The Development of Indonesian Marriage Law in Contemporary Era

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Abstract

Indonesia is a highly diverse country, comprising a multitude of tribes, groups, races, and religions, and is endowed with a rich cultural heritage. The heterogeneity of Indonesian society provides the context for interfaith and other forms of marriage. The specific legislation that governs marriage is Law Number 1 of 1974. It is commonly assumed that Law No. 1/1974 requires immediate revision due to its outdated nature and inability to address contemporary issues pertaining to marriage. Consequently, there are numerous provisions within the Marriage Law that require amendment or addition. For instance, there is a need to introduce more robust penalties for those who violate the Marriage Law, whether they are involved in interfaith marriages, same-sex marriages, polygamous marriages, or marriages contracted without the requisite formalities. This study aims to examine the evolution of marriage law in Indonesia and the challenges it has faced. It employs a descriptive qualitative approach with a literature review. The findings reveal that Indonesia's marriage regulation has undergone three distinct phases, each characterised by its own set of issues. Additionally, the country's marriage law has experienced two distinct periods: one following independence and the other following the enactment of Marriage Law Number 1 of 1974.

Keywords: *marriage, law, contemporary*

INTRODUCTION

The fundamental tenets of the Republic of Indonesia's legislative and regulatory framework are derived from the ten principles of Pancasila, as enshrined in the 1945 Constitution. One of the tenets of Pancasila, and the first of these tenets, is the belief in one God. This principle is also set forth in the 1945 Constitution. One of the articles of the 1945 Constitution provides that the state shall guarantee the implementation of the teachings of each religion. (Nasution & Muchtar, 2024). The Indonesian population is highly diverse in terms of ethnicity, culture, and religion. In the case of Indonesian citizens, the application of the law is determined by Article 134, paragraph (2) of the Indonesian Constitution. For other Indonesians, the relevant legislation is that of customary law. For those who adhere to Christianity, the Marriage Ordinance (Christian Indonesia S. 1933 No. 74) is applicable. (Sulfian, 2023)

For foreign In the case of Chinese and Indonesian citizens of Chinese descent, the provisions of the Civil Code will be applied. Minor alterations have been made. 5. For other foreign easterners and Indonesian citizens of foreign eastern descent, the It is unclear whether this refers to the Indonesian language or to the country. In the case of Europeans and Indonesian citizens of European descent, as well as individuals with a similar status, the Civil Code shall apply. The aforementioned provisions shall henceforth be applicable. As of October 1, 1975, this legislation shall be applicable to all groups. The aforementioned provisions are to be

interpreted in accordance with the following Latin abbreviation: LA. The provisions of Number 1 of 1974 and its implementing regulations pertain to the marriage laws that The aforementioned legislation applies to each of these religions. In the event that The aforementioned laws are distinct from one another. However, there are instances where the laws are not mutually exclusive. With regard to Indonesia, there is a marriage law that is authentically regulated in Law No. 1 of 19 74 of the Indonesian State Gazette. The rationale behind this legislation is elucidated in the Supplement to the State Gazette. The aforementioned Republic of Indonesia Number 3019. For a country and nation like Indonesia, it is of the utmost importance to have a national L M The Marriage Law simultaneously incorporates the principles and establishes a legal foundation for marriage, which has served as a reference point and has been applicable to diverse groups within our society. In alignment with the philosophical foundation This law must be founded upon the principles of Pancasila and the 1945 Constitution. Pancasila and the 1945 Constitution. Conversely, it must be capable of accommodating the full range of contemporary social realities. This marriage law has incorporated the elements and provisions of the individual's religion and belief. (Setiawan et al., 2024)

The subsequent legislation that has been established by the state since Indonesia's independence is as follows:

a. Law No. 32 of 19 54. Regarding the Entry into Force of the Law of the Republic of Indonesia Dated November 21, 1946, No. 22 of 1954
b. November 21, 1946, No. 22 of 1946 concerning the Registration of Nikah, Ta a. The Law of Akad and Rujuk is applicable in all areas outside of Java and Madura. b. The Law No. 1 of 1974 concerning Marriage is also relevant. The aforementioned legislation collectively constitutes the material law of marriage.
c. Government Regulation No. 9 of 1975 concerning the implementation of Law No. 1 of 1974 With regard to the legislation enacted by the Indonesian state subsequent to the country's independence, the following may be cited:
d. Law No. 32 of 1954, concerning the stipulation of the entry into force of the Law of the Republic of Indonesia dated November 21, 1946, No. 22 of 1954. 74 concerning Marriage.
e. Law No. 7 of 1989 concerning Religious Courts. This legislation contains provisions pertaining to the procedural aspects (formal law) of resolving marital disputes within the purview of the Religious Courts. Regulation No. 9 of 1975 concerning the implementation of Law No. 1 of 1974 concerning marriage.
f. Law No. 7 of 1989 concerning Religious Courts. Part of the material of this law contains rules relating to the procedures (formal law) for resolving marital disputes in the Religious Courts.

In light of the aforementioned legislation, this research primarily focuses on Law No. 1 of 1974 concerning Religious Courts. The 1974 legislation is of particular interest as it contains the entirety of the material law of marriage. In addition to the aforementioned state laws and regulations, the definition of the Marriage Law in this discussion of rules or provisions also encompasses the Compilation of Islamic Law in Indonesia. This compilation was disseminated through Presidential Instruction No. 1 of 1991 concerning the Compilation of Islamic Law, and it serves as a guideline for judges in the Religious Courts in the settlement of marriage cases. (Sulfian, 2023)

One of the primary objectives of Islamic Shari'a is to ensure the continuity of offspring through marriages that are legally recognized according to religious and cultural norms. The definition of marriage, as outlined in Marriage Law No. 1 of 1974, article 1, states the following: Marriage is defined as the inward and outward bond between a man and a woman as husband and wife. The purposes of marriage can be broadly defined as follows: (1) uniting

two different individuals to achieve one goal as a happy family, continuing the lineage of offspring, and connecting ideals.

To refrain from actions that are proscribed by divine law, and (4) to cultivate a sense of affection between spouses. In accordance with the evolution of society, the issues that arise are becoming increasingly intricate. In the context of marriage, recent media reports have frequently highlighted the challenges that marriages present in social life. For example, there are marriages between individuals of different ethnicities, same-sex marriages, marriages contracted without the formalities of a religious ceremony, marriages between couples who adhere to different religious beliefs, and marriages between couples who have different religions. Although mixed marriages and marriages of different religions are fundamentally distinct, it is not implausible that they could occur simultaneously.

Although mixed marriages and interfaith marriages are fundamentally distinct, it is not implausible that a mixed marriage may subsequently evolve into an interfaith marriage. This is because couples who cross national borders also cross religious boundaries. In addition to the difficulties associated with obtaining state or religious recognition of the marriage, couples who enter into such marriages frequently encounter other challenges that emerge over time. For instance, there are issues pertaining to state recognition of children born into the union, the dissolution of the marriage, the division of property, and the distribution of inheritance. Furthermore, there are additional implications to consider. (Tiwi & Khambali, 2022)

In accordance with Article 57 of Law No. 1/1974 on Marriage, a mixed marriage is defined as a union between two individuals who are subject to disparate legal frameworks in Indonesia, stemming from their distinct citizenship statuses. One partner is a foreign national, while the other is an Indonesian national. It should be noted that the term "mixed marriages" is not being used in this context to refer to inter-religious marriages.

Meanwhile, interfaith marriages continue to present a complex set of considerations within the broader social context. One viewpoint is that religious matters are private affairs and thus not a concern of the state. Conversely, some argue that interfaith marriage is prohibited by religious doctrine and therefore unacceptable. Each religion, including Islam, Catholicism, Protestantism, Hinduism, and Buddhism, has distinct regulations pertaining to the procedures, conditions, and prohibitions associated with marriage. If a marriage occurs between two individuals who adhere to the same religion, it is not an issue. The issue of interfaith marriage becomes problematic when individuals from different religious backgrounds desire to wed and find themselves torn between the desire for a romantic union and the tenets of their respective faiths. In an effort to circumvent the legal and religious obstacles posed by interfaith marriage, one party in the couple may choose to convert to the religion of the other or to align with the religion of their partner, thereby making the marriage valid according to the chosen religion. (Salam et al., 2024)

Other issues pertaining to marriage include the question of same-sex unions (between individuals of the same gender), which have not been accepted by society at large due to their perceived contradiction with religious rules and norms that shape the social order. However, there are a number of communities that have emerged in recent decades to promote and defend the basic rights of LGBT individuals (lesbian, gay, bisexual, and transgender) on the grounds of human rights.

Furthermore, issues pertaining to marriage law have emerged, including those related to direct and indirect (online) marriages. In the contemporary era, online sirri marriages (conducted via internet technology) have become a prevalent phenomenon, eliciting a mixed response from the general public.

Nikah sirri can be defined as a secret or clandestine marriage. It is referred to as a "secret marriage" due to the fact that this particular matrimonial ceremony is deliberately concealed from the general public for a multitude of reasons. It is typically attended by a limited number

of individuals from the couple's inner circle, rather than being celebrated in the form of an open reception. The question of the validity of a sirri marriage is left to the discretion of the relevant religious authority, even in the absence of formal registration with the Marriage Registration Officer (PPN). The purpose of marriage registration is to facilitate the orderly administration of marriages and to confer legal force upon them.

The legal issues pertaining to marriage also encompass contract marriages, which are marriages between a man and a woman that are entered into within a specified period of time and are delineated in a contract. The implementation of this marriage is also akin to a sirri marriage, lacking the requisite registration. In Islamic law, a contract marriage is referred to as a nikah mut'ah, which is prohibited by Islamic teachings.

In the contemporary era, the institution of marriage has ramifications that extend beyond the individuals who enter into it. It also has far-reaching implications for the broader social fabric of human life. The growth of communication and transportation technologies has facilitated the formation of relationships across a broader spectrum of ethnic, racial, and religious groups. It is not implausible that these relationships may result in marriages between individuals from disparate tribes, races, and religions within the context of community life. Indonesia is a pluralistic society, characterised by a high degree of ethnic, religious, cultural and social diversity. These characteristics give rise to socio-cultural interactions that, in turn, give rise to the phenomenon of intermarriage between different religions and cultures, ethnicities, and groups. (Dharmayani & Qohar, 2019)

In light of the current challenges facing Indonesian marriage law, this study aims to delve deeply into the intricacies of the legal issues surrounding interfaith marriages, Shirri marriages, same-sex marriages, and contract marriages. It will examine these matters through the lens of the prevailing laws and regulations in Indonesia, particularly in the context of Law No. 1 of 1974 concerning marriage. (Surahmi & Junaidi, 2023)

RESEARCH METHOD

In conducting this research, a normative legal research methodology was employed. This methodology is classified as a descriptive-prescriptive approach to legal research, the objective of which is to identify potential problem solutions. The normative juridical approach, which entails an analysis of normative and doctrinal legal principles, was utilized as the research methodology. (Taekema & van der Burg, 2024)

RESULT & DISCUSSION

Law No. 1 of 1974, marriage represents the inner and outer bond between a man and a woman as husband and wife, with the objective of establishing a harmonious and enduring family unit (household) founded upon the principles of divine providence. A marriage is considered valid if it is conducted in accordance with the tenets of the religion or belief system involved and is duly registered in accordance with the relevant legal and regulatory frameworks. Nevertheless, it is observed that a considerable number of marriages are conducted in contravention of both religious law and the applicable laws and regulations.

Marriage Problems

The legal and religious aspects of marriage are defined by the provisions of Law No. 1 of 1974. This legislation establishes marriage as an inner and outer bond between a man and a woman as husband and wife, with the aim of forming a happy and eternal family (household) based on God Almighty. A marriage is considered valid if it is conducted in accordance with the tenets of the religion or belief system involved and is duly registered in accordance with the relevant legal and regulatory frameworks. Nevertheless, it is observed that a considerable number of marriages are conducted in contravention of both religious law and the applicable

laws and regulations. With regard to marriages that are deemed to contravene religious and positive law, these include interfaith marriages, Shirri marriages, marriages between individuals of the same sex, and contract marriages .In the context of marriage law, Article 2 Paragraph 1 of the 1945 Constitution stipulates that no marriage shall be conducted outside the purview of religious and spiritual traditions. (Lestari, 2018)

History of Marriage Law in Indonesia

The history of marriage in Indonesia can be divided into three periods: The initial period was the Dutch Colonial Period. During this period, the Freijer Compendium, a legal text that outlines the rules of marriage and inheritance according to Islamic law, was the prevailing source of legislation. This legal compendium was established on May 25, 1760, for use by the Dutch East India Company (VOC). In accordance with the recommendation of the Resident, the Tjicebonshe Rechtsboek was compiled. A distinct compendium was created for the Landraad in Semarang in 1750. In the case of the Makassar area, the VOC itself approved a Compendium. During the Dutch East Indies Government in the Daendels era (1800-1811) and the British Thomas S. Raffles era (1811-1816), Islamic law constituted the applicable law for the community (Masruhan, 2011). In 1823, the Governor General issued a resolution (dated June 3, 1823, Number 12) inaugurating the Palembang City Religious Court. The court was headed by a penghulu, and an appeal could be requested to the sultan (Akbar Ryant Prabowo, 2024)

The authority of the Palembang Religious Court encompasses the following: The authority of the religious court extends to the following matters: (1) marriage, (2) divorce, (3) division of property, (4) management of children in the event of divorce, (5) inheritance and wills, (6) guardianship, and other religious matters. The authority of religious courts is explicitly delineated in Staatsblad 1835 No. 58. In Staatsblad 1835 No. 58, it is explicitly stated that in the event of a dispute between a Javanese and a Madurese individual pertaining to a marriage case or the division of property, the dispute must be resolved in accordance with Islamic law. The authority to make this decision is vested in a Muslim religious expert. A Muslim religious expert is consulted in matters pertaining to the division of property or payments. However, all disputes are ultimately resolved by the ordinary court, which considers the decision of the religious expert and ensures its implementation (Akbar Ryant Prabowo, 2024)

Moreover, the theory of receptio in complexu was challenged by Van Vollenhoven and Snouck Hurgronje with the theory of receptie (reception), which posits that Islamic law can be applied as long as it does not contravene customary law. As a consequence of this receptie theory, the Regeerings Reglement (Regulation of Government) Stbl. 1855 No. 2 was transformed into the Indische Staats Regeling (Indonesian State Regulation) in 1925 (Stbl. 1925 No. 416), which was subsequently followed by Stbl. 1929 No. 221. 1929 No. 221. In this document, it is stated that Islamic law is only considered valid as law if it has fulfilled two conditions, namely: (1) Islamic legal norms must first be accepted by customary law (local community custom); and (2) even if they have been accepted by customary law, the norms and rules of Islamic law must also not contradict or must not have been determined otherwise by the provisions of Dutch East Indies legislation.

In accordance with the aforementioned stipulations, Stbl. 1937 No. 116, which constrained the authority and responsibilities of the religious courts, which were originally empowered to determine matters of inheritance, and so forth, was then permitted to preside solely in matters pertaining to marriage, divorce, and reconciliation. Moreover, the Draft of the Recorded Marriage Ordinance (Ontwerp Ordonantie op de Ingeschreven Huwelijken) was introduced in June 1937, conferring legal consequences upon indigenous citizens.

Secondly, the period of Japanese colonial rule commenced in 1942, when the Dutch were forced to withdraw from Indonesia and were replaced by the Japanese. Japan's policy toward

religious courts was a continuation of the previous policy. The policy was delineated in the transitional regulation of Article 3 of the Japanese army law (Osamu Sairei) dated March 7, 1942, No. 1. The only alteration was the renaming of the religious court. The initial court was designated the "Sooryoo Hooim," while the High Islamic Court was known as the "kaikyoo kootoohoin" (Robi'atul Adawiyyah et al., 2023)

Thirdly, prior to the enactment of the Marriage Law, the Indonesian government had established a number of Islamic marriage regulations in the period following independence. Among these is Law Number 22 of 1946 concerning the Registration of Nikah, Talak, and Rujuk. This law was enacted by the President of the Republic of Indonesia on November 21, 1946.

Ultimately, the Marriage Law, enacted by Law No. 1 of 1974, which incorporated Islamic law, can be divided into two distinct periods. The initial period saw the inception of the law, which sought to unify the field of marriage law without eliminating the diversity that must still be maintained, given the continued existence of various marriage provisions within the Indonesian legal community. Secondly, the period of application of the law commenced with the issuance of Presidential Instruction No. 1 of 1991, which was followed by the issuance of a Decree by the Minister of Religion on July 22, 1991. This decree was issued in accordance with the provisions set forth in the aforementioned Instruction.

Interfaith Marriage

A marriage between individuals of different religions or beliefs is a union between two people, a man and a woman, who are subject to the laws of their respective religions or beliefs. Article 2, Paragraph 1 of Law Number 1 of 1974 states: "A marriage is considered valid if it is conducted in accordance with the tenets of the respective religion or belief system." In the context of the legal explication of marriage, it is underscored that the formulation of Article 2, Paragraph 1 signifies that no marriage is permitted outside the purview of the law of each religion and belief, in accordance with the 1945 Constitution. (Junaidi et al., 2021)

This stipulation indicates that a marriage can only be conducted if the bride and groom adhere to the same religious beliefs. In the event that the two individuals in question adhere to disparate religious traditions, there exist a number of potential avenues for couples of differing religions seeking to enter into matrimony. Primarily, they may petition the relevant judicial authority for an order authorizing the union. Subsequently, the couple may proceed to be married at the Civil Registry Office, in accordance with the court ruling. However, this approach is no longer viable in light of Presidential Decree No. 12 of 1983. Secondly, the marriage is conducted in accordance with the tenets of the respective religion. The marriage is initially conducted in accordance with the religious law of the bride (typically the husband), followed by the subsequent marriage in accordance with the religious law of the subsequent bride. The issue thus arises as to which marriage is considered valid. Thirdly, both spouses select a legal system to which they wish to be bound. One spouse may choose to submit to the other spouse's law. This often involves a form of legal submission, including what may appear to be conversion on the part of one partner. The fourth method, which has gained popularity recently, is to marry abroad. This has been used by several celebrities as a means of circumventing the difficulties associated with performing interfaith marriages in Indonesia.

In accordance with the provisions of Law No. 1 of 1974, both in its articles and explanations as well as its implementing regulations, there are no explicit provisions regulating marriages between individuals of different religions. Nevertheless, an examination of Article 2, paragraph (1), which states that marriage is valid if it is carried out according to the laws of each religion and belief, reveals that the law leaves it to each religion to determine the ways and conditions for the implementation of marriage, in addition to the ways and conditions that have been determined by the state. Consequently, the question of whether a marriage is prohibited or not,

in addition to depending on the provisions contained in Law No. 1 of 1974, is also determined by the respective religious laws.

Article 8, paragraph f of Law No. 1 of 1974 states that marriage is prohibited between two individuals who have a relationship that is prohibited by their religion or other applicable regulations. It can be concluded from this provision that although Law No. 1 of 1974 does not explicitly regulate interfaith marriages, However, it can be argued that there is an implicit prohibition for Muslims, as well as for Christians, Catholics, and followers of other religions. (Fuadi & Sy, 2020)

In Islamic law, interfaith marriage is prohibited. This is evidenced by the Qur'an, which serves as the primary source of Islamic law. The proscription of interfaith marriage is set forth in the Qur'an, specifically in verse 221 of chapter Al-Baqarah. In light of this verse, it is evident that interfaith marriage is proscribed. This is further emphasized in the Compilation of Islamic Law (KHI) in Articles 40 and 44, which state that a Muslim woman is not permitted to marry a non-Muslim man, and similarly, a Muslim man is not permitted to marry a non-Muslim woman.

The prohibition of interfaith marriage is also typically observed in the context of non-Muslim religions. Protestant Christianity maintains a policy of avoiding interfaith marriages. In exceptional circumstances, the Church may permit such a union, provided that certain conditions are met. In contrast, Catholic Christianity espouses a doctrine of avoidance of religious differences, to the greatest extent feasible. In exceptional circumstances, when unavoidable, the Church may permit interfaith marriages.

Buddhism espouses the view that all religions are equally valid and that individuals are free to adhere to the religion of their choice. Consequently, there is no issue with a Buddhist person marrying someone who is not Buddhist. In contrast, Hinduism forbids interfaith marriages, particularly if the male partner is Hindu, as different religions espouse disparate principles. Nevertheless, should the prospective bride and groom remain determined to proceed with the marriage, the objective is to purify one of the prospective brides who is not Hindu. (Fuadi & Sy, 2020)

In accordance with Presidential Decree No. 6 of 2000, Confucianism is the sixth officially recognized religion in Indonesia. In principle, Confucianism is analogous to Buddhism, and thus interfaith marriages are permitted.

Article 2, paragraph (2) stipulates that "All marriages are to be recorded in accordance with the prevailing legislation and regulations." The government's role is limited to the registration of marriages, which entails the regulation of the administrative aspects of marriage. In practice, however, the two paragraphs of the Marriage Law, specifically Article 2 paragraphs (1) and (2), are applied cumulatively, such that both must be met for a marriage to be considered valid. (Fuadi & Sy, 2020)

Consequently, despite the validity of a marriage according to certain religious rules, it is not recognized as such by the state unless it has been registered with the competent government office. This applies to both Muslims, who must register their marriages with the Office of Religious Affairs (Kantor Urusan Agama/KUA), and non-Muslims, who must register with the Civil Registry Office (Kantor Catatan Sipil/KCS). In many instances, the legal validity of a marriage must be substantiated through the presentation of a marriage certificate obtained from the KUA and KCS. This has significant legal and social implications for couples of different religions, including the inability of children born into the union to be considered legitimate offspring and the difficulty that husband and wife may experience in obtaining civil rights arising from the marriage.

A further consequence of the requirement for a marriage to be registered is that it is only recognised by the state for those religions which it deems valid. The relevant legislation, Law No. 1/PNPS/1965, specifies that the five religions currently recognised by the state in Indonesia

are Islam, Christianity, Catholicism, Hinduism and Buddhism, along with Confucianism. Furthermore, civil rights are not recognized by the state, which has the consequence that individuals who are not affiliated with one of the six recognized religions must either misrepresent their marital status or face the consequences of being unable to be recognized by the state.

Sirri Marriage

The term "Nikah Sirri" is derived from Arabic and comprises two distinct vocabularies. It refers to a marriage between two individuals who are not officially registered with the Office of Religious Affairs (KUA). Despite this lack of formal registration, the Nikah Sirri is considered valid within Islamic law. This is because it fulfills the essential elements of a valid marriage in Islam, including the presence of two brides, two witnesses, guardians, the exchange of verbal declarations of intent (ijab-qabul), and the transfer of a dowry. While this type of marriage is considered valid according to Islamic law, it is not recognized as such by the state. Consequently, marriages that are not registered at the Office of Religious Affairs lack legal standing. This renders them unable to address disputes that may arise between the couple, such as divorce, domestic violence, inheritance, or child custody. The religious affairs office and religious courts are thus unable to adjudicate or even accept complaints from the couple in question. (Hendri et al., 2023)

From the perspective of Indonesian legislation, a nikah sirri is a marriage that is not conducted in accordance with the stipulations set forth in the applicable laws and regulations. In accordance with the stipulations set forth in Article 2, paragraphs (1) and (2), of Law No. 1/1974, as amended. In addition to being valid according to religious law, a marriage must also be recorded by an authorized official, as stipulated in Article 4 and Article 5, paragraphs (1) and (2), of the KHI. Therefore, from the perspective of legislation, a nikah sirri is considered an illicit and invalid marriage.

Same-sex Marriage

The legal status of same-sex marriage in Indonesia is currently unclear. Article 1 of Law No. 1 of 1974: marriage is a physical and mental bond to forming a happy and eternal family.rriage Law explicitly states that marriage is a union between a man and a woman.

In Indonesia, marriage is a ceremony that involves not only the two individuals who are to be wed but also a large audience, particularly the two families of the couple. In light of the fact that a legal marriage is one that is conducted in accordance with the tenets of the respective religion, as set forth in Article 2, The Indonesian Marriage Law (Article 1) stipulates that a marriage shall be considered valid if performed in accordance with the laws of the religion or belief system of the parties involved. This stipulation is reflective of the broader sociological cont, which is replete with traditions and customs that are deeply entrenched in the community, also exerts a profound influence on the marriage process, thereby establishing a close interrelationship between the family and society. In accordance with the legal framework of Indonesia, the status of marriage is recognized exclusively in instances where the union is conducted in accordance with the tenets and laws of the respective religion. Marriage is defined as a union between a man and a woman, and thus is not recognized in the context of same-sex unions, whether between two men or two women. Such unions are not only absent from the religious traditions of the Indonesian people but also contradict the legal system itself, in this case the marriage law which is the basis for the state to recognize and record the marriage event. (Dedihasriadi et al., 2022)

Similarly, the religious teachings embraced by each Indonesian citizen do not legalize same-sex marriage. It is important to note that religion serves as a guide or compass for life, with the

aim of achieving peace and prosperity for each adherent. This is exemplified by the prohibition and condemnation of same-sex marriage in Islam.

The fundamental objective of marriage is to procreate and perpetuate the human race. A legally recognized marriage results in the emergence of legitimate offspring, which are subsequently acknowledged by the law. The emergence of new human offspring is contingent upon the performance of a marriage ceremony between a male and a female partner. The absence of marriage makes it challenging to preserve offspring, even if it can produce new humans. Typically, this is not a favorable outcome, as it stems from an illegitimate relationship. Furthermore, it has an impact on the quality of the human being itself. If a same-sex marriage is performed, it will be even more difficult to obtain offspring. If same-sex marriage is allowed, the extinction of the human race is a distinct possibility. Marriage is not merely a means of satisfying lust, managing finances, or pursuing pleasure; it is a noble mission, namely, to produce superior and quality human generations. Therefore, the idea of same-sex marriage is not only in conflict with religious teachings but also lacks logical coherence.(Andrian, 2023)

Contract Marriage

Contract marriages are a legally recognized form of marital union that is entered into by two individuals who have entered into a legally binding contract.

A contract marriage is a legally recognized union between two individuals, typically a man and a woman, who enter into a formal agreement to be married for a specified duration, as outlined in a legally binding contract. In Islamic law, a contract marriage is referred to as a nikah mut'ah. In accordance with the law, such a marriage is considered illicit and the marriage contract is thus deemed invalid. This is analogous to a person who prays without ablution, which renders the prayer invalid or void. Such actions are not accepted by Allah as acts of worship. Similarly, individuals who enter into contract marriages are not bound by the marital contracts they have entered into, as these are deemed invalid or void. Furthermore, such marriages are not accepted by Allah as acts of worship, as the texts in the Qur'an and Hadith do not explicitly link marriage to a specific period of time. In the Qur'an and the Hadith, the concept of marriage is absolute in terms of time. This implies that the intention is for a lifelong commitment, rather than a temporary arrangement. Therefore, contract marriages that are limited to a specific period of time are considered invalid, as they are in contradiction with the verses of the Qur'an and Hadith, which do not mention time limits. (Aji, 2022)

A contract marriage, or mut'ah marriage, is a form of marital union that is widely known in several regions of Indonesia. It is a marriage between two prospective brides with an agreement that is valid for a specified period of time. As a result, this marriage is not registered with the relevant authority. In accordance with the stipulations set forth in Law Number 1 of 1974 concerning Marriage, contract marriages are not recognized under the purview of the law. Article 1 of the Marriage Law states that: A marriage is a physical and mental bond between a man and a woman as husband and wife. Moreover, Article 2, paragraph (1) stipulates that a marriage is valid if it is conducted in accordance with the laws of the respective religion or belief system. Therefore, if a marriage is not conducted in accordance with the religious and spiritual beliefs of the individuals involved, it will not be legally recognized. In this context, religious provisions are not merely concerned with the fulfilment of specific conditions, such as the existence of two prospective brides, parental consent, and dowry. Rather, they also encompass the fulfilment of the fundamental purpose of marriage, which is to form a happy family based on the Almighty God.

Therefore, a contract marriage is not legally recognized as a marriage because it is not conducted for the noble purpose of obeying God's commandments and forming a happy family. Rather, it is conducted for the fulfillment of economic or biological interests alone. Furthermore, contract marriages contravene the stipulations set forth in the Marriage Law, as

all marriages must be registered, as outlined in Article 2, paragraph (2), of the aforementioned law. It is also crucial to acknowledge that contract marriages have adverse implications for the children born of such unions, as they lack the legal status and recognition of a biological father.

CONCLUSION

The Indonesian nation is comprised of a multitude of tribes, groups, races, and religions, collectively contributing to a rich cultural tapestry. The heterogeneity of Indonesian society allows for the occurrence of interfaith marriages and other forms of marital unions. The rules governing marriage are also pluralistic, encompassing religious law, state law, and even customary marriage law, as defined by Indonesian positive law. In the context of an explanation of marriage law, the formulation of Article 2, Paragraph 1 is of particular significance. This article emphasizes that there is no marriage outside the law of each religion and belief, in accordance with the 1945 Constitution. Currently, Indonesian marriage law is facing numerous challenges, including those pertaining to interfaith marriages, same-sex marriages, sirri marriages, and contract marriages. Interfaith marriage is explicitly proscribed in Islamic law and is similarly prohibited in other religious traditions. Furthermore, same-sex marriage is also prohibited in accordance with both religious and state law, as one of the fundamental purposes of marriage is to procreate and perpetuate the human race. Additionally, sirri and contract marriages are considered illicit unions due to the lack of registration at the Office of Religious Affairs or the Civil Registry Office. Indonesia is not a predominantly religious country, yet its Constitution espouses the principle of monotheism. Consequently, all Indonesian citizens are religious people. However, there are still numerous provisions in the Marriage Law that require amendment or supplementation. For instance, there is a need to introduce more stringent penalties for those who violate the Marriage Law, whether by entering into interfaith marriages, similar marriages, sirri marriages, or contract marriages. In light of this, it is imperative to revise Law Number 1 of 1974 concerning Marriage.

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