

Legal Uncertainty and Civil Rights Vulnerability: The Consequences of Inaccurate Divorce Certificates in Indonesia's Islamic Family Law System

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ABSTRACT

This study examines how inaccuracies in divorce certificates affect a person's legal status, potentially leading to complications in civil registration, remarriage, property rights, and inheritance. The research employs an empirical juridical approach, collecting primary data through field research at the Religious Courts of Malang City and Malang Regency, as well as secondary data from legislation, court decisions, and academic literature. Interviews were conducted with judges at those two courts. The findings reveal that such errors not only undermine legal certainty but also infringe upon individuals' personal rights, as they face difficulties in proving their marital status, accessing legal protection, and exercising their civil rights. The study highlights that although legal mechanisms exist to correct documentation errors, the current procedures remain inefficient and burdensome for affected persons, necessitating a more accessible and expedited correction process. Furthermore, this research recommends the implementation of digital registration systems and stricter verification measures to minimize future errors.

[Kajian ini membahas bagaimana ketidakakuratan dalam akta cerai memengaruhi status hukum seseorang, yang dapat menyebabkan komplikasi dalam pencatatan sipil, pernikahan kembali, hak atas properti, dan warisan. Metode penelitian yang digunakan dalam penelitian ini yuridis empiris dengan mengumpulkan data primer melalui penelitian lapangan di Pengadilan Agama Kota Malang dan Pengadilan Agama Kabupaten Malang, serta data sekunder dari peraturan perundang-undangan, putusan pengadilan, dan literatur akademik. Wawancara dilakukan dengan para hakim di pengadilan agama. Hasil penelitian menunjukkan bahwa kesalahan semacam ini tidak hanya melemahkan kepastian hukum tetapi juga melanggar hak-hak pribadi individu, karena mereka dapat mengalami kesulitan dalam membuktikan status perkawinan, mengakses perlindungan hukum, dan menjalankan hak sipilnya. Penelitian ini menemukan bahwa meskipun terdapat mekanisme hukum untuk memperbaiki kesalahan dalam dokumen, prosedur yang ada masih tidak efisien dan membebani individu yang terdampak, sehingga diperlukan proses koreksi yang lebih cepat dan mudah diakses.

Selain itu, penelitian ini merekomendasikan penerapan sistem pencatatan digital serta verifikasi yang lebih ketat guna meminimalisir kesalahan di masa mendatang.]

KEYWORDS

Divorce certificate, identity error, legal certainty, personal rights

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Introduction

The Indonesian legal framework designates the divorce certificate as a crucial legal document, providing irrefutable proof of the dissolution of a marriage.¹ Issued by the Religious Court upon the conclusion of divorce proceedings (*inkracht*),² it carries substantial legal weight, formally recognizing the change in marital status of the involved parties.³ However, the process of generating these certificates is susceptible to errors, ranging from inaccuracies in personal data to incorrect dates or other clerical oversights. Such errors have significant legal ramifications, potentially undermining legal certainty and compromising the rights of individuals relying on these documents.

Divorce for Muslims falls under the jurisdiction of the Religious Court. The Religious Court serves as the first instance court entrusted with the responsibility and authority to examine, adjudicate, and resolve cases pertaining to Muslim in the realms of marriage, inheritance, wills, and grants governed by Islamic law,⁴⁵ as mandated by Article 49 of Law No. 50 of 2009.⁶ Divorce proceedings, whether

¹ Dewi Rahmawati et al., "Unveiling Legal and Religious Divergence: Abandoned Husband Divorce in Indonesian and Syrian Contexts," *DIKTUM*, 2023, 159–68.

² Martina Purna Nisa, "Critical Review of Domestic Violence as Reason for Divorce (Comparison of Divorce Laws in Indonesia, Malaysia and the Maldives)," *AL-IHKAM: Jurnal Hukum & Pranata Sosial* 16, no. 1 (2021): 1–23.

³ Hotnidah Nasution and Ahmad Rifqi Muchtar, "Access to Justice for Women and Children in Divorce Cases in the Indonesian Religious Courts," *AHKAM: Jurnal Ilmu Syariah* 20, no. 2 (2020).

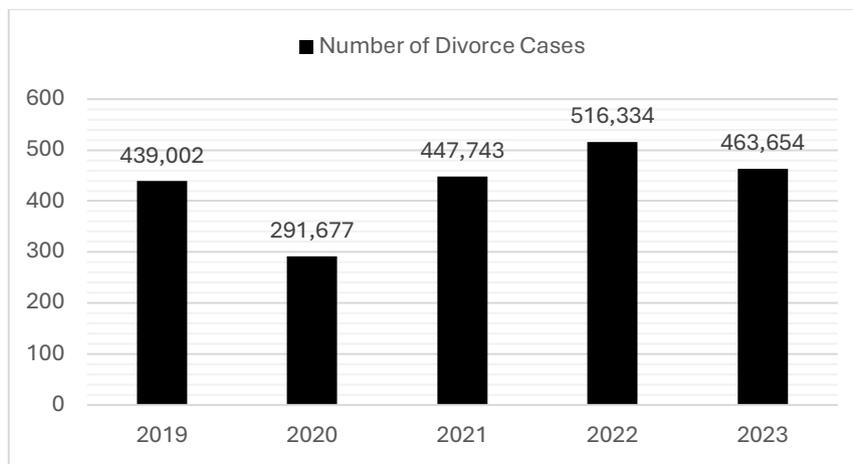
⁴ Michael G Peletz, *Sharia Transformations: Cultural Politics and the Rebranding of an Islamic Judiciary* (Univ of California Press, 2020).

⁵ Asep Saepudin Jahar, "Bureaucratizing Sharia in Modern Indonesia: The Case of Zakat, Waqf and Family Law," *Studia Islamika* 26, no. 2 (August 13, 2019): 207–45.

⁶ Busyra Azheri, "Urgency of the Establishment of a Special Court for the Resolution of Sharia Economic Dispute in the Religious Courts," *J. Legal Ethical & Regul. Issues* 21 (2018): 1.

resolved amicably or through litigation, constitute a significant portion of the Court's caseload. Consequently, the accuracy and reliability of divorce certificates issued by the Religious Court are paramount for the related parties.⁷ Errors in these documents cascade legal consequences, impacting individuals' legal standing, rights, and access to essential services. This highlights the critical need for rigorous quality assurance measures within the Religious Court system to ensure the integrity of divorce documentation and protect the rights and interests of Indonesian citizens.

Figure 1. Divorce rates in Indonesia from 2019 to 2023



Source: Annur (2024)⁸

According to data published by the Central Bureau of Statistics (BPS) on February 2024, the number of divorces in Indonesia decreased by 10.2% in 2023, with a total of 463,654 cases.⁹ This figure is lower than the 516,334 cases recorded in 2022. When examined over the period from 2019 to 2023, divorce rates have shown significant fluctuations.¹⁰ In 2019, there were 439,002 recorded. This number sharply declined to 291,677 cases in 2020, likely due to restricted access to courts during the COVID-19 pandemic.¹¹ However, divorce cases surged again to 447,743 in 2021, peaking at 516,334 cases in 2022.¹² This phenomenon underscores that divorce remains an ongoing legal issue requiring attention, particularly regarding the legal administrative aspects that accompany it.

⁷ Budi Hartono, Dumasari Harahap, and others, "Implementation of Supreme Court Regulation No. 1 of 2016 on Mediation Procedure in Divorce Cases During the Covid-19 Pandemic at Religious Courts in Medan City," *PERSPEKTIF* 12, no. 4 (2023): 1274–86.

⁸ *Ibid.*

⁹ Kemenag, "Angka Cerai Turun 10% di 2023, Kemenag Dorong Peran KUA Jaga Ketahanan Keluarga," <https://kemenag.go.id>, 2024, <https://kemenag.go.id/nasional/angka-cerai-turun-10-di-2023-kemenag-dorong-peran-kua-jaga-ketahanan-keluarga-rgQBT>.

¹⁰ Cindy Mutia Annur, "Kasus Perceraian di Indonesia Turun pada 2023, Pertama sejak Pandemi | Databoks," 2024, <https://databoks.katadata.co.id/demografi/statistik/3b83cbb88dc1e1/kasus-perceraian-di-indonesia-turun-pada-2023-pertama-sejak-pandemi>.

¹¹ *Ibid.*

¹² *Ibid.*

This trend highlights the need for careful attention to divorce administration, including potential errors in the issuance of divorce certificates that hinder individuals' legal rights. The latest report from BPS indicates that the causes of divorce in Indonesia are highly diverse, including continuous disputes and conflicts (251,828 cases), economic difficulties (108,488 cases), and other factors such as domestic violence (5,174 cases) and alcohol dependency (1,752 cases).¹³ West Java ranks first with 91,146 cases, making it the province with the highest number of recorded divorces. It is followed by East Java with 79,248 cases, and Central Java with 68,133 cases. These three provinces significantly outpace the others, indicating that divorce cases are heavily concentrated in Java's densely populated regions. Outside Java, North Sumatra records 15,660 cases, while Jakarta reports 14,381 cases.¹⁴ Given the high number of divorces, the volume of divorce certificates issued by the Religious Court is also substantial, increasing the likelihood of administrative errors in these documents. According to Panggabean (2024),¹⁵ the most dominant cause is prolong disputes and conflicts, accounting for 251,828 cases. This number far exceeds the other categories, suggesting that delicate interpersonal disagreements and relational breakdowns are the leading drivers of marital dissolution in Indonesia. The second most significant factor is economic problems, with 108,488 cases. Financial instability, unemployment, or economic hardship appear to play a substantial role in marital breakdown, though at less than half the rate of ongoing disputes. In contrast, domestic violence accounts for 5,174 cases, while alcohol dependency represents 1,752 cases, making them comparatively less frequently reported causes. However, these lower numbers do not necessarily indicate lower social impact; rather, they may reflect reporting patterns, legal categorization, or evidentiary challenges.¹⁶

When filing for divorce in the Religious Court, one of the required documents is the marriage certificate issued by the Office of Religious Affairs (KUA).¹⁷ The marriage certificate serves as official proof of a legally recognized marriage and forms the basis for issuing a divorce certificate.¹⁸ It is noteworthy that the submission of the marriage certificate, while required, does not function to validate the claims made in the lawsuit, as articulated in Article 19, Government Regulation Number 9 of 1975, or Article 116 of the Compilation of Islamic Law (KHI).¹⁹ Instead, its purpose is to authenticate the status of the individuals involved as legitimate husbands or wives, substantiated by the existence of the marriage certificate.²⁰ This

¹³ Andreas Daniel Panggabean, "Lima Provinsi Dengan Tingkat Perceraian Tertinggi Beserta Faktornya," *rri.co.id - Portal berita terpercaya*, 2024, <https://rri.co.id/cek-fakta/1005072/lima-provinsi-dengan-tingkat-perceraian-tertinggi-beserta-faktornya>.

¹⁴ *Ibid.*

¹⁵ *Ibid.*

¹⁶ *Ibid.*

¹⁷ Hasan Bisri and others, "The Legal Framework for Interfaith Marriage in Indonesia: Examining Legal Discrepancies and Court Decisions," *Asy-Syir'ah: Jurnal Ilmu Syari'ah Dan Hukum* 57, no. 2 (2023): 201–29.

¹⁸ Lenore E Walker et al., "Family Law: Marriage and Divorce," *Introduction to Forensic Psychology: Clinical and Social Psychological Perspectives*, 2020, 185–201.

¹⁹ Naskur Bilalu et al., "Compilation of Islamic Law as Judge's Consideration at a Religious Court in North Sulawesi, Indonesia," *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam* 6, no. 2 (2022): 514–36.

²⁰ Ibnu Elmi AS Pelu and Ahmad Dakhoir, "Marital Property within the Marriage Law: A Debate on Legal Position and Actual Applications," *Al-Jami'ah: Journal of Islamic Studies* 59, no. 2 (2021): 287–316.

document subsequently becomes the foundation upon which the court issues a divorce certificate, a legal decree affirming the dissolution of the marital bond. However, errors in recording personal identities in divorce certificates—such as misspelled names or incorrect identification numbers—can lead to various administrative and legal issues for the divorced individuals.

The implications of errors in divorce certificates are extensive,²¹ including obstacles in inheritance management, passport issuance, and other administrative processes that require document consistency.²² Furthermore, inconsistencies in divorce certificates can hinder the process of registering a subsequent marriage at the religious offices (KUA), potentially prompting individuals to opt for unregistered marriage (*nikah sirri*). While *nikah sirri* is religiously valid, it lacks legal recognition in Indonesia, which leads to further legal complications, particularly regarding the rights of spouses and children born from such marriages.²³

Unlike birth certificates or marriage certificates, which can be corrected through administrative mechanisms at the Civil Registry Office (Disdukcapil) or the KUA, errors in divorce certificates cannot be rectified through similar procedures.²⁴ Since a divorce certificate is a judicial product, any modifications can only be made through an appeal within 14 days after the court decision is received.²⁵ If an appeal is filed, the panel of judges will re-examine the initial ruling to ensure that no errors were made in the documentation. However, this process entails significant costs, time, and effort, posing an additional burden on the litigants affected.

Given the complexity of the issues discussed above, this study aims to examine the procedures for amending divorce certificates from a legal and judicial practice perspective. This research explores how errors in divorce certificates impact legal certainty and their consequences on individuals' personal rights. The specific research questions addressed in this study are: how do errors in divorce certificates affect legal certainty and what are the implications of identity errors in divorce certificates for personal rights for the legal subject?

The Contexts of Study: Method and the Previous Works

Several studies have been conducted on errors in birth certificate registration and their impact on individual rights. The study by Satria et. al (2021) examines the issue of amending birth certificate documents due to registration errors.²⁶ They

²¹ Alexis Karteron, "Family Separation Conditions," *Columbia Law Review* 122, no. 3 (2022): 649–712.

²² Muhammad Ilham, "The Implementation Of Principles In Making Divorce Difficult As The General Explanation Of Law Number 1 Of 1974 Concerning Marriage In Serui Religious Court," *JICSA (Journal of Islamic Civilization in Southeast Asia)* 9, no. 2 (2020): 172–210.

²³ Nanda Nabilah Islamiyah, "When Religious Leaders Become Marriage Brokers, Penghulus, and Marriage Consultants: The Authority of Kyai in the Process of Unregistered Marriage," *Al-Ahwal: Jurnal Hukum Keluarga Islam* 17, no. 1 (June 7, 2024): 21–40.

²⁴ Thoriq M Firdaus, Abdullah Taufik, and Muhammad Fajar Sidiq Widodo, "Implementation of Regulation of the Minister of Religious Affairs Number 20 of 2019 in the Practice of Changing the Biodata of the Marriage Certificate in Krian District," *Legitima: Jurnal Hukum Keluarga Islam* 6, no. 1 (2023): 51–67.

²⁵ M Beni Kurniawan, "Implementation of Electronic Trial (e-Litigation) on the Civil Cases in Indonesia Court as a Legal Renewal of Civil Procedural Law," *Jurnal Hukum Dan Peradilan* 9, no. 1 (2020): 43–70.

²⁶ Indah Satria, Okta Ainita, and Agung Prayitno, "ANALISIS PERUBAHAN DOKUMEN AKTA KELAHIRAN YANG DISEBABKAN KESALAHAN PENCATATAN," *PALAR (Pakuan Law Review)* 7, no. 1 (February 2, 2021): 181–90.

highlight that errors in birth certificates, particularly in typographical aspects, reduces children's rights.²⁷ Although amendments to birth certificates are permitted, revisions are limited to editorial aspects such as names, years, and dates. Therefore, ensuring accuracy in registration is crucial to defend children's rights. Meanwhile, the research conducted by Wulandari and Hanim (2021) analyzes the process of correcting biodata errors in birth certificates at the Civil Registry Office of Kudus City based on Law No. 24 of 2013.²⁸ This study finds that although the correction process adheres to regulations, challenges arise due to discrepancies between birth certificates and family cards. As a solution, supporting data modifications are carried out without requiring court approval, provided they do not involve critical documents such as diplomas or national identity numbers (NIK).²⁹

The study by Imania (2024) identifies factors contributing to inconsistencies between biodata in birth certificates and other civil registration documents in Pegayaman Village.³⁰ These inconsistencies stem from the use of intermediary services and human errors. Such discrepancies have implications for difficulties in processing administrative documents and hinder citizens' constitutional rights in accessing public services. This study employs a qualitative methodology through document analysis, observation, and interviews.

Although various studies have addressed the issue of registration errors in civil registration documents, research specifically examining the legal and procedural implications of errors in divorce certificates remains limited. Most existing studies focus on birth certificates and civil registration in general, whereas analyses highlighting divorce certificates as legal documents that determine an individual's civil status are still scarce. This research aims to fill this gap by providing a deeper analysis of how errors in divorce certificates affect individual civil rights and the available legal mechanisms for rectification. The novelty of this study lies in its systematic exploration of the impact of errors in divorce certificates and the corrective mechanisms within the Indonesian legal framework.

This study employs an empirical juridical approach, collecting primary data through field research, complemented by secondary data from relevant literature. This approach aligns with the methodology proposed by Soemitro (2005).³¹ By rejecting purely philosophical and positivistic views of law, this research adopts an empirical perspective that considers law as *ius operatum*, meaning law as it is applied in society. Primary data is gathered through interviews with relevant parties, including religious courts and the Civil Registry Office officials, as well as individuals who have experienced errors in divorce certificates. Secondary data is

²⁷ *Ibid.*

²⁸ Miladianur Wulandari and Lathifah Hanim, "Pelaksanaan Perubahan Kesalahan Penulisan Biodata Dalam Akta Kelahiran Menurut Undang-Undang No. 24 Tahun 2013 Tentang Administrasi Kependudukan," *Prosiding Konstelasi Ilmiah Mahasiswa Unissula (KIMU) Klaster Hukum 1*, no. 1 (2021).

²⁹ *Ibid.*

³⁰ Nym Dinda Harni Bina Imania, "AKIBAT HUKUM TERHADAP KETIDAKSESUAIAN PENCATATAN BIODATA DIRI DALAM DOKUMEN AKTA KELAHIRAN DENGAN DOKUMEN KEPENDUDUKAN LAINNYA PADA WARGA DESA PEGAYAMAN, KABUPATEN BULELENG" (PhD Thesis, Universitas Pendidikan Ganesha, 2024).

³¹ Ronny Hanitiyo Soemitro, *Metodologi Penelitian Hukum* (Jakarta: Ghalia Indonesia, 2005).

obtained from legislation, court decisions, and relevant academic literature. Data analysis is conducted using a qualitative approach to understand the dynamics of legal implementation in practice and the challenges faced in rectifying divorce certificate errors.

This study was conducted within the jurisdiction of the Malang City Religious Court and the Malang Regency Religious Court. The Malang City Religious Court oversees cases within the administrative boundaries of five districts, namely Sukun, Klojen, Blimbing, Lowokwaru, and Kedungkandang, as well as Batu City. While the Malang Regency Religious Court has a significantly broader jurisdiction, covering 33 districts within Malang Regency. These districts include Donomulyo, Pagak, Bantur, Sumbermanjing Wetan, Dampit, Ampelgading, Poncokusumo, Wajak, Turen, Gondanglegi, Kalipare, Sumberpucung, Kepanjen, Bululawang, Tajinan, Tumpang, Jabung, Pakis, Pakisaji, Ngajum, Wagir, Dau, Karangploso, Singosari, Lawang, Pujon, Ngantang, Kasembon, Gedangan, Tirtoyudo, Kromengan, Wonosari, and Pagelaran. The table below presents a structured overview of the jurisdictional coverage of the Malang City Religious Court and Malang Regency Religious Court to contextualize the territorial scope of the research. This jurisdictional background is essential to understanding the procedural challenges and administrative complexities associated with civil registration documents, particularly those related to divorce records. Given the broad jurisdiction of the Malang Regency Religious Court, inconsistencies in civil registry data, including errors in divorce certificates, become more pronounced due to variations in administrative practices across districts.

The Practice of Error Identity in Divorce Deeds: From Misspells to Intentional Mallpractices

The first case experienced by Suparto bin Hajar and Marfuah binti Mahfud was an error in the identity of the applicant's biodata. The identity error existed in the marriage certificate excerpt document.³² When the applicant obtained a deed of divorce, the applicant's identity was not the same as the other documents belong to the applicants. This case submitted to Malang City Religious Court.

The applicant intends to correct his marriage and divorce biodata in accordance with the biodata listed on the birth certificate, diploma, and population administration. This is because the name recorded in the marriage certificate quotation which is then also recorded on the divorce certificate is wrong. The actual name of the applicant is Suparjo bin Hajar while what is recorded in the marriage book quotation—which is then also recorded in the divorce certificate—is Suparto bin Hajar. The letter 'j' is misspelled as 't'. As a result of the discrepancy in identity, the applicant is administratively hindered in applying for marriage. Another impact experienced by the applicant is that the applicant is constrained in making passport documents. Due to this error, the applicant is unable to travel abroad, whether for religious purposes or employment. The supporting evidence submitted by the applicant in support of the petition are: (1) a copy of the applicant's identity card;

³² Archive Data of Malang City Religious Court Decisions (anonymous name, real identity obscured by researchers). Data obtained on Monday, November 15, 2021.

(2) a copy of birth certificate; (3) a copy of family card; and (4) a copy of divorce certificate.

An application for amendment of a divorce certificate is not only submitted when there is an error originating from a mismatch in the identity of the parties in the marriage book. Based on the researcher's interview with Arufin, judge of the Religious Court of Malang City,³³ applications for amendment of divorce certificates are also often submitted by parties who after divorce deliberately change their names for various reasons. There are those who change their names for the sake of job interests and there are also those who deliberately change their names because they think they want to get rid of bad luck after divorce.

In the results of interviews with several sources, the applications for amendment of the divorce certificate that had been decided by the panels of judges were due to the mistakes of the parties. In this case the meaning of the error in question is intentional. The intentional meaning here is because the parties do not know the legal consequences that will be obtained when making changes without regard to the consequences obtained. As an example that has been conveyed by Arifuddin. One observed phenomenon is the growing trend in urban areas of changing traditionally Javanese names to more popular or modern name. Such name changes frequently occur after marriage, yet they are often not written in the marriage certificate. The marriage certificate itself constitutes a key piece of written evidence commonly relied upon by the panel of judges in divorce proceedings initiated by one of the parties. Due to heightened emotions during marital disputes, the parties often fail to formally report or regularize the post-marriage name change in official documents, including the identity card (KTP), family card, and other identification records.

According to some judges, a common mistake made by litigants involves name changes undertaken after the Hajj pilgrimage or as a form of appreciation from respected religious teachers or kiai during or after the marriage process. In many cases, individuals adopt a new name following Hajj in the hope of receiving blessings associated with a name that has been prayed for as a spiritual commemoration of the pilgrimage. Similarly, some individuals have their names altered or supplemented by the teacher or kiai who officiated their marriage, motivated by the belief that the new name carries better spiritual meaning than the previous one. While such name changes are culturally and religiously meaningful, problems arise when they are not formally registered with the relevant authorities. According to the judges we interviewed, ironically, responsibility for such discrepancies is often attributed to them and court clerks when the divorce decree does not correspond to the updated name.

Significant Challenges to the Principle of Legal Certainty

Based on the interview with a judge at the Religious Court of Malang City, errors in divorce certificates create substantial challenges for legal certainty and individual rights. The judge highlighted that, in principle, a court decision that has attained permanent legal force (*inkracht*) should be final and binding, with legal remedies

³³ Interview with Mr. M Arufin, Judge of Malang City Court. Monday, November 15, 2021.

available only through judicial review (*peninjauan kembali*). However, the issue arises when errors are discovered in official documents after the divorce decree has been finalized, particularly regarding names or other personal information. The judge referred to a 2019 coordination meeting among the Directorate General of Religious Courts, the Religious Chamber of the Supreme Court, and appellate religious courts across Indonesia, which clarified that minor typographical errors in divorce certificates, such as misspellings of names, fall under the jurisdiction of religious courts for correction. However, if the correction involves a substantive name change, the case must be submitted to the district court.

A recurring issue, as noted by the judge, is that district courts frequently refuse jurisdiction over such cases, directing petitioners back to the religious courts, creating a jurisdictional limbo. Despite clear procedural guidelines, religious courts often find themselves compelled to handle these matters out of necessity, as affected individuals require legal certainty. This legal uncertainty is further exacerbated by inconsistencies in judicial practice, where some courts readily grant corrections, while others impose stricter requirements. Furthermore, the judge emphasized that a divorce certificate is a shared legal document between two individuals—the ex-husband and ex-wife. Consequently, any request for amendment should ideally be submitted by both parties, rather than unilaterally by one party, as it affects both individuals' legal standing. The Supreme Court has previously ruled in favor of this approach, reinforcing that modifications to a divorce certificate should involve both former spouses. However, in practice, many individuals attempt to alter their divorce certificates for reasons unrelated to clerical errors.

For instance, cases have emerged where individuals, particularly women, seek to modify their names post-divorce for personal or professional reasons. An illustrative example is a woman whose divorce certificate initially listed her name as "Poniyem." After securing employment, she began using the name "Ike Nurjanah" and subsequently sought to amend her divorce certificate to reflect this new identity. Such changes, however, contradict the legal principle that official documents should be consistent with birth certificates. The judge explained that the issuance of a marriage certificate at the time of marriage is based on the birth certificate, and any subsequent modifications should adhere to this principle.

The judge also highlighted another issue, in many cases, individuals alter their identity documents (such as national ID cards) only after their divorce, rather than ensuring consistency before filing for divorce. When discrepancies arise later, they seek judicial intervention to amend their divorce certificates, even though the inconsistencies resulted from their own actions. While religious courts strive to resolve these cases pragmatically, judges must adhere to legal principles rather than function as social service providers.

From a procedural standpoint, current practice often permits corrections based on family cards and national identity cards rather than strictly requiring birth certificates. However, the judge expressed a preference for mandating birth certificates as the primary reference to ensure uniformity and prevent future disputes. This is particularly important given that district courts do not always receive copies of religious court rulings, leading to further confusion and inefficiencies in processing amendments.

A major concern is the lack of clarity and coordination between judicial institutions. The judge observed that refusals by district courts often stem from administrative staff rather than judicial authorities, causing unnecessary bureaucratic hurdles. In some cases, individuals are left in legal limbo, shuttled between religious and district courts without a clear resolution. To address this issue, the judge emphasized the need for clearer procedural guidelines and better coordination between religious and district courts to prevent affected individuals from being caught in an administrative maze.

In determining decisions related to the correction of divorce certificates, judges generally refer to established jurisprudence, particularly recent rulings that have been followed by other judges. While I have not yet reviewed the jurisprudence in full, its underlying legal reasoning appears to be based on *maslahah mursalah* (public interest) when analyzed through the lens of *ushul fiqh* (Islamic legal theory). Additionally, previous rulings have often relied on regulations issued by the Ministry of Religious Affairs (*Permenag*). However, there are also relevant provisions in the *Herzien Indonesisch Reglement* (HIR), which, while not yet fully examined, suggest that changes to legal documents should be adjudicated by the general court.

A divorce certificate fundamentally derives its validity from the marriage certificate, as it serves as official proof of marital dissolution. However, it is debatable whether a divorce certificate qualifies as an identity document in itself. A marriage certificate does not inherently function as a personal identification document, yet, much like a driver's license, it serves as proof of a legal status. The problem arises when errors in the original marriage certificate issued by KUA translate into inconsistencies in the divorce certificate. Since the KUA does not have the authority to modify or correct personal biodata within legal documents, such corrections require the presentation of an official birth certificate to validate any proposed changes.

Legal certainty requires that every legal decision, including a divorce decree, provides an authoritative and binding resolution that can be relied upon by individuals and institutions. However, when errors occur, the enforceability of the certificate is compromised, leading to several consequences.

a. Challenges in civil registration

Divorce certificates are essential for updating civil records, including national identification documents, passports, and marital status in civil registration databases. Errors can prevent individuals from registering their divorce, leading to situations where they are still legally recognized as married, despite having undergone judicial separation.

b. Legal inconsistencies in future marriages

If a divorce certificate contains errors, it is not accepted as valid proof of dissolution of marriage, causing complications for individuals seeking to remarry. In some jurisdictions, individuals need to undergo additional legal proceedings to correct the mistake, further delaying the process and increasing legal costs.

c. Complexity in property and custody arrangements

Divorce certificates play a crucial role in determining asset division, alimony, and child custody arrangements. Errors in these documents leads to disputes, as affected parties may challenge their validity, causing prolonged litigation and uncertainty regarding property rights and parental responsibilities.

From a theoretical perspective, strict adherence to the principle of legal certainty, as emphasized by the positivist school of law, dictates that laws should be implemented rigidly without deviation. However, as Radbruch highlights, a rigid application of legal certainty sometimes results in injustice, particularly when legal documents fail to reflect the factual reality due to administrative or clerical errors. In such cases, a balance between legal certainty and justice must be pursued by allowing procedural mechanisms to correct mistakes while ensuring that individuals do not face undue burdens in proving their legal status. According to the Civil Registry Office, the document that is most difficult to amend should serve as the primary reference. If, for instance, the educational certificate is more challenging to correct, then it should be used as the standard, and necessary adjustments should be made to the marriage certificate.

Insights derived from an interview with a judge of the Religious Court of Malang Regency reveal specific procedures for addressing errors in marriage certificates. According to regulations stipulated by the Ministry of Religious Affairs, the KUA retains jurisdiction over name changes in marriage certificates. It is recommended that amendments be submitted to the KUA prior to divorce proceedings to prevent inconsistencies in the subsequent divorce certificate. However, if an error is identified only after the issuance of the divorce certificate, the rectification process varies depending on the type of divorce. In the case of a *talak* divorce (initiated by the husband), a formal petition is required to initiate the correction. If it was a *gugat* divorce (initiated by the wife), the correction must be filed as a lawsuit. This procedural distinction aligns with the guidance provided by the Surabaya Religious High Court (PTA Surabaya), which mandates that corrections should be handled consistently with the initial divorce case.

Instead of completely altering the name in the divorce certificate, courts typically opt to include an alias to account for discrepancies between legal documents. For instance, if a person's educational certificate lists their name as "Abdullah Muhammad" while their marriage certificate states "Abdullah Salim," the divorce certificate may include both names as "Abdullah Salim alias Abdullah Muhammad." This approach ensures continuity between official documents while preventing fraudulent misuse of name changes.

Name inconsistencies have serious legal implications in financial and immigration matters. Even minor variations, such as "Muh. Safrudin" versus "Much. Safrudin," could be exploited to circumvent financial blacklists or travel restrictions. To mitigate such risks, courts insist on the use of aliases rather than outright modifications of names in official records. If a clerical error occurs solely during the issuance of the divorce certificate—without affecting the original judgment—the correction may be processed administratively through the court registry without requiring a formal hearing. However, if the error originates from the judgment itself, it must undergo judicial review, as judgments are based on authenticated evidence,

including identity documents such as national ID cards and marriage certificates. In cases where an individual has legally changed their name—for example, due to religious conversion—such modifications must be officially recognized through a name change ruling by the district court. Additionally, cultural naming practices can contribute to legal confusion, such as in Madura, where parents are sometimes referred to by their child's name. If such misidentifications occur in legal documents, they must be formally corrected to ensure consistency across all official records.

Conclusion

The legal certainty and personal rights of individuals are profoundly affected by errors in divorce certificates, creating significant challenges in civil registration, remarriage, property rights, and overall legal identity. As this paper has demonstrated, the principle of legal certainty, as emphasized in positivist legal theory, requires that official documents accurately reflect judicial decisions to prevent ambiguity and legal disputes. However, when errors occur, affected individuals experienced undue hardships, including difficulties in proving their marital status, accessing civil services, and protecting their financial and familial interests. From a human rights perspective, Such errors also infringe upon an individual's right to legal identity, which is essential for full participation in legal, social, and economic life. The findings of this research highlight the need for a legal framework that balances legal certainty with justice and procedural efficiency. While existing mechanisms allow for the correction of errors in legal documents, procedural delays and bureaucratic inefficiencies often exacerbate the burden on individuals seeking rectification. A more responsive and accessible legal remedy is therefore necessary to ensure that technical mistakes do not result in substantive injustice.

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