

# A Study on the Settlement of Divorce Cases for Undocumented Marriages at the Raba-Bima Religious Court

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**Abstract**— Problems of undocumented marriage have been discussed since and before the enactment of Law Number 1 of 1974 concerning Marriage which stated that marriage is only carried out according to the religious law and beliefs of both parties. If there is a continuous dispute between husband and wife which results in the break-up of the marriage, the husband and wife must submit a divorce application to the Religious Court accompanied by the applicant for the marriage certificate. This research was carried out: first, to find out and describe that the legal standing of the policy of marriage status according to the marriage laws is carried out to obtain legal certainty for unregistered marriages. Second, to find out the existence of the marriage policy in resolving divorce cases for marriages that ignore Article 2 Paragraph (2) of Law Number 1 of 1974 concerning Marriage. Third, open space for marriages that ignore Article 2 Paragraph (2) in order to apply for a marriage certificate to the Religious Court for the benefit of life in a family and in society. To study and analyze these problems in more depth, the researchers conducted empirical normative research by analyzing various documents, in addition to obtaining direct information from various related sources. To collect the data needed, the researchers did observation and collecting documents in the library related to the problem and conducting direct interviews with Judge at the Religious Court of Raba Bima and parties who have requested marriage, and the researchers analyzed the data descriptively quantitatively to conclude a qualitative solution. The results showed that there was no marriage that was carried out ignoring the applicable laws, because the law itself guarantees the solution to solving marital problems so that the marriage is legally valid.

**Keywords**— *statutes, policy, marriage, and perspective*

## I. INTRODUCTION

The issue of marriage is a sacred problem because the issue of marriage does not only involve the two parties who want to carry out the marriage contract, but involves the whole family, society, law, and religion. Law Number 1 of 1974 concerning Marriage views that marriage is a physical and spiritual bond between a man and a woman as husband

and wife with the aim of forming a family (household) that is eternally happy based on the Supreme Lordship, so that marriage must be recorded according to applicable laws and regulations. On the other hand, Islam views that marriage is a contract or agreement to bind relationship between a man and a woman to legalize sexual relations between the two parties on voluntary and pleasure bases to realize a happy family life filled with a sense of peace and affection under the God's blessing.

In principle, marriages that are carried out both according to Law Number 1 of 1974 [1] and according to Islamic law have the same opinion, it's just that Law Number 1 of 1974 which requires records, because if there is a continuous dispute that results in the breakup of the marriage then the marriage cannot be proven. Article 2 Paragraph (2) of Law Number 1 Year 1974 concerning Marriage and Article 7 Paragraph (1) Code of Islamic Law and Article 100 of the Code of Civil Law stipulate that the only evidence that a marriage has been registered is a marriage certificate.

Therefore, if a dispute occurs which results in the break-up of the marriage within a marriage that ignores these provisions, the husband and wife can propose a marriage request to the Religious Court to obtain the legal status of their marriage. The marriage ritual given by the Religious Court is due to considerations of benefit and is very useful for obtaining rights in the form of letters or personal documents as well as providing guarantees of protection of legal certainty for the marriage of a husband-wife couple accordingly. Many similar studies have been carried out by previous researchers, but this research is different from the previous one, because this research focuses on the legal standing of a marriage law policy perspective that ignores Article 2 Paragraph (2) of Law Number 1 Year 1974 concerning marriage [1].

This research is important because the legal standing of the marriage law policy according to the laws and regulations of marriage is carried out to obtain legal certainty for marriage ignoring Article 2 Paragraph (2) of Law Number 1

Year 1974. Also, the marriage policy is given to comply with the provisions of Article 39 Law Number 1 Year 1974 for all forms of marriage, and furthermore provides space for marriages that ignore Article 2 Paragraph (2) so that they propose a marriage request to the Religious Court for the benefit of living in a family and in society. Besides, this research is only devoted to looking at the perspective of the policy of marriage itself, so this research is very different from previous researches conducted to meet the needs of lectures and public opinion and was made in the form of a thesis writing and in the form of journal writing, such as the thesis of Muh. Riswan (Makassar UNHAS student) with the title: "Determination of mass marriage status by the Makassar Religious Court", in which it concludes that the Religious Court judges provided a solution, namely that the government by involving many parties (other agencies) must regularly and sustainably conduct socialization in the form of counseling to the community in the city as well as in villages regarding marriage and all matters relating to marriage, especially concerning the importance of marriage registration. Another thesis is that of Mifta Munirul Haji (a student at the State Islamic University of Sunan Kalijaga) with the title: "Overview of Islamic Law and Positive Law on Marriage in Gunung Kidul Regency" (A case study at the Wonosari Religious Court from 2014 – 2016. This study concluded that the cause of the increase in proposals for marriage status is the low level of public knowledge and education about the impact of unregistered marriage. Geographic location also causes difficult access to the community which results in unequal registration of marriages. In addition, there were still some of the irresponsible and unsubstantiated marriage registration officers. Thus, the Wonosari Religious Court has made special programs to minimize requests for marriage registration.

Next, writing in the form of journal, such as the Court Journal: Islamic Law and Law Studies 3, no. 2 (2018): 222 Page 6. JIL: Journal of Islami law, vol.1, Number 1, 2020 written by Sudirman and Iskandar with the title: Resolution of *Itsbat Nikah* in Indonesia: A Problem Approach which concludes that *itsbat nikah* is a way to fulfill administration in re-registering marriages that have been carried out, there must also be more concrete regulations regulating *itsbat nikah* so as to create administrative order in the marriage.

## II. METHODS

The approach used in this research is a normative empirical approach, which means conducting an empirical study of legal norms and jurisprudence related to the policy of marriage law determined by judges in the Religious Court in solving marriage problems. The setting of this research is: *first*, library research in which is secondary data will explain the primary data and they will be obtained through the library literature, such as legislation related to problems; and *second*, field research, as primary in which data from case studies (primary data) are obtained directly in the field, either through judges at the Raba Bima Religious Court or through communities who have proposed for marriage licenses. The data were obtained through library research by collecting literature related to the research problem and also through field research, namely direct interviews with related parties to obtain direct information dealing with the facts about the

research problems. Further, the collected data obtained through the library and the field were collected into one and sorted and then deepened to be processed and analyzed descriptively qualitatively, so that the final results can provide answers for the research questions.

## III. RESULTS AND DISCUSSION

### 1. Law Policy on Marriage Statutes in Religious Courts

Marriage is a very sacred problem, so that the problem of marriage is not only a problem between the two people (the prospective groom and the bride) who want to carry out the marriage contract, but marriage is a matter of law, religion, family and society, and the main objective is forming a happy household filled with compassion in developing the offspring of mankind, both individually and in groups. Law Number 1 of 1974 [1] concerning Marriage in Article 2 Paragraph (1) stipulates that "Marriage is legal if it is carried out according to respective laws. - each religion and belief ", while Paragraph (2) stipulates that "Every marriage is recorded according to the prevailing laws and regulations". It can be inferred that Law Number 1 of 1974 does not clearly regulate the nature of marriage because Law Number 1 of 1974 is principally monogamous.

However, in the development of Indonesian society, especially Muslim society interpret Article 2 Paragraph (1) that the validity of a marriage must be carried out based on the law of each religion and belief, while Paragraph (2) is only an administrative problem, then monogamy is opened to become monogamy by exception. This exclusionary monogamous provides tremendous opportunities for the community, so that until now the perpetrators of polygamous marriages are increasingly developing along with the development of the times. The opinion on polygamy is increasingly prevalent throughout the country, the birth of children and marriage in this model in realizing the goal of forming a household is not without problems, this actually causes various polemics even the divorce.

The problem is not as simple as Article 2 Paragraph (1) above, because divorce can only be done in front of a court session. Law Number 1 Year 1974 Article 39 Paragraph (1) stipulates: 1) Divorce can only be carried out before a Court Session after the Court has tried to reconcile the two parties but failed. 2) In order that divorce can be realized, there must be sufficient reason that the husband and wife will not be able to get along as a couple; and (3) The procedure for divorce before a court session is regulated in these statutory regulations. This can only be done after the reasons are fulfilled, one of which is the fulfillment of the provisions of Article 2 Paragraph (2), namely marriage which can be proven by an authentic certificate (marriage certificate) and the procedure for divorce before a court session is regulated in statutory regulations. If the problem of a marriage which is carried out under Article 2 Paragraph (1) occurs continuously until divorce occurs and the judge in court is unable to reconcile the husband and wife, then to fulfill the provisions of Article 2 Paragraph (2) as the instrument, the role of the provisions of Article 39 Paragraph (3) and Article 40 Paragraph (1) and (2) the Court will be able to grant divorce applications for marriages that ignore Article 2 Paragraph (2), if the Court is based on the argument and or considers Presidential Instruction Number 1 of 1991 concerning

Compilation of Islamic Law Article 7 Paragraph (2) which stipulates: 1) Marriage can only be proven by a Marriage Certificate made by a Marriage Registration Officer; 2) In the event that the marriage cannot be proven by a Marriage Certificate, the marriage certificate may be submitted to the Religious Court; 3) Marital status that can be submitted to the Religious Court are limited to matters relating to: a) a marriage in the context of divorce settlement; b) Loss of marriage certificate; c) doubts about whether or not one of the conditions of marriage is valid; d) marriages that occurred before the enactment of Law No. 1 of 1974; and e). marriages conducted by those who do not have a marriage impediment according to Law Number 1 of 1974 [4].

Those who are entitled to propose the marriage status are husband or wife, their children, marriage guardians and parties having an interest in the marriage. If it is understood carefully, Article 2 Paragraph (1) and (2) have become a polemic so far are even equal to Article 39 Paragraph (1), (2), and (3) and Article 40 Paragraph (1) and (2)). However, everything becomes unclear after the provisions of Article 7 Paragraph (3) letter (a) to (e) in a Code of Civil Law which provide opportunities for marriage status even though it is not the subject matter, but the filing is accumulated with the main case, so that the priority of the case is divorce suit, while marriage statute is classified into type of lawsuit case and its filing on the grounds of Article 7 Paragraph (3) letters (b), (c), (d), and (e) then the case sits in the petition category, therefore the decision of the Religious Court cannot be appealed but can be filed for cassation. On the other hand, Law Number 7 of 1987 concerning the Religious Courts which has been revised by Law Number 3 of 2006 and lastly revised by Law Number 50 of 2009 in Article 7 states that, "what is the absolute competence of the Religious Courts includes marriage. including the marriage statutes [5].

The interview with the Substitute Registrar, Arifudin Yanto, S.Ag. revealed that in order to overcome the prolonged polemic occurrence regarding the provisions of Article 2 Paragraph (2) of Law Number 1 of 1974 and to legitimize marriage based on Article 2 Paragraph (1), the Religious Court in Raba Bima has conducted an integrated mobile marriage statutes trial which was officially opened by the Regent of Bima and attended by the General Director of Religious Court of the Supreme Court of the Republic of Indonesia, represented by the Secretary of the General Director of Religious Court, Drs. H. Tukiran, SH., MH, General Director of Civil Registration, Chairperson and Secretary Religious High Court Mataram, Chairperson and Secretary of Religious Court Dompu, Representatives of AIPJ, Center on Child Protection and Wellbeing and Regional Leadership Communication Forum of Bima Regency [6]. In his remarks, he stated that the Secretary of the General Director for Religious Court of the Supreme Court of the Republic of Indonesia has conducted an integrated circuit court to determine the marriage statutes, which is a positive and concrete activity whose impact is directly felt by the community, especially those who are classified as poor. He also stated that this integrated circuit court activity was guided by the Supreme Court Circular No. 3/2010. This integrated circuit court activity was a collaboration with the Ministry of Religion of the Bima Regency Office, the Department of Population and Civil Registration of Bima Regency, which was attended by the

Head of Sub-District and Head of Local Village. As a sample. Arifudin Yanto, S. Ag. said that, the integrated court activity was held in Rabakodo Village, Woha District, which was attended by 72 married couples from several villages in Woha District, and in February 2020 it was held in Pusu Village, Langgudu District which was attended by 12 couples and also attended by the Head of Langgudu Sub-District and the Head of Pusu Village. The implementation of this integrated court activity in Pusu Village using the Pusu Village Government budget for the 2019 fiscal year. Arifudin Yanto, S. Ag. also said that in addition to an integrated mobile marriage trial, a marriage statutes trial was also carried out at the Religious Court in connection with the divorce application hearing which was accompanied by the marriage lawsuit.

Paying close attention to the series of legal policies regarding marriage statutes in marriage that ignore the provisions of Article 2 Paragraph (2) of Law Number 1 of 1974, we can conclude that no single marriage in Indonesia is carried out without disregarding statutory regulations, because one statutory law will mutually intersect to form a parallelogram with other marriage regulations. The assumption and/or polemic that has occurred so far is an offense of opinion that should be resolved, so the principle of marriage in Indonesia is monogamy and/or legal policy polygamy awaits, clearly not to have a marriage prohibited by the law.

## *2. Implementation of the Marriage Statutes Policy on the Settlement of Divorce Cases*

The procedure for filing a marriage case is the same as the procedure for filing a marriage case in general, meaning that the process of filing a marriage case to the Religious Court is not too different from civil cases such as divorce cases, guardianship, inheritance cases and other civil cases. The problem is that the procedure for petitioning for the marriage law case in Law Number 1 of 1974 [1] and Islamic Law Code is not clearly regulated, but follows the instructions stipulated by Book II of the Administrative and Technical Guidelines of the Supreme Court of the Republic of Indonesia. The implementation of the settlement of the case is that the Petitioner comes to the Religious Court Office in the area of his residence to make a marriage request letter (the application can be made by yourself, if you cannot make an application letter, then you can ask for help for free from the Legal Aid Post at the local court. There are two types of applications for marriage licenses, namely 1) a marriage request letter combined with a claim for divorce, and 2) a marriage statute request letter). Next, photocopy of the marriage certificate application form in 5 copies then fill it in and sign the form, four copies of the application form are submitted to the Court officer, one photocopy is kept by the Petitioner, as an attachment as a certificate from the religious affairs office stating that the marriage is not registered.

Further, to pay the court fee down payment, if the Petitioner is unable to pay the court fee, the Petitioner can apply for a case free of charge. If it is accepted, all costs related to the Petitioner's case at the Court shall be borne by the court except for the cost of transportation of the Petitioner from home to the court, if the Petitioner feels that these costs are still not affordable, the Petitioner can file a

Circuit Court [7]. After submitting a court fee down payment, the Petitioner must not forget to ask for proof of payment that will be used to ask for the remaining down payment of the court fee.

Then, the court will send a summons containing the date and place of trial to the petitioner and the respondent based on the address stated in the application letter. The applicant comes to court according to the date and time stated in the summons. Try to be on time and not late. For the first trial, bring along documents such as a court summons, a photocopy of the completed registration form. In this first trial the judge will ask the identity of the parties, for example ID card or other original identity cards. Under certain conditions the judge may examine the contents of the application. Furthermore, the judge will notify the petitioner or respondent who is present at the trial about the date and time of the next trial, while for the petitioner or respondent who is not present at the trial, a recall will be made to the person concerned by letter for the next trial. In the second trial and so on, it is possible that the petitioner must prepare documents and evidence in accordance with the judge's request. In certain conditions, the judge will ask the petitioner to present witnesses, namely people who know the petitioner's marriage, including the guardian of marriage and witnesses of marriage, or the closest people who know the petitioner's marriage [8].

If the Petitioner's petition is granted, the Court will issue a verdict/determination of the marriage certificate and a copy of the verdict/determination of the marriage certificate will be available within 14 days of the last trial, the copy of the verdict/determination of the marriage certificate can be taken by yourself in the Court office or can be delegated to someone else by showing power of attorney. Finally, after obtaining a copy of the decision, the petitioner can ask the local religious affairs office to record the petitioner's marriage by showing a copy of the court's decision.

The procedure for legalizing a marriage or marriage statutes at the Religious Court is in accordance with the Administrative and Technical Guidelines for the Religious Courts published by the Supreme Court of the Republic of Indonesia in 2008 which states that the rules for ratification of a marriage license are made on the basis of a marriage that takes place based on religious law and belief or not recorded by the Marriage Registration Officer. Ratification of the marriage statutes as regulated in Article 2 Paragraph (5) of Law Number 22 Year 1946 in conjunction with Article 49 number (22) the explanation of Law Number 7 Year 1989 as amended by Law Number 3 Year 2006 and the second amendment by Law Number 50 of 2009 and Article 7 Paragraph (2), (3) and (4) and Article 7 Paragraph (3) letter (d) Compilation of Islamic Law, marriages that are legalized are only marriages that took place before the enactment of Law Number : 1 of 1974, however, Article 7 Paragraph (3) letter (a) provides an opportunity for legalization of a marriage that is not recorded by the Marriage Registration Officer which takes place before or after the enactment of Law Number 1 of 1974 for the purposes of. Marriage interrogation in the context of divorce settlement is not made separately, but becomes a unity in the divorce decision. To avoid the smuggling of law and polygamy without procedures, the Religious Court or the Syari'ah Court must be careful in handling applications for marriage licenses, so

that the process of submitting, examining, and completing applications for legalization of marriage must be guided by the application for marriage licenses submitted by husband and wife or one of them, children, marriage guardians and other parties with an interest in the marriage to the Religious Court or the Syari'ah Court in the jurisdiction of the Petitioner where he resides and the request for marriage certificate must be accompanied by clear and concrete reasons and interests.

While the process of examining the marriage certificate application submitted by the husband and wife is voluntary, the product is in the form of a determination. If the contents of the decree reject the request for marriage certificate, then the husband and wife together or husband and wife can propose an appeal for cassation. In contrast to the process of examining a marriage permit filed by a husband or wife is contingent by placing the wife or husband who did not submit the petition as the respondent, the product is in the form of a verdict and an appeal and cassation can be filed against the decision. However, if in the process of examining the marriage request in numbers (2) and (3) above, it is known that her husband is still bound in a legal marriage with another woman, then the former wife must be a party in this case, if the petitioner does not want to change the petition by entering the former wife as a party, then the application must be declared unacceptable.

Then, if the application for the marriage license is made by the child, the guardian of marriage, and other interested parties, it must be contingent in nature, by placing the husband and wife and / or other heirs as the Respondent. Likewise, a husband or wife who has been left dead by his wife or her husband, can apply for a marriage certificate by placing another heir as the Respondent, the product is in the form of a verdict and an appeal and cassation may be sought, except in the case of a husband or wife if they are left dead, they do not know that there are other heirs besides themselves, so the application for marriage certificate is submitted voluntarily and the product is in the form of a determination. If the petition is rejected, the Petitioner can file a cassation action. If another person who has an interest and is not a party in the case of the marriage permit application in numbers (2) and (6), can fight against the Religious Court or the Syari'ah Court which decides, after knowing that there is a determination of the marriage license. Other people who have an interest and are not parties to the case of the marriage permit application in numbers (3), (4) and (5), can apply for intervention to the Religious Court or the Syari'ah Court which investigates the marriage license case as long as the case has not been decided. Meanwhile, other parties who have a legal interest and are not parties in the case of the marriage request in numbers (3), (4) and (5), while the petition has been decided by the Religious Court or the Syari'ah Court, then they can file a lawsuit for cancellation a marriage that has been legalized by the Religious Court or the Syari'ah Court.

Furthermore, the Chairman of the Panel of Judges 3 days after receiving the verdict of the Panel of Judges, makes the determination and orders the substitute bailiff to announce the request for legalization of marriage 14 days from the date of announcement in the printed or electronic mass media or at least the announcement on the notice board of the Religious Court or Syaria'ah Court. The Panel of Judges

determines the day of the trial no later than 3 days after the end of the announcement. After the day of the announcement ends, the Panel of Judges immediately determines the day of the trial according to Procedural Law, and the Administrative and Technical Guidelines for Religious Courts).

### 3. Marriage Statutes that Ignores Article 2 Paragraph (2) of Law Number 1 Year 1974 concerning Marriage

After analyzing and examining the current development of marriage law, we can understand that, so far, the tradition of *Islamic fiqh* is still a doctrine and reference for Muslims. It is based on the understanding and belief that *fiqh* is a product and agreement of the *fuqaha*, so that its existence is preserved and saved. The *fiqh* rule says: *al-Muhafazhah 'ala al-qadim al-shalih wa al-akhd bi al-jadid al-ashlah* means preserving good old traditions and developing better innovations. In addition, the opinion of the jurists remains a reference among some Muslim societies, so that they are able to change the behavior pattern of the social order of society and even dichotomy regulations, however the order that has been built so far is not necessarily followed by ethics and politeness. Often the behavior of some people can damage the order and traditions of *fiqh* which should be properly preserved and saved, especially if it has penetrated into sacred issues such as marriage.

The reason is that, in our family life today the tendency of desacralization of marriage has become an interesting phenomenon, and this happens by exploiting the permissiveness of marriage under the hands or marriage secretly, usually done in polygamous marriages in certain circle, even now it has become a model what officials do to practice polygamy secretly without the knowledge of their wives, families, and society. Marriage under the hand is as if there is no burden attached, so everything is simplistic, including easy divorce, anytime and anywhere, and in any way. In fact, there are ethics that must be considered. Even though marriage matters are in the domain of privacy, if it happens to public figures, especially if the *fiqh* domain has become a social and national order, then it may be a different matter. This can be a matter of social ethics and legal norms, not personal ethics anymore. Because if someone has become a public figure, they must be ready to abandon the egoism of their respective privacy. If there is a violation, the punishment is moral law and social law. Ironically, even women want to be married secretly, such as the case experienced by Aisyah as known as Machica Mochtar which Moerdiono did not admit, and thus caused a discourse on the birth of the Constitutional Court Decision Number: 46 / PUU-VIII / 2010. In a judicial review of Article 2 Paragraph (2) concerning registration of marriage and Article 43 Paragraph (1) of Law Number 1 Year 1974 concerning marriage, comments and public discussion have been invited. Although the Constitutional Court rejected the judicial review of Article 2 Paragraph (2), but granted the judicial review of Article 43 Paragraph (1) of Law Number 1 Year 1974, which it considered contradicting the 1945 Constitution of the Republic of Indonesia, the Constitutional Court Decision was considered has changed the scope of the child's civil relationship. In full, the results of the judicial review of Article 43 Paragraph (1) of Law Number 1 Year 1974 reads: "Children born outside of marriage have a civil

relationship with their mother and their mother's family and with a man as their father, which can be proven based on science. and technology and/or other evidence according to the law is related by blood, including civil relations with the family of the father".

Further analysis, in Article 26 Burgerlijk Wetboek (BW), marriage is a legal relationship between a man and a woman for a long time. Law Number 1 of 1974 views marriage only from a civil relationship, meaning that the article only explains that a legal marriage is only a marriage that meets the requirements stipulated in the Civil Code and BW, while the requirements regulated in religious law is disregarded, including the problem of marriage registration and the principle of monogamy, so that *sirri* marriages are not recorded by the Marriage Registration Officer. Marriages that are not under the supervision of Marriage Registration Officer even have fulfilled the principles and requirements according to their respective religions and beliefs, including in some Muslim communities who still adhere to the perspective of Traditional *Fiqhi*, that marriage is valid if the provisions stated in the book of *fiqhi* has been fulfilled, there is no need to record at the religious affairs office and no need for a marriage certificate, because it was not regulated at the time of the Prophet and was just a hassle. In principle, this marriage is valid, but does not have legal force because it does not have authentic evidence according to statutory regulations. *Sirri* marriage has become an option for those who intend to marry more than one woman, legalizing it through a marriage request, rather than the polygamy procedure according to the Marriage Law.

According to the Administrative Technical Guidelines and the Technical Courts of Religion in 2008, marriages that are not registered by the Marriage Registration Officer constitute legal smuggling to facilitate polygamy without legal procedures and become problems in status, inheritance rights or other rights over material. So the religion court must be wiser in examining and deciding on the request for a marriage certificate, with the aim that the process of marriage statutes is not used as a tool to legalize the smuggling of the law.

Article 6 Paragraph (1) Islamic Law Code states that, every marriage must take place before and under the supervision of Marriage Registration Officer; and Paragraph (2) states that marriages which are conducted outside the supervision of Marriage Registration Officer do not have legal force. Not having legal force or legal weakness does not mean that it is an illegal or null and void marriage. However, the attitude of the judge in making a decision is free by considering and interpreting articles of legislation for the benefit and justice of society, such as interpretation.

The three previous studies really influence and give clearness on this research. This is due to the fact that the policy of marriage statues is given to comply with the provisions of Article 39 of Law Number: 1 of 1974 for all forms of marriage which intend to divorce, then it provides space for marriages that ignore Article 2 Paragraph (2) in order to apply for a marriage certificate to the Religious Court for the benefit of life in family and society, even though this research is only devoted to looking at the perspective of the policy of marriage itself, but the results of previous research provide guidance. However, the

orientation of this research is very different from previous research, for example, judges at the Religious Courts provide a solution, namely that the government by involving many parties (other agencies) must routinely and sustainably conduct socialization in the form of counseling to the community in cities and in villages regarding marriage and all matters relating to marriage, especially regarding the importance of registration of marriage. Likewise, subsequent research shows that the cause of the increase in filing for marriage statutes is that there is little knowledge of the community about the impact of unregistered marriages, including geographic location which make it difficult to reach the community which results in unequal marriage registration, besides the existence of irresponsible and irresponsible marriage registrar employees.

The results of research written in the Court's journal also state that Marriage statutes is a way to fulfill administration in re-registering a marriage that has been carried out, there must also be a more concrete regulation regulating with certainty related to marriage ceremonies so that administrative order is created in marriage. If the results of these studies are compared, the problem in the perspective of marriage in our research can provide an answer that the legal standing of the policy of marriage according to the marriage laws is carried out to obtain legal certainty for marriage ignoring Article 2 Paragraph (2) of Law Number 1 of 1974. Also the policy of marriage statutes is given to comply with the provisions of Article 39 of Law Number: 1 of 1974 for all forms of marriage, and furthermore to provide space for marriages that ignore Article 2 Paragraph (2) in order to submit a marriage request to the Religious Court for the sake of life in the family and society. So legally, marriages in Indonesia are legal marriages, this right can be seen from the perspective of the marriage policy itself which makes this research very different from the previous researches.

#### IV. CONCLUSION

If there is a continuous dispute between husband and wife which results in the break-up of the marriage, the husband and wife must submit a divorce application to the Religious Court accompanied by the applicant for the

marriage certificate. This research was to find out and describe that the legal standing of the policy of marriage statutes according to the marriage laws is done to obtain legal certainty for *sirri* (unrecorded) marriages. Second, to find out the existence of the marriage statutes policy in resolving divorce cases for marriages that ignore Article 2 Paragraph (2) of Law Number 1 of 1974 concerning Marriage. Third, to open space for marriages that ignore Article 2 Paragraph (2) in order to apply for a marriage certificate to the Religious Court for the benefit of life in a family and in society.

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