

## Interfaith Marriage Among Muslims in Singapore

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**Abstract:** A new phenomenon currently happening among Singaporean Muslims is interfaith marriage. This phenomenon has become a trend among Muslims as there is a written law in Singapore, expressly the Women's Charter, that allows marriage between Muslims and non-Muslims. However, it is not in line with Islamic law. Similarly, no provision in the Administration of Muslim Law Act 1966 (AMLA) specifically prohibits Muslims in Singapore from registering their marriage under Civil law with a non-Muslim spouse. This article is written to look into the factors contributing to the increase in this type of marriage and highlight the role of Muslim law in Singapore in relation to such marriages. The research adopts a qualitative method integrating the library and field research. The methods used are descriptive and thematic interview analysis. As a result, the writers conclude that the leading cause of the increase in interfaith marriage is the absence of Muslim law prohibiting interfaith marriage and the minimum impact of such marriage. Realistically, there are contextual challenges to establishing and executing a new Syariah law that prohibits interfaith marriage among Muslims in Singapore. Therefore, a pragmatic approach is needed to consider the reality of Singapore's multiracial and multi-religious society while aligning religious principles with legal aspects and providing awareness and guidance to the Muslim community.

**Keywords:** interfaith marriage, Singapore Syariah Law, Singapore Muslim Law

**Abstrak:** Fenomena baru yang terjadi di kalangan umat Islam Singapura saat ini adalah pernikahan beda agama. Fenomena ini telah menjadi tren di kalangan umat Islam karena ada hukum tertulis di Singapura, khususnya Piagam Perempuan, yang mengizinkan pernikahan antara Muslim dan non-Muslim meski itu bertentangan dengan Hukum Islam. Selain dari itu, tidak ada ketentuan dalam Undang-Undang Administrasi Hukum Muslim 1966 (AMLA) yang secara khusus melarang umat Islam di Singapura untuk mendaftarkan pernikahan mereka di bawah hukum Perdata dengan pasangan non-Muslim. Artikel ini ditulis untuk melihat faktor-faktor yang berkontribusi terhadap peningkatan jenis pernikahan ini dan menyoroti peran hukum Islam di Singapura dalam kaitannya dengan pernikahan semacam

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itu. Penelitian ini mengadopsi metode kualitatif yang memadukan penelitian kepustakaan dan lapangan. Metode yang digunakan adalah analisis wawancara deskriptif dan tematik. Hasilnya, penulis menyimpulkan bahwa penyebab utama peningkatan pernikahan beda agama adalah tidak adanya hukum Islam yang melarang pernikahan beda agama dan dampak buruk yang minimal dari pernikahan semacam itu. Secara realistis, ada tantangan kontekstual untuk menetapkan dan melaksanakan hukum Syariah baru yang melarang pernikahan beda agama di kalangan umat Islam di Singapura. Oleh karena itu, diperlukan pendekatan pragmatis untuk mempertimbangkan realitas masyarakat multiras dan multiagama di Singapura sambil menyelaraskan prinsip-prinsip agama dengan aspek hukum dan memberikan kesadaran dan bimbingan kepada masyarakat Muslim.

**Kata kunci:** pernikahan beda agama, Hukum Syariah Singapura, Hukum Muslim Singapura

## Introduction

An interfaith marriage is a bond in which one partner believes in and adheres to a different religion or religious tradition from the other partner.<sup>1</sup> Currently, interfaith marriage has become a phenomenon in Singapore.<sup>2</sup> This type of marriage usually occurs when the non-Muslim partner refuses to convert to Islam, so the Muslim partner chooses to marry through a Civil Marriage.<sup>3</sup> Aware that such a marriage is not considered valid in Islam, the couple does not register the marriage under Sharia Law. According to Sharia Law, a marriage is considered valid if both partners are Muslim and follow other terms and conditions set by the religion, such as *ijab wa qabul*, the presence of a guardian, or marriage guardian, and dowry.<sup>4</sup>

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<sup>1</sup> Md Zahidul Islam, 'Interfaith Marriage in Islam and Present Situation', *Global Journal of Politics and Law Research*, 2.1 (2014): 36–47; Read also Alison Conway, *Sacred Engagements: Interfaith Marriage, Religious Toleration, and the British Novel, 1750–1820* (Baltimore: JHU Press, 2023).

<sup>2</sup> Francois Bretault, 'Challenges of interfaith families in Singapore, and beyond.' *Union Catholic of Asian News*. November 7, 2023. <https://www.ucanews.com/news/challenges-of-interfaith-families-in-singapore-and-beyond/103178>

<sup>3</sup> Basid Abdul, Lilik Nur Kholidah, Muhammad Fahmi Hidayatullah, Eka Kurnia Firmansyah, Ahmad Iwan Zunaih, and Reza Ahmad Zahid, 'Interfaith Marriage Controversies in Semarang: An Analysis of Qur'anic Legal Exegesis', *Malaysian Journal of Syariah and Law*, 12.3 (2024): 762–777.

<sup>4</sup> Hayatullah Laluddin, Norhoneydayatie Abdul Manap, Ahmad Azam Mohd Shariff, Ahmad Muhammad Husni, Zuliza Mohd Kusrin, Ibnor Azli Ibrahim, and Nazura Abdul Manap, 'The Contract of Marriage and Its Purposes from Islamic Perspective', *Asian Social Science*, 10.2 (2014): 140.

Marriage in Islam has a greater meaning and significance.<sup>5</sup> It is about registration, ceremonies, civil relations, and worship.<sup>6</sup> Furthermore, marriage is not only to fulfil the sexual needs of the couple and the desire to have children but also to create an atmosphere of security, self-satisfaction, and peace for the husband and wife.<sup>7</sup>

This article focuses on marriages involving a Muslim with someone who adheres to a religion other than Islam, such as Buddhism, Christianity, or Hinduism. This type of marriage, from the perspective of Islamic law, is invalid and *harâm*.<sup>8</sup> Children born from this marriage will also be considered invalid as their marriage contract becomes invalid.

Interfaith marriages among Muslims can be divided into two categories.<sup>9</sup> One is a marriage between a Muslim man and a non-Muslim woman. The second is a marriage between a Muslim woman and a non-Muslim man. For the first type of marriage, Islam permits it only if the Muslim man chooses a wife from among the ‘People of the Book’, namely, Christians or Jews. The permissibility of this is written in the following verse of the Quran:<sup>10</sup>

Do not marry polytheistic women until they believe; for a believing slave-woman is better than a free polytheist, even though she may look pleasant to you. And do not marry your women to polytheistic men until they believe, for a believing slave-man is better than a free polytheist, even though he may look pleasant to you. They invite ‘you’ to the Fire while Allah invites ‘you’ to Paradise and forgiveness by His grace. He makes His revelations clear to the people so that perhaps they will be mindful.<sup>11</sup>

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<sup>5</sup> Arianty Anggraeny Mangarengi and Yuli Adha Hamzah, ‘The Position of the Marriage Law on Interfaith Marriages Abroad’, *SIGn Jurnal Hukum*, 3.1 (2021): 65–84.

<sup>6</sup> Fathol Hedi, Abdul Ghofur Anshori, and Harun Harun, ‘Legal Policy of Interfaith Marriage in Indonesia’, *Hasanuddin Law Review*, 3.3 (2017): 268.

<sup>7</sup> Suratman Suriani, ‘Skills for “Marriage of a Lifetime”: An Examination of Muslim Marriage Preparation Handbooks in Singapore, 1974 to 2018’, *Religions*, 12.7 (2021): 473.

<sup>8</sup> Edi Gunawan, Reza Adeputra Tohis, and Budi Rahmat Hakim, ‘Implications of the Law of Religious Moderation on Interfaith Marriages’, *Jurnal Ilmiah Al-Syir’ah*, 21.2 (2023): 283–296.

<sup>9</sup> Kemas Muhammad Gemilang, Hengki Firmada, Maghfirah Maghfirah, Hellen Lastfitriani, and Abdul Rahim Hakim, ‘Discussing the Phenomenon of the Appointment of Judges in District Courts Regarding Interfaith Marriages from a Legal Logic Perspective’, *Al-Istinbath: Jurnal Hukum Islam*, 8.2 (2023): 307–324.

<sup>10</sup> Mariateresa Giammetti, ‘Inter-Religious Architecture for Wedding Spaces’, *Religions*, 15.8 (2024): 1022.

<sup>11</sup> Qur’an 1:21.

We can infer from this verse that a Muslim man can marry a non-Muslim woman who is a believer in the Book. The four books of Allah SWT are the Quran, Torah, Psalms (Zabur) and Gospel (Injil). So, only women who believe in the four holy books are allowed to marry a Muslim man. On the other hand, this rule does not apply to Muslim women who marry any non-Muslim man. Therefore, this second category of interfaith marriage is illegal and invalid in Islam.<sup>12</sup>

Scholars have different opinions about the validity of marriage between a Muslim man and a woman from the People of the Book. One of the Prophet's companions, 'Umar al-Khattâb, opposed this marriage because he felt that it would be more detrimental to the Muslim community of his time than beneficial.<sup>13</sup> On the other hand, most scholars allow marriage with women from the People of the Book on condition that they meet specific requirements. Imam al-Shâfi'i defined the People of the Book as Jews and Christians who are descendants of the Children of Israel.<sup>14</sup> Imam Abû Hanîfah defined it as people who believe in one of the Prophets or the Holy Books revealed by God.<sup>15</sup>

Aside from definitions, the four Imams also separated it into different rulings and reasoning. The Hanâfi school mentions that a Muslim man cannot marry a woman of Ahl al-Kitâb who lives in countries that are not under a Muslim government or those that are not subject to Shari'ah law or not Islamic law, also known as Dâr al-Harb countries. The reason is that there is a doubt that the woman might influence their children to follow a religion other than Islam in the marriage.<sup>16</sup> However, if the woman comes from countries where Islamic leaders and Islamic law rule, the Hanafi school rules it as makrûh tanzîh. This is because although

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<sup>12</sup> Sarifudin Sarifudin, 'Kawin Beda Agama dalam Kajian Hukum Islam dan Peraturan Perundang-Undangan di Indonesia', *Al-Istinbath: Jurnal Hukum Islam*, 4.2 (2019): 213–230.

<sup>13</sup> Mohammad Gamal Abdelnour, 'The Islamic Theology of Interfaith Marriages Between Theology, Law, and Individual Ijtihad', *Nanyang Technological School Singapore*, (June 17, 2020): 2.

<sup>14</sup> Muhammad bin Idrees al-Shâfi'i, *Kitab al-Umm* (Bayrût: Dâr al-Ma'rîfah, 1410 H), p. 287.

<sup>15</sup> Md Zahidul Islam, 'Interfaith Marriage in Islam.' 41.

<sup>16</sup> Akmal Abdul Munir, Mualimin Mochammad Sahid, Zulkifli Zulkifli, and Ahmad Fauzi, 'The Reasons for Permission to Marry *Ahlul Kitâb* Women in the View of Sayyid Sabiq', *Al-'Adalah*, 18.2 (2021): 296.

they are from an Islamic country, the scholar could not eliminate the possibility of the abovementioned doubt happening in a family with parents of different religions.<sup>17</sup>

The Shâfi'i school of thought agrees with the explanation and ruling given by the Hanâfi school of thought, namely if a Muslim man believes that the People of the Book can guide their children to the right path of Islam. This means that the first category of interfaith marriage can be valid on the condition that the woman fulfils the conditions mentioned by the Imams of the school of thought.<sup>18</sup> However, for the second category of marriage, it is entirely invalid without any exceptions.<sup>19</sup>

Apart from that, countries like Singapore, Malaysia and Indonesia have also released their fatwas regarding interfaith marriage.<sup>20</sup> In Indonesia, the Indonesian Ulema Council (MUI) issued a fatwa on interfaith marriage, stating that marriage between a Muslim woman and a non-Muslim man is prohibited.<sup>21</sup> Although it was mentioned above that the first category of interfaith marriage (marriage that brings more benefits) is recognized in Islam, the MUI said that such marriages are still prohibited in the country.<sup>22</sup> This is because they found that such marriages still have more disadvantages than benefits.

Furthermore, even though Indonesia has a fatwa from the Ulama on interfaith marriage, the number of such marriages is still increasing. This is because the Fatwa in Indonesia is not legally binding, so each

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<sup>17</sup> Kadek Wiwik Indrayanti, Anak Agung Ayu Nanda Saraswati, and Eka Nugraha Putra, 'Questioning Human Rights, Looking for Justice: Analyzing the Impact of Supreme Court Circular Letter on Interfaith Marriages in Indonesia', *Journal of Indonesian Legal Studies*, 9.1 (2024).

<sup>18</sup> Anila Umriana, 'Exploring Interfaith Marriage in Qur'ân: A Hermeneutic and Anthropological Analysis of Permissibility', *Journal of Islamic Thought and Civilization*, 14.2 (2024): 370–385.

<sup>19</sup> A. H. Thahir, 'Towards the Multidimensional Ushul al-Fiqh: A Study of the Integration of Science in the Fatwa of Majelis Ulama Indonesia', *Samarah*, 8.2 (2024): 687–705.

<sup>20</sup> Kamarusdiana Kamarusdiana, Burhanudin Yusuf, Maman Rahman Hakim, and Harapandi Dahri, 'Pre-Marital Education: Concepts and Regulations in Indonesia and Malaysia', *Al-Ahkam*, 32.1 (2022): 41–64.

<sup>21</sup> Arianty Anggraeny Mangarengi and Yuli Adha Hamzah, 'The Position of the Marriage Law', 70.

<sup>22</sup> Muhammad Ali, 'Fatwas on Inter-Faith Marriage in Indonesia', *Studia Islamika*, 9.3 (2022): 15.

individual can still ask for permission from the court to continue an interfaith marriage.<sup>23</sup> The same is true in Singapore, even though there is a fatwa prohibiting interfaith marriage because the fatwa is not legally binding, such marriages continue to occur and are increasingly popular among Muslims.<sup>24</sup>

Unlike the two countries, Malaysia not only has a fatwa prohibiting interfaith marriage but also provides special provisions in the Islamic Law Enactment on marriage with a non-Muslim.<sup>25</sup> With the authority granted by the Federal Constitution, Malaysia has used law enforcement and religious institutions as a medium to protect the purity of Islam in the country and prevent further problems related to matters of faith and belief.<sup>26</sup> Since the Shâfi'i school of thought governs Malaysia, the Committee follows the opinion of its scholars regarding the definition of Ahl al-Kitâb.<sup>27</sup> Based on this, it is determined that the current opinion of Islamic scholars is that interfaith marriage is prohibited because it is now difficult to distinguish a woman from the People of the Book who believes in the authentic Book of Allah SWT.<sup>28</sup>

The Singapore Fatwa Committee has expressed its opinion on the prohibition of interfaith marriage and issued a fatwa on the validity of these marriages. However, a fatwa is considered an expert opinion and is not legally binding, and it can be rejected if the Singapore Court

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<sup>23</sup> Zainal Arifin, Naufal Ghani Bayhaqi, and David Pradhan, 'Urgency Supreme Court Circular Letter Number 2 of 2023 in the Judicial Process of Interfaith Marriage Registration', *Journal of Law and Legal Reform*, 5.1 (2024): 137–178.

<sup>24</sup> M. Thahir Maloko, Sippah Chotban, Muhammad Ikram Nur Fuady, and Hasdiwanti, 'Analyzing the Prohibition of Interfaith Marriage in Indonesia: Legal, Religious, and Human Rights Perspectives', *Cogent Social Sciences*, 10.1 (2024): 2308174.

<sup>25</sup> Gavin W. Jones, 'Divorce in Malaysia: Historical Trends and Contemporary Issues', *Institutions and Economies*, (2021): 35–60.

<sup>26</sup> Mohd Norhusairi Mat Hussin, Mohd Zaidi Daud, Ruzman Md Noor, and Amalina Che Omar, 'Kajian Isu-Isu Berkaitan Pemeliharaan Akidah dan Pemikiran Umat Islam di Malaysia: An Analysis of Issues Relating to Aqidah and Beliefs Among Muslims in Malaysia', *Malaysian Journal of Syariah and Law*, 11.2 (2023): 366–380.

<sup>27</sup> Wei-Jun Jean Yeung and Gavin W. Jones, 'Emerging Dimensions of Marriage in Asia', *Journal of Family Issues*, 45.5 (2024), NP1–NP8.

<sup>28</sup> Abdul Aziz, Iqbal Subhan Nugraha, Sugeng Aminudin, and Lukman Hakim, 'Supreme Court's Decision Regarding the Prohibition of Interfaith Marriage and Its Relevance to Maqashid Al-Shari'ah', *Jurnal Hukum Islam*, 22.1 (2024): 213–248.

deems it not applicable to the matter.<sup>29</sup> This raises the question of why Muslims still choose to perform Civil Marriages despite the existence of a Fatwa that declares such marriages null and void. The following discussion will focus on the factors contributing to the increasing cases and the impact of interfaith marriages on society and religion.

## Research Methods

This study employs a qualitative approach to collecting and analyzing data related to legal and social issues concerning Interfaith Marriage among Muslims in Singapore and its potential adverse impacts. Generally, the data for this study is gathered through two primary methods: library research and field research.

Library research involves examining primary and secondary sources such as books, articles, and legal statutes to understand the concept and status of interfaith marriage among Muslims within the context of Islamic law and its position in Singapore's legal system. Additionally, past court decisions are analyzed to strengthen the study's findings further and comprehend the policies and judicial rulings related to interfaith marriage within the frameworks of both Sharia and civil law in Singapore.

Meanwhile, experts have been interviewed for the field research to gain deeper insights into the challenges and legal implications of interfaith marriage among Muslims in Singapore. These interviews are conducted using a semi-structured approach to allow flexibility in obtaining more comprehensive information. The collected data is then analyzed descriptively and thematically to identify patterns, key challenges, and the legal consequences arising from interfaith marriages among Muslims in Singapore.<sup>30</sup>

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<sup>29</sup> Suriani Suratman, 'Skills for "Marriage of a Lifetime": An Examination of Muslim Marriage Preparation Handbooks in Singapore, 1974 to 2018', *Religions*, 12.7 (2021): 473.

<sup>30</sup> Ahmad Nizam Abbas, Isyana Putri Ibrahim, and Maryam Hasanah Rozlan, *Muslim Family Law in Singapore* (Singapore: Singapore Academy of Law, 2022), p. 138.

## Results and Discussion

Currently, it has become common for Muslim and non-Muslim couples in Singapore to marry without having to go through the hassle of converting.<sup>31</sup> This is especially true if the non-Muslim partner refuses to convert before marriage. Without a doubt, Singapore has its own set of Muslim laws concerning marriage, which apply to its Muslim population but are limited to some issues that will be elaborated on below. The current Muslim law does not have a specific provision that restricts interfaith marriage from taking place. Section 89 of AMLA only provides that if one party in a marriage is a non-Muslim, the marriage will not be regarded and registered as a valid Muslim marriage.<sup>32</sup>

Unlike its neighbouring countries such as Malaysia and Indonesia, the majority of the population in Singapore consists of non-Muslims. However, this country's legal system allows a Muslim to be governed by Muslim laws in some areas pertaining to Islamic law.<sup>33</sup> The areas are primarily focused on personal law, such as marriage, divorce and property, which are provided in Sections 3-33, 34-56 and 89-109 in the Administration of Muslim Law Act 1966 (AMLA).<sup>34</sup> The AMLA outlines the powers and ambit of the key Muslim institutions in independent Singapore and the structure and authority of three key Islamic institutions: the Islamic Religious Council of Singapore (Majlis Ugama Islam Singapura or "MUIS"), the Registry of Muslim Marriages (ROMM), which administers marriages under Islamic law, and the Syariah Court system. The AMLA has effectively established and defined the powers of the institutions involved in the administration of Islamic law in the country.<sup>35</sup> Muslim marriages are registered under ROMM, and cases

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<sup>31</sup> Francois Bretault, 'Challenges of interfaith families.'

<sup>32</sup> Ahmad Nizam Abbas, Isyana Putri Ibrahim, and Maryam Hasanah Rozlan, *Muslim Family Law in Singapore*, p. 138.

<sup>33</sup> Diana Farid, Muhammad Husni Abdulah Pakarti, Hendriana Hendriana, and Iffah Fathiah, 'Interfaith Marriage: Subjectivity of the Judge in Determination of No. 454/Pdt. P/2018 Surakarta District Court', *Al-Istinbath: Jurnal Hukum Islam*, 7.2 (2022): 347-362.

<sup>34</sup> Kerstin Steiner, 'Branding Islam: Islam, Law, and Bureaucracies in Southeast Asia', *Journal of Current Southeast Asian Affairs*, 37.1 (2018): 50.

<sup>35</sup> Ahmad Nizam Abbas, 'The Islamic Legal System in Singapore', *Pacific Rim Law & Policy Journal*, 21 (2012): 166.

of valid marriages can be tried in Singapore Syariah Court as they are within its jurisdiction, as mentioned in section 35 (4) of AMLA. The provision states that the Syariah Court's jurisdiction to hear and determine ancillary matters upon divorce is limited to disputing parties in a marriage registered under ROMM.

As mentioned, section 3(4) of the Women's Charter can solemnise an interfaith marriage. The provision explicitly prohibits a civil marriage between two Muslim couples. In other words, a civil marriage may be registered if one of the couples is a Muslim and the other is not. Hence, their marriage is considered valid and legal in Singapore, notwithstanding it is not valid under Muslim law. As interfaith marriage is legally recognized in Singapore, it has become a new port for foreign couples to fly to Singapore to register their marriage.<sup>36</sup> This is particularly true for Muslim and non-Muslim couples from Muslim countries which do not recognise the interfaith marriage. According to a member of the Indonesian Buddhist Society, in December 2001, around 5,000 Indonesian couples were on a waiting list to have their marriage registered in Singapore.<sup>37</sup>

Apart from its prohibition, interfaith marriage also impacts it from the judicial and psychological aspects. From the judicial aspect, the question is about its validity.<sup>38</sup> It is pertinent in Muslim countries like Malaysia, which have distinct sets of laws regarding interfaith marriage between a Muslim and a non-Muslim and the issue of child legitimacy. However, this is not the case in Singapore, as civil marriage by section 3(4) of the Women's Charter is held to be legally valid. Similarly, children born in this marriage are considered legitimate.<sup>39</sup> This is further supported

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<sup>36</sup> Bee Chin Ng, Mei Jing Jo Tan, Anne Pauwels, and Francesco Cavallaro, 'Language Practices in Malay-Chinese Families in Singapore', *Journal of Multilingual and Multicultural Development*, 45.8 (2024): 2940–2960.

<sup>37</sup> Muhammad Ali, 'Fatwas on Inter-Faith Marriage in Indonesia', 25.

<sup>38</sup> Bani Syarif Maula and Ilyya Muhsin, 'Interfaith Marriage and the Religion–State Relationship: Debates between Human Rights Basis and Religious Precepts', *Samarah: Jurnal Hukum Keluarga dan Hukum Islam*, 8.2 (2024): 791–820.

<sup>39</sup> Prahasti Suyaman and Temmy Fitriah Alfiany, 'Polemics of Interfaith Marriage Reviewed from the Perspectives of Marriage Law and the Compilation of Islamic Law', *KnE Social Sciences* (2022): 545.

by section 92 of the Women's Charter, which refers to the "child of the marriage" as any child of the husband and wife.

Unlike countries like Indonesia, there might be a problem during the divorce proceeding, which can be complicated in the absence of clear jurisdiction and powers of the courts in hearing the matters upon divorce.<sup>40</sup> As for the psychological aspects, the impact will be on both children and parents, and an example for the children will be in doubt about their religion or faith.<sup>41</sup> They need clarification about which way to follow, whether to follow one of their parents' religions based on their own choice or to follow the religion written in the agreement. At the same time, parents suffer from both minor and significant psychological pressures due to their different faiths.<sup>42</sup> Some of them lose their responsibilities as the head of the family and the principal teacher for the children, especially those in religious internalization.<sup>43</sup>

### **Islamic Law as an "Exceptional Law" in Singapore**

Singapore's system of personal law is duality. Professor Leong Wai Kum describes this duality as follows: general law applies to all Singaporeans, with some special rights in Muslim law for Muslims as an exception.<sup>44</sup> The Muslim law in Singapore only applies to Muslims and is not entirely applicable to non-Muslims. The Muslim law is considered the "exemption law" only for Muslims and only for specific issues.

"Exemption law" is a contractual term by which one party attempts to limit the scope of his contractual duties or regulate the other party's right to damages or other possible remedies for breach of contract. An exemption clause is a phrase in an agreement that limits contracting

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<sup>40</sup> Arianty Anggraeny Mangarengi and Yuli Adha Hamzah, 'The Position of the Marriage Law', 71.

<sup>41</sup> Peshkova, 2024.

<sup>42</sup> Iwan Setiawan, Tajul Arifin, Usep Saepullah, and Abdulah Safei, 'Reforming Marriage Law in Indonesia: A Critical Examination of Islamic Law on the Ban of Interfaith Marriages', *Al-Manabij: Jurnal Kajian Hukum Islam* (2024): 179–198.

<sup>43</sup> Hamdanah Hamdanah, 'Psychological Impacts on Interfaith Families in Palangkaraya in Educating Their Children', *The Open Psychology Journal*, 11 (2018): 12.

<sup>44</sup> Wai Kum Leong, *Elements of Family Law in Singapore* (Singapore: LexisNexis, 2007).

parties.<sup>45</sup> For example, a few provisions in the Women's Charter specifically rule out the exemption of Muslims from it. According to section 3 (2) of the Women's Charter, Parts 2 to 6 (except for sections 6A, 6B and 6C) on monogamous marriages, solemnization of marriages, registration and related offences and Parts 10 (divorce) and 10A (amicable settlement of disputes) and sections 181 and 182 of the Act do not apply to those married under the Muslim law or registered their marriage at ROMM.

In particular, Section 35 of the AMLA set down the Sharia Court's jurisdiction to hear and determine all actions and proceedings in which all the parties are Muslims or where the parties were married under the provisions of Muslim law throughout Singapore. The personal matters concerned are disputes relating to marriage, divorces, nullity of marriage or judicial separation, and the disposition or division of property on divorce or nullification of marriage.<sup>46</sup> A case in the Appeal Court of Singapore, *Yeo Pei Chern v. Isa Seow Zheng Xin alias Mohammed Isa Abdullah* (Appeal No. 23/2007), proves that if a couple chooses to convert to Islam and subsequently register their marriage at ROMM, their Civil Marriage will be considered invalid. Cases will be heard in Syariah Court.

Similarly, the Syariah Court will continue to have jurisdiction over the matter if one party has renounced Islam. However, they were found to be married under Muslim law based on section 35 of AMLA.<sup>47</sup> The Sharia Court also has exclusive jurisdiction to determine the division of a deceased Muslim person's estate by Muslim.<sup>48</sup> Upon the application of the deceased's beneficiaries, the Sharia Court will issue an inheritance certificate to guide the administrators or executors on the proper division of assets according to Muslim law. The Public Trustee's Office and the

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<sup>45</sup> All Answers, "Exemption Clause," *Law Teacher*, May 17, 2023, <https://www.lawteacher.net/free-law-essays/contract-law/exemption-clause.php>.

<sup>46</sup> Halijah Mohamad, "Overview of Syariah Law in Family Matters," in *Law and Practice of Family Law in Singapore*, ed. Valerie Thean JC (Singapore: Sweet & Maxwell, 2016), p. 600-601.

<sup>47</sup> Ahmad Nizam Abbas et al., *Muslim Family Law*, p. 90.

<sup>48</sup> Mohd Norhusairi Mat Hussin, Mohd Zaidi Daud, Hanira Hanafi, and Siti Aisyah Samudin, "The Division of *Harta Sepencarian* of Muslim Converts Upon Conversion in Malaysia," *Malaysian Journal of Syariah and Law*, 12.2 (2024): 282-295.

Family Justice Courts require this inheritance certificate when granting probate or letters of administration.

However, if there is any conflict of jurisdiction between the Sharia Court and the civil courts, the civil courts should hear the case.<sup>49</sup> In the case of *Re Will of Shaik Ahmad Abdullah Wahdain Basharahil*, one set of litigants took out an application in the High Court to challenge the correctness of the Inheritance Certificate issued by the Sharia Court. The High Court held that it is for the High Court to make the relevant findings of fact, namely on the issue of how many wives and children the deceased had at the time of his death. The role of the Sharia Court, according to section 115 of AMLA, is to provide a ruling on facts specifically from the point of view of Sharia law.<sup>50</sup>

Nonetheless, the Sharia Court and the civil courts were conferred concurrent jurisdiction on some issues. The Sharia Court shares concurrent jurisdiction with the civil courts concerning matters ancillary to divorce: disposition of property, payment of unpaid dowry, gifts, maintenance, and *nafkah mut'ah*. Concurrent jurisdiction applies in custody matters under the Guardianship of Infants Act and in matters relating to the wife's maintenance under 69 (1) of the Women's Charter.

From the above, it is clear that the Sharia Law and Sharia Courts in Singapore have an important role. The Sharia Courts are established under the AMLA as the primary platform for Sharia hearings, although their jurisdiction is limited. Compared to Thailand, there are no Sharia Courts. Instead, Sharia Court judges are known as Dato' Yutitam in the Civil Court. Judge Dato' Yutitam will step in if there is a case involving a dispute between husband and wife, inheritance disputes or other cases that require a decision by Islamic Law.<sup>51</sup>

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<sup>49</sup> Muchimah Muchimah, Asep Saepudin Jahar, Hamdani Hamdani, and Ulfah Fajarini, 'Legal Culture and the Dynamics of Religious Interaction in Ritual Practices among Interfaith Marriage', *Al-Manahij: Jurnal Kajian Hukum Islam*, 18.2 (2024): 333–348 <https://doi.org/10.24090/mnh.v18i2.11659>.

<sup>50</sup> Ahmad Nizam Abbas et al., *Muslim Family Law*, p. 484.

<sup>51</sup> Mahamatayuding Samah, Raihanah Abdullah, Mohd Norhusairi Mat Hussin, and Nahid Ferdousi, 'Dato' Yutitam in the Civil Court System of Thailand', *Abkam Jurnal Ilmu Syariah*, 23.1 (2023): 127.

Based on the distinct areas of Muslim law in Singapore, the Muslim law on interfaith marriage is absent. In Norhamisah Haroon, the then-Registrar summed up the ambit of the Sharia Court as follows: “the Sharia Court is a creature of statute. It derives its jurisdiction and power under the AMLA. Any jurisdiction or power it purports to possess must be expressly provided in the AMLA.<sup>52</sup> Although reforming the Muslim law is necessary, as it needs to be adjusted to meet the needs of contemporary Muslim families, the reformation has been relatively slow. The current Muslim law has been formulated in traditional, pre-modern, and pre-industrial societies where social change is slow.<sup>53</sup> Such organizations had less diverse communities, and the rights of individuals were determined by affiliation to tribe or kin.<sup>54</sup>

Considering the current situation, reality shows that it will be challenging to establish and execute a new Sharia law that prohibits interfaith marriage among Muslims in Singapore. This is especially so when the Muslim law currently exists to provide Muslims with personal law. Hence, the absence of Muslim law on interfaith marriage is the main factor contributing to the increase in interfaith marriage. The available law allowing civil marriage has made way for the Muslim community to proceed to register for Civil Marriage invalid from the point of view of Islamic law.<sup>55</sup>

Another factor is Singapore’s demography, where the ratio is 74.1% Chinese, 13.4% Malay, 9.2% Indian, and 3.3% other races.<sup>56</sup> According to the Census 2020, religion in Singapore mainly comprises 31.1% Buddhism, 18.9% Christianity, 15.6 % Islam, 8.8% Taoism and folk religion, 5.0% Hinduism, 20.0% No religion, and 0.6% other religions.<sup>57</sup>

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<sup>52</sup> Ahmad Nizam Abbas, ‘The Islamic Legal System in Singapore’, 171.

<sup>53</sup> (Setiyanto, Aryani, and Wahyuni 2024).

<sup>54</sup> (Rahman, 2016, p. 4)

<sup>55</sup> Mohamad Abdun Nasir, ‘Negotiating Muslim Interfaith Marriage in Indonesia: Integration and Conflict in Islamic Law’, *Mazahib Jurnal Pemikiran Hukum Islam*, 21.2 (2022): 155–186.

<sup>56</sup> Noraini M. Noor and Chan-Hoong Leong, ‘Multiculturalism in Malaysia and Singapore: Contesting Models’, *International Journal of Intercultural Relations*, 37.6 (2013): 714.

<sup>57</sup> “Religion - Visualising Data,” *Department of Statistics Singapore*, 2020, <https://www.singstat.gov.sg/find-data/search-by-theme/population/religion/visualising-data>.

The majority of ethnic Malays are 'born Muslims' since they adopt the religion of their ancestors, who were generally Muslim when they first arrived at Singapore's shores in the early centuries.<sup>58</sup>

Based on the statistics above, Muslims make up only 15.6% of Singapore citizens, which means that other religions form the majority. Hence, there is a high potential of Muslims finding a non-Muslim as the love of their life. Conversion to Islam will only serve as an option, and accordingly, they may choose to solemnize a Muslim marriage or a civil marriage.

### **The Potential Adverse Impacts of Interfaith Marriage Among Muslims in Singapore**

As mentioned earlier, interfaith marriage is valid, and the child from the marriage is considered legitimate under Singapore's national law. This section shall delve into the adverse impacts of such marriage among Singaporean Muslims. As a general rule, Civil Marriage in Singapore is not acceptable and void in Islam as the process of such marriage does not fulfil the requirements and conditions of a valid marriage in Islam.<sup>59</sup> Solemnization in a Muslim marriage must be done through its *Wali* or male guardian, or, in certain circumstances, a religious official appointed by the President of Singapore, also known as *Kadi* or *Naib Kadi*, will conduct it.<sup>60</sup> In comparison, Civil Marriage only requires two credible witnesses and the chosen licensed solemnizer.

According to a podcast under *Voiceout*, *Cakapje* interviewed a Muslim who went through the process of Civil Marriage. His civil marriage was done by a solemnizer who was a woman.<sup>61</sup> This did not fulfil the requirements of *Wali* or the male guardian. As for the witnesses in

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<sup>58</sup> Hussin Mutalib, 'Singapore Muslims: The Quest for Identity in a Modern City-State', *Journal of Muslim Minority Affairs*, 25.1 (2005): 54.

<sup>59</sup> Bani Syarif Maula and Ilyya Muhsin, 'Interfaith Marriage', 800.

<sup>60</sup> Abdulnaser Sultan Mohsen Sallam, Muhammad Safwan Harun, and Siti Aisyah Samudin, 'Reassessing Women's Humanity: A Comparative Study of Islamic Teaching and Societal Perceptions', *Afkar: Jurnal Akidah dan Pemikiran Islam*, 26.2 (2024): 337–374.

<sup>61</sup> "Muslim Civil Marriage in Singapore??" YouTube, April 1, 2022. <https://www.youtube.com/watch?v=7SbrMg-zPsY>.

Muslim marriage, there should be two male Muslim witnesses; however, the Civil Marriage does specify the gender of witnesses.<sup>62</sup>

However, questions about the applicable system of law may arise if a non-Muslim couple of a Civil Marriage converts to Islam and registers a new marriage under Muslim law. In such cases, parties are made to re-solemnize according to Islamic rites without considering implications for the subsisting marriage, which has not been terminated.

The cases of *Noor Azizan be. Colony (alias Noor Azizan be. Mohamed Noor) v Tan Lip Chin (alias Izak Tan) [2006] SGHC 121* and *Rosenah be. Ahmad v Mitsuru Sakano [Divorce Petition No. 602424 of 2001]* highlight the problem. In both cases, the Muslim wives had married non-Muslims under the Women's Charter. Subsequently, their husbands converted to Islam, and they married under Muslim law.<sup>63</sup> Unfortunately, in both these cases, the marriages broke down, and the Sharia Court issued decrees dissolving their marriages. However, the marriages contracted under the civil law remain. Their marriage was dissolved in the Sharia Court as they have registered through ROMM, which is under the court's jurisdiction. The issue of concern here is the decision of ROMM to allow parties to solemnize and register the marriage whilst the one contracted under civil law subsisted. Although there is no problem in the current cases, there is a fear that complications might occur in the future in similar cases.

However, there are other potential adverse impacts on interfaith marriage in terms of determining the child's religion, division of assets of a deceased Muslim and custody and maintenance of the child during divorce.<sup>64</sup>

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<sup>62</sup> Zaidah Nur Rosidah, Lego Karjoko, and Mohd Rizal Palil, 'The Government's Role in Interfaith Marriage Rights Protection: A Case Study of Adjustment and Social Integration', *Journal of Human Rights, Culture and Legal System*, 3.2 (2023): 265–287.

<sup>63</sup> Gavin W. Jones, Chee Heng Leng, and Maznah Mohamad, eds., *Muslim-Non-Muslim Marriage: Political and Cultural Contestations in Southeast Asia* (Singapore: Institute of Southeast Asian Studies, 2009), p. 295.

<sup>64</sup> Hafiz Falak Shair Faizi, Khadher Ahmad, M. N. B. M. Hussin, and Mahamatayuding Samah, 'Divorce and Khula: A Comparative Study of Prevailing Family Laws in Pakistan and Malaysia', *International Journal of Islamic Studies*, 15.1 (2024): 45–62. See also Laras Shesa, Muhammad Abu Dzar, and Henny Septia Utami. "Reformulating Progressive Fiqh of

## 1. Determining the child's religion

Since Civil Marriage is deemed invalid from the Islamic perspective, the children are regarded as illegitimate within the religious context.<sup>65</sup> Nonetheless, this is not perceived as a significant issue in Singapore since their marriage holds legal validity. Therefore, children are legally recognized based on the abovementioned section 92 of the Women's Charter. The court has no right or jurisdiction to intervene in this matter as it is up to the parents to select a religion for their children.<sup>66</sup> The AMLA also has no specific provisions regarding this matter. Hence, while the choice of religion for children in interfaith marriages may pose challenges in some countries, couples in Singapore face no such concerns, as both their marriage and their children's status are legally sound. This development will lead to a risk of religion-confused syndrome among the children. Children who grow up with parents who do not share the same faith may grow up confused, which they often settle by being faithless. If they have any faith, it is usually agnostic.<sup>67</sup>

## 2. Division of assets of a deceased Muslim

According to Islam, only a Muslim beneficiary may inherit a Muslim's estate. This is based on the Prophetic saying, "A non-Muslim cannot be the heir of a Muslim."<sup>68</sup> Hence, in an interfaith marriage, non-Muslim beneficiaries such as the non-Muslim spouses are not eligible to inherit the assets of their deceased Muslim family member(s).

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Talak (Divorce): A Contemporary Study of the Principle of Making Divorce More Difficult in SEMA No. 1 of 2022 for Women's Protection." *MILRev: Metro Islamic Law Review*, 3.2 (2024): 236-262.

<sup>65</sup> Ruth Elita, Fathiyah Layla, Chelsy Naristya, Zulfhan Akbar, and Miftahul Jannah, 'Rights of Children from Interfaith Marriages: Child Registration Case in Semarang, Indonesia', *Contemporary Issues on Interfaith Law and Society*, 3.1 (2024): 43-84.

<sup>66</sup> Basar Dikuraisyin, Ah Fajaruddin Fatwa, and Muhammad Lathoif Ghozali, "Reconstruction of Marriage Law: Judges' Progressive Reasoning Based on Maqâshid in Addressing Divergent Interpretations in Indonesian Courts," *Al-Manabij: Jurnal Kajian Hukum Islam* (2024): 237-254.

<sup>67</sup> Mohammad Gamal Abdelnour, "The Islamic Theology of Interfaith Marriages between Theology, Law, and Individual Ijtihad" (Nanyang Technological University, Singapore, June 17, 2020), p. 10.

<sup>68</sup> Sahih al-Bukhari, no. 6764.

At the outset, this position might cause disputes among the Muslim and non-Muslim family members of the deceased. However, according to an interview with a local lawyer, there have been no cases involving the dissatisfaction of parties in interfaith marriages.<sup>69</sup> This is because, in Singapore, the non-Muslim spouse can still acquire the property assets entirely upon the demise of the Muslim spouse, automatically through the joint tenancy system that is common among householders in Singapore.<sup>70</sup> In addition, Muslim spouses may draw a will to give 1/3 of the estate to non-Muslim spouses and invoke nominations such as CPF and insurance.

In joint tenancy, co-owners individually own the whole interest in the property, and there are no separate shares. The right of survivorship applies upon the demise of one of the owners. If one co-owner dies, the surviving tenant automatically owns the whole property. This is regardless of whether the deceased joint owner has left behind a will stating whom the property should go to after their death and whether or not they wish for the surviving joint tenant to inherit the property in the first place.<sup>71</sup> This is largely why there is no such dispute in courts concerning married couples who chose the joint tenancy system, as they will undoubtedly receive the property's assets as co-owners. Hence, even if the co-owner is a Muslim or a non-Muslim if it is stated there that they also have joint ownership of the property, they will receive the asset. Section 111(1) of AMLA permits a Muslim to make a Will to the non-Muslim spouse or family members to dispose of his or her assets upon death.

However, the Will must comply with the conditions of and is subject to the restrictions imposed by the school of Muslim law professed by him/her. Making a Will for non-Muslim members is another way to leave the assets to the non-Muslim family members. There is no prohibition under Muslim law against a Muslim making a Will in favour of a non-Muslim, subject, of course, to the rule on the object of the gift.<sup>72</sup> Further, fatwa decisions in 1992 and 2006 allow Muslims in Singapore

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<sup>69</sup> Tuan Khairul Hafiz bin Anuar, interview by author, April 30, 2024.

<sup>70</sup> Judith Djamour, *The Muslim Matrimonial Court in Singapore* (London: Routledge, 2021).

<sup>71</sup> "Muslim Inheritance Law in Singapore," *SingaporeLegalAdvice.com*, October 11, 2021, <https://singaporelegaladvice.com/law-articles/muslim-inheritance-law-in-singapore/>.

<sup>72</sup> Tuan Khairul Hafiz bin Anuar, interview.

to allocate one-third of their wealth through a will to family members who do not inherit from them or who are non-muslims.<sup>73</sup>

The object of the gift in the Will must be lawful under Muslim law. For example, a gift that is intended to benefit mankind generally or to strengthen family ties is highly encouraged. It follows that a Muslim is prohibited from making a Will whose object is inconsistent with or runs counter to the values and teachings of Islam.<sup>74</sup> One rule is that a Muslim cannot give away more than a third (1/3) of his/her assets in a Will. Two-thirds (2/3) of his/her assets must be reserved for his/her beneficiaries under *Farâid* or Muslim inheritance.

Non-Muslim family members can also receive the assets of a deceased Muslim if they have been nominated as a nominee to receive a certain amount from their Central Provident Fund (CPF) monies. CPF is a mandatory social security savings scheme funded by contributions from employers and employees in Singapore.<sup>75</sup> The nominated amount or amounts of the deceased's CPF monies will not be distributed to his/her heirs (*Waris*) under *Farâid* (Law 2020). The same applies to insurance policy benefits/payouts. If the deceased Muslim nominated a non-Muslim family member as a nominee to receive his/her insurance policy benefits/payouts upon his/her death, such nominees or nominees shall be entitled to receive the policy benefits/payouts. The insurance shall not be distributed under *Farâid*.

Based on the clear entitlement of the non-Muslim spouses or non-Muslim family members in an interfaith marriage, it can be inferred that there are only little or no adverse impacts on the distribution of assets, which thus contributes to the increased number of interfaith marriages in Singapore.<sup>76</sup>

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<sup>73</sup> Nazirudin Mohd Nasir, Izal Mustafa, Mohd Murat Md Aris, Fadhil Azman, and Nurul 'Ain Razali, *Fatwas of Singapore Volume 2: Inheritance and Estate Planning* (Singapore: Majlis Ugama Islam Singapura, 2024), p. 67.

<sup>74</sup> Law, Syariah. 2020. "Muslim Inheritance Law – Faraid." I.R.B. Law LLP. 2020. <https://irblaw.com.sg/learning-centre/muslim-inheritance-law-faraid/>

<sup>75</sup> "What Is the Central Provident Fund (CPF)," *Ministry of Manpower Singapore*, accessed July 28, 2023, <https://www.mom.gov.sg/employment-practices/central-provident-fund/what-is-cpf>.

<sup>76</sup> Rajafi, Ahmad, Arif Sugitanata, and Vinna Lusiana. "The 'Double-Faced' Legal Expression: Dynamics and Legal Loopholes in Interfaith Marriages in Indonesia." *Journal of Islamic Law*, 5.1 (2024): 19-43.

### 3. Child custody and maintenance upon divorce

In certain countries, jurisdictional conflict in interfaith child custody might occur. Conflictually, the parties are now subject to different courts applying different laws.<sup>77</sup> For example, in Malaysia, the cases of S. Deepa, M. Indira Gandhi and S. Shamala are among the high-profile cases involving interfaith custody that have attracted concerns from the public. In most cases, the problem becomes more complicated when the child is converted to Islam by the converted parent without the knowledge of the non-Muslim parent.<sup>78</sup> However, these cases do not happen in Singapore, as Civil Marriage is under Civil Law. Therefore, notwithstanding the child's religion, custody will be determined solely under the statutes and what is best for the children.<sup>79</sup>

Similarly, disputes relating to divorces, such as custody, child maintenance, and spousal maintenance during the civil marriage, fall under the jurisdiction of the Family Justice Courts and are governed by the Women's Charter, which applies to Muslims and non-Muslims alike.<sup>80</sup> Hence, there is no issue of jurisdictional conflict, which may also contribute to the increased number of interfaith marriages in Singapore.

## Conclusion

Interfaith marriage is legally recognized in Singapore due to the existing law, which allows civil marriage between a Muslim and a non-Muslim. This position is different from most Muslim countries, which prohibit such marriages. Hence, the law in Singapore not only allows Singaporean couples of different religions to solemnize their marriages but also allows foreigners to contract civil marriages.

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<sup>77</sup> Rahmawati, Erik Sabti, Erfaniah Zuhriah, Jamrud Qomaruz Zaman, Fina Al Mafaz, and Siti Aisyah Samudin. "Using Case Broker instead of Mediator in Tribunal Process: Case Study in Marriage Law." *PETITA*, 9 (2024): 742.

<sup>78</sup> Najibah Mohd Zin, Hidayati Mohamed Jani, Abdul Ghafur Hamid, and Nora Abdul Hak, 'Jurisdictional Conflict in Interfaith Child Custody Disputes: A Legal Discourse in Malaysian Courts', *Al-Shajarah: Journal of the International Institute of Islamic Thought and Civilization (ISTAC)*, 24.1 (2019): 3.

<sup>79</sup> Tolga Tezcan, 'Gender Gap in Religiosity and Interfaith Marriage Attitudes: Muslim Migrants in Germany', *International Journal of Intercultural Relations*, 102 (2024): 102040.

<sup>80</sup> Najibah Mohd Zin et al., "Jurisdictional Conflict", 20.

On the other hand, the Islamic position on interfaith marriages is clear. Such marriages are prohibited and are considered invalid as the marriages do not fulfil the conditions and requirements set by the religion. Hence, from the Islamic perspective, it does not fulfil the purposes of marriage in Islam, such as making one closer to Allah, protection from adultery and producing offspring for the Muslim community, despite the minimal adverse impacts of interfaith marriages.

The Fatwa Committee in Singapore has expressed its opinion on the prohibition of interfaith marriage and the invalidity of such marriages. However, the fatwas in Singapore are not legally binding. Hence, the national law acknowledging the validity of interfaith marriage overrides the Fatwa. This law is why the number of interfaith marriages is increasing in Singapore. In this regard, only with the reform of the Syariah law on interfaith marriages can the law accommodate the religious ruling on such marriages and protect marriages involving the Muslim community.

### **Author Contribution**

The first, second, and third authors (Mohd Norhusairi Mat Hussin, Nur Haleemah Binte Salihudin, and Siti Aisyah Samudin) conceived the presented idea and wrote the draft. The fourth and fifth authors (Risma Nur Arifah and Norazlina Abdul Aziz) developed the theory. The sixth author (Zunairah Malee) supervised the content and language. All authors discussed the results and contributed to the final manuscript.

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