



INTERFAITH MARRIAGES: NAVIGATING PSYCHOLOGICAL AND LEGAL COMPLEXITIES IN LIGHT OF RELIGIOUS NORMS AND NATIONAL LAWS

Aldi Saputra

Islamic Family Law Study Program, Stai Alfalah Banjarbaru, Indonesia

Email: aaldysaputra023@gmail.com

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Abstract

The relationship between religious people attracts attention because of the diversity of their communities. Interfaith marriages, especially among the wealthy and celebrities, are becoming a common phenomenon. Liberal views in favour of religious differences in marriage receive attention, but it is important to understand the true views of Islam. This literature research uses literature study methods, evaluating research results, reports, and scientific journals as primary data, as well as legal regulations and books as secondary data. Content analysis is used to obtain an image without the intervention of the researcher. The impact of interfaith marriages, such as psychological and juridical aspects, shows complexity. Islam's ban on interfaith marriage and the Marriage Act asserts the necessity of conforming to religious law. However, social realities can give rise to legal problems of registration of children and division of inheritance. In conclusion, interfaith marriages reflect psychological and legal challenges. A deep understanding of religious norms, national laws, and local community dynamics is crucial for dealing with the complexity of issues that arise.

Keywords: Laws on Marriages Different Religions

Abstrak

Hubungan antar umat beragama menarik perhatian karena keberagaman masyarakatnya. Pernikahan beda agama, terutama di kalangan kaya dan selebriti, menjadi fenomena yang umum. Pandangan liberal yang mendukung perbedaan agama dalam pernikahan mendapat perhatian, namun penting memahami pandangan Islam yang sejati. Penelitian literatur ini menggunakan metode studi literatur, mengevaluasi hasil penelitian, laporan, dan jurnal ilmiah sebagai data primer, serta peraturan hukum dan buku sebagai data sekunder. Analisis isi digunakan untuk mendapatkan gambaran tanpa campur tangan peneliti. Dampak pernikahan beda agama, seperti aspek psikologis dan yuridis, menunjukkan kompleksitas. Larangan Islam terhadap pernikahan lintas agama dan Undang-Undang Perkawinan menegaskan keharusan sesuai dengan hukum agama.

Namun, realitas sosial dapat menimbulkan masalah hukum pencatatan anak dan pembagian warisan. Kesimpulannya, pernikahan beda agama mencerminkan tantangan psikologis dan hukum. Pemahaman mendalam terhadap norma agama, hukum nasional, dan dinamika masyarakat setempat krusial untuk menangani kompleksitas isu-isu yang muncul.

Kata Kunci: Hukum Tentang Perkawinan Beda Agama

INTRODUCTION

Inter-religious relations have been a popular topic in Indonesia for some time. The popularity of this topic can be attributed to the diversity of Indonesian society, especially in terms of religion and ethnicity. Therefore, the issue of relations between religious communities has become the concern of various parties, not only the government, but also other groups in society such as NGOs, religious institutions (both Islamic and non-Islamic), and so on.

It is not uncommon to see marriages between individuals with different religious beliefs, especially among rich people and celebrities. For example, a Muslim man marries a non-Muslim woman (Christian, Jew, or adherent of another religion), or vice versa, a Muslim woman marries a non-Muslim man. However, often views that support religious differences in marriage, known as liberal views, gain attention. This understanding advocates freedom in terms of interfaith marriages, which are sometimes not in harmony with Islamic principles.

However, it is important to understand the correct Islamic view of interfaith marriage. In this context, I will try to explain how interfaith marriages are regulated according to the 1945 Constitution, the Compilation of Islamic Law, and the teachings of the Islamic religion itself.

METHODS

The research method used in this research is a literature study research method. In (Putrihapsari & Fauziah, 2020) Nazir (2014) defines literature study as research carried out by reviewing various literature studies required in research. The purpose of using the literature study method in this research is as an initial step in planning research by utilizing literature to obtain data in the field without needing to go directly.

The data sources used as references in this research are relevant library sources as primary data sources (research data, research reports, scientific journals, etc.), and secondary data sources (basic government legal regulations, books, etc.). After obtaining the data source as a

reference, it is continued with analysis of the literature review data which is carried out using content analysis. Content analysis is where the researcher examines a text objectively to get an overview of the content as it is, without the intervention of the researcher (Jumal Ahmad, 2018). In this case, the researcher will carry out an in-depth discussion of the content of the information in the data source which requires setting time to read and examine the data so that there is a result. It is hoped that these results can answer the problem and be used as a consideration within the scope of the law regarding interfaith marriages.

RESULTS AND DISCUSSION

Interfaith Marriage Law

Marriages in Indonesia between religions are more often called mixed marriages, mixed marriages themselves are defined in a broad and narrow sense. Mixed marriage in the broadest sense is a marriage between a man and a woman who are subject to different laws both in terms of religious law, custom and different nationalities,¹

1. Mixed Marriage in the Broadest Sense: In the broadest sense, mixed marriage refers to a marriage between two individuals who come from different religious, ethnic, cultural, or racial backgrounds. In other words, mixed marriages include any marriage in which the partners have significant differences in one or more aspects such as religion, culture, ethnicity, or social background.
2. Mixed Marriage in the Narrow Sense: In the narrow sense, mixed marriage is more specific and refers to marriage between individuals of different religious beliefs. Mixed marriages in the narrow sense often refer to marriages between individuals belonging to different religions, for example, a Muslim marrying a Christian or vice versa.

According to the view of Islamic law, there is no term for mixed meaning if it is interpreted as a marriage between two people of different nationalities. What there are laws and provisions for is mixed marriages in the sense of differences in religion.²

¹ Zulfadhli, Muksalmina, *Legal Legality of Interfaith Marriages in Indonesia*, Research Innovation Journal, (November : 2021), p. 1853

² Mariani, *The Status of Interfaith Marriages and Mixed Marriages in Indonesia*, AL-BANJARI, (January-June: 2020), p. 89

Referring to his actions, especially in the context of discussing Fiqh, what is most essential is the legal basis underlying them. Because when the law has been regulated firmly and clearly, then we must follow these guidelines. In connection with the legal basis of marriage, we can certainly trace it from the following things:

Some of the content regarding marriage in God's Word in Surah An-Nur verse 32 is as follows:

وَأَنْكِحُوا الْأَيْمَىٰ مِنْكُمْ وَالصَّالِحِينَ مِنْ عِبَادِكُمْ وَإِمَائِكُمْ ۚ إِن يَكُونُوا فُقَرَاءَ يُغْنِهِمُ اللَّهُ مِنْ فَضْلِهِ ۗ وَاللَّهُ وَسِعَ عَلِيمٌ ۙ

Meaning: "And marry those who are still single among you, and also those who are worthy (to marry) of your male and female servants. If they are poor, Allah will empower them with His grace. And Allah is All-Encompassing (His gifts), All-Knowing."

In another verse, it is also found in Surah al-Baqarah verse 221 as follows:

وَلَا تَنْكِحُوا الْمُشْرِكَةَ حَتَّىٰ تُؤْمِنَ ۗ وَلَا مَئِمَّةً مُّؤْمِنَةً حَتَّىٰ تُؤْمِنَ ۗ وَلَا تُنكِحُوا الْمُشْرِكِينَ حَتَّىٰ يُؤْمِنُوا ۗ وَالْعَبْدُ مُّؤْمِنٌ حَيْرٌ مِّنْ مُّشْرِكٍ ۗ وَلَا أَعْبَابُكُمْ ۗ أُولَٰئِكَ يَدْعُونَ إِلَى النَّارِ ۗ وَاللَّهُ يَدْعُوا إِلَى الْجَنَّةِ وَالْمَغْفِرَةِ بِإِذْنِهِ ۗ وَيُبَيِّنُ اللَّهُ لِلنَّاسِ لَعَلَّهُمْ يَتَذَكَّرُونَ

Meaning: "And do not marry polytheist women before they believe. Indeed, a believing female slave is better than a polytheist woman, even if she attracts your heart. And do not marry a polytheist (man) (to a believing woman) before they believe. Indeed, a male slave who believes is better than a male idolater even though he attracts your heart. They invite you to hell, while Allah invites you to heaven and forgiveness with His permission. (Allah) explains His verses to people so that they learn a lesson."

The verse above explains the prohibition on marrying a polytheist (non-Muslim) woman. Furthermore, in the Compilation of Islamic Law in article 40 (c) it is stipulated that there is a prohibition on marriage between a man who is Muslim and a woman who is not Muslim. In article 44 of the Compilation of Islamic Law, it is stated "that a Muslim woman is prohibited from entering into marriage with a man who is not Muslim". These provisions are a comprehensive study of naṣṣiyyah verses that discuss marriage which were then codified as Fiqh in statutory language which were then compiled in the form of chapters, articles and verses

so that the Compilation of Islamic Law was born. Apart from that, the Compilation of Islamic Law also covers in detail the issues of divorce, inheritance and endowments.³

The prohibition on interfaith marriages is a legal conclusion born from a normative approach to the verses of the Koran and juridical studies based on the Marriage Law and the Compilation of Islamic Law. Apart from that, if studied from a social aspect, interfaith marriages can lead to things that are contrary to Islamic teachings. Because sociologically there is a rule in the rules of Fiqh that preventing harm is more important than attracting benefit.

“دَرْءُ الْمَفْسِدِ مُقَدِّمٌ عَلَى جَلْبِ الْمَصَالِحِ”. Therefore, differences in beliefs will definitely "Reject/avoid loss/damage (mafsadat) is more important than taking goodness (maslahat)." gives birth to several consequences in the husband and wife relationship as well as for the children they give birth to. Among the consequences arising from mixed marriages are the following:

The invalidity of the marriage has consequences for the fulfillment of the rights and obligations between husband and wife (the wife's rights to living and joint assets).

1. Regarding children born, children born from an invalid marriage only have a legal relationship with their mother.
2. Loss of inheritance rights due to religious differences.
3. Judicial authority in the event of a domestic dispute, because the judiciary in Indonesia apart from recognizing absolute authority and relative authority, also recognizes the principle of personality.

MUI Fatwa In the Second National Conference on 26 May-1 June 1980 (11 Rajab 1400 H), the MUI issued a fatwa regarding mixed marriages or marriages between different religions. MUI in the Second National Conference stated that:

1. The marriage law between Muslim women and men who are not Muslim is haram.
2. The marriage law between a Muslim man and a woman who is not a Muslim woman (including a woman from among the people of the book) is haram. After considering the

³ Syamsul Bahri, Elimartati, Dynamics of Interfaith and Mixed Marriage Laws in the Islamic World and Their Implementation in Indonesia, *Journal of Islamic Civil Law*, (January-June: 2022),p. 108

benefits, the MUI concluded that the benefits that would result from the marriage of a Muslim man to a woman who is not a Muslim woman (including a woman from among the people of the book), is greater than the benefits. Thus, the MUI stipulates that marriage between Muslim men and non-Muslim women is prohibited based on considerations of benefit.⁴

Fuqaha agree that the marriage of a Muslim woman to a non-Muslim man, whether ahlul kitab or polytheist, is invalid. because there will be concerns that there will be ethical violations of the faith, because as we know, wives are obliged to submit to their husbands.⁵

In the period of pluralism in marriage law in Indonesia, Law no. 1 of 1974 concerning Marriage (UUP) with the aim of fulfilling the legal needs of marriage. In connection with the issue we are examining in Article 2 paragraph (1), it is stated that: "Marriage is valid if it is carried out according to each person's religion and belief." This article interprets that marriage is considered valid if it complies with the provisions of religious law between the groom and the bride. So, marriages carried out must comply with each religious law and the marriage is registered according to the provisions of applicable laws and regulations. Provisions regarding marriage registration are regulated in Article 2 paragraphs (1) and (2) PP No. 9 of 1975 concerning the implementation of the UUP, namely that registration of marriages for Muslims is carried out by Marriage, Divorce and Reconciliation Registration Officers as intended in the Law. 32 of 1954. Meanwhile, non-Muslims are recorded by Marriage Registrar Employees at the Civil Registry Office (KCS) as intended in various regulations regarding marriage registration.⁶

Legal marriage is regulated in Article 2 of Law No. 1 of 1974 as follows:

1. UU no. 1 of 1974 states that marriage is valid if it is carried out according to the laws of each religion and belief.
2. Marriages must be registered according to applicable laws and regulations.

⁴ Mariani, *Status of Interfaith Marriages and Mixed Marriages in Indonesia*, p. 98-99

⁵ Nurcahaya, *Interfaith Marriage in the Perspective of Islamic Law*, Journal of Islamic Law, (December: 2018), p. 149

⁶ Zulfadhli, Muksalmina, *Legal Legality of Interfaith Marriages in Indonesia*, p. 1853

Legality of Interfaith Marriage

In Indonesia there are two institutions that register marriages, namely the Office of Religious Affairs (KUA), for people who are Muslim and the Civil Registry Office (KCS), for people who are non-Muslim.

Marriage is defined as 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 or household based on the belief in the Almighty God. Therefore, a marriage is valid if it is carried out according to the laws of each religion and belief and has been recorded according to the applicable laws and regulations.

But what about interfaith marriages? Interfaith marriages are not mixed marriages in the sense of our national law because mixed marriages according to the Marriage Law are referred to as marriages that occur between Indonesian citizens and foreigners, not people of different religions.

In a pluralistic society like Indonesia, it is very possible for marriages to occur between people belonging to different religions. Some of those who have material abundance may not be too bothered because they can get married in another country, but what about those whose economic conditions are mediocre, of course this creates a legal problem.

There are two ways to address the legality of interfaith marriages: First, one of the parties can change religion, but this can mean legal smuggling, because what is happening is only legally circumventing the provisions in Law no. 1 of 1974 concerning Marriage. However, after the marriage took place, each party returned to their respective religions. This method is not recommended.

Second, based on Supreme Court Decision no. 1400 K/Pdt/1986 Civil Registry Offices are permitted to perform marriages between different religions. This case started with the marriage that Lidya Kandau (female/Christian) wanted to register with Jamal Mirdad (male/Muslim). In its decision, the Supreme Court stated that by applying for marriage registration at KCS Jamal Mirdad had ignored Islamic religious regulations regarding marriage and therefore it must be considered that he wanted his marriage not to be solemnized according to the Islamic religion. Thus, their status is not Muslim, so KCS must carry out the marriage.

As a contrario, the KUA is obliged to carry out the marriage, because women who are Christians no longer care about their Christian status. Therefore, it makes clear legal submission to all Islamic laws related to marriage.

Thus, from the start, couples of different religions do not need to smuggle the law by changing religions temporarily, but can get married without changing religions.⁷

The Influence of Interfaith Marriage on Family and Society

Muslims want to marry a Muslim woman and the marriage process is carried out according to Islamic law and recorded by the Office of Religious Affairs (KUA), non-Muslim men must declare two sentences of the shahada before the marriage can take place.

For people who have sufficient financial resources, interfaith marriages are often performed abroad to avoid the hassle of interfaith marriage procedures in Indonesia. However, recently there have been interfaith couples who have adopted a new approach by carrying out two wedding processions. The first wedding procession was carried out in accordance with Islamic teachings through a marriage contract, then followed by a blessing mass in the cathedral. This approach is considered controversial because it is seen as looking for loopholes in applicable regulations, both from the perspective of religious law and applicable secular law.

Every marriage definitely has significant implications in life, especially if it is an interfaith marriage, which can cause various problems. These problems are related to life in the husband and wife's household, and in the end, will have an impact on their children if they already have children. The impact of interfaith marriages can be grouped into two aspects, namely the psychological aspect and the juridical aspect.

Psychologically, interfaith marriages can give rise to a number of problems, including reduced harmony in the household that has been built over many years. When newly married, religious differences may be considered normal, and partners may feel they can tolerate these differences out of love. However, over time, these differences can turn into conflicts in the marital relationship. For example, when the month of Ramadan arrives, the fasting ritual becomes an important moment to strengthen spiritual ties within families who share the same Islamic beliefs. However, with differences in beliefs, carrying out these rituals can be difficult to carry out and even cause tension in the family.

⁷ Nur Asiah, *Legal Study of Interfaith Marriages According to the Marriage Law and Islamic Law*, Samudra Perempuan Law Journal, (July-December: 2015), p. 212-213

Another impact is related to parents' desire to educate their children according to the religion they believe in. In this situation, one partner may feel alone and discriminated against when trying to share their religious knowledge and experiences. This can potentially cause divisions in the household.⁸

From a number of these consequences, it can be concluded that from a psychological perspective, interfaith marriages tend to reduce harmony in domestic life. Apart from that, the impact of interfaith marriages also has an impact on children's mental well-being. As a result of these problems, interfaith marriages often end in divorce. However, it is important to note that even same-religion marriages are not guaranteed to be free from problems. All of this depends on the decisions and attitudes taken by both parties in facing each challenge that arises.

Then, if you look at it using a juridical perspective, it is closely related to the validity of interfaith marriages themselves. In the Law on Marriage, one of the things that must be fulfilled in order for it to be legally valid must be compatibility in religion and belief as regulated in Article 2 paragraph (1) of the Law. Referring to this article, a message is implied that the marriage law decision gives full authority to the teachings of each religion. When religious law says interfaith marriages are valid, then the law also recognizes the marriage as valid under state law. However, in reality, every religion does not fully recognize the validity of interfaith marriages. The only rational way is for one of the parties to change religion to follow one of their partners. Likewise with the registration status of children born. Legally, a child born to a family with an interfaith marriage will be legally recognized if the interfaith marriage is deemed religiously valid and then recognized and recorded by the marriage registration office. Because based on the applicable provisions in Indonesian Journal of Humanities and Social Sciences Volume 3, Issue 1, March 2022 70 marriage law article 42, a legally valid child is a child born from a valid marriage based on article 2 paragraph (2). Apart from the above, another problem that will occur is related to the law on interfaith marriages, namely the issue of inheritance. For example, if a husband is a Muslim and his wife and children are non-Muslims, then inheritance cannot be divided. Neither the children nor the wife can be considered as heirs but are considered as obligatory recipients of the will.

⁸ Rifqiwati Zahara, Makhfud, Problems of Interfaith Marriage: Between Concept and Practice in Society, Indonesian Journal of Humanities and Social Sciences, (March : 2022), p. 66-67

CONCLUSION

Marriages in Indonesia between religions, which are more often called mixed marriages, can be interpreted in two contexts, namely the broad meaning and the narrow meaning. Mixed marriages in a broad sense include differences in religion, culture, ethnicity and social backgrounds, while in a narrow sense, they focus on religious differences.

From the perspective of Islamic law, there is a prohibition on marriage between Muslims and non-Muslims, especially Muslim women and non-Muslim men. This is based on the interpretation of the verses of the Koran and the MUI fatwa which prohibits such marriages because the potential for mafsadat is considered greater than the benefits.

Law no. 1 of 1974 concerning Marriage in Indonesia confirms that marriage is valid if it is carried out in accordance with the laws of each religion. Islamic marriage registration is carried out by Marriage Registrar Officers, while non-Islamic marriages are recorded by Marriage Registrar Officers at the Civil Registry Office.

In a social context, inter-religious marriages can give rise to various problems such as invalidity of marriage, disrupted fulfillment of rights and obligations, loss of inheritance rights, and legal problems in divorce cases. This legal conclusion was obtained from the normative interpretation of the verses of the Koran and the provisions in the Marriage Law, and was followed by an MUI fatwa which considered the benefits and mafsadat in determining the law on mixed or different religious marriages.

Overall, in Indonesia, marriages are recorded by the KUA for Islamic communities and KCS for non-Islamic communities. Marriage, which is a spiritual and physical bond between a man and a woman, is considered valid if it complies with religious law and is recorded in accordance with applicable laws and regulations. Although there are differences between interfaith marriages and mixed marriages in national law, Indonesia's pluralistic society can face legal problems, especially for those with economic limitations.

Addressing the legality of interfaith marriages, there are two approaches. First, religious conversion, but this method is not recommended because it is considered legal smuggling. Second, based on Supreme Court Decision no. 1400 K/Pdt/1986, KCS is allowed to perform interfaith marriages if one of the parties does not want a marriage according to the Islamic

religion. In conclusion, couples of different religions can get married without needing to change religions in accordance with Supreme Court Decision No. 1400 K/Pdt/1986, where KCS can carry out marriages for non-Muslim couples, while KUA is obliged to carry out marriages for Muslim couples.

Even though there are provisions in the Marriage Law which emphasize that marriage must be in accordance with each religion, the reality is that each religion does not always fully recognize the validity of interfaith marriages.

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