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RELIGIOUS VALUES AND BELIEFS TOWARD INTERFAITH MARRIAGE IN INDONESIA IN PLURALISM PERSPECTIVE

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ABSTRACT

Interfaith marriage until recently become a problem in Indonesia. Due to it not yet been regulated in Marriage Law that cause uncertainty. Validity of marriage required couple have the same religion. Fact that interfaith marriage arise and Indonesia society consist of pluralism such as, religion, etnis, law, adat law, traditions, and legal culture. The purpose of study to analyze the meaning of marriage according to each religion and belief, relationship between meaning of marriage in general and meaning of marriage according interfaith marriage couple. This study based on law research and technic of collecting law material resources is derived from primary law material and secondary law material. The result showed that not all religion and belief in Indonesia forbid interfaith marriage such in Islam allow muslim man marry to women from outside Islam, In Catholic on a certain degree they accept interfaith marriage as long as letter of dispensation are get. There are similarity on how common marriage and interfaith marriage couple perceived and understood about marriage, such as marriage based on love and compassion to build family forever in the name of God. The differences among the two is on common marriage, couple are union in religion but on interfaith marriage, couple religion is not the same.

Keywords: Religions and belief values and interfaith marriage

INTRODUCTION

Interfaith marriage is one form of marriage that has been the highlighting the Indonesian society, and this fact cannot be separated from the life of Indonesian society which is rich in pluralism.⁵ Looking at the diversity of religions and beliefs in the life of Indonesian nation, there are six (6) religions recognized by the government namely Islam, Christianity, Catholicism, Hinduism, Buddhism, and Confucianism. In addition, there are many local religions embraced by the people. The existence and recognition of the above religions are regulated in Presidential Decree No. 6 of 2000 on the Revocation of Presidential Instruction No. 14/67 On Chinese Religions, Beliefs and Customs. Based on the data from the Ministry of Culture and Tourism, there are about 245 registered beliefs which grow and are believed to be a guidance in life.⁶ Furthermore, there are various customary laws in the society which are then grouped according to the system of kinship or family ties into three major groups, namely; a) matrilineal kinship system; b) parental kinship system; and c) patrilineal kinship system. These three kinship systems have an impact on inheritance system and marriage in the society. Pluralism can also be found on legal aspect; as it not only concerns the aspects of

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⁵ Rusli & R. Tama, *Interfaith Marriage and Its Problems*, (Bandung : Pionir Jaya, 1986), p. 11.

⁶ www.Achmadsamantha.wordpress.com/2013/ *Names of Original Religions of the Archipelago*, p.2.

substance or structure but also the aspect of legal culture. The aspect of legal culture encompasses the plurality of existing opinions and customs, existing beliefs, and plurality in ways of thinking and acting in legal field.⁷

The values contained in each religion do not explicitly provide space or permit interfaith marriage, while the facts show that interfaith marriage in Indonesia is likely to increase both in regional and national level. In 1978 in Banjarmasin there were 3 cases of interfaith marriage and in 1979 there were 6 cases. Meanwhile, in Jakarta the number of interfaith marriage increased: in 1974 (10 cases), 1979 (80 cases), 1980 (89 cases), 1985 (617 cases) and in 1984 in archdiocese Jakarta there were 2035 cases of interfaith marriage, where in 163 cases, one of the couple was Moslem.⁸

The legality of marriage in Indonesia is regulated in Article 2, paragraph 1 of Law No. 1 of 1974 on Marriage. In Article 2 paragraph (1) there is no clause stating that interfaith marriage is prohibited, but it is interpreted that marriage is performed by Indonesian citizens based on similar religion and belief. This interpretation is considered standard because the state, through the decision of Constitutional Court and its judges, interprets that the phrase 'under each religious law and belief' means similar religion.

RESEARCH METHOD

This research examines how the views of religious values and beliefs on interfaith marriage as well as what the correlation between the values of marriage in the Marriage Law and the meaning of interfaith marriage.

This study is a legal research and the method of collecting legal materials is done through literature search. Legal materials used in this research consist of primary and secondary legal materials, and to analyze the findings the theory of legal pluralism from Griffith is used.

DISCUSSION

Griffith's Legal Pluralism theory is used to analyze the religious values that are essentially intended to demonstrate the presence and interaction of the legal systems in the community. It is a portrayal that in Indonesia there is interaction among various legal systems, for example in the legal system of marriage. In Indonesia marriage law is applied according to the Book of the of West Civil Law (BW), Law No. 1 of 1974 on Marriage, customary law, religious law and beliefs and the values of Human Rights.

The description of the values shared by religions and beliefs related to marriage is as follows:

The Perspective of Marriage in Hindu

The nature of marriage according to Hinduism is *yadnya* (holy sacrifice) and *dharma* (goodness). Marriage is the beginning in the period of *Gryhasta Asrama*, namely a stage of settle down. In Balinese society *mabyakaon/byakaon*⁹ ceremony a requirement of the validity of a marriage ceremony is led by a *pinandite* (religious leader) as defined in Jurisprudence *Raad Kertha Singaraja* No. 290/Crimineel, dated April 14, 1932, and it its

⁷Achmad Ali, *Revealing Legal Theory and Theory of Justice, Including the Interpretation of Constitution*, (Jakarta : Kencana Prenada Media Group. 2009), p. 185 -198.

⁸M. Karsayuda, *Interfaith Marriage Measuring the Values of Justice in the Compilation of Islamic Law*, (Yogyakarta, Total Media, 2006), p. 87-88.

⁹*Banten pabyakaon* is the means in wedding ceremony as a requirement of a valid marriage according to custom and Hindu religion in Bali. The meaning of *banten pabyakaon* is to eliminate religious dirt on the bride and groom. Through *pabyakalan* ceremony the couple are considered clean and are allowed to enter the holy place (*sanggah/merajan*, and village temple).

decision if *mebyakaon* has not been performed, then the marriage is not seen as valid.¹⁰ As a comparison, marriage in Bali originates from India, and the legality of a marriage is regulated in Section 7 of Hindu Marriage Act 1955 which governs Hindu marriage ceremony and outlines these provisions: Ceremonies in a Hindu wedding: 1) A Hindu wedding can be held according to rites and customary ceremonies of related parties; 2) *Ifsapapadi* (seven steps undertaken by the bride and groom in front of the sacred fire) is contained in the rites and ceremonies, the marriage is considered perfect and binding when the seven steps have been taken. This regulations is directly taken from *Manusmirti* 8227, which has a straightforward function in the context of covenant law, to indicate when exactly a Hindu marriage is deemed binding. Sacramental Hindu marriage covenant, according to *Manusmirti* and section 7 (2) of Hindu Marriage Act, is materialized on the seventh step of the ritual.¹¹

In Hindu interfaith marriage is not known because before marriage is held, religious ceremony should be done first. In the event that one of the couple is non-Hindu, he/she must be purified as a Hindu. If marriage is performed without the purification process, it is considered to be a violation of the provisions of Sloka V-89 in the Book of Manawa Dharma Sastra: "The purification water can not be given to those who pay no heed to the ceremonies that have been determined, so it can be considered that their birth is of no use; it cannot be given to those who are born from an unofficial marriage of different caste, those who become a hermit from of apostate group, and those who died of suicide.

The Nature of Marriage According to Islam

To demonstrate the meaning of marriage, the Qur'an uses the term "*mitsaqon gholidon*", meaning "unwavering covenant". The term refers to the covenant between God and His prophets. By using the term "*mitsaqon gholidon*" for marriage, the Quran implies the sanctity of the relationship between husband and wife, similar to the sanctity of the relationship between God and His chosen man¹². In the context of the philosophy of Islamic law, marriage is a an obligation. Prophet Muhammad mentions marriage as "half of worship". Another philosophical context, marriage is also intended for maturing one's logic which means to prevent one from making mistake and mess in life. Thus, in the context of the philosophy of Islamic marriage law, Islam regards marriage as a sturdy and strong agreement or, to achieve serenity, peace, and the attitude of protecting each other between husband and wife with love and affection as the foundation, in order to achieve a *sakinah* family, to obey God's command and as a form of worship.

Interfaith marriage in Islam is a marriage between a Muslim and a non-Muslim. Of the three problematic terminologies, the issue of interfaith marriage with non-Muslim is also a controversial issue in the history of Islam. It departs from the interpretation of Surah al-Ma'idah verse 5, "And [lawful in marriage are] chaste women from among the believers and chaste women from among those who were given the Scripture before you."

In principle, the views of ulama on interfaith marriage can be divided into three major opinions: First, absolute prohibition. Some ulama implicitly forbid marriage between a Muslim and non-muslim, whether he/she is categorized as polytheist and *Ahlul Kitab* (people of the book) and the prohibition applies to both Muslim women and men. Second, allow it with some conditions. Some ulama allow marriage between a Muslim man and non-Muslim

¹⁰Sukerti, Ni Nyoman, *Woman's Right to Inheritance in Bali Custom Law a Critical Study*, Denpasar: Udayana University Press, 2012), p. 39.

¹¹Werner Menski, *The Comparison of Law in Global Context European, Asian and African System*, (Bandung: Nusa Media, Translated Edition, 2008), p.337 and 339.

¹²Al Purwa Hadiwardoyo, *Marriage According to Islam and Catholicism and Its Implication in Mixed Marriage*, (Yogyakarta: Kanisius, 1990), p. 11-12.

woman with the condition that then on-Muslim woman is from the group of *Ahlul Kitab*, but a Muslim woman is not permitted to marry a non-Muslim man. Third, allow marriage between Muslims and non-Muslims, and the permission is for both men and women.¹³The legality of marriage between a Muslim woman and a man of *Ahlul Kitab* is debated by ulama of Fiqh until now.

The Perspective of Catholicism

In principle, Catholicism forbids its adherents to marry someone who is not a Catholic, except in certain cases bishop can grant a dispensation or exemption. Dispensation or exemption from a bishop will be given if there is hope of building a strong and intact family after marriage. Besides, there is an examination process, which aims to ensure that there is no obstacle to marriage, to be later announced in the parish and to ensure that the process is running properly and both parties are in conscious and voluntary state, under no compulsion.

In the perspective of Catholicism, marriage is based on true love and without compulsion. According to Catholicism view point, marriage based on true love, without connection to any religion, must be accepted as sacred because it is based on the blessing of God to human beings, men and women.¹⁴

Furthermore, Canon 1125 specifies that such dispensation or permission can be granted by the Ordinary of the region if there is a reasonable and logical cause. Permission will not be granted if the following requirements have not been fulfilled: (1) The Catholic party states that he/she is willing to prevent him/herself from leaving his/her faith and honestly promises that he/she would do everything so that all of his/her children are baptized and educated in the Catholic Church. (2) Regarding the promises made by the Catholic party, the other party (the non-Catholic) should be informed in timely manner so that he/she is truly aware of the promise and obligation of the Catholic party. (3) Both parties shall be given an explanation of the purposes and the very nature of marriage, which should not be excluded by any of them.

In the Perspective of Protestant

In the Perspective of Protestant, marriage has social nature, but it also has an aspect of holiness. Marriage is seen as a corporal and spiritual communion between a man and a woman to form an institution. Marriage as a social institution is the duty of the government, namely the Department of Civil Registry Office (DKCS) which has the competence to authorizing it.¹⁵In principle, Protestantism wants its adherents to marry people of the same religion because the purpose of marriage is to achieve happiness and happiness would be difficult to achieve if husband and wife are not of the same religion. Nevertheless, Protestantism does not preclude interfaith marriage.

The perspective of Buddhism

According to the Great Sangha Indonesia, interfaith marriage is allowed, provided that the validation is done according to the procedure of Buddhism. Although the bride/groom is not a Buddhist, it is not required to convert to Buddha. However, in the ritual of marriage, the bride and groom are required to pronounce "in the name of Buddha, Dharma dan Sangka."

¹³Siti Musdah Mulia, *Reinterpreting Interfaith Marriage in the Reinterpretation of Interfaith Marriage: Perspective of Women and Pluralism*, (Jakarta: Kapal and NZAID, 2004), p. 118-121.

¹⁴Romo Hariyanto, *Interfaith Marriage from the Perspective of Catholic Church*. In MariaUlfah Anshor and Martin Lukito Sinaga (eds), *Reinterpretation of Interfaith Marriage: The Perspective of Women and Pluralism* (Jakarta: Kapal Perempuan and NZAID, 2004), p.64

¹⁵See Pdt. Weinata Sairin, *Interfaith Marriage from the Perspective of Protestant*. In MariaUlfah Anshor and Martin Lukito Sinaga (eds), *Reinterpretation of Interfaith Marriage: The Perspective of Women and Pluralism* (Jakarta: Kapal Perempuan and NZAID, 2004), p. 77-89.

According to Bhiku Prajnavira Mahasthavira, in accordance with the universal teachings of Buddha, marriage is a *dharma*. The prime concern is that marriage can not be separated from moral teachings. Since blessing is needed, it is important that the religion of the bride and groom is the same. A monk only blesses the marriage, while each family has to officially announce to a dharma ambassador, that is the person appointed by the monk to officiate the marriage. The permissibility of interfaith marriage is said by Herman S Endro, a Buddhist priest. He said there is no restriction at all to marry a person of different religion.

The Perspective of Confucianism

In the Book of Li Ji XLIV: 1, it is said, "Keep marriage in mind because it is the tree of all decency and it comprises the life of human being." Marriage is a sacred and holy thing, which must be planned carefully in order to produce a better and harmonious life. Although Confucianism does not explicitly regulate whether interfaith marriage is allowed or not, if we deeply consider the meaning of Prophet Kongzi's words stated above, it can be concluded that interfaith marriage is not prohibited. It is increasingly evident when we ruminate the words of Prophet Kongzi which reads, "Use knowledge book that fosters friendship, and develop friendship into love and in the four corners of the oceans, all of them are brothers"(Book of Lun Yu XII, 5). In Li Ji XXVII; 3.1, it is said, "When there is no harmony between heaven and earth, any kind of life will not grow. Wedding ceremony is the base of civilization throughout the age. The ceremony intends to integrate and develop the seeds of goodness of two types of human from different families (clan or blood). Furthermore, in Li Ji III; 7, it is said, "With the harmonization of heaven and earth, only then objects rise/develop. Then wedding ceremony is the beginning of civilizations of all time. Couples are (required) from two different clans."¹⁶ Thus, it can be concluded that Confucianism does not require married couple to come from the same religion, but more importantly, marriage is between human from different clans, and it is conducted in accordance with the rules of decency and religious rules that apply.

The Perspective of Believers of Nondenominational Faiths about Marriage

Interfaith marriage, from the perspective of believer of Indigenous Karuhun Sunda, West Java, is based on the awareness of "having the same understanding", although the couple do not hold the same belief or religion. "Having the same understanding" is analogous to the substance of water that can be of different flavors and mixtures. Whatever the name and the title, the substance is water which can be drunk to quench the thirst.

There is a relation between the essence of the values of marriage stated in Article 1 of the Marriage Law and the values of marriage believed by the public, especially couple with different religions. The values are that marriage is a sacred thing, is performed based on love and affection for the purpose of forming a happy and lasting family. Meanwhile, what can not be united by the couple is a matter of belief. They decide to keep a firm hold on their respective religions due to the deep faith which has grown before they met. Love and affection unite them without having to change the belief of their prospective partner because love is a gift from God.

From the aspect of humanity, addressing the fact of interfaith marriage, government should give appreciation, accommodate and provide protection for all existing differences in humanitarian field, particularly related to the issue of interfaith marriage. Basically, differences separate us as human beings and there are many of us who refuse to understand these differences. Rejection becomes worse, with the addition of our suspicion and ignorance of such differences. We reject people of different faiths, not because we understand what the

¹⁶Ibid. p. 266.

differences are. Marrying someone from a different religion is deemed as radical action that crosses the wall and boundaries which have been built since time immemorial. It takes some courage to take such radical action, to accept others without losing our own faith.¹⁷

CONCLUSION

In General, the perception among religions and belief toward interfaith marriage in Indonesia not all disagree or forbidden. In Islam, allow it with some conditions. Some ulama allow marriage between a Muslim man and non-Muslim woman with the condition that the non-Muslim woman is from the group of *Ahlul Kitab*, but a Muslim woman is not permitted to marry a non-Muslim man. Hindu interfaith marriage is not known because before marriage is held, religious ceremony should be done first. In the event that one of the couple is non-Hindu, he/she must be purified as a Hindu. In principle, Catholicism forbids its adherents to marry someone who is not a Catholic, except in certain cases bishop can grant a dispensation or exemption. Dispensation or exemption from a bishop will be given if there is hope of building a strong and intact family after marriage. In principle, Protestantism wants its adherents to marry people of the same religion because the purpose of marriage is to achieve happiness and happiness would be difficult to achieve if husband and wife are not of the same religion. Nevertheless, Protestantism does not preclude interfaith marriage. According to the Great Sangha Indonesia, interfaith marriage is allowed, provided that the validation is done according to the procedure of Buddhism. Although the bride/groom is not a Buddhist, it is not required to convert to Buddha. Confucianism does not require married couple to come from the same religion, but more importantly, marriage is between human from different clans, and it is conducted in accordance with the rules of decency and religious rules that apply. Interfaith marriage, from the perspective of believer of Indigenous Karuhun Sunda, West Java, is based on the awareness of "having the same understanding," although the couple do not hold the same belief or religion. "Having the same understanding" is analogous to the substance of water that can be of different flavors and mixtures.

The nature of the values of marriage contained in Marriage law and the values of interfaith marriage have some similarities, namely marriage is a sacred thing, is performed based on love and affection in the form of a bond with the aim to establish a happy and lasting family on the basis of The One Almighty God. The things mentioned above are the linking points of the values of marriage in general and the values of interfaith marriage. Meanwhile, the difference only lies in the religions and beliefs embraced by the couple. In the provisions of the Marriage Law it is interpreted that the prospective couple embrace the same religion and belief, while on interfaith marriage, each party still intends to adhere to his/her religion.

¹⁷Ester Mariana, Ga, *Women, Marriage, and Religions: Crossing the Border, in Interfaith Marriage from the Perspective of Women and Pluralism* (Jakarta: Kapal Perempuan, 2004), p.178.

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