

CHAPTER V

CLOSING

1. Conclusion

Based on the results of research and discussion of the Mungkid Religious Court Decision in case Number 131/Pdt.G/2021/PA.MKD regarding *talak* divorce due to a bisexual wife and the legal consequences of divorce on child custody, it can be concluded that the Mungkid Religious Court has the authority to receive, examine and adjudicate as well as settle cases submitted by the Concession Applicants, which are following Article 49 paragraph (1) letter a and Article 66 paragraph (1) and (2) of Law Number 7 of 1989 concerning Religious Courts, as amended by Law Number 3 of 2006 and the second amendment by Law Number 50 of 2009.

The judge's legal considerations in granting a divorce are based on Article 39 paragraph (2) of Law Number 1 of 1974, jo. Article 19 letter (f) Government Regulation Number 9 of 1975, jo. Article 116 letter (f) of the Compilation of Islamic Law states "between husband and wife there are continuous disputes and quarrels and there is no hope of living in harmony again in the household", the application for the concession applicant is declared legally proven and granted by permitting the pension applicant to impose divorce against the Respondent in the Concession before the Mungkid Religious Court. The judge's consideration can be supplemented by Article 39

paragraph (2) of Law Number 1 of 1974, jo. Article 19 letter (a) Government Regulation Number 9 of 1975, jo. Article 116 letter (a) of the Compilation of Islamic Law which states "one of the parties commits adultery or becomes a drunkard, conduit, gambler and so on which is difficult to cure" is evidenced by the argument of the Petitioner in the case that the Respondent is known to have deviant sexual behavior during the marriage. one of the parties commits adultery or becomes a drunkard, compactor, gambler and so on which is difficult to cure.

The consideration of the Panel of Judges of the Religious Court of Mungkid in granting the petition for the Concession Petitioner for the custody of the two children of the Consent Petitioner and the Confession Petitioner can be concluded following Article 41 letter (a) of Law Number 1 of 1974 concerning Marriage, jo. Article 2 paragraph (2) of Law Number 23 of 2002 jo. Article 14 of Law Number 35 of 2014 concerning Child Protection. The judge's consideration can be supplemented by the Supreme Court Circular Number 1 of 2017 concerning the Implementation of the Formulation of the Results of the 2017 Supreme Court Chamber Plenary Meeting as a Guide to the Implementation of Duties for the Court in the Legal Formulation of the Civil Chamber section of the General Civil Code letter (d) "The right of the biological mother to raise children Minors after the divorce can be given to the biological father as long as the granting of these rights has a positive impact on the child's growth and development by taking into account the interests/presence/desire of the child during the divorce process.

If the rules that have been described above are also considered by the judge, the judge can strengthen his decision.

2. Recommendation

The Panel of Judges should be more careful in paying attention to the provisions of the applicable regulations relating to divorce and its legal consequences, especially in this case regarding child custody or *Hadhanah*, both in the law as the main basis and other regulations related to this matter. For example, regarding the reasons for divorce which have not been explicitly regulated in the legislation and allow for the expansion of the reasons for divorce and including the issue of child custody as a result of the breakup of a marriage where there is still a legal vacuum in it.

