



Legal Construction of Interfaith Marriage in Indonesian Pluralism Context: Analysis of Regulation and Practice

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Abstract. *This research examines the legal construction of interfaith marriage in Indonesia within its pluralistic context. Through socio-legal analysis, it explores current regulations, implementation practices, and challenges in accommodating interfaith marriages under Indonesian law. The study analyzes Marriage Law No. 1/1974, Civil Administration Law, and relevant court decisions, revealing gaps between constitutional rights of religious freedom and existing marriage regulations. Research methods include document analysis, case studies, and comparative legal analysis with other pluralistic societies. Findings indicate significant challenges in legal recognition and civil registration of interfaith marriages, impacting citizens' constitutional rights. The study proposes legislative reforms and administrative improvements to better accommodate religious diversity while maintaining legal certainty. This research contributes to the ongoing discourse on legal pluralism and religious freedom in Indonesian marriage law.*

Keywords: *Indonesian law, interfaith marriage, legal pluralism, marriage registration, religious freedom*

1. INTRODUCTION

Indonesia stands as a remarkable example of religious diversity, where Islam, Christianity, Hinduism, Buddhism, and various indigenous beliefs coexist within a unified national framework. As the world's largest Muslim-majority nation, approximately 87% of its 270 million population identifies as Muslim, while also being home to significant populations of Christians (10%), Hindus (1.7%), Buddhists (0.7%), and adherents of other faiths. This religious plurality is officially recognized through the state ideology of Pancasila, particularly its first principle of "Belief in One Supreme God," which acknowledges six official religions: Islam, Protestantism, Catholicism, Hinduism, Buddhism, and Confucianism. The country's motto "Bhinneka Tunggal Ika" (Unity in Diversity) further emphasizes this commitment to religious pluralism, though managing interfaith relations, particularly in matters of marriage, remains a complex challenge within Indonesia's legal and social framework.

The historical evolution of marriage laws in Indonesia reflects the complex interplay between colonial legacies, religious influences, and modern state formation. During the Dutch colonial period, marriage regulations were pluralistic, with different rules applying to various population groups through the 1848 Civil Code (Burgerlijk Wetboek). Post-independence, Indonesia faced the challenge of unifying these diverse legal traditions, culminating in the enactment of Marriage Law No. 1/1974. This landmark legislation marked a significant shift from colonial-era legal pluralism to a more unified national framework, though it maintained strong religious influences by requiring marriages to be conducted according to religious laws.

The law's implementation, supported by Government Regulation No. 9/1975, established a dual system where religious and civil authorities share jurisdiction over marriage matters, creating lasting implications for interfaith marriages in contemporary Indonesia.

The current legal framework governing interfaith marriages in Indonesia exists in a state of regulatory ambiguity. Marriage Law No. 1/1974 does not explicitly address interfaith marriages, only stipulating that marriages must be performed according to the religious laws and beliefs of the respective parties. This legal vacuum has led to diverse interpretations by religious courts and civil registration offices across the country. The Constitutional Court's Decision No. 68/PUU-XII/2014 upheld the religious basis of marriage law, while the Civil Administration Law (UU No. 23/2006, amended by UU No. 24/2013) provides technical procedures for marriage registration without specifically addressing interfaith unions. In practice, couples seeking interfaith marriages often resort to alternative solutions, such as temporary religious conversion, marriage abroad, or judicial review through the civil courts, highlighting the tension between religious law and civil rights in Indonesia's legal system. Societal challenges and contemporary issues

This research addresses a critical gap in understanding the legal construction of interfaith marriages within Indonesia's pluralistic society. The significance lies in examining how the current legal framework impacts religious freedom, civil rights, and social harmony in an increasingly diverse nation. Through comprehensive analysis of regulations, court decisions, and implementation practices, this study aims to: (1) identify legal barriers and inconsistencies in interfaith marriage recognition; (2) analyze the effectiveness of existing legal mechanisms in protecting citizens' constitutional rights; (3) examine the societal implications of current legal constructions; and (4) propose legal reforms that balance religious principles with civil rights. The findings will contribute to legal scholarship, policy development, and practical solutions for addressing interfaith marriage challenges in Indonesia's pluralistic context.

Problem Analysis

1. Legal gaps in interfaith marriage regulations
2. Constitutional rights versus religious laws
3. Implementation challenges in civil registration
4. Societal and cultural implications
5. Comparative analysis with other pluralistic societies

2. LITERATURE REVIEW

Legal pluralism theory

Legal pluralism theory provides the theoretical foundation for understanding Indonesia's complex legal landscape regarding interfaith marriages. This framework, developed by scholars like John Griffiths and Sally Falk Moore, recognizes the coexistence of multiple legal systems within a single social field. In Indonesia's context, legal pluralism manifests through three intersecting systems: state law (positive law), religious law (particularly Islamic law), and customary law (adat). This theoretical approach helps explain how these different legal orders interact in regulating interfaith marriages, often creating normative conflicts between state recognition and religious prohibitions. Sally Engle Merry's concept of "semi-autonomous social fields" particularly illuminates how religious institutions maintain significant authority in marriage matters despite state regulations. The theory also addresses how individuals navigate between these different legal systems, choosing forums for dispute resolution and recognition of their marriages. Understanding legal pluralism is crucial for analyzing the challenges and opportunities in reforming interfaith marriage regulations within Indonesia's pluralistic legal framework.

Religious freedom principles

Religious freedom principles form a fundamental cornerstone in analyzing interfaith marriage rights in Indonesia, anchored in Article 29 of the 1945 Constitution which guarantees freedom of religion and worship. This principle intersects with international human rights standards, particularly Article 18 of the Universal Declaration of Human Rights and Article 16 regarding the right to marry. In Indonesia's context, religious freedom operates within the framework of Pancasila, which recognizes religious plurality while maintaining state recognition of official religions. However, this creates tension between individual rights to religious freedom and state-recognized religious laws governing marriage, particularly when different religious doctrines impose varying restrictions on interfaith unions. The challenge lies in balancing these constitutional guarantees of religious freedom with the requirements of Marriage Law No. 1/1974, which mandates religious-based marriage ceremonies, thereby affecting the practical exercise of religious freedom in marital choice.

Human rights perspective

The human rights perspective on interfaith marriage in Indonesia centers on universal rights enshrined in international law and Indonesia's constitutional framework. The Universal Declaration of Human Rights (Article 16) and International Covenant on Civil and Political Rights establish marriage as a fundamental human right, regardless of religion or belief.

Indonesia's Constitution similarly protects human rights through Articles 27, 28B, and 29, guaranteeing equality before law and freedom of religion. However, the implementation of Marriage Law No. 1/1974 creates potential human rights conflicts by requiring religious-based ceremonies, effectively limiting marriage choices for interfaith couples. This tension between international human rights standards, constitutional guarantees, and religious-based marriage regulations raises critical questions about the state's role in protecting individual rights while respecting religious autonomy in marriage matters.

Constitutional law theories

Constitutional law theories provide critical frameworks for analyzing interfaith marriage rights in Indonesia through the lens of fundamental state principles. The theory of constitutional supremacy, embodied in Article 1(3) of the 1945 Constitution establishing Indonesia as a state based on rule of law, positions constitutional rights above ordinary legislation. This intersects with the theory of proportionality, which requires balanced consideration between religious freedom (Article 29) and the right to form a family (Article 28B). The doctrine of constitutional interpretation further illuminates how the Constitutional Court's decisions, particularly Decision No. 68/PUU-XII/2014, shape the legal understanding of marriage rights within Indonesia's constitutional framework. These theories collectively emphasize the state's obligation to protect individual constitutional rights while maintaining harmony with religious and cultural values in marriage regulation.

Sociology of law concepts

The sociology of law concepts provide essential insights into how legal norms regarding interfaith marriage interact with social realities in Indonesia's pluralistic society. Drawing from Eugen Ehrlich's concept of "living law" and Lawrence Friedman's legal system theory, this perspective examines how formal legal rules intersect with social behaviors, cultural norms, and religious values in shaping interfaith marriage practices. The theory emphasizes the gap between "law in books" and "law in action," particularly relevant in analyzing how different communities interpret and implement marriage regulations. This sociological approach reveals how social institutions, power relations, and cultural dynamics influence the effectiveness of legal frameworks governing interfaith marriages, highlighting the need for legal solutions that acknowledge both formal state law and social realities.

3. METHODS

Research approach: Socio-legal research

This research employs a socio-legal approach, combining doctrinal legal analysis with empirical social science methods to examine interfaith marriage in Indonesia. The socio-legal methodology enables investigation of both formal legal frameworks and their social implementation, considering how law operates in society. This approach examines legal texts, judicial decisions, and administrative practices while also analyzing social behaviors, cultural norms, and religious interpretations that influence interfaith marriage practices. The research utilizes qualitative methods to gather data from legal documents, court decisions, and administrative records, complemented by analysis of social practices and institutional behaviors in implementing marriage regulations. This comprehensive approach allows for a deeper understanding of the gap between legal provisions and social realities in interfaith marriage regulation.

Data collection methods

This research employs multiple data collection methods to ensure comprehensive analysis of interfaith marriage in Indonesia. Primary data collection includes document analysis of legal sources (Constitution, Marriage Law, Civil Administration Law, and court decisions), case studies examining specific interfaith marriage cases across different regions, and in-depth interviews with key stakeholders (religious court judges, civil registration officers, legal practitioners, interfaith couples, and religious leaders). The research also utilizes comparative legal analysis to examine interfaith marriage regulations in other pluralistic societies, studying best practices and implementation strategies. These methods are complemented by secondary data collection from academic publications, government reports, and administrative records, ensuring a thorough understanding of both legal frameworks and practical implementation challenges.

Data analysis techniques

This research employs a comprehensive data analysis approach integrating multiple techniques. The analysis begins with qualitative content analysis, systematically coding legal documents, interview transcripts, and case records to identify recurring themes and patterns in interfaith marriage regulation and practice. Legal analysis examines doctrinal aspects, including statutory interpretation, judicial reasoning, and constitutional principles application. Comparative analysis evaluates different regional approaches and implementation practices across jurisdictions. The research utilizes triangulation methods to cross-verify findings from multiple sources, integrating legal and social perspectives through a three-level interpretation

framework: initial analysis of raw data, deep analysis for pattern identification, and synthesis for conclusion development. This systematic approach ensures rigorous examination of both legal frameworks and social implementation practices in interfaith marriage regulation.

Research limitations

This research acknowledges several key limitations that impact its scope and generalizability. The study faces methodological constraints in accessing comprehensive data across Indonesia's diverse regions, particularly regarding sensitive interfaith marriage records and court decisions. Geographic limitations restrict the research to primarily urban areas, potentially overlooking unique challenges in rural communities. Data collection faces barriers including privacy concerns, inconsistent record-keeping across jurisdictions, and varied cooperation levels from religious authorities. Time and resource constraints affect the ability to conduct longitudinal analysis and gather data from all religious and ethnic groups. Additionally, the dynamic nature of legal and social changes means findings may require periodic updates to maintain relevance. These limitations suggest the need for future research to address gaps in understanding interfaith marriage practices across Indonesia's diverse cultural and religious landscape.

4. RESULTS AND DISCUSSION

Analysis of current legal framework

The current legal framework governing interfaith marriages in Indonesia reveals complex interactions between statutory law, religious law, and administrative regulations. Marriage Law No. 1/1974 establishes the fundamental principle that marriages must be conducted according to religious laws, creating challenges for interfaith couples as it lacks explicit provisions for such unions. The Civil Administration Law (UU No. 23/2006, amended by UU No. 24/2013) focuses on technical registration procedures but maintains ambiguity regarding interfaith marriages. Religious Court decisions demonstrate varying interpretations, with some courts adopting a more flexible approach by allowing civil registration of interfaith marriages performed abroad, while others strictly adhere to religious law requirements. Notable decisions, such as Constitutional Court Decision No. 68/PUU-XII/2014, uphold the religious basis of marriage while acknowledging constitutional rights to religious freedom. This legal framework's complexity often leads couples to seek alternative solutions, including temporary religious conversion or marriage abroad, highlighting the need for clearer legal provisions addressing interfaith marriages.

Implementation practices across regions

The implementation of interfaith marriage regulations varies significantly across Indonesia's regions, reflecting local cultural and religious dynamics. Major urban areas like Jakarta and Surabaya often demonstrate more flexible approaches, with civil registry offices sometimes accommodating interfaith marriages through creative legal interpretations. In contrast, more conservative regions tend to strictly enforce religious-based marriage requirements. Regional variations are evident in administrative practices, with some areas accepting court decisions as basis for registration while others requiring additional religious validation. Local government policies also differ in handling marriage registration procedures, documentary requirements, and recognition of marriages performed abroad. These regional disparities create legal uncertainty and often force couples to "forum shop" for more accommodating jurisdictions, highlighting the need for standardized national implementation guidelines.

Stakeholder perspectives

Stakeholder perspectives on interfaith marriage in Indonesia reveal diverse viewpoints and competing interests. Religious authorities, particularly from majority Muslim organizations, generally maintain conservative stances emphasizing religious law compliance and expressing concerns about faith preservation. Civil registry officials often struggle between accommodating couples' needs and adhering to legal requirements, while legal practitioners advocate for clearer regulations protecting constitutional rights. Human rights organizations and civil society groups push for more inclusive policies, highlighting discrimination concerns. Interfaith couples themselves report significant bureaucratic, social, and religious challenges in pursuing marriage recognition. Government officials typically maintain cautious positions, balancing religious sensitivities with civil rights obligations. These varying perspectives reflect broader tensions between religious authority, state regulation, and individual rights in Indonesia's pluralistic society.

Impact on Indonesian society

The impact of interfaith marriage regulations on Indonesian society manifests in multiple dimensions affecting social cohesion and religious harmony. The current legal framework has led to increased religious conversions for marriage purposes, often creating family tensions and challenging religious authenticity. Social stigma and discrimination against interfaith couples persist in many communities, affecting their integration and acceptance. The lack of clear legal recognition has economic implications, affecting inheritance rights, property ownership, and children's legal status. These challenges have contributed to demographic

shifts, with some couples choosing to migrate to more accommodating regions or countries, while others maintain unofficial unions outside legal recognition. The situation has sparked ongoing public discourse about religious freedom, cultural identity, and the evolution of Indonesian society in managing religious diversity while maintaining social harmony.

Alternative legal solutions

Alternative legal solutions for addressing interfaith marriage challenges in Indonesia encompass several potential approaches. A primary solution involves amending Marriage Law No. 1/1974 to explicitly recognize and regulate interfaith marriages, providing clear legal pathways for registration and recognition. Another approach suggests developing specialized civil marriage provisions for interfaith couples while maintaining religious marriage options, similar to systems in other pluralistic countries like India and Malaysia. Administrative solutions include standardizing registration procedures across regions and establishing clear guidelines for civil registry offices. Legal reforms could also include creating dedicated legal mechanisms for interfaith marriage disputes, ensuring consistent judicial interpretation. These solutions emphasize balancing religious freedom with legal certainty while respecting Indonesia's pluralistic character, potentially through a dual system that maintains religious marriage while providing civil alternatives for interfaith couples.

Comparative analysis with other countries

A comparative analysis with other pluralistic nations reveals diverse approaches to managing interfaith marriages. India maintains a dual system through the Special Marriage Act of 1954, allowing civil marriages alongside religious ones, though facing implementation challenges in conservative regions. Malaysia practices a segmented approach where non-Muslims can marry across faiths under civil law while Muslims follow Shariah law. Singapore provides a civil marriage option through the Women's Charter while preserving religious marriage paths. Turkey's secular system recognizes only civil marriages, relegating religious ceremonies to private matters. These international examples offer valuable insights for Indonesia, particularly regarding legal frameworks that balance religious freedom with civil rights. The comparative analysis suggests potential adaptable solutions, such as implementing a parallel civil marriage system or adopting modified versions of dual-track approaches that align with Indonesia's constitutional principles and religious diversity.

5. CONCLUSION AND RECOMMENDATION

Conclusion

This research reveals significant findings regarding interfaith marriage in Indonesia's pluralistic context. Analysis of legal frameworks demonstrates gaps between constitutional rights and religious-based marriage regulations, with Marriage Law No. 1/1974 lacking explicit provisions for interfaith unions. The legal construction evaluation identifies structural challenges in harmonizing religious law with civil rights protections, while implementation varies significantly across regions due to inconsistent administrative practices and judicial interpretations. Social implications include increased religious conversions, family conflicts, and challenges to social cohesion, particularly affecting interfaith couples' legal status and acceptance. Contemporary implementation challenges persist through bureaucratic barriers, varying regional interpretations, and limited coordination between civil and religious authorities. Future prospects suggest potential paths forward through legal reforms, standardized procedures, and possible adoption of dual-system approaches drawing from international best practices, while maintaining respect for Indonesia's religious plurality and constitutional principles. These findings underscore the need for comprehensive legal reform to address interfaith marriage challenges while preserving religious harmony in Indonesia's diverse society.

Recommendation

Legislative reforms

The research recommends comprehensive legislative reforms to address interfaith marriage challenges in Indonesia's legal framework. Primary recommendations include amending Marriage Law No. 1/1974 to explicitly recognize and regulate interfaith marriages, establishing clear legal pathways for registration and protection of couples' rights. The reforms should introduce specific provisions addressing registration procedures, legal status of children, inheritance rights, and dispute resolution mechanisms for interfaith couples. Additional legislative changes should focus on harmonizing Civil Administration Law with constitutional principles of religious freedom while maintaining respect for religious values. The reforms should also establish standardized national guidelines for civil registry offices, reducing regional disparities in implementation. These legislative changes must be accompanied by clear implementing regulations, ensuring consistent interpretation and application across all jurisdictions while preserving Indonesia's commitment to religious plurality.

Administrative improvements

The research recommends several administrative improvements to enhance interfaith marriage governance in Indonesia. Central recommendations include establishing a standardized national database system for marriage registration, streamlining documentation requirements across regions, and implementing uniform processing procedures at civil registry offices. Administrative reforms should include developing clear standard operating procedures for handling interfaith marriages, training programs for registry officials, and establishing efficient coordination mechanisms between religious and civil authorities. The improvements should focus on reducing bureaucratic barriers, simplifying registration processes, and ensuring consistent implementation of regulations across all jurisdictions. Additionally, creating a centralized monitoring system would help track implementation effectiveness and identify areas requiring further improvement while maintaining transparency in administrative processes.

Judicial considerations

The research recommends key judicial considerations to enhance legal certainty in interfaith marriage cases. Courts should develop consistent interpretations of constitutional rights regarding religious freedom and marriage, establishing clear precedents for handling interfaith marriage disputes. Judicial reforms should focus on harmonizing religious court and civil court decisions, developing standardized criteria for recognizing interfaith marriages performed abroad, and ensuring uniform application of legal principles across jurisdictions. The Supreme Court should issue guidelines for lower courts on interpreting marriage laws in interfaith cases, balancing religious considerations with constitutional rights protection. Additionally, courts should consider establishing specialized chambers or procedures for handling interfaith marriage cases, ensuring judges receive proper training in managing religious diversity while upholding legal principles.

Social policy initiatives

The research recommends comprehensive social policy initiatives to address interfaith marriage challenges in Indonesian society. Key recommendations include developing educational programs to promote religious tolerance and understanding across communities, establishing support services for interfaith couples navigating legal and social challenges, and implementing public awareness campaigns about constitutional rights and religious freedom. These initiatives should involve collaboration between government agencies, religious organizations, and civil society groups to foster social acceptance of interfaith marriages. Additionally, policies should focus on protecting interfaith families from discrimination,

providing counseling services, and creating support networks. The initiatives should emphasize Indonesia's commitment to unity in diversity while respecting religious values and cultural traditions.

Implementation strategies

The research recommends strategic implementation approaches for improving interfaith marriage regulation in Indonesia. Implementation strategies should adopt a phased approach, beginning with establishing a national coordination committee to oversee reforms across legislative, administrative, and social domains. Short-term strategies include standardizing registration procedures and training officials, while medium-term plans focus on legislative amendments and administrative system improvements. Long-term strategies emphasize building institutional capacity, developing monitoring mechanisms, and fostering societal acceptance. The implementation plan should incorporate regular evaluation metrics, stakeholder feedback mechanisms, and adaptive management approaches to ensure effectiveness. These strategies must be supported by adequate resource allocation, clear timeline frameworks, and strong political commitment to ensure successful reform implementation while maintaining religious harmony.

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