

## **An Investigation of The Judge's Ruling on Divorce Due to Apostasy at The Religious Court of South Jakarta, Class IA (Maslahat Perspective)**

**Farid Mar'ie Muhammad**

Postgraduate of UIN Alauddin Makassar, Indonesia

Email: [farid.immin@gmail.com](mailto:farid.immin@gmail.com)

**Sabri Samin**

Lecturer of Sharia and Law Faculty, UIN Alauddin Makassar, Indonesia

Email: [sabri.samin@uin-alauddin.ac.id](mailto:sabri.samin@uin-alauddin.ac.id)

**Hamsir**

Lecturer of Sharia and Law Faculty, UIN Alauddin Makassar, Indonesia

Email: [hamsir@uin-alauddin.ac.id](mailto:hamsir@uin-alauddin.ac.id)

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**Abstract:** The main problem of this study is an investigation of the judge's ruling on divorce due to apostasy at the religious court of South Jakarta, class IA (maslahat perspective). This study used qualitative research obtained through field research with a juridical approach. The data sources in this study were judges and clerks at the religious court in South Jakarta. Data collection was carried out through observation, interviews, and documentation methods. Meanwhile, technique processing and analysis of the data were carried out in three stages, namely data reduction, data processing, data presentation, and drawing conclusions. This study showed that: 1) The decision of the judge at the religious court in South Jakarta about the revocation of the marriage of the parties with the excuse of apostasy can be understood as the result of the petitioner, who is apostate. So that he was no longer able to create a *sakinah mawaddah wa rahmah* family. This has to be done to provide legal certainty and benefits for those who adhere to the Islamic religion. 2) The judge's legal consideration mentioned that the divorce has met the requirements for a good reason. 3) Legal consequences of the judge's ruling on divorce based on the reasons for Article 116 in Compilation of Islamic Law (KHI) points (a) to (g) and based on the reasons for divorce, Article 19 of the Government Regulation of the Republic of Indonesia Number 9 of 1975 about the implementation of Law of the Republic of Indonesia Number 1 of 1974 about marriage. It states that a true divorce will only result in the legal consequences of the extinguished joint property, the husband's rights, the obligation to live together, and parental rights; then it will result in the right of guardianship.

**Keywords:** Judge's Ruling; Apostasy Divorce; Maslahat Perspective

## BACKGROUND

On this earth, God creates everything in pairs; there are men and women to feel peaceful, to give each other love, and especially to have posterity from a sacred bond called marriage. Indeed, man is not only a personal existence but also a social existence. It means that a person cannot live alone and needs other people.

Article 1 of Law Number 1 of 1974 states the definition of marriage: it is an inner and outer bond between a man and a woman as husband and wife with the aim of forming a happy household based on the belief in the Almighty God. Marriage is a crucial incident in every person's life that will have physical and mental impacts on each person. The development of marriage is a logical consequence and is also an urge of the Indonesian nation. Formulate the provisions of the National Marriage Law that apply throughout Indonesia. Thus, the Marriage Law was confirmed; it concerns the law that regulates the relationship between husband and wife in the family and its consequences, including the conditions, implementation, and other things of marriage, as stated in Marriage Law Number 1 of 1974. Regulations The implementation of Law Number 9 of 1975 is an implementing regulation of Law Number 1 of 1974 and applies nationally. The general interpretation of Law Number 1 of 1974 states that the purpose of marriage is to create a happy, harmonious, and inseparable family, so that before marriage, two people with different backgrounds and views must be united into a marriage bond.

Hindu-Buddhist, Christian, and Islamic religions have influenced the rules that people who are getting married must obey. The basic things in marriage are the criteria and pillars of marriage that come from religious law. In Islam, the pillars of marriage are explained as the presence of a male and female bride and groom, a guardian, witnesses, and a marriage contract.<sup>1</sup> Marriage is a contract between a man and a woman to bind and legalize sexual relations based on the sincere feelings and pleasures of both parties in order to embody the happiness of life in a family, a sense of affection, and peace in ways that have been approved by Allah.

Article 2 paragraph (1) of the Marriage Law of the Republic of Indonesia Number 1 of 1974 concerning marriage stipulates

*"A marriage is valid if it is carried out according to the laws of each religion and belief."*

Pancasila, on the first principle, mentions the belief in the Almighty God, which is mentioned in the explanation of Article 1 of the Marriage Law of the Republic of Indonesia Number 1 of 1974 concerning marriage, so that marriage is also interrelated because the state guarantees freedom of religion for every citizen. This is regulated in Article 29(2) of the 1945 Constitution, which states that:

*"The state guarantees the freedom of each citizen to embrace their own religion and to worship according to their religion and beliefs."*

Everyone is free to embrace religious beliefs and participate in practicing the teachings of their beliefs; however, with freedom of religion, each person cannot continuously change their religious beliefs. Moreover, changing religions is not a simple matter because many scholars have a negative view of the people who change

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<sup>1</sup> Ahmad Rofiq, *Hukum Perdata Islam di Indonesia*, Jakarta: Rajawali Pers, 2013, Ed. I, p. 55

their religions; people are free to convert to Islam, but it is not easy for people to apostate. People who leave Islam (apostates) are considered criminals and can get the death penalty.<sup>2</sup> In forming a harmonious family, the husband and wife hope to create a family that is peaceful and full of love and affection. However, in every marriage, problems will arise regarding differences in beliefs and understandings, which can basically be found in the life of Indonesian society. If a couple wants to get married while their religion is different from each other, then one party adheres to Islam, following the other party so that both of them can hold a Muslim marriage, and the other party has converted to Islam and left Islam (apostasy) after the marriage has been going on for a long period. So it can result in the emergence of disputes that lead to divorce. Allah hates this disgraceful deed. However, a husband or wife may divorce if their marriage can no longer be maintained.<sup>3</sup>

Based on cases of divorce due to apostasy, suspicions arose, which asserted that the divorce happened because one of the apostate parties was submitted to the court or whether there were other elements of problems that accompanied it, such as a less harmonious household or not getting their rights, which led to the divorce. The compilation of Islamic law said that if between husband and wife there are continuous disputes and quarrels and there is no hope of life in the household anymore, they can bring the case to court.

It is necessary to examine further and focus on whether the husband and wife who proposed a divorce case to court have received good mediation to resolve their domestic problems regarding apostasy and/or because there is a dispute that causes continuous fighting. Although apostasy is rarely used as the main reason for a divorce, it is more often used than other reasons that refer to the emergence of disputes. So the reason for revoking a marriage is because disputes often occur continuously and are difficult to reconcile. If the apostasy is committed after marriage (the marriage lasts for a long period and has descendants), then if one party, a husband and wife, is proven to apostate, the judge can issue or grant a divorce. However, if an apostasy is committed before the marriage, it can be annulled; or if the married couple has not committed sexual intercourse during the *iddah* period, the marriage can get *fasakh* if someone who apostates does not convert back to Islam.

## **THEORETICAL REVIEW**

### **Marriage**

#### a. Marriage based on Islamic law

According to Islamic law, marriage is an agreement (*aqad*) between a man and a woman to live together as husband and wife to get peace in life and love. Indonesian fiqh includes the words *mitssaqan ghalidzan* and obeying Allah's commands and carrying them out as worship. Islam views marriage as a sacred agreement intended to worship Allah, following the Sunnah of the Prophet, and carried out on the basis of sincerity, responsibility, and following legal provisions. Humans will not evolve

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<sup>2</sup>Abd. Moqsith, Juli 2013, Tafsir Atas Hukum Murtad Dalam Islam, Ahkam: Vol. XIII, No. 2, p. 1.

<sup>3</sup>Abdulkadir Muhammad, *Hukum Perdata Indonesia*, 2000, Bandung: PT Citra Aditya Bakti, p. 109.

without marriage because marriage will cause humans to have descendants. Marriage, or matrimony, is a physical and spiritual bond between a man and a woman to form an eternal and happy family. Marriage is held with the intention that humans will have a legitimate family to achieve a happy life in this world and the hereafter, under the blessing of Allah the Almighty. It has been explained a lot in QS. Al-Nur/24:32:

وَأَنْكِحُوا الْأَيَامَىٰ مِنْكُمْ وَالصَّالِحِينَ مِنْ عِبَادِكُمْ وَإِمَائِكُمْ ۚ إِن يَكُونُوا فُقَرَاءَ يُغْنِهِم ۗ إِنَّ اللَّهَ مِنَ الْغَنِيِّ ۗ فَضْلُهُ ۗ وَاللَّهُ وَاسِعٌ عَلِيمٌ

Meaning:

*"And marry the unmarried among you and the righteous among your male slaves and female slaves. If they should be poor, Allah will enrich them from His bounty, and Allah is all-Encompassing and Knowing."*<sup>4</sup>

b. Marriage based on national law

Marriage, according to Article 1 of the Republic of Indonesia Law Number 1 of 1974, is a spiritual and physical bond between a man and a woman as husband and wife, with the aim of forming a happy and eternal family (household) based on the belief in the Almighty God.<sup>5</sup> According to the definition of marriage and according to the Compilation of Islamic Law (KHI), marriage according to Islamic law is an immensely strong contract, or *mitzaqan ghalidzan*, to obey Allah's commands and carrying them out constitutes worship.

The inclusion is based on belief in God Almighty because Indonesia is based on Pancasila's first principle, belief in God Almighty. It has been stated firmly that marriage has a close relationship with religion and spirituality, so that marriage does not only consist of physical elements but also has internal and spiritual elements.<sup>6</sup>

### **Apostasy**

According to the term, apostasy is the return of a wise and mature Muslim to choosing another religious belief based on his choice, not by force. According to this description, children who choose a different religion from their parents' are not considered apostates or madmen. People who are forced to give up their beliefs because they are threatened and endanger themselves and their families with serious threats so that they have to save themselves by embracing another religion are also not included in the riddah.

Religious belief is the most basic human right; everyone needs to respect it (Article 29 of the 1945 Constitution). From this point of view, it is very logical that apostasy is one of the reasons for divorce. By divorcing, each party can practice their religious education well, and the next step is to find a partner who shares the same beliefs.

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<sup>4</sup>Kementrian Agama RI, Al-Qur'an dan Terjemahnya, (Ed.I, Bandung: PT. Sygma Examedia Arkanleema. 2009)

<sup>5</sup> Lihat Undang-undang No 1 tahun 1974 tentang Perkawinan.

<sup>6</sup>Muhammad Idris Ramulyo, *Hukum Perkawinan Islam: Suatu Analisis dari Undang-Undang No.1 Tahun 1974 dan Kompilasi Hukum Islam*, Bumi Angkasa, Jakarta,p.2

From the point of view of educational interest, the mental and religious development of children will be more beneficial under the guidance of a single parent than living under two opposing beliefs every day. It is quite relevant that the Law Bill of Applied PA in Article 116 letter "h" makes apostasy a reason for divorce without being linked to "the emergence of disputes and conflicts", as regulated in Article 116 letter h KHI. Referring to the legal logic above, an apostate husband can be allowed to pledge his divorce to a religious court session. The vow of divorce from an apostate husband is merely a juridical formulation of a marriage that is already null and void by law.

## **RESEARCH METHODOLOGY**

According to Soerjono Soekanto, legal research is a scientific activity based on certain methods, systematics, and thought that aims to study something or certain legal phenomena by analyzing them.<sup>7</sup> This study used qualitative research with descriptive methods. It interprets or translates by using research language obtained from informants as a discourse to obtain an explanation of existing conditions by connecting variables and then yielding a description of the research object.<sup>8</sup>

This study conducted descriptive research. The descriptive method is a method that describes all the data or conditions of research subjects or objects (individuals, institutions, communities, etc.), which is then reviewed and compared with the current reality and tries to provide a solution to the problem.<sup>9</sup> The descriptive method is suitable for this study because it seeks to describe and interpret objects as they are so that they can explain the facts that evolved on the research site that can be processed into research results.

Therefore, the research approach is a qualitative approach by conducting field research using descriptive methods so that data will be presented according to the situation in the research site, starting from the social dynamics that occur in society to the legal awareness of society, so that the results of this study are expected to pave the way for other researchers to conduct in-depth research, especially on the issue of divorce due to apostasy.

## **RESULTS AND DISCUSSION**

### **Divorce Case Due to Apostasy at the Religious Court of South Jakarta**

According to data on divorces at the Religious Court of South Jakarta, the number of divorce cases due to apostasy is increasing every year. It can be seen from the data obtained at the Religious Court of South Jakarta as follows:

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<sup>7</sup>Soerjono Soekanto, *Pengantar Penelitian Hukum* (Jakarta: UII Press,1986), p. 21.

<sup>8</sup>Zainuddin Ali, *Metode penelitian hukum* (Jakarta: Sinar Grafika,2009), p.18.

<sup>9</sup>Restu Kartiko Widi, *Asas Metodologi Penelitian: Sebuah Pengenalan Penuntunan Demi Pelaksanaan Penelitian*, (Ed. I; Yogyakarta: Graha Ilmu, 2010), p.84

**Table 1.8 Data on the number of divorce cases due to apostasy at the Religious Court of South Jakarta**

No.	Year	Number of cases
1.	2019	9 cases
2.	2020	11 cases
3.	2021	62 cases
4.	2022 (January-July)	10 cases

Based on the data obtained, it can be seen that apostasy is one of the strong reasons that influences harmony in the household. The other reasons are the emergence of continuous disputes due to differences in beliefs in the household, so that there is only one way out, such as filing for divorce at the Religious Court. According to the case, the researchers will discuss divorce due to apostasy based on the main focus point that refers to the cases of divorce due to apostasy and the impact of this case, as well as the reasons for the decision and legal considerations in determining the case.

#### **Judge's Ruling in a Divorce Case Due to One Party's Apostasy**

The purpose of marriage, as stated in Article 1 of Republic of Indonesia Law No. 1 of 1974, is an inner and outer bond between a man and a woman as husband and wife, with the aim of forming a happy and eternal family based on the belief in the Almighty God. If the goals mentioned above can be realized in the family, divorce cannot take place. There are two institutions authorized to resolve divorce issues, namely the District Court for non-Muslim believers and the Religious Court for Muslims. It is in accordance with the court's provision, which is stated in Article 63 paragraph (1) of Republic of Indonesia Law No. 1 of 1974 in conjunction with Article 1(b) of Government Regulation No. 9 of 1975, which states that the court is a religious court for those who hold marriage as Muslim and the District Court is an institution for divorce lawsuits of non-Muslims. In general, the function of adjudicating authority within the Religious Courts has been determined in Republic of Indonesia Law No. 7 of 1989, and changes were made as regulated in Republic of Indonesia Law No. 3 of 2006 concerning judicial authority. The Religious Court is one of the executors of judicial authority for Muslims who seek justice that relates to the cases mentioned in Article 49 of Republic of Indonesia Law No. 3 of 2006 concerning judicial authority.

The interview results for apostasy cases are as follows:

*"Apostasy is returning to one's original religion as before marriage, so this case of apostasy is confirmed in the Religious Court only if the parties submit the case to the Court, because there are only two kinds of divorces, namely lawsuit divorce and talaq; it can be carried out in the Religious Courts only, so that the party who does not file the*

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*case is not considered as granted but the marriage belongs to fasakh based on Islamic perspective".<sup>10</sup>*

It is in accordance with Republic of Indonesia Law No. 3 of 2006 that the Religious Court has the authority to handle these cases so that the legal certainty is more obvious. Divorce can only be legally decided by the Religious Court, and the party must submit it to the Religious Court to obtain legal certainty.

*"Factors of divorce that become cases in the Religious Courts include improper polygamy in marriage, moral crisis, jealousy, irresponsibility towards the family, abandoning obligations as a husband or wife, forced marriage, economic problems, underage marriage, abuse, one party being sentenced to prison, biological defects, quarrels due to different beliefs and based on converting religions, the presence of a third party, and parents' intervention in the household".<sup>11</sup>*

A husband and wife decide to divorce based on certain factors and reasons. The reason for divorce is based on changing religion and is approved and accepted by the religious court as one of the reasons for divorce. If changing religion is the only reason for divorce, it is certainly unaccepted; there must be a constituent of the quarrel of changing religion that has caused disharmony in the household. The formulation of reasons for divorce is stated in the Compilation of Islamic Law Article 116 letter (h), and religious court judges often use it as a basis for the judge's considerations. It cannot be separated from the main provisions regarding reasons for divorce, namely the provisions in Article 39 of Republic of Indonesia Law No. 1 of 1974 and Article 19 of PP No. 9 of 1975.

In determining cases, judges are guided by rules that have a strong legal basis in deciding a case so that, juridically, it does not deviate from the applicable legal provisions. It is expected that the judge's decision will provide a sense of justice to the parties.

*"Before the divorce judgment is confirmed, the judge always acts carefully and responsibly, thoroughly, and makes any effort towards peace. Apart from that, we also pay attention to how absolute or fundamental the reason for the divorce is, causing the household to no longer be maintained."<sup>12</sup>*

Thus, it can be known that converting religions can be used as a reason for divorce. Converting religions is a problem that involves acts of disbelief that trigger big problems that are difficult to resolve peacefully. This change of religion can cause rifts in the household and end in divorce. Apart from that, converting religion results in difficulties in determining the religious status of children, maintenance, education, financing, inheritance, and joint property of husband and wife.

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<sup>10</sup> Bahril (55 years old), Judge of the South Jakarta Religious Court, *Interview*, Jakarta Selatan, 5 July 2022

<sup>11</sup> Yayuk Afiyanah (44 years old), Judge of the South Jakarta Religious Court, *Interview*, Jakarta Selatan, 6 July 2022

<sup>12</sup> Bahril (5 years old), Judge of the South Jakarta Religious Court, *Interview*, Jakarta Selatan, 6 July 2022

The cause and effect of converting religions are not only felt by the husband and wife but also affect the family as a whole. Children can be confused and indecisive in determining their religion, which can lead to depression. In the end, it was used as a reason for the severance of the marriage bond. Based on the judge's ruling, it can be understood that the judge gave the decision to dissolve marriage because the respondent had apostatized from Islam and was no longer able to create a *sakinah, mawaddah, and warahmah* family. It also provides legal certainty and obtains benefits for Muslims.

### **Judge's Legal Considerations Regarding Divorce Cases Due to Apostasy at the South Jakarta Religious Court**

According to Fiqh scholars, if a husband or wife converted from Islam (apostates), then the marriage automatically becomes *fasakh* (off) without going through the divorce. In Indonesia, the breaking of a marriage bond due to the consent of one of the husband and wife is considered *fasakh* and must be done in a religious court. The religious court can only accept a person's blessing if the person states emphatically himself or based on witnesses who testify at the religious court that he has converted from Islam.

*"Therefore, "riddah," which is carried out not in a religious court, may not be considered valid, so that the termination of a marriage or annulment of a marriage can only be carried out in a religious court, even though the Compilation of Islamic Law states that apostasy is one of the reasons causing disharmony in the household."*<sup>13</sup>

Based on the legal considerations above, we can draw the conclusion that the judge can decide the case very carefully, examine the reasons for divorce, and also look at the legal facts during the trial that the marriage is no longer to the points in Republic of Indonesia Law No. 1 of 1974 concerning marriage because the household no longer carries out its respective obligations and benefits. The trial for the applicant also concluded that it was true that the respondent had converted to his original religion, Catholicism. So the judge considered this a strong reason and fulfilled the requirements for divorce. The judge also considered that the domestic life between the petitioner and the respondent was no longer valid because they no longer cared about each other, so the judge decided to continue the case for divorce. This provision means that a marriage becomes *fasakh* (void) if there is an event that can get rid of its validity according to religious law and belief.

*"If in a marriage one of the parties, the husband or wife, converts religion or apostasy, that is, leaving Islam to take another religion, then the marriage becomes fasakh (void), and the two must be separated immediately."*<sup>14</sup>

So, a husband's conversion or apostasy is an event that can result in the annulment or termination of the marriage bond by law, namely Islamic law. A marriage can become *fasakh* because because of three things, namely:

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<sup>13</sup> Sarnidi (59 years old), Judge of the South Jakarta Religious Court, *Interview*, Jakarta Selatan, 8 Juli 2022

<sup>14</sup> Bahril (55 years old), Judge of the South Jakarta Religious Court, *Interview*, Jakarta Selatan, 7 Juli 2022



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- a. If a husband or wife apostates from Islam and does not want to return, then the contract is fasakh (void) due to the apostasy committed.
- b. If the husband, who was previously an infidel, converts to Islam, but the wife remains in disbelief and does not follow her husband, then the contract is fasakh (void).
- c. Marriages are carried out under the threat of violating the law or if there are misunderstandings about the husband or wife during the period of marriage.

The reasons that can be used as a basis for divorce are regulated in Article 19 of Government Regulation Number 9 of 1975. According to the author, the word "can" in this article means that divorce can occur for certain reason. Divorce can occur for the reasons contained in the Compilation of Islamic Law Article 116.

Based on articles 38 and 39 of Republic of Indonesia Law Number 1 of 1974, a marriage will only be dissolved if the court has decided through a trial accompanied by the reasons set out in Article 19 of Government Regulation Number 9 of 1975, except for the severence of the marriage due to death, because it is automatically discontinued without the ruling of the trial as a result of the death. So, if the wife leaves Islam (apostasy) and her apostasy has not been submitted to the court and the court has not decided on it, then their marriage is still considered valid. It is quite different according to religious law because their marriage is still considered invalid. So, based on articles 38 and 39 of Marriage Law Number 1 of 1974, the judge cannot just accept religious conversion or apostasy in a marriage.

*"The judge's direction in resolving the case of apostasy shows that the riddah is not because of the apostasy itself but is based on Article 19 Letter F of Government Regulation Number 9 of 1975, which has been mentioned above regarding the reasons that can be used as a basis for divorce. The judge can then rule based on the existence of continuous disputes and quarrels between husband and wife caused by the conversion of religion."<sup>15</sup>*

The researchers' opinion on this case is that if there are no quarrels or disputes in their household that were caused by the conversion of religion by one of the parties, then the marriage remains in fasakh and must be dissolved immediately.

### **Legal Consequences of the Judge's Ruling on Divorce Due to Apostasy at the South Jakarta Religious Court**

Divorce in Islam has a huge impact on life, especially since the party who wants to separate has had children in their marriage, so it affects the condition of the child. Mr. Bahril, as Judge of the South Jakarta Religious Court, stated that:

*"A convert of religion can postulate the quarrel in the household, and it cannot be resolved, so the judge considers and decides on a divorce ruling because it is no longer possible for the household to be maintained. Basically, divorce is the result of a lack of harmony between husband and wife due to many factors that trigger quarrels, including divorce that occurs due to prolonged quarrels based on converting religions*

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<sup>15</sup> Yayuk Afiyanah (44 years old), Judge of the South Jakarta Religious Court, Interview, Jakarta Selatan, 7 July 2022

*and is not resolved. So that, it leads to an impact on the descent and the wholeness of the household.”<sup>16</sup>*

In fact, the apostasy of one party can result in quarrels arising due to misunderstandings and non-compliance with their rules in marriage, which causes discomfort in married life. One of the goals of marriage is to form and foster a family that is *sakinah, mawaddah, and warahmah*. Apart from that, marriage is also created to seek peace of mind and happiness in the hereafter, where the happiness of a family is largely determined by the similarity of outlook on life and the unity of faith between husband and wife. Differences in outlook on life or a breakdown in beliefs in a family can create disputes and arguments that ultimately cause the family to fall apart or lose their outlook on life. The emergence of changes in outlook on life and differences in beliefs in a family can affect harmony in the household. For instance, in the case of a divorce that was caused by a wife who had converted to another religion (apostasy), in deciding cases no. 720/Pdt.G/2020/PA.JS, was apostasy very influential in the domestic life between the petitioner and the respondent? According to Islamic Marriage Law, a person who leaves Islam (apostate) has an impact on the marital and inheritance rights status of the child. As stated by Mrs. Yayuk as Judge of the South Jakarta Religious Court, that:

*“A marriage that has been terminated for one reason could have an impact on children, especially about inheritance rights because, according to Islamic law, a non-Muslim does not have the right to inherit from a Muslim, nor does a Muslim have the right to inherit from a non-Muslim, so parents have an impact on their children.”<sup>17</sup>*

So, based on the legal impact of the decision of the panel of judges at the South Jakarta Religious Court, the marriage after being *fasakh* could give a new legal status; the marriage had been terminated and the respondent no longer had the right to be an heir, but morally, as a mother, she still had to give love to her child because the relationship between children and parents cannot be over even though his parents have separated.

## CONCLUSIONS AND IMPLICATIONS

### Conclusions

Based on the discussion in this study, the following conclusions can be drawn as follows:

- a. The Judge's Ruling of South Jakarta Religious Court Number 720/Pdt.G/2020/PA.JS has fulfilled the requirements stipulated in Republic of Indonesia Law No.1 of 1974 regarding the cases and their consequences in Article of Government Regulation No.9 of 1975. Article 39, paragraph (2), Republic of Indonesia Law No. 1 of 1974 states that in divorce, there must be sufficient reasons that the husband and wife will not live in harmony. The judge made the

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<sup>16</sup> Bahril (55 years old), Judge of the South Jakarta Religious Court, *Interview*, Jakarta Selatan 7 July 2022

<sup>17</sup> Yayuk Afiyana (49 years old), Judge of the South Jakarta Religious Court, *Interview*, Jakarta Selatan, 8 July 2022.

explanation of Article 39 paragraph (2) of Republic of Indonesia Law No. 1 of 1974 with Article 19 letter (f) of Government Regulation No. 9 of 1975 as one of the reasons for divorce, namely that there are constant disputes and quarrels between husband and wife and there is no more hope of living in harmony in the household." Therefore, one of the factors is that the respondent has apostatized from Islam, no longer respects the applicant, and also does not carry out her duties as a housewife.

- b. That the judge's legal considerations in deciding divorce cases due to apostasy are in accordance with Republic of Indonesia Law No. 1 of 1974 concerning marriage and because it is no longer able to be maintained, and it is better for the parties to divorce.
- c. The legal consequences of the judge's ruling in South Jakarta Religious Court regarding divorce because the wife converted religion (Rule Study No.720/Pdt.G/2020/PA.JS) with the reason that the wife was an apostate, if it is viewed from the Marriage Law and could cause a marriage a separation on a bond between husband and wife by law, namely Islamic law.

### **Implication**

Based on the problems of this study, the researchers provide important points as implications of the study results as follows:

- a. The couple who wants to get married needs to pay attention to their respective partners, especially their religion, family, and attitudes. There is one most important thing about marriage: it refers to the same belief that you should build a household based on the foundation of faith in Islam. The couple should choose someone who shares the same religion from birth and inherits it from their family to maintain good beliefs during marriage. Then, the understanding that it is not permissible to marry someone who has a different religion, especially in Islam
- b. Based on the situations in this study, the important role of the families of each party is to advise each other to avoid problems in the household, especially since no one interferes with each other's religion. Therefore, the role of the family is really needed to find the best solution for the sake of a strong household that is *sakinah, mawaddah, and warahmah*.
- c. Bride and groom training courses play a very important role in providing input and advice on how to build a good and strong household, as well as understanding each other's responsibilities, especially for couples who convert to Islam and need in-depth and regular guidance from the Ministry of Religious Affairs and family for the couple who will get married to remain *istiqomah* in Islam.
- d. The importance of the Ministry of Religious Affairs and family in terms of advising and guiding married couples to provide good service to their partners so that the conflict or the belief in returning back to their religion do not emerge and convince others that Islam is the true religion and brings blessings to their families.
- e. Provide understanding to couples who are converting to Islam and will build a family that their lives can be full of peace and descent, so all of these aspects can

be achieved by respecting each other and not creating things that can ruin their marriage.

- f. The panel of judges must observe more in examining and adjudicating cases related to apostasy, especially looking at the reasons for the parties filing them. It can lead them to realize that the legal basis used can be more precise and provide a sense of justice for the Muslim party for the next life based on the decision given.
- g. The Indonesian people, especially Muslims, are strongly advised not to enter into interfaith marriages or maintain a household with a partner who has a different religion because it will harm the integrity of the family, children, and, more importantly, the value of our faith in maintaining our religion, Islam (*hifdz ad-din*).
- h. It is expected that the panel of judges, in deciding cases of divorce due to apostasy in which there is clarity regarding child custody, pay attention to the best thing for the child's living needs so that the child's rights can be fulfilled properly even though the parents have separated.
- i. It is expected that the government, especially the House of Representatives (DPR), will make the Compilation of Islamic Law (KHI) a law so that its legal force is more guaranteed, effective, stronger, and more applicable to Indonesian society, which is predominantly Muslim. So that it can also guarantee the existence of the Ummah in Indonesia
- j. The Religious Court, as a place to obtain legal certainty, must carry out its duties as fairly as possible and find the best solution for parties that have an urge to divorce so that they can reconcile and return to the right path so that the number of divorces caused by apostasy no longer increases.

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