

## Interfaith Marriage Phenomenon in Indonesia from the Perspective of *Sadd al-Ẓarī'ah* and *Fath al-Ẓarī'ah*

Abdul Syatar\*<sup>1</sup>, Muhammad Fazlurrahman Syarif<sup>2</sup>, Harwis Alimuddin<sup>3</sup>,  
Kurniati<sup>4</sup>, Rasna<sup>5</sup>

Universitas Islam Negeri Alauddin Makassar, Indonesia<sup>1,4</sup>, College of Islamic Studies, Hamad bin Khalifa University, Qatar<sup>2</sup>, Institut Agama Islam Negeri Ternate, Indonesia<sup>3</sup>, Institut Agama Islam Negeri Parepare, Indonesia<sup>5</sup>  
Email: [abdul.syatar@uin-alauddin.ac.id](mailto:abdul.syatar@uin-alauddin.ac.id)<sup>1</sup>, [musy33188@hbku.edu.qa](mailto:musy33188@hbku.edu.qa)<sup>2</sup>, [harwis@iain-ternate.ac.id](mailto:harwis@iain-ternate.ac.id)<sup>3</sup>, [kurniati@uin-alauddin.ac.id](mailto:kurniati@uin-alauddin.ac.id)<sup>4</sup>, [rasna@iainpare.ac.id](mailto:rasna@iainpare.ac.id)<sup>5</sup>

### Abstract

The subject of interfaith marriage in Indonesia, including its pros and cons, has been in the public purview recently. This research aims to answer public concerns, provide recommendations for strengthening regulations, and even prevent this type of marriage. A qualitative method alongside a sociological approach was applied, while data collection techniques included interviews and literature studies. It was concluded through *sadd al-ẓarī'ah* analysis, that interfaith marriage should be prohibited as it only leads to harm and difficulties in households and families. Furthermore, *fath al-ẓarī'ah* analysis of the marriage of a Muslim man to an Ahlu al-Kitab woman is permitted by the majority of scholars. This is due to the possibility of benefits, namely the opportunity to guide the woman to embrace Islam. It is emphasized that this possibility is relative, as the Muslim man may change his faith. Therefore, this facility (*al-ẓarī'ah*) should not be opened (*fath al-ẓarī'ah*). The implications of this study recommend *sadd al-ẓarī'ah* as material for consideration in strengthening the rules regarding interfaith marriages in the future. Moreover, the polemic of interfaith marriage should be resolved immediately by affirming and enforcing changes to the marriage law. Legal vacuums in the regulation of this matter should not be allowed or ignored due to the negative impact in terms of social and religious life.

**Keywords** *Interfaith Marriage, Marriage Law, Sadd al-Ẓarī'ah, Fath al-Ẓarī'ah.*

### Abstrak

Pernikahan beda agama di Indonesia menjadi pemberitaan hangat akhir-akhir ini. Pernikahan beda agama di Indonesia masih menjadi pro-kontra di kalangan masyarakat. Penelitian ini bertujuan untuk menjawab keresahan masyarakat dan memberikan rekomendasi dalam memperkuat aturan bahkan mencegah terjadinya fenomena pernikahan beda agama di Indonesia. Penelitian ini menggunakan kualitatif dengan pendekatan sosiologis. Teknik pengumpulan data yang digunakan adalah wawancara dan studi kepustakaan. Penelitian ini menyimpulkan bahwa melalui analisis *sadd al-ẓarī'ah*, pernikahan beda agama harus dilarang karena hanya akan mengantarkan kepada kemudaratatan dan kesulitan-kesulitan yang akan

dialami oleh rumah tangga dan keturunan dari hasil pernikahan beda agama. Adapun melalui analisis *fath al-zarī'ah*, pernikahan beda agama, khususnya pernikahan laki-laki muslim dengan perempuan Ahlu al-Kitab yang dibolehkan oleh mayoritas ulama, meskipun diakui memang ada kemungkinan akan mendatangkan kemaslahatan yakni adanya peluang membimbing perempuan Ahlu al-Kitab yang sudah dinikahi untuk memeluk agama Islam. Hanya saja, perlu digarisbawahi bahwa peluang itu masih bersifat relatif. Mungkin saja justru yang terjadi adalah laki-laki muslim yang akan berubah keyakinan. Oleh karena itu, sarana (*al-zarī'ah*) ini tidak perlu dibuka (*fath al-zarī'ah*). Implikasi penelitian ini merekomendasikan *sadd al-zarī'ah* sebagai bahan pertimbangan dalam memperkuat aturan tentang perkawinan beda agama pada masa mendatang. Polemik pernikahan beda agama masih di Indonesia harus segera diatasi dengan mempertegas dan memperkuat perubahan undang-undang perkawinan. Kekosongan hukum dalam aturan perkawinan beda agama di Indonesia tidak boleh dibiarkan dan diabaikan karena dapat menimbulkan dampak negative dari segi kehidupan bermasyarakat dan beragama.

**Kata Kunci:** *Pernikahan Beda Agama, Undang-Undang Perkawinan, Sadd al-Zarī'ah, Fath al-Zarī'ah.*

## INTRODUCTION

Interfaith marriage has increasingly become a polemic in Indonesia as evidenced by several cases in 2022. Detik News reported that on December 16, the District Court of Yogyakarta legalized the marriage between AP of Muslim, and NY of Catholic, to prevent "cohabitation" (Tim DetikNews, 2022).

Subsequently, for the first time, in 2022, the District Court of Surabaya granted an application for interfaith marriage. The petitioners were a couple with the initials RA, Muslim, and EDS, Christian. The Court stated that the Population and Civil Registry Office of Surabaya initially refused to register the marriage (Rahman, 2022). The District Court of Tangerang also granted an interfaith marriage filed a few months ago by a couple with the initials AD and CM, previously married in Singapore. This application was filed on October 13 with the registration number 1041/Pdt.P/2022/PN Tng (Tristiawati, 2022).

Recently, the District Court of South Jakarta permitted interfaith couples to register marriages at the Population and Civil Registration Sub-Office of the South Jakarta Administrative City. This immediately went viral among netizens, as interfaith marriage has been banned in Indonesia. Furthermore, the single judge at the District Court of South Jakarta, Arlandi Triyogo, granted the marriage request of an interfaith couple with the initials DRS, Christian, and spouse, JN, a Muslim (Annur, 2022).

There are claims from some citizens that interfaith marriage is part of human rights based on the judicial review hearing filed by a Papuan, Ramos Petege. This claim admitted failure to marry due to hindrance by the Marriage Law. According to Petege, this regulation contradicts Article 10 of the Law on Human Rights which recognizes the right to have a family and children. Based on paragraph one, everyone has the right to form a family and have children through legal marriage. In paragraph two, a valid marriage can only take place with the free will of the prospective husband and wife following the provisions of the laws and regulations. Upon this request, the Parliament rejected the allegations of human rights violations in this case (Saputra, 2022).

Cases of interfaith marriage have been common in Indonesia (Pramono & Priska, 2018). This polemic often occurs among artists including Jamal Mirdad (Islam) and Lydia Kandau (Christian), Katon Bagaskara (Christian) and Ira Wibowo (Islam), Adi Subono (Islam) and Chrisye (Christian), Jeremy Thomas (Christian) and Ina Idayanti (Islam), Henry Siahaan (Christian) and Yuni Sara (Muslim), Ari Sihasale (Christian) and Nia Zulkarnaen (Islam), Dedi Kobusher (Christian) and Kalina (Muslim), Frans Mohede (Christian) and Amara (Islam), Sony Lalwani (Islam) and Cornelia Aghata (Christian), Tamara Bleszynksi (Islam) and Mike Lewis (Christian), Glenn Fredly (Christian) and Dewi Sandra (Islam), Aqi Alexa (Islam) and Audrey Meirina (Christian), and others (Jalil, 2018).

This fact cannot be separated from sociocultural conditions which involve various religions (Jawad & Elmali-Karakaya, 2020). This condition implies the existence of interaction between religions which may lead to interfaith marriage. According to the Indonesian Conference on Religion and Peace (ICRP), from 2005 to early March 2022, there have been 1,425 married couples of different religions in Indonesia (Yanto, 2022). This condition is also experienced by Muslims in Muslim minority countries (Elmali-Karakaya, 2022).

Jane Malen Makalew (Makalew, 2013) highlighted several factors that motivate interfaith marriage. First, the association of daily life in a heterogeneous society with people of different religions. Second, the lack of religious understanding where it is no longer viewed as a binding rule. Third, a parental background of individuals from different religions. Fourth, the freedom to select a life partner without parental supervision.

This fact shows that the determination of the terminology and laws of interfaith marriage using in-depth analysis is significant. There are still claims that interfaith marriage should be legalized based on human rights without considering the possibility of other rights that will be damaged. On the one hand, there are some movements that fight for the rights of people to practice interfaith marriage. On the other hand, this marriage leads to conditions that render civil rights difficult to obtain in the future.

Interfaith marriage, which is the marriage between individuals from different religions, is a complex and sensitive issue in Indonesia. While there is no specific law prohibiting interfaith marriage in Indonesia, it is often discouraged by families, religious leaders, and society as a whole.

There have been a number of studies conducted on the phenomenon of interfaith marriage in Indonesia. Some of these studies are:

"Polemics on interfaith marriage in Indonesia between rules and practices" by Ermy Suhasti et. al (Suhasti et al., 2018). This study examines the challenges faced by interfaith couples in Indonesia, including the pressure from families and religious leaders, legal and administrative obstacles, and societal attitudes towards interfaith marriage.

"Legitimacy on Inter-Faith Marriages: An Analysis of the Role of Religious Councils on the Legal Policy in Indonesia" by Rosdiana et. al (Rosdiana et al., 2019). This study explores the legal framework surrounding interfaith marriage in Indonesia and the role of the state in regulating and facilitating such marriages.

"Interfaith Marriage in North Lombok : Sociological Perspective of Islamic Law" by Khairul Hamim et. al (Hamim et al., 2022). This study analyzes the social and cultural factors that influence interfaith marriage in Indonesia, including religion, ethnicity, and social class .

"Interfaith Marriage in Indonesia: Polemics and Perspectives of Religious Leaders and Community Organizations" by Muhammad Adil and Syahril Jamil (Adil & Jamil, 2023). This study examines the challenges and prospects of interfaith marriage in Indonesia, including the role of religious education and dialogue in promoting greater acceptance of interfaith relationships.

Overall, these studies highlight the complex nature of interfaith marriage in Indonesia and the various challenges faced by interfaith couples in navigating

legal, social, and cultural barriers concluded through *sadd* and *fath al-zarī'ah* analysis.

Indonesia is a pluralistic country consisting of various religions (Syatar & Rahman, 2019). Therefore, there may be marriages between Protestants and Hindus, Catholics and Muslims, Muslims and Protestants, Buddhists and Protestants, and others. This research focuses on the subject of marriage between a man or woman who is Muslim and a spouse of another religion.

## RESEARCH METHOD

This research applied a qualitative approach to analyze and describe the rules and opinions regarding interfaith marriages in Indonesia. The data collection technique used was a combination of literature study and interviews with religious leaders from the Indonesian Ulema Council in South Sulawesi Province totaling four ulema who came from the fatwa commission. This research also explores the terminology and law of interfaith marriage in fiqh, fatwa, and positive law. The research findings were analyzed using the *sadd al-zarī'ah* and *fath al-zarī'ah* approaches, which weigh the disadvantages or difficulties of interfaith marriage against the possible advantages. The research hypothesizes that interfaith marriages must be prevented in order to strengthen the normative foundation and prevent the legalization of this type of marriage.

It should be noted that this research was conducted using a qualitative approach that emphasizes the understanding and description of social phenomena from the participant's perspective. The use of qualitative research methods, such as literature reviews and interviews, allows researchers to explore the nuances and complexities of interfaith marriage in Indonesia.

Overall, this This research contributes to an ongoing discussion about interfaith marriage in Indonesia, especially in Sulawesi because it has a diverse population with a significant presence of multiple religious communities. Christians, Muslims, and indigenous faiths are among the prominent religious groups found in Sulawesi and provides insight into the perspectives of religious leaders and jurists on this topic.

## RESEARCH FINDINGS AND DISCUSSION

### **The Demographic Conditions of the Sulawesi Province related to Interfaith Marriage**

Sulawesi, also known as Celebes, is one of the larger islands in Indonesia and is located in the central part of the archipelago (Pasari et al., 2021). It is divided into six provinces: North Sulawesi, Gorontalo, Central Sulawesi, West Sulawesi, South Sulawesi, and Southeast Sulawesi. Each province has its own unique demographic characteristics, but they all contribute to the diversity of the region (Andriansyah et al., 2018).

Indonesia, as a whole, is known for its cultural and religious diversity (Kumar, 2017). It has the largest Muslim population in the world, but it is also home to significant populations of other religious groups, including Christians, Hindus, Buddhists, and various indigenous faiths (Hidayat & Darmadi, 2019).

Interfaith marriage refers to a union between individuals from different religious backgrounds. Sulawesi province is often mentioned in discussions related to interfaith marriage in Indonesia because it has a diverse population with a significant presence of multiple religious communities. Christians, Muslims, and indigenous faiths are among the prominent religious groups found in Sulawesi.

It's worth noting that interfaith marriages can face various challenges in different cultural and religious contexts. In Indonesia, although interfaith marriages are legally allowed, they can sometimes encounter social and cultural barriers. These challenges can vary depending on the specific region, community, and individuals involved.

To obtain up-to-date and accurate information about the number of interfaith marriage cases in Sulawesi province or any other region in Indonesia, it would be best to refer to recent studies, surveys, or reports conducted by local authorities, research institutions, or relevant organizations.

Several cases of interfaith marriages that occurred in Sulawesi include the Makale District Court, Tana Toraja, South Sulawesi allowing interfaith marriages between Catholics and Islam. The marriage was the first time that the granting of interfaith marriage permits was carried out in Tana Toraja (Tim DetikSulsel, 2022). Interfaith marriages made a scene in Kendari City. The bride and groom are Christians and Hindus respectively. However, before the wedding, both decided to convert to Islam. They became Muslims before marrying religiously at the Religious Affairs Office (KUA) of Wua-wua District, Kendari City (Fua, 2019).

The interfaith marriage phenomenon in Sulawesi can be attributed to several factors (Bukido et al., 2021):

First, Cultural Diversity: Sulawesi is home to a diverse range of religious communities, including Islam, Christianity (Protestantism and Catholicism), Hinduism, and indigenous belief systems. The coexistence of different religious traditions provides opportunities for individuals from different faith backgrounds to form relationships and marriages.

Second, Urbanization and Social Interaction: As urbanization progresses and communities become more interconnected, individuals from different religious backgrounds have increased opportunities for social interaction. This can lead to the development of relationships that may ultimately result in interfaith marriages.

Third, Education and Exposure: Greater access to education and exposure to diverse cultures and religious traditions have played a role in shaping individuals' attitudes towards interfaith relationships. Increased education and awareness about pluralism, tolerance, and the importance of personal choice have contributed to more open-mindedness regarding interfaith marriages.

Fourth, Changing Social Norms: Societal norms are evolving, and people are increasingly valuing love, compatibility, and shared values over religious differences when choosing their life partners. The emphasis on personal happiness and fulfillment has influenced individuals to prioritize emotional connections rather than religious affiliations in their relationships.

It's important to note that while interfaith marriages are becoming more common in Sulawesi, they may still face some challenges. These challenges can include navigating cultural and religious differences, societal perceptions, and familial expectations. However, many couples are able to successfully navigate these challenges through open communication, mutual respect, and a willingness to accommodate each other's beliefs and practices.

The interfaith marriage phenomenon in Sulawesi reflects the complex dynamics of religious diversity and cultural exchange on the island. It signifies the changing attitudes towards interfaith relationships and the increasing importance placed on personal choice and compatibility in marriage.

### **Variants of Interfaith Marriage Terms in Classical Fiqh Literature**

An interfaith marriage can be defined as a marriage in which the couple has different beliefs (Muntaqo, 2020). The words 'interfaith marriage' and 'mixed marriage' are used sometimes used interchangeably. However, 'interfaith

marriage' should be distinguished from 'mixed' because the latter is performed by a couple of different ethnicity or race but adhering to the same belief (Leeman, 2009). Interfaith involves a marriage between adherents of different religions while adhering to their respective religions (Cahaya, 2019).

Throughout classical literature, the term interfaith marriage is not found. The related terms found are *al-zawāj bi al-kitābiyāt* (marriage to Ahlul Kitab woman), *al-zawāj bi gair al-muslimah* (marriage to non-Muslim woman), and the term *al-zawāj bi al-musyrikāt* (marriage to polytheistic woman). This shows that the differences in the opinion of ulemas regarding interfaith marriage lie in the marriage of Muslim men to non-Muslim women. However, the majority of ulemas agree that the marriage of a Muslim woman with a non-Muslim man is not permissible.

According to Muammar Bakry (Bakry, 2022), Secretary General of the IUC for South Sulawesi Province, the discussion on interfaith marriage in classical fiqh literature is classified into three parts. First, marriage between a Muslim man and a polytheistic woman. Second, the marriage of a Muslim woman to a non-Muslim man either from Ahlul Kitab or another religion. Third, the marriage of a Muslim man to an Ahlul Kitab woman.

Ulemas agree on the prohibition of the first part, as it is unlawful for a Muslim man to marry a polytheistic woman, by referring to the Qur'an Surah Al-Baqarah / 2: 221:

Translation:

*Do not marry polytheistic women until they believe; for a believing slave-woman is better than a free polytheist, even though she may look pleasant to you. And do not marry your women to polytheistic men until they believe, for a believing slave-man is better than a free polytheist, even though he may look pleasant to you. They invite 'you' to the Fire while Allah invites 'you' to Paradise and forgiveness by His grace. He makes His revelations clear to the people so that perhaps they will be mindful* (Kementerian Agama RI, 2019).

Al-Ṣabūnī in his commentary stated that the word polytheistic or *musyrikat* in this verse denotes women who worship idols (Al-Ṣabūnī, 2007). This interpretation shows that Ahlu al-Kitab women are not included in it, because they are not idol worshippers.

They also emphasize the word of Allah in QS. Al-Mumtahanah/60: 10:

Translation:

*O, believers! When the believing women come to you as emigrants, test their intentions—their faith is best known to Allah—and if you find them to be believers, then do not send them back to the disbelievers. These 'women' are not lawful 'wives' for the disbelievers, nor are the disbelievers lawful 'husbands' for them (Kementerian Agama RI, 2019).*

Substantially, the two verses above correlate with the Hadith of Prophet Muhammad to marry a woman with a qualified religion (Hakim et al., 2022). This has a highly relevant significance and meaning. Based on the Hadith alongside both verses, it can be concluded that the Qur'an and Hadith both forbid interfaith marriage.

As for the second verse, the majority of ulemas allow the marriage of a Muslim man to an Ahlu Al-Kitab woman (Qudāmah, 1997). However, some follow the law of *makruh*, and rely on the word of Allah in QS. Al-Maidah/5: 5: Translation:

*Today all good, pure foods have been made lawful for you. Similarly, the food of the 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. And whoever rejects the faith, all their good deeds will be void 'in this life' and in the Hereafter, they will be among the losers (Kementerian Agama RI, 2019).*

Apart from the verses above, the ulemas also emphasize the Hadith *fi'lī* (deeds) of the Prophet who married a woman from the Ahlu Kitab named Maria al-Qibtiyyah. Furthermore, one of the senior companions of the Messenger, Huzaifah bin al-Yaman, married a Jewish woman.

Ulema also disagreed with one of the *atsar* of Jabir bin 'Abdullah when asked about the law of marrying a woman of Ahlu al-Kitab from among the Jews and Christians. Jabir bin 'Abdullah stated:

*We and Sa'ad bin Abi Waqqas married women from Ahlu al-Kitab in Kufah. At that time, we hardly met Muslim women. When we returned from Kufa, we divorced them. Ahlu al-Kitab women do not inherit a Muslim and vice versa. Women from among Ahlu al-Kitab are lawful to be married by us, while Muslim women are not lawful to be married by them (Al-Baihāqī, 2000)*

Ulemas also highlight the wisdom of the permissibility of Muslim men to marry Ahlu Kitab women. It is believed that the differences between Muslims

and Ahlu al-Kitab are not as significant as those between Muslims and non-Ahlu al-Kitab. The Ahlu al-Kitab believe in Allah and in the prophets, acknowledge the Day of Judgment, and strives to do good and avoid evil deeds (Al-Kasānī, 2004). Therefore, it is permissible to marry them in the hope that there will be an opportunity to lead them into Islam.

The Hanafi school classifies women from Ahluul Kitab into two terms, namely *zimmiyah* and *ḥarbiyyah* (Al-Jazīrī, 2015). *Ẓimmiyah* is Ahlu al-Kitab women under the auspices of the Islamic government, while *ḥarbiyyah* are Ahlu al-Kitab women who are against the Islamic government. Marrying *zimmiyah* women is *makruh tanzīh*, while marrying *ḥarbiyyah* women is unlawful.

Based on this classification, Christian or Jewish women in Indonesia are included in *zimmiyah*. Therefore, the marriage of a Muslim man to these women is *makruh tanzīh* and not unlawful.

Al-Shafi'i school only recognizes *makruh* law to marry both *zimmiyah* and *ḥarbiyyah*. Nevertheless, the *makruh* law of marrying *ḥarbiyyah* is more significant than marrying *zimmiyah* (Al-Jazīrī, 2015). Certain conditions enable *sunnah* to marry Ahlu al-Kitab women. First, if there is hope that the women will convert to Islam. Second: if there are no Muslim women who can bring good to men. Third: if the men do not marry Ahlu al-Kitab women, they will fall into adultery.

According to al-Syafi'iyyah, Syamsul Bahri Secretary of the IUC Fatwa Commission for South Sulawesi Province (Bahri, 2022) stated that Ahlu al-Kitab women can change according to certain conditions. It is the same as marriage law in general, namely *mubah*, except under certain conditions, which can turn into *sunnah*, *makruh*, and may be unlawful.

However, some opinions such as 'Abdullah Ibn 'Umar also prohibit marrying Ahlu al-Kitab women. This opinion was supported by the Shia Imamiyyah with QS al-Baqarah/2: 231, that the word '*musyrikāt*' in that verse also includes Ahlu al-Kitab women as they do not yet believe in Allah (Al-Qurṭubī, 2001).

When asked about the ruling on marrying Christian and Jewish women, 'Abdullah Ibn 'Umar stated:

*Indeed, Allah forbids marrying polytheistic women. I do not know of a greater shirk than a woman saying that 'Isa' is her god, even though she is a servant of Allah (Al-Aṣqalānī, 2010).*

Furthermore, both classical and contemporary ulemas have banned the third part. They forbid a Muslim woman from marrying a non-Muslim man, both from Ahlul Kitab and other religions (Murad, 2020). This was agreed upon based on the commandments of the Qur'an, Hadith, Consensus, and even *Qiyās*, followed by the fatwas of ulemas worldwide until the present.

This is because women tend to follow the will of men than vice versa. In a patriarchal culture, men tend to lead women. Therefore, it is feared that if she married a non-Muslim man, she would apostatize and abandon the faith.

### **Normative Dimensions of Interfaith Marriage in Indonesia**

#### ***MUI (IUC), NU and, Muhammadiyah Fatwa***

In 2005, IUC issued a fatwa on interfaith marriage law with the following points. First, interfaith marriage is unlawful and invalid. Second, the marriage of Muslim men to Ahlu Al-Kitab women according to *qaul mu'tamad* is unlawful and invalid. This fatwa was issued with several considerations: First, the rise of interfaith marriage. Second, this polemic leads to debate among Muslims and unrest in society. Third, there is a cultural understanding that interfaith marriage is permitted based on human rights and on the pretext of benefit. Fourth, to achieve domestic peace and harmony, IUC considers it necessary to issue a fatwa on this polemic (Majelis Ulama Indonesia, 2005).

Nahdatul Ulama (NU) also issued a fatwa related to interfaith marriage. The 28th NU Congress in Yogyakarta on 26-29 Rabi'ul Awal 14.10 Hijriah/ 25-28 November 1989 AD decided to ban interfaith marriage, which is a confirmation of previous decisions (Mutakin, 2021). The agreed decision stated that this type of marriage in Indonesia is legally invalid.

Similarly, the decision of the Muhammadiyah Tarjih Council in 1989 in Malang-East Java at the 22nd Muhammadiyah Muktamar decided that interfaith marriage is illegal (Jatmiko et al., 2022). According to Muhammadiyah, marriage between a Muslim man and a non-Muslim woman is unlawful, including from Ahlu Al-Kitab and other religions (Decision of the Tarjih Conference: 301-308).

#### ***Marriage Law***

Article 2 of the 1974 Marriage Law states that the conditions for a constitutionally recognizing a marriage are: 1) Marriage is legal if carried out

according to the laws of each religion and belief; 2) Each marriage is registered according to the applicable laws and regulations (Listyawati et al., 2020).

This article expressly states that the state only recognizes constitutionally official marriages according to the laws of each religion and belief. Consequently, those that are not carried out according to religious rules cannot be recorded by the state.

### *Islamic Law Compilation*

Interfaith marriage in the Islamic Law Compilation (ILC) (Alimuddin & Maulidah, 2021) is mentioned in article 40 paragraph c, which prohibits a Muslim man from marrying a woman due to certain circumstances. This may include a phenomenon where the woman is not Muslim (Hedi et al., 2017). Furthermore, article 44 strictly prohibits marriage between Muslim women and non-Muslim men. Based on both articles, it can be concluded that a Muslim man or woman may not marry a partner of a different religion, therefore, interfaith marriage is illegal.

From the previous description, the legal basis for interfaith marriage in Indonesia is clear. Two major mass organizations issued a fatwa on its prohibition, and the Marriage Law and ILC do not provide space for legalizing this matter. Therefore, enforcement is necessary to convince the public and legislators to prevent legalization efforts.

### **Sadd al-Ẓarī'ah and Faṭḥ al-Ẓarī'ah Analysis on the Implementation of Interfaith Marriage in Indonesia**

Ulemas prohibit interfaith marriage under normal conditions with non-Ahlul Kitab. Interfaith marriage with Ahlul Kitab is classified into two. The marriage of Ahlul Kitab men with Muslim women is not permissible. The marriage of Muslim men to Ahlul Kitab women is permissible through *makruh*. Therefore, IUC Fatwa, ILC, and the 1974 Marriage Law do not allow interfaith marriage, either with Ahlul Kitab or other religions.

Although several ulemas allow interfaith marriage between Muslim men and AhlulKitab women, it is necessary to look at the general conditions with the *sadd al-ẓarī'ah* (blocking of harmful facilities) and *faṭḥ al-ẓarī'ah* (opening access) approaches.

*Al-Zarī'ah* is the singular form of the word *al-zarā'i* which involves a means of connecting to something. Meanwhile, according to Usl Fiqh ulemas, *al-zarī'ah* connects something that is prohibited which has a *mafsadah* in it. Other ulemas interpret *al-zarī'ah* by connecting it with something else in general which contains *mafsadah* and leads to benefits.

According to Muhammad Abu Zahrah (Bakry et al., 2022), *al-zarī'ah* linguistically means (*wasīlah*). However, *al-zarī'ah* according to the terms of the *shari'at* is a means that delivers either an unlawful or lawful phenomenon. The law of the means is equated with the purpose of specified means. This law states that any act that leads to something lawful is lawful, any act that leads to something unlawful is unlawful, leads to something permissible is permissible, and leads to something obligatory is obligatory. For example, adultery is an unlawful act, and seeing a woman's nakedness can lead to adultery, therefore it is also unlawful. Furthermore, Friday prayers are obligatory, therefore leaving buying and selling activities for prayers is also compulsory. The pilgrimage is obligatory, and striving to perform the pilgrimage is compulsory for individuals who can afford it.

According to Wahbah al-Zuhaili (Al-Zuhailī, 2013), *sadd al-zarī'ah* prohibits and rejects any phenomenon that leads to a forbidden occurrence. Usl fiqh ulemas often associate the word *zarī'ah* with the word *saddu* and *fathu*. *Sadd al-zarī'ah* denotes closing the means that lead to a forbidden occurrence which causes *mafsadah*. Meanwhile, *fath al-zarī'ah* involves carrying out the means that bring benefits.

Based on the meaning of *sadd al-zarī'ah* and *fath al-zarī'ah*, the difference between both can be simplified (Osman et al., 2020). *Sadd al-zarī'ah* involves prohibiting means that leads to something that is forbidden, such as the act of giving gifts to judges which influences objective decisions. However, *fath al-zarī'ah* is a permissible means that leads to something necessary or recommended. This includes the permissibility of recording religious studies to ensure an in-depth public understanding. *Sadd al-zarī'ah* is a preventive action to forestall harm, loss, or difficulties, while *fath al-zarī'ah* is an act or means that obtain goodness and benefit.

Through *sadd al-zarī'ah* approach, interfaith marriage is prevented between Muslim men and non-Muslim women, including women from the Ahlul

Kitab. Although some ulemas allow it, this marriage opens up many opportunities and means for problems to occur:

First, under normal conditions, interfaith marriage is not recognized by the state, and will not be recorded. The implication is this marriage will bring harm to the civil rights of the husband, wife, and children. They will have difficulty taking care of identity papers and other problems.

Second, interfaith marriage will experience difficulties in establishing household harmony. One of the principal factors in fostering harmony is finding similarities, building togetherness, and avoiding differences that facilitate debate. Subsequently, religion emphasizes the term *kaḥāh* (same social strata) in selecting a partner. Different habits and beliefs render it difficult for harmony to occur. For example, interfaith marriage disallows the ability to worship together in the family.

Third, interfaith marriage leads to difficulties in educating children. This is because children will be in a dilemma in terms of making choices, and ultimately believe that parents are inconsistent in educating them.

Fourth, interfaith marriage makes it difficult to arrange the family's food menu. Islam, for example, does not allow eating pork, while Christianity does.

Fifth, interfaith marriages experience difficulties in matters of inheritance. Ulema agrees that non-Muslims should not become the heirs of a Muslim, and recognizes that a Muslim may become a non-Muslim heir and a *Rajih* opinion does not approve this.

Based on the rule of *fiqh*, if the cause joins the barrier, then the barrier should be prioritized (*izā ijṭama' a al-sabab wa al-māni' quddima al-māni'*). The marriage contract is the cause of inheritance, while religious differences are a barrier to inheritance, therefore, they do not inherit from each other.

Sixth, interfaith marriage will have implications for guardianship issues. Ulemas agree that a non-Muslim should not be the guardian of a Muslim. However, can a Muslim be a non-Muslim guardian? Ulemas differ on this matter, and a *Rajih* opinion does not approve this.

Seventh, one of the principles in building a household is a balance between the rights and obligations of husband and wife. In interfaith marriages, this principle is difficult to realize as such differences may cause these rights and obligations to be unfulfilled. Therefore, such marriages injure this principle of balance and cause other rights to be violated in the future.

According to M. Rusydi Khalid as Chairman of the Fatwa Commission of the Indonesian Ulema Council of South Sulawesi Province, one of the principles of Islamic law is that preventing harm should take precedence over achieving health (*dar' u al-mafāsīd muqaddam 'alā jalbi al-maṣāliḥ*). Getting married is an attempt to generate advantages, while not marrying a person of a different religion is an attempt to avoid harm in form of the difficulties previously mentioned. Therefore, not being married in this case should take precedence.

In summary, the legal origin of interfaith marriage is unlawful. This original law could only change in an emergency. The decisions of several judges to legitimize several cases described in the introduction are casuistic in nature and cannot be generalized. Furthermore, the judge should weigh the advantages and disadvantages. It is expected that the judge's decision should be limited to an emergency as a way out for individuals who have already entered into interfaith marriages. This decision cannot be claimed as the law of permissibility of interfaith marriages.

## CONCLUSION

Interfaith marriages have implications for many other complicated issues, and religious principles are not difficult. Therefore, it can be concluded that these marriages are legally prohibited. It should only be permitted in emergencies as a last resort when there is no other solution. Based on the analysis of *sadd al-ẓarī'ah*, the means that lead to evil as described previously should be closed. Therefore, interfaith marriages should be prohibited as it causes losses and difficulties that will be experienced by the household and offspring. From the analysis of *fath al-ẓarī'ah*, especially of Muslim men to *Ahlu al-Kitab* women as permitted by the majority of ulema, it is acknowledged that there is a significant possibility of benefits. This includes the opportunity to guide married *Ahlu al-Kitab* women to embrace Islam. However, it should be emphasized that the opportunity is still relative. It is possible that a Muslim man will change his faith, therefore, this facility (*al-ẓarī'ah*) does not need to be opened. The polemic of interfaith marriages in Indonesia should be resolved immediately by affirming and strengthening changes to the marriage law. The legal vacuum cannot be ignored as it may negatively affect social and religious life.

**ACKNOWLEDGEMENT**

Gratitude to Allah who inspired us the passion to work through writing. We also extend our unlimited thanks to our leaders, which always encourages us to advance the institution through active scientific work. Finally, to all those involved in completing this paper, without their input and support this paper remains an idea that is not contained.

## REFERENCES

- Adil, M., & Jamil, S. (2023). Interfaith Marriage in Indonesia: Polemics and Perspectives of Religious Leaders and Community Organizations. *Religion and Human Rights, 0328*, 1–23. <https://doi.org/10.1163/18710328-bja10031>
- Al-Asqalānī, A. I. 'Āli I. H. (2010). *Fath al-Bārī Syarh Ṣahīh al-Bukhārī* (II). Dar Al Kutub Al 'Ilmiyah.
- Al-Baihāqī, A. I. H. A. B. (2000). *al-Sunan al-Kubrā li al-Baihāqī* (D. Al-Syuruq (ed.)).
- Al-Jazīrī, A. (2015). *al-Fiqh 'Ala al-Mazāhib al-Arba'ah*. Dār al-Ḥadīṣ.
- Al-Kasānī, 'Alāuddīn Ibnu Mas'ūd. (2004). *Badā'ī' al-Ṣanā'ī fī Tartīb al-Syarā'i*. Matba'ah al-Imām.
- Al-Qurtubī, A. 'Abdillāh M. bin A. al-A. (2001). *Al-Jāmi' li Ahkām al-Qur'ān* (II). Dār al-Kutub al-'Ilmiyyah al-Miṣriyyah.
- Al-Ṣabūnī, M. 'Āli. (2007). *Rawā'ī al-Bayān; Tafṣīr Āyāt al-Ahkām min al-Qur'ān*. Dār Al-Ṣabūnī.
- Al-Zuhailī, W. (2013). *Uṣūl al-Fiqh al-Islāmī*. Dār al-Fikr al-Mu'āṣir.
- Alimuddin, H., & Maulidah, T. A. (2021). Implication of Local Wisdom in Islamic Law Compilation Legislation. *Mazahibuna: Jurnal Perbandingan Mazhab, 3*(2), 143–158. <https://doi.org/10.24252/mh.v3i2.24982>
- Andriansyah, A., Mahid, S., & Wekke, I. S. (2018). GATHER THE SCATTERED IN KAILI LAND: Pluralism, Religiosity, and Integration of Central Sulawesi Society. *MIQOT: Jurnal Ilmu-Ilmu Keislaman, 42*(1), 171. <https://doi.org/10.30821/miqot.v42i1.523>
- Annur, C. M. (2022). *Viral Nikah Beda Agama di Jaksel, Berapa Angka Pernikahan di DKI Jakarta?* Databoks. <https://databoks.katadata.co.id/datapublish/2022/09/16/viral-nikah-beda-agama-di-jaksel-berapa-angka-pernikahan-di-dki-jakarta>
- Bahri, S. (2022). *Interview, 13 August*.
- Bakry, M. (2022). *Interview in 12 August*.
- Bakry, M., Ilham, M., Musyahid, A., Mundzir, C., & Ramli, A. R. (2022). Reflections of Contemporary Islamic Law to The Spirit Doll Phenomenon: A Sadd Al-Ḍarī'ah Perspective. *Samarah, 6*(1), 20–35. <https://doi.org/10.22373/sjhk.v6i1.12974>
- Bukido, R., Gunawan, E., Usup, D., & Hayat, H. (2021). Negotiating Love and Faith: Interfaith Marriage in Manado, Indonesia. *Wawasan: Jurnal Ilmiah*

- Agama Dan Sosial Budaya*, 6(1), 67–76. <https://doi.org/10.15575/jw.v6i1.11299>
- Cahaya, N. (2019). Perkawinan Beda Agama Dalam Perspektif Hukum Islam. *Hukum Islam*, 18(2), 141. <https://doi.org/10.24014/hi.v18i2.4973>
- Elmali-Karakaya, A. (2022). Interfaith Marriage in Islam: Classical Islamic Resources and Contemporary Debates on Muslim Women’s Interfaith Marriages †. *Religions*, 13(8). <https://doi.org/10.3390/rel13080726>
- Fua, A. A. (2019). *Unik, Pernikahan Tiga Agama di Kendari*. Liputan6.Com. <https://www.liputan6.com/regional/read/3949287/unik-pernikahan-tiga-agama-di-kendari>
- Hakim, L., Irwansyah, & Safitri, W. (2022). Perkawinan Beda Agama dalam Perspektif Hadis. *Jurnal Cerdas Hukum*, 1(1), 1–10. <https://e-journal.institutabdullahsaid.ac.id/index.php/jurnal-cerdas-hukum/article/view/97>
- Hamim, K., Iskandar, M., & Azizurrohman, M. (2022). Interfaith Marriage in North Lombok : Sociological Perspective of Islamic Law. *Khazanah Hukum*, 4(2), 129–138. <https://doi.org/10.15575/kh.v4i2.19657>.
- Hedi, F., Anshori, A. G., & Harun. (2017). Legal Policy of Interfaith Marriage in Indonesia. *Hasanuddin Law Review*, 3(3), 263–276. <https://doi.org/10.20956/halrev.v3i3.1297>
- Hidayat, K., & Darmadi, D. (2019). Indonesia and Two Great Narratives on Islamic Studies. *Studia Islamika*, 26(1), 201. <https://doi.org/10.15408/sdi.v26i1.11122>
- Jalil, A. (2018). Pernikahan Beda Agama dalam Perspektif Hukum Islam dan Hukum Positif di Indonesia. *Andragogi: Jurnal Diklat Teknis Pendidikan Dan Keagamaan*, 6(2), 46–69. <https://doi.org/10.36052/andragogi.v6i2.56>
- Jatmiko, B. D. W., Hidayah, N. P., & Echaib, S. (2022). Legal Status of Interfaith Marriage in Indonesia and Its Implications for Registration. *Journal of Human Rights, Culture and Legal System*, 2(3), 167–177. <https://doi.org/10.53955/jhcls.v2i3.43>
- Jawad, H., & Elmali-Karakaya, A. (2020). Interfaith Marriages in Islam from a Woman’s Perspective: Turkish Women’s Interfaith Marriage Practices in the United Kingdom. *Journal of Muslim Minority Affairs*, 40(1), 128–147. [10.1080/13602004.2020.1737415](https://doi.org/10.1080/13602004.2020.1737415)
- Kementerian Agama RI. (2019). *Al-Qur’an dan Terjemahannya*. Lajnah Pentashihan Mushaf Al-Qur’an Badan Litbang dan Diklat Kementerian Agama RI. <https://lajnah.kemenag.go.id/unduh/category/3-terjemah-al-qur-an-tahun-2019>

- Kumar, G. (2017). Indonesian Religious Culture and the Undercurrent. In *Heritage of Nusantara: International Journal of Religious Literature and Heritage* (Vol. 5, Issue 2). <https://doi.org/10.31291/hn.v5i2.144>
- Leeman, A. B. (2009). Interfaith Marriage in Islam: An Examination of the Legal Theory Behind the Traditional and Reformist Positions. *Indiana Law Journal*, 84, 39. <https://www.repository.law.indiana.edu/ilj/vol84/iss2/9/>
- Listyawati, P. R., Setyowati, I., & Hanim, L. (2020). Legal Analysis of the Rejection Registration Interfaith Marriages. *International Journal of Law Reconstruction*, 4(2), 110–123. <https://doi.org/10.26532/ijlr.v4i2.11265> LEGAL
- Majelis Ulama Indonesia. (2005). *Perkawinan Beda Agama* (pp. 472–477). [mui.or.id. https://mui.or.id/wp-content/uploads/files/fatwa/38.-Perkawinan-Beda-Agama.pdf](https://mui.or.id/wp-content/uploads/files/fatwa/38.-Perkawinan-Beda-Agama.pdf)
- Makalew, J. M. (2013). Akibat Hukum Dari Perkawinan Beda Agama Di Indonesia. *Lex Privatum*, 1(2), 131–144. <https://ejournal.unsrat.ac.id/index.php/lexprivatum/article/view/1710>
- Muntaqo, L. (2020). Islamic Thoughts on Interfaith Marriage in Local and Global Context. *Manarul Qur'an: Jurnal Ilmiah Studi Islam*, 20(1), 69–79. <https://doi.org/10.32699/mq.v20i1.1615>
- Murad, S. (2020). Al-Radd 'alā Syubuhāt man Abāha Zawāj al-Muslimah bi al-Kitābī. *Turkish Journal of Religious Education Studies*, 10, 299–321. <https://dergipark.org.tr/en/pub/tudear/issue/58708/771520>
- Mutakin, A. (2021). INDONESIAI FIQH OF INTERFAITH MARRIAGE Study on the NU, MUI , and Muhammadiyah Fatwas). *Al-Ahwal: Jurnal Hukum Keluarga Islam*, 14(1), 11–25. <https://doi.org/10.14421/ahwal.2021.14102>
- Osman, S., Jalil, A., Rahman, S. A., Bakar, E. A., Hanani, Y., & Safian, M. (2020). Adapting the Principle of Sadd al-Zari'ah by the Government in the Regulation of Product and Service Labelling. *Journal of Islamic Economics and Law*, 1(1), 40–50.
- Pasari, S., Simanjuntak, A. V. H., Neha, & Sharma, Y. (2021). Nowcasting earthquakes in Sulawesi Island, Indonesia. *Geoscience Letters*, 8(1). <https://doi.org/10.1186/s40562-021-00197-5>
- Pramono, A., & Priska, M. (2018). Description of Family Communication Patterns in Decision-Making on Interfaith Marriages : A Case Study in Indonesia. *International Journal of Science and Research (IJSR)*, 7(11), 1010–1014. [https://www.ijsr.net/get\\_abstract.php?paper\\_id=ART20192888](https://www.ijsr.net/get_abstract.php?paper_id=ART20192888)
- Qudāmah, I. (1997). *al-Mugnī*. Dār 'Alām al-Kutub li al-Tibā'ah wa al-Nasyr wa

al-Tauzī.’

- Rahman, P. F. (2022). *PN Sebut Dispendukcapil Surabaya Sempat Tolak Pencatatan Pasutri Beda Agama* Baca artikel detikjatim, “PN Sebut Dispendukcapil Surabaya Sempat Tolak Pencatatan Pasutri Beda Agama” selengkapnya <https://www.detik.com/jatim/berita/d-6138738/pn-sebut-dispenduk>. Detikjatim. <https://www.detik.com/jatim/berita/d-6138738/pn-sebut-dispendukcapil-surabaya-semptat-tolak-pencatatan-pasutri-beda-agama>
- Rosdiana, Saumin, U. H. Y., & Maisarah, M. M. (2019). Legitimacy on Inter-Faith Marriages: An Analysis of the Role of Religious Councils on the Legal Policy in Indonesia. *Ahkam: Jurnal Ilmu Syariah*, 19(1), 81–96. <https://doi.org/10.15408/ajis.v19i1.11710>
- Saputra, A. (2022). *DPR: Larangan Nikah Beda Agama Tidak Melanggar HAM*. Detik.Com. <https://news.detik.com/berita/d-6162645/dpr-larangan-nikah-beda-agama-tidak-melanggar-ham>
- Suhasti, E., Djazimah, S., & Hartini. (2018). Polemics on interfaith marriage in Indonesia between rules and practices. *Al-Jami'ah*, 56(2), 367–394. <https://doi.org/10.14421/ajis.2018.562.367-394>
- Syatar, A., & Rahman, A. (2019). Transformation of Fiqh in the Forms of Pilgrimage and Zakat Legislation. *Mazahibuna*, 1(2). <https://doi.org/10.24252/MH.V1I2.11646>
- Tim DetikNews. (2022). *Resmi! PN Yogyakarta Izinkan Pernikahan Pasutri Beda Agama* Baca artikel detikjabar, “Resmi! PN Yogyakarta Izinkan Pernikahan Pasutri Beda Agama” selengkapnya <https://www.detik.com/jabar/hukum-dan-kriminal/d-6465308/resmi-pn-yogyakarta-izinkan-pernikahan-p>. Detikjabar. <https://www.detik.com/jabar/hukum-dan-kriminal/d-6465308/resmi-pn-yogyakarta-izinkan-pernikahan-pasutri-beda-agama>
- Tim DetikSulsel. (2022). *Pernikahan Beda Agama di Toraja yang Baru Pertama Kali Diizinkan PN Makale*. Detik.Com. <https://www.detik.com/sulsel/berita/d-6320504/pernikahan-beda-agama-di-toraja-yang-baru-pertama-kali-diizinkan-pn-makale>
- Tristiawati, P. (2022). *PN Tangerang Menetapkan Pernikahan Beda Agama Warga Tangsel*. Liputan6.Com. <https://www.liputan6.com/news/read/5143492/pn-tangerang-menetapkan-pernikahan-beda-agama-warga-tangsel>
- Yanto, N. D. (2022). *Jangan Kaget! Ini Jumlah Pasangan Nikah Beda Agama di Indonesia*. Populis. <https://populis.id/read13644/jangan-kaget-ini-jumlah-pasangan-nikah-beda-agama-di-indonesia>