



Problems and Legal Implications of Interfaith Marriage in Indonesia

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Abstract: Interfaith marriage in Indonesia constitutes a complex legal issue arising from the tension between religion-based legal norms and the realities of a pluralistic society. Although Law Number 1 of 1974 provides that the validity of a marriage is determined by religious law, interfaith marriages continue to occur and give rise to legal uncertainties, particularly regarding registration, legal recognition, and the protection of civil rights. The issue has become increasingly significant following the issuance of Supreme Court Circular Letter Number 2 of 2023, which restricts the registration of interfaith marriages and contributes to normative disharmony and inconsistencies in judicial practice. This study employs a normative legal research method using statutory, conceptual, and case approaches. Legal materials are analyzed through prescriptive and evaluative methods, supported by grammatical, systematic, and teleological interpretations. The findings indicate that the absence of explicit regulation governing interfaith marriage has created legal gaps and normative conflicts, thereby necessitating the reconstruction of legal norms that integrate religious principles with human rights perspectives. Accordingly, the development of an adaptive and responsive legal framework is essential to ensure legal certainty and justice within a pluralistic society.

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1. Introduction

Marriage, as a legal and social institution, occupies a fundamental position within the Indonesian legal system, as it is closely associated with the formation of the family as the smallest unit of society. From the perspective of national law, marriage is regulated under Law Number 1 of 1974, which stipulates that a marriage is considered valid when it is conducted in accordance with the laws of the respective religions and beliefs of the parties involved. This provision reflects the close relationship between state law and religious norms in determining the validity of a marriage. However, in practice, legal issues arise when this provision is confronted with the phenomenon of interfaith marriage, which continues to develop within Indonesian society (Samin, 2016).

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Within the framework of Islamic law, the prohibition of interfaith marriage is normatively affirmed through the Compilation of Islamic Law (KHI), particularly through the requirement that both prospective spouses adhere to the same religion. Furthermore, Fatwa of the Indonesian Ulema Council Number 4/MUNAS VII/MUI/8/2005 explicitly states that interfaith marriage is unlawful and invalid. These provisions demonstrate a firm normative stance against the practice of interfaith marriage. Nevertheless, social realities indicate that such marriages continue to occur and even show an increasing tendency in line with the growing dynamics of pluralism within Indonesian society ([Wafa, 2018](#)).

The increasing prevalence of interfaith marriage, as reflected in data from the Indonesian Conference on Religion and Peace (ICRP), which recorded 1,655 interfaith couples between 2005 and 2023, indicates a shift in social values and an intensification of interreligious interactions within contemporary society. This phenomenon highlights the tension between restrictive legal norms and the evolving dynamics of social reality. Consequently, interfaith marriage is no longer merely a normative issue but has developed into a complex sociological and juridical concern ([Ali, 2006](#)).

At the same time, legal developments following the issuance of Supreme Court Circular Letter Number 2 of 2023, which emphasizes that courts may not grant applications for the registration of interfaith marriages, have further reinforced a restrictive legal approach toward such unions. However, this policy has also generated new challenges, particularly regarding the disharmony between legal norms and their implementation in practice. Several earlier court decisions had provided avenues for the registration of interfaith marriages through specific legal mechanisms, thereby creating legal uncertainty for the public. This situation reflects inconsistencies in judicial practice that warrant critical examination from a normative legal perspective ([Hengki, 2026](#)).

Legal studies on interfaith marriage have thus far predominantly focused on normative approaches grounded in religious law and statutory regulations, without adequately incorporating a human rights perspective. In fact, various international legal instruments recognize the right to marry and establish a family as fundamental rights that must be protected by the state. The tension between the normative-religious approach and the human rights-based approach reveals a gap in legal scholarship that has not yet been comprehensively examined. In this context, a human rights perspective may serve as an important analytical framework for assessing the extent to which restrictions on interfaith marriage can be justified within the principles of a rule-of-law state ([Steiner et al., 2008](#)).

The legal discourse on interfaith marriage has largely been dominated by a positivist perspective that emphasizes compliance with written legal norms, while

giving insufficient attention to human rights considerations. However, from a human rights perspective, marriage constitutes a fundamental right of every individual, as guaranteed by both national and international legal instruments. The tension between normative-religious and human rights-based approaches underscores an underexplored area within legal scholarship that warrants more comprehensive examination ([Asshiddiqie, 2019](#)).

Based on the foregoing discussion, a significant research gap can be identified, namely the lack of comprehensive studies examining the legal implications arising from the issuance of Supreme Court Circular Letter Number 2 of 2023, the resulting disharmony in judicial decisions, and the integration of human rights perspectives in the context of interfaith marriage in Indonesia. Previous studies have generally concentrated on normative or theological dimensions without connecting them to the dynamics of judicial practice and contemporary legal developments.

Therefore, this study offers a novel contribution through a critical analysis of the legal construction of interfaith marriage by integrating normative legal approaches, limited empirical juridical analysis, and human rights perspectives. It also seeks to formulate a model for reconstructing legal norms that is more adaptive and responsive to social realities while remaining consistent with the fundamental values underlying the national legal system. Accordingly, this research is expected to contribute theoretically to the development of marriage law in Indonesia and to provide practical recommendations for policymakers and law enforcement authorities.

This research focuses on two principal issues formulated in a precise and comprehensive manner. First, what are the juridical implications of the enactment of Supreme Court Circular Letter Number 2 of 2023 for judicial practice and court decisions concerning the registration of interfaith marriages in Indonesia, and to what extent does this policy create normative disharmony within the national legal system? This issue warrants examination in order to assess the consistency of administrative judicial norms with the principle of legal certainty and with prior judicial practices.

Second, how can the legal construction of interfaith marriage within the framework of Indonesian positive law be normatively reconstructed through the integration of a human rights approach without disregarding the religious legal values that underpin marriage law in Indonesia? This issue seeks to explore the possibility of harmonizing normative-religious approaches with human rights-based approaches within a pluralistic national legal system.

Furthermore, this study aims to comprehensively analyze the juridical

implications of implementing Supreme Court Circular Letter Number 2 of 2023 for judicial practice and legal certainty in interfaith marriage cases, as well as to identify forms of normative disharmony arising from its application. In addition, the research seeks to formulate a more adaptive legal construction through the reconstruction of interfaith marriage norms by proportionally integrating human rights perspectives and religious legal values. In doing so, it aims to contribute to the theoretical development of national marriage law and to serve as a basis for recommendations for more responsive and equitable legal policy reforms.

2. Methods

This study employs a normative legal research design that focuses on analyzing positive legal norms governing interfaith marriage within the Indonesian legal system. The research adopts three complementary approaches: the statute approach, conceptual approach, and case approach. The statute approach involves examining relevant legal instruments, particularly Law Number 1 of 1974 concerning Marriage, the Compilation of Islamic Law, and Supreme Court Circular Letter Number 2 of 2023. The conceptual approach is used to analyze legal doctrines and theoretical frameworks related to marriage, legal pluralism, and human rights. Meanwhile, the case approach entails the examination of judicial decisions concerning interfaith marriage in order to understand judicial practices and the dynamics of legal interpretation applied by judges ([Hartanto, 2018](#)).

To achieve a comprehensive understanding of the applicable legal norms, this research employs several methods of legal interpretation, including grammatical, systematic, and teleological interpretation. Grammatical interpretation is used to examine the textual meaning of legal provisions, whereas systematic interpretation places legal norms within the broader framework of the legal system. Teleological interpretation is applied to identify the legislative intent underlying the formulation of legal norms. In addition, the study utilizes deductive and argumentative legal reasoning by positioning general legal norms as major premises and specific legal facts as minor premises, thereby enabling the formulation of logical and coherent conclusions ([Mertokusumo, 2010](#)).

The use of jurisprudence and Supreme Court Circular Letters as analytical materials is justified by their role as persuasive legal sources in judicial practice. Jurisprudence reflects patterns of consistency or inconsistency in judicial decisions and therefore serves as an important indicator in assessing legal certainty. Supreme Court Circular Letters, on the other hand, function as administrative guidelines for judges and, in practice, frequently influence judicial reasoning and decision-making. Accordingly, both sources are essential for identifying normative disharmony and for formulating a more adaptive and responsive legal framework ([Soekanto, 1986](#)).

3. Results and Discussion

3.1. Legal Problematics of Interfaith Marriage in Indonesia

The legal issues surrounding interfaith marriage in Indonesia fundamentally arise from normative conflicts between state law and religious law, both of which possess legitimacy within the national legal system. Law Number 1 of 1974 stipulates that the validity of a marriage is determined by the religious laws adhered to by the parties concerned, thereby implicitly restricting the possibility of interfaith marriage where religious doctrines prohibit such unions. Nevertheless, social realities indicate a continuing demand for interfaith marriage, which has prompted various legal efforts, including applications for marriage registration through the courts. This tension between formal legal norms and social realities generates legal uncertainty for the individuals concerned (Mitendra, 2018).

From the perspective of the principle of *lex superior derogat legi inferiori*, higher-ranking norms should prevail over lower-ranking norms. However, in the context of interfaith marriage, the application of this principle becomes problematic due to the absence of a clear hierarchical mechanism for resolving conflicts among applicable norms. Although the Marriage Law functions as a superior legal norm, it simultaneously defers to religious law, thereby creating interpretative ambiguity. Furthermore, Supreme Court Circular Letter Number 2 of 2023 reinforces the prohibition on the registration of interfaith marriages; however, it does not possess the same hierarchical status as statutory law, raising questions regarding its legal authority and binding force (Al Hakim, 2026).

Likewise, the principle of *lex specialis derogat legi generali* introduces additional complexity. The Compilation of Islamic Law may be regarded as a special legal regime that explicitly prohibits interfaith marriage for Muslims. However, its application is confined to a specific segment of the population, whereas the Marriage Law applies generally to all citizens. This condition gives rise to fragmented legal pluralism, which in turn allows divergent interpretations and inconsistent approaches within judicial practice (Rofiqoh, 2023).

Furthermore, jurisprudential analysis reveals inconsistencies in judicial decisions. Several earlier rulings permitted the registration of interfaith marriages through judicial determinations, reflecting a progressive interpretation intended to address existing legal gaps. However, following the issuance of Supreme Court Circular Letter Number 2 of 2023, the scope for such interpretation has become increasingly limited, resulting in inconsistency and diminishing legal certainty (Al Hakim, 2026).

Accordingly, the legal issues surrounding interfaith marriage stem not only

from normative conflicts but also from the lack of synchronization among the legal principles used to interpret those norms. Therefore, legal reconstruction is required to harmoniously integrate various sources of law in order to ensure legal certainty while simultaneously accommodating the social dynamics of Indonesia's pluralistic society (Putri, 2025).

3.2. Implications of Interfaith Marriage for Family Life

The implications of interfaith marriage for family life are closely linked to the relationship between religious freedom as a fundamental right and the legal validity of marriage. From a constitutional perspective, freedom of religion encompasses the right to choose one's spouse. However, in practice, legal recognition of marriage often depends on religious conformity. This tension generates both legal and social consequences, particularly for families formed across religious boundaries (Nursanti, 2025).

At the social level, interfaith families frequently encounter challenges related to religious identity, particularly with respect to their children. Differences in parental beliefs may give rise to conflicts concerning child-rearing, religious education, and everyday religious practices. These challenges extend beyond the private sphere and may affect social acceptance within communities where interfaith marriage continues to be regarded as controversial (Ramadhani et al., 2025).

From a legal perspective, the uncertain status of interfaith marriage has implications for administrative recognition, inheritance rights, and legal protection for family members. Couples who marry outside the domestic legal framework often face difficulties in obtaining official recognition, thereby highlighting broader concerns regarding legal certainty and the protection of civil rights (Jatmiko et al., 2022).

From a human rights perspective, interfaith marriage illustrates the tension between individual autonomy and normative restrictions based on religious values. International human rights standards emphasize that any limitations on the right to marry must be proportionate and should not undermine the essence of that right. In Indonesia, however, religion-based legal frameworks frequently create legal uncertainty for interfaith couples, underscoring the need for a more inclusive approach to legal regulation (Ibnudin et al., 2023).

3.3. Legal Implications of the Absence of Regulation on Interfaith Marriage

Interfaith marriage is, in principle, not expressly recognized within the Indonesian positive legal system, as the national legal framework conditions the validity of marriage on the respective religious laws of the parties, as stipulated in Law Number 1 of 1974. Although this law does not explicitly regulate interfaith

marriage, it effectively defers the determination of marital validity to religious doctrines, most of which prohibit such unions in Indonesia. Consequently, from a normative perspective, interfaith marriage occupies a legal position that is neither expressly recognized nor comprehensively regulated within the national legal framework. This condition reflects the existence of a normative gap that ultimately gives rise to legal uncertainty (Yuana & Sandela, 2022).

Nevertheless, the absence of explicit regulation concerning interfaith marriage in positive law does not necessarily prevent such marriages from occurring in practice. In reality, many couples continue to enter into interfaith marriages through various mechanisms, including marrying abroad or filing petitions with the courts to obtain judicial recognition. This phenomenon demonstrates the existence of social needs that are not fully accommodated by the prevailing legal framework. From a socio-legal perspective, this condition illustrates a gap between law in the books and law in action, whereby legal norms are not entirely capable of accommodating the social dynamics of a pluralistic society (Kusuma & Firdiansyah, 2025).

The absence of clear legal regulation has generated ongoing controversy, particularly regarding normative conflicts and the application of legal principles. From the perspective of the principle of *lex superior derogat legi inferiori*, the Marriage Law, as the superior legal norm, serves as the primary point of reference. However, its open-ended formulation and reliance on religious law create ambiguity in its implementation. Meanwhile, under the principle of *lex specialis derogat legi generali*, the Compilation of Islamic Law, as a specific legal instrument, explicitly prohibits interfaith marriage for Muslims, although its applicability is limited to a particular group. This situation gives rise to a form of legal pluralism that remains insufficiently harmonized and creates room for divergent interpretations in judicial practice (Najiburrahman et al., 2024).

The controversy becomes increasingly complex when examined in relation to the interplay between freedom of religion and the legal validity of marriage. From a constitutional law perspective, freedom of religion constitutes a fundamental right guaranteed by the Constitution, including the freedom to choose one's spouse. In practice, however, this right is constrained by legal marriage requirements that are rooted in religious norms. This tension between individual rights and normative restrictions reflects a broader dilemma within the national legal system, where the protection of human rights must be balanced against respect for the religious values underlying the formation of legal norms (Purba & Yudi, 2019).

A jurisprudential analysis reveals inconsistencies in judicial decisions concerning interfaith marriage. Several earlier rulings permitted the registration

of interfaith marriages through judicial determinations, reflecting a progressive interpretation aimed at addressing existing legal gaps. However, subsequent developments in judicial policy have adopted a more restrictive approach, thereby narrowing this interpretative space and creating legal uncertainty for society. From a comparative law perspective, several countries with pluralistic legal systems have accommodated interfaith marriage through specific regulatory frameworks that provide legal certainty while preserving religious values. This demonstrates that Indonesia has the potential to develop a more adaptive regulatory model (Coons, 1998).

Accordingly, the absence of explicit regulation governing interfaith marriage within Indonesian positive law has generated complex legal controversies, including normative conflicts, inconsistencies in the application of legal principles, and tensions between human rights and religious norms. Therefore, legal reconstruction is required to proportionally integrate these diverse perspectives in order to ensure legal certainty while accommodating the dynamics of a pluralistic society (Najiburrahman et al., 2024).

4. Conclusion

This study concludes that the juridical implications arising from the enactment of Supreme Court Circular Letter Number 2 of 2023 reflect a shift toward a more restrictive judicial approach to the registration of interfaith marriages. Although the policy enhances administrative clarity, it also creates normative disharmony, particularly when contrasted with earlier judicial practices that permitted greater interpretative flexibility. This inconsistency weakens legal certainty and raises concerns regarding the protection of citizens' rights.

Furthermore, the legal construction of interfaith marriage within the framework of Indonesian positive law continues to reveal a tension between a normative-religious approach and a human rights-based perspective. On the one hand, national law regards religion as the foundation for the validity of marriage; on the other hand, the Constitution guarantees both freedom of religion and the right to establish a family. This tension suggests that the Indonesian legal system has not yet fully succeeded in harmonizing the values of legal pluralism with universal human rights principles. Therefore, a reconstruction of legal norms is necessary to proportionally integrate these two approaches, ensuring that religious values are respected while simultaneously safeguarding individual rights within the framework of a rule-of-law state.

As a legal solution, this study proposes the reconstruction of marriage law norms through an adaptive and responsive framework that integrates religious

values with human rights principles. Such reform may be pursued through legislative harmonization, the strategic development of jurisprudence, and the selective incorporation of international human rights standards. By adopting a more inclusive and balanced approach, Indonesia can establish a legal framework that promotes legal certainty, justice, and social harmony within its pluralistic society.

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