

EPISTEMOLOGY OF *ISTINBAṬ* IN QURAISH SHIHAB'S INTERPRETATION OF MARRIAGE VERSES IN TAFSIR AL-MISBAH

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Abstract

Quraish Shihab is a prominent figure in contemporary Islamic scholarship, especially regarding Quranic exegesis. However, some critics challenge his legal formulations concerning marriage law. This study examines Shihab's istinbāt epistemology—his methodology in deriving Islamic legal rulings—through his marriage-related verses interpretation in Tafsir al-Misbah using Yusuf al-Qaradāwī's ijtihād theory, the analytical framework. It adopts a qualitative textual approach, focusing on Shihab's interpretations' sources, methods, and legal characteristics. The findings reveal Shihab's diverse sources: Quranic exegesis, asbāb al-nuzūl, Hadith, early scholars' opinions, and insights from social sciences and health disciplines. He combines ijtihād intiqā'i (selective reasoning) and ijtihād jāmi' (synthetic reasoning), engaging classical jurisprudence while constructing rulings suited to contemporary contexts. Rationality, contextuality, and flexibility, which mark a shift from rigid traditionalism to an adaptive, ethically driven Islamic legal thought, have characterized Shihab's legal reasoning. His model affirms that Islamic law must remain faithful to its scriptural foundations while being responsive to modern human realities. This study contributes to the ongoing discourse on legal reform and Islamic epistemology by demonstrating how contextual ijtihād enriches modern jurisprudence. It highlights the need for dynamic interpretive models bridging tradition and contemporary social change,

offering valuable insights for scholars, jurists, and reform-oriented Muslim communities.

Keywords: marriage verses; istinbât epistemology; quraish shihab

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Introduction

Quraish Shihab is one of many Muslim scholars whose capability in moderate Quran tafsir (interpretation) in Indonesia, even in the Islamic world, has been highly recognized (Arifi 2010). Tafsir al-Misbah, one of his monumental works consisting of 15 chapters, is an eminent and best-selling tafsir book in Indonesia (Ali & Isnaini 2024, 1; Herlambang & Parwanto 2023, 181). A distinctive feature of Tafsir al-Misbah lies in Shihab's effort to unify the Quranic verses' content and meaning that may seem disconnected. He consistently applies the science of *al-munâsabah*, exploring the coherence between words within a surah, between verses, and between the opening and closing of a surah, as well as between consecutive surahs and the relationship between a surah's theme and its name. His extensive engagement with classical *mufasssîrûn* further enhances the tafsir's depth, making it a reliable, informative, and well-argued reference. For this reason, scholars like M. Federspiel have recommended Tafsir al-Misbah as an essential reading for Indonesian Muslims today (Federspiel 1994, 134).

In addition to his expertise in Quran tafsir, Shihab is widely respected for his contributions to family law, earning numerous honors in the Islamic world, particularly in Egypt, for his views on women and domestic issues (Yayah, et. al 2024, 1223). However, recognition in these fields has not shielded him from criticism. His televised statement – that wearing veils (*jilbâb*) is not obligatory for women – sparked controversy and led some to question his authority in Islamic law (*fiqh*), despite subsequent discussions aiming to clarify his position (Sagitarius & Suhandi 2018, 60). Shihab's views have sparked significant debate among Indonesian Muslims, highlighting the importance of examining the epistemological foundations of his *istinbât*, particularly concerning Quranic legal verses on marriage. This exploration aims to uncover the

methods, sources, and distinctive features of his legal reasoning and formulation.

The *al-munâkahât* verses, a subset of *al-ahkâm* verses, are the focus of this study due to Shihab's significant contributions to marital discourse and his nuanced treatment of the *ta'abbudî* (devotional) and *ta'aqqulî* (rational) dimensions within marriage-related themes (Emawati 2017; Shihab, 2006). Some *fiqh* scholars classify marital issues under *'ibâdah*-emphasizing spiritual connection through acts such as prayer and fasting-others place them within *mu'âmalât*, citing contractual elements like *îjâb* and *qabûl*, dowry obligations, and financial responsibilities (al-Qulaîsî 2004, 6-7). Viewing marriage strictly as *'ibâdah* can lead to rigid interpretations, often governed by principles such as *al-aql fî al-'ibâdah al-tawqîf* (acts of worship are restricted to textual evidence) and *al-'ibâdah lâ tu'allal* (worship is not subject to reasoning). In contrast, *mu'âmalât* emphasizes rationality, purpose, and mutual consent, as reflected in the legal maxim: *al-aql fî al-'ibâdât al-man' wa al-aql fî al-mu'âmalât wa al-'dât al-'ibâhah* (the default in worship is prohibition, while in transactions and customs, it is permissibility) (Ashûr 1984, 20).

Ahmad Rajafi was one among many writers who portrayed the figure of Shihab and his Quran interpretation. He highlighted the Rationalization of Tafsir al-Misbah, stating that Shihab's model of reasoning can be categorized as reconstruction-interpretation, response-sympathetic, and participatory models (Rajafi 2014, 93). Several researchers examine Shihab's hermeneutic aspects regarding some verses discussing veils, harmony, and *awliyâ'* (Fuadi 2021,137; Kholid et al. 2021, 37). In conclusion, Riza and Hidayah asserted that Shihab emphasizes the need to understand Divine revelation using a contextual approach and not solely fixated on the textual meaning so that the messages it contains can be implemented in real life (Riza & Hidayah 2022, 93). Abdul Rohman dan Abror, through their writing, affirmed that some Shihab's interpretations of the verses discussing veils and *awrat* lack strong arguments based on Islamic studies (Abror et al. 2021, 449; Rohman et al. 2024, 210). Regarding his thought related to Islamic Family Law in Indonesia, M. Iqbal Juliansyahzen asserted that *ijtihad iştislâhî* is the basis that Shihab used to respond to the practice of family law (Juliansyahzen 2021, 50). Throughout the research, researchers have not found a discussion that was specifically related to the *istinbât* method used by

Shihab in interpreting Quranic verses, especially the verses related to marriage.

Research Methods

This research is a qualitative study using a tafsir analysis method to examine the foundational construction of Shihab's *istinbât* on marriage-related verses in Tafsir al-Misbah. It critically analyzes his interpretation, explores its intellectual roots, and identifies its characteristics and implications. The study employs an *usûl al-fiqh* approach, specifically drawing on al-Qaradâwî's theory of *istinbât* and *ijtihâd*, to understand the epistemological framework underlying Shihab's method in Tafsir al-Misbah.

The primary source of this study is Tafsir al-Misbah, with a focus on verses related to marriage law—specifically those addressing the rulings on marrying adulterers or prostitutes, marriage due to pregnancy, marrying polytheistic or *ahl al-kitâb* women, guardianship in marriage, and polygamy. To enrich the analysis, secondary sources such as scholarly journals and academic studies on interpretive methodology and Islamic law are also utilized.

Data were collected through a literature review by systematically examining interpretive texts to identify the *istinbât* method Shihab used. The analysis employed a descriptive-qualitative-contextual approach to assess the relevance of his interpretations within the contemporary social and legal context of Islam. This approach aims to reveal the epistemological characteristics of *istinbât* in Tafsir al-Misbah and its contribution to the understanding of Islamic marriage law.

Results and Discussion

Tafsir al-Misbah and Marriage Verses

Shihab began to work on Tafsir al-Misbah on June 18, 1999, while he was serving as an ambassador to Egypt, Somalia, and Djibouti. Initially planned as a three-volume work, his deep spiritual engagement led to the completion of 14 volumes by 2002, and the 15th volume was completed on September 5, 2003. He named it Tafsir al-Misbah to reflect its role as a guiding light, deliberately avoiding the use of his name to emphasize humility and the Quran's function as a source of enlightenment (Anwar 2015, 281; Syarifah et al. 2024, 120).

In contrast to Tafsir Marah Labid written by Nawawi al-Bantani, which was written because many people requested him to write the interpretation of the Quran (Bahary 2015, 183), Shihab wrote Tafsir al-Misbah to guide Indonesian Muslims to understand and apply the Quran in daily life. Filling the gap after Tafsir al-Azhar, he addressed orientalist critiques and revived overlooked scholarly perspectives, emphasizing a contextual approach that moves beyond utilitarian readings toward the Quran's moral and spiritual depth (Hafidz 2021, 156; Kamil 2007, 126).

Tafsir al-Misbah is a *tafsir tahlili*, which is *adâbi 'ijtimâ'i* (Berutu 2019, 7). To simplify the tracking of *âyat al-munâkahât* in Tafsir al-Misbah, verses on marital issues are grouped into three categories: pre-marriage, during marriage, and post-marriage. The interpretations are summarized in Tables 1, 2, and 3.

Table 1
Pre-marriage

Pre-marriage					
No	Names of Surah	Number of Themes	No	Names of Surah	Number of Themes
1	al-Ra'd [13]: 38	1	7	al-Baqarah [2]: 221	6
2	al-Nûr [24]: 30	2	8	al-Mâidah [5]: 5	4
3	al-Hujurât [49]: 13	1	9	al-Nisâ [4]: 24	5
4	al-Nûr [13]: 32	3	10	al-Nisâ [4]: 3	3
5	al-Baqarah [2]: 235	3	11	al-Ahzâb [33]: 53	1
6	al-Nûr [24]: 3	2			

Table 2
During Marriage

During Marriage					
No	Names of Surah	Number of Themes	No	Names of Surah	Number of Themes
1	al-Nisâ [4]: 1	3	11	al-Baqarah [2]: 222	2
2	al-Ahzâb [33]: 37	1	12	al-Baqarah [2]: 223	3
3	al-Nisâ [4]: 22	2	13	al-Nisâ [4]: 129	2
4	al-Nisâ [4]: 25	2	14	al-Nisâ [4]: 128	2
5	al-Nisâ [4]: 23	6	15	al-Nisâ [4]: 34	6
6	al-Nisâ [4]: 4	2	16	al-Nisâ [4]: 35	2
7	al-Nisâ [4]: 20-21	4	17	al-Talâq [65]: 7	3
8	al-Qasas [28]: 27	2	18	al-Ahzâb [33]: 50	2
9	al-Baqarah [2]: 236	6	19	al-Baqarah [4]: 233	6
10	al-Nisâ [4]: 19	5			

Table 3
Post-marriage

Post-Marriage					
No	Names of Surah	Number of Themes	No	Names of Surah	Number of Themes
1	al-Baqarah [2]: 232	5	9	al-Mujādilah [58]: 2	3
2	al-Baqarah [2]: 230	1	10	al-Mujādalah [58]: 3-4	2
3	al-Baqarah [2]: 241	1	11	al-Nûr [24]: 6-7	1
4	al-Baqarah [2]: 228	6	12	al-Nûr [24]:8-9	3
5	al-Talâq [65]: 1	7	13	al-Talâq [65]: 4	2
6	al-Alhzâb [33]: 49	2	14	al-Baqarah [2]: 234	3
7	al-Talâq [65]: 2	2	15	al-Baqarah [2]: 240	1
8	al-Baqarah [2]: 226-227	2	16	al-Talâq [65] 6	5

The analysis divided into three subtopics, reveals 45 verses with 138 themes: 11 verses on pre-marital issues (31 themes), 19 on marital life (61 themes), and 16 on post-marriage matters (46 themes). Due to the large number of verses and limited space, the researcher focuses on key themes relevant to marital law: marrying adulterers or prostitutes, marriage due to pregnancy, marrying *ahl al-kitab* women, guardianship in marriage, the prohibition of marrying Muslim women to *ahl al-kitab* men, and polygamy.

Framework and Relationship of *istinbât* and *Ijtihâd*

To understand the relationship between *istinbât* and *ijtihâd*, al-Qaradawi defines *ijtihâd* as the exertion of all efforts by a *mujtahid* to derive applicable *shar'i* law through *istinbât* (al-Qaradâwi 1996, 11). Al-Jurjânî describes *istinbât* as extracting meanings from the Quran and Hadith using reason and intellectual effort (al-Jurjânî 2022, 22), while Bin Bayyah sees it as issuing laws based on those texts. Thus, *istinbât* refers to deriving understanding-legal or otherwise-from textual sources (al-Mahfûd 2014, 19). Originally limited to legal reasoning through texts, scholars later expanded *istinbât* to include laws derived through rational methods like *qiyâs*, *istiṣhâb*, and *istiṣlâh*, since these are grounded in textual principles. Muhammad Rûkî concludes that *istinbât* is broader than *ijtihâd*, as all *ijtihâd*—even when using rational arguments—remains connected to the text (al-Rûkî 1994, 69). The difference between the two lies only in the meaning of the term existing in both. It is said the same in the meaning

of "*itlâq al-juz'i wa irâdat al-kull*," which is mentioning a part but intending the whole meaning.

Muslim scholars have developed three main scientific methods: *bayâni* (observational), *burhâni* (demonstrative), and *'irfâni* (intuitive) (Kartanegara 2003, 61). This classification aligns with al-Jâbirî's framework although they differ on the object of the *bayâni* method. Mulyadhi links it to material observation, while al-Jâbirî emphasizes its focus on sacred texts (Afabih & Junianto 2022, 111; Rohmanu 2017, 21).

In deriving law from its sources, three main epistemological approaches are used. The first one is the linguistic approach (*ijtihâd bayâni*), which focuses on textual interpretation. The second one is the analogical approach (*ijtihâd tahlîlî*), based on identifying the underlying *'illat* (legal cause) within the text. The last one is the *maqâsid al-sharî'ah* approach (*ijtihâd isti'lâhî*), which formulates laws by considering the broader objectives of Islamic law. (Madkûr 1996, 395). The form of *ijtihâd* discussed above refers to its terminological meaning and is traditionally performed only by a *mujtahid mutlaq*, whose presence today is extremely rare. Meanwhile, contemporary issues demand new legal responses.

Al-Qaradâwî offers a practical model of *ijtihâd*, which includes three forms—one of which is *ijtihâd intiqâ'î*. This involves selecting the strongest opinion from existing *fiqh* views, fatwas, or legal decisions through comparative analysis and re-examination of the original *nas* or *ijtihâd* arguments. The chosen opinion must meet *tarjih* criteria, such as relevance to the modern era, alignment with compassion and human welfare, legal ease, and consistency with the objectives of *sharî'ah*. The second form is *ijtihâd al-inshâ'î*, which involves formulating new legal rulings for issues that were not previously addressed by classical scholars, or reinterpreting known issues with fresh perspectives. The third one is a hybrid model combining *ijtihâd intiqâ'î* and *ijtihâd al-inshâ'î*, wherein relevant past opinions are selected and enhanced with new reasoning. In practice, these three forms are applied through *ijtihâd taqnîn* (legal codification), fatwas, and contemporary scholarly research (al-Qaradâwî 1996, 115).

In line with al-Qaradâwî's three models of *ijtihâd*, Shihab views them as theoretical frameworks for Islamic reform (*tajdîd*). He explains that *tajdîd* may involve rearticulating established teachings in a clearer, more relevant form when they are misunderstood by the public, or introducing entirely new interpretations to address contemporary issues that were

previously unknown or inadequately addressed in the past (Shihab 2002, 458).

The Interpretation and Analysis of Marriage Law in *Tafsir al-Misbah*

The Law of Marrying an Adulterer or Prostitute

In Q.S. al-Nûr [24]: 3 it is explained:

A male fornicator would only marry a female fornicator or idolatress. And a female fornicator would only be married to a fornicator or idolater. This is all forbidden to the believers (al-Nûr [24]: 3).

According to Shihab, one of the intentions of Q.S. al-Nûr [24]: 3 is the necessity of avoiding adultery, especially if it is about finding a life partner. This verse prioritizes the mention of adulterous men over adulterous women, which is in contrast to the previous verse, where adulterous women are mentioned first. It is different from verse 2 of Q.S. al-Nûr, as argued by Ibn Ashûr (Ashûr 1984, 157), since this verse is an explanation of the case that caused the verse to be descended. It involved Murthid Ibn Abû Murthid, who often smuggled Muslim captives from Mecca to Medina. Before this companion of the Prophet embraced Islam, he had a girlfriend named 'Anâq. She once asked him to sleep with her, but he refused, stating that Islam prohibits adultery. The woman was angry and revealed the secret task of Murthid, so she was pursued by eight polytheists. Nevertheless, he finally managed to avoid and even escorted another captive to Medina. He then asked the permission of the Prophet to marry his former date. The Prophet did not give an answer until this verse was revealed to forbid the disciple to marry her (Shihab 2002, 286).

After explaining the meaning and relationship of the existing verse, Shihab explained the law related to getting married to adulterers by mentioning several opinions of scholars, such as scholars from Hanbali and Zâhirî schools. They stipulated that marrying an adulterer is not considered valid before a statement of repentance is uttered. According to Shihab, a person that is inclined and likes to commit adultery is generally reluctant to marry a religious man. Likewise, adulterous women are not favored by religious men. This is surely because one wants to find a partner who has the same traits, while piety and adultery are two opposites. Marriage, among others, aims to give birth to calmness, happiness, and lasting love between husband and wife, and even all families. These are very difficult to fulfill if the marriage is established between a person who maintains his honor and one who does not.

Second, Shihab does not directly lean his opinion on a specific source. He thinks that marrying an adulteress who is a Muslim is not included in the prohibition Q.S. al-Nûr mentioned [24]: 3. This is because the revelation of this verse is devoted to the case of Murthid and 'Anaq, who was an adulterer and an infidel woman. In addition, some people in that era understood that adultery is forbidden, not marriage. This is because the word ذلک (it) at the end of this verse refers to "adultery," not marriage. The verse stated: "Adultery is forbidden to the believers". Furthermore, Shihab mentioned that some would understand that the word "forbidden" is not conveyed in a legal sense, but in a linguistic sense; thus, this verse points out that it is unnatural and not good.

Third, the *mazhab* (school) of Abu Hanifa, Malik, and Syaf'i did not judge the validity of the marriage of an obedient man with an adulterous woman. The law was *makruh* because of, among others, the word of Allah found in Q.S. al-Nisa' {4}: 24. It mentions that there are many unlawful things involving marrying someone and then states "... Lawful to you are all beyond." Hence, adulterers are not included in the "other than that or except" group. Therefore, marrying an adulteress is considered *halal* (Shihab 2002, 287).

This points out that elucidating the law related to the verse can be carried out by mentioning three forms of legal opinions of five scholars and each reason they use, two legal forms mentioned along with the scholars' names, and one opinion mentioned without relying on the person giving the opinion.

Laws of Marriage Due to Pregnancy

Resuming the discussion of Q.S. al-Nûr [24]:3, one of the cases of getting married to an adulteress is a marriage that happened because of pregnancy. In this regard, Shihab mentions two opinions. The first one is Ibn Abbas', Imam Abu Hanifa's, and Imam Syafi 'T's opinion. It asserts that the relationship of two different genders that is not preceded by a legal marriage, which was *haram* (forbidden), can eventually become *halal* if a legal marriage is finally carried out. In other words, the marriage of a person who had committed adultery with a woman is similar to a person who steals fruit from someone's garden, then he legally buys the garden with all its fruits. What he stole (before the purchase) was *haram*, while what he bought after stealing it was *halal*. The second one is Imam Malik's opinion. According to him, whoever commits adultery with someone, and

he marries her, the second biological relationship is *haram*, unless he commits a new marriage contract after the completion of the *iddah* from the illegitimate sex (Shihab 2002, 288).

It is clear that Shihab mentioned the scholars' opinions and explained the reasons they use. He not only mentioned the opinions of scholars of the four schools, but also expressed other scholars' views. He also explained the reasons and methods of legal exploration used by each scholar. Moreover, he shows no inclination towards any of his opinions; the whole view is presented neutrally without doing *tarjih*.

At first glance, it appears that the form of *ijtihad al-jâmi' bayna al-intiqâ'i wa al-inshâ'i* is the approach Shihab took, by looking at what he did in explaining the law of marriage caused by pregnancy, which he obtained from the content of the abovementioned verse. He also related it to the model of *ijtihad* formulated by Yusuf al-Qaradâwî. It became obvious based on his choice of previous scholars' various opinions that are considered relevant, along with an elaboration of these opinions.

The Law of Marrying an Ahl Kitâb Woman

In Q.S. al-Baqarah [2]: 221, it is explained:

Do not marry polytheistic women until they believe; for a believing slave-woman is better than a free polytheist, even though she may look pleasant to you. And do not marry your women to polytheistic men until they believe, for a believing slave-man is better than a free polytheist, even though he may look pleasant to you. They invite 'you' to the Fire while Allah invites 'you' to Paradise and forgiveness by His grace.¹ He makes His revelations clear to the people so perhaps they will be mindful. (al-Baqarah [2]: 221).

According to Shihab, this surah generally contains guidance regarding family development. A family at least consists of a spouse, so the first guidance is related to the selection of a partner, husband, or wife. For him, partner selection is the first stone of the foundation in building a household. It must be very sturdy; otherwise, the building will collapse even with only a slight shock if the burden it holds gets heavier, the birth of children for example.

The solid foundation is not beauty and good looks because both are relative and fade quickly; it is not property because it is easy to obtain but is also easy to disappear. Social status or nobility is not an option too because this is temporary; it can even disappear instantly. The solid foundation is having faith in the One, the Rich, the Mighty, and the Wise. Therefore, it is natural that the first message given to those who intend to

establish a household is: "do not you, O Muslim men, marry polytheistic women" (Shihab 2002, 472).

He opines that the prohibition against marrying polytheistic women is a strict one and is directly mentioned in the Quran. Nonetheless, Shihab has a unique view regarding the meaning of *shirk*, which makes the one committing it labelled as a polytheist, so it is forbidden to marry her/him. According to him, the term polytheism is grouped into two; polytheism in the view of religion and the Quran. Based on the view of religion, a polytheist believes that a God exists along with Allah, or one who carries out an activity that has double main purposes. Allah is the first purpose, and the second one is other than Allah. Thus, those who associate partners with Allah are polytheists – for instance, Christians who believe in the Trinity.

The views of Quranic experts who later established legal opinions, as Shihab stated, showed a different point of view. Based on their observations, the words *مشرک* or *مشرکین* and *مشرکات* are used by the Quran to refer to certain groups that associate partners with Allah. They are polytheists, who were still quite numerous when the Quran was revealed, especially those who lived in Mecca.

From the grouping of these two views, Shihab was convinced that the term stated in the Quran is different from the religious term mentioned above. Although Christians believe in God the Father and God the Son, which in the Islamic view is considered a form of polytheism, the Quran does not name them polytheists, but *ahl al-kitāb*.

Some of the arguments used by Shihab to support his opinion are the following words of Allah:

The disbelievers from the People of the Book and the polytheists would not want you to receive any blessing from your Lord, but Allah selects whoever He wills for His mercy. And Allah is the Lord of infinite bounty. (Q.S. al-Baqarah [2]: 30)

The disbelievers from the People of the Book and the polytheists were not going to desist 'from disbelief' until the clear proof came to them. (Q.S. al-Bayyinah [98]:1)

Shihab indeed grouped infidels into two types: *ahl al-kitāb* and the polytheists. Quran uses both terms for the same substance, disbelief, with two different names, *ahl al-kitāb* and *al-mushrikūn*. This is more or less the same as the words 'corruption' and 'stealing'. For Shihab, this difference is very essential because the permission for Muslim men to marry *ahl al-kitāb* women can be found in Q.S. al-Maidah [5]: 5.

Those who understand the word polytheism and *ahl al-kitāb* think that the verse of Q.S. al-Mâidah has been nullified by the verse of Q.S. al-Baqarah; thus, marrying *ahl al-kitāb* women is prohibited. Shihab believes that this opinion is very difficult to accept since the verse of Q.S. al-Baqarah was first descended before the verse of Q.S. al-Mâidah. It is indeed not logical that something that comes first overturns the law of something that has not yet come or that comes after it. This will be even more difficult for those who argue that there are no verses that are null and void. Moreover, some narrations affirm that so many companions of the Prophet (pbuh) and *tabi'in* were married to *ahl al-kitāb* women. Caliph Uthman ibn Affan, for instance, married a Christian woman, although his wife later embraced Islam. Talhah and Zubair, two of the Prophet's companions, also married prominent Jewish women (Shihab 2002, 473).

Furthermore, Shihab explained that part of the verse: "*They invite you to the Fire while Allah invites you to Paradise and forgiveness by His grace*" suggests that those who lead others to hell are unfit as life partners. Many contemporary Muslim thinkers tend to classify all non-Muslims, including *ahl al-kitāb*, as part of this group, often equating them with polytheists. However, Shihab argues that such an equation is inappropriate, as the Quran clearly distinguishes *ahl al-kitāb* from polytheists (Shihab 2002, 477).

He distinguishes between polytheists and *ahl al-kitāb*, noting that Jews and Christians possess scriptures with moral guidance that can support a stable marriage. Belief in God, he argues, fosters moral values—unlike polytheism or atheism. Although the Quran permits marriage with *ahl al-kitāb* women, Shihab leans toward prohibiting it, not based on textual evidence but on considerations of public benefit (*maṣlaḥah*), viewing such marriages as at least *makruh* in Islamic law. Furthermore, Shihab emphasizes that the *makruh* ruling applies specifically to marriages between Muslim men and *ahl al-kitāb* women, not vice versa. Marriages between Muslim women and *ahl al-kitāb* men, he affirms, are explicitly and categorically forbidden (Shihab 2002, 477).

In earlier legal discussions, Shihab presented various scholarly opinions without engaging in *tarjih*. However, when addressing the legal distinction between marrying polytheistic women and *ahl al-kitāb* men, he analyzed the verse using historical context from the companions, scholarly views, and a linguistic approach. He also connected related verses and occasionally critiqued certain opinions. To reconcile differing views,

Quraish introduced a nuanced classification of “polytheism”—based on both religious doctrine and Quranic usage. His ruling that marriage with *ahl al-kitâb* women is *makruh* reflects the *ijtihâd intiqâ’i* model, where he selects the strongest opinion through comparative analysis and *tarjih* principles. In doing so, he employs *al-jam’u bain al-dalilain*—harmonizing the verses of Q.S. al-Baqarah [2]:221 and Q.S. al-Maidah [5]:5—to support his conclusion.

The Law on Guardianship in Marriage

Do not marry polytheistic women until they believe; for a believing slave-woman is better than a free polytheist, even though she may look pleasant to you. And do not marry your women to polytheistic men until they believe, for a believing slave-man is better than a free polytheist, even though he may look pleasant to you. They invite you to the Fire while Allah invites you to Paradise and forgiveness by His grace. He makes His revelations clear to the people so perhaps they will be mindful. (al-Baqarah [2]:221)

For Shihab, Q.S. al-Baqarah [2]: 221 above contains two discussions, the first one is mentioned in the verse:

Do not marry polytheistic women until they believe; for a believing slave-woman is better than a free polytheist, even though she may look pleasant to you.

The introduction of the verse is addressed to Muslim men, as discussed, namely the prohibition of marrying polytheistic women. While the second part:

“*And do not marry your women to polytheistic men until they*” believe is addressed to the guardians. The message is “the guardians are forbidden to marry Muslim women to the polytheists. According to Shihab, there two reasons to address the second fragment to the guardian:

First, it signals that the guardian does not have a small role in the marriage of his daughters or the women under his guardianship. In this regard, scholars differ on the role. Some argue that it is very strict, to the extent that it requires definite consent and permission from the guardians in determining the prospective husband of their daughter. So, a woman's marriage is invalid without the consent of a guardian. On the other hand, there are scholars who understand this role as granting the right to file a claim for annulment if the marriage takes place without his consent, with several conditions that are unfortunately not explained by him (Shihab 2002, 474).

In the world of jurisprudence, according to the Maliki, Syafi'i, Hanabilah, and Zahiriyyah *mazhab*, marriage guardianship is one of the keys to determining the validity of a marriage (Fauzi 2007, 283). However, the Hanafi *madhhab* thinks that the existence of a guardian in marriage is not a necessity, so marriage is considered valid even without a guardian's presence (Barkah et al. 2024, 11). Concerning guardian consent, Shihab seeks a middle ground between differing opinions by emphasizing that Islamic marriage aims to build harmony not only between spouses but also between their families. He acknowledges the significant role of parents—whether through authority or blessing—without undermining the rights of the children. While the Prophet encouraged seeking a daughter's approval, Shihab notes that differing perspectives between parents and children must be reconciled, requiring mutual understanding in marriage decisions (Shihab 2002, 474).

Shihab begins by formulating the message of a verse fragment, considering both the structure of the verse and differing scholarly opinions. He then seeks to reconcile these differences through social and linguistic approaches. Notably, he often avoids stating legal rulings explicitly, reflecting his preference for a social and *maqâsid*-based approach to marriage—aimed at finding a middle ground among various interpretations.

It can be considered that Shihab employs *Ijtihad al-jâmi' baina al-intiqâ'i wa al-inshâ'i* method, choosing the previous scholars' opinions to be conveyed. Later, new elements of *ijtihad* were added to the opinions by making the new marriage *maqâsid* saying "establishing a harmonious relationship between husband and wife, as well as between the families of the spouses" as the main goal in the implementation of marriage.

Second, it is the prohibition of marrying Muslim women to *ahl al-kitâb* men. In Shihab's mind, although the majority of scholars do not include *ahl al-kitâb* in the polytheists category, it does not mean that *ahl al-kitâb* men are allowed to marry Muslim women. The verse: "And do not marry your women to polytheistic men until they believe", has confirmed this prohibition. While the *ahl al-kitâb* people believe in the faith justified by Islam, they were not called polytheists. They are included in the group of unbelievers, especially based on other verses. It is also understood that Muslim women are not allowed to marry or be married to *ahl al-kitâb* men (Shihab 2002, 475), as expressly stated in the verse:

O believers! When the believing women come to you as emigrants, test their intentions—their faith is best known to Allah—and if you find them to be believers, then do not send them back to the disbelievers. These women are not lawful wives for the disbelievers, nor are the disbelievers lawful husbands for them. But repay the disbelievers whatever dowries they had paid. And there is no blame on you if you marry these women as long as you pay them their dowries. And do not hold on to marriage with polytheistic women. But demand repayment of whatever dowries you had paid, and let the disbelievers do the same. That is the judgment of Allah—He judges between you. And Allah is All-Knowing, All-Wise. (al-Mumtahanah [60]: 10)

Although Shihab did not mention *ahl al-kitab*, the term he uses is "unbelievers or infidels," and as stated earlier, *ahl al-kitab* is one of the groups of infidels. Thus, although this verse does not mention *ahl al-kitab*, the injustice is included in the word "infidels" (Shihab 2002, 475).

For Shihab, the Quran prohibits a guardian from marrying his daughter to *ahl al-kitāb* or polytheists due to two key reasons: differences in faith and lineage. Since marriage aims to build harmony—especially between spouses and their children—shared beliefs are essential. Differing values between husband and wife hinder this harmony, as values shape one's thoughts and behavior. In Islam, belief in the Almighty is the highest value, which must be preserved and passed down. If one spouse does not hold this belief, how can it be transmitted to future generations? Can core beliefs be compromised for love, beauty, wealth, or status—qualities that fade—while marriage is meant to endure? Since faith is lasting, it must serve as the foundation. Thus, the Quran affirms that believing women of lower status are better than wealthy, beautiful, or high-status women who lack faith.

The second reason is heredity. He perceived that, as mentioned by al-Sha'rāwī, humans, unlike animals, have the longest childhood. Children need guidance until they reach adolescence. Parents are obliged to guide children until they grow up. How many years will they be guided by parents who do not have godly values if their mothers or fathers are polytheists? Even if the children then believe in God, it can be suspected that their faith cannot be fortified due to their parents' education during childhood. Therefore, Islam prohibits such marriages (Shihab 2002, 476).

From his elaboration, it appears that he applies the *ijtihād al-jam' baina al-intiqā'ī wa al-inshā'ī* model. He selects the most relevant and well-founded opinions of earlier scholars and adds new elements of *ijtihād* by

explaining the underlying wisdom behind the prohibition of Muslim women marrying *ahl al-kitāb* men.

Polygamy Law

In Q.S. al-Nisā' [4]: 3 it is explained:

If you fear you might fail to give orphan women their due rights if you were to marry them, then marry other women of your choice—two, three, or four. But if you are afraid you will fail to maintain justice, then content yourselves with one or those bondwomen in your possession. This way you are less likely to commit injustice. (al-Nisā [4]: 3)

The verse fragment says; "If you fear you might fail to give orphan women their due rights if you were to marry them, then marry other women of your choice—two, three, or four." Shihab asserted that the best interpretation of the verse above is the interpretation made based on the description of 'Aishah, ra. Urwah Ibn Zubair asked 'Aishah about this verse. He answered that this was related to an orphan who was in the care of a guardian, where her property is inseparable from the guardian's property. The guardian was pleased with the orphan's beauty and property, so he wanted to marry her without giving her an appropriate dowry. Sayyidah 'Aishah ra. further explained that after this verse descended, the companions asked the Prophet again about women, then the Q.S. al-Nisa' [4]: 127 descended and stated:

They ask you O Prophet regarding women. Say, "It is Allah Who instructs you regarding them. Instruction has already been revealed in the Book concerning the orphan women you deprive of their due rights but still wish to marry, also helpless children, as well as standing up for orphans' rights. And whatever good you do is certainly well known to Allah." Q.S. al-Nisa' [4]: 127

'Aishah then continued her testimony about his words: "you are reluctant to marry them", which means it was the unwillingness of the guardians to marry orphans with little wealth and beauty. So, in verse 3 of Q.S. al-Nisā', they are prohibited from marrying orphans whom they want because of their wealth and beauty, but are reluctant to be fair to them.

For the words "two, three or four," it actually means, according to Shihab, a demand to be fair to orphans. This editorial is similar to the words of someone who forbids others to eat certain foods, and to strengthen the ban, he said; "if you are worried about getting sick when eating this food, then just finish the other food in front of you." Of course, the order to consume other foods only emphasizes the need to heed the prohibition not to eat certain foods (Shihab 2002, 342). Hence, the order to marry two, three or four women is not an obligation. The main purpose

is to ensure that one does not act unjustly on the property of orphans. Marrying more than one person is not the substance of the contents of the verse; it is intended as a solution to the possibility of the tyranny of the guardians over the assets of orphans (Nasrulloh & Witro 2021, 20; Rohmansyah 2020, 317).

This verse is often cited as a basis for polygamy, but Shihab emphasizes that it does not establish a rule for it. Polygamy existed long before this verse, practiced by followers of various religious traditions and cultural customs. The verse neither commands nor recommends polygamy; it merely permits it under specific and limited conditions. According to Shihab, polygamy mentioned in the Quran should not be assessed in terms of ideals or moral judgment, but rather as a legal provision applicable in certain circumstances.

Using a legal and socio-political approach, Shihab argues that the discussion of polygamy should focus solely on the conditions under which it is permissible. It is reasonable for a universal religion to provide legal provisions for situations that may arise, even if only as possibilities. He points out demographic realities—such as the lower number of men compared to women, the longer average lifespan of women, and the extended reproductive capacity of men, as women experience both menstruation and menopause while men do not. Additionally, he notes that wars, which remain an ongoing reality, often claim more male than female lives. He also presents a health-based rationale, noting that infertility or serious illness is a common possibility that can occur anywhere. In such cases, polygamy may become a practical solution for fulfilling biological needs or the desire to have children.

Shihab supposes that polygamy law is permissible and can only be done based on several conditions. However, he categorically rejects people saying that polygamy is recommended because the commandment of the verse starts with the number *two, three or four*, the words *if you are afraid you will fail to maintain justice, then content yourselves with one or those bondwomen in your possession*, and marry "*only one*" as well as the social and health reasons stated. It is also for the reason of imitating the Prophet (pbuh) who married more than once.

Regarding the reasons for imitating the Prophet (pbuh), Shihab explained that not all that the Prophet did needed to be modeled, as not all that was obligatory or forbidden for him was obligatory and forbidden for his people. Additionally, it should be known that all the women he

married, except 'Aisha ra, were widows. All of them were chosen for helping and saving the women who lost their husbands, and generally were not women who were known to have an alluring attraction (Shihab 2002, 342).

Furthermore, Shihab continued to talk about why Islam justifies men gathering four women at the same time, while women are not allowed. This is caused by the cultural patterns and social systems of the Arab Muslim community at that time, which tended to be patriarchal, structural, and subordinate. Hence, Islamic studies in *fiqh* were also heavily influenced by the socio-cultural system, with the legitimacy of various normative arguments and with interpretations that were still not comprehensive (Febriani 2015, 133).

Another reason is a scientific opinion stating that because males' nature has the tendency to be polygamous, and females' nature is monogamous. If the answer is not satisfactory, then the one questioning should look at the following statement or answer the question: "why do countries that allow prostitution conduct routine health checks for women to behave sexually freely, and do not do it for those having legal partners? This is because the fact showing that women are only created to be touched by a clean human being. Once two men are involved in a sexual relationship with a woman, then at that time, the seed of the child is no longer clean and is very prone to cause disease. Reality becomes a very clear evidence of this issue (Shihab 2002, 344).

In regard to polygamy problems presented by Shihab, the steps for formulating his view involve analyzing the verses of the Quran and Hadith and the histories of the companions of the Prophet and scholars as a source of interpretation. These are needed to further explain the language, *fiqh*, benefit, and social-health approach as a means of explaining, comprehending, and formulating the meaning of the verses' content. Thus, it can be understood that the method used to formulate the law from verse 3 of Q.S. al-Nisâ', the law of polygamy, is *ijtihad al-jâmi' baina al-intiqâ'i wa al-inshâ'i*.

Among the six themes discussed—marrying an adulterer or prostitute, marriage due to pregnancy, marrying an *ahl al-kitâb* woman, guardianship in marriage, the prohibition of Muslim women marrying *ahl al-kitâb* men, and polygamy—Shihab employs a variety of sources and methods. These generally reflect key characteristics in his approach to interpreting legal verses that are put into groups.

First, Quraish Shihab made the word *māddah* (material) and *dilālah wad'iyah* (root words and their meanings), as well as the relationship between words as the main basis in exploring and developing messages or laws in the Quran. He also paid attention to the choice of words and the arrangement of sentences used. No wonder if the interpretation is named Tafsir al-Misbah; Message, Impression, and Compatibility of the Quran, because the interpretation aims to reveal the message of the Quran through the impression (gesture) and harmony (relationship) between verses. In addition, he presents various opinions of scholars related to law, even without choosing or strengthening a particular opinion.

Second, in every discussion, Shihab always tries to explain the reasons or wisdom contained in each verse he studied. In explaining the wisdom and content of the verses discussed, it is not uncommon for him to use approaches, social sciences, and health sciences to enrich the understanding of the messages conveyed in the Quran. Third, although Shihab is affiliated with the Shafi'i school, he does not limit himself to its views. Instead, he incorporates perspectives from a wide range of sources—including Sunni and Shia scholars, and even non-Muslim thinkers—so long as their opinions are relevant to the context. In presenting various viewpoints, he often highlights points of convergence between seemingly opposing opinions.

Fourth, when explaining legal rulings from a verse, he frequently uses terminology common in social discourse—such as "should," "better," or "not appropriate"—rather than conventional *fiqh* terms like "obligatory" or "haram." This choice of language suggests that legal formulations, often seen as rigid or absolute, can in fact allow for negotiation and flexibility in their application. As noted by Purnomo, the function of law in this approach is not merely to impose sanctions, but to serve an educative and ethical purpose (Purnomo & Rohmatulloh 2022, 245).

Conclusion

Based on the previous discussions, three main conclusions can be drawn. First, the sources of *istinbāt* employed in deriving legal rulings from Tafsir al-Misbah are the Quran, Hadith, the views of the Prophet's companions and scholars, and insights from social and health sciences. Second, the methods used are primarily *ijtihād al-intiqā'i* and *ijtihād al-jāmi' baina al-intiqā'i wa al-inshā'i*—a combination of selecting authoritative opinions and incorporating new reasoning. Third, the legal characteristics

formulated from the *âyât al-munâkahât* in Tafsir al-Misbah are marked by rationality, contextual relevance, and legal flexibility, reflecting Shihab's effort to address contemporary issues while remaining grounded in Islamic tradition.

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