

Itsbat Nikah: Legalizing marriage outside the record in Indonesia

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Abstract

This study focuses on the legal impact of marriage registration in the context of itsbat marriages in religious courts, particularly for marriages that occurred after 1974 without an official certificate and were not registered in the compilation of Islamic law (KHI). It aims to evaluate the itsbat marriage as a legal mechanism for recognizing marriages that are not officially registered. Normative analysis, a philosophical and analytical approach, serves as the research method, reviewing the relevant legal framework and court practice in handling divorce cases. The results showed that unregistered marriages after 1974 can be legally recognised through the itsbat nikah procedure. The Article 7, Paragraph 3, letter KHI, outlines the necessary conditions. With this procedure, spouses can receive written evidence of their marriage's legality in the form of a marriage certificate, which is then registered by the official Religious Affairs office. This study emphasizes the importance of marriage registration for legal certainty and protection of individual rights, and highlights how itsbat nikah plays a critical role in addressing the problem of marriage without official registration.

Keywords: *marriage, marriage registration, marriage certificate, itsbat marriage*

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1. Introduction

Before Law Number 1 of 1974 concerning marriage was passed, marriages performed by Muslims who met the aforementioned criteria were legally recognized and recognized by the Indonesian government. However, since the passage of the law, in order for a marriage to be recognized by the state, it must be registered with the Office of Religious Affairs for Muslims and with Civil Registration for non-Muslims (Bakung et al., 2023). Registering a marriage provides administrative order, legal clarity, and protection for the couple's marriage.

According to the teachings of the Prophet Muhammad, there are several benefits to marriage when practiced properly (Azizah, 2014):

ذَا نَ كَا مَنْ وَ الْأَمَمَ مُكَاتِرٌ بِكُمْ جُوفَائِي وَ تَزَّ وَ مَيِّ فَلَيْسَ بِسُنَّتِي يَعْمَلُ لَمْ فَمَنْ سُنَّتِي مِنَ النِّكَاحِ
وَجَاءَ لَهُ الصَّوْمَ فَإِنَّ بِالصِّيَامِ فَعَلَيْهِ يَجِدُ لَمْ وَمَنْ فَلْيُنكِحْ طَوَّلَ

"Anyone who does not follow my Sunnah, which includes the institution of marriage, is not welcome in my community. Also, tie the knot; I'm pleased of how many of you there are compared to other peoples. Anyone who is capable, let them tie the knot. Someone who is unable to locate it is obligated to fast. For Farji, fasting actually reduces desire."

Marriage, according to the preamble of Article 1 of Law number 1 of 1974, is "a physical and spiritual bond between a man and a woman as husband and wife," with the goal of fostering the integrity of faith within a family unit and, ultimately, eternal happiness based on the Almighty Godhead. According to the law, a marriage is a legally binding partnership between a man and a woman, with all the rights and responsibilities of a contracting party (MK, 2010).

Legislation in Indonesia that incorporates both positive and religious regulations has laid forth the requirements for marriage. A marriage is deemed legal in Islamic law if it satisfies the criteria and pillars of marriage. In positive law, a marriage is lawful if it is registered with the state administration and satisfies the pillars and conditions of marriage. Those who choose not to record their marriage might nevertheless take use of the legal avenues available to them. Although it may not be well known, many weddings continue to take place without proper documentation, putting vulnerable women and children at risk.

The Religious Courts and Mahkamah Syar'iyah have jurisdiction over matters related to the legalization of marriage, which is generally known as *Itsbat* Nikah (Suryani et al., 2023), *nikah* refers to marriage. The resolution of marriage *itsbat* instances requires registration in line with several strictly controlled rules and regulations. The Guidebook for the Implementation of Duties and Administration of Religious Courts (also called Book II) spells out the steps to take when a marital dispute arises. It is a guide and a reference for all Religious Court officials, especially Judges, Registrars/Substitute Registrars and Bailiffs in carrying out their duties in the field of judicial administration and judicial technicalities. *Itsbat* situations involving marriage may be either consensual or contested. Whoever handles the matter decides whether registration is optional or compulsory. Because the case is in the form of a request, there is no resistance in a volunteer case. A contentious litigation, on the other hand, involves a disagreement between the parties involved (Mujahideen, 2012).

The Directorate General of Religious Courts presented its annual report on January 29, 2021. In addition to the number of cases still outstanding for 2019, this year-end report also includes the total number of cases registered with all levels of Indonesia's Religious Courts (Shar'iyah) in 2020, from the First Level to the Appellate Level. The Nikah *Itsbat* cases-specific Annual Report shows that 49,763 cases have been reported, 47,362 have been decided, and 2,656 have been determined due to revocation (Directorate General of Badilag MA RI, 2019). These data suggest that, for some segments of Indonesian society, *Sirri* marriage remains an ingrained cultural norm, with the exception of *itsbat* marriage, which has long been seen as a viable alternative. There are still issues with *sirri* weddings, even though *itsbat* marriage provides an option for coping with them (Harahap, 2017).

According to Article 2 paragraph 2 of Law Number 1 of 1974 pertaining to marriage, "every marriage is recorded according to applicable laws and regulations" and in accordance with Article 5 paragraph 1 and paragraph 2 of the Compilation of Islamic Law/Instructions of the President of the Republic of Indonesia, it is non-negotiable to register a marriage because this is related to the validity or invalidity of the marriage according to state administrative law. In addition, Paragraph 1 of Number 1 of 1991 states that "*marriage registrar employees carry out the registration of marriages as stated in paragraph 1 in order to ensure orderliness for Islamic communities.*" However, Paragraph 2 states that this recording is necessary but not mandated. This study argues that the line "must be noted" in

paragraph 1 of Article 5 of the Compilation of Islamic Law, arguing that the word "must" is imperative or harmonic. The goal is to attain legal certainty, which is known as *Het Rechtszekerheidsbeginsel*.

In order to attain legal certainty, the Compilation of Islamic Law allows couples whose marital status is not recorded to have the option to legitimize their marriage via the Religious Courts, as mentioned in Article 7 paragraph 2. Nevertheless, the Compilation of Islamic Law places restrictions on the validity of marriages with respect to certain issues, as stated in paragraph 3 of Article 7 (Muhtar & Kasim, 2023): (1) a marriage that took place before the passage of Law number 1 of 1974; (2) a marriage certificate that has been lost or destroyed; (3) questions regarding the validity of one of the marriage's conditions; (4) a marriage that took place in the context of a divorce settlement; and (5) marriages performed by individuals who do not face any marriage-related obstacles as outlined in Law number 1 of 1974. According to the rules, the grounds for submitting a marriage *Itsbat* application are indicated by letters (a) through (d), whereas letter (e) is a must in order for the request to be approved. Every married couple is required by law to get their marriage registered. Failing to do so has legal ramifications for both the married couple and their offspring, including: (1) the marriage is declared invalid by the state due to the non-fulfillment of the essential marital requirements; (2) a husband may divorce his wife at any moment without a trial; (3) the legal status of children born into a marriage is murky; and (4) the right to support or inheritance does not extend to spouses or children by the state (Ma'sum, 2013).

Before Law No. 1 of 1974 was put into effect, marriage contracts that meet all the requirements of a marriage between a couple can be legally recognized. Marriages that took place after the law was passed can still be justified, but only if all the requirements of the marriage are met and the judge gives special consideration to them. There is a clear legal framework surrounding marriage registration in Indonesia, but the marriage *itsbat* phenomenon shows how complicated and pervasive unregistered weddings are in Indonesian culture. This is highlighted in the yearly report of the Directorate General of Religious Courts.

The fact that *itsbat* marriage exists as a means of legitimizing unregistered weddings demonstrates that this issue is being addressed. However, it also highlights that there are still significant obstacles and problems with its execution. Persistence of this practice is caused by an interplay of legal, social, and cultural factors; this, in turn, has far-reaching consequences

for people and society, particularly as it relates to the legitimacy of marriage, the protection of wives and children under the law, and the certainty of the law. Consequently, a multi-pronged strategy emphasizing public education on the significance of marriage registration in addition to social and legal considerations is necessary to overcome this difficulty.

Unregistered marriages often result in a variety of legal and social problems. Legal uncertainty and vulnerability for spouses and their children result from the high number of officially registered marriages in Indonesia. This includes difficulties obtaining inheritance rights, child custody, and legal protection in divorce cases. Furthermore, children born into unregistered marriages face barriers to social and legal status recognition, which can affect their access to education and health services. The *itsbat nikah* procedure, which allows the official recognition of previously unregistered marriages, is a response to this problem. *Itsbat Nikah* not only strengthens legal certainty, but also helps to ensure social and legal protection for spouses and their children. The inclusion of *itsbat nikah* in this study emphasizes the importance of understanding and implementing this process to address gaps in marriage registration. Hence, this study aims to assess the issue by addressing the following research questions:

1. How the Compilation of Islamic Law relates to the implementation of *itsbat* marriage in religious courts to marriages that were not registered after 1974?
2. What were the options for couples previously married in a *Siri* marriage once the marriage legislation is decided?

2. Literature Review

Both the positive legal provisions of Law No. 1 of 1974 on marriage and elements of Islamic law as found in the compilation of Islamic law have a significant impact on marriage regulation in Indonesia (Owoyemi, 2019). They drafted an all-encompassing code of laws that governs marriage in every detail, including the requirements for a marriage to be legally recognised and the pillars upon which it must be based. In Islam, marriage is more than simply a social tie; it is a holy covenant with significant personal and societal consequences. Thus, in order to ensure the seriousness and legitimacy of a marriage, Islam lays forth the requirements and pillars that must be fulfilled. These include the presence of witnesses, a dowry, consent, the guardians of the marriage, and the prospective spouses. To be valid under Indonesian positive law, a marriage must adhere to *Syar'i* and be registered with the

appropriate authority, which in this case is the Office of Religious Affairs for Muslims. This will safeguard the interests of the spouses, establish their rights and responsibilities, and legitimise any children born into the union (Dean, 2024). On the other hand, sirri marriages—married off outside of the formal registry—do happen on occasion in the field. The state-sanctioned rights, including maintenance, inheritance, and legal protection in the case of a divorce or other marital conflict, are particularly at risk in this kind of marriage. One legitimate way to get beyond these issues is via marriage (Mahendra & Maisuri, 2022). An unrecorded marriage may be recognised legally by the formation of itsbat nikah by the Religious Court, subject to specific circumstances being satisfied.

Unregistered weddings have a disproportionately negative effect on women and children, making the itsbat nikah procedure all the more crucial for their protection (Helandri, 2023). As part of the itsbat nikah procedure, the Religious Court determines if a marriage satisfies the requirements of Islamic law and positive law, and whether there are any Syar'i hurdles or rules that prohibit the marriage from being recognised. Additionally, religious courts make sure that the itsbat nikah doesn't legitimise anything that goes against religious and legal principles, such marriage without consent, child marriage, or polygamy without permission.

Both the importance of the legislation and the difficulties in applying it are brought to light by a legal examination of the itsbat nikah decision. For instance, with regards to the ease of access to the court for those seeking to register for a marriage, the lucidity of the processes and prerequisites, and the general understanding of the significance of marriage registration. In addition, this approach raises questions about how a pluralistic society like Indonesia's may strike a balance between religious standards and the need of positive legislation.

3. Methodology

The problem or idea that inspired this investigation qualifies it as normative legal research. The methodology is philosophical and analytical in nature, with an emphasis on logical viewpoints and critical and philosophical analysis leading up to conclusions that seek to generate new discoveries in order to address the primary issue (Ishaq, 2017). In addition, descriptive analytical tools were used to examine the matter at hand, specifically outlining

the relevant laws as they pertain to legal theory and constructive police strategies (Mahmud Marzuki, 2011).

As part of its investigation, this study looks at how the religious courts dealt with *itsbat* marriage cases, specifically at how they evaluated the evidence. The effects of the *Itsbat Nikah* ruling on married couples, including questions of marital legitimacy, spouse rights and responsibilities, and the legal standing of any children born of the union, were also discussed, along with the ways in which Islamic law and marriage regulations have been codified to influence this procedure. Therefore, this research not only provides a thorough account of the regulation and application of *Itsbat Nikah* under Indonesian law, but it also highlights important problems and suggest solutions to enhance future legal practice and policy concerning *Itsbat Nikah*.

4. Results and Discussion

4.1. Application of Itsbat Marriage in Religious Courts

When beginning a family, the marriage contract is crucial. A contract could be in good standing, or it might be invalid due to harm. In order for a marriage contract to be fully valid, all of its terms and conditions must be satisfied. It goes without saying that Sharia law mandates the fulfillment of a number of marital obligations and pillars. The number of pillars of marriage is a matter of debate among scholars. Certain hold that marriage requires all of the characteristics listed in the pillars, while others hold that certain aspects might be considered pillars in and of themselves.

As an integral part of every activity that is carried out, a pillar is the most important element that cannot be disregarded. Conditions, on the other hand, are items that aren't directly connected to an action sequence but which are necessary for the execution of that sequence. According to Imam Syafi'i, there are five essential components to a marriage: the future husband or wife, a guardian, two witnesses, and sight talk. On the other hand, according to Imam Malik, there are four main components to marriage: a guardian, a dowry from the groom, the bride, and *Sighat Taklik* (Aa, 2020). The circumstances for performing *ijab qabul* (proposal acceptance), according to Sayyid Sabiq, include (Pranata & Yunus, 2021): 1) those who will be responsible for carrying out the contract's terms should be competent, level-headed, mature, and able to work independently; 2) the parties are fully entitled to execute the *qabul* and assent; 3) it is important that the *ijab* and *qabul* words do not

contradict one other, unless the guardian offers advantages to the person wearing the ijab; and 4) it is recommended that everyone who wishes to do the ijab and qabul be present in the same assembly and able to comprehend the instructions being given.

In Indonesia, the foundations and conditions for executing a marriage contract are based on the findings that have arisen from opinions among Islamic law experts. The criteria and pillars include: men and women alike are required to be of legal marriageable age, fully grown, and sane; the future bride must be accompanied by a legal guardian; a dowry is something the groom must contribute in order to be paid out after the marriage takes place; the contract must be executed in the presence of two male witnesses who are both fair and Muslims; when both the bride's guardian and the groom's qabul have signed, the contract is finalized, and the dowry sum is mentioned; and the fulfillment of the marital contract should be seen as symbolized by Walimatul 'ursy (gathering activity).

To get official documentation indicating a marriage has taken place, married couples must register it with the Religious Affairs Office. This is parallel to the concept of "*I'tlan Annikah*," marriage registration, as discussed in verse 282 of Surah Al-Imran. Article 7 of the Compilation of Islamic Law and Law No. 1 of 1974, which deals with marriage, both say that this is an order (Ramulyo, 2016). Similarly, according to Article 14 of the Compilation of Islamic Law on the Pillars of Marriage, a marriage procession requires a guardian, two witnesses, a bride and groom, and a contract (*ijab and Kabul*). Afterwards, the conditions for marriage are detailed in paragraphs 15–29 of the Compilation of Islamic Law. The prerequisites for marriage is presented in table 1.

Table 1

Prerequisites for marriage

	Prerequisites
Groom	Muslim
	Men who meet certain criteria
	Not related by blood or consanguinity to the bride (<i>mahram</i>)
	Not while performing the <i>Hajj or Umrah ihram</i>
	Not under duress
	Knowing that the person being appointed as guardian is a legal person
	Understand that the bride is a legal person and is allowed to be married
	When carrying out the contract, he is not in the condition of having four wives who are legal both according to religion and state regulations

Bride	<p>Muslim</p> <p>Women who meet certain criteria</p> <p>Not during the iddah period</p> <p>Not while performing the <i>Hajj or Umrah ihram</i></p> <p>With a willing heart without any coercion unless you are still a girl</p> <p>Not related by blood or consanguinity to the groom (<i>mahram</i>)</p> <p>When carrying out the contract, you don't have the status of having a husband</p>
Guardian	<p>Considered Fair by both men and women</p> <p>Muslim</p> <p>Adult and already puberty</p> <p>Man</p> <p>Not in the power of others (independence)</p> <p>Not a wicked person, not a Muslim, and an apostate</p> <p>Not while performing the Hajj or Umrah ihram</p> <p>Not crazy or of sound mind</p> <p>Of your own accord without anyone's coercion</p> <p>Not someone who goes bankrupt, whose assets are controlled by another party</p>
Witness	<p>Muslim</p> <p>Man</p> <p>Adult and already puberty</p> <p>Not crazy or of sound mind</p> <p>Not in the power of others (independence)</p> <p>Minimum number of 2 (two) people</p> <p>Understand the meaning contained in the contract words (<i>ijab and qabul</i>)</p> <p>As far as possible, do not be blind, deaf or speech impaired</p> <p>One who is considered fair</p> <p>People who have the criteria to be a guardian</p>
Contract (ijab and qabul)	<p>The groom and the bride say <i>Tamyiz</i></p> <p>In the contract, the <i>ijab</i> and <i>qabul</i> must be carried out at the same assembly, apart from that the pronouncement of the <i>ijab</i> and <i>qabul</i> may not be accompanied by another <i>lafadz</i> according to the customs which provide interludes in the pronouncement of the <i>ijab</i> and <i>qabul</i>.</p>

Article 6 of Chapter II of Marriage Law number 1 of 1974 provides the necessary conditions for a marriage to take place, which reads: the wedding must be solemnized with the happy couple's free and informed agreement, without any pressure or interference; a parent's consent is required for a couple to tie the knot if neither of them is 21 years

old; obtaining permission from one living parent or a parent with the potential to provide authorization and blessing is adequate in cases where one parent has passed away or is unable to do so due to circumstances such as sickness; in the event that neither parent is living or able to provide consent for the child's marriage, the guardian or a relative farther down the line of descent may fill that role; in the event that the individuals listed in the previous explanation cannot or do not agree to grant permission, the couple can seek it from the Religious Court in their respective areas; and if no additional regulations are determined by the religious laws of the prospective bride and groom, then the requirements in the explanation above are obligatory on the parties.

A marriage may be legally performed if all parties agree that it is acceptable under the law. However, this can and will alter depending on the specifics of the couple's situation. According to Ratnawaty (2018), majority of academics classify marriage laws into four categories as shown in table 2.

Table 2

Categories of marriage laws

Category	Description
1	Required if the capability is already present. He is financially secure, physically fit, and has a desire that, if left unchecked, threatens to lead him astray. For the sake of dignity and to prevent infidelity, marriage is necessary. One approach to stay away from haram activities is to get married.
2	Having financial means, good health (both mental and physical), and desire is sunnah. Nevertheless, he managed to control his urges and refrain from infidelity. Even if you believe you can control your desire to do evil deeds, it is still wise to tie the knot under these circumstances.
3	<i>Haram</i> is a marriage condition that, if maintained, will lead to harm. This is because it has long been known that the husband-to-be cannot support his future wife financially or is violent towards her as a result of his substance abuse problems. The point of getting married is to reap advantages in this life and the next (Hermanto, 2022).
4	Even if the husband and wife are legally entitled to marry, it is considered makruh if the pair cannot afford to support the woman's living expenses at this time, regardless of their biological ability. In the same vein, the couple may be financially adequate or excessive, but physiologically, they still lack the ability. This must be considered, as the household's situation will be impacted by this biological and financial handicap, even if it does not directly cause losses. Biological and economic needs that have yet to be satisfied by one or both partners may lead to arguments and conflicts.

In a mubah (permitted) marriage, neither partner feels compelled to tie the knot due to any pressing issues. The ulama (those who are learned) accept this kind of marriage as their foundational rule since it is widespread in society (Gratitude, 2014). The requirements are listed under Article 7 paragraph (3) of the Compilation of Islamic Law for requesting a marriage *itsbat*. The marriage registration that can be submitted to the Religious Court is limited to matters relating to: the existence of a marriage in the context of settling a divorce; loss of marriage certificate; there is doubt about whether one of the conditions of marriage is valid or not; the existence of a marriage that occurred before the enactment of Law No. 1 of 1974; and marriages carried out by those who do not have obstacles to marriage according to Law No. 1 of 1974. According to Article 7 paragraph 1 of the Compilation of Islamic Law, for weddings that took place after 1974 but were not recorded with the Religious Courts, marriage can only be proven by a marriage certificate made by a Marriage Registrar. If a marriage certificate cannot prove the marriage, the marriage itself can be submitted to the Religious Court.

It is possible to apply for a marriage *itsbat* to the Religious Court in order to get a marriage certificate in cases when the bride and groom did not register their marriage. The legality of the petitioners' unregistered marriage must not have violated any laws or failed to meet the criteria of Law Number 1 of 1974 in order for the marriage certificate to be awarded. In accordance with the court ruling, which allowed the petitioners to register their marriage, previously unrecorded unions can now be registered with the Religious Affairs Office's Marriage Registry Officer by presenting a copy of the decision. The Religious Affairs Office will then issue a marriage book, which the petitioners can use to create family cards and get their children's birth certificates, easing the process of enrolling them in school. In short, once the petition is approved and the marriage is registered, the marriage can be legally performed. Legal certainty has been granted to the petitioners as a result of their status as acknowledged genuine or recognized by the state.

By examining the Compilation of Islamic Law's regulations regarding the *itsbat*, or marriage registration, and how these regulations relate to the legalization of unregistered marriages that came into effect after 1974, it depicts how the law changes to meet societal demands and solve societal problems. For example, when a marriage certificate is missing or if there are questions about the legality of the marriage, one might seek a marriage *itsbat*. Legal clarity and protection are given to those impacted by these circumstances because

marriage law acknowledges and reacts to the social dynamics and changes that take place. These laws also address marriages that took place before the passage of Law No. 1 of 1974. They provide answers to questions about the validity of a marriage or its conditions and methods to retrieve lost papers. The purpose of this legislation is to provide a legal framework that recognizes marriage as a genuine connection for people and families, irrespective of the timing of the ceremony.

The Law no. 1 of 1974, the Compilation of Islamic Law, highlights that a marriage can legitimize a relationship that has fulfilled substantive legal requirements, even if it is not procedurally recorded, by allowing the application for a marriage certificate for marriages that were carried out without hindrance. The rights of people and their families will be better protected, and legal clarity will be increased as a result of this (Bahrum, 2013). Articles pertaining to the compilation of Islamic law highlight the significance of official papers in Islamic law and provide a means for parties to apply for a marriage certificate in the context of unregistered weddings that took place after 1974. This system is especially helpful for couples who have married but have not officially registered it, even if they have met all the legal criteria (Bahrum, 2019).

An official marriage certificate provides couples with the peace of mind they need to take charge of their legal matters, including marriage registration and the processing of vital papers like birth certificates and family cards. In terms of social integration and access to public resources, this is vital for the couple's children as well as for the couple themselves.

In general, *Isbat* marriage takes place in a comprehensive and adaptable framework for handling marriage-related matters; compilation of Islamic Law demonstrates how Islamic law responds to modern societal difficulties and demands. The significance of a well-defined legal framework in safeguarding human liberties and societal well-being is underscored by this procedure, which also highlights the function of legislation as a means to attain social fairness and clarity.

4.2. Legal Consequences after the Determination of Itsbat Marriage

Equal access to civil and population registration services, as well as population documentation, is a right of every inhabitant. According to Article 2 of Law Number 24 of 2013 regarding Amendments to Law Number 23 of 2006 concerning Population Administration (referred to as Law Number 24 of 2013), this right has been recognized, and in order to obtain it, all residents are required to follow the established procedures and

mechanisms. According to Article 27 of Law No. 24 of 2013, all residents are obligated to notify a technical agency of any birth within 60 days. The report is typically entered into the Birth Certificate Register by the Civil Registry officer upon receipt. The child's birth may still be notified within a year but a District Court ruling is necessary after the first year has elapsed. In this case, both parents' marriage certificates are required to secure a District Court determination on a child's birth certificate. The parents will need to apply to the Religious Court for a marriage certificate if neither of them has one (MH & Hukumonline, 2018). The marriage statute was ratified, which meant that the petitioners' unregistered marriage was considered lawful. In other words, it was retroactive and legally enforceable. As stated in Article 42 of Law Number 1 of the Year 1974, a child of the petitioners can acquire legal status and standing if the petitioners already have children by obtaining a birth certificate attesting to his or her status as a legitimate child of the petitioners. A legitimate child is a child born in or as a result of a valid marriage.

By approving the marriage legislation, the laws governed by Indonesia will already be applicable to the marriage, which has legal ramifications for the husband and wife, any children born of the marriage, and any assets owned by the couple. Several important legal ramifications stem from the decision on marriage law for couples who have previously wed in an unregistered marriage. These ramifications are tightly tied to Indonesian population law and administration, as outlined in the Compilation of Islamic Law and Law Number 24 of 2013 regarding population administration. The legal ramifications of this procedure extend to many facets of social and demographic life, and it also formally registers marriages that were not previously recorded.

Legally recognized marriages that were previously deemed informal are now lawful as of the day the unregistered marriage takes place. Legal certainty is bestowed to the couple and any children born of the marriage by this acknowledgment, which applies retrospectively. Important papers, such as birth certificates for children, are issued as a result of civil registration, which is directly affected by this acknowledgment. According to Article 42 of Law Number 1 of 1974, a birth certificate doubles as a confirmation of a person's legal position as a legitimate child of a married couple, in addition to recording the birth of the individual. Because one's marital status determines one's rights and responsibilities under the law, the marriage certificate's recognition of the marriage's legitimacy is crucial. The validity of the marriage is an important factor in establishing certain rights, such as those pertaining

to inheritance, child custody, and divorce. Couples may complete their marriage certificates with other official papers, such as family cards and child birth certificates, which are significant in many administrative and legal procedures in Indonesia when they approve them. This is done within the framework of population administration (Ramdani Wahyu Sururie, 2017). Having a marriage certificate on file also makes it easier to complete other administrative tasks, such as registering a child's birth.

The legal and social acknowledgment of marriage via the *nikah* ceremony also helps to strengthen the family unit, which in turn gives children born into the union a better chance of success in life. Legal acknowledgment of a child's familial status is necessary for many parts of life, including schooling and inheritance rights, and this is vital for the child's psychological and social well-being (Sanusi, 2016).

The *itsbat* marriage requirement causes both the couple's legal standing and the larger social and administrative framework to undergo extensive and deep changes. It demonstrates the interconnectedness of administrative processes and the law in controlling and shaping social dynamics and stresses the need for legal certainty in laying solid groundwork for families and people.

This certificate is not only proof of marriage's legality, but also an important foundation for determining various rights and obligations related to aspects of social and legal life. It highlights how legal documents interact with the private lives of citizens and how public policy and administration can affect social structures. The marriage certificate acts as a key to access a wide range of legal rights and administrative services, such as inheritance rights, child custody, and ease in administrative procedures like birth registration. The fact that couples need to complete their marriage certificates with other documents, such as family cards and birth certificates, shows the importance of integration between administrative systems. Hence, marriage recognition or lack thereof has a broader impact. For example, without a valid marriage certificate, spouses and their children may face difficulties in accessing educational services, healthcare, and even legal proceedings such as divorce or custody claims. This shows that the marriage certificate is not only an administrative issue but also an important determining point in social justice and equality. The imperatives of marriage and its influence on social and legal structures underscore the complexity of the interaction between customary norms, legal policies, and social dynamics.

The itbat process, which is the legal legalization of marriage, highlights how legal procedures can support or hinder social stability and integration.

5. Conclusion

Based on the findings of this research, marriages that took place after 1974 but did not have a marriage certificate could still be recognized as valid through the Religious Court's marriage *itsbat* procedure, even though the bride and groom did not comply with the requirement to register their marriage. The applicant's unregistered marriage must be distinct from the law in order for this validation procedure to be completed, which is specifically required by Article 7 paragraph 3 letter e of the Compilation of Islamic Law. The Religious Court may approve the marriage license application if these conditions are satisfied. After the Religious Court decides on the validity of the marriage, all marriages the applicant has previously engaged in serially are fully enforced and regarded as lawful. This legislation recognizes children born from prior marriages as legitimate offspring of lawful marriage and declares such marriages to be legally genuine. By going through this procedure, a previously unrecognized and unregistered relationship may be transformed into a legally recognized union, providing legal protection to both parties and their children in society.

In the context of policy, this suggests the importance of policy revisions that accommodate administrative needs without compromising the social and legal needs of citizens. Policy recommendations may include simplifying the marriage registration process and increasing access to family-related legal services throughout Indonesia. It may also consider strategies to raise awareness about the importance of legal documents in everyday life, strengthen the legal framework that supports the protection of children and family rights, and further integrate administrative services to help families cope with legal and social challenges.

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