

THE CONFLICT OF INTERFAITH MARRIAGE NORMS IN INDONESIA BETWEEN LEGAL CERTAINTY AND RESTRICTIONS ON CONSTITUTIONAL RIGHTS

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Abstract

Interfaith marriage in Indonesia represents a complex legal issue situated at the intersection of religious norms, state law, and human rights. This study aims to analyze the normative conflict between Article 2 paragraph (1) of Law No. 1 of 1974 on Marriage and Supreme Court Circular Letter No. 2 of 2023, as well as its implications for constitutional rights. Using a normative juridical method, the study finds that the Constitutional Court consistently upholds a religious-centric approach, while SEMA No. 2/2023 strengthens legal certainty in judicial practice. However, both instruments raise concerns regarding limitations on citizens' rights. Therefore, legal harmonization is necessary to balance legal certainty and constitutional protection.

Keywords: Interfaith marriage, legal certainty, constitutional rights

INTRODUCTION

The Unitary State of the Republic of Indonesia is a state based on the principle of the sovereignty of law, as stated in Article 1 paragraph (3) of the 1945 Constitution (Nasir, 2025). According to Wiryono, the concept of a state based on law means that all implementation of government power must be based on applicable legal provisions (Sunarso, 2020). Indonesian society itself consists of various ethnic backgrounds, nations, and beliefs, thus reflecting a high level of diversity. This diversity also influences the applicable legal system and gives rise to differences in views and patterns of interaction between individuals (Rachelninta, 2025). In the context of religious life, Indonesia recognizes six official religions, namely Islam, Protestant Christianity, Catholicism, Hinduism, Buddhism, and Confucianism (Anggraeni, 2022).

The author believes that as a state based on the rule of law based on Article 1 paragraph (3) of the 1945 Constitution, Indonesia faces challenges in accommodating the diversity of society, particularly in the issue of interfaith marriage. The diversity of religions recognized by the state has implications for the plurality of legal norms, which often gives rise to conflicts between state law and religious law in determining the validity of marriage. Therefore, a legal approach is needed that is able to bridge these differences fairly and provide legal certainty, without ignoring the religious values that exist in society.

Marriage is a fundamental institution in social life. which has social, religious, and legal dimensions, in the context of Indonesian law, regulations regarding marriage are regulated in Law Number 1 of 1974 concerning Marriage (Marriage Law), specifically Article 2 paragraph (1) which states that a marriage is valid if it is carried out according to the laws of each religion and belief. Article 2 paragraph (2) states that each marriage must be registered according to statutory regulations (KUA for Muslims, Population and Civil Registration Service for Non-Muslims), the Marriage Law is legally binding in Indonesia and establishes material and formal requirements, marriage aims to form a lasting family based on the principle of monogamy, where a man may only have one wife and vice versa. Marriage not only binds physical and spiritual bonds, but also creates legal, social, and religious consequences for husbands, wives, and children in society (Supriadi, 2020).

This provision places religion as the primary basis for the validity of a marriage, while simultaneously creating problems in practice, particularly regarding interfaith marriages. Social reality shows that relationships between individuals of different religions do not receive clear legal recognition. The Marriage Law does not explicitly regulate interfaith marriages, but by requiring compliance with religious laws that generally prohibit interfaith marriages, normatively such marriages are difficult for the state to validate. The Compilation of Islamic Law (KHI) expressly prohibits marriage between Muslim men and non-Muslim women, and conversely, unregistered interfaith marriages (*nikah siri*) result in couples lacking legal proof, resulting in legal uncertainty regarding the rights of husband and wife, inheritance, and the status of children. (Bahri, 2020).

This problem is increasingly complex with developments in judicial practice and judicial policy. The Constitutional Court, through its various decisions, consistently maintains the interpretation that the validity of marriage must be based on religious law, so that it implicitly does not provide space for the legalization of interfaith marriages. This approach emphasizes the dominance of religious norms in national marriage law. Supreme Court Circular Letter (SEMA) Number 2 of 2023 provides guidelines for judges not to grant applications for registration of interfaith marriages. This policy is intended to create uniformity in decisions and strengthen legal certainty in judicial practice. However, the existence of SEMA has also given rise to debate because it is considered to further narrow the space for interfaith couples to obtain legal recognition for their marriages.

This condition shows that there is a conflict of norms in the Indonesian legal system, namely between positive legal norms that emphasize legal certainty based on religion and the principle of protecting the constitutional rights of citizens. Every citizen basically has the right to form a family and continue the lineage as guaranteed in the 1945 Constitution, However In practice, these rights are potentially limited by legal provisions that require compliance with religious law. The issue of interfaith marriage is not merely a matter of family law, but also concerns the relationship between state law, religious norms, and the protection of human rights.

This research is important to conduct in order to critically examine the conflict of norms between the Marriage Law and judicial policies, particularly from the perspective of legal certainty and protection of citizens' constitutional rights, in order to find a more harmonious and just legal construction.

RESEARCH METHODS

This research is a normative juridical research, namely research conducted by examining law as a norm, rule and legal principles, legal principles, legal theory, legal doctrine, and other literature to answer the problems studied (Muhaimin, 2020). The approach used is a statute approach by examining related provisions, especially Law Number 1 of 1974 concerning Marriage and Supreme Court Circular Letter Number 2 of 2023. In addition, a conceptual approach is used to analyze the concept of norm conflict, legal certainty, and constitutional rights. Legal materials consist of primary, secondary, and tertiary legal materials collected through library research. The analysis is carried out qualitatively using legal interpretation methods, especially systematic and constitutional interpretation.

RESULT AND DISCUSSION

A. Conflict of Norms in the Legal Regulation of Interfaith Marriage in Indonesia

The issue of interfaith marriage in Indonesia is a complex legal issue because it lies at the intersection of state law, religious law, and the social realities of a pluralistic society. Regulations regarding the validity of marriages, which require compliance with the respective religious laws of each party, often give rise to differences in interpretation and practice. This situation gives rise to normative conflicts, both between statutory regulations and between positive law and societal needs. Discussion of normative conflicts in the legal regulation of interfaith marriage is crucial for analyzing to understand the root of the problem and find solutions that provide legal certainty and justice.

The legal regulation of marriage in Indonesia is based on Law Number 1 of 1974 concerning Marriage which places religion as the basis for the validity of a marriage, Article 2 paragraph (1) of the Law states that a marriage is valid if it is carried out according to the laws of each religion and belief, Article 2 paragraph (2) regulates the obligation to register a marriage as a form of administrative recognition by the state. Article 2 paragraph (1) emphasizes that religious/belief law is the material determinant of the validity of a marriage, while Article 2 paragraph (2) requires administrative registration by the state to provide legal certainty. (Nugraha, 2013).

Religiously valid (Article 2 paragraph 1), a marriage is valid if it is carried out according to the laws of each religion and its beliefs, administratively valid (Article 2 paragraph 2), each marriage is recorded according to the applicable laws and regulations, this registration aims to provide state recognition and protection for the marriage relationship. There appears to be a dualism of norms between religious law and state law, on the one hand the state submits the validity of marriage to religious law (*religio-centric approach*), on the other hand, the state also requires registration as a form of legal recognition. This dualism is

the starting point for the emergence of normative conflicts, especially in the context of interfaith marriages (Lessnussa & Hadiati, 2023).

Registration by the state (KUA for Muslims, Disdukcapil for Non-Muslims) is required as legal evidence, legal protection, and state recognition. The state leaves the validity of a marriage to religious teachings (*religio-centric*), but requires official registration as a legal requirement. Interfaith marriages often cannot fulfill the requirements of Article 2 paragraph (1) because many religions in Indonesia do not recognize or facilitate interfaith marriages, so they cannot be registered (Article 2 paragraph 2). The implication of an unregistered marriage is that the couple is considered not to have a valid marriage bond in the eyes of the state, which has an impact on the legal status of children, joint property, and inheritance. (Lessnussa & Hadiati, 2023).

The conflict of norms occurs because there is no explicit regulation regarding interfaith marriage in the Marriage Law, the existing norms are implicit, thus giving rise to multiple interpretations, on the one hand, these provisions can be interpreted as not prohibiting interfaith marriage, but on the other hand, because religious law generally does not allow interfaith marriage, in practice, such marriages cannot be legalized. The conflict is increasingly evident in judicial practice, before the issuance of SEMA Number 2 of 2023, there were disparities in decisions in various district courts.

Some courts have granted applications for interfaith marriage registration through decrees, exploiting loopholes in population administration law, but others have rejected them, adhering to the provisions of the Marriage Law (Yonathin & Gunadi, 2025). The Surakarta District Court Decisions Number 384/Pdt.P/2022/PN Skt, the Surabaya District Court Decision Number 916/Pdt.P/2022/PN Sby, and the North Jakarta District Court Decision Number 423/Pdt.P/2023/PN Jkt.Utr granted interfaith marriage registration. These decisions are based on Article 35 letter a of Law No. 23 of 2006 concerning Population Administration (Adminduk Law), which permits marriage registration determined by the court.

Supreme Court (MA) Decision Number 1400 of 1986 as jurisprudence to grant interfaith marriages, considering that interfaith marriages have not yet received legal certainty and clear regulations from positive law in Indonesia. The Civil Registration Law also supports this jurisprudence by granting authority to the Civil Registry Office to conduct interfaith marriages, in Article 35 of the Civil Registration Law it is stipulated that the provisions for registering marriages as referred to in Article 34 of the Law also apply to marriages determined by the court. (Effendy & Leonard, 2024). This practice creates disparity in decisions, where some courts grant, while others reject similar requests by adhering to the provisions of the Marriage Law, this condition indicates a horizontal norm conflict between the Marriage Law and the Civil Registration Law, as well as a vertical norm conflict in the practice of implementation by judicial institutions.

Article 35 of the Civil Registration Law further explains that a marriage decreed by a court here means a marriage between people of different religions. The presence of Article 35 of the Civil Registration Law provides a way for prospective husband and wife who adhere to different religions and beliefs to carry out marriage through a court order. Through the law issued by the court, the marriage registrar has the legal basis to register the interfaith marriage. (Effendy & Leonard, 2024). Conflicts in norms do not only occur between religious law and state law, but also between norms in the Marriage Law and administrative law practices and judges' interpretations. This indicates a lack of synchronicity in the legal system which has an impact on legal uncertainty for society.

The Supreme Court has issued SEMA Number 2 of 2023, which explicitly instructs judges not to grant applications for registration of interfaith marriages. This SEMA was issued to guarantee legal certainty so that marriages are conducted according to each person's religion, in accordance with Article 2 paragraph (1) of the Marriage Law. SEMA Number 2 of

2023 contradicts the jurisprudential practice of the Supreme Court Number 1400 of 1986 and the Explanation of Article 35 letter a of the Population Administration Law which previously opened up space for registration with a court order. The Constitutional Court through various decisions, such as Decision Number 68/PUU-XII/2014, Number 24/PUU-XX/2022, and Number 146/PUU-XXII/2024, consistently affirms that Article 2 paragraph (1) of the Marriage Law is constitutional. The Court considers that this norm is a reflection of the basic values of the Indonesian nation which are based on the One Almighty God.

Constitutional Court Decision Number 68/PUU-XII/2014 is the initial basis for rejecting the material review of Article 2 paragraph (1) of the Marriage Law, the Constitutional Court stated that a marriage is valid if it is carried out according to the laws of each religion, thus prohibiting interfaith marriages. Constitutional Court Decision Number 24/PUU-XX/2022 reaffirms its position on the previous decision (68/PUU-XII/2014) that interfaith marriages are not legally recognized, because they are considered to violate the principles of the constitutionality of marriage. Constitutional Court Decision Number 146/PUU-XXII/2024 is the latest decision that reaffirms the consistency of the Constitutional Court, even though the applicant submitted a new argument, the Constitutional Court still holds that marriage must be based on religious law, and does not recognize interfaith marriages.

This problem resurfaced in the case of the material test of Article 2 paragraph (1) of the Marriage Law through Case Number 212/PUU-XXIII/2025, the applicant considered that the norm created legal uncertainty and limited the constitutional rights of citizens to marry, the issuance of SEMA Number 2 of 2023 further emphasized the prohibition on registration of interfaith marriages by the courts, thus giving rise to debate whether the policy provided legal certainty or actually strengthened the restriction of rights. Case Number 212/PUU-XXIII/2025 concerning the material test of Article 2 paragraph (1) of the Marriage Law regarding interfaith marriages has been decided by the Constitutional Court On February 2, 2026, the decision rejected the applicant's application in its entirety. With the rejection of this application, interfaith couples in Indonesia will still not be able to legally register their marriage according to state law if they do not follow the law of one of the couple's religions. (Victoria, 2026).

The Constitutional Court in Decision 212/PUU-XXIII/2025 reaffirmed its position that a valid marriage is a marriage conducted according to the laws of each religion and belief, in accordance with Article 2 paragraph (1) of Law No. 1 of 1974. The Constitutional Court considered the Article to be constitutional and not an absolute prohibition, but rather a mandate to fulfill the legal requirements of religious law. The Constitutional Court stated that the Supreme Court Circular Letter (SEMA) Number 2 of 2023, which prohibits judges from granting applications for registration of interfaith marriages, is not an object of constitutionality of the law that can be assessed by the Constitutional Court, and the SEMA remains valid as a technical guide for the judiciary (Victoria, 2026).

The applicant believes that the regulation (Marriage Law and SEMA 2/2023) creates legal uncertainty, limits citizens' constitutional rights to marry, and is discriminatory. Prior to SEMA, interfaith couples could register their marriages through a District Court ruling. The Constitutional Court considers SEMA 2/2023 necessary to provide legal certainty and unify judicial practices to avoid disparities in decisions (previously some District Courts granted, others rejected). This policy is considered in line with previous Constitutional Court decisions (Number 68/PUU-XII/2014, 24/PUU-XX/2022, 146/PUU-XXII/2024) (Victoria, 2026).

Decision Number 212/PUU-XXIII/2025 reaffirms the constitutionality of Article 2 paragraph (1) of the Marriage Law which states that the validity of marriage is based on the law of each respective religion, the Court is of the opinion that this norm does not conflict with the 1945 Constitution and remains relevant as the basis for the legality of marriage in

Indonesia. The conflict of norms that occurred shows the disharmony in the national legal system, especially between the religio-centric approach adopted in the Marriage Law and the principle of protecting the constitutional rights of citizens.

The Constitutional Court's affirmation of the constitutionality of Article 2 paragraph (1) does provide legal certainty, but on the other hand, it has the potential to limit individual freedom in determining a life partner, meanwhile SEMA Number 2 of 2023 as a judicial policy actually strengthens this restrictive approach, this condition shows that the legal certainty that is built tends to be formalistic and has not fully accommodated the principles of substantive justice and protection of human rights.

B. Legal Certainty or Restriction of Constitutional Rights

The regulations regarding interfaith marriage in Indonesia show a fundamental tension between the state's efforts to create legal certainty and the constitutional obligation to protect human rights. This tension arises especially in the application of Article 2 paragraph (1) of the Marriage Law which places religious law as the basis for the validity of a marriage, as well as its implications for the constitutional rights of citizens as guaranteed in the 1945 Constitution.

The right to marriage is also constitutionally recognized in Article 28B Paragraph (1) of the 1945 Constitution which states that: "Everyone has the right to form a family and continue their lineage through a legal marriage." This article emphasizes the importance of recognizing the individual's right to form a family and continue their lineage through a legal marriage as part of fundamental human rights. This provision provides a strong legal basis for protecting and respecting family rights within the framework of the Indonesian constitution (Kurniawan, Refiasari, & Ramadhani, 2023).

Article 28D paragraph (1) of the 1945 Constitution (Legal Certainty), This article demands fair legal protection and certainty, but in the context of interfaith, there is a contradiction with the Marriage Law which stipulates the validity of marriage based on the laws of each religion. Article 28D paragraph (1), emphasizes that the state is obliged to respect this civil right, the Constitutional Court emphasized that the validity of marriage is based on religious law/belief, according to Constitutional Court Decision Number 146/PUU-XXII/2024. The Constitutional Court emphasized that marriages that are not based on religious provisions cannot be recognized as valid, interfaith marriages are often hampered by different pillars of marriage (religious requirements). As a result, interfaith marriages often do not have legal guarantees/certainty and are difficult to register at the Population and Civil Registration Office (Kurniawan, Refiasari, & Ramadhani, 2023).

Article 2 paragraphs (1) and (2) of the Marriage Law have direct implications for interfaith marriages, where couples from different religious backgrounds often face obstacles in legally carrying out their marriages according to state law (Kurniawan, Refiasari, & Ramadhani, 2023). The construction of norms in the Marriage Law actually places the validity of a marriage entirely on the religious law of each party, without providing space for interfaith marriages. As a result, the state indirectly limits citizens' access to the right to marry if they do not meet certain religious requirements.

Article 2 Paragraph (1) of the Marriage Law was once subject to a material review because the requirement that couples who wish to marry be interpreted as requiring the same religion, was deemed to be in conflict with the constitutional rights guaranteed by the 1945 Constitution, including the right to freedom of religion, freedom to believe in beliefs, the right to form a family, and the right to equal treatment before the law. The Constitutional Court rejected the request for material review, on the grounds that the Marriage Law does not hinder the freedom of individuals to choose their religion or beliefs, but only regulates marriages that are valid according to each person's religion and beliefs. The Constitutional Court also emphasized that these rights remain guaranteed by the 1945 Constitution and there have been

no changes in conditions that affect the validity and registration of marriages (Runtu, Lolong, & Rawung, 2025).

This situation demonstrates a shift from the concept of legal certainty, which initially served as an instrument for protecting citizens' rights, to a more restrictive one. In this context, the state no longer merely guarantees legal certainty but also indirectly limits individual choices by internalizing religious norms into positive law. The resulting legal certainty is illusory, as it emphasizes procedural aspects over substantive justice for interfaith couples.

Gustav Radbruch's thinking emphasizes that law aims to achieve three things, namely Legal Certainty (*Rechtssicherheit*), Justice (*Gerechtigkeit*) which focuses on equality and human rights, and Benefit (*Zweckmabigkeit*) which focuses on the usefulness of law for society. Pseudo -Legal Certainty, the resulting certainty is pseudo because it is only formalistic. According to Radbruch's view, laws that are too rigid and ignore substantive justice will lose their moral legitimacy, the dominance of this pseudo-legal certainty causes the state to appear to provide certainty, when in fact it is limiting individual human rights (Rahardjo, 2012).

The concept of pseudo-legal certainty in this context can be analyzed through the thoughts of Gustav Radbruch who emphasized the tension between legal certainty focused on legal positivism, namely clear written rules (in this case the Marriage Law), with justice that focuses on equality and human rights, and utility that focuses on the usefulness of law for society. According to Radbruch, laws that solely emphasize formal certainty without considering substantive justice have the potential to lose their moral legitimacy. The regulation of interfaith marriage is only oriented towards normative certainty based on religion, but ignores individual constitutional rights, reflecting the dominance of legal certainty that is not balanced with justice.

Lon L. Fuller's view on *the Inner Morality of Law* is also relevant to explaining this phenomenon. Fuller stated that a legal system must fulfill internal moral principles, such as clarity, consistency, and non-contradictory principles (Muklis, 2025). The context of disharmony between the Marriage Law, judicial practice, and administrative regulations such as the SEMA indicates a normative inconsistency that actually weakens legal certainty itself. The resulting legal certainty is not true certainty, but rather a pseudo-certainty because it is not in line with the principles of justice and legal morality.

The rejection of interfaith marriages was strengthened by the issuance of SEMA Number 2 of 2023, which prohibits judges from approving the registration of marriages between couples of different religions and beliefs, this policy reflects strict legal restrictions on interfaith marriages, limiting the types of marriages that can be officially registered. The rejection of applications for registration of marriages between couples of different religions and beliefs has become a polemic because it is considered to be in conflict with Law Number 23 of 2006 concerning Population Administration (Adminduk Law). This law essentially stipulates that marriages determined by the court, including those between people of different religions or beliefs, must be registered (Runtu, Lolong , & Rawung, 2025).

When viewed from Article 7 of Law Number 12 of 2011 concerning the Formation of Legislation, SEMA is not included in the hierarchy of existing legislation. This hierarchy is: (1) The 1945 Constitution of the Republic of Indonesia; (2) Decrees of the People's Consultative Assembly; (3) Laws/Government Regulations in Lieu of Laws; (4) Government Regulations; (5) Presidential Regulations; (6) Provincial Regulations; and (7) Regency/City Regulations. Although SEMA is not included in the hierarchy of legislation, SEMA is classified as another type of regulation as regulated in Article 8 of Law Number 12 of 2011 (Muharrir & Zulfikar, 2023).

SEMA is included in the internal policy instruments of judicial institutions that have internal binding power, but does not include statutory regulations that have general binding power (*erga omnes*) as explained in Article 8 paragraph (2) of Law Number 12 of 2011. When viewed with the principle of *Lex Superior Derogat Legi Inferiori*, the position of SEMA in the hierarchy of statutory regulations is below the Law. This is because SEMA is formed by the Supreme Court which is a judicial institution, not through a legislative institution (Muharir & Zulfikar, 2023).

The Supreme Court Circular Letter explicitly prohibits courts from granting applications for registration of interfaith marriages. Normatively, this measure is intended to create uniformity in decisions and avoid disparities at the judicial level. However, from a human rights perspective, this policy actually closes the only legal path previously available for interfaith couples to obtain state recognition. Supreme Court Circular Letter No. 2 of 2023 not only functions as an instrument for enforcing legal certainty, but also as a form of administrative restriction on citizens' constitutional rights. This raises serious problems, considering that hierarchically, the Supreme Court Circular Letter (SEMA) is not a statutory regulation that should be able to limit constitutional rights guaranteed by the 1945 Constitution.

The theory of human rights restrictions, every restriction on constitutional rights must fulfill the principles of *Legality* (regulated in law), *Legitimate aim* (legitimate purpose) and *Necessity and proportionality* (proportional and necessary) (Yuliana, 2025). These principles also have a constitutional basis in Article 28J paragraph (2) of the 1945 Constitution, which states that the implementation of the rights and freedoms of every person can only be limited by law and solely to guarantee recognition and respect for the rights and freedoms of others, and to fulfill the demands of justice in accordance with moral considerations, religious values, security, and public order in a democratic society. Every restriction on the constitutional rights of citizens must be carried out proportionally, necessary, and have a legitimate purpose, and must not exceed the limits that result in the loss of the essence of these rights (Rahmatullah, Yasniwati, & Fitri, 2026).

Restrictions on interfaith marriage in Indonesia do not fully meet these principles. First, these restrictions are not explicitly formulated in statutory norms, but rather are the result of an interpretation of Article 2 paragraph (1) of the Marriage Law. Second, the purpose of restrictions based on religious values is not necessarily relevant in the context of a pluralistic state based on the rule of law. Third, these restrictions are disproportionate because they close off all legal alternatives for interfaith couples (Effendy & Leonard, 2024).

For interfaith couples, this provision creates a dilemma, as they want to exercise their human right to marry, but on the other hand, they are faced with limitations stipulated in the Marriage Law. Interfaith couples seek various ways to circumvent the legal provisions. Those with financial means choose to marry and register their marriage abroad, while couples without such access often temporarily convert to their religion to meet the registration requirements in Indonesia. Some also seek court orders or conduct religious marriages without official registration; these practices reflect a discrepancy between legal norms and social reality (Afda'u, Prasetyo, & Saryana, 2024).

The Constitutional Court, in its various decisions, has consistently maintained that the validity of marriage must be based on religious law. This stance demonstrates a ***religio-legalistic approach***, in which state law is not fully autonomous but rather subject to religious norms. While this approach is understandable in the sociological context of Indonesia as a religious nation, from a constitutional perspective, it raises questions about the state's position in guaranteeing the rights of citizens who fall outside the framework of the majority religious norms.

The conflict between legal certainty and the protection of constitutional rights in the regulation of interfaith marriages is basically a reflection of the tug of war between three main interests, namely:

1. The state's interest in maintaining religious-based legal order,
2. Individual interests in exercising constitutional rights,
3. Social interests in maintaining the moral and religious values of society.

In the current legal configuration, it is seen that the first and third interests are more dominant than individual interests, as a result the state tends to sacrifice the protection of constitutional rights in order to maintain legal certainty of a normative-formal nature (Aji, Saputra, Laksono, & Irawan, 2025).

The Constitutional Court is of the opinion that these restrictions are a logical consequence of a legal system that makes religion the basis for the validity of marriage. The Constitutional Court considers that the state does not explicitly prohibit interfaith marriage, but only requires the fulfillment of religious provisions. The regulation of interfaith marriage in Indonesia, including through SEMA No. 2 of 2023, has indeed succeeded in creating legal certainty in a formal sense, but at the same time has the potential to limit citizens' constitutional rights substantively. The resulting legal certainty does not fully reflect justice, thus giving rise to an urgent need to reformulate legal norms that are more inclusive, adaptive, and oriented towards protecting human rights.

CONCLUSIONS

The regulation of interfaith marriage in Indonesia shows a conflict of norms between Law Number 1 of 1974 concerning Marriage and Law Number 23 of 2006 concerning Population Administration, as well as in judicial practice strengthened through Supreme Court Circular Letter (SEMA) Number 2 of 2023. This conflict not only reflects disharmony in the national legal system, but also creates legal uncertainty for interfaith couples in obtaining state recognition of their marriage. The legal certainty that is built tends to be formalistic, with an emphasis on compliance with religious norms as a requirement for the validity of marriage, but has not fully paid attention to aspects of substantive justice and protection of individual rights.

From a constitutional perspective, this situation has the potential to limit citizens' rights, particularly the right to form a family, as guaranteed by the 1945 Constitution. These restrictions also fail to fully meet the principles of human rights restrictions, such as legality, legitimate purpose, and proportionality. As a result, a clear tension arises between legal certainty and substantive justice, where laws that should provide protection actually become instruments of restriction for certain social groups, particularly interfaith couples.

Recommendations that can be submitted include the need for reformulation of Law Number 1 of 1974 concerning Marriage to be more inclusive of the reality of a pluralistic society, accompanied by harmonization between Law Number 1 of 1974 concerning Marriage and Law Number 23 of 2006 concerning Population Administration to avoid norm conflicts that create legal uncertainty. In addition, Supreme Court Circular Letter (SEMA) Number 2 of 2023 needs to be evaluated so that it does not become an instrument limiting the constitutional rights of citizens, and the state needs to develop more adaptive and progressive legal regulations, including opening up more inclusive legal recognition options for interfaith marriages within the framework of human rights protection and the principles of a state based on law that upholds justice.

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