



## Identity Fraud In Polygamy, A Review Of Court Decisions

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**Abstract:** Marriage is a form of worship because it has a noble purpose to maintain human survival as stated in the Qur'an. It is hoped that a marriage will be carried out forever and without anything being hidden. In Islam, a husband is allowed to have more than one wife (polygamy) as long as he can act fairly and comply with applicable regulations. When you want to remarry, one of the conditions is the wife's consent and permission from the Religious Court. The husband committed the falsification of his identity when he was about to remarry. Through analytical descriptive research, this article aims to understand the terms and conditions of polygamous marriages and for husbands to understand the impact of the law on falsifying identities in marriage. The presence of identity falsification is one of the judge's considerations in handing down a decision to annul a marriage.

**Keywords:** Court Decisions, Identity Fraud, Polygamy

### 1. Introduction

Article 2 of Presidential Instruction Number 1 of 1991 concerning the Codification of Islamic Law (KHI) states that marriage is a very strong contract to obey Allah's command, namely *mitsaaqan gholiidhan* and its implementation is prayer. This is stated. Likewise, Article 1 of Law Number 1 of 1974 concerning Marriage which defines marriage as an inner relationship between a man and a woman as husband and wife with the aim of creating a happy and eternal family or household based on their beliefs. and stated that it was an external connection. To God Almighty. (Heniyatun et al., 2020). Furthermore, Article 1 of Law Number 16 of 2019 concerning Marriage states that marriage is a physical and spiritual relationship between a man and a woman as husband and wife with the aim of building a happy and eternal family or household based on faith. Expressed as a combination. ...in God Almighty. The marriage bond between a man and a woman is bound by mutually complementary obligations by fulfilling each other's rights and obligations. Of course this is not without reason. Because without fulfilling mutual obligations and rights, the wisdom of marriage, building a harmonious family, will not be achieved. (Adib, 2022).

When getting married, there are well-known marriage pillars. Pillars are fundamental things that cannot be removed or subsumed into nature, as opposed to conditions that do not affect the nature or substance of something. For harmony in married life, it is necessary to pay attention to basic things that cannot be ignored. In order for a marriage to be valid according to religious law, there are several pillars that must be fulfilled, including: a. Guardian. Guardianship comes from the woman who marries the groom. b. There are two witnesses. In a marriage there must be two witnesses. c. Agrees and Accepts. *Ijab* means obedience by the first party and *Qobul* means acceptance by the second party. d. Future husband. A condition for a valid marriage is the presence of a groom. e. future wife. Marriage is prohibited for women who are related by blood, siblings or in-laws. According to Article 44 of the Codification of Islamic Law (KHI), Muslim women are prohibited from marrying non-Muslim men. (Musyafah, 2020). What is meant by marriage conditions is something that must or must be present at the time of marriage. For example, the requirements for witnesses must be sophisticated and mature. (Agustini, 2018) What is meant by marriage conditions is something that must or

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must be present at the time of marriage. For example, the requirements for witnesses must be sophisticated and mature. (Winda & Fida, 2023).

Basically, people who want to get married can only get married once. This is usually called the principle of monogamy. Articles 3 and 5 of the Marriage Law explain that the principle of monogamy is absolute and in its implementation, the principle of monogamy is always linked to Article 2(1), namely the validity of marriage according to religious law. (Anas Sariffudin et al, 2023). Although the principle of monogamy generally applies in marriage, the state allows husbands to have multiple wives. The marriage relationship must be practically legal, both religiously and according to state law. Article 2 Paragraph 2 of the Marriage Law regulates that marriages must be registered. The compilation of Islamic law also stipulates that prospective bride and groom must be registered and registered (Zaki & Arifin, 2023)

Previously there were several studies related to marriage annulment, as conducted by Riskhi Salsabiela which discussed the annulment of unregistered polygamous marriages where the marriage had been dissolved due to death (Salsabiela & Prananda, 2023), Next, Sulkhan Zainuri, where in this research there is a dualism in the meaning of marriage annulment in legislation, namely; a marriage that is void by law and a marriage that can be annulled, thus having an impact on the legal status of husband and wife. (Zainuri, 2019). Furthermore, Muhammad Jazil Rifqi, focused on research that several judges' decisions regarding marriage annulment were largely caused by identity fraud. (Rifqi, 2019)

The scientific contribution expected from the research is in terms of legal implications, where in this research it can be seen how falsifying identities for polygamy affects the legal system, including legal implications for the individuals involved and their families.

There are several implications that can be seen from this research, namely practical and theoretical implications. From a practical implication, namely in terms of prevention and law enforcement, this research can help in developing more effective prevention and law enforcement strategies related to the practice of falsifying identity for polygamy. including increased security in the marriage registration process, use of more sophisticated identification technology, and training for officers handling such cases.

From the theoretical implications, namely Criminological Theory, this research can enrich understanding of crime and legal violations related to identity falsification, as well as the factors that encourage individuals to commit such acts. This may aid in the development of a more holistic and evidence-based criminological theory of the practice of identity fraud.

## 2. Materials and Methods

This research uses legal research, namely a type of normative legal research, and uses legal texts as primary legal materials and secondary legal materials as other legal materials to answer legal questions.

This is done by researching and analyzing legal documents and tertiary legal documents. This research uses a legal and conceptual approach. The legal approach is carried out by considering all statutory regulations relevant to the legal issue being raised, while the conceptual approach explores the views and principles that emerge in legal science and is based on the opinions of experts. This will be executed. experts and theorists. (Zulaeha, 2019)

The data obtained was then analyzed. The researcher used a qualitative descriptive method, namely presenting data and information and then analyzing it using several conclusions as findings from the research results. (Romdoni, 2024)

Analyzing relevant laws and regulations is an important step in research that involves data collection, in this case the research topic is related to legal aspects, namely identity falsification for polygamy.

The steps required include:

a. Identification of Relevant Regulations:

Whether it is national, regional, or local laws and Identify laws, regulations, and policies related to the practice of identity fraud, polygamy, marriage, and other related topics.

b. Understanding the Contents of the Regulations:

Such as regarding definitions, requirements and prohibitions regulated in these regulations. And how these regulations regulate the practice of identity fraud, including whether there are provisions regarding reporting, sanctions, or legal action related to such violations.

c. Identify Relevant Aspects:

Such as provisions regarding self-identification in the marriage process. Are there legal sanctions for future identity fraud? Focus on the parts of the regulations that most impact data collection.

d. Identify Potential Legal Actions:

Namely provisions that regulate legal actions or procedures that can be taken if a violation of these regulations occurs. In terms of the possibility of carrying out judicial procedures or investigations that can be applied in the event of identity fraud for polygamy.

e. Relevance to Research Objectives:

Evaluate how the regulations are relevant to the research objectives.

The data collection process involving experts, or what is also called the expert consultation method, is an important step in research to obtain insights, views and assessments from individuals who have special knowledge or experience in fields relevant to the research topic. The general steps for carrying out the data collection process involving experts include:

(a) Contacts and Invitations:

Contact the experts you have identified and explain the objectives and scope of the research to participate in the data collection process, whether through interviews, surveys, focus group discussions (FGD), or other methods that suit your research needs.

(b) Data analysis:

Record and document information obtained from the consultation process with experts. Next, analyze the data collected, whether in the form of interview transcriptions, survey answers, or notes from FGD sessions. And then Identify important patterns, themes, or findings that emerge from the data and consider the implications of the research

### 3. Results and Discussion

#### 3.1. *The existence of polygamy in Islam*

Polygamy is not prohibited in Islam and is regulated by the government in the marriage law. The legal rules allowing polygamy are regulated in Article 3 Paragraph 1 of the Marriage Law which allows the court to give permission to a husband to have more than one wife if the parties wish. (Septiandani et al., 2023)

Etymologically, the word polygamy comes from two Greek words: poly or axis which means many, and gamin or gamus which means marriage. Therefore, polygamy can be interpreted as multiple marriages. In this case, one of the partners marries the opposite sex at the same time. However, the term polygamy refers to a husband who has more than one wife. On the other hand, if a woman has many husbands, it is called "polyandry."

As has been explained, the husband must obtain permission from the wife or wives and permission from the Religious Court if he wishes to remarry. However, in the case of court decision Number xxx/Pdt.G/2023/PA. Mdn, a husband faked his identity from the

status of a husband to a divorced widower so he could marry another woman. So the Head of the Medan City District Religious Affairs Office filed a lawsuit for annulment of the marriage against Defendant I and Defendant II to the Medan Religious Court after the wife of Defendant I went to the Medan City Religious Affairs Office to object to the marriage of her husband (Defendant I) to Defendant II.

The purpose of marriage according to the Al-Quran and Hadith is to follow the commands of Allah SWT, obtain peace, have children, be happy and develop a generation of believers. (Indarta & Fida, 2023)

The strong influence of Islamic law on the marriage system in Indonesia is also in line with the majority of the Indonesian population being Muslim. In fact, Muslims constitute the majority in Indonesia, and this provides a strong background for the existence of a collection of Islamic law which states Islamic law as a legal basis that can be used. (Ali, 2023).

The following are important points regarding the existence of polygamy in Islam:

a. Legal Basis:

Based on the verses of the Qur'an and the Hadith of the Prophet Muhammad SAW, polygamy is permitted in Islam. This is in accordance with the verses of the Koran, especially surah an-Nisa (4): 3, which allows a man to marry four women, provided he treats them fairly.

b Limitations and Conditions:

Although polygamy is permitted, the Qur'an also places strict limits and conditions on this practice. Husbands have an obligation to treat all wives fairly and equally. If a husband cannot treat his wives fairly, then he may only marry one of them. among them.

c. Historical and Cultural Context:

The practice of polygamy in Islam must be understood in the historical and cultural context in which Islam emerged. During the time of the Prophet Muhammad SAW, the practice of polygamy was not uncommon in Arab society, and Islam restricted this practice and brought progressive changes.

d. Justice and Family Welfare:

Islam emphasizes the importance of justice and family welfare. Although polygamy is permitted, not all men are advised to do so, especially if they are unsure of their ability to treat their wives fairly.

e. Modern context:

Some Muslim-majority countries limit or prohibit polygamy, especially if it is deemed incompatible with social values or women's rights in the context of modern law.

It is important to understand that the practice of polygamy must be carried out with due regard for ethical values, justice and family welfare. Many Muslims choose not to involve themselves in polygamy because of their awareness of the great responsibility and the importance of maintaining balance in family relationships

### 3.2 Cancellation Of Polygamous Marriage Due To Identity Fraud

The compilation of Islamic law is a positive law of religious justice, and through jurisprudence plays a role in facilitating the smooth implementation of administrative regulation coordination work in Islamic law development projects. Furthermore, the compilation of Islamic law in Indonesia was developed to unite the considerations of religious court judges in adjudicating cases, and becomes a positive law that must adhered to by all Indonesian citizens who are Muslim.(Hidayat, 2022)

It cannot be denied that technological progress is like two blades in human life. Besides having the privilege of making it easier to obtain information, technological advances have had significant negative impacts such as identity fraud. Increasingly sophisticated technology makes it easier for people to create fake documents, such as identity

cards, passports or marriage certificates. This can facilitate fraud in a variety of situations, including marriage fraud. Furthermore, increasing sophistication in counterfeiting, namely developments in photo engineering and graphic design, allows people to create fake images and documents that are difficult to distinguish from the original. This complicates counterfeit detection efforts by authorities.

Fraudulent identity in marriage is a problem that can have serious social and legal impacts. This includes a variety of situations where a person uses a false identity to marry someone or to obtain certain benefits.

One of the factors that influences this identity falsification is technological progress. Advances in technology make it easier for someone to create fake documents or access another person's identity information. For example, with advances in photo engineering and document forgery, a person can more easily create a fake identity.

Data manipulation was carried out by a man (Defendant I) who changed his status from a husband to a divorced widower by attaching his wife's death certificate from Hospital H. in Medan as a supporting document to the Medan City Religious Affairs Office so that he could marry another woman (Defendant II). However, two weeks after the marriage, the man's first wife went to the Medan City Religious Affairs Office with identification including a valid marriage certificate and asked the Religious Affairs Office to annul her husband's marriage to the woman.

The validity of polygamy does not only depend on will, because the court also considers many conditions in granting permission. (Salsabiela & Prananda, 2023) UU no. 1 of 1974 states that the principle of marriage is monogamy/polygamy, although polygamy with a maximum of four wives is still possible. Court approval is required to carry out polygamy. On the other hand, marriage has no legal consequences without court approval. Marriage with multiple wives, including civil servants, is only permitted if at least one of the substitution conditions and three cumulative conditions are met. The alternative conditions are, first, the wife is unable to fulfill her obligations as a wife; Second, women have physical disabilities or diseases that cannot be cured. Third, women cannot bear children. Meanwhile, the cumulative conditions are: With the wife's consent. B. The husband is confident that he can provide for his wife and children. C. There is a written guarantee that the husband will treat his child's wife fairly. (Duri, 2022)

The issue of polygamy is found in the Qur'an which states that the conditions for allowing polygamy are fairness. Otherwise, polygamy is not permitted because it causes suffering.

The ex-wife has the right to petition the judge for the dissolution of the marriage (Podungge et al., 2022). The word "fair" means putting something in its place, or giving rights in the most accessible way according to the position of the parties. Basically the concept of justice is taught through verses from the Koran. When Allah SWT commanded mankind to be fair to each other. (Shuhuf, 2023)

Islam gives high status and respect to women in many areas of life, including polygamy. But in the reality, it's really ironic. This is because the noble meaning of polygamy in the Al-Qur'an is no longer reflected in community practice, because the practice of polygamy is no longer oriented towards sharia expectations. (Labib Ilhamuddin, 2021)

Islamic law only recognizes valid and invalid marriages. A void marriage is one that never existed, while a valid marriage can only be dissolved by death, a violation of taklik talak and fasak talak, kurul. According to Ibnu Munjil's opinion in Rissanul Arabic, the linguistic term fasyaf means the cancellation of a marriage. (Patampari, 2020)

An annulment is different from a prohibition on marriage or divorce. Marriage prevention is an action aimed at preventing marriage from occurring (marriage not taking place). Divorce is the dissolution of an existing legal marriage (the marriage has taken place) by mutual consent or at the request of one of the parties. If the marriage was annulled at that time, then the marriage was valid, but it was later discovered that the conditions set by law were insufficient. (Septiyayu Restu Wulandari, Sifa Mulya Nurani, 2023)

The Marriage Law does not regulate the meaning of marriage annulment, nor does Government Regulation no. 9 of 1975 implement this law. (Zainuri, 2019) If a marriage does not meet the requirements for marriage and harmony, it can be annulled. (Labetubun & Fataruba, 2020)

However, whether the marriage is annulled or not is left to the judgment of the couple who will suffer losses as a result of the marriage. A marriage can be annulled if someone cancels it. However, if no one cancels the marriage, then the marriage is invalid.

According to Article 71 KHI, a marriage can be annulled if: (a) The husband committed polygamy without the permission of the Inquisition. (b) Later it turned out that the woman he married was the wife of another man named Mahkud. (c) It turns out that the woman he married still lives with another man's wife. (d) Marriages that violate the age limit for marriage specified in Article 7 of Law no.

*1 in 1974. (e) Marriages carried out without a guardian or carried out by a guardian without rights.*

Forced marriage, In the KHI, annulment is one form of consequence of violating a marriage prohibition, which can be reduced to legal annulment depending on the reason for the violation of the marriage prohibition, and marriage annulment depending on the reason for the violation. violation of marriage terms. (Artiana et al., 2022)

In some cases, the marriage may not need to be annulled because the marriage center employee has been deceived. The consequence for the party whose marriage is annulled is that the marriage is deemed to have never existed (never occurred) and is returned to its original state, with the aggrieved party being able to remarry legally in later. However, of course there are parties who feel very disadvantaged by the absence of sanctions, but for reasons of social order and awareness, the ultimate goal is simply to annul the marriage. The idea that this country will soon find better legal standards is the answer to society's needs. (Rifqi, 2019)

As in the Regulation of the Minister of Religion (PMA) article 3 number 34 of 2016, the Office of Religious Affairs has functions and authorities, including the implementation of services, supervision, recording and reporting of reconciled marriages. Based on the authority that has been given, the Head of the Medan City Subdistrict Religious Affairs Office submitted a letter requesting an annulment of the marriage to the Medan Religious Court whose jurisdiction includes the Religious Affairs Office where Defendant I and the Defendant were married. Next, the Plaintiff asked the judge to annul the marriage.

With the evidence provided, the marriage certificate excerpt book issued by the Marriage Registrar (KUA) at the Medan City District Religious Affairs Office, Medan City must be declared legally ineffective.

Falsification of identity is one of the reasons for the judge's decision to annul the marriage submitted by the wife to the husband who entered into a polygamous marriage. In this research, the author assumes that the problem of identity falsification is one of the factors influenced by technological advances where someone can fake their identity by accessing other people's identities on the internet.

Furthermore, what is really needed is legal handling and forensic technology, where advances in forensic technology can help detect identity fraud more effectively. However, the legal handling of these cases may also require adaptations and advances in the law.

#### **4. Conclusions**

The decision to engage in polygamy must be seen from the perspective of its welfare, both personal and social. For this reason, polygamy must be carried out in accordance with the conditions regulated in Law Number 1 of 1974 concerning marriage and the Compilation of Islamic Law. With this rule, of course the decision to engage in polygamy will be considered from the perspective of its benefits, without having to bring harm, including by falsifying identities, hiding marriages in an unregistered manner which will have an impact on the integrity of the household, because the household is built on the basis of consistency between both parties, not from one party.

Polygamy requirements at KUA or polygamy requirements for Muslims. In general, polygamy in Islamic law is not much different from marriage law. Basically, if the first wife does not agree to her husband remarrying, then the husband cannot practice polygamy. Because, if a husband wants to have more than one wife, the wife's consent is a condition that must be fulfilled. However, if a request for recognition of polygamy is submitted to a religious court for legal reasons, the religious court can give approval after examining and listening to the wife's statement.

The marriage between Defendant I and Defendant II occurred due to manipulation of data from Defendant I and without the knowledge and permission of Defendant I's wife and also without permission from the Religious Court, thus the marriage was not in accordance with the applicable laws and regulations and legislation. as in the provisions of article 71 letter (a) of the Compilation of Islamic Law, it is explained that a marriage can be annulled if a husband commits polygamy without the permission of the Religious Court so that the marriage has no legal force.

To anticipate fraud by the prospective bride and groom in manipulating their identity, it is best to check the documents provided through the application to ensure the validity of the data submitted to the local Religious Affairs Office.

Addressing the issue of identity fraud in marriage requires cooperation between government agencies, legal institutions, and other stakeholders to strengthen identity protection and prevent marriage-related abuse. This could include increased identity checks, public education about the risks of identity fraud, and stricter law enforcement against perpetrators.

There are implications and contributions in this research, namely providing a deeper understanding of the phenomenon of identity falsification in the context of polygamy. This includes an understanding of motives, supporting factors, and their impact on individuals, families and society as well as the development of more effective policies to prevent and deal with the practice of falsifying identities for the purposes of polygamy. Including changes in marriage laws, improvements in the identification and verification process, as well as legal sanctions for perpetrators of identity fraud.

There are suggestions for further research to use a multidisciplinary approach: involving fields such as psychology, sociology, anthropology and law to gain a comprehensive understanding of the phenomenon of identity falsification in polygamy.

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