



Interfaith Marriage in Indonesia: Juridical Challenges and Human Rights Perspectives

Ais Surasa^{1*}, Ramdani Wahyu Sururie², Najib A. Gisymar³, Mohammad Syaiful Aris⁴,
Diana Farid⁵, Muhammad Husni Abdulah Pakarti⁶

^{1,6} Sekolah Tinggi Ilmu Syariah Wal Aqidah Ash-Shofa Manonjaya, Indonesia

² Universitas Islam Negeri Sunan Gunung Djati Bandung, Indonesia

³ Universitas Widya Mataram, Indonesia

⁴ Universitas Airlangga, Indonesia

⁵ Universitas Muhammadiyah Bandung, Indonesia

*Corresponding Author

Submitted: March 16, 2024	Accepted: May 03, 2025	Published: June 01, 2025
How to Cite (Chicago): Surasa, Ais, Ramdani Wahyu Sururie, Najib A. Gisymar, Mohammad Syaiful Aris, Diana Farid, and Muhammad Husni Abdulah Pakarti. 2025. "Interfaith Marriage in Indonesia: Juridical Challenges and Human Rights Perspectives". <i>Al-Qadha: Jurnal Hukum Islam Dan Perundang-Undangan</i> 12 (1), 117-133. https://doi.org/10.32505/qadha.v12i1.11071 .		

Abstract

Interfaith marriage refers to a union between two individuals who adhere to different religions and remains a complex issue within the Indonesian legal system. Legally, Law No. 1 of 1974 on Marriage does not explicitly regulate interfaith unions. However, Article 2(1) of the law states that a marriage is valid if conducted by the religious laws and beliefs of the parties involved. This commonly means that interfaith marriages lack legal recognition in Indonesia. This interpretation is further reinforced by the issuance of Supreme Court Circular Letter (SEMA) No. 2 of 2023. This study adopts a normative juridical method with a descriptive qualitative approach. Primary data were obtained from the Marriage Law, the Compilation of Islamic Law, fatwas issued by the Indonesian Ulema Council (MUI), Muhammadiyah, Nahdlatul Ulama (NU), and SEMA No. 2 of 2023. Secondary data were gathered from legal literature, court decisions, and scholarly articles. The findings indicate that, under Article 2 (1) of the Marriage Law, interfaith marriages are deemed invalid under Indonesian national law. However, from a human rights perspective—as stipulated in Article 16 of the Universal Declaration of Human Rights (UDHR) and Article 28B(1) of the 1945 Constitution—every individual has the right to marry regardless of religious affiliation. This study also outlines several legal alternatives available to interfaith couples seeking to formalize their marriage, including filing a court petition, temporarily adhering to one partner's religious law, or marrying abroad. The legal implications of interfaith marriage include issues related to its validity, administrative registration, children's legal status, and both spouses' civil rights.

Keywords: Interfaith Marriage, Indonesian Marriage Law, Legal Recognition, Human Rights

Abstrak

Pernikahan beda agama merujuk pada ikatan antara dua individu yang menganut agama yang berbeda dan tetap menjadi isu yang kompleks dalam sistem hukum Indonesia. Secara hukum, Undang-Undang Nomor 1 Tahun 1974 tentang Perkawinan tidak secara eksplisit



mengatur mengenai pernikahan beda agama. Namun, Pasal 2 ayat (1) dalam undang-undang tersebut menyatakan bahwa perkawinan adalah sah apabila dilakukan menurut hukum masing-masing agama dan kepercayaan para pihak. Hal ini umumnya diartikan bahwa pernikahan beda agama tidak diakui secara hukum di Indonesia. Penafsiran ini diperkuat oleh terbitnya Surat Edaran Mahkamah Agung (SEMA) Nomor 2 Tahun 2023. Penelitian ini menggunakan metode yuridis normatif dengan pendekatan deskriptif kualitatif. Data primer diperoleh dari Undang-Undang Perkawinan, Kompilasi Hukum Islam, fatwa yang dikeluarkan oleh Majelis Ulama Indonesia (MUI), Muhammadiyah, Nahdlatul Ulama (NU), serta SEMA Nomor 2 Tahun 2023. Data sekunder dikumpulkan dari literatur hukum, putusan pengadilan, dan artikel ilmiah. Hasil penelitian menunjukkan bahwa berdasarkan Pasal 2 ayat (1) Undang-Undang Perkawinan, pernikahan beda agama dianggap tidak sah menurut hukum nasional Indonesia. Namun, dari perspektif hak asasi manusia—sebagaimana diatur dalam Pasal 16 Deklarasi Universal Hak Asasi Manusia (DUHAM) dan Pasal 28B ayat (1) UUD 1945—setiap individu memiliki hak untuk menikah tanpa memandang afiliasi agama. Penelitian ini juga memaparkan beberapa alternatif hukum yang tersedia bagi pasangan beda agama yang ingin meresmikan pernikahan mereka, termasuk dengan mengajukan permohonan ke pengadilan, sementara waktu mengikuti hukum agama salah satu pasangan, atau melangsungkan pernikahan di luar negeri. Implikasi hukum dari pernikahan beda agama mencakup persoalan mengenai keabsahan, pencatatan administrasi, status hukum anak, serta hak-hak sipil dari kedua pasangan..

Kata Kunci: Pernikahan Beda Agama, Hukum Perkawinan Indonesia, Pengakuan Hukum, Hak Asasi Manusia

Introduction

Interfaith marriage refers to a marriage involving two individuals, a man and a woman who are subject to different religious laws. In its development in today's society, interfaith marriage is termed the same as "interfaith marriage", which is a marriage carried out between a Muslim and a non-Muslim, both those who are categorized as polytheists and Ahlu kitab. The issue of marriage is often debated among scholars and academics, because of differences in perspectives in understanding religious texts that prohibit Muslims from marrying polytheists.¹ The practice of interfaith marriage has been part of various social dimensions in Indonesia and has been going on since ancient times. However, interfaith marriage raises its own problems because marriage not only involves the dimension of personal relationships between married couples, but is also related to legal issues that apply in Indonesia.²

¹ Wiwin Siti Aminah, Roby Awaludin, and Irfan Hilmi, "Hukum Pernikahan Beda Agama Menurut Ulama Indonesia," *Istinbath | Jurnal Penelitian Hukum Islam* 15, no. 1 (February 27, 2019): 85, <https://doi.org/10.36667/istinbath.v15i1.275>; Rizqon Rizqon, "Analisis Perkawinan Beda Agama Perspektif KHI, HAM Dan CLD-KHI," *AL-MANHAJ: Jurnal Hukum Dan Pranata Sosial Islam* 4, no. 1 (June 13, 2022): 13–24, <https://doi.org/10.37680/almanhaj.v4i1.1499>; Agus Hermanto, Arif Fikri, and Imam Nur Hidayat, "Menyoal Tentang Perkawinan Beda Agama Dan Akibatnya Terhadap Hak Waris Di Indonesia," *Mutawasith: Jurnal Hukum Islam* 5, no. 1 (2022).

² Diana Farid et al., "Interfaith Marriage: Subjectivity of the Judge in Determination of No. 454/Pdt.p/2018 Surakarta District Court," *Al-Istinbath: Jurnal Hukum Islam* 7, no. 2 (December 1, 2022): 355, <https://doi.org/10.29240/jhi.v7i2.4574>.

Interfaith marriage in Indonesia, juridically formally, is not specifically regulated in Law Number 1 of 1974 concerning Marriage.³ Article 2 Paragraph (1) of Law Number 1 of 1974 explains that marriage is legal, if it is carried out according to the law of each religion and its belief.⁴ According to some academics, the formulation of this article does not clearly state that interfaith marriage is prohibited or allowed in Indonesia. Therefore, in reality, there is an increase in the number of couples who marry different religions in Indonesia and it has become an increasingly common phenomenon today.

According to the records of the Center for Religion and Peace Studies or called the *Indonesian Conference on Religion and Peace (ICRP)*, from 2005 to July 2023, there were 1,645 couples who married between different religions in Indonesia.⁵ Thus, on average, there are 91 interfaith marriages every year in Indonesian jurisdictions. This should not happen, considering Article 2 paragraph (1) of the Marriage Law which affirms that a marriage is considered valid if it is in accordance with the applicable law in the religion and beliefs of each individual. The Compilation of Islamic Law also regulates interfaith marriage, as stipulated in the Marriage Law, especially Article 40 and Article 44 Chapter VI concerning the prohibition of marriage and the fatwa from the Central Indonesian Ulema Council (MUI) in 2005 which reaffirmed the prohibition of interfaith marriage.⁶

Interfaith marriage is a phenomenon that has been present for a long time in Indonesia's multicultural society. The practice of interfaith marriage has been part of various social dimensions in Indonesia and has been going on since ancient times. However, interfaith marriage raises its own problems because marriage not only involves the dimension of personal relationships between married couples, but is also related to legal issues that apply in Indonesia and the legal impact arising from the marriage.

The research method used in this study is a normative juridical method with a descriptive qualitative approach.⁷ This method was chosen because it is suitable for examining positive legal norms and applicable legal doctrines, especially those related to laws and regulations and the views of religious institutions on the issues under study. In this approach, the research focuses on the analysis of normative legal materials as the main data which is then analyzed descriptively to understand and explain legal phenomena in a specific context.⁸ The primary data sources in this study include laws and regulations and official documents, such as Law Number 1 of 1974 concerning Marriage, the Compilation of Islamic Law (KHI), as well as fatwas from the Indonesian Ulema Council (MUI), Muhammadiyah and Nahdlatul Ulama (NU) organizations, as well as Supreme Court Circular Letter (SEMA) Number 2 of 2023. Meanwhile, secondary data was obtained from various relevant legal literature such as law books, scientific journals, documents, court decisions, and the results of previous research related to this topic.

³ Muhazir Muhazir, "Status Hukum Pernikahan Muslim Pasca Perpindahan Keyakinan Perspektif Hukum Keluarga Islam Di Indonesia," *TAQNIN: Jurnal Syariah Dan Hukum* 3, no. 1 (2021): 22.

⁴ Prasetyo Ade Witoko, Ambar Budhisulistiyawati, Smuggling of Interfaith Marriage Law in Indonesia, *UNS Law Postgraduate Journal* Vol. VII, Number 2, (2019), 252.

⁵ <https://koran.tempo.co/read/topik/483671/tahapan-menikah-beda-agama>

⁶ Mardalena Hanifah, Interfaith Marriage Reviewed from Law Number 1 of 1974 concerning Marriage, *Soumatra Law Review*, Volume 2, Number 2, (2019), 299.

⁷ Noeng Muhadjir, *Research Methodology*, (Jakarta: Rake Sarasin, 1998), 159.

⁸ Hasbiyallah, *Easy Learning of Inheritance*, (Bandung: PT Remaja Rosdakarya, 2013), 1.

The data analysis process is carried out through a qualitative data analysis method consisting of three main stages, namely data reduction, data presentation, and conclusion drawn. Data reduction is done to filter and select data that is relevant to the focus of the research. The presentation of data aims to compile the information that has been collected in a systematic form to make it easier to understand the problems being studied. The final stage is the drawing of conclusions that are carried out in a reflective and in-depth manner to produce a complete understanding of the legal problems being analyzed. This approach allows researchers to explore the meaning of each legal provision and religious interpretation related to the object of study comprehensively and critically.

Religious Norms in the Indonesian Context

In classical fiqh literature, the concept of "Interfaith Marriage" is not explicitly known literally, and no clear definition is found in the restriction of its meaning. However, discussions related to this issue are generally included in the section that discusses the prohibition of marrying women who are prohibited according to Islamic law, or marriages that are forbidden by religion.⁹ This discussion is often referred to as *az-zawaj bi al-kitabiyat* (marriage with women who are experts in the Bible, i.e. Jews and Prophets), *az-zawaj bi al-musyrikat* (marriage with polytheistic women), or *az-zawaj bi ghair al-muslimah* (marriage with non-Muslim women).¹⁰

In the context of the discussion of Islamic law, especially in classical fiqh literature, interfaith marriages can be divided into three categories: first, marriage between a Muslim man and a polytheistic woman; second, marriage between a Muslim man and a woman who is a scholar of the book; and third, marriage between a Muslim woman and a non-Muslim man (including polytheists or book scholars).¹¹

First, marriage between a Muslim man and a polytheistic woman, what is meant by a polytheistic woman is a woman who is religious with a religion that is not heavenly¹² In this case, scholars agree that a Muslim man is forbidden to marry a polytheistic woman. This view is based on the Qur'an verse Surah Al-Baqarah (2) verse 221 which states: "And do not marry polytheistic women before they have believed. Indeed, a believing female servant is better than a polytheistic woman even though she attracts your heart. And do not marry a polytheist before they believe. Indeed, a believing male servant is better than a polytheistic man even though he attracts your heart. They invite to hell, while Allah invites them to heaven and forgiveness with His permission. Allah explained His verses to people so that they might learn from them."

According to al-Mawardi, what is meant by *polytheism* in the verse - according to one of the opinions he cited - is polytheistic women from the Arabs of Mecca with whom they worship idols, according to him the verse is not *dinazakh* at all and remains according to the

⁹ Muhammad Husni Abdulah Pakarti, "Putusan Hakim Pengadilan Negeri Surakarta Terhadap Perkawinan Beda Agama Yang Legal Secara Hukum Negara," *Mutawasith: Jurnal Hukum Islam* 5, no. 2 (2022): 99-110, <https://doi.org/10.47971/mjhi.v5i2.445>.

¹⁰ Wahbah Zuhaili, *Al-Fiqh al-Islami wa Adillatuhu*, Jilid 7 (Damaskus: Dar al-Fikr, 1985), 153.

¹¹ Masjufuk Zuhdi, *Masail Fiqhiyah*, (Jakarta: Gunung Agung, 1994), p. 70.

¹² The Samawi religion is a religion that has a holy book and a prophet sent such as Islam, Christianity, and Judaism. See Wahbah Zuhaili, *Al-Fiqh al-Islami wa Adillatuhu*, Volume 7, 151.

original provisions.¹³ The verse expressly states the prohibition for a Muslim to marry a *polytheistic* woman before she converts to Islam. This prohibition is based on the belief that believing women are better than polytheistic women, as well as an awareness of the differences in religious principles that underlie this prohibition. The verse also lists the moral and spiritual reasons why the prohibition is affirmed in Islamic teachings, including regarding the ultimate goal of human life in this world and in the hereafter.

Second, the marriage between a Muslim man and a woman who is an expert in the book, in the classical literature it is found that scholars agree on the possibility of marriage, but although it is permissible for some scholars from the Shafiiyyah, Hanafiyyah, Hanabilah and Malikiyyah (in one of their opinions) to consider that the marriage is *makruh*, this¹⁴ opinion refers to QS. Al-Maidah (5): 5 which states: "*On this day it is lawful for you all that is good, the food (slaughter) of the people of the Book is lawful for you and your food is halal for them. And if you pay their mascot to marry you, you will not commit adultery and make them pets. Whoever disbelievers after believing is indeed in vain their deeds and in the Hereafter he is among the losers.*"

Scholars interpret this verse as an indication that it is permissible for a Muslim to marry a woman who is a scholar of the book, that is, a Jewish woman or a Nashrani. In his commentary, Al-Maraghi explained that what is meant by "*al-muhshanat*" in this verse are independent women. Therefore, believers are allowed to marry free women from among the believers, as well as free women from among those who have been given the previous book, i.e. Jewish women or Prophets, as long as they give them a dowry.¹⁵ not to those living in non-Muslim countries.¹⁶

Third, the marriage between a Muslim woman and a non-Muslim or infidel man is also seen by Islamic jurists (ulama) as an act that is forbidden by Islam and this prohibition is also included in the consensus (*ijma'*) among them. This prohibition is based on the view that husbands tend to influence their wives to follow their religious beliefs. In practice, wives will tend to be influenced and follow their husband's habits, especially in the religious aspect, as affirmed in the words of Allah in Surah Al-Baqarah verse 221: "*They invite to hell*". Therefore, Islam strictly prohibits this kind of marriage practice because the *madharrat* is greater than the benefits.¹⁷ The above explanation gives a conclusion that interfaith marriage, although in practice is allowed in some circumstances, it is better not to do it because the side of the *madharat* is greater than the benefit.¹⁸

In response to the phenomenon of interfaith marriage, which is increasing in cases and practices, fatwa institutions in Indonesia also contribute to maintaining stability and peace of society by issuing fatwas related to the law of interfaith marriage. There are at least

¹³ Ali bin Muhammad al-Mawardi, *Tafsir al-Mawardi*, Juz I, (Beirut: Dar al-Kutub al-Ilmiyyah, Tth), 281.

¹⁴ Wahbah Zuhayli, *Al-Fiqh al-Islami wa Adillatuh*, Vol. 7, 154.

¹⁵ Al-Qurthuby, *Jami'li Ahkam Qur'an*, (Al-Qahirah: Darel Qutub al-Mishriyah T.th), 79.

¹⁶ Al-Qurthuby, *Jami'li Ahkam Qur'an*, (Al-Qahirah: Darel Qutub al-Mishriyah T.th), 79.

¹⁷ Wahba Zuhayli, *Al-Fiqh al-Islami wa Adillatuh*, Vol. 7, 152.

¹⁸ M. Thahir Maloko et al., "Analyzing the Prohibition of Interfaith Marriage in Indonesia: Legal, Religious, and Human Rights Perspectives," *Cogent Social Sciences* 10, no. 1 (December 31, 2024), <https://doi.org/10.1080/23311886.2024.2308174>; S. D Rismawati, "Choosing One Religion and Getting Married: The Meaning and Legal Culture of Interfaith Marriages Couples in Purbo Pekalongan Indonesia," *Jurnal Hukum Dan Pembangunan*, 17, no. 1 (2017).

three institutions that take part in this issue, including: Lajnah Bahtsul Masail NU which issued a fatwa three times in several conferences held in several places. *First*, the Decision of the 1st General Conference of the Syuriah Nahdlatul Ulama Executive Board in Jakarta on 21-25 Syawwal 1379 H/18-22 April 1960 AD. In the conference, it was decided that marriage between Muslim men and Kafir women who are not *Kafir Kitabi Asli* is invalid and haram.¹⁹ The legal basis taken by NU is the Book of Tuhfah al-Thullâb bi Syarh al-Tahrîr and Hâsiyah al-Syarqawi juz II.

Second, through the Decree of the Fourth Congress of Jam'iyah Thariqah Mu'tabarrah in Semarang on 4-7 Sha'ban 1388 H/28-30 October 1968 AD. In the Congress, it was also agreed that the marriage of a Muslim woman with a Christian woman is invalid, and vice versa, the marriage of a Muslim woman with a non-Muslim man is invalid. Even though it has been carried out with two contracts. Likewise, marriage between a Muslim woman and a non-Muslim man is also considered invalid.²⁰ The decision is based on the books Fath al-Mu'in and I'ânah al-Thâlibîn. *Third*, through the Decree of the 28th Nahdlatul Ulama Congress in Yogyakarta on 26-29 Rabi'ul Awal 1410 H/25-28 November 1989 AD.

Nahdlatul Ulama (NU) in its fatwa is very clear and firm, the fatwa issued by NU has a number of backgrounds. Among them is the sociological background, where the birth of the fatwa on interfaith marriage is based on the unrest of people who do not or do not know the law of interfaith marriage. For this reason, NU takes a role in solving problems that occur in the midst of the community so that NU held a congress to solve problems in Indonesian society by forming Lajnah Bahtsul Masail.²¹

The Muhammadiyah Tarjih Council at the XXII Muhammadiyah Tarjih and Tajdid Congress, which was held on February 12-16, 1989 in Malang, East Java, in the Congress, several decisions were taken related to the Sakinah Family Guidance and Interfaith Marriage. According to the decision of the Congress, interfaith marriage is declared haram. Therefore, marriage between a Muslim man and a woman who is a scholar or polytheist, as well as marriage between a Muslim woman and a man who is a scholar or a polytheistic man and an infidel, is considered haram (Decree of the Tarjih Congress: 301-308).²²

The VII MUI National Conference on July 26-29, 2005 in Jakarta decided that interfaith marriage is haram and invalid, and that marriage between a Muslim man and a woman who is a scholar of the book is also haram and invalid according to *qaul mu'tamad*. This decision is based on several considerations, namely: a) the recent increase in the number of interfaith marriages; b) controversies and unrest that arise in the community due to interfaith marriages; c) there is a thought that justifies interfaith marriage under the pretext

¹⁹ Muhammad Adil and Syahril Jamil, "Interfaith Marriage in Indonesia: Polemics and Perspectives of Religious Leaders and Community Organizations," *Religion & Human Rights* 18, no. 1 (March 27, 2023): 31-53, <https://doi.org/10.1163/18710328-bja10031>; Nurrohman Syarif et al., "Eclecticism of Islamic Law and the Validity of Interfaith Marriages in Indonesia," *Manchester Journal of Transnational Islamic Law and Practice* 18, no. 2 (2022); Aminah, Awaludin, and Hilmi, "Hukum Pernikahan Beda Agama Menurut Ulama Indonesia."

²⁰ Aziz Masyhuri, *al-Fuyûdhât al-Rabbaniyah*, (Surabaya: Khalista, tt.), 98-99.

²¹ Adil and Jamil, "Interfaith Marriage in Indonesia: Polemics and Perspectives of Religious Leaders and Community Organizations"; Syarif et al., "Eclecticism of Islamic Law and the Validity of Interfaith Marriages in Indonesia"; Aminah, Awaludin, and Hilmi, "Hukum Pernikahan Beda Agama Menurut Ulama Indonesia."

²² Decree of the XXII Muhammadiyah Tarjih Congress, Malang, East Java, 1989, 301-308.

of human rights and benefits; and d) the need to maintain peace of household life by establishing a fatwa on interfaith marriage as a guideline.²³ The above religious institutions, both Lajnah Bahtsul Masail, MUI and Majelis Tarjih, determine the legal status of interfaith marriage on almost the same basis, namely the Quran, As-Sunnah, Qawaid Fiqhiyah and the opinions of scholars.

Interfaith Marriage within the Formal Legal Framework of Indonesia

Marriage in Indonesia is regulated juridically in the Marriage Law, especially in Article 2 Paragraph (1) of Law Number 1 of 1974 concerning Marriage.²⁴ The article states that "Marriage is said to be valid if it is carried out according to the law of each religion and its belief." However, as explained above, there is no provision that explicitly discusses interfaith marriage in the Marriage Law. The Marriage Law only regulates the validity of marriage if it is carried out in accordance with the teachings of their respective religions and beliefs. There is no provision that expressly prohibits marriage for individuals of different religious beliefs.

Before the emergence of the 1974 UUP, interfaith marriage was included in mixed marriage. Mixed marriage is regulated in the *Regeling op de Gemengde Huwelijk* (GHR) which is listed in *staatblad*. 1898 Number 1587 which is the Mixed Marriage Regulation/PPC). In the PPC, there are several provisions on mixed marriage, including: Article 1 of the GHR explains that "*mixed marriage is a marriage between people who in Indonesia are subject to different laws.*" Article 7 paragraph (2) also explains that: "*differences in religion, class, population or origin cannot be an obstacle to the continuation of marriage*". The aforementioned articles emphasize the arrangement of interfaith marriages, even mentioning that religious differences cannot be used as an excuse to prevent marriage. The PPC was issued specifically by the Dutch Colonial Government to anticipate the differences in groups contained in the Indische Staats Religing (ISR) which is a Constitutional Regulation of the East Indies.²⁵

Meanwhile, the regulation regarding mixed marriage is also regulated in Law No. 1 of 1974 concerning Marriage but with a different version of meaning. This is stated in Article 57, which states that "*mixed marriage in this Law refers to a marriage between two persons who in Indonesia are subject to different laws, due to differences in nationality and one of the parties has Indonesian citizenship.*" From this article, it can be seen that there is a significant difference between the GHR and Law No. 1 of 1974 concerning Marriage, where what is meant by mixed marriage in the UUP only includes marriages between two different people in the context of citizenship and is no longer a difference in religious context. Therefore, Mixed Marriage as referred to in PPC S. 1898 No. 158 above, is not known in Law No. 1 of 1974.

²³ Majelis Ulama Indonesia, 2011, MUI Fatwa Association Since 1975, (Jakarta: 2011), 477.

²⁴ Muhazir Muhazir and Azwir Azwir, "Divorce Bureaucracy in the Sharia Space: Examining Practices in Langsa City, Aceh," *At-Ta'fikir* 17, no. 1 (2024): 44-55.

²⁵ Rifqiawati Zahara and Makhfud, "Problematisasi Pernikahan Beda Agama: Antara Konsep Dan Praktek Di Masyarakat," *Indonesian Journal of Humanities and Social Sciences* 3, no. 1 (March 31, 2022): 59-72, <https://doi.org/10.33367/ijhass.v3i1.2839>; Muhammad Salahuddin Salahuddin et al., "Practice of Interfaith Marriages in Indonesia on Islamic Jurisprudence," *International Journal of Social Science and Religion (IJSSR)*, December 13, 2023, 477-90, <https://doi.org/10.53639/ijssr.v4i3.205>; Ermi Suhasti, Siti Djazimah, and Hartini Hartini, "Polemics on Interfaith Marriage in Indonesia between Rules and Practices," *Al-Jami'ah: Journal of Islamic Studies* 56, no. 2 (May 30, 2019): 367-94, <https://doi.org/10.14421/ajis.2018.562.367-394>.

In relation to interfaith marriage, legal experts and practitioners have different views on the Marriage Law, at least there are several views and interpretations: First, interfaith marriage cannot be justified and is a violation of Article 2 paragraph (1) of the UUP: Marriage is valid, if it is carried out according to the law of each religion and its belief; and Article 8 letter (f): that marriage is prohibited between two persons who have a relationship which, by their religion or other applicable regulations, is prohibited. This interpretation is also strengthened by the birth of SEMA Number 2 of 2023 which states that the Court does not grant applications for marriage registration between people of different religions and beliefs. Therefore, with this article, interfaith marriage is considered invalid and void by the marriage implementing official.

Second, interfaith marriage is allowed, legal and can be carried out because it has been covered in mixed marriage, as written in Article 57 of the Constitution, namely two people who in Indonesia are subject to different laws. According to this second view, the article not only regulates marriage between two people who have different nationalities, but also regulates marriage between two people of different religions. According to him, the implementation is carried out according to the procedures regulated by Article 6 of the PPC: (1) Mixed marriage is carried out according to the law applicable to the husband so that the wife follows the legal status of the husband, unless the permission of both parties to the bride and groom, which should be there, by referring to Article 66 of the Constitution. *Third*, the UUP does not regulate the issue of interreligious marriage. Therefore, if you refer to Article 66 of the UUP which emphasizes that other regulations governing marriage, as far as it has been regulated in this law, are declared invalid. However, because the UUP has not regulated it, the old regulations can be re-enforced, so the issue of interfaith marriage must be guided by the mixed marriage (PPC) regulations.²⁶

According to Purwoto S. Gandasubarata, mixed marriages or interfaith marriages have not been fully and firmly regulated. Therefore, there is a Population and Civil Registration Office that does not want to register interfaith marriages on the grounds that the marriage is contrary to Article 2 of the Marriage Law Number 1 of 1974. There is also the Population and Civil Registration Office that wants to record based on *Gemengde Huwelijken Regeling* (GHR), that marriage is according to the husband, so that the wife follows the legal status of the husband.²⁷ The ambiguity and infirmity of the Marriage Law in discussing cases

²⁶ Hermanto, Fikri, and Hidayat, "Menyoal Tentang Perkawinan Beda Agama Dan Akibatnya Terhadap Hak Waris Di Indonesia"; Mochammad Rizky Eka Aditya et al., "The Problem of Interfaith Marriage in Indonesia: A Juridical-Normative Approach," *El-Ussrah: Jurnal Hukum Keluarga* 6, no. 2 (December 30, 2023): 456, <https://doi.org/10.22373/ujhk.v6i2.20059>; Adella Yuana and Ilka Sandela, "Konflik Hukum Perkawinan Beda Agama Di Indonesia (Studi Penetapan Hakim Nomor: 12/Pdt.P/2022/Pn Ptk)," *Ius Civile: Refleksi Penegakan Hukum Dan Keadilan* 6, no. 2 (November 14, 2022): 291, <https://doi.org/10.35308/jic.v6i2.6123>; Eneng Juandini, "Perspektif Hukum Positif Dan Hukum Islam Di Indonesia Terhadap Perkawinan Beda Agama," *Journal on Education* 5, no. 4 (April 23, 2023): 16405, <https://doi.org/10.31004/joe.v5i4.2795>; Bayu Dwi Widdy Jatmiko, Nur Putri Hidayah, and Samira Echaib, "Legal Status of Interfaith Marriage in Indonesia and Its Implications for Registration," *Journal of Human Rights, Culture and Legal System* 2, no. 3 (November 17, 2022): 167-77, <https://doi.org/10.53955/jhcls.v2i3.43>.

²⁷ Hasna Lathifatul Alifa, Ali Sodikin, and Bian Ambarayadi, "Interreligious Marriages in Indonesia: From Legal Disharmony to Legal Conflict," *Justicia Islamica* 20, no. 2 (2023); Ade Ulfa Amin, Syafruddin Syam, and Imam Yazid, "Islamic Law Perspective: The Issue of Interfaith Marriage and

related to interfaith marriage in Article 2 is the statement "*according to the law of each religion or belief*" which means that when the marriage of two husband and wife is the same, then there is no problem, but in the event of a difference between the two religious laws or beliefs must be fulfilled by all, meaning once according to the religious law or the candidate's belief and once again according to the religious law or the trust of other candidates.²⁸

In practice in Indonesia, interfaith marriage can be carried out by adhering to one of the ways either from religious law or the beliefs of the husband or wife-to-be. This means that one of the other candidates follows or sits down to one of the laws of religion or the beliefs of his partner. In filling the legal uncertainty because the Marriage Law Number 1 of 1974 does not expressly regulate interfaith marriage, the Supreme Court once gave a decision on interfaith marriage on January 20, 1986 Number: 1400 K/Pdt/1986, which was decided on Andi Vonny Gani P's application to marry Adrianus Petrus Nelwan.²⁹

This case began with a marriage that was to be recorded by Ani Vonny Gani P (Muslim Woman) with Petrus Hendrik Nelwan (Christian Male). In its decision, the Supreme Court stated that by filing a marriage registration at the Civil Registration Office, Vonny had ignored the Islamic religious regulations on marriage and therefore it must be considered that he wanted his marriage not to take place according to Islam. Thus, they have a non-Muslim status, so the Civil Registry Office must carry out the registration of the marriage. Thus, it is possible for a marriage of different religions to be held at the Civil Registration Office, as the legal basis is the jurisprudence of the Supreme Court's decision Reg No. 1400 K/Pdt/1986 which grants the request between the two brides of different religions, Islam and Christianity. Thus, it must be interpreted that by submitting the application, the applicant no longer cares about his religious status. In such circumstances, the Civil Registry Office as the only agency authorized to carry out marriages for both prospective non-Muslim spouses is obliged to accept the applicant's application.

From the Supreme Court's decision on interfaith marriage is considered very controversial, but the decision is a legal solution to fill the legal void because it is not expressly stated in Marriage Law Number 1 of 1974. In addition, the Supreme Court Decision Reg. No. 1400K/Pdt/1986 can be used as jurisprudence, so that in settling interfaith marriage cases, the decision can be used as one of the many sources of law that apply in Indonesia.³⁰

Its Impact on Society in Indonesia," *Journal of World Science* 2, no. 8 (August 30, 2023): 1268-79, <https://doi.org/10.58344/jws.v2i8.410>; Lolita Permanasari, "Legal Analysis of Interfaith Marriage In Indonesia," *Journal Of Law Theory And Law Enforcement*, January 20, 2023, 35-44, <https://doi.org/10.56943/jlte.v2i1.282>; Mohamad Abdun Nasir, "Negotiating Muslim Interfaith Marriage in Indonesia: Integration and Conflict in Islamic Law," *Mazahib* 21, no. 2 (December 27, 2022): 155-86, <https://doi.org/10.21093/mj.v21i2.5436>; Salahuddin et al., "Practice of Interfaith Marriages in Indonesia on Islamic Jurisprudence."

²⁸ Soedharyo Soimin, *The Law of People and Family*, (Jakarta: Sinar Grafika, 2002), 95.

²⁹ Soedharyo Soimin, *Law of People and Family*, 95.

³⁰ Alifa, Sodiqin, and Ambarayadi, "Interreligious Marriages in Indonesia: From Legal Disharmony to Legal Conflict"; Amin, Syam, and Yazid, "Islamic Law Perspective: The Issue of Interfaith Marriage and Its Impact on Society in Indonesia"; Permanasari, "Legal Analysis of Interfaith Marriage In Indonesia"; Nasir, "Negotiating Muslim Interfaith Marriage in Indonesia: Integration and Conflict in Islamic Law"; Salahuddin et al., "Practice of Interfaith Marriages in Indonesia on Islamic Jurisprudence."

Mixed marriage referred to in Article 57 of the Marriage Law is a marriage between two people who are subject to different laws, due to differences in nationality and one of the parties is an Indonesian citizen. If the marriage also involves religious differences between the parties, then the arrangement is returned to the law where the marriage was performed. However, there is an exception in the article, namely mixed marriage can be carried out as long as it does not contradict the existing law in Indonesia for Indonesian citizens. Based on this, even though marriage is carried out in a country that allows marriage of different faiths, if it is carried out by an Indonesian citizen, the marriage cannot be legalized.³¹

In the Indonesian legal system, interfaith marriage still causes debate, so in practice it often occurs and to facilitate the couple, various ways are carried out, including legal smuggling. Based on the concept of international civil law, legal smuggling is an act committed in a foreign country and recognized as legal in that foreign country.³² The purpose of this act is to avoid legal consequences that are not desired by the parties or to realize a legal consequence that they want. This act will be null and void by the forum or not recognized by the forum if the act is carried out in a foreign country with the aim of circumventing *the lex fori* law (the law of the judge) which would prohibit such acts from being carried out in the territory of the forum.³³

Jarwo Yunu said that there are two ways to respond to interfaith marriage, namely (Jarwo Yunu, 2005: 11): *First*, one of the parties can change religions, but this can mean legal smuggling, because what actually happens is only legally circumventing the provisions of Law Number 1 of 1974 concerning Marriage. However, after the marriage took place, each party returned to embrace their own religion. This method is highly discouraged. *Second*, based on the Supreme Court Decision Number 1400.K/Pdt/1986, the Civil Registry Office is allowed to hold interfaith marriages.³⁴

³¹ Permanasari, "Legal Analysis Of Interfaith Marriage In Indonesia"; Syarif et al., "Eclecticism of Islamic Law and the Validity of Interfaith Marriages in Indonesia"; Benny Djaja and Teddy Francis, "Registration And Recognition of Interfaith Marriage In Indonesia," *International Journal of Application on Social Science and Humanities* 1, no. 1 (February 20, 2023): 1292-97, <https://doi.org/10.24912/ijassh.v1i1.25826>; Nasir, "Negotiating Muslim Interfaith Marriage in Indonesia: Integration and Conflict in Islamic Law"; Fathol Hedi, Abdul Ghofur Anshori, and Harun Harun, "Legal Policy of Interfaith Marriage in Indonesia," *Hasanuddin Law Review* 3, no. 3 (December 26, 2017): 263, <https://doi.org/10.20956/halrev.v3i3.1297>; Muhammad Ihsan Firdaus, "The Legalization of Interfaith Marriage in Indonesia (Between Universalism and Cultural Relativism)," *The Easta Journal Law and Human Rights* 1, no. 02 (February 28, 2023): 64-72, <https://doi.org/10.58812/eslhr.v1i02.52>.

³² Prasetyo Ade Witoko, Ambar Budhisulistiyawati, *Smuggling of Interfaith Marriage Laws in Indonesia*, 256.

³³ Ahmad Fernanda, Zainal Azwar, and Dailani Ismail, "Criticizing the Verdict of 916/Pdt.P/2022/PN.Sby Surabaya District Court Against Interfaith Marriage from the Perspective of Marriage Law in Indonesia," *Al-Qadha: Jurnal Hukum Islam Dan Perundang-Undangan* 10, no. 2 (December 1, 2023), <https://doi.org/10.32505/qadha.v10i2.6150>.

³⁴ Yuana and Sandela, "Konflik Hukum Perkawinan Beda Agama Di Indonesia (Studi Penetapan Hakim Nomor: 12/Pdt.P/2022/Pn Ptk)"; Juandini, "Perspektif Hukum Positif Dan Hukum Islam Di Indonesia Terhadap Perkawinan Beda Agama"; Deni Yusup Permana, "Legal Study of Interfaith Marriage According to Positive Law and Religious Law Regarding the Practice of Interfaith Marriage in Indonesia," *The Easta Journal Law and Human Rights* 2, no. 02 (February 29, 2024): 41-50, <https://doi.org/10.58812/eslhr.v2i02.173>; Eka Aditya et al., "The Problem of Interfaith Marriage in Indonesia: A Juridical-Normative Approach"; Nofrizal Nofrizal et al.,

In a seminar in Depok, Professor Wahyono Darmabrata, a Professor of Civil Law from the University of Indonesia, also explained that there are four common ways taken by couples of different religions so that their marriage can take place. The four ways include: *First*, asking for a determination from the court. On the basis of that determination, the couple held a wedding at the Civil Registration Office, but according to him, this method can no longer be carried out since the emergence of Presidential Decree No. 12 of 1983 concerning the Structuring and Improvement of Civil Registration Administration. *Second*, carry out marriage in accordance with the laws of each religion embraced by the couple. This process requires two contracts, the first according to the husband's religion and the second according to the wife's religion.

Third, temporary submission to one religious law, which requires one spouse to submit himself to the religious law of his partner temporarily to facilitate the implementation of marriage. This method is highly discouraged because there are elements of legal smuggling and playing with religion.³⁵ *Fourth*, getting married abroad, where couples choose to get married in other countries that have marriage rules that make it easier for couples of different religions to carry out their marriages.³⁶ The process is that both couples who marry abroad have been considered to have been subject to foreign law. Then the couple will get a deed from the country, which then the deed will be taken home for record and not get another deed from the state.³⁷

The efforts and procedures that can be carried out by couples who intend to undergo interfaith marriages in Indonesia involve several formal steps, including: *First*, the couple must register at the Population and Civil Registration Office by bringing an identity card that includes a passport. However, keep in mind that religious differences can be an obstacle, where the Civil Registry Office can refuse such registration. When there is a refusal, the couple concerned has the right to submit an application letter along with a letter of proof of rejection from the Office of the Population and Civil Registration Office to the District Court. In the trial process, both parties are required to present identity cards, relevant written documents, and supporting witnesses.

Second, if the District Court grants the application, then the couple can receive a letter of determination within 14 days after the hearing. However, it should be noted that the process is not easy and often takes a long time and involves a complex process, which can ultimately hinder the process of getting married as desired.³⁸

Social Reality: Practice and Perception on the Ground

The debate over interfaith marriage never seems to come to an end. Therefore, on July 17, 2023, the Supreme Court, as the institution that oversees the Law, has the authority to maintain order by issuing a Supreme Court Circular Letter (SEMA) as one of its legal products. SEMA is an official notice issued by the Supreme Court Chairman and addressed

"Implications of Supreme Court Jurisprudence No.1400k/Pdt/1986 on Marriage Different Religions," *Unram Law Review* 6, no. 1 (April 28, 2022), <https://doi.org/10.29303/ulrev.v6i1.205>.

³⁵ Jarwo Yunu, *Aspects of Interfaith Marriage in Indonesia*, (Jakarta, CV. Insani, 2005), 11.

³⁶ Wahyono Darmabrata and Surini Ahlan Sjarif, *Marriage and Family Law in Indonesia*, Cet 2. (Jakarta: Publishing Board, Faculty of Law, University of Indonesia, 2004), 6.

³⁷ Sirman Dahwal, *Interfaith Marriage Law in Theory and Practice in Indonesia*, 18.

³⁸ Septiayu Restu Wulandari, Fitri Siahaan, Siti Nur L U Khasanah, *Legal Status of Interfaith Marriage and Citizenship in Indonesia*, *Pelita Law Journal*, Vol. 2 No. 2 (November 2021), 10-11.

to all levels of the judiciary. This circular contains technical instructions and directions that focus on the smooth implementation of administrative tasks in the administration of justice.³⁹ Therefore, it can be interpreted that SEMA plays a role as a supervisory tool and guideline for judges in the practice of proceedings in the Court.⁴⁰ Judges in this case are required to be guided by the following provisions:

1. A valid marriage is a marriage that is carried out according to the law of each religion and belief, in accordance with Article 2 paragraph (1) and Article 8 letter (f) of Law Number 1 of 1974 concerning Marriage.
2. The court did not grant the application for registration of marriages between people of different religions and beliefs.

The Supreme Court Circular Letter has the power to bind internally to judicial institutions under the authority of the Supreme Court. This means that SEMA must be complied with by all judicial institutions. SEMA is recognized and legally binding when there is an order from a higher regulation or because of the inherent authority of the Supreme Court to issue the guidelines.⁴¹ Therefore, with the issuance of this SEMA, all judicial institutions under the Supreme Court are prohibited from granting permits for the practice of interfaith marriage and if it occurs, the marriage is considered invalid.

However, there are those who argue that several problems have emerged that indicate a legal setback in SEMA Number 2 of 2023. This can be seen from the material aspect of the SEMA which is contrary to the content of Article 32 Letter A of Law No. 23 of 2006 concerning Population Administration which states, "*Marriage as referred to in Article 38 letter a also applies to marriages determined by the court.*" The explanation of Article 38 letter a states, "*A marriage determined by the court is a marriage carried out between people of different religions or those carried out by believers*".

Vice Chancellor of UIN Syarif Hidayatullah Jakarta, Ahmad Tholabi Kharlie, stated that SEMA No. 2 of 2023 does not mean ending the practice of interfaith marriage. According to him, the option of interfaith marriage still exists thanks to the existence of Article 35 letter (a) of Law No. 23 of 2006 concerning Population Administration which is based on the spirit to ensure the administrative rights of citizens without discrimination.⁴²

SEMA Number 2 of 2023 is not only contrary to Law No. 23 of 2006 concerning Population Administration, but also contrary to Article 7 Paragraph (2) of the GHR, otherwise known as the Mixed Marriage Regulation, which regulates interfaith marriages. In this article, it is expressly stated that, "*Differences in religion, nation, or descent are in no way an obstacle to marriage.*" Through the content of this article, it is very clear that the GHR allows interfaith marriages.

Until now, GHR is a positive law that applies in Indonesia. This is based on Article II

³⁹ Raihan Andhika Santoso, Elan Jaelani, and Utang Rosidin, —*The Position and Legal Strength of the Supreme Court Circular Letter (Sema) in Indonesia's Positive Law*, I Deposition: Journal of Legal Publications, no. 4 (2023), 13–14.

⁴⁰ Rahmi Murniwati, *Legal Consequences for Children Born from Interfaith Marriages After the Enactment of Sema No. 2 of 2023*, UNES, Volume 7, Issue 4, (January 2024), 1389.

⁴¹ Irwan Adi Cahyadi, *The Position of the Supreme Court Circular Letter (SEMA) in Positive Law in Indonesia*, Brawijaya Law Student Journal, no. 2 (2014), 6–10.

⁴² <https://www.hukumonline.com/berita/a/sema-belum-cukup-untuk-mengakhiri-praktik-beda-agama-lt64b83db033da5/>

of the Transitional Rules of the Constitution of the Republic of Indonesia 1945 which states that all existing state agencies and regulations are still valid before new regulations are issued. Based on this article, it can be known that the GHR is still valid today because there is no law regulating interfaith marriage. In addition, Article 64 of Law No. 1 of 1974 concerning Marriage ("Marriage Law") states that if the Marriage Law does not regulate a certain matter, it will refer to the provisions that have existed before. In the current Marriage Law, there is no provision regarding the prohibition of interfaith marriage so the provision that is still valid is GHR.

In principle, the purpose of establishing a marriage in accordance with the provisions of Article 2 paragraph (1) of Law Number 1 of 1974 is to ensure that marriage is considered valid if it is carried out in accordance with the provisions of the applicable law in their respective religions and the beliefs embraced by the individuals concerned. Normatively, this provision implies that the implementation of marriage must comply with the conditions set by each religion or belief embraced by the prospective bride and groom who intend to get married. This includes the requirements that apply to the religion or belief and affirms that marriage with a difference in belief or belief between the two parties cannot be performed.

However, in 2022 there was an interesting phenomenon in the jurisdiction of the Surabaya District Court, where the single judge granted the case application with number 916/Pdt.P/2022/PN. Sby about interfaith marriage. The determination made in the application case has attracted the attention of many parties in Indonesian society. In particular, religious community organizations gave arguments against the decision. However, given that Indonesia is a state of law (*rechtsstaat*) and not a state of power (*maachstaat*), and is not secular,⁴³ all legal events that occur, including the determination of interfaith marriages, must be explained in depth and given strong legal arguments. This aims to provide understanding and create harmony in people's lives.

In the case of an application for interfaith marriage at the Surabaya District Court Number 916/Pdt.P/2022/PN. Sby, the Petitioners submitted postulates and reasons as the basis for the application. Some of the reasons that may be filed may include:

1. The Legal Standing of the Applicants. In the context of judicial competence, the legal position of the Petitioners in filing civil cases related to interfaith marriage at the Surabaya District Court is very sufficient. This is because both are individuals domiciled in the city of Surabaya and have expressed their desire to hold interfaith marriages with each other at the Surabaya City Population and Civil Registration Office.
2. The provisions of Article 21 paragraph (3) of Law No. 1 of 1974 which expressly states that "*The parties whose marriage is rejected have the right to apply to the Court in the territory where the marriage registrar who holds the refusal has the position to give a decision, by submitting the certificate of refusal mentioned above.*"⁴⁴
3. The Petitioners' desire to get married without giving up their respective beliefs. In the context of the application, the prospective groom adheres to Islam while the prospective bride adheres to Christianity. Nevertheless, their desire to be

⁴³ Ias Muhlashin, "The State of Law, Democracy and Law Enforcement in Indonesia," *Al-Qadau Journal: Islamic Family Justice and Law* 8, no. 1 (2021): 87-100,

⁴⁴ Indonesia, *Law No. 1 of 1974 concerning Marriage* (LN No. 1 of 1974, TLN No. 3019).

together and establish a marriage bond is not shaken by differences in religious beliefs. They have decided to stay together and build a strong relationship, despite having to face challenges arising from differences in religious beliefs.

After the filing of this application, the single judge of the Surabaya District Court in examining with Number 916/Pdt.P/2022/PN. Sby provided a legal basis for consideration. This legal basis is the spirit of a legal product in order to create a sense of justice for all parties involved in the lawsuit based on the One Godhead. These considerations are contained in several points, including:

1. Article 29 paragraph (2) of the 1945 Constitution states that the State guarantees the freedom of each resident to embrace their respective religion and to worship according to their religion and belief. The provisions in this article are interpreted and used as guidelines by court judges that the state guarantees freedom of religion which implies that marriage cannot hinder a person's freedom of religion and vice versa, religious differences do not hinder a person's marriage.
2. Article 28 B paragraph 1 of the 1945 Constitution which states that everyone has the right to form a family and continue their offspring through legal marriage. This article is the basis for the judge's subsequent consideration that applicant I (Islam) and applicant II (Christian) have the right to maintain their respective beliefs and carry out their marriage to form the family they want.
3. Article 35 letter (a) of Law number 23 of 2006 concerning Population Administration which states that what is meant by marriage determined by the Court is a marriage carried out between people of different religions, which is interpreted by the Single Judge as a provision that provides the possibility of recording interfaith marriages carried out by the two couples.
4. The Supreme Court's Decision No. 1400 K/1986 which ruled that religious differences from prospective husband and wife are not a prohibition on marriage for them.

The decision of the Surabaya District Court to allow interfaith marriage has caused various responses, both pro and con, because the decision is contrary to the views of the majority of religions in Indonesia. In this decision, it can be seen that the judge wants to uphold justice by positioning himself as a judge who has the right and authority to make decisions. In addition, with the judge's decision, it is hoped that there will be no violation of constitutional rights and human rights by the state, and there will be no irregularities in the application of the law.

Conclusion

Interfaith marriage is a form of marriage between two individuals - a man and a woman - who are subject to different religious laws. In the Indonesian legal context, interfaith marriage can be classified into three main views. First, according to Islamic law, the majority of scholars agree that interfaith marriage is permissible only if a Muslim man marries a woman of the Book, while otherwise it is considered invalid. Second, according to the views of fatwa institutions in Indonesia such as the NU's Lajnah Bahtsul Masail, the Muhammadiyah Tarjih Council, and the MUI, the majority state that interfaith marriages are invalid, except for the special view of the NU's Lajnah Bahtsul Masail which allows it under

certain conditions (genuine kafir kitabi). Third, in Marriage Law No. 1/1974, there is no explicit provision regarding interfaith marriage. However, based on Article 2 Paragraph 1, marriage is considered valid if it is conducted according to the laws of each religion and belief, so it can be interpreted that interfaith marriage is not valid according to the law. On the other hand, if viewed from the perspective of human rights as stated in Article 16 of the Universal Declaration of Human Rights and Article 28B Paragraph 1 of the 1945 Constitution, every individual, regardless of religion, has the right to marry and form a family. This opens up room for interpretation that interfaith marriages can be considered constitutionally valid. Therefore, the Constitutional Court needs to consider reinterpreting Article 2 Paragraph 1 of the Marriage Law by taking into account social developments and a more inclusive understanding of human rights. This reinterpretation is important to ensure that legal policies taken are in line with human rights principles and do not discriminate against individual rights based on religion.

This research makes an important contribution to the development of legal discourse related to interfaith marriage in Indonesia, particularly by highlighting the tension between positive legal norms, religious law and human rights principles. It also highlights the urgency of reformulating national marriage law to be more adaptive to social dynamics and religious plurality in Indonesian society. The limitation of this research lies in its normative approach, which does not include an empirical study of the experiences of couples undergoing interfaith marriages directly. In addition, the analysis is limited to the national legal framework without comparing it in depth with practices in other countries that have similar multireligious legal systems. For future research, a multidisciplinary approach and comparative studies are recommended to obtain a more holistic and applicable understanding.

References

- Adil, Muhammad, and Syahril Jamil. "Interfaith Marriage in Indonesia: Polemics and Perspectives of Religious Leaders and Community Organizations." *Religion & Human Rights* 18, no. 1 (March 27, 2023): 31–53. <https://doi.org/10.1163/18710328-bja10031>.
- Alifa, Hasna Lathifatul, Ali Sodikin, and Bian Ambarayadi. "Interreligious Marriages in Indonesia: From Legal Disharmony to Legal Conflict." *Justicia Islamica* 20, no. 2 (2023).
- Amin, Ade Ulfa, Syafruddin Syam, and Imam Yazid. "Islamic Law Perspective: The Issue of Interfaith Marriage and Its Impact on Society in Indonesia." *Journal of World Science* 2, no. 8 (August 30, 2023): 1268–79. <https://doi.org/10.58344/jws.v2i8.410>.
- Aminah, Wiwin Siti, Roby Awaludin, and Irfan Hilmi. "Hukum Pernikahan Beda Agama Menurut Ulama Indonesia." *Istinbath | Jurnal Penelitian Hukum Islam* 15, no. 1 (February 27, 2019): 85. <https://doi.org/10.36667/istinbath.v15i1.275>.
- Djaja, Benny, and Teddy Francis. "Registration and Recognition of Interfaith Marriage in Indonesia." *International Journal of Application on Social Science and Humanities* 1, no. 1 (February 20, 2023): 1292–97. <https://doi.org/10.24912/ijassh.v1i1.25826>.
- Eka Aditya, Mochammad Rizky, Dinda Khoirunnisa, Fawwas Fawwas, Ajid Qiston, and Aisyah Zarah Azizah. "The Problem of Interfaith Marriage in Indonesia: A Juridical-Normative Approach." *El-Usrah: Jurnal Hukum Keluarga* 6, no. 2 (December 30, 2023): 456. <https://doi.org/10.22373/ujhk.v6i2.20059>.

- Farid, Diana, Muhammad Husni Abdulah Pakarti, Hendriana Hendriana, and Iffah Fathiah. "Interfaith Marriage: Subjectivity of the Judge in Determination of No. 454/Pdt.p/2018 Surakarta District Court." *Al-Istinbath: Jurnal Hukum Islam* 7, no. 2 (December 1, 2022): 355. <https://doi.org/10.29240/jhi.v7i2.4574>.
- Fernanda, Ahmad, Zainal Azwar, and Dailani Ismail. "Criticizing the Verdict of 916/Pdt.P/2022/PN.Sby Surabaya District Court Against Interfaith Marriage from the Perspective of Marriage Law in Indonesia." *Al-Qadha: Jurnal Hukum Islam Dan Perundang-Undangan* 10, no. 2 (December 1, 2023). <https://doi.org/10.32505/qadha.v10i2.6150>.
- Firdaus, Muhammad Ihsan. "The Legalization of Interfaith Marriage in Indonesia (Between Universalism and Cultural Relativism)." *The Easta Journal Law and Human Rights* 1, no. 02 (February 28, 2023): 64-72. <https://doi.org/10.58812/eslhr.v1i02.52>.
- Hedi, Fathol, Abdul Ghofur Anshori, and Harun Harun. "Legal Policy of Interfaith Marriage in Indonesia." *Hasanuddin Law Review* 3, no. 3 (December 26, 2017): 263. <https://doi.org/10.20956/halrev.v3i3.1297>.
- Hermanto, Agus, Arif Fikri, and Imam Nur Hidayat. "Menyoal Tentang Perkawinan Beda Agama Dan Akibatnya Terhadap Hak Waris Di Indonesia." *Mutawasith: Jurnal Hukum Islam* 5, no. 1 (2022).
- Jatmiko, Bayu Dwi Widdy, Nur Putri Hidayah, and Samira Echaib. "Legal Status of Interfaith Marriage in Indonesia and Its Implications for Registration." *Journal of Human Rights, Culture and Legal System* 2, no. 3 (November 17, 2022): 167-77. <https://doi.org/10.53955/jhcls.v2i3.43>.
- Juandini, Eneng. "Perspektif Hukum Positif Dan Hukum Islam Di Indonesia Terhadap Perkawinan Beda Agama." *Journal on Education* 5, no. 4 (April 23, 2023): 16405-13. <https://doi.org/10.31004/joe.v5i4.2795>.
- Maloko, M. Thahir, Sippah Chotban, Muhammad Ikram Nur Fuady, and Hasdiwanti. "Analyzing the Prohibition of Interfaith Marriage in Indonesia: Legal, Religious, and Human Rights Perspectives." *Cogent Social Sciences* 10, no. 1 (December 31, 2024). <https://doi.org/10.1080/23311886.2024.2308174>.
- Muhazir, Muhazir. "Status Hukum Pernikahan Muslim Pasca Perpindahan Keyakinan Perspektif Hukum Keluarga Islam Di Indonesia." *TAQNIN: Jurnal Syariah Dan Hukum* 3, no. 1 (2021): 22.
- Muhazir, Muhazir, and Azwir Azwir. "Divorce Bureaucracy in the Sharia Space: Examining Practices in Langsa City, Aceh." *At-Taḥkīr* 17, no. 1 (2024): 44-55.
- Nasir, Mohamad Abdun. "Negotiating Muslim Interfaith Marriage in Indonesia: Integration and Conflict in Islamic Law." *Mazahib* 21, no. 2 (December 27, 2022): 155-86. <https://doi.org/10.21093/mj.v21i2.5436>.
- Nofrizal, Nofrizal, Zulkifli Zulkifli, Hayatul Ismi, Ulfia Hasanah, and Putri Annisa. "Implications of Supreme Court Jurisprudence No.1400k/Pdt/1986 on Marriage Different Religions." *Unram Law Review* 6, no. 1 (April 28, 2022). <https://doi.org/10.29303/ulrev.v6i1.205>.
- Permana, Deni Yusup. "Legal Study of Interfaith Marriage According to Positive Law and Religious Law Regarding the Practice of Interfaith Marriage in Indonesia." *The Easta*

- Journal Law and Human Rights* 2, no. 02 (February 29, 2024): 41–50. <https://doi.org/10.58812/eslhr.v2i02.173>.
- Permanasari, Lolita. "Legal Analysis of Interfaith Marriage in Indonesia." *Journal Of Law Theory And Law Enforcement*, January 20, 2023, 35–44. <https://doi.org/10.56943/jlte.v2i1.282>.
- Rismawati, S. D. "Choosing One Religion and Getting Married: The Meaning and Legal Culture of Interfaith Marriages Couples in Purbo Pekalongan Indonesia." *Jurnal Hukum Dan Pembangunan*, 17, no. 1 (2017).
- Rizqon, Rizqon. "Analisis Perkawinan Beda Agama Perspektif KHI, HAM Dan CLD-KHI." *AL-MANHAJ: Jurnal Hukum Dan Pranata Sosial Islam* 4, no. 1 (June 13, 2022): 13–24. <https://doi.org/10.37680/almanhaj.v4i1.1499>.
- Salahuddin, Muhammad Salahuddin, Okti Nur Hidayah, Nurul Husnah, and Felia Wati. "Practice of Interfaith Marriages in Indonesia on Islamic Jurisprudence." *International Journal of Social Science and Religion (IJSSR)*, December 13, 2023, 477–90. <https://doi.org/10.53639/ijssr.v4i3.205>.
- Suhasti, Ermi, Siti Djazimah, and Hartini Hartini. "Polemics on Interfaith Marriage in Indonesia between Rules and Practices." *Al-Jami'ah: Journal of Islamic Studies* 56, no. 2 (May 30, 2019): 367–94. <https://doi.org/10.14421/ajis.2018.562.367-394>.
- Syarif, Nurrohman, Usep Saepullah, Tatang Astarudin, and Muhammad Andi Septiadi. "Eclecticism of Islamic Law and the Validity of Interfaith Marriages in Indonesia." *Manchester Journal of Transnational Islamic Law and Practice* 18, no. 2 (2022).
- Yuana, Adella, and Ilka Sandela. "Konflik Hukum Perkawinan Beda Agama Di Indonesia (Studi Penetapan Hakim Nomor: 12/Pdt.P/2022/Pn Ptk)." *Ius Civile: Refleksi Penegakan Hukum Dan Keadilan* 6, no. 2 (November 14, 2022): 291. <https://doi.org/10.35308/jic.v6i2.6123>.
- Zahara, Rifqiawati, and Makhfud. "Problematisasi Pernikahan Beda Agama: Antara Konsep Dan Praktek di Masyarakat." *Indonesian Journal of Humanities and Social Sciences* 3, no. 1 (March 31, 2022): 59–72. <https://doi.org/10.33367/ijhass.v3i1.2839>.