

# an Interpretive Review of Interfaith Marriages and Validity in Indonesia Election

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## Abstract

The issue of interfaith marriage in Indonesia remains a hot issue to be studied from various aspects, and not infrequently we still get interpretations of verses from the Quran and regulations that say, that interfaith marriage is legally permissible and valid, in this case, katakana only, for example, the opinion of Ahmad Nurcholis who is a counselor for interfaith marriage in Indonesia. So, in this journal article, the author will examine the verses of the Quran and the rules that are the basis for the law used whether marriages between different religions are used and how valid they are in Indonesia, then how strong the arguments that allow it is. This journal research is qualitative research using juridical and philosophical approaches, where the author examines the meaning and wisdom contained in the verse and examines the regulations related to interfaith marriage. The results of this study show that interfaith marriage cannot be justified either by using paragraphs or laws and regulations in Indonesia.

**Keywords: Interpretation, Interfaith Marriage, Validity in Indonesia**



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## INTRODUCTION

Interfaith marriage is an inner birth bond between a man and a woman of different religions and countries causing the union of two different regulations regarding the conditions and procedures for implementation according to the laws of their respective religions, to form a happy and eternal family based on God Almighty. (Rusli and R. Tama, 2000 see too Sonny Dewi Judiasih, Nazmina Asrimayasha, & Luh Putu Sudini, 2019).

In the history of family law in Indonesia, interfaith marriage is called a mixed marriage. The legal basis is guided by the provisions of GHR Stbl 1898 No. 158, in Article 1 of the Staatsblaad it is stated that the so-called mixed marriage is a marriage between persons who in Indonesia are subject to different laws. Sudargo Gautama stated that "The different laws, contained in Article 1 of the GHR, are due to differences in citizenship, between places, between groups, and between religions.

In other words, in mixed marriages, it is also regulated to challenge marriages between groups of residents, marriages between places, and marriages between Indonesians and foreigners. Different laws can occur due to religious differences (interreligious) such as marriage between Muslims and Christians, or because of different nationalities. It is followed by article 7 paragraph 2 of GHR which reads "Differences in religion, a nation of origin is in no way an obstacle to marriage. (Siska Lis Sulistiani, 2015)

With the issuance of Marriage Law No. 1 of 1974, everything related to marriage before the existence of Law No. 1 of 1974 concerning Marriage was declared no longer valid,

including interfaith marriages. Because this Law states that marriage is valid if it is carried out according to the law of each religion and belief.

Although with this, interfaith marriage always causes pros and cons during society, because in its implementation there are still those who perform interfaith marriages due to different interpretations in article 2 paragraph 1 of the Marriage Law. Therefore, it is necessary to study the legal problem of marriage.

But interfaith marriages are still happening and will happen continues to occur because of social interactions among all Indonesian citizens who religious pluralism. Many cases occur in our society such as artist marriages Jamal Mirdad (Muslim) with Lidiya Kandau (Christian), Ari Sihasale (Christian) with Nia Zulkurnain (Muslim), Deddy Corbuzier (Christian) with Kalina (Muslim), Ina Indahyati (Muslim) Jeremi Thomas (Christian) who eventually converted to Christianity, and many more the other case. Most of the reasons for them to continue to marry between religions even though having a different religion is a fairly cliché reason, namely because love. (Erwin Setyo Nugroho, 2019).

The study of the issue of interfaith marriages in Indonesia has been also done in several works. Indrayanti, et al. argued that the constitutional rights of marriage entailed the obligation to respect the constitutional rights of other people and thus to avoid any conflicts in the implementation of those constitutional rights, it is necessary to have a regulation on the implementation of constitutional rights conducted by the state. (Kadek Wiwik Indrayanti et al, 2017). Euis Nurlaelawati observes how Muslim judges resolve familial cases related to apostasy at court and to what extent their legal decisions on these issues are shaped by most religious authorities' and their own understanding of the Islamic doctrine of religious protection. (Euis Nurlaelawati, 2016)

Getting married is exactly a human right issue. There is no law in Indonesia that forbids people to get marry. On the other hand, the State also has the authority and duty to regulate its citizens, including marriage, therefore the stipulation of marriage law is coercive (dwinged recht). (Ermi Suhasti, Siti Djazimah, & Hartini, 2018) For a religious reason, couples of different religions often try various ways to get their marriage legitimacy. Lately, they applied to have a decree from the State court to conduct interfaith marriage. This paper intends to analyze the polemic of interfaith marriage in Indonesia particularly the practice of interfaith marriage through the decree of the State court as well as the dichotomy and inconsistencies due to this practice.

## RESEARCH METHODS

This research will be interpretation research by examining verses related to the study, then it will be analyzed for its validity with applicable regulations in Indonesia. Namely describing the interpretation of interfaith marriage according to the Qur'an and existing laws in Indonesia. Then these two research objects are critically analyzed to find similarities and differences and reveal the relationship between the two objects.

The data of this study is in the form of primary data and secondary data. The primary data in this case are verses from the Qur'an and the books of interpretation on interfaith marriage and the applicable law in Indonesia (Marriage Law No. 1. In 1974 on Marriage and KHI), while secondary data were taken from books and other books relevant to interfaith marriage.

## RESULT AND DISCUSSION

The stigma that develops in society are the status and position of women in a society which is governed by religious values and kinship values, particularly patrilineal values, have always been discriminated against; compared to men, women are viewed as second-class citizens so that even their right to form a family with a person of different faith is regulated by a ban. (Kadek Wiwik Indrayati, 2017).

So before explaining further, the author would like to first describe the views of the Qur'an. Interfaith marriages have been arranged by Allah Almighty in several surah found in the Qur'an. But in this explanation the author recites two surah, namely Q.S. Al-Baqarah verse 221, and Q.S. Al-Mumthanah verse 10: here's the discussion:

### A. Interpretation Of Verse Al-Baqarah: 221

#### 1. Interpretation Of Words

*"La tunkihul musyrikati"*: that is to say, do not marry a woman who adheres to paganism. That is, women who worship idols and do not adhere to any religion, and so are the men of the faith. Some argue that the intent is generally applicable which includes the women of the Ahlul Kitab, because the women of the Ahlul Kitab are the mushriks, as found in Q.S. At-Taubah:30-31.

وَقَالَتِ الْيَهُودُ غَيْرُ آبْنِ اللَّهِ وَقَالَتِ النَّصَارَى الْمَسِيحُ ابْنُ اللَّهِ ذَلِكَ قَوْلُهُمْ بِأَفْوَاهِهِمْ يُضِلُّهُ ۖ وَمَنْ قَوْلِ الَّذِينَ كَفَرُوا مِنْ قَبْلُ فَتَلَهُمُ اللَّهُ أَنَّى يُؤْفَكُونَ اتَّخَذُوا أَحْبَارَهُمْ وَرُهْبَانَهُمْ أَرْبَابًا مِنْ دُونِ اللَّهِ وَالْمَسِيحَ ابْنَ مَرْيَمَ وَمَا أُمِرُوا إِلَّا لِيَعْبُدُوا إِلَهًا وَاحِدًا لَا إِلَهَ إِلَّا هُوَ سُبْحَنَهُ عَمَّا يُشْرِكُونَ

*"Amatun mu'minatun"*: means women who have the status of slaves, the opposite of free women. From the word *amah* of its origin *amawa* its last letter was dispensed with no reference to a specific pattern and replaced with *ha' tai nits* (feminine gander) and its plural form *"ima"*. (Muhammad Ali Ash-Shabuni, 2016)

Wahbah Az-zuhaili explained that marrying a musyrik is not permissible, because in the sense of this verse it is strung "Do not marry a musyrik woman who has no scripture before they have faith in the existence of Allah and the Last Day and have faith in the Prophet Muhammad Saw.

First. this verse is passed down about that of Martsad ibn Abi Murtsad al-Ghaznawi, who once brought captives from Mecca to Medina, while in the days of the jahiliyah he had a relationship with a woman named 'Anaq, then the woman visited Murtsad and asked: "are you not married?" and Murtsad said: "dear, Islam has gotten in the way between us." Then the woman asked back: "Didn't you mean to marry me?" He replied: "It is true, but it will go to the Messenger of Allah Saw. to ask him for permission." And come down this verse. (Mahmud bin Syukri al-Alusi, (Maktabah Syamilah).

Secondly, it is narrated from Ibn Abbas, that this verse was passed down in relation to the events experienced by Abdullah ibn Rawahah, in which he had a black female sahaya servant. When he gets angry with him, he hits him. Then he felt bad and went to the Messenger of Allah Saw. and conveyed what he had experienced with the woman. Then the Messenger of Allah asked: "how (ihwal) is that woman, O Abdullah? He replied: "He was fasting, praying,

improving his ablutions and saying two sentences of the creed." Then the Messenger of Allah said: "O Abdullah, he is a believer." So, Abdullah said: "For the sake of the dzat who sent you, I will set her free and will marry her." Then he married her, and the people made fun of him: " Abdullah married a slave girl," whereas they preferred to marry women who were apostolic because they liked the height of their offspring, and then came down this verse. (Muhammad Ali Ash-Shabuni, 2016).

The Qurtubi cites the opinion of Ibn Athiyah who says, "Ibn Abbas said to some of the information derived from him, "indeed this verse is common (so as to include) every pagan woman, a magi woman, and an all-woman of the book. Every woman who converts to a religion other than Islam is a musyrik. As for the words of Ibn Umar in al-Muwatha' I do not know of greater destruction than any woman who says that her god is Isa". In line with this, it is narrated from Umar that he separated Thalhah bin Ubaidillah from his wife, and Hudzaifal bin al-Yemen with his wife. Both said, "we will drop talak, O Amirul Mukminin, and do not anger you, Umar said "if your talak is allowed, your marriage is undoubtedly allowed, but I will separate you by force". (Ibnu Katsir, Juz I, 386).

## 2. The Legal Content

This verse explains that the marriage of Muslim men to musyrik women (pagans and atheists) is invalid. As for the women of the Book (Jews and Christians) may be married. As in the word of Allah Almighty in Q.S. Al-Maidah:5 (Ibnu Katsir, Juz I, 386)

The difference between a musyrik woman and a scribe is clear, Islamic law allows marry a Book Expert woman, but does not allow a Muslim woman to marry a Book Expert man, for obvious reasons, namely, the Book Expert woman remains in her religion even though she is married to a Muslim man (because she is not disturbed by the practice of her religion), and vice versa if her husband who is an Islamic religion and his wife is a Book Expert. And if he feels his tolerance, he may live happily without any calmness.

Usually, men have more power than men, if a Man of the Book is married to a Muslim woman. Of course, it will influence his wife and it is feared that he will leave his religion because he will be distressed by her husband's treatment. In addition, the People of the Book do not have faith in Islam, so it will give narrowness to a Muslimah even though the scope of the aqidah is wide. So, the self-esteem of the Muslim woman does not allow her to be the wife of the male Master of the Book. (Ibnu Katsir, Juz I, 386)

Meanwhile, Imam Malik declared the marriage of a Muslim man to an ahlul-harbi woman, because his son would later be left in daarul-harbi, also because the woman drank khamar and ate pork.

However, Al-Jashsah also explained that among the prohibitions on marriage with a musyrikat woman is the fear of a less harmonious relationship between Muslims and non-Muslims including women of the musyrikat and ahlul kitab, because the purpose of marriage is to require the existence of a mawaddah as in the word of Allah.

وَمِنْ آيَاتِهِ أَنْ خَلَقَ لَكُمْ مِنْ أَنْفُسِكُمْ أَزْوَاجًا لِتَسْكُنُوا إِلَيْهَا وَجَعَلَ بَيْنَكُمْ مَوَدَّةَ وَرَحْمَةً إِنَّ فِي ذَلِكَ لَآيَاتٍ لِقَوْمٍ يَتَفَكَّرُونَ

And of His signs is that He created for you from yourselves mates that you may find tranquillity in them; and He placed between you affection and mercy. Indeed, in that are signs for a people who give thought.

Al-Qurthubi adds that An-Nuhas says, "among the sanad hujjahs, told to us by Muhammad ibn Rayyan, he said "al-Laits told us of Nafi', that Abdullah ibn Umar if asked about a man who would marry a Nazarene or Jewish woman, then he replied, Allah, has forbidden a woman greater of allotment than a woman who says her god is Isa, or one of the servants of Alla Almighty". (Al-Qurtubi, 2007)

The Qurtubi explains that the reason for the hope is clearly explained by Allah in the verse after, which is:

وَأُولَٰئِكَ يَدْعُونَ إِلَى النَّارِ

"They invite them to hell", where the invitation to hell is used as an illat of the law forbidden to marry them, then the answer is that it invites them to hell) is the answer to the word of God.

وَلَأَمَةٌ مُّؤْمِنَةٌ خَيْرٌ مِّنْ مُّشْرِكَةٍ وَلَوْ أَعْجَبَتْكُمْ

Indeed, a slave woman who is a believer is better than a musyrik woman", for the devout woman went to hell. It also makes it clear that a female slave of faith is better than a musyrik woman, even though the musyrik woman has a position and wealth.

وَلَوْ أَعْجَبَتْكُمْ

"Although he attracts your heart". Seeing from that it can be concluded that it is haram to marry a mushrik woman, and emphasizes that it is better to marry a slave woman of faith than a mushrik woman even though a Muslim man can guide and they attract more attention, but seeing what Allah explains in the next verse "They invite to hell" is an affirmation and a sign that it is also forbidden to marry a woman of friendship.

### 3. Interpretation Of Verse Q.S. Al-Mumthanah: 10

يَا أَيُّهَا الَّذِينَ ءَامَنُوا إِذَا جَاءَكُمْ الْمُؤْمِنَاتُ مَهْجِرَاتٍ فَاِمْتَحِنُوهُنَّ ۚ إِنَّهُنَّ بِإِيمَانِهِنَّ فَإِنْ عَلِمْتُمُوهُنَّ مُؤْمِنَاتٍ فَلَا تَرْجِعُوهُنَّ إِلَى الْكُفَّارِ لَا هُنَّ حِلٌّ لَّهُمْ وَلَا هُمْ يَحِلُّونَ لَهُنَّ وَءَاتُوهُنَّ مَّا أَنفَقُوا وَلَا جُنَاحَ عَلَيْكُمْ أَنْ تَنْكِحُوهُنَّ إِذَا ءَاتَيْتُمُوهُنَّ أَجْرَهُنَّ وَلَا تُمْسِكُوا بِعِصَمِ الْكَوَافِرِ وَسَ ء لَّوْا مَّا أَنفَقْتُمْ وَلَيْسَ ء لَّوْا مَّا أَنفَقُوا ذَلِكُمْ حُكْمُ اللَّهِ يَحْكُمُ بَيْنَكُمْ وَاللَّهُ عَلِيمٌ حَكِيمٌ

O you who have believed, when the believing women come to you as emigrants, examine them. Allah is most knowing as to their faith. And if you know them to be believers, then do not return them to the disbelievers; they are not lawful [wives] for them, nor are they lawful [husbands] for them. But give the disbelievers what they have spent. And there is no blame upon you if you marry them when you have given them their due compensation. And hold not to marriage bonds with disbelieving women but ask for what you have spent and let them ask for what they have spent. That is the judgement of Allah; He judges between you. And Allah is Knowing and Wise. (Departemen Agama, 2016).

#### a) The reason for descending verse

Al-Bukhari and Muslim narrated from al-Miswar and Marwan Ibn Hakam, "that when the Messenger of Allah Saw., entered into a peace treaty with the infidels of Quraysh

on the occasion of Hudaibiyyah, there were a number of mukminah women masterminds to him, so down came to this verse.

Al-Wahidi narrated from Abdullah ibn Abbas r.a. he said, "The mushriks of Makkah said a peace treaty with the Messenger of Allah Saw., on the occasion of hudaibiyyah that if anyone from the inhabitants of Makkah came to him, he should return it to them if any of the people with him came to Makkah and wanted to stay there, that person was still left with them. The existing agreement was written in a letter, and they sealed it.

After the treaty was completed, Zubaidah Binti Harits al-Aslamiyyah came. Her husband, who was an infidel, came and said, "O Muhammad, return it to me that my wife, for you have accepted the requirement that you should return to us our people who came to you, and behold the seal and seal of the letter of the covenant which is not to mention dry". Allah Almighty also sent down this verse. (Wahbah az-Zuhaili, 2014)

b) The Content of a Law

God's Word :

وَلَا تُمْسِكُوا بِعَصَمِ الْكُوفِرِ

which means "And do not stick to the ropes (of marriage) with pagan women (QS. *Al-Mumtahanah:10*)" which shows it is forbidden to marry an infidel/musyrikah woman. For, the meaning of the verse is as follows: do not hold fast to the cords of marriage with your women who are still apostasy. That is, don't you think of marriage with them because marriage is vanity. Ayat tersebut sama dengan ayat:

وَلَا تَنْكِحُوا الْمُشْرِكَةَ حَتَّىٰ تُؤْمِنَ

"And you shall not marry the women of musyrikah until they have faith". (Departemen Agama, 2016).

The verse shows it is illegitimate to marry a mushrik woman. And the scholars agreed that the verse is specifically for women of worship other than the Master of the Book. For, the woman of the Master of the Book may be married by the man of the Believer. Based on the word of God:

وَالْمُحْصَنَاتُ مِنَ الْمُؤْمِنَاتِ وَالْمُحْصَنَاتُ مِنَ الَّذِينَ أُوتُوا الْكِتَابَ مِنْ قَبْلِكُمْ

The verse above explains that a musyrikah woman is a woman who is not a religion with the same religion. Unlike the book experts who were included in the class of book experts, so Jews and Christians could be married. In contrast to the account from Ibn Umar r.a., when he was asked about the law a Muslim man married a Christian or Jewish woman. He replied. "Allah has forbidden the women of the musyrikah to the men of the Believer, and I do not know any greater shirk than the woman saying, 'The Lord is Isa', is not Isa a servant among the other servants of God". (Muhammad Ali Ash-Shabuni, 2016) It is understood from this history that Jews and Christians were included in the illegitimately married musyrik faction.

Concerning the interfaith marriage in the present context of Indonesia, MUI issued a fatwa in 1980, which forbids the marriage of Muslim men with non-Muslim women despite the status of being an ahl al-Kitab. (MUI, 1980). The fatwa is not clearly based on the 'illat that religious believers who once declared by God as the Ahl al- Kitab who are

allowed to be married, at the present time belong to the polytheists and infidels, at least textually. What mentioned in the fatwa is that the mufsadat (of interfaith marriage) is more than its maslahat. (Ermi Suhasti, 2018, see also Dani Setiawan, 2022)

## **B. Marriage Of Interfaith According to Laws**

In Indonesia, formal juridically, marriage in Indonesia is regulated in the Law of the Republic of Indonesia No. 1 of 1974 concerning Marriage and the Presidential Instruction of the Republic of Indonesia No. 1 of 1991 concerning the Compilation of Islamic Law. These two products of legislation regulate issues related to marriage including interfaith marriage. Law Number 1 of 1974 of Marriage (hereinafter referred to as Marriage Law), is a legal basis for marriage in Indonesia. Marriage is defined as a physical and mental bond between a man and woman as husband and wife, with the purpose of creating a happy and eternal family or household, based on belief in one God. (Sonny Dewi Judiasih, 2019 See also Aini, 2019)

Before the existence of Law No. 1 of 1974 concerning Marriage, the circumstances and implementation of marriage law in Indonesia were very diverse. Each class of residents applies a different marriage law from other groups of residents.

After the provisions for the implementation of the marriage law were passed in 1974, of which the provision is Law No. 1 of 1974 concerning marriage, it has been stated in Article 66 which states that everything related to marriage based on this Law, then with the enactment of this Law the provisions that have been regulated in the KHU. Per (BW), the Indonesian Christian Marriage Ordinance (Huwelijks Christen Indonesiers S.1933 No.74), the Mixed Marriage Regulation (Regeling op de Demande Huwelijken s.1898 No. 158), and other regulations governing the about of marriage to the extent that it has been regulated in Law No. 1 of 1974 concerning marriage is declared invalid.

Therefore, this Marriage Law was passed in 1974, so the above provisions cannot be used as reference material anymore, because the provisions for the validity or not of a marriage are determined by the laws of their respective religions and beliefs. This is stated in Article 2 paragraph (1) of the Marriage Law which states that "Marriage is valid if it is carried out according to each of the laws of religion and belief". (Article 2 (1) UU Perkawinan, 1974).

In the explanation of this article, it identifies that the Act leaves it to each religion to determine or find the ways and conditions for the implementation of marriage in addition to the ways and conditions that have been established by the state. If a marriage is performed according to their respective religions and beliefs and there is one of the prohibitions on marriage being violated, then the marriage is not valid.

This provision is in line with the Articles contained in the KHI, where the KHI is also mentioned as the jurisprudence of Indonesians. The provisions are as follows. Pasal 4, Marriage is valid, if it is carried out according to Islamic law in accordance with Article 2 paragraph (1) of Law No. 1 of 1974 concerning Marriage. Pasal 40, It is forbidden to have a marriage between a man and a woman due to certain circumstances: a). Because the woman in question is still bound by one marriage to another man, b). A woman who is still in the iddah period with another man, c). A woman who is not Muslim. Pasal 44, Muslim woman is prohibited from entering into a marriage with a man who is not Muslim. (Inpres RI No. 1, 1991). Pasal 61, Not comparable is unable to establish a reason to prevent the marriage, not comparable because of religious differences.

In the provisions of Article 40 letter c of the Compilation of Islamic Law above, Abdul Manan explained that the stipulation can be seen that there is no inter-religious marriage for parties who want to carry it out and must choose the religion adopted by the wife or husband. Because there is no more after marriage in KUA than move marriage in church or civil registry.

Because according to Abdul Manan, the prohibition of interfaith marriage as stated above is based on *mashlahah* with the aim of preserving religion, soul, reason, honor, and offspring.

Because the damage caused by interfaith marriages is quite large than the benefits, it is appropriate that the provisions mentioned in Article 40 of the Indonesian KHI are maintained. (Abdul Manan, 2017).

This is also corroborated by the MUI fatwa which stipulates two points in the interfaith marriage of religious people, namely.

- a. Marriage of Muslim women with non-Muslim men is haram law.
- b. A Muslim man is forbidden to marry a non-Muslim woman. About marriage between Muslim men and women, there is a difference of opinion.

After considering that the *mafsadah* is greater than the *mashlahat*, the MUI considers the marriage to be legally haram with this fatwa, the MUI expects that an Islamic man should not marry a non-Islamic woman because it is legally illegitimate. (MUI No. 05/Kep/Munas II/MUI/1980).

### **The Validity of The Interfaith Marriage in Indonesia**

What happens in Indonesia is perceptual differences in making meaning of Article 2 section 1, resulting in the lack of protection of the right to form a family for interfaith couples hoping to marry in Indonesia. The phrase “to protect the whole nation and homeland of Indonesia” transcribed in the fourth paragraph of the 1945 Constitution of the Republic of Indonesia reveals that the State, in this case represented by the Government, is obliged to provide protection not only physically but also non-physically for every Indonesian citizen. (Kadek Wiwik, 2017, See also Sri Wahyuni, 2022).

Therefore, it needs to be answered by looking at two sides, the side that allows and the side that doesn't allow it. To answer the statement whether interfaith marriages can be legalized in Indonesia, this can be understood by the Article which is used as a reference that allows marriage to be based on the rules of the couple uniformly. This article is strengthened by article 8 letter f which states, that marriage is prohibited between two people who have a relationship that, by their religion or other applicable regulations, is prohibited from marrying. This article expressly wants to accommodate the laws that apply in the religion of each believer including Islam. (Interview with Mr. Abdul Aziz, a judge of the Pekanbaru Religious Court, now serving in South Jakarta, See also Marriage Law No. 1/1974, article 2 paragraph (1), article 8 letter f and article 57.)

This rule is emphasized by article 40 of the KHI which explicitly regulates the prohibition of marriage between Muslim men with non-Muslim women and Muslim women with non-Muslim men. The article prohibits marriage between a man and a woman due to certain circumstances. The circumstances are a. the woman in question is still bound by one marriage to another man; b. a woman who is still in the *iddah* period with another man; c. a woman who not Muslim is. (UU Perkawinan No. 1/1974, pasal 57. Zainuddin Ali, 2009).



Certain circumstances in article c explicitly require the prohibition of marriage between men (Muslims) and non-Muslim women. This article provides an explanation that non-Muslim women regardless of their religion should not be married to men who are Muslims. Article 44 reinforces the ban by stating that a Muslim woman is prohibited from marrying a man who is not Muslim. This article expressly prohibits the occurrence of marriages between Muslim women and non-Muslim men, both in the ahlul Kitab category and not in the ahlul Kitab category. (Marriage Law 1974., art. 44)

Article 60 states that marriage prevention aims to avoid a marriage that is prohibited by Islamic law and laws and regulations and marriage prevention can be carried out if the prospective husband or prospective wife who is going to carry out the marriage does not meet the requirements to carry out marriage according to Islamic law and laws and regulations. This article prevents the occurrence of marriages against prospective brides who do not meet the requirements set by Islamic law and laws and regulations, including the requirement of religious similarity (Islam).

Then the second Postulate of Islamic law (al-Qur an) used by those who allow the marriage of different religions, in general, is the passage of ayat al-Maidah verse 5:

الْيَوْمَ أُحِلَّ لَكُمْ الطَّيِّبَاتُ وَطَعَامُ الَّذِينَ أُوتُوا الْكِتَابَ حَلَلٌ لَكُمْ وَطَعَامُكُمْ حَلَلٌ لَهُمْ وَالْمُحْصَنَاتُ مِنَ الْمُؤْمِنَاتِ وَالْمُحْصَنَاتُ مِنَ الْمُؤْمِنَاتِ وَالْمُحْصَنَاتُ مِنَ الَّذِينَ أُوتُوا الْكِتَابَ مِنْ قَبْلِكُمْ مُحْصِنِينَ غَيْرَ مُسْلِفِينَ وَلَا مُتَّخِذِي أَخْدَانٍ وَمَنْ يَكْفُرْ بِالْإِيمَانِ فَقَدْ حَبِطَ عَمَلُهُ وَهُوَ فِي الْآخِرَةِ مِنَ الْخَاسِرِينَ

On this day [all] good foods have been made lawful, and the food of those who were given the Scripture is lawful for you and your food is lawful for them. And [lawful in marriage are] chaste women from among the believers and chaste women from among those who were given the Scripture before you, when you have given them their due compensation, desiring chastity, not unlawful sexual intercourse or taking [secret] lovers. And whoever denies the faith - his work has become worthless, and he, in the Hereafter, will be among the losers.

Through this verse, Nurcholis (counselor who allows marriage of different religions) explains, that Muslim men can marry a good woman from ahlu al-Kitab. Although the opposite is true, the verse or postulate used is also the same verse, arguing that Islam is not discriminatory or Gander's approach, and Nurcholis as the person who is the counselor of the marriage of different religions states that the principle of all is permissible if there is no nash forbidding. So, Nurcholis mentions that there is no verse that forbids. (Marrying Different Religions in Indonesia, How Come? <https://www.tvOnenews.com-full>).

Before discussing further, the author explains first to know well about the rules or laws about interfaith marriage and its relation to the use of the above postulates, we need to discuss the so-called mushrik and ahlul Kitab. Musik is a group of pagans, worshippers of fire and other objects, meaning to worship other than God. The clerics agreed to forbid or forbid a Muslim man or Muslim woman to marry a woman or a mushrik man. The scholars in this group interpret mushrik as a group of people who worship idols, fire, and other objects, as already mentioned. (Abu Zahrah, *al-Aḥwāl al-Syakhṣiyyah*, 112.)

*The legal basis of the monasticism held by these scholars is the quranic verse which states that it is not permissible for Muslim men to marry mushrik women, even though they are very attractive and are not allowed Muslim women to marry mushrik men. (Al-Baqarah/2: 5). (See*

also Wahbah Zuhayly, *al-Fiqh al-Islamiy wa Adillatuhu*, 151) While ahlul Kitab is a group of people who own a book and believe in the book they have, in addition to the Quran. In relation to the ahlul of this Book, most scholars argue that ahlul Kitab women may marry Muslim men. However, a Muslim woman is forbidden to marry a man of the ahlul Kitab group. The basis of this rule is a verse from the Quran which very clearly explains this and mentions that food and women ahlul Kitab are justified for Muslims. Ahlul Kitab is distinguished from the musyrik group in the Quran, and the difference in mentions of musyrik and ahl al-kitāb according to some shows that the Quran distinguishes these two groups. (Zainuddin Ali, 2009)

Prof. Hamka explained in relation to the above verse, that Muslims in addition to being able to marry Islamic women and halal also marry with ahlul kitab; Jewish and Christian, the reason allowed in this case the word Hamka is a compulsion given to the one who has been mentioned at the beginning of verses 1 and 2 before: "O people of faith!" The man of faith has a ray of tawhid in him, and he will be the leader and will exemplify the form of obedience to God. Even prof. Hamka in explaining this verse takes the understanding, that Islamic men who are weak in their faith this permission is not granted. For for the weak the faith is in this case like "the fishing man will be rushed to fish". (Abdulmalik Abdulkarim Amrullah, 1999).

It can be understood that the marriage of different religions in the above verse is only addressed to the ahlul of the book, in this case, the Jews and Christians with the note that the future husband is from a Muslim and who will be the future Wife of the woman ahlul kitab, not the other way around. Boro-boro allowed marriage, even Prof. Hamka, an Indonesian interpreter, stated that Islamic men who were weak in faith were not granted permission.

In this case, al-Shairazi's view is also clearer, than what is stated in al-Muhazzab, Muhibuddin in his article writes that Muslim men may marry free women ahlul Kitab i.e., Jews and Christians and those who converted to their religion before the replacement. He also explained about al-Malibari's view that Islam and Islamic are conditions for women who can be married to Muslim men. Nevertheless, according to him, although it is permissible, Shafi'iyah and Hanabilah gave the condition that the parents of the ahlul of the Book must be experts in the Book. (Al-Syafi'i, 1982) See also the explanation of this in Muhibuddin's writing, "The New Interpretation of Marriage between Different Religions [www.pa-wonosari.net](http://www.pa-wonosari.net).) This opinion places strict conditions on such a marriage. Women's possession of al-Kitab should not be confused with the entry of one of her descendants into another religion (al-kitabiyyah al-khalisah).

In addition to religious arguments, usually, academics who allow it will also be distracted that marriages of different religions can be recorded, that the recording is carried out by non-Islamic ones, so the blessing is the one who is registered in Duk Capil to get a marriage certificate, this they refer to ma circular number 231 for the different religions must subordinate the law to one of their spouses. Nurcholis further mentioned, that if in this case there is a marriage of different religions between Muslims and Catholics, then the Muslim submits the law to Catholicism.

Then Nurcholis also said, that not all Discuk Capil are willing to accept / record marriages of different religions, Discuk capital who are willing to accept / register are those who understand the Marriage Constitution and the Supreme Court circular simply the important thing is "there is evidence of the ratification of the marriage" because the civil registration records marriages that are outside Islam, then what they take is a non-Islamic marriage. And if

it is rejected by civil registration, the parties will seek justice in the District Court, such as in the marriage that occurred in Pontianak. (MarryIng Different Religions in Indonesia, How Come? <https://www.tvOnenews.com-full>).

Regarding this recording, the author and the reader will easily understand. Because indeed marriages of the same religion have no obstacles. If a Muslim marries a Muslim, it will be easy for the local KUA to register their marriage and will get all the things in the Marriage Administration. Because the legal basis used by the KUA is Presidential Instruction number 1 concerning the Compilation of Islamic Law. And the courts that handle cases such as marriage, and inheritance for Muslims are religious courts not even the district courts.

So, what is said by the person who allows interfaith marriage has no legal footing and cannot be accounted for, neither Islamic law nor positive law (State law). Moreover, we refer to the verse of the Qur'an surah Ar-Rum;30:21 about the purpose of marriage. So, what happens in Indonesia is a phenomenon, where a person will take steps where and with whom he interacts, especially those that are not based on established science. For example, people who want to get married do not first understand the concept of family law (ahwal al-shakhsiyyah) or governing law, phenomena like this are often backgrounded also because they praise the concept of human rights too much by distracting that everyone has the right to choose a partner without first looking for, studying and understanding what things will happen in the future and what maslahat is to be achieved.

In the end, the Benefit is very clear to people who have common sense and a straight character that by Allah 'Azza wa Jalla they are endowed with sparkling reason and brilliant thinking, have the device of knowledge, their hearts are illuminated with an understanding of the purpose of various things, their understanding of things that need reasoning and *ijtihad*.

## CONCLUSION

The scholars explained that the marriage of Muslim men to mushrik women (pagans and atheists) was invalid. As for the women of the Book (Jews and Christians) may be married. As in the word of Allah Almighty in Q.S. Al-Maidah. Then the scholars explained, that among the prohibitions on marriage with a woman not Muslim is the fear of an inharmonious relationship between Muslims and non-Muslims including mushrik and ahlul Kitab women, because the purpose of marriage is to require mawaddah. Even prof. Hamka in explaining the ability to marry ahlul kitab takes the understanding, that Islamic men who are weak in their faith are not granted permission. For the weak faith is in this case "the fishing man will be rushed by fish". The legal basis of the monastery held by these scholars is the verse of the Quran which states that it is not permissible for Muslim men to marry mushrik women, even though they are very attractive and are not allowed Muslim women to marry mushrik men.

While the validity of interfaith marriage in Indonesia cannot be narrated, this can be understood by the article used as a reference, that marriage must be based on the rules of the couple uniformly. This article is strengthened by article 8 letter f which states, that marriage is prohibited between two people who have a relationship that, by their religion or other applicable regulations, is prohibited from marrying. This article expressly wants to accommodate the laws that apply in the religion of each of its adherents including the Religion of Islam. This rule is emphasized by article 40 of the KHI which explicitly regulates the prohibition of marriage between Muslim men with non-Muslim women and Muslim women with non-Muslim men.

The article prohibits marriage between a man and a woman due to certain circumstances. The circumstances are a. the woman in question is still bound by one marriage to another man; b. a woman who is still in the iddah period with another man; c. a woman who not Muslim is. So, what is said by the person who allows interfaith marriage has no legal footing and cannot be accounted for, neither Islamic law nor positivelaw.

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