

## PHILOSOPHY OF ISLAMIC MARRIAGE: MULTIDISCIPLINARY ISLAMIC STUDIES

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**Abstract:** This article aims to analyse the Philosophy of Islamic Marriage. This paper begins with the preliminary discussion on the issue followed by the delineation of philosophy of Islamic law drawing on textual discourses in the area. Conclusion of this paper are: Firstly, the philosophy of Islamic marriage is the purpose, the goal of Islamic marriage. Secondly, the objective, the purpose, and the goal of Islamic marriage are the same as and in line with the fulfillment of human needs. The fulfillment of this requirement accords with the motivation of marriage in psychology and family roles in Sociology. Therefore, the objective, the purpose, the goal of Islamic marriage as a philosophy of Islamic marriage go hand in hand with human needs, psychology and Sociology. Thirdly, by synchronizing the Islamic law and objectives as well as the principles of Islamic marriage law may yield the philosophy of Islamic marriage law.

**Keywords:** *philosophy, islamic marriage, psychology and sociology*

### A. Introduction

A plethora of studies within the Islamic law, particularly Islamic marital law, have focused much on its integrative components, yet studies pertinent to its philosophy and history remains sparse. In fact, philosophy and history of Islamic law provides insights into what can be achieved by legal materials; law is just a means to an end. Muhammad Abû Zahrah, Muh. Yusuf Mûsâ, Wahbah al-Zuhailz, and Musthâfâal-Shibâ'z, some of the contemporary Islamic scholars who wrote a book on Islamic marriage, do not discuss philosophy of Islamic marriage nor its history.<sup>248</sup>

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<sup>248</sup>Muhammad Abû Zahroh, *al-Ahwâl al-Syakhshyah* (Kairo: Dâr al-Fikr, t.t.), hlm. 18-23; Muh. Yusuf Mûsâ, *Ahkâm al-Ahwâl al-Syakhshyah fî al-Fiqh al-Islâm*, cet 1 (ttp.: Dâr al-Kitâb al-'Arabz, 1376/1956.), hlm 37-41; Wahbah al-Zuhailz, *al-Fiqh al-Islâm wa Adillatuhu*, cet. 3 (Damasykus: Dâr al-Fikr, 1409/1989); Musthâfâal-Shibâ'z, *Sharh Qânun al-Ahwâl al-Shakhshyah*.(Damaskus: tnp., 1385/1965). Some classical Islamic scholars:

Similarly, Indonesian scholars do not wrote philosophy of Islamic marriage nor its historicity.<sup>249</sup>

At the same time, the philosophy of Islamic marriage is not literarily discussed in the Qur'an nor in the Sunnah of the Prophet Muhammad saw. However, from a number of texts of marriage, philosophy of Islamic marriage can be formulated. Based on Fiqh and Usul al-Fiqh, the presence of Islamic jurisprudence is for the sake of the welfare and human safety, which is called the goal of the Islamic Shari'a (*maqâsid al-shari'ah*). Subsequently, the question is that how the formulation of welfare and human safety or well-being and safety of human beings in relation to Islamic marriage law, as part of Islamic law, can be elements of philosophy of Islamic marriage.

This short article tries to formulate the philosophy of Islamic marriage based on the goal of attendance of Islamic Shari'a (*maqâsid al-shari'ah*), with three foci of study. First, what is meant by the philosophy of Islamic marriage; secondly, how the philosophy of Islamic marriage confirms and affirmsto Sociology and Psychology. Confirmation and affirmation become a part of multidisciplinary model of study. The purpose of using multidisciplinary study is to examine if the philosophy of Islamic marriage is in line with human need and welfare. Sociology and psychology are two of social science used to examine the subject, since these two sciences have a very close relation to the subject. Thirdly, what is the formulation of Islamic marriage law that is possible to achieve the philosophy of Islamic marriage.

To explain the philosophy of Islamic marriage is by borrowing of Philosophy of Islamic Law's theory formulated by Indonesia scholars, which is divided into two terms, namely: (1) philosophy and (2) Islamic law. Analogy is used to formulate the philosophy of Islamic marriage, which means leaving formulation of fragments of words (1) philosophy, and (2) Islamic marriage. While part of the effort to undertake multidisciplinary model of discussing this issue is to confirm and affirm with sociological theory, especially sociology of family, and psychology.

This paper begins with the preliminary discussion on the issue followed by the delineation of philosophy of Islamic law drawing on textual discourses in the area. Drawing on the meaning and scope of philosophy of Islamic law, the definition

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Sahnûn, *al-Mudawwanah al-Kubrâ*(Beirût; Dâr Sâdir, 1323);Kâsânz al-, al-Imâm 'Alâu al-Dzn Abz Bakar bin Mas'ûd, *Kitâb Badâi'u al-Şanâi'u fî Tartzb al-Shârâi'*, cet. 1. (Beirût: Dâr al-Firk, 1417/1996); Shâfi'z al-, Muḥammad bin Idrîs al-Umm, edisi al-Muznż (ttp.: tnp., t.t.).

<sup>249</sup>To quote some of Indonesia scholars who wrote an Islamic marriage law; Mu'ammal Hamidy, *Perkawinan dan Persoalannya, bagaimana Pemecahannya Dalam Islam*, Surabaya: pt.bina ilmu, 1980; Rafiq, Ahmad, *Hukum Islam di Indonesia* (Jakarta: Rajawali Pers, 1995); Yunus, Mahmud, *Hukum Perkawinan dalam Islam*, cet. ke 4. (Djakarta: CV. Al-Hidayah, 1388/1968).

of Islamic marital philosophy is drawn. As a part of employing multidisciplinary study, the discussion continues with description of needs theory in psychology and familial roles according to sociology since the focus of the philosophy of Islamic marriage is a family matter.

## B. Meaning of Philosophy of Islamic Law

Even though legal philosophy is different from the philosophy of Islamic law, both have a very close relationship. Even the word “philosophy of Islamic law” can be divide into two principal words, namely: (1) “philosophy”, and (2) “Islamic law”. Likewise, the words can be categorized into two other terms, namely: (1) “philosophy of law” and (2) “Islam”. The word “philosophy” has the equivalent word philosophy (Arabic), philosophy (England), philosophia (Latin), and philosophie (Germany, the Netherlands and France). All of these terms are derived from the Greek word “philosophia” of a fragment of “philos” meaning desire or friends, and “shopia” means wisdom or wisdom. Thus, philosophia means the desire to act wisely. It is said that the word “philosophy” can also be derived from a fragment of the word “phila” and “shopia” which means prioritizing or prefer discretion. It is also mentioned that the word is derived from a fragment philosophia word “philein” meaning love and “Sophos” meaning the things that are thoughtful (as an adjective). Meanwhile, if the word “philos” and “shopia” means a friend of wisdom (as a noun).<sup>250</sup> From this sense, it can be concluded that philosophy is love of wisdom or thinking wisely or desire to think wisely. Thus, an essential element in philosophy is wisdom.

At the same time, when the word philosophy is defined as a policy, it matches an Arabic word which means wisdom, which are words of wisdom. Thus, the relevance of the language into the view is the same philosophy to mean wisdom.

Generally, Muslim jurists (fuqaha’) identifies the word “philosophy” with “wisdom”, which translates as ratio logis (*‘illat*, the purpose or goal of law [*maqâsid al-ahkâm*]), which also means secrets law (*asrâr al-ahkâm*), and these terms are also commonly used in books of Philosophy of Islamic Law. However, Ibn Rushd interprets the word of wisdom with knowledge of the nature, including in it are the benefits and usefulness. Thus, *hikmah al-tasyrḥ* means the nature of the establishment of Islamic law and benefits from it. Moreover, Mustafa ‘Abd al-Raziq identifies philosophy with Ushul Fiqh, in which he discusses (1) legal basis (*usul al-ahkâm*), (2) the rules of Islamic law (*qawâ'id al-ahkâm*), and (3) the goals of Islamic law (*maqâsid al-ahkâm*).

<sup>250</sup>Ali Mudhofir, “Pengantar Filsafat”, in Tim Fakultas Filsafat UGM, *Filsafat Ilmu* (Yogyakarta: Intan Pariwara, 1997), p. 11.

On the other hand, the word 'Islamic law' is often identified with the word 'Islamic norm' and of 'Islamic teaching'. Thus, the Islamic law has the same meaning with Islamic teaching, which is equivalent in Arabic al-Shari'ah. But there is also that the Islamic law is equal to the norms of Islamic law relating to behavior, which counterpart is *al-fiqh* (standard operational procedure).

In relation to meaning of the philosophy of law, Lili Rasjidi, an expert in philosophy of law, having noted a number of definitions of legal philosophy, concludes three things. First, that the philosophy of law is a branch of philosophy, i.e. the philosophy of ethics or morals. Second, that being the object of the discussion of the philosophy of law is the essence or core of law. Third, that the philosophy of law is a branch of science that studies more everything that cannot be answered by the branch of law.<sup>251</sup>

In addition, the emergence of legal philosophy coincided with the emergence of thought required disclosure of all aspects of human life. From the corner of his behavior spawned ethical philosophy, from the corner of his art bore aesthetic philosophy, in terms of the truth of the way of thinking led to the philosophy of logic. Likewise, in all human efforts to achieve the goal of his life are producing other branches of philosophy, such as the state philosophy, philosophy of law, political philosophy, philosophy of economics, and others.<sup>252</sup>

Views of Indonesia scholars on the Islamic philosophy can be explained as follows. In the book of Philosophy and Wisdom of Islamic Shariah (*Filsafat dan Hikmat Sjari'at Islam*), written by Fuad Mohd. Fachruddin,<sup>253</sup> it is not clear what is meant by the philosophy of Islamic law. Because this book presents a straightforward discussion of the problem after problem without first explaining what is meant by the philosophy and wisdom. From the looks of this book, that the purpose of this book is to find the value or utility (wisdom) behind the teachings of Islam, by using the indicators shown by *nash* (al-Qur'an and sunna of the Prophet). The book examines virtually all aspects of the teachings of Islam, the relationship between the slave (human being) and his creator [God] (*ibadah*), human relations (*mu'amalat*), family relations (*al-ahwâl al-sakhszyah*), constitution, crime and others.

While according to Hasbi ash-Shiddieqy, in his book *Filsafat Hukum Islam*, stated unequivocally that the philosophy of Islamic law is the law (*Qada*), principle or starting point (*mabda'*) or the rules that are used to control Muslim communities in all areas of life, which includes : (1) the basic pillars of coaching Islamic law (*da'âim*

<sup>251</sup>Lili Rasjidi, *Dasar-Dasar Filsafat Hukum*, (Bandung: Citra Aditya Bakti, 1996), p. 8.

<sup>252</sup>*Ibid.*, p. 11.

<sup>253</sup>Fuad Mohd. Fachruddin, *Filsafat dan Hikmat Sjari'at Islam* (ttp.:. tnp., 1959).

*al-ahkâm*), (2) the starting point or the basic law of development of Islamic law and its principles (*mabâdi al-ahkâm*), (3) principles of formation of Islamic law (*usûl al-ahkâm/ al-tasyri' / masâdir al-ahkâm*), (4) the purpose of the law (*maqâsid al-ahkâm*), (5) legal rules of Islam (*qawa'id al-ahkâm*), (6) the secrets of Islamic law (*asrâr al-ahkâm/al-tasyrîz'*), (7) typical characteristics of the Islamic law (*khasâis al-ahkâm*), (8) privileges Islamic law (*mahâsin/mazaya al-ahkâm*) and (9) the characteristics of Islamic law (*tawabi al-ahkâm*), To the first five are called *falsafa al-tasyrîz'*, while for four of the latter is called the philosophy of al-Shari'ah.<sup>254</sup>

It is also mentioned in the book, which became the basic pillars of coaching Islamic law are: (1) eliminate parochialism (*nafyu al-Harj*), (2) minimize the burden on legal subjects (*qillah al-taklîf*), (3) in line with human welfare, (4) realizing equal justice, (5) set out in stages, and (6) of each person only carry their own sins.<sup>255</sup>

The objects discussed in a book written by a team of Religious Affairs R.I.<sup>256</sup> are the goal, characteristic of Islamic law, and some in the field of religious philosophy and other fields, namely constitutional, criminal law, inheritance and endowments. The purposes of formulating law according to the book are to: (1) maintain the benefit of religion, (2) nourishes the soul, (3) maintain a sense, (4) nurture offspring, and (5) maintain the property and honor. The characteristics of Islamic law are: (1) universal, (2) humanity, and (3) moral.

As for the books written by non-Indonesia can be described as follows: for example in the book authored al-Jurjawi found a long discussion about the value, benefits or wisdom throughout the legal provisions contained in the texts, ranging from the affairs of man's relationship with the Creator (worship, *'ibadah*), human relations (*mu'amalah*), family relations (*al-ahwâl al-sakhsyah*), criminal, and others.<sup>257</sup> By contrast, in the book that has been published several times it did not find the discussion about the philosophy of Islamic law. The most far only stated in the introduction about why it is needed the apostle, which can be called prophetic philosophy. Thus, although it is not mentioned explicitly (textual), the philosophy of Islamic law, according to the book, it seems synonymous with wise of law (*hikmah*

<sup>254</sup>Hasbi ash-Shiddieqy, *Filsafat Hukum Islam* (Jakarta: Bulan Bintang, 1975), hlm.37 dan 38. The difference between 'falsafatu al-tashri'' with the philosophy of al-shari'ah, that falsafatu al-tashri' is a philosophy that emit Islamic law or strengthen and maintain it. While the philosophy of al-Sharia is the philosophy that is expressed from the materials of Islamic law in the field of worship', 'mu'amalah', jinayah and the like.

<sup>255</sup>*Ibid.*, hlm. 73-92.

<sup>256</sup>Tim Penulis, *Filsafat Hukum Islam* (Jakarta: tnp., 1987). Tim authors: Zaini Dahlan, Amir Syarifuddin, Ismail Muhammad Syah, Peunoh Daly, Moh. Quraish Shihab and Rahmat Djatmika.

<sup>257</sup>Ali Ahmad al-Jurjâwz, *Hikmah al-Tashrîz' wa Falsafatuh* (Kairo: Muassasah al-Halabi wa Shurakâ'ih, t.t.).

*al-tasyri'*). Discussion of the book is somewhat similar to the discussion of the book by Mohd. Fachruddin.

Thus the material object of the philosophy of Islamic law offered by the experts, the purpose, the goal of the law is the most appropriate object. Therefore, the main point of philosophy of Islamic marriage is the goal of an Islamic marriage. The following section is the explanation of the purpose, the goal of Islamic marriage and efforts to achieve them.

### C. Philosophy of Islamic Marriage

When the philosophy of Islamic law is defined as the purpose, the goal of Islamic law,<sup>258</sup> the philosophy of Islamic marriage law is then the purpose, the goal of Islamic marriage. Nash Qur'an and Sunnah is not mentioned explicitly and textually the purpose, the goal of Islamic marriage. However, from a number of verses of the Qur'an and the Sunnah of the Prophet Muhammad, experts formulate the purpose, the goal of Islamic marriage. Likewise, Islamic marriage goal can be started from the goal of religious presence, known as the five objectives (*al-kullzyah al-khamsah*). It is also said of the five destinations become the aim of laying down the law, namely to: (1) maintain the benefit of religion (*hifz al-dzn*), (2) nourishes the soul (*hifz al-nafs*), (3) maintain a sense (*hifz al-'aql*), (4) the breeding and honor (*hifz al-nasab*), and (5) maintain treasure object (*hifz al-mâl*).

A number of texts that have indications purpose of marriage display five general purposes of marriage, namely: (1) building a harmonious family, full of love and affection (*sakinah, mawaddah wa rahmah*), as the main objective which assisted with the objectives of: (2) reproduction (forwarding generations), (3) fulfill biological needs (sex), (4) the preserving the honor, and (5) the worship.

The five objectives of the attendance of Shariah (*al-kulliyah al-khamsah*) are basically the same as the objectives of Islamic marriage, that is a harmonious family. This harmonious family based on religious family (*hifz al-dzn*), the family which is assured of life and physical and spiritual health (*hifz al-nafs*), an intelligent family (*hifz al-'aql*), a quality thoroughbred family (*hifz al-nasab*), and family welfare (*hifz al-mâl*).

It must be emphasized that the order *al-kulliyah al-khamsah* according to the classical theory is the order of priority, but according to contemporary theory, as the opinion of Jassir Auda, the five above-mentioned requirements are not a five-

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<sup>258</sup>Jasser Auda, *Maqasid al-Shariah as Philosophy of Islamic Law: A System Approach*. London: The Interntiola Institute of Islamic Thought 1429/2008.

fifths become a necessity at the same time. When in a state of hunger for example then of course physiological needs such as eat is a priority.<sup>259</sup> May also in certain circumstances the more dominant sense. In one conference Jassir Auda made an analogy how our human needs against the five objectives of the attendance of Shariah and is relevant to Maslow's theory, for example in the form of the sunami disaster. In Sunami conditions, for example, the first requirement is a guarantee of human life (*hifz nafs*), which for the life assurance is certainly needed physiological needs such as eating and drinking. Once life is guaranteed then appears next need a place to stay (clothing) still physiology. The next stage is probably the need for education (*hifz 'aql*). Such is approximately the following basic staples, according to the needs.<sup>260</sup>

From the above description looks for harmony of purposes presence of Islamic Sharia (*al-kullz'iyah al-khamsah*) and the purpose of Islamic marriage, which is assured of prosperity begins with basic needs met. Within the scope of the macro, Islamic sharia guarantees the welfare of mankind, especially the followers of Islam, while the micro-scope, Islamic marriage laws guarantee the welfare of family members.

To confirm it with other knowledge in relation to the needs and welfare, Abraham Maslow with the 'theory of human needs encouragement', leveling of human needs. Mentioned that we are driven by the needs of the universal and innate arranged in a ladder, from the level of the most powerful to the weakest level. The most powerful needs must be satisfied before the need arises on the second level and so on. Abraham Maslow divides the basic human needs into five, namely: (1) physiology, (2) safety and/or security, (3) love and belongingness, (4) esteem (respect), and (5) self-actualization. But also mentioned that the first four needs become prerequisite to be able to meet the needs of the fifth, self-actualization.<sup>261</sup> So the first four needs are at the first level, while self-actualization is in the second level. But in a paper to appear later stated that the required levels of two who also inborn, after a five-level needs first, is the need to know and to understand.<sup>262</sup> Thus the five above-mentioned requirements are requirement on the first level. Despite criticism from scientists to Maslow's theory then, that in fact in many cases people fulfill lower level needs before fulfilling the most one, but this theory remains relevant to the purpose, the goal of marriage, satisfied human needs.

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<sup>259</sup>Ibid., p. 90.

<sup>260</sup>Jassir Audah, Pidato Keynote Speech pada Konferensi Internasional Fakultas Syari'ah dan Hukum UIN Sunan Kalijaga Yogyakarta, Kamis 17 Januari 2013.

<sup>261</sup>Duane Schultz, *Spikologi Pertumbuhan: Model-Model Kepribadian Sehat*, terj. Yustinus.(Yogyakarta: Kanisius, 1991), p. 90

<sup>262</sup>Ibid., p. 93.

The first requirement (psychology) associated with eating, drinking, sex, air, and water beds. In short entry psychology is the need to live. The second requirement (security) related to security, stability, protection, free from fear and anxiety. Third (love and belonging) associated with avoiding loneliness, love and be loved, and the feeling of togetherness. The fourth requirement (homage and/or awards) relate to the respect and appreciation, which could be in the form of reputation, prestige, status, wealth, fame and the like. The fifth requirement (self-actualization) is associated with a potential that needs to be reliable actualization.<sup>263</sup>

Another theory about the basic human needs can be grouped into six. First, the biological needs such as food, drink, clothing, housing, sexuality. Second, the need for compassion in the form of feeling loved and loving. Third, the need for security in the form of feel protected. Fourth, the need to belong and have. Fifth, the need for a sense rewarded in the form of reward and punishment. Sixth, the need for self-actualization in the form of freedom to develop themselves.<sup>264</sup>

Thus there is a very close relationship between the purpose of marriage with the fulfillment of human needs, that the goal of an Islamic marriage identical to human fulfillment needs. Likewise, that the purpose of Islamic marriage is synonymous with motivation of marriage in psychology, which can be grouped into seven. Firstly, procreation, namely to get a descent. Second, love, namely love and affection. Third, safety & security, namely getting a sense of security, comfort and peace. Fourth, home and money, namely the housing and financial sufficient. Fifth, sexual satisfaction, namely sexual fulfillment. Sixth, companionship, that togetherness. Seventh, the culture, the culture demands.<sup>265</sup>

Nearly the same as the purpose of Islamic marriage and motivation of marriage in psychology, in Sociology, especially sociology of the family, it is called a family function. Sociologically speaking, there are ten family functions, namely: 1. biological functions, 2. economic function, 3. The function of affection, 4. The function of education, 5. The function of protection, 6. The function of socialization, 7. religious function, 8, The function of education, 9. recreational functions, and 10. The religious function.<sup>266</sup>

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<sup>263</sup>Peter A. Topping, *Managerial Leadership*(New York: McGraw Hill, 2002), p. 90-92.

<sup>264</sup>Soewadi, "Sikap Penasihat BP4 dalam Penasihatian Perkawinan". Bahan Pelatihan bagi Penasihat BP di DIY, 2005.

<sup>265</sup>*Ibid.*

<sup>266</sup>Melly Sri Sulastri Rifai, "Suatu Tinjauan Historis Prospektif tentang Perkembangan Kehidupan dan Pendidikan Keluarga", dalam Subino Hadisubroto, dkk. *Keluarga Muslim dalam Masyarakat Modern* (Bandung: Remaja Rosdakarya, 1994), hlm. 8-13.



In the Government Regulation (PP) No. 21 of 1994 on the Implementation of the Family Welfare Development also adopted the term family function. In Article 4 paragraph (2) mentioned 8 family functions, as referred to in paragraph (1) shall include: a. religious functions; b. social and cultural functions; c. the function of love; d. protecting function; e. reproductive function; f. the function of socialization and education; g. economic functions; h. function of management of the environment.<sup>267</sup> While the Marriage Act of Indonesia, uses the term purpose of marriage, which is building a happy family and eternal, as stated in Law No. 1 of 1974 on Marriage, chapter 1.<sup>268</sup>

Thus what can be inferred from the discussion of the purpose of Islamic marriage, motivation of marriages in psychology and family functions according to Sociology and Government Regulation (PP), of course there are certainly differences between the goals, motivations and functions. But all of them have similarities in terms of the scope, as illustrated above, that in order to meet human needs, and make every effort to improve to become prosperous family.

By involving the psychology and sociology of the Family in the discussion of the purpose of marriage, as the discussion above, it can be said to have used a multidisciplinary assessment. The meaning of the multidisciplinary assessment/ study in resolving a certain issue is by cooperation or working together between or among sciences that each stand alone and with their own methods.<sup>269</sup> It is also known the interconnection between or among sciences with other sciences, but each work based on discipline and methods respectively.<sup>270</sup> Still another definition, a multidisciplinary approach is an approach to solving a problem using a variety of viewpoints relevant science, but each stands alone. Still another definition of a multidisciplinary, namely the incorporation of multiple disciplines to jointly address a particular problem. The core of the multidisciplinary study is to examine a certain issue in a particular field which later assisted by several other sciences. In this study the philosophy of Islamic marriage law helped by Sociology and psychology.

To compare with the study of multidisciplinary, interdisciplinary studies need to be described, which according to one school, interdisciplinary study means of

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<sup>267</sup>Article 6 of the Government Regulation (PP) No. 21 of 1994, mentioned, the quality of self-development and family functioning is done through improving education, health, economic, social, cultural, mental, spiritual, religious values, and increased work of other welfare.

<sup>268</sup>As the article 1 says, marriage is the emotional and physical bond between a man and a woman as husband and wife with the intention of forming a family (household) a happy and lasting popularity Almighty Deity.

<sup>269</sup>A.G.M. Van Melsen, *Ilmu Pengatahuan dan Tanggung Jawab Kita*, terj. K. Bertens (Jakarta: Gramedia, 1985), hlm. 59; *Ibid.*, hlm. 19-20.

<sup>270</sup>Kaelan, *Metode Penelitian Agama Kualitatif Interdisipliner* (Yogyakarta: Paradigma, 2010), hlm. 20.

cooperation between the science with other sciences to become a new science with the new method.<sup>271</sup> With interdisciplinary study be able to assess various aspects of existing and able to present the natural setting of the object of study. Another definition and may be referred to other schools say that an interdisciplinary approach is an approach to solving a problem by using the various reviews of the viewpoint of science cognate relevant or appropriate in an integrated manner. Still another definition, Interdisciplinary, is an intensive interaction between one or more disciplines, whether directly related or not, through programs of teaching and research, with the aim of integrating the concepts, methods, and analysis. The core of the interdisciplinary study can be classified into two models. Firstly, combine the two into a single science, such as the Family and Sociology become sociology of the family. The second model is to assess the problem with the help of one or several allied sciences. Then the most suitable model for this study is the second model. So if it is compared in a simple, multidisciplinary science involving many outside of the clump of science are discussed, while interdisciplinary involving one and/or the various sciences in one clump of science are discussed.

The above discussion of the purpose of Islamic marriage involving Sociology and Psychology, can be called using a model of multidisciplinary studies. The function of involving two sciences in the discussion of philosophy of Islamic marriage is in order to complement and reinforce the aims stated philosophy of Islamic marriage. The involvement of Sociology and psychology in the discussion of the philosophy of Islamic marriage, is also part of the effort of integration and interconnection of science. Where the relationship between philosophy of Islamic marriage as a core discussion with Sociology and psychology is to equip (complementation) and/or confirm.<sup>272</sup>

Ian G. Barbour made four shades of the relationship between religion and science and technology, namely: (1) conflict, (2) independence, (3) dialogue, and (4) integration.<sup>273</sup> Along with Ian G. Barbour, John F. Haught recorded four phases towards that encounter. First, the conflict paradigm that assumes that modern science has a negative relationship with religion. Second, the paradigm contrasts the view that these two things have their own autonomy; No religion and no area of

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<sup>271</sup>Ibid., p. 21.

<sup>272</sup>There are six models of the relationship between science (integrative-interkonektif) that can be developed, namely: similarization, parallelization, complementation, comparison, inductivication, and verification. Another opinion about the relationship model between science (integrative-interkonektif) states, there are three models as follows: Informative, confirmatory, and Corrective. Bermawiy Munthe, dkk., *Sukses di Perguruan Tinggi* (Yogyakarta: CTSD, t.t.), hlm. 17-19.

<sup>273</sup>Ian G. Barbour, *Issu dalam Sain dan Agama*, terj. Damayanti dan Ridwan, (Yogyakarta: UIN Sunan Kalijaga, 2006).

science. Conflicts can occur when both carried the dialogue process. Third, contact the paradigm that there is autonomy of religion and science, but there is a certain dimension or realm that the two could meet. Fourth, the paradigm confirmation stating that between science and religion can co-exist. There is research that is built on religious beliefs and religious beliefs contrary could also be developed based science products.<sup>274</sup>

By involving the Psychology and Sociology to discuss philosophy of Islamic law, therefore, is a kind of effort to create a new dialog between religion and social sciences. It is trying to make happen are complementary and mutually reinforcing between sciences and religion (philosophy of Islamic law), but keep each other's existence.

As for how to achieve this goal of Islamic marriage is to create a harmonious relationship of three levels of law, namely: 1. philosophy of Islamic marriage as the ultimate goal of law, 2. principles of Islamic marriage as a means to achieve the ultimate goal, and 3. the law of Islamic marriage as SOP (standard operational procedure) or legal practice in everyday life. Next is an explanation of the principles of Islamic marriage and how its contribution to achieve the purpose, the ultimate goal of Islamic marriage.

#### **D. Principle of Islamic Marriage**

Principle of Islamic marriage can be grouped into two. First, the principles that are the foundation. Second, the principle of which is practical in running family life. To distinguish between the principles that are the foundation of the principle of a practical nature can be using analogy of the difference between faith or theology or paradigm on one side of the sharia or ritual on the other side. Theology or faith or paradigm can be referred to as a religious foundation or religious belief, while sharia or ritual is the realization of the religious belief. With this analog, then it can be referred that of a faith or theology or paradigm as the foundation, while the principle of a practical nature are the principles that should be practiced by family members, especially between husband and wife. However, in the foundation is also found a practical element.

It is found four foundation of family life. First, family life based on religious morals. That is, for any actions taken by family members, the referenced standard is the standard or religious grounds. When the religiously permissible then carried

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<sup>274</sup>John F. Haught, *Science and Religion: From Conflict to Conversation (Crossway Classic Commentaries)*, edisi 1, (New Jersey: Paulist Press, 1995); John F. Haught, *Perjumpaan Sain dan Agama, Dari Konflik ke Dialog*, terj. (Jakarta: Mizan dan ICAS, 2004).

out by family members. Conversely, if by religion something to be abandoned then abandoned by family members.

Second, keep yourself and your family honor. That is the behavior or action that family members have to guard and honor. If one action can raise the dignity of the family, or at least not pollute family, then that action can be done. Conversely, if an action performed is likely to defame the family, the action is not implemented by family members.

Thirdly, a couple had the principle of monogamy. That is, a man as a husband and a woman as a wife have to make a determination as a spouse to death.

Fourth, marriage is as worship. That sustain family life is part of worship. As worship then the marriage should be preserved and maintained their integrity, since the family unit means maintaining the worship of Allah.

As for the practical principles of marriage there are six. First, principle is the principle of consultation and democracy. Second, principle is the principle of creating a sense of safety, comfort and peace in family life. Third, principle is the principle of avoiding violence. Fourth, principle is the principle that the husband and wife is a partnership; husband and wife as a team work, a husband and wife work as a team. Fifth, principle is the principle of fairness. Sixth, principle ensures the creation of good communication among family members.

In Law No. 1 of 1974 mentioned seven principles of marriage, namely: 1. faith, 2. legal certainty, 3. justice, 4. balance, benefits and actual 5. Welfare, 6. Freedom and voluntary, and 7. Deliberation, democracy.<sup>275</sup>

Just for comparison, the principles of the Islamic marriages were called a family trait ideal, namely: (1) to keep each other emotional contact, (2) have the freedom to get to know himself, his abilities, so that it can act and behave in accordance with the self-partner, (3) feel their need and not to blame, (4) freedom from fear as a result of limitations or lack thereof, (5) a flexible approach towards life, (6) to forgive each other, (7) have empathy for each other, and (8) free but feel dependent on one another.<sup>276</sup>

Contribution of principles of marriage to achieve the goal of an Islamic marriage therefore is that these principles be harmonious and synchronized intermediary between the objectives to be achieved and the law as a means to an end. Formulation

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<sup>275</sup>UU No. 1 tahun 1974 tentang Perkawinan; Kaharuddin, *Nilai-Nilai Filosofi Perkawinan menurut Hukum Perkawinan Islam dan Undang-Undang No. 1 Tahun 1974 tentang Perkawinan* (Jakarta: Mitra Wacana Media, 2015), hlm. 133 dst.

<sup>276</sup>Soewadi, "Sikap Penasihat BP4...".

of Islamic marriage law is therefore has to be able to promote the goals of marriage and in line with the principles of marriage.

The formulation of the classical Islamic marriage law should be observed carefully in accordance (not) with the purpose of marriage. In this context, it needs to be lived and practiced law formulated grouping experts. First, the regular law, which are common to all. Second, the legal exclusion, privilege, exceptional law, *istisna'* (*khâriq al-âdah*, *Kharij al-âdah*), which applies to certain people and in certain conditions, is not for everyone. Thus in formulating Islamic marriage law should really put the common law as the applicable law and as a legal exception being applied as an exception.

As an illustration, early marriage is performed by the Prophet Muhammad with 'Aishah r.a., but this action is appropriate only to the prophet Muhammad with all its privileges. The reason is that under normal circumstances, the ones committing early marriage have not been sufficiently equipped to achieve the purpose of marriage in terms of his physical and mental capacity. At the same time, it is understood that well-established physical and mental capitals can help achieve the purpose of marriage.

Likewise, polygamy is a marriage committed by only certain groups of people not ordinary ones as it requires certain conditions to practice. The purpose of marriage can be attained by upholding the law and other cases.

## E. Conclusion

Drawing on the above discussion, three main conclusions are drawn. Firstly, the philosophy of Islamic marriage is the purpose, the goal of Islamic marriage. Secondly, the objective, the purpose, and the goal of Islamic marriage are the same as and in line with the fulfillment of human needs. The fulfillment of this requirement accords with the motivation of marriage in psychology and family roles in Sociology. Therefore, the objective, the purpose, the goal of Islamic marriage as a philosophy of Islamic marriage go hand in hand with human needs, psychology and Sociology. Thirdly, by synchronizing the Islamic law and objectives as well as the principles of Islamic marriage law may yield the philosophy of Islamic marriage law.

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