



Juridical Analysis of the Court Decision on the Contentious Marriage Validation Petition Case Number: 1817/Pdt.G/2025/PA.JB

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Article Info

Article history:

Received 30 Sep, 2025

Revised 21 Oct, 2025

Accepted 22 Oct, 2025

Keywords:

Marriage Validation,
Contentious Case, Juridical
Analysis, Legal Certainty,
Substantive Justice

ABSTRACT

The background of this study arises from the fact that unregistered marriages (nikah siri) are still prevalent in Indonesia, making marriage validation petitions an important legal instrument to obtain state recognition. However, in this case, a legal issue arose because the petitioner did not involve Mursani's previous wives, who are still alive and have children that legally may have interests in the heir's status and inheritance rights. The research questions in this study are as follows: 1) What are the judge's juridical considerations in rejecting the marriage validation petition? 2) Have the judge's considerations complied with the provisions of positive law and the substantive justice principles in Islamic law?. This study employs a normative juridical method using a case approach and a statute approach. Data sources are obtained from court decisions, legislation (Law No. 1 of 1974 on Marriage, the Compilation of Islamic Law, and Supreme Court Regulations related to family cases), as well as Islamic legal doctrines and literature. The analysis results show that the judge rejected the marriage validation petition because the first and second wives were not involved as respondents, even though they legally have potential interests in the outcome of the ruling. This consideration was based on the principle of audi et alteram partem (the right of every party to be heard), which is a fundamental principle of justice. However, substantively, this rejection creates a problem of legal utility, as it leaves the petitioner's (third wife's) marital status and her children's legal standing unprotected, both administratively and civilly—particularly concerning inheritance and lineage rights. This study concludes that the judge's decision is formally in accordance with the principles of civil procedural law; however, materially, it does not fully reflect the principles of utility and substantive justice for legally vulnerable parties, particularly for children born from unregistered marriages. A more progressive judicial guideline is needed so that judges can balance formal legal certainty with the protection of the civil rights of children and women in contentious marriage validation (isbat nikah) cases.

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INTRODUCTION

The phenomenon of unregistered marriages (nikah siri) is one of the classical issues within Indonesia's family law system that remains unresolved to this day. Although Law Number 1 of 1974 on Marriage requires every marriage to be officially registered in order to obtain legal validity, in reality, many people continue to conduct marriages solely according to religious law without formal registration at the Office of Religious Affairs (Kantor Urusan Agama or KUA). This situation gives rise to various legal implications, particularly concerning the legal status of marriage, the legitimacy of children, inheritance rights, and the legal protection of women.

To address the consequences of unregistered marriages, the state provides a legal mechanism in the form of a marriage validation petition (isbat nikah) submitted to the religious court. The main purpose of

isbat nikah is to confirm the validity of a marriage that was conducted according to religious law but has not yet been officially registered, thereby granting it administrative legal recognition by the state. However, in practice, isbat nikah petitions often raise juridical debates, especially when the petition is contentious or involves disputes among the parties concerned.

In recent years, contentious isbat nikah cases have increased significantly in religious courts. Problems arise when the marriage subject to validation involves more than one unregistered marital relationship, informal divorces, or unclear legal status of wives and children from previous marriages. Such cases create dilemmas for judges in determining which parties must be involved in the proceedings and how to ensure legal certainty without sacrificing substantive justice for vulnerable parties, especially women and children.

One example of such complexity can be seen in the Contentious Marriage Validation Petition Case Number: 1817/Pdt.G/2025/PA.JB, where a woman named Een Muhaenah filed for marriage validation against her late husband, Mursani, with whom she had a nikah siri (unregistered marriage). Mursani had previously been married to two other women, Yulia Nuraeni (the first wife) and Iin (the second wife), both of whom were also in unregistered marriages and had children from those unions. During the petition process, the applicant did not involve the previous wives as respondents because they had remarried other men. However, the panel of judges later rejected the isbat nikah petition on formal grounds, reasoning that the previous wives were not included as respondents.

This case illustrates a conflict between formal justice and substantive justice. On one hand, the judge is bound by the principle of civil procedural law requiring that all interested parties must be involved in the case (*audi et alteram partem* principle). On the other hand, rejection on formal grounds risks sacrificing the legal interests of the children born from the unregistered marriage, who should be entitled to legal protection.

This phenomenon highlights a serious challenge for Indonesia's religious court system—how judges can balance formal legal certainty, utility, and substantive justice in complex family law cases. Therefore, a comprehensive juridical study is needed to examine the judge's legal considerations in contentious isbat nikah cases such as that of Een Muhaenah and Mursani, in order to assess whether the ruling reflects the purposes of law as mandated by the Marriage Law, the Compilation of Islamic Law (KHI), and the principles of justice that live within society.

RESEARCH METHOD

Types of Research

Normative (doctrinal) Juridical.

Types of Normative (Doctrinal) Juridical Research as a Research Method

Definition of Normative Juridical Research

Normative juridical research (also known as doctrinal legal research) is research that focuses on written legal norms—whether in the form of statutory regulations, jurisprudence, or doctrine (the opinions of legal experts)—as the primary object of study.

According to Soerjono Soekanto and Sri Mamudji (2003), normative juridical research is conducted to examine the applicable rules or norms of positive law, as well as the relationship between these legal norms in regulating a particular legal event.

In other words, normative juridical research does not empirically examine societal behavior, but rather analyzes law as a system of norms that regulates that behavior.

Research Objectives and Focus

The main objectives of normative juridical research are to:

Discover, explain, and interpret the legal principles, norms, and principles applicable in a particular case;

Assess the conformity between a judge's decision and positive legal norms;

Provide legal reasoning for a legal problem based on existing legal theory and doctrine.

In the context of your research, normative juridical research is used to:

Analyze the judge's legal reasoning in a contentious marriage confirmation case;

Assess whether the decision complies with positive law and the principles of justice;

Explain the legal implications of the decision for legal certainty and the protection of the parties' civil rights.

Sources of Legal Material

In normative legal research, the primary data used are legal materials, not field data.

Sources of legal material consist of:

Primary Legal Material

This is legal material that has binding force, including:

Legislation, such as Law No. 1 of 1974 concerning Marriage, the Compilation of Islamic Law (KHI), and International Relations.

R/RBg, and Perma No. 3 of 2017.

Court decisions (jurisprudence), particularly Supreme Court or religious court decisions regarding marriage confirmation.

Presidential Instructions, Supreme Court Circulars (SEMA), and other technical regulations.

Secondary Legal Materials

These are legal materials that explain primary legal materials, such as:

Legal textbooks, research results, scientific journals, and academic works by legal experts.

Legal doctrines and theories (e.g., Radbruch's theory of justice, Satjipto Rahardjo's progressive legal theory, and Hans Kelsen's theory of legal certainty).

Tertiary Legal Materials

These are supporting materials that help understand primary and secondary legal materials, such as legal dictionaries, legal encyclopedias, and indexes of legislation.

Research Approach

In normative legal research, researchers typically use several legal approaches, including:

The Statute Approach examines the legal regulations governing marriage confirmation and marriage.

The Conceptual Approach outlines legal concepts such as marriage confirmation, contentious cases, and substantive justice.

The Case Approach analyzes the judge's legal reasoning in Decision No. 1817/Pdt.G/2025/PA.JB.

The Historical Approach, if necessary, to understand the evolution of marriage confirmation regulations in Indonesian law.

Analysis of Legal Materials

The stages of analysis in normative legal research include:

Inventory of relevant legal materials;

Classification and systematization of legal norms based on hierarchy and substance;

Legal interpretation, namely interpreting the meaning of articles or provisions used by judges;

Legal reasoning to assess whether the judge's considerations are in accordance with the principles of justice, certainty, and legal benefit;

Drawing legal conclusions that answer the research problem formulation.

Advantages of Normative Juridical Research

Provides in-depth and systematic legal analysis of legal norms;

Relevant for studying court decisions and the application of positive law;

Can demonstrate the relationship between legal theory and judicial practice.

However, this method has limitations because it does not examine empirical or sociological facts, thus less able to describe societal behavior in applying the law.

Application Example

In the study "Juridical Analysis of the Decision in the Contentious Marriage Confirmation Application Case Number: 1817/Pdt.G/2025/PA.JB," the normative juridical method was used to:

Analyze the legal basis and judge's considerations;

Assess the decision's compliance with the Compilation of Islamic Law (KHI), the Marriage Law, and the principles of justice;

Assess the decision's implications for the protection of women's and children's rights.

Therefore, normative (doctrinal) juridical research plays a crucial role in providing analytical and argumentative studies of positive law and assessing how judges apply the law fairly in specific cases.

Approach**Statute Approach**

The statute approach is a type of approach in normative legal research used to examine, review, and analyze laws and regulations related to the legal issue being researched.

This approach is carried out by examining the hierarchy, substance, principles, and interrelationships between legal regulations to find the most appropriate and relevant norms for resolving a legal issue.

Definition of Approach

According to Peter Mahmud Marzuki (2014), the statute approach is:

"An approach taken by examining all laws and regulations related to the legal issue being addressed." This means that legal researchers analyze the normative structure of positive law by examining how a statute, government regulation, implementing regulation, or even a court decision relate to one another in addressing a particular legal issue.

Purpose of the Statute Approach

This approach aims to:

Find the positive legal basis governing a particular legal issue.

Assess the consistency between regulations, both vertically (based on the regulatory hierarchy) and horizontally (between regulations with the same legal material).

Interpret legal norms to address gaps, ambiguities, or conflicts.

Provide legal legitimacy to arguments or analyses presented in the research.

Steps in the Legislative Approach

In normative legal research, the legislative approach is carried out through the following stages:

Identify relevant regulations by determining the laws and regulations governing the research topic (e.g., UU, Perma, SEMA, KHI, PP, or other technical regulations).

Analyze the legal hierarchy by referring to Law Number 12 of 2011 concerning the Formation of Legislation (jo. Law No. 13 of 2022), to ensure that the regulations being analyzed have valid legal standing and force.

Interpret legal norms by interpreting regulatory provisions based on the context of the legal system, the objectives of the legislators, and the values of justice to be achieved.

Interrelationships between regulations by systematically linking one regulation to another to identify legal synchronization or disharmony.

Normative conclusions are drawn by determining the most appropriate legal norms to be applied to the case or legal issue being studied.

Example of the Application of the Statutory Approach

In the context of the Eén Muhaenah case (contentious marriage confirmation), the statutory approach is carried out by examining:

Substantial Legal Regulations Analyzed

Law No. 1 of 1974 concerning Marriage: The legal basis for the validity of marriage and the prohibition of unauthorized polygamy.

Compilation of Islamic Law (KHI) Articles 7 and 53: Provisions regarding marriage confirmation and unregistered marriages.

Supreme Court Regulation No. 1 of 2015: Procedures for integrated marriage confirmation services.

Supreme Court Regulations No. 3 of 2018 & No. 3 of 2021: Formulation of the Religious Chambers regarding the formal requirements for contentious marriage confirmation.

Constitutional Court Decision No. 46/PUU-VIII/2010: Civil relations between illegitimate children and their biological fathers.

Through this analysis, researchers can determine whether the isbat request can be granted or rejected normatively, as well as how the legal protection for the children of the marriage is provided.

Benefits of the Statutory Approach

This approach is useful for:

Ensuring that research remains within the framework of positive law;

Avoiding arguments that have no legal basis;

Providing scientific and practical legitimacy in analyzing a case;

Serving as a basis for combining other approaches (e.g., conceptual, case, and historical approaches).

The statute approach is the primary approach in normative legal research, focusing on the analysis of applicable written legal regulations. In the context of the Eén Muhaenah case, this approach is important for tracing the synchronization between the Marriage Law, the Compilation of Islamic Law (KHI), the Supreme Court Regulation (Perma), the Supreme Court Circular Letter (SEMA), and the Constitutional Court Decision, in order to determine whether the application for marriage confirmation is legally permissible and what the legal consequences are for children born of a siri marriage.

Case Approach in Legal Research

The case approach is one of the primary methods in normative juridical legal research, conducted by examining and analyzing court decisions relevant to the legal issue being studied.

The primary objective of this approach is to understand the application of legal norms in judicial practice, how judges interpret regulations, and the extent to which these legal considerations align with the principles of justice, legal certainty, and expediency.

Understanding the Case Approach

According to Peter Mahmud Marzuki (2014), "The case approach is conducted by examining the ratio decidendi (legal reasoning) of the judge's decision, in order to understand the application of legal norms to concrete facts." This means that researchers not only examine the decision (ruling), but also the legal reasoning and arguments used by the judge to decide the case.

Purpose of the Case Approach

This approach is conducted to:

Understand how the law is applied by the judge to a specific event.

Analyze the appropriateness of the judge's reasoning with statutory regulations and legal doctrine.

Identify jurisprudential patterns in similar decisions.

Provide a basis for empirical-normative analysis of the legal problem being studied.

Steps for Approaching a Case

In the context of legal research such as the Een Muhaenah case (contentious marriage confirmation), the case approach is carried out through the following stages:

Step 1 - Determining the Main Case (Research Object) The main case being studied:

West Jakarta Religious Court Decision Number 1817/Pdt.G/2025/PA.JB

This case involves a request for contentious marriage confirmation between Een Muhaenah (petitioner) and the heirs of the late Mursani (respondents).

Step 2 - Identifying the Legal Facts (Case Facts) Mursani was married three times:

To Yulia Nuraeni (first wife, unregistered),

To Iin (second wife, suspected of manipulative conduct, newly registered marriage certificate),

To Ee Muhaenah (third wife, unregistered).

Een and Mursani had two children from their marriage. After Mursani died, Een filed a request for marriage confirmation (isbat nikah). The judge rejected the request (NO) because the first and second wives were not involved. This step is important for researchers to understand the legal position, legal subjects, and the essence of the dispute.

Step 3 - Examining the Judge's Legal Considerations (Ratio Decidendi)

The analysis focuses on:

The legal basis used by the judge (Law No. 1/1974, KHI, Perma, SEMA);

The judge's method of evaluating evidence, such as the Family Card, witness statements, and marriage certificate;

The judge's legal reasons for rejecting the request—because the first and second wives were not involved, and because it did not meet the requirements for contentious isbat according to SEMA No. 3 of 2021.

This stage analyzes the legal logic and consistency of legal application.

Step 4 — Comparison with Related Jurisprudence

The case approach does not stop at a single decision. Researchers compare it with relevant Supreme Court decisions, for example:

Supreme Court Decision No. 916 K/AG/2007 (marriage confirmation without polygamy permit rejected);

Supreme Court Decision No. 132 K/AG/2010 (protection of children's rights from unregistered marriages);

Supreme Court Decision No. 137 K/AG/2018 (post-husband's death confirmation).

This comparison helps determine whether the Een Muhaenah decision aligns with or deviates from established jurisprudence.

Step 5 - Linking to Constitutional Court Decision No. 46/PUU-VIII/2010

In Een's case, children from an unregistered marriage retain the right to a civil relationship with their biological father (Mursani). The case approach must assess whether the judge applied the spirit of constitutional justice as affirmed by the Constitutional Court in the decision.

Step 6 - Conducting Analysis and Evaluation

The researcher assesses:

Whether the judge was legally correct in applying positive law;

Whether the judge's legal reasoning reflects substantive justice;
 What are the legal implications of the decision for legal certainty, justice, and expediency?
 Example of a Case Analysis Approach to the Een Muhaenah Decision

Analysis Aspects of the Case Approach Analysis Results

Legal certainty: The judge correctly applied Article 7 of the Compilation of Islamic Law (KHI) and SEMA 3/2021, so the NO decision is formally valid.

Substantive justice: The judge failed to fully apply the principles of social justice and child protection (which should have been based on Constitutional Court Decision No. 46/2010).

Legal usefulness: The decision is formalistic and does not directly benefit children from unregistered marriages, potentially creating uncertainty about their legal status.

Jurisprudential conformity: The decision aligns with Supreme Court Decision No. 916 K/AG/2007 (prohibiting polygamy without permission), but lacks due attention to child protection as outlined in Supreme Court Decision No. 132 K/AG/2010.

The case approach in the Een Muhaenah case was conducted by examining the legal facts, legal basis, and judge's considerations in the Religious Court decision, then comparing them with relevant jurisprudence and constitutional decisions.

Through this approach, researchers can assess whether the judge's decision is in accordance with the national legal system and the principles of substantive justice, particularly in protecting the rights of women and children from unregistered marriages.

Conceptual approach

Analysis of the Judge's Decision in the Een Muhaenah Case Using a Conceptual Approach

Definition of the Conceptual Approach

The conceptual approach in legal research refers to the concepts, theories, and legal doctrines developed in legal science.

According to Peter Mahmud Marzuki (2014), this approach is used because "in law, there are not only written rules, but also principles and doctrines that underlie the formation of legal norms."

Thus, the conceptual approach serves to provide a theoretical framework for evaluating the judge's decision and to test whether the judge's legal reasoning aligns with legal theory and principles of justice, not just formal regulations.

The Relevance of a Conceptual Approach to the Een Muhaenah Case

The Een Muhaenah case involved a contentious marriage confirmation application (containing a dispute between heirs). The marriage was unregistered and without permission for polygamy. The judge rejected the application because the first and second wives were not involved. However, there were children from the marriage who needed legal protection. With a conceptual approach, the analysis does not stop at formal legality but also assesses the substance of justice, certainty, and legal benefits based on legal theory and principles.

Concepts and Theories Used in the Analysis

Concept/Theory Figures or Basic Thoughts Relevant in the Een Muhaenah Case

Theory of Justice (Aristotle & John Rawls); Distributive and corrective justice (Aristotle); justice as fairness (Rawls). Judges should balance legal certainty (formal rules) with substantive justice for women and children from unregistered marriages.

Legal Certainty Theory (Gustav Radbruch): Certainty, justice, and expediency are the three basic values of law. Judges' decisions that reject petitions based solely on formal requirements tend to emphasize legal certainty while ignoring justice and expediency.

Progressive Legal Theory (Satjipto Rahardjo): Law is for humans, not humans for the law. Judges should explore the values of humanity and substantive justice by providing protection for children and widows, rather than relying on formalism.

Principles of Protection of Women and Children: Supreme Court Regulation No. 3 of 2017 and Article 28B of the 1945 Constitution. Judges are required to consider legal protection for women and children born of unregistered marriages.

The Concept of Marriage Confirmation in Islamic Law Based on Article 7 of the Compilation of Islamic Law (KHI) and Fiqh Munakahat (Isbat). Confirmation can only be conducted if the marriage is religiously valid and does not conflict with positive law, but its purpose is to provide legal certainty and protection.

Analysis of Judges' Decisions Based on a Conceptual Approach

Legal Certainty

The judge in the Een Muhaenah case referred to Article 7 of the Compilation of Islamic Law (KHI) and SEMA No. 3 of 2021, which stipulate that:

All relevant parties (the first and second wives) must be involved in the contentious isbat application.

If not, the application is declared inadmissible (NO).

Conceptually, from a legal certainty perspective, this decision is appropriate and consistent with applicable regulations. However, conceptually, legal certainty alone is not sufficient, as the law must also realize justice and social benefits (Radbruch).

Substantive Justice Aspect

Een Muhaenah is a woman legally married under religious law and has given birth to two children with Mursani. Rejecting the isbat (confirmation of marriage) without any effort to protect the legal status of her children ignores the value of substantive justice.

Conceptual analysis, based on Aristotle's theory of justice, states that the law must give everyone their due (*suum cuique tribuere*). According to Rawls, justice must consider the least advantaged. Judges should consider legal protection for children as a form of corrective and distributive justice.

Therefore, even if the isbat is formally rejected, judges should proceed with determining the legal basis for the child's origin and civil rights (based on Constitutional Court Decision No. 46/PUU-VIII/2010).

Legal Benefit Aspect

In the context of society, the purpose of law is not only to provide certainty or justice for individuals, but also to create social order and benefit. Decisions that reject isbat without providing a solution actually create uncertainty regarding the status of children and heirs. Conceptual analysis, guided by Radbruch and the theory of legal utilitarianism, states that the law must provide the greatest possible benefit to society. Judges should not limit themselves to procedural formalism, but rather interpret the law progressively (Satjipto Rahardjo) to achieve social benefits.

Humanitarian Aspects and Legal Morality

Progressive legal theory emphasizes that judges are at the heart of the law and must dare to break away from the rigidity of the text if it is in the interest of human justice.

In the context of Een Muhaenah:

Judges should explore the values of Islamic law and social morality, stating that children should not bear the consequences of their parents' administrative errors.

Judges can exercise *ex officio* authority to determine a child's parentage even if the isbat request is rejected.

Conceptual Analysis Results

Theoretical Aspects of Findings from the Evaluation Analysis of the Judge's Decision

Legal certainty: The decision complies with regulations (KHI and SEMA). ✓ Formally correct.

Substantive justice: It does not consider the rights of children and women. ✗ Substantially unfair.

Legal utility: The decision creates uncertainty regarding the child's status. ✗ Provides little social benefit.

Legal morality and progressive law: The judge does not use a humanitarian approach. ⚠ Too formalistic, not yet progressive.

Conclusions from the Conceptual Approach

Based on the conceptual analysis:

The judge's decision in the Een Muhaenah case is normatively correct, as it follows the KHI and SEMA regarding the formal requirements for contentious marriage confirmation.

However, conceptually and philosophically, this decision does not reflect substantive justice and legal utility as theorized by Gustav Radbruch and John Rawls.

The judge should not only reject the petition but also determine the child's parentage and the protection of civil rights based on Constitutional Court Decision No. 46/PUU-VIII/2010.

The conceptual approach demonstrates that judges need to apply the law progressively and humanistically, so that the law does not lose its spirit of justice.

Thus, the conceptual approach helps assess that Judge Een Muhaenah's decision is legally valid, but weak in terms of justice and humanity.

The decision should not stop at procedural aspects, but should be oriented towards protecting the constitutional rights of children and women.

Data Sources

Primary legal materials (decisions, laws), secondary (books, journals, doctrines), and tertiary.
 Primary Legal Materials
 (Constitute the main binding legal source and serve as the basis for the legal analysis in this study)

Legislation

Law Number 1 of 1974 concerning Marriage.
 → Serves as the legal basis for the validity of marriages and the obligation for their registration by the state (Article 2 paragraph (2)).

Law Number 7 of 1989 concerning Religious Courts as amended by Law No. 3 of 2006 and Law No. 50 of 2009.
 → Determines the absolute competence of religious courts in marriage confirmation cases.

Presidential Instruction No. 1 of 1991 concerning the Compilation of Islamic Law (KHI).
 → Serves as a direct reference in marriage confirmation cases, particularly Article 7 paragraph (3) concerning the requirements for a marriage confirmation application.

Supreme Court Regulation (Perma) No. 1 of 2015 concerning Integrated Services for Marriage Confirmation, Marriage Certificates, and Birth Certificates.
 → Serves as an administrative guideline for religious courts in handling marriage confirmation applications.

Supreme Court Circular Letter (SEMA) No. 3 of 2018 concerning the Formulation of the Results of the Plenary Meeting of the Religious Chamber of the Supreme Court.
 → Affirms that a marriage confirmation can only be granted if the marriage is truly religiously valid and does not conflict with positive law.

Supreme Court Circular Letter (SEMA) Number 3 of 2021 concerning the Formulation of the Results of the Religious Chamber Plenary Session.
 → Provides limitations on the application of procedural law in contentious marriage confirmation.

Constitutional Court Decision Number 46/PUU-VIII/2010 concerning the Judicial Review of Article 43 paragraph (1) of the Marriage Law.
 → Serves as the basis for determining the legal status of children from unregistered marriages.

Court Decisions (Jurisprudence)

Supreme Court Decision of the Republic of Indonesia Number 916 K/AG/2007.
 → Affirms that marriage confirmation cannot be granted without proof of a valid marriage and permission for polygamy.

Supreme Court Decision Number 132 K/AG/2010.
 → Recognizes the legitimacy of children born of an unregistered marriage based on evidence of a civil relationship.

Supreme Court Decision Number 137 K/AG/2018.
 → Provides guidance that marriage confirmation can be granted after the husband's death if the marriage is valid according to religious law.

West Jakarta Religious Court Decision Number 1817/Pdt.G/2025/PA.JB.
 → Main research object: The judge rejected Een Muhaenah's petition because it did not involve her first and second wives as respondents.

Secondary Legal Materials

(Contains expert opinions, theories, literature, and legal journals that explain and interpret primary materials)

Books and Academic Literature

Peter Mahmud Marzuki, "Legal Research," Kencana, 2014.

Soerjono Soekanto & Sri Mamudji, "Research on Normative Law: A Brief Review," Rajawali Pers, 2011.

Satjipto Rahardjo, "Progressive Law: A Synthesis of Indonesian Law," Genta Publishing, 2009.

Gustav Radbruch, "Legal Philosophy," Clarendon Press, 1950.

John Rawls, "A Theory of Justice," Harvard University Press, 1971.

Aristotle, "Nicomachean Ethics," Oxford University Press, 1954.

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Amir Syarifuddin, Islamic Marriage Law in Indonesia, Kencana, 2011.

Abdul Manan, *Various Problems of Islamic Civil Law in Indonesia*, Kencana, 2016.

Mardani, *Islamic Marriage Law in the Modern Islamic World*, Prenadamedia Group, 2018.

Journals and Scientific Articles

Fitriani, Nurul. "Juridical Analysis of Contentious Marriage Confirmation Applications in Religious Courts." *Journal of Sharia and Legal Studies*, Vol. 9 No. 2, 2022.

Rahayu, Dwi & Zainal Abidin. "Marriage Confirmation from the Perspective of Substantive Justice." *Journal of Law and Justice, Supreme Court of the Republic of Indonesia*, Vol. 12 No. 1, 2023.

Sulaiman, Ahmad. "The Status of Children in Unregistered Marriages Following Constitutional Court Decision No. 46/PUU-VIII/2010." *Al-Manhaj: Journal of Islamic Law and Social Affairs*, Vol. 15 No. 3, 2021.

Hanifah, Laila. "Problems in Implementing SEMA Number 3 of 2021 on Confirmation of Contentious Marriages in Religious Courts." *Indonesian Journal of Islamic Law*, Vol. 7 No. 2, 2024.

Nurdin, Ahmad. "Reconstruction of Progressive Legal Thought in Religious Courts." *Yustisia Journal, UIN Sunan Kalijaga*, Vol. 14 No. 1, 2023.

Tertiary Legal Materials

(Serving as a support to clarify understanding of primary and secondary legal materials)

Big Indonesian Dictionary (KBBI) Online, Language Development and Fostering Agency, Ministry of Education and Culture of the Republic of Indonesia.

Legal Dictionary, Sudarsono, Rineka Cipta, 2012.

Encyclopedia of Islamic Law, Abdul Aziz Dahlan (ed.), Ichtiar Baru Van Hoeve, 2001.

Official Website of the Supreme Court of the Republic of Indonesia – Decision Directory (<https://putusan3.mahkamahagung.go.id>).

Guidelines for Integrated Marriage Registration and Marriage Confirmation, Ministry of Religious Affairs of the Republic of Indonesia, 2022.

Code of Ethics and Guidelines for Judges' Conduct (KEPPH), Judicial Commission of the Republic of Indonesia, 2020.

By using these three types of legal materials, the research on Eén Muhaenah's marriage confirmation decision is comprehensive—assessing not only the formal legal aspects, but also the theoretical, ethical, and social aspects, in line with the goals of progressive law and substantive justice.

Analysis Technique

Descriptive-analytical with legal interpretation and a substantive justice approach. Explanation of the Descriptive-Analytical Approach with Legal Interpretation and the Substantive Justice Approach

Definition of the Descriptive-Analytical Approach

The descriptive-analytical approach is a method in legal research that aims to describe in detail (descriptive) a legal phenomenon or legal event, then analyze it critically (analytical) to discover its meaning, relevance, and legal implications.

According to Soerjono Soekanto and Sri Mamudji (2011), descriptive-analytical legal research is "Research that describes the positive law applicable to a particular legal event, while simultaneously analyzing its application and conformity with legal theory and principles."

Thus, this approach not only explains the "as is" of a legal rule, but also interprets and assesses the extent to which the application of the law aligns with the principles of justice, benefit, and legal certainty.

Elements of the Descriptive-Analytical Approach

Explanatory Element

Descriptive systematically describes legal facts and the content of legal norms, for example, the circumstances of the case, the legal basis, the judge's considerations, and the verdict.

Analytical: Examines these facts and norms using legal theory, doctrine, principles of justice, and moral values to find a correspondence between positive law and substantive justice.

Legal Interpretation: Uses the legal interpretation (grammatical, systematic, teleological, sociological) to interpret legal provisions relevant to the event.

The Substantive Justice Approach assesses the results of legal application based on true justice—not just formal certainty, but also humanity, morality, and social benefit.

Legal Interpretation in This Approach

In legal research using a descriptive-analytical approach, legal interpretation is the primary tool for understanding the intent and purpose of legal norms. Several forms of interpretation are frequently used:

Grammatical Interpretation: Interpreting legal texts based on the meaning of the language in the regulations (for example, the meaning of "interested parties" in Article 7 of the Compilation of Indonesian Law).

Systematic Interpretation: Interpreting norms by examining their relationship to other regulations in the legal system (for example, the relationship between the Compilation of Indonesian Law, the Supreme Court Regulation, and the Supreme Court Regulation).

Teleological (Sociological) Interpretation: Interpreting the law according to the social goals and justice it seeks to achieve, especially in the context of protecting women and children from unregistered marriages.

Extensive or Restrictive Interpretation: Interpreting broadly (to expand the scope of legal protection) or restrictively (to prevent abuse of the law).

In the context of the *Een Muhaenah* case, the judge should interpret the law teleologically and progressively, so that the objectives of the law—namely justice and expediency—take precedence over mere legal formalism.

Substantive Justice Approach

Definition

The substantive justice approach emphasizes the values of justice that exist in society (living law), not merely formal justice written in regulations. According to John Rawls (1971) in *A Theory of Justice*, substantive justice is justice that "Provides equal opportunities and favors the weakest parties in the social structure."

In the context of Islamic and national law, this approach aligns with the principle of *maqasid al-sharia* (the purpose of Islamic law), namely realizing the benefit and avoiding harm.

Application in the *Een Muhaenah* Case

The substantive justice approach is used to assess whether the judge's decision in a contentious marriage confirmation case reflects true justice:

Formal Justice Aspect (Positive) Substantive Justice (Value)

The judge's legal basis for rejecting the application is because the first and second wives were not involved (based on the KHI and SEMA). The judge should still protect the rights of children and widows from religiously valid marriages.

Judge's Consideration: Based on the formal requirements of procedural law. Must consider the social and moral conditions resulting from the rejection of confirmation.

Result (Verdict): Application: NO (not accepted). Should also determine the parentage of the child as a form of substantive justice.

Thus, the substantive justice approach requires that judges not only rule based on legal texts but also consider the broader objectives of the law: humanity, morality, and the protection of citizens' constitutional rights.

Synergy Between Descriptive-Analytical, Interpretation, and Substantive Justice

The descriptive-analytical approach provides a positive legal overview and analysis;
legal interpretation provides dynamic meaning to legal norms;

A substantive justice approach ensures that the results of legal application do not lose their human value.

In the research on the *Een Muhaenah* case:

Descriptive: describing the facts of the case and the legal basis.

Analytical: comparing with legal theory (Radbruch, Rawls, Rahardjo).

Interpretive: interpreting norms to align with social justice.

Substantive: assessing that true justice has not been realized because children have not received adequate legal protection.

A descriptive-analytical approach with legal interpretation and substantive justice allows legal research to go beyond textual aspects and also explore the moral and social dimensions of law. Through this approach, researchers can demonstrate that:

Judge *Een Muhaenah's* decision was normatively correct, but

It did not meet the principles of substantive justice and legal utility as desired by modern justice theory and progressive law.

This approach ultimately helps produce a comprehensive, humane, and socially just legal analysis.

RESULT AND DISCUSSION

Legal Analysis of Decision Number 1817/Pdt.G/2025/PA.JB

- Brief chronology of the case.
- Legal positions of the parties (petitioner and respondent).
- Evidence and legal facts considered by the judge.

Judge's Legal Considerations (Ratio Decidendi):

- Analysis of the application of Article 7 of the Compilation of Islamic Law.
- Compliance with the pillars and requirements of marriage according to Islam.
- Evaluation of evidence and witness testimony.

Evaluation of Justice and Legal Certainty:

- Whether the decision meets the principles of utility and substantive justice.
- Critique of formalistic aspects or weaknesses in legal considerations.

Impact and Implications of the Decision

- Regarding the legal status of the case Women and children.
- Regarding legal protection for women

CONCLUSION

Overall, it can be concluded that:

The judge's decision in the Een Muhaenah case complies with positive law (KHI, Law No. 1 of 1974, and SEMA No. 3 of 2021), and therefore can be formally justified in terms of legal certainty.

However, the decision does not meet the dimensions of substantive justice and legal benefit, as it does not provide legal protection for children from unregistered marriages and ignores humanitarian values that should be upheld by judges as independent and just executors of judicial power.

Using the theories of Radbruch, Rawls, and Satjipto Rahardjo, it can be stated that the decision is procedurally correct, but morally and socially weak.

Therefore, a progressive and humanistic legal approach needs to be applied in similar cases so that the law functions not only as a tool of certainty, but also as an instrument of social justice and protection for vulnerable citizens.

SUGGESTIONS

For the Supreme Court, Religious Courts, and Policymakers in Improving Technical Guidelines for Contentious Marriage Confirmation

Based on the analysis of West Jakarta Religious Court Decision No. 1817/Pdt.G/2025/PA.JB and various legal approaches (normative, conceptual, and progressive juridical), the following suggestions and recommendations can be proposed to clarify the technical guidelines for handling contentious marriage confirmation cases to avoid legal uncertainty:

For the Supreme Court of the Republic of Indonesia

Develop and publish National Technical Guidelines on Contentious Marriage Confirmation.

The Supreme Court needs to issue a new Supreme Court Regulation (Perma) or Supreme Court Circular (SEMA) that:

Specifies in detail the formal and material procedures for applying for contentious marriage confirmation;

Explains the parties that must be involved and the evidentiary mechanism in cases involving a wife or heir who has remarried;

Regulate the discretion of judges to continue to provide legal protection to children from unregistered marriages even if the application for confirmation of marriage is rejected.

Promote the application of the principle of substantive justice in the guidelines for the Religious Chamber.

In the Plenary Meeting of the Religious Chamber of the Supreme Court, it should be emphasized that judges should not rely solely on legal formalities, but must also consider humanitarian values, morality, and the protection of children's and women's rights.

Develop a jurisprudential database specifically for confirmation of marriage in contentious cases.

To ensure consistency in decisions between religious courts, the Supreme Court needs to provide a standardized and open database of decisions that can be used as a guideline by judges at both the first and appellate levels.

For Religious Courts

Conduct ongoing training and outreach for judges.

Technical guidance (bimtek) is needed regarding the application of procedural law, evidence analysis, and the assessment of confirmation of marriage in contentious cases to ensure judges have a uniform understanding and prevent disparities in decisions.

Promote the application of a progressive and restorative approach.

Judges in religious courts should not focus solely on normative texts, but prioritize the substance of justice and child protection.

For example, even if a request for isbat (confirmation of marriage) is formally rejected, the judge can still determine the child's parentage and civil rights based on Constitutional Court Decision No. 46/PUU-VIII/2010.

Collaborate with Population Administration Agencies (Dukcapil) and the Office of Religious Affairs (KUA).

Religious courts need to ensure that the isbat decision (whether granted or rejected) still has an administrative impact on the legal status of the child and mother, to avoid creating a legal vacuum in civil registration.

For Policymakers (Legislative and Executive)

Revise or clarify the provisions of Law Number 1 of 1974 concerning Marriage. Explicit provisions should be included regarding the regulation of unregistered marriages and the mechanism for contentious isbat, including the legal consequences for children and joint property.

Increase public legal awareness regarding marriage registration.

The government, through the Ministry of Religious Affairs and the Population and Civil Registration Office (Dukcapil), needs to conduct family law education programs so that the public understands the importance of officially registering marriages to avoid future disputes.

Integrate the national marriage information system.

The government needs to establish a digitally integrated marriage registration system between the Office of Religious Affairs (KUA), Dukcapil, and Religious Courts to prevent document manipulation, as occurred in the Eén Muhaenah case (reissuance of marriage certificates under false pretenses).

General Recommendations

Synergy is needed between institutions (the Supreme Court, the Judicial Commission, the Ministry of Religious Affairs, Dukcapil, and the Indonesian House of Representatives) in refining technical regulations regarding contentious marriage confirmation.

The Supreme Court must prioritize The principle of "law for humanity" ensures that technical guidelines not only emphasize procedures but also contain moral and social guidance for judges in realizing substantive justice.

Every religious court decision should not only uphold legal certainty but also ensure the benefit and protection of vulnerable parties, especially women and children.

Conclusion and Recommendations

Reformulation of the technical guidelines for contentious marriage confirmation cases is necessary to ensure judges have a consistent and humanistic legal reasoning.

Thus, the law will no longer remain at the administrative level but will truly become an instrument of social justice and the protection of Indonesian families.

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