

Original Reserach Article

## Marriage Cancellation According to Positive and Religious Law in the Perspective of Protection of Children and Women

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**Abstract:** This article examines the legal consequences of annulment of marriage from positive law and religious law in Indonesia. The method used is normative legal research using statutory, comparative, and case approaches. The results show that marriage annulment creates legal consequences for children, assets, and third parties. Regarding the legal consequences for children, it has been regulated in Article 28 paragraph (2) of the Marriage Law and Article 75 (b) KHI for the benefit or benefit of the child where in an annulment of a marriage, the law does not retroactively apply to children. As for the division of assets, in this case, the original/innate assets of the parties must be returned to the original/original owner. Furthermore, for third parties who have a good faith, the legal consequences of the annulment of marriage do not apply retroactively, so civil acts committed by the husband/wife before the annulment of the marriage remain valid. They must be resolved by the husband/wife so that the third party is not harmed. 2. There are several differences regarding the causes of marriage annulment, one of which is contained in article 71 KHI, namely being able to practice polygamy without permission from the Religious Court. Marriage law regulations in Indonesia prohibit polygamy without the permission of the Religious Courts because the principle of marriage in Indonesia adheres to the principle of monogamy. The Religious Courts will only grant polygamy permission to someone if they meet the requirements to practice it. They are implementing marriage annulment No.1022/Pdt.G/2018/PA.Smd at the Samarinda Religious Court is by applicable laws and regulations. The Religious Courts will only grant polygamy permission to someone if they meet the requirements to practice it. They are implementing marriage annulment No.1022/Pdt.G/2018/PA.Smd at the Samarinda Religious Court is in accordance with applicable laws and regulations. The Religious Courts will only grant polygamy permission to someone if they meet the requirements to practice it. They are implementing marriage annulment No.1022/Pdt.G/2018/PA.Smd at the Samarinda Religious Court is in accordance with applicable laws and regulations.

**Keywords:** Legal Consequences, Marriage Cancellation, Positive Law, and Religion.

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## INTRODUCTION

The institution of marriage has an honorable position in Islamic and Indonesian National Law. Marriage is a religious engagement. The legal consequence is to bind men and women in a physical and spiritual bond as husband and wife with a holy and noble purpose based on Belief in the One and Only God (Syaifuddin, *et al.*, 2013). For the marital status to be valid, it must be recorded. According to Rais (2010) this is also emphasized in the Compilation of Islamic Law (KHI) Article 5 paragraph (1) and Article 6 paragraph

(1) KHI, and if it does not follow the provisions of the article above, then the marriage is invalid (Rizki, 2010). Then the marriage can be annulled, if the parties do not meet the requirements to enter into a marriage. An application for marriage annulment is submitted to the court in the jurisdiction where the marriage took place or where the husband and wife live. For example, there have been ten decisions in the case of annulment of marriage at the Samarinda Religious Court (PA) in the period 2015 to 2021, with various backgrounds explaining the reasons for the lawsuit for annulment of

marriage. The Religious Courts can cancel the marriage at the request of the interested parties. According to Nurudin, A., & Tarigan, A (2004) an annulment of marriage can also be requested by the wife because the wife feels cheated, whether regarding heredity, wealth, or the husband's position. One of the marriage annulment cases at the Samarinda Religious Court was the decision of the Samarinda Religious Court No.NO.1022/Pdt.G/2018/PA, which will be outlined in this paper.

This case originated from a lawsuit filed by a wife as a plaintiff over her husband's remarriage as Defendant I by blurring the husband's status to single to carry out his remarriage with Defendant II. The defendant became known to Plaintiff after his marriage lasted four years and produced a child from Defendant II. Because defendant I entered into the marriage for polygamy without the permission of the wife/plaintiff, and there was no stipulation from the court, the wife filed a lawsuit for the annulment of the marriage she had already done. Based on the description in the background above, this article examines and analyzes the legal consequences of marriage annulment on the fulfillment of children's material rights and arrangements marriage annulment according to Law Number 1 Year 1974 concerning Marriage (Marriage Law) and Compilation of Islamic Law on the rights of children and women from the perspective of justice and the basis of the judge's considerations in the decision.

## METHODOLOGY

The type of research used in this study is a normative juridical approach method because it examines the legal consequences after an annulment of marriage on the fulfillment of children's material rights and examines comparisons of marriage annulment according to the Marriage Law and Compilation of Islamic Law on the protection of children's rights. The approach used is the statutory approach, comparative law, and case approach. The scope of this study examines legal consequences of marriage cancellation according to positive law and religious law in perspective protection of children and women.

## RESULTS AND DISCUSSION

A legal marriage will give rise to rights and obligations for husband and wife as well as their children. The provisions of Article 1 of the Marriage Law contain several elements of the definition of marriage, as follows: There is an Inner and Outward Bond. Between a Man and a Woman. As Husband and Wife (Ketut Atardi, 1987). There is a goal. Based on Belief in the One and Only God. Meanwhile, the definition of marriage in KHI is contained in article 2, which defines marriage as a firm contract or *mitsaqa ghaliihdhan* to obey God's commands and its implementation is worship.

### 1. Principles of Marriage Law According to the Marriage Law and Compilation of Islamic Law

Each legal device has its principles or principles, including marriage law. The followings are the principles and principles of marriage law according to the Marriage Law, including: the purpose of marriage is to form a happy and eternal family. The validity of a marriage is legal if it is carried out according to the laws of each religion and belief. Besides that, each marriage must be recorded according to the applicable laws and regulations. The principle of monogamy, unless desired by the person concerned because his religious law allows it, a husband can have more than one wife; the prospective husband and wife must be mentally and physically mature to be able to enter into a marriage, adheres to the principle of making it difficult for divorce to occur. The rights and position of the wife are balanced (Mardani, 2011).

Furthermore, the provisions of the Compilation of Islamic Law also contain legal principles, along with the legal principles according to the Compilation of Islamic Law: Consent principle. There should be no coercion in entering a marriage (articles 16-17 KHI). The principle of freedom to choose a partner while considering the prohibition on marriage (stipulated in Articles 39-44 KHI). The principle of husband-wife partnership is kinship or equal togetherness, rights, and obligations of husband and wife the principle is eternal, regulated in Article 2 KHI: a very strong contract to obey God's commands and carry out worship. The principle of benefit for life, regulated in Article 3 KHI: Marriage, aims to create a household life that is *sakinah, mawaddah, and rahmah*. The principle of legal certainty regulated in Articles 5-10 KHI: Marriages must be recorded and carried out by Marriage Registrars.

### 2. Marriage Cancellation

An annulment of a marriage is an act of a court decision declaring that the marriage bond that has been entered into is invalid; the result is that the marriage is deemed to have never existed. According to Soedaryo Soimin, SH: "Annulment of a marriage is a marriage that occurs without fulfilling the requirements according to the law".in chapter VI, Articles 22 to Article 28, which are regulated further in the implementing regulations Government Regulation No. 9 of 1974 in Chapter VI Articles 37 and 38. Furthermore, marriages that are held according to Islam further cancellation of marriages are contained in article 27 of the Regulation of the Minister of Religion of the Republic of Indonesia Number 3 of 1975 which states: "If the marriage has taken place then it turns out that there is a prohibition according to *munakahat* law or statutory regulations regarding marriage, the Religious Courts can annul the marriage. At the request of interested parties". Thus, a marriage can be null and void and canceled by the court. The courts that have the power to annul a marriage are a court whose

jurisdiction covers where the marriage took place or the residence of both husband and wife, husband or wife. For those who are Muslim, it is carried out at the Religious Court, while for those who are non-Muslim at the District Court.

### **3. Parties that can Apply for an Annulment of Marriage**

For parties who can apply for an annulment of this marriage, Government Regulation Number 9 of 1975 only stipulates that a request for an annulment can be submitted by parties who have the right to apply to the court in their jurisdiction which includes the place where the marriage took place or the place of residence of the wife, husband or wife. (Article 38 paragraph (1) PP No. 9 of 1975). As for the Marriage Law, it is regulated in Article 23 and Article 24. Meanwhile, the Compilation of Islamic Law is regulated in Article 73. These parties include: The families in the direct line of descent from the husband or wife. Husband and wife, husband or wife. Officials are authorized only if the marriage has yet to be decided. The appointed officials are further determined in the laws and regulations (Article 16 paragraph (2)), but until now these matters are still held by the PPN or the Head of the Office of Religious Affairs, the Chair of the Religious Court, or the Head of the District Court. Everyone who has a direct legal interest in the marriage, but only after the marriage is terminated.

### **4. Reasons for Annulment of Marriage**

According to the Marriage Law, Article 22 states that a marriage can be annulled if the parties do not meet the requirements to enter a marriage. Meanwhile, according to the Compilation of Islamic Law, the reasons for canceling a marriage are contained in articles 70 and 71 of the Compilation of Islamic law: Marriage is void if: (Article 70 KHI): The husband enters into a marriage, while he is not entitled to enter into a marriage contract because he already has four wives, even if one of them is in the iddah talak raj'i. A person marries an ex-wife who has had a li'an, A person marries an ex-wife who was divorced three times by him unless the ex-wife was married to another man who then divorced again ba'da al dukhul from that man and has expired. Marriage is carried out between two people who are related by blood and breastfeeding to a certain degree which hinders marriage according to Article 8 of Law No. 1 of 1974, namely: Blood- related in a straight line down or up, Blood-related sideways, namely with parents' siblings and between a person and his grandparents, Semenda relationship, namely parents-in-law, step-daughter, son-in-law and mother or stepfather, Having a breastfeeding relationship, i.e. breastfeeding parents, breastfed siblings, and breastfeeding aunts or uncles, The wife is a sibling or an aunt or nephew of his wife or wives. Meanwhile, according to the provisions of KHI in Article 71 KHIMarriage can be canceled if: A husband commits polygamy without permission from the Religious Court;

The married woman was later discovered to be still the wife of another marquee man; It turns out that the married woman is still in iddah from another husband; A marriage that violates the marriage age limit stipulated in Article 7 of Law No. 1 of 1974; Marriage is carried out without a guardian or by a guardian who has no right; Marriages were carried out by force.

### **5. Consequences of Marriage Annulment**

The legal consequences arising from the cancellation of marriage are regulated in Article 28, paragraph 2 of the Marriage Law, and the decision does not apply retroactively to 1. Children born from the marriage. 2. Husband or wife acting in good faith, except for shared assets, if the cancellation of the marriage is based on the existence of another earlier marriage. 3. Other third persons are not included in a and b as long as they obtain the rights in good faith before the decision on cancellation has permanent legal force. Furthermore, the provisions of Article 75 KHI state that the decision to cancel a marriage does not apply retroactively to 1. A marriage is canceled because one of the husbands or wives has posted. 2. Children born from the marriage. 3. Third parties as long as they obtain the rights in good faith before the decision to cancel the marriage, have permanent legal force. However, the provisions of Article 76 KHI stipulate that: The cancellation of a marriage will not terminate the legal relationship between the child and his parents.

The legal consequences arising from the annulment of marriage for parties related to the marriage are Against Children: emphasizes that even if an annulment of a marriage bond occurs, this will not break the legal relationship between parents and children born from the marriage. Regarding assets acquired during the marriage, Assets acquired by the couple during their status as husband and wife. Against Third Parties: all civil acts or engagements committed by the husband, wife, or both prior to the annulment of the marriage remain valid and must be resolved by the husband and wife.

Like the case that the author raised regarding the lawsuit for annulment of marriage due to the occurrence of polygamy cases without the wife's permission, the Plaintiff, who is a wife in her application letter dated July 2, 2018, has filed an application for annulment of marriage for her husband's remarriage with another woman, this lawsuit for annulment of marriage was registered at the Registrar's Office of the Samarinda Religious Court, with Number 1022/Pdt.G/2018/PA.Smd ., dated July 2, 2018, with the argument- As for the annulment of marriage with case numberNO.1022/Pdt.G/2018/PA.Smd. So the Religious Courts have made a legal consideration, and the panel of judges tried the case of annulment of this marriage by deciding: 1. Granted the Plaintiff's request; 2. Canceled the marriage between Defendant I and Defendant II, which took place on April 9, 2014, and

was recorded at the Religious Affairs Office of Samarinda Ulu District, Samarinda City, by the Office of Religious Affairs of Samarinda Ulu, Kota Samarinda on April 14, 2014, has no legal force; 4. Charged court costs to the Plaintiff in the amount of Rp. 1,050,000.00 (one million and fifty thousand rupiahs). As for the judge's consideration in determining the annulment of a marriage, namely: The Plaintiff essentially filed an annulment of the marriage held by Defendant I and Defendant II on April 9, 2014; defendants I and Defendant II held a marriage that was registered by the Marriage Registrar of the Office of Religious Affairs, Samarinda Ulu District, Samarinda City, as recorded in the Marriage Certificate Excerpt Number: 314/49/IV/2014, April 14, 2014, because the marriage of Defendant I and Defendant II contained an element of fraud, where during the marriage Defendant I introduced his status as a young man.

Defendant I falsified his identity by changing his status to become a young man. The forgery of identity is proven by: Photocopy of the Marriage Certificate Excerpt, Photocopy of the Statement of Never Been Married/Marriage An. Defendant I, Photocopy of Certificate for Marriage An. Defendant I, Photocopy of An Excerpt of Marriage Certificate. Defendant I and his first wife, where all the documents have been matched with the original documents. Defendant I had married Defendant II without the consent and knowledge of his first wife; even though defendant I was still married to his first wife, there was no evidence of divorce or a letter of permission for polygamy from the court. Whereas knowing Defendant I's condition as such, Defendant II had no objection to Plaintiff's request that the marriage they took place on April 9, 2014, defendant I and Defendant II hold a marriage which was registered by the Marriage Registrar of the Office of Religious Affairs, Samarinda Ulu District, Samarinda City, as stated in the Marriage Certificate Number: 314/49/IV/2014, April 14, 2014 canceled.

Defendant I, namely the husband, and Defendant II, namely the second wife and the witnesses, provided answers orally, confirmed Plaintiff's arguments, and had no objections to all of Plaintiff's claims. The Plaintiff, as the wife of Defendant I, has the right to cancel the marriage of Defendant I and Defendant II. This case is contentious in the form of legality, so by referring to point (5) p. 83 Guidelines for the Implementation of Duties and Administration of the Religious Courts revised in 2013, which were enacted by Decision 17 of the Supreme Court Number: KMA/032/SK/IV/2006 dated April 4, 2006, so that in the process of settling this case mediation is not required, but the judge is still trying to mediate the Plaintiff and the Defendant, but no agreement was reached. Therefore the panel of judges continued to examine the main case. Based on the facts described above, the Plaintiff's application is for the applicable

legal reasons, as outlined in Article 4 of Law Number 1 of 1974 concerning marriage, Article 73 paragraph (1) of the Compilation of Islamic Law. According to the Panel of Judges' understanding of Article 89 paragraph (1) of Law Number 7 of 1989, all costs arising from this case must be borne by the Plaintiff.

Based on the results of the author's analysis and a review of Islamic law, the decision stipulated by the Panel of Judges of the Samarinda Religious Court in the case of annulment of the marriage is by the context of Islamic law regarding the benefits and harms. Suppose the request for marriage annulment is not accepted or granted by the Religious Court Judge. In that case, harm will likely arise against various parties, starting from Plaintiff (first wife), Defendant I (husband), Defendant II (second wife), to the child -his son.

If no legal action is taken against the actions taken by Defendant I, it will also set a bad example to the broader community. Society's stigma regarding polygamy can deviate from the provisions that should be. Society may conclude that polygamy can be practiced without permission and falsification of identity to have more than one wife is something that is easily condoned by law. Furthermore, if the annulment of the marriage is not granted, many parties will be harmed, such as the Plaintiff and his children who in this case become victims of fraud and are innocent. It would be unfair for the woman (both the first and second wife) if the marriage was still considered valid. In addition to the social burden that must be borne, psychologically, the women will experience an injury because, from the beginning of their marriage, they never wanted to be polygamous. Therefore, the decision is by the rules of Islamic law, where it is better to make a decision; it is necessary to consider the decision with the least harm. This action taken by Defendant I is the most common model of polygamous marriage in society, this was done perhaps to avoid quarrels with his first wife apart from several very serious reasons for asking his first wife's approval so he chose a shortcut by falsifying his identity. The decision is by the rules of Islamic law, where it is better to make decisions; it is necessary to consider the decision with the least harm. This action taken by Defendant I is the most common model of polygamous marriage in society, this was done perhaps to avoid quarrels with his first wife apart from several very serious reasons for asking his first wife's approval, so he chose a shortcut by falsifying his identity. The decision is by the rules of Islamic law where it is better to make decisions; it is necessary to consider the decision with the least harm. This action taken by Defendant I is the most common model of polygamous marriage in society; this was done perhaps to avoid quarrels with his first wife apart from several grave reasons for asking his first wife's approval, so he chose a shortcut by falsifying his identity.

Thus, it can be concluded that there are two violations of marriage committed by Defendant I, namely committing fraud and falsifying identity and violating the principle of monogamy. In the decision of the Panel of Judges No. 1022/Pdt.G/2018/PA. Smd regarding the cancellation of the marriage, there was no mention of children or joint assets and third parties. 1) Against Children: This confirms that children born from marriages whose legal status is annulled remain the same as the status they obtained when they were just born, namely as legitimate children. Canceling his parents' marriage does not necessarily change his status to become a child out of wedlock or other terms. The born children still have a legal relationship with both parents. Thus, the child has the same rights as a legitimate child, including the right to become the legal heir of both parents and the right to receive care, education, and care from their parents until the child grows up. It is the obligation of parents to care for, educate and raise their children.

As stipulated in Article 76 of the Compilation of Islamic Law that the cancellation of a marriage between husband and wife does not terminate the legal relationship between the child born from the marriage and his parents. This also includes the child's interests if the child is born as a girl, whereas a girl later has the right to be married off by her legal guardian. In this case, even though the parents' marriage was annulled and declared to have never existed, their relationship with their parents is still that of the biological child and biological parents, so the biological father remains the legal guardian of the marriage. This also includes the child's interests if the child is born as a girl, whereas a girl later has the right to be married off by her legal guardian. In this case, even though the parents' marriage was annulled and declared to have never existed, their relationship with their parents is still that of the biological child and biological parents, so the biological father remains the legal guardian of the marriage. This also includes the child's interests if the child is born as a girl, whereas a girl later has the right to be married off by her legal guardian. In this case, even though the parents' marriage was annulled and declared to have never existed, their relationship with their parents is still that of the biological child and biological parents, so the biological father remains the legal guardian of the marriage.

By becoming a marriage guardian for their daughter, the child's right to be married is fulfilled, and the parents' obligation to marry off their child is also carried out correctly. This is based on interests and benefits for themselves and the future of these children. These children are essentially innocent, so they deserve and deserve protection and enforcement law. They are innocent children who should not bear the consequences of mistakes or mistakes made by their parents or any party, which in this case may not have been intentional, so their parents also did not think their

marriage could be annulled. Regardless, children born from annulled marriages have clear status, namely legitimate children, and the legal status of these children is officially the biological children of their parents.

Furthermore, regarding the obligations of parents towards children, parents still have to carry out all their obligations until the children are adults, even though the parents' marriage has been canceled because those who have to be responsible for the child are both parents. as explained in Law Number 1 of 1974 Article 45: a. Both parents are obliged to care for and educate their children as well as possible. b. The parents' obligations referred to in paragraph (1) of this article apply until the children marry or are able to stand on their own. Which obligation continues even if the marriage between the parents is broken. This is in line with Article 28 paragraph 2 sub (a) of Law Number 1 of 1974 and Article 76 of the Compilation of Islamic Law, which aims to protect legal interests, benefits, and the future of the child whose parents' marriage was annulled. However, there will be an unfavorable psychological impact on the child due to the cancellation of his parent's marriage. However, the regulations that apply will undoubtedly provide the best effort for the benefit of each child. Therefore parents must educate and raise these children like other children.

Meanwhile, the court hearing in this case only examined and decided on what was being requested, which was related to the annulment of the marriage even though a child had been born from the marriage of Defendant I and Defendant II. 2) Then against Assets If the court annuls a polygamous marriage between a husband and his second wife over the first wife's lawsuit due to the first wife's permission or approval, then. As a result, the second wife is not entitled to joint assets, either the joint assets that existed before the marriage with the wife both or joint assets obtained from the marriage of the two due to the annulment of the marriage. It is determined otherwise based on Article 65 of the Marriage Law because the cancellation of marriage as stipulated in Article 28 paragraph (1) of the Marriage Law is retroactive, starting after a court decision has permanent legal force and takes effect from the time the marriage takes place. Thus the marriage that has been held is deemed to have never existed. Because polygamous marriages have never existed, there has been no joint property.

When viewed and examined, in the legal considerations section and the dictum of the decision there is no mention of joint assets belonging to Defendant I and Defendant II. This is caused by the absence of Plaintiff's request regarding this matter, where what Plaintiff submitted was only the cancellation of the marriage. However, it should be noted that due to the decision of the Religious Courts

which has permanent legal force, marriage annulment may not harm parties with good intentions. In this case, the parties in good faith were the families of Plaintiff and Defendant II, where they had no bad intentions in carrying out the marriage other than to form a happy household by religious guidance and existing legal rules. In addition, in this case, it was their party whom the defendant deceived.

In addition, according to the author's study, Defendant I is a party with bad intentions because he has committed fraud against Plaintiff and Defendant II, cheated on his first wife, and was utterly uncooperative in resolving this case, as evidenced by not taking care of the divorce with the Plaintiff. Therefore, even with the annulment of the marriage, Plaintiff and Defendant II should not be harmed by their assets. For this reason, the assets brought by the parties into the marriage must be returned to their original owners so that Plaintiff and Defendant II do not feel disadvantaged.

Matters relating to the division and ownership of assets often give rise to certain disputes and obstacles. In this case, if Plaintiff or Defendant II experience problems in determining the return of property between Defendant I and Defendant II or there is a loss suffered by Plaintiff or Defendant II regarding the return of the said property, which cannot be resolved privately between the Plaintiff, Defendant I and II, then these problems can be submitted to the Religious Courts to ask for a solution. As previously discussed, a party with good intentions cannot lose their property due to an annulment of a marriage. Therefore, by applying to the court, the ownership of these assets can be studied further and regulated based on their respective laws, according to religious law, customary law, and so on. 3) Against Third Parties

In the considerations and decisions, there were also no points about legal consequences for third parties, which were also not included in the points of the petition filed. However, this does not mean that there is no protection for the interests of third parties if there are third parties related to the annulled marriage. These third parties should also be considered. This is because the annulment of a marriage does not have legal consequences that apply retroactively to third parties with good intentions. Thus, if a husband and wife commit a civil act or engagement before their marriage is annulled, then the bond is still valid and must still be completed even though their marriage has been annulled so that the third party is not harmed. For example, it turns out that there was a credit agreement or sale and purchase agreement entered into by Defendant I and Defendant II when their marriage was not legally null and void, so even though their marriage was canceled, they still had to settle their obligations. For example: If Defendant I and Defendant II buy a vehicle with payment on credit to a third party and in the agreement, the payment must be made in

installments of 3 years and paid monthly, but after only making installment payments for one year, their marriage is canceled, then the remaining two years of payment must still be paid because it is the right of a third party. Thus, if a third party later finds out about the cancellation of the marriage, then there is no need to worry about whether the husband/wife will later become reluctant to pay or accuse each other of who should pay. In this case, as long as the third party is in good faith, the third party's rights are protected by law (based on Article 75 Compilation of Islamic Law) so that if the husband/wife is no longer cooperative, then the third party can use legal channels.

## CONCLUSIONS

After the author understands and analyzes the decision of the Religious Court Judge No.1022/Pdt.G/2018/PA, Smd regarding the cancellation of a marriage at the Samarinda Religious Court, which was caused by polygamy without the permission of the wife and the Religious Courts, it can be concluded as follows: 1. Consequences The law that arises after the annulment of a marriage against the fulfillment of children's material rights is the legal consequence of an annulment of a marriage, of course, has legal consequences for children, assets and third parties. Regarding the legal consequences for children, it has been regulated in Article 28 paragraph (2) of the Marriage Law and Article 75 (b) KHI for the benefit or benefit of the child where in an annulment of a marriage, the law does not retroactively apply to children. As for the division of assets, in this case, the original/innate assets of the parties must be returned to the original/original owner. Furthermore, for third parties who have a good faith, the legal consequences of the annulment of marriage do not apply retroactively, so civil acts committed by the husband/wife before the annulment of the marriage remain valid. They must be resolved by the husband/wife so that the third party is not harmed. 2. There are several differences regarding the causes of marriage annulment, one of which is contained in article 71 KHI, namely, being able to practice polygamy without the permission of the Religious Court. Marriage law regulations in Indonesia prohibit polygamy without the permission of the Religious Courts because the principle of marriage in Indonesia adheres to the principle of monogamy. The Religious Courts will only grant polygamy permission to someone if they meet the requirements to practice it.

Furthermore, the comparison of the annulment of marriage according to Law Number 1 of 1974 and the Compilation of Islamic Law on the protection of the rights of children and women based on the Theory of Justice is that the process of carrying out the annulment of marriage No.1022/Pdt.G/2018/PA.Smd at the Samarinda Religious Court has been by applicable laws and regulations. The marriage annulment procedure is carried out through several stages, which in principle include the following steps: Submission of an

Application, Admission of a Case, Summons, and Trial by Article 20 to Article 36 and Article 38 of Government Regulation No. 9 of 1975 concerning Implementation of Law no. 1 of 1974 concerning marriage. The decision of the Panel of Judges to annul the marriage of Defendant I and Defendant II was deemed appropriate because it had referred to the applicable regulations and was supported by all available evidence and witness evidence. The legal basis for the decision is Article 24 of the Marriage Law, Article 38 paragraph (1) of Government Regulation No. 9 of 1975 concerning the Implementation of the Marriage Law and Compilation of Islamic Law. In addition, the results of the decision are considered to have considered the benefits and harms that will arise if the marriage is not annulled.

The advice given to the Samarinda Religious Court institution is that in carrying out a marriage, it is necessary to pay attention to the identity of each candidate. Identity checking not only prioritizes administrative correctness, but efforts need to be made to carry out accurate checks. Marriage registrars should be more stringent in checking data before marriage, namely regarding the status and validity of each party's data,

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