



Law Enforcement of Civil Servants Who Violate Marriage/Divorce Permissions

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ABSTRACT

Regarding sanctions for civil servants who divorce without obtaining prior permission, they are applied in terms of law enforcement for civil servants who prohibit divorce permits in Article 15 of Government Regulation Number 45 of 1990 concerning Amendments to Government Regulation Number 10 of 1983 concerning Marriage and Divorce Permits for Civil Servants apparently still very weak, this is proven by two government employees who violated disciplinary regulations because they entered into a second marriage without permission from their superiors, only one person has been sentenced to discipline, and there are two female civil servants who served as first and second wives. Those who divorce without permission from officials have not been given any sanctions by the authorized officials.

INTRODUCTION

By paying attention to national development goals that are carefully planned, progressive and realistic. Within the boundaries of the Unitary State of the Republic of Indonesia, the goal of national development is to realize Pancasila as the foundation of a just, prosperous, equitable and sustainable society, both materially and spiritually.

As professional state apparatus and civil servants, civil servants are expected to uphold the law and behave by providing a positive example for society. Due to Indonesia's strong legal system, all decisions taken by the government and society are subject to existing laws and regulations and are justified in acting on their own will or outside the law. Therefore, every Citizen and State Administration (TUN) official is obliged to respect the relevant laws. As part of a happy and professional state apparatus, civil servants should carry out their duties without interference from problems related to their personal or family lives.

Marriage is the basic foundation for the formation of a country's family, community and nation. The formation of society and nation in a country begins with the formation of the family. Marriage begins with the union of a man and a woman who, according to legal and religious regulations, are considered to have fulfilled the requirements, hereinafter referred to as husband and wife.

In Indonesia itself historically sociologically, attention to the fate or rights of women began to be paid attention to since R.A. Kartini became an icon of women's emancipation. Since then, women have begun to play an active role, both in the educational and social sectors. Kartini was not only known for her tenacity to fight against the oppression of her people at that time which was considered unusual, but also encouraged Indonesian women to be aware of the existence of women in society, both in terms of size and scope.

The existence of legislation that accommodates the interests of women has historically been long hoped for and awaited, even before independence. Starting from the women's undergraduate association congress to a demonstration at the DPR Building. Apparently, commitment with Indonesian women never stops. Several groups of Indonesian women in the early 20th century began to express their desires, starting with the formation of institutions to communicating the commitment to the struggle of Indonesian women through the parliamentary political stage. The government considers this to be quite serious, although some religious groups oppose it on the grounds that it is not a priority.

Based on the thoughts above, it is necessary to study and examine through scientific research regarding the Law Enforcement of Civil Servants Who Violate Marriage/Divorce Permits as described above so as to obtain results that illustrate the significant impact of implementing the provisions in the regulation.

Based on the description above, several problems arise that require further research, such as:

1. What is the function of the Marriage Development and Preservation Agency (BP4)?
2. Is Dispute Resolution Through a Judicial Body?

THEORETICAL REVIEW

As stated in the Holy Qur'an, Surah Annissa (1), which means: "Honor your God, who created you all from one human being. After that, Allah made wives from whom He created many of your sons and daughters. Ask one another in His name, and keep your ties of friendship intact."

There is some ambiguity in the implementation of Government Regulation Number 10 of 1983. For civil servants certain Government Regulation Number 10 of 1983 applies, but they are not always able to comply with it, whether intentionally or not. Some of the changes being considered are clarification regarding the need to apply for permission in the event of a divorce, a prohibition on female civil servants from marrying a second, third, or fourth wife, and the distribution of income after divorce, all of which are expected to provide justice for the parties concerned. divorce.

Government Regulation Number 45 of 1990 regulates the following matters in Article 3 of Government Regulation Number 10 of 1983 concerning Marriage and Divorce Permits for Civil Servants:

1. Before divorcing, civil servants must obtain approval or a statement from their superiors;
2. To obtain a permit or certificate, a civil servant who wishes to declare himself or herself as a defendant or plaintiff must submit a written application;
3. The request must be included in full in the letter requesting approval to apply for divorce or notification of obtaining a certificate.

If a hierarchical superior receives approval from the Civil Servant to request a divorce, has multiple wives, or becomes a second, third, or fourth wife, then he must consider the request and forward it to the authorized official through the appropriate channels within his environment at most. no later than three months after the permit application is received.

Three (three) months must pass after a Civil Servant, official, or State Administrative Body requests permission to make a decision. To ensure as far as possible the intention to marry in a second marriage and subsequent divorce, State Administrative Officials/Body must first try to provide advice to civil servants, prospective second wives, and so on in response. to ask permission before making a decision maybe preventable. The official can assign this advice to other officials in the vicinity if the residence of the prospective second wife, the residence of the civil servant concerned, and so on is far from the official's home.

METHODOLOGY

The approach methods include: Legislative Approach (Stute Approach), Conceptual Approach (Conceptual Approach), Sociological Approach (Socio Legal), and other types of normative-empirical legal research. Analysis of Legal Material Data: All legal materials and data are collected, processed, and then qualitative descriptive analysis techniques are carried out. This involves organizing data into an outline that can meaningfully explain the main problem the research is trying to solve and serves as a response to the conclusions drawn from the research objectives in a methodical and sequential manner. design.

RESEARCH RESULT AND DISCUSSION

1. The Role of the Marriage Development and Preservation Advisory Board (BP4)

State apparatus is now used more effectively, especially in terms of protecting the public and providing high-quality and efficient services. The welfare and professional skills of officers are also highly valued in helping them carry out their duties. Apart from providing a legal basis for guarantees for civil servants, changes to the Basic Civil Service Law, also known as Law Number 8 of 1974, are Law Number 43 of 1999 concerning Civil Service. This amended law can also become the basis for regulating civil servant guarantees. preparation for good and comprehensive governance.

The quality of the state civil apparatus and the orderliness of the apparatus itself play a major role in preparing the state apparatus towards perfect governance. It is proven that civil servants have a crucial and influential role. Because civil servants are the state machine that runs the government in implementing national development goals, and thus it is the state machine that determines the success or failure of the government's mission.

Before the permit process based on Article 76 paragraph (2), there were still gaps and efforts to resolve family problems through the Marriage and Divorce Development Agency (BP4) if a divorce lawsuit occurred. Divorce from civil servants is handed over to superiors who have the authority to issue permission decrees, as mediators to seek reconciliation between husband and wife, if this is required by the court. This is regulated in Article 31(2) Government Regulation Number 9 of 1975 Explaining the Applicability of Law Number 1 of 1974 concerning Marriage.

The mediation/dissolution efforts of a Regency Religious Affairs Office have authority over the BP4 agency (Marriage and Divorce Settlement Development Agency), which is a source for civil servants who are going through a divorce as a place for marriage registration, where the relevant Civil Servant lives. Of the 6, although Mataram is a city that has sub-districts, only three sub-districts have Religious Affairs Offices (KUA): Mataram Ampenan Regency Religious Affairs Office and Cakranegara, because the other sub-districts are still relatively newly formed after regional expansion. The aim of mediation is to reconcile Civil Servants with their problematic wives/husbands so that they can return to living in harmony, peace and prosperity in

accordance with household goals, before the problem is continued to the Religious Court level.

Regarding law enforcement, Civil Servants within the Mataram City government violate permits for second marriages (polygamy) and divorce. The authorized officials must have high commitment to enforcing the law in line with community demands for reform in the legal sector. The Religious Court as an institution that has the power to determine decisions for state employees requesting permission for divorce or second, third and fourth marriages (polygamy) has always been the center of public attention.

Likewise, government employees who comply with regulations relating to permits for second, third and fourth marriages (polygamy) and/or divorce for civil servants do not report their marriage or do not ask for permission from officials/State Administrative Bodies, may face punishment in the form of disciplinary action. For serious violations of the polygamy permit, the laws and regulations can be found regarding sanctions as follows:

The law regarding marriage as outlined in Government Regulation Number 9 of 1975 is still in effect. As intended in Article 43, Article 44 prohibits the registrar from registering the marriage of a husband to several wives before obtaining the necessary court permission. Article 45 states that:

1. *Unless the relevant statutory regulations state otherwise:*
 - a. Government regulations state that the maximum fine for violators of Article 3 paragraph (3) is IDR. 7,500.0 (seven thousand five hundred rupiah).
 - b. Violation of any of the provisions of Articles 6, 7, 8, 9, 10 paragraph (10) 11, 13, 44 of this Government Regulation can result in imprisonment for a maximum of three months or a fine of a maximum of Rp. 7,500.0 (seven thousand five hundred rupiah) for Registrar Department employees.
2. *The violations previously mentioned in paragraph (1) are violations.*

Regarding Marriage and Divorce Permits for Civil Servants, Government Regulation Number 10 of 1983 and Government Regulation Number 45 of 1990 state in Article 11 that an official may only permit female civil servants to engage in polygamy—for a second, third, or fourth wife—as referred to in Article 4 paragraph (3).

- a. written consent from the prospective husband's partner;
- b. Tax income certificate proving the prospective husband's qualifications to support many wives and children; And
- c. The prospective husband has given a written promise to treat his wife and children fairly.

Article 16 explains that, if an employee violates one of the provisions of Article 3 paragraph (1) and Article 4 paragraph (1), paragraph (2), and paragraph (3), they will be subject to disciplinary sanctions from Civil Servants,

including honorable dismissal, if violate these provisions. do not leave the organization voluntarily.

Article 18 of the Government Regulation states that the provisions in this Government Regulation do not replace the provisions of Law Number 1 of 1974 concerning Marriage (State Gazette of 1974 Number 12, Supplement to the State Gazette of 1975 Number 12, Supplement to State Gazette Number 3050), Government Regulation Number 9 1975 concerning Implementation of Law Number 1 of 1974 concerning Marriage (State Gazette of 1974 Number 1, Supplement to State Gazette Number 3019), and other statutory regulations.

Government Regulation Number 53 of 2010 concerning Civil Servant Disciplinary Regulations, Number 10 of 1983, and Number 45 of 1990 concerning Marriage and Divorce Permits for Civil Servants all apply simultaneously with sanctions for violations of the provisions of Article 16 and Article 17 of disciplinary sanctions.

2. Dispute Resolution Through the Judicial Body

Additional provisions regarding the civil servant trial process as intended in Article 48 of Law Number 5 of 1986 concerning State Administrative Courts are as follows:

1. (1): Administrative orders must be fulfilled using all available administrative means if the State Administrative Body or Official is given the authority to carry out certain State Administrative summons based on laws or regulations.
2. (2): Provided that all actions after carrying out the necessary administration, the new government can evaluate, determine and establish guarantees regarding state administration as referred to in the first paragraph. Article 4 of Law Number 5 of 1986 and Law Number 9 of 2004, in particular which regulates the State Administrative Court, regulates the following provisions: "State Administrative Disputes are records that occur within the realm of State Administration, both at the Central and Regional levels, involving individuals or civil legal entities and State Administrative bodies or Officials. The dispute arose because of the issuance of a State Administrative Decree which included invitations to be issued "legally and staffing calculations based on regulations."

The existence of the PTUN is very important to uphold the supremacy of law because it functions as a forum for protecting rights and as a leading supervisory institution (supervisor) over state administrative actions so that they adhere to legal guidelines. Individual and community actions support arbitrary decisions taken by state officials.

The State Administration protects personnel disputes, meaning that all signing is based on the State Administration Decree. Law Number 5 of 1986 concerning the State Administrative Court carries out this function. Article 35 Law Number 8 of 1974 jo. Number 43 of 1999 concerning Personnel Principles

regulates that settlements related to employment must go through the State Administrative Court. Therefore, decisions taken by state administrators do not always improve the fate of civil servants; in fact, this can sometimes result in its termination.

State administration is the branch of state government that is responsible for handling regional and central government affairs. Examining, deciding and concluding settlements in the field of One of the institutions that exercise the judicial power of the Supreme Court is the State Administration, especially the State Administrative Court. Opinions between a person or civil legal entity and an agency or State Administration official will certainly differ because of a State Administration decision that the person or entity believes violates their rights. Of course, there are differences of opinion in the constitutional field.

A document with written provisions issued by State Administrative Bodies and Officials is known as an official State Administrative Decree. These provisions have legal consequences for individuals or civil legal entities because they are special, final, concrete and based on applicable regulations. Law Number 5 of 1986 concerning State Administrative Courts further regulates the procedures for employee settlement in Article 48. The following are the procedures:

1. State Administration demands that State Administration use all existing administrative channels to resolve certain State Administration demands, even though statutory regulations authorize State Administrative Bodies or Officials to carry out such actions.
2. If all relevant administrative actions have been carried out, the new court has the authority to review, determine and implement State Administration decisions as intended in paragraph (1).

If a person or civil legal entity does not agree with a State Administration decision, then administrative action can be taken by an official in that agency, either his superior or another official in the same agency. In civil service, the word "objection" is synonymous with administrative tape. Civil servants who receive one type of severe disciplinary punishment have fourteen (14) days from the date of punishment to submit an application to the authorized superior, in accordance with Government Regulation Number 53 of 2010 concerning Civil Servant Discipline, Article 32 has the authority to punish. Those who violate will be given disciplinary sanctions.

According to Article 37 Paragraph 1 of Government Regulation Number 53 of 2010 concerning Civil Servant Discipline, it is stated that officials who have the authority to impose sanctions can add, reduce, confirm or revoke disciplinary actions carried out by officials who have the authority to impose sanctions. As a result, the higher authority that imposed the sanction actually carried out an administrative appeal procedure. Article 51 of Law Number 5 of 1986 regulates the jurisdiction and investigative authority of the State

Administrative High Court to provide decisions at the initial level. In particular, the State Administrative High Court is able to:

- a. Carry out verification and completeness of State Administration as intended in Article 48 at the first level.
- b. The appeal for cassation can be granted against the decision of the State Administrative High Court referred to in letter (a).

Here it is clearly seen that in disputes regarding State Administrative matters relating to personnel, Article 48 means that the State Administrative Court as the Court of First Instance no longer has authority. On the contrary, this authority now belongs to the State Administrative High Court. Civil servants who violate permits for second, third and fourth marriages (polygamy) are sentenced to severe punishment in the form of dismissal with respect and not at their request, they can immediately file a lawsuit to the State Administrative High Court if after carrying out administrative efforts they are still not happy or feel dissatisfied with the decision of the Personnel Advisory Board in the form of administrative approval or withdrawal.

A State Administration Lawsuit Letter is a request from a Civil Servant who feels that an official decision by a State Administration agency will be detrimental to him personally and does not agree with it. The PTUN legal explanation, especially explanation number 5, provides clear guidelines on how to file a formal lawsuit against the PTUN. Apart from that, this law also regulates procedural law relevant to the State Administrative justice system. State procedural law for civil cases is similar to general judicial procedural law in several explanations. Among these variations are:

- a. This law gives rise to the doctrine of free evidence because judges at the State Administrative Court are more involved in the trial process and look for material truth;
- b. Obstructing the implementation of the State Administrative Decree that is being sued is not the fundamental aim of a State Administrative lawsuit.

After going through administrative efforts, regarding the time limit for filing a lawsuit and the address of the lawsuit letter, the contents of the lawsuit letter must be considered. The contents of the lawsuit letter are not much different from a civil lawsuit. The State Administrative Court accepts a lawsuit won by the State Administrative Court located or located at the location of the Defendant. Every lawsuit that is submitted at the outset, the clerk's staff will take care of the following matters first from an administrative perspective:

- a. Penalty of court costs;
- b. Disputed State Administrative Decree;
- c. The date the State Administration decision letter is received/announced to the relevant Civil Servant;
- d. Other evidence related to the dispute.

Article 62 of Law Number 5 of 1986 is subject to initial procedures. Specifically during deliberations, the Chairman of the Court can determine that the lawsuit submitted can be accepted or is based on the following circumstances, with provisions that support his decision.

- a. The subject matter of the lawsuit is clearly within the court's jurisdiction;
- b. The plaintiff has fulfilled the requirements for the lawsuit as intended in Article 56;
- c. The lawsuit has a valid reason;
- d. The State Administrative Decision being sued has not fulfilled the demands put forward in the lawsuit;
- e. The lawsuit has not ended within the specified time.

It was decided that the lawsuit filed was inadmissible or baseless if:

- a. It is clear that the subject matter of the lawsuit is beyond the jurisdiction of the court;
- b. Even though he has received a warning and information, the plaintiff has not fulfilled the requirements of the lawsuit as intended in Article 56;
- c. The lawsuit has no valid justification;
- d. The State Administrative Decision which is the subject of the lawsuit has fulfilled the demands;
- e. lawsuits that have expired or were filed too quickly.

If you have passed the initial process, then before entering the main examination of the case, the judge must conduct a preliminary examination. During the examination, regarding the correctness of the data required in the lawsuit, the judge can ask for an explanation from the State Administrative Agency or related officials. There is a way to do this by carrying out a State Administration inspection quickly.

1. The plaintiff in his lawsuit can ask the court to speed up the examination of the case if from the reasons for his request it can be determined that the plaintiff has a sufficiently urgent interest.
2. Based on the instructions in point 1 above, the Chief Justice will decide whether the application will be granted or not, within a maximum period of fourteen (14) days after the application is received.
3. One judge completed the examination on time.

After these stages are completed, the State Administrative Court can provide a decision in the following format:

1. Lawsuits are not accepted.
Was it proven during the trial that the decision of the State Administrative High Court stated that the lawsuit was rejected, and was it proven that the Plaintiff filed the lawsuit beyond the time limit specified in Article 55 of Law Number 5 of 1986

2. The lawsuit is rejected.
If at trial, the Defendant is not proven to have committed the violation as claimed by the Plaintiff, then the decision to Reject is the decision of the State Administrative Court lawsuit.
3. The lawsuit is granted.
If at trial, the Defendant is proven to have committed a violation as demanded by the Plaintiff, then the decision of the State Administrative High Court which is based on a lawsuit is granted. granted.
4. The lawsuit is declared dismissed.
The decision of the State Administrative High Court in the form of a lawsuit is deemed void if the Plaintiff or his attorney fails to appear consecutively, from the first day of the hearing to the third day of the hearing, for any reason that cannot be explained and even though it has been challenged. first called.

To discuss the problems above, one must understand the ins and outs surrounding the issue of state administration decisions which are at the core of the discussion of this thesis, and the general principles of good governance, such as the principles:

- a. legal certainty;
- b. orderly state administration;
- c. openness;
- d. proportionality;
- e. professionalism; And
- f. accountability.

As a means of evaluating State Administrative Decisions.

CONCLUSION AND RECOMMENDATION

The following conclusions and recommendations can be drawn based on the above:

1. The Religious Court decides cases of divorce suits and divorce petitions based on substantive law referring to Law Number 1 of 1974, Government Regulation Number 10 of 1983, and Government Regulation Number 45 of 1990, Article 3 paragraph (1), (2), (3) and Article 116 of the Compilation of Islamic Law and Procedural Law. So that the decision of the Religious Court regarding permission for divorce or a divorce decision is not always based on it because legally the Religious Court has the authority to decide on divorce cases and permission for divorce in accordance with Circular Letter Number 48/SE/1990, dated 22 December 1990, with the

permission of the direct superior of the Civil Servant who concerned.

2. Civil servants who allow divorce without first obtaining permission will be subject to sanctions. This especially applies to Government Regulation Number 45 of 1990 concerning Amendments to Government Regulation Number 10 of 1983 concerning Marriage and Divorce Permits for Civil Servants. It still seems quite weak
3. Government Regulation Number 45 of 1990 and Government Regulation Number 10 of 1983 stipulate the longest period of time that officials authorized to handle applications from Civil Servants who have Marriage and Divorce Permits must complete their duties. relevant
4. Guarantee that legal subjects have legal certainty of interest. The formulation of norms relating to time limits for the permit process should be stated expressly not in Legislative Regulations, but in Circular Letters, so that interested parties receive a guarantee of legal certainty and protection.

ADVANCED RESEARCH

Considering the researchers' own limited knowledge and skills, the researcher has come to the realization while producing this article that there are still numerous deficiencies in language, writing, and presentation style. As a result, the researcher anticipates helpful critiques and recommendations from a range of sources to ensure the piece is flawless.

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