

THE IMPLEMENTATION OF MARRIAGE DIFFERENT RELIGION AND THEIR DUE TO THE LAW OF THE RELIGION OF MARRIAGE STATUS

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ABSTRACT

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Marriage is a very strong and very deep bond that functions to connect between a man and a woman in a household or a family. Informing a household or a family, the belief in the same religion requires not only confidence in the same commitment. However, in the life of the Indonesian people, there are currently many marriages that are not based on similarities in religious beliefs. The marriage is only based on genuine love between a man and a woman. These different religious marriages cause problems in the legal field such as the validity of the marriage itself according to the marriage law in force in Indonesia. Because according to Article 2 Paragraph (1) of Law Number 1 the Year 1974 marriage which is called legitimate is a marriage which is carried out in accordance with the religion and beliefs of the person. Marriage with different religions also causes problems with the legitimacy of the representation. So the problem that will be explained in this journal is about the validity of a marriage that is of different religions in accordance with Law Number 1 of 1974. According to Law Number 1 of 1974 marriages of different faiths is an illegitimate marriage because they are not in accordance with religion and belief in Indonesia. Because according to Article 2 Paragraph (1) of Law Number 1 of 1974 it is stated that if a

religion allows the marriage of a different religion, then the marriage is permissible. However, if a religion does not allow the marriage that is of a different religion, then the marriage is not allowed.

Keywords: *Interfaith marriage, Law Number 1 of 1974, and Compilation Islamic Law*

I. INTRODUCTION

Humans are creatures that cannot live alone and always need other human beings in carrying out their daily lives. Therefore, humans can be called social beings. Because it is a social creature, humans always have the desire to live with other humans. Life with other humans at the smallest level is called family. To form a family, at least there must be a man and a woman. A man and a woman must carry out the marriage process so that their family life is considered legitimate by a country.

Marriage is something that is very considered sacred because in the marriage there is a birth bond and also the inner bond of a man and a woman based on the One Godhead. Marriage is also carried out with the aim of forming an eternal and happy family based on the One Godhead.¹ This is stated in Article 1 of Law Number 1 of 1974 which reads: "Marriage is an inner bond and also a birth bond between a man and a woman as husband and wife with the aim of forming a family (household) that is eternal and happy based on the One Godhead." ²

Based on Article 1 of Law Number 1 of 1974 described above, a goal and a definition of marriage can be concluded. So the definition of marriage is an inner bond and birth bond between a man and a woman as husband and wife. While the purpose of marriage is to form a family (household) that is eternal and happy based on the One Godhead. The State of Indonesia is a religious country based on the One Godhead so that religion or belief with marriage is interrelated. ³ This is because a marriage is not only binding on birth, but can also be binding inwardly. The definition of marriage according to Law Number 1 the Year 1974, is as follows: ⁴

1. A Marriage is a birth bond and an inner bond between a man and a woman as husband and wife;
2. This marriage is intended to form a family (household) that is prosperous, eternal, and happy;
3. A marriage that forms a prosperous, eternal, and happy family (household) is based on the One Godhead.

The purpose of a marriage contained in Law Number 1 of 1974 is a very appropriate goal. Because the purpose of marriage is not only a birth goal, but also an inner goal between husband and wife to form a family that is prosperous, eternal, and happy based on the One Godhead. ⁵ Although this is very different from the one in Article 26 of the Civil Code (Burgerlijk Wetboek)

¹ Sution Usman Adji, *Kawin Lari dan Kawin Antar Agama*, edition 1 (Yogyakarta: Liberty), 1989, p. 21.

² Indonesia, *Marriage Law, Law Number the Year 1974*, State Gazette Number 1 the Year 1974, Article 1.

³ Djoko Prakoso and I Ketut Murtika, *Asas - Asas Hukum Perkawinan di Indonesia*, edition 3 (Jakarta: Bina Aksara), 1987, p. 3.

⁴ *Ibid.*

⁵ Djoko Prakoso and I Ketut Murtika, *Asas - Asas Hukum Perkawinan di Indonesia*, edition 3 (Jakarta: Bina Aksara), 1987, p. 3.

which describes a marriage with a civil law that applies in the Netherlands, namely as follows: "The law looks at marriage only within the scope of civil law only. ⁶ "Therefore, the Civil Code (Burgerlijk Wetboek) only views marriage as a civil relationship.

Religion and marriage are very related to one another and cannot be separated because all religions must regulate problems concerning marriage and all religions must also always want marriage which is only done by a man and a woman who has the same religion or belief. Therefore, all religions must always prohibit marriages carried out by a man and a woman who has a different religion or belief. This can be because religion is a very important and very important basis for forming a family (household). ⁷ Because with the ownership (religion) which is equally strong, life in a family (household) is also definitely strong. So that life in a family (household) will not be easily solved. If the life of the family (household) is strong, then the life of the country will also be strong. According to an umaro and a scholar Prof. Dr. H. A. Ali Mukti and Dr. Ali Akbar quoted by Bismar Seregar, S. H. : ⁸

"The way to build a strong country is by strengthening the family lived in the country. The way to build a fair country is to be fair to the family (household) in the country. The way to build a prosperous country is to prosper the family lived in the country. So, if you want to build the country as well as possible, you should also build family life in your country as well as possible. Because if a family (household) is not built, then a country cannot be built. "

A marriage carried out based on the same religion or belief in life is believed to be able to make husband and wife happy all the time because of the basic similarity of life and the view of life that is owned by husband and wife. ⁹

Because marriage is a very sacred and very important thing, this marriage requires a rule that discusses clearly and in detail about matters relating to the marriage. This is done so that a marriage can be considered legitimate by religion and also by the state so that a family (household) can be formed that is eternal, happy, eternal, and prosperous. Therefore, the Indonesian government issued Law Number 1 of 1974 which regulates marriages and the basis for its implementation is Government Regulation Number 9 of 1975 which regulates marriage matters as well. Whereas for the law which is in its formal form, it is contained in Law Number 50 of 2009 which regulates the matter of the second amendment to Law Number 7 of 1989 which regulates matters concerning the Religious Courts in Indonesia. In addition, the Indonesian government also issued a supplementary rule that can be used as a basis and also guidelines for judges in Indonesia that have been issued and disseminated through the media of Presidential Instruction Number 1 of 1991 which regulates the collection or compilation of various existing Islamic laws and that applies in Indonesia.

But in everyday life, there are so many husbands and wife couples who carry out a marriage that is of a different religion. These events occur a lot in people's lives, including different religious marriages carried out by artist Jamal Mirdad with artist Lydia Kandau. They both carried out marriage without one of them wanting to change the religion or belief they had adopted. They are looking for an alternative action to achieve something they want, among others

⁶ *The Civil Code (BW)*, translated by Subekti and Tjitrosudibjo, (Jakarta: Pradnya Paramita), 2002, article 26.

⁷ Radhiah Amna, Wasino, dan Purwadi Suhandini, 2017, *Pernikahan Beda Agama dan Implikasinya Terhadap Pola Asuh Anak*, Journal of Educational Social Studies Unnes, 6(2), p. 2.

⁸ Bismar Siregar, "Aspek Hukum Perlindungan atas Hak - Hak Anak," edition 1, (Jakarta: Rajawali), p. 9.

⁹ M. Quraish Shihab, *Perempuan*, print 5, (Tangerang: Lentera Hati), p. 352.

by carrying out legal smuggling activities in Indonesia. The legal smuggling activity can be carried out by conducting a marriage that is of different religions abroad, after which the husband and wife partner make a marriage record at the Civil Registry Office in Indonesia. This can lead to a perception that the marriage they have done abroad is a legitimate marriage, even though the marriage they do is a marriage that is of a different religion as explained in Article 57 of Act Number 1 of 1974 concerning Marriage. Although the act of making a marriage that is different from a foreign religion is an act that cannot be justified, because the status of a different marriage remains invalid as explained in Article 56 of Act Number 1 of 1974 which reads: "Marriage that done outside Indonesia between two Indonesian citizens or an Indonesian citizen with a foreign national is legal if carried out according to the applicable law in which the marriage is conducted and for Indonesian citizens does not violate the provisions of this law. "

Based on the background described above, the formulation of the problem in this journal is about the issue of the validity of a marriage of different religions according to Law Number 1 of 1974 and concerning the issue of the validity of a marriage of a different religion according to the Compilation of Islamic Law.

II. WRITING METHOD

Legal writing is scientific writing in the field of law based on certain methods, thoughts, and systematics with the aim of learning something about certain legal events by analyzing these legal events.¹⁰ Based on its form, there are two methods of legal research, namely empirical legal research and library research.

While based on the scope of the discussion, this journal writing can be categorized into normative juridical literature writing. This normative juridical journal writing is also written with qualitative methods and analytical methods. The normative juridical method is a method of writing carried out by analyzing secondary data or library material that is still legal. While qualitative methods and methods of analysis are a method of writing carried out by analyzing statistical processes, both in the form of stories, descriptions, written documents, unwritten documents, and narratives.

Data used in writing this journal is secondary data, namely obtained data from methods that are literature and primary data, namely data obtained from the interview method. The tools used to collect the data used in writing this journal are a document study. Legal materials used in writing this journal are as follows:

1. Primary legal materials are legal materials that are used as the main source in writing this journal and have a very strong legal force on life in society. The primary legal material used in writing this journal is the Civil Law, a collection of Islamic law, Law Number 1 of 1974 which discusses marriage matters, and other laws and regulations that are also related to the writing of this journal;
2. Secondary legal materials are legal materials that explain a matter concerning primary legal material. In writing this journal, the secondary materials used include books that discuss marriages and books that discuss matters of interfaith marriage, various research reports, various collections of these, various collections of these, and various writings from experts prominent law;
3. Tertiary legal materials are legal materials that can provide an explanation and also a guide to primary legal material and secondary legal material that has been used as a

¹⁰ Soerjono Soekanto, *Pengantar Penelitian Hukum*, edition 3, (Jakarta: Universitas Indonesia), 2006, p. 43.

material in writing this journal. The tertiary legal materials used in writing this journal include the encyclopedia and dictionary.

III. DISCUSSION RESULT

A. Marriage Laws That Apply in Indonesia

During the Dutch colonial occupation, civil law in Indonesia was still very general. This is because the civil law that applies in the country of Indonesia differs from one community to another. During the Dutch colonial era, certain grouping events occurred against the population in Indonesia. This is in accordance with Article 131 of the Indische Staatsregeling and Article 163 Indische Staatsregeling. Marriage law, which is one of the most general civil law based on a certain grouping of the population in Indonesia. ¹¹ At that time various marriage laws apply as will be explained below: ¹²

1. Civil Code (Burgerlijk Wetboek) which applies to Europeans;
2. Marriage for Chinese people and Eastern Foreigners applies the marriage law contained in the Civil Code, except for the second and third chapters;
3. Customary law which only applies to Chinese people and foreign Easterners themselves;
4. Customary law and Islamic law which only applies to Indonesian people who are Muslim;
5. Huwelijks Ordinary Christen Indonesiers (HOCI) Staatsblad Number 1974 of 1933 which only applies to people who live in Ambon, Java, and Minahasa regions as well as Christians;
6. Regeling op de Gemengde Huweijken (GHR) Staatsblad Number 158 of 1898 which only applies to people who carry out mixed marriages, both interfaith marriages, inter-ethnic marriages, interracial marriages, and inter-tribal marriages.

After the Indonesian state experienced independence, the 1945 Constitution applies absolutely to replace the regulations described above, because these regulations are not in accordance with the lives of the people in Indonesia in this era. Therefore, Indonesia conducted a unification of martial law through Law Number 1 of 1974 which discussed marriage matters.

B. Marriage According to Law Number 1 The Year 1974

a. The Concept of Marriage According to Law Number 1 of 1974

The establishment of Law Number 1 of 1974 is intended to carry out a unification of laws that discuss marriage matters that apply to all communities in Indonesia. This law was also made to ensure the achievement of a prosperous, eternal, and happy life in the marriage. ¹³ In addition, Law Number 1 of 1974 also regulates the equal rights and position between a husband and a wife in family life and community life.

The definition of a marriage based on the Civil Code is different from Law Number 1 of 1974. The Civil Code looks at the concept of marriage only from the civil aspect, while Law Number 1 of 1974 looks at the concept of marriage from its religious aspect. This is contained in Article 1 of Law Number 1 of 1974 which reads: "Marriage is an inner bond and also a birth bond

¹¹ Rini Fidiyani, 2018, *Building The Competency of Dialogue in Managing The Problem Solving of Freedom of Religion and Belief Conflict in Indonesia*, Journal of Private and Commercial Law Unnes, (2)2, p. 2.

¹² Wienarsih Imam Subekti and Sri Soesilowati Mahdi, *Hukum Perorangan dan Kekeluargaan Perdata Barat*, edition 1, (Jakarta: Gitama Jaya), 2005, p. 27.

¹³ *Ibid*, p. 43.

between a man and a woman as husband and wife with the aim of forming an eternal family (household) and happy based on the One Godhead. "Based on this definition five conclusions can be drawn, namely: ¹⁴

1. The inner and outer bonds that are very closely needed are needed as a basis for living together in a family and form a happy, eternal, and prosperous family;
2. Marriage carried out must adhere to the principle of monogamy, that is, a husband is only bound by a wife. This is contained in Article 3 of Act Number 1 of 1974 which reads: "Basically a husband may only have a wife and a wife may only have a husband.";
3. There is a bond as a husband and a wife who is lawful, religious, and their respective beliefs;
4. The existence of a small family consisting of a father, a mother, and children whose lives are happy, eternal and prosperous;
5. The existence of a small family consisting of a father, a mother, and children whose lives are *sakinah, mawadah, and warohmah* so as to form a peaceful and orderly society.

b. Marriage Requirements According to Law Number 1 of 1974

In a process of marriage the marriage, conditions contained in Article 6 and Article 7 of Law Number 1 the Year 1974 must be fulfilled. These marriage conditions consist of formal conditions and material requirements. Formal requirements are conditions that are directly related to the procedure for carrying out the marriage process, namely the preceding conditions and also the conditions that accompany the implementation of the marriage process. While the material requirements are conditions that relate directly to the prospective bridegroom and also the prospective bride who will carry out the marriage process. ¹⁵

Material requirements consist of general material requirements (absolute) and special material requirements (relative). General material requirements are conditions that must be met and directly related to the prospective bridegroom and also the prospective bride who will carry out the marriage process. While special material requirements are conditions that must be met and directly related to the prospective bridegroom and also the prospective bride who will carry out a certain marriage process. ¹⁶ General material requirements in a marriage process, namely as follows:

1. There is an agreement from the prospective bridegroom and also the prospective bride (Article 6 Paragraph (1) of Law Number 1 the Year 1974);
This means that no one can force a prospective bridegroom and a prospective bride to do a marriage without the consent of both parties. This is found in Article 6 Paragraph (1) of Law Number 1 the Year 1974.
2. There is a minimum age limit for doing a marriage;
The minimum age to do marriage for a prospective bridegroom is at least 19 years and for prospective brides a minimum age of 16 years. This is found in Article 7 Paragraph (2) of Law Number 1 the Year 1974;
3. Not currently in marital status.

¹⁴ *Ibid*, p. 44.

¹⁵ Wahyono Darmabrata and Surini Ahlan Sjarif, *Hukum Perkawinan dan Keluarga di Indonesia*, edition 2 (Jakarta: Faculty of Law, University of Indonesia), 2004, p. 21.

¹⁶ *Ibid*.

A person who is still in marital status with another person is not allowed to marry again unless the parties concerned allow it. This is found in Article 9 of Act Number 1 of 1974;

4. There is a waiting period for a woman who has dropped out of her marriage.

For a woman who experiences a marriage breakup, she has a certain waiting period. If the marriage is broken because the husband has died, then a woman has a waiting period of 130 days. If the marriage is terminated due to divorce, then a woman has a waiting period of 90 days. If a woman is pregnant, the waiting period is until the woman gives birth.

While the material requirements specified in a marriage process, namely as follows:

1. There is permission to carry out a marriage.

This is found in Article 6 of Law Number 1 the Year 1974, which is as follows:

- a. There must be permission from parents for people who want to do marriage and that person is under 21 years old;
- b. If one of the parents has passed away, then the permission to do marriage is enough from one of the parents. This matter contained in Article 6 Paragraph (3) of Law Number 1 the Year 1974;
- c. If both parents have passed away, then permission to do marriage is enough from family members who still have blood relations between them. This is found in Article 6 Paragraph (4) of Law Number 1 the Year 1974;
- d. If there are differences of opinion regarding the above matters, the difference of opinion is decided by the District Court in the area of the prospective bridegroom or prospective bride.

2. There is a prohibition to carry out a marriage.

This is found in Article 8 of Act Number 1 of 1974, as follows:

- a. A prospective bride husband or a prospective bride has a close blood relationship between one bride and the other bride;
- b. A prospective bride husband or a prospective bride has a family relationship that is fine between one bride and the other bride, namely between a stepchild with a stepfather or stepmother, between a child with uncle or aunt, and between a son – in - law with a father – in - law;
- c. A prospective bride husband or a prospective bride has a family relationship that is one of the bride and groom with another bride, that is between someone with a breastfeeding child, aunt's aunt, breastfeeding mother, uncle milk, and sibling siblings;
- d. There is a prohibition on religious rules and other regulations;
- e. There is a prohibition on marriage for a man and a woman who has divorced twice in the same marriage.

While the formal requirements in a marriage process, namely as follows:

This is found in Article 12 of Act Number 1 of 1974.

1. Notification regarding the implementation of a marriage process.

- a. Notify the process of implementing a marriage to the Employer of Marriage Registration in the area of the prospective bridegroom or prospective bride. This is contained in Article 3 Paragraph (1) Government Regulation Number 9 of 1975;
- b. Notify the process of implementing a marriage no later than 10 days before the process of carrying out a marriage takes place to the Employee of Marriage

Registration in the area of the prospective bridegroom or prospective bride. This is in Article 3 Paragraph (2) Government Regulation Number 9 of 1975;

c. Inform the process of implementing a marriage to the parents and guardians of the prospective groom and prospective bride who are carried out verbally and also in writing. This is found in Article 4 of Government Regulation Number 9 of 1975;

d. In the notification regarding the process of carrying out a marriage, it must be stated the minimum religion or occupation, name, place of residence, and age of a prospective groom and a prospective bride. This is contained in Article 5 of Government Regulation Number 9 of 1975;

e. If there is a necessity that can hinder the notification regarding the process of carrying out a marriage, then at Sub - District Head on behalf of a Regent informs him about the process of carrying out a marriage. This is contained in Article 3 Paragraph (3) Government Regulation Number 9 of 1975.

c. Prohibition of Marriage According to Law Number 1 of 1974

This is found in Article 8 of Act Number 1 of 1974, as follows:

1. It is forbidden to do marriages with someone who still has blood relations in a straight up line or straight down line;

2. It is forbidden to do marriage with someone who still has blood relations in a straight line to the side, that is, between someone with relatives from both their parents and someone with relatives from their grandparents;

3. It is forbidden to do marriages with someone who still has a blood relationship that is fine, that is between someone with his stepson, someone with a father or stepmother, or someone with a parent – in - law;

4. It is forbidden to do marriage with someone who is still in a blood relationship, which is between someone with a breastfeeding child, someone with an aunt or uncle, someone with a parent, or someone with a sibling;

5. Do not marry with relatives of a husband or relative of a wife who is still a nephew;

6. Do not marry someone who has a relationship that is prohibited by religious regulations or other regulations.

This is also found in Article 9 and Article 10 of Law Number 1 the Year 1974, which are as follows:

1. Do not marry someone who is still bound by a marriage with another person and is not allowed to do marriage again;

2. Do not marry for a husband and a wife who has experienced divorce twice;

3. It is prohibited to do marriage for a woman who is carrying out a waiting period, whether the marriage is terminated because the divorce or marriage is broken because the husband has passed away.

d. As A Result of The Existence of Marriage According to Law Number 1 of 1974

1. There is a small family, namely a complete household with a husband and a wife who have their respective obligations to form a small family that is part of life in society;

2. A husband has a position as head of the family while a wife has a position as a housewife in the life of a family;

3. A husband and a wife must have a permanent residence for the small family life they form;
4. A husband and a wife must love one another in family life;
5. A husband and a wife must respect one another in family life;
6. A husband and a wife must be faithful to each other in family life;
7. A husband and a wife must help one another in family life;
8. A husband must protect a wife and a wife must fulfill the life needs of a husband.

e. The Concept of Marriage Between Different Religious Couples According to Law Number 1 of 1974

Indonesia is a country that has a very large and very large geographical area, consisting of thousands of islands stretching from the island of Sabang to the island of Merauke. This causes the development of a group or a different society. Between groups, one with another group or between one community and another has differences in terms of religion, culture, language, race, and ethnicity. Therefore, the people in Indonesia can be referred to as pluralistic societies and also as social beings, because the people in Indonesia cannot live alone and always live side by side with other communities that have differences in matters regarding religion, culture, language, race, and also tribe.¹⁷ The pluralistic community life that occurs in Indonesia is inevitable. Especially with modern times like today, community relations in Indonesia are not only limited to a small and also narrow community environment, such as social, cultural, linguistic, racial, and ethnic groups, but also social interaction. More developed and more rapidly developed with each other that can penetrate out of the association between religions, cultures, languages, races, and tribes. One does not need to live directly in an area simply because the person wants to learn about the culture in the area. Someone just needs a sophisticated technology-based tool to be able to learn about a culture in that area.¹⁸

The conditions and situations of community relations in Indonesia such as in this era are things that cause mixed marriages, both inter-religious mixed marriages, inter-ethnic mixed marriages, interracial mixed marriages, and mixed marriages between ethnic groups. Mixed marriages between religions are one of the mixed marriages that have caused a lot of contra among the people in Indonesia.

Because interfaith marriage can cause a fundamental difference in the marriage so that if it happens it is feared that it will cause problems that are difficult to resolve in the future (life after a mixed marriage between religions is done).¹⁹

In Article 56 of Law Number 1 the Year 1974, it is explained that a person who performs a marriage that is of a different religion abroad, then a marriage that is different from the religion is only lawful abroad, but is not legal according to the law. in Indonesia. This is because the different marriages of the religion have violated Article 2 Paragraph (1) of Law Number 1 of 1974 which reads: "A marriage is legal if it is carried out in accordance with the

¹⁷ Andre Jonathan, 2017, *Pernikahan Beda Agama*, Journal of Social and Political Universitas Airlangga, p. 3.

¹⁸ Zaitun Abdullah dan Endra Wijaya, *Efektivitas Pengaturan Masalah Kerukunan Umat Beragama dalam Peraturan Perundang – Undangan di Indonesia*, Journal Pandecta, Unnes, (11)2, p 119.

¹⁹ *Ibid.*, p 362.

laws of each religion and belief." ²⁰ A marriage of a different religion has also violated Article 8 F of Law Number 1 of 1974 which reads: "A marriage is prohibited between two people who have a relationship which by religion and belief or other applicable regulations is prohibited from marrying."

A marriage must meet the regulations contained in Article 2 Paragraphs (1) and Paragraph (2) of Law Number 1 the Year 1974, that is, a marriage must be registered in accordance with the applicable laws and regulations. The purpose of carrying out the marriage record is to make a marriage clearer, both for the husband, the wife, the other side, and also the community. Because a marriage record is the most authentic and most powerful written evidence. Although the registration of marriage is a requirement in the field of administration only.

C. Marriage According to The Compilation of Islamic Law

a. The Concept of Marriage According to The Compilation of Islamic Law

Marriage in Islamic law has been explained in Article 2 of the Compilation of Islamic Law which reads: "Marriage is a very strong process of contractor miitsaqan ghalidhan in order to obey the commands of Allah SWT and do it as worship."

Marriage in Islamic law has a purpose that is in accordance with the Al - Quran statement as a source of Islamic law. This has been explained in QS. Ar - Rum (30): 21 which reads: "Among the signs of the power of Allah SWT is that He created women for men of their own kind so that they felt at peace. Then God makes or makes a feeling of love and affection between them. "

Marriage in Islamic law has a purpose as described in Article 3 Compilation of Islamic Law, which is to shape family life (household) which is *sakinah*, *mawaddah*, and *warohmah*.

b. Pillars and Terms of Marriage According to The Compilation of Islamic Law

Pillars of marriage according to Islamic law are contained in Article 14 Compilation of Islamic Law, namely as follows:

1. Prospective husband;
2. Prospective wives;
3. Guardian of marriage;
4. Two witnesses;
5. Ijab and qabul.

Marriage requirements according to the Compilation of Islamic Law, namely as follows:

1. There is a minimum age limit for doing a marriage;
The minimum age to do marriage for a prospective bridegroom is at least 19 years and for prospective brides a minimum of 16 years.
2. There must be permission from parents for people who want to do marriage and that person is under 21 years old;
3. There is an agreement from the prospective bridegroom and also the prospective bride (Article 6 Paragraph (1) and Paragraph (2) Compilation of Islamic Law);
This means that no one can force a prospective bridegroom and a prospective bride to do a marriage without the consent of both parties. This is found in Article 6 Paragraph (1) and Paragraph (2) Compilation of Islamic Law.

²⁰ Islamiyati, 2016, *Analisis Yuridis Nikah Beda Agama Menurut Hukum Islam di Indonesia*, Journal Undip, (45) 3, p. 1.

4. There is a marriage guardian, namely a man who fulfills the requirements of Islamic law, namely aqil, baligh, and Muslim;
 5. The existence of witnesses, namely a man who is just, aqil, baligh, Muslim, and has no memory problems or hearing problems;
 6. Existence of consent and obedience. Ijab is a will or affirmation that binds itself in the form of a marriage carried out by a woman as a wife to a male husband as a prospective husband. Kabul is a will or affirmation of acceptance that binds itself in the form of marriage carried out by men as potential husbands to women as potential wives.
- c. Prohibition of Marriage According to The Compilation of Islamic Law
- This is contained in Article 39 - Article 44 Compilation of Islamic Law, namely as follows:
1. Not allowed to do a marriage between a man and a woman (Article 39 Compilation of Islamic Law) caused by:
 - a. Because of blood family ties;
 - b. Because of the affinity of a family;
 - c. Because of your brother's relationship.
 2. It is not permissible to do a marriage between a man and a woman in certain circumstances (Article 40 Compilation of Islamic Law) caused by:
 - a. Because a woman is still bound by a marriage with another man;
 - b. A woman who is still in iddah time with another man;
 - c. A woman who is not Muslim.
 3. A husband is forbidden to put his wife together with a woman who has family ties to blood relatives or family ties with a wife (Article 41 Compilation of Islamic Law) caused by:
 - a. Natural siblings or biological siblings and their offspring;
 - b. A woman who has a relationship with her aunt or niece.
 4. A man is not permitted to do marriage with a woman if a man already has four wives and all four are still bound by a marriage with him (Article 42 Compilation of Islamic Law);
 5. Not allowed to do a marriage between a man with (Article 43 Paragraph (1) Compilation of Islamic Law):
 - a. A woman who is a former wife who has been accused three times;
 - b. A woman who is a former wife who has been accused of.
 6. A woman who is Muslim is prohibited from carrying out a marriage with a man who is not Muslim (Article 44 Compilation of Islamic Law).
- d. As A Result of The Existence of Marriage According to The Compilation of Islamic Law
1. The existence of a small family, namely a whole household with a husband and a wife who have their respective obligations to form a small family that is part of life in the community;
 2. A husband has a position as head of the family while a wife has a position as a housewife in the life of a family;
 3. A husband and a wife must have a permanent residence for the small family life they form;

4. A husband and a wife must love one another in family life;
5. A husband and a wife must respect one another in family life;
6. A husband and a wife must be faithful to each other in family life;
7. A husband and a wife must help one another in family life;
8. A husband must protect a wife and a wife must fulfill the life needs of a husband.

e. The Concept of Marriage Between Different Religious Couples According to Islamic Law

Indonesian society is a plurality society, both in terms of religion, ethnicity, and ethnicity. Indonesian people tend to live their lives with differences in society. This can cause interfaith marriages to occur frequently in Indonesia. Whereas in Article 2 Paragraph (1) of Law Number 1 the Year 1974, it is stated that a marriage can be declared valid if in the religious law and the law of belief they also state that the marriage is legal.

Based on the sources of Islamic law, namely: Al - Quran, the Sunnah of the Prophet, and Ijtihad oblige every Muslim to do marriage with people who are also Muslim. So that marriage is a very strong contract to obey the commands of Allah SWT and carry it out as worship with the aim of forming a family that is *sakinah, mawadah, and warohmah*, which is life in families that love each other and love each other to form family life peace. ²¹

Based on Islamic law marriage that is of different religions is a marriage that is strictly prohibited. Al- Quran also clearly regulates matters concerning marital issues. The marriage problem is explained by 85 verses among the 6000 verses contained in the Qur'an. This is explained in QS. Al - Baqarah (2): 221 and QS. Al - Maidah (5): 5, namely as follows:

"And do not marry women who are idolaters before they believe. Surely a Muslim slave girl is better than a polytheistic woman even though she captivates you. And do not marry off idolatrous men (by Muslim women) before they believe. Surely a Muslim slave man is better than a man who is idolatrous even though he captivates your heart." (QS. Al - Baqarah (2): 221).

"For today it's fine for you to be fine. Food (animal slaughter) people who are given the Book are lawful for you, your food is also lawful for them. (and it is permissible to marry) women who always guard honor among women who believe and women who guard honor among people who have been given Al - Kitab before you, if you have paid the dowry for them with the intention not to commit adultery and not to make it a concubine." (QS. Al - Maidah (5): 5).

It can be concluded that marriages of different faiths can only create various problems. Therefore, the majority of the people in Indonesia tend to be contradictory to marriages of different religions. For Muslims who are issued after the issuance and issuance of Presidential Instruction Number 1 of 1991 which discusses the compilation or compilation of Islamic law in Article 44 which explains that interfaith marriages, whether done by a Muslim man with a woman who is not Muslim, has been banned and strongly opposed. In addition, in the Holy Al - Quran the explicit explanation is that marriage between a Muslim and a Muslim woman with a man or an idolatrous woman is strictly prohibited and opposed. These prohibitions and contradictions have been explained in the verses of the Holy Qur'an, namely in the surah Al - Baqarah, surah Al - Mumtahan, and surah An - Nisaa. If the verses are mentioned one by one in detail, namely:

²¹ Neng Djubaedah, Sulaikin Lubis, and Farida Prihatini, *Loc. Cit*, p. 33.

"Don't you all Muslim men marry and undergo marital ties with idolatrous women who worship idols, before they truly believe in Allah SWT, God Almighty, and also believe in the Prophet Muhammad. Indeed a slave woman is one who has a low social status in the opinion of the community, but a slave woman is a Muslim, better than an idolatrous woman even though a polytheist woman can captivate you because she is noble, beautiful, rich, and others. And let not all you trustees marry off idolaters who worship idols, with women who are Muslim, for truly a believer who is a slave is better than a man who is idolatrous even though he can captivate you because he is noble, brave, rich, etc." (Surat Al - Baqarah (2): 221).

"They (Muslim women), are not lawful for them (unbelievers) and they (those who disbelieve) are not lawful (also) for them (Muslim women)." (QS. Al - Mumtahan (60): 10).

In the verses of the Qur'an that have been described above, there is a prohibition for a Muslim woman to marry and undergo a marriage bond with a polytheistic man, as well as a man who is forbidden to marry and undergo a marriage bond with a polytheistic woman. However, in other verses in the Quran it is permissible for a Muslim man to marry and undergo a marriage bond with a woman who is Ahl Al - Kitab, this is explained by the word of Allah SWT which reads:

"And (legalized to marry) women who always maintain their honor among women who believe and women who always keep their honor among people who are given the Al - Book before you." (QS. Al - Maidah (5) : 5).

However, based on the Fatwa of the Indonesian Ulema Council Number 05 / Kep / Munas / II / MUI / 1980 dated July 28, 2005, which discussed the issue of interfaith marriage explained that marriage between a Muslim man and a woman who is Ahl Al - Kitab is not allowed. The fatwa of the Indonesian Ulema Council which forbids the existence of a marriage of a different religion because the loss (mafsadah) received is greater than the profit (maslahah) received. ²² Issued this Fatwa by the Indonesian Ulema Council, because it prohibits a Muslim man and a Muslim woman from marrying and carrying out marital ties with a polytheist. In the Fatwa of the Indonesian Ulema Council, it was also explained for a woman who is a book expert who is allowed to marry a man who is an ordinary Muslim. ²³ This is because interfaith marriages according to the scholars have reached a danger for the growth and development of Muslims, so the opportunity to marry and undergo a marriage bond that is of different religions must be clearly and explicitly prohibited. ²⁴ In addition, the consideration of the Indonesian Ulema Council to issue a fatwa that discusses the prohibition of interfaith marriage is that at this time there are many interfaith marriages in the lives of people in Indonesia so that this can lead to counter - emergence among fellow believers Islam and also cause unrest among people who allow marriage of different religions on the basis of human rights. Therefore, the Indonesian Ulema Council issued a fatwa discussing interfaith marriage is illegal and also illegal. And the marriage of a Muslim man with a woman who is Ahl Al - Kitab is also haram and illegitimate. ²⁵

²² Mohammad Atho Mudzar, *Fatwa – Fatwa Majelis Ulama Indonesia: Sebuah Studi Tentang Pemikiran Hukum Islam di Indonesia 1975 - 1998*, (Jakarta: INIS), p. 100.

²³ *Ibid.*, p. 103.

²⁴ *Ibid.*

²⁵ Ahmad Baso and Achmad Nurcholish, *Loc. Cit.*, p. 208.

So thus it can be concluded, Muslims in Indonesia are not permitted and strictly prohibited from marrying other religious communities unless one party, namely the male or female party, is willing to budge or in the definition, other brides who are not - Muslims enter or move first to Islam. If this has been done, the male and female parties can be married in front of a marriage registration employee from the Office of Religious Affairs (ORA).

Based on the explanation above, Al - Quran explains that Islamic law allows marriage between Muslim men and women who are experts in the book, but Islamic law does not allow marriage between Muslim women and men who are scribes. So that it can be concluded, that interfaith marriage is strictly prohibited and not allowed in Islamic law.

IV. CONCLUSION

Based on Article 2 Paragraph 1 of Act Number 1 of 1974, a legal marriage is a marriage carried out according to the religion and beliefs of each of the two prospective brides. Therefore, if according to religion and belief each of the two prospective brides is considered legitimate, then according to the State marriage is also considered legitimate. Whereas if according to religion and belief each of the two prospective brides is deemed illegitimate, then according to the State marriage is also considered illegal. Based on the results of the literature study, it is explained that every religion in Indonesia does not allow the existence of a marriage of a different religion. This is because every religion in Indonesia wants all its adherents to carry out a marriage that is religious. Therefore, a marriage of a different religion according to Law Number 1 of 1974 is an illegitimate marriage. This is also explained in Article 2 Paragraph 1 of Law Number 1 of 1974 which reads: "Marriage is legal if carried out according to the laws of each religion and its beliefs."

Based on the Compilation of Islamic Law, Al - Quran explains that Islamic law allows marriage between Muslim men and women who are experts in the book, but Islamic law does not allow marriage between Muslim women and men who are scribes. So that it can be concluded, those interfaith marriages are strictly prohibited and not allowed in Islamic law.

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