



# Misalignment of legal rules for recording marriages between religious couples in Indonesia

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## ABSTRACT

The inconsistency of legal regulations regarding the registration of marriages between couples of different religions in Indonesia is the subject of this research. The author uses a normative juridical research method with a statutory approach in this study. The primary legal materials used in this study are laws and regulations related to the problem under study, while secondary legal materials are in the form of journals, literature, books, papers, theses, dissertations whose contents are related to this research, dictionaries, encyclopedias, and other sources. another source. These legal documents are systematically compiled and analyzed qualitatively. According to the research results, the elucidation of Article 35 letter a. The Population Administration Law or abbreviated ADMINDUK Law as amended by Law Number 24 of 2013 concerning Amendments to Law Number 23 of 2006 concerning Population Administration, and Supreme Court Circular dated 30 January 2019, Number: 231/Pan/Hk 05/1/2019, there was disagreement in the rules for registering marriages between couples of different religions. Therefore, in order for these two regulations to be synchronized, the elucidation of Article 35 letter a of the ADMINDUK ACT needs to be changed, and there needs to be clear and firm rules for interfaith couple marriages so that there are no more parties to go to court for a decision.

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## 1. INTRODUCTION

Marriage registration can be understood as registration carried out by state administrators in a marriage. The aim is to provide certainty, protection and legal force for husbands, wives and children, besides that marriage registration is very important because it will protect citizens in the process of forming and fostering a family (Bab, 2020; Lathifah, 2015; Muhammad Syaifuddin et al., 2022).

According to (Faizal, 2016), marriage registration will also guarantee and maintain certain rights arising from the marriage, including inheritance rights. Marriage registration is also a condition for whether or not a marriage is recognized by the State. If a marriage is not registered according to the applicable laws and regulations, the marriage is deemed invalid, because it is not recognized by the State. According to (Sirait, 2021) Marriage that is not registered will result in the rights of husbands, wives and children who are born without guarantees of legal protection. Therefore, marriage registration is necessary to guarantee that all married individuals not only have religious legitimacy but also formal legal status protected by the laws of our country.

In addition, marriage registration aims to clarify a marriage ceremony for both the couple and the community. Marriage registration is documented in an official letter known as a Marriage Certificate, which can be used at any time and from anywhere. As original written evidence. Marriage registration for non-Muslims is carried out by Dukcapil by completing the requirements in the marriage certificate form, photocopy of KTP, and photocopy of Family Card (KK), while marriage registration for Muslim or Muslim couples is carried out by the Office of Religious Affairs (KUA). The couple will receive a marriage certificate, new family card and identity card showing their new status once they are registered (Abror & MH, 2020; Farisa, 2022).

In Indonesia, at the moment, there is a viral marriage between couples of different religions, where according to records from the Indonesian Conference on Religion and Peace (ICRP) there were 1,425 couples of different religions getting married in Indonesia between 2005 and 2022 (Manjorang & Aditya, 2015; Populis, 2022). An extraordinary amount, as marriages for couples of different religions carried out by President Jokowi's special staff, with Islamic marriages and marriages carried out in the Church to get the blessing of the Church because the spouses are Christians. This raises questions as to whether the marriage is legally valid in Indonesia, whether the marriage can be registered for the purpose of obtaining a marriage certificate or not, and where and how the registration process takes place.

To answer this question, we have to look at the practice of mixed marriages in Indonesia. In Indonesia, mixed marriages are generally divided into two categories, namely marriages between people of different religions and; Mixed marriages across countries/contrasts in ethnicity, or marriages of different nationalities (Borrong, 2017; Mariani, 2020).

In Indonesia, both positive law and religious law permit marriage between people of different nationalities; However, mixed marriages are prohibited due to religious differences and will not be legally recognized. Cross-border mixed marriages, or marriages between Indonesian citizens and people from other countries, are valid and recognized by Country as long as the bride and groom meet, and all requirements specified in the laws of their respective countries of origin are met and there are no restrictions on their union (Lestari, 2018).

Article 2 paragraphs (1) and (2) of the Marriage Law Number 1 of 1974 regulates the validity and registration of marriages. Paragraph (1) of the article states that a marriage is valid if it is carried out according to the laws of each religion and belief. Whereas in paragraph (2), every marriage must be recorded according to the applicable laws and regulations. The Compilation of Islamic Law, in Article 4 also states that "If a marriage is carried out according to Islamic law in accordance with Article 2 paragraph (1) of Law Number 1 of 1974 concerning Marriage, then "the marriage is valid". From these laws and regulations it is clear that interfaith marriage is illegal, so its validity cannot be recorded (P. R. Indonesia, 1974).

This is in accordance with the statement from Prof. Dr. Zudan Arif Fakrulloh, SH, MH, Director General of Population and Civil Registration, Zudan told reporters, Thursday (10/3/2022), the Population and Civil Registry Service (Disdukcapil) will not record interfaith marriages because couples of different religions "must married under the same religion", Zudan Arif Fakrulloh emphasized that Dukcapil does not allow the registration of interfaith marriages because the Supreme Court (MA) has issued a fatwa dated January 30 2019, through Circular Number: 231/PAN/HK.05/1/2019, "If the religion is the same, marriage registration can be done at Dukcapil", "If you have different religions," one of them must give in before it can be registered, (Mirsan, 2022). However there is currently, marriages of different religious couples continue to occur because couples of different religions based on the explanation of Article 35 Letter a. "UU ADMINDUK", where the explanation of Article 35 Letter a of the Population Administration Law states that "marriage determined by the Court" is a marriage between people/people of different religions. Thus can it can be said/meaning that the marriage of a couple of different religions even though the marriage does not fulfill the provisions of Article 2 Paragraph (1) of the Marriage Law. The marriage can still be registered as long as it has obtained a court order for the marriage. On the other hand, the Circular of the Supreme Court does not allow the registration of marriages between couples who are not of the same religion or of different religions.

In reality, conflicts between the two regulations also occur, where not all of the Population and Civil Registration Services (DISDUKCAPIL) want to carry out registration on the basis of a

Court order because they still adhere to the Supreme Court Circular dated 30 January 2019 Number 231/PAN/HK.05/1 /2019 concerning Civil Registry Issues as their guide in recording marriages of couples of different religions. Contradictory rules between explanations Article 35 Letter a. ADMINDUK Act This regulation from the Supreme Court has resulted in ambiguity and uncertainty regarding the registration of marriages between adherents of different religions. Zudan added, there was another opinion from DISDUKCAPIL which kept records of couples who had different religious marriages because they based it on the explanation of the ADMINDUK Law article 35 letter a., and besides that, this recording was carried out based on Article 7 paragraph (2) letter I of the Law Number 30 of 2014 concerning Government Administration states that government officials who are responsible for government must comply with Court decisions that have permanent legal force. (Farisa, 2022; Ilvira, 2022). This is also the basis for South Jakarta DISDUKCAPIL to register marriages between couples of different religions. Because of the ambiguity of the rules and the inconsistency of the regulations for registering marriages between couples of different religions, the authors conducted this research by formulating the problem of this study, namely why there is an inconsistency in the rules for registering interfaith marriages; What actions need to be taken to harmonize the laws and regulations for the registration of interfaith marriages.

## 2. RESEARCH METHOD

This Radical Humanist Paradigm is used in this study. This paradigm aims to understand how to interpret an event so that the rules for registering marriages between couples of different religions can be reconstructed or changed in such a way that there is harmony in statutory regulations to provide clarity and legal certainty. which requires the registration of interfaith marriages. The nature of this research is analytical descriptive (Sugiyono, 2017), in particular: conclusions that are not generalizable and descriptions of the various issues that are the focus of the research.

A normative juridical approach is used in this study to examine the laws and regulations governing the registration of interfaith marriages from a jurisprudential perspective, looking at the arrangements in the laws and regulations, how they are implemented in society, and efforts to resolve violations, primary data (field research) and secondary data (library research) were used to collect data from laws and regulations regarding the registration of interfaith marriages. In library research, data is collected from literature studies, documents, journals, theses, and other library materials. To review the data qualitatively before being processed using the deductive method and ending with a discussion to solve the existing problems.

## 3. RESULTS AND DISCUSSIONS

### Interfaith Marriage According to Positive Law in Indonesia

Marriage between couples of different religions which is used as the basis for justifying the marriage is the marriage of the eldest daughter of the Prophet Muhammad SAW, named Zainab bint Muhammad, married to Abul Ash bin ar-Rabi at that time they were of different religions where Zainab had become a Muslim while Abul Ash followed the ancestral religion of the Quraysh tribe. This event occurred before the Prophet Muhammad received the revelation. Verse 10 of Al-Mumtahanah which prohibits Muslim women from marrying non-Muslim men and non-Muslim men are automatically not allowed to marry Muslim women which reads: "Lâ hunna hillul lahum wa lâ hum yahillûna lahunn", came down after the Hudaibiyah Agreement, exactly six years after the Prophet emigrated to Medina. In the eighth year after the Prophet migrated to Medina, Abul Ash bin ar-Rabi' converted to Islam, (AM, 2022). Automatically, if this is used as an argument supporting interfaith marriages by supporters of marriages of couples of different religions, it will automatically fail.

The results of searching Kumparan on the Directory of Decisions of the Supreme Court of the Republic of Indonesia from 2007 to 2022 found 73 decisions for civil registration applications to the Court and of the 73 application decisions 69 application decisions were granted for registration with Dukcapil (Pratama, R. B., & Rahadian, 2022). However, there is no information yet on how many of the 69 decisions that have obtained court orders can be registered or registered with DISDUKCAPIL and the marriage certificate issued. Nurohman Kasudin South Jakarta

DISDUKCAPIL said that until September 2022, four applications for marriage certificates for interfaith couples had been registered, (Thursday, 15 September 2022). Among them are the marriages of interfaith couples with the initials DRS who are "Christian" and JN who are "Muslim". After the South Jakarta District Court granted the application for marriage registration from married couples of different religions, the South Jakarta DISDUKCAPIL registered it and issued a marriage certificate. The four couples consist of two Muslim-Catholic couples; one Muslim-Christian couple; and one pair Christian and Catholic. The South Jakarta District Court granted the four couples' request for a marriage determination, said Nurohman. Nurohman stated that the issuance of the marriage certificate for couples of different religions was based on the elucidation of Article 35 letter a of the Population Administration Law. In the elucidation of the article, marriage registration is also required for marriages determined by the Court so that marriage certificates can be issued between people of different religions that have received a decision from the Court and have legal force. In addition, the South Jakarta Dukcapil refers to Article 7 paragraph 2 letter l of Law Number 30 of 2014 concerning Government Administration, Nurohman stated that the issuance of the marriage certificate for couples of different religions was based on the elucidation of Article 35 letter a of the Population Administration Law. In the elucidation of the article, marriage registration is also required for marriages determined by the Court so that marriage certificates can be issued between people of different religions that have received a decision from the Court and have legal force. In addition, the South Jakarta Dukcapil refers to Article 7 paragraph 2 letter l of Law Number 30 of 2014 concerning Government Administration, Nurohman stated that the issuance of the marriage certificate for couples of different religions was based on the elucidation of Article 35 letter a of the Population Administration Law. In the elucidation of the article, marriage registration is also required for marriages determined by the Court so that marriage certificates can be issued between people of different religions that have received a decision from the Court and have legal force. In addition, the South Jakarta Dukcapil refers to Article 7 paragraph 2 letter l of Law Number 30 of 2014 concerning Government Administration, In the elucidation of the article, marriage registration is also required for marriages determined by the Court so that marriage certificates can be issued between people of different religions that have received a decision from the Court and have legal force. In addition, the South Jakarta Dukcapil refers to Article 7 paragraph 2 letter l of Law Number 30 of 2014 concerning Government Administration, In the elucidation of the article, marriage registration is also required for marriages determined by the Court so that marriage certificates can be issued between people of different religions that have received a decision from the Court and have legal force. In addition, the South Jakarta Dukcapil refers to Article 7 paragraph 2 letter l of Law Number 30 of 2014 concerning Government Administration (Bustomi, 2022).

The definition of marriage between couples of different religions is not contained in Indonesian law. Rusli and R. Tama stated that "Interfaith marriage is a physical and spiritual bond between a man and a woman of different religions and countries." (Rusli & Tama, 2000). Meanwhile Hilman Hadikusuma defines interfaith marriage as "mixed marriage between religions included in this sense, for the religion is the same but differs in the implementation of religious ceremonies and beliefs." (Hadikusuma, 2020).

From a legal perspective, formal marriage in Indonesia is regulated in Law Number 1 of 1974 and the Compilation of Islamic Law. The two laws and regulations regulate issues related to marriage, including the prohibition of marriage between couples of different religions.

Law No. 1 of 1974 defines marriage as a physical and spiritual bond between a man and a woman with the aim of forming a happy and eternal family based on Belief in One Almighty God. The next article states that religiously valid marriages, namely marriages carried out according to the rules of their religion or belief, must be registered. In this law, in article 8 letter f, there is a prohibition against interfaith marriages. In article 57 it is explained that mixed marriage is a marriage between two people where one of the partners is an Indonesian citizen. So the assumption that interfaith marriage is the same as mixed marriage is not true.

If seen from the articles in the Marriage Law, it has provided clear boundaries regarding marriage rules. Because marriage is a physical and spiritual bond between a man and a woman to form a happy and eternal family order. An inner and outer bond will be formed if there is equality and harmony in running the household, having one view and guidance in life and the same rules in

managing life. other things so that the existence of this union will give birth to a bond both physically and mentally. The tool to unite this is religion as the basis and guide as well as guidelines in carrying out this life so that no marriage is carried out outside the laws of each religion and belief. In line with the Marriage Law Compilation of Islamic Law regulates the validity of marriage as contained in article 4 and prohibits a man from marrying a woman who is still married to another man, women who are still in their iddah period, and women who are not Muslim, matters this is stated in article 40. Article 44 again contains a ban on marriage for a woman who is not allowed to marry a man who is not Muslim. According to article 61 of the KHI, reasons of not being in confederation cannot be used as a basis for preventing marriage, except for being in confederation because of religious differences In line with the Marriage Law Compilation of Islamic Law regulates the validity of marriage as contained in article 4 and prohibits a man from marrying a woman who is still married to another man, women who are still in their iddah period, and women who are not Muslim, matters this is stated in article 40. Article 44 again contains a ban on marriage for a woman who is not allowed to marry a man who is not Muslim. According to article 61 of the KHI, reasons of not being in confederation cannot be used as a basis for preventing marriage, except for being in confederation because of religious differences In line with the Marriage Law Compilation of Islamic Law regulates the validity of marriage as contained in article 4 and prohibits a man from marrying a woman who is still married to another man, women who are still in their iddah period, and women who are not Muslim, matters this is stated in article 40. Article 44 again contains a ban on marriage for a woman who is not allowed to marry a man who is not Muslim. According to article 61 of the KHI, reasons of not being in confederation cannot be used as a basis for preventing marriage, except for being in confederation because of religious differences this is stated in article 40. Article 44 again contains a ban on marriage for a woman who is not allowed to marry a man who is not Muslim. According to article 61 of the KHI, reasons of not being in confederation cannot be used as a basis for preventing marriage, except for being in confederation because of religious differences this is stated in article 40. Article 44 again contains a ban on marriage for a woman who is not allowed to marry a man who is not Muslim. According to article 61 of the KHI, reasons of not being in confederation cannot be used as a basis for preventing marriage, except for being in confederation because of religious differences (Instruksi Presiden RI No. 1 Tahun 1991 Tentang Kompilasi Hukum Islam Di Indonesia, 2000).

Marriages carried out in the jurisdiction of Indonesia must be carried out with one religious path, meaning that marriages between couples of different religions are not allowed to take place and if they are forced to carry out marriages between couples of different religions, it means that the marriage is invalid and violates the law. In other words, positive law in Indonesia does not recognize interfaith marriages.

The Indonesian Ulama Council (MUI) issued a Fatwa Number: 4/MUNAS VII/MUI/8/2005 which prohibits interfaith marriages from being illegal and invalid." The decision of the 22nd Tarjih Muhammadiyah Muktamar stated that: "It is forbidden for a Muslim woman to marry a non-Muslim man and for a Muslim man it is forbidden to marry a musyrikah woman (other than a Muslim)."

Allah SWT says in the Al-Qu'an: "Do not marry polytheists, because in fact, slave women or male slaves who believe are better than those who are polytheists, even if they attract your heart because they will invite you to hell, while Allah invites to heaven and forgiveness with His permission." [QS. al-Baqarah (2): 221].

In the 5th verse of Al-Maidah Allah SWT confirms that a Muslim man may not marry a woman from the People of the Book (i.e. Jews and Christians both Catholic/Protestant), and many other verses prohibit marriage between couples of different religions. So that in marriage don't only pay attention to the formal aspect so that it ignores the spiritual aspect as well as the social aspect. As adherents of the Islamic religion who believe and believe in their religion, we must obey and comply with the rules of the religion adhered to as the Word of Allah SWT in Surah An-Nisa verses 13-14, which states that: "Whoever obeys Allah and His Messenger, surely Allah will enter him into heaven and whoever disobeys Allah and His Messenger, and violates the limits of His law, surely Allah will put him into the fires of hell.

The prohibition of marrying couples of different religions also occurs in Hinduism, Buddhism, and Christianity. In Protestant Christianity, it requires adherents to marry partners of the

same religion, because achieving happiness as the main goal of marriage will be difficult to achieve if the husband and wife are not of the same faith, whereas in the Catholic Church, it is considered that marriages carried out not according to the rules of the Catholic religion are considered invalid. So positive law in Indonesia does not recognize the existence of marriage between couples of different religions for any reason, because the Marriage Law and the Compilation of Islamic Law do not justify the existence of marriages between couples of different religions, as well as several religions that exist and are recognized by the State in Indonesia. prohibiting marriage between couples of different religions, even if there are those who allow it but must follow the rules of that religion.

### **Inconhagement Of Legal Regulations Regarding Registration Of Marriages Inter-Religious Couples**

In accordance with the rules in Law Number 1 of 1974 concerning Marriage Article 2 paragraph (2) where every married couple must register their marriage so that the marriage is not only legal religiously but also fulfills state administration and is recognized by the State. In order to ensure that the implementation of marriage registration goes according to the rules, the Government makes Legislation regarding marriage registration as a guide for the implementation of registration so that marriage registration can provide guarantees and legal certainty for couples who carry out marriages. Among these regulations, namely: law of the Republic of Indonesia Number 22 of 1946 concerning Registration of Marriage, Divorce and Reconciliation. Law of the Republic of Indonesia Number 32 of 1954.

Law Number 23 of 2006joLaw Number 24 of 2013 concerning Amendments to Law Number 23 of 2006 concerning Population Administration. Article 34 of the ADMINDUK Law requires that every valid marriage event must be reported no later than 60 (sixty) days from the date of marriage. If it has been recorded, a copy of the marriage certificate will be issued which will be given to the couple. For couples who are Muslim, reporting is done to the Office of Religious Affairs at the sub-district level. In article 35 letter a., and letter b. states that the registration of marriages referred to in Article 34 also applies to marriages determined by the Court; and marriages of foreign nationals conducted in Indonesia (R. Indonesia, 2006).

Government Regulation of the Republic of Indonesia concerning Population Administration Number 40 of 2019 as a rule for the implementation of Law Number 23 of 2006 concerning Population Administration juncto Law Number 24 of 2013.

Regulation of the Minister of Religion of the Republic of Indonesia Number 20 of 2019 Concerning Marriage Registration, where in CHAPTER IV IMPLEMENTATION OF MARRIAGE REGISTRATION, in Article 9 paragraph (1) and paragraph (2) it is stated that the registration is carried out after the marriage contract is carried out and has fulfilled the provisions referred to in Article 4, Article 5, and Article 6. (Agama, 2019).

Government Regulation Concerning the Implementation of the Marriage Law, Number 9 of 1975, in this regulation it is explained that the registration of marriages of those who carry out their marriage according to the Islamic religion, is carried out by the KUA or Registrar Employee as referred to in Law Number 32 of 1954 concerning Marriage Registration, Divorce and Reconciliation, while for those who marry according to their religion and belief other than Islam, it is carried out by the marriage registrar at the civil registry office (R. Indonesia, 1975).

The Compilation of Islamic Law contained in Presidential Decree No. 1 of 1991, article 5 paragraph (1) and paragraph (2) states that for the Islamic community the registration of marriages aims to ensure orderliness of marriages carried out by Marriage Registrarsin accordance with Law No. 22 of 1946 joncto Law No. 32 of 1954.

For marriages that are legal according to religion, they must be registered, where marriages for Muslim couples are registered at the Office of Religious Affairs (KUA) and marriages for couples of non-Muslim religions are registered at the Civil Registry Office (KCS). juncto Regulation of the Minister of Religion of the Republic of Indonesia Number 477 of 2004 Juncto Regulation of the Minister of Religion of the Republic of Indonesia Number 11 of 2007 Concerning Marriage Registration (Keputusan Menteri Agama Ri Nomor 289 Tahun 2003 Juncto Peraturan Menteri Agama Ri Nomor 477 Tahun 2004, 2004).

Guidelines for Registration of Marriages and Reporting of Deeds Issued by Other Countries contained in the Regulation of the Minister of Home Affairs Number 12 of 2010. In these regulations the provisions and requirements for registration of marriages at the DUKCAPIL Office for couples married to partners with different nationalities are determined by the Court (Kemendagri, 2010). In general, the requirements for the Office of KUA and DUKCAPIL for administrative completeness are: Blessing letter from the Church / Temple / Temple / Beliefs, for those who have never been married, if there is not one family card, a letter of introduction from the Kelurahan is required for each original partner and a duplicate photocopy of 1, birth certificate/Birth certificate of husband and wife, husband and wife Family Card, identity Card (KTP) husband and wife, husband and wife's last diploma, superior's marriage license / KPI; For members of the TNI-POLRI, coupled photos 4 x 6 = 3 colored sheets, those with widow/widower status must bring a death certificate/divorce certificate.

The rules for registering marriages above have nothing to do with the registration of a partner's marriedifferent religions because the marriage of partners of different religions according to positive law and religious law is not allowed or prohibited, so there are no laws and regulations that specifically regulate this matter. The basis used by those who carry out the marriage is the rules contained in the elucidation of Article 35 letter a., Law ADMINDUK Number 23 of 2006, where in the elucidation of the article it is stated that "a marriage carried out between people of different religions is a marriage that stipulated by the Court", so that the perpetrators of marriages between people of different religions register their marriage by first making a request for a Court order and then registering it at the DISDUKCAPIL Office.

Generally, judges who grant requests from married couples of different religions base their decisions on the perspective of human rights and the explanation of Article 35 letter a., meanwhile The judge who refused to grant the request was based on the prohibition of positive law in Indonesia on interfaith marriage as stated in the Marriage Law and Compilation of Islamic Law as a reference. Besides that, the benefits and disadvantages of the marriage are both for the husband and wife and the children of the marriage because the legal guarantees for the rights of the couple and also for the couple's children are not clear because the fundamental rules, namely religion, have been violated. This is also the basis for the judge's consideration of rejecting interfaith marriages.

If there is an opinion stating that there is a legal vacuum in the arrangement of marriages between couples of different religions, according to the authors this is not true because the Supreme Court through Circular Letter number 231/PAN/HK.05/1/2019, dated January 30 2019 in response to request from the Directorate General of Population and Civil Registration of the Republic of Indonesia Number 472.2/18752/DUKCAPIL dated 10 October 2018, for clarity regarding Civil Registration Issues, wherein the Circular is given answers to questions from DUKCAPIL regarding: "marriage registration for couples who will register their marriage but can show a marriage certificate from a religious leader/environmental leader? To this question, the Supreme Court gave the answer that Muslim couples must go through the marriage confirmation procedure to the Religious Court (Art. 7 paragraph (2) and (3) KHI), while non-Muslim couples must remarry and be registered in accordance with applicable provision.

For marriages of couples of different religions where if the couple already has proof of a marriage certificate from one of the religious leaders, for example the applicant brings a marriage certificate from a Christian religious leader but the religion is on the KK and e-KTP of the Christian and Muslim applicant, can this marriage be registered. The Supreme Court answered that interfaith marriages are not recognized by the state and cannot be registered. Marriage can be registered if the marriage is carried out based on the religion of one partner and the other partner submits to the religion of the partner, for example if the marriage is carried out based on Christianity then it is registered at the Office of the Population and Civil Registry Office.

With a circular letter from the Supreme Court dated January 30 2019, No. 231/PAN/HK.05/1/2019 has provided an explanation and confirmation that interfaith marriages cannot be considered valid according to Indonesian legal regulations unless one party submits to the religion of the partner, and this circular from the Supreme Court also provides an explanation that Article 35 letter a ADMINDUK Law Number 23 of 2006 concerning Population Administration in

conjunction with Law Number 24 of 2013 concerning Amendments to Law Number 23 of 2006 does not function. This is supported by the Director General of Population and Civil Registration, Prof. Dr. Zudan Arif Fakrulloh, SH, MH, by stating that interfaith marriages will not be recorded at the Population and Civil Registry Service (DISDUKCAPIL) so that every couple must marry in an atmosphere of the same religion. However, in the field, the Population and Civil Registration Service (DISDUKCAPIL) which adheres to the Statement of the Director General of Population and Civil Registration and the Supreme Court Circular Letter Number 231/PAN/HK.05/1/2019 dated January 30 2019, refuses to register interfaith marriages even with a court order. On the other hand, there is also the Department of Population and Civil Registry (DISDUKCAPIL) which bases it on the elucidation of Article 35 letter a. By recording after couples of different religions bring a decision to determine marriage from the Court. This is what makes the injustice of society in obtaining their rights due to ambiguity in the interpretation of laws and regulations and the uncertainty of the judges in making decisions due to different interpretations and views in applying statutory regulations. This is also getting exacerbated because of the contradictions in these laws and regulations. There is a question about the position of a circular letter from the Supreme Court which expressly states that marriages of couples with different religions cannot be registered because the state does not recognize interfaith marriages, whether it is included in statutory regulations or ordinary internal circulars. Referring to the Law on the Establishment of Legislation in article 8 paragraph (1) of Law Number 12 of 2011 it states that decisions from the Supreme Court have binding legal force and can be classified as statutory regulations.

So the inconsistency of the rules regarding the registration of marriages of interfaith couples is due to coercion to accept or legalize the marriage due to the statement that "marriages conducted between people of different religions are marriages determined by the Court", this is contained in the elucidation of Article 35 letter a Law Number 232006 concerning Population Administration juncto Law Number 24 of 2013 concerning Amendments to Law Number 23 of 2006 concerning Population Administration.

Apart from that, so that interfaith marriages can be recognized or accepted by the State, all reasons for justification are used as the reasons described above, and are also linked to human rights. Keep in mind that Indonesian culture is different from Western or foreign culture. The life of the Indonesian people is based on the ONE ALMIGHTY GOD, so that every step in the journey of life is based on the belief in the existence of ALMIGHTY GOD and for this reason the Indonesian people adhere to the teachings of their religion and beliefs. The freedom of the Indonesian people is limited by the norms and rules of religion and belief in order to gain the happiness of life. The freedom of the Indonesian nation is freedom that has limits and rules, not freedom based on one's own desires and wishes. Likewise in culture, especially in choosing a partner, the role of parents is needed so that the journey of life is peaceful and happy. This is what supporters of interfaith marriage have to say. In marriage LOVE is not the main thing but in marriage there must be LOVE. LOVE will be awakened when there is harmony in views and actions, otherwise differences will lead to alienation and fights. Therefore it is hoped that the Judge as the policy breaker for interfaith marriage applications in deciding the application uses his conscience, to think about the future consequences, especially for the spouses and their offspring if there are two captains on a ship who have different directions and views. This is what supporters of interfaith marriage have to say. In marriage LOVE is not the main thing but in marriage there must be LOVE. LOVE will be awakened when there is harmony in views and actions, otherwise differences will lead to alienation and fights. Therefore it is hoped that the Judge as the policy breaker for interfaith marriage applications in deciding the application uses his conscience, to think about the future consequences, especially for the spouses and their offspring if there are two captains on a ship who have different directions and views. This is what supporters of interfaith marriage have to say. In marriage LOVE is not the main thing but in marriage there must be LOVE. LOVE will be awakened when there is harmony in views and actions, otherwise differences will lead to alienation and fights. Therefore it is hoped that the Judge as the policy breaker for interfaith marriage applications in deciding the application uses his conscience, to think about the future consequences, especially for the spouses and their offspring if there are two captains on a ship who have different directions and views. otherwise differences will lead to alienation and quarrels.



Therefore it is expected that the Judge as the breaker of the interfaith marriage application policy in deciding the application uses conscience, think about the future consequences, especially for the spouse and their offspring if there are two Captains on a ship who have different directions and views. otherwise differences will lead to alienation and quarrels. Therefore it is hoped that the Judge as the policy breaker for interfaith marriage applications in deciding the application uses his conscience, to think about the future consequences, especially for the spouses and their offspring if there are two captains on a ship who have different directions and views. Besides that, judges should also use logic and good legal reasoning in deciding applications for interfaith marriages in order to create generations of Indonesians who have a firm mental and moral attitude without full doubt. Positive law clearly prohibits interfaith marriages, why should it be violated and what if children of the Judges did the same thing, namely to carry out interfaith marriages whether they could agree.

According to online news reports, Muslim-Christian couples filed 52% of interfaith marriage applications with the District Court, Muslim-Catholic couples filed 26%, Muslim-Hindu couples filed 1.4%, and couples filed 5.5%. Islam-Buddhism, 4.1 percent Buddhist-Catholic, 6.8 percent Christian-Catholic, and 4.1 percent Christian-Buddhist. (Pratama, R. B., & Rahadian, 2022).

Therefore, the government as a legislative and The House of Representatives as an executive body must stipulate clear and firm rules regarding the prohibition of interfaith marriages. With these rules, there is no longer any reason to justify interfaith marriage because it will be clear that the Indonesian State recognizes religious law and positive law where interfaith marriage is prohibited in Indonesia. To synchronize the rules on the Elucidation of Article 35 Letter a of the Population Administration Law and Circular of the Supreme Court Number 231/PAN/HK.05/1/2019 dated 30 January 2019 it is necessary to amend the sound of the article's explanation so that people are sure to follow the rules so that the rules not misunderstood. In this case, changes to the elucidation of Article 35 letter a of Law Number 23 of 2006 which reads: "Marriage stipulated by the Court" is a marriage carried out between people of different religions should be changed to "Marriage stipulated by the Court" is a marriage that has been legal religiously but has not fulfilled the administrative requirements required for registration of a marriage.

The process of registering a couple's marriage different religions cannot be carried out because they do not fulfill religious provisions or religious rules as the main requirement, and the elucidation of the article will not cause multiple interpretations if reconstruction or changes are made. Meanwhile, parties who wish to review Law Number 1 of 1974, especially Article 2 paragraph 1 and paragraph 2, on the grounds that there is a legal vacuum in this matter, must fully understand the Article and its Explanation, where in paragraph (1) (2) it is clearly stated that: "a marriage is said to be valid, if it is carried out according to the laws of each religion and belief", and "a valid marriage must be recorded according to the applicable laws and regulations".

The elucidation of Article 2 of the Marriage Law is also in accordance with the 1945 Constitution, where according to the formulation in paragraph (1), there is no religion or belief that prohibits marriage, but as long as it does not conflict with this law or is not stipulated otherwise by provisions of laws and regulations. invitations that apply to each religious and belief group are included in the definition of "laws of each religion and belief".

The opinions of the authors of Article 2 paragraph (1) and paragraph (2) and their explanation as contained in the Marriage Law are clear and clear, so that in life and as a state in Indonesia we as Indonesian citizens must have a view of life which is guided by the noble values of the precepts that exist and are embedded as a way of life for the Indonesian nation (Mariani, 2020). One of these values is that every Indonesian must believe in the existence of a Creator of nature and must obey his religious orders. Don't just because of love and Human Rights reasons we ignore religion. It is necessary to remember that marriage is not just about sex or lustful sexuality but concerns the future and the derivatives of the marriage. Every couple who gets married wants their marriage to last until the end of their lives, so they have to be careful in choosing a partner and keep in mind that religion is our guide and guide in living and living life.

#### 4. CONCLUSION

According to description previous authors can be concluded, namely: (1) According to Chapter 2 paragraph (1), (2) of the Marriage Law No. 1 of 1974 the existence of marriages between adherents of different religions is not recognized by positive law in Indonesia. INPRES Number 1 of 1991 concerning Compilation of Islamic Law also regulates this. In addition, the Indonesian Ulama Council has issued two (two) Fatwas which prohibit marriage between people of different religions, namely: On 26 May-1 June 1980 AD, at the Second National Conference 11-17 Rajab 1400 H, and at the MUI National Conference VII which took place on 19-22 Jumadil Akhir 1426 H/26-29 July 2005 M. To further emphasize positive law and religious law in Indonesia, it is necessary to enact legislation prohibiting interfaith couple marriages in order to provide legal certainty for every couple who are in marriage, in addition, the judges must adhere to positive law and religious law in deciding the marriage of couples of different religions which strictly prohibit and do not recognize marriages between couples of different religions. (2) Article 35 and Elucidation of Article 35 Letter a of the Population Administration Law as amended by Law Number 24 of 2013 concerning Amendments to Law Number 23 of 2006 concerning Population Administration, form the basis for procedures for registering marriages between different married couples. religion. The elucidation of Article 35 letter a creates confusion and multiple interpretations, and is used as an excuse to allow interfaith marriages to occur in Indonesia and to register these marriages at the Civil Registry Office. However, in the Supreme Court Circular dated 30 January 2019 No.231/PAN/HK.05/1/2019 and a statement from Prof. Dr. Zudan Arif Fakrulloh, SH, MH, The Director General of Population and Civil Registration stated that interfaith marriages would not be recorded at the Population and Civil Registry Office (Disdukcapil) because each couple must be married in an atmosphere that is in accordance with their religion and beliefs. A valid marriage in Indonesia according to positive law is a marriage that complies with religious regulations and state law and can be registered at the KUA or Disdukcapil to obtain a certificate or marriage certificate. It is clear that there are inconsistencies in the regulations governing whether marriages between couples of different religions are recorded in Indonesia. Marriages, and no known marriages between people of different religions have taken place in Indonesia.

## REFERENCES

- Abror, H. K., & MH, K. H. A. (2020). *Hukum perkawinan dan Perceraian*. Ladang Kata, Bantul Yogyakarta.
- Agama, M. (2019). Peraturan Menteri Agama Republik Indonesia Nomor 20 Tahun 2019 Tentang Pencatatan Pernikahan. *Berita Negara Republik Indonesia*, 1118, 29.
- AM, A. M. (2022). *Lika-Liku Nikah Beda Agama Zainab Putri Rasulullah*. <https://Islam.Nu.or.id>. <https://islam.nu.or.id/sirah-nabawiyah/lika-liku-nikah-beda-agama-zainab-putri-rasulullah-jgSPU>
- Bab, V. (2020). Perlindungan Preventif Dalam Perkawinan. *Hukum Perkawinan Dan Itsbat Nikah: Antara Perlindungan Dan Kepastian Hukum*, 113.
- Borrong, R. P. (2017). Pernikahan Lintas Iman Dalam Konteks Masyarakat Majemuk. *Voice of Wesley: Jurnal Ilmiah Musik Dan Agama*, 1(1).
- Bustomi, M. I. (2022). Dukcapil Jaksel Terbitkan 4 Akta Perkawinan Pasangan Beda Agama Sepanjang 2022. *Www.Kompas.Com*. <https://megapolitan.kompas.com/read/2022/09/15/14273431/dukcapil-jaksel-terbitkan-4-akta-perkawinan-pasangan-beda-agama-sepanjang>
- Faizal, L. (2016). Akibat Hukum Pencatatan Perkawinan. *ASAS*, 8(2).
- Farisa, F. C. (2022). Ramai soal Nikah Beda Agama, Kemendagri: Dukcapil Hanya Mencatatkan, Bukan Mengesahkan Perkawinan. *Www.Kompas.Com*. <https://nasional.kompas.com/read/2022/09/17/06400031/ramai-soal-nikah-beda-agama-kemendagri--dukcapil-hanya-mencatatkan-bukan>
- Hadikusuma, H. (2020). *Hukum Perkawinan Indonesia: menurut perundangan, hukum adat, hukum agama*.
- Ilvira, M. L. (2022). Urgensi Perjanjian Perkawinan Bagi Warga Negara Indonesia yang Akan Melakukan Perkawinan Campuran. *Jurnal Lex Justitia*, 3(2), 188–202.
- Indonesia, P. R. (1974). Undang-Undang Republik Indonesia Nomor 1 Tahun 1974 Tentang Perkawinan. *Lembaran Negara Republik Indonesia Tahun*.
- Indonesia, R. (1975). *Peraturan pemerintah nomor 9 tahun 1975 tentang pelaksanaan Undang-undang nomor 1 tahun 1974 tentang perkawinan*. Up. Indonesia.
- Indonesia, R. (2006). Undang-Undang Nomor 23 Tahun 2006 tentang Administrasi Kependudukan. *Lembaran Negara Republik Indonesia Nomor*, 4674.
- Instruksi Presiden RI No. 1 Tahun 1991 tentang Kompilasi Hukum Islam di Indonesia, (2000).
- Kemendagri. (2010). *Peraturan Menteri Dalam Negeri Nomor 12 Tahun 2010 Tentang Pedoman Pencatatan Perkawinan Dan Pelaporan Akta Yang Diterbitkan Oleh Negara Lain*.

- Lathifah, I. (2015). Pencatatan perkawinan: melacak akar budaya hukum dan respon masyarakat Indonesia terhadap pencatatan perkawinan. *Al-Mazaahib: Jurnal Perbandingan Hukum*, 3(1).
- Lestari, N. (2018). Problematika Hukum Perkawinan Di Indonesia. *JURNAL ILMIAH MIZANI: Wacana Hukum, Ekonomi, Dan Keagamaan*, 4(1), 43–52.
- Manjorang, A. P., & Aditya, I. (2015). *The law of love: Hukum seputar pranikah, pernikahan, dan perceraian di Indonesia*. Visimedia.
- Mariani, M. (2020). Kedudukan Perkawinan Beda Agama Dan Perkawinan Campuran Di Indonesia. *Al-Banjari: Jurnal Ilmiah Ilmu-Ilmu Keislaman*, 19(1), 84–111.
- Keputusan Menteri Agama Ri Nomor 289 Tahun 2003 Juncto Peraturan Menteri Agama Ri Nomor 477 Tahun 2004, (2004).
- Mirsan, A. (2022). Soal Pernikahan Beda Agama, Kemendagri Tegaskan Tak akan Dicatat di Disdukcapil. *Www.Fajar.Co.Id*.
- Muhammad Syaifuddin, S. H., Sri Turatmiyah, S. H., & Annalisa Yahanan, S. H. (2022). *Hukum perceraian*. Sinar Grafika.
- Populis. (2022). Jangan Kaget! Ini Jumlah Pasangan Nikah Beda Agama di Indonesia. *Www.Populis.Com*, 2. <https://populis.id/read13644/jangan-kaget-ini-jumlah-pasangan-nikah-beda-agama-di-indonesia?page=2>
- Pratama, R. B., & Rahadian, T. (2022). 94,5% Permohonan Pencatatan Sipil Nikah Beda Agama Dikabulkan, Ini Datanya. *Www.Kumparannesw.Com*. [www.kumparannews.com](http://www.kumparannews.com) 94,5%25 Permohonan Pencatatan Sipil Nikah Beda Agama Dikabulkan, Ini Datanya
- Rusli, S. H., & Tama, R. (2000). Perkawinan Antar Agama Dan Masalahnya. In *Pionir Jaya*.
- Sirait, R. M. (2021). PENCATATAN PERKAWINAN DALAM PERATURAN PERUNDANG-UNDANGAN PERKAWINAN DI INDONESIA MARRIAGE REGISTRATION IN INDONESIA'S MARRIAGE LAW REGULATIONS. *Jurnal Juristic*, 1(1), 16–23.
- Sugiyono. (2017). *Metode penelitian: Pendekatan Kuantitatif, Kualitatif, dan R&D*. Bandung : Alfabeta, 2015.