

Legal Counseling on "Itsbat Marriage" to Increase Community Legal Awareness

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Abstract: Marriage registration is mandated by Law Number 1 of 1974 concerning Marriage (Marriage Law), as stated in the provisions of Article 2. Further explanations regarding Itsbat marriage (marriage ratification) are found in the provisions of Article 7 of the Compilation of Islamic Law (KHI). This legal counselling aims to raise legal awareness among the community about the importance of marriage registration and Itsbat marriage in the village of Punggur Besar, which has a significant impact, particularly on women and children. This is closely related to legal certainty and protection, both during and after marriage dissolution. The method used in this community service activity is Participatory Rural Appraisal (PRA). This method is based on the participation of the attendees, including village elements, policymakers, and the surrounding community. It is employed to evaluate the participation of village elements and the community in the assessment process of this activity. This method actively interacts directly with stakeholders to achieve the desired results. The education session took place on December 24, 2022, in Punggur Besar Village, Kubu Raya Regency, and was attended by village officials and residents. Instruments such as pre-tests were used to ask oral questions to assess the community's knowledge about marriage registration and Itsbat marriage. The education revealed that there are still marriages conducted without marriage registration. Based on the results of the education, it is evident that increasing knowledge about marriage registration and Itsbat marriage is crucial, as it significantly impacts both the level of legal awareness among the community and the certainty and legal protection for the parties involved.

Keywords : itsbat marriage; legal awareness; marriage registration; village

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INTRODUCTION

Marriage is a physical and spiritual bond between a man and a woman as husband and wife, to form a happy and eternal family based on the Almighty God. Every marriage must be registered (Rais & Muyassar, 2022) in accordance with

the provisions of Article 2, paragraph (2) of Law Number 1 of 1974: "Every marriage is recorded according to the prevailing laws and regulations." The urgency of marriage registration lies in embodying the principle of legal certainty and providing legal protection,

especially for women and children. This is closely related to the fulfilment of rights and obligations of each party, both husband and wife, as well as the children born from the marriage (Rais & Muyassar, 2022).

The phrase "physical and spiritual bond," as stated in Article 1 of the Marriage Law, is not only a manifestation of obeying Allah SWT's command but also shows the purpose of marriage (Dainori, 2021). Further detailed in the provisions of Article 2 of the Marriage Law: "Every marriage is recorded according to the prevailing laws and regulations." This underscores the urgency of marriage registration (Susanti & Shoimah, 2016). It is only possible to achieve marriage goals with prior registration because by registering the marriage, we obtain legal certainty, which in turn provides legal protection for both husband and wife and the children born from the marriage (Fatma, 2019; Musfiroh & Surur, 2017).

In addition to the Marriage Law and the Compilation of Islamic Law, which regulate the urgency of marriage registration and *Itsbat* marriage, there is another regulation, namely Government Regulation No. 9 of 1975. Marriage registration is a basic right for every family (Faizal, 2016; Huda, 2017). The legal implications for those who do not register their marriage are: First, the marriage does not have legal standing. Second, children born from such a marriage are considered illegitimate and their lineage cannot be connected to the biological father (unless proven by a DNA test). Third, rights such as maintenance, inheritance, and lineage are not recognized (the lineage is only connected to the mother, not the father). Fourth, administrative documents (such as marriage certificates, birth certificates for children, family cards, etc.) cannot be processed. This situation is commonly found in society, often disadvantaging the rights of women and

children (Muyassar et al., 2022).

For couples who have already conducted an unregistered marriage, they can pursue legal efforts through "*Itsbat* marriage" (marriage ratification) (Tarantang, 2019). The *Itsbat* marriage hearing will result in a marriage ratification decree, which is a prerequisite for registering the marriage either with the Office of Religious Affairs (KUA) for Muslims or the Civil Registry Office (Disdukcapil) for non-Muslims (Wilda & Zainuddin, 2021). Several factors contribute to unregistered marriages, including lack of public awareness about the importance of marriage registration, insufficient socialization and education about *Itsbat* marriage, economic motives, early marriages, prevalent polygamy without court approval, and the remote location of relevant institutions from the community's residences (Sayyad, 2018). This issue also occurs in Punggur Besar Village, Kubu Raya District, West Kalimantan.

Based on data from the Sungai Raya Religious Court, there was a decrease in the number of *Itsbat* marriage applications from 2020 to 2021. This decrease aligns with the government's goal to reduce the number of unregistered marriages. Harmonization among relevant institutions, such as the Religious Court, KUA, and Civil Registry Office, through programs like legal counselling, integrated *Itsbat* marriage hearings, and mobile court sessions, aims to increase public legal awareness, particularly regarding the importance of marriage registration and *Itsbat* marriage (Mangku & Yuliantini, 2020).

Punggur Besar Village in Kubu Raya Regency was chosen for this legal counselling activity. Feedback from an alumnus, a village official, indicated that many under-the-table marriages occur there, longstanding and recent. The lack of understanding and

socialization about marriage registration and Itsbat marriage is due to various factors, one of which is the difficult access to the village, hindering the implementation of government programs like mobile court sessions. Therefore, our community service group (Dewi et al., 2023) conducted a legal counselling session on marriage registration and Itsbat marriage. This program aims to raise the legal awareness of the residents of Punggur Besar Village regarding the urgency of marriage registration and Itsbat marriage.

METHOD

The method used in this activity was oral counselling (Hairani & Faizah, 2023). The counselling, themed "The Urgency of Marriage Registration & Itsbat Marriage," took place on December 24, 2022. This legal counselling was conducted directly with Punggur Besar Village, Kubu Raya Regency, West Kalimantan residents. The Head of Punggur Besar Village accompanied the community service program along with village elements and representatives from the community, totalling 23 people, including local hamlet heads. During this activity, the community was also given the opportunity to ask questions (Shaleha et al., 2023) after the material was presented, followed by a discussion session.

Conducting legal counseling on the urgency of marriage registration and Itsbat marriage is crucial to increasing the community's legal awareness. Before the counselling session, participants were asked to complete a questionnaire to measure their knowledge about marriage registration and Itsbat marriage. Participants in this counselling session included the Village Head, Village Elements, and the residents of Punggur Besar Village, Kubu Raya District, West Kalimantan.

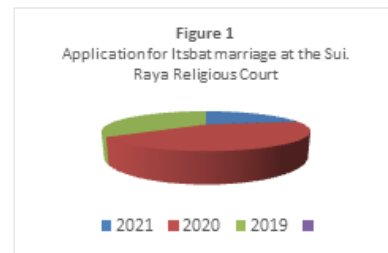


Figure 1 Application for itsbat marriage at the Sui. Raya Religious Court

RESULTS AND DISCUSSION

In this activity, a questionnaire was administered to the audience to assess the completeness of administrative documents related to marriage in the area (Manalu et al., 2023). Legal Counseling Activity in Punggur Besar Village, Kubu Raya Regency (Figure 2).



Figure 2 Legal counseling activities in Punggur Besar Village, Kubu Raya Regency

Based on the respondents, 40% of marriages in Punggur Besar Village, Kubu Raya Regency, were not registered. The Itsbat marriage counseling program in Punggur Besar Village, Kubu Raya Regency, was held on December 24, 2022. The event took place in the village hall and was attended by the village head, village elements, and local residents. The theme of this legal counselling activity was "The Urgency of Itsbat Marriage in Increasing Community Legal Awareness," as shown in Figure 2.

The direct legal counselling program conducted with the residents of Punggur Besar Village revealed several interesting facts about the causes of

unregistered marriages.

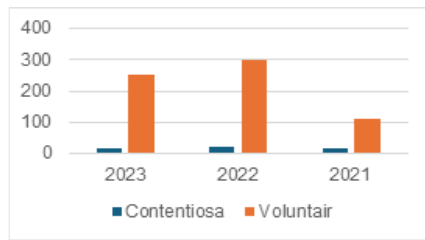


Figure 2 Data of Punggur Besar Village

The local village head explained that internal and external factors significantly influence the community's decision not to register their marriages. Factors include a need for understanding and the complicated bureaucracy of administrative procedures, which deter people from registering their marriages.

One advantage of this legal counselling activity in Punggur Besar Village is that it was the first such event held in the village. This was noted when the legal counselling team arrived on-site, indicating that the village's remote location and poor road access had previously hindered legal education and outreach efforts. A limitation of the activity was the restricted attendance due to limited space. Data from the Sungai Raya Religious Court in 2023 indicated that 24.4% of cases involved Itsbat marriage applications. Number of Lawsuits and Itsbat Marriage Applications to the Sungai Raya Religious Court in the Last 3 Years.

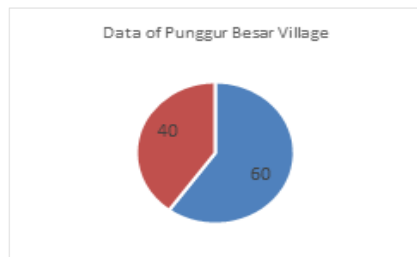


Figure 3 Number of lawsuits and applications for marriage validation to sungai raya religious court in the last 3

years

The following tabulation found that over the last three years, there has been a significant increase in the number of cases, from 2021 to 2023. The statistics show an increase in both lawsuits (contentiosa) and applications (voluntair). In 2021, there were 15 lawsuits for Itsbat marriage and 111 applications. The following year, 2022, saw an increase to 20 lawsuits and 299 applications. In 2023, there was a slight decrease to 18 Itsbat marriage lawsuits (contentiosa) and 254 Itsbat marriage applications (voluntair). These statistics indicate an increasing legal awareness regarding marriage registration and Itsbat marriage in the jurisdiction of the Sungai Raya Religious Court.

Counselling is delivering information and knowledge to a specific group to increase their awareness of certain issues (Hairani & Faizah, 2023). Following the counselling activity, there was an increase in the community's knowledge about the topics presented by the speakers. Besides systematic, massive, and relevant information delivery, verbal interaction during legal counselling helps increase participant engagement. Visual aids such as banners and leaflets also help the community understand the material presented. According to a study by Shaleha et al. (2023), there was a notable increase in community enthusiasm for legal counselling activities, from 56.5% to 70%, with a t-test result of p-value 0.000 (<0.05), indicating a significant impact of the counselling on the community's knowledge. Supported by the Community Service Program conducted by Dewi et al., (2023), the educational activity showed a post-test score of 98% from the pre-test score, indicating increased community awareness.

The legal counseling revealed that both young and old community members engage in unregistered

marriages. This was evident from the audience's responses during the counseling. The low legal awareness is attributed to the need for more outreach from government agencies, academics, and practitioners. Other factors such as culture, social conditions, experience, knowledge, and economy contribute to the low marriage registration rate in Punggur Besar Village, Kubu Raya Regency, West Kalimantan.

In their research, Muyassar et al. (2022) noted that unregistered marriages could lead to several adverse implications, not only for the couple but also for the rights of the children born from such marriages. Issues range from legal certainty and protection to difficulties obtaining administrative documents like birth certificates, family card, and identity cards, creating adverse effects. As Kubu Raya Regent Muda Mahendrawan, S.H., mentioned during a Focus Group Discussion (FGD) at the Kubu Raya Regency Office Hall, many government aid programs could not be distributed effectively due to administrative documentation issues. The lack of marriage certificates, family cards, and birth certificates from unregistered marriages prevented eligible families from receiving assistance. Thus, a collaboration between government sectors and support from academics and practitioners through activities like this counselling is essential to increase legal awareness and improve community welfare by ensuring they receive the assistance provided by the local government of Kubu Raya Regency, West Kalimantan.

Legal counselling methods can significantly impact respondents' behaviour, including increased knowledge. The community can gain updated information on legal provisions and administrative requirements through legal counselling, transforming ignorance into understanding and enhancing their comprehension (Shaleha

et al., 2023). The legal counseling and education on Itsbat marriage have positively impacted community knowledge, providing a better understanding of the concept, purpose, and benefits of Itsbat marriage. This increased awareness is expected to improve community welfare by enabling individuals to validate their marriages and obtain necessary legal documents, such as marriage certificates, birth certificates (for children born within the marriage), and family cards, thereby recognizing the child as legitimate.

Increased knowledge about Itsbat marriage is hoped to be a stepping stone towards a Golden Indonesia in 2045. Using leaflets as visual aids in legal counselling and informational tools for the village community is highly beneficial. Leaflets can reach a wider audience and different community levels, physically and digitally spreading information. The advantage of leaflets is that they can be accessed and read multiple times, aiding comprehension. Leaflets also motivate individuals to explore the information further (Manalu et al., 2023).

Priyanto et al., (2021) noted that a p-value of $0.001 < 0.05$ indicates a significant difference or improvement in community understanding before and after using leaflets. The straightforward and simple language of the leaflets makes them easier for the village community to understand. However, leaflets also have limitations, such as difficulties for the elderly or those with poor literacy skills in accessing the information. Legal counselling on Itsbat marriage aims to increase community legal awareness and improve welfare by leveraging local government assistance. This assistance is expected to boost the economy of the Punggur Besar Village community, Kubu Raya Regency, West Kalimantan.

CONCLUSION

Based on the results of this legal counselling activity, it can be concluded that the community highly needs this activity. This is closely related to the level of legal awareness in the community, legal certainty and protection, and the improvement of the welfare and economy of the village community, especially in Punggur Besar Village, Kubu Raya Regency, West Kalimantan. One of the reasons found for the high number of unregistered marriages is the lack of socialization and accommodation constraints, which remain the main reasons for the lack of legal awareness among the community. The solution provided to the community to increase legal awareness regarding marriage validation and conduct legal counselling activities is to collectively submit marriage validations through village apparatus, which are then coordinated with the local religious court, in this case, the Sungai Raya Religious Court.

It is hoped that the next service agenda can be accompanied by initial data collection for communities wishing to apply for voluntary marriage validation, facilitated by village apparatus and then directly submitted by local legal aid organizations or community empowerment institutions to obtain advocacy for its realization, so that Punggur Besar Village becomes a place for conducting follow-up mobile court sessions by the Sungai Raya Religious Court. This is one of the tangible realizations of the Court's legal assistance/advocacy function in providing services to the community, especially in remote areas that have not been reached by legal awareness and assistance.

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