

# Legal Status of Interfaith Marriage in Indonesia and Its Implications for Registration

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**Submission date:** 25-Jul-2023 11:18AM (UTC+0700)

**Submission ID:** 2136445556

**File name:** legal\_status.pdf (409.68K)

**Word count:** 5996

**Character count:** 31743

# Legal Status of Interfaith Marriage in Indonesia and Its Implications for Registration



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## ARTICLE INFO

### Article history

Received: March 12, 2022

Revised: November 12, 2022

Accepted: November 17, 2022

### Keywords

Legal Status;

Interfaith Marriage;

Marriage Registration

## ABSTRACT

Indonesia's marriage law prohibits interfaith unions. However, this provision has not yet taken effect. This study aims to find out how the legal status of marriage is different religions and how the recording provisions are valid in the eyes of the law. This research uses normative legal research methods, with a regulatory approach and data presentation in the form of descriptive analysis. The results of the research show that, *first*, regarding legal status, interfaith marriage is invalid in the eyes of the law, because it is contrary to the provisions of Law on marriage. However, based on the Supreme Court's decision couples of different faiths can request a court determination, henceforth to continue to carry out the marriage according to the beliefs held by each bride and groom. *Second*, regarding the registration of marriages for interfaith marriages, the bride and groom record them with the civil registry office and will be recorded as non-Islamic marriages.



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## 1. Introduction

The state policy that provides an opportunity for all citizens to obtain legal recognition and protection for all their rights and obligations as citizens, has demanded further consequences for the policy, namely the availability of various laws and regulations that regulate various dimensions of national and state life in all fields. On the one hand, it will be able to affirm Indonesia's position as a country of law (article 1 paragraph 3 of the 1945 Constitution), but on the other hand, it also demands a policy that must reflect justice for all citizens as a follow-up to the embodiment of the spirit of the second precept of Pancasila (article 28D paragraph (1) of the 1945 Constitution), which is sometimes very complicated in its fulfillment.

The problems that surround citizens are actually very many and complex, one of which is that always cannot be separated from the nature of citizen life as a human being is related to marriage. As a country of law, Indonesia has regulated marriage in Law Number 1 of 1974 concerning Marriage, which affirms that: "Marriage is an

inner birth bond between a man and a woman as husband and wife with the aim of forming a happy and eternal family or household based on the One True Godhead". From the provisions on marriage, in general, basically every citizen, both male and female, who naturally needs a family, has a relationship of affection, and has a desire to live happily, gets the opportunity to form a family through marriage institutions.<sup>1</sup>

Although there is a prerequisite that is specifically the main pressing point in human marital life, namely eternal based on belief in the one true god, which belief is a central and substantial feature of a religion and belief. The provisions on the beliefs underlying marriage in article 1 of Law No. 1 of 1974, then get firmness through the formulation in the next article which reads: "Marriage is valid if it is carried out according to the laws of each religion and belief."<sup>2</sup> Which provision seeks to provide affirmation in the context of legal certainty of marriage, that in substance the religion of the bride and groom must be the same and will have invalid status if the religion and beliefs are different.

The marriage to be carried out is carried out by the bride and groom who are Muslim, then further arrangements specifically can be found in the Presidential Instruction of the Republic of Indonesia Number 1 of 1991 concerning the Compilation of Islamic Law, which confirms related to the marital status that he will do if the marriage partner has a different religion and / or belief. For example, Article 40 of the Compilation of Islamic Law is affirmed that a man who is Muslim is prohibited from marrying a woman who is not Muslim. The opposite provision is also stipulated in Article 44 of the Compilation of Islamic Law that women who are Muslims are prohibited from marrying men who are non-Muslims. This is further confirmed in article 61 of the Compilation of Islamic Law which states that interfaith marriages must be prevented and must not take place.

Referring to the Marriage Law and the Compilation of Islamic Law, marriages among citizens held within the jurisdiction of the Indonesian state are only possible to be carried out according to the same religion and beliefs. There needs to be a legal policy for marriages between adherents of different religions and beliefs. In fact, in addition to Islam, the state through Presidential Decree No. 1 of 1965 concerning the Prevention of Abuse and/or Blasphemy and Law No. 5 of 1969 (which has recognized all presidential determinations and regulations as Laws) has recognized Islam, Hinduism, Buddhism, Christianity, Catholicism and Khong Hu Chu religion as official state-recognized religions. And the Trust stream<sup>3</sup> (the indigenous religion of the archipelago) has also been recognized in accordance with the Decision of the Constitutional Court No. 97 / PUU-XIV / 2016 dated

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<sup>1</sup>Pujiono Pujiono, Arif Hidayat, and Dewi Sulistianingsih, 'Understanding and Litera Legis of Marriage Law in the Millennial Era for School Children', *Indonesian Journal of Advocacy and Legal Services*, 3.2 (2021), 183-94 <https://doi.org/10.15294/ijals.v3i2.45878>

<sup>2</sup>Santoso Santoso, 'Hakekat Perkawinan Menurut Undang-Undang Perkawinan, Hukum Islam Dan Hukum Adat', *Yudisia: Jurnal Pemikiran Hukum Dan Hukum Islam*, 7.2 (2016), 412-34 <https://doi.org/10.21043/yudisia.v7i2.2162>

<sup>3</sup>Hwian Christianto, 'The Significance of Law No. 1/PNPS/1965 for Religious Freedom', *Judicial Journal*, 6.1 (2013), 1-16 <https://doi.org/10.29123/jy.v6i1.115>

November 7, 2017 jo Presidential Decree of the Republic of Indonesia Number 6 of 2000 concerning the Revocation of Presidential Instruction Number 14 of 1967 concerning Chinese Religion, Beliefs, and Customs.

Meanwhile, the legal position of the cult of belief in God Almighty, it needs to be stated that the right to embrace religion and belief is a basic right owned by Indonesian citizens in the Indonesian Constitution and the 2017 Decision of the Constitutional Court of the Republic of Indonesia.<sup>4</sup> This is stated in Article 28 E Paragraph (2) of the 1945 NRI Constitution which reads: "Everyone has the right to freedom of belief, expression of thoughts and attitudes, in accordance with his conscience". In Article 28I paragraph (1) of the 1945 NRI Constitution which reads: "The right to life, the right not to be tortured, the right to freedom of mind and conscience, the right to religion, the right not to be enslaved, the right to be recognized as a person before the law, and the right not to be prosecuted on the basis of retroactive law are human rights that cannot be diminished under any circumstances".

In Article 29 of the 1945 Constitution of the Republic of Indonesia which reads: "(1) The State is based on the One True Godhead; (2) The State guarantees the freedom of each resident to embrace his own religion and to worship according to his religion and beliefs". Thus, based on Article 28 E Paragraph (2), Article 28 I Paragraph (1) and Article 29 of the 1945 Constitution of the Republic of Indonesia, the state should recognize the religion professed by its citizens, including the flow of faith for those who adhere to it.

In addition, with the decision of the Constitutional Court No. 97/PUU-XIV/2016 dated November 07, 2017. Because before the Constitutional Court decision No. 97/PUU-XIV/2016 dated November 7, 2017, the Identity Card (KTP) could not fill in the religion column according to the belief to be written, it could only be given a strip mark/ cosponsored. After the Constitutional Court decision No. 97/PUU-XIV/2016 dated November 07, 2017, the religion column can be filled with the beliefs held by a person. The guarantee of recognition of trust for believers should still be recognized, this is stated in the First Precept of Pancasila "Almighty Godhead" as a basis that reflects tolerance for the freedom to embrace religion and belief.<sup>5</sup>

According to the official state approval of 6 religions (Islam, Hinduism, Buddhism, Christianity, Catholicism and Khong Hu Chu religion) and the official state recognition of belief in God, the marriage that can be carried out by Indonesian citizens is a marriage carried out by adherents of religions and beliefs that have been officially recognized in the Indonesian legal system. The Marriage Law, marriages among citizens held within the jurisdiction of the Indonesian state will only be recognized as legal marriages if performed according to the same

<sup>4</sup>Al Qodar Purwo Sulistya and Levina Yustianingtyas, 'Protection Of The Civilian Population As The Implementation Of The Principle Of Discrimination', *Audito Comparative Law Journal (ACLJ)*, 1.2 (2020), 94-104 <https://doi.org/10.22219/audito.v1i2.13753>

<sup>5</sup>Moh Bhayu Surya Andhika, 'Perlindungan Hukum Terhadap Hak Konstitusional Warga Negara Penganut Kepercayaan', *SYARIATI: Jurnal Studi Al-Qur'an Dan Hukum*, 5.2 (2019), 283-92 <https://doi.org/10.32699/syariati.v5i02.1198>

religion and beliefs.<sup>6,7</sup> It is necessary to give some notes, because marriages against the backdrop of religious differences are not allowed to take place,<sup>8</sup> If then the marriage is still forced to take place between adherents of different religions and beliefs then the marital status is invalid, the marriage is essentially forbidden and contrary to the law.

The opportunity to be recognized as a valid marriage, is to refer to the provisions in article 2 paragraph (2) of the Pertkawinan Law, which affirms: "Each marriage is recorded according to the applicable laws and regulations".<sup>9</sup> Namely, all marriages carried out by Indonesian citizens, whether carried out in the jurisdiction of Indonesia or outside the jurisdiction of Indonesia, must be registered for marriage, including for marriages carried out between adherents of different religions and beliefs.<sup>10</sup> Following up on the policy of requiring marriage registration, there are several things that must be understood, such as: *first*, marriages of fellow Muslims are carried out in front of a marriage registrar from the Office of Religious Affairs (KUA). *Secondly*, for intermarriage of religions other than Islam, oleg religious figures are carried out according to the religion of the bride and groom, and registered with the Civil Registry Office.<sup>11</sup>

Marriage between two different brides is not a simple thing in Indonesia. In addition to having to go through social and cultural frictions, the bureaucracy that must be passed is also convoluted. No wonder that many couples with different beliefs compilation of Islamic Lawnya choose to marry abroad. Couples who decide to marry abroad will later get a marriage certificate from the country concerned or from the local representative of the Republic of Indonesia (KBRI). Upon returning to Indonesia, they can register their marriage at the civil registry office to obtain a Certificate of Foreign Marriage Reporting.<sup>12</sup> It does not mean that marriage with religious differences cannot be realized in the country. In fact, based on the Supreme Court's decision No. 1400 K/Pdt/1986, couples of different faiths

<sup>6</sup>Achmad Rizqi Syahbana, Komariah, and Sofyan Arief, 'Pelaksanaan Pembagian Warisan Dalam Masyarakat Adat Osing (Studi Di Desa Adat Kemiren Kabupaten Banyuwangi)', *Indonesian Law Reform Journal (ILREJ)*, 1.1 (2021), 50–69 <https://doi.org/10.22219/ilrej.v1i1.16124>

<sup>7</sup>Nur Putri Hidayah and Komariah, 'Sosialisasi Undang-Undang Nomor 16 Tahun 2019 Sebagai Upaya Penyadaran Pemahaman Hukum Tentang Usia Minimum Pernikahan', *Jurnal Pengabdian Hukum Indonesia*, 3.2 (2021), 2016–2218 <https://doi.org/10.15294/jphi.v3i2.44685>

<sup>8</sup>Dani Setiawan, 'Inter-Religious Marriage: A Controversial Issue in Indonesia', *Contemporary Issues on Interfaith Law and Society*, 1.1 (2022), 23–38 <https://doi.org/10.15294/ciils.v1i1.56711>

<sup>9</sup>Rachmadi Usman, 'Makna Pencatatan Perkawinan Dalam Peraturan Perundang-Undangan Perkawinan Di Indonesia', *Jurnal Legislasi Indonesia*, 14.3 (2017), 255–74 <https://doi.org/10.54629/jli.v14i3.80>

<sup>10</sup>Bing Waluyo, 'The Validity of Marriage According to Law Number 1 of 1974 concerning Marriage', *Journal of Communication Media for Pancasila and Civic Education*, 2.1 (2020), 193–99 <https://doi.org/10.23887/jmppp.v2i1.135>

<sup>11</sup>Agustin Hanapi and Edy Uhermansyah, 'Urgency of Marriage Registration for Women and Child Protection in Gayo Lues District', *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam*, 4.2 (2020), 528–44 <https://doi.org/10.22373/sjhk.v4i2.7942>

<sup>12</sup>Sheanny Scolastika and others, 'Keabsahan Pencatatan Perkawinan Diluar Indonesia Berdasarkan Peraturan Perundang-Undangan', *Kertha Wicara: E-Journal Ilmu Hukum*, 14.2 (2020), 139–46 <https://doi.org/10.22225/kw.14.2.2020.139-146>

can request a court determination. The jurisprudence states that the civil registry office may perform interfaith marriages because the job of the civil registry office is to record, not certify. However, not all civil registry offices are willing to accept interfaith marriages.<sup>13</sup> Civil registry offices that are willing to accept interfaith marriages will later record the marriages as non-Islamic marriages. Couples can still choose to marry under the terms of their respective religions. The trick is to find religious leaders who have different perceptions and are willing to marry a partner according to their religious teachings, for example an Islamic-style marriage contract and a Christian blessing.<sup>14</sup>

However, this method is also not easy because it is rare for religious leaders and civil registry offices to want to marry couples of different faiths. A Compilation of Islamic Law, the *Pathtera Compilation* of Islamic Law that is often used by couples of different religions in Indonesia to legalize their marriage is temporarily subject to one of the religious laws. Usually, the problem that arises is friction between families over whose beliefs are used for ratification.<sup>15</sup>

For example, a case based on the experience of dealing with interfaith marriages in the way of Compilation of Islamic Law was experienced by Mary Anne Ninyo, a Catholic woman who married a Protestant Christian man on February 11, 2018 at St. Joseph's Matraman Church, Jaktim. She chose to relent and submit to her husband's beliefs while performing the marriage. After all, she and her future husband at that time were still in the same way of worship and books, she thought. Ninyo and her husband also agreed that they would not question the beliefs that their children would hold in the future as adults, as long as they were still within the scope of their beliefs. "It's up to my husband where I want to take me, as long as the goal is good," she said. Like Ninyo, Widana Made, who is Hindu, also recounted her experience of arranging a marriage eight years ago with a Muslim woman. His wife, Yuliana Prihandari, was willing to marry in a Hindu way and performed the *Sudhi Wadani* (Hindu conversion ceremony). After that, they took care of the administration to the *Indonesian Hindu Dharma Parisadha (PHDI)*. It was with this letter from PHDI that Made and Yuli got a marriage certificate at the local civil registry office.

Mardalena Hanifah shown that in principle marriage is an effort to legalize sexual relations and foster rights and obligations between men and women<sup>16</sup>. A legal marriage in the eyes of the law is a marriage that takes place between a man and a woman who are of the same faith<sup>17</sup> and registered<sup>18</sup>. Between the bride and

<sup>13</sup>Aulil Amri, 'Perkawinan Beda Agama Menurut Hukum Positif Dan Hukum Islam', *Media Syari'ah: Wahana Kajian Hukum Islam Dan Pranata Sosial*, 22.1 (2020), 48-64 <https://doi.org/10.22373/jms.v22i1.6719>

<sup>14</sup> Amri.

<sup>15</sup> Amri.

<sup>16</sup>Mardalena Hanifah, 'Perkawinan Beda Agama Ditinjau Dari Undang-Undang Nomor 1 Tahun 1974 Tentang Perkawinan', *SOU MATERA LAW REVIEW*, 2.2 (2019), 297-308 <https://doi.org/https://doi.org/10.22216/soumlaw.v2i2>

<sup>17</sup> Santoso.

<sup>18</sup> Waluyo.

groom must be religious because it is closely related to the legal conditions of marriage referring to the provisions of their respective religions which basically require a common belief.<sup>19</sup> However, facts on the ground show that interfaith marriages occur in Indonesia.<sup>20</sup> Until now, there has been no research that discusses the legal status of marriage between men and women of different religions and how the recording provisions are valid in the eyes of the law. The purpose of this study is to analyze the legal status of interfaith marriages and to determine the marriage registration procedure for marriages based on different religions / beliefs carried out in Indonesia, so that religious marriages are valid in the eyes of the law.

## 2. Research Method

The method used in this study is a normative legal research method.<sup>21</sup> To answer research problems, a statutory approach is used. The data used in this study are secondary data consisting of: first, primary legal issues, including the 1945 Constitution, Law No. 1 of 1974 concerning Marriage, Presidential Instruction No.1/1991 concerning the Compilation of Islamic Law (COMPILATION OF ISLAMIC LAW), and jurisprudence related to interfaith marriage; Second, secondary law, which consists of books and journals that discuss marriage and marriage registration. The secondary data is qualitative, and is obtained through literature studies. The data are further analyzed and presented in the form of descriptive analysis.

## 3. Results and Discussion

The state policy that provides an opportunity for all citizens to obtain legal recognition and protection for all their rights and obligations as citizens, has demanded further consequences for the policy, namely the availability of various laws and regulations that regulate various dimensions of national and state life in all fields. On the one hand, it will be able to affirm Indonesia's position as a country of law (article 1 paragraph 3 of the 1945 NRI Constitution), but on the other hand, it also demands a policy that must reflect justice for all citizens as a follow-up to the embodiment of the spirit of the second precept of Pancasila (article 28D paragraph (1) of the 1945 NRI Constitution), which is sometimes very complicated in its fulfillment.

The problems that surround citizens are actually very many and complex, one of which cannot be separated from the nature of citizen life as a human being is to have a family through marriage that is recognized as valid, as then constitutionally recognized in Article 28 B of the 1945 Constitution. As a country of law, Indonesia has regulated marriage in Law Number 1 of 1974 concerning Marriage, which

<sup>19</sup>Scolastika and others; Santoso.

<sup>20</sup>Setiawan.

<sup>21</sup>Kornelius Benuf and Muhammad Azhar, 'Metodologi Penelitian Hukum Sebagai Instrumen Mengurai Permasalahan Hukum Kontemporer', *Gema Keadilan*, 7.1 (2020), 20-33 <https://doi.org/10.24246/jrh.2019.v3.i2.p145-160>

affirms that: "marriage is "Marriage is an inner birth bond between a man and a woman as husband and wife with the aim of forming a happy and eternal family or household based on the One True Godhead"<sup>22</sup>.

From the provisions on Marriage above, in general, basically every citizen, both male and female, who naturally needs a family, has affection and has a desire to live happily, gets the opportunity to form a family through the institution of marriage. There is also a prerequisite that is particularly the main pressing point in human marital life, which is eternal eternal based on belief in the one true god, which belief is a central and substantial feature of a religion and belief.

The provisions on the beliefs underlying marriage in article 1 of Law No. 1 of 1974, then received firmness through the formulation in article 2 of Law No. 1 of 1974 which reads: "Marriage is valid if it is carried out according to the laws of each religion and belief."<sup>23</sup> Which provision seeks to provide affirmation in the context of legal certainty of marriage, that in substance *i.e. first*, marriage is valid if it is carried out according to the religion officially recognized by the state, namely 6 religions consisting of religions, Islam, Hinduism, Buddhism, Christianity, catholicism and Khong Hu Chu. *Secondly*, a marriage is valid if it is performed according to a trust that is recognized as registered and officially recognized by the state. *Third*, marriage will have a legal status if in its implementation it is based on the existing rules on the religion and beliefs of the bride and groom. *Fourth*, the marriage will not have legal status if its implementation is not based on the religious rules and beliefs of the bride and groom. *Fifth*, the marriage will have legal status if the religion and beliefs of the bride and groom are the same. *Sixth*, the marriage will be invalid if the religion and beliefs of the bride and groom are different.

The marriage to be carried out is carried out by the bride and groom who are Muslim, then further arrangements specifically can be found in the Presidential Instruction of the Republic of Indonesia Number 1 of 1991 concerning the Compilation of Islamic Law, which confirms related to the marital status that he will do if the marriage partner has a different religion and / or belief. Some provisions for marriage with adherents of religions other than Islam in the Compilation of Islamic Law<sup>24</sup> is the first marriage with legal status if performed according to the Islamic religion. This means that marriages that are carried out not according to Islam are of invalid status. The legal basis of Article 4 of the Compilation of Islamic Law which states: "Marriage is valid, if it is carried out according to Islamic law in accordance with article 2 paragraph (1) of Law Number 1 of 1974 concerning Marriage". Second, Forbidden marriage is if a man who is

<sup>22</sup>Kartika Septiani Amiri, 'The Development and Problems of Marriage Law in Indonesia', *Al-Mujtahid: Journal of Islamic Family Law*, 1.1 (2021), 50–58 <https://doi.org/10.30984/jifl.v1i1.1639>

<sup>23</sup>Trusto Subekti, 'Sahnya Perkawinan Menurut Undang-Undang Nomor 1 Tahun 1974 Tentang Perkawinan Ditinjau Dari Hukum Perjanjian', *Jurnal Dinamika Hukum*, 10.3 (2010), 329–39 <https://doi.org/10.20884/1jdh.2010.10.3.103>

<sup>24</sup>Ahmad Atabik and Khoridatul Mudhiiah, 'Pernikahan Dan Hikmahnya Perspektif Hukum Islam', *Yudisia: Jurnal Pemikiran Hukum Dan Hukum Islam*, 5.2 (2014), 286–316 <https://doi.org/10.21043/yudisia.v5i2.703>



Muslim marries a woman who is not Muslim. This means that Muslim men cannot enter into marriages with non-Muslim women, because Islamic religious teachings prohibit a Muslim from marrying a non-Muslim of a different religion and belief.

The prohibition of interfaith marriage is also expressly stated in Article 40 of the Compilation of Islamic Law which states "It is forbidden to enter into a marriage between a man and a woman due to certain circumstances, ... not muslim". A forbidden marriage is if a woman who is Muslim marries a man who is not Muslim. This means that Muslim women cannot have marriages with non-Muslim men, because Islamic religious teachings prohibit a Muslim woman from marrying a non-Muslim who is of a different religion and belief. The legal basis is Article 44 of the Compilation of Islamic Law, which states: "An Islamic woman is prohibited from entering into a marriage with a man who is not Muslim".

It is to happen, then the marriage must be prevented and should not be carried out because there is a reason that it is not as important as it is because of different religions/ unclear religions. The *sekufu* referred to here is a commensurate state/ no difference due to the existence of four things, namely cohesiveness/ no difference in *nasab*, cohesiveness/ no religious difference, harmony/ no difference in social strata (free or slave), and cohesiveness/ no difference in work. This means that if the marriage is motivated by differences in *nasab*, social strata and work then the marriage can be carried out / should not be prevented. The legal basis is Article 61 Compilation of Islamic Law, which asserts that: "No *sekufu* cannot be used as an excuse to prevent marriage, unless it is not *sekufu* due to religious differences or *ikhtilaf al-dien*"

The Marriage Law, marriages among citizens held within the jurisdiction of the Indonesian state allow it to be carried out according to different religions and beliefs.<sup>25</sup> The differences in religion and belief have also been constitutionally recognized in article 28E paragraphs (1 and 2), article 28I paragraph (1) and Article 29 paragraph (2) of the 1945 Constitution. Referring to that, there needs to be a legal policy for marriages between adherents of different religions and beliefs.

Legally, the state through Presidential Decree No. 1 of 1965 concerning the Prevention of Abuse and/or Blasphemy jo Law No. 5 of 1969 (which has recognized all presidential determinations and regulations as Laws) has recognized Islam, Hinduism, Buddhism, Christianity, Catholicism and Khong Hu Chu religion as official recognized religions, also marriages carried out by followers of the cult of belief in God Almighty (the indigenous religion of the Archipelago) which has also been recognized in accordance with the Decision of the Constitutional Court No. 97 / PUU-XIV / 2016 dated November 07, 2017 jo. Presidential Decree of the Republic of Indonesia Number 6 of 2000 concerning the Revocation of Presidential Instruction Number 14 of 1967 concerning Religion, Beliefs, and Customs of China.

In addition, with the decision of the Constitutional Court No. 97/PUU-XIV/2016 dated November 07, 2017. Because before the Constitutional Court decision No. 97/PUU-XIV/2016 dated November 7, 2017, the Identity Card (KTP) could not fill in

<sup>25</sup>Wedy Leplata, 'The Practice of Interfaith Marriage in Juridical Perspective', *Journal of Jurisprudence*, 4.2 (2014), 75-84 <https://doi.org/10.23917/jurisprudence.v4i2.4206>

the religion column according to the belief to be written, it could only be given a strip mark/ cosponsored. After the Constitutional Court decision No. 97/PUU-XIV/2016 dated November 07, 2017, the religion column can be filled with the beliefs held by a person. The guarantee of recognition of trust for believers should still be recognized, this is stated in the First Precept of Pancasila "Almighty Godhead" as a basis that reflects tolerance for the freedom to embrace religion and belief.<sup>26</sup>

The official state recognition of 6 religions (Islam, Hinduism, Buddhism, Christianity, Catholicism and Khong Hu Chu religion) and the official state recognition of belief in God Almighty,<sup>27</sup> then a marriage that can be carried out by an Indonesian citizen is a marriage carried out by adherents of religions and beliefs that have been officially recognized in the Indonesian legal system. The Marriage Law, marriages among citizens held within the jurisdiction of the Indonesian state will only be recognized as legal marriages if they are carried out according to the same religion and beliefs. It is necessary to give some notes, because marriages against the background of religious differences are not allowed to take place, if then the marriage is still forced to take place between adherents of different religions and beliefs then the marital status is invalid, the marriage is basically forbidden and contrary to the legislation<sup>28, 29</sup>.

From the above, the conditions of marriage between adherents of different religions / beliefs that can be temporarily identified, are as follows: *first*, there needs to be an explanation of the legal status of marriage between brides of different religions / beliefs that he will / has done. *Second*, there needs to be an explanation of the solutions that can be taken regarding the procedure for registering marriages based on different religions / beliefs that have been carried out. *Third*, there needs to be assistance to obtain a court order and or register marriages for marriage couples between different religions / beliefs. *Fourth*, it is necessary to explain the various requirements for obtaining a court order and or registering marriages for marriage couples between different religions/ beliefs. *Fifth*, coordination with legal aid service providers, civil registry, KUA and different religious / faith figures related to the law, implementation, determination and registration of marriages between adherents of different religions and beliefs is still needed.

#### 4. Conclusion

Based on the Marriage Law, the legal status of interfaith marriage is invalid, considering that basically every religion requires every bride and groom to adhere to the same religion. However, based on the Supreme Court's decision No. 1400 K/Pdt/1986 couples of different faiths can request a court determination.

<sup>26</sup>Andhika.

<sup>27</sup>Julita Lestari, 'Pluralisme Agama Di Indonesia (Tantangan Dan Peluang Bagi Keutuhan Bangsa)', *UIN Walisongo*, 6.1 (2019), 1–12 <https://doi.org/10.21580/wa.v6i1.4913>

<sup>28</sup>Akhdad Munawar, 'The Validity of Marriage According to Positive Law In Force in Indonesia', *Al-Adl: Journal of Law*, 7.13 (2015), 21–31 <https://doi.org/10.31602/al-adl.v7i13.208>

<sup>29</sup>Islamiyati, 'Analisis Yuridis Nikah Beda Agama Menurut Hukum Islam Di Indonesia', *Masalah-Masalah Hukum*, 45.3 (2016), 243–51 <https://doi.org/10.14710/mmh.45.3.2016.243-251>

Jurisprudence states that civil registry offices can perform interfaith marriages, because the job of the civil registry office is to record, not certify. However, not all civil registry offices are willing to accept interfaith marriages. Civil registry offices that are willing to accept interfaith marriages will later record the marriages as non-Islamic marriages. For the wedding procession, the pagan are married with the provisions of their respective religions, meaning that the bride and groom are looking for religious leaders who are willing to marry a couple according to the teachings of their religion, for example an Islamic-style marriage contract and a Christian blessing. As for the matter of marriage registration, based on the Supreme Court decision Number 1400 K / Pdt / 1986 couples of different faiths can request a court determination, and continue with registration at the Civil Registry Office with non-Islamic religious status.

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Character count: 31,743  
Submission date: 25-Jul-2023 11:18AM (UTC+0700)  
Submission ID: 2136445556

Journal of Human Rights, Culture and Legal System  
Vol. 2, No. 3, November 2022, pp. 167-177 ISSN 2807-2812 167

### Legal Status of Interfaith Marriage in Indonesia and Its Implications for Registration

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ARTICLE INFO ABSTRACT

**Article history**  
Received March 12, 2022  
Revised November 12, 2022  
Accepted November 17, 2022

**Keywords**  
Legal Status  
Interfaith Marriage  
Marriage Registration

Indonesia's marriage law prohibits interfaith unions. However, this provision has not yet taken effect. This study aims to find out how the legal status of marriage is different religions and how the recording provisions are valid in the eyes of the law. This research uses normative legal research methods, with a regulatory approach and data presentation in the form of descriptive analysis. The results of the research show that, first, regarding legal status, interfaith marriage is invalid in the eyes of the law, because it is contrary to the provisions of Law on marriage. However, based on the Supreme Court's decision hereafter to continue to carry out the marriage according to the beliefs held by each bride and groom. Second, regarding the registration of marriages for interfaith marriages, the bride and groom record them with the civil registry office and will be recorded as non-islamic marriages.

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### 1. Introduction

The state policy that provides an opportunity for all citizens to obtain legal recognition and protection for all their rights and obligations as citizens, has demanded further consequences for the policy, namely the availability of various laws and regulations that regulate various dimensions of national and state life in all fields. On the one hand, it will be able to affirm Indonesia's position as a country of law (article 1 paragraph 3 of the 1945 Constitution), but on the other hand, it also demands a policy that must reflect justice for all citizens as a follow-up to the embodiment of the spirit of the second precept of Pancasila (article 28D paragraph (1) of the 1945 Constitution), which is sometimes very complicated in its fulfillment.

The problems that surround citizens are actually very many and complex, one of which is that always cannot be separated from the nature of citizen life as a human being is related to marriage. As a country of law, Indonesia has regulated marriage in Law Number 1 of 1974 concerning Marriage, which affirms that: "Marriage is an

<https://doi.org/10.53955/jchc.v2i3.43> [nurputri@umm.ac.id](mailto:nurputri@umm.ac.id)