

Interfaith Marriage in the Perspective of Islamic Jurisprudence and Compilation of Islamic Law

Muhammad Saleh,¹ Sufiati, St Risnawati Basri, A. Satrianingsih,
Nur Asia Hamzah²

¹ STAI Al-Azhar Gowa, ² Family Law Study Program, Universitas Muhammadiyah
Makassar

Abstract

Interfaith Marriage in the Perspective of Islamic Jurisprudence and Compilation of Islamic Law is the title of this study. This study examines the law of interfaith marriage through the lens of Islamic jurisprudence and the Compilation of Islamic Law. The library research method was used in this study, which involves reviewing and analyzing data obtained from literary sources such as books, papers, chapters, journals, and so on concerning the law of interfaith marriages in order to obtain accurate data. According to the findings of this study, the law on interfaith marriage is divided into several parts: a) the law on Muslim men marrying women who are experts in the book, which most scholars allow and some consider makruh. b) The Ulama agree that it is haram for a Muslim man to marry a polytheistic woman. c) The Law Concerning Muslim Women Who Marry Non-Muslim Men. Islamic jurists consider this marriage to be forbidden by Islam, regardless of whether the prospective husband is from the ahlul kitab (Jews and Christians) or a follower of other religions with holy books, such as Hinduism and Buddhism, or a believer in other religions' beliefs that do not have Scripture. Under any circumstances, Muslim women are not permitted to marry men who are not of their religion, whether they are of the book or not. The Compilation of Islamic Law forbids marriage between men and women who are not Muslims. Marriage is hampered by religious differences in the compilation of Islamic laws. Marriage, different religions, Islamic jurisprudence, a compilation of Islamic laws are all keywords.

Keywords: Marriage; different religions; Islamic jurisprudence

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*)Corresponding Author:

msaleh8486@gmail.com

Introduction

Essentially, humans require a companion in their lives in order to perfect their religion, continue their lineage, share love and affection, and avoid disobedience. As a result, for religious adherents, the marriage bond is considered sacred in nature, containing religious teachings for its adherents, and they cannot escape the legal provisions governed by certain religions and state law.

Marriage, according to Islam, is a strong sacred agreement to live together happily, safely, peacefully, peacefully, and lovingly. Marriage is a human nature that must occur in life in order to bestow God Almighty's servants with a sense of love and compassion (Zaeni Asyhadie, 2020:31).

It is critical to find and choose a partner who is in communion, who is good, who shares the same faith, and who shares the same beliefs. On the religious side, this refers to finding a partner in accordance with the rules of the game and each other's teachings. Everything is planned, from finding a partner to carrying out the marriage. For example, one of Islam's core teachings on finding a partner is based on their religion. According to Rasulullah SAW's hadith:

عَنْ أَبِي هُرَيْرَةَ رَضِيَ اللَّهُ عَنْهُ، عَنِ النَّبِيِّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ قَالَ: " تُنْكَحُ الْمَرْأَةُ لِأَرْبَعٍ: لِمَالِهَا وَلِحَسَبِهَا وَجَمَالِهَا وَلِدِينِهَا، فَاظْفَرْ بِذَاتِ الدِّينِ، تَرِبَّتْ يَدَاكَ "

Translate:

According to Abu Hurairah RA, the Prophet SAW stated that women are married for four reasons: because of their wealth,

their position, their appearance, and their religion. Therefore, let you choose based on his religion so that you may be fortunate (al-Bukhari, 7: 1422).

It is gaining more attention that religion is the most important factor in finding a spouse for a family. Regarding the permissibility of marrying a partner of a different religion, however, the scholars are divided.

In Indonesia, there are numerous societal conditions in terms of ethnicity, religion, and race, leading to the emergence of numerous types of problems. The issue of interfaith marriage has been discussed from the past to the present. With interfaith marriages, there will be a difference in fundamental beliefs, and it is feared that this will lead to a variety of difficult problems in the future. On the other hand, the legal basis for determining the marriage's validity or invalidity is still under debate in this case.

The reality of interfaith marriages in the lives of individuals cannot be denied. There are still interfaith marriages in society. We can observe the phenomenon that occurs when artists who are public figures or members of other social circles do their work out of love and it is no longer considered taboo in Indonesian society. Interreligious marriages are therefore an intriguing topic to study in terms of Islamic law and the applicable law in Indonesia, namely the Compilation of Islamic Law, and should be studied thoroughly.

The formulation of the problem in this study is as follows, based on the

preceding description of the problem's background:

1. What is the law regarding interfaith marriage according to Islamic jurisprudence?
2. What is the law regarding interfaith marriage according to the Compilation of Islamic Law?

Based on the formulation of the problem stated above, the purpose of this study is to:

1. Determine how Islamic jurisprudence views the law of interfaith marriage.
2. Having knowledge of the law of interfaith marriage in light of the Islamic Law Compilation (KHI).

Research Method

This research is referred to as library research, which is research conducted by reading books, literature, and studying a variety of theories and perspectives that relate to the studied problems. Regarding this research, the researcher reads and extracts theories from interfaith marriage-related books, journals, manuscripts, and other literature, and establishes laws based on the findings from these various sources.

The following data sources were used for this analysis: Primary legal resources consisting of the Al-Quran, Hadith, Marriage Law, and Islamic Law Compilation. And Secondary Law materials, such as books, papers, and journals, as well as internet access to chapters pertaining to the issue of

interfaith marriage in both Islamic law and Islamic law compilations.

Discussion of the Findings

The Law Regarding Muslim Male Marriage to *Ahlul Kitab* Women

A Muslim man marries a People of *Ahlul Kitab* Women.

Marriage between a Muslim man and a member of the book, according to classical literature, most scholars allow this marriage and some only consider it makruh, they refer to QS. al-Maidah/5:5:

الْيَوْمَ أُحِلَّ لَكُمْ الطَّيِّبَاتُ وَطَعَامُ الَّذِينَ أُوتُوا الْكِتَابَ حَلَّ لَكُمْ وَطَعَامُكُمْ حَلٌّ لَهُمْ وَالْمُحْصَنَاتُ مِنَ الْمُؤْمِنَاتِ وَالْمُحْصَنَاتُ مِنَ الَّذِينَ أُوتُوا الْكِتَابَ مِنْ قَبْلِكُمْ إِذَا آتَيْتُمُوهُنَّ أُجُورَهُنَّ مُحْصِنِينَ غَيْرَ مُسَافِحِينَ وَلَا مُتَّخِذِي أَخْدَانٍ وَمَنْ يَكْفُرْ بِالْإِيمَانِ فَقَدْ حَبِطَ عَمَلُهُ وَهُوَ فِي الْآخِرَةِ مِنَ الْخَاسِرِينَ.

Translate:

Everything good has been made legal for you on this day. The Ahlul kitab's food (slaughter) is lawful for you, and your food is lawful for them. And (you may marry) women who guard honor among believers and women who guard honor among those who were given books before you, if you pay their dowry to marry them, not with the intention of committing adultery and not keeping women as pets. Whoever disbelieves after believing, their deeds will be in vain, and he refers to those who lose in the Hereafter (Kementerian Agama RI, 107: t.th).

Scholars interpret this verse to mean that it is permissible to marry women of the Ahlul kitab, specifically Jewish and Christian women. According to Al-commentary, Maraghi's what is meant here is al-muhshanat, or free women, which means that it is permissible for you, O

believers, to marry free women from among the believing women, or free women from among those who have been given the book before you, namely Jewish and Christian women, if you give them a dowry when you marry them (Al-Maraghi, 59: 1969). According to Al-Qurtuby, Ibn Abbas stated that women of the book are those who live in Muslim areas (Darul 'Ahd), not those who live in non-Muslim countries (al-Qurtuby, 79: t.th.).

From the various interpretations of this verse by scholars, At-Tabari concluded that the correct interpretation is: it is permissible to marry free women from among the Muslims and ahlul kitab. The term *Al-Muhshanat* does not refer to honorable women, but rather to free women. Because, if it is interpreted by women who protect honor, slaves are implied, and marrying non-Muslim slaves is forbidden. And he concluded that marrying an independent woman who is a believer or a member of the book, whether she is guarding her honor or not, is absolutely lawful, as long as the person marrying is not concerned that her child will later be inclined or forced into disbelief, based on the dzahir verse (At-Tabari, 589: 2000).

According to *Jumhur* scholars, the verse "and do not marry polytheistic women before they believe" indicates that Muslim men are forbidden from marrying women who worship idols. In the meantime, it is permissible for women from the ahlul kitab to marry him, as stated in verse 5 of Surah Al-Maidah (As-Shabuniy, 287-289: 1980).

What the Prophet and a number of his companions did also serves as a foundation. Usman bin Affan once

married a Christian woman (Nailah bint Al-Qarafah Al-Kalabiyah), while no one opposed or forbade him at the time. The Prophet Muhammad once married a member of *ahlul kitab* women (Maria al-Qibtiyah). However, there are some scholars who prohibit this marriage because they believe that the ahlul kitab (Jews and Christians) are included in the polytheist category, particularly in the doctrines and practices of Jewish and Christian (Christian) worship, which contain elements of shirk (trinity): Judaism considers Uzair to be the son of Allah and worships the Prophet Solomon, while Christianity also considers Jesus to be the son of Allah and worships his mother Maryam (At-Tabari, 364: 2000).

Men of Islam marry polytheistic women.

Scholars agree that a Muslim man may not marry a polytheist woman. This viewpoint is founded on QS. Al-Baqarah/2:221:

وَلَا تَنْكِحُوا الْمُشْرِكَاتِ حَتَّى يُؤْمِنَنَّ وَلَا أُمَّةً مُؤْمِنَةً خَيْرٌ مِنْ مُشْرِكَةٍ وَلَوْ أَعْجَبَتْكُمْ وَلَا تُنْكِحُوا الْمُشْرِكِينَ حَتَّى يُؤْمِنُوا وَلَعَبْدٌ مُؤْمِنٌ خَيْرٌ مِنْ مُشْرِكٍ وَلَوْ أَعْجَبَكُمْ أُولَئِكَ يَدْعُونَ إِلَى النَّارِ وَاللَّهُ يَدْعُو إِلَى الْجَنَّةِ وَالْمَغْفُورَةِ بِإِذْنِهِ وَيُبَيِّنُ آيَاتِهِ لِلنَّاسِ لَعَلَّهُمْ يَتَذَكَّرُونَ

Translate:

And do not marry polytheistic women, before they believe. Even if she has your heart, a servant woman who believes is preferable to a polytheist woman. Also, don't marry polytheists (men) until they believe. Even if he has your heart, a faithful male servant is preferable to a polytheist man. They invite to hell, whereas Allah, with His permission, invites to heaven and forgiveness. (Allah) explains His verses to people so

that they can learn from them (Kementerian Agama RI, 35: t.th).

The meaning of the verse "*and do not marry polytheistic women before they believe*," according to Qotadah, is for polytheistic women who are not ahlul kitab. This verse is both externally general and spiritually specific, and it has no legal text (At-Thabari, 389: 2000)..

In this verse, Allah's word is also an affirmation of the law relating to interfaith marriage, "and do not stick to the rope (marriage) with infidel women," At-Tabri interprets this verse of Allah forbidding believers to marry women - infidel women, that is, polytheistic women who worship idols. And Allah commanded that they be divorced if they had a marriage contract (At-Thabari, 329: 2000).

It is explained in the preceding verse that it is forbidden to continue marriage relations with infidel women until they believe in Allah. Scholars worldwide have agreed on the prohibition of interfaith marriages with non-Muslims/infidels.

There are several fatwas in Islamic law in Indonesia that can be used as a reference for interfaith marriages, namely:

1. Majelis Ulama Indonesia (MUI) (Ma'ruf Amin, dkk., 472-477: 2015)

The MUI issued a fatwa regarding interfaith marriages on June 1, 1980, which was then reinforced on July 28, 2005. The following are the contents of the MUI fatwa:

1. Interfaith marriage is prohibited and illegal.

2. According to qoul mu'tamad, a Muslim man's marriage to an Ahlul Kitab servant is illegitimate and invalid (Ma'ruf Amin, dkk., 477: 2015).

In determining the prohibition of interfaith marriage law, the MUI takes

a legal basis, (Ma'ruf Amin, dkk., 474: 2015) from QS. Al-Baqarah/2:221. The MUI concludes from this verse that a Muslim man cannot marry a polytheist woman. The MUI believes that between polytheistic women and ahlul kitab, they both associate partners with Allah SWT, so that it is unlawful to marry both of them..

Muslimah to Marry a non-Muslim man.

Islamic jurists consider this marriage to be prohibited by Islam; similarly, prospective husbands from *ahlul kitab* (Jews and Christians) or followers of other religions with holy books, such as Hinduism and Buddhism, or followers of religious beliefs with no holy books are prohibited by Islam. Under any circumstances, Muslim women are not permitted to marry a man who is not of their religion, whether from the ahlul kitab or others (Yusuf Qordhawi, 252: 1972). According to Allah's word Q.S Al-Baqarah: 221:

وَلَا تَنْكِحُوا الْمُشْرِكَاتِ حَتَّىٰ يُؤْمِنَنَّ

Translate:

And don't marry polytheistic women until they become believers (Kementerian Agama RI, 35: t.th).

The word polytheists in the verse "and do not marry polytheistic women before they have faith" refers to all non-Muslim infidels, including watsani (idol worshipers), magi, Jews, Christians, and apostates from Islam. Everything mentioned above forbids them from marrying Muslim women. A husband has power over his wife; he can force her to abandon her religion and convert to Judaism, Christianity, or the religion to which her husband adheres. Children will generally follow their father's religion; if the father is

Jewish or Christian, they will follow him. As a Muslim, he will extol the Prophet Musa and Isa As. Believe in their message as well as the Torah and the Bible's revelation. Because of their different faiths, a Muslim will not harm his wife who is a Jew or a Christian. It is not the same if the husband does not believe in the Qur'an and the Prophet Muhammad SAW. Without faith in Islam, Muslim women hurt and denigrate their religion (As-Shabuniy, 289-290: 1980).

Interreligious Marriage From The Perspective Of Islamic Law Compilation (KHI)

The Compilation of Islamic Law is the government's response to the emergence of various social unrest as a result of differing Religious Court rulings in the same case. This diversity is a logical result of the various sources of law in the form of fiqh books that are utilized by judges to resolve a problem. As a result, the need for a law that was systematically formulated as a basis and reference for religious judges and as the initial step toward codification of national law became apparent (Mohammad Monib & Ahmad Nurcholis, 145-150: 2008).

Chapter 40 letter (c) of the Compilation of Islamic Law prohibits a man from marrying a non-Muslim woman. According to Chapter 44, "a Muslim woman is prohibited from marrying a non-Muslim man. Then, in Chapter 61, it is stated that if you are of different religions (i.e., you are not of the same religion), the marriage can be prevented. From the description of chapter 40 to the addition of chapter 44 to chapter 61, there is a temporary

ban (Abdul Gani Abdullah, 95: 1994). In Islam, five things must be maintained: faith (religion), soul, mind, progeny, and property. Religion is a part of the family because it is not only obligatory for the individual, but also obligatory for the family and the beliefs of society as a whole. It is obligatory to educate families in accordance with their religion in order to create a *sakinah*, *mawaddah*, and *rahmah* family based on the belief in One Almighty God (M. Karsayuda, 150: 2006).

Regarding interfaith marriages in the Compilation of Islamic Law, the provisions of the four chapters make it abundantly clear.

a. Chapter 40 KHI prohibits entering into a marriage between a man and a woman under the following conditions: 1) If the woman in question is still legally married to another man.

1) A woman

in her *iddah* period who is with another man.

2) A woman who does not practice Islam (Departemen Agama RI, 32: 1992).

a. Chapter 44 KHI:

A Muslim woman is forbidden from marrying a non-Muslim man (Departemen Agama RI, 33: 1992).

In KHI, religious differences are viewed as an impediment to marriage between men and women. This means that Muslim men and women are prohibited from marrying non-Muslims (Departemen Agama RI, 34: 1992).

From the preceding discussion of the Compilation of Islamic Law (KHI), it can be concluded that the purpose of KHI is not to permit Muslim men to marry women who are experts in the

book, as some scholars permit because there are numerous such marriages. However, Islam should permit Muslim men to marry women who are experts in the book. the book in order for Muslim husbands to invite wives who are experts in the book to convert to Islam. As described by Hamka in his interpretation, it is permissible for religiously committed men to marry a member of the book. Al-Qordawi stated that Muslim men are permitted to marry ahlul kitab so that the husband can convert his wife to Islam. However, this is no longer the case. A Muslim man who marries a member of the *Ahlul kitab* converts to the religion of his wife and abandons his own. According to saddu zari'ah KHI, marrying a woman who is a member of the book is therefore invalid.

Conclusion

We find similarities and differences between interfaith marriage laws from the perspective of Islamic jurisprudence and from the perspective of the Compilation of Islamic Law based on the preceding discussion. The difference between the two is that Islamic jurisprudence divides the law on interfaith marriage into three parts, namely the law on Muslim men marrying women of the Book. In this case, the majority of scholars tend to permit the marriage, while others view it as makruh only. The second component is the marriage law between Muslim men and polytheistic women. In this instance, the scholars concur that it is prohibited for a Muslim man to marry a polytheist woman. And the third is the law regarding Muslim women marrying non-Muslim men, namely that Islamic jurists consider this

marriage to be forbidden by Islam, regardless of whether the prospective husband is from the *ahlul kitab* (Jews and Christians) or adherents of other religions with holy books, such as Hinduism and Buddhism, or adherents of a religion that does not have a holy book. Under no circumstances are Muslim women permitted to marry non-Muslim men, whether they are of the ahlul kitab or not.

While the Compilation of Islamic Law makes no distinction between the three laws, it does not permit marriages between members of all religions. While both prohibit Muslim men from marrying polytheistic women and Muslim women from marrying non-Muslim men, this is the only similarity between the two laws.

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