
THE JUDGE'S CONSIDERATION ON INTERRELIGIOUS MARRIAGES IN INDONESIA ISLAMIC LEGAL PERSPECTIVE (STUDY RULING NUMBER: 508/PDT.P/2022/PN.JKTSEL)

Syiafullah Al Fariz Hakim¹, Arief Budiono²¹ Muhammadiyah University of Surakarta (poehariff@yahoo.com)² Muhammadiyah University of Surakarta (C100180361@student.ums.ac.id)

ABSTRACT

The approach methods used is Normative Juridical. The type of secondary data is in the form of the South Jakarta District Court Decision. This research is used to find out the review of interfaith marriage according to Law No. 1 of 1974 concerning Marriage and to find out the reasons for interfaith marriage decisions based on the Council's decision. Judge Number 508/Pdt.P/2022/Pn.Jkt Sel. The South Jakarta District Court granted the request for a religious marriage. The judge assumed that there had been a legal vacuum. Because the law does not yet clearly and concretely regulate interfaith marriages. Whereas in accordance with the facts, the Petitioners have legally entered into interfaith marriages using Christian church procedures and are valid based on Christian religious law.

Based on the Compilation of Islamic Law that everyone who wants to get married must adhere to the same religion. If there is a marriage of different religions, the marriage is considered invalid. Therefore, the Indonesian Ulema Council in 1980 issued a fatwa forbidding the marriage of Muslim men to non-Muslim women, even though members of the Illat group are people of the book, now they are classified as polytheists and infidels.

Keywords : Marriage, Religious Differences, Court Decisions

INTRODUCTION

Indonesia is a country with several recognized religions, namely Islam, Protestant Christianity, Catholicism, Hinduism, Buddhism and Confucianism. Due to the diversity of religions, it is possible for adherents of each religion to develop social relationships that can extend to marriage. (H. Hadikusuma. 1990:1). Wedding is a very important and significant event in everyone's life. The maintenance of a marriage between two people (the bride and groom) creates a physical and spiritual bond between the two and creates a blood relationship between the relatives of the two partners. Apart from that, the existence of a marriage event creates a connection with rights and obligations. (Afandi, 2004:93)

Marriage is a very sensitive religious issue. Almost every religion in the world has its own marriage rules that must be followed. The provisions of this religious teaching are in accordance with the provisions of married people. (Rahmadi, 2006:303) Therefore, the Indonesian government established regulations in the Marriage Law no. 1 of 1974 which came into effect on 1 October 1975, and its implementing regulations are Government Decree no. 9 of 1975, to implement Marriage and Reunification Law Number 1 of 1974. Additional Islamic Law (KHI) specifically for Indonesian citizens who are Muslim. (Jamaludin, Amalia. 2016:36)

With the enactment of Law no. 1 of 1974, interfaith marriages are invalid and invalid. However, in reality these marriages still take place in general, secretly or openly, marrying abroad then returning to Indonesia and registering themselves at the civil registry office as if the marriage were the same. as a mixed marriage within the meaning of Article 57 of the Marriage Law no. 1 of 1974. Article 2(1) of Law Number 1 of 1974 can be interpreted as meaning that marriage is not a problem as long as according to religious law both parties allow interfaith marriages. (Jamaludin and Ananda Amalia. 2016.)

Based on the above, the author is interested in knowing some of the problems that arise from marriages between Muslim and non-Muslim Indonesian citizens, Muslims and how marriages between

Indonesian citizens of different religions actually occur and how valid they are, according to the Marriage Law and Islamic law. Examining Judges' Views on Interfaith Marriages in Indonesia, South Jakarta District Court Decision Number 508/Pdt.P/2022/Pn.Jkt Sel. (Devina Renata Sianipar and Jaka Nugraha, 2022)

South Jakarta District Court No:508/PDT.P/2022/PN.JKT SEL legalized an interfaith marriage between a Muslim groom named Jaka Nugraha and Devina Renata Sianipari who is a Christian. This can be seen from Supreme Court Decision No. 508/PDT.P/2022/PN.JKT SEL where Jaka Nugraha and Devina Renata Sianipar were married according to the Church Marriage number: 394/NIK/GKN-JNDRS/2022 dated 31 May 2022. When both of them submitted an application to be registered, the application was rejected with The reason is that the two have different beliefs, with Jaka Nugraha being Muslim and Devina Renata being Muslim. a Christian Sianipar. (Devina Renata Sianipar and Jaka Nugraha, 2022)

Based on several court decisions, it was found that the district court granted and rejected several requests for interfaith marriage certificates. What about inheritance issues when an interfaith couple divorces, which court will hear the divorce process unless one of the interfaith spouses dies, this inheritance issue determines whether a child born from an interfaith marriage has the right to inherit from a father or mother who has a different religion than the child. . Because interfaith marriages only cause problems, many parties oppose interfaith marriages. (Sianipar, Nugraha, 2022:9)

Based on other studies, the author decided to examine the issue of JUDGES' CONSIDERATIONS ON INTERRELIGIOUS MARRIAGES IN INDONESIA ISLAMIC LEGAL PERSPECTIVE (STUDY DECISION NUMBER: 508/PDT.P/2022/PN.JKTSEL) which is not the same as previous research where previous research looked at marriage practices different religions, administration and human rights that influence interfaith marriages in Indonesia. , whereas in this study the researcher analyzed the judge's decision on interfaith marriages in Indonesia from the perspective of Islamic law and formulated how the marriage was carried out according to a collection of Islamic laws and what the legal basis and considerations of the judge were. Delegation of South Jakarta District Court Decision No. 508/Pdt.P/2022/Pn.Jkt Sel.

Formulation Of The Problem

1. What about interfaith marriages according to Law number 1 of 1974 concerning Marriage?
2. What are the judge's considerations in handing down the decision of the South Jakarta District Court No. 508/Pdt.P/2022/Pn.Jkt Sel viewed from the perspective of Islamic Law?

Writing Purpose

1. To find out the review of interfaith marriages according to Law number 1 of 1974 concerning Marriage based on the decision of the Panel of Judges Number 508/Pdt.P/2022/Pn.Jkt Sel.
2. To find out the reasons for decisions on interfaith marriages based on the decision of the South Jakarta District Court Judge Number 508/Pdt.P/2022/Pn.Jkt Sel.

RESEARCH METHODS

Legal research is the process of searching for legal rules, legal principles and legal doctrine that are useful for various legal problems that arise. (Peter Mahmud Marzuki, 2007) Appropriate research techniques are needed to get the best results. Therefore, in this research, the author used the following research methods:

1. Types of research

The type of research in this research is normative research which identifies legal concepts or foundations, normative legal research or library legal research, the method of which is used in legal research by reviewing existing literature. (Soerjono Soekanto, Sri Mamudji. 2009.)

2. Approach Method

The research method used is normative law. When this standard legal method approaches the legal principles applied. (Bambang Suggono, 2003) This study examines the conformity between existing regulations and actual reality. Law Number 1 of 1974 concerning Marriage and the Implementation of Islamic Law.

3. Secondary Data

a. Primary Legal Materials

Primary legal materials are legal materials consisting of binding basic principles. The main legal materials used in this research are:

- 1) Law Number 1 of 1974 concerning Marriage.
- 2) INPRES No.1/1999 concerning the Compilation of Islamic Law.
- 3) Fatwa of the Indonesian Ulema Council (MUI) 1980/2005
- 4) South Jakarta District Court Decision No. 508/Pdt.P/2022/Pn.Jkt Sel

b. Secondary Legal Materials

Secondary legal materials are written documents or works of legal experts in the form of books, theses, dissertations, magazines, essays, articles, as well as on the internet and other forms related to this research problem. (Apeldoorn, 2005:3)

c. Tertiary Legal Materials

Tertiary legal materials are legal materials in the form of documents that contain concepts and supporting information for primary and secondary legal materials. This tertiary legal material can come from language dictionaries, encyclopedias and other forms within or outside the legal field to complete the data for this research. (Apeldoorn, 2005:3)

4. Method of collecting data

This research's data collection method uses a library research method, where data collection is carried out by reviewing previously written literature related to the problem to be solved. (Sunggon, 2007:38)

5. Data analysis

The data analysis technique used in this research is a descriptive analysis technique where the researcher processes the secondary data obtained and presents the data along with the analysis. (Nazi, 2010:111)

RESULTS AND DISCUSSION

A. Interfaith Marriage According to Law Number 1 of 1974 concerning Marriage.

Indonesian positive law has created a legal framework for marriage, which is contained in the Marriage Law no. 1 of 1974. Government Decree no. 9 of 1975. Article 2(1) Marriage Law no. 1 of 1974 clearly says: "Marriage is valid, if it is carried out according to the laws of each respective religion and belief." This means that a marriage can be classified as a valid marriage if it is carried out according to the religious laws and beliefs of each couple. Therefore, the decision to approve a marriage depends on religious regulations, because the basis of religious law is very important in carrying out a marriage in the 1974 Law. If religious law states that a marriage is annulled, so too is the marriage annulled. The marriage law is also invalid. (PA Probolinggo, 2022)

However, Law Number 1 of 1974 does not regulate interfaith marriages clearly and specifically in the sense that there are no clear clauses that regulate, legitimize or prohibit interfaith marriages. Apart from that, Law no. 1 of 1974 follows a system of legal notification of religion and belief in question (*verwijzing*). Marriage as a legal act of course also has complex legal implications, so it must be carefully considered whether the legal act is valid or not. Article 2 Marriage Law no. 1 of 1974 states that the conditions for a valid marriage are: (PA Probolinggo, 2022)

Marriage is valid if it is carried out according to the laws of each religion and belief.

Every marriage is recorded according to applicable laws and regulations.

Based on the editorial of paragraph 2 paragraph 1, it can be said that the marriage is not in accordance with the laws of the respective religions and beliefs of the husband and wife and therefore it can be said that the marriage is annulled. Meanwhile, the six recognized religions in Indonesia have their own rules and generally strictly prohibit the practice of interfaith marriages.

Islamic law clearly does not approve of interfaith marriages, even if they are forced, often referred to in society as "lifelong adultery". The Christian/Protestant religion essentially prohibits interfaith marriages for its adherents because according to Christian teachings the purpose of marriage is to achieve happiness between husband, wife and children within the framework of an eternal and everlasting family. Catholic law prohibits interfaith marriages unless the church permits them under certain conditions.

The explanation of Article 2 Paragraph 1 of the Marriage Law also emphasizes that the language of Article 2 Paragraph 1 does not mean marriage outside the laws of each religion and belief. The implementation of Article 2 of the Marriage Law must be interpreted cumulatively, meaning that the parts of Article 2(1) and Article 2(2) are inseparable parts. From this it can be concluded that even though the marriage is valid according to religious law, if it is not registered with the authorized official, either the Islamic Religious Affairs Office or the State Non-Muslim Registration Office. having jurisdiction the marriage is not recognized as valid. (PA Probolinggo, 2022)

B. Judge's Considerations in South Jakarta District Court Decision No. 508/Pdt.P/2022/Pn.Jkt Sel Viewed from an Islamic Law Perspective.

In the South Jakarta District Court Decision Index No. The South Jakarta District Court Judge Sel 508/Pdt.P/2022/Pn.Jkt decided to grant permission to the applicants to register their marriage at the South Administrative City Population and Registration Office to register in Jakarta, taking into account the following considerations:

1. Based on the results of evidence at trial and examination of witnesses, the following legal facts were obtained:
 - a. That it is true that Petitioner 1 Devina Renata Sianipar, who is a Christian, and Petitioner 2, Jaka Nugraha, who is a Muslim, agreed to marry and respect each other's beliefs, so that Petitioner 2 is willing and willing to enter. get married later. Plaintiff I's faith, namely the application of the provisions of the Christian Church.
 - b. That it is true that the Petitioners, according to Christian church procedures, declared their marriage confirmed and blessed in the presence of Pastor Frenki Tampubolon, S.Sc., MM. May 31, 2022 at the Nusantara Christian Church Jl. Cempaka Putih Barat XXI No.34 Central Jakarta.
 - c. It is true that the Nusantara Christian Church, as proof of the validity of a religious marriage, has published a Church Marriage Book number: 394/NIK/GKN-JNDRS/2022 dated 31 May 2022.
 - d. That the parents of Petitioner I and Petitioner II as well as the entire family of the Petitioner knew, agreed and gave permission to the Petitioner to carry out an interfaith marriage and to have the marriage blessed.
2. Based on the facts presented in the petition, the plaintiffs legally entered into an interfaith marriage according to the procedures of the Christian Church.
3. Considering that the conditions for a marriage to be valid are based on the Marriage Law no. 1 of 1974 as amended by Law no. 7 of 1989 and Law no. 16 of 2019 concerning amendments to the Marriage Law no. ro 1 of 1974 ("Marriage Law"). Article 2(1) says:

"Marriage is valid if it is carried out according to the laws of each respective religion and belief."

Because of these provisions, the marriage entered into by the applicants must be a valid marriage based on Christian religious law.

In the Compilation of Islamic law regulating marriage law, including: (Nurcahaya et al., 2018:147)

- a. Article 2 Marriage according to Islamic law is a marriage, namely a very strong bond or mitsaqan ghalidzan to obey Allah's commands and its fulfillment is worship.
- b. Article 3. The purpose of marriage is to create a family life that is sakinah, mawaddah and rahma.

- c. Article 4 A marriage is valid if it is carried out according to Islamic law according to Article 2(1) of Law no. 1/1974 concerning marriage.
- d. Article 40 (c) of the Compilation of Islamic Law states that:
 - a) Marriage between a man and a woman is prohibited due to certain circumstances; because the woman in question is still married to another man.
 - b) A woman who is still in iddah with another man.
 - c) A woman who is not a Muslim.
- e. Article 44 states the following: a Muslim woman may not marry a man who is not a Muslim.

Based on Marriage Law no. 1 of 1974 and the compilation of Islamic law mentioned above, all those wishing to marry must be of the same religion. If an interfaith marriage has been carried out, then the marriage is considered invalid.

There are many suggestions regarding marriage in the Koran and Hadith. One of the recommended goals for marriage is the best way to prevent people from falling into things that are prohibited by Allah such as zina, itwāth (homosexuality) and others. Every religion also recognizes that marriage is a sacred act, therefore every religion regulates and supports the institution of marriage. Regarding interfaith marriages in particular, the verse of the Koran that is usually used as guidance by scholars is Al-Baqarah verse 221. (M. Yunus, Aini, 2018:141)

Even though in theory he opposes the very strict prohibition of interfaith marriages in Islam, in practice it is possible for non-class marriages to occur, namely between Muslims and women from People of the Book. In Surah al-Maidah Al-Qur'an verse 5 explains that it is halal for Muslims to marry women who are believers of the Book because all of them are followers of religions that previously claimed to be followers of the Book, but in practice your life now is that of polytheists and infidels. Therefore, in 1980, the Indonesian Ulema Council issued a fatwa prohibiting Muslim men from marrying non-Muslim women. Although members of the Illat group were believers of the book, they are now classified as polytheists and infidels. (M. Yunus, Aini, 2018:142)

CONCLUSION

South Jakarta District Court Decision Number 508/Pdt.P/2022/Pn.Jkt Sel is a request issued by the South Jakarta District Court for the issuance of an interfaith marriage certificate. In granting the request for religious marriage, the judge considered that there had been a legal vacuum. Indeed, Law Number 1 of 1974 does not regulate interfaith marriages clearly and specifically, in the sense that interfaith marriages are not expressly regulated, legalized or prohibited. This gives rise to different interpretations in society. The conditions for the validity of a marriage are stipulated: "A marriage is valid if it is carried out according to the laws of each religion and belief."

According to the facts presented in the petition, the plaintiffs legally entered into an interfaith marriage according to the procedures of the Christian Church. Because of these provisions, the marriage entered into by the applicants must be a valid marriage based on Christian religious law.

Based on Marriage Law no. 1 of 1974 and the compilation of Islamic law above, all people who wish to marry must be of the same religion. If an interfaith marriage has been carried out, then the marriage is considered invalid. Therefore, in 1980, the Indonesian Ulema Council issued a fatwa prohibiting Muslim men from marrying non-Muslim women. Although members of the Illat group were loyal followers, they are now classified as polytheists and infidels.

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