

The annulment of polygamous marriages due to identity fraud in Aceh

Muhammad Farid, Teuku Saiful, Suhaimi

Department of Law, Syiah Kuala University, Banda Aceh, Aceh, Indonesia

Abstract

Article 24 of Law Number 1 of 1974 concerning Marriage states that one reason for annulment of a marriage is if a husband or wife still bound by a marriage contract enters another marriage without the consent and knowledge of the other party. This notion is also found in Article 71 of Presidential Instruction Number 1 of 1991 concerning the Compilation of Islamic Law, which mentions that a marriage can be annulled if a husband engages in polygamy without the permission of the Religious Court. Initial research findings indicate that there are still husbands engaging in polygamous marriages accompanied by identity fraud, resulting in cases of Annulment polygamous marriages in the legal jurisdiction of Aceh Province. This was discovered after conducting research in several Sharia courts in the areas of Aceh Besar, Banda Aceh, and Sigli, where there was 1 case in the Sharia Court of Aceh Besar, 5 cases in the Sharia Court of Banda Aceh, and 3 instances in the Sharia Court of Sigli from 2019 to 2022. This study aims to explain and analyze the process of Annulment of polygamous marriages due to identity fraud in Aceh, the consequences of such marriages, and the forms of sanctions and efforts to prevent cases of Annulment of polygamous marriages due to identity fraud in Aceh. This study is a type of empirical juridical research. Data for this study, in addition to secondary data, were obtained directly from respondents and informants through field research. The research results show that the process of Annulment of polygamous marriages due to identity fraud in Aceh includes stages from trial in Sharia courts to appeal and cassation. These stages follow a process like divorce proceedings, but Annulment polygamous marriages due to identity fraud exclude the mediation requirement. The legal consequences of the Annulment of polygamous marriages due to identity fraud include nullification of the marriage under the law and implications for the relationship between parents and children as stipulated in Article 45 of the Marriage Law and Article 75 of the Compilation of Islamic Law. Sanctions against perpetrators of identity fraud apply only if there is a complaint from the aggrieved party. Prevention efforts can include rechecking administrative requirements by authorized officials to minimize document errors in marriage processes. It is recommended that parties seeking to annul marriages carefully prepare case files to meet formal requirements and that law enforcement agencies advocate the community on divorce and annulment proceedings. Parties receiving court decisions are advised to comply with the verdict to prevent further annulment cases. Relevant parties, institutions, and law enforcement agencies should meticulously follow procedures stipulated by laws and regulations.

Keywords: Annulment of marriage, polygamy, identity fraud

Introduction

According to Article 1 of Law Number 1 of 1974 concerning Marriage (Marriage Law), marriage is "a sacred bond between a man and a woman as husband and wife aimed at forming a happy and everlasting family (household) based on the belief in the Almighty God."

Every married couple always desires their marriage to occur only once in their lifetime. This is reflected in Article 3, paragraph (1) of the Marriage Law, which states that fundamentally, a man should only have one wife, and a woman should only have one husband.

Marriage is frequently discussed because it is a continually relevant and exciting issue. Marriage involves the fundamental nature and human aspirations and touches upon esteemed and central institutions, namely the household. This esteemed institution serves as a stronghold for defending human dignity and a place for nurturing noble moral values.

Marriage is a relationship intended to last a lifetime, but this does not mean such relationships can avoid occurrences that lead to their dissolution. Dissolution of marriage is a legal term commonly used in the Marriage Law to describe the termination of the marital relationship between a man and a woman who has been husband and wife during their lifetime. In other words, the dissolution of marriage in

society is often called divorce. However, in reality, relationships between men and women bound in marriage do not always proceed according to the intentions or desires of lawmakers, namely, to establish a happy and everlasting family (household) based on the belief in the Almighty God. One example of this is through the annulment of marriage.

Article 27 paragraph 3 of the Marriage Law, in conjunction with Article 72 paragraph 3 of the Compilation of Islamic Law, states that if the guilty party realizes their mistake and, within 6 months after that, continues to live as husband and wife without exercising their right to file for annulment, then their right to declare the annulment of the marriage may be forfeited.

On the other hand, if conditions stipulate that a husband may have more than one wife in marriage and these conditions are not met, the newly married couple may file for annulment in the Court within the jurisdiction where the marriage occurred or where the husband and wife reside.

This is elaborated in Article 24 of the Marriage Law, which lists among the reasons for annulment of marriage if a husband or wife who is still bound by marriage enters another marriage without the consent and knowledge of the other party. This concept is also found in Article 71 of Presidential Instruction Number 1 of 1991 concerning the Compilation of Islamic Law, which states that a marriage

can be annulled if a husband engages in polygamy without the permission of the Religious Court.

The Marriage Law fundamentally adheres to the principle of monogamy as stated in Article 3, paragraph (1) of the Marriage Law, which says, "Fundamentally, in a marriage, a man should only have one wife, and a woman should only have one husband."

According to Prof. Wahyono Darmabrata, the principle of monogamy in the Marriage Law is not absolute because, under specific reasons and conditions, the law allows a husband to have more than one wife. The possibility for a husband to have more than one wife is affirmed in Article 3, paragraph (2) of the Marriage Law, which states, "The court may grant permission to a husband to have more than one wife if desired by the authorized party." Annulment of marriage due to identity fraud under Islamic law is not in line with the concept of annulment due to identity fraud as it is not one of the reasons permitted for annulment of marriage. However, marriage annulment can still be pursued on grounds where maintaining the marriage would cause harm to the household of the husband and wife. This is by the concept of annulment of marriage mentioned in Surah Al-Baqarah verse 231, as well as Article 27 of the Marriage Law and Article 72 of the Compilation of Islamic Law. Initial research findings indicate that there are several cases of annulment of polygamous marriages in the legal jurisdiction of Aceh Province. This was discovered after conducting research in several Sharia courts in the areas of Aceh Besar, Banda Aceh, and Sigli, where there was 1 case in the Sharia Court of Aceh Besar, 5 cases in the Sharia Court of Banda Aceh, and 3 instances in the Sharia Court of Sigli from 2019 to 2022.

With the issues described above, this research is conducted to further understand the legal consequences of annulment of polygamous marriages due to identity fraud, the resolution of such annulment cases, and whether they comply with applicable regulations. Therefore, this theme is chosen as the subject of investigation in this thesis, "The Annulment of Polygamous Marriages Due to Identity Fraud in Aceh."

Method

The research method used in this study employs empirical juridical research, also known to the public as empirical legal research or an empirical approach to law. This approach involves analyzing and examining societal phenomena in depth so that such events can be thoroughly understood and resolved.

Discussion

Analyze the annulment of polygamous marriages due to identity fraud in Aceh

A. Process of annulment of polygamous marriage due to identity fraud in Aceh

The annulment of the marriage process begins with the registration stage, followed by the examination of the completeness of the lawsuit. Next, the judge's appointment and the selection of a deputy clerk are conducted. This is followed by a preliminary examination, determination of trial dates, summoning of parties, further trial examination, reconciliation, presentation of evidence, and concludes with a verdict.

The case with file number 381/Pdt.G/2022/MS.Bna regarding the annulment of a polygamous marriage due to

identity fraud has progressed to the cassation stage. Initially, lawsuit number 381/Pdt.G/2022/MS.Bna was filed by Fulan bin Amir and Fulin binti Aminah against Nada binti Joko for the annulment of marriage at the Sharia Court of Banda Aceh, citing the following principal grounds

1. Based on the Letter from the Office of Religious Affairs (KUA) of Jaya Baru Subdistrict, Banda Aceh City, Number: B-262/Kua.01.07.08/Pw.01/10/2022 dated October 14, 2022, regarding the Clarification of Marriage between Fulan bin Amir and Fulin binti Aminah (Respondents), who were married on Friday, 27 Sya'ban 1429 Hijriah / August 29, 2008 AD, submitted to the ARZ & Friends Law firm as Legal Counsel for the Applicants, stating
 - a. The couple as mentioned above had previously married and were registered at the KUA of Jaya Baru Subdistrict, Banda Aceh City, on August 29, 2008, with the prospective husband being a widower as per the Death Certificate issued by the Village Chief of Ulee Pata with Number: 470/339/2008;
 - b. The physical file at the KUA of Jaya Baru Subdistrict, Banda Aceh City, had been damaged by termites, with only a certified Marriage Certificate remaining, Number: 137/24/VIII/2008;
2. It was discovered that before his marriage, Fulan bin Amir was still legally married (he had not divorced Fulin binti Aminah, and she was alive at the time this petition was submitted), whereas the Respondent was a widow and a Civil Servant;
3. From this marriage, a son named Johan bin Fulan was born as per Birth Certificate No. 477/1789/Ist/CS/1998 issued in Sigli by the District Civil Registry Office Tk. II Pidie;
4. Fulan bin Amir passed away on October 8, 2019, based on Death Certificate No. 2664/474.3/X-IPJ/2019, signed by Dr. H. Taufik Suryadi, Sp. F(K), Dipi.BE on behalf of the Director of Zainoel Abidin Regional General Hospital on October 10, 2019, and Death Certificate No. 1171-KM-17102019-0004 issued by the Population and Civil Registration Service on October 17, 2019;
5. The marriage between the late Fulan bin Amir and the Respondent violated the provisions of Marriage Law Number 1 of 1974, Compilation of Islamic Law, and Government Regulation Number 45 of 1990 concerning Amendments to Government Regulation Number 10 of 1983 regarding Marriage and Divorce Permits for Civil Servants;

Based on the description above, it is evident that Fraud and Use of False Documents/Data Elements were committed by the late Fulan bin Amir and the Respondent. The Applicants, as legitimate wives and children, feel morally and materially aggrieved and unwilling to accept the actions and behavior of the late Fulan bin Amir and the Respondent. Based on the main grounds of the case, in the process of resolving case number 381/Pdt.G/2022/MS.Bna, the Applicants and Respondents appeared in court, and the panel of judges examined the power of attorney documents submitted by the Respondent. It declared that the power of attorney met the requirements and was acceptable. The panel of judges also attempted reconciliation between the Applicants and the Respondent but was unsuccessful.

The annulment of marriage cases conducted at the Sharia Court of Banda Aceh, Sharia Court of Jantho, and Sharia Court of Sigli proceeded with a process not significantly different from divorce cases. However, in the case of the annulment of a polygamous marriage due to identity fraud, the settlement process is exempted from the obligation of mediation as stipulated in Article 4 paragraph (2) point 4 of the Supreme Court Regulation of the Republic of Indonesia Number 1 of 2016 concerning Mediation Procedures in Courts. Therefore, mediation procedures were not pursued in this case.

B. Legal consequences of the annulment of polygamous marriages due to identity fraud in Aceh

Regarding the legal consequences of marriage annulment, we need to carefully examine the issues related to the effective date of the annulment as stipulated in Article 28, paragraphs (1) and (2) of the Marriage Law and Articles 75 and 76 of the Compilation of Islamic Law. The annulment of marriage not only affects the dissolution of the relationship between husband and wife after the court's decision has legal force but also has consequences starting when the marriage took place.

The annulment of marriage also brings legal consequences for children born within the marriage and for the spouse who acted in good faith, except regarding shared property if the annulment is based on the existence of a prior marriage. Furthermore, this applies to third parties who acquired rights in good faith before the annulment decision obtained legal force.

In this section, to provide an overview of the legal consequences of the annulment of polygamous marriages due to identity fraud, several cases from Sharia Courts in Aceh, including Banda Aceh Sharia Court, Jantho Sharia Court, and Sigli Sharia Court, will be presented. The field research and interviews conducted with respondents in this thesis research will be discussed.

Based on field research and interviews conducted in the jurisdiction of the Banda Aceh Sharia Court from 2019 to 2022, cases of annulment of polygamous marriages due to identity fraud were found. In the ruling number 381/Pdt.G/2022/MS.Bna, the legal consequences of annulment of a polygamous marriage due to identity fraud can be outlined as follows:

1. The petitioners' application is declared inadmissible;
2. The petitioners are ordered to pay court fees of IDR 275,000 (two hundred seventy-five thousand rupiahs).

After the panel of judges adjudicated and decided the case based on the ruling number 381/Pdt.G/2022/MS.Bna, the petitioners, and respondents appealed by filing an appeal case number 14/Pdt.G/2023/MS.Aceh. After the appeal process, the panel of judges issued a ruling that had legal consequences for the parties involved:

1. The appeal is declared admissible;
2. The ruling of the Banda Aceh Sharia Court number 381/Pdt.G/2022/MS.Bna is upheld;
3. The appellant must pay the appeal court fees of IDR 150,000 (one hundred fifty thousand rupiahs).

The appeal ruling number is 14/Pdt.G/2023/MS.Aceh issued by the Aceh Sharia Court was deemed insufficient in providing justice for the parties involved, leading them to bring the case to the next level: cassation.

During the process, the cassation petitioners submitted a cassation request numbered 887 K/Ag/2023 along with relevant documents to the court to obtain a ruling. The panel of judges adjudicated the case at the cassation level. After the petitioners submitted all the files and documents related to the case, the judges issued a ruling numbered 887 K/Ag/2023, which essentially states

1. The panel of judges rejected the cassation request from the petitioners.
2. The petitioners must pay court fees at the cassation level of IDR 500,000 (five hundred thousand rupiahs).

Based on this decision, it can be assessed that there are no legal consequences resulting from the case, as the ruling states that the panel of judges rejected the cassation request from the petitioners.

Furthermore, in Decision Number 24/Pdt.G/2020/MS.Bna between the petitioner and the respondents at the Banda Aceh Sharia Court, which examined and adjudicated a specific case at the first level, the court adjudicated and issued a marriage annulment decision filed by the petitioner against the respondents. In this case, the Banda Aceh Sharia Court issued a ruling which essentially states:

Declares that Respondents I and II, who have been legally and adequately summoned, did not appear at the hearing

1. Grants the petitioner's request by default;
2. Annuls the marriage between the petitioner and Respondent I, which was conducted and recorded at the Office of Religious Affairs of the Baiturrahman Subdistrict, Banda Aceh City, under Marriage Certificate Excerpt Number 210/014/IX/2019;
3. Declares that Marriage Certificate Excerpt Number 210/014/IX/2019 issued by the Office of Religious Affairs of the Baiturrahman Subdistrict, Banda Aceh City, has no legal force;
4. Orders Respondent II (Head of the Office of Religious Affairs of the Baiturrahman Subdistrict, Banda Aceh City) to remove the marriage between the petitioner and Respondent I, conducted on September 11, 2019, from the register of the Office of Religious Affairs of the Baiturrahman Subdistrict, Banda Aceh City;
5. Imposes court fees on the petitioner amounting to IDR 850,000 (eight hundred fifty thousand rupiahs).

Based on this decision, the legal consequences resulting from the case include the annulment of the marriage between the petitioner and Respondent I, as the ruling states that the panel of judges granted the petitioner's request by default. Furthermore, the marriage certificate excerpt issued by the Office of Religious Affairs was declared to have no legal force. Respondent II was ordered to remove the marriage from the Office of Religious Affairs register.

Furthermore, in Decision Number 99/Pdt.G/2019/MS.Bna between the petitioner and the respondents at the Banda Aceh Sharia Court, which examined and adjudicated a specific case at the first level, the court adjudicated and issued a marriage annulment decision filed by the petitioner against the respondents. In this case, the Banda Aceh Sharia Court issued a ruling which essentially states:

1. Partially grants the petitioner's request;
2. Annuls the marriage between the petitioner and the respondent, which took place on March 2, 2019, and was recorded at the Office of Religious Affairs of the Syiah Kuala Subdistrict, Banda Aceh City;

3. Declares that Marriage Certificate Excerpt Number: 0044/0002/III/2019 dated 2nd of March 2019, issued by the Office of Religious Affairs of the Syiah Kuala Subdistrict, Banda Aceh City, has no legal force;
4. Rejects the petitioner's request beyond what was granted;
5. Orders the petitioner to pay court fees of IDR 696,000 (six hundred ninety-six thousand rupiahs).

Based on this decision, it can be assessed that the legal consequence of the case is the annulment of the marriage between the petitioner and the respondent, as the ruling states that the panel of judges partially granted the petitioner's request. Furthermore, the marriage certificate excerpt issued by the Office of Religious Affairs was declared to have no legal force.

However, in this case, the panel of judges rejected part of the petitioner's request because the judges' legal consideration stated that the Sharia Court does not have the authority to order the Office of Religious Affairs of the Syiah Kuala Subdistrict, Banda Aceh City, to remove the marriage between the petitioner and the respondent from its register, as this is an administrative (procedural) action that applies within the respective agency.

Additionally, in Decision Number 58/Pdt.G/2022/MS.Bna at the Banda Aceh Sharia Court, which examined and adjudicated a specific case at the first level, adjudicated and issued a marriage annulment decision filed by the petitioners against the respondents. In this case, the Banda Aceh Sharia Court issued a marriage annulment decision which essentially states:

1. Declares the petitioners' request inadmissible (Niet Onvankelijk verklaard);
2. Orders the petitioners to pay all costs incurred in this case amounting to IDR 2,134,000 (two million one hundred thirty-four thousand rupiahs).

After the panel of judges adjudicated and decided the case based on Decision Number 58/Pdt.G/2022/MS.Bna, the petitioners, and the respondents filed an appeal with case number 86/Pdt.G/2022/MS.Aceh. After the appeal process, the panel of judges reviewed the case files and documents related to the appeal case after the appellants filed the appeal.

Furthermore, the panel of judges provided legal considerations for the case and then issued a decision on the appeal submitted by the appellants, which are as follows:

1. Accepts the appeal request from the appellants;
2. Annuls the Banda Aceh Sharia Court Decision Number 58/Pdt.G/2022/MS.Bna and adjudicates independently:

In the exception:

1. The panel of judges rejects the respondent's exception.

In the main case:

1. The panel of judges rejects the petitioners' request and orders the petitioners to pay the first-level court fees amounting to IDR 2,134,000 (two million one hundred thirty-four thousand rupiahs).
2. Orders the appellants to pay the appeal court fees of IDR 150,000 (one hundred fifty thousand rupiahs).

Based on this decision, it can be assessed that there are no legal consequences resulting from the case, as the ruling

states that the panel of judges rejected the appeal request from the petitioners.

C. Forms of sanctions and prevention efforts against the annulment of polygamous marriages due to identity fraud in Aceh

From the results of research and interviews conducted with respondents related to marriage annulment cases handled at the Banda Aceh Sharia Court, Jantho Sharia Court, and Sigli Sharia Court, the following prevention efforts against the annulment of polygamous marriages due to identity fraud in Aceh can be described:

Officials responsible for managing and conducting marriages, in this case, the Office of Religious Affairs (KUA), must be more meticulous in supervising the process before the marriage contract is undertaken. Marriage annulment cases occur due to the lack of proper supervision from the family and the authorities, allowing the marriage to proceed despite subsequent violations of marriage laws or *munakahat* law.

The village head or authorized officials must carry out the registration of identity information to obtain complete information from both the bride and groom. The information provided by the prospective spouses must be accurate, complete, and factual to ensure that the parties' marital status (whether single or already married) is correctly recorded, thereby preventing cases of mistaken identity due to identity fraud. Village heads and village officials manage documents for the parties before the marriage. They must perform their duties and functions more carefully to avoid document errors, thereby minimizing future marriage annulment cases.

The responsible officials rechecked the administrative requirements for a marriage to minimize document errors in the marriage process that could result in annulment cases.

Sanctions for identity fraud in polygamous marriages can include criminal penalties if reported by the relevant parties. Those found guilty of falsifying marriage certificates or related documents are committing a criminal offense. Article 263 of the Indonesian Criminal Code states that the perpetrator can be sentenced to 6 years.

Conclusion

1. The process for annulling polygamous marriages due to identity fraud in Aceh follows the same procedures as divorce cases. However, in cases of polygamous marriage annulment due to identity fraud, the panel of judges considers these cases as exceptions to the mediation requirement. Thus, mediation procedures are not followed. Out of the 9 annulment cases identified at the Banda Aceh Sharia Court, Jantho Sharia Court, and Sigli Sharia Court, one case reached the cassation stage, one reached the appeal stage, one case was rejected, and one case was deemed inadmissible.
2. Five cases submitted to the Banda Aceh Sharia Court, Jantho Sharia Court, and Sigli Sharia Court did not result in any legal consequences after the courts issued final and binding decisions. Additionally, four cases in each of these Sharia courts resulted in legal consequences after the courts issued final and binding decisions. After the final court decision was issued, the legal implications of annulment cases also affected the parties (husband and wife). Furthermore, annulled marriages will not receive a divorce certificate but only

a court decision stating that the marriage has been annulled.

3. Sanctions for identity fraud in polygamous marriages can include criminal penalties if reported by the relevant parties. Rechecking the administrative requirements for marriage by the responsible officials is necessary to prevent such cases from occurring again to minimize document errors in the marriage process.

References

1. Asikin Zainal, Pengantar Tata Hukum Indonesia, Rajawali Press, Jakarta, 2012.
2. Asri Wijayanti, Hukum Ketenagakerjaan Pasca Reformasi, Jakarta. Sinar Grafika, 2009.
3. Bakri A. Rahman dan Ahmad Sukardja, Hukum Menurut Islam, UUP dan Hukum Perdata/BW (Burgelijk Wetboek), Jakarta: Hidayah Karya Agung, 1981.
4. Domunikus Rato, Filsafat Hukum; Suatu Pengantar Mencari, Menemukan dan Memahami Hukum, (Yogyakarta: Laksbang Pressindo, 2010).
5. Dyah Ochtorina Susanti dan A'an Efendi, Penelitian Hukum, (legal research), Sinar Grafika, Jakarta, 2014.
6. Hans Kelsen, Teori Umum tentang Hukum dan Negara, PT. Raja Grafindo Persada, Bandung, 2006.
7. _____, Teori Hukum Murni, Nusamedia, Bandung, 2008.
8. H. Ridwan Syahrani, Kata-Kata Kunci Mempelajari Ilmu Hukum, PT. Alumni, Bandung, 2009.
9. Ibnu Manzur, Lisan al-Arab Juz III, Dar Al-Fikr, Qatar, 1994.
10. Koesnadi Hardjasoemantri, Hukum Tata Lingkungan, (Yogyakarta: Gajah Mada University Press) 1988.
11. Lawrence M. Friedman, Sistem Hukum: Perspektif Ilmu Sosial, Penerjemah M. KHOZIM, (Bandung: Penerbit Nusa Media, 2009).