

Legal Construction of Interfaith Marriage in Indonesia: Legal Reasoning and Multireligious Ratio Legis

Erfaniah Zuhriah ^a, Su'ud Fuadi ^b, Imam Sukadi, Jamrud Qomaruz
Zaman ^d, Siti Aisyah binti Samudin ^e

^a Faculty of Sharia, Universitas Islam Negeri Maulana Malik Ibrahim
Malang, Indonesia,

^b Faculty of Sharia, Universitas Islam Negeri Maulana Malik Ibrahim Malang,
Indonesia,

^c Faculty of Sharia, Universitas Islam Negeri Maulana Malik Ibrahim
Malang, Indonesia,

^d Faculty of Sharia, Universitas Islam Negeri Maulana Malik Ibrahim Malang,
Indonesia,

^e Faculty of Islamic Studies, University of Malaya, Malaysia

✉ Corresponding email: 250201310006@student.uin-malang.ac.id

Abstract

Supreme Court Circular Letter No. 2 of 2023, which prohibits interfaith marriage in Indonesia, continues to generate constitutional and legal debate.

Opposition is largely based on universal human rights arguments, while support emphasizes religious and moral values. This study examines the *ratio legis* of the prohibition within the framework of Indonesia's *Staatsfundamentalnorm*. Using normative legal research with statutory, philosophical, and case-based approaches, the study finds that both doctrinal-deductive and non-doctrinal (pragmatic)-inductive reasoning support the interpretation that the prohibition aims to protect the right to religious observance and implement the first principle of Pancasila as a constitutional value. At the same time, the regulation reflects an ongoing tension between the protection of religious values and the recognition of universal human rights in Indonesia's pluralistic legal system. The implementation of the prohibition is hindered by several legal lacunae, including regulatory disharmony, ambiguity regarding marriages conducted abroad, the use of legal circumvention strategies, and the persistence of unregistered (*siri*) marriages. To strengthen legal certainty and governance of diversity, this study proposes: (1) statutory regulation of interfaith marriage prohibitions that accommodates religious and cultural considerations; (2) harmonization of related regulations; (3) application of the nationality principle; (4) marriage annulment based on apostasy; and (5) prohibition of *siri* marriages accompanied by punitive sanctions. These measures are intended to enhance legal certainty, protect rights, and improve the management of diversity within Indonesia's multicultural legal system through stronger institutions and greater public legal awareness.

KEYWORDS *Interfaith marriage, ratio legis, legal reasoning, religion, culture.*

HOW TO CITE**Chicago Manual of Style (Footnote)**

Erfaniah Zuhriah, Su'ud Fuadi, Imam Sukadi, Jamrud Qomaruz Zaman, and Siti Aisyah binti Samudin, "Legal Construction of Interfaith Marriage in Indonesia: Legal Reasoning and Multireligious *Ratio Legis*," *Contemporary Issues on Interfaith Law and Society* 5, no. 1 (2026): 199-260, <https://doi.org/10.15294/ciils.v5i1.39979>

Chicago Manual of Style (Reference List)

Zuhriah, Erfaniah, Su'ud Fuadi, Imam Sukadi, Jamrud Qomaruz Zaman, and Siti Aisyah binti Samudin. "Legal Construction of Interfaith Marriage in Indonesia: Legal Reasoning and Multireligious *Ratio Legis*." *Contemporary Issues on Interfaith Law and Society* 5, no. 1 (2026): 199-260
<https://doi.org/10.15294/ciils.v5i1.39979>

Introduction

Interfaith marriage remains a persistent and contentious issue with no clear or definitive resolution to date.¹ Religious disparities between spouses frequently engender significant challenges within the domestic sphere, particularly

¹ Y. Sonafist and Henny Yuningsih note that the discourse on the prohibition of interfaith marriages on Indonesian social media is highly contentious, with proponents grounding their arguments in religious and positive law, while opponents prioritize human rights. They argue that this debate lacks a nuanced understanding of religious law, positive law, and human rights concepts, potentially fostering protracted conflict. See Y. Sonafist and Henny Yuningsih, "Islamic Law, the State, and Human Rights: The Contestation of Interfaith Marriage Discourse on Social Media in Indonesia," *Juris: Jurnal Ilmiah Syariah* 22, no. 2 (2023): 381–91, <https://doi.org/10.31958/juris.v22i2.10934>. Nor Salam et al. observe that the debate stems from two theoretical approaches: a theocentric approach (proponents) and an anthropocentric approach (opponents). See Nor Salam et al., "Interfaith Marriage from the Perspective of Rationality: Theocentrism in Islamic Law and Anthropocentrism in Human Rights Law," *De Jure: Jurnal Hukum Dan Syariah* 16, no. 1 (2024): 179–96, <https://doi.org/10.18860/j-fsh.v16i1.23989>. However, research suggests that the prohibition of interfaith marriage aligns with Indonesian sociological and cultural values, indicating that the prohibition also relies on an anthropocentric approach. See Dewi Zahra Setyawati et al., "Beneath The Same Sky, Different Faith: Why Is Interfaith Marriage Prohibited in Islam?," *Contemporary Issues on Interfaith Law and Society* 3, no. 2 (2024): 229–46, <https://doi.org/10.15294/ciils.v3i2.31404>; Iwan Setiawan et al., "Reforming Marriage Law in Indonesia: A Critical Examination of Islamic Law on the Ban of Interfaith Marriages," *Al-Manahij: Jurnal Kajian Hukum Islam* 18, no. 2 (2024): 179–97, <https://doi.org/10.24090/mnh.v18i2.11134>.

regarding the observance of religious rites, the religious education of children, dietary regulations, and customs associated with religious traditions.² However, these arguments have been increasingly challenged by a pluralistic global society, influenced by the currents of globalization and the ascendancy of human rights. Indonesian marriage law does not explicitly regulate interfaith marriages, thereby creating a legislative lacuna.³ Article 2(1) of Law No. 1 of 1974 concerning Marriage merely stipulates that a marriage is valid if it is solemnized according to the respective religions and beliefs of the parties, leaving the legality of interfaith marriages ambiguous.⁴ On the other hand, Articles 40 and 41 of the Compilation of Islamic Law (*Kompilasi Hukum Islam*—KHI) prohibit interfaith marriages; however, the legal status of the KHI within the hierarchy of legislation remains debated, and it exclusively applies to Muslims in Indonesia. The issue has become further complicated since the enactment of Law No. 23 of 2006 on Population Administration. Article 35(a) of the *Law a quo* states that marriage registration as referred to in Article 34 also applies to marriages determined by the court, with the elucidation of Article 35(a) explicitly defining "marriages determined by the court" as marriages between persons of different religions.

The provisions of Article 35(a) of the Population Administration Law and its elucidation fundamentally contradict Article 2(1) of the Marriage Law. This discrepancy is often exploited as a procedural loophole by prospective interfaith

² St. Halimang, "Sociological Study of Islamic Law on the Impact of Interfaith Marriage in Domestic Life (Study in Tirawuta District, East Kolaka District, Indonesia)," *SDG: Journal of Law and Sustainable Development* 11, no. 11 (2023): 1–16, <https://doi.org/10.55908/sdgs.v11i11.670>.

³ Dani Setiawan, "Inter-Religious Marriage: A Controversial Issue in Indonesia," *Contemporary Issues on Interfaith Law and Society* 1, no. 1 (2022): 23–38, <https://doi.org/10.15294/ciils.v1i1.31348>

⁴ Muhammad Faisal Hamdani et al., "The Legal and Human Rights Challenges of Interfaith Marriage in Indonesia," *SDG: Journal of Law and Sustainable Development* 11, no. 12 (2023): 1–15, <https://doi.org/10.55908/sdgs.v11i12.1020>.

couples to obtain legal recognition and validity through judicial decisions. This aligns with the provisions of Article 21(3) of the Marriage Law, which states that parties whose marriage registration is rejected have the right to petition the court in the relevant jurisdiction for a determination upon submitting a certificate of rejection.⁵ In addition, efforts to close this loophole for interfaith marriages have been undertaken by the Constitutional Court through Decision No. 68/PUU-XII/2014 and Decision No. 24/PUU-XX/2022, both of which steadfastly refused to provide a constitutional basis for such unions. However, the judicial review in both decisions was limited to Article 2(1) of the Marriage Law, omitting Article 35 of the Population Administration Law; consequently, in practice, applications for interfaith marriage registration in district courts persist.

The trajectory of interfaith marriage jurisprudence in Indonesia is notably reflected in Supreme Court Decision No. 1400K/PDT/1986, which authorized the applicant to solemnize an interfaith marriage by disregarding their religious status.⁶ This phenomenon has become increasingly prevalent, involving numerous prominent public figures, including Jamal Mirdad and Lidia Kandau, Titi Kamal and Kristian Sugiono, Marcel Siahaan and Rima Melati Adams, and Ari Sihasale and Nia Zulkarnain, among others.⁷ Recent instances include the granting of marriage registration permits via South Jakarta District Court Decision No. 508/Pdt.P/2022/PN JKT.SEL and Surabaya District Court Decision No. 916/Pdt.P/2022/PN SBY.

⁵ Allysa Novita Putri and Iffatin Nur, "Analyzing Court Decision on Interfaith Marriage: A Maqasid Sharia Perspective," *Ulul Albab: Jurnal Studi Dan Penelitian Hukum Islam* 6, no. 2 (2022): 27–38, <https://doi.org/10.30659/jua.v6i1.35268>.

⁶ Nofrizal et al., "Implications of Supreme Court Jurisprudence No.1400K/PDT/1986 on Marriage Different Religions," *Unram Law Review* 6, no. 1 (2022): 31–45, <https://doi.org/10.29303/ulrev.v6i1.205>.

⁷ Abdul Syatar et al., "Interfaith Marriage Phenomenon in Indonesia from the Perspective of Sadd Al-Zariah and Fath Al-Zari'ah," *Fitrah: Jurnal Kajian Ilmu-Ilmu Islam* 9, no. 1 (2023): 19–38, <https://doi.org/10.24952/fitrah.v9i1.6800>.

In response, the Supreme Court issued Circular Letter (SEMA) Number 2 of 2023, instructing judges to deny applications for the registration of marriages between persons of different religions and beliefs. While intended to establish legal certainty, the issuance of this SEMA has sparked significant polemics, particularly among pluralist and liberal scholars who contest its *ratio legis*. Allegations of human rights violations as the basis for opposing the prohibition of interfaith marriage have consistently been raised. In this study, the author seeks to examine these arguments through legal reasoning grounded in *Pancasila* as the nation's philosophical foundation, as well as an exploration of the nation's *Volkegeist* within Indonesian society.⁸ Recent instances include the granting of marriage registration permits via South Jakarta District Court Decision No. 508/Pdt.P/2022/PN JKT.SEL and Surabaya District Court Decision No. 916/Pdt.P/2022/PN SBY.

In response, the Supreme Court issued Circular Letter (SEMA) Number 2 of 2023, instructing judges to deny applications for the registration of marriages between persons of different religions and beliefs. While intended to establish legal certainty, the issuance of this SEMA has sparked significant polemics, particularly among pluralist and liberal scholars who contest its *ratio legis*. Allegations of human rights violations as the basis for opposing the prohibition

⁸ The influence of Carl von Savigny's thoughts on nationalism, integrated into a nation's legal history, provides validity and foundational value in describing the source of material law. Bernard Arief Sidharta and Shidarta assert that Indonesia cannot discard Savigny's school of legal history, as it represents a value system settled in Indonesian society for generations, which remains dynamic and serves as a check against the positivistic domination of statutory formalism. Bernard Arief Sidharta equates the "soul of the people" (*Volkegeist*) in Savigny's concept with the legal ideals of *Pancasila*. See Bernard Arief Sidharta, *Refleksi Tentang Struktur Ilmu Hukum: Sebuah Penelitian Tentang Fundasi Kefilsafatan Dan Sifat Keilmuan Ilmu Hukum Sebagai Landasan Pengembangan Ilmu Hukum Indonesia* (Bandung: Mandar Maju, 2009), 191; Bernard Arief Sidharta, *Ilmu Hukum Indonesia: Upaya Pengembangan Ilmu Hukum Sistematis Yang Responsif Terhadap Perubahan Masyarakat* (Yogyakarta: Genta Publishing, 2013), 159–60; Shidarta, *Hukum Penalaran Dan Penalaran Hukum* (Bantul: Genta Publishing, 2013), 401.

of interfaith marriage have consistently been raised. In this study, the author seeks to examine these arguments through legal reasoning grounded in *Pancasila* as the nation's philosophical foundation, as well as an exploration of the nation's *Volkgeist* within Indonesian society.

Method

This research adopts an empirical legal research design centered on investigating the legal reasoning underlying SEMA No. 2 of 2023 in relation to the *Volkgeist* of Indonesian society.⁹ This study employs a sociology of law approach to analyze the arguments presented by Indonesian religious leaders serving as key informants regarding the regulation of interfaith marriage, with the geographical scope limited to Malang Regency and Malang City.¹⁰ The research dataset comprises both primary and secondary data. Primary data were obtained through in-depth interviews with key informants, while secondary data were gathered from relevant literature, including academic books and scholarly journal articles.¹¹ Data collection techniques utilized in this research comprised in-depth interviews and extensive library research.¹² The data were analyzed using descriptive-analytical and evaluative methods.¹³ The descriptive-analytical

⁹ Salim H.S. and Erlies Septiana Nurbani, *Penerapan Teori Hukum Pada Penelitian Tesis Dan Disertasi* [Application of Legal Theory in Thesis and Dissertation Research] (Jakarta: Raja Grafindo Persada, 2013), 20.

¹⁰ Mukti N.D. Fajar and Yulianto Achmad, *Dualisme Penelitian Hukum Normatif Dan Empiris* [Dualism of Normative and Empirical Legal Research] (Yogyakarta: Pustaka Pelajar, 2010), 47.

¹¹ Abdulkadir Muhammad, *Hukum Dan Penelitian Hukum* [Law and Legal Research] (Bandung: Citra Aditya Bakti, 2004), 86–87.

¹² Muhaimin, *Metode Penelitian Hukum* [Legal Research Methods] (Mataram: Mataram University Press, 2020), 95.

¹³ Dede Indraswara, "Rekonstruksi Metodologis Hukum: Diversifikasi dan Integrasi Penelitian Hukum Normatif (Doktrinal), Empiris (Non-Doktrinal), dan Studi Sosio-Legal (Legal Methodological Reconstruction: Diversification and Integration of Normative (Doctrinal),

method was employed to systematically and objectively describe the data, followed by a rigorous analysis of the meanings, patterns, and legal constructions embedded therein. Meanwhile, the evaluative method was utilized to assess the level of societal acceptance regarding legal norms concerning interfaith marriage and to identify legal loopholes manifesting within social praxis, which serve as the foundation for formulating a model of legal development.¹⁴

Result & Discussion

A. Religious Marriage in Indonesia: Exploring the Philosophical Foundations

Although Indonesia is not a religious country that places religious law as the law governing all state life. However, Indonesia highly upholds religious and customary values which are then wrapped in formal positive law, especially the type of non-neutral law. This is because the majority of the Indonesian population is a conservative religious society so the purity of religious teachings is still strongly held in navigating life activities.¹⁵ the ambiguous prohibition of

Empirical (Non-Doctrinal), and Socio-Legal Research)," *IPMHI Law Journal* 5, no. 2 (2025): 205–246, <https://doi.org/10.15294/ipmhi.v5i2.41599>

¹⁴ Fajar and Achmad, *Dualisme Penelitian Hukum Normatif Dan Empiris* [Dualism of Normative and Empirical Legal Research], 47.

¹⁵ Ija Suntana et al., "Ideological Distrust: Re-Understanding the Debate on State Ideology, Normalization of State Religionship, and Legal System in Indonesia," *Heliyon* 9, no. 1 (2023): 1–13, <https://doi.org/10.1016/j.heliyon.2023.e14676>. Therefore, it is natural that the legal reasoning model of the Constitutional Court in several decisions with non-neutral legal objects always limits human rights to the conformity of religious teachings in Indonesia. Some of these decisions include Decision No. 46/PUU-VIII/2010, Decision No. 68/PUU-XII/2014, and Decision No. 69/PUU-XIII/2015. In other words, the Constitutional Court has interpreted Article 29 paragraph (1) of the 1945 Constitution as the supremacy of religion over matters closely related to non-neutral law. See Ahmad Rofii, "The Religiosity of the Indonesian Constitution: Article 29 (1) and Its Interpretation," *Constitutional Review* 7, no. 2 (2021): 203–40, <https://doi.org/10.31078/consrev722>.

interfaith marriage remains a contentious issue, as it is inextricably linked to the validity of religious teachings and beliefs in Indonesia.¹⁶ Currently, the legality of interfaith marriage remains fraught with legal uncertainty following the issuance of Supreme Court Circular Letter (SEMA) No. 2 of 2023, despite public demand for legal harmonization and more binding legislative regulation.¹⁷ The prohibition in the SEMA does not emerge *ex nihilo* as a baseless policy; rather, it is rooted in prevalent religious values and customs that serve as the ideals of the law. This contrasts with pluralist or liberal perspectives, which prioritize an open, rational, and tolerant approach—often positing that there is essentially no distinction between neutral and non-neutral laws. Consequently, proponents of this liberal perspective argue that the validity of positive law should be measured by universal human rights, rather than religious value.¹⁸

¹⁶ Although the Constitutional Court has issued Decision No. 68/PUU-XII/2014 and Decision No. 24/PUU-XX/2022, both of which expressly reject the judicial review of interfaith marriages. However, the Constitutional Court's decision has no force in concrete matters because it has not been followed up by a law made by the legislator so until now it is still grey. See Muwahid and Moh. Bagus, "Measuring the Executorial Power of the Constitutional Court of the Republic Indonesia Decisions," *Al-Daulah: Jurnal Hukum Dan Perundangan Islam* 13, no. 2 (2023): 230–47, <https://doi.org/10.15642/ad.2023.13.2.230-247>.

¹⁷ Dian Septiandani et al., "Legal Reconstruction of Regulations Marriage Different Religions in Indonesia," *Pena Justisia: Media Komunikasi Dan Kajian Hukum* 22, no. 1 (2024): 1711–18, <https://doi.org/10.31941/pj.v23i3.5107>.

¹⁸ The interfaith marriage movement against religious teachings is one of the impacts of the rise of liberalism, capitalism and rationalism in Europe, especially during the Renaissance to revolutionary industrialization in the 18th-19th century. Religious teachings under the absolutism of the church were seen as an obstacle to human freedom of thought and will in various matters. According to John Calvin (a revolutionary figure of church absolutism in the 16th century), the so-called natural law is not a law that describes God's plan for this world, but a sense of justice created by God in every human being. From then on, rational epistemology began to develop to counter religious teachings that curbed human freedom. Human freedom, which was later conceptualized as human rights, was then upheld as valid when formalism began to grow in the 18th-19th century. See F.X. Adji Samekto, *Studi Hukum Kritis: Kritik Terhadap Hukum Modern* (Bandung: Penerbit PT. Citra Aditya Bakti, 2005), 19.

One argument frequently cited by prospective interfaith couples who reject the prohibition is that it fails to foster religious moderation.¹⁹ This argument, however, constitutes a misconception. Religious moderation is not defined by the validation of beliefs that conflict with one's own religious prohibitions; rather, it is an attitude, perspective, and practice within communal life that manifests the religious values embraced by each individual.²⁰ In this regard, SEMA No. 2 of 2023 does not inhibit religious moderation; instead, it preserves the autonomy of adherents to solemnize marriages according to their respective teachings. The Supreme Court acknowledges the reality that religious adherents in Indonesia generally prohibit interfaith marriages. Thus, the SEMA does not establish novel norms that restrict individual rights, but rather provides legal certainty consistent with the "living law" of the community. In other words, the Supreme Court utilized non-doctrinal, inductive reasoning in formulating this policy.²¹

Prior to the issuance of SEMA No. 2 of 2023, the Supreme Court and lower courts frequently received applications for the registration of interfaith marriages, often sparking public polemics upon ratification by judges. As a

¹⁹ Edi Gunawan, Reza Adiputra Tois, and Budi Rahmat Hakim, "Implications of the Law of Religious Moderation on Interfaith Marriages," *Jurnal Ilmiah Al-Syir'ah* 21, no. 2 (2023): 283–96, <https://doi.org/10.30984/jis.v21i2.2649>.

²⁰ Benny Aswadzi and Miski, "Religious Moderation in Indonesian Higher Educations: Literature Review," *Ulul Albab* 22, no. 2 (2021): 203–31, <https://doi.org/10.18860/ua.v22i2.13446>.

²¹ It can be said that the Supreme Court and the Constitutional Court are very consistent with the non-doctrinal inductive legal reasoning model in understanding the prohibition of interfaith marriages. Although there are interfaith marriages that are legalized by the courts of first instance, when they reach the Supreme Court, they will always be rejected. This pragmatic/empirical aspect of society is always the main source of judges in exploring the law. When the legislator is very slow in constructing the law, the Indonesian judiciary is present to fill the legal vacuum and uncertainty. It appears that the Pragmatical Legal Realism school of thought has always been influential in judicial activities in Indonesia. See Mirza Satria Buana, "Legal Political Paradigm of Indonesian Constitutional Court: Defending a Principle Instrumentalist Court," *Constitutional Review* 6, no. 1 (2020): 36–66, <https://doi.org/10.31078/consrev612>.

religiously conservative society, Indonesia cannot passively accept practices that contradict its teachings, particularly within the family unit, which serves as the foundational pillar of society.²² Therefore, the SEMA prohibiting interfaith marriage is viewed as a formalistic manifestation of historical social phenomena. This aligns with Friedrich Carl von Savigny's assertion that law is inherently relativistic, contingent upon the social behaviors and values upheld by society (*Volksgeist*). Savigny further argues that the interests of specific groups cannot be conflated with the *Volksgeist* of society as a whole, as doing so would invite disorder and chaos. George F. Puchta similarly posits that the *Volksgeist* provides the validity necessary for positive law to gain social recognition.²³ Thus, the absence of the SEMA would likely exacerbate legal uncertainty, leading judges to legalize interfaith marriages through subjective interpretations and inciting perpetual social polemics. Furthermore, such judicial discretion risks encouraging illicit transactional practices within the courtroom.²⁴

On the other hand, pluralists and liberals contend that the government's prohibition of interfaith marriage violates human rights and constitutes a

²² Bani Syarif Maula and Ilyya Muhsin's research also found the assumption that most Indonesians, including law enforcers, support the prohibition of interfaith marriages because it is contrary to religion. See Bani Syarif Maula and Ilyya Muhsin, "Interfaith Marriage and the Religion State Relationship: Debates between Human Rights Basis and Religious Precept," *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam* 8, no. 2 (2024): 791–820, <https://doi.org/10.22373/sjhk.v8i2.19479>.

²³ Achmad Ali, *Menguak Teori Hukum (Legal Theory) Dan Teori Peradilan (Judicialprudence): Termasuk Interpretasi Undang-Undang (Legislature)* (Jakarta: Prenadamedia Group, 2009), 82-83.

²⁴ According to Charles Sampford, positive law that has fulfilled legal certainty in practice often experiences legal uncertainty (chaos) in its enforcement. According to him, this is due to the relationship between power, interests, and legal culture which essentially determines whether or not law enforcement is realized in society. Therefore, the existence of positive law that has fulfilled legal certainty still occurs chaos, how it will not happen without positive law such as interfaith marriage before the existence of SEMA Number 2 Year 2023. Although Sampford views a little nil on law enforcement, he does not deny the importance of positive law because there are still some people who because of their legal awareness feel justice, benefit, or fear from it. See Charles Sampford, *The Disorder of Law: A Critique of Legal Theory* (New York: Basil Blackwell, 1989), 103-105.

political instrument disguised as religion. They argue that this prohibition infringes upon Articles 28E and 29(1) and (2) of the 1945 Constitution, Article 10(2) of Law No. 39/1999 on Human Rights, and Article 16 of the Universal Declaration of Human Rights.²⁵ Based on this premise, they argue for the freedom to determine one's partner without limitations imposed by religious differences, which they perceive as discriminatory. Consequently, they advocate for the Population Administration Law to serve as the legal basis for interfaith marriage, unfettered by the SEMA, which they believe restricts judicial independence. They argue that Indonesia must reconsider the construction of interfaith marriage as a human right protected by robust legislation that ensures legal certainty.²⁶ Nonetheless, such opinions often rely on subjective interpretations of human rights. It must be emphasized that the interpretation of human rights principles varies by nation, contingent upon the moral and cultural context that constitutes the *Volksgeist*. Human rights principles adopted from Western traditions—often characterized by liberalization, secularization, and capitalization—cannot be abstractly imposed upon nations that uphold distinct religious, customary, and social values. Applying human rights frameworks from

²⁵ See the norms used as the basis for testing in the petitioner's petition in Decision No. 68/PUU-XII/2014 and Decision No. 24/PUU-XX/2022. See also the efforts of the Indonesian Conference on Religion and Peace (ICRP) Jakarta in countering the negative stigma of the prohibition of interfaith marriage based on of human rights protection. See Danu Aris Setiyanto, Sekar Ayu Aryani, and Sri Wahyuni, "ICRP Jakarta and Interfaith Marriage Assistance in Indonesia: Civil Rights, Legal Interpretation, and Advocacy for Interfaith Couples," *Journal of Islamic Law* 5, no. 2 (2024): 170–96, <https://doi.org/10.24260/jil.v5i2.2796>.

²⁶ Noer Yasin, Musataklima, and Ahmad Wahidi, "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," *Jurnal Penelitian Hukum De Jure* 23, no. 4 (2023): 389–402, <https://doi.org/10.30641/dejure.2023.V23.389-402>. 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, no. 1 (2024): 137–78, <https://doi.org/10.15294/jllr.vol5i1.2101>.

external contexts to regions with unique religious or customary moralities may result in the violation of local rights.

Although Indonesia is a state of law that upholds individual rights, these rights are not absolute and must be balanced against other societal imperatives. Individual rights are abstractly guaranteed by *Pancasila*, the primary source of law and the philosophical foundation of the Indonesian legal system. The five precepts of *Pancasila* function not horizontally, but vertically and hierarchically; the first precept is paramount, yet all precepts are complementary.²⁷ Utilizing a doctrinal-deductive legal reasoning model, it is evident that the first precept—recognizing the nature of God, adherence to religious teachings, and tolerance among religious communities—is the supreme value upheld by Indonesian society. Therefore, the issue of interfaith marriage must align with the validity mandated by the teachings of each religion, rather than being set aside on grounds of individual freedom akin to Western secularism.

Furthermore, Indonesian culture generally views interfaith marriage with disapproval, as it is considered a factor that engenders domestic disharmony. Indonesian society acknowledges a hierarchical relationship within the household between husband, wife, and children. In this structure, the husband, as the head of the household, is required to guide, cherish, and provide protection to his dependents. Conversely, the wife and children respond to this protection with obedience, as a reciprocal expression of domestic stability.²⁸ This contrasts

²⁷ Mahrus Ali et al., “Protecting the Religious Belief: A Study on the Blasphemy Laws Across Jurisdictions and Religions,” *Contemporary Issues on Interfaith Law and Society* 4, no. 1 (2025): 45–86, <https://doi.org/10.15294/ciilc.v4i1.25521>. Sinung Mufti Hangabei et al., “The Ideology of Law: Embodying the Religiosity of Pancasila in Indonesia Legal Concepts,” *Law Reform* 17, no. 1 (2021): 77–94, <https://doi.org/10.14710/lr.v17i1.37554>.

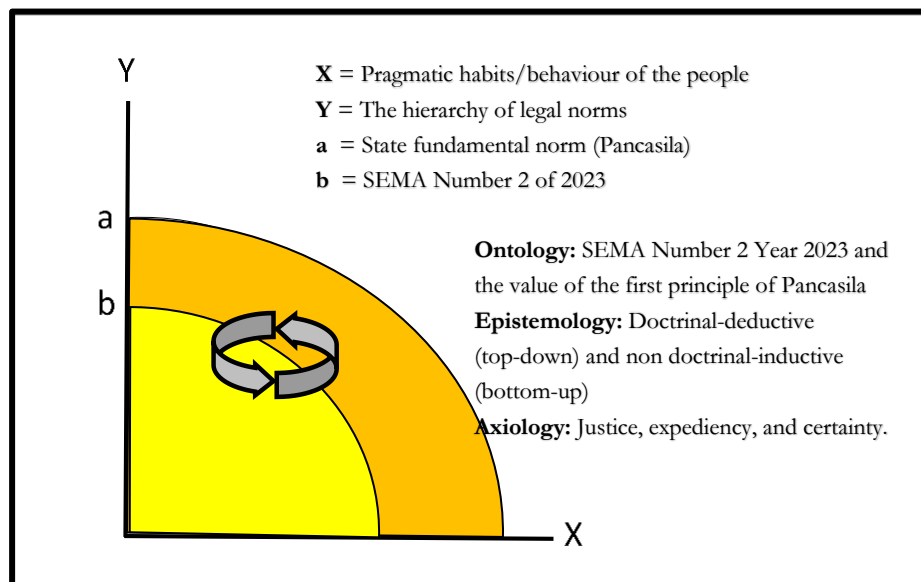
²⁸ Siti Mas’udah, “Power Relations of Husbands and Wives Experiencing Domestic Violence in Dual Career Families in Indonesia,” *Millennial Asia* 14, no. 1 (2021): 1–23, <https://doi.org/10.1177/09763996211039730>. Marko S. Hermawan and Mark K. Loo, “The

with Western concepts of household relations, which prioritize gender equality—including the autonomy of partners' beliefs. Western society often views the integrity of the household as predicated solely on mutual love in a horizontal relationship.²⁹ Given this rooted cultural hierarchy, equality of faith among household members is critical, as it involves the husband's obligation to provide spiritual guidance. Moreover, Indonesian culture posits that the realization of domestic happiness is achieved through the family members' obedience to God.³⁰

From the analysis, the differences in legal reasoning models between the prohibition of interfaith marriage in the Indonesian context and the cons that reject interfaith marriage are shown in the following demonstration:

Figure 1

Reasoning Model of Pro-Ban Parties on the Law of Interfaith Marriage



Source: Research data analysis, 2025

Construction of Kekeluargaan as an Indonesia's Organizational Culture," *Humaniora* 31, no. 1 (2019): 1–14, <https://doi.org/10.22146/jh.42851>.

²⁹ Mariz Tadros, "Religious Equality and Freedom of Religion or Belief: International Development's Blinspot," *The Review of Faith and International Affairs* 20, no. 2 (2022): 96–108, <https://doi.org/10.1080/15570274.2022.2065810>.

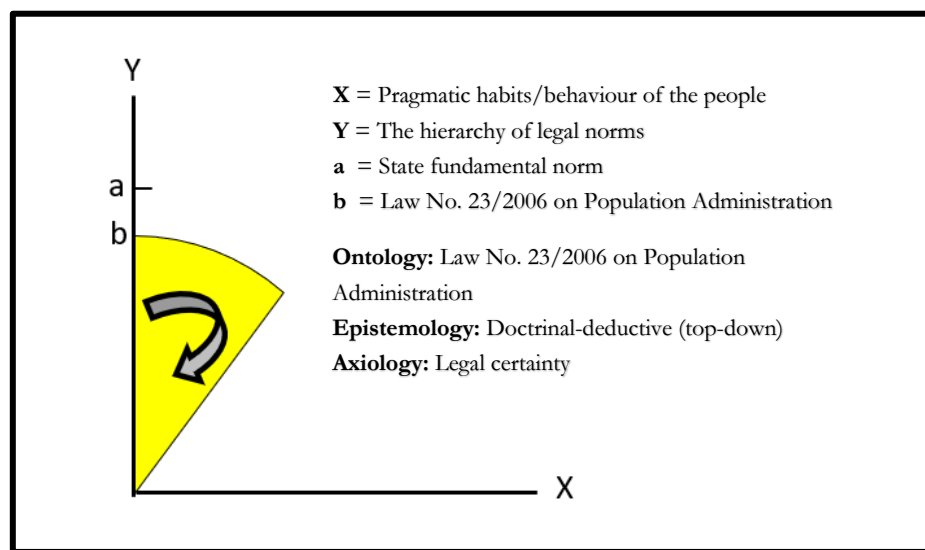
³⁰ See Article 1 paragraph (1) of Law Number 1 of 1974 concerning Marriage.

The illustration demonstrates that the Y-axis represents the hierarchy of norms that determine legal validity within a country. In Indonesia, *Pancasila*, as enshrined in the 1945 Constitution of the Republic of Indonesia, serves as the fundamental state norm (*Staatsfundamentalnorm*), exerting vertical influence throughout the legal system. Consequently, the first precept regarding religious observance is the supreme principle, influencing all subsequent precepts. Although *Pancasila* is often relegated to the philosophical and abstract realm, it remains the essential "soul" of the state, consistently serving as the foundational consideration for all statutes and regulations. Adopting a doctrinal-deductive (top-down) legal reasoning model, the prohibition of interfaith marriages in SEMA No. 2 of 2023³¹ (letter b) safeguards the right of citizens to practice their respective religious teachings, thereby operationalizing the first principle of *Pancasila* symbolized in item a. This alignment exists because Indonesian society remains predominantly conservative, consistently maintaining the purity of religious and cultural tenets in prohibiting interfaith marriages. This societal reality represents the X-axis, serving as the basis for bottom-up validity, ensuring that regulations are upheld and reflective of communal aspirations. By fulfilling both formal validity (based on the first principle of *Pancasila*) and pragmatic

³¹ Although not classified within the formal hierarchy of legislation under Article 7 of Law No. 12 of 2011, the Court's function has expanded beyond mere application—as a conduit of the law—in the face of legal uncertainty, particularly as the Population Administration Law provides an indirect mechanism for the legalization of interfaith marriages. In this context, the Court must pursue a "bright path" (*penemuan hukum*) through a simultaneous reasoning pattern—specifically employing hermeneutic and critical-constructive approaches—to function as both a problematic-casuistic law-finder and an evaluator of positive legal norms that are ambiguous or fail to reflect the Indonesian sense of justice. This reasoning process involves a dialectical movement between rules and facts, characteristic of a hermeneutic circle. Consequently, the alignment of SEMA No. 2 of 2023 with the substance of Law is justifiable, given the similarity in reasoning—manifested through academic research—and its functional role in resolving legal instability in Indonesia. See Shidarta, *Hukum Penalaran dan Penalaran Hukum* [Law, Reasoning, and Legal Reasoning] (Bantul: Genta Publishing, 2013), 410

validity (based on societal acceptance), SEMA No. 2 of 2023 is appropriate, effectively satisfying the requirements of justice, utility, and legal certainty for the majority of the Indonesian population..

Figure 2
Reasoning Model of the Contra Party to the Legal Prohibition of
Interfaith Marriage



Source: Research data analysis, 2025.

This reasoning model stands in contrast to the framework adopted by proponents of interfaith marriage, as illustrated in the preceding analysis. The demonstration reveals that reliance on Article 35(b) of Law No. 23 of 2006 concerning Population Administration prioritizes statutory and human rights dimensions while failing to adequately integrate the sociological realities of Indonesian society (X-axis) and the foundational values of *Pancasila* as the *Staatsfundamentalnorm* (item a). From this perspective, advocacy for the legalization of interfaith marriage remains in tension with the religious values, cultural traditions, and familial structures that continue to inform a significant portion of Indonesian society. Furthermore, this line of reasoning diverges from

the hierarchical relationship model and the integrated understanding of *Pancasila's* principles established within Indonesia's constitutional framework. While the emphasis on universal human rights often prioritizes individual marital autonomy, the Indonesian legal context concurrently seeks to reconcile this with the collective religious values and social characteristics embedded in society. Consequently, the legal reasoning employed by proponents of legalization is characterized as predominantly doctrinal-deductive, as it elevates normative human rights standards while allocating insufficient weight to the Indonesian socio-cultural and religious context. Accordingly, this approach appears to focus narrowly on achieving legal certainty regarding the recognition of interfaith marriage, failing to balance such certainty against broader considerations of social utility and cultural legitimacy. Therefore, from this perspective, the proposed legal framework may encounter significant challenges in achieving both formal and pragmatic validity within the Indonesian legal order.

B. Ratio Legis of Prohibition of Interfaith Marriage in Indonesia

As previously noted, interfaith marriage in Indonesia represents a polemic situated within the domain of non-neutral law. Consequently, the prohibition stipulated in SEMA No. 2 of 2023 cannot be decoupled from the religious tenets that inform it. An examination of the perspectives within the six official religions in Indonesia reveals the following *ratio legis* regarding the prohibition of interfaith marriage:

1. Islam

According to Islamic teachings, the legal status of interfaith marriage remains unclear. Generally, the most debated issue among Muslims globally is the marriage between Muslim men and women of the People of the Book (*Ahl al-Kitāb*). First, the marriage between Muslim men and polytheistic women—and vice versa—is *harām* (forbidden) based on Surah Al-Baqarah verse 221 and Surah Al-Mumtahanah verse 10. This opinion is now the most widely held by Muslims in various *fatwas*. Secondly, it is permissible for a Muslim man to marry a woman from the People of the Book (Jews and Christians) based on Surah Al-Mā'idah verse 5. However, in practice, many scholars propose restrictions on this opinion, requiring that the couple commit to the teachings of their respective religions, maintain their honor, and keep the family within an Islamic environment.³²

Ibn Abbas also imposed the condition that the *Ahl al-Kitāb* eligible for marriage must be a Jew or Christian who is a *dhimmī* and willing to pay *jizyah*.³³ Meanwhile, Abdullah bin Umar argued that marrying *Ahl al-Kitāb* (Jews and Christians) is forbidden because it is tantamount to believing that Isa and Uzair are the children of God.³⁴ Ibn Umar's opinion was eventually opposed by many pluralist/liberal Islamic thinkers, who argued that the Prophet Muhammad himself, when he was alive, knew that the Jews and Christians had hidden the truth and committed irregularities.³⁵ Sayyid Sabiq argues that marriage with the

³² Misbahul Huda and Rahmat Dwi Putranto, "Interfaith Marriage in the Human Rights Perspective and the Compilation of Islamic Law," *Pena Justisia: Media Komunikasi Dan Kajian Hukum* 21, no. 1 (2022): 1–8, <https://doi.org/10.31941/pj.v21i1.4226>.

³³ Muhammad Fakhruddīn Ar-Rāzī, *Tafsīr Mafātih Al-Ghaib* (Beirut: Dār al-Fikr, 1995), 117.

³⁴ Ar-Rāzī, *Tafsīr Mafātih Al-Ghaib*, 116.

³⁵ Asy'ari and Triansyah Fisa, "Interfaith Marriage in Perspectives of Classical and Modern Scholars," *Al-Manahij: Jurnal Kajian Hukum Islam* 16, no. 2 (2022): 287–300, <https://doi.org/10.24090/mnh.v16i2.6772>.

People of the Book is allowed because it is a means of getting to know each other between religious communities and a means of inviting the wife to convert to Islam. However, he imposed a limitation that it should not be done for unclear reasons and becomes *makrūh* (disliked) if the husband wavers in his faith.³⁶

Pluralist/liberal Islamic thinkers, such as Muhammad Arkoun, Muhammad Rashid Ridha, and Nurcholis Madjid, using social science and etymological approaches, define the People of the Book as people who are enlightened by the knowledge of a Book. Therefore, they argue that the phrase “*wa lā tankihū al-musyrikāt*” should be extended to any individual who is enlightened by the knowledge of a particular book, not just limited to Jews and Christians. According to them, people of other religions who have holy books—such as Hinduism, Buddhism, Confucianism, and Zoroastrianism—can be categorized as People of the Book, so that Muslim men are allowed to marry them.³⁷ In addition, M. Quraish Shihab argues that those included in the *Ahl al-Kitāb* are Jews and Christians without being limited by time or descent. Even so, he provides restrictions when a Muslim travels far outside a non-Muslim majority country to preach and perform *jihād* without returning to their original residence.³⁸ Meanwhile, Abdul Hamid Hakim argues that idolaters in China, Japan, India, and others can be called People of the Book because of their monotheistic teachings, which parallel Islam and the teachings of the previous Prophet.³⁹

³⁶ Sayyid Sābiq, *Fiqh Al-Sunnah Juz III* (Kairo: Maktabah Dār al-Turās, 1970), 336.

³⁷ Mohammed Arkoun, “The Notion of Revelation: From Ahl Al-Kitāb to the Societies of the Book,” in *Die Welt Des Islams* (Leiden: Brill, 1988), 62–89. Muhamamad Rasyīd Ridhā, *Tafsīr Al-Qur’ān Al-Hakīm Al-Musammā Bi Tafsīr Al-Manār* (Kairo: al-hay’ah al-’Ammah li al-Kitāb, 1972), 156. Nurcholish Madjid, *Mencari Akar-Akar Islam Bagi Pluralisme Modern: Pengalaman Indonesia* (Bandung: Mizan, 1999), 110.

³⁸ Muhammad Quraish Shihab, *Tafsīr Al-Misbah: Pesan, Kesan, Dan Keserasian Al-Qur’an Volume 3* (Jakarta: Lentera Hati, 2015), 29.

³⁹ Abdul Hamīd Hakīm, *Al-Mu’īn Al-Mubīn* (Bukit Tinggi: Nusantara, 1959), 50.

In addition, in building arguments about the permissibility of marrying the People of the Book, Muhammad Arkoun, using a contextual approach or “*situation de discours*,” argues that the revelation of the verse on the prohibition of interfaith marriage cannot be separated from the situation at that time, when there was tension between the Muslims and the Quraysh polytheists. At that time, Abu Marsad was sent by the Prophet Muhammad to evacuate some of the Muslims who were still trapped in Mecca during the *hijrah*. However, after returning to Medina, Abu Marsad conveyed his desire to the Prophet Muhammad that he wanted to marry a pagan Quraysh woman. Therefore, in a very precarious situation, it is natural that the ban was enforced. Through this socio-historical context, Arkoun concludes that in the current situation, which is full of peace between religious communities (especially Jews and Christians), interfaith marriages can be allowed. Interfaith marriage is also considered a medium of tolerance that can strengthen brotherhood and mutual understanding between religious communities.⁴⁰

In the Indonesian context, interfaith marriage is a crucial issue for Muslims. Generally, Indonesian Muslims prohibit interfaith marriages, either based on the principle of *maslahah* (benefit) and avoidance of mischief (*mafsadah*) or the assumption that the People of the Book no longer exist today because they have deviated from the pure teachings of the Torah and Gospel. The Indonesian Ulema Council (MUI), through MUI Fatwa No. 4 of 2005 on Interfaith Marriage, decided that interfaith marriages are *harām* and invalid, including marriages with women of the People of the Book. The considerations for the prohibition of interfaith marriage in the *fatwa* are the obligation for

⁴⁰ Arkoun, *The Notion of Revelation: From Ahl Kitab to the Societies of the Book*, 62-89. Lihat pula Suhadi, *Kawin Lintas Agama Perspektif Kritik Nalar Islam* (Yogyakarta: LKIS, 2006), 29.

Muslims to protect themselves and their families from hellfire (Q.S. Al-Tahrīm verse 6), the prohibition of marriage with polytheist women (Q.S. Al-Mā'idah verse 5), the necessity to cling to women who embrace Islam (Shahīh Bukhārī No. 4700 and Shahīh Muslim No. 2661), and the potential to cause misery in domestic life.⁴¹

Meanwhile, Muhammadiyah, through the 22nd *Tarjih Mukhtamar* in 1989 in Malang, stated that interfaith marriages with Buddhists, Hindus, and others are prohibited, while the law regarding Muslim men marrying women of the People of the Book remains an area of *ijtihādi*. However, applying the *sadd adz-dzari'ah* approach (preventing damage) to safeguard the faith of prospective husbands and children from apostasy, interfaith marriages with the People of the Book (Jews and Christians) are prohibited.⁴² Similarly, NU, through the Decrees of the 1962 and 1989 NU *Mukhtamar* and the 1968 Decision of the *Mu'tabarah Mukhtamar*, citing the book *Hasyiyah as-Syarqawi* by Sheikh Abdullah bin Hijazi bin Ibrahim as-Syarqawi, states that interfaith marriage is prohibited, including with the People of the Book. According to the Decree, the People of the Book are those who adhered to the Torah and Gospel since their ancestors, without anyone believing in them and not converting from one religion to another. By adhering to the book *al-Muhadzdzab* by Sheikh Abu Ishaq al-Shirazi, it is stated that today there are no People of the Book who purely adhere to the Torah and Gospel because they have changed; thus, marriage with Jews and Christians is currently prohibited.⁴³

⁴¹MUI Fatwa No. 4 of 2005 concerning Religious Marriage.

⁴² 22nd Mukhtamar Tarjih 1989 in Malang.

⁴³ Decision of the 1962 NU Mukhtamar, Decision of the 1989 NU Mukhtamar, and Decision of the 1968 Mu'tabarah Mukhtamar.

These three Islamic organizations are prominent religious entities that significantly influence Muslim society in Indonesia; consequently, the *ijtihad* decisions they produce are often upheld and practiced in everyday life, despite lacking the binding force of positive law. In addition, this influence is closely related to Indonesian socio-cultural traditions, particularly the hierarchical structure of family relations and the concept of family harmony based on religious obedience, as discussed in the previous sub-chapter. To illustrate this tendency, the study employed purposive sampling as a limited case study involving informants in Malang Regency and Malang City, consisting of 20 NU-affiliated individuals (including both non-organizational followers of NU traditions and members of organizations such as IPNU, IPPNU, Ansor, Muslimat, and PMII), 20 Muhammadiyah-affiliated individuals (including members of Aisyiyah, Muhammadiyah Youth, IMM, and IPM), and 20 Abangan Muslims.⁴⁴

⁴⁴ Abangan Muslims are Javanese Muslims who incline toward local customs over the formalistic purification of *Sharia*. They are generally less devout than *Santri* but recognize the basic Islamic creed. See Amanah Nurish, "When Abangan Embraces Sufism: Religious Phenomenology to Counter Radicalism in Contemporary Java," *Teosofi: Jurnal Tasawuf Dan Pemikiran Islam* [Teosofi: Journal of Sufism and Islamic Thought] 11, no. 1 (2021): 20–45, <https://doi.org/10.15642/teosofi.2021.11.1.20-45>

Table 1

Opinions of 20 NU members, Muhammadiyah members, and Abangan muslims in Malang Regency and Malang City⁴⁵

No	Islamic Organizations	Opinion
1	Nahdlatul Ulama	a. 12 respondents stated that as members of NU, they should adhere to the fatwa/ijtihād issued by the organization. b. 7 respondents expressed concern regarding the potential for disharmonious relationships and lack of happiness due to the absence of mutual obedience to Allah if they solely relied on organizational fatwa. c. 3 respondents expressed concern that household disharmony would arise due to a lack of mutual obedience to God.
2	Muhammadiyah	a. 16 respondents stated that as members of Muhammadiyah, they should adhere to the fatwa/ijtihād issued by the organization. b. 4 respondents expressed concern regarding the potential for household

⁴⁵ Sampling used purposive techniques to examine the relationship between organizational adherence (NU, Muhammadiyah, Abangan) and cultural tradition. Data based on interviews with 60 informants (20 NU, 20 Muhammadiyah, 20 Abangan) in Malang Regency and Malang City, 2025.

		disharmony due to a lack of mutual obedience to Allah.
3	<i>Abangan</i> Muslims	20 respondents argued that religious disparities preclude the principle of unity within vertical relationships, thereby leading to household disharmony.

Source: Research data analysis, 2025.

The findings from this limited sample indicate that the majority of informants rejected interfaith marriage in Indonesia based on diverse religious, cultural, and social grounds. However, these findings should not be interpreted as statistically representative of the entirety of Indonesian society; rather, they reflect specific religious tendencies and socio-cultural perspectives within the selected research setting. Within this context, the issuance of Supreme Court Circular Letter (SEMA) No. 2 of 2023 may be understood as providing greater legal certainty regarding the prohibition of interfaith marriage for segments of Indonesian society that emphasize religious and cultural considerations, although debates concerning human rights and legal pluralism persist. Furthermore, the findings suggest that socio-cultural traditions continue to influence legal and religious perspectives, even among individuals affiliated with major Islamic organizations. As previously discussed, family relations in Indonesian society generally continue to reflect hierarchical patterns in which the husband is viewed as the family leader and role model, while marriage itself is oriented toward achieving religiously grounded family harmony.

2. Catholic Christianity

According to Catholic teaching, interfaith marriage is prohibited because marriage is viewed not merely as a romantic relationship between two people, but

as a holy sacrament between two baptized individuals, intended to achieve unity of faith in Christ. The absence of a shared faith may pose obstacles to the fundamental goal of marriage, which is to form a happy, eternal, and prosperous family blessed by Christ. However, the Church provides a canonical mechanism for such unions, requiring special permission (dispensation) from ecclesiastical authorities (typically the local bishop). This is governed by Canon 1086 §2, which states: "No dispensation shall be granted from this hindrance (interfaith) unless the conditions mentioned in Canons 1125 and 1126 have been fulfilled".

The conditions mentioned in Canons 1125 and 1126 are as follows: First, Canon 85 confirms that only laws of an ecclesiastical nature authorize such dispensations. Second, Catholic parties must approach their parish priest to seek dispensation for an interfaith marriage with a humble attitude. Third, church authorities—such as diocesan bishops, apostolic administrators, diocesan administrators, episcopal vicars, or vicars general—grant dispensations for interfaith marriages upon logically acceptable grounds.⁴⁶

Furthermore, other requirements must be fulfilled: first, there must be a guarantee that the non-Catholic party will not hinder the Catholic party from exercising their faith, nor prevent the Catholic upbringing of their children. Second, pre-marital counseling consistent with Catholic teachings is mandatory. In general, Catholic teaching acknowledges that interfaith marriages present significant challenges in maintaining the faith, even though the Bible teaches compassion and provides opportunities for restoration, as illustrated in 1

⁴⁶ Daniel M. Doyle, *The Catholic Church and Marriage* (New York: Oxford University Press, 2015), 212. Setiyanto, Aryani, and Wahyuni, *ICRP Jakarta and Interfaith Marriage Assistance in Indonesia: Civil Rights, Legal Interpretation, and Advocacy for Interfaith Couples*, 170.

Corinthians 7:12–16.⁴⁷ Therefore, Alphonsus Tjatur Raharso⁴⁸, Vicar General of the Diocese of Malang, argues that although interfaith marriages face significant challenges—both within the family and socially—this is a reality in a multireligious society where citizens should not be segregated based on their religious beliefs. According to him, interfaith marriages should be accommodated in the future, as the paramount objectives are love, mutual respect, and a commitment to building a unified marriage.

3. Protestant Christianity

Historically, the theological perspective on interfaith marriage in Christianity has evolved between the Old and New Testaments. In the Old Testament, it is established that interfaith marriages are forbidden because they may negatively influence one's faith. Regarding the New Testament, there is no explicit command prohibiting Christians from marrying non-believers. However, in 1 Corinthians 7:12, Paul states that if a non-Christian woman wishes to live with (marry) a Christian man, he should not divorce her. Despite this openness, some conservative Protestant denominations prohibit interfaith marriages because they violate the divine command to be joined to one another (2 Corinthians 6:14), fail to fulfill the purpose of marriage blessed by God, and potentially damage the spirituality of the partners.⁴⁹

Protestant churches in Indonesia hold varied views on interfaith marriage. Firstly, churches that support interfaith marriages advise couples to conduct a civil marriage rather than convert. After obtaining legal approval, the bride and

⁴⁷ Andang L. Binawan, "Indonesian Catholic Bishops' Attitude Toward Three Controversial Issues during Indonesia's New Order (1966-1998)," *Religions* 14, no. 1 (2023): 1–15, <https://doi.org/10.3390/rel14010094>.

⁴⁸ Alphonso Tjatur Raharso, *interview*, September 15, 2024.

⁴⁹ Herry Anto Simanjuntak, "A Interfaith Marriage Based on Positive Law and Protestantism Perspective," *Al-Abkam: Jurnal Hukum, Sosial, Dan Keagamaan* 18, no. 2 (2022): 30–36, <https://doi.org/10.37035/ajh.v18i2.7741>.

groom receive church discipline and a marriage blessing at the conclusion of the ceremony. Secondly, the church may allow and bless interfaith marriages within the church, provided the non-Christian spouse is willing to adhere to all guidelines and convert to Christianity, or upon obtaining permission from the religious leader of origin to perform the ceremony in the church. Thirdly, some churches oppose and will never approve of interfaith marriages.⁵⁰ For instance, David Tobing, Secretary General of the Forum for Religious Harmony in Malang City, argues that interfaith marriages in Protestant Christianity should be prohibited, considering that even marriages within the same faith experience high divorce rates; different religions, he contends, would make the formation of a harmonious family even more difficult.

4. Hinduism

According to Hinduism, marriage is a sacrament between couples of the same faith and culture. Hinduism does not permit interfaith marriages, as stated in the *Manava Dharmashastra*, Book III (*Tritiyo 'dhyayah*), Article 27, which mandates that educated and religiously observant women must request permission from their parents before the Vedas as a sign of respect before marriage. However, Hinduism provides an alternative for non-Hindu couples who wish to marry a Hindu: they must undergo the *sudhi wadani* ceremony (a ritual to confirm the status transition to Hinduism) prior to the wedding ritual.⁵¹ According to Wayan Sunarya⁵², Chairman of the Pura Luhur Dwija Warsa Buring Foundation in Malang City, marriage is a sacrament between couples of

⁵⁰ Lina Nur Anisa, "Understanding Interfaith Marriage: A Multidisciplinary Perspective," *Al-Syakhsyiyah* 6, no. 1 (2024): 37–57, <https://doi.org/10.21154/syakhsyiyah.v6i1.9123>.

⁵¹ I Ketut Oka Setiawan, "Intermarriages from the Legal Perspective of Hindu Marriage," *International Journal Environmental Sustainability and Social Science* 3, no. 3 (2022): 564–70, <https://doi.org/https://doi.org/10.38142/ijesss.v3i3.246>.

⁵² Wayan Sunarya, *interview*, September 5, 2025.

the same faith and culture. Hinduism does not permit interfaith marriages, as stated in the *Manava Dharmashastra*, Book III (*Tritiyo 'dhyayah*), Article 27, which mandates that educated and religiously observant women must request permission from their parents before the Vedas as a sign of respect before marriage. However, Hinduism provides an alternative for non-Hindu couples who wish to marry a Hindu: they must undergo the *sudhi wadani* ceremony (a ritual to confirm the status transition to Hinduism) prior to the wedding rituals.

5. Buddhism

Buddhism (*Tripitaka: Anguttara Nikaya* II:65) emphasizes four primary values for achieving domestic happiness: 1) *sama saddha* (having the same faith); 2) *sama sila* (having the same morality); 3) *sama caga* (having the same generosity); and 4) *sama pasiya* (having the same wisdom). Based on these Buddhist teachings, marriage must be between people who share the same beliefs and is not permitted otherwise. In its contemporary development, however, Buddhism considers marriage a social and personal bond rather than a strictly religious one; thus, interfaith marriages may be accepted as long as the marriage rituals follow Buddhist teachings and the couples respect each other's spiritual journey.⁵³ According to Yulianto⁵⁴, Manager of Dharma Putra Monastery in Malang City, everyone is entitled to the rights of life, freedom, equality, and property; therefore, he argues that interfaith marriages should be legalized.

6. Confucianism

Interfaith marriage is not explicitly discussed in ancient texts or Confucian scriptures, as these focus primarily on morality, etiquette, human relations, and the application of values such as benevolence, respect, and loyalty in daily life.

⁵³ Setiawan et al., *Reforming Marriage Law in Indonesia: A Critical Examination of Islamic Law on the Ban of Interfaith Marriages*, 179–97.

⁵⁴ Yulianto, *interview*, September 8, 2025.

Generally, Confucianism holds that if one partner is not Confucian, the religion cannot validate the marriage because a confession of Confucian faith is required during the marriage contract. This implies that one spouse must submit to Confucianism.⁵⁵ However, according to Phan Soen Hie⁵⁶ (Malang City Eng An Kiong Temple employee) and Tjong Ngoek Tjhoy⁵⁷ (officer of the Eng An Kiong Temple in Malang City), although Confucian teachings are implicitly open to legalizing interfaith marriages through the conversion of one spouse, given that Indonesian positive law prohibits it, interfaith marriages in Indonesia should be restricted to ensure family peace.

From the analysis above, it may be concluded that religious traditions in Indonesia do not generally support interfaith marriages, whether due to prohibitions in their holy books, the potential failure to achieve the goal of a marriage blessed by God, or concerns regarding the spiritual integrity of the partners. Although many religious traditions provide an alternative by requiring one partner to submit to the other's religion, this is implicitly tantamount to apostasy. This submission is often carried out through ritual ceremonies for a new convert solely to facilitate the marriage contract, even if one partner intends to return to their previous faith shortly thereafter. Therefore, SEMA No. 2 of 2023, which prohibits judges from authorizing applications for interfaith marriages, should not be viewed as a regulation contrary to human rights. Instead, it is underpinned by a *ratio legis* consistent with the religious values cherished by Indonesian society—specifically the right to freedom in practicing religious teachings.

⁵⁵ Iswahyudi, "Demitologization of Local Culture as a Queue to Religious Radicalism: Nurcholish Madjid's Thoughts on Local Culture in Indonesia," *RCS Journal* 1, no. 1 (2021): 37–56, <https://journal.unram.ac.id/index.php/rcs/id/article/view/350>.

⁵⁶ Phan Soen Hie, *interview*, September 10, 2025.

⁵⁷ Tjong Ngoek Tjhoy, *interview*, September 10, 2025.

C. Challenges to the Prohibition on Interfaith Marriage in Indonesia

Before the issuance of SEMA No. 2 of 2023, Indonesia was a jurisdiction that complicated the formal solemnization of interfaith marriages, despite the lack of clarity in governing positive law. This is evidenced by the persistent legal uncertainty surrounding applications for interfaith marriage submitted to district courts or the Supreme Court, which frequently resulted in rejections⁵⁸ as well as the consistent dismissal by the Constitutional Court regarding applications for judicial review of such unions.⁵⁹ However, numerous procedural bypasses for performing interfaith marriages persist, ranging from official applications for interfaith marriage filed in district courts to other methods, such as marriage abroad, unregistered (*siri*) marriages, or temporary conversion (changing religion on the National Identity Card/KTP and subsequently reverting to the original religion). These procedural bypasses began to diminish following the issuance of SEMA No. 2 of 2023 concerning Guidelines for Judges in Adjudicating Applications for the Registration of Interfaith Marriages. While

⁵⁸ Although interfaith marriage applications lack legal certainty and depend on judicial interpretation, such applications are more frequently granted than rejected. From 2006 to 2023, there were 183 decisions, with only 9 rejected. The 9 decisions rejecting interfaith marriages are Supreme Court Decision No. 1977 K/Pdt/2017, Blora District Court Decision No. 71/Pdt.P/2017/PN Bla., Singaraja District Court Decision No. 449/Pdt.G/2015/PN.Sgr., Supreme Court Decision No. 803 K/Pdt/2014., Supreme Court Decision No. 59 PK/Pid/2015., Kendal Religious Court Decision No. 207_Pdt.G_2016_PA.Kdl, Supreme Court Decision No. 350 K/TUN/2016, Surabaya District Court Decision No. 119/Pdt.G/2015/PN. SBY, and South Jakarta Religious Court Decision No. 0682/Pdt.G/2010/PAJS. See Mahkamah Agung, “Direktori Putusan Mahkamah Agung”, <https://putusan3.mahkamahagung.go.id/search.html?q=%22Perkawinan+beda+agama%22>.

⁵⁹ Examples include Decision Number 71/PUU-XX/2022 and Decision Number 68/PUU-XX/2022. See Mahkamah Konstitusi, “Putusan Mahkamah Konstitusi”, <https://www.mkri.id/index.php?page=web.Putusan&id=1&kat=1&menu=5>.

the SEMA has effectively closed the avenue for legalizing interfaith marriages through official district court requests, other methods remain available. Therefore, to evaluate the proposed legal construction, it is necessary to examine the challenges posed by these legal loopholes in Indonesia, which are described below:

1. Overseas Religious Marriages

Interfaith marriages can be legalized in certain jurisdictions, such as Canada⁶⁰, Netherlands⁶¹, the UK⁶², Singapore⁶³, and Turkey.⁶⁴ Generally, Indonesian citizens seeking to solemnize an interfaith marriage prefer to do so in Singapore due to its geographical proximity. Interfaith marriage abroad is viewed as the most expedient method, avoiding the protracted and uncertain judicial process in Indonesia.⁶⁵ Although Indonesia has prohibited interfaith marriages through SEMA No. 2 of 2023, this does not eliminate the recognition of marriages conducted abroad. Such unions remain anchored by Article 56(2) of Law No. 1 of 1974 concerning Marriage. According to this article, marriages abroad between Indonesian nationals or mixed-nationality couples are valid if performed according to the laws of the country of celebration and do not violate

⁶⁰ Article 3.1 Civil Marriage Act (Canada, 2005).

⁶¹ Article 68 of Book 1 of the Dutch Civil Code on Family law Legislation of the Netherlands.

⁶² Articles 20 and 21 of the Marriage Act 1886 UK explain that the marriage contract and its registration can take place in places of worship and registry offices. If it is done at a registry office, then there are two options for it, namely that the contract is done according to each religion or just an ordinary civil marriage contract that is secular from religious teachings. This is what makes interfaith marriage legalized in the UK.

⁶³ The implementation of marriage in Singapore is divided based on the Women's Charter 1961 for ordinary civilians and the Registry of Muslim Marriage (ROMM) for Muslims subject to Sharia law. Muslims who wish to enter into an interfaith marriage must comply with the Women's Charter 1961 as well as ordinary civil marriages. The regulation of interfaith marriage in Singapore is found in Sections 10, 17 and 21 of the Women's Charter.

⁶⁴ Article 129, 130, dan 145 Turkish Civil Code No. 4721.

⁶⁵ Muhammad Ihab Ramadhan et al., "Human Rights Protection in Interfaith Marriages: Comparative Study of Indonesia and Singapore," *RSJ: Rechtenstudent Journal* 4, no. 3 (2023): 238–47, <https://doi.org/10.35719/rch.v4i3.291>.

the provisions of Law No. 1 of 1974; subsequently, upon returning to Indonesia, the couple must register the marriage at the Marriage Registration Office (*Kantor Urusan Agama/KUA*) or Civil Registry Office within one year.⁶⁶ This is further supported by Article 37(1) of Law No. 23 of 2006 *jo.* Law No. 24 of 2013 on Population Administration, which mandates that marriages performed outside the territory of the Republic of Indonesia must be registered with the competent authority in that country and reported to the Embassy of the Republic of Indonesia (KBRI).⁶⁷

Indonesian citizens who conduct interfaith marriages abroad seek to obtain a marriage certificate from the Indonesian Embassy. Currently, the Indonesian Embassy houses an Overseas Marriage Registrar (*Pejabat Pencatat Nikah Luar Negeri/PPNLN*) authorized to solemnize, record, and issue marriage books for Indonesian citizens abroad (Articles 16 and 29 of Minister of Religious Affairs Regulation No. 20/2019).⁶⁸ Of course, they understand that if it is held at the Indonesian Embassy, there is an extraterritorial principle that makes it to be subject to positive law in Indonesia. Given that regulations recognize the validity of marriages performed abroad according to the laws of the host country, Indonesia strictly upholds the principles of *lex loci celebrationis* and *lex fori*.⁶⁹ Therefore, when an Indonesian national or a mixed-nationality couple submits a certificate issued by the Indonesian Embassy to the local Civil Registry Office or KUA, the office is not empowered to challenge the validity of the

⁶⁶ Article 56 paragraph (2) of Law No. 1 of 1974 concerning Marriage.

⁶⁷ Article 37 paragraph (1) of Law No. 23 of 2006 *jo* Law Number 24 of 2013 on Population Administration.

⁶⁸ Articles 16 and 29 of Minister of Religious Affairs Regulation No. 20/2019 on Marriage Registration.

⁶⁹ Romli Muhammad et al., "Legal Consideration of Legal Conversion in Different Religious Marriage in Indonesia," *Russian Journal of Agricultural and Socio-Economic Science* 108, no. 12 (2020): 89–98, <https://doi.org/10.18551/rjoas.2020-12.11>.

marriage under Indonesian law but must process the population administration records.

However, the principle of *lex loci celebrationis* is not absolute. In specific cases, the state may apply the principle of nationality to determine the invalidity of interfaith marriages performed abroad, particularly if they contradict the moral or religious values of the majority of the population.⁷⁰ Indonesia currently lacks consistency in balancing the principles of *lex loci celebrationis* and *lex fori*, as evidenced by the legalization of interfaith marriages performed abroad—despite public disapproval—while same-sex marriages performed abroad are not recognized, as they are considered contrary to the moral/religious values of the community and Article 1(1) of Law No. 1 of 1974.⁷¹ Therefore, if Indonesia intends to close the loophole of interfaith marriage via SEMA No. 2 of 2023, it should be accompanied by the application of the principle of nationality to prevent the exploitation of foreign law.

⁷⁰ Although the territorial principle is the most widely used as the main principle of jurisdiction by several countries, the state is still entitled to have a stand if indeed the actions of its citizens in other countries have the potential to cause harm to the country, especially about legal smuggling that is contrary to human rights or certain moral values upheld in its constitution. Therefore, the principle of nationality is no less important than the territorial principle. Examples of countries that use the principle of nationality about religious values are Italy, France and Spain, which prohibit all forms of surrogacy and do not recognize children resulting from such programs. Even if their nationals perform an act in another country and the resulting child has a certificate issued by the country of origin, the three countries still do not recognize the child and it must be returned to the country of birth, except for the decision of the European Court of Human Rights (ECtHR) because the three countries ratified the European Convention on Human Rights (ECHR). See Kenneth S. Gallant, “The Nationality Principle,” in *International Criminal Jurisdiction: Whose Law Must We Obey?* (New York: Oxford Academic, 2022), 345–408. Koen Lemmens, “Cross-Border Surrogacy and the European Convention on Human Rights: The Strasbourg Court Caught between ‘Fait Accompli’, ‘Ordre Public’, and the Best Interest of the Child,” *Netherland Quarterly of Human Rights* 42, no. 2 (2024): 174–94, <https://doi.org/10.1177/09240519241246131>.

⁷¹ I Nyoman Sujana, Komang Arini Setyawati, and Ni Made Puspasutari Ujanti, “The Existence of the Lesbian, Gay, Bisexual, and Transgender (LGBT) Community in the Perspective of a State Based on Pancasila,” *Mimbar Hukum* 30, no. 1 (2018): 127–37, <https://doi.org/10.22146/jmh.28655>.

1. Temporary Submission

Temporary conversion is the most practical solution for interfaith couples seeking to marry. They simply profess conversion to another religion and are subsequently issued a certificate by a religious leader. This certificate is submitted to the nearest Population and Civil Registry Office for identity card renewal. Currently, identity card renewal can be processed via the official website of the Population and Civil Registry Office. Predictably, the ease of electronic updates creates opportunities for the forgery of certificates and the misuse of religious data. Following the change of religion on the Identity Card, the marriage is solemnized. Subsequently, one party reverts to their previous religion—either by practicing their former beliefs or by updating their religion on the Identity Card to its original status. They then continue to live together as a legally married couple without facing marriage annulment.⁷²

This is due to the lack of clarity in Indonesian positive law governing marriage annulment following a spouse's apostasy. Article 75(1) of the Compilation of Islamic Law (KHI) states that the annulment of a marriage by a Religious Court decision does not apply retroactively to marriages rendered void by the apostasy of one spouse.⁷³ Article *a quo* cannot do much to be used as a basis for law enforcement to annul interfaith marriages because the wording uses "annulment" rather than "void," as found in Article 71 of the KHI. Consequently, apostasy serves merely as a potential ground for filing an annulment petition rather than an automatic cause for nullity. Thus, unless a

⁷² Maharani Christy Anggraeni, Destri Budi Nugraheni, and Ja'far Al-Dzahaby, "Interfaith Marriage and the Submission of One Spouse: Should District Courts Legalize It?," *Pandecta Research Law Journal* 19, no. 2 (2024): 517–46, <https://doi.org/10.15294/pandecta.v19i2.2999>. Noryamin Aini, Ariane Utomo, and Peter McDonald, "Interreligious Marriage in Indonesia," *Journal of Religion and Demography* 6, no. 1 (2019): 189–214, <https://doi.org/10.1163/2589742X-00601005>.

⁷³Article 75 paragraph (1) of the Compilation of Islamic Law (KHI).

spouse files an annulment petition with the Religious Court, their marital status remains legally valid. Furthermore, the article implies that even if apostasy is cited as a ground for annulment, it is the marriage period following the apostasy that is annulled, not the preceding marriage contract.

2. *Siri* Marriage and the Lack of Sanctions

One of the most practical loopholes for interfaith couples seeking to avoid legal scrutiny is to conduct an unregistered (*siri*) marriage. Interfaith marriages via *siri* marriage generally continue to subordinate one party to the religion of the prospective partner, but after the marriage, they maintain their original religious beliefs. Although *siri* marriages grant prospective couples greater flexibility in conducting marriage contracts despite religious differences, they still respect the opinions of religious leaders who require the submission of one party. This means that, technically, an interfaith marriage is not performed because one party has converted to the religion of the prospective partner. However, the determination of their marital status remains problematic because one party has apostatized from their original religion. By opting for a *siri* marriage, they are free from the risk of third parties applying for marriage annulment on the grounds of apostasy.⁷⁴

⁷⁴ Desimaliati, "Legality of Registration for International Religious Marriage Based on Court Decisions According to Law and Regulations in Indonesia," *Cepalo* 6, no. 2 (2022): 77–90, <https://doi.org/https://doi.org/10.25041/cepalo.v6no2.2704>. Based on Article 73 KHI, it is stated that the parties who can apply for a religious marriage are; 1) The family in the line of descent up and down from the husband/wife. 2) Husband and wife. 3) Officials who are authorized to supervise the implementation of marriage according to the law. 4) All parties who are aware of defects in the terms and conditions of marriage under Islamic law or legislation. For those who enter into an interfaith marriage that is registered through the loophole of temporary submission, they are always worried about the continuity of their marital relationship, especially if there are officials who have the authority to supervise it or parties who, due to bad intentions, apply for the cancellation of their marriage. In the case of interfaith marriages, it is generally rare for the family or the husband/wife to apply to an interfaith marriage because basically before the marriage contract, both the prospective couple and the family have a meeting about the future agenda of the interfaith marriage.

The typology of marriage registration systems in various countries is threefold: first, countries that require mandatory marriage registration and impose sanctions for non-compliance, such as Pakistan, Singapore, Brunei Darussalam, India, Yemen, and Jordan. Second, countries that consider marriage registration as a mere administrative requirement without sanctions, such as Indonesia, Morocco, the Philippines, Libya, and Lebanon. Third, countries that require marriage registration but still recognize unregistered marriages, such as Syria.⁷⁵ Although *siri* marriage in Indonesia is widely abused—facilitating interfaith marriages, polygamy, *mut'ah* marriages, and other practices that risk rights violations—Indonesia has yet to enact legal construction to transition to the first typology, which requires registration and imposes sanctions.[19] In fact, the current Marriage Law represents a regression compared to Law No. 22/1946 concerning Marriage Registration, which, in Article 3(1), stipulated sanctions for those performing marriages outside the supervision of marriage registration officials.

D. Legal Construction of Religious Marriage in Indonesia

Based on the research findings, it is evident that interfaith marriage is fundamentally contrary to religious tenets and cultural traditions in Indonesia. The exploration of religious perspectives reveals that interfaith marriages are prohibited due to divine mandates, which risk undermining the essence of

⁷⁵ Nor Salam and Jamrud Qomaruz Zaman, “Negotiating the Rule of Law and Human Rights in Interfaith Marriage Registration in Contemporary Indonesia,” *Epistemé: Jurnal Pengembangan Ilmu Keislaman* 19, no. 1 (2024): 117–45, <https://doi.org/10.21274/epis.2024.19.01.117-145>.

marriage—specifically the unity of faith and the prosperity of a family blessed by God. Conversely, cultural values suggest that interfaith marriages foster household disharmony due to the lack of vertical and hierarchical unity among family members. These values constitute the *Volksgeist* (spirit of the people) that underpins positive law in Indonesia. Applying doctrinal-deductive legal reasoning to the hierarchical structure of *Pancasila*, it is clear that religious and cultural values—as embodiments of the first precept—hold a higher normative status than other principles. Consequently, rights derived from foreign jurisdictions cannot be subject to an expansive, unlimited interpretation but must be reconciled with the values of the first precept. Therefore, any legal construction concerning the prohibition of interfaith marriage must integrate these Indonesian religious values into its consideration.

Furthermore, robust, generally binding positive law is required to effectively enforce the prohibition of interfaith marriage. Such regulations must be consistent, eliminating any procedural *lacunae* that compromise their efficacy. Indonesian positive law remains inconsistent, as evidenced by SEMA No. 2 of 2023, which effectively closed the avenue for official interfaith marriage through district court approval, while leaving open the recognition of interfaith marriages solemnized abroad—pursuant to Article 56(2) of Law No. 1 of 1974 and Article 37(1) of Law No. 23 of 2006 *jo.* Law No. 24 of 2013. Given that religious and cultural values are the soul of the nation, Indonesia should assert a firm stance by consistently applying the principle of nationality, rather than granting recognition under the pretexts of *lex loci celebrationis* and *lex fori*. Indonesia should adopt the approaches utilized by nations such as Italy, France, and Spain,

which deny recognition to children born of surrogacy—even if performed abroad because it is contrary to the teachings of Catholic Christianity.⁷⁶

Moreover, to consistently implement the prohibition of interfaith marriage, Indonesia must be resolute in facilitating the annulment of such unions. Currently, couples exploit procedural bypasses by temporarily converting during the marriage contract and reverting to their original faith thereafter, without facing legal consequences for canceling the marriage.⁷⁷ This is because the apostasy of one of the spouses, as stipulated in Article 75(1) of the Compilation of Islamic Law (KHI), merely functions as a ground for marriage annulment, exercisable at the discretion of the parties specified in the *regulation a quo*. For the purpose of legal construction, such apostasy should be treated as a cause for annulment that may be submitted by the public prosecutor—consistent with the provision in Article 26 of Law No. 1 of 1974. This shifts the construction of marriage annulment arising from apostasy from a private matter to one of public interest. Nevertheless, further regulation is required regarding the authority and position of the prosecutor in such annulments to maximize law enforcement, particularly concerning the synergy between the prosecutor's office, the Population and Civil Registry Office, and community reporting mechanisms.

Furthermore, a critical component in the legal construction of the prohibition of interfaith marriage is the mandate for marriage registration, coupled with sanctions for non-compliance. This aims to close procedural *lacunae* for couples seeking to solemnize interfaith unions through unregistered

⁷⁶ Lemmens, *Cross-Border Surrogacy and the European Convention on Human Rights: The Strasbourg Court Caught between 'Fait Accompli', 'Ordre Public', and the Best Interest of the Child*, 174-94.

⁷⁷ Anggraeni, Nugraheni, and Al-Dzahaby, *Interfaith Marriage and the Submission of One Spouse: Should District Courts Legalize It?*, 517-46.

(*siri*) marriages, a practice that generally precludes any attempt by the parties to petition for marriage annulment. Nevertheless, the practice of interfaith *siri* marriage generates various problems that potentially violate the rights of certain parties, particularly children who may be denied lineage status (*nasab*) and other civil rights due to the rejection of applications for marriage legalization (*isbat nikah*) or parentage determination by judicial panels—all in accordance with Supreme Court Circular Letter (SEMA) No. 2 of 2023. Therefore, within a framework of legal protection that integrates *maqāṣid al-syarī'ah* into legal construction, the practice of unregistered interfaith marriage should be eliminated through the imposition of additional sanctions to strengthen law enforcement. Such enforcement, including the investigation and reporting of *siri* marriage practices, could be facilitated by public prosecutors, as practiced in jurisdictions such as Singapore, Brunei Darussalam, and Jordan.⁷⁸

The legal construction developed in this study demonstrates that regulating interfaith marriage in multicultural societies cannot be analyzed solely through the paradigm of universal human rights; it must also account for the historical, sociological, cultural, and constitutional contexts that shape the legal consciousness of society. At the same time, the Indonesian case illustrates the complexity and challenges of balancing the protection of human rights, legal consistency, and minority rights, as well as the relationship between public law and private religious autonomy within a pluralistic legal system. Therefore, this study not only offers a legal reconstruction for the domestic context but also contributes to the global discourse on the relationship between religion, constitutional identity, and family law, while remaining relevant to the

⁷⁸ Salam and Zaman, *Negotiating the Rule of Law and Human Rights in Interfaith Marriage Registration in Contemporary Indonesia*, 117–45.

achievement of the Sustainable Development Goals (SDGs)—specifically Goal 16 (Peace, Justice, and Strong Institutions)—through the strengthening of legal certainty, rights protection, and the governance of diversity within multicultural legal systems.

Based on the preceding analysis regarding the legal construction of the prohibition of interfaith marriage in Indonesia, the findings are summarized in the following table:

Table 2
Legal Construction for the Prohibition of Interfaith Marriage in
Indonesia

No	Legal Construction for the Prohibition of Interfaith Marriage
1	There is a need for a legal construction on the prohibition of interfaith marriage at the level of a law that includes the consideration of religious values in its consideration.
2	Harmonizing the law by removing Article 56 paragraph (2) of Law No. 1 Year 1974 and Article 37 paragraph (1) of Law No. 23 Year 2006 jo Law No. 24 Year 2013, which has become a legal loophole for interfaith marriages.
3	Application of the principle of nationality as a basis for not recognizing the registration of interfaith marriages performed abroad.
4	A change in the construction of apostasy as one of the causes of marriage annulment that can be submitted by the prosecutor to the court.
5	Prohibition of <i>siri</i> marriage and sanctions for those who violate it.

Source: Research data analysis, 2025

E. Implementation Strategy of the Proposed Legal Construction

The implementation of the legal construction within Indonesian marriage law requires an interconnection strategy encompassing legal reform, the strengthening of state institutions, and the enhancement of public legal awareness.⁷⁹ From a legislative perspective, lawmakers are required to harmonize Law No. 1 of 1974, Law No. 23 of 2006, and the attendant implementing regulations related to marriage registration. This harmonization aims to eliminate the normative inconsistencies that have historically created interpretive *lacunae* regarding the validity and registration of interfaith marriages. Provisions concerning interfaith marriage, marriages solemnized abroad, and the legal consequences of post-marital changes in religion must be articulated explicitly. Such normative reconstruction serves as a fundamental prerequisite for the effectiveness of the proposed legal framework, as it provides legal certainty for society and establishes a uniform guideline for all state institutions in the application of marriage law.⁸⁰

⁷⁹ This inter-institutional interconnection strategy is a manifestation of the system interconnection model proposed by Amran Suadi as a systematic solution to ensure that law enforcement operates optimally through the principle of cooperation, rather than functioning in isolation, which would otherwise reduce law to a mere written discourse. See Amran Suadi, *Pemenuhan Hak Perempuan Dan Anak Pasca-Perceraian: Upaya Interkoneksi Sistem Dan Perbandingan Dengan Negara Lain* [Fulfillment of Women's and Children's Rights Post-Divorce: System Interconnection Efforts and Comparative Analysis with Other Countries] (Jakarta: Kencana, 2024), 107. This interconnection strategy among regulatory reform, institutional strengthening, and the enhancement of public legal awareness is also consistent with the legal system theory proposed by Lawrence M. Friedman. See Lawrence M. Friedman, *The Legal System: A Social Science Perspective* (New York: Russell Sage Foundation, 1975), 14–15.

⁸⁰ Achmad Hariri and Basuki Babussalam, “Legal Pluralism: Concept, Theoretical Dialectics, and Its Existence in Indonesia,” *Walisono Law Review* 6, no. 2 (2024): 146–70, <https://doi.org/10.21580/walrev.2024.6.2.25566>.

Regarding institutional strengthening, it is necessary to enhance interconnection among the state institutions authorized to oversee marriage and civil administration. The House of Representatives, the Supreme Court, and the relevant government bodies—including the Ministry of Religious Affairs, the Ministry of Home Affairs, the Office of the Public Prosecutor, and the Directorate General of Population and Civil Registration—must establish interconnections to ensure the uniform application of the law in both marriage registration and supervisory processes. Such interconnection can be realized through the formulation of joint technical guidelines, the integration of information systems, and consistent, sustainable joint technical training for officials involved in marriage services and law enforcement. This step is a vital instrument for ensuring that normative changes can be effectively operationalized in practice.⁸¹

The following table presents the implementation of inter-institutional interconnection in realizing the proposed legal construction.

Table 3
Implementation of Inter-Institutional Interconnection in Realizing the Proposed Legal Construction

Legal Construction	Implementing Authorities	Instruments	Legal Objectives
The prohibition of interfaith marriage in law	The House of Representatives	Amendments to Law No. 1 of 1974 on	Legal certainty

⁸¹ Suadi, *Pemenuhan Hak Perempuan Dan Anak Pasca-Perceraian: Upaya Interkoneksi Sistem Dan Perbandingan Dengan Negara Lain* [Fulfillment of Women's and Children's Rights Post-Divorce: System Interconnection Efforts and Comparative Analysis with Other Countries] (Jakarta: Kencana, 2024), 107–8

	and the Government	Marriage and Law No. 23 of 2006 on Population Administration	
Regulatory harmonisation	The House of Representatives, the Supreme Court, and the Government (the Ministry of Religious Affairs, the Ministry of the Interior, and the Directorate-General of Population and Civil Registration)	Amendments to Law No. 1 of 1974 on Marriage and Law No. 23 of 2006 on Population Administration, and implementing regulations within each state institution	Closing legal loopholes and ensuring consistent application
The principle of nationality	Ministry of Home Affairs and the Directorate	Regulatory revisions regarding the registration of	Preventing automatic recognition

	General of Civil Registration and Population	marriages contracted abroad	
Annulment of marriage on the grounds of apostasy	Directorate General of Civil Registration and Population, The Public Prosecutor's Office and the courts (religious courts and district courts)	Amendments to Law No. 1 of 1974 on Marriage and the Compilation of Islamic Law	Monitoring of legal smuggling
Prohibition of unregistered marriages and penalties	The Ministry of Religious Affairs, the Public Prosecutor's Office, and the Courts (District and Religious Courts)	Amendment to Law No. 1 of 1974 concerning Marriage	Protection of the rights of women and children

Source: Research data analysis, 2025

In terms of enhancing public legal awareness, a strategy that accounts for the social dimension as the most decisive factor in the effectiveness of legal policy

is required.⁸² The government must conduct gradual and continuous dissemination regarding the philosophical values, objectives, substance, and legal implementation of the marriage law reformulation. The involvement of religious leaders, traditional leaders, academics, educational institutions, and civil society organizations is essential to foster a comprehensive and uniform understanding of legal certainty in marriage administration.⁸³ The government must conduct gradual and continuous dissemination regarding the philosophical values, objectives, substance, and legal implementation of the marriage law reformulation. The involvement of religious leaders, traditional leaders, academics, educational institutions, and civil society organizations is essential to foster a comprehensive and uniform understanding of legal certainty in marriage administration.⁸⁴ In addition, through this approach, the public not only understands their rights and obligations under marriage law but also becomes aware of the importance of compliance with national law.

⁸² Friedmann, *The Legal System: A Social Science Perspective*, 15-16.

⁸³ Legal dissemination among various community groups is crucial because legal pluralism persists, where interfaith marriage is often perceived as normal or even regarded as a customary practice passed down through generations. This practice often adapts by utilizing procedural loopholes, such as temporary conversion. See Edi Gunawan et al., "Interfaith Marriage of North Sulawesi Multicultural Community in Minority Fiqh Perspective," *Al-Ihkam: Jurnal Hukum Dan Pranata Sosial* [Al-Ihkam: Journal of Law and Social Institutions] 19, no. 2 (2024): 384-412, <https://doi.org/10.19105/al-ihkam.v19i2.8072>; Aishah Khoirunnisa et al., "Social Relations and Religious Law: The Phenomenon of Interfaith Marriage in Cisantana Village, Kuningan Regency, West Java," *Dimas: Jurnal Pemikiran Agama Untuk Pemberdayaan* [Dimas: Journal of Religious Thought for Empowerment] 25, no. 1 (2025): 1-20, <https://doi.org/10.21580/dms.v25i1.25749>; Khairul Hamim, Muhammad Iskandar, and Muhammad Azizurohman, "Interfaith Marriage in North Lombok: Sociological Perspective of Islamic Law," *Khazanah Hukum* 4, no. 2 (2022): 129-38, <https://doi.org/10.15575/kh.v4i2.19657>; Azhari Akmal Tarigan et al., "Islam and Christianity at Rumah Gadang: The Household Characteristics of Minangnese Interfaith Marriage," *Juris: Jurnal Ilmiah Syariah* [Juris: Scientific Journal of Sharia] 23, no. 1 (2024): 27-39, <https://doi.org/10.31958/juris.v23i1.11926>.

⁸⁴ The most evident resistance to the implementation of Supreme Court Circular Letter (SEMA) No. 2 of 2023 was articulated by the Indonesian Conference on Religion and Peace (ICRP). See Danu Aris Setiyanto, Sekar Ayu Aryani, and Sri Wahyuni, "ICRP Jakarta and Interfaith Marriage Assistance in Indonesia: Civil Rights, Legal Interpretation, and Advocacy for Interfaith Couples," *Journal of Islamic Law* 5, no. 2 (2024): 170-96.

Conclusion

Interfaith marriage in Indonesia remains a contentious issue that continues to be debated, despite the legal certainty provided by SEMA No. 2 of 2023, which directs judges to reject applications for such unions. This study finds that the prohibition of interfaith marriage is aligned with the religious values and cultural family structures prevalent in Indonesia, which are hierarchical and oriented toward religiously grounded marital goals. This prohibition implicitly serves as a protection of the right to practice religious tenets—a manifestation of the first principle of *Pancasila*—and cannot be interpreted as a violation of marital rights.

However, the prevailing religious and cultural values regarding the prohibition of interfaith marriage face challenges stemming from procedural *lacunae*, including regulatory inconsistencies, marriages solemnized abroad, temporary conversion, and unregistered (*siri*) marriages. Consequently, the proposed legal construction for the prohibition of interfaith marriage in Indonesia must consider the following measures: 1) the enactment of legislation that explicitly incorporates religious and cultural values within its preamble; 2) the harmonization of statutes to eliminate existing procedural *lacunae*; 3) the application of the principle of nationality; 4) the classification of apostasy as a ground for marriage annulment to be initiated by public prosecutors; and 5) the formal prohibition of unregistered (*siri*) marriages, coupled with sanctions for violators.

In a broader context, these legal constructions serve to strengthen legal certainty, rights protection, and inclusive governance within multicultural legal systems, thereby supporting the realization of Sustainable Development Goal

(SDG) 16 regarding peace, justice, and strong institutions. Achieving these objectives necessitates an interconnected strategy that encompasses comprehensive legal reform, institutional strengthening, and the continuous enhancement of public legal awareness. Such a strategy ensures that legal certainty is not merely founded upon a normative framework but is also underpinned by social legitimacy within Indonesian society.

References

Regulations

Blora District Court Decision No. 71/Pdt.P/2017/PN Bla.

Book 1 of the Dutch Civil Code on Family law Legislation of the Netherlands.

Civil Marriage Act 2005 Canada.

Decision Number 24/PUU-XX/2022.

Decision Number 68/PUU-XII/2014.

Decision Number 68/PUU-XX/2022.

Decision Number 71/PUU-XX/2022.

Indonesian Compilation of Islamic Law (KHI).

Kendal Religious Court Decision Number 207_Pdt.G_2016_PA.Kdl.

Marriage Act 1886 UK.

SEMA No. 2 of 2023 concerning Guidelines for Judges in Adjudicating Cases of
Application for Registration of Marriages between People of Different
Religions and Beliefs.

Minister of Religious Affairs Regulation No. 20 of 2019 concerning Marriage
Registration.

Singaraja District Court Decision No. 449/Pdt.G/2015/PN.Sgr.

South Jakarta Religious Court Decision No. 0682/Pdt.G/2010/PA.JS.

Supreme Court Decision Number 1.400K/PDT/1986.

Supreme Court Decision No. 1977 K/Pdt/2017.

Supreme Court Decision No. 350 K/TUN/2016.

Supreme Court Decision No. 59 PK/Pid/2015.

Supreme Court Decision No. 803 K/Pdt/2014.

Surabaya District Court Decision No. 119/Pdt.G/2015/PN.SBY.

South Jakarta District Court Decision No. 508/Pdt.P/2022/PN JKT.SEL.

Surabaya District Court Decision No. 916.P/2022/PN.SBY.

Registry of Muslim Marriage (ROMM).

Turkish Civil Code No. 4721.

1945 Constitution of the Republic of Indonesia.

Law No. 1 Year 1974 on Marriage.

Law No. 23/2006 on Population Administration.

Women's Charter 1961.

Interview

Hie, Phan Soen, *interview*, September 10, 2025

Raharso, Alphonso Tjatur, *interview*, September 15, 2025.

Sunarya, Wayan, *interview*, September 5, 2025.

Tjhoy, Tjong Ngoek, *interview*, September 10, 2025.

Tobing, David, *interview*, August 29, 2025.

Yulianto, *interview*, September 8, 2025.

20 Abangan Muslims domiciled in Malang Regency and Malang City,
interview, 2025.

20 Muhammadiyah members domiciled in Malang Regency and Malang City,
interview, 2025.

20 Nahdlatul Ulama members domiciled in Malang Regency and Malang City,
interview, 2025.

Books and Journals

Aini, Noryamin, Ariane Utomo, and Peter McDonald. "Interreligious Marriage in Indonesia." *Journal of Religion and Demography* 6, no. 1 (2019): 189–

214. <https://doi.org/10.1163/2589742X-00601005>.
- Aldyan, Arsyad, and Abhishek Negi. "The Model of Law Enforcement Based on Pancasila Justice." *Journal of Human Rights, Culture, and Legal System* 2, no. 3 (2022): 178–90. <https://doi.org/10.53955/jhcls.v2i3.51>.
- Ali, Achmad. *Menguak Teori Hukum (Legal Theory) Dan Teori Peradilan (Judicialprudence): Termasuk Interpretasi Undang-Undang (Legislature)*. Jakarta: Prenadamedia Group, 2009.
- Ali, Mahrus, hamad Faisal Al-Fahad, M. Shidqon Prabowo, Doni Noviantama, I Putu sastra Wibawa, Beniharmoni Harefa, and Aditya Wiguna Sanjaya. "Protecting the Religious Belief: A Study on the Blasphemy Laws Across Jurisdictions and Religions." *Contemporary Issues on Interfaith Law and Society* 4, no. 1 (2025): 45–86. <https://doi.org/10.15294/ciilc.v4il.25521>.
- Anggraeni, Maharani Christy, Destri Budi Nugraheni, and Ja'far Al-Dzahaby. "Interfaith Marriage and the Submission of One Spouse: Should District Courts Legalize It?" *Pandecta Research Law Journal* 19, no. 2 (2024): 517–46. <https://doi.org/10.15294/pandecta.v19i2.2999>.
- Anisa, Lina Nur. "Understanding Interfaith Marriage: A Multidiciplinary Perspective." *Al-Syakhsiyyah* 6, no. 1 (2024): 37–57. <https://doi.org/10.21154/syakhsiyyah.v6i1.9123>.
- Ar-Rāzī, Muhammad Fakhruddīn. *Tafsīr Mafātih Al-Ghaib*. Beirut: Dār al-Fikr, 1995.
- Arifin, Zainal, 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, no. 1 (2024): 137–78. <https://doi.org/10.15294/jllr.vol5i1.2101>.
- Arkoun, Mohammed. "The Notion of Revelation: From Ahl Al-Kitāb to the

- Societies of the Book.” In *Die Welt Des Islams*, 62–89. Leiden: Brill, 1988.
- Aswadzi, Benny, and Miski. “Religious Moderation in Indonesian Higher Educations: Literature Review.” *Ulul Albab* 22, no. 2 (2021): 203–31. <https://doi.org/10.18860/ua.v22i2.13446>.
- Asy’ari, and Triansyah Fisa. “Interfaith Marriage in Perspectives of Classical and Modern Scholars.” *Al-Manahij: Jurnal Kajian Hukum Islam* 16, no. 2 (2022): 287–300. <https://doi.org/10.24090/mnh.v16i2.6772>.
- Binawan, Andang L. “Indonesian Catholic Bishops’ Attitude Toward Three Controverting Issues during Indonesia’s New Order (1966-1998).” *Religions* 14, no. 1 (2023): 1–15. <https://doi.org/10.3390/rel14010094>.
- Buana, Mirza Satria. “Legal Political Paradigm of Indonesian Constitutional Court: Defending a Principle Instrumentalist Court.” *Constitutional Review* 6, no. 1 (2020): 36–66. <https://doi.org/10.31078/consrev612>.
- Desimaliati. “Legality of Registration for International Religious Marriage Based on Court Decisions According to Law and Regulations in Indonesia.” *Cepalo* 6, no. 2 (2022): 77–90. <https://doi.org/https://doi.org/10.25041/cepalo.v6no2.2704>.
- Doyle, Daniel M. *The Catholic Church and Marriage*. New York: Oxford University Press, 2015.
- Fajar, Mukti N.D., and Yulianto Achmad. *Dualisme Penelitian Hukum Normatif Dan Empiris*. Yogyakarta: Pustaka Pelajar, 2010.
- Friedmann, Lawrence M. *The Legal System: A Social Science Perspective*. New York: Russel Sage Foundation, 1975.
- Gallant, Kenneth S. “The Nationality Principle.” In *International Criminal Jurisdiction: Whose Law Must We Obey?*, 345–408. New York: Oxford Academic, 2022.

- Gunawan, Edi, Budi Rahmat Hakim, Reza Adeputra Tohis, and Imam Mash'ud. "Interfaith Marriage of North Sulawesi Multicultural Community in Minority Fiqh Perspective." *Al-Ihkam: Jurnal Hukum Dan Pranata Sosial* 19, no. 2 (2024): 384–412. <https://doi.org/10.19105/al-ihkam.v19i2.8072>.
- Gunawan, Edi, Reza Adiputra Tois, and Budi Rahmat Hakim. "Implications of the Law of Religious Moderation on Interfaith Marriages." *Jurnal Ilmiah Al-Syir'ah* 21, no. 2 (2023): 283–96. <https://doi.org/10.30984/jis.v21i2.2649>.
- H.S., Salim, and Erlies Septiana Nurbani. *Penerapan Teori Hukum Pada Penelitian Tesis Dan Disertasi*. Jakarta: Raja Grafindo Persada, 2013.
- Hakīm, Abdul Hamīd. *Al-Mu'īn Al-Mubīn*. Bukit Tinggi: Nusantara, 1959.
- Halimang, St. "Sociological Study of Islamic Law on the Impact of Interfaith Marriage in Domestic Life (Study in Tirawuta District, East Kolaka District, Indonesia)." *SDG: Journal of Law and Sustainable Development* 11, no. 11 (2023): 1–16. <https://doi.org/10.55908/sdgs.v11i11.670>.
- Hamdani, Muhammad Faisal, Zubair, M. Jamil, and Fatimah Zuhrah. "The Legal and Human Rights Challenges of Interfaith Marriage in Indonesia." *SDG: Journal of Law and Sustainable Development* 11, no. 12 (2023): 1–15. <https://doi.org/10.55908/sdgs.v11i12.1020>.
- Hamim, Khairul, Muhammad Iskandar, and Muhammad Azizurohman. "Interfaith Marriage in North Lombok: Sociological Perspective of Islamic Law." *Khazanah Hukum* 4, no. 2 (2022): 129–38. <https://doi.org/10.15575/kh.v4i2.19657>.
- Hangabei, Sinung Mufti, Khudzaifah Dimyati, Absori, and Akhmad. "The Ideology of Law: Embodying the Religiosity of Pancasila in Indonesia Legal

- Concepts.” *Law Reform* 17, no. 1 (2021): 77–94.
<https://doi.org/10.14710/lr.v17i1.37554>.
- Hariri, Achmad, and Basuki Babussalam. “Legal Pluralism: Concept, Theoretical Dialectics, and Its Existence in Indonesia.” *Walisongo Law Review* 6, no. 2 (2024): 146–70. <https://doi.org/10.21580/walrev.2024.6.2.25566>.
- Hermawan, Marko S., and Mark K. Loo. “The Construction of Kekeluargaan as an Indonesia’s Organizational Culture.” *Humaniora* 31, no. 1 (2019): 1–14.
<https://doi.org/10.22146/jh.42851>.
- Huda, Misbahul, and Rahmat Dwi Putranto. “Interfaith Marriage in the Human Rights Perspective and the Compilation of Islamic Law.” *Pena Justisia: Media Komunikasi Dan Kajian Hukum* 21, no. 1 (2022): 1–8.
<https://doi.org/10.31941/pj.v21i1.4226>.
- Indraswara, Dede. “Rekonstruksi Metodologis Hukum: Diversifikasi dan Integrasi Penelitian Hukum Normatif (Doktrinal), Empiris (Non-Doktrinal), dan Studi Sosio-Legal (Legal Methodological Reconstruction: Diversification and Integration of Normative (Doctrinal), Empirical (Non-Doctrinal), and Socio-Legal Research).” *IPMHI Law Journal* 5, no. 2 (2025): 205–246. <https://doi.org/10.15294/ipmhi.v5i2.41599>.
- Indonesia, Supreme Court of the Republic of. “Directory of Decisions of the Supreme Court of the Republic of Indonesia,” 2024.
<https://putusan3.mahkamahagung.go.id/search.html/?q=%22Perkawinan+beda+agama%22>.
- Iswahyudi. “Demitologization of Local Culture as a Queue to Religious Radicalism: Nurcholish Madjid’s Thoughts on Local Culture in Indonesia.” *RCS Journal* 1, no. 1 (2021): 37–56.
<https://journal.unram.ac.id/index.php/rcs/id/article/view/350>.

Khoirunnisa, Aishah, Nur Nafisa Salsabila, Debagus, Amelia Rahmadani, Alamil Huda, and Wisnu Uriawan. "Social Relations and Religious Law: The Phenomenon of Interfaith Marriage in Cisantana Village, Kuningan Regency, West Java." *Dimas: Jurnal Pemikiran Agama Untuk Pemberdayaan* 25, no. 1 (2025): 1–20. <https://doi.org/10.21580/dms.v25i1.25749>.

Konstitusi, Mahkamah. "Putusan Mahkamah Konstitusi," n.d. <https://www.mkri.id/index.php?page=web.Putusan&id=1&kat=1&menu=5>.

Lemmens, Koen. "Cross-Border Surrogacy and the European Convention on Human Rights: The Strasbourg Court Caught between 'Fait Accompli', 'Ordre Public', and the Best Interest of the Child." *Netherland Quarterly of Human Rights* 42, no. 2 (2024): 174–94. <https://doi.org/10.1177/09240519241246131>.

Madjid, Nurcholish. *Mencari Akar-Akar Islam Bagi Pluralisme Modern: Pengalaman Indonesia*. Bandung: Mizan, 1999.

Mas'udah, Siti. "Power Relations of Husbands and Wives Experiencing Domestic Violence in Dual Career Families in Indonesia." *Millennial Asia* 14, no. 1 (2021): 1–23. <https://doi.org/10.1177/09763996211039730>.

Maula, Bani Syarif, and Ilyya Muhsin. "Interfaith Marriage and the Religion State Relationship: Debates between Human Rights Basis and Religious Precept." *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam* 8, no. 2 (2024): 791–820. <https://doi.org/10.22373/sjhk.v8i2.19479>.

Muhaimin. *Metode Penelitian Hukum*. Mataram: Mataram University Press, 2020.

Muhammad, Abdulkadir. *Hukum Dan Penelitian Hukum*. Bandung: Citra

Aditya Bakti, 2004.

Muhammad, Romli, Luth Thohir, Sulistyarini Rachmi, and Hamidah Siti.

“Legal Consideration of Legal Conversion in Different Religious Marriage in Indonesia.” *Russian Journal of Agricultural and Socio-Economic Science* 108, no. 12 (2020): 89–98. <https://doi.org/10.18551/rjoas.2020-12.11>.

Muwahid, and Moh. Bagus. “Measuring the Executorial Power of the Constitutional Court of the Republic Indonesia Decisions.” *Al-Daulah: Jurnal Hukum Dan Perundangan Islam* 13, no. 2 (2023): 230–47. <https://doi.org/10.15642/ad.2023.13.2.230-247>.

Nofrizal, Zulkifli, Hayatul Ismi, Ulfia Hasanah, and Putri Annisa. “Implications of Supreme Court Jurisprudence No.1400K/PDT/1986 on Marriage Different Religions.” *Unram Law Review* 6, no. 1 (2022): 31–45. <https://doi.org/10.29303/ulrev.v6i1.205>.

Nurish, Amanah. “When Abangan Embraces Sufism: Religious Phenomenology to Counter Radicalism in Contemporary Java.” *Teosofi: Jurnal Tasawuf Dan Pemikiran Islam* 11, no. 1 (2021): 20–45. <https://doi.org/10.15642/teosofi.2021.11.1.20-45>.

Putri, Allysa Novita, and Iffatin Nur. “Analyzing Court Decision on Interfaith Marriage: A Maqasid Sharia Perspective.” *Ulul Albab: Jurnal Studi Dan Penelitian Hukum Islam* 6, no. 2 (2022): 27–38. <https://doi.org/10.30659/jua.v6i1.35268>.

Raharso, Tjatur. “Hearing.” 2024.

Ramadhan, Muhammad Ihab, Safira Wijaya, Anggi Rachma Zakia Fitri, Ghea Tyagita Cahyasabrina, Bunga Cantika, and Dwi Aryanti Ramadhani. “Human Rights Protection in Interfaith Marriages: Comparative Study of Indonesia and Singapore.” *RSJ: Rechtenstudent Journal* 4, no. 3 (2023): 238–

47. <https://doi.org/10.35719/rch.v4i3.291>.
- Ridhā, Muhamamad Rasyīd. *Tafsīr Al-Qur'ān Al-Hakīm Al-Musammā Bi Tafsīr Al-Manār*. Kairo: al-hay'ah al-'Ammah li al-Kitāb, 1972.
- Rofii', Ahmad. "The Religiosity of the Indonesian Constitution: Article 29 (1) and Its Interpretation." *Constitutional Review* 7, no. 2 (2021): 203–40. <https://doi.org/10.31078/consrev722>.
- Sābiq, Sayyid. *Fiqh Al-Sunnah Juz III*. Kairo: Maktabah Dār al-Turās, 1970.
- Salam, Nor, Agus Purnomo, Saifullah, and Sirojuddin Ahmad. "Interfaith Marriage from the Perspective of Rationality: Theocentrism in Islamic Law and Anthropocentrism in Human Rights Law." *De Jure: Jurnal Hukum Dan Syar'iah* 16, no. 1 (2024): 179–96. <https://doi.org/10.18860/j-fsh.v16i1.23989>.
- Salam, Nor, and Jamrud Qomaruz Zaman. "Negotiating the Rule of Law and Human Rights in Interfaith Marriage Registration in Contemporary Indonesia." *Epistemé: Jurnal Pengembangan Ilmu Keislaman* 19, no. 1 (2024): 117–45. <https://doi.org/10.21274/epis.2024.19.01.117-145>.
- Samekto, F.X. Adji. *Studi Hukum Kritis: Kritik Terhadap Hukum Modern*. Bandung: Penerbit PT. Citra Aditya Bakti, 2005.
- Sampford, Charles. *The Disorder of Law: A Critique of Legal Theory*. New York: Basil Blackwell, 1989.
- Septiandani, Dian, Soegianto, Yudhitiya Dyah Sukmadewi, and Adhi Budi Susilo. "Legal Reconstruction of Regulations Marriage Different Religions in Indonesia." *Pena Justisia: Media Komunikasi Dan Kajian Hukum* 22, no. 1 (2024): 1711–18. <https://doi.org/10.31941/pj.v23i3.5107>.
- Setiawan, I Ketut Oka. "Intermarriages from the Legal Perspective of Hindu Marriage." *International Journal Environmental Sustainability and Social*

Science 3, no. 3 (2022): 564–70.

<https://doi.org/https://doi.org/10.38142/ijesss.v3i3.246>.

Setiawan, Dani. "Inter-Religious Marriage: A Controversial Issue in Indonesia."

Contemporary Issues on Interfaith Law and Society 1, no. 1 (2022): 23–38.

<https://doi.org/10.15294/ciils.v1i1.31348>

Setiawan, Iwan, Tajul Arifin, Usep Saepullah, and Abdullah Safei. "Reforming

Marriage Law in Indonesia: A Critical Examination of Islamic Law on the

Ban of Interfaith Marriages." *Al-Manahij: Jurnal Kajian Hukum Islam* 18,

no. 2 (2024): 179–97. <https://doi.org/10.24090/mnh.v18i2.11134>.

Setiyanto, Danu Aris, Sekar Ayu Aryani, and Sri Wahyuni. "ICRP Jakarta and

Interfaith Marriage Assistance in Indonesia: Civil Rights, Legal

Interpretation, and Advocacy for Interfaith Couples." *Journal of Islamic*

Law 5, no. 2 (2024): 170–96. <https://doi.org/10.24260/jil.v5i2.2796>.

Setyawati, Dewi Zahra, Veyza Olivia, Armanda N. Ardiyanto, Qlarissa Melinda,

Baidhowi, Yustina Dhian Novita, and Hisyam Maliki Akbar. "Beneath The

Same Sky, Different Faith: Why Is Interfaith Marriage Prohibited in Islam?"

Contemporary Issues on Interfaith Law and Society 3, no. 2 (2024): 229–46.

<https://doi.org/10.15294/ciils.v3i2.31404>.

Shidarta. *Hukum Penalaran Dan Penalaran Hukum*. Bantul: Genta

Publishing, 2013.

Shihab, Muhammad Quraish. *Tafsir Al-Misbah: Pesan, Kesan, Dan Keserasian*

Al-Qur'an Volume 3. Jakarta: Lentera Hati, 2015.

Sidharta, Bernard Arief. *Ilmu Hukum Indonesia: Upaya Pengembangan Ilmu*

Hukum Sistematis Yang Responsif Terhadap Perubahan Masyarakat.

Yogyakarta: Genta Publishing, 2013.

———. *Refleksi Tentang Struktur Ilmu Hukum: Sebuah Penelitian Tentang*

- Fundasi Kefilsafatan Dan Sifat Keilmuan Ilmu Hukum Sebagai Landasan Pengembangan Ilmu Hukum Indonesia*. Bandung: Mandar Maju, 2009.
- Simanjuntak, Herry Anto. "A Interfaith Marriage Based on Positive Law and Protestantism Perspective." *Al-Abkam: Jurnal Hukum, Sosial, Dan Keagamaan* 18, no. 2 (2022): 30–36. <https://doi.org/10.37035/ajh.v18i2.7741>.
- Sonafist, Y., and Henny Yuningsih. "Islamic Law, the State, and Human Rights: The Contestation of Interfaith Marriage Discourse on Social Media in Indonesia." *Juris: Jurnal Ilmiah Syari'ah* 22, no. 2 (2023): 381–91. <https://doi.org/10.31958/juris.v22i2.10934>.
- Suadi, Amran. *Pemenuhan Hak Perempuan Dan Anak Pasca-Perceraian: Upaya Interkoneksi Sistem Dan Perbandingan Dengan Negara Lain*. Jakarta: Kencana, 2024.
- Suhadi. *Kawin Lintas Agama Perspektif Kritik Nalar Islam*. Yogyakarta: LKIS, 2006.
- Sujana, I Nyoman, Komang Arini Setyawati, and Ni Made Puspasutari Ujanti. "The Existence of the Lesbian, Gay, Bisexual, and Transgender (LGBT) Community in the Perspective of a State Based on Pancasila." *Mimbar Hukum* 30, no. 1 (2018): 127–37. <https://doi.org/10.22146/jmh.28655>.
- Sunarya, Wayan. "Hearing." 2024.
- Suntana, Ija, Iu Ruslana, Chay Asdak, and Lubna Gazalba. "Ideological Distrust: Re-Understanding the Debate on State Ideology, Normalization of State Religionship, and Legal System in Indonesia." *Heliyon* 9, no. 1 (2023): 1–13. <https://doi.org/10.1016/j.heliyon.2023.e14676>.
- Syatar, Abdul, Muhammad Fazlurrahman Syarif, Harwis Alimuddin, Kurniati, and Rasna. "Interfaith Marriage Phenomenon in Indonesia from the

- Perspective of Sadd Al-Zariah and Fath Al-Zari'ah." *Fitrah: Jurnal Kajian Ilmu-Ilmu Islam* 9, no. 1 (2023): 19–38.
<https://doi.org/10.24952/fitrah.v9i1.6800>.
- Tadros, Mariz. "Religious Equality and Freedom of Religion or Belief: International Development s Blinspot." *The Review of Faith and International Affairs* 20, no. 2 (2022): 96–108.
<https://doi.org/10.1080/15570274.2022.2065810>.
- Tarigan, Azhari Akmal, Jufri Naldo, Syahrial Arif Hutagalung, and Mochammad Reevany Bustami. "Islam and Christianity at Rumah Gadang: The Household Characteristics of Minangnese Interfaith Marriage." *Juris: Jurnal Ilmah Syariah* 23, no. 1 (2024): 27–39.
<https://doi.org/10.31958/juris.v23i1.11926>.
- Yasin, Noer, Musataklima, and Ahmad Wahidi. "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." *Jurnal Penelitian Hukum De Jure* 23, no. 4 (2023): 389–402.
<https://doi.org/10.30641/dejure.2023.V23.389-402>.
- Zainuri, Andi, Ahmad Muslimin, and Ahmad Mukhlisin. "Problems of Sirri Marriage and Prisoners: A Case in Sukadana, East Lampung, Indonesia." *El-Usrah: Jurnal Hukum Keluarga* 6, no. 2 (2023): 335–47.
<https://doi.org/10.22373/ujhk.v6i2.17487>.

DECLARATION OF CONFLICTING INTERESTS

The authors state that there is no conflict of interest in the publication of this article.

FUNDING INFORMATION

This research was funded in full by the Institute for Research and Community Service (LP2M) at Universitas Islam Negeri Maulana Malik Ibrahim Malang.

ACKNOWLEDGMENT

We would like to express our gratitude to the Institute for Research and Community Service (LP2M) at Universitas Islam Negeri Maulana Malik Ibrahim Malang for funding this research, and to the informants from various religious communities across Indonesia who provided information that served as vital data for this research.

GENERATIVE AI STATEMENT

The author used ChatGPT and Scite AI to refine language and improve readability. Following this process, the author critically reviewed, edited, and validated the output to ensure accuracy and scientific integrity. The author(s) maintain full accountability for the final content. AI was used solely as a supportive tool and is not credited with authorship. No original data analysis or interpretations were performed by the AI without human oversight

History of Article

Submitted : January 2, 2026
Revised : May 17, 2026
Accepted : June 3, 2026
Published : June 30, 2026

About Author(s)

Erfaniah Zuhriah is a professor, researcher, as well as a mediator and gender practitioner affiliated with the Islamic Family Law Study Program, Faculty of Sharia, Universitas Islam Negeri Maulana Malik Ibrahim Malang. Erfaniah Zuhriah is highly active in scholarly studies and publications in the fields of family law, Islamic law, and gender. One of her most popular scholarly publications is entitled “*Peradilan Agama Indonesia: Sejarah, Konsep, dan Praktik di Pengadilan Agama*”. The author can be contacted via email at erfa@syariah.uin-malang.ac.id. Further information regarding the author’s publications can be accessed through: Scopus ID: 57225138377; Sinta ID: 6158297; and ORCID: <https://orcid.org/0000-0002-4490-1287>.

Su’ud Fuadi is a lecturer, researcher, and legal practitioner affiliated with the Islamic Economic Law Study Program, Faculty of Sharia, Universitas Islam Negeri Maulana Malik Ibrahim Malang. Su’ud Fuadi is highly active in conducting research in the fields of muamalah, Islamic bankruptcy, and human rights. One of his most monumental scholarly publications is entitled “*Ekonomi Syariah*”. The author can be contacted via email at suudfuadi.uin@gmail.com. Further information regarding his scholarly publications can be accessed through Sinta ID: 6895240.

Imam Sukadi is a lecturer, researcher, and legal practitioner affiliated with the Constitutional Law Study Program, Faculty of Sharia, Universitas Islam Negeri Maulana Malik Ibrahim Malang. Imam Sukadi is highly active in conducting research in the field of constitutional law. Imam Sukadi is also the principal advisor of the Law Debate Community at the Faculty of Sharia, Universitas Islam Negeri Maulana Malik Ibrahim Malang. The author can be contacted via email at imam_sukadi@syariah.uin-malang.ac.id. Further information regarding his scholarly publications can be accessed through: Scopus ID: 58833994800; Sinta ID: 6649535; and ORCID: <https://orcid.org/0000-0002-9369-9273>.

Jamrud Qomaruz Zaman is a doctoral student in Islamic Family Law at Universitas Islam Negeri Maulana Malik Ibrahim Malang. Jamrud Qomaruz Zaman is highly active in scholarly publications in the fields of family law, Islamic law, and human rights. The author can be contacted via email at 250201310006@student.uin-malang.ac.id. Further information regarding his scholarly publications can be accessed through: Scopus ID: 59424728500;

ORCID: <https://orcid.org/0009-0001-1189-5538>; and ResearchGate: <https://www.researchgate.net/profile/Jamrud-Qomaruz-Zaman>.

Siti Aisyah binti Samudin is a lecturer, researcher, and Sharia legal practitioner affiliated with the Faculty of Islamic Studies, University of Malaya. Siti Aisyah is highly active in scholarly publications in the fields of Islamic criminal law, legal studies, and consumerism. Siti Aisyah is also a member of the management board of a non-governmental organization named Yayasan al-Mukhlisin. The author can be contacted via email at sitiaisyah.samudin@um.edu.my. Further information regarding her scholarly publications can be accessed through: Scopus ID: 59361674400; ORCID: <https://orcid.org/0000-0001-5858-5310>; and ResearchGate: <https://www.researchgate.net/scientific-contributions/Siti-Aisyah-Samudin-2224643194>.