



Itsbat Marriage: Urgency, Problems, and Practices, To Reach Law-Aware Villages in Kubu Raya, West Kalimantan

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Info Artikel	Abstract
<p>Masuk: 2022-08-12 Diterima: 2022-08-30 Terbit: 2022-09-25</p> <p>Keywords: Itsbat Marriage; Compilation of Islamic Law; Legal Aware Village</p>	<p><i>The provisions of Article 49 paragraph (2) of Law Number 7 of 1989 concerning the Religious Courts and Article 7 paragraph (2) and paragraph (3) of the Compilation of Islamic Law are the juridical basis for the Religious Courts to carry out itsbat marriage. This provision also limits marriages that can be requested for itsbat to the Religious Courts if the marriage takes place after the enactment of Law Number 1 of 1974 concerning Marriage. However, because the marriage itsbat is very much needed by the community to fulfill administrative requirements and also to protect the rights of women and children, the judges of the Religious Courts conduct ijtihad by violating these provisions to grant the application for itsbat marriage submitted, taking into account the masalah for the community. In general. Then the Director General of Badilag made it one of justice for all, especially for the poor Muslim community and those marginalized in the form of circuit courts at home and abroad. The urgency, problems, and practice in Kubu Raya are exciting to discuss because there are many initiations to perform itsbat marriage to get legal protection and certainty, as well as make people more sensitive to the law. The method used in this research combines field research and library research. Data collection methods include primary and secondary legal materials and interviews with the Kubu Raya Religious Court judges. It is hoped that the holding of this itsbat marriage will be able to protect the rights of women and children who are born so that there is no legal deviation and increase public awareness of the law, especially the people in the Kubu Raya area, West Kalimantan</i></p>
<p>Kata kunci: Itsbat Marriage; Compilation of Islamic Law; Legal Aware Village</p> <p>Corresponding Author: Ya` Rakha Muyassar</p> <p>E-mail: yarakhamuyassar@upb.ac.id</p>	<p>Abstrak</p> <p><i>Ketentuan Pasal 49 ayat (2) Undang-Undang Nomor 7 Tahun 1989 tentang Peradilan Agama dan Pasal 7 ayat (2) dan ayat (3) Kompilasi Hukum Islam, merupakan landasan yuridis bagi Pengadilan Agama untuk melangsungkan itsbat nikah. Ketentuan tersebut juga membatasi perkawinan yang dapat dimohonkan itsbat ke Pengadilan Agama jika perkawinannya tersebut dilangsungkan setelah berlakunya Undang-Undang Nomor 1 Tahun 1974 tentang Perkawinan. Namun dikarenakan itsbat nikah ini sangat diperlukan oleh masyarakat guna memenuhi syarat administrasi dan juga untuk menjaga hak-hak perempuan dan anak-anak, maka hakim Pengadilan Agama</i></p>

<p>DOI: XXXXXXXX</p>	<p><i>melakukan ijtihad dengan menyimpangi ketentuan tersebut, guna mengabulkan permohonan itsbat nikah yang diajukan, dengan mempertimbangkan mashlahah bagi masyarakat pada umumnya. Kemudian Dirjen Badilag menjadikannya sebagai salah satu justice for all, khususnya bagi masyarakat muslim yang miskin dan mereka yang termarjinalkan dalam bentuk sidang keliling di dalam maupun di luar negeri. Bagaimana urgensi, problematika, dan prakteknya di Kubu Raya menjadi hal yang menarik untuk dibahas, karena banyaknya inisiasi untuk melakukan itsbat nikah guna mendapatkan perlindungan dan kepastian hukum, serta menjadikan masyarakat yang lebih peka terhadap hukum. Metode yang digunakan di dalam penelitian ini merupakan kombinasi antara penelitian lapangan (field research) dan penelitian pustaka (Library Research). Metode pengumpulan data dengan memanfaatkan bahan hukum primer serta bahan hukum sekunder, ditambah dengan interview dengan Hakim Pengadilan Agama Kubu Raya. Diharapkan dengan dilangsungkannya itsbat nikah ini mampu menjaga hak-hak perempuan dan anak-anak yang dilahirkan sehingga tidak terjadinya penyelewengan hukum, dan meningkatkan kesadaran masyarakat akan hukum, khususnya masyarakat di daerah Kubu Raya, Kalimantan Barat.</i></p>

I. Pendahuluan

Itsbat marriage consists of two words, namely itsbat and marriage. Linguistically the word Itsbat is a form of mashdar or comes from the word "atsbata" which means to determine, and the word marriage comes from the word "nakaha" which means to marry each other or marry. So the meaning of itsbat nikah is "stipulation of marriage or marriage".

According to the Big Indonesian Dictionary (KBBI), marriage itsbat is a determination of the truth or validity of a marriage. Itsbat marriage is the ratification of a marriage/marriage that has been carried out based on the provisions of Islamic religious law, but the marriage is not/has not been recorded by the KUA (Religious Affairs Office) or the authorized PPN (Marriage Registrar) as stipulated in the Decree of the Chief Justice of the Republic of Indonesia. Indonesia Number KMA/032/SK/2006 concerning Guidelines for implementing Duties and Court Administration.

Based on the results of interviews conducted by the author with one of the judges of the Pontianak Religious High Court, namely YM Drs. H. Iri Hermansyah, S.H.,¹ on Monday, October 10, 2022, at the Pontianak Religious High Court, a legal fact was found that there were several reasons why marriages were not registered/unregistered, including:

1. His marriage occurred before the enactment of Law no. 1 yr. 1974 concerning marriage;
2. The marriage is not registered by VAT due to VAT negligence/negligence;

¹ Wawancara dengan Drs. H. Iri Hermansyah, S.H., tanggal 10 Oktober 2022 di Kantor Pengadilan Tinggi Agama (PTA) Pontianak.

3. Loss of marriage certificate and data in KUA is not found/any archive;
4. His marriage was a sirri marriage. The reasons for holding a sirri marriage include:
 - a) The marriage takes place overseas (e.g., in Mecca);
 - b) Contract marriage (marriage with a specific time limit);
 - c) The male party (prospective husband) still has marital ties with his previous wife (perhaps the divorce or polygamy has not been taken care of);
 - d) The male party (prospective husband) does not have a clear identity, either because he is an immigrant or a foreigner/foreigner;
 - e) The woman (prospective wife) does not get permission/blessing from her parents or guardian;
 - f) Prospective husbands and prospective wives marry only to get sexual satisfaction, or the purpose of their marriage is not to form a sakinah, mawaddah, and rahmah family as the purpose of marriage.
 - g) The woman (prospective wife) is a widow who has been left behind by a civil servant (PNS) who does not want to lose her pension;
 - h) The woman (prospective wife) is still a minor or has not met the minimum limit for the marriage to take place;
 - i) Marriage takes place on the basis/motive of trafficking (marriage is the easiest way to take/rob girls from their families).

The provisions of Article 1 of Law Number 1 of 1974 concerning Marriage: "Marriage is an inner and outer bond between a man and a woman as husband and wife to form a happy and eternal family (household) based on the One Godhead". Then it is strengthened in Article 2 of the KHI (Compilation of Islamic Law) "Marriage according to Islamic law is marriage, which is a solid contract or *mitsaqan ghalidzah* to obey Allah's commands and carry it out is worship". So we can understand that a marriage is legally binding between a man and a woman.²

Based on these provisions, we can understand that the purpose of marriage is to form a happy and eternal family/household, in this case, not only consisting of husband and wife but also children to families from both parties. So some obligations and rights must be carried out, starting from the obligation of a husband to provide for his family (wife and children), guardianship rights (if he has a daughter, then when the child wants to get married, the father is the most entitled to marry her or become her guardian), to the right of inheritance (transfer of the inheritance of the heir to the heir). Marriage is not only to realize worship to Allah SWT but also as a social institution that produces definite legal consequences such as obligations and rights for both parties, both husband and wife.³

Life in the world cannot be separated from changes to an environment, ranging from physical, biological, and sociocultural changes. According to what was stated by Sally Falk Moore, what underlies social change is the social relations that occur in society, which are very vulnerable to control, and one of the most powerful tools to regulate order is the law. G. S. Black added that the legal framework could not follow social phenomena clearly if it is not supported by sociology, because with a sociological analysis, the law can show the existence of law in society.⁴ So that the existence of law is

² Zainuddin Ali, *Hukum Perdata Islam*, (Jakarta: Sinar Grafika, 2012), h. 51.

³ Mahmudin Bunyamin, *Hukum Perkawinan Islam*, (Bandung: Pustaka Setia, 2017), h. 3.

⁴ Ahmad Tholabi Kharlie, *Hukum Keluarga Indonesia*, (Jakarta: Sinar Grafika, 2013), h. 37.

not only as social control but as a driving force for society so that it reaches an aspired state. For example, marriage brings legal consequences, namely the existence of obligations and rights between husband and wife. Everything that is a husband's duty is the wife's right and vice versa. Everything that is a wife's obligation is the husband's right.⁵

Regarding the marriage itsbat for underhanded marriages which took place after the issuance of the Marriage Law, HE Drs. Abd. Gani, M.H. before starting the trial in 2017, can it be accepted. Then he answered, "Yes because the circuit courts regarding itsbat marriage like that can be granted". The authority of the marriage legality case for religious courts has historically been only for those who carried out underhand marriages before the enactment of the Marriage Law, as stated in the provisions of Article 64 of the Marriage Law: This law applies which is carried out according to the old regulations is legal", in conjunction with the explanation of Article 49 paragraph (2) number 22 of Law Number 7 of 1989 concerning the Religious Courts which reads: "Statements regarding the validity of marriages that occurred before Law No. 1 of 1974 concerning Marriage and carried out according to other regulations".

II. Metode Penelitian

This study aims to reveal the urgency of holding a marriage itsbat held by the local Religious Court, namely the Sungai Raya Religious Court, to review then what are the problems that occur in the application of the submission, as well as what the positive impacts resulting from the holding of these activities – starting from increasing legal awareness for the community to the implementation of legal certainty for people who previously carried out underhand marriages or sirri marriages. This research is empirical legal research. The data sources used in this study are divided into two, namely primary data sources and secondary data sources. Primary data sources include observations, interviews, surveys, books, articles, journals, etc. At the same time, secondary data sources are in the form of laws and regulations, documents, and other writings closely related to the problems and research studied by the author.

III. Hasil Dan Pembahasan

1. Definition of Itsbat Marriage

Etymologically itsbat nikah means the determination of marriage. As for the terminology, itsbat nikah means the stipulation/ratification of a marriage carried out by a husband and wife who have fulfilled the pillars and requirements of marriage both according to religion and their respective beliefs, which was carried out before the enactment of Law Number 1 of 1974 concerning Marriage.

The legal basis/juridical basis for the Religious Courts to carry out marriage itsbat activities is the explanation of Article 49 paragraph (2) number 22 of Law Number 7 of 1989 concerning Religious Courts and Article 7 paragraph (2) and paragraph (3) letter d Compilation of Islamic Law (KHI). Meanwhile, these provisions limit the types of

⁵ Ya` Rakha Muyassar, *Kontruksi Putusan Hakim Pengadilan Agama dalam Perkara Harta Bersama Perspektif Hukum Islam dan Progresifitas Hukum*, (Tangerang Selatan: Pustakapedia, 2020), h. 2.

marriages submitted for itsbat. Based on the provisions of Article 7 paragraph (3) of the Compilation of Islamic Law, the Marriage Itsbat that can be submitted to the Religious Courts is limited to matters relating to:

- a) The existence of marriage in the context of the settlement of divorce;
- b) Loss of Marriage Certificate;
- c) There are doubts about whether or not one of the conditions of marriage is valid;
- d) The existence of marriages that occurred before the enactment of Law Number 1 of 1974 concerning marriage and;
- e) Marriages are carried out by those who do not have marriage barriers according to Law Number 1 of 1974.

If you refer to these rules, it will limit the types of marriages that can be submitted/applied for a marriage itsbat to be carried out at the Religious Courts, namely only marriages that take place before the issuance (read: the enactment) of Law Number 1 of 1974 concerning Marriage.⁶ These limitations make the Religious Courts not have a legal umbrella to carry out their functions optimally in carrying out/organizing the marriage certificate. Meanwhile, if a marriage is not registered, it results in the absence of a legal basis for obligations for husband and wife to carry out their respective obligations and rights. At the same time, the obligations and rights of husband and wife are regulated clearly and in detail in CHAPTER VI Rights and Obligations of Husband and Wife, starting from Article 30 to Article 34. Specifically explained in the provisions of Article 32, paragraphs (1) and (2), as well as Article 34, paragraph (1) of Law Number 1 of 1974 concerning Marriage.⁷ The obligations and rights of husband and wife are also regulated in CHAPTER XII Rights and Obligations of Husband and Wife, starting from Article 77 to Article 84. The husband's obligations are regulated in detail and rigorously in the provisions of Article 80, paragraph (1) to paragraph (7) of the Compilation of Islamic Law.⁸

In running this household, both husband and wife are obliged to carry out their respective duties to realize the purpose of marriage itself.⁹ The realization of synergy between husband and wife will not only make them feel cool physically and mentally but also realize the sacred bond between the two.¹⁰

The Religious Court is one of the implementers of judicial power for Muslim justice seekers regarding certain civil cases, as regulated in the provisions of the legislation.¹¹ The Religious Courts have the authority to examine, adjudicate, decide, and resolve cases between Muslim people by the provisions of the legislation. Judges of the Religious

⁶ Isnawati Rais., & Ya` Rakha Muyassar. (2022). The Construction of Religious Court Judges' Decisions in the Case of Joint Assets Based on Islamic Law and Legal Development. *Jurnal Cita Hukum*, 10(3), 205-222. [10.15408/jch.v10i2.27800](https://doi.org/10.15408/jch.v10i2.27800), p. 210

⁷ Jaenal Aripin, *Himpunan Undang-Undang Kekuasaan Kehakiman*, (Jakarta: Kencana, 2010), h. 608.

⁸ *Kompilasi Hukum Islam*, (Surabaya: Karya Anda, 1996), h. 55.

⁹ Syamsudin Arif, *Wanita dan Keluarga Citra Sebuah Peradaban*, (Jakarta: Lembaga Kajian dan Pengembangan Al-Insan, 2006), h. 2006.

¹⁰ Dewani Romli, *Fiqh Munakahat*, (Bandar Lampung: Nur Utovi Jaya, 2009), h. 10.

¹¹ Undang-Undang Nomor 7 Tahun 1989 tentang Peradilan Agama, sebagaimana telah dirubah dengan Undang-Undang Nomor 3 Tahun 2006 tentang perubahan pertama atas Undang-Undang Nomor 7 Tahun 1989 tentang Peradilan Agama, dan Undang-Undang Nomor 50 Tahun 2009 tentang perubahan kedua atas Undang-Undang Nomor 7 Tahun 1989 tentang Peradilan Agama.

Courts have the duty to uphold justice to find justice, and their decisions are one of the treasures of Islamic law in addition to fiqh, fatwas, and qanuns.¹²

In carrying out his duties, the judge must be by his true purpose. First, the judge's decision must contain an authoritative solution¹³; Second, the judge's decision must contain efficiency; Third, the judge's decision must be by the purpose of the law; Fourth, the judge's decision must contain stability aspects; Fifth, the judge's decision must contain fairness. So the judge, in determining or deciding a decision, enforces not only procedural justice but also enforces substantive justice. This is in line with what was stated by Gustav Radbruch: "summum ius summa iniuria", which means that the highest justice is conscience. People who obey the law as it is (textually) will often actually harm justice itself.¹⁴

2. The Urgency of Itsbat Marriage

According to Article 1 of the Marriage Law, "Marriage is an inner and outer bond between a man and a woman as husband and wife to form a happy and eternal family (household) based on God Almighty". Based on the provisions of the article, it does not only show the meaning of marriage but also the purpose of marriage. Then it was added based on Article 3 KHI, "Marriage aims to build a family life that is sakinah, mawaddah, and rahmah". This formulation is by the word of Allah SWT, in Q.S. al-Rum: 21¹⁵

The provisions of Article 2 of the Marriage Law state, (1) Marriage is legal if it is carried out according to the laws of each religion and belief; (2) Each marriage is recorded according to the prevailing laws and regulations. It was added that according to Article 4 of the KHI, marriage is legal if it is carried out according to Islamic law by Article 2, paragraph (1) of Law Number 1 of 1974 concerning Marriage. Based on the above provisions, it can be understood that a marriage is only considered valid if it has been carried out according to their respective religions and beliefs, then the marriage is registered with the relevant agencies (for example, Muslim communities register their marriages at the KUA after their respective domiciles). Underhanded or unregistered marriages can be interpreted as marriages that are held legally by fulfilling the provisions of the material law of marriage but do not meet formal requirements, so the result is that the marriage book or marriage certificate is not published.¹⁶ Some underhand marriages were held before the Marriage Law, and others were held after the Marriage Law was enacted. The marriage certificate can be submitted for marriages before the Marriage Law, based on the provisions of Article 7 paragraph (3). However, this is a matter of debate for marriages that take place after the Marriage Law.

¹² Ahmad Fathoni Ramli, *Administrasi Peradilan Agama*, (Bandung: Mandar Maju, 2013), h. 3.

¹³ Satria, R., Fitriani, R, A., Astono, A., & Purwanto. (2022). Analisis Yuridis terhadap Judicial Review Mahkamah Konstitusi dalam Kaitannya dengan Proses Penyidikan : Studi Kasus Putusan Mahkamah Konstitusi Nomor : 130/PUU-XIII/2015. *Arus Jurnal Sosial dan Humaniora (AJSH)*, 2(2), 60-67. doi: 10.57250/ajsh.v2i2.67, p. 66

¹⁴ Jeremies Lemek, *Mencari Keadilan Pandangan Kritis Terhadap Penegakkan Hukum di Indonesia*, (Yogyakarta: Galang Press, 2007), h. 25.

¹⁵ Abdullah Siddik, *Hukum Perkawinan Islam*, (Jakarta: Tinta Mas Indonesia, 1991), h. 214.

¹⁶ Meita Djohan Oe, "Isbat Nikah dalam Hukum Islam dan Perundang-Undangan di Indonesia", *Jurnal Pranata Hukum*: Vol. 8, No. 2, 2013, h. 138

Marriage is one of the legal events that has legal consequences for the parties, namely husband and wife. In addition to creating obligations and rights between them, this marriage also has implications for other things, including the rights of children born due to marriage. This study aims to reveal the urgency of holding a marriage *itsbat* held by the local Religious Court, namely the Sungai Raya Religious Court, to review then what are the problems that occur in the application of the submission, as well as what the positive impacts resulting from holding these activities. Starting from increasing legal awareness for the community so that the area can be categorized as a Legal Awareness Village or DSH so that it gets the "Anubhawa Sasana Desa" award for the implementation of legal certainty for people who previously had underhanded marriages or *sirri* marriages. The purpose of registering marriages and their marriage certificates is basically to create a marriage order for the community, which has implications for efforts to protect their rights.¹⁷

The urgency of holding a marriage *itsbat* also provides guarantees and legal protection for families (in this case, the community in general, and especially for people in the Kubu Raya area, West Kalimantan), ranging from guarantees and legal protection for husband and wife themselves to their children. Marital status, lineage status, guardianship status, child custody, livelihood rights, even the continuity of joint property and inheritance (in case of divorce or death of one of them), to the interests of their children who want to register themselves to school. There are administrative requirements from schools that require every child who will enter school to attach a photocopy of their Birth Certificate, and one of the administrative requirements that must be met to obtain the Birth Certificate is the existence of a Marriage Certificate or Marriage Book of the parents concerned. This is impossible to find except with the holding of "Itsbat Nikah" to determine the marriage that has previously been held either by custom (customary marriage) or religiously (religious marriage). These things have increased the public's interest in applying for *itsbat* marriage to the local Religious Court, in this case being the jurisdiction of the Sungai Raya Religious Court.¹⁸

3. The Problems of *Itsbat* Marriage

Religious Courts, like other courts, have the main task of receiving, examining, adjudicating, and resolving every case. Courts are prohibited from rejecting a case because the law is unclear or does not yet exist. *Ius Curia Novit* means that the judge is considered to know all the laws so that the court cannot refuse to examine and try.¹⁹ This principle is also emphasized in the provisions of Article 10 of Law Number 48 of 2009 concerning Judicial Power which reads: "1) Courts are prohibited from refusing to examine, try, and decide on a case that is submitted on the pretext that the law does not

¹⁷ Satria Efendi M. Zein, *Problematika Hukum Keluarga Islam Kontemporer*, (Jakarta: Pranada Media, 2004), h. 86.

¹⁸ Kompetensi Relatif Pengadilan Agama adalah Kewenangan Pengadilan Agama yang satu tingkat atau satu jenis untuk menangani/mengadili suatu sengketa/perkara berdasarkan pada tempat/lokasi/wilayah/domisili para pihak yang bersengketa atau didasarkan pada dimana objek yang disengketakan berada. Contoh Pengadilan Agama Sungai Raya bertugas menerima, memeriksa, mengadili, dan menyelesaikan perkara bagi mereka yang tinggal/berdomisili di daerah Kubu Raya, Kalimantan Barat

¹⁹ Yahya Harahap, *Hukum Acara Perdata tentang Gugatan, Persidangan, Penyitaan, Pembuktian, dan Putusan Pengadilan*, (Jakarta: Sinar Grafika, 2016), h. 821.

exist or the law is unclear, rather it is obligatory to examine and try it; 2) The provisions as referred to in paragraph (1) do not close the amicable settlement of civil cases."

As for the application for itsbat marriage whose marriage took place after the existence of the Marriage Law, it refers to the provisions of Article 28 b paragraph (2) of the 1945 Constitution in the second amendment, jo. Article 2 paragraph (1) and Article 64 of Law Number 1 of 1974 concerning marriage, jo. Article 7 of the Compilation of Islamic Law, based on the provisions of these articles, is the legal basis for judges, especially in the religious court environment, to be the basis for deciding an application for itsbat marriage. Every marriage is held privately, provided that it can be proven at trial that it has been carried out by fulfilling the pillars and conditions and that there are no obstacles or prohibitions against marriage, according to religious law and legislation. So the judge has grounds to grant it. As for if it is not proven, the application for itsbat marriage will not be granted or rejected.²⁰

As quoted by the Population and Civil Registry Office of Kuburaya Regency, West Kalimantan, on September 14, 2022 the PD Muhammadiyah Kubu Raya coordinated with the Kubu Raya Regional Government together with the Sungai Raya Religious Court, Ministry of Religion, and Muhammadiyah Kubu Raya, carrying out service activities the marriage ceremony was held in the hall of the Tanwir Muhammadiyah Mosque which was attended by the Regent of Kubu Raya and 53 married couples. After the trial, the marriage book will be published by the Ministry of Religion, Kubu Raya, West Kalimantan.²¹

"Besides basing it on juridical law, judges in examining and deciding applications for itsbat marriage also prioritize other aspects such as sociological and philosophical considerations, because judges in resolving or deciding cases submitted to them must pay serious attention to living legal values. (living law) in society, in addition to normative law, the decision is appropriate and fulfills a sense of justice.²²

So, by looking at the high interest of the people who apply for marriage certificates to the Religious Courts with the reason to take care of their children's birth certificates, because they want to register for school, children who want to register for the PNS or TNI/POLRI exams, etc. Seeing the facts in the field like this, then with consideration of benefit for the sake of creating legal certainty, with the holding of this marriage certificate, they can get their rights, such as getting a marriage certificate, birth certificate, to legal protection for both the husband and wife themselves and their children, children born as a result of the marriage.²³ And from that fact, the Director General of Badilag finally made it one of justice for all, especially for the poor Muslim community and those marginalized in the form of circuit courts and mass marriage itsbat, both

²⁰ Meita Djohan Oe, "Isbat Nikah dalam Hukum Islam dan Perundang-Undangan di Indonesia", *Jurnal Pranata Hukum*: Vol. 8, No. 2, 2013, h. 142

²¹ DISDUKCAPIL Kabupaten Kubu Raya, "Koordinasi Antara Pihak PD Muhammadiyah Kubu Raya sebagai Tindak Lanjut dari Kegiatan Pelayanan Isbat Nikah", September, 14, 2022 <https://dukcapil.kuburayakab.go.id/2022/09/14/koordinasi-antara-pihak-pd-muhammadiyah-kubu-raya-sebagai-tindak-lanjut-dari-kegiatan-pelayanan-isbat-nikah/>,

²² Satria Efendi M. Zein, *Problematika Hukum Keluarga Islam Kontemporer*, (Jakarta: Pranada Media, 2004), h. 89.

²³ Ditbinbapera, *Berbagai Pandangan Terhadap Kompilasi Hukum Islam*, (Jakarta: al-Hikmah, 1993), h 55.

domestically and abroad (as has been said). One was held by the Faculty of Law, Panca Bhakti University Pontianak, in Sarawak, Malaysia).

IV. Kesimpulan

Marriage is an inner and outer bond between a man and a woman as husband and wife to form a happy and eternal family (household) based on God Almighty. Marriage also aims to build a family life that is *sakinah, mawaddah, and rahmah*. This formulation is by the word of Allah SWT, in Q.S. al-Rum: 21. The Marriage Law and the KHI are a source of material law in the judiciary, especially the religious courts. The Religious Courts, like other judicial institutions, have the duty to receive, examine, adjudicate, and settle every submitted case and prohibits refusing a case or application because there is no law or the law is unclear. *Ius Curia Novit* means that the judge is considered to know all the laws. About this application for itsbat marriage, especially to marriages held under the hands or *sirri* marriages which were held after the existence/enactment of the Marriage Law as contained in the provisions of Article 28 b paragraph (2) of the 1945 Constitution in the second amendment, jo. Article 2 paragraph (1) and Article 64 of Law Number 1 of 1974 concerning marriage, jo. Article 7 of the Compilation of Islamic Law, based on this article's provisions, is the legal basis for judges, especially in the religious court environment, to be the basis for deciding an application for itsbat marriage.

They saw the high public interest in submitting marriage certificates to the Religious Courts to obtain marriage certificates, birth certificates, and legal protection for both the husband and wife themselves, as well as the children born as a result of the marriage. So the Director General of Badilag then made it one of justice for all, especially for the poor Muslim community and those marginalized in the form of circuit courts and mass marriage itsbat, both domestically and abroad. The Kubu Raya Regional Government also carried this out, West Kalimantan, in collaboration with the Sungai Raya Religious Court, the Ministry of Religion, and Kubu Raya Muhammadiyah, carrying out a marriage itsbat service activity in the hall of the Tanwir Muhammadiyah Mosque on September 14, 2022 which was attended by the Regent of Kubu Raya and 53 husbands. Wife. After the trial, the marriage book will be published by the Ministry of Religion, Kubu Raya, West Kalimantan. This is done to increase public awareness of the law so that there will be an increase in DSH or Legal Awareness Villages in Kubu Raya, West Kalimantan, so that more villages will later receive the "Anubhawa Sasana Desa" award.

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VI. Daftar Pustaka / Daftar Referensi

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