

# Implementation of marriage itsbat in Aceh

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This paper describes the process of marriage itsbat in Aceh and its approval factors despite its non-compliance with the applicable provisions. From the study results, it is known that the judge determining marriage itsbat prioritized benefit (*maslahah*) for the litigants. Its approval is considered to have more positive impacts, both for the litigants and their children. When it is granted, their marriage has had legal force and is recognized by the state, with the result that the litigants and their children have the same rights as those who register their marriage. This study used empirical legal research method obtained by conducting interviews. For further suggestion, it is expected that the government give legal socialization to increase public awareness of the importance of marriage registration

Tujuan artikel untuk mengetahui bagaimana proses pelaksanaan penetapan itsbat nikah di Aceh dan faktor yang menyebabkan putusan itsbat nikah tetap dikabulkan meskipun tidak sesuai dengan ketentuan yang berlaku. Dari hasil penelitian ditemukan bahwa Hakim yang menetapkan putusan itsbat nikah bagi pasangan nikah sirri mengedepankan *maslahah* bagi para pihak yang berperkara. Kemudian Hakim menilai bahwa mengabulkan permohonan para pihak akan jauh lebih berdampak positif, baik bagi pasangan yang berperkara tersebut maupun anak-anak mereka. Dengan dikabulkannya permohonan itsbat nikah, maka pernikahan yang bersangkutan mempunyai kekuatan hukum dan diakui oleh negara, sehingga hak mereka dan anak sama seperti pasangan yang melakukan pernikahan secara tercatat lainnya. Penulisan penelitian ini menggunakan metode penelitian hukum empiris yang diperoleh dengan melakukan wawancara. Kedepannya, diharapkan agar pemerintah melakukan sosialisasi berkenaan pentingnya pencatatan pernikahan secara berkala kepada masyarakat, sehingga menimbulkan kesadaran akan pentingnya pencatatan pernikahan.

**Keywords:** *The Marriage itsbat; Unregistered Marriages; Marriage Registration*

## **Introduction**

Marriage is a common *sunnatullah* applying to all God's creatures (Tihani and Sahrani, 2010, p. 6). Without going through its process, humans will not develop, because it is a union of two large families in a bond that gives birth to descendants that develop into a society. Article 1 Chapter 1 of Law No. 1 of 1974 concerning Marriage states that "*Marriage is an inner and outer bond between a man and a woman as husband and wife aiming at forming a happy and eternal family based on belief in one God.*" The first paragraph states that marriage is legal when carried out according to the law of each religion and belief. Then, the next paragraph stipulates that every marriage must be registered according to prevailing laws and regulations.

Regarding marriage, the Compilation of Islamic Law (KHI) states that it is a very strong agreement or *mitsaqan ghalidzan* to carry out and obey Allah's command in realizing a *sakinah, mawaddah*, and *rahmah* family and as part of worship to Allah Almighty. Its validity is in accordance with Islamic law and Law no. 1 of 1974 (Departemen Agama, 1999, p. 14). Its purpose according to God's command is to perfect half of religions and obtain legitimate descendants in society by establishing a peaceful and happy household (Rezy, 2019, p. 172). Its validity is confirmed if it has fulfilled the requirements and conditions, based on legal and religious provisions.

Marriages should be registered to create and ensure marriage order for the community (Bahrum, 2013, p. 211). It aims to provide certainty and protection for marriage parties by providing authentic evidence and it can be defended to anyone before the law (Witanto, 2012, p. 142). This is an effort regulated through legislation to protect the marriage dignity and sanctity, especially for women in domestic life. Marriage registration is the same as recording other important life events, as births and deaths, stated in a certificate (Summa, 2004, p. 346). Thus, the formal requirements for the validity of a procedural and administrative marriage will be fulfilled with marriage registration (Muhammad, 2010, p. 45).

Phillipus M. Hadjon viewed that legal protection is a preventive and responsive government legal action. Preventive legal protection aims at preventing disputes, directing government actions to be careful in making decisions based on discretion. Meanwhile, responsive legal protection aims at preventing disputes, including their handling in court institutions (Muhammad, 2010, p. 45). Legal protection is closely related to the marriage

registration, for registration in every marriage will lead to legal certainty (Dwiasa, 2018, p. 17).

There are many unregistered marriages in Aceh, including those conducted during a prolonged conflict and file loss due to the 2004 tsunami, or due to a lack of public understanding regarding the importance of registering marriages, added by misinformation that it is religiously legal that matters, and they can register to the state later.

Sirri marriage was formerly referred to as a marriage that does not meet the pillars and conditions, but is interpreted broader nowadays (Munawar, 2019, p. 21). The Aceh Ulama Consultative Council (MPU) formulated it as a marriage carried out not in front of marriage registrars and not registered in Religious Affairs Office (KUA) or other legal institution (Devy and Rizqi, 2018, p. 292).

The following is the data of applications for marriage itsbat in Aceh in the last 3 (three) years, between 2017 and 2019.

**Table 1. Application for marriage itsbat in Aceh 2017-2019**

No	Years	Numbers
1	2017	3688
2	2018	3848
3	2019	4296

Source: Aceh Syar'iyah Court

The data shows that sirri marriages in Aceh increase proved by the rise of marriage itsbat application every year. It indicates the weakness of public understanding about the importance of recording marriages, and then the marriage itsbat is the chosen solution for unregistered marriages in order to get state recognition in the form of marriage certificate (Sururie, 2017a, p. 119).

Marriage itsbat implementation for sirri marriages can be a double-edged sword, where on one hand, the government is actively trying to suppress unregistered marriage through illegal *qadi* intermediaries, and on other hand, its implementation for couples with unregistered marriages is also a positive step, considering its protection and legal

consequences, that is ensuring the orderliness of marriage for Islamic society in Indonesia and in accordance with positive law (Novitasari, 2020, p. 486), or the current prevailing law in a certain place and region (Sugiarto, 2013, p. 2).

Based on the previous description, the discussion of this research begins with how the process of implementing the marriage *itsbat* for *sirri* marriages in Aceh. This description is intended to clarify the form and process of implementing marriage *itsbat* for *sirri* marriages. The next section discusses the factors for marriage *itsbat* to be granted even though it is not in accordance with applicable regulations. This discussion is important because it explains the factors and considerations of the judge in granting the application for marriage *itsbat*.

### **Methodology**

This article used empirical legal research method carried out by legal sociology and qualitative analysis approaches (Soemitro, 1990, p. 34). The primary data were obtained through field research using an inductive thinking framework, and through in-depth interview process with competent parties regarding the implementation of marriage *itsbat*, including Judge and Junior Registrar of Banda Aceh Syar'iyah Court, and the Head of the Registrar Section in Islamic Religious Affairs at Aceh Regional Office of Ministry of Religious Affairs. While the secondary data sourced from legislation, the decisions of the Religious Courts/Syar'iyah Court, as well as legal and non-legal scientific journals related to this article's discussion. The data were then analyzed using prescriptive analysis to provide arguments for the research findings

### **Marriage *itsbat* determination in Aceh**

The word marriage (*nikah*) comes from Arabic language *nikaahun* which is *masdar* of verb *nakaha* meaning intercourse or agreement, as the synonym of *tazawwaja* later translated into Indonesian as *perkawinan* (marriage). The word *nikah* is often used because it has become part of Indonesian language (Hakim, 2000, p. 11). Terminologically, it is a contract (agreement) that justifies sexual relations between a man and a woman (Ramulyo, 2002, p. 1). Marriage makes one thing paired with another, both of which are called a pair (*az-zanjain*) (Al-Shabbagh, 1994, p. 1).

It is a contract that justifies association and limits rights and obligations as well as mutual assistance between a man and a woman who are both non-*mahram* (Rahman and Shukardja, 1981, p. 11). The law of marriage has the substance to obey the commands of Allah and His Messenger, specifically the realizing the benefits marriage life for the couples, descendants, and society (Hakim, 2000, p. 13).

Marriage is Allah and the Prophet *sunnah*. The *sunnah* of Allah means according to His *qudrat* and *iradat* in the world creation, while the Sunnah of Prophet means traditions established by the Prophet for himself and for his people (Syarifuddin, 2005, p. 76). Like other worships, marriage also has terms and conditions (Armalina, 2018, p. 129).

It is not only a civil, familial, or cultural issue, but also a religious one, because it is carried out to fulfill the provisions of Allah and the Prophet, in accordance with their instructions (Syarifuddin, 2005, p. 81). Meanwhile, in Indonesia legal system, according to Law No.1 of 1974 Article 2 Paragraph (2) stating: “*every marriage is registered according to the applicable laws and regulations,*” marriage registration is a compulsory. It is an administrative process carried out by Marriage Registrars (PPN) based at the Office of Religious Affairs (KUA) for Muslims, and at the Civil Registry Office (KCS) for non-muslims (Gani, 2018: 3). It is to provide legal certainty for marriage parties. Legal certainty is as a guarantee for community members, that everything will be treated by the state/ruler based on law, not arbitrarily (Nazah and Husnia, 2018, p. 242). Marriage registration is used as an administrative requirement, considering its important influences and impacts (Syahuri, 2013, p. 103). This administrative requirement is intended to ease the couples to take care of family civil matters, related to joint property, livelihood rights, inheritance rights and others.

Nowadays, there are some people not registering their marriages at KUA, either before or after the regulations concerning marriage. Unregistered marriages are unlawful acts because they do not register their marriages in front of the PPN and KUA (Khamidyah and Hertina, 2020, p. 3). Therefore, in getting state recognition related to the sufficiency of pillars and conditions religiously, the government provides a solution for unregistered marriages by itsbat marriage determination (Khairuddin and Julianda, 2017, p. 322). According to Sururie, (2017b, p. 236), essentially the marriage itsbat is a form of determination, and not ratification, as an indication that it is carried for administrative order.

In Indonesia, the authoritative institution to issue marriage *itsbat* for unregistered marriage is the Religious Court. It is one of the bodies of the Religious Justice at the first level (Lubis and Dewi, 2005, p. 4). But specifically for Aceh, considering the enactment of the Special Autonomy for the Province of Aceh Special Region as the Province of Nanggroe Aceh Darussalam (it has been replaced by Law No. 11 of 2006 concerning the Government of Aceh Jo. Qanun of the Province of Nanggroe Aceh Darussalam No. 10 of 2002 concerning the Islamic Sharia Courts), then the name changed to the Syar'iyah Court.

Marriage *itsbat* implementation is the absolute authority of the Religious Courts/Syar'iyah Courts because it is included in the marriage section. In the Article 7 Paragraph (2) and Paragraph (3) of KHI, it is explained that the marriage *itsbat* can only be submitted to the Religious Court/Syar'iyah Court. The submission is also limited to some matters, such as the marriages existence for the divorce settlement process, lost marriage certificates, the doubts about the validity of previous marriages, and marriages not contradicting to provision of Law no. 1 of 1974.

Marriage *itsbat* is carried out through the application process from the concerned parties. In Article 7 paragraph (4) of KHI, it is explained that those who are entitled to apply are husband or wife, their children, marriage guardians and parties with an interest in the marriage. In addition to the procedures and parties having the right, the researchers view that there are impacts that arise before the provision of marriage registration causing problems in the future. On one hand, Islamic law states that the marriage is valid when meeting the requirements and pillars even without marriage certificate. On the other hand, positive law states marriage validity when it fulfills the elements of Law no. 1 of 1974 and KHI (Agama, 2001, p. 15).

Unregistered marriages happened a lot in Aceh. Though the government has provided access and convenience, both technically and procedurally for registering marriages at KUA, *sirri* marriages still occur both in cities and villages. There are several reasons for Aceh people to marry without registration, most believe that *sirri* marriage is valid according to religion when fulfilling pillars and conditions, even not registered by the authorities. The awareness of its disadvantages only appears when they need a state recognition for their children like a birth certificate.

Abdul Latief (Junior Registrar at Aceh Syar'iyah Court) said that the marriage itsbat applicants performed unregistered marriages due to several factors, including conflicts, not getting parents' permission, and unregistered marriage to avoid adultery. In this case, the conditions and pillars of their marriage have also been fulfilled in an Islamic way, but without registration to the state. Another condition is that during the conflict, many couples were married but did not have marriage certificate, or were not registered in KUA. For now, marriage itsbat can be implemented to them to get clear legal status, legal protection and legal certainty for their marriage.

Regarding people with unregistered marriages, Yusri (Judge at Aceh Syar'iyah Court) added that this was due to several factors, including: *First*, they considered that there was no further interest after the implementation of sirri marriage, and they thought that all problems were solved. This was due to their lack of understanding about the usefulness of marriage registration in the future. *Second*, there is a stigma in society that marriage is enough and valid when it fulfills the pillars and conditions (religiously). *Third*, the sirri marriage practices through illegal *qadhi* intermediaries occur in the field, and many people are affected and willing to use this illegal *qadhi* for their sirri marriages. *Fourth*, people like instant gratification, especially when they do not have sufficient administrative files, for example, they are still underage or constrained by parental permission.

Khairuddin, Head of Registrar and Facilitation of the Sakinah Family at Aceh Regional Office of the Ministry of Religious Affairs, also stated that this sirri marriage has a very close relationship with marriage registration. For him, marriage registration is proof of marriage administration handled by the Marriage Registrar (PPN) intending for legal order. Registering marriages aims to provide legal protection and legal certainty for the couples, in order for the state as an organization that houses all its citizens can provide authentic evidence in the form of a marriage book as written evidence of a marriage. Hence, the couple can defend their marriage to anyone in the country before the law. Understanding that marriage is religiously legal only, without being accompanied by state regulations, will not cause problems for the perpetrators but for the children in the future. This is related to the formal education that cannot be carried out, considering the absence of administrative requirements like birth certificate, as they are born in unregistered marriage.

Regarding the implementation of marriage itsbat in Aceh province, it can only be done at the Syar'iyah Court, and its implementation is divided into two models: independent and integrated. The integrated marriage itsbat is free of charge, because it is funded by the government through the State Budget intended for the poor and financially deprived, by attaching a poverty certificate. In contrast, the independent marriage itsbat is subject to court fees in each case.

Abdul Latief added that generally marriage itsbat applications are due to urgent needs, such as registering children into educational institutions, making birth certificates and others. Marriage itsbat is a solution for unregistered marriage to be recognized by the state with a marriage certificate as authentic evidence. Then, it should be noted that for Aceh Province, the determination of marriage itsbat has never been in Aceh Syar'iyah Court, but is decided only at the first-level of Syar'iyah Court in the Regency/City of Aceh province.

The procedures and processes for submitting, examining and completing applications for marriage itsbat must be guided by the following matters:

1. The application for marriage itsbat can be submitted by husband and wife, or one of them, children, marriage guardians, or other interested parties addressed to the Syar'iyah Court according to domicile;
2. The application for marriage itsbat can be submitted together with a lawsuit/application for divorce. An application for a marriage isbat is a voluntary case, but if one of the husbands or wives dies, the application for a marriage isbat case is considered contentious, and all heirs must be made "parties";
3. The applicant submitting marriage itsbat must first pay the down-payment of court fees through the Bank, the amount of which is in accordance with the estimated table 1 as stated in the SKUM. For those who are unable to pay court fees, they can apply for free;
4. After the down payment of the court fee is made, then the applicant registers his case to the Syar'iyah Court by attaching proof of the payment slip through the bank, and then the applicant goes home and waits for a court summons;
5. The chairman of the Syar'iyah Court, makes PMH and the judges who are determined must immediately make a PHS / determination of the day of the trial, which was previously announced within 14 days by radio. After 14 days of announcement, the trial



can be held, and the applicant is summoned by the bailiff to attend the trial, at least 3 working days before the trial is held;

6. If the application is granted, the Syar'iyah Court will issue a decision, a copy of this determination can be taken within 14 days of the trial reading the decision/trial ends.
7. A copy of the stipulation can be taken alone or by representative to another person with a power of attorney, and then a copy of this stipulation is brought and submitted to the KUA Office where the applicant lives, to be recorded in the register and replace it with a Marriage Book.

It can be concluded that the implementation of marriage itsbat in the Aceh Syar'iyah Court is a mandate from Law no. 1 of 1974 and KHI which gives absolute authority to the Syar'iyah Court, in this case as regulated in the KHI regulations in Article 7 paragraph (2), for marriages that were not previously registered, can submit an application for its marriage certificate to the Syar'iyah Court. Meanwhile, the parties who have the right or who can apply for a marriage itsbat, as stated in Article 7 paragraph (4), are husband or wife, their children, marriage guardians and parties with an interest in the marriage.

Especially for Aceh Province, the implementation of marriage itsbat is also regulated exclusively in Governor Regulation No. 25 concerning One-day Integrated Service for Marriage Ratification (marriage itsbat). The regulation was made to accommodate parties who carried out marriages during the conflict in Aceh and the tsunami disaster, but were not recorded in state documents in order to create independent, dignified, and administratively orderly Acehese society. The period or time limit for marriage itsbat implementation for the "One-day service" pattern is no later than 5 (five) years since this Governor Regulation comes into effect.

### **Factors for itsbat marriage to be granted**

From a juridical point of view, a marriage itsbat application should only be submitted by couple whose marriage took place before enactment of the Marriage Law, as stated in the explanation of Article 49 of Law no. 7 of 1989 in conjunction with Law No. 3 of 2006 in conjunction with Law No. 50 of 2009 that one of the authorities of the Religious Courts in the field of marriage is to issue a statement regarding the validity of marriage that occurred

before the enactment of Law no. 1 of 1974 and carried out according to other regulations. In fact, many marriages were carried out after the Law Marriage enactment, but the itsbat application was granted by the Syar'iyah Court, as related to the data about marriage itsbat numbers granted by the Aceh Syar'iyah Court in the last three years, between 2017 until 2019. In 2017, the number of marriage itsbat applications received was 3,688. In 2018, it increased to 3,848, and in 2019, it increased again to 4,296.

Referring to the data, by looking at the numbers of marriage itsbat application submitted to the Syar'iyah Court, it is undeniable that the phenomenon of marriage through illegal *qadhi* continues to increase every year. This trend can indirectly create a stigma in the community about the legality of sirri marriages, and can justify the marriage process through illegal *qadhi* intermediaries, because in the end, the couple can apply for marriage itsbat at the Syar'iyah Court.

The following are some examples of marriage itsbat approval for unregistered marriages conducted after the enactment of Law no. 1 of 1974, issued by the first level of Syar'iyah Court, under Aceh Syar'iyah Court jurisdiction:

1. Decision of the Lhokseumawe Syar'iyah Court Number: 95/Pdt.P/2019/MS.Lsm. on August 28, 2019, between applicant I and applicant II, where the couple had submitted an application for legalization of marriage/itsbat at the Lhokseumawe Syar'iyah Court Registry on August 5, 2019, after previously they had been married in a sirri manner on June 5, 2019 in Gampong Blang Pulo, Muara Satu District, Lhokseumawe City.
2. The decision of the Banda Aceh Syar'iyah Court Number: 89/Pdt.P/2018/MS-Bna, which has issued the approval of the marriage certificate for the couple of applicant I and applicant II, where on June 28, 2018 they have submitted an application for marriage itsbat with a letter of application, having previously held an Islamic marriage on September 21, 2012 at the Nurul Huda Islamic Boarding School, Baktiya Panton Labu District, North Aceh Regency.
3. Decision of the Sigli Syar'iyah Court Number: 945/Pdt.P/2020/MS-Sgi, between applicant I and applicant II, in which the couple has submitted an application for marriage itsbat with an application letter dated November 16, 2020 registered by the Registrar of the Sigli Syar'iyah Court, having previously married in accordance with

Islamic religious provisions on November 22, 2019 at the Hidayatussadikin Islamic Boarding School, Gampong Bayu, Darul Imarah District, Aceh Besar District.

4. Decision of the Lhokseumawe Syar'iyah Court Number: 165/Pdt.P/2020/MS-Lsm, which has issued the approval of the marriage certificate application between applicant I and applicant II, in which the couple submitted an application for marriage itsbat with an application letter dated November 20, 2019 , having previously married in a sirri manner on June 1, 2017 at Geudong, North Aceh Regency.
5. Decision of the Tapaktuan Syar'iyah Court Number: 352/Pdt.P/2019/MS.Tt, which granted the petition for marriage validation between applicant I and applicant II, based on the letter of submission of the application for marriage itsbat dated December 3, 2019, after they previously got married legally according to Islamic law on July 13, 2017 in Medan City.

Generally, viewed from the reasons for the applicants submitting the marriage certificate to the Syar'iyah Court, in addition to obtaining legal protection and certainty for marriage, it is also for the process of administering their children's birth certificates. This implies that the perpetrators of unregistered marriages want to clarify the status of their children born from unregistered marriages or are not registered with the Marriage Registrar of the District Religious Affairs Office. In the birth certificate for children born from unregistered marriages issued by the Civil Registry Office, it will only include the mother's name, just the same as that for children born outside marriage. Hence, one of the purposes of marriage itsbat implementation by the Syar'iyah Court is to provide protection for children born from marriages that are not illegal in according to the state.

Based on the decisions of the marriage itsbat approval above, in this case the judges generally used sub-letter (e) in the KHI Article 7 Paragraph (3) as a basic reference in order to grant the application for marriage itsbat, namely "*Marriage carried out by those who have no marital barriers according to Law No. 1 of 1974 concerning Marriage.*" According to Yusri, as long as there are no obstacles and does not contradict the Marriage Law, the application for marriage itsbat will be granted. Legal marriage according to religion also means legal according to the state. In a sense, the marriage registration must still be carried out, but it is more about administration.

This means that marriages that have been carried out in a religious manner and met the pillars and conditions, but are not registered, does not have legal force and legal protection by the state. If at any time there is a dispute, then the perpetrator may deny that they were married before, because there is no written evidence, and it has no legal force. Therefore, the request for marriage *itsbat* is granted for the benefit.

Regarding marriages that are legally valid according to religion, but are not registered, Abdul Latief argues that in this case the judges see more benefits than the harms gained in granting marriage *itsbat* application. Especially for children, who basically are victims of *sirri* marriage, because they will be difficult to get their rights due to their unclear legal status and the civil element is returned to their mother. Their administrative forms, such as birth certificate, school registration, identity card and others cannot be processed, considering that the marriages of their parents have no legal protection.

When associated with *maqashid sharia* theory, marriage *itsbat* has a very close relationship, as its one of part is to maintain *nasab*. Islam regulates marriage, forbids adultery, and explains people who can and cannot be married. In the context of maintaining descendants, the status of the children must be clear, recognized by religion and the state. Benefit is the essence of *maqashid sharia* (Mutakin, 2017, p. 548). The birth certificate is a state recognition, and it is obtained with authentic evidence of marriage in the form of a marriage certificate (Huda, 2018, p. 12).

Furthermore, Yusri added that one of the reasons in granting marriage *itsbat* to unregistered marriages after the enactment of Law No. 1 of 1974 is because the Syar'iyah Court, like other courts, has the main task of completing every case and the court is prohibited from rejecting a case because the law is unclear or does not yet exist. All cases must be carried out in accordance with applicable regulations. Likewise, the Syar'iyah Court is obliged to accept, examine and adjudicate marriage *itsbat* application in accordance with applicable regulations. At the trial stage, the judge will decide whether the application for marriage *itsbat* is granted or rejected.

The importance of applying for marriage *itsbat* can be seen from both Islamic law and positive law that apply in Indonesia. In Islamic law, the marriage *itsbat* is not explained either in the Qur'an or Hadith. The essence of the problem is, the marriage has been

carried out in accordance with religious advice, by fulfilling the pillars and conditions, but is not registered. Therefore, the determination of marriage itsbat is not urgent thing, because this is not included in the primary needs in Islamic law, as this marriage is carried out legally by fulfilling the pillars and conditions.

In contrast, when viewed from a positive law, marriage itsbat is part of the primary interest. Indonesia is a state of law, where the state benefit is in every behavior limited by government. In marriage, regulation is necessary to limit human behavior not to harm others. Marriage itsbat is necessity for citizens to help marriages carried out legally according to Islamic religious law, because without legalization before the law, then it does not get legal protection. Indonesia is a law state whose interests must be contained in a legal institution for the sake of its order and rights arising from legal actions.

Thus, it can be understood that the reason in granting marriage itsbat, even it is not in accordance with applicable regulations, is for the benefit of people, because there are some who do not register their marriage and they have no marriage certificate as an administration in the state. In this case, the Syar'iyah Court must be selective in granting marriage itsbat application to avoid legal confusion and provides opportunities for other unregistered marriages (Muksalmina, 2020, p. 58).

## **Conclusion**

The marriage itsbat determination in Aceh is the absolute authority of the Syar'iyah Court. The parties entitled to apply for marriage itsbat are husband or wife, their children, marriage guardians and parties with an interest in the marriage. In particular, marriage itsbat in Aceh is also regulated in Governor Regulation No. 25 of 2017 concerning one-day service for marriage legalization (Itsbat Nikah). Its implementation provides legal protection for those who have previously married religiously, but were not registered, to get recognition for the validity of their marriage.

The judges use sub-letter e in Article 7 Paragraph (3) of the KHI, namely *“Marriage carried out by those who have no marital barriers according to Law no. 1 of 1974,”* as a basic reference in order to grant the marriage itsbat application. The benefits obtained through marriage itsbat determination are more than the harms. On the other hand, the government needs to

pay attention to closing the marriage itsbat room as an entry point for the justification for unregistered marriages and illegal *qadbi* practices by conducting intensive communication and coordination with relevant agencies and conducting periodic socialization regarding the adverse effects of unregistered marriages to increase public legal awareness.

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**Interview**

Latief, A., Junior Registrar at Aceh Syar'iyah Court, 2021.

Khairuddin, Head of Registrar and Facilitation of the Sakinah Family at Aceh Regional  
Office of the Ministry of Religious Affairs, 2021.

Yusri, Judge at Aceh Syar'iah Court, 2021.