

# THE CONCEPT OF MARRIAGE FROM THE HASBI ASH-SHIDDIEQY PERSPECTIVE : An Approach *Maqasidi* On Verses of Polygamy and Inter-religious Marriage *Tafsir An-Nuur*

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**Abstract:** Marriage is sunnatullah and maintains the continuity of mankind on the values of obedience to Allah. On this basis, the scholars then put restrictions, even prohibiting polygamy and interfaith marriage because it is believed that there are mafsadah that can interfere with the achievement of the purpose of marriage. This study wants to see Hasbi Ash-Shiddieqy's view through his work *Tafsir An-Nuur* regarding the prohibition of polygamy and the permissibility of marrying non-Muslim women, such as Jews, Christians, Hindus, Buddhists and others. By using the interpretive analytical descriptive method, the researcher concludes that Hasbi Ash-Shiddieqy prohibits polygamy because of the perceived inability of a husband to implement the meaning of fairness. According to him, fairness in surah al-Nisa' 3 and 129 includes material and spiritual fairness. Likewise, with the prohibition of marrying polytheist women, he believes that the mafsadat that will arise is greater, namely apostasy and disbelief. However, he allows kitabiyat marriage absolutely. Included in the category of kitabiyat according to him are Hindu women, Buddhists and the like.

**Abstrak:** Pernikahan adalah sunnatullah serta menjaga keberlangsungan umat manusia atas nilai-nilai ketaatan kepada Allah. Atas dasar ini para ulama kemudian memberi batasan, bahkan melarang poligami dan nikah beda agama karena diyakini adanya mafsadah yang dapat mengganggu tercapainya tujuan pernikahan. Kajian ini ingin melihat pandangan Hasbi Ash-Shiddieqy melalui karyanya *Tafsir An-Nuur* terkait larangan poligami dan kebolehan menikahi perempuan non-muslim, seperti perempuan Yahudi, Nasrani, Hindu, Budha dan lainnya. Dengan menggunakan metode deskriptif analitis interpretif, peneliti menyimpulkan bahwa Hasbi Ash-Shiddieqy melarang poligami karena anggapan ketidakmampuan seorang suami mengimplementasikan makna adil. Menurutnya, adil dalam surah al-Nisa' 3 dan 129 mencakup adil materi dan ruhi. Begitu juga halnya dengan larangan menikahi perempuan musyrikat, ia meyakini mafsadat yang akan muncul lebih besar, yaitu kemurtadan dan kekafiran. Namun ia membolehkan nikah kitabiyat secara mutlak. Masuk dalam kategori kitabiyat menurutnya perempuan Hindu, Budha dan sejenisnya.

**Key words:** Interfaith marriage, polygamy, Hasbi Al-Shidiqy, and Modernist Islam

## Introduction

One of the primary objectives of religious teachings (*Maqasid Daruriyah*) is to safeguard the well-being and honor of future generations. Islam promotes the institution of marriage and provides several advantages in this regard. By formalizing marriages through legal means, it aims to foster a prosperous society, recognizing that the earth serves as the very foundation for human existence in this vast universe. Allah said, “*He has created you from the earth (soil) and made you prosperous therein*”, (Hud: 61)<sup>1</sup>. This illustrates the reasoning behind the practice of marriage in Islam, which not only allows Muslims to wed but also enhances the institution of marriage to attain both immediate and long-lasting prosperity.<sup>2</sup>

This reasoning also leads to the understanding that marriage laws can vary based on the unique circumstances of individuals. Depending on a person’s specific situation, marriage may be considered permissible, preferred, obligatory or even discouraged and prohibited. If a marriage does not bring prosperity to the couple and instead causes harm or loss, it is deemed forbidden (*mafsadah*).<sup>3</sup> This has led scholars to forbid the practice of polygamy, as it is believed to create issues and conflicts within marriages between multiple wives and their children<sup>4</sup>. Actually, based on the opinions of certain experts, polygamy is considered acceptable only in exceptional circumstances where there is a sincere commitment to treating each wife equitably<sup>5</sup>. In Indonesia, people can find this description in *Tafsir An Nuur*, written by Teungku Muhammad Hasbi Ash Shiddieqy. It serves as a source of information on the subject.<sup>6</sup>

Hasbi’s viewpoint aligns with the consensus among most scholars, who discourage polygamy unless the husband can ensure equitable treatment. The distinction lies in the initial polygamy regulations; scholars assert that it is permissible by law unless the husband is incapable of fair treatment<sup>7</sup>. In the meantime, Hasbi regarded polygamy as forbidden except when it is deemed necessary<sup>8</sup>. Applying the maqasid sharia framework, he argued that polygamy would primarily result in harm (*mafsadah*). Therefore, in his interpretation

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<sup>1</sup> Nuruddin bin Mukhtar al-Khadimi, *Knowledge of al-Maqasid al-Sharia*, (Riyadh: Maktabah al-‘Abikan, 2001), 83.

<sup>2</sup> “*And among the signs of His power is that He created for you wives of your own kind, so that you may be inclined and feel at ease with them, and He made love and affection between you*”, Look: Wahbah al-Zuhaili, *Tafsir al-Munir*, Vol. 11, (Damsyik: Dar al-Fikr, 2009), 80.

<sup>3</sup> Ali Abd al-‘Al al-Tahtawi, *Shariah Kitab al-Nikah*, (Beirut: Dar al-kutub al-‘Ilmiah, 2005), 28.

<sup>4</sup> Sumanto Al-Qurtuby, *Between Polygyny And Monogamy: Marriage In Saudi Arabia And Beyond*, *Al-Jami’ah: Journal Of Islamic Studies* 60, no. 1 (2022), 42 – 43.

<sup>5</sup> Sayyid Muhammad Rasyid Ridha, *Tafsir al-Manar*, (Mesir: Dar al-Manar, 1367 H), 349.

<sup>6</sup> Teungku Muhammad Hasbi Ash-Shiddieqy, *Tafsir An-Nuur*, Vol. 1, (Semarang: Rizki Putra Library, 2000), 781.

<sup>7</sup> Mustafa al-Siba’i, *Al-Mar-ah baina al-Fiqhi wa al-Qanun*, (Riyadh: Maktabah al-Warraq, 1999), 80.

<sup>8</sup> Teungku Muhammad Hasbi Ash-Shiddieqy, *Tafsir An-Nuur*, Vol. 1, 780.

of the conclusion of An-Nisa verse 3, he stressed that avoiding harm (mafsadah) takes precedence over seeking benefits (maslahah). According to him, this principle should serve as the foundation for crafting legislation and issuing legal judgments<sup>9</sup>.

Fascinatingly, in his discussions on polygamy, Hasbi was unequivocal about prioritizing the avoidance of harm (mafsadah) over seeking benefits (maslahah). However, he appeared somewhat less attentive to the topic of interfaith marriages<sup>10</sup>. Numerous scholars prohibited marriage to Christian and Jewish women, commonly referred to as “People of the Book” (kitabiyat), due to the perceived potential for harm (mafsadah) associated with such unions<sup>11</sup>. He indeed consented to this idea, even expanding the category of “People of the Book” (kitabiyat) to encompass individuals from Chinese, Hindu, and similar backgrounds. Despite his acknowledgment that marriage can profoundly influence one’s soul, he believed that it could lead to a lack of objectivity between spouses. Consequently, a husband might adopt his wife’s beliefs, and likewise, a wife might be influenced by her husband’s religious convictions<sup>12</sup>.

The information provided serves as a catalyst for the author’s deeper exploration into Hasbi’s perspectives on the aforementioned cases and the broader concept of marriage. At its core, the central question is how Hasbi interprets verses related to polygamy and interfaith marriages and what underlies his interpretations, which may appear contradictory on the surface. While he prohibits polygamy due to its potential for harm (mafsadah), he allows interfaith marriages without explicitly linking them to benefits (maslahah). This examination remains pertinent, despite addressing longstanding issues, because both polygamy and interfaith marriages are intricate challenges that extend beyond matters of interpretation. They involve legal, cultural, economic, psychological, and human rights dimensions, making them complex and multifaceted issues that warrant ongoing scrutiny<sup>13</sup>. Consequently, numerous prior investigations, scholarly papers, and an extensive body of literature have furnished substantial evidence to buttress the present research. A recent, pertinent study in this context is “Clarifying Certain Perceptions About Polygamy: Exegesis of Surah An-Nisa’ Verses 3 and 129.” Unlike this study, which does not center solely on the perspective and ideas of an individual concerning polygamy, it delves into various interpretation texts. Notably, it does not make any reference to the viewpoints or explanations found in Tafsir An-Nuur<sup>14</sup>.

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<sup>9</sup> Ibid, 781.

<sup>10</sup> Ibid, Vol. 2, 1038.

<sup>11</sup> See: KHI article 44, MUI fatwa no 4/MUNAS VII?MUI/8/2005, NU fatwa at the 28th Muktamar, in Jogjakarta, 22nd Fatwa Tarjih Muhammadiyah 1989 in Malang, all agreed not to marry non-Muslim women or People of the Book. See also the following fatwas: <https://www.islamweb.net/ar/fatwa/5315/>, <https://binbaz.org.sa/fatwas/19075/>, and <https://www.al-qaradawi.net/node/4073>

<sup>12</sup> Teungku Muhammad Hasbi Ash-Shiddieqy, *Tafsir An-Nuur*, Vol. 1, 373 – 374.

<sup>13</sup> Sulhi M. Daud, Muhammad Rapik & Yulia Monita, Raising the Legal Status of Religious Differences in the Perspective of Indonesian Jurisprudence, *Invite: Journal of Law* 5, no. 2 (2022), 358.

Another relevant article is “*Keadilan Berpoligami: Tinjauan Kritis Penafsiran M. Quraish Shihab Terhadap QS. An-Nisa’ 3*”. This research exclusively concentrates on the interpretation presented by Quraish Shihab. Concerning the legitimacy of polygamy, this paper categorizes Quraish Shihab alongside figures such as Muhammad Abduh, Sayyid Qutb, and Syahrur<sup>15</sup>. There exists a subtle link between Quraish Shihab and Hasbi Ash-Shiddieqy’s interpretations, as both advocate for a more restrictive approach to polygamy. However, they diverge notably in their perspectives on fairness. Quraish Shihab emphasizes material fairness, whereas Hasbi insists on a standard of fairness that encompasses both material and spiritual aspects.

Regarding interfaith marriages, a slightly relevant article is “*Pernikahan Beda Agama*” written by Zainal Arifin. The subject matter of this article doesn’t exclusively rely on direct references from the Qur’an. Instead, it incorporates key terms from the Qur’an related to interfaith marriage, like the concept of polytheists (*musyrikat*). Much like Hasbi As-Shiddieqy’s viewpoint, Zainal reaches a similar conclusion that women from Magi, Sabian, Hindu, Buddhist, Confucian, Shinto, and similar backgrounds are not classified as *musyrikat*; instead, they fall under the category of *kitabiyat* and can be married.<sup>16</sup>

## **Methodology**

This research is a library-based inquiry employing the descriptive-analytic-interpretive methodology. This approach is considered effective for delving deeper into Hasbi’s perspectives on polygamy and interfaith marriages, as well as his interpretations of Qur’anic verses, with the primary data source being *Tafsir An-Nuur*. To enhance the analytical rigor, the author leveraged a range of interpretation texts and numerous articles from reputable scholarly journals, in addition to relevant books, as secondary data. Hasbi was chosen as the focal figure due to his esteemed legal standing, and this aligns with the distinctive nature of his work, *Tafsir An-Nuur*, which offers a unique perspective on the Islamic jurisprudence (*fiqh*) related to ritual obligations in Indonesia. Hasbi’s strength lies in his ability to relate verse meanings to the Indonesian context. Another compelling reason is that Hasbi’s interpretations are marked by their freedom from adherence to specific Islamic schools (*mazhab*), allowing him to present diverse narratives and scholarly opinions that align with the verses he interprets<sup>17</sup>.

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<sup>14</sup> Muhammad Kasim Saguni dan Syandri, Meluruskan Beberapa Persepsi Tentang Poligami: Tafsir Surah An-Nisa’ Ayat 3 Dan 129, *Nukhbatul ‘Ulum: Jurnal Bidang Kajian Islam*, 4, No. 2 (2018), 171 – 172.

<sup>15</sup> Nawir HK, Aan Parhani, Muhammad Alwi HS, and Fahrudin, Polygamous Justice: A Critical Review of M. Quraish Shihab’s Interpretation of QS. An-Nisa’ 4, *Al-Izzah* 15, no. 2 (2020), 105.

<sup>16</sup> Zainal Arifin, Interfaith Marriage, *Al-Insyiroh* 2, no. 1 (2018), 178.

<sup>17</sup> Sudariyah, *Construction of Tafsir Al-Quranul Majid An-Nur, authentic* 3, no. 1 (2018), 105.

## Results and Discussion

### 1. Hasbi Ash-Shiddieqy and Method of Interpretation of Legal Verses

Hasbi Ash-Shiddieqy is recognized as a prominent figure in the reform of Indonesian Islamic jurisprudence, notably for his concept of “Indonesian Islamic jurisprudence” (fikih Indonesia)<sup>18</sup>. He was born in Lhokseumawe on March 10, 1904<sup>19</sup>, a year before the death of an Islamic reformer figure Muhammad Abduh who died on July 11, 1905<sup>20</sup>. Hasbi was born as the eldest offspring of Teungku Amrah, the daughter of Teungku Abdul Aziz, and Alhaj Teungku Muhammad Husen, the son of Muhammad Su’ud. His father held the title of Teungku Qadi Sri Maharaja Mangkubumi in Lhokseumawe, serving as a judge (Qadi). Hasbi adopted the surname Ash-Shiddieqy, and it is believed that his father, Teungku Muhammad Husen, traces his lineage back to Abu Bakar Shiddiq<sup>21</sup>. The role of Qadi was passed down to Hasbi from his father, who had previously held the same title, Sri Maharaja Mangkubumi. This position had also been held by Hasbi’s maternal grandfather, Abdul Aziz. Abdul Aziz hailed from the extensive “Teungku” family in Awe Geutah, a lineage known for producing numerous Muslim scholars<sup>22</sup>.

He commenced his education in 1912 at Teungku Syik’s Islamic boarding school in Piyeung. Subsequently, in 1918, he pursued a diploma and successfully finished his studies in Islamic jurisprudence (fiqh) and hadith after two years at Teungku Syik’s Islamic boarding school in Krueng Kale, Aceh, completing his studies in 1920<sup>23</sup>. Nonetheless, Hasbi was never content with his accomplishments during that period. From a young age, he had a passion for reading and remained devoted to his studies. His reading habit led him to discover a multitude of literary resources, including Arabic classics, modern Arabic works, and books in the Dutch language<sup>24</sup>.

Hasbi’s perspectives on Islam underwent a substantial transformation when he encountered Shaykh Muhammad bin Salim Al-Kalali, an Islamic Modernist residing in Lhokseumawe who passed away in 1946. During this period, Hasbi had the chance to gain extensive

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<sup>18</sup> Zulhamdi, Pembaharuan Hukum Islam di Indonesia dan Tokoh-Tokohnya, *Jurnal Ilmiah Islam Futura* 19, no. 2, (2019), 239 – 258.

<sup>19</sup> Nouruzzaman Shiddieqy, *Indonesian Fiqh: Initiators and Ideas*, (Yogyakarta: Student Library, 1997), 3.

<sup>20</sup> Muhammad ‘Imarah, *Al-Imam Muhammad Abduh: Mujaddid al-Dunya bitajaddud al-Din*, (Kairo: Dar al-Syuruq, 1988), 46.

<sup>21</sup> Nouruzzaman Shiddieqy, *Indonesian Fiqh*, 3.

<sup>22</sup> Ahmad Syadzali, *TM Hasbi Ash-Shiddieqy in the Conception of the Development of Islamic Law*, (Jakarta: Ministry of Religion RI, 1979), 10.

<sup>23</sup> Arivaie Rahman, Al-Fatihah in the Perspective of Mufassir Nusantara: A Comparative Study of Tafsir Al-Quran Al-Majid An-Nur and Tafsir Al-Azhar, *Journal Of Contemporary Islam And Muslim Societies* 2, no. 1 (2018), 5.

<sup>24</sup> R. Michael Feener, *Indonesian Movements For The Creation Of A National Madhhab*, Islamic Law And Society, Koninklijke Brill NV, Leiden (2001), 98.

knowledge about the rejuvenation of Islamic thought from Al-Kalali and actively participated in discussions with him<sup>25</sup>. Additionally, he delved into essential literature under Al-Kalali's guidance, including Tafsir and Hadith. This experience prompted his decision to enroll at Al-Irsyad Surabaya College (madrasah) in 1926, where he pursued Arabic studies until 1927, marking the conclusion of his formal educational path<sup>26</sup>.

After his return from Surabaya, he continued to enhance his knowledge and skills through self-directed learning. Thanks to his unwavering dedication and intense passion for reading, he authored over a hundred various books and articles. In terms of academic recognition, he was granted two honorary Doctorate degrees in 1975, from both UNISBA and IAIN Sunan Kalijaga, and was appointed as a Professor in a functional role in 1960<sup>27</sup>.

One of his notable works is the Tafsir Al-Quran Majid An-Nuur, a masterpiece he penned during his tenure within formal educational institutions<sup>28</sup>. Some unique reasons and powerful reformist thoughts influenced Hasbi's writing. In his view, the primary reason why Muslims lag behind in comparison to other nations is their abandonment of the Qur'an. He believes that they merely recite the Qur'an but refrain from engaging in profound Qur'anic study. In the introduction of Tafsir An-Nuur, he stated, "Muslims find themselves in a state of backwardness and vulnerability due to their growing detachment from the Qur'an. Among humanity, there are those who are unwilling to apply their intellects to comprehend the Qur'an in the context of their times, while others are misinformed and have misconceptions."<sup>29</sup>

Broadly speaking, Tafsir An-Nuur falls under the classification of rational interpretation (bil-Rak'iyi) characterized by an analytical approach (*tahlily*)<sup>30</sup>. Concerning the presence of legal verses, Hasbi held the belief that there are four fundamental principles or cornerstones within the Qur'an for legislating. Firstly, it does not impose undue restrictions on the legally accountable Muslim (mukallaf). Secondly, it avoids becoming overly burdensome to the point of causing weariness. Thirdly, it facilitates the implementation of laws in a progressive manner, introducing new laws incrementally after the completion of previous

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<sup>25</sup> Muhammad Syahril Razali Ibrahim, *Moderate Islam Revisits A Lesson From T.M Hasbi Ash-Shiddieqy's Interpretation of Wasathiyah in Tafsir an-Nuur*, Journal of Contemporary Islam And Muslim Societies 6, no 1 (2022), 8.

<sup>26</sup> Masnun Tahir, *Thoughts of T.M Hasbi Ash-Shiddieqy: Sources of Islamic Law and Its Relevance to Islamic Law in Indonesia*, *Al-Ahwal* 1, no. 1 (2018), 125.

<sup>27</sup> Nouruzzaman Shiddieqy, *Indonesian Fiqh*, 6.

<sup>28</sup> Mamluatun Nafisah from Muhammad Ulinuha, *Moderasi Beragama Perspektif Hasbi Ash-Shiddieqy*, Qurish Shihab from Hamka: *Kajian Atas Tafsir An-Nur*, Al-Misbah from Al-Azhar, *Suhuf* 13, no. 1 (2020), 59.

<sup>29</sup> *Tafsir An-Nuur*, Vol. 1, xi.

<sup>30</sup> A.M. Ismatullah, *M. Hasbi Ash-Shiddieqy's interpretation of the legal verses in Tafsir An-Nur*, *Mazahib* 13, no. 2 (2014), 150.

ones. Fourthly, initially, all laws were revealed in a more general and concise manner (mujmal), with detailed explanations provided subsequently. (*tafshili*)<sup>31</sup>.

Similarly, within the Qur'an, there are four methods for elucidating the law. First, there are unequivocal (sharih) directives where individual interpretation and judgment (ijtihad) are unnecessary, as seen in laws pertaining to prayer, zakat, fasting, and adultery. Second, some legal verses have meanings that are not entirely clear, leading to differences of opinion among scholars (mujtahid). Third, the Qur'an consistently couples its instructions and prohibitions with incentives (targhib) and warnings (tarhib). Fourth, laws are often reiterated in multiple sections of the text<sup>32</sup>.

Hasbi also articulated that the Qur'an establishes laws through four different methods. Firstly, it employs the "mujmal" approach for matters of worship, where the Qur'an provides only basic guidance, leaving the specifics of implementation to be determined by the Prophet's Sunnah and individual interpretation (ijtihad). Secondly, it offers a somewhat more detailed explanation, as seen in laws related to jihad, rules of engagement in warfare, the interaction between Islam and non-Muslim communities, and regulations concerning prisoners and war spoils. Thirdly, it provides comprehensive and detailed guidance, encompassing laws explicitly outlined in the Qur'an and hadith (hudud), as well as the corresponding punishments (qishas), personal status matters (ahwal syaksiah), and laws designed to prevent harm to women (mafsadah). Lastly, it establishes laws by laying down general principles and guidelines<sup>33</sup>.

In another context, Hasbi elaborated on the flexibility inherent in Quranic legal texts, which can be observed from four different facets<sup>34</sup>.

1. When a Quranic verse elucidates the laws of worship, it provides detailed guidance, eliminating the need for individual interpretation (ijtihad). In contrast, with matters of muamalah (interactions), the Quran presents broad principles, allowing Muslim leaders (mujtahid) the flexibility to determine specific details in alignment with the requirements of benefit and public interest (nash).
2. Secondly, the indications (dilalah) and legal directives within the verses are not solely confined to the textual meaning of the verse itself; they can also be inferred from the surrounding context (contextual). A mujtahid, in their interpretation, can derive a multitude of specific laws (furu') from a single legal directive (nash), while simultaneously, the nash serves as the foundation for these derived laws (furu').

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<sup>31</sup> M. Hasbi Ash-Shiddieqy, *History and Introduction to Al-Quran Knowledge*, (Jakarta: Bintang Bulan, 1994), h. 136.

<sup>32</sup> Ibid, 163.

<sup>33</sup> M. Hasbi Ash-Shiddieqy, *History and Introduction to Al-Quran Knowledge*, 164.

<sup>34</sup> T.M Hasbi Ash-Shiddieqy, *Dynamics and Elasticity of Islamic Law*, (Jakarta: Tintamas, 1982), 30 – 32.

3. Every law established by the Qur'an using legal verses is inherently linked to the concept of *illah* (cause) and *maslahah* (benefit) as the basis for the formation of the law. However, it's important to note that not all *illah* are explicitly mentioned (*sharih*) in the Quranic verses; some are only implied. In such cases, a *mujtahid* can deduce a range of laws for various issues that lack explicit legal provisions in the text (*nash*).
4. Legal regulations outlined in diverse statutes through legal verses are deemed comprehensive when they are enacted by establishing overarching principles and guidelines. These overarching principles and guidelines subsequently serve as the foundation for *mujtahid* to determine the law, thereby fostering equity and benefit for humanity.

In simpler terms, the points mentioned above illustrate Hasbi's framework for interpreting legal verses, which involves considering both the literal meaning of the text and its contextual significance. The contextual meaning is further substantiated by the exploration of *'illah*, which is present in every Quranic verse, whether explicitly stated or implied. The underlying belief is that God does not legislate anything (commands or prohibitions) without a rationale (*'illah*) behind it, aiming to promote benefit and prevent harm. This forms the essence of *tafsir maqasidi*, a method that combines a linguistic approach (textual) with a benefit-oriented approach (contextual) to delve into and elucidate the objectives of Islamic law (*maqasid sharia'ah*). In essence, *maqasidi* interpretation strives to blend the *harfi* method (textual) with the *maslahi* approach (contextual) in order to grasp Allah's intent in the Quran<sup>35</sup>.

## **2. Purpose (Maqasid) Marriage in Tafsir An-Nuur**

In reality, all living beings require a companion to attain equilibrium in life, and this applies to humans as well. As Allah states, "God has created for you mates from among yourselves and has created for you, from your mates, children and grandchildren and has provided you with good things" (Quran, An-Nahl: 72). In this verse, a "mate" refers to a spouse. These spouses, originating from the same species, are intended to establish equilibrium and harmony while reaping various advantages. Without both men and women being of the same species, a marriage would lack affection and happiness<sup>36</sup>.

Islam, through its shariah, including the laws regarding marriage, is present for the betterment of humanity. In one verse, God's words state, "And among His signs is that He created for you from among yourselves mates that you may find tranquility in them, and He placed between you affection and mercy" (Quran, Ar-Rum: 21). This verse underscores the primary objective of marriage (*'illah ashilah*), which is to attain inner peace and serenity. Some scholars assert that this peace in the verse applies to both the

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<sup>35</sup> M. Ainur Rifqi and A. Halil Thahir, *Tafsir Maqasidi, Building Interpretation Paradigm Based on Maslahah*, *Millah Journal of Religious Studies* 18, no. 2 (2019), 345 – 349.

<sup>36</sup> Wahbah al-Zuhaili, *Tafsir al-Munir*, Vol. 7, 496.



wife and the husband. Just as a husband finds peace in his wife, so too does the wife find peace in her husband. Through marriage, Islam not only fosters a sense of peace in each spouse but also cultivates love (*mawaddah*) between them and complements their union. Moreover, there is affection (mercy) that sustains their relationship<sup>37</sup>.

There is a notable similarity between Hasbi's interpretation of the purpose of marriage and the explanations provided by most interpretive scholars. Hasbi's approach lacks extensive elaboration on each interpreted verse, but the intended meaning is readily comprehensible. In *Tafsir An-Nuur*, several verses indicate that Hasbi identifies at least four primary objectives (*maqasid*) of marriage, including: (1) attaining peace, (2) averting slander, (3) establishing a family, and (4) nurturing a righteous generation. The key verses that underpin and define the purpose of marriage include Romans 21, Al-A'raf 189, An-Nur 32, and An-Nahl 72.

In his interpretation of Surah Rum verse 21, Hasbi underscores the wisdom behind spouses being of the same species. The rationale for God creating husbands and wives from the same species (humans) is to enable mutual acceptance and the stirring of affection between them, thereby fostering harmony and tranquility. Beyond peace, God also instills a deep sense of love and benevolence in the hearts of spouses, facilitating the smooth functioning, harmony, and intimacy of their family life. Hasbi further asserts that the psychological bond between husband and wife can sometimes surpass the psychological connection with their parents. These aspects undoubtedly hold profound wisdom for those who reflect upon them<sup>38</sup>. This wisdom is evident in his interpretation of Surah An-Nahl 72. He elucidated that humans, in partnership with their spouses, can accomplish a multitude of important tasks and responsibilities (benefits) while effectively managing and overseeing their domestic lives<sup>39</sup>.

In his interpretation of Surah An-Nur, verse 32, Hasbi underscored the concept that marriage fosters a sense of sufficiency and balance between spouses. He explained that marriage inherently instills a feeling of responsibility in the married couple. A husband, driven by his sense of responsibility towards his children and wife, naturally strives to provide for their well-being. Consequently, it becomes evident why the Quran advises unmarried individuals to enter into marriage. This recommendation can even turn into an obligation if remaining single would lead to negative talk about a person. Based on this verse, Hasbi also concluded that marriage should not be dissolved solely because the husband is no longer able to provide financially. This is because Allah has promised sufficiency for all, without distinction between those who are already married and those who are yet to take a spouse<sup>40</sup>.

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<sup>37</sup> Ibid.

<sup>38</sup> Teugku Muhammad Hasbi Ash-Shiddieqy, *Tafsir An-Nuur*, Vol. 4, 3170.

<sup>39</sup> Ibid, Vol. 3, 2251.

<sup>40</sup> Ibid, Vol. 4, 2820 – 2821.

According to Hasbi, when an individual reaches the age suitable for marriage but has not yet found their compatible life partner, they may experience inner turmoil and anxiety. He believed that this emotional state aligns with the concept of “sakinah,” as mentioned in Surah Al-A’raf 189. Hasbi interpreted the verse as follows: “He is the one who created you from a single soul and from it, He created its mate, so that they may find comfort and affection in one another”<sup>41</sup>.

Marriage, as per Hasbi’s perspective, extends beyond fulfilling biological desires. He referred to his interpretation of Al-Baqarah 187, where he mentioned that it’s permissible for spouses to engage in sexual relations during Ramadan nights because men may find it difficult to control their desire for their wives. He also cited another verse in which Allah affirms that “Your wives are a place of sowing of seed for you, so come to your place of cultivation however you wish” (Al-Baqarah: 222). According to Hasbi, sexual intimacy is not exclusive to men but is a shared right within marriage. He even emphasized that “husbands can approach their wives as they mutually desire”<sup>42</sup>.

According to Hasbi, the primary goal of marriage is to produce righteous offspring who can carry forward the mission of khilafah, contributing to the prosperity of the Earth. The sexual relationship between a husband and wife is seen as a delightful aspect of life and a form of embellishment. This perspective aligns with Allah’s words in verse 14 of Surah Ali ‘Imran, where it is stated that “humans have been adorned with an inclination towards desires, including a fondness for women (spouses) and children.” Hasbi maintains that men’s natural inclination towards desire for women is an inherent aspect of human nature and is vital for human existence. He further asserts that men’s affection for women plays a significant role in the progress and survival of humanity<sup>43</sup>.

Nonetheless, the world cannot thrive if it is populated by individuals who disregard religious obligations. Consequently, when interpreting Al-Baqarah 223, Hasbi underscored that this verse serves as an encouragement from Allah for believers to seek virtuous and affectionate spouses. These potential wives should possess the capability to nurture their children and serve as exemplary role models for them. According to Hasbi, the ideal family aligns with one of God’s commandments, “O you who have believed, save yourselves and your families from a Fire,” (Al-Tahrim: 6). He emphasized that a Muslim’s foremost duty is self-improvement, followed by the endeavor to establish a family (comprising children and a spouse) rooted in genuine religious values<sup>44</sup>.

### **3. Polygamy**

God’s words in the Quran state, “And if you fear that you will not deal justly with the orphan girls, then marry those that please you of [other] women, two or three or

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<sup>41</sup> Ibid, Vol. 2, 1528.

<sup>42</sup> Ibid, 381.

<sup>43</sup> Ibid, 539 – 540.

<sup>44</sup> Ibid, Vol. 5, 4279.

four. But if you fear that you will not be just, then [marry only] one or those your right hand possesses. That is more suitable that you may not incline [to injustice].” (An-Nisa’: 3). This Quranic verse serves as the foundation for the practice of polygamy in Islam. It has been the basis for the position held by a number of scholars who permit polygamy for those who can treat their wives equitably<sup>45</sup>.

Apart from the aforementioned verse, scholars who endorse the permissibility of polygamy also derive their stance from various Hadiths of the Prophet. For instance, there is the narration of the Prophet’s counsel to Harith bin Qais when he embraced Islam while having eight wives, where the Prophet advised him to “choose four of them” (Reported in Abu Daud)<sup>46</sup>. Additionally, there is the case of Ghailan al-Tsaqafi, who had ten wives. When he embraced Islam, the Prophet instructed him, “select four of them” (Reported in Tirmizi). Similarly, Noval bin Mughirah recounted, “I embraced Islam while having five wives, so I inquired from the Prophet, and he advised, ‘Divorce one and keep four’”, (HR: Baihaqi)<sup>47</sup>.

Their contention was that prior to the advent of Islam, polygamy was prevalent worldwide, and it continued to be accepted in certain regions, including China, India, and several African nations. This suggests that Islam was not the pioneer in formalizing the practice of polygamy<sup>48</sup>. Furthermore, the religious laws of previous prophets also indicated the prevalence of polygamy. For example, the Prophet Ibrahim had multiple wives, as did the Prophet Ya’qub, who had four. Additionally, the Prophet David and his son, Prophet Solomon, were known to have married numerous women, with a Hadith mentioning that Solomon had one hundred wives<sup>49</sup>. However, when Islam emerged, it set a cap of four wives through the revelation of the mentioned verse. Subsequently, the practice of polygamy continued in the generations following the Prophet, including the Tabi’in and beyond. Mahmud Syaltut asserted that this consensus among Islamic scholars has persisted from the time of the companions of the Prophet up to the present day<sup>50</sup>.

Polygamy has been a longstanding tradition in certain Muslim communities in Indonesia. However, this practice has sometimes led to the mistreatment of women. Consequently, several laws and regulations have been enacted to safeguard the rights and dignity of

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<sup>45</sup> Dahlia Halia Ma’u, *The Harmonization of Poligamy Between Islamic Law and Legal Law in Indonesia*, *samarah* 7, no. 2 (2023), 674.

<sup>46</sup> Abi Daud Sulaiman bin al-Asy’ats al-Sajistani, *His name is Abi Daud*, (Riyadh: Maktabat al-Ma’arif, n.d), 390.

<sup>47</sup> Abi Bakar Ahmad bin Husain bin Ali al-Baihaqi, *Al-Sunan al-Kubra*, Vol. 7, (Beirut: Dar al-Kutub al-Ilmiyah, 2003), 299.

<sup>48</sup> Muhammad bin Musfir bin Husain al-Tawil, *Ta’addud al-Zaujat fi al-Islam*, (Mekkah: Jamiyyat Ansar al-Sunnah, 2004), 4.

<sup>49</sup> Abu Abdillah Muhammad bin Isma’il al-Bukhari, *Al-Jami’ al-Shahih*, Vol. 3, (Cairo: Al-Matba’at al-Salafiah, 1400 H), 397.

<sup>50</sup> Mahmud Syaltut, *Al-Islam ‘Aqidah wa Syari’ah*, (Kairo: Dar al-Syuruq, 2001), 183.

women. Examples of such regulations include Law No. 1 of 1974 and the Compilation of Islamic Law (KHI). Both of these state regulations are aimed at regulating and imposing restrictions on the practice of polygamy<sup>51</sup>. Nevertheless, these regulations still offer a pathway and an opportunity for those interested in practicing polygamy. In other words, they impose stringent conditions, but they do not completely prohibit polygamous unions<sup>52</sup>.

However, according to certain scholars, polygamy remains prohibited except in cases of necessity. Hasbi Ash-Shiddieqy was among those who endorsed this viewpoint. He contended that, fundamentally, polygamy was not allowed except in exceptional circumstances. Yet, achieving such exceptional circumstances was highly improbable due to the arduous requirement of maintaining absolute equity as mandated by the Quran. God stated, “And you will never be able to be equitable between wives, even if you should strive to do so” (An-Nisa’: 129). Hasbi interpreted “equitable” to encompass emotional aspects like love and affection. This implies that a husband must treat his wives both outwardly and inwardly with fairness. Consequently, according to his perspective, “it is implausible for a man to have the same level of love for each of his wives.” As a result, polygamy cannot be undertaken casually; it is permissible only for those who genuinely believe they can act justly and are immune from any form of deception<sup>53</sup>.

Furthermore, in addition to his interpretation of the concept of fairness, Hasbi also drew upon the perspectives of Mu’tazilah scholars. According to him, these scholars held a very stringent stance on polygamy, disallowing a person from taking another wife while still married to the first. They were deeply concerned about the harm and various issues arising from the practice of polygamy, which, in Hasbi’s view, went against both reason and religion. He pointed out that in Islamic jurisprudence, the principle of “the means (wasilah) has the same ruling as the end (ghayah)” is upheld. This implies that if polygamy leads to the husband’s oppressive behavior towards his wives, then the path to polygamy must be deemed impermissible. Consequently, he concluded that having more than one wife is “unlawful”<sup>54</sup>.

Hasbi Ash-Shiddieqy’s perspective on the practice of polygamy, which leads him to conclude that it is haram (forbidden), is underpinned by at least two key factors. Firstly, he places great emphasis on interpreting the concept of fairness. In his view, polygamy is only permissible if an individual can treat their wives fairly, encompassing both material aspects and matters of the heart. He believes that the term “fair” found in verse 3 of An-Nisa has the same meaning as the term found in An-Nisa’ verse 129.

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<sup>51</sup> Dri Santoso dan Muhammad Nasruddin, Polygamy in Indonesia And Its Relevance To The Protection Of Women And Children In The Perspective Of Islamic Law Philosophy, *Academics: Journal of Islamic Thought* 26, no. 1 (2021), 125.

<sup>52</sup> <https://perpustakaan.mahkamahagung.go.id/assets/resource/ebook/23.pdf> /accessed date 10 November 2022.

<sup>53</sup> Teungku Muhammad Hasbi Ash-Shiddieqy, *Tafsir An-Nuur*, Vol. 1, 780 – 781.

<sup>54</sup> Teugku Muhammad Hasbi Ash-Shiddieqy, *Tafsir An-Nuur*, Vol. 1, 781.

Numerous scholars contend that the term “fair” in both of these verses carries a similar meaning. Mustafa Siba’i, for example, asserted that in the first verse, “fairness” is limited to justice in external matters like providing food, clothing, and shelter, and does not extend to matters of emotional or psychological significance. This perspective arises from the belief that it would be impossible for God to permit polygamy and then impose requirements that surpass human capabilities.<sup>55</sup> Abdul Wahab Khalaf went as far as to assert that the directive to restrict oneself to only one wife if there is a fear of injustice underscores the imperative to treat all wives fairly when practicing polygamy. This requirement to act justly signifies that fairness is an achievable standard for humans, particularly concerning material aspects like sustenance and related matters. However, when it comes to matters involving the heart, such as love and affection, there is no obligatory demand for actions that are beyond one’s capacity to provide<sup>56</sup>.

If it is indeed the case that the justice mentioned in An-Nisa’ verse 3 pertains to matters of the heart and is deemed unattainable by anyone, as implied by verse An-Nisa’ 129, this does not necessarily imply that polygamy is forbidden. In this verse, Allah advises against showing excessive favoritism towards one wife to the detriment of the others, and this leniency is granted in situations where absolute justice cannot be achieved.

There is a hadith narrated by various scholars and authenticated by Ibn Hibban and Hakim, in which Aisyah stated that the Prophet used to allocate his time among his wives and endeavored to treat them fairly. During his prayers, he would say, “O Allah, this is the division (among my wives) that I am capable of; do not hold me accountable for matters that You possess but I do not.” Imam Tirmizi interpreted “matters I do not possess” to refer to the matters of love and emotional inclination of the heart. This is how scholars have understood it<sup>57</sup>.

Another reason that compelled Hasbi to firmly assert the prohibition of polygamy was his belief that having multiple wives could lead to negative consequences or mafsadah. Given that marriage is intended to bring about peace, establish a harmonious household, and nurture a pious generation, if polygamy ultimately undermines these objectives, it should be prevented (*saddu zari’ah*). This perspective is a direct consequence of his concept of fairness. According to Hasbi, if a husband is incapable of distributing affection and love equally among his wives, it amounts to injustice towards them. Such an attitude can undoubtedly have detrimental effects on family dynamics, potentially causing various issues (*mafsadah*) both among the children and between the wives. Avoiding *mafsadah* is unquestionably more desirable than pursuing *maslahah*, particularly given the nature

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<sup>55</sup> Mustafa al-Siba’i, *Al-Mar-ah baina al-Fiqhi wa al-Qanun*, 80 – 81.

<sup>56</sup> Abdul Wahhab Khalaf, *Ahkam al-Ahwal al-Syakhsiah fi al-Syariah al-Islamiah*, (Kuwait: Dar al-Qalam, 1990), 118.

<sup>57</sup> Ahmad bin ‘Ali ibn Hajar al-‘Asqalani, *Fathul Bari*, Vol. 11, (Riyadh: Dar al-Tibah, 2005), 657.

of the situation. In the view of certain scholars, such as Al-Ghazali and Syatibi, rejecting mafsadah is equivalent to achieving maslahah<sup>58</sup>.

#### **4. Interfaith Marriage**

In general, interfaith marriages can be categorized into three main types: 1. The marriage of a Muslim with a woman who follows the People of the Book (kitabiyat). 2. The marriage of a Muslim with a woman who practices polytheism. 3. The marriage of Muslim women to non-Muslim men, including both polytheistic men and Ahl al-Kitab (People of the Book).

The first type of marriage is based on Quranic verse Al-Maidah: 5, which states, “On this day it is lawful for you that which is good. The food (slaughter) of those who were given the Book is lawful for you, and your food is lawful for them. (And it is permissible to marry) women who guard their honor among believing women and women who guard their honor among those who were given the Book before you.” Most scholars consider this verse as the foundational basis for allowing a Muslim to marry a woman from the People of the Book.<sup>59</sup> Nonetheless, the exact interpretation of the term “kitabiyat” continues to be a matter of discussion among scholars. One perspective suggests that the kitabiyat category includes individuals who belong to the lineage of Bani Israel and have received the Torah and the Bible. According to this viewpoint, those who adhere to the Torah and the Bible but are not descendants of Bani Israel are not considered kitabiyat.

Therefore, it is not permissible to consume their slaughtered animals or marry their women.<sup>60</sup> Another viewpoint defines the People of the Book as those who had faith in the Torah and the Bible prior to the start of Prophet Muhammad’s mission, which includes individuals from Bani Israel as well as those not belonging to their lineage. Conversely, individuals who embraced Christianity after the advent of Prophet Muhammad’s mission are not regarded as People of the Book, as is the case with Christians in Arab regions. Consequently, it is not permissible for Muslims to consume the meat slaughtered by them.<sup>61</sup> Ibn Jarir asserts that anyone who declares themselves as followers of Judaism or Christianity should be categorized as Kitabiyat, regardless of whether they have a lineage tied to the Bani Israel or not.<sup>62</sup> In line with Ibn Jarir’s perspective, Ibn ‘Assyria defines Kitabiyat as those who follow the Torah and the Bible, encompassing both those

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<sup>58</sup> Muhammad Yusuf, *The Al-Maslahah Al-Mursalah Approach In the MUI Fatwa on Marriage of Different Religions*, *Ahkam* 13, no. 1, (2013), 106 – 107.

<sup>59</sup> Muhammad bin Ahmad bin Abi Bakr al-Qurtubi, *Al-Jami’ li al-Ahkam al-Quran*, Vol. 7, (Bairut: Muassasat al-Risalah, 2006), 320.

<sup>60</sup> Muhamamd bin Yusuf Abu Hayyan al-Andalusi, *Al-Bahr al-Muhith*, Vol. 3, (Bairut: Dar al-Kitab al-‘Ilmiah, 1993), 447.

<sup>61</sup> Muhammad Jamaluddin al-Qasimi, *Mahasin al-Ta’wil*, (Kairo: Dar Ihya al-Kutub al-‘Arabiah, 1975), 1863.

<sup>62</sup> Ibnu Jarir, *Tafsir Al-Tabari*, Vol. 8, 134.

who were initially called by Prophet Musa and those who voluntarily adopted these scriptures later on. He emphasizes that although Prophets Musa and Isa primarily addressed the Bani Israel, many individuals from various backgrounds, including the people of Yemen, also embraced Judaism. Similarly, individuals adhering to Christian teachings from Arab communities like Bani Taghlib, Bahra', Kalb, Lakham, Najjar, and others are recognized as People of the Book by most scholars<sup>63</sup>.

The second scenario involves a Muslim marrying a polytheistic woman, and this union is prohibited according to God's command, as stated in the verse, "And do not marry polytheist women before they believe. Indeed, a slave woman who is a believer is better than a polytheist woman, even if she attracts your heart. And do not marry polytheists (with believing women) before they believe. Indeed, a believing slave is better than a polytheist, even if he attracts your heart. They invite to hell, while God invites to heaven and forgiveness with His permission. And Allah explains His verses (His commandments) to people so that they take lessons" (al-Baqarah: 221).

According to Ibn Jarir, the most appropriate interpretation of this verse aligns with Qatadah's viewpoint. Qatadah suggests that the term "musyrikat" (referring to polytheistic women) in this verse does not encompass women from the People of the Book. This verse has both a general and a specific meaning. While "musyrikat" includes all women who associate partners with Allah, it specifically excludes women from the People of the Book, even though they may also, in essence, be associating partners with Allah. Imam Qatadah firmly asserts that women from the People of the Book should not be included within the scope of this verse, thus allowing Muslim men to marry them.<sup>64</sup>

Another verse that forbids the marriage of Muslim men to polytheistic women can be found in Allah's words, "And do not hold onto the ties of marriage with disbelieving women" (Surah Al-Mumtahanah: 10). This verse was revealed in a specific context, targeting the disbelievers, particularly the polytheists living in Mecca at that time. According to Ibn Jarir's explanation, this verse clearly prohibits Muslim men from entering into marriage with women who follow polytheistic beliefs and engage in idol worship. Moreover, it emphasizes the obligation for Muslim men to dissolve such marriages if they have already been contracted.<sup>65</sup>

The third scenario involves the marriage of Muslim women to non-Muslim men, be they polytheists or People of the Book. Such unions are prohibited, as stated in Surah Al-Baqarah 221, "and do not marry polytheists (with believing women) before they believe. Indeed, a believing slave is better than a polytheist, even if he attracts your heart. They

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<sup>63</sup> Muhammad Tahir ibn 'Asyur, *Al-Tahrir wa al-Tanwir*, Vol. 6, (Tunis: Dar al-Tunisiah, 1984), 120.

<sup>64</sup> Ibnu Jarir, *Tafsir Al-Tabari*, Vol. 3, 714 – 715.

<sup>65</sup> Ibid, Vol. 22, 583.

invite to hell, while God invites to heaven and forgiveness with His permission. And Allah explains His verses (His commandments) to people so that they take lessons.”

The term “musyrik,” mentioned in this verse, encompasses all non-believing men, including those who follow idolatry, Zoroastrianism, Judaism, Christianity, and those who have renounced their faith. The underlying reason (illah) for categorizing them as “musyrik” and prohibiting their marriage to Muslim women stems from the exalted status of Islam compared to other belief systems. While Muslim men are allowed to marry women from the Jewish or Christian faith, the reverse scenario is not sanctioned. This precaution is taken due to the potential influence a husband may exert, possibly compelling his wife to adopt his disbelieving beliefs. Additionally, it acknowledges the common tendency of children to follow their father’s religious path. Therefore, if the father practices Judaism, his children will likely be raised within that faith. This aligns with the essence of Allah’s statement, “They invite [people] to the Fire,” indicating the potential spiritual harm involved.<sup>66</sup>

Additional supporting evidence is found in Surah Al-Mumtahanah: 10, where it states, “O you who believe, when believing women migrate to you, then you should test them (faith). Allah knows best about their faith; then if you have known that they are (really) believers then do not return them to (their husbands) the disbelievers. They are not halal for the infidels and the infidels are not halal for them.”

During the revelation of this verse, a treaty existed between the Muslim community and the Quraish disbelievers, stipulating that if individuals from Mecca converted to Islam and sought refuge in Medina, they were to be repatriated to Mecca. However, this provision did not apply to women. The divine revelation reiterates that if these women genuinely embrace the true faith, they must not be sent back to the polytheistic society, and they are not permissible as spouses for disbelieving men.<sup>67</sup>

The previous explanation emphasizes the exceptional category that allows Muslim men to marry women who belong to the People of the Book (Ahli Kitab) while categorically prohibiting all other forms of interfaith marriages. It is important to note that there is a widespread consensus among Indonesian scholars, representing influential organizations such as the Indonesian Ulema Council (MUI), Muhammadiyah, and Nahdlatul Ulama (NU), which firmly prohibits all types of marriages with non-Muslims, including unions with women from the People of the Book. However, it should be mentioned that NU holds a distinct view within these organizations, considering marriages with women from the People of the Book as makruh (disliked) under certain conditions, such as if the woman’s parents had embraced their religious beliefs before the advent of Islam or prior to the prophethood of Muhammad.<sup>68</sup>

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<sup>66</sup> Muhammad ‘Ali al-Sabuni, *Rawai’ al-Bayan Tafsir Ayat al-Ahkam min al-Quran*, Vol. 1, (Damsyik: Maktabat al-Ghazali, 1980), 289.

<sup>67</sup> Ibnu Jarir, *Tafsir Al-Tabari*, Vol. 22, 578.

<sup>68</sup> Ali Muttaqin, *Fiqh Perkawinan Beda Agama di Indonesia: Kajian Atas Fatwa-Fatwa NU, MUI dan Muhammadiyah*, *Al-Ahwal* 14, no. 1 (2021), 15.



According to Nahdlatul Ulama (NU) scholars, the fundamental basis of marriage in Islam centers around the compatibility of religious beliefs between potential partners. This fundamental principle underscores that the goal of marriage is to seek emotional harmony and spiritual fulfillment while also aiming for Allah's pleasure, both in this life and the Hereafter. As a result, the permission for such marriages is restricted to women who belong to the People of the Book (Ahli Kitab) and maintain a steadfast commitment to their faith. It's crucial to emphasize that these marriages are considered permissible but not entirely pure (halal); instead, they are categorized as makruh (disliked). Conversely, women from the People of the Book (Nasrani) who adhere to the concept of the Trinity are unequivocally regarded as impermissible as spouses for Muslim men.<sup>69</sup>

The Muhammadiyah organization, through resolutions reached during the 22nd Tarjih Congress in 1989 and discussions within the Tarjih Team on July 22, 2011, now holds the view that all types of interfaith marriages are not permissible. Initially, Muhammadiyah, like most Islamic scholars, considered marriages with women from the People of the Book as acceptable. However, upon further reflection, the organization identified specific reasons supporting the permissibility of such unions. The concept of "mubah" (permissible) must be rooted in its underlying rationale. The primary justification for allowing marriages with women from the People of the Book lies in the potential for Islamic da'wah (inviting others to Islam) and encouraging them to embrace Islam. Nonetheless, Muhammadiyah recognized that certain circumstances, such as the risk of apostasy due to the religious beliefs of the spouse, could shift the ruling from "mubah" to "haram" (forbidden). Concerns also arose about the likelihood of children adopting their mother's religious beliefs, which was a significant concern. Therefore, adopting the principle of "saddu zari'ah" (preventing harm) to avoid the risk of apostasy for either the husband or the children, Muhammadiyah conclusively determined that marriages between Muslim men and women from the People of the Book should be prohibited.<sup>70</sup>

The scholars affiliated with the Indonesian Ulema Council (MUI), as established during the 2nd National Congress in 1980 and the 6th National Congress in 2005, have firmly declared interfaith marriages, including those between Muslim men and women from the People of the Book (Ahli Kitab), as null and strictly prohibited. This stance is based on the principle that the potential harms (mafsadah) resulting from such marriages far outweigh any perceived benefits (maslahah). In general, the fatwa issued by the MUI argues that marriages involving individuals of different faiths carry significantly higher risks, particularly the likelihood of religious deviation. Furthermore, this fatwa is grounded in the Quranic verse found in Surah Ar-Rum (30:21), emphasizing that the primary aim of marriage is to establish a harmonious, affectionate, and compassionate family environment (sakinah, mawaddah, and rahmah). Achieving such objectives becomes challenging when the spouses hail from diverse religious backgrounds. Consequently, it is not uncommon for marriages of this nature to end in divorce.<sup>71</sup>

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<sup>69</sup> Ibid, 16.

<sup>70</sup> Ibid, 20.

While the majority of Indonesian scholars maintain a cautious approach to marrying women from the People of the Book, Hasbi presents a contrasting viewpoint. He aligns himself with the prevailing perspective among exegetical scholars, advocating for the permissibility of Muslim men marrying women from the People of the Book. However, he diverges from the predominant scholarly interpretation regarding the criterion of “ihshan” (chastity) mentioned in the verse, “Lawful to you are chaste women from among the believers and chaste women from among those who were given the Scripture before you” (Surah Al-Maidah: 5). The majority of scholars argue that “muhsanat” in this context applies exclusively to free women, thereby excluding the possibility of marrying slave women.<sup>72</sup> In contrast, Hasbi posits that “muhsanat” in the aforementioned verse encompasses both free and slave women.

According to Hasbi’s exegetical interpretation, it is permissible to marry all believing, free, and virtuous women. Additionally, marrying free women from the People of the Book is also allowed, provided that a suitable dowry is provided, with the primary aim being to prevent immoral behavior. Hasbi clarifies that the mention of free women is given priority to discourage men from pursuing and marrying female slaves, but this does not imply that such women are not allowed as spouses. He further argues that scholars unanimously agree on the permissibility of marrying female slaves, including those from the People of the Book, in line with Abu Hanifah’s viewpoint. In his concluding remarks, Hasbi underscores the importance of marrying with the intention of kindness and benevolence (ihsan).<sup>73</sup>

Hasbi’s interpretation of marriages with women from the People of the Book is relatively concise and lacks an in-depth explanation of the underlying reasons or advantages of such unions. The brevity of his interpretation might suggest a strong conviction in his stance, implying that the permissibility of marrying women from the People of the Book is self-evident and doesn’t require extensive elaboration. In fact, in his commentary, Hasbi refers to a narration (sababunnuzul) attributed to Ibn Jarir and transmitted by Qatadah. This narration addresses historical inquiries regarding whether it’s permissible for a Muslim to marry a woman from the People of the Book, especially given their different religious affiliations. This inquiry is related to the Quranic verse he cited (Surah Al-Maidah: 5)<sup>74</sup>, The verse “Whoever disbelieves after having believed, except for one who is forced while his heart is secure in faith...” is mentioned in response to provide context. This narration appears to reinforce Hasbi’s unwavering stance on the clear permissibility of such marriages, without going into detail about the potential advantages or disadvantages associated with them.

However, it’s important to note that other scholars who permit such marriages often include certain considerations or conditions. For example, after endorsing marriages

<sup>71</sup> Ibid, 18 – 19.

<sup>72</sup> Al-Qurtubi, *Al-Jami’ li al-Ahkam al-Quran*, Vol. 3, 452.

<sup>73</sup> Teungku Muhammad Hasbi Ash-Shiddieqy, *Tafsir An-Nuur*, Vol. 2, 1039.

<sup>74</sup> Ibid, 1039.

with women from the People of the Book, Ibn Jarir introduces a caveat, stating that such unions are allowed only if there is a strong belief that the children born from these marriages will not be influenced toward their mother's faith.<sup>75</sup> Likewise, *Tafsir Al-Manar*, which is referred to in *Tafsir An-Nuur*, places limitations on such marriages. It argues that if there are worries about the husband being influenced to adopt his wife's religion, then the marriage could be forbidden based on the principle of "saddu zari'ah," with the implementation of "saddu zari'ah" deemed as obligatory.<sup>76</sup>

Likewise, *Tafsir Al-Manar*, which is referred to in *Tafsir An-Nuur*, places limitations on such marriages. It argues that if there are worries about the husband being influenced to adopt his wife's religion, then the marriage could be forbidden based on the principle of "saddu zari'ah," with the implementation of "saddu zari'ah" deemed as obligatory.<sup>77</sup> He prohibits marriages between Muslim men and Arab polytheistic women because, at that particular point in history, there was no divine scripture or prophetic guidance accessible to them. On the contrary, he views Hindu, Buddhist, and similar religions as being on par with Jews and Christians, considering them as People of the Book, despite potential changes in their scriptures.<sup>78</sup>

Hasbi strongly emphasizes the importance for Muslims to avoid entering into marriages with individuals who follow polytheistic faiths, including refraining from Muslim men marrying polytheistic women and Muslim women marrying polytheistic men. He argues that such interfaith unions may lead to one partner converting to the other's beliefs, and therefore, caution should be exercised when forming such unions. Additionally, he underscores the significant influence that marital relationships can have on the spiritual well-being of both spouses. Remarkably, Hasbi even suggests that merely living together with polytheists in the same community could negatively affect an individual's faith, not to mention the consequences of marrying them.<sup>79</sup>

In Hasbi's view, the perfect marriage is defined by the family's leader, especially the father, having the ability to protect his household from spiritual dangers, as outlined in Surah At-Tahrim 66:6.<sup>80</sup> Regarding marriages involving individuals from polytheistic backgrounds, Hasbi stresses that factors such as social status or material wealth should not take precedence. Instead, the primary focus should be on the individual's faith. He contends that faith plays a vital role in refining one's religious commitment, whereas worldly possessions and physical attractiveness are transient in nature. As a result, if it becomes difficult to strike a balance, the preservation and prioritization of one's faith

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<sup>75</sup> Ibnu Jarir, *Tafsir Al-Tabari*, Vol. 8, 146 – 147.

<sup>76</sup> Sayyid Muhammad Rasyid Ridha, *Tafsir al-Manar*, Vol. 6, 193.

<sup>77</sup> Teungku Muhammad Hasbi Ash-Shiddieqy, *Tafsir An-Nuur*, Vol. 1, 373.

<sup>78</sup> Sayyid Muhammad Rasyid Ridha, *Tafsir al-Manar*, Vol. 6, 193.

<sup>79</sup> Teungku Muhammad Hasbi Ash-Shiddieqy, *Tafsir An-Nuur*, Vol. 1, 373.

<sup>80</sup> Teugku Muhammad Hasbi Ash-Shiddieqy, *Tafsir An-Nuur*, Vol. 5, 4279.

should come first over worldly matters. Furthermore, Hasbi underscores the numerous worldly advantages that come with partners who share similar beliefs.<sup>81</sup>

Hasbi's cautious approach to the permissibility of marrying women from the People of the Book, without explicitly considering *maslahah* (public interest) and *mafsadah* (harm), does not imply a lack of regard for the contextual or purposeful aspects of marriage. Instead, the author argues that the prevailing situation in Indonesia during that time supported Hasbi's position in favor of allowing marriages with women from the People of the Book. It is plausible that interfaith marriages were rare and not seen as significant threats to the religious and familial integrity of Muslim individuals, hence necessitating certain restrictions (*saddu al-zari'ah*). This assertion finds support in Muhammadiyah's fatwa issued in 1989, which prohibited interfaith marriages despite having previously permitted them.<sup>82</sup>

Muhammadiyah's fatwa was issued several years after the completion of *Tafsir An-Nuur*, a project that spanned from 1952 to 1961. Considering this timeline, it is suggested that had *Tafsir An-Nuur* been written today or in parallel with the emergence of Muhammadiyah's fatwa, Hasbi might have reached a different conclusion. He would probably have argued against the prohibition and impermissibility of marrying women from the People of the Book, including those of Jewish, Christian, Hindu, and Buddhist backgrounds. This viewpoint aligns with the principle that legal judgments should not rigidly adhere to tradition and prevailing circumstances; instead, they should remain adaptable and open to revision in response to evolving times and contexts.

Muhammadiyah's fatwa was established several years after *Tafsir An-Nuur* was completed, a project that took place from 1952 to 1961. Given this timing, it is suggested that had *Tafsir An-Nuur* been written today or concurrently with the emergence of Muhammadiyah's fatwa, Hasbi might have reached a different standpoint. It is probable that he would have argued against the prohibition and the view that it's impermissible to marry women from the People of the Book, which includes those from Jewish, Christian, Hindu, and Buddhist backgrounds.

As per a fundamental principle, "the consideration of legal modifications grounded in 'uruf (customary practices) and *maslahah* (public interest) should not be dismissed due to the passage of time" (لا ينكر تغير الأحكام المبنية على المصاحبة والعرف بتغير) (الأزمان). This principle pertains to the categories of *mutaghayyirat* (changeable) and *thawabit* (fixed)<sup>83</sup>.

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<sup>81</sup> Ibid, Vol. 1, 374.

<sup>82</sup> Islamiyati, Analisis Yuridis Nikah Beda Agama Menurut Hukum Islam Di Indonesia, *Masalah-Masalah Hukum* 45, no. 3, (2016), 247.

<sup>83</sup> Fauzi, The Principles For Ijtihad in Response To The Contemporary Problems, *Miqot* 42, no. 2 (2018), 294 – 296.

## Conclusion

The interpretation of polygamy and interfaith marriages through the lens of maqasid (maslahah and mafsadah) principles reinforces the sacred and honorable essence of marriage. It underscores its core purpose, which includes the pursuit of peace, happiness, and the continuation of the family, all in alignment with the central objectives of the faith (maqasid dharuriyah). Within this framework, Hasbi argues that the practice of polygamy is generally considered impermissible (haram), except in cases of necessity or compelling need. He asserts that the potential drawbacks and adverse consequences associated with polygamous relationships far outweigh any potential benefits. This perspective on polygamy is further supported by Hasbi's nuanced interpretation of "adil" (justice), which encompasses both the spiritual and material aspects of fairness.

Furthermore, his prohibition against marrying polytheistic women is based on concerns about the potential weakening of religious beliefs among the wife, husband, or their children. He reinforces this prohibition by referring to Surah At-Tahrim 66:6, which emphasizes the ideal of a family where the husband is capable of protecting both himself and his family from spiritual harm.

On the other hand, the permissibility of marrying women from the People of the Book is contextualized within historical circumstances. This perspective emerged during times when interfaith marriages were not a prevalent societal trend and did not pose significant threats to the religious integrity of Muslim households. As a result, stringent restrictions or prohibitions on such marriages were considered unnecessary during that period.

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