The existence of serial marriage on the position of children in the issuance of birth certificates

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This study examines the issue of the issuance of birth certificates for children resulting from unregistered marriages and knowing how the registration that can be made to bring up civil relations between fathers and children resulting from unregistered marriages at the Department of Population and Civil Registration of Semarang Regency. The research was conducted empirically with a descriptive nature, data obtained from primary and secondary data with qualitative analysis techniques. Based on the results of the research and discussion, it is known that the issuance of the Birth Certificate is carried out in three ways, firstly with a statement of children born out of wedlock with the provisions in the Birth Certificate that only the mother’s name is included. Second, with the Surat Pertanggungjawaban Mutlak (SPTJM) the truth as a married couple applies the provisions in the Birth Certificate to include the names of the father and mother with additional phrases and thirdly for Muslims after recording the marriage at the KUA with the results of the marriage itsbat trial, then the child is made a Birth Certificate so that his status can be directly recognized son of a legal father and mother. Registration that can be made to bring up civil relations between fathers and children as a result of unregistered marriages are carried out in two ways, first if the marriage cannot be registered then the provisions for child recognition are enforced with a statement of child acknowledgment made by the biological father approved by his biological mother without trial. The second is the ratification of the child by registering the unregistered marriages first and then the trial of the ratification of the child.
I. Introduction

Indonesia is a state of law in accordance with the provisions of Article 1 paragraph (3) of the Constitution of the Republic of Indonesia 1945 where all aspects of life in the territory of the Unitary State of the Republic of Indonesia must be based on law. The state is responsible for fulfilling every citizen's rights by performing good public services, good service is service that successfully achieves the established service standards (Moenir, 2008: 47). This aims at the interests and welfare of the people such as meeting their basic needs and civil rights in order to achieve good governance services, Dwiyanto stated that public services have a broad scope, ranging from services related to meeting the needs of public goods, basic rights, government obligations, to national commitments (Dwiyanto, 2010: 2).

According to Law Number 24 of 2013 concerning Amendments to Law Number 23 of 2006 concerning Population Administration, population administration is a series of structuring and regulating activities in the issuance of documents and Population Data through Population Registration, Civil Registration, management of Population Administration information and utilization of the results for public services and development of other sectors. In this case, the Directorate General of Population and Civil Registration of the Ministry of Home Affairs of the Republic of Indonesia through the Population and Civil Registration Service is a government institution as the implementing agency authorized to carry out population registration and civil registration activities as a form of protection, guarantee, legal certainty, recognition of one's personal status, and fair and equal treatment before the law by providing population documents quickly, accurate, complete and free of charge based on laws and policies made. Birth is one of the important events experienced by humans, based on Article 27 paragraph (1) of Law Number 24 of 2013 concerning amendments to Law Number 23 of 2006 concerning Population Administration it is explained that birth must be reported by residents to the local implementing agency no later than 60 days from birth. According to Presidential Regulation Number 96 of 2018 concerning Requirements and Procedures for Population Registration and Civil Registration, the requirements needed for submitting a Birth Certificate are a Birth Certificate, Marriage Book/Marriage Certificate or other valid evidence, KK and KTPel (both parents and both witnesses), the implementing agency will issue a Civil Registration Certificate in the form of a register and Birth Certificate Citation where the register will be stored as an archive at the Population Office and Civil Registration then residents will only receive a Birth Certificate citation.

The Birth Certificate itself, in addition to explaining self-identity, also shows the status of the child’s position in the eyes of the law, generally between the child and both parents is recognized biologically and in civil law because the child is born from a legal marriage. A valid marriage is a marriage that is carried out according to the laws of each religion and recorded according to applicable laws and regulations, based on Article 34 paragraph (4) of Law Number 23 of 2006 concerning Population Administration that marriages for Muslims are registered at the Office of Religious Affairs while marriages for non-Muslims are recorded at the Population and Civil Registration Office as referred to in Article 34 paragraph (1) of Law Number 23 of 2006 concerning Population Administration and Article 2 paragraph (2) of Government Regulation Number 9 of 1975 concerning the
Implementation of Law Number 1 of 1974 concerning Marriage. However, some cases of marriage carried out are only valid religiously or commonly referred to as serial marriages so that legally children born from the results of serial marriages of their parents only have civil relations with the mother and family of the mother. The regulation triggers injustice to children because children are victims of their parents’ legal actions, it is not appropriate for a newborn innocent child to bear the legal consequences of serial marriages carried out by his parents and experience this kind of discrimination.

Serial marriage also causes various other adverse effects for both wives and children because serial marriage itself has no legal certainty and there is no legal evidence that binds both, namely the Marriage Certificate / Marriage Book as authentic evidence that states a marriage is considered to exist causing the absence of rights and obligations arising between husband and wife and children, Therefore their constitutional rights such as the right to claim a husband’s obligation to provide physical and mental support and expenses for maintaining and caring for children cannot be exercised, when the husband neglects his obligations as head of the family and father then the wife cannot sue him before the court. Not to mention the negative stigma in the midst of society towards children resulting from serial marriages will cause social-psychological burdens for the children themselves.

2. Research Method

This type of research is empirical research, observable by the human senses. Empirical Research is a study that uses empirical facts taken from human behavior, both verbally obtained from interviews and real behavior carried out through direct observation, so that others can observe and know the methods used. Systematic means that the process used in the study uses certain steps that are logical (Samsu, S.M. 2017: 2). This research was conducted at the Population and Civil Registration Office of Sragen Regency. The data sources used in this study are primary data and secondary data. The data analysis technique used is data reduction efforts for strict selection of data, summaries or brief descriptions, and classifying them into broader patterns (Rijali, 2018: 91), data presentation is an activity when a set of information is arranged, thus providing the possibility of drawing conclusions and taking action. A form of presentation of qualitative data, research that produces findings that cannot be achieved using statistical procedures or other means of quantification (measurement) (Strauss and Corbin, J, 1988: 24).

3. Results and Discussion

The process of issuing birth certificates of children resulting from serial marriages at the Office is carried out using three alternative methods for three different cases that often occur in the Semarang Regency Dukcapil Office. The first case if the child is born without or after a marriage carried out by both parents is religiously valid, then at the time of submitting the application for a Birth Certificate cannot attach one of the conditions, namely the Marriage Book or Marriage Certificate and the Family Card does not show the relationship status as husband and wife. The legal consequence arising from children born from serial marriages carried out by their parents is that there is no civil relationship
between father and child so that in addition to constitutional rights between father and child cannot be fulfilled, this also has an impact on the status of the child's position on the Birth Certificate will be issued as a mother's child only, then when submitting a birth certificate application an attachment is added to the statement letter of the child born out of wedlock which contains that willing for his child to be recorded on his Birth Certificate with the status of a mother’s child signed by his biological mother. The implementation of recording Birth Certificate applications for children born without or after serial marriage carried out by both parents and Family Cards that do not show the relationship as a married couple are only recorded as children of a mother but children still have a civil relationship with their father but cannot be directly implemented into the Birth Certificate because they must be proven by supporting data based on science and technology or evidence. Another lawful that can prove a child is related by blood to his father.

The second case is if the child is born after the marriage carried out by both parents is religiously valid and thus cannot attach the Marriage Book or Marriage Certificate of both parents at the time of submitting the application for a Birth Certificate but in the Family Card the name of the child who has obtained a National Identity Number (NIK) has been listed and in the parent column the names of the mother's father and both parents have shown the status of the husband and wife relationship or marriage has not yet Recorded. Based on the information provided that this happened because of ancient policies that allowed for a child to be included in the Family Card first without the attachment of a Marriage Certificate or Marriage Book only gave oral information that had been married before the Birth Certificate was made, this could happen because ancient marriages were mostly not recorded properly, meaning that documents or archives had not been arranged so that they occurred loss of marriage documents or records, in contrast to the current policy where Semarang Regency itself applies a policy if a child born in the current year and the previous two years (2022, 2021, 2020) applies the 3in1 program in the process of applying for the issuance of a Birth Certificate, where the child is made a Birth Certificate as well as inserted into the Family Card and made a NIK while children born in 2010 and below cannot be done for the 3in1 program Therefore, the child must be included in the Family Card first after the Family Card is issued and then re-apply for a Birth Certificate application so that this procedure is mostly intended for adult children. In the application for a Birth Certificate because the parents cannot show the requirements for a Marriage Certificate or Marriage Book, the requirement can be replaced with a Statement of Absolute Responsibility (SPTJM) as a married couple to be issued a Birth Certificate document with the addition of the phrase that the marriage has not been registered. The legal basis for the implementation of SPTJM truth as a married couple is based on the provisions of the Minister of Home Affairs Regulation Number 9 of 2016 concerning the Acceleration of Increasing the Coverage of Birth Certificate Ownership which was later strengthened by Presidential Regulation Number 96 of 2018 concerning Requirements and Procedures for Population Registration and Civil Registration with the aim that married couples who will apply for a Birth Certificate of their children do not experience difficulties in terms of complete the requirements set, one of which is a Marriage Certificate / Marriage Book so that a child born from a serial marriage also gets the same rights as other children, namely obtaining legal certainty by having a Birth Certificate as his identity right.
4. Conclusion

The process of issuing birth certificates of children from serial marriages at the Population and Civil Registration Office of Sragen Regency was carried out in three alternative ways for three different cases. Recording that can be done to bring up civil relations between father and son resulting from serial marriages at the Sragen Regency Population and Civil Registration Office is carried out in two ways. First with the recognition of the child and the second with the submission of a child legality application which can only be done with the results of court determinations both District Courts and Religious Courts which begin with the registration of the marriage first.

References