

**PERMOHONAN ISTBAT NIKAH YANG MENDAPAT PENOLAKAN
OLEH HAKIM PENGADILAN AGAMA SURABAYA**



SKRIPSI

Skripsi Ini Disusun Untuk Memenuhi Salah Satu Persyaratan Memperoleh Gelar
Sarjana Hukum Pada Fakultas Hukum Universitas Pembangunan Nasional

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SURABAYA
2024**

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ABSTRAK

Masih banyak masyarakat Indonesia yang tidak menaati perintah untuk mencatatkan perkawinan mereka di KUA sesuai dengan PP Nomor 9 Tahun 1975 tentang Pelaksanaan UU Perkawinan, perkawinan tersebut biasa disebut sebagai nikah sirri, hal ini dikarenakan masih rendahnya hukuman denda bagi para pihak yang tidak mencatatkan perkawinan mereka. Penelitian ini dilakukan untuk menganalisis bagaimana Pelaksanaan Istbat Nikah di Pengadilan Agama Surabaya dan akibat hukum serta upaya yang dapat dilakukan oleh pemohon terhadap penolakan permohonan. Penelitian ini menggunakan metode penelitian yuridis empiris penelitian yang dilakukan terhadap keadaan sebenarnya yang terjadi dalam masyarakat dengan maksud menemukan fakta-fakta yang dijadikan data penelitian. Hasil dari penelitian ini yaitu perkawinan yang tidak dicatatkan dapat berakibat hukum yang berupa status pernikahannya tidak sah dimata hukum, sehingga para pihak akan kesulitan dalam melakukan pengurusan dokumen administrasi di pemerintahan. Para pihak dapat mengajukan permohonan Istbat Nikah di Pengadilan Agama, agar pernikahannya memiliki status yang sah di mata hukum. Namun tidak semua permohonan Istbat Nikah yang diajukan oleh para pemohon di Pengadilan Agama Surabaya dapat diterima oleh majelis hakim yang memeriksa. Alasan dari ditolakanya permohonan Istbat Nikah yang diajukan oleh para pemohon adalah karena dilanggarinya rukun perkawinan. Akibat hukum dari adanya penolakan tersebut berpengaruh pada status perkawinan dari para pemohon, berpengaruh kepada hak dan kewajiban serta harta dari suami istri, dan juga berpengaruh pada status anak yang lahir dan hak mewaris anak tersebut. Adapun beberapa upaya yang disarankan oleh majelis hakim bagi para pemohon adalah dengan menikah ulang, mengajukan permohonan asal-usul anak, dan Kasasi.

Kata Kunci: Pencatatan Perkawinan, Nikah Sirri, Isbat Nikah, Pengadilan Agama.

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**AN APPLICATION FOR ISTBAT NIKAH THAT WAS REJECTED BY
THE JUDGE OF THE SURABAYA RELIGIOUS COURT**



A THESIS

Submitted to the Faculty of Law, Universitas Pembangunan Nasional “Veteran”
East Java in Partial Fulfillment of the Requirement for the Degree of Law

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SURABAYA
2024

**AN APPLICATION FOR ISTBAT NIKAH THAT WAS REJECTED BY
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ACKNOWLEDGEMENT

First of all, thanks to Allah SWT and all praises just to him, the Lord of the world and creator of universe who gives us blessing and mercy therefore I can complete this thesis entitled "**AN APPLICATION FOR ISTBAT NIKAH THAT WAS REJECTED BY THE JUDGE OF THE SURABAYA RELIGIOUS COURT**".

This thesis is written to fulfill the requirements based on the existing curriculum at the Faculty of Law UPN "Veteran" East Java which is intended as a means to add and compare knowledge and insights both in theory and in practice in the field, and is also expected to provide provisions on matters related to the discipline before conducting research for writing a thesis especially in the field of Civil Law. This thesis can be completed with the help of guidance from several parties, so the author would like to thank:

1. The late Papa who the author misses and Mama who always gave support, prayers, and also enthusiasm for the author, so that the author could complete this thesis research.
2. Mrs. Dr. Ertien Rining Nawangsari, M.Si. as the Dean of the Faculty of Law UPN "Veteran" East Java;
3. Mr. Eko Wahyudi, S.H., M.H. as Vice Dean I of the Faculty of Law UPN "Veteran" East Java;
4. Mrs. Dra. Herlina Suksmawati, M.Si. as Vice Dean II of the Faculty of Law UPN "Veteran" East Java;

5. Mrs. Dr. Hervina Puspitosari, S.H., M.H. as Vice Dean III of the Faculty of Law UPN "Veteran" East Java;
6. Mrs. Adhitya Widya Kartika, S.H., M.H. as Head of Undergraduate Program in Law, UPN "Veteran" East Java;
7. Mrs. Wiwin Yulianingsih, S.H., M.Kn. as a Consultant who has guided and directed in the preparation starting from the thesis proposal until the author can complete this thesis research;
8. Prof. Zuhairah Ariff Binti Abd GhadasMrs. Maria Novita Apriyani, S.H., M.H, and Mr. Hariyo Sulistiyanoro, S.H., M.M. as my examiners.
9. Mr. and Mrs. Lecturers, as well as all educational staff of the Faculty of Law UPN "Veteran" East Java;
10. Mrs. Bua Eva Hidayah, S.H., M.H. as a Judge at the Surabaya Religious Court, Mr. Mochamad Agus Syamsul Arief, S.H. as the Deputy Registrar of the Surabaya PA who has been pleased to interview the author.;
11. Thanks to Fitri, Irmayana, and other friends of the author who always encourage me to complete my thesis.

The author is well aware that the writing of this thesis is far from perfect. Therefore, the author opens wide the door to suggestions and criticism so that this report can be useful both for the author and other parties in need.

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ABSTRACT

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ABSTRACT

There are still many Indonesians who do not obey the order to register their marriage at the Religious Affairs Office (KUA) in accordance with Government Regulation Number 9 of 1975 concerning the Implementation of the Marriage Law, the marriage is commonly referred to as nikah sirri, this is due to the low penalty for parties who do not register their marriage. This research was conducted to analyze how the implementation of Istbat Nikah in Surabaya Religious Court and the legal consequences and efforts that can be made by the applicant against the rejection of the application. This research uses empirical juridical research methods, research conducted on the actual situation that occurs in society with the intention of finding facts that are used as research data. The result of this research is that an unregistered marriage can have legal consequences in the form of invalid marital status in the eyes of the law, so that the parties will have difficulty in managing administrative documents in the government. The parties can apply for Istbat Nikah at the Religious Court, so that their marriage has a legal status in the eyes of the law. However, not all Istbat Nikah applications submitted by the applicants at the Surabaya Religious Court can be accepted by the examining panel of judges. The reason for the rejection of the Istbat Nikah petition filed by the petitioners is because the pillars of marriage are violated. The legal consequences of the rejection affect the marital status of the applicants, affect the rights and obligations and property of the husband and wife, and also affect the status of the child born and the right to inherit the child. The efforts suggested by the panel of judges for the applicants were to remarry, apply for the origin of the child, and cassation.

Keywords: **Marriage Registration, Nikah Sirri, Isbat Nikah, Religious Court.**

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