

ABSTRACT

Ramadhita. 0721011. 2011. Civil Status of the Illegitimacy Child From Nikah *Sirri* Through The Determination Origin of Children (A Case Study in Religious Court of Malang Regency). Al-Ahwal Al-Syakhsiyyah Department, Faculty of Sharia, The State Islamic University Maulana Malik Ibrahim of Malang.
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The phenomenon of Nikah *Sirri* is no longer the social-religious issues in the society, but has turned into a legal phenomenon. This marriage's model can not be protected by law, because it does not have a certificate as proof of authenticity. In other words, nikah sirri was not considered as legal marriage by the state. The implication, the position of the parties, including children that was born in this marriage's model easily denied and the his or her civil status equivalent with the child that was born outside of marriage.

The purpose of this study was to describe the views of judges on the civil status of children that was born from nikah sirri through the determination origin of children in the Religious Court of Malang Regency and knowing the legal considerations for judges in determining the origin of children in the Religious Court of Malang Regency.

The research method used is the type of field research with a qualitative approach. The sources of data are primary data source in the form of interviews with informants, the religious court judges Malang Regency and secondary data sources in the form of seven the determining origin of children from Religious Court of Malang Regency, statutes, books, journals about nikah *Sirri*, research results or writings that correspond to the themes discussed.

The conclusion of this reseach showed that the determining origin of children can be used as a legal remedy for the civil status of the nikah sirri's children to have an equal footing with the legitimate child if the nikah sirri from their parents get along and meet the legal requirements of marriage.. Legal reasoning that used by the judges in religious court Malang Regency in determining the origin of giving the child based on the ability of the applicant to prove nikah *Sirri* not violate article 2 paragraph (1) of Undang-Undang Nomor 1 Tahun 1974 and the children was born in that marriage.