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# INTERFAITH MARRIAGE IN INDONESIA'S LAW: A COMPARATIVE STUDY OF TAFSIR AL-MISBAH AND AL-MARA...

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## INTERFAITH MARRIAGE IN INDONESIA'S LAW: A COMPARATIVE STUDY OF TAFSIR AL-MISBAH AND AL-MARAGHI

**AKHMAD FAROH HASAN**

UIN Maulana Malik Ibrahim Malang, East Java, Indonesia  
Email: [farroh.hasan@gmail.com](mailto:farroh.hasan@gmail.com)

**SHOLAHUDDIN AL FATIH**

University of Muhammadiyah Malang, East Java, Indonesia  
Email: [salfatih@umm.ac.id](mailto:salfatih@umm.ac.id)

**SURYANTO SIYO**

University of Pancasila, DK Jakarta, Indonesia  
Email: [suryanto.siyono@univpancasila.ac.id](mailto:suryanto.siyono@univpancasila.ac.id)

**HARIS**

University of Muhammadiyah Malang, East Java, Indonesia  
Email: [haris\\_fh@umm.ac.id](mailto:haris_fh@umm.ac.id)

**ASRUL IBRAHIM NUR**

University of Debrecen, Hungary  
Email: [asrul.ibrahimnur@mailbox.unideb.hu](mailto:asrul.ibrahimnur@mailbox.unideb.hu)

**Abstract:** Interfaith marriage takes place between a man and a woman of different religions. This marriage remains a polemic and happens for some reason. The interpretation of Interfaith Marriage differs when it comes to the law that governs interfaith marriage. A marriage is considered valid if it meets all the specified requirements. In Islam, one of the conditions for a valid marriage is to become a Muslim. This research is a literature study requiring primary legal materials garnered from the commentaries of M. Quraish Shihab in Tafsir al-Misbah and Ahmad Mustafa Al-Maraghi in Tafsir al-Maraghi. Secondary legal materials were collected from mufassir commentaries and other related content. The data were analysed based on 1). Content analysis— in-depth discussion of the content of written or printed information in the mass media; 2). The comparative method compares two or more different phenomena observed. This analysis leads to several findings: 1) Interfaith Marriage in Tafsir Al-Misbah and Al-Maraghi is divided into three parts: a) Marriage between a Muslim man and a woman of *Ahl al-Kitab* is permissible. b) Marriage between a Muslim man and a polytheistic woman is forbidden c) Marriage between a Muslim woman and a polytheistic man is forbidden 2) The relevance of the commentaries of Al-Misbah and al-Maraghi on interfaith marriage to the laws and regulations in Indonesia are as follows: a) Marriage between a Muslim man and a woman of *Ahl al-Kitab* is not relevant to the Compilation of Islamic Law (KHI) Article 1 of 1974, Article 2, paragraph (1) No. 1 of 1991 Articles 4, 40, 44 and 61 concerning Marriage b) Marriage between a Muslim man and a polytheistic

woman is relevant to KHI Article 1 of 1974, Article 2 paragraph (1) No. 1 of 1991, Article 4, 40, 44 and 61 concerning Marriage c). Marriage between a Muslim woman and a polytheistic man or a man of *Ahl Kitab* is relevant to KHI Article 1 of 1974, Article 2 paragraph (1) Number 1 of 1991, and Articles 4, 40, 44 and 61 concerning Marriage

**Keywords:** Marriage, Interfaith, Tafsir, Law, Indonesia

**Abstrak:** Perkawinan beda agama adalah perkawinan antara laki-laki dan perempuan yang berbeda agama. Perkawinan beda agama memang masih menjadi polemik, namun sebagian orang melakukannya dengan berbagai macam dalih. Penafsiran Perkawinan Beda Agama berbeda-beda ketika menafsirkan dalil-dalil mengenai hukum perkawinan beda agama. Pernikahan dianggap sah jika memenuhi semua persyaratan yang ditentukan. Dalam Islam, salah satu syarat pernikahan yang sah adalah menjadi seorang Muslim. Penelitian ini merupakan studi kepustakaan. Sumber data yang digunakan adalah bahan hukum primer yang diambil dari tafsir M. Quraish Shihab berjudul *Tafsir al-Misbah* dan tafsir Ahmad Mustafa Al-Maraghi berjudul *Tafsir al-Maraghi*, dan bahan hukum sekunder dari tafsir mufassir dan yang terkait. , menggunakan teknik analisis data 1). Analisis isi adalah kajian tentang pembahasan mendalam tentang isi informasi tertulis atau tercetak di media massa. 2). Metode komparatif menganalisis dua atau lebih fenomena yang berbeda dengan membandingkannya. Hasil temuan menunjukkan bahwa: 1) Pernikahan Beda Agama dalam *Tafsir Al-Misbah Dan Al-Maraghi*, terbagi menjadi tiga bagian a) Pernikahan antara laki-laki Muslim dengan perempuan *Ahl al-Kitab*, keduanya membolehkan. b) Pernikahan antara laki-laki Muslim dengan perempuan musyrik, keduanya mengharamkan c) Pernikahan antara perempuan Muslim dengan laki-laki Musyrik dan *Ahl Kitab*, keduanya mengharamkan 2) Relevansi *Tafsir Al-Misbah Dan Al-Maraghi* tentang Perkawinan Beda Agama Terhadap Peraturan Perundang –Undangan Di Indonesia yaitu: yaitu: a) Pernikahan antara laki-laki Muslim dengan perempuan *Ahl al-Kitab*, tidak relevan dengan pasal No 1 Thn 1974. KHI pasal 2 ayat (1) Nor 1 Tahun 1991 Pasal 4, 40, 44 dan 61 tentang Perkawinan; b) Pernikahan antara laki-laki Muslim dengan perempuan musyrik, relevan dengan pasal No 1 Thn 1974. KHI pasal 2 ayat (1) No1 Thn 1991 Pasal 4, 40, 44 dan 61 tentang Perkawinan; c). Pernikahan antara perempuan Muslim dengan laki-laki Musyrik dan *Ahl Kitab*, relevan dengan pasal No 1 Thn 1974. KHI pasal 2 ayat (1) Nomor 1 Tahun 1991 Pasal 4, 40, 44 dan 61 tentang Perkawinan

**Kata Kunci:** Perkawinan; Antar-Agama; Tafsir; Hukum; Indonesia

## Introduction

This article examines the phenomenon of interfaith marriage in Indonesia. In today's society, people are becoming increasingly indifferent to social life, particularly in adhering to Islamic teachings.<sup>1</sup> Muslims interpret diversity in different ways, shaped by their abilities and beliefs in doctrinal norms. One of the futuristic indications of the problem of establishing a family is the individual's willingness to marry someone of a different religion. While some choose to marry based on love, they often face the reality that the existing system does not formally recognise interfaith unions. Interfaith marriage has become a growing trend among celebrities and ordinary people. However, this phenomenon continues to spark significant debate within civil society. While some support it, others strongly oppose it.

1 Ali Mohammad Jubran, "Educational Leadership: A New Trend That Society Needs," *Procedia - Social and Behavioral Sciences* 210 (December 2015): 28–34, <https://doi.org/10.1016/j.sbspro.2015.11.325>. See also, M. Cochran-Smith, "Rethinking Teacher Education: The Trouble with Accountability," *Oxford Review of Education* 47, no. 1 (2021); David Traven, ed., "War and Peace in Islamic Law: Cultural Evolution and the Ethics of War in Early Islam," in *Law and Sentiment in International Politics: Ethics, Emotions, and the Evolution of the Laws of War*, Cambridge Studies in International Relations (Cambridge: Cambridge University Press, 2021), 120–61; M. Kabir Hassan et al., "Convergence in Islamic Financial Development: Evidence from Islamic Countries Using the Fourier Panel KPSS Stationarity Test," *Borsa Istanbul Review* 23, no. 6 (November 2023): 1289–1302, <https://doi.org/10.1016/j.bir.2023.09.006>.

Interfaith marriage is not uncommon among public figures in Indonesia. Celebrities such as Happy Salma and Tjokorda Dwi Bagus, Christian Sugiono and Titi Kamal, Irfan Bachdim and Jennifer Kurniawan, Asmirandah and Jonas Rivanno, Audi Marissa and Anthony Xie, Nadine Chandrawinata and Dimas Anggara, Sarah Sechan and Neil Furuno, Aqi 'Alexa' and Audrey Meirina, have all entered interfaith unions. Even the daughter of Muslim scholar Nurcholis Madjid has experienced this.<sup>2</sup> This trend seems to be getting more common in rural communities, where such a marriage overlooks different religious backgrounds and is only based on the feeling of love.

41 According to those cases, interfaith marriage in Indonesia presents a complex legal landscape shaped by Islamic and Indonesian Positive Law. Islamic Law imposes strict limitations, particularly prohibiting Muslim women from marrying non-Muslim men, while Indonesian Positive Law offers a more flexible interpretation, allowing for administrative mechanisms like marriage registration and temporary religious conversion to facilitate such unions.<sup>3</sup> The recent issuance of the Supreme Court Circular Letter (*Surat Edarana Mahkamah Agung/SEMA*) Number 2 of 2023 aimed to clarify the legal framework surrounding interfaith marriages. However, challenges remain due to inconsistent enforcement and varying interpretations of existing laws.<sup>4</sup>

Interfaith marriage may remain in dispute since it involves two individuals of different religious backgrounds. In Islamic teachings, interfaith marriage is divided into four forms:<sup>5</sup>

1. Marriage between a Muslim man and a woman of *Ahl al-Kitab*
2. Marriage between a Muslim man and an infidel woman
3. Marriage between a Muslim woman and a man of *Ahl al-Kitab*
- 56 4. Marriage between a Muslim woman and a polytheistic man or a non-*Ahl al-Kitab* man.

74 However, responding to the implementation of infidel marriage in the country is an urgent necessity since it involves various interpretations of the postulates of interfaith marriage laws or various opinions of scholars, the validity of the marriage, the consequences of the marriage, and the fate of the marriage from the religious aspect. The commentaries by Ahmad Mustafa al-Maraghi, among others, were chosen for this research because:<sup>67</sup>

1. Al-Maraghi is a scholar specialised in various science majors, and his name is associated with the city of Al-Maraghi's origin
2. Al-Maraghi holds a crucial position as a referee in the Egypt government
3. Al-Maraghi is an expert in sharia and Arabic and has produced many writings in religious science, especially Arabic and *tafsir* (commentaries)
4. Al-Maraghi is creative and free-thinking but does not deviate from Sharia rules
5. Al-Maraghi understood many of the books of his predecessors and then concluded them, gathering the essence.

- 68 58 2 Ahmad Fuadi and Devi Anggreni Sy, "PERNIKAHAN BEDA AGAMA PERSPEKTIF HUKUM ISLAM DAN HUKUM POSITIF DI INDONESIA," *Jurnal Hadratul Madaniyah* 7, no. 2 (December 2020): 1–14, <https://doi.org/10.33084/JHM.V7I2.1986>.
- 3 Muhammad Ulil Albab and Ahmad Izzuddin, "Interfaith Marriage in Islamic Law and Positive Law in Indonesia: A Study of the Conditions and Pillars," *AL-WIJDĀN Journal of Islamic Education Studies* 10, no. 1 (January 2025): 131–61, <https://doi.org/10.58788/ALWIJDN.V10I1.6190>.
- 9 4 Itok Dwi Kurniawan et al., "Analysis of Interfaith Marriage Legality in Indonesia and South East Asia Countries," *Fiat Justisia: Jurnal Ilmu Hukum* 18, no. 3 (November 2024): 287–316, <https://doi.org/10.25041/FIATJUSTISIA.V18N03.3573>.
- 4 5 Aulil Amri, "Perkawinan Beda Agama Menurut Hukum Positif Dan Hukum Islam," *Media Syari'ah: Wahana Kajian Hukum Islam Dan Pranata Sosial* 22, no. 1 (May 2020): 48–64, <https://doi.org/10.22373/JMS.V22I1.6719>.
- 6 Wisnawati Loeis, "Nilai-Nilai Pendidikan Islam Dalam Tafsir Ahmad Musthafa Al-Maraghi: Studi Analisis Terhadap Al-Qur'an Surat Al-Fiil," *Turats* 7, no. 1 (January 2011): 74–87.
- 81 7 Julian Sobi'in, "DERIVASI KATA ZULFA DAN KORELASINYA DENGAN UBUDIYAH (Studi Tafsir Maudhu'i)" (Universitas Islam Negeri Syarif Kasim Riau, 2022).

Tafsir al-Maraghi, written by Ahmad Mustafa al-Maraghi, is an important modern interpretation of the Qur'an that addresses current societal challenges using a novel technique. It blends a variety of interpretative perspectives, including *ijmali* (global) and *tahlili* (detailed), while emphasising reader clarity and accessibility. Al-Maraghi's work is distinguished by its methodical structure, focussing on the verses of the Qur'an, vocabulary explanations, and contextual relevance, making it especially appealing in modern circumstances.<sup>8</sup>

Ahmad Mustafa al-Maraghi interprets interfaith marriage, particularly in the context of Surah Al-Baqarah, verse 221, which prohibits Muslim men from marrying polytheistic women, whether Arab or non-Arab, unless they choose to believe in Allah SWT and the Prophet Muhammad PBUH (Peace Be Upon Him). If they remain steadfast in their beliefs, Muslims will welcome the kinship and marriage relationship with them.<sup>9</sup>

Like Al-Maraghi, Indonesian scholars have also discussed the topic of interfaith marriage, including M. Quraish Shihab, one of the most influential modern Islamic scholars, particularly in the field of Quranic interpretation, for some reason:<sup>10</sup>

1. M. Quraish Shihab is a translator with independent thinking and consistent views
2. M. Quraish Shihab is an Asian interpreter whose opinions have been adopted and used as references.
3. M. Quraish Shihab is a modern interpreter; his interpreted contents are easy to understand, using logic and communicative language.
4. M. Quraish Shihab is an interpreter who is recognised by the science of *mufasssir*

Tafsir Al-Misbah by Quraish Shihab is a seminal work in Quranic interpretation that emphasises contextual understanding and contemporary applicability. Shihab's method combines language comprehension, varied Qiraat, and modern challenges, making it an indispensable resource for today's understanding of the Quran. The following sections discuss the major components of his tafsir.

One of M. Quraish Shihab's interpretations of interfaith marriage opposes the notion that QS. Al-Baqarah (2): 221 is generally defined by QS. Al Maidah (5): 5. In other words, the word *Ahl al-Kitab* is independent and does not belong to the scope of the word polytheism, which is not determined by any book regarding polytheism. Therefore, M. Quraish Shihab's interpretation of interfaith marriage is different from Al-Maraghi who, in Surah al-Baqarah 221, considers the books to be polytheistic, while the books of M. Quraish Shihab are not polytheistic.

Interfaith marriage happens between a man and a woman with different religious backgrounds or beliefs. It can occur between two Indonesian citizens with different religious backgrounds or beliefs, between two foreign citizens of different religious backgrounds, or between a foreign citizen and an Indonesian citizen of different religious backgrounds or beliefs. Interfaith marriage in Indonesia is interesting to investigate due to the diversity of ethnic and religious backgrounds as well as the need for interfaith marriage to form a marriage relationship.

8 Supriadi Supriadi, "STUDI TAFSIR AL-MARAGHI KARYA AHMAD MUSTHAFAL-MARAGHI," *Jurnal Asy-Syukriyyah* 16, no. 1 (March 2016): 1-24, <https://doi.org/10.36769/ASY.V16I1.218>.

9 Fauziyah Mujayyanah, Benny Prasetya, and Nur Khosiah, "Konsep Pendidikan Akhlak Luqmanul Hakim (Kajian Tafsir Al-Misbah Dan Al-Maraghi)," *Jurnal Penelitian IPTEKS* 6, no. 1 (January 2021): 52-61, <https://doi.org/10.32528/IPTEKS.V6I1.5251>.

10 Muhammad Alwi HS, Muhammad Arsyad, and Muhammad Akmal, "GERAKAN MEMBUMIKAN TAFSIR AL-QUR'AN DI INDONESIA: Studi M. Quraish Shihab Atas Tafsir Al-Misbah," *Jurnal At-Tibyan: Jurnal Ilmu Alqur'an Dan Tafsir* 5, no. 1 (June 2020): 90-103, <https://doi.org/10.32505/AT-TIBYAN.V5I1.1320>.

## Methods

This is library research conducted by reviewing or analysing data from the literature.<sup>11</sup> Conclusions were drawn from books and other documents related to the problems discussed as the basis for comparative analysis. Data collection is the initial action taken before further analysis. The researcher garnered many relevant library materials or books. The data sources are divided into two categories;<sup>12</sup>

### 1. Primary Legal Materials

Primary legal materials are the most important legal sources used, and they are in line with the questions in this study.<sup>13</sup> The main legal materials for this study are Ahmad Musthafa al-Maraghi, 1989 *Tafsir al-Maraghi*, ed. Hery Noer Aly, et al., Semarang: Toha Putra and M. Quraish Shihab, 2000 *Tafsir al-Misbah: messages, impressions, and harmony of the Qur'an*, Jakarta: Penerang Hati

### 2. Secondary Legal Materials

Secondary legal materials are additional library materials that support primary data.<sup>14</sup> Auxiliary materials were obtained from commentary (*tafsir*) books, religious books, periodicals, and books related to the research subject, namely "Interfaith Marriage." The secondary data sources used include the following:

- a) Ahmad Nurcholish and Ahmad Baso. 2010 *Interfaith Marriage: Testimony of Religious Arguments and Policy Analysis* of Jakarta. ICRP Komnas HAM
- b) Sri Wahyuni, 2016 *Marriage of Different Religions, Why Go Abroad?* Jakarta: PT Pustaka Alvabet
- c) A journal on interfaith marriage.

Next, the data sources are analysed using a prescriptive model to find new ideas and concepts related to the legal problems and issues being discussed.

## Results And Discussions

Interfaith marriage is a marriage between a Muslim man or woman and a non-Muslim man or woman, also called mixed marriage. This marriage is between a Muslim and a non-Muslim.<sup>15</sup> Interfaith marriage is a significant issue in Islam due to religious, legal, and cultural factors. Islam has clear guidelines on marriage, emphasizing the importance of shared faith to maintain religious harmony and ensure the Islamic upbringing of children. According to Islamic teachings, Muslim men are permitted to marry women from the "People of the Book" (Christians and Jews), as long as these women remain monotheistic and do not associate partners with God. However, Muslim women are generally not allowed to marry non-Muslim men unless they convert to Islam. This prohibition is based on the belief that the husband is typically seen as the head of the household, and if he follows a different faith, there is a risk that the wife and children may be influenced away from Islam.

The Quran explicitly addresses this in Surah Al-Baqarah (2:221), where it advises believers not to marry polytheists until they accept Islam. From a legal standpoint, many Islamic countries have laws that prohibit or restrict interfaith marriages, reinforcing the religious stance. Cultural

- 11 Tunggul Ansari Setia Negara, "Normative Legal Research in Indonesia: Its Originis and Approaches," *Audito Comparative Law Journal (ACLJ)* 4, no. 1 (February 2023): 1-9, <https://doi.org/10.22219/aclj.v4i1.24855>.
- 12 Sholahuddin Al-Fatih, *Perkembangan Metode Penelitian Hukum Di Indonesia*, 1st ed., vol. 1 (Malang: UMM Press, 2023).
- 13 Sholahuddin Al-Fatih and Ahmad Siboy, *Menulis Artikel Karya Ilmiah Hukum Di Jurnal Nasional Dan Internasional Bereputasi* (Malang: Inteligencia Media, 2021).
- 14 And Sri Mamudji Soerjono, Soekanto, "Penelitian Hukum Normatif Suatu Tinjauan Singkat" (PT Raja Grafindo Persada, Jakarta, 2014).
- 15 Ayse Elmali-Karakaya, "Interfaith Marriage in Islam: Classical Islamic Resources and Contemporary Debates on Muslim Women's Interfaith Marriages," *Religions* 13, no. 8 (August 2022): 726, <https://doi.org/10.3390/REL13080726>.

traditions also play a role, as many Muslim communities strongly discourage interfaith unions due to concerns about identity, family honour, and societal acceptance. Moreover, Islam views marriage as not just a legal contract but also a spiritual covenant meant to foster love, mercy, and companionship under God's guidance. When faith is not shared, differences in religious practices, dietary laws, and moral values may create conflicts, making it harder to achieve the harmony that Islam encourages in marriage.

Furthermore, issues such as inheritance, religious rites, and raising children become complex when spouses do not share the same faith. Islamic scholars argue that a stable and peaceful marriage is more likely when both partners share a common religious foundation. However, in modern times, interfaith marriages are becoming more common, especially in multicultural societies, leading to ongoing discussions and differing interpretations among scholars regarding their permissibility and practical challenges. Some scholars advocate for more flexibility, especially in cases where mutual respect and understanding exist, while others uphold traditional restrictions as essential for preserving Islamic teachings. Ultimately, interfaith marriage remains a deeply debated topic in Islam, shaped by religious doctrine, cultural traditions, and contemporary societal changes.

### *Marriage Between A Muslim Man And A Woman Of Ahl Al-Kitab*

The question of marriage between a Muslim man and a woman from the Ahl al-Kitab (People of the Book) is a complex issue that has been debated extensively in Islamic jurisprudence, scholarly circles, and societal contexts. This analysis aims to provide a comprehensive understanding of the topic, drawing from various research papers and scholarly perspectives. The phrase Ahl al-Kitab in the Qur'an appears 31 times in 9 surahs. Based on Umi Sumbulah's opinion, of the 31 verses about the scholars in the book, 27 of them are very critical of the scholars in the book.<sup>16</sup> A Muslim man is forbidden to marry a non-Muslim woman except for a woman who is a Booker. Allah SWT said,

الْيَوْمَ أَحَلَّ لَكُمْ الطَّيِّبَاتِ وَطَعَامُ الَّذِينَ أُوتُوا الْكِتَابَ حَلَلٌ لَكُمْ وَطَعَامُكُمْ حَلَلٌ لَهُمْ  
وَالْمُحْصَنَاتُ مِنَ الْمُؤْمِنَاتِ وَالْمُحْصَنَاتُ مِنَ الَّذِينَ أُوتُوا الْكِتَابَ مِنْ قَبْلِكُمْ إِذَا آتَيْتُمُوهُنَّ  
أُجُورَهُنَّ مُحْصِنِينَ غَيْرَ مُسْفِحِينَ وَلَا مَتَّخِذِي أَخْدَانٍ وَمَنْ يَكْفُرْ بِالْإِيمَانِ فَقَدْ حَبِطَ عَمَلُهُ  
وَهُوَ فِي الْآخِرَةِ مِنَ الْخَاسِرِينَ ٥

"On this day, it is lawful for you who are good. The food of those who are given the Book is halal for you, and your food is halal for them. Women who maintain honour among women who believe and women who maintain honour among those who are given the Book before you, if you have paid their dowry with the intention of marrying her, not with the intention of committing adultery and not making her a mistress. Whoever disbelieves after believing (does not accept the laws of Islam) then remove his deeds, and he will be among the losers on the Day of Resurrection." (QS Al Maidah: 5)

16 Umi Sumbulah, *Islam Dan Ahlul Kitab: Perspektif Hadis* (Malang: UIN-Maliki Press, 2011). See also, Muhammad Siddiq Armia et al., "Introduction: Bridging Tradition And Modernity: Legal Innovations For Justice, Equity And Sustainability In Contemporary Society," *Petita: Jurnal Kajian Ilmu Hukum Dan Syariah* 9, no. 2 (November 1, 2024), <https://doi.org/10.22373/petita.v9i2.688>; Muhammad Siddiq Armia and Muhammad Syauqi Bin-Armia, "Introduction: Form Over Substance, Achieving Objectives While Preserving Values," *Petita : Jurnal Kajian Ilmu Hukum Dan Syariah* 8, no. 2 (2023): i-iii; Muhammad Siddiq Armia and Muhammad Syauqi Bin-Armia, "Introduction: Maintaining the Constitutional Rights to Create a Better Society," *Petita : Jurnal Kajian Ilmu Hukum Dan Syariah* 8, no. 1 (2023): 69-71; Muhammad Siddiq Armia et al., "Introduction: Measuring Environmental Impacts And Judiciary Environments," *Petita : Jurnal Kajian Ilmu Hukum Dan Syariah* 9, no. 1 (April 1, 2024): i-vi, <https://doi.org/https://doi.org/10.22373/petita.v9i1>.

M. Quraish Shihab interprets the Quranic term *والمحصنات* as referring to women who keep their honour worthy of marriage from women of faith and scholars of the Ahl Kitab.<sup>17</sup> M. Quraish Shihab believes that if a Muslim man marries a woman from the Ahl Kitab, then it is still permissible. In Ahmad Mustafa Al-Maraghi's view, the meaning of the verse for the women above is valid as long as a dowry is provided. Al-Maraghi explains that the verse implies that the people in the book are limited to two of the Jewish and Christian Communities regardless of their ethnic background. Although they have a holy book, adherents of other religions cannot be said to be people of the Ahl Kitab because their holy books are not neurological.

Article 2, paragraph 1 of the Marriage Law No. 1 of 1974 stipulates that the marriage taking place according to the laws of each religion and belief are valid. The 1945 Constitution implies that there is no marriage outside the law of every religion and belief.<sup>18</sup> Article 61 also asserts that marriage can be prevented unless it is between the same religious backgrounds. The provisions given under Article 40 to the addition of Article 44 to Article 61 indicate a temporary prohibition.<sup>19</sup> Based on the opinions of Ahmad Baso and Ahmad Nurcholish, since the Marriage Law was passed in 1974, several issues related to interfaith marriage:<sup>20</sup>

- a) Article 2, paragraph 1 states that the validity of a marriage depends on whether the marriage is carried out according to the law of each religion and belief. This rule can only be enforced if both have the same religion. If not, one must follow the other's religion. After marriage, they may convert back to their previous religion.
- b) Article 2, paragraph 2 states that every marriage must be registered according to the applicable laws and regulations. The role of the government is limited to the registration of marriages, where the government only regulates the administrative aspects of marriage. However, in practice, the two verses go in tandem, and both must apply to the legal requirements for marriage.

Interfaith marriage, in the codification of Islamic law in particular, can be seen in Article 40 of the KHI, stating that in certain circumstances, men and women are prohibited from marrying due to the following reasons:<sup>21</sup>

- a) The woman is still tied to another with another man.
- b) The woman is still in her *iddah* with another man.
- c) The woman is a Non-Muslim.

According to Sri Wahyuni, currently, no law controls or prevents interfaith marriage because such prohibition would conflict with religious freedom and the right to establish a family through legal marriage. As a result, the law regarding interfaith marriage in Indonesia leaves legal loopholes.<sup>22</sup> The KHI expressly prohibits all forms of interfaith marriage, while M. Quraish Shihab and Ahmad Mustafa Al-Maraghi only allow interfaith marriage between a Muslim man and a woman of *ahlun al-Kitab*. This reasoning is that permitting such marriages enables Muslim husbands to guide their wives towards Islam. This perspective is parallel to Article 7(2).<sup>23</sup>

17 M. Quraish Shihab, *Tafsir Al Misbah* (Jakarta: Lentera Hati, 2002).

18 Andri Rifai Togatorop, "Perkawinan Beda Agama," *Journal of Religious and Socio-Cultural* 4, no. 1 (January 2023): 26–36, <https://doi.org/10.46362/JRSC.V4I1.126>.

19 Muhammad Shaleh, "Hukum Perkawinan Berbeda Agama Menurut Kompilasi Hukum Islam (KHI)," *As-Syar'i: Jurnal Bimbingan & Konseling Keluarga* 1, no. 2 (December 2019): 182–95, <https://doi.org/10.47467/AS.V1I2.455>.

20 Candra Refan Daus and Ismail Marzuki, "Perkawinan Beda Agama Di Indonesia; Perspektif Yuridis, Agama-Agama Dan Hak Asasi Manusia," *Al-'Adalah: Jurnal Syariah Dan Hukum Islam* 8, no. 1 (June 2023): 40–64, <https://doi.org/10.31538/ADLH.V8I1.3328>.

21 Edi Gunawan, "EKSISTENSI KOMPILASI HUKUM ISLAM DI INDONESIA," *Jurnal Ilmiah Al-Syir'ah* 8, no. 1 (June 2016), <https://doi.org/10.30984/AS.V8I1.39>.

22 Sri Wahyuni, "Perkawinan Beda Agama Dan Hak Asasi Manusia Di Indonesia," *Academia*, 2014, 131–51.

23 Ibnudin, Ahmad Syathori, and Didik Himmawan, "Rekonstruksi Hukum Perkawinan Beda Agama Prespektif Hak Asasi Manusia," *Risalah, Jurnal Pendidikan Dan Studi Islam* 9, no. 3 (September

As previously implied, the marriage between a Muslim man and a woman from the Ahl al-Kitab is a complex issue that intersects with religious, legal, and socio-cultural dimensions. While classical Islamic jurisprudence permits such marriages under certain conditions, the prohibition on Muslim women marrying non-Muslim men remains a subject of debate. Feminist and reformist perspectives challenge traditional norms, advocating for greater equality and flexibility in marital choices. Legal and socio-cultural contexts further complicate the issue, highlighting the need for ongoing dialogue and reinterpretation of Islamic teachings in contemporary societies.

### Marriage Between A Muslim Man And A Polytheistic Woman

In Islam, marriage is a sacred contract, and there are specific guidelines regarding whom a Muslim man can marry. According to Islamic teachings, a Muslim man is permitted to marry a woman from the People of the Book (i.e., Jewish or Christian women) under certain conditions, as mentioned in the Quran (Surah Al-Ma'idah 5:5). However, marriage between a Muslim man and a polytheistic woman—one who worships multiple gods or follows an idolatrous belief system—is generally not allowed. This restriction is based on the idea that such a marriage could lead to religious conflicts and the potential weakening of the Islamic faith within the family. Islam emphasises the importance of monotheism, and a partner who does not share this belief could influence the household, particularly the religious upbringing of children.

The prohibition against marrying a polytheistic woman is derived from Surah Al-Baqarah (2:221), which advises against such unions, stating that a believing slave woman is better than a polytheist, even if she is attractive. The rationale behind this ruling is to safeguard the faith of the Muslim spouse and future generations. Islamic scholars generally agree with this prohibition unless the woman converts to Islam, embracing monotheism. In contrast, a Muslim woman is only allowed to marry a Muslim man to ensure that she and her children are raised within an Islamic framework. While some modern scholars discuss nuances based on differing interpretations, the traditional stance remains that a Muslim man should not marry a polytheistic woman unless she accepts Islam.

Regarding the marriage (polytheism) of a Muslim man with a polytheistic woman as the above, Allah SWT said,

وَلَا تَنْكِحُوا الْمُشْرِكِيْنَ حَتَّىٰ يُوْمِنُوْا وَلَا اِمْرَاةً مُّؤْمِنَةً خَيْرٌ مِّنْ مُّشْرِكَةٍ وَّلَوْ اَعْجَبَتْكُمْ وَلَا تُنْكِحُوا الْمُشْرِكِيْنَ حَتَّىٰ يُوْمِنُوْا وَّلَعَبْدٌ مُّؤْمِنٌ خَيْرٌ مِّنْ مُّشْرِكٍ وَّلَوْ اَعْجَبَكُمْ اُولٰٓئِكَ يَدْعُوْنَ اِلَى النَّارِ وَاللّٰهُ يَدْعُوْا اِلَى الْجَنَّةِ وَالْمَغْفِرَةِ بِاِذْنِهٖ وَيُبَيِّنُ اٰيٰتِهٖ لِلنَّاسِ لَعَلَّهُمْ يَتَذَكَّرُوْنَ

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*"And do not marry polytheistic women before they have believed. Indeed, a believing slave woman is better than a polytheistic woman, even if she attracts your heart. And do not marry polytheists before they have believed. Indeed, a believer is better than a polytheist, even if he attracts your*

2023): 1086–1100, [https://doi.org/10.31943/JURNAL\\_RISALAH.V9I3.706](https://doi.org/10.31943/JURNAL_RISALAH.V9I3.706). See also, Muhammad Siddiq Armia et al., "Criticizing the Verdict of 18/JN/2016/MS.MBO of Mahkamah Syar'iyah Meulaboh Aceh on Sexual Abuse against Children from the Perspective of Restorative Justice," *AL-IHKAM: Jurnal Hukum & Pranata Sosial* 17, no. 1 (June 29, 2022): 113–35, <https://doi.org/10.19105/al-lhkam.v17i1.4987>; Muhammad Siddiq Armia, "Public Caning: Should It Be Maintained or Eliminated? (A Reflection of Implementation Sharia Law in Indonesia)," *Qudus International Journal of Islamic Studies*, 2019, <https://doi.org/10.21043/qijis.v7i2.4974>; Muhammad Syauqi Bin-Armia, Muhammad Siddiq Armia, and Muhammad Fazlurrahman Syarif, "Economical Rights versus God's Rights: Criticising of the Implementation Shariah Economic in Indonesia," *International Journal of Islamic and Middle Eastern Finance and Management* ahead-of-print, no. ahead-of-print (January 1, 2024), <https://doi.org/10.1108/IMEFM-01-2024-0054>.

heart. They invite them to hell, while Allah invites them to heaven and forgiveness with His permission. And Allah explains His verses (His commandments) to people so that they can learn." (QS Al-Baqarah: 221)

Allah forbids Muslims to marry polytheistic women. I know of no greater polytheism than a woman who says her god is Isa or one of Allah's sahayas.<sup>24</sup> Allah SWT said,

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

"The disbelievers, i.e. the scholars of the Book and the polytheists (say that they) will not leave (their religion) until real evidence comes to them." (QS. Al-Bayyinah: 1)

In the interpretation of al-Misbah, the most important instruction to those who intend to start a family is: *O Muslim man, do not marry a polytheistic woman, that is, do not marry.*<sup>25</sup> The two verses mentioned above explain that there are two groups of disbelievers: the Book Expert and the Polytheist (Idolaters). Polytheists are expressly forbidden to marry them, both from the male and female. In his interpretation of the above verse, al-Maraghi stated that the polytheists were prohibited from marrying Muslim men, as in verse 221 of Surah al-Baqarah, which refers to Arab and non-Arab.<sup>26</sup>

A man is prohibited from marrying a non-Muslim woman (Article 40c), while a Muslim woman is prohibited from marrying a non-Muslim man (Article 44). This article is separate from the rules of harmony and marriage rules, but Article 18 confirms that Chapter VI is related to the second part of Chapter IV, which regulates the prospective bride.<sup>27</sup>

This article is a form of prohibition of interfaith marriage, emphasizing the validity of marriage. This legal provision of Marriage is reaffirmed in the Compendium of Islamic Law (KHI) in the first book on marriage. In the compilation of the First Book of Islamic Law, "Marriage" has 19 chapters and 170 articles. The marriage of a Muslim man to an infidel woman is discussed in Chapter VI, which prohibits marriage. Therefore, Article 40C means that marriage between a man and a woman is prohibited if the woman is a non-Muslim.

This article is separate from the main provisions and regulations of marriage. However, Article 18 confirms that Chapter VI is related to the second part of Chapter IV, which regulates the prospective bride. As a result of the prohibition of interfaith marriage, unions between individuals of different religions cannot be registered in the Civil Registry or the Office of Religious Affairs. Therefore, if such a marriage occurs, the marriage is not recognised and protected by law because those who enter into interfaith marriages are considered to violate the law.<sup>28</sup>

In Indonesia, it is almost certain that every recognised religion does not allow its followers to marry others of different faiths.<sup>29</sup> For Muslim men, obtaining a religious statement letter depends on the interpretation of the competent marriage registrar regarding whether a Muslim man can marry a non-Muslim woman. If the marriage certificate is refused, the only way for a Muslim man

24 Siti Fahimah, "Tafsir Shawa Al Tafasir Dan Ra'wi Al Bayan Karya Ali As-Shobuni," *Al Furqan: Jurnal Ilmu Al Quran Dan Tafsir* 4, no. 1 (June 2021): 124–37, <https://doi.org/10.58518/ALFURQON.V4I1.1785>.

25 M. Quraish Shihab, *Tafsir Al Misbah*.

26 Ahmad Mustafa Al-Maraghi, *Tafsir Al-Maraghi* (Cairo: Mathba'ah al Halabiy, 1946).

27 Miftahul Ulum, "Implementasi Hukum Pencatatan Perkawinan (Pendekatan Kompilasi Hukum Islam Dan Pembaharuan Hukum Kontemporer)," *Mahkamah : Jurnal Kajian Hukum Islam* 9, no. 2 (January 2025): 209–17, <https://doi.org/10.24235/MAHKAMAH.V9I2.16226>.

28 Kumedi Ja'far, *Hukum Perkawinan Islam Di Indonesia* (Bandar Lampung: Arjasa Pratama, 2021).

29 Karel Karsten Himawan, Matthew Bambling, and Sisira Edirippulige, "What Does It Mean to Be Single in Indonesia? Religiosity, Social Stigma, and Marital Status Among Never-Married Indonesian Adults," *SAGE Open* 8, no. 3 (September 2018), <https://doi.org/10.1177/2158244018803132>.



marriage of a daughter or woman under their guardianship.<sup>33</sup> Muslim women should not marry biblical men because, based on the tafsir of al-Maraghi in the Qur'an, Muslim women have no authority over men because it is feared that a woman will follow her husband's religion and harm her child's faith. This is because the marriage between a polytheistic woman and a polytheistic man leads to hell.<sup>34</sup>

10 A Muslim woman who wishes to marry a non-Muslim man has never been granted a certificate or dispensation from the marriage registration at the Ministry of Religious Affairs office. As a result, the only legal option that the Muslim woman can have is to challenge the rejection through the Religious Court. According to Article 60, paragraph 3 of Law No. 60, as well as Article 18 of the Regulation of the Minister of Religious Affairs No. 1 of 1974 and No. 3 of 1975, a Muslim woman who receives a rejection letter from the Ministry of Religious Affairs may file an objection with the Religious Court in her area of residence. If the court proves the rejection unreasonable, the court will issue a decision in lieu of the deed. The conditions regulated by the KHI include interfaith marriages. Article 40(c) of the KHI states that a marriage between a man and a (c) non-Muslim woman is prohibited, while Article 44 of the KHI reinforces that Muslim women are prohibited from marrying non-Muslim men.

26 Therefore, it can be concluded that Indonesia's laws and regulations expressly prohibit interfaith marriage (Article 40 c), (Article 44). M. Quraish Shihab and Ahmad Mustafa Al-Maraghi also oppose such unions, reinforcing that Muslim women cannot marry polytheists or men from the *Ahl al-Kitab*. While the law strictly prohibits interfaith marriage, there are ongoing debates regarding the interpretation and application of these articles, particularly in cases where Muslim men marry non-Muslim women. Islamic scholars from the classical era, including those from the four major Sunni schools of thought—Hanafi, Maliki, Shafi'i, and Hanbali—mostly agreed with these rulings. However, differences arose concerning details such as the conditions under which interfaith marriages might be valid or invalid.<sup>35</sup>

33 M. Quraish Shihab, *Tafsir Al Misbah*. See also, Zedy Wulan Ayu Widhi Prameswari and Erni Agustin, "Indonesian Marriage Law Reform: The Way To Strengthen The Protection of Children's Rights Against Child Marriage," *Journal of Southeast Asian Human Rights* 2, no. 1 (June 30, 2018): 286, <https://doi.org/10.19184/jseahr.v2i1.5353>.

34 Al-Maraghi, *Tafsir Al-Maraghi*. See also, Robert Home and Muhammad Siddiq Armia, "Decolonising Israel/Palestine: An Approach To The Legal History Of The Middle East," *Petita : Jurnal Kajian Ilmu Hukum Dan Syariah* 10, no. 1 (February 20, 2025), <https://doi.org/10.22373/petita.v10i1.805>; Muhammad Syauqi Bin-Armia, "From Constitutional-Court To Court Of Cartel: A Comparative Study Of Indonesia And Other Countries," *PETITA: Jurnal Kajian Ilmu Hukum Dan Syari'ah* 9, no. 2 (2024); Muhammad Siddiq. et all Armia, "Post Amendment of Judicial Review in Indonesia: Has Judicial Power Distributed Fairly?," *JILS* 7 (2022): 525; Muhammad Siddiq Armia, "Ultra Petita and The Threat to Constitutional Justice: The Indonesian Experience," *Intellectual Discourse* 26, no. 2 (2018): 1-23.

35 Elysa Nur Oktavia et al., "DISPENSASI PERNIKAHAN BEDA AGAMA MENURUT PERSPEKTIF MAZHAB," *Comparativa: Jurnal Ilmiah Perbandingan Mazhab Dan Hukum* 4, no. 1 (July 2023): 33-53, <https://doi.org/10.24239/COMPARATIVA.V4I1.131>. See also, Khairani Mukdin et al., "Application Of No-Fault Divorce Legal Rules As A Basis For Judges Considerations: A Case Study Of Indonesia," *Petita: Jurnal Kajian Ilmu Hukum Dan Syariah* 7, no. 2 (November 1, 2022): 80-90, <https://doi.org/10.22373/petita.v7i2.149>; Kudrat, "Status Anak Di Luar Nikah Dalam Perspektif Sejarah Sosial," *Petita: Jurnal Kajian Ilmu Hukum Dan Syariah* 1, no. 1 (April 1, 2016), <https://doi.org/10.22373/petita.v1i1.78>; Iin Ratna Sunmirat et al., "The Problem Of Regulation On Using Absolute Legitimacy In Issuing Population Document," *Petita: Jurnal Kajian Ilmu Hukum Dan Syariah* 9, no. 2 (October 22, 2024), <https://doi.org/10.22373/petita.v9i2.465>; Alfian Dewan Adhayuda Prabowo Prabowo et al., "Marriage, Divorce In Islamic Psychological Analysis And Maqashid Sharia," *PETITA: Jurnal Kajian Ilmu Hukum Dan Syari'ah* 9, no. 2 (June 2, 2024), <https://doi.org/10.22373/petita.v9i2.321>; Fakhurrrazi M. Yunus et al., "Childfree And Its Relevance To 'Azl From The Perspective Of Taqiyuddin An-Nabhani," *PETITA: Jurnal Kajian Ilmu Hukum Dan Syari'ah* 8, no. 2 (October 15, 2023), <https://doi.org/10.22373/petita.v8i2.235>; Muharrhman, "Muhammad Dan Khadijah: Satu Konsep Hukum Pernikahan Sebelum Risalah Islam," *Petita: Jurnal Kajian Ilmu Hukum Dan Syariah* 2, no. 1 (April 1, 2017),

1. Hanafi School: The Hanafi jurists acknowledged the permissibility of Muslim men marrying Jewish or Christian women but warned against potential negative consequences, particularly if the woman's faith led to tensions within the family.
2. Maliki and Hanbali Schools: These scholars emphasised that while it is technically permissible for Muslim men to marry People of the Book, it is generally discouraged (*makruh*) due to concerns over religious dilution.
3. Shafi'i School: The Shafi'i school echoed similar sentiments, with scholars advising against interfaith marriages unless there was a compelling reason

Thus, although there are differences among the commentators regarding certain criteria, for example, regarding the definition of women who are people of the book and the like, the commentators and the imams of the schools of thought agree that interfaith marriage is not permitted. However, some thinkers' opinions allow it under certain circumstances. Wallahu a'lam bishshowab.

### Conclusion

This study concludes that interfaith marriage in Tafsir Al-Misbah and Al-Maraghi can be highlighted as follows: a). M. *Quraish Shihab* and *Ahmad Mustafa Al-Maraghi* tend to allow marriage between a Muslim man and a woman of *Ahl al-Kitab*; they refer to QS. Al-Maidah:5; b). M. *Quraish Shihab* and *Ahmad Mustafa Al-Maraghi* view that a Muslim man is forbidden to marry a polytheistic woman; this perspective refers to QS Al-Baqarah:221 QS. Al-Baqarah: 105 and QS. Al-Bayyinah: 1; and c). M. *Quraish Shihab* and *Ahmad Mustafa Al-Maraghi* consider marriage between a Muslim woman and a polytheistic man and *Ahl-Kitab* to be forbidden by Islam, whether there is a prospective husband of a scribe (Jewish and Christian) or a follower of another religion. This perspective refers to QS Mumtahanah: 10. QS. Al-Baqarah:21. QS. Al-Bayyinah:1. QS. Almaidah:5 and QS. Al-Baqarah: 105. The relevance of the interpretation by Al-Misbah and al-Maraghi on interfaith marriage to the laws and regulations in Indonesia can be drawn based on the following: a). Marriage between a Muslim man and an *Ahl al-Kitab* woman is irrelevant to Article 1 of 1974 concerning Marriage, Article 2, paragraph (1) Number 1 of 1991, Articles 4, 40, 44 and 61 of KHI concerning Marriage; b). Marriage between a Muslim man and a polytheistic woman is relevant to Article 1 of 1974 concerning Marriage, Article 2, paragraph (1) Number 1 of 1991, Articles 4, 40, 44 and 61 of KHI concerning Marriage; and c). Marriage between a Muslim woman and a *Mushrik* man and *Ahl Kitab* is relevant to Article 1 of 1974 concerning Marriage, Article 2 paragraph (1) Number 1 of 1991, Articles 4, 40, 44 and 61 of KHI concerning Marriage.

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- Power Distributed Fairly?" *JILS* 7 (2022): 525.
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### INTERFAITH MARRIAGE IN INDONESIA'S LAW: A COMPARATIVE STUDY OF TAFSIR AL-MISBAH AND AL-MARAGHI

**AKHMAD FAROH HASAN**  
UIN Maulana Malik Ibrahim Malang, East Java, Indonesia  
Email: farroh.hasan@gmail.com

**SHOLAHUDDIN AL FATIH**  
University of Muhammadiyah Malang, East Java, Indonesia  
Email: salfath@umm.ac.id

**SURYANTO SIVO**  
University of Pancasila, DK Jakarta, Indonesia  
Email: suryanto.sivo@univpancasila.ac.id

**HARIS**  
University of Muhammadiyah Malang, East Java, Indonesia  
Email: haris\_fb@umm.ac.id

**ASRUL IBRAHIM NUR**  
University of Debrecen, Hungary  
Email: asrul.ibrahimnur@mailbox.unideb.hu

**Abstract:** Interfaith marriage takes place between a man and a woman of different religions. This marriage remains a polemic and happens for some reason. The interpretation of Interfaith Marriage differs when it comes to the law that governs interfaith marriage. A marriage is considered valid if it meets all the specified requirements. In Islam, one of the conditions for a valid marriage is to become a Muslim. This research is a literature study requiring primary legal materials garnered from the commentaries of M. Quraish Shihab in Tafsir al-Misbah and Ahmad Mustafa Al-Maraghi in Tafsir al-Maraghi. Secondary legal materials were collected from muafassir commentaries and other related content. The data were analyzed based on 1) Content analysis—in-depth discussion of the content of written or printed information in the mass media; 2) The comparative method compares two or more different phenomena observed. This analysis leads to several findings: 1) Interfaith Marriage in Tafsir Al-Misbah and Al-Maraghi is divided into three parts: a) Marriage between a Muslim man and a woman of *Ah al-Kitab* is permissible b) Marriage between a Muslim man and a polytheistic woman is forbidden c) Marriage between a Muslim woman and a polytheistic man is forbidden 2) The relevance of the commentaries of Al-Misbah and al-Maraghi on interfaith marriage to the laws and regulations in Indonesia are as follows: a) Marriage between a Muslim man and a woman of *AN al-Kitab* is not relevant to the Compilation of Islamic Law (KHI) Article 1 of 1974, Article 2, paragraph (1) No. 1 of 1991 Articles 4, 40, 44 and 61 concerning Marriage b) Marriage between a Muslim man and a polytheistic