

Interfaith Marriage in Indonesia: A Literature Review

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Abstract

Interfaith marriage remains a hotly discussed topic among scholars and society in Indonesia. Despite being prohibited by all religions and in line with Article 2 of Law Number 1 of 1974 concerning marriage, the practice remains an ongoing issue which has sparked controversy among Indonesian society. In response, the Supreme Court issued a Circular Letter prohibiting all District Courts to facilitate interfaith marriage starting July 2023. However, none of previous study has discussed to what extent the established marriage law has been effective to prevent the occurrence of interfaith marriage in Indonesia. This study aims to examine the discourse on interfaith marriage from the perspective of Islamic and Civil law in Indonesia. Employing literature review, this study summarized the findings of previous literature regarding the enforcement of Interfaith marriage law, complemented by several courts' decision to deepen the discussion. The findings indicate that interfaith marriages continue to occur in Indonesia due to the lack of clarity on the regulations, leading to legal loopholes in the existing laws. Highlighting a gap between legal statutes and their enforcement, this study serves as a baseline for future scholars to critically examine the formulation and establishment of law surrounding interfaith marriage practice in Indonesia.

Keywords: Interfaith Marriage, Islamic Law, Civil Law, Indonesia, Literature Review

Introduction

Marriage refers to the union between a man and a that involves commitment, responsibilities and mutual rights. Through this union, their relationship becomes legally recognized to establish a household known as a family. The Quran's explanation regarding marriage encompasses the concepts of tranquillity, covenant, and mercy, as seen in Surah Ar-Rum 30:21. As the primary source of guidance for Muslims, one of the teachings in the Quran emphasises the preference for seeking partners who share the same religious beliefs and values to ensure the spiritual harmony. However, with the increasing globalization and cultural exchange, the prevalence of interfaith marriage continues to rise as an ongoing trend despite the clear prohibition within Islamic law.

In Quran surah Al-Baqarah 2:221 it is stated that every Muslim is advised not to marry an infidel woman unless they embrace Islam. This is strongly emphasized because there must be differences in religious practices and moral values, which can disrupt harmony in the household and the upbringing of children (Kaharuddin & Syafruddin, 2020). Marriage aims to establish a family that practices Islam comprehensively, thus the presence of religious differences in marriage can lead to conflicts in worship, parenting, and daily life. Therefore, in Islam, every believer must marry someone who shares the same religious beliefs to ensure harmony and stability in the family.

The interfaith marriage issue is often seen as controversial and has been an ongoing debate, not only among the public but also among religious scholars, as certain religions place less emphasis on the issue of interfaith marriage, such as Christianity and Catholicism (Fatoni & Rusliana, 2019) Both religions do not require their adherents to marry someone with the same religious beliefs. Previous scholars also provided various interpretations and perspectives on interfaith marriage. Fuadi and Anggreni (2020) define interfaith marriage as a form of marital union where each partner retains their religious identity. Hanifah (2019) explains interfaith marriage as a union founded on the diversity of religious beliefs. While Santoso (2019), describes interfaith marriage as the union of two individuals with different religions, such as between a Muslim and a non-Muslim. In conclusion, these definitions illustrate that interfaith marriage involves individuals with differing religious beliefs choosing to unite in marriage while retaining their religious identities and beliefs.

In Indonesia, the diversity of legal perspectives on interfaith marriage has sparked controversy within the community. There are two legal systems that govern marriage in Indonesia, which are the civil law system and the religious law system. Civil marriage is regulated by Law Number 1 of 1974, while religious marriage refers to customary and religious laws adhered to by individuals. Article 2 of law number 1 of 1974 corresponds with Islamic law as stated in Surah Al-Mumtahanah 60:10, by explicitly stating that marriage is considered valid when conducted according to the religious laws and beliefs of the individuals involved. This means that couples adhering to Islam must comply with Islamic law, as must those following Christianity or any other religion. Consequently, marriages that do not comply with the respective religious laws are considered invalid according to their religious beliefs as stated in Article 2 of Law Number 1 of 1974. However, there are still disparities in how scholars and legal experts interpret civil and religious law, leading to many practical marriage issues in the country (Fuadi & Anggreni, 2020).

Interfaith marriages in Indonesia typically happen between Muslims with other individuals from different religions such as Christianity, Buddhism, and other religions (Watowai, 2022). In their research, Bahri and Adam (2020) assert that interfaith marriage is prohibited according to their respective religious beliefs in Indonesia and is also deemed invalid according to Law Number 1 of 1974 concerning marriage. Similarly, Fuadi and Anggreni's research (2020) indicates that the status of interfaith marriage in Indonesia is not explicitly regulated by national laws. Additionally, in the context of interfaith marriage involving non-Muslim men, it is considered forbidden as it contradicts the Quran Surah Al-Baqarah 2:221. From the explanations above, it is evident that marriage is deemed valid when following respective religious laws, referring to Article 2 of Law Number 1 of 1974 concerning marriage (Ministry of Religious Affairs Indonesia, 2023).

Despite regulations governing marriage in Indonesia, many argue that there is still ambiguity regarding interfaith marriage, as there is no absolute clarity regarding its prohibition. Some of them believe that national laws have regulated marriage in Indonesia,

while others claim there is still uncertainty regarding interfaith marriage. Organizations supporting interfaith marriage believe that marriage laws have various interpretations. Utami (2023) highlights the absence of specific regulations regarding interfaith marriage, leading to legal loopholes in Indonesia's marriage laws. Hence, many interfaith marriage cases occur and its practice even persists in certain regions of the country due to the civil marriage system. This has sparked controversy in determining marriage laws in Indonesia, and as a result of ongoing interfaith marriage cases, the Supreme Court issued Circular Letter Number 2 of 2023 prohibiting the recognition of interfaith marriages in all District Courts in Indonesia as of July 17, 2023 (Suyatno, 2023). Applying the literature review approach, this article will delve into interfaith marriage in Indonesia from Islamic law and national legislation perspectives. Such discussions are essential to understand the clarity of existing regulations in Indonesia regarding interfaith marriage. A comparison of legal aspects of interfaith marriage between Islamic principles and Indonesian legislation will be further discussed.

Problem Statement

Indonesia, with its diverse ethnic, cultural, religious, and belief groups, is likely to witness instances of interfaith marriages (Fuadi & Anggreni, 2020). Consequently, it's not surprising that interfaith marriage has become a topic of discussion in the country, with some even approving the practice by mistakenly interpreting the religious law on purpose. This is evidenced by the increasing number of interfaith marriage cases reported from 2007 to 2022 (Surya, 2022). Such marriages are prevalent in several cities in Indonesia, including Surakarta, Lubuk Linggau, Surabaya, and recently, South Jakarta. Kamilah (2018) discovered that many Indonesian couples purportedly conducted their interfaith marriage abroad to get legal permission, as interfaith marriage in many Western countries is permissible according to civil and international law, including laws related to immigration protection.

Examples of interfaith marriage that has been granted permission by the District Court recently happened in Surakarta city, involving a Christian man and Muslim woman as stated in the rulings 98/Pdt.P/2015/PN.Skt and No. 46/Pdt.P/2016/PN (Indonesian Supreme Court, 2024). In another case, the District Court of Lubuk Linggau has also approved an interfaith marriage between a non-muslim couple involving a Buddhist man and a Christian woman as documented in 3/Pdt.P/2015/Pn Llg (Indonesian Supreme Court, 2024). Additionally, a recent case of an interfaith marriage took place in the South Jakarta court, where a couple practising Islam and Christianity were granted permission to solemnize their marriage and officially registered in the South Jakarta District Court with the ruling Number 508/Pdt.P/2022/PN JKT.SEL (Kurnia, 2022). Although the Marriage Law states that marriage is valid when conducted according to religious laws and beliefs, and interfaith marriage is deemed to violate the principles of their respective religions, many people, including some public figures in Indonesia openly expressed their support and even practising interfaith marriage by disregarding the religious and legal mandates entirely.

The rising trend of interfaith marriage in Indonesia indicates that Indonesian society is becoming more open, thus is more likely to perceive interfaith marriage as something ordinary, making such practice more prevalent and cannot be eradicated nowadays. This trend signifies a social revolution, where interfaith marriage is no longer considered as a religious barrier. This shift is supported by previous instances, such as those in Surakarta, where the highest rate of interfaith marriage cases in the country was recorded (Surya, 2022). However, interfaith marriage poses potential risks outweighing its benefits, especially concerning the faith and Sharia of Muslims. Issues surrounding interfaith marriages often lead

to conflicts, resulting in poor communication between partners and a loss of shared goals (Pratiwi, 2016). Moreover, children born from interfaith marriages may face confusion in choosing their religious beliefs, which often impacts their education (Misno, 2019).

Those who support interfaith marriage practice always cite “Human Rights” as the foundation of their rationale. However, unlike in other countries, the concept of human rights applied in Indonesia is subject to Shariah or Islamic Law. In other words, Islamic law serves as the sole measure in determining Human Rights, leaving interfaith marriage no strong basis as it is illegal according to religious, legal or human rights perspectives. Although Population Management Law recognizes and may accommodate the documentation of interfaith marriage, such action heavily depends on the district court's decision. In efforts to prevent interfaith marriage continues to occur, the Supreme Court of the Republic of Indonesia issued a Circular Letter of the Supreme Court Number 2 of 2023 concerning the prohibition of recognizing and documenting interfaith marriages in every district court in Indonesia starting July 17, 2023 (Suyatno, 2023). Having the potential to inflict significant harm, particularly concerning the beliefs and Sharia of Muslims, government and legal institutions in Indonesia tend to address this issue with caution to ensure societal harmony and religious adherence.

However, in several interfaith marriage applications filed lately, judges did not always adhere to Constitutional Court Decision Number 86/PUU-XII/2014. Therefore, the implementation of this Constitutional Court decision is not effective. According to judges who granted interfaith marriage applications, the jurisprudence of Supreme Court Decision Number 1400K/Pdt/1986 regulates the State is only responsible for managing the registration of interfaith marriages and does not have a responsibility in determining the validity of interfaith marriages. Despite the non-compliance found in the court’s decision toward the established civil law and religious law on interfaith marriage issues, none of the previous studies provided a comprehensive explanation related to the trend of interfaith marriage cases registered at the court. Therefore, this literature review attempts to summarize the findings of previous studies and extensively explain the considerations behind the acceptance and the rejection of interfaith marriage applications.

Previous Studies

Several studies have been conducted on the issue of interfaith marriage in Indonesia. Providing insights from various perspectives, most of them agreed with its prohibition due to differences in beliefs and religious understanding. Istiqomah and Chairunissa's research (2022) which studied this issue from the standpoint of Islamic law concluded interfaith marriage as a prohibited practice. Furthermore, a study by Romli and Huda, (2022) which aimed to understand the validity of Laws related to interfaith marriage, believed that interfaith marriage cases registered in Indonesia are not fully accepted by the Religious Affairs Office or the Directorate General of Population and Civil Registration. While Adil and Jamil (2023) found doubts in the understanding and implementation among individuals who view interfaith marriage as acceptable.

Hermanto, Fikri, and Hidayat (2022) found many occurrences of interfaith marriage cases in Semarang, Java despite the prohibition. Muhammad Adi Suseno and Lina Kushidayati's study (2020), indicated that interfaith marriage involving many families in Java island occurred because these marriages did not consider legal aspects, especially regarding the issue of inheritance of children born from such marriages. Consequently, from the perspective of Islamic law, legitimate children born from interfaith couples may be deprived of inheritance from their parents.

Cantonia and Majid, (2021) produced several findings. First, in the context of Law Number 16 of 2019 concerning marriage, as well as in the views of recognized religions in Indonesia such as Islam, Catholicism, and Hinduism, the implementation of interfaith marriage is not allowed or considered as an action against the law. Second, the regulation regarding interfaith marriage in Indonesia is still an ongoing debate because Law Number 16 of 2019 does not explicitly regulate it. This creates a legal vacuum that leads to uncertainty about the status of interfaith marriage in Indonesia. Lastly, the existence of legal loopholes and prohibitions on interfaith marriages in religious law often creates situations where the practice of smuggling laws occurs through the adoption of false religions, which in turn results in violations of human rights concerning freedom of religion and the right to marry and form a family. Therefore, the difficulty in conducting interfaith marriages in Indonesia has the potential to have a significant negative impact on the protection of human rights.

Kaharuddin and Syafruddin (2020) found that: 1) The majority of scholars agree on the prohibition of interfaith marriage or marriage with Ahlul Kitab, especially because the Ahlul Kitab in this era differ from the era of the Prophet Muhammad 2) The Indonesian Ulama Council (MUI) and the Indonesian government regulation have also agreed that interfaith marriage is prohibited. Children born from interfaith marriages are not recognized as legitimate children because they were born from marriages that are not recognized by religion and law. 3) The prohibition of marrying partners of different faiths not only applies in the view of Islam but also applies to other religions or beliefs such as Christianity, Catholicism, Hinduism, and Buddhism. 4) The impacts or consequences arising from interfaith marriages are very serious and dangerous for families and descendants. Therefore, parents should carefully consider before deciding to marry or seek a life partner. Rachmadhani and Herdiana (2021) added that interfaith marriage couples are more vulnerable to mental health issues. Shodiq et al (2019) stated that interfaith marriages may result in complicated implications, especially concerning family integrity, beliefs, and children's education. Combining two different belief systems can be a significant challenge and can lead to conflict and disharmony in marital relationships.

From the various studies conducted, it can be seen that most findings indicate that interfaith marriage is prohibited by Islamic law in Indonesia. However, there are still loopholes for couples who want to conduct interfaith marriage by referring to the 1974 Law. It is also evident that regulations in Indonesia have not been able to solve the issue of interfaith marriage to date, leading to controversy in determining marriage laws in Indonesia. As a result, there are still those who practice interfaith marriages. Additionally, the impact of interfaith marriages, as shown in the above studies, mostly yields negative outcomes, especially concerning their offspring and children.

Findings

(i) Interpretation of Islamic Law Regarding Interfaith Marriage

In interpreting this verse, Ali bin Abi Thalib narrated from Ibn Abbas that Allah made an exception for women of the People of the Book in this case. Similar opinions were also expressed by Mujahid, Ikrimah, Sa'id bin Jubair, Makhul, Hasan al-Bashri, adh-Dhahhak, Zaid bin Aslam, Rabi' bin Anas, and other scholars, who opined that the verse referred to polytheistic women, not women of the People of the Book. And the meaning is similar to the first opinion. After narrating the consensus on the permissibility of marrying women of the People of the Book, Abu Ja'far bin Jarir Rahimahullah stated: "Umar prohibited this matter

(marrying women of the People of the Book) to prevent people from abandoning Muslim women or for similar reasons" (Al-Sheikh, 2003).

According to the Hanafi school of thought, if a man marries an Ahlul Kitab woman in times of war, such action is considered unjustifiable. Furthermore, besides the existing risks and dangers, children from such marriages tend to follow their mother's religion (Ilham, 2020). The Maliki school of thought considers marrying an Ahlul Kitab woman who lives under the protection of the Islamic State (Ahlul Dzimma) as reprehensible (makruh) because they are allowed to do things prohibited in Islam, such as consuming forbidden foods and going to church. This may cause their children to be disobedient toward the Islamic teachings given by their fathers. In addition, there is also a possibility that Ahlul Kitab wife may influence their Muslim husbands and encourage their children to embrace another religion (Yulianti, 2022). While the Shafi'i school of thought believes that a man is allowed to marry Ahlul Kitab women, and Shabi'ah women if their religious principles are similar to those of Jews or Christians (Sarifudin, 2019). Lastly, the Hanbali school of thought states that it is forbidden to marry a polytheist woman but allows marriage with Jewish and Christian women, and the definition of Ahlul Kitab is not limited to Jews and Christians from the Israelites (Bonica, 2018). Therefore, essentially, all schools of Fiqh agree that it is not appropriate for a Muslim or Muslimah to marry a disbeliever who does not follow the principle of the holy book. Although the Hanafi, Maliki, Hanbali, and Shafi'i schools of thought allow marriage between a Muslim and Ahlul Kitab from Jews and Christians, they do not permit a Muslimah to do so.

(ii) Inconsistency in the interpretation of Interfaith Marriage Laws in Indonesia

Article 4 of the Compilation of Islamic Law states that marriage is valid when conducted according to Islamic law. This is in line with what has been written in Article 2, paragraph 1 of Law Number 1 of 1974 concerning marriage, which emphasizes that marriage is valid when performed according to the law of each religion and its belief. Article 4 of the Compilation of Islamic Law explains that marriage will be deemed valid when following Islamic religious law, while Article 2, paragraph 1 of the 1974 law states that marriage is valid when conducted according to the respective laws of each religion and belief. Upon scrutiny, both regulations technically have the same purpose and function, but in practice, law number 1 of 1974 does not explicitly provide it's a concrete explanation, leading to many misinterpretations.

A closer look at the Compilation of Islamic Law (KHI) reveals that the prohibition of interfaith marriage is stated in Chapter VI of the Compilation of Islamic Law. Articles 40 (c) and 44 states that a man is prohibited from marrying a woman who is not of the Islamic faith.

Article 40 (c): It is prohibited to solemnize marriage between a man and a woman for certain reasons: a. because the woman concerned is still bound by marriage to another man; b. a woman who is still in the iddah period with another man; c. **a woman who is not of the Islamic faith.**

Article 44: A muslimah is prohibited from marrying a man who is not of the Islamic faith. In this regard, the Compilation of Islamic Law strongly emphasizes that building marital relationships aligns with religious principles to create a more harmonious family life based on Islamic teachings (Fitri, 2022). The Compilation of Islamic Law also acknowledges that marriages involving couples of different faiths can lead to problems and conflicts between husbands and wives, thereby affecting harmony, mental health, and religious adherence of the respective partners. These issues can lead to divorce and affect the general public's perception of certain religious institutions, especially Islam (Setiyanto, 2017).

Moreover, the Indonesian Ulema Council (MUI) has also issued fatwa Number 4/MUNAS VII/MUI/8/2005 regarding interfaith marriage. The issuance of this fatwa, ratified by the Commission for Fatwa Affairs, results in two main points. First, interfaith marriage is considered forbidden and invalid. Second, the marriage of a Muslim man with a woman of the People of the Book, according to the generally accepted opinion (qaul mu'tamad), is considered forbidden and invalid. This fatwa issued by the MUI is based on religious evidence such as the Quran, Hadith, and principles of jurisprudence similarly, the Islamic organizations Nahdatul Ulama and Muhammadiyah also emphatically issue fatwas prohibiting interfaith marriages to be practised in Indonesia (Mutakin, 2021).

However, there is a small segment of the Indonesian population that believes interfaith marriage is valid based on Surah al-Ma'idah 5:5, which states that a Muslim man is allowed to marry a woman from among the Ahlul Kitab (Miftakul Bil Ibad 2019). As a result of such understanding, various legal issues arise, leading to confusion, disputes, and controversies among Indonesian society.

(iii) Interfaith Marriage cases rejected in court

One of the interfaith marriage cases rejected by the civil court was documented in the ruling number 340/Pdt.P/2021/PN Jkt.Sel, involving Deni Sukisnon (Christian) and Maria Margaretha Nur Priaty (Muslim) (Indonesian Supreme Court, 2024). Before the court, Deni and Maria decided to get married beforehand following Catholic teaching in Southern Jakarta, a reason why the court refused to validate their marriage. The legal basis behind the judge's decision to reject the application was based on Article 2 of Law Number 1 of 1974 concerning marriage, which states

(1) Marriage is valid when conducted according to the law of each religion and its beliefs.

(2) Each marriage is recorded according to the prevailing legal regulations

As well as Article 2 Paragraph (2) of Government Regulation Number 9 of 1975 concerning the Implementation of Law Number 1 of 1974 concerning marriage, which states:

The registration of marriages for individuals who marry according to their religion and beliefs, other than Islam, is conducted by Marriage Registrars at Civil Registry offices as regulated in various laws related to marriage registration.

However, since the couple had previously solemnized their marriage in the Catholic Church based on the Testimonium Matrimony with Number: 836, the judge considered that the arguments presented by the applicants were inconsistent and did not support their request for permission to solemnize an interfaith marriage at the South Jakarta Civil Registry Office. This is because the couple had already undergone marriage without any legal or formal documentation from the authorities. Therefore, the application letter from the applicants was considered invalid as it did not formal requirements, and thus their marriage cannot be permitted under the prevailing law in Indonesia.

(iv) Interfaith marriage cases accepted in court

Unlike the case mentioned earlier, here is an example of a case permitted by Indonesian law, as seen in the decision of the South Jakarta District Court Number 508/Pdt.P/2022/PN JKT.SEL. In this decision, the application for an interfaith marriage by the couple named Devina Renata Sianipar and Jaka Nugraha was examined (Indonesian Supreme Court, 2024). The couple approached the South Jakarta District Court to apply for an interfaith marriage to be documented at the Civil Registry Office of South Jakarta. The judge considered that the

couple were indeed of different religions. Additionally, they had been in a relationship for a long time and were willing to marry through a Christian wedding ceremony. However, the couple had never been married before, therefore the South Jakarta District Court permitted them to register their marriage.

Judges' consideration and permission were given to the couple by referring to Law Number 24 of 2013 concerning population administration law, wherein such marriages must obtain a court determination, which in this case is the exclusive authority of the South Jakarta District Court. From the explanation above, several points can be observed regarding the approval of interfaith marriages in Indonesia. Firstly, Indonesian law limits interfaith marriages based on the legal framework outlined in the Marriage Law. Decision Number 340/Pdt.P/2021/PN Jkt.Sel rejected the application for an interfaith marriage between Deni Sukisnon and Maria Margaretha Nur Priaty because it contradicted the applicable legal provisions. This is based on legal principles that stipulate marriages in Indonesia must adhere to the same religion.

Secondly, in other cases such as Decision Number 508/Pdt.P/2022/PN JKT.SEL, the application for an interfaith marriage between Devina and Jaka was accepted by the court because their marriage met the requirements stipulated by the law, such as the consent of both parties and other necessary conditions. The difference in these decisions can be summarized as follows: in the first case, the interfaith marriage was rejected because it violated applicable legal provisions, while in the second case, the interfaith marriage was allowed because it met the requirements set by the law. This demonstrates the importance of understanding and complying with the law in the context of interfaith marriages in Indonesia.

There are several factors contributing to the continued prevalence of interfaith marriages in Indonesia. Firstly, the lack of clarity in the law, particularly Article 2 Paragraph 1 of 1974 has led to many misunderstandings regarding the permissibility of interfaith marriage. Secondly, the misuse of existing marriage laws in Indonesia to legalize marriages between couples of different religions. The last factor is the conduct of marriage outside the country. Furthermore, there are several legal bases used by interfaith couples in supporting their marriages to obtain recognition and validity through court decisions, which is Article 21 paragraph (3) of Law Number 1 of 1974 concerning marriages (Ministry of Religious Affairs Indonesia, 2023). This article states that "those whose marriages are rejected have the right to file an application to the court in the area where the marriage registrar who rejected the marriage is located to provide a decision, by attaching the rejection letter." However, since the issuance of Law Number 23 of 2006 concerning Population Administration, there has been a more significant expansion in the legal loophole for couples with religious and belief differences to obtain recognition and registration of their valid marriages. This is due to Article 35 of the law which states that marriage registration as referred to in Article 34 also applies to marriages determined by the court, and the explanation of Article 35 letter a of Law Number 23 of 2006 concerning Population Administration which explains that "marriages determined by the Court" also refer to marriages conducted between individuals with religious differences.

The explanation of Article 35 above is highly contradictory to other legal regulations, such as Article 2 paragraph 1 of Law Number 1 of 1974. This is because marriage involves interconnected interests and responsibilities between religion and the state. The relationship between religion and the state in marriage law is that religion determines the validity of marriage, while the state determines the administrative validity of marriage within the legal

framework. Therefore, with the presence of the new regulation in the form of Circular Letter of the Supreme Court (SE) Number 2 of 2023 concerning the prohibition of recognizing interfaith marriages in every District Court in Indonesia as of July 17, 2023, it is hoped that it will further strengthen the power of Article 2 of Law Number 1 of 1974. This step is certainly taken for several reasons, including the absence of a clear prohibition related to interfaith marriages and beliefs, as well as existing legal regulations that have provided opportunities for couples with different religions and beliefs to obtain recognition of the validity of their marriage registration through court decisions. The issuance of Circular Letter Number 2 of 2023 certainly has a great purpose to address and end the debate that has occurred in society regarding the registration of interfaith and belief marriages.

Although marriage is recognized as part of human rights and protected by the constitution, the enforcement of human rights in Indonesia must be in line with the principles of Pancasila. Although the Universal Declaration of Human Rights has outlined the standards for human rights protection worldwide, its implementation in each country is adjusted according to the ideology, religion, social norms, and cultural values of the society in that country. Thus, the presence of Constitutional Court decisions number 68/PUU-XII/2014 and 24/PUU-XX/2022 included in Circular Letter of the Supreme Court Number 2 of 2023 regarding guidelines for judges in adjudicating applications for interfaith marriage has provided legal certainty regarding marriage registration, leading to amendments to previous laws that had left legal loopholes for couples of different religions to obtain recognition for their marriage through court decisions. Amendments to these laws are important and urgent, not only to ensure legal order but also to end the ongoing debate on the registration of interfaith marriages in society.

Conclusion

In Islam, the issue of interfaith marriage is explained in three surahs of the Quran. Firstly, Surah al-Baqarah (2): 221, emphasizes the prohibition for a Muslim man to marry a polytheist woman, and for a Muslim woman to be married to a polytheist man. Secondly, Surah al-Maidah (5): 5, which permits a Muslim man to marry a woman from Ahlul Kitab. Thirdly, Surah al-Mumtahanah (60): 10, which also regulates marriage between a Muslim and a woman from Ahlul Kitab. From these verses, we can see that the prohibition is for Muslim women to marry non-Muslim or disbelieving men. The prohibition of interfaith marriage is also outlined in the Compilation of Islamic Law. As seen in Articles 40 (c) and 44, which state that a man is prohibited from marrying a woman who is not of the Islamic faith. However, this provision differs from the national law in Indonesia as stated in Article 2 paragraph 1 of the year 1974 which regulates marriage in Indonesia. The lack of clarity in Indonesian law regarding interfaith marriages has left a loophole for such cases to occur.

The practice of interfaith marriage in Indonesia has two main alternatives. First, marriages can be applied at the Office of Religious Affairs for citizens who adhere to Islam, and at district courts for non-Muslim individuals. It should be noted that the approval of interfaith marriages is more likely to be granted by district courts in Indonesia than by KUA, which typically does not accept any reasons for applications from Muslim and non-Muslim couples. This literature review also found an inconsistency surrounding interfaith marriage issues when comparing Article 2 Number 1 of 1974 concerning marriage which does not permit the practice of interfaith marriage with Law Number 23 of 2006 which regulates the documentation of interfaith marriage. Therefore, due to the existing gaps in the law, the Supreme Court issued Circular Letter Number 2 of 2023 providing guidelines for judges in

deciding cases regarding the registration of marriages between people of different religions and beliefs.

The findings of this study have provided a comprehensive explanation regarding the trend of interfaith marriage in Indonesia from the perspective of Islamic and Civil Law. Several civil laws concerning marriage in Indonesia were also compared to discover the reasoning behind the ongoing occurrence of such practice despite the strict regulations that have been established. This study is expected to be a baseline for future scholars when studying interfaith marriage issues in Indonesia, as well as a point of reference for the legal authorities when formulating policies surrounding the issues.

References

- Adil, M., & Jamil, S. (2023). Interfaith Marriage in Indonesia: Polemics and Perspectives of Religious Leaders and Community Organizations. *Religion and Human Rights*, 18, 31–53. <https://doi.org/10.1163/18710328-bja10031>
- Al-Sheikh, A. B. M. B. A. B. I. (2003). *Lubaabut Tafsir Min Ibnu Katsiir*. Mu-assasah Daar al-Hilaal Kairo.
- Bonica, P. J. J. (2018). Pandangan Fuqaha Tentang Kewarisan Anak Dari Hasil Perkawinan Beda Agama Menurut Kuhp Perdata Dan Kompilasi Hukum Islam. *Virginia Journal of Internasional Law*, 15(September), 1–50. <https://ssrn.com/abstract=1148799> <https://www.eisf.eu/library/duty-of-care-a-review-of-the-dennis-v-norwegian-refugee-council-ruling-and-its-implications/>
- Fatoni, S. N., & Rusliana, I. (2019). Pernikahan Beda Agama Menurut Tokoh Lintas Agama di Kota Bandung. *Varia Hukum*, 1(1), 95–114. <https://core.ac.uk/download/pdf/196255896.pdf>
- Fuadi, A., & Anggreni, D. (2020). Pernikahan Beda Agama Perspektif Hukum Islam Dan Hukum Positif Di Indonesia. *Jurnal Hadratul Madaniyah*, 7(2), 1–14. <https://doi.org/10.33084/jhm.v7i2.1986>
- Fitri, I. S. (2022). Faktor Penyebab Tingginya Angka Cerai Gugat Di Pengadilan Agama Bandung. *Al-Ahwal Al-Syakhsyiyah: Jurnal Hukum Keluarga Dan Peradilan Islam*, 3(1), 101–116. <https://doi.org/10.15575/as.v3i1.17547>
- Hanifah, M. (2019). Perkawinan Beda Agama Ditinjau dari Undang-undang Nomor 1 Tahun 1974 Tentang Perkawinan. *Soumatra Law Review*, 2(2), 297–308. <https://doi.org/http://doi.org/10.22216/soumlaw.v2i2.4420>
- Hermanto, A., Fikri, A., & Hidayat, I. N. (2022). *Menyoal Tentang Perkawinan Beda Agama dan Akibatnya terhadap Hak Waris di Indonesia*. 5(1), 68–83.
- Ilham, M. (2020). Nikah Beda Agama dalam Kajian Hukum Islam dan Tatanan Hukum Nasional. *TAQNIN: Jurnal Syariah Dan Hukum*, 2(1). <https://doi.org/10.30821/taqnin.v2i1.7513>
- Istiqomah, I., & Chairunissa, N. (2022). Perkawinan Beda Agama Ditinjau Dari Perspektif Hukum Islam Dan Hak Asasi Manusia. *Jurnal Berkala Fakultas Hukum Universitas Bung Karno*, 1(1), 48–61. <https://ejurnal.ubk.ac.id/index.php/iusfacti/article/view/239>
- Indonesian Supreme Court. (2024). *Direktorasi Mahkamah Agung Republik Indonesia*. Publikasi Dokumen Elektronik Putusan Seluruh Pengadilan Di Indonesia. <https://putusan3.mahkamahagung.go.id/direktori/index/pengadilan/pn-surakarta/kategori/perdata-1.html>
- Kaharuddin, K., & Syafruddin, S. (2020). Pernikahan Beda Agama dan Dampak Terhadap Pendidikan Agama Anak. *SANGAJI: Jurnal Pemikiran Syariah Dan Hukum*, 4(1), 53–81. <https://doi.org/10.52266/sangaji.v4i1.479>

- Kamilah, A. (2018). Keabsahan Perkawinan Beda Agama Yang Dilaksanakan Di Luar Negeri. *Tahkim (Jurnal Peradaban Dan Hukum Islam)*, 1(1), 116–127. <https://doi.org/10.29313/tahkim.v1i1.3325>
- Kurnia, E. (2022). *Dukcapil Jakarta Selatan Keluarkan Empat Akta Perkawinan Beda Agama di 2022*. Kompas.Id. <https://www.kompas.id/baca/metro/2022/09/17/dukcapil-jakarta-selatan-keluarkan-empat-akta-perkawinan-beda-agama-di-2022>
- Ministry of Religious Affairs Indonesia. (2023). Undang-Undang Republik Indonesia Tentang Perkawinan. *Al Qalam: Jurnal Ilmiah Keagamaan Dan Kemasyarakatan*, 1974(September), 1–15. https://id.wikisource.org/wiki/Undang-Undang_Republik_Indonesia_Nomor_1_Tahun_1974
- Mutiara Mega Putri Utami, T. T. (2023). Tinjauan Yuridis-Sosiologis Pada Perkawinan Berbeda Agama Dalam HAM dan Hukum Di Indonesia Serta Kedudukan Pada Anak dari Perkawinan Berbeda Agama. *Jurnal Ilmiah Wahana Pendidikan*, 9(1), 290–298. <https://doi.org/>: <https://doi.org/10.5281/zenodo.7527563>
- Mutakin, A. (2021). Fiqih Perkawinan Beda Agama di Indonesia: Kajian Atas Fatwa-Fatwa NU, MUI Dan Muhammadiyah (Indonesian Fiqh Of Interfaith Marriage: Study *Al-Ahwal: Jurnal Hukum Keluarga Islam*, 14(1), 11–25. <http://ejournal.uin-suka.ac.id/syariah/Ahwal/article/view/2278%0Ahttp://ejournal.uin-suka.ac.id/syariah/Ahwal/article/viewFile/2278/1688>
- Pratiwi, N. I. (2016). *Pola Asuh Anak Pada Pernikahan Beda Agama*. 1–23.
- Rachmadhani, T. C., & Herdiana, I. (2021). Dinamika Resiliensi Istri Pada Pernikahan Beda Agama. *Buletin Riset Psikologi Dan Kesehatan Mental (BRPKM)*, 1(1), 209–220. <https://doi.org/10.20473/brpkm.v1i1.24897>
- Santoso, R. (2019). Analisis Fatwa Majelis Ulama Indonesia Dan Nahdlatul Ulama Tentang Perkawinan Beda Agama. *Nurani*, 19(2), 199–208. <https://doi.org/><https://doi.org/10.19109/nurani.v19i2.3976>
- Sarifudin. (2019). Kawin Beda Agama dalam Kajian Hukum Islam dan Peraturan Perundang-Undangan di Indonesia. *Al-Istinbath: Jurnal Hukum Islam*, 4(2), 213–230. <https://doi.org/10.29240/jhi.v4i2.787>
- Setiyanto, D. A. (2017). Larangan Perkawinan Beda Agama Dalam Kompilasi Hukum Islam Perspektif Hak Asasi Manusia. *Al-Daulah: Jurnal Hukum Dan Perundangan Islam*, 7(1), 87–106. <https://doi.org/10.15642/ad.2017.7.1.87-106>
- Shodiq, J., Misno, M., & Rosyid, A. (2019). Pernikahan Beda Agama Menurut Imam Madzhab dan Hukum Positif di Indonesia. *Al-Mashlahah Jurnal Hukum Islam Dan Pranata Sosial*, 7(01), 1. <https://doi.org/10.30868/am.v7i01.543>
- Watowai, V. A. (2022). Pernikahan Agama Antara Muslim dan Kristen di Indonesia. *Binamulia Hukum*, 11(2), 161–170. <https://doi.org/10.37893/jbh.v11i2.695>
- Yulianti, Y. (2022). Pernikahan Beda Agama Dalam Pandangan Empat Madzhab. *Darussalam: Jurnal Ilmiah Dan Sosial*, 23(2), 1–19.