

KAFĀ'AH AS THE BASIS FOR PROHIBITING INTERFAITH MARRIAGE IN THE COMPILATION OF ISLAMIC LAW: A CONTEMPORARY ANALYSIS OF MAQĀṢID AL-USRAH

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Info Artikel

Article History:

Received: August 11, 2025

Accepted: September 9, 2025

Published: September 10, 2025

ISSN: 2656-1654

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e-ISSN: 2656-193X

Abstract

Purpose - Interfaith marriages among Muslims in Indonesia are becoming increasingly common. These marriages are legally conducted by exploiting the dualism of interpretation of interfaith marriage laws in the Marriage Law. Amidst this debate, the Compilation of Islamic Law (Kompilasi Hukum Islam/KHI) redefined the concept of *kafā'ah* as the absolute basis for prohibiting interfaith marriages. This provision is one of the efforts to maintain the welfare of marriage that is relevant to the spirit of *maqāṣid al-Ushrah*. This study aims to analyze the repositioning of the concept of *kafā'ah* as the basis for prohibiting interfaith marriage in the KHI using a contemporary analysis of *maqāṣid al-usrah*.

Method - This qualitative study used library research methods and was descriptive-analytical in nature. The primary data in this study is the KHI, especially the articles that discuss *kafā'ah*. Secondary data were obtained from the Marriage Law and various scientific literature relevant to the research theme. Data were collected through documentation techniques and analyzed using content analysis techniques.

Findings - The results of the study show that the KHI explicitly places religious similarity as a fundamental and absolute criterion of *kafā'ah*, as stated in Article 40 letter c and Article 44 of the KHI, which prohibits marriage between Muslims and non-Muslims.

Originality/Value - The basis for this prohibition is reinforced by the analysis of *maqāṣid al-usrah*, especially in maintaining *hifz al-dīn* (protection of religion) and *hifz al-nasl* (protection of offspring). Religious differences are seen as having the potential to cause ideological disorientation, conflicts in the education of children, and complications in inheritance law, all of which threaten the integrity and harmony of Muslim families. This prohibition is a preventive measure by the KHI to protect the interests of Muslims and ensure the creation of harmonious families based on Islamic laws.

Contribution/Limitation of Research - This study contributes to the theoretical development of Islamic family law thinking and knowledge, particularly in terms of legislative studies and family welfare values in the contemporary context. However, this study is still limited to normative analysis through documentary studies of the KHI.

Originality/Value – This study offers a new paradigm for interpreting the regulations on *kafā'ah* and the prohibition of interfaith marriage in the KHI as an effort to preserve Sharia values in marriage in the contemporary era.

Keywords: *Kafā'ah; Compilation of Islamic Law; Maqāṣid al-Ushrah; Interfaith Marriage.*

Abstrak

Tujuan - Pernikahan antaragama di kalangan Muslim di Indonesia semakin umum terjadi. Pernikahan-pernikahan ini secara hukum dilakukan dengan memanfaatkan dualisme interpretasi hukum pernikahan antaragama dalam Undang-Undang Perkawinan. Di tengah perdebatan ini, Kompilasi Hukum Islam (KHI) mendefinisikan ulang konsep *kafā'ah* sebagai dasar mutlak untuk melarang pernikahan antaragama. Ketentuan ini merupakan salah satu upaya untuk menjaga kesejahteraan perkawinan yang sejalan dengan semangat *maqāṣid al-Ushrah*. Penelitian ini bertujuan untuk menganalisis reposisi konsep *kafā'ah* sebagai dasar larangan perkawinan antaragama dalam KHI menggunakan analisis kontemporer *maqāṣid al-ushrah*.

Metode - Studi kualitatif ini menggunakan metode penelitian perpustakaan dan bersifat deskriptif-analitis. Data primer dalam studi ini adalah KHI, khususnya pasal-pasal yang membahas *kafā'ah*. Data sekunder diperoleh dari Undang-Undang Perkawinan dan berbagai literatur ilmiah yang relevan dengan tema penelitian. Data dikumpulkan melalui teknik dokumentasi dan dianalisis menggunakan teknik analisis konten.

Temuan - Hasil penelitian menunjukkan bahwa KHI secara eksplisit menetapkan kesamaan agama sebagai kriteria fundamental dan mutlak dalam *kafā'ah*, sebagaimana tercantum dalam Pasal 40 huruf c dan Pasal 44 KHI, yang melarang perkawinan antara Muslim dan non-Muslim.

Keaslian/Nilai – Dasar larangan ini diperkuat oleh analisis *maqāṣid al-ushrah*, terutama dalam menjaga *ḥifz al-dīn* (pelindungan agama) dan *ḥifz al-nasl* (pelindungan keturunan). Perbedaan agama dianggap berpotensi menyebabkan kebingungan ideologis, konflik dalam pendidikan anak, dan komplikasi dalam hukum waris, yang semuanya mengancam integritas dan harmoni keluarga Muslim. Larangan ini merupakan langkah pencegahan oleh KHI untuk melindungi kepentingan Muslim dan memastikan pembentukan keluarga harmonis berdasarkan hukum Islam.

Kontribusi/Batasan Penelitian – Penelitian ini berkontribusi pada pengembangan teoretis pemikiran dan pengetahuan hukum keluarga Islam, khususnya dalam hal studi legislatif dan nilai-nilai kesejahteraan keluarga dalam konteks kontemporer. Namun, penelitian ini masih terbatas pada analisis normatif melalui studi dokumen KHI.

Keaslian/Nilai – Penelitian ini menawarkan paradigma baru dalam menafsirkan peraturan tentang *kafā'ah* dan larangan perkawinan antaragama dalam KHI sebagai upaya untuk menjaga nilai-nilai Syariah dalam perkawinan di era kontemporer.

Kata kunci: *Kafā'ah; Kompilasi Hukum Islam; Maqāṣid al-Ushrah; Pernikahan Antar agama.*

INTRODUCTION

Interfaith marriage is a crucial issue in Islamic family law that continues to spark debate in theological and legal circles, especially in Indonesia. This issue has come to the fore due to the overlapping dualistic interpretations of the law. On the one hand, the Compilation of Islamic Law (KHI) explicitly prohibits marriage between Muslim men and non-Muslim women, and vice versa, with reference to

classical *fiqh* provisions (Idris and Alam 2022). However, several court decisions have allowed interfaith marriages through a more progressive interpretation of the applicable laws, creating inconsistency in the application of the law. This dualism not only creates legal confusion but also undermines legal certainty for citizens (Maliki 2024).

The phenomenon of interfaith marriage among Muslims in Indonesia shows a significant shift in social patterns compared with previous

periods. In the past, such practices tended to be carried out secretly to avoid social stigma and religious sanctioning. In the contemporary era, interfaith marriages are conducted openly and are accompanied by efforts to seek legitimacy through formal legal channels, particularly district courts (Dakhi, 2019). This change in pattern signifies a shift in orientation from the dominance of religious norms to an orientation towards formal legality and individual rights in building a household.

This change in pattern signifies a shift in orientation from the dominance of religious norms to an orientation towards formal legality and individual rights in building a household (A. M. Nasution & Rosmalinda, 2024). The fact that Muslim couples have applied to the court to register interfaith marriages shows a tendency to regard state law as a new authority capable of providing legitimacy, even though this contradicts the applicable *fiqh* and religious fatwas (Surahman, 2022). Thus, we can see a process of secularization in the private sphere of Muslims, where religious norms are beginning to shift in their role in determining the social legality of the family (Muthmainna 2025). This shift is marked by increasing openness to interfaith marriage practices, a stronger orientation toward state legal legitimacy, and a decline in the dominance of Islamic law as the primary consideration for building a household.

Amidst the current debate over legality and shifting social paradigms, the Compilation of Islamic Law (KHI) uses the concept of *kafā'ah* to close the legal loophole regarding interfaith marriages among Muslims. This is as stated in Article 61 of the KHI, which reads, "Incompatibility cannot be used as a reason to prevent marriage, except for incompatibility due to differences in religion or *ikhtilāf ad-dīn*." The prohibition of interfaith marriage is also reinforced by 40c, which reads, "It is prohibited to conduct a marriage between a man and a woman who is not Muslim" (Suyaman & Alfiany, 2022). Although *kafā'ah* in *fiqh* literature mostly discusses compatibility in terms of lineage, wealth, or social status, in the context of the KHI, this concept is expanded to include fundamental compatibility in beliefs. KHI views religious compatibility as an absolute prerequisite for achieving the integrity and sustainability of a marriage; its absence becomes the basis for justifying the prohibition (Nasir, 2022).

The provisions regarding *kafā'ah* in the KHI, although not explicitly mentioning it as a prohibition on interfaith marriage, implicitly use it as a fundamental principle. The Islamic legal sources for the concept of *kafā'ah* are deeply rooted in the Qur'an and the hadith of the Prophet Muhammad and have been further developed through the *ijtihād* of the *fuqahā'*. Scholars of the Hanafi and Shafi'i schools of thought have developed various criteria for

kafā'ah, but the essence is to maintain the honor, harmony, and continuity of the family (Asy'ari and Fisa 2022). Thus, the KHI adopts and integrates this classical principle into Indonesia's positive law framework.

The application of the concept of *kafā'ah* in the KHI is based on a strong spirit to maintain the welfare of marriage, or in the term *maqāṣid al-sharī'ah*, to maintain *maqāṣid al-usrah* (the objectives of family law) (Jannah, 2022). The KHI aims not only to regulate the formal procedures of marriage but also to ensure that every marriage that takes place has a solid foundation for achieving true happiness. *Maqāṣid al-usrah* emphasizes the importance of creating a family that is not only outwardly stable but also inwardly harmonious, which can only be realized if there is a shared vision and belief in living life (Dinata et al., 2024).

Previous research on this issue has tended to focus on sociological, jurisprudential, and comparative law dimensions. For example, Mursalin (2023), Rofiqoh (2020), and Aksa (2024) highlight the disparity between court decisions and Islamic law. Meanwhile, Ulfa (2024), Jawad (2020), and Abbasi (2024) compare interfaith marriage laws in various countries. However, there is still a scarcity of literature that specifically examines and analyzes in depth how the concept of *kafā'ah* in the KHI functions as the basis for prohibiting interfaith marriage through the lens of *maqāṣid al-usrah*. Thus, the

novelty of this study lies in its theoretical-juridical analysis using the *maqāṣid al-usrah* approach. This study not only examines the content of the KHI textually but also explores the philosophical meaning and substantive objectives behind these provisions.

The relationship between *kafā'ah* and *maqāṣid al-usrah* is the main focus of this study, providing a comprehensive and multidimensional perspective on the justification for prohibiting interfaith marriages. Based on the background described above, this study poses the following main questions: First, how is the concept of *kafā'ah* in the Compilation of Islamic Law interpreted as the basis for prohibiting interfaith marriages? Second, how can an analysis of *maqāṣid al-usrah* strengthen the legal justification for this prohibition? Based on these questions, the objectives of this study are to analyze in depth the causal relationship between the concept of *kafā'ah* in the KHI and the prohibition of interfaith marriage, as well as to identify and examine the relevance of *maqāṣid al-usrah* in this context. This study is expected to contribute to theoretical innovation by combining the *maqāṣid al-usrah* approach in the study of *kafā'ah* and providing practical contributions in the form of policy recommendations for the harmonization of marriage regulations in Indonesia. Thus, it is hoped that the Islamic legal framework that supports the welfare of the family will be strengthened without neglecting the complexities of multiculturalism.

METHOD

This study used a qualitative research method with a library research approach. This study is descriptive and analytical, aiming to systematically and comprehensively describe the concept of *kafā'ah* in the Compilation of Islamic Law (KHI) and its relationship with the prohibition of interfaith marriage. Furthermore, an analysis will be conducted to understand how this concept is based on the principles of *maslahat* using Jamaludin 'Atiyah's *Maqāṣid al-usrah* theoretical framework. The normative juridical approach is the main foundation, focusing on analyzing relevant laws and regulations.

The primary data in this study is the Compilation of Islamic Law (KHI), which is the main object of study to explore provisions related to *sekufu* and interfaith marriages. Secondary data were obtained from Law Number 1 of 1974 concerning Marriage, as well as various scientific literature such as books, journals, and articles relevant to the research theme, including works discussing *maqāṣid al-usrah*, Islamic family law, and the issue of interfaith marriage. The data collection technique used was a documentary study, which involved collecting and carefully examining the legal documents and literature. All collected data were analyzed using content analysis techniques. Data analysis in this study includes several stages, namely: 1) Describing the concept of *kafā'ah* normatively from an Islamic law

perspective; 2) Describing the construction of the meaning of *kafā'ah* in the KHI as the basis for prohibiting interfaith marriage; 3) Analyzing the vision of *maslahah* towards the repositioning of the concept of *kafā'ah* as a prohibition of interfaith marriage in the KHI; and 4) Analyzing the relevance between *kafā'ah* and the prohibition of interfaith marriage using the *maqāṣid al-usrah* theoretical framework.

RESULTS AND DISCUSSION

The Concept of *Kafā'ah* in Islamic Law

Etymologically, *kafā'ah* comes from Arabic, which is the *ism masdar* of *kafa'a-yukafi'u-mukafa'an-kafā'ah* and has the same root as the word '*kafa yakfi-kuf*' (sufficient). In line with this meaning, the book *I'alah al-Talibin* Juz 3 explains that *kafā'ah* linguistically or etymologically means similarity and equality (Fitri & Nafi'ah, 2024). In addition, *kafā'ah* can also be called *kufū'*, which has the same meaning, such as similar, comparable, matched, equivalent, equal, harmonious, and suitable. In the general Indonesian dictionary, the word *kafā'ah* is explained as being of the same height, degree, and dignity (Paisal, 2024). Therefore, the meaning of *kafā'ah* according to the language is similarity, equality, resemblance, or comparability.

Terminologically, various scholars have defined *kafa'ah*. In the book "*Fiqh al-Islam wa Adillatuhu*", Wahbah Az-Zuhaili argues that *kafā'ah* refers to the

harmony between husband and wife in terms of wealth so that the continuity of married life can be maintained (Anas et al., 2023). Meanwhile, Sayyid Sabiq argues in his book entitled “Fiqh Sunnah” that *kufū'* in Islamic marriage law means that the man is equal, equivalent, comparable, or commensurate with his prospective wife, equal in status, comparable in social level, and equal in character and wealth. H. Ghazali adds that *kafā'ah* or *kufū'* in marriage is the balance and harmony between the prospective wife and husband so that neither of them feels burdened to proceed with the marriage (Hidayat, 2025).

Based on the above definition of *kafā'ah*, it can be concluded that *kafā'ah* is a concept of equality between husband and wife in the household. The term *kafā'ah* is closely related to marriage, especially regarding choosing a partner. In practice, *kafā'ah* is applied by determining certain criteria when choosing a prospective husband or wife. This is intended so that both parties have equal qualities in certain aspects, such as level of faith, moral character, economic ability, and social status (Nur, 2023). Husbands and wives who are *sekufu* are expected to bring harmony to the household because, in this way, both parties have a common understanding and vision regarding marriage (Darmawan, 2024).

There is no specific discussion in the Qur'an that explicitly explains that marriage can only be performed by

individuals who are *kufū'*. *Kafā'ah* in marriage is a cultural product. Arabs used to marry only individuals from the same clan. Islam was brought to the world from Arabia, and Islam improved this tradition (Muzakki et al., 2024). In discussing *kafā'ah*, scholars refer to verses in the Qur'an that discuss compatibility, such as Surah an-Nur: 26, which reads:

الْحَيْثُ لِلْحَيْثِ وَالْحَيْثُ لِلْحَيْثِ
وَالطَّيِّبُ لِلطَّيِّبِ وَالطَّيِّبُ لِلطَّيِّبِ أُولَئِكَ مُبَرَّءُونَ
مِمَّا يَقُولُونَ لَهُمْ مَغْفِرَةٌ وَرِزْقٌ كَرِيمٌ

Meaning: “Evil women are for evil men and vice versa. Good women are for good men, and good men are for good women. They (the good ones) are innocent of what people accuse them of being. For them is forgiveness and a generous provision”.

According to Ibn Kathir, this verse was revealed based on the story of Siti Aisyah, who was slandered by a group of people. In fact, Ibn Abbas said that vile words can only come out of the mouth of a man with a vile character, and a man with a vile character deserves to be gossiped about because of the consequences of his vile words. The above story was also narrated by Mujahid Ata', Said Ibn Jubair, As-Syabi', Al-Hasan Al-Basri, Habib Ibn Abu Sabit (Jamarudin et al., 2024).

To further explain this verse, Abdur Rahman Zaid ibn Aslam argues that a man with a vile personality is the partner of a woman who also has a vile personality, and vice versa. Likewise, a

man with a good and gentle personality is the partner of a woman with a good and gentle personality, and vice versa. This is in line with Quraish Shihab, who describes the general context of this verse, emphasizing the scientific truth that a relationship between a man and a woman begins when there is similarity between the two. The concept of *kafā'ah* in this verse is a broad similarity, not only dominated by lineage, as in the classical concept of *kafā'ah*. Similarities in character and behavior, sociocultural background, and even outlook on life bring the two individuals closer together (Efendi, 2023).

There are several legal bases found in the Hadith that discuss *kafā'ah*, including the Hadith of the Prophet narrated by Bukhari from Abu Hurairah, which reads as follows:

عَنْ أَبِي هُرَيْرَةَ - رَضِيَ اللَّهُ عَنْهُ - عَنِ النَّبِيِّ -
صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - قَالَ: تُنْكَحُ الْمَرْأَةُ لِأَرْبَعٍ لِمَالِهَا
وَلِحَسَبِهَا وَجَمَالِهَا وَلِدِينِهَا، فَاظْفَرْ بِذَاتِ الدِّينِ تَرِبَتْ
يَدَاكَ. (رواه البخاري)

Meaning: "From Abu Hurairah, may Allah be pleased with him. The Prophet Muhammad, peace be upon him, said: Women are generally married for four reasons: their wealth, their lineage, their beauty, and their religion. Therefore, choose someone who has religion, and you will be fortunate." (H.R. Bukhari).

This hadith clearly explains the importance of *kafā'ah* and describes the criteria for *kafā'ah*. In this hadith, the Prophet explains the criteria for a

prospective spouse (wife) recommended by Islam: wealth, lineage, beauty, and religion. Based on these criteria, *kafā'ah*, which is the top priority, is in terms of religion, because it can lead to goodness (Liddini, 2021). From the provisions of this hadith, it is necessary to explain the four criteria of *kafā'ah* in detail as follows.

First, *kafā'ah* in terms of religion. Religion, in the context of *kafā'ah*, refers to a person's truthfulness and obedience to the laws of Sharia. For example, if a wicked man or a man who often commits sins wants to marry a pious woman who is always obedient to the teachings of Islam, then this wicked man or man who often commits sins is not suitable for marriage. This is based on the wickedness that has become ingrained in a man, as evidenced by the testimony of someone who has witnessed this man's wicked or sinful deeds.

Second, *kafā'ah* in terms of lineage. Lineage refers to a person's ancestry and origin. Who was their father, grandfather, and so forth. This lineage is usually accompanied by *hasab*, which is a praiseworthy trait in a person, reflecting their origins, which are then used as a source of pride by their descendants. However, lineage is not always accompanied by *hasab*, but *hasab* is always accompanied by lineage (Rosyada et al., 2024)

Third, *kafā'ah* in terms of wealth. According to the Shafi'i school of thought, wealth is a measure of whether

a woman can be paired with a man who is a *kufū'*. Thus, a poor man is not *kufū'* to a rich woman. However, there are other opinions that state that wealth cannot be used as a measure of *kafā'ah*, because wealth is fluctuating, and a person with noble character will not consider wealth as a measure of *kafā'ah*.

Fourth, *kafā'ah* in terms of physical appearance. Scholars from the Shafi'i school of thought argue that a man with a very noticeable physical disability is not *kufū'* to a healthy and normal woman. If the disability is not so noticeable but is considered unattractive, such as blindness, a missing hand, or an ugly appearance, according to al-Rahwani, such a man is not *kufū'* to a healthy and normal woman. This is what is meant by not being disabled, so that the two spouses are considered unequal (Ibrahimi et al., 2020).

Regarding the forms of *kafā'ah*, there are differences of opinion among the schools of thought. Hanafi scholars argue that *kafā'ah* in marriage involves five criteria: lineage, religion, independence, wealth, and occupation or livelihood. Meanwhile, according to the Shafi'i school of thought, *kafā'ah* in marriage includes five criteria: no disability, lineage, being free from despicable acts, occupation or livelihood, and independence. According to Hanbali scholars, the things that can be used as measures or standards of *kafā'ah* in a marriage are religion, nationality, independence,

occupation/livelihood, and wealth (Miftahuzzaman et al., 2023).

The Construction of *Kafā'ah* Meaning in KHI as the Basis for Prohibiting Interfaith Marriage

The KHI is a monumental product of Islamic law legislation in Indonesia, born out of the need for the unification and codification of Islamic family law, which was previously scattered across various fiqh schools and local traditions. The KHI's history began with lengthy efforts from the pre-independence to post-independence eras to harmonize religious court practices with sharia rules and the needs of modern society. These efforts culminated in Presidential Instruction No. 1 of 1991, which officially ratified the KHI as a guideline for religious courts. The presence of the KHI marks the adaptive response of Islamic law in Indonesia to social dynamics and the national law (Afridawati, 2021).

The KHI is closely related to Law No. 1 of 1974 on Marriage. The Marriage Law, as a *lex generalis*, regulates the general provisions of marriage for all Indonesian citizens regardless of religion. However, Article 2 paragraph (1) of the Marriage Law states that "A marriage is valid if it is conducted in accordance with the laws of their respective religions and beliefs." This provision opens up space for religious law to regulate the detailed aspects of marriage in Indonesia. In the context of Muslims, the KHI functions as a *lex*

specialis that fills in and clarifies Islamic Marriage Law, as referred to by the Marriage Law. Thus, KHI is a normative elaboration of Islamic law within the framework of Indonesia's positive legal system (Sugianto & Suhartono, 2018).

The KHI comprehensively regulates various aspects of marriage, including requirements and pillars, prevention, annulment, divorce, joint property, and other legal consequences. Within the scope of these regulations, the concept of *kafā'ah* is one of the important elements accommodated by the KHI. Etymologically, *kafā'ah* means equality or compatibility, and in classical *fiqh*, it is often considered to ensure household harmony and maintain family dignity. The uniqueness of the concept and criteria of *kafā'ah* in the KHI lies in its strong emphasis on religion as the main criterion, while removing or reducing other sociological or economic criteria commonly found in conventional *fiqh*. While classical *fiqh* often considers *kafā'ah* from the aspects of lineage, wealth, profession, or independence, the KHI implicitly and explicitly places religious similarity as a fundamental and determining criterion (Ramadhan, 2022).

Articles in the KHI that explain *kafā'ah* can be found in several provisions: Article 61 of the KHI states, "There is no obstacle to marriage between a man and a woman because there is no equality in social status and position." The explanation of Article 61 clarifies that "What is meant by no obstacle due to no

similarity in social status and position is that marriage does not require kafaah or equal status between the prospective groom and the prospective bride." This shows that the KHI does not consider social or economic equality an absolute requirement (Munawaroh, 2021). However, the *kafā'ah* criteria related to religion is actually the core of the prohibition of interfaith marriage, as stated in Article 40 letter c, "It is prohibited to conduct a marriage between a man and a woman because one of the parties is not Muslim." This is reinforced by Article 44 of the KHI: "A Muslim woman is prohibited from marrying a man who is not Muslim" (Romdhon, 2022).

The relevance of the Qur'an and Hadith regarding *kafā'ah* in the KHI, particularly in the context of prohibiting interfaith marriage, is very clear. The KHI explicitly bases this prohibition on the words of Allah SWT in QS. Al-Baqarah: 221, which reads as follows.

وَلَا تَنْكِحُوا الْمُشْرِكِينَ حَتَّىٰ يُؤْمِنُوا وَلَآئِمَةٌ مُّؤْمِنَةٌ
حَيْرٌ مِّنْ مُّشْرِكَةٍ وَلَوْ أَعْجَبَتْكُمْ وَلَا تَنْكِحُوا الْمُشْرِكِينَ حَتَّىٰ
يُؤْمِنُوا وَلَعَبْدٌ مُّؤْمِنٌ خَيْرٌ مِّنْ مُّشْرِكٍ وَلَوْ أَعْجَبَكُمْ أُولَٰئِكَ
يَدْعُونَ إِلَى الْثَلَاثِ وَاللَّهُ يَدْعُو إِلَى الْجَنَّةِ وَالْمَغْفِرَةِ بِإِذْنِهِ
وَيُبَيِّنُ ءَايَاتِهِ لِلنَّاسِ لَعَلَّهُمْ يَتَذَكَّرُونَ

Meaning: "Do not marry polytheistic women until they believe! Indeed, believing slave girls are better than polytheistic women, even if they attract you. Nor should you marry polytheistic men (believing women) until they believe. Indeed, believing that slave boys are

better than polytheistic men, even if they attract you. They invite you to Hell, while Allah invites you to Paradise and forgiveness by His permission. (Allah) explains His verses to mankind so that they may learn a lesson."

The majority of scholars, including the imams of the four schools of thought, are of the opinion that polytheistic women, regardless of their religion, beliefs, and race, are forbidden to marry Muslim men. Even according to Abdullah ibn Umarradhiyallahu anhu, a companion of the Messenger of Allah, peace be upon him, it is forbidden to marry a woman of the Book, as will be explained later in this article. This opinion is based on the generality of the prohibition in the verse. The KHI adopts a stricter and more comprehensive view, namely the absolute prohibition of interfaith marriage for Muslims in Indonesia, both for Muslim women and men. This approach is also supported by several hadiths that emphasize the importance of religious similarity in building a Muslim household (Rizqon, 2022). The following hadith forms the basis of the KHI 's prohibition of interfaith marriage:

حَدَّثَنَا قُتَيْبَةُ حَدَّثَنَا لَيْثٌ عَنْ نَافِعٍ أَنَّ ابْنَ عُمَرَ كَانَ إِذَا سُئِلَ عَنْ نِكَاحِ النَّصْرَانِيَّةِ وَالْيَهُودِيَّةِ قَالَ: إِنَّ اللَّهَ حَرَّمَ الْمُشْرَكَاتِ عَلَى الْمُؤْمِنِينَ، وَلَا أَعْلَمُ مِنَ الشِّرْكِ شَيْئًا أَكْبَرَ مِنْ أَنْ تَقُولَ الْمَرْأَةُ رَبُّهَا عِيسَى، وَهُوَ عَبْدٌ مِنْ عِبَادِ اللَّهِ.

Meaning: "Qutaibah told us, al-Laits and Nafi' told us that Ibn Umar, when asked about marrying Christian and Jewish women, replied: 'Indeed, Allah has forbidden polytheistic women to Muslims, and I do not know of any polytheism greater than that of a woman who says that her god is Isa, whereas Isa is one of the servants of Allah.'" H. R. Bukhari.

The above hadith prohibits Muslim men from marrying Christian or Jewish women (*Ahl al-Kitab*). This is because the teachings they adhere to, as stated by Ibn Umar in the above hadith, deviate from the original teachings, removing them from the status of *ahl al-Kitab* to that of polytheists.

However, the difference between KHI and conventional *fiqh* cannot be denied. In conventional *fiqh*, *kafā'ah* is often seen as the right of the guardian or prospective wife to refuse marriage if there is no equality in certain aspects. However, it is not always an absolute condition for the validity of marriage (except in cases of extreme inequality that causes unacceptable *aib*). Classical *fiqh* generally considers criteria such as lineage, independence, religion, profession, and wealth, with varying weights assigned by different schools of thought. For example, the Hanafi school of thought places six criteria for *kafā'ah*: lineage, Islam, independence, profession, wealth, and religion (especially for husbands who do not practice their religion) (Sholahuddin et al., 2025).

Meanwhile, the KHI has repositioned the concept of *kafā'ah* absolutely, making it an essential basis for prohibiting interfaith marriage, while deconstructing the relevance of sociological and economic criteria. This repositioning indicates that for the KHI, religious *kafā'ah* is an absolute prerequisite that cannot be negotiated, and its absence (i.e., religious differences) directly invalidates the marriage. Thus, the KHI transforms *kafā'ah* from a mere social consideration into a binding normative rule, implying the validity or invalidity of marriage.

The repositioning of the concept of *kafā'ah* as the basis for prohibiting interfaith marriage in the KHI reflects the priority of the Islamic legal system in Indonesia to maintain the integrity of the community's faith. The KHI explicitly places religious similarity as the main foundation of Muslim marriage, which differs from the more flexible view of *fiqh* in some cases (e.g., the marriage of a Muslim man to a woman of the People of the Book). The KHI's choice to absolutely prohibit interfaith marriage is based on considerations of greater benefit and the prevention of *mafsadah* (Fathurrahman & Azhari, 2022).

The existence of the concept of *kafā'ah* as a prohibition on interfaith marriage is an effort by the KHI to uphold Islamic values in marriage (H.M. Nasution, 2025). From the perspective of KHI, marriage is not only a physical bond but also a sacred bond based on Islamic law. Differences in religion have

the potential to cause disorientation of faith in the household, conflict in the education of children, and complexity in other family legal matters, such as inheritance and guardianship, which, in turn, can threaten the integrity of Islamic teachings in family life. The KHI views this prohibition as a preventive measure to protect the faith of the people and ensure the continuity of Islamic values in Muslim family genealogy. This prohibition aims to minimize the potential for moral and spiritual damage in the household so that marriage can achieve the goals of *sakinah*, *mawaddah*, and *rahmah* based on a solid Shariah foundation.

Kafā'ah* in KHI as the Basis for Prohibiting Interfaith Marriage According to the Concept of *Maṣlaḥah

The meaning of marriage in the KHI goes beyond a mere sociological bond; it is a *mitsaqan ghalizhan*, a strong and sacred covenant between a man and a woman to form a happy and eternal family based on the Oneness of God (Article 1 of the KHI). Marriage is viewed as the longest form of worship, having both worldly and spiritual dimensions, with the aim of achieving a life of *sakinah*, *mawaddah*, and *rahmah* (tranquility, love, and compassion). The vision of marriage in the KHI is not only oriented towards individual happiness but also towards the formation of the smallest unit of an Islamic society.

The welfare that must be maintained in the family is the main objective of sharia (*maqāṣid al-sharī'ah*), especially in the realm of family law. In this context, the protection of religion (*ḥifẓ al-dīn*) and offspring (*ḥifẓ al-nasl*) become the main priorities. The family is the first madrasah where children learn and practice religious teachings. Therefore, the integrity of faith in the household is fundamental to ensuring the transfer of Islamic values from generation to generation. This is not only about ritual worship but also the formation of character, morals, and a strong Islamic outlook on life (Hadi, 2017).

Furthermore, family welfare includes the protection of life (*ḥifẓ al-nafs*), reason (*ḥifẓ al-'aql*), and property (*ḥifẓ al-māl*). In Muslim families, welfare is summarized by the realization of inner peace, psychological stability, and an environment conducive to the intellectual and spiritual development of each member (Mukti et al., 2020). This welfare also includes legal and economic aspects, such as clarity of inheritance status and joint property ownership, all of which can be disrupted if there is fundamental uncertainty in the marriage bond.

The purpose of *kafā'ah* in terms of religion, as emphasized in the KHI, is to preserve the purity of Islamic values. The KHI explicitly prohibits interfaith marriages (Article 40, letter c, and Article 44), interpreting religious *kafā'ah* as an absolute requirement. This means that similarity in faith is a fundamental

prerequisite that must be met for a Muslim marriage to be valid. This vision shows that KHI views the unity of faith as the main bulwark in defending the Islamic identity of the family from potential erosion or syncretism (Sarif et al., 2017).

Equality in the quality of faith will make it easier for husband and wife to achieve a Sakinah family. When both partners have the same spiritual foundation, they share a vision of life, values, and priorities, especially in managing their religious lives (Chumayro et al., 2024). They can support each other in worship, remind each other to do good, and together guide their children according to Islamic teachings, thereby creating a harmonious and spiritual household. Conversely, differences in faith are likely to lead Muslim couples into apostasy or at least into a state of *syak* (doubt) regarding their religious teachings. Conflicts in the practice of worship, religious celebrations, and especially in the religious education of children can be a source of serious tension. These differences in creed have the potential to erode the faith of one party, especially Muslim women who marry non-Muslims, where the husband's position often dominates the direction of family life (Falah et al., 2024).

KHI has a visionary view of the harmfulness of interfaith marriage. Through the *sadd al-dharī'ah* (closing the path to harm) approach, KHI assesses that the potential harm arising from

interfaith marriage is far greater than the benefits that may be obtained from it. This is a preventive measure to protect Muslims from the threat of ideological shifts and family disintegration in the religious context. The problems of interfaith marriages cover various complex aspects of family life. First, it is related to the practice of daily worship. Differences in beliefs can create obstacles in the practice of religious rituals such as prayer, fasting, or celebrating religious holidays. Each partner may feel isolated in their religious practices or even face pressure to compromise their beliefs for household harmony. This can disrupt spiritual peace and religious observance (Zahara and Makhfud, 2022).

Second, significant problems arise in the education of children. Children born from interfaith marriages often face religious identity confusion. Parents may have different views on how children should be raised spiritually, or there may even be a tug-of-war over determining a child's religion (Maliki et al., 2023). This can negatively impact the psychological and spiritual development of the child, creating internal conflicts and difficulties in forming a complete identity (Yusuf et al., 2020). Third, inheritance issues are complicated in interfaith marriages. In Islamic inheritance law, religious differences are barriers to inheritance. This means that one spouse or descendant of an interfaith marriage may not be able to inherit from the other in accordance with Sharia law (Maliki & Sari, 2023).

This legal ambiguity can lead to disputes in the future and injustice in the distribution of property, which ultimately harms families (Tohari & Hazyimara, 2023).

Thus, *kafā'ah* is the appropriate concept adopted by the KHI to close the door to interfaith marriages for Muslims. The KHI uses *kafā'ah* not only as a principle of social equality but also as the main foundation for maintaining religious integrity in marriage. This decision by the KHI reflects the vision of *maslahah mursalah*, namely, benefits that are not explicitly regulated in the text but are in line with the principles of sharia, to maintain the continuity of Islamic teachings and avoid the various *mafsadah* inherent in interfaith marriages. This is a proactive and preventive measure by the KHI to protect people from spiritual and social harm.

The Relevance Between *Kafā'ah* and the Prohibition of Interfaith Marriage in the KHI: A Critical Analysis of *Maqāṣid al-Sharī'ah*

Maqāṣid al-Sharī'ah, as proposed by Jamaludin 'Atiyah, is an important concept in the study of Islamic family law rooted in the theory of *maqāṣid al-sharī'ah*. Conceptually, *Maqāṣid al-sharī'ah* refers to the fundamental objectives and noble wisdom that Islamic law seeks to achieve through the establishment and maintenance of family institutions (Ghumma, 2023). These objectives are not limited to formal legal aspects but

also encompass comprehensive spiritual, moral, social, and economic dimensions (Sholihuddin et al., 2024). The legal basis for *maqāṣid al-usrah* is found implicitly and explicitly in the Qur'an and Sunnah, which emphasize the importance of marriage as a sacred bond, the preservation of offspring, the education of children, the formation of pious individuals, and the preservation of wealth and honor (Tahir and Hamid, 2024). 'Atiyah specifically emphasizes that these objectives are universal and relevant in every era, serving as a guide for legislators, judges, and individuals in interpreting and implementing Islamic family law in accordance with divine intentions (Sanuri, 2021).

As an integral part of the broader *maqāṣid al-sharī'ah*, *maqāṣid al-usrah* occupies a central position in the preservation of the five basic needs (*al-ḍarūriyyāt al-khams*), namely religion (*ḥifẓ al-dīn*), life (*ḥifẓ al-nafs*), intellect (*ḥifẓ al-'aql*), offspring (*ḥifẓ al-nasl*), and property (*ḥifẓ al-māl*). The institution of the family, with all its provisions in Shariah, is the primary means of realizing and protecting these five maqashid (Arifandi & Rouf, 2025). For example, a valid marriage protects *ḥifẓ al-nasl* from mixing lineages and provides a conducive environment for religious education (*ḥifẓ al-dīn*) and intellectual development (*ḥifẓ al-'aql*) for family members (Mohadi, 2023). Similarly, the provisions on alimony and inheritance in family law aim to preserve *ḥifẓ al-māl* (Aslati et al., 2024). Thus, understanding

maqāṣid al-usrah means understanding that Islamic family law is not merely a collection of rules but a system designed to achieve goodness, benefit, and justice in the lives of individuals and society, in line with the vision of Sharia to bring mercy to all of creation.

The concept of maqashid al-Usrah is comprehensively explained by Jamaludin 'Atiyah in the book *Nahw Tafīl Maqasid al-Sharī'ah*, which consists of one volume and was published by Dar al-Fikr Beirut Damascus in 2003. This book contains 250 pages discussing important issues regarding maqasid al-shari'ah. In this book, Jamaludin 'Athiyah explains the seven maqasid: First, *tanzīmu 'alāqah bayna jinsayn* (regulating relationships with the opposite sex). The second is *ḥifẓ al-nasl* (preserving future generations). Third, *taḥqīq al-sakan wa al-mawaddah wa al-rahmah* (realizing sakinah, mawaddah, and rahmah). Fourth, *ḥifẓ al-nasab* (preserving family ties). Fifth, *ḥifẓ al-tadayyun fī al-usrah* (preserving religious aspects within the family). Sixth, *tanzīm al-jānib al-mu'assasī li al-'usrah* (regulating the fundamental aspects of the family institution); and seventh, *tanzīm al-jānib al-mālī li al-usrah* (regulating the fundamental aspects of family economics) (Rohman et al., 2024).

The prohibition of interfaith marriage through the concept of *kafā'ah* in the KHI can be critically analyzed through the lens of *maqāṣid al-usrah* theory. The relevance of *maqāṣid al-usrah* as an analytical tool lies in its ability to

elaborate on the fundamental objectives of Sharia in forming a strong and harmonious family (Dalimunthe, 2024). In the context of the prohibition of interfaith marriage, *maqāṣid al-usrah* highlights the potential disruption to the achievement of these objectives. The concept of *kafā'ah*, which traditionally includes compatibility in religion, suggests that differences in faith can create a fundamental imbalance that threatens family integration and the sustainability of Islamic values in future generations (Yamani, 2021). Analysis through *maqāṣid al-usrah* can argue that the prohibition is not merely a legal formality but a preventive measure to maintain the integrity and sustainability of the family's function as a miniature of a prosperous Islamic society (Fanindy, 2020). The following section presents the analysis.

First, regarding *tanzīmu 'alāqah bayna jinsayn* (regulating relationships with the opposite sex), KHI seeks to ensure that husband-wife relationships are built on the same foundation of faith through the prohibition of interfaith marriage. Differences in religion, especially on fundamental issues such as belief in God, worship practices, and worldviews, have the potential to cause tension and conflict that can disrupt relationship harmony (Pakarti et al., 2023). The concept of *kafā'ah* in religion aims to minimize this risk, creating a climate conducive to the formation of inner and spiritual unity between

spouses, as emphasized in various contemporary *fiqh* literature.

Furthermore, in the context of *ḥifz al-nasl* (preserving the generation), the prohibition of interfaith marriage plays an important role. Children born of interfaith marriages often face religious identity confusion. Parents of different religions have contradictory views and methods for educating children about spirituality, which can ultimately jeopardize the formation of children's faith and morals (Suryadi & Puspita, 2023). *Kafā'ah* in religion ensures that children are raised in a religiously consistent environment, thereby facilitating the transmission of Islamic values and preserving the continuity of the Muslim lineage. A study by Sugitanata emphasizes the urgency of religious preservation in the formation of a child's identity (Sugitanata 2024).

The aspect of *tahqīq al-sakan wa al-mawaddah wa al-raḥmah* (realizing peace, love, and compassion) is also relevant. Peace and compassion in the household will be difficult to achieve optimally if there are fundamental differences in beliefs between the partners. Different religious rituals, celebrations of important days, and daily outlooks on life can be sources of conflict rather than bonds of affection (Rachmadhani and Herdiana 2021). *Kafā'ah* in religion aims to create spiritual harmony that forms the foundation for *sakinah*, *mawaddah*, and *rahmah*, as couples can share the same noble values and life goals (Kamal, 2024).

Regarding *ḥifẓ al-nasab* (maintaining family ties), although not directly related to religion in the sense of physical lineage, *kafā'ah* in religion helps maintain the spiritual and social “*nasab*” of families within the Muslim community. Interfaith marriages can complicate the integration of families into the wider Muslim community, especially if one party cannot accept the religious practices or values of their spouse's family. This can isolate families and weaken kinship networks based on religious ties (Faroji 2015).

Another key point is *ḥifẓ al-tadayyun fi al-usrah* (preserving the religious aspect of the family). This is the core of the argument against interfaith marriage through the lens of *maqāṣid al-usrah*. The KHI, by prohibiting marriage between Muslim women and non-Muslims and between Muslim men and polytheistic or People of the Book women (according to some interpretations), seeks to protect the purity of faith within households. The main concern is the potential apostasy of one spouse or the erosion of Islamic values in the family due to non-Muslim influence, especially if the non-Muslim party is dominant. Maulana et al. (2025) specifically discuss *ḥifẓ al-dīn* as the main reason for this prohibition.

Furthermore, *tanẓīm al-jānib al-mu'assasī li al-'usrah* (regulating the fundamental aspects of the family institution) is also affected by the Internet. The structure and function of families in Islam are deeply integrated with religious teachings. Religious

differences can disrupt consistency in family decision-making related to children's education, morality, and life orientation (Mahsun et al., 2023). KHI seeks to ensure that the family functions as an entity that coherently promotes Islamic values, and *kafā'ah* in religion is a prerequisite for achieving this institutional goal. Finally, although not as clear as other aspects, *tanẓīm al-jānib al-mālī li al-usrah* (regulating the basic aspects of family economics) may have implications (Wahab 2024).

Religious differences can lead to conflicts in the management of property, inheritance, and Sharia-based economic practices. For example, views on usury or zakat may differ, potentially leading to disagreements in the management of family finances (Hami, 2023). Although not the main reason, *kafā'ah* in religion can indirectly minimize the potential for conflict in the financial aspects related to religious values (Fahrezi, 2024). Overall, through the lens of *maqāṣid al-usrah*, the prohibition of interfaith marriage in the KHI, reinforced by the concept of *kafā'ah*, is a preventive measure to maintain the spiritual and social integrity of Muslim families to achieve benefits in this world and the hereafter (Lutfi, 2023).

The implications of this analysis have a significant impact on the development of marriage law, particularly in the context of integrating Islamic law into the regulation of interfaith marriages in Indonesia. This analysis confirms that the KHI does not merely adopt *fiqh* norms literally but is based on deep

philosophical considerations for the benefit of the family. This provides a strong theoretical basis for the existence of this prohibition, placing it as an integral part of the state's efforts to protect the fundamental rights and religious values of its citizens, especially Muslim ones. Thus, this analysis can serve as a basis for strengthening the legal and sociological arguments of the KHI in facing future legislative challenges, while also offering a framework for further discussion on the harmonization of national marriage law with Sharia principles relevant to the diverse Indonesian context.

CONCLUSION

This study concludes that the concept of *kafā'ah* in the KHI is specifically interpreted as the basis for prohibiting interfaith marriages, not merely as a consideration of social or economic equality. The KHI explicitly places religious similarity as a fundamental and absolute criterion of *kafā'ah*, as stated in Article 40 letter c and Article 44 of the KHI, which prohibits marriage between Muslims and non-Muslims. This prohibition is reinforced by an analysis of *maqashid al-usrah* (the objectives of Islamic family law), particularly in maintaining *hifz al-din* (protection of religion) and *hifz al-nasl* (protection of offspring). Religious differences are seen as having the potential to cause ideological disorientation, conflict in the education of children, and complications in

inheritance law, all of which threaten the integrity and harmony of Muslim families. Thus, this prohibition is a preventive measure by the KHI to protect the interests of Muslims and ensure the creation of families that are *sakinah*, *mawaddah*, and *rahmah* (peaceful, loving, and merciful) based on the Islamic law.

The implications of these findings require the harmonization of national regulations, whereby the Marriage Law and the KHI need to be synchronized to avoid gaps in interpretation. Policymakers and religious courts should strengthen the dissemination of the principle of *kafā'ah* religion and provide technical guidelines for marriage registration. In addition, further research is proposed to explore the socio-economic impact of implementing this prohibition, as well as to examine alternative mechanisms for protecting religious beliefs that still uphold the human rights of citizens in the context of multiculturalism.

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