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# The Paradox of Legalization of Marriage (*Itsbat Nikah*) in The Paradox Indonesia: Legal Protection or Loophole

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**Abstract**—This study aims to criticize the effectiveness of the legalization of marriage (*itsbat nikah*) procedure in Indonesia as a legal mechanism to validate unregistered marriages (*nikah siri*), using the analytical tools of eclecticism and *maslahah* theory. The legalization of marriage procedure is intended to protect the rights of couples and children when the marriage has not been officially registered. However, the number of legalizing marriage applications continues to increase every year, indicating that unregistered marriages are still rampant in Indonesia. This trend raises concerns about whether the *itsbat nikah* procedure effectively enforces the law or provide a way to avoid the requirements of a valid marriage. Using normative legal research methods, this study analyzes relevant court decisions, statistical data from supreme courts, and interviews with legal practitioners involved in the implementation of *itsbat nikah*. The findings of this study reveal that although *itsbat nikah* provides a legal solution for those who are in a religiously valid but unregistered. It also risks public legal awareness by being considered an easy solution, if there are marriages that still do not fulfil the requirements of marriage to carry out a *nikah siri* first. Referring to the theory of legal eclecticism, this study highlights the problems between religious practices, state law, and broader implications for legal education and social responsibility in marriage registration. Sharia provisions regarding *Itsbat nikah* should aim to uphold justice and the welfare of society, including ensuring legal recognition and protection of the rights of the parties involved in a marriage.

**Keywords:** Eclecticism; *itsbat nikah*; marriage registration

## Introduction

The purpose this research is to examine the effectiveness of legalization of marriage (*itsbat nikah*) procedure by the legalization of marriage institution which is assessed using the perspective of the eclecticism theory and the *maslahah mursalah* theory. This research was produced by the author based on descriptions from legal experts both in writing and verbally and knowing the opinions of related *itsbat nikah* institutions such as officials of the marriage registration officer (KUA) and Judges in the Shariah Court. After the enactment of Marriage Law Number 1 of 1974 concerning Marriage, the requirements for a valid marriage to be recognized by the State are that it is carried out in accordance with the rules according to each religion/belief and must be registered with the marriage registration officer (Dea Salma Sallom, 2022).

The enactment of Indonesia's Marriage Law led to issues with unregistered marriages, known as *nikah siri*, which are valid under Islamic law but lack state recognition. To address this, the government introduced *itsbat nikah*—a legal process in the Religious Court that validates such marriages, providing legal protection for spouses and children.

The legalization of marriage (*itsbat nikah*) in Indonesia is a regulation created to protect people who have not registered their marriage with the state (known as: *siri* marriage) so that their marriage has legal certainty that aims to protect the rights and interests of the parties involved in a marriage relationship example: husband, wife, children (Baihaqi et al., 2024). Some things that can be used as reasons for submitting a marriage validation include the following: Marriage (unregistered) for divorce settlement, Loss of marriage certificate, Doubt about the validity or otherwise of one of the requirements of marriage, Marriage that took place before the enactment of Marriage Law Number 1 of 1974, and/or Marriage carried out by people who do not have a prohibition (obstacle) to marriage according to Law Number 1 of 1974.

In Pijri Paijar's previous research entitled "Post-Siri Marriage Problems and Alternative Solutions", he argued that *itsbat nikah* is a solution to problems that arise because many people still practice *siri* marriage. Most *siri* marriages are caused by something that they want to hide, so not registering a marriage with the state is an action that can cause harm or evil and must be avoided because as previously explained, it is feared to bring slander. There are still many practices of unregistered marriage (*nikah siri*) in Indonesian society, this is due to the lack of public knowledge about the importance of registering marriages (Jauhari et al., 2023). There are various reasons behind someone doing unregistered marriages (*nikah siri*). Common reasons for filing for *itsbat nikah* include divorce proceedings, loss of marriage documents, doubts about marriage validity, pre-1974 marriages, or marriages without legal obstacles. Research shows *nikah siri* often stems from secrecy, economic hardship, lack of legal awareness, or polygamy without consent (Zakaria & Saad, 2021).

Basically, Islam commands to avoid losses as explained in the letter QS. Al-Baqarah 2:282 about how necessary it is to record a sale and purchase transaction. The contract in the *ijab qabul* of buying and selling, Islam alone commands to be registered, let alone marriage which has greater implications for household life. So that there are still marriage practices that have not been registered with the state, this cannot be considered normal, because it concerns the issue of the greatness of the teachings of Islam which has the goal of sharia in the form of maintaining and educating descendants "*hifz al-Nas*" base on religion (Ayuni et al., 2023)

After the enactment of the State Regulation that regulates the opportunity to validate marriages through the institution of *itsbat nikah*, in addition to having a positive impact or *maslahah* as described above, it turns out that *itsbat nikah* has a negative impact, namely that it indirectly creates a decline in legal discipline in society that takes the rules made by the state lightly. And this *itsbat nikah* also providing a way for people who want to commit legal irregularities (Al Aghabari et al., 2024).

The negative impact of the existence of legalization of marriage (*itsbat nikah*) disrupts education and legal awareness in Indonesia, as evidenced by the increasing number of cases of legalization of marriage to the Religious Court from year to year. We can see this through the data on case submissions to the Cibinong Religious Court and all Religious Courts throughout Indonesia, which will be described in the discussion of this journal.

The process of implementing *itsbat nikah* itself based on the results of interviews conducted by the author with the Judges of the Religious Court who handled this case about *itsbat nikah* is that there are difficulties found if the parties submit statements or evidence that is not in accordance with the facts or evidence that is not true. And this makes it quite difficult for the Judge to examine the case, even though the Judge is skilled at revealing the facts of the trial, but due to the dishonesty of the parties who are not honest with the court, the examination process in the Court becomes complicated and time-consuming. The Judge here needs to be observant in considering that the marriage to be registered is a legal marriage and does not conflict with the rules of law. Based on this description, the researcher is interested in studying how the

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Eclecticism theory and the *maslahah mursalah* theory view the implementation of marriage registration through the institution of *itsbat nikah*?

## Method

The research method used is normative juridical by collecting secondary data in the form of primary, secondary and tertiary legal materials by analyzing several Judge's decisions. In addition, it also requires additional primary data through the collection of data on the submission of *itsbat nikah* to the Religious Court, and interviews with officials related to the implementation of legalization of marriage (6 Judges in Cibinong Religious Courts and 1 officials of the Cibinong City Religious Affairs Office/Marriage Registration Department) and finding out about the opinions of legal experts such as the Islamic Marriage Law Lecturer Team of University, so that from all the data collected the author is expected to find the truth of the latest facts. The data that has been successfully collected will be analyzed qualitatively and presented in an analysis that aims to draw certain legal principles contained in the applicable positive law.

## Discussion

### Correlation between *nikah siri* and *itsbat nikah*

*Nikah siri* is a marriage that follows Islamic law requirements but is not registered with the Office of Marriage Registration (KUA) (Paijar, 2022). While valid base on religiously, it is considered invalid under Indonesian state law, based on Article 2 of the Marriage Law No. 1 of 1974 and the Compilation of Islamic Law (KHI). People often practice *nikah siri* are generally carried out in society because: parental disapproval or intentional avoidance of registration (with some reason). This leads to legal consequences, such as lack of protection for the wife and children regarding inheritance, joint property, and rights after divorce (Fahadil Amin Al Hasan, 2024).

The Government's obligation in providing legal protection to all people and to address this, the government allows *itsbat nikah*—a legal process in the Religious Court to legalization such marriages. Regulated by Article 7 of KHI, this process grants the couple legal status and enables the issuance of a marriage certificate, which is needed for other civil documents like a child's birth certificate. Those eligible to request *itsbat nikah* include the husband, wife, their children, guardian, or other interested parties (Virahmawaty Mahera and Arhjayati Rahim, 2022).

As regulated in Article 7 of the KHI, if a marriage cannot be proven by a Marriage Certificate, the legalization of marriage can be submitted to the Religious Court. The reasons for submitting a legalization of marriage are:

The existence of a marriage in the context of resolving a divorce case;

Loss of marriage certificate;

Doubts about the validity of one of the requirements of marriage;

Marriages conducted before the enactment of Marriage Law Number 1 of 1974,

Marriages conducted by those who do not have obstacles to marriage according to Law No. 1 of 1974.

*Itsbat Nikah* which is submitted to the religious court is used by the applicants as a legal reason to register their marriage with the Marriage Registration Officer, and the sub-district religious affairs office will issue a marriage certificate extract book as authentic evidence that a marriage has been registered, for further use of the marriage certificate extract book to process the child's birth certificate at the civil registry office with the attached *itsbat nikah* Decision by the religious court (Pidayan Sasnifa, 2015).

The reason why *itsbat nikah* must go through a *Itsbat Nikah* institution (consists of a marriage registration office and a religious court), even though the government could delegate it to the marriage registration office, is because in this *itsbat nikah*, there is concern about the practice of legal abuse carried out by certain members of society whose marriage requirements are not actually met and who cover it up by carrying out a secret marriage. And the institution that is given the ability to investigate and examine cases is only in the Judicial institution. Therefore, in registering a marriage that requires this *itsbat nikah*, it is necessary to have the assistance of an investigation by a Religious Court Judge to check the validity of the marriage to be registered.

## Legalization of Marriage According to the Eclectic Theory

A The description of Islamic legal thought from A. Qodri Azizy is linked to Indonesian legal science which he calls Indonesian jurisprudence in Qodri's thesis on the theme of Indonesian jurisprudence, becoming an interesting discourse to study amidst the increasing intersection between religious rules and state regulations, between public contestation and the private sphere, between the dominance of legal pluralism at the level of national political reality and divinely ordained law, between living laws and positive laws, and also between social fiqh and formalistic fiqh (Muhammad Shohibul Itman, 2019). Qodri's thinking has brought together two different poles between Islamic law and common law as a national bond on the altar of legal regulations that have been agreed upon by the founding fathers of this republic (Mustofa et al., 2021). We can conclude that the theory of eclecticism is a theory for creating a state law that is taken from the values and rules that already exist in Islamic law and general law.

Qodri uses the word eclecticism by referring to Webster's dictionary which gives the meaning of eclectic as 'choosing, selecting from various systems, doctrines, or sources. While eclecticism is the method or system of an eclectic (A. Qodry Azizy, 2004). The eclectic thinking outlined by Qodry explains that national law (Indonesia) is formed by combining 3 (three) legal elements, namely: western law known as civil law, customary law, and Islamic law. The reason national law is formed from these 3 laws is because Indonesia was colonized by the VOC (Netherlands) for 350 years so that Dutch law is familiar among the people. Likewise, the cause of the existence of customary law elements is because Indonesia is an archipelagic country that has a diversity of customs, tribes and cultures, where the influence of customs is still highly respected in everyday life in several places in Indonesia. Likewise, Islamic law because the majority (87%) of Indonesian people are Muslims.

Qodry's reason for explaining that national law (Indonesia) must consider the three elements of law (western law, customary law and Islamic law), is because even though the background to the formation of the three elements of law has a different background, the three laws are seen as having the same goal, namely to provide benefits for the entire community. So Qodry refuses to dichotomize the three elements, because the three have become part of the living law in society.

Qodry sees a strong reason for Islamic law to influence national law, as mandated by the 1999-2000 State Policy Guidelines (GBHN) which are written as follows: "Arranging a comprehensive and integrated national legal system by recognizing and respecting religious law and customary law and renewing colonial legacy laws and discriminatory national laws, including gender injustice and their inconsistency with reform through legislative programs in Chapter IV A.2 (Wildani Hefni, 2022). However, Qodry rejects the formalization of Islamic law and also rejects the use of Western law with an absolute paradigm.

Qodry's thoughts on Islamic Law, one of the relevant laws that can be used as national law is because in Islamic law, the source of law, apart from the Quran and Hadith, also recognizes *ijtihad* (thoughts from religious scholars about a rule that is not regulated by the Quran and Hadith, to be able to provide certainty and legal protection to a society that is always dynamic, by prioritizing the public interest). However, Qodry rejects the formalization of Islamic law and also rejects the use of Western law with an absolute paradigm, meaning that Qodry believes that the acculturation of the three elements of Western, customary, and Islamic law must remain the basis of national law as long as it is in accordance with the problems and issues that

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exist in society (Dwi Rahayu Sulistyningrum, 2022).

If we examine further, Indonesia is a country that is open to using several rules in Islamic Law which are then used as national positive laws that apply to all groups, if we take the example of the prohibition of gambling which is regulated in Article 426 and Article 427 of Law Number 1 of 2023 Criminal Code, this is in line with Islamic law regarding the prohibition of gambling. Unlike Malaysia which is an Islamic country, the rules regarding the prohibition of gambling only apply to Muslims, while non-Muslims are still allowed to carry out gambling practices.

The regulation on *itsbat nikah* is associated with Qodry's eclectic theory, according to the author, it is very relevant. Where the regulation in the 1974 Marriage Law is clear in Article 2 explaining that a marriage is considered valid according to state law when it is carried out in accordance with religious/belief law and registered through a marriage registration officer. However, problems arise when a marriage that is carried out is valid according to religion but has not been registered with the state due to one reason or another. So here the state through the results of the opinions and thoughts of Islamic scholars (based on sharia) makes regulations for sharia law and Islamic transactions through the Compilation of Islamic Law (KHI) which was ratified through Presidential Instruction Presidential Instruction Number 1 of 1991, especially in Article 7 of the KHI which provides a way out for marriages that are valid according to religion but have not been registered with the state, can submit a request for *itsbat nikah*.

### Legalization of Marriage According to *Maslahah Mursalah's* Perspective

The concept of *maslahah* is the basis of the ulama in making *ijtihad* that regulates problems that exist in contemporary or dynamic society. The beginning of *ijtihad* based on the concept of *maslahah* was the development of problems in society whose rules did not exist in the Quran and Hadith, thus encouraging Alim Ulama and Mujtahids to study and make *ijtihad* which had to keep considering benefit or *maslahah* in society.

The concept of *maslahah* first existed because of remembering the provisions that Allah made for humans regarding the rules of life basically contain *maslahah* for humans in the life of this world and the hereafter. The provisions regarding the rules of life are in the form of commands and/or prohibitions. An example is Allah's command to fast in Surah Al Baqarah verse 183 which reads: "O you who believe! You are required to fast as it was required for those who were before you, so that you may become pious". The main purpose of the command to fast is for the health of the body, but it has the aim that Muslims learn to restrain their lusts, restrain their emotions, increase their patience, and be grateful for the blessings of sustenance when we restrain hunger while carrying out the fasting worship. It can be concluded that Allah's Law for humans is basically to provide *maslahah*. Including Allah's law that regulates the issue of marriage, which teaches humans about responsibility and distinguishes humans from behaving like animals.

Imam al Ghazali was the first Ulama to explain the concept of *maslahah* clearly and more comprehensively than that put forward by Imam al-Basri, the jurists and ushul experts before al-Ghazali where he emphasized the use of *maslahah* in relation to god. Al Gazali also explained that the concept of *maslahah* is an expression of seeking something useful (benefit) or getting rid of something evil (harm). What is meant by *maslahah* is the maintenance of the objective intent of the law which consists of five things, namely the maintenance of religion, soul, reason, lineage and property. Anything that contains efforts to maintain these five principles (ushul) is called *maslahah* and anything that eliminates these five principles is called *mafsadat* (disadvantage) and rejecting them is called *maslahah* (Nur Asiah, 2020).

Meanwhile, regarding the existence of *maslahah mursalah*, Al-Syatibi mentioned two things: First, *maslahah mursalah* is a problem that does not exist in certain texts, but is still in accordance with sharia' actions. Second, the meaning of *maslahah mursalah* itself is taken from the entire text and several postulates, resulting in a definite law (*qath'i*). This means that it can be understood that *maslahah murlah* is a method for exploring the law by taking advantage or benefit and eliminating disadvantage (Abdul Mun'im Saleh et al., 2024).

This thought is what finally the Ulamas (scholars) agree to say that where there are rules that provide benefits, there is the law of Allah. The importance of the concept of *maslahah* in legislation or every judge's decision is because the purpose of the law itself is created as a guideline to create peace in community life. So that the rules must provide many benefits and advantages for society.

The concept of *maslahah* in making laws and regulations is what prompted the Indonesian Government based on input from Islamic Ulamas (scholars) to make regulations that were collected in the form of the Compilation of Islamic Law, which was ratified through Presidential Instruction Number I of 1991 concerning the Distribution of the Compilation of Islamic Law (KHI) which has been followed up by the stipulation of the Decree of the Minister of Religious Affairs Number 154 of 1991 concerning the Implementation of Presidential Instruction of the Republic of Indonesia Number 1 of 1991 (KHI). Regarding *isbat nikah* regulated in this KHI, it is hoped that it can provide benefits in the form of protection and legal recognition for marriages that are already valid according to religion but have not been registered with the Marriage Registrar. So that in the future there will be no more cases of marriages that are not yet valid according to state law.

However, the purpose of *itsbat nikah* to reduce the number of unregistered marriages, actually applies the opposite in Indonesia. This is because from year to year the number of applications for *itsbat nikah* is not decreasing but instead increasing. If we look at this phenomenon, it means that the number of marriage cases that are carried out without being registered with the Marriage Registrar is increasing day by day, this is proven through data on filing *itsbat nikah* cases at the Religious Court at Cibinong:

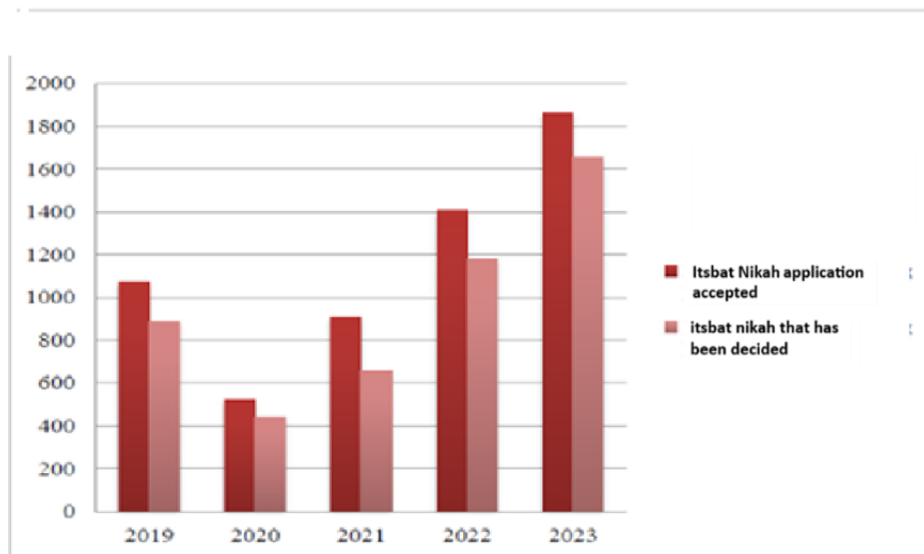


Figure 1. *Itsbat nikah* application data to Cibinong Religious Court

In 2019, the Religious Court at Cibinong was recorded as receiving 1,073 *itsbat nikah* cases, in 2020 there was a decrease in the submission of *itsbat nikah* applications by 888 cases due to the increasing number of Covid-19 cases in Indonesia. Then in 2021, the increasing trend was seen again but had not exceeded the figure in 2019. The Religious Court at Cibinong received 909 *itsbat nikah* cases, then increased again in 2022, the submission of *itsbat nikah* applications to 1,407 cases. In 2023, there was also an increase in the submission of *itsbat nikah* applications to 1,863 cases (Talitha Suhaila, 2025).

From the data table above, we can clearly see that there has been an increase in the submission of applications for *itsbat nikah* to the Religious Court at Cibinong since 2020 to 2023 every year. This raises concerns, because the purpose of the *itsbat nikah* Institution is to provide legal protection for the community, but in reality it inadvertently provides an opportunity for people to avoid the requirements for a valid marriage according to state law by first conducting a *nikah siri*, then when the requirements have been

met, they can submit an application for *itsbat nikah* to the Court. The regulation on *itsbat nikah* can then be likened to a double-edged sword where one blade provides benefits in legal protection, on the other hand this blade provides loopholes for individuals who want to abuse the law in Indonesia, so that they can avoid the rules of valid marriage requirements according to the Marriage Law.

Furthermore, in this article, the author wants to analyze more deeply the implementation of the application for *itsbat nikah* through the basis for considering the decision of the Religious Court Judge in the *itsbat nikah* Application case. In this article, the author has succeeded in examining 5 Cibinong Religious Court Decisions whose cases were decided in 2024. The results of the analysis of these decisions are as follows:

**Table 1.** Analysis of Religious Court Decisions on *Itsbat Nikah* Cases

No	Number of Decision/Area	Applicant	Case	Decision	Judge's consideration
1	604/Pdt.P/2024/PA.Cbn (Cibinong)	Applicant I is 57 years old (as husband), and Applicant II is 47 years old (as wife).	Application for <i>Itsbat Nikah</i>	accepted	<p>The Applicants were married on May 21, 1990 in the KUA Area of Cawi District in accordance with Islamic. The Applicants have been blessed with five children,</p> <p>The Applicants request that their marriage be legalized to take care of the marriage book and other administrative needs.</p> <p>The Applicants' marriage has met the requirements and pillars of marriage, there are no obstacles to marriage, and has met the requirements and pillars of marriage.</p> <p>The Applicants were married on April 2, 2023 at the Bojonggede KUA, Bogor Regency, in accordance with Islamic. The Applicants have not been blessed with children, and their second marriage is not registered.</p> <p>The Applicants request that their marriage be legalized to have a marriage book.</p>
2	605/Pdt.P/2024/PA.Cbn (Cibinong)	Applicant I is 26 years old (as husband), and Applicant II is 30 years old (as wife).	Application for <i>Itsbat Nikah</i>	accepted	<p>The Applicants' marriage has met the requirements and pillars of marriage, there are no obstacles to marriage, and has met the requirements and pillars of marriage according to the provisions of Article 2 paragraph (1) and Article 6 of Law Number 1 of 1974.</p> <p>To protect the basic rights of children who will be born from the marriage, based on the principle of public interest and for the interests of the legal identity of the parties, the Applicants' request to have their <i>itsbat nikah</i> can be granted</p>

3	607/Pdt.P/2024/PA.Cbn (Cibinong)	Applicant I is 48 years old (as husband), and Applicant II is 40 years old (as wife).	Application for Itsbat Nikah	accepted	<p>The Applicants were married on September 24, 2011 at the Marriages Registration Office (KUA), Citeureup District, Bogor Regency, and were married according to Islamic law. The Applicants have been blessed with two children, but their second marriage was not registered.</p> <p>The Applicants request that their marriage be legalized in order to process the marriage book and birth certificates of their children.</p> <p>The Applicants' marriage has fulfilled the requirements and pillars of marriage, there are no obstacles to marriage, and has fulfilled the requirements and pillars of marriage according to the provisions of Article 2 paragraph (1) and Article 6 of Law Number 1 of 1974.</p> <p>To protect the basic rights of children born from the marriage, then based on the principle of public interest and for the interests of the legal identity of the parties and their descendants, the Applicants' request to have their marriage legalized can be granted.</p> <p>The applicants have been married on June 1, 2008 in the Marriages Registration Office (KUA), Ciawi District, Bogor Regency.</p> <p>The applicants have been blessed with one child, but their second marriage was not registered.</p> <p>The applicants' marriage was carried out in accordance with Islamic law and has fulfilled the pillars and requirements for a valid marriage, as stipulated in articles 14, 16, 18, 19 and 20 and articles 24 to 33 paragraph (1) of the Compilation of Islamic Law.</p> <p>The application was submitted for the sake of certainty or legal order which aims to be proof of marriage, and also for the purpose of making a child's birth certificate</p> <p>The Assembly granted the petition of the applicants by ordering the applicants to register their marriage which was carried out in Marriages Registration Office (KUA), Cibungbulang District, Bogor Regency.</p>
4	617/Pdt.P/2024/PA.Cbn (Cibinong)	Applicant I is 51 years old (as husband), and Applicant II is 44 years old (as wife).	Application for Itsbat Nikah	accepted	<p>The applicants' marriage was carried out in accordance with Islamic law and has fulfilled the pillars and requirements for a valid marriage, as stipulated in articles 14, 16, 18, 19 and 20 and articles 24 to 33 paragraph (1) of the Compilation of Islamic Law.</p> <p>The application was submitted for the sake of certainty or legal order which aims to be proof of marriage, and also for the purpose of making a child's birth certificate</p> <p>The Assembly granted the petition of the applicants by ordering the applicants to register their marriage which was carried out in Marriages Registration Office (KUA), Cibungbulang District, Bogor Regency.</p>

5	618/Pdt.P/2024/PA.Cbn (Cibinong)	Applicant I is 30 years old (as husband), and Applicant II is 29 years old (as wife).	Application for Itsbat Nikah	accepted	<p>On August 17, 2017 in the area of the Marriages Registration Office (KUA) of Gunung Putri District, Bogor Regency, a marriage under Islamic law took place between the Applicants</p> <p>The Applicants have been blessed with 1 child during their marriage, therefore the Applicants need a Marriage Decree from the Cibinong Religious Court to be used as a legal basis for processing a Marriage Book, completing the requirements for processing a child's birth certificate and all other administrative needs.</p> <p>The Applicants have met the requirements and pillars of marriage, there are no obstacles to marriage, and have met the requirements and pillars of marriage.</p> <p>The Assembly granted the Applicants' petition by ordering the Applicants to register their marriage which had been carried out in the area of the Marriage Register Office of Cibungbulang District, Bogor Regency.</p>
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From the 5 decisions of the Cibinong Religious Court Judges, we can see that the reason for submitting Itsbat is a classic reason, namely that the marriage has not been registered with the Marriage Registrar but the marriage has been carried out according to Islamic law (unregistered marriage/*nikah siri*) and has been blessed with children, so that it requires state recognition by asking the state to issue a marriage certificate. Of course, this actually raises its own problems for the Government's goal so that all marriages are registered and in accordance with the requirements of being valid and proper according to positive law for the benefit of society.

The Cibinong Religious Court has actually taken preventive measures to prevent unregistered marriages (*nikah siri*), namely by creating restrictions on the submission of applications for itsbat nikah. In the regular *itsbat nikah* process, there are several restrictions that are different from integrated *itsbat nikah*. In integrated itsbat nikah, the marriage to be confirmed must be at least five years old, and is the first marriage. Then for applicants whose status is a widow or divorcee, they must attach an official divorce certificate so that their application can be granted. The restrictions in the integrated itsbat nikah process aim to provide education to the community, that unregistered marriages cannot be validated immediately. For those who still choose to validate their marriage, they are required to wait patiently. This restriction effort is made to reduce the high number of applications for itsbat nikah. However, in reality, there are still many unregistered marriages (*nikah siri*) that continue to take place.

## Conclusion

The Judging from the purpose of the *itsbat nikah* Institution, it has never shifted and is a noble goal of the Government to help protect the rights of its citizens to be recognized and receive proper legal protection that is fair to all Indonesian people. However, what has declined is that there are a handful of people who choose to have a unregistered marriages (*nikah siri*) first, rather than legally registering their marriage with the State. And this provides an opportunity for certain members of the Community who simplify the Government's rules to register marriages with the State, because of this *itsbat nikah* is a solution. The decline in the mindset of the Community is proven by the data on the submission of cases of *itsbat nikah* applications to the Religious Court at Cibinong, which has increased from 2020 to 888 cases and has increased every year, and was recorded in 2023 to 1,863 cases. So in this case, the government should review the problems that exist in the Community by tightening the requirements for submitting applications for itsbat nikah.

Although the state provides leniency with the right to apply for *itsbat nikah* in unregistered marriages, several progressive judges have taken preventive measures by providing conditions and limitations on integrated legalization of marriage, the marriage to be confirmed must be at least five years old, and is the first marriage. Then for applicants whose status is a widow or divorced widower, they must attach an official divorce certificate so that their application can be granted. Because basically, legalization of marriage is no longer needed if the community has good discipline and obedience to the law.

Based on the presentation of this conclusion, the author has several suggestions that can be considered by the Government, namely taking persuasive action by facilitating legal education such as legal counseling to the community which can be carried out by regional apparatus (district/city and sub-district) and village (through the Village Head). Including it in the sub-chapter of Civil Education lessons in junior high schools, high schools, and universities.

The government can also take preventive measures against the misuse of the rules regarding *itsbat nikah* by tightening the regulations for the implementation of *itsbat nikah*, in order to prevent individuals who want to misuse the institution of *itsbat nikah*. So that it is hoped that in the future the community will be aware of the law and there will be no more unregistered marriages in Indonesia.

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