

## Analysis Of The Impact Of Legal Protection For Isbat Registration On Sirri Marriage Couples (Case Study Of Lindu District, Sigi Regency)

Heri Ahmadi Thamrin\*<sup>1</sup>, M.Taufan B<sup>2</sup> & Sofyan Bachmid<sup>3</sup>

<sup>1</sup>Universitas Islam Negeri Datokarama Palu, Indonesia

<sup>2</sup>Universitas Islam Negeri Datokarama Palu, Indonesia

<sup>3</sup>Universitas Islam Negeri Datokarama Palu, Indonesia

Corresponding Author: Heri Ahmadi Thamrin, E-mail : [heriahmadit@gmail.com](mailto:heriahmadit@gmail.com)

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### ARTICLE INFO

Volume:1

ISSN:

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### KEYWORDS

Marriage Isbat, Sirri  
(unregistered) Marriage,  
Marriage Registration,

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### ABSTRACT

This study discusses the analysis of the impact of *isbat* registration on sirri (unregistered) marriage couples (case study of Lindu District, Sigi Regency). The aim of this research is to describe the registration of *isbat* for unregistered marriages and the impact of the *isbat* on unregistered marriage couples in Lindu District, Sigi Regency. The issues raised are how to record the *isbat* of marriages for unregistered marriages and how the impact of *isbat* of marriages on unregistered marriage couples in Lindu District, Sigi Regency.

The research method used is qualitative research with interview, observation, and documentation methodologies and is strengthened by the *maqashid sharia* approach. The results of the study indicate that the registration of marriage certificates is carried out because many unregistered marriage couples do not have a marriage certificate. In 2020-2021, more than 68 couples carried out marriage registration in Lindu District, Sigi Regency. It gives a positive legal protection impact because the registration of marriage certificates will make it easier for unregistered marriage couples who have taken their marriage certificates to manage files related to government administration and to get the legal protection which is their right as citizens.

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### 1. Introduction

Humans, as social beings, cannot stand alone in solitude and fulfil their natural needs physically and mentally without involving other humans. Individual and group interaction is required. This includes marriage and building family relationships. Islam attaches great importance to getting married soon. This is intended for people who already have the ability to marry. The ability can be translated into two meanings, physical and non-physical (mental) abilities. Therefore, this recommendation applies to those who already have the ability.

Marriages in the Lindu sub-district are divided into two categories, registered and unregistered marriages. This gives impacts on the aspects of legal protection for the married couples. Plus, many household problems demand legality, such as inheritance, birth certificates, family cards, and rights guardians, which can make unregistered marriages vulnerable to legal problems in the future. In fact, there is a fatal mistake in today's society's understanding that unregistered marriage does not have a negative impact on those who do it because it is considered legal in religion. Such an understanding is amiss because when referring to the history and development of unregistered marriages, it is an act that is prohibited in Islam because even though the shari'a of such an act fulfills the pillars and conditions but is not in accordance with the compilation of Islamic law

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<sup>1</sup>Heri Ahmadi Thamrin is a Student of Islamic family Law Study Program at Postgraduate School, Universitas Islam Negeri Datokarama Palu, Indonesia. This paper was presented at The 1st International Conference on Islamic and Interdisciplinary Studies (ICIIS) 2022, as a presenter, held by the Postgraduate School Universitas Islam Negeri Datokarama Palu, Indonesia.

(KHI) and the Marriage Law 1974 which has now been changed to Law no. 16 of 2019. Unregistered marriages have developed in Indonesia to become underhand marriages or unrecorded marriages. The term unregistered marriage or underhand marriage can be understood as a basis or procedure for marriage according to religion, beliefs and customs without being carried out in front of a marriage registrar. Performing unregistered marriages is considered a form of disobedience in religion. This is because unregistered marriages create a lot of problems, such as losing their rights and not being protected by law for not being legally married. Unregistered (*sirri*) marriage is a marriage that is carried out according to religion or only performed in front of a religious leader without being recorded by an authorized official. The issue of *sirri* marriage is still a polemic. The Indonesian legal system does not recognize the term *sirri* marriage and does not specifically regulate it in regulation. Normatively, *sirri* marriage is defined as a marriage that took place without being acknowledged by the officials (PPN or KUA officers), so it is not registered at the KUA and does not have proof of a valid marriage certificate. How *sirri* marriage exists in the positive legal system in Indonesia is one of the problems that will be examined. Unregistered marriages do not have legal certainty. Registration of marriages regulated through laws aims to manage marriages in society. In addition, it aims to protect the sanctity of marriage, more specifically, the rights of women and children in domestic life. If the marriage is not officially registered, the husband and/or wife cannot obtain their rights as regulated in the law because they do not have proof of marriage.

In the 2019-2021 period, the authorities, in this case, the District Affairs Office and the Religious Courts, made an important breakthrough by holding an *isbat* session for *sirri* marriage couples who did not have a marriage book. Sixty-eight couples took part in the integrated *isbat* activity. Following this activity, the researchers were interested in researching and observing the impact of legal protection on unregistered married couples who have been registered at the KUA office in Lindu District. Based on the description of the problems, the main issue discussed in this study is "Analysis of the Impact of Legal Protection for *Isbat* Registration on *Sirri* Marriage Couples (Case Study of Lindu District, Sigi Regency)". So from this analysis, the researchers drew several main issues: How to analyze the impact of legal protection for *isbat* registration on unregistered marriage couples in Lindu District, Sigi Regency?

## 2. Literature Review

Marriage, in terminology, is an inner and outer bond between a man and a woman in a household based on religious demands, or an *aqad* agreement (*ijab* and *qabul*) between a man and a woman to justify sexual relations as a legitimate husband and wife with conditions and the pillars determined by Islamic law ( Amir, S. 2006). The word *sirri* itself comes from linguistic Arabic which means to hide something, and the opposite of the word *sirri*, namely الاعلای means announcement. For this reason, a marriage that is not announced to the general public and is covered up considered as *sirri* marriage. While the meaning of *isbat* marriage comes from two words, *isbat* which means validation, determination, or affirmation, and marriage which is a marriage bond (contract) carried out based on the provisions of the rules of law and religious teachings. Therefore, *isbat* marriage is a determination regarding the truth (validity) of a marriage. PERMA No. 1 of 2015 explains that *isbat* marriage is a legal process of ratification carried out in religious courts or based on established rules (PERMA. 2015).

The definition of marriage registration is a process of registration, examination, and issuance of a marriage certificate as validation or legality of a marriage based on rules, conditions, and applicable law. Registration is carried out at the religious affairs office (KUA) in the district where the couple resides. Here, the party appointed by the state, called the Penghulu or the Head of the KUA, has the right to issue the Marriage Book or Marriage Certificate Authority.

## 3. Methodology

The research used is included in empirical research because of the need to analyze the impact of registering the *sirri* (unregistered) married couples. In this research, the researchers require the data obtained directly from the field. Empirical research is usually called field research, which is oriented toward collecting empirical data in the field. This research is empirical with the type of field research, which was conducted directly at the location to obtain and collect data and describe

in detail and depth about a situation or phenomenon of the research object studied by developing concepts and gathering existing facts.

As for the formulation of the problem and the objectives to be achieved, this type of research is a type of qualitative research, which is used to examine the condition of natural objects. The sampling technique is by interviewing several partners of isbat, including community leaders, sub-district officials, and analyzing isbat data archives at the KUA office and the Religious Courts.

#### **4. Results and Discussions**

The Lindu Plateau's geographical conditions are administratively located in Sigi Regency, Central Sulawesi Province, approximately 97 Km south of Palu City, with a distance of 80 Km from Palu City to the transit village of Sadaunta, and 17 Km from Sadaunta to Lindu. The area of Lindu District is 516.426 Km<sup>2</sup>, where the first village encountered when arriving at Lindu Plain is Puroo Village, then Langko, Tomado, Anca, and Ollu Villages. Lindu District is geographically located at 1° 13'37"-1° 30'15" South Latitude and 120° 00'43"-120° 17'17" East Longitude.

The implementation of isbat marriage integrated trial in the Lindu sub-district are held two times in 2020 and 2021. This activity begins with the socialization process at mosques and ta'lim assemblies, then mapping the area of the number of *sirri* marriage couples who do not yet have a marriage book. The next stage is the registration of isbat, then implementing isbat trial by the Donggala Religious Court. After that, the religious affairs office conducted the registration of the marriage and published the couple's marriage book.

In carrying out the isbat of marriage, there are a series of reasons that can be submitted to the religious court as follows:

- a. A marriage in the middle of divorce settlement
- b. Missing marriage certificate
- c. The emergence of doubts about the legitimacy of one of the many conditions of marriage
- d. The implementation of marriage before the enactment of law No. 1 of 1974

In carrying out the isbat of marriage in Lindu District, the researchers found several valid reasons to be taken into consideration for being able to carry out the isbat of marriage. One of which is that their area is remote and belongs to an isolated sub-district, and there is no local religious affairs office (KUA) which makes it difficult for the community. The requirements for the documents submitted to get the marriage certificate in the religious court that must be completed are as follows:

- a. Photocopy of the applicant's identity card
- b. Photocopy of the identity cards of all the applicant's children
- c. Photocopy of reference from KUA where the marriage was conducted
- d. Photocopy of identity cards of husband and wife, Photocopy of Family Card Copy of death certificate (if one of them has passed away)
- e. Pay down court costs.

After submitting a marriage certificate application to the religious court, it will first be reviewed based on the following points;

- a. An application for a marriage certificate can be made by both husband and wife or one of the couple, children, marriage guardian and other parties concerned about the marriage to the Religious Court in the jurisdiction where the Applicant resides. The application must be accompanied by clear and concrete reasons and interests.
- b. The process of examining the application for a marriage certificate submitted by both husband and wife is voluntary. The product is in the form of a stipulation. If the contents of the stipulation reject the marriage certificate application, then the husband and wife, or each can submit a cassation.
- c. The process of examining a marriage registration application submitted by a husband or a wife is contentious by placing the party who does not submit the application as the Respondent's party. The product is in the form of a decision. An appeal or cassation can be filed against this decision.

From the results of interviews with several isbat couples and community leaders, some information was obtained. Marriage registration has the main objective to create order in marriage administration activities, as well as to protect and also guarantee the rights of husbands, wives and children born from the marriage. In social life, problems occur, including in a marital relationship. Therefore, it is necessary to have the intervention of state authorities to carry out records in order to avoid the worst possibilities, such as problems regarding rights and obligations between husband, wife and children. Therefore, for couples who carry out unregistered marriages, it is recommended to get the marriage certificate to have legal force. The impact for couples who have carried out marriage registration is that they can easily get ID cards and birth

certificates for both spouses and children of partners, land certificates, assistance for underprivileged couples, health insurance (BPJS), and many more. The point is that the marriage isbat which is carried out has a positive impact on each couple:

1. The community becomes legally protected because of the legal aspect of their marriage
2. They can easily access the state administration's identity card, family card, and child's birth certificate.
3. They can register for Hajj, take business credit (KUR), and register for school
4. There is no need to worry about the legality of children, inheritance rights, and so on.

## 5. Conclusion

1. The registration of marriage isbat carried out in Lindu District, Sigi Regency, in 2020-2021, there were around more than 68 couples. It is conducted by the Donggala Religious Court in collaboration with the Religious Affairs Office of Lindu District, the Religious Court, all village administrations, the government of Lindu Sub-District and assisted by the women's council and religious leaders by following the requirements of isbat and marriage certificate procedures. It was carried out in two places, namely Tomado Village and Olu Village.
2. Recording marriage certificates in Lindu District, Sigi Regency positively impacts unregistered marriage actors, such as obtaining legality or recognition from the state, as evidenced by a marriage book as legal protection for rights as citizens.
3. The impact of recording isbat socially protects the community from problems in the future, for example, the problem of claims for inheritance rights, the legality of children, and the legality of husband and wife.

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