

Legal analysis of Niet Onvankelijke Verklard's Decision (NO) on the application for announcement of marriage a TNI soldier who forged a marriage license (Case Study of Cilacap Religious Court Decision Number: 0922/Pdt.G/2021/PA.Clp)

Hamid
Military Law College, Indonesia
4bdul14mid@gmail.com



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Abstract

Purpose: This study aims to analyze the application of law to the administrative requirements of a Marriage License (SIN) that is formally flawed and the implications of the Niet Onvankelijke Verklaard (NO) decision on the marriage of a TNI soldier who falsified the Marriage License (SIN).

Research methodology: The method in this study is written in a Normative Juridical manner, is descriptive analytical, the legal material is with secondary data that includes related laws and books.

Results: The results of the study state that the application of the provisions in Article 72 paragraph (2) of the Compilation of Islamic Law which regulates the provisions for the annulment of a marriage carried out with the condition of "Fraud" can be used as a basis for a judge to annul the marriage so that justice can be realized for the Applicant and Respondent. Meanwhile, the legal implications of the Niet Onvankelijke Verklaard (NO) decision are that the marriage and children born are still considered valid and remain recorded because they have legal force, but there are also losses incurred for the wife and children in terms of official care and losses for the TNI institution and the Marriage Registration Agency or the Office of Religious Affairs (KUA).

Keywords: *Marriage Annulment, Marriage License, Soldier*

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1. Introduction

Annulment of Marriage which is explained in Article 22 of Law Number 1 of 1974 states that a marriage can be annulled if the parties do not meet the requirements to carry out a marriage, then the marriage can be annulled. Explanation of Article 22 of the UUP states that a marriage that does not meet the requirements stipulated in the applicable law is an unlawful act. In relation to the requirements of marriage that are not met, then prevention of marriage can be carried out. Meanwhile, if the marriage has occurred, it can be done by annulling the marriage (Khan & Sultana, 2021).

While in the KHI there is no authentic definition, it can be seen that the annulment of marriage is regulated in Chapter XI Articles 70-76 concerning the Cancellation of Marriage. The KHI explains the reasons that are permitted for a marriage to be annulled in Article 71 if as follows:

- a. A husband practices polygamy without permission from the Religious Court;
- b. The woman who is married/married is later found to still be the wife of another man who is *mafqud*.
- c. The woman who is married is still in *iddah* and another husband;
- d. Marriages that violate the minimum age for marriage as stipulated in Law Number 1 of 1974 Article 7;
- e. Marriages conducted without a guardian or conducted by an unauthorized guardian;
- f. Marriages conducted under duress.

The problem of forgery of letters in this case the Marriage Permit from the unit by TNI Soldiers is a rare phenomenon. This is because the rules set by the TNI Commander Regulation are considered difficult for some Soldiers because there are several requirements that must be met. Therefore, Soldiers who want to get married tend to marry dishonestly, one of which is by committing fraud by falsifying the Marriage Permit (Gustian, Respatono, Erniyanti, Anatami, & Parameshwara, 2022).

This case of a request for annulment of marriage has occurred in the life of one of the TNI Soldier's families where the request was submitted by the Head of the Religious Affairs Office (KUA) with a reply letter of confirmation from the unit to the KUA official stating that the Marriage Permit (SIN) used by the TNI Soldier to conduct the marriage was fake. Initially, the TNI Soldier already had an original Marriage Permit (SIN) issued by the Unit with the signature of the Unit Commander. However, the prospective bride who was submitted to the Unit Commander was not the woman the soldier wanted to marry, so the soldier falsified the original SIN with a fake SIN in order to facilitate a plan to marry another woman who was not officially submitted to the Unit Commander (Olajubu, 2022).

In the Decision of the Cilacap Religious Court Number 0922 / Pdt.G / 2021 / PA.Clp, there is a problem, namely stating that the application is *Niet Onvankelijke Verklard*, meaning that the application cannot be accepted because the reason for the application is not based on the law, resulting in the application not being able to be followed up by the judge to be examined and tried, meaning that the marriage carried out by the soldier remains valid even though it was preceded by a crime with administrative falsification (Zahrani, Nurmayani, & Deviani, 2022).

Starting from the decision, the Author assesses that the judge made a mistake in determining the basis for consideration and the judge failed to create law. In the case where the judge makes a mistake in determining the basis for the judge in issuing a final decision that is negative in the form of a ruling stating that the lawsuit cannot be accepted or *Niet Onvankelijke Verklard*, none of the specified requirements are met, such as the attorney who sued was not supported by a power of attorney, the lawsuit contained an error in persona, the lawsuit was outside the absolute and relative jurisdiction of the court, the lawsuit was *obscuur libel*, the lawsuit was still premature or the lawsuit had expired (Harahap, 2017). There is not a single argument mentioned in the considerations and opinions of the judge in the decision so that the Researcher assesses that the Panel of Judges of the Cilacap Religious Court in deciding Case Number 0922 / Pdt.G / 2021 / PA. Clp is not quite right.

Furthermore, regarding the Panel of Judges failing to create legal certainty, this is certainly not in line with the form of improving the quality of judges' decisions and the professionalism of religious court institutions, especially the Cilacap Religious Court. Judges in making decisions do not only refer to the Law, because it is possible that the Law does not regulate clearly so that judges are required to be able to explore other legal values such as customary law and unwritten law that exist in society. In the case under discussion, which in deciding the case of the annulment of the marriage, the judge did not use the reasons contained in Article 72 Paragraph (2) of the KHI considering that the TNI soldier in question meets the requirements of the principle of Islamic Personality. Which is that the marriage of

the TNI soldier occurred due to fraud in the form of falsification of a letter which should have been one of the reasons that could be a factor in the annulment of the marriage.

The panel of judges should not only focus on formal truth alone, but can try to explore the material truth related to the origin of the SIN. It should be noted that this Marriage License is an administrative requirement, but if this administrative requirement is not met, the marriage contract cannot be carried out by the marriage registrar/KUA official. On the other hand, if the judge grants the application for annulment of the marriage, of course this does not have any legal implications that are detrimental to the children born as a result of the soldier's marriage.

In addition, it is true that the TNI Commander's Regulation is not binding on judges, but the Commander's Regulation is a provision made by an institution of the same level that is formed by Law, namely Law Number 34 of 2004 concerning the TNI so that its existence is recognized as a statutory regulation and has binding law as long as it is ordered by the statutory regulation. Therefore, TNI Regulation Number 50 of 2014 is included in the category of legal values that apply to TNI Soldiers so that judges should be able to use the legal values that apply to TNI Soldiers as a consideration for judges so that military discipline is maintained for the benefit of the state. Based on the description above, the author is interested and wishes to raise this in this thesis with the title **"LEGIDAL ANALYSIS OF THE DECISION OF NIET ONVANKELIJKE VERKLARD (NO) ON THE APPLICATION FOR CANCELLATION OF THE MARRIAGE OF TNI SOLDIERS WHO FORGED MARRIAGE LICENSE (Study of the Decision of the Cilacap Religious Court Number: 0922/Pdt.G/2021/PA.Clp)"**.

1.1. Problem Formulation

Based on the description of the background of the problem above, the problems in this thesis are as follows:

1. How is the application of the law to the administrative requirements of a Marriage License (SIN) that is formally flawed?
2. What are the legal implications of the Niet Onvankelijke Verklaard (NO) decision regarding the marriage of a TNI soldier who falsified a Marriage License (SIN)?

2. Literature Review

2.1 Theoretical Framework

2.1.1 Theory of the Purpose of Law

Gustav Radbruch as quoted by Rifai (2011), said that the purpose of law is actually the same as what Gustav Radbruch put forward, as 3 (three) basic values of law, namely justice, benefit and legal certainty. Furthermore, Radbruch teaches the use of the principles of the three principles, where the first priority always falls on justice, then benefit and finally legal certainty.

2.1.2 Principles of Islamic Personality

The application of Islamic law to people who are Muslim is known as the Principle of Islamic Personality. This principle is regulated in Article 2 of the Republic of Indonesia Law Number 3 of 2006 concerning Amendments to the Republic of Indonesia Law Number 7 of 1989 concerning Religious Courts, which states that Religious Courts are one of the actors of judicial power for people seeking justice who are Muslim regarding certain civil cases as referred to in this Law (Mardani, 2009).

2.2 Operational Definition

2.2.1 Ruling Niet Ontvankelijke Verklaard (NO)

The Niet Ontvankelijke Verklaard or NO decision is defined as a decision stating that the lawsuit cannot be accepted due to formal defects (Haraharp 2017). The Niet Onvankelijke Verklaard (NO) decision is a decision stating that the lawsuit cannot be accepted because there are formal defects that are the basis for the judge to issue a final decision with the dictum stating that the lawsuit cannot be accepted.

Regarding a lawsuit, the *Niet Onvankelijke Verklaard* (NO) decision can be decided based on the jurisprudence of the Supreme Court of the Republic of Indonesia Number 1149/K/SIP/1975 dated April 17, 1975 unto the Supreme Court of the Republic of Indonesia Decision Number 565/K/SIP/1973 dated August 21, 1973 unto the Supreme Court of the Republic of Indonesia Decision No. 1149/K/SIP/1979 dated April 7, 1979.

2.2.2 Marriage

The definition of marriage in the TNI Commander Regulation Number 50 of 2014 concerning the Procedures for Marriage, Divorce and Reconciliation for Soldiers is not explained authentically, in this context it is more related to the requirements for TNI soldiers to follow the applicable procedures and rules to obtain permission to marry and ensure that the marriage is carried out in accordance with applicable rules. This regulation emphasizes that every marriage, divorce and reconciliation to be carried out by TNI soldiers must be carried out according to the provisions/guidance of the religion adhered to by the soldier concerned and according to applicable laws and regulations.

2.3 Marriage Procedures Based on Regulations in Effect in the TNI and TNI AD Environment

Basically, TNI soldiers who will carry out a marriage must first obtain written permission from the authorized Commander/Superior. This is emphasized in the TNI Commander Regulation Number Perpang/50/XII/2014 dated December 30, 2014 concerning Procedures for Marriage, Divorce and Reconciliation for Soldiers. This is an implementation of marriage registration as stipulated in Government Regulation Number 9 of 1975 Article 6 paragraph (2) letter g which requires written permission from an official appointed by the Minister of Defense/Commander of the Armed Forces if one or both of the prospective bride and groom are members of the Armed Forces.

In the provisions of Article 63 above, it can be concluded that every soldier who wants to carry out a marriage must carry out the procedure based on applicable laws and its implementation is regulated according to TNI Commander Regulation Number 50 of 2014 concerning Procedures for Marriage, Divorce and Reconciliation for Army Soldiers.

2.4 Marriage License as an Administrative Requirement

Marriage Permit is an official document issued by a unit in granting permission to soldiers to conduct a Marriage by the Commander/Superior after obtaining a written opinion of the Religious Official's Opinion Letter. For TNI Soldiers, a Marriage Permit is a very important administrative requirement before conducting a marriage considering that it is clearly a form of implementation of Government Regulation Number 9 of 1975 Article 6 paragraph (2) letter g which requires written permission from an Official appointed by the Minister of Defense/Commander of the Armed Forces so that TNI Soldiers are elements of the state apparatus, state servants, and public servants who must be good role models for the community in behavior, actions and obedience to applicable laws and regulations.

A Marriage Permit is issued by the Unit Commander/Superior stating that the soldier has obtained permission to marry, this letter is usually needed to ensure that the marriage is carried out in accordance with the procedures and provisions applicable in the TNI environment and this letter also ensures that the marriage will not have a negative impact on the discipline, duties or obligations of the soldier.

Marriage Permit is highly emphasized to soldiers because the TNI is an institution that demands discipline as well as a manifestation of the third Soldier's Oath, namely "that I will submit to the law and uphold military discipline". The Marriage Permit is intended to maintain military discipline by ensuring that marriage will not interfere with the soldier's duties and that the prospective partner does not have a background that could have a negative impact on discipline and be detrimental to the service.

In addition, as a form of approval from the Commander/superior who has the authority to give permission and approve the soldier's marriage after the Soldier and his/her partner have appeared to

obtain approval. Then the last one as a form of verification of the data and background of the soldier and prospective partner has been verified to avoid problems in the future.

In the case of violations of the provisions stipulated in TNI Regulation Number 50 of 2014, Chapter VII Article 22 regulates sanctions. Sanctions are a punishment or coercive action given because the person concerned fails to comply with the law, rules or orders. The consequence is that if a soldier marries without a marriage permit, he can be subject to disciplinary action as regulated in Law Number 25 of 2014 concerning Military Disciplinary Law, followed by administrative sanctions in the form of a postponement of promotion or other sanctions that can have an impact on the military career of a TNI soldier.

2.5 Factors Causing Forgery of Marriage Licenses by TNI Soldiers

Soldiers who intentionally falsify a Marriage License are committing a crime. As we know, crime is the shadow of civilization, a shadow of civilization and there is even a theory that says that crime is a product of society (Hasibuan, 1994). W.A. Bonger defines crime as a very anti-social act that is consciously challenged by the state in the form of suffering (punishment and action) (Bonger, Kempe, Koesnoen, Reksodipoetro, & Moeliono, 1962).

Based on the results of observations of the facts found in the field, falsification of letters in the form of Marriage Licenses by soldiers is an act that violates the rules and has serious consequences for soldiers and the TNI institution. Although falsification is an illegal act and against the law, there are likely several factors that might encourage soldiers to falsify Marriage Licenses, including the following:

1. The licensing procedure is considered long and complicated to obtain marriage permits for TNI soldiers, which can involve many administrative steps, verifications and approvals from various levels of Commanders. Long or complicated procedures can encourage soldiers who want to get married to look for shortcuts by falsifying documents;
2. The possibility of social pressure to get married immediately so that they are pressured to meet these expectations;
3. Non-compliance or ignorance of the rules, this may happen to some soldiers who may not fully understand the importance of military procedures and discipline.
4. The lack of supervision and checking of Marriage Permits is not strict enough by the KUA, thus opening up opportunities for soldiers to falsify documents without fear of being caught;
5. Lack of knowledge and understanding by soldiers regarding the legal and disciplinary consequences of the falsification, so that soldiers consider it a minor violation.
6. There is a pressing personal interest in getting married so that they try to hide information or their identity by falsifying Marriage Permits.

Some of the above factors indicate that there is complexity that is the background for Soldiers to commit acts of falsification of documents in the form of Marriage Licenses. Therefore, there needs to be improvement and evaluation in the system and policies in the future to prevent similar things from happening.

3. Research Methodology

3.1 Type of Research

This legal research uses Normative Juridical research which includes legal inventory, principle research, legal history, vertical horizontal synchronization and comparative law (Soekanto, 2006). In addition, to obtain accurate information regarding the issue of the problem, a case approach is also carried out. In this approach, what researchers need to understand is the ratio decidendi in the form of legal reasons used by judges in deciding a case (Marzuki, 2005).

3.2 Nature of Research

This research is descriptive analytical in nature, which is intended to provide the most accurate data possible regarding humans, conditions or other symptoms so that it can describe systematically,

factually and accurately the facts and relationships of the events being investigated (Soekanto, 2006).
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3.3 Legal materials for research

- 1) Law Number 1 of 1974 concerning Marriage;
- 2) Law of the Republic of Indonesia Number 16 of 2019 concerning amendments to Law of the Republic of Indonesia Number 1 of 1974 concerning marriage;
- 3) Law of the Republic of Indonesia Number 31 of 1997 concerning Military Justice;
- 4) Law of the Republic of Indonesia Number 34 of 2004 concerning the Indonesian National Army;
- 5) Law of the Republic of Indonesia Number 12 of 2011 concerning the Formation of Legislation;
- 6) Law of the Republic of Indonesia Number 25 of 2014 concerning Military Disciplinary Law;
- 7) Law of the Republic of Indonesia Number 39 of 1947 concerning the Criminal Code;
- 8) Law of the Republic of Indonesia Number 35 of 2014 concerning Amendments to Law Number 23 of 2002 concerning Child Protection;
- 9) Government Regulation of the Republic of Indonesia Number 9 of 1975 concerning the Implementation of Law of the Republic of Indonesia Number 1 of 1974 concerning Marriage;
- 10) Presidential Instruction of the Republic of Indonesia Number 1 of 1991 concerning the Dissemination of the Compilation of Islamic Law (KHI);
- 11) Regulation of the TNI Commander Number 50 of 2014 dated December 30, 2014 concerning Procedures for Marriage, Divorce, and Reconciliation for Soldiers;
- 12) Regulation of the TNI Commander Number 11 of 2018 concerning Administrative Sanctions for Soldiers of the Indonesian National Army;
- 13) Decree of the Chief of Staff of the Army Number Kep/496/VII/2015 dated July 27, 2015 concerning Procedures for Marriage, Divorce, and Reconciliation for Soldiers of the Indonesian Army;
- 14) Regulation of the Supreme Court Number 1 of 2016 concerning Mediation Procedures in Court. State Gazette of the Republic of Indonesia Number 17 of 2016; and
- 15) Decision of the Cilacap Religious Court Number 0922/Pdt.G/2021/PA.Clp;

3.4 Data Collection

Which data collection tool will be used in a legal research, always depends on the scope and purpose of the legal research to be conducted. What is clear is that every legal research must always be preceded by the use of document studies or library materials.

3.5 Data Analysis

Legal research uses analytical descriptive, so that the material analysis is qualitative, namely by understanding the research problem using the right method through analysis of the legal issues to be studied, especially in the Cilacap religious court decision which has permanent legal force. The information or data obtained is then analyzed thoroughly, changing all data into a holistic whole and implemented comprehensively, so that this information becomes the basis for developing a conceptual framework, therefore normative legal research is absolutely necessary.

3.6 Drawing Conclusions

In drawing conclusions, the author uses two methods, namely using deductive logic. Deductive logic or what is called analytical thinking means that something that applies to all events or groups/types also applies to each element in the events of the group/type (Mukti Fajar & Achmad, 2010).

3.7 Legal Consequences of Marriage Annulment

The legal consequences of annulment of marriage in Article 28 of the UUP are as follows:

- (1) The annulment of a marriage begins after the court decision has permanent legal force since the marriage took place;
- (2) The decision does not apply retroactively to:
 - a. Children born from the marriage;

- b. Husband or wife who acted in good faith, except for joint property, if the annulment of the marriage is based on the existence of another previous marriage;
- c. Other third parties including a and b as long as they obtained their rights in good faith before the decision on the annulment had permanent legal force.

4. Results and Discussions

4.1 *Analysis of the Niet Onvankelijke Verklard (NO) Decision on the Application for Annulment of the Marriage of a TNI Soldier Who Forged a Marriage License (SIN)*

4.1.1 *Application of law to administrative requirements for a Marriage License (SIN) that is formally defective*

Before entering into the discussion of the application of the law regarding which laws can be applied to TMH I as an Indonesian Army soldier, the author first tries to analyze the application of procedural law that has been carried out on the decision of the Cilacap Religious Court Number 0922/Pdt.G/2021/PA.Clp which decided that "Declaring the Applicant's application unacceptable (Niet Ontvankelijk Verklaart)". Several responses related to the procedural law that has been applied to the decision are as follows:

1. *First, regarding the matter of Proof*

Regarding the burden of proof, according to Yahya Harahap, a fair and professional burden of proof can be seen in the Supreme Court Decision Number 1490 K/Pdt/1987 and is also explained in Article 163 HIR, whoever claims a right or the existence of a fact to uphold a right or to deny the rights of others must prove that right or other facts.

From the explanation above, if it is related to the aquo case of the Applicant contained in the decision, the Judge in digging up written evidence and the confessions of the Applicant and Respondent is only based on formal truth alone, even though the Judge's activities can exceed what is requested because the judge's duties are administrative in nature and the judge has the freedom to use his discretion, considering that this case is a voluntaria case (Asikin, 2019).

So it can be said that the judge not only digs up formal truth but also needs to dig up material truth by reconstructing the process of making the falsified Marriage License by digging up material truth related to the origin of the Marriage License which was carried out by fraud in the form of falsification of letters by the TNI soldier through questions asked by the judge to the Respondent during the proof.

However, at the trial, the judge asked questions outside the context of legal facts considering that the answers given by TMH II had nothing to do with Posita or legal facts which were the boundaries of the truth of the facts submitted. If associated with the burden of proof, the Applicant has proven through written evidence that has been submitted which has not been denied by the Respondent, as well as the Respondent who did not deny either verbally or based on facts and evidence that strengthen to deny.

Therefore, if associated with the evidentiary value, written evidence in the form of an authentic deed in this case the Marriage License that was falsified by the Applicant which was not denied or denied by the Respondent, it means that the evidence has a binding truth value. Likewise, the confession uttered in court by the Applicant should be evidence to incriminate. This is in line with Article 174 HIR which states that a confession uttered before a Judge is sufficient evidence to incriminate the person who confessed, whether uttered by himself or with the help of another person who is specifically associated with it.

Both of these undeniable pieces of evidence can be seen in the verdict on pages 7 and 8. Therefore, the author is of the opinion that the judge's verdict is inappropriate and contradicts the achievement of the principle of legal benefit that is to be achieved as adopted by the theory of the utility of legal purposes. In order to achieve the objectives of the law, namely justice, legal certainty and benefit. In voluntary cases, judges are given the freedom to use their discretion and judges do not have to rely

solely on formal truth as long as the truth is upheld on the basis of valid evidence according to the law.

2. *Second, regarding the Judge's Considerations.*

According to the Author, the Panel of Judges who issued a final decision that was negative in the form of a ruling stating that the lawsuit cannot be accepted or *Niet Onvankelijke Verklard* (NO) must meet the specified requirements, including provisions related to unfulfilled power of attorney, such as vague lawsuits (*obscuur libel*). Related to the *aquo* case, the Judge was wrong in interpreting *obscuur libel*, where *obscuur libel* according to Yahya Harahap explains that the definition of *obscuur libel* means that the plaintiff's lawsuit letter is not clear or its contents are dark (*onduidelijk*). It is also called an unclear lawsuit formulation. In fact, in order for the lawsuit to be considered to meet formal requirements, the arguments of the lawsuit must be clear and clear or firm (*duidelijk*).

In the *Aquo* Case, the Judge stated that the legal facts submitted by the Applicant in the petition were not based on law, not based on law, then it can be interpreted as not based on the Law. In fact, in terms of the application formulation, it is appropriate, namely fulfilling the provisions of Islamic civil procedure law, the arguments of the application are also clear, each *Posita* submitted is based on a clear legal basis containing statements and articles applied to the respondent are interrelated with each other and related to the *Petitum* submitted by the Applicant is stated clearly and firmly. Therefore, according to the Author, the judge misinterpreted the *obscuur libel* so that he quickly drew a conclusion by stating *Niet Onvankelijke Verklaard*.

3. *Third, regarding the function of judges to seek and discover the law*

In the *Posita* submitted by the Applicant, the provisions have been included as the basis for the arguments from the legal facts presented, namely Article 72 paragraph (2) of the KHI which states that annulment of marriage can be filed if fraud occurs during the marriage. This article is not proven by legal facts in the trial so that the case being discussed here is where in deciding the case of annulment of marriage, the judge did not use the reasons contained in Article 72 paragraph (2) of the KHI to be proven in the trial.

It should be emphasized that in the case, Pratu TMH I and TMH II who are both Muslim so that the requirements of the principle of Islamic personality have been met so that in resolving the case, it must always be based on Islamic law. When associated with the *aquo* case, the Applicant has made Article 72 paragraph (2) of the KHI as the legal basis for the *Posita*. Article 72 paragraph (2) of the KHI actually complements the provisions in Article 27 paragraph (2) of the UUP, namely with the clause on the word "Fraud" (Abdul, 2000). The fraud mentioned here can be committed by both the male and female parties.

In this case, the fraud was committed by both the male parties, namely Pratu TMH I and TMH II, by falsifying the Marriage License which had been changed to the data of the prospective bride who was supposed to be married, replaced with the data of TMH II. Therefore, in Islamic law, this condition is called *nikahul fasid*, meaning that the marriage does not meet the requirements for marriage as regulated in Islamic law so that it can be canceled.

According to the Author, this condition is not only called a *fasid* marriage, but also contradicts the applicable laws and regulations. If the forgery of the Marriage License made by Private TMH I had been known from the beginning by the KUA, then of course the KUA would have prevented the marriage because the marriage requirements were not met and in the end the marriage would not have taken place.

So based on the explanation above, the application of Article 72 paragraph (2) of the KHI should be able to be used as a reason for the annulment of the marriage of Private TMH I and TMH II. In addition, Article 72 is also not limited in a limited manner as to when fraud occurs, unlike marriages carried out due to threats or misunderstandings which are limited to a maximum of 6 (six) months, if calculated from the time of the marriage contract until the Application is submitted, it is still within a

period of 5 (five) months so that the requirements according to the provisions of the Law have been met.

In this case, the judge should have been able to find the law in the KHI itself as a positive law of Islamic law in Indonesia, therefore there is no reason for the judge not to accept the application for annulment of marriage on the basis of forgery of a marriage license which is formally defective because it was forged.

a. *Implementation of Criminal Law (Law Number 75 of 1958).*

Faced with the decision of the Cilacap Religious Court which decided the application for annulment of marriage filed by TMH I with TMH II which was declared *Niet Onvankelijke Verklaard* (NO) then in realizing the legal objectives, there needs to be other legal efforts that can be applied to TMH I as a TNI soldier.

Therefore, regarding the application of Article 263 or Article 264 of the Criminal Code against TNI soldiers who violate the provisions of marriage for a TNI soldier in the form of falsification of a Marriage Permit Letter is very appropriate. Regarding falsification of letters in the Criminal Code, it is divided into 2 (two) types, namely in Article 263 of the Criminal Code, it is a simple falsification of a letter for which the maximum criminal threat is 6 (six) years. While Article 264 is a qualified falsification of a letter for which the criminal threat is heavier, namely a maximum imprisonment of 8 (eight) years.

According to the theory of the purpose of law, namely legal certainty, with this provision, the act or violation can be resolved according to general criminal law, so that the resolution has certainty, is fair and beneficial for Denhub Divif 1/K itself and for the Marriage Registration institution, namely the Nusawungu District Religious Affairs Office.

b. *Implementation of Military Disciplinary Law (Law Number 25 of 2014).*

Regarding the application of law to the administrative requirements of a Marriage License that is formally flawed due to forgery, in addition to being able to be carried out through the application of criminal law, it can also be carried out through the application of military disciplinary law against TNI soldiers who forge the Marriage License.

Therefore, regarding the application of Article 8 letter a in Law Number 25 of 2014 against TNI soldiers who violate the provisions of marriage for a TNI Soldier in the form of forgery of a Marriage License, it can be carried out. Article 8 letter a explains that related to all actions that are contrary to official orders, official regulations, or actions that are not in accordance with military rules and regulations are one type of disciplinary violation.

This can be seen in Article 19 which states that "Violations of this Commander's regulation are generally violations of military discipline and are subject to violations of military discipline and administrative sanctions". It should be underlined that the Regulation of the Commander of the Indonesian National Armed Forces Number 50 of 2014 concerning Procedures for Marriage, Divorce and Reconciliation for Soldiers is not only a service regulation but also a service order. Basically, forgery of a Marriage License is a violation of the provisions on marriage for TNI soldiers and is also included as a type of criminal act regulated in Article 103 paragraph (1) of the Criminal Code, however, as previously stated, violations of the provisions on marriage regulated in the Regulation of the Commander of the TNI are violations of military discipline.

This is then reinforced by the existence of a Supreme Court Circular, namely SEMA 3 of 2015 and SEMA 3 of 2018. In both SEMAs, it basically states that Article 103 paragraph (1) of the Criminal Code, namely refusing or intentionally disobeying service orders, cannot be applied to soldiers, the implication is that marriage without permission from the unit/forgery of a forged Marriage License cannot be subject to Article 103 of the Criminal Code. Then reinforced again based on the TNI Commander Regulation Number 50 of 2014, it is stated as a disciplinary violation, not a criminal act.

According to the theory of the purpose of law, namely certainty, the existence of this provision is a limitation in resolving problems between actions or violations that can be resolved according to military disciplinary law and according to military criminal law, so that there is a fair and beneficial solution.

The author considers that the provisions of Article 103 paragraph (1) of the Criminal Code do contain a very broad meaning and scope as in the actions of a person who goes against the Regulations and Service Orders. However, it is very unfortunate that the SEMA still refers to the old or no longer valid TNI Commander Regulation, namely Perpang/11/VII/2007. Considering that the regulation has actually been replaced by the Regulation of the Commander of the Indonesian National Armed Forces Number 50 of 2014 concerning Procedures for Marriage, Divorce and Reconciliation for Soldiers. This indicates that there is still a lack of coordination between the Supreme Court and the TNI institution in resolving marriage cases.

The existence of these limitations will certainly provide legal certainty as the purpose of the law itself. For the act of falsifying a Marriage License carried out by TNI soldiers and TNI soldiers' families is a violation of the Regulations as well as service orders. Therefore, this problem must receive serious attention to be resolved legally and disciplinary.

c. *Implementation of Administrative Sanctions (TNI Commander Regulation Number 11 of 2018)*

Administrative Sanctions for TNI Soldiers Soldiers who forge Marriage Permits can be punished with either military disciplinary or criminal punishment, so the soldier is also given administrative sanctions. Administrative Sanctions are sanctions/punishments imposed as a follow-up to the imposition of disciplinary or criminal punishments that result in a delay in the career development of a TNI Soldier including education or promotion.

As in the theory of the purpose of law, the imposition of administrative sanctions must also be based on justice and certainty. Legal Certainty, namely that every imposition of administrative sanctions must be stated in the form of an administrative sanction decision by the authorized Ankum. Justice, namely that every TNI Soldier who violates the law must be given administrative sanctions, so that it can provide justice for other TNI Soldiers in their further career development. Postponement of rank or postponement to attend education depends on the type of punishment or criminal penalty imposed.

Seeing the threat of criminal sanctions imposed on Private TMH I by applying Article 263 to 266 of the Criminal Code on Forgery of Letters with a maximum threat of between 6 to 8 years, this includes group II which is sentenced to imprisonment of more than 6 (six) months. So the sanctions given to him are sanctions in the form of postponing education for 3 (three) periods and postponing promotion for 6 (six) to 7 (seven) periods. Therefore, to apply this administrative sanction to TNI soldiers who forge this Marriage Permit, it must be preceded by criminal sanctions or disciplinary sanctions imposed on him which have permanent legal force (BHT) so as not to injure his rights while he is a soldier considering the BHT requirement, namely when the decision is not appealed or cassated after 14 days since the decision was pronounced or notified to the Applicant, then the decision is declared to have permanent legal force.

2. *Legal implications of the Niet Onvankelijke Verklaard (NO) ruling on the marriage of TNI soldiers who falsified their Marriage License (SIN)*

Related to the discussion of the formulation of the second problem in this study, namely the legal implications of the Niet Onvankelijke Verklaard (NO) decision on the marriage of a TNI soldier who falsified a Marriage License.

The provisions of the laws and regulations governing the annulment of marriage, one of which is in Government Regulation Number 9 of 1975 Article 37, states that "the annulment of a marriage can only be decided by a court". This is because the annulment of a marriage can have legal implications,

both for the husband and wife themselves, the children born or for third parties so that the annulment of a marriage is not permitted to occur by an agency outside the court.

As stated in Article 28 paragraph (2) of the UUP, Article 75 and Article 76 of the KHI each have different formulations. The *Niet Onvankelijke Verklaard* (NO) decision on the application for annulment of marriage made by Mr. TMH I does not cause many negative impacts that can be directly felt, but it will cause problems in the future that tend to be detrimental to the wife and children involved in the administration of the soldier's service unit.

The author tries to analyze the legal implications of the *Niet Onvankelijke Verklaard* (NO) decision on the marriage of TNI soldiers who falsify marriage licenses as follows:

a. *His Marriage Has Legal Force.*

In accordance with the theory of the purpose of law, namely legal certainty. Indris Ramulyo stated that, for the sake of legal certainty for future generations, proof of marriage registration is very necessary. If children are born from the marriage, while there are no more people who are still alive to see and witness their parents getting married, they can prove it with their parents' marriage certificate (Ramulyo, 1984).

Based on the explanation above, the author is of the opinion that the *Niet Onvankelijke Verklaard* (NO) decision means that the annulment request was not accepted by the Cilacap Religious Court. This has an impact on the marriage carried out by Pratu TMH I with TMH II who used administrative requirements in the form of a fake Marriage License, it is still considered legally valid. Therefore, the marriage registration agency in this case the KUA of Nusawungu District continues to recognize and maintain the validity of the marriage of both in the KUA records.

Therefore, the request for annulment of marriage must be re-submitted by the parties who are entitled to submit as regulated in Article 23 of the UUP or Article 73 of the KHI by stating other reasons that do not have a statute of limitations that may be able to annul the marriage of the Soldier. Considering that in the provisions of Article 27 of the UUP and Article 72 of the KHI there is an expiration limit of a maximum of 6 months. As long as there is no Judge's decision regarding the determination of the annulment of marriage for the marriage of Soldier TMH I, the marriage is considered to still exist and is valid according to law and is registered at the Office of Religious Affairs.

c. *Losses for Soldiers and their Families (Wives and Children).*

The existence of the *Niet Onvankelijke Verklaard* (NO) decision if faced with the provisions of the UUP and KHI, then the consequences for marriage do not have any impact. However, if faced with the provisions of Law Number 34 of 2004 concerning the Indonesian National Army and Government Regulation Number 39 of 2010 concerning the Administration of Indonesian National Army Soldiers, it will certainly cause losses for soldiers and their families.

Considering that the marriage that has been carried out by Soldier TMH I violates the provisions of Perpang TNI Number 50 of 2014 and Perkasad Number Kep/496/VII/2015, this has implications for the administration of the administration needed to later obtain treatment, official services and income. Therefore, from an administrative law perspective, the author is of the opinion that the implications of the *Niet Onvankelijke Verklaard* (NO) decision include the following:

1) Wife and children do not receive official care and services.

Formally, a marriage is valid if it meets the provisions in Article 7 of the KHI which states that "A marriage can only be proven by a Marriage Certificate made by a Marriage Registrar". This is also the same as what is stated in Article 100 of the Civil Code which states that "the existence of a marriage cannot be proven other than by a marriage certificate that has been recorded in the civil registry registers...etc".

In the excerpt of the Marriage Certificate Number 0460/064/X/2020 issued by the Religious Affairs Office (KUA) of Nusawungu District, Cilacap Regency which has been copied according to the

original (Exhibit P.9) then if it is associated with the marriage carried out by Pratu TMH I with Ms. TMH II, then formally the marriage of both is valid and recorded.

Although the recorded Marriage Certificate is authentic evidence, what is meant by authentic evidence is a deed in the form determined by law, made by or before an authorized civil servant registrar in the place where the deed was made. In this case, the official/civil servant in this case is the KUA official of Nusawungu District, Cilacap Regency.

It should be underlined that the issuance of the Marriage Certificate from the Marriage by Pratu TMH I with TMH II began with the criminal act of forgery of letters, namely by falsifying this marriage permit which had been known by the unit in the Letter of Dandenhub Divif 1 / Kostrad Number B / 47 / II / 2021 dated February 2, 2021 which stated that Denhub Divif 1 / K had never issued a Marriage Permit in the names of both of them.

Therefore, in terms of administrative management to obtain treatment and official services which are regulated in Law Number 34 of 2004, there will be obstacles due to the absence of a Marriage Permit from the unit, considering that in order to process this, personnel officers in their unit will request a copy of the marriage certificate and Marriage Permit.

This allows the unit to not include family allowances in the DSP salary/income of Private TMH I which includes items for wife allowance and child allowance. In addition, it allows the wife and children not to receive treatment and other official services such as housing/dormitory/mess, health care, mental health and religious services, legal assistance and health and life insurance considering that all of these refer to the husband's salary DSP in this case Private TMH I.

2) Administrative sanctions for TNI soldiers.

The provisions for imposing administrative sanctions apply to TNI members who commit crimes or who violate military discipline. This is as regulated in Law Number 25 of 2014 concerning Military Disciplinary Law. Article 10 states that the Imposition of Military Disciplinary Punishment as referred to in Article 9 is followed by administrative sanctions in accordance with the provisions of applicable laws and regulations.

In analyzing the legal implications of the *Niet Onvankelijke Verklaard* (NO) Decision regarding losses for Soldiers, the Author divides it into 2 (two) discussion analyses, namely as follows:

(a) Administrative sanctions for Criminal Sanctions for Forgery of Letters.

If a soldier who forges a Marriage Permit Letter is proven through a criminal sentence by the Military Court, then the soldier will also be given administrative sanctions. Administrative sanctions are sanctions/punishments imposed as a follow-up to the imposition of disciplinary or criminal penalties that result in a delay in the career development of a TNI Soldier including education or promotion.

Postponement of rank or postponement to follow education depends on the type of punishment or penalty imposed. In relation to the criminal act of forgery of a Marriage Permit Letter by Private TMH I, in this case the Author is of the opinion that if the unit processes the law by reporting to the Military Police against Private TMH I with alleged criminal acts suspected of forgery of letters between Articles 263 to 266 of the Criminal Code, then it can be seen that the threat of punishment in the article ranges from a maximum of 6 to 8 years.

Therefore, if proven in the Military Court, the threat of criminal sanctions imposed on Private TMH I, then it is included in group II in Article 10 number (3) letter e, namely "prison/confinement/substitute imprisonment of more than 6 (six) months". So the sanctions given to Private TMH I, as in Article 13 number letter f, are sentenced to prison/confinement/substitute imprisonment of more than 6 (six) months.

Therefore, Private TMH I may be subject to administrative sanctions, postponed from attending education for 3 (three) periods and promotion for 6 (six) to 7 (seven) periods. This is if Private TMH I is subject to the maximum criminal sanctions according to the provisions on forgery of letters in the Criminal Code by the Military Court Judge.

(b) *Administrative sanctions for violations of Service Regulations (Disciplinary Sanctions).*

Soldiers who forge Marriage Permits can be interpreted as having never met with their Commander/Superior and have not received written permission from their Commander/Superior in the form of a Marriage Permit. Therefore, it can be said that Private TMH I who forged the Marriage Permit is the same as violating the provisions of Article 19 of the Regulation of the Commander of the Indonesian National Armed Forces Number 50 of 2014 concerning Procedures for Marriage, Divorce and Reconciliation for Soldiers which states that "Violations of this commander's regulation are generally violations of military discipline and are subject to violations of military discipline and administrative sanctions."

This is also reinforced by Article 10 of Law Number 25 of 2014 which states that the Imposition of Military Disciplinary Punishment as referred to in Article 9 is followed by administrative sanctions in accordance with the provisions of laws and regulations. Basically, the Regulation of the Commander of the Indonesian National Armed Forces Number 50 of 2014 is a regulatory provision that regulates the rules of order in military life regarding Marriage. Considering the content of Article 19 above, the Unit Commander as the Superior who has the right to punish (Ankum) can impose military disciplinary punishment on Pratu TMH I through a disciplinary hearing mechanism. This is what we know that Military Disciplinary Punishment is a punishment imposed by a superior who has the right to punish subordinates who are under his command authority for committing violations of Military Disciplinary Law.

However, considering the type of punishment that will be imposed, there is no further information regarding the provisions of which types of violations are included in the type of Reprimand, Light Disciplinary Detention or Heavy Disciplinary Detention. Neither in the Article nor in the explanation are these provisions found. Therefore, in its application it tends to be subjective and arbitrary by the Commander/Superior depending on the level of liking or disliking of a Commander/Superior towards his subordinate Soldiers.

Because of the above, for soldiers who are given administrative sanctions as a follow-up to the imposition of disciplinary punishment, it can result in a delay in the career development of a TNI Soldier which includes education or promotion. Postponement of rank or postponement to take part in education depends on the type of punishment or criminal penalty imposed.

Associated with the criminal act of forgery of a letter in the form of forgery of a Marriage Permit by Private TMH I, the Author is of the opinion that the soldier indirectly does not have a Marriage Permit, so this is a violation of the provisions of Article 19 of the TNI Commander Regulation Number 50 of 2014.

Therefore, the Commander/Ankum can process Private TMH I by implementing a disciplinary violation against Private TMH I with alleged violations in the form of any actions that are contrary to official orders, official regulations, or actions that are not in accordance with Military Regulations.

Next, the author must see what type of punishment will be imposed by Ankum considering that it is subjective for an Ankum. Therefore, the author will describe it in 3 (three) types of administrative sanctions that may be given to Pratu TMH I for disciplinary violations, namely:

a. If Dandenhub Divif 1/K imposes a disciplinary penalty in the form of a warning, then Pratu TMH I will be subject to administrative sanctions in the form of a delay in attending education for 1 (one) period and a delay in promotion for 1 (one) period;

b. If Dandenhub Divif 1/K imposes a disciplinary penalty in the form of light detention, then Pratu TMH I will be subject to administrative sanctions in the form of a delay in attending education for 1 (one) period and a delay in promotion for 2 (two) periods; and

c. If Dandenhub Divif 1/K imposes a disciplinary penalty in the form of heavy detention, then Pratu TMH I will be subject to administrative sanctions in the form of a delay in attending education for 1 (one) period and a delay in promotion for 3 (three) periods.

When associated with the decision of the Cilacap Religious Court judge who decided that the application for annulment of marriage against a TNI soldier who forged a Marriage Permit was declared *Niet Onvankelijke Verklard* (NO) then according to the Author, this is detrimental to the TNI institution and is a decision that does not provide legal benefits, especially for the TNI institution. The implication of this decision is that it can reduce public trust in the TNI with the public perception that considers the weak enforcement of discipline and law enforcement against Pratu TMH I.

According to the Author, before deciding, the judge should also consider the *Posita* submitted by the applicant which refers to the Decree of the Minister of Defense and Commander of the Armed Forces Number Kep/01/1980 Chapter III concerning Marriage Procedures for ABRI members Article 6 letter a even though this regulation is no longer relevant because it has been replaced by *Perpang TNI* Number 5 of 2014, but in terms of content and purpose it is still the same as contained in the regulation.

In addition, the TNI is also the institution that is most trusted by the public according to several survey institutions in Indonesia, one of which is the Center for Strategic and International Studies (CSIS) which was conducted on December 13-18, 2023, releasing the results of a survey regarding the level of public trust in state institutions. This survey shows the highest level of public trust in the TNI.

This is because the public generally considers that the TNI is known to be firm and disciplined in taking action against any violations of the law committed by its soldiers, if the public finds out that there are soldiers who violate the Marriage rules within the TNI institution but the Religious Court only decides *Niet Onvankelijke Verklaard* (NO) then the public can question how much commitment the TNI and the Religious Court have in enforcing discipline and rules for their soldiers. This can corner the TNI institution as if there is neglect, even though the authorized judicial institution is the one that does not enforce the rules properly even though the subject is the TNI which is known to have special/unique characteristics.

In the future, if the application of the law to a similar case committed by TMH I is decided with the same verdict by the Religious Court, then it can be ascertained that the benefits of the law in the form of realizing the obedience and discipline of soldiers to all applicable regulations cannot be achieved optimally. Therefore, the application of strict and fair sanctions against this violation is a concrete example of the application of the benefits of the law.

Consistent law enforcement by the Religious Court by considering the legal values applicable to TNI Soldiers and Islamic law applicable to TNI Soldiers who are Muslim, the TNI can ensure that violations of the marriage provisions have been handled seriously and also send a strong message to all soldiers and the community that integrity and discipline are values that cannot be negotiated by the TNI. In this way, the Religious Court has indirectly helped the TNI in increasing obedience and discipline towards the applicable rules and has helped increase public trust in the TNI through the principle of legal benefits given by the judge.

c. Losses for Marriage Registrars or Religious Affairs Offices (KUA).

Marriage Registrars or Religious Affairs Offices (KUA) through their employees have a great responsibility in recording and managing marriage administration. This responsibility includes document verification and ensuring the validity of the recorded data.

According to the Author, if faced with a case that occurs in the form of falsification of a letter in the form of a Marriage License by a TNI Soldier in the name of Pratu TMH I, the marriage registrar employee can be considered negligent in detecting the forgery, resulting in serious legal consequences that may be faced by the institution and its employees. The *Niet Onvankelijke Verklaard* (NO) decision issued by the judge against the application for annulment of marriage by the TNI Soldier indirectly considers that the marriage is valid and recorded even though the origin of the administration of the Marriage License is the result of forgery, the Marriage Certificate that has been registered can be said to be legally flawed.

Considering that the Religious Court plays a very important role in resolving Marriage disputes, including in the case of marriage annulment. The decision of the Cilacap Religious Court which decided *Niet Onvankelijke Verlard* (NO) has major implications for the legal status and existence of their marriage in the official records of the marriage registration agency, therefore the KUA of Nusawaungu District as part of the Marriage Registrar as well as the Applicant Party who submitted the application must accept and respect the decision of the Cilacap Religious Court.

The Application for Annulment of Marriage stated by *Niet Onvankelijke Verklaard* (NO) certainly makes it difficult for the KUA of Nusawungu District to evaluate the performance of its employees related to the duties and responsibilities mandated by Government Regulation Number 9 of 1975, namely Article 6 "Registrars who receive notification of the intention to conduct a marriage, examine whether the marriage requirements have been met and whether there are no obstacles to marriage according to the Law"

In relation to the subject examined by the marriage registrar, the subject is a TNI soldier, so what should be the most important object in the study is the Marriage Permit in this case as stated in Article 6 number (2) letter g. Written permission from an Official appointed by the Minister of HANKAM/PANGAB, if one or both of the prospective bride and groom are members of the Armed Forces.

The decision of *Niet Onvankelijke Verklaard* (NO) indirectly acknowledges the existence and validity of the marriage as valid, so it seems as if the forgery of the Marriage Permit by Soldier TMH I was not proven and this has an impact on the evaluation of employee performance at the Marriage Registration Agency. When an agency cannot conduct a performance evaluation of its employees, significant challenges arise in efforts to develop employees.

Performance evaluation is an essential tool in human resource management, which allows agencies to measure, monitor, and improve employee performance. Without a structured performance evaluation by the Marriage Registrar/KUA agency against its employees who are negligent due to the absence of evidence of forgery marked by the granting of the application for annulment of marriage submitted by the Head of the Nusawungu District KUA as the Applicant, of course the agency will have difficulty identifying the strengths and weaknesses of its employees.

The author concludes that with the *Niet Onvankelijke Verklaard* (NO) decision by the Cilacap Religious Court, the provisions of the article above cannot be applied to its employees who are negligent in researching administrative requirements considering that the marriage and registration that have been carried out are still considered valid and valid, besides that the forgery of the letter carried out by Pratu TMH I is considered never to have existed because formally the requirements exist even though they actually do not exist/are fake.

5. Conclusion

5.1 Conclusion

Based on the results of the research and discussion above, the following conclusions can be drawn:

1. The application of the law to the administrative requirements of the Marriage License which is formally flawed carried out by Pratu TMH I can be carried out by applying criminal law. So it can be suspected that Pratu TMH is accused of Forgery of Letters which is regulated in Articles 263 to 266

of the Criminal Code. It should be noted that the application of this criminal law is *Ultimum Remedium* so that it can be carried out as a last resort.

In addition, Military Disciplinary Law can also be applied, namely violating military discipline as regulated in Article 8 letter a of Law Number 25 of 2014, namely any act that is contrary to official orders, official regulations, or acts that are not in accordance with Military Rules of Procedure. Both of them can each be followed by the imposition of administrative sanctions which are regulated in the TNI Commander Regulation Number 11 of 2018 concerning the Imposition of Administrative Sanctions. However, the two legal applications above only provide legal certainty and benefits for the TNI alone, so that a legal application is needed that can achieve justice for all, in this case for the Marriage Registrar (KUA), so there is a need for Marriage Annulment through the Religious Court.

In Islamic Jurisprudence, the annulment of a marriage can be based on one of 2 (two) conditions, namely a void marriage or a void marriage. A void marriage is a marriage whose pillars are not fulfilled, while a void marriage is a marriage whose specified conditions are not fulfilled. The specified conditions are clearly regulated in the UUP and KHI.

The requirements for a valid marriage in Indonesian positive law are explicitly contained in Article 2 of the UUP, namely material and formal requirements. Material requirements for carrying out a marriage are always related to the pillars and conditions. In Islamic marriage, the pillars and conditions are clearly regulated, each in Article 14 to Article 59 of the Compilation of Islamic Law. Then, when associated with Law Number 1 of 1974, only the requirements for marriage are explained in Articles 6 to 11. Meanwhile, the pillars only exist in the Islamic religion itself, which are explicitly contained in Article 2 Paragraph (1) of the UUP as well as material requirements.

Formal requirements in marriage are regulated in Articles 3 to 9 of Government Regulation Number 9 of 1975. If the formal requirements are not met, the marriage contract cannot be carried out until the requirements for marriage have been met and there are no obstacles to marriage according to the law.

In the context of the marriage carried out by Private TMH I who falsified the Marriage License, it is included in the category of *Fasid Marriage* considering that the marriage was preceded by a criminal act, namely Fraud by falsifying the Marriage License so that the administrative requirements become formally flawed. When these formal requirements are flawed, the previous material requirements should be considered flawed. Therefore, it can be used as a basis for canceling the marriage of Private TMH I with TMH II because the administrative requirements for the Marriage License stipulated by the provisions in Article 6 letter g of Government Regulation Number 9 of 1975 are formally flawed.

Therefore, it should be used as a legal basis for the annulment of marriage by the Religious Court Judge by applying the provisions in Article 72 paragraph (2) of the Compilation of Islamic Law which regulates the provisions for annulment of marriage carried out with the clause "Fraud".

In addition, the annulment of marriage is not solely based on Article 22 of the UUP but must also be based on the spirit of marriage according to Islamic law itself, namely *mitsosaqan ghaliidhan*, meaning a strong and great agreement between a man and a woman or with their family but also a human promise with Allah as their God.

2. Legal implications of the *Niet Onvankelijke Verklaard* (NO) decision regarding the marriage of a TNI soldier who falsified a Marriage License (SIN) in this case regarding the marriage of Private TMH I with TMH II, the marriage and the children born will still be considered valid and recorded because they have legal force. In addition, it has detrimental implications for the wife and child even though the annulment of the marriage is not accepted by the Religious Court because the wife and child have the potential to not receive treatment and official services, considering that in terms of administrative management in order to obtain treatment and official services which are regulated in Law Number 34 of 2004, personnel officials in the unit will request a copy of the marriage book and Marriage Permit.

The loss to Pratu TMH I, apart from being sentenced to imprisonment and disciplinary sanctions, can also be subject to administrative sanctions, a maximum of being postponed from attending education for 3 (three) periods and promotion for 6 (six) to 7 (seven) periods. This is adjusted to the type of violation committed.

The loss for the TNI institution due to the *Niet Onvankelijke Verklard* (NO) decision is that the decision does not provide legal benefits, especially for the TNI institution, so that it can reduce public trust in the TNI due to the public perception that considers the weak enforcement of discipline and law enforcement against Pratu TMH I.

The loss for the Marriage Registration Agency or the Religious Affairs Office (KUA) faced with a case that occurred in the form of falsification of a letter in the form of a Marriage Permit by a TNI Soldier in the name of Pratu TMH I can be considered negligent in detecting the forgery, resulting in serious legal consequences that may be faced by the institution and its employees.

The *Niet Onvankelijke Verklaard* (NO) decision issued by the judge against the application for annulment of marriage by the TNI Soldier indirectly assumes that the marriage is valid and recorded even though the origin of the administration of the Marriage Permit is the result of forgery, the Marriage Certificate that has been registered can be said to be legally flawed.

5.2. Suggestion

Based on the conclusions above, the Author submits several suggestions as follows:

1. There needs to be more socialization regarding the urgency of the importance of a Marriage License which is valid as one of the marriage provisions that apply to the TNI and TNI AD to the Judicial environment, especially the Religious Court, through socialization activities or through an Official Letter by the TNI Leader in this case the TNI Commander or Kasad. The results of the socialization are expected to open the judge's insight regarding the legal culture that exists in the TNI environment in order to achieve and strengthen a strong legal system and objectives.
2. Please be able to coordinate with the legal staff to request periodic socialization and legal counseling activities for TNI Soldiers in their units regarding the marriage procedures for TNI Soldiers as regulated by TNI Commander Regulation Number 50 of 2014 and Kasad Decree Number Kep/496/VII/2015 along with legal implications related to violations of marriage provisions.
3. It is expected that judges in making decisions on marriage cases that are related to the TNI can also consider the legal culture that applies in the TNI environment and always update its regulations. Considering that the TNI has special features in all aspects, so too in terms of marriage, it is regulated in such a way through the TNI Commander Regulation Number 50 of 2014 with the aim of maintaining discipline as well as controlling leaders regarding their future marriage prospects so that they can support their duties. Therefore, in the application of the law, there should be special attention considering that the TNI is an institution that is required to have high discipline as well as being an example for the community.

In addition, ideally, Religious Court Judges in seeking and finding laws should not only refer to positive laws that apply in Islamic law so that they appear to be mouthpieces of the Law, but judges should explore other sources of Islamic law if the context in question is not clearly regulated by law. This is because Islamic Law itself is very broad, covering Islamic law in the form of the Qur'an and Sunnah as well as the understanding of Islamic Fiqh according to the Imams.

Of course, Islamic Law is very broad and sufficient if only to find laws that originate from the Islamic religion in order to decide a legal problem related to marriage. In the Decree of the Minister of Religion Number 154 of 1991, the second consideration decided that there was a clause "as far as possible", the clause "as far as possible" can be interpreted as not fully requiring the use of KHI.

4. We ask that the TNI or the Marriage Registrar in this case the KUA continue to communicate and coordinate in order to carry out checks and rechecks if there are TNI members who will apply for

marriage with the hope that the validity of the marriage administration, especially the Marriage License, can be ensured to be correct as it should be. It is hoped that in the future violations of administrative requirements for marriage will not be repeated and that neither institution will suffer any losses as a result of administrative falsification carried out by TNI soldiers with good communication between agencies.

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