

ABSTRAK

Nadya Novianti. NIM.230211050131. *Dinamika Penerapan Asas-Asas Peradilan Pada Perkara Isbat Nikah Mualaf*, di bawah Pembimbing I: Dr. H. A. Sukris Sarmadi, MH., dan Pembimbing II: Prof. Dra. Hj. Yusna Zaidah, S.H., M.H., Tesis Pascasarjana UIN Antasari Banjarmasin 2026.

Kata Kunci: *Isbat Nikah, Mualaf, Asas-asas Peradilan*

Asas personalitas keislaman merupakan asas yang menentukan kewenangan absolut Pengadilan Agama. Penerapannya dalam perkara isbat nikah yang diajukan oleh mualaf menimbulkan persoalan hukum karena hubungan hukum perkawinan para pihak tidak lahir berdasarkan hukum Islam. Kondisi tersebut berpotensi menimbulkan perbedaan penafsiran dan penerapan antar hakim serta mempengaruhi penerapan asas-asas peradilan agama lainnya. Oleh karena itu, diperlukan kajian mengenai dinamika penerapan asas-asas peradilan agama dalam penyelesaian perkara isbat nikah mualaf.

Penelitian ini bertujuan untuk menganalisis dinamika penerapan asas-asas peradilan agama oleh hakim dalam penyelesaian perkara isbat nikah yang diajukan oleh mualaf, serta merumuskan model penerapan integratif asas-asas peradilan agama yang selaras dengan tujuan dan prinsip-prinsipnya.

Penelitian ini merupakan penelitian hukum normatif dengan pendekatan kasus (*case approach*) dan pendekatan perundang-undangan (*statute approach*). Bahan hukum primer berupa putusan Pengadilan Agama mengenai isbat nikah mualaf dianalisis bersama bahan hukum sekunder dan tersier melalui studi dokumentasi, kemudian diolah secara kualitatif menggunakan teknik interpretasi hukum dan analisis terhadap peraturan perundang-undangan, putusan pengadilan, serta doktrin hukum.

Hasil penelitian menunjukkan bahwa, pertama, penerapan asas-asas peradilan agama dalam perkara isbat nikah mualaf bersifat dinamis melalui kreativitas yudisial. Hakim memperluas penerapan asas personalitas keislaman dan memadukan hukum positif, khususnya Pasal 7 ayat (3) huruf e Kompilasi Hukum Islam, dengan fikih klasik untuk mengisi kekosongan norma. Meskipun demikian, penerapannya belum seragam sehingga perlindungan hukum yang diberikan masih bergantung pada pertimbangan masing-masing hakim. Kedua, penelitian ini merumuskan model penerapan integratif asas-asas peradilan agama yang berlandaskan asas hukum acara, fikih klasik empat mazhab, dan *maqāṣid al-syarī'ah*. Model tersebut terdiri atas empat elemen, yaitu prasyarat kewenangan berjenjang, standar pembuktian materiil, standar konstruksi amar putusan, dan standar pelayanan yang setara sebagai pedoman untuk mengisi kekosongan norma dan mewujudkan praktik peradilan yang lebih konsisten.

ABSTRACT

Nadya Novianti. Student ID 230211050131. *The Dynamics of the Application of Judicial Principles in Marriage Validation (Itsbat Nikah) Cases Involving Converts to Islam (Muallaf).* Supervised by Dr. H. A. Sukris Sarmadi, M.H. as Supervisor I and Prof. Dra. Hj. Yusna Zaidah, S.H., M.H. as Supervisor II. Master's Thesis, Graduate School, Antasari State Islamic University Banjarmasin, 2026.

Keywords: *Itsbat Nikah (Marriage Validation), Converts to Islam (Muallaf), Judicial Principles.*

The Islamic personality principle constitutes one of the fundamental principles governing the Religious Courts' absolute jurisdiction in Indonesia. Its application in marriage validation (*itsbat nikah*) cases involving converts to Islam (*muallaf*) raises legal issues because the legal relationship underlying the marriage was not originally established under Islamic law. This condition may result in inconsistent judicial interpretation and application while also affecting the implementation of other principles of religious judicial administration. Therefore, this study examines the dynamics of applying the principles of the Religious Courts in adjudicating marriage validation cases involving converts to Islam.

This study aims to analyze the dynamics of the application of the principles of the Religious Courts by judges in resolving marriage validation cases involving converts to Islam and to formulate an integrative model for applying those principles in accordance with their objectives and underlying legal principles.

This research employs normative legal research using the case approach and the statutory approach. The primary legal materials consist of Religious Court decisions concerning marriage validation involving converts to Islam, which are analyzed together with secondary and tertiary legal materials through documentary study. The data are examined qualitatively using legal interpretation and analysis of legislation, judicial decisions, and legal doctrines.

The findings reveal two principal conclusions. First, the application of the principles of the Religious Courts in marriage validation cases involving converts to Islam is dynamic and reflects judicial creativity. Judges extend the application of the Islamic personality principle and integrate positive law, particularly Article 7 paragraph (3) letter (e) of the Compilation of Islamic Law, with classical Islamic jurisprudence to address normative gaps. Nevertheless, the application remains inconsistent, resulting in varying levels of legal protection depending on the individual judge's reasoning. Second, this study formulates an integrative model for applying the principles of the Religious Courts based on procedural law principles, the classical jurisprudence of the four Sunni schools of law, and *maqāṣid al-sharī'ah*. The proposed model comprises four cumulative elements: a hierarchical jurisdictional prerequisite, a substantive evidentiary standard, a standard for the formulation of judicial rulings, and an equal service standard to address normative gaps and promote greater consistency in judicial practice.