

LEGAL COMPLIANCE OF INDONESIAN MARRIAGE LAW WITH THE UNIVERSAL DECLARATION OF HUMAN RIGHTS

Alexander Kennedy

Faculty of Law Universitas Pelita Harapan, Indonesia

email: 01659230097@student.uph.edu

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Abstract

The Indonesian Marriage Law Number 1 of 1974 requires marriages to follow the religious laws of both parties, creating challenges for couples from different faiths. These legal constraints often complicate marriage registration, affecting the legal status, inheritance rights, and recognition of children from such unions. The tension between individual rights and religious conformity results in a legal paradox, as Indonesia seeks to balance constitutional freedoms with religious harmony. This article explores the complexities of interfaith marriage in Indonesia, focusing on the interplay between religious doctrines, legal frameworks, and societal attitudes. Using a normative juridical approach, this study analyzes statutory regulations, court decisions, and legal literature to assess the alignment of Indonesia's laws with international human rights standards, especially Article 16 of the Universal Declaration of Human Rights (UDHR). Case studies show that while some court rulings have supported interfaith marriage, broader legal reforms and social acceptance remain necessary. The article concludes with recommendations for reform, emphasizing the need for legal provisions to accommodate interfaith unions, foster social acceptance, and create a balanced framework that respects religious values and individual freedoms. By promoting open dialogue and a more inclusive legal environment, Indonesia can navigate the complexities of interfaith marriage, balancing tradition with modernity. These efforts could contribute to a society that respects diversity and the evolving aspirations of its people.

1. INTRODUCTION

Marriage is one of the most significant institutions in human society, encompassing cultural, religious, and legal dimensions that contribute to the building of families and the transformation of society. Throughout history, marriage has served as a foundational element in structuring communities, providing stability, and facilitating the continuation of human life through generations. The concept of marriage is not limited to the union of two individuals; it is intrinsically tied to the cultural norms, legal frameworks, and social

expectations that govern it.¹ In Indonesia, a nation known for its cultural and religious diversity, marriage is not only a personal commitment but also a reflection of the country's complex social fabric.

The importance of marriage in Indonesia is deeply embedded in its legal and religious systems. There are six recognized religions in Indonesia such as Christian, Catholic, Islam, Hindu, Buddha, and Confucius – and those religions has their own part on determining the law of marriage in Indonesia. According to the Indonesian Marriage Law Number 1 of 1974 (hereinafter referred to as Marriage Law), a marriage is considered valid if it is conducted according to the religious laws of the parties involved. This means that marriages must adhere to the religious beliefs and practices of each party, as acknowledged by their faith communities. However, this legal framework presents challenges when it comes to interfaith marriages—unions between individuals of different religious backgrounds.

The issue of interfaith marriage has become a contentious topic in Indonesia due to the intersection of religious, legal, and cultural norms.² Under the prevailing legal framework, many religious communities in Indonesia do not recognize interfaith marriages as valid, leading to significant legal hurdles for couples wishing to marry across religious lines. For example, Islam, as the majority religion in Indonesia, has specific teachings regarding marriage that require both spouses to share the same faith. As a result, couples from different religious backgrounds often face difficulties in registering their marriages, which can affect their legal status, inheritance rights, and the legitimacy of their children.

The legal challenges faced by interfaith couples highlight a broader tension between individual rights and religious doctrines in Indonesia. Even though Indonesian constitution clearly stated that every person has their freedom of religion and to practice it, but that freedom is often limited by the need to conform to established religious norms, especially in the matter of marriage. While the country's constitution guarantees freedom of religion and the right to practice one's beliefs, this freedom is often limited by the need to conform to established religious norms, particularly in matters of marriage and family.³ The legal requirements for marriage, which are closely aligned with religious doctrines, can restrict the choices of individuals who wish to marry outside their faith, thereby raising questions about the balance between personal freedom and religious conformity.

Moreover, the social implications of interfaith marriage are significant in Indonesia. The country's rich cultural heritage is characterized by strong community ties and adherence to traditional values, which often include expectations about marriage and family life.⁴ In many Indonesian communities, marriage is not merely a private affair but a public event that involves the approval and support of extended family and community members. Consequently, interfaith marriages can be met with social resistance, as they may be

¹ Nerisma Eka Putri, Khaidir Ali Junid, and Muhammad Azkia Fahmi, "Marriage Between Religions Based on Human Rights Perspectives," *Sapienta et Virtus* 9, no. 1 (2024): 372–84, <https://doi.org/10.37477/sev.v9i1.540>.

² Wike Sundari and Amal Hayati, "Perkawinan Beda Agama dan Implikasinya Terhadap Terbitnya Kartu Keluarga Perspektif Undang-undang No. 1 Tahun 1974 dan Undang-undang No. 23 Tahun 2006," *UNES Law Review* 6, no. 4 (2024): 10289–98, <https://doi.org/10.31933/unesrev.v6i4.2002>.

³ Alexander Kennedy, "Hak Asasi Manusia dan Keadilan Bermartabat: Perbandingan Teori dan Realitas di Indonesia," *Ekasakti Jurnal Penelitian & Pengabdian* 4, no. 1 (2023): 132–41, <https://doi.org/10.31933/ejpp.v4i1.1043>.

⁴ Alexander Kennedy and Franciscus Xaverius Wartoyo, "Harmonizing Diversity: Pancasila's Role as the Cornerstone of Multi-cultural Harmony as Legal Discours," *Global International Journal of Innovative Research* 2, no. 4 (2024): 747–59, <https://doi.org/10.59613/global.v2i4.137>.

perceived as challenging the cultural and religious norms that bind communities together. Social resistance to interfaith marriages in Indonesia often stems from concerns about religious purity and the preservation of cultural identity. Many families worry that interfaith marriages may lead to religious dilution, where the faith of one or both spouses become compromised in the process of raising children or managing religious practices within the family.⁵ As a result, families may pressure individuals to convert to the religion of their partner as a precondition for marriage, a practice that reflects the complex interplay between personal choice and societal expectations. This pressure can be particularly intense in rural areas and among older generations who hold more traditional views on religion and marriage. Despite these challenges, interfaith marriages are becoming more common in urban centers, where younger generations are more exposed to diverse worldviews and are more likely to question traditional norms. The increasing prevalence of interfaith relationships among the younger population has led to a gradual shift in societal attitudes, with some segments of the population advocating for greater acceptance and legal recognition of such unions. This shift is indicative of a broader social transformation occurring in Indonesia, as the country grapples with balancing its rich cultural heritage with the demands of a more globalized and interconnected world.

The legal constraints on interfaith marriage also extend to the judiciary, where Indonesian courts have struggled to reconcile the tensions between religious laws and constitutional rights. Some cases have reached the Constitutional Court, with petitioners challenging the restrictions on interfaith marriage as a violation of their constitutional right to freedom of religion and equality before the law.⁶ While the courts have occasionally made rulings that favor a more liberal interpretation of the law, the broader legal system remains conservative, emphasizing the importance of religious harmony and the protection of religious values over individual rights.

This dynamic creates a legal paradox where, on one hand, Indonesia seeks to uphold religious freedom and human rights as enshrined in its constitution, but on the other hand, it enforces laws that restrict the ability of individuals to marry according to their personal beliefs. This paradox is a reflection of Indonesia's complex legal pluralism, where the national legal system exists alongside religious laws and customary practices, each holding significant influence over the lives of Indonesian citizens.

For many interfaith couples, navigating this complex legal and social landscape requires creative solutions. Some couples opt for civil marriages abroad, where they can be legally recognized without the religious requirements imposed in Indonesia.⁷ Upon returning to Indonesia, they may face challenges in obtaining official recognition for their marriage but can utilize legal avenues such as administrative adjustments or judicial appeals. Others may choose to convert to their partner's religion, either out of personal conviction or as a pragmatic solution to avoid legal and social complications. These choices,

⁵ Mieke Anggraeni Dewi, "Analisis Perkawinan Beda Agama dalam Perspektif Religiusitas dan Akibat Hukumnya," *Ganec Swara* 17, no. 4 (2023): 1480–87, <https://doi.org/10.35327/gara.v17i4.632>.

⁶ Puji Kurniawan, "Pandangan Hukum Progresif Dan Masalah Mursalah Terhadap Putusan Mahkamah Konstitusi Nomor 46/PUU-VIII/2010 Tentang Pengujian Undang-Undang Nomor 1 Tahun 1974," *Yurisprudencia Jurnal Hukum Ekonomi* 7, no. 2 (2021): 249–64, <https://doi.org/10.24952/yurisprudencia.v7i2.5032>.

⁷ Andi Syamsul Bahri and Adama, "Akibat Hukum Perkawinan Beda Agama Menurut Undang-Undang No. 1 Tahun 1974 Tentang Perkawinan," *Jurnal Hukum Keluarga Islam dan Kemanusiaan* 2, no. 1 (2020): 75–85, <https://doi.org/10.35673/as-hki.v2i1.895>.

however, often come at a personal cost, as they may involve compromising one's religious identity or facing disapproval from family and community members.

The debate around interfaith marriage in Indonesia is not just a matter of legal interpretation; it is a reflection of the broader struggle within Indonesian society to find a balance between tradition and modernity, between communal values and individual rights. As Indonesia continues to evolve socially and economically, the need for a more inclusive legal framework that accommodates the diverse needs of its citizens becomes increasingly apparent. A legal system that respects religious values while also upholding the rights of individuals to marry according to their conscience is essential for fostering a society that is both harmonious and respectful of diversity.⁸

This article aims to explore the complexities of interfaith marriage in Indonesia, focusing on the interplay between religious doctrines, legal frameworks, and societal attitudes. By analyzing relevant case studies and examining the perspectives of various stakeholders, including religious leaders, legal experts, and affected individuals, this study seeks to provide a comprehensive understanding of the challenges and opportunities for interfaith couples in Indonesia. The ultimate goal is to shed light on potential pathways for legal reform that could allow Indonesia to better navigate the complexities of interfaith marriage in a way that respects both religious traditions and the evolving aspirations of its people.

2. METHOD

This research employs a normative juridical approach, focusing on the analysis of legal norms and regulations concerning interfaith marriage. The normative juridical method is utilized to examine the principles, doctrines, and legal frameworks that govern the practice of interfaith marriage, particularly within the context of human rights as outlined in the Universal Declaration of Human Rights (UDHR) and specific national laws. This method involves a comprehensive study of legal materials, including statutes, court decisions, and relevant legal literature.⁹ The data for this study is primarily sourced from secondary legal materials, including:

1. Primary Legal Sources: These include national laws and regulations, such as Law Number 1 of 1974 on Marriage, which sets the legal framework for marriages, including provisions relating to interfaith marriages. Additionally, the study analyzes international human rights instruments, particularly Article 16 of the UDHR, which addresses the right to marry and family formation without religious restrictions.
2. Secondary Legal Sources: Secondary sources consist of legal commentaries, academic journals, and research papers that provide interpretation and analysis of the relevant laws. These sources are crucial for understanding the implementation and challenges of interfaith marriage laws in different jurisdictions and how these laws align or conflict with human rights principles.

⁸ Kennedy and Wartoyo, "Harmonizing Diversity: Pancasila's Role As The Cornerstone Of Multi-cultural Harmony As Legal Discours."

⁹ Bambang Sunggono, *Metodologi Penelitian Hukum* (Depok: Rajawali Pers, 2019).

The analysis is conducted through a systematic review of the collected legal materials, aiming to interpret the content, scope, and application of relevant legal norms.¹⁰ The process includes:

1. Interpretation of Legal Texts: This involves analyzing the wording of statutes and international human rights provisions, with a focus on how these texts define and regulate interfaith marriages. The study considers both the literal and purposive interpretations of the law to understand legislative intent and the broader implications for interfaith couples.
2. Comparison of Normative and Empirical Realities: The research compares the legal norms with the realities of how these norms are applied in practice. This includes analyzing court cases and legal precedents where issues related to interfaith marriages have been adjudicated. By contrasting the 'law in the books' with the 'law in action,' the study identifies discrepancies and challenges in the enforcement of laws governing interfaith marriage.
3. Critical Evaluation of Legal Consistency: This stage involves evaluating the consistency of national regulations with international human rights standards, particularly the right to marriage as stipulated in the UDHR. The study assesses whether domestic laws support or undermine the rights of individuals to marry across religious lines, providing a critique of legal provisions that may restrict this right.

Through the normative juridical approach, this study seeks to provide a thorough understanding of the legal environment surrounding interfaith marriage and its social and cultural dimensions. The analysis of statutory regulations and relevant legal literature offers a critical perspective on how legal norms influence the reality of interfaith marriages, and how these norms align with or deviate from international human rights principles.

3. RESULTS AND DISCUSSION

3.1 Legal Challenges and Interpretations of Interfaith Marriage in Indonesia

Interfaith marriage in Indonesia remains a contentious issue, drawing tension between religious doctrines, legal frameworks, and the principles of universal human rights. The Marriage Law, enacted in 1974, has been a pivotal point in these debates, specifically its article 2, Paragraph 1, which stipulates that a marriage is considered legal only if conducted according to the religious laws of the parties involved. This requirement poses significant challenges for couples of different religions who wish to marry, often leading to legal obstacles, societal pressure, and administrative complications. Despite some judicial decisions that have allowed for interfaith unions, these marriages are generally discouraged and face significant bureaucratic barriers. This tension highlights the complex interplay between religious values, state regulations, and human rights principles in Indonesia.

Article 2 of the Marriage Law specifies that a marriage is valid only if it complies with the religious laws of the couple. This provision directly impacts interfaith marriages, as many religious doctrines in Indonesia, particularly Islamic law, prohibit unions between individuals of different faiths.¹¹ As a result, couples seeking to enter into interfaith

¹⁰ *Ibid.*

¹¹ J. M. Henny Wiludjeng, *Hukum Perkawinan dalam Agama-Agama* (Jakarta: Penerbit Universitas Katolik Indonesia, 2020).

marriages often encounter refusals from religious and civil registries, such as the Office of Religious Affairs (*Kantor Urusan Agama/KUA*) for Muslims, which aligns its practices with the Islamic fatwas that oppose such unions.

The Indonesian Ulama Council (*Majelis Ulama Indonesia*) has issued fatwas prohibiting interfaith marriages, reinforcing a strict interpretation of Islamic law. This stance is reflected in practices across various religious groups in Indonesia, making it challenging for couples to receive legal recognition of their unions.¹² For example, while Article 2 provides a legal framework that requires adherence to religious practices, the rigidity of this interpretation has led to social and legal challenges. Even attempts to secure legal recognition through judicial reviews, such as those brought before the Indonesian Constitutional Court, have resulted in rejections, reinforcing the existing legal barriers against interfaith marriage.

Despite the predominant stance against interfaith marriage in Indonesia, there have been instances where judicial decisions have opened the door for legal recognition of such unions. There were some precedents of interfaith marriage approval in Indonesia such as found in 2023 at Depok District Court,¹³ which the court ruled that the couple had the right to marry, highlighting their right to form a family, as protected under Article 10 of Law Number 39 of 1999 on Human Rights and referencing earlier Supreme Court decisions that recognized the possibility of interfaith unions. However, this decision sparked significant controversy and backlash from conservative religious and political figures, who argued that the court's decision contradicted established legal norms and religious principles.¹⁴

The Supreme Court's subsequent circular advising lower courts to refrain from approving interfaith marriage applications underscores the ongoing tension between progressive judicial interpretations and conservative societal norms.¹⁵ This move reflects the broader legal and social challenges that interfaith couples face in Indonesia. The court's stance shows a preference for upholding the traditional interpretation of the Marriage Law, despite occasional rulings that suggest a more flexible approach.

The issue of interfaith marriage in Indonesia should be seen in from the point of view of basic international human rights principles, particularly those enshrined in the UDHR. Article 16 of the UDHR asserts that "Men and women of full age...have the right to marry and to found a family, without any limitation due to race, nationality or religion." This provision implies that individuals should be free to choose their spouses, regardless of religious affiliation. However, Indonesia's approach to interfaith marriage often conflicts with these international norms. The emphasis on religious conformity in marriage registration effectively limits the ability of individuals to marry partners of different faiths, thus raising questions about Indonesia's alignment with its international human rights commitments.¹⁶ Although Indonesia is a signatory to the UDHR, the implementation of its

¹² Santoso Santoso, "Hakekat Perkawinan Menurut Undang-Undang Perkawinan, Hukum Islam dan Hukum Adat," *Jurnal Pemikiran Hukum dan Hukum Islam* 7, no. 2 (2016): 412-34, <https://doi.org/10.21043/yudisia.v7i2.2162>.

¹³ Decision of Depok District Court Number 88/Pdt.P/2023/PN Dpk.

¹⁴ Sundari and Hayati, "Perkawinan Beda Agama dan Implikasinya Terhadap Terbitnya Kartu Keluarga Perspektif Undang-undang No. 1 Tahun 1974 dan Undang-undang No. 23 Tahun 2006."

¹⁵ Circular Letter No. 2 of 2023, on instructions for judges regarding marriage registration between people of different religions.

¹⁶ Aris Prio Agus Santoso, Muhammad Habib, and Agusta Pinta Kurnia Rizky, *Pengantar Hukum Perkawinan* (Yogyakarta: PUSTAKABARUPRESS, 2023).

principles in domestic law, especially concerning marriage, reflects a complex negotiation between religious norms and human rights.

The struggle between religious doctrines and human rights principles is not unique to Indonesia, but the country's large Muslim population and the significant role of Islamic law in public life make this issue particularly pronounced. Islamic law plays a crucial role in shaping marriage norms, and many Muslim scholars in Indonesia view interfaith marriages as contradictory to Islamic teachings.¹⁷ This perspective has been institutionalized through state mechanisms, as seen in the integration of Islamic law within the Marriage Law and its enforcement by religious authorities.

At the same time, proponents of interfaith marriage argue for a more inclusive interpretation of human rights, emphasizing the importance of individual freedoms, including the freedom to marry regardless of religious differences. They highlight the need for Indonesia to embrace a more pluralistic approach that respects diversity within its legal framework. This perspective is often supported by references to Indonesia's own constitution, which guarantees freedom of religion and belief, creating a foundation for arguments that call for a more accommodating stance towards interfaith marriages.

While the legal framework for marriage in Indonesia remains conservative, there have been signs of a gradual shift. The decision by the Depok District Court, although contested, reflects a judicial acknowledgment of the need to balance religious norms with evolving social values. It suggests a potential pathway for broader acceptance of interfaith unions through legal reinterpretation and advocacy.¹⁸ However, significant challenges remain. The resistance from religious authorities, coupled with the political influence of conservative groups, makes legislative changes difficult. The societal perception of interfaith marriage as a threat to religious and social harmony also contributes to the reluctance to embrace legal reforms that would recognize such unions. Addressing these challenges requires not only legal reform but also broader social efforts to foster greater acceptance of religious diversity and individual rights.

3.2 Social and Cultural Perspective on Interfaith Marriage

The challenges of interfaith marriages stem from the interaction between personal relationships and societal norms. Social norms surrounding marriage are largely informed by religious doctrines that dictate acceptable marital practices. For instance, in predominantly Muslim countries like Indonesia, the prohibition of interfaith marriages is grounded in Islamic doctrine, which emphasizes the importance of religious unity in family life. In regions like North Lombok, Indonesia, interfaith marriages between Muslims, Hindus, and Buddhists do occur despite religious prohibitions, often influenced by local cultural practices.¹⁹ As research suggests, the historical intermingling of different ethnic and religious groups, such as Sasak Muslims and Balinese Hindus, has normalized interfaith unions in some areas. Nonetheless, these unions are fraught with social complications,

¹⁷ Santoso, "Hakekat Perkawinan Menurut Undang-Undang Perkawinan, Hukum Islam dan Hukum Adat."

¹⁸ Moh. Zeinudin and Oos Ariyanto, "Perkawinan Beda Agama Dalam Perspektif Keadilan Bermartabat," *Jurnal Jendela Hukum* 9, no. 1 (2022): 13–23, <https://doi.org/10.24929/fh.v9i1.1955>.

¹⁹ Arif Sugitanata, Suud Sarim Karimullah, and Heru Sunardi, "Hukum Perkawinan di Masyarakat Sasak Lombok Nusa Tenggara Barat (Analisis Produk Hukum Perkawinan Masyarakat Sasak Lombok Nusa Tenggara Barat)," *The Indonesian Journal of Islamic Law and Civil Law* 4, no. 1 (2023): 19–39, <https://doi.org/10.51675/jaksya.v4i1.344>.

including the pressure for one spouse to convert to the other's religion to maintain communal harmony.

Similarly, in Africa, where Islam and Christianity dominate, interfaith marriages face a complex set of challenges. In southwestern Nigeria, interfaith marriages between Muslims and Christians are more common due to pragmatic considerations—being married, even across religious lines, is often seen as more socially acceptable than remaining single.²⁰ However, these marriages still require negotiation and compromise, with many families insisting on certain religious rites and expectations. Religion in many cultures is not just a matter of personal belief; it forms the backbone of community identity. For this reason, interfaith marriages are often seen as threatening to the preservation of cultural or religious traditions.²¹ In regions where religious identity is closely tied to national or ethnic identity, such marriages can be perceived as undermining community cohesion. For example, in Indonesia, where religion is integral to the social fabric, interfaith marriages are heavily regulated. The Marriage Law mandates that marriages must follow the religious laws of both participants, making it practically impossible for couples of different religions to marry unless one converts. This legal framework is reflective of broader societal values that emphasize religious unity and the protection of religious communities from dilution through interfaith unions.

The regulation of interfaith marriages in Indonesia reflects broader cultural anxieties about maintaining religious purity. In many Muslim-majority countries, marriages across religious lines, particularly those involving Muslim women and non-Muslim men, are strictly forbidden by religious law.²² These prohibitions reflect concerns that interfaith marriages could lead to religious conversions that weaken the religious identity of the community. The expectation in Islamic doctrine is that children born from such unions will follow the father's religion, which could lead to an erosion of the religious community.

The impact of interfaith marriages on individuals and their communities can be profound. In many cultures, marrying outside one's religion can lead to social ostracism, familial discord, and even violence. This is particularly true in conservative societies where interfaith marriages are viewed as a form of religious betrayal. In Indonesia, for instance, interfaith couples often find themselves in a legal and social limbo, where they must navigate a lack of legal recognition and hostility from their communities.²³ In conservative societies, interfaith marriages can lead to the marginalization of individuals within their families or religious communities. In the Middle East and Africa, social barriers are reinforced by religious doctrines that either prohibit or severely limit interfaith unions.²⁴ These restrictions often force couples to choose between their relationship and their religious or familial obligations.

However, not all regions view interfaith marriages negatively. In countries like Turkey, where secularism is more firmly established, interfaith marriages are more readily accepted. Couples often use pre-marital discussions and conflict resolution strategies to

²⁰ R. Gemigani and Q. Wodon, "Child Marriage and Faith Affiliation in Sub-Saharan Africa: Stylized Facts and Heterogeneity," *The Review of Faith & International Affairs* 13, no. 3 (2015): 41-47, <https://doi.org/10.1080/15570274.2015.1075752>.

²¹ Wiludjeng, *Hukum Perkawinan dalam Agama-Agama*.

²² Aulil Amri, "Perkawinan Beda Agama Menurut Hukum Positif dan Hukum Islam," *Media Syari'ah* 22, no. 1 (2020): 48-64, <https://doi.org/10.22373/jms.v22i1.6719>.

²³ *Ibid.*

²⁴ Gemigani dan Wodon, "Child Marriage and Faith Affiliation in Sub-Saharan Africa: Stylized Facts and Heterogeneity."

navigate religious differences.²⁵ This reflects a broader social attitude that values individual rights over communal pressures, particularly in the realm of personal relationships.

Globalization has increased the prevalence of interfaith marriages, particularly in cosmopolitan cities where diverse populations coexist. Increased migration, travel, and international communication have facilitated greater interaction between people of different religious backgrounds. As a result, interfaith marriages are becoming more common, even in traditionally conservative regions. However, while globalization facilitates interfaith marriages, it also brings these unions into conflict with traditional cultural and religious expectations. Couples may find themselves at odds with their families, communities, and religious authorities. In some cases, they may even be forced to marry abroad to avoid local restrictions on interfaith unions.

The tension between religious freedom, as enshrined in the UDHR, and the cultural emphasis on religious purity in marriage highlights the complex nature of interfaith unions. While individuals are free to marry according to their own preferences in theory, in practice, cultural and religious expectations often limit this freedom.²⁶ In regions where religious and cultural identity are deeply intertwined, interfaith marriages are viewed as a threat to communal integrity. Laws that prohibit or restrict interfaith marriages reflect a desire to protect religious communities from external influences. However, such laws also limit personal freedoms and can exacerbate social divisions by reinforcing religious exclusivity. Interfaith marriages are a reflection of broader social and cultural dynamics.²⁷ They challenge traditional notions of community, identity, and religious belonging, while also highlighting the limitations of individual freedom in the face of cultural expectations. While the UDHR promotes the right to marry without discrimination, the reality is that cultural and religious norms often impose significant barriers to the realization of this right.

In many societies, interfaith marriages are seen as threatening to religious purity and community identity, resulting in social ostracism and legal challenges for couples. However, as societies become more globalized, interfaith marriages are likely to become more common, forcing communities to reconsider their attitudes toward religious diversity and personal choice in marriage. The balance between protecting cultural identity and upholding individual rights will continue to be a central issue in the discourse on interfaith marriages, as individuals and societies navigate the complex intersection of tradition, religion, and personal freedom.

3.3 Feasibility of Interfaith Marriage in Indonesia

The feasibility of interfaith marriage in Indonesia is a complex issue, intersecting legal, cultural, religious, and human rights dimensions. While interfaith unions present a challenge to established norms, they raise essential questions about love, freedom, and the fundamental human right to choose a life partner.²⁸ This article explores the possibilities of interfaith marriages in Indonesia, examining the legal framework, cultural dynamics, and philosophical underpinnings of love and human rights, connecting them to the UDHR.

²⁵ Hikmet Kocamande, "Regulating The Family Through Religion," *American Ethnologist* 46, no. 4 (2019): 1–14, <https://doi.org/10.1111/amet.12836>.

²⁶ Putri, Junid, dan Fahmi, "Marriage Between Religions Based on Human Rights Perspectives."

²⁷ Muhammad Adiguna Bimasakti, "Keabsahan Perkawinan Beda Agama dan Kewenangan Mengadili Sengketanya Dalam Perspektif Hukum Antar Tata Hukum Indonesia," *Journal of Islamic Law Studies, Sharia Journal* 4, no. 1 (2021): 36–61, <https://scholarhub.ui.ac.id/jils/vol4/iss1/6>.

²⁸ Kennedy, "Hak Asasi Manusia dan Keadilan Bermartabat: Perbandingan Teori dan Realitas di Indonesia."

Indonesia's legal system does not explicitly permit interfaith marriage, as outlined in the Marriage Law. According to this law, a marriage is valid only if conducted according to the respective religious laws of both parties. For Muslims, the Compilation of Islamic Law (*Kompilasi Hukum Islam/KHI*) reinforces this restriction, stating that a Muslim is not allowed to marry a non-Muslim. The legal prohibition is based on the principle of "belief in the one and only God," a core aspect of Pancasila, Indonesia's state philosophy.²⁹ Despite these strict legal norms, couples in interfaith relationships have found ways to navigate the legal landscape. Some seek legal recognition through court petitions, while others marry abroad and register their unions upon returning to Indonesia. This strategy leverages a loophole in Law Number 23 of 2006 on Civil Administration, allowing for the registration of marriages conducted abroad.³⁰ This dual approach reflects what some scholars describe as a "double-faced" legal expression, where the state officially prohibits but indirectly accommodates interfaith marriages through administrative practices.

Culturally, Indonesia is a diverse archipelago with significant non-Muslim populations, such as in Bali, North Sulawesi, and parts of Papua. In regions like Manado, interfaith marriages are more accepted, reflecting local cultural values like "*Torang Samua Basudara*" (we are all brothers and sisters).³¹ This philosophy emphasizes kinship and community harmony over religious differences, providing a cultural space where interfaith relationships can thrive despite legal constraints. However, in more conservative areas, such as West Nusa Tenggara or North Lombok, religious leaders and communities strongly discourage interfaith unions. The societal pressures often compel one partner to convert temporarily to fulfil legal requirements for marriage registration. This practice, while pragmatic, underscores the tension between cultural practices and religious norms.

From a philosophical and human rights perspective, the ability to marry a partner of one's choice is a fundamental right. Article 16 of the UDHR states that "men and women of full age... have the right to marry and to found a family" without restrictions based on religion or nationality. This provision aligns with the principle that love should not be confined by societal or religious norms. The UDHR underscores those personal freedoms, including the right to love, are universal and should not be curtailed by state or religious institutions.

Moreover, love is a deeply personal and human experience that are given by God, transcending religious and cultural boundaries.³² As discussed in John Cottingham's analysis, love is a powerful force that underpins human relationships, societal harmony, and personal fulfilment.³³ In this context, restricting interfaith marriage can be seen as an infringement on the personal agency and emotional well-being of individuals, as it denies them the freedom to follow their hearts. In the context of interfaith marriages, love often plays a decisive role in overcoming societal barriers. Many couples perceive love as a bridge that can unite different beliefs and foster mutual respect and understanding. This perspective is consistent with the concept of "practical love" as described by Cottingham,

²⁹ Kennedy dan Wartoyo, "Harmonizing Diversity: Pancasila's Role As The Cornerstone Of Multi-cultural Harmony As Legal Discours."

³⁰ Decision of District Court of Yogyakarta No. 180/Pdt.P/2023/PN YYK.

³¹ Rosdalina Bukido, et al., "Negotiating Love and Faith: Interfaith Marriage in Manado, Indonesia," *Jurnal Ilmiah Agama dan Sosial Budaya* 6, no. 1 (2021): 67-76, <https://doi.org/10.15575/jw.v6i1.11299>.

³² Teguh Prasetyo, *Keadilan Bermartabat: Perspektif Teori Hukum* (Bandung: Nusamedia, 2021).

³³ John Cottingham, "Love and Religion," in *The Oxford Handbook of the Philosophy of Love*, ed. Christopher Grau and Aaron Smuts (Oxford: Oxford University Press, 2017), <https://doi.org/10.1093/oxfordhb/9780199395729.013.33>.

where love entails kindness and a willingness to build a shared life despite differences. For interfaith couples, the act of choosing each other is a testament to their commitment to navigate challenges together.

While some argue that religious differences could undermine marital stability, others believe that love can provide a foundation for a harmonious relationship. In Manado, couples often avoid religious symbols in their interactions to maintain familial harmony, focusing instead on mutual respect.³⁴ This approach suggests that love, when grounded in understanding, can overcome religious differences and create a stable family environment. The legal prohibition against interfaith marriages in Indonesia has been challenged in the Constitutional Court several times, but efforts to amend the Marriage Law have been unsuccessful. These rejections highlight the tension between the legal framework and the evolving social dynamics that favor greater individual freedom and human rights.

To address this issue, legal reforms could focus on providing clear regulations that accommodate interfaith marriages while respecting religious principles. For instance, creating a special provision under the Marriage Law for civil marriages could offer a compromise, allowing couples to marry without converting or marrying abroad. Such reforms would align Indonesian law more closely with international human rights standards while respecting cultural diversity.

The feasibility of interfaith marriages in Indonesia remains limited by the existing legal framework and societal norms. However, the increasing number of couples who challenge these norms through court petitions or seek marriage abroad suggests a growing demand for legal recognition of such unions.³⁵ While the state maintains a conservative stance, the cultural diversity and evolving societal attitudes toward interfaith marriages indicate a potential shift in the future. Ultimately, interfaith marriage in Indonesia is more than a legal issue; it is a question of balancing tradition with modernity, individual freedom with societal norms, and love with legal constraints. The possibility of such unions lies in the capacity of Indonesian society to embrace diversity while respecting religious values. For interfaith couples, love remains a powerful motivator that drives them to challenge barriers and seek recognition, reflecting a universal aspiration for a life built on shared values and mutual respect.

4. CONCLUSION

Interfaith marriage in Indonesia represents a complex interplay between legal frameworks, religious doctrines, and societal norms. While Indonesia's rich cultural diversity allows for a variety of beliefs and practices, the legal recognition of interfaith marriage remains a contentious issue. Law Number 1 of 1974, which requires marriages to adhere to religious laws, presents significant challenges for interfaith couples. These challenges manifest in legal obstacles, social resistance, and administrative complexities. The rigidity of religious interpretations, particularly within Islamic communities, has led to a conservative legal stance, despite occasional judicial rulings that favor more inclusive interpretations. The broader debate surrounding interfaith marriage reflects Indonesia's struggle to balance traditional values with evolving social norms and individual rights. As Indonesia's society becomes more globalized, interfaith relationships have become more common, especially among younger generations and in urban areas. However, the legal and

³⁴ Bukido et al., "Negotiating Love and Faith: Interfaith Marriage in Manado, Indonesia."

³⁵ Santoso, Habib, dan Rizky, *Pengantar Hukum Perkawinan*.

social systems continue to emphasize religious conformity over personal freedoms, which creates a paradox between Indonesia's constitutional commitment to religious freedom and the enforcement of laws that restrict interfaith unions. This article has explored the tensions between religious principles and human rights, demonstrating that the feasibility of interfaith marriages in Indonesia is constrained by both legal frameworks and cultural attitudes. While there are pathways for couples to navigate these challenges, such as marrying abroad or through legal appeals, these solutions often come with significant personal and social costs. The evolving societal attitudes towards interfaith marriage suggest a potential shift in Indonesia's legal and cultural landscape, but achieving a balance between tradition and modernity remains a critical challenge.

4.1 Recommendations

Interfaith marriage in Indonesia represents a challenging intersection of legal, religious, and cultural dimensions, requiring a multifaceted approach for meaningful progress. At the international level, promoting universal human rights standards remains essential. International bodies should emphasize the importance of Article 16 of the UDHR, which upholds the right to marry without discrimination based on religious differences. Reinforcing this principle could encourage nations like Indonesia to align their marriage laws more closely with international human rights norms. Furthermore, international organizations could facilitate dialogues among countries with similar religious and cultural complexities, promoting the sharing of best practices in managing interfaith marriages. Such dialogues could help Indonesia draw from the experiences of countries that have successfully integrated human rights with respect for religious diversity. In addition, international law entities should support local advocacy groups and educational programs to raise awareness about the rights of interfaith couples, providing resources that empower these couples to navigate both international and national legal frameworks effectively.

On the national front, revising Indonesia's legal framework is crucial for accommodating interfaith unions. One key step would be amending Law Number 1 of 1974 to include provisions for civil marriages, enabling couples to marry without strictly adhering to religious laws. This change would allow Indonesia to strike a balance between respecting religious values and upholding individual rights. Another potential solution is creating a special marriage provision, similar to India's Special Marriage Act, which would offer a legal pathway for interfaith unions without the necessity of conversion. Such a provision would acknowledge the diverse realities of interfaith relationships while maintaining Indonesia's cultural and religious integrity. Additionally, the Constitutional Court could take on a more proactive role in addressing the rights of interfaith couples by offering clear legal interpretations that harmonize constitutional rights with marriage laws. A more consistent approach from the courts would help create a predictable legal environment, reducing uncertainty for interfaith couples.

Beyond legal reforms, fostering social acceptance is essential for easing the challenges faced by interfaith couples in Indonesia. National leaders, religious scholars, and community organizations should engage in open dialogues about the challenges and opportunities of interfaith marriage, promoting a culture of tolerance and respect for diversity. Such public discourse can play a vital role in reducing the stigma and resistance often associated with interfaith unions. Encouraging religious leaders to adopt more inclusive interpretations of their doctrines regarding interfaith marriage could also help foster social harmony and reduce the pressure on couples to convert solely for legal

recognition. Furthermore, collaborative educational campaigns by the government and civil society organizations could emphasize Indonesia's constitutional guarantees of religious freedom and the significance of respecting individual choices in marriage. These campaigns could help build a more inclusive society that respects both religious traditions and the freedom of individuals.

However, several areas for improvement remains such as, the legal landscape for interfaith marriage in Indonesia is inconsistent, with conflicting rulings from various courts. It is imperative to achieve a unified stance from the Supreme Court and other judicial bodies to ensure a predictable legal path for interfaith couples. Harmonizing court decisions with the constitutional guarantee of religious freedom would be a significant step toward legal clarity. Additionally, the administrative processes for interfaith couples, such as marriage registration and obtaining legal recognition, need to be streamlined. Improving training for civil servants to handle interfaith marriage applications with sensitivity and efficiency would help reduce administrative burdens. Revising legal restrictions that rigidly impose religious doctrines on personal matters like marriage is also necessary. While Indonesia values religious harmony, a more flexible legal framework that respects individual rights while preserving core religious values could be developed through national discussions with religious and community leaders.

Ultimately, the Indonesian government should aim for a balanced legal framework that respects religious values without undermining basic human rights. Creating legal spaces where religious principles are honored, but personal freedoms, including the right to marry a partner of one's choice, are not unduly restricted, would be a crucial step forward. Addressing these legal, social, and cultural dimensions can help Indonesia foster a more inclusive environment for interfaith couples while maintaining its commitment to religious harmony. Such a balanced approach would preserve Indonesia's rich cultural heritage while ensuring that the rights and freedoms of all citizens are respected, contributing to a more just and harmonious society.

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