

A Critical Study on the Principles of Interfaith Marriages: A Perspective of Classical Discourse of Islam

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Abstract

This article critically analyses the principles of interfaith marriage in the light of classical discourse of Islam. The fundamental concern of the paper is to study the issue of interfaith marriage in which one of the spouses to such marriage is professing Islam while another is *ahl e kitab* (people of the Book). It also studies the reasons behind the unanimity on prohibition of interfaith marriage between Muslim women and Scriptural men. The study has mainly been conducted based on the primary sources of Islamic *Shariah* and law including the Holy Quran and the *Sunnah* of the Holy prophet. Illustrations have been cited from the *Seerah* (the life of holy Prophet pbuh). This paper also refers briefly to Objectives of *Shari'ah* (*Maqasid al Sharia*) as well as Principle of the law (*al qawa'id al fihiyyah*). Moreover, the juristic approach of classical scholars provides the readers the legal basis on the matter of interfaith marriage. The article aims at giving a broader perspective on interfaith marriage while comparing its view with other religions. This paper also studies the practical issues of interfaith marriage suggesting solutions according to classical Islamic discourse.

Keywords: Interfaith marriage, Islamic law, Judaism, Christianity, Zoroastrianism, Islam, Objectives of *Shariah*, *Ahl e Kitab*, *Kafa'a*, *Quran & Sunnat*

Introduction:

Marriage is a union of male and female as spouses, which is legally and formally recognized form of personal relationship. It is an essential part of human life which is regulated by certain religious beliefs, rules and social customs. An agreement is signed which formally provides the legal basis for the conjugal relationship between spouses.¹ This marital contract is known as *Nikah*, *Aqd* or *Misqa* in the classical discourse of Islam. The fundamental objective of this agreement is to validate the marital relationship ensuring a comfortable atmosphere for the couple. This objective has explicitly been described in the holy Quran chapter number 30 (*Ar-Rum*) which says "And among His Signs is this, that He created for you mates from among yourselves, that ye may dwell in tranquility with them, and He has put love and mercy between your (hearts): verily in that are Signs for those who reflect." (30:21). Apart from legalizing the conjugal relationship among spouses, the institution of marriage also ensures the preservation of human species. The history of marriage evidently provides enough cases to prove that human beings have been practicing interfaith marriage which is traditionally known as mixed marriage. This type of marriage indicates that the spouses who are married to each other belong to different belief systems.²

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¹ Britannica, The Editors of Encyclopaedia. "*Marriage*". April 18, 2018. <https://www.britannica.com/topic/marriage> (accessed May 21, 2018).

² Islam, Md. Zahidul. "*Interfaith Marriage in Islam and Present Situation*." *Global Journal of Politics and Law Research* 2, no. 1 (2014): 36-47. accessed April 11, 2018, https://www.researchgate.net/profile/Md_Zahidul_Islam5/publication/286873467_Interfaith_Marriage_in_Islam_and_Present_Situation/links/566eba7408ae430ab500346f.pdf

Divine Religions on Interfaith Marriage:

However the world religions hold various standings on the issue of such type of marriage. This article only provides the viewpoint of divine religions including Judaism, Christianity and Islam. The comparative study of these three religions shows that the approach of Islam is noticeably different from the rest. The religious literature of Judaism and Christianity indicates both these religions have negative standing on the issue of interfaith marriage. Among these two, the Judaic literature consisting of the Old Testament and Talmud unequivocally forbids practicing such type of marriage between Jews and non-Jews. Christianity also did not permit such marriage and admonished their followers strictly not to enter into wedlock with any non-Christian. The councils of the Church gave its ruling that the violators who enter in interfaith marriage will have to face rigid punishment and their matrimonial agreement will not be accepted by the council.³

Quranic Discourse on Interfaith Marriage:

Contrary to other divine religions, Islam holds different opinion on the issue of interfaith marriage. Islam is considered a complete code of life which provides enough guidance for the humanity on general basis, however only those followers get benefit from it who practice the teaching of Islam. To deal with the issue of interfaith marriage, Islam firstly described the types of nonbelievers and provided its rulings accordingly. The main sources of Islam which hold such rulings include the holy Quran, the Hadith and the Fiqh e Islami. The holy Quran deals with the question of mixed marriage in following three verses which have become the basis for the development of the pertinent Muslim law.

Do not marry unbelieving women (idolaters), until they believe: A slave woman who believes is better than an unbelieving woman, even though she allures you. Nor marry (your girls) to unbelievers until they believe: A man slave who believes is better than an unbeliever, even though he allures you. (2:221).

O ye who believe! When there come to you believing women refugees, examine (and test) them: Allah knows best as to their Faith: if ye ascertain that they are Believers, then send them not back to the Unbelievers. They are not lawful (wives) for the Unbelievers, nor are the (Unbelievers) lawful (husbands) for them... (60:10).

This day are (all) things good and pure made lawful unto you. The food of the People of the Book is lawful unto you and yours is lawful unto them. (Lawful unto you in marriage) are (not only) chaste women who are believers, but chaste women among the People of the Book, revealed before your time,- when ye give them their due dowers, and desire chastity, not lewdness, nor secret intrigues if any one rejects faith, fruitless is his work, and in the Hereafter he will be in the ranks of those who have lost (all spiritual good).(5:5).

The above mentioned verses provide the fundamental basis to deal with the issue of interfaith marriage. In the light of these verses one can find enough direction regarding the rules and regulations pertaining to the both spouses who practice interfaith marriage. However in the wake of globalization there has been rampant increase in the interfaith marriage which gave birth to many relevant issues. These issues deserve to be addressed by the contemporary researchers and religious scholars to provide the practical solutions

³ Brundage, James A. "Intermarriage between Christians and Jews in Medieval Canon law." *Hîstôry a yêhûdî*= Jewish history 3, no. 1 (1988): 25-40. (Accessed April 29, 2018) <http://historycourses.weebly.com/uploads/8/0/0/5/8005631/brundage.pdf>

A Critical Study on the Principles of Interfaith Marriages: A Perspective of Classical Discourse of Islam for those spouses who enter themselves in interreligious marriage. However this article is an attempt to study the classical discourse of Islam which deals with the issue of interfaith marriage. Among the classical sources, Quran is the fundamental source which has three verses dealing with the issue and providing the legal basis.

The first verse (2:221) has clear standing on prohibition for the Muslim men to take any polytheist women (*mushrikat*) in their marriage; it also prohibits the marriage of Muslim women to polytheist men (*mushrikun*). The second verse (60:10) has also the same order, although it uses the term *kawafir* rather than *mushrikat*.⁴ The third verse (5:5) permits the Muslim men to marry “virtuous” or free (*muhsanat*) women of *ahl e kitab*. However it does not refer to any possibility for Muslim woman to marry any of *ahl e kitab* men. This has firmly been rejected in the books of tradition and law by several jurists of early century.

The factor of Kafa’a and Social Status:

Islam not only deals with the religious matters but also considers the social factors as well. It is only because of this approach that Islam also gave importance to the issue of Kafa’a i.e. the social status in the interfaith marriage. The study of the above verse which indicates the prohibition is enacted because it lacks in kafa’a, this factor basically requires that there should be compatibility between the spouses, and woman should avoid marrying a man who is lower in status than her. This is one of the fundamental principles which are not only applicable to religion but it has also social standing. Therefore, keeping in view the factor of kafa’a, a Muslim man may marry a Christian woman but a Christian man may not marry a Muslim woman. The man who is emigrant has the right to marry a Bedouin woman, but on the other side a Bedouin man may not marry an emigrant woman.⁵

This prohibition is based on the difference of social status; it requires the men to be from higher status than that of women. As for the standing of the traditional scholars is concerned regarding the factor of kafa’a, they consider marriage a type of enslavement and therefore do not permit the Muslim woman to be under the enslavement of an infidel. Since Islam is exalted and no other religion is higher than it, therefore it legitimates for men to enslave an infidel woman. Imam Ahmad ibn Hanbal prohibited such marriage saying that “we can own them, but on the other side they have no right to retain us.”⁶ There is a link of similarity between marriage and slavery which is based on the work of Ibn Hazm. Islam forbids non-Muslims to own Muslim slaves and Ibn Hazm links this prohibition to the prohibition on giving Muslim women in marriage to unbelievers.⁷

⁴ Al-Jawziyya, Ibn Qayyim. *Ahkam ahl al-dhimma*. (Dammam: Ramadi Publishing, 1997), vol.1, p.686

accessed May 03, 2018, <https://ia800500.us.archive.org/10/items/waq35763/35763.pdf>

⁵ Sana’ani, Abd al-Razzaq bin Humam. *al-Mussannaf*. Ed. Habib al-Rahman al-Azami. (Beirut: Dar al-qalam, 1970–1972), vol. 7, pp.176–177 (nos. 12664, 12671), accessed April 27, 2018, http://www.archive.org/download/waq15649/07_15655.pdf

⁶ Khallal, Abu Bakr Muhammad bin Harun bin Yazid al-Baghdadi al-Hanbali. *Ahl al-milal wa al-ridda wa al-zanadiqa wa tarik al-Salat wa al-faraiz min Kitab al-Jami*. Ed. Ibrahim bin Hamad bin Suleman. (Riyad: Maktabat al-ma’arif li-l-nashr wa al-tawzi, 1996). 269, (No. 540). accessed May 07, 2018, <https://archive.org/details/waq26391>

⁷ Ibn Hazm, Abu Muhammad Ali. *al-Muhalla*. (Beirut: Darul kutubul ilmiya, 2003), vol. 9, 12 (no. 1821). accessed May 09, 2018, https://ia801303.us.archive.org/22/items/FP74771/09_74779.pdf

Keeping in view the concept of kafa'a, Islam strictly prohibits a dhimmi man to take a Muslim woman in his marriage. If he fails to follow this rule and violates, he is liable to be executed according to the opinion of Imam Malik bin Anas. According to him, the dhimmi broke the very condition of dhimma treaty.⁸ Unlike Imam Malik, the Hanafi scholar Imam al-Sarakhsi expresses his view that the violator is not liable to capital punishment, rather he should suffer corporal punishment, moreover the person who facilitated the contract of marriage will also be penalized suffering discretionary punishment (ta'zir). Further, he says that such type of marriage has no validity in Islam and will be considered null and void even if the dhimmi embraces Islam after marriage, because it was not legal principally and cannot remain enact. Imam al-Shafi has also the same opinion as of Hanifi, though he expresses his view on the matter of apostate rather than the original nonbeliever.⁹

The Juristic Rulings in Case of Conversion:

The case of conversion is another important issue related to the interfaith marriage, which can affect the marital relationship between spouses. Therefore the classical Muslim scholars put in their best to give ruling regarding the issue of apostasy. In a case where the spouses were previously married as non-Muslims, latterly the wife accepted Islam declaring Shahadah and the husband remained infidel, a separation would have been inevitable between both spouses according to Shariah rules. Moreover, it has been explained that such marriage would have been restored if the husband also embraced Islam before the ending period of iddat of wife. This ruling has been based keeping in view the cases of two prominent figures, Safwan bin Umayya and Ikrima bin Abi Jahl, the wives of both men embraced Islam earlier than their husbands, while both of them did not accept Islam and escaped in the beginning, but ultimately both entered into the fold of Islam latterly. Subsequently the both marriage remained valid.¹⁰ In this case the iddat period duration is essential which has to be followed strictly, otherwise the marriage will not remain valid after ending the period. One of Hanbali's jurists, Khallal said that a new marriage contract is mandatory even though the husband converts within the iddat period.¹¹ However, the wife does not need to observe iddat period if she converts before the consummation of marriage.

According to Malik bin Anas, if a Christian woman embraces Islam and at the time of conversion, her husband is out of town and away on a journey, she is to be ordered to observe the iddat period and wait for her husband, if he does not return from his journey, the wife who has embraced Islam, will be allowed legally to marry a Muslim man. But on other side if her husband returns and declares *Shahadat*, their marriage continues and it does not need renewal of marital contract.¹² Ibn Hazm holds a rare view

⁸ Sarakhsi, Abu Bakr Muhammad bin Ahmad bin Abi Sahl. *al-Mabsut*. (Beirut: Darul Ma'rfa, 1993), vol. 5, p.45, accessed May 04, 2018, <https://ia801406.us.archive.org/3/items/FPmbsootmbsoot/mbsoot05.pdf>

⁹ Ibid. p.45

¹⁰ Waqidi, Muhammad bin Umar. *Kitab al-maghazi*. (Kolkata, 1855). accessed May 09, 2018, <http://waqfeya.com/book.php?bid=11211>

¹¹ Khallal, 272, (no. 545).

¹² Ibn Abd al-Barr al-Namari, Abu Umar Yusuf bin Abdullah bin Muhammad. *al-Tamhd li ma fi al-Muwatta min al-ma'ani wa al-asanid*. Ed. Saeed Ahmad A'rab, Maghrib: Wzaratul Auqaf wa Shuoon al Islamia. (1983). vol. 12, p. 29. accessed May 11, 2018, <https://ia800203.us.archive.org/15/items/waq2076/tmheed12.pdf>

A Critical Study on the Principles of Interfaith Marriages: A Perspective of Classical Discourse of Islam that the conversion of both spouses must be completely coinciding.¹³ If any non-Muslim deceives and takes the Muslim woman in marriage, he would be treated with severity. Even though he embraces Islam latterly but the spouses will be separated because originally marriage was invalid.¹⁴

Thus it became the established law that the marriage will be canceled if the wife embraces Islam earlier than her husband who remains nonbeliever. Interpreting Qur'an 10:78, where Lut (A.S) seems to be offering his daughters in marriage to unbelievers, Imam Razi postulates that "it was permissible at that time in his law to give a believing woman to an unbeliever in marriage, as it was the situation in early Islam". In order to strengthen his argument, he mentions Zaynab's marriage to Abu al-Aas.¹⁵ Ibn Qayyim also speaks of a stage in the development of Muslim law when marriage in which the woman embraced Islam and the man remained nonbeliever were not cancelled.

According to the viewpoint of Ibn Qayyim this is an interesting point to note that the above mentioned rule has only been considered valid before the commandment of Jihad was propagated. During this span of time the religion of Islam was yet not regarded exalted or superior from all other religions. Ibn Qayyim al-Jawziyya comprises in his *Ahkam ahl al-dhimma* an impressive collection of opinions, and these views have noticeably extraordinary when these are compared with the established law.¹⁶

The traditionalists construct the basis of their viewpoint keeping in consideration the case of the daughter of Holy Prophet (PBUH). They refer to the case of Hazrat Zaynab and validate the idea that the marriage between two unbelievers will be not annulled if the wife enters into the fold of Islam before her husband. Actually the daughter of Holy Prophet (PBUH) was given into the wedlock of a famous Quraishi, Abu al Aas, before the prophet hood was declared. When the Holy Prophet (PBUH) received the first revelation and declared his prophethood, his daughter embraced Islam but her husband firstly did not enter into the fold of Islam and thus refused to follow his wife. Even he was not Muslim at the time of battle of Badr and he fought from the side of polytheists in the battle. In the battle he was captured and put into imprisonment, latterly his wife requested for his freedom. Ibn e Athis in his famous book *Usd ul ghaba* reported that even the nonbelievers of Mecca were pushing him to divorce the daughter of Holy Prophet (PBUH) but Abu al Aas refused to do so and maintained his friendly behavior with Holy Prophet (PBUH) and thus he earned his appreciation. It is also reported that latterly in 7 A.H/ 628 A.D, finally Abu al Aas accepted the message of Islam and became a Muslim declaring shahadah. Although there is contradiction in the traditions which report the various dates regarding his conversion, yet this is obvious that his conversion took place long later, the period was clearly much longer than the *Iddat* period. But the Prophet pbuh did not cancel the marriage of her daughter but he instructed his daughter to refuse conjugal relations with her husband as long as he remains nonbeliever.¹⁷ Thus we came to infer from their case that their example seems contradictory to the recognized

¹³ Ibn Hazm. *al-Muhalla*. vol. 7, pp.364–369, (no. 939).

¹⁴ Sahnun bin Saaid. *al-Mudawwana al-kubra*. Beirut and Baghdad: Matba' al-sa'ada, (reprint) 1323 A.H. vol. 2, p.298

¹⁵ Razi, Fakhr al-Din Muhammad bin Umar bin al-Husayn. *al-Tafsir al-kabir aw Mafatihul ghayb*. Beirut: Dar al-kutub al- ilmiyya, 1990. vol. 18, p. 27. Accessed May 11, 2018, <https://ia802307.us.archive.org/32/items/mghtrazi/trazi18.pdf>

¹⁶ Al-Jawziyya. *Ahkam ahl al-dhimma*. vol. 1, p.69

¹⁷ Ibn al-Athir, *Usd al-ghaba*, (Beirut: Dar Sadir and Dar Beirut, n.a), vol. 5, p.467, ll. 24–27.

Islamic law, but the close analytical study proves that their marriage was in fact not annulled because Abu al Aas embraced Islam before the revelation of Qur'an 60:10. Therefore, the contradiction is solved by knowing that this was the only verse which forbade the marriage of Muslim women to polytheists.

The other part of discussion on this case is related to the aftermath of his conversion. There are many traditions which report this case and according to one of these traditions the daughter of Holy Prophet (PBUH) was returned to her husband by means of a new marriage contract giving a new dowry. The other tradition reports that their previous marriage remained in force. The latter tradition suggests the interpretation which is contrary to the settled law, therefore some scholars like Ibn Abdul Barr reject the tradition or explain it away.¹⁸

The matter of conversion of wife to Islam is so important that it gave birth to many other issues for consideration and one of these issues is the question is: whether the husband should be offered Islam or not. The traditional classical scholars have different opinions on this question. According to Imam Malik, the husband will not be offered Islam, rather it should be the initiative of husband himself taking the radical step to accept Islam and showing his willingness to continue the marriage and restoring it with the wife who has already embraced Islam¹⁹. The Hanafi scholar, Sarakhsi also did not allow that the husband should be offered Islam, he explained that such a step will be equal to forcing a nonbeliever or dhimmi to accept Islam, and thus it should be contrary to the obligation of the Muslims not to forcing the nonbelievers into Islam.²⁰

The Issue of Religious Socialization/ Apostasy:

The social scientific studies of religion raised a question of religious socialization and falling from the faith. Falling from the faith particularly from Islam to any other religion is termed as apostasy. In the matter of interfaith marriage, the issue is raised when a Muslim husband of a Muslim woman falls from his faith and commits apostasy. The jurists differ on the details of the issue of apostasy but they all agree that the marriage of such an apostate cannot be allowed to stand. The jurists provide legal validation for this principle because they consider it a capital crime which makes the apostate lifeless legally. According to the legal point of view, the apostate is liable to death penalty for committing such a capital crime.²¹

Rulings on Apostasy:

The Muslim jurists have clear ruling on the matter of apostasy and according to them it is legally confirmed that the marriage is cancelled after the husband commits apostasy. In the case of apostasy the wife will be entitled to retain the whole dowry, if that crime is committed after the marriage is consummated. On the other hand if he commits apostasy before the marriage is consummated, wife will be entitled to half dowry.²² Moreover, the Jurists hold different opinions on the question as to when exactly the separation between husband and wife will take place in the case of apostasy. The point of view which has been given by Imam Abu Hanifa is that the marriage will be

¹⁸ Waqidi, *Kitab al-maghazi*. vol. 1, pp.130–131

¹⁹ Sahnun bin Saaid. *al-Mudawwana al-kubra*. vol. 2, p.303

²⁰ Sarakhsi, *Al-Mabsut*. vol. 5, p.45

²¹ Ibid., p.48

²² Shafi', Muhammad bin Idris. *Kitab al-umm*. Ed. Mahmud Matraji. (Beirut: Dar al-kutub al-ilmia, 1993). vol. 6, p.224

A Critical Study on the Principles of Interfaith Marriages: A Perspective of Classical Discourse of Islam cancelled at once regardless of the matter whether the apostasy took place before the consummation of marriage or after it. The stance of Al-Sarakhsi, a prominent Hanifi scholar, is supported by the basic rule of illogicality of marriage with the apostate's current belief.²³ While, some other jurists like Ibn Abi Layl and Imam Shafi maintain that the cancellation of marriage which has been consummated, takes place after the *iddat* period is over. According to them if the husband repents and enters again into the fold of Islam during the *iddat* period, the marriage will remain intact.²⁴ As for the view point of Ibn e Hanbal is concerned, he was reluctant to answer the question on the matter of apostasy. Yet he answered, that the property of such a person who goes to darul Harb, is entitled to be seized. His property will remain in the custody of the state until it becomes clear whether he will return to Islam or not. According to view point of another jurist, al-Khallal, a Hanbali jurist, it is well established rule, that a marriage in which a spouse commits apostasy, can be restored only by a new marriage contract, and, apparently, a new dowry will be fixed.²⁵ However, it is noteworthy that an apostate's marriage is annulled even if his wife is Jewish or Christian, since *kitabi* woman is better than the person who commits apostasy.

Forbidding Muslim Women from Marrying a Kitabi Man:

Now the question arises why Islam forbid the marriage of Muslim woman to a *Kitabi* man. There is a proper ruling in Islam and according to that, Muslim men are allowed to take the *kitabi* women in their marriage but on the other side, the Muslim women are not allowed to marry the *kitabi* men. The critical study of Islamic classical discourse shows that this prohibition is based on the fundamental idea of the exaltedness of Islam. This is a reality that Islam is glorious above all other religions and men are the superior and dominant part of the household. This is one of those ideas of Islamic superiority which has repetitively been expressed in the Qur'an. The prophetic tradition has also taken up the idea and used it in many different contexts, and we have already had the opportunity to highlight its importance. Based on the idea of glory and exaltedness of Islam, Muslims are permitted to take women of the people of the Book, while they are not authorized to marry Muslim women.²⁶ Allah sent Muhammad (pbuh) with the truth of Islam to make it prevail over all other religions. Our religion is the best of religions and our faith stands above (all other) faiths. Our men are above their women, but their men are not to be above our women.²⁷

Hierarchy of Religions:

The hierarchical division of religions also affects the ruling on interfaith marriage. Religions have strong hierarchical relationship with one another. This descending hierarchy consists of Christianity, Judaism, Zoroastrianism and polytheism. According to the opinion of famous jurist, Ibn e Hanbal, the ruler or the imam has the authority to split the marriage between a Zoroastrian man and a Christian woman, saying in a rather obscure manner that such a union is equivalent to "corruption".²⁸ Ibn Qayyim

²³ Sarakhsi, *Al-Mabsut*. vol.5, p.49

²⁴ Shafi', *Kitab al-umm*. vol. 6, p.223

²⁵ Khallal, *Ahl al-milal wa al-ridda wa al-zanadiqa wa tarik al-Salat wa al-faraiz min Kitab al-Jami*. (1996).P. 506 (no. 1266), p.508, (no. 1272).

²⁶ Sana'ani, *al-Mussannaf*. vol. 7, p.174

²⁷ Bayhaqi, Abu Bakr Ahmad bin al-Husayn bin Ali. *Al-Sunan al-Kubra*. (Haydarabad, Deccan: Da'irat al-ma'rif al-Uthmaniyya, 1356 A.H.), vol. 7, p.172

²⁸ Khallal, *Ahl al-milal wa al-ridda wa al-zanadiqa wa tarik al-Salat wa al-faraiz min Kitab al-Jami*. (1996). vol. 2, p.475, (nos. 1161–1162)

al-Jawziyya's standing on this issue is more persuasive. While commenting on the issue of hierarchical status of religions, he says that it must be observed, that the husband must be of equal or higher religion than his wife, he upholds that a Zoroastrian or a polytheist is not allowed to marry a Christian woman because her religion is higher than his, but, according to the same principle, a Christian may marry a Zoroastrian woman. And if a Zoroastrian acquires a Christian slave-girl, she must be separated from him: her religion is "higher" and she must not be placed in a position of subservience to an adherent of a "lower" religion.²⁹ This hierarchical division is so effective that it is also applicable to ethnic basis. The husband must be of higher status in ethnicity. The hierarchical relationship between the parents' respective religions also determines the religion of children, though the consequences of this principle are not always agreed upon. According to most views, the children follow the parent whose religion is "better." Allah placed Islam above all other religions and the superior deserves a ruling in his favor.³⁰

The Classical Discourse on Interfaith Marriage:

There are mainly three verses which are related to the matter of interfaith marriage. Qur'an 2:221 forbids marriage with polytheistic women in an unequivocal manner. Qur'an 60:10 is conventionally interpreted in a similar sense. It is understood to address a demand of the *Hudaibiya* accord, according to which the Muslims were obliged to return to the unbelievers any Man to the Meccans, who migrated to Medina in order to join the Muslim community.³¹ The verse is said to have cancelled this agreement as far as women converts were concerned.³² Its affirmed meaning was to prevent a situation in which a Muslim woman would be forced to maintain, or resume, a marital relationship with a polytheist husband. Furthermore, it also instructed the Muslims to break marital relationships with any idolatrous woman whom they may have left in Mecca when they embraced Islam and migrated to Medina. It is in response to this verse that Umar bin al Khattab (R.A) is said to have divorced two of his wives whom he had married in Mecca.³³ Thus the prevention of wedding with idolaters became an undisputed element in the Muslim laws of personal status.

The question of marrying polytheistic women or of using them as concubine is raised in connection with several battles of the Prophet. Responding to questions about the battle against the tribe of Hawazin, Ahmad ibn Hanbal tentatively suggests that the female captives with whom Muslims had sexual relations may have embraced Islam.³⁴

There are some other traditions which are concerned with the explanation of Prophet's relationship with women of Jewish origin. Two such Jewish origin women were in his household. The first one was Safiyya bint Huyayy, a young Jewish captive from the battle of Khaybar, she was hardly seventeen years old at the time of Khybar expedition in 628 A.D. The Prophet appropriated her as his *Saafi*, the latter is that portion of booty which the commander of the expedition was allowed to take and choose for himself before the division of the spoils. The traditions which described the relationship

²⁹ Al-Jawziyya. *Ahkam ahl al-dhimma*. vol. 1, pp.394-396

³⁰ Shafi', *Kitab al-umm*. vol. 9, 334, lines, p.18-19

³¹ Tabari, Muhammad bin Jarir. *Tarikh al-rusul wa al-muluk*. Ed. de Goeje. Leiden: E.J Brill, 1879, series I, vol. 3, p.1546

³² Waqidi, *Kitab al-maghazi*. vol. 2, p.631

³³ Tabari, *Jami ul-bayan*, vol. 28, pp.65-73

³⁴ Khallal, *Ahl al-milal wa al-ridda wa al-zanadiqa wa tarik al-Salat wa al-faraiz min Kitab al-Jami*. (1996). p.246, (no. 477)

A Critical Study on the Principles of Interfaith Marriages: A Perspective of Classical Discourse of Islam of Prophet with her are described in two different ways. According to the first tradition, he offered to manumit her if she “chose Allah and His Prophet” She embraced Islam, whereupon the Prophet manumitted her and married her. The manumission was considered her dowry.³⁵ Another tradition describes the initial conversation between the Prophet and Safiyya in a significantly different manner. The Prophet started by referring to her father Huyayy’s intense enmity to him. With surprising knowledge of Islam, Safiyya disclaimed responsibility for this by quoting Qur’an 6:164: “No bearer of burdens can bear the burden of another. Then the Prophet gave her the following options: if she chose Islam and accept the message of Islam, he would keep her for himself; and if she chose Judaism, he would manumit her and enable her to rejoin her people. Safiyya responded by saying that she no longer had family members among the Jews (her father, husband and brother had all been killed by the Muslims), and had no desire for Judaism; Allah and His Prophet are more desirable to her than manumission or return to her people. As a result of this decision, the Prophet kept her for himself.³⁶

The other woman of Jewish descent was Rayana whose case is more complex. She was captured by the Muslims after the massacre of Banu Qurayza. According to one version, her story is similar to that of Safiyya: she was also the Prophet’s *Saafi*, was offered the option of converting to Islam and accepted it. Consequently, the Prophet manumitted her, married her, and treated her like his other wives.³⁷ According to another version, Rayana initially refused to embrace Islam and preferred to be the Prophet’s slave-girl. When she eventually converted, she declined the Prophet’s offer of manumission, remained his slave-girl and had a sexual relationship with him until her death.³⁸

According to the opinion of most of the scholars only Christians and Jews are to be considered as the people of Book, therefore, most of the schools of law do not consider the Zoroastrians, People of the Book. According to the law, the Zoroastrians were given *dhimmi* status. Keeping in consideration this point of view, it is evident that the verse 5:5 is not applicable to Zoroastrians. It is not legally permissible to marry Zoroastrian women and even the Muslims are not allowed to consume meat slaughtered by Zoroastrians. As for the permission of marrying a *Kitabi* woman is concerned, according to the Maliki scholar, Ibn Abd al-Barr, this permissibility is an honor which has been done to the People of the Book by the Prophet (Pbuh); therefore, those who have no book, cannot share in this honor.³⁹ According to Malik bin Anas, it is legally not permissible to marry a Zoroastrian slave-girl or free woman. In the view point of Ahmad ibn Hanbal, taking Zoroastrian women into marriage, is not allowed in Islam, thus he also has the similar view to that of Imam Malik.⁴⁰ Keeping in considering the above ruling on

³⁵ Ibn Sa’ad, *Kitab al-Tabaqat al-kabir*. (1905-1921), vol. 8, p. 86, ll. 10–15.

³⁶ Ibn al-Athir, *Usd al-ghaba*, vol. 5, pp.490–491

³⁷ Ibn Sa’ad, Muhammad. *Kitab al-Tabaqat al-kabir*. vol. 8, pp.92–93

³⁸ Waqidi, *Kitab al-maghazi*. vol. 2, pp.520–521

³⁹ Ibn Abd al-Barr. *Al-Tamhid li ma fi al-Muwatta min al-ma’ani wa al-asanid*. Ed. Mustafa bin Ahmad al-Alawi and Muhammad Abd al-Kabir al-Bakri. Rabat: al-Matba’ al-malakiyya, 1988. vol. 2, p.117

⁴⁰ Sahnun bin Saaid. *al-Mudawwana al-kubra*. Beirut and Baghdad: Matba’ al-sa’ada, (reprint) 1323 A.H. vol. 2, p.307

Zoroastrian women, the marriage will be cancelled, if one of the spouses converts and embraces Islam while the other fails to follow within a reasonable given time span.⁴¹

Contrary to the opinion of Imam Malik and Ahmad bin Hanbal, Abu Thawr and Ibn Hazm allow Muslims to wed Zoroastrian women. As for Ibn Hazm, he considers the Zoroastrians to be People of the Book;⁴² henceforth, the permissibility of wedding Zoroastrian women is for him only natural.

Regulations of Interfaith Marriage:

Islam openly educates about the rules and regulations of interfaith marriage, it instructs the Muslim men to treat the *Kitabi* women equally with the other wives. According to the teaching of Islam, the responsibilities of the spouses towards each other are the same as in a marriage between Muslims. The husband is obliged to spend with his non-Muslim wife the same amount of time as he spends with her Muslim counterparts. He should also provide her with the same living allowances (*nafaqa*). The non-Muslim wife is not treated like a slave-girl, who is entitled only to one half (or one third) of the time devoted by the husband to each of his free wives. The rules pertaining to divorce and to the waiting period are also the same for all wives. There are, however, certain differences. According to the rule that prevents cross-religious inheritance, the non-Muslim wife does not inherit any of her deceased husband's property.⁴³ And if the husband falsely accuses his *kitabī* wife of adultery (*qadhf*), he is not punished by *Hadd* but only by *tafīz*. The husband may force her to perform ablution after her menses – since otherwise it would not be legal for him to engage her sexually. He may demand her to purify herself from impurities, but cannot force her to comply with this demand. According to Ibn Qudama, he may order her to refrain from drinking wine, but cannot force her to do so. However, according to a view adduced by al-Mawardi, he cannot prevent her from drinking a small amount of wine in the framework of a religious ritual of hers. According to al-Shafi, he is entitled to prevent her from eating pork since it pollutes him.⁴⁴

Interfaith Marriage in the light of Objectives of Shariah, and Principals of Fiqh:

Apart from the previous discussion, this paper also discusses the matter of interfaith marriage in the light of objectives of Shariah, principals of Fiqh, and the application of the doctrine of *Sadde dhrai*. As for the objective of the Shariah (*Maqasid al Shari'ah*) are concerned, there are five necessities that are generally referred to as the objectives of the Shari'ah. The list is as follows arranged according to priority: religion, life, mind, progeny, and property. Among all, the protection of religion is the most important necessity. If it is in conflict with other objectives, it will prevail among others. It is undeniable that marriage is important to protect a *nasl* (progeny). However, the interfaith marriage would only expose threat to the religion which is clearly contrary to the paramount objective of the Shari'ah. Thus, it shall be rejected.

According to the Principles of the Law (*Qawa'id al Fiqhiyyah*), the first one is “درء المفاسد مقدم على جلب المصالح” which means to prevent harm is better than to achieve benefits. Applying this principle to the instant case, it is better not to accept interfaith marriage, for

⁴¹ Quduri, Ahmad bin Muhammad bin. Ahmad bin. Ja'far. *Mukhtaṣar al-Quduri fi al-fiqh al-Hanafī*. Ed. Kamil Muhammad Muhammad Uwayda. Beirut: Dar al-kutub al-ilmiyya, 1997, p.150

⁴² Ibn Hazm, *al-Muhalla*. vol. 7, 404–405 (no. 958); vol. 9, 543, pp.547–548

⁴³ Sana'ani, *al-Mussannaf*. vol. 7, pp.181–182 (no. 12691–12693)

⁴⁴ Shafi', *Kitab ul-umm*. vol. 4, p.381

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it can be a threat to one's religion. There is another principle which was laid down by *Shafi'i* School of thought and it means that if there is mixture between halal thing and haram and we are not able to distinguish between the two, the haram will prevail.

However, we do not have an established mechanism to identify who can be considered as *ahl al-kitab*. Because of this uncertainty, such marriage shall not be allowed by virtue of this legal principle. The Application of the doctrine of *Sadd al-Dharai* is concerned, it means to block evil means. As I have mentioned earlier, by allowing interfaith marriage, it would be a danger to the religion which is contrary to the paramount objective of Sharia. Thus, to prevent this from taking place, such marriage shall not be allowed.⁴⁵

Conclusion:

The present research makes a number of final opinions on the issue of interfaith marriage keeping in consideration the Sunni Muslim tradition and law. These conclusions have been made on the agreed and unanimous principles which have been stated in the compilations of the classical discourse of Islam of the ninth century A.D and onward. In the light of these discussions, the first principle which is derived is that the marriage between Muslim males and free (and chaste) women of *ahl e kitab* is legal; according to the second principle, it is not permitted to give a Muslim woman into the wedlock of any non-Muslim, be he an *ahl e kitab*, a Zoroastrian or a polytheist. The third principle is that any marriage between a Muslim, male or female, and a polytheist or a Zoroastrian is considered illegitimate.

This seems necessary to treat the matter of interfaith marriage in the light of above stated principles for further understanding. Islam bestowed the right to Muslims to wed free and chaste women among the people of book according to the meaning of the verse Qur'an 5:5, which is reported to be revealed during the Prophet's last pilgrimage (Hajjat al-wada) in the year 10 A.H. / 632 A.D.⁴⁶ This means that the permission to marry a *kitab*i woman was given after the conquest of *Khaybar*. This permission was a clear gesture to honor the people of book according to the rare opinion of Ibn Abd al-Barr. This was the gesture that was rendered to explain the Prophet's desire to conciliate the People of the Book. Islam gave permission to take the *kitab*i women in marriage after conquest of Khyber, which is a clear symbol of superiority of Islam.

The argument of those who oppose the idea of interreligious marriage is based on verse Qur'an 2:221 (which, in their view applies not only to the polytheists but also to the people of Book), because they say that this verse abrogated the permission in Qur'an 5:5. But the close study of traditional chronology of the holy Quran shows that Surah 5:5 was revealed long after Surah 2:221, and therefore it could not be abrogated by that. On the other side the scholars, who allow marrying *kitab*i women, their ruling is based on Quran, according to which the Muslim men were allowed to wed the *kitab*i women, but they were not allowed to follow her path.

The opinions which discourage and do not allow marrying *kitab*i women are mainly based on practical concerns. The first and foremost practical issue is the difficulty of raising the children according to the values and teachings of Islam. It also becomes tough for the husband when his *kitab*i wife eats pork or drinks wine, because both are not

⁴⁵ Islam, "Interfaith Marriage in Islam and Present Situation." pp.36-47

⁴⁶ Waqidi, *Kitab al-maghazi*. pp.126-127

allowed in Islam. The final part of our discussion is concerned with the prohibition of marrying Muslim women to nonbelievers. This is one of those issues which have strictly been prohibited and this issue is least disputed in Muslim law of personal status. We may conclude by saying that on the question of interfaith marriage, the Muslim sources do not attempt to paint a monolithic picture. The enormous corpus of Hadith and *Fiqh* provides us with precious indications concerning the variety of views and the early development of the law on the subject of interfaith marriage.