



# Interfaith Marriages in Indonesia: A Study in The Perspective of Islamic Law and State Law

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**Abstract.** This study tried to explain the intricate landscape of interfaith marriages within Indonesia, examining how Islamic law and state law intersect and impact these unions. It delves into the legal complexities surrounding marriage, focusing on the religious and legal dimensions that shape the validity and recognition of such blocks in Indonesia. The research uncovers the disparities between Indonesian legal norms and Islamic spiritual principles concerning interfaith marriages, shedding light on couples' challenges in navigating these intricacies. By applying the library research method, this study also highlights the legal mechanisms utilized by interfaith couples to address these religious restrictions and gain legal recognition for their marriages. By examining these legal processes, the research provides valuable insights into the motivations and strategies employed by interfaith couples as they navigate the complex legal landscape. Furthermore, the study addresses the issue of inconsistent judicial decisions regarding interfaith marriages across different courts that has significant implications for the legal treatment of such marriages. Therefore, the research introduces Supreme Court Number 2 of 2023 as a potential solution. This directive offers comprehensive guidelines to assist judges in rendering more consistent decisions in interfaith marriage cases, emphasizing the importance of upholding existing marriage laws and religious principles. In conclusion, this study contributes to a deeper understanding of the challenges faced by interfaith couples in a complex legal and religious landscape within the Indonesian context.

**Keywords:** Interfaith Marriage, Islamic Law, State law

## 1 Introduction

In human life, marriage is the first step to building a family. Marriage is not only an individual matter between a man and a woman who agree to build a life together in a family, but marriage is also a combination of many aspects, namely cultural values, religion, law, tradition, economy, and society. Therefore, almost every religion has something about marriage. Wahbah Zuhaily explains the meaning of marriage as "a contract that implies the ability to feel pleasure towards women by having intercourse, touching, kissing, coming together, and other than that."

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In the Islamic view, marriage is a noble and holy contract between a man and a woman, which is the reason for their legality as husband and wife, and the permissibility of sexual relations is a noble and holy contract between a man and a woman. Sexual relationship permission intends to achieve a calm, peaceful, and happy family (*sakinah*) full of mutual love (*mawaddah*) and complete affection and benevolence (*rahmah*). Marriage is a sacred bond that includes physical and spiritual dimensions; it contains the physical and spiritual realms based on the provisions of Allah.

From an Indonesian constitutional and societal perspective, the institution of marriage's regulation is in Law Number 1 of 1974 concerning marriage. Article 1 of the Marriage Law states, "Marriage is an inner and outer bond between a man and a woman as husband and wife to form a family (a happy and eternal household based on the Almighty God)." This law can answer the need for existing laws and regulations to regulate marriage uniformly for all social groups in Indonesia.

Moreover, the institution of marriage is also regulated in Presidential Instruction No. 1 of 1991 Concerning the Compilation of Islamic Law (KHI). The KHI states in Article 2 that "marriage according to Islamic law is a marriage, namely a firm contract, or *Mitsaqon Gholidzo*, to obey Allah's commands, and carrying them out is worship." Article 3 of the KHI states that marriage aims to create a household life: *Sakinah*, *Mawaddah*, and *Warahmah*. Furthermore, Article 4 of the KHI (The Compilation of Islamic Law) firmly stipulates that marriage is valid if carried out according to Islamic law, following Article 2 paragraph (1) of Law No. 1 of 1974 concerning marriage.

The above provisions emphasized that a marriage is considered valid if the marriage is carried out under the legal provisions according to each religion. Thus, the law and KHI do not recognize the validity of marriages between different faiths. However, in practice in the field, there are still many Indonesian people who carry out the practice of interfaith marriages, marriages between Muslim men and non-Muslim women, or vice versa between Muslim women and non-Muslim men.

The Indonesian Conference on Religion and Peace (ICRP) report noted that since 2005, 1,425 interfaith couples have been married in Indonesia. Regarding this issue, Ahmad Nurcholish, ICRP Program Director, revealed that it is time for the Marriage Law in Indonesia to be revised because it gives rise to multiple interpretations concerning interfaith marriages. He also said that it was time for Indonesia to accept interfaith marriages because the number of interfaith couples who want to get married is quite large, due to the diverse of society. Several district courts in Indonesia have also made decisions by judges granting marriages between religions. Several cases of District Court decisions determine the decision to grant requests for permits for interfaith marriages.

The Indonesian Ulama Council (MUI) has issued two fatwas. Those MUI fatwas are based on seven verses in the Al-Qur'an, namely surah al-Nisa verse 3; al-Rum verse 21; al-Tahrim verse 6; al-Maidah verse 5; al-Baqarah verse 221; al-Mumtahanah verse 10; al-Nisa verse 25; hadith of the Prophet; and Fiqhiyah Rules. The 2005 MUI fatwa on interfaith marriages more firmly stipulates that interfaith marriages are haram and invalid and that marriages between Muslim men and Ahlu Kitab women, according to

gaul mu'tamad, are haram and invalid. The fatwa was issued because, in that year, it was alleged that many interfaith marriages had occurred, and this had given rise to debate in society to the point where it was feared that it would give rise to the idea that interfaith marriages were permitted under the pretext of human rights. The phenomenon of many practices of interfaith marriages in Indonesia, even though Law No. 1/1974 concerning marriage has stipulated a prohibition on interfaith marriages, the KHI has also defined a ban on interfaith marriages, as well as the MUI Fatwa and the 1980 MUI Fatwa concerning the ban on mixed marriage, as well as the 2005 MUI Fatwa regarding the prohibition of interfaith marriages. However, many people still carry out the practice of interfaith marriages by looking for legal loopholes that exist in Indonesia outside the Marriage Law. This phenomenon is significant for further research.

## **2 Research Methods**

This type of research is library research, namely research that takes the object of study around thought, understanding concepts, fatwas, decisions, manuscripts, reports, investigating social phenomena, and human problems, which are found in the news, books, literature, books, documents, and decisions. This research approach is a qualitative one that emphasizes the meaning, reasoning, and definition of a particular situation in a specific context, relating to everyday human life, creating a complex picture, examining words, providing detailed reports from the respondent's views, and conducting studies on the problems experienced. Qualitative research is an approach that requires a deep and comprehensive understanding of the object under investigation to answer issues and obtain data. The research method used is a content-analytical-descriptive method. The descriptive method collects information about the current situation and examines a particular phenomenon's causes. Document analysis contains information obtained by reading archives, documents, manuscripts, and literature, also called document analysis techniques or content analysis.

## **3 Results and Discussion**

### **3.1 Legal Basis of Marriage Implementation in Indonesia**

In the Indonesian constitution, the institution of marriage is regulated in Law Number 1 of 1974 concerning Marriage. From the beginning of its discussion and enactment, it was intended to answer the problem of implementing marriage, which required uniformity of guidelines for implementing marriage for all social groups in Indonesia. Apart from that law, other legal bases used to regulate marriage include referring to the provisions of the Presidential Instruction (INPRES) of the Republic of Indonesia No. 1 of 1991 concerning the Compilation of Islamic Law (KHI). The position and function of these two sources, namely the Marriage Law and the Compilation of Islamic Law (KHI), complement each other, the first one can be positioned as formal law while the second one can function as material law.

Article 2, paragraph (1) of the Marriage Law stipulates, "Marriage is valid if it is carried out according to the laws of each respective religion and belief." Based on Article 2, paragraph (1) of the Marriage Law, the legal provisions that apply in Indonesia are that no marriages can be performed in Indonesia that conflict with the conditions of each religion. Based on the provisions of this paragraph, interfaith marriages in Indonesia cannot be accepted or justified. Article 4 of the Compilation of Islamic Law confirms that: "Marriage is valid if it is carried out according to Islamic law following Article 2 paragraph (1) of Law Number 1 of 1974 concerning Marriage." Furthermore, Article 40 of the Compilation of Islamic Law states, "It is prohibited to carry out a marriage between a man and a woman due to unavoidable circumstances. Article 44 of the Compilation of Islamic Law confirms that "A Muslim woman is prohibited from entering into marriage with a man who is not Muslim." Furthermore, Article 61 of the Compilation of Islamic Law confirms that: "Non-compassion cannot be used as a reason to prevent marriage, unless non-consent is due to differences in religion or ikhtilaf al-dien."

Based on the provisions of the articles above, marriages held in Indonesian jurisdiction must be carried out in one religion, not marriages based on the religion of each party involved in the marriage, let alone marriages between different faiths, because it is prohibited according to the provisions, which applies in Indonesia. The act of carrying out an interfaith marriage like this is considered an act of violating statutory provisions.

### **3.2 Legal Gaps Used by Actors Of Interfaith Marriages**

Even though the Marriage Law stipulates that each religion determines the validity of a marriage, many Indonesian citizens carry out interfaith marriages in violation of the Marriage Law. However, they are looking for loopholes in regulations that can be relied upon in implementing interfaith marriages. Regulations for registering interfaith marriages in Indonesia often refer to Article 35 letter and the Elucidation of Article 35 of Law Number 23 of 2006 concerning Population Administration as amended by Law Number 24 of 2013 concerning Amendments to Law Number 23 of 2013 2006 concerning Population Administration.

The provisions in Article 35 letter above explain that the registration of marriages as regulated in Article 34 of the Population Administration Law also applies to marriages determined by the Court. The explanation of what is meant by "marriage determined by the court" is referred to in Article 35 Letter A of the Population Administration Law, namely "marriages between people of different religions."

For interfaith marriages between Muslim and non-Muslim couples, the marriage registration does not experience any complications; it is carried out at the Regional Government Civil Registry Office (KCS). However, for interfaith marriages that occur between one Muslim bride and groom and one who is non-Muslim, the registration of the marriage is complicated. Such complications are often found to be loopholes by parties interested in carrying out interfaith marriages by referring to the provisions contained

in Government Regulation Number 9 of 1975 concerning the Implementation of Law Number 1 of 1974 concerning Marriage in Article 2 paragraph (1).

Based on Article 2 of Government Regulation Number 9 of 1975 concerning the Implementation of Law Number 1 of 1974 concerning Marriage, marriages entered by followers of the Islamic religion are only registered at the KUA, while marriages outside the Islamic faith are registered at the Civil Registry Office (KCS). Meanwhile, interfaith marriages are registered at the Civil Registry Office (KCS) after obtaining permission from the District Court. However, there is confusion when referring to the provisions of Government Regulation 9 of 1975 that marriage registration must be at the KUA for Muslims. However, when carrying out an interfaith marriage, it can be recorded at the Civil Registry Office.

### 3.3 Interfaith Marriages According to Islamic Law

Interfaith marriages in the Islamic view, if we refer to several verses of the Koran, the Prophet's hadiths, Fiqhiyah rules, and the opinions of the ulama, it is apparent that the law of interfaith marriages is haram; for every Muslim, it is prohibited to carry out the act of interfaith marriages. According to Islamic law, only people of the same religion can marry. The basis used as an argument for the prohibition of interfaith marriage between Muslims and non-Muslims is several verses of the Qur'an; the main one is Surah al-Baqarah verse 221.

Sheikh Muhammad Ali al-Shabuni, in his book "Rowa'i' al-Bayan Tafsir Ayat al-Ahkam min al-Qur'an, reveals his interpretation of surah al-Baqarah verse 221 that the meaning of the sentence "do not marry polytheist women" is "do not marry women who worship idols (watsaniyyaat), "al-musyrikah" means "people who worship idols, or have no religion heavenly." The equivalent content is "al-mushrik" (men who worship idols).

He further stated that the opinion of other commentators noted that the meaning of "al-musyrikah" includes al-kitabiyyat (women-Ahl al-Kitab), because Ahl al-Kitab, namely Jews and Christians, their beliefs and actions, is "polytheistic" based on the word of Allah, in surah al-Taubah verses 30-31, "the Jews expressed the belief that "Prophet Uzair" was the Son of Allah, likewise the Christians stated the belief that "Prophet Isa was the Son of Allah"),... until the sentence of the verse "...Glory be to Allah from the actions and beliefs of those who associate partners (shirk) with Allah".

Additionally, he explained his interpretation of the verse above, namely:

ولا تزوجوا المشركين ممن نسلناكم المؤمنات حتى يؤمنوا بالله ورسوله ولأن تزوجهن من عبد مؤمن خير لكم من أن تزوجهن من حر مشرك مهما أعجبكم في الحسب والنسب والشرف فإن هؤلاء – المشركين والمشركات – الذين حرمت عليكم مناحكهم ومصاهرهم يدعوكم إلى ما يؤدي بكم إلى النار والله يدعو إلى العمل الذي يوجب الجنة ، ويوضح حججه وأدلته للناس ليتذكروا فيميزوا بين الخير والشر

Sabab nuzul of the verse is closely related to the customs (traditions) of Arab Muslims at that time, who viewed female servants as despicable, inferior, and unfit to be wives even though they were Muslim women. They are happier and proud to marry

Jewish and Christian women because they are considered more honourable in their descent, rank, social status, and wealth. This verse corrects a tradition that is not good and correct from the perspective and habits of Arab Muslims in the past, namely the rule that views Jewish and Christian women as more honourable than Muslim women but servants; they are happier and proud to marry Jewish women and Christians and felt humiliated to marry a slave woman even though she was a Muslim. In another history, it is stated that many friends married Jewish women because of their views and habits. Uthman married Na'ilah bint Farafisoh, a Christian, then converted to Islam; Hudzaifah married a Jewish woman from the Mada'in population; Jabir married a Jewish woman and a Christian woman. When Jabir was asked about his marriages to Jewish and Christian women, he answered, "I married Jewish and Christian women during the Fath Makkah period, and even then, the wedding was in Kufa."

Thus, based on sabab nuzul verse 221 of Surah al-Baqarah, the scholars agree that the law of marriage for a Muslim to a polytheist woman, a non-Muslim, is haram, whether a Muslim man to a Muslim woman or a Muslim woman to a polytheist man.

The second argument regarding this is Surah al-Mumtahanah verse 10.

This verse emphasizes that a wife who was not originally Muslim and then converted to Islam must maintain her Islam. In the sentence "لَا هُنَّ حِلٌّ لَّهُمْ وَلَا هُمْ يَحِلُّونَ لَهُنَّ" it is not lawful to marry an infidel woman Muslims, and vice versa, Muslim women cannot be married to non-Muslim men (infidels). In this verse, the sentence used is the concept of "infidel", no longer using the phrase "polytheist". The sentence "infidel" can be broader in scope, including all religions, both divine and non-celestial, whether they have faith or have no religion.

**Statement that allows Muslim men to marry Ahl al-Kitab women.** Although most scholars agree that the law of marriage is between a Muslim and a polytheist, whether the man is a Muslim, the woman is a polytheist, or the woman is a Muslim, the man is a polytheist, there are differences of opinion regarding the law regarding the marriage of a Muslim man to a woman from the People of the Book. This stems from differences in interpretation regarding the scope of the meaning of "al-mushrik," and whether the definition of "al-mushrik" includes the category of Ahl al-Kitab or not.

There are many scholars, even the number of scholars and four schools of jurisprudence mentioned, who believe that Muslim men may marry Ahl al-Kitab women, but the scholars of the four schools of thought condemn it as makruh: The Hanafiyah, Shafi'iyah ulama condemn it as makruh, the Malikiyah ulama condemn it as makruh for Muslim men to marry dhimmi Ahl al-Kitab, the Hanabilah ulama punish "khilaf al-awla" (violating the main thing).. Such opinions are only limited to the law for marriage for Muslim men with Ahl al-Kitab women. Differences of opinion occur only because they relate to the meaning of the scope of "Ahl al-Kitab." Their opinion refers to the importance of verse 5 of Surah al-Maidah. By referring to this verse, some scholars think that Muslim men are permitted to marry Ahl al-Kitab women. The Ahl al-Kitab in question are Jews and Christians. The opinion of allowing Muslim men to marry Ahl al-Kitab women is based on the sentence:

“And ‘permissible for you in marriage’ are chaste believing women as well as chaste women of those given the Scripture before you”.

From this sentence fragment, it is interpreted that Muslim men may marry Ahl al-Kitab women (Jews and Christians). Based on this sentence fragment, Jumhur ulama are of the opinion that Muslim men may marry dhimmi women from among Jews or Christians:

ذهب جمهور الفقهاء إلى أنه يحل التزوج بالذمية من اليهود والنصارى واستدلوا بهذه الآية (والمحصنات من الذين أوتوا الكتاب من قبلكم)

Furthermore, Sheikh Muhamad Ali al-Shabuni revealed that there is an interpretation of the ulama which allows Muslim men to marry Ahl al-Kitab women by interpreting the sentence "al-musyrikah" narrowing the scope of its meaning to "al-watsaniyyat" (idol worshipers) and adherents of the religion "advanced".

From the interpretation of the phrase "al-musyrikah" which narrows its meaning to only "al-watsaniyyat" and "al-majusiyyat", the consequence is that Ahl al-Kitab does not fall into the category of "al-musyrikah". Thus, Ahl al-Kitab women are allowed to marry Muslim men. The opinion of such scholars also refers to the interpretation of Surah al-Maidah verse 5, namely: "...the food of the Ahl al-Kitab is permitted for you, as well as your food is permitted for the Ahl al-Kitab, and it is permitted for you women who are awake from among believers, and it is also permissible for you women who are awake from the Ahl al-Kitab."

Some interpretive opinions that narrow the meaning of "al-musyrik" from among the ulama who allow Muslim men to marry Ahl al-Kitab women are as follows:

### 1. Statement of Jumhur ulama and four schools of jurisprudence:

A few scholars interpret that the lafadz "al-musyrikat" does not include the Ahl al-Kitab, based on the word of Allah: "ما يود الذين كفروا من أهل الكتاب ولا المشركين".

In this verse, the sentence: "al-musyrikun" is translated into the sentence Ahl al-Kitab, the letter 'athaf' indicates a difference, change, so that the sentence "al-musyrikah" does not include "Ahl al-Kitab". Hanafiyah scholars and Shafi'iyah scholars condemn makruh. Maliyah clerics condemn men who marry dhimmi women from ahl al-Kitab. Ulama Hanabilah condemns "khilaf al-awla"

### 2. Imam Qatadah's opinion regarding the interpretation of this verse:

Imam Qatadah interpreted the verse that what is meant by the phrase "al-musyrikah" is "musyrikat al-'Arab" specifically for polytheists from Arab circles, who do not have a holy book as a guide for what they read.

### 3. The opinion of Imam Hammad:

"Imam Hammad said that when he asked Ibrahim about the law of marrying an Ahl al-Kitab woman, Ibrahim answered: 'it's okay'. Then I argued: 'Didn't Allah say "do not marry polytheist women"?' Ibrahim answered: 'What is meant by "al-musyrikah" in that verse is Majusi women and idol worshipers.'

**Refutation of Statement that Permit Muslim Men to Marry Women from Ahl al-Kitab.** The legal argument the ulama uses that allows Muslim men to marry women of Ahl al-Bait is only 1 verse, namely Surah al-Maidah verse 5, as explained above. Their bases and arguments were refuted by the ulama, who still forbade Muslim men from marrying Ahl al-Bait women. The basis and arguments of the opinions of the ulama who forbid men from marrying Ahl al-Kitab women refer to several verses of the Qur'an: (1) surah al-Baqarah verse 221; (2) surah al-Mumtahanah verse 10; (3) al-Maidah verse 5; (4) al-Taubah verses 30-31. Apart from that, the opinion of Umar ibn Khathab, Abdullah ibn Umar, the Shi'ah Imamiyah, and the Shi'ah Zaidyah. The basis and argument for the opinion that forbids men from marrying Ahl al-Kitab women also refutes the view that men may marry Ahl al-Kitab women.

It is very clear that a Muslim man is prohibited from marrying a Muslim woman, as well as a Muslim woman is prohibited from marrying a Muslim man. According to the opinion of scholars, the meaning of "al-Musyrik" includes the Ahl al-Kitab, namely Jews and Christians, because Jews and Christians are essentially Musyrik, because they believe that there is a God, Jews believe that Uzair is the Son of God, Christians believe that Jesus is Son of Allah, as mentioned in surah al-Taubah verses 30-31:

"Al-musyrikah is a person who worships idols, a person who does not follow the divine religion, the word is "al-musyrik". The word "al-musyrikah" (polytheists) includes the Ahl al-Kitab too, because the Ahl al-Kitab are "polytheists".

The concept of al-musyrikah, is interpreted as someone who associates partners with Allah, namely one who believes in the existence of Allah and who worships Allah, but he also believes in the existence of another God besides Allah, worships also other than Allah, such as worshiping statues, stars, galaxies, the stars, the sun, fire, and others.

Because the beliefs and practices of Jews and Christians constitute shirk, Jews and Christians are part of the people who are prohibited from marrying by Muslims, both men and women.

**The Fatwas of MUI Concerning the Mixed Marriage.** As a representative of the ulama associations in Indonesia, the Indonesian Ulema Council (MUI) responds to the increasing growth of mixed marriages and interfaith marriages in Indonesian society. In 1980, the MUI at the National Conference II, dated 11-17 Rajab 1400 H/ 26 May-1 June 1980 AD, issued a fatwa on mixed marriages. In 2005, the MUI in the VII National Conference, 19-22 Jumadil Akhir 1426 AH/ 26-29 July 2005 AD issued Fatwa Number: 4/MUNAS VII/MUI/8/2005 concerning Interfaith Marriages.

The MUI Fatwa resulting from the 1980 MUI MUNAS II concerning mixed marriages stipulated that:

- (1) Marriage between Muslim women and non-Muslim men is haram;
- (2) It is forbidden for a Muslim man to marry a non-Muslim woman. Regarding marriage between Muslim men and women, there are differences of opinion among the



People of the Book. After considering that the mafsadah was more significant than the maslahah, the Indonesian Ulema Council ruled that the marriage was haram.

The basic arguments used in establishing the MUI fatwa on mixed marriages refer to the Al-Qur'an and the hadith of the Prophet. The basis of the Qur'an refers to 4 letters, namely surah al-Baqarah verse 221; surah al-Maidah verse 5; surah al-Mumtahanah verse 10; surah al-Tahrim verse 6 and 2 hadiths of the Prophet.

The Prophet traditions that referred to the case are as follows:

1. "When a man marries, he has fulfilled half of the religion; so let him fear God regarding the remaining half." (Ath Thabrani)
2. "Every child that is born, is born upon the Fitrah, but his parents make him a Jew, a Christian, or a Zoroastrian."

**The Fatwas of MUI concerning the Interfaith Marriages.** In 2005, the MUI in the VII National Conference (Munas) issued a second fatwa, namely the Fatwa on Interfaith Marriage. MUI Fatwa Number: 4/MUNAS VII/MUI/8/2005 Concerning Interfaith Marriages. Fatwa Number: 4/MUNAS VII/MUI/8/2005 stipulates that:

- (1) Interfaith marriages are haram and invalid;
- (2) According to Qaul Mu'tamad, the marriage of a Muslim man to an Ahlu Kitab woman is haram and invalid.

The arguments used by the MUI are based on seven (7) verses of the Quran, al-Hadith, and Ushuliyah Rules. The verses of the Quran that are used as evidence are as follows:

1. Surah al-Baqarah Verse 221
2. Surah al-Mumtahanah verse 10
3. Surah al-Tahrim verse 6
4. Surah al-Maidah verse 5
5. Surah al-Nisa verse 3

The basis of the Qur'an, which is used as the main argument regarding the prohibition of marriage between Muslim men and Muslim women, is Surah al-Baqarah verse 221, as discussed above, which expressly prohibits Muslim men from marrying polytheist women (non-Muslim), as well as for women married to polytheist (non-Muslim) men. Then it was strengthened by Surah Al-Mumtahanah verse 10, which emphasized that Muslim men are not halal for infidel women; likewise, women of the Ahl al-Kitab are halal for Muslim men, because the meaning of "polytheist" does not include Jews and Christians, so women Jews and Christians can marry Muslim men, the confirmation of the Al-Quran verse refutes this interpretation of Surah Al-Maidah verse 5, Surah al-Taubah verses 30-31, which states that Jews and Christians are polytheists.

The MUI fatwa on interfaith marriages has analyzed, looked at, and compared the various views of interpretations of ulama who have made ikhtilaf. However, after conducting an in-depth study and analysis, it has been concluded that mu'tamad qawl, solid opinions and interpretations, are interpretations that place Ahl al-Kitab as part of the polytheists, so Ahl al-Kitab is prohibited from marrying a Muslim, whether male or female.

So, in this way, the MUI fatwa regarding interfaith marriages means that a Muslim must not marry a non-Muslim, a polytheist, a Jew, a Christian, a Magian, an infidel, a Muslim, etc. The MUI fatwa regarding mixed marriages and interfaith marriages must guide Indonesian Muslims that interfaith marriages are haram, according to the Shari'a. 'The prohibition of mixed marriages and interfaith marriages is partly due to the harmful elements of impact or effects that influence interfaith marriages.

The background to the issuance of the MUI fatwa on interfaith marriages is expressed in the fatwa's preamble, namely that recently, it has been alleged that many interfaith marriages have occurred, which not only invites debate among fellow Muslims but also often invites unrest during community life, even in the midst of in society, ideas emerge that justify interfaith marriages under the pretext of human rights and benefits. Based on an atmosphere like this, the MUI responded to create and maintain a peaceful married life, and the MUI deemed it necessary to issue a fatwa on interfaith marriages to serve as a guideline. The terms mixed marriage and interfaith marriage have different meanings in the context of legislation in Indonesia, but the MUI uses these two terms to have almost the same meaning. The mixed marriage fatwa issued on June 1, 1980, was the MUI's response to increasing numbers of couples entering interfaith marriages.

Meanwhile, the fatwa on interfaith marriages is based on seven verses of the Koran, one hadith history, one fiqh rule, and one legal method of istinbath. The Al-Qur'an verses quoted are seven verses spread across seven letters, namely al-Nisa': 3 and 25; al-Rum: 21; al-Tahrim: 6; al-Maidah: 5; al-Baqarah: 221; and al--Mumtahanah: 10. The hadith that is used as the basis is a hadith about the four criteria for choosing a woman to marry, and the priority is a religious woman. The principle of jurisprudence used as the basis of istimbath is dar'u almafasisid muqaddamun 'ala jalb al-mashalih (preventing harm takes priority over attracting benefit).

### **3.4 Solutions For Enforcing Laws of Interreligious Marriage Practices**

There are many different court decisions in several district courts from one court to another to avoid the occurrence of disparity in courts and the considerations of judges in courts within the Supreme Court in deciding cases of marriage between different religions, in the same issue regarding applications for permits marriage mixed. The Supreme Court of the Republic of Indonesia considers interfaith marriages essential to make breakthroughs in normative solutions. These norms can be guidelines for uniform guidance for judges in giving considerations and determining decisions on applications for permits for interfaith marriages. The regulations stipulated by the Supreme Court of

the Republic of Indonesia are by issuing Supreme Court Circular Letter (SEMA) Number 2 of 2023 concerning Instructions for Judges in Adjudicating Cases on Applications for Registration of Marriages Between People of Different Religions and Beliefs on July 17, 2023.

Through this SEMA, judges must be guided by the provisions that a valid marriage is a marriage carried out according to the laws of each religion and belief following Article 2 paragraph (1) and Article 8 letter f of Law Number 1 of 1974 concerning Marriage. This regulation emphasizes that the court should not grant requests for registration of interfaith marriages. SEMA Number 2 of 2023 is intended as a guideline for judges in the Supreme Court, especially the District Court.

This Supreme Court Circular (SEMA) contains 2 points of provisions. First, regarding the rules regarding marriage, namely, a valid marriage is a marriage as stated in Article 2 paragraph (1) and Article 8 letter f of Law (UU) Number 1 of 1974 concerning Marriage; Second, related to the Supreme Court's prohibition, namely that the court does not grant requests for registration of marriages between people of different religions and beliefs. SEMA number 2 of 2023 is intended to provide certainty and unity in applying the law in adjudicating applications for registering marriages between people of different religions and beliefs.

The publication of SEMA Number 2 of 2013 was welcomed positively by the Indonesian Ulema Council (MUI) and the wider community.

SEMA Number 2 of 2013 will likely be a solution for a breakthrough to avoid disparities in judge and court decisions, which are considered very confusing and cause unrest in society. It is an effort to close loopholes for perpetrators of inter-religious marriages so that those who have been playing around and trying to get around the law can reconsider actions that violate the Marriage Law.

## 4 Conclusion

1. The legal regulations governing marriage in Indonesia are Law No. 1 of 1974 concerning Marriage and Presidential Instruction No. 1 of 1991 concerning the Compilation of Islamic Law (KHI). Article 2 of the Marriage Law stipulates that a marriage is considered valid if it is carried out according to the laws of each religion and belief. The Compilation of Islamic Law (KHI) in Article 4 stipulates that marriage is valid if it is carried out according to Islamic law following Article 2 paragraph (1) of Law no. 1 of 1974 concerning marriage. Based on Article 2 of the Marriage Law, the validity of a marriage is determined by its fact according to religious provisions. According to the Islamic religion, interfaith marriages are invalid; therefore, interfaith marriages in Indonesia, according to the applicable laws and regulations.
2. According to the provisions of Islamic Law, interfaith marriages are haram, as stipulated in the Al-Qur'an surah al-Baqarah verse 221, which strictly prohibits a

Muslim man from marrying a polytheist (non-Muslim) woman, as well as the prohibition on Muslim women marrying polytheist men, non-Muslims, confirmed again by Surah al-Mumtahanah verse 10, Surah al-Maidah verse 5, Surah al-Taubah verses 30-31, strengthened by the hadith of the Prophet, supported by the history of Umar ibn al-Khattab who ordered the companions of the Prophet to marry Ahl al-Kitab women, strengthened Abdullah ibn Umar's opinion regarding the prohibition of Muslim men against Ahl al-Kitab women, strengthened the views of the ulama regarding the interpretation of Surah al-Baqarah verse 221 and Surah al-Maidah verse 10, and strengthened the Fatwa MUI on Mixed Marriages and MUI Fatwa on Interfaith Marriages, both fatwas prohibit a Muslim (male or female) from marrying a non-Muslim or an Ahl al-Kitab (both male and female).

3. Legal loopholes used by the actors of interfaith marriages often use the provisions of Law No. 24 of 2013 concerning Population Administration Article 34 paragraph (2), which states that "based on the report as intended in paragraph (1), the Civil Registration official shall record it in the Deeds Register Marriage and issuing an Excerpt from the Marriage Certificate". Apart from that, it takes refuge in the provisions of Article 35 of Law No. 24 of 2013 concerning Population Administration. Article 35 states that "marriage registration as intended in Article 34 also applies to (a) marriages determined by the Court".
4. Solutions that can be used to avoid disparities in the judge's considerations in court decisions regarding applications for permits for interfaith marriages, namely, the issuance of Supreme Court Number 2 of 2023. This SEMA provides guidelines regarding the confirmation of the provision that "a valid marriage is a marriage that is following Law Number 1 of 1974 concerning Marriage, as well as requirements for Judges that the judge must decide to reject an application for permission for an interfaith marriage because the marriage Different religions are not valid according to religious teachings and are not valid according to the Marriage Law. By referring to SEMA, there will be no disparity between Judges and the Court in providing decision-making considerations.

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