

**METHODOLOGICAL AND SOCIOLOGICAL ANALYSIS ABOUT
THE FATWA OF MAJELIS TARJIH MUHAMMADIYAH
CONCERNING TO THE MUSLIM MARRIAGE WITH AN AHL AL-
KITAB**

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ABSTRACT

Relation between the different of religion community in the multicultural nation as in Indonesia be a natural phenomenon that it can not be avoided. As to one of the problem that had appeared in this case is about wedding problem between a moslem with the difference religion womans. Majority of the Indonesia religious scholars as scholar in Majelis Tarjih Muhammadiyah had been prohibiting wedding like that with various reason. While a part little of the contemporary moslem scholars have been permitting the wedding. The points which will discussed in this research is how is opinion of Majelis Tarjih Muhammadiyah about the law of wedding with the woman from Ahl Al-Kitab and its ijtihad methodology. This research should analyze the argumentation of the Majelis Tarjih that make forbidding a muslem married with the difference religion womans. This research using library research approach dan content analysis. The results of this research are: (1) Majelis Tarjih of Muhammadiyah forbidding the wedding with sad al-dzari'ah as its argumentation; (2) Majelis Tarjih's opinion has been irrelevant because two reason, the mistake of methodology and the change of the Indonesian contemporary society (based on an empiric data).

Keywords: Ahlu Kitab; Majelis Tarjih; Different Religion Marriage

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INTRODUCTION

Inter-religious relations have long been a popular issue in Indonesia. The popularity of this issue is a consequence of Indonesia's advanced society, especially in terms of religion and ethnicity. Therefore, the issue of inter-religious relations is a concern of various groups, not only the government but also other components of this nation, for example, religious institutions, both Islamic and non-Islamic and so on.

Muhammadiyah as one of the Islamic-based religious institutions that are part of the nation's components is also interested in trying to contribute to the breakdown of the ideas academically between inter-religious relations. One of the problems in interfaith relations is the issue of Muslim marriages with non-Muslims (hereinafter referred to as: interfaith marriages). In accordance with the Muhammadiyah jargon that makes the Qur'an and al-Sunnah the basis for standing, the Muhammadiyah's perspective in seeing interfaith marriages is also based on these two sources of teachings.

Muhammadiyah's interest in being involved in discussions on interfaith marriages seems to be part of the sensitivity of Muhammadiyah in responding to the issue of multi-religious and ethnic Indonesian citizenship on the one hand, and the fact that Islam is a religion adopted by most Indonesian citizens on the other hand. These two sides are possible to collide with each other. By discussing this issue, it seems that Muhammadiyah intends to be able to participate in managing the diverse Indonesian citizenship problem that runs without having to contradict the teachings of the religion it understands which religion is indeed part of the sensitivity of a Muslim.

As is known that besides religious orders, marriage is a part of one's humanity. The manifestation of a Muslim's marriage, for example, is within certain limits that transcends his religious boundaries when he lives in the plurality of citizens from the religious aspects such as in Indonesia. In such a condition of progress, a Muslim is almost certainly difficult to avoid from contact and association with people of different religions. In this position the attraction of Muslim men or women with people of different religions with it or vice versa, which leads to marriage is almost certainly inevitable. In other words, the issue of interfaith marriage is almost certain to occur in every pluralistic society.

The study conducted by Muhammadiyah about this interfaith marriage, for example can be seen in *Himpunan Putusan Majelis Tarjih dan Pengembangan Pemikiran Islam (MTPPI) The Muhammadiyah Central Executive*, or in the *Thematic Qur'anic Interpretation*, was published by the Muhammadiyah Voice Library, 2000. The commentary is divided into four chapters. The first chapter discusses the principles of inter-religious relations. The second chapter, was given the topic of maintaining good relations and inter-religious cooperation. The third chapter described about the thought and term of the *ahlu kitab*, while the fourth chapter discussed about interfaith marriage in the Qur'an (*Majelis Tarjih dan Pengembangan Pemikiran Islam PP Muhammadiyah*, 2000). This short paper does not try to discuss all topics

as stated in the commentary, but tries to discuss the fourth chapter of the commentary, specifically the prohibition on interfaith marriage. The points which will be discussed in this research is how is opinion of Majelis Tarjih Muhammadiyah about the law of wedding with the woman from Ahl Al-Kitab and its ijtihad methodology.

RESEARCH METHODS

This research is a library research, it will use documentation method to collect data about fatwas that published by Majelis Tarjih Muhammadiyah, seek and collect data about fatwa's methodology of Majelis Tarjih. This method will be used to seek description data about Majelis Tarjih's ijtihad methodology until its fatwas about the Muslim marrying with an Ahl al-Kitab girl. Then making verification and analyzing that will be done using the content analysis model. This research is a normative research using a conceptual approach where content analysis is the method that the author chooses to analyze the data obtained. The purpose of this study was to find the answer to the point determined as the problem in this study, namely how the interreligious marriage law and the ijtihad method used by the Assembly of Tarjih Muhammadiyah in deciding the law.

RESULTS AND DISCUSSION

THE COVERAGE MEANINGS OF AHLU KITAB

The scholars disagree about the meaning of Ahl al-Kitab, therefore the meaning of Ahl al-Kitab can be classified into several groups as follows:

All Adherents of Judaism and Christianity

Al-Tabari (224-310 H) understood the meaning of Ahl al-Kitab ideologically. According to him, Ahl al-Kitab refers to Jews and Christians of any descendants of them (J. Al-Thabari, 1956). Al-Syarastani (479-548 H), states that Jews and Christians who clearly have a holy book are referred to as Ahl al-Kitab. While the adherents of the Majuzi religion who only have books similar to the holy book are not included in the Ahl al-Kitab. They are called Syib al-Kitab (al-Syarastani, n.d.) While Al-Thabathaba'i stated, the use of the term Ahl al-Kitab in the Qur'an specifically designated to Jews and Christians (Thabathaba'i, n.d.). This opinion is in accordance with the conclusions of Quraish Shihab that the understanding of Ahl al-Kitab is all adherents of Judaism and Christianity, when, wherever and from whom they descend (Syihab, 1996).

Jews and Christians of the descendants of the Children of Israel

According to Imam Syafi'i, the term Ahl al-Kitab is understood as limited to Jews and Christians of the descendants of Isra'il. While other nations that embrace Judaism and Christianity are not included (Syihab, 1996). Presumably Imam Shafi'i did not understand Ahl al-Kitab as a community that embraced the religion brought by Prophet Moses and Prophet

Isa, but understood it as an ethnic community, namely Bani Isra'il. The reason given is that the Prophet Moses and Isa were only sent to Bani Isra'il and not to other nations. Thus those who adhere to Judaism and Christianity apart from the descendants of the Bani Isra'il cannot be categorized as ahl al-kitab. Meanwhile the Syafi'iyah clerics and the majority of Hanabilah scholars stated that ahl al-kitab specifically referred to the Jewish and Christian communities. This opinion is based on the word of Allah Surah al-An'am verse 156 (Al-Ainain, 1984).

The Syafi'iyah scholars explained details the Jewish and Christian communities to two groups, namely: (Al-Ainain, 1984).

1. Ethnic Israel. Ethnic Isra'il is a descendant of the Prophet Ya'qub.
2. Ethnicity besides Isra'il. Whereas ethnic groups other than Isra'il are people who embrace Judaism and Christianity outside of Israel, divided into three groups, namely: (a) The group that entered Judaism and Christianity before the religion experienced change, like the Romans; (b) The group that entered Judaism and Christianity after the religion changed; (c) The unknown group when they entered Judaism and Christianity, whether before or after the religion changed. The group that is di-khithab al-Qur'an as ahl al-kitab is the nation of Isra'il and other nations that entered Judaism and Christianity before the two religions changed in the hands of their adherents

All believers who have scriptures from God

Imam Abu Hanifah and the scholars of Hanafiyah and some Hanabilah argued, anyone who believed in one of the Prophets, or a book that Allah had revealed, then he included the ahl al-kitab, was not limited to groups of Jews and Christians. Thus, if there is a group that only believes in Zabur (the holy book given to the Prophet Dawood) or Shuhuf Ibrahim and Syith only, then he is also within the reach of the understanding of ahl al-kitab (Al-Ainain, 1984).

The coverage of the ahl al-kitab developed during the time of Tabi'in. Abu al-Aliyah (d. 39 H), a tabi'in, said that the shabi'in were a group of ahl al-kitab who read the book of zabur (Al-Thabari, 1954). Besides that, there are also Salaf scholars who say that every Ummah who has a book that can be assumed as a divine scripture, they are also included in the meaning of Ahl al-Kitab, as well as the people of Majuzi (Syihab, 1996).

Ulama who think so understand the term ahl al-kitab as a people who have received scripture from Allah through a Prophet. So that the term is not only confined to the Jewish and Christian communities, but all believers who have scriptures from God. Whereas Ibnu Hazm (w.456 H), understood the term ahl al-kitab similar to the understanding of salaf scholars, who included the majuzi as a group of ahl al-kitab (Hazm, n.d.). Syaikh Muhammad Abduh (d. 1905 AD) argued that ahl al-kitab included followers of Judaism, Christianity and Shabunun (Abduh, n.d.). Abduh's opinion is the same as Abu al-Aliyah's opinion. Such opinion is based on the word of God in surah al-Baqarah verse 62. Abdul Hamid Hakim also included the Majuzi as ahl al-

kitab, as the opinion expressed by some salaf scholars. According to him, there is an indirect impression which gives an indication that Majuzi is also an ahl al-kitab (Hakim, 1977). Similar opinion was also expressed by Muhammad Rashid Ridha (d.1935 AD) who asserted that the Majuzi and Shabunun included ahl al-kitab other than Jews and Christians. Even beyond that there are still groups that include ahl al-kitab, namely Hinduism, Buddhism, Kong Fu Tse, and Shinto (Ridha, n.d.).

So, what is the view of Muhammadiyah about who is the Ahlul Kitab? Muhammadiyah limits that the ahlul kitab is limited to the community of followers of Judaism and Christianity only, whether from the descendants of the Children of Israel or not (Majelis Tarjih PP Muhammadiyah, 2003). The author tends to understand the limits of the ahl al-kitab as understood by Muhammadiyah, arguing that the use of the term in the Qur'an always refers to the two communities that embrace the religion (Ghalib, 1998).

The scholars agree that the term ahl al-kitab refers to two communities adhering to the divine religion before Islam, namely Jews and Christians. In the early days of the development of Islam, especially during the time of the Prophet and his companions, the term ahl al-kitab was always used to refer to the Jewish and Christian religious communities. In addition to the two communities, they did not call it the ahl al-kitab. The majors, for example, even though at the time of the Prophet and companions were known, but they were not referred to as ahl al-kitab. Even so, the Messenger of Allah ordered that they treat them like the ahl al-kitab. This can be understood from one of his words narrated by Imam Malik as follows: "Presented to me from Malik, from Ja'far ibn Muhammad ibn Ali, from his father, in fact Umar ibn al-Khattab called Mavolumei, then he said: "I do not know how I did their business." So Abd al-Rahman ibn Auf said : "I testify really I have heard Rasuullah saw said: Treat them (Mavolumei people) like ahl al-kitab." (Imam Malik bin Anas, Al-Muwatha', Dar as-Sya'b, p.87). The history of the hadith illustrates that the Prophet did not include the Mavolumei as ahl al-kitab. This was reinforced by the fact that Umar ibn al-Khattab talked a lot about the problems of the Mavolumei people. Because, if he understood the terms of ahl al-kitab including the Mavolumei, of course Umar did not question them. In addition, the letter of preaching of the Messenger of Allah which was sent to a number of rulers outside of the Arabian peninsula, also provides an indication that the ahl al-kitab is only limited to Jews and Christians (Ghalib, 1998).

The missionary letters of the Prophet Muhammad to Heraclius and Muqaiqia who were Christians, ended with an appeal to the Ahl al-kitab to hold an agreement (kalimah sawa'), or at least they would acknowledge the existence of the seasons. As was the case with the letter sent to al-Najjasi, the king of Ethiopia, who also embraced Judaism, although it did not end with such an appeal, but in the letter Rasulullah saw declared his recognition of the Prophet Isa a.s. which shows there is a connection between the teachings of the teachings that he brought with the teachings that were once brought by the Prophet Isa. Such a thing is not at all listed in his letter to the Persian Kisra of the Mavolumei religion. If they were also included in the ahl al-kitab, then the invitation to make an agreement would also be included in his letter. This

clearly shows that the Mavolumei were not included in the Ahl-al-Kitab group. Nevertheless, the Mavolumei and religions other than Jews and Christians can be treated like the treatment of the ahl al-kitab (Ghalib, 1998).

FATWA OF THE TARJIH COUNCIL AND ITS ARGUMENTATIONS

This problem was first decided by the Assembly of Tarjih at the Muhammadiyah Conference in Garut on 18-23 April 1976, which was later recorded in the book *Adab al-Mar'ah fil Islam*. Apart from that, it is also contained in the book entitled of "Tanya-Jawab Agama" volume 2 in the chapter of "Hubungan Sosial Antar Umat Beragama." (Muhammadiyah, 2003). But because of the increasing inter-religious social relations in Indonesia, this problem is often asked by Muslims in Indonesia.

In the view of Majelis Tarjih Muhammadiyah, what is meant by marriage between religions is marriage between Muslims / Muslim and non-Muslim / Muslim people. Whereas the meaning of non-Muslims / Muslimahs is Mushrik people and Ahl Al-Kitab as explained earlier. Regarding marriages between Muslims / Muslims and polytheists / mushrikis the law is haram based on the verse Baqarah verse 221 about the inability of Muslim men to marry polytheists and the inability of Muslim women to be married to polytheists. Likewise marriage between Muslim and male ahl al-kitab law is haram based on verse al-Mumtahanah verse 10 about the injustice of Muslim women for infidel men, and vice versa. As for marriages between Muslim and ahl al-kitab women, in general there are two opinions:

1. Haram. This requirement is based on the Qur'an Al-Maidah verses 72 and 73, al-Baqarah verse 120, al-Bayinah verses 1 and 6.
2. Mubah. This is based on Surah al-Maidah verse 5 concerning the permissibility of Muslim men to marry a female from ahl al-kitab.

Majelis Tarjih seems to mean to distinguish between musyrikin / musyrikah and ahl al-kitab, in this case it appears that the Majelis Tarjih tends to be in line with the opinion of the group that distinguishes or does not classify ahl al-kitab to groups of idolaters. This first group understands the verses of the Qur'an which relate to the separation between ahl al-kitab with mushrik, through linguistic analysis. For example in surah al-Bayyinah, the group that allows Muslims to marry ahl al-kitab argues that "wau athaf" implies that between "mushrik" and "ahl al-kitab" are two different essences even though both belong to the unbelievers.

In the decision of the Muhammadiyah XXII Tarjih Conference on 12 to 16 February 1989 at the Muhammadiyah University of Malang, a text or statutory regulation related to interfaith marriage was agreed upon, the legal basis used by the Tarjih Council was the Qur'an Surah al-Baqarah verse 221, Surah al-Maidah verse 5 and al-Mumtahanah verse 10 (Majelis Tarjih dan Pengembangan Pemikiran Islam PP Muhammadiyah, 2000), and the hadith used as a legal basis is a hadith narrated from Abu Hurairah as related to the four criteria that caused women to be married, and finally the basis of this law is Law Number 1 of 1974 concerning marriage.

Regarding the law of a Muslim marrying a woman Kitabiyah the Assembly of Tarjih seems to refer to the text contained in the Qur'an itself which explicitly allows a Muslim to marry a woman Kitabiyah. Majelis Tarjih also argues that ahl al-kitab used to remain the same as ahl al-kitab with the present, in the sense that ahl al-kitab at the time of the Messenger of Allah was already in a state of shirk, but the Koran still allowed to marry the kitabiyah woman.

Majelis Tarjih argues that the letter Al-Maidah verse 5 is a takhsis (exception) for surah al-Baqarah verse 221. Surah al-Maidah verse 5 as takhsis of Surah al-Baqarah verse 221 which was revealed by Allah Almighty first, according to The Assembly of Tarjih is not possible if there is one verse that is earlier descended on the letter of Al-Maidah verse 5 which is later down. More that, the Assembly of Tarjih also holds on to history which says that the Prophet and some of his best friends were married to a female Kitabiyah. Therefore, the Assembly of Tarjih basically argued that the law of a Muslim married to a kitabiyah female was mubah.

However, even though the Assembly of Tarjih basically argues that it is amended, it seems that the Assembly of Tarjih further analyzed the laws of the mubah. According to the Tarjih Council, the mubah law must always be associated with the cause that allowed the marriage law to be permitted. So that when the mubah law causes harm to someone, the law can change because of seeing the danger there. It seems that Muhammadiyah chose to forbid Muslim marriages with ahl al-kitab not based on naqli arguments, but for reasons of maslahah.

At least the choice of Muhammadiyah regarding the haram law on Muslim marriage with ahl al-kitab women was decided for the following reasons: *First*, the main purpose of marriage is the realization of sakinah in the family. For this reason, some conditions are needed, especially the existence of *kafa'ah fiddin* kafaah. So interfaith marriages will make the obstacle to realize sakinah. *Second*, it is possible in religion to establish a law to avoid the potential adversity. *Third*, Law No. 1 of 1974 concerning marriage in chapter I of articles 1 and 2 which prohibits interfaith marriage. Because of these considerations, the Majelis Tarjih Muhammadiyah decided that interfaith marriages were haram.

ANALYSIS OF THE FATWA OF THE TARJIH COUNCIL

Methodological Analysis

The Muhammadiyah Assembly Tarjih chose the second opinion, namely the opinion that basically Muslim marriages with women ahl al-kitab are permissible because the dalil that allows, namely the letter al-Maidah verse 5 is more *sharih* (clear) than the verses that are made into theorem ban the marriage. But in Indonesia according to Muhammadiyah, if the marriage like this is permitted, it is feared there will be many men who convert his religion because of marrying women of other faiths. By using a method *sadd al-dzari'ah* with the intention of avoiding mafsadat, the mubah law of marrying a woman ahlul kitab has been turned into haram.

What is meant by *sadd ad-dzari'ah* in *usul al-fiqh* is "something that is a means to the forbidden or that is lawful". As-Syaukani defines *sadd ad-dzari'ah* as "something seen by birth is permissible (permissible), but brings to action that is prohibited". Whereas as-Syathibi defines *sadd ad-dzari'ah* as "everything that brings to something forbidden, which contains *mafsadah*". From this definition the term *sadd ad-dzari'ah* appears (closing means to evil). However, Ibn Qayyim al-Jawziyah provided different definitions of the definitions of as-Syaukani and as-Syathibi. According to him *dzari'ah* is something that becomes *washilah* (means) and *thariq* (path) to others (Al-Zuhaili, 1406 H).

This definition of Ibn Qayyim was approved by Wahbah al-Zuhaili. From this definition two terms emerge: (1) *sadd ad-dzari'ah*, which closes the means to evil, and (2) *fath ad-dzari'ah*, which is opening the means to goodness. Ibn ar-Rif'ah, as quoted by Syaukani, can accept *sadd ad-dzari'ah*, but it depends on the form of the *dzari'ah*. In this case he divides the *dzari'ah* into three forms: (1) Something that will definitely bring to the forbidden (forbidden) then the law is also unlawful, and here applies *sadd ad-dzari'ah*, (2) something that is definitely do not bring to the forbidden, but mixed with something that can bring to the unlawful, here is necessary caution by paying attention to the habits concerning this matter, and (3) something that contains the possibility of bringing to the unlawful, but must be considered if the possibility is large then *sadd ad-dzari'ah* is applied, and if the possibility is small then there is no need to apply *sadd ad-dzari'ah* because it is considered excessive. Al-Syaukani quoted al-Baji's statement that this *sadd ad-dzari'ah* was held by Malik, while Abu Hanifah and Syafi'i refused to use it. But Wahbah al-Zuhaili mentioned that Abu Hanifa and Shafi'i under certain conditions also used *sadd ad-dzari'ah*. Whereas Ahmad Ibn Hanbal used it like Malik. While Ibn Hazm refused to use it as a whole (Al-Zuhaili, 1406 H).

Indeed, *sadd al-dzari'ah* or preventive efforts are needed and required. However, the scholars often remind that that the excessive closure of the door is the same as over-opening it, which can eliminate a lot of *maslahah*, more than the fear that is feared itself (Al-Qardhawi, 1408 H).

So what about the concerns of Muhammadiyah towards men who marry women *ahl al-kitâb*? Isn't there no prohibition except with *sharîh* arguments and *qath'î*? Because of that the scholars of the past were very careful in saying the word *haram* except for something that is known for its exact forgiveness. Because the Salaf scholars never mention the word *haram* except for things that are clearly forbidden by certain ways (Al-Qardhawi, 2007). Based on this argumentation, it can be said that methodologically the opinion of the Majelis Tarjih is weak, at least from the following two reasons:

First, as long as there is no argument that clearly forbids, something can be done, let alone a real marriage and clearly there are arguments that allow it - such as Muslim marriage with women *ahl al-kitâb* - then how can it be forbidden by reason of *sadd al-dzari'ah*? Forbidding something that is *halal* must be based on the argument of the *nash* and the obvious benefit. While not in the Qur'an the argument that forbids a Muslim man from

marrying an ahlul kitab woman, also the benefit that is used as an excuse is still dzannyi, because it is intended as a preventive measure.

Second, in fact the concept of *sadd al-dzari'ah* as a preventive measure does not reach the level of prohibition, this is what the Prophet and his companions practiced. During the time of the Prophet and Abu Bakr no one forbade this marriage, until at the time of Umar when he became caliph, he forbade a friend to marry a woman of the book of experts, without prohibiting him. Besides that Umar's prohibition must be understood in his position as head of state, not as an Apostle who has authority in the Islamic Shari'ah.

In this regard Ibn Umar argues that ahl al-kitâb is a polytheist who is greater than polytheism which is adopted by the Arabs. Does Ibn Umar's statement mean that he forbids marriage with the scribes? Commenting on this statement by Ibn Umar, al-Jashshas, one of the famous Hanafi commentators stated that Ibn Umar actually did not forbid, but did not like to see Muslims marrying scribes (al-Jashshas, 1912).

In an atsar, Umar bin Khattab, when he heard his best friend Huzaifah married with a Jewish woman, Umar asked respectfully to Huzaifah to sincerely want to divorce his non-muslim wife. When asked, did Umar's request to Huzaifah show that Umar argued that marrying an ahl al-kitab was haram? At that time, Umar bin Khattab, who when he was asking for his position as the second caliph of the Khulafa al-Rashidin stated, "No, but I am afraid you will leave a muslim women and prefer them (Al-Baihaqi, 1424 H). Umar's request according to the author seems to have a sociological element in order to protect the interests of Muslim women.

The prohibition seems very appropriate and relevant to the conditions of Islamic society at that time, because Islam in the spread of its teachings experienced a lot of challenges from the outside. Many friends died on the battlefield which caused many widows of women too. If Muslim men marry non-Muslims, then Muslim women, especially those widows, where they will ask for protection? Therefore Umar politically looked at the strategic review. Because he was in power, he forbade it. The ban on Umar can be read as a policy of a head of state for the maslahah of his peoples, and not as a religious prohibition.

Yusuf al-Qardhawi had forbidden Muslim men from marrying an ahl al-kitab, but that was done in a country where Muslims were in a minority, where reproduction and the population of Muslims were needed to fight the oppression of the majority infidels. This is of course different from the situation of Muslims in Indonesia, the majority of whom are Muslims. So, if it is really necessary to avoid the wrong nature or suspicion, the Muhammadiyah tarjih assembly should be enough to ban it, without having to forbid Muslim marriage with the ahl al-kitab woman.

In the opinion of the author, in this case the Muhammadiyah Council of Tarjih has used the concept of *sadd al-dzari'ah* disproportionately. On the one hand this assembly does not forbid polygamy by considering *sadd al-*

dzari'ah, although polygamy often creates problems in a family building. But on the other hand it forbids Muslim marriage with ahl al-kitab women.

According to Fathurrahman Jamil, in this case Muhammadiyah has tried to apply the theory of *maqshid syari'ah*. Maintaining the husband's religion according to Muhammadiyah includes the *maslahat* aspects which are ranked *dharuriyyât*. If the husband cannot maintain his religion, then his marriage to the female ahlul kitab must be prohibited. This provision seems to have denied the law that has been set by the Qur'an itself. Although he acknowledged that in fact one of the objectives of the Shari'a, namely maintaining the religion desired by *ijtihâd*, the Tarjih Assembly was based on general principles which were also taken from the verses of the Qur'an and Hadith, especially in the form of the theory of *maqshid syari'ah* (Jamil, 1995).

In this case, the author feels can not accept that logical argumentation, because maintaining religion is also the essence of allowing Muslim to marry an ahl al-kitab women. If the woman with marriage wants to accept Islam and embrace it, then has children and is educated with Islamic teachings, then this religion will be stronger by entering the woman's in Islam, also the birth of their children, which if the woman is married to a man who are not Muslims, of course the existence of their families will not strengthen to Islam. Isn't in many ways the men stronger than women?

In this matter the Muhammadiyah Tarjih Assembly chose to forbid Muslims to marry Ahlul Kitab women for the simple reason, namely closing the coming of the death (*sadd al-dzarî'ah*). Because it is feared that there will be disharmony in the household and society, as well as the problem of children's education in two different religions in one family. In addition, they are also worried that if interfaith marriages are allowed, it will result in the destruction of inter-religious harmony that has been sought in such a way.

It seems that Majelis Tarjih does not base its fatwa on clear and clear statistical data, but only on speculative assumptions. Even if for example Muhammadiyah follows the statistical data that the MUI has that almost every year since the late 1960s the number of Muslims has diminished and the number of Christians is increasing (Suhadi, 2006). But in fact the MUI itself has never been able to prove whether this fact is due to Muslim men who are married to ahl al-kitab women or not. Isn't the conversion of Muslim communities to other religions possible because of the ignorance of Muslims themselves towards their poor brothers and sisters and needing their help? While it is clear that a provision that is *qath'iy* cannot be canceled by *zhanniy* provisions. Unless there are clear and proven warnings, not mere suspicions (*zhann*).

Sociological Analysis

It should be noted that most interfaith marriage bans in Indonesia began to roll after the 1970s. These various decisions which gave guidance to Islamic society reached their peak with the issuance of the MUI fatwa on June 1, 1980, the decision of the Muhammadiyah Assembly in 1989, and the instruction to disseminate *Kompilasi Hukum Islam (KHI)* through

Presidential Instruction No. 1 of 1991 which guides judges in religious courts throughout Indonesia. Textually, the MUI mentions the reason for the abrogation of the text of al-Maidah verse 5 which allows Muslim men to marry women ahl al-kitâb is in the interests of the Islamic community. Muhammadiyah is more transparent in expressing it because in reality in the community there is often a shift in the religion of the husband (Islam) to the religion of the wife (Christian). Some Indonesian Islamic jurists also use arguments that are not much different from the above arguments (Suhadi, 2006).

The ideology and interests of the interfaith marriage ban are increasingly transparent in tracking Atho Mudzhar, who revealed that actually the issuance of the MUI fatwa forbidding Muslim men and women from marrying non-Muslims, including those of ahl al-Kitâb, was apparently pushed by awareness of the existence of religious competition. According to him the competition was considered by the scholars to have reached a critical point for the growth of Muslim societies, so the door to the possibility of interfaith marriages must be completely closed (Mudzhar, 1993).

The general assumptions developed by Islamic groups show that in 1970-1980 the Christian mission movement went so fast that the quantity of the Christian population increased in that decade. Based on statistical data, in 1971 to 1980 Muslims in the percentage decreased by 0.4%. Meanwhile, Christians experienced an increase of 1.4%. Of course these statistics are only able to provide a very general and abusive picture, even in practice experiencing manipulation between reality figures in society and numbers written on paper. However, these figures are often understood as serious problems among the elites of political Islam and developed into a threat (*Statistical Year Book Indonesia tahun 1976, 1982, 1984 dan 1986, 1971*).

The case of the 1980 Central MUI fatwa needs to be understood in this frame. Interfaith marriages that often drag Muslims to convert have created their own fears among scholars. Muslim men who, according to the text of surah al-Maidah verse 5 may marry women ahl al-kitâb by Indonesian scholars to be forbidden. Because the scholars felt that they had to keep the number of Muslims from decreasing. This view was later legalized by the State through Marriage Law no.1 of 1974 and Compilation of Islamic Law (KHI) which was ratified by Inpres no.1 of 1991. As a result the state did not accommodate any interfaith marriage in Indonesia.

We have discussed above that both MUI and Muhammadiyah have agreed to ban interfaith marriages, even the ban applies to a Muslim who marries an ahl al-kitab woman. Such a product of interpretation according to the author because it ignores the setting down of verses. If every verse has a context, then every terminology of the Qur'an also has its own context. In addition, religious issues are also an important category in society and are married. Differences in religion are often regarded as a barrier to the lives of others who are more harmonious.

People always make verse 221 of Surah al-Baqarah as a proposition for the prohibition of interfaith marriage. In fact, if it is traced it is actually

the context of polytheism hostility that at that time was feared to destroy the holy hopes of marriage, commonly referred to as *mitsaqan ghalidza* (a sturdy anchor). Therefore, the issue of *kafâ'ah* (equality) or equality in religion for couples who want to get married is also emphasized in classical Islamic jurisprudence.

Even if there is a ban on interfaith marriages, the issue is not merely a matter of religion. There are social categories and variables related to theological interpretation. Indeed, there is a verse that says, "*Do not marry idolaters ...* (Surah al-Baqarah: 221). In Arabic, vocabulary *al-musyrikât* it refers to certain goods or communities (*al-ma'rifah*). This has not *nakirah*, but it refers to certain communities that are opposed. *Al-musyrikât* is a social category, not just a matter of theology which means a godless person.

Following to the author's opinion, that the polytheists mentioned in the verse are a picture of the Quraysh of Mecca who were very agitating towards the Muslim community which was then formed. We can imagine, if it is so fierce about its hostility towards Islam, how can we make it a life partner? The most fundamental issue of the ban on interfaith marriage is the socio-political problem. It's just that, when what develops later is the logic of religion, the socio-political context of the emergence of the prohibition on interfaith marriage is drowned out by the hegemony of theological thinking.

In Islamic law, a Muslim men are not a matter of marrying with the non-Muslim women. The data that got by author in 1980, Muslim men who married with non-Muslim women, 50% of their children became Muslims. But if the mother is Muslim and the father is non-Muslim, the figure is higher: up to 77% will become Muslims. That number rose again in 1990 to 79%. So it can be said that the ability of Muslim women to Islamize their children when they marry non-Muslim men is much higher than that of Muslim men. The dominance of mother figures cannot be separated from the role of her insurance and the intensity of time more to interact with her children. Further see the following table:

Table 1
The Affiliation of the Religion of Family Children Marriage Different from Religion according to Religion, Year and Gender of Parents

| Religion | 1980 | | 1990 | | 2000 | |
|---------------|---------|-------|---------|------|---------|------|
| | Husband | Wife | Husband | Wife | Husband | Wife |
| 1. Islam | 50.0 | 77.1 | 57.0 | 79.0 | 13.0 | 61.9 |
| 2. Protestant | 18.8 | 29.0 | 27.1 | 41.0 | 16.0 | 55.6 |
| 3. Catholic | 46.2 | 75.5 | 41.8 | 51.0 | 25.0 | 93.8 |
| 4. Hindu | 8.6* | 33.3* | 5.6 | 0 | 40.0 | - |
| 5. Buddha | - | - | 4.8 | 0 | - | - |
| 6. Etc | - | - | 20.0 | 0 | - | - |

Source: Are taken from 1980, 1990 and 2000 census data, Badan Pusat Statistik (BPS). * For SP-80, Hindu, Buddha and others putted together for analysis. SP 1980 = 685 children; SP 1990 = 1044 children; SP 2000 = 83 children.

Looking at the data, one reason for the prohibition of Muslim men to marry non-Muslim women, or even classical jurisprudence which prohibits Muslim women from marrying non-Muslim men, becomes irrelevant. This is because the jurisprudence discipline overrides hypothetical things, presuppositions and always relies on ideas that are not empirically tested. In fact, we see that non-empirical jurisprudence is still used as a reference by society, and therefore, society is always "dictated" by such jurisprudence. The jurisprudence should always develop according to the development of society.

In the opinion of the author, there needs to be a radical change if this empirical fact is to be used as a reference to measure the existence of old fiqh. In the old jurisprudence law Muslim women cannot marry non-Muslim men, with the pretext that their children will not become Muslims, so that reason has no empirical basis. Therefore, we need to review the level of validity of the benefits that can be achieved by the old jurisprudence which underlies the prohibition for Muslim women to marry non-Muslim men. If people want to ask about the data, the Central Statistics Agency (BPS) can explain. This data, even if it contains errors, is only between 2 or 3 percent.

As for the assumptions that have developed so far that interfaith marriages are prone to conflict and divorce, then the real problem of family conflict is not just because of different religions. Provided that each partner is able to deal with any conflicts that arise well, God willing, there will be no conflict. This was exemplified by the Prophet and his companions. In reality reality shows that even religious partners do not escape conflict. We talk too much at the speculative level and rely on each other's self-confidence. We need to take to the field. It needs to be examined, how many people who marry different religions then divorce. Maybe the divorce ratio is lower than those who are married to one religious partner. Because once again, to forbid something that is *qath'i* (clear halalness), it must be based on the *qath'i* argument (based on clear harm).

As we have witnessed today, married couples of different faiths can neutralize religious differences and be covered by their similarities in other aspects. One can think that the issue of religion is my business with Allah, while I must remain good with my wife, whatever the religion. Such factors sometimes encourage those who practice interfaith marriages to refute the accusation of people that their families like hell are totally wrong. It was at this point that it was seen that the religious maturity of the people or society far surpassed the religious elites. Religious elites often feel that they have a mandate to fortify their people.

In the issue of interfaith marriage, Muslims have long been confined to religious political reasoning. This confinement has lasted so long that it is difficult to get out to clearer religious reasoning. A problem cannot be seen

only from the light of a certain dogma, but also at the same time from the depth and wealth in exploring the problem. So far Muslims have not moved from the religious reasoning that has been determined by classical commentators - who say that the goal of allowing Muslims to marry ahl al-kitab women is for the sake of Islamic da'wah so that the wife enters her husband's religion (Islam) - and not trying to understand the ability of the marriage through another perspective of religious reasoning, namely a marriage in the frame of a spirit of help, mutual respect and upholding spirituality.

For example, a young man and a young woman who wants to do a marriage, one is a Muslim and the other is not. Both agreed to respect the differences, and instead determined to enrich each other's faith with that difference. So does such marriage remain prohibited in religious discourses that should promote spirituality?

Indonesia is a multicultural country consisting of many religions and cultures. The majority of religions embraced by their communities are Islam. So the possibility of a marriage like this is very small. It is impossible for Islam to be weakened in such circumstances. Besides that, Islam also teaches its adherents to be compassionate and of good character to the Ahlul Kitab. Likewise, Islam respects humans in their human status. Of course, it is more worthy of that honor if he is the ahl al-kitab, and more so if he is a person who gets a guarantee of protection (*dhimmis*) such as ahl al-kitab who becomes an Indonesian citizen.

CONCLUSION

Based on the discussion above, several things that can be concluded from this study are: First, basically the Muhammadiyah Council of Tarjih allowed interfaith marriages in the sense that Muslim men were married to ahlul kitab women. But in order to prevent the harm that might arise due to marriage with women of different religions, for example the husband or children from the marriage results actually follow his mother's religion, the Majelis Tarjih Muhammadiyah forbids the marriage by the method of *sad al-dzari'ah*. The consideration used by the Assembly of Tarjih in prohibiting interfaith marriages is sociological considerations.

Secondly, the prohibition to the marrying between a muslim male with the ahlul kitab female which is interpreted by the Assembly of Tarjih with the *sad al-dzari'ah* method seems weak from a methodological perspective, because the texts that are *qath'iy* must be prioritized rather than *zanniy* masalah (preventive measures). In addition, the reason for the author is that the concept of *sadd al-dzari'ah* does not reach to the haram level, because to prohibit a halal *qath'iy* must be based on the nash and the masalah of the *qath'iy* as well. In addition, based on statistical data, the fear of Tarjih assembly is not proven, even the marriage between the Muslim women with non-Muslim men has the potential to make their children convert to Islam.

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