

Paradigm Of Clerical Thought Towards The Essence Of Marriage Of Different Religions

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Abstract: Marriage of different religions is something that never stops discussed in the treasures of Islamic thought. Especially in this day and age, the interaction between Muslims and non-Muslims is getting more intense. Similarly, changes in socio-cultural conditions in modern times are now causing Muslims and non-Muslims to be more harmonious in everyday life. This has an impact on the issue of marriage of different religions. This research aims to find out how the paradigm of the thought of scholars towards the essence of marriage is different religions. The research method used is literature research with qualitative patterns. In the discussion use descriptive methods of analysis. As for the results of the research obtained, namely the paradigm of the thought of scholars about the essence of marriage of different religions divided into several things, namely First; Marriages of different religions include the marriage of a Muslim woman with a non-Muslim man, the marriage of a Muslim man with a kafir woman, the marriage of a Muslim man with a woman ahl al-kitab. These three categories have different legal consequences. Second; Scholars differ on the law of marrying a woman ahl al-kitab as well as determining who is categorized as ahl al-kitab. Third; The scholars differ on the terms kafir, mushrik, shabiyah and ahl al-kitab.

Keywords: Paradigms, Clerical Thinking, Interfaith Marriage

Abstrak: Pernikahan beda agama merupakan hal yang tak pernah berhenti dibahas dalam khazanah pemikiran Islam. Terutama di zaman sekarang, interaksi antara muslim dan non muslim semakin intens dilakukan. Demikian pula perubahan kondisi sosio-kultural pada masa modern sekarang menyebabkan muslim dan non muslim semakin harmonis dalam kehidupan sehari-hari. Hal ini berdampak pada persoalan pernikahan beda agama. Penelitian ini bertujuan untuk mengetahui bagaimana paradigma pemikiran para ulama terhadap esensi pernikahan beda agama. Metode penelitian yang digunakan yaitu penelitian kepustakaan dengan pola kualitatif. Dalam pembahasannya menggunakan metode deskriptif analisis. Adapun hasil penelitian yang diperoleh yaitu paradigma pemikiran para ulama tentang esensi pernikahan beda agama terbagi dalam beberapa hal yaitu *Pertama*; pernikahan beda agama meliputi pernikahan wanita muslimah dengan laki-laki non muslim, pernikahan laki-laki muslim dengan wanita musyrik, pernikahan laki-laki muslim dengan wanita *ahl al-kitab*. Ketiga kategori tersebut memiliki konsekuensi hukum yang berbeda-beda. Kedua; para ulama berbeda pendapat tentang hukum menikahi wanita *ahl al-kitab* serta penentuan siapa yang dikategorikan sebagai *ahl al-kitab*. Ketiga; para ulama berbeda pendapat tentang istilah kafir, musyrik, *shabiyah* dan *ahl al-kitab*.

Kata Kunci: Paradigma, Pemikiran Ulama, Pernikahan Beda Agama

Introduction

Marriage of different religions is something that never stops being discussed, not only in the present even since the time of friends. But this problem is increasingly hotly discussed in modern times because of the enormous socio-cultural changes of society, where the relationship of the majority of Muslims and non-Muslims is increasingly harmonious and can coexist.

Comment [BB1]: Ulama's thoughts on the prohibition of interfaith marriage and its implementation in Indonesian Muslim society

Comment [BB2]: Introduction berisi:

1. Masalah penelitian, kenapa dipermasalahkan?
 2. Penelitian terdahulu, supaya terlihat bahwa yang anda teliti berbeda dengan yang diteliti orang lain.
 3. Tujuan penelitian, sertakan dengan pertanyaan penelitian yang akan dijawab dalam penelitian ini.
 4. Apa pentingnya ini ditulis?
- Sejauh yang saya baca, pendahuluan yang anda tulis belum signifikan mengantarkan anda untuk menulis tema ini, jadi diperbaiki lagi.

Marriage of different religions has been described in the Qur'an. This is at least evident from some of the terms used in the Qur'an such as kafir, mushrik, *ahl al-kitab*, majusi, shabi'i and others. The debate of scholars around marriage of different religions is related to these terms. This is seen from the determination of who is categorized into the *ahl al-kitab*, mushrik, majusi and so on. This difference in interpretation occurs because the Qur'an itself does not explain in detail about the terms kafir, mushrik, *ahl al-kitab* or others. Likewise, the atsar of the companions are less clear about this problem.

Methods

In this study, the author used a qualitative research method by conducting a library review (library research) by collecting literature related to research. Article data in the form of verbal descriptions and explanations collected by means of document collection techniques sourced from libraries. The form of data is contained in published scientific articles and in books that are relevant to the theme and topic of discussion in this article. Furthermore, conducting an explanation with a descriptive analysis method with a qualitative approach (grounded theory).

Results and Discussions

a. Definition of Marriage

Various opinions expressed by legal experts on the notion of marriage, but all these notions basically contain the same essence even though the redaction is different. This difference does not indicate any contradiction of the meaning contained in the **marriage**.

In Law No. 1 of 1974 article 1 it is said that marriage is a bond of birth and mind between a man and a woman as a husband and wife with the aim of forming a happy and eternal family based on the supreme divinity. Furthermore, in article 2 paragraph (1) it is mentioned that marriage is legal if it is carried out according to the law of each religion and its beliefs.¹

In the Encyclopedia of Islamic Law mentioned that marriage is one of the efforts to channel the sexual instincts of the husband and wife in a household as well as a means to produce offspring that can ensure the continuity of human existence on earth.² While according to Presidential Instruction No. 1 of 1991 on compilation of Islamic Law article 2

¹M. Amin Suma, *Himpunan Undang-Undang Perdata Islam dan Peraturan Pelaksanaan Lainnya Di Negara Hukum Indonesia*, (Jakarta: Rajawali Pers. 2008), 569.

²Tim Penulis, *Ensiklopedi Hukum Islam* (Jakarta: Ichtiar Baru Van Hoeve, 1997), 13-29.

Comment [BB3]: Result itu adalah data-data yang menunjukkan telah terjadinya perkawinan beda agama pada masyarakat muslim, atau data-data perbedaan pendapat ulama. Itu yang kemudian didiskusikan. Adapun definisi perkawinan atau perkawinan beda agama ada judul tersendiri, yaitu literatur review.

Atau buat seperti ini:

Pendahuluan

Method

Larangan Pernikahan Beda Agama

dalam Al_Quran dan Sunnah

Larangan Pernikahan Beda Agama

dalam perundang-undangan di

Indonesia

Pemikiran ulama terhadap Larangan

Pernikahan Beda Agama

Implementasi pemikiran ulama

terhadap larangan pernikahan beda

agama di Indonesia

Kesimpulan

Mgkn seperti ini lebih Nampak apa yang akan anda tuju..

Comment [BB4]: Usahakan membuat paragraph itu minimal 10 baris, bukan 3 baris..

that marriage is a marriage that is a very strong contract or *mīthāqan ghalīdhan* to obey Allah's commandments and carry it out is worship.³

b. Interfaith Marriage in an Islamic Perspective

Interfaith marriage is a marriage between religions that is a marriage performed by a man or a woman who is Muslim with a woman or a man who is non-Muslim. Interfaith marriage here can occur in two categories, namely (1) prospective wives with Islam while prospective husbands do not have Islam, both *ahl al-kitab* and mushrik, and (2) prospective husbands are Muslim while prospective wives are not Muslim, either *ahl al-kitab* or mushrik.

The problem of marriage of different religions is in many cases in the community still appears such great resistance. This is because in some verses it literally prohibits and prohibits interfaith marriage, which is why exclusive groups prohibit and prohibit interfaith marriage. In addition, marriage of different religions becomes complicated because the Qur'an and hadith itself do not explain clearly who and what is meant by *ahl al-kitab* and mushrik and what the difference between the two terms and the others.

Regarding the law of marriage of different religions on the one hand prohibits and prohibits it but there are several categories that must be considered. There are several legal issues related to marriage of different religions, broadly speaking, this religious marriage includes three categories, namely:

1. Marriage of Muslim women to non-Muslim men

The scholars agreed to state that muslim women are haram marrying non-Muslim men both he mushrik or *ahl al-kitab*. Their opinion is based on the word of Allah in surah al-Mumtahanah verse 10. This verse became the basis for jumhur ulama to prohibit Muslim women from marrying non-Muslim men. The consideration of this provision is because in the hands of her husband the power over the wife and the wife must obey the husband to his good orders. Therefore, an infidel husband does not want to know about the religion of his Muslim wife.⁴

Yusuf al-Qardhawi stated that it is forbidden for Muslim women to marry non-Muslim men be it *ahl al-kitab* or something else. Whatever the reason it is, it is not permissible as God says in QS. Al-Baqarah verses 221 and QS. Al-Mumtahanah verse 10. Therefore, this haram

³M. Amin Suma, *Himpunan Undang-Undang Perdata Islam dan Peraturan Pelaksanaan Lainnya Di Negara Hukum Indonesia*, (Jakarta: Rajawali Pers. 2008), 569.

⁴Sayyid Sabiq, *Fiqh Sunnah Jilid II* (Qahirah: al-Fath Li al-A'lam al-Araby, n.d.), 70.

law has become the agreement of the scholars.⁵ This is corroborated by the narration of ibn Hajar ibn Jabir, he said, The Prophet (peace be upon him) said: marry women *ahl al-kitab* and do not marry our women (Muslim women)". Narrated Abdur Razak and Ibn Jarir of Umar bin Khathab, he said: Muslims can marry Christians and Christians are forbidden to marry Muslim women."⁶

Thus it is clear that there is no reason and the slightest opportunity for Muslim women to marry non-Muslim men either *ahl al-kitab* or not. This is an absolute provision and becomes the agreement of jumhur ulama.

2. Muslim marriage with mushrik

Mushrik is languagely derived from the word *sharika-yashraku-shirkatan* means to make allies.. In Islam the law of marrying a woman is haram based on QS. Al-Baqarah verse 221. This is reinforced by the explanation of QS. Al-Mumtahanah verse 10. The context of the verse in surah al-Mumtahanah verse 10 as a whole and asbab an-nuzulnya shows that what is meant by *al-kawāfir* (kafir women) is *al-mushrikat* (mushrik women) namely *al-wathaniyyat* (idol worshipping woman). According to ibn Rushd the prohibition of marrying kafir women is appointed with *nash* and *ijma'* because the scholars have agreed on the prohibition of the ban.⁷

Muhammad Abduh in the book of tafsir written by his disciple Muhammad Rashid Ridha stated that most argue that what is meant by mushrikat is an Arab deliberative woman who does not have a holy book because this is the title of mushrik introduced to the Qur'an in surah al-Baqarah verse 105 and surah al-Bayyinah verse 1. These two verses are in accordance with the word of Allah in the explanation of the woman who is lawfully married in suarah al-Maidah verse 5.⁸

But if analyzed muhammad Abduh's opinion is not appropriate because Allah sent down the Qur'an for all mankind and became a guide throughout the ages. So it is impossible that the title of mushrik is only devoted to Arabs only.

3. Muslim Marriage with *Ahl al-kitab*

The marriage of a Muslim man to a woman *ahl al-kitab* is something that is permissible in Islam. But although it is permissible for scholars to differ views on the law of the ability to

⁵Yusuf al-Qardhawi, *Halal-Haram Dalam Islam*, Translated by dkk Wahid Ahmadi (Surakarta: Era Intermedia, 2007), 263.

⁶Muhammad ibn Ali ibn Muhammad asy-Syaukani, *Fath al-Qadir Juz II* (Beirut: Daar al-Ma'rifah, n.d.), 22.

⁷Ibn Rusyd, *Bidayah al-Mujtahid wa Nihayah al-Muqtasid, Jilid II* (Beirut: Daar al-Fikr, 2008), 36.

⁸Muhammad Rasyid Ridha, *Tafsir al-Qur'an al-Hakim (Tafsir al-Manar)* (Beirut: Daar al-Fikr, n.d.), 349.

marry women *ahl al-kitab* and also differences in determining who is categorized as *ahl al-kitab*. This can be seen more clearly from some of the following discussions:

a. Opinion of Commentators on *Ahl al-kitab*

Ahl al-kitab according to language comes from the word *ahila-ya'halu-ahlan*. *Al-ahl* means family, family, relatives. In its usage as *Ahl ar-rajul* means his wife, *ahl al-dar* means villagers, *ahl al-'amr* means government, *ahl al-madhab* means people who are religious with scholars.⁹

Based on this explanation, the word *ahl* if connected with the *al-kitab* seems to be in accordance with the meaning of language is people who are religious according to the *al-kitab*. By other words they are the followers of the *al-kitab*. In the Qur'an the Muslims are excluded from the term *ahl al-kitab* although the Muslims also adhere to the Qur'an. The lexical mention of *ahl al-kitab* in his Qur'an refers to Jews and Christianity does not include anything other than both. It is evident that all the verses of the Qur'an containing the *ahl al-kitab* show the two groups. This we can know from the interpretation of the exegesis of these verses also in terms of their *asbab an-nuzul*.

Even in the time of the Prophet and companions the term *ahl al-kitab* was also always intended for Jews and Christians. Apart from these two communities it is not called *ahl al-kitab*. But in the future some scholars extend the meaning of *ahl al-kitab* to other than Jews and Christians even more narrow it. This is due to differences in the opinion of scholars about the interpretation of the term *ahl al-kitab*. Imam at-Thabari when interpreting Ali-Imran verse 64 states that *ahl al-kitab* is general to cover all followers of the Torah and followers of the Gospels. It is well known that what is meant by *ahl al-kitab* is the two groups all.¹⁰ (at-Thabari n.d.)

Likewise Imam Ibn Kathir in his book "Tafsir al-Qur'an al-'Adhim" explained that the appeal of *ahl al-kitab* is general covering all *ahl al-kitab* among Jews and Christians and anyone who is guided by their *kitab*. This means that anyone who adheres to Judaism or Christianity is either a descendant of the Children of Israel or not part of the *ahl al-kitab*. (Katsir t.th). While M. Quraish Shihab one of the contemporary scholars in Indonesia is more likely to understand the understanding of *ahl al-kitab* covering all adherents of Judaism and Christianity without limiting its origin, time and descendants.¹¹ (Shihab 1996). So ath-

⁹A. W. Munawir, *Kamus al-Munawir* (Surabaya: Pustaka Progressif, 1996), 46.

¹⁰Abu Ja'far Muhammad ibn Jarir at-Thabari, *Tafsir ath-Thabari* (Beirut: Daar al-Fikr, n.d.), 303.

¹¹M. Quraish Shihab, *Wawasan al-Qur'an* (Bandung: Mizan, 1996), 368.

Thabari, Ibn Kathir and M. Quraish Shihab share the view that all adherents of Judaism and Christianity can be classified into *ahl al-kitab* without exception.

Wahbah az-Zuhaily further stated in his book "Tafsir al-Munir" states that it is prevented to marry a woman of believer and the bookiyyah is free from among Jews and Christians both *dzimmi* and *harbi* if given to them his dowry.¹² Al-Jassas revealed that the meaning of *ahl al-kitab* contains two meanings, namely the first; lafaz *ahl al-kitab* refers to two groups, Jews and Christians, not Muslims and not other adherents. None of the Muslims are called *ahl al-kitab* as they are also not called Jews or Christians. Second; Muhshan women from *kitabiyah* who have not yet converted to Islam.¹³ Although Wahbah az-Zuhaily and Al-Jassas explained more about some of the requirements, they still agreed that there are no restrictions on Jews and Christians who are categorized as *ahl al-kitab*.

While some specialize in *dzimmi* only. It is as stated by ibn Abbas that among the women of the Book there are those who are halal married and some are not halal. He read verse 29. *Ahl al-kitab* who wants to pay *jizyah*, then the woman is halal married while the one who does not want to pay *jizyah* is not halal married.¹⁴ Even some contemporary scholars there are more widely expanded the scope of the meaning of the *al-kitab* so that it also includes Buddhists and Hindus. In this opinion, women from Buddhism and Hinduism can also be married.¹⁵

There are also some Muslims who think that today *ahl al-kitab* no longer exists. This is in the sense that Jews and Christians are now not *ahl al-kitab*. They argue that the *ahl al-kitab* are Jews and Christians who practice the true teachings of the Torah and the Gospel. This is as Abdullah ibn Umar expressly forbids the marriage of a Muslim with *ahl al-kitab*. Abdullah ibn Umar stated that there is no greater falsehood than the belief of a person who says that his God is Jesus or one of Allah's creatures.¹⁶

Abdullah ibn Umar's opinion seemed inaccurate. This is because the deviation of Jews and Christians actually also occurred while the Prophet was still alive. Even long before the Prophet was appointed as Messenger, this deviation had occurred. The Qur'an clearly states that Christians at that time had believed in the idea of the trinity, believed that the Son of Mary was Allah, believed that the Qur'an was the son of Allah, fulfilled Allah by making monks and their great men god besides Allah. The Jews believed that Uzair was the son of

¹²Wahbah az-Zuhaily, *Tafsir al-Munir* (Beirut: Daar al-Fikr al-Mu'ashir, 1991), 95.

¹³Abu Bakar Amad bin Ali al-Razi al-Jassas, *Ahkam al-Qur'an Juz II* (Beirut: Daar al-Kutub al-Ilmiah, n.d.), 410.

¹⁴Muhammad Fakhruddin ar-Razi, *Tafsir Mafatih al-Ghaib* (Beirut: Daar al-Fikr, 1995), 117.

¹⁵Shihab, *Wawasan...*, 367.

¹⁶ar-Razi, *Tafsir Mafatih...*, 116.

God, covering up the truth by falsifying the contents of the Torah and many other irregularities. This is as explained in the Qur'an surah al-Maidah verses 17 and 73 and surah at-Taubah verse 30.

Meanwhile, if you look at some reasons that strengthen the may of a Muslim with a woman *ahl al-kitab*, namely:

- a. That word mushrikat on QS. Al-Baqarah verse 105 does not include *ahl al-kitab*. In this verse it is clearly distinguished between *ahl al-kitab* and the kafirs, as well as in Surah al-Bayinah verse 1. It is said that wawu athaf shows the difference (*al-Mughayarah*). So it is clear that the *al-kitab* is not a kafir;
- b. Surah al-Maidah verse 5 and al-Baqarah verse 221 are general in nature and there is no proposition that specializes in the Children of Israel only or for Arab women only;
- c. Surah al-Maidah verse 5 is the takhsish (specificity) of surah al-Baqarah verse 221 because Allah justifies marrying a woman *ahl al-kitab* but on the other hand Allah also explains about their self-sufficiency and unbelief as in surah al-Maidah verses 72-73 and surah at-Taubah verse 30. So when the surah was revealed Judaism and Christianity had indeed experienced deviations;
- d. In the hadith of Abu Sufyan narrated by Bukhari and Muslim, the Prophet sent a letter to Hiraql (Heraclius) the ruler of Roman Rum to invite him and his people to embrace Islam with the 64th verse of Surah Ali Imran. So the Prophet classified Hiraql and his people as *ahl al-kitab* even though he and his people were not from the children of Israel and they converted to Christianity after experiencing deviations.¹⁷

As for among the wisdom allowed married *ahl al-kitab* of the scholars due at the beginning and the Jewish religion, according to nasrani that's a clumps with Islam. So, if a woman *ahl al-kitab* marries a muslim man who is obedient and strong in her faith, it is expected to change that woman to embrace Islam.¹⁸ According to Quraish Shihab, the Qur'an does allow the marriage of Muslims to women *ahl al-kitab*, but this ability is only a desperate way when Muslims often travel far to jihad without returning to their families and also as a means to preach.¹⁹

Although marriage between a Muslim man and a woman is permissible, Allah strongly affirms that marriage with a mu'min is more important even if he is a servant as stated in Surah al-Baqarah verse 221. This affirmation in verse 221 contains no other interpretation

¹⁷Ibn Hajar al-Ashqalani, *Fath al-Baari Syarah Shahih al-Bukhari* (Jakarta: Pustaka Azam, 2007), 230-231.

¹⁸Setiawan Budi Utomo, *Fiqih Aktual* (Jakarta: Gema Insani Press, 2003), 261.

¹⁹Shihab, *Tafsir al-Misbah...*

except that what should take precedence in marriage is the commonality of the creed. Because of the similarity of the creed will easily determine the similarity of purpose as well as similarity in the view of life. Only then will efforts to help each other in obeying Allah to be created well.

b. Opinion of the Fuqaha (Jurist) Regarding *Ahl al-kitab*

Islam distinguishes between marrying *ahl al-kitab* and marrying a polytheists in terms of its laws. Jumhur ulama agreed to state that the marriage law between Muslim women and men *ahl al-kitab* or mushrik men is haram. However, if the marriage is carried out between Muslim men and non-Muslim women both *ahl al-kitab* and mushrik scholars differ on determining who is categorized into groups of *ahl al-kitab* or mushrik.

The fuqaha although in principle have the same view as other scholars about the ability to marry a woman *ahl al-kitab*, but there is also a difference of opinion among the fuqaha about the determination of people categorized as *ahl al-kitab*. More clearly the difference is seen from the following opinions:

a) Madhhab Hanafi

Imam Abu Hanifah argued that marriage between a Muslim man and a woman of his law was absolutely haram but allowed to marry a woman *ahl al-kitab* (Jewish and Christian). According to the madhhab Abu Hanifah marrying women *ahl al-kitab dhimmi* or *harbi* allowed. It's just that according to madhhab Abu Hanifah married a woman *kitabiyah* in *darul harbi* his law *makhrugh tahrim* because it will open the door of slander and contain a large *mafsadah*. While marrying a woman *ahl al-kitab dhimmi* the law is *makhrugh tanzih*.²⁰

According to the Hanafi madhhab it is permissible to marry Jewish and Christian women even though they believe in the teachings of the trinity because according to the Hanafi madhhab the most important thing is that the book has a pseudonyte. According to the Hanafi madhhab which is meant by *ahl al-kitab* is anyone who believes in a Prophet and a book that Allah has sent down including those who believe in Prophet Ibrahim (as) and his *shuhuf* and who trust the Prophet Moses (as) and his kitab, then his woman can be married.²¹

b) Madhhab Maliki

The law of marriage of different religions in the Maliki madhhab has two opinions, namely the first; Married to a woman *kitabiyah* the law is absolute *makhrugh* both *dhimmi* and *harbi*. But the spirit of marrying a woman *kitabiyah harbi* is greater. But if it is feared that the

²⁰Abdurrahman al-Jaziry, *Kitab al-Fiqh 'ala Madzahib al-'Arba'ah, Juz IV* (Beirut: Daar al-Kutub al-Ilmiah, 1991), 73.

²¹Sabiq, *Fiqh Sunnah*..., 69.

wife who is kitabiyah will affect her children and leave her father's religion then the law is haram. Second; Some argue that marrying a woman kitabiyah hukumya is not an absolute makruh because the Qur'anic verse does not prohibit absolutely.²² The methodology used by the Maliki madhhab in this problem uses the *sadd adh-dhari'ah* approach.²³

c) Madhhab Shafi'i

In the madhhab Shafi'i was allowed to marry a free woman from the *ahl al-kitab*. The women who belong to the madhhab Shafi'i are Jewish and Christian women of the children of Israel and do not belong to any other nation even Jews and Christians. The reason stated by shafi'i madhhab is that Moses and Jesus were only sent to the israelites not for others and the lafdz "min qablikum" in Surah al-Maidah verse 5 shows the Jews and Christians of the Children of Israel.²⁴ According to this madhhab who fall into the category of Jews and Christians are women who adhere to the religion since the Prophet Muhammad has not been sent as an Apostle. Strictly speaking, those who converted to Judaism and Christianity after the Qur'an was revealed do not fall into the category of *ahl al-kitab* because it does not correspond to the sound of the verse "min qablikum".

Furthermore al-Mawardi divided the *ahl al-kitab* into four groups, namely the *First*, the group of the Children of Israel who had embraced Judaism when the religion was pure. *Second*, Those who were not from the Children of Israel but had converted to Judaism or Christianity before the religion was perverted, they were recognized as *ahl al-kitab*. *Third*, Those who are not from the Children of Israel who converted to Judaism or Christianity after the religion was perverted, then they are not considered as *ahl al-kitab* but classified as idolakers because they follow the religion that has been perverted. *Fourth*, Those who are not known whether their ancestors converted to Judaism and Christianity after the religion was perverted, then they are considered idolakers and should not be married. So the third and fourth categories in shafi'i madhhab are not considered *ahl al-kitab* and are forbidden to be married by Muslim men.²⁵

d) Madhhab Hanbali

In the Hanbali madhhab it is argued that it is permissible to marry *ahl al-kitab* among Jews and Christians and forbidden to marry a kafir woman. This group in terms of marriage of different religions supports many opinions of Imam Shafi'i. But in the Hanbali madhhab

²² Abdul Hafidz Farghali, and Hamzah al-Nasyraty, *Silsilah al-Fiqh al-Islami 'ala Madzahib al-Arba'ah*, Juz V (Qahirah: Maktabah al-Qaimah, n.d.), 247-248

²³ Amir Syarifuddin, *Ushul Fiqh* (Jakarta: Kencana, 2012), 399-400.

²⁴ az-Zuhaili, *al-Fiqh al-Islami...*,

²⁵ Alyasa Abu Bakar, *Perkawinan Muslim Dengan Non Muslim* (Aceh: Dinas Syariat Islam NAD, 2008), 71-72.

does not limit the *ahl al-kitab* only Jews and Christians from among the Children of Israel only. According to them, anyone who converted to Judaism and Christianity before the Prophet Muhammad was sent as an Apostle, then belongs to the *ahl al-kitab*.

Although the majority of scholars allow Muslim men to marry *ahl al-kitab*, the scholars express their concerns. This looks like it was developed by some of the scholars. Just as Sayyid Sabiq stated that marrying *ahl al-kitab* is permissible but considered *makruh*. This is due to the insecurity of religious disturbances for her husband. If the woman of the book is from among those who are hostile to us, then more evil law because this will multiply those who are hostile to the Muslims. Even some scholars consider it haram to marry a woman *ahl al-kitab* who is hostile to Muslims. Ibn Abbas was once asked about this matter, then he answered the law is not lawful by reciting surah at-taubah verse 29.²⁶

Yusuf al-Qardhawi argued that the ability to marry a woman *ahl al-kitab* is not an absolute thing but is bound by several requirements that must be considered, namely:

- 1) The woman of *kitabiyah* must strictly adhere to the teachings of the pseudonyte in the sense that she believes in Allah, Rasulullah and the last day.
- 2) The woman of the *kitabiyah* must *mukhṣanat* (preserve her honor from adultery). This is because Allah does not allow carelessly marrying *ahl al-kitab* as stated in the verse that explains the law of marrying *ahl al-kitab*.
- 3) It is not the woman of *kitabiyah* whose people are hostile to Islam. In this regard the scholars distinguish the women of *kitabiyah dhimmi* with *harbi*.
- 4) Marriage with the *ahl al-kitab* should not cause slander or *mudharat* that is strongly suspected to occur. Because the use of the law is all required in the absence of *mudharat*, the impossibility caused such as the development of the habit of marrying women *ahl al-kitab* while Muslim women who deserve marriage are sidelined, it is feared that Muslim men behave carelessly about the conditions of *ihshan* (maintaining honor). If in its implementation it looks to cause *mudharat* for the public, then this is forbidden in general. If *mudharat* is caused specifically for certain conditions, then this is also forbidden to certain people and conditions. The greater the *mudharat*, the greater the ban.²⁷

Seeing the opinion of Yusuf al-Qardhawi above it seems that in this case Yusuf al-Qardhawi more see the side of the benefits and the possibility of marrying *ahl al-kitab* for Muslims. So in this case Yusuf al-Qardhawi declared it illegal to marry *ahl al-kitab* if

²⁶Sabiq, *Fiqh Sunnah...*, 67.

²⁷Yusuf al-Qardhawi, *Fatwa-Fatwa Kontemporer, Jilid I* (Jakarta: Gema Insani Press, 2001), 587-592.

bringing the impediction. This prohibition is considered a benefit for muslims. However, Yusuf al-Qardhawi remained guided by the basic principle that the marriage of a Muslim man to a woman *ahl al-kitab* is permissible. As for his opinion on the prohibition of marrying a woman *ahl al-kitab* is conditional.

Regarding the prohibition of marrying *ahl al-kitab* based on the welfare and condition this had occurred during the time of Umar ibn Khathab. Umar once told his friend Hudzaifah to divorce his Jewish wife. Hudzaifah asked Umar if Umar saw such marriages as haram. Umar stated that he was worried that what Hudzaifah did would be followed by other Muslims and they would rather marry a woman *ahl al-kitab* than a Muslim woman. This according to Umar will cause slander among Muslim women.²⁸

But on the other hand the group calling itself inclusive-pluralists holds the opposite view that each religion has its own way of salvation, has its own concept of divinity, teaches goodness, so it cannot be said which religion is true and which religion is false. Regarding marriage of different religions according to them is something that is allowed based on sura al-Maidah verse 5. According to them this verse is a madaniyyah verse after the verse that forbids marriage with a woman of idolaa so that they believe. This verse can be said to be a verse of the revolution because it explicitly answers some doubts of the Muslim community at that time. In the previously revealed verse, surah al-Baqarah verse 221 uses the term mushrik which can be interpreted for all Muslim nos. But surah al-Maidah verse 5 is beginning to open up space for Muslim men to marry women *ahl al-kitab*. So according to this group surah al-maidah verse 5 is nasikh and takhsis for surah al-Baqarah verse 221.²⁹

c. Different Terms Kafir, Mushrik, *Ahl al-kitab* and *Ṣabi'ah*

In the Qur'an there are several verses that mention the words kafir, mushrik, *ahl al-kitab* and others separately using the letters waw athaf. This shows that these words have different meanings. The term kafir contains a fairly broad meaning under which there are more specific terms and the meaning differs from one to another. If Allah mentions in the Qur'an the term kafir mushrik, then the meaning must be different from the word *ahl al-kitab*. If it is only mentioned the word kafir, then the meaning needs to be understood that the word refers to one of the types of disbelief that exist.³⁰

²⁸Abdul Salam Arief, *Pembaharuan Pemikiran Hukum Islam Antara Fakta dan Realita* (Yogyakarta: LESFI, 2003), 124.

²⁹Nurcholish Madjid, Kautsar Azhari Noer, Komarudin Hidayat, Masdar F. Mas'udi, Zainun Kamal, Zuhairi Misrawi, Budhy Munawar-Rachman, Ahmad Gaus AF, and Mun'im A. Sirry, *Fiqih Lintas Agama: Membangun Masyarakat Inklusif-Pluralis* (Jakarta: Paramadina, 2004), 162.

³⁰Madjid, *Fiqih Lintas...*, 157.

Nurchalis Majid stated that the meaning of the word *mushrik* not only means to associate with Allah but also means not trusting any of the books of the pseudonymous religion and not trusting a prophet. The *ahl al-kitab* is a person who trusts one of the prophets of the prophets and believes in one of the pseudodi books even though there have been deviations in the case of creed or practice.³¹

There are at least some main things that reinforce that the kafirs are infidels and their position is lower than the *ahl al-kitab*, namely:

1. They never want to accept that God is only one that is Allah. Although they know and acknowledge that Allah exists, their divine concept recognizes the existence of a God other than Allah who is an idol, wood, stone or supernatural power.
2. They did not acknowledge the prophethood of Muhammad and all the prophets whom Allah sent to the face of the earth because they rejected the concept of prophethood. In reality they are always hostile to the Prophet (saw) with ridicule, persecution and so on. While Jews and Christians although they do not recognize the prophethood of Muhammad (saw), they still believe in the concept of prophethood. They recognized the prophethood of the earlier prophets and Apostles, although some of them also fought their prophets and apostles.
3. They also do not recognize the existence of the Qur'anic verse as a revelation that came down from heaven because they did deny the holy book of the heavenly religion. Jews and Christians do not accept the Qur'an, but they acknowledge the Torah, Zabur and the Gospels and the books that descended on the prophets before. Although not a few of them who turn back the contents.
4. The *mushrik* also do not acknowledge the existence of holy angels as noble servants of Allah. Jews and Christians are well acquainted with the concept of angels, although many of them have appointed him as the son of Allah's daughter.
5. They deny the existence of life after death and do not accept that the dead will be resurrected. Jews and Christians still recognize life after death and believe that the dead will be resurrected to be put into heaven or hell.
6. Even the worst of them deny the punishment of the grave and never believe in the Day of Resurrection. Heaven with all its pleasures and hell with all its forms of torment they never acknowledged its existence. Jews and Christians strongly acknowledge the existence of paradise and hell, even the term they use is much similar to the term in the

³¹Madjid, *Fiqih Lintas...*, 159.

Qur'an. In the Qur'an it is often referred to as *Jannatu adnin* while in Jewish and Christian terms it is called the Garden of *Eden*.

7. The joy of the companions with the news of the Roman victory over persia. This is because the Roman army was a convert as a religion of Islam which is both religions descended from heaven. While the Persian army was the kafirists mushrikin worshippers of fire. Their religion is the result of the artificial and the human mind. So it is natural that the companions feel happy about the victory of Rome.³²

As for the problem of the Majusi and others whether classified to *ahl al-kitab* or mushrik, the scholars differ in this regard. Yusuf al-Qardhawi stated that atheist women are more worthy of being forbidden to marry. This is because the woman who confesses the existence of Allah even though they conform with god and other gods are forbidden to marry, then it is forbidden to marry an unbeliever woman who does not believe in anything outside of nature, does not believe in Allah, the last day, the holy book and the prophets. Marrying an atheist woman is undoubtedly illegal and even conclusively void.³³ Yusuf al-Qardhawi further stated that marrying a *Baha'iyah* woman was void. This is because the woman has abandoned a straight religion and embraced a man-made religion. So he was convinced that he had apostatized. This prohibition is as described in Surah Ali Imran verse 85.³⁴

As for the term *Şabi'ah*, ibn Hammam stated that the *şabi'ah* is a group that combines Judaism and Christianity. Ibn Qudamah said that the scholars differed on the meaning of the *şabi'ah*, according to the narration of Ahmad bin Hanbal that they were Christians. While shafi'i imams take the middle ground that if their beliefs are closer to one of the Jews or Christians, then they belong to that religion. But if their teachings are different from those of Jews and Christians, then they are not the book.³⁵

Hanafiah argues that the *şabi'iy* has scriptures but is no longer original because it has been perverted. Hanafiah likened them to Jews and Christians. Based on these reasons, the Hanafiah allowed the marriage of the *Şabi'ah* woman as described in Surah al-Maidah verse 5. Likewise, everyone who embraces the religion of the heavens and has scriptures such as *şahifah* Ibrahim and others, it is lawful to marry them and eat their slaughter as long as they

³² M. Ali Hasan, *Masail Fiqhiyyah al-Haditsah Pada masalah-Masalah Kontemporer Hukum Islam* (Jakarta: Raja Grafindo Persada, 1998), 9-10.

³³ Al-Qardhawi, *Fatwa-Fatwa...*, 581-582.

³⁴ Al-Qardhawi, *Fatwa-Fatwa...*, 584.

³⁵ Hasan, *Masail Fiqhiyyah...*, 10.

do not shirk. Hanafiah's opinion is similar to the opinion of some Hanbali in terms of believing in one of the pseudo-religious books.³⁶

Conclusion

Based on the above explanation it appears that the scholars have a sharp paradigm of thinking towards marriage of different religions. The difference is not only focused on the issue of marriage law of different religions but also there is a difference in the paradigm of thought on determining who is categorized as *ahl al-kitab*. Differences of opinion also occur in interpreting the terms kafir, *mushrik*, and *shabiyyah*. Even some scholars make the element of mashlahat as a basis for consideration in the issue of marriage of different religions.

This paradigm difference clearly has enormous implications for the essence of marriage of different religions. Thus it appears that marriage of different religions is not something that has been final in the treasures of Islamic thought, but continues to be a debate in the treasures of thought as the times change.

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Penulisan harus pakai Zotero atau Mendeley, tidak manual seperti ini..

³⁶Sabiq, *Fiqh Sunnah*..., 69.

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