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## Reformulating Marriage Registration Law in Indonesia: A Review of Article 2(2) of the 1974 Marriage Law

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**Abstrak:** Marriage registration constitutes a fundamental instrument within Indonesia's family law system to ensure legal certainty, protection of civil rights, and administrative order. However, Article 2 paragraph (2) of Law Number 1 of 1974 on Marriage continues to give rise to normative and practical problems due to its ambiguous relationship with paragraph (1), which emphasizes the validity of marriage based on religious law. This ambiguity has produced a dualistic interpretation of marriage registration, which is often perceived merely as an administrative obligation lacking strong legal binding force. Consequently, the practice of unregistered marriages (*nikah siri*) persists and systematically weakens legal protection, particularly for women and children. This study employs a normative legal approach supported by empirical data in the form of statistical records of *itsbat nikah* applications submitted to the Religious Courts, sourced from the Directorate General of the Religious Courts of the Supreme Court of the Republic of Indonesia. The analysis is conducted using the perspectives of legal positivism, structural functionalism, law as a tool of social engineering, and *maqāṣid al-sharī'ah* (*maṣlahah*). The findings indicate that the high number of *itsbat nikah* applications reflects the inability of marriage registration norms to function effectively as instruments of legal protection.

**Keywords:** Marriage registration, legal reformulation, Article 2 paragraph (2) Marriage Law, unregistered marriage, family justice.

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### Introduction

Marriage registration constitutes an essential instrument within the Indonesian family law system to ensure legal certainty, the protection of civil rights, and orderly state administration. The obligation to register marriages is explicitly stipulated in Article 2 paragraph (2) of Law Number

1 of 1974 on Marriage, which provides that every marriage must be registered in accordance with the applicable laws and regulations. However, this provision gives rise to normative problems when read in conjunction with Article 2 paragraph (1), which emphasizes the validity of marriage based on religious law, thereby generating ambiguity regarding the legal status and function of marriage registration. This ambiguity was juridically acknowledged in the concurring opinion of Constitutional Justice Maria Farida Indrati in the Constitutional Court Decision Number 46/PUU-VIII/2010.<sup>1</sup>

In practice, such normative ambiguity has resulted in the weak implementation of marriage registration and the continued prevalence of unregistered marriages (*nikah siri*). Numerous studies indicate that marriage registration is still widely perceived merely as an administrative requirement that does not affect the validity of a marriage.<sup>2</sup> This condition places women and children in a vulnerable position, as they often fail to obtain adequate legal protection, particularly with regard to rights to maintenance, inheritance, legal status, and civil identity.<sup>3</sup> The high number of applications for *isbat nikah* (judicial confirmation of marriage) submitted to the Religious Courts further demonstrates that marriage registration has not yet functioned optimally as a preventive legal protection mechanism.

On the other hand, the state has sought to address this issue through accelerated programs, including inter-agency cooperation to provide free mass marriage registration services in underdeveloped areas, which have proven effective in expanding access and increasing legal awareness. However, the gap between regulation and implementation remains a significant challenge, as legal norms are not fully aligned with social realities, thereby requiring an integrative approach that combines law, social education, and public policy. In this context, *isbat nikah* serves as an important legal mechanism to validate unregistered marriages and provide legal certainty for spouses and their children, particularly in matters of inheritance, maintenance, and civil administration. Data from 2020 to 2024 show fluctuations in *isbat nikah* applications across various regions, reflecting both growing legal awareness and the persistent scale of

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<sup>1</sup> Maria Farida Indrati, “Pendapat Berbeda dalam Putusan MK No. 46/PUU-VIII/2010,’ dalam putusan\_46-puu-viii-2010\_(perkawinan).pdf,” 39-40.

<sup>2</sup> Nurul Huda Umi Sumbulah, *Perkawinan Siri dalam Perspektif Hukum Islam dan Hukum Negara* (UIN-Malang Press, 2020), 112.

<sup>3</sup> Siti Musdah Mulia, *Islam dan Hak-Hak Perempuan* (Gramedia Pustaka Utama, 2018), 89.

unregistered marriage practices, with proceedings conducted through regular hearings as well as circuit and integrated court services, based on the annual reports of the Directorate General of Religious Courts of the Supreme Court of the Republic of Indonesia.

**Tabel. 3**

No.	Description	2020 <sup>4</sup>	2021 <sup>5</sup>	2022 <sup>6</sup>	2023 <sup>7</sup>	2024 <sup>8</sup>
1.	Previous Year Remainder	887	141	425	591	-
2.	Incoming Cases	49.763	3.138	61.208	54.962	50.999
3.	Total Caseload	50.650	3.279	61.633	55.553	-
4.	Withdrawn	2656	430	3.297	3.120	-
5.	Decided	47.362	2.276	57.748	51.957	50347
6.	Remaining Cases	632	73	588	479	-

From a theoretical perspective, the issue of marriage registration is closely related to the function of law as a means of social control and social engineering. The weakness of marriage registration norms reflects the failure of positive law to effectively fulfill its functions of legal certainty and justice. Within the framework of Islamic law, the principles of *maqāsid al-sharī'ah*, particularly the protection of lineage (*ḥifẓ al-nasl*) and property (*ḥifẓ al-māl*), provide a strong normative justification for strengthening marriage registration as an instrument of public benefit (*maṣlahah*) and the prevention

<sup>4</sup> Laporan Tahunan Direktorat Jendral Peradilan Agama Mahkamah Agung Republik Indonesia Tahun 2020 (t.t.),

<https://drive.google.com/file/d/16wILbVpPWnviFdX57vslkc2CmeMwa5Nr/view>.

<sup>5</sup> Laporan Tahunan Direktorat Jendral Peradilan Agama Mahkamah Agung Republik Indonesia Tahun 2021 (t.t.),

<https://drive.google.com/file/d/1rVbpLsLCeUqEXhK3ipVtSMdpOsGhrR83/view>.

<sup>6</sup> Laporan Tahunan Direktorat Jendral Peradilan Agama Mahkamah Agung Republik Indonesia Tahun 2022 (t.t.), <https://cloud.badilag.net/s/wMMYnH3o3PSg62Z>.

<sup>7</sup> Laporan Tahunan Direktorat Jendral Peradilan Agama Mahkamah Agung Republik Indonesia Tahun 2023 (t.t.), <https://cloud.badilag.net/s/ZmxzSdzb82LwLaA>.

<sup>8</sup> Laporan Tahunan Direktorat Jendral Peradilan Agama Mahkamah Agung Republik Indonesia Tahun 2024 (t.t.), <https://cloud.badilag.net/s/LsjYqMHyoRpoSc8>.

of harm (*mafsadah*).<sup>9</sup>

Based on this background, this study formulates two main research questions: first, how marriage registration law is implemented in Indonesia under Article 2 paragraph (2) of Law Number 1 of 1974; and second, how the reformulation of this provision should be designed in order to ensure legal certainty and equitable legal protection. Accordingly, this research aims to analyze the normative weaknesses of marriage registration and to propose a more assertive, implementable, and substantively just legal reformulation. Theoretically, this study is expected to contribute to the development of Islamic family law and national legal scholarship, while practically it may serve as a reference for policymakers and law enforcement authorities.

Previous studies have generally examined marriage registration from philosophical, administrative, and child protection perspectives in cases of unregistered marriage. Latupono emphasizes the principles and legal consequences of marriage registration under the Marriage Law,<sup>10</sup> while Amnawaty and Oktariatas highlight the limitations of child protection arising from unregistered marriages following Constitutional Court Decision Number 46/PUU-VIII/2010.<sup>11</sup> Marsal and Parlyna position marriage registration between the essential pillars (*rukun*) of marriage and administrative requirements within the perspective of Islamic law.<sup>12</sup> In contrast to these studies, the present research specifically focuses on the reformulation of Article 2 paragraph (2) of the Marriage Law by positioning marriage registration as an integral part of the legal validity system of marriage and emphasizing the urgency of strengthening sanctions and law enforcement. Therefore, this study offers originality and a normative-operational contribution to the reform of marriage registration law in Indonesia.

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<sup>9</sup> Imron Rosyadi, *Rekonstruksi Epistemologi Hukum Keluarga Islam* (Kencana, 2022), 49.

<sup>10</sup> Barzah Latupo, *Prinsip Pencatatan Perkawinan Menurut Undang-Undang No 1 Tahun 1974 Tentang Perkawinan*, 2015.

<sup>11</sup> Amnawaty Amnawaty, "Reformasi Sistem Hukum Pencatatan Perkawinan Warga Muslim Dan Perlindungan Hukum Anak Dari Nikah Sirri," *Nizham: Jurnal Studi Keislaman* 7, no. 01 (2019): 17-35.

<sup>12</sup> Ryna Parlyna Arif Marsal, *Pencatatan Perkawinan: Antara Rukun Nikah dan Syarat Administratif* *Jurnal An-Nur* 4, no. 1 (2015).

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## **Research Method**

This research constitutes a normative legal study aimed at conducting an in-depth examination of the provisions on marriage registration as stipulated in Article 2 paragraph (2) of Law Number 1 of 1974 on Marriage. The approach adopted in this study is conceptual and theoretical in nature, relying on relevant legal sources to analyze both the substance of the norm and its implementation within society. As a normative legal study, the primary focus lies in examining and interpreting the applicable laws and regulations. In this context, Article 2 paragraph (2) is analyzed not merely from the perspective of its legal text, but also in terms of its functional role in providing legal protection for married couples, children, and society at large.

This study employs three types of approaches. First, the statutory approach is used to examine legal norms textually through an analysis of Law Number 1 of 1974, the Compilation of Islamic Law, and various implementing regulations. Second, the analytical approach aims to elucidate the meaning and normative weaknesses of the examined provision, including the potential disharmony between paragraph (1) and paragraph (2) within the same article. Third, a case-based approach is applied by examining decisions and determinations of the Religious Courts in cases concerning *itsbat nikah* (judicial confirmation of marriage), which arise as a legal consequence of unregistered marriages.

The data sources in this research consist of three types of legal materials. Primary legal materials include statutory regulations that directly govern marriage registration and its implementation. Secondary legal materials comprise scholarly literature such as books, journals, and articles discussing marriage registration from legal, social, and religious perspectives. Meanwhile, tertiary legal materials consist of legal dictionaries, encyclopedias, and other reference sources used to strengthen the understanding of terms and concepts employed in this study.

Data collection is conducted through library research, namely the systematic examination of relevant literature and legal documents. This technique is chosen because it corresponds to the nature of normative legal research, which emphasizes doctrinal reasoning and interpretative analysis rather than empirical field data. All collected materials are analyzed qualitatively using content analysis techniques. The author categorizes the data based on legal themes, such as the validity of marriage, the rights of

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women and children, and legal protection, and subsequently analyzes them through a critical and systematic approach.

In analyzing the data, this study employs a multi-layered theoretical framework to strengthen its arguments. At the level of grand theory, legal positivism is applied, emphasizing the importance of legal certainty and normative clarity within the legal system. At the level of middle-range theory, structural functionalism is used to view law as a system that functions to maintain social stability, alongside the theory of law as social engineering, which conceptualizes law as an instrument for transforming social order toward greater justice. At the level of applied theory, the concept of *maqāṣid al-sharī'ah* (*maṣlahah*) in Islamic law is employed as a normative-religious approach to justify the importance of marriage registration as a means of protecting lineage and civil rights within marriage. By employing this methodology, the research is expected to provide a comprehensive analysis of the normative weaknesses of Article 2 paragraph (2), its societal implications, and to propose a model of reformulation grounded in the principles of substantive justice and constitutional values.

## **Results and Discussion**

### **The Legal Status of Marriage Registration in Indonesian Marriage Law**

Marriage registration within the Indonesian marriage law system constitutes a form of state intervention aimed at ensuring legal order and the protection of citizens' civil rights. Normatively, this obligation is explicitly affirmed in Article 2 paragraph (2) of Law Number 1 of 1974 on Marriage, which must be interpreted as an integral part of the legal system in conjunction with Article 2 paragraph (1). However, the formulation of this provision does not explicitly position marriage registration as an element of the legal validity of marriage, but rather as an obligation that exists outside the construction of whether a marriage is legally valid.

Systematically, the separation between the validity of marriage based on religious law and the obligation of registration imposed by the state has generated a broad scope for interpretation in legal practice. The state appears to function merely as a recorder of legal events that are already deemed valid under religious law, without possessing sufficiently strong normative instruments to ensure that such registration is effectively carried out. Consequently, marriage registration is more often understood as a complementary administrative obligation rather than as an integral element

of the national marriage law system.

This condition indicates a weakness in normative design that directly affects legal effectiveness. From the perspective of legal theory, legal norms that are not accompanied by clear legal consequences tend to lose their binding force and coercive power. Article 2 paragraph (2) of the Marriage Law does not provide a firm delineation of the legal consequences arising from the failure to register a marriage, thereby rendering public compliance largely dependent on individual awareness rather than on a structured legal enforcement mechanism.<sup>13</sup>

In judicial practice, the weak position of marriage registration is reflected in the increasing role of courts as an *ex post* legitimizing mechanism through *itsbat nikah* (judicial confirmation of marriage). This phenomenon demonstrates a shift in the function of marriage registration from a preventive instrument to a remedial mechanism, which ultimately burdens the judiciary and delays the fulfillment of the parties' civil rights. Djubaidah emphasizes that such conditions create prolonged legal uncertainty, particularly for women and children, as the legal status of the family only gains state recognition after undergoing judicial proceedings.

The ambiguity surrounding the legal status of marriage registration also has implications for the enforceability of civil rights within marriage. In the absence of registration, legal relationships among husband, wife, and children become difficult to formally prove, thereby opening space for injustice in the fulfillment of rights to maintenance, inheritance, and marital property. This situation illustrates that marriage registration is not merely an administrative matter, but is directly linked to the guarantee of legal protection and the principle of justice in family law.

Marriage registration in Indonesian marriage law thus remains in a weak and ambiguous normative position. Article 2 paragraph (2) of the Marriage Law has not yet fully fulfilled the function of law as an instrument of legal certainty and protection, as it is not firmly embedded within the legal structure of marital validity. This condition underscores the necessity of reorganizing and reformulating marriage registration norms so that they align with the objectives of marriage law, namely the realization of legal order, justice, and sustainable protection of civil rights.

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<sup>13</sup> Soerjono Soekanto, *Faktor-Faktor yang Mempengaruhi Penegakan Hukum* (Raja Grafindo Persada, 2014), 11-14.

The issue of marriage registration does not merely lie in the absence of norms, but rather in the manner in which such norms are constructed within the framework of legal theory. In modern legal traditions, state recognition of a legal event is not simply an administrative act, but a constitutive mechanism that determines the existence and enforceability of legal rights and obligations. When marriage registration is not positioned as part of the legality system, the state implicitly allows the emergence of a dual legal status: religiously valid yet legally ineffective under state law. This dualism ultimately creates a grey area that undermines the function of law as a means of legal certainty and protection.<sup>14</sup>

From the perspective of administrative law, marriage registration essentially serves as an instrument of legalization that integrates private legal events into the public legal system. However, the absence of firm juridical consequences for violations of the registration obligation causes this instrument to lose its coercive character. This reflects an imbalance between the normative objectives of the legislature and the design of the norm itself. While the state demands administrative compliance, it fails to provide adequate enforcement mechanisms, thereby diminishing both the symbolic and functional authority of law.<sup>15</sup>

The weak construction of marriage registration norms also results in the degradation of the legal protection principle. In the context of family law, legal protection should be preventive and structural in nature, rather than reactive and casuistic. Nevertheless, prevailing practices indicate that protection is often afforded only after disputes arise or specific administrative needs emerge, through mechanisms such as *itsbat nikah* or judicial determinations. Such a pattern runs counter to the principles of legal certainty and access to justice, as it places the burden of obtaining legal protection on socially and economically vulnerable parties.<sup>16</sup>

From the perspective of Islamic law, this condition also raises normative concerns. Although marriage registration is not classified as a *rukun* (essential pillar) of marriage, its neglect within the context of a modern state may generate tangible and systemic *mafsadah* (harm). The principles of *sadd al-dhari'ah* and *maṣlahah mursalah* provide a conceptual foundation

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<sup>14</sup> Satjipto Rahardjo, *Ilmu Hukum* (Citra Aditya Bakti, 2000), 87-90.

<sup>15</sup> Philipus M. Hadjon, *Perlindungan Hukum bagi Rakyat Indonesia* (Bina Ilmu, 2011), 34-37.

<sup>16</sup> Bagir Manan, *Hukum Perkawinan Nasional dalam Perspektif Ketatanegaraan* (UII Press, 2009), 122-25.

for state authority to impose administrative obligations insofar as they aim to protect the public interest. Accordingly, marriage registration within the framework of national law should not be viewed as an intervention contrary to Islamic law, but rather as an institutional form of *ijtihad* designed to ensure the protection of rights and social order.<sup>17</sup>

Based on the foregoing analysis, it becomes evident that the problem of marriage registration does not lie in the dichotomy between religion and the state, but rather in the inability of legal norms to integrate the two coherently. As long as marriage registration continues to be positioned merely as an administrative obligation without clear legal consequences, Indonesian marriage law will persistently face a paradox between normative legitimacy and practical effectiveness. Therefore, strengthening the legal status of marriage registration must be directed toward reconstructing the norm so as to position registration as an integral part of the family law protection system, without negating the religious validity of marriage.

#### **The Impact of Weak Marriage Registration on Legal Protection**

The weak legal status of marriage registration within the Indonesian marriage law system has direct implications for the effectiveness of legal protection, particularly for socially and structurally vulnerable groups, namely women and children. When marriage registration is not positioned as an integral element of the legality system, family relationships that are religiously valid do not automatically obtain recognition under state law. This condition creates a gap between socio-religious realities and the positive legal regime, which ultimately weakens the function of law as a means of preventive legal protection.<sup>18</sup>

In the context of civil rights, unregistered marriages give rise to serious problems related to the proof of legal status. In the absence of a marriage certificate as an authentic instrument of evidence, wives and children encounter significant difficulties in claiming rights to maintenance, joint marital property, and inheritance. The burden of proof in family disputes becomes disproportionate, as the most disadvantaged parties are compelled to undergo additional legal processes in order to obtain state recognition of a legal relationship that has factually existed. This situation demonstrates that weak marriage registration is not merely an

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<sup>17</sup> Jasser Auda, *Maqasid al-Shariah as Philosophy of Islamic Law* (IIIT, 2008), 67-72.

<sup>18</sup> Rahardjo, *Ilmu Hukum*, 53-55.

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administrative issue, but a structural problem with implications for substantive injustice.<sup>19</sup>

These impacts are clearly reflected in the practice of the Religious Courts through the high number of *itsbat nikah* applications. Data from the Directorate General of the Religious Courts of the Supreme Court of the Republic of Indonesia indicate that *itsbat nikah* cases consistently constitute a significant proportion of cases each year and represent one of the dominant categories of voluntary matters across various regions. In annual reports of the Religious Courts, *itsbat nikah* frequently ranks among the top five voluntary cases submitted to the religious courts.<sup>20</sup> This fact indicates that *itsbat nikah* has evolved from an exceptional mechanism into a socially accepted pathway for obtaining state legality for marriages that were not registered from the outset.

This phenomenon reflects a shift in the function of marriage registration from a preventive legal instrument to a remedial mechanism that depends heavily on judicial intervention. As a result, the Religious Courts not only perform their judicial function but also bear an administrative burden arising from the failure of the marriage registration system. Djubaidah emphasizes that this condition generates prolonged legal uncertainty, as the legal status of a family only receives state recognition after undergoing judicial proceedings that require time, financial resources, and a certain level of legal capacity.<sup>21</sup>

From the perspective of child protection, weak marriage registration affects the certainty of a child's legal status, particularly with regard to birth registration and civil relations with the father. Although Constitutional Court Decision Number 46/PUU-VIII/2010 has expanded the recognition of civil relationships between children and their biological fathers, such protection remains corrective in nature and does not eliminate the structural problems caused by the failure to register the parents' marriage. Children remain dependent on additional legal processes to obtain full recognition of their rights.<sup>22</sup>

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<sup>19</sup> M. Hadjon, *Perlindungan Hukum bagi Rakyat Indonesia*, 38–41.

<sup>20</sup> Direktorat Jenderal Badan Peradilan Agama Mahkamah Agung RI, *Laporan Tahunan Peradilan Agama* (Jakarta: Badilag MA RI), berbagai tahun; lihat pula Statistik Perkara Badilag mengenai perkara voluntair *itsbat nikah*.

<sup>21</sup> Siti Djubaidah, *Nikah Siri, Itsbat Nikah, dan Perlindungan Hak-Hak Perempuan dan Anak* (Sinar Grafika, 2012), 92–98.

<sup>22</sup> Ahmad Rofiq, *Hukum Perdata Islam di Indonesia* (Raja Grafindo Persada, 2013), 219–24.

The weakness of marriage registration has thus generated a domino effect on the family law protection system. High dependence on the *itsbat nikah* mechanism, the vulnerability of women's and children's civil rights, and the increasing institutional burden on the Religious Courts demonstrate that marriage registration has not yet functioned optimally as a legal instrument ensuring certainty and justice. This condition underscores the urgency of strengthening and reformulating marriage registration norms so that Indonesian marriage law can shift from a corrective approach toward preventive and sustainable legal protection.

Beyond individual vulnerability, weak marriage registration also creates systemic problems in the enforcement of family law. Heavy reliance on the *itsbat nikah* mechanism indicates that the state indirectly tolerates violations of the registration obligation by providing a legalization pathway after the legal event has occurred. From the perspective of legal effectiveness, this condition reflects the failure of the norm to shape compliance-oriented behavior, as the law only operates once administrative needs or disputes arise, rather than functioning as a preventive instrument from the outset.<sup>23</sup>

Statistical data from the Religious Courts show that *itsbat nikah* cases are not incidental, but rather represent a recurring and widespread phenomenon. In various annual reports of the Directorate General of the Religious Courts of the Supreme Court, *itsbat nikah* consistently appears among the voluntary cases with significant numbers, and in some regional Religious Courts even occupies the highest rank. This fact demonstrates that the practice of unregistered marriage is not an exception, but part of a social pattern legitimized by the weakness of marriage registration norms.<sup>24</sup>

Another significant implication is the shift in the institutional function of the Religious Courts. Courts no longer serve solely as forums for dispute settlement, but also function as alternative administrative mechanisms for obtaining state legal recognition. This shift has the potential to blur the boundaries between judicial and administrative functions, while simultaneously imposing a disproportionate institutional burden. In the long term, such conditions may reduce the capacity of the Religious Courts

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<sup>23</sup> Lawrence M. Friedman, *The Legal System: A Social Science Perspective* (Russell Sage Foundation, 1975), 15-18.

<sup>24</sup> Direktorat Jenderal Badan Peradilan Agama Mahkamah Agung RI, *Statistik Perkara Peradilan Agama* (Jakarta: Badilag MA RI)

to perform their primary role as enforcers of law and justice.<sup>25</sup>

From a social justice perspective, weak marriage registration also creates inequality in access to legal protection. The *itsbat nikah* process requires economic resources, legal knowledge, and access to judicial institutions requirements that are not uniformly available across all segments of society. Consequently, poor and marginalized communities are placed in a more vulnerable position, as their inability to access corrective mechanisms results in the sustained non-fulfillment of their civil rights. This condition demonstrates that weak marriage registration not only affects individuals, but also deepens structural injustice within the family law system.<sup>26</sup>

From the perspective of ideal legal protection, marriage registration should function as a preventive instrument that guarantees certainty and protection from the very beginning of family formation. However, prevailing practices demonstrate the dominance of a corrective approach that relies on judicial intervention. This pattern runs counter to modern legal protection principles, which position the state as the guarantor of certainty and justice through firm, consistent, and accessible regulation. Therefore, weak marriage registration must be understood as a structural problem that requires fundamental normative reform, rather than merely administrative improvement.<sup>27</sup>

### **Theoretical Analysis of Marriage Registration as an Instrument of Justice**

Marriage registration within the Indonesian marriage law system cannot be understood merely as an administrative obligation; rather, it must be situated within a legal theoretical framework that explains the function and purpose of normative validity. From the perspective of legal positivism, the validity of a legal norm is determined by state recognition through statutory regulations accompanied by enforcement mechanisms and sanctions. In this context, Article 2 paragraph (2) of Law Number 1 of 1974 on Marriage establishes the obligation of marriage registration but does not explicitly link this obligation to binding legal consequences. As a result, the norm loses its imperative character and fails to fully realize legal certainty as required within the positivist paradigm.<sup>28</sup>

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<sup>25</sup> Bagir Manan, *Peradilan Agama dan Pembaruan Hukum Islam di Indonesia* (UII Press, 2009), 141-45.

<sup>26</sup> Soekanto, *Faktor-Faktor yang Mempengaruhi Penegakan Hukum*, 52-55.

<sup>27</sup> Satjipto Raharjo, *Hukum dan Masyarakat* (Angkasa, 1980), 91-94.

<sup>28</sup> Hans Kelsen, *General Theory of Law and State*, trans. Anders Wedberg (Harvard University

The absence of clear legal consequences for violations of the registration obligation indicates the weak coercive force of the norm and contributes to a low level of public compliance. In positivist theory, a norm without sanctions tends to transform into a moral or administrative recommendation rather than a binding legal command. This condition explains why marriage registration is often disregarded without a strong sense of legal violation, and why corrective mechanisms such as *itsbat nikah* have instead developed into common practice.<sup>29</sup>

Although legal positivism provides a strong foundation for normative certainty and order, it reveals its limitations when confronted with the issue of marriage registration, which is deeply embedded in social and cultural dimensions. Positivism requires clear commands and sanctions as prerequisites for legal effectiveness. In the context of Article 2 paragraph (2) of the Marriage Law, the registration requirement is not formulated as a norm equal in status to the elements of marital validity, and therefore does not satisfy the characteristics of a primary rule of obligation. Consequently, marriage registration does not function as a constitutive norm, but rather as a declaratory administrative norm.<sup>30</sup>

Legal positivism presupposes compliance through state coercion. However, when the state does not consistently enforce the registration obligation and instead provides relatively accessible corrective pathways through *itsbat nikah*, the law loses its coercive function. Within this framework, marriage registration experiences a normative paradox: it is mandated by statute, yet disregarding it carries no significant legal risk. This paradox demonstrates that formal normative validity does not necessarily correlate with social effectiveness.<sup>31</sup>

From the perspective of law as a tool of social engineering, law is viewed as an instrument designed to direct social behavior toward particular objectives. Roscoe Pound emphasized that law must balance competing interests and promote desired social change. In the context of marriage registration, law should function to encourage public compliance with registration obligations as a prerequisite for family law protection.

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Press, 1945), 113-18.

<sup>29</sup> Achmad Ali, *Menguak Teori Hukum (Legal Theory) dan Teori Peradilan (Kencana, 2015)*, 275-80.

<sup>30</sup> H.L.A. Hart, *The Concept of Law* (Oxford University Press, 1994), 94-99.

<sup>31</sup> Hans Kelsen, *Pure Theory of Law*, trans. Max Knight (University of California Press, 1967), 193-97.

However, the weak construction of registration norms indicates that the law has not operated optimally as a tool of social engineering, as it has failed to internalize values of compliance and legal awareness within societal practice.<sup>32</sup>

The ineffectiveness of marriage registration as an instrument of social engineering can also be examined through functional legal theory. Within a functionalist approach, law serves to maintain social order and prevent dysfunction within the social system. The high incidence of unregistered marriages and the heavy reliance on *itsbat nikah* reveal a dysfunction in marriage registration norms, as the law fails to perform its preventive function and instead shifts toward a remedial mechanism after violations have occurred. This condition indicates that the marriage law system has not functioned in an integrative and sustainable manner to preserve social order.<sup>33</sup>

The law as a tool of social engineering perspective offers a more dynamic viewpoint by positioning law as an instrument for behavioral change. However, this theory requires a normative design capable of influencing social incentive structures. In the context of marriage registration, the law has failed to generate sufficient deterrent effects or compliance incentives. The registration requirement is not directly linked to access to civil rights from the outset, but becomes operative only after proof is established through judicial mechanisms. Consequently, the law fails to internalize registration as a rational social necessity and is instead perceived merely as an administrative formality that can be postponed.<sup>34</sup>

The failure of law as an instrument of social engineering also reflects weak integration between legal norms and social structures. Marriage registration law has not adequately accounted for social realities such as economic constraints, geographic access, and levels of legal awareness. As a result, legal norms have not sustainably transformed social practices, but have instead passively adapted to reality through remedial mechanisms. In this sense, marriage registration is governed by social practice rather than governing it.<sup>35</sup>

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<sup>32</sup> Roscoe Pound, *An Introduction to the Philosophy of Law* (Yale University Press, 1922), 47–51.

<sup>33</sup> M. Friedman, *The Legal System: A Social Science Perspective*, 15–18.

<sup>34</sup> Roscoe Pound, *Social Control Through Law* (Transaction Publishers, 1942), 35–38.

<sup>35</sup> Soerjono Soekanto, *Pokok-Pokok Sosiologi Hukum* (Raja Grafindo Persada, 2014), 112–16.

Meanwhile, functional legal theory provides an analytical framework that highlights the role of law in maintaining balance and integration within the social system. From a functionalist perspective, marriage registration should operate as a preventive instrument that ensures the stability of family relationships and prevents future legal conflicts. However, the dominance of corrective approaches through *itsbat nikah* reflects systemic dysfunction, as the law only becomes operative when administrative gaps or failures arise. This dysfunction not only disrupts legal order but also imposes institutional burdens and undermines the legitimacy of law itself.<sup>36</sup>

This theoretical analysis gains stronger normative legitimacy when connected to the perspective of Islamic law, particularly through the principles of *maqāṣid al-sharī'ah*. The primary objectives of Islamic law are to realize public welfare (*maṣlaḥah*) and prevent harm (*mafsadah*), especially in relation to the protection of lineage (*ḥifẓ al-nasl*) and property (*ḥifẓ al-māl*). Although marriage registration is not classified as a *rukṅ* or a condition of marriage validity in classical fiqh, it substantively serves to safeguard these objectives within the context of a modern state. Accordingly, strengthening marriage registration aligns with the spirit of *maqāṣid al-sharī'ah* as a preventive measure against legal vulnerability experienced by women and children.<sup>37</sup>

Moreover, the concept of *maṣlaḥah* provides normative legitimacy for the state to impose marriage registration obligations as a form of institutional *ijtihād*. As long as such policies aim to protect the public interest and do not contradict the fundamental principles of Islamic law, the state possesses the authority to regulate them firmly. In this regard, marriage registration can be regarded as *maṣlaḥah* because it delivers tangible benefits in ensuring legal certainty, protecting civil rights, and maintaining social order.<sup>38</sup>

From this perspective, legal effectiveness is not measured solely by formal compliance, but by the extent to which law succeeds in realizing public welfare and preventing harm. Marriage registration, as an instrument for protecting lineage and property, carries normative value consistent with the objectives of Islamic law, even though it is not explicitly recognized in classical fiqh constructions. The *maqāṣid* approach enables a

<sup>36</sup> Lawrence M. Friedman, *Law and Society: An Introduction* (Prentice Hall, 1977), 7-10.

<sup>37</sup> Jasser Auda, *Maqāṣid al-Shariah as Philosophy of Islamic Law*, 67-72.

<sup>38</sup> Wahbah al-Zuhaylī, *Uṣūl al-Fiqh al-Islāmī, Jilid II* (Dār al-Fikr, 1986), 101-5.

reinterpretation of marriage registration norms as a substantive necessity within the context of a modern constitutional state.<sup>39</sup>

The concept of *maṣlahah* thus functions as an epistemological bridge between state law and Islamic law. Through *maṣlahah*, the state gains legitimacy to impose marriage registration obligations as public policy measures aimed at safeguarding the public interest. In this context, strengthening marriage registration does not constitute an intervention contrary to Islamic law, but rather represents a normative *ijtihād* oriented toward justice and legal protection. Consequently, modern legal theory and Islamic law are not positioned in a dichotomous relationship, but instead complement one another in constructing a responsive and just marriage law system.<sup>40</sup>

Accordingly, both from the perspective of legal theory and Islamic law, marriage registration possesses strong conceptual legitimacy as an instrument of justice. The weaknesses that have thus far emerged do not lie in its normative objectives, but in the construction and enforcement of the norm itself. Therefore, strengthening and reformulating marriage registration constitutes both a theoretical and normative necessity to ensure that Indonesian marriage law can effectively fulfill its functions in realizing legal certainty, rights protection, and substantive justice.

#### **Reformulation of Article 2 Paragraph (2) of the Marriage Law**

The reformulation of Article 2 paragraph (2) of Law Number 1 of 1974 on Marriage constitutes the core of legal reform in the system of marriage registration, aimed at eliminating normative ambiguity between the validity of marriage under religious law and its legal recognition by the state. To date, marriage registration has been positioned merely as an administrative obligation existing outside the structure of marital legality, thereby lacking binding legal force and failing to function optimally as an instrument of legal protection. This condition has generated excessive reliance on corrective mechanisms through *itsbat nikah* and has weakened the role of the state in providing preventive protection for civil rights arising from marriage.<sup>41</sup>

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<sup>39</sup> Jasser Auda, *Maqasid al-Shariah as Philosophy of Islamic Law*, 83–87.

<sup>40</sup> Muhammad Hashim Kamali, *Principles of Islamic Jurisprudence* (Islamic Texts Society, 2003), 267–71.

<sup>41</sup> Satjipto Raharjo, *Ilmu Hukum* (Citra Aditya Bakti, 2014), 87–89.

The reformulation of the norm is directed toward repositioning marriage registration as an integral component of the state legal system, without altering the provision of Article 2 paragraph (1), which affirms the validity of marriage according to the respective religious laws and beliefs of the parties. Within this new construction, registration is not interpreted as a theological requirement for the validity of marriage, but rather as a legal-formal requirement for obtaining state recognition, legal certainty, and legal protection. Through this approach, state law does not interfere with the domain of religious validity, but instead clearly regulates the juridical consequences of marriage within the public sphere and the framework of positive law.

This repositioning carries significant implications, particularly in strengthening the legal consequences of failing to register a marriage. The reformulation of Article 2 paragraph (2) need not be directed toward criminalization, but rather toward affirming a clear correlation between the obligation of registration and access to civil rights. Rights derived from marriage such as proof of spousal status, protection of joint marital property, and the guarantee of children's rights can only be fully exercised once the marriage is registered in accordance with statutory regulations. This approach is consistent with the principles of legal positivism, which emphasize normative certainty, while simultaneously fulfilling substantive justice by ensuring preventive legal protection from the outset of the marital relationship.<sup>42</sup>

This reformulation model also requires a reconfiguration of the function of *itsbat nikah*. *Itsbat nikah* must be repositioned as an exceptional and limited mechanism, justified only by specific circumstances, rather than serving as a routine pathway for obtaining state legal recognition. Accordingly, the religious courts would no longer function primarily as institutions for ex post legalization, but would instead operate proportionally as guardians of justice in exceptional cases. Such reform would reduce the structural burden on the judiciary while reinforcing the role of marriage registration as the primary instrument of legal order.<sup>43</sup>

From a comparative perspective, the proposed strengthening of marriage registration under the reformulation of Article 2 paragraph (2) aligns with practices adopted in several Muslim-majority countries. In

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<sup>42</sup> M. Friedman, *Law and Society: An Introduction*, 94–99.

<sup>43</sup> Manan, *Peradilan Agama dan Pembaruan Hukum Islam di Indonesia*, 141–45.

Egypt, unregistered marriages do not receive legal recognition by the state and cannot serve as the basis for judicial claims. In Morocco, the obligation of registration is firmly established in the *Mudawwanah al-Ussrah*, with strict limitations on ex post legalization. Tunisia goes even further by positioning registration as a constitutive element that determines the legal validity of marriage within the national legal system. These practices demonstrate that strengthening marriage registration does not contradict Islamic legal principles, but rather constitutes a form of modern legal *ijtihad* oriented toward the protection and certainty of family law.<sup>44</sup>

As a concrete manifestation of this reformulation, the following section presents a proposed model for amending Article 2 paragraph (2), which explicitly affirms the repositioning of marriage registration within the national marriage law system.

Table of Proposed Reformulation

Aspect	Existing Provision (Law No. 1 of 1974)	Proposed Reformulation (New Model)	Academic Rationale
Registration Obligation	"Every marriage shall be registered in accordance with the prevailing laws and regulations."	"Every marriage must be registered with the competent authority in accordance with the prevailing laws and regulations."	The existing formulation is declarative in nature and lacks constitutive legal force. This reformulation affirms marriage registration as a mandatory legal norm rather than a mere administrative requirement. Registration serves as a legal protection instrument for spouses and children and

<sup>44</sup> Jamal J. Nasir, *The Islamic Law of Personal Status* (Graham & Trotman, 2009), 45–48; Ziba Mir-Hosseini, *Marriage on Trial* (I.B. Tauris, 2000), 112–16.

			prevents unregistered marriages that undermine civil rights.
Legal Consequences	Not regulated.	“A marriage that is not registered as stipulated shall not give rise to civil legal consequences, except after obtaining a court determination.”	The previous norm does not specify legal consequences for unregistered marriages, resulting in legal uncertainty. This reformulation provides normative clarity by affirming that unregistered marriages have no civil legal effect unless validated through a corrective mechanism ( <i>itsbat nikah</i> ), in line with the principle of legal certainty and protection of women’s and children’s rights.
Sanctions	None.	“Any party who deliberately fails to register a marriage as stipulated may be subject to administrative sanctions in the form of a written warning,	The absence of sanctions in the previous norm weakens its binding force. According to legal positivism theory (Austin and Kelsen), law without sanctions lacks coercive power. The

		administrative fines, or an obligation to file an application for <i>itsbat nikah</i> within a specified period.”	introduction of administrative sanctions is educational, corrective, and proportionate, consistent with responsive law theory that emphasizes guidance rather than criminalization.
Technical Sanction (1) (Administrative Fine)	Not regulated.	“Any person who conducts a marriage but fails to register it within no later than 30 (thirty) days from the solemnization shall be subject to an administrative fine of up to IDR 50,000,000 (fifty million rupiah).”	Based on the principle of proportionality in administrative sanctions, this approach encourages compliance without creating a repressive effect. The fine functions as a legal awareness and compliance instrument, consistent with the concept of law as a tool of social engineering (Roscoe Pound).
Technical Sanction (2) (Short-term Imprisonment / Criminal Fine)	Not regulated.	“If it is proven that a person deliberately fails to register a marriage and	This formulation balances law enforcement with substantive justice. Mild criminal

		causes legal harm to the spouse or child, the offender may be punished with imprisonment for a maximum of 3 (three) months or a criminal fine of up to IDR 100,000,000 (one hundred million rupiah).”	sanctions are necessary to deter intentional violations without excessive criminalization. Under the theory of <i>maqāṣid al-sharī’ah</i> , the state (waliy al-amr) is authorized to impose sanctions to protect lineage (nasab) and honor (‘ird).
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The proposed new formulation of Article 2 paragraph (2) of Law Number 1 of 1974 on Marriage is grounded in the need to correct longstanding normative weaknesses that have positioned marriage registration merely as an administrative obligation lacking effective legal consequences. Such declarative norms have proven incapable of preventing the practice of unregistered marriages and have generated systemic impacts in the form of legal uncertainty regarding marital status, weak protection of civil rights, and heightened vulnerability of women and children within the family structure. Accordingly, the reformulation is directed toward clarifying the legal obligation of marriage registration while explicitly linking it to rational and proportional legal consequences.

The proposed wording affirms marriage registration as a constitutive legal obligation within the domain of state law by stipulating that marriages which are not registered do not give rise to civil legal consequences, except after obtaining a court determination. The rationality of this norm lies in restoring the preventive function of registration without denying access to justice for couples who experience delays in registration for justifiable reasons. Within this framework, *itsbat nikah* is repositioned as an

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exceptional corrective mechanism rather than a normal procedure, thereby ensuring that the obligation of registration itself is not undermined.<sup>45</sup>

The most crucial academic justification for this reformulation concerns the regulation of sanctions. Legal history demonstrates that the obligation of marriage registration has long been regarded as a serious legal duty. Law Number 22 of 1946 imposed a fine of IDR 50.00 for violations of registration, which under Law Number 19 of 1946 was equivalent to 25 grams of pure gold.<sup>46</sup> When converted into contemporary gold prices, this amount corresponds to tens of millions of rupiah, indicating that early post-independence lawmakers attached substantial coercive force to the obligation of marriage registration. The drastic reduction in the value of sanctions under subsequent regulations, such as Government Regulation Number 9 of 1975, has rendered sanctions economically irrelevant and stripped them of meaningful deterrent effect.<sup>47</sup>

The rationalization of sanctions through a gold-value approach provides a strong methodological foundation, as gold represents a stable and universally recognized standard of value across time. This approach aligns with law and economics analysis, which emphasizes that the effectiveness of legal sanctions depends on their real value rather than their nominal amount.<sup>48</sup> Accordingly, the adjustment of sanctions in the reformulation is not intended to be repressive, but rather to restore the function of sanctions as instruments of social engineering that promote compliance, ensure legal order, and effectively protect family rights.

The table proposing the reformulation of Article 2 paragraph (2) reflects the rational, historical, and juridical foundations of the normative change. This reformulation does not merely revise statutory wording, but revitalizes the original legislative intent that placed marriage registration as the foundation of legal order in family law. The affirmation of obligations, clarity of legal consequences, and rationalization of sanctions based on real value collectively transform marriage registration into a legal instrument that not only regulates, but also substantively protects and ensures legal certainty.

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<sup>45</sup> Manan, *Peradilan Agama dan Pembaruan Hukum Islam di Indonesia*, 141–45.

<sup>46</sup> Undang-Undang Nomor 22 Tahun 1946 tentang Pencatatan Nikah, Talak, dan Rujuk; Undang-Undang Nomor 19 Tahun 1946 tentang Pengeluaran Uang Republik Indonesia.

<sup>47</sup> Peraturan Pemerintah Nomor 9 Tahun 1975 tentang Pelaksanaan Undang-Undang Nomor 1 Tahun 1974 tentang Perkawinan.

<sup>48</sup> Richard A. Posner, *Economic Analysis of Law*, 9th ed. (Wolters Kluwer, 2014), 244–47.

Marriage registration also occupies a fundamental position within the system of legal evidence. The marriage certificate produced through registration constitutes authentic evidence (*akta autentik*) as recognized in civil procedural law, possessing full evidentiary value with respect to the legal event it records. As written evidence issued by a competent public authority, a marriage certificate provides legal certainty regarding the status of husband, wife, and children, and carries stronger evidentiary force than witness testimony. In civil disputes, witness evidence is subsidiary in nature and often constrained by issues of objectivity, whereas authentic documentary evidence offers immediate and binding legal certainty.<sup>49</sup> Strengthening the obligation of marriage registration therefore also strengthens the family law evidentiary system and prevents disputes arising from weak formal proof.

The reinforcement of marriage registration must also be understood within the framework of harmonization between civil law and criminal law, particularly following the enactment of the new Criminal Code (KUHP). The Criminal Code explicitly regulates offenses related to the origin of marriage and family status, fundamentally aimed at protecting legal order and clarity of personal status. In this context, marriage registration functions as a preventive instrument against falsification of marital status, deception concerning family lineage, and concealment of legal relationships with criminal implications.<sup>50</sup> This harmonization demonstrates that strengthening marriage registration is not only relevant in the civil law domain, but also constitutes a vital foundation for criminal law enforcement oriented toward protecting legal certainty and the dignity of the family.

Accordingly, the reformulation of Article 2 paragraph (2) of the Marriage Law cannot be separated from its evidentiary function and the need for comprehensive legal system harmonization. Marriage registration serves as a meeting point between civil and criminal law, between rights protection and crime prevention, rendering its affirmation as a legal obligation a strategic step toward building an orderly, certain, and integrated family law system.

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<sup>49</sup> Subekti, *Hukum Pembuktian* (Pradnya Paramita, 2015), 28–31; Sudikno Mertokusumo, *Hukum Acara Perdata Indonesia* (Liberty, 2017), 142–45.

<sup>50</sup> Kitab Undang-Undang Hukum Pidana (UU No. 1 Tahun 2023), Bab tentang Tindak Pidana terhadap Asal Usul Perkawinan dan Status Keperdataan

The strengthening of marriage registration obligations through the reformulation of Article 2 paragraph (2) must also be interpreted within the framework of constitutional alignment, namely the conformity of family law norms with constitutional mandates to ensure legal certainty, family protection, and access to justice for all citizens. Article 28D paragraph (1) of the 1945 Constitution of the Republic of Indonesia guarantees the right of every person to recognition, protection, and fair legal certainty, while Article 28B paragraph (1) explicitly guarantees the right to form a family and to receive protection in family life.<sup>51</sup> In this context, marriage registration can no longer be positioned as a sectoral administrative matter, but rather as a constitutional instrument to ensure that family rights receive effective legal legitimacy and protection.

Therefore, the presence of the state in strengthening marriage registration cannot be realized solely through statutory norms, but also requires harmonization of institutional roles and inter-agency policies. The Ministry of Religious Affairs through the Offices of Religious Affairs (KUA), the Civil Registration Agency (Dukcapil), the Supreme Court through the religious judiciary, and law enforcement authorities within the criminal law regime must be integrated into a single coherent policy framework. Such harmonization is essential to prevent marriage registration from becoming fragmented within administrative silos and to ensure that it operates as a unified legal system supporting service delivery, evidentiary certainty, and law enforcement.<sup>52</sup> Without systemic coordination, the normative obligation of registration risks losing effectiveness at the implementation level, particularly for socially and economically vulnerable groups.

This inter agency harmonization approach has direct implications for access to justice. Marriage registration is not merely a matter of formal legality, but serves as a gateway for citizens to access a wide range of civil rights and public services, including population administration, social security, education, healthcare, and legal protection in family disputes. When registration is not supported by inclusive and coordinated state policies, the burden of legal noncompliance shifts disproportionately onto

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<sup>51</sup> Pasal 28D ayat (1) dan Pasal 28B ayat (1) Undang-Undang Dasar Negara Republik Indonesia Tahun 1945.

<sup>52</sup> Bandingkan dengan konsep integrasi administrasi hukum keluarga dalam Jimly Asshiddiqie, *Pengantar Ilmu Hukum Tata Negara*, Jakarta: Rajawali Pers, 2018, hlm. 289–292.

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women and children, who must pursue corrective mechanisms through *itsbat nikah* at significant financial, temporal, and social cost.

From this perspective, the reformulation of Article 2 paragraph (2) of the Marriage Law constitutes an integral component of the state's constitutional strategy to expand substantive access to justice. The state is required not only to impose legal obligations, but also to ensure that registration mechanisms are accessible, affordable, and integrated. In line with the concept of access to justice developed by Mauro Cappelletti, effective law is not merely law that exists in written form, but law that can genuinely be utilized by society to protect its rights.<sup>53</sup> Accordingly, strengthening marriage registration through inter-agency harmonization represents a manifestation of an active constitutional state one that does not stop at normative regulation, but is concretely present to ensure that every family stands upon a legal foundation that is certain, just, and dignified.

### **Conclusion**

Marriage registration within the Indonesian marriage law system occupies a position that is both strategic and problematic. Normatively, Article 2 paragraph (2) of Law Number 1 of 1974 on Marriage was intended to ensure legal order and the protection of civil rights within the family institution. However, the formulation of the norm, which fails to clearly position registration as part of the legal structure of marriage validity, has generated conceptual ambiguity and inconsistent application in legal practice. As a result, marriage registration has been perceived as a supplementary administrative obligation rather than a binding legal instrument with adequate protective force.

The principal findings of this study demonstrate that the weak legal status of marriage registration directly undermines the effectiveness of legal protection, particularly for women and children. The continued prevalence of unregistered marriages has shifted the burden of legal protection from the state to individuals through ex post corrective mechanisms such as *itsbat nikah*. This condition not only produces prolonged legal uncertainty, but also contradicts the principle of the rule of law, which obliges the state to act preventively in safeguarding the fundamental rights of its citizens.

Through theoretical analysis grounded in legal positivism, law as a tool of social engineering, and functional legal theory, this study affirms that

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<sup>53</sup> Mauro Cappelletti dan Bryant Garth, *Access to Justice*, Vol. 1, Milan: Giuffrè Editore, 1978, hlm. 6-9.

legal norms lacking clear consequences tend to lose their effectiveness as instruments of social control. Perspectives from Islamic law, particularly the principles of *maqāṣid al-sharī'ah* and *maṣlaḥah*, further reinforce the argument that marriage registration is not merely an administrative matter, but a mechanism for protecting life, lineage, and property (*ḥifẓ al-naḥs, al-naṣl, wa al-māl*), which constitute fundamental objectives of Islamic law. Consequently, strengthening marriage registration possesses strong normative legitimacy within both state law and Islamic law frameworks.

Based on this foundation, the study proposes the reformulation of Article 2 paragraph (2) of the Marriage Law as its core novelty. The reformulation repositions marriage registration from an administrative obligation to a constitutive legal obligation within the civil law domain, accompanied by clear legal consequences and the rational strengthening of proportional administrative sanctions. A historical approach through the conversion of fines into gold-value standards demonstrates that lawmakers originally regarded marriage registration as a serious obligation with public order implications. Therefore, adjusting sanctions within the contemporary economic context does not constitute excessive criminalization, but rather restores the coercive force of the norm in accordance with its original legislative spirit.

This reformulation is situated within the framework of constitutional alignment, namely the harmonization of marriage law with constitutional guarantees of legal certainty and family protection. Marriage registration is understood as an access to justice instrument rather than merely a matter of formal legality. From this perspective, the state is required not only to impose normative obligations, but also to develop harmonized policies and institutional coordination to ensure that marriage registration is accessible, effective, and inclusive for all segments of society.

Accordingly, the reformulation of Article 2 paragraph (2) of the Marriage Law represents an urgent and non-deferrable legal necessity. This reformulation is not merely a textual amendment, but a paradigmatic transformation of Indonesian family law toward a system that is more certain, just, and oriented toward substantive protection of civil rights. Through the strengthening of marriage registration, family law is expected to function not only as a procedural framework, but as a living instrument of justice responsive, protective, and capable of addressing social challenges in a sustainable manner.

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