

## **ABSTRACT**

Siti Lailatul Maghfiroh 11210116, **Divorce Problem Solving in Common Law (Case Study at Osing Clan, Kemiren, Glagah, Banyuwangi)** Thesis, Al-Ahwal Al-Syakhshiyah Department, Sharea Faculty, The State Islamic University Maulana Malik Ibrahim of Malang. Supervised by Erik Sabti Rahmawati M.A.

**Key words** : Mediation, Tradition, OsingClan

Conflict is a phenomena that cannot be avoided from human life. Actually conflict is not a matter to be left from, but it is about how we should solve it together. Kinds of resolution of conflict had happened before the Prophet. In Indonesia, it is known as discussion. In this time, traditional society still use it to solve their problem. Common law have pattern to solve lawsuit, like a resolution of divorcement in Osing clan that have their own way to solve it in their life.

The focus of this research is about how the resolution of divorce with mediation using common law in Osing clan and how the role of tradition leader as the mediator to solve the divorcement case in traditional society. This study employs an empirical law research that was described in nature with qualitative approach. The data is derived from the result of interview and documentation, then data which has been derived was analyzed by descriptive qualitative analysis.

The result of this study shows that mediation in Osing common law is still using discussion with family and also helped by tradition leader that had been trusted to solve their problems. The resolution of divorce with mediation using common law in Osing clan are: (1) The one who wishes divorce conduces the delegation from each family (from the husband or the wife) and also asks for help to the elder of the ethnic. (2) The one who wishes divorce states the purpose and the reason why he or she wants to divorce. (3) The ethnic's elder gives some advices and tries to find a solution. (4) Determining the day to collect the family of each side ( if each side agree to divorce). (5) The ethnic's elder informs the decision as the result of mediation. The one who functions as the mediator in solving the divorce is the ethnic elder, not the leader of the ethnic. The ethnic's elder has an important role during the process of mediation, such as giving some advices and trying to find a solution related to the problem. Beside that, the ethnic's elder also has a role in notifying the result of mediation, which states that the spouses have divorced base on the family presence.