

***Isbat Nikah* among Muslim Communities in Aceh: Legal Compliance or Reactive Administrative Necessity**

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Abstract

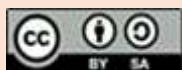
This study analyzes the implementation of isbat nikah (marriage legalization) among Muslim communities in Aceh, examining whether it is driven by genuine legal awareness or merely administrative necessity—often used reactively to obtain birth certificates, inheritance rights, or access to social assistance. The central issue arises when isbat nikah is perceived merely as a shortcut to legalize previously unregistered marriages, rather than as a legal process reflecting compliance with the state's normative legal framework. The purpose of this research is to examine the meaning of isbat nikah in the context of legal consciousness within society and to identify its legal position as an instrument for resolving socio-religious problems. The research employs a normative juridical method with both conceptual and statutory approaches to examine the legal basis of isbat nikah as regulated in the Compilation of Islamic Law, Law No. 1 of 1974 on Marriage, and the procedural provisions of the Religious Courts. Data analysis was conducted descriptively and analytically through the examination of legal norms and the interpretation of empirical practices evolving within society. The findings reveal that the practice of isbat nikah is predominantly motivated by administrative needs rather than genuine legal awareness. Muslim communities tend to interpret isbat nikah as a legal mechanism to obtain state recognition for marriages already valid under religious law, with its primary function serving administrative purposes. The legal position of isbat nikah plays a crucial role in resolving socio-religious issues stemming from unregistered marriages and in providing legal protection for women and children. However, public compliance with isbat nikah remains reactive and administrative in nature, driven by practical needs rather than a normative understanding of legal obligation.

Penelitian ini menganalisis pelaksanaan isbat nikah di kalangan masyarakat Muslim di Aceh yang dilakukan atas dasar kesadaran hukum atau kepentingan administratif sebagai respons reaktif untuk pengurusan akta kelahiran anak, warisan, atau kepentingan administrasi lainnya. Permasalahan utama muncul karena isbat nikah dimaknai semata sebagai jalan pintas legalisasi perkawinan yang sebelumnya tidak tercatat, bukan sebagai proses hukum yang mencerminkan kepatuhan terhadap norma hukum negara. Tujuan penelitian ini adalah untuk menganalisis makna

isbat nikah dalam konteks kesadaran hukum masyarakat serta mengidentifikasi posisi hukum isbat nikah sebagai instrumen penyelesaian masalah sosial keagamaan. Metode penelitian yang digunakan adalah yuridis empiris dan yuridis normatif dengan pendekatan konseptual dan perundang-undangan untuk menelaah dasar hukum isbat nikah yang diatur dalam Kompilasi Hukum Islam, Undang-Undang Nomor 1 Tahun 1974 tentang Perkawinan, serta ketentuan peradilan agama. Analisis data dilakukan secara deskriptif dan analitis melalui penelaahan norma hukum dan interpretasi terhadap praktik empiris yang berkembang di masyarakat. Hasil penelitian menunjukkan bahwa makna pelaksanaan isbat nikah lebih didorong oleh kebutuhan administratif daripada kesadaran hukum yang sejati. Isbat nikah dimaknai masyarakat sebagai sarana hukum untuk memperoleh pengakuan negara atas perkawinan yang telah sah secara agama, dengan fungsi utama sebagai pemenuhan kebutuhan administratif. Posisi hukum isbat nikah berperan penting dalam menyelesaikan problem sosial keagamaan akibat perkawinan tidak tercatat serta memberikan perlindungan hukum bagi perempuan dan anak. Ketaatan masyarakat terhadap isbat nikah masih bersifat reaktif dan administratif, dipengaruhi oleh kebutuhan praktis, bukan oleh kesadaran hukum yang lahir dari nilai normatif.

Keywords: *Isbat Nikah, Legal Awareness, Muslim Community, State Law.*

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INTRODUCTION

Public understanding of the legal validity of marriage remains diverse, with some segments of society considering a marriage to be valid insofar as it fulfills the essential pillars and conditions prescribed by Islamic law, while others regard marriage as legally valid only when accompanied by official registration as an administrative requirement mandated by the state. The absence of legal marriage registration consequently places women in a vulnerable position and deprives them of adequate legal protection (Bedner & Van Huis, 2010). From a juridical perspective, this condition further gives rise to legal complications concerning children born of such marriages (Windani et al., 2025). Some Muslim communities place greater emphasis on the validity of the marriage contract under Islamic law while attaching limited importance to state registration or official recognition. This perspective is rooted in the belief that religion constitutes the supreme authority in determining the validity of a marriage (Mansari et al., 2023). This situation creates a gap in understanding between religious legal norms and state legal norms, which are intended to operate in tandem. Such a disparity ultimately results in legal difficulties when couples require formal legal proof of their marital status, thereby necessitating a judicial determination of isbat nikah for unregistered marriages (Nurlaelawati, 2013).

Isbat nikah is provided by the state as a legal instrument to facilitate the recognition of marriages that have been lawfully conducted but were not officially registered or whose marriage certificates have been lost. This mechanism is regulated under Article 7 paragraphs (2) and (3) of the Compilation of Islamic Law, which grants spouses the opportunity to obtain a judicial determination affirming the validity of their marriage through the Religious Court (Pengadilan Agama) or the Mahkamah Syar'iyah. This

mechanism serves as a legal remedy for many couples who encounter legal obstacles due to the absence of formal registration evidence (Muthalib, 2022). In practice, however, isbat nikah does not always arise from legal awareness or a commitment to comply with regulatory requirements, but rather from purely administrative necessities. This pattern indicates that the law is invoked not on the basis of substantive legal consciousness regarding the importance of marriage registration, but due to pressing practical interests. In certain instances, the government itself initiates isbat nikah programs to facilitate the registration of unrecorded marriages, albeit subject to limited quotas (Khairuddin, 2017).

The phenomenon of isbat nikah applications reveals a compelling dynamic in the relationship between religion and the state. Members of the community tend to seek isbat nikah only after encountering legal issues, such as the issuance of a child's birth certificate, inheritance claims, or divorce proceedings before the court. Legal awareness thus emerges not at the time the marriage is solemnized, but only after adverse legal consequences arise. This behavioral pattern indicates that isbat nikah is perceived primarily as a corrective instrument rather than as an expression of compliance with state law. Such conditions raise a fundamental question as to the extent to which isbat nikah genuinely reflects adherence to national legal norms.

The existence of isbat nikah should be construed as an exceptional legal instrument intended to provide protection for parties who suffer losses due to the absence of marriage registration (Nazah & Husnia, 2018). In practice, however, isbat nikah has evolved into a routine mechanism for legalizing marriages conducted outside official procedures, as reflected in the policy of the Aceh Government to accelerate public ownership of marriage certificates. This phenomenon indicates a tendency toward the misuse of legal functions, whereby norms designed as corrective measures are instead employed to legitimize non-compliance with mandatory marriage registration requirements. Such circumstances give rise to a dilemma between the pursuit of legal protection and the enforcement of legal order.

The study of isbat nikah cannot be separated from the theory of legal consciousness, which emphasizes the importance of public understanding of the objectives of law, as legal consciousness relates to law as behavior rather than law as a normative framework (Murlinus, 2023). Legal consciousness is not solely measured by formal compliance with regulations, but also by the willingness to comprehend the values of justice and utility underlying those regulations (Kamaruddin, 2016). In this context, the low level of religious legal awareness contributes to the failure to position state law as part of a moral and religious obligation. Society continues to perceive state law as an entity distinct from religious norms. This paradigm shift necessitates a re-examination of the relationship between positive legal norms and religious norms.

Accordingly, examining isbat nikah through the lens of legal compliance and legal consciousness is essential to assess the effectiveness of existing norms in responding to social changes within modern Muslim societies. A conceptual approach may reveal how public perceptions shape the relationship between religious law and state law in the context of marriage. This research aims to determine whether the implementation of isbat nikah genuinely reflects adherence to legal norms or merely constitutes a reactive response to administrative necessity.

A number of studies have examined isbat nikah from various perspectives and analytical standpoints. Research conducted by Melizar primarily focuses on the practice of isbat nikah before the Mahkamah Syar'iyah in Lhoksukon, where a portion of the applications were rejected due to the applicants still being legally bound by a prior marriage (Melizar et al., 2024). Meanwhile, the study by Ramdani Wahyu Sururie addresses the legal

polemics surrounding isbat nikah, linking it to the Compilation of Islamic Law (Kompilasi Hukum Islam), which functions as applied law in the Religious Courts, and conceptualizing isbat nikah as a form of judicial discretion (Sururie, 2017).

However, previous studies have not examined isbat nikah from the perspective of legal consciousness and legal compliance as a normative obligation. Instead, they predominantly focus on procedural mechanisms, as well as issues of legal protection and certainty arising from the legalization of marriage through isbat nikah. This study offers an in-depth analysis of public legal consciousness and compliance in obtaining marriage certificates through isbat nikah, assessing whether such actions stem from voluntary legal awareness or from reactive behavior driven by the need for civil registration documents that require a marriage certificate as a prerequisite. This research is expected to enrich scholarly discourse on the reformulation of Islamic marriage law in Indonesia so as to render it more responsive to societal dynamics. The findings are anticipated to provide valuable input for policymakers in strengthening family law regulations that are equitable and adaptive, with particular emphasis on fostering a comprehensive legal consciousness that harmonizes religious obedience with compliance to state law.

METHOD

This study employs an empirical juridical research design that integrates legal norms with social realities as observed in practice (Mukti Fajar, 2015). The research adopts a phenomenological approach to understand the implementation of isbat nikah within the context of legal practice and public legal consciousness toward state law (Ali, 2021). Primary data were obtained through in-depth interviews with five informants, comprising two academics specializing in Islamic family law, two members of the public who had previously submitted isbat nikah applications, and one judge of the Religious Court who has adjudicated isbat nikah cases. In addition, a documentary study of Religious Court decisions concerning isbat nikah was conducted to examine judicial reasoning and the practical application of legal norms in real cases.

The research was conducted within the jurisdiction of Aceh. Data analysis was carried out qualitatively by interpreting both primary and secondary data to uncover the substantive meaning of the legal phenomena under investigation. The analytical process involved data reduction, data presentation, and the drawing of conclusions based on the interrelationship between theories of legal consciousness, legal compliance, and societal practices (Marzuki, 2006). The findings illustrate the relationship between public perceptions of the religious validity of marriage and the administrative needs that prompt isbat nikah applications, while also assessing the extent to which existing legal norms have provided legal certainty and justice for the parties involved.

RESULTS AND DISCUSSION

Makna Isbat Nikah bagi Masyarakat Muslim di Aceh

The meaning of isbat nikah for Muslim communities cannot be separated from public perceptions of marital validity grounded in religious law. The majority of society believes that a marriage contract (akad nikah) that fulfills the pillars and conditions prescribed by Islamic law is sufficient to render the marriage morally and religiously valid. This perspective prioritizes spiritual legitimacy over formal legality as determined by the state. State registration or official recognition is therefore regarded as a secondary administrative matter rather than a determinant of marital validity. This reality demonstrates a pronounced divergence between the values of religious law and those of state positive law.

According to Erha Saufan, “In the view of society, isbat nikah is not a form of religious validation, but rather a means for the state to recognize a marriage that is already valid under Islamic law. The community believes that the validity of marriage is determined by the presence of a lawful guardian, witnesses, and a proper *ijab kabul*. The isbat process merely ensures legal protection for the spouses and the children born of the marriage” (Erha Saufan Hadana, Interview, 2025). This statement illustrates that isbat nikah functions as an effort to provide legal protection by enabling state recognition of marriage through official registration at the Office of Religious Affairs (KUA) following the completion of the isbat nikah process.

Research findings indicate that members of the community generally submit isbat nikah applications only when confronted with urgent administrative needs. Such applications are filed to fulfill legal requirements for obtaining children’s birth certificates, asserting inheritance rights, initiating divorce proceedings, or accessing social assistance. Legal awareness thus emerges not from an understanding of legal obligations, but from practical necessities to obtain formal legal documents. This attitude reflects that, for Muslim communities, the meaning of isbat nikah is predominantly reactive to administrative problems rather than an expression of compliance with state law. This pattern demonstrates a form of pragmatic legal consciousness.

Soerjono Soekanto’s theory of legal consciousness explains that the level of legal awareness is determined by the extent to which society understands, respects, and behaves in accordance with legal norms. Communities with low levels of legal consciousness tend to comply with the law only when faced with pressing personal interests. In the context of isbat nikah, compliance arises when the law is perceived as a tool to facilitate administrative affairs. The resulting compliance is not based on substantive awareness of the importance of legal certainty, but rather on instrumental and temporary considerations. This phenomenon signifies the weak internalization of state law within the religious consciousness of society.

The relationship between legal consciousness and legal compliance is also evident in the way society interprets the relationship between religion and the state. The concept of *ulil amri*, which obliges Muslims to obey legitimate authority, has not been fully understood in relation to compliance with state regulations. Some segments of society continue to perceive state law as an entity lacking divine spiritual legitimacy. This understanding weakens the position of state marriage law within religious perspectives and contributes to low levels of legal compliance in the registration and legalization of marriage.

The legal basis governing isbat nikah is set out in Article 7 paragraphs (2) and (3) of the Compilation of Islamic Law (Kompilasi Hukum Islam), which provides that marriages that cannot be proven by a marriage certificate may be submitted for isbat nikah before the court. This norm is intended to provide legal protection for couples whose marriages are valid under religious law but have not been registered by the state. The provision serves as a mechanism for restoring legal status, rather than as a justification for negligence in marriage registration. In practice, however, society often interprets this provision as legitimizing the postponement of marriage registration. As a result, isbat nikah shifts function from a corrective legal mechanism to an administrative shortcut.

The principal weakness of isbat nikah regulation lies in the absence of sanctions for couples who deliberately fail to register their marriage. Another issue is that isbat nikah remains regulated within the Compilation of Islamic Law, which has relatively weak legal status, and does not impose any obligation to promptly seek isbat for unregistered marriages. The lack of deterrent effect results in minimal incentive for early compliance. Such lenient norms also create opportunities for misuse, where unregistered marriages are

socially normalized. Legal provisions intended to be corrective thereby transform into instruments of social justification, as they continue to allow isbat nikah after marriages have been conducted in violation of applicable procedures.

An analysis of isbat nikah practices among Acehnese society from the perspective of legal compliance theory reveals that adherence to state law is strongly influenced by need-oriented considerations. Society tends to comply when the law provides direct and tangible benefits. In this context, law has not yet been internalized as a normative value that must be obeyed. This condition raises concerns regarding the effectiveness of marriage law enforcement. Legal awareness grounded in short-term interests makes it difficult for the legal system to instill sustainable legal discipline.

Socio-cultural contexts further shape the meaning of isbat nikah within Muslim communities. Deeply rooted religious interpretations that deem marriage registration unnecessary, combined with the strong social legitimacy of religious leaders, often exert greater influence than state legal directives. Marriages conducted with family and religious approval are perceived as fully valid, even in the absence of state registration prior to isbat nikah proceedings before the Mahkamah Syar'iyah. This situation produces a dualism of legal authority between religious norms and state norms, explaining why isbat nikah is perceived merely as an additional formal requirement.

Data analysis further indicates that isbat nikah practices are generally initiated only after legal problems arise that require formal legal recognition. Couples lacking marriage certificates become aware of the importance of legal documentation only when confronted with administrative difficulties. This pattern reinforces the view that law is invoked only when needed, rather than serving as a guiding framework for daily conduct. The resulting legal consciousness is temporary and unsustainable, reflecting the limited effectiveness of legal education within society.

Previous studies conducted by various scholars demonstrate a consistent pattern in public behavior regarding the understanding of isbat nikah. These studies reveal that society tends to utilize isbat nikah as a practical solution rather than as an expression of legal compliance (Pribadi & Heniarti, 2025). The present study reinforces these findings by emphasizing that weak legal consciousness stems from a limited understanding of the function of state law in protecting family rights. An overemphasis on religious aspects without due regard to legal dimensions causes state law to lose its binding force, a condition further exacerbated by ineffective legal socialization.

The increasing complexity of social life necessitates a shift in the legal approach to marriage. Existing regulations have not fully adapted to rapid social dynamics. Advances in technology, heightened social mobility, and the plurality of religious interpretations pose significant challenges to the enforcement of marriage law. Isbat nikah, initially conceived as an extraordinary remedy, has gradually evolved into a recurring legal phenomenon. Legal reform is therefore required to restore its function as a special judicial instrument.

Legal reform efforts should be directed toward strengthening the marriage registration system and enhancing oversight of marriage practices. The formulation of new norms that clearly delimit the permissible use of isbat nikah may serve as an initial step toward improving legal effectiveness. The state must expand legal education across all segments of society to foster an understanding of marriage legalization as both a religious obligation and a requirement of state law. Preventive mechanisms should be prioritized over continued reliance on corrective measures. Such legal reform will be more effective if accompanied by increased public awareness through family law education.

Normative analysis indicates that Indonesian marriage law remains largely declarative rather than operational in nature. Legal provisions offer general guidance without

establishing clear supervisory mechanisms or sanctions. This condition renders the law easily disregarded and complied with only when legal consequences arise. Legal reform must therefore aim to render the law more proactive in shaping social behavior. Strengthening legal norms through revisions to relevant provisions of the Compilation of Islamic Law and the Marriage Law can reaffirm the role of law as a tool for fostering social legal consciousness.

A paradigm shift in legal thinking is imperative to respond to the dynamics of modern society. Law can no longer function solely as a regulatory framework, but must also serve as a catalyst for legal awareness. Isbat nikah should not be understood merely as a mechanism for marriage legalization, but as an integral component of family legal protection. New regulations must clearly define the exceptional circumstances under which isbat nikah may be granted, so that the law does not lose its normative authority. Normative clarity will strengthen the position of state law in governing the religious life of society.

The findings of this study indicate that the meaning of isbat nikah for contemporary Muslim communities is predominantly pragmatic rather than ideological. Isbat nikah is perceived primarily as an administrative means to obtain state recognition, rather than as a legal obligation arising from religious legal consciousness. Limited understanding of the function of law has prevented society from perceiving state law as part of religious injunctions. This phenomenon underscores the necessity of synergy between religious institutions and state authorities in fostering legal awareness. The integration of religious values and positive law may enhance public trust in the national legal system.

Ultimately, the essential meaning of isbat nikah for Muslim communities must be realigned with its fundamental legal objectives. This legal instrument should function as a measure of last resort to protect family rights, rather than as a routine solution for administrative neglect. Efforts to build public legal consciousness require an educational and participatory approach. Legal reform must be accompanied by behavioral change within society to ensure that law truly functions as an instrument of moral and social development. Synergy between religious awareness and legal compliance remains the key to the effectiveness of Indonesia's marriage law system.

Posisi Isbat Nikah sebagai Solusi Penyelesaian Problematika Sosial

The legal position of isbat nikah within Indonesian Muslim society occupies a strategic role as an instrument for resolving socio-religious issues. Isbat nikah functions as a legal mechanism that provides formal state recognition of marriages that are valid under Islamic law but were not previously registered with state institutions, following rigorous judicial examination by the Religious Courts (Aziz & Mutakin, 2024)(Mutakin, 2017). This mechanism enables married couples to obtain legal validity without the need to repeat the marriage contract (akad nikah) (Fajriyah & Alfitri, 2022). In this respect, isbat nikah serves as a bridge between the spiritual dimension of marriage and its administrative requirements. Its existence demonstrates the flexibility of Islamic law in Indonesia in responding to the social needs of the Muslim community (Wazzan et al., 2024).

The socio-religious problems underlying the emergence of isbat nikah are rooted in the dualistic perception within society regarding the validity of marriage. A segment of the community continues to believe that a marriage is sufficiently valid when conducted in accordance with religious law, without the necessity of state registration (Rizkal, interview, 2025). This belief has generated various administrative and legal issues, including the legal status of children, inheritance rights, and the legal protection of women. In such circumstances, as noted by Irwansyah, isbat nikah operates as a legal solution capable of

restoring the legal status of the family within a framework recognized by the state (Irwansyah, interview, 2025). Similarly, according to Erha Saufan Hadana, isbat nikah should not be viewed merely as an administrative procedure, but rather as a form of state acknowledgment of the social realities of Muslim society, ensuring that their marriages are formally recognized under national law (Erha Saufan Hadana, interview, 2025).

From a sociology of law perspective, isbat nikah constitutes a concrete example of a legal response to social change within communities where marriages are not formally registered. The widespread practice of unregistered marriages has led the law not to treat such conduct as an absolute violation warranting punitive measures, but rather to provide a remedial mechanism through isbat nikah, followed by subsequent registration at the Office of Religious Affairs (Kantor Urusan Agama/KUA). This approach underscores the function of law as an adaptive instrument of social engineering (Sudjana, 2021). Through isbat nikah, the state intervenes to resolve social problems arising from divergent legal values. Such an approach is consistent with Eugen Ehrlich's theory of living law, which emphasizes that law must reflect and respond to social realities (Brian Z. Tamanaha, 2013).

The legal position of isbat nikah operates as an integrative mechanism between religious values and legal certainty. The Religious Courts, as the competent judicial authority, are vested with the power to ensure that marriages validated through isbat nikah comply with both religious requirements and positive law. Decisions of the Mahkamah Syar'iyah confer strong legal status upon such marriages and formally recognize the civil rights attached thereto. Accordingly, isbat nikah functions as an instrument for affirming legality by integrating two normative legal systems. This mechanism fosters harmony between religious norms and state law. The social function of isbat nikah is evident in its capacity to address problems arising from the community's limited awareness of the obligation to register marriages. Many couples enter into unregistered marriages due to economic constraints, cultural practices, or limited access to registration services (Dina, 2025). When legal disputes subsequently arise, isbat nikah provides a solution that accommodates justice without resorting to repressive sanctions. This process places the law in a humanistic and problem-solving role, prioritizing substantive justice over mere formal legality.

As a legal instrument, isbat nikah also embodies a strong religious dimension. Judicial validation of marriage in the Religious Courts not only produces administrative recognition but also carries moral legitimacy. The isbat nikah proceedings reinforce values of responsibility within the marital relationship and afford protection to the dignity and rights of women and children. From the perspective of *maqāṣid al-sharī'ah*, this mechanism fulfills the objectives of Islamic law, particularly the protection of lineage (*ḥifẓ al-nasl*) and the preservation of honor (*ḥifẓ al-'ird*). This religious dimension contributes significantly to the broad acceptance of isbat nikah within Muslim society.

In the context of social justice, isbat nikah provides legal protection for vulnerable parties, particularly women and children (Solekah & Zulaicha, 2024). Unregistered marriages often result in significant legal disadvantages, especially in cases of divorce or death (Safitri, 2019). Through isbat nikah, the state intervenes to safeguard women's rights to maintenance, inheritance, and broader legal protection (Farida et al., 2023). This mechanism represents a concrete manifestation of the principle of equality before the law as enshrined in Article 27 of the 1945 Constitution of the Republic of Indonesia (Hamzah et al., 2019). Its social function strengthens the legitimacy of state law in the eyes of the public.

Based on data derived from decisions of the Mahkamah Syar'iyah, the majority of isbat nikah applications are filed not out of legal awareness but in response to

administrative needs. The community generally becomes aware of the importance of a marriage certificate only when required to process a child's birth certificate or to claim inheritance rights. This fact indicates that isbat nikah is predominantly utilized in a reactive rather than a preventive manner. Nevertheless, its role remains significant in resolving social conflicts arising from divergent legal perceptions. In this respect, the law has functioned effectively as an instrument of social mediation.

Theories of legal awareness and legal compliance explain that public obedience to law is largely determined by the level of understanding and the orientation toward the perceived benefits of law. In the context of isbat nikah, the law is viewed primarily as a means to obtain administrative advantages rather than as a moral or normative obligation. This condition reflects a low level of substantive legal awareness regarding the importance of marriage registration. Isbat nikah thus becomes a manifestation of the gap between prevailing legal norms and actual legal behavior within society, underscoring the need for reform within the family law system.

A fundamental weakness in the legal regulation of isbat nikah lies in the absence of clear limitations regarding the specific circumstances under which such applications may be submitted. The Compilation of Islamic Law does not impose sanctions on parties who deliberately avoid marriage registration. This normative gap creates opportunities for the misuse of isbat nikah as a shortcut to legalize marriages that are procedurally improper. In this context, isbat nikah risks losing its ideal function as a corrective instrument and instead becoming a tool of administrative justification. Normative revision is therefore necessary to clarify its function and scope of application.

The legal position of isbat nikah also reflects Indonesia's family law policy, which prioritizes principles of substantive justice and public welfare (*maslahah*). The state seeks to enforce the law without causing social fragmentation. This approach demonstrates that law functions not only as a regulatory mechanism but also as a means of restoring social relations disrupted by conflicting values. The mediative function of law becomes evident in the practice of isbat nikah, aligning with the spirit of Islamic law, which emphasizes justice and balance.

The involvement of religious leaders in the socialization of isbat nikah law plays a crucial role in strengthening public legal awareness. When *ulama* and marriage registrars actively convey the importance of marriage registration, society is more inclined to accept state law as part of its religious obligations. The integration of religious and state authority enhances legal legitimacy and reduces the potential for normative conflict. Such synergy is key to the successful implementation of family law in Indonesia, as social acceptance of law increases when religious values serve as the communicative foundation.

Legal reform should therefore be directed toward ensuring that isbat nikah is no longer treated as a routine mechanism but rather as an exceptional remedy applicable only in specific cases. Strengthening regulation through stricter requirements and administrative sanctions may enhance legal effectiveness. The state must also promote preventive legal awareness through legal education and accessible marriage registration services. These changes would restore isbat nikah to its proper position as a corrective instrument rather than a substitute for registration, thereby reinforcing the principle of legal certainty.

Ketaatan Hukum Negara atau Reaktifitas Kebutuhan Administratif

Compliance with state law constitutes a crucial indicator in assessing the level of legal awareness within society, particularly in the context of the implementation of isbat nikah among Muslim communities. Isbat nikah, as a legal mechanism that confers state recognition upon marriages that were previously unregistered, is fundamentally designed to ensure legal certainty and administrative order. The legal basis for isbat nikah is set out in

Article 7 paragraphs (2) and (3) of the Compilation of Islamic Law (Kompilasi Hukum Islam/KHI) and is formally recognized within the national legal system through the jurisdiction of the Religious Courts. These provisions reflect the State's effort to accommodate the socio-religious realities of society. The primary objective is to ensure that every marriage possesses legal validity and state protection. In this regard, state law does not seek to replace religious norms, but rather to complement and reinforce them.

Public legal awareness constitutes the principal determinant of the effective implementation of isbat nikah regulations. According to the theory of legal awareness advanced by Soerjono Soekanto, the level of legal awareness is influenced by legal knowledge, legal understanding, and respect for the law. In practice, many members of society perceive isbat nikah merely as an administrative procedure, without comprehending its broader legal significance. This limited understanding results in isbat nikah being pursued not as an expression of legal compliance, but rather as a reaction to administrative necessity. Such a phenomenon indicates that public legal awareness remains instrumental in nature and has not yet reached the stage of internalizing legal values.

Ideally, compliance with state law in the context of isbat nikah should originate from a moral awareness that law functions as a means of maintaining social order. This perspective aligns with Jeremy Bentham's theory of legal utility, which posits that good law is law that produces the greatest benefit for society. In many cases, however, compliance with state law arises not from normative legal consciousness, but from practical considerations that facilitate administrative affairs. When the law is obeyed solely to obtain administrative benefits, the substance of compliance becomes superficial. The isbat nikah process is undertaken not because it is perceived as a legal obligation, but because it is necessary to obtain official documentation. This condition illustrates a clear imbalance between legal awareness and legal compliance.

Social reality demonstrates that applications for isbat nikah are generally submitted only after individuals encounter legal problems. Such applications are typically filed when a child is unable to obtain a birth certificate, when parties seek to claim inheritance rights, when women are abandoned without legal certainty regarding their marital status, or when filing claims for joint marital property that require proof of a legally recognized marital relationship between a man and a woman (Mansari et al., 2025). This pattern reflects a reactive, rather than proactive, orientation toward the law. Within the framework of legal behavior theory, it indicates a form of compliance that is situational rather than substantive. Law is perceived as a remedial instrument to resolve problems after they arise, rather than as a normative guideline intended to prevent legal violations. Such reactivity underscores the weak internalization of legal values at the grassroots level of society.

According to Irwansyah, administrative necessity constitutes the dominant factor behind applications for isbat nikah. Such applications are frequently submitted to satisfy requirements for school administration, social security registration, or to prove familial relationships in legal proceedings and the distribution of inheritance (Irwansyah, interview, 2025). State law is perceived as relevant only insofar as it relates to bureaucratic matters. This pattern indicates that society has not yet internalized law as a normative value governing social life, but rather treats it as a functional instrument to be used when required. Within the framework of legal awareness theory, this phenomenon is characterized as pragmatic legal consciousness (Isdiyanto, 2018), whereby individuals comply with the law only when it yields immediate and tangible benefits. Ideal normative legal awareness has therefore not yet been fully developed.

From a regulatory standpoint in Indonesia, Article 2 paragraph (2) of Law Number 1 of 1974 on Marriage stipulates that every marriage must be registered in accordance with

the prevailing laws and regulations (Fadli, 2021). This norm is intended to establish legal order and to safeguard civil rights. However, in practice, the enforcement of this provision has not been fully effective due to weak legal dissemination and limited access to marriage registration services. This imbalance has resulted in a gap between legal norms and societal behavior. Consequently, isbat nikah functions as a remedial mechanism to address violations of the registration requirement, reflecting the flexibility of the law in responding to social realities.

The weakness of the legal framework is further evident in the absence of effective preventive mechanisms against unregistered marriages. The state tends to regulate corrective measures rather than preventive ones. Neither the Marriage Law nor the Compilation of Islamic Law (KHI) provides sanctions for parties who fail to register their marriage. This situation reinforces the perception that isbat nikah serves as an instant solution without legal consequences. Within the theory of legal compliance, deficiencies in legal structure may reduce the level of public obedience. When the law lacks firmness, compliance tends to arise only when administrative needs emerge.

Based on data obtained from interviews and an examination of judicial decisions on isbat nikah, the findings reveal that applications are predominantly driven by individual interests and are reactive in nature to emerging social problems. The majority of cases are filed by couples whose marriages were solemnized decades earlier. This pattern indicates a low level of legal awareness from the outset, whether due to the loss of a marriage certificate or the conduct of a marriage solely under religious law without formal registration. Such circumstances underscore that marriage registration is not perceived by the community as a legal obligation, but rather as a temporary administrative necessity (Reskiani, 2025). Within the framework of legal awareness theory, this pattern reflects a form of declarative rather than operational legal consciousness. Legal awareness tends to emerge only when triggered by external pressures, particularly in the context of administrative requirements or the pursuit of inheritance rights.

Compliance with state law should ideally be rooted in internalized values that are embraced by society as part of its moral responsibility (Syahir et al., 2023). In Islamic teachings, obedience to *ulil amri* (legitimate authority) constitutes an act of obedience to God insofar as such authority does not contravene the principles of sharia (Kurdi et al., 2017). This principle may serve as a normative foundation for fostering legal awareness within Muslim communities, encouraging the perception of marriage registration as an integral form of social worship. The integration of religious values with state law enhances the law's legitimacy in the eyes of society. Within this framework, isbat nikah should not be construed merely as an administrative formality, but rather as a manifestation of spiritually grounded compliance that is internalized by individuals. Accordingly, legal obedience transcends procedural necessity and becomes an expression of moral and religious commitment aligned with the objectives of state law.

Social change and the growing complexity of administrative needs require the law to become more responsive. Family law cannot be detached from the evolving dynamics of society. Isbat nikah should be understood not merely as a procedure for legal validation, but as an instrument of social ordering. By strengthening its preventive function, the state may reduce the prevalence of unregistered marriages (Parjono et al., 2024). Regulatory clarification combined with enhanced legal literacy constitutes a strategic approach to fostering sustainable legal awareness. Where society comprehends the underlying values of the law, compliance is more likely to emerge voluntarily. From the perspective of Friedman's legal system theory, the effectiveness of law is determined by three interrelated components: legal structure, legal substance, and legal culture (Kautsar et al., 2022). In the

context of isbat nikah, the primary deficiency lies within the domain of legal culture. The legal structure is already in place through the Religious Courts, and the legal substance is clearly articulated in the Marriage Law and the Compilation of Islamic Law (KHI). However, the prevailing legal culture remains weak, as social practices have not yet evolved to regard isbat nikah as an essential mechanism for ensuring legal certainty in marriage. Consequently, isbat nikah serves as evidence that legal structure and substance have not been fully internalized within public legal consciousness.

This perspective is reinforced by the theory of legal compliance, which asserts that genuine obedience emerges from the internalization of legal values within the individual (Triwahyuningsih & Darajat, 2025). Where the law is observed solely due to external pressure or administrative necessity, the result is merely superficial compliance. In the practice of isbat nikah, this phenomenon is clearly manifested when legal compliance arises only at the moment a formal legal document—namely, a marriage certificate—is required. Such circumstances underscore the urgent need to reconstruct value-based legal consciousness. Religion-based legal education may serve as an effective means of integrating spiritual values with compliance toward state law.

A shift in legal paradigm is therefore imperative in responding to evolving social dynamics. Isbat nikah should be positioned as a measure of last resort rather than as the primary mechanism for obtaining marital legal recognition. The state must strengthen its regulatory framework to ensure that isbat nikah applications are limited to cases with compelling legal grounds, particularly those involving specific circumstances with significant adverse consequences. This mechanism must be accompanied by efforts to enhance public legal awareness through education and social guidance. When society comprehends the true function of law, the number of isbat nikah applications will naturally decline, and legal compliance will develop into a sustainable cultural practice.

The relationship between compliance with state law and administrative reactivity often operates concurrently yet in opposing directions. The state expects public compliance to be grounded in legal consciousness, whereas society tends to act primarily in response to practical necessity. This dynamic is evident in Decision Number 284/Pdt.G/2025/MS.Bna, where a marriage was lawfully solemnized, but the marriage certificate was lost in 2004 during the tsunami. Nevertheless, the application for isbat nikah was not submitted immediately after the disaster, but only after the death of the husband, with the purpose of processing Taspen administrative benefits. This determination constitutes concrete evidence that the submission of isbat nikah was motivated by administrative interests and needs.

The phenomenon reflected in Decision Number 284/Pdt.G/2025/MS.Bna illustrates the operation of law within the framework of legal instrumentalism and law as a tool, wherein law is understood and utilized by society in a pragmatic manner based on the tangible benefits it produces. Legal compliance in this context does not arise from normative awareness of the importance of marriage registration as part of state legal order, but rather emerges reactively when administrative and economic interests require formal legal legitimacy. The submission of isbat nikah only after the death of the husband demonstrates that the law is not positioned as a mechanism of legal restoration, but as an administrative instrument to facilitate access to financial rights and social security benefits, such as Taspen. Accordingly, isbat nikah functions as an “administrative ticket” connecting individuals to the state bureaucratic system, affirming that, in social practice, law is more often treated as a functional instrument than as a value system obeyed on the basis of moral legitimacy.

The reorganization of the family law system is therefore essential to ensure that legal compliance no longer remains reactive in nature. The integration of religious values, social norms, and state regulations must be strengthened through public legal education. Isbat nikah should be positioned as a symbol of reconciliation between two legal systems that have long operated in parallel. The state and society must collectively develop a new legal paradigm grounded in legal consciousness rather than mere administrative necessity. When law is understood as an integral part of lived values, compliance will evolve into a cultural practice rather than a mere obligation, and legal consciousness will serve as the foundation for the creation of a just social order.

Public legal awareness tends to increase when individuals perceive tangible benefits from legal recognition, particularly in matters concerning the issuance of children's birth certificates and the acquisition of inheritance rights, both of which require isbat nikah as evidence of the existence of a valid marriage between the deceased and the heirs (Yusri, interview, 2025). This pattern is also reflected in the isbat nikah determination in Case Number 353/Pdt.G/2025/MS.Bna, where the application was submitted in 2025 despite the death of the heir (the applicant's former spouse) having occurred in 2004. The purpose of the isbat nikah application in that case was to obtain inheritance rights (Decision Number 353/Pdt.G/2025/MS.Bna).

The case illustrates that isbat nikah was not pursued immediately after the marriage had taken place, nor shortly after the death of the heir, which occurred as early as 2004. Instead, the isbat nikah application was filed in 2025 with the objective of obtaining inheritance rights, indicating that the motivation for seeking isbat nikah was driven primarily by administrative necessity. When isbat nikah facilitates access to administrative entitlements such as social security benefits and inheritance, levels of legal compliance tend to increase. The interest in obtaining legal documentation, particularly a marriage certificate, thus becomes a crucial factor in motivating public compliance with the law (Yusri, 2024). This suggests that legal awareness emerges when the law provides tangible benefits. Such a condition is consistent with Gustav Radbruch's theory of legal certainty, which fundamentally posits that effective law must ensure justice, utility, and legal certainty (Yanto, 2020). In the context of isbat nikah, state law has provided a legal avenue to obtain certainty through judicial proceedings (Zainuddin, 2022). However, in terms of social utility, existing regulations have not yet fully responded to the needs of communities living with limited access to legal mechanisms.

The implications of this study indicate that the effectiveness of state law, particularly in the field of civil administration, cannot be assessed solely on the basis of formal public compliance, but must instead be measured by the extent to which the law is able to respond to social contexts and the real needs of citizens. The administratively oriented use of isbat nikah demonstrates the necessity of a paradigm shift in legal policy from a reactive approach to a proactive one, especially in extraordinary circumstances such as natural disasters. The state is required not only to provide legal mechanisms, but also to implement systematic and accessible restoration of legal status for affected communities, so that the law does not merely function as an instrument for practical and economic needs, but operates as a means of legal protection and legal certainty from the outset. Strengthening legal consciousness will be effective only if it is accompanied by a legal system design that is adaptive, socially just, and aligned with the lived rationality of society.

CONCLUSION

The findings of this study indicate that, for Muslim communities, isbat nikah is perceived as a legal mechanism to obtain state recognition of a marriage that was previously

valid under religious law or in cases where the marriage certificate has been lost. Public understanding of isbat nikah is predominantly functional, serving administrative needs rather than reflecting genuine compliance with state law. The legal position of isbat nikah plays a significant role in resolving various socio-religious issues arising from unregistered marriages. Its existence legitimizes marriages solemnized in accordance with religious law by conferring state legal validity, while simultaneously providing legal protection for the rights of women and children. However, Muslim compliance with isbat nikah remains reactive and administrative in nature and has not yet developed into substantive legal consciousness. Applications for isbat nikah are submitted when legal documentation becomes necessary, rather than out of awareness of the obligation to register marriages. This phenomenon demonstrates that legal compliance continues to be driven primarily by considerations of practical utility rather than adherence to normative legal values.

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