

THE POSITION OF AN APOSTASY WIFE AS A CAUSE FOR THE DISSOLUTION OF A MARRIAGE IN THE COMPILATION OF ISLAMIC LAW AND ITS IMPLICATIONS FOR POST-DIVORCE RIGHTS

Alhadi Saputra*, Hanif Nur Widhiyanti, Nur Chanifah

Master of Law Program, Faculty of Law, Brawijaya University

Email: alhadisaputraa@student.ub.ac.id, hanif.nur@ub.ac.id, nur.chanifah@ub.ac.id

Received : 15 September 2025

Published : 18 November 2025

Revised : 10 October 2025

DOI : <https://doi.org/10.54443/ijerlas.v6i1.4448>

Accepted : 31 October 2025

Link Publish : <https://radjapublika.com/index.php/IJERLAS>

Abstract

Conversion to religion (apostasy) in Islamic marriage is a complex phenomenon that gives rise to debate between legal norms and social reality. In the context of Indonesian national law, apostasy has not been explicitly regulated in Law Number 1 of 1974 concerning Marriage. This legal gap is filled by the Compilation of Islamic Law (KHI), which, in Article 116 letter (h), stipulates that conversion to religion or apostasy can be grounds for divorce. However, in religious court practice, there is a disparity in decisions between courts that interpret apostasy as grounds for fasakh (annulment) and those that interpret it as grounds for divorce (talaq). This disparity has legal implications for women's rights after divorce, particularly regarding the right to maintenance during the iddah period, mut'ah, maskan, and kiswah. This study aims to explain the position of a wife who apostatizes as a cause of marital dissolution from the perspective of the Compilation of Islamic Law (KHI) and analyze its legal consequences for post-divorce rights. The method used is normative legal research with a statutory, conceptual, and analytical approach. The results of the study indicate that a wife who apostatizes causes the marriage contract to be annulled (fasakh), but in practice, religious courts often still process it through the divorce mechanism (divorce talak) to ensure orderly legal administration. This disparity impacts the different treatment of the rights of apostate wives. From the perspective of legal utility, judges should consider the value of substantive justice and protection for women, even if the woman concerned has left Islam.

Keywords: *Apostate Wife, Dissolution of Marriage, Compilation of Islamic Law, Disparity in Decisions, Women's Rights*

Introduction

The phenomenon of religious conversion (*apostasy*) in Islamic marriages is a legal and social issue that raises serious problems in religious court practices in Indonesia. Linguistically, *apostasy* means "return," meaning a person's return from Islam to disbelief. In Islamic jurisprudence (fiqh), apostasy is the act of leaving Islam through words, actions, or beliefs that negate one's Islam (Syamsuddin, 2021). Scholars agree that apostasy erases Islam and has certain legal consequences, including affecting marital status. In the context of Indonesian positive law, apostasy is not criminalized, because the constitution guarantees freedom of religion as regulated in Article 28E and Article 29 paragraph (2) of the 1945 Constitution (Akbar, 2022). Restrictions on human rights in Indonesia mean that there is no absolute freedom, so government intervention is needed to maintain a balance between rights and obligations so that no rights are violated. These restrictions are stipulated in a law to maintain public order. The regulation of religious freedom through the constitution has become a legal guarantee in protecting religious freedom, and at the same time demonstrates the principles of a state based on the rule of law (Siringoringo, 2022). However, this religious freedom raises its own problems in the realm of Islamic family law. Law Number 1 of 1974 concerning Marriage does not explicitly regulate the legal consequences of the conversion of one of the partners. This legal vacuum was then filled by the Compilation of Islamic Law (KHI) which functions as a judicial guideline for judges of Religious Courts. Article 116 (h) of the Compilation of Islamic Law (KHI) states that conversion or apostasy that causes disharmony in a household can be grounds for divorce. Meanwhile, Article 75 of the Compilation of Islamic Law (KHI) stipulates that a decision to annul

THE POSITION OF AN APOSTASY WIFE AS A CAUSE FOR THE DISSOLUTION OF A MARRIAGE IN THE COMPILATION OF ISLAMIC LAW AND ITS IMPLICATIONS FOR POST-DIVORCE RIGHTS

Alhadi Saputra et al

a marriage does not apply retroactively to marriages annulled due to apostasy by one of the parties. These two articles have led to differing interpretations among judges. Some view apostasy as a reason for annulment (*fasakh*), while others consider it grounds for divorce (*divorce and divorce*). These differing views have led to disparate rulings, as evident in two cases: Kendal Religious Court Decision No. 1727/Pdt.G/2020/PA.Kdl and Pematangsiantar Religious Court Decision No. 208/Pdt.G/2019/PA.Pst. In the Kendal case, the apostate wife retained her post-divorce rights, such as *iddah* (waiting period) and *mut'ah* (waiting period). Conversely, in the Pematangsiantar case, the apostate wife was denied these rights because the judge deemed her marriage contract to be immediately void. This disparity demonstrates the inconsistency in the application of the law in similar cases. This situation raises important questions: does a wife's apostasy automatically invalidate the marriage, or should it still be dissolved through the divorce mechanism in court? Furthermore, what is the status of women's rights after a marriage is dissolved due to apostasy, considering the principles of justice, certainty, and legal expediency? These questions are the primary focus of this research.

Research Methodology

This research uses a normative legal method (normative juridical) because the problem under study stems from the conflict between the concepts of *fasakh* and divorce due to apostasy, which has implications for women's rights after a marriage breaks up. This normative approach positions law as a system of norms encompassing principles, rules, and legal doctrines, and assesses the extent to which religious court regulations and practices provide justice for the parties in dispute. To obtain a comprehensive and in-depth understanding, this research uses four legal approaches, namely the statute approach, the conceptual approach, the analytical approach, and the futuristic approach. Through a legislative approach, this study examines the provisions contained in the 1945 Constitution of the Republic of Indonesia, Law Number 1 of 1974 concerning Marriage, and the Compilation of Islamic Law (KHI), especially Article 75 and Article 116 which regulate conversion or apostasy as one of the reasons for divorce.

Next, a conceptual approach is used to examine the views of jurists and Islamic jurisprudence literature on the concepts of *fasakh* and *divorce* and their relevance to Islamic family law in Indonesia. This approach is crucial for understanding the relationship between theological and juridical norms in determining the legal status of an apostate wife. An analytical approach is then employed by examining the application of the provisions of the Compilation of Islamic Law (KHI) in religious court decisions regarding apostasy cases, while also assessing the judges' legal considerations in determining a wife's rights after divorce. A futuristic approach is used to project the direction of Islamic family law reform to be more responsive to socio-religious dynamics and aligned with the principles of substantive justice within the context of Indonesian national law. The types of legal materials used in this study include primary, secondary, and tertiary legal materials. Primary legal materials consist of the Qur'an, Hadith, the 1945 Constitution of the Republic of Indonesia, Law Number 1 of 1974 concerning Marriage, the Compilation of Islamic Law, and various relevant religious court decisions. Secondary legal materials include supporting literature such as Islamic law books, scientific works, academic journals, and expert opinions related to family law and religious court issues. Meanwhile, tertiary legal materials include legal dictionaries, encyclopedias, and various supplementary references that help clarify the legal terminology in this study.

The data in this study were collected through library research, namely by examining laws and regulations, academic literature, and court decisions related to apostasy as a cause for marital dissolution. Data analysis was conducted using descriptive methods. qualitative with a deductive thinking pattern, namely drawing conclusions from the general rules of Islamic law and positive law towards application in concrete cases. This method was chosen to obtain legal clarity and consistency in the application of the Compilation of Islamic Law (KHI) norms in apostasy cases, so that the research results are not only descriptive, but also provide a conceptual contribution to the development of Islamic family law that is fair, certain, and beneficial for the protection of women's rights in Indonesia.

Research Results and Discussion

1. The Position of an Apostate Wife as a Reason for the Dissolution of Marriage According to Islamic Law and the Compilation of Islamic Law (KHI)

In the perspective of classical Islamic law, apostasy by one of the parties to a marriage has direct legal consequences for the validity of the marriage contract. The fuqaha agree that if one of the partners apostates, their marriage relationship is invalid (*fasakh*) because of the loss of religious harmony (*kafa'ah*) which is the basis for the validity of the marriage.

THE POSITION OF AN APOSTASY WIFE AS A CAUSE FOR THE DISSOLUTION OF A MARRIAGE IN THE COMPILATION OF ISLAMIC LAW AND ITS IMPLICATIONS FOR POST-DIVORCE RIGHTS

Alhadi Saputra et al

The legal basis includes the word of Allah SWT in QS. Al-Baqarah [2]: 221 and QS. Al-Mumtahanah [60]: 10 which prohibits marriage between a believer and an unbeliever (Haeratus, 2025).

Ibn Qudamah, in his book *Al-Mughni*, states that if a wife apostatizes, the marriage contract is null and void without a judicial decision, as the prerequisite for a valid marriage, namely shared religion, is lost. Similarly, according to the Shafi'i school, a wife's apostasy automatically terminates the marriage, even without divorce. However, the Hanafi school holds that the annulment of the marriage contract only becomes effective after the *iddah* period ends if the wife does not reconvert to Islam. In the context of Indonesian positive law, Article 75 of the Compilation of Islamic Law (KHI) states that the annulment of a marriage due to apostasy by one party is not retroactive, and the marriage is only considered dissolved upon the issuance of a court decision. This means that the Compilation of Islamic Law (KHI) does not automatically equate apostasy with nullity by law, but rather emphasizes the need for legal proceedings through the courts. This article demonstrates an effort to harmonize classical Islamic jurisprudence norms and the principle of legal certainty in the modern justice system. Therefore, the position of an apostate wife according to the Compilation of Islamic Law (KHI) does not automatically make the marriage null and void by law, but must still go through the mechanism of a religious court decision. so that the dissolution of the marriage has a legitimate administrative basis.

2. Disparity in Religious Court Decisions Regarding Apostate Wives

In religious court practice, differing interpretations have emerged regarding the legal consequences of a wife's apostasy. The following comparison demonstrates the fundamental differences in interpreting religious conversion as a cause for marital dissolution.

A. Kendal Religious Court Decision Number 1727/Pdt.G/2020/PA.Kdl

In this case, the husband filed for divorce from his wife, who had renounced Islam. The judge ruled that the wife's apostasy caused disharmony in the household, and therefore, the divorce through the *divorce procedure of talaq* (divorce by way of divorce). Interestingly, the judge still granted the wife post-divorce rights, such as *iddah* and *mut'ah maintenance*, on the grounds that at the time of the separation, the legal marriage relationship was still valid under the state. The judge also emphasized that apostasy does not eliminate the husband's responsibility for past maintenance, as this obligation arose while the marriage contract was still in effect (Decision 1727/Pdt.G/2020/PA.Kdl).

The judge's considerations focused on Article 116 letter (h) of the Compilation of Islamic Law (KHI) which states that "conversion to religion or apostasy which causes disharmony in the household can be grounds for divorce." The judge also referred to Article 39 paragraph (2) of the Marriage Law which stipulates that divorce can only be carried out in court after the court has tried and failed to reconcile the two parties. From a formal legal perspective, the judge considered that the mediation process had been carried out but failed, because differences in beliefs had resulted in a lack of spiritual harmony (*no longer a harmonious life*). Therefore, the judge concluded that the grounds for the lawsuit met the legal basis for divorce, and the husband had the right to pronounce a divorce before the court.

The judge's considerations also reflect an administrative approach and legal expediency, not merely theological ones. The judge does not immediately determine that apostasy automatically invalidates the marriage (*fasakh*), but rather processes it through the divorce mechanism (divorce or talaq) so that the divorce becomes legally binding (*de jure*) and officially registered. Thus, the judge's consideration refers to the principle of legal certainty through the application of KHI Article 116 (h), legal benefits by providing space for the husband to take formal legal routes, and legal protection for women because the divorce process still provides access for the wife to post-divorce rights.

From an academic perspective, the Kendal District Court Decision No. 1727/Pdt.G/2020/PA.Kdl sets an important precedent in the discourse on Islamic family law in Indonesia, particularly in integrating Islamic jurisprudence values with positive law. Its academic analysis encompasses three dimensions: normative, theoretical, and practical. This decision demonstrates the application of Article 116 (h) of the Compilation of Islamic Law as a form of *living law* that adapts classical Islamic jurisprudence doctrine to the national legal context. By making apostasy a ground for divorce (rather than automatic annulment), the judge affirms that Islamic law in Indonesia is moderate and contextual. This aligns with the principles of benefit and substantive justice in the *maqāṣid al-syarī'ah* theory, where the goal of Islamic law is not only to uphold the text, but also to safeguard human rights (*hifz al-nafs*, *hifz al-'ird*, *hifz al-dīn*). Gustav Radbruch's legal theory, this decision demonstrates a balance between legal certainty

because the divorce was decided by the court, justice because the wife's rights are still protected, and legal expediency because this solution is the most efficient in the national legal system (Mahmud, 2024). When viewed with Satjipto Rahardjo's progressive legal theory, the judge in Kendal demonstrated a humanist approach that positions the law as a tool to protect humans, not the other way around. By continuing to grant the rights of *iddah* and *mut'ah*, the judge upheld humanitarian values above the formalism of fiqh. This ruling has strategic academic value because it demonstrates the synchronization process between Islamic law and Indonesian positive law. It also opens up space for the development of *comparative law studies* between classical schools of thought and contemporary judicial practice.

B. Decision of the Pematangsiantar Religious Court Number 208/Pdt.G/2019/PA.Pst

Unlike the Kendal case, in this case, the judge ruled that the wife's apostasy resulted in the marriage being *ipso facto* (automatically) annulled. The judge did not grant the right to *iddah* (waiting period) or *mut'ah* (waiting period) maintenance, arguing that the marital relationship ended when the wife apostatized, not when the verdict was read. Therefore, there is no longer a legal basis for the husband to provide maintenance to a wife who has left Islam (Decision 208/Pdt.G/2019/PA.Pst). The judge in his considerations adhered to Article 75 of the Compilation of Islamic Law (KHI) which states "A marriage can be annulled if one of the parties apostates." The judge interpreted the article as a juridical basis that apostasy is a cause for the automatic annulment of a marriage (*fasakh ipso facto*). This means that once one of the parties leaves the Islamic religion, the marriage contract becomes invalid because it has lost the Islamic foundation which is the basis of the agreement. The judge also referred to the opinion of classical fuqaha, including in *Al-Mughni* by Ibn Qudamah, which emphasized that if one of the partners apostatizes, then the marriage relationship is immediately annulled without the need for divorce or a judge's decision, because divorce only applies to husband and wife relationships that are still Islamic.

Apart from that, the judge's considerations also referred to Surah Al-Baqarah (2): 221 and Surah Al-Mumtahanah (60): 10, which explicitly prohibit marriage between a believer and an unbeliever. Thus, the judge considered that the wife's apostasy erased her marital status since she left Islam, not since the court decision. This consideration indicates that the judge used a textual-normative (sharia-oriented) approach that emphasizes the purity of sharia doctrine over administrative aspects. The judge did not refer to Article 116 letter (h) of the KHI (grounds for divorce), but rather directly to Article 75 of the KHI (annulment). Thus, the legal process is not considered a divorce, but rather an annulment of the marriage contract. The judge also argued that the granting of post-divorce rights such as *iddah* and *mut'ah* maintenance was irrelevant, because since the wife apostatized, the marital relationship was no longer valid, and the *iddah* period did not apply to non-Muslim women. Thus, the Pematangsiantar District Court's decision reflected a pure application of classical Islamic law without considering broader administrative or humanitarian approaches. The judge stated that the wife was not entitled to *iddah* or *mut'ah* maintenance, because *iddah* maintenance was only given to the Muslim wife who was divorced, not to the party who had left Islam, and *mut'ah* (a gift as consolation) was symbolic in the context of divorce, not the annulment of marriage due to apostasy. Similarly, the rights to *maskan* (residence) and *kiswah* (clothing), according to the judge, could not be granted, because these rights only apply as long as the marriage remains valid. However, regarding the unpaid dowry, the judge still required the husband to pay it because the dowry is a material right (*haqq mali*) that arises from the contract, and not a religious right that is lost due to apostasy.

This ruling creates an administrative dilemma. Because the marriage is *ipso facto annulled*, no divorce certificate is issued, only a decree of annulment. Within the national legal system, this has the potential to create legal uncertainty, particularly regarding the registration of marital status at the Office of Religious Affairs (KUA) and population administration. Conceptually, this raises serious questions as to whether the state can recognize automatic annulment without a formal mechanism, even though Article 39 paragraph (1) of Law No. 1 of 1974 stipulates that every divorce or annulment must be carried out before a court. Thus, this decision, although consistent with sharia law, creates tension with the principle of orderly state administration, because it does not provide a definite legal status in civil law for both parties after the dissolution of the marriage. From a classical Islamic jurisprudence perspective, this ruling is highly consistent with the texts of sharia and the views of the majority of scholars, particularly the Shafi'i and Hanbali schools, who argue that apostasy results in the dissolution of a marriage without the need for a judicial decision. This demonstrates the application of the principle of purity of faith (*hifz al-din*) within *the maqāṣid al-syarī'ah*, where safeguarding religion is considered more important than social and

THE POSITION OF AN APOSTASY WIFE AS A CAUSE FOR THE DISSOLUTION OF A MARRIAGE IN THE COMPILATION OF ISLAMIC LAW AND ITS IMPLICATIONS FOR POST-DIVORCE RIGHTS

Alhadi Saputra et al

administrative aspects. However, from a positive legal perspective, this approach leaves a normative void, as the Indonesian legal system requires all forms of dissolution of marriage to be conducted through the judiciary. In other words, this textual approach is not fully compatible with the principles of *legal certainty* and *due process of law* in the national legal system. From the perspective of Gustav Radbruch's legal theory, the Pematangsiantar District Court's decision emphasizes legal certainty (*rechtssicherheit*) theologically, but sacrifices two other values: justice (*gerechtigkeit*) and legal utility (*zweckmäßigkeit*) (Al'nam, 2025). The judge upholds certainty based on religious legal texts, but creates substantive injustice for women, as all their post-marital rights are removed. When analyzed with Satjipto Rahardjo's progressive legal theory, this approach can be criticized for positioning law as a static text, rather than as a means to protect humans (Rahardjo, 2021). In this context, the Pematangsiantar decision tends to represent a rigid and legalistic law, rather than a law that is responsive to humanity and social change. From an academic perspective, this ruling demonstrates the fragmentation of jurisprudence in the application of the Compilation of Islamic Law, particularly between Article 75 (fasakh due to apostasy) and Article 116 (h) (divorce due to apostasy). These differing interpretations reflect the continuing normative ambiguity of the Compilation of Islamic Law, allowing judges to interpret it differently. The Pematangsiantar ruling provides an academic contribution as an example of the application of classical fiqh in the national legal system, but also strengthens the argument for the need to update the Compilation of Islamic Law to more explicitly distinguish between annulment and divorce due to apostasy.

C. Disparity Analysis

This difference indicates a jurisprudential disparity between religious courts in interpreting Articles 75 and 116 letter (h) of the Compilation of Islamic Law (KHI). This disparity is caused by the absence of technical regulations from the Supreme Court regarding religious conversion in marriage. Book II of the Technical Guidelines for the Administration of Religious Courts does provide a general reference, but does not specify whether apostasy should be qualified as a reason for divorce or talaq. As a result, judges exercise freedom of interpretation based on their respective legal beliefs (*freies ermessen*). According to Gustav Radbruch's theory of justice, good law must combine three fundamental values: justice, certainty, and utility. In this context, judges who choose the *fasakh path* emphasize legal certainty based on Islamic jurisprudence, while judges who decide on *divorce by talaq (divorce)* prioritize legal utility and the protection of women's rights. This difference indicates that the Indonesian legal system is still in a *transitional* phase between the formalism of classical Islamic law and modern substantive justice.

Comparison Table of the Kendal PA Decision and the Pematangsiantar PA Decision

Aspect	PA Kendal (Divorce and Divorce)	Pematangsiantar Religious Court (Fasakh)
Marital status	Disconnected after a court decision (<i>de jure</i>)	Automatically void since the wife apostatized (<i>ipso facto</i>)
Rights to maintenance during iddah and mut'ah	Given to the wife because the marriage contract is still valid until the decision is made	Not given because the marriage relationship is considered void since apostasy
The rights of the maskan and kiswah	Given during the iddah period	Fell along with the cancellation of the marriage
Dowry owed	Must be paid	It remains mandatory, because property rights arise at the time of the contract.
Legal administration	Marriage and divorce are officially registered	Marriage is void without divorce registration
Protection of women	High, post-divorce rights are still recognized	Low, no post-divorce rights
Dominant legal principle	Benefit and substantive justice	Certainty of textual law and purity of faith

3. Legal Implications for the Rights of Apostate Wives

The main issue that arises from this disparity is regarding the rights of wives after the marriage is dissolved due to apostasy, in particular the right to:

A. Iddah and Mut'ah Maintenance

The provision of iddah and mut'ah maintenance is regulated in Article 149 letters (a) and (b) of the Compilation of Islamic Law which states:

- (a) It is the husband's obligation to provide proper *mut'ah* to his ex-wife, except before *dukhul* (husband-wife relations) occurred.
- (b) The husband's obligation to provide food, food and *kiswah* to his ex-wife during iddah, unless the ex-wife has been given *talak ba'in* or *nusyuz* and is not pregnant. (Aulia, 2017)

In Islamic jurisprudence, the wife of an apostate loses her right to *iddah maintenance*, as the *iddah period* applies only to Muslim women. However, in positive legal practice, if the divorce is carried out through the *talaq (religious divorce)*, the judge can award *iddah* and *mut'ah maintenance* as a form of respect for the legal process. The Kendal District Court ruling is a concrete example of the application of the principle of legal expediency.

B. Mask and Kiswah

The right to *maskan* and *kiswah* is still guided by Article 149 letter (b) which was explained in the previous section. The right to *maskan* (residence) and *kiswah* (clothing) is granted during the *iddah period* or until there is a divorce decision that has permanent legal force. If the marriage is considered *fasakh* since apostasy, then this right is void. However, if the divorce is considered valid after the decision, this right remains until the time of the decision.

C. Dowry Owed

Regarding the dowry owed, it is emphasized in Article 149 letter (c) which states that the dowry that is still owed must be paid in full and half if *qobla al dukhul* (Aulia, 2017). The dowry must still be paid if it has not been fully submitted before apostasy. This is because the dowry is a material right that arises from the time the marriage contract takes place, regardless of the wife's Islamic status in the future. From the perspective of legal protection, the elimination of all post-divorce rights for apostate wives may conflict with the principle of non-discrimination guaranteed in Article 28D paragraph (1) of the 1945 Constitution. Therefore, a progressive approach as taught by Satjipto Rahardjo is needed so that the law does not only uphold the text, but also pays attention to humanitarian values and substantive justice.

4. The Need for Legal Unification and the Role of the Supreme Court

The absence of jurisprudential guidelines from the Supreme Court has created legal uncertainty in handling apostasy cases (Bhudiman, 2021). Ideally, the Supreme Court would issue a Supreme Court Circular (SEMA) or a Supreme Court Regulation (PERMA) to clarify standards for handling conversion cases. Legal unification would allow judges to have consistent guidelines when deciding similar cases, thus minimizing disparities in decisions. Furthermore, it is crucial for the Supreme Court to strengthen Book II of the Technical Guidelines for the Administration of Religious Courts by including a specific chapter on "Conversion of Religion in Marriage." This will provide clear guidance on whether apostasy is categorized as an annulment or divorce, while also regulating the rights that apostates can still receive based on the principle of legal expediency.

Conclusion and Suggestions

Conclusion

Based on an analysis of legal norms and religious court practices, the following conclusions can be drawn:

1. The position of a wife who apostatizes in Islamic law and the Compilation of Islamic Law (KHI) demonstrates a shift from classical Islamic jurisprudence to a modern administrative approach. In Islamic jurisprudence, apostasy automatically invalidates the marriage contract (*fasakh*), whereas in the Compilation of Islamic Law (KHI), a marriage is only considered dissolved after a court decision. Thus, the dissolution of a marriage due to apostasy is not *ipso facto*, but rather *de jure*, following a legal process.
2. The disparity in religious court rulings regarding a wife's apostasy stems from the absence of Supreme Court jurisprudential guidelines explicitly governing religious conversion within marriage. Judges who interpret apostasy

THE POSITION OF AN APOSTASY WIFE AS A CAUSE FOR THE DISSOLUTION OF A MARRIAGE IN THE COMPILATION OF ISLAMIC LAW AND ITS IMPLICATIONS FOR POST-DIVORCE RIGHTS

Alhadi Saputra et al

- as a *fasakh* emphasize legal certainty and conformity to the text, while judges who consider it a *divorce* emphasize legal expediency and protection of women's rights.
3. The legal implications for the rights of an apostate wife depend on the type of ruling used. If the ruling is *fasakh*, then the rights to *iddah*, *mut'ah*, *maskan*, and *kiswah* are forfeited. However, if the ruling is through *talaq* (*divorce*), these rights can still be granted based on the principle of legal expediency and respect for due process.
 4. From the perspective of Gustav Radbruch's theory of justice and Satjipto Rahardjo's progressive legal thinking, law enforcement should not stop at the text, but rather prioritize substantive justice and humanitarian protection, especially for women who are in a vulnerable position after divorce.

Suggestion

1. For the Supreme Court: The issuance of a Supreme Court Circular Letter (SEMA) or PERMA is required which specifically regulates the handling of religious conversion cases in marriage. This regulation is crucial to avoid disparities in decisions and ensure consistent application of Articles 75 and 116 of the Compilation of Islamic Law (KHI).
2. For Religious Court Judges: Judges should balance the principles of legal certainty and expediency. Decisions should not only be oriented towards normative texts but also consider the humanitarian dimension and the protection of women.
3. For Academics and Policymakers: An in-depth study is needed on the renewal of the Compilation of Islamic Law (KHI) by adding explicit regulations regarding the legal consequences of religious conversion, so that Islamic family law in Indonesia becomes more adaptive to social dynamics and guarantees substantive justice.

REFERENCES

- Akbar, M. M. F. (2022). Legal Protection for Tolerance and Freedom Among Religious People in Indonesia. *Contemporary Issues on Interfaith Law and Society*, 1(1), 39–58. <https://doi.org/10.15294/ciils.v1i1.56712>
- Al'anam, M. (2025). Teori Keadilan Perspektif Gustav Radbruch: Hubungan Moral Dan Hukum. *Jurnal Humaniora : Jurnal Ilmu Sosial, Ekonomi Dan Hukum*, 9(1), 119–133. <https://doi.org/10.30601/humaniora.v9i1.6393>
- Aulia, T. R. N. A. (2017). *Kompilasi Hukum Islam*. Bandung: CV. Nuansa Aulia.
- Bhudiman, B. & L. R. (2021). Tinjauan Hukum Terhadap Perceraian Karena Murtad Menurut Hukum Positif. *Yustisi Jurnal Hukum & Hukum Islam*, Vol. 8, No. 1, 53–64.
- Haeratul, H. (2025). Riddah and Its Legal Effects According to the Perspective of Islamic Law and Law No. 1 Year 1974 to Law No. 16 of 2019 Concerning Marriage. *Formosa Journal of Multidisciplinary Research*, 4(5), 2245–2256. <https://doi.org/10.55927/fjmr.v4i5.215>
- Mahmud, Muh. A. (2024). *PENGANTAR ILMU HUKUM*. Semarang: Yoga Pratama.
- Putusan 208/Pdt.G/2019/PA.Pst, Pub. L. No. 2019.
- Putusan 1727/Pdt.G/2020/PA.Kdl, Pub. L. No. 2020.
- Rahardjo, S. (2021). *Ilmu Hukum*. Bandung: Citra Aditya Bakti.
- Siringoringo, M. P. (2022). PENGATURAN DAN PENERAPAN JAMINAN KEBEBASAN BERAGAMA SEBAGAI HAK ASASI MANUSIA DALAM PERSPEKTIF UUD 1945 SEBAGAI HUKUM DASAR NEGARA. *Nommensen Journal of Legal Opinion*, 111–124. <https://doi.org/10.51622/njlo.v3i1.618>
- Syamsuddin, S. (2021). Antara Hukum Murtad dalam Islam dengan Kebebasan Beragama dalam Hak Asasi Manusia (HAM). *El-Mashlahah*, 11(1), 44–59. <https://doi.org/10.23971/elma.v11i1.2623>