

INEFFICIENCY OF MARRIAGE LEGALIZATION (ITSBAT NIKAH) IN INDONESIAN LAW (COMPARATION OF MALAYSIAN SHARIA LAW)

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Abstract

Marriage legalization (itsbat nikah) procedure aims to provide legal protection for parties bound by marriage. Unregistered marriages are not only practiced by poor people in villages or the uneducated, but also by the upper middle class and educated. Ironically, unregistered marriages are used to manipulate existing legal regulation. Most parties who enter unregistered marriages are people who are not legally permitted to marry. Previous research shows that marriage legalization (itsbat nikah) applications in Indonesia continue to increase, indicating that the regulation has not effectively suppressed unregistered marriages. Prior studies also reveal a paradox. While itsbat nikah provides legal protection for spouses and children, it may also function as a legal loophole by allowing unregistered marriages to be legalized after they have already occurred. However, the ambiguity and preventive capacity of Articles 401–404 of Law Number 1 of 2023 concerning the Criminal Code in relation to unregistered marriages have not been sufficiently examined in previous studies. The question that arises is whether the itsbat nikah procedure is still relevant or needs improvement. To answer this question, this study compares Indonesian regulation on marriage legalization with Sharia law in Malaysia. This comparison is made because both countries have regulations on itsbat nikah, while Malaysia shows a decrease in cases of unregistered marriages. This study employed an empirical normative research method with the theory of law as a tool of social engineering. The originality of this research lies in its analysis of itsbat nikah not only as a post-factum legalization mechanism, but also as a legal instrument that should encourage compliance with marriage registration. The results indicate that Indonesian marriage legalization law remains inefficient, while Malaysian Sharia law provides a stronger preventive model through clearer sanctions and institutional control. This study contributes to Indonesian marriage law reform by evaluating the weaknesses of the current itsbat nikah regulation and the potential role of the new Criminal Code in preventing unregistered marriages.

Keywords: Law enforcement, Comparative Law, Marriage Law.

A. Introduction

This research is driven by the author's previously published research entitled "*The Paradox of Marriage Legalization (Itsbat Nikah) in The Paradox Indonesia: Legal Protection or Loophole.*" The results show that the marriage legalization procedure in Indonesia has a noble goal: to provide legal protection for parties bound by unregistered marriages (*nikah sirri*). However, in practice, the regulation on marriage legalization has many shortcomings and legal loopholes. This is evident in the number of unregistered marriages (*nikah sirri*), which has increased from year to year. Likewise, the number of marriage legalization applications, especially at the Cibinong Religious Court, continues to increase. In 2020, there were only 888

cases of marriage legalization applications, which then increased and peaked at 1,863 in 2023. This data clearly shows that the marriage legalization regulation is ineffective in encouraging law-abiding society.¹

The author also agrees with Paradika Rhassely Adi Pratama, et al., who explain that the marriage validation process is a solution for children born from unregistered marriages. Through the marriage validation process, the child's status becomes legally valid and they have a legal relationship with their biological mother and father. Therefore, the child has the right to inheritance rights, guardianship rights, and the inclusion of the father's name in population documents.² In journal "*Itsbat Nikah: Legalizing Marriage Outside the Record in Indonesia*," Rifky Kurnia Wazzan et al. stated that if the practice of unregistered marriages is allowed to continue, it will create social and legal problems in society. These problems arise because unregistered marriages do not provide legal protection for the parties, including children born within unregistered marriages.³

Registering a marriage with a marriage registrar is crucial. Marriage registration provides legal protection for husband and wife, including for any children born of the marriage. Marriage registration provides legal protection from the state, ensuring that their rights, such as the right to be recognized as citizens and respected as legal subjects, are fully fulfilled. Furthermore, marriage registration provides access to state services for family members and, more broadly, contributes to the establishment of public order.⁴ This view aligns with Muhammad Latif Fauzi's opinion in his journal entitled "*Administrative Transgression and Judicial Discretion for the sake of citizens rights: The Legalisation of Unregistered Marriages in Indonesia*".

In practice, the *itsbat nikah* regulation was originally intended to suppress unregistered marriages, but in reality, it was used to justify the practice of unregistered marriages. Upon closer examination, unregistered marriages are not only practiced by poor rural communities or the uneducated, but also by couples who do not legally meet the requirements for marriage, such as being underage, having a pregnancy outside of marriage, or having polygamy hidden from the first wife.

Based on the above description, the practice of unregistered marriage should be irrelevant. However, in reality, cases of unregistered marriage in Indonesia are still widespread. Ironically, unregistered marriage in Indonesia is not only found in rural areas but also among educated urban communities. This is reflected in the case that attracted public attention, namely the unregistered marriage in August 2025 between celebrity Instagrammer IR (status: widow) and IF (status: legal husband of WM). IR does not come from a low-income family, while IF

¹ Zaitun Abdullah and Putri Ayu Maharani, "The Paradox of Legalization of Marriage (Itsbat Nikah) in The Paradox Indonesia: Legal Protection or Loophole," *Sociological Jurisprudence Journal* 8, no. 2 (2025): 171–81, <https://doi.org/10.22225/scj.8.2.2025.171-181>.

² Paradika Rhassely Adi Pratama et al., "Determination of the Origin of Children Strengthens Legal Protection of the Status of Children Due to the Rejection of Itsbat Nikah," *Interdisciplinary Social Studies* 4, no. 3 (2025): 231–39, <https://iss.internationaljournallabs.com/index.php/iss/article/view/846>.

³ Rifky Kurnia Wazzan et al., "Itsbat Nikah: Legalizing Marriage Outside the Record in Indonesia," *International Review of Social Sciences Research* 4, no. 2 (2024): 29–45, <https://doi.org/10.53378/353057>.

⁴ Muhammad Latif Fauzi, "ADMINISTRATIVE TRANSGRESSION AND JUDICIAL DISCRETION FOR THE SAKE OF CITIZENS' RIGHTS The Legalisation of Unregistered Marriages in Indonesia," *Al-Ahwal* 16, no. 2 (2023): 211–31, <https://doi.org/10.14421/ahwal.2023.16202>.

has a sufficient educational background, having graduated from a Computer Science degree from a renowned university.

In previous research, the author examined marriage legalization applications within the jurisdiction of the Cibinong Religious Court. In this study, the author focuses on marriage legalization applications in Tangerang Regency (Tigaraksa Religious Court). The results show an increase in the number of marriage validation applications at the Tigaraksa Religious Court from 2023 to 2025.⁵ Ironically, the research results show that many unregistered marriage applications that require marriage registration are still found in the Tangerang Regency. Furthermore, the author has also collected field data in the form of a questionnaire by sampling the opinions of residents who were participating in the "Community Service: Integrated Marriage Legalization" activity held on Friday, November 21, 2025, in Pakuhaji District, Tangerang Regency, Banten, Indonesia. There were approximately 50 people from Pakuhaji District who attended the event to register their marriages (marriage registration). Of these 50 people, the author obtained 31 people who were willing to answer and fill out the questionnaire.

From the description above, it is clear that the marriage legalization regulation does not function well as a law as social engineering, namely changing people's behavior into a law-abiding society. Therefore, the author is interested in obtaining comparative data regarding the marriage legalization regulations in force in Malaysia. Based on the data obtained by the author, in 2003 Malaysia carried out a policy update by providing criminal sanctions in the form of fines and imprisonment for anyone who marries without the knowledge of the state. Based on the Islamic Family Law (Selangor State) of 2003, marriages conducted without the knowledge or permission of the government (*nikah siri*) can be subject to criminal threats in the form of a maximum fine of RM 1,000 (one thousand ringgit) / equivalent to Rp 4,000,000, - (four million rupiah) or imprisonment for a maximum of 6 (six) months by the Sharia Court.

In Indonesia, criminal sanctions in the form of fines are actually regulated in Article 45 of Government Regulation No. 9 of 1975 concerning the Implementation of the Marriage Law. However, in its implementation, Imron Rosyad et al., in their journal entitled "*Criminalization of Unregistered Marriage in Indonesia: A Legal System Analysis Based on Friedman's Theory*", concluded that the regulation under the Government Regulation can be declared null and void because criminal sanctions must be regulated by law. Therefore, the Marriage Law needs to be revised immediately.⁶

In the modern era, unregistered marriages in Indonesia should ideally be obsolete, given the negative consequences and harm they entail. However, interviews with legal practitioners—including a judge from the Cibinong Religious Court, the head of the Cibinong Marriage Registration Office, academics, and members of the public—reveal that *itsbat nikah* cases persist due to legal irregularities committed by the parties involved. These include

⁵ Sistem Informasi Penelusuran Pengadilan Agama Tigaraksa Perkara, "Kasus Permohonan Itsbat Di Pengadilan Agama Tigaraksa," n.d., https://sipp.patagaraksa.go.id/list_perkara/page/2/QWRxYVB1cWQrY2Uyd3hObERJa2RGSWxmNTAybXM3aU5sRjB1QU5TZ292WG5TYVBrd216SnRocVRRaHB6S1ViYkw4TmVWRlpVUDRWV2VLRDcxTHVtK3c9PQ==/ZUV0WUtXczh3UW0yVWN5NVU4NjU5d1pyUzEyTjksSjZicHNsNjVrajll1IyUWFEem1OR2Mrd3VDS3h0a0wwWVduaFl3bzZuWGIySDRITkVNVUNiYUE9PQ==/col/2.

⁶ Imron Rosyad, Helmy Ziaul Fuad, and Ashlaha Baladina Zaimuddin, "Criminalization of Unregistered Marriage in Indonesia: A Legal System Analysis Based on Friedman's Theory," *Al-Adalah* 22, no. 1 (2025): 147–80, <https://doi.org/10.24042/adalah.v22i1.22779>.

polygamy concealed from a lawful wife, marriages between individuals not legally eligible to marry, and other forms of legal abuse. This study distinguishes itself from previous research by comparing *itsbat nikah* cases in Cibinong, Indonesia, with those in the Malaysian states of Selangor and Sarawak between 2023 and 2025. The analysis highlights the ineffectiveness of Indonesian regulations regarding penalties for unregistered marriages and the overly lenient requirements for *itsbat nikah*. Insights gained from expert interviews and a comparative legal analysis offer valuable recommendations for improving Indonesia's legal system. Furthermore, the author hopes that the new Criminal Code (Law No. 1 of 2023)—set to take effect on January 1, 2026—will be effectively implemented to curb the incidence of unregistered marriages.

B. Method

This study uses an empirical normative research method. The data used are secondary data in the form of primary, secondary, and tertiary legal materials, by analyzing the laws and regulations in force in Indonesia and Malaysia regarding *itsbat nikah*. The regulations to be studied from Indonesian law include Marriage Law Number 1 of 1974, Government Regulation Number 9 of 1975 concerning the Implementation of the Marriage Law, and Law Number 1 of 2023 concerning the Criminal Code which officially came into effect on January 1, 2026, specifically Articles 401-404 of the Criminal Code concerning Criminal Acts Against the Origin and Marriage. Meanwhile, comparative regulations from laws in force in Malaysia include the Islamic Family Law (State of Selangor) 2003 and the Sarawak Islamic Family Law Ordinance 2001.

In addition to secondary data, this study utilizes primary data derived from the author's interviews with residents of Pakuhaji Village, Tangerang Regency, Banten, Indonesia. The author also interviewed judges at the Bandung High Religious Court, judges at the Sarawak Sharia Court, Malaysia, and sought the opinions of the Islamic Marriage Law Teaching Team. Through this data collection, the author hopes to generate sound input for improving and innovating Islamic marriage law in Indonesia. Furthermore, this research is expected to create a legally aware and law-abiding society in order to create people who have manners in interacting with others as mandated in the second principle of Pancasila. The approach used is a comparative approach with qualitative prescriptive data analysis.

C. Discussion

1. The Paradox of Marriage Confirmation in Indonesia

Marriage is a sacred bond and promise between husband and wife to form a harmonious family and to continue the lineage. In short, Imam Al Ghazali explained that one of the purposes of human marriage is the desire to have legitimate children, human biological needs, channeling human compassion, fostering the spirit to seek a better, decent life, encouraging someone to improve their standard of living, and continuing a quality generation. In addition, the Compilation of Islamic Law explains that the purpose of marriage is to form a harmonious, loving, and compassionate family. In line with that, the Indonesian Constitution, namely the

1945 Constitution of the Republic of Indonesia, explains that the purpose of marriage is to form a happy and eternal household according to the One Almighty God.⁷

According to the view of Islamic law, the implementation of marriage is regulated in detail through the pillars and conditions of a marriage. A marriage is considered valid if all the pillars and legal requirements have been fulfilled. On the other hand, if one of the pillars or legal conditions for a marriage is not fulfilled, then the marriage is considered invalid. The pillars and conditions for legal marriage aim to ensure that the parties are fit to enter into marriage. Apart from that, the purpose of harmony and legal requirements for marriage is to protect the legitimacy and interests of the parties bound by a marriage.

Islamic law stipulates five pillars of marriage that must be fulfilled for a marriage to be considered valid: the prospective husband and wife, a marriage guardian, two witnesses, and the *ijab qabul* (contract of marriage). Each of these pillars has various requirements that must be met, including the prospective husband being an adult and the wife not being related by blood to her husband.

Marriage is often viewed as the most ancient act of worship and a means to perfect one's religion. Furthermore, Islam views marriage as more than just a matter of regulating the love and affection of husband and wife. More than that, marriage is a spiritual covenant between a servant and God Almighty, a social and moral covenant.⁸ Marriage is expected to produce a strong, healthy and qualified Muslim generation to continue the lineage of both parents.

Islamic law on marriage and family is based on four main principles: the Qur'an, Hadith, *Ijma'*, and *Qiyas*. A brief explanation of these four sources of Islamic law is as follows:⁹

- a. The Qur'an is the highest source of law in Islam which regulates the basics of marriage, including polygamy, the rights and obligations of husband and wife, and the purpose of marriage..
- b. *Hadith* are the sayings and actions of the Prophet Muhammad SAW which explain and apply the teachings of the Qur'an in life.
- c. *Ijma'* is an agreement of scholars in determining laws that are not explained directly in *Qur'an* dan *Hadis*.
- d. *Qiyas* is the determination of law by analogizing new problems to existing laws due to similar causes.

The suggestion to carry out marriages came from the words of the Prophet Muhammad SAW, as the Prophet SAW said:¹⁰

النكاح سنتي فمن رغب عنه فليس مني

It means:

Marriage is my sunnah, whoever does not want to marry, then he is not from my community. HR. Bukhari.

⁷ Alfa singgani L.Irade, Adam Adam, and M. Tuafan, "Hakikat Pernikahan Dalam Pandangan Hukum Islam," *Al-Usroh: Jurnal Hukum Islam Dan Hukum Keluarga* 3, no. 01 (2024): 70–86, <https://ejournal.iainptk.ac.id/index.php/alusroh/article/view/1679>.

⁸ Nabil Hukama Zulhaiba Arjani et al., "Pernikahan Dalam Islam Membina Keluarga Yang Sakinah Mawaddah Dan Rahmah Program Studi Pendidikan Guru Madrasah Ibtidaiyah , Akan Memberi Kemampuan Kepada Mereka Dengan," *Ikhlas : Jurnal Ilmiah Pendidikan Islam* 2, no. 1 (2025): 3063–3621, <https://ejournal.aripafi.or.id/index.php/Ikhlas>.

⁹ Odelia Christy Putri Tjandra and Kevin Kusumaatmaja Hasugian, "Perkawinan Lintas Iman Ditinjau Dari Hukum Islam Dan Hukum Positif Di Indonesia," *Res Nullius Law Journal* 5, no. 1 (2023): 35–46, <https://doi.org/10.34010/rnlj.v5i1.7335>.

¹⁰ Andi Intan Cahyani, "Info Artikel Keywords:," *Peradilan Dan Hukum Keluarga Islam* 24, no. 2 (2022): 17–33.

From the perspective of Islamic law, marriage is a law that has detailed and complex rules, because marriage is the main thing in the family system and Muslim society. Matters regulated by Islamic law regarding marriage include: the pillars of marriage, the obligations of husband and wife in a marriage, the obligations of a child, regulations regarding hadhanah (custody of children), maintenance, arrangements for gifts, and inheritance law. Therefore, marriage must be carried out in a correct manner and be known to the general public, in order to protect the rights of the parties bound in a marriage (legal protection for the interests of children, wives and husbands).

Indonesia's legal perspective on marriage is essentially the same as the religious beliefs of the parties involved. Therefore, the requirements for marriage, according to Law Number 1 of 1974 concerning Marriage, specifically Articles 1 and 2, define marriage as a physical and spiritual bond between a man and a woman to form a happy and eternal family based on the One Almighty God. A marriage is considered valid if it is conducted according to the laws of each respective religion and must be registered in accordance with applicable regulations.¹¹

The positive laws in force in Indonesia that regulate marriage for Muslim communities can be explained as follows:

- a. The Indonesian Constitution, namely Article 28B paragraph (1) of the 1945 Constitution of the Republic of Indonesia, stipulates that the state guarantees the right to form a family through legal marriage.
- b. The Marriage Law (Law Number 1 of 1974 in conjunction with Law Number 16 of 2019) is a unification of national law that regulates the legal requirements, registration, age limit (19 years), and basic principles of marriage.
- c. Compilation of Islamic Law (KHI) based on Presidential Instruction Number 1 of 1991.
- d. Government Regulation (PP) Number 9 of 1975 concerning the Implementation of Law Number 1 of 1974 concerning Marriage.

Based on the laws and regulations outlined above, a marriage is considered valid by the state if it is performed in accordance with the religious law of the husband and wife. Furthermore, the marriage must be registered with a Marriage Registrar. In the context of Islamic marriages, marriage registration falls under the jurisdiction of the Office of Religious Affairs.

State law and Islamic law regulate marriage in such a way as to protect the interests of the husband, wife, and children bound by the marriage. Ironically, many marriages in society still fail to meet the requirements and pillars stipulated by religion and the state, for various reasons. Furthermore, many marriages are conducted secretly, without prior registration. This is extremely dangerous and can undermine the rights and legal protections of the husband, wife, and children born of the marriage.

A *sirri* marriage is a marriage that is legally valid according to religion but is not officially registered, and therefore not recognized by the state. This practice remains widespread due to various factors, including social, economic, and cultural factors. A *siri*

¹¹ Husnul Khotimah, Jumni Nelli, and Muhammadn Pajri Zullian, "Dasar Wajib Patuh Pada Undang-Undang Perkawinan," *Indonesian Journal of Islamic Studies (IJIS)* 1, no. 2 (2025): 192–210, <https://doi.org/10.62567/ijis.v1i2.834>.

marriage is more detrimental to women and children because, without registration, they lack legal protection, cannot claim rights to maintenance, inheritance, or joint property, and the child only has a civil relationship with the mother.¹²

In their journal, Khairul Umami and Mega Puspita analyzed various countries with Muslim majorities. Their research found that marriage registration regulations can be grouped into three types:¹³

- a. Registration with the state is mandatory, and there are sanctions for failure to do so. This applies to Brunei, India, Iraq, Iran, Pakistan, Singapore, Tunisia, Jordan, and Yemen.
- b. Marriage registration is considered merely an administrative requirement without any legal consequences. This applies to the Druze of Lebanon, the Philippines, Lebanon, Libya, and Morocco.
- c. Registration of marriages is mandatory but unregistered marriages are still recognized. Implemented in Syria.

Many Islamic countries require marriage registration through legislation to ensure certainty, order, and legal protection for the parties to a marriage. Registration serves to enforce administrative discipline in marriage, recognize legal interests, and ensure that marriages are conducted through authoritative judicial procedures and respect the boundaries of legitimate interests.

Indonesian law requires marriages to be conducted in accordance with the respective religions or beliefs and registered according to statutory regulations. A *siri* marriage can be interpreted as invalid under positive law, meaning it has no legal force. Consequently, a *sirri* marriage can give rise to various legal issues, including inheritance rights, support for the wife and children, legal ties between the child and the mother, and the division of assets in the event of divorce. Although legally valid under religious law, a *siri* marriage is not registered or recognized by the government, thus lacking legal protection.¹⁴

One of the government's functions is to maintain order and protect the rights of the people. In 1991, the government, along with religious scholars, issued Presidential Instruction No. 1 of 1991 concerning the Compilation of Islamic Law. The Compilation of Islamic Law stipulates that unregistered marriages can be registered through the "*Itsbat Nikah*" procedure, which requires a request to the Religious Court, which then forwards it to the Office of Religious Affairs for registration.

Initially, the regulation regarding marriage legalization (*itsbat nikah*) was enacted to allow unregistered marriages to be validated and registered, thus maximizing the government's protection of the interests of the parties involved in a marriage. The author acknowledges that the regulation regarding marriage legalization has had positive impacts. However, it also has negative consequences, namely reducing public legal discipline and opening up opportunities for legal abuse. This negative impact is evident in the increasing number of marriage

¹² Fitria Wahyu Ningrum, "Nikah Siri Dan Dampaknya Terhadap Hak Perempuan Dan Anak Dalam Itsbat Nikah," *Tadhkirah: Jurnal Terapan Hukum Islam Dan Kajian Filsafat Syariah* 2, no. 1 (2025): 60–72.

¹³ Khairul Umami and Mega Puspita, "Social Engineering Pencatatan Perkawinan Di Dunia Muslim," *Sakena : Jurnal Hukum Keluarga* 8, no. 1 (2023): 39–50, <https://journals.fasya.uinib.org/index.php/sakena/article/view/526>.

¹⁴ Virahmawaty Mahera, Arhjayati Rahim, and Pentingnya Pencatatan, "Pentingnya Pencatatan Perkawinan Virahmawaty Mahera 1 , Arhjayati Rahim 2 , 1," *As-Syams Journal Hukum Islam* 3, no. 2 (2022): 92–101.

legalization applications submitted to the Religious Courts each year, indicating low legal awareness in Indonesia.

The lack of clear regulations regarding the importance of marriage registration is one factor contributing to the lack of administrative discipline in society. Unregistered marriages (*nikah siri*) are still common due to a lack of comprehensive legal understanding. Based on Constitutional Court Decision No. 46/PUU-VIII/2010, marriage registration does not determine the validity of a marriage, but rather is an administrative obligation to provide legal certainty.

2. Enigma *Itsbat Nikah* in an Effort to Suppress Cases of *Sirri Marriage* and Comparative Studies of Islamic Law in Malaysia

a. *Itsbat Nikah* In Indonesia it is associated with the theory of Roscoe Pound and Lawrence M. Friedman

The public still lacks awareness of the need to comply with administrative procedures and comply with the law when registering their marriages. This is evident in the increasing number of applications for marriage legalization (*itsbat nikah*) from year to year. In a previous study, the author examined the number of marriage legalization applications in Cibinong, which have increased year after year. In this study, the author selected a sample from the Tigaraksa Religious Court, whose jurisdiction covers the entire Tangerang Regency (population 3.5 million). The Tigaraksa Religious Court recorded an increase in marriage legalization applications, as described below:

Table 1. Number of Marriage Legalization Application Cases at the Tigaraksa Religious Court

No.	Year	Number of Marriage Legalization Application Cases
1	2023	490
2	2024	586
3	2025	689

Source: Supreme Court of the Republic of Indonesia Case Information and Tracking System

The table above shows an increase in the number of marriage legalization applications submitted to the Tigaraksa Religious Court over a three-year period from 2023 to 2025. In 2023, there were 490 marriage legalization applications. In 2024, there was an increase in marriage legalization applications to 586 cases, a 19.59% increase from the previous year. Then, in 2025, the number of couples submitting applications to the Tigaraksa Religious Court again increased from the previous year to 689 cases, a 17.58% increase from the previous year. It can be concluded that the number of people still practicing unregistered marriages is still quite high, as reflected in the increasing number of marriage legalizations from year to year.

In addition, the Author is also active in community service activities by facilitating integrated *itsbat nikah* (marriage legalization) in July, 2025 has 50 participants and November, 2025 has 50 participants. A total of 100 (one hundred) couples wishing to perform *itsbat nikah* (marriage legalization) in Pakuhaji District, Tangerang Regency. This activity was carried out with the aim of providing access to free and easy marriage *itsbat* facilities for the community in the Pakuhaji District area. This event was held with the support of several parties, namely;

the Indonesian Ulema Council, the Tigaraksa Religious Court, the Regional Office of the Ministry of Religious Affairs, the Tangerang Regency Regional Government, the Marriage Registrar of the Tigaraksa District Religious Affairs Office, the Indonesian Islamic Law Lecturers Association, the Faculty of Law, Pancasila University, the Master of Law Program, Andalas University, the Institute for Islamic Studies and Islamic Law, University of Indonesia and AT CORP.

Based on data collection through filling out a questionnaire that the author distributed in November 2025 to 50 participants who attended the *itsbat nikah* (marriage legalization) in event in Pakuhaji District, there were 31 people who were willing to answer the questionnaire. The results obtained are as follows:

Table 2. Opinions of 31 Itsbat Participants in Pakuhaji District, Tangerang regarding *Itsbat Nikah*

No.	Nikah Sirri (Year)	Marriage age (Men)	Marriage age (Women)	Reason for Nikah Sirri	Is Itsbat Nikah Appropriate for Underage Marriages?	Do you know the Marriage legalization Procedure?
1	1974	20 year	19 year	Economic factors	Yes	No
2	1980	25 year	15 year	Don't know	No	No
3	1982	21 year	15 year	Economic factors	Yes	No
4	1988	18 year	18 year	Family pressure	Yes	No
5	1992	18 year	15 year	Economic factors	No	No
6	1992	24 year	21 year	Unwed pregnancy	Yes	No
7	1994	20 year	19 year	Economic factors	No	No
8	1996	19 year	20 year	Unwed pregnancy	No	No
9	1996	25 year	18 year	Unwed pregnancy	Yes	No
10	1998	30 year	22 year	Economic factors	No	No
11	1999	21 year	17 year	Unwed pregnancy	No	No
12	2000	20 year	19 year	Family pressure	No	No
13	2000	22 year	18 year	Economic factors	Yes	No
14	2004	25 year	20 year	Unwed pregnancy	Yes	No
15	2008	20 year	17 year	Unwed pregnancy	No	No
16	2011	31 year	26 year	Family pressure	Yes	Yes
17	2012	18 year	16 year	Family pressure	Yes	Yes
18	2014	23 year	16 year	Self willing	No	Yes
19	2015	39 year	22 year	Economic factors, Unwed pregnancy	No	No
20	2016	34 year	15 year	Economic factors	No	No
21	2017	44 year	19 year	Economic factors	No	No
22	2019	20 year	20 year	Economic factors	Yes	Yes
23	2019	32 year	32 year	Unwed pregnancy	No	Yes
24	2020	22 year	16 year	Economic factors	No	No
25	2020	31 year	32 year	Unwed pregnancy	No	No
26	2020	22 year	18 year	Economic factors	Yes	No
27	2021	18 year	17 year	Economic factors	Yes	No
28	2021	23 year	24 year	Economic factors	Yes	Yes
29	2022	47 year	43 year	Unwed pregnancy	No	No

30	2022	19 year	18 year	Unwed pregnancy	No	Yes
31	2022	20 year	19 year	Economic factors	No	Yes

Source: Primary data, 2025.

From the results of data collection conducted by the author and the team, it was found that there were 15 couples who had underage unregistered marriages. The question asked was what was the reason for underage unregistered marriages? The results of the correspondent's answers were 15 people answered economic reasons, 11 people answered pregnancy outside of marriage, the remaining 4 people answered because of family pressure, 1 person did not know. Next, the author asked whether it was appropriate/entitled for couples who had underage marriages to apply for *itsbat nikah*. The results obtained by the author were 13 people stated they agreed, the remaining 18 people disagreed. The next question from 31 correspondents, did they previously know about the *Itsbat Nikah* procedure? The answer found was 23 people did not know (around 74.19%) and the remaining 8 people knew about *Itsbat Nikah* (around 25.81%).

Based on public opinion polls, it can be concluded that the obligation to register marriages is regulated in Law Number 1 of 1974 concerning Marriage. This obligation has been in effect for 52 years. However, ironically, the number of couples choosing to have unregistered marriages has increased year after year. This situation indicates that Law Number 1 of 1974 concerning Marriage, which requires marriage registration, is ineffective and still requires improvement and the search for a more modern formula to ensure full compliance with the regulation by the Indonesian people.

The main theory used in this research is Nathan Roscoe Pound's theory of law as social engineering. This theory serves as a tool to assess whether Indonesian laws and regulations regarding marriage confirmation are effective in making society obey or comply with the law by registering their marriages with the Marriage Registrar. Pound stated that law is a driving force for society to make changes for the better. For Pound, the life of law lies in its implementation. The ultimate goal of law is to apply law to society and develop it towards greater progress.¹⁵

Roscoe Pound's thinking, through his Sociological Jurisprudence school, emphasized that law should not be understood merely as a formal rule or a product of positivism. Law must be able to adapt to the needs and dynamics of a constantly changing society.¹⁶ In Pound idea explained in entitled "*The Spirit of the Common Law* (1921) "*Sociological jurisprudence is a movement for the adjustment of legal doctrines and institutions to the needs and interests of the society*", His viewed law as a tool of social engineering, a means of balancing conflicting interests to create order, justice, and social progress. This approach encouraged law to be pragmatic and empirical, focusing not only on theory but also on how law works in practice to effectively serve the interests of society.¹⁷

¹⁵ Zainal Arifin Mochtar and eddy O.S Hiarij, *Dasar-Dasar Ilmu Hukum, Memahami Kaedah, Teori, Asas Dan Filsafat Hukum* (Jakarta: Perpustakaan Nasional: Katalog Dalam Terbitan (KDT), 2021).

¹⁶ Miftahol Fajar Sodik, "Jurnal Jendela Hukum," *Jendela Hukum* 10, no. 1 (2023): 89–100, <https://ejournalwiraraja.com/index.php/FH/article/view/2952/1800>.

¹⁷ Raesha Diva et al., "Filsafat Hukum Dalam Perspektif Roscoe Pound," *Das Sollen: Jurnal Kajian Kontemporer Hukum Dan Masyarakat* 4, no. 1 (2025): 1–17, <https://doi.org/10.11111/dassollen.xxxxxxx>.

Furthermore, according to Lawrence M. Friedman, law is the result of human thought to regulate the ever-changing life of society. The success of law enforcement depends on three elements of the legal system: legal structure (law enforcement officers), legal substance (statutory regulations), and legal culture (legal values and customs in society). Among these three elements, legal culture plays a very important role because it determines when and how society uses or complies with the law. A good legal culture can form a healthy legal system and increase public legal awareness. Conversely, a poor legal culture can cause the law to be ineffective. Culture can also encourage compliance with the rules so that the law can function and potentially bring about social change in society.¹⁸

From the aspect of legal substance, Indonesian marriage law has formally required marriage registration. Article 2 paragraph (1) of Law Number 1 of 1974 concerning Marriage provides that a marriage is valid if it is conducted according to the laws of each religion and belief, while Article 2 paragraph (2) states that each marriage shall be registered according to the prevailing laws and regulations. This provision shows that Indonesian marriage law recognizes two dimensions of marriage validity, namely religious validity and administrative registration. However, the obligation to register marriage has not been supported by a sufficiently strong preventive mechanism. Government Regulation Number 9 of 1975 does provide criminal sanctions through Article 45 paragraph (1) letter a, which states that violations of several marriage procedural provisions may be punished with a fine of up to Rp7,500. However, this sanction is no longer proportional to the current social and economic context. Moreover, the validity of criminal sanctions in a government regulation is legally problematic because criminal provisions should be regulated through laws or regional regulations. Therefore, the legal substance of Indonesian marriage registration remains weak in creating preventive force against unregistered marriages.¹⁹

The enactment of Law Number 1 of 2023 concerning the Criminal Code introduces a new legal substance that may strengthen the preventive function of marriage law. Article 402 paragraph (1) provides criminal sanctions for a person who conducts a marriage while knowing that there is a valid legal obstacle, while Article 402 paragraph (2) increases the sanction if such obstacle is intentionally concealed from the other party. Article 404 further states that any person who does not fulfill the obligation in accordance with the provisions of laws and regulations to report to the authorized official regarding birth, marriage, divorce, or death, shall be punished with a maximum fine of category II. These provisions indicate a shift from merely administrative regulation toward criminal law enforcement. Nevertheless, because the new Criminal Code has only recently come into force, its effectiveness in preventing unregistered marriages still depends on institutional implementation.²⁰

¹⁸ Izzy Al Kautsar and Danang Wahyu Muhammad, "Sistem Hukum Modern Lawrence M. Friedman: Budaya Hukum Dan Perubahan Sosial Masyarakat Dari Industrial Ke Digital," *Sapientia Et Virtus* 7, no. 2 (2022): 84–99, <https://doi.org/10.37477/sev.v7i2.358>.

¹⁹ Imron Rosyad, Helmy Ziaul Fuad, and Ashlaha Baladina Zaimuddin, "Criminalization of Unregistered Marriage in Indonesia: A Legal System Analysis Based on Friedman's Theory," *Al-'Adalah* 22, no. 1 (2025): 147–80, <https://doi.org/10.24042/adalah.v22i1.22779>.

²⁰ Imron Rosyad, Helmy Ziaul Fuad, and Ashlaha Baladina Zaimuddin, "Criminalization of Unregistered Marriage in Indonesia: A Legal System Analysis Based on Friedman's Theory," *Al-'Adalah* 22, no. 1 (2025): 147–80, <https://doi.org/10.24042/adalah.v22i1.22779>.

From the aspect of legal structure, the institutions involved in marriage registration and marriage legalization mainly consist of the Office of Religious Affairs (Kantor Urusan Agama/KUA), the Religious Court, local government, and other supporting institutions in integrated *itsbat nikah* programs. Structurally, these institutions have provided access to legal protection for people who previously had no marriage certificate, as seen in the integrated *itsbat nikah* activities in Pakuhaji District, Tangerang Regency. However, their role still tends to be corrective rather than preventive. The legal structure mostly works after an unregistered marriage has occurred: the parties marry without registration, live for years without a marriage certificate, and later apply for *itsbat nikah* before the Religious Court.

Normatively, there is no specific institution expressly mandated to prevent unregistered marriages before they occur. Nevertheless, KUA has a strategic institutional position that can support such preventive function through its existing duties and services. Article 3 of Minister of Religious Affairs Regulation Number 24 of 2024 provides that KUA has the duty to carry out Islamic community guidance services. Article 4 further stipulates that KUA performs several functions, including marriage service, supervision, registration, and reporting of marriage and reconciliation; marriage guidance and *sakinah* family services; sharia consultation services; and Islamic religious guidance and information services. These provisions do not explicitly formulate KUA as an institution for preventing unregistered marriages. However, if systematically directed, the functions of marriage registration, marriage guidance, *sakinah* family development, sharia consultation, and Islamic religious information can serve as preventive instruments to strengthen public awareness of the obligation to register marriages.

This preventive potential is also supported by Minister of Religious Affairs Regulation Number 30 of 2024 concerning Marriage Registration, which places marriage registration within a procedural framework consisting of registration of the intention to marry, marriage examination, marriage ceremony, and marriage registration. Through marriage guidance, KUA can provide prospective spouses with legal, religious, mental, physical, social, and family-resilience knowledge before entering marriage. Therefore, the weakness does not lie in the absence of KUA's service function, but in the fact that such function has not been expressly and systematically oriented toward preventing unregistered marriages. As a result, KUA's role still tends to operate within administrative service and family guidance, while prevention of unregistered marriage has not yet become a clearly defined institutional mandate.

From the aspect of legal culture, the persistence of unregistered marriage reflects weak legal compliance in marriage administration. Field data collected from 31 respondents in Pakuhaji District shows that the reasons for unregistered marriage include economic factors, pregnancy outside marriage, family pressure, and lack of knowledge regarding marriage legalization procedures. The data also shows that 23 out of 31 respondents, or approximately 74.19%, did not know about the *itsbat nikah* procedure before participating in the program. This finding indicates that the problem is not merely the absence of legal norms, but also the lack of legal awareness and administrative discipline in society.²¹

Legal culture becomes decisive because many people still perceive religious marriage as sufficient and state registration as a secondary administrative matter. This understanding

weakens the function of Article 2 paragraph (2) of the Marriage Law. Moreover, when *itsbat nikah* is perceived as an easy legal pathway to validate an unregistered marriage after it has occurred, society may no longer consider registration at the beginning of marriage as an urgent legal obligation. This confirms Friedman's view that legal effectiveness depends not only on written rules, but also on whether society understands, accepts, and obeys those rules.

Based on these three elements, Roscoe Pound's theory of law as a tool of social engineering becomes relevant to assess the function of Indonesian marriage legalization law. Law should not merely legalize past conduct, but should also guide social behavior toward legal order. In the context of *itsbat nikah*, Indonesian law has succeeded in providing legal protection for spouses and children after unregistered marriage occurs. However, it has not fully succeeded in engineering social behavior toward compliance with marriage registration. The weakness of legal substance, the corrective orientation of legal structure, and the low level of legal culture show that *itsbat nikah* still functions more as a post-factum legalization mechanism than as a preventive legal instrument. Therefore, reform of *itsbat nikah* regulation should not eliminate its protective function, but should strengthen its preventive function through clearer sanctions, stronger institutional coordination, and continuous legal education.

The government needs to play an active role in developing a legal culture within society to create a law-abiding society. This effort can begin through education from elementary school level, instilling an understanding of the importance of obeying the law to create security and order in communal life. By establishing a sound legal culture, society will be more easily guided by the government in regulating social behavior, enabling it to face the various changes and challenges of a dynamic life. When linked to the problems faced by society, the practice of unregistered marriages is still found. Furthermore, some still use marriage legalization as a means and solution to correct and cover up mistakes resulting from not meeting the legal requirements for marriage. This condition indicates that the function of law as a tool of social engineering is not functioning to change society for the better. Therefore, the author argues that a regulation that functions as a guardian of interests and legal protection for the interests of society must have coercive power. As an analogy, the use of helmets by motorcyclists is for personal safety. However, the state exists to safeguard the interests and welfare of all motorcyclists, so the rule that helmets are mandatory, and those who do not wear helmets while riding a motorcycle can be subject to sanctions in the form of fines.

b. Legal Regulations for Marriage Confirmation in Malaysia

This study also uses a comparative legal approach regarding unregistered marriages in Malaysia, known as *nikah siri* (unlawful marriages). The focus of the comparison is how Malaysian regulations suppress unregistered marriages. In the literature on the concept of unregistered marriages in Malaysian law, according to Siti Aishah Borhanuddin et al., unlicensed marriages have negative implications for the future of Muslims. This study aims to examine violations of unregistered marriages from an Islamic legal perspective, highlighting the classification of violations that occur. The legal provisions used refer to the Selangor State Islamic Family Law Act 2003 because its substance is nearly identical in each state.

Furthermore, this study also aims to raise public awareness so that unregistered marriages are not considered normal or customary.²²

In 2003, Malaysia imposed criminal sanctions in the form of fines and imprisonment for anyone who enters into a marriage without the knowledge of the state (unregistered marriage). The Islamic Family Law (State of Selangor) 2003 explains that parties who carry out marriages without truth (*nikah siri*) will also be subject to a penalty (fine) under section 40 (2) with the threat of Islamic criminal law in the form of a fine of a maximum of RM 1,000 (one thousand ringgit) / equivalent to Rp. 4,295,000,- (four million two hundred ninety-five thousand rupiah) or imprisonment for a maximum of 6 (six) months by Sharia Court.

In sharia law in Malaysia, specifically Articles 18 and 19 of the 2003 Islamic Family Law, regulates the sanctions imposed on parties who carry out unregistered marriages, where at the marriage there are obstacles to carrying out the marriage, if the marriage is carried out by a party who is not permitted to carry out the marriage, the party includes, among others:

- a. Underage marriage,
- b. Marrying a widow whose *iddah* period has not yet been completed,
- c. Women who do not have a guardian (*wali nikah*) according to Islamic law.

According to Firhad Fuad and Azizah in their journal entitled "The Impression of Marriage Without Truth on the Wife According to the State Islamic Family Law" describes that a husband and wife in an invalid marriage cannot claim property resulting from the marriage, which is called marital property according to article 122 of the Islamic Family Law Act (State of Selangor) 2003. Marital property is property obtained during the marriage between husband and wife, from their resources or from their joint efforts. However, the parties cannot claim marital property in an invalid marriage after they divorce because there is no strong evidence stating that the marriage of the parties is valid according to Islamic family law in Malaysia.²³ Article 124 of the Enactments of the 2003 Islamic Family Law states that for polygamists who are not registered with the state, that person will be given sanctions in the form of a fine of RM1,000 or imprisonment for 6 (six) months or both.

This study compares the number of cases of marriage legalization applications in one of the states in Malaysia, namely Selangor (located on the Malaysian peninsula).

Table 3. Number of Unregistered Marriage Cases (*nikah sirri*) in Selangor, Malaysia.

No.	Year	Number of Cases of Marriage Legalization Applications
1	2018	749
2	2019	592
3	2020	427
4	2021	343
5	2022	491

²² Siti Aishah Borhanuddin, Mahamatayuding Samah, and Mohd Norhusairi Mat Hussin, "Kesalahan Berkahwin Tanpa Kebenaran Bagi Orang Islam Di Malaysia: Tinjauan Berdasarkan Perspektif Syarak Dan Undang-Undang," *Jurnal Pengajian Islam* 16, no. 2 (2023): 99–121, <https://doi.org/10.53840/jpi.v16i2.268>.

²³ Fhirhad Fuad and Azizah Mohd Rapini, "Kesan Pernikahan Tanpa Kebenaran Terhadap Isteri Menurut Undang-Undang Keluarga Islam Negeri Selangor," *International Conference on Syariah & Law 2023 (ICONSYAL 2023)* 2023, no. November (2023): 538–45, https://conference.uis.edu.my/iconsyal/images/2023/eproceeding/1095_.pdf.

6	2023	303
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Source: International Conference on Syariah & Law 2023, (ICONSYAL 2023)

The table above shows a year-on-year downward trend in the number of unregistered marriages. In 2018, there were 749 cases, dropping to 303 cases in 2023. The difference between 2018 and 2023 was a decrease of approximately 446 cases, equivalent to 59%.

Selangor has a population of 7.4 million, twice that of Tangerang Regency, which has a population of 3.5 million. However, Tangerang has a higher number of cases. In comparison, the number of unregistered marriages in Selangor in 2023 was 303, while Tangerang, with a smaller population, had 490 marriage legalization applications.

Apart from that, the author compares the regulations in force in Sarawak (one of the Malaysian states in the eastern region) where the penalties are even more severe. Based on Article 127 of the Sarawak Islamic Family Law Ordinance, if there is a polygamous marriage without the permission of the Court (not registered with the State) then the perpetrator will receive a maximum sentence of RM. 3000,- (equivalent to IDR 12,845,456) or a maximum of 2 years in prison or both. The author interviewed Mr. Mohd Hazim bin Borhan as an Investigating Officer at the Sarawak Syariah Court. Based on the results of interviews, information was obtained that the number of cases in 1 state of Sarawak had decreased and the number was small.

Table 4. Number of Unregistered Marriage Cases (nikah sirri) in Sarawak, Malaysia.

No.	Year	Number of Cases of Marriage Legalization Applications
1	2024	76
2	2025	50

Source: Interview with Mohd Hazim bin Borhan Sarawak Syariah Court Investigating Officer, 2026

Sarawak had a population of 2,998,730 in 2025, but the number of marriage validation applications was very low at 50. Compared to Tangerang Regency, which has a population of 3,500,000, and 689 marriage validation applications, the difference between the number of marriage validation cases in Sarawak, Malaysia, and Tangerang Regency, Indonesia, suggests that Tangerang Regency has a higher number of marriage validation applications. The differences are as follows:

1. Difference gap: $689 \text{ cases} - 50 \text{ cases} = 639 \text{ cases}$
2. Divide by the lowest case: $639 \text{ cases} : 50 \text{ cases} = 12.78$
3. Change to percentage: $12.78 \times 100\% = 1278\%$

So the number of marriage legalization cases in Tangerang Regency is 1,278% higher than the cases in Sarawak, Malaysia, or around 12.78 times more than Sarawak.

According to the author, one of the triggers for the low number of cases in Sarawak, Malaysia, is the existence of strict regulations and punishments for people who enter into unregistered marriages (especially polygamy), without going through legalization in court. Article 127 of the 2001 Islamic Family Ordinance which applies in Sarawak explains that a person who is still in a valid marriage and remarries without obtaining permission from the Syariah Court (Religious Court) will be subject to a fine not exceeding RM. 3,000,- (Rp.

12,854,000,-) or imprisonment for not more than 2 years or punishment of both a fine and imprisonment.²⁴

Furthermore, Sarawakians' strong culture of law-abidingness is fostered by a well-developed and equitable education system throughout the country. Sarawak is the only state that offers free education from preschool through university. At the beginning of each school year, the government provides financial assistance for registration fees, uniforms, and books, thus fostering an educated society.

c. The 2023 Indonesia Criminal Code Update (KUHP) as a New Hope

On January 1, 2026, the Criminal Code (KUHP) officially came into effect through Law No. 1 of 2023. Article 402 of Indonesia Criminal Code (new Criminal Code/KUHP) stipulates that:

- a. A person who marriage while knowing that there is a legal obstacle (for example, still being bound by a marriage that does not fulfill the legal requirements for polygamy under the state law) can be punished.:
 - o Imprisonment for a maximum of 4 years 6 months, or
 - o The maximum fine is category IV (maximum 200.000.000 rupiah).
- b. If you intentionally hide your marital status so that your next marriage is invalid, the criminal penalty increases to:
 - o Imprisonment for a maximum of 6 years, or
 - o The maximum fine is category IV (maximum 200.000.000 rupiah).

Article 402 of Indonesia Criminal Code (KUHP) can be understood as a form of sanction that, from the perspective of Islamic criminal law, is classified as *ta'zir*. This category refers to a type of punishment whose form and severity are left to state authorities to maintain public welfare and order. The threat of punishment becomes more severe if someone intentionally conceals their marital status, thereby invalidating subsequent marriages, indicating the existence of legal protection for the certainty of marital status and the rights of the injured parties.²⁵

Article 402 of the Indonesian Criminal Code (KUHP) presents a problem: it is difficult to consider an Islamic criminal offense because it applies to all Indonesian citizens. Confusion arises from the prohibition on polygamy. This contradicts the permissibility of polygamy for Muslims, which, according to the Indonesian Compilation of Islamic Law (KHI), is permitted by submitting a marriage legalization (*Istbat Nikah*). Here, legal practitioners must be able to distinguish between absolute and relative requirements for a valid marriage (particularly in Islam).

According to Family Law Expert, Prof. Neng Djubaedah, there is a difference between absolute and relative conditions in marriage. Absolute conditions originate from Islamic law, such as prohibitions on marriage due to blood relations, marriage, and breastfeeding, which if violated render the marriage null and void as regulated in Law Number 1 of 1974 concerning Marriage and the Compilation of Islamic Law. Meanwhile, relative conditions, such as provisions on polygamy and age limits, are the result of state policy, violations of which do not

²⁴ "Ordinan Hukum Keluarga Islam 2001 Sarawak.Pdf," n.d.

²⁵ Vichi Novalia et al., "Ta'zir Dalam Pidana Islam: Aspek Non Material," *Terang : Jurnal Kajian Ilmu Sosial, Politik Dan Hukum* 1, no. 2 (2024): 225–34, <https://doi.org/10.62383/terang.v1i2.222>.

automatically invalidate the marriage, but can be filed for annulment through the courts. She also emphasized that the application of Article 402 of Indonesia Criminal Code (KUHP) needs to consider the religion of the parties, in line with the view of R. Soesilo. It is important to emphasize that the new Indonesia Criminal Code does not prohibit unregistered marriages or polygamy. However, there are articles that regulate the prohibition of marriage if there is a legal obstacle, such as polygamy where the marriage is attended by a guardian (not a guardian) or a judge, or a husband marrying more than four women, because these actions are considered to violate the Marriage Law and the Compilation of Islamic Law.²⁶

Then, Article 404 of Indonesia Criminal Code (KUHP) states, "Any person who does not fulfill the obligation in accordance with the provisions of laws and regulations to report to the authorized official regarding birth, marriage, divorce, or death, shall be punished with a maximum fine of category II." The category II fine is Rp. 10,000,000 as stipulated in Article 79 of the New Criminal Code. Thus, there is a clear criminalization of unregistered marriages. It is hoped that the existence of this new Criminal Code (KUHP) will make the public more law-abiding and law enforcement officers can implement Article 404 of this new Indonesia Criminal Code.

D. Conclusion

The regulation of *itsbat nikah* is still relevant in Indonesia. The increase in cases of unregistered marriages in Indonesia can be categorized as worrying, this is based on the results of data collection on cases of submission of applications for *itsbat nikah* against unregistered marriages, especially in Tangerang Regency which is under the jurisdiction of the Tigaraksa Religious Court, showing an increase in 2023 of 490 cases, in 2024 of 586 cases, then in 2025 to 689 cases (an increase of 17.58%). Compared to unregistered marriage cases in Sarawak, for 2025 there were 50 cases. Compared to Tangerang Regency, it is higher by 1,278% from Sarawak, population of Tangerang Regency and Sarawak State has almost same population. The low number of unregistered marriage cases in Sarawak, Malaysia is influenced by strict rules and penalties in which a person who marries unregistered without permission from the Sharia Court can be fined up to RM 3,000 or a maximum of 2 years in prison. Furthermore, the Sarawakian people's strong culture of law-abidingness is inextricably linked to the free and equitable education system, from preschool to university. Furthermore, the economic stability of Sarawak's population is better, with an average monthly income of Rp. 12,000,000, while in Tangerang Regency it is Rp. 1,500,000.

A glimmer of hope with the enactment of the 2023 Indonesia Criminal Code (KUHP) starting January 1, 2026, that unregistered marriages will be subject to a prison sentence of up to 4 years and 6 months or a maximum fine of Rp. 200,000,000 if proven to have intentionally concealed their marital status. The new Criminal Code does not prohibit unregistered marriages or polygamy, but prohibits marriages that violate legal obstacles, such as polygamy that violates legal provisions. The criminal sanctions introduced by Law Number 1 of 2023 may strengthen the preventive function of marriage law. However, since the new Criminal Code has only

²⁶ Hanifah Dwi Jayanti, "Bedah Pasal 402 KUHP Baru, Pakar Tekankan Aspek Ibadah Dalam Perkawinan," *Hukum Online*, 2026, <https://www.hukumonline.com/berita/a/bedah-pasal-402-kuhp-baru--pakar-tekanan-aspek-ibadah-dalam-perkawinan-lt6968d925becbb/?page=3>.

recently come into force, its deterrent effect cannot yet be empirically confirmed and still requires further observation of its implementation. Furthermore, legal regulations can be effectively enforced if there is good support from law enforcement officials and a good legal culture from the community. A legal culture in society is born when education can be evenly felt by all people and good economic stability.

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