



## Interfaith Marriage: A Perspective of Law Number 1 of 1974

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### ABSTRACT

Indonesian society has many different ethnicities, races, and religions, interfaith marriage became a recent practice. According to Marriage Legislation 16th of 2019, which amends the 1974 Law No. 1, should the bride and groom's respective faiths forbid marriage, then there is no law permitting a marriage between two potential brides who practise different religions. In this study, it observes how marriages of different religions are regulated by Indonesian marriage law, what makes the marriage law different in terms of religion and what the legal consequences are. The study's research technique was normative legal research. The statutory method is used, or the statute approach, and descriptive research is used. Secondary data gathered from public documents and literary studies in the form of books or documentation are the types and sources of data used. Research shows that marriage between as to the 1974 Marriage Law No. 1, it is forbidden to marry persons of different faiths. Because marriages of different religions not fulfil the legal prerequisites for marriage as outlined in the provisions. To determine invalid marital status, none of the conditions mentioned refer under Law No. 1 of 1974's Article 2, that regulates matrimony. Children born from marriages of different religions are considered illegitimate and cannot inherit from their fathers.

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### 1. Introduction

Everyone wants to marry the person they love. Matrimony is a wonderful and holy occasion (Jamaluddin, 2016). Marriage ought to be based on love and affection for each other. However, The Law Number 1 of 1974 Concerning Marriage is amended by the first article of Law Number 16 of 2019, characterises marriage as "creation of an intimate relationship as spouses, with the goal of creating a stable, happy family (home) founded on the one and only god" (Kementrian Sekretariat Negara RI, 2019).

There is still no definitive conclusion to the interfaith marriage controversy, making it a lengthy piece of gossip. While the legal framework for marriage in Indonesia is Law Number 1 of 1974. The principles of the Marriage legislation are not only established; they also serve as a basis for the legislation, which has served as a guide and is applicable to different segments of Indonesian society. Nonetheless, there are still issues with the way the Marriage Law is being applied, one of which is that it does not include any specific regulations for interfaith marriage. Whether conducting interfaith weddings is permitted or forbidden is not stated clearly in the Marriage Law.

What constitutes a marriage is given in Marriage Law Number One of 1974, Article 1 (Republik Indonesia, 1974): "Establishing a happy, stable family (home) is the goal of marriage accordance with the will of God Almighty". There is an innate connection between a woman and a guy (Trusto Subekti, 2010).

In addition to providing principles, every Indonesian who is planning a marriage may rely on this marriage legislation, which also takes values into account and offers a solid legal basis. Although the marriage law governs the fundamentals of marriage, the requirements for a legally recognised marriage, property that the couple owns together, and the ban on marriage, and so on (Fani, 2021).

A new marriage can only be considered valid if both parties to the marriage abide by the laws of each religion. 2019 Law No. 16, revised Article 2 of 1974's Law Number 1, states that "The Civil Registration and Population Office, every lawful marriage is documented by The Religious Affairs Office for Muslim couples additionally to for couples who are not muslims, the Office of Religious Affairs (Christy et al., 2023).

The 2019 Law Number 16 modifies the 1974 Marriage Law Number 1, still provides vague regulations on interfaith marriage. Nevertheless, interfaith marriages occur in Indonesia's diverse society (Lestari, 2018). Hence, the Government should establish clear rules on interfaith marriage to prevent anomalies in society.

The problems that arise will be more complex along with the development of Indonesian society. Married couples enter into marriages, which have legal cause and effect (Faridy et al., 2022). Marriages that are often discussed in society are mixed marriages, marriages between people of the same blood, unions of individuals practicing various faiths, etc. In Indonesia, interfaith marriage's issue is now a phenomenon among artists and the general public (Dharmasisya Volume et al., 2022). A foreign-born guy and a foreign-born lady and faiths have an intrinsic tie that is expressed in interfaith marriage, as a consequence of which two distinct regulations for the prerequisites and methods for execution in accordance with their respective religious laws have been combined, intending to create a secure, content family based on the will of the Almighty God (Sholikah, 2023).

Religious diversity in Indonesia does not hinder interfaith marriage. Despite the fact that interfaith marriage will cause many problems, many people are against it. As stated by Prof. Dr. Hazairin about marriage between pairs of dissimilar religious beliefs. Registered marriages conducted in compliance with religious law are governed by The legality of 1974's Marriage Law Number 1 may be established (Usman, 2017). Marriage is invalid if the married couple does not comply with the terms and conditions of the many faiths and ideologies that they. Therefore, The 1974 Law No. 1 on Marriage provides religious freedom to carry out marriage.

Due to the many ethnic, racial, and religious differences that exist in Indonesia, there may be some people among them who will choose to marry people who have different beliefs (Manurung Romario, Yumarni Ani, 2023). The tradition and culture of marriage has long existed in Indonesian society. It is inseparable and impacted by that society's experience, wisdom, convictions, or religion.

The legality of marriages between people of different faiths may affect the ability to inherit children born in these kinds of marriages. The 1974 Marriage Law Number One, Article 43 (1) as modified by 2019 Law No. 16 Marriage Concerning, stipulates whether "A kid who is born without a marital link has just polite relationships with his mother and other family members", religious differences are one of the factors that can prevent a person from inheriting from his parents (Hasbi, 2018).

Considering the prior justification, The 1974 Law No. 1 on Marriage has a unique view on interfaith marriages that are increasingly common in society. Therefore, the author wants to know how marriage differs in terms of religion. Taking into account Marriage Law No. 1 of 1974.

## **2. Method**

Normative research was employed in this study. Normative legal research is one kind of study. It looks at written law from many perspectives, including theory, composition and structure, history, philosophy, comparison, scope, content, and consistency. Legal language used, formalities and binding force of legislation. Detailed explanations of each article separately. This kind of descriptive legal study seeks to provide a comprehensive picture of the current legal environment, in a particular place and time, or deals with current legal symptoms or specific legal occurrences in the community. A normative legal method was used in this investigation. In other words, this approach is founded on the primary legal content as determined by the examination of pertinent legal ideas, concepts, and principles, such as The 1974 Law No. 1 on Interfaith Marriage. Secondary data acquired by law, were used in the study. After all the data are collected, they are processed, classified according to their group, and then analyzed qualitatively. Using theoretical and practical studies, The 1974 Marriage Law No. 1 examines unions between people of various faiths. Which is then elaborated in the form of systematically arranged sentences, and then discussions are carried out to reach conclusions about the problem to be studied.

## **3. Analysis and Results**

### **3.1. Marriage Regulation in Indonesia Regarding Interfaith Marriage**

Interfaith marriage is the union of two persons who practise various faiths and ideologies. It's uncertain what constitutes a marriage of various faiths, in line with 1974's Marriage Law No. 1 of 1974. states, "when two Indonesian citizens who are subject to separate laws get married, it's called a mixed marriage" (Azhari & Lubis, 2022). It seems unclear what is meant by "under various legal regimes in this piece of writing". From a legal perspective, it is seen as a result of racial disparities. Legal experts have many interpretations because the formulation of the above article is not clear. Because of differences in population classes, some argue that intermarriage only occurs between individuals subject to different laws. There are also people who say that people of many religious backgrounds and geographical locations get married (Yani & Arisa, 2021).

A legal marriage is defined as a relationship that is conducted in compliance with Paragraph 1 Article 2 of the Marriage Law No. 1 of 1974. In compliance with each spouse's religious doctrine and personal convictions. Basically, this article states marriages involving individuals from various religious backgrounds should not be performed. This is because legal marriages only take place between people who have similar religions and beliefs. Therefore, in cases where interfaith marriages occur, a valid marriage is one performed according to the religious rules adopted by the husband and wife, not a marriage performed by any religion of both spouses and/or their families (Witoko, 2019).

According to religious affairs minister Quraish Shihab, couples should return to their original religious beliefs after marriage. Marriage should be based on religious equality and a covenant to respect each other's religions (Kosasih, 2021).

In accordance with Presidential Instruction Letter (C) of Article 40, The present compendium of Islamic law includes Number 1 of 1991. According to: "For many reasons, it is not permitted a man's union with a non-Muslim woman". Earlier, January 1, 1980 saw the founding of the Indonesian Ulema Council, said: "It is not permissible to union of a non-Muslim lady with a Muslim guy". The head of the Ulema Council in Indonesia, K. H. Hasan Basri, considers this type of marriage as permanent adultery (Rosa, 2023).

Wahyono Darmabrata spoke about the legality of interfaith marriages abroad, two separate currents of observers (Witoko, 2019). According to some, interfaith marriage can be legalized as long as the couple is registered with as soon as possible following their return to Indonesia, as revised by 2019's Marriage Law Number 16 additionally submitted to the Civil Registry Office under Article 56 of 1974's Marriage Law Number 1, is pertinent, corresponds with this assertion. if you do not report in accordance with the time limit, it can therefore have an impact on the citizenship status of the individual citizen. Until now, the civil registry consortium has remained on the stand that marriage should not be banned because of differences in origin, race, religion, or ancestry (Mys/M-1, 2006).

The 2019 Marriage Law No. 16 amended Marital Law No. 1 of 1974, Article 2; Consequently, the marriage was declared null and void. The union is void, according to another viewpoint. Despite the fact that marriage is illegal in Indonesia, registration for it is nonetheless accepted by the civil registry. Determining whether or not interfaith marriages are lawful is not the goal of this administrative report.

One of the most significant aspects of communal life is marriage. Matrimony allows two people to live together and produce offspring, which is an important part of the formation of a country. Complex problems began to arise as society developed. Interfaith marriages are increasingly prevalent in Indonesian society.

The advantages and disadvantages of interfaith marriage still exist, especially related to state recognition of interfaith marriage (Mursalin, 2023). The Indonesian Ulema Council made a ruling that marriages between people of different religions contravene Islamic law and make marriage contracts religiously invalid. However, there are other opinions that say that since Faith is an individual's concern, the Government is not obliged to make policies involving the part of the state.

Religious one of the prerequisites for a legal marriage is the law in Indonesia. All Individuals have freedom of religion and different religions. Therefore, the legal plurality of marriages is recognized, including marriages of different religions. Inter-Constitutional Law (HATAH) was created due to a plurality of laws to regulate a person's legal relationships with others who are covered by several legislation. Interfaith marriages involve two people following different religious rules. To prevent legal conflicts between two different legal systems, marriages between citizens subject to different legal systems require a choice of law (Endri, 2020).

The role of religion in the culture of marriage in Indonesia is demonstrated by the Indonesian Marriage Law. Actually, each religion in Indonesia has different procedures to regulate marriage for followers of their religion provided that the processes don't go against the Marriage Law. Given the Marriage Law is strongly bound by religion, it stipulates that marriage must be performed according to religious principles and if done otherwise, it is considered invalid. This is because Indonesians have great respect for the one and only godhead, as can be seen from the first precept of the Indonesian national philosophy, Pancasila, which reads "The One and Only Godhead".

The Indonesian Constitution provides for everyone's religious freedom in the life of its people. Everyone has the freedom to worship and embrace any religion. based on their own faiths and worldviews. Tolerance for religions exists in the lives of Indonesian people. Religious beliefs, religious laws, and ways of worshiping are included in the category of religious tolerance. The state has the responsibility and authority to regulate each of its people as a state, including in

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regulating interfaith marriage in Indonesia. Since religious differences are part of Indonesia's heterogeneous society, the state should not discriminate against marriages between different religions (Karim, 2016).

### 3.2. The Lawfulness of Interfaith Matrimony

Before 1974's Law No. 1 on Marriage, as modified by Law No. 16 of 2019. Religiously mixed marriages between individuals were governed by the Mixed Marriage Ordinance, Stb. 1898 No. 158. The definition of "marriage between persons in Indonesia subject to different laws" is "mixed marriage." "according to The Mixed Marriage Ordinance, Stb 1898 No. 158, Article 1". Furthermore, Article 7 states that "No difference in religion, ethnicity, nation, or descent shall preclude marriage" (Ermasyanti, 2011). However, as revised by Marriage is regulated by 1974 Law No. 1, Article 57, and 2019 Law Number 16, Under this statute, "mixed marriage" refers to a union of two people who are not residents of Indonesia and are governed by separate laws, as a result of differences in nationality.

It is possible that religious differences between spouses do not lead to mixed marriages mentioned in the Marriage Act. prior to the 1974 Law No. 1 on Marriage, as amended by the 2019 Law No. 16, marriages of different religions could be legalized and performed in accordance with the description given above. Article 1 of Marital Law No. 1 of 1974 is revised, according to Marital Law No. 16 of 2019, "Two people get married: a guy and a lady when they get married. in an effort to establish a stable, harmonious family unit founded on the One True Godhead" (Fahira, 2021).

As changed by 2019 Law No. 16 Concerning Marriage, Article 2, Paragraph 1 of 1974's Marriage Law No. 1, controls whether a matrimony is lawful or invalid, which says "a marriage is deemed lawful only if it is performed in compliance with each person's personal beliefs and religious laws." Based on the above, it shows that the Shari'a must be followed in order for a marriage to be deemed lawful. According to his beliefs and beliefs. In these circumstances, a marriage can be considered valid if it conforms to the marriage rules of many faiths.

The 2019 Law Number 16 about Marriage has amended Article 8 of Law No. 1 of 1974, Letter (f) on Marriage. It makes the claim that "Two persons whose relationship is forbidden by their religion or any relevant laws from getting married". So, if a separate faith forbids the marriage, however, assuming the union is consummated, the union is void. F The 1980 and 2005 Indonesian Ulema Council Fatwas, add more, The Islamic Law Compilation specifically forbids marriages between adherents of various faiths in Articles 40 and 44.

A marriage may only be considered valid should it be, in accordance with Marriage Law Article 2 (1), conducted in accordance with distinct legal and religious doctrines; Religious societies have the statutory right to formally recognize marriages performed by their members (Sanjaya, 2023). According to Islamic and Christian religious law, even in certain other faiths, it is forbidden for persons of different religions to marry. Therefore, interfaith marriages are considered invalid under Indonesian legislation if they are carried out. This is due to the marriage not abiding by the terms mentioned in Article 2, Paragraph 1 of the Marriage Law.

### 4. Conclusion

Nothing is provided by Marriage Law No. 1 of 1974, details on how marriages is possible amongst adherents of several faiths, however, legal marriages must be consummated in compliance with each person's faith and beliefs and is recorded, in compliance with The Law on Marriage, Article 2 of Law No. 1 of 1974. Marital Law No. 1 of 1974 declares that, matrimony is lawful in all religions. Every recognised religion in Indonesia do not prohibit their adherents from interfaith marriages or prohibit their adherents from performing such marriages. As a result, interfaith marriage is not possible in Indonesia. Normative legal clarity in marriage-related legal documents is still lacking in Indonesia's regulations governing interfaith marriage.

Despite the fact that interfaith marriage is still practiced, legal knowledge indicates that the most significant legal impact of marriage is its questionable validity.

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