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Reimagining the Legal Framework for Interfaith Marriage in Indonesia: A Path Toward Inclusive Matrimonial Recognition

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Abstract: *Indonesian marriage law does not explicitly regulate the legal status of interfaith marriages, resulting in legal uncertainty and varied judicial interpretations. This lack of clarity has prompted differing court decisions regarding such unions. Ideally, the judiciary should offer clear legal guidance on matters of public concern. Consequently, there is a pressing need for a well-defined legal framework to address the status of interfaith marriages in Indonesia. This study seeks to identify a normative resolution to this legal ambiguity. Employing normative legal research with a statutory approach, the study relies on data collected through a comprehensive literature review of books, relevant laws, and previous scholarly works, which are then analyzed descriptively. The findings reveal that Supreme Court Circular Letter (SEMA) No. 2 of 2023, which provides judicial guidelines on handling requests for the registration of marriages between individuals of different religions and beliefs, can serve to fill the existing legal void. Although courts have previously demonstrated inconsistency on this matter, the circular explicitly instructs judges to reject such marriage registration requests, citing incompatibility with respective religious doctrines. In conclusion, the study highlights that SEMA No. 2 of 2023 plays a pivotal role in promoting regulatory coherence regarding interfaith marriages in Indonesia and in minimizing the associated legal uncertainties.*

Introduction

The legal resolution of interfaith marriage disputes in Indonesia remains challenging due to underlying inconsistencies and ambiguities within the existing legal framework. While the Marriage Law stresses that a marriage's validity must align with the rules of each religion, the state, through its population administration system, also plays a role in regulating its recognition Administration Law and the 1986 Supreme Court Jurisprudence, justifies interfaith marriages that are not accommodated by these religions. The lack of coherence within the legal framework significantly influences judicial decisions regarding the recognition of interfaith marriages submitted by couples of differing religious backgrounds. Some District Courts legalized them by requiring the local Civil Registry Office to record them as non-Muslim marriages (Jatmiko et al., 2022).

Meanwhile, some other District Courts rejected the application for interfaith marriage (Farid et al., 2022)

For example, in the case of Joshua Evan Anthony (a Christian) and Stefany Wulandari (a Muslim), the Central Jakarta District Court granted their request for marriage validation, referencing human rights principles particularly the right of every person to form a family and have children through a legal and consensual marriage. Likewise, from a normative standpoint, the Supreme Court, in Decision No. 1400 K/Pdt/1986 dated January 20, 1989, accepted the appeal filed by Adrianus Petrus Hendrik Nelwan (Protestant) and Andi Vonny Gani (Muslim). One of the key considerations in the ruling was that the Marriage Law does not explicitly state that religious differences between a prospective bride and groom constitute a legal impediment to marriage.

In contrast, the Blora District Court in Central Java refused to acknowledge the marriage between Neneng Oktora Budi Asri Binti Bambang Marjono (a Muslim) and Yafet Arianto Bin Markus Wartono (a Christian), as outlined in Decision No. 71/Pdt.P/2017/PN BlaThe court explained its ruling by asserting that a marriage is valid only when it conforms to the religious and belief systems of the people involved. It further emphasized that both Islam and Christianity explicitly prohibit marriages between individuals of different faiths (Kurniawan et al., 2023).

The denial of legal recognition for interfaith marriages was reaffirmed in Constitutional Court Decision No. 24/PUU-XX/2022, issued on January 31, 2023, which involved a judicial review of the 1974 Marriage Law in relation to the 1945 Constitution. This decision echoed an earlier ruling by the Constitutional Court Decision No. 68/PUU-XII/2014, dated June 18, 2015 on the same matter. In its most recent ruling, the Court highlighted the intertwined roles of religion and the state in overseeing marriage: religion defines whether a marriage is valid, while the state handles the administrative procedures based on established legal regulations (Kurniawan et al., 2023).

The District Courts in Indonesia are more likely to grant the rejection of an interfaith marriage than to grant it. Of the 118 court decisions from 2000-2022 that dealt with the legalization of interfaith marriages, there were only two decisions that rejected the petitions, namely the petitions in the Ungaran District Court in Semarang Regency (2013) and the Blora District Court (2017), which were upheld by the Supreme Court cassation decision (2017). The rest were accepted by the court and legalized (Mursalin, 2023).

The considerable rate at which courts recognize interfaith marriages reflects the growing prevalence of such unions within the country. According to a study by the Indonesian Conference on Religion and Peace (ICRP), a total of 1,425 interfaith couples were married in Indonesia between 2005 and 2022 (Jalil, 2018). The report, produced in March 2022, illustrates that the number of interfaith marriages is very significant. This means that between 2005 and 2022 (approximately 17 years), there were more than 83 interfaith marriages in Indonesia. In other words, every month there are almost seven interfaith marriages. And this is equivalent to almost every week there are two interfaith marriages or once in three or four days. The transition of religious

discourse sources including those related to family law to various forms of media has led to a change in how authority is perceived. Instead of being based on a figure's scholarly or religious expertise, authority is now often determined by media influence and the size of one's following. This shift has played a role in shaping individuals' religious perspectives in Indonesia, including their views on interfaith marriage as a valid personal choice (Ansori & Juliansyahzen, 2022).

Therefore, the release of "Supreme Court Circular Letter No. 2 of 2023," which provides guidance for judges in handling requests to register marriages between individuals of different religions and beliefs, seeks to enhance legal clarity and ensure greater certainty regarding the status of interfaith marriages in Indonesia (Dona et al., 2024). This "Supreme Court Circular Letter" (SCCL) functions as a normative reference for District Court judges in issuing rejections of applications seeking the legal recognition of interfaith marriages. The firm stance of the Supreme Court closes the legal ambiguities that the judiciary has previously exhibited regarding the legality of interfaith marriages.

There are several studies that discuss interfaith marriage studied in several perspectives, such as the perspective of national positive law (Jatmiko et al., 2022; Mursalin, 2023); aspects of Islamic law (Setiawan et al., 2024); combining aspects of national law with Islamic law at once (Suma, 2015; Amri, 2020; Jalil, 2018); as a social phenomenon/social media (Ansori & Juliansyahzen, 2022); the comparison side with other countries (Zada, 2013; Rosidah & Palil, 2023); from the aspect of the views of religious mass organizations in Indonesia (Mutakin, 2013); and from the perspective of human rights (Wahyuni, 2017).

The aforementioned studies have not yet specifically addressed normative solutions aimed at achieving consistency in judicial interpretation and legal application concerning interfaith marriages in Indonesia. Previous research has been limited to explaining that interfaith marriage is a formal juridical dispute (khilafiyah) in Indonesia; in some cases, marriages are legalized through registration at marriage registration offices, while in others, marriages are not formally registered. This study focuses on the legality of interfaith marriages following the issuance of the "Supreme Court Circular Letter No. 2 of 2023", which has long been a subject of ongoing debate. This circular letter serves as an entry point to providing legal certainty for interfaith marriages in the country.

Method

This research employs a normative juridical approach, which focuses on analyzing legal norms and principles to address particular legal questions. It aims to generate new arguments, theoretical frameworks, or conceptual insights that serve as prescriptive solutions to the issues being studied. The normative legal analysis centers on legal objectives by examining the law in relation to the prevailing legal context, including aspects such as justice values, the legitimacy of legal provisions, legal doctrines, and normative structures (Marzuki, 2007).

As normative juridical research primarily relies on library-based methods, this study utilizes secondary data obtained through documentation analysis. This study's secondary data consists of primary, secondary, and tertiary sources of legal material, including "the Marriage Law, the Compilation of Islamic Law in Indonesia, Constitutional Court Decisions No. 68/PUU-XII/2014 and No. 24/PUU-XX/2022, Supreme Court Circular Letter No. 2 of 2023", as well as textbooks on marriage law, academic journals, articles, and literature reviews relevant to the research theme. This study adopts a statutory approach, which involves examining national legal regulations related to the status of interfaith marriage. The collected data were analyzed through legal interpretation and content analysis, with particular emphasis on the Supreme Court Circular. The results of the analysis were then used to construct arguments derived from the research findings. These arguments serve to assess the legal appropriateness or inappropriateness of certain legal facts or events. The theoretical foundation of this research is Soerjono Soekanto's Theory of Law Enforcement, which defines law enforcement as a process aimed at ensuring that legal norms are upheld and function effectively as standards for conduct in legal interactions within society and the state (Soekanto, 2004).

Results and Discussion

The Supreme Court Circular (SEMA) No. 2/2023 As A Necessity

The issue of interfaith marriage legality remains a longstanding and contentious debate within Islamic family law. The jurists and judicial practitioners ("District Court Judges", "Supreme Court Judges" and "Constitutional Court Judges") show a lack of legal logic in deciding the legality of interfaith marriage cases filed by the petitioners. District Court decisions generally tend to allow interfaith marriages. Meanwhile, the Supreme Court, which initially allowed interfaith marriages, later had a tendency to prohibit them (Mursalin, 2023) (just like the Constitutional Court).

According to (Amri, 2020), there are at least three prevailing legal viewpoints on this matter. The first perspective asserts that interfaith marriages are prohibited because they conflict with the provisions of the "1974 Marriage Law" specifically "Article 2 paragraph (1)", which declares that a marriage is valid only if it is carried out in accordance with the religious laws and beliefs of each party, and "Article 8 letter (f)", which forbids marriages between individuals whose union is not permitted by their religion or other relevant laws. As a result, under these provisions, interfaith marriages are deemed invalid and are not recognized by the marriage registrar. (Mauliana & Hanapi, 2023). This is due to the fact that religions in Indonesia do not permit marriages between individuals of different faiths (Santoso, 2019). With this, there is no legal vacuum related to interfaith marriage, which should be found through the legal construction method. In fact, it is clear that there are rules regarding interfaith marriage that are implicitly based on the laws of each religion, as applied by some judges in the courts (Suhasti et al., 2019). Therefore, the most appropriate judges to decide

interfaith marriage cases are Religious Court judges. This choice is justified because Religious Court judges have an educational background in religious studies and understand classical and contemporary Fiqh. This is also consistent with "Article 49 of Law No. 3 of 2006 concerning Religious Courts," which states that one of the court's jurisdictions includes matters related to marriage (Gemilang et al., 2023).

This rationale also formed the basis for the Constitutional Court's rejection of the judicial review of "Article 2 paragraph (1) of the 1974 Marriage Law". In Decision No. "68/PUU-XII/2014", the Court entirely dismissed the petitioners' arguments. They had claimed that the article obstructed interfaith marriages and, as a result, violated personal freedoms. However, the Court ruled that the provision is consistent with the Indonesian Constitution and does not constitute a constitutional violation. The Court emphasized that its decision aimed to uphold the fundamental principles embedded in the Marriage Law. The judges found that the petitioners' reasoning conflicted with the foundational values of Pancasila and several provisions of the 1945 Constitution, including "Articles 28E paragraphs (1) and (2), 29 paragraphs (1) and (2), 28J paragraph (2), 28B paragraph (1), 27 paragraph (1), 28D paragraph (1), and 28I paragraph (2)".

In this case, the applicants submitted a request for judicial review of Article 2 Paragraph (1) of Law Number 1 of 1974 on Marriage, arguing that a misinterpretation of the article had led to the neglect of citizens' constitutional rights. They also pointed out concerns such as the creation of legal loopholes resulting from the absence of official recognition for interfaith marriages, as well as the differing interpretations of their validity among citizens, Marriage Registration Officers, and community leaders. The purpose of submitting the application is to seek legal recognition for interfaith marriage, thereby ensuring legal protection for the couple and preventing the practice of circumventing the law through informal or unauthorized means. In addition, to realize human rights and fulfill the constitutional rights of citizens who feel disadvantaged. So the focus of attention on the submission of the petition for judicial review above is on the validity or legality of interfaith marriage, where religious law and beliefs do not allow it. "The Constitutional Court" rejected the judicial review submission, which means confirmation that there is no legal vacuum regarding the regulation of interfaith marriage in the Marriage Law. However, it has been explained implicitly in "Article 2 Paragraph (1) and Article 8 letter (f) of Marriage Law" through functional or contextual interpretation. These two articles work in tandem to emphasize that religious law plays a crucial role in shaping Indonesia's Marriage Law. This is rooted in the fact that the formation and development of the Indonesian nation were influenced by theological, political, and sociological foundations, as outlined in the Preamble (Paragraph III) of the 1945 Constitution. It reflects the idea that the sovereignty of the Indonesian state is grounded in a noble aspiration to live as a free and dignified nation, guided by values taught by the Almighty God. Furthermore, this aligns with the first principle of Pancasila and is reinforced by Article 29 Paragraphs (1) and (2) of the 1945 Constitution (Islamiyati, 2017).

The *second* perspective on interfaith marriage holds that such unions are permissible, valid, and can be conducted, as they fall under the category of mixed marriages outlined in Article 57 of the Marriage Law. This article pertains to marriages involving two individuals in Indonesia who fall under different legal frameworks. Proponents of this perspective contend that the provision is applicable not only to marriages between individuals of different nationalities but also to those involving partners of different religious backgrounds. Based on this interpretation, the marriage may be conducted following the procedure outlined in "Article 6 of the Mixed Marriage Regulation", which provides that: (1) A mixed marriage is to be carried out according to the legal system governing the husband, unless both parties agree to a different arrangement, with reference to "Article 66 of the Marriage Law".

The above opinion is strengthened by the arguments; 1) In accordance with "Article 27 of the 1945 Constitution", every citizen holds equal status under the law, including the fundamental human right to marry—whether to a fellow citizen or a foreign national even if they adhere to different religions; 2) There is no explicit legal provision that defines religious differences between prospective spouses as a legal obstacle to marriage. This view is consistent with the principle enshrined in "Article 27 of the 1945 Constitution", which guarantees equality before the law and, by extension, the equal right of all citizens to marry, regardless of their religious background. Furthermore, as long as existing laws do not explicitly classify interfaith differences as grounds for prohibition, this interpretation also reflects the intent of "Article 29 of the 1945 Constitution", which affirms the state's duty to protect each citizen's freedom of religion; 3). The emergence of dialogue discourse on tolerance in various matters starting from the family institution, especially in the field of theology, belief, faith (inter-religious dialogue or interfaith dialogue), and also dialogue at the sociological and political level (practical), where the problems faced by religious communities in Indonesia are not merely theological problems, but involve social, economic and political issues; 4). This perspective emphasizes that the right to marry is a fundamental human right and should not be restricted based on factors such as race, color, gender, language, religion, political opinion, nationality, social origin, property, birth, or any other status, as stated in "Article 2 of the Universal Declaration of Human Rights (UDHR)". Further support is found in "Article 16 of the UDHR", which affirms: (a) Men and women of legal age, regardless of nationality, citizenship, or religion, have the right to marry and start a family, enjoying equal rights throughout the marriage and in the event of its dissolution; (b) Marriage must be based on the free and full consent of both parties; and (c) The family is acknowledged as the fundamental and essential unit of society, entitled to protection from both the state and the wider community (Tirtawati & Savitri, 2016).

For this group, "*men and women of full age without any limitation due to race, nationality, or religion, have the right to marry and to found a family. They are entitled to equal right to marriage, during marriage and at its dissolution"*. This implies that differences in religion do not constitute a legal impediment to marriage. In other words, regulations made by the state and

even religions can be considered as provisions that are not in accordance with human rights. This is because the state is sobliged to show a commitment to eradicating discrimination and protecting human rights (Rosidah, et al. 2023).

The reasons outlined above have formed a significant basis for various District Courts in Indonesia to grant legal recognition to interfaith marriages. According to "the Supreme Court Decision Directory", there were 118 rulings on interfaith marriage cases issued between 2000 and 2022. Among these, the highest number of cases originated from the Surakarta District Court (accounting for 40 percent), followed by the "South Jakarta District Court" (9 percent), and the Semarang District Court (5 percent). Of the 118 decisions, aside from the notable 1986 ruling by the Central Jakarta District Court referenced in a Supreme Court decision, only two petitions were denied specifically, those in the Ungaran District Court, Semarang Regency (2013), and the Blora District Court (2017), both of which were upheld by a Supreme Court cassation ruling in 2017.

A third perspective on interfaith marriage argues that the Marriage Law does not explicitly discuss or offer clear legal provisions regarding this matter. Therefore, judges particularly at the "District Court" level have the authority to rule on such cases, supported by "Article 35a of the Population Administration Law". According to this interpretation, judges can consider interfaith marriages as part of the protection of human rights, with reference to Article 28B of the 1945 Constitution (Farid et al., 2022).

Another commonly referenced legal foundation is "Article 66 of the Marriage Law", which stipulates that earlier marriage-related regulations are no longer applicable to the extent that they are already governed by this law. However, because the Marriage Law does not explicitly regulate interfaith marriages, previous legal provisions may still remain in effect in such cases. As a result, matters related to interfaith marriage should refer back to the provisions under the mixed marriage regulation. (Amri, 2020).

The Marriage Law does not explicitly regulate interfaith marriages. Instead, it delegates the determination of a marriage's validity entirely to the respective religious teachings of the parties involved. Article 2 paragraph (1) of the 1974 Marriage Law states that "a marriage is considered valid if it is conducted in accordance with the laws of each religion and belief." Furthermore, Article 8 letter (f) reinforces this by stipulating that "marriage is prohibited between individuals whose union is forbidden by their religion or other prevailing regulations." (Jalil, 2018).

The language used in Article 2 paragraph (1) alongside Article 8 letter (f) implies that a marriage must align with the religious laws and beliefs of each party involved, and is not considered valid if it falls outside those parameters This principle also extends to related laws, as long as they do not conflict with the stipulations in Article 2 paragraph (1) of the Marriage Law. As a result, the validity of a marriage is fundamentally based on the religious doctrines followed by the parties involved (Amri, 2020).

In Islam, for example, religious compatibility is considered a fundamental requirement for marriage. This is clearly stated in QS. 2:221, which prohibits Muslims from marrying non-Muslim women. Vice versa, a

Muslim woman cannot be married to a non-Muslim man. In the pillars of marriage when discussing the prospective husband, for example, it is stated that the provisions are; male, puberty, intelligence, no marriage impediment (such as Hajj/Umrah) and must be a Muslim (Al-Jaziri, 1990). Likewise, when mentioning the requirements of a prospective wife must be; female, Muslimah, do not have obstacles to marriage (such as someone's wife or still in the *iddah* period). The Indonesian Ulema Council and several mainstream religious organizations (such as Muhammadiyah and NU) have also confirmed the inadmissibility of interfaith marriage. However, the Indonesian Ulema Council, along with other religious organizations, does not play a formal role in shaping legal policy on interfaith marriage in Indonesia, as the Marriage Law was enacted prior to the establishment of these religious institutions (Rosdiana et al., 2019).

As a consequence, "Law Number 24 of 2013", which amends "Law Number 23 of 2006 on Population Administration", explicitly recognizes the legal status of interfaith marriages. This is detailed in Articles 35 and 36, which state that the registration of marriages, as referred to in Article 34, also extends to marriages that have been legalized through a court ruling. In cases where a Marriage Certificate cannot be presented, the marriage may still be registered based on a court ruling. The explanation of the law specifies that "marriages determined by the court" particularly refer to unions involving individuals from different religious backgrounds.

Consequently, interfaith marriages conducted under court rulings are often considered valid by many, as they are based on decisions issued by a legitimate judicial authority (P, 2006). While it is true that such rulings are issued by authorized judicial bodies, the substance of those decisions must still be examined to determine whether they align with existing legal provisions. The existence of a legal vacuum regarding interfaith marriage does not grant judges unlimited discretion to create law. Judges need to understand that while "Law Number 1 of 1974" does not directly regulate interfaith marriages, it does include pertinent provisions specifically "Article 2 paragraph (1) and Article 8 letter (d)" which stress that a marriage's validity must be evaluated according to the religious laws of the parties involved and the legal requirements outlined in the law.

Therefore, judicial decisions should be grounded in these provisions. Any legal interpretation or development made by judges must align with existing national laws, societal conditions, and prevailing social values. Additionally, some judges who approve interfaith marriage applications also base their decisions on the transitional provisions outlined in "Article 66 of Law Number 1 of 1974".

Judges tend to assume that, in the absence of specific legal provisions governing interfaith marriage, existing or pre-existing legal norms continue to apply. However, under the previous regulation, the validity of a marriage was assessed solely from a civil perspective, without taking religious aspects into account. Given the significant differences between the old and current provisions, judges should avoid relying on outdated regulations that are no longer in line with present legal standards. An example of a case that occurred in using a court decision as an effort to legitimize an interfaith

marriage was carried out by Jamal Mirdat who is Muslim and Lydia Kandou who is Christian, the initial effort made by Jamal Mirdat and Lydia Kandou was to "the Office of Religious Affairs (KUA)" but the effort was rejected, the next effort taken was to the Civil Registry Office (KCS) which was still rejected because of interfaith marriage. However, they did not stop there so they took legal action to the court, in this case judge Endang Sri Kawuryan allowed them to get married. Based on that approval, the couple proceeded to marry at the Civil Registry Office on 30 June 1986 (Zulfadhli & Muksalmina, 2021).

In 2022, the Surabaya District Court approved a request from a couple in a non-religious marriage to have their union registered at the local Civil Registry Office. The couple had been married according to their individual religious traditions one following Islamic practices and the other Christian. However, when the couple tried to register their marriage at the Surabaya City Civil Registry and Population Office, their application was rejected due to their different religious affiliations. Registry officials advised them to seek a court decision. As a result, the couple filed a case with the Surabaya District Court, which ruled in their favor permitting the registration of their interfaith marriage and ordering the Civil Registry and Population Office to officially record the marriage and promptly issue a marriage certificate (Daus & Marzuki, 2023).

In its decision on "Case Number 916/Pdt.P/2022/PN Sby", the Surabaya District Court ruled that religious differences are not an obstacle to interfaith marriage. The court based its reasoning on the explanation of Article 35 letter a, which clearly indicates that a "marriage determined by the Court" refers to unions between individuals of different religions. This provision enables such marriages to be officially registered following a court ruling. Additionally, this interpretation is reinforced by Article 8 letter (f) of the Marriage Law, which authorizes the District Court to examine and rule on cases of this nature.

Article 27 of the 1945 Constitution establishes that all Indonesian citizens are equal before the law and are entitled to the same basic rights, including the right to marry fellow citizens, regardless of religious differences. This is reinforced by Article 29, which guarantees every citizen the freedom to choose and practice their religion. In line with these principles, Article 10 paragraph (1) of the Human Rights Law affirms that everyone has the right to form a family and have children through a legal marriage based on mutual consent. Together, these legal provisions protect both religious freedom and the right to enter into a legally recognized marriage. Additionally, regulations concerning civil registration are understood as dynamic frameworks that evolve to reflect changing societal conditions and needs (Dimiyati & Latumahina, 2023).

Interfaith Marriage After SCCL No. 2 of 2023: Legal Certainty and Several Issues

The debate surrounding the legal status of interfaith marriages began to settle following the release of Supreme Court Circular Letter No. 2 of 2023 in July 2023, which provides Guidelines for Judges in Handling Applications

for the Registration of Marriages Between Individuals of Different Religions and Beliefs. This circular was issued to ensure greater clarity and consistency in adjudicating such cases. As outlined in the circular, judges must follow these directives: 1) a marriage is deemed valid only when it is performed in accordance with the religion or belief of each individual, as stated in "Article 2 paragraph (1) and Article 8 letter f of Law Number 1 of 1974 concerning Marriage"; and 2) the courts do not have the authority to approve the registration of marriages between individuals of different religions or beliefs..

"The Supreme Court Circular Letter (SCCL) No. 2 of 2023" overturns the Supreme Court's earlier 1986 decision that had permitted interfaith marriages. The Court clarifies that Law No. 1 of 1974 does not expressly prohibit marriages between individuals of different religions. This interpretation aligns with "Article 27 of the 1945 Constitution", which guarantees that all citizens are equal before the law and share the same fundamental right to marry, regardless of religious differences. It also reflects the spirit of Article 29 of the 1945 Constitution, which upholds every citizen's basic right to freely choose and practice their religion. Since "Law No. 1 of 1974" does not regulate interfaith marriages, and the colonial-era Product Law though regulating marriages between people under different legal systems cannot apply due to fundamental differences in principles and philosophies with Law No. 1 of 1974, there is a legal gap in such cases. Given Indonesia's diverse, pluralistic society where interfaith marriages do occur, the Supreme Court believes it is unjustifiable to leave these issues unresolved due to this legal vacuum. Disregarding this issue could ultimately lead to adverse impacts on both social and religious life, potentially weakening societal and religious values as well as the prevailing legal system. Therefore, the Supreme Court asserts the necessity to establish clear legal guidelines to address these matters.

From this point of view, it becomes clear that the recognition of interfaith marriage as established in "Supreme Court jurisprudence Number 1400/K/Pdt/1986" no longer holds legal authority. This is because, under Law Number 1 of 1974, marriages must comply with the religious laws of each party, and there is no provision for marriages conducted outside the framework of religious law. If a marriage is deemed invalid either by state law or religious law, it is considered null and void, meaning it carries no legal weight and does not create any legal rights or obligations between the husband and wife (Tarring, 2022).

Therefore, "Supreme Court Circular Letter Number 2 of 2023" effectively severs one pathway that previously allowed interfaith marriages to be legalized through court decisions. However, it does not fully resolve the broader issue of interfaith marriages, as there are still three other common practices through which such marriages continue to receive legal recognition from the state: 1) conducting the marriage sequentially according to each partner's religion; 2) temporarily adhering to the religious law of one party; and 3) marrying abroad (Hukum Online, 2006).

For the first time, the method of legalizing a marriage based on each partner's religion was carried out by holding two separate ceremonies on the same day—one in the morning following the groom's religion, and another in

the afternoon according to the bride's faith. In this practice, couples essentially undergo two religious marriage ceremonies so that each can marry in accordance with their own religious beliefs. The legitimacy of this type of marriage should be assessed based on the religious principles adhered to by both individuals. In these situations, it is also essential for individuals to seek clarification from the relevant religious authorities and coordinate with the local Religious Affairs Office (KUA), as well as comply with national legal requirements, to ensure the marriage is officially recognized under applicable law. This approach has been implemented in Indonesia, such as in the marriage of public figure Deddy Corbuzier and Kalina. Deddy, a Catholic, and Kalina, a Muslim, held two separate ceremonies in early 2005 one in the morning following the groom's religion, and another in the afternoon in accordance with the bride's faith. Deddy's Islamic marriage ceremony was conducted by his personal penghulu, who was also affiliated with the Paramadina Foundation (Badan Pembinaan Hukum Nasional, 2011). This approach is regarded as legally valid, as the marriage is deemed to comply with the principles outlined in Article 2 of the Marriage Law.

The second way to to legalize an interfaith marriage is by temporarily adhering to the religious laws of one of the partners. Couples who choose this approach are chosen as a compromise because it is considered easier and more practical because after the wedding reception is over the couple can return to their original religion. In Islam, converts who return to their religion are called apostates and have legal consequences in the marriage bond. Apostasy, or the act of changing one's religion, can serve as a legitimate ground for the termination of a marriage through *fasakh*. Article 116 paragraph 8 of the Compilation of Islamic Law (KHI) lists several reasons that may justify a divorce, one of which is a change in religion or leaving Islam, as it can lead to disharmony within the household (Hukum Online, 2006).

National positive law, including the Marriage Law and other related regulations, does not provide explicit provisions concerning religious conversion or apostasy and their legal implications for the validity of a marriage. Therefore, it is entirely possible for couples of different religions resulting from one party's conversion to maintain their marriage and continue building a family. Of course, it will be a problem related to the status of whether or not it is legal to have conjugal relations, then what is the status of children born from the apostate couple, both regarding inheritance, guardianship, *nasab* and others. In Islamic law, the status of marriage and its legal derivatives will certainly be problematic. Meanwhile, in national positive law, it is still not a problem because national positive law does not cover this apostasy problem (Hukum Online, 2006).

This alternative has been practiced by Aqi Alexa (Islam) and Audrey Meirina (Christianity). Both were married on 1 February 2012, at their residence in Ciganjur, South Jakarta. They had an Islamic marriage. Thus, if the practice of marriage is to adhere to one religion, then the marriage is considered valid under state law because the marriage is based on religion (Zulfadhli & Muksalmina, 2021).

The third alternative to obtaining the legality of interfaith marriage is to marry abroad. This method is chosen by more interfaith couples. This is done because marriage abroad does not require administration as complicated as administration if you marry in Indonesia using other solutions. Marriage abroad is considered a solution to legalizing interfaith marriages because this is indeed protected by "the Indonesian Marriage Law". Specifically, "Article 56 of Law No. 1 of 1974" addresses this issue. While the Marriage Law does not allow interfaith marriages to be performed within the country, the Civil Registry Office may still recognize and register interfaith marriages that were conducted abroad. According to Civil Registry officials, marriages carried out abroad are considered valid, and a universal or international marriage certificate is generally sufficient to initiate the registration process (Wahyuni et al., 2012).

This article is further reinforced by the interpretation of "Article 57 of Law No. 1 of 1974 on Marriage," which states that marriages performed and legally recognized abroad can be registered in Indonesia within one year of the couple's return to the country. Although the law does not explicitly address interfaith marriage, the broad language used within it has led some groups to interpret that interfaith marriage falls under its scope.

Interfaith marriages abroad are widely practiced by celebrities and artists. The countries that are usually chosen to hold marriages are countries that adhere to the common law system which in personal status adheres to the principle of domicile such as Hong Kong, Singapore, Australia, and the United States. In addition to the principle of domicile, it also adheres to "the principle of *Lex loci celebrationis"* (based on local law) in marriage law (Zulfadhli & Muksalmina, 2021). Thus, for those who want to have an interfaith marriage, it becomes a solution for them to get married, such as Nadine Chandrawinata (Christian) and Dimas Anggara (Muslim). Both were married on 5 May 2018 in Bhutan Nepal, Ari Sihasale (Catholic) and Nia Zulkarnaen (Islam). The two got married on 25 September 2003 in Perth Australia, Sarah Sechan (Islam) and Neil Furuno (Christian). Both were married on March 6, 2015, in Los Angeles, United States and there are many other cases.

These countries allow interfaith marriages to take place because they use civil marriage in the sense that it is important to be voluntary in the bond or marriage agreement and they even set aside religion because they adhere to a liberal system, unlike in Indonesia which is based on religion as stated in "Article 2 of the Marriage Law".

However, it is necessary to review "Article 56 of Law Number I of 1974" which is used as the basis for interfaith couples to legalize their marriage. Until now, Article 56 has frequently been understood by many as applying only to the validity of marriages conducted abroad according to the laws of the country where the marriage occurred. However, this interpretation is incomplete because the article also states that, for Indonesian citizens, the marriage must not violate the provisions of Indonesian law. The use of "and" in this context means both conditions must be met simultaneously, not just one.

The second paragraph of "Article 56 in Law Number 1 of 1974" builds upon the first paragraph. It specifies that marriage registration, as referred to in paragraph (2), is only permitted if the marriage aligns with the laws of the country where it was performed and does not contradict Indonesian national law, in accordance with "Article 56 paragraph (1) of Law Number 1 of 1974" (P, 2006).

On the other hand, interfaith marriages involving Indonesian citizens conducted abroad fall under the realm of Private International Law and are often considered a conflict of laws matter. In International Civil Law, when a foreign element is involved whether related to persons or territory it is taken into account. In this situation, the foreign element is territorial, as it involves Indonesian citizens marrying outside of Indonesia. So, in this case the extent to which the state can accept decisions or legal determinations from other countries. This is in the discourse of International Law related to state sovereignty. Different sovereign states have the right not to be subject to the laws or decisions of foreign countries. Therefore, the issue of differing religions in marriages conducted abroad is clearly regulated by the requirement in "Article 56 of the Marriage Law" that such marriages "must not conflict with Indonesian law." Based on this, it can be concluded that, from a normative perspective, interfaith marriages performed abroad are also considered invalid under Indonesian law (Wahyuni, 2017).

The various legal loopholes exploited by interfaith couples, as mentioned above, are not fully addressed by the aforementioned Supreme Court Circular (SEMA). This also highlights a limitation of the SEMA, as it solely addresses cases where the marriage occurs within Indonesia and the couple subsequently seeks registration through the Civil Registry Office, with court authorization for the marriage to be recorded.

Conclusion

In essence, interfaith marriages are not permitted under positive law. This is reflected in "Article 2 paragraph (1)" in conjunction with "Article 8 letter (f) of the 1974 Marriage Law," which places the validity of a marriage under the authority of each individual's religious law. Therefore, if a religion recognizes the marriage as valid, the state also considers it valid. Conversely, if a marriage is deemed invalid by the religion, it will automatically be invalid under state law as well. "The Supreme Court Circular Letter No. 2 of 2023", which prohibits District Courts from approving marriage registration requests involving people of different religions and beliefs, reinforces the legal stance on interfaith marriages. This Circular aims to act as a catalyst for providing legal clarity and uniformity, tackling the persistent debate over interfaith marriage matters in the nation. Indeed, supporting regulations are still needed to overcome legal smuggling of interfaith marriage (such as marrying abroad first or temporarily submitting to one faith, or by following the marriage methods of each religion in turn). But at the very least, the legal valve of interfaith marriage has been increasingly closed by the Supreme Court Circular Letter (SCCL).

This Supreme Court Circular (SEMA) is indeed confined to addressing one specific aspect of interfaith marriage legality, namely the pathway of

legalization through judicial proceedings. It does not comprehensively address the issue of interfaith marriage in Indonesia. Legal loopholes that allow for circumvention of the law still exist. Therefore, an amendment to the marriage regulations is absolutely necessary. The amendment that was made in 2019 did not touch on the issue of interfaith marriage at all, even though this issue continues to be a source of ongoing controversy in the country.

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