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Building of Progressive Islamic Law in Indonesia regarding "Apostasy" As A Reason For Divorce Viewed from Maqashid Syari'ah

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Abstract

⁶ **Background:** The development of Islamic law in Indonesia, including in the context of apostasy as a reason for divorce, is an important part of the evolution of Islamic law in this country. The understanding and application of apostasy law is influenced by the socio-cultural context and legal system that applies in Indonesia, which is a combination of various legal traditions. **Research Objectives:** This research aims to understand the development of Islamic law in Indonesia in dealing with the issue of apostasy as a reason for divorce. This research also aims to explore the Maqasid al-Syariah perspective in the context of divorce due to apostasy and its implications for individuals and society. **Research Method:** This research uses a descriptive-analytical approach by collecting data from various sources, including legal literature, ulama fatwas, and related legal documents. The analysis was carried out to understand the development of Islamic law in Indonesia and interpret the implications of Maqasid al-Syariah regarding the issue of apostasy as a reason for divorce. **Findings:** The research results show that the development of progressive Islamic law in Indonesia in dealing with the issue of apostasy as a reason for divorce involves efforts to balance the preservation of religion and justice towards individuals. Although apostasy is recognized as a serious offense in Islam, a progressive approach recognizes the need to protect individual rights and family well-being in the context of divorce. Therefore, legal reform that takes into account the principles of Maqasid al-Syariah is expected to provide a more just and sustainable solution in handling divorce cases due to apostasy in Indonesia. **Conclusion:** The development of progressive Islamic law in Indonesia regarding apostasy as a reason for divorce requires a holistic approach that takes into account the principles of Maqasid al-Syariah as well as the country's socio-cultural context. Legal reform that recognizes individual rights and maintains a balance between religious preservation and social justice is expected to produce more inclusive and sustainable policies in dealing with the issue of apostasy in the context of divorce in Indonesia.

Keywords: Apostasy, Maqashid Syariah, Reasons for Divorce

Abstrak

Latar Belakang: Perkembangan hukum Islam di Indonesia, termasuk dalam konteks murtad sebagai alasan perceraian, merupakan bagian penting dari evolusi hukum Islam di negara ini. Pengertian dan penerapan hukum murtad dipengaruhi oleh konteks sosial budaya dan sistem hukum yang berlaku di Indonesia, yang merupakan perpaduan dari berbagai tradisi hukum. **Tujuan Penelitian:** Penelitian ini bertujuan untuk memahami perkembangan hukum Islam di Indonesia dalam menghadapi isu murtad sebagai alasan perceraian. Penelitian ini juga bertujuan untuk mengeksplorasi perspektif Maqasid al-Syariah dalam konteks perceraian akibat murtad dan implikasinya terhadap individu dan masyarakat. **Metode Penelitian:** Penelitian ini menggunakan pendekatan deskriptif-analitis dengan mengumpulkan data dari berbagai sumber, termasuk literatur hukum, fatwa ulama, dan dokumen-dokumen hukum terkait. Analisis dilakukan untuk memahami perkembangan hukum Islam di Indonesia dan menafsirkan implikasi Maqasid al-Syariah terhadap isu murtad sebagai alasan perceraian. **Hasil Temuan:** Hasil penelitian menunjukkan bahwa perkembangan hukum Islam progresif di Indonesia dalam menghadapi isu murtad sebagai alasan perceraian melibatkan upaya

untuk menyeimbangkan antara pelestarian agama dan keadilan terhadap individu. Meskipun murtad diakui sebagai pelanggaran serius dalam Islam, pendekatan yang progresif mengakui perlunya melindungi hak-hak individu dan kesejahteraan keluarga dalam konteks perceraian. Oleh karena itu, reformasi hukum yang mempertimbangkan prinsip-prinsip Maqasid al-Syariah diharapkan dapat memberikan solusi yang lebih adil dan berkelanjutan dalam menangani kasus perceraian akibat murtad di Indonesia. **Kesimpulan:** Pembangunan hukum Islam progresif di Indonesia mengenai murtad sebagai alasan perceraian membutuhkan pendekatan holistik yang mempertimbangkan prinsip-prinsip Maqasid al-Syariah serta konteks sosial budaya negara. Reformasi hukum yang mengakui hak-hak individu dan menjaga keseimbangan antara pelestarian agama dan keadilan sosial diharapkan dapat menghasilkan kebijakan yang lebih inklusif dan berkelanjutan dalam menangani isu murtad dalam konteks perceraian di Indonesia.

Kata Kunci: Murtad, Maqashid Syariah, Alasan Perceraian

Introduction

The study delves into the dynamic evolution of Islamic jurisprudence in Indonesia,¹ particularly regarding apostasy as grounds for divorce, which constitutes a significant aspect of the legal landscape in the country. This evolution is intricately intertwined with the socio-cultural milieu and legal framework of Indonesia, which amalgamates diverse legal traditions.² Therefore, the primary objective of this study is to comprehend the trajectory of Islamic law development in Indonesia concerning apostasy-induced divorces. Additionally, the research seeks to delve into the Maqasid al-Syariah perspective within the realm of divorce prompted by apostasy, aiming to uncover its implications on both individuals and society at large.³

The development of Islamic law in Indonesia, particularly regarding apostasy as a reason for divorce, can be understood within the framework of Maqasid al-Shariah, which refers to the higher objectives or goals of Islamic law.⁴ These objectives include the preservation of religion, life, intellect, progeny, and property. In the context of divorce, these objectives are crucial in ensuring justice, protection, and the well-being of individuals and society. In Indonesia, as in many other Muslim-majority countries, Islamic law is interpreted and applied in accordance with the socio-cultural context and legal system of the country. The country's legal system is a blend of customary law, Islamic law, and Dutch colonial legal traditions. Regarding apostasy as a reason for divorce, it's important to note that Islamic law recognizes apostasy as a serious offense. However, the interpretation and application of apostasy laws vary among Islamic scholars and legal systems.⁵ In Indonesia, there have been debates and discussions surrounding apostasy and its implications for marriage and divorce.

¹ Hisam Ahyani, Memet Slamet, and Tobroni, "Building the Values of Rahmatan Lil 'Alamin for Indonesian Economic Development at 4.0 Era from the Perspective of Philosophy and Islamic Economic Law," *Al-Ihkam: Jurnal Hukum & Pranata Sosial* 16, no. 1 (June 27, 2021): 111-36, <https://doi.org/10.19105/al-ihkam.v16i1.4550>.

² Ahmad Nafhani and Abdullah Arief Cholil, "The Implementation of Talak Ba'ain Sugthro towards Apostate Husband," *Law Development Journal* 2, no. 2 (October 4, 2020): 97-106, <https://doi.org/10.30659/ldj.2.2.97-106>.

³ Muhammad Choirun Nizar, "The Religious Court's Decisions on Divorce: A Maqāsid Sharī'a Perspective," *Ulumuna* 24 (January 19, 2021): 398-416, <https://doi.org/10.20414/ujis.v24i2.408>.

⁴ Jasser Auda, *Maqasid Al-Shariah as Philosophy of Islamic Law: A Systems Approach* (International Institute of Islamic Thought (IIIT), 2008).

⁵ Göran Larsson, "Disputed, Sensitive and Indispensable Topics: The Study of Islam and Apostasy," *Method & Theory in the Study of Religion* 30, no. 3 (2018): 201-26.

From the perspective of Maqasid al-Shariah, the preservation of religion is a fundamental objective. In the context of marriage and divorce, apostasy can have significant implications for the religious identity and beliefs of the spouses and their children. Therefore, the dissolution of a marriage due to apostasy may be viewed as a means to protect the religious identity and well-being of the individuals involved. However, it's also essential to consider other objectives of Islamic law, such as the preservation of family and progeny.⁶ In cases where one spouse apostatizes, considerations may include the welfare of any children from the marriage and the implications of divorce on their upbringing and well-being. The development of progressive Islamic law in Indonesia regarding apostasy as a reason for divorce involves balancing these objectives and considering the principles of justice, compassion, and mercy. This may include legal reforms, such as providing legal avenues for divorce in cases of apostasy while ensuring procedural safeguards and protections for the rights of all parties involved. Overall, the building of progressive Islamic law in Indonesia regarding apostasy as a reason for divorce requires a holistic approach that takes into account the principles of Maqasid al-Shariah, the socio-cultural context of the country, and the rights and well-being of individuals and society as a whole.⁷

The discussion on the advancement of progressive Islamic jurisprudence in Indonesia concerning apostasy as a basis for divorce, viewed through the lens of Maqashid Syari'ah, as depicted in this article, encompasses an examination of the concept of apostasy in Islam. This exploration extends to both its legal and theological dimensions, emphasizing the paramount importance of safeguarding religion amidst apostasy-related matters.⁸ Within the realm of divorce law in Indonesia, there emerges a pertinent inquiry regarding the application of Islamic law within the national legal framework. Consequently, the implementation of Islamic law within national legal systems can exhibit variance contingent upon the country and its particular context. In numerous nations with Muslim-majority populations, the integration of Islamic legal tenets into the national legal framework occurs through diverse modalities:

Firstly, in terms of Constitution and Positive Law, certain nations like Saudi Arabia and Iran feature constitutions that overtly acknowledge Islamic law as a fundamental legal source. Within this context, principles rooted in Islamic law, such as Sharia law, hold the potential to serve as the foundation for the formulation of governmental laws and policies.

Secondly, in terms of Combined Legal System, numerous countries like Indonesia and Malaysia adopt a hybrid legal system comprising both Islamic law and secular law components. Within this framework, Islamic law may be invoked in matters concerning family affairs, inheritance, and religious jurisprudence, whereas secular law governs other aspects of legal adjudication.

⁶ Dzurrotul Muniroh Ahdaniah, Sri Lumatus Sa'adah, and Muhammad Faisol, "Divorce Due To Apostasy (Study of Differing Decisions in Religious Courts)," *Eduvest - Journal of Universal Studies* 4, no. 3 (March 20, 2024): 777-83, <https://doi.org/10.59188/eduvest.v4i3.1087>.

⁷ Julian Millie, Dede Syarif, and Moch. Fakhruroji, "The Discipline of Dakwah in Indonesia's State Education System," *Bijdragen Tot de Taal-, Land- En Volkenkunde / Journal of the Humanities and Social Sciences of Southeast Asia* 179, no. 1 (January 1, 2023): 38-60, <https://doi.org/10.1163/22134379-bja10047>.

⁸ Peter Egge Langsæther, "Religious Voting and Moral Traditionalism: The Moderating Role of Party Characteristics," *Electoral Studies* 62 (December 1, 2019): 102095, <https://doi.org/10.1016/j.electstud.2019.102095>.

Thirdly, Sharia Courts: In various nations, specialized courts are designated to adjudicate cases pertaining to Islamic law, encompassing issues like divorce, inheritance, and violations of Sharia law. Typically, these courts function in alignment with national legal systems, albeit with a specific emphasis on Islamic legal doctrines.

Fourthly, Family Law: Numerous nations have established family laws grounded in Islamic legal principles concerning marriage, divorce, inheritance entitlements, and child custody. While certain countries afford individuals the choice between religious or civil courts to address family issues, family law frameworks frequently mirror the precepts of Islamic law.

The incorporation of Islamic law into national legal systems frequently sparks debates and controversies. While some nations endeavor to modernize Islamic law to align with contemporary values and human rights, others staunchly uphold traditional Islamic legal principles as indispensable components of their national identity and cultural heritage.

Maqashid Syari'ah: Elucidation of Maqashid Syari'ah, serving as a conceptual framework for comprehending Islamic law, inclusive of the core objectives (maqasid) essential for law formation. Progressive Development of Islamic Law entails an examination of how Islamic law in Indonesia has evolved progressively, with particular focus on a comprehensive grasp of Maqashid Syari'ah principles within apostasy-induced divorce scenarios.⁹ Deliberation on the dialogues and disputes among scholars, ulama, and legal practitioners concerning apostasy as grounds for divorce, encompassing arguments both in favor of and against this stance.¹⁰ Additionally, Social and Cultural Implications necessitate an analysis of the broader societal and cultural impacts of apostasy-induced divorces in Indonesia, along with their ramifications on individual rights and social welfare. Legal Reform, within the discussion, underscores the imperative for legal reforms in handling apostasy-induced divorce cases, while considering Maqashid Syari'ah principles to foster justice and enhanced social welfare.

Diverse perspectives, as delineated above, entail incorporating viewpoints from various stakeholders, including scholars, academics, and civil society activists, concerning the matter of apostasy as a grounds for divorce within the paradigm of progressive Islamic legal evolution. Furthermore, the identification of challenges and opportunities related to apostasy as a basis for divorce in Indonesia is imperative for advancing progressive Islamic law in the country, particularly concerning the comprehension of apostasy within divorce contexts and the application of Maqashid Syari'ah.

Method

This study employs a descriptive-analytical methodology, encompassing data collection from diverse sources such as legal literature, fatwas from religious scholars, and pertinent legal documents. The analysis aims to elucidate the trajectory of Islamic legal evolution in Indonesia and to decipher the ramifications of Maqasid al-Syariah concerning apostasy as a ground for divorce. This methodological approach facilitates

⁹ Gabriele Lattanzio, "Beyond Religion and Culture: The Economic Consequences of the Institutionalization of Sharia Law," *Emerging Markets Review* 52 (September 1, 2022): 100918, <https://doi.org/10.1016/j.ememar.2022.100918>.

¹⁰ Dharmayani Dharmayani et al., "The Urgency of Mediation of the Religious Courts System on Islamic Law Perspective," *Jurnal Mahkamah : Kajian Ilmu Hukum Dan Hukum Islam* 7, no. 1 (June 9, 2022): 15-30, <https://doi.org/10.25217/jm.v7i1.2288>.

a comprehensive exploration of Islamic legal principles, enables an understanding of diverse perspectives among religious scholars, and highlights opportunities for legal reforms aligned with Maqasid al-Syariah principles within the context of apostasy-related divorce cases in Indonesia. Hence, this descriptive-analytical method enables researchers to offer profound insights into the progression and implications of Islamic law concerning apostasy within the realm of divorce.

36

Results and Discussion

Development of Progressive Islamic Law in Indonesia regarding divorce due to apostasy

Analysis of how Islamic law in Indonesia developed progressively, with an emphasis on a broader understanding of the principles of Maqashid Syari'ah in the context of cases of apostasy as a reason for divorce. The development of Progressive Islamic Law in Indonesia regarding divorce due to apostasy is an evolutionary process in the interpretation and application of Islamic law in this country, which aims to achieve law enforcement that is more inclusive, fair, and in accordance with universal values and the developing social context.¹¹ This involves several significant aspects: Interpretation of Islamic Law, where the development of progressive Islamic law involves a broader and contextual interpretation of the principles of Islamic law, including in cases of divorce due to apostasy.¹² This interpretation can include a deeper understanding of the social context, culture, and modern values. Interpretations of Islamic law in Indonesia regarding divorce due to apostasy can vary depending on the views of ulama, religious authorities, and the existing socio-cultural context. The following are several points that cover the interpretation of Islamic law in Indonesia regarding divorce due to apostasy:

Certain religious leaders and clerics may perceive divorce as a direct consequence of apostasy, given that apostasy is viewed as a grave violation of Islamic doctrines. From this perspective, divorce may be seen as a logical measure to uphold religious integrity and the familial religious identity. Some religious scholars and intellectuals might adopt a contextualized approach when interpreting Islamic jurisprudence concerning divorce arising from apostasy. They may take into account factors such as the motives behind the apostasy, the mental state of the individuals involved, and the well-being of children throughout the divorce proceedings. Various interpretations of Islamic law in Indonesia regarding apostasy-related divorce may draw upon the principles of Maqashid Syari'ah, which prioritize the preservation of religion, life, intellect, lineage, and property.¹³ Within the realm of divorce, these principles serve as benchmarks for assessing the compatibility or discordance of actions with both religious tenets and societal welfare. Additionally, religious courts in Indonesia wield significant influence in interpreting and implementing Islamic law

¹¹ Euis Nurlaelawati, "For the Sake of Protecting Religion: Apostasy and Its Judicial Impact on Muslim's Marital Life in Indonesia," *Journal of Indonesian Islam* 10 (June 7, 2016): 89, <https://doi.org/10.15642/JIIS.2016.10.1.89-112>.

¹² Farid Muhammad, Sabri Samin, and Hamsir Hamsir, "An Investigation of The Judge's Ruling on Divorce Due to Apostasy at The Religious Court of South Jakarta, Class IA (Maslahat Perspective)," *International Journal of Islamic Studies* 3 (June 30, 2023): 15-27, <https://doi.org/10.24252/ijis.v3i1.39463>.

¹³ ZulFadli Raka Sitompul, Derliana Tanjung, and Zetria Erma, "Legal Review of Fasakh Divorce Pledge of Divorce Based on Compilation of Islamic Law," *Innovative: Journal Of Social Science Research* 3, no. 4 (September 5, 2023): 3798-3807, <https://doi.org/10.31004/innovative.v3i4.3887>.

pertaining to divorce arising from apostasy.¹⁴ Decisions made by courts may derive from interpretations of established Islamic law alongside careful consideration of the interests and rights of all parties implicated. Moreover, the interpretation of Islamic law concerning divorce resulting from apostasy may also be shaped by the prevailing social and cultural milieu in Indonesia.¹⁵ The interpretation and implementation of Islamic law in divorce cases in Indonesia may be influenced by local values, traditions, and cultural norms. Therefore, the handling of divorce cases resulting from apostasy in Indonesia can demonstrate a spectrum of perspectives, contextual nuances, and the impact of Maqashid Syari'ah principles, alongside prevalent social and cultural elements. This underscores the significance of meticulous and thorough interpretation when addressing intricate and sensitive legal matters such as this.

Utilizing the Maqashid Syari'ah principles, which encompass the aims of Islamic law including the preservation of religion, life, intellect, lineage, and property, serves as a compass in shaping forward-thinking Islamic jurisprudence concerning divorce resulting from apostasy. By adhering to these principles, it ensures that the enacted laws foster fairness and well-being for both individuals and society at large.¹⁶ In handling divorce cases stemming from apostasy, the utilization of Maqasid Syari'ah principles entails thorough examination of the fundamental objectives or maqasid inherent in Islamic law. Here's how these principles are applied in such scenarios:

1. Upholding the Sanctity of Religion: This principle underscores the significance of safeguarding the purity of faith and religious convictions. When addressing divorce arising from apostasy, adherence to the principle of upholding the sanctity of religion may entail evaluating the repercussions of apostasy on the family's religious identity and the perpetuation of their beliefs.¹⁷
2. Safeguarding Life: This principle accentuates the paramount importance of ensuring the preservation and welfare of individuals' lives.¹⁸ In instances of divorce resulting from apostasy, the implementation of this principle involves acknowledging the psychological and emotional ramifications of the divorce on the parties concerned,¹⁹ and the welfare of children in the family.²⁰
3. Safeguarding Rationality: This principle underscores the significance of protecting human intellect or cognitive faculties. When addressing divorce due to apostasy, applying this principle involves considering the psychological aspects influencing

¹⁴ Nasrullah Nasrullah, Logi Farman, and Ferdi Aditiya Hidayat, "Legal Considerations of Religious Court Judges in Divorce Applications on the Basis of Apostasy," *Lambung Mangkurat Law Journal* 8, no. 2 (August 28, 2023): 59–68, <https://doi.org/10.32801/lamlaj.v8i2.411>.

¹⁵ Ramdani Wahyu Sururie, Mohammad Athoillah, and Muhammad Iqbal Zia Ulhaq, "Strategies to Prevent Increasing Divorce Rates for Muslim Families in Indonesia," *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam* 7, no. 2 (May 9, 2023): 734–59, <https://doi.org/10.22373/sjhkv7i2.14819>.

¹⁶ Khudzaifah Dimiyati et al., "Indonesia as a Legal Welfare State: A Prophetic-Transcendental Basis," *Heliyon* 7, no. 8 (August 1, 2021): e07865, <https://doi.org/10.1016/j.heliyon.2021.e07865>.

¹⁷ James P. Choy, "Religious Rules as a Means of Strengthening Family Ties: Theory and Evidence from the Amish," *Journal of Comparative Economics* 48, no. 3 (September 1, 2020): 729–48, <https://doi.org/10.1016/j.jce.2019.12.007>.

¹⁸ Carlos González-Santos et al., "Automatic Assignment of Moral Foundations to Movies by Word Embedding," *Knowledge-Based Systems* 270 (June 21, 2023): 110539, <https://doi.org/10.1016/j.knosys.2023.110539>.

¹⁹ Karey L. O'Hara et al., "Preventing Mental Health Problems in Children after High Conflict Parental Separation/Divorce Study: An Optimization Randomized Controlled Trial Protocol," *Mental Health & Prevention* 32 (December 1, 2023): 200301, <https://doi.org/10.1016/j.mhp.2023.200301>.

²⁰ Muntaha Gharaibeh et al., "Separate Souls under One Roof: Jordanian Women's Perspectives of Emotional Divorce," *Women's Studies International Forum* 98 (May 1, 2023): 102746, <https://doi.org/10.1016/j.wsif.2023.102746>.

an individual's choice to apostatize and the effects on both the individual's and the family's mental well-being.

4. Sustaining Lineage: This principle highlights the significance of maintaining progeny or the perpetuation of familial lineage. When addressing divorce due to apostasy, the application of this principle may involve assessing the effects of divorce on the upbringing and well-being of the children born from the union.
5. Safeguarding Property: This principle underscores the importance of protecting possessions and wealth. In the context of divorce stemming from apostasy, the application of this principle might entail deliberating on the equitable distribution of shared assets, property entitlements, and the financial security of all individuals implicated.

The application of Maqashid Syari'ah principles in instances of divorce due to apostasy necessitates a delicate equilibrium between upholding religious precepts and promoting societal and individual well-being. This underscores the significance of comprehensively evaluating cases, considering all pertinent facets in alignment with the core objectives of Islamic law. Inclusivity and Equity: The advancement of progressive Islamic jurisprudence seeks to establish a legal framework that is more encompassing and just for all parties embroiled in divorce proceedings arising from apostasy, devoid of prejudice and mindful of individual rights in their entirety. Inclusivity and equity within the realm of divorce due to apostasy are imperative to ensure that all involved parties are treated equitably and afforded appropriate safeguarding.

Here are several considerations regarding inclusivity and fairness in divorce cases due to apostasy:

1. Safeguarding Individual Rights: Ensuring the respect and protection of the rights of individuals involved in apostate divorces is paramount. This encompasses freedoms of religion, psychological and emotional well-being, and fair treatment in legal proceedings.
2. Striking a Balance: It is crucial to find an equilibrium between upholding religious values and safeguarding the rights of individuals. This necessitates meticulous consideration of all facets of a divorce case, encompassing religious considerations, justice, and familial welfare.
3. Embracing Diverse Perspectives: Facilitating open and inclusive dialogues regarding apostasy-related divorces involves attentively listening to various viewpoints from ulama, academics, legal experts, and civil society.
4. Prioritizing Child Welfare: Children within families undergoing divorce due to apostasy require protection and prioritization. Their welfare and needs should be meticulously considered throughout the divorce process, encompassing care, custody, and emotional support.
5. Recognizing Case Specifics: Acknowledging the uniqueness of each apostasy-related divorce case necessitates sensitive and context-sensitive handling. This entails recognizing the cultural, social, and economic factors that may influence divorce dynamics.
6. Integrating with Positive Law: Integrating Maqashid Syari'ah principles with positive state law aims to strike a balance between Islamic law and national legislation. This integration raises complex considerations, including conformity with national law, protection of individual rights, and coordination between legal systems.

7. Ensuring Compliance: Religious court decisions regarding apostasy-related divorces must be enforced and acknowledged by national legal authorities. This mandates effective cooperation between religious courts and state law enforcement agencies.
8. Empowering Communities: Efforts to empower communities to understand their rights and the legal processes involved in apostasy-related divorces are integral to integration with positive law.

By addressing these aspects, the integration of Islamic law concerning apostasy-related divorces with positive law can foster a more comprehensive and equitable resolution, safeguarding the interests and rights of all parties involved.²¹ Legal reform is integral to the advancement of progressive Islamic law, particularly concerning divorce procedures, child custody, marital property division, and women's rights protection in cases of apostasy-related divorces. In Indonesia, such reform demands thorough consideration of Islamic law principles, Maqashid Syari'ah, and the evolving needs of contemporary society. Several crucial aspects must be addressed in this reform process:

1. Enhanced Understanding of Maqashid Syari'ah: Reform efforts should stem from a comprehensive grasp of Maqashid Syari'ah principles, particularly within apostasy-related divorce contexts. This alignment ensures harmony between Islamic law and broader humanitarian and just values.
2. Inclusivity and Engagement of Diverse Perspectives: Active involvement of stakeholders such as ulama, academics, legal experts, and civil society is imperative in the reform process. This inclusive approach ensures that reforms resonate with the needs and aspirations of all stakeholders.
3. Protection of Individual Rights: Upholding individual rights, including freedom of religion, fair treatment in legal proceedings, and psychological well-being, must be a primary focus of reforms.
4. Gender Equity: Attention to gender justice is crucial in addressing apostasy-related divorce cases, safeguarding women from discrimination or oppression during divorce proceedings.
5. Effective Law Enforcement: Implementation of legal reforms necessitates effective enforcement mechanisms. This entails training law enforcement personnel to correctly interpret and apply the law, as well as ensuring compliance with court decisions.
6. Public Education: Reform efforts should be complemented by public education initiatives to raise awareness about rights in apostasy-related divorce cases and legal procedures. This empowers individuals with the knowledge needed to protect themselves effectively.

By addressing these aspects, legal reform in apostasy-related divorce cases can foster a more just and equitable legal framework that aligns with Islamic principles and meets the evolving needs of society. By addressing these considerations, legal reform concerning apostasy-related divorce in Indonesia can foster a legal framework that is more equitable, inclusive, and congruent with Islamic values and contemporary societal needs. The following social and cultural influences are pertinent to this context:

1. Societal and Cultural Impact: The evolution of progressive Islamic law regarding apostasy-related divorce significantly influences Indonesian society and culture,

²¹ Firman Wahyudi, "Ithbāt Ṭalāq: An Offer of Legal Solutions to Illegal Divorce in Indonesia," *Al-Ahkam* 32, no. 2 (October 30, 2022): 211–32, <https://doi.org/10.21580/ahkam.2022.32.2.11720>.

potentially altering perspectives on legal matters, perpetuating social stigma against divorce, and reshaping familial dynamics.

2. **Stigmatization:** Strong religious values prevalent in Indonesian society may lead to stigma or negative perceptions towards individuals or families involved in apostasy-related divorces, resulting in social and psychological strain for the parties concerned.
3. **Social Isolation:** Apostates who undergo divorce may face social exclusion from their former religious communities, disrupting their social support networks and connections within these communities.
4. **Impact on Children:** Apostasy-related divorce can profoundly affect the well-being of children involved, leading to emotional distress, identity instability, and questioning of religious beliefs.
5. **Legal Handling Disparities:** Differences between Islamic religious courts and civil courts in Indonesia, each applying different legal frameworks, can complicate the divorce process, particularly in apostasy-related cases.
6. **Family Structure Changes:** Apostasy-related divorce can bring about significant alterations in family structures, impacting parental roles, familial dynamics, and overall family welfare.
7. **Variability in Acceptance:** The level of acceptance and tolerance towards apostasy-related divorce varies across Indonesian society, influenced by factors such as regional differences, educational levels, and cultural backgrounds.

These social and cultural dynamics underscore the complexity and challenges inherent in addressing apostasy-related divorce cases in Indonesia. A holistic and sensitive approach, considering cultural values and societal needs, is essential to navigate these challenges effectively. In conclusion, the ongoing development of progressive Islamic law regarding apostasy-related divorce necessitates active engagement from diverse stakeholders, including ulama, scholars, legal professionals, and civil society, to ensure a legal framework that is inclusive, fair, and aligned with the principles of Maqashid Syari'ah.

Arguments Pros and Cons of Ulama regarding Apostasy as a Reason for Divorce

The discourse surrounding apostasy as grounds for divorce within Islamic law encompasses a spectrum of perspectives from ulama, along with associated pro and con arguments, and implications within Indonesia's family law context. The arguments presented by ulama regarding apostasy as a basis for divorce reflect a nuanced dialogue within Islamic jurisprudence:

1. **Arguments in Favor**
 - a. **Consistency with Islamic Teachings:** Advocates argue that permitting divorce due to apostasy aligns with Islamic doctrines stressing the preservation of religion and beliefs.
 - b. **Protection of Religious Identity:** Divorce in cases of apostasy is viewed as safeguarding the religious identity of spouses adhering to their faith.
 - c. **Child Welfare:** Some assert that divorcing due to apostasy may serve the best interests of children, especially if one partner's apostasy threatens to influence their religious upbringing.
 - d. **Legal Clarity:** Recognizing apostasy as grounds for divorce provides legal clarity for couples facing such circumstances, thereby minimizing ambiguity and potential conflicts.

The stance of ulama on apostasy as a cause for divorce may fluctuate, contingent upon their interpretation of Islamic law and the prevailing social and cultural milieu. Noteworthy scholars who might advocate for this viewpoint include: K.H. M. Quraish Shihab: Renowned Indonesian cleric revered for his Quranic exegesis, known to espouse moderate and tolerant perspectives on apostasy and divorce.²² Prof. Dr. Azyumardi Azra: Esteemed Indonesian Muslim scholar with a propensity for critical examination of Islamic legal issues, possibly advocating for more progressive views on apostasy-related divorce. Prof. Dr. Yusuf Qardhawi: Influential Sunni cleric whose views, though occasionally contentious, may lean towards a more liberal stance on matters like apostasy and divorce.²³ Dr. Khaled Abou El Fadl: Noted Islamic scholar and law professor recognized for his progressive interpretations of Islamic law, likely to endorse more open attitudes towards apostasy-related divorce. Dr. Tariq Ramadan: Prominent Islamic scholar and philosopher known for promoting inclusive perspectives on Islam, likely to provide arguments supporting apostasy as a valid reason for divorce within the framework of Islamic principles.²⁴ These scholars, among others, contribute to the multifaceted discourse surrounding apostasy-related divorce, reflecting diverse interpretations and understandings of Islamic law within the contemporary context.

2. Counterarguments

- a. Delay in Apostasy Declaration: Some scholars contend that immediately declaring someone an apostate should not serve as grounds for divorce, as there may be instances of regret or misunderstanding. This argument also highlights concerns regarding potential injustice, particularly towards individuals unfairly or erroneously labeled as apostates, especially if the evidence does not meet stringent standards.
- b. Injustice Concerns: Opponents argue against using apostasy as a divorce reason due to potential injustices towards individuals wrongly accused of apostasy. They advocate for thorough consideration of evidence and adherence to strict legal standards to prevent miscarriages of justice.
- c. Conciliation and Settlement: There is an opinion advocating for divorce as a last resort after exhausting attempts at reconciliation and peaceful resolution, rather than solely relying on the apostate status.
- d. Women's Rights Protection: Some clerics express apprehension regarding the recognition of apostasy as a divorce reason, fearing potential injustices towards women who may face baseless accusations of apostasy. They emphasize the need to safeguard women's rights amidst divorce proceedings.

These pro and con arguments underscore the intricate nature of addressing apostasy as grounds for divorce within Islamic law, necessitating meticulous consideration of religious principles, justice, and societal welfare. Scholars opposing apostasy as a divorce reason may include: Royal Mufti of Saudi Arabia: As a representative of Saudi Arabia's conservative religious authority, the Royal Mufti may

²² Abd Kholid et al., "Rereading the Indonesian Interpretation of the Qur'an on Awliyā': The Cases of Hamka and M. Quraish Shihab," *QIJS (Qudus International Journal of Islamic Studies)* 9, no. 1 (July 29, 2021): 37–72, <https://doi.org/10.21043/qjis.v9i1.7567>.

²³ Yuhasnibar Yuhasnibar and Risna Wati, "The Law on the Tripple Talaq at Once in the View of Yusuf Al Qaradawi's in Contemporary Context: Analysis of Sadd Al-Zarī'ah Theory," *El-Usrah: Jurnal Hukum Keluarga* 6, no. 2 (December 30, 2023): 381–98, <https://doi.org/10.22373/ujhk.v6i2.10180>.

²⁴ Abdul Razak Abdulroya Panaemalae and Zaenuddin Hudi Prasajo, "Islam and the West: Tariq Ramadan and the Discourse of Religion of Peace for a Global Understanding," *Al-Albab* 5, no. 2 (December 1, 2016): 237–50, <https://doi.org/10.24260/alalbab.v5i2.507>.

oppose apostasy as a divorce reason in line with the country's strict interpretation of Islam.²⁵ Grand Ayatollah Ali al-Sistani: Serving as a marja' taqlid for the Shia community, Ayatollah Sistani's conservative stance on apostasy and divorce could influence Shia perspectives in Iran and beyond. Grand Mufti of Egypt: Representing Egypt's highest religious authority, the Grand Mufti may hold conservative views on apostasy and divorce, particularly within the context of Egypt's religious legal framework. Salafi Clerics: Many Salafi clerics, known for their conservative approach to Islam, may oppose apostasy as grounds for divorce based on traditional interpretations of Islamic law. Indonesian Ulema Council (MUI): Reflecting the conservative stance prevalent in Indonesian Muslim society, the MUI may hold reservations regarding apostasy as a divorce reason. These scholars, along with others, contribute to the diversity of perspectives surrounding apostasy-related divorce, reflecting varied interpretations within Islamic jurisprudence and societal contexts.

Maqashid Syari'ah perspective in the context of divorce due to apostasy

The Maqashid Syari'ah framework serves as a foundational lens for comprehending Islamic law, particularly concerning divorce resulting from apostasy. Viewing divorce due to apostasy through the Maqashid Syari'ah perspective entails a comprehensive understanding of the objectives or maqasid inherent in Islamic law and their application in unique scenarios. Here is a comprehensive explanation of the Maqashid Syari'ah perspective in this context:

Initially, the concept of Maintenance of Religion (Hifz al-Din) stands out as a core objective within the Maqashid Syari'ah framework. Particularly in instances of divorce stemming from apostasy, the preservation of religious adherence emerges as a central concern. Within this paradigm, divorce is viewed as a mechanism to safeguard the continuity and sanctity of religious practice within individual and familial spheres. Maintenance of Religion (Hifz al-Din) within the context of apostasy-induced divorce represents a principle in Islamic jurisprudence addressing cases where one spouse openly renounces the Islamic faith. In such scenarios, religion assumes a pivotal role not only in the divorce proceedings but also in sustaining the bond between the individual and the Islamic community. Islam categorizes apostasy as a grave transgression, with certain schools of Islamic law deeming it sufficient grounds for divorce. Nevertheless, the procedural and legal ramifications of divorce triggered by apostasy may vary based on interpretations of Islamic law. In select Islamic jurisprudential schools like the Shafi'i and Hanbali, apostasy may warrant automatic divorce (fasakh), rendering the marriage null and void upon one partner's apostasy. In such instances, Muslim parties often seek divorce to safeguard their Maintenance of Religion (Hifz al-Din), encompassing the preservation of their religious, social, and cultural rights. However, the realm of religious maintenance amid apostasy-induced divorce extends beyond mere legal dissolution, incorporating issues like child custody, asset distribution, and other rights entrenched in Islamic doctrine and tradition. The handling of apostasy-related divorce and religious maintenance may diverge among nations with Muslim demographics, influenced by diverse cultural, social, and legal dynamics. Additionally, consulting knowledgeable

²⁵ Mohammad Fauzan Ni'ami, Dio Alif Bawazier, and Sukron Ma'mun, "Modernization, Eclecticism, and Saudi Arabia Vision 2030 on Family Law: Positivization of Talaq Divorce in Nizam Al-Aḥwāl 1443 H," *Al-Ahwal: Jurnal Hukum Keluarga Islam* 16, no. 1 (April 9, 2023): 1–22, <https://doi.org/10.14421/ahwal.2023.16101>.

scholars or Islamic jurists well-versed in the intricacies of applicable Islamic law remains imperative for informed guidance within this realm.

Next, the Maqashid Sharia underscores the importance of caring for offspring, a principle known as Hifz al-Nasl. In instances of divorce due to apostasy, the welfare of children born from the union assumes paramount significance. Decision-making processes must prioritize the well-being and future prospects of the offspring. Within the framework of divorce triggered by apostasy, the concept of offspring maintenance (Hifz al-Nasl) holds particular relevance, especially within Islamic jurisprudence. Hifz al-Nasl pertains to the preservation of offspring or children resulting from dissolved marriages, a pivotal aspect in Islamic law.²⁶ When one spouse renounces the Islamic marriage, leading to divorce, several considerations arise concerning childcare: Physical and Emotional Care: Islamic childcare entails fulfilling physical and emotional responsibilities to ensure children receive adequate care and affection from both parents, irrespective of their religious affiliation. Religious Upbringing: In cases of divorce due to apostasy, maintaining the religious upbringing of children assumes paramount importance for many Muslim families. Consequently, agreements regarding offspring care often encompass religious education and adherence to religious practices. Preservation of Cultural Identity: Beyond religious considerations, preserving cultural identity emerges as another facet in offspring maintenance. This encompasses language, traditions, and family values that parents may wish to uphold. In cases of divorce resulting from apostasy, Islamic law typically prioritizes the religious upbringing of children. However, local Islamic family laws or national legislation may also influence this aspect. It is crucial to note that neither Islamic jurisprudence nor state law provides explicit directives on regulating offspring maintenance in divorce scenarios. Often, family mediation or adjudication in family courts facilitates couples in reaching equitable and sustainable agreements concerning childcare amid apostasy-induced divorces.

Thirdly, the perspective of Maqashid Sharia underscores the imperative of safeguarding property and economic welfare, encapsulated in the principle of Welfare Protection (Hifz al-Maal). Within the realm of divorce triggered by apostasy, due consideration must be accorded to the equitable division of shared assets, financial obligations, and economic stability for both parties involved. In the context of divorce stemming from apostasy, the notion of welfare protection (Hifz al-Maal) assumes critical significance, particularly within Islamic legal frameworks. Hifz al-Maal pertains to the preservation of property or wealth held by divorcing couples. When one spouse disavows the marital union, particularly resulting in divorce, welfare protection becomes a salient consideration, notably concerning the equitable distribution of jointly-owned assets. In Islamic jurisprudence, the division of assets and property in divorce cases is guided by principles derived from inheritance and marital laws.²⁷ Typically, upon divorce, assets and property accumulated during the marriage are apportioned equally between both spouses. However, in cases of divorce due to apostasy, where one spouse renounces the Islamic faith, the application of Islamic legal principles may vary depending on the adopted school of thought and the

²⁶ Moh Dahlan et al., "The Islamic Principle of Hifz Al-Nafs (Protection of Life) and COVID-19 in Indonesia: A Case Study of Nurul Iman Mosque of Bengkulu City," *Heliyon* 7, no. 7 (July 1, 2021): e07541, <https://doi.org/10.1016/j.heliyon.2021.e07541>.

²⁷ Andrew C. Miller et al., "Ethical Issues Confronting Muslim Patients in Perioperative and Critical Care Environments: A Survey of Islamic Jurisprudence," *Anesthesiology Clinics*, Gender, Racial, and Socioeconomic Issues in Perioperative Medicine, 38, no. 2 (June 1, 2020): 379–401, <https://doi.org/10.1016/j.anclin.2020.01.002>.

prevailing Islamic family laws in the respective jurisdiction. In certain Islamic schools, such as the Shafi'i and Hanbali traditions, apostasy may lead to the automatic annulment of the marriage (fasakh), wherein property division may be governed by principles related to divorce. With regards to welfare protection (Hifz al-Maal), it is imperative to ensure the fair consideration of financial rights for both parties, including provisions for the welfare of children. This encompasses asset division, alimony arrangements, and other agreements aimed at fostering the economic and financial well-being of both parties post-divorce. Nevertheless, it is pertinent to note that practices and legal frameworks concerning divorce involving apostasy may vary among nations with Muslim populations, influenced by diverse cultural, social, and legal factors. Thus, seeking guidance from knowledgeable experts in Islamic law or family law, well-versed in the applicable legal provisions, remains essential.

Fourthly, the preservation of reason (Hifz al-Aql) is also a pivotal consideration within the Maqashid Sharia framework. When apostasy serves as grounds for divorce, safeguarding the mental and emotional well-being of individuals becomes paramount. Within Islamic law, the preservation of reason encompasses significant importance, particularly in divorce cases triggered by apostasy. Hifz al-Aql entails maintaining an individual's mental equilibrium and cognitive faculties, both throughout the marital union and following divorce. In instances where one spouse withdraws from the marriage, especially culminating in divorce, safeguarding reason assumes critical importance.²⁸ The divorce scenario can potentially impact the mental and emotional health of all parties involved, including any children. Within Islam, mental health and the preservation of reason are regarded as inherent rights necessitating protection and respect. In the context of divorce, several aspects merit attention: Protection from Emotional Distress: Divorce often entails significant emotional upheaval and distress. Preserving reason involves shielding individuals from excessive emotional turmoil or traumatic experiences that could jeopardize their mental well-being. Access to Mental Health Support: It is imperative for individuals undergoing divorce, including those entangled in apostasy-induced divorces, to have access to appropriate mental health assistance. This may entail marital counseling, individual therapy, or group support to navigate the challenges associated with divorce. Child Welfare: The preservation of reason extends to the mental well-being of children affected by divorce. Ensuring that the divorce proceedings do not unduly burden children's mental and emotional health and providing them with necessary support are integral facets. In cases of divorce stemming from apostasy, where religious factors may exacerbate conflict, preserving reason entails preventing situations that could detrimentally impact the mental health of the parties involved. It is essential to recognize that approaches to preserving reason in divorce proceedings may vary based on the prevailing Islamic family laws and predominant social values in a given region. Encouraging an approach rooted in empathy, equity, and attentiveness to the mental well-being of all parties involved is crucial in navigating divorces, including those precipitated by apostasy.²⁹

Fifthly, the preservation of the soul (al-nafs) in the context of divorce due to apostasy holds significant importance within Islamic law. Al-nafs encompasses

²⁸ Thahir Jamal Kiliyamannil, "Neither Global nor Local: Reorienting the Study of Islam in South Asia," *Asian Journal of Social Science*, August 5, 2023, <https://doi.org/10.1016/j.ajss.2023.07.002>.

²⁹ Bruce and Donald Appleyard, "Chapter 17 - Livability Ethics for Street and Urban Empathy, Equity, and Justice: A Guide for Planning, Design, & Engineering," in *Livable Streets 2.0*, ed. Bruce and Donald Appleyard (Elsevier, 2021), 277–306, <https://doi.org/10.1016/B978-0-12-816028-2.00017-4>.

safeguarding an individual's physical, spiritual, and psychological well-being. When divorce occurs due to apostasy, where one partner renounces the Islamic faith, ensuring the preservation of the soul becomes a nuanced and critical concern. Several aspects warrant consideration in this context: **Physical Protection:** Preservation of life entails safeguarding the physical well-being of individuals amidst the divorce proceedings. This encompasses preventing any form of violence or threats directed towards the partner seeking to exit a marriage embroiled in divorce due to apostasy. **Psychological Protection:** Divorce, particularly when intertwined with a shift in religious beliefs, can exert significant psychological strain on the parties involved. It is imperative for individuals undergoing divorce to receive appropriate psychological support and counseling to navigate the associated stress, anxiety, and grief effectively. **Maintenance of Spiritual Well-Being:** Divorce resulting from apostasy can potentially compromise the spiritual well-being of individuals, precipitating internal conflict or doubt regarding their beliefs. It is crucial to ensure access to sources of spiritual support and guidance to facilitate healing and spiritual growth throughout the process. **Protection Against Mental Health Risks:** Divorce triggered by apostasy may heighten the risk of mental health issues such as depression or anxiety disorders. Therefore, mental health care encompasses facilitating access to necessary mental health services and support for affected individuals. In addressing divorce stemming from apostasy, it is incumbent upon the Islamic legal system and society to prioritize the preservation of the souls of all parties involved. This necessitates acknowledging the intricacies of the situation and furnishing requisite support to uphold their physical, psychological, and spiritual well-being.

By adhering to the objectives of Maqashid Syari'ah, the process of decision-making concerning divorce due to apostasy should aim for holistic justice, the safeguarding of individual rights, and the preservation of both religious principles and societal well-being. This underscores a commitment to evolving Islamic law, which encompasses not just legal considerations, but also embraces broader human principles and ethics.

Social and Cultural Implications of divorce due to apostasy

Examining the ramifications of divorce resulting from apostasy on Indonesian society and culture reveals profound effects on multiple facets of individuals' lives. Here is a comprehensive elucidation of these implications:

The ramifications of divorce stemming from apostasy extend deeply into family dynamics, reshaping relationships and affecting various aspects of familial life. Here's an in-depth exploration of these dynamics: **Religious Conflict:** Apostasy-induced divorce often arises from divergent religious beliefs between spouses, sparking profound discord within families. Religion holds significant importance in the identity and daily routines of Muslim families, intensifying conflicts triggered by differing beliefs. **Social Stigma:** Divorce prompted by apostasy can subject families to societal stigma, particularly in conservative communities or where religious values are paramount. Non-apostate family members may face societal pressure or exclusion, exacerbating the emotional strain. **Child Welfare:** Children within families undergoing apostasy-induced divorce may bear the brunt of its impact. They may grapple with confusion, anxiety, or sorrow stemming from familial upheaval and potential parental conflicts. **Emotional Support:** Divorce arising from apostasy necessitates substantial emotional support from unaffected family members. While still-Muslim families may seek solace from their religious community, directly involved families may rely on

understanding friends or relatives for support. **Changes in Family Structure:** Apostasy-induced divorce can significantly alter family structures, affecting not only marital statuses but also parental roles, responsibilities, and child custody arrangements. **Recovery and Adjustment:** The journey towards recovery and adjustment post-divorce due to apostasy entails a gradual process requiring robust familial and communal support. It entails embracing change, addressing trauma or discord, and rebuilding stability for all family members. Family dynamics intertwined with divorce due to apostasy are intricate and multifaceted, influenced by cultural nuances, religious convictions, and available social networks. Seeking requisite support and guidance is imperative for navigating the challenges and fostering overall family well-being.

In certain societies, particularly those with deeply ingrained religious conservatism, divorce resulting from apostasy can carry considerable social stigma for those involved, leading to feelings of betrayal and social exclusion. This stigma is particularly pronounced in communities characterized by strong religious or conservative values, and several factors contribute to its perpetuation: **Religious Values:** Within highly devout societies, religion often forms the cornerstone of both individual and familial identities. Apostasy-induced divorce is viewed as a violation of religious principles and is consequently condemned as a severe transgression, inviting substantial social censure for the individuals or families concerned. **Tradition and Culture:** In cultures where familial ties are revered as paramount, divorce is often perceived as a dishonorable failure reflecting poorly on the family's integrity. When divorce occurs in the context of apostasy, the stigma intensifies, as it is interpreted as a rupture in a relationship founded upon religious tenets. **Perception of Apostates:** Apostates, or individuals who renounce their faith, are frequently regarded with suspicion or even branded as traitors in societies deeply rooted in religious convictions. Consequently, divorces initiated by apostasy are further stigmatized due to prevailing biases against those who abandon religious beliefs. **Societal and Familial Influence:** Social stigma surrounding divorce triggered by apostasy is reinforced by familial and societal pressures. Individuals or families undergoing such divorces may face ostracism, coercion to reconcile fractured relationships, or even threats of violence from offended relatives. **Limited Social Support:** The pervasive stigma associated with divorces stemming from apostasy can hinder affected individuals or families from seeking vital social support. Fearful of judgment or rejection, they may refrain from discussing their predicament with friends, relatives, or religious communities, further exacerbating their isolation. Overcoming the entrenched social stigma surrounding divorces linked to apostasy necessitates a paradigm shift in societal attitudes and perceptions. It is imperative for communities to recognize the nuanced complexities of individual and familial circumstances and extend support and empathy to those navigating such challenges, free from condemnation or reproach. This entails fostering inclusivity and establishing nurturing support networks tailored to individuals and families grappling with apostasy-induced divorces.

The repercussions of divorce arising from apostasy extend beyond familial dynamics and societal perceptions, permeating into the realm of values and identity. This divorce-induced upheaval often prompts a profound reassessment of personal and communal beliefs, catalyzing shifts in individual and familial identities. Here are several dimensions of these transformative changes: **Evolution of Religious Values:** Divorce stemming from apostasy precipitates a reassessment of religious convictions

within the affected individuals and families. This internal conflict often engenders introspection regarding religious identity and may result in alterations in religious observance and practice. **Redefinition of Family Identity:** Apostasy-induced divorce precipitates a redefinition of familial identity, as families once perceived as adherents to Islam may grapple with newfound perceptions and societal categorizations. **Negotiating this redefined identity** can prove challenging and disorienting for all family members. **Alteration in Social Support Networks:** Divorce triggered by apostasy prompts a reconfiguration of social support networks. While individuals or families undergoing divorce may experience a loss of support from their religious community, they may concurrently find solace in more inclusive environments or from empathetic individuals sharing similar experiences. **Transformation of Personal Values:** Apostasy-induced divorce precipitates a reevaluation of personal values within the individuals involved. This introspective process often manifests as shifts in belief systems, life priorities, and worldviews as individuals navigate the quest for meaning amidst life-altering circumstances. **Impact on Children's Identity:** Divorce arising from apostasy exerts a profound influence on the identities of children embroiled in the familial upheaval. These children may grapple with identity conflicts and confusion regarding their religious beliefs and familial values, necessitating robust support and guidance from parents and society. Navigating the tumultuous terrain of shifting values and identities consequent to divorce due to apostasy demands patience, empathy, and understanding from both the individuals undergoing these transformations and the broader societal fabric. Encouraging open dialogue, fostering inclusive environments, and extending unwavering support are imperative in facilitating the journey toward self-discovery and identity reconstruction amidst the tumult of divorce-induced apostasy.

The repercussions of divorce due to apostasy extend deeply into the lives of children, imposing significant psychological and emotional burdens. They often grapple with identity turmoil, internal discord, and difficulty acclimating to the familial shifts. Here are several potential effects on children amidst divorce stemming from apostasy: **Heightened Anxiety and Uncertainty:** Children may grapple with heightened levels of anxiety and uncertainty in response to the abrupt restructuring of their family unit. The addition of religious abandonment by one parent compounds their distress, fostering a sense of ambiguity and bewilderment. **Identity Confusion:** Divorce precipitated by apostasy may instigate a profound sense of identity confusion in children. They confront a clash between the religious teachings imparted by their parents and the stark reality of one parent renouncing that faith, prompting introspection on their own beliefs and identity. **Social Stigma:** Children embroiled in divorce due to apostasy may encounter social stigma from peers, neighbors, or broader community circles. They may be unfairly branded as members of a controversial family or labeled as "children of an apostate," exacerbating feelings of ostracization and alienation. **Emotional Turmoil:** The dissolution of their parents' marriage coupled with the repercussions of one parent's religious departure can evoke profound emotional turmoil in children. Feelings of sadness, anger, or guilt may intensify, undermining their emotional well-being and hindering healthy developmental progress. **Disruption of Living Environment:** Apostasy-induced divorce often precipitates significant upheavals in children's living arrangements, including changes in residence, schooling, and daily routines. These disruptions can exacerbate stress levels, fostering feelings of instability and insecurity. **Altered Parent-Child Dynamics:** Divorce arising from apostasy can strain the parent-child

relationship. Children may grapple with feelings of disconnect from the apostate parent and contend with conflicts within their relationship, further complicating their emotional landscape. To aid children in navigating the aftermath of apostate divorce, it is imperative for parents and familial support networks to offer unwavering emotional guidance, foster open channels of communication, and provide avenues for expression of their emotions. Seeking assistance from mental health professionals or family counselors can offer invaluable support in helping children navigate the intricate challenges posed by this complex divorce scenario.

Fifth, Alterations in Social Dynamics: Divorce resulting from apostasy can instigate shifts in societal dynamics, influencing perspectives on marriage, family structures, and religious affiliations, thereby impacting established social and cultural norms. The repercussions of divorce due to apostasy extend beyond individual families, affecting broader societal dynamics. Here are some of the alterations in social dynamics that may transpire: Shifts in Social Networks: Apostasy-induced divorce may disrupt the social networks of both parents and children. Families navigating divorce may witness changes in their relationships with extended family members, friends, and religious communities. Differences in religious beliefs can strain or sever these connections, altering the familial social fabric. Impact on Social Interactions: Children embroiled in divorce prompted by apostasy may encounter challenges in their social interactions within peer groups and educational settings. Explaining their familial circumstances may prove daunting, leading to social stress and potential discrimination from peers. Influence on Social Identity: The fallout of divorce due to apostasy can reshape children's social identities, eliciting shifts in perceptions from peers, educators, and broader society. The social stigma attached to contentious divorces can undermine their self-esteem and self-perception. Changes in Social Engagements: Apostasy-triggered divorce can disrupt familial participation in communal activities, such as religious gatherings, familial gatherings, or community events. Altered family structures or discomfort stemming from interfaith dynamics may diminish the frequency or participation in such engagements. Augmented Social Support: Despite the upheaval in social networks and interactions, apostate divorce can foster heightened social support for affected families. Assistance from friends, extended family, or inclusive communities can aid families in navigating challenges and fortifying intra-familial bonds. The transformations in social dynamics resulting from divorce due to apostasy are intricate and multifaceted, affecting various facets of family life and children's experiences. It is imperative for families to actively seek out social support and engage in open dialogue about the changes they are undergoing, fostering resilience and fostering healthy social patterns amidst the upheaval.

Sixth, Religious Dynamics: Divorce stemming from apostasy can intricately influence the dynamics within religious communities, particularly in societies where religion holds significant sway. This impact may manifest through debates surrounding religious laws, perspectives on apostasy, and the role of religion in personal and communal spheres. The religious dynamics associated with apostasy-induced divorce are multifaceted and contingent upon individuals' religious convictions, practices, and prevailing cultural norms. Here are several religious dynamics that may unfold: Clash of Religious Values: Apostasy-related divorce often precipitates a clash of religious values between the involved partners. The decision of one spouse to renounce the Islamic faith can engender moral and religious discord with the other spouse, complicating the divorce proceedings and straining the

relationship. Considerations of Religious Law: Islamic religious jurisprudence may significantly influence the legal aspects of divorce resulting from apostasy. The conversion of one spouse may impact various divorce procedures, including matters such as child custody, asset division, and spousal support. The interpretation of Islamic legal doctrines and family laws prevalent in the jurisdiction will dictate the legal framework governing the divorce. Legal Safeguards for Religion: In devoutly religious societies, divorce due to apostasy may provoke sensitive legal debates aimed at safeguarding religious values and discouraging religious conversion leading to divorce. Legal mechanisms, including regulations on apostasy-related divorce and measures to deter religious conversions, may be implemented to preserve religious integrity. Impact on Religious Communities: Divorce due to apostasy can reverberate within religious communities, fostering internal divisions or spurring debates on how to address divorce cases involving religious conversion. Such occurrences may prompt introspection within religious groups and provoke discussions on the integration of religious and societal norms. Spiritual and Moral Deliberations: Apostasy-triggered divorce can evoke profound spiritual and moral deliberations for individuals and families. Negotiating between religious obligations and familial well-being may pose a moral dilemma, necessitating introspection on religious precepts and ethical values. The religious dynamics inherent in apostasy-induced divorce are often intricate, giving rise to internal and external conflicts within families and society. Seeking guidance from religious leaders, legal experts, and mental health professionals can aid individuals and families in navigating these complexities judiciously.

Seventh, Psychological and Emotional Challenges: Divorce stemming from apostasy can present profound psychological and emotional hurdles for those involved, leading to stress, anxiety, and depression, along with difficulties in managing feelings of loss and trauma. The psychological and emotional toll of divorce resulting from apostasy is substantial, affecting both the spouses and their children. Here are some of the challenges that may arise: Identity Crisis: A fundamental challenge lies in grappling with a shift in identity and purpose for individuals navigating divorce due to apostasy. This upheaval involves redefining oneself as a partner, parent, and person of faith, often triggering internal conflicts related to religious and moral convictions. Anxiety and Stress: Divorce inherently induces significant stress, which is further exacerbated when it occurs due to apostasy. Individuals may grapple with anxiety about their future, uncertainties surrounding relationships with loved ones, and apprehensions about societal perceptions and reactions. Grief and Loss: An immense emotional challenge stems from grappling with grief and a profound sense of loss. Individuals may mourn the dissolution of their marital bond, the dreams of a shared future, and the stability once enjoyed in their lives. Feelings of Failure and Guilt: Individuals experiencing divorce as a result of apostasy may wrestle with feelings of failure in maintaining their marital union or upholding their religious convictions. This internal struggle can lead to profound guilt and a sense of letting down themselves, their partner, or their family. Uncertainty Regarding Children: Parents navigating apostasy-induced divorce may contend with uncertainties regarding the impact of the divorce on their children. They may grapple with concerns about their children's emotional well-being, psychological adjustment, and adaptation to changes in family dynamics. Social Stigma and Isolation: Those undergoing divorce due to apostasy may encounter social stigma and ostracism from their community or religious circles. This societal rejection can intensify feelings of

isolation, leaving individuals feeling disconnected and unsupported. To surmount the psychological and emotional challenges entwined with apostasy-induced divorce, seeking appropriate support and guidance is crucial. This may encompass marriage counseling, bolstering relationships with family and friends, and enlisting the aid of mental health professionals adept in navigating divorce-related upheavals and shifts in religious identity. Accessing such support systems can assist individuals in managing stress, enhancing emotional well-being, and embarking on the path to healing.

In essence, divorce resulting from apostasy entails multifaceted and diverse implications within social and cultural spheres. Its ramifications extend beyond the individuals directly affected to encompass families, communities, and society at large. Hence, it is imperative to consider these social and cultural repercussions when addressing divorce cases entangled with apostasy.

Challenges and Opportunities in the Development of Progressive Islamic Law towards apostasy in the context of divorce and the application of Maqashid Syari'ah principles

The endeavor to delineate challenges and opportunities in crafting progressive Islamic law in Indonesia, particularly concerning apostasy within the context of divorce and the application of Maqashid Syari'ah principles, encompasses multifaceted dimensions demanding meticulous scrutiny. Below is a comprehensive elucidation of these challenges and opportunities:

1. Challenge

Clash between Conservatism and Reform: A significant hurdle lies in reconciling the divergence between conservative ideologies, which prioritize upholding traditional religious doctrines, and reformist perspectives that advocate for alignment with contemporary values and human rights. Effectively bridging these disparate approaches in formulating progressive Islamic law poses a formidable challenge. **Interpretational Complexities:** The interpretation of Islamic law concerning apostasy and divorce exhibits variability among scholars and tends to be inherently subjective. Addressing this challenge necessitates an impartial and inclusive approach to accommodate diverse interpretations, fostering broader consensus. **Resistance to Change:** Conservative factions may exhibit resistance towards embracing more progressive Islamic legal frameworks, perceiving them as a departure from established norms. Overcoming such resistance mandates a tactful approach and adept communication strategies to navigate emerging tensions.

Resolution of Secular-Islamic Law Conflicts: In jurisdictions characterized by hybrid legal systems, navigating conflicts between secular laws and Islamic jurisprudence concerning divorce due to apostasy presents inherent challenges. Integration of Maqashid Syari'ah principles into legal development endeavors offers a pathway to harmonize the two legal frameworks. Dalam hal ini penulis berusaha mengidentifikasi tantangan dan peluang dalam membangun hukum Islam progresif di Indonesia, terutama terkait dengan pemahaman terhadap murtad dalam konteks perceraian dan aplikasi prinsip-prinsip Maqashid Syari'ah. Tantangan dan peluang dalam pembangunan hukum Islam progresif terhadap murtad dalam konteks perceraian dan aplikasi prinsip-prinsip Maqashid Syari'ah melibatkan berbagai aspek yang kompleks dan memerlukan pertimbangan yang

matang. Berikut adalah penjelasan secara luas tentang tantangan dan peluang tersebut:

Opportunity Enhanced Legal Literacy and Education: There are prospects for elevating public awareness and comprehension of Islamic law, encompassing the tenets of Maqashid Sharia. Robust legal education initiatives can counter misinterpretations and foster more inclusive viewpoints. **Innovations in Legal Frameworks and Policies:** Opportunities abound for crafting innovative legal frameworks and policies that espouse the progressive values and ideals of Maqashid Syari'ah. This may entail devising alternative legal avenues to address divorce cases stemming from apostasy, prioritizing principles of justice, compassion, and individual well-being. **Strengthened Collaboration Across Institutions:** There are opportunities to bolster collaboration among religious bodies, legal entities, and civil society organizations in deliberating progressive Islamic legal matters. Collaborative efforts among diverse stakeholders can facilitate broader consensus-building and facilitate the implementation of more impactful reforms. **Impact of Globalization and Modernization:** Globalization and modernization present opportunities for societal and cultural transformation, including in the interpretation of Islamic law. This can create avenues for the expansion of the scope for developing progressive Islamic legal frameworks aligned with the principles of Maqashid Syari'ah.³⁰

By capitalizing on these openings and confronting current obstacles, the advancement of forward-looking Islamic jurisprudence regarding divorce stemming from apostasy can represent a significant stride towards enhanced justice, compassion, and societal welfare for both individuals and communities at large.

Conclusion

Based on the findings and discussion presented earlier, the author concludes that the evolution of Islamic jurisprudence in Indonesia, particularly concerning apostasy-induced divorces, adheres to the framework of Maqasid al-Syariah, prioritizing the safeguarding of religion, life, intellect, lineage, and property. Despite Islamic law's adaptation to socio-cultural contexts, there exists discourse surrounding apostasy and its ramifications on marital dissolution. From the perspective of Maqasid al-Syariah, the termination of a marriage due to apostasy is viewed as safeguarding religious identity and individual well-being. Nevertheless, considerations must also encompass the preservation of familial ties and offspring, alongside the rights of all parties involved. Hence, the progression of Islamic law in Indonesia pertaining to apostasy-triggered divorces necessitates a comprehensive approach, integrating Maqasid al-Syariah principles, socio-cultural dynamics, and the rights and welfare of individuals and society.

Bibliography

³⁰ Sita Hidayah, "From Unity in Diversity to Culture Wars? Aceh Women's Mastery over Adat, Islam, and the State Inheritance Laws," *Women's Studies International Forum* 103 (March 1, 2024): 102881, <https://doi.org/10.1016/j.wsif.2024.102881>.

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PAGE 17

PAGE 18

PAGE 19

PAGE 20
