

Polemics on Interfaith Marriage: Law and Civil Law Perspectives

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Abstract : Marriage is seen as a bridge to a long journey that has shared visions and missions. We can not recklessly hold a wedding. There are a few things to be considered. Umumnya adalah budaya dan agama yang menjadi sorot utama ketika pemuda pemudi atau calon mempelai pria dan wanita akan melangsungkan pernikahan. Budaya merupakan hal yang juga akan dibawa ketika acara pernikahan akan dilangsungkan. Generally, culture and religion become the highlight once man and woman or prospective brides and grooms plan to get married. Culture is presented on the wedding day. However, a different culture is not allowed or prohibited. This also applies to religion. It becomes an important matter to consider before marriage. Marriage must be carried out according to each partner's religion. Thus, it is considered valid. In general, marriages are held in the same religion. However, this study will discuss massive interfaith marriages done by young people in Indonesia. The study employed a literature approach. This approach requires more reading and collecting library data. The findings generated new ideas in civil matters, the registration of interfaith marriages and the challenges of holding such marriage. In conclusion, interfaith marriages bring countless problems if they insist.

Keywords: Culture, Different Religion, Marriage

Polemik Pernikahan Beda Agama dalam Perspektif Undang-Undang dan Hukum Perdata

Abstrak : Pernikahan adalah suatu jembatan menuju kehidupan panjang dengan visi misi bersama di dalamnya. Bukan sembarang melangsungkan pernikahan. Namun, adanya beberapa hal yang harus diperhatikan. Umumnya adalah budaya dan agama yang menjadi sorot utama ketika pemuda pemudi atau calon mempelai pria dan wanita akan melangsungkan pernikahan. Budaya merupakan hal yang juga akan dibawa ketika acara pernikahan akan dilangsungkan. Tidak hanya sampai disitu, sering kali perbedaan budaya juga menjadi hal yang tidak diwajibkan atau dilarang dalam melangsungkan pernikahan. Sama halnya seperti budaya, agama juga menjadi hal penting yang menjadi perhatian ketika akan melangsungkan pernikahan. Pernikahan haruslah di langsungkan menurut agama yang dianut masing-masing pasangan dan barulah dianggap sah suatu pernikahan. Pada umumnya pernikahan dilangsungkan dengan agama yang sama antara mempelai pria dan wanita. Namun pada penelitian kali ini akan dibahas bagaimana pernikahan berbeda agama yang juga marak dilakukan oleh muda mudi di Indonesia. Metode penelitian yang digunakan kali ini adalah pendekatan studi kepustakaan yang lebih banyak membaca, dan mengumpulkan data kepustakaan. Hasil Penelitian ini yaitu menghasilkan pemikiran baru di bidang keperdataan mengenai pencatatan pernikahan beda agama dan hal-hal apasaja yang menjadi kesulitan jika pernikahan berbeda agama dilangsungkan. Simpulan yang dapat diambil adalah pernikahan berbeda agama yang banyak dilangsungkan memiliki banyak permasalahan jika tetap dilangsungkan.

Kata kunci: Berbeda Agama, Budaya, Pernikahan.

INTRODUCTION

Many people interpret marriage as the longest worship undertaken by mankind. The marriage is expected to give eternal happiness to a family. It does not only last temporarily. It ends only if one of the partners is dead.¹ Marriage is one of God's creatures' behaviors. It is not only applied by humans,

¹ Awwaluddin Hakim Zen, "Penyelesaian Perkara Perceraian Pasangan Beda Agama (Studi Kasus Perceraian Pasangan Beda Agama Yang Melakukan Dua Pencatatan Perkawinan Pada Putusan No. 0979/Pdt.G/2015/Pa.Kds.)" (Universitas Islam Negeri Syarif Hidayatullah, 2018).

but also by plants and animals. Humans are creatures given an intellect. Marriage becomes a culture whose arrangements follow by cultural developments in human life². Marriage is not something to easily hold. There are common rituals by the bride and groom, the male and female who plan to get married based on the existing customs. It involves two people who are getting married, both families with different backgrounds, the oneness of God, and civil law that exists and applies in Indonesia today. It is true that rapid development and entry of globalization set as the reason for rapid changes in many cultures, including marriage. In this modern era, many weddings apply foreign cultures equipped with majestic, elegant, and charming concepts. to fade away along with the times. Indeed, not much happens, but this must be considered and become a concern for all of us, especially for young people in the modernization era. It is not only about the culture adopted in globalization, but also about marrying different religions or with different believers. Interfaith marriages exist in several western countries such as Canada, Australia, the United States, and Singapore. In Indonesia, this case is still rare.³

This is due to the strong sense of culture in Indonesia. It is also supported by the many religions that oppose the interfaith marriage. In addition, this is also prohibited by the 1974 Marriage Law which states interfaith marriages should be avoided by young Indonesians who want to get married. However, globalization is entering Indonesia without a real filter. Thus, it brings major changes for young people's mindset today. Many young people justify interfaith marriage. For this reason, the writers are concerned about this matter. Accordingly, this study discusses the civil rights of people conducting interfaith marriages. Even though, several articles have discussed the same matter. This study will specifically reveal up-to-date data, more real facts, and updates from previous research from a civil perspective. Accordingly, the writers formulated the following research question: how are the rules governing interfaith marriages? And what are the effects of interfaith marriages? This study is expected to serve as a novelty and reference for similar future researches.

RESEARCH METHODS

The study employed a normative juridical approach, involving library research. Library research is a series of activities that refer to collecting library data by taking notes, writing, reading, and so on. This study is also called a qualitative approach. This was done by reading and dissecting journals and collecting a lot of information from mass media, such as newspapers, magazines, or mass media on the internet. This method was chosen because it was suitable for the current situation, the pandemic of Covid-19.

RESULTS AND DISCUSSION

Marriage is the initial process of forming a family life. It is the beginning of human life. Meanwhile, according to the Arabic language, marriage is *altakadhul aldhammu*, which means entering or gathering.⁴ Marriage is not only a physiological way of life but is an important factor to support and encourage a new life of cohabitation. Marriage also refers to a life and death agreement. Consequently, a man and a woman must live side by side for the rest of their lives. In Article 1, the Marriage Law Number 1 of 1974, it is stated that the purpose of marriage is the physical and spiritual bond between a man and a woman as husband and wife. Another goal is to build a happy and eternal family, not forgetting God's contribution. Some experts such as R. Subekti mentioned in his book, *The Principles of Civil Law* page 23, marriage is a long-time relationship between a man and a

² Arif Purwoko, "Pelaksanaan Pencatatan Perkawinan Beda Agama Yang Mendapat Penetapan Pengadilan Negeri Di Kabupaten Wonogiri" (Universitas Sebelas Maret Surakarta, 2011).

³ Kadek Wiwik Indrayanti, "Penetapan Dan Pencatatan Perkawinan Beda Agama Di Indonesia Yang Berkeadilan Dan Berkemanusiaan," *Jurnal Cakrawala Hukum* 7, No. 2 (2016): 195–205.

⁴ Choirunnisa Nur Novitasari, Dian Latifiani, And Ridwan Arifin, "Analisis Hukum Islam Terhadap Faktor Putusnya Tali Perkawinan," *Samarah*, 2019.

woman. In other words, It is long-life marriage with a legal affinity.⁵ In addition, Sayyid Sabiq in his book, *Fiqh Sunnah*, stated marriage is one of the *sunnatullah*. It applies to all Allah SWT creatures, humans, animals, and plants without exception.⁶

The purpose of marriage is to unite people with the same future goals and objectives, to love each other, and to stay away from adultery. In conclusion, marriage is to unite two human beings, a man and a woman to hold the longest worship and carry out the existing sunnah. Thus, they can give birth to pious children or descendants. The Marriage Law and its implementing regulation do not clearly mention interfaith marriages. The Marriage Law submits marriage arrangements to religious rules. This is to enforce the prohibitions and the rules allowing interfaith marriages.⁷

There is no definite word or explanation that regulates the legal relationship in an interfaith marriage. However, it can be referred to various definitions given by some researchers.⁸ Rusli and R. Tama explained inter-ethnic marriage as an inner and outer bond between a man and a woman with different religions. It will result in two different provisions on the facts and procedures for marriage.⁹ Ketut Mandra and I Ketut Artadi also added that marriage is the union of a man and a woman's inner and outer. Even though, if they have different religions, They must maintain their religious differences as wives and husbands. This aims to form a harmonious and happy family or household.

Referring to the abovementioned opinions, interfaith marriages are marriages held with partners with different religions who want to be side by side, a husband and wife for life and death. This aims to understand the same marriage. This interfaith marriage also requires a harmonious and happy family life in the future. This is contrary to the Indonesian culture. Most of them marry with the same religion or one religion adopted by the groom and the bride. In Indonesia, the cultures and religious diversity make many marriages are different from religion adopted. Marriage was considered very sacred during the New Order era in the 1960s - 2000s. Thus, few divorces occurred. At that time, the religious selection was very well carried out. Indonesia with a majority Muslim population strongly opposes the interfaith marriage. This is in line with the existing positive law in Indonesia. In addition, this is also supported by other religions, as follows:

1. According to Christian law

In Indonesia, Christianity is divided into two:

a) Catholic

According to Catholic law, marriage is considered sacred, intimate, and inseparable. According to Koningsmann in his book Canon 6, it is stated that there are 12 prohibitions and obstacles in a marriage which are summarized in the main article, as follows:

- 1) The three agreements originate from the marriage agreement.
- 2) Obstacles due to religion.
- 3) Three hindrances due to mortal sin.
- 4) Three brotherly relations.

All in all, catholicism forbids interfaith marriages.

b) Protestant

Protestantism defines marriage as a lifelong partnership that requires one man and woman to become one. One in God's love, one in love, one in obedience, one in human

⁵ Subekti, *Pokok-Pokok Hukum Perdata* (Jakarta: Pt Intermasa, 1985).

⁶ Sayyid Sabiq, *Fikih Sunnah 2*, 5th Ed., 1940.

⁷ Purwoko, "Pelaksanaan Pencatatan Perkawinan Beda Agama Yang Mendapat Penetapan Pengadilan Negeri Di Kabupaten Wonogiri."

⁸ Abdul Jalil, "Pernikahan Beda Agama Dalam Perspektif Hukum Islam Dan Hukum Positif Di Indonesia," *Andragogi: Jurnal Diklat Teknis Pendidikan Dan Keagamaan* 6, No. 2 (2018): 46–69.

⁹ Ana Laela, Ken Ismi Rozana, And Shilfa Khilwiyatul Mutiah, "Fiqh Perkawinan Beda Agama Sebagai Upaya Harmonisasi Agama (Studi Perkawinan Beda Agama Di Kota Jember)," *Fikrah* 4, No. 1 (2016): 117.

life, and one in burdensThe Association of Indonesian Churches (PGI) and the Indonesian Christian Church (GKI) have agreed that Christians may marry non-Christians, but on the condition that they marry in the church. In addition, their children must be educated according to religious teachings. The above idea is based on law, Christianity also doesn't want its people to follow non-Christian religions.

2. According to Hindu law

According to Pudja, Hindu law regulates special provisions on marriage ceremonies, the sacred marriage ceremony of Pedande. Meanwhile, Pedande only wants to get married if the bride is Hinduism. We conclude that the Pedande cannot bless or organize marriages between people who follow different religions. In other words, Hindu law does not open up the possibility for its people to interfaith marriage. - Hindi language.

3. According to Buddhist Law

According to Buddhism, Buddhism does not demand perfection in humans. Buddhism only considers ethical lessons and practices. In the Buddhist tradition of law enforcement, it is more important to follow the teachings of applicable state law (Sruti) and traditional local law (Smriti).

According to state law, such marriage is legally unconstitutional. In general, this is also not in line with the moral teachings or traditions of Indonesians. This thing is still considered taboo by most Indonesians (nulayani adat). In this case, Buddhism does not allow its followers to have an interfaith marriage. Nowadays, interfaith marriage is a bit popular and becomes the latest trend, especially among artists. As public figures, they are bound to set an example for their loyal followers. Accordingly, if this thing is not immediately and seriously prevented, interfaith marriage will become commonplace or normal in the future, particularly in ordinary people's lives. In this case, interfaith marriage refers to one of the spouses being Muslim (spouse) and the other being non-Muslim (eg Christian or Hindu). In Islam, This marriage is absolutely forbidden by Allah and His Messenger. Allah has clearly elaborated that a Muslim girl is better than a polytheist even if she has something special and attracts your heart and vice versa, Allah says: "And do not marry women who worship the idols, until they believe. A believing slave-girl is definitely better than an idolatrous woman, even if she attracts your heart. And do not marry idolaters (with women who are easily deceived) before they believe. Surely a trustworthy servant is better than an idolater, even if she attracts your heart. They invite to hell, while God invites to heaven and forgiveness with His permission. "

UU no. 1 of 1974 states that a legal marriage is a marriage whose implementation is carried out based on the laws of each religion and the beliefs of the party holding the marriage. This states there are no marriages held outside the laws of each religion and belief. After the marriage takes place, according to Article 2 of Law no. 1 of 1974, Muslim marriages must be registered with the KUA (local Office of Religious Affairs). Meanwhile, non-Muslims are by civil registration.¹⁰

In the process of recording the marriage request, the employee conducts research on the marriage. The registrar examines the marriage conditions that have been fulfilled and the things that are contrary to the law. If they have fulfilled the requirements and there are no obstacles, the registrar shall announce the will in a place that is easily read by the public. This aims to provide an opportunity for the public to give objections. For example, if the marriage is contrary to religious law and other regulations.¹¹ Based on the aforementioned explanation, a marriage is considered valid if it

¹⁰ Purwoko, "Pelaksanaan Pencatatan Perkawinan Beda Agama Yang Mendapat Penetapan Pengadilan Negeri Di Kabupaten Wonogiri."

¹¹ Ibid.

is carried out based on religious rules, beliefs, and statutory regulations. If this is contrary to those matters, the marriage cannot be carried out and registered.

However, another regulation, namely Law No. 23 of 2006, Population Administration, stated registration also applies to marriages determined by the court. In this case, interfaith marriages. The court only gives permission. They do not act as a party to marry off the prospective bride and groom. Even though, this law legalizes interfaith marriages. In principle, the marriage process must be subject to the teachings of one religion. Thus, the civil registry can issue a marriage certificate. In addition to the negative impact on family life (spouse), the most terrible impact is on offspring matter. It is clear that children of parents with different religions will have multiple personalities.¹² For example, you must be kind to your Muslim father and you must know how to conform to your Christian mother. In general, interfaith couples are divided into 3 categories; a husband and wife with weak faith, one partner has strong faith while the other is weak, and the couple has a strong faith. Based on this division, the impacts on children's religious education are at least:

- a) couples who are religiously unstable, religion is only a formality (a letter of proof). It will influence the children's perceptions of religion as their parents understand religion. In general, children follow their parents' religion. Religion is nothing but clothing or form. Environmental factors have more influence on children's religion, while parents have less significant influence.
- b) In couples whose religions are stronger or be more active in influencing their children, children will follow the religion of the dominant parent. In this type of family, one party actively introduces his religion to his children, while the other party tends to give up or succumb. This is done to avoid internal conflicts. They never give up encouraging their children to be *istiqomah* in religion. This means children are asked to be good followers of religion. The restless and athletic attitude of the unyielding parent actually arouses the sympathy of one of the children. Thus, the child does not adhere to a different religion from the dominant parent.

For couples who have a certain agreement, family communication about religion will lead more to an agreement, the child follows the parents' religion or is divided equally. Some are following their father's religion and their mother's religion. For children that have the freedom to embrace religion, potential conflicts still arise. Specifically, if the couples cannot reach certain agreements due to egoism. In addition, interfaith marriages also have a legal and psychological impact on children. Referring to the marriage registration section, the marriage can be carried out if it is in accordance with their religion and belief. It will be registered by civil registration or by the KUA for Muslims. If the marriage requirements are not fully fulfilled, the authorized institution can not issue a marriage certificate. This will affect the child's status. The unregistered status of the children will make them face legal difficulties. From civil law perspective, children are only recognized by maternal relationships. This means children are not entitled to receive their rights. If the marriage is legal and registered, the children will get living expenses, financial assistance, inheritance, and education costs from their father. In addition, the child will not have a birth certificate. A birth certificate is an official document, a basis for carrying out legal actions needed in making allowances, inheritance, and insurance.¹³

Those are long series of interfaith marriages problems. They will not be registered due to the unfulfillment of the marriage requirements. This is in line with Law Number 1 of 1974 concerning

¹² Kaharuddin Kaharuddin And Syafruddin Syafruddin, "Pernikahan Beda Agama Dan Dampak Terhadap Pendidikan Agama Anak," *Sangaji: Jurnal Pemikiran Syariah Dan Hukum* 4, No. 1 (2020): 53–81.

¹³ Dian Latifiani, "The Consequences Of An Unregistered Marriage For The Wife And Born Children According To The Legal System In Indonesia," *South East Asia Journal Of Contemporary Business, Economics And Law* 4, No. 3 (2014): 94–98, <https://seajbel.com/Wp-Content/uploads/2014/06/K114338-Dian-Latifiani-The-Consequences-Of-An-Unregistered.Pdf>.

marriage. The child status can be equated with unregistered marriage. According to Islamic law, the child is deemed as the result of adultery. He does not have any relationship with his father. However, if interfaith marriage obtained permission from the court and one of the parties fully submitted to one religion and belief, the marriage will be considered valid. If the subjugation is only temporary, several problems will possibly arise in the family. On children, the psychological impact may be due to the waning harmonious relationship between parents. These are seen as trivial things that can eventually cause problems. The children will be confused and question who should they rely on and choose.¹⁴

Interfaith marriages are not only opposed from the Islamic perspective but are also prohibited by positive law applies in Indonesia. This has been clearly stated in Law number 1 of 1974 in article 2,¹⁵ marriage is considered valid if it is in line with the laws of each religion and belief. The same thing is also emphasized in the following paragraph, that every marriage will be recorded according to the prevailing laws and regulations in Indonesia. In summary, the positive law in Indonesia clearly prohibits interfaith marriages. This marriage will be considered invalid if the bride and groom insist. The applicable marriage law seems to accommodate various elements of aspirations in society, the majority and the minority. The effort to legalize interfaith marriages can refer to the science of fiqh which strictly prohibits a Muslim from marrying a non-Muslim.¹⁶ This matter does not only apply in Islam but also applies to other religions in Indonesia.

Furthermore, interfaith marriages can also be used as a tool to force a person or group to change religion. This is mostly be done under the pretext of love and affection. This is wrongdoing. If a person converts his belief for love and not for guidance and *inayah*, the coming things are not a good thing. Maintaining the belief is so important and must be done until death comes. In Islam, Marriage is considered as the longest and noblest worship undergo by Muslims. It unites two people in a sacred bond for life and death. Allah says in the Qur'an surah Al-Baqarah verse 221: "do not marry the polytheists (with Muslims women) before they believe". The verse means all polytheism is haram for Muslim men, whether they are women with a religious background other than Islam or others and vice versa. A Muslim woman who marries a man of a different religion or does not have the same belief will cause a problem. If one day their child wants to marry in Islam way, the man or the father of the child cannot be her guardian. If this appears, the guardianship will be moved to the next level. According to Imam Syafi', there are grandfathers (father's parent), a great grandfather, siblings, and so on. They can look up to these things until they find a marriage guardian. Running a family is not just a matter between humans, humans and sovereign governments, but also the responsibility of humans to God.

Article 2 of the Marriage Law has mentioned the legal requirement for a marriage is to adhere to each other's beliefs. Thus, the marriage is valid. If the bride and groom insist on interfaith marriage, it can be considered as an act of adultery.¹⁷ This raises many questions. Why does this happen? Or why can it be called adultery? As stated in the article, marriage is invalid if it is not in accordance with the beliefs they held. In Indonesia, this requirement is not only embraced in positive Indonesian law but is also in the religious regulations. Interfaith marriage will have a major effect on the children. The child will be recognized or acknowledged as the result of adultery. This terminology refers to Hasanayn Muhammad Makluf. He stated adultery children are born from illegitimate

¹⁴ Anggreany Haryani Putri And Andang Sari, "Akibat Hukum Perceraian Terhadap Anak Dari Perkawinan Beda Agama," *Otentik's: Jurnal Hukum Kenotariatan* 1, No. 2 (2019): 153.

¹⁵ Indonesia, "Undang-Undang Republik Indonesia Nomor 1 Tahun 1974 Tentang Perkawinan" (1974).

¹⁶ Operator, "Mudharat Di Balik Nikah Beda Agama," *Republika.Co*, Last Modified 2014, <https://www.Republika.Co.Id/Berita/Nc94e4/Mudharat-Di-Balik-Nikah-Beda-Agama>.

¹⁷ Sasmita, "Phdi: Nikah Beda Agama Selamanya Dianggap Berzina," *Republika.Id*, Last Modified 2014, <https://Republika.Co.Id/Berita/Nasional/Umum/14/11/24/Nfj89k-Phdi-Nikah-Beda-Agama-Selamanya-Dianggap-Berzina>.

partners through sexual relations or intercourse without valid marriage, which is an element of harmony and clear conditions for marriage.¹⁸

In addition, the one who conducts interfaith marriages also desires a child. As mentioned previously, children from interfaith marriages are illegitimate children. Then, what about civil registration? For illegally born children, birth certificates can be issued. However, they must pass the *isbat* to include their father's name. For Muslims, the child's origin is determined by the religious district court while for non-muslim is the district court. If the *isbat* of the child's origin is not carried out, in the child's birth certificate will be written he was born from a mother.¹⁹

The problems presented in interfaith marriages are certainly not something to desire. This is highly complicated. This includes the data of population management and the child status. As mentioned previously, illegally born children do not have a lineage relationship with their father. They only have a lineage relationship with his mother. The father has no obligation to provide for the child. They only have a human relationship. They do not have a father and son relationship. Thus, the child cannot get an inheritance from the father. This is due to lineage absence. In Indonesia, Positive law has clearly regulated interfaith marriages. It is strictly prohibited. It has been repeated several times in the discussion, the consequences of interfaith marriage. It includes unregistered marriage, difficulties in obtaining birth certificates, and adultery labels. This is because the KUA or other religions can not issue their marriage registration.

It is clearly opposed by religion and positive law perspectives in Indonesia. However, this does not dampen the couple's desire to have an interfaith marriage. They even go abroad and get married over there. Outside the country, interfaith marriage is considered valid if it is held based on the law enforced on the place. Marriage held overseas aims to get recognition by Indonesian law. Thus, it is questionable whether such marriages are against the law in Indonesia? In fact, it is clearly stated in Article 2 paragraph 1 of Law No. 1 of 1974. Interfaith marriages held overseas clearly violate the rules in force in Indonesia. Referring to international civil law, this is considered as legal smuggling, obtaining the validity or marriage acknowledgment in the wrong way. In the Netherlands, this is known as "Wetsontduiking". This is the reason for the marriage annulment for the sake of law²⁰. Interfaith marriages held overseas are not a solution for interreligious couples. This will create a new problem. Countless disadvantages of interfaith marriages show that Islamic law is perfect at regulating the aspects of human life. This is also supported by the existing positive law.

Lastly, the divorce of interfaith marriages by the couples. All the marriages do not run smoothly. Some marriages do not go according to their will. There might be an incompatibility between the spouses or the occurring conflicts. Thus, divorces become inevitable. Before a divorce takes place, there must be settlements. Divorce becomes the last resort undergo by husband and wife. In Indonesia, the law in marriage does not clearly regulate specific problems related to interfaith marriages. Thus, a legal vacuum appears. The legal or not status of interfaith marriage is repeated in Article 2 paragraph 1 of the Marriage Law. Based on this fact, it is not legal to hold such a marriage. In addition, it cannot be registered either. Thus, the marriage has no legal force. Consequently, there is no legal recognition and protection of the marriage. This includes the wife and children's rights.

¹⁸ Susanti Randa, "Status Anak Luar Nikah Dalam Perspektif Hukum Islam Dan Hukum Positif" (Institut Agama Islam Negeri (Iain) Palopo 2018, 2018).

¹⁹ Layanan Catatan Sipil, "Akte Kelahiran Anak Yang Tidak Sah," *Dispendukcapil*, Last Modified 2020, [Http://Dispendukcapil.Surabaya.Go.Id/Suara-Warga/View/1589-Bagaimana-Dengan-Akte-Kelahiran-Untuk-Anak-Diluar-Nikah-Atau-Untuk-Anak-Yang-Lahir-Dahulu-Sblm-Akta-Perkawinan-Dibuat-Atau-Yg-Si-Anak-Lahir-Dulu-Baru-Org-Tuanya-Nikah-Di-Kua-Terima-Kasih-Atas-Jawa](http://Dispendukcapil.Surabaya.Go.Id/Suara-Warga/View/1589-Bagaimana-Dengan-Akte-Kelahiran-Untuk-Anak-Diluar-Nikah-Atau-Untuk-Anak-Yang-Lahir-Dahulu-Sblm-Akta-Perkawinan-Dibuat-Atau-Yg-Si-Anak-Lahir-Dulu-Baru-Org-Tuanya-Nikah-Di-Kua-Terima-Kasih-Atas-Jawa).

²⁰ Anita - Kamilah, "Keabsahan Perkawinan Beda Agama Yang Dilaksanakan Di Luar Negeri," *Tahkim (Jurnal Peradaban Dan Hukum Islam)* 1, No. 1 (2018): 116-127.

Likewise, in the divorce of interfaith marriage²¹, there is no institution to handle and to provide protection. So what if you want a divorce?

In Indonesia, several cases of interfaith marriage ceremonies are commonly held according to one of the groom or bride's religions adopted. In the future, if they insist on getting a divorce, it will be resolved at the place where they held their wedding ceremony. To resolve the issue, district courts follow religious instructions. The unclear mechanism makes the divorce status vague. Does this complicate things? Isn't this a challenge of interfaith marriage? Do the number of disadvantages awaken us to obey the rules and Allah SWT. A massive number of Indonesian holding interfaith marriages violate the Islamic and positive laws. There are various factors behind it. It is not limited to couples, there are some external factors of interfaith marriage as follows:

- a. Daily and social life. Indonesia is a heterogeneous society. It consists of diverse ethnicities and religions. In daily life, this thing is not limited to social problems. In Indonesia, this greatly affects social life which is too close to see the difference between one religion and another. Love is inevitable.
- b. Parents are rarely or never teaching their children about religion from an early age. Thus, in the adulthood stage, the children do not question their belief in religion. They do not care if they have an interfaith partner.
- c. Parental Ancestors. This factor is highly important. Interfaith marriage happens because the children see their parents doing it. Thus, they think it is okay to do the same thing. If their parents' lives run harmoniously, they will become role models for conducting interfaith marriages.
- d. Freedom to choose a life partner. This is a modern era. It is different from the old era of Siti Nurbaya, where parents are looking for their child's life partner. In today's era, men and women are free to choose their life partner to their desire. The freedom makes them choose an interfaith partner based on love. If love is the basis of a relationship between a man and a woman, it is common to behave tactfully in a relationship, especially a religious person.
- e. By increasing social relations between Indonesian youths and other countries. Globalization, different nationalities, cultures, religions, and origins contributes to the promotion or context of interfaith marriages. The prestige of finding a foreign partner is also very influential. Young people marrying foreigners or other religions do not seem to be a problem anymore.

The external factors encourage interfaith marriages. Therefore, as good religious people, we should maintain our faith and devotion as Muslims, staying on the right path blessed by Allah and not violating the provisions of positive law in Indonesia. There is a little or nothing lesson to be learned from interfaith marriage. The disadvantages that appear affirm that interfaith marriage is not a good thing to do. Marriage is based on love. Love should give something good and keep bad things, Isn't it? Love will not double god, love will not associate partners with God. Marriage should be done for the pleasure of Allah. Thus, a happy marriage can be manifested.

CONCLUSION

In conclusion, interfaith Marriages bring more disadvantages than benefits for people. Even though, marriage is seen as the gateway to attaining the pleasure of Allah and getting many rewards. Marriage is the longest worship that humans undergo on this earth. This longest worship should be carried out with full sincerity. It should also pay attention to Islamic Shari'a that clearly written in the provisions of Allah. The positive law also strictly prohibits interfaith marriages. There are very few benefits of interfaith marriage. Thus, positive law also prohibits it. In addition, it is also opposed by many religions in Indonesia. In relation to this matter, Every religion in Indonesia has a similar rule

²¹ Diana Kumalasari, "Hukum Perceraian Untuk Nikah Beda Agama," *Hukum Online*, Last Modified 2011, <https://www.hukumonline.com/klinik/detail/ulasan/c14909/perceraian-untuk-nikah-beda-agama>.

to Islamic law or to positive law. It is not just one party that opposes this matter. This indicates they strongly agree that interfaith marriages are not a good thing.

From the perspective of law, interfaith marriages are seen as a loss. It is considered the longest adultery committed by two humans on this earth. This adultery was carried out openly. This is because it was not approved by religion and positive law in Indonesia. Finally, this interfaith marriage could not be registered. Unregistered marriage by religion or by the state is called adultery. The problems are not limited to this matter. There are many more. For instance, the children's birth registration. The process is more complicated than in legal marriage. The problems will keep pouring. For example, the child could not be represented by the father if she wants to get married. They can not receive an inheritance and the father does not fully have the responsibility to provide for the child. This interfaith marriage certainly brings a lot of advantages. if by destiny they are required to separate, the divorce arrangements will be more complicated than usual. The disadvantage of interfaith marriage is visible. If they insist, it will be labeled legal smuggling. Therefore, this study also finds a legal renewal that regulates legal smuggling for those who violate the rules of positive law in Indonesia. The legal renewal is intended to avoid the legal vacuum if similar cases of interfaith marriage appear.

SUGGESTION

Interfaith marriages create a sense of joy over the union of two human beings. The marriage has several impacts on a family, particularly in giving religious education, psychological pressure, and legal consequences on children or the couples (if the marriage is not registered). In addition, the legislation does not clearly regulate interfaith marriages. Therefore, the government must provide certainty whether religious marriage is prohibited or not. Philosophically, the provisions of Law no. 1 of 1974 handed over the marriage process to the religion and beliefs he adheres. Thus, the act of legal "smuggling", holding interfaith married overseas and return back after some time can be suppressed. Apart from the need for legal certainty, the parties wishing for interfaith marriage must be given a brief explanation from a respective religious perspective. The civil registration and religious affairs office must concern about this. Don't let marriage which is part of worshipping God be excluded.

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Legislations

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