

ABSTRACT

Ummah, Choirul. 09210078. **The VIEW OF THE RELIGION COURT JUDGE at MALANG CITY ABOUT IMPLEMENTATION OF ARTICLE 8 SUPREME COURT RULES NO.1 2008 ABOUT CHOOSE RIGHT of MEDIATOR.** Thesis. Department of family law. Syariah faculty. State Islamic University Maulana Malik Ibrahim Malang. Advisor: Dr. Hj. Tutik Hamidah, M.Ag.

Keyword : view of the judge, Supreme Court rules no.1 2008, Right To Choose Mediator

The right to choose is a fundamental right which includes the right to voice opinions. The Supreme Court rules no.1 of 2008 regulates that the right pick is choosing the mediator by the parties litigant. Given that in the Religious Court at Malang city has many of mediators, namely mediator from inside and outside of the Court. Thus, the article should be implemented effectively. However in practice, the Court has its own wisdom to implement the article. The researchers want to know the judges' view on the implementation of article 8 about right to choose the mediator.

This study intends and aims at obtaining an answer to the problem of how the judges view about the factors that hinder the implementation of the article and the solutions that may be able to reduce the barriers in the implementation of this article.

The type of this research is empirical research or field research. The research approach is qualitative. Thus, researcher must go directly to the Religious Court at Malang city in order to get more accurate data about implementation right to choose the mediator. This approach is a descriptive one, because researcher describes the events that occur in the society. This study use the method of collecting the data that obtained from interviews, observation, and documentation.

The results of this research is that the implementation of article 8 of the Supreme Court rules no.1 of 2008 can not be implemented effectively. Although in Religious Court at Malang city is equipped with mediator from the outside of court, but the process is still through the appointment by the judges. The view of the judge is caused by several factors, including the lack of public awareness, lack of legal awareness and legal culture in society, the absence of the litigants, the rules about the right to vote less so firm as a rule, mediation in court too late to implemented, no appointment is done directly by the judges, mediators are not the same about the concept of hakam. In addition, there are also solutions that can minimize the barriers in the view of the judge. The solutions give a deeper understanding to the society about mediation, making the board with more complete of information about the mediator, and mediation should be done before going to the court. But this is solution was not effectively, because not yet really implemented.