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## One Country, Three Norms the Phenomenon of Interfaith Marriage among the Sakai Tribe in Penyengat Village, Sungai Apit District, Siak Regency

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### Keywords

*One Country three norms,  
phenomenon, interfaith marriage*

### Abstract

*The purpose of this study was to examine the phenomenon of interfaith marriage within the Sakai community of Penyengat Village, Sungai Apit District, Siak Regency. The study focused on its relation to marriage law norms, state administrative law norms, the fulfillment of human rights, and Islamic legal principles. This research employed a normative-empirical method with a qualitative descriptive approach, utilizing interviews with traditional leaders and interfaith couples. The results of this study indicate that: (1) the phenomenon of interfaith marriage in the Penyengat community of Penyengat Village does not conflict with the Marriage Law, specifically Article 2, paragraph (1), which states that a marriage is valid if conducted according to the laws of each religion and belief, as outlined in statutory provisions or unless otherwise specified by law; (2) according to population administration law, such marriages are also valid because they do not conflict with Article 2 of Law No. 23 of 2006 concerning Population Administration, which guarantees every resident the right to: (a) obtain population documents; (b) receive equal services in population and civil registration; (c) protection of personal data; and (d) legal certainty regarding document ownership. Furthermore, under human rights law, these marriages are valid as they do not conflict with Law Number 39 of 1999 concerning Human Rights. Article 10, paragraph 1, states that everyone has the right to form a family and continue their lineage through a legal marriage, and paragraph 2 specifies that a legal marriage can only occur based on the free will of the prospective husband and wife in accordance with applicable laws and regulations; (3) according to Islamic legal norms, the phenomenon of interfaith marriage in the Penyengat Village community, Penyengat District, Sungai Apit Regency, Siak Regency, is considered invalid or haram because: (a) it is prohibited by Surah Al-Baqarah verse 221, Surah Al-Mumtahanah verse 10, and Surah Al-Maidah verse 5; (b) the couple has stated that after remarrying, they practice their respective religions; (c) marriage is not solely a biological relationship but also involves psychological (influence on*

*thoughts and mentality), sociological (social environment), and theological (divine values) aspects. Therefore, the husband has responsibilities toward his wife, children, society, and Allah SWT, with the aim of achieving peace; and (d) such marriages can harm religion, the soul, reason, and descendants, and they generate both support and opposition within society*

#### Kata Kunci

*Satu Negara tiga norma, fenomena, pernikahan beda agama*

#### Abstrak

*Tujuan penelitian ini adalah untuk mengkaji fenomena perkawinan beda agama dalam masyarakat Sakai Desa Penyengat, Kecamatan Sungai Apit, Kabupaten Siak. Penelitian ini difokuskan pada kaitannya dengan norma hukum perkawinan, norma hukum administrasi negara, pemenuhan hak asasi manusia, dan asas hukum Islam. Penelitian ini menggunakan metode normatif-empiris dengan pendekatan deskriptif kualitatif, dengan menggunakan wawancara kepada tokoh adat dan pasangan beda agama. Hasil penelitian ini menunjukkan bahwa: (1) fenomena perkawinan beda agama dalam masyarakat Penyengat Desa Penyengat tidak bertentangan dengan Undang-Undang Perkawinan, khususnya Pasal 2 ayat (1) yang menyatakan bahwa perkawinan sah apabila dilakukan menurut hukum masing-masing agama dan kepercayaannya, sebagaimana diatur dalam ketentuan perundang-undangan atau kecuali ditentukan lain oleh undang-undang; (2) menurut hukum administrasi kependudukan, perkawinan tersebut juga sah karena tidak bertentangan dengan Pasal 2 Undang-Undang Nomor 23 Tahun 2006 tentang Administrasi Kependudukan, yang menjamin setiap penduduk berhak untuk: (a) memperoleh dokumen kependudukan; (b) memperoleh pelayanan kependudukan dan pencatatan sipil yang sama; (c) perlindungan data pribadi; dan (d) kepastian hukum mengenai kepemilikan dokumen. Lebih lanjut, berdasarkan hukum hak asasi manusia, perkawinan tersebut sah karena tidak bertentangan dengan Undang-Undang Nomor 39 Tahun 1999 tentang Hak Asasi Manusia. Pasal 10 ayat 1 menyatakan bahwa setiap orang berhak membentuk keluarga dan melanjutkan garis keturunan melalui perkawinan yang sah, dan ayat 2 menentukan bahwa perkawinan yang sah hanya dapat terjadi berdasarkan kehendak bebas calon suami istri sesuai dengan peraturan perundang-undangan yang berlaku; (3) menurut norma hukum Islam, fenomena perkawinan beda agama di masyarakat Desa Penyengat, Kecamatan Penyengat, Kabupaten Sungai Apit, Kabupaten Siak, dianggap tidak sah atau haram karena: (a) dilarang oleh Surat Al-Baqarah ayat*

221, Surat Al-Mumtahanah ayat 10, dan Surat Al-Maidah ayat 5; (b) pasangan tersebut telah menyatakan bahwa setelah menikah lagi, mereka menjalankan agamanya masing-masing; (c) perkawinan bukan semata-mata hubungan biologis, tetapi juga melibatkan aspek psikologis (pengaruh terhadap pikiran dan mentalitas), sosiologis (lingkungan sosial), dan teologis (nilai-nilai ketuhanan). Oleh karena itu, suami memiliki tanggung jawab terhadap istri, anak-anak, masyarakat, dan Allah SWT, dengan tujuan mencapai kedamaian; dan (d) perkawinan semacam itu dapat membahayakan agama, jiwa, akal, dan keturunan, serta menimbulkan dukungan sekaligus pertentangan dalam masyarakat.

## Introduction

In the demographic landscape, Penyengat Village is predominantly inhabited by the Akit tribe, an Anak Rawa ethnic community considered to be the indigenous people of Riau (Rosaliza, 2018),<sup>1</sup> Saam et al., (2017),<sup>2</sup> YS. & Evawarni (2017).<sup>3</sup> The Anak Rawa Indigenous Tribe is one of the indigenous communities in Riau. Other groups include the Sakai Tribe in Bengkalis Regency, the Talang Mamak Tribe in Lubuk Indragiri, the Bonai Tribe in Indragiri Hilir Regency, the Petalangan Tribe in Belawan, and the Akit Tribe on Rupat Island (Bengkalis Regency) and Rangsang Island (Meranti Islands Regency).<sup>4</sup>

Meanwhile, the Penyengat Village monograph noted that 41.53% of residents identified as Christians, 33.71% as Buddhists, 8.79% as Muslims, and the remaining 7.66% as animists. However, a closer examination of the religious affiliations recorded in the Population Master book, kept at the Penyengat Village Office, reveals that many residents of this village register themselves as Buddhists.<sup>5</sup> This means that the residents of Penyengat Village, Sungai Apit District, Siak Regency, are ethnically and religiously diverse. The interactions and relationships among these groups have led to the occurrence of marriages between different communities, including interfaith

<sup>1</sup> Rosaliza, M. (2018). Local Knowledge Of Akit Bengkalis Tribe. *Journal Of Cultural Sciences*, 14(2)

<sup>2</sup> Saam, Z., Nurhidayah, T., & Qaidah, R. (2017). *Local Wisdom on Mangrove Wood Utilization by the Akit Tribe Community: Charcoal Ecobioenergy*. National Seminar on Environmental Conservation 2017.

<sup>3</sup> YS., F. F., & Evawarni. (2017). Orang Asli: The Identity Politics of the Akit Tribe in Karimun. *Renjis: Scientific Journal of Malay Culture and History*, 3(1).

<sup>4</sup> Masyhur, F. (2014). Performance of the official website of the provincial government in Indonesia. *Pekommas*, 17(1).

<sup>5</sup> Santoso, P., & Febrina, N. (2018). Strategy To Strengthen Motivation To Learn Islam In Converts Of The Akit Tribe, Penyengat Village, Sungai Apit District, Siak Regency. *In Islamika Journal* (Vol. 2, Issue 1).

marriages. In everyday society, interethnic or interreligious marriages are often viewed as difficult to accept. Such unions are considered not only taboo but also a potential "disaster" for the family.

In Islam<sup>6</sup>, Which Allah revealed to the Prophet and His Messenger, has regulated human life by encouraging living in pairs and matchmaking through the institution of marriage,<sup>7</sup> The provisions formulated in a rule are referred to as marriage law<sup>8</sup> Living in pairs is the instinct of every creature created by Allah SWT. Surah Az-Zariyat, verse 49 states: of everything We have created pairs, that you may remember the greatness of Allah.<sup>9</sup>

Therefore, marriage is a very important institution for both individuals and society.<sup>10</sup> In every community tradition, there are invariably specific rituals associated with marriage. Throughout human history, marriage rituals have been among the most significant ceremonies established. When a person lives in a diverse society, they inevitably meet and interact with people from various backgrounds. Consequently, a person's interest in others extends beyond their own group and includes members of different groups. This dynamic naturally leads to marriages between different groups. However, such unions often provoke debate and turmoil within the community.

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<sup>6</sup> According to Abdul Ghazali, Islam has regulated humans in the life of soul mates through the level of marriage whose provisions are formulated in a rule, the rule is called the marriage law. See: Abdul Rahman Ghazali, *Fiqh Munakahat*, Jakarta: Kencana, 2003, p. 13. Based on the law that the family is the smallest unit in society consisting of husband and wife and their children or father and son or mother and child or blood family in a straight line up or down to the third degree. See: Article 1 (3) of Law Number 23 of 2002, concerning Child Protection, hereinafter referred to as the Law, Child Protection.

<sup>7</sup> Marriage is a sacred, strong, and firm covenant to live together legally between a man and a woman to form an eternal, courteous, loving, peaceful and happy family." See: Rachman, H.M. Anwar, Prawitra Talib, and Saepudin Muhtar. *"Indonesian Marriage Law in the Perspective of Civil Law, Islamic Law, and Administrative Law"* (Jakarta, Prenadamedia Group, 2020), p. 6

<sup>8</sup> Abdul Rahman Ghazaly, *Fikih Munakahat*, Jakarta Kencana, 2003, p. 13. According to Suriyono Suwikromo and Rudolf S. Mamengko, referring to the opinion of Fatchiah E, it is said that Marriage is a bond of commitment between husband and wife in which there is a responsibility from both parties. The promise of loyalty that is spoken is a form of great courage for a person when deciding to get married. Marriage based on mutual love, affection, respect, and sacrifice is a grace for every person in this world. See Suriyono Suwikromo and Rudolf S. Mamengko, *Journal*, Lex Privatum Vol. X/No. 1/Jan/2022. Marriage is a bond of birth and mind of a man and a woman as a married couple that aims to form a happy and legitimate family (household) in accordance with the rules of religion and the state. In Islam, marriage is one of the religious commandments as a medium for distributing sex that is legalized. Based on this explanation, when a person marries another person, he does two things at once, namely carrying out religious orders while fulfilling his biological needs. See: Abdul Aziz Dawaamu Aliyuddiin, Dzulfikar Rodafi, and Dwi Ari Kurniawati, *Scientific Journal of Islamic Family Law* Volume 4 Number 4 of 2022.

<sup>9</sup> Enang Sudrajat, et al, *Al-Qur'an and Translation*, Jakarta, Ministry of Religion of the Republic of Indonesia, 2007, p. 522

<sup>10</sup> According to SriNanang et al, marriage is a thing and has an important role in the sustainability of the family, society and the State as a whole. See: SriNanang Meiske Kamba, Mutia Cherawaty Thalib, Nurwan Junus, Empowerment of Youth Organizations to Prevent Underage Marriage, *Jurnal Abdimas Bongaya*, Volume 3 Number 1, p. 22-29. In addition, the implementation of marriage in the teachings of Islam is a sunnatullah that is highly recommended because marriage is a way chosen by Allah SWT to preserve human life in an effort to achieve benefits and happiness in life. See: Wardah Nuroniyah, *Indonesian Islamic Marriage Law*, Yogyakarta, Teras, 2011, p. 33

Interfaith Marriage,<sup>11</sup> In another sense, marriage is a union between a man and a woman who belong to different religions.<sup>12</sup> In the process of interfaith marriage, individuals preparing to marry often strive earnestly to resolve the societal controversies that arise. This tension stems from the existence of conflicting regulations. On one hand, citizens are prohibited from marrying someone of a different religion; on the other hand, the state permits interfaith marriages for its citizens. Conversely, another group of citizens with strong traditional values openly welcomes interfaith marriages,<sup>13</sup> Without any religious requirements.

The question, then, is: What is the nature of the interfaith marriage phenomenon occurring in the community of Sakai Village, Penyengat Village, Sungai Apit District, Siak Regency? How is this phenomenon understood according to the norms of marriage law, state administrative law, human rights fulfillment, and Islamic law?

This research employs an empirical normative method combined with a qualitative descriptive approach, utilizing direct interviews with traditional leaders and interfaith married couples. Interviews serve as a data collection technique involving direct dialogue between researchers and informants, where the researcher engages in conversation with the informant about the research topic. Alternatively, an interview can be defined as an oral question-and-answer process conducted face-to-face between two or more individuals, allowing for the direct exchange of information,<sup>14</sup> Which, in turn, will provide answers to the research problem.

The researcher uses the interview method to deepen and clarify the subject matter of the research and to facilitate accurately and concretely phrasing questions during the interview. This means the researcher will interview the informant directly to obtain the necessary information.

## Discussion

**The phenomenon of interfaith marriage occurring in the community of Sakai Village, Penyengat Village, Sungai Apit District, Siak Regency.**

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<sup>11</sup> According to Yuniike Rahma Hermanto, interfaith marriage is a marriage between couples who are different or have no religion at all. See: *Journal Of Law Society and Islamic Civilization*, Volume 12 Number 1-April 2024

<sup>12</sup> Mardalena Hanifah, Interfaith Marriage Reviewed from Law 1 of 1974 concerning Marriage, *SOUMATERA LAW REVIEW*, Volume 2, Number 2, 2019, <http://ejournal.kopertis10.or.id/index.php/soumlaw>

<sup>13</sup> According to Abdurrahman, there are several ways to perform a different marriage, namely (1) one of the couples follows the religious beliefs of their partner and marries according to the religious beliefs of the same; (2) each maintains his or her religious beliefs. The marriage is held according to their respective religions. Weddings are held according to their respective religions. In the morning of the wedding, the beliefs of one of the couples take place, in the afternoon or evening according to the religion of the other couple. See: Abdurrahman, *copendiun in the field of marriage law*, Jakarta, national law development agency of the Ministry of Law and Human Rights of the Republic of Indonesia, 2011, p. 9

<sup>14</sup> Abu Samah, *Studies and Practice in Legal Research*, Publisher, CV. Light of Paradise, 2023, p. 91 The Gospel of Jesus Christ

The people of Sakai Penyengat Village, located in Penyengat, practice a variety of religions, including Christianity, Buddhism, Islam, and animism. This religious pluralism is an inevitable phenomenon,<sup>15</sup> Because meetings and interactions among people with diverse identities are essential in a pluralistic society.<sup>16</sup> The vibrant variety of fields and spaces in people's lives reflects the diversity of religion.<sup>17</sup> It can be practically concluded that many couples who choose to live together without marrying do so because of differing beliefs.<sup>18</sup> Among them is the power of interfaith marriage, which is affection. Love transcends all else, even faith.<sup>19</sup>

However, upon closer examination—specifically by reviewing the religious affiliations of Penyengat Village residents as recorded in the Population Master book stored at the Penyengat Village Office—it becomes evident that many villagers identify as Buddhists. The religious diversity in Penyengat Village naturally leads to differences, highlighting a unique cultural characteristic that should be preserved. This reality reflects the Sakai Penyengat tribe's experience with interfaith marriage, illustrating how an individual is shaped by the community around them.

In the Sakai tribal community, there is tension between men and women of different religions. Interfaith marriage among the Sakai indigenous people refers to a union between an adult man and an adult woman who follow different religions, such as a Muslim man and a Christian woman, or partners of other differing faiths.<sup>20</sup>

Why, then, does interfaith marriage occur in the Sakai community? The practice of interfaith marriage within the Sakai community is influenced by several factors, including<sup>21</sup> (a) mutual love between married couples, Islam and Christianity, with the process of Islamic religious procedures. However, in our daily lives we practice our respective religions;<sup>22</sup> (b) factors of having been pregnant before marriage, the couple is of different religions between Christians and Hindus;<sup>23</sup> (c) feel that they already have a suitable partner and love so that there is no substitute, like the female Christian couple and the male Buddha, who say that they marry a different religion because it is suitable and lovely.<sup>24</sup> However, in daily life they continue to practice their respective religions. So

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<sup>15</sup> Setiawan, *The Concept of Pluralism Theology Gus Dur in Hacking Diversity in Indonesia*, Ascetic, 1(1), 57-68, Year 2017

<sup>16</sup> Lalenoh, E. H. *Christian Theology and Interfaith Marriage*, Yogyakarta, Year 2021

<sup>17</sup> Setiawan, *The Concept of Pluralism Theology Gus Dur in Hacking Diversity in Indonesia*, Ascetic, 1(1), 57-68 of 2017

<sup>18</sup> Makelew, *Legal Consequences of Interfaith Marriage in Indonesia*, 1(2), 131-144, 2013

<sup>19</sup> Sa'dan, M. Interfaith Marriage: A Progressive Islamic Perspective, *Contemplation: Ushuluddin Journal of Science*, 4(2), 317-336, Year 2016

<sup>20</sup> Interview with Traditional Leader Zainal Tungkek Batin Batuah on June 25, 2024

<sup>21</sup> Interview with Traditional Leader Zainal Tungkek Batin Batuah on June 26, 2024

<sup>22</sup> Interview with Muslim and Christian couples of the Sakai community on June 26, 2024.

<sup>23</sup> Interview with Hindu and Christian couples of the Sakai community on June 26, 2024.

<sup>24</sup> Interview with Christian and Buddhist couples of the Sakai community on June 26, 2024.

the occurrence of interfaith marriage in the Sakai community shows that there is mutual respect for each other's freedom in practicing religion.

**Interfaith marriage according to the norms of marriage law against the phenomenon of interfaith marriage that occurs in the community of Sakai village, Penyengat village**

Marriage is based on the norms of marriage law, namely Law Number 16 of 2019, Article 1, that marriage is a birth and mind bond between a man and a woman as husband and wife with the aim of forming a happy and eternal household based on the One Godhead.<sup>25</sup> Article 2 paragraph (1) that: Marriage is valid if it is carried out according to the law of each religion and its beliefs in the form of legal provisions that apply to their religious groups and beliefs as long as they are not contradictory or not otherwise specified in the Law.

In addition, the norms of marriage law also have several basics <sup>26</sup>, namely: *first*: the purpose of marriage is to form a happy and eternal family; *Second*, a marriage is valid if it is carried out according to the laws of each religion and its beliefs, and in addition, each marriage must be recorded in accordance with the applicable laws and regulations such as based on the marriage certificate; *third*, marriage adheres to the principle of monogamy or one wife; *fourth*, that the prospective husband and wife must have matured their body and soul to be able to carry out the marriage in order to realize the purpose of marriage properly and get good and healthy offspring in birth and mind; *fifth*, the principle of the goal to be achieved in marriage is to form a happy, eternally and prosperous family; *Sixth*, the principle that the right of position as a wife is balanced with the right of position with the husband both in domestic life and in society, so that in such a way everything in the family can be negotiated and decided jointly between husband and wife. Article 8 (f) that having a relationship is prohibited by religion or other applicable regulations. This means that Article 2 paragraph (1) and Article 8 letter (f) of Law Number 16 of 2019 concerning marriage, and the principles contained therein actually do not require interfaith marriage.

Thus, the phenomenon of interfaith marriage<sup>27</sup> that occurred in Penyengat village based on the norms of marriage law and its principles that interfaith marriage occurs is contrary to the norms of marriage law. This means that if the marriage is carried out using one religion, then the norms of marriage law cannot reject it. The reality of the phenomenon of the community in

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<sup>25</sup> O.S.EOH, *Inter-Religious in Theory and Practice*, Cet 1, Jakarta Grafindo Persada, 1996, p. 7

<sup>26</sup> The principle in question is that the basic principle becomes the basis in the implementation of marriage. See: Irfan Abdurrahman, *The Principle of Marriage in Indonesia: Marriage Law Number 1 of 1974, Islamic Law, and Sundanese Customary Law*, AS-SAKINAH Journal of Islamic Family Law, Volume 2 Number 2, November 2024.

<sup>27</sup> Among the marriages that occurred were the marriages of the prophet Noah, the prophet Luth, and so on, as enshrined in the Qur'an. See: Muhammad Amin Suma, *Interfaith Marriage in Indonesia, A Study of Sharia and Qanuniah*, Tangerang Lentera Hati, 2015, p. 96. The same is true of the marriage of Hudzaifah bin al-Yaman (Islam) to a Jewish woman. See: Wahbah Az-Zuhayli, *al-Fiqh al-Islam wa Adilatu*, Vol.VII, p. 153.

Penyengat village according to the results of interviews with couples who have married of different religions, is carried out in the way of one religion based on an agreement before the marriage occurs.<sup>28</sup> In other words, if the man is a Christian and the woman is a Muslim, then the time will be married to admit to Islam, after which an Islamic marriage will be held.

### **Interfaith marriage according to the norms of the Indonesian Population Administration Law**

When interfaith marriage occurs, the State still has the obligation to protect and recognize the determination of personal and legal status for every population event and important event experienced by Indonesian citizens who are in the country or abroad, as mandated by the Constitution of 1945. Among the obligations of the State has been regulated through legal norms as affirmed in Article 2 of Law Number 23 of 2006 concerning Population Administration, it is stated that every resident has the right to obtain: (1) population documents; (2) the same services in population registration and civil registration; (3) protection of personal data; (4) legal certainty on the ownership of documents.

So legally based on the above Population Administration Law, it proves that the State has an obligation to register marriages, including interfaith marriages. Then in article 34 it is also emphasized that the registration of marriage as referred to in Article 34 also applies to a. marriages determined by the Court. What is meant by marriage determined by the court is marriage between people of different religions (Explanation of Article 35).

Interfaith marriages will be recorded at the civil registry office when there is a court determination. This means that different marriages can be registered with the civil registration office first to receive a determination letter from the district court. This is emphasized by Articles 20 and 21 of Law No. 1 of 1974 which have been revised by Law No. 16 of 2019 concerning Marriage that the civil registration office can hold a marriage if ordered by the court. This has also been strengthened by the jurisprudence of the Supreme Court with the decision Number 1400K/PDT/1986 which affirms by ordering the Registrar at the Civil Registry office to hold a marriage between a couple of different religions after fulfilling the conditions of marriage according to the applicable law.

Thus, different marriages that occur in the community of Penyengat village can be carried out after receiving a warrant from the court to hold the marriage. This means that different marriages that occur in the Penyengat village community are rejected or legally valid because the marriage that takes place does not meet the conditions that have been determined by the applicable

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<sup>28</sup> Interview with Muslim (female) and Christian (male) couples in the Sakai village community on June 26, 2024.



law. However, what happened in the Sakai community of Penyengat village based on an interview with a Christian male couple with a Muslim woman said that in carrying out the marriage they first made a marriage with one religion, for example, marriage between Christianity and Islam, then they agreed to marry in Islam, then the marriage certificate came out that both of them were Muslims and married in Islam. However, after that they carried out their respective religions in their daily lives.<sup>29</sup>

### **Interfaith marriage according to Human Rights (HAM) norms**

To carry out marriage is basically the right of every person who is of age or fit to marry, as stipulated in the Constitution of the Republic of Indonesia, that everyone has the right to form a family and continue their offspring through a valid marriage (Article 28 paragraph 1 of the 1945 Constitution).

The 1945 Constitution is reaffirmed in Article 10 paragraphs 1 and 2 of Law Number 39 of 1999 concerning Human Rights. Article 10 paragraph 1 that everyone has the right to form a family and continue offspring through a valid marriage, and paragraph 2 that a valid marriage can only take place on the free will of the prospective husband and future wife concerned in accordance with the provisions of laws and regulations.

What is meant by legal marriage is marriage in accordance with the provisions of laws and regulations, while what is meant by free will is a will born from a holy intention without coercion, fraud, or any pressure and from anyone against the prospective husband and/or wife-to-be (Explanation of Article 10 of Law No. 39 of 1999 concerning Human Rights).

The provisions of the above Law related to the right to choose a prospective husband or wife are not directly given to a person but follow the rules of State law that have been stipulated in the Marriage Law, which is based on the provisions of religion and the beliefs of each prospective husband and wife, and there should be no intervention from any party because there is already a guarantee in the State constitution.

The guarantee from the State constitution can be seen in Article 28E of the 1945 Constitution that everyone has the right to embrace religion and worship according to his religion, choose education and teaching, choose a job, choose citizenship, choose a place to live in the territory of the State and leave it, and has the right to return. And paragraph (2) that everyone has the right to freedom of belief, expression of thoughts and attitudes, in accordance with conscience. Article 28 1 paragraph (1) that the right to life, the right not to be tortured, the right to freedom of mind and conscience, the right to religion, the right not to be enslaved, the right to be recognized

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<sup>29</sup> Interview with Muslim (female) and Christian (male) couples of the Sakai community on June 26, 2024.

as a person before the law, and the right not to be prosecuted on the basis of retroactive laws are human rights that cannot be reduced under any circumstances. Article 29 paragraph (2) that the State guarantees the freedom of each resident to embrace his or her own religion and to worship according to his religion and belief.

Regarding interfaith marriage based on the Supreme Court (MA) decision Number 68/PUU-XII/2014 that in religious marriage it is the foundation and the State has religious interests to become the foundation of individual communities that become a forum for the togetherness of individuals in relation to God Almighty and is also responsible for the realization of the will of God Almighty to continue and to ensure the continuation of human life while the State plays a role in the Ensure the certainty of the law of cohabitation in the marriage bond. So in terms of the position of religion determines the legality of marriage while the State through a law is passed to determine the validity of population administration.

The implementation of interfaith marriage as a Human Right, based on the 1945 Constitution, must be subject to the limits set by the law. Article 28 J paragraph (2) states that "in exercising his rights and freedoms, everyone is obliged to submit to the restrictions set by the Law with the sole intention of guaranteeing the recognition and respect for the rights and freedoms of others and to meet fair demands in accordance with moral considerations, religious values, security, and public order in a democratic society" (Article 28 J paragraph (2) of the 45th Constitution).

Based on the 1945 Law Article 28 J paragraph (2) above, interfaith marriage can be held as a Human Right, but must be subject to the limits set by the Law that has been set by the State. This means that in terms of human rights, interfaith marriages that occur in the community of Penyengat village, Penyengat village, Sungai Apit District, are acceptable because they do not violate human rights because in the implementation of marriage is directly with one religion even though they are different religions, as the results of the interview with the respondent said that we had married different religions, but in the implementation of the marriage we agreed that it would be held in Islam, according to the agreement that we have made,<sup>30</sup> and this includes their rights as citizens.

### **Interfaith marriage according to Islamic legal norms against the phenomenon of interfaith marriage that occurs in the community of Sakai village, Penyengat village**

Based on an interview with Datuk Alif as the Chairman of the Customary Density of the Sakai indigenous people, he said that the phenomenon of interfaith marriage among our Sakai tribe in

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<sup>30</sup> Interview with Muslim (female) and Christian (male) couples of the Sakai community on June 26, 2024.

this kampong or moth village occurred because our community members adhere to various religions, including Christianity, Buddhism, Hinduism, Islam and animism (believing in ancestral spirits).<sup>31</sup> The life principles of the Sakai people with high tolerance between religious communities, such as togetherness, honesty, equality, and mutual respect. These values make cultural connections with the principle of parallelism in the social life of the Sakai people in Penyengat village, due to dynamic social relationships, meetings, and friendships, love, and efforts to continue biological relationships through marriage, namely interfaith marriage.<sup>32</sup>

The phenomenon of interfaith marriage practices in Penyengat village, Penyengat village, Siak District from informants of Christian male couples and Muslim women said that they were indeed of different religions, but the implementation of marriage was carried out in Islam based on agreement between couples, but after marriage they returned to practice their respective religions.<sup>33</sup>

The view of Islamic Law norms on the phenomenon of interfaith marriage that occurs in the Sakai society, can affect the relationship between a man and a woman such as not being a legal or halal relationship. However, marriage is not only a bodily relationship between a man and a woman, based on a contract or agreement, which is the cause of its validity. So marriage is not only a biological relationship, including in terms of psychological issues, (influence of mind/mental), sociological (community environment) and theological (divine value), that is why husbands have responsibilities to their wives and children, society, and to Allah SWT, with the aim of gaining inner peace, loving each other, obtaining offspring, and helping each other in worshipping Allah SWT.

The marriage of a man and a woman in the norms of Islam is a legal and recommended for every man and woman who is physically and mentally mature, in accordance with the Qur'an and Hadith and where the marriage takes place. With the process: there are couples who are going to get married, proposals such as through a guardian or guardian intermediary, determination of dowry, marriage agreement, and continued with a marriage party such as a marriage contract, and the marriage guardian. Most scholars say that the law of marriage is sunnah, some say it is obligatory and mubah.

Islamic religious norms strictly prohibit interfaith marriage as explained in Surah Al-Baqarah verse 221, Surah Al-Mumtahanah verse 10, Surah Al-Maidah verse 5 and the hadith of the Prophet SWA. The Qur'an surah al-Baqarah verse 221 and surah al-Mumthanah verse 10, the Qur'an surah Al-Baqarah in verse 221 are as follows:

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<sup>31</sup> Interview, with Datuk Alif, Chairman of the Sakai Indigenous People's Customary Density, June 27, 2024

<sup>32</sup> Interview, with Datuk Alif, Chairman of the Sakai Indigenous People's Customary Density, June 27, 2024

<sup>33</sup> Interview with Muslim (female) and Christian (male) couples of the Sakai community on June 26, 2024.

Meaning: O you who believe! When believing women come to you, then test their (faith). Allah knows more about their faith; If you have known that they are believers, then do not return them to the disbelievers. They are not valid for the disbelievers and the disbelievers are not valid for them. And give to them (husbands) the dowry that they have given. And there is no sin for you to marry them if you pay them their dowry. And do not cling to the rope (marriage) with disbelieving women; and ask for back the dowry that you have given; And (if her husband remains

**Jurnal Ushuluddin Vol. 33 No. 1, June 2025**

a disbeliever) let them ask for back the dowry they have paid (to his believing ex-wife). This is the law of God which He has established among you. Allah is All-Knowing, All-Wise.

The prohibition of interfaith marriage based on Surah Al-Baqarah 221, Al-Mumtahanah 10, and Al-Maidah 5, can be explained based on the interpretation of Ahkam Al Qur'an, compiled by Al-Jashash, a mufassir of the Hanafi madzhab, Jami' Al-Ahkam Al-Qur'an compiled by Al-Qurthubi from Madzhab Maliki, Mu'alimut Tanzil, compiled by Al-Bagha from Madzhab Shafi'i and Allubab Fi Ulumil Al-Kitab, compiled by Ad-Damsqi from Madzhab Hambali.

Based on Tafsir Jami' Al-Ahkam Al-Qur'an

In Jami' Al-Ahkam's commentary on the tafsiran, al-Baqarah verse 221, Imam Qurthubi in interpreting it begins with seven problems, as follows: وَلَا تَتَكُونُوا with the reading of the fathah of the letter ta'.

- 1) Jumhur recites وَلَا تَتَكُونُوا by reciting the fathah of the letter ta'.
- 2) Allah gives permission for his servants to perfect their religion by marriage. Based on this verse, it can be clearly known that the law of marrying polytheists is invalid.
- 3) According to Malik bin Anas, Shufyan bin Saiid Atsauri and Abdurrahman ibn Amr al-Auza'i as narrated by Ibn Abbas that Allah does not allow marrying polytheistic women based on Surah al-Baqarah, then the verse is narrated with the permission of the scribes in Surah al-Maidah.
- 4) If a woman of this book is kharbi, then it is not valid to marry. This is based on the opinion of Ibn Abbas who said that it is not permissible, this is based on Surah At-Taubah verse 29.
- 5) In the words of Allah SWT, وَلَا مَؤْمِنَةٌ خَيْرٌ مِّنْ مُّشْرِكَةٍ can be interpreted as a test that a believing slave is better than a polytheistic woman even though she is superior in terms of offspring, wealth, beauty and others according to the end of the sentence which reads وَلَوْ أَعْجَبَتْكُمْ
- 6) Scholars differ on marriage with slaves, scholars of the book. According to Imam Malik, it is not permissible for a Muslim to marry a slave of a scholar of the book.
5. On this day it is lawful for you to do all that is good. The food of the People of the Book is lawful for you, and your food is lawful for them. And (it is lawful for you to marry) women who maintain honor among the women of faith and women.
- 7) Differences of opinion about marrying Magi women. According to Imam Malik, Shafi'i, Abu Hanifah, Al-Auza'i and Ishaq do not allow marriage with a woman of the book in surah al-Maidah verse 5, by al-Qurthubi placed on the ninth problem. In the ninth part Imam Qurthubi begins this passage by quoting the verse

The Book of Revelation is the Book of Revelation and the Book of Revelation and the Book of Revelation. The Messenger of Allah (peace and blessings of Allaah be upon him) said: "O Messenger of Allaah (peace and blessings of Allaah be upon him) and I am the Messenger of Allaah (peace and blessings of Allaah be upon him)."

which has been explained in the interpretation of surah al-Baqarah verse 5. According to Ibn Abbas, it is a specificity that a country or region is not in a time of war. By this, it can also be interpreted that this verse is the specialization of the ability to marry a woman who is a scholar of the book for the scholars of the book of Dzimmi.

Then according to Ibn Abbas, interpreting the word is interpreted as women who use their wits to maintain their honor. Other opinions such as mujahid say that giving meaning is only intended for women who are independent scholars. Some other scholars are of the view that marrying a woman who is a scholar of the book can cause mudharat. According to Ibn Umar, some of the tabi'in and some famous imams who believe that the teachings of the book have been changed and replaced so as to deny the treatise of the Prophet Muhammad (PBUH).

And they do not believe in Allah except Allah, and they are polytheists.

And most of them did not believe in Allah, but they associated Him (Joseph: 106)

Based on the Ahkam Interpretation of the Qur'an on Interfaith Marriage

In the book of tafsir ahkam al-Qur'an there is a chapter Tazwij Al-Kitabiyat by quoting the verse at the beginning of the discussion: (women who maintain honor among those who were given the book before you). This verse shows that it is permissible to eat the people of the book and marry their wives. Because muhsanat is defined as those who protect their honor from committing adultery. Then according to Ash-Shu'bi, muhsanat is an honor found in Jews and Christians who become great when they perform jinabat and take care of their genitals.

According to Harair, based on the postulates of Al-Maidah verse 5, there are several opinions such as: (1) it is permissible to marry a woman who is a scholar of the book if she is an independent and dzimmi person. Because of the makruh law given by Umar because there was a fear of prostitution among women who were experts of the book; (2) Ibn Umar once said: We live in the earth where we socialize with the people of the book, sometimes the socialization is in the form of marrying a woman of the book and sometimes eating food from the people of the book, then Ibn Umar recites verses about halal and haram. The verse about halal, by Ibn Umar, namely the women who are experts in the book and for the verse of haram, namely

And you will not be able to do anything about it . Para sahabat menjadikan dalil

وَلَا تَنْكِحُوا الْمُشْرِكَةَ حَتَّىٰ يُؤْمِنَ as something special and excludes the scholars of the book from the category of polytheists. Because the verse وَلَا تَنْكِحُوا الْمُشْرِكَةَ حَتَّىٰ يُؤْمِنَ according to the salid of Jabir the worshippers of the gods and the Magi. Excluded for the polytheistic women are women who believe in their Messenger and the book that was revealed to them. Like the Jews and Christians who even after deviations and changes based on His words in Surah al-Maidah verse 5.<sup>35</sup> Based on the Tafsir of Mu'alim At-Tanzil

وَلَا تَنْكِحُوا الْمُشْرِكَةَ حَتَّىٰ يُؤْمِنَ according to Imam Shafi'i this verse is addressed to a group of Arab polytheists who are idol worshippers who are then revealed as a form of rukhshah against the halalness of marriage of free women from the Ahli Al Kitab dala Al Maidah verse 5.<sup>36</sup>

According to the opinion of Qatadah, Said bin Jabir that what is meant by polytheists are those who worship idols.<sup>37</sup> Meanwhile, other scholars are of the opinion that the word polytheism includes all polytheistic women, namely idolaters, Jews and Christians or Christians because there is no evidence that specifies this verse.

وَلَا تَنْكِحُوا الْمُشْرِكَةَ حَتَّىٰ يُؤْمِنَ It has been agreed by all scholars that Muslim women should not marry or be married to polytheistic men.<sup>38</sup> Based on Surah Al Baqarah verse 7 defines that the disbelievers reject the religion of Allah, the oneness of Allah, prophethood and the teachings brought by His Messenger, this happens because Allah has closed their eyes and hearts and their hearing to acknowledge the religion of Allah SWT.

The majority of scholars want the pronounciation of muhshanat to be intended for independent women. According to Mujahid, a Muslim man is allowed to marry every free woman, whether the woman is a Muslim or a woman from the book of Kitabiyah who is disobedient or who maintains her honor.<sup>39</sup> Jews and Christians from the Arabs are not among the scholars of the book, because according to Imam Shafi'i, the scholars of the book are the pure descendants of Israel to whom they are given the Torah and the Gospel.<sup>40</sup> Ibn Abbas argued that the Dzimmi ktab members were halal to marry because they paid jizyah and obeyed the rules of the Islamic State. Whereas the members of the book of kharbi cannot be married because they are fighting against Islam.<sup>41</sup>

<sup>35</sup> Abdul Hamid Mahmud Thohamaz, *Al Fiqh Al Hanafi fi Tsaubah Al Jadid*, Ad Daar Assamiyyah Beirut, 2009 A.D./1430 H cet 2, p. 75-76

<sup>36</sup> Ash-Shafi'i, Imam Muhammad bin Idris, *Al Umm*, juz 6, darul Wafa, 2001 A.D./1422 H, first cet, p. 14

<sup>37</sup> Al Baghawi, Imam Muhyi As-Sunah Abi Muhammad Husain bin Mas'ud. *TAFSIR AL BAGHI 'MUSLIMU AT-TANZIL*, darut Thayibah Arryyadl 1989 M/1409 H. p. 225

<sup>38</sup> Al Baghawi, 1989, hal. 256

<sup>39</sup> Al Baghawi, 1989, hal. 18 jilid 3

<sup>40</sup> Shaykh Shaykh, 2001, p. 17

<sup>41</sup> Al Baghawi, 1989, hal. 19 jilid 3

### Based on the Tafsir Allu Fi Ulumil Kitab

Imam Sirajuddin ad-Damasqi argues that the scholars of the book are the category of polytheists based on five reasons and 5 reasons, <sup>42</sup> including: First, in Surah At Taubah verse 30 which explains that Jews and Christians are classified as polytheists; second, in Surah An-Nisa verse 48 it is also explained that any sin committed by a servant will be forgiven as long as he repents except for shirk; third, People who believe in the concept of the Trinity in the Godhead are polytheists; Fourth, there is a hadith of the Prophet in which there is a big difference between Muslims and polytheists; fifth, the opinion of Abu Bakr Al Ashom who said that those who are ready to deny the miracles of the Prophet Muhammad they are polytheists.

The majority of scholars want the word muhsanat to mean free women. Among the majority of these scholars are mujahid who are of the opinion that Muslim men are allowed to marry every independent believing woman or to marry a woman who is an expert in the book of Independence, either who is disobedient or who maintains her honor.

Sirajuddin Ad Damasqi responds to those who allow marrying a woman of the book who uses evidence (women of the book) with several notions (Ad-Damasqi, 1998: 212 volume 7), including: first, if the married scribe can harm the faith then it is haram but if the potential to convert to Islam is great, then the law is mubah. Second, there are verses that are the basis for distinguishing disbelievers from believers in Surah Mumthahanah verse 1 and Al Baqarah verse 118. Third, the ability to marry a woman of the book is a relief in the time when Muslim women are still few.

Based on the explanation above, it can be seen that Islam expressly prohibits interfaith marriage, namely Muslims and non-Muslims, in accordance with the postulates contained in QS. Al-Baqarah verse 221 which says that men and women are forbidden to marry polytheists or disbelievers because polytheists have great potential to betray. Nevertheless, Q.S Al-Maidah verse 5, explains that the scholars of the book receive special attention in the laws established by the Qur'an. In this case, according to the Hanafi, Maliki, Shafi'i and Hambali Madzhab, it is permissible for a Muslim man to marry a ktab expert. This ability is only reserved for men, while good women are not allowed for Muslim women to marry non-Muslims. It is permissible for a man to marry a scribe because of the basis that a man is a strong person and as a leader of the household. Meanwhile, it is not permissible for women because the general basis is that women are weak people.

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<sup>42</sup> Ad Damasqi, 1988, p. 52-54



Thus, interfaith marriage among the sakai tribe of Penyengat village, based on QS, Al-Baqarah verse 221 is not allowed because according to scholars non-Muslims have great potential to commit adultery. Meanwhile, based on QS, Al-Maidah verse 5, explains that the scholars of the book receive special attention in the law stipulated by the Qur'an, where according to the scholars of the four madhhabs, namely Hanafi, Maliki, Shafi'i and Hambali allow a Muslim man to marry a non-Muslim woman from among the scholars of the book if women are few compared to men, and at the same time this is a relief, For those who really want to form an Islamic household.

## Conclusion

Based on the discussion of the Three Norms among the Sakai tribe in Penyengat Village, the following conclusions can be drawn: The practice of interfaith marriage within the Sakai community is a long-standing tradition that dates back to their ancestors, originating from a pluralistic environment that highlights their uniqueness. This custom continues into modern times because there is no prohibition against it in Sakai tribal customs. Several factors contribute to this practice: the Sakai people adhere to various religions and beliefs; there is a culture of parallelism; dynamic social relationships; mutual affection; agreement between both families; pregnancies occurring before marriage; and efforts to continue biological lineage through marriage. Specifically, interfaith marriages often occur between Muslim women and Christian men, conducted through Islamic marriage procedures. However, in daily life, each spouse practices their respective religion—if the wife is Muslim, she lives as a Muslim, while her husband practices Christianity. Regarding legal norms, interfaith marriage in the Sakai community aligns with marriage law, Indonesian population administration, human rights, and Islamic law. According to marriage law norms, this practice does not contradict Article 2, paragraph (1) of the Marriage Law, which states that a marriage is valid if conducted according to the laws of each religion and belief, unless otherwise specified by law. Although Christian men marry Muslim women using Islamic marriage procedures, this is legally recognized. Furthermore, under Indonesian population administration law, the interfaith marriages in the Sakai tribe of Penyengat Village, Siak District, do not violate administrative law norms as affirmed in Article 2 of Law No. 23 of 2006. Since the marriage is conducted within one religion's framework, the administrative records reflect the marriage without religious discrepancies.

According to human rights (HAM) norms, the phenomenon of interfaith marriage in the Sakai community of Penyengat Village, Siak District, does not violate the provisions of Law No. 39 of 1999 concerning Human Rights, as affirmed in Article 10, paragraph 2. This is because the marriage is

conducted legally and voluntarily, in accordance with applicable regulations. If the marriage is conducted under Islamic law, the marriage certificate will indicate that the couple is Muslim. However, according to Islamic legal norms, such a marriage is considered invalid for several reasons: (a) it is prohibited by Surah Al-Baqarah verse 221, Surah Al-Mumtahanah verse 10, and Surah Al-Maidah verse 5; (b) the couple has stated that after remarriage, they practice their respective religions; (c) marriage is not solely a biological relationship but also involves psychological (mind/mental influence), sociological (community environment), and theological (divine values) aspects, which impose responsibilities on the husband toward his wife, children, society, and Allah SWT, with the aim of achieving peace; and (d) such marriages may harm religion, the soul, intellect, and heredity, and they generate both support and opposition within society.

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