MOBILE MARRIAGE *ITSBAT* SESSION: ITS IMPORTANCE FOR THE UNREGISTERED MARRIAGES

Jamaluddin T
Lacturer at State Institute Islamic of Bone
Email: azyadjamal8@gmail.com

Abstract

Marriage *itsbat* is a solution to unregistered marriages. Mandate of Law No. 1 of 1974 concerning marriages has required marriages to be recorded, as a form of marriage validity that is recognized by the State. The government's program through the judiciary to conduct marital *itsbat* for the unregistered marriage. This was facilitated by the implementation of mobile marriage *itsbat* session for unregistered marriages. An unregistered marriage is ratified through a mobile court integrated service conducted by the Religious Court in the case of marriage law. This study more specifically examines the phenomenon of marriage *itsbat* through a mobile court session of unregistered marriages in Bone Regency and the application of PERMA No. 1 of 2015 concerning Integrated Service of the Mobile Session, which is focused in the Religious Court Class 1A of Watampone in realizing marriage ratification. This research is a qualitative research in the field of law. Research data were collected through in-depth interviews with Watampone religious court judges, religious counselors and the community. The findings of this study indicate that the urgency of marriage *itsbat* in the Watampone Religious Court has succeeded in ratifying the marriage of 677 cases that are relevant to PERMA regarding Integrated Service of the Mobile Session. This finding has implications for minimizing the number of unregistered marriages and giving birth to public awareness of the importance of the legal legality of a marriage.

Itsbat nikah menjadi solusi terhadap perkawinan yang tidak tercatat. Amanah UU No. 1 Tahun 1974 tentang perkawinan telah mengaharuskan perkawinan dicatat, sebagai bentuk keabsahan nikah yang diakui Negara. Program pemerintah melalui lembaga peradilan untuk melakukan *istbat* nikah terhadap nikah tidak tercatat. Hal itu dipermudah dengan pelaksanaan sidang keliling *istbat* nikah terhadap perkawinan tidak tercatat. Perkawinan tidak tercatat disahkan melalui pelayanan terpadu sidang keliling yang dilaksanakan oleh Pengadilan Agama dalam perkara *itsbat* nikah. Penelitian ini lebih spesifik lagi mengkaji fenomena *itsbat* nikah melalui sidang keliling terhadap perkawinan tidak tercatat di Kabupaten Bone dan penerapan PERMA No. 1 Tahun 2015 tentang Pelayanan Terpadu Sidang Keliling, yang terfokuskan di Pengadilan Agama Kelas 1 A Watampone dalam mewujudkan pengesahan nikah. Penelitian ini merupakan

penelitian lapangan yang bersifat kualitatif di bidang hukum. Data penelitian dikumpulkan melalui wawancara mendalam terhadap hakim pengadilan agama Watampone, penyuluh agama dan masyarakat. Temuan penelitian ini menunjukkan bahwa urgensitas *itsbat* nikah di Pengadilan Agama Watampone telah berhasil mengesahkan nikah sebanyak 677 kasus yang relevan dengan PERMA tentang Pelayanan Terpadu Sidang Keliling. Temuan ini berimplikasi pada peminimalisiran jumlah nikah tidak tercatat serta melahirkan kesadaran masyarakat akan pentingnya legalitas hukum sebuah perkawinan.

Keywords: *Marriage itsbat; Mobile Court Session; Watampone Religious Court.*

INTRODUCTION

Humans were created in pairs of male and female types. Combining the two in a bond, Allah the Almighty has provided a way through legal marriage in accordance with Islamic Sharia. Marriage is a form of worship to Allah swt., and fulfills humanity's desire and character to get peace, love, and compassion. Marriage becomes the media in obtaining descendant in accordance with the provisions of Islamic Law.[1] In addition, it becomes evidence and a sign of God's power that has created wives, and with them will find peace and affection.[2]

Article 2 Paragraphs (1) and (2) of Law Number 1 of 1974 concerning Marriage that, a Marriage is valid if it is done based on the law of each religion and followed by a Marriage Registrar (PPN). According to Bagir Manan, a legal act that is legal, implies that the legal relationship and legal consequences are also valid.[3] Therefore, men and women who do marriages based on religion and state law give birth to a legitimate married couple, as well as shared property, and children born as a result of such marriages.[4] Article 2 Paragraph 2 of Law No. 1 of 1974 stated that "each marriage is recorded according to applicable laws and regulations".[5] In the Compilation of Islamic Law (KHI) Article 6 Paragraph 2 states that "marriages conducted outside the supervision of the Registrar of Marriage (PPN) have no legal force".

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[1]Moh. Idris Ramulyo, *Hukum Perkawinan Islam* (1st Edition; Jakarta: Bumi Aksara, 1996), p. 27.

[2]See QS. Ar-Rum/30:21.

[3]Bagir Manan, Keabsahan dan Syarat-syarat Perkawinan Antar Orang Islam menurut Undang-Undang Nomor 1 Tahun 1974, Paper was presented at a National seminar on the theme of Family Law in the National Legal System between Reality and Legal Certainty: The Indonesian Supreme Court at the Redtop Hotel, Saturday, August 1, 2009, p. 1.

[4]Bagir Manan, *Keabsahan dan Syarat-Syarat Perkawinan Antar Orang Islam menurut Undang-Undang Nomor 1 Tahun 1974*, p. 2.

[5]Republic of Indonesia. Law Number 1 of 1974 concerning Marriage (Surabaya: Kesindo Utama, 2006), p. 40.

Marriage registration is a juridical affirmation of government interference while eliminating public understanding that marriage is an individual affair.[6] Marriage registration functions to avoid misuse of marriage for the purpose of harming others. The marriage registration regulation should be obeyed for the sake of law order and the common good.[7] Obligation to obey the government (*ulil amri*) is one of the great principles of Islam.[8]

Marriage registration is very important, but in some regions in Indonesia, marriages often occur that are not officially recorded. The marriage is known as *sirri* marriage. At first *Sirri* marriage was aimed at marriages that did not meet the harmony and marital conditions. As is the history of 'Umar bin al-Khaṭṭab when Umar ra. got a marriage case complaint whose witness was invalid, if the marriage continued, then including adultery and must get a legal *jilid* (whipping). *Sirri* marriage is currently being expanded to include marriages that meet the terms and conditions but have not been recorded at the Religious Affairs Offices (KUA).[9]

The compilation of Islamic law unlocks an opportunity to submit a marriage application to the Religious Court to ratify the marriage. This is stated in Article 7 Paragraph (2) that "in the case of a marriage cannot be proven by a marriage certificate, the marriage can be submitted to the Religious Court". Provisions on marriage law which can be submitted to the Religious Courts are limited to matters relating to; (1) the existence of a marriage in the context of divorce settlement; (2) loss of marriage certificate; (3) there are doubts about whether a marriage is valid or not; (4) marriages that occurred before the entry into force of Law Number 1 of 1974; and (5) marriages committed by those who do not have marital obstruction according to Law No. 1 of 1974.[10]

In 2014, the Republic of Indonesia Supreme Court issues Regulation No. 1 of 2014 concerning guidelines for providing legal services to disadvantaged people in the Court. Followed by a circular of the Supreme Court Number 3 of 2014 concerning the procedures for service and examination of voluntary marriages in integrated services. Subsequently perfected through PERMA Number 1 of 2015 concerning Guidelines for Integrated Services of the Traveling Session to be more effective, efficient and guaranteed legal services. The Religious Court goes directly to people who are unable and isolated, to help justice seekers.

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[6]M. Yahya Harahap, *Informasi Materi KHI dan Pengadilan Agama dalam Sistem Hukum Nasional*, (Jakarta: Logos, 1999), p. 51-52.

[7]Ahmad Rofiq, *Nuansa dan Tipologi Pembaharuan Hukum Islam Indonesia*, (Jakarta: Rajawali Press, 1999), p. 107.

[8]See, QS Al-Nisa/4:59.

[9]Neng Djubaidah, *Pencatatan Perkawinan dan Perkawinan tidak Dicatat menurut Hukum Tertulis di Indonesia dan Hukum Islam* (1st Edition, Jakarta: Sinar Grafika, 2010), p. 345.

[10]Compilation of Islamic Law, article 7 paragraph 3.

Then the expectation of the community and the government of Bone Regency was answered by the opportunity given by the Court to propose marriage registration for the marriage which had not been officially registered. The Registrar of the Class 1A Religious Court Watampone explained the session of the marriage *itsbat* that "Every year the application for marriage *itsbat* through the District KUA has been carried out, but there is still much left. That is due to the quota given by the MA to DIPA of Religious Court Class 1A of Watampone is still limited ".[11]

But in 2018, the limitation of the quota of the congregation around marriage *itsbat* has changed, it was conveyed by the Junior Registrar of the Religious Court Class 1A of Watampone Request that "The implementation of the 2018 court session has no quota stipulation, which is different in previous years. This has become a new policy, even the application for a self-funded mobile marriage *itsbat* session has been received.[12]

The main problem that will be examined in this study is how an unregistered marriage is ratified through a mobile court integrated service conducted by the Watampone Religious Court in marriage *itsbat* case. This research is more specific on the subject matter about the phenomenon of marriage *itsbat* through the integrated service of a mobile court session to unregistered marriages in Bone District and the application of PERMA No. 1 of 2015 concerning Integrated Services of the Mobile Court Session in Religious Courts Class 1A of Watampone in realizing marriage legalization in Bone District.

DISCUSSION

A. The Process of a Marriage *Itsbat* Court Session

Prior to the issuance of the Republic of Indonesia's Supreme Court Regulation No. 1 of 2015 concerning Integrated Services of the Mobile Court Session in the Context of Marriage Book Issuance for Muslims, and Marriage Deed for those of non-Muslim religions, the term "mobile court is known by the name of a hearing outside the Courthouse" (PERMA Number 1 of 2014). After the issuance of PERMA Number 1 of 2015, the traveling court was more specific in its service in the case of the marriage application for those who are Muslim through the Religious Courts. The priority of the service is for the poor and in remote and isolated areas.

[11]Kamaluddin, Registrar of the Watampone Religious Court, Interview on Jl. Laksamana Yos Sudarso, January 15, 2018

[12]Muliati, Junior Registrar of the Application for the Watampone Religious Court, Interview on Jl. Laksamana Yos Sudarso, January 16, 2018.

1. The Procedure for Conducting the Session

a. Coordination meetings

The coordination meeting was held with the involvement of the Watampone Religious Court, the District Ministry of Religion and the Bone Regency Population and Civil Registry Office. This coordination meeting has been running since 2015 until today. As for this 2019, the Ministry of Religion is only represented by 6 subdistricts KUA because several other subdistricts KUA have not met the target of applications received (less than 60 requests for marriage licenses).

Based on the results of the coordination meeting on the holding of the 2019 hearing session, the Ministry of Religion was only attended by 6 (six) Heads of the Subdistrict Religious Affairs Office. Although only six delegations from six Subdistrict Religious Affairs Offices attended the coordination meeting, the Watampone Religious Court continued to give the widest opportunity to the KUA of the other Districts to conduct marriages in their respective territories if the marriage application received reaching 50 to 90 cases. Meanwhile, if they are unable to collect as many applications, each Subdistrict Religious Affairs Office can include its citizens in the KUA which hold a mobile court session. For example, the KUA of the Cina subdistrict included the marriage *itsbat* court session for the KUA residents of the Tonra subdistrict because they only had 19 applications for marriage. The mobile court session in Bengo KUA included KUA of Lappa Riaja Subdistrict and KUA of Ponre Subdistrict.[13]

b. Verification of the Marriage Itsbat Application.

Based on Article 8 paragraph (4) that the Court determines and selects documents that must be completed by the beneficiary of Integrated Services to obtain integrated services in accordance with applicable provisions, in this case the team formed by the Religious Court is then sent to several Subdistrict KUAs to verify the marriage application documents. However, due to the large number of requests and the far-reaching territory and personnel of the Watampone Religious Court team, the verification task was delegated to the respective KUA, which had previously been held guidance to all KUA heads in Bone Regency, prepared forms, and technical guidelines, besides that if a mobile court has often been held, it is very possible that each KUA has experience so that it is considered qualified.[14]

This verification process provides benefits in the form of convenience and certainty for justice seekers, so that no request is included in the NO (*Niet On Vankelijk Verkelaart*) category or is unacceptable because it is not based on law.

[13]Asir Pasimbong Alo, Junior Registrar of Registration, Watampone Religious Court, Interview on Jl. Laksamana Yos Sudarso, July 23, 2019.

[14]Kamaluddin, Registrar of the Watampone Religious Court, Interview on Jl. Laksamana Yos Sudarso, September 4, 2018.

Therefore, if a NO application is found by a verification officer, then the request is not forwarded and not registered, the benefits do not harm the applicants.[15]

c. The Place of the Mobile Court Session

Based on Article 9 paragraph (3) of PERMA Number 1 of 2015, that the placement of the courtroom in the activities of the mobile court session of the Religious Court is arranged in such a way as to facilitate the beneficiary community of Integrated Services. Therefore, the Marriage Hall of each Subdistrict KUA was determined, and other strategic places such as the Village office hall or unused school class, such as in Bengo and Barebbo Subdistricts, as a place for hearings with a Sole Judge (not an assembly) and accompanied by a Substitute Registrar.

Every year, the Watampone Religious Court conducts a mobile court session throughout the Bone Regency which consists of 27 subdistricts and the implementation is evenly distributed, both far and near subdistrict KUAs, but still prioritizing those who are incapable and isolated (remote areas).

Regarding the mobile marriage *itsbat* court session held at the Subdistrict Religious Affairs Office, it was conducted in one session, and on that same day the marriage *itsbat* court applicants could immediately get a copy of the stipulation of the marriage license. This is stated in Article 10 paragraph (1) of the Supreme Court Regulation No. 1 of 2015.

The venue and time which is only in a day will benefit justice seekers because the location of the session is close, the cost is inexpensive, and the process is fast. Near the point, there is no need to go all the way to the office of the Religious Court in Watampone City but it is enough only in the area of the Religious Affairs Office of their respective subdistricts, inexpensive means that the money spent is far less than if the application was submitted directly to the Watampone Religious Court, and Quick means not long because only one court session and approximately 15 minutes the decision can be taken immediately and the wedding book can be taken the next day. Ideally at that time marriage book and birth certificate can also be taken, only because there were many parties or applicants who had to be served while the implementation was only one day and indeed one full day of activities, so the certificates could not be immediately taken, such as marriage books and birth certificates.[16]

The implementation of the marriage court in the KUA area of each subdistrict provides enormous benefits for justice seekers in the form of efficiency, meaning that it does not waste a lot of time, energy and cost or in other words the

[15]Kamaluddin, Registrar of the Watampone Religious Court, Interview on Jl. Laksamana Yos Sudarso, July 23, 2019.

[16]Kamaluddin, Registrar of the Watampone Religious Court, Interview on Jl. Laksamana Yos Sudarso, July 23, 2019.

realization of the principle of flexibility (simple, fast and low cost) as stipulated in article 2 paragraph (4) of Law Number 48 Year 2009 concerning Judicial Power. The realization of the principle of flexibility is a genuine effort by the Watampone Religious Court in realizing article 4 paragraph (2) of Law Number 48 Year 2009 concerning Judicial Power, that "the Court assists justice seekers and seeks to overcome all obstacles and obstacles to the achievement of a judiciary that simple, fast and low cost."

2. Mechanism for the Implementation of the Mobile Marriage Itsbat Court Session

The implementation of marriage *itsbat* in the Religious Court Class 1A of Watampone is in line with the implementation procedure in Article 12 of the Republic of Indonesia Supreme Court Regulation No. 1 of 2015 stated that: (a) The marriage *itsbat* case served by the Religious Court in integrated services is the case of marriage *itsbat* which is of an application (*voluntair*); (b) The marriage application hearing is attended by married couples who are still living personally (in *persoon*) unless there are other reasons; (c) In the event that one spouse or both of them have died, the marriage registration request cannot be carried out at the Integrated Service; (d) The examination of application for marriage license in the Integrated Services can be carried out with a sole judge; (e) Procedures for hearings outside the court building are conducted based on applicable provisions; (f) In carrying out their duties, the judge shall be assisted by 1 (one) Substitute Registrar, 1 (one) Substitute Bailiff, and at least 1 (one) administrative officer; (g) Summon of more than one applicant may be made through announcement by the regional government and the local court notice board; (h) Implemented in accordance with applicable regulations; (i) Integrated Services can be carried out simultaneously with; (1) Legal Aid Post Service; and/or; (2) Regular session.

The mechanism of conducting the aforementioned mobile court session, besides provides conveniences such as the session held at the place of the applicationer, also shows a limitation, that in person means it must be attended by a married couple. Therefore, if the application is only one-sided, then the application cannot be accepted because it is categorized as NO (*Niet Onvankelijk Verkelaart*) or is not based on law, in this case contrary to article 12 letters b and c. Based on this, it is certain that there are still many unregistered marriages that have not been accommodated in the mobile court program. Therefore, it is still a dilemma and a social phenomenon that is certainly obligatory to find a solution, so that every citizen is fulfilled his constitutional rights. On the other hand there is a positive impact of finding that there are still unregistered marriages that have not been tested through *itsbat*, so it is necessary to synergize all elements of the nation

to find a solution so that they and their descendants are not held hostage by law in the future.

3. Regular Marriage Itsbat Procedure and Marriage *itsbat* Through a mobile court[17]

a. Requests for Regular Marriage *itsbat*

The process of examining the case for a marriage *itsbat*, based on the Guidelines for the Implementation of Duties and Administration of the Religious Court Book II, Revised Edition 2010, that: (a) Preparation for the Court Session: (1) Stipulation of the Judges Council (PMH); (2) Appointment of Substitute Registrar; (3) Stipulation of Session Day (PHS); (4) Summons of litigants. (b) Hearings: (1) General Provisions of the Session, i.e. the hearing starts at 09.00 local time, except in certain cases the session can begin later than 09.00 provided the conditions must be announced in advance; (2) Minutes of Session; (3) Verification; (4) Panel of Judges Deliberation; (5) Decisions/Stipulations.[18]

b. Application for Marriage *itsbat* through a Mobile Court Session[19]

The application for marriage *itsbat* in a mobile court is carried out by: (1) The registration is carried out collectively and only represented by the Head of the Subdistrict Religious Affairs Office or who is appointed for it; (2) The administrative process is carried out collectively and integrated; (3) *Relaz* is only once and all areas are equal (radius I), so the cost of the Case is the same and inexpensive; (4) Only one session[20] (however, at the discretion of the leadership, for those whose evidence is not yet sufficient, the session can be continued regularly at the Watampone Religious Court Office); (5) A copy of the Decision/Stipulation can be taken on the same day, but the marriage book and birth certificate cannot be taken immediately because the officer/committee works one full day, so it is postponed to the next day.

4. Procedure of the Mobile Marriage Itsbat Court Session

The procedure in the implementation of the mobile marriage *itsbat* session in the Religious Court Class 1A of Watampone with the sequence including:[21]

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[17]Kamaluddin, Registrar of the Watampone Religious Court, Interview on Jl. Laksamana Yos Sudarso, Oktober 11, 2017

[18]Mahkamah Agung RI, *Pedoman Pelaksanaan Tugas dan Administrasi Peradilan Agama; Buku II* (Ed. Revisi; Jakarta: Director General of the Indonesian Religious Courts, 2014), p. 144.

[19]Kamaluddin, Registrar of the Watampone Religious Court, Interview on Jl. Laksamana Yos Sudarso, September 4, 2018.

[20]Nurmiati, according to him, the trial can be continued at the Religious Courts Office if the witness evidence is not enough, while according to Makmur, if there is not enough witness evidence, then a suppletory oath (supplementary oath) will be conducted.

[21]Husniwati, Watampone Religious Court Judge, Interview on Jl. Laksamana Yos Sudarso, August 29, 2018.

a. Case Inspection

Case review, the judge checks the identities of the parties, then provides an explanation as necessary then reads the application and asks the subject matter. Then the judge gives the opportunity for the applicant to revise his application.

b. Verification

The applicant is given the opportunity to submit evidence including letter evidence and witness evidence. Beginning with Evidence of letters in the form of Photocopy of Identity Card (KTP) of both parties, Photocopy of Family Card in the name of the applicant.[22] Furthermore, examining the witnesses, the Witness is free to state what he experienced, see and hear about the events related to the marriage of the applicant. Before the witness gives his statement, he is sworn in first, the contents of the oath stating that the witness will tell the truth.

c. Conclusion stage

After the applicant confirms or accepts and/or does not accept the witness' statement. Then the applicant's conclusion that remains in the application submitted.

d. Stipulation stage

The efforts of judges in making decisions on requests for mobile marriage *itsbat* session, namely confirming or analyzing the relationship between the arguments of the application and evidence, especially witness evidence. If the evidences submitted by the applicants are in accordance with the arguments of the lawsuit or in other words have reached the minimum level of proof, then the request can be granted by giving a decision in the form of a decree or marriage *itsbat*, so that the marriage becomes legal or legal. Next the reading of the stipulation of the marriage license by the judge. Interval of approximately 10 minutes, a copy of the stipulation is given directly to the applicant.[23] After the stipulation is read out in a hearing open to the public, furthermore the rights of the applicant are informed, including the right for legal remedies (the request is not granted).

e. Postponement of session

There was no postponement of the session in the mobile court session because there was only one session. The applicant who was given the opportunity to continue his session at the Office of the Religious Court, was only a policy, there was no regulation.

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[22]Munira, Junior Registrar of Lawsuit Watampone Religious Court, Interview on Jl. Laksamana Yos Sudarso, August 20, 2018.

[23]Muh. Kasyim, Watampone Religious Court Judge, Interview on Jl. Laksamana Yos Sudarso, August 22, 2018.

f. The Results of the Mobile Court Session

In general, the application for marriage *itsbat* through a mobile court is granted or accepted. As for applications that were rejected, aborted, and unacceptable because they were not based on law (*Niet on Vankelijk Verkelaart*) were only a few. This happens because all applications have been verified by a designated professional team. The understanding of the case for an application that has been rejected, aborted and NO or cannot be accepted.

The application is rejected or is dropped because: (1) A rejected case is a case where the applicants cannot convince the judge of the relationship between the *posita* or the arguments of the application and the evidence presented at the hearing; (2) An aborted case is a case in which the applicants is absent even though he has been legally and properly summoned, and has not sent a representative or representation; (3*) Niet Onvankelijk Verklaart* (NO) is a case of marriage legal application that is not based on law or contrary to regulations, especially PERMA Number 1 Year 2015.[24]

The explanation above shows that the difference between the process of hearing a case at a regular session held at the Religious Courts Office of Watampone and a mobile session is very clearly beneficial for the applicants or seekers of justice. For example, in regular sessions, registration, session preparation in the form of Determination of the Panel of Judges, Determination of Session Day, Appointment of Substitute Registrar, summons of the parties, all of it is done individually. While at the mobile session, all of that can be done collectively, thereby reducing the burden on the applicant, both in terms of time, energy and funds.

B. Judge's Legal Considerations: Stipulation of Mobile Marriage *itsbat* Session

The legal basis for judges refers to: (1) Article 2 Paragraph (1) of Law no. 1 of 1974 concerning Marriage states: "Marriage is legal if it is carried out according to the laws of each religion and belief"; (2) Article 7 Paragraph (3) letter (e) Compilation of Islamic Law, that marriages are conducted by those who do not have a marriage obstacle according to Law No. Year 1974. In point (1) above indicates that marriages that meet the harmony and conditions of marriage according to Islamic law, can be proceed through *itsbat* or determined as a legal marriage through the holding of a mobile court session held by the Religious Court Class 1A of Watampone. Point (2) shows that marriages carried out by those who do not have marital obstructions can also be confirmed as legal marriages, for

[24]Abdul Manan, *Penerapan Hukum Acara Perdata di Lingkungan Peradilan Agama*. (1st Edition; Jakarta: Yayasan Al-Hikmah: Jakarta, 2000), p. 178-180.

example husbands and wives who are not related siblings, have no blood relations (aunts or uncles), or are not stepchildren, stepmother nor stepfather.[25]

Based on the results of interviews with several judges, the judge's rationale: First, Evidence of a letter in the form: Resident Identity Card, Family Card, Certificate from the local government that applicant I and applicant II are religiously legitimate husband and wife (Article 2 Paragraph (1) and not yet formally valid (Article 2 Paragraph (2) Law No.1 Year 1974 concerning Marriage. Second, Pillars and terms of marriage. In harmony, the most concentrated is the matter of guardians, because many marriages are carried out overseas, for example in Malaysia, where the guardian is his own guardian (violating the guardianship requirements according to Islamic law), this is often revealed in court process.[26]

Third, the witnesses at the session. Witnesses of at least 2 people are the main key to the granting of a marriage application at Watampone Religious Court. Nonetheless, the potential for a witness's lies in a session is very likely to occur as no one can intervene, however, through the experience and creativity of a judge, sometimes through witnesses, the truth is found to be contrary to *posita*. Two judges (Muh. Kasyim and Husniwati) who succeeded in doing this, where initially the witness admitted that the marriage witnessed was the first marriage, but through the judge's creativity, the witnesses were stunned, eventually the witnesses admitted that the marriage was actually between the applicant I and applicant II is not the first marriage, but the second marriage.[27]

Despite the various efforts of the judges in directing witnesses to tell the truth, there were still witnesses who managed to lie, eventually the case was granted. According to Drs. H. Ramly Kamil, M.H. one of the judges of the Watampone Religious Court, that the judge only heard and saw the facts born in the court session. As for someone who is successful in lying, it is beyond the ability and capacity of judges, which is clear that judges always try to apply the law as optimal as possible.[28]

During a mobile court session in the area of Bengo Subdistrict KUA, researchers witnessed the implementation of the mobile court session, held in the classroom with a judge and a substitute registrar. In one room there are three groups of congregations, so it is very crowded. According to researchers, the

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[25]Muh. Kasyim, Watampone Religious Court Judge, Interview on Jl. Laksamana Yos Sudarso, August 22, 2018.

[26]Muh. Kasyim, Watampone Religious Court Judge, Interview on Jl. Laksamana Yos Sudarso, July 23, 2019.

[27]Husniwati dan Muh. Kasyim, masing-masing Hakim Pengadilan Agama Watampone, Interview on Jl. Laksamana Yos Sudarso, July 23, 2019.

[28]H. Ramly Kamil, Hakim Pengadilan Agama Watampone, Interview on Jl. Laksamana Yos Sudarso, October 15, 2019.

condition is not conducive and the potential for witnesses to lie (the experience of researchers when they were registrar in the Religious Court) because the psychological condition of the judges could be disturbed (lack of concentration) by the noise in the court. This is different from regular session at the court office, where the courtroom is really conducive. The implementation is scheduled for 3 days but only in one day, this is very likely the reason so that it is carried out with three groups of hearings in one class. The three groups of sessions, only one oath swearman and very crowded with people in it.

Based on data from the Administrator of the of mobile marriage *itsbat* session of Watampone Religious Court, that each place of activity is scheduled for three days, starting from Barebbo, Cina, Bengo, Amali, Awangpone, and Bontocani Subdistrict, but in reality only carried out in one day for the sake of efficiency. This is what causes busy and complicated when activities take place, crowded and noisy room, officers work all day so the parties can not directly take the marriage book and birth certificate on that day.[29]

The benefits resulting from "the process of marriage *itsbat* by a judge" are: (1) The holding of a mobile court session in only one day, the community feels helped, because they do not have to leave their work for a long time; (2) Written evidence, such as ID Card/KTP, which has been prepared in advance because they have found out through officers at each KUA; (3) Witness evidence, on witness evidence, is not difficult to obtain because it is carried out at the residence of each applicant. It is common knowledge that witnesses are the main key in convincing judges in every session.

C. The Importance of the Marriage *itsbat* Court Session Against Unregistered Marriage

1. Society's Constitutional Rights

The word constitution comes from Latin, namely *constitutio*, in Indonesia it is called the Basic Law which is understood as the norm of the political and legal system. Constitutional rights are basic rights of citizens guaranteed by law, such as human rights and the right to obtain legality for a legal event (ID Card/KTP, Marriage Certificate and Birth Certificate).

In article 27 paragraph (1) of the 1945 Constitution of the Republic of Indonesia states that "all citizens are at the same position in law and government and must uphold the law and government with no exception". Therefore, every person has the right to obtain legal recognition without discrimination including

[29]Ahmad Amiruddin, Organizer of the Congregation of the Watampone Religious Court, Interview on Jl. Laksamana Yos Sudarso, September 23, 2019.

the right to form a family and descendants through a legal marriage and child identity as outlined in the birth certificate.[30]

Based on the law mentioned previously, the Republic of Indonesia Supreme Court established Regulation No. 1 of 2015 concerning Integrated Services of the District Court and Religious Courts for the Issuance of Marriage Certificate, Marriage Book and Birth Certificate. PERMA Number 1 of 2015 is a follow-up of PERMA Number 1 of 2014 concerning Guidelines for Providing Legal Services to Poor Communities in Courts. This PERMA Number 1 Year 2015 specifically regulates the implementation of a mobile court session that will provide a solution to the number of unregistered marriages in the entire territory of the Republic of Indonesia, especially in Bone Regency. Based on data from the Mobile Session since 2014 approximately 1,000 cases per year, so to date there are approximately 6,000 cases in total which is a big number.[31]

Based on the data above, it shows that the constitutional rights in the form of legality over community marriages in the Bone Regency have been well manifested, and even continue until 2019.

2. Poor and Vulnerable Groups of People

Article 2 of the Republic of Indonesia Supreme Court Regulation No. 1 of 2015 states that the integrated services of the mobile court are aimed at: increasing access to services in the legal sector; b. Helping people, especially those who are unable to obtain the right to a marriage certificate, marriage book, and birth certificate that is conducted with a simple, fast and low cost.

The manifestation of article 2 of the Republic of Indonesia Supreme Court Regulation No. 1 of 2015 has been carried out by the Watampone Religious Court in all remote areas in Bone Regency, such as Bontocani, Libureng, Kahu, Lamuru, Amali, Kahu, Kajuara, Salomeko, Tonra, Mare, Cina, Barebbo, Palakka, Ajangale, as well as Dua Boccoe Subdistrict. These Subdistricts each have remote and isolated areas so that most residents find it difficult to access and reach the Watampone Religious Court, in addition the average of those whose marriages have not been registered is among those who are poor and even some are legally illiterate.

Therefore, with the Mobile Court program, it is very helpful for the poor and isolated people who live far away in remote areas.[32]

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[30]Considerations letter (a) of the Republic of Indonesia's Supreme Court Regulation Number 1 of 2015 concerning Integrated Services of District Courts and Religious Courts / Syariah Courts in the Context of Issuance of Marriage Certificates, Marriage Books and Birth Certificates.

[31]Registrar Data on Watampone Religious Court, 2019.

[32]Abd. Wahid Arif, Head of the Religious Affairs Offices in Barebbo Subdistrict, Interview at, June 12, 2019.

3. The Existence of Unregistered Marriage

Based on data on the case of marriage registration *itsbat* which applied at Watampone Religious Court submitted by several Subdistrict Religious Affairs Offices by submitting an application collectively by each KUA of the subdistricts, shows that there are still many cases of application for marriage registration in Bone Regency which are spread in 27 subdistricts which are the jurisdiction of the Watampone Religious Court. Therefore, it is very reasonable and appropriate to continue and carry out the mobile marriage *itsbat* session.

Specifically for the case of marriage *itsbat*, the court session, based on the funds of the Budget Implementation List (DIPA) of the Watampone Religious Court, the quota in 2016 amounted to 1024 cases, and in 2017 it amounted to 714, 2018 amounted to 2,168, and specifically in 2019 the quota was not determined, but what is determined is the number of events, which is nine times, in one event there are between 60 to 90 cases.[33]

The number of marriage *itsbat* cases in the mobile court in 2018 increased sharply, this was due to the existence of a quota in the DIPA as well as the existence of self-supporting mobile courts (not DIPA funds), this happened because of many applications for marriage *itsbat* that were proposed. While in 2019, there was no mobile court session with independent funds because DIPA funds were estimated to be sufficient with nine events. The number of cases of application for marriage law in 2018 (regular and mobile court), which were received by 2,431 cases and decided by 2,376 cases.[34] This shows that, from year to year, the Watampone Religious Court has succeeded in providing legal certainty for legal events in the form of unregistered marriages that occurred in the Bone Regency community spread across 27 subdistricts.

4. Level of Public Awareness

Due to the frequent circumvention of mobile court session, it has become a social phenomenon, causing about 1,000 cases of application for marriage license each year from 2014 until 2019. This shows the existence of public awareness upon the importance of the legality of a legal event, such as a marriage certificate and birth certificate. In fact, there are some people who claim that their children already have a birth certificate, while their purpose for requesting marriage *itsbat* is as a form of preparation if someday it will be needed, as stated by Colli, Herman Saleh, Jumasse and Beddu Hasing, each as an applicant for marriage *itsbat*.[35]

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[33]Source: Latest Data of Registrar of Religious Court of Class 1A Watampone in 2019.

[34]Kamaluddin, Registrar of the Watampone Religious Court, Interview on Jl. Laksamana Yos Sudarso, July 23, 2019.

[35]Colli, Herman Saleh, Jumasse, Beddu Hasing (the marriage *itsbat* applicants), Interview in Bengo, June 25, 2019.

The phenomenon that the writer witnessed directly in Bengo Subdistrict during the mobile court session, where people were crowded the *Madrasah Tsanawiyah DDI* Seppange, the place where the mobile court was held. Most people come from remote areas such as Walimpong, Liliriawang, Selli, Sama Enre and other Villages. Because of the inability of the community and coupled with topographical areas where public transportation is difficult to pass, so they were forced to use diesel power carts vehicles (*dompeng*) created by the community itself, a beautiful and interesting sight when watching it.[36]

5. Level of Community Satisfaction

The Ministry of Religion of Bone Regency, in order to find out the response of the community to the services provided, specifically the activities of the mobile marriage *itsbat* conducted in an integrated manner, then it made a "Community Satisfaction Index Questionnaire". Based on the results of researchers' interviews with Drs. Usman, MH. (Organizer at KUA of Cina Subdistrict) stated that the community was very enthusiastic and very happy with the existence of the mobile court, the community was very helped. Even the researchers saw the "Community Satisfaction Index Questionnaire" sheet, it is true that in general the community stated that it was very good, only a small portion said it was good.[37]

6. Level of Intensity, Legality and Urgency of the Mobile Session

The holding of *itsbat* marriages in 2019 is different from previous years, where the quota was not determined but the number of events determined, so it can be said that the government is trying to legalize all unregistered marriages. This year's wedding court meeting will be held from April 2019.

The intensity of the activities of conducting a mobile court session in Religious Court Class 1A of Watampone which has been held since April 2019. First, the holding of the mobile court will take place in the Kampuno Village in the area of Barebbo Subdistrict KUA on Monday, Tuesday and Thursday, 1, 2, and 4 of April 2019 with the number of applications was 92 cases and 90 applications were granted. Secondly, it was held in Lompu village, region of Cina Subdistrict KUA on Monday, Tuesday and Thursday, April 29-30, 2019, and May 2, 2019 with a total of 81 cases and was granted 77 applications. Third, it was held in the area of Bengo Subdistrict KUA on Tuesday-Thursday, June 25-27, 2019 with a total of 78 applications and 77 applications granted. Fourth, it was held in the area of Amali Subdistrict KUA on Monday-Wednesday, July 22-24, 2019 with a total of 53 cases and was granted 46 applications.

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[36]Abdul Kadir, Head of the Religious Affairs Offices in Bengo Subdistrict, Interview in Bengo, June 25, 2019.

[37]Usman, Organizer at the Cina Subdistrict Religious Affairs Offices, Interview in Cina, June 13, 2019.

Fifth, held in the area of Awangpone Subdistrict KUA on Monday-Wednesday, 5-7 August 2019 with a total of 68 cases and granted as many as 66 requests. Sixth, held in the region of Bontocani Subdistrict KUA on Tuesday-Thursday 13-15 August 2019 with a total of 69 cases and granted as many as 66 applications. Seventh, held in the region of Salomekko Subdistrict KUA on Monday-Wednesday, 9-11 September 2019 with a total of 71 applications (all granted). The itinerary session in Salomekko Subdistrict merged with Kajuara Subdistrict. Eighth, held in the area of Ulaweng Subdistrict KUA on Tuesday-Thursday, September 17-19, 2019 with a total of 84 applications (all granted). Ninth, held in the area of Lamuru Subdistrict KUA on Monday-Wednesday, 23-25 September 2019 with a total of 81 applications (all granted).

A mobile court session at each site is held for three working days expecting that all applications can be taken to the court. Based on the planned activities as DIPA Watampone Religious Court 2019 Fiscal Year submitted by the Junior Registrar for Application, Asir Pasimbong Alo in his office in June 2019 that the activities of the *itsbat* marriage session will be held nine times. The nine times plan of the activity as in the DIPA has been implemented well, which has covered the entire jurisdiction of the Watampone Religious Court. It is different from previous years where the mobile court session was only held in certain regions.

As the result of nine times of *itsbat* marriages that are carried out by the Watampone Religious Court, it shows that the legal service efforts carried out in an integrated manner to realize the legal objectives in the form of legal certainty, a sense of justice and usefulness through a mobile session have been carried out properly. Even though there are only nine KUAs of the subdistricts as the venue for the mobile court session, but actually it has represented 27 KUAs of Bone subdistricts as every mobile court event always gives an opportunity for the Religious Affairs Offices of other subdistricts to include its citizens in the place where the mobile court is held.

The results of the activities of the *itsbat* marriage meeting with nine activities, received in total amounted to 677 applications, while as many as 658 were granted, compared to 2018 as many as 2,168 (granted) showed a very drastic decline. This is an indication of the usefulness and success of the integrated service of the mobile court conducted by the Watampone Religious Court, as well as showing that the lack of applicants for the marriage license indicates that the number of the unregistered marriages has declined, as stated by Usman, the executive at the Religious Affairs Offices in Cina subdistrict, Usman said that a previously the community had been informed by the village *imam* that those whose marriages had not been registered would come to Cina Subdistrict KUA, but only a

few came and all were accepted. In contrast to previous years, because of the large number of applicants, it was finally recommended for some of them to wait for the next of mobile marriage *itsbat* event.[38]

Thus the implementation of the mobile *itsbat* marital session conducted by Religious Court Class 1A of Watampone since 2014 until now has provided enormous benefits, including giving community legal awareness, tens of thousands of unregistered marriages has been legally registered, and the children became legal because of the legal marriage of their parents and had obtained a legal birth certificate from the Bone Regency government.

CONCLUSION

Marriage *itsbat* carried out through mobile courts have reduced illegal marriages, established the rule of law and population. The process of conducting a mobile marriage *itsbat* session is very different from the regular session held in the courtroom. The community is given facilities such as; (1) the registration can be represented and collective, so that it is not complicated, and does not bother the applicants; (2) the implementation is only one time and all are included in the cost of radius I, so the case costs are inexpensive; (3) The session is held only once, so the time is relatively short/fast; (4) only be tried by a sole judge, so the decision-making process is relatively fast.

The mobile court conducted by the Religious Court Class 1A of Watampone is very urgent and useful, including helping people in remote areas, especially those who cannot afford it. The community felt helped because it was generally difficult for them to access the court with reasons of anxiety, anxiety, lack of funds, and lack of free time. So that with the marriage *itsbat* which is conducted through mobile marriage *itsbat* session contributed greatly in providing marriage ratification and at the same time giving legal strength to unregistered marriages.

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[38]Usman, Organizer at the Cina Subdistrict Religious Affairs Offices, September 23, 2019.

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