

## ABSTRACT

Anggraini, Faradibah. 07210015. 2011. The Consideration of judge Rejects *iwadl* Petition of *khulu'* Case in the religious court of Malang (Study of the Case Number: 1274/Pdt.G/ 2010/ PA.Mlg.). Thesis. Department of Al-Ahwal Al-Syakhshiyah. Faculty of Islamic Law, The State Islamic University of Maulana Malik Ibrahim Malang. Supervisor: Sudirman, M.A

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Divorce cases showed a significant increase. The number of divorce cases actually is increasing from the wife's initiative or contested divorce. This phenomenon of contested divorce is largely caused by the economic impact and also the presence of third side made by the husband. But there are also contested divorce cases accused by wife to the husband who does not think to do something like what the wife accused to the court but he thinks that he has done his responsibility as leader of family. So the husband is not willing to decide his marriage bond. Wife still insists to divorce that eventually led to *iwadl* ' petition of husband by accepting fee from his wife, this is named the *khulu* case. Based on the case, this thesis examines on the verification procedure *khulu'* in contested divorce cases and explores the basic consideration of the judge against the decision to know the procedures and rationale used by the judge so the *iwadl* ' petition of *khulu'* case in contested divorce was rejected.

In the process of this study, researchers used a design of descriptive research with using a type of empirical research in the form of case studies. The approach used in this study is a qualitative approach that focuses on results of collecting data from informants who are determined, that is the Judge of Religious Court of Malang that has role in deciding the case of petition *iwadl* of *khulu'* case in contested divorce. Then the data source obtained from primary data and secondary data collected by using interviews and documentation. These data were processed through the stages of editing, classification, verification, analysis, and conclusions so that it becomes a research result that can be accounted for.

The results of this study indicate that the *khulu'* procedure implemented on the Religious Court is like as procedure of usual divorce. Then, the basis considerations of the judge rejected *iwadl* of *khulu'* case is Article 1 UU No. 1 of 1974 jo, Article 3 Compilation of Islamic Law, Article 19, point (f) PP. 9 of 1975 jo. Article 116 point (f) KHI, Article 1 point (i) Compilation of Islamic Law, *Hadith* of Bukhari history, and Nasai is from Ibn Abbas that is about *khulu'*. In this case there is no wife's willingness to pay *iwadl* / ransom to the husband and the causes of family disharmony is not the wife's fault only, but also because of the husband's fault. So *iwadl* ' petition is took unreasonable. Judge considers the wife's appropriateness and ability to pay *iwadl*.