

# **DYNAMICS OF REGULATION AND IMPLEMENTATION OF INTERFAITH MARRIAGES IN NO. FOLLOWING THE SUPREME COURT CIRCULAR NO. 2 OF 2023**

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## ***Abstract***

*The legal regulation of interfaith marriages in Indonesia has undergone significant changes with the issuance of Supreme Court Circular Letter (SEMA) Number 2 of 2023. This SEMA aims to provide legal certainty and protect the rights of individuals wishing to conduct interfaith marriages. This study analyzes the impact of the SEMA on the regulation and practice of interfaith marriages in Indonesia and identifies the obstacles and challenges faced in its implementation. The research method used is normative juridical with a statutory approach, legal document analysis, and case studies. The results show that although SEMA Number 2 of 2023 provides clearer guidelines, its implementation faces various challenges, including resistance from religious communities, limited understanding by legal officials, and administrative and technical aspects. Therefore, collaborative efforts between the government, law enforcement officials, religious leaders, and the community are needed to ensure that these guidelines can be applied effectively and fairly.*

*Keywords: interfaith marriage, supreme court circular letter number 2 of 2023, marriage law*

## **1. Introduction**

Interfaith marriage in Indonesia has long been a complex and controversial issue. The Constitution of the Republic of Indonesia guarantees the freedom of religion and the right to worship according to each individual's religion and beliefs. However, in practice, the regulations regarding interfaith marriage often spark debates between state law and prevailing religious norms. Marriages involving couples from different religions frequently encounter obstacles, both administratively and socially.

Before the issuance of Supreme Court Circular (SEMA) Number 2 of 2023, regulations regarding interfaith marriage were governed by Law Number 1 of 1974 on Marriage and other regulations related to civil administration. Article 2, paragraph 1 of Law Number 1 of 1974 states that a marriage is valid if it is conducted according to the laws of the respective religion and belief of the couple. This provision often causes confusion and legal uncertainty for interfaith couples wishing to marry. This situation is further complicated by the varied interpretations of marriage registrars across different regions.

For years, interfaith couples wishing to marry in Indonesia have had to resort to various measures to overcome these legal hurdles, including marrying abroad or converting to another religion to meet administrative requirements. These actions often lead to new problems, both personal and legal, and impact the legal status of their marriage in Indonesia.

Supreme Court Circular Number 2 of 2023 was issued in response to the various challenges and legal issues arising from interfaith marriage. This circular provides clearer guidelines for the courts in handling interfaith marriage cases, with the aim of providing legal certainty and protecting the rights of individuals wishing to enter into interfaith marriages. In this circular, the Supreme Court emphasizes that the courts may grant a dispensation to allow interfaith marriages if both parties have obtained permission from their respective religious leaders.

This study aims to analyze the legal regulation of interfaith marriage in Indonesia following the issuance of SEMA Number 2 of 2023. The research method used is normative legal research with a focus on legislation and legal document analysis. The main focus of this study is to understand the impact of this circular on legal practice and legal certainty in interfaith marriages in Indonesia.

Additionally, this study identifies various challenges faced in the implementation of the circular, including resistance from certain religious communities and the limited understanding of law enforcement officials regarding the new guidelines. The study also explores comparisons with other countries facing similar issues and how they have resolved them.

Through this research, it is hoped to contribute to the development of legal science, particularly in the field of marriage law, and to provide recommendations for improving the legal regulations regarding interfaith marriage in Indonesia. The implications of this research are expected to contribute to efforts to enhance legal certainty and protect the rights of individuals in interfaith marriages in Indonesia.

## **2. Methodology**

This research employs a normative juridical research method, focusing on the study of applicable legal norms. Normative juridical research is an approach that emphasizes the analysis of legislation, legal doctrines, and court decisions to examine existing legal issues.

The approaches used in this research include the statutory approach, the case approach, and the conceptual approach. The statutory approach is utilized to examine various regulations governing interfaith marriage in Indonesia, including Law Number 1 of 1974 on Marriage and Supreme Court Circular Number 2 of 2023. The case approach involves analyzing relevant court decisions related to interfaith marriage to understand the application of law in practice. The conceptual approach is used to study the legal concepts underlying the regulation of interfaith marriage, such as freedom of religion and legal certainty.

The data used in this research consist of primary and secondary data. Primary data include legislation and court decisions, while secondary data consist of books, academic journals, and other documents relevant to the research topic. Data collection is conducted through literature review and documentation. Data analysis is carried out qualitatively by interpreting and examining the content of legislation, court decisions, and legal literature collected. The results of this analysis are then systematically compiled to address the issues formulated in this research.

## **3. Discussion**

### **A. Changes in Legal Regulations Regarding Interfaith Marriage in Indonesia After the Issuance of Supreme Court Circular Number 2 of 2023**

The legal regulations regarding interfaith marriage in Indonesia have undergone various changes over time. Before the issuance of Supreme Court Circular (SEMA) Number 2 of 2023, the legal regulation of interfaith marriage was governed by Law Number 1 of 1974 on Marriage. Article 2, paragraph 1 of Law Number 1 of 1974 states that a marriage is valid if it is conducted according to the laws of the respective religion and belief of the couple. This provision often led to confusion and legal uncertainty for interfaith couples wishing to marry, given that not all religions recognize or permit interfaith marriages.

In practice, couples seeking to marry a partner of a different religion often face various obstacles. Some couples choose to marry abroad, where the regulations on interfaith marriage are more flexible. Additionally, some couples undergo religious conversion to meet the administrative requirements for marriage, although this action can lead to moral and ethical dilemmas.

The issuance of SEMA Number 2 of 2023 is a response to the various legal challenges and issues faced by interfaith couples in Indonesia. This circular aims to provide clearer guidelines for the courts in handling interfaith marriage cases and to enhance legal certainty for the public. SEMA Number 2 of 2023 emphasizes that courts may grant dispensation for interfaith marriage if both parties have obtained permission from their respective religious leaders.

This change in legal regulation brings several important implications. First, the clearer guidelines from the Supreme Court provide more certain direction for law enforcement officials in handling interfaith marriage cases. This is expected to reduce the varied interpretations among courts and marriage registration officials, which previously often led to confusion and uncertainty for couples wishing to marry. Second, with this SEMA, it is hoped that better protection will be provided for the rights of individuals wishing to enter into interfaith marriages. The legal certainty resulting from this circular ensures that their marriage is recognized as valid by the state, despite the religious differences between the couple. This is crucial to avoid discrimination and unfair treatment that interfaith couples often experience.

However, the implementation of SEMA Number 2 of 2023 also faces various challenges. One of the main challenges is resistance from certain religious communities that may have strong views against interfaith marriage. Additionally, there remains a lack of understanding and acceptance from law enforcement officials regarding this new guideline, which can affect the effectiveness of its implementation in the field.

Furthermore, the harmonization between legislation and the religious norms prevailing in Indonesia remains a challenge that needs attention. Although SEMA Number 2 of 2023 provides clearer guidelines, efforts are still needed to ensure that all parties involved understand and accept this change in the interest of legal certainty and justice for interfaith couples. Thus, the changes in legal regulations regarding interfaith marriage following the issuance of SEMA Number 2 of 2023 represent a significant step forward in providing legal certainty and protecting individual rights. However, the success of its implementation largely depends on the acceptance and understanding of all parties involved, including law enforcement and the broader community.

## **B. Obstacles and Challenges in Implementing Supreme Court Circular Number 2 of 2023 on Interfaith Marriage in Indonesia**

Although Supreme Court Circular (SEMA) Number 2 of 2023 brings a fresh perspective to the legal regulation of interfaith marriage in Indonesia, its implementation does not come without

various obstacles and challenges. Some of the main issues that have arisen in relation to the implementation of this SEMA include resistance from religious communities, limited understanding among law enforcement officials, as well as administrative and technical aspects that need to be addressed.

One of the primary obstacles in implementing SEMA Number 2 of 2023 is the resistance from certain religious communities. Some religious leaders still firmly believe that interfaith marriage should not be permitted. This is particularly true in religions with strict rules regarding marriage, such as Islam and Catholicism. The conservative stance of some religious leaders can hinder the process of obtaining the necessary permissions as outlined in the SEMA.

Another significant obstacle is the limited understanding and acceptance of the new guidelines set forth in SEMA among law enforcement officials. Many officials at the district court level and marriage registrars are still not fully aware of the procedures and new provisions stipulated in SEMA Number 2 of 2023. This often results in delays in the application and approval process for interfaith marriages, leading to uncertainty for couples wishing to marry.

On the administrative side, the implementation of this SEMA also faces various technical challenges. One of these is the issue of documentation and record-keeping, which must be done meticulously to ensure that all procedures are followed according to the regulations. Many couples experience difficulties in meeting the administrative requirements, such as obtaining permission from religious leaders or completing the necessary documents. Additionally, differences in interpretation and application of the rules across different regions add to the complexity of this issue.

Legal implementation in Indonesia is often influenced by regional differences in interpretation. This also applies to SEMA Number 2 of 2023. Some regions may have more progressive officials who are eager to implement these guidelines, while others may be more conservative and reluctant to do so. This inconsistency can result in inequality for interfaith couples wishing to marry, depending on their location.

The lack of socialization and education regarding SEMA Number 2 of 2023 is also a major obstacle. Many people are still unaware of this new guideline, so they do not realize that there is a legal path they can take to marry legally despite religious differences. The suboptimal socialization efforts lead many couples to choose alternative routes that do not always offer the same legal certainty.

In addition to legal and administrative obstacles, social stigma and discrimination against interfaith couples remain strong in some communities. This can add significant psychological and social burdens on couples wishing to marry. Discrimination from family, friends, and the surrounding community can be a major hindrance that influences the couple's decision to proceed with their marriage.

To address these obstacles and challenges, a collaborative effort is needed between the government, law enforcement officials, religious leaders, and the community. The government needs to increase socialization and education about SEMA Number 2 of 2023 through various media, including seminars, workshops, and public campaigns. Law enforcement officials need to receive special training to understand and correctly implement the new guidelines. Additionally, dialogue between the government and religious leaders needs to be intensified to reach a mutual understanding and reduce resistance.

Thus, although SEMA Number 2 of 2023 has provided clearer guidelines for the regulation of interfaith marriage, its implementation still faces various obstacles and challenges. Ongoing efforts are required to ensure that these guidelines can be applied effectively and fairly, allowing interfaith couples to marry with legal certainty and protection of their rights.

#### **4. Conclusion**

The Supreme Court Circular (SEMA) Number 2 of 2023 represents a significant step in the legal regulation of interfaith marriage in Indonesia. By providing clearer guidelines, this SEMA aims to offer legal certainty and protect the rights of individuals who wish to enter into interfaith marriages. This change is crucial to addressing the uncertainty that has long faced interfaith couples seeking to marry in Indonesia. However, the implementation of SEMA Number 2 of 2023 is not without its challenges. Resistance from certain religious communities, limited understanding among law enforcement officials, and administrative and technical aspects are the main obstacles in the execution of these guidelines. Additionally, differences in interpretation across regions, insufficient socialization and education about the new guidelines, and social stigma and discrimination against interfaith couples further complicate its implementation.

To overcome these challenges, a collaborative effort is required between the government, law enforcement officials, religious leaders, and the community. Increasing socialization and education about SEMA Number 2 of 2023, providing specialized training for law enforcement officials, and fostering dialogue between the government and religious leaders are necessary steps to ensure that these guidelines can be applied effectively and fairly.

Although SEMA Number 2 of 2023 has provided a more definite direction in the regulation of interfaith marriage, the success of its implementation largely depends on the acceptance and understanding of all parties involved. With sustained efforts, it is hoped that interfaith couples will be able to marry with legal certainty and protection of their rights, thereby creating justice and equality for all Indonesian citizens.

#### **5. References**

- Ali, A., & Heryani, W. (2012). *Asas-Asas Hukum Perdata Islam di Indonesia*. Jakarta: Kencana Prenada Media Group.
- Astuty, R. R., & Sudarno. (2021). "The Implementation of Law For TNI Soldiers as a Perpetrator of Desertion Crimes." *Proceedings of the First International Conference on Economics, Business and Social Humanities, ICONES 2020*, November 4-5, 2020, Madiun, Indonesia.
- Batara, A. G., et al. (2023). "Analysis of Commander Authorities to Punish Subordinates in the Implementation of Disciplinary Legal Sanctions Against Soldiers Who Violate Discipline Regulations." *Rechtsnormen Journal of Law*, 1(4), 172-178.
- Christy, G., Lumentut, L., Daud, M., & Baho, D. (2021, February). "The Phenomenon of Terrorism Crime and the Development of Technology in the Perspective of Human Rights." *Proceedings of the First International Conference on Economics, Business and Social Humanities, ICONES 2020*, November 4-5, 2020, Madiun, Indonesia.

- Daud, M., & Christy, G. P. (2022, June). "Representation Of Price 'Nego Cincai' On Bukalapak Advertising (Semiotic Analysis of Charles Sander Pierce)." WICSTH 2021: Proceedings of the 1st Warmadewa International Conference on Science, Technology and Humanity, WICSTH 2021, 7-8 September 2021, Denpasar, Bali, Indonesia (p. 417). European Alliance for Innovation.
- Marzuki, P.M. (2005). *Penelitian Hukum*. Jakarta: Kencana Prenada Media Group.
- Moleong, L.J. (2002). *Metodologi Penelitian Kualitatif*. Bandung: Remaja Rosdakarya.
- Muhadar, N., Astuty, R. E. W., & Maisan, I. (2024). "Sanksi Pidana bagi Anggota Tentara Nasional Indonesia yang Melakukan Tindak Pidana Kekerasan dalam Rumah Tangga (KDRT) di Wilayah Peradilan Militer III/16 Makassar." *Paulus Legal Research*, 2(2), 20-41.
- Patiung, N., Arrang, H., & Sudarno, S. (2021, December). "Semantic Analysis of Government Regulations of South Sulawesi on Health Protocols During the Pandemic Covid-19." *International Congress of Indonesian Linguistics Society (KIMLI 2021)*, pp. 116-127. Atlantis Press.
- Soekanto, S., & Mamudji, S. (2001). *Penelitian Hukum Normatif: Suatu Tinjauan Singkat*. Jakarta: Raja Grafindo Persada.
- Sparringa, M. R. R., Salim, A., & Timbonga, Y. Th. (2021). "Efektivitas Penanggulangan Tindak Pidana Korupsi Melalui Penjatuhan Pidana Minimal di Pengadilan Negeri Makassar." *Paulus Legal Research*, 1(1).
- Sudarno, & Astuty, R. E. W. (2021). "The Implementation of Law For TNI Soldiers as a Perpetrator of Desertion Crimes." *Proceedings of the First International Conference on Economics, Business and Social Humanities, ICONES 2020*, pp. 1-14. European Union Digital Library.
- Sudarno. (2022). "Pidana Pelayanan Masyarakat sebagai Alternatif Bentuk Pidana dalam Mewujudkan Pembaruan Hukum Pidana Anak." *Paulus Law Journal*, 3(2), 88-101.
- Sumanto, W. A. (2023). "The Influence of Entrepreneurship Subject Curriculum on Entrepreneurship Awareness for Law Students." *JManagER*, 3(1), 69-79.
- Surat Edaran Mahkamah Agung Nomor 2 Tahun 2023 tentang Pedoman Penanganan Perkara Perkawinan Beda Agama.
- Suteki, & Tamtama, Y.S. (2018). *Metode Penelitian Hukum: Filsafat, Teori, dan Praktik*. Depok: Rajawali Pers.
- Timbonga, Y. Th. (2017). "The Effectiveness of Corruption Eradication: Integrated System Approach." *JL Pol'y & Globalization*, 62, 76.
- Timbonga, Y. Th. (2020). "Juridical Analysis of Unauthorized Cards in Special Sea Transport Activities." *Pena Justisia: Media Komunikasi dan Kajian Hukum*, 19(2).
- Timbonga, Y. Th. (2023). "Criminal Offenses are in Certain Areas of the Airport Without Permission from the Airport Authority." *Awang Long Law Review*, 6(1), 145-152.

- Timbonga, Y. Th. (2023). "Decision of The Constitutional Court Regarding the Term of Office of The Head of The Corruption Eradication Commission." *Journal of Law and Sustainable Development*, 11(12), e2103-e2103.
- Timbonga, Y. Th. (2023). "Modus Of Operandi and Sanctions For Criminal Actions In The Health Field (Study Decision Number 90/Pid. Sus/2023/Pn Mks)." *UNES Law Review*, 6(1), 3516-3524.
- Timbonga, Y. Th., Christy, G. P., & Datulembang, I. (2023). "The Crime of Treason at Polda Regional Papua on Criminological Perspective." *3rd International Conference on Business Law and Local Wisdom in Tourism (ICBLT 2022)*. Atlantis Press.
- Undang-Undang Dasar Republik Indonesia Tahun 1945, Pasal 29 ayat (2).
- Undang-Undang Nomor 1 Tahun 1974 tentang Perkawinan.