

## THE INTERFAITH MARRIAGE CONTROVERSY IN INDONESIA: A JURIDICAL ANALYSIS AND PERSPECTIVES OF CONTEMPORARY ISLAMIC LAW

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### **Abstract**

*This study analyzes the interfaith marriage controversy in Indonesia through a juridical approach and a contemporary Islamic legal perspective. The unclear norms in Law Number 1 of 1974 concerning Marriage have led to various interpretations and practices in the registration and determination of interfaith marriages by judicial institutions. Meanwhile, Islamic law generally rejects interfaith marriage, especially to preserve faith, descent, and family resilience, although contemporary scholars provide a more contextual interpretation. This research uses qualitative methods through literature studies, interviews, and document analysis. The results of the study show that the disharmonization of regulations creates legal uncertainty and increases requests for determination in district courts. The analysis of *maqāsid al-syarī'ah* provides a theoretical basis that the prohibition of interfaith marriage serves to protect the interests of the family and society. This study recommends the need for regulatory harmonization, improving community legal literacy, and an interdisciplinary approach in formulating policies.*

**Keywords:** Interfaith Marriage, Contemporary Islamic Law, Juridical Analysis, *Maqāsid al-Syarī'ah*, Harmonization of Law

### **1. INTRODUCTION**

Marriage is a bond of relationship that is owned by a man and a woman who are married, but if in the marriage there is one of the couples who have religious differences, then this becomes an issue that must be studied more deeply. Interfaith marriage is someone who has a spouse or prospective fiancé who among them has a religious difference. Interfaith marriage has become very problematic complex and often a source of prolonged controversy. When two individuals of different religions choose to marry, questions arise about the legality, legality of religion, legal certainty, and the social impact it causes. Law Number 1 of 1974 concerning Marriage, along with amendments to Law Number 16 of 2019, implicitly emphasizes that marriage is legal if it is carried out according to the laws of each religion. However, this provision does not explicitly regulate how the state should handle interfaith marriage. The ambiguity of the regulation opens up room for divergent

interpretations, which in practice results in inconsistencies in courts and civil registration agencies (Bowen, 2020).

In Islamic law, interfaith marriage has been a topic that has long been discussed by classical and contemporary scholars. Most scholars agree that Muslim women are forbidden to marry non-Muslim men under any circumstances. Meanwhile, the marriage of Muslim men to Muslim women is still a matter of debate, especially in the context of modern society and changing social structures. The views of contemporary scholars such as Yusuf al-Qaradawi, Jamal al-Banna, and the discussion of fatwa of the Indonesian Ulema Council (MUI) show concern about the impact of faith, children's education, and domestic resilience when interfaith marriages take place. However, the development of globalization, high social mobility, and cross-cultural interaction make this issue even more relevant and cannot be ignored (Esposito, 2019).

The controversy over interfaith marriage in Indonesia does not only occur in the realm of law and religion, but also touches the social dynamics of society. Many couples choose alternative paths such as marrying abroad, applying for a designation to a district court, or performing certain religious ceremonies in order to gain state recognition. However, these steps often cause administrative problems afterwards, such as child registration, inheritance rights, marital status in KK/KTP, to the issue of marriage guardianship and inheritance. This shows that there is a misalignment between the needs of the community and the applicable legal framework. Society is in a dilemmatic situation: on the one hand it wants to maintain personal choices regarding its life partner, but on the other hand it faces normative obstacles from both religion and the state. The urgency of studying this issue becomes even stronger when seeing the increasing number of cases of applications for the determination of interfaith marriages in district courts and the accompanying public debates. Without a clear and consistent legal framework, the potential for discrimination, abuse of authority, and legal uncertainty is enormous (Künkler, 2021). In addition, this debate demands the presence of contemporary Islamic legal thinking that is more responsive to the realities of modern life without abandoning the basic principles of sharia. An in-depth study is needed to see how the values of *maqāṣid al-syarī'ah*, especially *hifz al-dīn*, *hifz al-nas*, and *hifz al-'ird* can be actualized in responding to the phenomenon of interfaith marriage.

The rationalization of community service activities related to this issue departs from the need to provide legal literacy and correct understanding to the wider community. The lack of knowledge about the legal consequences of interfaith marriage often raises bigger problems in the future, such as the legal status of marriage, child protection, property distribution, and clarity of population administration. Through service activities, academics and legal practitioners can play a role in providing direct education to the public, organizing public discussions, legal assistance, and data-based advocacy to encourage regulatory improvement. This devotion also serves to reduce social conflicts due to differences in religious views and help couples and families understand the risks and responsibilities they face. In addition to functioning as an educational facility, this service activity also aims to provide academic contributions in the form of policy recommendations that can support the harmonization between state law and the principles of Islamic law. With an interdisciplinary approach involving aspects of law, theology, sociology, and human rights, this devotion is expected to facilitate a more complete and humanist understanding of interfaith marriage. Ultimately, these activities not only have an impact on increasing public legal awareness,

but are also part of a broader effort to promote a harmonious, equitable, and diverse social order in Indonesia (Syamsuddin, 2019).

## **2. IMPLEMENTATION METHOD**

This research and service activities use a descriptive qualitative approach design with the Participatory Community Engagement (PCE) model, which allows researchers to be directly involved in understanding the legal, social, and religious dynamics related to the interfaith marriage controversy in Indonesia. The design of the activity began with the pre-activity stage in the form of literature study, issue mapping, and coordination with relevant institutions such as KUA, Religious Courts, District Courts, and religious organizations, then continued with the implementation stage which included legal counseling, focus group discussions, in-depth interviews, and case simulations to explore the understanding of the community and stakeholders related to the juridical and religious impacts of interfaith marriage. The target audience was selected through purposive sampling techniques based on their relevance and involvement in the issue, including couples or individuals facing interfaith marriage issues, religious leaders, legal officials, religious extension workers, and studentsāṣid Al-Syarī'ah to evaluate the relevance of sharia principles in responding to the phenomenon of interfaith marriage. The validity of the data is strengthened through triangulation of sources, methods, and theories, so that the entire research process is able to produce findings that are comprehensive, accurate, and accountable academically and practically in the context of community service (Ali, 2020).

## **3. RESULTS AND DISCUSSION**

### **3.1 Results of Juridical Analysis of Interfaith Marriage in Indonesia**

The results of the study show that regulations regarding interfaith marriage in Indonesia still face legal uncertainty due to the disharmonization between Law Number 1 of 1974 concerning Marriage, the Compilation of Islamic Law (KHI), and judicial practice.(Widodo, 2020) Observation data and analysis of court decisions reveal that there are no laws and regulations that expressly allow interfaith marriage, but there are legal loopholes that have been used by couples to obtain the legality of marriage. This can be seen in the practice of applications at the District Court that issue a determination of marriage permits for interfaith couples, although this practice is not always consistent between regions. In addition, some couples choose to register their marriage abroad, then register it in Indonesia as an administrative recognition (Abdullah, 2018).

These findings indicate the presence of regulatory inconsistency, especially between Article 2 of the Marriage Law, which places "religious validity" as a valid condition for marriage, and the administrative needs of interfaith communities. This praxis irregularity is strengthened by the statement of the KUA officials who affirm that they do not have the authority to register marriages that are not in accordance with religious provisions. Therefore, state officials often refer couples to submit a determination to the District Court, even though the normative basis is unclear (Hasan, 2022).

Table 1. Patterns of Interfaith Marriage Practices in Indonesia

No	Practice Pattern	Main Description
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1	Application for determination in the District Court	Not uniform; Some rejected, some granted
2	Getting married abroad	Administratively recognized in Indonesia
3	Temporary "administrative conversion"	One of the parties changed religion and then returned to the original religion
4	Not legally married	Raising problems with the status of children and administration

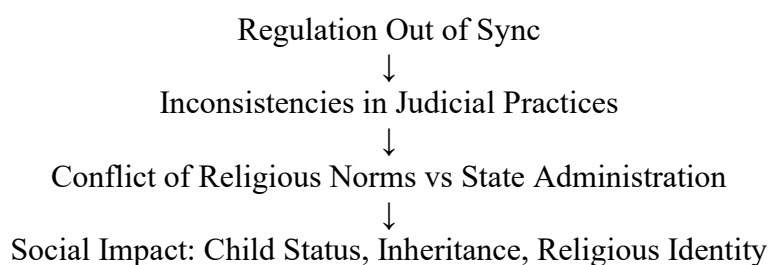
### 3.2 Discussion of Contemporary Islamic Law Perspectives

A discussion of the results of the study shows that from the perspective of Islamic law, the majority of scholars both classical and contemporary still reject the practice of interfaith marriage for Muslim women and view it as something that has the potential to damage the faith and resilience of the family. (Salim, 2021) Meanwhile, the marriage of Muslim men to Muslim women is still debated, although the majority of contemporary scholars consider the practice irrelevant in the context of modern Muslim countries due to considerations of benefit (al-maslahah) and generational protection (hifz al-nasl). The MUI fatwa in 2005 emphasized that interfaith marriage is haram, both for Muslim men and women (Lindsey, 2019).

An analysis of interviews with religious leaders revealed that the main reason for the ulema's rejection of interfaith marriage was concerns about: (1) the development of faith in the family, (2) the education of children, (3) household stability, and (4) the potential for friction between families. Nevertheless, the contemporary Islamic legal approach does not only stand on textual norms, but also pay attention to the social context (Hooker, 2017). The concept of maqāṣid al-syarī'ah emphasizes the principles of the benefit and protection of religion, soul, descent, and honor. In this context, contemporary scholars such as Yusuf al-Qaradawi have argued that interfaith marriage may be legally permissible under certain conditions, but socially it is highly discouraged and in modern practice has the potential to cause more mafsadah.

From the data analysis process, it was found that people who enforce interfaith marriage often face social and administrative problems, such as determining children's religion, access to faith-based education, civil registration, and obstacles in the management of inheritance rights. These findings reinforce the view that the issue of interfaith marriage is not just a theological issue, but more broadly concerns social integration and the legal structure of the state (Nurlaelawati, 2018).

Chart 1. The Relationship of Juridical Findings and Islamic Legal Views





**Strengthening the Views of Scholars on the Importance of Family Benefits**

**General Discussion**

The results of this study show that the interfaith marriage controversy is not only a fundamental legal issue, but also illustrates the tension between religious norms, modern social needs, and the uncertainty of state regulations. When state law does not provide strict regulations, judicial practices become non-uniform and have the potential to violate the principle of legal certainty. On the other hand, contemporary Islamic law is based on the principle of safeguarding religion and posterity, which suggests that interfaith marriages tend to carry the risk of disharmony (Cammack, 2020).

This finding is in line with previous research that states that the state needs to provide clearer regulations so that there is no legal "forum shopping" by the public. In addition, the approach of *maqāṣid al-syarī'ah* shows that religious provisions are preventive against social damage that may arise.

Practically, the results of this study imply the need to:

1. Drafting strict and uniform regulations regarding interfaith marriage.
2. Collaboration between academics—scholars—government to formulate a legal framework that accommodates social realities without ignoring religious norms.
3. Improving people's legal literacy so that they are not trapped in uncertain legal practices.

**4. CONCLUSION**

This study confirms that the interfaith marriage controversy in Indonesia is a multidimensional issue involving positive legal aspects, religious norms, and socio-cultural dynamics of the community. From a juridical perspective, the provisions in Law Number 1 of 1974 and the amendment to Law Number 16 of 2019 do not provide explicit clarity regarding the legality of interfaith marriage, resulting in diverse practices in judicial institutions and civil registries. The uncertainty of these norms gives rise to inconsistencies in decisions, administrative difficulties for couples, and the risk of legal disharmonization. Meanwhile, the perspective of contemporary Islamic law generally rejects the practice of interfaith marriage, especially with regard to the protection of faith, children's education, and family resilience, although there are a number of more moderate views in certain contexts.

The findings of this study also show that the insynchronization between social needs and legal norms has an impact on the increase in applications for the determination of interfaith marriage in court. An analysis of *maqāṣid al-syarī'ah* reveals that the prohibition is rooted in the purpose of preserving religion, heredity, and honor, which is still relevant to Indonesian social conditions. Therefore, there is a need for harmonization of regulations that are able to bridge religious values with human rights principles without ignoring the reality of a multicultural society. Legal education through community counseling and mentoring activities is very important to reduce social conflicts, improve legal understanding, and encourage the creation of more comprehensive, fair, and responsive policies.

## REFERENCES

- Abdullah, A. (2018). Legal Pluralism and Marriage in Indonesia. *Indonesia Law Review*, 10(2), 145–168.
- Ali, M. (2020). Muslim Family Law Reform and Interfaith Marriage. *International Journal of Middle East Studies*, 52(4), 623–640.
- Bowen, J. (2020). Interfaith Marriage in Contemporary Societies. *Journal of Comparative Family Studies*, 51(3), 245–262. <https://doi.org/10.3138/jcfs.51.3.245>
- Cammack, M. (2020). Islamic Family Law and the State. *Law & Society Review*, 54(2), 450–470.
- Esposito, J. (2019). Islamic Perspectives on Mixed Marriage. *Islamic Law Review*, 27(2), 112–130.
- Hasan, N. (2022). Fatwa Dynamics on Interreligious Marriage. *Studia Islamika*, 29(1), 75–102.
- Hooker, M. B. (2017). Indonesian Marriage Law and Religious Diversity. *Journal of Asian Law*, 24(1), 99–118.
- Künkler, M. (2021). Religious Norms and Marriage Regulation in Indonesia. *Asian Journal of Law and Society*, 8(1), 55–78.
- Lindsey, T. (2019). Islamic Law and Marriage Disputes in Indonesia. *Sydney Law Review*, 41(2), 289–310.
- Nurlaelawati, E. (2018). Marriage, Courts, and Religion in Indonesia. *Journal of Law and Religion*, 33(3), 402–421.
- Salim, A. (2021). Interfaith Marriage and Social Conflict. *Southeast Asian Studies*, 10(2), 251–270.
- Syamsuddin, D. (2019). Maqasid al-Shariah and Contemporary Marriage Issues. *Journal of Islamic Studies*, 30(3), 345–363.
- Widodo, A. (2020). Legal Challenges of Interreligious Marriage in Indonesia. *Indonesian Journal of Law and Society*, 2(1), 34–56.