

Legal Certainty for Unregistered Marriages in Indonesia: A Study of the Isbat Nikah Decision of the Palangkaraya Religious Court No. 339/Pdt.G/2024/PA.Plk

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Abstract: This study was conducted in response to the prevalence of unregistered marriages in Indonesia, which have serious implications for the rights of husbands, wives, and children, and hinder the population administration process. This article aims to analyze, from a legal-normative perspective, the practice of legalizing unregistered marriages through the mechanism of marriage validation in the Religious Court of Palangkaraya City. The main focus of this research is Decision Number 339/Pdt.G/2024/PA.Plk, with the aim of exploring in greater depth the legal considerations used by the judge in granting the marriage validation request. The research method used is normative legal research with a descriptive qualitative case study approach. The primary data in this study is Decision Number 339/Pdt.G/2024/PA.Plk, supplemented by interviews with the judge. Meanwhile, the secondary data consists of scientific literature related to the research theme. The data was collected through document studies and semi-structured interviews with the judge. The results of the study show that the marriage validation petition in decision No. 339/Pdt.G/2024/PA.Plk was driven

by the need to obtain legal certainty regarding the status of the marriage, provide legal protection for the rights of the wife and children, and facilitate the fulfillment of administrative requirements such as processing BPJS Ketenagakerjaan (Social Security Administration Agency for Employment) claims and other population documents. The judge granted the marriage validation petition based on the fulfillment of the requirements and pillars of marriage according to Islamic law, the absence of marriage barriers, and convincing evidence. In conclusion, marriage validation at the Palangkaraya Religious Court not only serves as a formal legalization of unregistered marriages, but also as a strategic means to achieve justice and provide legal protection for people whose marriages are not officially registered, while affirming the state's existence in protecting the rights of its citizens, thereby ensuring legal certainty.

Keywords: Unregistered Marriage, Isbat Nikah, Religious Court, Legal Certainty.

Abstract: Penelitian ini dilatarbelakangi oleh maraknya perkawinan siri di Indonesia yang menimbulkan implikasi serius terkait hak-hak suami, istri, dan anak, serta menghambat proses administrasi kependudukan. Artikel ini bertujuan menganalisis secara yuridis-normatif praktik pengesahan nikah siri melalui mekanisme isbat nikah di Pengadilan Agama Kota Palangkaraya. Fokus utama penelitian adalah putusan Nomor 339/Pdt.G/2024/PA.Plk, dengan tujuan untuk menggali lebih dalam pertimbangan hukum yang digunakan hakim dalam mengabulkan permohonan isbat nikah tersebut. Metode penelitian yang digunakan adalah penelitian hukum normatif dengan pendekatan studi kasus bersifat deskriptif kualitatif. Data primer dalam penelitian ini berupa putusan Nomor 339/Pdt.G/2024/PA.Plk dan dilengkapi dengan hasil wawancara kepada hakim.

Sedangkan data sekunder berupa literatur ilmiah yang berkaitan dengan tema penelitian. Data dikumpulkan melalui studi dokumen dan wawancara semi-terstruktur dengan hakim. Hasil penelitian menunjukkan bahwa pengajuan isbat nikah pada putusan Nomor 339/Pdt.G/2024/PA.Plk didorong oleh kebutuhan untuk memperoleh kepastian hukum atas status perkawinan, memberikan perlindungan hukum terhadap hak-hak istri dan anak, serta memfasilitasi pemenuhan persyaratan administrasi seperti pengurusan klaim BPJS Ketenagakerjaan dan dokumen kependudukan lainnya. Hakim dalam mengabulkan permohonan isbat nikah didasarkan pada pemenuhan syarat dan rukun perkawinan menurut hukum Islam, tidak adanya halangan perkawinan, serta bukti-bukti yang meyakinkan. Kesimpulannya, isbat nikah di Pengadilan Agama Kota Palangkaraya tidak hanya berfungsi sebagai legalisasi formal perkawinan siri, tetapi juga sebagai sarana strategis untuk mewujudkan keadilan dan memberikan perlindungan hukum bagi masyarakat yang pernikahannya tidak tercatat secara resmi, sekaligus menegaskan eksistensi negara dalam melindungi hak-hak warganya, sehingga menjamin kepastian hukum.

Keywords: Unregistered Marriage, Isbat Nikah, Religious Court, Legal Certainty.

Introduction

In Islamic law, marriage is a contract that legalizes the relationship between a man and a woman with the aim of forming a family that is Sakinah, mawaddah, wa Rahmah.¹ In Indonesia, marriage is not only viewed from a religious perspective, but must also fulfill administrative aspects as stipulated in Law Number 1 of 1974 concerning Marriage and

¹ Muhammad Hori and Eliva Sukma Cipta, "The Purpose of Marriage in Islamic Philosophical Perspective," *Journal of Islamic Studies* 2, no. 1 (2019), <https://doi.org/10.32506/jois.v2i1.505>.

the Compilation of Islamic Law (Kompilasi Hukum Islam/KHI).² Marriage in Presidential Instruction No. 1 of 1991 in Article 2 concerning KHI states, "Marriage according to Islamic law is a very strong miitsaqan ghaliizhan contract to obey Allah's commands, and performing it is an act of worship".³ One of the issues that often arises is unregistered marriage, which is valid according to religion but is not registered with the Office of Religious Affairs (Kantor Urusan Agama/KUA).⁴

A siri marriage is a marriage that is not announced to the public or a marriage that is not known or registered with a state institution.⁵ There are various factors that can trigger a secret marriage (siri marriage). One of them is the difficulty in fulfilling the requirements for marriage registration at the KUA, ranging from administrative issues to the costs involved.⁶ This is in line with the regulation on the validity of marriage in Government Regulation No. 9 of 1975 Article 2 paragraph 2 concerning Marriage Registration, whereby marriage registration is carried out by officials assigned to this task at the civil registry office in accordance with the law for people who marry according to beliefs and religions other than Islam.⁷ Thus, marriage registration plays a very important role because it provides legal certainty for married couples, protects the rights

² Iqbal Subhan Nugraha and Abdul Aziz, "The Reorientation of Marriage Registration in the Compilation of Islamic Law: Shifting from Administrative Formality to Legal Obligation," *AJIS: Academic Journal of Islamic Studies*, November 5, 2025, 399–426, <https://doi.org/10.29240/ajis.v10i2.12623>.

³ Amrina Rosyada et al., "Gender Justice in Husband and Wife Relations According to Shaykh Nawawi Al-Bantani: A Study of the Kitab Syarah 'Uqūd al-Lujain," *Qanun: Jurnal Hukum Keluarga Islam* 2, no. 2 (2024), <https://dx.doi.org/10.62870/qanun.v2i2.27087>.

⁴ Ibnu Akbar Maliki et al., "A Gender-Based Maqashid Sharia Study of Penghulu in Indonesia (A Study of Jasser Auda's Views)," *Nurani: Jurnal Kajian Syari'ah Dan Masyarakat* 23, no. 1 (2023), <https://doi.org/10.19109/nurani.v23i1.16447>.

⁵ Sawaluddin Siregar et al., "The Phenomenon of Siri Marriage and Its Implications for Islamic Family Law," *Multidisciplinary Indonesian Center Journal (MICJO)* 3, no. 1 (2026): 2187–98, <https://doi.org/10.62567/micjo.v3i1.2302>.

⁶ Eva F. Nisa, "The Bureaucratization of Muslim Marriage in Indonesia," *Journal of Law and Religion* 33, no. 2 (2018): 291–309, <https://doi.org/10.1017/jlr.2018.28>.

⁷ Syarifatul Hayati and Emilza Tri Murni, "Phenomenology of Siri Marriage in Indonesia: An Analytical Study from a Legal Sociology Perspective," *Diniyyah Jurnal* 10, no. 2 (2023): 53–66, <https://doi.org/10.63061/cz4rfy36>.

of children, and forms the basis for the validity of marriage according to the state.⁸

In Indonesia, the legalization of marriage through isbat nikah at the Palangkaraya Religious Court is quite common. This can be seen from several existing court decisions, such as Decision Number 339/Pdt.G/2024/PA.Plk. This provides a clear picture of the importance of itsbat nikah (marriage validation) in the Indonesian legal system, especially for couples whose marriages are not officially registered. This case highlights how itsbat nikah is a crucial solution for obtaining legal certainty and fulfilling administrative requirements, such as processing BPJS Ketenagakerjaan (Social Security Administration Agency for Employment) claims.⁹

This research is a normative legal study with a case study approach to Palangkaraya Religious Court Decision Number 339/Pdt.G/2024/PA.Plk. The focus of the study is on analyzing the legal considerations (*ratio decidendi*) of the panel of judges in granting the marriage validation petition, as well as its relevance to the principle of legal certainty for unregistered married couples. Methodologically, this study uses court decisions as primary legal material that is analyzed systematically to assess the consistency of the application of norms and legal arguments used by judges.

The approaches used are the statute approach and the conceptual approach. The statutory approach was carried out by examining the provisions of Law Number 1 of 1974 concerning Marriage as amended by Law Number 16 of 2019, as well as the Compilation of Islamic Law which regulates the requirements and pillars of marriage and the mechanism of marriage validation. Meanwhile, the conceptual approach is used to analyze the decision through the framework of legal certainty (*rechtszekerheid*), particularly in relation to the protection of the civil rights of husbands, wives, and children.

⁸ Minan et al., "Legal Protection Children of Siri Marriage in Indonesia," *Technium Social Sciences Journal* 36 (October 2022): 244–50, <https://doi.org/10.47577/tssj.v36i1.7534>.

⁹ Emilda Sonu et al., "The Dynamics and Legal Implications of Unregistered Marriages in Indonesia," *Antmind Journal of Jurisprudence and Social Justice* 1, no. 1 (2025): 45–56, <https://doi.org/10.63077/9e5wjt36>.

The data used in this study consists of primary legal materials in the form of official copies of court decisions, as well as secondary legal materials in the form of scientific literature, journals, and legal doctrines relevant to the issues of unregistered marriage and marriage validation. Data collection techniques were carried out through library research and legal document searches. Furthermore, the data was analyzed qualitatively using descriptive-analytical analysis, namely by describing the legal facts found in the verdict, identifying the judge's considerations, and assessing their conformity with positive legal norms and the principle of legal certainty.

This study aims to examine the extent to which the mechanism of marriage validation, as applied in Decision Number 339/Pdt.G/2024/PA.Plk, is capable of providing legal certainty for unregistered married couples. The analysis focuses on three main aspects, namely: (1) the consistency of the application of marriage law norms in the judge's considerations; (2) the standard of proof used in legalizing unregistered marriages; and (3) the legal implications of the decision on the fulfillment of the administrative and civil rights of the parties, including in the context of processing BPJS Ketenagakerjaan (Social Security Administration Agency for Employment) claims. With this methodological construct, this study is expected to contribute academically to understanding the function of marriage validation as a judicial instrument to ensure legal certainty in the practice of religious courts in Indonesia.

Discussion

Siri Marriage and Its Legalization Through Isbat Nikah in Indonesian Marriage Law

Siri marriage in the Indonesian legal system refers to marriages conducted according to religious law but not registered with the marriage registry as required by law.¹⁰ In the context of Islamic law, a marriage is considered valid if it fulfills the requirements, namely the presence of the

¹⁰ Alfiya Wicaksono, "Implications of Unregistered Marriage for Women: Profitable or Detrimental," *Norma Law Journal* 18, no. 1 (2021): 26–32, <https://doi.org/10.30742/nlj.v18i1.1198>.

bride and groom, a guardian, two witnesses, and the *ijab kabul* (marriage vow).¹¹ However, in the national legal system, the validity of the marriage is not considered complete if it is not followed by official registration.¹² This is confirmed in Law Number 1 of 1974 concerning Marriage as amended by Law Number 16 of 2019, which in Article 2 paragraph (1) states that a marriage is valid if it is conducted according to the laws of each religion and belief, and in paragraph (2) requires the registration of marriages in accordance with the provisions of the applicable laws and regulations.¹³ This norm shows that the Indonesian legal system integrates religious and administrative dimensions in determining the legality of marriage.¹⁴

Conceptually, the obligation to register is not merely an administrative procedure, but a legal instrument with broad juridical implications. Registration produces an authentic deed that serves as strong evidence of the existence of a legal marriage relationship.¹⁵ Without registration, couples in unregistered marriages face obstacles in proving their legal status, especially in disputes over divorce, joint property, alimony, and inheritance rights.¹⁶ Thus, unregistered marriages

¹¹ Sukron Ma'mun and Ibnu Akbar Maliki, "A Socio-Historical Study of Women's Rights Advocacy in Islamic Legal Construction," *Journal of Southeast Asian Human Rights* 7, no. 1 (2023), <https://doi.org/10.19184/jseahr.v7i1.39156>.

¹² Suwarti et al., "Dualism of Unregistered Marriage Law in Indonesia," *Journal of Law, Policy and Globalization* 67, no. 0 (2017): 110.

¹³ Muhammad Latif Fauzi, "Administrative Transgression and Judicial Discretion for The Sake of Citizens' Rights: The Legalisation of Unregistered Marriages in Indonesia," *Al-Ahwal: Jurnal Hukum Keluarga Islam* 16, no. 2 (2023): 211–31, <https://doi.org/10.14421/ahwal.2023.16202>.

¹⁴ Munasir and Sa'dullah Assa'idi, "The Reconstruction of Marriage Law in Classic Fiqh Perspective: The Case of Unregistered Marriage in Indonesia.," *International Journal of Pharmaceutical Research* 12, no. 4 (2020): 4489, <https://doi.org/10.31838/ijpr/2020.12.04.612>.

¹⁵ Nailur Rahmi et al., "Building Legal Compliance: A Study on the Practice of Unregistered Marriages in Tanjung Raya Subdistrict, Agam Regency, West Sumatra, Indonesia," *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam* 9, no. 1 (2025): 416–37, <https://doi.org/10.22373/sjhk.v9i1.28306>.

¹⁶ Peter Jeremiah Setiawan et al., "Juridical Implications of Unregistered Marriage Against Legal Protection in the Domestic Violence Law," *Media Iuris* 6, no. 3 (2023): 457–78, <https://doi.org/10.20473/mi.v6i3.43219>.

create tension between normative-religious validity and legal-formal recognition by the state.¹⁷

The complex impact of unregistered marriages can be seen in several aspects. First, the aspect of women's protection. In practice, women in unregistered marriages tend to face difficulties in claiming alimony, rights to joint property, or legal protection in cases of violence or neglect.¹⁸ Second, the aspect of child protection. Children born from unregistered marriages potentially face administrative problems related to birth certificates and the inclusion of the father's name, even though legal developments and court decisions have expanded the recognition of the civil relationship between children and their biological fathers.¹⁹ Third, the aspect of population administration, where unregistered marital status has an impact on access to public services, social security, and legal certainty in civil agreements.²⁰

From the perspective of legal certainty theory (*rechtszekerheid*), the phenomenon of unregistered marriages creates problems because it creates legal uncertainty for the parties in the state legal system. Legal certainty requires clear, consistent, and effectively enforceable rules.²¹ In the context of marriage, legal certainty is realized through a registration mechanism that provides authentic and verifiable evidence. Without registration, relationships that are recognized sociologically become vulnerable legally.²² Therefore, the registration requirement in the

¹⁷ Abi Hasan et al., "Dualism and Unworthy Legal Practice: The Marginalization of Women's Rights in Sirri and Early Marriages," *Asy-Syir'ah: Jurnal Ilmu Syari'ah Dan Hukum* 56, no. 1 (2022): 149–71, <https://doi.org/10.14421/ajish.v56i1.1006>.

¹⁸ Holilur Rohman et al., "Between Law and Faith: Judicial Dilemmas of Unregistered Polygamy and Divorce in Indonesia," *Indonesian Journal of Islamic Law* 8, no. 2 (2025): 168–87, <https://doi.org/10.35719/5f0dpp36>.

¹⁹ Indriya Ramadhani et al., "The Legal Status of Children in Unregistered Marriage Divorces: Problems and Challenges," *El-Izdiwaj: Indonesian Journal of Civil and Islamic Family Law* 6, no. 1 (2025): 25–45, <https://doi.org/10.24042/vccfbe74>.

²⁰ Lora Febrianti and Rahmat Hidayat, "Unregistered Marriage Practices and Their Consequences: A Case Study in Pesisir Selatan Regency," *Al Mashaadir : Jurnal Ilmu Syariah* 5, no. 1 (2024), <https://doi.org/10.52029/jis.v5i1.170>.

²¹ Imron Rosyadi and Aisyah Kahar, "Analysis of Legal Certainty Aspects in Indonesian Marriage Registration Rule," *Jurnal Hukum Dan Peradilan* 12, no. 3 (2023): 469–88, <https://doi.org/10.25216/jhp.12.3.2023.469-488>.

²² Yanny Yustica and Sri Redjeki Slamet, "Legal Protection for Wives and Children From Unregistered Marriages According to Positive Law in Indonesia,"

Marriage Law is a manifestation of the principle of legal certainty as well as the principle of legal protection for citizens.²³

To address the social reality of unregistered marriages, the Indonesian legal system provides a mechanism for marriage validation through the Religious Court. Provisions regarding this matter are contained in the Compilation of Islamic Law, specifically Article 7, which allows for the legalization of marriages that have been conducted but not yet registered, as long as certain conditions are met.²⁴ Isbat nikah functions as a judicial process that assesses the validity of a marriage according to Islamic law and at the same time provides administrative legitimacy through a court decision. With this ruling, the couple obtains a legal basis for official registration and the issuance of a marriage certificate.²⁵

In a theoretical framework, marriage validation can be understood as a corrective mechanism that bridges the gap between religious and state norms.²⁶ The state does not necessarily negate the validity of religious marriages, but requires formal legalization for the sake of legal certainty and protection. This mechanism reflects the pluralistic character of Indonesian law, in which religious law is accommodated within the national legal structure through religious court institutions.²⁷

However, the existence of marriage validation also raises normative debates. On the one hand, marriage validation strengthens the

International Journal of New Approaches to Law and Rationality in Nationhood, Governance, and Rights Advocacy 1, no. 1 (2025): 513–22.

²³ Dian Latifiani, "The Consequences of an Unregistered Marriage for the Wife and Born Children According to the Legal System in Indonesia," *South East Asia Journal of Contemporary Business, Economics and Law* 4, no. 3 (2014).

²⁴ M. Tahir Maloko, "Unregistered Marriage in Islamic Law Perspective: A Critical Study of Islamic Law Compilation," *Al-Mawarid: Jurnal Hukum Islam*, 2015, 49–68.

²⁵ Desmal Fajri and Felti Novira, "The Phenomenon of Unregistered Marriages: Problems and Solution," *Kosmik Hukum* 23, no. 2 (2023): 180–88, <https://doi.org/10.30595/kosmikhukum.v23i2.18113>.

²⁶ Ibnu Akbar Maliki and Lisna Mualifah, "Persepsi Pelaku Perceraian Terhadap Cerai Di Luar Pengadilan Agama," *El-Izdiwaj: Indonesian Journal of Civil and Islamic Family Law* 3, no. 2 (2022), <https://dx.doi.org/10.24042/el-izdiwaj.v3i2.14089>.

²⁷ Indra Krestianto, "Optimization Of Marriage Registration To Realize Legal Certainty And Civil Rights Protection," *Jurnal Impresi Indonesia* 4, no. 5 (2025): 1707–16, <https://doi.org/10.58344/jii.v4i5.6534>.

principle of substantive justice by protecting the rights of women and children born from unregistered marriages.²⁸ On the other hand, there are concerns that the ease of post-facto legalization could weaken the effectiveness of the registration requirement and open the door to deliberate unregistered marriages to avoid certain provisions, such as the minimum age for marriage or other administrative requirements.²⁹ Therefore, from a legal policy perspective, isbat nikah should be positioned as a corrective and casuistic legal protection instrument, not as a permanent alternative to the obligation to register.³⁰

Thus, the concept of unregistered marriage and its legalization through marriage validation in Indonesian marriage law shows the dynamics between religious norms, administrative norms, and the principle of legal certainty. The state, through the obligation to register and the mechanism of marriage validation, seeks to balance recognition of socio-religious realities with the demands of legal certainty and protection.³¹ In the context of research on Religious Court decisions, this theoretical construct is an important basis for assessing the extent to which the isbat nikah mechanism is able to provide legal certainty for siri marriage couples in judicial practice.

Case Details, Legal Considerations, and Judge's Decision in Case No. 339/Pdt.G/2024/PA.Plk

This request for marriage validation was filed by the Petitioner (male) against his late wife (the petitioner's wife) and their three children (Respondent I, Respondent II, and Respondent III). The Petitioner stated

²⁸ Soraya Ulfa Latifani et al., "The Existence of Marriage Agreement Registration In Legal Protection Perspective," *Acten Journal Law Review* 1, no. 3 (2024): 188–202, <https://doi.org/10.71087/ajlr.v1i3.15>.

²⁹ Frank Cranmer, "Does an Unregistered Nikah Wedding Give Rise to a Valid Marriage, a Void Marriage or a Non-Marriage?," *Journal of Social Welfare and Family Law* 41, no. 1 (2019): 96–99, <https://doi.org/10.1080/09649069.2019.1554796>.

³⁰ Yenny Febrianty et al., "Existence of Registered/Unregistered Marriage Clauses in Family Cards from a Family Law Perspective," *Pena Justisia: Media Komunikasi Dan Kajian* 22, no. 1 (2023).

³¹ Faisal Afda'u, "The Legal Protection for Children Outside Registered Marriage," *Uniska Law Review* 5, no. 2 (2025): 154–72, <https://doi.org/10.32503/ulr.v5i2.6971>.

that he had married the late petitioner's wife in accordance with Islamic law on July 17, 1990, in the city of Palangka Raya. The marriage was conducted by the Applicant's wife's biological father as the marriage guardian, officiated by a religious leader, with a dowry of a set of prayer equipment and cash in the amount of Rp 10,000 (ten thousand rupiah), and attended by two witnesses.

During their marriage, the Petitioner and his late wife lived harmoniously and were blessed with three children. The Petitioner's late wife passed away on May 6, 2024. This request for *itsbat nikah* was filed because the marriage was never registered at the Office of Religious Affairs (KUA) of Pahandut District, Palangka Raya City, due to the Petitioner's negligence. Currently, the Petitioner needs a Marriage Certificate for legal certainty and other purposes, including the processing of BPJS Ketenagakerjaan (Social Security Administration Agency for Employment) claims. This case reflects the main motive of people applying for marriage validation, namely practical and administrative needs. The fact that the petition was only submitted after more than 30 years shows the weak awareness of the community regarding the importance of marriage registration.

To support his petition, the Petitioner submitted various forms of evidence in the form of letters and presented two witnesses. The first witness (a neighbor) in this case stated that he knew the Petitioner and the Petitioner's late wife, was aware of their marriage in the 1990s in Palangka Raya, was present at the marriage ceremony, and confirmed the details of the marriage, such as the guardian, the priest, the dowry, and the presence of witnesses. The witness also stated that the Petitioner and his late wife lived harmoniously, never divorced, and were blessed with three children, and that the purpose of the marriage validation was to process a BPJS Ketenagakerjaan (Social Security Administration Agency for Employment) claim.

Meanwhile, the second witness (the younger sibling of the applicant's late wife) provided information consistent with the first witness regarding the details of the marriage, the status of the applicant and his late wife at the time of marriage, the absence of any obstacles to the marriage, their harmonious life, and the purpose of the marriage

validation for the BPJS Ketenagakerjaan claim. This witness also confirmed that the marriage guardian was the biological father of the deceased, who was also his biological father. The evidence submitted fully met the formal and material requirements to reinforce the legal facts, showing that proving a marriage is not too difficult as long as there are direct witnesses and supporting documents.

The Panel of Judges considered the request for itsbat nikah based on Islamic law and applicable laws and regulations. Both witnesses were deemed to meet the formal and material requirements. Their statements were consistent, relevant to the Petitioner's arguments, and there were no indications of misconduct. The statements of witnesses who saw, heard, and experienced the marriage themselves had strong evidentiary value.

Based on the evidence and witness statements, the Panel of Judges found the following legal facts:

- a. The marriage between the Petitioner and the deceased wife of the petitioner took place on July 17, 1990, in the city of Palangka Raya.
- b. The pillars and requirements of marriage according to Islamic law were fulfilled: the presence of the prospective husband (the Petitioner), the prospective wife (the deceased wife of the Petitioner), the marriage guardian (the biological father of the wife of the Petitioner), the ijab kabul (marriage vow), two witnesses, and the dowry.
- c. There were no impediments to the marriage (kinship, blood relations, marriage ties, breastfeeding, or other marital ties) between the Petitioner and his late wife.
- d. The Petitioner was a bachelor and his late wife was a virgin when they married.
- e. Both lived harmoniously as husband and wife until the applicant's late wife passed away, never divorced, and remained Muslim.
- f. The community treated them as a legitimate married couple.
- g. The marriage was not registered at the KUA due to negligence, and currently, the Marriage Certificate is needed to process the BPJS Ketenagakerjaan claim.

The Panel of Judges concluded that the marriage between the Petitioner and his late wife was valid according to Islamic law, fulfilling the requirements and conditions of marriage as stipulated in Article 2 paragraph (1) of Law Number 1 of 1974. 11 Articles 4 and 14 of the Compilation of Islamic Law, as well as Islamic legal arguments (Hadith of the Prophet SAW and the Book of Fiqh As-Sunnah).¹² Based on these legal considerations, the Panel of Judges issued a decision which essentially contained the following points: 1) Granting the Petitioner's request; 2) Declaring the marriage between the Petitioner and the deceased wife of the petitioner, which took place on July 17, 1990, in the city of Palangka Raya, to be valid; 3) Imposing court costs on the Petitioner in the amount of Rp 237,000.00.

Isbat Nikah in Decision No. 339/Pdt.G/2024/PA.Plk According to the Principle of Legal Certainty

From the perspective of the principle of legal certainty (*rechtszekerheid*), this decision demonstrates the corrective function of religious courts in closing the gap between normative-religious validity and formal legal recognition by the state.³² From the outset, the construction of national marriage law in Law No. 1 of 1974 concerning Marriage (jo. Law No. 16 of 2019) has placed two dimensions of legality, namely validity according to religion (Article 2 paragraph (1)) and the obligation to register (Article 2 paragraph (2)). In the case in question, the panel of judges explicitly affirmed that the marriage of the parties was valid according to Islamic law because it fulfilled the pillars and requirements of marriage. However, the fact that the marriage had not been registered at the KUA for more than 30 years meant that there was no authentic evidence to guarantee the legal status of the parties in the state administrative system. Thus, the request for *isbat nikah* became an instrument to transform religious validity into formal legal certainty.³³

³² Husain Husain et al., "Legal Discovery of Religious Court Judges in Marriage Itsbat Cases: An Effort to Reform Marriage Law in Indonesia," *Al-Qadha : Jurnal Hukum Islam Dan Perundang-Undangan* 11, no. 2 (2024): 158–75, <https://doi.org/10.32505/qadha.v11i2.8996>.

³³ Hidayat Hidayat et al., "The Position of The Institution of Itsbat Nikah in The Marriage Law and The Compilation of Islamic Law," *Proceedings of Malikussaleh*

From the perspective of legal certainty, the judge's considerations show normative and methodological consistency. The panel did not only base its decision on religious arguments, but also referred to positive provisions, including the KHI, particularly the provisions regarding the requirements and pillars of marriage and the mechanism of marriage validation. The conformity between the facts of the trial and legal norms is an important element in realizing legal certainty, because the decision is not purely discretionary, but is rooted in clear and measurable norms.³⁴ In a theoretical context, legal certainty requires rules that are predictable, applied consistently, and supported by valid evidence.³⁵

The aspect of evidence in this case is also relevant to analyze through the prism of legal certainty. Two witnesses who met the formal and material requirements provided testimony that was mutually consistent, coherent, and relevant to the petition. The testimony of witnesses who saw, heard, and directly experienced the marriage ceremony provided significant evidentiary weight. In the context of marriage validation, clear and rational standards of evidence guarantee that the validation of marriages is not carried out arbitrarily.³⁶ Thus, this decision shows that the mechanism of marriage validation remains subject to the principle of judicial prudence to maintain legal certainty and integrity.³⁷

International Conference on Law, Legal Studies and Social Science (MICoLLS) 4 (December 2024): 00006–00006.

³⁴ Latifatul Fajriyyah and Alfitri, "Hearsay Evidence Admissibility: Due Process and Evidentiary Rules in Muslim Marriage Legalization (Isbat Nikah)," SSRN Scholarly Paper no. 4237637 (Social Science Research Network, October 4, 2022), <https://papers.ssrn.com/abstract=4237637>.

³⁵ Kartika Sari et al., "Between Informal Marriage and Legal Certainty: Determining Marital Status through Isbat Nikah at the South Jakarta Religious Court," *Ahlika: Jurnal Hukum Keluarga Dan Hukum Islam* 2, no. 2 (2025): 233–55, <https://doi.org/10.70742/ahlika.v2i2.424>.

³⁶ Adriyeni Adriyeni Adriyeni et al., "Philosophical Examination of the Itsbat Nikah (Marriage Legalization) in Sirri Polygamy Following the Issuance of Supreme Court Circular No. 3 of 2018," *HUMANISMA: Journal of Gender Studies* 8, no. 1 (2024): 80–89, <https://doi.org/10.30983/humanisma.v8i1.8266>.

³⁷ Ahmad Muhasim et al., "Islamic Legal Perspective on Contentious Marriage Isbat in Giri Menang Religious Court," *Istinbath: Jurnal Hukum Dan Ekonomi Islam* 24, no. 2 (2025): 339–51, <https://doi.org/10.20414/ijhi.v24i2.957>.

Substantively, the determination of the validity of the marriage, which has been in effect since July 17, 1990, has retroactive legal consequences in an administrative sense. This means that the state, through a court decision, recognizes and validates a relationship that has long existed sociologically and religiously. In the context of legal certainty, this step is important to protect the civil rights of the Petitioner and his children, especially in the administration of BPJS Ketenagakerjaan claims.³⁸ Without this determination, the Petitioner would face administrative obstacles that would result in the loss of access to social security rights.³⁹ Therefore, this decision reflects a dimension of legal certainty that is not only formal in nature but also oriented toward the protection of rights.

However, when analyzed more critically, this case also reveals structural problems in the implementation of the principle of legal certainty. The fact that the petition was only filed more than three decades after the marriage took place shows the weak legal awareness of the community regarding the obligation to register marriages.⁴⁰ From a normative perspective, legal certainty should be established from the outset through compliance with administrative obligations. *Isbat nikah* in this context serves as a remedial mechanism, not a substitute for the obligation to register.⁴¹ In other words, this ruling strengthens legal certainty *ex post facto*, but at the same time indicates that the effectiveness of Article 2 paragraph (2) of the Marriage Law in encouraging preventive compliance is not yet optimal.

³⁸ Wiranda Soraya et al., "Legal Protection of Women and Children in the Practice of Nikah Sirri (Unregistered Marriage)," *Al-Rasikh: Jurnal Hukum Islam* 14, no. 2 (2025): 271–86, <https://doi.org/10.38073/rasikh.3323>.

³⁹ Rifki Ismail and Agil Mustapa, "Juridical Analysis of Unregistered Marriages' Effects on Children's Legal Status and Civil Rights," *Estudiante Law Journal* 7, no. 3 (2025): 758–71, <https://doi.org/10.33756/eslaj.v7i3.32282>.

⁴⁰ Sifa Mulya Nurani et al., "Negotiating the Meaning of Marriage Registration in Indonesia's Digital Space: A Challenge for Legal Literacy Management in Education," *Journal of Educational Management Research* 5, no. 1 (2026): 576–91, <https://doi.org/10.61987/jemr.v5i1.1710>.

⁴¹ Jamilah et al., "People's Unawareness of the Importance of Marriage Certificate," *Proceedings of the 1st International Conference on Business, Law And Pedagogy* (Sidoarjo), 2019, <https://doi.org/10.4108/eai.13-2-2019.2286491>.

Furthermore, this decision shows a balance between legal certainty and substantive justice. The panel of judges did not use administrative negligence as a reason to reject the petition, but instead prioritized the protection of legal relationships that already existed and were recognized by the community. The recognition that the parties lived harmoniously, never divorced, and were treated as a legitimate husband and wife by their social environment strengthened their sociological legitimacy, which was then confirmed legally. In the context of legal theory, legal certainty cannot be separated from social legitimacy; the two support each other in building trust in the judicial system.⁴²

Thus, from the perspective of the principle of legal certainty, this decision can be considered to have fulfilled three main elements: (1) the existence of a clear and consistent legal basis; (2) the application of norms through rational and measurable evidence; and (3) the emergence of legal consequences that provide concrete protection for the civil rights of the parties. Nevertheless, structurally, the phenomenon of filing for marriage validation after decades reaffirms the importance of strengthening legal education and enforcing the obligation to register marriages so that legal certainty is not only realized through corrective mechanisms, but also through preventive compliance from the beginning of the marriage.

Conclusion

The results of the study show that marriage validation applications are generally made to obtain legal certainty regarding marital status, protection of the rights of wives and children, and administrative requirements such as processing BPJS Ketenagakerjaan (Social Security Administration Agency for Employment) claims. In its decision, the Panel of Judges granted the Petitioner's request based on documentary evidence and witness testimony that met formal and material requirements, as well as the absence of any impediments to marriage under Islamic law. Thus, marriage validation at the Palangkaraya Religious Court serves not only as a formal ratification of unregistered

⁴² Mochammad Arifin, "Tradition vs. Administration: Challenging the Cultural Barriers to Marriage Registration in Indonesia," *Sakina: Journal of Family Studies* 9, no. 2 (2025): 213–25, <https://doi.org/10.18860/jfs.v9i2.15343>.

marriages, but also as a means of justice in providing legal certainty and protection for the community, especially for couples whose marriages are not officially registered due to negligence.

Given the importance of marriage validation in providing legal certainty and protection for the community, it is recommended that the government and related institutions be more proactive in disseminating information and providing guidance on the importance of registering marriages at the Office of Religious Affairs (KUA). In addition, efforts are needed to simplify the process of marriage registration and marriage validation, especially for people who are less fortunate or have administrative obstacles. Further research can be conducted to assess the effectiveness of marriage validation in practice and to find alternative solutions to the problem of unregistered marriages in Indonesia.

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