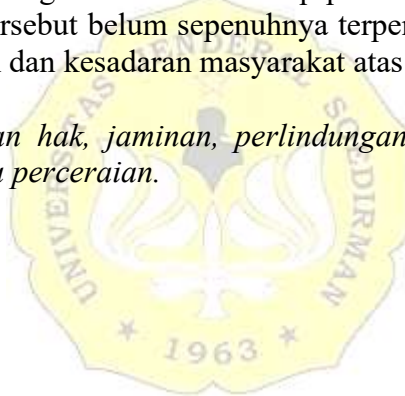


RINGKASAN

Perlindungan terhadap hak perempuan dan anak pasca perceraian timbul karena hak-hak dasar manusia harus di penuhi dan wajib dilindungi oleh negara. Perempuan dan anak adalah kelompok yang terdampak akibat perceraian terkait pemenuhan kebutuhan sosial untuk keberlangsungan hidup yang layak pasca perceraian. Penelitian ini mengkaji bagaimana pemenuhan dan jaminan perlindungan hukum terhadap hak perempuan dan anak pasca perceraian pada sistem Peradilan Agama di Indonesia dengan membandingkan sistem pada Mahkamah Syariah di Malaysia. Metode penelitian yang digunakan adalah yuridis normatif dengan mengutamakan meneliti bahan pustaka berupa bahan hukum primer, sekunder, dan tersier. Hasil penelitian menunjukkan adanya kesamaan antara sistem hukum Indonesia dan Malaysia dalam pemenuhan hak perempuan dan anak pasca perceraian yaitu melalui prosedur proses persidangan di pengadilan (*litigasi*). Perbedaan terletak pada kewenangan dan fungsi hakim, sistem pada peradilan di Indonesia hakim bersifat pasif berpedoman pada asas *ultra petitum partium*. Kewenangan dan fungsi hakim di Malaysia bersifat aktif dimana hakim mempunyai kewenangan sekaligus memastikan dalam pelaksanaan putusan. Jaminan perlindungan hukum terhadap pemenuhan hak perempuan dan anak di kedua negara tersebut belum sepenuhnya terpenuhi karena berkaitan erat antara penegakan hukum dan kesadaran masyarakat atas hukum yang berlaku.

Kata kunci : Pemenuhan hak, jaminan, perlindungan hukum, perempuan dan anak, pasca perceraian.



SUMMARY

*The protection of the rights of women and children after divorce arises because basic human rights must be fulfilled and must be protected by the state. Women and children are the group affected by divorce related to the fulfillment of social needs for a decent survival after divorce. This study examines the fulfillment and guarantee of legal protection of women's and children's rights after divorce in the Religious Court system in Indonesia by comparing the system in the Syariah Court in Malaysia. The research method used is normative juridical with a focus on researching library materials in the form of primary, secondary and tertiary legal materials. The study results show that the fulfillment of women's and children's rights after divorce between the systems in Indonesia and Malaysia has similarities, namely through litigation procedures (trial processes in court). The difference lies in the authority and function of the judge, in the Indonesian judicial system the judge is passive and is guided by the principle *ultra petitem partium*. The authority and function of judges in Malaysia are active, judges have the authority to ensure the implementation of decisions. Guarantees of legal protection for the fulfillment of women's and children's rights in both countries have not been fully fulfilled because they are closely related to law enforcement and public awareness of applicable laws.*

Keywords : Fulfillment of rights, guarantee, legal protection, women and children after divorce

