MJP Journal of Law and Justice (MJPJLJ)
Vol.3, No. 2 (2025): 38 – 40
https://jurnalilmiah.co.id/index.php/MJPJLJ

Analysis of the Judge's Considerations for the Non-Acceptance of the Isbat Divorce Lawsuit in the Marisa Religious Court Decision Number 338/Pdt.G/2022/PA.Msa

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Article Info

Keywords:

Isbat divorce; unregistered marriage; judge's considerations; Marisa Religious Court; Islamic civil procedure law

ABSTRACT

This article analyzes the judge's considerations for rejecting the divorce petition in the Marisa Religious Court Decision Number 338/Pdt.G/2022/PA.Msa. The issue of divorce isbat arises when marriages and divorces occur religiously or underhand but have not yet received state administrative recognition. This research uses a normative juridical method with a statutory approach, a case approach, and a conceptual approach. Primary legal materials include the Marriage Law, the Religious Courts Law, the Compilation of Islamic Law, civil procedural law, and Decision Number 338/Pdt.G/2022/PA.Msa. The results show that the rejection of the lawsuit was based on formal and material considerations, particularly the failure to fulfill the requirements for proving the marriage that would serve as the basis for legalizing the divorce. The judge placed procedural legal certainty as the primary basis, because a divorce can only be recognized if the marriage is proven to be valid according to law. However, this decision also creates problems of benefit for the parties because the marital status and divorce remain unclear. This article emphasizes the importance of a balance between legal certainty, substantive justice, and the active role of judges in divorce isbat cases.

Article History

Received : 15/07/2025
Revised : 10/08/2025
Accepted : 21/09/2025

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1. Introduction

Marriage is a legal, social, and religious institution that has legal consequences for husband, wife, and children. Under Indonesian positive law, a marriage is valid if it is conducted according to the law of one's religion and belief and recorded according to statutory regulations [1]. Marriage registration is an important instrument for providing legal certainty, protection of civil rights, and orderly administration. Unregistered marriages, commonly known as unregistered marriages, often give rise to problems when disputes arise regarding rights, child birth, inheritance, and divorce.

In society, it is not uncommon for couples who have married under Islamic law to separate or divorce religiously without going through a court process. This situation creates a legal need to obtain state recognition through a marriage confirmation or divorce confirmation. Logically, a divorce can only be legalized if the marriage can first be proven. Therefore, a divorce confirmation lawsuit is a complex matter, requiring proof of both legal events: the marriage and the divorce.

The Marisa Religious Court's decision No. 338/Pdt.G/2022/PA.Msa is crucial to analyze because the divorce confirmation petition in the case was declared inadmissible. This decision demonstrates the tension between procedural legal certainty and the parties' need for clear legal status. On the one hand, the judge is obligated to maintain the formal and material requirements of the lawsuit. On the other hand, the parties, who have separated socially, require legal recognition to avoid status uncertainty.

Previous research has largely addressed marriage confirmation and marriage registration, but specific studies on the rejection of divorce applications based on the Marisa Religious Court's decision are limited. The research gap lies in the analysis of the judge's ratio decidendi in assessing the requirements for divorce confirmation, the relationship between marriage confirmation and divorce, and its relevance to the principles of Islamic civil procedure. This article's novelty lies in a critical assessment of the decision, examining not only its formal aspects but also its legal consequences for the parties.

Based on the background above, the formulation of the research problem is:

1. What is the legal basis for the Religious Court Judge Marisa's consideration in declaring that the divorce isbat lawsuit was not accepted in Decision Number 338/Pdt.G/2022/PA.Msa?
2. How relevant is the judge's consideration to the applicable laws and regulations and the principles of Islamic civil procedural law?

In line with the research problem formulation, this study aims to analyze the basis for judges' considerations and their relevance to legal norms. This article's contribution is expected to provide an understanding of the formal limits of divorce isbat and the need for a renewed approach to Islamic family matters.

2. Research Methods

This study employs normative legal research. The approaches used are the statutory approach, the case approach, and the conceptual approach. The statutory approach is used to examine the Marriage Law, the Religious Courts Law, the Compilation of Islamic Law, and civil procedural law. The case approach is used to analyze the Marisa Religious Court Decision Number 338/Pdt.G/2022/PA.Msa, while the conceptual approach is used to understand the concepts of marriage confirmation, divorce confirmation, inadmissibility of lawsuits, and the judge's considerations.

Primary legal materials include legislation and court decisions. Secondary legal materials include books, journals, and Islamic family law literature. Legal materials were collected through library and document studies. The analysis was conducted qualitatively and juridically by interpreting norms, examining the judge's reasoning, and drawing conclusions regarding the decision's compliance with the principles of legal certainty, justice, and expediency.

3. Results and Discussion

The discussion focuses on interpreting the judge's considerations as the ratio decidendi in the decision. The analysis is conducted by positioning the decision as the primary legal material and then connecting it to the Marriage Law, the Compilation of Islamic Law, the Religious Courts Law, civil procedure law, and the principles of religious justice. Therefore, this section assesses the formal basis of the decision and its impact on the parties.

3.1. The Judge's Legal Considerations in Declaring the Divorce Confirmation Claim Not Acceptable in Decision Number 338/Pdt.G/2022/PA.Msa

The judge's primary consideration in divorce confirmation cases lies in proving the marriage. Divorce cannot be separated from the existence of a valid marriage. If the marriage has not been legally proven, then the petition or lawsuit for divorce ratification lacks sufficient grounds. In the context of Decision Number 338/Pdt.G/2022/PA.Msa, the judge deemed the lawsuit did not meet the requirements for further examination and was therefore declared inadmissible.

In procedural law, a decision of inadmissibility, or "niet ontvankelijke verklaard," differs from a rejection of the principal case. A lawsuit being inadmissible means there are formal flaws or procedural requirements that have not been met. In divorce confirmation cases, these flaws may relate to unclear petitions, inaccurate claims, insufficient evidence of marriage, or failure to meet the requirements for authority and legal standing of the parties. In this case, the judge ensures that the court does not ratify a divorce for a marriage whose validity has not been proven.

The normative basis for marriage confirmation is contained in Article 7 of the Compilation of Islamic Law, which opens up the possibility of submitting a marriage confirmation request, among other things, for divorce settlements. [2] This provision demonstrates that marriage confirmation and divorce can have a functional relationship. However, such a request must still meet evidentiary requirements. Judges cannot base their decisions solely on the parties' statements if evidence regarding the pillars and conditions of marriage is inadequate. This is where procedural legal certainty becomes a strong basis in judges' considerations.

The author's position is that the judge's considerations can be understood from a legal perspective. The court may not approve a divorce if the basis for the marriage has not been proven. However, an unaccepted decision also has social consequences, as the parties remain in an uncertain status. Therefore, such a decision should be accompanied by clear legal guidance regarding the steps the parties can take, such as amending the lawsuit or properly filing for marriage confirmation before the divorce.

3.2. Relevance of the Judge's Considerations to Statutory Regulations and the Principles of Islamic Civil Procedure

The judge's considerations are relevant to the Marriage Law, which prioritizes registration as a means of administrative proof. Unregistered marriages can be valid religiously if they meet the pillars and requirements, but to obtain legal consequences, they must be proven through a judicial process. The Compilation of Islamic Law also provides for marriage confirmation but does not eliminate the obligation to provide proof. Therefore, judges remain within the legal framework when demanding adequate proof before recognizing a divorce.

The relevance to the Religious Courts Law is also evident because Religious Courts have the authority to resolve marriage cases for Muslims.[3] However, absolute authority does not automatically make every lawsuit admissible. A lawsuit must still meet procedural requirements. The principles of simplicity, speed, and low cost must be understood alongside the principle of legal certainty. If the lawsuit is unclear or the evidence is insufficient, the judge can declare the lawsuit inadmissible.

Nevertheless, the principle of substantive justice must be considered in family matters. Highly formal decisions can create new problems for justice seekers, especially women and children who need certainty of their status. In practice, religious courts often attempt to combine marriage confirmation requirements with divorce as long as the formal requirements are met. This means that the relevance of a judge's considerations is measured not only by adherence to procedures but also by the decision's ability to provide a just and beneficial solution.

Compared with previous research on marriage confirmation, this article confirms that divorce confirmation is more complex because it involves proving both marriage and divorce. The findings of this article emphasize that a decision to reject a marriage has a legal basis, but it needs to be balanced with an active role by the judge in providing procedural explanations to prevent justice seekers from being trapped in repeated uncertainty.

4. Conclusion

The basis for the Marisa Religious Court judge's decision to reject the divorce confirmation petition in Decision Number 338/Pdt.G/2022/PA.Msa was the failure to meet the formal requirements and provide sufficient evidence to validate the divorce. Because a divorce can only be recognized if the marriage is proven valid, the judge based her decision on procedural legal certainty.

The judge's considerations are relevant to the Marriage Law, the Compilation of Islamic Law, the Religious Courts Law, and the principles of civil procedural law. However, from a substantive justice perspective, a decision not to accept the divorce can create uncertainty for the parties. Therefore, divorce confirmation cases require a balance between legal certainty, justice, expediency, and the judge's active role in providing legal guidance to justice seekers.

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