The Legal Framework for Interfaith Marriage in Indonesia: Examining Legal Discrepancies and Court Decisions

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Abstract: Interfaith marriage has been regulated in Law No. 1/1974 on Marriage and various other legal regulations. However, there are several different or even conflicting court decisions regarding cases of interfaith marriage. This continues even after the issuance of Supreme Court Circular Letter No. 2 of 2023 (known as SEMA No. 2 of 2023), which has become a reference for judges in deciding cases of interfaith marriage. This article examines the legal framework of interreligious marriage in Indonesia by focusing on the various judges' interpretations of legal regulations on interfaith marriage. Using normative legal analysis with empirical data and utilizing the theory of legal pluralism developed by Brian Z. Tamanaha, this article concludes that different perspectives on the protection of citizens' human rights in marriage and the role of religion as a state philosophy have significantly contributed to variations in judges' interpretations of several legal regulations on interfaith marriage. The differences in judges' interpretations have ultimately resulted in differences in legal decisions. This has become a recurring dynamic in judges' understanding of legal regulations on interfaith marriage.

Keywords: *Legal framework*; *interfaith/interreligious marriage*; *judges' legal interpretation*

Abstrak: Perkawinan beda agama telah diatur dalam UU No. 1 Tahun 1974 tentang Perkawinan dan juga berbagai peraturan hukum lainnya. Namun demikian, terdapat sejumlah putusan pengadilan yang berbeda atau bahkan saling bertentangan menyangkut perkara perkawinan beda agama. Hal ini bahkan terus berlanjut pasca keluarnya Surat Edaran Mahkamah Agung No. 2 Tahun 2023 (dikenal dengan SEMA No. 2 Tahun 2023) yang menjadi acuan para hakim dalam memutus perkara perkawinan beda agama. Artikel ini mengkaji kerangka hukum perkawinan beda agama di Indonesia dengan berfokus pada ragam penafsiran hakim atas peraturan hukum tentang perkawinan beda agama. Menggunakan analisis hukum normatif dengan data empiris dan dengan memanfaatkan teori pluralisme hukum yang dikembangkan oleh Brian Z. Tamanaha, artikel ini menyimpulkan bahwa perbedaan perspektif tentang perlindungan hak asasi warga negara dalam perkawinan dan peran agama sebagai falsafah negara, secara signifikan telah berkontribusi pada variasi penafsiran hakim atas

sejumlah peraturan hukum tentang perkawinan beda agama. Perbedaan interpretasi hakim itulah yang pada akhirnya berdampak pada perbedaan putusan hukum. Hal ini telah menjadi dinamika yang berulang dalam interpretasi hakim atas peraturan hukum tentang perkawinan beda agama.

Kata kunci: *Kerangka hukum*; *perkawinan beda agama*; *interpretasi hukum hakim*

Introduction

The legal framework for interreligious marriages in Indonesia lacks specificity and definitive consensus, which has led to the debate involving another perspective, namely from Islamic law, sociocultural aspects, and the human right to provide such definitive constituent. Due to the diverse legal provisions governing marriage, interfaith marriages are often challenging to formalize in Indonesia, except in administrative contexts. Central to this issue is the 1974 Marriage Law, which stipulates the legal requirements for marriage.[1] Article 10 of PP No. 9 of 1975 further emphasizes the need for marriage procedures to align with the laws of respective religions and beliefs, which implicitly strengthens the challenge of validating the practice of interfaith marriage.[2] Additionally, Supreme Court Circular Letter No. 2 of 2023, known as "SEMA No. 2 of 2023," which offers guidelines for judges in adjudicating cases of applications for marriage registration between people of different religions and beliefs,[3] further underscored the impossibility of interfaith marriage in Indonesia.

[1] The legislation governing marriage is encapsulated in Law Number 1 of 1974, commonly known as the Marriage Law. "Undang-Undang Republik Indonesia Nomor 1 Tahun 1974 Tentang Perkawinan," n.d.

[2] The emphasis on religious regulations, as outlined in Article 10 of Government Regulation No. 9 of 1975, is manifested in paragraphs (2) and (3), stating that the marriage procedure is conducted in accordance with the laws of each religion and belief. Additionally, concerning the marriage procedure aligned with religious laws and beliefs, the marriage takes place in the presence of a Recording Officer and is attended by two witnesses. See "Peraturan Pemerintah (PP) Nomor 9 Tahun 1975 Tentang Pelaksanaan Undang-Undang Nomor 1 Tahun 1974 Tentang Perkawinan," n.d., 6.

[3] Mahkamah Agung Republik Indonesia, "Surat Edaran Nomor 2 Tahun 2023 Tentang Petunjuk Bagi Hakim Dalam Mengadili Perkara Permohonan Pencatatan Perkawinan Antar-Umat Yang Berbeda Agama Dan Kepercayaan," 2023.

In response to these challenges on the prohibition of interreligious marriage, contemporary waves of human rights activists, religious leaders, NGOs, lawyers, legal notaries, and prospective brides are advocating for revisions to the 1974 Marriage Law and SEMA No. 2 of 2023 to facilitate interreligious marriages.[4] These protests persist today, underscoring the ongoing controversy surrounding the law of interfaith marriage in Indonesia. Beyond the numerous actions and lawsuits initiated by these groups, it is crucial to gain insight into the perspectives of judges as conveyed through their legal interpretations of the relevant provisions regarding interfaith marriage. This study seeks to illuminate the dissemination of legal perspectives, particularly concerning reactions to the prohibition of interfaith marriages in Indonesia within a pluralistic and multicultural society.

Previous research has extensively explored interfaith marriage in Indonesia from a legal perspective, with studies focusing on distinct areas and discussion points. Two main categories of research on interfaith marriage in Indonesia have emerged: Firstly, normative legal research which addresses various aspects, including the legal framework applied to decide cases of interreligious marriage as presented by the research of Daeng Tarring, Wahyu Jati, and Zulfadhli, which discussed the validity of interfaith marriage in Indonesia by examining the Marriage Law and other related regulations.[5] In this first

[4] Hazairin, *Tinjauan Mengenai Undang-Undang Perkawinan No. 1/1974* (Jakarta: Tintamas, 1986); Noryamin Aini, Ariane Utomo, and Peter McDonald, "Interreligious Marriage in Indonesia," *Journal of Religion and Demography* 6, no. 1 (May 6, 2019): 189–214, https://doi.org/10.1163/2589742X-00601005; Sri Wahyuni, "Running Away from Authority to Gain Recognition: The Case of Indonesian Interfaith Marriage Overseas," *AIUA Journal of Islamic Education* 1, no. 1 (2019): 123–46; Egi Tanadi Taufik, "Meneraca Perkembangan Kasus Nikah Beda Agama Di Indonesia: Sebuah Refleksi Hermeneutis," in *Fikih Humanis: Meneguhkan Keragaman, Membela Kesetaraan Dan Kemanusiaan*, by Noorhaidi Hasan et al. (Yogyakarta: Pasca UIN Sunan Kalijaga Press & Norwegian Centre for Human Rights (NCHR) Oslo University, 2022), 335–65.

[5] Look at their work in these mentioned articles. Zulfadhli Zulfadhli and Muksalmina Muksalmina, "Legalitas Hukum Perkawinan Beda Agama Di Indonesia," *Jurnal Inovasi Penelitian* 2, no. 6 (November 21, 2021): 1851–62, https://doi.org/10.47492/jip.v2i6.1014; Anisah Daeng Tarring, "Perkawinan Beda Agama dalam Perspektif Hukum Positif di Indonesia," *Jurnal Litigasi Amsir* 9, no. 4 (August 7, 2022): 269–77; and Imam Wahyujati, "Pengaturan Perkawinan Beda Agama Di Indonesia," *'Aainul Haq : Jurnal Hukum Keluarga Islam* 2, no. 1 (June 27,

category, the discussion of the legal implications of such marriage is also included, as shown by Makalaew and Palendi, whose article focused on the impact on children and spouses, and Jatmiko's research highlighted the implications of marriage registration.[6] The final discussion within this category is the marriage's conformity with other perspectives, as demonstrated by Fuad Mustafid, who examines the issue of interfaith marriage about individual human freedom in Islam,[7] Lubis and Muhawir, who explores Indonesian religions' perspectives on interfaith marriage validity,[8] the paper of Faisal and Tanadi which highlighted Islamic law,[9] and the work of Sri Wahyuni which emphasizes human rights to explore the feasibility of interfaith marriage.[10] Secondly, normative-empirical legal research delves into the controversy surrounding interfaith marriage as described by Sri Wahyuni, who has extensively discussed the issue of interfaith marriage

2022), https://ejournal.an-nadwah.ac.id/index.php/ainulhaq/article/view/399. Discussion regarding the matter of laws or legal regulations of Interfaith marriage in Indonesia also can be found in past publications, as referred to here. Hazairin, *Tinjauan Mengenai Undang-Undang Perkawinan No. 1/1974*; and K. Watjik Saleh, *Hukum Perkawinan Indonesia* (Jakarta: Ghalia Indonesia, 1992).

[6] 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, https://doi.org/10.53955/jhcls.v2i3.43.

[7] Fuad Mustafid, "Perkawinan Beda Agama dan Kebebasan Individual Manusia dalam Islam: Perspektif "Teori Naskh" Mahmoud Muhamamd Thaha", *Musawa: Jurnal Studi Gender dan Islam* 10, no. 2 (2011), https://ejournal.uin-suka.ac.id/pusat/MUSAWA/article/view/102-05.

[8] Aldi Subhan Lubis and Zaini Muhawir, "The Dynamics of Interreligious Marriage in Indonesian Religious and Legal Perspectives," *ARRUS Journal of Social Sciences and Humanities* 3, no. 1 (April 11, 2023): 43, https://doi.org/10.35877/soshum1658.

[9] Salman Haji Ali and Ahmad Faisal, "Argumen Islam Progresif tentang Kebolehan Perkawinan Beda Agama," *As-Syams* 1, no. 1 (February 2, 2020): 177–90; Taufik, "Meneraca Perkembangan Kasus Nikah Beda Agama Di Indonesia: Sebuah Refleksi Hermeneutis."

[10] Sri Wahyuni, "Perkawinan Beda Agama di Indonesia dan Hak Asasi Manusia," *In Right: Jurnal Agama dan Hak Azazi Manusia* 1, no. 1 (March 24, 2017), https://doi.org/10.14421/inright.v1i1.1215.

in Indonesia, including the controversy of its implementation.[11] In addition, the work of Suhasti, Djazimah, and Hartini, which discusses the polemics between rules and practices of interfaith marriage in Indonesia, is also included in this category.[12] This research type presents the legal debates surrounding the practice and observes the reactions and interactions that arise following the enactment of relevant laws.

In alignment with the typology of legal research on interfaith marriage, this study falls under normative-empirical legal research. It aims to observe judges' legal interpretations as part of the responses and interactions occurring amidst implementing interfaith marriage laws. By examining how the controversy intersects with legal provisions and practice, this research delves into various cases of interfaith marriage applications to further analyze the judges' interpretations as critical actors in enforcing these provisions. Focusing on multiple judges' interpretations of the Marriage Law and other indirectly related regulations, this research comprehensively explores the legal requirements governing interfaith marriage. It entails investigating the involvement of various legal actors and marriage practitioners and the debate concerning the permissibility and prohibition of interreligious marriage. This research employs a mixed-methods approach, combining normative legal analysis with empirical data reflecting legal actors' responses to adjudicating such cases. The collected data informs the development of judges' legal interpretations following the affirmation of interfaith marriage's invalidity.

This research examines judges' legal interpretations of various provisions that have served as the legal framework for interfaith marriages. Adopting the legal pluralism theory extensively developed by Brian Z. Tamanaha, this research examines the coexistence of different legal interpretations within Indonesia as a single social space. It involves exploring how formal legal systems, such as statutory laws,

[11] Sri Wahyuni, "Kontroversi Perkawinan Beda Agama Di Indonesia," *Al-Risalah: Forum Kajian Hukum Dan Sosial Kemasyarakatan* 11, no. 02 (2011): 14–34, https://doi.org/10.30631/alrisalah.v11i02.466.

[12] 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 (December 6, 2018): 367–68, https://doi.org/10.14421/ajis.2018.562.367-394.

interact with each other in judges' considerations and rationales when deciding various interfaith marriage cases.[13] This coexistence is dynamic, with interactions, influences, and efforts to absorb or control other legal forms. In the context of this research, understanding legal pluralism can help elucidate the complexities judges face when interpreting interfaith marriage cases.[14] Judges may navigate not only state law but also the influences of religious and customary laws. The dynamic and shifting nature of legal pluralism suggests that judges may encounter challenges in reconciling different legal perspectives, contributing to the variations in their interpretations. Additionally, the involvement in the particular context of the case applicants is also examined by highlighting numerous judicial court decisions regarding interfaith marriage.

The analysis spans from the enactment of the Regulation on Mixed Marriages, GHR, as contained in Staatsblad 1898 No. 158, the involvement of MUI in affirming the inadmissibility of interfaith marriages, the emergence of several Supreme Court (Mahkamah Agung, abbreviated as MA) decisions on these marriage cases, up to the introduction of SEMA No. 2 of 2023 as the latest legal argument in the context of interfaith marriages. The research covers data exploration and discusses the provisions and practices of interfaith marriage in Indonesia. It then narrows its focus to the dynamics of judges' legal interpretations regarding previously enacted provisions. Finally, the research analyzes the new legal interpretation of SEMA No.

[13] Legal pluralism, once rejected, is now widely accepted, especially since the 1970s. It evolved from studying law in colonial societies to exploring diverse legal scopes in a globally connected world. This concept reflects and influences social theories, particularly regarding the intersections of state and law. This understanding sets the context for researching diverse judges' interpretations of interfaith marriage in Indonesia. See Keebet von Benda-Beckmann and Bertram Turner, "Legal Pluralism, Social Theory, and The State," *The Journal of Legal Pluralism and Unofficial Law* 50, no. 3 (September 2, 2018): 255–56.

[14] Brian Z. Tamanaha is a renowned jurisprudence and law and society scholar. In his conclusion regarding legal plurarism, he implied that this concept acknowledges the coexistence of various legal systems, including religious and customary laws, alongside state law. This dynamic results in a complex network of norms and institutions both inside and outside the state's legal framework. See Brian Z. Tamanaha, *Legal Pluralism Explained: History, Theory, Consequences* (Oxford University Press, 2021), 209–13.

2 of 2023, including its background, content, context of issuance, and the alignment of judges' decisions with this latest provision.

Legal Framework and Implementation of Interfaith Marriages in Indonesia

This section discusses the different types of legal provisions that govern interfaith marriages. The discussion focuses on the various laws and their articles and statements that are commonly used as the legal basis for marriage registration, along with the influential external involvement in the regulation of this marriage practice, including a discussion of past regulations on mixed marriages that were first used as a basis for interfaith marriages. This discussion broadly seeks to capture the legal bases that have been and are commonly used to deal with cases of interreligious marriage, whether they are used to legalize the practice with or without certain conditions or to deny its validity.

The legal basis for interfaith marriage is fundamentally tied to Marriage Law No. 1 of 1974, which inherently leans towards rejecting the legal recognition of such marriages. However, predating this, there existed the Regulation on Mixed Marriage found in Staatsblad 1898 No. 158, known as Regeling Of de Gemengde Huwelijken (GHR). This regulation aimed to govern marriages between different groups, encompassing those involving individuals with diverse religious beliefs.[15] This mixed marriage regulation by the Dutch East Indies government is often the basis for the legal status of interfaith marriages. Article 1 states that combined marriage is between people subject to different laws in Indonesia. This article seems to be strengthened by Article 7, paragraph (2), which states that "differences in religion, nation, or origin are in no way an obstacle to marriage" to facilitate the practice of interfaith marriage. However, the Regeling op de Gemengde Huwelijken (GHR) has undergone many considerations and is confronted with laws that continue complicating interfaith marriage.

[15] The discussion of GHR has been widely reviewed in previous studies that refer to books on mixed and interreligious marriages. See Palandi, "Analisa Yuridis Perkawinan Beda Agama Di Indonesia," 200; Danu Aris Setiyanto, "Perkawinan Beda Agama Pasca Putusan Mahkamah Konstitusi Nomor 68/ PUU-XII/2014 dalam Persperktif HAM," *Al-Ahwal: Jurnal Hukum Keluarga Islam* 9, no. 1 (March 1, 2017): 15, https://doi.org/10.14421/ahwal.2016.09102; and Wahyuni, "Perkawinan Beda Agama di Indonesia dan Hak Asasi Manusia," 1.

Among the regulations that make the GHR inapplicable to interfaith marriages is Article 66 of Marriage Law No. 1/1974, which clearly states that since the enactment of the Marriage Law, prior provisions governing marriage to the extent regulated in this Law shall not apply.[16] GHR (STB. 1898/158) is included in the provisions that are not applicable. In addition, Article 57 of Marriage Law No. 1/1974 mentions a different formulation from the GHR regarding mixed marriages, which states that "the meaning of mixed marriage in the Law is marriage between two people in Indonesia who have different nationalities with one of the parties having foreign nationality and one of them having Indonesian nationality."[17] However, the inapplicability of the GHR in regulating the practice of interfaith marriages was reconsidered with the issuance of letter No. KMA/72/IV/1981 on the 20th, submitted by the Chief Justice of the Supreme Court to the Minister of Religious Affairs and the Minister of Home Affairs as a response to the uncertainty regarding the legal provisions used as guidelines for implementing interfaith marriages.[18] Through this letter, marriage in Indonesia as a 'staatshuwelijk' indicates that interfaith marriages only performed at the Civil Registry Office are considered valid.

The legal basis for organizing the practice of interfaith marriage provided by the GHR and supported by the letter of the Chief Justice of the Supreme Court No. KMA/72/IV/1981 in the administrative context can also be relied on Article 35 and Article 36 of Law No. 23/2006 on Population Administration (Adminduk/Adminisrasi Kependudukan).[19] The connection between regulations on population administration and the registration of interfaith marriages is evident in the content of these two articles. They suggest that a court decision can serve as a foundation for recording and authenticating a marriage without a marriage certificate. Consequently, interfaith marriages can

[16] Wahyuni, "Kontroversi Perkawinan Beda Agama Di Indonesia," 24.

[17] Undang-Undang Republik Indonesia Nomor 1 Tahun 1974 Tentang Perkawinan, 21–22.

[18] Mahkamah Agung Republik Indonesia, *Himpunan Surat Petunjuk Mahkamah Agung RI Dan Instruksi Mahkamah Agung RI Dari Tahun 1951 s.d.1994* (Jakarta: Mahkamah Agung RI, 1999), 123–26.

[19] Undang-Undang Republik Indonesia Nomor 23 Tahun 2006 Tentang Administrasi Kependudukan, n.d., 17.

be legitimized through a court decision, and ideally, the Civil Registry Office should not decline to register such marriages.

These diverse laws that potentially provide a legal framework for interfaith marriage are now facing challenges that prompt a reassessment of the legal status and validity of such marriage practices, particularly within the Muslim community. The Compilation of Islamic Law (which was established based on Presidential Instruction No. 1 of 1991 dated 10 June 1991 and Minister of Religious Affairs Decree No. 154 of 1991 dated 22 July 1991) explicitly stipulates the prohibition of interfaith marriage based on the Marriage Law chapter 1 article 2 paragraph (1) which reads "Marriage is valid if performed according to the laws of each religion and belief." This prohibition is mainly found in Article 40, paragraph (c) and Article 44, which explicitly prohibits Muslim men and women from marrying non-Muslims.[20] The firmness of this prohibition is reinforced by the fatwa of the Indonesian Ulema Council as a statement that contains legal force for Muslims with the issuance of the Decree of the Indonesian Ulema Council Number 4/MUNAS VII/MUI/8/2005 concerning the prohibition of marriage for a Muslim with a non-Muslim.

The MUI explicitly prohibits the practice of interfaith marriages by outlining the prohibition for those involved in such marriages. This fatwa was issued in response to the growing instances of interfaith marriage cases in Indonesia. To uphold and preserve the Islamic principles believed to contribute to domestic harmony, this decision was made during the VII MUI National Conference held from July 26 to 29, 2005, considering the MUI Fatwa Decision from the National Conference II in 1400 H/1980 M on Mixed Marriage. In deciding the fatwa, MUI based the argument for the prohibition of interfaith marriage on several verses of the Qur'an consisting of QS. al-Baqarah [2]: 21, QS. al-Nisā [4]: 3 and 25, QS. al-Mā'idah [5]: 5, QS. al-Rūm [30]: 21, QS. al-Mumtahanah [60]: 10, and QS. al-Tahrīm [66]: 6.[21] In addition to the mentioned foundations, it also includes hadith about choosing a partner, fiqh rules about the priority of preventing evil over

[20] Mahkamah Agung Republik Indonesia, *Himpunan Peraturan Perundang-Undangan Yang Berkaitan Dengan Kompilasi Ilukum Islam Dan Pengertian Dalam Pembahasannya* (Jakarta: Mahkamah Agung RI, 2011), 49.

[21] Majelis Ulama Indonesia, "Keputusan Fatwa Majelis Ulama Indonesia Nomor: 4/MUNAS VII/MUI/8/2005" (MUI, July 2005).

attracting benefit, and *sadd al-dzari'ah* rules, as the MUI's theological backing in stating its fatwa.

The regulations, provisions, and decisions regarding interfaith marriage established under this law encounter divergent perspectives on the permissibility or validity of the practice. Generally, the legal foundation leaning towards rejecting the legal status of interfaith marriage is rooted in the Marriage Law itself. Specifically, Article 2, paragraphs (1) and (2), and Article 8, letter (f) highlight the significant role of the religion of the prospective bride and groom in the marriage process, making marriages outside the laws of their respective faiths seemingly unjustifiable. Additionally, the Mixed Marriage Regulation/ GHR is viewed by some as inadequate to permit such marriages, as discussed earlier. The various regulations constituting a legal framework to oppose interfaith marriage, including the Compilation of Islamic Law and the MUI Fatwa supporting this stance, limit or complicate the legalization of interfaith marriages within the legal framework.

The challenges prospective Indonesian citizens face entitled to citizenship rights add complexity to the legal considerations. As discussed earlier, alternative perspectives have emerged, offering a legal foundation for interfaith marriage. Apart from the argument supporting the continued applicability of GRH, Law Number 23/2006 on Population Administration plays a significant role. Article 35, Letter A of the Population Administration Law outlines the requirements and procedures for marriage registration, providing a substantial opening for recognizing interfaith marriages. Including interfaith marriages under the category of "court-ordered marriages" in the article facilitates their administrative recording as legally valid, despite variations in judges' decisions on interfaith marriage applications.

Dynamics of Judicial Interpretations on Interfaith Marriage Provisions

This section will explain how judges or authorized officials interpreted the cases filed. This judge's legal interpretation is reflected through the content of the decision and statements regarding the response to the case or applicant. The cases or cases filed by the applicant are related to dissatisfaction with regulations that make it difficult for them to get married, so the content can be in the form of challenging, testing, or questioning the content of the rules. Petitioners

and Related Parties in a petition on an interfaith marriage case may include the bride and groom, human rights activists, lawyers, religious leaders, and various parties interested in challenging the legal basis for allowing or prohibiting interfaith marriage. Decisions on these cases are examined more exploratively to reveal the dynamics of judges' interpretations in exercising their judicial authority.

A significant judge's decision was a case filed by the applicant Andi Vonny Gani P., who is a Muslim, regarding an interfaith marriage planned to be carried out with Petrus Hendrik Nelwan, who is a Christian, so that it can be legally performed in the eyes of the law.[22] The judges discussed this case on January 20, 1986, and primarily sought the registration of an interfaith marriage at the District Court following the applicant's rejection by the Religious Court. The case, which falls under the civil category and has entered the cassation process, arises from a response to the prohibition of interfaith marriages, which has emerged amid legal views on marriage and has made it difficult to carry out the practice legally. The applicant, among others, based his lawsuit on Article 63 paragraph (1), Article 8, and Article 60 paragraph (3) of Law No. 1 of 1974, which concluded that the case could involve the intervention of the District Court (Pengadilan Negeri, abbreviated as PN), not the Religious Court (Pengadilan Agama, abbreviated as PA), which indeed rejected the implementation of religious marriage. In addition, the lawsuit's content also makes Article 27 of the 1945 Constitution the basis for equal marriage rights for the entire population, which in the Marriage Law itself does not contain provisions on the prohibition of interfaith marriages. Therefore, the applicant claims that there is a legal vacuum and urges creating a regulation that facilitates interfaith marriages to prevent legal smuggling.

From an administrative standpoint, the applicant also referred to Article 2, paragraphs (1) and (2) of the Marriage Law, addressing the registration of marriages by the Islamic faith as outlined in Law No. 32 of 1954 about the registration of marriage, divorce, and reconciliation. However, this provision inherently does not provide facilitation for marriages involving a partner who is not a Muslim.[23] The applicant, a

[22] Mahkamah Agung Republik Indonesia, "Putusan Mahkamah Agung No. 1400 K/Pdt/1986 Tahun 1986" (Yurisprudensi Mahkamah Agung RI, 1988), 31.

[23] 29–30.

Muslim, seeks to enter into a non-Islamic marriage to eliminate Article 8 sub f of the Marriage Law as a hindrance to marriage. Building upon the applicant's legal action and the referenced articles, the registrar's office, being the sole authorized agency, is petitioned to facilitate a marriage of different religions as desired by the applicant.

In reply to this appeal, the Central Jakarta District Court Judge, through decision No. 382/Pdt.P/1986/PN.JKT.PST dated April 11, 1986, explicitly denied the request, preventing the marriage from being solemnized by the Office of Religious Affairs (Kantor Urusan Agama, abbreviated as KUA) and recorded by the Civil Registry Office (Kantor Catatan Sipil, abbreviated as KCS).[24] The denial of legal validity for interfaith marriages underscores the consensus among decision-makers, including judges, as evidenced by the responses from the Head of the KUA of Tanah Abang Sub-district of Jakarta in letter No. K2/MJ-I/834/III/1986 and the Jakarta Civil Registry Office in letter No. 655/1.1755.4/CS/1986. These responses further reinforced the prevailing legal perspective prohibiting such marriages. Subsequently, the judges' rejection led to an appeal at the cassation level, resulting in a distinct decision by the Supreme Court judges who granted the request, establishing an enforceable legal foundation for interfaith marriages.

After the responses from KUA and KCS following the Religious Court ruling, the Supreme Court issued its legal decision on this case. The decision rendered by Supreme Court judges, chaired by Ali Said and including Member Judges H.R. Djoko Soegianto and Indroharto, in favor of the cassation request resulted in the annulment of the Central Jakarta District Court's rejection stipulation and the rejection letter from the Civil Registrar's Extraordinary Officer. Consequently, the interfaith marriage was permitted to proceed. As per Supreme Court Decision No. 1400 K/Pdt/1986 of 1986, the Recording Officer at the Jakarta Civil Registry Office was mandated to officiate the interfaith marriage once all other legal requirements for marriage had been satisfied. With the issuance of this decision, interfaith marriages became permissible and legally recognized, fulfilling the stipulated requirements of the law.

[24] 31.

When examining the judges' decisions on this marriage case, it is crucial to consider the disparities in their interpretations. This evaluation should encompass various aspects, including the case's background, the legal foundations influencing the judges' decisions, the rationale behind their choices, and any factual considerations that might have impacted the outcome. The case's origin, arising from the challenges associated with conducting interfaith marriages in Indonesia due to the absence of a reliable legal framework for formalization, prompted the judges to reevaluate Marriage Law No. 1 of 1974.[25] The initial consideration involved delineating the jurisdiction for conducting such marriages, transitioning from the Religious Court to the District Court, concerning Article 63, paragraph (1) a of the Marriage Law and aligning it with Article 8 of the same law. Subsequently, differences in judges' interpretations emerged, primarily revolving around the varying understandings of Marriage Law No. 1 of 1974, which inherently allows for multiple interpretations regarding the validity of marriages between individuals of different religions.

The divergence in judges' interpretations largely stems from their perspectives on the importance of religion for each prospective couple and their views on the ambiguity of conditions governing the approval or prohibition of marriage practices. The rejection by the Central Jakarta District Court, led by Judge Imam Soekarno, was grounded in Article 2, paragraph (1) of the Marriage Law, which, according to the judge's understanding, prohibits marriages between individuals of different religions. The wording of Article 2, "according to the law of each religion or belief," implies that the religious laws or beliefs of each prospective couple must be adhered to, automatically suggesting that interfaith marriages cannot be legally sanctioned. In contrast, the Supreme Court judge's legal considerations tend to take a more comprehensive approach by considering interpretations of other laws, leading to a decision that validates interfaith marriages.

[25] Gandasubrata and Abdurrahman, for example, mention that the Marriage Law does not explicitly regulate the provisions of interfaith marriage practices so the Civil Registration Service finds it difficult to register marriages carried out by two people of different beliefs on the pretext that the practice is contrary to Article 2 Marriage Law. Purwoto S. Gandasubrata, "Tinjauan Mengenai Perkawinan Antar-Agama Dengan Berlakunya Undang-Undang Perkawinan (UU No. 1 Tahun 1974)," 1987, 1; Abdurrahman, "Kompendium Bidang Hukum Perkawinan," 5.

The Supreme Court judges' considerations in interpreting Marriage Law No. 1 commenced with endorsing the applicant's argument concerning the authority of the District Court to officiate marriages between different religions, as outlined in Article 63, paragraph (1) a of the Marriage Law and supported by Article 8 of Law No. 1 of 1974. Furthermore, Marriage Law No. 1/1974 was deemed not to include any provisions explicitly prohibiting marriages based on religious differences, aligning with Article 27 of the 1945 Constitution, which asserts the equal status of every citizen before the law. As a result, a legal vacuum regarding the regulations for such marriages was identified, necessitating the judge's decision on this matter. Considering the factual context of the heterogeneity and plurality of Indonesian citizens and the imperative for a legal framework to govern such marriages and prevent legal loopholes or misuse, the Supreme Court issued a decision letter affirming the validity of interfaith marriages, acknowledging that they can be legally conducted and recorded by the Civil Registry Office.

While interfaith marriages can be performed and administratively considered valid through registration by the Civil Registry Office, existing regulations on interfaith marriages lack a solid legal foundation concerning the validity of the marriage and its legal implications post-marriage. In response, four applicants—Damian Agata Yuvens, Rangga Sujud Widigda, Luthfi Sahputra, and Anbar Jayadi—initiated a judicial review against Article 2, paragraph (1) of the Marriage Law.[26] The application for this judicial review case primarily addresses the validity of interfaith marriages and was submitted to the Constitutional Court on June 18, 2015. They exercised their constitutional rights by asserting four citizen rights, including the right to religion (Article 28E, paragraphs 1 and 2, Article 28I, paragraph 1, and Article 29, paragraph 2 of the 1945 Constitution); the right to a valid marriage (Article 28B, paragraph 1 of the 1945 Constitution); the right to fair legal certainty (Article 28D, paragraph 1 of the 1945 Constitution); and the right to equality before the law and freedom from discriminatory treatment (Article 27, paragraph 1, Article 28D,

[26] "Risalah Sidang Perkara Nomor 68/PUU-XII/2014," in *Perihal Pengujian Undang-Undang Nomor 1 Tahun 1974 Tentang Perkawinan Terhadap Undang-Undang Dasar Negara Republik Indonesia Tahun 1945* (Acara Mendengarkan Keterangan Dpr, Pihak Terkait, serta Saksi Pemohon (IV), Jakarta, 2014), i, 1–2.

paragraph 1, and Article 28I, paragraph 2 of the 1945 Constitution). This judicial review petition primarily stems from dissatisfaction with the legal interpretation that appears to pass judgment on citizens' choices, creating normative and implementative legal uncertainty and violating the right to enter a legal marriage.

In response to the petitioners' judicial review, the Constitutional Court Mahkamah Konstitusi, abbreviated as MK), through Decision No. 68/PUU-XII/2014, dismissed the review of Article 2, paragraph (1) of the Marriage Law.[27] The panel of judges asserted that the petition lacked robust legal grounds. The court's decision underscores the impossibility of interfaith marriage under Indonesian positive law due to concerns about legal ramifications, including the validity of spousal and offspring relationships, inheritance rights, and the adjudication of disputes within marriages. The rejection, led by Chief Justice Arief Rahman, contends that regulations stipulating the validity of marriages conducted following individual religions and recorded under legal rules do not infringe upon the Constitution. This perspective emphasizes the holistic view of marriage, incorporating spiritual and social dimensions alongside formal considerations, where incorporating religious norms plays a pivotal role in legalizing marriages.

In adjudicating this judicial review case, the judges systematically examined various testimonies, including those of the President, representatives of different religions through community organizations, expert witnesses, and witnesses presented by the petitioners and the Advocacy Team for Diversity. Additionally, written evidence, such as letters, was considered from both the petitioners and related parties. In their evaluation of the 1945 Constitution, particularly the articles highlighted by the applicant, the judges concurred with the arguments presented by the relevant parties. The applicant's claim about interpretive flexibility and constraints leading to a violation of the right to fair legal certainty, contradicting the constitutionally mandated freedom, was countered by referencing the fourth paragraph of the preamble of the 1945 Constitution, which establishes the One

[27] Mahkamah Konstitusi Republik Indonesia, "Putusan Nomor 68/PUU-XII/2014," (2014), 149–54.

True God as the state ideology and is reiterated in Article 29, paragraph (1) of the Constitution.

The interpretation of the principle of divinity, as mandated by the 1945 Constitution, entails recognizing the significance of religion as a guiding factor for the state in regulating marriage, which normatively involves a religious ceremony for validation. Marriage, seen as the embodiment of citizens' constitutional rights, carries an obligation to respect the constitutional rights of others. This consideration, in essence, underscores the importance of religious involvement for citizens. Moreover, the state has fundamentally facilitated the perspective that marriage embodies constitutional rights through the Marriage Law. Therefore, the judge did not concur with the applicant's assertion regarding the limited constitutional right to enter into marriage.

The judge provided additional legal rationale to elucidate and respond to the applicant's lawsuit. According to the judge, Article 28B paragraph (1) of the 1945 Constitution pertains to the right to establish a family through marriage, which the Marriage Law has effectively realized.[28] This law, based on the principles of Pancasila and the 1945 Constitution, considers Article 28J of the 1945 Constitution, emphasizing respect for the rights and honor of others. Furthermore, the judges contested the argument that citizens were compelled to adhere to religious law in marriage. They clarified that marriages regulated by legislation are fundamentally rooted in the Almighty God, and their validation adheres to religious law before being recorded according to statutory regulations. Ultimately, the judge asserted that the applicant's arguments concerning the right to practice religion and freedom of religion should be grounded in Pancasila and the 1945 Constitution, which positions religion as the legal foundation for marriage. Based on these legal reasons and the paramount role of religion in the state ideology, the Constitutional Court judges opted to reject the judicial review of interfaith marriage.

Seven years later, another request for a judicial review of interfaith marriage emerged, involving a petition to review Law Number 16 of 2019, which pertains to Amendments to the Marriage

[28] 150–54.

Law against the 1945 Constitution, submitted by Ramos Patege.[29] The essence of the petition, focusing on the validity and registration of marriage, prompted the Constitutional Court to reference the legal considerations from Constitutional Court Decision Number 68/PUU-XII/2014. According to Article 60 paragraph (2) of the Constitutional Court Law and Article 78 of PMK 2/2021, a re-examination of the petition on interfaith marriage is permissible. The judges initiated their interpretation by considering the petition's substance and the Constitutional Court's prior decisions in Number 46/PUU-VIII/2010 and Number 68/PUU-XII/2014. Before delving into the legal interpretation of the petition, the Court reiterated that the validity of marriage falls within the jurisdiction of religion, overseen by religious institutions or organizations authorized to provide religious interpretations. This affirmation stems from previous Constitutional Court decisions, emphasizing that the state's role in regulating interfaith marriages is confined to implementing the interpretations offered by religious institutions or organizations concerning procedures and validity.

Regarding the impact on citizens' human rights to enter into marriages of the same religion, the judges' legal reasoning closely mirrored the 2014 Constitutional Court decision on the Pancasila ideology as the nation's philosophical foundation. Concerning the applicant's assertion of freedom of rights, seemingly grounded in the Universal Declaration of Human Rights, the judges held that it lacked direct legal binding force as it was merely a "statement of ideals," as noted in Constitutional Court Decision Number 008/PUU-IV/2006 on September 28, 2006.[30] The judges deemed the concept of human rights inapplicable based on Article 28B paragraph (1) of the 1945 Constitution, which views marriage not as a standalone right but as a prerequisite for exercising the right to form a family and continue offspring. According to the judges' interpretation, citizens' rights within the framework of marriage have been duly fulfilled through legal regulations, aligning with Article 28J of the 1945 Constitution and fulfilling the mandate to safeguard the rights guaranteed by the 1945 Constitution.

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[29] "Ringkasan Permohonan Perkara Nomor 24/PUU-XX/2022 'Perkawinan Dalam Perbedaan Agama/Kepercayaan,'" n.d., 1.

[30] "Putusan Mahkamah Konstitusi Nomor 24/PUU-XX/2022," n.d., 625–27.

Regarding the right to conduct interfaith marriages, inseparable from the religious context, the judges referenced Constitutional Court Decision Number 56/PUU-XV/2017 to interpret the role of religion in marriage.[31] They asserted that marriage constitutes a form of worship, serving as an expression of religious beliefs. Consequently, marriage is categorized as a forum externum, where state intervention is permissible, similar to the management of zakat and hajj. State regulation of marriage is designed to prevent religious expressions from deviating from the core tenets of the respective religion. Therefore, the interpretation of the Marriage Law is viewed not as a restriction on personal beliefs but as a regulation safeguarding the rights and obligations of every citizen concerning marriage—an essence derived from Article 28B paragraph (1) and Article 29 of the 1945 Constitution, ensuring the implementation of religious teachings.

Regarding validating the marriage proposed by the applicant within the context of marriage registration, the judges' interpretation continues to uphold the norms stipulated in Article 2, paragraph (1) of Law 1/1974, which pertains to the validation of marriages by the laws of each religion and belief.[32] The judges perceive the request to record a marriage of different religions through a court decision based on letter b of Law 23/2006 to provide protection and recognition of personal and legal status. They contend that the state has established such facilitation through Article 2, paragraph (2) of the Marriage Law. This interpretation is justified by the assertion that the state actively ensures the protection and fulfillment of human rights, guided by the laws and regulations stipulated in Article 28I, paragraph (4), and paragraph (5) of the 1945 Constitution. The legal reasoning presented by the judges aligns with the Court's previous decision, emphasizing the constitutionality of a valid marriage, which must conform to religious and belief practices and be registered in adherence to statutory regulations.

Based on the judges' interpretations reflected in the legal decisions above, there is a noticeable divergence in their perspectives when considering the legal justifications for deciding interfaith marriage cases. The applicant's petition emphasized the pressing need for the state to establish a robust legal framework that facilitates

[31] "Putusan Mahkamah Konstitusi Nomor 24/PUU-XX/2022," 627–28.

[32] "Putusan Mahkamah Konstitusi Nomor 24/PUU-XX/2022," 629–31.

interfaith marriage, addressing both legal and administrative aspects of validity. A well-defined and sufficient legal foundation could deter citizens from resorting to illegal means and ensure the legal standing of families with partners from different religious backgrounds. Moreover, it could promote the fair implementation of citizens' right to marry. However, these arguments did not find unanimous agreement among the judges, with those rejecting the application differing from those who granted it, particularly in their views on the imperative of a legal basis for such marriages.

As previously mentioned regarding the judges' legal rationale for case decisions, the reinterpretation of the Marriage Law, particularly Article 2 paragraphs (1) and (2), consistently evolves in response to the specifics of each petition. Additionally, the interpretation of various articles in the 1945 Constitution serves as a legal foundation for addressing issues related to human rights and citizens' freedom in religion and marriage. Moreover, the legal perspectives involved parties present play a crucial role in the judge's determination. Analyzing the legal interpretation of the petitioned article by considering the context of other laws, it is apparent that most judges hold a distinct perspective on citizens' human rights and freedoms. This perspective is discernible through interpretations emphasizing the alignment with the 1945 Constitution and contributing to differences of opinion on the necessity of legalizing interfaith marriages. Legal interpretations leading to denial tend to distance themselves from the urgency of religion, deemed an integral part of the state philosophy. In contrast, interpretations resulting in approval tend to emphasize the quest for legal certainty to ensure the realization of the marriage sought by the applicant.

Examining New Legal Insights on Interfaith Marriage: A Judge's Guide

This section explores the aftermath of the Supreme Court Circular Letter issuance, which provided directives for judges in handling applications for registering interfaith marriages. With a focus on SEMA No. 2 of 2023 and the judicial interpretations of the court's guidelines, this segment aims to comprehensively understand the legal dynamics surrounding the circular's release and the judges' execution of the provided guidance. Specifically, the analysis covers the background leading to the formation and issuance of SEMA, the issues

it addresses, the content and purpose of the guidelines, and the ideal interpretation of SEMA by judges. Examining these aspects helps assess the most recent legal perspectives following the issuance of SEMA and its application in adjudicating interfaith marriage cases, which have been subjects of ongoing debate among various stakeholders.

SEMA No. 2 of 2023 urges judges to exercise caution in approving applications for the registration of interfaith marriages. As per the author's investigation, the issuance of this official letter is closely linked to significant pressures exerted by various groups opposing the practice of interfaith marriages. The Supreme Court, vested with the authority to decide on multiple matters, including handling cassation petitions, reviewing court decisions with permanent legal force, and scrutinizing laws and regulations, appears to underscore the importance of decisions issued by these state institutions in resolving cases. The influential stance of the Supreme Court has prompted concerned parties to engage in legal discussions with authorized judges to reassess the legal standing of interfaith marriages. Consequently, the previously feasible registration of interfaith marriages through several District Courts (PN) encountered a new obstacle following the issuance of SEMA No. 2 of 2023.

The issuance of SEMA No. 2 of 2023 was purportedly prompted by significant external pressures regarding interfaith marriage, primarily from entities opposing its legalization and practice.[33] An influential figure indirectly connected to the Supreme Court's confirmation of the rejection of interfaith marriage applications is Yandri Susanto, the Deputy Chairman of the MPR RI, who approached the Supreme Court seeking the annulment of the determination of interreligious marriage by the South Jakarta District Court.[34] Additionally, the Indonesian Ulema Council (MUI) and

[33] Examining the widespread practice of interfaith marriage to the extent that it necessitates a reaffirmation of regulations, Noryamin Aini et al. (2019) offer an insightful perspective. Their study, based on data from the Central Statistics Agency (BPS) covering the period from 2000 to 2010, reveals 228,778 cases (0.5%) of interfaith marriages during that timeframe. See Aini, Utomo, and McDonald, "Interreligious Marriage in Indonesia," 196–97.

[34] Setara Institute, "SEMA 2/2023 Tidak Kompatibel dengan Kebinekaan dan Negara Pancasila," Berita, *Setara Institute* (blog), July 20, 2023, https://setara-

Islamic organizations, including Nahdlatul Ulama (NU) and Muhammadiyah, consistently assert that interfaith marriage is impermissible for Muslims. Conversely, Vice President K.H. Ma'ruf Amin expressed support for the Supreme Court's decision, suggesting that the official letter effectively closes the door to the possibility of interfaith marriage. The evident alignment between SEMA No. 2 of 2023 and the prevailing perspective opposing or disapproving of interfaith marriage provides a contextual backdrop to the issuance of the letter.

The issuance of SEMA No. 2 of 2023, addressing the rejection of interfaith marriages, primarily stems from criticisms directed at decisions made by several District Courts, such as those in Jakarta and Surabaya, that granted applications for the determination of interfaith marriages. Chaired by Syarifuddin, the chief justice of the Supreme Court, SEMA No. 2 of 2023 articulates two key points: Firstly, a valid marriage is one conducted in adherence to the laws of each religion and belief, as outlined in Article 2, paragraph (1), and Article 8, letter f, of Law Number 1 Year 1974 concerning Marriage.[35] Secondly, the Court does not approve applications for registering marriages between individuals of different religions and beliefs. The emphasis in SEMA No. 2 of 2023 on the necessity for marriages to align with the laws of each religion, coupled with the prohibition against the court recording such marriages, appears to be a response to the criticism surrounding the registration and execution of interfaith marriages in District Courts. In light of the guidelines provided to judges in this official letter, the feasibility of conducting interfaith marriages diminishes, prompting protests from various quarters questioning and challenging the legal aspects of this decision.

The issuance of the decision in SEMA No. 2 of 2023 establishes legal supremacy, reinforcing the argument against interfaith marriage. Directed to the chairpersons or heads of courts at various levels, including family courts within the Supreme Court jurisdiction across Indonesia, the guidelines and procedures outlined in this

institute.org/sema-22023-tidak-kompatibel-dengan-kebinekaan-dan-negara-pancasila/.

[35] "Surat Edaran Nomor 2 Tahun 2023 Tentang Petunjuk Bagi Hakim Dalam Mengadili Perkara Permohonan Pencatatan Perkawinan Antar-Umat Yang Berbeda Agama Dan Kepercayaan."

decision ideally serve as directives for judges when dealing with interfaith marriage cases, urging them to reject such applications. However, in practice, judges retain the flexibility to interpret the specifics of a situation or consider other influencing factors that may shape their decisions. These interpretations could encompass registration procedures, legal considerations, and other relevant aspects. SEMA No. 2 of 2023, functioning as a technical guide, does not outright restrict judges from making decisions tailored to specific circumstances within the judicial environment, acknowledging that interfaith marriages may still occur. Essentially, the issuance of this decision letter signifies that the state relinquishes responsibility for handling applications seeking the legalization of interfaith marriages.

The judge's interpretation of SEMA No. 2 of 2023 in adjudicating cases of interfaith marriages does not eliminate the possibility of implementing these marriages.[36] Legal considerations come into play during the interpretation process, introducing complexities. For instance, the legal gap between Law Number 23 of 2006 concerning Population Administration, which requires harmonization with Marriage Law Number 1 of 1974 to address the legal uncertainties in interfaith marriages in Indonesia. On the contrary, Article 35 letter (a) of Law No. 23/2006 on Population Administration, founded on ensuring citizens' administrative rights without discrimination, can be a legal basis for approving interfaith marriages. The guidelines provided for judges in SEMA may be scrutinized for their substance, potentially conflicting with previous regulations like the Population Administration Law and GHR. Additionally, considering its juridical position, there is a question of whether the decision constitutes new legislation to fill the legal vacuum, as stipulated in Article 79 of Law No. 14 of 1985. Judges can also consider various laws and regulations tested in applications for legalizing interfaith marriages in 1986, 2014, and 2022 when hearing cases after SEMA No. 2 of 2023. Faced with numerous challenges and debates surrounding the rule of law in the guidelines, some judges seem to have

[36] This statement was delivered by the Vice Rector of UIN Syarif Hidayatullah Jakarta, Ahmad Tholabi Kharlie in an interview with Media Indonesia newspaper. See Despian Nurhidayat, "Guru Besar UIN: Surat Edaran MA Tak Cukup Akhiri Praktik Nikah Beda Agama," Berita, *Media Indonesia* (blog), July 19, 2023, https://mediaindonesia.com/humaniora/597783/guru-besar-uin-surat-edaran-ma-tak-cukup-akhiri-praktik-nikah-beda-agama.

independently interpreted the ruling by allowing the performance of interfaith marriages in some instances.

One post-SEMA No. 2 of 2023 court case involving interfaith marriages is the North Jakarta District Court decision on August 8, 2023, under case number 423/Pdt.P/2023/PN Jkt. UTR.[37] Presided over by Yuli Effendi as a single judge, the court approved the request for an interfaith marriage between a Catholic and Protestant Christian couple. The verdict stated: "Granting permission to the applicants to register their interfaith marriage at the Population and Civil Registry Office of North Jakarta and ordering the staff of the North Jakarta Dukcapil Office to register the applicants' interfaith marriage." The judge's legal interpretation considered the provisions of Article 35 letter a of the Civil Registration Law and Article 50 paragraph (3) of Ministerial Regulation 108/2019, offering guidance on implementing interfaith marriages through legal registration after determination by the local District Court. The judge also considered that the marriage had been conducted within the Catholic faith, and the applicants were still within the same faith, providing a robust justification for approving the registration of this marriage. The diverse legal considerations that informed the judge's review of the applicants' marriage registration request may lead to a decision on interfaith marriage that differs from the guidelines outlined in SEMA No. 2 of 2023.

The legal perspective that opposes interfaith marriage typically relies on the significance of religion, as articulated in the phrase "Ketuhanan yang Maha Esa" (divinity almighty), aligning with the state philosophy outlined in Article 29 of the 1945 Constitution. Consequently, the prohibition of interfaith marriage is consistent with Article 28B paragraph (1) of the 1945 Constitution, which emphasizes the right to establish a family and continue offspring through legal marriage. This viewpoint contends that the state fulfills its obligation to safeguard the rights and dignity of citizens by reinstating the legalization of marriage according to their respective religions, emphasizing the urgency of religion as a manifestation of the universality of divinity that forms the philosophy of Pancasila. In essence, this interpretation adopts a specific standpoint in comprehending marriage within the context of citizens' rights, asserting

[37] "Penetapan Nomor 423/Pdt.P/2023/PN Jkt.Utr," n.d., 1–2.

that Law No. 1 of 1974 concerning Marriage is conclusive in regulating marital issues.

Meanwhile, judges who approve applications for interfaith marriages typically emphasize the imperative of upholding citizens' rights in marriage to curb legal circumvention and exploitation. Instances where one partner is compelled to convert solely to legalize the marriage and then revert to their original religion are illustrative of such scenarios. Furthermore, there are cases where couples opt to marry according to the rituals of each religion on a rotational basis or intentionally conduct their marriage abroad later to facilitate administrative recording upon their return to Indonesia.[38] The intricacies of interfaith marriage procedures, which may lead to legal irregularities, have prompted judges to authorize marriage registration at the District Court, as stipulated in Law Number 23/2006 on Population Administration, notably under Article 35 letter a and the accompanying Explanation. Persistent refusals from the Civil Registry Office and the Religious Affairs Office to facilitate interfaith marriages, as evident in past case applications, have ultimately influenced judges to interpretatively endorse the execution of such marriages for subsequent processing and recording by authorized institutions.

Fundamentally, the interpretations of judges, whether they reject or allow the implementation of interfaith marriages, are closely tied to the historical backdrop of past cases that have yielded diverse decisions at various levels, including the District Court, Supreme Court, and Constitutional Court. Additionally, numerous laws and regulations have undergone scrutiny, necessitating reinterpretation in line with contemporary contexts. Simultaneously, many stakeholders have actively shaped judges' decisions, including religious community organizations, socio-religious community associations, human rights activists, the National Commission on Women (Komisi Nasional Perempuan), lawyers, and legal experts. Their involvement extends beyond the courtroom, as they contribute legal opinions that influence decision-making. The subjective perspectives of judges on the essence of marriage and the existence of religious differences inevitably shape their views, making the observed disparity in legal interpretation a pragmatic outcome. Ideally, there should be no curtailment or

[38] However, these behaviors are considered a form of "legal law smuggling." See Purwoto S. Gandasubrata, *Renungan Hukum* (Jakarta: IKAHI, 1998).

imposition of citizens' rights, regardless of the judge's decision on interfaith marriage cases.

Conclusions

From the study and analysis conducted on the legal framework and differences in judges' interpretations of the legal provisions of interfaith marriage, this article concludes that: First, the issue of interfaith marriage has been regulated in legislation and other legal regulations. However, it is still unable to unify the judges' perceptions and interpretations of several legal regulations. As a result, there were different legal verdicts on cases of interfaith marriage. This continued until the emergence of Supreme Court Circular Letter (SEMA) No. 2 in 2023, which was expected to end the different interpretations of judges in deciding cases of interfaith marriage. The variations in decisions among judges at various levels, including the District Court, Supreme Court, and Constitutional Court, inherently reflect judicial independence. This independence manifests in the diverse interpretations of the Marriage Law, influenced by the specific context of each case and the nuanced perspectives on religious differences within marriage. Second, this research identifies a recurring dynamic in their interpretations based on examining judges' legal reasoning in case decisions. A discernible pattern arises in their interpretations, characterized by the systematic use and reinterpretation of legal arguments and legislation in interreligious marriage cases. The arguments surrounding freedom, the right to marry, and the state's philosophy of divinity are frequently invoked as legal justifications. Additionally, laws such as Article 2 of Law No. 1 of 1974 on Marriage and Article 35 Letter A of the Law on Civil Administration are recurrently tested and considered legal bases. Regardless of the dynamic nature of legal interpretations, it is ideal for any judge's decision to prioritize protecting and assuring citizens' rights in conducting marriages, especially for couples of different religions and beliefs.

Conflicts of Interest

The author has no conflict of interest with any party in writing this article.

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