



**The Problem of Interfaith Marriage in Indonesia:
A Juridical-Normative Approach**

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Abstract

Interfaith marriage is a marriage between the bride and groom of different religions and beliefs which is a problem in Islamic law in Indonesia. The regulation regarding the prohibition of interfaith marriage is affirmed in Article 2 paragraph (1) of Law Number 1 of 1974 concerning Marriage. The focus of this study is to analyze the Indonesian legal rules regarding interfaith marriage that are increasingly emerging in Indonesia. The research method uses normative juridical legal methods, data collection techniques namely by analyzing articles, books and references related to the discussion. The results showed that interfaith marriage is not justified in Indonesian legislation with the argument that interfaith marriage is contrary to the religious teachings of Indonesian citizens and can eliminate the basic rights of marriage for husbands, wives and children. As a result of the ban on interfaith marriage, Indonesian citizens are guaranteed legal protection during marriage and after divorce.

Keywords: *Marriage, interreligious, juridical-normative, Islamic law*

Abstrak

Perkawinan antar agama merupakan perkawinan calon mempelai laki-laki dan mempelai perempuan berbeda agama dan kepercayaan yang menjadi problema dalam hukum keluarga Islam di Indonesia. Aturan mengenai larangan perkawinan beda agama ditegaskan dalam Pasal 2 ayat (1) Undang-Undang Nomor 1 Tahun 1974 tentang Perkawinan. Fokus penelitian ini adalah menganalisis aturan hukum Indonesia mengenai pernikahan antar agama yang semakin mencuat di Indonesia. Metode penelitian menggunakan metode hukum yuridis normative, teknik pengumpulan data yaitu dengan menganalisis artikel, buku dan rujukan yang terkait dengan pembahasan. Hasil penelitian menunjukkan bahwa perkawinan antar agama tidak dibenarkan dalam perundang-undangan Indonesia dengan argumen bahwa perkawinan antar agama bertentangan dengan ajaran agama warga negara Indonesia dan dapat menghilangkan hak-hak dasar perkawinan bagi suami, isteri dan anak. Dampak dari larangan perkawinan antar agama, warga negara Indonesia memperoleh jaminan perlindungan hukum selama perkawinan dan setelah perceraian.

Kata Kunci: *Perkawinan, antar agama, yuridis-normatif, hukum Islam*

Introduction

In Indonesia, there are various people with backgrounds who have different cultures and beliefs so that the pattern of behavior in doing something. Knowing love in a relationship that is universal which without knowing the limits of age, religion, race, and group that allows two people in different beliefs to be one goal so that they love each other and want to have a sense of continuing the level of marriage.¹

Marriage is a significant thing in human life. With the marriage of mankind by developing children and grandchildren from the results of marriage that can maintain harmony in the family so as to make the development of life noble. Marriage is said to have a close relationship with belief or spirituality.² Marriage contains physical or physical elements that have a very crucial role. This is in this case the meaning of marriage in Law Number 1 of 1974 concerning Marriage by stating that marriage is a birth and inner bond between a man and woman as husband and wife with the aim of forming a happy and eternal household based on the One and Only Godhead.³

One of the interesting marriage studies to be studied is marriage carried out by interfaith couples, considering the rampant cases of interfaith marriage in

¹Muhammad Ya'kub Aiyub Kadir and Fachrian Rizki, "Interfaith Marriage in Indonesia: A Critique of Court Verdicts," *Yuridika* 38, No. 1 (2023), p. 171-190. Sri Wahyuni, "Kontroversi Perkawinan Agama di Indoensia," *Jurnal Hukum Islam* 8, no. 1 (2016), p. 64-78.

²Mardalena Hanifah, "Perkawinan Beda Agama Ditinjau dari Undang-Undang Nomor 1 Tahun 1974 tentang Perkawinan," *Soumatara Law Review* 2, no. 2 (2019), p. 1-13.

³Hanifah, *Perkawinan Beda Agama*, p. 1-13.

Indonesia. Interfaith marriages are regulated by a closely enforced marriage law.⁴ In this case, the Marriage Law No. 1 of 1974 in article 2 paragraph (1) stipulates that marriage can be legalized if it is carried out according to the laws of each religion and belief of the couple. A marriage is valid if it is performed according to religious law which stipulates that marriage cannot take place but cannot also be recognized according to the law of the land.⁵

Although legally interfaith marriages are not too strict to be carried out, based on observations, interfaith marriages are difficult to carry out. In the Compilation of Islamic Law which compiled in 1991 the prohibition of interfaith marriage and the existence of a Fatwa of the Indonesian Ulema Council (*Majelis Ulama Indonesia*/MUI) in national deliberations that took place in Jakarta 11-17 Rajab 1400H / May 26 to June 1, 1980 A.D. Interfaith marriage in Indonesia is difficult to carry out, especially in the perspective according to students now many who have interfaith relations so they want to convert so as not to conflict with their respective religious laws.⁶ This marriage is also governed by a regulation in religion and rules from humans (customary law). In this marriage has conditions according to customary law and marriage harmony procedures that apply to Muslims.

This study is important because it is related to the issue of interfaith marriage. Indonesia as a plural and multi-religious country, such marriages of different religions occur in the legal reality of society. The research method uses normative juridical legal methods.⁷ While the data collection technique is by analyzing articles, books and references related to the discussion.

The Concept of Marriage in Islamic Law

Understanding marriage there are several opinions that are different from one another. But this difference of opinion is not really to show a real contradiction between one opinion and another. According to scholars, Shafi'iyah is a contract using the pronunciation of *nikah* or *zawj* which holds the meaning of *wati'* (intimate relationship). This means that with marriage a person can have or can be pleasure from his partner.⁸ A contract is invalid without using special pronunciations such as will *kithabah*, *salam* contract, marriage contract. *Nikah* essentially means contract and *majas* means *wat'un*. While the meaning of marriage according to the term is to make a contract or agreement to bind oneself between a

⁴ Biro Hukum dan Humas Badan Urusan Administrasi MA RI, Himpunan Peraturan Perundang-Undangan yang Berkaitan dengan Kompilasi Hukum Islam serta Pengertian dalam Pembahasannya (Jakarta: Mahkamah Agung Republik Indonesia, 2011), p. 64, <https://perpustakaan.mahkamahagung.go.id/read/ebook/23>.

⁵ Ahmad Rofiq, *Hukum Perdata Islam* (Jakarta: Rajawali Pers, 2013), p. 55–56.

⁶ Biro Hukum dan Humas Badan Urusan Administrasi MA RI, Himpunan Peraturan Perundang-Undangan.

⁷ Peter Mahmud Marzuki, *Penelitian Hukum*, Jakarta: Kencana, 2018.

⁸ Soemiyati, *Hukum Perkawinan Islam dan Undang-Undang Perkawinan* (Yogyakarta: Liberty Yogyakarta, 1989).

man and a woman to justify a sexual relationship between the two as a basis for voluntary or pleasure in family life that is filled with affection and tranquility in a way that Allah SWT preaches. As Zayn Aldin al-Malibari has explained, the definition of marriage according to the term is: "According to sharia 'nikah is a contract that contains the permission to have sex with *lafad* nikah or *tazwij*."

There are three definitions of marriage, the first is that in language marriage is an intimate relationship and gathering, as it is said that the tree marries when fertilizing and gathering each other, and can also be called *majaz nikah* is a contract because with this contract we can associate it. According to Abu Hanifa it is *Wati'* akad not *Wat'un* (intercourse). Secondly, marriage is essentially a contract and *majaz nikah* is *Wat'un* (intimate relationship) instead of linguistic understanding, and many postulates show that marriage is a contract as described in the Qur'an and Hadith. This opinion is the most accepted or superior opinion according to the Shafi'yah and Imam Malikiyah groups. Third, the definition of marriage is between the two, namely between contract and *Wati'* because sometimes marriage is interpreted as a contract and sometimes it is interpreted as *wat'un* (intimate relationship).

Whereas according to the scholars of fiqh the contract they put forward is: "Akad is something with which there will be perfect combination of two kinds of wills, either by word or otherwise, and then there will be provisions / certainties of two sides". In every engagement will arise rights and obligations on two sides. That is, if you have a will or ability that is combined in one provision and required in words, or something that can be understood as such, then with that a legal event called an engagement occurs. Marriage is an inner bond between a man and a woman, in this case marriage is a sacred bond to form an eternal and happy family, even in the view of society marriage aims to build, build and maintain harmonious and peaceful kinship relations, as hinted in QS. al-Rum verse 21 namely "And among the signs of his power is that he created for you wives of your own kind, that you might be inclined and at ease to him, and he made among you love and affection. Verily in such there are signs for the thinking people".

Marriage for man is not just intercourse between the opposite sexes, as God-perfected creatures, marriage has the purpose of forming a happy and eternal family. Thus, Islam views that marriage is a good basis for society because marriage is a legal inner birth bond according to Islamic teachings. The marriage law was originally sunnah (permissible), in the sense that it is not obligatory but also not forbidden. The basis of Allah's words in QS. an-Nur verse 32 is "And marry those who are alone among you, and those who are worthy (marry) of your sahaya's male servants and your sahaya's female servants. If they are poor, Allah will enable them by His grace, and Allah is all-powerful (His gift) again All-Knowing". Based on the change in *illat* or the circumstances of each person who wants to perform marriage, the legal marriage can be sunnah, obligatory, makruh, and haram. Based on Islamic sharia and guidance on the correct way of marriage, marriage law can be classified into five categories, namely obligatory, sunnah,

haram, makruh. The marriage law is categorized based on the circumstances and ability of a person to marry.

Marriage becomes sunnah when a person is seen from a physical point of view that it is possible to marry and from a material point of view it has only living expenses, then for such a person it is sunnah for him to marry. While Shafi'yah scholars consider that the intention is sunnah for people who do it with the intention to gain peace of mind and continue offspring. Marriage is legally compulsory if a person in terms of living expenses is sufficient and in terms of physical urgency to marry, so that if he does not marry he will fall into fraud, then for such a person it is mandatory for him to marry. Marriage is legal to become makruh if a person who is considered physically reasonable to marry, but is not very urgent while the cost of marriage does not yet exist, so that if marriage will only hurt the life of his wife and children, then for such a person it is makruh for him to marry.

Marriage becomes unlawful when a person realizes that he is unable to carry out married life, carrying out mental obligations such as interfering with his wife. On the other hand, if a woman realizes that she is unable to fulfill her husband's rights, or there are things that cause her to be unable to serve her inner needs, because of mental illness or leprosy or other diseases of her genitals, then she must not lie to him, but she must explain them to his man. It is like a merchant who is obliged to explain the condition of his goods when there is disgrace. If it happens that one partner knows of the disgrace on his opponent, then he has the right to cancel. If that is a woman's disgrace, then her husband can cancel and can take back the dowry that has been given.

According to Islamic Law, a marriage can be performed if it fulfills the Pillars and Conditions of marriage. What is meant by the pillars of marriage is the essence of marriage itself, so without one of the pillars, marriage is impossible to carry out. While what is meant by condition is something that must exist in marriage but does not include the essence of the marriage itself. If one of the conditions is not fulfilled then as a result the marriage is invalid. As for what is included in the pillars of marriage, namely:

1. The parties who will perform the marriage are the bride and groom;
2. Guardian of the bride-to-be;
3. Two witnesses;
4. Aqad marriage.

There are several things that are classified as requirements for a marriage to be valid, namely:

1. It is not women or men who are haram to marry. He does not mean one who counts as a mahram for both;
2. Ijab kabul must be forever;
3. Both parties are not forced to carry out the kabul ijab of the marriage contract;

4. The pairing between the two candidates must be certain. Named or designated person;
5. Not in a state of ihram. Where not performing Hajj or Umrah.

Marriage in Indonesian Legislation

Indonesian laws and regulations regulate its citizens related to marriage. One of the laws and regulations that thoroughly relates to marriage is Law Number 1 of 1974 concerning Marriage which has now been amended into Law Number 16 of 2019 concerning Amendments to Law Number 1 of 1974 concerning Marriage and there is a Compilation of Islamic Law (*Kompilasi Hukum Islam/KHI*) where KHI is called Indonesian Jurisprudence. All matters concerning marriage are all regulated in the marriage law and the compilation of Islamic law. The definition of marriage according to the compilation of Islamic law is a very strong marriage contract in other words *mitsaaqan ghalidzan* to obey the commandments of Allah and the value of worship with the aim of realizing a family that is *sakinah, mawaddah, rahmah*.⁹ So the concept of IHL is more flexible, universal, and comprehensive and does not have madzhab in discussing the meaning of marriage.¹⁰

While the definition of marriage is contained in the Marriage Law No. 1 of 1974, namely the inner birth bond between a man and a woman who has the aim of forming a happy and eternal family ark and based on the One and Only Godhead.¹¹ The purpose of being based on the One True Godhead can be interpreted as an expression to obey and carry out all the commandments of Allah Almighty. The concept of marriage according to the perspective of Islamic law is a religious event and has the value of worship. So the concept of understanding marriage is also different but there is something in common, namely marriage is a bond between a man and a woman.¹² M. Yahya Harahap believes that the Marriage Law has a fairly principled principle, namely accommodating all the realities that exist in the Indonesian state, according to the times, the purpose of marriage is to form an eternal and happy family, awareness of the basis of religious law and beliefs of each Indonesian citizen, adheres to the principle of monogamy and allows polygamy provided that religious law permits, Marriage is carried out by someone who has matured in body and soul, and the position between husband and wife is

⁹ Republik Indonesia, *Inpres Nomor 1 tahun 1991 tentang Penyerbarluasan Kompilasi Hukum Islam* (Jakarta, 1991).

¹⁰ Moh. Ali Wafa, *Hukum Perkawinan di Indonesia: Sebuah Kajian dalam Hukum Islam dan Hukum Material* (Tangerang Selatan: Yayasan Asy-Syari'ah Modern Indonesia, 2018), p. 32.

¹¹ Republic of Indonesia, *Undang-Undang Republik Indonesia Nomor 1 tahun 1974 tentang Perkawinan* (Jakarta, 1974), <https://peraturan.bpk.go.id/Home/Details/47406/uu-no-1-tahun-1974>.

¹² Achmad Asfi Burhanudin, "Perkawinan dan Keharusan Pencatatannya," *El-Faqih: Jurnal Pemikiran dan Hukum Islam* 4, no. 1 (2018), p. 2.

balanced.¹³ The definition of marriage according to Law Number 1 of 1974 contains at least 5 important points, namely:

1. Inner birth bond, meaning that marriage is not just a bond or agreement outwardly but more than that, namely outwardly and inwardly so that both parties who carry out the marriage must maintain their bond by carrying out obligations and will get their rights like husband and wife in general;
2. Between a man and a woman, it means that what is allowed or allowed to hold a marriage in Indonesia is male and female. Therefore, from that point it is clear that same-sex marriage, whether it is a man with a man (gay) or a woman with a woman (lesbi), is prohibited by the state and religion;
3. A man and a woman, meaning in Indonesia still adheres to the monogamous system. Why is that, because the marriage law already regulates the procedure for polygamy but the procedure is not easy especially if the one who will carry out polygamy is a civil servant;
4. Forming an eternal and happy family, meaning that marriage brings happiness. This is in accordance with Article 6 paragraph (1) where marriage must be based on the consent of the bride and groom. The eternal meaning referred to here is that marriage is expected for an eternal home, not just temporary. Thus this law denies contract marriage;
5. The last is based on the One and Only God, meaning that Indonesia recognizes the diversity of religions and beliefs held by its citizens. This is in accordance with article 2 paragraph (1) of the marriage law.¹⁴ The article also implies that interfaith marriages cannot be performed. Because the explanation of article 2 paragraph (1) with the clause "according to the law of their respective religions and beliefs" is interpreted as no marriage outside the law of their respective religions and beliefs. Therefore, the formulation of article 2 paragraph (1) indicates that interfaith marriage is prohibited. In addition to marriage must be in accordance with the laws and beliefs of each, it must also not contradict the Marriage Law.¹⁵

In fact, every legal action must certainly meet 2 elements, namely requirements and harmony. Harmony is something that must determine the validity or absence of a worship and includes a series of worship. While conditions are things attached to elements that are part of legal actions, if the conditions are not met, the legal event can be canceled.¹⁶ In the context of marriage, according to Law Number 1 of 1974, there is no marriage pillar, but there are only conditions

¹³ Ach. Puniman, "Hukum Perkawinan Menurut Hukum Islam dan Undang-Undang no. 1 Tahun 1974," *Jurnal Yustitia* 19, no. 1 (2018), p. 89,

¹⁴ Wafa, *Hukum Perkawinan di Indonesia*, p. 33–35.

¹⁵ Akhmad Munawar, "Sahnya Perkawinan Menurut Hukum Positif yang Berlaku di Indonesia," *Al-Adl: Jurnal Hukum* 7, no. 13 (2015), p. 24–25.

¹⁶ Wafa, *Hukum Perkawinan di Indonesia*, p. 45.

that must be fulfilled based on laws and regulations. The condition of marriage is a must that must be fulfilled before the marriage takes place based on the prevailing laws and regulations. The marriage requirements according to the marriage law are as follows:

1. Must be based on the consent of the bride and groom;
2. If you are not yet 21 years old, you must obtain parental consent;
3. If a parent has passed away or is unable to fulfill the will of permission, then permission can be obtained from the guardian or person who keeps it or the family who is related by blood in a straight line up;
4. If there is a difference of opinion about obtaining a marriage license or one person does not express an opinion, the local district court may grant permission after listening to the person's statement;
5. Such provisions apply to the extent that the laws of religion and belief do not specify otherwise;¹⁷
6. The bridegroom is 19 years old and the bride is 16 years old.¹⁸ However, this provision was updated in Law Number 16 of 2019 concerning Amendments to Law Number 1 of 1974 concerning Marriage that marriage is permitted for men and women aged 19 years.¹⁹ In fact, the formulation of this article is in order to prevent the occurrence of marriage in minors so that later the husband and wife who have carried out the marriage are mature in body and soul so as to be able to realize the purpose of the marriage which has been contained in the marriage law.²⁰
7. Inbreeding is prohibited under the provisions of the law;
8. A person cannot remarry if he is still tied to another person;
9. If the husband and wife divorce a second time, they may not remarry as long as the laws of their religion and beliefs do not specify otherwise;
10. For women who have been divorced have to wait for a certain period of time.²¹

In contrast to the compilation of Islamic law which regulates the provisions on the terms and pillars of a marriage. The compilation of Islamic law discusses the pillars of marriage following the systematics of jurisprudence which relates to conditions and harmony. The IHL explains the pillars of marriage as described in jurisprudence. The pillars and conditions of marriage according to the Compilation of Islamic Law are as follows:

¹⁷ Puniman, " Hukum Perkawinan Menurut Hukum Islam dan Undang-Undang," 92.

¹⁸ Republik Indonesia, *Undang-Undang Republik Indonesia 1974*.

¹⁹ Republik Indonesia, *Undang-Undang Republik Indonesia Nomor 16 Tahun 2019 tentang Perubahan atas Undang-Undang Republik Indonesia Nomor 1 Tahun 1974 tentang Perkawinan* (Jakarta, 2019), <https://peraturan.bpk.go.id/Home/Details/122740/uu-no-16-tahun-2019>.

²⁰ Munawar, "Sahnya Perkawinan Menurut Hukum Positif," 27.

²¹ Republik Indonesia, *Undang-Undang Republik Indonesia 1974*, p. 1.

1. Marital harmony

- a) Future husband
- b) Future wife
- c) Marital guardian
- d) 2 witnesses
- e) Ijab and kabul

2. Terms of marriage

a) Bride-to-be

- 1) The bride and groom have reached the age stipulated by article 7 of the Marriage Law, namely the prospective husband of 19 years and the prospective wife of 16 years. However, this provision has been replaced following the promulgation of Law Number 16 of 2019 concerning Amendments to Astas Law Number 1 of 1974 concerning Marriage that marriage is permitted for men and women aged 19 years;²²
- 2) Those under the age of 21 must obtain parent or guardian consent;
- 3) Marriage must obtain the consent of the bride and groom in the form of oral, written, gesture, or silence in the sense of not rejection;
- 4) If the bride and groom are deaf or speech impaired, consent can be made in writing or an understandable gesture.

b) Marital guardian

- 1) Must be fulfilled bride;
- 2) Man;
- 3) Muslim;
- 4) Akil baligh;
- 5) The guardian who is closest to the degree of kinship then becomes the guardian of the bride-to-be;

c) Marriage witness

- 1) Witnesses required 2 people;
- 2) Man;
- 3) Muslim;
- 4) Fair;
- 5) Puberty;
- 6) Not memory impaired, deaf, and deaf;
- 7) Witnesses must be present.

d) Marriage certificate

- 1) Ijab and kabul are pronounced by the guardian and groom clearly, successively, not intermittently;

²² Republik Indonesia, *Undang-Undang Republik Indonesia Nomor 16 Tahun 2019 tentang Perubahan atas Undang-Undang Republik Indonesia Nomor 1 Tahun 1974.*

- 2) The marriage contract is carried out personally by the guardian or can be represented;
- 3) Kabul pronounced groom;
- 4) Kabul can be represented by authorizing someone in writing;
- 5) If the bride or guardian objects, then the marriage contract may not be performed.²³

Although in fact Law Number 1 of 1974 concerning Perkwinan does not clearly regulate the terms and pillars of marriage, Indonesia still has a Compilation of Islamic Law which is paradigm to Islamic law.

Accommodating-Juridical Approach to Interfaith Marriage in Indonesia

Interfaith marriages are contrary to the rules of Islamic law, especially for Muslims, interfaith marriages can result in the loss of basic rights in inheritance matters, such as the right to inherit between heirs and heirs. In Western and European countries, the majority of citizens are not Muslims, generally allowing interfaith marriage.²⁴ This is in fact the provisions of interfaith marriage vary greatly. For Muslim-majority countries, such as Indonesia, interfaith marriage is an act prohibited in Indonesia's marriage law, even interfaith marriage can be classified as adultery. The ban on interfaith marriage in Indonesia specifically applies to Muslims domiciled in Indonesia.²⁵

This argument refers to Hazairin's opinion, expressly giving the interpretation of Porigin 2 of Law Number 1 of 1974 concerning Marriage, that for Muslims there is no possibility to marry in violation of "their own religious law". Vice versa for Christians, and for Hindus follow the laws of their respective religions. Therefore, the above marriage law does not provide an opportunity to carry out interfaith marriages. In addition to the regulations in Article 2, there is also a prohibition on mixed marriage as contained in Porigin 57 Chapter XII Uof the Marriage Law.²⁶ Another rule derived from the Compilation of Islamic Law, Article 40 letter c, confirms that it is forbidden to enter into a marriage between a man and a woman who is not Muslim. Similarly, Article 44 of the Compilation of Islamic Law states that a Muslim woman is prohibited from marrying a man who is not Muslim. The rules are more firmly stated in the MUI fatwa through Decree Number 4/MUNAS VII/MUI/8/2005.

²³ Republik Indonesia, *Inpres No. 1 Tahun 1991*.

²⁴ Halima Krausen, "Interfaith Families," *European Judaism* 53, no. 1 (2020). Katy Pal Sian, "'Love Jihad', 'Forced' Conversion Narratives, and Interfaith Marriage in the Sikh Diaspora," *Religions* 12, no. 12 (2021).

²⁵ Ermi Suhasti, et.la., "Polemics on Interfaith Marriage in Indonesia between Rules and Practices," *Al-Jami'ah* 56, no. 2 (2018). Fitrawati, "Diskursus Perkawinan Beda Agama Di Indonesia Dalam Tinjauan Universalisme HAM Dan Relativisme Budaya," *JURIS: Jurnal Ilmiah Syariah* 20, no. 1 (2021).

²⁶ Anggreini Carolina Palandi, "Analisa Yuridis Perkawinan Beda Agama di Indonesia," *Lex Privatum* 1, no. 2 (2013), p. 201.

Meanwhile, for non-Muslims in Indonesia, interfaith marriages such as Christian Indonesians marrying Hindu Indonesians are also prohibited in Indonesian legislation. However, if both couples of different religions want to marry, one of the bride and groom must follow the religious teachings of the bride or groom. Different opinions come from human rights advocates, that the ban on interfaith marriage is a violation of human rights. They argued with Article 10 paragraph (1) of Law Number 39 of 1999 concerning Human Rights, stating that "Everyone has the right to form a family and continue offspring through legal marriage".²⁷

The above prohibition of interfaith marriage in Indonesia is a manifestation of legal pluralism in Indonesia. Legal pluralism is a new way of looking at accommodating the diversity of legal traditions found in each country.²⁸ Interfaith marriage arrangements occur when a man and a woman of a different religion are engaged in marriage while maintaining their respective religions, for example a man is Muslim and a woman is Christian or vice versa. In the Compilation of Islamic Law Article 2 states that marriage according to the law Islam is a very strong contract or *mitsaaq* and *liidhan* to obey the commandments of Allah and carry them out is worship, but marriage is valid if it is carried out according to Islamic law means a valid marriage when the marriage is in accordance with the rules of Islamic law applicable in Porigin 4 is about marriage, but in the ordination of Christian marriage in Porigin 75 paragraph 1 states that the marriage of a non-Christian man with a Christian woman at the request of both husband and wife can be carried out by treating the ordinance provisions and provisions of the rules for the administration of civil registration regulations for other religious people such as Indonesian and Christian marriages.

However, if a marriage is not performed according to the laws of their respective religions, it means that the marriage is invalid. A trial conducted in a Court or at a Civil Registry Office without first being conducted according to a particular religious law is invalid. Marriages performed by customary law or by non-religious sects of belief and not performed according to government-recognized religious ordinances are invalid. Thus, a marriage that is valid according to religion is a marriage that is carried out according to the procedures that apply in each religion.²⁹

According to the prevailing Islamic religion in Indonesia, marriage is valid if the marriage is carried out at the bride's residence, mosque, or at a religious office with a kabul ijab in the form of a marriage contract. As for Christians, marriage is

²⁷Republik di Indonesia, *Undang-Undang Nomor 39 tahun 1999 tentang Hak Asasi Manusia* (Jakarta, 1999), <https://peraturan.bpk.go.id/Home/Details/45361/uu-no-39-tahun-1999>.

²⁸Dedy Sumardi, et.al., "Legal Pluralism Within The Space of Sharia: Interlegality of Criminal Law Traditions in Aceh, Indonesia," *Samarah: Journal of Family Law and Islamic Law* 5, no. 1 (2021), p. 426–49. Dedy Sumardi, "Islam, Pluralisme Hukum dan Refleksi Masyarakat Homogen," *Asy-Syirah Journal of Sharia and Law* 50, no. 2 (2016).

²⁹ Carolina Anggreini, Palandi, "Analisa Yuridis Perkawinan Beda Agama di Indonesia," *Lex Privatum* 1, no. 2 (2013), p. 149.

valid if the conditions that have been determined are met and the marriage is carried out in front of a pastor attended by two witnesses besides that the bride and groom must have been baptized. Although there are differences in the arrangements according to their respective religious laws, they all contain the same material in a sense of marriage. The material content that contains such similarities is in terms of its subject matter between men and women; The emergence of a bond and in the event that the binding is carried out in accordance with the provisions or regulations applicable in each legal system, so that there is an acknowledgement of the bond.

Before the enactment of Law No. 1 of 1974, in Indonesia there was a legal regulation between groups that regulated the issue of mixed marriage. The regulation in question is a regulation previously issued by the Dutch East Indies colonial government called *Regeling op de Gemengde Huwelijken* (GHR) or Regulation on Mixed Marriage as contained in *Staatsblad* 1898 No. 158. However, after the enactment of Law No. 1 of 1974, interfaith marriage arrangements tended to be hindered. This is based on the first reason, relating to article 11 paragraph (2) that "differences due to nationality, ethnicity, country by recalling the history of the 1973 marriage law, especially the debate that origin, place of origin, religion, belief and descent are not barriers to marriage" and then get changed, then interfaith marriage is not possible (prohibited) in Indonesia.

This is important to note because the issue of interfaith marriage in the context of the State of Indonesia is a legal issue, while religious interpretations of interfaith marriage are theological issues and religious interpretations. Since Indonesia is not a religious state, the reference is national law. Although national laws, such as the Marriage Law Number 1 of 1974 base themselves on what is said by religious law, they tend to be more tied to the basis of the nation's philosophy of *Bhineka Tunggal Ika*. That is, the principle of recognizing the diversity of nations and the plurality of societies must be the basis for the formation and making of a law or law of a national nature, the reference to this issue is article 2 paragraph (1) which states that marriage is valid, if it is carried out according to the law of each religion and belief" and reaffirmed through the explanation of the article that there is no marriage outside the law of each religion and belief, in accordance with the 1945 Constitution.³⁰

Mixed marriages performed in Indonesia must be carried out based on Indonesian marriage law so the validity of the marriage must be based on religious law and it must be noted that if both parties, the prospective husband and wife adhere to the same religion will not cause problems, but if different religions, there will be legal problems between religions. The problem will not be complicated if the solution is with the willingness of one party to merge / follow the religion of the other, but this difficulty arises if both parties still want to defend their beliefs.

³⁰ Anggreini, Palandi, "Analisa Yuridis Perkawinan Beda Agama di Indonesia."

But in reality it is often the case that couples easily marry based on the religion of one of the parties, and then after the marriage is legalized they return to their respective beliefs. In Indonesia, interfaith marriage is still a problem that still needs to be solved properly. Regarding the validity of mixed marriages, there is no special arrangement, so in practice it often occurs and to make it easier for the couple to marry based on the religion of one of the parties, but then after the marriage is legalized, they return to their respective beliefs

Based on this, because the problem of mixed marriage is impossible to eliminate, for legal certainty, an arrangement should be made regarding the validity of this mixed marriage. Jarwo Yunu said that there are two ways to deal with interfaith marriage. *First*, based on Supreme Court Decision No. 1400.K/Pdt/1986, the Civil Registry Office is allowed to carry out interfaith marriages. This case began with the marriage that Ani Vonny Gani (Islamic Woman) wanted to register with Petrus Hendrik Nelwan (Christian Man). In its ruling, the Supreme Court stated that by filing a marriage registration at the Civil Registry Office, Vonny had ignored Islamic religious regulations on marriage and therefore had to be considered that she wanted her marriage not to take place according to Islam. As such, they are not Muslim, so the Civil Registry Office must perform the marriage. Thus, marriages of different religions may be possible.

Secondly, As the legal basis is the jurisprudence of Supreme Court decisions Reg. No.1400 K/Pdt/1986 which granted a wish between the bride and groom of different religions of Islam and Christianity. The contents of the Supreme Court's decision include ordering employees at the Special Registration Office of the Capital City of Jakarta to carry out marriage after fulfilling the conditions of marriage according to the Law. As a consideration, the judgment states, among other things, that by submitting a request to hold a marriage to the Head of the Civil Registration Office, it must be interpreted that the applicant wants to hold a marriage not in an Islamic manner.

Conclusion

Indonesian legislation prohibits interfaith marriage. This rule is based on the juridical accommodative principle. This principle gives citizens the legal option to perform marriages in accordance with the beliefs held by citizens. Interfaith marriages can take place between a man and a woman by following the rules adopted by one marriage partner. Especially for Indonesian Muslim citizens, the prohibition of interfaith marriage is very strict in Indonesian legislation, such as Fawa MUI, the Marriage Law and the Compilation of Islamic Law. Indonesian marriage rules aim to provide legal protection related to the rights and obligations of husbands, wives and children during marriage and after divorce.

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