

Implementation of Husband's Rights to Annul Marriage Due to False Identity in the Religious Courts of Metro Lampung City

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Abstract

At this time, in the contemporary and modernization era, it is easier for couples who want to get married, especially with economic conditions that have begun to recover from the influence of the pandemic, so this is very supportive of quickly achieving their desire to marry. For couples who have previously been married and want to remarry, of course there are other requirements that must be met. Thus, sometimes some couples take shortcuts in falsifying their identity, such as being a widow or a virgin, in order to achieve their desire to get married officially. This is not impossible, in fact, it often happens that prospective female partners deliberately fake their identities to be accepted by male partners who are still virgins. The main problem in this research is how to implement the husband's right to annul the marriage due to falsifying the identity of the prospective wife, as well as how the judge's legal considerations are in resolving this problem. This study uses qualitative research methods with a normative descriptive approach. Data sources are based on literature studies and court decisions which are then analyzed using the content analysis method. The research results prove that the husband's rights in cases of identity fraud by his future wife are protected by the state based on statutory regulations so that the husband can take legal action to defend his rights. The judge in this case has given appropriate legal considerations so that no party is harmed as a consequence of their respective actions.

I. Introduction

A marriage that provides valid benefits is the permissibility of husband-wife relationships, helping each other, including in terms of earning a living, having rights over oneself and defending each other's rights (Karimuddin Abdullah Lawang, 2014). In Islam, marriage is defined as the coming together or uniting of a male and female couple through a marriage contract and fulfilling the applicable marriage and marriage terms, including the presence of a prospective bride and groom, a marriage guardian who fulfills the requirements of a marriage guardian, and the existence of a sacred agreement or contract. get married by fulfilling the conditions (Abdillah, 2017).

The end of a marriage can occur for various reasons, such as a marriage carried out after an out-of-wedlock pregnancy occurs (M. A. R. K. A. Lawang, 2023), violates the rights and obligations of husband and wife (Abdullah, A., & Lawang, 2022), miscommunication between husband and wife (Syobah et al., 2023), the occurrence of consanguineous or mahramiyah marriages (Karimuddin Abdullah Lawang, 2023), marriage due to seclusion (Karimuddin, 2021a) and forced marriage (K. A. Lawang, Ghaffar, et al., 2023), and manipulating identity in marriage. In general, a copy of the laws that apply in Indonesia, in general there are many cases that can cause marriage to be hampered because there is no transparency between the married couple so that some take shortcuts by falsifying their identity (Huzaini, 2021).

This has been confirmed in articles of the Criminal Code articles 378 and 380, namely Article 378: "Whoever deliberately intends to benefit himself by breaking the law using a false name or false title, by deception with lies and involving other people to give goods If something is done, he will be subject to fiveyear sentence." Furthermore, Article 380 paragraph 1 of the Criminal Code: "Whoever places a name or sign falsely on or in a literary, scientific, artistic or craft product, or forges a genuine name or sign, with the intention of making people think that it is really fruit whose name or mark he places on it is threatened with imprisonment for eight years and a fine of five thousand rupiah."

However, if there is a violation because formally the existing marriage can be annulled, then it is necessary to clarify the identity of the perpetrator to maintain his rights and obligations as a good citizen. In order to strengthen the existence of class related to the identity of the perpetrator, concrete data will be needed in the form of population documents from civil registration in the local area. This is also regulated in Law no. 23 of 2006 in article 1 paragraph 1, namely: "Population administration is the arrangement of data and documents so that they are orderly and structured and

managed neatly and empowered by other sectors” (Sri Suwarni, 2010).

Law no. 23 of 2006 article 1 paragraph 1 Population documents issued by the relevant agencies is protected by the laws in force in Nagara Kita and managed by civil registration. The document forgery referred to is fake diplomas, fake Palu tickets, fake resident cards and others. Furthermore, in article 26 paragraphs 1 and 2 what is meant is that the perpetrator ordered to falsify authentic documents and data, he will be subject to a prison sentence of seven years (Sri Suwarni, 2010).

By carrying out a legal marriage, the relationship between two noble and honorable beings covered by the bond of marriage will produce offspring that are legitimate physically and mentally. The family that results from a legal marriage is a form of a small community that starts from a feeling of eternal love and affection. This is of course done with a good marriage process according to religion or country. However, the possibility of an annulment in a marriage due to not fulfilling the requirements and harmony in the marriage is something that must be of mutual concern. Hi, this is actually also regulated in Article 22 of the Marriage Law that: "Marriage can be annulled if the marriage process does not meet the requirements and harmony".

The marriage annulment process must of course be carried out in a religious court as a facilitator in legal matters which is given full authority by the State. In the Marriage Law which was formulated through government regulations article 37 no. 9 of 1975, namely: "The annulment of a marriage can only be decided by a judge". The purpose of the law above is that if the marriage process carried out by the prospective couple does not meet the requirements and harmony, then the couple can apply for an annulment of the marriage in court (Agung, 2010).

Based on the description above, it can be clearly seen that the husband's losses occur when there is fraud in the marriage in the form of identity falsification by the wife. Therefore, a study is needed to reveal the legal measures that can be taken by a husband when a case of identity falsification by his wife is revealed and what the judge's legal considerations are in adjudicating cases of identity falsification during marriage. Efforts that can be taken must of course go through a legal process, which in this case is a religious court. Therefore, it is very necessary to conduct a study regarding the husband's rights in cases of falsifying the wife's identity to provide information to the parties, especially the husband, when he experiences a case like this, so that he has a procedure and legal certainty in defending one's rights before the law.

II. Method

The research method used to analyze the problems in this study is qualitative research (Jahja, 2023) with a normative juridical approach, namely by basing it on currently applicable legal norms. both those contained in Indonesian legislation and those contained in Islamic law. The data collection technique was carried out by conducting a literature study of materials in the library and also a study of court decisions, in this case the Metro City Religious Court Decision with Decision Number 0381/Pdt.G/2016/PA.Mt. The legal materials used are primary legal materials obtained from marriage laws and court decisions. Data analysis was carried out qualitatively during the research process by categorizing the data entered into primary legal materials and secondary legal materials (Sugiyono, 2008) Then it is described systematically based on the data held.

III. Result and Discussion

Dasar Hukum Legalitas Perkawinan

Islam is a religion and guidance for mankind in their lives, whose teachings come from the Qur'an and Al-Hadith (Huzaini, 2022b). Marriage is a good deed which at the time of marriage should be known by many people or the general public, close and distant family so as not to cause slander or unreasonable suspicion. (Huzaini, 2022c).

Marriage is regulated by Islamic law perfectly and clearly both in terms of marriage law, the legal basis for marriage, as well as the terms and conditions of marriage (Safrizal, 2020). This is all regulated in the Marriage Law and the Compilation of Islamic Law with the aim of forming a harmonious, happy family in this world and the hereafter.

The Word of Allah SWT in QS. Ar-Rum verse 21.

وَمِنْ آيَاتِهِ أَنْ خَلَقَ لَكُمْ مِنْ أَنْفُسِكُمْ أَزْوَاجًا لِتَسْكُنُوا إِلَيْهَا وَجَعَلَ بَيْنَكُمْ مَوَدَّةً وَرَحْمَةً، إِنَّ فِي ذَلِكَ لَآيَاتٍ لِقَوْمٍ يَتَفَكَّرُونَ.

Meaning: And among the signs of his freedom is creating for you wives of your own kind, so that you will be inclined and feel at ease with them. And made it into a feeling of love and affection. Indeed, in that there is truly a sign for a people who think. (Qs. Arrum 21).

There is one syllable in this verse, namely: "taskunu" which comes from the word "sakana" which means silence or calm before experiencing mental shock or it can also be interpreted as busyness. According to Quraish Shihab, the verse is editorially

addressed to a father, but the meaning of the verse is addressed to both parents, namely the father and mother who are always responsible for their offspring.

In Islamic marriage law, according to Islamic scholars, legal experts formulate that marriage law is divided into five, namely: First, *Wajib*, Second, *Sunnah*, Third, *Mubah*, Fourth, *Haram*, Fifth, *Makruh*. Ibnu Rushd is of the opinion that marriage is sunnah (Shomad, 2010). According to the Zhahiriyah ulama, marriage is legally obligatory, while according to the Malikiyah ulama, marriage is obligatory for some people according to their situation and conditions, sunnah for some people and permissible for other groups. The differences of opinion from various Islamic Schools of Imams and Ulama' are actually due to differences in defining and interpreting the meaning of marriage, because the Qur'an and Hadith strongly recommend that servants and their followers get married. Islam has regulated the conditions and pillars of marriage, as well as positive law in Indonesia which also requires the registration of marriages as per Law No.1 of 1974 concerning marriage (Huzaini, 2020).

a. Conditions of Marriage

1. Prospective Husband and Prospective Wife, whose gender is clearly male and female and not muhrim.
2. Carrying out a marriage of one's own accord, aka consensual.
3. Not on the Hajj or Umrah trip.
4. The presence of a marriage guardian.
5. The prospective husband and wife love each other.

b. Marriage Pillars

1. Prospective groom.
2. There is a Guardian.
3. There are two witnesses.
4. acceptance.
5. Dowry.

Falsification of Identity as a Reason for Divorce

Forgery is the process of acting, adapting, imitating an object, statistic, or document with the intent to deceive. Crimes similar to fraud are other crimes of fraud, including through the use of goods obtained through counterfeiting. Forgery is a technique of fraud, including identity theft. Counterfeiting is one of the threats that security engineering must overcome. Forgery is basically concerned with objects that are produced or altered.

When the object of forgery is a note or document, it is often referred to as a fake document. The use of the language “counterfeit” does not originate from the word “imitation”, but does have a parallel history. The meaning of “forge” is already present in the Anglo-French verb *forger* to imitate. Where the main concern of forgery is less focused on the object itself what is appropriate or what it “proves” than on statements to provoke others.

Forgery is the process of creating, adapting, imitating or object, statistics, or documents with the intent to deceive. Crimes similar to fraud are other crimes of fraud, including through the use of goods obtained through counterfeiting. Copying, duplicating and reproducing is not considered forgery, although it may later become forgery as long as they know and do not wish to publish it.

In the case of counterfeiting money or currency, it is more often called counterfeiting. Consumer goods but also imitations when they are not manufactured or produced by the manufacturer or the manufacturer is given a brand or trademark is indicated by a symbol. When the object of forgery is a note or document, it is often referred to as a fake document. The use of the language “counterfeit” does not originate from the word “imitation”, but does have a parallel history. The notion of “forgery” is already present in the Anglo-French verb *forger* to imitate.

Forgery is a technique of fraud, including identity theft. Counterfeiting is one of the threats that security engineering must overcome. Forgery is basically concerned with objects that are produced or altered. Where the attention of playing fake is less focused on the object itself, what is appropriate or what it “proves” than it is on the silent statement of criticism that comes from the object's reaction to provoking others, so the process is one of separation. a joke, rumor, or genuine object “planted” in a provoking situation, perhaps a substitute for a fake physical object (Chazawi, 2001).

According to Stella Ting Toomey, identity is a reflection of oneself or self-reflection that comes from family, gender, culture, ethnicity and the socialization process. Identity basically refers to the reflection of ourselves and other people's perceptions of us. Meanwhile, Gardiner W. Harry and Kosmitzki Corinne see identity as defining oneself as an individual World Health Organization who is different in behavior, beliefs and attitudes.

Husband's Right to Annul Marriage Due to False Identity

Marriage is a strong bond between two people in order to create a happy family, *sakinah, mawaddah, warahmah*. However, if the marriage carried out does not meet the

requirements and harmony of the marriage that has been carried out, the marriage will be null and void by law (Iswandi, 2021). Marriage cancellation is currently still very taboo among people in Indonesia. However, the law has a role as a reference in carrying out an action, so that in the process of canceling a marriage there must be a legal procedure that regulates it, so that after the process of canceling a marriage occurs it no longer causes new problems after the problem is decided (Khairuddin et al., 2022).

Marriage has the aim of forming a harmonious and happy family, of course a marriage that fulfills the requirements and harmony in the marriage process because it has been stipulated in the law. However, it is not uncommon for marriages to be annulled because they have legal defects. The various factors that cause marriage annulment require religious courts to offer solutions to reduce or eliminate similar incidents in the future (Rifqi, 2019).

The annulment of the marriage is caused by the groom's dishonest actions and automatically the process does not fulfill the requirements and harmony in marriage so the marriage is deemed non-existent. In the Marriage Law, when a marriage is annulled, the marriage is considered invalid and never existed. Cancellation of Marriage According to Law Article 22 Marriage Cancellation comes from the word annulment, namely to consider it invalid, to assume it never existed. In this case, the court that is considered to have the power to annul a marriage is the religious court. In this religious court, cases are processed by both the plaintiff and the defendant, which is carried out by both to seek legal justice (Karimuddin, 2021b).

Compilation of Islamic Law Article 72 paragraph (2) which means that a husband or wife can apply for an annulment of the marriage if during the marriage there is dishonesty or a conflict of understanding regarding the husband or wife. Therefore, the application to file an annulment of marriage has limitations or a certain time period for submitting it. This limitation or time period is called expiration. Women have the power to request an annulment of a marriage, husbands also have a time limit or time period in exercising their rights to request an annulment of a marriage. This right can be revoked or declared invalid if each couple lives together as husband and wife and can confirm the existence of an invalid marriage certificate. (Widiastuti, 2022).

And if the marriage has been carried out legally, but if in the future there are deviations from the terms and conditions of the marriage, the marriage can be annulled, meaning that the marriage that previously existed will never exist. This means that a husband and wife whose marriage is annulled are considered to have never married as husband and wife. A marriage can be annulled if it does not meet the terms and

conditions. The conditions referred to are not limited to requirements according to religious law, but also conditions determined by marriage law or state law.

The Office of Religious Affairs as an institution that has the authority to record and validate marriages, whether legal according to religion or the government, is obliged to find out whether the couple who will carry out the marriage or whether it turns out that both of them are people who are prohibited from carrying out marriages according to religion and the government, as regulated in the Compilation of Islamic Law and Other Legislation concerning Marriage.

There needs to be supervision by the Office of Religious Affairs regarding whether the prospective groom is valid or not because he wants to influence whether the marriage is valid or not. A taboo marriage is an invalid marriage so that the marriage is essentially honorable adultery, because the marriage occurs between a man and a woman who are related by blood. Even with this statement of personal identity or personal status, assuming misuse of the law or manipulation of the identity of the party to be married, it becomes a problem in itself if the personal identity and message used is incorrect or against the law. This difference will cause the conditions required for marriage to not be met and can be detrimental to one of the parties (Faisal, 2017).

Articles 378 and 380 of the Criminal Code have explained in this article what it means is that anyone intends to take advantage of themselves or other people unlawfully, by using a false name and false dignity, by deceit or carrying out a series of lies and involving other people. Otherwise, for this action, or providing loans and writing off loans, they will be threatened with a prison sentence of four years. The Criminal Code provides a warning to perpetrators of identity fraud, in this case the woman's future husband. Not only can the marriage be annulled, but they can be threatened with criminal penalties for having lied to their family and the public. An annulment of marriage will occur if there is a judge's decision regarding the complaint of the prospective husband and wife in the religious court and it is granted by the judge and related parties, including:

- a. Family, descendants and future husband/wife.
- b. Husband or wife.
- c. Relevant government officials

Cancellation of this marriage is only carried out for marriage processes that are considered unlawful or legally flawed or also do not meet the requirements and harmony in marriage. This marriage annulment process cannot be equated with divorce (K. A. Lawang, Rika Sasralina, et al., 2023) because the process and reasons for divorce

are not the same as the process of annulment in marriage. And the most basic thing is that divorce can only be done to husband and wife, while marriage annulment can be done to husband and wife and also the future husband and wife (Basri, 1999).

The Compilation of Islamic Law is a guideline and can be used as a guide used by religious courts regarding resolving the issue of marriage annulment which is contained in full in several articles starting from article 70 to article 76. Marriage annulment is declared valid if it has received a decision from a religious court judge. One of the factors behind the annulment of a marriage is the failure to fulfill the conditions and harmony in the marriage due to a complaint from the prospective husband and wife or husband and wife against the prospective partner or partner because of an act that violates the law, namely the identity of the prospective husband and wife or husband/wife is revealed. false (Huzaini, 2022a).

The judge's basic considerations in deciding civil cases are divided into two (2), namely considerations regarding the case or event and regarding legal considerations. What is contained in the considerations that the judge takes into consideration is his responsibility to the community for the decision that has been handed down and has objective value. What is contained in the consideration of the decision is entirely the reasons and basis for the decision. Applications can be submitted to a court whose jurisdiction includes the place where the marriage took place as stated in the marriage certificate extract, or the place of residence of the husband and wife, husband or wife. Several examples of marriage annulment cases are adjusted to the authorities (Wulansari, 2019).

In this case, it is necessary to understand that household problems lead to divorce (Abdullah, 2021) This is different from marriage annulment as regulated in the Compilation of Islamic Law, namely that the person who has the right to annul the marriage is:

1. The marriage is carried out without fulfilling the terms and conditions.
2. Marriage because it is threatened or under threat.
3. The prospective wife or husband is still in the *iddah* period.
4. The prospective wife and future husband still have the status of someone else's wife or husband.
5. Polygamy or remarrying without the permission of the husband or wife.
6. The prospective husband or wife is still not old enough (Basri, 1999).

Cause of loss of rights to apply for an annulment of marriage are:

1. There is a violation or violation of procedures.

2. There is a Material Violation which means there are no more threats, accusations and suspicions between husband and wife within six months of the marriage taking place.

This dilemma can be a valid and valid basis for canceling a marriage due to identity fraud. This is the basis for annulling a marriage on the basis of falsifying the identity of the prospective bride and groom during the marriage.

Judge's Legal Consideration of Marriage Cancellation Due to Identity Falsification

This study was carried out at the Metro City Religious Court, Lampung Province, and one of the cases of marriage annulment due to identity fraud was case number 0381/Pdt.G/2016/PA.Mt. In this case, a wife fakes her identity as a widow, becoming a virgin or a girl so that her future husband at that time accepts her as his future wife. So that after the marriage the husband found out that his wife had falsified the identity of her virginity status.

In this case, the judges who tried and considered that based on evidence P 1, a photocopy of the domicile certificate. The Petitioner is domiciled in Metro Village, Central Metro District, Metro City, so the Metro Religious Court has the authority to try this case. Considering that based on evidence P 2, namely a valid photocopy of the Deed Excerpt. Marriage Number: January 13 2016 number 00006/006/I/20 16 issued by the Marriage Registrar of the Religious Affairs Office of Seputih Banyak District, Central Lampung Regency, it is proven that the Petitioner is the legal husband of the Respondent so that the Petitioner is an interested person in this case . Furthermore, the judges who adjudicated and considered that based on evidence P 3, a photocopy of the marriage certificate between the applicant and the Respondent was sufficiently stamped, although it could not be matched with the original, but according to the Panel of Judges, it could be accepted as preliminary evidence to prove that before marrying the Petitioner, the Respondent had been married to someone other (Metro, 2016).

Considering, that apart from the documentary evidence, the applicant has also submitted evidence from witnesses named witness I Sutarno and witness II Madlori who gave statements under oath and have fulfilled the formal and material requirements and have agreed with each other that before marrying the applicant, the respondent was married with another person so that the Petitioner's petition requesting that his marriage with the Respondent be annulled by arguing that when he was married to the Respondent, the Respondent was still married to another person

(Metro, 2016).

Considering, that to the Petitioner's petition, the Respondent did not provide an answer verbally or in writing before the hearing and acknowledged the Petitioner's arguments, so that the Respondent in his letter stated that he did not mind if his marriage with the Petitioner was annulled by not providing an answer, because he never came to appear even though he had been summoned. appropriately and officially so that the Panel of Judges is of the opinion that the Respondent's absence can be seen as an acknowledgment and confirmation of the arguments of the Petitioner's petition. Because based on the applicant's statement, on the 3rd day after marriage, the applicant knew or found a photocopy of the marriage certificate between the respondent and another person, so the applicant realized that the respondent was not honest about his identity when he married the applicant.

Based on the facts above, the Panel of Judges is of the opinion that the marriage between the Petitioner and the Respondent has violated the applicable statutory provisions, namely articles 3, 4, 5 of Law Number 1 of 1974 in conjunction with articles 7, 8, 9, 10 (1) of Government Regulation Number 9 of 1975 where the marriage between the Petitioner and the Respondent did not meet the procedures and requirements determined by the applicable laws and regulations. Based on the matters above, the Petitioner's petition for all its reasons has been proven convincingly so that in accordance with the provisions of article 22 of Law Number 1 of 1974 in conjunction with article 71 letter (a) of the Compilation of Islamic Law, the marriage between the Petitioner and the Respondent will be annulled (Metro, 2016).

The cancellation of the Petitioner's marriage with the Respondent has implications for the Marriage Certificate Excerpt Letter Number 00006.006/I/2016 dated 13 January 2016 issued by the PPN KUA, Seputih Banyak District, Central Lampung Regency, so that it will be declared invalid and has no legal force.

Then, based on the judge's legal considerations as explained above, it was decided to grant the Petitioner's petition with a vertex without the presence of the Respondent, then cancel the marriage between the Petitioner and the Respondent which was held on January 13 2016 based on all statutory regulations and sharia law relating to the case This. Thus, the panel of judges declared the Marriage Certificate Excerpt Number: 00006/006/I/2016 dated 13 January 2016 issued by the KUA Seputih Banyak District, Central Lampung Regency to the applicant and respondent declared invalid and without legal force.

IV. Conclusion

Based on the results of the previous discussion, it can be concluded that the husband's rights in cases of identity fraud by his future wife are protected by the state based on statutory regulations, namely Law Number 1 of 1979 concerning marriage and the Compilation of Islamic Law in Indonesia. Based on the legality and legal basis, the husband can take legal action to defend his rights because his wife has been harmed by manipulating her marital status data. The judge in this case has given appropriate legal considerations in accordance with the applicable laws and regulations and is supported by evidence and facts at trial, so that the decision made by the judge in this case does not cause any party to be harmed as a consequence of their respective actions.

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