

ABSTRAK

Amirul Khusaini, Student ID Number 11210071. **Comparative Study On Marriage Cancellation In Indonesia And Malaysia in *Maslahah al-Mursalah* (The Act No. 1 Year 1974 on Marriage Indonesia And Islamic Family Law Enactment No. 17 Year 2003 of Johor State)**. Thesis. Al-Ahwal Al-Syakhshiyah Department. Syariah Faculty, Islamic State University Maulana Malik Ibrahim Malang. Supervisor: Jamilah M.A.

Key Words: Marriage Cancellation, *Maslahah al-Mursalah*, *Iddah*

Marriage cancellation is one of the consequences of any problems that arise in households. In the Islamic view of marriage cancellation it is called as *fasakh*. In practice *fasakh* was divided into two; marriage *fasid* and marriage *bathil*. Each of that has a different factor and effect against the couple husband and wife. In Indonesia the rules about marriage cancellation regulated in Act No. 1 Year 1974 on marriage. Malaysia which is a unitary State composed of 14 States. One that is the State of Johor, that country has own family laws which also regulate the marriage cancellation, is Islamic Family Law Enactment No.17 Year 2003 Johor State. Both in Johor and Indonesia have various similarities and differences, such as the majority of the citizens are muslims and also has the same race that Malays. So, on the issue of marriage cancellation there are differences causative factor in the marriage cancellation, rising a different legal effects also.

Based on problems above, the researcher designed object problems as follows: 1) what the similar and different factors that causing the marriage cancellation in Indonesia and Malaysia in view Act No. 1 Year 1974 on marriage and Islamic family law Enactment No. 17 Year 2003, 2) what legal impact of the marriage cancellation in Indonesia and Malaysia in view of *maslahah al-mursalah*.

This research is normative research which uses library material or library research. Approach used in this research is statue approach. Data collecting method done by documentation method, begun from legal material determination, legal material inventory, and legal material observation comprehensively, systematically, and structural analysis.

The conclusions of this study show that the factor causing the marriage cancellation in Indonesia is contained in Article 26 and 27 of Act No. 1 Year 1974 on marriage in the State of Johor contained in Article 53 Islamic family law Enactment No. 17 Year 2003. There are various factors which make the marriage cancellation, Johor mention it more detail, while in Indonesia Mentioning globally. While the legal consequence arising from the marriage cancellation is the breakdown in the marriage. The absence of *Iddah* in Act No. 1 Year 1974 on marriage makes it a problem for the wife that her marriage ended as a result of marriage cancellation. meanwhile Johor was rule it, For Johor State the wife's right after breakdown marriage remain fulfilled. The lack of *Iddah* period in Indonesia in the event of marriage cancellation gives rise to new problems, especially for children who are still in the fetus. So the need for a rule that could solve this problem, which is where these rules must meet this aspect of the benefit of husband and wife.