



Interfaith Marriage and Pluralism

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ABSTRACT

This study examines the regulation and implementation of interfaith marriage law in Indonesia from the perspective of positive law and its relation to societal pluralism. This research employs a socio-legal method using interviews, observation, and literature review. The findings indicate that Law No. 1 of 1974 as amended by Law No. 16 of 2019 does not explicitly regulate interfaith marriage, but places religious law as the basis for the validity of marriage. In practice, civil registry authorities only register marriages that are legally valid according to religious law or based on court decisions. Field findings reveal administrative, social, and interpretative legal challenges faced by interfaith couples. This reflects a gap between legal norms and the plural reality of society. The study concludes that more adaptive regulatory reform is needed to ensure legal certainty while accommodating Indonesia's societal diversity.

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INTRODUCTION

Interfaith marriage is an issue that continues to be debated because it involves legal, religious, and human rights aspects in a pluralistic society. From the perspective of pluralism, diversity of beliefs is seen as a social reality that demands mutual respect and tolerance between religious communities. However, the implementation of interfaith marriage still faces various obstacles, especially due to differences in the provisions in religious teachings and applicable regulations. Pluralism is not intended to equate all religious teachings, but rather to encourage the creation of a common life that respects differences without eliminating their respective religious identities (Nurcholish Madjid, 1999, p. 215). On the other hand, the freedom of individuals to determine their life partner is also part of the human rights that need to be considered in a democratic country (Abdul Gani Abdullah, 2002, p. 87). Therefore, resolving the problem of interfaith marriage requires an approach that is able to balance respect for religious values, legal certainty, and the principle of diversity in Indonesian society.

Juridically, interfaith marriage in Indonesia still causes differences in interpretation in the application of the law. The provisions of Article 2 paragraph (1) of Law Number 1 of 1974 concerning Marriage as amended by Law Number 16 of 2019 state that marriage is declared valid if it is carried out in accordance with the laws of religion and their respective beliefs. This norm shows that the validity of marriage depends on the religious provisions adopted by the parties, so that the practice of interfaith marriage often experiences administrative and juridical obstacles (Abdul Gani Abdullah, 2002, p. 91). In addition, the Constitutional Court Decision Number 68/PUU-XII/2014 emphasizes that the regulation of the validity of marriage is still based on religious provisions as the basis of national law. Therefore, from a juridical point of view, the resolution of the problem of interfaith marriage requires legal certainty that still pays attention to the protection of the constitutional rights of citizens without overriding the principles that have been established in the Indonesian marriage legal system (Soerjono Soekanto, 1986, p. 15).

The phenomenon of interfaith marriage in Indonesia is increasingly being discussed in the digital space, showing that this issue has high public attention. Based on the We Are Social and Meltwater report,

Indonesians are among the largest social media users in the world, so discussions about marriage rights, pluralism, and marriage regulation develop widely through various digital platforms (We Are Social & Meltwater, 2024, p. 35). In addition, Google Trends data shows that searches with the keywords "interfaith marriage" and "interfaith marriage" continue to appear in various periods, especially when there is a court ruling or policy change related to marriage (Google Trends, 2024). This condition shows that technological developments and information flows have increased public awareness of marriage legal issues. On the other hand, the high intensity of discussions in the digital space also reflects the need for legal certainty and a comprehensive understanding of interfaith marriage arrangements in Indonesia.

The problem behind this study is that there are still interfaith couples who have difficulties in obtaining legal certainty for their marriage. Differences in interpretation of the provisions of laws and regulations and religious norms cause the marriage registration process to often face administrative obstacles. On the other hand, people who live in a plural environment have a high level of interaction so that the potential for interfaith marriage is even greater. This condition raises problems related to the legal status of marriage, the protection of the rights of husbands, wives, and children, and the certainty of population administration. Therefore, this problem is important to study to find solutions that are in accordance with the principles of law and pluralism in Indonesia.

Research on interfaith marriage generally focuses on normative aspects, such as the analysis of the Marriage Law, court decisions, or religious legal views on the validity of marriage. Meanwhile, studies that link the legal regulation of interfaith marriage with the dynamics of societal pluralism at a particular research locus are still relatively limited. In addition, most previous research has focused on the debate over the legality of marriage, without examining in depth its implications for legal certainty, protection of the rights of the parties, and population administration practices at the local level. Based on these conditions, the research gap of this research lies in the lack of optimal analysis that integrates juridical aspects with the social reality of plural society. The novelty of this research is to offer an analysis that combines positive legal perspectives, pluralism, and implementation practices at the research locus so as to produce a more comprehensive understanding of the challenges and alternatives to solving the problem of interfaith marriage in Indonesia.

Research on interfaith marriage has been conducted, but generally only focuses on normative analysis of the provisions of the Marriage Law or court decisions. For example, the research that examined the Constitutional Court Decision Number 68/PUU-XII/2014 focuses more on the constitutionality of Article 2 paragraph (1) of the Marriage Law and its implications for the validity of interfaith marriage. On the other hand, the study of the Central Jakarta District Court Decision Number 155/Pdt.P/2023/PN Jkt.Pst highlights the court's authority in determining the registration of interfaith marriages after the issuance of the Supreme Court Circular Letter (SEMA) Number 2 of 2023. These studies are generally oriented towards the analysis of decisions or legal norms separately. In contrast to this study, the focus of the study is not only to analyze the juridical aspect, but also to relate it to the condition of plural society in the research locus. Thus, this study not only discusses the legality of interfaith marriage, but also examines how pluralism affects the implementation of the law, legal certainty, and the protection of the rights of the parties in the practice of social life.

LITERATURE REVIEW

Interfaith Marriage

Marriage is a birth and mental bond between a man and a woman as husband and wife that aims to form a happy and eternal family based on the One Godhead. In Indonesia, the regulation of marriage is regulated in Law Number 1 of 1974 concerning Marriage as amended by Law Number 16 of 2019. Article 2 paragraph (1) states that marriage is valid if it is carried out according to the laws of each religion and its beliefs. This provision is the main basis for determining the validity of marriage, including interfaith marriage.

Interfaith marriage is a marriage performed by two people who adhere to different religions. In

practice, this kind of marriage still raises various problems because there is no regulation that explicitly regulates the mechanism for its implementation in Indonesia's positive law. As a result, various interpretations have emerged regarding the legality, registration, and legal protection of couples who carry out interfaith marriages.

Theory Pluralism

Pluralism is a view that recognizes diversity as a social reality that must be respected. According to Nurcholish Madjid (1999), pluralism does not mean equalizing all religions, but building mutual respect, tolerance, and coexistence in the midst of differences. In Indonesian society which has a diversity of religions, cultures, and ethnicities, pluralism is one of the important principles in maintaining a harmonious social life.

In the context of interfaith marriage, pluralism is the basis for understanding that wider social interaction can encourage the formation of relationships between believers of different religions. However, the application of the principle of pluralism must still consider the applicable legal norms and religious provisions so as to create a balance between respect for diversity and legal certainty.

Positive Law Regarding Interfaith Marriage

Indonesia's positive law makes religious law the main basis for the validity of marriage. Law Number 1 of 1974 jo. Law Number 16 of 2019 does not expressly allow or prohibit interfaith marriage. In addition, the Constitutional Court Decision Number 68/PUU-XII/2014 emphasizes that the provisions regarding the validity of marriage are still based on the laws of their respective religions.

In the practice of population administration, marriage registration can only be done if the marriage has been declared valid according to religion or has been determined by the court. This condition shows that the implementation of positive law still places religious norms as the main basis, causing various administrative obstacles for couples of different religions.

Legal Certainty

Legal certainty is one of the main goals of law formation. According to Soerjono Soekanto, legal certainty provides a guarantee that a regulation can be applied consistently so that the rights and obligations of the community obtain clear protection. In the issue of interfaith marriage, legal certainty is important because it is related to marital status, administrative registration, marital rights, child status, and inheritance rights.

The absence of explicit regulations on interfaith marriage has led to differences in interpretation in administrative practices and court decisions. Therefore, it is necessary to synchronize regulations so that legal certainty can be realized without ignoring the plural character of Indonesian society.

Previous Research

Research on interfaith marriage has been conducted with a variety of focuses. Isnaeni (2016) concluded that the Marriage Law does not explicitly regulate interfaith marriage, but leaves its validity to the laws of each religion, thus causing limitations in administrative practices. Furthermore, Suryani (2020) found that civil registration officials tend to apply a normative administrative approach by only recording marriages that have been valid according to religion or based on court determinations.

Rahman (2019) also explained that the pluralism of Indonesian society has not been fully accommodated in marriage regulations, so many couples choose alternatives such as filing a court order or holding a marriage abroad. In contrast to these studies, this study not only analyzes normative aspects, but also examines the implementation of interfaith marriage law in pluralistic societies through a juridical-sociological approach so as to provide a more comprehensive picture of the relationship between positive law, pluralism, and social practice.

METHOD

This study uses a type of empirical legal research with a juridical-sociological approach to examine the implementation of legal provisions regarding interfaith marriage in a plural society (Soekanto, 2014, p. 51). The subjects of the study include couples who have interfaith marriages, religious leaders, officials of the Office of Religious Affairs (KUA), the Population and Civil Registration Office,

and legal academics who understand the issue. The data source consists of primary data obtained through interviews and observations, as well as secondary data in the form of laws and regulations, court decisions, books, and scientific journals (Moleong, 2018, p. 186). Data collection techniques are carried out through in-depth interviews, documentation, and literature studies. Data analysis uses an interactive model that includes data reduction, data presentation, and conclusion drawing (Miles, Huberman, & Saldaña, 2014, p. 31). The validity of the data was tested using source triangulation techniques and triangulation methods so that the research results had a high level of credibility (Sugiyono, 2022, p. 369).

RESULT AND DISCUSSION

The regulation of interfaith marriage law from a positive legal perspective in Indonesia has basically not provided provisions that explicitly allow or prohibit it strictly. Law Number 1 of 1974 concerning Marriage as amended by Law Number 16 of 2019 emphasizes that the validity of marriage is determined based on the religious law of each party. This provision has the implication that religious differences are an important factor in determining the validity of marriage. In practice, this often causes differences in interpretation between marriage registrars, judicial institutions, and the public. In addition, the development of court decisions and administrative policies shows that there are dynamics in the application of the law, although it is still based on the principle of religious law as the main basis for the validity of marriage in Indonesia.

Legal Regulation of Interfaith Marriage in the Perspective of Indonesian Positive Law

Based on the results of field research on the implementation of interfaith marriage law regulations in plural communities in the research locus, data were obtained through interviews and mutually reinforcing observations. The results of interviews with officers of the Population and Civil Registration Office show that the registration of interfaith marriages cannot be done directly if there is no legal stipulation. The informant explained that in practice, interfaith couples are often directed to first obtain a court order or hold a marriage according to one of the religious laws that can be accepted by the registrar.

Furthermore, the results of interviews with community leaders and religious leaders show that there are diverse views. Religious leaders generally state that interfaith marriage is not in accordance with the provisions of their respective religious teachings, so it is not recommended. However, community leaders consider that a plural social reality requires an attitude of tolerance, especially in social relations between individuals in society.

The results of interviews with couples who have experienced interfaith marriages show that they face administrative and social obstacles. Administrative obstacles are related to the marriage registration process that cannot be done directly, while social obstacles are in the form of rejection or lack of acceptance from the family and the surrounding environment. Some informants also stated that they should look for alternatives, such as marrying abroad or using court determination mechanisms to have their marriages legally recognized.

The results of the interviews were then strengthened by the results of observations in the field. From the observations, it is known that the community has a high level of religious diversity and fairly harmonious social interaction in daily life. However, in the context of marriage, there are still strict social and administrative restrictions so that not all forms of interfaith marriage can be formally accepted by the registry.

Observations also show that the civil registration apparatus carries out its duties based on the applicable legal provisions, so that every marriage registration application must meet formal and material requirements. This condition shows that there is a gap between the plural social reality of society and the applicable positive legal provisions, thus giving rise to various adjustment strategies carried out by interfaith couples in obtaining legal recognition of their marriage.

Implementation of Interfaith Marriage Law Regulations in a Plural Society

Based on the results of the research on the regulation of interfaith marriage law from a positive Indonesian legal perspective, data was obtained through a literature study that was strengthened by interviews with informants who understood aspects of marriage law, such as legal academics and civil registration officials. The results of interviews with academic informants show that Law Number 1 of 1974 concerning Marriage as amended by Law Number 16 of 2019 does not explicitly regulate interfaith marriage, but emphasizes that the validity of marriage is determined based on the religious law of each party. This has the implication that religious differences are a determining factor for whether or not a marriage is valid in the Indonesian legal system.

Furthermore, the informant from the civil registration agency explained that in administrative practice, marriage registration can only be done if the marriage is valid according to religion or there is a legal basis in the form of a court determination. This shows that administrative apparatus tends to be normative and adhere to the applicable written rules.

The results of the interviews were then strengthened through observation of legal documents and administrative practices in the field. From the results of observations, it is known that every marriage registration process always requires religious documents as the main basis. This condition shows that Indonesia's positive law places religious law as the main foundation in determining the validity of marriage, so that the space for recognition of interfaith marriage is limited in administrative practice.

In addition, the results of observations of several court decisions show that there are dynamics of legal interpretation, especially in the case of applications for registration of interfaith marriages. Although there are several provisions that provide administrative solutions, in general, legal practice is still oriented towards the normative provisions in the marriage law.

Thus, the results of this study show that the regulation of interfaith marriage law from a positive legal perspective in Indonesia is still limited and places religious law as the main basis for the validity of marriage, thus causing differences in implementation in administrative and judicial practices.

The discussion of the results of this study shows that the regulation of interfaith marriage law from a positive legal perspective in Indonesia still places religious law as the main basis for the validity of marriage. This finding is in line with the results of previous research which stated that Law Number 1 of 1974 does not explicitly regulate interfaith marriage, but emphasizes the validity of marriage according to the laws of each religion, thus creating limited interpretation space in administrative practice (Isnaeni, 2016, p. 112). This condition is also strengthened by research conducted by Suryani (2020, p. 85) which states that civil registration officials tend to be normative administrative by only accepting marriages that have been valid according to religion or court determination.

Furthermore, this study also found that there is a gap between legal norms and the social reality of plural society. This is in accordance with the findings of Rahman (2019, p. 134) who explained that the plurality of Indonesian society is often not optimally accommodated in marriage regulations, thus giving rise to various alternative legal strategies such as marriage abroad or through court determination. Thus, the results of this study strengthen previous research that the marriage legal system in Indonesia still faces challenges in accommodating pluralistic social realities without ignoring the principle of legal certainty.

The discussion of the results of this study shows that the regulation of interfaith marriage law from a positive legal perspective in Indonesia still places religious law as the main basis for the validity of marriage. This finding is in line with previous research which stated that Law Number 1 of 1974 concerning Marriage does not provide explicit regulations regarding interfaith marriage, but leaves the determination of the validity of marriage to the religious law of each party (Isnaeni, 2016, p. 112). This causes a limited space for recognition in the practice of state administration.

In addition, the results of this study also strengthen the findings of Suryani (2020, p. 85) which states that civil registration officials tend to apply a normative administrative approach, namely only recording marriages that have been valid according to religion or based on court determinations. This condition shows that Indonesia's positive law is still highly dependent on the legality of religion in determining the validity of marriage.

Furthermore, this research is also relevant to the results of Rahman's (2019, p. 134) study which emphasizes that the pluralism of Indonesian society has not been fully accommodated in marriage regulations, thus giving rise to various alternative practices in obtaining legal recognition. Thus, the results of this study reinforce that there is a tension between positive legal principles based on religion and the reality of a pluralistic society, thus posing challenges in realizing adaptive legal certainty.

CONCLUSION

Based on the overall results of the research discussion, it can be concluded that the regulation of interfaith marriage law from a positive legal perspective in Indonesia still places religious law as the main basis for determining the validity of marriage. Law Number 1 of 1974 as amended by Law Number 16 of 2019 does not explicitly regulate interfaith marriage, thus creating room for interpretation in administrative and judicial practice. Implementation in the field shows that civil registration officials tend to be normative by requiring the validity of marriage according to religion or court determination. This has an impact on the gap between legal norms and the reality of a pluralistic society, where couples of different religions face administrative and social obstacles. Thus, the marriage legal system in Indonesia still faces challenges in accommodating community pluralism optimally without reducing the principles of applicable legal certainty.

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