# Implementation of Prenuptial Certificates as a Religious and State Effort in Forming a Sakinah Family

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Abstract: This journal discusses the implementation of premarital certificates as an effort made by religion and the state to form a sakinah family. This research uses a library research approach, meaning the research process or information search is carried out in the library or using literature sources and documents available in the library. This activity involves searching, identifying, and analyzing relevant sources of information. Apart from that, this research also uses a field research approach, meaning that data sources are taken from existing literature and from the field. The results of this research provide an in-depth understanding of the role of religion and the state in regulating marriage and offer valuable perspectives for legal practitioners, policy makers, and the general public interested in strengthening family values in society. As well as providing an understanding of the important role of pre-marital certificates in ensuring legality, protection and welfare for married couples and making it easier for the state to monitor and collect statistical data related to marriage and family.

**Keywords:** Premarital Certificate, Religion, Country, and Sakinah Family.

#### Introduction

Every person living on this earth dreams of having a family that is harmonious, full of love, and takes care of each other for the sake of family integrity. This concept in Islam is known as Sakinah Mawaddah and Warahmah which is the goal of creating a family that is blessed by Allah SWT. In essence, this concept is often easy to say, but difficult to implement. Marriage is a physical and spiritual bond between a man and a woman as husband and wife with the aim of forming a happy and eternal family based on belief in the Almighty Godhead<sup>1</sup> and is a general sunatullah that applies to all of His creatures, as one of the ways chosen by Allah. SWT as a

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<sup>&</sup>lt;sup>1</sup> Undang-Undang No 1 Tahun 1974 tentang Perkawinan

way for His creatures to reproduce and preserve their lives.<sup>2</sup>

The purpose of marriage according to Islam is to fulfill religious instructions in order to establish a harmonious, prosperous and happy family. Harmony in exercising the rights and obligations of family members; Prosperity means the creation of inner and outer calm due to the fulfillment of one's inner and outer life needs, so that happiness arises, namely love between family members. As Allah swt. says in QS Al-Rum/30:21. Meaning: Among His signs (of His greatness) is that He created partners for you from (your own kind) so that you feel at ease with them. He created among you feelings of love and compassion. Indeed, in that there are truly signs (of Allah's greatness) for a people who think.<sup>3</sup>

QS Al-Rum/30:21 teaches that a good husband behaves and protects his wife and treats her in a kind, affectionate and gentle manner. This attitude is very important in building a sakinah family. Protecting is the same as protecting, a husband must be able to protect his wife, children and other family members. So that a family is created that is sakinah, mawaddah, and full of the grace of Allah SWT.<sup>4</sup>

In Islam, marriage is considered a very important cultural aspect and is regulated in detail in religious teachings. Marriage in Islam has a broader meaning than just a social or legal bond, but is considered a sunnah (recommended action) and worship (an act that brings oneself closer to Allah). It can be concluded that marriage is the joining of two people, a man and a woman, who are bound by a contract, with the aim of having legitimate, happy and eternal offspring.

In society, the concept of the family has an undeniable role as the main foundation for the formation of social welfare and stability. Recognizing the complexity of the challenges faced by prospective couples in entering married life, the implementation of premarital certificates as a form of cooperation between religion and the state has emerged as an increasingly accepted solution. A premarital certificate is an official document that shows that a prospective couple has taken part in a

<sup>&</sup>lt;sup>2</sup> Siska Lis Sulistiani, dkk. Analisis Hukum Tentang Upaya Mediator Dalam Meminimalisir Jumlah Perceraian Di Pengadilan Agama Kelas 1A Kabupaten Indramayu ( Studi Kasus Perkara Perceraian Tahun 2016-2018). Tahkim Jurnal Peradaban dan Hukum Islam. Vol 2.No.2 (Oktober, 2019) ,68.

<sup>&</sup>lt;sup>3</sup> Terjemahan Qur'an Kemenag, Qur'an Surat Al-Rum Ayat 21

<sup>&</sup>lt;sup>4</sup> Agus Riyadi, *Bimbingan Konseling Perkawinan Dakwah Dalam Membentuk Keluarga Sakinah*, (Yogyakarta : Penerbit Ombak, 2013),179-180.

preparation program before marriage. This program covers various aspects, from marriage counseling to family education, as well as the application of religious values applied in the context of everyday household life. From a religious perspective, a premarital certificate is considered the first step towards forming a sakinah family. Meanwhile, from a state perspective, this certificate is expected to support the achievement of community welfare (Maslahah).

This research aims to dig deeper into the implementation of premarital certificates and their impact in forming a sakinah family, with a focus on the Maslahah perspective which emphasizes community welfare. Along with the development of society and the issue of the role of the family, further understanding of whether the premarital certificate program can achieve the goals of Maslahah and how the roles of religion and the state can synergize becomes very important. By opening a window on this understanding, this research seeks to contribute to policy discussions as well as provide a rationale for increasing the success of premarital certificate programs. Through this research, it is hoped that a deeper understanding will be gained about the role of premarital certificates in forming a sakinah family, which is in accordance with religious values and community welfare goals in the context of everyday life.

#### Reasearch Method

This research uses a library research approach, meaning the research process or information search is carried out in the library or using literature sources and documents available in the library. This activity involves searching, identifying, and analyzing relevant sources of information. Apart from that, this research also uses a field research approach, meaning that data sources are taken from existing literature and from the field. The data collection instrument used was an interview guide. From the results of this analysis, inductive conclusions can be known and obtained, namely a way of thinking in drawing general conclusions based on specific facts.<sup>5</sup>

The primary data source that the author used as the focus of the study is the Regulation of the Director General of Islamic Community Guidance Number: DJ.II/542 of 2013 concerning Guidelines for Organizing Pre-Marriage Courses. Meanwhile, secondary data sources were obtained

<sup>5</sup> Soerjono Soekanto, *Pengantar Penelitian Hukum*, (Jakarta: UI Press, 1986), 10.

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from several books and journals as follows, Book: Pre-Marriage Course TOT Module, Compiled by the Ministry of Religion of the Republic of Indonesia, 2011. Journal: Intan Nurrachmi et al, Tahkim, Journal of Islamic Civilization and Law, 2020, Pro and Cons of Marriage Certificates. Muhammad Mu'ashir Fadil Ramadhan et al, Shautuna, Scientific Journal of Comparative Madzhab Students, 2021, Premarital Certificate as a Requirement for Marriage at KUA Minasatene, Analysis of Islamic Law. Deden Hidayat, Istinbath, Law Journal, 2020, Prenuptial Certificate Regulations reviewed from the Maslahah and Mafsadat Rules in Islamic Law.

#### **Results and Discussion**

# Prenuptial Certificate as a Religious Effort in Forming a Sakinah Family.

Pre-marriage is composed of two words, namely "pra" and "nikah", the word "pre" as stated in the "Big Indonesian Dictionary" is a prefix which means "before". Meanwhile, the word "marriage" is defined in the "Big Indonesian Dictionary" as a marriage bond or agreement (akad) between a man and a woman which is carried out in accordance with the provisions of state and religious law.

One of the benefits that pre-marital education can provide is achieving a family that is peaceful, serene and happy and is always filled with affection between family members so that they can socialize well in society. A happy family will not be created easily without education or good habits starting from within the family itself. Thus, in creating a happy family, family members should be aware of the importance of an educational process that is in accordance with the Shari'a so that the process of transforming the behavior and attitudes of family members will be reflected in good personalities that are in accordance with the guidance prescribed by religion.<sup>8</sup>

The definition of marriage in Islamic law is called nikah, which is one of the principles of life in a civilized and perfect society. Islam views that marriage is not only a noble way to regulate domestic life and offspring, but also a door to introductions between one ethnic group and another. Marriage is a general sunnatullah and applies to all of His creatures,

<sup>&</sup>lt;sup>6</sup> Departemen Pendidikan dan Kebudayaan, *Kamus Besar Bahasa Indonesia*, (Jakarta : BalaiPustaka, 1998), 44-55

<sup>&</sup>lt;sup>7</sup> Departemen Pendidikan dan Kebudayaan, *Kamus Besar Bahasa Indonesia*, (Jakarta : BalaiPustaka, 1998), 61-64

<sup>&</sup>lt;sup>8</sup> Amir Syarifuddin, Hukum Perkawinan Islam di Indonesia. (Jakarta: Kencana, 2007), 20.

including humans, animals and plants. It is one of the ways chosen by Allah SWT as a way for his creatures to reproduce and preserve their lives.<sup>9</sup>

The definition of family is the smallest unit in society which is the first educational environment and has a big influence on children's development. Good and bad children's attitudes are determined by the parenting and education patterns applied by both parents to their children at home. Thus, both parents should try to create a harmonious household atmosphere, mutually nurturing love and care that is based on religious teachings and values, so that they are able to provide the best education from an early age for their children. Therefore, it is necessary to create an ideal family, namely a family that is sakinah mawadah wa rahmah. To achieve this ideal family there are principles that the prospective bride and groom must know and fulfill. These principles include internal and external aspects. Internal aspects include: glorifying humans, choosing a partner according to conscience, partnering, deliberation, love, absence of violence, justice and al-ma'ruf. While the external aspect is good neighbors, the Sakinah family is a family that is harmonious, happy and prosperous physically and mentally, living calmly, serenely, peacefully and full of love. In the sakinah family there are dimensions or criteria, namely; (1) the relationship between husband and wife is balanced, (2) sexual desires are well channeled, (3) educated children become pious and pious children, (4) the physical and spiritual needs of husband and wife are fulfilled, (5) a harmonious bond of brotherhood is established between the family great husband and wife, (6) able to carry out religious orders well, (7) able to establish good relationships with neighbors, and (8) able to live in society and the State. 10

Based on the results of the author's interview with the Head of KUA Pajarakan, Mr. Fauzan, revealed that a blessed marriage is a family that can foster each other, including open communication where each family can be open and honest about each other's feelings and problems. Apart from that, to create a family that can support each other, you also need a sense of tolerance and mutual respect for differences of opinion within

<sup>&</sup>lt;sup>9</sup> Nur Ilma and Muammar Bakry, "Kebebasan Perempuan Dalam Memilih Calon Suami; Studi Perbandingan Antara Mazhab Syafi ' i Dan Hanafi," Mazahibuna; Jurnal Perbandingan Mazhab 2, no. 2 (2020): 212–230.

<sup>&</sup>lt;sup>10</sup> Intan Nurachmi dkk Pro dan Kontra Sertifikasi Pernikahan, 3-4

<sup>&</sup>lt;sup>11</sup> Fauzan, Wawancara pada tangal 22 Februari 2024 Jam 10.25

the family and not comparing each other or giving excessive criticism. To create a blessed family you also need to build perfection spiritually and materially.

Therefore, to prepare the concept of family life, marriage readiness is required, consisting of the couple's ability to communicate, manage finances, agree on childcare, divide the roles of husband and wife, ability to accept the partner's background (ethnicity, religion), ability to maintain relationships with the extended family. the ability to divide time between the two of you and carry out personal interests, the ability to face changes in lifestyle after marriage.<sup>12</sup> The following are some preparations that the bride and groom must have, including; physical readiness, mental readiness, and economic readiness. These three things generally trigger fear for people who want to enter marriage.

## 1. Physical Readiness

The readiness referred to in this case is a state of readiness that is reflected in a person. Physically ready means that someone has matured in the development of their body parts. A man and woman who decide to get married should have their physical health and reproductive health checked. This is important to do to detect a couple's reproductive health early on, so that after marriage it is hoped that both partners will be able to carry out their functions as husband and wife optimally and be able to give birth to healthy offspring. If there is a problem with the reproductive organs, for example certain diseases and disorders are found, then it must be treated immediately. A beautiful physique will be one of the driving factors for humans to feel proud, happy and happy. Therefore, everyone should pay attention to cleanliness, neatness and physical health, because a healthy physique will support readiness for activities and work.

#### 2. Mental Readiness

Mental readiness is a problem that often arises in a person in all matters, including when getting married. Not a few people are haunted by doubts, giving rise to indecision. Marriage must be intended properly, namely because it fulfills the needs of life as a social

<sup>&</sup>lt;sup>12</sup> https://psychology.binus.ac.id, kesiapan-menikah-vs-persiapan-pernikahan/, Tahun 2015,diakses tgl 30 Januari 2024.

<sup>&</sup>lt;sup>13</sup> Tim perwakilan BKKBN, Modul; Orientasi Diseminasi Program KKBPK Bagi Petugas Pernikahan dalam Memberikan Nasihat Kepada Calon Pengantin, (Surabaya: BKKBN, 2017), 52.

creature and as a form of obedience (worship) to Allah. A person who has an awareness of straight intentions that marriage is a form of worship to Allah means that he is mentally ready to get married

Economic Readiness Economic readiness is the state of a person who is materially ready to enter into marriage. Being economically ready does not mean having to be wealthy, but the readiness to provide for family members. Islam does not want its adherents to think and live materialistically (money oriented), but it is important for prospective husbands and wives to have the ability to work hard so that they are able to finance life and be able to manage finances so that the economic welfare of the family can be guaranteed.<sup>14</sup>

Therefore, the existence of pre-marital guidance and certificates is very important for prospective brides who will carry out marriage and build a family that is sakinah mawadda and warohmah, in order to avoid disharmony in the family which will also trigger divorce.

In addition, to create a lasting family and colored by sakinnah, Religion emphasizes many things, factors that are needed in forming a sakinah family according to M.Quraish Shihab, among others:

## 1. Equality

This equality covers many aspects, such as equality in humanity. There is no difference in terms of origin between men and women. Many times the Qur'an emphasizes that ba'dhukum min ba'dh (some of you from some others). This is a term used to indicate equality or togetherness and partnership as well as showing that the manalone or the husband alone, is not perfect he is only partly as well as the woman, before uniting with her partner is also only partly. They are only perfect when they are united and work together.

Allah-sanctioned mixing comes about through the cooperation and willingness of each to reveal their innermost secrets, and this would not be possible without a partnership between the two.<sup>15</sup> In the past, scholars emphasized kafaah in terms of descent and religion. However, today kafaah and equality are emphasized not only in terms of worldview or religion, but also in terms of culture, education and age.

<sup>&</sup>lt;sup>14</sup> Tim perwakilan BKKBN, Modul; Orientasi Diseminasi Program KKBPK Bagi Petugas Pernikahan dalam Memberikan Nasihat Kepada Calon Pengantin, (Surabaya: BKKBN, 2017), 17.

<sup>&</sup>lt;sup>15</sup> Quraisy Shihab. *Nasihat perkawinan untuk anak-anaku*, 2006, 147-149.

#### 2. Deliberation

If Islam aims to build a strong and cohesive society, the family plays a major role in realizing this goal because technically the family forms and develops new social relationships through the lineage of marriage. Human beings live in a society and are bound by the norms of that society. In relation to this, marriage is something that is closely related to the things mentioned above with marriage, the relationship between husband and wife is expected to be fulfilled optimally.<sup>16</sup>

Marriage is successful if both partners have the awareness that living together is take and give, feet must take turns in front, and that married life, although accompanied by various problems and difficulties, is far more biased than living alone. Various desires or problems faced, must be resolved by deliberation on the basis of the equality of both parties. Deliberation cannot be carried out in a situation where one person feels superior to the other.

When deliberating or communicating, there is a lot of guidance and procedures taught When deliberating or communicating, there is a lot of guidance and procedures taught by religion, ranging from the inner attitude and willingness to apologize, gentleness and subtlety of words, to diligence in listening to deliberation or discussion partners.

Each must also be able to know his or her needs and views and have the skills to express them, as well as being able to actively listen to his or her partner's views, so as not to rush to conclusions. In the event that deliberation does not lead to a consensus, one person must be able to say, "You may be right". This sentence is no less intimate than the sentence, "I love or am proud of you". It is a sentence that will automatically come to mind as long as mawaddah and rahmah fill their souls.<sup>17</sup>

# 3. Awareness of partner's needs

In the midst of the spaciousness of the family climate, each married couple can find a sense of love, love, affection and sympathy that they will not be able to taste anywhere else. The peace of mind and affection that people feel towards their spouses is one of the psychological demands that can never be separated from every human being and is not found except in the institution of marriage. It is a type of tranquility that is different from other tranquility. This tranquility is the tranquility of the partner's spirit, so that it is as if their spirits merge and their hearts become one spirit and one heart.

<sup>&</sup>lt;sup>16</sup> Walgito, 2004, ..... 22.

<sup>&</sup>lt;sup>17</sup> Quraisy Shihab. Nasihat Perkawinan untuk anak-anakku, 2006, 153

The Holy Qur'an underlines that both husband and wife are clothes for their spouse. The allusion underscores the many things that husband and wife must realize in order to create a sakinah family.

If in normal daily life one cannot live without clothes, so too is pairing unavoidable in the normal life of an adult human being. If clothing serves to cover the nakedness and physical shortcomings of human beings, similarly, married couples must complement each other to cover each other's shortcomings.

If clothing is an ornament for the wearer, the husband is an ornament for his wife, and vice versa. If clothing is able to protect people from heat and cold, the husband to his wife and the wife to her husband should also be able to protect their spouses from the crises and difficulties they face. As a result, husband and wife need each other. These needs are many and varied, not only physical or sexual, but also spiritual to such an extent that they are unending. As soon as these needs are no longer felt, love fades and the marriage falters. Without awareness of these needs, and without marriage functioning in the way it is meant to, home life will not achieve sakinah, and it also means that religion is not functioning properly in home life.

# Premarital Certificate as a State Effort in Building a Sakinah Family.

Through the KMA (Minister of Religious Affairs Decree) No. 477 of 2004, the government ordered that before a marriage is held, each prospective bride and groom must be given provisions and insights into what a family and household means through the guidance of prospective brides and grooms. 3 Director General of Community Guidance.

Based on the results of the interview with Mr. Fauzan as the Head of the Minasatene KUA, this certificate is very useful for the community because in the premarital certificate the prospective pengntin is guided on how to get married, how to settle down, how to prepare for marriage and so on, so that when the bride and groom enter their marriage they already have careful preparation to establish marriage and create a quality family.

The prenuptial certificate is a state administration regulated by the Ministry of Religious Affairs, where everyone who will carry out a marriage must have a prenuptial certificate. As for Islamic law, it does not depend on administration but looks at the terms and conditions. So the two go hand in hand and must exist in a marriage in the country of Indonesia.

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<sup>&</sup>lt;sup>18</sup> Quraisy Shihab. Nasihat Perkawinan untuk anak-anaku, 2006, 154.

The mandatory premarital certificate program is one form of state intervention, namely the formal form of marriage documentation, because if there are couples who want to get married, it is an obligation to complete letters such as marriage licenses, KTPs, KKs and even fees that must be paid.<sup>19</sup>

As for couples who have a certificate, it cannot be a guarantee to be able to implement the knowledge gained during the guidance period properly, because in guidance, both in the form of reproductive health and family economics, it must be based on faith, because without a foundation of faith it is possible that prospective brides will make mistakes in building and living a family life. Because faith gives a sign that marriage between a man and a woman is a legitimate place to channel their sexual desires.

Premarital certificates will be obtained by couples who have undergone training on various knowledge about marriage, including managing emotions, finances, and knowledge about health and reproductive organs. According to the Deputy for Family Welfare and Family Empowerment of BKKBN RI, the agency is coordinating with the Ministry of Religious Affairs, Ministry of Health, and Ministry of Women's Empowerment and Child Protection (PPPA) regarding this matter. The reason is that the three ministries have a big role in realizing family resilience.

The purpose of this program is not only to create a strong marriage, but also to find out the health condition of the bride and groom, provide information on physical and psychological health, and ensure that the bride and groom are ready for marriage. because it can mature the mentality of the married couple, the guidance is required.<sup>20</sup> Because of this, this training is not only the responsibility of the Ministry of Religious Affairs, but this training will later be in collaboration with the Ministry of Health, because couples will be equipped with knowledge about family economics to advice that must be done when married.<sup>21</sup> Furthermore, this

<sup>&</sup>lt;sup>19</sup> Intan Cahyani dkk Sertifikat Pranikah Sebagai Syarat Pernikahan di KUA Minaste; Analisis Hukum Islam, 8

<sup>&</sup>lt;sup>20</sup> Audia Natasha Putri. *Mulai 2020 Pasangan Yang Akan Menikah Wajib Miliki Sertifikat Layak Kawin Begini-Cara Dapatkannya* . Lihat:

https://palu.tribunnews.com/2019/11/21/mulai-2020-pasangan- yang-akan-menikah-wajib-miliki-sertifikat-layak-kawin-begini-cara-dapatkannya?page=2 24 Maret 2024 22:46 Wib

<sup>&</sup>lt;sup>21</sup> https://sriwijayatv.com/2019/12/23/2020-pasangan-yang-akan-menikah-wajib-

idea is made so that couples have knowledge about reproduction to dangerous conditions for children such as *stunting*. *In* addition to health, couples will be equipped with knowledge about family economics to spiritual advice. Another goal of this regulation is to minimize the divorce rate in Indonesia. This is also supported by Komnas Perempuan's proposal for a marriage certificate. With the condition that the couple will later implement it into their household, so it is not just a formality.<sup>22</sup>

In general, there are many benefits that will be obtained with a prenuptial certificate, but in the view of the State, prenuptial certificates have several very important benefits, including:

## 1. Marriage Legality

A prenuptial certificate is an official proof that validates the marriage between two individuals before the law. As such, it gives clear legality to the status of the marriage, provides legal protection for both parties, and confirms the rights and obligations associated with marital status.

## 2. Legal Protection

Prenuptial certificates also provide legal protection to the married couple. This includes rights related to joint property, inheritance, child custody, as well as other rights recognized by state law.

# 3. Prevention of early and forced marriage

With the requirement to obtain a prenuptial certificate, the state can implement rules and mechanisms to prevent child marriage and forced marriage. Prenuptial certificates can also be a tool to ensure that marriages are only entered into based on the consent and free will of both parties.

## 4. Women empowerment

Prenuptial certificates can be an instrument to strengthen women's position and rights in marriage. With the process of registering and legalizing marriages through prenuptial certificates, women have better access to legal protection and their rights, and can reduce the risks associated with unwanted or harmful marriages.

#### 5. Monitoring and statistics

The premarital certificate system also allows the state to monitor and collect statistical data related to marriage and families. This

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<sup>&</sup>lt;sup>22</sup> Intan Nurachmi dkk. Pro dan Kontra Sertifikasi Pernikahan, 5

information can be used to develop more effective policies and programs to support families and improve the overall well-being of society.<sup>23</sup>

As such, premarital certificates play a crucial role in ensuring the legality, protection and well-being of married couples, as well as in preventing marriage practices that are inconsistent with the principles of human rights and social justice.

# Closing

The implementation of premarital certificates is an effort of religion and the state in forming a sakinah mawaddah warahmah family, not a few people who feel the benefits of the premarital certificate. In addition to premarital certificates are very important for prospective brides in realizing a sakinah family by providing knowledge about the marriage they will undergo, premarital certificates also provide many benefits for religion and the state. With the guidance of this premarital certificate can foster awareness of the needs, and function marriage in accordance with the meanings that exist, of course, household life will be very easy to reach sakinah, and also prove that religion has functioned properly in household life. Premarital certificates have a very important role in ensuring legality, protection and welfare for married couples and make it easier for the state to monitor and collect statistical data related to marriage and families.

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<sup>23</sup> Doni Akbar, Skripsi Analisis Manfaat Sertifikat Pranikah Terhadap Konsep Keluarga Sakinah Mawaddah Warahmah. 67-68.

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