



## Contemporary Jurisprudence: A Study of Jurisprudence on Interfaith Marriage

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<p><b>Article History</b> Received: 2025-12-11 Revised: 2025-12-19 Published: 2025-12-30</p> <p><b>Keywords:</b> <i>Contemporary fiqh; Indonesian law; Islamic law; maqāṣid al-syarī'ah; interfaith marriage</i></p>	<p>Interfaith marriage is an issue that has given rise to serious debate in contemporary Islamic jurisprudence. Although there is an explicit text in the Qur'an that permits Muslim men to marry women from the People of the Book (QS. al-Māidah [5]: 5), many contemporary scholars such as Yusuf al-Qaradawi and Quraish Shihab consider this permissibility to be contextual and not absolute. In the context of modern society that is increasingly plural and secular, interfaith marriage is seen as threatening household stability, children's education, and the preservation of Islamic faith within the family. Therefore, contemporary Islamic jurisprudence encourages a review of this permissibility through the maqāṣid al-syarī'ah approach, which emphasizes the protection of religion, offspring, and household harmony. In Indonesia, this issue is also affirmed in positive law as stipulated in Law Number 1 of 1974 concerning Marriage, which requires marriages to be conducted according to the laws of each religion. This paper aims to analyze the views of classical schools of thought and the thoughts of contemporary Islamic scholars on the practice of interfaith marriage and evaluate its relevance in the social and legal context of contemporary Indonesia. This research uses a normative qualitative approach with descriptive-analytical methods on fiqh texts and laws and regulations.</p>

### I. INTRODUCTION

Marriage is an essential institution in Islamic law, aimed at preserving progeny, religion, and social harmony. In the classical Islamic jurisprudence tradition, this sacred relationship is governed by clear sharia principles, including provisions regarding who may be chosen as a marriage partner. One theme that continues to spark debate is the issue of interfaith marriage, particularly in a multicultural society like Indonesia. Although the Quran explicitly permits Muslim men to marry women from the People of the Book in Surah al-Māidah verse 5, contemporary scholars view this permissibility as contextual and not absolute, given modern challenges such as potential religious conflicts within the family, children's education, and the sustainability of Islamic values within the household.<sup>1</sup> In the social context of Indonesia, where the majority of the population is Muslim and regulated by a religion-based national legal system, this issue becomes even more complex. Law Number 1 of 1974 explicitly states that a

marriage is only considered valid if it is conducted according to the religious law of each party. This raises critical questions about the position of Islamic law in responding to such social realities. Contemporary Islamic jurisprudence, with its maqāṣid al-syarī'ah (objectives of Islamic law) approach, provides a more adaptive and contextual analytical framework for assessing the benefits and disadvantages of interfaith marriage. Based on this background, this study begins with fundamental questions: How is the concept of marriage in contemporary Islamic jurisprudence understood in relation to religious plurality? What are the views of classical schools of thought and contemporary scholars on interfaith marriage? And to what extent does Indonesian national law align with or contradict contemporary Islamic jurisprudence principles on this issue?

### II. RESEARCH METHODS

This research uses a qualitative, normative

approach with a descriptive-analytical method. The normative approach was chosen because the object of this study focuses on Islamic jurisprudence norms and applicable laws and regulations related to interfaith marriage in Islam. Data were obtained through library research, which included classical fiqh books from four schools of thought, works by contemporary scholars, and Indonesian positive legal regulations, such as Law Number 1 of 1974 and the Compilation of Islamic Law.

The analysis was carried out by exploring various views of classical schools such as Hanafi, Maliki, Syafi'i, and Hanbali regarding the law of interfaith marriages, then comparing them with the *ijtihad* of contemporary scholars such as Yusuf al-Qaradawi, Muhammad Abu Zahrah, and Quraish Shihab. This research also considers the *maqāṣid al-syarī'ah* approach as the main analytical tool in contemporary fiqh to understand the socio-religious context surrounding this issue.

Furthermore, national legal provisions are analyzed to determine the extent to which state policies align with or differ from these Islamic jurisprudence principles. The results of this analysis aim to describe Islamic law's response to the social reality of interfaith marriage in a more comprehensive and contextual manner, while also bridging the gap between normative religious provisions and social and legal practices in Indonesian society.

### III. RESULTS AND DISCUSSION

#### 1. Marriage in Contemporary Fiqh Perspective

In Islamic jurisprudence, marriage (*nikāḥ*) is understood as a valid contract between a man and a woman aimed at establishing a peaceful, loving, and compassionate family, while upholding sharia values in domestic life. In contemporary jurisprudence, this definition has been expanded to encompass not only a form of biological legitimacy but also a social institution that must guarantee justice, equality, and the protection of the rights of husband and wife. Contemporary jurisprudence places greater emphasis on the role

of *maqāṣid al-syarī'ah* in framing the purposes of marriage, namely the protection of religion, life, offspring, intellect, and property. Therefore, every marriage must consider its impact on these five purposes. In this context, marriage is no longer assessed solely from the perspective of legal validity, but also from the perspective of the family's social welfare and stability.

#### 2. Overview of Interfaith Marriage

Interfaith marriage is generally defined as a marriage bond carried out by a man and a woman who have different beliefs, but based on the love that exists between the two partners, so that they agree to build a household together. (Islamiyati, 2016).

This type of marriage practice is common in Indonesia, especially for several public figures that we often see in various media. In several other definitions quoted in the journal, Rusli and R. Tama stated that interfaith marriage is a form of agreement that is physically and mentally bound between a man who wishes to build a household and a woman due to differences in their respective beliefs so that the rules of marriage in the teachings of their religions are eliminated and followed by the requirements of both religions with the aim of building a harmonious family with a foundation of belief in the Oneness of God which is pioneered on the basis of mutual love. (Arifin, 2019).

Interfaith marriage is a marriage between two people of different faiths. In general, classical Islamic jurisprudence permits Muslim men to marry women from the People of the Book (Jews and Christians), as stated in Surah al-Māidah, verse 5. However, Muslim women are not permitted to marry non-Muslim men, whether from the People of the Book or non-Kitābiyah. This provision is based on the principle of religious leadership, which, according to the majority of scholars, must be in the hands of a Muslim. However, in the context of modern, pluralistic and secular society, many contemporary scholars believe that interfaith marriage, although textually permissible, can have negative impacts such as spiritual conflict within

the family, disorientation in children's education, and a weakening of Islamic values within the household. Therefore, this permissibility must be reviewed within the context of the *maqāsid al-syarī'ah*.

### 3. The View of the Classical Fiqh School on Interfaith Marriage

After briefly discussing the understanding of the Ahl al-Kitab, the next focus is on interfaith marriage. This is because, based on the understanding of the Ahl al-Kitab, the perception of interfaith marriage will also differ. The views of these schools of thought are expected to serve as a reference for both the public and academics. Several school of thought opinions should serve as a guide for our discussion of interfaith marriage, particularly regarding marriage to a woman from another group (Ahl al-Kitab), as follows:

1. According to the view of the Hanafi School of thought, in this school of thought, it is stated that a man who marries a woman from the People of the Book who is fighting against the Muslims (Dar al-Harb) is prohibited. Apart from the losses and dangers, of course the children of these marriages tend to follow their mother's religion (Sudarto, 2019).
2. According to the views of the Maliki School of thought, the Maliki school of thought puts forward two views, firstly, the act contains the nature of *makruh*, whether the woman is from a *zimmi* infidel or a resident of *dar al harb*. Second, the statement from the Al-Quran is more towards silence regarding the problem of the people of this book. Here it can be concluded that this characteristic of silence is considered consent, so that marital status with an expert of the book is fine without considering whether the parents are also experts in the book.
3. According to the views of the Shafi'i and Hanbali schools, as from the Word of Allah, surah al-Maidah verse 5: On this day everything that is good is lawful for you. The food (sacrifice) of the People of the Book is halal for you, and your food is halal for them. And (it is permissible for you to marry)

women who maintain honor among believing women and women who maintain honor among those who were given the book before you, if you pay their dowry to marry them, not with the intention of committing adultery and not to make a woman a pet. Whoever disbelieves after believing, then indeed, their deeds were in vain, and in the Hereafter he will be among the losers.

According to the Shafi'i school of thought, as explained previously, the People of the Book consist of: (Sudarto, 2019):

- a. The meaning of the People of the Book is those who belong to the Jewish faith and the Christian faith,
- b. Magi are not included in the category of book experts.
- c. Arabs who converted to Judaism and Christianity are not categorized by our experts because their original belief was idol worship and their conversion was not due to faith in the Torah and the Gospel.

The next opinion put forward by Ibn Hazm in al-Mahalla positions the people of the book as categorized into the Jewish, Christian, and Majusi groups. Similarly, in the Tafsir al-Quran 'Azim in the book of Ibn Kathir's commentary, it is explained that Abu Sur Ibrahim and Ibn Khalid al-Kalbi (d. 860) were followers of Imam Shafi'i and likewise Ahmad bin Hanbal said that enjoying the slaughtered meat of Majus and marrying their women is permissible.

In contrast to the group that forbids marriage to women from the People of the Book, this is stated in the Word of Allah SWT in the letter Al-Baqarah verse 105, Allah states:

مَا يَوَدُّ الَّذِينَ كَفَرُوا مِنْ أَهْلِ الْكِتَابِ وَلَا الْمُشْرِكِينَ أَنْ يُنَزَّلَ عَلَيْكُمْ مِنْ خَيْرٍ  
مِنْ رَبِّكُمْ وَاللَّهُ يَخْتَصُّ بِرَحْمَتِهِ مَنْ يَشَاءُ وَاللَّهُ ذُو الْفَضْلِ الْعَظِيمِ

Meaning: The disbelievers from among the People of the Book and the polytheists do not desire that any good should be sent down to you from your Lord. But Allah bestows His mercy exclusively on whom He wills. And Allah is the Possessor of Great Bounty.

The meaning of the verse above emphasizes the face of Allah, indicating that both (the People of the Book and the polytheists) are equal. This

means that both dislike the Quran being revealed to the Muslim community.(Asmuni & Nispul Khairi, 2017). Because of this, its legal status is haram as explained in Surah al-Baqarah verse 221. In another verse, Allah says in Surah Al-Bayyinah verse 1:

لَمْ يَكُنِ الَّذِينَ كَفَرُوا مِنْ أَهْلِ الْكِتَابِ وَالْمُشْرِكِينَ مُنْفَكِينَ حَتَّىٰ تَأْتِيَهُمُ الْبَيِّنَةُ

Meaning: "Those who disbelieve from among the People of the Book and the polytheists will not abandon (their religion) until there comes to them clear proof."

The explanation of the verse above explains that there is no difference between the infidels of the People of the Book and the polytheists. These two groups will not distance themselves from each other if they discover another, more obvious truth.(Asmuni & Nispul Khairi, 2017).

#### 4. Opinions of Contemporary Scholars

Contemporary Islamic jurists such as Yusuf al-Qaradawi view the permissibility of marrying women from the People of the Book as a historical context that is not always relevant today. In his view, although Surah al-Māidah 5 grants such permission, interfaith marriage no longer brings benefits, but rather harms in the family and the continuity of children's faith. He emphasized that interfaith marriage in today's social reality often gives rise to issues of faith, identity, and internal disharmony. Quraish Shihab stated that this permissibility is a dispensation, not a recommendation. He emphasized the need to consider social and psychological aspects, such as the couple's readiness to manage differences in belief, as well as the impact on children and the surrounding community. In the Indonesian context, the Indonesian Ulema Council (MUI) expressly prohibits interfaith marriage because it is considered contrary to the basic principles of Islamic law.

#### 5. Indonesian Positive Law and Interfaith Marriage

Indonesian national law, through Law Number 1 of 1974, clearly states that a marriage is considered valid if it is conducted according to the laws of each religion and belief. This provision is

reaffirmed in the Compilation of Islamic Law (KHI), which states that a marriage between a Muslim and a non-Muslim is invalid under Islamic law in force in Indonesia. Therefore, normatively, interfaith marriage is not only discouraged from contemporary Islamic jurisprudence but is also not recognized by state law. This demonstrates the harmony between the maqāsid al-shari'ah approach and constitutional principles in maintaining social order and the integrity of Muslim families in Indonesia.

### IV. CONCLUSION AND SUGGESTIONS

#### A. Conclusion

Interfaith marriage, from a contemporary Islamic jurisprudence perspective, is an issue that requires a cautious approach, not only from a normative perspective but also from a social and maqāsid al-syarī'ah perspective. Although the Qur'an explicitly allows Muslim men to marry women from the People of the Book, contemporary scholars believe that this permissibility cannot be readily applied to current realities. Challenges in maintaining family faith, household stability, and children's education are key considerations in practically rejecting this practice. The views of classical scholars demonstrate differences in approach between schools of thought, but all consistently emphasize the need to maintain the unity of Islamic values within the family institution. Meanwhile, the thinking of contemporary scholars such as Yusuf al-Qaradawi and Quraish Shihab points to caution and a practical rejection of interfaith marriage for the greater good. On the other hand, Indonesian positive law has stipulated that a valid marriage must be conducted according to the respective religions of each party, so interfaith marriage is not substantively recognized by the state. Thus, from both the perspective of contemporary fiqh and national law, interfaith marriages should be avoided because they have the potential to cause damage to the spiritual and social structure of Muslim families.

## B. Suggestion

Comprehensive public awareness of Islamic marriage law is needed to strengthen understanding of the limitations of Islamic law regarding interfaith marriage and prevent misunderstandings. Academics, religious scholars, and practitioners of Islamic law are also expected to continue to examine this issue in a multidisciplinary manner so that solutions offered can address the challenges of the times without neglecting fundamental Islamic values. Furthermore, state policy should maintain the principle of conformity with religious law in marriage to maintain social harmony and family stability.

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