

ABSTRACT

Rahmania, Maulidia. 08210009. 2012. *Jugdes View on the Marital Status of Divorced Woman Outside Religious Court Proceedings (Case Studies in Religion Court Pasuruan)*. Al-Ahwal al-Syakhshiyah Departement, Syariah Faculty, The State Islamic University Maulana Malik Ibrahim of Malang. Supervisor: Erfaniah Zuhriah, M.H.

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Marriage is a sacred bond between husband and wife, marriage is considered valid if its conditions and pillars have been fulfilled. However if the marriage has been committed while the wife is a woman who has been divorced by her first husband but not through court proceedings then the law of is still dualism. However according to 39 of Law no. 1/1974 on Marriage and article 65 of Law no. 9/1989 on Religious Courts divorce can only be pronounced in front of the trial court after the relevant court trying and un successfully tried to reconcile the two sides.

The purpose of this research is to determine the method which is used by ijtihad judges in deciding cases of divorce the wife who had divorced her husband outside religious court, to describe the view of the judges on the legal status of marriage both divorced women outside the court and to determine the legal status of children of the second marriage of divorced women.

The research method used is field research (field reseach) with the help of a qualitative approach. Sources of data used are primary data sources such as interviews with informants (religious court judges Pasuruan) and secondary data form in the sources are legislation, books, journal of marriage and divorce. Data collecting techniques are interview, observation and documentation where as data processing techniques are editing, classifying, verifying, analyzing and concluding)

The results showed that methods of ijtihad which is used the by judges in deciding cases of wife who had divorced her husband outside religious court is Maslahah mursalah method. The legal status of the second is not legitimate due to the divorce of her first husband is outside of court, then the second marriage is also illegal (does not have legal power) and the status of the child with second husband, that there are two opinions (a) the children get a birth certificate from the civil office (b) children can come to the father's lineage through the recognition of the child by filing a petition asking the origin of the child to a religious court after they legally married in the religious affairs office.