



Restoration of Rights Against Marriage Annulment Due to Falsification of Identity

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Abstract. The annulment of marriages due to identity fraud can be a serious issue in the context of family law. Women often become victims of such actions, resulting in them losing rights that they should rightfully have in the marriage. The annulment of marriage is governed by Articles 22 to 28 of Law Number 1 of 1974 concerning Marriage ("Marriage Law") and is further regulated in its implementing regulations, namely Articles 37 and 38 of Government Regulation Number 9 of 1975 concerning the Implementation of Law Number 1 of 1974 concerning Marriage ("Marriage Regulations"). Article 22 of the Marriage Law states that a marriage can be annulled if the parties do not meet the requirements for a valid marriage. The court with jurisdiction to annul the marriage is the court whose jurisdiction covers the place where the marriage took place or the residence of the husband and wife, the husband's residence, or the wife's residence. This research will utilize a Normative method, which involves examining the existing legal system to protect women who fall victim to identity fraud in marriage. The legal system must provide guarantees for women to be able to file for the annulment of the marriage or legal action against the party responsible for the identity fraud. Furthermore, the research will propose concrete steps that can be taken to restore the rights of women who have fallen victim to identity fraud. This includes improvements in the marriage process to reduce the risk of identity fraud, raising awareness of this issue in society, and strengthening legal mechanisms to ensure justice for victims. Identity fraud in marriage can pose a serious threat to women's rights. The restoration of women's rights should be a primary concern in efforts to combat identity fraud. With the right steps, we can build a stronger legal system to protect women from such crimes and ensure that their rights are restored fairly and appropriately.

Keywords: Rights Restoration, Marriage Annulment, Identity Fraud.

1 Introduction

Rights recovery is the process of reinstating and ensuring that an individual or a group that has experienced rights violations, injustice, or discrimination can regain the rights

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that rightfully belong to them. This process involves steps to address the negative consequences of rights violations and ensure that victims receive adequate protection, justice, and equal treatment. As stated in Article 28D, Paragraph (1) of the 1945 Constitution of the Republic of Indonesia: "Every person has the right to recognition, guarantees, protection, and fair legal certainty, as well as equal treatment before the law." The concept of rights recovery can encompass various aspects depending on the context of the case and the type of rights violation that has occurred. It may also involve compensating victims, either in the form of material restitution or emotional compensation. Furthermore, rights recovery involves strengthening legal mechanisms and human rights protection systems to prevent similar rights violations in the future.

The primary objective of rights recovery is to restore the dignity, freedom, and justice of rights violation victims. It is also an integral part of efforts to achieve equality, justice, and the fundamental principles of human rights that underlie the principles of a fair and civilized society. In many cases, rights recovery is a critical step in healing the wounds caused by rights violations and building a stronger foundation for peace and harmony in society. Marriage is a legal and social bond between two individuals that is recognized by law, with the purpose of forming a family and acknowledging the rights and obligations between the couple. Article 2, paragraph (2) of Law Number 1 of 1974 concerning Marriage (Marriage Law) stipulates that one of the valid requirements for marriage is that it has been recorded according to applicable regulations. Marriage is an institution that varies in different cultures and societies, but fundamentally, the main purpose of marriage is to establish a legal and valid bond between two individuals who love and commit to each other. Marriage can encompass various aspects, including emotional, social, economic, and legal aspects. Emotionally, marriage involves love, affection, and support between husband and wife. Socially, marriage acknowledges the relationship between two families who become connected through the marriage. In many cultures, marriage is also considered a symbol of unity and social stability. Economically, marriage may involve the exchange of property or funds between the families of the bride and groom, and it can have implications for property rights and inheritance. Additionally, marriage entails responsibilities and duties in building and managing a household and in raising and educating children. Marriage is regulated by law in every jurisdiction and country.

Each country has different regulations and procedures for governing marriage and recognizing its legal validity. Some countries require marriages to be registered with government offices or authorized institutions, while others may follow religious marriage systems. Marriage is a fundamental social institution that plays a crucial role in shaping societies and the legal framework governing marriages aims to provide legal protection and recognition for the rights and responsibilities of married couples. Marriage also carries significant legal implications, including the rights and obligations of the spouses in various aspects of life, such as property rights, child custody, inheritance rights, and more. The legal provisions in marriage can vary depending on the civil or religious laws that apply in a particular jurisdiction. Marriage plays a vital role in shaping society and regulating relationships between individuals within it. As a deep and complex institution, marriage also presents challenges and demands that must be faced

by couples committed to living together through the ups and downs of life, sharing responsibilities in building a strong and harmonious family and community. Marriage dissolution is a legal process to formally end the marital bond between two individuals. Another commonly used term for marriage dissolution is divorce. In the process of marriage dissolution, married couples file a petition or lawsuit in court to terminate their marital union. Article 34 of the Marriage Law states, "Divorce is the annulment of a marriage as decided by a court." Divorce can occur for various reasons, such as incompatibility, irreparable issues, or legal violations committed by one of the parties within the marriage. Divorce proceedings can be a complex and emotionally challenging process, and the legal requirements and procedures may differ from one jurisdiction to another. It is essential to seek legal counsel and guidance when pursuing a divorce to ensure that the rights and interests of both parties are protected and that the process is carried out according to the applicable laws and regulations. In Indonesia, there are still many divorce cases that result from violations of marriage laws, one of which involves falsifying identities for personal gain and advantage. There have been several cases of identity fraud in Sukabumi.

One such case of marriage annulment is recorded at the Religious Court of Cibadak, with the judgment number iv 631/Pdt.G/2020/PA.Cbd granting the annulment request between Defendant I, named Dedi Supriadi, and Defendant II, named Raisa Agustian. The issue revolves around the fact that Defendant I and Defendant II had a marriage ceremony at the Office of Religious Affairs in Kec. Ciemas, Kab. Sukabumi, on October 15, 2017. The marriage was registered under Certificate of Marriage Act Number: 0439/028/X/2017 dated October 16, 2017. During the marriage ceremony, both parties claimed to be unmarried and virgins. However, in reality, Defendant II was still legally married to a person named Maulana and had never gone through a divorce, meaning she was still bound by a valid marriage as per Certificate of Marriage Act Number: 605/15/IX/2013 dated September 12, 2013. With the acknowledgment of Defendant I and Defendant II, the Plaintiff (Jamaluddin) as the Head of the Office of Religious Affairs (KUA) in Kec. Ciemas, Kab. Sukabumi, who conducted and recorded their marriage, genuinely felt deceived and misled by Defendant I and Defendant II. Because the Head of KUA has a legal interest (Legal Standing), Jamaluddin had the authority to file for the annulment of their marriage. The Religious Court of Cibadak ultimately granted the Plaintiff's request with a default judgment because Defendant I and Defendant II did not attend the trial after being officially summoned. The basis for the judgment by the Religious Court of Cibadak was based on the consideration that the marriage between Defendant I and Defendant II was invalid because Defendant II (Raisa) was still married to a person named Maulana. Therefore, the marriage between Defendant I and Defendant II violated the provisions of Law Number 16 of 2019 concerning Marriage, leading to the annulment of their marriage. The reasons and requirements for marriage annulment may vary depending on the legal jurisdiction in a particular region. During the marriage annulment process, the court will consider the evidence and arguments presented by both parties to reach a fair and legally-based decision. The court's decision will determine the annulment of the marriage and establish the rights and obligations of the spouses after the divorce, such as property division, child custody, and financial support. Marriage annulment can have significant social and emotional impacts on the

involved spouses, as well as on the families and children associated with the marital bond. Therefore, the marriage annulment process should be carried out with wisdom and attention to the wellbeing of all parties involved, with the hope of achieving a fair and equitable solution for everyone engaged in the process.

2 Research Methods

Normative research method is one of the research approaches aimed at analyzing and interpreting legal norms or regulations within a legal system. Normative research focuses on the collection and analysis of data from written sources such as laws, regulations, court decisions, legal documents, and other legal literature. The primary objective of the normative research method is to comprehend, interpret, and delve into a deeper understanding of the applicable legal norms and how these norms can be applied in specific cases or situations. The following is a detailed explanation of the normative research method: 1. Data Sources: The normative research method relies on data from various written sources related to law and regulations. The primary data sources include laws, regulations, constitutions, court decisions, legal documents, and legal literature such as journals, books, and legal articles. 2. Document Analysis: Researchers will conduct in-depth analysis of relevant legal documents for the research topic.

This involves reading, understanding, and interpreting the content of these documents to gain a comprehensive understanding of the applicable legal norms. 3. Identification of Legal Norms and Principles: Researchers will identify legal norms, legal principles, and rules present in the analyzed documents. This helps in understanding the legal foundation underlying legal decisions and actions. 4. Application of Law in Specific Cases: The normative research method also encompasses the application of legal norms found in legal documents to specific situations or cases. Researchers will attempt to find solutions or recommendations based on the applicable legal principles. 5. Critical Analysis: Researchers critically analyze existing legal norms, identifying weaknesses or deficiencies, and presenting meaningful arguments or perspectives based on in-depth interpretation and understanding. 6. In the preparation of this research, the author employed several approaches to obtain the necessary data in the research process: iv a. Comparative Approach: In some cases, normative research may employ a comparative approach to compare legal norms from different countries or jurisdictions to discover similarities, differences, or best legal practices. b. Historical Approach: The historical approach can also be used to trace the development of law from the past to the present, helping to understand the evolution of existing legal norms. c. Legislative Approach: In this research, a legislative approach and relevant theoretical approaches are used that are applicable to the legal issues under study. d. Case Approach: This approach is utilized to understand issues related to specific cases and the application of norms or regulations that are enforced. e. Conceptual Approach: In this context, a conceptual approach is also used to identify and comprehend legal doctrines within the field of law. Normative research methods are often employed in the field of law to analyze and interpret written laws. However, normative research can also be used in other fields that require an analysis of specific norms, regulations, and rules. It's

important to recognize that normative research is theoretical in nature and does not involve the collection of primary data through observational or interview methods, as is the case with empirical research methods.

3 Research Finding and Discussion

The legal consequences of marriage annulment due to identity fraud can be complex and may have significant legal implications. Identity fraud involves the use of false or misleading information to gain advantages or specific outcomes. The legal consequences of such a marriage annulment can vary significantly depending on the jurisdiction and laws of a particular country, but some important aspects can be identified. Firstly, the annulment of the marriage may be a direct result of the act of identity fraud. This can affect the legal status of the marriage, deeming it invalid and nullifying the rights and obligations that typically arise from such a union. Both parties involved are likely to be notified of this annulment through the appropriate legal process. Furthermore, the individual who engaged in identity fraud may face legal consequences. In many jurisdictions, identity fraud can be considered a criminal offense, and the perpetrator may be subject to fines or imprisonment, depending on the severity of the offense and the applicable laws. These sanctions are intended to minimize the practice of identity fraud and protect the integrity of the legal system. Other consequences may be related to the rights of children. If there are children involved in the marriage, the annulment of the marriage can impact the children's rights to custody, education, and inheritance. Family law and child rights will guide how these rights are regulated and protected in the context of marriage annulment. In addition to legal impacts, the annulment of a marriage due to identity fraud can also have serious financial and emotional consequences.

The parties involved may face financial losses due to legal costs and changes in future plans. On the other hand, emotional consequences can also be significant because personal aspects and relationships are involved. In conclusion, the legal consequences of marriage annulment due to identity fraud include the annulment of the marriage's validity, criminal consequences for the perpetrator of the fraud, changes in children's rights, as well as potential financial and emotional impacts on the parties involved. It's important to remember that situations like these need to be handled carefully and guided by legal professionals who are competent in family law and marriage matters.

iv 2.2 Legal Certainty in Restoring Rights from Annulled Marriages Legal certainty is an important legal principle in the context of restoring rights from annulled marriages. This principle emphasizes the need for clear, stable, and consistent legal provisions to ensure the rights and obligations of all parties involved in the process of recovering rights after a marriage is annulled. Legal certainty provides clarity about what is expected from the legal system and how rights and obligations will be enforced in cases of marriage annulment.

1. The rights of husband and wife, as stipulated in Article 1 of Presidential Decree No. 1 of 1991, are as follows:
 1. The husband is obligated to provide a reasonable mut'ah (gift or financial support) to his former wife, whether in the form of money or property.
 2. The husband is obligated to provide maintenance (nafkah) for his former

wife. 2. The rights of children.: 1) The right to know one's origin: In situations where a marriage is annulled due to identity fraud, children still have the right to know their origin. This right includes the child's access to information about their family identity and background, including their biological parents. Although the marriage is annulled due to identity fraud, the child's right to know their origin, as part of their personal rights and identity, is usually not affected. This may involve access to relevant information, such as birth records or information about biological parents. This is done to strike a balance between the child's interests and the protection of their rights with considerations for family privacy and information security.

Therefore, it is important to consult with legal experts knowledgeable in family law and children's rights in the applicable legal jurisdiction. 2) The Right to Maintenance and Education: In situations where a marriage is annulled due to identity fraud, a child has the right to receive adequate maintenance and education. Even if the parents' marriage is annulled, the child's right to receive proper care and education is recognized as part of their human rights. The child's right to maintenance includes access to basic necessities such as food, clothing, shelter, and healthcare. Legally recognized parents or guardians still have a responsibility to fulfill these needs, regardless of the annulment of the marriage due to identity fraud. iv 3) The Right to Receive Support: In cases of marriage annulment due to identity fraud, the child's right to receive support is still legally recognized. This support refers to the financial assistance provided to the child by the legally recognized parent or guardian. Even if the marriage is annulled due to identity fraud, the child's right to receive economic support remains unaffected. The identity fraud that led to the annulment of the marriage does not change the child's status as a result of that relationship. The child still retains legal rights related to aspects such as financial support, education, healthcare, and others. The right to receive support is generally enforced to ensure that the child continues to have their basic needs met despite changes in the marital status of their parents. This is aimed at protecting the well-being and development of the child as a top priority. 4) In situations where a marriage is annulled due to identity fraud, a child has the right to receive proper maintenance and education. Even if the parents' marriage is annulled, the child's right to receive adequate care and education is still recognized as part of their human rights. The child's right to maintenance includes access to basic necessities such as food, clothing, shelter, and healthcare. Legally recognized parents or guardians still have the responsibility to fulfill these needs, regardless of the annulment of the marriage due to identity fraud. 5) The Right to Inheritance: In situations where a marriage is annulled due to identity fraud, a child's right to inheritance still holds relevance, especially if there are assets or property involved. However, the legal implications related to inheritance in cases of marriage annulment can vary depending on the jurisdiction where the marriage is annulled and the laws applicable there. 3. Parties who commit identity forgery may be subject to criminal sanctions in accordance with applicable legal provisions. Identity forgery is an act that involves the use of false or misleading information for a specific purpose. In law, parties who commit identity forgery may face criminal sanctions in accordance with the applicable laws in a jurisdiction. Such sanctions may include fines, imprisonment, or a combination of both, depending on the severity of the offense and the impact caused. The purpose of imposing criminal sanctions against identity forgery

is to maintain the integrity of the legal system, protect the public from fraud and financial crime, and provide justice to victims who may be affected by such acts. The law also encourages deterrence by threatening potential offenders with serious consequences. iv 2.3 Legal materials in research, addressing problems requires a precise and planned approach. It is important that the methods used provide accurate insights and recommendations, for example the means in this research are called legal materials. The legal materials used in this research are primary legal materials and secondary legal materials: 1. Primary Legal Materials Primary legal materials are legal materials that have authoritative properties, which means legal materials that have authority. Examples of primary legal materials are laws and regulations, official records or minutes in the making of laws and regulations and judges' decisions. In this study the authors used primary legal materials, namely: a. Undang-Undang Dasar 1945; b. Undang-Undang No1 Tahun 1974 Tentang Perkawinan; c. Undang-Undang No 35 Tahun 2014 Tentang Perubahan Undang-Undang No 23 Tahun 2002 Tentang Perlindungan Anak; d. Undang-Undang No 23 Tahun 2002 Tentang Perlindungan Anak; e. Peraturan Pemerintah No 9 Tahun 1975 Tentang Pelaksanaan Undang-undang Perkawinan; f. Undang-Undang No 23 Tahun 2006 Tentang Administrasi Kependudukan; g. Undang-Undang No 24 Tahun 2013 Perubahan Atas UndangUndang No 23 Tahun 2006 Tentang Administrasi Kependudukan; h. Undang-Undang No. 11 Tahun 2012 Tentang Sistem Peradilan Pidana Anak; i. Kompilasi Hukum Islam (Instruksi Presiden Republik Indonesia j. Putusan Pengadilan Agama Surabaya Nomor 4707/Pdt.G/2017 PA.Sby. 2. Secondary Legal Materials Secondary legal materials are all information or all publications that discuss law in Indonesia, but are not positive law. Secondary legal materials that the author uses are textbooks, journals and previous theses.

4 Conclusion

The purpose of restoring a client's (or victim's) rights against annulment of marriage due to identity forgery is to restore the legal and social rights that the individual should have had before the marriage was annulled. In situations where a marriage is annulled due to identity forgery, the victim may have suffered losses and negative impacts both emotionally and financially. Some of the main objectives of client rights restoration in this context include: 1. Annulment of an invalid marriage: The main objective is to annul the marriage that has occurred due to identity forgery so that the validity of the marriage is no longer recognized in the eyes of the law. This is necessary to provide legal clarity for the client and prevent inappropriate legal claims or liabilities. 2. Legal protection and client rights: The rights restoration process can provide legal protection for clients so that they can regain the rights and benefits they are entitled to as a result of a valid marriage. 3. Restitution and compensation: Clients who are victims of identity forgery may have suffered financial or emotional losses as a result of an annulled marriage. The purpose of restitution is to ensure that clients are able to obtain restitution or compensation for their losses. 4. Restoring social and personal status: The annulment of a marriage due to identity forgery can have a significant social and personal impact

on the client. Restoration of rights aims to help the client return to the social and personal status that a person who has not been subjected to an invalid marriage should have. 5. Preventing similar cases in the future: By taking legal action against identity forgery cases, it is hoped that it will have a deterrent effect and prevent similar incidents from happening to others in the future. The purpose of restoring rights depends on the individual's situation and interests. Each case of identity forgery can be uniquely different, and the purpose of restoration of rights will vary according to the needs and wishes of the client as well as the legal provisions applicable in the relevant country or jurisdiction.

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