

Interpretation of Verses on the Law of Marriage between Muslims and Non-Muslims (Musyrik, Kafir and Ahl Al-Kitab)

Moh Najib¹, U. Abdurrahman², Ayi Sofyan³
^{1,2,3}UIN Sunan Gunung Djati Bandung

Article Info

Article history:

Received October 2023

Revised October 2023

Accepted October 2023

Keywords:

Fatwa MUI 1980

Mixed Marriage

Prohibition of Marriage

Muslims and non-Muslims

Tafsir of the Quran

Marriage Law

ABSTRACT

The MUI's fatwa in the Second National Deliberation on May 26 – June 1, 1980, on Mixed Marriage stipulates that "the marriage of a Muslim woman with a non-Muslim man is unlawful; A Muslim man is forbidden to marry a non-Muslim woman. The research method used is the descriptive method of content analytics, or document analysis techniques, or content analysis by collecting information and views, analysis of interpretations and opinions, in manuscripts, literature, or books of interpretation. The result found that the interpretation of the verses of the Qur'an that stipulates the law prohibiting marriage between Muslims and non-Muslims is the interpretation of Sura al-Baqarah verse 221 which stipulates that Muslims are prohibited from marrying non-Muslims and reveals that Ahl al-Kitab women are allowed to be married by Muslim men. And also, the interpretation of sura al-Mumtahanah verse 10, and sura al-Tawbah verses 30-31, and reinforced by other narrations, which implies that the legal provisions of marriage between Muslims and non-Muslims are haram, including the law of marriage between a Muslim man and a woman Ahl al-Kitab is haram.

This is an open access article under the [CC BY-SA](#) license.



Corresponding Author:

Name: Prof.Dr.Moh Najib, M.Ag

Institution: UIN Sunan Gunung Djati Bandung

e-mail: mohnajib@uinsgd.ac.id

1. INTRODUCTION

The Qur'an reveals many verses about marriage, including verses that express the commandments and exhortations to perform marriage, with various sociological, anthropological, economic, cultural, psychological, and ecological foundations of human living ecosystems. Some verses of the Quran also reveal the benefits and wisdom of marriage, including revealing the wisdom of marriage to bring tranquility (*sakinah*), mutual love (*mawaddah*), and mutual affection (*rahmah*) in the family. The Bio

Bioanthropological Foundation of human anthropology is revealed that human life through the process of heredity, because humans experience a process of life and death, humans start from nothing (not yet realized), then become there (life), and then no longer exist (die). Economic foundations reveal that marriage brings many lessons formed from family activities and mobility. The anthropological foundation reveals that humans are dreamed of consisting of paired types between men and women, then gave birth to the formation of human groups and

tribes, from various human tribes then formed a system of interaction, and interaction then formed mutual knowledge and formed patterns of human life. All processes of the human life system are thus manifested through the process of marriage.

The Quran not only reveals the process of forming a system of human life through marriage but the Quran also reveals about the correct mechanisms and procedures in the marriage process, because the correct processes and procedures will give birth to family life and produce good and true human offspring.

Among the provisions in the Qur'an on which the Islamic Law on marriage is based is that marriage must be performed between couples of the same religion, the Islamic religion. The Qur'an forbids marriages between non-Muslim couples, marriages between Muslim men and women and non-Muslims both men and women. Several verses of the Qur'an reveal provisions prohibiting non-religious marriages, marriages between Muslims and non-Muslims, and non-Muslim terms expressed in different terms: infidels, polytheists, Jews, Christians, *watsaniyah*, *kitabiyat*, *majusi*, and others. Starting from the differences and diversity of terms in the scope of non-Muslims in the provisions prohibiting marriage not of the same religion, this then gave birth to nuances of different views on the interpretation of terminology about the categories of *polytheism* stipulated by the Qur'an, prohibited marriage with them, and differences in views on marriage between Muslims and the Ahl al-Kitab.

The MUI's fatwa in the Second National Deliberation on May 26 – June 1, 1980, on Mixed Marriage stipulates that "the marriage of a Muslim woman with a non-Muslim man is unlawful; A Muslim man is forbidden to marry a non-Muslim woman. Regarding the marriage between Muslim men and Ahl al-Kitab women there is a difference

of opinion. After considering that the *mafsadah* was greater than the *mashlahat*, the Indonesian Ulema Council declared the marriage haram". In this fatwa, the MUI has revealed the existence of non-Muslim categories and Ahl al-Kitab. The mention of the Ahl al-Kitab category shows that the MUI considers the differences in views among tafsir scholars regarding the meaning of the Ahl al-Kitab category in a non-Muslim context and its legal implications, although later the MUI took the position of its fatwa stipulating that marriage between Muslims and Ahl al-Kitab is haram.¹

2. METHODS

This type of research is *library* research, which takes the object of research in the area of thought, understanding, interpretation, contained in books of tafsir, books of fiqh, *ushul fiqh*, books, and other literature.

This research approach is Qualitative, which emphasizes meaning, reasoning, definition in certain contexts, examining words, sentences from the view of *mufassir*, Qualitative research² requires a deep understanding related to the object under study³

The research method used is the *descriptive method of content analytics*, or document analysis techniques, or *content analysis by* collecting information and views, analysis of interpretations and opinions, in manuscripts, literature, or books of interpretation.⁴

3. RESULTS AND DISCUSSION

3.1 Interpretation of verses prohibiting interfaith marriage

3.1.1 Tafsir Surat al-Baqarah: 221

Jumhur ulama *mufassirin* revealed that against some verses of the Quran which form the basis that marriage between Muslims and non-Muslims according to Islamic Law is haram. The main verse to

¹ Sekretariat MUI, *Himpunan Fatwa Majelis Ulama Indonesia*, Jakarta; Sekretariat MUI, 2010, h. 46-47.

² Inskandar, *Qualitative Research Methodology*, Jakarta: Gaung Persada (GP Press), 2009, p. 11.

³ *Ibid.*, p. 19

⁴ Consuelo G. Sevilla dkk., *Pengantar Metode Penelitian*, Jakarta: UI Press, 1993., h. 71 dan 93.

which it is referred to is Surah al-Baqarah verse 221:

وَلَا تَنْكِحُوا الْمُشْرِكَةَ حَتَّىٰ تُؤْمِنَ ۚ وَلَا مُمِئَةً مُّؤْمِنَةً خَيْرٌ مِّنْ مُّشْرِكَةٍ ۚ وَلَوْ أَعْجَبَتْكُمْ ۚ وَلَا تُنكِحُوا الْمُشْرِكِينَ حَتَّىٰ يُؤْمِنُوا ۚ وَلَعَبْدٌ مُّؤْمِنٌ خَيْرٌ مِّنْ مُّشْرِكٍ ۚ وَلَوْ أَعْجَبَكُمْ ۚ أُولَٰئِكَ يَدْعُونَ إِلَى النَّارِ ۚ وَاللَّهُ يَدْعُو إِلَى الْجَنَّةِ وَالْمَغْفِرَةِ بِإِذْنِهِ ۗ وَبَيِّنَ الْبَيِّنَاتِ لِلنَّاسِ لَعَلَّهُمْ يَتَّقُونَ

"Do not marry women who are polytheists (believe in and worship gods other than Allah) until they have faith in Allah. Indeed women who serve Allah are better than idolatrous women, even though they attract you more. And do not marry women who believe in Allah (believers) to men who believe in Allah until they believe in Allah, indeed men who believe in Allah are better than men who believe in Allah, even though they attract you more. They (the idolaters) invite to hell, while Allah invites to heaven and brings forgiveness with His permission. Allah explains His commandments) to man so that man will learn a lesson."

In the Book "Rowa'i' al-Bayan Tafsir Ayat al-Ahkam min al-Qur'an, Shaykh Ali al-Shabuni explains the interpretation in Surah al-Baqarah verse 221 that the sentence "do not marry women of idolatry" means "do not marry women who worship idols (watsaniyyaat). The word "al-musyrikah" is interpreted as "those who worship idols or those who do not have a religion of divine origin":

وَلَا تَنْكِحُوا الْمُشْرِكَةَ أَيْ لَا تَتَزَوَّجُوا الْوَتَنِيَّاتِ، وَالْمُشْرِكَةُ هِيَ الَّتِي تَعْبُدُ الْأَوْثَانَ وَلَيْسَ لَهَا دِينٌ سَمَاوِيٌّ وَمِثْلُهَا الْمُشْرِكُ.

Another mufassir explains that the meaning of "al-musyrikah" not only means "al-watsaniyah" but also includes al-kitabiyyat (the woman of Ahl al-Kitab), the meaning of al-musyrikah includes Ahl al-Kitab. What al-Kiyabiyat or Ahl al-Kitab means in this verse are Jews and Christians. The meaning of the phrase "al-musyrikah" which includes Jews and Christians is because the essence of Jewish and Christian beliefs and deeds is 'idolatrous'. This meaning is affirmed in Sura al-Tawbah verses 30-31 that "the Jews say the belief that "the Prophet Uzair" is the Son of

God, the Nashranis say the belief that "Jesus is the Son of God"). Furthermore, at the end of this verse the sentence "... Most Holy Allah from their deeds and beliefs (Jews and Christians) who shirk (condemn) to Allah":

وقيل إنما تعم الكتابيات أيضا لأن أهل الكتاب مشركون لقوله تعالى (وقالت اليهود عزيز ابن الله وقالت النصارى المسيح ابن الله) إلى قوله (سبحانه عما يشركون)⁵

The phrase (سبحانه عما يشركون) affirms the Most Holy God, including the Most Holy of what they do which is to associate Allah. The phrase "amma yusyrikun" means that his fa'il is Jewish and Christian. Jews believe Uzair is the Son of God, Christians believe Jesus is the Son of God. Such beliefs fall into the category of "shirk" acts. The use of the phrase (سبحانه عما يشركون) confirms that God condemns Jewish and Christian beliefs and beliefs, and affirms that such beliefs are "idolatrous". Since the beliefs and deeds of Jews and Nashranis are "shirk", Jews and Christians are "polytheists". Because they are "polytheists", the prohibition against marrying "polytheists" as referred to in verse 221 of Sura al-Baqarah includes a prohibition against marrying Jews and Christians, which means that the law of marrying Jews and Christians both men and women is haram.⁶

Shaykh Ali al-Shabuni elaborated on the interpretation of verse 221 of Surat al-Baqarah above:

ولا تزوجوا المشركين من نسائكم المؤمنات حتى يؤمنوا بالله ورسوله ولأن تزوجوهن من عبد مؤمن خير لكم من ان تزوجوهن من حر مشرك مهما اعجبكم في الحسب والنسب والشرف فإن هؤلاء - المشركين والمشركات ...⁷

"Do not marry believers to idolatrous men, until they have faith in Allah and the Messenger of Allah. Indeed marrying mukminat women to believing servant men is better for you than marrying mukminat women to free men but polytheism even though free polytheistic men are more amazing to you in terms of their wealth, offspring, and position, because they are idolatrous"

⁵ Muhammad Ali al-Shabuni, *Rowa'i' al-Bayan Tafsir Ayat al-Ahkam*, Jilid I, Damaskus: Dar al-Qolam, 1990, Juz I, h. 264; Zamakhsyari, Abu al-Qasim Mahmud ibn Umar ibn Muhammad ibn Umar al-Khuwarizmi al-, *al-Kasysyaf 'an Haqa'iq Ghawamidh al-Tanzil wa 'Uyun al-Aqawil fi Wujuh al-Ta'wil*, Beirut Libanon: Dar al-Ma'rifah, Julid I, 2009, hal. 200; Razi al-Fakhr al-Din, *al-Tafsir al-Kabir*, Dar al-Kutub al-Islamiyah, tth., h.

59; Qurthubi, Abu Abdullah Muhammad ibn Ahmad al-, *al-Jami' li Ahkam al-Qur'an al-Karim*, Kairo: Dar al-Sya'b, Jilid III, t.th., h. 68; Sirazi, Kamal al-Din ibn Abd al-Rasyid ibn al-Hammam al-, *Syarh Fath al-Qadir*, Beirut: Dar al-Kutub al-'ilmiyah, Juz I, 1970, h. 224.

⁶ Ibid.

⁷ Ibid., h. 265

3.1.2 Sabab Nuzul Surat Al-Baqarah Ayat 221

To know a broad understanding of the law contained in this verse, it is necessary to examine the nuzul of this verse. There are several narrations of this verse, but the mu'tabar is the sabab nuzul from the narration of Abdullah ibn Abbas which reveals that:

وروي عن ابن عباس أن هذه الآية نزلت في (عبد الله بن رواحة) كانت له أمة سوداء , وأنه غضب عليها فلطمها ثم إنه فرغ فأتى النبي صلى الله عليه وسلم فأخبره خبرها فقال له النبي صلى الله عليه وسلم : ما هي يا عبد الله؟ فقال : يا رسول الله هي تصوم وتصلّي وتحسن الوضوء وتشهد أن لا إله إلا الله وأنتك رسوله فقال : يا عبد الله هذه مؤمنة , فقال : والذى بعثك بالحق لأعتقنها ولأتزوجنها ففعل , فعابه ناس من المسلمين وقالوا : نكح أمة , وكانوا يرغبون في نكاح المشركات رغبة في أحسابهن, فنزلت هذه الآية⁸

"This verse was revealed at the same time as the incident to Abdullah ibn Rawahah, it is stated that "he had a black slave girl, he was very angry with the slave woman and threw her away, and let go. After this event Abdulah ibn Rawahah came to the Prophet revealing the event to the Prophet (peace be upon him). From this event, the Prophet asked Abdullah ibn Rawahah: "What is wrong with Amat Ya Abdullah ibn Rawahah?. Abdullah ibn Rawahah then revealed: "O Messenger of Allah, my Amat (female servant of sahaya) often fasted, prayed often, often performed ablution well, creed La ilaha illa Allah wa annaka Muhammad Rasulullah". After hearing the story, the Prophet told Abdullah ibn Rawahah: "O Abdullah ibn Rawahah, He is a good Believer". After the Prophet said this, Abdullah ibn Rawahah said: "By Allah Dzat who has sent you righteously, "Truly I will set free my Amat woman and I will marry her". Subsequently, he married the Amat". But then the surrounding Muslim community gossiped about the act of Abdullah ibn Rawahah who married very much, because they considered the act of marrying a sahaya servant woman (amat) was flawed, the community ridiculed Abdullah ibn Rawahah for marrying a sahaya mukminah servant woman, ", while the common Arab Muslim community around prefers and is proud to marry a musyrikah woman than a sahaya servant woman even though it is a believer, for reasons of his position and rank."

The following narration of the above verse reveals the anthropological, social background, and mindset of Muslims from among the Companions which is disputed and needs to be straightened out by the Qur'anic verse so that this verse was revealed to the Prophet Muhammad. In some narrations it is mentioned that many of the Companions married Jewish and Christian women, because of their incorrect perspective and culture, that is, they viewed more proudly and preferred to marry Jewish and Christian women, because the majority of Jews and Christians were better in terms of beauty, social status, and wealth, even marrying sahaya servants was considered inferior and despised because of their social status, Their economy, and their position, even though they are Muslims.

Among the Companions who married Jewish and Christian women were: Uthman married Na'ilah bint Farafisoh a Christian, then he converted to Islam after that; Hudzaifah married a Jewish woman from the inhabitants of Mada'in, Jabir married a Jewish woman and a Christian woman. When Jabir was asked about his marriages to Jewish and Christian women, he replied "I married Jewish and Christian women during the time of Fath Makkah, and then his marriage in Kufa.⁹ Such a historical background is revealed in the following narration:

لأن الصحابة رضي الله عنه تزوجوا من أهل الذمة فترج عثمان رضي الله عنه نائلة بنت الفرافصة الكلبية وهي نصرانية وأسلمت عنده وتزوج حذيفة يهودية من أهل المدائن وسئل جابر عن نكاح المسلم اليهودية والنصرانية فقال: تزوجنا بمن زمان الفتح بالكوفة¹⁰

Based on verse 221 of Surat al-Baqarah, scholars agree that the law of marriage for a Muslim against a polytheist or non-Muslim woman is haram.

3.1.3 Tafsir Surat Al-Mumtahanah Ayat 10:

Another verse commonly used to postulate the legal prohibition of marriage

⁸ Al-Thabari, *Jami' Ayi...*, op.cit., h. 221

⁹ Wahbah al-Zuhaili., *al-Fiqh al-Islami...*, op.cit., Juz 7, h. 159.

¹⁰ Ibid.

between Muslims and non-Muslims is verse 10 of Surat al-Mumtahanah, namely:

يَا أَيُّهَا الَّذِينَ آمَنُوا إِذَا جَاءَكُمُ الْمُؤْمِنَاتُ مُهَاجِرَاتٍ فَامْتَحِنُوهُنَّ اللَّهُ أَعْلَمُ بِإِيمَانِهِنَّ فَإِنْ عَلِمْتُمُوهُنَّ مُؤْمِنَاتٍ فَلَا تَرْجِعُوهُنَّ إِلَى الْكُفَّارِ لَا هُنَّ حِلٌّ لَّهُمْ وَلَا هُمْ يَحِلُّونَ لَهُنَّ وَآتُوهُنَّ مَا آتَفَقُوا وَلَا جُنَاحَ عَلَيْكُمْ أَنْ تَنْكِحُوهُنَّ إِذَا آتَيْتُمُوهُنَّ أُجُورَهُنَّ وَلَا تُمْسِكُوا بِعِصَمِ الْكَافِرِ الْكَافِرِ وَاسْتَلُوا مَا آتَفَقْتُمْ وَلَيْسَ لَكُمْ أَنْ تَنْفِقُوا فِيكُمْ حُكْمَ اللَّهِ بَيْنَكُمْ وَاللَّهُ عَلِيمٌ حَكِيمٌ

"O believers, when you come to migrate to you women of faith, then you should test (faith) them. Allah knows more about their faith, so if you know that they (really) have faith then do not return them to (their husbands) the unbelievers. They are not lawful for the unbelievers, and the unbelievers are not lawful for them. And give them the dowry they have paid. And it is no sin for you to marry them if you pay them their dowry. And do not hold on to the marriage cord with unbelieving women, and ask for the dowry they have paid. Such is the law of God which He established among you. And Allah is All-Knowing and All-Wise.

In verse 10 of Surat al-Mumtahanah the concept of lafadz used for the context of marriage with non-Muslims is "kafir", as seen in this passage "فَلَا تَرْجِعُوهُنَّ إِلَى الْكُفَّارِ", and on the excavation of the sentence "وَلَا تُمْسِكُوا بِعِصَمِ الْكَافِرِ". In Surah al-Baqarah verse 221, the concept sentence used to identify non-Muslims is lafadz "al-musyrik".

This verse confirms that women who have migrated to Islam from previous infidels, then haram is returned to their original husbands who are still infidels. The haram of women who have migrated to Islam is because of their disbelief. And also, the affirmation that these women may be married by Muslim men because they have converted to Islam. This verse confirms that it is haram for Muslim men to marry infidel women. The haram of their marriage because of its infidels.

The affirmation of the haram of Muslim men marrying infidel women as well as Muslim women marrying infidel men is seen in the sentence "لَا هُنَّ حِلٌّ لَّهُمْ وَلَا هُمْ يَحِلُّونَ لَهُنَّ" Which confirms that infidel women are not halal to marry Muslim men, and vice versa Muslim women should not be married to non-Muslim men (infidels). Likewise in the sentence "وَلَا جُنَاحَ" shows the halality of Muslim men marrying women who have

migrated to Islam. Thus, it is lawful for Muslim men to marry Hijra women because of their Islam.

3.2 Interpretation of The Verse on Which Muslim Men Are Allowed to Marry Ahl Al-Kitab Women

3.2.1 Tafsir Surat al-Maidah: 5

There are several scholarly opinions that allow Muslim men to marry *Ahl al-Kitab* women. The permissibility in question is limited to the permissibility for Muslim men to marry *Ahl al-Kitab* women, not vice versa. Their view stems from an interpretation of the meaning and scope of the concept of *Ahl al-Kitab*, or *al-Kitabiyyat*. Their opinion refers to the interpretation of verse 5 of Surat al-Maidah, namely:

الْيَوْمَ أُحِلَّ لَكُمْ الطَّيِّبُ وَطَعَامُ الَّذِينَ أُوتُوا الْكِتَابَ حَلٌّ لَكُمْ وَطَعَامُكُمْ حَلٌّ لَّهُمْ وَالْمُحْصَنَاتُ مِنَ الْمُؤْمِنَاتِ وَالْمُحْصَنَاتُ مِنَ الَّذِينَ أُوتُوا الْكِتَابَ مِنْ قَبْلِكُمْ إِذَا آتَيْتُمُوهُنَّ أُجُورَهُنَّ مُحْصِنِينَ غَيْرَ مُسْفِحِينَ وَلَا مُتَّخِذِي أَخْدَانٍ.....

"... (And it is lawful to marry) women who keep honor among women of faith and women who keep honor among women who were given the Bible (*Ahlu Kitab*) before you)".

By referring to this verse, some scholars argue that Muslim men may marry *Ahl al-Kitab* women. The meaning of *Ahl al-Kitab* is Judaism and Christianity. This opinion is based on a fragment of the sentence:

... وَالْمُحْصَنَاتُ مِنَ الَّذِينَ أُوتُوا الْكِتَابَ....

"..... (and it is lawful to marry) women who keep honor among the women who were given the Bible (*Ahlu Kitab*) before you)".

The meaning of *al-Bibiyah* is "one who believes, believes, is religious with the religion that comes from heaven, namely Jews, Christians. *Ahl al-Kitab* is a religious belief in the Torah and the Gospel. Adherents of the Scriptures are Jews. Adherents of the Gospel Scriptures are Christians. Thus, the *Ahl al-Kitab* means Jews and Christians. This is as expressed:

الكتابية هي التي تؤمن بدين سماوي كاليهودية والنصرانية. وأهل الكتاب : هم أهل التوراة والإنجيل لقوله تعالى:

أن تقولوا إنما أنزل الكتاب على طائفتين من قبلنا (الأنعام : 156) ¹¹

Shaykh M Ali Al-Shabuni revealed that there is a history that states that there are several opinions of scholars who state the law Muslim men can marry women of the dhimmi *Ahl al-Kitab* (Jews and Christians). They base on the above sentences, including:

1. Jumhur ulama revealed that Muslim men may marry dhimmis from among Jews and Christians (*Ahl al-Kitab*), based on the meaning of verse 5 of Surat al-Maida:

ذهب جمهور الفقهاء إلى أنه يحل التزوج بالذمية من اليهود والنصارى واستدلوا بهذه الآية (والمحصنات من الذين أوتوا الكتاب من قبلكم) ¹²

Wahbah al-Zuhaili revealed that scholars agree that Muslim men may marry "*al-Kitabiyat* (women of *Ahl al-Kitab*):

وقد اجمع العلماء على إباحة الزواج بالكتابيات لقوله تعالى: أَلْيَوْمَ أَحْرَأَ لَكُمْ الطَّيِّبَاتُ ... وَالْمُحْصَنَاتُ مِنَ الَّذِينَ أُوتُوا الْكِتَابَ مِنْ قَبْلِكُمْ... ¹³

Furthermore, they interpret that the phrase "*al-musyrikah*" has narrowed down meaning to include only "*al-watsaniyyat*" (idolatrous woman) and "*magi woman*", namely:

دل قوله تعالى "وَلَا تَنْكِحُوا الْمُشْرِكَةَ حَتَّىٰ تُؤْمِنَ" .. "وَلَا تَنْكِحُوا الْمُشْرِكَةَ حَتَّىٰ يُؤْمِنَ" .. على حرمة نكاح الجوسيات و الوثنيات .. أما الكتابيات فيجوز نكاحهن لقوله تعالى في سورة المائدة ... "وطعام الذين أوتوا الكتاب حل لكم وطعامكم حل لهم , والمحصنات من المؤمنات والمحصنات من الذين أوتوا الكتاب ... الآية

Their opinion that allows Muslim men to marry *Ahl al-Kitab* women also departs from the meaning of the phrase "*al-musyrik*" narrowed to include pagans and magi other than Jews and Christians, while Jewish and Christian women do not include the scope of the meaning of "*al-musyrikah*".

Another reason many scholars interpret lafadz "*al-musyrikat*" does not include the *Ahl al-Kitab*, based on the verse "ما يود الذين كفروا من أهل الكتاب ولا المشركين"

Use of the letter '*athaf*' in sentences من shows the difference between *Ahl al-Kitab* and *al-musyrikun*, so the meaning of "*al-musyrikah*" does not include the meaning of "*Ahl al-Kitab*":

احتج الجمهور بأن لفظ (المشركات) لا يتناول أهل الكتاب لقوله تعالى (ما يود الذين كفروا من أهل الكتاب ولا المشركين) وقوله تعالى (لم يكن الذين كفروا من أهل الكتاب والمشركين) فقد عطف المشركين على أهل الكتاب . والعطف يقتضى المغايرة . فظاهر لفظ (المشركات) لا يتناول الكتابيات ¹⁴

3.2.2 Opinions of Madzhab Four Scholars

Among the scholars of the fourth madhab, they argue that it is permissible for Muslim men to marry *Ahl al-Kitab* women but with different restrictions and conditions:

- 1). **Hanafi scholars** argue that it is unlawful for Muslim men to marry *Ahl al-Kitab* women if they are in the *Dar al-Harbi* region that is not subject to Islamic law, this is because it is feared that it will open the door to slander or disaster for him.
- 2). **Maliki scholars** argue that there are two opinions: 1). Muslim men marry *Ahl al-Kitab* the law is *makruh mutlaq*, whether the woman is *Ahl al-Kitab* dhimmi or *harbi*; 2). The law of Muslim men marrying *Ahl al-Kitab* women is not *makruh mutlaq*, on the grounds based on his *dhohir lafadz* in verse 5 of surah *al-Maida*.
- 3). **Shafi'iyah scholars** argue that Muslim men marry *Ahl al-Kitab* women the law is *makruh* if they live in the territory of *Dar al-Islam*, and *verier makruh* if it is carried out in the territory of *Dar al-harbi*.
- 4). **Hanabilah scholars** argue that Muslim men marrying *Ahl al-Kitab* women may be lawless without *makruh*, this is based on the generality of the sentence in sura *al-Maidah* verse 5.
- 5). **Shafi'iyah scholars** and *Hanablah* scholars require the ability of a muslim man to marry an *Ahl al-Kitab* woman if both parents are really *Ahl al-Kitab*. If his father is *Ahl al-Kitab* and his mother is *Kafir watsani* (idolaters) then his law is not *halal*.¹⁵

In another narration it is mentioned that the *Hanabilah* scholars argue that the law

¹¹ Wahbah al-Zuhaili, *al-Fiqh al-Islami*..., Juz 7, h. 158.

¹² M Ali al-Shabuni, *Rowa'ii al-Bayan*, Juz I, h. 505

¹³ Wahbah al-Zuhaili, *al-Fiqh* ... , op.cit., Juz 7, h. 158.

¹⁴ Sayyid Sabiq, *Fiqh al-Sunnah*, Jilid II, Ttp: 1988, h. 90;

Wahbah al-Zuhaili, *al-Fiqh al-Islami*..., op. cit., h. 268-269

¹⁵ Al-Jaziri, Abdurrahman, *al-Fiqh 'ala al-Madzahib al-Arba'ah*, Juz IV, Beirut: Dar al-Fikr, 2003, pp. 61-62.

of Muslim men marrying Ahl al-Kitab women is "*khilaf al-awla*"¹⁶

- 6). **Imam Qatadah** argues that the phrase "*al-musyrikah*" is meant only for the "*musyrikat al-Arab*" of Arab polytheists only:

فقد قال قتادة في تفسير الآية إن المراد بالمشركات (مشركات العرب) اللاتي ليس لهن كتاب يقرأنه¹⁷

- 7). **Imam Hammad** said that when he asked Ibrahim about the law of marrying Ahl al-Kitab women, Ibrahim replied "what *al-musyrikah* means" is "wise women and idolaters."

عن حماد قال سألت إبراهيم عن تزويج اليهود والنصرانية فقال: لا بأس به فقلت: أليس الله تعالى يقول (ولا تنكحوا المشركات) فقال: إنما تلك الجوسيات وأهل الأوثان¹⁸

- 8). **Imam al-Thobari** expressed an opinion in his Tafsir book "*Jami' al-Bayan*":

وأولى الأقوال بتأويل الآية ما قاله قتادة من أن الله تعالى ذكره عني بقوله (ولا تنكحوا المشركات) من لم يكن من أهل الكتاب من المشركات وأن الآية عام ظاهرها خاص باطنها لم ينسخ منها شيء وأن نساء أهل الكتاب غير داخلات فيها وذلك أن الله تعالى أحل بقوله (والمحصنات من اللذنين أوتوا الكتاب من قبلكم) للمؤمنين من نكاح محصناتهن مثل الذي أباح لهم من نساء المؤمنات¹⁹

3.3 Refutation of The Scholar's Interpretation of Surah Al-Maidah Verse 5

The opinions of scholars allowing Muslim men to marry Ahl al-Bait women, based on the interpretation of sura al-Maidah verse 5, are refuted by the majority of scholars, with reference to many verses of the Qur'an, namely: sura al-Baqarah verse 221; al-Mumtahanah verse 10; and sura al-Tawbah verses 30-31, and corroborated by narrations from Umar ibn Khathab, Abdullah ibn Umar, Imamiyah Shi'a and Zaidiyah Shi'a.

The basis of scholars who refute the opinion of the u; The long period that allowed men to marry Ahl al-Kitab women was also based on the detailed interpretation of the Qur'anic verses Surah al-Baqarah verse 221, sura al-mumtahanah verse 10, and sura al-Tawbah verses 30-31, with the following explanation of interpretation:

3.3.1 Tafsir Surat al-Baqarah: 221, By Majority of Mufasssirin:

وَلَا تُنكِحُوا الْمُشْرِكَةَ حَتَّىٰ تُؤْمَرَ... وَلَا تُنكِحُوا الْمُشْرِكِينَ حَتَّىٰ يُؤْمَرُوا....

In this verse it is very clear that a Muslim man is forbidden to marry a polytheistic woman, as well as a Muslim woman is forbidden to marry a polytheistic man. The meaning of "*al-Musyrik*" includes Ahl al-Kitab, which is Jews and Christians because Jews and Christians are essentially Jupiters, they believe besides Allah there is God, Jews believe that Uzair is the Son of God, Christians believe that 'Isa is the Son of God, as sura al-Tawbah verses 30-31.²⁰

وَلَا تُنكِحُوا الْمُشْرِكَةَ إِي لَا تَتَزَوَّجُوا الْوَثْنِيَّاتِ، وَالْمُشْرِكَةُ هِيَ الَّتِي تَعْبُدُ الْأَوْثَانَ وَلَيْسَ لَهَا دِينٌ سِوَايَ وَمِثْلُهَا الْمُشْرِكُ.....

وقيل إنما تعم الكتابيات أيضا لأن أهل الكتاب مشركون لقوله تعالى (وقالت اليهود عزيز ابن الله وقالت النصارى المسيح ابن الله) إلى قوله (سبحانه عما يشركون)

3.3.2 Interpret the letter of al-Taubah verses 30-31:

(30) وقالت اليهود عزيز ابن الله وقالت النصارى المسيح ابن الله ذلك قولهم بأفواههم يضاهئون قول الذين كفروا من قبل قاتلهم الله أن يؤفكون (31) اتخذوا أحبارهم ورهبانهم أربابا من دون الله والمسيح ابن مريم وما أمروا إلا ليعبدوا الها واحدا لا إله إلا هو سبحانه عما يشركون

"The Jews say (and believe) (the Prophet) Uzair is the son of God. Christians say and believe (Prophet) Isa (al-Masih) is the son of Allah. Such is the word of confidence from their mouths. They imitated the utterances of the infidels before them. God condemned them, why did they turn away (30). They appointed their Ulema and monks to be Gods other than Allah, they also appointed (Isa) al-Masih son of Mary as a God other than Allah. Though they were told to worship only Allah as God, there is no God but Allah. Most Holy Allah for their shirk deeds."

Based on the affirmation of surah al-Tawbah verses 30-31 that the beliefs and deeds of Jews and Christians are "idolatrous", because they do and believe there is a God worshipped besides Allah. Jews believe that Prophet Uzair is the Son of God, Christians believe that Jesus is the Son of God, even Christians appoint Christian monks (scholars) as God, thus, Jews

¹⁶ Wahbah al-Zuhaili, *al-Fiqh al-Islami wa Adillatuhu*, Damaskus: Dar al-Fikr, Juz 7., 2008., h. 159

¹⁷ Muhamad Ali Al-Shabuni, *Rowa'iyat al-Bayan op.cit.*, h. 269

¹⁸ *Ibid.*

¹⁹ Thabari, Abu Ja'far ibn Muhammad ibn Jarir al-, *Jami' al-Bayan 'an Ta'wil Ayyi al-Qur'an*, Kairo: Hijr li al-Thab'i wa al-Nasyr wa al-Tawzi' wa al-I'tan, Juz IV, Cet. II, 2001, h. 365.

²⁰ *Ibid.*, h. 264.

many Muslims marry Ahl al-Kitab because of its beauty, while degrading Muslim women, and this is a slander for Muslim women".

3.3.7 Opinion of Abdullah ibn Umar

Abdullah ibn Umar's opinion that it is unlawful for Muslim men to marry Ahl al-Kitab women. As mentioned in the history: *وذهب ابن عمر رضي الله عنهما إلى تحريم نكاح الكتابيات , وكان إذا سئل عن نكاح الرجل النصرانية او اليهودية قال : حرم الله تعالى المشركات على المسلمين ولا أعرف شيئا من الإشراف من ان تقول المرأة : ربها عيسى او عبد من عباد الله تعالى* ²⁶*"It is unlawful for Muslim men to marry Ahl al-Kitab women. When Ibn Umar was asked about the law of Muslim men marrying Jewish women and Nashrani Ahli al-Kitab, he replied: Allah Almighty has forbidden the marriage of polytheistic women to Muslim men. I don't see anything higher than the expression and belief that "His God is Jesus, or 'Isa is God. Isn't 'Isa actually a servant of God?":*

3.3.8 Opinion of the Imamiyah Madhhab and Zaydi Shi'a

The opinion of the Imamiyah Madhhab and Zaydiyya Shi'a that a Muslim man is haram to marry an *Ahl al al-Kitab woman*: a Jew and/or a Christian.²⁷

3.3.9 Opinion of Imam Ibn Jarir al-Thabari

Imam Ibn Jarir al-Thabari that "Allah forbids a believing woman to be married to any polytheistic man, whether a Member of the Bible or not."²⁸

3.3.10 Imam al-Qurthubi

Imam al-Qurthubi stated "do not marry a Muslim woman to a polytheistic man."²⁹

3.3.11 MUI Fatwa on Marriage between Muslims and Non-Muslims

The MUI fatwa issued by MUNAS II MUI in 1980 concerning mixed marriage stipulates that: (1) The marriage of a Muslim woman to a non-Muslim man is unlawful; (2). A Muslim man is forbidden to marry a non-Muslim woman. On the marriage between a Muslim man and a woman of the People of the

Book there is a difference of opinion. After considering that the mafsadah was greater than the maslahah, the Indonesian Ulema Council declared the marriage haram.³⁰

The foundation used by MUI in establishing the Fatwa on Mixed Marriage also uses Qur'anic verses regarding the provisions prohibiting marriage between, Muslims with polytheists both men and women, and also the prohibition of marriage between Muslims and the Ahl al-Kitab, as outlined in the above interpretation of the Qur'anic verses Surat al-Baqarah verse 221; al-Maidah verse 5; al-Mumtahanah verse 10; al-Tahrim.

CONCLUSION

1. The interpretation of the verses of the Qur'an that stipulates the law prohibiting marriage between Muslims and non-Muslims is an interpretation of Surah al-Baqarah verse 221 which stipulates that Muslims are prohibited from marrying non-Muslims. Verse 221 of Surah al-Baqarah uses the term polytheism to define the category of non-Muslims, whose meaning of polytheism in this verse includes everyone who is not religious according to the religion of Islam, whether watsani (idolaters), majusi, Jews or Christians.
2. The interpretation of the verses of the Qur'an which is often used as a reference by the scholars, mufaasir, which allows marriage between Muslim men and Jews and Christians, refers to Sura al-Maidah verse 5, which reveals that Ahl al-Kitab women are allowed to be married by Muslim men. Interpretation of the meaning of Ahl al-Kitab which is interpreted as a community that is outside the category of polytheists, so that Muslim men can marry

²⁶Muhamad Ali al-Shabuni, *Rowa'i' al-Bayan op.cit.*, h.268

²⁷ *Ibid.*

²⁸ Thabari, Abu Ja'far ibn Muhammad ibn Jarir al-Bayan, *Jami' al-Bayan 'an Ta'wil Ayi al-Qur'an*, Kairo: Hijr li al-Thab'i wa al-Nasyr wa al-Tawzi' wa al-Tawzi' wa al-l'an, Cet. II, 2001, h. 379.

²⁹Qurthubi, Abu Abdullah Muhammad ibn Ahmad, al-Jami'li Ahkam al-Qur'an al-Karim, Kairo: Dar al-Syab, Juz I, t.th., pp. 48-49.

³⁰ MUI Secretariat, *Fatwa Association of the Indonesian Ulema Council*, Jakarta: MUI Secretariat, 2010, pp. 46-47.

Ahl al-Kitab women. The Ahl al-Kitab in question are Yahud and Christianity.

3. Ulma's interpretation of sura al-Maidah verse 5 which is used as a reference to the perability of Muslim men to marry with the Ahl al-Kitab (Jews and Christians) is refuted by other scholars on the basis of interpretation and interpretation of many verses from several suras al-Baqarah verse 221 regarding the meaning of al-polytheism which is interpreted to include all who are not Muslims, and who worship Than other than Allah, including Jews and Christians. And also the interpretation of sura al-Mumtahanah verse 10, and sura al-Tawbah verses 30-31, and reinforced by other narrations, which implies that the legal provisions of marriage between Muslims and non-Muslims are haram, including the law of marriage between a Muslim man and a woman Ahl al-Kitab is haram.

REFERENCES

- Consuelo G. Sevilla dkk., *Pengantar Metode Penelitian*, Jakarta: UI Press, 1993.
- Inskandar, *Metodologi Penelitian Kualitatif*, Jakarta: Gaung Persada (GP Press), 2009.
- Jaziri, Abdurrahman al-, *al-Fiqh 'ala al-Madzahib al-Arba'ah*, Juz IV, Beirut: Dar al-Fikr, 2003.
- Qurthubi, Abu Abdullah Muhammad ibn Ahmad al-, *al-Jami' li Ahkam al-Qur'an al-Karim*, Kairo: Dar al-Sya'b, t.th.
- Razi al-Fakhr al-Din, *al-Tafsir al-Kabir*, Dar al-Kutub al-Islamiyah, tth.
- Shabuni, Muhammad Ali al-, *Rawa'i al-Bayan Tafsir Ayat al-Ahkam*, Damaskus: Dar al-Qolam, 1990.
- Syathibi, Ibrahim ibn Musa al-Mukhaity al Gharnathi Abu Ishaq al-, *al-Muwafaqot fi Ushul al-Syari'ah*, Beirut Lebanon: Dar al-Ma'rifah, 2003.
- Sekretariat MUI, *Himpunan Fatwa Majelis Ulama Indonesia*, Jakarta: Sekretariat MUI, 2010.
- Sayyid Sabiq, *Fiqh al-Sunnah*, Jilid II, Ttp: 1988,
- Sirazi, Kamal al-Din ibn Abd al-Rasyid ibn al-Hammam al-, *Syarh Fath al-Qadir*, Beirut: Dar al-Kutub al-'ilmiyah, Juz I, 1970.
- Thabari, Abu Ja'far ibn Muhammad ibn Jarir al-, *Jami' al-Bayan 'an Ta'wil Ayi al-Qur'an*, Kairo: Hijr li al-Thab'i wa al-Nasyr wa al-Tawzi' wa al-I'lan, Cet. II, 2001
- Wahbah al-Zuhaili, *al-Fiqh al-Islam wa Adillatuhu*, Damaskus: Dar al-Fikr, Jilid VII, 2008
- Zamakhshari, Abu al-Qasim Mahmud ibn Umar ibn Muhammad ibn Umar al-Khuwarizmi al-, *al-Kasysyaf 'an Haqa'iq Ghawamidh al-Tanzil wa 'Uyun al-Aqawil fi Wujuh al-Ta'wil*, Beirut Libanon: Dar al-Ma'rifah, 2009.