



# Registration of Interfaith Marriages According to Positive Law in Indonesia (Analysis of North Jakarta District Court Decision 423/PDT.P/2023/PN JKT.UTR)

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**Abstract:** The practice of marriage according to positive law in Indonesia is regulated by Law Number 1 of 1974 concerning Marriage. Marriage registration at a civil registry office or agency appointed by the government ensures the validity of marriage law and provides the necessary basis for obtaining rights and fulfilling the obligations attached to marital status. Interfaith marriages in Indonesia are not regulated by Law Number 1 of 1974 concerning marriage, this becomes complex because of differences in religious beliefs between the couples who are getting married. One of the cases of a married couple with the initials JEA and SW (which was recorded in the JAKARTA UTARA PN DECISION 423/PDT.P/2023/PN JKT.UTR) faced obstacles when they wanted to register their marriage at the Population and Civil Registry Sub-Department Office (Sudin Disdukcapil) Central Jakarta. The type of research used in this research is normative juridical research. that children resulting from marriages of different religions are illegitimate or illegitimate children. The author fully agrees that the need for additional legal processes, in the form of court decisions, for civil registration of interfaith marriages, is an essential step.

**Keywords:** Marriage Registration, Interfaith Marriages, North Jakarta Pn Decision 423/Pdt.P/2023/Pn Jkt.Utr

## 1. Introduction

The practice of marriage according to positive law in Indonesia is regulated by Law Number 1 of 1974 concerning Marriage.(Subekti, 2010),(Princess, 2021). This law provides the definition, requirements, and procedures that must be met in order for a marriage to be considered valid in the eyes of the law. The definition of marriage according to Law Number 1 of 1974 is contained in Chapter 1 Article 1 which reads "Marriage is a physical and spiritual bond between a man and a woman as husband and wife with the aim of forming a happy and eternal family (household) based on the One Almighty God."(Cahyani, 2020),(Pratis & Rehulina, 2023). Article 1 of the Marriage Law is implemented with a constructive intention. The intention is to legitimize physical relations between a man and a woman, fulfill the needs of human instincts, form a harmonious and eternal family based on love and affection, and obtain legitimate offspring who will continue the lineage and support the development of human tribes.(Fuad, 2023),(INNASH, 2024). Marriage will give rise to rights and obligations for both the bride and groom, namely the groom will become a husband as well as the head of the household while the bride will become a wife as well as a housewife.(Nurani, 2021),(Anwar, 2021).

Marriage is a sacred and very strong legal bond (mitsaqan ghalidzan) which is carried out with full awareness between both parties, namely men and women, to achieve the perfection of a peaceful, loving and peaceful marriage.Arahma to get the blessing of Allah SWT(Rizal, 2020),(Purwoto et al., 2023).

This definition reflects the spiritual and social aspects of marriage as a legally recognized institution. Meanwhile, the principle that "In principle in a marriage a man may

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only have one wife" confirms the principle of monogamy in marriage in Indonesia. Although this principle is the basis, it should be noted that there are exceptions under Islamic law that allow polygamy, with certain conditions that must be met. (Harahap, 2019), (Justice, 2024). This reflects the complexity of legal regulations in Indonesia that accommodate the diversity of norms and rules based on the religious beliefs of each party involved in a marriage.

According to positive law in Indonesia, marriage is defined as a physical and spiritual bond between a man and a woman as husband and wife, with the aim of forming a happy and eternal family based on the Almighty God. Marriage is considered an institution that involves religious, social, and legal aspects. (Munib, 2022), (Widiyanto, 2020).

In Indonesia, there are 3 (three) legal regulatory products that regulate matters of marriage agreements, namely the Civil Code (KUHPerdata) or Burgerlijk Wetboek (BW), Law of the Republic of Indonesia Number 1 of 1974 concerning Marriage, and Presidential Instruction of the Republic of Indonesia Number 1 of 1974 concerning the Compilation of Islamic Law.

Registration of marriage at a civil registry office or agency designated by the government ensures the legal validity of the marriage and provides the necessary basis for obtaining the rights and fulfilling the obligations inherent in marital status. (Zamroni & SH, 2023), (Nurcholish, 2014). Marriage Registration is an administrative activity for marriage that is completed by a Marriage Registration Officer located at the Religious Office (KUA) in the area of two prospective Muslim husband and wife couples who are currently getting married. (Buana, nd), (Febrianti, 2020). Further explanation is in Law Number 23 of 2006, namely in Article 35 letter (a) which explains that "marriages that are formalized by the court" refer to marriages between individuals who adhere to different religions and in Article 34 paragraph (1) which reads "A valid marriage based on statutory provisions must be reported by residents to the implementing agency at the place where the marriage takes place no later than 60 (sixty) days from the date of marriage" and paragraph (2) "Based on the report as referred to in paragraph (1), the Civil Registry Officer records it in the Marriage Certificate Register and issues a Marriage Certificate Extract" also applies to marriages formalized by the court, Population Registration Office. (Suhartono & Billah, 2024), (Sadana, Mahendrawati, & Arthanaya, 2022).

Interfaith marriages in Indonesia are not regulated by Law Number 1 of 1974 concerning Marriage, this becomes complex due to differences in religious beliefs between the couples who are getting married. This is because Law Number 1 of 1974 paragraph (1) states that a marriage is considered valid if it is carried out in accordance with the religious laws and beliefs held by the parties who are getting married. (Siswadi, Supriadi, & Mario, 2022), (Wijaya, 2023). This means that couples who have different religions can get married as long as it is done according to the teachings of their respective religions. It cannot be denied that marriages between individuals with different religious beliefs often occur in society. However, in Indonesia, marriages between individuals with different religious beliefs have not been legalized, according to the provisions of the applicable positive law, namely Law Number 1 of 1974 (Bachdin, 2023), (Siregar, 2023).

However, there is confusion that arises with the existence of Law Number 23 of 2006 concerning Population Administration. Article 35 letter (a) in Law Number 23 of 2006 states that marriage registration also applies to marriages determined by the court, with further explanation that "marriage determined by the court" refers to marriage between individuals who adhere to different religions, this difference creates ambiguity regarding the legal consequences of interfaith marriage. Couples who marry of different religions may face obstacles when registering their marriage due to different interpretations in the two laws,

Basically, interfaith marriages cannot be carried out based on Article 2 paragraph (1) of the Marriage Law, which means giving authority to individual religious teachings related to interfaith marriage regulations, in Article 2 paragraph (1) of the UUP stating that only marriages carried out in accordance with the laws of each religion or belief are considered valid. From this article it can be understood that basically, marriages be-

tween individuals of different religions are not permitted, because the requirement for a valid marriage is that there is a compatibility of religion and belief between the two parties who are married.

One case involves a married couple with the initials JEA and SW. (recorded in the DECISION OF THE NORTH JAKARTA PN 423/PDT.P/2023/PN JKT.UTR ) faced obstacles when they wanted to register their marriage at the Central Jakarta Population and Civil Registration Sub-dept. Office (Sudin Disdukcapil). The obstacle arose because JEA and SW have different religions; JEA is Christian, while SW is Muslim. Due to this difference, they could not immediately register their marriage and decided to submit an application for marriage validation to the Central Jakarta District Court (PN). The Public Relations Officer of the Central Jakarta District Court, Zulkifli Atjo, confirmed that the couple had registered their lawsuit on April 5, 2023. Zulkifli explained that this case began with a couple who were married in a church and wanted to register their marriage at the Disdukcapil, but were hampered because there had been no court ruling regarding permission to register the interfaith marriage.

Based on the background description above, the problem formulation that is the focus of this research is what are the legal consequences of registering marriages of different religions in Indonesia? and how are the judges' considerations in the Decision of the NORTH JAKARTA District Court 423/PDT.P/2023/PN JKT.UTR concerning the determination of Interfaith Marriages? The results of the study are expected to provide definite and detailed results regarding the legal aspects of registering interfaith marriages in Indonesia. legal issues in the context of interfaith marriages and their application in the Indonesian positive legal system so that they can be used as a reference source to find out the legal consequences of registering interfaith marriages in Indonesia and to find out and analyze the judges' considerations in the Decision of the NORTH JAKARTA District Court 423/PDT.P/2023/PN JKT.UTR related to Interfaith Marriages. Theoretically, this study is expected to contribute to deepening the theoretical understanding of marriage law, especially in the context of marriage administration and interfaith marriages in Indonesia, as well as in offering new perspectives and insights for future research and theory development and practically this study provides an in-depth understanding of the legal significance of marriage registration as an administrative step. By focusing on Indonesian positive law, it contributes to understanding and overcoming the complexity of legal regulations related to interfaith marriages.

## **2. Materials and Methods**

### **2.1 Types of research**

The type of research used in this study is normative legal research. Normative legal research is an approach carried out based on primary legal materials by examining theories, concepts, legal principles and laws and regulations related to this research.

This study uses a normative legal approach to examine marriage rules. interfaith marriage in Indonesia. The standard legal approach is a research approach that is sourced from positive law, which aims to analyze, interpret and review regulations and court decisions related to the topic of this research. In the context of interfaith marriage, this approach focuses on the provisions of Law No. 1 of 1974 on Marriage and other important provisions. By using a normative legal approach, this study provides a comprehensive picture of the conflict and implementation of interfaith marriage regulations in Indonesia. This analysis provides a strong basis for formulating relevant and meaningful recommendations to improve existing regulations in accordance with the principles of human rights and applicable positive law.

### **2.2 Data source**

In this study, we used secondary data consisting of:

#### **a. Primary Legal Materials**

Law Number 1 of 1974 states that 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,

this provision allows for child marriage in girls because in Article 1 number 1 of the Law concerning Amendments to Law Number 23 of 2002 concerning Child Protection, it is defined that a child is a person who is not yet 18 (eighteen) years old, including children who are still in the womb.

Law Number 23 of 2006 concerning population administration. This law regulates the rights and obligations of residents, the authority of organizers and implementing agencies, population registration, civil registration, population data and documents, population information and administration systems, protection of residents' personal data, administrative sanctions and criminal sanctions related to population administration. Every resident is required to report Population Events and Important Events experienced by them to the Implementing Agency by fulfilling the requirements required in Population Registration and Civil Registration. Any person or legal entity who without the right to print, publish, and/or distribute Population Document forms as referred to in Article 5 letter f of this Law shall be subject to a maximum imprisonment of 10 (ten) years and a maximum fine of Rp1,000,000,000.00 (one billion rupiah).

Law Number 24 of 2013 concerning Amendments to Law Number 23 of 2006 concerning Population Administration.

#### b. Secondary Legal Materials

Secondary Legal Materials are materials that provide further explanation of primary legal materials or that support primary legal materials such as research results, books, journals, theses, dissertations, opinions of influential legal experts, and jurisprudence.

#### c. Tertiary Legal Materials

Tertiary Legal Materials are legal materials that are complementary and in the form of instructions for primary and secondary legal materials. Tertiary Legal Materials consist of the Great Dictionary of the Indonesian Language (KBBI), Newspapers, Legal Dictionaries, and the Internet.

### 2.3 Research Techniques

Literature Study, namely the data collection used in this study is library research. Literature study is used to collect secondary data obtained through various literature, including legal regulations, books, documents, journals, previous research, and the internet related to the legality of interfaith marriage. Analyze literature related to interfaith marriage and its recording system in Indonesian positive law. The following literature study activities are carried out using secondary data.

### 2.4 Data analysis

After identifying and exploring the legal aspects related to interfaith marriages, conduct an in-depth examination of the contents of the North Jakarta District Court Decision 423/PDT.P/2023/PN JKT.UTR Comparing the practices and policies for registering interfaith marriages in Indonesia based on positive law with practices in other countries or international legal standards if relevant.

Analysis of interfaith marriage registration based on positive law in PNorth Jakarta District Court envoy 423/PDT.P/2023/PN JKT.UTR based on the perspective of Law No. 1 of 1974 concerning Marriage using theoretical and practical studies which will be described in a systematic description. This discussion will lead to drawing conclusions regarding various issues that are the focus of the research

## 3. Results and Discussion

### 3.1 Legal Consequences of Registering Interfaith Marriages

Marriage is a part of culture and part of the cycle of human existence. In Article 1 of Law Number 1 of 1974 concerning Marriage (hereinafter referred to as Law No. 1/1974),

what is meant by marriage is a physical and spiritual relationship through a man and a woman becoming husband and wife who plan to frame a harmonious life (family).

Marriage between people of different religions is a marriage between a man and a woman, who because of their different religions, are subject to two different regulations regarding the requirements and procedures for carrying out marriage according to their respective religious laws, with the aim of forming a happy and eternal family based on the Almighty God. A marriage is considered valid if it is recognized by the State, and meets the requirements and procedures stipulated in positive law. The implementation of marriage in Indonesia is regulated in the Marriage Law.

Interfaith marriage is one of the polemics that has been going on without any clear and complete resolution. Although Indonesia already has Law No. 1 of 1974 concerning marriage which is the legal umbrella in matters of marriage, there are still many shortcomings in its implementation. For example, interfaith marriage has not been expressly regulated in the law. Whereas in the social reality of society, Indonesia has many religions, meaning that the Indonesian state does not only recognize one religion as the state religion, but there are 6 (six) religions that have been recognized, namely: Islam, Catholic Christianity, Protestantism, Hinduism, Buddhism, and Confucianism.

The purpose of marriage as stated in the Marriage Law is a marriage that is eternally happy and there is balance in household life. Imbalance in household life can occur, one of which is the difference in religion or differences in carrying out religious ceremonies maintained by the husband and wife in a household. Another way that applies in the case of interfaith marriages, the implementation of the marriage taken by the parties is to carry out and register the marriage at the Civil Registry Office (KCS) where the prospective husband and wife maintain their respective religions. The community also assumes that marriages carried out at the KCS are valid according to state law, and the implementation of marriages according to their respective religious laws is left to the will of the parties concerned, which according to them only concerns their religious laws.

Marriage is an inseparable part of people's lives so that it is included in one of the aspects guaranteed and regulated by law, both Islamic law, customary law, and positive law in Indonesia. Law Number 1 of 1974 concerning Marriage is one of the sources of law related to marriage that is specific (*Lex Specialis*) regulating marriage. Before the enactment of Law Number 1/1974, the rules for marriage were based on the Civil Code (*Burgerlijk Wetboek*), the Mixed Marriage Regulations (*Regeling op de gemengde Huwelijken S. 1898 No. 158*), and other regulations containing rules for marriage.

From Article 2 paragraph (1) of the Marriage Law, "Whether a marriage is valid or not is determined by the law of each respective religion", namely:

a. According to Christianity

Through marriages of different religions according to Protestant Christianity are also not permitted. Because for Christians, the purpose of marriage is to achieve happiness between husband and wife and children within the scope of an eternal and eternal household. For this reason, if they marry people of different religions, it will be difficult for their household to achieve happiness. This is found in the Bible as stated in 2 Corinthians Chapter 6 verse 14 which reads "Do not be unequally yoked with those who do not believe, for what equality exists between righteousness and iniquity, or how light can be united darkly.

b. According to Islam

According to Islam, as the religion adhered to by the majority of the population in Indonesia, it strongly opposes the existence of inter-religious marriages in Indonesian society. For marriage guardians who wish to marry in the context of an interfaith marriage is also prohibited by Islam. It is not permissible for Muslims to marry their daughters

who are infidels, and unbelievers are not permitted to marry their Muslim daughters, because the relationship of guardianship between the two is broken. Islamic law explains that to unite two people of different genders, Allah's way is to be followed as contained in Islamic law by entering into a marriage contract according to the conditions that have been determined so that the mixture between the two becomes halal.

c. According to the Catholic Religion

According to the Catholic religion, a valid marriage is a marriage that is performed, confirmed and blessed by a church official attended by two witnesses and has fulfilled the marriage requirements. For the Catholic religion, in principle it is the same as for Protestant Christianity, according to Catholics, marriages between different religions cannot be carried out. This cannot be done because the Catholic religion views marriage as a sacrament. A person promises to live faithfully to Jesus Christ.

d. According to Hinduism

When in an interfaith marriage, one of the two parties is non-Hindu, then before the marriage ritual ceremony is carried out, the man or woman who is non-Hindu must be willing to be Hinduized first with the sudhi waddani ceremony. This sudhi waddani ceremony is a ceremony for those who will embrace Hinduism as a validation of the religious status of someone who was previously non-Hindu, becoming a follower of Hinduism and those who undergo the sudhi waddani ceremony, must be ready physically and mentally, sincerely and without coercion in embracing Hinduism.

e. According to Buddhism

For Buddhists, interfaith marriage is not a problem, as long as the non-Buddhist is willing to follow Buddhist wedding customs without embracing Buddhism. Because according to the Supreme Court's decision. Religious marriages where one of the prospective bride and groom is not Buddhist are permitted as long as the marriage is ratified according to Buddhist procedures. In this case, prospective brides and grooms who are not Buddhists are not required to convert to Buddhism first. However, in the wedding ritual, both brides and grooms are required to recite in the name of Buddha, who are the gods of Buddhists. So even though non-Buddhists do not embrace Buddhism, in its implementation, non-Buddhists must be willing to follow the requirements in carrying out the marriage, such as reciting promises in the name of Buddha, Dharma, and Sangka. Because for Buddhists, by saying these words, indirectly the non-Buddhist is considered to have embraced Buddhism without requiring the non-Buddhist to believe in Buddhism, even though in fact they only submit to Buddhist rules in carrying out their marriage.

f. According to Confucianism

In Confucianism, as stated in his statement before the Constitutional Court on November 24, 2015 with case register No. 68/PUU-XII/2014, it is basically explained that marriage between a man and a woman is a firman tian, differences in understanding, class, nation, culture, ethnicity, socio-political or religion are not obstacles to the marriage. Therefore, in the Confucian tradition, interfaith marriages can be justified even though li yuan. Li yuan is a marriage that can only be carried out for both brides and grooms who are Confucian

So it is stated more firmly that there is no marriage outside the law of each religion and belief is an absolute requirement to determine the validity of a marriage. However, the existence of variations based on religion and belief is only regarding the requirements and procedures for implementing marriage which are specifically stipulated in the law of each religion, in addition to the general requirements contained in the Marriage Law.

After the marriage is carried out according to the law and each religion and belief, which means that the implementation of the marriage is valid, then the consequences of the marriage are then regulated in a unified manner in the Marriage Law and other regulations.

This means that the law leaves it up to each religion to determine the methods and conditions for carrying out the marriage (in addition to the methods and conditions that have been determined by the State). Furthermore, regarding the consideration that marriage between citizens of different religions according to the applicable legal provisions in Article 2 paragraph (1) it is stated that a marriage is valid if it is carried out according to the laws of each religion; and Article 8 point (f) of the Marriage Law states that marriage is prohibited between two people who have a relationship that is prohibited by their religion or other applicable regulations. So even though it is not explicitly stated; it leaves it entirely up to the religious laws of each party to determine whether interfaith marriage is permitted or prohibited. And based on the provisions of the religions in Indonesia, they actually do not recognize interfaith marriage because the laws of each religion prohibit interfaith marriage.

In terms of the Marriage Law, Article 2 paragraph (1) and Article 8 point (f) state firmly that marriage is prohibited between two people who have a relationship that is prohibited by their religion or other applicable regulations from marrying. From the provisions of the articles above, it can be said that the Marriage Law does not actually recognize interfaith marriages because the laws of each religion prohibit marriages with different religions.

### ***3.2 Judge's Consideration in the DECISION of the NORTH JAKARTA PN 423/PDT.P/2023/PN JKT.UTR Position Case***

The Population and Civil Registration Office of North Jakarta City refused to register the marriage because Applicant I is Catholic and Applicant II is Protestant, Applicants I and II, namely Gregorius Agung Beyeng Amoh and Regina Yasmina Augustine, filed an application with the North Jakarta District Court to validate their marriage which had been carried out in a Catholic manner on February 1, 2023, the applicants filed an application to obtain a court ruling that allows for the registration of interfaith marriages. In Indonesia, Catholicism and Protestantism are considered two separate religions, or more precisely, two groups within Christianity. This is mainly due to differences in history, theology, and church organization. Although both are guided by the Bible and have the same basic beliefs in Christianity, there are some fundamental differences that affect the way they worship and organize their church organizations. One way to distinguish religions in Indonesia is if adherents of religion can share a house of worship to carry out worship together.

### ***3.3 Judge's Consideration***

The judge's considerations on the application of a couple who had a marriage of different Christian denominations (Catholic and Protestant) in the decision of the NORTH JAKARTA District Court 423/PDT.P/2023/PN JKT.UTR are as follows: (a) First, the Judge considered the application from the applicant couple who had a Catholic marriage on February 1, 2023 to be recognized legally and to register the interfaith marriage at the North Jakarta City Population and Civil Registration Office. (b) Second, Based on the evidence and witnesses submitted by the applicants, including the Population Identity Card (KTP) and Marriage Certificate (Testimonium Matrimony), as well as statements from two witnesses under oath, the judge found that the marriage met the legal requirements and had sufficient evidentiary value. (c) Third, By considering the related articles of the Population Administration Law and the Regulation of the Minister of Home Affairs, the judge concluded that the marriage between the applicants was valid and ordered the registration of the marriage at the North Jakarta City Population and

Civil Registration Office after receiving a decision from the North Jakarta District Court. (d) Fourth, the costs arising from this application are charged to the applicants, according to the type of voluntary case (application). (e) Fifth, the Judge grants the applicants' application in its entirety based on relevant legal considerations and applicable statutory provisions, grants permission for the registration of the marriage and declares the marriage to be legally valid.

### **3.4 Decision Analysis**

Analysis of the Decision of the NORTH JAKARTA District Court 423/PDT.P/2023/PN JKT.UTR regarding the determination of interfaith marriages reveals that laws and regulations in Indonesia specifically regulate marriage registration, including for interfaith marriages. Law Number 24 of 2013 concerning Population Administration and various other related regulations, such as Regulation of the Minister of Home Affairs Number 108 of 2019 and Presidential Regulation Number 96 of 2018, stipulate that marriage registration is carried out by the Population and Civil Registration Service with certain conditions, including a certificate from a religious leader or adherent of a belief. The case analyzed shows that the applicants, who are Catholic and Christian, faced rejection from the Population and Civil Registration Service of the City of North Jakarta to register their marriage due to religious differences. The rejection was based on the need for a court ruling for interfaith marriages, in accordance with the Explanation of Article 35 of the Population Administration Law and Article 50 of Regulation of the Minister of Home Affairs Number 108 of 2019.

According to the author, it is very important to understand that in Indonesia, religious differences between couples are not a major obstacle to marriage. However, the author fully agrees that the need for additional legal processes, in the form of a court ruling, for civil registration of interfaith marriages, is an essential step. This process not only confirms the state's commitment to respecting and recognizing religious differences, but also ensures that all processes are carried out in accordance with the applicable legal framework. Thus, the need for this particular legal procedure is important to provide official recognition by the state for the marriage, reaffirming that Indonesia values the principles of diversity and equality before the law.

## **4. Conclusion**

Interfaith marriages are prohibited by the Marriage Law because such marriages are not carried out according to the laws of each religion and belief. As a result, interfaith marriages that have taken place in society are invalid because they deviate from the intent of the provisions of Article 2 paragraph (1) and Article 8 point (f) of the Marriage Law.

The case analyzed shows that the applicants, who are Catholic and Christian, faced rejection from the Population and Civil Registration Office of North Jakarta City to register their marriage due to religious differences. The rejection was based on the need for a court ruling for interfaith marriages, in accordance with the Explanation of Article 35 of the Population Administration Law and Article 50 of the Regulation of the Minister of Home Affairs Number 108 of 2019.

Based on the discussion above, there are several suggestions that can be given to improve legal protection and administrative convenience for interfaith marriages in Indonesia. First, there needs to be a revision or adjustment of more inclusive regulations in the Marriage Law that allows for the registration of interfaith marriages without requiring a change in religion for one of the parties. Second, the government can consider developing a more flexible civil registration mechanism that can accommodate the needs of interfaith couples, including the possibility of recognizing marriages held abroad. Third, increasing socialization and education to the public regarding the importance of registering marriages to protect civil rights and the legality of relationships. Fourth, there needs to be increased access to information and services for interfaith couples who want

to get married, including providing complete guidance on the available options and procedures. Thus, through the implementation of these suggestions, the author hopes that a legal and administrative system can be created that is more supportive and respectful of diversity and human rights in the context of interfaith marriages in Indonesia.

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