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Ratio Decidendi Of Religious Court Judges On Rejection Of Applications For Interfaith Marriage Prevention

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Abstract

This study aims to determine the basis of the judge's consideration (Ratio Decidendi) of the South Jakarta Religious Court Judge in Decision Number 3358/Pdt.G/2018/PA.JS, and the legal impact. In the decision, the panel of judges decided that the applicant's application to apply for the prevention of interfaith marriage was rejected. Whereas in the Compilation of Islamic Law (KHI) Articles 40 and 44 state that interfaith marriages are prohibited. Likewise, Article 61 states that religious differences can be used as reasons for preventing marriage. The Indonesian Ulema Council also issued a fatwa declaring the prohibition of interfaith marriages as stated in the MUI fatwa Number 4/MUNAS/VII /MUI/8/2005. This research is normative juridical research, using a case approach. The results showed that the judge's basic considerations rejected the application for marriage prevention because there was no legal basis that strictly prohibited interfaith marriages and the lack of legal and administrative steps to prevent the marriage. The implications of this decision for the litigants provide an opportunity for the respondent to continue their interfaith marriage.

Keywords: *Ratio Decidendi, Prevention, Interfaith Marriage.*

Abstrak

Penelitian ini bertujuan untuk mengetahui dasar pertimbangan hakim (Ratio Decidendi) Hakim Pengadilan Agama Jakarta Selatan dalam putusan nomor 3358/Pdt.G/2018/PA.JS, dan dampak hukumnya. Dalam putusan tersebut, majelis hakim memutuskan bahwa permohonan pemohon untuk melakukan permohonan pencegahan pernikahan antar agama ditolak. Padahal dalam Kompilasi Hukum Islam (KHI) Pasal 40 dan 44 menyebutkan bahwa pernikahan beda agama dilarang. Begitu juga pasal 61 menyebutkan bahwa perbedaan agama dapat dijadikan sebagai alasasn pencegahan perkawinan. Majelis Ulama Indonesia juga mengeluarkan fatwa yang menyatakan

keharaman nikah beda agama seperti yang dicantumkan dalam fatwa MUI Nomor 4/MUNAS/VII/MUI/8/2005. Penelitian ini merupakan penelitian yuridis normatif, dengan menggunakan pendekatan kasus. Hasil penelitian menunjukkan bahwa dasar pertimbangan hakim menolak permohonan pencegahan nikah karena tidak ada dasar hukum yang melarang dengan tegas pernikahan beda agama serta kurangnya tahapan hukum dan administrasi untuk mencegah pernikahan. Implikasi dari putusan ini bagi para pihak berperkara memberikan kesempatan bagi pihak termohon untuk melanjutkan pernikahan beda agama mereka.

Kata kunci: *Ratio Decidendi*, *Pencegahan*, *Pernikahan Beda Agama.*

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Introduction

Presidential Instruction No.1 of 1991 concerning the implementation of the Islamic Law Compilation (KHI) stipulates that Islamic law in the fields of inheritance, waqf, and marriage is a juridical positive law written in the Indonesian legal system.[1] On this basis, KHI has the position of being one of the bases for ruling laws on cases submitted to the Religious Courts.[2] In relation to interfaith marriage, KHI determines that such marriage is prohibited for both male and female Muslims as stated in Articles 40 and 44. In addition, MUI (Indonesian Council of Religious Scholars) in Fatwa Number 4 / MUNAS / VII / MUI / 8 / 2005 states that interfaith marriage is haram and illegitimate. Likewise, the 22nd Congress of the Majlis Tarjih and Tajdid PP

[1] Yulkarnain Harahap and Andy Omara, "Kompilasi Hukum Islam Dalam Perspektif Hukum Perundang-Undangan," *Mimbar Hukum - Fakultas Hukum Universitas Gadjah Mada* 22, no. 3 (2010): 627, doi:10.22146/jmh.16245.

[2] Dadang Hermawan and Sumardjo Sumardjo, "Kompilasi Hukum Islam Sebagai Hukum Materiil Pada Peradilan Agama," *YUDISIA : Jurnal Pemikiran Hukum Dan Hukum Islam* 6, no. 1 (August 16, 2016): 28–29, doi:10.21043/yudisia.v6i1.1469.

Muhammadiyah, 12-16 February 1989 in Malang, East Java, stipulated several decisions, including the decision regarding interfaith marriage as haram (illegitimate).[3]

However, in the decision of the South Jakarta Religious Court Number 3358 / Pdt.G / 2018 / PA.JS., the judge decided to reject the application for prevention of interfaith marriage, regardless KHI stipulates that religious differences can be used as an excuse to prevent marriage as stated in article 61. Marriages that could have been prevented ultimately could not be carried out because the judge rejected the request for prevention. KHI is of course a source of reference for judges in deciding this case, because apart from the position of KHI as a source of legal rulings in the Religious Courts[4], KHI is also included in customary law.[5] The point of the reason for the judge delivering the decision to reject the prevention of interfaith marriage will be the focus of this study.

The South Jakarta Religious Court Decision Number 3358 / Pdt.G / 2018 / PA.JS contains the rejection of the petition to prevent the interfaith marriage by the petitioner as the biological father of respondent (I). The petitioner and respondent (I) are Muslims and related as a father and a son. Respondent (I) will conduct marriage with Respondent (II) who is a Catholic male. The marriage they are about to do is what the Petitioner opposes as Respondent I's biological father because interfaith marriage is forbidden in Islam.

Prevention of marriage is an effort made to prevent and avoid a marriage that is against the law.[6] Law Number 1 of 1974 concerning Marriage states that a marriage can be prevented if one or both of them do not meet the requirements of marriage which include; (1) material requirements relating to the condition of the prospective bride and groom; and (2) administrative requirements in the form of files that must be fulfilled. The prohibition on marriage in CHAPTER II of Law Number 1 of 1974 Article 8 letter f is a material requirement of marriage, and in this Law, it's stated that one of the

[3] Aulil Amri, "Perkawinan Beda Agama Menurut Hukum Positif dan Hukum Islam," *Media Syari'ah : Wahana Kajian Hukum Islam dan Pranata Sosial* 22, no. 1 (May 6, 2020): 56, doi:10.22373/jms.v22i1.6719.

[4] Hermawan and Sumardjo, "Kompilasi Hukum Islam Sebagai Hukum Materiil Pada Peradilan Agama," 29.

[5] Yahya Harahap, *Hukum Acara Perdata tentang Gugatan, Persidangan, Penyitaan, Pembuktian dan Putusan Pengadilan* (Jakarta: Sinar Grafika, 2005), 789.

[6] R. Sutojo Prawihamijojo dan Marthalena Pohan, *dalam Hukum Orang dan Keluarga*, (Surabaya: Airlangga University Press, 1991), 26.

prohibitions on marriage is having a relationship which by religion or other applicable regulations saying that the marriage is prohibited. Based on the problems in decision Number 3358/Pdt.G/ 2018/PA.JS, which are correlated with the relevant legislation, marriage prevention should be able to conduct as it has met the requirements to do so.

The marriage law itself does not clearly state the prohibition of interfaith marriage. The provisions in article 2 paragraph (1) of the marriage law number 1 of 1974 state that a marriage is said to be valid if it is carried out according to the law of each religion and belief. Meanwhile, in Article 57 concerning mixed marriage, a marriage between two people in Indonesia is subject to different laws or because of differences in nationality, not because of religious differences.[7] Interfaith marriage in the view of fiqh is also prohibited[8], which is based on the verses of the Al-Qur'an surah al-Baqarah (2) verse 221.

The sources of Islamic jurisprudence and classical literature of fiqh should be able to be used by judges as reference material in their *decidendi ratio*. However, the authors do not find it in the decision. Instead, there is a jurisprudence law that has been mutually agreed in the form of KHI (Islamic Law Compilation) but does not appear in the judge's *decidendi ratio*. Abdul Manan stated that in carrying out legal considerations, a judge after considering the arguments of a lawsuit, rebuttal, and exceptions, the next step is for a judge to write down the legal basis from sharia which prioritizes sources from the Al-Qur'an and hadith, as well as fiqh literature.[9]

In KHI Article 40 it is stated that a man is prohibited from marrying a non-Muslim woman as well as Article 44 states that a Muslim woman is prohibited from marrying a man who is not a Muslim. KHI Article 60 also states that marriage prevention aims to avoid matrimony that is prohibited by Islamic law and does not fulfill the requirements for marriage according to the law. Furthermore, Article 61 explains that prevention can be done for the reason of religious differences.[10] Based on

[7] Amri, "Perkawinan Beda Agama Menurut Hukum Positif dan Hukum Islam," 50.

[8] Nur Cahaya, "Perkawinan beda agama dalam perspektif hukum Islam," *Hukum Islam* 18, no. 2 (August 1, 2019): 142–43, doi:10.24014/hi.v18i2.4973.

[9] Abdul Manan, *Penerapan Hukum Acara Perdata Di Lingkungan Peradilan Agama*, 2nd ed. (Jakarta: Yayasan al-Hikmah, 2001), 200.

[10] Danu Aris Setiyanto, "Larangan Perkawinan Beda Agama Dalam Kompilasi Hukum Islam Perspektif Hak Asasi Manusia," *Al-Daulah: Jurnal Hukum Dan Perundangan Islam* 7, no. 1 (September 19, 2017): 94, doi:10.15642/ad.2017.7.1.87-106.

the above provisions, *de jure* interfaith marriages should be prevented, but *de facto*, these marriages continue to occur in Indonesia.

There are several studies that examine this theme, including the research of Nur Asiah, in a journal entitled "Legal Studies on Marriages of Different Religions according to the Marriage Law and Islamic Law", discussing interfaith marriage and analysis in two perspectives, in stating that interfaith marriages are prohibited in Law and KHI.[11] Sri Wahyuni also wrote in a journal article entitled "Marriage of Different Religions in Indonesia and Human Rights". The conclusion of this study is that interfaith marriages are difficult to practice in Indonesia and it's contrary to human rights. The difficulty of interfaith marriages due to procedures in recording marriages that are difficult to do.[12] Then research by Sarifudin entitled "Marriage with Different Religions in the Study of Islamic Law and Laws and Regulations in Indonesia", states that the legality of interfaith marriages in Indonesia is still debating.[13] Based on the problems and previous research as a reference, it is interesting to study *ratio decidendi* of the Judges at the South Jakarta Religious Court in the case of rejection of the application for prevention of interfaith marriage by reviewing decision number 3358/Pdt. G/ 2018/PA.JS, knowing that the majority of ulama agreed that the interfaith marriage is prohibitted in Islam.

Methode

This research belongs to juridical normative research or commonly called library research using the case approach by examining legal norms and rules in legal practice.[14] Research data is obtained from information that has been written in the form of literature, such as books, legal journals, opinions of scholars, legal cases, and jurisprudence relating to research problems.[15] This normative juridical research does not use primary data because the sources obtained are not from the field but from the literature. The legal materials in this study are (1) Primary legal materials namely Law

[11] Nur Asiyah, "Kajian Hukum Terhadap Perkawinan Beda Agama Menurut Undang-Undang Perkawinan Dan Hukum Islam," *Jurnal Hukum Samudra Keadilan* 10, no. 2 (2015): 205.

[12] Sri Wahyuni, "Perkawinan Beda Agama di Indonesia dan Hak Asasi Manusia," *IN RIGHT: Jurnal Agama dan Hak Azazi Manusia* 1, no. 1 (March 24, 2017): 150, http://ejournal.uin-suka.ac.id/syariah/inright/article/view/1215.

[13] Sarifudin, "Kawin Beda Agama Dalam Kajian Hukum Islam Dan Peraturan Perundang-Undangan Di Indonesia | Sarifudin | Al-Istinbath : Jurnal Hukum Islam," *Al-Istimbath: Jurnal Hukum Islam* 4, no. 2 (2019): 227, doi:10.29240/jhi.v4i2.787.

[14] Peter Mahmud Marzuki, *Penelitian Hukum* (Jakarta: Kencana, 2005), 119.

[15] Jhony Ibrahim, *Teori Dan Penelitian Hukum Normatif* (Malang: Bayumedia Publishing, 2006), 295.

Number 1 of 1974 concerning Marriage, Presidential Instruction Number 1 of 1991 concerning the Formulation of Islamic Law, and the Stipulation of the South Jakarta Religious Court Number 3358 / Pdt.G / 2018 / PA. JS; (2) secondary legal materials such as books, journals, and information obtained from previous research.

Result And Discussion

***Ratio Decidendi* Of The Judge's Decision At The South Jakarta Religious Court Number 3358 / Pdt.G / 2018 / PA.JS.**

After the issuance of the decision of the South Jakarta Religious Court on 12 November 2019 AD or14 Rabiul Awwal 1441 according to the Islamic Hijri year, the panel of judges rejected the applicant's petition entirely in the case of refusing to prevent the marriage. Referring to the decision of the judges' panel regarding the case of rejection of the marriage request, there are 4 important points that had an influence on *ratio decidendi* of this decision.

The first point in the main point of the case,[16] the Petitioners conveyed their demands in the form of (1) That the Petitioner is Ayu Nursukmawati's biological father (Respondent I's father), (2) That the Petitioner's child (Respondent I) will marry Respondent II named Nicholas Jason Rasjidgandha, (3) That Respondent I is Islam and Respondent II are Catholic, (4) That Respondent I and Respondent II will marry in the Church of the South Jakarta area, (5) That the Petitioner does not agree with Respondent I's will because of religious differences, and interfaith marriages are prohibited in Islamic law and according to KHI telling that one of the prohibitions on marriage is the existence of religious differences, (6) Whereas because based on Islamic law interfaith marriage is not allowed, nor is it regulated in the applicable law in Indonesia concerning interfaith marriage, (7) That the applicant has sent an objection to the church and so that the marriage will not be carried out, (8)) That based on the above reasons, the Petitioner filed for marital prevention for the union of Respondent I and Respondent II at the Religious Court, (9) Whereas Respondent I and Respondent II continued to marry at St Stefanus church, South Jakarta, even though the Petitioner had taken precautions so that the marriage was not carried out so that the applicant asks the South Jakarta Religious Court to prevent the marriage from being carried out, (10)

[16] Salinan Putusan Nomor 3358/Pdt.G/2018/PA.JS Tentang Perkara Penolakan Permohonan Pencegahan Nikah, No. 3358/Pdt.G/2018/PA.JS (Pengadilan Agama Jakarta Selatan November 12, 2019).

Whereas the Respondents had disobeyed the South Jakarta Religious Court, because at the time before the decision of the South Jakarta Religious Court was decided, the defendants had a marriage that was carried out at the Santa Stefanus Cilandak Catholic Church, South Jakarta. After submitting the main case and answers from the Respondents, the Panel of Judges considered the need for evidence to strengthen the arguments of the Petitioners' petition and answers the Respondents. The evidence was related to a photocopy of identity cards which showed that it was true that the Petitioner was the real father of Respondent I, and that all documents which become evidence are true and have sufficient duty stamp and can be further processed by public officials. This is in accordance with article 11 of Law No. 23/1985 which reads (1) All government officials are not allowed to (a) obtain or receive documents whose material charges are not paid, (b) Classify documents whose material charges are not paid or less than the rate, (c) Make copies in any form of the related documents, (d) Affix information on documents that are not paid or less charged. (2) All violations committed in the previous paragraph will be subject to sanctions in accordance with the prevailing laws and regulations.

Ratio decidendi used by the judge is correct in using Chapter IV article eleven of Law Number thirteen of 1985 concerning Stamp Duty, and this has met the requirements of *ratio decidendi*. The above requirement is to prove the arguments stated by the Petitioners and the Respondents. Evidence is required so that the arguments can be accepted for consideration.

The second point, regarding *ratio decidendi* against witnesses presented by the Petitioner. The Petitioner presented two witnesses, the first being the Petitioner's biological mother and Uncle Respondent I and an expert witness, while Respondent II had submitted a witness, namely his own biological father, who also submitted an expert witness. All witnesses presented by the Petitioner and the Respondent had given testimony under oath and promise, then they were examined one by one regarding the relevance of the arguments presented at the trial. The witnesses have fulfilled the requirements as witnesses in accordance with article 145 paragraph one of the HIR (*Herzien Inlandsch Reglement*), the article on expert witnesses. As explained by Zainal Asikin in his book Civil Procedure Law in Indonesia, which explains more clearly the

requirements needed to become a witness.[17] The requirements to become a witness are (1) A capable person. An incompetent person is someone who is still in a blood family, except in certain cases, is less than 15 years old, and a crazy person. (2) A witness must be prepared to give testimony in court. All information given and declared by a witness can only be delivered in a court session. (3) Witnesses are checked for identity and status. (4) Witnesses must be willing to take an oath before the trial and must state honestly with regard to all matters required in the trial process.[18]

Based on the legal reasons used by the judge to state that the witness is acceptable, his confession and statement are correct. The following is an analysis of the article used by the judge as a judge's consideration, namely article 145 HIR which states that blood relatives, wives, children under 15 years, and crazy people cannot be accepted as witnesses. From this article, it can be seen that the testimony of witnesses in this trial should not be justified. In other words, the witnesses presented at this trial must be rejected. However, paragraph two of article 145 HIR reads "regarding conditions according to civil law, blood family and blood relatives may not be rejected as witnesses." Those conditions in Dutch means "*burgerlijke stand*", namely cases such as marriage, divorce, descent, and so on.[19] According to Romi Hardhika as a Judge at Tanah Grogot District Court, the legal ratio of allowing family witnesses to give testimony is because the household is a very private matter so that those who really know the situation of the household are the parties and the families of the parties in the case themselves.[20]

The third point, the judge stated that marriage is valid if it is carried out procedurally in a religious manner and also in a positive law manner. So, the marriage must be carried out according to the respective religious laws and also the marriage must be registered. If they are Muslim then it is recorded at the KUA, and if not then it is recorded in the civil registry. In considering the verdict, the panel of judges stated that "the Marriage Law views marriage not only from the formal aspect but also from the

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[17] Zainal Asikin, *Hukum Acara Perdata Di Indonesia* (Jakarta: Prenada Media Group, 2018), 98.
[18] Abdul Manan, *Penerapan Hukum Acara Perdata Di Lingkungan Peradilan Agama*, 264.
[19] Zuhrul Anam, "Saksi Keluarga Terhadap Semua Jenis Alasan Dalam Perkara Perceraian," *Mahkamah Agung Republik Indonesia: Direktorat Jenderal Badan Peradilan Agama*, March 4, 2019, https://badilag.mahkamahagung.go.id/artikel/publikasi/artikel/saksi-keluarga-terhadap-semua-jenis-alasan-dalam-perkara-perceraian-oleh-zuhrul-anam-s-h-i-4-3.
[20] Romi Hardhika, "Ketentuan Mengenai Saksi Keluarga Dalam Perceraian - PN Tanah Grogot," *Mahkamah Agung Indonesia: Pengadilan Negeri Tanah Grogot Kelas II*, July 30, 2020, https://www.pn-tanahgrogot.go.id/info-perkara/uncategorised/ketentuan-mengenai-saksi-keluarga-dalam-perceraian.

religious aspect. The religious aspect determines the validity of a marriage, while the formal aspect concerns the administrative aspect, namely the registration of the marriage. According to the Marriage Law, both of these aspects must be fulfilled. If a marriage is only carried out according to state law without paying attention to religious elements, the marriage is considered invalid. On the other hand, if the marriage is carried out only by taking into account or ignoring the law (state law), then the marriage is considered invalid". The judge expressed this as a material consideration because the marriage between Respondent I and Respondent II was only limited to a Catholic marriage, but had not been recorded in the civil registry.

The analysis of the consideration of this third point is based on Law Number 1 of 1974 Article 2 paragraphs (1) and (2) which contains " (1) Marriage is valid if it is carried out according to the law of each religion and belief. (2) Every marriage is recorded according to the prevailing laws and regulations. " In this case, the litigants (Respondent I and Respondent II) had married using a Catholic method and were legally Catholic, but this marriage has not been recorded in the civil registry. This is the point of consideration of the judge saying that because the marriage has not been recorded, the aspect of the legality of marriage according to the law has not been fulfilled. Because the marriage is not recorded, it will affect how this marriage prevention application is decided. These considerations will relate to Article 21 paragraphs (1), (2), and (3) of the Marriage Law which contains: (1) If there is an element of the prohibition on marriage in the Law that is violated, the employee will refuse to register the marriage. (2) If the employee refuses, he will give a written rejection in the form of a statement of rejection. (3) If the marriage is rejected by an employee, the parties can submit a marriage request to the court by bringing a letter of rejection obtained from the employee. In addition to the purpose of marriage registration desired by the panel of judges, one of which is the protection of wives and children in obtaining family rights such as inheritance rights and others.[21] The panel of judges also considered the completeness of the documents needed to proceed with this application for the prevention of marriage. Further explanation is in Article 21

[21] Dio Permana Putra, "Makna Pasal 2 Undang-Undang Nomor 1 Tahun 1974 Tentang Perkawinan Terkait Syarat Sah Perkawinan Ditinjau Dari Perspektif Sejarah Dan Putusan Mahkamah Konstitusi Nomor 46/PUU-VIII/2010," *Kumpulan Jurnal Mahasiswa Fakultas Hukum* 0, no. 0 (January 6, 2015): 2, http://hukum.studentjournal.ub.ac.id/index.php/hukum/article/view/1102.

paragraph 1 to 4 which states that: (1) If a marriage registrar is of the opinion that there is a prohibition against marriage according to this Law, then he will refuse to marry them. (2) In the case of rejection, the parties wishing to get married will be given a written statement of the refusal along with the reasons by the marriage registrar. (3) The parties whose marriage has been rejected have the right to submit an application to the court in the area where the marriage registrar has refused by submitting the above statement of rejection. (4) the court will briefly examine the case and will provide a decision as to whether he will affirm the refusal or order that the marriage takes place. So it can be concluded that the judge can only continue the application for refusal to prevent interfaith marriage when the marriage has been registered and received a statement of rejection from the marriage registrar employee.

On the fourth point, the judges' legal considerations are about Human Rights. The judge considers that marriage is a human right that anyone can do and is a personal matter. Quoted from the judge's statement that:[22] "Whereas Article 10 paragraphs (1) and (2) of Law Number 39 the Year 1999 concerning Human Rights states that (1) everyone has the right to form a family and continue offspring through a legal marriage. (2) A legal marriage can only take place on the free will of the husband and wife candidate concerned, in accordance with the provisions of statutory regulations". Getting married is a human right, but in religion, there are some things that should not be done. The purpose is of course for the benefit of the people themselves. Even among Muslims themselves, there are many people who argue that the application of various Islamic laws in society is a personal relationship with their God. So that it is considered that society and law enforcers should not interfere in this matter. Ironically, there are also legal experts who think with this opinion.[23]

The fifth point, the panel of judges considers the explanation of article 10 paragraph (1) of Law Number 39 concerning Human Rights which contains: "Legal marriage" is a marriage which is carried out in accordance with the provisions of the administrative aspect. According to the panel of judges, based on consideration of the facts of the trial, it was found that Respondent I chose to marry Respondent II in the

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[22] Salinan Putusan Nomor 3358/Pdt.G/2018/PA.JS Tentang Perkara Penolakan Permohonan Pencegahan Nikah at 87.

[23] Andi Herawati, "Kompilasi Hukum Islam (KHI) Sebagai Hasil Ijtihad Ulama Indonesia," *HUNAFA: Jurnal Studia Islamika* 8, no. 2 (December 17, 2011): 329, doi:10.24239/jsi.v8i2.367.321-340.

procedures of Catholicism. All of these actions were based on the willingness of Respondent I and did not want to involve anyone, including the Petitioner as the biological father of Respondent I. Also, Respondent I and II got married on 12 October 2018, at the Santa Stefanus Catholic Church, Cilandak Area, South Jakarta. Of course, this marriage is only limited to a valid religious marriage, because in the verdict there is no fact that the Respondents have registered their marriage. The facts in the trial that were considered by the judge afterward were that the Petitioner as the biological father had prohibited Respondent I as his biological daughter from marrying a man of different religions. According to the Panel of Judges, this is normal. Based on all of these considerations, the Panel of Judges argued that all of the Petitioners' claims to prevent the interfaith marriage by Respondents I and II were groundless and had to be rejected.

The biggest reason for rejection was because the marriage between Respondent I and Respondent II had not been administered at all so that there was no official rejection letter from the marriage registrar. Therefore, the judge could not grant the Petitioner's petition. However, in the opinion of the author, this will have further consequences if this application is not accepted.

Implications Of The Decision Of The South Jakarta Religious Court, Concerning Case Rejection Of The Prevention Of Interfaith Marriage Against The Parties

The panel of judges has tried the parties and has made conclusions and decided to reject the Respondents 'exception and reject the Petitioners' provisions in the main case. Quoted from a copy of the decision of the South Jakarta Religious Court Number 3358 / Pdt.G / 2018 / PA.JS, the following is the judge's decision: (1) To completely reject the Petitioner's claim, (2) To charge the Petitioner to pay the court fee until this decision is pronounced in the amount of Rp. 1,721.00, - (one million twenty-one thousand rupiah).

In the first analysis, here are some implications based on the results of the decision. First, the applicant cannot continue his petition to prevent interfaith marriage at the South Jakarta Religious Court because his application has been rejected by the Panel of Judges. Second, based on the results of the decision issued by the Panel of Judges in the form of completely rejecting the Petitioner's petition, so, interfaith marriages cannot be thwarted in this trial. As a consequence, the Petitioners could have had a marriage between a Muslim woman and a Catholic man carried out under

Catholic law. If the Muslim woman ignored the Islamic marriage regulations and carried out a fully Catholic marriage, the marriage could be carried out and registered. Regarding this, it is based on Law Number 2 of 1974 concerning marriage which states that a marriage is legal if it is carried out according to one of the religious laws. Third, based on the decision of the South Jakarta Religious Court which decided to completely reject the Petitioner's petition to prohibit interfaith marriage. Then this marriage can be carried out again and the respondents can register their marriage in the civil registry as there is no legal force to prevent the marriage. Such marriages can be registered in the Civil Registry based on the Supreme Court Decision Number 1400 K / Pdt / 1986 which is a source of jurisprudence. The previous case involved a Catholic woman who married a Muslim man and the marriage could be registered because the Muslim man ignored Islamic marriage laws and married the Catholic way.[24].

Conclusion

The argument of the South Jakarta Religious Court judges (ratio decidendi) in the decision Number 3358 / Pdt.G / 2018 / PA.JS. In order to reject the Petitioner's petition based on legal considerations on legal grounds that the Petitioner's petition is considered groundless. The Panel of Judges, therefore, refused to grant the Petitioner's petition. This refusal was decided because there was no legal basis in the Law regulating the prohibition of interfaith marriage clearly. Besides, it is also because the marriage to be carried out by Respondent I and II had not been carried out legally valid according to both state law and religion as the marriage was only carried out in a religious manner only. This has made the Petitioner's petition considered groundless. The implication of decision Number 3358 / Pdt.G / 2018 / PA.JS for the litigants is that the Petitioners' petition was completely rejected by the Panel of Judges, both in the subject matter and in the provisions. This made the marriage prevention of Respondent I and Respondent II unable to continue. In our view, religious courts should consider the impact of religious law on interfaith marriages, because from the perspective of Islamic law, interfaith marriage is something that is absolutely prohibited. If the judge decides that the demand for annulment of the marriage is not continued, then according to religious law, the judge of the religious court has legitimized adultery. Considering that according to Islamic law, this kind of marriage has been null and void from the start.

[24] Asiyah, "Kajian Hukum Terhadap Perkawinan Beda Agama Menurut Undang-Undang Perkawinan Dan Hukum Islam," 213.

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