



INTERLEGALITY OF INTERFAITH MARRIAGES VIS A VIS SUPREME COURT CIRCULAR LETTER NUMBER 2 OF 2023 ON THE REJECTION OF APPLICATIONS FOR REGISTRATION OF INTERFAITH MARRIAGES IN INDONESIA

Noer Yasin¹, Musataklima², Ahmad Wahidi³

^{1,2} Fakultas Syariah Universitas Islam Negeri Maulana Malik Ibrahim Malang, Indonesia

³ Fakultas Syariah Institut Agama Islam Negeri Kediri

Corresponding Author. Email: musa@syariah.uin-malang.ac.id

Submitted: 26-08-2023; Accepted: 07-11-2023

DOI: <http://dx.doi.org/10.30641/dejure.2023.V23.389-402>

ABSTRACT

The polemic of interfaith marriages is not a new problem at the legal level in Indonesia, especially with the issuance of Supreme Court Circular Letter (SEMA) Number 2 of 2023 for District Courts to reject requests for registration of interfaith marriages. This has caused pros and cons in the community. The purpose of this research is to elaborate on the impact on the independence of judges and the constitutional rights of marriage actors, as well as the position of SEMA when faced with the rights of interfaith marriages conducted abroad and brought to Indonesia. This research can enrich insights into the discourse of interfaith marriage in Indonesia. This research uses a normative legal research method that relies on primary, secondary, and tertiary legal materials analyzed prescriptively. The results of this study are, First, SEMA can interfere with the independence of judicial power itself, where the Supreme Court is one of the actor of SEMA. Secondly, SEMA impacts the non-fulfillment of the constitutional rights of actors of interfaith marriages to obtain legal certainty, equality before the law, and legal protection. Thirdly, SEMA can trigger smuggling of law in interfaith marriages where the legal consequences must be recognized based on the principles of rights derived from foreign law, the principle of reciprocity, and the principle of comitas gentium. These three principles underlie the inter legality of interfaith marriages, so they have transnational legality. This research recommends that the Supreme Court revoke the SEMA that has been issued.

Keyword: Interlegality; Interfaith Marriage; Marriage Registration

1. INTRODUCTION

In a heterogeneous country like Indonesia, which is built on diversity from primordial ties such as ethnicity, culture, race, and religion, interfaith marriages often occur. According to the Indonesian Conference on Religion and Peace (ICRP), since 2005 the number of interfaith marriages in Indonesia has reached 1,425 couples.¹ According to data referring to the Directory of Decisions of the Supreme Court of the Republic of Indonesia, from 2007-2022 there were 73 copies of district court decisions related to civil registration of interfaith marriages. This means that requests for registration of interfaith marriages have been around since 2007. A total of 94.5% (69) of requests for registration of interfaith marriages were granted by the District Court.²

Regulations for registering interfaith marriages in Indonesia are currently regulated in Article 35 letter a jo. Explanation of Article 35 of Law Number 23 of 2006 concerning Population Administration (hereinafter written as Population Administration Law) as amended by Law Number 24 of 2013 concerning Amendments to

1 Daud Rismana et al., "Dispensasi Izin Perkawinan Beda Agama Di Indonesia," *Humani (Hukum Dan Masyarakat Madani)* 13, no. Hukum dan Masyarakat (Mei 2023): 140–50, <http://dx.doi.org/10.26623/humani.v13i1>.

2 Eka Fitri Wahyuni, "Perkawinan Beda Agama Menurut Perspektif Undang-Undang No.1 Tahun 1974 tentang Perkawinan dan Kompilasi Hukum Islam (KHI)" (n.d.).

Law Number 23 of 2006 concerning Population Administration. Article 34 contains procedures for registering marriages.

Furthermore, Article 35 of the Administer Law states that *Marriage registration as intended in Article 34 also applies to: (a) marriages determined by the Court; and (b) marriages of foreign citizens carried out in Indonesia at the request of the foreign citizen concerned.* As for what is meant by “*Marriage determined by the Court*” is a marriage between people of different religions. The articles above provide an explicit exit way for marriage between people of different religions in Indonesia.

After the Administering Law, the possibility of legalizing interfaith marriages is actually increasingly open. In particular, there is the possibility of submitting an application for the registration of an interfaith marriage to the district court to issue a decree allowing interfaith marriages and requiring civil registry officials to register the marriage.

However, after the request for registration of interfaith marriages was granted, and due to pressure from many groups related to the District Court (PN), they tended to accept requests for registration of interfaith marriages, which was deemed to reduce the implementation of marriage law in Indonesia, even though to decide the case the judge used The legal basis is Population Administration law. Regarding this matter, the Supreme Court Circular Letter (SEMA) Number 2 of 2023 was issued concerning Instructions for Judges in Adjudicating Cases on Applications for Registration of Interfaith Marriages

The SEMA above explains that to provide legal certainty and unity in adjudicating applications for registration of interfaith marriages, judges must be guided by the following provisions: (a) A valid marriage is one that is carried out according to the laws of each religion and that belief, in accordance with Article 2 paragraph 1 and Article 8 letter f of Law Number 1974 concerning Marriage, (b) the Court does not grant requests for registration of interfaith marriages.

Based on the above, in this paper, three problems are scientifically studied, namely: first, what is the impact of SEMA on the independence of judicial power in Indonesia, second, what is the impact of SEMA on the constitutional rights of interfaith marriage practitioners in Indonesia, and third, what is the conflict between SEMA with the legal consequences of interfaith marriages carried out abroad and brought to Indonesia from an international private law perspective.

2. METHOD

Method This type of research is normative legal research. Normative legal research is legal research that seeks to analyze and discuss legal issues using a legal framework built on statutory regulations³ and concepts and principles in legal science,⁴ in this case regarding SEMA Number 2 of 2023.

The approach used is a conceptual approach and statute approach. This approach is important because understanding the views/doctrines that develop in legal science can be a basis for building legal arguments in this research. A conceptual approach is used to analyze the impact of SEMA on the independence of judges and the constitutional rights of actors of interfaith marriages.

Statute approach, is an approach used to explore and inventory the regulations and doctrines of interfaith marriages contained in primary legal materials relevant to this research, such as in the 1945 Constitution of the Republic of Indonesia, Law no. 1 of 1974, Supreme Court Circular Letter (SEMA) Number 2 of 2023 concerning Instructions for Judges in Adjudicating Applications for Registration of Interfaith Marriages, and Law Number 23 of 2006 concerning Population Administration as amended by Law Number 24 of 2013 concerning Amendments to Law Number 23 of 2006 concerning Population Administration.

All of the legal materials above are then analyzed prescriptively, namely a combination of descriptive and predictive analysis methods. Descriptive analysis describes the current trend situation of interfaith marriages, while predictive analysis provides predictions of the impact of SEMA on the independence of power and the constitutional rights of actors of interfaith marriages if SEMA is obeyed by judges.

3 Yati Nurhayati, Ifrani Ifrani, and M. Yasir Said, “Metodologi Normatif Dan Empiris Dalam Perspektif Ilmu Hukum,” *Jurnal Penegakan Hukum Indonesia* 2, no. 1 (January 17, 2021): 8–9, <https://doi.org/10.51749/jphi.v2i1.14>.

4 Amiruddin dan Zainal Asikin, *Pengantar Penelitian Hukum* (Jakarta: Rajawali Press, 2018).

3. DISCUSSION

3.1 The Impact of SEMA on the Independence of Judges as independent actors of judicial power.

According to Shimon Shetreet,⁵ Independence can be defined in various aspects, such as: (a) *substantive independence*, namely independence in the aspect of deciding a case submitted to the judicial authority. Substantive independence refers to functional independence or the judge's decision to make decisions without being subject to internal or external pressure. The substantive aspect of a judge's duties is their actual decision-making role. This is related to determining fact discovery and applying relevant legal norms to the facts of the case. Therefore, this ensures the impartiality of judges and their capacity to make judicial decisions on the merits of the case, without fear or favor,⁶ (b) *personal independence*, namely, there is a guarantee of tenure and position. Personal independence also means that the judge is not dependent on the government in any way that could influence them in making decisions, in certain cases. Personal independence signifies that the tenure of judges and the terms and conditions of their service are adequately guaranteed to ensure that individual judges are not subject to executive control, (c) *internal independence*, namely independence from the influence of superiors or colleagues), and which (d) *collective independence*, namely independence in terms of court participation in administrative aspects such as determining the court budget and also determining the court's Human Resources (HR) needs; *collective independence* also known as institutional independence.

The above typology of independence is in line with the independence of judicial power conceptualized by the Constitutional Court (MK), namely as the ability of judges not to be influenced by the pressure of public opinion in formulating legal decisions. In a different context, any authority outside the judiciary, including the wider community, has a moral obligation to maintain this independence by not interfering in the judicial process, including in making legal decisions.⁷ Conceptualizing the independence above, the Constitutional Court in its considerations stated that citizens who work as judges have constitutional rights granted by Article 24 paragraph (1) of the 1945 Constitution of the Republic of Indonesia, namely in the form of freedom as judges in adjudicating a case. The institutional independence of judicial institutions is a reflection of the independence of judges as actors in judicial power.⁸

The logical consequence of the above independence is that judges as actors of judicial power have an obligation to safeguard and maintain judicial independence. Thus, as an independent institution, the judiciary must be completely free from executive influence, while in the process of exercising its judicial authority, it must also be free from coercion, directives, or intervention, especially acts of intimidation from extra-judicial parties.⁹

Apart from that, the Constitutional Court in its decision considers that the independence of judges is not judge's privilege, but an inherent right (*indispensable right* atau *inherent right*) to judges to guarantee the fulfillment of citizens' human rights¹⁰ to obtain a free and impartial judiciary (*fair trial*).¹¹ Therefore, in Indonesia, the philosophy of independence of judicial power is power that is free from all forms of intervention from within or outside judicial power, except on the basis of the strength of the Pancasila philosophy and the 1945 Constitution of the Republic of Indonesia.¹²

5 Ibnu Sina Chandranegara, "Defining Judicial Independence and Accountability Post Political Transition," *Constitutional Review* 5, no. 2 (2019): 294.

6 Charles G. Geyh, "Independence of the Judicial Branch in the New Republic, The," *Chicago-Kent Law Review* 73, no. 31 (1998).

7 Putusan Mahkamah Konstitusi Nomor 1-2/PUU-XII/2014, 105.

8 Putusan Mahkamah Konstitusi Nomor 28/PUU-IX/2011, 40.

9 Putusan Mahkamah Konstitusi Nomor 28/PUU-IX/2011, 40.

10 Aji Febrian Nugroho, "Legal Protection for Victims of Fair Trial Rights As a Form of Human Rights Protection in the Indonesian Justice System," *Policy, Law, Notary and Regulatory Issues (Polri)* 2, no. 1 (2022): 1–12, <https://doi.org/10.55047/polri.v2i1.493>.

11 Putusan Mahkamah Konstitusi Nomor 28/PUU-IX/2011, 42

12 Simon Butt, "The Indonesian Constitutional Court: Implying Rights from the 'Rule of Law,'" in *The Invisible Constitution in Comparative Perspective*, ed. Rosalind Dixon and Adrienne Stone (United Kingdom: Cambridge University Press, 2018), 298–321,.

If the concepts of independence of judicial power above are used as a tool to imitate the SEMA issued by the Supreme Court, then the inconsistency with the independence of judicial power is very visible, both from the perspective of *substantive independence*, *personal independence*, and *internal independence*. The SEMA above can be seen as a form of intervention by the Supreme Court as the peak actor of judicial power, which on the one hand, in the view of the Constitutional Court, judges as actors of judicial power have an obligation to safeguard and maintain the independence of the judiciary.

The Supreme Court (MA) as the peak of judicial power together with the Constitutional Court, indeed has several main tasks and functions, one of which is the authority to regulate.¹³ The Supreme Court has the authority to regulate: (a) matters necessary for the smooth administration of justice if there are matters that are not sufficiently regulated in Law Number 14 of 1985 concerning the Supreme Court, as a complement to fill legal deficiencies or gaps necessary for the administration of justice, (b) make their own procedural regulations if deemed necessary to fulfill the procedural laws that have been regulated in law.

The regulatory function of the Supreme Court is related to procedural law, such as the Republic of Indonesia Supreme Court Regulation Number 3 of 2018 concerning the Electronic Administration of Cases in Court, not related to substantive law. SEMA, which is the object of discussion in this article, is related to material law.

The Supreme Court can thus be seen as having exceeded its duties and functions in terms of regulation, because, *First*, it has provided an interpretation regarding the invalidity of interfaith marriages even though up to now there have been no strict regulations, including in Law no. 1 of 1974 related to the prohibition of interfaith marriages, *second*, it has ordered the lower courts not to grant requests for registration of interfaith marriages. Therefore, the above SEMA is not *legally binding* nor *morally binding* for judges under the Supreme Court. Because Article 5 paragraph (1) of Law Number 48 of 2009 concerning the power of the Judiciary states that judges and constitutional justices are obliged to explore, follow, and understand the legal values and sense of justice that exist in society.

Interfaith marriages, especially in Indonesia and several countries with a majority Muslim population, are often considered controversial. Approaches to interfaith marriages can vary depending on the interpretation of religion, culture, and the laws that apply in each country. It is important to remember that assessments of interfaith marriages must take into account religious freedom, tolerance, and human rights. Some countries may allow interfaith marriages under certain conditions, while others may prohibit them completely based on legal interpretations and applicable religious values. Every individual and society must consider the implications and possible risks and benefits of interfaith marriage wisely.

The obligation to explore the values of law and justice implies that judges must mobilize the power of their minds to formulate justice in cases that have a legal basis, especially in cases where there is no legal basis or the legal basis is unclear. This is where the judge's *ijtihad* ability is at stake. Because in a decision written entitled "For the sake of justice based on the Almighty God". With these *irah-irah*, justice is a divine value. Because justice is the soul of law. Law without justice is synonymous with zombies. Undead, there is a body, wandering around, but without a spirit.

Based on the description above, it can be concluded that the presence of SEMA within the Supreme Court and the courts below it as actors of judicial power has reduced their own independence and the constitutional rights of the judges themselves to freely and independently carry out their duties and functions of upholding law and justice in the name of God Almighty. One.

3.2 The Impact of SEMA on The Constitutional Rights of Person in Interfaith Marriages.

Protection of constitutional rights is the protection of fundamental rights guaranteed by the constitution.¹⁴ In the 1945 Constitution of the Republic of Indonesia, the constitutional rights of citizens include the right to

13 "Mahkamah Agung Republik Indonesia," accessed October 5, 2023, <https://www.mahkamahagung.go.id/id/tugas-pokok-dan-fungsi>.

14 Robert Alexy, "A Non-Positivistic Concept of Constitutional Rights," *International Journal for the Semiotics of Law* 33, no. 1 (2020): 35–46, <https://doi.org/10.1007/s11196-019-09661-0>.

live, have a family, continue their offspring, obtain justice, and the right to personal freedom., the right to a sense of security, the right to well-being, the right to be in government, the rights of women, and the rights of children, the right to protection, the right to legal certainty.

Referring to Article 28B paragraph (1) of the 1945 Constitution of the Republic of Indonesia which states that “every person has the right to form a family and continue their offspring through legal marriage”. Based on this article, marriage is a constitutional right of citizens, this right is developing into a human right as mentioned in the introductory part of the first paragraph of this article..

The impact of SEMA on actors of interfaith marriages is that their marriages cannot be registered at the occupation and civil registration services. In fact, the registration of marriages is intended to provide protection to the actors of marriages, especially women and children born as a result of such marriages, in addition to orderly administration. The requirement for marriage registration can be linked to two main contexts: (i) preventing and (ii) protecting women and children from marriages carried out in a way that is not in accordance with their needs. If a marriage is not recorded, it will be sanctioned, if there is negligence in it.

Some Islamic legal experts view marriage registration as a necessity *dharuriyyah* (primer), aimed at protecting children and descendants (*hifzal-nasl*),¹⁵ because social facts show that many children are neglected because they do not have a clear legal relationship with their parents, especially their fathers.¹⁶ Therefore, marriage registration is a very urgent legal effort to be carried out in all forms of marriage. Even though it is stated in Article 2 of the Marriage Law no. 1 of 1974 that marriage registration is interpreted as an administrative requirement, this does not reduce the importance of marriage registration as an effort to close the doors to prosperity (as mentioned above) as a form of implementation *Sad al-Dzariah* (preventive efforts) as well as the application of the rules of fiqh *Dar’al-Mafasid Muqaddam ala Jalb al-Masahalih*.

The explanation above clarifies the impact of SEMA on the constitutional rights of interfaith marriage practitioners in Indonesia, namely the non-fulfillment of the right to obtain legal protection as explained in Article 28D¹⁷ paragraph (1) of the 1945 Constitution of the Republic of Indonesia. Departing from Article 28D of the 1945 Constitution of the Republic of Indonesia, the SEMA referred to in this article has the impact of not fulfilling the constitutional rights of marriage practitioners to: first, obtain legal protection.

The law in this context is made by the state to protect the rights of every human being.¹⁸ Immanuel Kant emphasized the position of law as a protector of human rights and the rights to freedom of its citizens. For Kant, humans are creatures with intelligence and free will, it is the state’s duty to uphold this. The prosperity and happiness of the people is the goal of the state and law, therefore, these basic rights must not be hindered by the state.

The description of the theory of legal protection above shows that SEMA does not reflect the goals of the state. Therefore, SEMA does not contain protection for actors of interfaith marriages in Indonesia, and even SEMA does not have a vision of protection for human natural rights.

Second, to obtain legal certainty. Legal certainty is a citizen’s constitutional right, and at the same time, it is also a constitutional obligation for the country in fulfilling it.¹⁹ Legal certainty here is not just legal certainty but justice. Terminologically, certainty is a matter (state) that is certain, a provision or a stipulation.²⁰

15 A. Sultan Sulfian, “The Urgency of Marriage Registration in the Perspective of Indonesian Marriage Law and Islamic Law,” *Jurnal Al-Dustur* 6, no. 1 (2023): 72–90.

16 Sulfian, “The Urgency of Marriage Registration in the Perspective of Indonesian Marriage Law and Islamic Law.”

17 Mark Cammack, “Legal Certainty in the Indonesian Constitutional Court: A Critique and Friendly Suggestion,” *Constitutional Democracy in Indonesia*, 2023, 275–98, <https://doi.org/10.1093/oso/9780192870681.003.0014>.

18 & Markus Y. Hage Bernard L.Tanya, Yoan N. Simanjuntak, *Teori Hukum. Strategi Tertib Manusia Lintas Ruang Generasi* (Yogyakarta: Genta Publishing, 2010). 73-74.

19 Standy Wico et al., “Constitutional Complaint in Indonesia Through the Lens of Legal Certainty,” *Indonesian Journal of Law and Society* 2, no. 1 (2021): 57, <https://doi.org/10.19184/ijls.v2i1.21449>.

20 CST Kansil Dkk, *Kamus Istilah Hukum* (Jakarta: Jala Permata, 2009). 385. Raden Mas Try Ananto Djoko Wicaksono, “Reviewing Legal Justice, Certainty, and Legal Expediency in Government Regulation Number 24 of 2018 Concerning Electronically Integrated Business Services,” *Lex Scientia Law Review* 5, no. 1 (2021): 1–24, <https://doi.org/10.15294/lesrev.v5i1.44905>.

Third, to achieve equality before the law. Simply put, equality before the law means that all people are equal before the law.²¹ Almost all state constitutions have this basis to provide protection for people's human rights. If this principle is stated in the constitution, then logically the authorities and law enforcers must apply it in national life.²² The principle of equality before the law, also known as "equality before the law", says that every citizen must be treated fairly by law enforcement agencies and the government.²³ This is a paradox with the SEMA issued by the MA as an enforcer of law and justice based on the One and Only God, which actually issues a circular that is against the foundation that should be firmly held by it.

The many principles of equality before the law are contained in various regulations, indicating that this principle has an important position in law. Therefore, the SEMA discussed in this article has an impact on basic things in the world of law, which are recognized not only by laws, constitutions, and international conventions but also by religious holy books also endorse them.

3.3 SEMA Vis a Vis Transnational Infaiith Marriage International Perspective of Private Law

Despite its absence *legally binding* and *morally binding* SEMA which has been discussed above is for judges in Indonesia, but not for ordinary people. This can trigger parties who are marrying people of different religions to smuggle laws into the field of marriage. Smuggling of law²⁴ is to avoid the law that should apply which is a study in Private International Law.²⁵ The aim of smuggling of law is to avoid certain undesirable legal consequences or to realize certain legal consequences.²⁶

Interfaith marriages can be performed in countries where this kind of procedure is permitted. Such as Canada, Tunisia, Singapore, England, and the Netherlands.²⁷ From here, fulfilling constitutional rights as well as human rights becomes expensive, because you have to go abroad to implement them. By carrying out interfaith marriages in the countries above, these Indonesian citizens avoid the implementation of SEMA and the Marriage Law at the same time. Interfaith marriages performed in the countries above are valid and have legal consequences, and when brought back to Indonesia must also be considered valid by a judge based on several doctrines that apply in International Civil Law (HPI), namely:

-
- 21 Khoirum Lutfiyah, "Equality before the Law Principle and the Legal Aid for the Poor: An Indonesian Insight," *The Indonesian Journal of International Clinical Legal Education* 3, no. 4 (2021): 517–36, <https://doi.org/10.15294/ijicle.v3i4.48292>.
 - 22 Daron Acemoglu and Alexander Wolitzky, "A Theory of Equality Before the Law," *Economic Journal* 131, no. 636 (2021): 1429–65, <https://doi.org/10.1093/ej/ueaa116>. 'prosocial behaviour'
 - 23 Agung Mas Triwulandari, "Problematika Pemberian Bantuan Hukum Struktural Dan Non Struktural Kaitannya Dengan Asas Equality Before The Law," *Jurnal Ilmiah Kebijakan Hukum* 14, no. 3 (2020): 539, <https://doi.org/10.30641/kebijakan.2020.v14.539-552>. tanpa didukung oleh pendekatan yang bercorak struktural, maka gerakan bantuan hukum tidak akan efektif, maka strategi bantuan melalui jalur hukum wajib didukung oleh suatu gerakan yang meruntuhkan ketimpangan tersebut. Kajian ini membahas problematika pemberian bantuan hukum bagi masyarakat dan bagaimana refleksi asas equality before the law melalui pemberian bantuan hukum struktural dan non struktural. Metode penelitian yang digunakan adalah pendekatan kualitatif, metode pengumpulan data melalui studi kepustakaan, dan teknis analisis data bersifat kualitatif. Hasil kajian menunjukkan bahwa problematik pemberian bantuan hukum struktural dan non struktural dipengaruhi oleh kerangka hukum normative pemberian bantuan hukum yang tidak bekerja, dll, sedangkan refleksi asas equality before the law berkaitan dengan pemberian bantuan hukum struktural dan non struktural ini sudah dimuat dalam pasal 28D ayat (1
 - 24 J. J. Fawcett, "Evasion of Law and Mandatory Rules in Private International Law," *The Cambridge Law Journal* 49, no. 1 (1990): 44–62.
 - 25 Tikhon Podshivalov, "Evasion of Law in Private International Law," *Journal of Russian Law* 4, no. 8 (2016): 0–0, <https://doi.org/10.12737/20911>.
 - 26 Prasetyo Ade Witoko and Ambar Budhisulistiyawati, "Penyelundupan Hukum Perkawinan Beda Agama di Indonesia," *Jurnal Hukum Dan Pembangunan Ekonomi* 7, no. 2 (August 2, 2019): 251–57, <https://doi.org/10.20961/hpe.v7i2.43015>.
 - 27 Tomi Hidayatullah, Oemar Moechthar, and Dimipta Aprilia, "Inter-Religious Marriage: A Comparison Analysis of Indonesian Law With Other Countries," *Notaire* 6, no. 2 (June 14, 2023): 291–306, <https://doi.org/10.20473/ntr.v6i2.45871>.

3.3.1 Rights acquired by foreign law

There is a foreign term related to this, namely: the Dutch call it *vrekgerechten*. In France, it is called *droit acquis*.²⁸ Latin names *ius quesitum*, *iura quesita*. Germany named it with *wohlerworbenen rechte*, *erworbene rechts*. Meanwhile, in England, it was introduced with *vested rights*,²⁹ *acquired rights*, *rights*, and *obligations created abroad*.³⁰

Theoretically, acquired rights are the opposite of public order, because in acquired rights, foreign law takes precedence and national law is overridden. whereas in public order institutions, national law takes precedence and foreign law is put aside. There are several areas where the rights obtained must be recognized, namely: (a) Effect of change of citizenship on maturity, (b) Marriage abroad, (c) Unknown legal entity, (d) New will, (e) Change of location of movable objects, (f) Change of ship's flag, (g) Divorce based on together, and (h) Polygamous marriage.³¹

Based on the variant scope of the rights obtained above, marriage is included in it, so based on this doctrine there is an adage which states that once married, they are forever considered married until divorce separates them. Through Article 56, Law no. 1 of 1974 actually regulates the marriage of Indonesian citizens (WNI) abroad, in words: *A marriage solemnized outside Indonesia between two Indonesian citizens or an Indonesian citizen and a foreign citizen is valid if it is carried out in accordance with the laws in force in the country where the marriage takes place and for Indonesian citizens it does not violate the provisions of this Law*. Then sentence (2), states that *The proof of marriage between husband and wife must be registered at the Marriage Registry office where they live within 1 (one) year after the husband and wife return to Indonesian territory*.

The mixed marriage above is one of the studies in the HPI, where currently, Indonesia still uses products originating from the Dutch East Indies era, namely Articles 16, 17, and 18 *Algemeene Bepalingen van Wetgeving voor Nederlands Indie* (AB) Staatsblad 1847 No. 23 of 1847. HPI theory states that international mixed marriages must fulfill two conditions, namely: (a) material requirements regulated by the national law of the prospective bride and groom (Article 16 of AB) and, (b) formal requirements regulated by the law of the place where the marriage takes place. (*lex celebrationis*) (Article 18 of AB).³²

In Article 56 Paragraph (1)1 of Law no. 1 of 1974 above, Articles 16 and 18 of AB are applied indirectly even though they do not mention it clearly. Meanwhile, the provision which states, "Indonesian citizens do not violate the provisions of this Law" refers to article 18 of AB, where it is states that "marriage is valid if it is carried out according to the applicable law where the marriage takes place", which means that "the form of the act "law in this case marriage" is subject to the law where the marriage was carried out (formal requirements, regarding procedures). Even if there is an explanation that a legal marriage abroad must not conflict with Indonesian law, this is of course the same as not fully recognizing the above international civil law.

The question that arises then is whether interfaith marriages carried out abroad and brought to Indonesia based on the doctrine of acquired rights can be categorized as violating public order. To answer this, we must explain what is meant by public order. Etymologically, public order is called *Openbare Orde* (in Dutch)³³ and *Ordre Public* (in French). In the language *Anglo Saxon*, it's called *Public Policy*. This public order is an important part of HPI because in enforcing foreign law, a country is bound by the national interests of its

28 G. Liet-Veaux, "Jurisprudence Administrative: Réflexions Sur Les Droits Acquis d'une Décis," *La Revue Administrative* 188, no. 188 (2023): 146–48.

29 R. D. Carswell, "The Doctrine of Vested Rights in Private International Law," *The International and Comparative Law Quarterly* 8, no. 2 (1959): 268–88.

30 Sudargo Gautama, *Pengantar Hukum Perdata Internasional Indonesia*, Cetakan ke (Bandung: Binacipta, 1987).

31 Sudargo Gautama, *Hukum Perdata Internasional Indonesia, Buku Kelima*, 2nd ed. (Bandung: Alumni, 1998).

32 Benny Krestian Heriawanto, "Interfaith Marriages Based on Positive Law in Indonesia and Private International Law Principles," *Unifikasi : Jurnal Ilmu Hukum* 6, no. 1 (August 20, 2019): 94–100, <https://doi.org/10.25134/unifikasi.v6i1.1571>.

33 F. A. De Villiers, "Private International Law and Public Policy: Two Recent Dutch Cases," *Private International Law and Public Law* 3, no. 1 (1970): 99–106, <https://doi.org/10.4337/9781784713478>.

country, so that country may not enforce foreign law if it is deemed to conflict with public order.³⁴ Therefore, this public order prevents a country from enforcing foreign laws if it is deemed to conflict with public order.³⁵

In Indonesia, public order is used in quite varied ways, such as: (a) public order in contract law, which is a barrier to acting freely for everyone, (b) public order is interpreted as order, welfare, and security, (c) public order is equated with good morality, such as restrictions on freedom of contract, (d) public order is synonymous with the term justice, (e) public order can be interpreted in criminal proceedings, the prosecution must be heard, (f) public order is also interpreted as that the judge must use existing articles in certain laws.³⁶

Based on the concept of public order above, it is known that it has a broad meaning and is considered to have an ambiguous meaning. So various interpretations have been made about the meaning of public order itself. Some interpretations include (a) Narrow interpretation. According to this interpretation, public order is only limited to the provisions of positive law, so the violations in question are limited to violations of statutory regulations only. (b) Broad interpretation. The broad interpretation does not limit the meaning of public order to only positive legal provisions but includes all values and principles. The law that exists in people's minds includes the principles of general justice and the principles of decency.³⁷

The unclear prohibition on interfaith marriages in Indonesia is that the exit way does not conflict with public order in Indonesia. This happens if public order is interpreted in accordance with the mandatory provisions in Indonesian laws and regulations. Meanwhile, if public order is interpreted as justice, then the refusal to register interfaith marriages is a discriminatory act that is contrary to basic law, Article 27 of the 1945 Constitution of the Republic of Indonesia, which states that every citizen has an equal position before the law. Apart from that, in Islam itself, there is no single opinion regarding interfaith marriages. There are various opinions surrounding it, so it depends on the parties which one to follow. A person who has no other choice but to marry can follow the opinion of the scholars who allow that kind of marriage. In other words, the marriage of a Muslim woman with a man who is a Bible scholar can be considered valid in emergencies.³⁸

Moreover, in 1986, the Supreme Court (MA) through Decision Number 1400K/PDT/1986 granted an interfaith marriage by two parties who submitted an appeal. The Supreme Court Panel of Judges concluded that the Marriage Law does not contain provisions prohibiting inter-religious marriages. According to the panel of judges, this is in line with Article 27 of the 1945 NRI Constitution above, and also in line with Article 29 Paragraph (2) of the 1945 NRI Constitution which states that *The state gives freedom to every citizen to adhere to and worship according to their own religion.*

It is important to emphasize that public order institutions in their application are similar to emergency brakes used when a country accepts foreign laws. Therefore, according to HPI principles, this public order institution arises when foreign laws to be applied in a country conflict with the feelings and principles of justice of the law and social order of that country. If that is the understanding, then in this context, the heterogeneous structure of Indonesian society consists of various kinds of primordial ties, in fact the refusal to register interfaith marriages deviates from the reality of this heterogeneity. This sociological reality is what underlies the granting of requests for marriage registration in the District Court.

The explanation above is a rational argument that the legal consequences of interfaith marriages carried out abroad must be fully recognized by judges in Indonesia (recorded) as the country of origin of the perpetrator based on the doctrine of rights that have been obtained or the continuation of the legal situation, or that the rights obtained abroad are recognized and respected wherever possible by the judges of their home country.

34 Zimtya Zora, "Konsep Public Order Dalam Hukum Perdata Internasional," *UNES Journal of Swara Justisia* 6, no. 4 (2023): 541, <https://doi.org/10.31933/ujsj.v6i4.299>.

35 Zimtya Zora and Tasman Tasman, "Konsep Public Order dalam Hukum Perdata Internasional," *UNES Journal of Swara Justisia* 6, no. 4 (January 13, 2023): 541–64, <https://doi.org/10.31933/ujsj.v6i4.299>.

36 Wahyuni, 56.

37 Meliyani Sidiqah, "Penerapan Konsepsi Ketertiban Umum oleh Hakim dalam HPI Indonesia," *Journal Evidence Of Law* 1, no. 2 (May 31, 2022): 152–69, <https://doi.org/10.59066/jel.v1i2.233>.

38 Recep Çiğdem, "Interfaith Marriage in Comparative Perspective," *Acta Orientalia Academiae Scientiarum Hungaricae* 68, no. 1 (2015): 59–86.

3.3.2 Basis of Reciprocity and *Comitas Gentium*

The requirement for marriage registration in Indonesia for interfaith marriages performed abroad, apart from being supported by the rights obtained or the continuation of the legal situation, is also supported by the principle of reciprocity. This principle is known by several terms, namely: (a) *reciprocite* (French), (b) *gleichberechtigung und vergeltung, gegenrecht, reziprozitat, gegenausnahme, gegenseitigkeit* (German), (c) *reciprocity* (English), (d) *wederkerigheid en vergelding, reciprociteit* (Dutch), (e) *reciprocidad* (Spanish); dan (f) *reciprocita* (Italia).³⁹

The application of the principle of reciprocity above is a logical consequence of Indonesia's existence as a member of the international community. This principle states that if a country wants to be served well by other countries, then that country must treat other countries well.⁴⁰ Forum countries (*lex fori*) usually pay close attention to the principle of reciprocity, or reciprocity, when recognizing the principle of "acquired rights". Countries do not want to be too quick to use public order to improve their relations with other countries, as is the case with public order. If a country pays less attention to the extension of its legal status compared to other countries, then it does not make sense that other countries will also pay attention to the extension of its legal status than the first country.

The obligation to register foreign interfaith marriages in Indonesia can also be based on principles of *comitas gentium*⁴¹ (politeness). Based on reasons of politeness between countries (*comitas gentium*), It is also recognized that every government of a sovereign state recognizes that laws already in force in their country of origin will remain valid everywhere as long as they do not conflict with the interests of legal subjects.⁴²

The basis of the extension of legal status, reciprocity, and *comitas gentium* The above is a rational argument for the Indonesian state's obligation to recognize and record interfaith marriages conducted abroad. These three bases can be used as a basis for the *interlegality* of the marriage so that its validity is transnational. Therefore in this context, *interlegality* becomes a way to find a legal solution for the validity of the marriage in question before the legal systems of many countries, so that this solution is embedded in the law and justified by the law itself.⁴³

Based on the presentation above, the basis of acquired rights, the basis of reciprocity, and the basis *comitas gentium* are the principles that underlie the interlegality of inter-religious marriages, so that the marriage obtains legality between legal systems which creates an obligation for certain legal systems to recognize its legal consequences abroad so that they can be registered in Indonesia, whether through prior court determination or not. This is certainly more likely to bring justice to the parties on the basis of equality before the law, rather than having to force SEMA to come into force. With such treatment, international relations will be created within a frame of politeness because there is a sense of mutual respect, recognition, and respect for the legal consequences of each country, as long as this does not violate matters of human nature. Like same- sex marriage, this matter will never be legalized in Indonesia because it violates the essentials of marriage. as stated in Article 1 of Law Number 1 of 1974 concerning Marriage.

4. CONCLUSION

From the description and discussion above it can be concluded as follows, *first*, The SEMA issued by the Supreme Court as the top actor in judicial power in Indonesia can have a negative impact on the independence of judicial power actors below it, both substantively, personally, and functionally structurally. Apart from that, it also does not reflect respect for the constitutional rights of judges to freely handle cases submitted to

39 Sudargo Gautama, *Pengantar Hukum Perdata Internasional Indonesia (Buku 6)* (Bandung: Bina Cipta, 2018).

40 Eddy O.S Hiariej, *Prinsip-Prinsip Hukum Pidana*, Edisi Revi (Yogyakarta: Cahaya Atma Pustaka, 2016). 26. Stevani Komara, "Penerapan Asas Resiprositas (Timbal Balik) Dalam Proses Ekstradisi: Studi Kasus Maria Lumowa," *JISIP (Jurnal Ilmu Sosial Dan Pendidikan)* 5, no. 1 (2021): 374–78, <https://doi.org/10.36312/jisip.v5i1.1726>.

41 Stefan Koos, "Digital Globalization and Law," *Lex Scientia Law Review* 6, no. 1 (2022): 33–68, <https://doi.org/10.15294/lesrev.v6i1.55092>.

42 Ridwan Khairandy, *Pengantar Hukum Perdata Internasional* (Yogyakarta: UII Press, 2007).

43 Gianluigi Palombella Jan Klabbbers, "Situating Inter-Legality," in *The Challenge of Inter-Legality*, ed. Gianluigi Palombella Jan Klabbbers (United Kingdom: Cambridge University Press, 2019), 1–20.

them. *Second*, The existence of SEMA can have an impact on the non-fulfillment of the constitutional rights of people in interfaith marriages in terms of legal certainty, legal protection, and equality before the law. Considering that equality before the law is a human right, SEMA is automatically not in line with this human right. *Third*, SEMA can trigger smuggling of law in the field of marriage where when the legal consequences are brought to Indonesia it must be recognized by an Indonesian judge based on the doctrine of continuation of legal conditions, the principle of reciprocity, the principle of *comitas gentium*, where all three can be the basis for the inter-legality of interfaith marriages carried out abroad. Referring to the conclusion above, to maintain the dignity of Indonesia as a legal state where there must be an independent judiciary, to fulfill the constitutional rights of judges, the constitutional rights of actors of interfaith marriages to obtain legal certainty, legal protection and equality before the law, the Supreme Court needs to immediately to withdraw the SEMA that has been issued.

BIBLIOGRAPHY

- Acemoglu, Daron, and Alexander Wolitzky. "A Theory of Equality Before the Law." *Economic Journal* 131, no. 636 (2021): 1429–65. <https://doi.org/10.1093/ej/ueaa116>.
- Achmad Irwan Hamzani. "Menggagas Indonesia Sebagai Negara Hukum Yang Membahagiakan Rakyatnya." *Yustisia* 90, no. September-Desember (2014): 1–20. <https://doi.org/10.31090/hukumbisnis.v3i1.829>.
- Alexy, Robert. "A Non-Positivist Concept of Constitutional Rights." *International Journal for the Semiotics of Law* 33, no. 1 (2020): 35–46. <https://doi.org/10.1007/s11196-019-09661-0>.
- Amarru Muftie Holish and Aulia Maharani. "Strengthening Constitutional Complaint Authority: Enhancing Citizens' Constitutional Rights Protection in Indonesia." *Law & Legal Reform* 4, no. 2 (2023): 345–64.
- Amiruddin dan Zainal Asikin. *Pengantar Penelitian Hukum*. Jakarta: Rajawali Press, 2018.
- Arundathi. K and Sonali Awasthi. "The Critical Analysis of Natural Rights Theory ARUNDATHI." *International Journal of Law Management & Humanities* 3, no. 6 (2020): 129–42.
- Atmadja, I Dewa Gede, I Nyoman Putu Budiarta. *Teori-Teori Hukum*. Malang: Setara Press, 2018.
- AUDA, JASSER. *Maqasid Al-Shariah as Philosophy of Islamic Law A Systems Approach*. London Washington: the international institute of islamic thought, 2019. <https://doi.org/10.2307/j.ctvkc67tg.8>.
- Ávila, Humberto. *Certainty in Law*. Edited by Frederick Schauer and Torben Spaak Laporta, Francisco J. Switzerland: Springer International Publishing, 2016.
- Bayu Seto Hardjowahono. *Dasar-Dasar Hukum Perdata Internasional Buku Kesatu*. Edisi Keem. Bandung, 2006.
- Bernard L.Tanya, Yoan N. Simanjuntak, & Markus Y. Hage. *Teori Hukum. Strategi Tertib Manusia Lintas Ruang Generasi*. Yogyakarta: Genta Publishing, 2010.
- Chandranegara, Ibnu Sina. "Defining Judicial Independence and Accountability Post Political Transition." *Constitutional Review* 5, no. 2 (2019): 294. <https://doi.org/10.31078/consrev525>.
- Christopher Tollefsen. "New Natural Law Foundations of Human Rights." In *The Cambridge Handbook of Natural Law and Human Rights*, edited by IAIN T. Benson and Mark D. Retter Tom Angier, 31–43. United Kingdom: Cambridge University Press, 2022.
- CST Kansil Dkk. *Kamus Istilah Hukum*. Jakarta: Jala Permata, 2009.
- Dimiyati, Khudzaifah, Haedar Nashir, Elviandri Elviandri, Absori Absori, Kelik Wardiono, and Arief Budiono. "Indonesia as a Legal Welfare State: A Prophetic-Transcendental Basis." *Heliyon* 7, no. 8 (2021): e07865. <https://doi.org/10.1016/j.heliyon.2021.e07865>.
- Eddy O.S Hiariej. *Prinsip-Prinsip Hukum Pidana*. Edisi Revi. Yogyakarta: Cahaya Atma Pustaka, 2016.
- G. Liet-Veaux. "JURISPRUDENCE ADMINISTRATIVE: Réflexions Sur Les Droits Acquis d 'une Décis." *La Revue Administrative* 188, no. 188 (2023): 146–48.

- Gisbert, Rafael Bustos. "Judicial Independence in European Constitutional Law." *European Constitutional Law Review* 18, no. 4 (2022): 591–620. <https://doi.org/10.1017/S1574019622000347>.
- Heriawanto, Benny Krestian. "INTERFAITH MARRIAGES BASED ON POSITIVE LAW IN INDONESIA AND PRIVATE INTERNATIONAL LAW PRINCIPLES." *UNIFIKASI : Jurnal Ilmu Hukum* 6, no. 1 (August 20, 2019): 94–100. <https://doi.org/10.25134/unifikasi.v6i1.1571>.
- Hidayatullah, Tomi, Oemar Moechthar, and Dimipta Aprilia. "Inter-Religious Marriage: A Comparison Analysis of Indonesian Law With Other Countries." *Notaire* 6, no. 2 (June 14, 2023): 291–306. <https://doi.org/10.20473/ntr.v6i2.45871>.
- Indaryanto, Wisnu. "Kedaulatan Indonesia Diantara Virus Corona Versus Asas Resiprositas Dan Asas Manfaat (Tinjauan Yuridis Peraturan Presiden Nomor 21 Tahun 2016 Tentang Bebas Visa Kunjungan)." *Jurnal Legislasi Indonesia* 17, no. 2 (2020): 121. <https://doi.org/10.54629/jli.v17i2.654>.
- Ismaidar, Yasmirah Mandasari Saragih. "An Independence of Judicial Power Under the System of Justice: Study Case In Indonesia, Malaysia and Brunei Darussalam." *Journal Ilmiah Online* 1, no. 1 (2018): 60.
- James Chappel. "The Mythical Connection between Natural Law and the Universal Declaration of Human Rights." In *The Cambridge Handbook of Natural Law and Human Rights and Human Rights*, edited by Mark D. Retter Tom Angier, IAIN T. Benson, 88–99. United Kingdom: Cambridge University Press, 2022.
- Jan Klabbbers, Gianluigi Palombella. "Situating Inter-Legality." In *The Challenge of Inter-Legality*, edited by Gianluigi Palombella Jan Klabbbers, 1–20. United Kingdom: Cambridge University Press, 2019.
- Khair, Muhamad Helmi Muhamad, and Haswira Nor Mohamad Hashim. "Justifications of Intellectual Property Rights: A Discussion on Locke and Hegel's Theories." *Jurnal Hukum Novelty* 11, no. 2 (2020): 114. <https://doi.org/10.26555/novelty.v11i2.a16595>.
- Kliemt, Hartmut. "The Logical Foundations of Constitutional Democracy between Legal Positivism and Natural Law Theory." *Public Choice* 195, no. 3–4 (2023): 269–81. <https://doi.org/10.1007/s11127-021-00888-9>.
- Komara, Stevani. "Penerapan Asas Resiprositas (Timbal Balik) Dalam Proses Ekstradisi: Studi Kasus Maria Lumowa." *JISIP (Jurnal Ilmu Sosial Dan Pendidikan)* 5, no. 1 (2021): 374–78. <https://doi.org/10.36312/jisip.v5i1.1726>.
- Koos, Stefan. "Digital Globalization and Law." *Lex Scientia Law Review* 6, no. 1 (2022): 33–68. <https://doi.org/10.15294/lesrev.v6i1.55092>.
- Lifante-Vidal, Isabel. "Is Legal Certainty a Formal Value?" *Jurisprudence* 0, no. 0 (2020): 456–67. <https://doi.org/10.1080/20403313.2020.1778289>.
- Lund, Christian. "Forum Shopping and Shopping Forums: Another 40-Year Anniversary." *Journal of Legal Pluralism and Unofficial Law* 53, no. 3 (2021): 414–18. <https://doi.org/10.1080/07329113.2021.1996075>.
- Lutfiyah, Khoirum. "Equality before the Law Principle and the Legal Aid for the Poor: An Indonesian Insight." *The Indonesian Journal of International Clinical Legal Education* 3, no. 4 (2021): 517–36. <https://doi.org/10.15294/ijicle.v3i4.48292>.
- "Mahkamah Agung Republik Indonesia." Accessed October 5, 2023. <https://www.mahkamahagung.go.id/id/tugas-pokok-dan-fungsi>.
- Mark D. Retter, Tom Angier, IAIN T. Benson, ed. *The Cambridge Handbook of Natural Law and Human Rights*. United Kingdom: Cambridge University Press, 2022.
- Marlen van den Ecker. "Human Rights by Virtue of Reason: Kant's Latent Contribution to the Declaration of Human Rights Chair of Political Theory and History of Ideas Module : POL 720 Lecturer : Dr Matthias Enders Human Rights by Virtue of Reason : Kant 's Latent Contributio." *Friedrich-Schiller-University Jena*, no. November (2019).

- Marwan Mas. *Pengantar Ilmu Hukum*. Jakarta: Galia Indonesia, 2004.
- Murdan. *Pluralisme Hukum Di Indonesia: Interlegality Dalam Perkawinan Masyarakat Islam Sasak*. Yogyakarta: Program pascasarjana UIN Sunan Kalijaga, 2020.
- Muttaqin, Muhammad Ngizzul. “Unregistered Marriage Between Indonesian Citizens and Foreign Citizens With the Legal Perspective of Marriage in Indonesia.” *Jurnal Ilmiah Mizani: Wacana Hukum, Ekonomi Dan Keagamaan* 7, no. 2 (2020): 149. <https://doi.org/10.29300/mzn.v7i2.3396>.
- Nugroho, Aji Febrian. “Legal Protection for Victims of Fair Trial Rights As a Form of Human Rights Protection in the Indonesian Justice System.” *Policy, Law, Notary and Regulatory Issues (Polri)* 2, no. 1 (2022): 1–12. <https://doi.org/10.55047/polri.v2i1.493>.
- Nurhayati, Yati, Ifrani Ifrani, and M. Yasir Said. “Metodologi Normatif Dan Empiris Dalam Perspektif Ilmu Hukum.” *Jurnal Penegakan Hukum Indonesia* 2, no. 1 (January 17, 2021): 1–20. <https://doi.org/10.51749/jphi.v2i1.14>.
- Pasamai, S, and H Baharuddin. “The Legal Sure of Marriage Itsbat Towards The Status of Marriage (Study of The Decision of The Takalar Religious Court).” *Gerechtiheid Law Journal* 1, no. 2 (2020): 13–27.
- Pesurnay, Althien John. “Kontrak Sosial Menurut Immanuel Kant: Kontekstualisasinya Dengan Penegakan HAM Di Indonesia.” *Jurnal Filsafat* 31, no. 2 (2021): 192. <https://doi.org/10.22146/jf.56142>.
- Pratiwi, Dian Kus. “Pengenalan Hak-Hak Konstitusional Warga Negara Di Sekolah.” *Jurnal Abdimas Madani Dan Lestari (JAMALI)* 1, no. 1 (2019): 24–33. <https://doi.org/10.20885/jamali.vol1.iss1.art3>.
- Pratiwi, Dian Kus, Dessy Ariani, and Despan Heryansyah. “Pengenalan Hak-Hak Konstitusional Warga Negara Di Sekolah.” *Jurnal Abdimas Madani Dan Lestari (JAMALI)*, May 14, 2019, 24–33. <https://doi.org/10.20885/jamali.vol1.iss1.art3>.
- Rismana, Daud, Hariyanto, Rifi Maria Laila Fitri Permonoputri, Intan Ayu Nur Laili, and Hajar Salamah Salsabila Hariz. “Dispensasi Izin Perkawinan Beda Agama Di Indonesia.” *Humani (Hukum Dan Masyarakat Madani)* 13, no. Hukum dan Masyarakat (Mei 2023): 140–50. <http://dx.doi.org/10.26623/humani.v13i1>.
- Sanaky, M S Rezky, Annisa Fitria, Risalatul Hukmi, Rangga Kala Mahaswa, M Rodinal Khair Khasri, Pradnya Lingga D, M S Rezky Sanaky, and Annisa Fitria. “John Locke’s Ethics: Reflection of The Concept of Property Rights.” In *Digital Press Social Sciences and Humanities John*, 2023.
- Sangiovanni, Andrea. “Human Rights in a Kantian Key.” *Kantian Review* 24, no. 2 (2019): 249–61. <https://doi.org/10.1017/S1369415419000049>.
- Seagrave, S Adam. “How Old Are Modern Rights ? On the Lockean Roots of Contemporary Human Rights Discourse.” *Journal of the History of Ideas* 72, no. 2 (2019): 305–27.
- Shahar, Ido. “Legal Pluralism and the Study of Shari’a Courts.” *Islamic Law and Society* 15, no. 1 (2008): 112–41. <https://doi.org/10.1163/156851908X287280>.
- Shimon Shetreet. “Judicial Independence and Accountability in Israel.” *The International and Comparative Law Quarterly* 33, no. 4 (1984): 979–1012.
- Sidiqah, Meliyani. “PENERAPAN KONSEPSI KETERTIBAN UMUM OLEH HAKIM DALAM HPI INDONESIA.” *Journal Evidence Of Law* 1, no. 2 (May 31, 2022): 152–69. <https://doi.org/10.59066/jel.v1i2.233>.
- Simon Butt. “The Indonesian Constitutional Court: Implying Rights from the ‘Rule of Law.’” In *The Invisible Constitution in Comparative Perspective*, edited by Rosalind Dixon and Adrienne Stone, 298–321. United Kingdom: Cambridge University Press, 2018. <https://doi.org/10.1017/9781108277914.001>.
- Sitizalikha, S, A Abdullah, and ... “Marriage Registration in Islamic Law.” *Budapest International Research and Critics Institute-Journal (BIRCI-Journal)* 4, no. 3 (2021): 7128–35.

- Sudargo Gautama. *Pengantar Hukum Perdata Internasional Indonesia*. Cetakan ke. Bandung: Binacipta, 1987.
- . *Pengantar Hukum Perdata Internasional Indonesia (Buku 6)*. Bandung: Bina Cipta, 2018.
- Sulfian, A. Sultan. “The Urgency of Marriage Registration in the Perspective of Indonesian Marriage Law and Islamic Law.” *Jurnal Al-Dustur* 6, no. 1 (2023): 72–90. <https://doi.org/10.30863/aldustur.v6i1.4224>.
- Susilo, A P, and H W Aminah. “Aspek Asas Resiprositas Dalam Pengakuan Sahnya Perkawinan Campuran Antara Warga Negara Indonesia Dengan Warga Negara Asing.” *Diponegoro Law Journal* 6, no. 1 (2017): 1–13.
- Timothy Sandefur. “The Natural Right of Property.” *Texan A&M Journal of Property Law* 9, no. 4 (2023).
- Triwulandari, Agung Mas. “Problematika Pemberian Bantuan Hukum Struktural Dan Non Struktural Kaitannya Dengan Asas Equality Before The Law.” *Jurnal Ilmiah Kebijakan Hukum* 14, no. 3 (2020): 539. <https://doi.org/10.30641/kebijakan.2020.v14.539-552>.
- Villiers, F.A. De. “Private International Law and Public Policy: Two Recent Dutch Cases.” *Private International Law and Public Law* 3, no. 1 (1970): 99–106. <https://doi.org/10.4337/9781784713478>.
- Wahyuni, Eka Fitri. “PERKAWINAN BEDA AGAMA MENURUT PERSPEKTIF UNDANG- UNDANG NO. 1 TAHUN 1974 TENTANG PERKAWINAN DAN KOMPILASI HUKUM ISLAM (KHI),” n.d.
- Wahyuni, Sri. “Konsep Ketertiban Umum Dalam Hukum Perdata Internasional: Perbandingan Beberapa Negara Civil Law Dan Common Law.” *Supremasi Hukum: Jurnal Kajian Ilmu Hukum* 3, no. 1 (2014). <https://doi.org/10.14421/sh.v3i1.1947>.
- Wai, Robert. “The Interlegality of Transnational Private Law.” *Law and Contemporary Problems* 71, no. 3 (2008): 107–27.
- Wanto, Deri, Rahmad Hidayat, and R. Repelita. “Maqasid Shariah’s Change as Theory: From Classical to Cotemporary Maqasid Shariah.” *Al-Istinbath : Jurnal Hukum Islam* 6, no. 2 (2021): 427. <https://doi.org/10.29240/jhi.v6i2.3122>.
- Wicaksono, Raden Mas Try Ananto Djoko. “Reviewing Legal Justice, Certainty, and Legal Expediency in Government Regulation Number 24 of 2018 Concerning Electronically Integrated Business Services.” *Lex Scientia Law Review* 5, no. 1 (2021): 1–24. <https://doi.org/10.15294/lesrev.v5i1.44905>.
- Wico, Standy, Michael Michael, Patricia Louise Sunarto, and Anastasia Anastasia. “Constitutional Complaint in Indonesia Through the Lens of Legal Certainty.” *Indonesian Journal of Law and Society* 2, no. 1 (2021): 57. <https://doi.org/10.19184/ijls.v2i1.21449>.
- Witoko, Prasetyo Ade, and Ambar Budhisulistiyawati. “PENYELUNDUPAN HUKUM PERKAWINAN BEDA AGAMA DI INDONESIA.” *Jurnal Hukum Dan Pembangunan Ekonomi* 7, no. 2 (August 2, 2019): 251–57. <https://doi.org/10.20961/hpe.v7i2.43015>.
- Wolemonwu, Victor Chidi. “Richard Dean: The Value of Humanity in Kant’s Moral Theory.” *Medicine, Health Care, and Philosophy* 23, no. 2 (2020): 221–26. <https://doi.org/10.1007/s11019-019-09926-2>.
- Zhang, Shuo. “The Inalienable Liberty in the Social Contract Theory —As the Representative with Hobbes and Locke.” *Open Journal of Social Sciences* 08, no. 11 (2020): 219–27. <https://doi.org/10.4236/jss.2020.811020>.
- Zora, Zimtya. “Konsep Public Order Dalam Hukum Perdata Internasional.” *UNES Journal of Swara Justisia* 6, no. 4 (2023): 541. <https://doi.org/10.31933/ujsj.v6i4.299>.
- Zora, Zimtya, and Tasman Tasman. “KONSEP PUBLIC ORDER DALAM HUKUM PERDATA INTERNASIONAL.” *UNES Journal of Swara Justisia* 6, no. 4 (January 13, 2023): 541–64. <https://doi.org/10.31933/ujsj.v6i4.299>.

