
Abstrak

Basically aims at to make a happy and last family, marriage can be separated caused by several reasons, one of them is the divorce. Divorce may have bad consequences to the child who was born from their marriage, that is about who will have to nurture, to educate the child and maintain their community property. The main issues in this research is how to maintenance of the child resulted from the marriage severance because of the divorce at Bekasi Religious Court and at Southern Jakarta Religious Court, what factors which become a judge’s cogitation in determining the child nurture gave to the father, was the consideration of Justice at Bekasi Religious Court and Southern Jakarta in the Verdict Number 345/Pdt.G/2007/PA.Bks, Verdict Number 878/Pdt.G/2005/PAJS and Verdict Number 904/Pdt.G/2007/PAJS has already appropriate with the legal requirement which is valid in Indonesia. The research methodology used in this writing is library study by using secondary data based on juridical norms, that is the research refers to law norms in the prevailing law and binding norms in social life. In the Compilation of the Islamic Law (Kompilasi Hukum Islam) if the divorce happening then is distinguished between the take care of the child that not yet mumayyiz (am not yet 12 years old) and the child that already mumayyiz. The right to take care of the child that not yet mumayyiz is handed over to the mother, whereas the child that already mumayyiz have the right to choose one of their parents, whether they will go with their mother or their father. Some factors that become the foundation of consideration of the judge’s in determining the right to take care of the child gave to the father that are; if the court could proved that the mother is no longer fill conditions to carry out the take care of the child (hadhanah), like incapable of raising the child, have moral and bad behaviour, murtad, spendthrift, thief, do not have time to nurture the child and their family do not know about his or her existence (ghoib). The Verdict of Religious Court Number: 345/Pdt.G/2007/PA.Bks, Number: 878/Pdt.G/2005/PAJS and Number: 904/Pdt.G/2007/PAJS have complied with the current law, that is be based on the Islamic Law and the Compilation of the Islamic Law (Kompilasi Hukum Islam).