



Interfaith Marriage reviewed from Law Number 16 of 2019 concerning Amendments to Law Number 1 of 1974 concerning Marriage

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Abstract

Background: Cross-religious matrimonial unions remain a contested juridical issue in Indonesia. The 2019 amendment to the 1974 Marriage Law left interfaith marriage unaddressed, perpetuating divergent judicial and administrative interpretations regarding its permissibility and registrability.

Objective: This study examines the regulatory treatment of interfaith marriage within the post-2019 amendment framework and evaluates its juridical status under prevailing Indonesian law.

Methods: A normative-doctrinal methodology was adopted, combining statutory, conceptual, and case-law approaches. Primary, secondary, and tertiary legal sources were examined using qualitative interpretive techniques.

Results: The analysis reveals that Article 2(1) conditions the validity of marriage on compliance with religious law, effectively preventing marriages between couples whose respective faiths impose divergent matrimonial requirements. This statutory mechanism, combined with the absence of specific provisions governing interfaith marriage, creates persistent legal ambiguity concerning registration procedures and the protection of spouses' rights.

Conclusion: Targeted regulatory reform is warranted to promote legal certainty, equity, and practical applicability without undermining the religious foundations underpinning Indonesian marriage law.

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INTRODUCTION

As both a social covenant and a juridical act, marriage occupies a central place in Indonesian communal life (Hadikusuma, 2022). It establishes the foundational domestic unit through which lineage continuity, moral cultivation, and religious observance are pursued (Hanafi, 2026). Indonesian positive law conceptualizes marriage not merely as a civil contract but as an inner spiritual bond imbued with religious significance (Cahyani, 2020; Zainuddin et al., 2026), meaning that regulatory frameworks invariably intersect with the doctrinal requirements of the faith communities to which the spouses belong (Mangarengi & Hamzah, 2021; Maulidina, 2025; Sidqi & Rasidin, 2023).

Grounded in the Pancasila philosophy, particularly its monotheistic first principle, the Indonesian constitutional order situates religious belief at the core of public life (1945 Constitution) (Perdana, 2026; Rofii, 2021). Marriage legislation accordingly reflects this orientation: Law No. 1 of 1974 anchors marital validity to compliance with each party's religious prescriptions, effectively delegating the substantive question of legality to religious authorities (Febriani et al., 2024; Maula & Muhsin, 2024; Palilati, 2022; Setiawan et al., 2024).

Indonesia's accelerating social modernization and pluralistic demographic shifts have widened cross-confessional interaction, inevitably producing romantic partnerships that traverse religious boundaries (Dakhi, 2019; Hanifah, 2019; Nasution, 2024). Interfaith marriage consequently persists as a contested socio-legal phenomenon, generating sustained scholarly and policy debate (Maulidina, 2025; Sastra, 2011).

Such unions, defined as marriages between partners professing distinct faiths (Brigitta & Djajaputra, 2024), confront formidable legal barriers. Article 2(1) of Law No. 1 of 1974 conditions marital validity upon conformity with each partner's religious law, generating interpretive ambiguity when the prospective spouses adhere to different doctrinal systems with divergent matrimonial requirements (Permana, 2024; Tahir & Muslih, 2024).

Regulatory silence regarding implementation mechanisms amplifies uncertainty (Hanifah, 2019; Saadah et al., 2023). Proponents of a prohibitionist reading invoke religious doctrine, while advocates of a permissive interpretation ground their arguments in the constitutional guarantee of the right to marry and form a family as a fundamental right (Undang-Undang Nomor 39 Tahun 1999 Tentang Hak Asasi Manusia, 1999; Tarigan & Arifin, 2026). This interpretive schism leaves interfaith couples without a predictable legal pathway.

Article 28B(1) of the 1945 Constitution guarantees the right to form a family through lawful marriage, framing marriage as a constitutionally protected right. Nevertheless, the Constitutional Court has affirmed that this right operates within, rather than above, the religious-law framework embedded in Article 2(1) (Constitutional Court Decision No. 68/PUU-XII/2014).

The 2019 amendment, enacted through Law No. 16 of 2019, raised the minimum marriage age to nineteen for both men and women, implementing the Constitutional Court's mandate concerning child protection. Critically, however, the amendment left Article 2(1)'s religious-validity clause untouched, preserving the pre-existing normative ambiguity surrounding interfaith marriage (Hanifah, 2019; Saadah et al., 2023).

Beyond questions of marital validity, the unresolved legal status of interfaith marriage has implications for ancillary matters, including children's legal status, inheritance rights, marital property, and spousal guardianship, compounding the urgency of regulatory clarification (Meliala et al., 2026; Sunawan, 2025).

Four theoretical lenses illuminate the problem. Legal certainty theory demands unambiguous norms; justice theory requires equitable access to family formation; human rights doctrine treats marriage as a fundamental liberty; and legal pluralism theory highlights the tension created by the coexistence of state, religious, and customary normative orders within a single jurisdiction 1945 Constitution (Undang-Undang Nomor 39 Tahun 1999 Tentang Hak Asasi Manusia, 1999; Yasim et al., 2026).

A critical review of previous studies reveals significant limitations. Hanifah (2019) analyzed interfaith marriage under Law No. 1 of 1974 but did not examine post-amendment developments or Constitutional Court jurisprudence (Saadah et al., 2023). Alfikri (2024) focused on legal certainty but limited the analysis to statutory interpretation without integrating legal pluralism theory. Suratman (2026) examined constitutional rights protection but did not systematically analyze the regulatory gap between the Marriage Law and the Population Administration Law. Febriani et al. (2024) studied the legal consequences of interfaith marriage but focused on civil-law implications rather than normative-constitutional analysis. Brigitta and Djajaputra (2024) analyzed implementation practices but did not compare court decisions across jurisdictions. Collectively, these studies demonstrate that no prior research has systematically integrated constitutional analysis, court-decision mapping, and legal pluralism theory to examine the normative gap in interfaith marriage regulation following the 2019 amendment and the 2022 Constitutional Court decision (Hanifah, 2019; Saadah et al., 2023). The novelty of this study lies in its systematic examination of the normative gap in interfaith marriage regulation within the Indonesian Marriage Law framework, integrating an analysis of Article 2(1) of Law No. 1 of 1974, which remains unchanged by the 2019 amendment; Constitutional Court Decision No. 24/PUU-XX/2022; the dynamics of administrative registration practices; and the protection of citizens' constitutional rights within the Indonesian legal system (Suratman et al., 2026). Specifically, the novelty of this study lies in: (1) demonstrating that Law No. 16 of 2019 does not address interfaith marriage, thereby correcting the common misattribution found in existing literature; (2) systematically analyzing the constitutional tension between Article 2(1) of the Marriage Law and Article 28B(1) of the 1945

Constitution through the lens of the 2022 Constitutional Court decision; and (3) applying legal pluralism theory to explain how the coexistence of religious law, state law, and administrative law creates structural regulatory ambiguity that disadvantages interfaith couples.

The study's significance derives from the persistent regulatory lacuna surrounding interfaith marriage. Despite advancing societal pluralism, existing legislation has not furnished a definitive procedural framework, prompting ad hoc responses such as religious conversion, overseas solemnization, and judicial petitions (Afda'u et al., 2024; Safithri & Shiddiqi, 2024). Systematic scholarly examination is therefore imperative to clarify the juridical parameters within which interfaith marriage operates.

METHOD

The inquiry adopted a normative-doctrinal design, interrogating statutory texts, judicial decisions, and academic commentary as its primary evidentiary base. Its analytical scope centered on the legal norms governing interfaith marriage under the post-2019 amendment framework.

Three complementary analytical strategies guided the inquiry. First, a legislative-textual approach examined pertinent statutes spanning marriage, human rights, and population administration (Law No. 1/1974; Law No. 16/2019; Law No. 39/1999). Second, a conceptual-theoretical approach deployed the doctrines of legal certainty, justice, human rights, and legal pluralism to interpret the normative landscape (Cahyani, 2020; Zainuddin et al., 2026). Third, a case-law approach systematically evaluated key judicial pronouncements: Constitutional Court Decision No. 68/PUU-XII/2014, which reviewed Article 2(1); Constitutional Court Decision No. 24/PUU-XX/2022, which reinforced the religiosity principle; Supreme Court Circular Letter (SEMA) No. 2/2023, which directed the refusal of interfaith marriage registration applications; and selected district court that had previously authorized such registrations.

Primary sources encompassed binding legal instruments, including the 1945 Constitution, Law No. 1/1974 on Marriage, Law No. 16/2019 (amendment), Law No. 39/1999 on Human Rights, Law No. 23/2006 on Population Administration (as amended by Law No. 24/2013), and relevant Constitutional Court rulings (Mauliana & Hanapi, 2023).

Legal materials were assembled through systematic library research encompassing statutes, regulations, judicial rulings, government policy documents, and peer-reviewed scholarship pertinent to interfaith marriage (Hanifah, 2019; Saadah et al., 2023; Sastra, 2011).

Qualitative descriptive-analytical processing employed four interpretive modalities: grammatical reading of the textual scope of Article 2(1); systematic cross-referencing among the Marriage Law, Population Administration Law, and constitutional provisions; historical tracing of legislative intent behind the religious-validity requirement; and teleological evaluation of whether existing norms fulfilled the constitutional objective of safeguarding citizens' freedom to marry (Hanifah, 2019; Saadah et al., 2023). Normative coherence was further assessed against the theories of legal certainty, justice, human rights, and legal pluralism (Cahyani, 2020; Zainuddin et al., 2026), with conclusions drawn deductively from general statutory premises to the specific problem of interfaith marriage (Alfikri & Izzuddin, 2024; Hanifah, 2019).

RESULTS AND DISCUSSION

Results

Regulation of Interfaith Marriage According to Law Number 16 of 2019 and the Legal Status of Interfaith Marriage in the Indonesian Legal System

Normative-juridical examination of applicable legislation, judicial decisions, and scholarly commentary confirms that interfaith marriage regulation within Indonesia's legal architecture remains contested and interpretively fragmented (Hanifah, 2019; Saadah et al., 2023). The 2019 amendment exclusively modified the minimum age for marriage to nineteen years for both men and women, leaving provisions governing marital validity unchanged and tethered to the original 1974 framework.

Article 2(1) stipulates that a marriage is legally valid only when it is solemnized in accordance with the applicable religious laws and teachings. This provision effectively delegates the substantive determination of marital validity to religious norms. Given that the majority of recognized religions in Indonesia require religious homogamy, couples professing different faiths encounter systemic barriers to obtaining legally recognized marriages (Dakhi, 2019; Hanifah, 2019; Syarifuddin, 2006; Topan et al.,

2026).

No discrete provision within the 2019 amendment either authorizes or prohibits interfaith marriages. A combined systematic reading of Article 2(1), Article 8(f), and subordinate implementing regulations reveals that interfaith marriages face de facto legal obstacles because their validity hinges on the fulfillment of the applicable religious requirements (Law No. 1/1974; Government Regulation No. 9/1975). Consequently, religious authority, rather than administrative discretion, ultimately determines whether such marriages can satisfy the substantive requirements for legal validity (Syarifuddin, 2006; Topan et al., 2026).

Empirically, interfaith couples have pursued alternative pathways, including religious conversion, solemnization abroad, and judicial petitions for registration (Dakhi, 2019; Mone, 2026; Sastra, 2011). Historically, certain district courts granted such petitions by invoking human rights and constitutional considerations. However, Constitutional Court Decision No. 24/PUU-XX/2022 unanimously declined to declare Article 2(1) conditionally unconstitutional, reasoning that the principle of religiosity constitutes an inseparable pillar of Pancasila-based matrimonial governance. Dissenting justices nonetheless cautioned that conditioning the marital freedom guaranteed under Article 28B(1) upon religious endorsement creates a constitutional tension warranting future deliberation. The subsequent issuance of SEMA No. 2/2023, directing district courts to refuse applications for the registration of interfaith marriages, effectively foreclosed the previously available judicial avenue.

The juridical status of interfaith marriage thus occupies an indeterminate zone: constitutionally guaranteed family-formation rights coexist with religious-validity requirements, producing a structural dichotomy between human-rights-oriented and religiosity-centered interpretive approaches (Hanifah, 2019; Undang-Undang Nomor 39 Tahun 1999 Tentang Hak Asasi Manusia, 1999; Saadah et al., 2023).

The Indonesian matrimonial regime operates on a religiosity-first principle: religious compliance determines substantive marital validity, while state registration serves as an administrative consequence following the fulfillment of religious requirements (Law No. 1/1974; Government Regulation No. 9/1975). Marriages that fail to satisfy the applicable religious requirements consequently face substantial obstacles to state recognition and administrative processing.

In sum, the post-amendment regulatory framework continues to channel marital validity through the 1974 religious-validity architecture. Interfaith marriage accordingly lacks a dedicated regulatory regime, sustaining interpretive fragmentation and practical uncertainty (Hanifah, 2019; Saadah et al., 2023; Sastra, 2011). The issue persists as a salient family-law challenge requiring legislative attention that balances citizens' rights with the religious values embedded in Indonesia's national matrimonial governance (Putusan Mahkamah Konstitusi Republik Indonesia No. 24/PUU-XX/2022, 2022).

Discussion

Administrative practice has occasionally linked interfaith marriage to population-registration legislation (Undang-Undang Nomor 24 Tahun 2013 Tentang Perubahan Atas Undang-Undang Nomor 23 Tahun 2006 Tentang Administrasi Kependudukan, 2013; Ramadhan et al., 2025; Republik Indonesia, 2013; Zahara, 2019). Some interfaith couples have secured judicial penetapan (court determinations) enabling registration with civil registry offices (Hanifah, 2019; Saadah et al., 2023; Sastra, 2011). This mechanism, however, addressed only the administrative dimension without conferring substantive legal recognition on interfaith unions within the marriage-law framework.

Interfaith marriage has additionally become the subject of constitutional adjudication. In Decision No. 68/PUU-XII/2014, the petitioners challenged Article 2(1) as unduly restricting citizens' right to enter into marriage. The Court dismissed the challenge, characterizing the religious-validity requirement as a legitimate policy choice consonant with Indonesia's religious character.

Viewed through a legal-pluralism lens, interfaith marriage regulation illustrates the friction among three concurrent normative orders: state legislation governing procedural and administrative aspects, religious doctrine determining substantive validity, and customary practice influencing community-level recognition (Hadikusuma, 2022). Harmonizing these overlapping regimes remains essential to mitigating interpretive inconsistency.

Applying the doctrine of legal certainty, the existing regulatory architecture fails to furnish the predictable and accessible rules that citizens require for informed decision-making (Cahyani, 2020; Zainuddin et al., 2026). Where legislation neither expressly permits nor explicitly prohibits a practice,

the interpretive latitude accorded to officials and judges widens, producing inconsistent outcomes across jurisdictions (Hanifah, 2019; Saadah et al., 2023; Sastra, 2011).

Justice theory underscores the necessity of calibrating individual marital autonomy against communal religious sensibilities (Cahyani, 2020; Zainuddin et al., 2026). Regulatory responses must therefore proportionally accommodate both citizens' freedom to choose a spouse and society's interest in preserving doctrinal coherence within recognized faith traditions (Syarifuddin, 2006; Topan et al., 2026).

From a human-rights standpoint, marriage constitutes a fundamental liberty subject only to lawful restrictions serving legitimate objectives, such as public order and communal morality (Undang-Undang Nomor 39 Tahun 1999 Tentang Hak Asasi Manusia, 1999; Tarigan & Arifin, 2026). Within the Indonesian context, religious-normative constraints are constitutionally validated as falling within permissible grounds for limitation.

CONCLUSION

This study establishes that Law No. 16 of 2019, while amending the minimum marriage age, preserves the pre-existing Article 2(1) framework that delegates marital validity to religious authority. The resulting normative silence on interfaith unions sustains interpretive divergence regarding legality, registration, and rights protection. Amid deepening societal pluralism, the tension between constitutional marital freedom and the principle of religiosity intensifies, demanding a recalibrated legal response that reconciles these competing imperatives.

Comprehensive reform should encompass clearer legislative provisions, harmonized administrative guidelines for civil registry offices, and consistent judicial interpretation. The theoretical contribution of this work lies in identifying the religiosity clause as a delegating norm (blanketnorm) that transfers substantive legal authority to religious institutions, generating a distinctive pluralist configuration in which state law defers to non-state normative orders. Three practical policy directions emerge: legislative specification of interfaith marriage procedures, administrative unification of registration protocols, or renewed Constitutional Court adjudication balancing religious values with rights protection. This study's normative-dogmatic scope constitutes a limitation; future inquiry should incorporate empirical investigation of civil registry practices, comparative analysis of foreign regulatory models, and assessment of the socio-legal consequences of SEMA No. 2 of 2023 for interfaith couples' access to justice.

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AUTHOR CONTRIBUTION STATEMENT

Muhammad Nasir independently conceived, designed, and executed all phases of this study, encompassing methodological formulation, legal-material collection and analysis, interpretive synthesis, manuscript composition, and final editorial review. The author bears full responsibility for the scholarly integrity of this work.

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