

ABSTRACT

Nasution, Muhammad Zulfadli. 09210065. 2014. *The Position of Hakam Family as a Witness in a Divorce Lawsuit in Simalungun Religious Court*. Thesis. Department of Al-Ahwal Al-Syakhshiyah, Sharia Faculty, Maulana Malik Ibrahim State Islamic University, Malang. Advisor: Dr. H. Isroqunnajah, M.Ag

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Hakam is a mediator in a dispute among spouses who aims to reconcile them. Hakam will play the role if every effort has been carried out unsuccessfully. All the efforts done by the husband include giving advice the wife, set himself apart from the wife in the bedtime, and lightly hit the wife so that it will not leave a scar or wound. A witness is the closest person who sees or awares of the incident. He/she is someone who is asked by the litigant or the judge to attend the trial as a witness. The witness will explain what he/she has seen or heard about the the case regarding the litigant. The legal term of the information given by the witness is an instrument of evidence in order for the information to be valid and verifiable. The witness' information given to the judges in the trial carried out in the Religious Court should be something that he/she has seen and experienced himself/herself.

This research is considered as an anaytical-descriptive research. It employs a juridical-normative approach concerning history of law approach and comparative law. The data collection techniques used are library study and field research. The data analysis technique is carried out using a juridical qualitative analysis and the result is elaborated in a narative-descriptive way.

Based on the result of analysis conducted in order to answer all the research problems, the conclusion the conclusions that can be taken are; **First**, the function and authority of hakam are figuring out the efforts needed to reconcile the spouses and finding the problems solving of the disputes without having the authority to decide the matter. The process of appointing the hakam is done through the Interim Measure, an incidental act by the judges before giving the final vedict. **Second**, both of the witnesses are not the spouses' relatives and are not choosen not because they see, hear, and experience the incident themselves. If so, the information will be rejected or considered not valid.