

Legal Analysis of Interfaith Marriage in Indonesia: Challenges and Comparison with Turkish Marriage Law

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Abstract

Interfaith marriage has become an intriguing topic in social and cultural studies, particularly in countries with significant religious diversity. This article aims to examine the dynamics of interfaith marriage law in Indonesia, including the challenges faced and prospects. Additionally, the article will conduct a compare the practice of interfaith marriage law in Indonesia with the legal practices in Turkey, a country with a similar background in terms of its multicultural society and a Muslim- majority population. This research employs a doctrinal research method with a comparative approach. The researcher also uses document studies or literature sources such as legal journals, books, and legislations, including Law No. 1 of 1974 on Marriage, Constitutional Court Decision No. 24/PUU-XX/2022, as well as the Supreme Court Circular No. 2 of 2023 on Guidelines for Judges in Adjudicating Cases of Marriage Registration Requests Between Different Religious and Beliefs, The Turkish Family Law of Cyprus 1951, and The Turkish Civil Code No. 4721. The research shows that Constitutional Court Decision No. 24/PUU- XX/2022 and the Supreme Court Circular No. 2 of 2023, which absolutely prohibit the implementation of interfaith marriage, disregarding religious interpretations that allows interfaith marriage and only referring to

the majority religious interpretation. Indonesia and Turkey present interesting legislative frameworks with significant differences in the context of marriage and interfaith marriage. A deeper understanding of the comparison between Indonesia and Turkey is expected to offer new perspectives on more inclusive and comprehensive policies regarding interfaith marriage in Indonesia.

1. Introduction

There are various definitions of marriage. According to Wirjono Prodjodikoro, marriage is the union of a man and a woman who meet the requirements set forth both religious and legal regulations.¹ Hilman Hadikusuma stated that, according to customary law in general in Indonesia, marriage is not only a civil contract but also a customary bond, a kinship and neighbourhood bond. In religious terms, marriage is considered a sacred act (sacrament, *samskara*), which is a bond between two parties in fulfilling the commandments and recommendations of God Almighty, with the aim of ensuring that family life, marriage, and kinship proceed in accordance with the teachings of their respective religions.² Moreover, Scholten defines marriage as a legal relationship between a man and a woman, aimed at living together permanently, and recognized by the state.³

Rich in ethnic, cultural, and religious diversity, Indonesia presents a unique social landscape that reflects the principle of pluralism. Diversity is a defining characteristic of Indonesia's national identity, serving as a foundation for tolerance, interfaith cooperation, and social harmony within the society. Interfaith marriage represents a complex phenomenon that highlights the religious, social, and cultural diversity within Indonesian society. This phenomenon not only affects individuals on a personal level but also carries profound implications within the legal, social, and cultural contexts in Indonesia. As a nation with significant religious diversity, Indonesia faces considerable challenges in regulating and accommodating interfaith marriages. Such marriages raise important legal questions regarding the recognition and protections of rights for couples, while also emphasizing the balance between religious freedom and universally applicable legal principles.

¹ O.S. Eoh, *Perkawinan Antar Agama dalam Teori dan Praktek*, cet.2, (Jakarta: PT. Raja Grafindo Persada, 2001), Pg. 27-28.

² *Ibid.*

³ Soetojo Prawirohamidjojo and Asis Safioeding, *Hukum Orang dan Keluarga*, (Bandung: Alumni, 2000), Pg. 8.

Interfaith marriages are a common occurrence in Indonesia society. In Gunung Kidul Regency, an area known for its religious diversity, approximately 32% of marriages officiated annually at the Wonosari Catholic Church (Saint Peter Canisius involve couples with different religions.⁴ Data also shows that, in several Religious Affairs Offices or *Kantor Urusan Agama*, an average of 2.5% of couples are from different religious backgrounds.⁵ However, numerous religious interpretations do not tolerate interfaith marriage, such as the Islamic interpretation that permits marriage only between individuals of the same faith, which has often been used as a legal argument to oppose interfaith unions.⁶ This issue is addressed in the Compilation of Islamic Law or *Kompilasi Hukum Islam (KHI)*, established under Presidential Instruction No. 1 of 1990, which deems a marriage invalid if the partners follow different religious beliefs. In contrast, Law No. 1 of 1974 on Marriage does not explicitly address interfaith marriage nor declare them invalid. However, in practice, marriage registration officers frequently reject interfaith marriage by referring to Article 2, paragraph (1) of Law No. 1 of 1974, which states that marriage is valid if conducted according to the laws of the respective religions and beliefs. This approach was also reflected in Constitutional Court Decision No. 68/PUU-XII/2014, issued on June 18, 2015, which rejected a judicial review of Article 2, paragraph (1) of Law No. 1 of 1974 on Marriage, and was reinforced by the Supreme Court Circular No. 2 of 2023 on Guidelines for Judges in Adjudicating Requests for Marriage Registration Between Individuals of Different Religions and Beliefs. The essence of the circular is a prohibition for judges across Indonesia to approve the registration of interfaith marriages.⁷ However, certain religious interpretations do permit interfaith unions.

Indonesia and Turkey, as two nations with rich and diverse histories, cultures, and religious backgrounds, offer intriguing legal frameworks with regard to interfaith marriage. Therefore, to gain a more comprehensive understanding of the dynamics surrounding interfaith marriages, this research will explore and conduct a comparative analysis between Indonesian and Turkish marriage laws. By delving into the obstacles faced by interfaith couples and analysing the social, cultural, religious, and legal implications in both countries, this article aims to

⁴ Sri Wahyuni, "Kontroversi Perkawinan Beda Agama di Indonesia." In *Al-Risalah: Forum Kajian Hukum Dan Sosial Kemasyarakatan*, Vol. 11, No. 02 (2011), Pg. 15.

⁵ Sri Wahyuni, "Pelaksanaan Perkawinan Beda Agama di Kabupaten Gunung Kidul" (Tesis Magister Fakultas Hukum Universitas Gadjah Mada, Yogyakarta, 2004), Pg. 1.

⁶ Komnas Hak Asasi Manusia. *Pernikahan beda agama: kesaksian, argumen keagamaan dan analisis kebijakan* (Komnas HAM, 2005.), Pg. 2.

⁷ Sekretariat Jenderal MPR RI, "Yandri Susanto: Sema Nomor 2 Tahun 2023 Harus Tersosialisasikan Ke Seluruh Masyarakat." mpr.go.id, 16 November 2023, tersedia pada <https://www.mpr.go.id/berita/Yandri-Susanto--SEMA-Nomor-2-Tahun-2023-Harus-Tersosialisasikan-Ke-Seluruh-Masyarakat>, accessed May 22 2024.

provide a broader perspective on this complex issue and contribute new insights into the discourse surrounding interfaith marriage.

2. Research Method

This research employs a juridical-normative (doctrinal) research method. The researcher also utilizes primary legal materials such as legal journals, books, and legislations, including Law No. 1 of 1974 on Marriage, Constitutional Court Decision No. 24/PUU-XX/2022, as well as the Supreme Court Circular No. 2 of 2023 on Guidelines for Judges in Adjudicating Cases of Marriage Registration Requests Between Different Religious and Beliefs, The Turkish Family Law of Cyprus 1951, and The Turkish Civil Code No. 4721. The data analysis method used in this research is qualitative data, and the research findings are presented in a descriptive-analytical manner.

3. Results And Discussion

3.1. Interfaith Marriage under Indonesian Law

1. Definition of Marriage

In Indonesia, marriage is regulated under Law No. 1 of 1974 on Marriage (Law 1/1974). This law is legally binding in Indonesia and forms part of the positive law. In addition to establishing fundamental principle, Law 1/1974) also provides the legal foundation and principles that serve as a reference and applicable to all segments of society in Indonesia. For those who follows Islam, marriage is also regulated under *KHI*.

According to Article 1 of Law No. 1/1974, marriage is a physical and spiritual bond between a man and a woman as husband and wife, with the aim of forming a family (household) that is happy and everlasting, based on the belief in God Almighty.⁸ It can thus be concluded that a key element of marriage is the physical and spiritual bond.⁹ K. Wantjik Saleh further asserts that marriage is not merely a physical and spiritual bond, but both. The physical bond reflects the formal aspect of marriage, while the spiritual bond represents what is informal or invisible. Both aspects serve as the foundational elements in the formation of a family.¹⁰

⁸ *Undang-Undang tentang Perkawinan*, UU Nomor 1 Tahun 1974. LN, Tahun 1974 No. 1 TLN No. 3019, as amended by *UU Nomor 16 Tahun 2019 tentang Perubahan atas Undang-Undang Nomor 1 Tahun 1974*, LN Tahun 186, TLN No. 6401, hereinafter referred to as Law 1/1974, Article 1.

⁹ Wahyuni, Sri. *Nikah Beda Agama: Kenapa ke Luar Negeri?*. Pustaka Alvabet, 2017.

¹⁰ Saleh, Wantjik. *Hukum Perkawinan*, (Jakarta: Ghalia Indonesia, 1980, Pg. 14-15.

Therefore, it can be concluded that marriage has social, religious, and juridical aspects.¹¹ The juridical aspects pertains to the formal, legal relationship between a man and a woman. The social aspect of marriage involves the binding relationship within society, while the religious aspect is grounded in the belief of God Almighty, which forms the foundation for a happy and everlasting family. This is articulated in the Elucidation of the Article 1 of Law 1/1974, which states that as a state based on *Pancasila*, with the first principle being the belief in God Almighty, marriage is closely intertwined with religion and spirituality. Hence, marriage comprises not only physical and bodily elements but also spiritual or inner elements.

2. Requirements for a Valid Marriage

The requirements for the validity of marriage are regulated under Article 2 of Law 1/1974, which states that:¹²

- (1) A marriage is valid if conducted according to the laws of each party's religion and belief; and
- (2) Every marriage must be registered in accordance with the applicable laws and regulations.

Furthermore, the Elucidation of Article 2 of Law 1/1974 also stipulates that, under the formulation of Article 2, paragraph (1), no marriage is permitted outside the laws of each party's religion and belief, in accordance with the 1945 Constitution of the Republic of Indonesia (1945 Constitution).¹³ It also clarifies that the "law of each party's religion and belief" includes the legal provisions applicable to their respective religious communities and beliefs, as long as these provisions do not conflict with or are not otherwise stipulated in Law 1/1974.¹⁴ Religious principles are crucial in the marriage process, meaning the permissibility of interfaith marriages depends on religious doctrine.

According to *KHI*, interfaith marriage is addressed under the chapter on prohibited marriages. Article 40 letter (c) of the *KHI* prohibits marriage between a man and a woman if the woman is not Muslim.¹⁵ Article 44 of the *KHI* also stipulates that a Muslim woman is prohibited from marrying a man who is not Muslim.¹⁶ Subsequently, Article 2, paragraph (2) of Law 1/1974 addresses the administrative requirements

¹¹ Sri Wahyuni, "Kontroversi Perkawinan Beda Agama di Indonesia." *Jurnal Hukum Islam*, Vol. 8, No. 1 (2010), hlm. 295.

¹² Law 1/1974, Article 2.

¹³ Law 1/1974, Elucidation of Article 2.

¹⁴ Law 1/1974, Elucidation of Article 2.

¹⁵ *Kompilasi Hukum Islam*, Article 40, letter (c).

¹⁶ *Kompilasi Hukum Islam*, Article 44.

for the validity of marriage. This is further elaborated in the Elucidation No. 4 letter (b) of Law 1/1974, which emphasizes that a marriage is valid if conducted according to the laws of each party's religion and belief, and must be registered to the applicable laws and regulations. Marriage registration is further regulated under Government Regulation No. 9 of 1975 on the Implementation of Law 1/1974. Article 6-11 of Law 1/1974 set out the following conditions for a valid marriage:

- a. Marriage must be based on the consent of both prospective spouses;
- b. A person who has not reached the age of 21 (twenty-one) years old must obtain the consent of both parents to marry;
- c. If both parents are deceased or unable to express their consent, permission may be granted by a guardian, the person who cares for the individual, or a family member in the direct ascending line, as long as they are alive and able to express their will;
- d. Marriage is only permitted if the man has reached the age of 19 (nineteen) years and the woman has reached the age of 16 (sixteen) years;
- e. Marriage is prohibited between two individuals who have blood relations, relationships through marriage, milk kinship, or familial relationships;
- f. Both parties must not be bound by another marriage;
- g. If a couple has divorced and then remarried, and subsequently divorced a second time, they are prohibited from marrying each other;
- h. A woman whose marriage has been dissolved must observe a waiting period before remarrying.

However, it is important to note that the minimum age requirement for marriage was amended by Law No. 16 of 2021, which revised Law 1/1974, stating that marriage is only permitted if both the man and woman have reached the age of 19 (nineteen) years old.¹⁷

3. Challenges of Interfaith Marriage in Indonesia

The strong religious aspect, which serves as the fundamental basis for marriage, is reflected in Article 1 of Law 1/1974. The conditions for a valid marriage are clearly outline in Article 2 of Law 1/1974, which states:

- (1) A marriage is valid if conducted according to the laws of each party's religion and belief; and

¹⁷ *Undang-Undang tentang Perubahan atas Undang-Undang Nomor 1 Tahun 1974*, UU Nomor 16 Tahun 2019, LN Tahun 186, TLN No. 6401, hereinafter referred to as The Amendment of Law 1/1974 in 2019, Article 1.

(2) Every marriage must be registered in accordance with the applicable laws and regulations.

The Elucidation of Article 2, paragraph (1), further clarifies that marriages conducted outside the laws of each party's religion and belief are not recognized. This provision presents a significant challenge to the implementation of interfaith marriages in Indonesia.

There is a considerable portion of Indonesian society that advocates for the legalization of interfaith marriage. This is reflected in the submission of judicial review requests of Law 1/1974 to the Constitutional Court. In Constitutional Court Decision No. 24/PUU-XX/2022, the Constitutional Court rejected the challenge to Article 2, paragraph (1) and (2), and Article 8, letter (f) of Law 1/1974, stating that the validity of marriage in the context of religion is governed by the relevant religious institutions or authorities that have the capacity to interpret religious law.¹⁸ The state, in this context, is only responsible for overseeing the interpretation outcomes. Regarding the registration of marriages by state institutions, it was found to be in line with and does not contradict with Article 28D, paragraph (1) of the 1945 Constitution, as it aims to guarantee legal certainty and orderly population administration.¹⁹

However, the *Komisi Nasional Anti Kekerasan terhadap Perempuan* (*Komnas Perempuan*), argues that the Constitutional Court Decision No. 24/PUU-XX/2022 disregards religious interpretations that allows interfaith marriages and only refers to the majority religious interpretation.²⁰ *Komnas Perempuan* also states that the phrase "forming a family" is an expression of the free will of the citizens, who are holders of fundamental rights, falling within the domain of civil law and human rights.²¹ Additionally, *Komnas Perempuan* asserts that interfaith marriage

¹⁸ *Undang-Undang tentang Perubahan atas Undang-Undang Nomor 1 Tahun 1974*, UU Nomor 16 Tahun 2019, LN Tahun 186, TLN No. 6401, hereinafter referred to as The Amendment of Law 1/1974 in 2019, Article 1.

¹⁹ *Undang-Undang tentang Perubahan atas Undang-Undang Nomor 1 Tahun 1974*, UU Nomor 16 Tahun 2019, LN Tahun 186, TLN No. 6401, hereinafter referred to as The Amendment of Law 1/1974 in 2019, Article 1.

²⁰ Komnas Perempuan, "Siaran Pers Komnas Perempuan Terkait Putusan MK Nomor 24/PUU-XX/2022: Pertimbangan Mahkamah Konstitusi Potensial Memperkuat Diskriminasi dan Kekerasan terhadap Perempuan yang Menikah Beda Agama" *Kompasperempuan.go.id*, 6 Februari 2023, <https://komnasperempuan.go.id/siaran-pers-detail/siaran-pers-komnas-perempuan-terkait-putusan-mk-nomor-24-puu-xx-2022-pertimbangan-mahkamah-konstitusi-potensial-memperkuat-diskriminasi-dan-kekerasan-terhadap-perempuan-yang-menikah-beda-agama>, accessed May 26 2024.

²¹ *Ibid.*

is a fundamental right to freedom of religion, which is guaranteed under the 1945 Constitution.²²

Despite the significant opposition from various parties, the Constitutional Court Decision is supported by the Supreme Court Circular No. 2 of 2023 on Guidelines for Judges in Adjudicating Requests for Marriage Registration Between Individuals of Different Religions and Beliefs which stipulates that:²³

- (1) A valid marriage is one conducted according to the laws of each party's religion and belief, in accordance with Article 2, paragraph (1) and Article 8, letter (f) of Law No. 1 of 1974 on Marriage;
- (2) The court shall not approve the registration of interfaith marriages.

However, several recognized religions in Indonesia permit interfaith marriages. From the perspective of Catholicism, marriage is a symbol of the loving relationship between God and His people, or Christ and the Church.²⁴ Catholic marriage is monogamous and indissoluble, with the objectives of promoting the well-being of the couple, procreation, and the education of children.²⁵ Although it is ideal for the marriage to be between individuals who shares the same faith, the Catholic Church does not entirely prohibit interfaith marriage.²⁶ Local diocesan authorities (bishops or their representatives) may grant a permission for interfaith marriages.²⁷ Canon Law 1125 allows for such dispensations to be granted if there are valid and reasonable grounds, and the following conditions are met:²⁸

- a. The Catholic party commits to not abandoning their faith and promises to the best of their ability to ensure that any children from the marriage are baptized and raised within the Catholic Church;
- b. The other party is fully informed of the promises made by the Catholic party, so they understand the obligations and responsibilities involved;
- c. Both parties must understand the essential purposes and characteristics of marriage, which should not be neglected by either party.

²² *Ibid.*

²³ Mahkamah Agung, *Surat Edaran Mahkamah Agung No. 2 Tahun 2023 tentang Petunjuk Bagi Hakim dalam Mengadili Perkara Permohonan Pencatatan Perkawinan Antar-Umat yang Berbeda Agama dan Kepercayaan* (2023).

²⁴ Yohannes Endi Nikodemus, "Pandangan Gereja Katolik Terhadap Perkawinan Campur Perspektif *Amoris Laetitia* dan Hukum Kanonik". *Jayapangus Press Kamaya: Jurnal Ilmu Agama* Vol. 6, No. 3 (2023), Pg. 355.

²⁵ *Ibid.*

²⁶ *Ibid.*

²⁷ *Ibid.*

²⁸ *Ibid.*

Thus, it can be concluded that the Catholic Church recognized and permits interfaith marriages under specific conditions that both parties must fulfil.

In Buddhist teachings, there is no absolute prohibition against interfaith marriages.²⁹ Such marriages may proceed if both parties are willing to undergo the Buddhist marriage ceremony.³⁰ It can be concluded that differences in belief do not pose an obstacle to the union process. However, it is important to note that views on interfaith marriage can vary among different Buddhist communities.³¹

From the perspective of Confucianism, marriage between a man and a woman is considered a commandment from Tian (Heaven).³² The High Council of Confucianism in Indonesia or *Majelis Tinggi Agama Konghucu Indonesia (Matakin)*, through its Vice Chairperson Uung Sendana, holds that differences in belief, domination, ethnicity, culture, or religion does not prevent the marriage from taking place.³³ Confucian marriage rituals (Li Yuan) are not conducted if one of the parties is not a Confucian adherent. However, the marriage will be recognized and a marriage certificate will be issued by *Matakin*.³⁴

This situation raises significant debate among interfaith couples. If religious doctrine permits interfaith marriage, why does the state impose an absolute prohibition through the Supreme Court Circular No. 2 of 2023 on Guidelines for Judges in Adjudicating Requests for Marriage Registration Between Individuals of Different Religions and Beliefs? After all, Article 2, paragraph (1) of Law 1/1974 delegates the authority to regulate interfaith marriage to the respective religious laws. Furthermore, the Elucidation of Article 35, letter (a) of Law No. 23 of 2006 on Population Administration (Law 23/2006) provides an opportunity for interfaith couples to marry and states that “Marriage as determined by the Court” refers to marriages between individuals of different religions or belief.³⁵

3.2. Interfaith Marriage under Turkish Law

1. Definition of Marriage

²⁹ Vina Dita Pratiwia, Wistina Sineru dan Edi Sumarwan. “Pernikahan Beda Agama Dalam Pandangan Agama Buddha”. *Jurnal Penelitian Agama*. Vol. 24, No. 2 (2003), Pg. 200.

³⁰ *Ibid.*

³¹ *Ibid*, Pg. 203.

³² Rizqon. “Analisis Perkawinan Beda Agama Perspektif KHI, HAM dan CLD-KHI”. *Al-Manhaj: Jurnal Hukum dan Pranata Sosial Islam*. Vol. 4, No. 1 (2022), Pg. 17.

³³ Mahkamah Konstitusi Republik Indonesia, “Majelis Tinggi Khonghucu: Perbedaan Agama Tak Jadi Penghalang Perkawinan” Mahkamah Konstitusi Republik Indonesia, 19 Juni 2015. <https://www.mkri.id/index.php?page=web.Berita&id=11155>, accessed May 26 2024.

³⁴ *Ibid.*

³⁵ *Undang-Undang Tentang Administrasi Kependudukan, UU Nomor 23 Tahun 2006, LN Tahun 2006 No. 124, TLN No. 4674*, hereinafter referred to as Law 23/2006, Elucidation of Article 35 letter (a).

Turkey is a secular Muslim-majority state where secularism has been imposed on society through authoritarian policies.³⁶ Turkey presents a significant case where non-Western secularism has been practiced for many years, with religious symbols and elements prohibited in the public sphere.³⁷ According to Sakallioğlu, despite changes in strategies towards Islam, one of the most enduring characteristics of the Turkish state is its attempt to control Islam.³⁸ However, the transformation that has occurred in Turkey over the last fifteen years has led to significant changes in the religious sphere.³⁹ These include the removal of barriers that had previously prevented the display of religion and religious symbols in public, the enforcement of freedom of expression, and the provision of religious freedoms such as the right to education, worship for the Muslim majority, as well as the restoration of rights for religious minority groups that had been stripped away.⁴⁰ This transformation also extends to the regulation of interfaith marriage.

Turkey, as a predominantly Muslim state, has undergone reforms in family law and marriage through processes of secularization, modernization, and Westernization to meet the practical needs of society.⁴¹ Marriage in Turkey is regulated under the Turkish Civil Code No. 4721. According to Article 185 of the Turkish Civil Code, marriage is defined as follows: "Marriage forms a union between the spouses. Both spouses are obliged to ensure the continuity of this union, taking responsibility for the upbringing, education, and supervision of children together". The spouses must live together, be faithful to one another, and provide mutual assistance.⁴²

2. Requirements for a Valid Marriage

In Turkey, only civil marriages conducted by official marriage officers are legally recognized, protected by the Constitution, and deemed valid. The marriage process begins when both parties submit the required documents to the marriage office in their domicile. The civil authorities

³⁶ Talip Küçükcan, "Modernleşme ve Sekülerleşme Kuramları Bağlamında Din, Toplumsal Değişim ve İslam Dünyası". *İslam Aras tırmaları Dergisi*, Vol. 13, (2005). Pg. 127.

³⁷ H. Şule Albayrak, "Religious pluralism and religion-state relations in Turkey." *Religions* Vol. 10, No. 1 (2019), Pg. 1.

³⁸ Ümit Cizre Sakallioğlu, "Parameters and strategies of Islam-State interaction in Republican Turkey." *International Journal of Middle East Studies*, Vol. 28, No. 2 (1996), Pg. 248.

³⁹ Albayrak. "Religious pluralism and...". Pg. 1.

⁴⁰ *Ibid.*

⁴¹ Kadek Wiwik Indrayanti dan Enny Ristanty. "Analisis peraturan perkawinan beda agama di berbagai negara sebagai perlindungan hukum untuk membentuk keluarga." *Jurnal Cakrawala Hukum* Vol. 11, No. 1 (2020). Pg. 78.

⁴² Turkish Civil Code No. 4721, Article 185.

then inquire whether there are any legal impediments to the marriage, as outlined in Articles 134-144 of the Turkish Civil Code No. 4721. If there are no legal barriers, a certificate of eligibility is issued which granting the prospective spouses the right to request the marriage ceremony within six months. The marriage ceremony is held in the presence of two legally competent witnesses, typically at the city hall. The official then asks the parties whether they are willing to marry one another. After receiving an affirmative responses, the official declares the marriage to be legally valid. The marriage is considered valid once the parties have expressed their intent to marry. After the marriage vows are exchanged, the marriage officer issues a marriage certificate, which is recorded in the personal status register of the spouses. If the couple wishes to hold a religious wedding ceremony, they must present their marriage certificate.

The requirements for obtaining a marriage certificate in Turkey, according to Articles 124-133 of the Turkish Civil Code No. 4721, are as follows:⁴³

- (1) Both men and women must be at least 18 years old to marry. However, the judge may allow a person aged 17 to marry under specific circumstances or for significant reasons. If possible, the consent of the parents or guardians may be provided;
- (2) Individuals who lack mental competence are not permitted to marry;
- (3) Minors cannot marry without the consent of their legal guardian;
- (4) Individuals with legal disabilities cannot marry without the permission of their legal representative;
- (5) A judge may allow a minor or legally disabled person to apply for marriage if the legal representative refuses consent without valid grounds;
- (6) Marriage is prohibited between: (1) direct line relatives; (2) siblings; (3) uncles/aunts; (4) nephews/nieces; (5) Even if the familial relationship is severed by marriage, it remains prohibited between one of the spouses and a direct relative;
- (7) An individual wishing to remarry must prove that the previous marriage has ended. Polygamy is prohibited under the Turkish Civil Code No. 4721 and is considered a criminal offense. This provision applies to both Turkish citizens and foreign nationals, including refugees;
- (8) If a marriage has ended, a woman is prohibited from remarrying until 300 days have passed since the dissolution of the marriage or the birth of a child. If the woman is not pregnant from the previous marriage

⁴³ Turkish Civil Code No. 4721, Articles 124-133.

and the new partner wishes to marry her, the court may lift this waiting period; and

- (9) Individuals with mental illness may not marry unless there is clear medical evidence that the marriage is not contraindicated, as certified by an official medical board report.

Therefore, it can be concluded that, according to the Turkish Civil Code No. 4721 and the Turkish Family Law of Cyprus of 1951, only civil marriage ceremonies hold legal validity in Turkey, and other forms of marriages are not legally binding and recognized.

3. Legal Status of Interfaith Marriage in Turkey

Turkish law does not consider religion as an obstacle to marriage, as stipulated in Articles 129, 130, and 145 of the Turkish Civil Code No. 4721. Marriage is also regulated by the Turkish Family Law of Cyprus of 1951, which represents a form of Westernization, secularization, and modernization aimed at unifying marriage laws and ensuring gender equality. This includes the prohibition of polygamy and the legalization of interfaith marriages. The validity of interfaith marriages is further regulated under Article 143 of the Turkish Civil Code No. 4721, which stipulated that the validity of marriage does not depend on religious ceremony. This principle is also stated in Article 11-23 of the Turkish Family Law of Cyprus of 1951, which regulated that marriage may be celebrated according to the religious practices of the spouses involved, if they so desire.

4. Conclusion

The existence of Constitutional Court Decision No. 24/PUU-XX/2022 and the Supreme Court Circular Letter No. 2 of 2023 on Guidelines for Judges in Adjudicating Applications for the Registration of Interfaith Marriages has resulted in a definitive prohibition on the implementation of interfaith marriages. This has sparked significant debate within society, as certain recognized religions in Indonesia, such as Catholicism, Buddhism, and Confucianism, allow interfaith marriages. Furthermore, Law 1/1974 itself does not explicitly prohibit interfaith marriages, provided that the marriage is valid according to the religion and beliefs of the parties involved. *Komnas Perempuan* has also stated that interfaith marriage is a fundamental right of religious freedom guaranteed by the 1945 Constitution. It argues that the Constitutional Court Decision No. 24/PUU-XX/2022 disregards religious interpretations that permit and recognize interfaith marriages, instead only referring to the interpretation of the majority religious view.

Turkey, a country with a multicultural society like Indonesia and a Muslim-majority population, does not prohibit interfaith marriages. In Turkey, civil marriages performed by officially authorized marriage officers are allowed, protected by the Constitution, and recognized as legally valid. Turkey also permits

interfaith marriages and does not require religious marriage ceremony, as there is a clear separation between religious factors and the recognition of marriage validity. The tolerance towards interfaith marriages in Turkey reflects the government's willingness to acknowledge and respect individuals' freedom to choose their life partners, as well as their freedom of religion.

5. Suggestion

It is crucial to consider various perspectives and contexts when making decisions regarding interfaith marriages. While Constitutional Court Decision No. 24/PUU-XX/2022 and the Supreme Court Circular Letter No. 2 of 2023 may aim to maintain legal consistency, it is essential not to overlook human rights principles, including the right to freedom of religion. As a pluralistic country, Indonesia must find a balance between fostering interfaith harmony and protecting individual rights. A thorough examination and inclusive dialogue with relevant stakeholders are necessary to formulate policies that are fair and supportive of all individuals.

The example of Turkey demonstrates that tolerance towards interfaith marriages allows individuals to live their lives based on their personal beliefs and values. A comparative analysis of the regulation of interfaith marriages in Indonesia and Turkey offers several recommendations for improving understanding, tolerance, and protection of rights for interfaith couples in Indonesia. First, Indonesia could consider revising regulations and policies related to interfaith marriages to be more inclusive and respectful of religious freedom, allowing such marriages which permitted by the respective religions. It is important to ensure that interfaith couples receive the same legal protections as those married within the same religion. By taking these steps, Indonesia could create a more supportive environment for interfaith couples, promoting diversity, tolerance, and justice within society.

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