

Reconstruction of law on inter-religion marriage in Indonesia based on justice value

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Abstract

Inter-Religion Marriages are marriages between followers of different religions or faith. In Indonesian society today, there are many cases of inter-religion marriages that occur which of course have a major impact on the provisions of inheritance and guardianship. This encourages the author to conduct a study on the subject matter of what are the weaknesses of the current construction of regulations on Inter-Religion Marriage in Indonesia, and how the reconstruction of regulations on Inter-Religion Marriage in Indonesia based on the value of justice. This research is a descriptive-analytical, meaning that the results of this study attempt to provide a comprehensive, in-depth picture of a condition or symptom being studied. The approach method used in this research is the empirical juridical approach method where the data analysis used in this research is qualitative data analysis.

The results of the study indicate that the construction of regulations on interfaith marriage has not been based on the value of justice because of the many rejections for marriages with different religions. To overcome this, it is necessary to reconstruct the regulation of interfaith marriage based on the value of justice in Article 2 paragraph 2 of Law Number 1 of 1974 reads: Every marriage is recorded according to the law of each religion and belief, Article 56 paragraph 1 of Law Number 1 of the Year 1974 which reads: Marriage which is held outside Indonesia between two Indonesian citizens or an Indonesian citizen and a foreigner is legal if it is carried out according to the law of each religion and belief, Article 56 paragraph 2 of Law Number 1 of 1974 reads: Within 1 (one) year after the husband and wife return to Indonesian territory, marriages conducted according to the law of religion and belief must be registered at the Marriage Registration Office where they live.

Keywords: reconstruction, inter-religion marriage, justice value

1. Introduction

The development diversity in Indonesia is increasing by day, and the cause of this are the plurality of multi-ethnic, cultural, and religious societies. Pancasila as the foundation of legal norms provides equal protection to all citizens, in accordance with the 5th Precept: "Social justice for all Indonesian people." Likewise, Article 27 of the 1945 Constitution states: "All citizens are equal in law". Article 29 of the 1945 Constitution gives freedom to the public or citizens to embrace their respective religions and beliefs. In addition, the provisions of Article 10 Paragraph (1) of Law no. 39 of 1999 concerning Human Rights states that: "everyone has the right to form a family and continue their offspring through a legal marriage". and in addition to, in Paragraph (2) of the same law states that "A legal marriage can only take place on the free will of the husband and wife candidate concerned, in accordance with statutory provisions".

The unclear statutory regulations regarding the arrangement of interfaith marriage have resulted in the interpretation of legal provisions so that in practice in court, the authorized parties often create a dualism of decisions. On the one hand, a court allows the practice of interfaith marriage with certain conditions, but on the other hand, courts in certain areas prohibit it for different reasons. According to Pancasila and the 1945 Constitution formally the state as an institution, has provided equal protection and opportunities for every citizen in legal arrangements, as stated in the Preamble of the 1945 Constitution of the fourth paragraph:

"... to form a government of the Indonesian State that

protects the entire Indonesian nation and all the blood of Indonesia, and to promote public welfare, educate the nation's life, and participate in implementing world order based on independence, eternal peace, and social justice, then Indonesian national independence is formed".

in a Constitution of the Republic of Indonesia which is a sovereignty of the people based on the Almighty Godhead, a just and civilized humanity, Indonesian Unity and Democracy led by wisdom in deliberation and representation, and by realizing social justice for all the people of Indonesia.

The realization of social justice for all Indonesian people requires that the enforcement of laws and regulations be the same for every citizen without discrimination. Enforcement of regulations without discrimination, of course, does not only look at the point of view of the implementing actors of the regulation but also must examine the essence of the content of the regulations in question from various perspectives both philosophically, normatively, and sociologically, especially regarding marriage. The birth of Law no. 1 of 1974 concerning marriage is a form of legal unification of the various previous marriage regulations. As stated by Abdul Ghofur Anshori ^[1] that: Form of unification of Law no. 1 of 1974 adheres to the concept of differential unification, meaning that on the one hand, the provisions of marriage in Indonesia abolish legal pluralism, but on the

¹ Abdul Ghofur Anshori. (2012). Antologi Hukum Islam, Program Studi Hukum Islam Program Pascasarjana. Universitas Islam Negeri Sunan Kalijaga. Yogyakarta

other hand the law still accepts the differentiation of religious law applicable to each adherent, as stated in Article 2 which states: (1) Marriage is legal if it is carried out according to the law of religion and belief. (2) Every marriage is recorded according to the prevailing laws and regulations.

In the practice of inter-religious marriages, many Arab countries allow Islamic marriages, where Christian or Jewish women marry Muslim men but not on non-Muslim men and Muslim women. In Turkey, inter-religious marriages are not only allowed for Muslim men with the people of the book, but also for non-Muslim men through secular law. Whereas in Malaysia non-Muslims must convert to Islam in order to marry a Muslim. Thus, marriage is subject to one law, namely Islam. Inter-religious marriages, especially between Hindus and Muslims, have often been contested and have resulted in communal riots in India. Because there are claims that there are many extreme activities in religious recruitment efforts by way of marriage where for example, The jihad (Holy War) of love that is practiced by Islamists against non-Muslims especially Hindu girls, who are targeted for conversion to Islam by pretending to love these non-Muslim women in India [2].

This problem is what urges the author to study it further in a research with the following issues:

1. What Are the Weaknesses of the Current Construction of the Regulation on Inter-Religion Marriage in Indonesia?
2. How Is the Reconstruction of Regulation on Inter-Religion Marriage in Indonesia Based on the Justice Value?

Method of Research

The paradigm that is used in the research this is the paradigm of constructivism which is the antithesis of the understanding that lay observation and objectivity in finding a reality or science knowledge [3] Paradigm also looked at the science of social as an analysis of systematic against *Socially Meaningful Action* through observation directly and in detail to the problem analyzed.

The research type used in writing this paper is a qualitative research. Writing aims to provide a description of a society or a certain group of people or a description of a symptom or between two or more symptoms.

Approach method used in this research is *Empirical-Juridical* [4], which is based on the norms of law and the theory of the existing legal enforceability of a law viewpoint as interpretation.

As for the source of research used in this study are:

1. Primary Data, is data obtained from information and information from respondents directly obtained through interviews and literature studies.
2. Secondary Data, is an indirect source that is able to provide additional and reinforcement of research data. Sources of secondary data in the form of: Primary Legal Material and Secondary Legal Materials and Tertiary Legal Material.

In this study, the author use data collection techniques, namely literature study, interviews and documentation where the researcher is a key instrument that is the researcher himself who plans, collects, and interprets the data [5] Qualitative data analysis is the process of searching for, and systematically compiling data obtained from interviews, field notes and documentation by organizing data into categories, describing it into units, synthesizing, compiling into patterns, selecting important names and what will be studied and make conclusions.

Research Result and Discussion

1. Weaknesses of the Current Construction of the Regulation on Inter-Religion Marriage In Indonesia

The existence of differences in marriage is a psychosocial stressor that will end in the occurrence of psychological Conflict. Mental disorders or psychological conflicts that occur in interfaith marriages will certainly be far from the ideal of forming a happy family as was dreamed of when the marriage first took place. Affectional factors (affection, peace, protection, and comfort) which are the main pillars of marriage are difficult to realize because the basis of faith is different, or even contradictory.

A further consequence is the child's development and development, the child will follow the religion of his father, or the religion of his mother, or will have no religion at all. Another thing that might happen is when the conflict between religious differences is not resolved, the husband and wife will not practice their religion. This secular lifestyle will create new, more difficult to resolve conflicts that can lead to family turmoil. Another problem is that according to the viewpoint of Islam, Catholics, and Christianity, the barriers to marriage between different religions show similarities and differences, the same concerns religious differences and kinship relations, others are only strictly determined by the laws of the Catholic Church and the Christian church. In Catholicism and Christianity, there are dispensations of a marriage of different religions that have the authority to grant this dispensation from church leaders, namely the Pope or Bishop. Meanwhile, Islamic religious law does not recognize such dispensations [6].

Islamic law allows Muslim men to marry women of other faiths, as long as their religion has a holy book, it means that Muslim men are allowed to marry Catholic or Christian women. Whereas the law of the Catholic Church prohibits such marriages, unless the Scope gives a dispensation, the dispensation is only granted if the Catholic woman promises to remain faithful to the Catholic faith and does her best to baptize and educate her children Catholic or Christian.

Based on the provisions regarding the validity of marriage as stipulated in Law Number 1 of 1974, the problems that can arise if a marriage of different religions is carried out include, among others:

- a. The validity of a marriage, which is carried out in accordance with religion and belief as stipulated in article 2 paragraph (1) of the Marriage Law. This means that the Marriage Law submits its decision in accordance with the teachings of their respective religions, but the problem is whether the religions of

² Moh. Taufiqur Rohman. (2011). Perkawinan Campuran Dan Perkawinan Antar-Agama Di Indonesia, Al-Ahwal Jurnal Hukum Keluarga Islam Vol 4, No (1).

³ Faisal, (2010), *Menerobos Positivisme Hukum*, Rangkang Education, Yogyakarta.

⁴ Johnny Ibrahim, (2005), *Teori dan Metodologi Penelitian Hukum Normatif*, Bayumedia, Surabaya.

⁵ L. Moleong, (2002), *Metode Penelitian Kualitatif*, PT Remaja Rosdakarya, Bandung.

⁶ Cohen, Charles. (2019). A tale of interfaith marriage. *Missiology: An International Review*. 47. 37-44. 10.1177/0091829618814830.

- each party allow for interfaith marriages, for example in Islamic teachings women cannot marry men who do not. Religion, and vice versa.
- b. Marriage Registration, If the marriage of different religions is carried out by a person who is Muslim and Christian, then there will be problems regarding the registration of the marriage. Is it at the Office of Religious Affairs (KUA) or at the Civil Registry Office because marriage registration is different for Muslims and outside Islam and If it turns out that the registration of interfaith marriages will be carried out at the Civil Registry, an examination will be conducted first whether the interfaith marriage being carried out fulfills Article 2 of the Marriage Law regarding the legal requirements of marriage. If the marriage registrar is of the opinion that the marriage is prohibited according to the Marriage Law, then they may refuse to register the marriage (article 21 paragraph 1 of the Marriage Law).
 - c. Status of Children, If the registration of interfaith marriages is rejected, then it will also have legal consequences for the status of the children born in the marriage. According to the provisions of article 42 of the Marriage Law, a legitimate child is a child born in or as a result of a legal marriage. Because the marriage is not registered, according to law the child is not a legal child and only has a civil relationship with the mother or the mother's family (article 2 paragraph (2) jo, article 43 paragraph (1) of the Marriage Law).

Other difficulties are also on the rise in providing religious education to their children. Catholics and Christians have an obligation to educate children in the spirit of the church, even in Catholicism, they try their best to baptize them as Catholics, even though the same obligation rests on the Muslim side.

Apart from the above, husbands and wives who have different religions and have children will also arise the problem of inheritance rights to children if they have parents of different Religions. If the child is not yet an adult, the child will still follow the religion of the parent, so the child will still follow the civil law and the child will still be entitled to an inheritance^[7].

In the view of Islam, the act of giving an inheritance to children of different religions is regulated in article 171 letter c of the Islamic Law Compilation (KHI) where children born from marriages with different religions does not have the right to inherit property if they are not the same religion as the heir. The indictment of the Munas VII National Council of Indonesian Ulama Council (MUI) fatwa Number 5 / MUNAS-VII / MUI / 9/2005 states that the granting of inheritance to children resulting from marriages of different religions can only be done in the form of grants, gifts, and wills.

Apart from the problems described above, there will be many other psychosocial stressors in married life besides religious differences. In terms of mental health, marriages of different religions carry a risk of psychological conflicts which in turn can reduce the health level of one of them. Spouse or both, as well as the mental development of the children.

In Article 2 paragraph (2) UUP it is stated that: "*Every marriage is recorded according to statutory regulations*". Article 2 paragraph (2) of this UUP clearly states that "*every marriage*" can be registered to obtain legal certainty based on the prevailing laws and regulations. At this point, the author argues that the choice of diction "*for each marriage*" refers to marriages that are general in nature, both marriages that are carried out according to the Islamic religion which prohibits interfaith marriages, as well as marriages that are carried out according to their religion and belief according to other than Islam. By interpreting this, the writer also argues that implicitly (implied), actually interfaith marriages are recognized in the UUP and can be categorized as marriages that are carried out according to their religion and belief according to other than Islam, as regulated in Article 2 paragraph (2) PP The UUP, as the law implementing the UUP, reads: "*The registration of the marriage of those whose marriage is carried out according to their religion and belief other than Islam, is carried out by the Marriage Registration Officer at the Civil Registry Office as referred to in various laws regarding the registration of marriage*".

The implicit recognition in the UUP and PP UUP regarding the existence of interfaith marriages as part of the category of marriages that are carried out according to other than Islam and can be registered to obtain legal certainty is also regulated in the Population Administration Law. Article 35 point (a) of the Population Administration Law in fact reinforces the authority for the Civil Registry Office to carry out interfaith marriages. In this article, it is stated that marriage registration in Indonesia as stipulated in Article 34 also applies to marriages determined by the Court.

The elucidation of Article 35 point a of the Population Administration Law also emphasizes that what is meant by "*Marriage determined by the Court is a marriage between people of different religions which has been determined by the Court*". With this clear and firm legal arrangement, the author argues that the law of interfaith marriage can still be reconstructed and can be given legal certainty, as has also been emphasized above that the dignified theory of justice requires legal discovery to provide legal certainty in cases. Concrete which is not or has not been regulated clearly and firmly in positive law.

If examined at a glance, it seems that there is a conflict of legal norms regarding the implementation of interfaith marriage as regulated in Law Number 1 of 1974 concerning Marriage (UUP) with the Population Administration Law as positive law. On the one hand, interfaith marriages based on the UUP are not regulated clearly and firmly and are interpreted as prohibited and considered invalid as described above, but on the other hand, their implementation is given a solution in the Population Administration Law. Therefore, contradictions in legal norms regarding the implementation of interfaith marriage in the two laws will be examined using the principles of the dignified justice theory.

Principally, interfaith marriages are not mentioned in the Marriage Law as interfaith marriages are deemed as not fulfilling the aspects of marriage aspired by the marriage law, especially regarding the validity of marriage which according to the dominant legal interpretation states that the principle of marriage in Indonesia prioritizes same-faith marriage and prohibits interfaith marriages^[8]. Therefore,

⁷ Jawad, Haifaa & Elmali-Karakaya, Ayse. (2020). Interfaith Marriages in Islam from a Woman's Perspective: Turkish Women's Interfaith Marriage Practices in the United Kingdom. *Journal of Muslim Minority Affairs*. 40. 1-20. 10.1080/13602004.2020.1737415.

⁸ Suhasti, Ermi & Djazimah, Siti & Hartini, Hartini. (2019). Polemics on Interfaith Marriage in Indonesia between Rules and Practices. *Al-*

interfaith marriages are considered not in accordance with the marriage law and cannot be implemented. The regulation on the implementation of interfaith marriage actually emerges from the Population Administration Law which basically regulates civil registration of the population. The problem of regulating the implementation of interfaith marriage in the Population Administration Law can lead to a new discourse on the law of interfaith marriage which based on the previous description it has been concluded that Islamic fiqh, Marriage Law, Islamic Law Compilation, MUI's Fatwa, and the Constitutional Court Decision have prohibited interfaith marriage because it is considered against the law religion and the principle of the One Godhead.

The existence of Article 35 point a of the Population Administration Law which clearly and firmly regulates the registration of interfaith marriages certainly creates a conflict of legal norms between what is regulated in the UUP and the Population Administration Law in matters of the implementation of interfaith marriage. To resolve the contradiction in legal norms governing the implementation of interfaith marriage in the UUP and the Population Administration Law, the theory of dignified justice which has a systematic work system can be used. Because according to the theory of dignified justice, the legal work system must run systematically, there should be no conflict, even various legal systems can be compromised and adapted based on legal and moral values as an Indonesian populist. Therefore, the regulation of the implementation of interfaith marriage in the UUP and the Population Administration Law must be compromised and a middle way is found by looking at the general and special relationship between the validity of the marriage and its registration according to the UUP and the Population Administration Law. The opinion of the author above is also in line with the principle of *Lex Specialis Derogat Legi Generalis*, which explains that specific legal rules can deviate from general legal rules. This principle generally applies to laws specific to the main statute, such as examples of comparisons for example; Law Number 4 of 1992 concerning Housing and Settlements (UUPP) against Law Number 5 of 1960 concerning Agrarian Principles (UUPA). The UUPA is a law that only regulates basic matters in the field of agriculture, while the UUPP is a derivative of the UUPA which regulates special matters which in principle are part of agrarian itself so that in the relationship between the UUPP and the UUPA, the principle can be applied.

However, this is different from the relationship between the UUP and the Population Administration Law, because not all the substances of one law are part of another law. The UUP regulates marriage and has substance on the basis of marriage, the conditions of marriage, prevention of marriage, cancellation of marriage, etc. Meanwhile, the Population Administration Law regulates the recording of important events, which are divided into births, deaths, stillbirths, marriages, divorces, child recognition, child legalization, adoption, name changes, and changes in citizenship status^[9].

Marriage registration is one of the parts regulated in the

UUP, namely in Article 2 paragraph (2), as well as in the Population Administration Law, marriage is one type of important event from various types of important events that must be recorded in order to have legal certainty. Therefore, in determining the general position, in particular, it cannot be done just by looking at the title of the law but must be seen from the point of view of the substance to be studied. If examined in terms of registration, marriage registration is generally regulated in the Population Administration Law and specifically regulated by the UUP. In terms of recording, the Population Administration Law stipulates what types of important events can be registered and marriage is one of them. Because marriage is one of the important events that are determined to be recorded, the emergence of the UUP is a rule that determines which marriages can be recorded. However, if examined in terms of marriage, the validity of a marriage is generally regulated in the UUP and specifically regulated by the Population Administration Law. In terms of the validity of a marriage, it has generally been stipulated in Article 2 paragraph (1) of the Company Law, namely that a marriage is considered valid if it is carried out according to the religious law adhered to.

According to the author, the emergence of Article 35 point (a) of the Population Administration Law provides an exception for the implementation of interfaith marriage, which must be determined by the Court. Therefore, the validity of marriage based on the Population Administration Law only applies to interfaith marriages, thus the Population Administration Law is more specific. Based on this explanation, the UUP is positioned as a general rule, while the Population Administration Law has a position as a special regulation that can deviate from general legal rules. Article 35 point (a) of the Population Administration Law basically does not explicitly state the validity of interfaith marriages, but the article only stipulates that interfaith marriages that have been ruled by the Court can be registered in civil registration institutions with provisions such as marriages in Indonesia in general according to Article 34 of the Population Administration Law.

As a concrete example, the Determination of Marriage with Different Religions at the Surakarta District Court Number: 156 / Pdt.P / 2010 / PN.Ska. Based its decision on Article 21 paragraph (3) of the Company Law which provides an opportunity for parties whose marriage registration officials have refused to request the cancellation of the rejection by submitting an application to the Court. The contents of the determination turned out to be as follows:

- a. Granted the Petitioners' petition
- b. Give permission to the Petitioners to carry out interfaith marriages in front of the Officials of the Office of Population and Civil Registration of the City of Surakarta.
- c. Ordered the Officials of the Office of Population and Civil Registration of the City of Surakarta to record interfaith marriages of the Petitioners into the Marriage Registration Register used for this and immediately issue the Marriage Certificate.
- d. To charge the Petitioners an application fee of Rp. 116,000 (one hundred and sixteen thousand rupiah).

In this case example, the author still finds things that can cause uncertainty in the judge's decision, related to the marriage process and the validity of the marriage itself.

Jami'ah: Journal of Islamic Studies. 56. 367-394. 10.14421/ajis.2018.562.367-394.

⁹ Hedi, Fathol & Anshori, Abdul & Harun, Harun. (2017). Legal Policy of Interfaith Marriage in Indonesia. Hasanuddin Law Review. 3. 263. 10.20956/halrev.v3i3.1297.

Based on this stipulation, marriages are carried out in the presence of Population Administration Service Officials, so that it looks as if the Population Administration Office is the one who marries them off. On the other hand, based on the author's interview with the Population Administration Office, it turns out that the Population Administration Office actually only records their marriages, in line with the third point of the court ruling above. The Population Administration Office itself has the opinion that interfaith marriages have existed since the Court's ruling, so what the Population Administration Service does is only to carry out the registration of the marriage. In this regard, it can be seen that in the Population Administration Office there are three marriages recorded based on the marriage procession that was carried out, namely ^[10].

- a. Islamic marriages are carried out with the consent of the qabul by the Penghulu and recorded by KUA officials, who are then reported to the Population Administration Office for several periods.
- b. Marriages of Christian, Catholic, Hindu, Buddhist, Confucianism, and followers of faiths are held at places of worship or in front of religious leaders who will issue proof of marriage. Proof of marriage is the basis for the Population Administration Office to record the marriages that have been carried out.
- c. Interfaith marriage, which is considered to have been exist by stipulating it in a court order. This copy of the Court Decree forms the basis for the Population Administration Office to register interfaith marriages.

Based on the description above, interfaith marriages are still invalid, because the Court Decree itself also does not state that interfaith marriages are valid. Therefore, the validity of a permanent marriage is based on the provisions in the UUP. Meanwhile, the emergence of article 35 point (a) of the Population Administration Law only provides a special way to carry out and register the marriage, namely through the Court Decision, which is known that the Court is one of the places where the law is born. Through a law born by the court, the Marriage Registration Officer has a legal basis for registering interfaith marriages. Such an arrangement shows the administrative concept of recording interfaith marriages. The registration of interfaith marriages is not based on the validity of such marriages based on the UUP, which is legal according to the law of religion, but interfaith marriages are recorded because of the existence of a legal rule, namely a Court Decree ordering it to be registered.

2. Reconstruction Of Regulation On Inter-Religion Marriage In Indonesia Based On The Justice Value

Based on the explanation of the weaknesses of the Law regulation Inter-Religion Marriage, the author then proposes a Reconstruction so that the law can be better at reflecting Justice Value. The reconstruction of the law of interfaith marriage in the perspective of the dignified justice theory as intended by the author is directed at two things, namely: first, on the aspects of value and legal discovery; and secondly, in the aspect of legal norms and their recording based on Law Number 1 of 1974 concerning Marriage (UUP), Government Regulation Number 9 of 1975

concerning the Implementation of Law Number 1 of 1974 concerning Marriage (PP UUP) and Law Number Number 23 of 2006 concerning Population Administration, as amended by Law Number 24 of 3013 concerning Amendments to Law Number 23 of 2006 concerning Population Administration in effect in Indonesia.

Reconstructing the regulation of interfaith marriage in terms of its legal value in Indonesia must start from an objective recognition that interfaith marriages in Indonesia today are more likely to be haram/prohibited/rejected and considered illegitimate based on Islamic fiqh, Fatwa of the Indonesian Ulama Council (MUI) Number 4 / MUNAS VII / 8/2005 concerning Marriages with Different Religions, Article 4 book I Compilation of Islamic Law (KHI), and the dominant interpretation of the sound of Article 2 paragraph (1) of Law Number 1 of the Year 1974 concerning Marriage, and the Constitutional Court Decision (MK) Number 68 / PUU-XII/214. The regulations as described above are basically still unclear as can be seen in Law Number 1 of 1974 concerning Marriage (UUP), some even argue that there has been a legal vacuum and legal uncertainty regarding interfaith marriages in the Law master law on marriage in Indonesia's positive legal system. This condition causes various legal decisions from various legal institutions, both the legal decisions for interfaith marriages that are granted and the legal decisions that are rejected. In order to answer the problems of a legal vacuum, legal uncertainty, and legal uncertainty regarding interfaith marriage, a legal discovery is needed to break through the law. Because there may not be a legal event that has the potential to cause legal consequences that harm or interfere with someone's rights, then they are answered with a statement that there is no law and tends to be prohibited. After the reconstruction of the regulation on interfaith marriage, the perspective of justice theory is dignified in terms of values and legal findings, then a reconstruction of the regulation on interfaith marriage with the perspective of dignified justice theory is offered in terms of legal norms and aspects of recording. Although the dominant legal interpretation is based on Islamic fiqh, the MUI fatwa, KHI, and the Constitutional Court decision prohibiting the implementation of interfaith marriage, the author still finds opportunities to carry out legal reconstruction in the aspects of legal norms and records. Because in Article 2 paragraph (2) of Law Number 1 of the Year 1974 concerning Marriage (UUP) it is stated that: "Every marriage is recorded according to *statutory regulations*". This also shows that the aspect of recording a marriage is part of the legal aspect because it can provide legal certainty and lead to legal consequences.

The reconstruction of the regulation on interfaith marriage in the aspect of legal norms and its recording will be carried out based on the principles in the theory of dignified justice and based on the UUP, Government Regulation Number 9 of 1975 concerning the Implementation of Law Number 1 of 1974 concerning Marriage (PP UUP) and Law Law Number 23 of 2006 concerning Population Administration, as amended by Law Number 24 of 2013 concerning Amendments to Law Number 23 of 2006 concerning Population Administration.

Conclusion

1. The construction of regulations on interfaith Marriage in Indonesia currently has not been based on the value of justice because of the rejection of the majority of

¹⁰ Hadiati, Teti. (2020). the Law Politics in the Reformulation of Interfaith Marriage in Indonesia. Jurnal Ilmiah Mizani: Wacana Hukum, Ekonomi Dan Keagamaan. 7. 25. 10.29300/mzn.v7i1.2775.

Muslims and factions in the Parliament because interfaith marriages are contrary to Islamic teachings. Second, interfaith marriage is against the marriage culture of the community, because marriage contains legal, sociological, and religious aspects; and Third, interfaith marriage contradicts the theological teachings of religions in Indonesia which do not require interfaith marriages, such as Islam, Catholicism, Christianity, Hinduism, and Buddhism. In addition, interfaith marriage is not in line with the philosophical goals of marriage in Indonesia. The regulation on interfaith marriage is currently registered under Article 2 paragraph 2 of Law Number 1 of 1974 in the Civil Registry Office with a Court Ruling in accordance with Article 35 letter (a) of Law Number 23 of 2006 concerning Population Administration. Thus, Law Number 1 of the Year 1974 Article 2 paragraph 1 and paragraph 2 specifically for interfaith marriage applies partially not cumulatively; which has an impact on the regulation of interfaith marriage, including the validity of the marriage, registration of marriage, and the status of children. Besides that, interfaith marriage also has psychological and sociological impacts on husbands, wives, and children.

2. To overcome this, it is necessary to reconstruct the regulations on interfaith marriage based on the value of justice in Article 2 paragraph 2 of Law Number 1 of 1974 reads: Every marriage is recorded according to the law of each religion and belief, Article 56 paragraph 1 of Law Number 1 of the Year 1974 reads: Marriage which is held outside Indonesia between two Indonesian citizens or an Indonesian citizen and a foreigner is legal if it is carried out according to the law of each religion and belief, Article 56 paragraph 2 of Law Number 1 of the Year 1974 reads: Within 1 (one) year after the husband and wife return to the territory of Indonesia, marriages conducted according to the law of religion and belief must be registered at the Marriage Registration Office where they live.

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