

INTERFAITH MARRIAGE: BETWEEN PRO AND CONTRA IN ISLAMIC JURIST'S THOUGHT

Suwarjin

Universitas Islam Negeri (UIN) Fatmawati Sukarno Bengkulu
Jl. Raden Fatah, Pagar Dewa, Air Sebakul, Kota Bengkulu
E-mail: suwarjin@gmail.com

Abstract: Interfaith marriage is remained a topic of discussion, especially since the appearance of an application to the Constitutional Court (MK/ *Mahkamah Konstitusi*) for a judicial review of the marriage law. The decision of the Constitutional Court did not satisfy various parties because the application was rejected because the validity of interfaith marriages is the territory of each religion to decide on it. From here, the pros and cons of interfaith marriage reappear. This article aims to examine the pros and cons of the views of Islamic jurists' thoughts on the legitimacy of interfaith marriages, both from classical scholars and from various groups and mass organizations in Indonesia. This article aims to examine the views of the pros and cons of the validity of interfaith marriages, especially in Islam, both from classical scholars and from various groups and mass organizations in Indonesia. The approach used is classical *ushul fiqh* to analyze and compare the various views and then synthesize and select the most appropriate views. From this study, it was concluded that the view of the majority of scholars who only allow interfaith marriages between Muslims and *ahl al-kitab* is a view that is more in line with the theory of *ushul fiqh*. Besides that, marriage between *ahl al-kitab* men and Muslim women can also be legalized with the *qiyas* approach, whose *illat* is wisdom.

Keywords: interfaith marriage; *ahl al-kitab*; *ushul fiqh*

Abstrak: Perkawinan beda agama masih menjadi wacana yang terus diperbincangkan, apalagi setelah munculnya permohonan ke Mahkamah Konstitusi (MK) untuk melakukan uji materi undang-undang perkawinan. Putusan MK tidak memuaskan berbagai pihak karena permohonan ditolak karena sahnya perkawinan beda agama adalah wilayah masing-masing agama untuk memutuskannya. Dari sinilah muncul kembali pro dan kontra pernikahan beda agama. Artikel ini bertujuan untuk mengkaji pro dan kontra dalam pemikiran ahli hukum Islam tentang keabsahan perkawinan beda agama, baik dari kalangan ulama klasik maupun dari berbagai kalangan ormas di Indonesia. Pendekatan yang digunakan adalah *ushul fiqh* klasik untuk menganalisis dan membandingkan berbagai pandangan kemudian mensintesa dan menyeleksi pandangan yang paling tepat. Dari kajian ini disimpulkan bahwa pandangan mayoritas ulama yang hanya membolehkan perkawinan beda agama antara muslim dengan *ahl al-kitab* merupakan pandangan yang lebih sejalan dengan teori *ushul fiqh*. Selain itu perkawinan antara laki-laki *ahl al-kitab* dengan perempuan muslim juga dapat dilegalkan dengan pendekatan *qiyas*, yang *illatnya* adalah hikmah.

Kata kunci: pernikahan beda agama; *ahl al-kitab*; *ushul fiqh*

Introduction

The family is the primary entity in the broader community development. Even Thahir bin Asyur mentioned that the orderliness of a family is the foundation for the orderliness of society and culture.¹ Meanwhile, orderliness and public welfare are one of the ideals to be achieved by sharia. Therefore,

Islam is very guarding and involved in managing family relations. Maintaining a family (*hifdz al-nasl*) is one of the objectives of Islamic law's sharia.² Sharia always pays attention to the basic foundation of forming a family. Marriage is the initial means to reproduce and form family relationships which then develop into tribes and become part of humanity.

¹ Thahir ben Asyur, *Maqashid Al-Syariah al-Islamiyah*, (Tunis: Dar al-Salam, 2003), p. 125.

² Abu Hamid al-Ghazaliy, *Al-Mustashfa Min Ilm al-Ushul*, (Beirut: Dar al-Kutub al-'Ilmiyah, 1413), juz. I, p. 174.

Unlike most of the preachers, Ibn Asyur views that the purpose of marriage is not just *sakinah* as it is contained in.

وَمِنْ آيَاتِهِ أَنْ خَلَقَ لَكُمْ مِنْ أَنْفُسِكُمْ أَزْوَاجًا لِتَسْكُنُوا
أَلَيْهَا وَجَعَلَ بَيْنَكُمْ مَوَدَّةً وَرَحْمَةً إِنَّ فِي ذَلِكَ لَآيَاتٍ لِقَوْمٍ
يَتَفَكَّرُونَ ﴿٢١﴾

“And among the signs of His power is that He created for you wives of your own kind, so that you are inclined to and feel at ease with him, and He made them between you with love and affection. Indeed, in that there are signs for people who think.” (Ar-Rûm: 21)

For Ibn Asyur, Marriage is a means to a larger goal, namely building an established and ideal society which he describes as *mashlahah* for humanity. ³*Mashlahah* is the ideal that the Islamic sharia wants to achieve by presenting various rules and regulations. One is to regulate and determine various provisions in fostering a household.

Among the rules that have been established by Islam in fostering a household is choosing an appropriate partner and with care. The Prophet said,

عَنْ أَبِي هُرَيْرَةَ رَضِيَ اللَّهُ عَنْهُ عَنِ النَّبِيِّ صَلَّى اللَّهُ عَلَيْهِ
وَسَلَّمَ قَالَ: (تُنْكَحُ الْمَرْأَةُ لِأَرْبَعٍ: لِمَالِهَا، وَلِحَسَبِهَا، وَلِجَمَالِهَا،
وَلِدِينِهَا، فَاطْفَرْ بِذَاتِ الدِّينِ تَرُبَّتْ يَدَاكَ

From this hadith, the Prophet explained that usually, women are married for four reasons, their wealth, their family lineage, their beauty, and their religion. However, for Muslims, the Prophet emphasized choosing a partner based on their religion, not anything else.

In accordance with this word, Allah said,

وَلَا تَنْكِحُوا الْمُشْرِكَةَ حَتَّىٰ تُؤْمِنَ وَلَا أَمَةٌ مُّؤْمِنَةٌ خَيْرٌ مِّنْ
مُّشْرِكَةٍ وَلَوْ أَعْجَبَتْكُمْ وَلَا تُنْكِحُوا الْمُشْرِكِينَ حَتَّىٰ يُؤْمِنُوا

“And do not marry polytheistic women, before they believe. Indeed, a believing slave woman is better than a mushrik woman, even if she attracts your heart. And do not marry polytheists

(to believing women) before they believe. “ (al-Baqarah: 221)

From the two arguments above, a ‘kind of’ shared knowledge emerges that interfaith Marriage is prohibited in Islam. However, it turns out that there are still many interfaith marriages from time to time. Even in Indonesia, a country with the largest number of Muslims, many interfaith marriages exist, including in Probolinggo, East Nusa Tenggara, and several other locations. Based on the results of an interview with the BBC, Nurcholis said that in 2015, the Center for the Study of Religion and Peace had married 638 couples of different religions in Indonesia.⁴ Not only ordinary people but well-known artists in Indonesia also widely perform interfaith marriages.⁵

Later, voices emerged from several groups in Indonesia regarding efforts to legalize interfaith marriages. For example, what was carried out by Komnas Perempuan through a press release regarding Constitutional Court Decision Number 24/PUU-XX/2022: Considerations of the Constitutional Court Potentially Strengthen Discrimination and Violence Against Women in Interfaith Marriages.⁶ Apart from administrative difficulties for interfaith marriage actors, it is also because, in the Indonesian state, interfaith marriages do not have standard rules, leading to multiple interpretations of several articles in the 1974 Marriage Law.⁷

Previously, some parties submitted an application to the Constitutional Court for a review of Law Number 1 of 1974 concerning Marriage (Marriage Law) as amended by Law Number 16 of 2019 concerning Amendments to Law Number 1 of 1974 concerning Marriage related to different marriages religions.⁸

One of the reasons the Constitutional Court rejected the application was that the validity of

⁴ Abdul Jalil, “Pernikahan Beda Agama Dalam Perspektif Hukum Islam Dan Hukum Positif Di Indonesia,” *Andragogi: Jurnal Diklat Teknis Pendidikan Dan Keagamaan*, vol. 6, no. 2 (2018), p. 47, <https://doi.org/10.36052/andragogi.v6i2.56>.

⁵ Abdul Jalil, “Pernikahan Beda Agama...,” p.51.

⁶ Komnas Perempuan, “Siaran Pers Komnas Perempuan Tentang Putusan MK Nomor 24/PUU-XX/2022” (Jakarta, 2022).

⁷ Afrian Raus, “PERKAWINAN ANTAR PEMELUK AGAMA DI INDONESIA,” *JURIS (Jurnal Ilmiah Syariah)*, vol. 14, no. 1 (October 18, 2016), p. 78, <https://doi.org/10.31958/juris.v14i1.298>.

⁸ MKRI.id, “MK Tolak Permohonan Perkawinan Beda Agama,” 2023.

³ Muhammad bin Thaher Asyur, *Ushul Al-Nidzam al-Ijtima'iy Fi al-Islam*, 2nd ed, (Tunis: Syirkah al-Tunisiyah, 2003), p. 89.

marriage is in the domain of religion through religious institutions or organizations that are authorized or have the authority to provide religious interpretations. The state's role, in this case, follows up on the results of the interpretation provided by the institution or organization. Therefore, reviewing religious views regarding interfaith Marriage is important, especially in Islam.

Research on interfaith marriages has been done before, including; research conducted by Sri Wahyuni titled "Interreligious Marriage in Indonesia and Human Rights." The findings in this study are that the implementation of interfaith marriages in Indonesia is contrary to human rights values, namely freedom of religion and the freedom to form a family with a legal marriage. ⁹Surawardi and Ahmad Riyadh Maulidi conducted subsequent research titled "Different Religion Marriage in Islamic View." The results of this study indicate that (1) the law of Marriage between Muslim men and women who are experts in the book, some allow it and some that prohibit it, (2) the law on marriages between Muslim men and women who are not experts in the Book, both women who are polytheists, Zoroastrians, and Shabi'ahs. There is also a difference of opinion among the scholars. As for the law on marrying an idol-worshipping woman is prohibited, (3) According to Islam, marrying a Muslim woman to a non-Muslim man is not permissible, and (4) some problems arise when interfaith marriages are carried out. So interfaith marriage is not recommended.¹⁰

Based on previous research, it can be seen that the focus of this research object is different from previous research. The novelty in this study lies on the side of ushuliyah studies which are supported by *salafuna shâlih* scholars' thoughts on interfaith marriages. This article examines the pros and cons of interfaith marriage by referring to the main sources in Islam through works by classical and contemporary scholars. The debate between

the pro and contra parties will be reviewed. Theorem and their arguments will be analyzed using the principles of *ushul fiqh*. In the end, the two opinions will be synthesized and assessed so that the opinion that is more appropriate according to the author is chosen. The debate between pro and contra parties regarding the legality of interfaith Marriage cannot be separated from the study of *istinbath al-ahkâm* from religious texts, especially from Q.S. al-Baqarah [2]: 221 and Q.S. al-Maidah [5]: 5. Many approaches are used to understand the arguments about interfaith marriage, including sociological ¹¹, anthropological, and hermeneutic approaches.¹² Some even use the interpretation approach.¹³ However, not many reviews and assess the pros and cons of using the linguistic rules approach and classical *ushul fiqh*.

Method

This study was literature research that is descriptive and qualitative. The data collection technique used in this research is documentation. The approach used in this study is a qualitative descriptive approach because this study is a descriptive study that explains the pros and cons of interfaith Marriage by referring to the main sources in Islam in the form of works of classical and contemporary scholars. The debate between the pro and contra parties will be reviewed. Theorem and their arguments will be analyzed using the principles of *ushul fiqh*. Data analysis techniques were carried out in three stages: data reduction, presentation, and conclusion drawing.¹⁴ At the same time, the data validity technique used in this study is source triangulation, namely by comparing information from one source with

⁹ Sri Wahyuni, "Perkawinan Beda Agama di Indonesia dan Hak Asasi Manusia," *IN RIGHT: Jurnal Agama dan Hak Azazi Manusia*, vol. 1, no. 1 (March 24, 2017), p.150, <https://doi.org/10.14421/inright.v1i1.1215>.

¹⁰ Surawardi Surawardi and Ahmad Riyadh Maulidi, "Different Religion Marriage in Islamic View," *Jurnal Transformatif (Islamic Studies)*, vol. 6, no. 1 (April 28, 2022), p.1, <https://doi.org/10.23971/tf.v6i1.2801>.

¹¹ Fitrawati Fitrawati, "DISKURSUS PERKAWINAN BEDA AGAMA DI INDONESIA DALAM TINJAUAN UNIVERSALISME HAM DAN RELATIVISME BUDAYA," *JURIS (Jurnal Ilmiah Syariah)*, vol. 20, no. 1 (June 21, 2021), p. 131, <https://doi.org/10.31958/juris.v20i1.2825>.

¹² Muhamad Harsono, "NIKAH BEDA AGAMA Perspektif Aktifis Jaringan Islam Liberal (JIL)," vol. 2, no. 1 (2009).

¹³ Nafisatul Muthmainnah, "Pernikahan Beda Agama Perspektif Tafsir Nusantara Abad XX dan XXI," n.d.; Khamami Zada, "Arus Utama Perdebatan Hukum Perkawinan Beda Agama," *AHKAM: Jurnal Ilmu Syariah*, vol. 13, no. 1 (February 1, 2013), <https://doi.org/10.15408/ajis.v13i1.949>.

¹⁴ Matthew B Miles and A Michael Huberman, *Analisis Data Kualitatif: Buku Sumber Tentang Metode-Metode Baru*, (Jakarta: Universitas Indonesia Press, 2014).

information from other sources to obtain a truly objective conclusion.¹⁵

Results and Discussion

Views that Forbid Interfaith Marriage

Some classical scholars argue that interfaith marriage is prohibited. This group was spearheaded by the Companions of Ibn Umar and Atha' and followed by some Shia circles.¹⁶ According to Ibn Qudamah, this view is shared by the Shia Imami.¹⁷ They argued with the word of God,

وَلَا تَنْكِحُوا الْمُشْرِكَةَ حَتَّىٰ يُؤْمِنَ ۚ وَلَا مَؤْمِنَةٌ خَيْرٌ
مِّنْ مُّشْرِكَةٍ وَلَوْ أَعْجَبَتْكُمْ ۚ وَلَا تُنكِحُوا الْمُشْرِكِينَ حَتَّىٰ
يُؤْمِنُوا

Through this verse, Allah forbids male Muslim men to marry polytheistic women and forbids Muslim women to marry polytheistic men. This provision applies until they believe, in the sense that they are forever forbidden to marry unless they have faith.¹⁸

This verse, for them, includes all non-Muslims, regardless of their religion, whether *ahl al-kitab* or followers of the pagan religion. Although Allah distinguishes between polytheists and *ahl al-kitab* in several verses, the difference is only in the names and characteristics. This view is reinforced by the words of Ibn Umar when he was asked about marrying *ahl al-kitab* (Christians and Jews). He replied, "Allah forbids Muslims to marry polytheistic women, and I do not know of any worse polytheism than believing that the prophet Isa (as) is a god."¹⁹

In addition to Ibn Umar's opinion, these circles also cite a verse that explains that the Jewish belief that recognizes Uzair as the son of God and

the Christian belief that Jesus is God is a form of polytheism (Q.S. Al-Taubah [9]: 30-31). From this verse, it appears that the vocabulary of polytheists includes all forms of polytheism. It is the word 'Am', and one of its scopes is Christianity and Judaism.²⁰ The word has the same meaning as *ahl al-kitab*, and is mentioned in several places in different contexts because there are specific situations and conditions, not because it refers to different referents.

There are still several other verses that indicate the prohibition against marrying non-Muslims. Among them is surah al-Mumtahanah verses 1 and 10, where in verse 1, Allah forbids Muslims to hold fast to the bonds of disbelief. Marriage is a form of bond, even one of the strongest bonds between husband and wife. In verse 10, Allah forbids Muslims to make His enemy's *auliya'*, defined as a leader or close friend in many interpretations. A spouse (husband/wife) is one of the most intimate friends in human social relations.

Views that Allow Interfaith Marriage

The second group stated that interfaith marriage was legalized as long as marrying a Jewish or Christian woman. But even though it is legal, this kind of marriage is *makruh* to do. This view is the opinion of most scholars, namely Hanafiyah²¹, Malikiyyah²², Syafi'iyah²³, and Hanabilah²⁴.

This *makruh* law was concluded from several comments from scholars. For example, Ibn Qudamah said that it is better not to marry *ahl al-kitab* women because Umar once ordered his friends to divorce his wives who were *ahl al-kitab*, except for Hudzaifah's friends.²⁵ Umar's order was

²⁰ Fakhruddin Al-Razi, *Mafatih Al-Ghaib*, (Beirut: Dar Ihya' Turast al-Arabi, 1420), juz. VI, p. 332.

²¹ 'Abd Allâh ibn Maḥmūd al-Mawshilī and Muḥammad Anas Bīrḡadār, *Al-Ikhtiyār Li-Ta'ālil al-Mukhtār*, al-Thab'ah al-ūlā, (Dimashq: Dār al-Fayḥā' lil-Nashr wa-al-Tawzī', 2020), juz. III, p. 88.

²² Ali ibn Ahmad ibn Mukram al-Sha'idī al-Adawīy, *Hasyiyah al-Adawīy*, 2nd ed, (Beirut: Dar al-Kutub al-'Ilmiyah, 2012), juz. II, p. 53.

²³ Muḥamad bin Umar al-Bujairimī, *Hasyiyah al-Bujairimiy 'ala Syarh Manhaj al-Thullab*, (Beirut: Dar al-Kutub al-'Ilmiyah, 2017), juz. III, p. 373.

²⁴ Qudamah, *al-Mughniy 'ala Mukhtashar al-Kharqiy*, p. 590.

²⁵ Qudamah, p. 590.

¹⁵ Lexy J. Moleong, *Metodologi Penelitian Kualitatif*, (Bandung: PT Remaja Rosdakarya, 2018).

¹⁶ Syaraf al-Din al-Shan'aniy, *Al-Raudh al-Nadhir Syarh Majmu' al-Fiqh al-Kabir*, (Beirut: Dar al-Jiyl, n.d.), juz. IV, p. 43.

¹⁷ Abdurrahman ibn Muhammad ibn Qudamah, *al-Mughniy 'ala Mukhtashar al-Kharqiy*, 1st ed, (Beirut: Dar al-Kutub al-'Ilmiyah, 2009), juz. VI, p. 590.

¹⁸ Abu Abdillah Muhammad bin Umar Fakhruddin al-Razy, *Mafatih Al-Gaib (al-Tafsir al-Kabir)*, (Lebanon: Dar al-Ihya' al-Turas al-Arabi, n.d.), juz. I, p. 576.

¹⁹ Ibn Hajar al-Asqalaniy, *Fath Al-Bariy*, (Beirut: Dar al-Fikr, 2003), juz. IX, p. 236.

intended for the companions who lived in his time, except for Hudzaifah. This exception shows that marrying *ahl al-kitab* women does not reach the haram level. Zakariya al-Anshari from the Shafi'iyah community said emphatically that marrying women from *ahl al-kitab* is makruh because it is feared that slander will arise by marrying her. What slander means is the emergence of doubts in faith and excessive tolerances. Al-Adwiy from the Malikiyah also gave reasons for this discord. According to him, a Muslim husband cannot forbid his wife, who is *ahl al-Kitab*, from eating pork and alcohol. This will certainly have an impact on the children they raise.²⁶

In addition to the reasons above, they base their opinion on several arguments: the Quran, al-Sunna, and *atsar* Companions. Among the verses of the Qur'an that form the main basis is al-Maidah [5]: 5, namely the *ahl al-Kitab* of women who take care of themselves. This verse, according to the second group, is the verse that defines (as an exception) from Q.S. al-Baqarah [2]: 221 which forbids marrying polytheistic women.²⁷ In surah al-Baqarah, Allah uses the 'polytheists' and 'mushriks' vocabulary, covering all polytheism types. Of course, among the forms of polytheism and the most severe is associating partners with Allah, as is done by the *ahl al-kitab*. Therefore, Christians and Jews are included in the scope of al-Baqarah above. However, *ahl al-kitab* is excluded from the existing provisions in al-Baqarah with this surah al-Maidah.

This view rejects the opinion of the first circle, which states that Q.S. al-Maidah [5]: 5 annulled (*nasakh*) by Q.S. al-Baqarah [2]: 221. So, the opposite is true. This is supported by the opinion of Ibn Abbas, who stated that women *ahl al-Kitab* are excluded from the provisions in al-Baqarah [2]: 221.²⁸

Responding to the second possibility expressed by the first group, what is meant by *al-muhsanat* "ahl al-kitab woman who takes care of herself" in Q.S. al-Maidah [5]: 5 is a believer, and most scholars

have different opinions, independent²⁹ *Ahl al-kitab* women. This opinion is based on the reason that Muslim men may marry enslaved Muslims after getting free Muslim women is impossible. So if traced, Muslim men can marry free Muslim women, enslaved Muslim women, or free³⁰ *ahl al-kitab*. Hanafiyah argues that what is meant is *ahl al-kitab* women who are good at maintaining their honor.³¹ Malikiyah stated that what was meant was an independent woman, like Shafi'iyah.³² Meanwhile, Hanabilah does not explicitly state that what is meant is an independent woman. However, they gave the impression that only free³³ *ahl al-kitab* women were allowed to marry.

Responding to the history originating from Ibn Umar, who forbade marrying Jewish or Christian women, Ibn Katsir said that the history was *Gharib*, which was foreign because it contradicted historical data that occurred at the time of the companions. At the time of the friendship, some married *ahl al-kitab* women, for example, Hudzaifah married a Christian woman, and Talhah bin Ubaidillah married a Jewish woman.³⁴ Thus, the History of Ibn Umar cannot be used as a guide, especially if you follow Syafi'iyah's view that *Qaul Shahabiyy* cannot be used as evidence.³⁵

In fact, a history states that once Hudzaifah married a Jewish woman. Hearing this, Umar, as Amirul Mukminin then, sent a letter to Hudzaifah to divorce her. Hudzaifah then asked Umar to confirm, "Is this marriage halal or haram". Responding to Hudzaifah's question, Umar said that it was not haram to marry a Jew, but he was worried that Hudzaifah would get a bad woman.

²⁹ Al-Imam al-Syafi'iy, *Al-Umm*, (Kuala Lumpur: Victory Agency, 1989), juz IV, p. 58.

³⁰ al-Syafi'iy, p. 7.

³¹ Muḥammad Ibn Aḥmad al-Sarāḥṣī, *al-Mabsuth fi Fiqh al-Hanafiy*, 3rd ed, (Beirut: Dār al-Kutub al-'Ilmiyah, 2009), juz. V. p. 01.

³² Mālik Ibn-Anas, Abu-'l-Walīd Muḥammad Ibn-Aḥmad Ibn al-Ruḥd, and 'Abd-as-Salām Ibn-Sa'īd at-Tanūḥī Ṣaḥnūn, *al-Mudawwana al-Kubrā*, ed. Zakariya 'Umairāt, (Bairūt: Dār al-Kutub al-'Ilmiya, 2012), juz. II, p. 219.

³³ Qudamah, *al-Mughniy 'ala Mukhtashar al-Kharqiy*, p. 500.

³⁴ Abu al-Fada' Ibn Ismail Ibn Umar Ibn Katsir, *Tafsir al-Qur'an al-Karim*, 2nd ed, (Damaskus: Dar Ibn Katsir, 2013), juz. I, p. 437.

³⁵ Zakariyâ Ibn Muḥammad al-Anshârî, *Ghayat Al-Wushul*, ('Ammân: Dâr al-Fath lil-Dirâsât wa-al-Nashr, 2020), p. 123.

²⁶ al-Adawiy, *Hasyiyah al-Adawiy*, p. 53.

²⁷ 'Abd al-Raḥīm Ibn al-Ḥasan al-Isnawī, *Nihayat al-Sul fi Syarh Minhaj al-Wushul ila 'ilm al-Ushul*, (Beirut: Dar al-Kutub al-'Ilmiyah, 2009), juz. II, p. 143-144.

²⁸ Khazin, *Lubab al-Ta'wil fi Ma'ani al-Tanzil*, 3rd ed, (Beirut: Dar al-Kutub al-'Ilmiyah, 2014), juz. I, p. 575.

³⁶This confirms that marrying *ahl al-kitab* does not reach the level of haram.

Difference between *Kâfir*, *Mushrik*, and *Ahl al-Kitab*

The Quran, in referring to non-Muslims, uses many different words. Among them are infidels, polytheists, *ahl al-kitab*. Whereas in the hadith of the Prophet, there is an additional term, namely *dzimmiy*. *Ahl al-kitab* is two syllables which mean the owner of the book. In the Quran, it is sometimes called *ûtu al-kitab*, people who were given the holy book. The vocabulary of *ûtu al-kitab* is mentioned 16 times. Meanwhile, the vocabulary of *ahl al-kitab* is mentioned in the Quran 31 times based on the Jewish and Christian religious communities, without being limited by personnel, time, and place. So, the term *ahl al-kitab* is more ideologically bound than genetics or periodization.³⁷

According to Jumhur, this word refers to only two groups, namely Jews and Christians. However, al-Tabariy argues that this word also includes the *al-shabi'un*. Some argue that adherents of Buddhism, Hinduism, and idol worshipers from India and China are included in the category of *ahl al-kitab* community.³⁸

Imam Syafi'iy, in response to *ahl al-kitab*, divides polytheists into three categories. First, those who have holy books, namely Jews and Christians. Second, those who are considered to have a 'kind of' holy Book, namely the Zoroastrians. They are classified in this category because they are suspected of receiving holy books and then losing them. Third, those who do not have holy books, namely the pagans, idol worshipers. Those who are classified as *ahl al-kitab* are only in the first circle.³⁹

Hanabilah is also in line with the Shafi'iyah view in that idol worshipers are not included in the category of *ahl al-kitab*. However, regarding the magi, there are still differences of opinion among the Hanabilah. Some say that the magi fall into the category of *ahl al-kitab*. This is based on the hadith of the Prophet, who ordered his companions to treat the magi as *ahl al-kitab*. In fact, history states that Hudzaifah was married to a magi woman. In addition, in several provisions, magi are treated the same as *ahl al-kitab*, such as the obligation of *jizyah*.⁴⁰

The second vocabulary is polytheists. *Musyrik* comes from the root word *shirk*. *Shirk* literally means to associate. So it means to believe in the existence of other gods besides Allah.⁴¹ There are also those who interpret it by comparison or mixing two owners who are antonyms by themselves. In contrast to *kufr*, it basically means covering or covering something. It is said that because unbelievers are closed from the truth so they deny the truth about gods, prophets, and justify what is unlawful or vice versa. In fact, denying a favor can also be considered as disbelief. Whereas *shirk* focuses more on beliefs about God, associating partners with God or equating God with creatures. From here, *kufr* has a wider scope than *shirk*.⁴² While *ahl al-dzimmah* is a term closer to politically different communities. They may come from infidels, polytheists, or *ahl al-kitab* but have made peace and live with the Muslim community. The opposite of this term is *ahl al-harb*, namely non-Muslims who show hostility to the Muslim community.⁴³

From the views above, it can be concluded that the three terms *kufr*, polytheist, and *ahl al-kitab* are meaningful but have their specific sides. When sorted, the term *kufr* is the broadest in scope, then polytheists, *ahl al-kitab* seeing this same meaning, some people say that the three

³⁶ Hasan Ali ibn Khalaf Ibn Batthal, *Syarh Ibn Baththal 'ala Shahih al-Bukhari*, 1st ed, (Beirut: Dar al-Kutub al-'Ilmiyah, 2003), juz. VII. p. 435.

³⁷ M. Quraish Shihab, *Wawasan Al-Qur'an; Tafsir Tematik Atas Pelbagai Persoalan Umat*, 1st ed, (Bandung: Mizan, 2007), p. 368.

³⁸ Alwi Shihab, *Islam Inklusif: Menuju Sikap Terbuka Dalam Beragama*, 1st print, (Jakarta: Published in collaboration with AN Teve and Penerbit Mizan, 1997), pp. 367–68.

³⁹ Muhyiddin bin Syaraf al-Nawawi, *al-Majmu' Syarh al-Muhaddzab*, 2nd ed, (Beirut: Dar al-Kutub al-'Ilmiyah, 2011), juz. XVI, pp. 233–234.

⁴⁰ Qudamah, *al-Mughniy 'ala Mukhtashar al-Kharqiy*, p. 502.

⁴¹ Ruwais Qal'ahji, *Mu'jam Lughat al-Fuqaha'*, 3rd ed, (Beirut: Dar al-Nafais, 2010), p. 311.

⁴² al-Hasan ibn 'Abd Allâh al-' Askarî, *al-Furuq al-Lughawiyah*, (Beirut: Dar al-Kutub al-'Ilmiyah, 2003), p. 454.

⁴³ Sawaun Sawaun, "Pernikahan Lintas Agama dalam Perspektif Hadits," *Syariati: Jurnal Studi Al-Qur'an dan Hukum*, vol. 2, no. 01 (May 1, 2016), p. 352, <https://doi.org/10.32699/syariati.v2i01.1120>.

are synonyms so that each vocabulary word above can be placed equally in another position.⁴⁴ For example, the view of Ibn Umar who said that Jews and Christians are classified as polytheists. In addition to this view being rejected by the majority of scholars, it would also be inappropriate if synonymous words could then be placed interchangeably with one another. Because, even though synonyms are words that have the same meaning, there are subtle differences that determine the appropriate vocabulary to be placed in a series of sentences. Moreover, in the Quran which is one of the miracles of Allah. Every word, even every letter, contains a secret and a purpose. So, even though the vocabulary is meaningful, it cannot just replace it in the Quran.

The Debate on Interfaith Marriage in the Indonesian Context

If we examine the existing laws and regulations in Indonesia, no texts or *sarih* rules explicitly prohibit interfaith marriages. At least what regulates interfaith Marriage is Marriage Law No. 1 of 1974 Article 2 paragraph (1), which states, "Marriage is legal, if it is carried out according to the laws of each religion and belief." So according to these rules, whether or not a marriage is legal is left to each religion.

In Indonesia, there are more or less three institutions dealing with legal fatwas, namely the Lajnah Bathsul Masail Nahdlatul Ulama, the Fatwa Commission of the Majelis Ulama Indonesia, and the Majelis Tarjih Muhammadiyah. Each of the three is known to have issued a fatwa on interfaith Marriage. The Indonesian Ulema Council has issued a fatwa on interfaith marriages. The MUI issued, more or less, two fatwas regarding interfaith marriages.

First, the Central MUI Fatwa in 1980. The Indonesian Ulema Council in the Second National Conference on 11-17 Rajab 1400 H, coinciding on May 26-June 1, 1980 M. Has decided on interfaith marriage laws. The fatwa states that the Marriage of a Muslim woman to a non-Muslim man is forbidden from biblical and non-biblical circles, in contrast to interfaith marriages that are carried out between Muslim men and non-Muslim women. The

Marriage of a Muslim man to a non-biblical infidel woman, the scholars agree, is not permissible. On the other hand, interfaith marriages between Muslim men and biblical women are still being debated by scholars. It's just that, on this issue, the MUI is more in favor of the strict opinion of the clergy; that is, it is not permissible with *mafsada* considerations. According to Majelis Ulama Indonesia, marriages between Muslim men and biblical women have more negative than positive impacts.

Second, the Central MUI Fatwa in 2005.⁴⁵ In 2005, the MUI or the Majelis Ulama Indonesia issued several fatwas at the MUNAS MUI event. The fatwa contains 11 issues, one of which is interfaith marriage. This fatwa is the second MUI fatwa on interfaith marriage, having previously issued a fatwa in 1980. As a result of his decision, interfaith marriages are invalid. Even though some scholars allow one form of several interfaith marriages, namely marriage between a Muslim man and a biblical woman, according to the *mu'tamad* opinion, this marriage is still not valid. In addition, according to the MUI, prohibiting interfaith marriages is important to maintain a peaceful household life.⁴⁶

Likewise, Muhammadiyah, through its Majelis Tarjih, forbids interfaith marriages. Furthermore, especially in the case of women ahl al-Kitab, the Majelis Tarjih Muhammadiyah tracked down two different opinions, some forbidding it and some forbidding it.⁴⁷ Of these two opinions, Muhammadiyah favors the first opinion, which is haram, for the following reasons:

- a. The people of the Book who exist today are not what they were at the time of the Prophet SAW. Now the People of the Book are polytheists or associate partners with Allah. According to the Jews, Uzair was the son of Allah, and according to the Christians, Prophet Isa As was the son of Allah.

⁴⁵ Fatwa of the Indonesian Ulema Council, Number: 4/Munas Vii/Mui/8/2005, concerning interfaith marriages.

⁴⁶ Ibnu Radwan Siddik Turnip, "Perkawinan Beda Agama: Perspektif Ulama Tafsir, Fatwa Mui dan Hukum Keluarga Islam di Indonesia," *al-Tadabbur: Jurnal Ilmu al-Qur'an dan Tafsir*, vol. 6, no. 1 (n.d.), p. 107.

⁴⁷ Results of document review: Fatwa Tarjih Muhammadiyah, law on interfaith marriage, heard on July 22, 2011.

⁴⁴ al-Anshârî, *Ghayat Al-Wushul*, p. 33.

- b. Wedding in different religions inhibits the family from creating a *sakinah* environment as the main goal of Marriage.
- c. God willing God, people Islam No lack woman Muslimah, even the quantity of Muslim women is more than Muslim men.
- d. As effort *syadz-adz-dzari'ah* (prevent damage), For guard faith couple and his offspring.⁴⁸

As a result, Muhammadiyah prohibits interfaith marriages between Muslim men and *non-Kitab* women, Muslim men and Islamic women, and Muslim women and polytheistic men. In order to conclude the law, there are two ways carried out by Muhammadiyah. First, through *Ijtihâd bayânî*, namely a legal conclusion obtained through direct understanding of texts. Muhammadiyah prohibits marriages between Muslim men, non-Kitab women, and Muslim women with mushrik men because the Quran in surah al-Baqarah [2]: 221 gives instructions to them.

Meanwhile, among the Nahdlatul Ulama, interfaith Marriage has been discussed on several occasions, namely the decision of the 1960 NU General Conference of the Executive Board, the decision of the Congress of *jam'iyah* expert *ath-thariqah al-mu'tabarah* in 1968, and the 1989 NU Congress, have the same conclusions and mutually reinforce each other. The first meeting on interfaith marriages held in 1960 studied interfaith marriages between Muslim men and infidel women. And the next deliberation that was held in 1968 complemented the previous study, namely examining the law on interfaith marriages between Muslim women and infidel men. While the deliberations that took place in 1989, can be said as a confirmation and strengthen the results of previous discussions. The meeting held in Yogyakarta discussed the status of interfaith marriages in Indonesia.

At the 28th Mukatamar held in Yogyakarta, it was emphasized that interfaith marriages were not permissible. This result refers to the opinion of Syakh al-Syarqawy in his Book *Hasiyah al-Syarqawy*. Especially in the case of women who are people of the Book, in al-Syarqawy, it is permissible to

marry her, but several conditions must be met, and according to NU, these conditions are not found in the people of the Book in Indonesia.⁴⁹

Nadhlatul Ulama (NU), in deciding the law on different religions, uses *qawly reasoning*⁵⁰ (opinions of previous scholars). This decision was made by gathering the opinions of scholars regarding interfaith marriages contained in the classics. After the comments from the ulama were collected, the NU majlis decided on the status of interfaith marriages based on these opinions. This legal reasoning is very rigid and textual because it only involves the texts of classic books and the results of the *ijtihad* of previous scholars without considering the sides of the benefits, social conditions, and so on.

Of the three formulations above, none of Indonesia's three Islamic legal institutions legalize interfaith marriages. They all expressly forbid it, without any specific details or forms of relief. If we connect it with Marriage Law No. 1 of 1974 Article 2 paragraph (1) mentioned above, the state automatically disapproves of interfaith marriages for Muslims. The various fatwas could also be why the MK judges rejected the application for a judicial review of the Marriage Law. For the Constitutional Court, marriage registration can only be done if each faith declares the Marriage valid. As for the validity of a marriage, it is the territory of each religion to determine it. Moreover, Marriage is a form of worship, so the Constitutional Court does not have the authority to interfere with religion worship.⁵¹

However, there are groups that seek to legalize interfaith marriages behind all the fatwa decisions from various Indonesian Islamic organizations above and the Constitutional Court's decisions. One of them is the National Commission

⁴⁹ Tim Lembaga Ta'lif Wan Nasyr (LTN) PBNU, *Ahkamul Fukaha*, (Surabaya: Khalista, 2019).

⁵⁰ This method is a method of legal initiation used by NU scholars/intellectuals in the *Lajnah Bahsul Masail* by studying the problems at hand, then looking for answers to the *fiqh* books of the four schools of thought, by referring and referring directly to the sound of the text, or in other words, following the opinions that have "become" within the scope of certain schools, see (Manhaj *Bathsul masail* according to Nu).

⁵¹ MKRI.id, "MK Tolak Permohonan Perkawinan Beda Agama."

⁴⁸ Results of Document Review: Fatwa Tarjih Muhammadiyah 22 July 2011, Law on Interfaith Marriage.

on Women. Komnas Perempuan views that the norms contained in Article 2 paragraph (1) of Law No. 1 of 1974 have resulted in debates on interpreting the phrase “according to the law of each religion and its beliefs.” Differences in interpretation impact violations of constitutional rights in the form of obstacles to having a family for those with partners because of religious differences. This diversity of interpretations is also reflected in the various decisions of the district courts regarding the determination of marriages of citizens of different religions.⁵²

Actually, Komnas Perempuan also knows about the existence of debates and differences of opinion regarding interfaith marriage in Islam. However, they regret that there is no affirmation from the state regarding this marriage which has resulted in couples who marry with different religions experiencing difficulties in the administrative process of registering their marriage. The impact is if the registration is not done, then the rights of the husband and wife cannot be guaranteed by the state. In addition, Komnas Perempuan also noted that women experience more stigma than men when choosing to enter into interfaith marriages. Complaints to Komnas Perempuan show that women who marry with different religions are considered to have committed adultery, women as children have been kicked out of their homes, and are prone to experiencing family violence. Violence perpetrated by the family includes forcibly separating women from their partners/husbands and children and psychological and economic violence. The same thing is experienced by women who believe in interfaith marriages.⁵³

Some opinions legalize interfaith marriages between Muslim women and non-Muslim men. For example, the the Liberal Islam Network (JIL/ *Jaringan Islam Liberal*) says that interfaith marriage between a Muslim man and a non-Muslim woman or vice versa is absolutely permissible. ⁵⁴This is

based on the object referred to by the verses regarding the prohibition of interfaith marriage. For them, the object referred to by the verse is the polytheists who lived in Arabia when the Prophet was sent, not non-Muslims today. This view is not entirely new because al-Tabari has quoted a view that says so. Likewise, Muhammad Abduh and Rashid Rida, in their interpretation of al-Manar.⁵⁵

Scholars say that marrying non-Muslim men is prohibited because marrying non-Muslims is forbidden for all types, based on Q.S. al-Baqarah [2]: 221. The existence of exceptions for *ahl al-kitab* in Q.S. al-Maidah [5]: 5 only excludes the marriage of a Muslim man to *ahl al-Kitab* woman from the general provisions. While on the contrary, it is not excluded. In other words, the *takhsis* process only applies to references that are stated by Q.S. al-Maidah [5]: 5. While marrying a non-Muslim man or marrying someone other than *ahl al-kitab*, continue to use the previous provisions, namely haram. However, in the theory of *ushul fiqh*, verses that contain general words are still categorized as *dzanniy* verses according to *jumhur*.⁵⁶

From the explanation above, it can be concluded that the debate about interfaith marriage in Islamic teachings and the Indonesian context revolves around several debates over the terms, polytheists, *ahl al-kitab*, *takhsis*, *nasakh*, and *al-iktifa'*. Regarding the terms *musyrik* and *ahl al-kitab*, even though they are guided by scholars who say the two are the same (representative), one cannot replace the other in another verse. No matter how similar a vocabulary is, it cannot replace the position of other words in the series of the Quran. This is for several reasons. First, the Quran is a holy book and a revelation that becomes a miracle. Each vocabulary is an option and is placed in a position that is also *muta'abbad bihi*. Second, no matter how similar a vocabulary is, it must have different sides with which each vocabulary becomes appropriate to be juxtaposed or placed. Thus, regarding what is meant by *ahl al-kitab*, it is more fitting for the view of the

⁵² Komnas Perempuan, “KETERANGAN TERTULIS KOMISI NASIONAL ANTI KEKERASAN TERHADAP PEREMPUAN (KOMNAS PEREMPUAN) Dalam Perkara Nomor 24/PUU-XX/2022,” *Komnasperempuan.Go.Id*, February 6, 2023.

⁵³ Komnas Perempuan, “Siaran Pers Komnas Perempuan Tentang Putusan MK Nomor 24/PUU-XX/2022.”

⁵⁴ Zainul Mu'ien Husni, “Pernikahan Beda Agama Dalam Perspektif Al-Quran Dan Sunnah Serta Problematikannya,”

Jurnal At-Turas, Januari-Juni, vol. 2, no. 1 (2015), pp. 91–102.

⁵⁵ Rasyid Ridha, *Tafsir Al-Manar*, (Mesir: Dar al-Je'il, 1367), juz. II, p. 347.

⁵⁶ Jalaluddin Jaluddin Al-Mahally, *Syarh Jam'u al-Jawami'*, (Beirut: Dar al-Fikr, 2003), juz. I, p. 223.

jumhurs, who say that the scope is narrower than the word polytheist. Of course, the meaning of Q.S. al-Baqarah [2]: 221 with Q.S. al-Maidah [5]: 5 different, especially the object referred to. In al-Baqarah, the object is polytheists regardless of their religion, whether heavenly or pagan. In al-Maidah, he only talks about adherents of divine religions, namely Jews and Christians.

Due to the different legal objects between the two verses, the two verses cannot be said to be mutually contradictory. One of the conditions for being called contradictory in the science of *ushul fiqh* is when two verses or propositions talk about the same object.⁵⁷ Both of them talk about different objects from the aspect of generality and specificity. Therefore, the view that al-Maidah sanctioned the letter al-Baqarah is unacceptable. In addition, texts are actually the last alternative when there is a deadlock between two seemingly contradictory arguments. The two arguments can still be compromised as a *taksis* in this context.

Takhsis is different from the text in many ways, one is that *takhsis* does not ignore the law for referents who are not *taksis*. Whereas texts delete and abolish the law for all referents as if they had never existed.⁵⁸ The explanation when Q.S. al-Baqarah [2]: 221 is understood as a verse that is recited by Q.S. al-Maidah [5]: 5 it is as if the legal provisions for all references to *polytheists*, both divine and pagan, are removed. Therefore, there are no legal provisions for marriages with adherents of the pagan religion or the Marriage of non-Muslim men. While *takhsis* does not ignore the legal provisions that apply to other than those that have been excluded by Q.S. al-Maidah [5]: 5, marriages with adherents of the pagan religion and marrying non-Muslim men remain valid as in Q.S. al-Baqarah [2]: 221.

The next difference between *nasakh* and *takhsis* is the certainty of time. *Nasakh* requires knowledge of the time when two verses which are considered contradictory were revealed. At the same time, *taksish* does not require it, (Irsyadul

Fuhul, I, 474). Knowledge of when the verses were descended to carry out the manuscript process was insufficient based on conjecture (*dzanniy*). It must be ascertained (*qath'iy*). This is because the text is a stage in annulling a provision or ignoring a verse (*dalil*). This cannot be done haphazardly on an unestablished basis. Moreover, the text is considered one of the clergy's failures in compromising two seemingly contradictory arguments.⁵⁹

The next term used as the basis is *al-iktifa'*. This term is often found in linguistics, especially in Arabic literature (poetry). Therefore, the discussion about *al-iktifa'* appears in the *balaghah* science section, namely *badi'* science. It is defined as the removal by a poet of part of the stanza because he considers it sufficient that the available words besides the removed words can be immediately understood by reason, (al-Khulashah fi Ulum al-Balaghah, 90). However, because it is a form of literature, it is also found in the study of the Quran. However, al-Zarkasyi stated that *al-iktifa'* is very rare in the Quran. Even from that small amount, most of it is in the form of a disposal of understandable vocabulary and is indeed needed by a sentence as an integral part. For example, removing the *mubtada* (subject) or connecting letters can interrupt the rhyme at the end of the verse. Sometimes, *al-iktifa'* also appears as a conclusion to the previous lengthy details to avoid repetition.⁶⁰

The standards explained by al-Zarkasyi about *al-iktifa'* cannot be applied to Q.S. al-Maidah [5]: 5. First, when it is used, it is not only the vocabulary that must be interpreted but a whole sentence. In addition, this verse is also not preceded by a detail followed by some conclusion. Another thing that becomes an obstacle to using the concept of *al-iktifa'* in this verse is the existence of *al-iktifa'* which is in line with the concept of *ijaz* (brief) in the science of *balaghah*. On several occasions, the Quran sometimes uses short and concise editorials in conveying its message. This usually happens in verses about divine miracles, be it about nature,

⁵⁷ Jâsir 'Awdah, *Naqd Nadzariyat Al-Naskh: Bahts Fi Fiqh al-Maqashid al-Syari'ah*, 1st ed, (Beirut: al-Shabakah al-'Arabîyah lil-Abhâth wa-al-Nashr, 2013), p. 32.

⁵⁸ 'Alî Ibn-Abî-'Alî al-Âmidî, *al-Ihkam fi Ushul al-Ahkam*, (Bairût: Dâr al-Kutub al-'Ilmiya, 2003), p. III/161.

⁵⁹ 'Awdah, *Naqd Nazharîyat Al-Naskh*, p. 75.

⁶⁰ Muhammad ibn Bahadur ibn Abdullah al-Zarkasyi, *al-Burhan fi Ulum al-Qur'an*, (Beirut: Dar al-Kutub al-'Ilmiyah, 2007), juz. III, p. 15.

human nature, or something else. Meanwhile, in matters of law, the Quran usually does not use a concise editorial. It can be seen from God's effort in detailing the characteristics of *ahl al-kitab* women who can be married at length.

With the various arguments above, the *jumhur* view that Muslim men may marry *ahl al-kitab* women but not the other way around is a stronger opinion based on the argument, including the *jumhur* view, which says that this permissibility applies only to certain women, *ahl al-kitab*. However, if you look at the wisdom of *tasyri'* that Muslim men are allowed to marry *ahl al-kitab* women, then it is appropriate that the Marriage of *ahl al-kitab* men to Muslim women is also permissible. This is because one of the lessons learned is that if a woman from the *ahl al-kitab* sees and experiences an Islamic family life for herself, it is very likely that she will be inspired by Islamic teachings and then embrace them.⁶¹ This wisdom can be obtained by *ahl al-kitab* women and by *ahl al-kitab* men when he always sees the goodness and *husnu al-mu'asyarah* of his Muslim wife. Of course, this might happen if the household she lives in is not based on a patriarchal culture so that the worry of Muslim women being under the authority of an *ahl al-kitab* does not occur. Moreover, to create a *maslahah* family, it is necessary to have a fair and balanced position between husband and wife.⁶² In the current context, Indonesian people, especially urbanites, are starting to understand family relationships that are no longer patriarchal. This causes many urban people to carry out interfaith marriages because they believe that either party will not suppress their religious identity.⁶³

In contrast to the view of the *jumhur*, the fatwa has been decided by various Islamic organizations in Indonesia. The fatwas decided

by three Islamic organizations in Indonesia, NU, MD, and MUI, all agree that interfaith marriage is absolutely forbidden between Muslim men and non-Muslim women or vice versa, whether non-Muslims are *ahl al-kitab* or not, although the reasons are different. NU is closer to textual studies by basing its views on various classical fiqh books of the Shafi'i school of thought. Among them is the *Hasyiyah Syarqawiy* book. In this book, it is explained that marrying *ahl al-kitab* women is indeed legalized by the Quran, but what is meant is *ahl al-kitab* who follow the Torah's or the Bible's teachings, which their followers have not changed. In the current context, what is lawful to marry is their children and grandchildren. This departs from the phrase *min qablikum* in Q.S. al-Maidah [5]: 5. In fact, the phrase was mentioned not in context to exclude Jews and Christians after the presence of Muslims or after the sending of the Prophet Muhammad. So, understanding *mukhalafah*⁶⁴ cannot be used to exclude people who adhere to Judaism and Christianity after deviations from the teachings.⁶⁵ With this, the additional conditions among the Shafi'iyah do not follow their own *ushuliyah* rules.

Meanwhile, the opinions of MUI and Muhammadiyah are based on the theory of benefit. They view that marriage aims to form a *sakinah* family and to form righteous and righteous children and grandchildren. According to them, interfaith marriages will only cause the family peace that is being fostered not to materialize. Various research results seem to support MUI and Muhammadiyah's views. Among them are the effects of doubts about faith,⁶⁶ religious conversions⁶⁷, divorce ⁶⁸,

⁶⁴ Mafhum Mukhalafah is understanding a text in reverse because of certain limitations. For example, adding the character of being poor to the sentence "Give money to students who are poor" causes the order to be understood that students who are not poor do not need to be given money.

⁶⁵ Jalaluddin al-Mahalli, *al-Badr al-Thali' fi Halli Alfadzi Jam'u al-Jawami'*, 1st ed, (Kairo: Dar al-Resalah, 2013), p. 1/107.

⁶⁶ Jonahan Romain, "The Effects of Mixed-Faith Marriages on Family Life and Identity," *Journal of the Anthropological Society of Oxford*, vol. 28, no. 3 (1997), pp. 293-94.

⁶⁷ Shinta Dewi Rismawati, "Choosing One Religion and Getting Married: The Meaning and Legal Culture of Interfaith Marriages Couples in Purbo Pekalongan, Indonesia", vol. 8, no. 11 (2018).

⁶⁸ Abdul Jalil, "Pernikahan Beda Agama dalam Perspektif Hukum Islam dan Hukum Positif di Indonesia," *Andragogi*:

⁶¹ Ali Ahmad al-Jurjawi, *Hikmat Al-Tasyri' Wa Falsafatuhu*, 2nd ed, (Beirut: Dar al-Fikr, 2002), juz. II. p. 22.

⁶² Ramdan Wagianto, "KONSEP KELUARGA MASHLAHAH DALAM PERSPEKTIF QIRA'AH MUBADALAH DAN RELEVANSINYA DENGAN KETAHANAN KELUARGA DI MASA PANDEMI COVID-19," *JURIS (Jurnal Ilmiah Syariah)*, vol. 20, no. 1 (June 21, 2021), p. 16, <https://doi.org/10.31958/juris.v20i1.2889>.

⁶³ Noryamin Aini, Ariane Utomo, and Peter McDonald, "Interreligious Marriage in Indonesia," *Journal of Religion and Demography*, vol. 6, no. 1 (May 6, 2019), pp. 189-214, <https://doi.org/10.1163/2589742X-00601005>.

and even conflicts between groups.⁶⁹ However, what has the most impact is the anxiety that will be felt by children born to couples of different religions.⁷⁰

Therefore, MUI and Muhammadiyah prohibit interfaith marriages in any form, violating the views of the majority of scholars. Their basis is the results of some of the research above, which shows the negative impact of interfaith Marriage. This is known as *ma'alat al-hukm*, namely establishing a fatwa based on its impact, even though the fatwa differs from the views of the *fiqh*. This concept is not used for *takhrij al-ahkâm min al-nushus* but for *tatbhiq al-ahkâm 'ala al-waq'a'i*.⁷¹ The views of the MUI and Muhammadiyah do not change or annul the *jumhur* view which allows Muslim men to marry *ahl al-kitab* women, it is just that, for the Indonesian context, this *fiqh* view cannot be applied because it considers the impact it has.

At first glance, this view is acceptable. However, this opinion then denies that interfaith Marriage has become a recurring phenomenon and has existed since the Dutch still colonized Indonesia. Of course, this opinion then cannot provide a solution to a phenomenon that has already happened and is predicted to continue to occur as data on the increase in interfaith marriages in Indonesia.⁷² Moreover, not all interfaith marriages have a negative impact.⁷³ For this reason, it is important to reconsider the various existing fatwas and compare them with the views above. According to

the author, the views of progressive Islamic circles initiated by JIL and followed by Komnas Perempuan, which legalizes interfaith marriages between non-Muslim men and non-Muslim men or vice versa, can be considered with the *qiyas* rule. Namely, men *ahl al-kitab* to women *ahl al-kitab*. Meanwhile, the meeting point (*illat*) between the two is the lesson to be achieved by legalizing interfaith marriages. In today's society, the wisdom described above can be obtained not only in families of Muslim men with *ahl al-kitab* wives but also in families formed by *ahl al-kitab* men and Muslim women. However, this *qiyas* does not apply to men who are not *ahl al-kitab* because, according to the provisions of the *qiyas*, *asl*, and *far'u* must be the same. In this context, both must be *ahl al-kitab* because, indeed, they are the ones who are excluded from Q.S. al-Baqarah [2]: 221, not among other non-Muslims.

Conclusion

The debate around interfaith marriage is divided into several groups. MUI, NU, and Muhammadiyah represented the groups that absolutely refused. The group that accepts it absolutely is initiated by the Liberal Islam Network group. The group distinguishes between *ahl al-kitab* and not those represented by most *Salaf* scholars. According to several thought, the majority of *Salaf* scholars support a stronger view on *ushul fiqh*. However, for the Indonesian context, the views of MUI, NU, and Muhammadiyah should be considered. It's just that, if interfaith marriages are then closed with a meeting, it will close the opportunity to resolve various disputes faced by Indonesian people who carry out interfaith marriages. Therefore, the view of the majority of scholars that only justifies interfaith marriages between Muslims and *ahl al-kitab* should be used as a reference for judges at religious courts in Indonesia in determining its validity. Besides that, marriages between Muslim women and men who are *ahl al-kitab* should also be considered as part of a legal marriage according to Islam by allocating women who are *ahl al-kitab*.

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⁶⁹ Khairul Hamim, "PERKAWINAN BEDA AGAMA DI KABUPATEN LOMBOK UTARA", (Lombok Utara: Universitas Islam Negeri Mataram, 2021), pp. 85–86.

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