

The Dynamic Landscape of Interfaith Marriage in Indonesia: Navigating The Supreme Court Circular Letter (SEMA) No. 02 of 2023 and Population Administration Law

Sri Maryati^a, Hudzaifah Achmad Qotadah^{b,*}, Adang Darmawan Achmad^a, & Mohd. Anuar Ramli^c

^aUniversitas Muhammdiyah Cirebon, Cirebon, Indonesia

^bProdi Hukum Islam Program Doktor FIAI, Universitas Islam Indonesia, Yogyakarta, Indonesia

^cAcademy of Islamic Studies, Universiti Malaya, Malaysia

Abstract

The issue of interfaith marriage in Indonesia is rooted in the legal conflict between Article 2, paragraph (1) of Law No. 1/1974 on Marriage, which regulates the legality of marriage based on religious law, and Articles 34 and 35 of Law No. 23/2006 on Citizenship Administration. Articles 34 and 35 of Law No. 23/2006 state that a valid marriage is one that is reported and registered, with Article 35(a) stipulating that the court determines the validity of a marriage. The incompatibility of these regulations regarding interfaith marriages has affected legal interpretation, resulting in discrepancies in judicial decisions. In response, the Supreme Court issued Circular Letter No. 2 of 2023, providing guidance for judges in adjudicating cases involving the registration of marriages between individuals of different religions and beliefs. This circular aims to ensure certainty and consistency in the application of the law in such cases. However, this regulation has sparked debate among legal experts. This research adopts a qualitative approach and is analyzed descriptively. The findings indicate that conflicting legal interpretations regarding interfaith marriages lead to differences of opinion among judges on the validity of such marriages. Moreover, inconsistencies in the legal framework governing interfaith marriage in Indonesia result in conflicts of legal interpretation. The primary cause of the ineffectiveness of Indonesia's interfaith marriage law is due to substantive legal considerations. Disagreements between legal systems lead to disputes among legal entities and impact interfaith marriages within society.

Keywords: religion, marriage, court, SEMA, law.

1. Introduction

Marriage in Islam holds a paramount position, functioning as one of the most significant institutions in the life of Muslims. It is referred to as a strong contract, or “*mitsaqan ghalizhan*”, emphasizing adherence to Allah's commandments and their faithful execution. The term “*nikah*” is derived from Arabic, meaning to come together, unite, and establish a relationship. Within the Islamic tradition, marriage is perceived as a sacred covenant between a man and a woman committed to sharing their lives. Islamic teachings regard marriage as a holy bond between a man and a woman who have affection for one another. It is not merely a social contract but a form of worship and an expression of dedication within the relationship. The primary objective of marriage in Islam is to gain recognition for the union and to continue life together harmoniously.

In the context of Islamic jurisprudence, marriage must meet specific valid conditions. These include both parties being Muslim, the presence of a marriage guardian (*wali*) for the bride, and ensuring that there are no legal impediments prohibiting the marriage. The ruling on marriage within Islam is flexible, ranging from obligatory (*wajib*) to forbidden (*haram*), contingent upon the individual's circumstances and the marriage's intended purpose. These nuanced rulings underscore the complexity and depth of marriage within the Islamic legal and ethical framework (Shamad, 2017). In Indonesia, the context of marriage is intricately linked to the country's adherence to religious pluralism. Legally recognized religions are not confined to a single faith but encompass several religions,

* Corresponding author.

E-mail address: hudzaifahachmad47@gmail.com

reflecting the diverse beliefs held by its population. This religious plurality adds considerable complexity to the legal landscape, particularly regarding marriage laws (Yakub Aiyub Kadir & Rizki, 2023).

Indonesian society, characterized by a mosaic of different faiths and beliefs, naturally faces challenges in harmonizing these differences within its legal framework. Marriage, as a social institution, is one such area where these complexities manifest prominently. The union of individuals from different religious backgrounds, driven by bonds of love, is an inevitable aspect of Indonesian society (Musyafah, 2020). Azhari (2022) stated that the increasing prevalence of interfaith marriages in contemporary society can be significantly attributed to the manifold advancements that characterize the modern era. Technological progress, enhanced communication methods, globalization, and the intermingling of diverse cultures have collectively contributed to a societal environment where interactions between individuals of different religious backgrounds are more frequent and normalized. These developments provide a robust foundation for the practice of interfaith marriages, which are becoming progressively more common and socially accepted.

As a result, the institution of marriage in modern times appears to have undergone a transformative shift. Historically, marriage was predominantly viewed as a means of preserving the sanctity of cultural values and religious teachings, with strict adherence to the norms and doctrines dictated by one's faith. However, in the current era, there is a noticeable trend toward embracing interfaith marriages, driven by broader and more inclusive values such as love and human rights (Azhari & Lubis, 2022).

Nowadays, the practice of interfaith marriage has undergone significant evolution including in Indonesia, reflecting broader societal shifts and changing values. Historically, marriages were predominantly viewed through the lens of preserving the sanctity of traditional cultural and religious norms. This perspective prioritized the maintenance of religious and cultural homogeneity within marital unions, ensuring that family structures adhered to established doctrinal standards. However, in recent times, there has been a noticeable shift in the societal perception of interfaith marriages. They are increasingly recognized and accepted, driven by the principles of love, personal autonomy, and the recognition of human rights. In this context, interfaith marriages serve as a microcosm of the broader societal changes taking place in Indonesia.

In practice, interfaith marriages have long been a part of Indonesian society, but their prevalence has notably increased in recent years. This trend can be attributed to the evolving cultural and societal norms that accompany the passage of time. Interfaith marriages, which were once less common, have become a popular phenomenon, embraced by individuals across various demographics, including both younger and older generations. This shift indicates a broader acceptance and normalization of interfaith unions within the contemporary social fabric of Indonesia.

Empirical data supports this upward trend. According to Syahriani, referencing statistics from the Indonesian Conference on Religion and Peace (ICRP), from 2005 to 2023, there were at least 1,655 couples who entered into interfaith marriages. This figure translates to an average of approximately 12 to 15 interfaith marriages per month during this period (Siregar, 2023). Such data underscores the increasing frequency and social acceptance of interfaith marriages in Indonesia, highlighting a significant cultural shift.

The increasing trend of interfaith marriages can be seen as a reflection of the broader societal changes towards greater inclusivity and acceptance of diversity. As Indonesian society becomes more interconnected and exposed to different cultural and religious perspectives, the boundaries that once segregated religious communities are becoming more permeable. This permeability fosters environments where personal relationships, including marriages, can cross traditional religious divides more freely.

However, the phenomenon of interfaith marriages has emerged as a significant area of concern within Indonesian Muslim communities, where a growing number of individuals perceive such unions as increasingly prevalent. In response to this perceived trend, the Supreme Court of Indonesia has taken proactive measures by issuing a seminal circular letter aimed at curbing the legalization of interfaith marriages by courts. This landmark directive, known as Supreme Court Circular Letter (SEMA) Number 2 of 2023, has catalyzed a robust and multifaceted discourse among legal scholars, religious authorities, and societal stakeholders.

Notably, the Indonesian Ulema Council (MUI) has heralded the issuance of SEMA, hailing its role in bolstering legal clarity and certainty within the domain of marriage. Conversely, there exists a contingent of voices that express discontentment and apprehension regarding SEMA's imposition, characterizing it as a manifestation of religious intolerance and an infringement upon individual freedoms. This divergence in perspectives underscores

the nuanced and intricate nature of the ongoing debate surrounding interfaith marriages in contemporary Indonesian society (Yulianto, 2023).

Therefore, the primary objective of this study is to thoroughly examine and illuminate the multifaceted viewpoints and considerations pertaining to the promulgation of SEMA No. 2 of 2023. By delving into various perspectives, ranging from legal interpretations to sociocultural implications, this research endeavors to offer a comprehensive analysis of the factors influencing and affected by this judicial directive. Furthermore, this study seeks to develop a robust and inclusive framework aimed at effectively navigating the intricate challenges posed by interfaith marriages within the Indonesian sociolegal landscape. Through meticulous examination and synthesis of diverse insights, the research aspires to contribute nuanced insights and practical recommendations for fostering greater harmony, understanding, and legal clarity surrounding interfaith unions in Indonesia.

2. Literature Review

Numerous antecedent scholarly inquiries have delved into the intricacies surrounding interfaith marriage, elucidating perspectives rooted in both Islamic jurisprudence and positive law within the Indonesian legal landscape. One such seminal contribution is the article titled "Interfaith Marriage in North Lombok: Sociological Perspective of Islamic Law," authored by Hamim et al. (2022). This scholarly endeavor undertakes an exhaustive examination of interfaith marriage dynamics in North Lombok through the lens of sociological inquiry intertwined with Islamic legal principles. The findings gleaned from this study illuminate the pivotal role assumed by religious leaders in navigating the multifaceted challenges attendant to interfaith matrimonial unions within the community fabric.

Central to the findings is the discernible influence wielded by religious leaders in engendering resolutions to the conundrums posed by interfaith marriages. Their pivotal role extends beyond the mere dissemination of religious tenets; rather, they function as stalwart pillars offering guidance, support, and nuanced perspectives on interfaith unions within the ambit of their respective religious frameworks. In effect, religious leaders emerge as indispensable arbiters tasked with fostering understanding, mediating conflicts, and engendering harmony within families and communities grappling with the complexities inherent in interfaith matrimonial dynamics.

Thus, the aforementioned study serves as a seminal contribution to the scholarly discourse surrounding interfaith marriage, shedding light on the multifaceted dimensions of this phenomenon from both sociological and Islamic legal perspectives. It underscores the salience of religious leaders as conduits for fostering resilience and harmony within communities navigating the complexities of interfaith matrimonial unions. This scholarly endeavor stands as a testament to the interdisciplinary nature of research on interfaith marriage, engendering nuanced insights that hold profound implications for legal, social, and religious spheres within the Indonesian context.

Moreover, Desi Yunita's article titled "Perkawinan Beda Agama dan Akibat Hukumnya pada Pembagian Warisan" presents a unique contribution to the existing scholarship by examining the intricate ramifications of interfaith marriage on inheritance distribution. Unlike previous studies, Desi's research delves into the complexities inherent in this aspect of interfaith marriage, shedding light on the legal and religious considerations that underpin inheritance distribution within the Indonesian context. The findings of this study unveil the legal prohibitions embedded in Indonesian positive law concerning interfaith marriage, notably articulated in Article 2, paragraph (1) in conjunction with Article 8, letter (f) of Law No. 1 of 1974. This legal framework unequivocally prohibits marriages between individuals whose relationship is proscribed by their respective religious doctrines or other applicable regulations.

Furthermore, Islamic law similarly proscribes interfaith marriages, as evidenced by a hadith attributed to the Prophet Muhammad, which delineates that Muslims are precluded from inheriting from non-Muslims, and vice versa. Despite the categorical prohibition of interfaith marriages, Islamic inheritance law accommodates a provision wherein married couples of divergent religious affiliations may bequeath inheritance to one another through a will, in accordance with the stipulations outlined in Article 194 and Article 195 of the Compilation of Islamic Law (Ariani, 2020). This intricate interplay between legal and religious frameworks underscores the nuanced dynamics shaping inheritance distribution within the purview of interfaith marriage in Indonesia.

Subsequently, Abdul Syatar conducted a research endeavor titled "Interfaith Marriage Phenomenon in Indonesia from the Perspective of Sadd al-Zarī'ah and Fath al-Zarī'ah." In essence, this scholarly inquiry endeavors to elucidate the myriad benefits and challenges inherent in the phenomenon of interfaith marriage in Indonesia

through a qualitative methodological approach. The outcomes of this investigation unveil a spectrum of advantages and impediments associated with interfaith unions within the Indonesian sociocultural milieu.

On the one hand, interfaith marriages offer a plethora of benefits, encompassing: (1) the potential to foster enhanced understanding and tolerance among disparate religious communities; (2) facilitating avenues for cultural exchange and fostering mutual respect among individuals hailing from diverse backgrounds; (3) affording opportunities for personal growth and fostering a broader perspective on divergent belief systems; and (4) serving as conduits for fostering intercommunity cohesion and contributing to social harmony. Conversely, the challenges encountered by interfaith couples are multifaceted, encompassing: (1) the specter of societal stigma and disapprobation, precipitating social challenges for the couple; (2) familial pressures that can strain the interfaith union, engendering tensions within the relationship; (3) navigating the labyrinthine legal and administrative hurdles encountered by interfaith couples within the Indonesian legal framework; and (4) negotiating the intricate tapestry of cultural expectations and traditions stemming from divergent backgrounds, which can pose formidable challenges (Syatar et al., 2023).

Moreover, Ayub Mursalin authored an article titled "Legalitas Perkawinan Beda Agama: Mengungkap Disparitas Putusan Pengadilan di Indonesia," which scrutinizes the legal rationale and discrepancies in court rulings pertaining to interfaith marriage cases in Indonesia. This scholarly inquiry delves into the nuanced legal arguments and divergent judicial interpretations surrounding the validity of interfaith marriages. Besides, This article discourse underscores the intricate interplay between legal principles and religious precepts in shaping the jurisprudential landscape of interfaith marriage within Indonesia.

The findings of the study illuminate the prevailing legal landscape wherein the Constitutional Court judges adhere to the status quo position delineated in Article 2, Paragraph 1 of Indonesian marriage law. This provision underscores the state's role in aligning with interpretations provided by religious institutions or organizations in adjudicating matters related to interfaith marriage. Consequently, the Constitutional Court tends to accord primacy to the predominant viewpoints espoused by religious representatives, who assert that marriages ideally ought to be solemnized between partners adhering to the same faith. Given the Constitutional Court's mandate to uphold the supremacy of the constitution, its decisions are envisaged to serve as a definitive reference point for all stakeholders within the nation-state framework (Mursalin, 2023).

Drawing upon the literature review elucidated above, it becomes apparent that prior scholarly inquiries, as evidenced by extant literature, have largely echoed similar thematic trajectories to the present research. However, what sets this investigation apart lies in the specific thematic locus it endeavors to interrogate. While preceding studies have conventionally probed the intricacies surrounding interfaith marriage in a comprehensive manner, this research seeks to contextualize this discourse within the broader milieu of the ongoing debate among experts pertaining to the ramifications of Supreme Court Circular Letter No. 2 of 2023 (SEMA No. 2 of 2023).

By anchoring the investigation within the context of this contemporary legal development, the research aims to unravel the nuanced implications of SEMA No. 2 of 2023 on the discourse surrounding interfaith marriage. In so doing, it endeavors to bridge the lacuna between theoretical discourse and practical legal implications, offering insights into how the regulatory directives articulated within SEMA No. 2 of 2023 intersect with and potentially influence the adjudication of interfaith matrimonial cases within the Indonesian legal milieu.

Thus, while the overarching thematic terrain traversed by this research may align with antecedent scholarly inquiries, its unique contribution lies in its concerted effort to foreground the dialogue surrounding SEMA No. 2 of 2023 within the broader discourse surrounding interfaith marriage in Indonesia. This endeavor not only enriches the scholarly discourse surrounding interfaith matrimonial unions but also furnishes valuable insights into the evolving contours of Indonesian legal jurisprudence vis-à-vis interreligious dynamics.

3. Research Method

This study employs a qualitative methodology, which stands as one of the most widely embraced approaches across disciplines such as Sharia, social sciences, and humanities, particularly esteemed for its efficacy in probing assumptions. The principal aim of qualitative research lies in the generation of novel insights by honing in on the identification and comprehension of prevailing circumstances, both within the textual domain and the broader contextual milieu. By delving into the nuances of a given phenomenon, qualitative research endeavors to unravel the intricacies stemming from various causal factors, ranging from entrenched community norms and values to quotidian concerns encountered in everyday life. In this vein, the present investigation aspires to furnish

meticulous and enlightening research outcomes through the adept utilization of qualitative techniques, entailing the conduct of exploratory inquiries within natural settings (Mursalin, 2023).

The data sources for this inquiry is sourced from both primary and secondary outlets, encompassing textbooks, scholarly journal articles, seminar papers, and pertinent data gleaned from auxiliary documents pertinent to the research theme. Adopting a literature-centric approach, the author situates this study within the continuum of extant research endeavors addressing the intricacies of interfaith marriage within the legal domain, and its confluence with the regulatory framework articulated in SEMA No. 2 of 2023. Subsequently, the data culled from these investigative pursuits are subjected to descriptive analysis, employing a multifaceted lens that integrates legal, sociological, and philosophical perspectives. It is envisaged that the insights gleaned from this inquiry will serve to engender a more nuanced and productive discourse within the disciplinary domain, transcending the confines of antecedent scholarly undertakings.

4. Results and Discussions

4.1. Legal Framework for Interfaith Marriage under Law No. 23/2006 on Civil Registration

The discourse surrounding the phenomenon of interfaith marriage in Indonesia has garnered considerable attention owing to the influx of applications for marriage registration submitted by couples professing divergent religious affiliations, a trend catalyzed by the provisions delineated in Law No. 23/2006 on Population Administration. Notably, a subset of these applications has been duly processed and approved (Hutabarat et al., 2022). The reception to this development has been varied, eliciting a spectrum of reactions among experts and the Indonesian populace, particularly within the Muslim community, where sentiments are notably nuanced given the authoritative stance articulated in the Compilation of Islamic Law, which unequivocally denounces the validity of interfaith marriages (Zeinudin & Santoso, 2021).

Subsequent to the enactment of Law No. 23/2006, a legal avenue emerged for the legalization of interfaith unions, with couples afforded the opportunity to seek judicial recourse by petitioning the District Court for a decree sanctioning interfaith marriages (M.Yunus & Aini, 2020). This legal provision represents a pivotal juncture in the discourse surrounding interfaith marriage, heralding a departure from erstwhile legal frameworks that had hitherto rendered such unions legally untenable. Consequently, the advent of this legislative paradigm has precipitated a paradigm shift in the landscape of interfaith matrimonial unions, affording couples the prospect of legitimizing their unions through judicial intervention.

In adjudicating cases pertaining to interfaith marriage, the judiciary has grappled with a myriad of considerations, chief among them being the absence of explicit prohibition against such unions within the legal framework delineated in Law No. 1/1974 on Marriage. This judicial stance can be construed as a proactive endeavor to mitigate the lacunae within the legal corpus concerning matrimonial unions. Notably, Article 21, paragraph (3) of the Marriage Law Number 1 of the Year 1974, and Article 35, letter (a) of Law Number 23 of the Year 2006 on Population Administration bestow upon the District Court the authority to promulgate regulations pertinent to interfaith marriage.

However, this judicial prerogative is complicated by an inherent contradiction between Article 35, letter (a) of the Population Administration Law and Article 2 of the Marriage Law. The latter provision stipulates that a marriage attains legal validity only if it is solemnized in conformity with the tenets espoused by each respective religion or belief system (Hutabarat et al., 2022). This doctrinal discordance underscores the complex interplay between legal provisions governing interfaith unions, necessitating judicious adjudication to navigate the dialectical tension between statutory mandates and judicial discretion. In essence, the judiciary's discernment in grappling with this legal conundrum epitomizes its pivotal role in shaping the contours of interfaith matrimonial jurisprudence within the Indonesian legal landscape (Hutabarat et al., 2022).

From the researcher's perspective, it is incumbent upon judges to accord primacy to the Marriage Law over the Population Administration Law when adjudicating applications for the marriage registration of couples professing divergent religious affiliations. This stance is predicated upon the provisions enshrined in Article 2, paragraph (2) of the Marriage Law, which underscores the imperative that recorded marriages must adhere to the standards of validity mandated therein. This legal imperative finds resonance in Article 28B, paragraph (1) of the 1945 Constitution, which guarantees every individual the right to register their marriage, thereby affirming the fundamental right to establish a family and perpetuate lineage through lawful matrimony.

Central to this discourse is the notion of "validity" within the context of marriage, as delineated in Article 2, paragraph (1) of the Marriage Law. According to this provision, a marriage is deemed valid only if it is solemnized in conformity with the religious precepts governing both parties. However, it is imperative to acknowledge the nuanced interpretation of validity within Islamic jurisprudence, wherein interfaith marriages are deemed invalid. This doctrinal discrepancy underscores the complexity inherent in adjudicating interfaith matrimonial unions, necessitating a judicious balancing act by the judiciary to reconcile statutory mandates with religious imperatives. Therefore, the researcher contends that judges should prioritize the sanctity of marriage as defined by the Marriage Law, notwithstanding the potential discordance with religious tenets, in order to uphold constitutional guarantees and legal principles within the Indonesian legal framework.

The conflict of laws surrounding interfaith marriage engenders a climate of uncertainty, particularly manifest in the divergent judicial pronouncements concerning applications for the registration of marriages involving individuals of distinct religious persuasions. In light of this predicament, a pragmatic recourse entails the formulation of more perspicuous and harmonized regulatory frameworks to redress the prevailing ambiguity. In this vein, initiatives such as the issuance of Supreme Court Circular Letter No. 2 of 2023, elucidating guidelines for adjudicating applications for marriage registration involving parties of disparate religious orientations, assume paramount significance.

The promulgation of such regulatory directives is envisaged to engender a semblance of legal certitude pertaining to interfaith marriages within the Indonesian context. By furnishing judges with explicit guidelines delineating the criteria for assessing the validity of interfaith matrimonial unions, the Circular Letter endeavors to standardize judicial deliberations, thereby mitigating the propensity for disparate outcomes stemming from judicial discretion. This regulatory intervention serves as a pivotal step towards cultivating consistency and coherence within the legal apparatus governing interfaith marriages, thereby alleviating the prevailing uncertainty prevalent in this domain.

However, it is imperative to underscore that while regulatory interventions such as Supreme Court Circular Letter No. 2 of 2023 represent commendable strides towards ameliorating the legal lacunae surrounding interfaith marriages, they are not panaceas in and of themselves. Rather, they constitute one facet of a multifaceted endeavor aimed at fostering a conducive legal environment conducive to interfaith matrimonial unions. Therefore, the efficacy of such regulatory interventions hinges upon their seamless integration within a broader framework of legal reforms aimed at reconciling disparate legal mandates and religious imperatives, thereby engendering a more nuanced and equitable legal landscape pertaining to interfaith marriages in Indonesia.

4.2. Position of Supreme Court Circular Letters (SEMA) within Indonesian Legal System

The Supreme Court Circular Letter (SEMA) constitutes a legal instrument endowed with a distinct position and authority within the fabric of the Indonesian legal system. In order to delve deeper into the nuances surrounding SEMA Number 2 of the Year 2023, it is imperative to first elucidate the contextual framework delineating SEMA's position and authority within the realm of positive law in Indonesia. Primarily, it is essential to underscore the necessity for a coherent and consistent structural framework underpinning every rule or regulation, thereby facilitating a lucid understanding among stakeholders regarding the nature of a given standard, be it a rule, policy, or decision. Within the ambit of SEMA regulations, a significant proportion of its provisions pertains to policy regulations. Nevertheless, it is noteworthy that the establishment of SEMA is predicated upon the directive stipulated in Article 79 of Law Number 14 of the Year 1985. Consequently, SEMA assumes the classification of legislation and enjoys the imprimatur of legally binding force within the Indonesian legal milieu (Santoso et al., 2023).

By virtue of its legislative underpinning, SEMA commands a significant degree of authority within the Indonesian legal milieu, meriting adherence and compliance from relevant stakeholders. The issuance of SEMA entails a meticulous process guided by legal protocols, thereby endowing its directives with a degree of authority commensurate with statutory mandates. Consequently, SEMA assumes a pivotal role in shaping the contours of legal discourse and practice within the Indonesian judiciary, serving as a touchstone for adjudicating matters of legal import. Therefore, the elucidation of SEMA's hierarchical position and legal potency is essential for contextualizing its relevance and import within the broader expanse of Indonesian positive law.

In terms of its authority, the Supreme Court Circular Letter (SEMA) derives its regulatory legitimacy from the overarching authority vested in the Supreme Court, encompassing a spectrum of administrative, advisory, supervisory, and judicial functions. This multifaceted mandate underscores the pivotal role assumed by SEMA in

delineating and guiding legal practices and procedures within the Indonesian judicial apparatus. Presently, the legal foundation for the issuance of SEMA is codified in Article 32, Paragraph (4) of Law Number 14 of the Year 1985. This statutory provision confers upon the Supreme Court the prerogative to dispense instructions, warnings, or reprimands to courts operating within all judicial circuits.

Moreover, the legal basis for the issuance of SEMA is solidified within the ambit of Article 8 of Law Number 12 of the Year 2011, which confers recognition upon regulations promulgated by the Supreme Court, provided they are formulated pursuant to or grounded upon the authority or directives of higher laws and regulations. According to this provision, regulations emanating from the Supreme Court bear legal validity if they are promulgated in accordance with the authority or directives articulated in higher laws and regulations. Importantly, the directives must be formulated with clarity and precision, imbuing them with a degree of legal efficacy that mandates adherence and implementation by concerned parties (Rihdo et al., 2023).

Thus, SEMA operates within a robust legal framework underpinned by statutory mandates delineating the purview and potency of the Supreme Court's regulatory authority. Its status as a legal instrument vested with binding force underscores its significance as a conduit for disseminating and effectuating legal norms and directives within the Indonesian legal landscape. Consequently, SEMA assumes a central role in shaping legal practice and adjudication, thereby contributing to the maintenance of legal order and coherence within the Indonesian judiciary.

From that point, SEMA fulfills a pivotal function as a guiding instrument for court judges operating under the purview of the Supreme Court, thereby facilitating the execution of their leadership and supervisory duties. Its overarching objective is to furnish judges with a lucid and comprehensive elucidation of legal regulations, thereby obviating potential errors that might engender legal ambiguity. This fundamental tenet underscores the indispensability of clarity and uniformity in the application of legal principles within the Indonesian judicial milieu. The potency of SEMA emanates from its alignment with the hierarchical structure of laws and regulations governing various legal domains and levels of governance.

Central to SEMA's efficacy is the foundational principle of "Lex Superior Derogat Legi Inferiori," which dictates that rules promulgated at higher hierarchical levels must invariably supersede those at lower tiers, thereby precluding any incongruities or contradictions. This precept underscores the paramount importance of consistency and coherence within the legal framework, thereby safeguarding legal certainty and integrity within the Indonesian judicial system (Santoso et al., 2023).

In light of these considerations, it becomes evident that SEMA assumes a pivotal role in upholding consistency, clarity, and legal certainty within the Indonesian legal apparatus. Therefore, the issuance of SEMA No. 2 of the Year 2023 necessitates meticulous deliberation and scrutiny within the established legal framework, thereby ensuring its harmonious integration with existing legal provisions. This underscores the imperative for judicious consideration of SEMA directives within the broader expanse of Indonesian jurisprudence, thereby reinforcing the integrity and efficacy of the judicial system.

4.3. Impacts of Interfaith Marriage Post-SEMA No. 2 of 2023

In the Islamic context, marriage is defined as a sacred covenant between two individuals, ordained to foster familial harmony, affection, and divine grace. Central to Islamic teachings is the notion that marriage represents an integral facet of human nature (fitrah), bestowed by Allah SWT to epitomize the culmination of religious devotion (Musyafah, 2020). Against the backdrop of Indonesia's diverse societal fabric, intermingling and mutual attraction between individuals of disparate backgrounds are commonplace occurrences. The pervasive nature of human interactions transcends racial, ethnic, and religious boundaries, permeating various facets of social existence, including matrimonial unions (Togatorop, 2023).

However, within this heterogeneous societal milieu, the prospect of interfaith matrimony often elicits contentious reactions and invokes a palpable discordance with prevailing religious norms. The prospect of marrying a partner professing a divergent religious affiliation is often viewed as contravening established religious mores, thereby precipitating vehement societal reactions, particularly within the Indonesian context (Alifa et al., 2023). The intrinsic tension arising from the convergence of divergent religious doctrines underscores the complex interplay between religious orthodoxy and societal norms, shaping the discourse surrounding interfaith marriages.

In essence, the phenomenon of interfaith matrimony in Indonesia encapsulates a multifaceted interplay between religious doctrine, societal norms, and individual autonomy. While Islamic teachings extol the virtues of marital harmony and compatibility, societal perceptions and religious norms often cast a shadow of skepticism over

interfaith unions, engendering a milieu fraught with tension and apprehension. Thus, the discourse surrounding interfaith marriages serves as a poignant reflection of the intersection between religious precepts, societal mores, and individual agency within the Indonesian socio-religious landscape. In the contemporary epoch of globalization, the prevalence of interfaith marriages has surged concomitantly with heightened population mobility and evolving religious convictions (Muntaqo, 2020).

Nonetheless, divergent interpretations of Qur'anic scripture have precipitated scholarly discourse and debate among theologians and religious scholars (Elmali-Karakaya, 2022). Central to this scholarly controversy is the interpretative nuances surrounding the designation of “people of the book” (Nasir, 2022) as delineated in three distinct verses of the Qur'an, namely Surah Al-Maidah verse 5, Surah Al-Baqarah verse 221, and Surah Al-Mumtahanah verse 10 (Jannah & Hadi Imawan, 2023). Meanwhile, the legislative framework delineated in Law No. 1 of 1974 pertaining to marriage fails to proffer explicit and comprehensive regulations concerning interfaith matrimonial unions. This contrasts starkly with the provisions articulated in Article 57 of the Marriage Law, which pertinently addresses the legal stipulations governing mixed marriages (Wardhani, 2023).

Salsabila (2023) posits that a mixed marriage, as defined under Indonesian law, refers to a matrimonial union between a man and a woman who, while both residing in Indonesia, are subject to different legal jurisdictions due to their differing nationalities, with at least one party being an Indonesian citizen (Marriage Law No. 1/1974, Articles 58-62). This legal framework delineates mixed marriages strictly on the basis of nationality, thereby excluding marriages between individuals of different religious backgrounds from this definition. The term “mixed marriage” in Law No. 1/1974 is thus more restrictive compared to the broader interpretation intended by Article 1 of the Government Regulation on Mixed Marriages (Ridwan & Saptanti, 2023).

Given this narrow legal definition, it becomes evident that interfaith marriages do not fall within the purview of mixed marriages as per Indonesian law. This discrepancy highlights a significant gap, as there are no detailed and official legal provisions specifically addressing interfaith marriages within either the framework of Islamic law or the national Marriage Law. Consequently, this creates a formal legal vacuum, leaving couples who seek to enter into interfaith marriages without clear legal guidelines or protections. This lack of comprehensive regulation not only complicates the legal recognition and administration of interfaith marriages but also underscores the need for legislative reform to address this oversight, ensuring that all forms of marriage are adequately covered under Indonesian law.

Setiawan (2022) said that the increasing practice of interfaith marriage among the Indonesian community is due to the impact of the legal vacuum until the emergence of the Supreme Court Circular Letter (SEMA) No. 2 of 2023. The Supreme Court's reference is based on Law No. 1/1974 on Marriage, specifically Article 2 Paragraph 1, which states that a marriage is considered valid if it is conducted in accordance with the laws of each religion and belief. Article 8 of the Marriage Law also mentions six marriage prohibitions, including “having a relationship that is prohibited by their religion or other applicable regulations.” The SEMA was issued to address the legal vacuum related to interfaith marriage in Indonesia, as the practice continues to increase from year to year (Gugu, 2023).

Setiawan (2022) asserts that the rise in interfaith marriages within the Indonesian community can be attributed to a legal vacuum that persisted until the issuance of the Supreme Court Circular Letter (SEMA) No. 2 of 2023. This circular letter is predicated on Law No. 1/1974 on Marriage, particularly Article 2 Paragraph 1, which stipulates that a marriage is deemed valid if it conforms to the religious laws and beliefs of the parties involved. Additionally, Article 8 of the Marriage Law outlines six prohibitions on marriage, including unions that are “prohibited by their religion or other applicable regulations.” The introduction of SEMA No. 2 of 2023 aims to fill the legal void concerning interfaith marriages, a practice that has been increasingly prevalent over the years (Gugu, 2023).

The Supreme Court's directive provides much-needed clarity and guidance for the judiciary in adjudicating cases involving interfaith marriages, which previously faced significant legal ambiguities. By establishing a clear reference to the existing legal framework, the SEMA seeks to harmonize the application of the law, ensuring that interfaith marriages are addressed consistently across judicial decisions. This development marks a critical step towards resolving the complexities associated with interfaith marriages in Indonesia, highlighting the necessity for clear and coherent legal provisions to accommodate the evolving social dynamics within the country.

Furthermore, the Supreme Court Circular Letter (SEMA) encompasses two principal aspects. Firstly, it addresses the regulations governing legal marriage in accordance with Article 2 Paragraph 1 and Article 8 letter f of Law No. 1 of 1974 concerning Marriage. Secondly, it includes a directive from the Supreme Court stating, “The court

does not grant applications for the registration of marriages between individuals of different religions and beliefs" (Mursalin, 2023). This directive signifies that the courts are prohibited from accepting administrative requests for the registration of interfaith marriages in Indonesia.

However, the issuance of SEMA No. 2 of 2023 has not been universally accepted. The circular has sparked controversy regarding the prohibition imposed on courts from granting interfaith marriages, leading to significant debate and a division of opinions within the community. This contentious issue has also captured the attention of legal scholars, who have provided various perspectives on the implications of the SEMA (Gonadi & Djajaputra, 2023a). This controversy underscores the ongoing challenges and complexities associated with regulating interfaith marriages in a pluralistic society like Indonesia.

Certain groups, such as the Indonesian Ulema Council (MUI) and various Islamic religious leaders, have expressed support for the Supreme Court Circular Letter (SEMA) No. 2 of 2023, justifying their stance on the grounds of preserving the integrity of the family and religious values. They argue that the prohibition of interfaith marriages is essential to maintain the sanctity of religious teachings and to prevent the dilution of religious identity within families. This perspective holds that allowing interfaith marriages could potentially lead to religious discord and weaken the adherence to religious doctrines (Utami & Ghifarani, 2021). Conversely, other groups, including the Fellowship of Indonesian Churches (PGI) and numerous human rights activists, perceive the ban on interfaith marriages as a significant infringement on human rights and religious freedoms.

They contend that the prohibition imposed by the SEMA restricts the fundamental human right to marry, as enshrined in international human rights instruments. Specifically, they reference Article 16 Paragraph 1 of the Universal Declaration of Human Rights, which unequivocally states that everyone has the right to marry and form a family, without any limitations based on nationality, citizenship, or religion (Habiburrahman *et al.*, 2023). These advocates argue that the freedom to marry is an inherent human right that should not be subject to religious or legal constraints (Azhari & Lubis, 2022).

Besides, it is important to recognize that the current Marriage Law does not contain any explicit provision that prohibits marriage between individuals of different religious beliefs. This absence of a clear prohibition suggests that, from a legal standpoint, such a ban would need to be explicitly stated within the law itself to be considered enforceable regulation (Yasin *et al.*, 2023). The lack of an explicit prohibition in the Marriage Law implies that interfaith marriages are not formally recognized as a legal violation. This raises questions about the consistency of this interpretation with the principles of the rule of law and the protection of human rights, as emphasized in international human rights norms (Hamdani *et al.*, 2023; Hanifah *et al.*, 2022).

The ambiguity in the legal framework regarding interfaith marriages highlights a significant gap in the legislation that needs to be addressed to ensure clarity and uniform application of the law. Without explicit legal provisions, there is room for varied interpretations and inconsistent judicial decisions, which can lead to legal uncertainty and potential human rights infringements. The principle of the rule of law dictates that laws should be clear, publicized, and stable, applied evenly, and protect fundamental rights, including the right to marry without discrimination based on religious beliefs.

Therefore, it can be inferred that the discourse surrounding the Supreme Court Circular Letter (SEMA) elucidates a fundamental dichotomy between the inclination to uphold religious customs and the necessity to safeguard individual human rights. Advocates of the SEMA prioritize the preservation of religious orthodoxy and societal harmony, whereas detractors underscore the inherent right to individual autonomy and freedom of marital choice. This dichotomy underscores the intricate interconnection between religious norms and human rights within the legal and social framework of Indonesia.

The divergence of perspectives on the SEMA reflects broader societal tensions between adherence to traditional religious values and the promotion of individual liberties. Those in favor of the SEMA contend that it is essential for maintaining religious cohesion and stability within the community, as it reinforces the sanctity of religious teachings and prevents potential conflicts arising from interfaith unions. Conversely, critics argue that the SEMA curtails individuals' freedom to choose their partners based on personal convictions, thereby infringing upon their fundamental human rights.

This debate epitomizes the intricate balance that must be struck between preserving cultural and religious traditions and upholding universal principles of human rights and individual freedoms. It underscores the nuanced challenges inherent in navigating the intersection of religious doctrines and legal frameworks within a pluralistic

society like Indonesia. Consequently, resolving this tension necessitates a holistic approach that respects both religious diversity and individual liberties, thereby fostering a harmonious and inclusive social environment.

4.4. SEMA No. 2 of 2023 and Future Implications of Interfaith Marriages in Indonesia

Regardless of the divergent opinions that have surfaced in response to the Supreme Court's issuance of Supreme Court Circular Letter (SEMA) Number 2 of 2023, it is essential to recognize the intended mediatory role of the SEMA. This circular aims to harmonize the Marriage Law and the Population Administration Law by offering clear and precise guidelines for judges tasked with adjudicating marriage registration applications involving individuals of different religious beliefs (Kharisma, 2023). By providing such guidelines, the SEMA seeks to bridge the gap between legal provisions and practical applications, ensuring that the judiciary can navigate the complexities of interfaith marriages with greater consistency and fairness. Here are several ways in which SEMA Number 2 of 2023 is anticipated to serve as a mediator in more detail:

First, Legal Certainty: SEMA No. 2 of 2023 is anticipated to provide a much-needed legal certainty in the adjudication of marriages between individuals of different religious backgrounds. The guidelines outlined in the SEMA are expected to offer clear and precise directives to judges, facilitating their decision-making processes in cases of interfaith marriages. This clarity is essential not only for the judiciary but also for the parties involved, enabling them to comprehend fully the legal consequences of the decisions rendered. By ensuring legal certainty, the SEMA aims to mitigate confusion and foster a more predictable legal environment, which is crucial for upholding the rule of law and safeguarding the rights of all individuals involved (Gugu, 2023).

Second, Unity in the Application of Law: SEMA No. 2 of 2023 is poised to promote uniformity in the application of law across various courts, particularly concerning interfaith marriages. This uniformity is critical as it ensures that judges across different jurisdictions base their decisions on a consistent set of guidelines, thereby reducing disparities and inconsistencies in judicial outcomes. By providing a standardized framework, the SEMA seeks to ensure that justice is administered equitably and that decisions align with the prescribed legal standards, contributing to a more cohesive and fair legal system (Rahayu, 2023).

Third, Harmonization between Laws: Another significant aspect of SEMA No. 2 of 2023 is its role in harmonizing the provisions of the Marriage Law with those of the Population Administration Law, especially in the context of interfaith marriages. This harmonization is crucial to prevent conflicts of interpretation and to create a coherent legal framework that clearly outlines the procedures and rules governing such marriages. By aligning these legal provisions, the SEMA aims to eliminate ambiguities and ensure that all relevant laws work synergistically to provide a comprehensive legal basis for handling interfaith marriages (Yasin et al., 2023).

Fourth, Supervision and Guidance: SEMA No. 2 of 2023 also serves as a crucial tool for the Supreme Court in supervising and guiding judges at various court levels. With clear guidelines in place, the Supreme Court can more effectively oversee the implementation of laws related to interfaith marriage, ensuring that judges adhere to the prescribed norms and directions. This supervision mechanism is vital for maintaining consistency and accountability in judicial proceedings, thereby fostering a sustainable approach to handling interfaith marriage cases. By providing ongoing guidance and oversight, the SEMA ensures that judicial practices remain aligned with the established legal framework, promoting fairness and uniformity in the administration of justice (Sulistiyandari et al., 2023).

Therefore, Judges are obligated adhering to the guidelines established in Supreme Court Circular Letter No. 2 of 2023, are tasked with ensuring that the judicial process for marriages between individuals of different religious affiliations is conducted with due consideration of the principles underlying their respective religions and belief systems. This approach underscores the critical importance of acknowledging and respecting religious diversity within the Indonesian justice system. It highlights the need for a holistic understanding that encompasses not only legal aspects but also the intricate social and cultural dimensions associated with interfaith marriages (Ropiah, 2024).

By incorporating the religious principles and belief systems of the individuals involved in an interfaith marriage, judges are expected to make decisions that reflect a profound comprehension of the values held by the parties. This comprehensive approach has the potential to reduce conflict and dissatisfaction, fostering a more harmonious resolution of interfaith marriage cases. Moreover, this method aims to achieve clarity and consistency in the application of laws pertaining to interfaith marriages in Indonesia. Ensuring that judicial proceedings are informed by the principles recognized in the relevant religions and belief systems, the SEMA aims to promote uniformity in law enforcement and equitable treatment for all parties involved in these cases (Gonadi & Djajaputra, 2023b).

Supreme Court Circular Letter No. 2 of 2023 serves as a pivotal foundation in guaranteeing that interfaith marriage cases are handled with an emphasis on justice, diversity, and adherence to applicable legal principles. Judges are thereby expected to exercise their duties with wisdom, ensuring that individual rights and principles of justice are upheld throughout the process. Furthermore, the SEMA is intended to bridge the discrepancies between the Marriage Law and the Civil Registration Law, specifically in the context of marriages between individuals of different religious backgrounds (Rusman et al., 2023).

Given Indonesia's predominantly Muslim population, one viable solution to address the polemics surrounding SEMA No. 2 of 2023 is through the understanding and application of Maqasid Sharia principles. By aligning judicial decisions with these principles, which aim to preserve religion, life, intellect, progeny, and property, a more culturally and religiously sensitive framework can be established. This approach could potentially harmonize the legal framework with the socio-religious fabric of Indonesian society, fostering a more inclusive and balanced resolution to interfaith marriage cases.

By applying the principles of Maqasid Shariah in the formulation and interpretation of interfaith marriage laws, it is anticipated that policymakers and legal authorities can effectively address and resolve the controversies surrounding these laws. The principles of Maqasid Shariah, which aim to achieve the higher objectives of Islamic law, provide a robust foundation for creating a balanced and comprehensive legal framework. Firstly, incorporating the principle of the preservation of religion (*hifdz al-din*) enables policymakers to design regulations that respect individual religious freedoms within the context of interfaith marriage. By ensuring that such regulations do not compromise the religious beliefs of the involved parties, a balance between religious freedom and legal order can be achieved.

Secondly, the principle of the preservation of progeny (*hifdz al-nasl*) can be implemented by developing policies that protect the rights of children born from interfaith marriages. This includes establishing rules to ensure adequate religious education and the continuity of religious identity within the family environment, aligning with the principles of Maqasid Shariah. Furthermore, the principle of welfare (*maslahah*) guides policymakers in crafting interfaith marriage laws that serve the welfare of both individuals and society. This comprehensive approach involves safeguarding the rights of the individuals involved, fostering harmonious family relationships, and addressing the broader social needs of the community.

Additionally, the principle of balancing rights and obligations, as articulated in Maqasid Shariah, provides a foundation for creating fair and equitable regulations for both parties involved in an interfaith marriage. This principle helps to minimize potential conflicts and injustices by ensuring that the rights and duties of both parties are equally respected. Ethical considerations, another fundamental principle of Maqasid Shariah, guide policymakers in developing interfaith marriage laws that embody ethical values such as mutual respect, understanding, and tolerance. This principle establishes a foundation for fostering healthy interfaith relationships and supporting social harmony.

Through this comprehensive approach, it is hoped that policymakers and legal authorities can utilize the principles of Maqasid Shariah to strike an appropriate balance between upholding the objectives of Islamic law and responding to the dynamic and diverse nature of society in which interfaith marriages occur. This approach ultimately aims to ensure that the handling of interfaith marriage cases is conducted with due regard to justice, diversity, and the applicable legal principles, leading to a more just and cohesive legal system.

5. Conclusion

The promulgation of Supreme Court Circular Letter Number 2 of the Year 2023, delineating guidelines for judges in Indonesia to handle cases involving applications for marriage registration between individuals of differing religious affiliations, represents a potentially constructive stride toward mitigating controversies surrounding such marriages within the Indonesian context. It is anticipated that this measure will engender a semblance of assurance and coherence in the implementation of legal procedures governing applications for marriage registration encompassing couples of divergent religious persuasions. The Circular Letter (SEMA) expressly delineates that a marriage deemed valid is one conducted in accordance with the stipulations enshrined in Article 2, paragraph (1), and Article 8, letter (f), of Law Number 1 of the Year 1974 pertaining to Marriage. Consequently, judges are expressly prohibited from granting applications for marriage registration involving parties of discrepant religious faiths or beliefs.

However, the issuance of SEMA No. 2 of the Year 2023 does not inherently resolve the intricate challenges attendant to interfaith marriage in Indonesia. Hence, a comprehensive campaign of dissemination and awareness-raising among judicial personnel regarding the contents and imperatives of the Circular is imperative. Such efforts are essential to ensure an enlightened comprehension of the Circular's provisions and foster adherence thereto within the judiciary. Furthermore, the imperative of harmonization among diverse legislative frameworks pertinent to the issue of interfaith marriage assumes paramount importance. This endeavor seeks to obviate discordance and incongruities between disparate legal provisions, thereby forestalling conflicts that may arise from conflicting legal mandates in this domain. Thus, the endeavor to cultivate coherence and efficacy within the legal apparatus concerning interfaith marriage mandates concerted efforts encompassing both judicial education and legislative alignment.

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