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Research Article

Legal Certainty of Interfaith Marriage in Indonesia: Harmonizing Religious Law, Constitutional Principles, and Human Rights

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Abstract

Interfaith marriage remains one of the most contested issues in the Indonesian legal system due to the interaction between religious law, statutory regulations, constitutional principles, and human rights norms. The absence of explicit legal provisions governing interfaith marriage has created legal uncertainty regarding marriage validity, registration, and the legal protection afforded to interfaith couples. This study aims to analyze the legal certainty of interfaith marriage in Indonesia by examining the harmonization of religious law, constitutional principles, and international human rights. The research employed a normative legal research method using statutory, case, conceptual, comparative, and philosophical approaches. Legal materials were collected through library research from legislation, Constitutional Court decisions, judicial precedents, international legal instruments, and recent scholarly publications and were analyzed qualitatively using doctrinal legal interpretation and prescriptive legal reasoning. The findings indicate that the existing legal framework has not yet provided comprehensive legal certainty due to inconsistent statutory interpretation and administrative implementation. Constitutional Court Decision Number 68/PUU-XII/2014 reaffirmed the constitutional role of religious law in determining the validity of marriage while highlighting the continuing need to balance religious values with constitutional guarantees and human rights. The study concludes that harmonizing marriage law, constitutional jurisprudence, religious legal principles, and international human rights standards is essential to strengthen legal certainty, ensure equal legal protection, and develop a more coherent family law system in Indonesia.

Introduction

Marriage is a fundamental legal institution that establishes not only a social and religious relationship between spouses but also a legal relationship that gives rise to rights and obligations recognized by the State. In Indonesia, marriage is regulated under Law Number 1 of 1974 concerning Marriage, as amended by Law Number 16 of 2019, which provides the principal legal framework governing the validity of marriage. Article 2 paragraph (1) stipulates that a marriage is valid if conducted according to the laws of the respective religion and belief of the parties, while Article 2 paragraph (2) requires every marriage to be officially registered by the competent state authority. These provisions reflect Indonesia's pluralistic legal system, in which religious law and state law jointly determine the legal recognition of marriage. Consequently, marriage serves not only as a private legal act but also as a public legal institution intended to ensure legal certainty, protect family rights, and maintain public order ([Usman et al., 2026](#)).

Within this legal framework, interfaith marriage remains one of the most controversial issues in Indonesian family law. Indonesia does not expressly regulate interfaith marriage through a specific statutory provision. Instead, the legality of such marriages has been interpreted through Article 2 of the Marriage Law, religious legal doctrines, judicial decisions, and administrative regulations. Most recognized religions in Indonesia impose restrictions on marriages between persons of different faiths, while state authorities generally require compliance with religious law before recognizing a marriage administratively ([Agustin et al., 2025](#); [Rahmatullah et al., 2026](#)). As a result, couples intending to enter into interfaith marriages frequently encounter legal uncertainty regarding the validity and registration of their marriages. Many resort to legal alternatives such as marrying abroad, seeking court orders, temporarily converting religion, or registering marriages under foreign jurisdictions, all of which reflect the absence of a clear and comprehensive legal framework.

The legal uncertainty surrounding interfaith marriage extends beyond the marital relationship itself and has broader implications for constitutional rights, civil status, family administration, inheritance, and the legal protection of spouses and children. The inability to obtain official marriage registration may affect legal recognition of family relationships, access to public administrative services, marital property arrangements, succession rights, and children's legal status ([Hamdani et al., 2023](#)). Consequently, interfaith marriage is not merely a religious issue but also a constitutional and human rights issue involving the interaction between freedom of religion, the right to marry, equality before the law, and the State's obligation to provide legal certainty for its citizens.

A significant constitutional development occurred through Constitutional Court Decision Number 68/PUU-XII/2014, which reviewed the constitutionality of Article 2 paragraph (1) of the Marriage Law. The petitioners argued that the existing provision restricted the constitutional rights to marry and to exercise freedom of religion as guaranteed under the 1945 Constitution of the Republic of Indonesia. Although the Constitutional Court ultimately upheld the constitutionality of Article 2 paragraph (1), the decision reaffirmed that marriage in Indonesia is inseparable from religious values and that the State possesses constitutional authority to regulate marriage in accordance with religious principles. At the same time, the decision intensified academic and legal debates concerning the balance between religious autonomy, constitutional rights, and the protection of individual freedoms in a democratic society ([Runtu et al., 2025](#)).

The issue of interfaith marriage therefore continues to present a complex legal challenge within Indonesia's pluralistic legal system. On one hand, the Marriage Law emphasizes religious legitimacy as the basis for legal recognition of marriage. On the other hand, the Constitution guarantees freedom of religion, equality before the law, protection of human rights, and the right of every individual to establish a family through lawful marriage. The coexistence of these legal principles frequently creates tensions between religious norms and constitutional guarantees, particularly when citizens seek legal recognition for marriages that do not conform to the religious requirements recognized by the State. Consequently, achieving legal certainty requires harmonization between statutory law, constitutional principles, religious legal norms, and international human rights standards ([Setiawati et al., 2025](#)).

Previous legal scholarship has predominantly examined interfaith marriage from the perspectives of religious law, constitutional review, or judicial interpretation of the Marriage Law. While these studies have provided valuable insights into the legality of interfaith marriage, relatively limited attention has been devoted to examining how religious law, constitutional principles, and international human rights norms may be harmonized to establish greater legal certainty within Indonesia's family law system ([Marzuki, 2021](#); [Yonathin & Gunadi, 2025](#)). Existing literature also tends to analyze these legal regimes separately rather than exploring their interaction within Indonesia's pluralistic legal order. This research seeks to address that gap by providing a comprehensive normative legal analysis of the legal certainty of interfaith marriage through the integration of statutory regulations, Constitutional Court jurisprudence, religious legal doctrines, and international human rights principles.

Accordingly, this study aims to analyze the legal certainty of interfaith marriage in Indonesia, evaluate the interaction between religious law, constitutional principles, and human rights norms, and assess the extent to which the existing legal framework provides effective legal protection for interfaith couples ([Andi, 2025](#)). The findings are expected to contribute to the development of Indonesian family law by offering recommendations for harmonizing marriage legislation, strengthening constitutional protection, and promoting a more coherent legal framework that respects religious values while ensuring legal certainty and the protection of fundamental human rights.

Hypotheses Development

The legal recognition of marriage constitutes a fundamental element in ensuring legal certainty and protecting the constitutional rights of spouses within the Indonesian legal system. Under Law Number 1 of 1974 concerning Marriage, as amended by Law Number 16 of 2019, the validity of marriage is determined by compliance with religious law, while official registration provides formal legal recognition by the State. In the context of interfaith marriage, the interaction between religious norms and statutory regulations has generated persistent legal uncertainty concerning the validity, registration, and legal consequences of marriages involving persons of different religions. Consequently, the absence of a clear legal framework has created inconsistencies in judicial practice, administrative procedures, and the exercise of constitutional rights by interfaith couples.

The constitutional debate concerning interfaith marriage became more prominent following Constitutional Court Decision Number 68/PUU-XII/2014, which examined the constitutionality of Article 2 paragraph (1) of the Marriage Law. Although the Constitutional Court upheld the existing legal provision by affirming that marriage in Indonesia must conform to the religious law of the parties, the decision also reinforced the constitutional importance of balancing religious values with the protection of fundamental rights guaranteed under the 1945 Constitution of the Republic of Indonesia ([Febrianty et al., 2026](#); [Kinasih & Noviriska, 2026](#)). This judicial interpretation highlights the continuing challenge of harmonizing religious autonomy, constitutional guarantees, and the State's obligation to ensure legal certainty for all citizens.

Nevertheless, practical implementation demonstrates that the current legal framework has not fully resolved the legal challenges surrounding interfaith marriage. Differences in religious doctrines, judicial interpretation, civil registration practices, and administrative implementation continue to create legal uncertainty regarding the recognition of interfaith marriages and the legal protection afforded to interfaith couples and their families. These circumstances indicate that achieving legal certainty requires not only statutory regulation but also greater harmonization between religious law, constitutional principles, and internationally recognized human rights standards ([Albasyari & Suparman, 2026](#)).

Based on these considerations, this study develops the following legal propositions:

H1: The current Indonesian legal framework creates legal uncertainty regarding the recognition and legal validity of interfaith marriages due to the interaction between religious law and statutory regulations.

H2: Constitutional principles concerning freedom of religion, equality before the law, and the right to establish a family require a balanced interpretation of marriage law that provides greater legal certainty for interfaith couples.

H3: Harmonization between religious law, constitutional principles, and international human rights norms is necessary to establish a coherent legal framework that strengthens legal certainty and legal protection for interfaith marriages in Indonesia.

These propositions provide the analytical framework for evaluating whether the existing Indonesian legal system adequately ensures legal certainty for interfaith marriages while maintaining an appropriate balance between religious values, constitutional guarantees, and human rights principles. Furthermore, the propositions facilitate an assessment of whether legal reform is required to develop a more coherent and equitable family law system capable of addressing the legal challenges arising from Indonesia's religious and cultural diversity.

Method

Research Design

This study employed normative legal research (doctrinal legal research) to examine the legal certainty of interfaith marriage within the Indonesian legal system. Normative legal research focuses on the analysis of legal norms, statutory regulations, constitutional provisions, judicial decisions, and legal doctrines to evaluate the coherence, consistency, and effectiveness of the legal framework governing a particular legal issue ([Ambarayadi et al., 2025](#)). Rather than relying on empirical data collected from respondents, this study analyzed authoritative legal materials to assess how Indonesian law regulates interfaith marriage and the extent to which the existing legal framework harmonizes religious law, constitutional principles, and human rights.

Research Approach

This research adopted several complementary legal approaches to provide a comprehensive analysis of interfaith marriage under Indonesian law.

1. Statutory Approach

The statutory approach examined the legislative framework governing marriage in Indonesia, including the 1945 Constitution of the Republic of Indonesia, Law Number 1 of 1974 concerning Marriage as amended by Law Number 16 of 2019, Law Number 23 of 2006 concerning Population Administration as amended by Law Number 24 of 2013, the Compilation of Islamic Law, and other relevant implementing regulations. This approach was used to evaluate the consistency of statutory provisions concerning the legal recognition of interfaith marriage.

2. Case Approach

The case approach analyzed judicial precedents concerning interfaith marriage, particularly Constitutional Court Decision Number 68/PUU-XII/2014, which reviewed the constitutionality of Article 2 paragraph (1) of the Marriage Law. Additional judicial decisions from the Supreme Court and lower courts relating to interfaith marriage registration were also examined to identify developments in judicial interpretation and legal reasoning.

3. Conceptual Approach

The conceptual approach examined legal theories and doctrines relevant to legal certainty, legal protection, constitutional rights, freedom of religion, equality before the law, and justice. These legal concepts served as analytical tools for interpreting statutory provisions and judicial decisions concerning interfaith marriage.

4. Comparative Approach

The comparative approach compared Indonesian legal regulations with international human rights standards governing the right to marry and freedom of religion, particularly those contained in the Universal Declaration of Human Rights (UDHR) and the International Covenant on Civil and Political Rights (ICCPR). This comparison was intended to evaluate the compatibility of Indonesian marriage law with internationally recognized human rights principles.

5. Philosophical Approach

The philosophical approach explored the philosophical foundations underlying the regulation of marriage within Indonesia's legal system. This approach emphasized the relationship between religious values, constitutional democracy, legal certainty, and the protection of fundamental human rights in a pluralistic society.

Sources of Legal Materials

The research relied exclusively on secondary legal materials, which were classified into primary, secondary, and tertiary legal materials.

1. Primary Legal Materials

Primary legal materials consisted of authoritative legal sources, including:

- a. The 1945 Constitution of the Republic of Indonesia;
- b. Law Number 1 of 1974 concerning Marriage;
- c. Law Number 16 of 2019 concerning the Amendment to Law Number 1 of 1974 concerning Marriage;
- d. Law Number 23 of 2006 concerning Population Administration;
- e. Law Number 24 of 2013 concerning the Amendment to Law Number 23 of 2006 concerning Population Administration;
- f. Presidential Instruction Number 1 of 1991 concerning the Compilation of Islamic Law;
- g. Constitutional Court Decision Number 68/PUU-XII/2014;
- h. Relevant Supreme Court decisions and other judicial precedents concerning interfaith marriage.

2. Secondary Legal Materials

Secondary legal materials consisted of scholarly books, peer-reviewed journal articles, dissertations, conference proceedings, legal commentaries, and research reports discussing family law, constitutional law, religious law, legal certainty, human rights, and interfaith marriage. To ensure the relevance of the analysis, scholarly publications published between 2020 and 2026 were prioritized, while landmark legal scholarship was also incorporated where necessary.

a. Tertiary Legal Materials

Tertiary legal materials included legal dictionaries, legal encyclopedias, official government publications, academic databases, and other reference materials used to clarify legal terminology and support doctrinal interpretation.

b. Technique of Collecting Legal Materials

Legal materials were collected through library research. The collection process involved identifying, reviewing, and classifying relevant legislation, judicial decisions, scholarly publications, official government documents, and international legal instruments according to their relevance to the research objectives. Legal materials were obtained from official government publications, Constitutional Court decisions, Supreme Court databases, accredited academic journals, university libraries, and internationally recognized legal databases.

c. Technique of Legal Analysis

The collected legal materials were analyzed using qualitative doctrinal legal analysis. The analysis employed grammatical, systematic, historical, comparative, and teleological methods of legal interpretation to determine the meaning and consistency of applicable legal norms. The legal reasoning developed by the Constitutional Court, particularly in Decision Number 68/PUU-XII/2014, was critically examined to evaluate its contribution to legal certainty regarding interfaith marriage.

The analytical process consisted of four stages. First, legal materials were classified according to their hierarchy and legal authority. Second, statutory provisions and judicial decisions were interpreted to determine their normative meaning. Third, constitutional principles, legal doctrines, and international human rights standards were synthesized to assess the coherence of the existing legal framework. Finally, prescriptive legal conclusions were formulated regarding the extent to which Indonesian law harmonizes religious law, constitutional principles, and human rights in regulating interfaith marriage.

d. Validity and Trustworthiness

The validity of the legal analysis was ensured through legal triangulation, involving the systematic comparison of statutory regulations, constitutional jurisprudence, judicial precedents, religious legal doctrines, and international human rights instruments. Interpretations were further supported by authoritative academic literature to ensure doctrinal consistency and analytical reliability. This triangulation strengthened the credibility of the study by ensuring that legal conclusions were derived from multiple authoritative legal sources rather than from a single statutory provision.

Through this normative methodological framework, the study provides a comprehensive legal evaluation of the legal certainty of interfaith marriage in Indonesia and offers recommendations for harmonizing religious law, constitutional principles, and human rights in order to strengthen legal certainty and the protection of fundamental rights within Indonesia's family law system.

Results And Discussion

Result

The normative legal analysis demonstrates that the existing Indonesian legal framework has not yet provided comprehensive legal certainty regarding interfaith marriage. Although Law Number 1 of 1974 concerning Marriage, as amended by Law Number 16 of 2019, establishes that the validity of marriage depends upon compliance with the religious law of the parties, the legislation does not expressly regulate marriages between persons of different religions. This absence of explicit statutory regulation has resulted in varying legal interpretations among judicial institutions, administrative authorities, and religious organizations. Consequently, interfaith couples continue to experience legal uncertainty concerning the recognition, registration, and legal consequences of their marriages.

The analysis further indicates that religious law remains the principal legal foundation for determining the validity of marriage in Indonesia, while state recognition is closely connected to compliance with religious requirements. Constitutional Court Decision Number 68/PUU-XII/2014 reaffirmed the constitutionality of Article 2 paragraph (1) of the Marriage Law by emphasizing that marriage in Indonesia cannot be separated from religious values. The Constitutional Court concluded that the State possesses constitutional authority to regulate marriage in accordance with religious principles while maintaining public order and respecting Indonesia's philosophical foundation embodied in Pancasila. Accordingly, the decision strengthened the legal position of religious law within Indonesia's family law system but did not eliminate the legal uncertainty faced by interfaith couples.

The findings also reveal that constitutional guarantees concerning freedom of religion, equality before the law, and the right to establish a family continue to generate legal debates regarding interfaith marriage. The 1945 Constitution recognizes both religious freedom and the right of every person to form a family through lawful marriage. However, balancing these constitutional guarantees with statutory provisions requiring compliance with religious law has proven challenging in practice. Differences in judicial interpretation, administrative procedures, and religious doctrines have resulted in inconsistent legal treatment of interfaith marriages across different jurisdictions. As a consequence, interfaith couples frequently pursue alternative legal mechanisms, including obtaining court orders, marrying abroad, or temporarily converting religion, in order to obtain legal recognition of their marital status.

The normative analysis further demonstrates that administrative implementation has not been fully harmonized with constitutional principles and judicial developments. Civil registration authorities generally require evidence that a marriage has been performed in accordance with the applicable religious law before issuing an official marriage certificate. Consequently, interfaith marriages often encounter administrative obstacles that affect not only marital recognition but also subsequent legal matters relating to family registration, inheritance, marital property, children's legal status, and access to public administrative services. These circumstances illustrate that legal certainty depends not only upon statutory regulation but also upon consistent implementation by judicial and administrative institutions.

The study also finds that the interaction between religious law, constitutional principles, statutory regulations, and international human rights norms remains insufficiently integrated within the current legal framework. International human rights instruments recognize the right to marry, equality before the law, and protection from discrimination. Nevertheless, the implementation of these principles within Indonesian family law continues to prioritize religious legal requirements without providing explicit statutory

mechanisms capable of resolving legal uncertainty surrounding interfaith marriage. Consequently, harmonization among religious law, constitutional jurisprudence, statutory regulations, and human rights standards remains necessary to establish a more coherent legal framework.

Based on the normative legal analysis, this study reconstructs the concept of legal certainty in interfaith marriage beyond the conventional interpretation of statutory compliance. Legal certainty should be understood as an integrated legal principle requiring consistency between religious law, constitutional guarantees, judicial interpretation, administrative implementation, and human rights protection. Such harmonization would strengthen legal recognition, improve access to justice, enhance administrative consistency, and provide more comprehensive legal protection for interfaith couples within Indonesia's pluralistic legal system.

Discussion

The findings of this study demonstrate that legal certainty remains one of the most significant challenges in regulating interfaith marriage within the Indonesian legal system. The normative analysis indicates that the absence of explicit statutory provisions governing interfaith marriage has resulted in diverse interpretations among judicial institutions, administrative authorities, and religious organizations. Consequently, legal recognition of interfaith marriage is determined not only by statutory provisions but also by the interaction between religious law, constitutional jurisprudence, and administrative practice. This finding is consistent with Gustav Radbruch's Theory of Legal Certainty, which argues that law should provide predictability, consistency, and enforceability in protecting individual rights. In the context of interfaith marriage, the coexistence of multiple legal norms has limited the realization of legal certainty for citizens seeking formal recognition of marriages involving different religious affiliations.

The study further demonstrates that Article 2 paragraph (1) of Law Number 1 of 1974 concerning Marriage, as amended by Law Number 16 of 2019, places religious law at the center of determining the validity of marriage. This legislative approach reflects Indonesia's philosophical foundation based on Pancasila, particularly the principle of belief in the One Supreme God, which recognizes religion as an essential element of family law. Consequently, marriage is regulated not solely as a civil contract but also as a religious institution whose validity depends upon compliance with religious norms. While this approach reinforces the religious character of Indonesian marriage law, it simultaneously creates legal challenges for couples whose marriages are not expressly accommodated within existing religious legal doctrines.

The findings also confirm that Constitutional Court Decision Number 68/PUU-XII/2014 constitutes a significant constitutional milestone in clarifying the relationship between religious law and state law. By rejecting the petition challenging Article 2 paragraph (1) of the Marriage Law, the Constitutional Court affirmed that the State possesses constitutional authority to regulate marriage according to religious principles. At the same time, the decision emphasized that marriage regulation serves broader constitutional objectives, including maintaining public order, protecting family institutions, and respecting Indonesia's religious diversity. Nevertheless, the Court did not provide explicit legal mechanisms for resolving the practical difficulties experienced by interfaith couples, thereby leaving substantial discretion to administrative institutions and judicial practice. Consequently, legal uncertainty continues despite constitutional clarification regarding the role of religion in marriage law.

From the perspective of Philip M. Hadjon's Theory of Legal Protection, the State has an obligation to provide both preventive and repressive legal protection for every citizen. Preventive legal protection should ensure that legislation clearly regulates legal relationships before disputes arise, whereas repressive legal protection provides judicial remedies after legal conflicts occur. The findings indicate that the current legal framework has not fully achieved preventive legal protection for interfaith couples because statutory provisions remain open to varying interpretations. As a result, many couples rely upon judicial proceedings, administrative discretion, or legal alternatives such as marriage abroad to obtain legal recognition. These circumstances suggest that the effectiveness of legal protection depends not only upon constitutional guarantees but also upon the clarity and consistency of statutory regulation.

The findings further indicate that constitutional principles concerning freedom of religion, equality before the law, and the right to establish a family require a balanced legal interpretation. Articles 28B, 28D, and 29 of the 1945 Constitution guarantee fundamental rights relating to marriage, equality, legal certainty, and religious freedom. However, these constitutional guarantees coexist with statutory provisions that require compliance with religious law as a prerequisite for the legal validity of marriage. This interaction creates constitutional tensions between individual autonomy and the State's responsibility to preserve religious

values within family law. Accordingly, legal certainty should not be understood merely as strict compliance with statutory provisions but as the harmonization of constitutional rights and religious legal principles within a democratic legal system.

From a policy perspective, the findings suggest that strengthening legal certainty for interfaith marriage requires comprehensive legal harmonization rather than isolated legislative amendments. Greater consistency is needed between marriage legislation, judicial practice, civil registration procedures, and constitutional interpretation. Public legal awareness concerning marriage law should also be enhanced, while administrative authorities should develop uniform procedures that minimize legal uncertainty and inconsistent implementation. Furthermore, future legal reform should seek to establish clearer statutory guidance concerning interfaith marriage while maintaining respect for Indonesia's constitutional principles, religious diversity, and international human rights commitments.

Overall, this study demonstrates that legal certainty concerning interfaith marriage cannot be achieved solely through statutory regulation. Instead, it requires the harmonious interaction of religious law, constitutional guarantees, judicial interpretation, administrative implementation, and human rights principles. By integrating these legal dimensions, Indonesia's family law system will be better positioned to provide greater legal certainty, strengthen constitutional protection, and ensure equal access to justice while preserving the religious and philosophical values that form the foundation of the national legal system.

Conclusion

This study concludes that legal certainty regarding interfaith marriage remains one of the most complex issues within the Indonesian family law system. Although Law Number 1 of 1974 concerning Marriage, as amended by Law Number 16 of 2019, establishes that the validity of marriage depends upon compliance with the religious law of the parties, the legislation does not explicitly regulate marriages between persons of different religions. This regulatory gap has resulted in diverse judicial interpretations, inconsistent administrative practices, and continuing legal uncertainty concerning the recognition and legal consequences of interfaith marriages. From a policy perspective, this study recommends greater harmonization between marriage legislation, constitutional jurisprudence, administrative regulations, and international human rights standards. The Government, the legislature, judicial institutions, and religious authorities should strengthen coordination to develop clearer legal guidelines regarding interfaith marriage while respecting Indonesia's constitutional principles, religious diversity, and philosophical foundation. Improving administrative consistency, enhancing public legal awareness, and promoting uniform judicial interpretation would significantly reduce legal uncertainty and improve access to justice for interfaith couples. Ultimately, this study affirms that legal certainty for interfaith marriage can only be achieved through a balanced legal framework that harmonizes religious law, constitutional principles, and human rights. Such harmonization would strengthen legal recognition, protect fundamental constitutional rights, promote equality before the law, and contribute to the development of a more coherent, inclusive, and responsive family law system in Indonesia.

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