

**REASONS OF INTERFAITH MARRIAGE ACTORS
FROM THE PERSPECTIVE OF ISLAMIC LAW
(CASE STUDY OF INTERFAITH MARRIAGE
IN NEW SOROWAJAN HAMLET, VILLAGE BANGUNTAPAN,
BANGUNTAPAN DISTRICT, BANTUL)**



A THESIS

**SUBMITTED TO THE FACULTY OF SYARI'AH AND LAW
IN PARTIAL FULFILLMENT OF REQUIREMENTS
FOR THE BACHELOR DEGREE IN ISLAMIC LAW**

**STATE ISLAMIC UNIVERSITY
SUNAN KALIJAGA
YOGYAKARTA**

**BY:
AHMAD AFANDI
SIN: 06350010**

SUPERVISORS:

- 1. Prof. Dr. KHOIRUDDIN NASUTION, M.A**
- 2. AGUS MOH. NAJIB, S.Ag, M.Ag**

**DEPARTMENT OF ISLAMIC FAMILY LAW
FACULTY OF SYARIAH AND LAW
SUNAN KALIJAGA STATE ISLAMIC UNIVERSITY
YOGYAKARTA**

2010

ABSTRACT

Interfaith marriage is a marriage between different religious adherents to build an everlasting household. Interfaith marriage is a real phenomenon to see and not such difficult to find all over Indonesia. It's also happening in New Sorowajan Hamlet, Village Banguntapan, Banguntapan District, Bantul. Of thirteen actors in this hamlet, five spouses are taken to be the sample in order to observe entire problems happened around the marriage, then the problems, especially their reasons to get married and the impacts resulted, are analyzed in accordance with Islamic law and Indonesian regulations with normative and sociological approach. Confusion around status of the marriage as well as the children that have been already born in the marriage, are the reason for the author to accomplish this research.

Interfaith marriage actors decided to get married based on many reasons. Having observation and interview to many respondents, I found seven reasons used by the interfaith marriage actors In New Sorowajan Hamlet to continue their desire to get married, namely: 1) love and affection 2) quality of human, not just the religion 3) suggestion from *kyai*. Having a consultation with an Islamic scholar (*kyai*)/Islamic lecturer, then they got that their marriage was permissible if their belief is strong 4) being pregnant 5) if they were prohibited to get married it would be discrimination and violation towards their human rights 6) they believe that all religions are similar 7) all components of the family approved including their parent thus the other things will not be a matter so that their desire to get marriage was supported.

I found also many negative impacts as the result of interfaith marriage, especially in this hamlet, namely: 1) obscurity of children's status and pretense in religion 2) problem of marriage legality, partially according to Islamic law 3) loss of right in inheritance 4) confusion within the law as the result of uncertainty 5) domination and anxiety of worship will be conducted 6) counterfeiting will continue because their marriage began with a counterfeit 7) one of the spouse probably will move to his husband/wife's religion. Beside the negative, there is also the positive impact, namely: it would create a sense of tolerance earlier within every single component of the family.

The result of the analysis is that of seven reasons only three of them probably are accepted, namely: 1) if their belief is strong, thus interfaith marriage will be allowed for them 2) being pregnant 3) if they were prohibited to get married it would be discrimination and violation towards their human rights. The other reasons are considered as no matter.

Of the many impacts, there are merely two impacts considered as the most important thing to be analyzed, namely about children's status and right of inheritance. The result is that there are two possibilities, children's status is the same as commonly people or they are considered as son of *zinā*, so do inheritance matter.

Key words: *Interfaith Marriage, Reason, Islamic Law, Indonesian Regulation*

Prof. Dr. Khoiruddin Nasution, M.A
The Lecturer of Faculty of Syari'ah and Law
Sunan Kalijaga State Islamic University
Yogyakarta

OFFICIAL NOTE:

Matter : The Thesis of Ahmad Afandi

Honorable:
**The Dean of Faculty of
Syari'ah and Law
Sunan Kalijaga
State Islamic University
in-Yogyakarta**

Assalamu'alaikum wr. wb.

Having read, researched, and corrected to whatever extent necessary,
we, as supervisor, think that the thesis belongs to:

Name : AHMAD AFANDI

SIN : 06350010

Department : Islamic Family Law

Title : Reasons of Interfaith Marriage Actors from The
Perspective of Islamic Law (Case Study of Inter-
faith Marriage in New Sorowajan Hamlet, Village
Banguntapan, Banguntapan District, Bantul)

could be submitted in a partial fulfillment of requirements to obtain a
bachelor degree in Islamic Law. Thus, it could be immediately tested.

Thanks a lot for being available and understanding, may this thesis
be useful, amin.

Wassalamu'alaikum wr. wb.

Yogyakarta, Dzulhijjah 5, 1431 AH

November 12, 2010 AD

Supervisor I,



Prof. Dr. Khoiruddin Nasution, M.A

OIN: 19641008 199103 1 002

H. Agus Moh. Najib, S.Ag., M.Ag
The Lecturer of Faculty of Syari'ah and Law
Sunan Kalijaga State Islamic University
Yogyakarta

OFFICIAL NOTE:

Matter : The Thesis of Ahmad Afandi

Honorable:
**The Dean of Faculty of
Syari'ah and Law
Sunan Kalijaga
State Islamic University
in-Yogyakarta**

Assalamu'alaikum wr. wb.

Having read, researched, and corrected to whatever extent necessary,
we, as supervisor, think that the thesis belongs to:

Name : AHMAD AFANDI
SIN : 06350010
Department : Islamic Family Law
Title : Reasons of Interfaith Marriage Actors from The
Perspective of Islamic Law (Case Study of Inter-
faith Marriage in New Sorowajan Hamlet, Village
Banguntapan, Banguntapan District, Bantul)

could be submitted in a partial fulfillment of requirements to obtain a
bachelor degree in Islamic Law. Thus, it could be immediately tested.

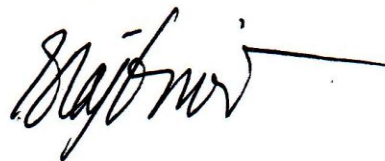
Thanks a lot for being available and understanding, may this thesis
be useful, amin.

Wassalamu'alaikum wr. wb.

Yogyakarta, Dzulhijjah 1 AH

November 8, 2010 AD

Co-Supervisor,



H. Agus Moh. Najib, S.Ag., M.Ag

OIN: 19710430 199503 1 001



THESIS VALIDATION

No: UIN.02/K.AS-SKR/PP.009/246/2010

The Thesis Entitled: "Reasons of Interfaith Marriage Actors from The Perspective of Islamic Law (Case Study of Interfaith Marriage in New Sorowajan Hamlet, Village Banguntapan, Banguntapan District, Bantul)"

Prepared and written by:

Name : Ahmad Afandi

SIN : 06350010

Was examined on : Wednesday, November 24, 2010

Examination Score : 95 (A)

and was stated that it could be accepted by Faculty of Syari'ah and Law, Sunan Kalijaga State Islamic University Yogyakarta.

Examination Committee:

Chief of Council,

H. Agus Moh. Najib, S.Ag., M.Ag

OIN: 19710430 199503 1 001

Examiner I,

Prof. Dr. Svamsari Anyar, M.A

OIN: 19560217 198303 1 003

Examiner II,

Dr. A. Bunyan Wahib, M.Ag, M.A

OIN: 19750326 199803 1 002

Yogyakarta, November 29, 2010

The Dean of Faculty of Syari'ah and Law

UIN Sunan Kalijaga Yogyakarta,



Prof. Sudian Wahyudi, M.A., Ph.D

OIN: 19600417 198903 1 001

TRANSLITERATION

The system of Arabic transliteration used in this thesis is based on Joint Circulating Letter of Minister of Religious Affairs and Minister of Education and Cultural Affairs of The Republic of Indonesia No. 158/1987 and 0543b/U/1987.

A. Single Consonant

Arabic Letters	Names	Letters of Latin	Assertions
ا	alif	not symbolized	not symbolized
ب	ba	b	Be
ت	ta	t	te
ث	ṣa	ṣ	es (with point on top)
ج	jīm	j	je
ح	ḥā'	ḥ	ha (with point below)
خ	khā'	kh	dan and ha
د	dāl	d	de
ذ	ẓāl	ẓ	zet (with point on top)
ر	rā'	r	er
ز	zai	z	zet
س	sin	s	es
ش	syin	sy	es and ye
ص	sād	ṣ	es (with point below)
ض	dād	ḍ	de (with point below)
ط	ṭā'	ṭ	te (with point below)
ظ	ẓā'	ẓ	zet (with point below)
ع	'ain	'	comma reversed from above
غ	gain	g	ge
ف	fā	f	ef
ق	qāf	q	qi
ك	kāf	k	ka
ل	lām	l	'el

م	mīm	m	'em
ن	nūn	n	'en
و	wāwū	w	w
ه	hā'	h	ha
ء	hamzah	'	apostrophe
ي	yā	y	ye

B. Double Consonant Caused by *tasydīd*, Written in Double

شخصية	written	Syakhsyiyyah
مودة	written	Mawaddah

C. *Ta' Marbūṭah* on The End of Word

1. Written by *h* if Read in *Sukūn*

رحمة	written	raḥmah
سكينة	written	sakīnah

(This stipulation is not required on Arabic words that has been assimilated into English language e.g. zakah etc, except if the original word is wished)

2. When followed by article 'al' and the second word is separated thus it's written by *h*

حاشية الباجوري	written	<i>Ḥāsyiah al-Bājūrī</i>
----------------	---------	--------------------------

3. If *ta' marbūṭah* lives by using *fathah*, *kasrah* or *ḍammah* thus it's written by *t* or *h*

بداية المجتهد	written	Bidāyah/ Bidāyat al-Mujtahid
---------------	---------	------------------------------

D. Short Vowels

ـَ	fathah	written	A
----	--------	---------	---

فعل	-	written	fa‘ala
ـ	Kasrah	written	I
ذكر	-	written	Zukira
ـ	ḍammah	written	U
يذهب	-	written	yaḏhabu

E. Long Vowels

1	fathāḥ + alif جاهية	written	ā jāhiliyyah
2	fathāḥ + ya’ dead ميتة	written	Ai maitah
3	kasrah + ya’ dead كريم	written	ī karīm
4	ḍammah + wawu dead فروض	written	ū furūḍ

F. Double Vowels

1	fathāḥ + ya’ dead بينكم	written	Ai bainakum
2	fathāḥ + wawu dead قول	written	Au qaul

G. Consecutive Short Vowels in a Word Separated by Apostrophe

أأنتم	written	A’antum
اعدت	written	U’iddat
لئن شكرتم	Written	La’in syakartum

H. Article Alif +Lam

1. If it’s followed by letter of *qomariyyah*, thus it’s written by "l"

القرآن	written	Al-Qur‘ān
--------	---------	-----------

القياس	written	Al-Qiyās
--------	---------	----------

2. If followed by letter of *Syamsiyyah*, thus it's written by the letter of *Syamsiyyah*, with omitting the letter of *l (el)*

السماء	written	As-Samā'
الشمس	written	Asy-Syams

I. Arranging Words in a Sentence

Written by the arranging:

ذوى الفروض	written	Zāwi al-furūd
اهل السنة	written	Ahl as-sunnah

STATE ISLAMIC UNIVERSITY
SUNAN KALIJAGA
YOGYAKARTA

MOTTO

الله في عون العبد ما دام العبد في عون أخيه

**(ALLAH WILL ALWAYS HELP HIS SERVANT AS LONG AS
THE SERVANT HELPS HIS FRIEND)**

MUHAMMAD SAW



**STATE ISLAMIC UNIVERSITY
SUNAN KALIJAGA
YOGYAKARTA**

DEDICATION

Alhamdulillah, this thesis is completed as an academic scientific work.

I dedicate this work to:

My dad and mom: Subakar and Sutinah

My brothers: Nurwahyudi, Ahmad Jainul, Shodiqin and all my families

My fiancée: Rinta Septy Amanda

My alma mater UIN Sunan Kalijaga

and all knowledge lovers all over the world



STATE ISLAMIC UNIVERSITY
SUNAN KALIJAGA
YOGYAKARTA

ACKNOWLEDGMENT

بسم الله الرحمن الرحيم

الحمد لله الذي أنزل السكينة في قلوب المؤمنين والذي أرسل رسوله بالهدى ودين الحق ليظهره على الدين كله ولو كره المشركون أشهد ان لا اله الا الله وحده لا شريك له وأشهد أن محمدا عبده ورسوله اللهم صل وسلم على محمد وعلى آله وصحبه اجمعين،
أما بعد

All praise and glorification allways be to Allah the only owner of greatness, glory, and majesty, who grants mercy, guidance and forgiveness to all of us although we forget to ask, so we could keep the faith, Islam, and Ihsan, as well as commitment as young generation to always be thirsty for knowledge.

Invocation and peace hopefully always be poured to Prophet Muhammad SAW, along with his families, friends, and people who grasp adamantly and firmly to the teachings he had brought up to the end of time.

This thesis is structured to meet the final assignment given by the Faculty of Syari'ah and Law as one of many conditions that must be met to obtain a bachelor degree on the field of Islamic Law.

I realize that the thesis could not be structured thoroughly and completely without any support, guidance, and prayer from the people around, who gived wisdom and experience to me so far. Therefore, I rightly have to thank to:

1. Subakar and Sutinah, my parent who become my biologic and spiritual dad and mom in my life and introduce Islam to me for the first time.
2. Drs. Yudian Wahyudi, M.A., Ph.D as Dean of Faculty of Syaria'ah and Law Sunan Kalijaga State Islamic University Yogyakarta and his staff.
3. Hj. Fatma Amilia, S.Ag., M.Si as Chairman of Department of Al-Ahwal Al-Syakhsyiyyah and her staff.
4. Prof. Dr. H. Khoiruddin Nasution, M.A and H. Agus Moh. Najib, S.Ag., M.Ag. as supervisor one and supervisor two who always support, motivate, and provide direction and guidance in the preparation of this thesis.
5. Fajri, Arif, Joko, and all my friends in Class A, my one roof's mates Nasrudin and Basid as well as All of Takmir of Mosque Baitul Arqom.
6. Everyone makes sense in my life that I could not mention one by one.

I also realize that this thesis is less perfect and more deficient, so that I hope the readers would be prepared to render suggestion, advice, and wise critique to patch insufficient part in this thesis. Eventually, may this thesis can be savored to improve treasure of Islamic knowledge. Amin.

Yogyakarta, Dzulqo'dah 29, 1431 AH

November 06, 2010 AD

Sincerely Yours,

Ahmad Afandi

SIN: 06350010

TABLE OF CONTENTS

TITLE PAGE	i
ABSTRACT	ii
SUPERVISOR’S OFFICIAL NOTE	iii
THESIS VALIDATION	v
TRANSLITERATION	vi
MOTTO PAGE	x
DEDICATION PAGE	xi
ACKNOWLEDGMENT	xii
TABLE OF CONTENTS	xiv
LIST OF TABLES	xvii
CHAPTER I: INTRODUCTION	1
A. Background of Study	1
B. Problem Formulation	6
C. Objective and Significance	7
D. Literature Review	8
E. Theoretical Framework.....	11
F. Research Method.....	17
G. Outline of The Thesis	20
CHAPTER II: MARRIAGE AND INTERFAITH MARRIAGE IN	
GENERAL	22
A. Marriage.....	22
1. The Basic Concept of Marriage.....	22
2. The Meaning of Marriage	23
3. Goals of Marriage	25
4. Marriage Legality	25
B. Interfaith Marriage.....	26
1. The Meaning of Interfaith Marriage	26
2. The Reasons for Realizing Interfaith Marriage	27
C. Interfaith Marriage on Islamic Law	29

1. <i>Musyrik/Kāfir</i> and <i>Ahl al-Kitāb</i>	29
2. Muslim Men’s Marriage	32
a. With Unbeliever Women	32
b. With <i>Ahl al-Kitāb</i> Women	33
3. Muslim Women’s Marriage with Non-Muslim Men....	34
D. Interfaith Marriage on Indonesian Regulations.....	36
1. Empirical Fact of Interfaith Marriage in Indonesia	36
2. History of Indonesian Regulation Related Interfaith Marriage	38
3. <i>Regeling op de Gemengde Huwelijken</i> (RGH).....	40
4. The Law No. 1 of 1974 Concerning Marriage	41
5. KHI (Compilation of Islamic Law).....	42
E. Interfaith Marriage in Muslim Countries.....	43
F. Interfaith Marriage According to Sociological Theories.....	45
CHAPTER III: INTERFAITH MARRIAGE ACTORS IN NEW SOROWAJAN HAMLET	48
A. Monograph of New Sorowajan Hamlet, Village Banguntapan.....	48
1. Geographical Position and Condition	48
2. Demography	50
3. Education, Economic, and Religiousness Condition	51
B. The Life of Interfaith Marriage Actors.....	55
C. The Reasons of Interfaith Marriage Actors.....	59
D. Procedures Used by Interfaith Marriage Actors.....	62
E. The Impacts of Interfaith Marriage Within Actors’ Family and The Society.....	66
CHAPTER IV: ANALYSIS ON INTERFAITH MARRIAGE ACTORS	69
A. Are Their Reasons Allowed?	70
B. Status of The Marriage According to Islamic Law	78
C. Status of The Marriage According to Indonesian	

Regulations.....	80
D. Outcome of Interfaith Marriage (Children and Inheritance) According to Islamic Law.....	81
CHAPTER V: CONCLUDING REMARKS	84
A. Conclusion	84
B. Recommendations	87
BIBLIOGRAPHY	88
APPENDIXES	
Translation of Arabic Texts	I
Biography of Ulama/Islamic Jurists.....	II
Interview Guidances.....	III
List of Respondents.....	IV
Letter Interview Evidence.....	V
Research Letters.....	VI
Curriculum Vitae.....	VII



STATE ISLAMIC UNIVERSITY
SUNAN KALIJAGA
 YOGYAKARTA

LIST OF TABLES

Table 1: The population according to each RT and sex type/gender.....	50
Table 2: Ethnic.....	51
Table 3: The population according to the age of schooling	52
Table 4: The population according to the general education level.....	52
Table 5: The population according to groups occupation.....	53
Table 6: The population according to religious affiliations	54
Table 7: Worship facility	55
Table 8: Sample of Interfaith Marriage Family in New Sorowajan Hamlet....	56



CHAPTER I

INTRODUCTION

A. Background of Study

Islam as firmament religion (*ad-dīn al-samāwī*) gives a great concern regarding problems of marriage. Marriage or permanent marriage¹ is a part of worship, to get married implies to complete a half of the faith.² Desire to live simultaneously with his spouse is an original character (*fiṭrah*) of human being and a physical necessity to survive.³ Allah basically creates human as a coupled creature, a woman is created from the rib of a specific man to ford a life together.⁴

The dynamic epoch makes the world as though a dinky hall consists of billions people from various background of different religions. Even real-time interaction acquires to break through the space and the time, and exceed the logic and faith borders. Thus it will be an undoubted circumstance for human being if they could make quite close relationship with the opposite sex that has different religions background, up to the most serious stage: a marriage.

¹ Shahla Haeri named as permanent marriage to distinguish it with temporary marriage (*mut'ah*). See: Sahla Haeri, *Law of Desire, Temporary Marriage in Shi'i Iran, 1st Ed.* (New York: Syracuse University Press, 1989), p. 33.

² See *Ḥadīṣ* (Tradition): (إذا تزوج العبد فقد استكمل نصف دينه فليتق الله في النصف الباقي) Muḥammad Nāṣiruddīn al-Albānī, *Al-Jāmi' al-Ṣagīr wa ziyādah (Al-Fath al-Kabīr)*, (Beirut: Al-Maktab al-Islamī, 1988), III: 136-137.

³ OK. Chairuddin, *Sosiologi Hukum* (Jakarta: Sinar Grafika, 1991), p. 152.

⁴ See: An-Nisā (4): 1.

Interfaith marriage is a real phenomenon and not such difficult to find all over Indonesia. Tremendous heterogeneous condition of Indonesian people consists of all sorts of factions, ethnic groups, cultures, traditions, and religions causes interfaith marriage (also refers to inter-religious marriage, different religious marriage and mixed marriage) becomes something possible to be happening among them even with foreign citizens. It is a general common when a layman, an artist, a civil servant, or an Islamic jurist and his descendant decide to marry somebody that has different faith. This is a concrete and prevalent problem that has to be observed, unfortunately it is not completely regulated in Indonesian marriage law.⁵

Regeling op de Gemengde Huwelijken (RGH) and The Law No. 1 of 1974 relating marriage as the previous and present Indonesian marriage law are not definitely regulating interfaith marriage even it's merely stated. It causes uncertainty and ambiguity of the regulation and forces public confusion when they are trapped in love involves a spouse candidate of different religion.

Section 1 of RGH had regulated a mixed marriage, however it was still a doubt. A jurist stated that a mixed marriage is a marriage between two Indonesian people submitted to the different law, but another one stated that a mixed marriage is interfaith marriage itself. Consequently they had different view whether interfaith and intersite marriage includes within RGH.

⁵ Ahmad Rofiq, *Hukum Islam di Indonesia*, 6th Ed. (Jakarta: PT Raja Grafindo Persada, 2003), p. 343.

Whereas The Law No. 1 of 1974 as the substitute of the previous law as well as solution of the entire problems relates to marriage (*nikāḥ*), divorce (*ṭalāq*), and reconciliation (*rujūʿ*), doesn't assist considerably. Section 2 of The Law that was expected as the most definite section, doesn't clearly prohibit interfaith marriage. It makes some jurists such as Prof. Hazairin has to speak up due to interpret and explain the Article (1) of Section 2, he stated, "Muslims have no possibility to get married illegally breaking the Islamic law. Likewise for the Christians, Hindus, and Buddhists to break their own religious law as it has been encountered in Indonesia."

Meanwhile, when we observe the marriage regulations and family laws abroad, we'll meet that the muslim countries have obviously prohibited interfaith marriage except for the marriage between a Muslim man with an *ahl al-kitāb* woman, such as Turkey, Lebanon, Jordan, Egypt, Iraq, and Iran. Whereas as similar as Indonesia, Muslim countries in South and Southeast Asia (except Malaysia) such as India, Pakistan, Bangladesh, Myanmar do not clearly regulate interfaith marriage.⁶

The Islamic scholars (*ulamā*) have different opinions about the marriage legality between Muslim and non-Muslim. Majority of ulama (*jumhūr*) had a similar perspective to prohibit interfaith marriage, based on Allah's decrees:

⁶ Tahir Mahmood, *Family Law Reform in The Muslim World* (New Delhi: The Indian Law Institute, 1972), p. 17-60.

ولا تنكحوا المشركت حتى يؤمن⁷

This verse indicates that the believers in Islam (Muslims) are prohibited to marry unbelieving people (*kāfirīn/musyrikīn*) until they believe in Islam and a marriage solemnized between a Muslim husband/man and a non-*kitābiyyah/ ahl al-kitāb* woman (woman of the book) and between a Muslim girl and a non-Muslim are batil.⁸ It should be quite different when the object is a *kitābiyyah*.

In the very beginning, the permitted interfaith marriage was mere a marriage between a Muslim (*muslīm*) and a *kitābiyyah*. The other types of marriage are prohibited. Based on Allah's decree:

اليوم أحل لكم الطيبات وطعام الذين أوتوا الكتاب حل لكم وطعامكم حل لهم و المحصنت
من المؤمنات والمحصنت من الذين أوتوا الكتاب من قبلكم إذا أتيتموهن أجورهن
محصنين غير مسافحين ولا متخذي أخدان⁹

This opinion has been an agreement among majority of ulama (*jumhūr*).

Ahl al-kitāb means Jewish and Christian girls, it's being an opinion of Mālikī, Syafī'i, and Hanbalī's school, but Hanafī's school grants the status of *Ahl al-kitāb* to Jewish, Christian, and Magian (Zoroastrian/*Majūsī*). Magian

⁷ Al-Baqarah (2): 221.

⁸ David Pearl, *A Textbook on Muslim Personal Law*, 2nd Ed. (London: British Library Cataloguing in Publication Data, 1987), p. 50-53.

⁹ Al-Mā'idah (5): 5.

is still a problem, Ibn Hazm is the only ulama allowed the marriage with them.¹⁰ Heretofore, the sense of *Ahl al-kitāb* is something debatable.

Muhammad Ali Al-Shabuni stated that *Ahl al-kitāb* was one of the unbelieving people (*musyrikīn*). Muhammad Rasyid Ridha is in the opposite, he stated that Zoroastrian, Shabi'ah, Hindu, Buddhist, Sinto etc. could be categorized in *Ahl al-kitāb*.¹¹

Recently, new thoughts appeared to query the prohibition of interfaith marriage. For instance, Munawir Syadzali stated that there is a group asking whether in a culture which the women were actually considered as equal as the men (both right and duty), to marry an *ahl al-kitāb* man is prohibited for a Muslim woman?¹²

Therefore, the stipulation whether the marriage will be allowed or not has to be reverted to the religious law, it means when the religious law allows the marriage, so that it will be allowed in the constitutional law, as well as on the contrary.

In New Sorowajan Hamlet, Village Banguntapan, Banguntapan District, Bantul, the cases are not only between Muslim and *ahl al-kitāb* (Christian), but also between Muslim and non *ahl al-kitāb* (as agreed by *jumhūr*).

¹⁰ Syaikh Hasan Ayyub, *Fikih Keluarga*, (Jakarta: Pustaka al-Kautsar, 2006), p. 145.

¹¹ Mohammad Asmawi, *Nikah dalam Perbincangan dan Perbedaan* (Yogyakarta: Darussalam, 2004), p. 141-142.

¹² Munawir Syadzali, *Ijtihad Kemanusiaan* (Jakarta: Paramadina, 1997), p. 9.

Thus the interfaith actors in New Sorowajan have their own reason to decide to get married that became a base of the marriage building. Here is my beginning to analyze their reasons according to Islamic law/legal, especially according to the recent islamic scholars.

This research is still very important at least until this time, the researches we found so far did not observe the reasons and motives of interfaith marriage actors and in any circumstance they decided to get married. Confusion of status of the marriage as well as the children that have been already born in the marriage is also a reason for the author to accomplish this research. The problem is not only about *ahl al-kitāb* and Islamic scholars' opinions, but also relates to environmental treatment to interfaith actors, especially young spouse, because they got discriminative experience many times from religious texts that were interpreted conservatively.

B. Problem Formulation

Based on background of study described above, I will limit the problem coverage in this thesis on three main problems merely as follow:

1. What are the reasons that made the interfaith marriage actors in New Sorowajan Hamlet, Village Banguntapan, Banguntapan, Bantul, believed and determined to get married?
2. How does Islamic law view on the reasons of interfaith marriage actors?
3. What is their marital status and the impacts of interfaith marriage before Islamic law and Indonesian regulation?

C. Objective and Significance

1. The objectives of the research are as follow:
 - a. To discover and explain the reasons and motives of interfaith marriage actors in New Sorowajan Hamlet, Village Banguntapan, Banguntapan, Bantul, that became a base to decide to get married.
 - b. To discover and explain how Islamic law observe on the reasons and motives of interfaith marriage actors in New Sorowajan Hamlet, Village Banguntapan, Banguntapan, Bantul, so that they break through any borders prevented them to continue the marriage.
 - c. To discover and describe the status of interfaith marriage actors and the impacts appeared before Islamic Law and Indonesian Civil Law.
 - d. To position the law experts and Islamic scholars' opinions in observing interfaith marriage in order to achieve a general conclusion about interfaith marriage law.
2. The significances of this research are as follow:
 - a. As a scientific contribution about interfaith marriage and the reasons of interfaith marriage actors happened within common people, in order to observe problems comprehensively.
 - b. As a reference for people, law makers, and goverment in order to be affordable to create certainty of law regarding interfaith marriage, its possibility, its status of law, and the impacts appeared from the marriage.

- c. As an effort to place people at correct position in order to avoid them from discriminative treatment before the law, society, tradition, and religion.

D. Literature Review

In order to support the study more comprehensively, to share my motive so that I take this subject, and to explain where I started the study, thus I attempt to review the literatures relates to study of interfaith marriage.

Discourse relates to interfaith marriage doesn't touch the real condition experienced by interfaith marriage actors so far. The researchers neglected their reasons and in any condition they decided to marry different religion believer.

Having read the books and scientific works of academicians as well as law experts and Islamic Jurists, I get no one literature about Islamic law discourse that discusses the reasons of interfaith marriage actors directly from the field just as I will write in this thesis.

Books of Islamic scholars observe interfaith marriage problems just in theoretical aspect, literature studies, *istinbāt* from *naṣ* (Al-Qur'an and Hadis) and another text studies. I do not get a book in English language that specially studied interfaith marriage or interfaith actors' life. Study of interfaith marriage is merely in a subchapter or just mentioning a section relates to prohibition of interfaith marriage in a regulation.

In Indonesian language edition, I took a book of Moh. Aswami as representation entitled “Nikah dalam Perbincangan dan Perbedaan (Marriage in Discussion and Difference).”¹³ This book mentions interfaith marriage only on Chapter of Marriage with a non-Muslim and explains opinions that prohibit and allow interfaith marriage. Whereas in English language edition, I get that interfaith marriage is a shallow study that explains one or two Sections within Muslim countries’ regulation, it’s just can be found in a work of Tahir Mahmood entitled “Family Law Reform in The Muslim World”¹⁴ and a work of David S. Pearl entitled “A Textbook on Muslim Personal Law.”¹⁵ The feature of David’s work was on his concern about interfaith marriage problems of Muslim countries in South and Southeast Asia, but one more time, it was just description and mapping, not solving problems.

Meanwhile the works of undergraduated students like theses are not more better than the books of law and Islamic Jurists. Most of their researches and studies are theoretical study or library research, so that the result is not a real answer of the problems experienced by interfaith marriage actors. Such as thesis of Sholahudin entitled “Konsep Ahl al-Kitab dan Perkawinan Antar Agama (Studi atas Pemikiran Muhammad Arkoun dan Implikasinya Terhadap Perkawinan antar Agama di Indonesia)/ Concept of Ahl al-Kitab

¹³ Mohammad Asmawi, *Nikah dalam Perbincangan dan Perbedaan* (Yogyakarta: Darussalam, 2004).

¹⁴ Tahir Mahmood, *Family Law Reform in The Muslim World* (New Delhi: The Indian Law Institute, 1972).

¹⁵ David S. Pearl, *A Textbook on Muslim Personal Law*, 2nd Ed. (London: British Library Cataloguing in Publication Data, 1987).

and Interfaith Marriage (Study of Muhammad Arkoun's Thoughts and Its Implication Towards Interfaith Marriage in Indonesia),”¹⁶ that explains a concept offered by Arkoun and its relevance with the progress of interfaith marriage law in Indonesia. Likewise a thesis of Jauli Muflih entitled “Perkawinan Beda Agama dalam Perspektif Hukum Islam (Perbandingan antara Pendapat T.M. Hasby Ash-Shiddieqy dan Yusuf Al-Qardlawi)/ Interfaith Marriage from The Perspective of Islamic Law (Comparison between T.M. Hasby Ash-Shiddieqy and Yusuf Al-Qardlawi's Thoughts)”¹⁷ as well as a thesis of Muhammad Harsono entitled “Nikah Beda Agama dalam Perspektif Aktifis Jaringan Islam Liberal (JIL)/ Interfaith Marriage Marriage from The Perspective of Activists of Liberal Islamic Network.”¹⁸

Whereas the study of interfaith marriage with field research approach that analyzes directly interfaith marriage actors and observes the cases directly from the life of interfaith marriage actors is found rarely. Such as a thesis of Adris Mahmudi entitled “Tinjauan Hukum Islam Terhadap Perkawinan Beda Agama (Studi Kasus di Desa Catur Tunggal Kecamatan Depok, Sleman Yogyakarta)/ Interfaith Marriage from The Perspective of Islamic Law (A Case Study in Village Catur Tunggal, Depok District, Sleman

¹⁶ Solahudin, “Konsep Ahli Kitab dan Perkawinan Antar Agama (Studi Kasus atas Pemikiran Muhammad Arkoun dan Implikasinya Terhadap Perkawinan Antar Agama di Indonesia)” Thesis of Syari'ah Faculty, State Islamic University Sunan Kalijaga Yogyakarta, 2008.

¹⁷ Jauli Muflih, “Perkawinan Beda Agama dalam Perspektif Hukum Islam (Perbandingan Antara Pendapat T.M. Hasby Ash-Shiddieqy dan Yusuf Al-Qardhawi)” Thesis of Syari'ah Faculty, IAIN Sunan Kalijaga Yogyakarta, 2003.

¹⁸ Muhammad Harsono, “Nikah Beda Agama dalam Perspektif Aktifis Jaringan Islam Liberal (JIL)” Thesis of Syari'ah Faculty, State Islamic University Sunan Kalijaga Yogyakarta, 2008.

Yogyakarta)”¹⁹ that observes cases of interfaith marriage in Village Catur Tunggal. The result of this thesis indicates that problem solver of interfaith marriage is Civil Registration Office (KCS) and would be returned to the office. The study like this one is more better than a theoretical study, because it could explain the real condition of interfaith marriage actors at least.

Of the brief description above, we can conclude that the study is more useful if touches directly the life of interfaith marriage actors and probably can be a gift for uncertainty of law and an answer for people confusion.

Because there is not a work or book that observes the reasons of interfaith marriage actors, especially in New Sorowajan Hamlet, Village Banguntapan, Banguntapan Bantul, then I’ll observe it according to Islamic law.

E. Theoretical Framework

Marriage is the emotional and legal commitment as two people to share emotional and physical intimacy, various tasks, and economic resources.²⁰ Whereas the interfaith marriage that traditionally called mixed marriage²¹ is a physical and spiritual wedlock between a man and a woman that have different religion causes involving of two different regulations that

¹⁹ Adris Mahmudi, “Tinjauan Hukum Islam Terhadap Perkawinan Beda Agama (Studi Kasus di Desa Catur Tunggal Kecamatan Depok Kabupaten Sleman Yogyakarta)” Thesis of Syari’ah Faculty, State Islamic University Sunan Kalijaga Yogyakarta, 2008.

²⁰ David H. Olson, *Marriages and Families: Intimacy, Diversity, and Strengths*, 6th Ed. (New York: McGraw Hill, 2008), p. 3.

²¹ http://en.wikipedia.org/wiki/Interfaith_marriage, accessed on Wednesday, September 8 2010.

regulate the marriage requirements and procedures in accordance with their individually religion, aim to shape the happy family and eternal based on Great Unity of God.²²

Despite the marriage is encouraged in Islam and has a glorious destination and wisdom, but the entire types of marriage are not automatically allowed. The marriage legality is decided on certain stipulations completeness having a consequence, namely appearance of the right and duty between husband and wife candidate. One of the many stipulations is suitability (*halāl*) to establish a marriage between them.²³

Islamic Jurists have different opinion about this marriage. Most of them prohibit interfaith marriage except for Muslim man wants to marry an *ahl al-kitāb* woman. It is based on Al-Baqarah: 221 and Al-Maidah: 5 that clearly explains the prohibition to marry unbelieving people and allowance to marry *ahl al-kitāb* people.

In other side, there are Islamic Jurist such as Ibn Hazm and Imam Hanafi which allow Muslims to marry a Magian (Zoroastrian/*Majūsī*) because they categorize Magians include in *ahl al-kitāb*, but it is still between Muslim man and *ahl al-kitāb* woman.

One more extremely, Muhammad Abduh, Muhammad Rasyid Ridha as well as Nasr Hamid Abu Zaid allow different religious marriage, either between a Muslim and an *ahl al-kitāb* woman or in contrary.

²² Ahmad Sukarja, "Perkawinan Berbeda Agama Menurut Hukum Islam," in Chuzaimah T. Yanggo and Hafiz Anshory AZ, (ed.), *Problematika Hukum Islam Kontemporer*, 4th Ed. (Jakarta: LSIK, 2002), I: 30.

²³ Sayid Sabiq, *Fiqh as-Sunnah*, 3rd Ed. (Beirut: Dār al-Fikr, 1981), II: 48.

Muhammad Rasyid Ridha said that Surah Al-Baqarah is addressed to a *musyrikah* (a girl believed in many gods) that originate only from Arab tribe, not to all of *musyrikāt*. A Zoroastrian, *Ṣabi'ah*, Hindu, Buddhist, Sinto girls etc. could be categorized in *ahl al-kitāb* tribe, because each religious community had been ever sent respectively the messengers. As stated in *Sūrah Fāṭir*: 24, and *Sūrah Ar-Ra'd*: 7. Rasyid Ridha's opinion based on two reasons: firstly, they firmly held to the firmament book (*kitāb samāwī*), but the book had experienced to be changed anywhere as happened to *Injīl* (the new testament) and *Taurāt* (the old testament). Secondly: in the principle, marriage is allowed except for the forbidden women as stated in *Sūrah An-Nisā*: 24.

Even he gives allowance to the interfaith marriage actors, but he reminds to the man that has a weak belief that he should avoid him self to marry a non-muslim woman even an *ahl al-kitāb*. This aims to avoid him to be slithered in paganism and to keep descendant from the possibility of godlessness. It is based on *qā'idah fihiyyah* (the basic rule of fiqh): *Sadd al-ẓarī'ah wājib fī al-islām* (preventing the way of wickedness is obligatory in Islam).²⁴

Discourse of *ahl al-kitāb* and interfaith marriage is still something debatable. The difference of Islamic Jurists' thought about this subject should be an interesting way to observe whether the reasons of interfaith marriage

²⁴ Mohammad Asmawi, *Nikah dalam Perbincangan ...*p. 141-142.

actors in New Sorowajan Hamlet, Village Banguntapan, Banguntapan, Bantul, will be allowed to be a license to get married.

Whereas, when we observe this problem in Indonesian law, we get many regulations used by Indonesian Jurists to support their idea relates to the prohibition and allowance of interfaith marriage. I take three of them: RGH (*Regeling op de Gemengde Huwelijken*), The Law No. 1 of 1974 and KHI (Compilation of Islamic Law).

In advance of The Law No. 1 of 1974 relating to marriage was enacted, the law of intergroup regulation of mixed marriage ever had been transpired, namely *Regeling op de Gemengde Huwelijken (RGH)*. Section I of the Regulation of mixed marriage (RGH) states that the mixed marriage is a marriage between Indonesian people submits to the different law. Of the sections which regulates the interfaith marriage, three legal specialists have different views as follow:

1. A mixture of interfaith and intersites marriage include within RGH
2. Interfaith and intersites marriage do not include within RGH
3. Interfaith marriage is the only one includes within RGH²⁵

Nevertheless as The Law No. 1 of 1974 relating to marriage was effective, as stated on Section 66, thus all prior marriage regulations such as RGH, Western Civil Law (*Burgerlijk Wetboek*) and other regulations as long

²⁵ Ahmad Sukarja, "Perkawinan Berbeda Agama...p. 29.

as they are regulated on The Law, are not effective any more. However, it is something debatable because of similar reason: uncertainty of the law.

On the circle of the scholars and practitioners of law, I find different insights on the sections of Law No. 1 of 1974 particularly relates to interfaith marriage, at least three perspectives: First, suggests that interfaith marriage is a violation toward The Law No. 1 of 1974 based on Article (1) of Section 2 and Section 8 (f) of The Law No. 1 of 1974.

Article (1) of Section 2:

“The marriage is never legitimate but if it’s carried out according to the religion and faith itself.”

And Section 8 (f):

“The marriage is prohibited between two people that have a relationship which is prohibited to get married either by their religion or other effective regulations.”

Second, suggests that interfaith marriage is legitimate and could be conducted due to its coverage within a mixed marriage, as had been already mentioned on Section 57 of this law. The marriage execution has to be conducted in the procedures regulated on Section 6 RGH that refers to Section 6 of The Law No. 1 of 1974. Third, suggests that interfaith marriage is not completely regulated on The Law No. 1 of 1974, that is why the prior regulations could be undertaken due to its accordance with Section 66 of The Law No. 1 of 1974.

Regarding three perspectives above, according to Abdul Halim Barakatullah and Teguh Prasetyo, that unregulated interfaith marriage distinctly within The Law No. 1 of 1974 relating to marriage indicates that

the marriage is absolutely not intended in the practice. It refers to Article (1) of Section 2 that determines whether the marriage is legitimate or not. Thus, Section 66 of The Law No. 1 of 1974 that refers to Section 2 and Article (2) of Section 7 of RGH is excessively compelled if it is intended to qualify the requirement for material law.²⁶

Whereas regarding the perspective that appropriates to disclose the possibility for the execution of interfaith marriage based on Section 57 of The Law No. 1 of 1974 (“...the marriage between two Indonesian people submitted to different law...”), it hasn’t to be comprehended partially and the section with the others have to be understood thoroughly within a unity of nationality differentiation context.

Compilation of Islamic Law (KHI) is the clearer regulation relates to interfaith marriage as be found in Muslim countries like Iran, Iraq, Turkey, Pakistan and India. Section 40 of KHI clearly states:

“The marriage between a man a woman is prohibited because of certain conditions as follows:

1. Because the woman is still in marriage bond with other man.
2. The woman is in *‘iddah* (waiting period) with other man.
3. The mowan is not a Muslim.

Section 44:

“A Muslim woman is prohibited to be married by a non-Muslim man.”

In these frameworks, I expect to find the facts, reasons, and motives of interfaith/mixed marriage and measure them pursuant Islamic law and Indonesian regulations, as well as obtain the problem solvers impartially.

²⁶ Abdul Halim Barakatullah and Teguh Presetyo, *Hukum Islam Menjawab Tantangan Zaman yang Terus Berkembang*, 1st Ed. (Yogyakarta: Pustaka Pelajar, 2006), p. 126.

F. Research Method

1. Research Type

This research includes in quantitative research with field research method. I will observe the object directly from the field in order to discover comprehensively the reasons of interfaith marriage actors, their life and condition in that decision.²⁷

2. Research Character

This research is prescriptive-analytic. It will attempt to measure accurately a certain social phenomenon,²⁸ namely the reasons used by interfaith marriage actors in New Sorowajan Hamlet, Village Banguntapan, Banguntapan, Bantul, their opinion about interfaith marriage as well as their life daily, in order to be analyzed by Islamic law and Indonesian regulations.

3. Research Approach

The research approach that will be used is normative approach. Normative approach is to explain the problem based on Islamic law and Indonesian regulations framework.

4. Population and Sample

²⁷ Soejono Soekanto and Sri Mamudji, *Penelitian Hukum Normatif: Suatu Tinjauan Singkat* (Jakarta: Rajawali, 1986), p. 15.

²⁸ Masri Singarimbun, "Metode dan Proses Penelitian," within Masri Singarimbun and Sofyan Effendi, *Metode Penelitian Survei*, 4th Ed. (Jakarta: LP3ES, 1984), p. 4.

Population is totally amount of analysis unit that it's character will be predicted.²⁹ Sample is a part of all population supposed to be the representative,³⁰ and informan is a person asked about interfaith marriage problems around his home. In this thesis, the population is all of interfaith marriage actors in New Sorowajan Hamlet, Village Banguntapan totaled 13 spouses. Of the 13 spouses, 5 spouse will be the respondent and sample using random sampling. Beside the respondent, data will be achieved form informan, namely: five interfaith marriage actors, religious figures (kyai, *ustadz*), public figures (Village Head [Kades], Hamlet Head [Kadus], Heads of RT [classification of households]) and people around.

5. Technique of Collecting Data

Technique of collecting data used in this thesis is as follows:

a. Observation

Observe directly and list systematically the reasons, life and condition of interfaith marriage actors and people around them.

Observation is aimed to achieve information about phenomena and custom of interfaith marriage actors that could not be disclosed.

b. Interview

It is orally an interview process with two people or more, having a face-to-face encounter, listening information directly. This method aimed to collect information about people's life of New

²⁹ *Ibid.*, p. 108.

³⁰ Winarno Surakhmad, *Pengantar Penelitian Ilmiah: Dasar, Metode, Teknik*, 8th Ed. (Bandung: Transito, 1998), p. 93.

Sorowajan Hamlet, Village Banguntapan as well as to deepen data achieved from observation before. The interview type is using free-led interview, that is a combination of free and led interview by arranging the main point and then following the situation during interview. Interview process is dept interview aimed to achieve the core of information about the reasons used by interfaith marriage actors and interfaith marriage in general.

c. Documentation

Documentation is achieving data by analyzing facts arranged logically from written and unwritten document that contain certain directions.

6. Data Selection

After achieving important and needed data, then I will compare the data each other. I will select the collected data and sort whether the data are valid and authentic or not. The valid and authentic data will be processed and concluded in order to be the base of research.

7. Analyzing Data

At this stage, I will analyze data that the truths would have been examined based on appropriate concept and theory in order to achieve the fact. Data will be analyzed quantitatively with inductive-deductive mentality.

G. Outline of The Thesis

Because this thesis is a scientific work that must be systematic, then I will arrange this work by using the outline as follows:

Chapter I: Introduction consists of Background of Study, Problem Formulation, Objectives and Significances, Literature Review, Theoretical Framework, Research Method (consists of Research Type, Research Character, Research Approach, Population and Sample, Technique of Collecting Data, Data Selection, and Analyzing Data), and Outline of The Thesis. This chapter is aimed to explain general information about the study, some of the reasons of interfaith marriage actors in New Sorowajan Village Banguntapan, and which way the author will observe the problems.

Chapter II: Marriage and Interfaith Marriage in General consists of the meaning of marriage and interfaith marriage, the reasons of interfaith marriage actors in general, interfaith marriage on Islamic law and debate around Islamic jurists about *Ahl al-Kitab*, interfaith marriage according to previous and current Indonesian regulation, and interfaith marriage in Muslims countries. The chapter is aimed to explain interfaith marriage theoretically.

Chapter III: general view of the location of study and the reasons. It consists of Monograph of Village Banguntapan, the reasons and procedures used by interfaith marriage actors and the impact of interfaith marriage within their family and people around them. This chapter is aimed to explain

interfaith marriage actors' life and condition as well as the environmental background so that they decide to get married.

Chapter IV: the reasons of interfaith marriage actors in New Sorowajan Hamlet according to Islamic Law. This chapter is aimed to explain whether their reasons can be accepted, their marital status according to Islamic law and Indonesian regulations, and how Islamic law view the status of their children and how their inheritance will be divided.

Chapter V: Concluding Remarks consists of conclusion and recommendations.

CHAPTER V

CONCLUDING REMARKS

A. Conclusion

The explanation of entire problems regarding interfaith marriage actors in New Sorowajan Hamlet is completed and analyzed comprehensively with normative approach, thus it is time to give the conclusion in accordance with problem formulation:

8. There are seven (7) reasons at least as their basis to decide and determine to get married with their spouse of different religion: love and affection, quality of human, suggestion from *kyai*, being pregnant, discrimination and violation towards their human rights, all religions are equally same, all components of the family approve including their parent thus the other things will not be a matter so that their desire to get marriage was supported.
9. According to Islamic law and *dalil* of Al-Qur'an and Ḥadīṣ, not all of their reasons is accepted or at least rationable to be a basis of decision to get married. Of seven reasons, there are merely three reasons that can be accepted:
 - a. An Islamic scholar (*kyai*)/Islamic lecturer decided that their marriage was permissible if their belief is strong. Factually, almost their children grasp Islam as one of their Islamic parent and the reality proves that different sex type is not a measurement to determine

whether her belief is weak or strong, it's also supported by the verse An-Nisā (4): 34, it shows that both women and men could have weak or strong character and can be on the top or on the bottom.

- b. Being pregnant. Surely it is answered clearly with An-Nūr (24): 3. The verse shows that both adulterer and adulteress are considered as the idolater or unbeliever, so that it's right to made them united.
- c. If they are prohibited to get married it would be discrimination and violation towards their human rights. It can also be accepted, because Islam treats humans equally and gives them same rights. The justice from Islam is not just behalf on human perspective, but also primarily from Allah, unfortunately consideration about interfaith marriage is still a dilemma, because some ulama prohibit the marriage and another allow. So that the Islamic justice could not be implemented in case of interfaith marriage, because of its difference between ulama. Sociologically, interfaith marriage includes in living law, so that it must be allowed because of its advantages. In the Law No. 39 of 1999 regarding marriage and based on UUD 1945, prohibition towards interfaith marriage is a violation of human rights.

The other reasons could not be accepted: a) love and affection, it has been rejected by Al-Baqarah (2): 221 and Ḥadīṣ narrated by Al-Baihaqi. b) quality of human, it has also been rejected by Ḥadīṣ narrated by Al-Baihaqi, it implies that religion is the most important consideration to select a lifetime partner and other considerations shall be disappeared and

broken. c) all religions are equally same. It's rejected, because a lot of verses show that all religions are not equally the same, Allah gives the proofs and lets human to choose between the right and the lost. d) family is everything, it's as same as the love, can be a basis to allow their marriage. It will be quite different when the spouse has the same religion.

10. Before Indonesian regulation, their marital status is legal, because they are considered as the spouse of similar religion, although they have made temporary subjugation and counterfeiting data. But before Islamic law, their marital status must be observed as the marriage between Muslim and non Muslim, because their status on identity card is not their real status in the daily life. A Muslim returns to his original status as Muslim and a non Muslim returns to his original status as a non Muslim. *Jumhūr* of *ulamā* such as Hanafi, Maliki, Syafi'i and Hanbali have prohibited interfaith marriage unless for Muslims to marry *ahl al-kitāb* women. In the contrary, the contemporary Islamic jurists, such as Muhammad Abduh, Muhammad Rasyid Ridha and Nasr Hamid Abu Zaid allow interfaith marriage either between a Muslim and *ahl al-kitāb* or in the contrary. There are many impacts resulted from interfaith marriage, but only two impacts are important to be observed, namely children's status and right in inheritance. About children's status, Indonesian regulation treats it as commonly as the family of similar religion. But in Islam law, the children status can follow strip of their mother only if we follow the thought of ulama that prohibit interfaith marriage, and can follow both

their father and mother if we follow thought of ulama that allows it. Inheritance is close same with the status of children, but there is a different view of ulama in this case.

B. Recommendations

1. It's possible to make the reasons of interfaith marriage actors as the consideration of law to decide the law of interfaith marriage.
2. The Marriage Law must regulate interfaith marriage matter clearly and thoroughly, so that there is no confusion especially among people who desired to marry different religion followers. Amendment towards The Marriage Law is something encouraged.



BIBLIOGRAPHY

Al-Qur'an and Exegesis

Departemen Agama, *Al-Qur'an dan Terjemahannya*, Semarang: CV. Toha Putra, 1989

Ṣabūni, Muhammad Ali al-, *Tafsīr Ayāt al-Aḥkām min al-Qur'ān*, Beirut: Dār al-Kutub al-Ilmiyah, 1999

Shihab, M. Quraish, *Wawasan al-Qur'an*, Bandung: Mizan, 2001

Hadis

Albāni, Muhammad Nāsiruddīn Al-, *Al-Jāmi' al-Ṣagīr wa ziyādah (Al-Fath al-Kabīr)*, Beirut: Al-Maktab al-Islamī, 1988

Baihaqi, Abu Bakar Ahmad bin al-Husain bin ali Al-, *Al-Sunan al-Kubrō*, Beirut: Dār al-Maghfirah, 1988

Law and Fiqh

Abdurrahman, *Himpunan Peraturan Perundang-undangan tentang Perkawinan di Indonesia*, Jakarta: Akademika Pressindo, 1986

Adjie, Sution Usman, *Kawin Lari dan Kawin antar Agama*, Yogyakarta: Liberty, 1989

Asmawi, Mohammad, *Nikah dalam Perbincangan dan Perbedaan*, Yogyakarta: Darussalam, 2004

Ayyub, Syaikh Hasan, *Fikih Keluarga*, Jakarta: Pustaka al-Kautsar, 2006

Bahry, Nazar, *Problematika Pelaksanaan Fiqh Islam*, Jakarta: Raja Grafindo Persada, 1994

Bājuri, Syaikh Muhammad al-, *Ḥāsyiah al-Bājūrī 'alā Ibn Qāsim al-Gazī*, Jeddah: Al-Haramain, n.y

Barakatullah, Abdul Halim and Teguh Presetyo, *Hukum Islam Menjawab Tantangan Zaman yang Terus Berkembang*, Yogyakarta: Pustaka Pelajar, 2006

- Basya, Muhamad Hilaly, *Pernikahan Beda Agama: Membongkar Dogma dalam Memoar Cintaku*, Yogyakarta: LKiS, 2004
- Basyir, Ahmad Azhar, *Kawin Campur, Adopsi, Wasiat Menurut Hukum Islam*, Bandung: Al-Ma'arif, 1972
- Chairuddin, OK., *Sosiologi Hukum*, Jakarta: Sinar Grafika, 1991
- Gautama, Sudargo, *Segi-segi Hukum Peraturan Perkawinan Campuran*, 4th Ed. Bandung: Andes Utama, 1974
- Hadiwardono, Al Purwa, *Perkawinan Menurut Islam dan Katolik; Implikasinya dalam Kawin Campur*, Yogyakarta: Kanisius, 1995
- Haeri, Sahla, *Law of Desire, Temporary Marriage in Shi'i Iran*, New York: Syracuse University Press, 1989
- Hazm, Ibn, *Al-Mahallī*, Kairo: Maktabah Dār al-Turāth, n.y
- Karsayuda, M., *Perkawinan Beda Agama, Menakar Nilai-nilai Keadilan Kompilasi Hukum Islam*, Yogyakarta: Total Media, 2006
- Hooker, M.B., *Islamic Law in South-East Asia*, Singapore: Oxford University Press, 1984
- Mahmood, Tahir, *Family Law Reform in The Muslim World*, New Delhi: The Indian Law Institute, 1972
- Muhammad, Abu Bakar ibnu, *I'ānah al-Ṭālibīn*, Beirut: Dār al-Kutub, 2002
- Muhdlor, A. Zuhdi, *Memahami Hukum Perkawinan (Nikah, Talak, Cerai, dan Rujuk) Menurut Hukum Islam, UU Nomor 1/1974/UU Nomor 7/1969 dan Kompilasi Hukum Islam*, Bandung: Al-Bayan, 1995
- Na'imi, Abdullah An-, *Islamic Family Law in a Changing World, a Global Resource Book*, London: Bondon, 2002
- _____, *Toward an Islamic Reformation; Civil Liberties, Human Rights, and International Law*, New York: Syracuse University Press, 1996
- Nasution, Khoiruddin, *Hukum Perdata Islam Indonesia dan Perbandingan Hukum Perkawinan di Dunia Muslim*, Yogyakarta: Tazzafa, 2009
- Olion, David H. cs, *Marriages and Families: Intimacy, Diversity, and Strengths*, New York: McGraw Hill, 2008

- Pearl, David S., *A Textbook on Muslim Personal Law*, London: British Library Cataloguing in Publication Data, 1987
- Qardlawi, Yusuf al-, *Fatwa Qardlawi, Permasalahan, Pemecahan, dan Hikmah*, Translator: A. Ali Bauzir, Surabaya: Risalah Gusti, 1996
- Rahman, Fatchur, *Ilmu Waris*, Bandung: PT Alma'arif, 1975
- Ramulyo, M. Idris, *Tinjauan Beberapa Pasal UU No. 1 1974 dari Segi Hukum Perkawinan Islam*, Jakarta: Ind-Hillco, 1986
- Rofiq, Ahmad, *Hukum Islam di Indonesia*, Jakarta: PT Raja Grafindo Persada, 2003
- Ruysd, Ibnu, *Bidāyah al-Mujtahid*, Semarang: Toha Putra, n.y
- Sabiq, Sayid, *Fiqh as-Sunnah*, Beirut: Dār al-Fikr, 1981
- Syadzali, Munawir, *Ijtihad Kemanusiaan*, Jakarta: Paramadina, 1997
- Yonggu, Chuzaimah T. and Hafiz Anshory AZ, (ed.), *Problematika Hukum Islam Kontemporer*, Jakarta: LSIK, 2002
- Yunus, Mahmud, *Perkawinan dalam Islam*, Jakarta: PT Hidakarya Agung, 1975
- Zahrah, Abu, *Al-Aḥwāl al-Shakhsyiyah*, Kairo: Dār al-Fikr, 2005

Theses

- Aziz, M. Muḥdi Fanani, “Pluralitas dan Dialog Agama-agama” Thesis of Faculty of Ushuluddin, Sunan Kalijaga State Islamic University Yogyakarta, 2005
- Harsono, Muhammad, “Nikah Beda Agama dalam Perspektif Aktifis Jaringan Islam Liberal (JIL)” Thesis of Syari’ah Faculty, State Islamic University Sunan Kalijaga Yogyakarta, 2008
- Mahmudi, Adris, “Tinjauan Hukum Islam Terhadap Perkawinan Beda Agama (Studi Kasus di Desa Catur Tunggal Kecamatan Depok Kabupaten Sleman Yogyakarta)” Thesis of Syari’ah Faculty, State Islamic University Sunan Kalijaga Yogyakarta, 2008.
- Muflih, Jauli, “Perkawinan Beda Agama dalam Perspektif Hukum Islam (Perbandingan Antara Pendapat T.M. Hasby Ash-Shiddieqy dan Yusuf

Al-Qardhawi) Thesis of Syari'ah Faculty, IAIN Sunan Kalijaga Yogyakarta, 2003

Solahudin, "Konsep Ahli Kitab dan Perkawinan Antar Agama (Studi Kasus Atas Pemikiran Muhammad Arkoun dan Implikasinya Terhadap Perkawinan Antar Agama di Indonesia)" Thesis of Syari'ah Faculty, State Islamic University Sunan Kalijaga Yogyakarta, 2008.

Others

IIAS Newsletter#45 Autumn, *Arrange Love; Marriage in a Transnational Work Environment*, Netherlands: IIAS, 2007

Jarjani, Syarif Ali bin Muhammad al-, *Kitāb al-Ta'rifāt*, Jeddah: Al-Haramain, 2001

New Sorowajan Hamlet's Documents

Shaleh, Qamaruddin, *Asbabun Nuzul*, Bandung: C.V. Diponegoro, 1974

Singarimbun, Masri and Sofyan Effendi, *Metode Penelitian Survei*, Jakarta: LP3ES, 1984

Soekanto, Soejono and Sri Mamudji, *Penelitian Hukum Normatif: Suatu Tinjauan Singkat*, Jakarta: Rajawali, 1986

Surakhmad, Winarno, *Pengantar Penelitian Ilmiah: Dasar, Metode, Teknik*, Bandung: Transito, 1998

Village Banguntapan Document, *Potensi Desa Banguntapan 2007 dan Tingkat Perkembangan Desa Banguntapan 2007*

Internet

<http://anggara.org/2007/07/05/perkawinan-beda-agama-di-indonesia/>, Accessed on Sunday, October 31, 2010

<http://bh4kt1.multiply.com/journal/item/18>, Accessed on Monday, November 1, 2010.

http://en.wikipedia.org/wiki/Interfaith_marriage, accessed on Wednesday, September 8 2010

<http://ppmps.wordpress.com/interfaith-marriage-project/tujuan-dan-strategi-program/>, accessed on Wednesday, 20 October 2010.