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Legal Analysis of Interfaith Marriages Reviewed from a Human Rights Aspect

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ABSTRACT

This study analyzes interfaith marriage in the Indonesian legal system from a human rights perspective. The main issue examined is the positive legal perspective on interfaith marriage and its position from a human rights perspective. This study uses a normative legal research method with a legislative and conceptual approach. The legal materials used are sourced from relevant laws and regulations, human rights instruments, legal literature, and scientific articles. The results show that the Marriage Law does not explicitly use the phrase prohibiting interfaith marriage, but the validity of the marriage is still determined by the religious law and beliefs of each prospective bride and groom. From a human rights perspective, the Universal Declaration of Human Rights provides broader scope for the right to marry without religious restrictions, while the Indonesian Human Rights Law still places legal marriage within the framework of national legislation. Thus, interfaith marriage in Indonesia exists within a complex relationship between individual freedom, religious law, positive law, and the principle of legal certainty.

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1. Introduction

Interfaith marriage is a family law issue that continues to generate debate in Indonesia. This debate arises because Indonesian society has diverse religious backgrounds, while national marriage law places religion as a key basis for determining the validity of a marriage. In a social context, interfaith marriages continue to occur through various means, ranging from adjusting the religion of one of the prospective bride and groom, conducting the marriage according to two religious rites, to registering the marriage after it has taken place abroad. This phenomenon demonstrates the public's need for clearer legal certainty regarding interfaith marriages [1].

Legally, the issue of interfaith marriage is related to the interpretation of the Marriage Law, particularly the provision that a marriage is valid if it is conducted according to the laws of each religion and its beliefs. This provision gives rise to different views because it does not expressly state the prohibition or permissibility of interfaith marriage. In practice, some parties believe that the absence of an explicit prohibition opens up space for interfaith marriage, while others are of the view that the legal requirements according to religious law mean that an interfaith marriage cannot be conducted if it is prohibited by the religion of one of the prospective bride and groom [2].

This issue is also related to the constitutional guarantees in the 1945 Constitution of the Republic of Indonesia. The Constitution guarantees the right of every person to form a family and continue their lineage through a legal marriage, and guarantees the freedom of every citizen to embrace a religion and worship according to their religion. However, this guarantee must still be read together with the provisions of national law regarding marriage, so that the right to marry cannot be separated from the concept of legal marriage according to the Indonesian legal system [3].

Law Number 1 of 1974 concerning Marriage, as amended by Law Number 16 of 2019, stipulates that marriage is a physical and spiritual bond between a man and a woman as husband and wife with the aim of forming a happy and eternal family based on the One Almighty God. This provision shows that marriage in Indonesian law is not only a civil event, but also has a religious dimension. Therefore, Indonesian positive law provides important space for religious law in determining the validity of a marriage [4].

From a human rights perspective, the issue of interfaith marriage is becoming increasingly interesting because the right to marry and form a family is part of basic human rights. Law Number 39 of 1999 concerning Human Rights states that everyone has the right to form a family and continue their lineage through legal marriage. Meanwhile, the Universal Declaration of Human Rights states that adult men and women have the right to marry and form a family without restrictions based on religion. This difference in normative pressures indicates a tension between the universal principles of human rights and national legal systems based on the constitution and religious values [5], [6].

Based on this background, this article addresses two main issues. First, what is the positive legal perspective on interfaith marriage in Indonesia? Second, what is the human rights perspective on interfaith marriage? This study is crucial for clarifying the legal position of interfaith marriage in the relationship between religious law, national law, and human rights.

2. Research Methods

This research uses a normative legal research method. Normative legal research is conducted by examining legal materials related to the legal issue under study, particularly legislation, legal doctrine, scientific literature, and expert opinions. This method is appropriate because the issue of interfaith marriage is more closely related to legal norms, legal interpretation, and the relationship between legislation and human rights principles.

The approaches used are a legislative approach and a conceptual approach. The legislative approach is carried out by examining legal provisions relating to marriage, human rights, population administration, and religious law. The conceptual approach is used to understand the concepts of legal marriage, religious freedom, legal pluralism, and the right to form a family within the Indonesian legal framework.

The primary legal materials in this study include the 1945 Constitution of the Republic of Indonesia, the Marriage Law, the Human Rights Law, the Population Administration Law, the Compilation of Islamic Law, and the Universal Declaration of Human Rights. Secondary legal materials were obtained from law books, journal articles, and scholarly works discussing interfaith marriage and human rights. Tertiary legal materials were used to assist in explaining legal terms and concepts.

Legal materials were collected through a literature review. All legal materials were then systematically compiled, classified according to the problem formulation, and analyzed qualitatively. The analysis was conducted by linking positive legal norms, legal doctrine, and human rights principles to obtain legal arguments regarding the status of interfaith marriage in Indonesia.

3. Results and Discussion

The discussion in this study is directed at interpreting interfaith marriage as an issue that lies at the intersection of religious law, national law, and human rights. Marriage in the Indonesian legal system is not merely understood as a civil relationship between two individuals, but also as a legal event whose validity is determined by religious norms. Therefore, the issue of interfaith marriage cannot be addressed solely through an individual freedom approach; it must also consider the structure of national law, the plurality of religious laws, and the need for orderly state administration.

Conceptually, Indonesian marriage law demonstrates a strong relationship between the state and religion. The state regulates the legal consequences and registration of marriages, but the determination of the validity of a marriage is left to the religious law and beliefs of each prospective bride and groom. This situation requires careful consideration of interfaith marriages to ensure they do not neglect individual rights, nor negate the religious legal norms recognized in the national legal system.

3.1. Interfaith Marriage in Indonesian Positive Law

The Marriage Law states that a marriage is valid if it is conducted according to the laws of each religion and its beliefs. This provision is the main basis for assessing the validity of an interfaith marriage. If one of the prospective bride and groom's religions does not permit interfaith marriage, then the marriage is difficult to declare valid under positive law because positive law leaves the validity of the marriage to religious law [4].

From a legal marital doctrine perspective, marriage is understood as a physical and spiritual relationship between a

man and a woman that has legal consequences for the husband, wife, children, and property. Marriage is also understood as the basis for the formation of a family that is protected by law. Therefore, certainty regarding the validity of a marriage is important because it influences family status, civil registration, and the protection of the rights of the parties [7], [8].

Historically, mixed marriage regulations before the Marriage Law recognized the possibility of marriage between parties subject to different laws. However, after the enactment of the Marriage Law, the definition of mixed marriage was more directed at differences in citizenship, rather than differences in religion. Thus, interfaith marriages cannot be directly positioned as mixed marriages as defined in the Marriage Law [9].

3.2. Status of Marriage Registration and Religious Law

Marriage registration is an administrative instrument that provides legal certainty regarding marriage events. The Population Administration Law stipulates that marriage registration also applies to marriages declared by the court, and its explanation links this to marriages between people of different religions. This provision was once understood as the administrative basis for registering interfaith marriages through court orders [10].

However, registration cannot be separated from the requirements for a valid marriage. Registration serves to prove the legal event of marriage, but cannot replace the requirements for a valid marriage according to religious law. Therefore, in practice, registering an interfaith marriage still requires an assessment of whether the marriage is valid according to religious norms and applicable laws and regulations [11].

From an Islamic legal perspective, the Compilation of Islamic Law prohibits Muslim men from marrying non-Muslim women and prohibits Muslim women from marrying non-Muslim men. These provisions demonstrate that for Muslims, interfaith marriage has strong normative limitations. Therefore, if one of the prospective bride and groom is Muslim, the assessment of the validity of the marriage must take into account the prohibitions in the Compilation of Islamic Law [12].

Besides Islamic law, several other religions have differing views on interfaith marriage. Some prohibit it, some allow for certain privileges through dispensations or special procedures, and others emphasize awareness and commitment between the partners. These differences demonstrate that interfaith marriage law in Indonesia cannot be separated from the religious plurality and the diversity of theological views that exist within society. [13]

3.3. Interfaith Marriage from a Human Rights Perspective

Human rights place the right to form a family as part of basic human rights. From a universal perspective, the Universal Declaration of Human Rights protects the right of adult men and women to marry without religious restrictions. This provision emphasizes individual freedom and equal rights in marriage [6].

However, in the Indonesian legal system, the right to form a family through marriage remains within the framework of a valid marriage. The Human Rights Law states that a valid marriage can only take place with the free will of the prospective husband and wife in accordance with statutory provisions. Thus, the freedom to marry remains limited by national legal provisions regarding the validity of marriage [5].

In the study of human rights, individual freedom cannot be separated from the obligation to respect the rights of others and the rule of law. Human rights are not absolute and limitless, because their implementation must take into account religious values, morals, security, and public order in a democratic society. Therefore, in the Indonesian context, the right to marry must be read together with the principle of the One Almighty God and constitutional provisions regarding religious freedom [14], [15].

3.4. Disharmony of Norms and the Need for Legal Certainty

The problem of interfaith marriage arises because of the difference in emphasis between universal human rights norms and national legal norms. The UDHR emphasizes freedom to marry without religious restrictions, while the Indonesian Human Rights Law still links marriage to statutory provisions. In the context of national law, these laws and regulations refer back to the Marriage Law, which establishes religious law as the basis for valid marriage [5], [6].

Within the framework of development law theory, the law should be able to respond to social change without ignoring the values that exist within society. Interfaith marriage is a social reality that requires a clear legal response. If the law does not provide certainty, society will seek alternative avenues, such as marrying abroad, administrative religious change, or requesting a court order. [16]

Legal pluralism is also a crucial factor in this issue. Indonesia recognizes the diversity of religious, customary, and state laws. In such a situation, unifying marriage laws is not always easy because each religion has different marriage norms. Therefore, the formation of legal norms regarding interfaith marriages must take legal pluralism into account while maintaining national legal certainty [17].

In recent practice, courts have been directed to be more cautious in accepting applications for interfaith marriage registration. This indicates that the state is tending to reinforce the interpretation that a valid marriage must comply with the religious laws and beliefs of each prospective bride and groom. This strengthening of this direction demonstrates that legal certainty is prioritized over overly broad administrative interpretations of marriage registration.[18]

3.5. Analysis of the Relationship between the UDHR, the 1945 Constitution, and National Marriage Law

The relationship between the Universal Declaration of Human Rights and national law must be understood through the principle of the hierarchy of laws and regulations. In Indonesian law, the 1945 Constitution of the Republic of Indonesia holds the highest position. Legislation under it must not conflict with the constitution. Therefore, acceptance of international human rights instruments must remain within the framework of the constitution and the national legal system. [3]

The principle of lex superior derogat legi inferiori explains that lower-level rules must not contradict higher-level rules. In this context, if there is a difference in emphasis between the UDHR and national law, the implementation of human rights in Indonesian law must be adjusted to the 1945 Constitution, Pancasila, and national legislation. This study therefore places the right to marry in relation to the principle of valid marriage according to religious law and state law [19].

Thus, interfaith marriage cannot be understood simply as an individual's right to choose a partner. Interfaith marriage also involves religious legitimacy, state registration, the legal status of the family, and legal consequences for children and property. Therefore, legal certainty regarding interfaith marriage needs to

be clarified to prevent continued differences of interpretation in society and the judiciary. [20]

4. Conclusion

The positive legal perspective on interfaith marriage in Indonesia shows that the Marriage Law does not explicitly prohibit interfaith marriage. However, the validity of a marriage is still determined by the laws of each religion and the beliefs of the prospective bride and groom. Therefore, if religious law prohibits interfaith marriage, the marriage cannot be declared valid under positive law. Marriage registration also cannot stand alone, as it only proves that the marriage has met the legal requirements.

From a human rights perspective, the right to marry is a fundamental right of every individual. The Universal Declaration of Human Rights (UDHR) protects the right of adult men and women to marry without religious restrictions. However, the Indonesian Human Rights Law stipulates that marriage must be conducted through a legal marriage in accordance with statutory provisions. Therefore, the implementation of the right to marry in Indonesia remains within the framework of the Marriage Law, the 1945 Constitution, Pancasila, and religious norms recognized in the national legal system.

This study concludes that the issue of interfaith marriage requires clearer regulations to provide legal certainty. The government and lawmakers need to clarify the interpretation of Article 2 paragraph (1) of the Marriage Law, particularly regarding the status of interfaith marriage, the relationship between religious validity and state registration, and legal protection for the parties involved.

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