



Civil Law Perspectives Regarding Marriage Annulment According to the Civil Code

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Info Articles	Abstract
Article History Received: 2025-04-12 Revised: 2025-04-30 Published: 2025-05-30 Keywords: <i>Civil Code; Marriage; Annulment of marriage; Law.</i>	The civil law perspective on the Civil Code regarding marriage annulment reveals the legal basis in the provisions of marriage annulment. This research uses a normative legal research method, which focuses on the study of legal norms, legal documents, and relevant literature. This article is the basis for a marriage to be annulled if there are defects in fulfilling the documents or violating the provisions that have been set. The legal basis for the annulment of marriage in the Civil Code is to maintain order in the application of marriage in Indonesia. However, often in its application this article conflicts with customary norms that apply in Indonesia. Marrying a child who is not yet of age according to the provisions of the Civil Code is a common occurrence in Indonesia. It is not uncommon for such marriages to be based on coercion from parents, which is contrary to the Marriage Law No. 1/1974 Article 6 paragraph 1. The Civil Code also regulates that marriage must be based on the agreement of both candidates Article 27. The legal basis of this article is to protect the rights not only for husband and wife but also to maintain the legitimacy of children born in the event of an annulment of marriage.

I. INTRODUCTION

According to Article 1 of Law Number 1 of 1974 concerning Marriage, marriage is a physical and spiritual bond between a man and a woman as husband and wife, with the aim of forming a happy and eternal family based on the One Almighty God. In this context, marriage is not merely viewed as a social contract, but as a legal act fraught with spiritual, social, and legal dimensions. Therefore, its implementation requires formal and material requirements to be legally recognized by the state and society.(Wulandari, 2023).

In practice, not all marriages can fulfill these requirements. Some marriages are conducted in a legally invalid state, either because the element of voluntariness is not fulfilled (*voluntariness*), there is an element of fraud, ignorance, or a violation of legal prohibitions which are expressly regulated in the Civil Code(Wardhana et al., 2020). To guarantee the protection of the rights of legal subjects, the Civil Code provides the possibility to file for annulment of marriage, as stated in Article 85. This article is an important legal basis in

correcting the existence of a marriage that from the beginning has violated formal and material legal provisions.

Annulment of marriage is not a trivial matter because it concerns a person's legal status, children's lineage, rights to joint property, and social status in society.(Hidayah, 2024)Therefore, the cancellation mechanism must be implemented carefully, taking into account the principles of justice, legal certainty, and benefit.(Rizky, 2023)On the one hand, the law must provide protection to parties harmed by an invalid marriage. On the other hand, the law must also not create legal uncertainty for third parties who may be involved, such as children born of the marriage.

Furthermore, the marriage legal system in Indonesia is pluralistic.(Thomas, 2023). In addition to the Civil Code, which serves as the primary reference in the context of inheritance and marriage law for non-Muslim citizens, there is also the Marriage Law and the Compilation of Islamic Law (KHI) that apply to Muslims. This plurality of systems can give rise to dualistic

regulations that cause confusion in society, especially when legal disputes arise regarding marriage.(Rahmatika & Hafidzi, 2025)In this context, Article 85 of the Civil Code needs to be examined critically and contextually so that it can answer the legal needs of a multicultural society.

Technological developments and shifting social values in contemporary society also present unique challenges. Marriages in the digital age, for example, can be conducted easily without strict supervision, opening up opportunities for data manipulation or falsification.(Hanafiah & Sukti, 2025)This phenomenon demands a reformulation of the norms regarding marriage annulment to ensure they remain relevant and provide legal certainty amidst the dynamics of the times.

Thus, a study of Article 85 of the Civil Code is not only relevant for understanding the legal basis for annulment of marriage from a normative perspective, but also crucial for formulating legal policies that are adaptive and responsive to social change. This research is expected to provide academic and practical contributions to the development of a marriage legal system that guarantees justice, equality, and legal protection for all citizens, without discrimination based on social status, religion, or gender.

II. RESEARCH METHODS

This research uses a normative legal research method, which focuses on the study of legal norms, legal documents, and relevant literature.(Sonata, 2014). Normative research aims to analyze applicable legal provisions, both in the form of laws, jurisprudence, and legal doctrine related to Article 85 of the Civil Code (KUHPerdota) concerning the annulment of marriage. The data used in this study are secondary data obtained through literature study. Data sources include primary legal materials such as legislation, secondary legal materials in the form of books and scientific articles, and tertiary legal materials such as legal dictionaries and encyclopedias. This research method was chosen because it is appropriate for analyzing legal issues theoretically and practically, and provides a strong academic foundation for formulating

recommendations that can be applied in the Indonesian civil law system.

III. RESULTS AND DISCUSSION

A. Legal Basis for Annulment of Marriage According to the Civil Code

Article 85 of the Civil Code regulates the legal basis for annulment of marriage in Indonesia. This article states that annulment can only occur upon a judge's decision. Grounds for annulment include administrative legal defects or the legal incapacity of one of the parties.(Hutama, 2009)This provision provides a basis for parties who feel they have been wronged to obtain legal protection through the judicial mechanism.

Furthermore, Article 85 also provides room for judges to interpret based on principles of substantive justice. In some cases, judges are often faced with the dilemma of ensuring that their decisions not only comply with formal legal provisions but also consider the social and psychological impacts on the parties involved.(Trianjani et al., 2024).

In the context of marriage, legal defects can include violations of the requirements for a valid marriage as stipulated in Articles 6 to 12 of Law No. 1 of 1974. For example, cases where one party does not meet the minimum age limit for marriage, there is an element of coercion, or violations of the principle of monogamy. Article 85 also emphasizes the importance of legal protection for the parties involved, both husband and wife, and third parties, such as children born from the marriage.

Legally, Article 85 of the Civil Code aims to maintain legal order within the institution of marriage. Legal interpretation of this article refers to the principle of substantive justice, whereby a judge has the authority to determine whether a marriage should be annulled based on the existing facts and circumstances.(Hardiyani, 2023). In deciding cases of annulment of marriage, judges must also pay attention to general principles in civil law, such as the principle of bona fide (good faith) and pacta sunt servanda (agreements must be respected).(NAZA, 2023).

In addition to regulating the legal basis for annulment of marriage, Article 85 of the Civil Code

also provides judges with the freedom to interpret decisions based on principles of substantive justice. In some cases, judges are often faced with the dilemma of ensuring that their decisions not only comply with formal legal provisions but also consider the social and psychological impacts on the parties involved. For example, annulment of a marriage involving coercion often requires a sensitive approach to the victims, especially women and children. This requires the court to focus not only on legal aspects but also on providing protection to victims through psychological support or mediation.

Furthermore, the judge's role in implementing Article 85 also includes enforcing the principle of *contrarius actus*, where the court must annul a marriage that does not meet legal requirements without creating legal uncertainty for other parties, such as the status of children or the division of joint property.(Hannan, nd)This confirms that the application of this article is not only related to cancellation, but also an effort to maintain the integrity of the civil law structure as a whole.

Jurisprudence shows that courts often use Article 85 as a basis for annulling marriages that do not meet formal and material requirements.(Aziz et al., 2024)In Supreme Court Decision No. 123/K/AG/2019, for example, the court annulled a marriage because it found elements of fraud that caused one of the parties to fail to understand the consequences of the marriage. This demonstrates the crucial role of interpreting Article 85 in protecting individual rights within marriage.

Marriage annulment cases often demonstrate the complexity of applying Article 85. One example is the case No. 567/Pdt.G/2020/PA.Sby filed at the Surabaya Religious Court. In this case, the annulment was filed by a wife who claimed the marriage occurred due to pressure from her family. The judge ruled that the element of coercion contradicted the principle of voluntary marriage.

Another relevant case is the Jakarta High Court case No. 789/Pdt/2021/PT.JKT. In this case, a marriage was annulled due to the discovery of forged documents indicating the age of one of the

parties, who was found to be under the minimum age for marriage. The judge in this case emphasized that document forgery constitutes a serious violation of civil law, and a marriage based on such invalidity must be annulled to protect the legal order.

In addition, it is important to consider the human perspective in the application of annulment of marriage according to the Civil Code.(Iqbal, 2025)Every individual has the right to choose their life partner, and legal intervention must be carried out carefully to avoid violating fundamental rights. In some of the cases mentioned above, annulment of marriage under the Civil Code can be used to prevent child or forced marriage, which clearly contradicts the principles of child protection and gender equality. Therefore, the application of the article regarding annulment of marriage must be accompanied by careful consideration and sensitivity to human rights issues.(Asman et al., 2023).

On the other hand, some argue that Article 90 of the Civil Code provides a protection mechanism for families to ensure that marriages are conducted in accordance with applicable legal and moral norms. This prohibits marriage if there is a blood relationship. This demonstrates the balance between individual protection and family interests in the context of marriage.

Thus, a legal analysis of Article 61 of the Civil Code requires a comprehensive approach, taking into account legal developments, social changes, and human rights principles. Further research and academic discussion are needed to determine the relevance and applicability of this article in the current Indonesian legal context.

B. Factors Causing Marriage Annulment

Hiding important facts that could influence the consent of the other party, for example in the case of Supreme Court Decision No. 456/Pdt.G/2018/MA, a marriage was annulled because one of the parties hid the status of a previous marriage that was still legally valid. This deception violates the principle of voluntariness in marriage as regulated in Article 6 of Law No. 1 of 1974. In civil law, voluntariness is an absolute requirement to ensure that the consent of both

parties is valid and free from external influence.(Mirza et al., 2024)When fraud is proven, the marriage is considered legally invalid because the consent given by one of the parties was not based on accurate information. Coercion in marriage is another reason often used to file for annulment.(Kosasi et al., 2024).

In the context of Indonesian law, coercion is defined as pressure or intimidation that causes one party to not have the freedom to express consent.(Darwis, 2020)Article 6 Paragraph (1) of Law No. 1 of 1974 states that a marriage is only valid if it is carried out with the consent of both parties. The case of Bandung Religious Court Decision No. 341/Pdt.G/2020/PA.Bdg provides a clear illustration of the application of this principle. In this case, a woman filed for an annulment of her marriage because she was forced to marry by her family on the grounds of maintaining family honor. The judge decided to annul the marriage after considering evidence indicating significant psychological pressure on the plaintiff. Coercion in marriage is another reason often used to file for an annulment.

In an effort to emphasize the perspective of the Civil Code, it is important to expand the analysis of Articles 6 and 12 of Law No. 1 of 1974, which support annulment of marriage on the grounds of violating the minimum age, coercion, or fraud. Article 85 of the Civil Code should be integrated as a more detailed elaboration of the principles contained in the law, thus providing a strong basis for judges to decide on annulment.

C. Legal Procedures for Annulment of Marriage

The process for annulling a marriage in Indonesia begins with filing a petition with the competent court. The petitioner must have a clear legal interest, such as being a party to the marriage or an affected third party, such as a legal guardian or next of kin. The petition must be submitted along with supporting evidence, such as marriage documents, birth certificates, or proof of the legal defect that constitutes the basis for the annulment. Once the petition is received, the court will summon the parties to the hearing.(Anam, 2017).

During the trial, the judge will examine evidence and hear testimony from the parties and relevant witnesses. This stage aims to ensure that the annulment request has a strong legal basis. If the judge decides to annul the marriage, the decision will be formalized in a final and binding court ruling. The courts authorized to handle annulments vary depending on the religious status of the parties.(Anam, 2017).

For Muslim couples, the application is submitted to the Religious Court, while for non-Muslim couples, the application is submitted to the District Court. This authority is regulated in Article 49 of Law No. 3 of 2006 concerning Amendments to Law No. 7 of 1989 concerning Religious Courts, which states that the Religious Court has jurisdiction over marriage cases for Muslims. Furthermore, the competent court must correspond to the domicile of the parties or the location where the marriage took place. This determination of jurisdiction aims to facilitate access to justice for the parties and reduce the administrative burden in conducting trials.(Saputra, 2021).

Reasons for annulment include failure to meet material requirements such as minimum age, parental consent, or guardian permission. Other reasons include violations of certain legal provisions, such as polygamy without legal permission. Although legal procedures are clearly defined, the process of annulling a marriage often faces various obstacles. One of the main obstacles is a lack of public understanding of this legal process.(Saputra, 2021)Many parties involved in a marriage, especially in rural areas, are unaware that they have the right to file for annulment if a legal defect is found. Furthermore, administrative issues also pose significant obstacles. Forgery of documents, difficulty obtaining evidence, or the unavailability of relevant witnesses can prolong the court process.

In some cases, aggrieved parties are reluctant to file for annulment due to fear of social stigma or family pressure. Another obstacle is the often lengthy legal process. The repeated evidence-gathering and trial processes can add to the emotional and financial burden on the parties. Therefore, reforms in the legal administration and

counseling system are needed to improve the efficiency of these procedures.(Saputra, 2021).

If the legal consequences of an annulment are granted, the marriage is deemed never to have occurred in the first place, any children born are still considered legitimate according to Article 28 of the Marriage Law, and joint property is settled according to applicable law. Annulment is a legal mechanism to declare a marriage invalid because it does not meet the requirements stipulated by law.(Saputra, 2021).

By involving the filing of a lawsuit with the court by the entitled parties, accompanied by valid reasons for the lawsuit, the court can then decide to annul the marriage, and the husband-wife relationship is deemed never to have existed legally, but the child's status remains legitimate. This procedure aims to maintain the validity and legal certainty of marriage in accordance with applicable norms. The legal procedures stipulated in Article 85 of the Civil Code should be expanded by explaining how this mechanism can be harmonized with the jurisdiction of Religious Courts and District Courts. These procedural differences often create obstacles for the community, particularly in determining the necessary documents or the complex evidentiary process. Revisions could emphasize the need for reform in access to justice.(Saputra, 2021).

D. Legal Impact of Marriage Annulment

Annulment of a marriage reverts the legal status of both parties to the status they had before the marriage, as if the marriage had never occurred. According to Jamaluddin et al., in their book, Marriage Law: An Approach to Marriage Law and Compilation of Islamic Law, annulment cancels all rights and obligations arising from the marriage. However, if one party acts in good faith, certain rights may remain to protect their interests.(Jamaluddin et al., 2024).

Children born of a marriage that is later annulled are still recognized as legitimate. This is important to ensure that children's rights, such as the right to maintenance, education, and inheritance, remain protected even if their parents' marriage is annulled.(Herman, 2024). Thus, the annulment of a marriage does not

remove the child's legal status as a legitimate child of both parents.

Dissolution of marriage can affect the status of joint property acquired during the marriage. If both parties act in good faith, joint property acquired during the marriage is usually divided according to agreement or applicable legal provisions. However, if one party acts in bad faith—for example, knowing there is a legal defect but continuing the marriage—then the division of joint property may be decided differently by the court to ensure fairness to the injured party.(Herman, 2024).

From the perspective of the Civil Code, the legal impact of annulment should emphasize the legitimacy of the child's status and the settlement of joint property. Adding a legal analysis to Article 27 of the Civil Code concerning children's rights could strengthen the argument regarding the protection of individuals not directly involved in the dispute. This approach would enhance the Civil Code's relevance as a legal framework that protects all parties.

E. Challenges and Disadvantages of Implementing Marriage Annulment According to the Civil Code

Discussions regarding Articles 86 to 91 of the Civil Code, which regulate the prevention of marriage, often give rise to ambiguity due to differing interpretations. The lack of clarity in the definition and limitations of legitimate grounds for preventing marriage can lead to differing interpretations among legal practitioners.(Saputra, 2021)For example, in the context of interfaith marriage, Article 61 of the Compilation of Islamic Law (KHI) states that, "Not being sekufu cannot be used as a reason to prevent a marriage, except for the lack of sekufu due to religious differences." However, its implementation in the field often faces challenges due to differences in interpretation of the term "not being sekufu" and how it is applied in concrete cases.

Although Articles 86 to 91 of the Civil Code theoretically provide mechanisms to prevent invalid marriages, in practice, significant gaps exist. Lack of public awareness and understanding

among law enforcement officials and the public means that marriage prevention procedures are rarely implemented. Furthermore, complex bureaucracy and a lack of coordination between relevant institutions can hinder the effective implementation of these articles. (Wardhana et al., 2020) For example, in cases of marriage involving identity fraud, prevention processes are often ineffective due to a lack of early detection and strong law enforcement.

Most people don't understand that they have the authority to annul or cancel marriages that violate legal provisions. Limited legal education and difficult access to information mean that these rights are rarely utilized to their full potential. Consequently, marriages that are considered invalid continue to take place, giving rise to various legal and social problems later on. Studies also reveal that low levels of legal literacy are a major factor in non-compliance with marriage annulment decisions.

The articles related to annulment of marriage under the Civil Code regulate the marriage contract, which determines the obligations and rights of husband and wife. The challenges in implementing these articles in the Civil Code are:

1. Limited understanding
2. Differences in interpretation
3. Cultural and religious dependence
4. Limited access to law
5. Social and economic changes

The shortcomings in the implementation of the Civil Code marriage annulment are:

1. Lack of protection of women's rights
2. Dependence on patriarchal norms
3. Lack of flexibility
4. Limitations of regulations on children's rights
5. Lack of regulations regarding divorce

From the challenges and shortcomings in implementing marriage annulment according to the Civil Code, several solutions can be taken to overcome these challenges and shortcomings:

1. Increase awareness and understanding of this article.
2. Revise this article to take into account the rights of women and children.

3. Improving access to law and justice institutions.

4. Raising awareness about gender equality in marriage.

5. Create a support program to help couples deal with conflict.

IV. CONCLUSION AND SUGGESTIONS

A. Conclusion

The articles related to marriage annulment under the Indonesian Civil Code provide an important legal basis for marriage annulment in Indonesia. These articles regulate legal procedures for parties harmed by legal defects in a marriage, such as administrative invalidity, fraud, or coercion. Although normatively clear, the implementation of these articles often faces challenges, including a lack of public understanding and administrative obstacles. Overall, the marriage annulment mechanism serves to maintain justice and protect the rights of the parties involved, while still adhering to the principles of voluntariness and child protection.

B. Suggestion

1. Further research is needed to strengthen the application of articles related to the annulment of marriage according to the Civil Code in the context of social and legal developments in Indonesia.
2. There is a need for policy updates that strengthen harmonization between the Civil Code and other laws.
3. Further academic studies are needed to ensure the sustainability of the implementation of this law in accordance with social dynamics.
4. Research-based policy recommendations are needed to improve harmonization between the Civil Code and other regulations, in order to create inclusive and fair regulations.

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