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RESEARCH ARTICLE

The Dynamics of Interreligious Marriage in Indonesian Religious and Legal Perspectives

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Abstract: Mixed marriages due to ethnicity have become commonplace in Indonesia. Still, a wedding occurs due to differences in the faith or religion of the prospective partner. In that case, it will cause new problems related to the legal status of the marriage or the legal consequences arising from the wedding. This type of research is normative juridical research using data from primary, secondary and tertiary legal materials. Based on the research results, it is known that some religions in Indonesia strictly prohibit it, while others forbid it but are still allowed. For example, Islam strictly prohibits marriage to faith outside of Islam. Christianity and Catholicism are also banned because they consider marriage not ideal. If the Hindu religion believes that if it is done outside of Hinduism, then the marriage is deemed invalid, while Buddhism and Confucianism do not have a problem with this. Related to the formal juridical aspect, this interfaith marriage is legal because this interfaith marriage has been recorded and has a marriage certificate issued by an official of the Population and Records Service Office by Article 2 paragraph (2) of the Marriage Law, but only in an administrative form. Meanwhile, this interfaith marriage is invalid if we look at the applicable legal regulations. From the research above, it can be concluded that unions carried out with different religions can only be registered administratively; from a legal and religious point of view, each is considered invalid because there are no clear rules governing it.

Keywords: Dynamics, interfaith marriage, religious and legal perspective.

1. Introduction

Marriage is sacred and even called worship. That is why everything related to marriage in Indonesia is regulated in such a way, both in the laws that apply in society and customary norms. Ideological differences are common in multicultural Indonesia (Purba et al., 2019); these differences can be in the form of regional origin, race, ethnicity, customs or culture of the prospective partner to marry. However, such differences are found in the faith or religion of the prospective spouse. In that case, new problems automatically arise that affect the process regardless of the legal status of the marriage or the legal consequences arising from the marriage.

According to the applicable laws and regulations, the most vital essence is that forming a family means forming the smallest community of men, women and children. Building a household means building a unitary relationship between husband and wife in a container called the shared house. Happiness means a harmonious relationship between husband, wife and children at home. Immortal resources last forever. Marriage based on Belief in One Almighty God means that marriage is not the parties' will but God's gift to humans as



civilized beings. In other words, marriages are carried out according to religious and customary teachings (Maulana & Ahmad, 2022). Getting married and starting a family is the right of every adult. Indonesia is a multi-religious country such as Islam, Catholicism, Protestantism, Christianity, Buddhism, Hinduism and Confucianism. Article 2(1) of the Marriage Law states, "A marriage is considered valid if it is carried out according to the laws of each religion and belief". In addition, there are no special provisions regarding interfaith marriages regulated in Marriage Law No. 1 Republic of Indonesia, 1974 (M. Abdullah et al., 2019).

Interfaith marriages are not permissible under Islamic law. As with worship in Islam, whether or not a practice is valid depends on the suitability of circumstances and harmony. However, in the case of marriage, a new marriage is considered valid if the conditions and pillars are sufficient and fulfilled. One of the conditions for Muslim marriage is that the prospective partner must be a Muslim. It can be understood that marriages carried out with different religions are not allowed or valid according to Islam because there are more losses than benefits. This differs from Protestant Christianity, where adherents can practice interfaith marriage subject to applicable national laws. Hinduism strictly prohibits interfaith marriage, but Buddhism does not regulate this and traces it back to each other's customs (Rufaida et al., 2022).

The controversy over interfaith marriages in Indonesia has become a hot topic of discussion today. Some parties say that interfaith marriage no longer needs to be questioned because religion clearly prohibits it. Controversy is not only that; interfaith marriage has always existed, and nothing can stop it. For some people, interfaith marriage presents various legal problems. If interfaith marriages are allowed to continue, legal issues may arise that are difficult to resolve, such as children's legal and religious status, inheritance, and others. It turned out that this problem was not solved by referring to the provisions of Law Number 1 of 1974, but in practice, it was carried out in various ways, and some called it a form of legal smuggling (Erwinsyahbana, 2012).

As you may have understood, interfaith marriage in Indonesia is a phenomenon that exists in society and has even been going on for a long time. During the Dutch colonial period, interfaith marriages were often performed between Dutch Christians and local Muslim communities (Ali, 2002). In Indonesia, interfaith marriages are easy to find among community leaders (Suhasti, E. 2011), such as the Indonesian artist couple Jamal Mirdad and Lidya Kandow. The two artists married despite their different beliefs; Jamal Mirdad is a Muslim, while Lidya Kandow is a Christian. The latest case related to the friendship of President Joko Widodo's Special Agent, Ayu Kartika Dewi, with Catholic Gerald Bastian occurred on Friday, March 18, 2022, at the Jakarta Cathedral Church (Suaramerdeka.com, 2023). This seized the advantages and disadvantages as well as the attention of the Indonesian public (Wartaonomi.co.id, 2023). Even the Indonesian Ulema Council commented on the marriage of the Special Staff of the President by stating that marriage is not allowed (CNN Indonesia, 2023). This has become a controversy and spotlight related to the pros and cons of the marriage of different religions. The most substantial reason is due to the status of one of the parties, the exceptional staff of the president, who is the number one person in Indonesia and carries out the state administration and the axis of law in force in this country.

This research was carried out because the Constitutional Court (MK) again held a follow-up hearing on Law Number 1 of 1974 concerning Marriage (Marriage Law) as amended by Law Number 16 of 2019 concerning Amendments to Law Number 1 of 1974 concerning Marriage, on Tuesday (01/11/2022). The trial for case number 24/PUU-XX/2022 was submitted by E. Ramos Petege, a Catholic who wants to marry a Muslim woman (Argawati, 2022). Expert parties related to the Indonesian Da'wah Islamiyah Council were present in this session. They said that the issue of interfaith marriage does not seem to know the word stop even though Islamic teachings have distinguished and have provided clear rules, apart from the verses that emphasize the prohibition of interfaith marriages, the history of

hadith, and the existence of *ijma'* of the scholars in every era. This interests the author to discuss the dynamics of interfaith marriage from the various religions' perspectives.

2. Research Method

The method specified in the research is the primary key to assessing the good or bad of a study. The scientific method determines the flow of research from information search to completion (Siregar, 2011). The scientific method can be interpreted as how research must be carried out, following justified paths (Waluyo, 1996). This research uses a type of normative legal research because this research is more focused on library research or document research, often called doctrinal legal research, because this research only focuses on written regulations or other related legal materials (Ali, 2009). This research is descriptive-analytical; Research that describes or describes facts and conditions or symptoms that appear and tries to describe or describe facts related to determining the meaning of legal terms contained in laws and regulations to allow researchers to obtain new legal concepts and test their reality through analyzing the application of laws and regulations (Ali, Z. 2009). As a source of research information, secondary materials consist of three legal materials, namely primary materials in the form of laws, secondary legal materials in the form of books, literature, research results and related scientific works, and tertiary legal material. In the form of dictionaries, encyclopedias, legal magazine directories and others. The data collection tool used in this study was a literature survey, both offline and online.

3. Results and Discussion

3.1. *The Status of Inter-Religious Marriage in the Perspective of Religion in Indonesia*

In its original law known as marriage, Islam is sunnah; according to some legal scholars, it is permissible. Some Maliki scholars say the marriage law is sunnah (al-Qodhi, 2008). Some pillars and conditions must be met for the contract to be valid. Marriage is carried out with a marriage contract, namely the guardian's approval, which is then answered with the approval of the man who will become her future husband. At least two witnesses support this agreement (Soekanto, 2003). Classical literature does not recognize the word interfaith marriage. There is no clear definition, but the discussion of this topic is included in the discussion of the prohibition of marriage for women or the prohibition of marriage which is called *az-zawaj bi al-kitabiyah*, *az-zawaj bi al-musyrika* or *az-zawaj bighair*, among others al-Muslim women (marrying women of the People of the Book, namely marriages with Jewish and Christian women), married polytheistic women (Musirikan) and married non-Muslims (Maulana, and Ahmad, 2022).

The Tarjih and Tajdid Council of PP Muhammadiyah issued a decision that interfaith marriages are interfaith marriages, namely marriages with Muslims/Muslims and non-Muslims/Muslims or polytheists and people of the Book (Muhammadiyah, 1989). Interfaith marriage is marriage between adherents of different religions, namely Muslims, both men and women, and non-Muslim men or women. Religions in Indonesia, such as Catholicism and Protestantism, believe marriage is a sacrament; therefore, interfaith marriages are prohibited because they are considered not ideal. (Basso, 2005). However, the ban on interfaith marriages is not that strict because the church still provides exceptions for couples who wish to marry interfaith. The license is accompanied by a written agreement that the parties accept. The contents of the agreement include church marriage, anchoring the principles of love and monogamy in marriage (once in a lifetime) (Hadikusuma, 2007), raising and baptizing their children as Christians (Catholic or Protestant) and not interfering. If one partner performs religious rituals according to their religion (Usman & Suparman, 1995).

According to Hinduism, marriage is a bond between a man and a woman as husband and wife to have normal sexual relations and continue their descent. Marriage must be carried out according to Hindu religious ceremonies and laws; otherwise, the marriage is invalid

(Hadikusuma, 2007). Interfaith marriages in Hinduism are strictly prohibited because a valid marriage is a marriage that is carried out through the sacred ceremony of Pendede (Karsayuda, 2006). Pendede can only approve of couples of different religions if those, not Hindus, want to convert to Hinduism by attending the Sudi Vadhani ceremony and feeling ready physically and mentally, sincerely, and without coercion to convert to Hinduism (Asmin, 1986).

Interfaith marriages are not explicitly regulated in Buddhism, so interfaith marriages are not a problem according to Buddhism. Even non-Buddhist couples who wish to marry do not have to convert to Buddhism first but must follow Buddhist rites during their rituals and receptions (Bahri, 2020).

Confucianism itself regulates that what is said about marriage between a man and a woman is the word of Tian. Differences in thought, ethnicity, race, culture, nationality, social politics and religion are not obstacles to marriage (Budiarti, 2016). Marriages adhering to the Confucian religion are prohibited if carried out between the closest relatives (family), and their implementation is not by the general decency and religious norms (Nurcholis, 2004). Marriages based on different religions will not achieve true happiness in the household and can lead to various prolonged accesses in the future, as below (M.Abdullah et al., 2019):

1) Give birth to offspring whose lineage is unclear

Because marriages of different religions based on Islamic law are invalid, thus the offspring that the couple gives birth to our children on the maternal line; in this case, the lineage will be disconnected from the father who biologically processes it. If the child from the marriage is female, then the child's religion is Islam, while the father has a different religion. Thus he cannot be represented by his father. If this is forced, the biological father becomes the guardian of the marriage. Therefore the child's wedding will be invalid.

2) Termination of Inheritance Rights

Islam teaches that one of the various causes for an individual not being able to obtain an inheritance (termination of legacy) is because the religion of the heir and the heir is different. Consequently, this will eventually lead to disputes or conflicts over long-term assets if a family has no heirs with varying religions.

3) Creating uncertainty in choosing a religion

Because generally, parents have different religions, they tend to free their children to choose their religion or belief. This freedom will make it a psychological burden for their children, as the description is as follows:

- a. Children are still not able to think carefully and do not have broad insights related to religion, this will make children confused in making choices about their religion and beliefs in the future. This is what will make it always filled with doubts and uncertainties.
- b. The psychological burden that children result from marriages of different religions will be felt later when the child considers one of the feelings of his parents, whether he chooses to follow the beliefs of his mother or father. Things like this cannot be considered simple, parents are obliged to free their children in choosing their religion and beliefs.
- c. The thing that becomes a concern is because there is always uncertainty and confusion which will later cause the child to become indifferent to religion, and will even become an atheist.

3.2. Interfaith Marriage Status in Legal Perspective

Marriage between two people of different religions is called interfaith marriage. In this marriage, there is a unification of physical and spiritual ties between men and women of

different beliefs so that there is a unification of two rules regarding terms and procedures for marriage according to their beliefs eternal and happy family based on divinity. Almighty. Before the passing of the Marriage Law No. 1 of 1974, interfaith marriages were initially included in mixed marriages. The division is as follows (Tirtawati & Savitri, 2009) :

- 1) For Groups of European and Eastern Foreign Chinese Descent, the Civil Code (KUHPer) applies to them
- 2) Indigenous and Eastern Foreign groups who are diverse in Islam apply principles originating from the Qur'an and Al Hadith
- 3) Those who are not adherents of Islam or Christianity apply principles originating from customary law that differ from one another
- 4) Those entering mixed marriages apply GHR (Regeling op de Gemeng de Huwelijke). In Article 1 of the GHR, a mixed marriage is a marriage between Indonesians under different or different legal conditions.
- 5) The indigenous people who adhere to the Christian religion apply HOCI (Huwelijken Ordonantie Christen Indonesiers) or the Marriage Ordinance for Indigenous Christians.

Problems arise because the UUP needs to recognize the term mixed marriage due to different religions. What is meant by mixed marriage in the UUP is a marriage between two people of different nationalities, namely Indonesian citizens (WNI) and foreign citizens (WNA). Article 57 states: "In this law what is meant by mixed marriage is a marriage between two people who are subject to different laws because of different nationalities and one of the parties is an Indonesian citizen". Due to the laws and regulations in force in Indonesia, interfaith marriages cannot be performed. According to Article 2, paragraph (1) UUP, "marriage is legal if it is carried out according to the law of every religion and belief". Paragraph 2 "All marriages must be registered according to the applicable laws and regulations". On the other hand, several articles in the body of Islamic law regulate interfaith marriages. Article 4) Marriage is legal if it is performed according to Islamic law according to Article 2 Paragraph 1 of the Marriage Law. 40) Marriage between a man and a woman is prohibited due to unavoidable circumstances (Rufaida et al., 2022):

- a. Because the woman in question is still bound by marriage with another man
- b. A woman who is still in her iddah period with another man
- c. A woman who is not Muslim.

Article 44 "A Muslim woman may not marry a non-Muslim man." Article 61 Equality cannot be used as a basis for preventing marriage except equality due to differences in religion or ikhtilaf al-dien".

In terms of the legality of marriage No. 1 of the 1974 Marriage Law, attention must be paid to the provisions of Article 2 of the Marriage Law, which regulate the following matters (Abdurrahman & Syahrani, 1978): Marriage is legal if it is performed according to the laws of each religion and belief; Every marriage is recorded according to the applicable laws and regulations. According to the regulations above, a marriage cannot take place if it is not carried out according to the religious norms of the bride and groom. If the marriage is performed outside the rules of the couple's religion, the marriage is void. Another requirement for a valid marriage is registering at an official state institution. For followers of the Islamic religion, the registration is carried out at the Office of Religious Affairs and those of other faiths at the civil registry office. If the marriage is according to their respective religions and beliefs, the bride and groom will sign a marriage certificate issued by the person responsible for registering the marriage (Hadikusuma, 2003).

According to experts and legal activists, interfaith marriage in Law No. 1 of 1974 can be seen broadly from three points of view. First, interfaith marriage is not permitted and violates Article 2 (1) UUP: Marriage is valid if it is carried out according to religious law and beliefs, and Article 8 letter f "that marriage is prohibited between two people whose

relationship is prohibited by their religion or other applicable regulations". Therefore, according to this article, interfaith marriages are considered illegal and null and void. Even though this article states that it is legal according to the laws of each religion and belief, Islam takes a position that does not allow interfaith marriages. Second, interfaith marriages are permissible and legal and can occur because they are included in interfaith marriages according to Article 57 UUP; two people are subject to different laws in Indonesia. According to this second view, the article regulates marriages between people of different nationalities and between two people of different religions. According to him, the implementation will take place by the procedure stipulated in Article 6 of the PPC: (1) Mixed marriages are carried out according to the husband's law, except the consent of both parties of the prospective husband and wife, which must be obtained in connection with Article 66 UUP.

Third, the UUP does not regulate interfaith marriages. Therefore it refers to Article 66 UUP, which confirms that other marriage provisions, as long as they are regulated in this law, are declared invalid. However, because the UUP was unaware of this, the old regulations could be re-enacted, so the issue of interfaith marriages was regulated by the Interfaith Marriage Regulations (PPC). However, this interfaith marriage is legally valid because this interfaith marriage is registered and has a marriage certificate issued by the Population and Resident Registration Bureau of the City of Surakarta based on Article 2 (2) of the Marriage Law. An act to register every marriage according to the applicable laws and regulations. However, this is only a matter of administration. However, this interfaith marriage is not valid when viewed from the applicable legal provisions. In other words, it is illegal according to legal regulations and religious law (Utami & Setiawan, 2022).

Couples of different religions who want to marry and be recognized by the state are willing to circumvent the law to register their marriage, for example, by marrying abroad and still registering themselves in Indonesia, such as the artist couple Titi Kamal and Christian Sugiono, who married in Sydney, Australia. The same applies to the President's staff, who marry people of different religions and then have their marriages registered at the civil registry office. In his decision, the Chief Justice of the Constitutional Court, Anwar Usman, rejected the applicant's application for the legalization of interfaith marriages. The Constitutional Court rejected the applicant's application. It assessed the applicant's arguments based on Article 2, paragraphs 1 and 2, and Article 8 letter f of the Marriage Law No. 1 of 1974 has no legal basis. In addition, the Constitutional Court considered there was no urgency to move from forming the Constitutional Court to previous decisions. For information, the motion to legalize interfaith marriage has been introduced previously. Courts have previously rejected similar requests. In its decision, the court emphasized the constitutionality of valid marriages based on religion and belief and that every marriage must be registered according to law.

However, a constitutional judge submitted a different reason (concurring opinion) against the Constitutional Court's decision. Ramos Petege filed this lawsuit. Ramos is a Catholic who failed to marry a Muslim woman. Ramos Petege then challenged the Marriage Law to the Constitutional Court, hoping that interfaith marriages would be considered in the Marriage Law. Ramos asked the Constitutional Court to declare Article 2, paragraphs 1 and 2 and Article 8 letter f of Law No. 1 of 1974 unconstitutional. According to the applicant, marriage is a fundamental right which is God's decree or destiny, and everyone has the right to marry anyone, regardless of religious differences. Therefore, in the view of the applicant, the state cannot prohibit or recognize interfaith marriages (Erwanti, 2023).

Act No. 1 of 1974 concerning Marriage adheres to the rules contained in Islamic law. Although it does not explicitly regulate the pillars of marriage, the Marriage Law fully surrenders the requirements for the validity of marriage to the provisions stipulated by the religion of the person who will carry out the marriage (M. Anshary MK, 2009). Marriage law regulates the terms and methods of getting married, along with the legal consequences for the party that is getting married (Simanjuntak, 2009). Marriage as a sunnatullah that

applies in general to every creature created by God, with the intention for each creature to develop to enliven life in this nature until it reaches.

Article 35 of Law Number 1 of 1974 concerning Marriage stipulates that property acquired during the marriage becomes joint property. The inherited assets of each husband and wife and the assets each receive as a gift or inheritance are under the control of each as long as the parties do not specify otherwise. Article 36 of the law stipulates that regarding joint property, the husband or wife can act with the agreement of both parties. Regarding their respective assets, the husband and wife have the full right to take legal action regarding their property (Hermanto et al., 2022).

Compilation of Islamic Law Presidential Instruction No. 1 of 1991 concerning KHI, which discusses inheritance or inheritance law, is contained in Book II concerning Inheritance Law starting from Article 171. From the perspective of KHI, inheritance law governs the transfer of inheritance rights (*tirkah*) to heirs, determining who is entitled to be the heir and how many shares each. Muslims do not take inheritance from infidels, and vice versa. The four priests agreed upon this law. It is narrated by Said ibn Musaiyab and an-Nakha'i that Muslims take inheritance from infidels, not vice versa; just as Muslims are allowed to marry infidel women, Muslim women are not allowed to marry infidel men. According to al-Ghazzi, seven people could not receive an inheritance because they were prevented from doing so, one of whom was an expert on two religions (Ministry of Religion, 1986).

4. Conclusion

It was found that Christianity and Catholicism forbid interfaith marriages because they are considered not ideal. However, the church does not strictly regulate it because it is still permissible to marry between different religions. Marriage must be carried out in the Hindu religion according to Hindu religious ceremonies and laws. Therefore if a marriage is carried out outside Hinduism, it is considered invalid. Interfaith marriages are not explicitly regulated in Buddhism, so interfaith marriages are not a problem according to Buddhism. Confucianism itself regulates that what is said to be a marriage between a man and a woman is the word of God. Differences in thought, ethnicity, race, culture, nationality, social politics and religion are not obstacles to marriage. Therefore, in several of the articles above, marriages carried out in the jurisdiction of Indonesia must be carried out in the law of one religion; they cannot be mixed. If interfaith marriage, then it is a violation of the constitution. In the implementation of marriage, the basis of religion is essential and fundamental in the UUP, so whether or not a marriage is permissible depends on the provisions of the religion itself. If a religion allows interfaith marriages, laws and regula.

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