

## ABSTRACT

**Mochamad Fuad Hasan, 08210045, 2012, Application of the method of discovery of the Law (*Rechtsvinding*) by a judge of Religious Court Blitar in Case of Marriage Dispensation, Thesis, Department of Al-ahwal Al-syakhsiyyah, Faculty of Sharia, Islamic University of Malang State Maulana Malik Ibrahim. Supervisor: Drs. M Nur Yasin, M.Ag.**

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**KEY WORDS:** *Discovery Methods Law, Judge, Marriage Dispensations*

Judges as one of the pillars in the judicial process and law enforcement in Indonesia, serving in the judiciary, which is to receive, examine, adjudicate, and settle the case goes to trial. Assignment of judges is very strategic and decisive in the process of justice through law enforcement and rulings. Thus the task of the judge who was called by *rechtsvinding*, namely through the process of finding legal rulings, not least in the case the decision of marriage dispensations. Religion Blitar idealized court judge not only as a mujtahid, but also the holder of the judicial authorities should explore the value of laws in society, especially in the case of marriage dispensations.

The focus of the problems examined in this study is the discovery procedures of law and legal discovery methodological foundation (*rechtsvinding*) by judges in religious courts Blitar. This study focused on the case of marriage dispensations.

This type of research is the study normativeve. Data form of secondary data collected through documentation and interviews. Secondary data consists of three legal materials, the primary legal materials of decision and the book, a book and the secondary legislation and tertiary form of dictionaries and websites. Interviews are used as additional materials that are used for data analysis, because the primary ingredient is obtained from the Religiuous Education Blitar a ruling that required the interview to the judge. Data analysis using descriptive-qualitative, which outlines a clear and concise regarding the application of the method of the invention by law judge in the case of Religious dispensation of Blitar marriage.

The results obtained are legal discovery procedures in making the decision of the dispensation of marriage by religious courts Blitar includes 3 (three) phases, namely an arts phase, qualification and constitutive. The methodological foundation discovered by judge in a court of law Religion Blitar is using the three principles of legal discovery, which includes the *interpretation*, *construction law* and *term* (*masalah al-mursalah*). Interpretation is the interpretation used *grammatical* and *systematic interpretation*, while the legal construction used is *legal fiction*.