



**Interfaith Marriage in Contemporary Islamic Family Law:
Analysis of 2005 Indonesian Ulama Council (MUI) Fatwa
Number 4 about Interfaith Marriage based on the Theory of *Al-Maslahah Al-Mursalah***

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Abstract Purpose – This study aims to investigate the Fatwa of the 2005 Indonesian Ulama Council (MUI) Number 4 on interfaith marriage, which is based on al-Maslahah al-Mursalah theory, and determine its relevance and contribution to community well-being.
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This study will investigate how the Indonesian Ulama Council (MUI) sees interfaith marriage and how this fatwa can help achieve benefits while avoiding harm in national life. Methods – This study employs library research methods with a normative approach, with literature data serving as the primary source. In this case, the study focuses on the Indonesian Ulama Council (MUI) Fatwa No. 4 of 2005 on Interfaith Marriages, which is based on the al-Maslahah al-Mursalah theory. Findings – The findings of this study indicate that MUI strictly prohibits interfaith marriage because can destroying faith, social cohesion and family harmony. Several scholar such as Hamka, Quraish Shihab and Musdah Mulia have diverse opinions about interfaith marriages, reflects wider debates regarding modernity in the context of Islamic Law. This research confirms the relevance of fatwas in dealing with contemporary issues while maintaining religious principles and societal dynamics. Research limitation – This research is limited to a normative study regarding the MUI fatwa on interfaith marriage and the role of this fatwa in maintaining public welfare. Given these limitations, future research is expected to expand on the findings of this study by employing an empirical approach that integrates other sciences.

Keywords: : MUI Fatwa, Interfaith Marriage, Islamic Law, al-Maslahah al-Mursalah



Abstrak

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Tujuan - Penelitian ini bertujuan untuk menyelidiki Fatwa Majelis Ulama Indonesia (MUI) Nomor 4 Tahun 2005 tentang pernikahan beda agama, yang didasarkan pada teori *al-Maslahah al-Mursalah*, serta menentukan relevansi dan kontribusinya terhadap kesejahteraan masyarakat. Penelitian ini akan menyelidiki bagaimana Majelis Ulama Indonesia (MUI) memandang pernikahan beda agama dan bagaimana fatwa ini dapat membantu mencapai kemaslahatan sekaligus menghindari kemudharatan dalam kehidupan berbangsa dan bernegara. Metode - Penelitian ini menggunakan metode penelitian kepustakaan dengan pendekatan normatif, dengan data kepustakaan sebagai sumber utama. Dalam hal ini, penelitian difokuskan pada Fatwa Majelis Ulama Indonesia (MUI) No. 4 Tahun 2005 tentang Perkawinan Beda Agama yang didasarkan pada teori *al-Maslahah al-Mursalah*. Temuan - Temuan dari penelitian ini menunjukkan bahwa MUI secara tegas melarang pernikahan beda agama karena dapat merusak keimanan, kohesi sosial, dan keharmonisan keluarga. Beberapa ulama seperti Hamka, Quraish Shihab dan Musdah Mulia memiliki pendapat yang beragam mengenai pernikahan beda agama, yang mencerminkan perdebatan yang lebih luas mengenai modernitas dalam konteks Hukum Islam. Penelitian ini menegaskan relevansi fatwa dalam menghadapi isu-isu kontemporer dengan tetap menjaga prinsip-prinsip agama dan dinamika masyarakat. Keterbatasan penelitian - Penelitian ini terbatas pada studi normatif mengenai fatwa MUI tentang pernikahan beda agama dan peran fatwa tersebut dalam menjaga kesejahteraan masyarakat. Dengan adanya keterbatasan ini, penelitian selanjutnya diharapkan dapat memperluas temuan penelitian ini dengan menggunakan pendekatan empiris yang mengintegrasikan ilmu-ilmu lain.

Katakunci: : Fatwa MUI, Pernikahan Beda Agama, Hukum Islam, *al-Maslahah al-Mursalah*

PENDAHULUAN

Since Indonesia is a multicultural and multireligious nation, there has long been interest in the subject of interfaith marriage. This is a consequence and a real challenge for the country to

accommodate religious pluralism.¹ Additionally, interfaith marriages continue to occur because of the massive interactions made possible by the forces of globalization between people of different national and religious backgrounds.²

As happened in 2021, interfaith marriages have become a prevalent practice in society. With decision number 12/Pdt.P/2022/PN Pontianak District Court, the marriage registration application of Meyandani, a Christian, and Ridho Nur Azzaman, a Muslim, was accepted by the Population and Civil Registration Office (Dukcapil) of Pontianak City. In a similar case, the Surabaya District Court also decided to register the marriage of Rizal Adikara, a Muslim, and Eka Debora Sidauruk, a Christian, at the Surabaya Civil Registry Office (Dukcapil). The decision was established with the number 916/Pdt.P/PN. This is currently being debated under Indonesian positive law. According to Law Number 1 of 1974 on Marriage, the legitimacy of marriage is regulated by each faith, as specified in Article 2 paragraphs (1) and (2): (1) *"If a marriage is performed in accordance with each religion and belief, it is valid."* (2) *"Every marriage is registered in compliance with the laws and regulations that are in effect."* This is further clarified by Article 8 letter F: *"Marriage is prohibited between two persons who have a relationship that is forbidden to marry by their religion or applicable regulations."*³

Interfaith marriage is permitted under Islamic law, which is stated clearly in the Quran. Marriage between a Muslim man and a polytheistic woman is haram by Islamic law, according to Surah Al-Baqarah: 221 and Surah al-Maidah: 5, and a Muslim

¹ Eva F Nisa, "Interfaith Marriages in Indonesia: Between the Law, State Ideology, and Progressive Muslim Voices," *Muslim Marriage and Non-Marriage: Where Religion and Politics Meet Intimate Life*, 2023, 289–306.

² Mohammad Gamal Abdelnour, *The Islamic Theology of Interfaith Marriages between Theology, Law, and Individual Ijtihad* (JSTOR, 2022).

³ Himawan Tatura Wijaya and Erwin Jusuf Thaib, "Efektivitas Pelaksanaan Undang-Undang Republik Indonesia Nomor 16 Tahun 2019 Tentang Perubahan Atas Undang-Undang Nomor 1 Tahun 1974 Tentang Perkawinan Di Kabupaten Pohuwato," *As-Syams* 1, no. 1 (2020): 30–46.

woman is forbidden to marry a polytheistic man or a man from the Ahl al-Kitab.⁴ One significant part of Indonesian law is the fatwa against interfaith marriage issued by the Indonesian Ulema Council (MUI) Number: 4/Munas VII/MUI/8/2005, which declares that interfaith marriage is banned by Islamic law and hence considered haram. The fatwa was issued by the Indonesian Council of Ulama in response to several causes. *First*, there are many cases of interfaith marriages in society. The Indonesian Conference on Religion and Peace (ICRP) recorded 1,425 interfaith marriages in Indonesia between 2005 and 2023. *Second*, interfaith marriage is a hotly debated issue among Muslims and the wider public, with fresh viewpoints justifying it on the basis of social welfare. *Third*, regulations governing interfaith marriage are necessary to realize and maintain the tranquility of household and community life. The approach of *al-Maslahah al-Mursalah*, which emphasizes the defense of faith, family harmony, and national unity, serves as the foundation for this fatwa. However, there are differences of opinion among scholars, with some offering a more flexible approach, such as Musdah Mulia and Quraish Shihab.

The fundamental purpose of this study is to have a deeper understanding of interfaith marriage through Surah al-Baqarah: 221 and Surah al-Maidah: 5. The assertion "*...the food of the Ahl al-Kitab (people of the book) is permissible for you and yours is permissible for them. And permissible for you in marriage are chaste believing women as well as chaste women of those given the Scripture before you – as long as you pay them their dowries in wedlock, neither fornicating nor taking them as mistresses.*" in Surah Al Maidah verse 5 has generated various interpretations among scholars. Who are unbelievers, and who are the Ahl al-Kitab (*people of the book*)? With an analytical approach, investigate the meaning of *Ahl al-Kitab (people of the book)* and the law of marrying them. In

⁴ Fadzil Jullian Riqval, "Perkawinan Beda Agama Di Indonesia Menurut Hukum Islam Dalam Pandangan Empat Madzhab," *Al-Ahwal Al-Syakhsyah: Jurnal Hukum Keluarga Dan Peradilan Islam* 4, no. 1 (2023): 47–56.



addition, questions arise as to whether the prohibitions mentioned in the verse are still relevant to the current state of the community.

Al-Maslahah Al-Mursalah will be used as guide to analyze the fatwa of interfaith marriage issued by the Indonesian Council Ulama (MUI) Number 4 of 2005. The focus of this research is on how the Indonesian Council of Ulama considers interfaith marriage and how the role of this fatwa helps to realize benefits while preventing harm in national life and to examine the implications of the fatwa in order to determine its applicability and contributions to preserving community well-being.

METHODS

This study uses library research as methodology with normative studies and library data (literature) as its main data source. The core objective of this study is to examine the of interfaith marriage issued by Indonesian Ulama Council (MUI) Number 4 of 2005 using the *al-Maslahah al-Mursalah* approach. Data sources in literature research are related to the research materials, namely the topics to be studied. Data sources may be classified into two types: primary and secondary data.⁵ The primary data source in this study are the Al-Quran, Hadits, and the Decisions of the Second National Consultative Assembly of Indonesian Ulama Council (Keputusan Munas 2 MUI). On the other hand, secondary data is information that has already been made available and is referenced by researchers for their own research.⁶ This study uses secondary data from books, journal articles, proceedings articles, theses, and dissertations that relates to interfaith marriage.

⁵ Suriasumantri Sugiyono, "Metode Penelitian Kuantitatif Kualitatif Dan R&D. Bandung: Alfabeta," *Procrastination And Task Avoidance: Theory, Research and Treatment*. New York: Plenum Press, Yudistira P, Chandra, 2017.

⁶ Sugiyono, *Penelitian Pendidikan (Pendekatan Kuantitatif, Kualitatif Dan R&D)*. (Bandung: Alfabeta, 2016).

In this study, previously collected data was analyzed and expanded upon using data collecting methodologies.⁷ The data analysis approach employed is content analysis. In this study, the data analysis may be described as: 1) The interpretation of Surah Al-Maidah verse 5 regarding the meaning of the Ahl al-Kitab (*people of the book*) (who is included as the Ahl al-Kitab and the laws regarding marrying them); 2) Scholars' opinions regarding interfaith marriage; 3) Describing the fatwa of the MUI on interfaith marriage, including the factors that led to the issuance of the fatwa and the role of the fatwa in maintaining public interest through the preservation of Islamic values, family harmony, and national unity.

RESULT AND DISCUSSIONS

Marriage is a holy union of the bodies and souls of men and women. Marriage's primary goal is to create a calm, caring, and compassionate family while also preserving the bloodline. In addition, marriage also plays an important role in preserving traditions and noble values within society.⁸ In other words, marriage has profound significance for human life and is not just a biological relationship; it is also a social and spiritual bond. In the view of Islam, marriage has its own legal basis, referring to the Qur'an, Hadith, consensus of jurists, and *ijtihad*, where marriage is seen as a worship commanded by Allah and His Messenger.⁹ The prevalence of interfaith marriage is rising throughout society. An interfaith marriage is a relationship between a man and a woman who embrace different religions or

⁷ Rachmat Kriyantono and S Sos, *Teknik Praktis Riset Komunikasi* (Prenada Media, 2014).

⁸ Tinuk Dwi Cahyani, *Hukum Perkawinan*, vol. 1 (UMMPress, 2020).

⁹ Ahmad Atabik and Khoridatul Mudhiyah, "Pernikahan Dan Hikmahnya Perspektif Hukum Islam," *YUDISIA: Jurnal Pemikiran Hukum Dan Hukum Islam* 5, no. 2 (2016).

beliefs. Marriage of a Muslim man or woman with a non-Muslim man or woman.¹⁰

In general, interfaith marriage according to Islam is divided into three categories: 1) marriage between Muslim man and a polytheist woman; 2) marriage between a polytheist man and muslim woman; 3) marriage between a muslim man and a member of Ahl al-Kitan. Ulama prohibit the first and second categories, while the bthird remains debatable. The legal opinions of different schools of thought about interfaith marriage are as follows:¹¹

1) Interfaith Marriage According to the Hanafi

A man cannot marry a woman from Ahl al-Kitab who is at war with the Muslims (*dar al-harb*); furthermore, children resulting from such a marriage tend to follow the belief of their mother.

2) Interfaith Marriage According to the Maliki

According to the Maliki, interfaith marriage has two outcomes. First, such marriage is subject to the ruling as an act containing *makruh*, regardless of whether the women are from the *zimmi* or *dar al-harb* communities. Secondly, statements from the Al-Qur'an tend to lean towards silence regarding marriage with women of *Ahl al-Kitab*; it can be understood that this silence is considered as approval so that the status of marriage with *Ahl al-Kitab* does not become an issue without considering the parents or *Ahl al-Kitab* themselves.

3) Interfaith Marriage According to the Shafi'i and Hanbali

Shafi'i and Hanbali rely on the words of Allah SWT in Q.S. Al-Maidah verse 5 that it is permissible to marry women from *Ahl al-Kitab*.

¹⁰ 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* 6, no. 01 (2021): 107–40.

¹¹ Abdul-Rahman Al-Jaziri, *Kitab Al Fiqh Ala Al-Madzahib Al Arba'ah* (Menara Kudus, 2008).

The Indonesian Ulama Council (MUI) has strong opinions on interfaith marriages. MUI Fatwa Number 4/MUNAS VII/MUI/8/2005 clearly states that marriage between a Muslim and a non-Muslim is haram and invalid under Islamic law. The explanations for this MUI Fatwa describe the fundamental principles of Islamic law that serve as the foundation for its issuance. The Qur'an, the Sunnah, and the views of past scholars serve as the primary sources.¹² Although there were some previous discussions, the Indonesian Ulama Council (MUI) officially issued a fatwa regarding interfaith marriages on July 28, 2005. This fatwa reiterates the ban on Muslims getting married to non-Muslims in general as well as to *Ahl al-Kitab* (people of the book). The Fatwas: “(1) *Perkawinan beda agama adalah haram dan tidak sah*. (2) *Perkawinan laki-laki muslim dengan wanita Ahl al-Kitab, menurut qaul mu'tamad, adalah haram dan tidak sah*.”

The fatwa declares interfaith marriage to be haram and void. Islam forbids Muslim men from marrying *Ahl al-Kitab* on the basis of *qaul mu'tamad*. The MUI cites Surah al-Baqarah verse 221 in its legislation on interfaith marriage, which expressly forbids marriage between a Muslim and a non-Muslim. The verse says:

وَلَا تَنْكِحُوا الْمُشْرِكَةَ حَتَّىٰ يُؤْمِنَ وَلَأَمَةٌ مُّؤْمِنَةٌ خَيْرٌ مِّنْ مُّشْرِكَةٍ وَلَوْ أَعْجَبَتْكُمْ
وَلَا تُنْكِحُوا الْمُشْرِكِينَ حَتَّىٰ يُؤْمِنُوا وَلَعَبْدٌ مُّؤْمِنٌ خَيْرٌ مِّنْ مُّشْرِكٍ وَلَوْ أَعْجَبَكُمْ
أُولَٰئِكَ يَدْعُونَ إِلَى النَّارِ وَاللَّهُ يَدْعُو إِلَى الْجَنَّةِ وَالْمَغْفِرَةِ بِإِذْنِهِ ۖ وَبَيِّنُ ۤءَايَاتِهِ
لِلنَّاسِ لَعَلَّهُمْ يَتَذَكَّرُونَ

“And do not marry polytheistic women until they believe. And a believing slave woman is better than a polytheist, even though she might please you. And do not marry polytheistic men [to your women] until they believe. And a believing slave is better than a

¹² Pradana Pradana Boy ZTF, “Fatwa in Indonesia: An Analysis of Dominant Legal Ideas and Mode of Thought of Fatwa-Making Agencies and Their Implications in the Post-New Order Period,” 2017.



polytheist, even though he might please you. Those invite [you] to the Fire, but Allah invites to Paradise and to forgiveness, by His permission. And He makes clear His verses to the people that perhaps they may remember."

Based on this verse, the MUI argues that both polytheistic women and women of the *Ahl al-Kitab* are categorized as those who associate partners with Allah. Therefore, from the MUI's perspective, a Muslim cannot marry either of them. Nevertheless, this fatwa from the MUI has also faced criticism and debate, particularly from more liberal circles. Some argue that this fatwa ignores the increasingly complex social realities and is unduly strict.

According to the first viewpoint, Hamka, also known as Haji Abdul Malik Karim Amrullah, is among the scholars who forbid interfaith marriage. In his *Al-Azhar tafseer*, Hamka asserts that choosing a spouse is crucial in Islam. A wife is not only a life partner but also plays a role in building a family that is *sakinah*, *mawaddah*, *warahmah*. Therefore, Hamka emphasizes the importance of choosing a like-minded partner to ensure household harmony and children's education that aligns with Islamic teachings.¹³

Hamka also quotes a narration from Ibn Abbas to support his views on interfaith marriage. Through the story of Martsad al-Ghaznawi, who almost married a Qurayshi woman, Hamka recounts the tale of Martsad al-Ghaznawi, who was rejected in love by his former polytheistic girlfriend after he embraced Islam. According to Hamka, This event serves as the backdrop for the revelation of the Quranic verse that marriage between a Muslim and a polytheistic woman are haram, Surah Al-Baqarah verse 221, which states, "*and do not marry polytheistic women until they believe*," because a believing man marrying a polytheistic woman will end up in a chaotic household relationship. Hamka

¹³ abdulmalik Abdulkarim Amrullah, "Penafsiran Ayat-Ayat Mutasyabihat Dalam Al-Qur" An (Studi Komparatif Atas Makna Istawa Dalam Kitab Al-Misbah Karya M. Quraish Shihab Dan Kitab Al-Azhar Karya," 2022.



concludes that the Prophet Muhammad did not encourage interfaith marriage because it can hinder the growth of one's faith and that of their family.¹⁴

Interfaith marriage can lead to various problems, such as differences in worship practices, children's education, and worldviews. This has the ability to upset peace in the home and lead to internal disputes within the family. Additionally, children born from interfaith marriages will face dilemmas in choosing which religion to adhere to. Regarding the meaning of Surah Al-Maidah verse 5, scholars have diverse views. It is haram for a man to marry a part of the *Ahl al-Kitab* if he has insufficient faith. For individuals with insufficient faith, Hamka analogizes it to "*a fish that will take away its fisherman*." Hamka emphasizes that a Muslim who wavers in his faith (prioritizing his wife's religion) but abandons Islam has experienced great loss.

Some scholars, as quoted by Hamka, argue that interfaith marriage can hinder the growth of one's faith and that of their family. The reason is that differences in beliefs can lead to conflicts in the household and confuse children in choosing a religion. Hamka also cites the hadith about Martsad al-Ghaznawi as evidence. However, the MUI in its fatwa tends to be stricter and generally prohibits interfaith marriages. The second opinion, one of the scholars who permits interfaith marriage, albeit under certain conditions, is Quraish Shihab, a prominent scholar who permits interfaith marriages between a Muslim and women of the *Ahl al-Kitab* (Jewish or Christian). He argues that the Quran explicitly allows this kind of marriage, as stated in Surah Al-Maidah verse 5.

The concept of '*Ahl al-Kitab*' is key to understanding the rules of interfaith marriage in Islam. Most scholars, Quraish Shihab, emphasize that the term '*ahl al-kitab*' specifically refers to believers of the Jewish and Christian faiths without regard to

¹⁴ Arif Firdausi Nur Romadlon, "Penafsiran Tentang Ahli Kitab Dalam Tafsir Al-Azhar," *Al Karima: Jurnal Studi Ilmu Al Quran Dan Tafsir* 1, no. 1 (2017): 83–94.

their origins or streams. Quraish Shihab also emphasizes that although there are differences in religious understanding, they are still considered to have beliefs that are closer to Islam compared to the polytheists. This opinion has significant implications for understanding the laws of interfaith marriage in Islam, as only the followers of these religions are explicitly mentioned in the Quran as groups that can be married to a Muslim.¹⁵

According to Shihab, the distinction between Ahl al-Kitab and polytheists is cited in Quranic passages that clearly separate the two, despite the fact that Ahl al-Kitab's doctrines contain components of polytheism.

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

"Those who disbelieved among the People of the Scripture and the polytheists were not to be parted [from misbelief] until there came to them clear evidence" (Al-Bayyinah verse 1)

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

"Neither those who disbelieve from the People of the Scripture nor the polytheists wish that any good should be sent down to you from your Lord. But Allah selects for His mercy whom He wills, and Allah is the possessor of great bounty." (Al Baqarah verse 105)

From these two verses, it can be said that the terms 'Ahl al-Kitab' and 'polytheist' are used in the Quran to classify non-Muslim groups at that time. Ahl al-Kitab refers to the followers of previous Abrahamic religions, such as Jews and Christians, who possess sacred texts. Meanwhile, polytheists refer to those who worship idols or have beliefs that deviate from monotheism. The use of the word 'and' here indicates a distinction between these

¹⁵ M Quraish Shihab, "Tafsir Al-Mishbah: Pesan, Kesan, Dan Keserasian Al-Qur'an/M," *Quraish Shihab*, 1944.

two groups in their historical context and beliefs.¹⁶ Quraish Shihab refutes the view that Quran verse Al-Baqarah verse 221 nullifies the authorization for marriage to Ahl al-Kitab in Quran verse Al-Maidah verse 5. According to him, the order of revelation of the verses suggests that Al-Maidah verse 5 occurred later. As a result, cancelling a previous verse with a subsequent one makes no sense. Furthermore, Quraish Shihab contends that Ahl al-Kitab have ideas that vary from polytheists, making it incorrect to compare the two.

Shihab's perspective implies that a Muslim may consider getting married to an Ahl al-Kitab woman (people of the books) in an interfaith marriage. In other words, he allows marriages between Muslims and Ahl al-Kitab (Jews and Christians) based on Quran verse Al-Maidah verse 5. The condition is that the man must have strong faith and be capable of guiding his wife in faith. The third opinion comes from a scholar who permits interfaith marriage, namely Musdah Mulia. Siti Musdah Mulia is an intellectual figure, a women's activist, and a professor of religion in Indonesia. She is widely recognized as one of the leading Muslim feminists in Asia. Her contributions to academia and social issues are significant, especially in issues of gender, religion, and democracy.¹⁷

Musdah Mulia emphasizes the importance of *ijtihad* in understanding interfaith marriage issues. She contends that scholars are allowed to engage in *ijtihad* because of the ambiguity of the evidence in the Quran and *hadith* regarding this issue. According to legal principles, the default decision is acceptable in the absence of convincing evidence. Therefore, Musdah Mulia argues that interfaith marriage is not automatically prohibited.¹⁸

¹⁶ M Quraish Shihab, *Mukjizat Al-Quran: Ditinjau Dari Aspek Kebahasaan, Aspek Ilmiah, Dan Pemberitaan Gaib* (Mizan Pustaka, 1997).

¹⁷ Siti Musdah Mulia, *Muslimah Sejati: Menempub Jalan Islami Meraih Ridha Ilahi* (Marja30, 2011).

¹⁸ Siti Musdah Mulia and Ahmad Baso, "Muslimah Reformis: Perempuan Pembaru Keagamaan," (*No Title*), 2005.

According to Musdah Mulia, *ijtihad*—a scholar's methodical approach to comprehending and implementing Islamic law—is what led to the law on interfaith marriage. The results of *ijtihad* may differ among scholars due to the variety of factors that influence it, such as the social and historical context. Therefore, there is not a single, entirely accurate viewpoint on this issue.¹⁹

The restriction against marrying polytheist women in Quranic verse Al-Baqarah verse 221 has been interpreted in a variety of ways. According to Musdah Mulia, the restriction has particular social circumstances and time limits. She contends that the restriction is more pertinent to the Arab social context of the Prophet Muhammad's (SAW) lifetime. A distinct interpretation of the Quranic verses pertaining to interfaith marriage is offered by Musdah Mulia. She believes that Surah Al-Maidah verse 5 specifically permits marriage between Muslim man and Ahl al-Kitab (Jews and Christians). She argues that this part is still valid now, just as it was when the Prophet Muhammad SAW was alive. Musdah Mulia also discusses Surah Al-Baqarah verse 221, she claims that the verse's restriction on marrying polytheist women is contextual and relates to the socioeconomic realities of Arab civilization at the time of the Prophet Muhammad SAW. The recommendation to marry slaves in the same verse reinforces this argument. Musdah Mulia believes that this prohibition is not absolute and cannot be applied directly to the context of modern society. In addition, Musdah Mulia also employs the principle of *nasakh* (abrogation) to support her argument. She argues that Surah Al-Maidah verse 5, revealed later, has abrogated Surah Al-Baqarah verse 221. She believes that the prohibition in Surah Al-Baqarah verse 221 is contextual and not universally applicable. She also uses the principle of *nasakh* to support her argument that Surah Al-Maidah verse 5 has revoked that prohibition.²⁰

¹⁹ Maria Ulfah Anshor and Martin L. Sinaga, *Tafsir Ulang Perkawinan Lintas Agama: Perspektif Perempuan Dan Pluralism* (Kapal Perempuan, 2004).

²⁰ Mulia and Baso, "Muslimah Reformis: Perempuan Pembaru Keagamaan."



Interfaith Marriages Case in Indonesia and Other Muslim Countries

In KHI, there are three normative categories for interfaith marriage. *First*, due to religious differences, marriage prerequisites are not met. A man cannot marry a non-Muslim woman (Article 40 c), and a Muslim woman cannot marry a non-Muslim man (Article 44). *Second*, religious differences as a basis for prohibiting marriage. Marriage can be prevented by making a request to the local ecclesiastical court (Article 65). Families in the line of descent downward, siblings, guardians, and custodians from the bride or groom's side (Article 62), a spouse who is still legally married to one of the potential brides or grooms (Article 63), and officials in charge of marriage supervision (Article 64) are all eligible to suggest marriage prevention. *Third*, religious differences as a reason for annulment of marriage. If one of the spouses has abandoned their faith, the marriage may be dissolved (Article 75).²¹

The practice of interfaith marriage is still prevalent in society, as seen in a case that occurred in Pontianak in 2021, namely the interfaith marriage between Ridho Nur Azzaman, who is Muslim, and Meyandani, who is Christian. A similar situation involved the marriage of Christian Eka Debora Sidauruk and Muslim Rizal Adikara in Surabaya. The Pontianak District Court's judgment number 12/Pdt.P/2022/PN and the Surabaya District Court's judgment number 916/Pdt.P/2022/PN both permitted the local Population and Civil Registration Office (Dinas Dukcapil) to register the marriages. This is definitely contentious, given that the Marriage Law plainly bans weddings between two persons of different religions, and the legitimacy of a marriage is determined by whether both parties are subject to a law with no prohibitions in their religion (Abubakar, 2008). The legal foundation for this clause is Law No. 1/1974 Article 2

²¹ Zainal Arifin, "Perkawinan Beda Agama," *Al-Insyiroh: Jurnal Studi Keislaman* 2, no. 2 (2018): 150–69.

paragraph 1 jo Article 8 f, which provides that marriage is lawful if performed in accordance with the rules of each faith and belief.

Interfaith marriage is practiced in other Muslim nations as well as Indonesia. Many Arab countries allow marriages between Muslim men and Christian or Jewish women, but not between Muslim women and non-Muslim men. In Malaysia, marriage is subject to one law, which is Islamic law, so if a non-Muslim wants to marry a Muslim, they must convert their beliefs. In Turkey, interreligious marriage is permitted due to the secular law in the country.²²

The Role of the Fatwa of the Indonesian Council of Ulama Regarding Interfaith Marriage to Achieve Public Interest and Prevent Harm in National Life

The Indonesian Ulama Council (MUI) clearly states in its fatwa Number 4/MUNAS VII/MUI/8/2005 that interfaith marriage, including marriages between Muslim males and Ahl al-Kitab women, is haram and void. This decision was made due to concerns about potential issues arising such as differences in the practice of worship, children's education, and the potential for conflict within the household. This fatwa is based on several religious arguments, such as the Quran, hadith, and jurisprudential principles. The fatwa issued by the Indonesian Ulama Council (MUI) on interfaith marriage has a significant impact on national life. In addition to religious regulation, this fatwa has far-reaching social, cultural, and legal implications. Due to constantly changing social, cultural, and political conditions, a more adaptable and responsive legal approach is required. The theory of *al-Maslahah al-Mursalah* keeps Islamic law relevant to the times. In the context of interfaith marriage, *al-Maslahah al-Mursalah*'s approach allows for more flexible interpretation while preventing Islamic law from becoming rigid.

Maslahah is the singular form of '*maslahih*', derived from the root word '*ashlaha*', which means 'bringing good'. This term

²² Arifin.

refers to anything that contains benefits and goodness while opposing the concept of harm (*fasad*). In the Dictionary of Lisan al-Arab, Ibn Manzur emphasizes that '*maslahah*' is a singular form that is then pluralized to refer to various types of goodness.²³ Morphologically, the words "*maslahah*" and "*manfa'ah*" have the same root and meaning: "*benefit*." Both have been incorporated into the Indonesian language, with similar meanings. In the Great Dictionary of the Indonesian Language (KBBI), "*maslahah*" and "*manfaat*" are both defined as "*something that brings goodness or advantage*".

The scholars of *usul al-fiqh* have defined *al-maṣlaḥah* with various terms, but essentially, they agree that *al-maṣlaḥah* refers to actions that are oriented towards the common good. Imam al-Ghazālī, in his view, emphasizes that *al-maṣlaḥah* is not limited to bringing benefits, but also aims to uphold and defend the primary goals of Islamic law (*maqāṣid al-syarī'ah*) as explained in the following hadith:

"The term al-maṣlaḥah essentially means to bring about benefits and repel harm. However, that is not what we mean, because bringing about benefits and repelling harm are the goals of creatures (humans), while the good for creatures (humans) exists with the achievement of their goals. What we mean by maṣlaḥat is to preserve the objectives of Sharia (maqāṣid al-sharī'ah). The objectives of Sharia are five: to preserve their religion, life, intellect, lineage, and property. Any effort to uphold these principles is called al-maṣlaḥat, and any attempt to damage or undermine them is mafsadat, and rejecting it is al-maṣlaḥah itself."

According to this hadith, Al-Ghazali teaches that one should always consider whether an action is truly beneficial and in accordance with religious teachings, rather than relying solely on habits or personal desires. *Al-Maṣlaḥah al-Mursalah* is the result of the *ijtihad* of scholars in understanding and applying Islamic law. This concept refers to the common good, which is not

م. باسمه خلف مسعود، "ما علق عليه اللغويون ب" لا أدري" في معجم م. د بشرى عبد المهيدي ابراهيم²³
345–91. مجلة كلية العلوم الاسلامية، لسان العرب دراسة دلالية، no. 69 (2022): 345–91.

explicitly stated in the text but can be concluded through in-depth analysis of various legal sources. According to Wahbah al-Zuhaylī, *Al-Maṣlaḥah al-Mursalah* refers to attributes or actions that are in line with the aims of syariat but lack specific evidence. The establishment of law based on *Al-Maṣlaḥah al-Mursalah* aims to balance human life with religious values.²⁴

Meanwhile, Al-Shāṭibī defines *Al-Maṣlaḥah al-Mursalah* as a public interest without clear evidence, either affirming or negating it, but remains consistent with the general principles of sharia. The concept of *istidlāl al-mursal*, which is synonymous with *al-maṣlaḥah al-mursalah*, indicates that in Islam, there are benefits that can be implicitly concluded from general evidence, even though there is no specific evidence that explicitly mentions it.²⁵ By prioritizing the consideration of public interest, MUI issues a fatwa prohibiting interfaith marriage. However, this fatwa has sparked debate, particularly from a gender perspective. Many view the ban on marriage for Muslim women with non-Muslim men as gender injustice. The fundamental question that arises is: To what extent is this fatwa in line with the principles of *maṣlaḥat* taught in Islam.²⁶

1. MUI Fatwa Regarding Marriage Between a Muslim Woman and a Non-Muslim Man Marriage between a Muslim woman and a non-Muslim man from religions that have holy scriptures (such as Christianity, Judaism) to those that do not have holy scriptures or similar scriptures (such as Buddhism, Hinduism, Animism, Polytheism), even including those who adhere to atheism, conducted at the Civil Registry Office is invalid according to Islamic law. The main reason for this

²⁴ Wahbah Zuhaili, "Ushul Fiqh Islamiy, Juz 2," *Damaskus: Dar Al Fikr*, 1986.

²⁵ Abū Ishāq al-Shāṭibīy al-Shāṭibīy, "Ibrāhīm Ibn Mūsā Al-Lakhmi Al-Gharnāṭī Abū Ishāq," *Mumāfaqāt Fi Uṣūl Al-Shari'ah. Mesir: Maktabah Al-Tijārīyah Al-Kubrā, Nd*, n.d.

²⁶ Muhammad Yusuf, "Pendekatan *Al-Maṣlaḥah Al-Mursalah* Dalam Fatwa MUI Tentang Pernikahan Beda Agama," *Abkam: Jurnal Ilmu Syariah* 13, no. 1 (2013).

invalidity is that the marriage does not meet the conditions and pillars of Islam, such as the lack of a marriage guardian, dowry, and valid *ijab kabul*. According to the views of scholars like al-Shāṭibī and al-Ghazālī, preventing wrongdoing is more important than seeking benefits. According to the principle of *ushul fiqh*, preventing harm such as apostasy and divorce (broken home) must take precedence over efforts to convert partners or children to Islam. Furthermore, marriage with Ahl al-Kitab is also seen as a means of Islamic da'wah. The Quran does not explicitly prohibit this, but current situations and conditions, such as *maslahat* and the harms it may cause, must be prioritized. The concept of *al-Maslahah al-Mursalah* provides a solid foundation for avoiding the negative consequences of interfaith marriage between a Muslim man and an Ahl al-Kitab woman.²⁷

2. MUI Fatwa Regarding Marriage of a Muslim Man with a Non-Muslim Woman

A Muslim man is not allowed to marry a non-Muslim women. In regard to marriage between a Muslim man and a woman from Ahl al-Kitab, there are differing opinions. After considering that the harm outweighs the benefit, MUI has decreed that such a marriage is haram. The MUI fatwa prohibiting interfaith marriage is based on the principle of *al-Maslahah al-Mursalah*, which aims to promote general well-being and prevent harm. The major purpose of this fatwa is to protect the integrity of the Islamic faith, family harmony, and national unity.

The welfare that MUI aims to achieve with the issuance of the fatwa prohibiting interfaith marriage is, first, to maintain the purity of the Islamic faith. MUI's fatwa prohibiting interfaith marriage, especially with non-Muslims, is based on the principle of *al-Maslahah al-*

²⁷ Yusuf.

Mursalah. This principle refers to efforts to achieve general welfare or the common good that are not explicitly stated in religious texts but can be concluded through the process of *ijtihad*.²⁸ Because of differences in religious understanding and practices between the two sides, the family is regarded as the smallest unit in society with a significant impact on children's faith. As a result, it is hoped that by maintaining the purity of the parents' faith, children will grow up to have a strong faith as well. The decisions made are based on considerations of the community's welfare, particularly the preservation of religious purity. By prohibiting interfaith marriage, MUI aims to protect Muslims from the negative influences of other religions that are considered capable of undermining their faith. This is an effort to maintain the purity of Islamic teachings.

Islam emphasizes the value of the family as society's smallest unit. One of the primary goals of Islamic law is to promote family unity. Differences in religious beliefs can cause conflicts within the family and threaten household harmony, such as in childrearing and the celebration of religious holidays, until matters related to daily worship. This can cause ongoing tension and conflict within families. Differences in religious beliefs within a family can lead to various problems and conflicts that can endanger household harmony. Therefore, preventing harm (damaging effects) to the family is considered a public interest, making shared religious beliefs important for building and maintaining harmony in the household.

In the context of the MUI fatwa on interfaith marriage, the theory of *al-Maslahah al-Mursalah* is employed to safeguard the public good by outlawing interfaith marriage. The MUI intends to protect the broader public interest (*mashlahah ḍarūriyyat al-‘āmmat*), namely to avoid social conflict and maintain national

²⁸ Yusuf.

unity. The MUI fatwa argues that interfaith marriage can trigger social conflicts and threaten national unity. The MUI views interfaith marriage as a potential factor that could provoke social conflict in society. The MUI places the preservation of national unity as one of the main considerations in issuing the fatwa prohibiting interfaith marriage.

What aligns with the objectives of Islamic law is goodness, while what contradicts it is harm (*mafsadah*). Efforts to prevent harm or achieve the goals of Islamic law are fundamentally good in themselves.²⁹ In other words, besides considering public welfare, all types of *mafsadah* (damage) that may arise from interfaith marriages should be avoided, including: *first*, if the MUI fatwa is not issued, interfaith marriages may occur, disrupting social order. Differences in religious beliefs within a family can trigger conflicts such as children's religious education, as there are concerns that they will grow up in confusion regarding their religious identity, and interfaith marriage is considered to open opportunities for the mixing of religious teachings that could damage the faith of Muslims. Religious disputes occur not only within the nuclear family but also with a broader social environment. This can provoke conflicts between different religious groups, especially if it involves sensitive issues such as child upbringing or celebrations of major religious holidays. In some cases, interfaith marriages can be exploited by radical groups to provoke conflicts between religious groups

Second, undermine the institution of marriage. The legal status of interfaith marriage lacks a strong legal foundation, which can lead to legal uncertainty and issues related to inheritance, child custody, and so on. Interfaith marriage can also raise questions about the sanctity of marriage in the context of certain religions. The MUI believes that interfaith marriages have the potential to create division within pluralistic Indonesian society. In a diverse society like Indonesia, differences in religious beliefs can trigger conflicts if not managed properly. Interfaith

²⁹ Yusuf.



marriages are feared to exacerbate these differences, especially if they involve religious groups with a history of conflict.

Third, concerns about the potential for apostasy. This is caused by pressure to select a religion. Children born from interfaith marriages often face the dilemma of which religion to adopt. Pressure from parents or their surrounding environment can make children feel stressed and confused, thus posing a significant risk of someone committing apostasy or shifting their beliefs. It is believed that fundamental differences in beliefs between Islam and other religions can undermine a Muslim's faith, especially if they live in an environment dominated by another religion.

If a child interacts more with one religion, they are more likely to adopt that religion. In some cases, a partner may try to convert their partner to their religion. This can lead to conflicts and trigger prolonged debates. Initially, marriage between Muslims and Ahl al-Kitab was permitted. However, due to political considerations regarding Sharia and in order to avoid more serious problems, this permissibility has been limited. Although there are views that allow it under strict conditions, MUI decided to prohibit it because they must consider the interests of all Muslims in Indonesia. MUI's fatwa prohibits Muslim men and women from marrying non-Muslims as a form of responsibility as an institution and as a servant of the community (*khādim al-ummah*) representing the public. Therefore, it is based on the *mashlahat darūriyyat al-'āmmat*. If MUI were to issue a fatwa based on case-by-case matters, it would instead create *mafsadat* that sharia seeks to avoid. This *mafsadat* could take the form of a breakdown in social order, chaos in marriage institutions, and the occurrence of apostasy through marriage. MUI Fatwa Number 4/MUNAS VII/MUI/8/2005 is a response to the social dynamics occurring in Indonesia. This MUI fatwa has broad implications for national life, especially in the context of religious and cultural diversity. This fatwa serves as a reference for Muslims in making decisions related to marriage



while also influencing state policies in regulating interfaith relationships. This fatwa is based on efforts to preserve the purity of faith, family harmony, and national unity. However, this fatwa also sparks various debates and criticisms, particularly regarding flexibility and tolerance in religion.

CONGCLUSIONS

In conclusion, this analysis demonstrates the complex and multifaceted nature of interfaith marriage in Islamic jurisprudence and Indonesian society. While Islam regards marriage as a sacred union with profound social and spiritual implications, interfaith marriage raises significant legal and theological concerns. Classical Islamic mazhab offers a variety of interpretations, particularly regarding marriage with Ahl al-Kitab, highlighting the nuanced debates within Islamic scholarship. The Indonesian Ulama Council (MUI), through the number 4 of 2005 fatwa, has adopted a strict stance, prohibiting interfaith marriage to uphold Islamic law, protect the purity of faith, maintain family harmony, and preserve national unity. This fatwa, based on the theory of *al-Maslahah al-Mursalah*, prioritizes the prevention of potential harm, such as religious conflict and apostasy, over individual rights.

However, this position has been heavily criticized and debated, particularly by scholars such as Quraish Shihab and Musdah Mulia, who offer alternative interpretations based on Quranic verses and the principle of *ijtihad*. Their perspectives emphasize the contextual nature of religious texts, as well as the importance of adapting to contemporary social realities. The practical application of these differing views is evident in the ongoing legal and social challenges in Indonesia, where interfaith marriages continue to occur despite legal and religious prohibitions. Court decisions and societal practices reflect the tension between legal norms and lived experiences.

Ultimately, the topic of interfaith marriage highlights the constant interplay between religious doctrine, legal frameworks,

and shifting societal norms. The MUI's fatwa, while aiming to safeguard Islamic principles and social cohesion, also highlights the need for a balanced approach that acknowledges the complexities of a diverse and changing society. The issue over interfaith marriage involves crucial problems regarding religious authority, the interpretation of Islamic law, and how to accommodate religious diversity in a diverse society.

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