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Criminal Liability for the Forgery of Marriage Requirements Documents in Indonesia's Positive Legal Perspective

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Abstract

Forgery of marriage requirements documents is an act that not only disturbs the order of marriage administration, but also has the potential to cause legal consequences for the validity of the marriage as well as the rights and obligations of the parties. In practice, there are still various forms of identity forgery and administrative documents used as a condition for marriage registration, raising problems regarding the application of criminal liability to the perpetrators. This study aims to analyze the form of criminal liability for perpetrators of falsification of marriage requirement documents based on Indonesia's positive law and examine the problems of law enforcement. This research uses normative legal research methods with a statutory *approach* and a *conceptual approach*. Legal materials were obtained through literature studies which included primary, secondary, and tertiary legal materials, then analyzed qualitatively using descriptive-analytical methods. The results of the study show that falsification of marriage requirements documents can be held criminally liable if the elements of the crime are met, there is a mistake in the perpetrator, and no justification or forgiving reason is found. Law enforcement against these criminal acts still faces various obstacles, including differences in perception in distinguishing administrative violations and criminal acts, weak coordination between agencies, and the suboptimal system for verifying marriage administrative documents. Therefore, strengthening criminal accountability needs to be carried out through consistent application of the law, strengthening coordination between agencies, digitizing the marriage administration system, and increasing public legal awareness. These efforts are expected to provide legal certainty, protect the integrity of marriage administration, and prevent falsification of marriage requirements documents in Indonesia.

I. INTRODUCTION

Marriage is a legal bond that not only gives birth to a civil relationship between husband and wife, but also has social, moral, and religious dimensions. Therefore, the establishment of marriage must meet the conditions and procedures that have been determined in Law Number 1 of 1974 concerning Marriage as amended by Law Number 16 of 2019, as well as the provisions for its implementation. One of the important requirements in organizing a marriage is the validity of the administrative documents submitted by the prospective bride. The document serves as a basis for marriage registrars to ensure that the marriage is carried out in accordance with the provisions of applicable law.

In practice, abuse of marriage requirements documents is still found through identity forgery, forgery of certificates, and providing incorrect information to marriage registrars. This act not only results in administrative defects in the registration of marriages, but also has the potential to cause legal losses for the parties and disrupt the order of state administration. From the perspective of criminal law, forgery of marriage documents is an act that can meet the elements of criminal acts as stipulated in the Criminal Code (KUHP), especially the provisions regarding forgery of letters and criminal acts related to the implementation of marriage (Lamintang, 1990).

Although various criminal provisions have regulated the prohibition against falsification of documents, the practice of law enforcement against criminal acts in the field of marriage administration still faces various obstacles. Not all violations of marriage administration are processed through criminal law mechanisms, while in some cases law enforcement officials have difficulty distinguishing between

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administrative violations and criminal acts. This condition shows that there are still problems in the application of criminal provisions to the falsification of marriage requirements documents, so a more in-depth analysis of the form of criminal responsibility of the perpetrators is needed (Saleh, 1981).

Several previous studies have examined criminal acts in the field of marriage from various perspectives. Ishom (2016) analyzes the criminalization of marriage violations based on the Supreme Court's decision, while Rajafi (2019) discusses the existence of criminal sanctions in family law in Indonesia. Another study by Syaripudin (2021) focuses more on the elements of document forgery based on Articles 263 and 264 of the Criminal Code. However, these studies have not specifically examined the relationship between the falsification of marriage requirements documents and the criminal liability of perpetrators in the context of the application of positive Indonesian law. Thus, there is still room for research to analyze how the elements of criminal acts, forms of criminal responsibility, and the application of legal provisions to perpetrators of falsification of marriage requirements documents.

Based on this background, this study aims to analyze the form of criminal liability for perpetrators of falsification of marriage requirements documents based on Indonesian positive law and examine the application of criminal provisions to these acts. This research departs from the argument that falsification of marriage requirements documents is not only an administrative offense, but can also be qualified as a criminal offense if it meets the elements specified in laws and regulations. Therefore, this research is expected to contribute to the development of criminal law studies as well as an input for law enforcement officials in realizing legal certainty and protection of the orderly administration of marriage.

II. RESEARCH METHODS

This research is a normative legal research that aims to analyze criminal liability for perpetrators of falsification of marriage requirements documents based on the provisions of Indonesian positive law. The research was conducted using a statutory *approach* and a conceptual approach. The legislative approach is used to examine various regulations related to the crime of forgery of marriage documents, including the Criminal Code (KUHP), Law Number 1 of 1974 concerning Marriage as amended by Law Number 16 of 2019, Compilation of Islamic Law, and other laws and regulations related to marriage administration. Meanwhile, a conceptual approach is used to examine criminal liability theory, criminal crime concepts, and legal doctrines that develop in criminal law literature (Marzuki, 2010).

The legal materials used in this study consist of primary legal materials**,** secondary legal materials, and tertiary legal materials**.** Primary legal materials include laws and regulations and court decisions related to the crime of forging marriage requirements documents. Secondary legal materials consist of books, scientific journals, research results, and other scientific works that discuss criminal law, marriage law, and criminal liability. The tertiary legal materials are in the form of legal dictionaries, Indonesian dictionaries, legal encyclopedias, and other sources that support the understanding of legal terms used in research.

All legal materials were collected through *library research* and analyzed qualitatively using descriptive-analytical methods. The analysis is carried out by inventorying the applicable legal provisions, examining their suitability with the theory of criminal responsibility, and then relating it to the practice of applying the law to the crime of forgery of marriage requirement documents. Through this method, it is hoped that a comprehensive analysis of the basis of criminal liability and the effectiveness of the application of positive law in providing legal certainty for perpetrators of criminal acts in the field of marriage administration can be obtained.

III. RESULTS AND DISCUSSION

A. Criminal Liability for Perpetrators of Forgery of Marriage Requirements Documents in Indonesian Positive Law

The validity of the marriage requirements document is one of the important elements in the implementation of a legal marriage. The

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document serves as a basis for the marriage registrar to ensure that all administrative and substantive requirements have been met by the bride-to-be before the marriage takes place. Therefore, any form of forgery of marriage requirements documents not only disrupts the order of state administration, but also has the potential to cause legal consequences for the validity of the marriage and the civil rights of the parties. From the perspective of criminal law, the act cannot be seen as a mere administrative offense, but can be qualified as a criminal offense if it meets the elements specified in the laws and regulations (Lamintang, 1990).

Criminal liability can basically only be imposed on a person who commits a criminal act and has the ability to account for his actions. According to the doctrine of criminal law, the existence of criminal liability requires the fulfillment of the elements of criminal acts (*actus reus*) and the elements of guilt (*mens rea*). Thus, the falsification of marriage requirements documents is not enough only to be proven through the existence of incorrect documents, but it must also be proven that there is intentionality or other forms of mistakes that cause the perpetrator to knowingly use or make false documents to obtain a certain legal effect (Saleh, 1981).

In Indonesia's positive law, the act of forging or using false documents is in principle regulated in the provisions regarding forgery of letters in the Criminal Code. If the forgery is carried out on documents that are a requirement for marriage administration, then the act not only meets the elements of the crime of forgery of letters, but can also have an impact on the validity of the marriage registration process. Therefore, the application of criminal provisions must pay attention to the relationship between the norms in the Criminal Code and the provisions governing the administration of marriage so that there are no errors in determining the form of criminal responsibility of the perpetrator (Kansil & Kansil, 2007).

The results of the analysis show that in practice there is still a tendency to view violations of marriage administration only as administrative problems. In fact, if the violation is committed through falsification of identity, certificates, or other documents used as the basis for marriage registration, then the act has exceeded the limits of administrative violations and entered the realm of criminal law. Thus, law enforcement against the falsification of marriage requirements documents is not only aimed at sanctioning the perpetrators, but also maintaining the integrity of the marriage administration system and providing legal certainty for the legal status of the parties (Rajafi, 2019).

In addition to the fulfillment of the elements of criminal acts, criminal liability must also pay attention to the existence of mistakes that can be accounted for to the perpetrator. In the context of falsification of marriage requirements documents, intentionality is generally seen from the actions of the perpetrator who knowingly provides incorrect data, falsifies identities, or uses false documents to meet the marriage requirements. This act shows the existence of a will to obtain certain legal consequences through means that are contrary to the law. Therefore, if all elements of the criminal act have been fulfilled and no justification or excuse for forgiveness is found, then the perpetrator can be held criminally responsible in accordance with the applicable legal provisions (Lamintang, 1984).

From the perspective of legal protection, the application of criminal liability to perpetrators of falsification of marriage requirements documents has a preventive and repressive function. The preventive function is realized through the preventive effect so that the public does not manipulate the marriage administration documents, while the repressive function is realized through the provision of criminal sanctions to the perpetrator as a form of law enforcement. Thus, criminal liability is not only oriented towards punishment, but also an instrument to maintain legal certainty, administrative order, and public trust in the marriage registration system in Indonesia.

Based on this description, it can be analyzed that falsification of marriage requirements documents is a criminal offense that has broader legal consequences than just administrative violations. Criminal liability against the perpetrator must be based on proving the elements of the criminal act, the existence of errors, and the relationship between the falsification of documents and the legal consequences caused. Thus, law enforcement against this criminal act not only aims to impose criminal penalties on the perpetrators, but also maintains legal certainty and integrity in the implementation of marriage administration in accordance with the provisions of Indonesia's positive law.

B. Law Enforcement Problems and Efforts to Strengthen Criminal Accountability for Forgery of Marriage Requirements Documents

Law enforcement against the crime of falsifying marriage requirements documents cannot be separated from the legal purpose of providing certainty, justice, and benefits. Although the provisions regarding forgery of letters have been regulated in the Criminal Code, the practice of enforcement still faces various obstacles. One of the main problems is the tendency to view the falsification of marriage requirements documents as a mere administrative offense so that its settlement is more often done through administrative mechanisms than criminal proceedings. As a result, the application of criminal sanctions against perpetrators has not fully provided a deterrent effect or protection for the orderly administration of marriage (Rajafi, 2019).

These problems show that there are still differences in perception in distinguishing administrative violations from criminal acts. Not every administrative error can be punished, but if a document is falsified deliberately to obtain certain legal consequences, then the act has met the characteristics of a criminal act. Therefore, law enforcement officials must conduct an assessment based on the fulfillment of the elements of the criminal act, not just looking at the administrative consequences caused. This approach is important to avoid the criminalization of administrative violations while preventing criminal acts that are not processed in accordance with the provisions of the law (Syaripudin, 2021).

From the perspective of law enforcement, the success of providing criminal accountability is also influenced by coordination between agencies involved in the process of organizing marriage. The Office of Religious Affairs as an institution that receives and verifies administrative documents has an important role in detecting indications of forgery before the marriage is registered. On the other hand, the police and prosecutor's office have the authority to conduct investigations and prosecutions if suspected criminal acts are found. The synergy between these agencies is an important factor in realizing effective law enforcement while preventing the misuse of marriage administration documents.

In addition to the institutional aspect, the development of information technology also needs to be used as a means of preventing the crime of document forgery. Digitizing marriage administration through a data verification system integrated with relevant agencies can reduce the chances of using fake identities or documents. An electronic-based administration system allows the process of checking the authenticity of documents to be carried out more quickly and accurately so that the potential for data manipulation can be minimized. Thus, prevention efforts are an integral part of criminal law enforcement in the field of marriage administration.

Based on the results of the analysis, this study argues that strengthening criminal liability for falsification of marriage requirement documents can be carried out through three steps. First, strengthening coordination between the Office of Religious Affairs, the Population and Civil Registration Office, the Police, and the Prosecutor's Office in the process of verifying documents and handling cases. Second, increase supervision over the process of issuing and using marriage requirements documents through an integrated and information technology-based administrative system. Third, increasing public

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legal awareness through counseling on the criminal consequences of falsifying documents and the importance of honesty in fulfilling the requirements of marriage administration.

The strengthening not only aims to increase the effectiveness of criminal law enforcement, but also creates a more accountable and reliable marriage administration system. Legal certainty regarding marital status is highly dependent on the validity of the documents on which it is recorded. Therefore, any form of document forgery must be seen as a threat to the orderly administration of the state that requires consistent law enforcement in accordance with the principles of criminal law.

Thus, this study emphasizes that criminal liability for the falsification of marriage requirements documents is not enough based only on the application of criminal sanctions after the crime has occurred. Prevention efforts through strengthening the administrative system, inter-agency coordination, and increasing public legal awareness must be part of an integrated law enforcement policy. This approach is expected to be able to provide legal certainty, protect the integrity of marriage administration, and prevent the recurrence of the crime of document forgery in the future.

IV. CONCLUSIONS AND SUGGESTIONS

A. Conclusion

Based on the results of the study, it can be concluded that falsification of marriage requirements documents is an act that not only violates the provisions of marriage administration, but can also be qualified as a criminal offense if it meets the elements stipulated in the Criminal Code. Criminal liability to the perpetrator is based on the fulfillment of the elements of the criminal act, the existence of errors, and the absence of a justification or forgiving reason. Therefore, law enforcement against the falsification of marriage requirements documents must be carried out carefully by distinguishing between administrative violations and criminal acts in order to create legal certainty and protection for the integrity of the marriage administration.

This study also shows that law enforcement against the crime of forgery of marriage requirements documents still faces various obstacles, including differences in perception in qualifying an act as an administrative violation or criminal act, weak coordination between agencies, and a non-optimal verification system for marriage administrative documents. Therefore, strengthening criminal accountability not only requires the consistent application of criminal sanctions, but also supported by strengthening the administrative system, increasing coordination between agencies, utilizing information technology in the document verification process, and increasing public legal awareness. Thus, the protection of the orderly administration of marriage is not only realized through enforcement, but also through continuous prevention efforts.

B. Suggestions

The government and the makers of laws and regulations need to continue to improve regulations related to marriage administration and strengthen coordination between the Office of Religious Affairs, the Population and Civil Registration Office, the Police, and the Prosecutor's Office in the process of verifying documents and handling the crime of falsifying marriage requirements documents. In addition, the digitization of the marriage administration system needs to be continuously developed so that the identity and document verification process can be carried out more effectively, quickly, and accurately so that it can minimize the chances of document forgery.

For law enforcement officials, the application of criminal provisions against the falsification of marriage requirements documents should be carried out consistently by paying attention to the fulfillment of the elements of criminal acts so that there are no errors in distinguishing administrative violations and criminal acts. Meanwhile, for the next researcher, it is recommended to develop research through an empirical approach or a

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study of court decisions to evaluate the effectiveness of the application of criminal liability against perpetrators of falsification of marriage requirement documents in judicial practice in Indonesia.

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