

ABSTRAK

ANA HIDAYATUR ROHMAH, NIM: 30502502699 “STUDI PENDAPAT HAKIM PENGADILAN AGAMA KELAS 1-A SEMARANG TENTANG PERBEDAAN SYARAT AGAMA BAGI SAKSI NIKAH DAN SAKSI PERSIDANGAN PERCERAIAN”

Perbedaan syarat agama bagi saksi nikah dan saksi persidangan perceraian adalah diperbolehkannya saksi non-Muslim untuk dimintai kesaksianya dalam persidangan. Saksi dalam pernikahan diharuskan mendatangkan saksi muslim sedangkan dalam persidangan perceraian tidak ada ketentuan tentang saksi itu harus muslim. Permasalahannya disini adalah dalam pernikahan diwajibkan untuk mendatangkan saksi muslim. Tetapi mengapa dalam saksi persidangan perceraian itu diperbolehkan kesaksian seorang non-Muslim, serta bagaimana pendapat hakim pengadilan Agama tentang perbedaan syarat agama bagi saksi nikah dan saksi persidangan perceraian, dan bagaimana dampak dari perbedaan tersebut.

Penelitian ini merupakan penelitian lapangan dengan pendekatan studi kasus (*case study*), yaitu penelitian yang dilakukan di Pengadilan Agama Kelas 1-A Semarang, penelitian ini bersifat kualitatif dengan menggunakan metode wawancara dan observasi, subjek penelitiannya yaitu para hakim di Pengadilan Agama.

Hasil penelitian ini menunjukkan bahwa perbedaan syarat agama bagi saksi nikah dan saksi persidangan perceraian adalah syarat saksi nikah diatur dalam Kompilasi Hukum Islam pasal 25 dan pasal 26. Sedangkan syarat saksi persidangan perceraian adalah menganut pada hukum acara perdata yakni *Herzien Inlandsch Reglement (HIR)* yaitu pasal 139-152, 168-172. Meskipun menurut pendapat hakim menyimpulkan bahwa tidak ada saksi dalam perceraian, saksi dalam persidangan perceraian hanyalah saksi alasan pemberian sebagai alat bukti.

Kata kunci: perbedaan syarat agama, saksi nikah, dan saksi persidangan perceraian.

ABSTRACT

ANA HIDAYATUR ROHMAH, NIM: 30502502699 "STUDY OF THE CLASS 1-A CLASS RELIGION JUDGES IN SEMARANG ABOUT THE DIFFERENCE OF RELIGION REQUIREMENTS FOR MARRIAGE WITNESS AND TRIAL WITNESS"

The difference in religious requirements for marriage witnesses and witnesses to divorce trials is that non-Muslim witnesses are allowed to be asked for their testimony in the trial. Witnesses in marriage are required to bring Muslim witnesses while in the divorce trial there are no provisions regarding witnesses that must be Muslim. The problem here is that marriage is required to bring Muslim witnesses. But why is the witness of a divorce allowed in a witness to a non-Muslim, as well as what the opinion of a Religious court judge is about the different religious conditions for the marriage witness and the witness of the divorce trial, and how the effects of the difference will occur.

This research is a field study with a case study approach, namely research conducted in the Semarang Class 1-A Religious Court, this research is qualitative using interview and observation methods, the research subject is the judges in the Religious Court.

The results of this study indicate that differences in religious requirements for married witnesses and witnesses of divorce trials are the conditions of marriage witnesses regulated in the Compilation of Islamic Law article 25 and article 26. While the witness witness's requirement for divorce is adhering to civil procedural law namely Herzien Inlandsch Reglement (HIR), namely article 139-152, 168-172. Even though in the opinion of the judge concluded that there were no witnesses in the divorce, the witness in the divorce trial was only a witness of justification as evidence.

key words: differences in religious requirements, marriage witnesses, and witnesses to the trial divorce.