Registration of Interfaith Marriages in Indonesia Based on Supreme Court Circular Number 2 of 2023

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ABSTRACT
This study aims to investigate the registration process of interfaith marriages in Indonesia, focusing on the implications of the revised Marriage Law (Law Number 1 of 1974, amended by Law Number 16 of 2019) and the Population Administration Law (Law Number 23 of 2006), as well as assessing the impact of Supreme Court Circular Number 2 of 2023 on these registrations. The research employs a doctrinal methodology by analyzing secondary data from literature and official documents. The results indicate that although courts previously permitted the registration of interfaith marriages, no such authorizations have been issued since the implementation of the new Supreme Court circular.

Keywords: Interfaith Marriage, Marriage Registration, and Court Order.

INTRODUCTION
Interfaith marriages in Indonesia should not be registered because doing so creates legal uncertainty about their validity (Suhasti, Djazimah, & Hartini, 2018). The more developed patterns of various social life in society, the complexity of the problems that will be faced by humans will also increase. Soerjono Soekanto in his book argues that humans basically have a tendency to instinct or drive to run life together with other humans around them, the term is called gregariousness. This tendency to cohabitation instinct is usually channelled through marital relationships. Marriage is also often encounters problems related to the difference in religion adopted by both parties (Breger & Hill, 2021). When a man meets a woman, they love each other and want to continue the relationship to a more serious stage of marriage, but the religion they profess is different. Interfaith marriage is a hotly discussed topic in Indonesia among religious leaders, academics, and the general public.
According to Presidential Decree Number 1/PNPS of 1965, Indonesia officially recognizes six religions: Islam, Christianity, Catholicism, Hinduism, Buddhism, and Confucianism. Data from the Ministry of Home Affairs shows that Islam is the most widely practised religion in the country. The Indonesian Ministry of Home Affairs noted that 244.41 million Indonesians embraced Islam, equivalent to 87.1% of the domestic population. Christianity as the second largest religion, based on data from the Ministry of Home Affairs is embraced by 20.8 million Indonesians equivalent to 7.4% of Indonesia's total population of 280.73 million people. Catholicism as the third largest religion in Indonesia, based on data from the Ministry of Home Affairs is embraced by 8.6 million Indonesians equivalent to 3.06% of the total population of Indonesia (Sultan, Kunath, Förster, & Matthes, 2024). Hinduism as the fourth largest religion in Indonesia, based on data from the Ministry of Home Affairs is embraced by 4.73 million Indonesians equivalent to 1.69% of the total population of Indonesia. Buddhism as the fifth largest religion in Indonesia, based on data from the Ministry of Home Affairs, is embraced by 2.01 million Indonesians equivalent to 0.72% of the Indonesian population. Confucianism is a minority religion adopted by the Indonesian population as evidenced by data from the Ministry of Home Affairs, this religion is only adopted by 76,019 residents in Indonesia equivalent to 0.03% of the total population of Indonesia. Indonesia's diversity of religions naturally leads to interfaith marriages. Article 28E, paragraph (1) of the country's constitution ensures the right to freedom of religion, additionally reinforced by Article 22 of Law Number 30 of 1999 on Human Rights (Pratiwi, 2019).

The Marriage Law, formally Law Number 1 of 1974, is a crucial legal instrument in Indonesia that regulates the institution of marriage. The most recent change was made by the enactment of Law Number 16 of 2019. This device serves to harmonize marriage regulations in Indonesia, a country with a wide range of religious beliefs. This instrument aims to offer legal clarity, particularly regarding interfaith marriage (Alfikri & Rahmatullah, 2024). However, despite revisions to the Marriage Law, it must explicitly address whether interfaith marriage is allowed in Indonesia. As a result, there are often varied interpretations concerning interfaith unions. This is why the issue of interfaith marriage is often debated from various circles, both those who support and oppose it. This matter has also been submitted several times to the Constitutional Court in 2014 and 2022. In 2014, the Petitioner applied for a material review of Article 2, paragraph (1) of the Marriage legislation, which pertains to the legal prerequisites for marriage. However, the Constitutional Court Decision Number 68/PUU-XII/2014 resulted in the judge dismissing the request to review the legislation. In Constitutional Court Decision Number 68/PUU-XII/2014, the judge's analysis concluded that interfaith marriage is not permissible. This decision was founded on the understanding that marriage should be evaluated from a formal perspective and spiritual and social perspectives. Religion is crucial in assessing marriage validity, while the law is vital in determining the administrative procedures enforced by the state (Wilson, 2012). In 2022, a different applicant requested to review Article 2, paragraph (1) of the Marriage
Law. However, the Constitutional Court judge dismissed the review in Decision Number 24/PUU-XX/2022. The judge's decision essentially emphasized that a valid marriage is conducted according to one's religion and beliefs, with the state only responsible for registering marriages per laws and regulations.

Between 2005 and July 2023, there were 1,645 couples in interfaith marriages. This conclusion stems from information compiled by the Indonesian Conference on Religion and Peace (ICRP). Ahmad Nurcholish, the ICRP's Program Director, highlighted that marriages between individuals of different faiths result from Indonesia's pluralistic nature. Interfaith marriage occurs when a man and woman of different religions marry on the basis of maintaining their respective religions. Euis Nurlaelawati, Professor of UIN Sunan Kalijaga who was present online at the examination hearing of the Marriage Law in the Constitutional Court application Number 24/PUU-XX/2022 argued that many couples have an understanding that interfaith marriage is allowed, both legally and religiously by carrying out abroad. This understanding arises due to loopholes in the realization of several articles in the Marriage Law and Law Number 23 of 2006 (hereinafter referred to as the Population Administration Law). Article 57 of the Marriage Law basically states that marriages legalized abroad can be legalized in Indonesia within 1 (one) year after the return of the spouse in Indonesia. The regulation is not written redaction on interfaith marriage, but the redaction contained in the regulation can cause understanding in some circles that interfaith marriage is included in the provision, furthermore the provisions of Article 35 letter a of the Population Administration Law also stipulate that civil registrars including interfaith marriages can register marriages determined to be permissible by the District Court. Therefore, some couples hold the view that interfaith marriage can be legalized in Indonesia.

Various court rulings have concerned requests for the registration and legalization of interfaith marriages. Examples include decisions from the Purwokerto District Court (Determination Number 54/Pdt.P/2019/PN.Pwt.), The South Jakarta District Court, Central Jakarta District Court, and East Jakarta District Court have issued determinations with the following numbers: 131/Pdt.P/2021/PN.Jkt.Sel., 155/Pdt.P/2023/PN.Jkt.Pst., and 359/Pdt.P/2023/PN.Jkt.Tim., respectively. Occasionally, the judges approved the applicants' pleas to direct the Population and Civil Registration Office to record their interfaith weddings officially. The state acknowledges the legal recognition of interfaith marriages based on a commonly held belief among certain Indonesians. In fact, according to Constitutional Court Decision Number 46/PUU-VIII/2010, marriage registration does not determine its validity. Legal requirements for marriage still follow Article 2, paragraph (1) of the Marriage Law, but Article 35, Letter A of the Population Administration Law allows interfaith marriage registration. In 2023,
the Supreme Court published Supreme Court Circular Number 2 of 2023, which guides judges regarding the registration of interfaith marriages.

This study addresses the concern that, prior to the implementation of SEMA 2/2023, specific court rulings allowed the registration of interfaith marriages under the Marriage Law and Population Administration Law, even though interfaith marriages are prohibited according to Article 8, letter 2 of the Marriage Law. This study also investigates the implementation of interfaith marriage registration in Indonesia following the adoption of SEMA 2/2023. According to the previous description, this study aims to investigate and analyze numerous problem formulations, namely: first, the registration of interfaith marriages in Indonesia is governed by Law Number 1 of 1974, as revised by Law Number 16 of 2019 on Marriage, and Law Number 23 of 2006 on Population Administration; second, what is the process for registering interfaith weddings in Indonesia with the implementation of Supreme Court Circular Number 2 of 2023. The objectives of this study are derived from the background information and problem definition provided before, which are: first, to determine the registration process for interfaith weddings in Indonesia, as outlined in Law Number 1 of 1974, modified by Law Number 16 of 2019 on Marriage and Law Number 23 of 2006 on Population Administration; second, to determine the registration process for interfaith weddings in Indonesia following the implementation of Supreme Court Circular Number 2 of 2023.

RESEARCH METHODS

This study adopted a doctrinal approach, as described by Terry Hutchinson. In doctrinal legal research, the focus is on examining legal rules, principles, concepts, or doctrines. This involves a thorough and systematic analysis, evaluation, and critique of these legal aspects and their connections (Spante, Hashemi, Lundin, & Algers, 2018). The research critically reviews legislation, decision-making processes, and policies that govern interfaith marriage registration, including the Marriage Law, the Population Administration Law, and SEMA Number 2 of 2023. Doctrinal research is inherently normative as it examines a set of norms, particularly those related to interfaith marriage registration. This research aims to connect these norms or specific legal occurrences, such as court decisions regarding interfaith marriage registration in Indonesia, which are assessed based on the Marriage Law, the Population Administration Law, and SEMA Number 2 of 2023. The object of research examined in doctrinal research is the problems faced by society and in the administration of the state and have not been answered according to law, in this case about interfaith marriage, so further research is needed to find answers to these problems.

The type of data used in this study is secondary data. Secondary data were obtained from conducting literature studies, which included reading, quoting, recording books, and searching
for laws and regulations relevant to the research question, in this case related to the registration of interfaith marriages. Secondary data encompasses primary, secondary, and tertiary legal materials. The primary legal materials analyzed in this study are authoritative regulations, including the Marriage Law, the Population Administration Law, and SEMA Number 2 of 2023. Secondary legal material is all publications about law that do not include laws and regulations that serve to explain in more detail about primary legal material, in this study examples are books, journals, scientific articles, and news articles related to the registration of interfaith marriages. Tertiary legal materials explain primary and secondary legal materials. In this study, tertiary legal materials refer to online resources like the Big Dictionary Indonesian, which provides insights into interfaith marriage registration. This study employs qualitative data analysis to examine the data (Akinyode & Khan, 2018). This type of analysis involves describing data qualitatively, using clear, logical, and practical sentences. This approach aims to aid the interpretation and understanding of the analysis results. In qualitative data analysis, legal materials are scrutinized in accordance with theories, concepts, laws and regulations, doctrines, legal principles, expert opinions, or the perspectives of researchers. Qualitative data analysis is performed in this study by the laws and regulations governing the registration of interfaith marriages (Permana, 2024).

RESULTS AND DISCUSSION

Registration of Interfaith Marriages in Indonesia in accordance with Law No. 1 of 1974 on Population Administration Law No. 16 of 2019 on Marriage, and Law No. 23 of 2006 on Population Administration as Amended

Marriage is defined as a sacred union between a man and a woman to establish a joyful and long-lasting family founded on faith in the One True God, as stated in Article 1 of the Marriage Law. This union encompasses both an external bond, exemplified by the man and woman's relationship, and an internal bond, which is more nuanced but profoundly experienced as they construct an existence together (Fletcher, Simpson, Campbell, & Overall, 2019). Article 2, paragraph (1) of the Marriage Law outlines the legal prerequisites for marriage. It states that a marriage is considered valid when conducted in accordance with the religious laws and beliefs of the parties involved. It is deemed invalid if the marriage does not comply with these religious laws and beliefs. Thus, marriage requirements are dictated by the religious laws each individual follows. If a marriage is deemed invalid according to religious laws, it is also invalid under national law. Article 8, letter f of the Marriage Law reinforces the role of religious laws by prohibiting marriages between individuals whose religion or other relevant regulations forbid such unions. These provisions highlight the influence of religious laws within the Marriage Law. It is worth
noting that the religious practices observed in Indonesia generally prohibit interfaith marriages or unions between individuals of differing religious beliefs (Aini, Utomo, & McDonald, 2019).

In Islamic religious law, marriage aims to continue offspring and form the people of the Prophet Muhammad (PBUH), as well as perfect worship of Allah SWT. In this law, for marriage to take place what needs to be taken into consideration in choosing a partner is that prospective husbands and wives must be equal or equal regarding religion, independence, economy or social status, and nasab or offspring. Sekufu comes from the Arabic word kafa’ah, which means equal, equal, equal, comparable, or balanced. In fatwa No. 4/MUNAS/VII/MUI/8/2005, the Indonesian Ulema Council declares interfaith marriage as forbidden (haram). This ruling is grounded in the Compilation of Islamic Law, which references Islamic legal principles. Article 40, Letter C, and Article 44 of the KHI explicitly prohibit interfaith marriages, stating that couples intending to marry must adhere to the same religion. According to Jumhur Ulama, the legal requirements or pillars of marriage in Islamic religious law are first, the prospective husband and wife who will carry out the marriage must be both Muslims; second, both have a clear identity and can be distinguished from others; and third, both parties agree to hold the marriage. In addition to the same religion, each candidate must also have fulfilled the provisions regarding marriage stipulated in Indonesia's positive law, namely the Marriage Law, as well as the minimum age limit of 19 (nineteen) years for prospective marriage. Regarding interfaith marriage, in literatul fiqh in Islamic religious law, interfaith marriage can be divided into 3 (three) categories, namely:

1. Marriage between a Muslim man and a polytheistic woman is prohibited. This consensus among scholars is based on QS. Al-Baqarah (2) verse 221. Based on the interpretation of Ath-Thabari, the meaning of a polytheistic woman is a woman who is not Muslim and is not a member of the book. In the verse it is explained that there is a prohibition to continue marriage with unbelieving women, until they have faith in Allah. The global ban on interfaith marriage with non-Muslims/infidels has been agreed upon by clerics. The above verse strictly forbids the marriage of a Muslim to a polytheist either between a Muslim man and a polytheistic woman or between a polytheist man and a Muslim woman (Jamil, 2017). However, there are still different interpretations among scholars regarding who is meant by a polytheist woman who is haram to marry a Muslim man. In his opinion, Ulama Tafsir stated that the interpretation of polytheistic women in the verse was Arab polytheistic women because at the time of the Qur'an came down they did not know the holy book and they worshipped idols. Others claim that the polytheist woman is not only limited to Arab polytheistic women, but has a general meaning that includes all types of polytheism whether from Arab tribes or from other tribes. This included a pagan, a Jew and a Christian. On the other hand, most scholars argue that all women are polytheists whether Arab or non-Arab, apart from Jewish and Christian scribes.
2. Marriage between a Muslim man and a woman of the Book. It is regulated in QS. Al-Maidah (5) verse 5. Most scholars punish haram and forbid these marriages. According to the Shafi‘i School, there are no pure book experts now, because their original books have undergone many changes. People of the book at this time can be categorized as a group of idolatrous, The doctrines and practices of Jewish and Christian worship include concepts like shirk or trinity, which are not accepted in Islam. Jews believe in Uzair as the son of God and venerate the Temple of Prophet Solomon, while Christians believe in Jesus Christ as the son of God and honour his mother, Mary (KHAN, 2017).

3. Marriage between a woman who is Muslim and a man who is not Muslim. It is regulated in QS. Al-Baqarah (2) verse 221 and QS. Al-Mumtahanah (60) verse 10, which basically prohibits marriage between a woman who is Muslim and a man who is not Muslim.

In Christian law, for the welfare of marriage, the Christian church requires that its people find a spouse who shares their religion (Witte, 2012). According to Christian doctrine, marriage aims to establish happiness and a lasting home for the husband, wife, and children. Furthermore, in Catholic religious law, marriage is Holy, a close and insoluble bond. In both the Old and New Testaments, there are legal norms governing interfaith marriage. According to Koningsmann, one of the prohibitions and obstacles to marriage is due to different religions. Furthermore, in Hindu law, marriage is only valid if it is performed with the sacred ceremony of marriage by Pedandem and Pedande, and they only want to perform the marriage ceremony if both husband and wife are Hindus. Pedande in this case is unlikely to bless or organize marriage ceremonies between those who adhere to different religions. The marriage of an ineligible Hindu can be annulled. Furthermore, in Buddhist law, marriage is very flexible (Probert, Akhtar, & Blake, 2023). This is because in Buddhism the provisions regarding marriage are not regulated textually that is, they are not discussed in Scripture, so Buddhism does not specifically regulate interfaith marriage either implicitly or explicitly. In practice, those who follow Buddhism follow the provisions of the country’s applicable laws. Furthermore, in Confucian religious law, the Indonesian Confucian Supreme Council states that interfaith marriages cannot take place li yuan or marriage blessings. The marriage blessing can only take place for both prospective husbands and wives who follow the Confucian religion. This has been regulated in the Rules of the Indonesian Council of Confucian Religious Clergy and the Marriage Law of the Indonesian Confucian Religious Council.

From the explanation provided, it is evident that virtually every religion in Indonesia prohibits interfaith marriage. In other words, marriage cannot occur if the individuals involved follow different religions. Hence, couples intending to marry must share the same religious beliefs. However, Article 35, letter a of Law Number 23 of 2006 concerning Population Administration (the Administrative Law) states that marriage registration also applies to court-determined marriages, which can involve individuals of different religions. This contradicts Article
2, paragraph (1) of the Marriage Law, which asserts that a marriage is valid if conducted according to the laws of each respective religion. Since interfaith marriages are generally not permitted according to Indonesian religious beliefs, allowing their registration, as per Article 35, letter A of the Administrative Law, conflicts with Article 2, paragraph (1) of the Marriage Law. Marriage registration, in a legal sense, means the marriage gains official recognition and protection from the state and legally binds third parties. The article seems to open up opportunities for interfaith marriages for those who want to hold marriages but follow different religions (Nasir, 2020).

The Supreme Court in its jurisprudence Number: 1400 K / Pdt / 1986 dated January 20, 1989 (hereinafter referred to as Supreme Court Jurisprudence 1986) held that there is a legal vacuum in the Marriage Law related to interfaith marriage, but in fact there are many interfaith marriages in Indonesia. For this reason, according to the Supreme Court, it cannot be justified if due to the legal vacuum, the reality and social needs related to interfaith marriage are not resolved legally will definitely have a negative impact in terms of public life, so the Supreme Court is of the opinion that it must be found and determined by law, so that the Civil Registry Office should be the only agency authorized to carry out or assist in carrying out marriages that both prospective spouses are not of the same Muslim faith must accept the Applicant's application. Asikin Kusuma Atmadja states in his book that the Supreme Court is aware of and recognizes the fact that interfaith marriages often occur in society and there is a legal vacuum in this regard. In the Supreme Court's view, interfaith marriage is possible, and since the only state institution that can accept interfaith marriages is the Civil Registry Office, it was ordered by the Supreme Court to accept the registration of interfaith marriages between AVG and A (Ali, 2017).

In practice, the Supreme Court's ruling in 1986 needs to be revised. It suggests that there needs to be a change in the Marriage Law concerning interfaith marriage (Hedi, Anshori, & Harun, 2017). However, the Marriage Law does not have a legal gap regarding interfaith marriage; it does not explicitly address it. Instead, the law focuses on the legal conditions for marriage to adhere to the laws of each religion and the prohibition of marriages against religious laws. Hence, there are multiple interpretations regarding interfaith marriage. A more accurate statement is that the Marriage Law should not explicitly regulate the prohibition of interfaith marriages. In addition, in the Supreme Court Jurisprudence 1986 has its own interpretation by allowing the registration of interfaith marriages contrary to Article 2 paragraph (1) of the Marriage Law, because in cases decided by the Supreme Court in the jurisprudence the applicant is a Muslim who performs interfaith marriages, while in Islamic religious law itself it is clear that interfaith marriages are prohibited, so that the 1986 Supreme Court Jurisprudence granting the request for interfaith marriage is actually contrary to the Marriage Law. Due to the issuance of Supreme Court Jurisprudence in 1986 and the provisions of Article 35 letter a of the Administrative Law, many judges followed these provisions by granting applications for registration of interfaith marriages, namely Purwokerto District Court Decree Number 54/Pdt.P/2019/PN.Pwt.
In the 2019 Purwokerto Determination, the Catholic JKR Applicant submitted an application to establish the validity of her marriage and asked for permission to register her marriage with the Muslim husband of the AY Applicant which was held on February 23, 2019 at St. Joseph Purwokerto Church. The judge in his ruling granted Applicant JKR's application in its entirety and validated the marriage of Applicant JKR who is Catholic with Applicant AY's husband who is Muslim and ordered the Population and Civil Registration Service Officer. The judge in his judgment stated that Applicant JKR with Applicant AY's husband had fulfilled the requirements and did not contradict the applicable regulations (Walraven, 2015). The judge was inaccurate and ignored Article 8 letter f of the Marriage Law in determining the application. In this determination, Petitioner AY's husband is clearly Muslim, while interfaith marriage in Islamic religious law is haram and prohibited, so based on Article 8 letter f of the Marriage Law, Applicant JKR and Applicant AY's husband are prohibited from consummating marriage. Then, based on Article 2 paragraph (1) of the Marriage Law, the marriage is also invalid, because in Islam it prohibits interfaith marriage. Thus, the judge should not have granted Applicant JKR's application, because it contravened Article 2 paragraph (1) and Article 8 point f of the Marriage Law.

In the 2021 South Jakarta Determination, Applicant I CD and Applicant II BSP (hereinafter referred to as the Applicants) submitted an application to register their marriage at the Population and Civil Registration Office. The Petitioners consummated their marriage by means of Islam and Catholicism on November 7, 2020. The Petitioners performed the marriage contract according to Islamic religious law in the afternoon at the Crystal Hotel, while in the morning the Petitioners performed the blessing according to Catholic religious law in the Catholic Church. The judge in his ruling granted the petitioners' application in its entirety and granted permission to the petitioners to register their marriages at the Population and Civil Registration Office. The Judge in his judgment stated that the petition of the Petitioners was well-founded and must be granted (Stambaugh, 2010). The judge was inaccurate and ignored Article 8 letter f of the Marriage Law in determining the application. In this determination, Petitioner I CD is Muslim while Applicant II BSP is Catholic, even though the Petitioners have entered into marriage by means of Islamic Shari'a, but the marriage is invalid. This is because Applicant II BSP still practices Catholicism, making the marriage invalid under Islamic religious law. Therefore, according to Article 2, paragraph (1), and Article 8, point f, of the Marriage Law, marriage is forbidden and
invalid under Islamic religious law. Hence, the judge should not approve the registration of this interfaith marriage.

Applicant I JEA and Applicant II SW (henceforth referred to as the Applicant) petitioned the court in the Central Jakarta Determination 2023 to declare the Petitioners' marriages valid in accordance with the law and to grant the Applicants authorization to register interfaith marriages at the Population and Civil Registration Office. The judge partially granted the Petitioners' request to register their interfaith marriages at the Population and Civil Registration Office. However, unlike the judge in the 2019 Purwokerto Determination, this judge did not declare the marriages valid according to the law. The judge's decision was influenced by the 1986 Supreme Court Jurisprudence, which allowed cassation applications regarding interfaith marriage permits, and Article 35, letter a, of the Administrative Law. In this determination, the judge should also not have granted the petitioners' application regarding the registration of interfaith marriages, because Applicant I JEA is Christian and Applicant II SW is Muslim. Based on Article 2 paragraph (1) and Article 8 letter f of the aforementioned Marriage Law, marriages between the Petitioners remain invalid and prohibited by Islamic religious law.

Registration of Interfaith Marriages in Indonesia After the Enactment of Supreme Court Circular Number 2 of 2023

Vice President Ma'ruf Amin, also the Chairman of the Advisory Council of the Indonesian Ulema Council, responded to several court decisions allowing the registration of interfaith marriages. Vice President Ma'ruf Amin emphasized that interfaith marriages are prohibited according to the council's fatwas. Despite many court rulings permitting their registration, the Indonesian Ulema Council still considers interfaith marriages haram and invalid. On July 17, 2023, the Supreme Court issued Circular Number 2 of 2023, providing guidelines for judges on handling applications for registering marriages between people of different religions and beliefs (SEMA 2/2023). The Circular outlines two key provisions to ensure consistency and clarity in the law: first, judges must follow Article 2, paragraph (1), and Article 8, letter f of the Marriage Law; second, courts must not grant applications for the registration of interfaith marriages. SEMA 2/2023 has provided legal certainty and uniformity for judges in determining marriage applications and marriage registrations submitted by people who adhere to different religions and beliefs. Ahmad Tholabi Kharlie as Professor of Islamic Law UIN Syarif Hidayatullah Jakarta believes that the issuance of SEMA 2/2023 is the right step in the context of the supremacy of the Marriage Law, especially within the judiciary, but according to Ahmad Tholabi, SEMA 2/2023 needs to be followed up further by forming laws and regulations in the form of laws or regulations for the perpetrators. This is because SEMA 2/2023 does not mean ending the practice of interfaith marriage. The gap in the space for interfaith marriage still exists in Article 35 letter a of the Administrative Law. Ahmad Tholabi stated that conflicts between norms in the Marriage Law and the Administrative Law must be resolved by harmonizing between laws and regulations, so
that there is no more legal uncertainty related to interfaith marriage. Meanwhile, Chairman of the Indonesian Ulema Council for Fatwa, Asrorun Niam also appreciated the Supreme Court’s move related to the issuance of a regulation regarding the prohibition of interfaith marriage registration. According to Asrorun Niam, the issuance of SEMA 2/2023 is very appropriate to provide legal certainty in marriage and an effort to close loopholes for interfaith marriage actors who have been playing games and trying to find legal loopholes.

Chief Justice Syarifudin explained that SEMA 2/2023 was issued to ensure consistency and clarity in handling applications for registering marriages between people of different religions and beliefs. This decision came in response to significant pressure from various groups advocating for the approval of interfaith marriages. Spokesman from the Supreme Court, Suharto, stated that SEMA 2/2023 is intended to provide certainty and unity in the application of law for judges in adjudicating cases of applications for registration of marriages between people of different religions and beliefs in accordance with the functions of the Supreme Court. Suharto clarified that SEMA 2/2023 is not a regulation but a guideline referencing Article 2 of the Marriage Law. He explained that the Supreme Court issued this guideline to fulfil its supervisory role as outlined in Article 32 of Law Number 3 of 2009, which mandates the Supreme Court to oversee the administration of justice across all judicial bodies under its authority. Since SEMA 2/2023 was enacted, no court has approved applications for the registration of interfaith marriages, indicating that judges adhere to the guideline, which essentially prohibits such registrations.

CONCLUSION

The Marriage Law in Indonesia does not explicitly regulate the registration of interfaith marriages. To address this, the 1986 Supreme Court Jurisprudence allowed the registration of interfaith marriages, supported by the Administrative Law, which also permits such registrations. As a result, many judges followed this precedent and granted requests for interfaith marriage registrations through court decisions. However, after the enactment of SEMA 2/2023, there is now clarity and legal consistency for judges regarding these applications. Since SEMA 2/2023 came into effect, no court has granted applications for the registration of interfaith marriages, ensuring uniformity in judicial decisions on this matter.

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