ABSTRACT


Key word: differences, social strata, as a barrier, marriage,

To society of countryside of Banda Ely district of north east Kei Besar sub province of south-east of Moluccas, differences of social strata as barrier do marry is represent custom of prohibition order marriage because difference of sect / caste in local society custom. With reason of customary law and habit, hence these marriage manners become important matter, which become consideration in practice nuptial.

The method used is empirical juridical, that is analyzing various regulation of law having correlation with marriage according to customary law and religiously Islam in countryside of Banda Ely district of north east Kei Besar sub-province of south-east Moluccas and empirically answer problems with studying behavior of custom society in countryside of Banda Ely district of north east Kei Besar sub-province of south-east Moluccas.

Approach which is used in this research is approach qualitative that is research having intend to comprehend phenomenon what experience by research subject by holistic and by description in the form of Language and words, at one particular natural special context and by exploiting various natural method. And analysis used is qualitative descriptive analysis.

Pursuant to result of research and solution can be concluded as follows: first, barriers do marry happened among caste of Mel and of Ren and of Riy. Both, barrier do marry pursuant to difference of caste still defended by some of society faction, while some of other faction assume difference of caste not again as barrier to conduct marriage because religion do not make difference of caste as barrier / prohibition order in nuptials. Third, while in compilation Islam law and code no.1 in 1974 do not make difference of social strata as barrier to marriage, while in book of fiqih barrier do marry because difference of social strata very relate to kafa'ah, concerning this matter most Moslem scholar have a notion that kafa'ah only in just religion, while difference of social strata only as just afidhaliah.