

LEGAL ASPECT OF MARRIAGE REGISTRATION IN INDONESIA

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ABSTRACT

There are several factors mainly related to cultural values and religion or belief in Indonesia, which constrain the implementation of the registration of marriages. Therefore, the role of the sociology of law as a discipline of science are particularly relevant to analyze the relationship between the rules of positive law governing the registration of marriages liabilities with the values that live and thrive in Indonesian society. For those who do marriage according to Islam, the registration of marriages performed in the District Religious Affairs Office, while those Christians (Catholic and Protestant), Buddhist and Hindu paint of do in the Civil Registry Office. The methodology of this paper is normative. The conclusion is: First, before the marriage took place, as the Indonesian Government Regulation No. 9 of 1975 on the implementation of Indonesian Act Number 1 of 1974 on Marriage; Second, Characteristics of marriage for people who are not Muslims can be seen in the provisions of Article 34 of the Indonesian Act of the Population Administration. Registration of marriage is very important, because it has implications juridical in various aspects as a result of marriage.

Keyword: marriage registration, district religious affairs office, civil registry office

INTRODUCTION

Registration of marriage is very important, because it has implications juridical in various aspects as a result of marriage. but, in Indonesia there are several factors mainly related to cultural values and religion or belief, which constrain the implementation of the registration of marriages. Therefore, the role of the sociology of law as a discipline of science are particularly relevant to analyze the relationship between the rules of positive law governing the registration of marriages liabilities with the values that live and thrive in Indonesian society.

The institution of marriage is the juridical basis which entitles a man and woman to live together in a household. Therefore, in accordance with the legislation in force in Indonesia, then every marriage must be recorded in the state administration. For those who do marriage according to Islam, the registration of marriages performed in the District Religious

Affairs Office, while those Christians (Catholic and Protestant), Buddhist and Hindu paint of do in the Civil Registry Office.

Against marriages performed by adherents of belief in God Almighty, until now there is no clear government policy and firm regarding the registration of marriages. This raises the ambivalence in government policy to require registration of every marriage in the state administration. As a fact it can be argued that even though the Supreme Court of the Republic of

Indonesia in its decision No. 178K / TUN / 1997 on Marriage *Kong Hu Cu*, and the State Administrative Court (Administrative Court) verdict Jakarta in case Number: 024 / G.TUN / 1997 / PTUN. Jkt. stated that the Civil Registry Office is not authorized to refuse registration of marriages faiths, but the fact that to date the Civil Registry Office is not willing to submit to the decision and did not refuse registration of marriages performed by followers of cult.

The fact juridical (*das sollen*) and the fact the real (*das sein*) that became the foundation and also as the basis of thinking (*basic of thinking*) to discuss the sociological phenomenon of the problem of registration of marriages in Indonesia, are:

1. Facts Juridical (*dassollen*), which includes Article 2 paragraph (2) of Act Number 1 of 1974 About marriage (Act Number 1 of 1974 About marriage), which states: "every marriage is recorded according to the laws - laws that apply". Furthermore, in Article 13 of Government Regulation No. 9 of 1975 on Implementation Act - Act No. 1 of 1974 About Marriage (Gouvernmet Regulation Number 9 of 1975) which states: (1) "*Deed* marriage made in duplicate 2 (two), the first strands Employees kept by the Registrar, the second page is stored in the Clerk within the civil registry office was located." (2) "*To* the husband and wife were each given official copies of marriage". Furthermore, in Article 5 and Article 6 Compilation of Islamic Law in Indonesia, also

stated that: To be assured order for Muslims every marriage must be recorded. The registration of marriages in paragraph (1), conducted by the Employee Registrar of Marriage as stipulated in Act Number 22 of 1946 *juncto* Act Number 32 Year 1954. Regulation article 6, which reads, in order to meet the provisions of Article 5, every marriage should held in the presence and under the Employees Registrar marriage carried out surveillance Employees Nikah Registrar does not have the force of law.

2. Real Facts (*dassein*), which is difficult to expect the legal awareness of some communities in Indonesia to have an awareness to carry out the registration of marriages that have been performed.

Based on the description of the background of the above problems, the formulation of the problem in this paper is:

1. What is the procedure for the registration of marriages for non-muslim citizens of Indonesia?
2. How do the characteristics of registration of marriages registered by the Civil Registration Officer?

DISCUSSION

In December 2006 has been set Indonesian Act Number 23 of 2006 concerning Population Administration (Law on Civil Registration) which govern the procedures and governance recording important events or civil registration experienced by every citizen of the Republic of Indonesia. Definition of key events in the legislation, contained in Article 1 paragraph 17, namely: the events experienced by a person includes births, deaths, stillbirths, marriages, divorces, recognition of children, legalization of children, adoption, change of name and change of citizenship ,

The marriage registration of citizens who are Muslims, governed by Article 8 of Law Administration that determines that the obligation of implementing agencies for registration of marriage, divorce, divorce, and refer to the Moslem population at district level is done by the District Religious Affairs Office. The provisions of Article 34 of the Indonesian Act of the Population Administration stipulates that:

- (1) Marriage is legal according to the legislation must be reported by the resident to the institution of marriage occurrence of conduct in place no later than 60 (sixty) days from the date of marriage;
- (2) Based on the report referred to in paragraph (1), the Registrar of Civil recorded at the register a marriage certificate and publish kutipatAkata marriage;

- (3) Excerpts marriage certificate as referred to in paragraph (2) respectively awarded to husband and wife;

- (4) Reporting as referred to in paragraph (1) for the Moslem population conducted in the District Office of Religious Affairs;

- (5) Data from the records referred to in paragraph (4) and in Article 8 paragraph (2) shall be submitted by the District KUA to the Executing Agency no later than 10 (ten) days after the registration of marriages performed;

- (6) Results of recording data as referred to in aat (5) does not require the issuance of official copies of civil registration;

- (7) At the district level report referred to in paragraph (1) conducted at UPTD implementing agencies.

Elucidation of Article 34 Paragraph (1) explains that the definition of marriage is an inner and outer bond between a man and a woman as husband and wife in accordance with the statutory provisions. This may imply that the marriage is valid for the citizen of Islamic religion is a marriage conducted according to Islamic religious law as defined in Article 2 (1) of the Marriage Law. The next explanation is marriage for muslim population recorded by the District Religious Affairs Office in accordance with the legislation. This means that the provisions of Article 2 paragraph (2) of the Marriage Law is executing contained in Government Regulation Number 9 of 1975, still in force. In Article 2 (1) Government Regulation Number 9 of 1975 determines that registration of marriage for a Muslim marriage registrar by an employee as defined in the Act Number 22 of 1946 *juncto* Act Numer 32 of 1954, so that the two regulations are still in effect to this day.

Elucidation of Article 34 Paragraph (2) also stated that the issuance of a marriage certificate to the Muslim population conducted by the Ministry of Religion. Because the marriage certificate for the citizen is Muslim has been issued by the District Religious Affairs Office, the data received by the institution of marriage need not conduct a marriage certificate issued citations.

Marriage is an important event experienced by a person, so that the Civil Registration interested to note in the register at the Civil Registration Implementing Agency. Thus Article 34 paragraph (1) requires valid marriage events to be reported to the Implementing Agency at the scene of the marriage later than 60 (sixty) days from the date of marriage.

According to the report, officials noted at the Civil Registration Act of Marriage Register and published two (2) Quote marriage certificates, each of which is given to the husband and wife.

This reporting obligation also applies to the Muslim population, but the implementation is done

by District Religious Affairs Office To the Executing Agency no later than 10 (ten) days setela h registration of marriages conducted.

Before the marriage took place, as the Indonesian Government Regulation Number 9 of 1975 on the implementation of Indonesian Act Number 1 of 1974 on Marriage (Government Regulation Number 9 of 1975), determine the things that need to be done, namely:

1. Notification of the will to mate to Employees Marriage registrar;
2. The employee examined whether the terms of the marriage has been met, and if there are no obstacles according to the law;
3. Similarly, examining the papers required, namely:
 - 1) Quote birth certificate or birth recognition letter bride. In the absence of a birth certificate or birth recognition letter, can be used letter stating the age and origin of the bride is given by the village chief or the equivalent with it;
 - 2) Information about the name, religion / belief, occupation and place of residence of parents the bride;
 - 3) Written permission / permission Both Parents, if one of the prospective bride or both have not reached the age of 21 (twenty-one) years;
 - 4) The court permission in case the bride is the husband who still had a wife;
 - 5) Marriage is only permitted if the man has reached the age of 19 (nineteen) years and the woman has reached the age of sixteen (16) years. Deviations this provision can be done through the courts or other official keuda parents ditunjuik by the man or the woman;
 - 6) The death certificate former wife or husband in the case of divorce or certificate of divorce, the marriage for the second time or more;
 - 7) Written permission of the officials appointed by the Minister of Defense and Security / Commander, if salathseorngan bride or both members of the armed forces;
 - 8) Authentic power of attorney or under the hand that was passed by Employees Pencata, when one of the prospective bride or both can not present itself as an important reason, so delegate to others.
4. If it turns out the results of research that there is obstruction of marriage or have not met the necessary requirements, then the state immediately notified to the bride or to keuda parents or his representative;
5. After fulfillment of the above matters and there is no obstacle seseuatu marriage, then the employee Registrars provide a written statement and announcement about

pemberitahukan will organize into marriage.

As is the Court in Marriage is a religious court for those who are Muslims, whereas for the non-Islamic religion is the General Court.

Marriage took place after the tenth day since the announcement of the will of the marriage by the Registrar Employees with the procedures of marriage according to the law of each religion and belief it.

In Article 10 paragraph (3) contains a provision secularistic enough to give an opportunity to the parties to heed the procedures according to their religion or belief, by way of marriage conducted in the presence of the Registrar Officer and attended by two witnesses. However, this provision was not contained explanations and more detailed implementing rules.

Shortly after the marriage took place, the bride and groom sign the marriage certificate which had been prepared by the Registrar employee, who subsequently signed by two witnesses and the Registrar Employees who attend the wedding, and the marriage took place according to Islam, then signed by the male guardians or representatives.

With the signing of the marriage certificate, the marriage officially recorded. Deed made in 2 (two) pieces, the first saved by Employees Registrar, while the second page is stored on the territory of the Registrar of court in the Marriage Registration Office is located. Then the husband and wife were each given citations marriage certificate.

CONCLUSSION

From the foregoing, it can be concluded as follows: *First*, before the marriage took place, as the Indonesian Government Regulation Number 9 of 1975 on the implementation of Indonesian Act Number 1 of 1974 on Marriage, determines matters things need to be done, namely:

1. Notification of Employee's will into marriage to the marriage Registrar;
2. The employee examined whether the terms of the marriage has been met, and if there are no obstacles according to the law;
3. Similarly, examining the papers required, namely:
 - a. Quote birth certificate or birth recognition letter bride. In the absence of a birth certificate or birth recognition letter, can be used letter stating the age and origin of the bride is given by the village chief or the equivalent with it;
 - b. Information about the name, religion / belief, occupation and place of residence of parents

- the bride;
- c. Written permission / permission Both Parents, if one of the prospective bride or both have not reached the age of 21 (twenty-one) years;
 - d. The court permission in case the bride is the husband who still had a wife;
 - e. Marriage is only permitted if the man has reached the age of 19 (nineteen) years and the woman has reached the age of sixteen (16) years. Deviations this provision can be done through the courts or other official keuda parents ditunjuk by the man or the woman;
 - f. The death certificate former wife or husband in the case of divorce or certificate of divorce, the marriage for the second time or more;
 - g. Written permission of the officials appointed by the Minister of Defense and Security / Commander, if salathseorngan bride or both members of the armed forces;
 - h. Authentic power of attorney or under the hand that was passed by Employees Pencata, when one of the prospective bride or both can not present itself as an important reason, so delegate to others.
4. If it turns out the results of research that there is obstruction of marriage or have not met the necessary requirements, then the state immediately notified to the bride or to keuda parents or his representative;
 5. After fulfillment of the above matters and there is no obstacle seseuatu marriage, then the employee Registrars provide a written statement and announcement about pemberitahukan will organize into marriage.

The above procedure must be carried out by Indonesian citizens who carry out the marriage, whether Muslim or non-Muslims, but for the Muslim population there are some special distinction, especially in the civil registry and dispute resolution in the courts.

Second, Characteristics of marriage for people who are not Muslims can be seen in the provisions of Article 34 of the Indonesian Act of the Population Administration stipulates that:

1. Marriage is legal according to the legislation must be reported by the resident to the agency conduct of the place of occurrence of marriage later than 60 (sixty) days from the date marriage;
2. Based on the report referred to in paragraph (1), the Registrar of Civil recorded at the register a marriage certificate and publish kutipatAkata marriage;
3. Excerpts marriage certificate as referred to in paragraph (2) respectively awarded to husband and wife;
4. Reporting as referred to in paragraph (1) for the

- Moslem population conducted in the District Office of Religious Affairs;
5. Data from the records referred to in paragraph (4) and in Article 8 paragraph (2) shall be submitted by the District Religious Affairs Office to the Executing Agency no later than 10 (ten) days after the registration of marriages performed;
 6. Results of recording data as referred to in aat (5) does not require the issuance of official copies of civil registration;
 7. At the district level report referred to in paragraph (1) conducted at UPTD implementing agencies.

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