and wife, their offspring, marital guardians, and parties interested in the marriage."

If both parties (husband and wife) apply for *marriage itsbat* and are still alive, both must be party to the application. If one of the husbands or wives dies, the surviving spouse applies *marriage itsbat*.

If the *marriage itsbat* determination is granted, the applicant will be given a copy of the decision or determination within 14 days of the final hearing. After getting a copy of the judgment or determination, the applicant can request that the Religious Affairs Office register the applicant's marriage by

presenting a copy of the court decision or determination, and the marriage will be recognized as lawful under the law. This is based on Article 7 paragraph (1) of the Compilation of Islamic Law and Article 100 of the Civil Code, which provide that only a marriage certificate or a recorded marriage certificate can prove the existence of a marriage. Applicants who have registered their marriage will receive a marriage certificate from the state, which will provide them with legal protection and assurance. Because legal certainty is critical in marriage, the community cannot determine if an activity is right or wrong. Legal certainty can take precedence over proof when determining this *marriage itsbat* so that the law can be considered.

Depending on the outcome, the Marriage Registration Officer will also provide a Marriage Book or Marriage Certificate Excerpt.<sup>14</sup> In the case of the determination of the *marriage itsbat*, the legal effect is the marriage's legal validity, which results in the rights and obligations between the husband, wife, and children born from the marriage becoming legitimate children, giving the children born a strong legal position.<sup>15</sup> In addition to his rights as an heir under his parents' guarantees, the husband, wife, and kid obtain legal protection upon the implementation of the determination of *marriage itsbat*.

A marriage certificate is valid evidence of a marital contract and can serve as a "legal guarantee" if either husband or wife commits deviant behavior. The marriage certificate also proves the legality of the union's offspring, allowing them to secure their rights. Legal action cannot be taken without a marriage certificate since a marriage

certificate issued by a Marriage Registration Officer is the only way to prove marriage. It does not rule out the possibility of the parties receiving a marriage authorization even if they do not have a marriage certificate since the marriage was not performed in front of a Marriage Registration Officer or was performed by hand by Islamic law.

For whatever reason, a husband and wife live without a marriage certificate. The Compilation of Islamic Law (KHI) allows them to apply *marriage itsbat* with the Religious Court, giving the person concerned legal standing in the marriage.

According to Islamic law, if a marriage is performed and meets the requirements of the pillars of marriage, the marriage is valid even if it lacks a marriage certificate; however, the legal consequences are the same as if the marriage had a marriage certificate. However, according to the rules of positive law that control the procedures for marriage that are justified by law, as stated in Article 2 paragraph (2) of the Marriage Law, marriage is lawful if it is carried out by the laws of their respective religions and beliefs. Article 2 paragraph (2) specifies that every marriage shall be recorded by applicable laws and regulations.

The reasons for applying for *marriage itsbat* are:

1. Legalizing the status of children for birth certificates.

*Marriage itsbat* was submitted to either legitimize their children's status or get birth certificates for them. They are unable to obtain their children's birth certificates for school or other administrative purposes unless they have a marriage certificate.

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<sup>14</sup> Supianto Supianto and Tioma Roniuli Hariandja, "Efektivitas Pelaksanaan Itsbat Nikah Terhadap Kepastian Hukum Status Perkawinan Dan Hak Anak Di Kecamatan Wuluhan Kabupaten Jember," *Jurnal Rechts* 5, no. 2 (2016): 82–98.

<sup>15</sup> Mia Islamiati, "Pelaksanaan Itsbat Nikah Berdasarkan Undang-Undang Nomor 1 Tahun 1974 Tentang Perkawinan Dan Kompilasi Hukum Islam Di Pengadilan Agama Pekanbaru" (Universitas Islam Riau, 2019).

2. Because they lack the qualifications for marriage.

Any Religious Affairs Office will reject them if they do not meet all of the conditions. One of the prerequisites they do not meet, for example, is being a bachelor and a girl. The majority of persons who marry unrecorded do not have a certificate of divorce alive or a certificate of divorce dead. If there is no certificate of living divorce and no divorce certificate, the marriage conditions are inadequate, and they seek a location unknown to the Office of Religious Affairs.

Not meeting the polygamy standards, particularly without the first wife's permission. According to the Compilation of Islamic Law, Article 55 paragraph (2) states that the main prerequisite is the ability to have more than one wife. The spouse must be fair to his wife and children. If the main criteria listed in paragraph (2) are impossible to meet, the husband is not allowed to have more than one wife. Article 56 paragraph (1) states that a husband who wishes to have more than one wife must obtain permission from the Religious Court, and Marriage Law Article 5 paragraph (1) states that to submit a request to the court as referred to in Article 4 paragraph (1), the following conditions must be met:

- a. The women's assent
  - b. The husband's ability to pay for the wives and their children, and
  - c. The husband's fairness to the wives and their children.
3. The prospective bride and groom are unable to wait for the Religious Affairs Office's appointed time.  
Because the Office of Religious Affairs has a certain time for prospective brides

who wish to marry, which is 10 working days or two weeks, the prospective bride and groom marry somewhere else rather than through the Office of Religious Affairs.

4. Underage marriage

Those who marry underage due to an unmarried pregnancy and join a siri marriage. They do not register their marriage with the Office of Religious Affairs.

5. Some couples marry in front of the kadi, who can issue marriage certificates, and then marry abroad.

After submitting a determination of the *marriage itsbat* process to the Religious Court and receiving a copy of the verdict or determination, it can then ask the Religious Affairs Office to register the marriage by submitting evidence of a copy of the verdict or determination to the Religious Affairs Office, without having to marry again at the Religious Affairs Office.

The benefits of forming the marriage stem from the legal repercussions of registration:

1. Husbands and wives have rights and obligations.
2. Children born from the marriage become legitimate children under State law.
3. Husbands must provide for and educate their children and arrange for a place to live together.
4. Mutual inheritance between husband, wife, and children.
5. Fathers can be guardians of their daughters.
6. If one spouse dies, the other is entitled to inherit.<sup>16</sup>

The value of the *marriage itsbat* stipulation is that it provides each married pair with legal certainty and protection against the occurrence of a marriage, which is evidence of the legality of marriage. The

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<sup>16</sup> Idris Ramulyo, Hukum Perkawinan, and Hukum Kewarisan, "Hukum Acara Peradilan Agama Dan

Zakat Menurut Hukum Islam, Cet Iv," Jakarta: Sinar Grafika, 2006.

implementation of *marriage itsbat* aims to provide legal certainty to married couples in terms of population administration, as previously noted, allowing them to receive a child's birth certificate, identity card (KTP), and family card (KK).

*Marriage itsbat* is a solution to problems with unregistered marriages and can be a barrier for couples who have previously married without complying with appropriate requirements to get legal status for their marriage. The applicant, before marrying siri, was already pregnant and after that married siri and was not registered at the Office of Religious Affairs, then years later realized the importance of a State-registered marriage for the continuity of children's rights, management of children's birth certificates, management of children's schools, and in administrative management. In other words, *marriage itsbat* can be a double-edged sword, with one side providing a solution to the problem and the other serving as a shortcut for individuals who have already married to acquire legal certainty and make their marriage legitimate or valid in the eyes of the law.

#### IV. Conclusion and Suggestion

The benefit of *marriage itsbat* is that it provides legal certainty for the husband and wife, as well as their offspring, from a legally recorded marriage based on religion and state. *Marriage itsbat* strives to ensure that marriages take place to gain legitimate documentation in the form of a Marriage Certificate quote and legality both legally, formally, and throughout the community.

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