

THE LEGAL SURE OF MARRIAGE ITS BAT TOWARDS THE STATUS OF MARRIAGE (STUDY OF THE DECISION OF THE TAKALAR RELIGIOUS COURT)

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Abstract. The marriage ceremony is one of the government's efforts to provide services to people who do not yet have a marriage certificate to register their marriage again, so that they have legal certainty for their marital status. This research was conducted with the aim of knowing the implications that arise after the marriage ceremony by the judges at the Takalar Religious Court and to determine the factors that encourage husband and wife to propose marriage certificate. The method used in this research is the normative juridical method through two approaches, namely the statute approach and the case approach. The reason for using this method is because legal research is a process to find legal rules. The results showed that the implication of marriage status on marital status is related to the principle of legal certainty, namely by the existence of marriage, which was previously carried out, namely marriages that were not recorded by the Registrar of Marriages, making the marriage have legal certainty, meaning that it is in accordance with the legal objective, namely to regulate order. society in a peaceful and just manner and the marriage becomes legal. Itsbat nikah provides a foundation of certainty on the validity of the status of the child born. Meanwhile, the legal certainty of the status of marriage regarding the status of marital assets becomes clear about the ownership of joint assets.

Keywords: Legal Certainty, Marital Status, Marriage license

1. Introduction

The state has regulated marriage with the promulgation of Law Number 1 of 1974 concerning Marriage. In this law, it has been explained in article 2 paragraph (2), namely: every marriage is recorded according to the applicable laws and regulations [1]. So every marriage must be registered in the presence of a Marriage Registration Officer (MRO) or the Office of Religious Affairs (ORA) to get a marriage certificate. So the marriage certificate is an authentic proof of the validity of a marriage in society. services to people who do not have a marriage

certificate through the Ministry of Religion, the marriage certificate certainly has a positive aspect. The marriage ceremony is an attempt by the government to provide an aspect in making it easier for people to re-register marriages that have been carried out.

Itsbat position in this marriage itself has been acknowledged by the existence of legal regulations, such as in Article 7 paragraph (2) and paragraph (3) Presidential Instruction (PI) Number 1 of 1991 concerning Compilation of Islamic Law, which states that marriage can be submitted to the Religious Court. The marriage intercourse can be submitted for several reasons, including because of the loss of the marriage certificate, and because there are doubts about the validity of one of the conditions of marriage [2].

Currently regarding marriage, especially for the Muslim community, in court cases, it does not fully refer to the Marriage Law. For example, in the matter of marriage, it is not strictly regulated in the law, but is regulated in the Islamic Law Compilation (ILC). In other words, *itsbat nikah* is a solution for unregistered marriages, which is not regulated in the Marriage Law. In the Compilation of Islamic Law (ILC) Article 7 Paragraph 1 it has been clearly regulated that marriage can only be proven by a Marriage Certificate made by a Marriage Registration Officer. But in Verse 2 it is again emphasized that in the case of a marriage that cannot be proven by a Marriage Certificate, the marriage certificate can be filed at the Religious Court [3].

Marriage ritual is a solution to solving problems for unregistered marriages, it can also be an opening for couples who previously carried out a marriage without following the prevailing laws and regulations in order to obtain legal status for their marriage. In other words, the marriage ceremony can be like two sides of a coin, where one side is a solution to this problem and the other side can be a shortcut for those who have previously carried out an illegal marriage so that they can get legal certainty and make the marriage legal. or lawful.

Regarding the phenomenon of the marriage ceremony that occurred at the Takalar Religious Court, from the results of observations made by researchers from 2017 to 2019, the total number of cases of marriage requests that have been decided by the Takalar Religious Court has increased. Of the total number of cases involving marriage, there were cases whose marriages were carried out after the issuance of Law No.1 of 1974 concerning Marriage [4].

From the description above, the researcher is interested in raising the title "Legal Certainty of Marriage Against Marriage (Study of the Decision of the Takalar Religious Court)". The formulation of the problem which is the object of this research, namely: (1) What are the implications after marriage by the judge at the Takalar Religious Court? (2) What factors encourage husbands to propose marriage certificate?

2. Literature Review

2.1. Legal Justice

The existence of law in various fields in society is expected to be able to carry out its function as a means of dispute resolution, means of social control, means of social engineering, as well as means of distributing justice [5].

The most fundamental thing when discussing law is inseparable from justice, the goddess of justice from Greece. In his book *Nichomachen Ethics*, Aristotle, as quoted by Shidarta, has written extensively on justice. He stated that justice is a virtue related to human relations. The word fair contains more than one meaning. Fair can mean according to law, and what is proportional, that is what it should be. Here It is shown that a person is said to be unfair if that person takes more than the appropriate portion [6].

Justice is a result of decision making that contains truth, is impartial, can be accounted for and treats every human being to an equal position before the law. The realization of justice can be implemented within the scope of community life, statehood and the life of the international community, shown through impartial attitudes and actions and giving something to others to which they are entitled. The definition of justice is a balance between what the parties deserve, both in the form of gains and losses. In practical terms, justice can be interpreted as giving rights equal to one's capacity or acting proportionally to everyone, but it can also mean giving equally to everyone what is their share based on the principle of balance. Law without justice means nothing at all.

This sense of justice gives law enforcers the right of discretion to decide somewhat outside of the articles in the regulations which form the basis of the law. This is indeed dangerous, because this authority can be misused by those with authority, but on the other hand this authority needs to be given to implement the said sense of justice, because existing legal instruments may not fulfill the sense of justice.

2.2. Legal Benefits

For Hans Kelsen, law itself is a *sollenskategorie* (category of necessity), not *itseinkategorie* (factual category) [7]. What this means is that the law is constructed as a necessity that fosters human behavior as rational beings. In this case what is questioned by the law is how the law should be (what the law should be) but what the law is (what the law is). Prof. Satjipto Raharjo, who stated that: justice is indeed one of the main values, but besides others, such as utility (*doelmatigheid*). Therefore, in law enforcement, the ratio between benefits and sacrifices must be proportional [8].

The benefits of law need to be considered because everyone expects benefits in the implementation of law enforcement. Do not let the law enforcement cause public unrest. Because when we talk about laws we tend to only look at statutory regulations, which sometimes are imperfect and not aspirational with life. Justice is indeed one of the main values, but still beside others, such as utility (*utility, doelmatigheid*). Therefore, in law enforcement, the ratio between benefits and sacrifices must be proportional.

2.3. Legal Certainty

Certainty is a matter (condition) that is certain, provisions or provisions [9]. Law is a collection of rules or rules in a common life, the whole rules of behavior that apply in a common life, which can be enforced with a sanction.²¹ Legal certainty is a characteristic that cannot be separated from law, especially for norms. written law. Laws without a certainty lose their meaning because they are not again can serve as a code of conduct for everyone. *Ubi jus incertum, ibi jus nullum* (where there is no legal certainty, there is no law) [10].

Herlien Budiono said that legal certainty is a feature that cannot be separated from law, especially for written legal norms. Law without certainty values will lose its meaning because it cannot be used as a code of conduct for everyone. Apeldoorn said that legal certainty has two aspects, namely that the law can be determined in concrete terms and legal security. This means that the party seeking justice wants to know what constitutes the law in a certain matter before he starts the case and protects the parties from the judge's arbitrariness [11].

According to Jan Michiel Otto, real legal certainty has a more juridical dimension. However, Otto wanted to provide further limits on legal certainty. For that he defines legal certainty as the possibility that in certain situations:

1. There are clear (clear), consistent and accessible rules issued by and recognized because of the (power) of the state;
2. The ruling (government) agencies consistently apply these legal rules and are also subject to and obedient to them;
3. The citizens in principle adapt their behavior to these rules;
4. Independent and impartial judges (judiciary) apply these legal rules consistently when they resolve legal disputes, and;
5. The judicial decisions are concretely implemented [12].

Legal certainty is also called the principle of legal security and *rechtszekerheid*. Legal certainty is a legal instrument of a country that is able to guarantee the rights and obligations of every citizen. Legal certainty (*rechtszekerheid*) is also defined as a guarantee for members of the public, that all of them will be treated by the state / authorities based on legal regulations, not arbitrarily.

The importance of legal certainty is in accordance with Article 28D paragraph 1 of the 1945 Constitution, the third amendment, that everyone has the right to recognition, guarantees of just legal protection and certainty as well as equal treatment before the law. The existence of legal certainty is a hope for justice seekers against arbitrary actions by law enforcement officials who sometimes always arrogance in carrying out their duties as law enforcers. Because with legal certain.

2.4. Marriage Law

According to Law no. 1 of 1974 Marriage is a physical and mental bond between a man and a woman as husband and wife with the aim of forming a happy and eternal family or household based on the One Godhead.²⁸ From the above understanding, it can be concluded that

Marriage is a physical and mental bond between a man and a woman as husband and wife with a very noble purpose, namely to form an eternal and happy family based on the Supreme Lordship.

The legal basis for marriage in the Koran and the hadith includes:

- a. QS. Ar-Ruum (30): 21
"And among the signs of His power, He created for you wives of your own kind, so that you might be inclined and at ease with them, and made Him among you a sense of love and affection. In fact, in this there are signs for people who think".
- b. QS. Adz-Dzariyaat (51): 49
"And everything We created in pairs so that you remember the greatness of Allah".
- c. HR. Bukhari-Muslim
"O young men, whoever among you is able to get married, let him get married. Because by getting married it is more able to lower one's gaze and protect the genitals more. And whoever is not able to do it, let him fast, because actually fasting can be a shield for him".

The legal basis for marriage in Indonesia is:

- a. Article 28B of the 1945 Constitution, Paragraph 1, which regulates a person's right to marry and continue offspring. As for the sound of Article 28B Paragraph 1 is "Everyone has the right to form a family and continue their offspring through a legal marriage."
- b. Law no. 1 of 1974 concerning Marriage which was promulgated on January 2, 1974, which became effective from October 1, 1975, is a form of unification and codification of law in Indonesia regarding marriage and its legal consequences.
- c. Compilation of Islamic Law through Presidential Instruction (Inpres) No. 1 of 1991 dated 10 June 1991 and anticipated organically by the Decree of the Minister of Religion No. 154 of 1991 dated 22 July 1991. There are Islamic legal values in the fields of marriage, grants, wills, endowments, and inheritance. Those related to marriage are contained in book I which consists of 19 chapters and 170 articles (Articles 1 to 170).
- d. Republic of Indonesia Government Regulation No. 9 of 1975 concerning the Implementation of Law Number 1 of 1974 concerning Marriage.

2.5. Registration of Marriage

Marriage registration is the process or act of writing by an authorized officer or official into the marriage register as evidenced by the existence of a marriage certificate as authentic evidence. Marriage that takes place before the VAT is a marriage in accordance with Article 2 paragraph (2) of Law no. 1 of 1974 concerning marriage, so it is legally or legally who will get a marriage certificate quote book from the Office of Religious Affairs.

In civil matters, it is necessary to have juridical evidence which is nothing but historical evidence. With this proof tries to establish what happened concretely [13].

Marriage registration aims to create marital order in society. This is an effort regulated by law to protect the dignity and sanctity of marriage and more specifically to protect women in domestic life.

While the legal basis used in the registration of marriages is law no. 1 of 1974 article 2 paragraph (2) which states that "every marriage must be recorded according to the prevailing laws and regulations"[14].

Article 2 explains about marriage registration:

1. The registration of the marriage of those who carried out their marriage according to Islam, shall be carried out by the registrar's supervisor, as referred to in Law No. 32 of 1954 concerning Marriage Registration, Divorce and Reconciliation.
2. The registration of the marriage of those who are married according to their religion and belief, other than the religion of Islam, is carried out by the employee of the Marriage Registry at the Civil Registry Office as referred to in various laws concerning the registration of marriage.
3. Without prejudice to the specific provisions that apply to the procedures for recording a marriage based on various applicable regulations, the procedure for registering a marriage is carried out as stipulated in article (9) of this government regulation

As well as in the MRO explained in article 5 which reads:

1. In order to ensure orderliness of marriage for the Muslim community, every marriage must be recorded.
2. The registration of marriage referred to in paragraph 1 shall be carried out by a marriage registrar employee as regulated in law Then chapter 6 explains that:

Law No. 22 of 1946 in conjunction with Law No. 32 of 1954 [15]:

1. To comply with the provisions in Article 5, every marriage must be conducted before and under the supervision of a Marriage Registration Officer.
2. Marriage that is carried out outside the supervision of a Marriage Registration Officer has no legal force

2.6. Legalization of Marriage

A marriage can be carried out if it meets several requirements in the form of material and formal requirements. Material/subjective requirements, namely the conditions attached to the parties who are married, which are regulated in Article 6 to Article 11 of Law No. 1 of 1974, consisting of:

1. Must be based on the agreement of both parties
2. Must get parental consent, if the bride and groom are not yet 21 years old
3. Man must have reached the age of 19 (nineteen) and the woman has reached the age of 16 (sixteen) years
4. There is no prohibition on marriage
5. Not still bound in a marriage, except for those whose religion allows polygamy
6. Not divorced for the second time with the husband or wife who wants to marry
7. Widows must have passed the waiting/iddah period.

2.7. *Itsbat Nikah*

Itsbat Nikah is the legalization of a marriage that has been carried out according to the Islamic religious law, but is not recorded by the authorized ORA or MRO. Furthermore, according to Prof. Dr. H. Satria Effendi M. Zein there is a common perception among legal practitioners, especially judges of the Religious Court, that what is meant by Itsbat Nikah is a declarative legal product simply to declare the validity of a marriage which is carried out according to religious law but is not recorded, with legal implications after the marriage is confirmed. to have legal certainty (*rechtszekerheid*).

Itsbat Nikah is an application for legalization of marriage that is submitted to the Court to declare the validity of the marriage and has legal force.⁷⁰ Itsbat Nikah can only be submitted through the Religious Court, not through the Office of Religious Affairs .

Thus, the Marriage Certificate becomes authentic evidence of an implementation of marriage so that it can become a "legal guarantee" if one husband or wife commits a deviant act. The husband does not provide the living that is his obligation, while in fact he is able or the husband violates the provisions of *taklik* divorce that he has read, so the injured wife can complain and file a lawsuit in the case of the Religious Court.

Forms of criminal sanctions against perpetrators of falsification of marriage requirements If the documents are incomplete, which means that the conditions of the marriage are not fulfilled, however, the officer of the prospective bride and groom can be married off, then the perpetrator who issues a marriage certificate or claims to be an "asphalt" prince , can be subject to threats or charged with falsification of letters (Article 263 the Criminal Procedure Code) and fraud (Article 378 Criminal Procedure Code) with the threat of a sentence of six and four years, respectively. Not only for the perpetrator, the victim who, if it turns out to be in bad faith, may be subject to Article 55 paragraph (1) of the Criminal Code concerning Participation in Committing Criminal Acts.

Basically, the authority of the Itsbat Nikah case for the Religious Courts in its history was reserved for those who married under their hands prior to the enactment of Law No. 1 of 1974 concerning marriage. Jo. Government Regulation No. 9 of 1975 (explanation of Article 49 paragraph (2), Jo. Article 64 of Law of the Republic of Indonesia No. 1 Year 1974). However, this authority has grown and expanded with the use of the provisions of the Compilation of Islamic Law (MRO) article 7 paragraphs 2 and 3, in paragraph (2) it is stated: "In the case of a marriage that cannot be proven by a marriage contract, an Isbat Nikah can be submitted to the Religious Court" [16].

In the Al-Qur'an surah An-Nisaa verse 4 it is explained about marriage below:

وَأَتُوا النِّسَاءَ صَدُقَتِهِنَّ نِحْلَةً

Translation:

"Give a dowry (dowry) to the woman (whom you marry) as a willing gift. (Surah An-Nisaa: 4).

The institution for itsbat nikah (legalization of marriage) which is accommodated in the Marriage Law (ML) and Law no. 7 of 1989 concerning the Religious Courts is only limited to a review of the marriage that occurred in 1974, this can be seen in Article 49 paragraph (2), namely the field of marriage as referred to in paragraph 1 letter a, is matters regulated in or based on law. The warehouse regarding the applicable marriage, while in the explanation of Article 49 paragraph (2) it is said that one of the fields of marriage regulated in the ML is "a statement about the validity of marriage that occurred before Law no. 1 of 1974 concerning Marriage is carried out according to regulations other." ⁸⁵ Marriage ceremony in Indonesia only existed after the birth of the ML, although during the Dutch colonial period in Indonesia it had acknowledged the existence of the Religious Court by stbl. 1882 No. 152 which was later added and modified with stbl. 1937 No. 116 and 160 and stbl. 1937 No. 638 and 639, however, the question of marriage at that time did not appear because it was influenced by Dutch colonial political action.

2.8. Research Conceptual Framework

The conceptual framework is a form of thinking framework that can be used as an approach to solving problems. Usually this research framework uses a scientific approach and the relationship between variables in the analysis process. A good conceptual framework is:

1. The research variables to be studied must be clear.
2. The conceptual framework must explain the relationship between the variables to be studied, and there is an underlying theory.
3. The conceptual framework is more important to be stated in the form of a diagram, so that the research problem to be searched for answers is easy to implement [17].

Every research must always be accompanied by theoretical thoughts. This is due to the reciprocal relationship between theory and data collection, data processing and data analysis. The conditions that must be met by a theory are:

1. Logical and consistent, which is acceptable to common sense and the absence of things that are contradictory to each other in that framework.
2. Theory consists of statements that have harmonious interrelations regarding certain phenomena.
3. The statement in a theory includes all the elements of the phenomenon which are included in its scope.
4. There may be no duplication in the statements.
5. The theory must be verifiable empirically [18].

2.9. Hypothesis

The legal certainty of marriage towards the marital status of the researcher formulates a research hypothesis that in Article 2 Paragraph 1 of Law no. 1 of 1974 concerning Marriage states that marriage is valid, if it is carried out according to the law of each religion and belief. In the explanation of Article 2 it is stated that by the formulation of Article 2 paragraph (1), there is no marriage

outside the law of each religion and belief, in accordance with the 1945 Constitution.

A married couple who have married before a Marriage Registration Officer, but a Marriage Registration Officer deliberately does not record the existing marriage before and under their supervision and husband and wife couples are also not provided with the Quote of Marriage Certificate, causing legal uncertainty over the marriage of a married couple and the children who are born.

Therefore, to obtain legal certainty on the marital status committed by a married couple by submitting a marriage request, while to obtain legal certainty for children born to a married couple, apart from the marriage status, it is also possible to apply for a marriage certificate. child.

3. Methods

3.1. Type of Research

This type of research is empirical normative research and analytical descriptive method. Normative-empirical legal research (applied law research) uses normative-empirical legal case studies in the form of legal behavior products whose main study is the implementation or implementation of factually positive legal provisions on every particular legal event that occurs in society in order to achieve definite goals. Normative-empirical (applied) legal research begins with written positive legal provisions that are applied to in-concreto legal events in society. Analytical descriptive method is a method in researching the status of human groups, an object, a set of conditions, a system thought or an event in the present. The purpose of this descriptive analysis research is to make descriptions, descriptions or paintings systematically, factually and accurately regarding the facts, properties and relationships between the phenomena being investigated [19].

3.2. Population and Sample

The population is the overall research objective, while the population is the entire object of research or the object to be studied.⁹⁶ The research population is all data of events itsbat integrated marriage for 2017-2019 and informants at the Takalar Religious Court. For sampling by means of simple random sampling, namely random sampling without considering the existing strata in the population.⁹⁹ In this case the sampling referred to is the judge, clerk and part of the staff of the Takalar Religious Court.

3.3. Data Analysis Methods

Data analysis is the process of systematically searching for and compiling data obtained from interviews, field data and other materials so that they can be easily understood and the findings can be shared with others.

1. Collecting documentation data, interviews and separating library data (laws, scientific papers, articles or journals, books containing findings or opinions of experts and other book sources). The data collection carried out is by reviewing the stipulation, as well as other documents related to this stipulation.
2. Combining documentation data, interview data with library data. Then between the data is connected and refers to the framework that has been formulated.

3. Sorting data to be processed to answer research questions on the formulation of the problem.
4. After the research questions can be answered, then conclusions can be drawn and used as answers to the predetermined problem formulations.

The data obtained, both primary data and secondary data, were analyzed using qualitative techniques and then presented in a descriptive normative manner, namely explaining, describing, and describing according to the problems that are closely related to this research and then drawn into a conclusion [20].

4. Results and Discussion

4.1. Legal Certainty for Itsbat Marriage Against Marriage

There are almost every year cases of marriage in the Takalar Religious Court, this indicates that there are still many people who do not register their marriages in front of the Marriage Registration Officer. The cases of marriage marriage in the last 3 years in the period 2017, 2018 and 2019 are as follows:

Table 1: Data on the Itsbat Marriage Case Decided at the Takalar Religious Court from 2017-2019

No.	Case Year	Number of Marriage Prayers	Granted	Rejected
1.	2017	22	22	0
2.	2018	21	21	0
3.	2019	15	15	0
amount		58	58	0

Source: Report of the Itsbat Nikah Case Recapitulation at the 2019 Takalar Religious Court Office

Based on the data above, it shows that the number of cases of marriage that have been received by the Takalar Religious Court since 2017-2019 is 58 cases. The number of cases involving marriage ceremonies were in 2017 as many as 22 cases. Then in 2018 there were 21 cases. And finally in 2019 there were 15 cases. The data also shows that in the last 3 years the number of cases of marriage requests has decreased. The decrease in the number of cases involving marriage in the Takalar Religious Court was due to the awareness of the community to legalize their marriages that were not registered at the ORA and the awareness of the importance of having a marriage certificate to take care of important documents for both husband and wife and their children later. The data above also shows that in the last 3 years the case for the marriage request at the Takalar Religious Court has also decreased. This is because in the trial process there are conditions that cannot be proven so that the case is not granted.

Apart from evidence, another factor that causes the marriage request case not to be granted is the witness. One of the reasons for the applicant to apply for a marriage certificate is to make a birth certificate to handle the distribution of

inheritance. For example, namely the Determination of the Takalar Religious Court Number 136/Pdt.G/2019/PA.Tkl. In the decision, the judge granted the petitioner's request to the marriage of the applicant's father and mother. The marriage ceremony aims to arrange for a birth certificate which of course requires proof of the applicant's father and mother's marriage, while the applicant does not have this proof because the marriage took place before Law No. 1 of 1974 concerning Marriage and has not been registered with the Marriage Registration Officer. However, due to legal considerations, based on the testimonies of witnesses, the judge finally granted the applicant's request to cause the marriage of the applicant's father and mother to be a problem.

Apart from that, the Takalar Religious Court also carried out 2 types of marriage licenses, namely ordinary marriages and mass marriages. Where is an ordinary marriage certificate, it is immediately registered to the court which requires a long and time-consuming process for trial, while mass marriage isbat, the process is fast without waiting a long time for trial. In June 2019, the Takalar Religious Court conducted an integrated mass marriage ceremony with the Takalar Regency Government as a facilitator, the Office of the Ministry of Religion as a marriage registration institution and the Civil Registration Service as a population administration publishing agency. This is based on an interview with A.M. Zukarnain Chalid, as the Junior Clerk of the Law of the Takalar Religious Court, as follows:

The results of the interview with Bahjah Zal Fitri, as Judge of the Takalar Religious Court, also added that in relation to the question of how to carry out the marriage ceremony at the Takalar Religious Court, he stated that:

Requests for marriage ceremonies are usually voluntary. During the trial there will be an examination if the applicant and the respondent are present, then the trial stage begins by checking the identity of the parties, the parties are not obliged to carry out the mediation process because the case of the petition for marriage isbat. Furthermore, the stage of case examination is continued by reading out the identity of the parties, the letter of application, witnesses and evidence. The next stage of the trial is the deliberation of the Panel of Judges and the deliberations of the Panel of Judges and finally the reading of the decision, however, there are also requests that are contingent in nature if any party objects to the petition [21].

As an interview with Fadilah, as the Judge of the Takalar Religious Court, regarding the question regarding the legal certainty of marriage over marital assets, he stated that:

"... After the determination of the marriage status by the Religious Court, the marital status is valid so that the assets owned during the marriage from the start it becomes clear and the marital assets become joint assets, but if the marriage license is rejected then the marital assets are divided according to who gets the property, for example a house. , judging by who bought the house ... "[19]

Based on the interview with the informant above, it can be denied that the determination of the marriage certificate issued by the Takalar Religious Court is valid for the applicant's marriage so as to provide legal certainty for assets related to marriage that have been declared valid, both inherent and joint assets. If the

application for Itsbat Nikah is rejected by the Takalar Religious Court or up to the level of cassation, then the marital assets are divided from who owns the assets and/or who is in the name of the assets. The marriage ritual is also a means to uphold Hifdzu al-Maal, with the marriage ritual which results in formal legal recognition of marriage, automatically the status of children and marital assets becomes recognition, so that ownership of assets and other related rights can be preserved. Legal certainty described above is legal certainty for marital status, child status and marital property status from the date of legalization of marriage in accordance with the marriage certificate, both for marriages that occur before after the enactment of Law Number 1 of 1974.

4.2. Factors that cause a married couple to submit a request for a marriage ceremony

Legislation already requires a Marriage Certificate as proof of marriage, but it is not uncommon for husband and wife who are married but do not have a Marriage Certificate. As for the reasons for the absence of Marriage Certificate Quotes due to several factors such as; [22].

1. Forced marriage or marriage without family consent
2. The community does not understand marriage registration at the ORA
3. Public awareness of the minimal importance of a marriage book
4. The condition is long and difficult to reach to ORA

The causative factors for these married couples so that they apply for a marriage certificate, in general it is caused by various things, including:

1. Factors of economic conditions, there is no quotation of a marriage certificate for married couples who are married on the grounds that they are economically incapable,
2. There was a community negligence in registering their marriage to the Office of Religious Affairs.

This is different from what Muh. Kasim, Judge at the Takalar Religious Court, that several factors caused the community to apply for an marriage ceremony at the Takalar Religious Court because: [23]

1. The negligence of the community itself does not register their marriage at the competent authority, in this case the local ORA.
2. High costs so that people are reluctant to register their marriages.
3. There is a marriage that is not normal (customary issues), for example, eloping from the family, a forced marriage by the family or being pregnant.

Based on the findings in the field regarding the causative factors for a married couple filing a marriage request case at the Takalar Religious Court in basically due to various kinds, this can be seen including:

1. For economic reasons, the cost of marriage registration is expensive so that the community as prospective brides do not register their marriage registration with the local ROA.
2. Imam in the village who did not deposit the file with the ROA, the factor of being economically unable to pay the registration fee for marriage, according to the author's opinion, this is no longer relevant to the current reality.

Religious Court, that several factors caused the community to apply for an marriage ceremony at the Takalar Religious Court because: 121

1. The negligence of the community itself does not register their marriage at the competent authority, in this case the local ROA.
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3. This is different from what Muh. Kasim, Judge at the Takalar There is a marriage that is not normal (customary issues), for example, eloping from the family, a forced marriage by the family or being pregnant.

Based on the findings in the field regarding the causative factors for a married couple filing a marriage request case at the Takalar Religious Court in Because with the issuance of government regulations No.48 of 2014 concerning amendments to Government Regulation No.47 of 2004 concerning Tariffs on Types of Non-Tax State Revenues Applicable to the Ministry of Religion, it has been free based on Article 6 paragraphs (1-3) states that: [24]:

1. Every citizen who carries out marriage or reconciliation at the District Office of Religious Affairs or outside the Office of Affairs Religion is not subject to marriage registration or reconciliation fees.
2. In the event that marriage or reconciliation is carried out outside the District Office of Religious Affairs, transportation fees and professional fees are charged as revenue from the District Office of Religious Affairs.
3. Economically incapacitated citizens and/or disaster victims who marry or are reconciled outside the District Religious Affairs Office as referred to in paragraph (2) may be charged a rate of Rp. 0.00 (zero rupiah).

Based on the explanation in the article above, it can be understood that since the issuance of this Government Regulation, there should be no more marriages that are not registered at the Office of Religious Affairs so that it will minimize the occurrence of requests for marriage in the Takalar Religious Court. However, the reality is that there are still requests for marriage licenses which are carried out after the issuance of Government Regulation No.48 of 2014 itself.

5. Conclusion

The status of marriage in the statutory law on marriage provides the basis for legal certainty for unregistered marriages or marriages that took place prior to the enactment of Law Number 1 of 1974. Marriages that are not recorded must be determined administratively through the Religious Court.(1) The legal certainty of the status of marriage for the status of the marriage, namely: with the determination of the status of marriage by the Religious Court, this determination is the reference for the recording and issuance of the Marriage Certificate Quotation by the Office of Religious Affairs as authentic evidence that the marriage is valid and has legal force.(2) Furthermore, this excerpt from the Marriage Certificate will be used to process the child's birth certificate at the Civil Registry Office, so that the court can issue a determination regarding the child's origin and inheritance rights to the father or mother.(3) While the legal certainty of the status of marriage regarding the status of marital assets, it becomes clear that ownership of joint property (gono-gini). As for the cause of a husband and wife couple submitting their marriage certificate at the Religious Court, namely

wanting to obtain legal certainty for their marriage and for the purposes of managing population administration.

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