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JUDGE'S DECISION ON LEGALIZATION AND/OR LICENSING OF INTERFAITH MARRIAGES

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ABSTRACT

This study intends to explore and evaluate the wording of legality and licensing of interfaith weddings as mentioned in the Purwokerto District Court Decision No. 54/Pdt.P/2019/PN. Pwt. and the Surabaya District Court Decision No. 916/Pdt.P/2022/PN. Sby. In addition to studying and assessing the basis of the ratio decidendi used by courts to determine the legality of marriages between individuals of different religions, as required by law. This form of investigation is legal investigation. This investigation will employ the Statute Approach, Case Approach, and Conceptual Approach. The findings suggest that the conflict between the necessity of recording marriage events in state papers and the necessity of marital validity must end immediately. Article 2 paragraph (1) of the Marriage Law is extremely subjective, allowing for multiple interpretations, and at the level of implementation, these norms are very easily prepared, allowing them to be implemented and gain state legitimacy without requiring individuals to abandon their religion or original beliefs. The state must be present to defend the beliefs of its citizens, uphold its fundamental rights, and legitimize all legal activities conducted by its residents. Decision No. 68/PUU-XII/2014 of the Constitutional Court affirmed that religious law must be a factor in evaluating the validity or invalidity of marriage, including the invalidity of interfaith marriages. Consequently, the Constitutional Court's Decision No. 68/PUU/XII/2014 has instructed and offered instructions for the right, fair, and scientific reading, understanding, and interpretation of Article 2 Paragraph (1) of Law No. 1 of 1974 in accordance with legal science.

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Introduction.

Marriage is a sacred union that creates a new bond between two people that is not only a civil bond, but also socially religious. Article 1 of Law No. 1 of 1974 pertaining to Marriage (hereafter referred to as the Marriage Law) defines marriage as a relationship between a man and a woman in the form of a tie that aspires to create a happy and eternal family life based on God Almighty.

For such reasons, the state of Birth and Inner has a very urgent role in a marital relationship. That the purpose of the outer and inner bond as quoted by Sri Wahyuni from Wantjik Saleh is that the marriage bond is not just an outer bond or an inner bond. However, both aspects of marriage, namely the outer bond and the inner bond of the marriage bond, must be fulfilled. A birth bond is a bond that

can be seen or clearly observed with the senses. More specifically, a birth bond is a bond that explains the existence of a legal relationship between a man and a woman who agree to share life together as husband and wife, or it can be considered to be a formal bond. This formal bond is then binding on male and female couples as husband and wife as well as for other parties or the community. The inner bond is an informal bond, a relationship that cannot be sensed, but the relationship requires it to exist. The Birth Bond in a marriage without being accompanied by an Inner Bond becomes a bond that is prone to breakage (Wahyuni, 2017).

As explained in the explanation of Article 1 of the Marriage Law which explains that “as a country based on Pancasila, whose first precept is Belief in One Supreme God, marriage has a very strong correlation with religion/spiritual so marriage does not only have physical/physical elements, even the mental/spiritual element also has a vital role”.

This side of religion is also mentioned in Article 2 paragraph (1) of the Marriage Law which explains that “Marriage is legal, if it is carried out according to the laws of each religion and belief”. The religious aspect of marriage is also contained in the prohibition to carry out marriage which is contained in Article 8 Letter (f) which explains that “Marriage is prohibited between two people who have a relationship whose religion or other applicable regulations are prohibited from marrying”.

Based on the explanation of the articles above, it will be easy to draw a conclusion which explains that the legal principle of the implementation of marriage in Indonesia is based on religious law. Therefore, if the law of a religion prohibits adherents of a religion and/or belief from marrying people who are different from their religion, then the marriage is not religiously valid and therefore automatically marriages of Indonesian citizens who commit marriage which is not in accordance with the provisions of religion and belief is invalid according to positive law in force in Indonesia (Tarring, 2022). Nevertheless, it is possible if a religion does not prohibit marriage between people of its religion and adherents of other religions. In other words, plurality in the unification of marriage law in Indonesia itself has a very significant influence on the implementation of marriage in the legal system in Indonesia.

Article 2 Paragraph 1 of the Marriage Law provides a very clear justification for the legality of marriages conducted in accordance with the parties' different religions and beliefs. The validity of a marriage must be in conformity with the religion of the intending spouses, according to this understanding (Fitriyani, 2021). Thus, if by law a religion does not state that a marriage will be carried out by a male-female couple, then the marriage is also invalid according to applicable law in Indonesia. Therefore, it will become a serious problem if there are couples who are of different religions who will carry out marriages while still adhering to their respective religions in which one of the religions of the couple does not consider a marriage not based on one religion same.

The Constitutional Court, as the body with the power to ensure that a law is in accordance with the Constitution, has been asked to rule on a judicial review of Marriage Law Article 2 paragraph (1), and its judgment may be found in Decision Number 68/PUU-XII/2014. The decision summarily dismissed the Petitioners' argument. As a result, the first sentence of Article 2 of the Marriage Law is legal under the constitution.

However, another Petitioner filed it again in order to examine Article 2 paragraph (1) who also felt that the Article was contrary to the constitution which prevented him from marrying his partner who incidentally is of a different religion from the Petitioner. The submission with case number 24/PUU-XX/2022 is still in the process of being examined by experts from related parties.

Purwakarta District Court (hereinafter referred to as PN Pwt) in Case No. 54/Pdt.P/2019/PN. Pwt. In the case of interfaith marriage, the decision to grant the petitioner's request and establish the legality of the marriage of the petitioner (Jesica Kacyta Riona) with the applicant's husband (Ari Yuniarso) which was ratified on February 23, 2019 at the Santo Yoseph Church, Purwokerto, in the presence of the Parish Pastor RP.AMKRISTIADJI R. MSC. Meanwhile, the Surabaya District Court (hereinafter written by PN Sby) in Case No. 916/Pdt.P/2022/PN.Sby in its verdict stated that it granted the Petitioner's request and gave permission to the Petitioners to carry out interfaith marriages before the Office of Population and Civil Registry Office of Surabaya Municipality.

And this is where Indonesian marriage law runs into trouble. Even though the Valid Court has ruled that Article 2 paragraph (1) of the Marriage Law is constitutional, both the Surabaya District Court and the Purwokerto District Court granted the application. In contrast, the Purwakarta district court ruled that marriages performed by couples of different religions were valid. In the meantime, the Surabaya District Court permitted interfaith marriages.

Since the judge's consideration in a case being examined is something that cannot be separated from a decision. While this is going on, it's interesting to note how different rulings from judges with essentially identical decisions resulted in different Decidendi Ratios. Does the Court have the authority to declare marriages legitimate or just to grant authorization in marriages between religious people of different religions?

Research Problems.

1. What is the legal meaning of the terminology legalizing or permitting in an Interfaith Marriage Application?

What was the judge's consideration for granting the petitioners request while, in the judicial review of Article 7 paragraph (1) in Decision 68/PUU-XII/2014, the petitioners reasons were completely rejected?

Literature Review.

Marriage.

According to Law No.1 of 1974 Governing Marriage (hereafter referred to as the Marriage Law), marriage is a Dzohir-Inner correlation between a man and a woman as husband and wife. The purpose of marriage is to form a joyful and eternal family that is founded on God Almighty (Wahyuni, 2017). In the meantime, marriage in Presidential Instruction NO.1 of 1991 concerning the Compilation of Islamic Law (hereafter referred to as KHI) itself has a different meaning, namely a very strong agreement or miitsaqon ghalidhan to obey Allah's commands. That which carry out the command of Allah SWT in the form of marriage is something that is worthy of worship. The institution of marriage is entered into with the intention of establishing a domestic setting that is characterized by *sakinah*, *mawaddah*, and *rahmah* (Abdurrahman, 2010 in Habibah, 2022).

Article 1 of the Marriage Law then has the following interpretation:

1) In the Republic of Indonesia, it is not allowed or not allowed to apply the Marriage Law which negates Islamic law for people who are Muslim, negates Christian Law for people who are Christians, negates Hindu Law for people who are Hindus, negates Buddhist Law for people who are religious Buddhism and negates Confucian law for adherents of the Confucian religion.

2) The Indonesian state must carry out marriage laws based on their respective religions, just to implement the Marriage Law, it requires assistance and mediation of power from the state.

Interfaith Marriage.

As in the general review of marriage above, the terminology of interfaith marriage also refers to the agreed definition, which in this case is the definition given by law. In this study, the basis is the explanation of Article 35 of Law no. 26 of 2003 concerning Population Administration (hereinafter referred to as the Adminduk Law). Interfaith Marriage is defined in the Explanation of Article 35 of the Adminduk Law, which states that "marriage determined by the court" refers to a marriage between individuals of different religions.

According to Article 57 of the Marriage Law, a Mixed Marriage is defined as a marriage between two people in Indonesia subject to different laws, due to differences in nationality, and where one of the parties The person who carries out the marriage has Indonesian citizenship. This definition is incompatible with the Adminduk Law's definition of interfaith marriage.

Power Theory.

Article 1 paragraph 3 of the Indonesian Constitution declares the country to be a law-based state. Therefore, any acts taken on behalf of the Indonesian government should not be based solely on the government's personal interests, but rather on laws and regulations that have been crafted in collaboration with the populace.

Judicial power is an autonomous power, as mentioned in the explanation of Article 24 and Article 25 of the Constitution of the Republic of Indonesia, which states:

"Judicial power is an independent power in carrying out the Judicial Process for the enforcement of Law and Justice".

Article 1 paragraph 5 of Law No. 48 of 2009 respecting Judicial Power contains the definition of judge, which states:

“Judges are judges at the Supreme Court and the judicial bodies under them as one of the state institutions in the judicial field. Judges also serve in special courts that are not judicial bodies under the Supreme Court.”

Regarding the independence of a judge in deciding a case, it is necessary to link a judge in compiling the ratio decidendi in his legal considerations so that a decision arises in a case (Sunarto, 2016). The independence of judges in law is not judges to create a law. However, the Judge by looking at the existing jurisprudence and referring back to the doctrines in the Science of Law. so that the Judge can find the law that is implied from the jurisprudence and the doctrine of the jurisprudence.

Meanwhile, according to Muchsin, regarding the freedom of judges as decision makers in a case, it is important and necessary to explain the position of impartial judges according to the principle of Equality Before the Law. The term impartiality is interpreted as a necessity for the judge in making his decision to side with the truth.

Article 10 of Law No. 48 of 2009 respecting Judicial Power (hereafter referred to as the Judicial Power Act) prohibits a court from declining to examine, hear, or determine a case on the grounds that there is no applicable law or that the applicable law is unclear. Nonetheless, the Court is required to review and hear the matter.

In adjudicating the cases to be faced, the judge will act as follows:

- a) If a judge finds a case whose law or law is clear and there is no need for interpretation, the judge only needs to apply the law to the case.
- b) If a judge gets a case in which the law on the case is neither clear nor clear to the judge. then, the judge will interpret the law or the Act through the method/method of interpretation commonly applicable in legal science.
- c) If a judge finds a case for which there is no written law/law that regulates it, the judge must find the law for the case by exploring and following the legal values that live in society based on the existing facts.

With the power and authority of a judge in examining a case, either by using the existing laws and regulations, the interpretation of existing laws and regulations and the discovery of existing laws in the community.

Legal Certainty Theory.

That legal certainty is the desire of the existence of the law itself (Margono, 2019). Legal certainty is Justitiabeln's protection against arbitrary actions, which means that someone will get something that is expected in certain circumstances where something can be predicted in advance. As a function of defending human interests, the law is responsible for distributing rights and responsibilities among individuals in society, dividing authority, regulating how to handle legal difficulties, and preserving legal certainty (Mertokusumo, 2002).

Therefore, legal certainty contains two meanings. First, there are general rules by which every individual in society knows what to do and what not to do. Second, there is legal security for each individual from the possibility of arbitrariness from the government, because with the legal certainty, individuals can know what actions are allowed and not allowed. Thus, the Government cannot act arbitrarily in applying the law to individuals.

Legal certainty also necessitates uniformity between the decisions of one judge and the decisions of other judges in similar situations that have already been determined (Mahmud, 2016).

Research design

<p>Marriage According to Law 1/74 on Marriage Article 2</p> <p>(1) Marriage is legal, if it is carried out according to the law of each religion and belief. (2) Each marriage is recorded according to the prevailing laws and regulations.</p>	
<p>Government regulation (PP) 95 of 1975</p> <p>Marriage Registration Article 2 Paragraph (2) is carried out by the Registrar at the Civil Registration Office for those who carry out other than Islam</p>	<p>Government regulation (PP) 95 of 1975</p> <p>Marriage Registration Article 2 Paragraph (1) is carried out by the Marriage Registrar for those who carry it out Muslim</p>
<p>Administration of Population Law Article 35 Marriage registration after obtaining a court order carried out between religious people of different religions</p>	
<p>The Decision of the Surabaya District Court No. 916/Pdt.P/2022/PN.Sby :</p> <p>1. Granting permission to the Petitioners to carry out interfaith marriages before the Office of Population and Civil Registry Office of the Surabaya Municipality; 2. Ordering the Office of Population and Civil Registry Office of the Surabaya Municipality to register the marriages of the interfaith applicants in the Marriage Registration Register used for that purpose and immediately issue the Marriage Certificate;</p>	<p>The Decision of the Purwakarta District Court No. 54/Pdt.P/2019/PN. Pwt.</p> <p>1. Establishing the Legal Marriage of the Petitioner (JESICA KACYTA RIONA) with the Petitioner's Husband (ARI YUNIARSO) which was legalized on February 23, 2019 at the Santo Yoseph Church, Purwokerto, before Parokji Pastor RP. AMKRISTIADJI R. MSC; 2. Ordered the Population and Civil Registry Office of Banyumas Regency to register the marriage between JESICA KACYTA RIONA and ARI YUNIARSO</p>

Method. This form of investigation is legal investigation. In this study, the legislative approach, the case approach, and the concept approach will be utilized. The key legal sources used in this analysis are:

- 1) Law No.1 of 1974 concerning Marriage
- 2) Law No. 23 of 2006 concerning Population Administration
- 3) Surabaya District Court Decision No. 916/Pdt.P/2022/PN.Sby.
- 4) Purwakarta District Court Decision No. 54/Pdt.P/2019/PN.Pwt.

Secondary legal materials used in this research include dissertations, theses, journals, and books. The collection of Primary Legal Materials is carried out with Internet Research where the material is taken from internet sites that provide primary legal materials such as the Setneg.go.id site to download laws and the Supreme Court.go.id site to download decisions that have relevance to this research. As for the secondary legal materials, we obtained some of them, apart from using the Internet Research method, as well as tracing legal materials at the Legal Documentation and Information Center (LDIC) of the Faculty of Law in Universitas Brawijaya. Especially scientific works, both Dissertations and Thesis. In addition to collecting and analyzing legal materials, we also performed interpretation or refers to interpretation methods. Interpretation is a step to seek and determine the meaning of the arguments contained in the law in accordance with what is desired and what is meant by the law. In this work, since there was a very close relationship between language and law, hence the interpretation methods that will be used include; Grammatical interpretation or interpretation according to grammar which gives a term or word according to everyday language or legal language. Systematic Interpretation which provides regularity and attachment between laws and regulations so that there is no law that stands alone outside the existing system of laws and regulations. We also performed the interpretation with Teleological Interpretation.

Result and Discussion.

The terminology of legalization and licensing of interfaith marriages as stated in the Purwokerto District Court Decision No. 54/Pdt.P/2019/PN. Pwt. and Surabaya District Court Decision No. 916/Pdt.P/2022/PN. Sby

In the decision of the Purwakarta District Court Number: 54/Pdt.P/2019/PN. Pwt, Petitioner I (Jesica Kacyta Riona) who is Catholic and Petitioner II (Ari Yuniarso) who is Muslim, married on February 23, 2019 in a Catholic way at the Church of Santo Yoseph Purwokerto in front of the parish priest RP. A.M Kristiadji R, MSC.

Even though the Petitioner submitted the necessary paperwork to the Population and Civil Registration Office in Banyumas Regency, the marriage was not officially recorded because the Petitioner and the Petitioner husband are different religions (in this case, the Petitioner is Catholic and the Petitioner husband is Muslim). However, the marriage only can be registered at the Population and Civil Registration Office of Banyumas Regency with a Letter of Determination from the Purwokerto District Court allowing the petitioner to do so.

The court rules in favor of the petitioners after considering the terms of the articles in Law Number 1 of 1974 concerning Marriage and other relevant regulations. Judges take a number of factors into account when deciding whether or not to grant applications for interfaith marriage permits, including the following:

a) Marriage in Indonesia is governed by Law No. 1 of 1974 pertaining to Marriage, which was enacted in an effort to standardize the nation's marriage laws, which were formerly somewhat diverse given the diversity of Indonesian society.

b) Article 2 paragraph 1 of Law Number 1 of 1974 regarding Marriage states that a marriage is valid if it is performed in accordance with the law of each religion or belief.

c) Article 35 letter an of Law Number 23 of 2006 concerning Population Administration specifies that the Population and Civil Registration Service Office may register marriages determined by the Court, and the article's explanation specifies that "marriages determined by the Court" refers to marriages between people of different religions.

d) Based on evidence P-6 in the form of a letter of dispensation for interfaith marriage barriers issued by the Diocese of Purwokerto and evidence P-7 in the form of Marriage Certificate No. 1328 dated on 23 February 2019 issued by the Parish of Santo Yoseph Purwokerto, the marriage performed by the Petitioner is legal based on the Catholic religion;

e) Based on the evidence that has been submitted, it is proven that the marriage between the Petitioner and Ari Yuniarso has met the requirements and does not conflict with the applicable regulations;

f) In light of the preceding considerations, the District Court believes that the Petitioner's application is reasonable and well-founded; as a result, the Petitioner's application may be completely granted;

g) Since the Petitioner's application was granted, the Petitioner should be burdened with paying the costs of this case,

h) Considering, Law Number 1 of 1974 concerning Marriage, Law Number 23 of 2006 concerning Population Administration and other regulations related to this case.

According to Law No. 23 of 2006 on Population Administration's Article 37, Paragraph 1, registration of interfaith marriages done outside of Indonesia is carried out in the country in which the marriage was performed. Then, the marriage was reported in Indonesia. Hence, marriages of different religions, for Indonesian citizens if they have been registered or reported to be civilized, have been recognized. Nevertheless, according to law No.1 of 1974, which provides more of the regulation of marriage to the rules of each religion. Even if there are several ways to legitimize interfaith unions and go overseas, this is still illegal in Indonesia under the country's current religious legislation. In other words, their marriage is not legal under religious law because state law has chosen to override religious affairs by allowing marriages to take place outside of Indonesia. According to religious law, marriages between people of different religions are invalid, hence any children born from such marriages are illegitimate. Nonetheless, in order to get a birth certificate, every newborn must be registered with the civil registration. Article 27 of Law No. 23 of 2006 regarding the administration of the population governs the subject. In the meanwhile, the procedure for recording births is governed by paragraphs 51-54 of Presidential Regulation No. 25 of 2008 of the Republic of Indonesia governing the requirements and procedures for population registration and civil registration.

Regarding religious distinctions, Islamic law permits Muslim men to marry women of different faiths. In other words, Muslim men are not prohibited from marrying non-Muslim women, despite the fact that church law prohibits such unions, unless the bishop grants a dispensation, which is granted only if the Catholic woman promises to remain faithful to the Catholic faith and strives to baptize and educate their children as Catholics (Tarring, 2022).

When performed in accordance with the same faith. Article 2 paragraph 1's explanation is that there is no marriage outside the law of the same religion. According to the appropriate rules and regulations, marriages must be registered. Government Regulation Number. 9 of 1975 about the Implementation of Law No. 1 of 1974 (Government Regulation no. 9/1975) further regulates marriage registration provisions. In accordance with Law No. 32 of 1954 about the registration of marriage, divorce, and reconciliation, the marriage registrar is the Office of Religious Affairs if the marriage is performed by a Muslim. Article 2 of Government Regulation No. 9/1975 stipulates that persons who married according to a religion other than Islam must register at the civil registry office.

The Marriage Law in this country is based only on article 2, paragraph 1, which states that the legitimacy of a marriage is governed by the parties' respective religious views. And if marriage here leads to divorce, the first topic of discussion will be the husband's religion. According to the author, a marriage in Islam that is not registered with the marriage registration office or KUA is referred to as an unregistered marriage (siri marriage). In addition, unregistered marriage is not governed by the law and is not entitled to recognition or legal protection. In divorce proceedings involving interfaith weddings, the Catholic marriage will be considered the lawful marriage or marriage based on the faith of the wife in the establishment of a lawful marriage. Because the marriage has valid legal documentation, namely the marriage certificate, and is recognized by religion and the state since it was documented in the marriage registration at the Civil Registry Office in accordance with the Marriage Law's article 2 paragraph 2 (b). However, according to Catholic belief, marriage is a sacred union that takes place only once in a human lifetime; hence, divorce is strictly forbidden. On the other hand, divorce is permitted when dispensation is given by the relevant authorities, often the bishop, and a court action is followed. Consequently, a divorce that has legal force and is deemed valid is a divorce that follows the implications of the marriage's validity. Hence, a legal interfaith marriage that results in a divorce on this basis is just as difficult as a marriage.

Articles 40 (c) and 44 of the KHI, Article 8 letter (f) of the UUP, and Article 118 of the KHI also recognize the validity of marriages governed by religious (Islamic) law. The law specifies that religious beliefs are the only ones that can annul a marriage, including those between different faiths. Because marriage is such a vital component of life, every religion, including Islam, has specific norms that its believers must obey and implement. Consequently, as a religious believer, every citizen has an obligation to follow the government's laws and regulations without exception. This is in compliance with Article 27 Paragraph 1 of the Republic of Indonesia's 1945 Constitution.

Every marriage is valid if the processes, procedures, and laws are in line with religious norms and standards in which every individual has trust and faith. Article 2 Paragraph 1 UUUP is a form of constitutional promise from Article 29 Paragraph 2 of the 1945 Constitution of the Republic of Indonesia, containing the guarantee of freedom in embracing and practicing one's chosen religion and belief (Sekarbuana et al., 2021; Setiarini, 2021)

On the other side, decision of the Surakarta District Court No. 916/Pdt.P/2022/PN. Sby, who granted the request, referred to the jurisprudence of the Supreme Court of the Republic of Indonesia Number. 1400 K/Pdt/1986 despite the fact that there are no specific rules governing this issue, we can identify rules governing interfaith marriages through legal interpretation efforts if we examine the laws and regulations pertaining to marriage and religious law. Thus, the authors argues that if a law has been clearly regulated, as long as there are no rules that change or replace or there are no rules higher than these rules, then the rules are still used as a reference in establishing the law.

This is in line with the principle of *lex superior derogat legi inferiori* which means that the law with a higher degree overrides the law/regulation of a lower degree. Based on the legal principle and the judge's considerations, that the marriage law has overridden jurisprudence, thus in the determination, the judge refers to the applicable marriage law (Lailam, 2018).

Article 2, paragraph 1, specifies that a marriage is lawful if performed in accordance with the laws of each faith and belief. As for what is meant by "the law of each religion and belief," this refers

to the sections of legislation that apply to their particular religious groups and beliefs, insofar as they do not contradict or otherwise conflict with other provisions in this law.

Referring to article 2 paragraphs (1) and (2), which state that a marriage must be performed in accordance with the law of each faith and belief and recorded in accordance with the applicable laws and regulations, this provision is indivisible and its validity cannot be selected. If it only satisfies one of the requirements, the marriage event does not satisfy the legal requirements.

In relation to article 2 paragraph (1) of the Marriage Law Number 1 of 1974, there is a common vision where this rule accommodates the *dhoruri* needs of Muslims, namely religion. Religion is the most important aspect of a Muslim's life, and everything that has the potential to interfere with religion should be avoided. Whether it is related to religious teachings or its believers (Nim, 2021).

Interfaith marriage, in the first type, where the Muslim men and the non-Muslim women, opens up opportunities for the birth of offspring who adhere to their mother's beliefs. Indirectly, this reduces the Muslim population. As today, quantity also contributes to influencing decisions in a region. When the number of Muslims is small, and becomes a minority, automatically the interests of Islam will be difficult to accommodate because in general it is the majority group who becomes the policy holder in an area. Meanwhile, when the policy holder is not a Muslim, the interests of Muslims will be difficult to accommodate. This is still far better than other possibilities, namely the decisions that are made in a region are decisions that are detrimental to Muslims.

The decision of the Surabaya District Court which does not prohibit interfaith marriages. With several considerations taken by the judge in handling this case, namely: First balance, marriage or marriage of different religions is not a prohibition based on Law Number 1 of 1974. "That Law No. 1/1974 on marriage does not regulate interfaith marriage Therefore, it is considered to grant his application to fill the void in the provisions of the Marriage Law." The second consideration is Article 35 letter a of Law Number 23 of 2006 concerning Population Administration. examine and decide. "Then it also refers to the existing Population Administration Law (Adminduk Law), Article 35 A of Law 23/2006 which was amended by Law 24/2013. Thus, this stipulation, in essence, is to allow the registration of interfaith marriages at the Surabaya Civil Registration Office (*Dispendukcapil*)". Meanwhile, these court's decision is contrary to PS 2 of the Marriage Law and the Marriage Law is not in line with the Population Administration Law, so there must be a deeper study because the subject of religion is very sensitive in Indonesia.

The judge's consideration is to grant or reject the petitioner application, while in the judicial review of Article 2 paragraph (1) in Decision 68/PUU-XII/2014, the petitioner reasons are completely rejected.

According to the Constitutional Court's ruling file No. 68/PUU/XII/2014, the Judges of the Constitutional Court believe that the Petitioners have legal standing to file the a quo petition by submitting a judicial review of Law No. 1 of 1974 concerning Marriage against the 1945 Constitution (Islamiyati, 2017b).

Interfaith marriages according to the provisions of living religious law in Indonesia, including marriages that are prohibited or temporarily prohibited because the conditions for marriage have not been fulfilled, if the conditions are fulfilled, then their marriage is valid, the condition is that the couple who do religious marriage must be of the same religion. Here, the legal line is that interfaith marriages are allowed if each partner has the same religion. Each religion essentially requires marriage to be carried out on a partner of the same faith (Islamiyati, 2017b)

As stated in the Constitutional Court's Legal Considerations section in regards to the petition for judicial review of Article 2 paragraph (1) of the Marriage Law with the 1945 Constitution, every citizen is obligated to comply with the restrictions stipulated by the Law whose sole purpose is to guarantee the recognition and respect for the rights and freedoms of others and to fulfill just demands in accordance with the Constitution. So that according to the Constitutional Court, Law Number 1 of 1974 has been able to realize the principles contained in Pancasila and the 1945 Constitution and has also been able to accommodate all the realities of life in society (Yuningsih, 2015).

The requirements of Law Number 1 of 1974 regulating Marriage ban marriages performed outside the provisions of the religious law of each spouse, while the prohibition of interfaith marriages is not explained clearly. Nonetheless, some judges view this as a legal vacuum when determining interfaith marriage cases. According to the opinion of Constitutional Justice Maria Farida Indrati in the Constitutional Court Decision No. 68/PUU-XII/2014, the status quo law has resulted in a variety of

problems, particularly with regard to the implementation of interfaith marriages, and has even led to legal smuggling as a result of citizens' disobedience of state law. However, the petitioners request that the Constitutional Court rule that Article 2 paragraph (1) of Law Number 1 of 1974 concerning Marriage is contrary to the 1945 Constitution of the Republic of Indonesia so long as it is not interpreted as follows: "Marriage is legal, if it is conducted according to the laws of each religion and his belief, as long as the interpretation of the law of their religion and belief is allowed to each prospective bride and groom" (Setiyanto, 2016; Vela, 2016).

Adding the words "as long as the interpretation of the law of their religion and belief is allowed to each prospective bride and groom" to Article 2 paragraph (1) of Law Number 1 of 1974 concerning Marriage will not solve the problem of interfaith marriages and their beliefs. Hence, the insertion of the term will actually generate legal confusion and lead to a variety of interpretations, as the interpretation of the law of one's faith and belief is left up to each potential bride, so resulting in a greater number of interpretations.

The Constitutional Court Judge believes that the Petitioners have legal standing to submit a quo petition based on the Constitutional Court's ruling file No. 68/PUU/XII/2014. However, after the Constitutional Court reviewed the Petitioner's application and requested information from the relevant parties, including the President, Central Executive of MUI, Executive Board of Nahdlatul Ulama, Central Leadership of Muhammadiyah, FPI, WALUBI, Presidium of the Clerical Council of the High Council of Indonesian Confucian Religion (hereinafter referred to as MATAKIN), Parisada Hindu Dharma Indonesia, Advocacy Team for Diversity, and Fellowship of Chur This signifies that the Judge has denied the Petitioner's request for judicial review of Article 2 Paragraph 1 of the UUP.

The Constitutional Court (hence referred to as MK) determined in its Decision No. 68/PUUXII/2014 (the MK's Decision) that Article 2 (1) of the UUP should not be regarded as ambiguous. The judgement of the Constitutional Court rejects the ambiguity in Article 2 paragraph (1) of the UUP on who is the interpreter of religious teachings as a condition for the legitimacy of marriages. Automatically, this judgement also fails to recognize the flaw in Article 2 paragraph (1) of the UUUP that allows the state to interpret religious teachings with legality.

Decision No. 68/PUU/XII/2014 of the Constitutional Court about the rejection of the judicial review of Article 2 paragraph (1) of the Marriage Law No. 1/1974 (UUP No. 1/1974) against the 1945 Indonesian Constitution (UUD 1945). The judge denied the petition since the petitioner's arguments violated Pancasila and the 1945 Constitution Article 28E Paragraphs (1) and (2), 29 Paragraphs (1) and (2), 28J Paragraph (2), 28B Paragraph 1, 27 Paragraph 1, 28D Paragraph 1, and 28 I Paragraph 2.

The Petitioners applied for the examination (refers to judicial review) of Article 2 Paragraph (1) of the Marriage Law No. 1 of 1974 (Hereinafter written UUP) because of a misunderstanding of the interpretation of Article 2 Paragraph (1) of the UUP which caused the Constitutional rights of citizens to be neglected, the rampant smuggling of the law because there was no legality of marriage of different religions, and the difference in the validity of interfaith marriages between citizens and Employees of the Registrar of Marriages (refers to PPN) and community leaders.

In their decision, the Constitutional Court denied the Petition for Judicial Review of Marriage Law Article 2 paragraph (1) to permit interfaith marriages, as the Panel of Judges concluded that the Petition lacked of a legal basis. The Chief Justice of the Constitutional Court, Arief Hidayat, announced that the Constitutional Court Justices had "rejected the petitioners' whole claim." According to the judge, it is not a violation of the Constitution for Article 2, paragraph 1, to indicate that a marriage is lawful if it is performed according to each faith and registered in accordance with the laws and regulations. The judge believed that marriage should be examined not only from a legal perspective, but also from a spiritual and social perspective (Sari & Mulyadi, 2016)

Constitutional Court Judge's Decision No. 68/PUU/XII/2014 is a final decision that cannot be appealed, as the Constitutional Court's decision is the initial and final decision in determining the application for a judicial review of Article 2 Paragraph (1) of the UUD against the 1945 Constitution of the Republic of Indonesia. (Constitution, Law Number 23 of 2004 on the Constitutional Court, 2004). Therefore, the decision of the Constitutional Court is essential, as it cannot be overturned absent a request for judicial review pursuant to the law governing judicial review procedures.

The presence of the Constitutional Court's decision 68/PUU/XII/2014 can be viewed as jurisprudence, as the Constitutional Court Judge is a high-ranking judge in the review of Article 2 Paragraph (1) of the UUP. The legal consequences of the Constitutional Court's decision 68/PUU/XII/2014 may be used as a source of law to resolve interfaith marriage cases on the basis of a judge's legal reasoning. This is because the Constitutional Court's Judge 68/PUU/XII/2014 decision was able to demonstrate the force and explanation of Article 2 Paragraph (1) of the UUP.

On the basis of the results of the Constitutional Court's decision, it can be stated that the result of the Constitutional Court's decision number 68/PUU/XII/2014 is that the Constitutional Court should affirm in its decision number 68/PUU-XII/2014 that interfaith marriages are prohibited and not recorded in the civil registry. As a result of a strengthening of religious law to be a determinant of whether marriage is legal or not, including the invalidity of interfaith marriages for violating the state constitution. In addition, the Constitutional Court's decision No. 68/PUU/XII/2014 directed and provided instructions on how to interpret Article 2 Paragraph (1) of the UUP correctly, fairly, and in accordance with legal knowledge regarding how to read, comprehend, and interpret articles and paragraphs of a statute.

The petitioners have legal standing to file a quo petition, according to the Constitutional Court's decision file No. 68/PUU/XII/2014, according to the judges of the Constitutional Court (Article 5 PMK No. 6 of 2005 concerning Guidelines for Proceeding in Cases of Judicial Review). However, after the Constitutional Court examine the petitioners application, and after requesting information from the relevant parties, such as; President, Central Executive of MUI, Executive Board of Nahdlatul Ulama, Central Leadership of Muhammadiyah, FPI, WALUBI, Presidium of the Clerical Council of the High Council of Indonesian Confucian Religion (MATAKIN), Parisada Hindu Dharma Indonesia, Advocacy Team for Diversity, Fellowship of Churches in Indonesia (PGI), the Indonesian Bishops' Conference (KWI), witness testimony and the applicant's experts, the Constitutional Court judge stated that the petitioners application was contrary to Pancasila and the 1945 Constitution of the Republic of Indonesia.

The judge's decision to deny the aforementioned application is based on the following factors: 1) The petitioner employs the logic of negative interpretation in interpreting Article 2 Paragraph 1 of the UUUP, which permits marriage without adherence to religious doctrines. Contrary to the state constitution, the state is obligated to protect and guard against the liberalization of the marriage law, which destroys the morals and sanctity of a religion. 2) The petitioner's viewpoint is erroneous because, according to the petitioner, marriage is viewed as merely a civil law and a freedom that protects human rights, without taking into account that marriage is the most essential aspect of life and should be governed by religious law.

The Constitutional Court Judge who rejected the petitioner's application was in accordance with the ground norm, namely the values contained in Pancasila, namely the First Principle of Divinity, according to an analysis of the basic considerations of the judges of the Constitutional Court in determining Decision No. 68/PUU/XII/2014 from the perspective of Islamic law. In accordance with the mandate of the Fourth Alenia of the Preamble to the 1945 Constitution of the Republic of Indonesia and Article 29 Paragraph (1) of the 1945 Constitution of the Republic of Indonesia, which states that the Indonesian state is a sovereign state based on the sovereignty of the people in the One Supreme God.

According to the provisions of marriage law in Indonesia, interfaith marriages can be legalized if one partner submits to the religion of his partner or equates the religion of his partner. In other words, the perpetrators of interfaith marriages must leave their religion for the sake of a valid marriage. Hence, it is very possible for Muslims to leave their religion for the sake of a valid marriage with their partner, and vice versa (Islamiyati, 2017b)

Since the judges of the Constitutional Court are superior judges in the review of Article 2 Paragraph (1) of the UUP, the existence of decision 68/PUU/XII/2014 can be characterized as jurisprudence. As a result of the Constitutional Court's decision 68/PUU/XII/2014, judges can look to it for guidance when deciding how to rule on marriages between people of different faiths. As for the reason that the clarity and force of UUP Article 2 Paragraph (1) are on display in Constitutional Court Judgement 68/PUU/XII/2014.

On the basis of the study's findings, it was explained that the decision of the Constitutional Court No. 68 / PUU / XII / 2014 resulted in a strengthening of religious law as a criterion for determining the validity or invalidity of marriage, including the invalidity of interfaith marriage due to its violation of the state constitution. In addition, the Constitutional Court's decision No. 68/PUU/XII/2014 directed and provided guidelines for the correct, fair, and legal interpretation of Article 1 Paragraph 2 of the UUUP, in accordance with legal knowledge regarding how to read, comprehend, and interpret articles and paragraphs in a piece of legislation (Islamiyati, 2017a)

The presence of the Constitutional Court's judgment no. 68/PUU/XII/2014 regarding Islamic marriage law in Indonesia are: (Islamiyati, 2017a) 1) Can be used as a source of law to determine interfaith marriage issues based on the judge's legal concerns; 2) Capable of demonstrating the strengths and explanations of Article 2 Paragraph (1) of the UUP, which is dysfunctional owing to misinterpretations; 3) Strengthening religious law to determine the validity of weddings, including the invalidity of interfaith marriages since they contravene the state constitution; 4) Has instructed and

offered instructions on the interpretation of Article 1 Paragraph (2) of the UUP appropriately, fairly, and in accordance with the science of law regarding how to read, comprehend, and interpret articles and paragraphs in a legal document; and 5) Prohibition of the smuggling of interfaith marriage laws, as the act is unconstitutional or in violation of Article 2 Paragraph (1) of the UUP and the state constitution, as outlined in the 1945 Constitution of the Republic of Indonesia.

Conclusions. The existence of dualism related to legitimacy on the one hand and the obligation to record marriage events in state documents on the other hand, must be ended immediately. The norms contained in Article 2 paragraph (1) of the Marriage Law are very subjective so that they open up opportunities to be interpreted in various ways and at the level of implementation of these norms it is very easy to manipulate so that they can be implemented and gain state legitimacy without the need to leave their original religion or belief. The state must remain present to protect the beliefs of its citizens, fulfill their basic rights, and provide legitimacy to all legal events committed by their citizens.

The ruling 68/PUU-XII/2014 of the Constitutional Court underscores that religious law must be a factor in assessing the legality of marriage, including the invalidity of interfaith weddings. Thus, this decision has directed and provided instructions on how to interpret Article 2 Paragraph (1) of Law No. 1 of 1974 correctly, fairly, and in accordance with legal knowledge regarding how to read, comprehend, and interpret articles and paragraphs of a regulation.

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