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The Effectiveness of Marriage Confirmation on the Certainty of the Legal Status of Siri Marriages at the Tilamuta Religious Court

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ABSTRACT

This article analyzes the effectiveness of marriage confirmation (isbat nikah) on the legal status of unregistered marriages at the Tilamuta Religious Court and the factors influencing it. Unreligious marriages raise legal issues because they are religiously valid but lack state-recognized administrative evidence. This study uses an empirical juridical method, collecting data through observation, interviews, and document studies, followed by qualitative analysis. The results indicate that marriage confirmation (isbat nikah) provides legal certainty regarding marital status, facilitates population administration, and strengthens the protection of the rights of husbands, wives, and children. Data on marriage confirmation hearings at the Tilamuta Religious Court from 2020 to 2024 totaled 525, increasing from 20 in 2020 to 191 in 2024. Factors influencing the effectiveness of marriage confirmation include socio-cultural factors, economic factors, education and legal awareness, access to and availability of information, administrative factors and evidence, and reliance on oral traditions. This article confirms that marriage confirmation (isbat nikah) is effective as a means of legal certainty, but requires more responsive outreach and service support.

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1. Introduction

Marriage is a legal event that not only has religious and social significance, but also impacts the civil rights of husband, wife, and children. In Indonesian law, a marriage is considered valid if it is conducted according to the laws of each religion and belief and is registered according to statutory regulations [1]. Marriage registration provides authentic evidence in the form of a marriage certificate which serves as the basis for legal protection for family status, inheritance rights, maintenance, child identity, and population administration.

In practice, many couples still enter into unregistered marriages, meaning marriages performed according to religion but not registered with the Office of Religious Affairs. A unregistered marriage can be considered valid according to religion if it meets the pillars and requirements, but it lacks sufficient evidence before the state. As a result, couples and children born of these marriages face difficulties in obtaining population documents, birth certificates, inheritance rights, and other legal protections.

The Compilation of Islamic Law provides a marriage confirmation mechanism as a way to obtain legalization of unregistered marriages [2]. Marriage confirmation serves as a bridge between the validity of a marriage according to religion and state administrative recognition. At the Tilamuta Religious Court, data on marriage confirmation hearing applications showed a significant increase from 2020 to 2024. In 2020, there were 20 applications, 51 in 2021, 74 in 2022, 189 in 2023, and 191 in 2024, for a total of 525 applications.

Previous research on marriage confirmation generally explains the legal basis and procedures for marriage validation. However, empirical studies are needed to assess the effectiveness of marriage confirmation in providing legal certainty for unregistered marriages within the Tilamuta Religious Court. The research gap lies in the analysis of factors influencing the effectiveness of marriage confirmation, particularly socio-cultural factors, economic factors, legal education, access to information, and evidence. This article's novelty lies in the use of data from the past five years and its emphasis on the effectiveness of marriage confirmation as a legal protection for families.

From the description above, the problem formulation of this research is:

1. How effective is the marriage confirmation on the certainty of the legal status of a siri marriage at the Tilamuta Religious Court?
2. What factors influence the effectiveness of marriage confirmation on the certainty of the legal status of unregistered marriages at the Tilamuta Religious Court?

In line with the problem formulation above, this study aims to analyze the effectiveness of marriage confirmation and the factors influencing it. This article's contribution is expected to provide input for strengthening marriage confirmation services and increasing public awareness of the importance of marriage registration.

2. Research Methods

This study employs an empirical juridical approach. The juridical approach is used to examine the Marriage Law, the Compilation of Islamic Law, religious court procedural law, and marriage registration provisions. The empirical approach is used to examine the practice of marriage confirmation hearings at the Tilamuta Religious Court and the social factors influencing their effectiveness.

Primary data was obtained through observation and interviews, while secondary data was obtained from marriage confirmation application documents, laws and regulations, books, and journals. The data was analyzed qualitatively by grouping findings based on the effectiveness of marriage confirmation and the factors influencing it, then linking them to theories of legal certainty and the protection of family rights.

3. Results and Discussion

This article aims to assess the effectiveness of marriage confirmation from two perspectives. First, its effectiveness in providing legal certainty for couples in unregistered marriages. Second, it examines the factors that strengthen or hinder this effectiveness. The analysis is conducted using data from marriage confirmation applications at the Tilamuta Religious Court as the factual basis and marriage legal norms as the legal basis.

3.1. Effectiveness of Marriage Confirmation on the Certainty of the Legal Status of Siri Marriages at the Tilamuta Religious Court

Marriage confirmation effectively provides legal certainty because it results in a court ruling that can serve as the basis for marriage registration. With this ruling, couples previously married under Islamic law receive legal recognition from the state. This recognition is crucial because it transforms the marital status from merely a religiously recognized relationship to one with administrative evidence and clear legal consequences.

Data from the Tilamuta Religious Court shows an increase in marriage confirmation applications over the past five years: 20 in 2020, 51 in 2021, 74 in 2022, 189 in 2023, and 191 in 2024. This increase demonstrates the growing public demand for legal certainty regarding unregistered marriages. On the one hand, this figure reflects the continued high number of unregistered marriages; on the other hand, the increase in applications also indicates that the public is beginning to understand the importance of marriage legality.

The legal certainty of marriage confirmation has a direct impact on population administration. Couples can apply for marriage certificates, family cards, birth certificates, and other documents requiring proof of marriage. For children, marriage confirmation clarifies their legal relationship with their parents, thereby strengthening the protection of their rights to identity, support, inheritance, and other civil rights. Thus, marriage confirmation not only resolves administrative issues but also protects the family's fundamental rights.

The author's position is that marriage confirmation is effective as an instrument of legal certainty, but its effectiveness is corrective. This means that marriage confirmation resolves the legal consequences after a siri marriage has occurred, not preventing unregistered marriages from occurring. Therefore, the success of marriage confirmation must be accompanied by education so that the public no longer views marriage registration as a secondary matter. Initial registration remains the most ideal legal option.

3.2. Factors Influencing the Effectiveness of Marriage

Confirmation on the Certainty of the Legal Status of a Siri Marriage

Sociocultural factors significantly influence the effectiveness of marriage confirmation. Some people still believe that religiously valid marriages are sufficient, so state registration is not considered urgent. This view allows unregistered marriages to continue. Only when administrative requirements arise, such as obtaining a child's birth certificate or civil registration documents, do couples apply for marriage confirmation. This demonstrates that the legal culture of society has not yet fully recognized marriage registration as a primary need.

Economic factors also play a role. Some couples don't register their marriages due to limited funds, access to services, or unfamiliarity with the procedures. Furthermore, education and legal awareness determine the public's ability to understand the legal implications of unregistered marriages. People with limited legal understanding tend to be unaware that the lack of a marriage certificate can impact children's rights, inheritance rights, and the wife's legal protection.

Administrative and evidentiary factors also determine effectiveness. During the marriage confirmation hearing, the couple must prove that the marriage has fulfilled the pillars and requirements, such as the presence of a prospective husband, prospective wife, guardian, witnesses, and the ijab kabul (contract of marriage). If the marriage has been ongoing for a long time and witnesses are difficult to find, proving the marriage becomes more complicated. Reliance on oral traditions in society can also complicate the evidentiary process in court.

Compared with previous research, these findings confirm that the effectiveness of marriage confirmation is determined not only by the existence of regulations, but also by public access to legal information and services. This article's findings emphasize that the Tilamuta Religious Court needs to expand outreach, simplify procedural information, and collaborate with the Office of Religious Affairs (KUA) and local governments to make marriage confirmation more responsive and encourage early marriage registration.

4. Conclusion

Marriage confirmation effectively provides legal certainty for unregistered marriages at the Tilamuta Religious Court. This confirmation facilitates marriage registration, population administration, and protects the rights of husbands, wives, and children. Data from 525 applications from 2020 to 2024 demonstrates the high public demand for legalization of unregistered marriages.

Factors influencing the effectiveness of marriage confirmation include socio-cultural, economic, educational and legal awareness factors, access to information, administrative and evidentiary factors, and reliance on oral tradition. The author emphasizes that marriage confirmation is important as a corrective mechanism, but early marriage registration must remain a priority through outreach and responsive legal services.

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