ABSTRACT

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This research aims at answering a problem on status at the child of one of a couple who converts into another religion. Apostasy is an unfaithful manner to his religiosity by discarding the faith. The case in this study is that a marriage is performed by which one of the couple is originally a Christian then converted to Islam to undertake an Islamic marriage. Afterwards, the marriage of the couple gives their first male child in household. In the middle of the relationship, one of the couple converts back to his previous religion and once the couple are endowed a daughter. It is stated in The Marital Law No.1 year 1974 that a marriage is justified to legal if it is conducted based on each religion laws and its the belief. Whereas the Compilation of Islamic Law article 44 states: it is forbidden for a muslim woman to conduct a marriage with a man who is not muslim. Divorce can occur for the following reasons, as stated in The Compilation of Islamic Law article 116 point (h) that conversion or apostasy causes disharmony in the family.

This study is categorized into library research or normative research using a comparative approach. The method to collect data is through documentation and literatur studies. In this study, the researches compares how the child status is reviewed based on The Law No. 1 Year 1974 and The Compilation of Islamic Law

From this research, it is found that the status of children born by couple which one of them converts into another religion based on The Law No. 1 Year 1974 and The Compilation of Islamic Law is justified lawful, though the second child in the marriage is void (not in one conviction), though on the contrary to The Compilation of Islamic Law article 116 point (h), article 40 point (c) and article 44. Because in this case, the Court of Religious has not decided the divorce.

Concerning the comparation between The Law No. 1 Year 1974 and The Compilation of Islamic Law, both are positive law used by court. The difference is that The Law No. 1 Year 1974 only covers general restriction of marriage. While The Compilation of Islamic Law explains more explicit and detailed rules about the marriage.