

## THE INTERFAITH MARRIAGES AND ITS EFFECTS IN THE LIGHT OF ISLAMIC LAW

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*Marriage is an essential institution of society. The terms 'interfaith marriage' stand for marital union between followers of different religions or faith. The purpose of this research is to address the issue related to the practicability of interfaith marriage in Islam and its impact on society. Different methodologies in the form of arguments are given in support of and against interfaith marriages while opinions of eminent jurists are consulted based on rulings of Shariah. The concerns on the issue of interfaith marriages are answered by supporting evidences from Quran, Sunnah and practice of Companions of the Holy Prophet (S.A.W). While the cross arguments are based on secondary sources of Islamic Law, Islamic Legal maxims (Qawaid al fiqhia) and objectives of Shariah. The effects of such marriages on society and the marital relations is also an important part of this research and it is suggested that new paradigms for how to reconcile different faiths should be formulated in order to prevent such problems in future.*

### **Introduction**

Modernity is an ambivalent civilizational force that affects the entire globe and challenges every society raising hard challenges for every religion. The issues of social change and challenges of modernity are part and parcel of globalization especially affecting Islamic countries.<sup>1</sup> In the global society, there many complicated issues arise given the pluralistic society implications and religious constraints. Interfaith marriages have become very common in the present era due to rapid advancement in socio-political and economic sector globally. Immigration for labor, asylum, studies or employment has led to the estimated number of Muslims in Europe to approximately 20-25 million. The issue of inter-religious marriages in this regard thus brings forth traditionalists and reformists, within Islamic community, discussing various modes of interpreting those *ahkam* that finally become a source of law.<sup>2</sup> Any reformation or adaptation in law has to be accepted by Muslim community which is not possible unless it is in accordance with Islamic principles and rationale so as to ascertain permanence and constancy of Islamic traditions.<sup>3</sup> In the era of globalization, people connect with each other belonging from different countries and religions and develop relations that end up in interfaith marriages. So it is necessary to know the right concept in Islam regarding interfaith marriages.

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## **Concept of Interfaith Marriages in Different Religions**

Role of religion in marriage is instrumental. There are three important features namely faith communities, religious practices and religious influences, that link with each other in affecting marriage either in constructive or confronting manner. Religion and marriage are also associated with certain subject matters including the influence by religious scholars, pressure of family rituals, religious practices and beliefs and pro-marriage and anti-divorce dogmas linked with community involvement.<sup>4</sup> Faith communities, religious practices and spiritual beliefs pave way for a committed marital bondage and approval from family and community. It also shows that people are greatly influenced by religious inferences that determine most of their life aspects.<sup>5</sup> Researchers have found that higher commitment and increased family satisfaction are directly proportional to religious participation.<sup>6</sup>

The Universal Declaration of Human Rights permits every person to marry without any limitation to race, religion or nationality.<sup>7</sup> All religions have variant views on such marriages. Judaism has historically been against such marriages and strongly disfavored it though there are some differences of opinion among some denominations. Orthodox Judaism denies validity and abhors assistance to it, while Conservative Judaism permits such marriage with certain conditions. Re-constructionist and Liberal Judaism allow interfaith marriages but still that's not a unanimous agreement and there are some dissenting voices. In Christianity, Catholic Churches have devised particular set of rules for inter-faith and inter-denominational marriages. Hinduism does not impose any specific rules for marrying out of faith, though the societal pressures and community discourage such practice. Yet such marriages are in practice too. Zoroastrianism straightly forbids such marriages and by practicing it one is expelled from religion.

### **Inter Faith Marriage in Islam**

In Islamic legal theory, Law is the Divine will which precedes the Islamic state and not preceded by it.<sup>8</sup> Shariah deals with affairs related to faith and rituals as well as laws from all other embodiments like dietary laws, criminal law family law, laws related to inheritance, evidence, banking and economics.<sup>9</sup> This shows shariah draws no distinction between religious and secular aspects as all aspects of life are addressed and answered in Shariah.<sup>10</sup> Being the divine law, *Shari'a*

does not allow any legislation and formulating the codes that contradicts shariah principles.

The aim of marriage is to provide a bond for common life and the procreation of progeny.<sup>11</sup> Marriage is a social entity, the object of which is to preserve the human race by the establishment of families, kinship and nations.<sup>12</sup> Marriage is one of the legal contracts which are commanded by the principles of the Shariah Law.<sup>13</sup> For marriage, the term 'nikah' is used that denote contract ('*aqd*'). Nevertheless, it must not be taken as an ordinary contract because the term used for it in the Holy Quran is '*mithaqun ghalitun*' (a strong covenant or agreement) to indicate marriage contract.<sup>14</sup>

وَكَيْفَ تَأْخُذُونَهُ وَقَدْ أَفْضَى بَعْضُكُمْ إِلَى بَعْضٍ  
وَأَخَذَتْ مِنْكُمْ مِيثَاقًا غَلِيظًا ﴿٢١﴾

*And how could you take it while you have gone in unto each other and they have taken from you a solemn covenant?(4:21)*

Marriage (*nikah*) is imperative to realize the essence of Islam.<sup>15</sup> Many verses of the Holy Quran<sup>16</sup>

وَمِنْ آيَاتِهِ أَنْ خَلَقَ لَكُمْ مِنْ أَنْفُسِكُمْ أَزْوَاجًا لِتَسْكُنُوا إِلَيْهَا  
وَجَعَلَ بَيْنَكُمْ مَوَدَّةً وَرَحْمَةً إِنَّ فِي ذَلِكَ لَآيَاتٍ لِقَوْمٍ  
يَتَفَكَّرُونَ ﴿٢١﴾

*And of His signs is that He created for you from yourselves mates that you may find tranquility in them; and He placed between you affection and mercy. Indeed in that are signs for a people who give thought (30:21)*

**!Error**

هُوَ الَّذِي خَلَقَكُمْ مِنْ نَفْسٍ وَاحِدَةٍ وَجَعَلَ مِنْهَا زَوْجَهَا  
لِيَسْكُنَ إِلَيْهَا فَلَمَّا تَغَشَّاهَا حَمَلَتْ حَمْلًا خَفِيًّا فَمَرَّتْ بِهِ  
فَلَمَّا أَثْقَلَتْ دَعَا اللَّهَ رَبَّهُمَا لَئِنْ آتَيْتَنَا صَالِحًا لَنُكُونَنَّ مِنَ  
الشَّاكِرِينَ ﴿١٨٩﴾

*It is He who created you from one soul and created from it its mate that he might dwell in security with*

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*her. And when he covers her, she carries a light burden and continues therein. And when it becomes heavy, they both invoke Allah, their Lord, "If You should give us a good [child], we will surely be among the grateful."(7:189)*

As well as the traditions from the Holy Prophet<sup>17</sup> (S.A.W) reiterate on importance of marriage and emphasizing it.

Mutual Livelihood is an important objective of marital bond and the spouses approach mutually to run a dwelling, enjoy the presence of each other. Another advantage for making things easier for both spouses is helping each other when they fulfill their rights and responsibilities. Comfort and a good living are facilitated in the marriage bond when spouses share monetary expenses. Affection support benefits the couple offering emotional support with a strong and supportive living. They discuss all of their life's events with each other. Marriage is clearly beneficial for both. Procreation of children is an important reason for getting married as it legalizes marital relationship and develop a secure and sound shell for the children to nurture in a vigorous way. Societal and authorized appreciation is earned with complete assistance of culture and norms that give a lot of dignity and strong position to married spouses.<sup>18</sup>

Marriage is strongly recommended in Islam, and there is no room for celibacy. The Muslim conception of marriage is based on the *Qur'an* and the *hadith*, the Muslim traditions. First of all, it is to be stressed that Islam does not encourage the interfaith marriages. The general rule of Islam is that Muslims should marry Muslims. A Muslim male or female should not marry a non-Muslim male or female. The only exception is given to Muslim men who are allowed to marry the chaste girls from among the People of the Book. However, a Muslim woman is better suited to a Muslim man than a woman of Christian or Jewish faith, regardless of her merits. This is because marriage is not based on fulfilling one's sexual desires; rather, it is an institution. It aims to establish a home on the bases of tranquility, faith and Islamic morals. To fulfill this task, the whole family must apply Allah's course and try to convey His message.

According to Islamic Law (*Shari'ah*), a marriage between a Muslim woman and any non-Muslim man is prohibited. Islam made it impermissible for a Muslim woman to marry a non-Muslim with aim of keeping her away from things that may jeopardize her faith. In fact, Islam aims at protecting religion. To achieve this goal, it prohibits a

Muslim from being involved in something that represents a threat to his religion. A Muslim woman will not feel that her religion is secure while being with a Jewish or a Christian husband. Allah Almighty says in the Holy Quran:

وَلَنْ تَرْضَىٰ عَنْكَ الْيَهُودُ وَلَا النَّصَارَىٰ حَتَّىٰ تَتَّبِعَ مِلَّتَهُمْ قُلْ إِنَّ هُدَىٰ  
 اللَّهُ هُوَ الْهُدَىٰ وَلَئِنِ اتَّبَعْتَ أَهْوَاءَهُمْ بَعْدَ الَّذِي جَاءَكَ مِنَ الْعِلْمِ مَا لَكَ  
 مِنَ اللَّهِ مِنْ وَلِيٍّ وَلَا نَصِيرٍ ﴿١٢٠﴾

*“And the Jews will not be pleased with thee, nor will the Christians, till thou follow their creed. Say: Lo! The guidance of Allah (Himself) is Guidance. And if thou shouldst follow their desires after the knowledge which hath come unto thee, then wouldst thou have from Allah no protecting friend nor helper.” (Al-Baqarah: 120)*

If a Muslim woman wishes to marry a non-Muslim man, the man must first convert to Islam. According to Islamic Law, no Muslim is permitted to convert to another religion. Any such act is viewed as apostasy and is punishable, including in some Islamic jurisdictions by death. Marriage traditions vary in different Muslim communities but for a marriage to be valid, the following requirements must be met:

1. Both parties must consent and in the case of the bride through a guardian (*wali*) who is Muslim.
2. A marriage contract (*Aqd-Nikah*) must be signed by the bride and the groom, and witnessed by two sane and respectable male Muslims or by one male and two female Muslims. The bride and the groom and their families are free to define terms and conditions they wish to include in the contract.
3. The groom must give a dowry (*mahr*) to the bride as a token of commitment, of which the bride can dispose as she wishes. The *mahr* can be paid in cash, property or movable objects and is payable either at the time of marriage, a later date, or a combination of both.

### **Juristic Opinions and Debate on the Inter Faith Marriages**

The Holy Quran and traditions have defined and described the significance and role of family in Islam in detail. The legal rulings on family matters are given in four Sunni school of thoughts as well as Shiite school to define legal matter in order to give stability to the family. Pertaining to marriage vis-à-vis interfaith marriage in Islam, classical regulations of *Shariah* and juristic rulings of interpretation are

in compliance to the rule on interfaith marriage that it is permitted for a Muslim man to marry a woman from Christian or Jewish faith, while a Muslim woman is strictly prohibited for the same in all circumstances.<sup>19</sup> There is a fundamental agreement among all schools of thought on this stance while the present era Muslim scholars and jurists forbid inter faith marriages and disapprove it as *makruh* (reprehensible). Yusuf Qardawi a well known Egyptian scholar mentioned in his book '*Hadyul Islam Fatawi Muasirah*' that the original rule pertaining to marriage with ahl al-Kitab is permissible.<sup>20</sup> An American Muslim legal scholar Azizah al-Hibri argues on the basis of Quranic verse 2:221 that such marriage is prohibited for women while permissible for a Muslim man.<sup>21</sup>

During the early era of Islamic history, inter-religious marriages were practiced by significant companions including Uthman ibn 'Affan, Talhah ibn Ubayd Allah and Sa'ad ibn Abi Waqas. This it can be construed with the given examples that marriage with a woman from ahl I Kitab was not forbidden with the revelation of verse of Surah Maidah, but rather this was during the course of history that it was presumed reprehensible, and confronted strong oppositions though permitted.<sup>22</sup>

Islamic marital law is normative in nature and implied through interpretation of the textual and customary evidences jurists in classical era or customary norms validated by Shariah. The jurists disagree on the *hukm* of interfaith marriage in its compliance as obligatory, permissible and detestable in accordance with different situations. There are differences of opinion among jurists pertaining to the original *hukm* or ruling on marriage. *Shafai* school of thought, maintain that interfaith marriage is permissible (*mubah*) while *Hanafi*, *Maliki* and *Hanbali* schools regard it as recommended (*Sunnah*) and Dhahiry School deem it as obligatory.<sup>23</sup> Thus my argument is that interfaith marriage is permissible (*mubah*) though it is not recommended and reprehensible (*makruh*) in the contemporary era. There are different situations in which the ruling varies; if a person can sustain a family and he fears he may commit sin if he will not get married, then marriage is obligatory; if a person is financially stable to maintain wife and family but can control his sexual desire, then marriage is recommended for him; while marriage is detested if the person can neither provide sustenance nor perform his conjugal duties; marriage is prohibited if the person can neither provide maintenance to his wife and family nor he can fulfill his marital obligations.

The Quranic verses and juristic interpretations have laid fundamentals of institution of marriage but the juristic opinions have two different approaches in describing the purpose of marriage. One approach is that marriage legitimizes children while other approach assert on legalizing the sexual relations as well as provision of financial and economic security to the wife. Sunni schools also construe from this ruling that there is less chances of committing adultery if one gets into the bond of marriage. While describing different regulation for the contract of marriage there are few things that need to be kept in mind for clear understanding. There are distinctions between Muslims and non-Muslims and further subdivision of non-Muslims into religions with a book (*ahl I Kitab*) and other religions (*kuffar* and *mushrik*). Followers of a scriptural religion (*ahl I kitab*) are also termed as people of earlier revelations. There are two clear proofs for marriages with non-Muslims in the holy Quran. One is '**verse of interdiction**' i.e. Surah Baqarah verse 221 that forbids marrying non-Muslim women until they believe. While the other verse in Surah Maidah that was revealed later qualifies this hukm permitting marriage with women from 'people of book', thus this verse is titled as '**verse of permission**'. Notably, this 'verse of permission' applies only to Muslim men and a Muslim woman in no case is allowed to marry a non-Muslim man. It is so emphasized that according to *Hanafi*, *Shafai* and *Hanbli* schools, she is subject to 40 lashes if she does so knowingly what she is doing; while *Maliki* School goes to the extent that she should be subjected to capital punishment. Shi'i school totally prohibits marriage with a non-Muslim woman in any case, but allows temporary marriage (*muta'*) with a fixed compensation and having no legal consequence like inheritance. For the condition of witness, in an interfaith marriage Shafai, Maliki and Hanbli schools say it has to be two male Muslims or one male and two females; only *Hanafi* schools make an exception in inter religious marriage and allows people of book to be witness also.

### **Effects of Interfaith Marriages**

Since religious differences impinge on several legal issues and the key of a lot of legal cases turns on religious identity; there forth interfaith marriages turn out having many complications. Moreover, the holy Qur'an also proscribes and fore-warn intimate relations with non-Muslims; as head of family or a leader.<sup>24</sup>

Interfaith marriage has created changes in religious and cultural tradition which sometime cause conflicts between them. People in such

unions face a lack of understanding, and even negativity from friends and family.<sup>25</sup> Spouses who form homogamous marriages generally hold religious world views in common and therefore are likely to emphasize these views in each other, and then highlight these religious views in their lives. In other words, homogamous marriages themselves may function as valid structures in which each partner assert the trustworthiness of the other's religious beliefs and practices, which should facilitate continued assurance. Heterogamous marriage are characterized by a greater lack of religious consensus, and therefore, reciprocally, reinforce partiality are likely to be weaker or absent, making each partner's religious assertion prone to a loss of credibility and trust.<sup>26</sup>

Children undergo difficult situation when spouses have different races or nationality, but the children from inter religious marriages suffer added and elusive dilemma of balancing emotional and physical needs along with spiritual needs of what religion to adopt.<sup>27</sup> The most important challenge in an interfaith marriage is the prospective religion of the children. Mostly the couples' religious differences surface when making decisions about the religious upbringing of children.<sup>28</sup> In Interfaith marriages spouses are under the pressure of relatives while making the decision of religion of children.<sup>29</sup> Spouses tolerate pessimistic attitude and lack of sympathy from family and society.<sup>30</sup> Thus such these marriages affect the life of children, as they not know that which religion they should and they become double minded and it affects a normal life<sup>31</sup> Muslim jurists contend that in interfaith marriage, Muslim men must ensure that the children be raised as Muslims as a result of this marriage and the wife may face restrictions to perform religious rites,<sup>32</sup> while other jurists rejects such marriages right away for the reasons of different cultures, religious values and social background.

### **Categories of Inter-faith Marriages**

Inter religious marriages are categorized into two categories to discuss in detail.

#### **A- Marriage of a Muslim man with a non-Muslim Woman**

It is contended that the Holy Quran gives clear evidence for permitting a Muslim man to marry a non-Muslim woman with two conditions; she must belong to the "People of the Book" (*ahl I Kitab*) and provided she is chaste. These regulations given in Quranic verses quoted as evidences in this context are *Surah Baqarah* 2:221, *Surah Maidah* 5:5



and *Surah mumtahinah* 60:10 that explain respectively as; it is forbidden for a believer to marry idolaters women, as a Muslim women is better; a Muslim man is allowed to marry a chaste woman from 'People of the Book'. These verses explicitly allow a Muslim man and grant them permission to marry a woman out of faith with the given conditions of 'People of the Book' and 'chaste' woman.

While discussing about permitting a Muslim man to marry with a woman from non-believers, it must be noted that Islam recognizes two classes of non-believers. People of the Book are ones who recognize prophets Abraham and Jesus; though they do not confess to the faith of Islam, but they are considered to have some faith<sup>33</sup> as they 'deviated from the true path even though it has been distorted'.<sup>34</sup>

Though Islam shows a liberal standpoint of marriage with a woman from People of Book, it strictly forbids marriage of a man with woman who belongs to other category of unbelievers i.e. atheists, idolaters and polytheists, the prohibition is very clear. The Holy Quran unambiguously asserts that marrying a woman from idolaters is inviting the fire and a believing maid is better than marrying a idolater free woman.

#### **B- Marriage of a Muslim Woman with a non-Muslim Man**

All jurists unanimously agree that Muslim women are not permitted to marry a non-Muslim man. This *hukm* is derived from the verses of Holy Quran which emphasize that a believing woman must not be married to an idolater (*Surah Baqarah* 2:221) and it is not lawful for the Muslims (*Surah mumtahinah* 60:10).

The traditionalists regard these verses as a *hukm* for prohibition of Muslim woman marriage outside faith and same verses are quoted as permission for the same for Muslim men. Here reformists and modernists argue that when Quran gives a clear ruling on allowing Muslim men for marriage with *ahl I Kitab*, no such explicit permission is granted for women, which is also a clear indication of prohibition of the same for women.

#### **▪ Arguments on prohibition of marriage of Muslim woman with a Non-Muslim man**

Various arguments are given in supporting the Quranic evidence of permission for the male and prohibition for the female. One argument is construed from the Quranic verses 4:34 and 4: 141 that read that men being authoritative on women and non-Muslims cannot exercise

authority on Muslim, so a woman cannot be given in marriage to a non-Muslim man.<sup>35</sup>

According to Islamic Law, a Muslim man has to respect Christianity and Judaism as a religious obligation, and woman's religious beliefs are not at stake due to such marriage. Conversely, if a Christian or Jewish man marries a Muslim woman, they are not under any such obligation thus the woman's religious beliefs are strongly risked.<sup>36</sup>

Eminent Muslim scholars<sup>37</sup> have asserted that marriage of a Muslim woman with a non-Muslim man is *haram* be it with *ahl I Kitab* or *mushrikeen*. One of the Objectives of *Shariah* is protection of religion which is at risk in the given situation as she might be influenced and prevented to observe her religious rites; for, man is head of the family and has a dominant role.

### Reasons for Supporting Inter-Faith Marriages

There have been supporting evidences from the Holy Quran, on permission for a Muslim man to marry a woman from *ahl I Kitab*. The arguments thus deduced in this research are as follows,

- a- The verse 5 of *Surah Maidah* explicitly permits such marriage.
- b- Verse 221 of *Surah al Baqarah* prohibits marriage with a *mushrikah*. This generalization is qualified in the verse 5 of *Surah Maidah*.
- c- The Holy Quran indicates the difference between *mushrikeen* and *ahl I Kitab* in *Surah Bayyannah* by calling them separately, that shows a difference must be maintained in making relations between 'people of the Book' and the idolaters.

لَمْ يَكُنِ الَّذِينَ كَفَرُوا مِنْ أَهْلِ الْكِتَابِ وَالْمُشْرِكِينَ مُنْفَكِينَ حَتَّىٰ

تَأْتِيَهُمُ الْبَيِّنَةُ ۗ

*Those who disbelieved among the People of the Scripture and the polytheists were not to be parted [from misbelief] until there came to them clear evidence (98:1)*

- d- Marriage of Prophet Muhammad (S.A.W) with Maria al Qibtiyah who was a Christian lady and marriage of 'Uthman bin 'Affan with Nailah binti al-Farafisah are quoted as an example of permission for interfaith marriages (between a Muslim man and a woman from *ahl I Kitab*).

- e- Hanafi, Maliki and Shafi' Jurists contend that marriage of Muslim man with a non-Muslim woman in an Islamic territory is detested; while such marriage is forbidden if woman is from the community who has waged war against Muslims, construe Hanafis.

### **Reasons for Forbidding Interfaith Marriages**

There are variant basis for proscription of interfaith marriages in present era. The theological dissuasion to marry a polytheist woman (*mushrikah*) is a sort of Islamic strategy for preserving the sacred institution of marriage as there are bleak chances of harmonious relationship to achieve the objectives of Shariah. Sociologically, if the spouses have differences in traditional norms and traits, the religious and socio-cultural ethnic disparity would subvert marriage. In a broader context, the religious differences may lead to slander and hostility in the family putting in danger family stability. Another important aspect of denouncing this practice during the course of history was a social logic by Umar bin Khattab, who opines that marital relation is a means to internal solidarity and cohesion among community. A marriage outside this circle would lead to transfer of social, economic and political assets of Muslims.

Other than the given theological, sociological and political reasons, following are some arguments from the Holy Quran and Sunnah on inter-faith marriages.

- a- Interfaith marriages are opposed on the basis of argument given from the Holy Quran, the verse 2:221 reiterates that it is forbidden to marry a woman from idolaters and conversely a Muslim woman must not marry a man from polytheists, as a believing maid or slave is better than them.<sup>38</sup> This is how Allah invites to paradise and grant forgiveness.<sup>39</sup>
- b- It has been reported that Hadrat Umar bin Khattab totally rejects the interfaith marriage to the extent that he asked companions of the Holy Prophet (S.A.W) to divorce their Christian wives as it may lead to *mafsadah* (leakage of information during war) that also showed his approach and military strategy. He made no distinction between polytheists and *ahl I Kitab* as he regards both do *shirk* which is unbearable.<sup>40</sup>

- c- Islamic legal maxims are providing excellent solutions in situations where explicit rules are lacking. The issue of Inter-faith marriages in the perspective of legal maxims thus be:  
*Dar al mafasid muqadam ala jalab al masalih*  
 Which tells prevention of evil is better than provision of benefit.  
 Another maxim that qualifies the above maxim is provided by Shafi School i.e.  
*Adha ajtama'a halal wa al-haram ghalaba al-haram*  
 The haram prevails when *halal* and *haram* are united in a matter, thus interfaith marriages having good and bad prospects are to be avoided due to uncertainty of faith.<sup>41</sup>
- d- Application of Secondary source of Islamic Law, *Sad al-dharaii* which means blocking the evil i.e. blocking the means to any prospective situation that may lead to an evil,, i.e.the potential danger to the religion. Objectives of Shariah (protection of faith) can be achieved if such situation is not allowed to happen.
- e- This principle of *Siyasah al Shariah* can be implemented where the ruler can impose a policy in accordance with the rules of Shariah on the basis of protecting the interests of religion, nation and society.

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