

The Registration Policy of Interfaith Marriage Overseas for Indonesian Citizen

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ABSTRACT

Interfaith marriages have long been a debated issue of marriage law in Indonesia. Since the marriage law was issued, there has been no clear legal stance governing interfaith marriage, particularly when involve Muslim/ah bride or groom. While the fact is, interfaith marriage is an unstoppable reality in the plural society. Not being recognized for its legitimacy according to Indonesian regulation makes the interfaith couples think to utilize out of the box solution that is conducting marriage overseas. The problem is whether interfaith marriages abroad can be considered legal in Indonesia and how is the registration process in Indonesia after their arrival. This study aims to explain the process of registering interfaith marriages carried out outside Indonesia after the couples return to Indonesia. The data was collected through the study of primary legal materials of Indonesian marriage laws and lower regulations. Data were also collected through interviews. This article argues that interfaith marriages are not well regulated in Indonesia. Therefore their validity cannot be justified. Interfaith marriages conducted abroad can be registered at the civil registry office. The civil registry office does not question the validity of the marriage.



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1. Introduction

The issue of interfaith marriage is a long-standing polemic (Suhasti et al., 2018). Interfaith marriage is perpetuated issue in society, even in a small percentage, as research by Aini et al., (2019). In Gunung Kidul Regency—as a plural area in religious life—interfaith marriages in the Wonosari Catholic Church reach 32% on average per year. Many interfaith marriages have to be conducted abroad. Registration of interfaith marriages for Indonesian Citizens in a foreign country seems to be a mere formality. According to research conducted by Suhasti et al., (2018), many interfaith couples have struggled to get their marriages officially admitted and legalized by Indonesian Law, but those efforts mostly ended in a deadlock. This is because of divergent legal interpretation, which leads to legal uncertainty (Suhasti et al., 2018).

The local Civil Registry Office registers foreign marriages for every Indonesian citizen upon arrival in Indonesia. This register or registration is necessary to record important events for all

citizens such as births, marriages, divorces, deaths, and migrations, based on Law Number 24 of 2013 concerning Amendments to Law Number 23 of 2006 concerning Population Administration. The registration of marriages for Indonesian citizens of different religions abroad no longer looks at the substance of their legitimacy but rather merely registers important events for citizens. According to research conducted by [Hedi et al., \(2017\)](#), interfaith marriages in society and for some legal experts are considered unclearly regulated in Indonesian Marriage Law. Article 2 (1) of Law Number 1 of 1974 concerning marriage (hereinafter referred to as the Marriage Law) states that marriage is legal if it is carried out according to the respective laws of religion and belief ([Mutakin, 2021](#)).

This article means that marriage is carried out according to the laws of their respective religions. The delicate situation of interfaith marriage in Indonesia leads us to think about the existence of legal pluralism in this country. Interfaith marriage is not merely seen from a statute point of view, but also from the perspective of religious, *adat* (custom) law as researched by [Nasir \(2020\)](#). Research on interfaith marriage is not new. Many previous researchers have conducted studies from multi perspectives. Suhasti's research, for instance, examines the practice of interfaith marriage through the determination of the District Court in Surakarta ([Suhasti et al., 2018](#)). Suhasti emphasized that the basis of the problem of interfaith marriage practice in Indonesia stems from the pattern of various legal interpretations of the Indonesian Compilation of Islamic Law and the Marriage Law. This non-uniform interpretation creates legal ambiguity and uncertainty regarding Indonesian interfaith marriage provisions ([Suhasti et al., 2018](#)). Slightly departing from the normative approach, Parolin's work shows the barriers of Islam and other religions to interfaith marriage perpetuate the endogamy system of religion in the context of the Muslim majority ([Parolin, 2015](#)). Although Parolin's work is not about Indonesia, it successfully illustrates how the ban on interfaith marriages is sufficient to maintain the kinship system of a Muslim diaspora community ([Parolin, 2015](#)). In a more casuistic approach, the legal ambivalence of interfaith marriages has been studied by [Setiyanto \(2016\)](#). He argues that interfaith marriage laws in Indonesia have diminished the freedom to choose a spouse and find happiness with partners of different religions ([Setiyanto, 2016](#)).

Other studies, for example, were submitted by [Crespin-Boucaud \(2020\)](#), and [Rosdiana & Mashita, \(2019\)](#). Both Crespin and Rosdiana point out that in sub-Saharan and Indonesian law there is a void in the legal basis in cases of interfaith marriages, especially those related to civil rights. Indonesian Marriage Law No. 1 of 1974 does not accommodate the legal policy of interfaith marriage. In addition, there are differences of opinion among religious leaders regarding the permission of spouses from different religions, for example in terms of reviewing the material of Article 2 paragraph (1) of the Marriage Law ([Rosdiana & Mashita, 2019](#)). The studies from the scholars above have shown that, from a normative approach, interfaith marriages in Indonesia leave legal problems. This legal issue is a manifestation of a national legal system that remains religiously oriented and prohibits the majority religion's viewpoint.

Due to the difficulty of interfaith marriages in Indonesia, many Indonesian citizens carry out interfaith marriages abroad. After arriving in Indonesia, they register their marriages at the local Civil Registry Office. Reflecting on the works above, this paper will examine the opportunities for recording interfaith marriages by marriage registrar. The act of registering them exemplifies a policy that represents the ambivalence of the practice of registering marriages in Indonesia. This study looks at the policy of registering interfaith marriages conducted abroad upon arrival in Indonesia. It is significant to address because interfaith marriage has not been strongly regulated in Indonesia and the above scholars' work has not yet explained how state officials conceal the polemic of interfaith registration in Indonesia.

2. Research Method

To answer those above questions, a research field was conducted. This paper applies a normative approach. Data were collected by scrutinizing marriage regulations and supported by interviews. This research relies more on primary legal materials, namely Indonesian legal regulations on

marriage. Secondary legal materials are not widely referenced. Since this paper discusses the legal policy of marriage registration, it is not sufficient to collect and limit the data only through the study of legal materials, but rather depend on interviews with the registrars of marriage at the Civil Registry Office, particularly in Jakarta. The choice of Jakarta as the research location cannot be separated from its position as the capital city and it handles the registration of interfaith and mixed marriages more than other cities in Indonesia. In addition, Jakarta has a history of interfaith marriage policies legitimized by religious authorities. The data was obtained both from the study of primary legal materials and through interviews. Data gathered was then filtered, analyzed, and then displayed.

3. Results and Discussion

3.1. Interfaith Marriage in Indonesia

Normatively, there is no strict legal norm, which prohibits interfaith marriage, as well as the legal basis on which to base its validity unless previously regulated in a regulation issued by the Dutch East Indies government, namely the King Regulation dated December 29, 1896, No. (Stb. 1898 No. 158) known as the regulation on Mixed Marriages (*Regeling op de Gemengde Huwelijken*) which was later called GHR. In this GHR, if two people of different religions want to get married, the Civil Registration Office will record the marriage. However, after the enactment of Marriage Law number 1 of 1974, especially after 1983, the implementation of interfaith marriages became more impossible (Kadriah & Hidayat, 2021). In Article 2 of the Marriage Law, it is stated that marriage is legal if it is carried out based on each other's religion and beliefs. From this article, in the field, it is often interpreted that Muslims carry out marriages with Muslims based on the Islamic religion; Catholics carry out marriages with Catholics based on the Catholic religion, and so on so that the marriage of two people of different religions is relatively difficult to carry out. The situation is apparent in Article 2 of the Marriage Law, namely that "marriage is legal if carried out according to their respective religion and his belief that law. The explanation of Article 2 (1) stated that there is no legal marriage outside the religion and belief (Bukido et al., 2021).

Hazarin gives the interpretation of Article 2 that for Muslims, there is no possibility. Therefore, it means a dead-end for the bride with different religions to carry out interreligious marriages. Because, in addition to the rules in Article 2, they are unlikely to use the rules of intermarriage in Chapter XII of article 57 of the Marriage Law, which does not regulate inter-religious marriages. Article 2 also means marriage should be conducted according to religious law. Marriage is not only a civil relationship between two people, but reinforced with religious values. The validity of the marriage is also based on religious law and the trust of the couple. With the clause in Article 2 (1) of this, it can also mean a formal prohibition against the marital relationship between two people of different religions. In Islamic law, for example, there is a different arrangement from Christian law and vice versa, so interfaith marriage is against the law (Ali, 2021).

Moreover, if it is understood that the relationship of marriage in Indonesia is an agreement between two people of the same religion, formal interfaith marriage is not covered (Muntaqo, 2020). On the other hand, Article 2 (1) cannot be understood as a prohibition of interfaith marriage because it is not explicitly forbidden because the law does not regulate interfaith marriage. Article 2 (1) simply states that marriage should be conducted according to religious law. So, according to some people, linking interfaith marriage problems with Article 2 (1) is not appropriate (Lukito, 2009). Article 66 of the Marriage Law states that with this the provisions set out in the Code of Civil Code (*Burgerlijk Wetboek*), Indonesia Christian Marriage Ordinance (*Ordinance Huwelijk Indonesiers Christen*, S. 1933 No. 74), Mixed Marriage Regulation (*Regeling op de Gemengde Huwelijk* S. 158 in 1898) and other regulations governing marriage so far been regulated in this law, declared invalid. After the provisions of Article 66 of Marriage Law, it can be said that the provisions of the GHR interfaith marriage are no longer valid, while marriage intervention in the Marriage Law has a different formulation. Regarding Article 66, there are a few legal experts who argue that there is a legal vacuum on inter-religious intermarriage (Widjaja, 2021).

In this legal vacuum, Sybrata states that intermarriage between religions for not being arranged directly in the Marriage Law may be conducted according to the provisions of the GHR to be adjusted to the principles in the Marriage Law. Subadio also stated that although the marriage of Indonesian citizens of different religions is not regulated in the Marriage Law, under Article 66, the provisions of GHR remain applicable for intermarriage. The absence of provisions on interfaith marriage in the Marriage Law also creates uncertainty about the legal provisions guiding the implementation (Wahyuni, 2016). Interfaith marriage problems can be seen in some cases in Jakarta, such as the pair Duddy Sharon, Muslim and Christian, who finally married in the local church, because of the refusal of the Civil Registry to register their marriages and issue a marriage certificate; the pair Boy Bolang and Aditya were waiting for permission to marry from the West Jakarta District Court; the couple Jamal Mirdad and Lidia Kandau who has to wait because of the delay from the court, but finally got a permit from the Civil Registry Office of DKI Jakarta. In 1986, the Minister of Religious Affairs sent a letter of warning to the Civil Registry. This letter is a criticism of the registration of marriages Djamal Mirdad and the Kandau Lidia (Wahyuni, 2016).

Another case occurred in pair Andy Vonny Gani P. (Muslim) with Hendrik Petrus Adrianus Nelwan (Protestants). They went to KUA Tanah Abang Jakarta, and filed a petition for their marriage according to Islam, but KUA rejected the petition because of their religious differences. Then both of them overlooked the Office of Civil Registry, but the Office also refused. Therefore, KUA and the Civil Registry Office refused their wedding ceremony. Then finally, they applied to the District Court of Central Jakarta. The Court, with stipulation No. 382/Pdt/1986/ PN.JKT.PST, on 11 April 1986 (Pompe & Otto, 1990) rejected their request and strengthened the rejection of KUA and the Civil Registry Office. Then they appealed to the Supreme Court, and finally, the Supreme Court granted the appeal. The Supreme Court declared that the filing of petition to the head of the Civil Registry Office. It should be interpreted that Article 8 letter f of Law No. 1 of 1974 is no longer an impediment to the holding of the wedding they want. And in this case/situation as the sole agency authorized to record civil registration, the Civil Registry Office is obliged to accept the request (Wahyuni, 2016). Furthermore, there is a judicial review of Article 2 (1) of the Marriage Law by proposing the clause "all interpretations of religious law and belief in it was left to each bride." However, judicial review was rejected by the Constitutional Court and kept using the original clause in Article 2 (1). Thus, interfaith marriage stays in the original norm and does not change anything (Cammack, 2003).

3.2. Interfaith Marriage of Indonesian Citizen in Overseas

Foreign marriage arranged in Marriage Law Article 56 (1) and (2) and Article 56 (1) set the implementation of civil marriage abroad, which states that the marriage that took place outside of Indonesia between two Indonesian citizens or an Indonesian citizen with a foreign citizen is legal when done according to the law applicable in the country where the marriage took place and for Indonesian citizens do not violate the provisions of this Act. Based on the article, then civil marriage abroad is based on the country where the marriage law needs to be ratified by the Indonesian law (Ashsubli, 2015).

According to Article 56, which consists of two verses, it can be seen that the authority of the State in determining the substance and its procedures related to foreign marriage is to be recognized in Indonesia. Act No. 1 of 1974 on Marriage, stated in Article 56 (1) that "marriage held outside Indonesia between two Indonesian citizens or an Indonesian citizen with a foreign citizen is legal if carried out according to the law in a country where the marriage took place and for Indonesian citizens do not violate the provisions of this Act. To determine the validity of the marriage, Article 56 of the Marriage Law constitutes the principle of local law (*lex loci celebrationis*) but also does not abandon the principle of citizenship for personal status. This Article does not determine the validity of the requirements, which should be subject to *lex loci celebrationis* and requirements that are subject to the personal laws of the origin country (Zahedi, 2010).

Based on Article 56 of the law of marriage mentioned above, it is understood that the Constitution itself can be regarded as public order, which limits foreign legal enactment. The concept of public order is similar to the French concept of *ordre public*, namely the Law of the French state itself considering a public order. Thus, an interfaith marriage of Indonesian citizens abroad—with the model of civil marriage is not a marriage under the laws of religion—is not in accordance with Indonesian marriage law. It can be considered to violate public order (Wahyuni, 2016). As has been explained previously that interfaith marriage is relatively difficult to implement in Indonesia, so a lot of interfaith couples go abroad in order to conduct the marriage. The selected country is a country that can easily implement local marriage laws and does not prohibit interfaith marriage. Usually, the country that adheres to legal marriage is a civil marriage, not by law. Interfaith marriage of Indonesian citizens conducted abroad, as such, can be considered as smuggling law, an attempt to avoid the origin national law to obtain legal ease in other countries. Likewise, when linked with the concept of International Law concerning public order, which also aims to uphold national law and exclude the application of foreign law, then such actions could be considered contrary to public order (Wahyuni, 2016).

Article 56 (2) governs the foreign marriage registration upon arrival in Indonesia, i.e., within one (1) year after the couple was back in Indonesia. Proof of their marriage should be registered in the Marriage Registration Office according to their domiciles. From this article, it is known that the marriage of Indonesian citizens performed abroad must be reregistered by marriage officers in Indonesia (Wahyuni, 2016). In Article 56, the word 'registered' is not mentioned. The use of the word 'registered' has the impression of a procedural formality, not substantial order. In other words, in the context of marriage registration abroad, the marriage registrar in Indonesia may/may not reexamine the validity of the marriage of Indonesian citizens outside the country or just register it as an obligation of the administration of residence. Subsequently, arranged in the Minister of Religious Affairs No. 1 of 1994 on Marriage Registration Proof of Indonesian citizens abroad.

Based on the regulation of the Minister of Religious Affairs, the regulations on marriage registration for Indonesian citizens abroad upon arrival in Indonesia, not only for the formalities but also should be examined for their validity. The regulation is intended for Indonesian citizens who are Muslims. It is stipulated in the elucidation of Article 34 paragraph (1) of Law No. 23 the Year 2006 concerning Population Administration on Marriage Registration that "marriage for Muslim population recorded by the District Office of Religious Affairs in accordance with the laws and legislation"; and explanation of paragraph (2), namely that "The issuance of a marriage certificate to the Muslim population conducted by the Department of Religion" Indonesian citizens who are not Muslims apply for the registration in Officer Civil Registration and the marriage certificate published by the official civil registration are ruled under the wording of Article 34 paragraph (1) and (2), namely: (1) that the marriages were legal according to Laws and legislation required reported by residents to the Implementing Agency at the scene of the marriage later than 60 (sixty) days from the date of marriage; (2) "Based on the report as referred to in paragraph (1) Civil Registration Officer Deed recorded on registers and published Marriage Quotes Marriage Deed". Based on Article 37, if marriages are performed abroad: (1) Indonesian citizen marriage outside the territory of the Republic of Indonesia shall be recorded by the relevant authorities of the country concerned and reported to the Representative of the Republic of Indonesia; (2) if the local state referred to in paragraph (1) does not keep records of marriage to foreigners, the recording is done at the local representative of the Republic of Indonesia; (3) representatives of the Republic of Indonesia, as referred to in paragraph (2), a record of events marriage in the Marriage Register and published Deed Excerpt of Marriage; and (4) the marriage registration, as referred to in paragraphs (1) and (2), is reported by the person concerned to the implementing agencies at the residence not later than 30 (thirty) days from the respective returning to Indonesia (Connolly, 2009).

Based on the exposure of the articles above, in particular, Article 37 (4) of the registration of marriages of Indonesian citizens abroad after arriving in Indonesia, the Indonesian citizens who have carried out a marriage abroad, on arrival in Indonesia register their marriage to implementing agencies locals. In this case, referring to Article 34, namely the local Civil Registration Officer or

the Muslims are KUA local subdistrict. Associated with interfaith marriage registration, Indonesian citizens abroad, then the pair usually arrive in Indonesia to register the marriage at the local Civil Registration Office. However, the data was not selected among interfaith marriages or not—all files into one, as the overseas data marriage in the Civil Registration Office Jakarta.

Recording of interfaith marriage tended to the Office of Civil Registration is based on historical, namely that the Office of Civil remarks (*Burgelijk Stand*) for marriage which is subject to: (1) Stb 1933 No. 75 jo. 1936 Number 607 on the Rules of Civil Registration for Indonesian people, Christians, Java, Madura, Minahasa, and Ambon; (2) Stb 1847 Number 23 on marriage made in accordance with Rule 1849 Stb No. 25 is on the European Civil Registration; (3) Stb 1917 No. 129 on Marriage Registration is done according to the provisions Stb. 1917 No. 130 jo. Stb 1919 No. 81 on the Civil Registration Regulations mixture; (4) Civil Registration for mixed marriage as stipulated in Stb. 1904 No. 279; and (5) Government Regulation No. 9 of 1975 confirms that Christians in Sumatra, Kalimantan, Bali, West Nusa Tenggara, and East, Part of Sulawesi, Maluku, and Irian Jaya are not regulated as mentioned in the points above. Registration of marriage for those held at the Office Civil Registry under the provisions of Article 3 to Article 9 of this regulation (Wahyuni, 2016).

3.3. Registration of the Indonesian Citizen Interfaith Marriage after Arrival in Indonesia

To see how this country runs authorities related to interfaith marriage for Indonesian citizens who have performed abroad, it is necessary to take one sample of the Civil Registry Office in Indonesia. The study traces the recording process, documents and marriage register officials, mainly related to Indonesian citizen interfaith marriages that have been conducted abroad upon his arrival in Indonesia in the Office of Civil Registration and Population Jakarta. Couples who have carried out a marriage abroad, on arrival in Indonesia, should register the marriage in Indonesia. They register the marriage to the Department of Population and Civil Registration. For the citizens of Jakarta, for example, which have to mate abroad, then upon arrival in Jakarta, they also register their marriage to the Department of Population and Civil Registration Jakarta. In the registration process, required to attach files as follows: (a) copy of marriage certificate; (b) statement letter; (c) ID Card Copy husband and wife (the couple); (d) copy of family card; and (e) Indonesian passport copy for foreigners (Wahyuni, 2016).

Their data are documented as foreign marriage registration documents. The registration does not mean the Department of Population and Civil Registration Jakarta has recorded and published their marriage certificate. A marriage certificate already exists and has been published in the State where they enter into marriage. As for the Department of Population and Civil Registration of Jakarta, they are only registered and recorded as a function of Population and Civil Registration to record the events. Department of Population and Civil Registration Jakarta did not issue foreign marriage certificates. This office is only performing its function of registration and data collection. In some instances, if the deed of the original is lost, then the Department of Population and Civil Registration of Jakarta was about to issue a stunt, but once again not a marriage certificate.

Data obtained from the Office of Population and Civil Registry Jakarta in May 2021 shows that 79 registrations of interfaith marriages are conducted abroad. Among them, there were seven marriages between foreigners and Indonesian citizens who are of different religions; and four interfaith marriages between Indonesian citizens abroad, which both of whom are Christian and Catholic. The other couples are Buddhists and Christians into marriage in Queensland, Australia, as well as Muslim and Christian couples hold in Singapore. From the data obtained, interfaith marriages of Indonesian citizens abroad with relatively small numbers of 5% from 79 foreign marriages in the month of May 2011. In June 2021, there were 48 events registered of marriages abroad. Among them, there are six pairs of Indonesian citizens and foreign citizens of different religions, and six marriage interfaith couples Indonesian citizens abroad; namely Islam and Buddhism couples conducting marriage in Hong Kong; Muslim and Christian couples in Singapore; Islam and the Catholic spouse in Singapore; and three pairs of Christian and Catholic in Australia and US. Registration of foreign marriage for the citizens of Indonesia when arriving in

Indonesia is a necessity according to Article 56 (2) of the Law of Marriage. On the other hand, registration of marriage is one of the duties and functions of the Department of Civil Registration to record an important event for every citizen. This recording is also based on Law No. 24 of 2013 on Amendments to Law No. 23 of 2006 concerning Population Administration.

Based on Article 3 of the Law of the Population Administration, every resident shall report demographic events and important events that happened to the Executing Agency to meet the requirements in the registration of the population and civil registration. Article 4 of the Act states that the Indonesian citizen residing outside the territory of the Republic of Indonesia shall report the incident population and significant events that happened to the Implementing Agency at the local state and/or to the Representative of the Republic of Indonesia to meet the necessary requirements in the registration of residents and the Civil Registry. Based on the articles mentioned above, the citizens of Indonesia who have carried out a marriage abroad, on arrival in Indonesia, are obliged to report their marriage to the Department of Population and Civil Registration, as a civic duty to report demographic events and important events that happened.

Likewise, a related interfaith marriage that has been done by Indonesian citizens abroad, on arrival here at home must be registered with the marriage registrar in Indonesia. In this case, usually, the pair are registering with the Civil Registration Office. In the Civil Registration Office, all foreign marriage registration, without sorting whether this marriage of different religions or not. In fact, there are no clear indicators, of whether the marriage of different religions or not. Files attachment can be observed as the partner's identity in the resident identity card stating her religion. If found that religion is on the identity cards of the residents of a different pair, then it means that marriage is an interfaith marriage (Green, 2008). The registrar of marriage did not examine whether the marriage of Indonesian citizens abroad has been implemented in such an interfaith marriage or not. They did not investigate further the validity of the marriage of Indonesian citizens who have conducted abroad. According to them, the marriage has taken place, and there has been evidence in the form of a marriage certificate that is authentic. The marriage certificate was then attached to the foreign marriage registration at the Civil Registration Office. The marriage registrar assumes that the deed is universal. It can apply anywhere.

Based on the description, it can be stated that the registration of interfaith marriages of Indonesian citizens abroad upon arrival in Indonesia, the marriage registration personnel in Indonesia (local), only a mere administrative official. The registration does not examine further the process of foreign marriage and its validity. Civil Registry Office officials in Indonesia simply carry out their obligations under the Act the administration of residence to record an important event for the people of Indonesia. The marriage registrar at the Civil Registry Office, especially the Department of Civil Registration and Population Jakarta, argued that there are two opinions about interfaith marriage, that opinion does not allow interfaith marriage, and who see their vacuum opinion of the law in terms of interfaith marriage. This is because interfaith marriage is not set explicitly in the Marriage Law (Al Amin, 2017).

The first opinion above assumes that interfaith marriage is not allowed because the Marriage Law does not regulate it. In fact, Article 2 states that marriage is legitimate when conducted according to religion and belief, respectively. As for other opinions, they see their legal vacuum because of religious differences and the exclusion of marriage in the Marriage Act. This opinion is based on Article 66 of the Marriage Act states that with the enactment of this Act, the provisions stipulated in the Civil Code (*Burgerlijk Wetboek*), Indonesian Christian Marriage Ordinance (*Ordinance Huwelijk Indonesiers Christen*, S. 1933 No. 74), and Mixed Marriage Regulation (*Regeling op de Gemengde Huwelijk*). With two of these opinions, then the civil records, particularly in the city of Jakarta tend to assume interfaith marriage is not prohibited under the Marriage Law. Thus, couples who carry out interfaith marriages abroad are tolerated.

3.4. Validity of Indonesian Citizen Interfaith Marriage Overseas

The registrar of marriage, especially in the Office of Population and Civil Registry Jakarta, assumes that the certificate of marriage registration results in Indonesian citizens abroad, although

it's different religions, is valid. They think that the certificate they have acquired abroad is universal. They had received it from other states, and it also may be received in Indonesia. On arrival in Indonesia, the Indonesian registrar only served to record the marriage events. So the citizens' marriage registration abroad upon arrival in Indonesia, so far only the duties and obligations of the Population and Civil Registration Agency to implement the documentation of population administration. It is also an obligation for citizens to report the population data and all the important events that happened. With the recording of this liability, it can be said that the recording of interfaith marriages is done by Indonesian citizens abroad upon their arrival in Indonesia by Indonesian marriage registrar—In this case, the Department of Population and Civil Registry Jakarta—just a population administration. This recording is not related to the legitimacy of the validity of the marriage. Department of Population and Civil Registration only sees that they have a marriage certificate from the state of the venue of the marriage (Muwahidah, 2008).

Indonesian citizen interfaith marriage abroad is one kind of foreign marriage that should be registered upon arrival in Indonesia. Department of Population and Civil Registration does not see whether it is interfaith marriage or not. The department just recorded it as a marriage abroad, namely marriage to fellow Indonesian citizens or Indonesian citizens with foreign citizens who have been held abroad. Therefore, if they return to Indonesia, the marriage events must be reported and listed in the Department of Population and Civil Registration. Once again, the Department never sees the legitimacy or validity of the marriage. The office only noticed that the couples who registered their marriages had a marriage certificate (Leeman, 2009).

Based on the attitude of the marriage registrar at the Office of Civil Registration and Population in Jakarta as exposed above, it can be said that the State authorities can recognize interfaith marriage among Indonesian citizens who have been held abroad upon arrival in Indonesia. Indeed, the prohibition of interfaith marriage in the Marriage Law does not exist explicitly, but when the marriage law is religious law, the prohibition of interfaith marriage lies in religious law forbidding it. In the implementation, registration of Indonesian citizen marriages abroad upon arrival in Indonesia does not involve the marriage religions registrar, contrary to the implementation of marriage in Indonesia, which has to be according to religious laws. Based on the explanation, we may say that state authority can recognize citizen interfaith marriage overseas upon arrival in Indonesia. By registration upon arrival in the Indonesian registrar's office, they get the recognition of their marriage abroad, although it's an interfaith marriage. Then the citizen easily gets the state recognition of their interfaith marriage overseas, while they have difficulty performing interfaith marriage in Indonesia (Lukito, 2008).

4. Conclusion

From this explanation, it can be concluded that interfaith marriages after the enactment of the Marriage Law (1974) are relatively difficult to happen. With no clear regulation of interfaith marriages in the law, there is a polemic in the understanding and implementation. Based on Article 2 of the Marriage Law, there are those who state that interfaith marriages are not allowed. However, based on Article 66 of the Marriage Law, there are legal experts who state that there is a legal path to applying GHR regulations. Therefore interfaith marriages are possible to happen and then be registered at the Civil Registry Office. From this paper, it can be concluded that the validity of the interfaith marriage of Indonesian citizens abroad is based on local state law and not Indonesian law. Meanwhile, marriages of Indonesian citizens of different religions abroad, upon arrival in Indonesia, are registered with the local Civil Registration Office by only reporting them as important demographic events. The Civil Registry Office only registers these important events as a population administration, regardless of the validity of the marriage under Indonesian law. This is because there is still a distinct interpretation regarding the legitimacy of interfaith marriages in Indonesia. Officials at the Civil Registration Office believe that marriages that have been carried out abroad are legal, and the universal marriage certificate is sufficient to proceed with the registration process.

References

- Aini, N., Utomo, A., & McDonald, P. (2019). Interreligious marriage in Indonesia. *Journal of Religion and Demography*, 6(1), 189–214. <https://doi.org/10.1163/2589742X-00601005>
- Al Amin, M. N. K. (2017). Perkawinan Campuran Dalam Kajian Perkembangan Hukum: Antara Perkawinan Beda Agama Dan Perkawinan Beda Kewarganegaraan di Indonesia. *Al-Ahwal: Jurnal Hukum Keluarga Islam*, 9(2), 211–220. <https://doi.org/10.14421/ahwal.2016.09206>
- Ali, M. (2021). Fatwas on Inter-faith Marriage in Indonesia. *Studia Islamika*, 9(3). <https://doi.org/10.15408/sdi.v9i3.658>
- Ashsubli, M. (2015). Undang-Undang Perkawinan Dalam Pluralitas Hukum Agama (Judicial Review Pasal Perkawinan Beda Agama). *Jurnal Cita Hukum*, 3(2), 289–302. <http://journal.uinjkt.ac.id/index.php/citahukum/article/view/2319>
- Bukido, R., Gunawan, E., Usup, D., & Hayat, H. (2021). Negotiating Love and Faith: Interfaith Marriage in Manado, Indonesia. *Wawasan: Jurnal Ilmiah Agama Dan Sosial Budaya*, 6(1), 67–76. <https://doi.org/10.15575/jw.v6i1.11299>
- Cammack, M. (2003). Legal Aspects of Muslimnon-Muslim Marriage in Indonesia. In *MuslimNon-Muslim Marriage: Political and Cultural Contestations in Southeast Asia*. ISEAS. <https://doi.org/10.1355/9789812308221-007>
- Connolly, J. (2009). Forbidden intimacies: Christian–Muslim intermarriage in East Kalimantan, Indonesia. *American Ethnologist*, 36(3), 492–506. <https://doi.org/10.1111/j.1548-1425.2009.01175.x>
- Crespin-Boucaud, J. (2020). Interethnic and interfaith marriages in sub-Saharan Africa. *World Development*, 125, 104668. <https://doi.org/10.1016/j.worlddev.2019.104668>
- Green, M. H. (2008). Conversing with the minority: relations among Christian, Jewish, and Muslim women in the high middle ages. *Journal of Medieval History*, 34(2), 105–118. <https://doi.org/10.1016/j.jmedhist.2008.03.004>
- Hedi, F., Anshori, A. G., & Harun, H. (2017). Legal Policy of Interfaith Marriage in Indonesia. *Hasanuddin Law Review*, 3(3), 263–276. <https://doi.org/10.20956/halrev.v3i3.1297>
- Indrayanti, K. W., Suhariningsih, S., Ruba'i, M., & Aprilianda, N. (2017). Juridical Implications of the Legal Norm Void of Interfaith Marriages in Indonesia. *Brawijaya Law Journal*, 4(1), 129–143. <http://dx.doi.org/10.21776/ub.blj.2017.004.01.07>
- Kadriah, K., & Hidayat, T. S. M. N. (2021). Interreligious Marriage According to Indonesian Legislation. *1st International Conference on Law and Human Rights 2020 (ICLHR 2020)*, 462–468. <https://doi.org/10.2991/assehr.k.210506.060>
- Leeman, A. B. (2009). Interfaith Marriage in Islam: An Examination of the Legal theory behind the traditional and Reformist Positions. *Ind. LJ*, 84, 743. <https://doi.org/10.1558/poth.v9i1.79>
- Lukito, R. (2008). The Enigma of Legal Pluralism in Indonesian Islam: the Case of Interfaith Marriage. *Journal of Islamic Law and Culture*, 10(2), 179–191. <https://doi.org/10.1080/15288170802236457>
- Lukito, R. (2009). Trapped Between Legal Unification and Pluralism: The Indonesian Supreme Court's Decision on Interfaith Marriage. In G. W. Jones, C. H. Leng, & M. Mohamad (Eds.), *Muslim-Non-Muslim Marriage* (pp. 33–58). ISEAS Publishing. <https://doi.org/10.1355/9789812308221-005>
- Muntaqo, L. (2020). Islamic Thoughts On Interfaith Marriage In Local And Global Context. *Manarul Qur'an: Jurnal Ilmiah Studi Islam*, 20(1), 69–79.

<https://doi.org/10.32699/mq.v20i1.1615>

- Mutakin, A. (2021). Fiqh Perkawinan Beda Agama di Indonesia: Kajian atas Fatwa-Fatwa NU, MUI dan Muhammadiyah. *Al-Ahwal: Jurnal Hukum Keluarga Islam*, 14(1), 11–25. <https://doi.org/10.14421/ahwal.2021.14102>
- Muwahidah, S. (2008). Interfaith Dialogue at the Grassroots Level: A Case Study of an Interfaith Empowerment Program in East Java, Indonesia. *Political Theology*, 9(1), 79–92. <https://doi.org/10.1558/poth.v9i1.79>
- Nasir, M. A. (2020). Religion, Law, and Identity: Contending Authorities on Interfaith Marriage in Lombok, Indonesia. *Islam and Christian–Muslim Relations*, 31(2), 131–150. <https://doi.org/10.1080/09596410.2020.1773618>
- Parolin, G. P. (2015). Interfaith marriages and Muslim communities in Scotland: A hybrid legal solution? *Electronic Journal of Islamic and Middle Eastern Law (EJIMEL)*, 3(17), 83–96. <https://doi.org/10.5167/uzh-110597>
- Pompe, S., & Otto, J. M. (1990). Some comments on recent developments in the Indonesian marriage law with particular respect to the rights of women. *Verfassung Und Recht in Übersee/Law and Politics in Africa, Asia and Latin America*, 415–433. <https://www.jstor.org/stable/43109991>
- Rosdiana, U. H. Y. S., & Mashita, M. (2019). Legitimacy on Inter-Fath: Marriages: An Analysis of the Role Religious Council on the Legal Policy in Indonesia. *Ahkam: Jurnal Ilmu Syariah*, 19, 81–96. <https://doi.org/10.15408/ajis.v19i1.11710>
- Setiyanto, D. A. (2016). Perkawinan Beda Agama Pasca Putusan Mahkamah Konstitusi Nomor 68/PUU-XII/2014 Dalam Perspektif HAM. *Al-Ahwal: Jurnal Hukum Keluarga Islam*, 9(1), 13–30. <https://doi.org/10.14421/ahwal.2016.09102>
- Suhasti, E., Djazimah, S., & Hartini, H. (2018). Polemics on Interfaith Marriage in Indonesia between Rules and Practices. *Al-Jami'ah: Journal of Islamic Studies*, 56(2), 367–394. <https://doi.org/10.14421/ajis.2018.562.367-394>
- Wahyuni, S. (2016). Pelaksanaan Perkawinan Campur Beda Agama di Daerah Perbatasan Sambas Kalimantan Barat Antara Living Law dan Hukum Positif Indonesia. *Al-Ahwal: Jurnal Hukum Keluarga Islam* 9(1), 31–46. <https://doi.org/10.14421/ahwal.2016.09103>
- Widjaja, A. H. (2021). *Interfaith Marriage and The Legal Consequence of Its Validity*. <http://eprints.eudl.eu/id/eprint/1310/>
- Zahedi, A. (2010). Transnational Marriages of Filipinas and Iranian Men: Adjustment and Social Integration. *Women's Studies International Forum*, 33(2), 70–80. <https://doi.org/10.1016/j.wsif.2009.09.010>