

Marriage Certificate (*Isbat Nikah*) and Protection of Children's Rights Due to the Unregistered Marriage in The Cianjur District in The Post Regional Regulation Number 10 in 2010

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Abstract

The regional regulation number 10 in 2010 talks about the implementation of an integrated population administration. This instruction is a type of a Cianjur District government's legal breakthrough in terms of the manifestation of an access into justice by marriage certificate (*isbat nikah*). This rule is due to the phenomenon of unregistered marriage certificate (*nikah siri*) caused by diverse factors. Here, three organizations collaborate in establishing this marriage certificate. They are Religious Courts, Ministry of Religious Affairs, and Department of Population and Civil Registration. This certificate marriage helps fulfil the basic rights of children and those of family of unregistered-marriage-certificate couples. For example, they have some important documents, such as marriage book, family card, birth certificate, and children's identity card.

Keywords: *regional regulation, marriage certificate, children's rights*

A. Introduction

Marriage in Islam is a relationship between a male and a female who need each other, providing support to get happiness in order to form a family that *sakinah, mawadah* and *warahmah*. every husband and wife in running the household life want harmonious relationships with family members he built, full of warmth so that it becomes a family dream. each mutually nurturing social norms and ethics so that spawned a generation of good. Unregistered marriage (*nikah siri*) that often occur at this time could pose a negative impact for the married couples and also give you the impact is not good for children who have, such as problems relating to the status or the position of the child. Article 1, paragraph (2) of Act No. 35-year 2014 about changes in the law No. 23 of the year 2002 on the protection of Children, specifies that child protection is all activities to ensure and protect children and their rights in order to live, grow, thrive and participate optimally in accordance with the dignity and the dignity of humanity, as well as the protection from violence and discrimination (Wardhani, 2012, p. 1).

Constitutional Court decision No. 46/PUU-VIII/2010 that test Article 43 paragraph (1) of the Act of marriage (UUP), so the Article should read:

“Children born outside of marriage have a civil relationship with her mother and her mother's family as well as with the men as her father can be proven on the basis of science and technology or tools other proof according to law has a relationship blood, including a civil relationship with her father ”.

Article above specifies that marriage is not a marriage invalid in law of the religion but in State law is not recognised because it is not recorded and is contrary to the laws of marriage prevailing in Indonesia.

Children of the marriage can be concluded series also has a relationship with his father, *keperdataan* with regard to Act No. 23 Of 2006 Year Population Administration that ordered the admission of the child to be born from the marriage of a series, but Yet according to the valid state. The Government also entitles the child to get a birth certificate because of a birth certificate is a form of identity of any child that can not be separated from civil and political rights of citizens (Yanggo, 2010, p. 167).

The recording of the marriage are regulated by Act No. 1 of the year 1974 and law number. 32 the year 1954 On Assignment Registration of marriages, Talaq and Cf. | In law number 32 year 1954 article 1 paragraph (1) explained that the marriages performed according to Islam is overseen by officers appointed by him, even in the compilation of Islamic law it is said that marriages are not performed under the supervision of the officials of the Registrar of marriages (VAT) and are not listed do not have the force of law. Between the law number 1 year 1974 about marriage and *dikeluarkanya* presidential instruction No. 1 of 1991 year compilation of Islamic law, there is a difference in quite a long time of approximately 8 years. Of course in the difference in the time it has happened quite a lot of marriages are not recorded or not through a registration procedure. Among the cases marriage is a marriage that has been done under the supervision of an authorized officer of Registrar of marriages (Sasnifa, 2015, p. 3).

A man and woman who are getting married in Indonesia according Regulation No. 9 of the year 1975 on the implementation of law number 1 Year 1974 about marriage (hereinafter abbreviated as PP No. 9 Year 1975). Those who perform marriages according to the Islamic religion, marriage registration process by the Office of religious affairs of the local while prospective male and female religious non registration of marriage in Islam then done by the registry office after the bride and groom do wedding according to their respective religions (Rahmi & Sakdul, 2016, p. 272).

The assessment team of the Agency's legal construction of national law (Babinkumnas) Department of Justice argued that the civil registry in the *kelembagaannya* is an institution that served to record each event experienced by citizens for example birth, marriage, death and so on. His goal was to get the data as accurately as possible so that the status of the community.

The muslim society in Cianjur because of current economic constraints are still many who have not had the deed, it would give effect to the difficulty of obtaining Birth Certificate of a child. Then the civil registration service of Cianjur in collaboration with Religious Courts Cianjur Isbat conducts Integrated Marriages each year by publishing local regulations (Perda) No. 10 Year 2010 about the conduct of the Administration Residence, residence and Office of the civil registry (Disdukcapil) is working with the religious Court in the framework of orderly administration of the population by means of participating in a Marriage with integrated Isbat gives birth certificate, identity card (KTP) and Family identity card (KK).

Local government program Cianjur "implementation of an integrated marriage certificate (Isbat Nikah)" in cooperation with the Religious Courts, the Ministry of religion and Disdukcapil into a community effort to Cianjur who haven't recorded together, the the applicant shall have nikah isbat sense of fairness and certainty of law especially the fulfillment of children's rights in the management of a birth certificate.

B. Legal Perspective on Protecting Children

1. The Convention on The Rights of The Child

The League of Nations has long demonstrated his concern to protect and provide welfare services for children, particularly for children-orphans and abandoned when the onset of the first world war. In 1919, the child protection Committee formed by the League of Nations. Eglantyn Jebb, founder of the British Save The Children Fund and International Save The Children Union in Geneva, was one of the first to promote the rights of the child. He was also a successful campaign it with the adoption of the Declaration of the rights of the child by the 1924 League of Nations he had designed in the previous year (Buck, 2005, p. 12).

The Declaration contains a five-point principle governing the creation of the conditions required by children to be protected and conditions that allow them to develop into citizens who will contribute to society. The Declaration of the rights of the child was the 1924 document human rights first approved and accepted by intergovernmental institutions and pioneered the Universal Declaration of human rights of 24 years later. It's just that the 1924 Declaration is not the League of Nations resolution binding, although it contained a significant moral force.

On 20 November 1989, the General Assembly of the United Nations agreed to adopt the Convention on the rights of the child. On 20 January 1990, the Convention was signed by the parties is open to States parties. The Convention on the rights of the child then came into force on 2 September 1990. Indonesia has ratified the Convention on the rights of the child through the decision of the President of the Republic of Indonesia No. 36 Year 1990 about the endorsement of the Convention On The Rights Of The Child (Convention on the rights of the child) are signed and enacted on August 20, 1990.

The Declaration child-rights of the 1924 League of Nations as a document of the international on the other side not to define what is referred to as a 'child', the first international document to insert the definition of the child is a declaration of children's rights Union 1959 Nations (UN) which in its opening States (Bueren, 1995, p. 33):

Children with physical and mental reasons, require special care and protection, including legal protection, before as well as after the birth of the child (Save The Children, 1998, p. 4). The Declaration has yet to specify the maximum age for a child, the Convention on the rights of the child in 1989 that explicitly mention categories of age of a child. Article 1:

“A child is any human being aged under 18 (eighteen) years of age. unless, the law determines the maturity of a child have been achieved more quickly”.

And O'Donnel argued the term child protection means protection from violence, abuse and exploitation. This means that child protection is intended for respect, protection and promotion of the rights of every child. The right to the protection of the other rights as complementary to ensure children receive what they need to survive, grow and develop.

The protection of the rights of the child was first introduced by the world during the war, due to the large number of children who are suffering from the war. Then came the protests that demand the world's attention over the fate of children who are displaced, in 1923 a character named Eglantyne Jebb makes 10 statements of children's fundamental rights such as the rights to include equations, protection, education, nationality, roles in development, healthcare, food, name, play and recreation (Nehlin, 2009, pp. 111-112).

While based on the view of Jackson and Elanor Marie Wernham, child protection didefiniskan as a broad term to describe the philosophy, policies, standards, guidelines and procedures to protect children both accidental loss and not intentional. Protection from violence, abuse, neglect, and exploitation should pay attention to the involvement of the offender.

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The Convention on the rights of the child States that a child is 'the holder of the right' in every aspect of their lives. In opening the Convention signatories noted, affirming the principles agreed by the United Nations in a wide range of Charter, declarations, Agreements and regulations (Office of The United Nations High Commissioner for, 2007, p. 3). Among them are

- a. Recognizes the same rights and cannot be deprived of all the family members without distinction of any kind, as well as the dignity and worth of the human person
- b. Recognize the right of the child to get care and special assistance
- c. Recognizes that every child should be fully prepared to live an individual life in society, was brought up in a spirit of peace, respect, tolerance, freedom, equality and solidarity
- d. Recognizing that, in all countries in the world, there are children living in exceptionally difficult conditions, and they require special attention and
- e. Giving the family protection and assistance required so that it can fully assume its responsibility in the community.

The Convention on the rights of the child also outlines in detail the five categories of rights that need to be obtained by a child through different articles. Those rights can be seen as in the table below (Buck, 2005, pp. 58-73):

- a. The Universal Declaration of Human Rights (1948)

I.e., the Universal Declaration of human rights (human rights) who was born in 1948 was an important HUMAN RIGHTS documents.

In article 4 of the Declaration of HUMAN RIGHTS it is said that no one can be in slavery or servitude and that has been banned in all forms. In article 5 of the Declaration of HUMAN RIGHTS stated that no one can become a victim of torture or cruelty, inhuman deeds and a decrease in the degree of humanity.

- b. The Slavery Convention (1926) and the Supplementary Convention on the Abolition of Slavery, the Slavery Trade and Practices Similar to Slavery (1956).

I.e. the Convention on slavery the year 1926, and Supplemen Convention on the Elimination of slavery, Trafficking and practices associated with slavery the year 1956. The Convention supplements the year 1956 extending the scope of the definition set forth in the Convention of 1926, where slavery included slavery and institutional Practices that appear in marriage and the exploitation of children and adolescents.

- c. The Convention on the Suppression of the Traffic in Persons and The Exploitation of the Prostitution of Others (1949) og

That is the Convention on the Suppression of the quiet human trafficking and exploitation of prostitution. This Convention is the only international instrument define human trafficking and exploitation in prostitution. This Convention, including in the context of the protection of children from trafficking and prostitution.

d. The International Covenant on Civil and Political Rights (1966).

International instrument on the rights of the civil and political rights 1966 year. In article 7 mentioned that no one can be the subject of torture, cruelty, criminal actions and a decrease in the degree of human beings.

e. The Convention on The Elimination of all Forms of Discrimination Against Women (1981)

I.e. the protection of adult women and children from all forms of discrimination.

f. The Labor Convention of the International Labour Organization:

- 1) the Convention Number 29 and Number 105 on forced labour (labour force) and the abolition of forced labour.
- 2) the Convention Number 79 and number 90 on night work for young workers.
- 3) the Convention Number 138 on minimum limit for children who can work.

g. The Tourism Bill of Rights and Tourist Code (1985), which has been endorsed by the WTO (World Tourism Organization)

In article VI stated that States parties to prevent the possibility of using tourism to the exploitation of prostitution in all its intent.

Indonesia has ratified the Convention on the rights of the child (CRC) by Kepres No. 36 Years 1990, in implementation, Indonesia has facilitated the Convention on the rights of the child in the legal system through some laws in between anya; The child protection ACT No. 23 of year 2002 and Act No. 35-year 2014 about changes in the law No. 23 of the year 2002 on the protection of children.

The child protection legislation in chapter II concerning the basis and purpose, article 2 clearly states that the Organization of child protection based on the basic principles of the CRC are:

- 1) non-discrimination
- 2) the best interests of the child
- 3) the right to life, survival, and development; and
- 4) respect for the child's opinion.

2. Act No. 35-year 2014 About Child Protection

Child protection law States that child protection is all activities to ensure and protect children and their rights in order to live, grow, evolve, and participate optimally in accordance with the dignity and the dignity of humanitarian, as well as the protection from violence and discrimination.

Child protection is the embodiment of the existence of fairness in a society, thus the protection of the child should be organised in a variety of areas of life, nation and State. Child protection is all efforts are being made to create the conditions so that every child can exercise the rights and obligations for the sake of the development and growth of the

child is reasonably good physical, mental, and social. Child protection activities bring legal consequences, both in relation to the law of written and unwritten law, the law has become a guarantee for the child protection activities (Dellyana, 1988, p. 19) (Gultom, 2013, p. 33).

In Indonesia, child protection is regulated in Act No. 23 of year 2002 i.e. all activities to ensure and protect children and their rights in order to live, grow, evolve, and participate optimally in accordance with the dignity and the dignity of humanitarian, as well as the protection from violence and discrimination. Whereas a special protection is the protection afforded to children in emergency situations, the child who is dealing with the law, children from minority groups and isolated, economically exploited children and/or sexual, child traded, children who are victims of abuse of narcotics, alcohol, psychotropic drugs, and other addictive substances (drugs), child victims of abduction, sale, trafficking, child victims of violence both physical and/or mental disabilities, the son, and child victims of neglect and wrong treatment (Astuti & dkk, 2013, p. 16).

Protection of the child as contained in article 1 paragraph (2) of Act No. 35-year 2014 about changes in the law No. 23 of the year 2002 on the protection of Children, specifies that child protection is to ensure all activities and protecting children and their rights in order to live, grow, thrive and participate optimally in accordance with the dignity and the dignity of humanity, as well as the protection from violence and discrimination (Gultom, 2013, p. 37).

Chapter III of the ACT for child protection about the rights and obligations of the child through the articles contained in it has accommodate category children's rights contained in the Convention on the rights of the child, namely:

- a. Civil rights and freedoms.
- b. Family environment and Alternative Care.
- c. The fundamental Right to health and well-being.
- d. The right of education, utilization of leisure time and cultural activities.
- e. Special protection of children.

As for in article 74 of the child protection ACT was formulated "in order to improve the effectiveness of child protection providers, then formed the Commission for child protection the Indonesia independence." While the basic child protection activities can be seen as following:

- a. The philosophical Basis: Pancasila is the basis of activity in different areas of family life, community, State and nation in Indonesia, as well as the philosophical basis the implementation of child protection.
- b. Ethical Basis: implementation of the child protection should correspond to the ethics of the professions concerned, to prevent deviant behaviour in the exercise of authority, power and strength in the exercise of child protection.

- c. The Juridical Basis: implementation of the child protection should be based on the 1945 Constitution and a variety of other legislation in force. Application of juridical basis this should be integrative, namely the application of the legislation concerning integrated from a variety of related areas of law.

The birth of the child protection ACT also became a reference and legal basis for the formation of child protection Commission of Indonesia (KPAI). Specifically the ACT of pouring the chapter relating to the Commission, namely in chapter XI concerning child protection Commission of Indonesia. And on chapter XIII concerning the Transitional Provisions in Article 91 mentioned that at the time of the child protection ACT applies, then all legislation relating to the existing child protection stated remains valid with notes as long as not contrary to the ACT. This indirectly puts the child protection ACT as the main reference in all activities as well as child protection activities.

In order to realize the protection and welfare of children, the institutional relations and legislation is absolutely necessary. In 2002 the Government and the legislature issued Act No. 23 of the year 2002 on the protection of children. Although some form of violence in the child protection ACT and the DOMESTIC VIOLENCE ACT is actually a compilation, or reformulating the adoption of some form of violence that is set up in a variety of previous legislation, such as the book of the law Criminal law (KHUP), the ACT on narcotic drugs, as well as labor law.

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Specifically the Act of domestic violence, in an explanation commonly referred to among other things: "... therefore, necessary settings of criminal acts of domestic violence because it has its own idiosyncrasies, although in General in the book of the laws of criminal law have been set regarding the persecution and decency as well as neglect children who need to be a living and life."

As for factors that can affect the welfare and protection of children in whom the implementation of roles and functions of the family or the family of the surrogate, and continuity of the functioning of the institutions of child protection and the application of sanctions against the offender's treatment of children. The role of the family ever describe a set of interpersonal behavior, the nature, activities that relate to persons in certain positions and situations (Astuti & dkk, 2013, p. 24).

Legal and judicial system in Indonesia ever contains some laws relating to children and the mendifinisikan age category from a child. Children's Court ACT No. 3 of the year

1997 in chapter I article 1 paragraph (1) States that the definition of the child in the ACT is "... persons who in Rogue has reached the age of 8 (eight) years of age but not yet reached the age of 18 (eighteen) years of age and have not never marries. "

The legislation on human rights no. 39 Year 1999 in chapter I article 1 paragraph (5) stated that the definition of the term child is any human being aged under 18 (eighteen) years of age and unmarried, including children who are still in the womb When it is in his interests. Further Act No. 23 of the year 2002 on the protection of the child defines a child as "... someone who hasn't aged 18 (eighteen) years of age, including children who are still in the womb." From this it can be concluded that the child was the one is in age range 0 (zero) years up to 18 (eighteen) years of age.

3. Child protection according to Islamic law

In the Large Indonesian Language Dictionary, the word child is defined as a "young man", while the parallel in Arabic is al-tifl which are language means al-maulûd (a person who was born) or the small of all kinds of living things as well as inanimate objects. The word ' son ' of its kind as a human being can be defined as ' the man who is still small since from birth until puberty '. In Islamic jurisprudence of someone who is not yet reaching puberty and he is categorized as a child, one of the indications of someone is a balighnya he is already experiencing a wet dream (al-hilm) (Khalîfah, 2010, p. 54).

The obligation of parents is loved and is getting its due respect. Talking about rights, would on the other hand there are obligations that must be met. Otherwise the liability of his son is the respect for both parents and the right is gaining affection, this principle cannot be separated because it is reciprocal. Parents should care for his son with all behavior, awarding him the command and so are children supposed to respect and honour his parents forever while his parents were not ordered in sin, and it is their rights and obligations in Islam (Siswadi, 2011, p. 232).

Qur'an stories-laden with cargo of children especially children godly descendants of the prophets, there is the story of Prophet Ismail in Surah Al-Shâffât, the story of the Prophet Joseph in Joseph and the story of letters of advice to his son Luqman in Luqman. All acts that imply the message about education and child protection. When the old man managed to mendidiknya being a good person and worship then it would be a favor or gift and when parents fail to mendidiknya then it will be a catastrophe for his parents. Thus in the Qur'an, Allah almighty never mentions the boy as the jewelry world, air heart or liver gems for their parents, and as a parent, theoretically in Islam and it should be lowered in the practical realm, should give the rights of her son's basic needs, namely in the form of:

a. Rights to Get Clarity of Forbidden

Forbidden understood as kinship based on blood relations as one of the consequences of a legitimate marriage, in terminologis forbidden is a descendant or

family ties as a blood relationship, either because of blood relations to the top (the father, grandfather, mother, grandmother, and so on) or sideways (brothers, uncles and others). It is also forbidden to be interpreted by the descendants of mainly party father or family connection (Alam & M. Fauzan, 2006, p. 175).

The identity of a child as the son of his father is very important, because this is an identity that clarify the civil status of a child either in conjunction with the elderly as well as community and his country. therefore recording of child birth (birth Certificate) is included in the basic requirement in accordance with the objectives of Islamic law, so with the recording of births, the identity and status of his son becomes clear so he can obtain legal protection.

With regard to the recording of the birth certificate, the Government of Indonesia has ratified the Act No. 23 of the year 2002. In articles 27 and 28 of the ACT has been mentioned that the birth certificate is the right of every child and the duty of the Government to meet the Population Administration laws. Comply with the applicable statutory provision means complying with the commands that are presupposed by the Quran to be obeyed, in addition to the obligatory obedient and submissive to God and his Prophet (Yanggo, 2010, p. 147).

The result is the existence of forbidden relations relations with her family which include:

- 1) the Forbidden or descent be cause someone's treasure beralihnya who have died to the living, and this is the reason a child entitled to inheritance of her parents.
- 2) relationship of mahram namely the unlawful marriage due to a cause because the offspring (forbidden), persusuan and marriage.
- 3) relationship of trust in a marriage that is the most eligible to become Trustees of marriage is a man who has a relationship with the candidate closest forbidden bride, in the perspective of fiqh guardians split into wali wali and forbidden to judge. The guardian is one of the tenets of legitimate marriage, if no then move on to the further and if there are no relatives then moved to the guardian of the judge.

b. Rights to acquire a good name

A good naming is the rights of a child. He also was the beginning of an educational efforts against child. Islam teaches that the name of a child is a prayer, by giving a good name to expect such acts of his morals and his name ('Aqlah, 1990, p. 26). Not even to just simply give the name This is fine, but also as one way of providing early education, in which there is an important role of parents.

The Prophet Muhammad, in a Hadith narrated with a jayyid isnaad, has said that it means, "you will be called on the day of resurrection with a name and the name of you fathers you, then give a good names" (Dâwûd, 2009, p. 303).

Here it can be seen that the naming is good for children is carried by the teachings of Islam, and a good name is the right of every human being, especially in this discussion to any child of his parents.

c. Rights get (Breast milk) Rodoah.

Breast milk (Radâ'ah) in a language is defined as the process of sucking the nipple, either animal or human. Whereas in syara ' interpreted with mistakes in human breast milk in small children who haven't the stomach even two years old. In terminologis radâ'ah is a way of sucking the kids do when the sucking process on putting human beings in a certain time (Al-Jazîrî, 1987, p. 250).

Almighty God ordered mothers to breastfeed their children, and breastfeeding is one of the activities on parenting (hadânah), this matter is contained in the Qur'an surat Al-Baqara: 233. The text suggests that the mother breastfeeding her son with a mandatory breast milk (Breast Milk) to give an ideal time constraints, therefore let the mothers breast feeding her baby up to two full years when they want to improve our penyusuan it. Means to be weaned after two-year-old.

As for the mother who wants *radaah* less than two full years in this case Islam allows him to wean her child before it reaches the time. However in the stop *radaah* it is governed by the religion of Islam that is should be in consultation with the husband to achieve consensus (Yanggo, 2010, p. 110).

d. Rights To Get Maintenance/Affection (Hadânah)

The maintenance of the child in Islam is called hadânah. Hadhanah etymologically means "next to" or "under the armpits," while in terminologis hadânah defined as care for and educate someone who has otherwise or who lost his wits because they could not meet its needs on its own (Aziz, 1999, p. 415).

Wahbah Al-Zuhailî define hadânah is an activity done parents in parenting small children, men and women, even against a child who is an idiot who can't distinguish between the good and the bad and can't take care of themselves, then parents take care of it with things that bring benefit for his son as well as nourishes and prevents it from things that hurt or harm by way of mendidiknya either physical, mental (psychic), as well as his mind.

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Fiqh scholars argued that the law of child maintenance (hadânah) is compulsory, both a boys and women are entitled to get it. Because if a child is diterlantarkan then it will result in destruction of the physical, psychic or whatever, then hadhanah is an

obligation which is included in the *maqâshid al-syarî'ah* i.e. keeping religion, soul, intellect, lineage and property. When seen from the result that would arise if a child is abandoned, then the *hadhanah* aimed at keeping the child's religion in order to embrace Islam, keeping his soul to survive and keep his mind from damage (Al-Husainî, 2005, p. 151).

Compilation of Islamic law (KHI) also contained in chapter XIV, Article 98 of child maintenance are described as follows:

- 1) The age limit of the child who is capable of standing on its own or an adult is 21 years of age, all children are physically and mentally blameless or not never make a marriage.
- 2) His parents represent the child about the deeds of the law inside and outside the Court.
- 3) The Court may appoint a Religion one of the closest relatives are able to fulfil these obligations if both of his parents died (Subhan, 2008, p. 312).

The explanation of such article; the obligation of both parents is ushering her children with a way to educate, as well as provide the science to be their stock in today's adult life.

e. Rights to get an education and Teaching

Education and teaching is the reverence for the rights of the child, because it is in fact education is the right of the child who became the obligations of parents. A child could ask for responsibility-best parents when ignore and despise the duty to educate his children.

Education is also the rights of the child since he was early, indications about the science related to the process of learning, reading and writing. Then the parents liable for *mendidiknya* since he is small and is desirable in view of the education of Islam is an education in line with the methods of the Qur'an and the Sunnah with the aim of forming a muslim personality on the child, which where the personality is going to be the main financier for him to live a life when it is mature.

Lengeveld explains that education is defined as a process of *mendewasakan* a child, then education can only be done by someone more mature older babes. Regarding the understanding of the significance of the child get the education and teaching must be returned on the basic principles of fulfilment of children's rights, as set forth in the Child Protection Act No. 23 of the year 2002 on the protection of the Child have set the rights of the child to get the right degree (Widari, 2012, p. 29).

4. Organization of the designation of marriage (local regulations No. 10 of the year 2010).

Implementation of Integrated in Marriage Certificate (*Isbat Nikah*) in Cianjur not only is a local government efforts to provide protection and legal certainty in order to orderly administration of the settlement, but also as a form of compliance and protection

the rights of the child in the child's birth certificate documents getting and family card. Local regulations No. 10 of the year 2010 about Conducting the residency Administration to materialize an orderly administration of population are integrated with policy terpadunya, isbat expected to fulfill the rights of society in order to Cianjur have the residency documents, though only in some sub-only recently implemented (Sudana, 2017).

Marriages certificate integrated conducted in Cianjur is not mentioned explicitly, but written indirectly in Perda No. 10 Year 2010 which reads "that in order for an orderly administration of the population then needs to be held structuring, organizing and publishing documents on population are integrated, targeted and sustainable. " Therefore any Civil Record Office took a leading role in the program for the issuance of documents integrated isbat deed born child and Family card (KK) Plus identity card (KTP) for 17-year-old to the top.

Local regulations No. 10 of the year 2010 the second part concerning the Organizers in article 4 number 2 mentioned: responsibilities and powers of the organizers referred to subsection (1), are as follows:

- a. coordination of population administration organizers;
- b. setting the technical organizer of the administration of the settlement;
- c. coaching and administrative organization of the socialization of residence; a
- d. implementation of community service activities in the field of the administration of the settlement;
- e. assignment to the village to hold the most basic tasks on the basis of population administration pembantuan;
- f. presentation of population data management and regional scale;
- g. coordination of the supervision over the administrative conduct of the integrated;

Furthermore, in article 5 and article 7 also mentioned:

article 5;

- 1) in exercising the powers referred to article 4 paragraph (2) letter a Regent held vertical and agency coordination with government institutions non Department.
- 2) the coordination referred to subsection (1), with regard to aspects of planning, organizing, implementing, monitoring and evaluation of the inaugural population administration.

Article 7;

The technique of organizing the administration of residence as referred to article 4 paragraph (2) letter b, shall be regulated further by the Regent.

It is very clear that in the implementation of appropriate integrated with *isbat Perda* No. 10 this Year 2010 Government Cianjur pointed to non-governmental organizations to build, socialize and carry it out, which collaborates with 3 instances related; Religious courts to approve their marriage, the religious Ministry to order the publishing licenses in every sub-district in which integrated *isbat* implemented and Office of the civil registry to publish documents certificate of birth and Family Card (KK) or card identity (KTP). Regent has also provided funds for the integrated *isbat* through County Government in order to achieve the integrated *kepedudukan* administration.

Religious Courts conducted integrated Marriage Certificate Cianjur in cooperation with the Ministry of religion and Civil Records residence and Office. Usually the coordinating *isbat* is NGO in cooperation with the local Government or with the use of the funds, DIPA (Checklist of implementation of the budget) allocated in each local Religious Court.

As for the overall determination Of The Participants Total Number Of Marriage Certificate in Cianjur in 2013 as much as 862, in 2014, the year 2015 as much as 36 cases, by the year 2016 there are 1404, and the year 2017 as much as 1628 case/matter.

Certificate of marriage is integrated in the region of Cianjur useful to take care of and obtained his rights in the form of letters or personal documents that can provide guarantees of the protection of legal certainty. Implementation marriage is integrated in the region of Cianjur aims to trim costs, hold a service to communities in need and simplify the process of making a legal identity. This is a great program that exists only in the area of Cianjur in fact only exists in Indonesia and is a legal breakthrough (Official, 2017).

One of the constraints of implementation is the community of marriage *isbat* in Cianjur less understand the benefits of *isbat* marriage. Then it is permissible if the socialization process of any society is very difficult given the understanding of what it is to stage the gathering of *isbat* files even when *isbat* takes a couple of pairs is not present, then it can be summed up the views of the community about how important the *isbat* marriage in order obtain residency documents have not been considered important enough.

Prospective participants are integrated marriage certificate in Cianjur which are not included in the quota admissions *isbat* free can still participate by paying Rp 151,000.00 for each pair, which includes fees lightly. As for any couples that follow integrated *isbat* will get the licenses, birth certificate, Identity card and family card, normally in other areas of integrated *isbat* participants only get licenses and deed. This is not only the first occurred in West Java, but also in Indonesia. The Government is also seeking to Cianjur in conducting the residency identity card printing for children so that children acquire legal identity are viable. Then with the execution of this nothing *isbat* Identity cards will be increased so that birt certificate done evenly (Official, 2017).

However in practice remains there is a problem, the dialamai is currently in accomplishments program isbat integrated. The party Office of Civil Records residence and could not publish the resident identity card (KTP), even up to this moment the participants integrated Isbat implemented only get documents certificate of birth of the child, KK and licenses only due to the issuance of identity card Indeed the case nationally barriers instead of Cianjur only. In the implementation of the integrated service of the parties any isbat population and the civil registry can only bring in employees who participate amounted to 3-4 people, far from the ideal amount of Government was expected in order for the issuance of the certificate of birth, KK and KTP be completed in maximum.

Service of population and shortage of reasoned civil registry officers and the officers are doing the escort to the Regent (blusukan) because it is currently approaching the election. Then it is expected that internal constraints on staffing while the implementation of this integrated isbat could soon be resolved, so that the process of marriage held isbat runs with lancer without any constraints and couples who have had a marriage isbat son immediately obtain ID CARD (Resident Card) or identity card children (KIA).

As for the data showed that the amount of the issuance of the certificate of birth and family card in Cianjur conducted by the Office of population and the civil registry in the year 315 sebanyak 2013, and 2014 138 years, year 2016 year 2017 and 659 as much publishing birth certificate as much as 1096.

Local governments also cianjur running database of SIAK (Population Administration information system) which is a system in the Ministry of the Interior (Kemendagri) who run online, SIAK for purposes of civil registration current walking around the district/city. Cianjur is one area that is already using this data base are dengannyaakan easier to find out information and data the population of the area. So many accomplishments that would otherwise be immediately reached in the issue of ID CARDS.

In the year 2016 Government Cianjur has done a recording ID CARD as much as 1,535,044 and the total amount of compulsory ID CARDS as many as 1,663,797 people, so it can be concluded that the constraints of the couples who have not yet integrated isbat get ID CARDS because it is still at pengadaannya, even this is not only happening in Cianjur alone but also in a number of areas and Office of population and any civil record during this already berkordinasi but Blanko KTP yet are also available.

Isbat integrated very rewarding to take care of and obtained his rights in the form of letters or personal documents that can provide guarantees of the protection of legal certainty as a citizen of the Republic of Indonesia. Conducting integrated Isbat in Cianjur aims to trim costs, hold a service to communities in need and simplify the process of making a legal identity. This is a program that currently only exist in Cianjur even only

exists in Indonesia and is a groundbreaking law that ought to be appreciated (Official, 2017).

Local government in Cianjur has facilitated a growing marriage isbat quota years growing, if the barriers are not yet motivated society then in that case there should be a concrete step in order to make the community aware of the importance of integrated isbat so that at the time of implementation of no more state money used useless.

Isbat policy of marriage is a legal breakthrough Integrated latest especially in Cianjur which aims to provide protection and legal certainty for the community of Cianjur. This policy is carried out by the Government to tackle the problem of Cianjur daerah ownership documents of residence. The fundamental thing that became a benchmark of success the Government of Cianjur is located in program implementation and results from integrated marriages certificate.

5. The implementation of the rights of the child following the local regulations No. 10 of the year 2010

The child's birth certificate and the document KK (family card) is a requirement for a child to obtain a formal education, if seen from field research conducted by NGOs or Government agencies authorized nearly 74% of children who are not never attended due to not having a birth certificate which is swept up from the results of the marriage of his parents or because the sirri access remote administration to oversee the creation of the document.

The Office of population and the civil registry in cooperation with the Religious Courts give the identity of the perpetrator of the law for marriage sirri in order that their children get legal identity through integrated isbat. This identity is extremely important; First, since the child's birth certificate is a legal document that is very important to prove the family relationship of the two, someone who doesn't have a child then the birth certificate not recognized its presence by the State and child birth certificate is a document that ensure the protection and legal certainty for a child (Drs. Faizal Kamil, 2017).

The impact can be felt by the participants integrated isbat in Cianjur can be divided into two broad outline that is administratively and substantively. Administratively, they get the certificate of birth of the child, KK and also ID CARD. Substantively to the children, they will get the fundamental rights in the form of the right to live, grow, thrive and participate as well as the right to protection and the right to acquire education. The identity of the children would be very helpful so that their rights are not abandoned. The following are his:

a. The Child's Birth Certificate

The legal status of a person begins when he is born, the birth certificate be very penting karena with such a child has legal evidence about its status as the legitimate child in the eyes of the law. But in reality, particularly in Cianjur, many marriages

are not recorded that impact to their children, the community still many who have not yet realized the importance of the child's birth certificate.

The child's birth certificate is authentic evidence base has a legitimate legal force and can be accounted for the child that the child of a legitimate marriage, results in the absence of a birth certificate of the child then the child will not be studying basic so that their basic rights in obtaining education and life can not be fulfilled. Then the Government local Cianjur attempts to overcome this problem with the program so that integrated isbat children's rights from marriage sirri intends, it is also distributed with the program's achievement of the residency documents in particular The Child's Identity Card (KIA) (Kepegawaian), 2017).

The authorities issued a birth certificate of the child is an employee of the service of the population and the local civil registry, it is based on Act No. 23 Of 2006 year population Administration in charge to record or register any important events experienced by residents such as birth, marriage, divorce, death etc (Situmorang & Sitanggang, 1996, p. 110).

For a child who does not have a birth certificate, its existence is not legally recognized by the State. Therefore, the legal status of a child (son) are given by way of a deed of ownership for child birth according to Act No. 23 of the year 2002 on the protection of children. In article 27 explained that (Situmorang & Sitanggang, 1996, p. 110):

- 1) Identity of every child must be given from birth.
- 2) Identity as mentioned in subsection (1) is poured in the birth certificate.
- 3) Creation of a birth certificate is based on affidavits from people who witnessed and/or help the process of birth.
- 4) In the event that the child process's birth is unknown, and his parents had not known of its existence, the creation of a birth certificate for the child based on the description of the person who found it.

Law No. 23 of 2006 year Population Administration regulates that a birth certificate can be obtained for free in just 60 days after the birth of the child. In December 2013, the revision of Act No. 23 of the year 2006 have been abolished the previous birth registration fee imposed by the Government of the province or district/city governments. As for in Cianjur is not charged in the making of a birth certificate in a period of under 60 days, when a period of more than 60 days up to 1 year subject to a maximum fine of Rp 50,000 arranged in Perda No. 10 Year 2010 Article 86.

The fact that currently there are still many children in Indonesia particularly Cianjur whose identity is not recorded in the birth certificate, which led to his being considered legally non-existent. This condition not only because of the ignorance of the community will be the significance of a birth certificate, the cost of which is not affordable for people who are marginal and long procedures that caused it. What's more the attitude

discriminatory against those who are seen as "other" or different from the majority group, it cause they were having difficulty in obtaining residency documents because their service a less satisfactory (Fulthoni, Arianingtyas, & dkk, 2009, p. 12).

Isbat integrated an offshoot the right law for the community unable to the marginalized, since the existence of this integrated community isbat Cianjur who follow isbat than getting licenses and other documents, they do not need to come to the relevant agencies to take care of everything but the court party and Disdukcapil who go to them. And implementation of the integrated isbat has been funded by the County Government.

b. Family card

The card family is family identity card that contains a description of the arrangement, the relationship and the number of family members. The obligatory family card owned by each family as it contains full details about the identity of the head of the family and members of his family. Family card issued by the civil registry employees who apply for life unless there is a change of the head of the family. Family card must be owned by each family, as for the legal basis for ownership of the family card:

- 1) Act No. 23 of 2006 Year Population Administration;
- 2) Law Number 24 year 2013 about changes in the Law Number 23 of the year 2006 about the administration of the Settlement;
- 3) Applicable local Cianjur number 10 Year 2010 about the Organization of the administration of the Settlement (specific to the area of Cianjur);

Family card is one of the documents provided for free when the implementation of an integrated, then for the sake of isbat Martinet integrated residency administration party Disdukcapil also give to each pair of KK isbat integrated.

c. Resident Card

Identity cards (KTP) is the identity of the official population as evidence of self published by the civil registration officers in all regions of the State Union of Republic of Indonesia. These cards are compulsory owned Indonesia citizen (WNI) and foreigners who have permanent residence permit which has been aged 17 years. ID CARDS list the image of Garuda Pancasila symbol and map the territory of the Republic of Indonesia, and contains information that contains the description have ID CARD.

The obligations of residents of Indonesia to have legal identity associated with the ownership of ID CARD is important, because it is associated with a variety of other legal identity issues that are not directly related to the question of the welfare of the population. The importance of ownership of the ID CARD is also supported by the findings of the Asian Development Bank (ADB) in three different countries i.e. Nepal, Cambodia and Bangladesh (Legal Identity for Inclusive Development 2007). The ADB report confirms the relevance of legal identity and ownership of the

fulfillment of the fundamental rights of members of the public especially underprivileged citizens. That is, if the citizens have an ID card, other fundamental rights can be met. In other words, the identity of the legal guarantee of equal access to education, employment and legal protection of the underprivileged citizens of the country (Inge, Makambombu, & Novirianti, 2017).

As for the product ID Cianjur in the implementation is targeted above 7 percent of the total population who have compulsory ID card, then the implementation of this integrated isbat trial expected to also boost the publishing product ID CARD so can be achieved equitably legal services to the entire masyarakat Cianjur. In the implementation of Isbat wedlock in Cianjur, each pair of participants get licenses, birth certificate, ID CARD and family card. Isbat is the efforts of County Government in carrying out printing identity cards, though in fact the GOVERNMENT ID can not be shared because technically it is still constrained by the attendant implementation and preparation of the tool more currently it is very difficult to print ID CARDS.

After the fulfillment of administratively with issuance of identity documents of the child then is expected to be followed by substantive compliance. As for the fulfillment of children's rights substantively is as follows:

- 1) The right to life, growing, thriving and participating is one of the principles of child protection based on the Convention on the rights of the child (CRC) which was later adopted in Act No. 23 of the year 2002, that the State must ensure every child will be guaranteed his survival since the right to life is something that is inherent in itself is not a granting of the country or per person. To guarantee the right to life means that the State must provide a conducive environment and infrastructure adequate living, and access each child to obtain basic needs in accordance with the Convention on the rights of the child set forth in article 6 paragraph 1 (Djamil, p. 29).

In conclusion, the child has the right to obtain any access, which can guarantee his survival are:

- a) access the legal ownership of the identity documents of legal identity document is extremely important especially for married couples who do not recorded his marriage, then the existence of this integrated wedlock isbat they can gain access to the ownership deed documents a marriage license or licenses after obtaining a determination of the Tribunal the religious court judges. With so fulfilled also the rights of the child in the child's Birth Certificate documents of ownership, KK (family card) or ID CARD (Resident Card).
- b) a birth certificate and access To Employment Opportunities a birth certificate is a requirement that must be met in order to get a job in the

private sector and most formal, in addition the birth certificate also must be presented when filing application for obtaining a passport. Therefore, anyone who wants to work abroad as migrant workers need to have a birth certificate (Sumner, 2014, pp. 57-60).

- c) access to the social assistance Program of the new health insurance, national health Guarantee (JKN) through social security governing body (BPJS), require that the head of the family shows the family card (KK) that describe who the head of the family. Then who can show such deed has the possibility of 84% greater access to social assistance. Even other social assistance such as subsidized rice assistance or assistance fund scholarship school like KJP (Smart Jakarta Card) in the capital region.

2) The right to Obtain protection.

In Indonesia for child protection is regulated in Law Number 23 of year 2002 i.e. all activities to ensure and protect children and their rights to live, grow, thrive and participate optimally in accordance with dignity and dignity of humanity, as well as the protection from violence and discrimination. Coordination of child protection cooperation need to be held in order to prevent an imbalance in overall child protection activities. In connection with this, Abdul Hakim Garuda Nusantara said "the issue of legal protection for children is a one sided approach to protect children not only Indonesia. then approached legally, but it needs to be a broader approach namely the economic, social and cultural (Gultom, 2013, p. 33).

Very closely related to early age marriage happens Cianjur because it does not have a birth certificate or knowledge of her parents who are less then prefer to marry off his son at an early age, first married only in accordance with the Shari'a religion only. Then it should currently protect them from early childhood marriage especially Marriage legislation States that the minimum age for marriage is 16 years for women and 19 years for men. And children are entitled to obtain legal protection because current Cianjur is also being lively employs child labor and child trafficking as, then they are entitled to get legal protection especially documents legal identity is mandatory (Sudana, 2017).

3) The right to Education

Birth certificate be one condition for entering school or take a national exam, then the document is birth certificate became an obligation for every child because if they take care of the Affairs of the school or the student registration are required to demonstrate birth certificate. Then when her parents don't have licenses because married in religion as often happens on society Cianjur, it was clear that may inhibit the participation of children in school activities. The

Government's efforts by providing namely Cianjur isbat integrated for 2 weeks once in order to obtain access to justice in creating the document licenses or other documents, so that their children get access to education.

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