

## ICRP Jakarta and Interfaith Marriage Assistance in Indonesia: Civil Rights, Legal Interpretation, and Advocacy for Interfaith Couples

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### Abstract

The Indonesian Constitution guarantees its citizens the freedom to express their fundamental rights. However, in practice, this guarantee faces numerous challenges and exceptions, particularly in the context of interfaith marriages. This article aims to explore the role of the Indonesian Conference on Religion and Peace (ICRP) in Jakarta in addressing the phenomenon of interfaith marriages. This study utilises James C. Scott's theory of resistance to examine how ICRP Jakarta combats stereotypes and negative stigmas associated with interfaith marriages. Data collection techniques include direct field observations and in-depth interviews with twelve key informants, including ICRP Jakarta officials, religious leaders (Islam, Catholicism, and Buddhism), and interfaith couples utilising ICRP Jakarta's services. A socio-legal approach is employed to demonstrate ICRP Jakarta's efforts to accommodate interfaith marriage practices. The study finds that ICRP Jakarta's resistance involves mainstreaming civil rights discourse, interpreting contradictory legal frameworks, and advocating for interfaith couples through juridical, social, and direct advocacy. This article argues that ICRP Jakarta's resistance to stereotypes and negative stigmas against interfaith marriages exemplifies how research and practical action can foster positive change in a multicultural society. These findings have implications for shaping a more inclusive and tolerant understanding and policy towards interfaith marriages.

*[Konstitusi Indonesia menjamin kebebasan warga negara dalam mengekspresikan hak-hak dasar mereka. Namun, dalam praktiknya, jaminan ini menghadapi banyak tantangan dan pengecualian, terutama dalam konteks pernikahan beda agama. Artikel ini bertujuan untuk mengeksplorasi peran Indonesian Conference on Religion and Peace (ICRP) Jakarta dalam menangani fenomena pernikahan beda agama. Dengan menggunakan teori resistensi James C. Scott, artikel ini mengkaji bagaimana ICRP Jakarta melawan stereotip dan stigma negatif terkait pernikahan beda agama. Teknik pengumpulan data mencakup observasi langsung di lapangan dan wawancara mendalam dengan dua belas informan kunci, termasuk pengurus ICRP Jakarta, tokoh agama (Islam, Katolik, dan Buddha), serta pasangan beda agama yang menggunakan layanan ICRP Jakarta. Pendekatan sosio-legal digunakan untuk mendemonstrasikan upaya ICRP Jakarta dalam mengakomodasi praktik pernikahan beda agama. Artikel ini menemukan bahwa resistensi yang dilakukan oleh ICRP Jakarta meliputi pengarusutamaan wacana hak-hak sipil, interpretasi kerangka hukum yang kontradiktif, serta advokasi bagi pasangan beda agama dalam bentuk advokasi yuridis, sosial, dan langsung. Artikel ini berargumen bahwa resistensi ICRP Jakarta terhadap stereotip dan stigma negatif terhadap pernikahan beda agama menunjukkan bagaimana penelitian dan aksi nyata dapat*

*berjalan beriringan untuk menciptakan perubahan positif dalam masyarakat yang multikultural. Temuan ini berimplikasi pada pembentukan pemahaman dan kebijakan yang lebih inklusif dan toleran terhadap fenomena pernikahan beda agama.]*

**Keywords:** Advocacy for Interfaith Couples, Civil Rights, ICRP Jakarta, Interfaith Marriage, Legal Interpretation.

## Introduction

Despite the freedom of religion guaranteed by Indonesia's Constitution,<sup>1</sup> regulations on interfaith marriages<sup>2</sup> often show great complexity and raise controversial issues in the public sphere and social media.<sup>3</sup> Indonesians are known to be very tolerant, as they can live side by side despite believing in different religions.<sup>4</sup> However, when it comes to interfaith marriage, this level of tolerance is often doubtful and can lead to social isolation for interfaith couples.<sup>5</sup> While the state and society support individual freedom,<sup>6</sup> in practice, they usually oppose interfaith marriage for fear of social stigma and the threat of disharmony in family life.<sup>7</sup> Couples who marry across different religions often face dilemmas, both social, such as practising worship and celebrating religious holidays,<sup>8</sup> and administrative, such as the procedures for conducting and recording marriages to be officially recognised by the state.<sup>9</sup>

<sup>1</sup> See: Ahmad Rofii and Nadirsyah Hosen, "The Constitutionalization of "Religious Values" in Indonesia," in *Constitutional Democracy in Indonesia* (New York: Oxford University Press, 2023), 241–60; Zainal Amin Ayub et al., "Freedom of Religion And Belief Under Supreme Court Verdict Study Case on Supreme Court Decision Number 17/P/HUM/2021," *Jurnal Hukum dan Peradilan* 12, no. 1 (20 October 2023): 1; Sayuti Sayuti, Ghina Nabilah Effendi, and Illy Yanti, "Freedom of Speech Without a Direction: Criticism of the Promotion of Freedom of Speech in Indonesia," *Al-Risalah: Forum Kajian Hukum dan Sosial Kemasyarakatan* 23, no. 1 (30 June 2023): 121–44.

<sup>2</sup> Ahmad Rajafi, Arif Sugitanata, and Vinna Lusiana, "The "Double-Faced" Legal Expression: Dynamics and Legal Loopholes in Interfaith Marriages in Indonesia," *Journal of Islamic Law* 5, no. 1 (February 2024): 19–43.

<sup>3</sup> See: Ali Mutakin, "Fiqh Perkawinan Beda Agama di Indonesia: Kajian atas Fatwa-Fatwa NU, MUI dan Muhammadiyah," *Al-Ahwal: Jurnal Hukum Keluarga Islam* 14, no. 1 (10 May 2021): 11–25; Y. Sonafist and Henny Yuningsih, "Islamic Law, the State, and Human Rights: The Contestation of Interfaith Marriage Discourse on Social Media in Indonesia," *JURIS (Jurnal Ilmiah Syariah)* 22, no. 2 (28 December 2023): 381–91.

<sup>4</sup> Hyung-Jun Kim, "The Changing Interpretation of Religious Freedom in Indonesia," *Journal of Southeast Asian Studies* 29, no. 2 (September 1998): 357–73.

<sup>5</sup> Nisa Eva F, "Interfaith Marriages in Indonesia: Between the Law, State Ideology, and Progressive Muslim Voices," in *Muslim Marriage and Non-Marriage: Where Religion and Politics Meet Intimate Life*, ed. Julie McBrien and Annelies Moors (Belgium: Leuven University Press, 2023), 289–306.

<sup>6</sup> Sholahuddin Al-Fatih et al., "Academic Freedom of Expression in Indonesia: A Maqashid Sharia Notes," *El-Mashlahab* 13, no. 2 (31 December 2023): 203–24.

<sup>7</sup> See: Lyn Parker, Chang-Yau Hoon, and Raihani, "Young People's Attitudes towards Inter-Ethnic and Inter-Religious Socializing, Courtship and Marriage in Indonesia," *South East Asia Research* 22, no. 4 (December 2014): 467–86; Rifqiawati Zahara and Makhfud, "Problematika Pernikahan Beda Agama: Antara Konsep dan Praktek di Masyarakat," *Indonesian Journal of Humanities and Social Sciences* 3, no. 1 (31 March 2022): 59–72.

<sup>8</sup> Hasanudin Hasanudin et al., "Legality of Interfaith Marriages in Indonesia: Legal Review, Implementation Management, and Psychological Impact on Families," *International Journal of Business, Law, and Education* 5, no. 2 (7 July 2024): 1780–87.

<sup>9</sup> Adzkiya Dzkiro Romadhon and Adibah Bahori, "Inter-Religious Marriage in Indonesia: Pros and Cons in the Administrative and Constitutional Law," *Indonesian State Law Review (ISLRev)* 6, no. 2 (April 2023): 133–76.

One Non-Governmental Organisation (NGO) that plays a vital role in studying and advocating for this controversial issue is the Indonesian Conference on Religion and Peace (ICRP), located in Jakarta.

Studies on interfaith marriage in Indonesia have been conducted by many scholars from various perspectives. From the perspective of Islamic law, Muhamad Ali found that Islamic institutions, such as the Indonesian Ulema Council (Majelis Ulama Indonesia), Muhammadiyah, and Nahdlatul Ulama, consistently reject the practice of interfaith marriage through their fatwas.<sup>10</sup> From the angle of legal negotiation, Mohamad Abdun Nasir stated that the practice of interfaith marriage can be accepted by Indonesian Muslim society if one of the non-Muslim partners is willing to make a theological conversion, but not vice versa.<sup>11</sup> As for the socio-legal approach, Nasrul Muhammad Yusuf and Muslim Mubarok revealed that interfaith couples face social stigma and pressure from family and society because the acceptance of interfaith marriage in the public sphere remains low.<sup>12</sup> Regarding the study of the utilisation of legal loopholes, Ahmad Rajafi, Arif Sugitanata, and Vinna Lusiana explored how interfaith couples often marry abroad to obtain the legality of their marriage.

Meanwhile, from the perspective of cultural and youth studies, Fransiska Widyawati stated that there has been a cultural shift among the younger generation, who are more open to interfaith marriages.<sup>13</sup> Concerning the legal pluralism approach, Judith Koschorke found that the hegemony of the dominant interpretation of Islamic law in Indonesia is the most instrumental in prohibiting marriage between Muslims and non-Muslims.<sup>14</sup> From the human rights perspective, research by M. Thahir Maloko et al. revealed that the prohibition of interfaith marriage is more political in the guise of religion because it is based on religious fatwas that contradict human rights regarding individual freedom.<sup>15</sup>

In contrast to previous scholars' research, this study examines the role of ICRP Jakarta in addressing interfaith marriage, the contradictions between norms, and how they advocate for interfaith couples in Indonesia. The selection of ICRP Jakarta as the object of study is motivated by several reasons. Firstly, ICRP Jakarta stands out with its interdisciplinary approach to its social activities. They study from a legal or religious perspective and

<sup>10</sup> Muhamad Ali, "Fatwas on Inter-Faith Marriage in Indonesia," *Studia Islamika* 9, no. 3 (2002), 1-33. See also: Asy'ari Asy'ari and Triansyah Fisa, "Interfaith Marriage in Perspectives of Classical and Modern Scholars," *Al-Manahij: Jurnal Kajian Hukum Islam* 16, no. 2 (25 November 2022): 287–300; Mochammad Rizky Eka Aditya et al., "The Problem of Interfaith Marriage in Indonesia: A Juridical-Normative Approach," *EL-Usrah: Jurnal Hukum Keluarga* 6, no. 2 (30 December 2023): 456–70; Nor Salam et al., "Interfaith Marriage from the Perspective of Rationality: Theocentrism in Islamic Law and Anthropocentrism in Human Rights Law," *De Jure: Jurnal Hukum dan Syaria'ah* 16, no. 1 (30 June 2024): 179–96.

<sup>11</sup> Mohamad Abdun Nasir, "Negotiating Muslim Interfaith Marriage in Indonesia: Integration and Conflict in Islamic Law," *Mazahib* 21, no. 2 (27 December 2022): 155–86.

<sup>12</sup> Nasrul Nasrul, Muhammad Yusuf, and Muslim Mubarok, "Pernikahan Beda Agama Tinjauan Fikih dan Tantangan Kehidupan Multikultural di Indonesia," *Cendekia: Jurnal Ilmu Pengetahuan* 4, no. 3 (July 23, 2024): 243–52.

<sup>13</sup> Fransiska Widyawati, "University Student's Perceptions on Interfaith Marriage in Indonesia: Openness, Idealism, and Reality," *Religions* 15, no. 6 (19 June 2024): 745.

<sup>14</sup> Judith Koschorke, "Legal Pluralism in Indonesia: The Case of Interfaith Marriages Involving Muslims," in *Legal Pluralism in Muslim Contexts*, ed. Norbert Oberauer, Yvonne Prief, and Ulrike Qubaja (BRILL, 2019), 199–229.

<sup>15</sup> M. Thahir Maloko et al., "Analyzing the Prohibition of Interfaith Marriage in Indonesia: Legal, Religious, and Human Rights Perspectives," *Cogent Social Sciences* 10, no. 1 (31 December 2024): 2308174.

incorporate social, cultural, and psychological aspects to provide a comprehensive picture of interfaith marriage.<sup>16</sup> Secondly, ICRP Jakarta is not only involved in research but is also active in advocacy and community education.<sup>17</sup> They often organise seminars, discussions, and workshops to raise public awareness about tolerance and understanding in interfaith marriages. Lastly, one of the unique aspects of ICRP Jakarta is the direct support they provide to interfaith couples. They offer counselling, mediation, legal assistance, and even work with religious leaders to help interfaith couples overcome their challenges.<sup>18</sup>

Data collection in this study was conducted over four months in October 2021 and June to August 2022. It involved direct observations in the field and interviews with twelve key informants. The twelve key informants consisted of three administrators of ICRP Jakarta, three religious leaders (Muslim, Catholic, and Buddhist), and three interfaith marriage partners using ICRP Jakarta services. To protect the privacy of the informants, the names of all key informants are anonymised. A socio-legal approach was chosen to explore the activities of ICRP Jakarta, not only in terms of how they interpret legal norms but also to unravel the social realities surrounding the interfaith couples they deal with. The collected data was analysed using the resistance theory of James C. Scott. For Scott, resistance is not always manifested in open rebellion or revolution but often appears as hidden actions that signify resistance to social and legal structures dominating the public sphere.<sup>19</sup> In this study, Scott's theory is used to identify forms of resistance carried out by ICRP Jakarta, such as fostering civil rights campaigns, conducting critical legal interpretation, and holistic advocacy for interfaith couples. Scott's theory provides a strong analytical framework for understanding how ICRP Jakarta helps marginalised groups, such as interfaith couples.

### Civil Rights Campaign on Interfaith Marriage

ICRP Jakarta was established in 2000 and began facilitating interfaith marriages in 2004, following the cessation of such advocacy by Paramadina and the Wahid Institute. With a vision of “a peaceful and prosperous society in the context of the plurality of religions and beliefs in Indonesia,” ICRP Jakarta views marriage as a civil right of every citizen, including interfaith marriage, which cannot be distorted or contested. In its report, ICRP Jakarta showed data indicating that it had received more than 1.000 interfaith couples for counselling and helped marry 282 couples from January 2004 to March 2012. By early May 2015, they had assisted 628 interfaith couples and provided thousands of counselling services related to interfaith marriages. Data from ICRP Jakarta shows an increase in counselling: in 2015, there were 45 prospective couples; in 2016, there were 42 prospective couples; in 2017, there were 46 prospective couples; and in 2018, there were 58 prospective couples. Meanwhile, data on interfaith couples advocated by ICRP Jakarta until June 2021 reached 1.284 couples.<sup>20</sup>

<sup>16</sup> The interdisciplinary approach in social activities is evident in various studies, articles, and books published by ICRP Jakarta. TA, Personal Interview with the Management of ICRP Jakarta, 12 October 2021.

<sup>17</sup> “Menag Apresiasi Kontribusi ICRP Jaga NKRI,” accessed 26 July 2024, <https://kemenag.go.id/nasional/menag-apresiasi-kontribusi-icrp-jaga-nkri-ukf7x3>.

<sup>18</sup> PT, Personal Interview with the Management of ICRP Jakarta, 18 October 2021.

<sup>19</sup> James C. Scott, *Domination and the Arts of Resistance: Hidden Transcripts* (New Haven London: Yale University Press, 1990), 108–83.

<sup>20</sup> TP, Personal Interview with the Management of ICRP Jakarta, 18 October 2021.

ICRP Jakarta sees marriage as joining two distinct individuals rather than transforming them into the same entity. These differences are not limited to emotional aspects but also include the religious beliefs held by the married couple.<sup>21</sup> Religious differences serve as a medium for husbands and wives to respect, appreciate, and adapt to each other, preventing personal and individual conflicts. They can accept religious differences as long as they can live under the same roof. At this point, the family becomes a fusion of each member's differences. Furthermore, ICRP Jakarta believes that love is the essence of religion. Therefore, regardless of a person's religion, they can live harmoniously<sup>22</sup> with others if they have love within themselves. From a transcendental perspective, the union of two individuals of different faiths who love each other and decide to marry manifests God's will. At this point, being loved and loved is a right for every human being. No entity can harm or take away these rights.<sup>23</sup>

According to ICRP Jakarta, the issue of interfaith marriage cannot be resolved through a purely theological approach; it must be viewed from the context of protecting the civil rights of citizens. Marriage is a civic action that must be protected because it is part of human rights. A theological approach focuses on interpretations of religious teachings and doctrines that vary, often failing to provide adequate solutions for interfaith couples. Therefore, a more comprehensive approach is needed to protect the civil rights of couples wishing to marry, regardless of religious differences. In ICRP Jakarta's view, this issue should be seen from a civil rights perspective, emphasising that every individual has the right to choose a life partner without discrimination based on religion. This right is guaranteed by various international human rights instruments, as stated in Article 16 of the Universal Declaration of Human Rights (UDHR) and Article 23 of the International Covenant on Civil and Political Rights (ICCPR), which affirm that the right to marry and form a family is a fundamental right that all nations must respect.<sup>24</sup>

ICRP Jakarta asserts that interfaith marriage should not be viewed as a threat to family harmony. Domestic violence and other conflicts leading to divorce often occur among couples of the same religion, on the one hand, and also frequently due to ethnic and cultural differences, on the other.<sup>25</sup> In reality, many interfaith couples successfully maintain long-

<sup>21</sup> TA, Personal Interview with the Management of ICRP Jakarta.

<sup>22</sup> Muhammad Masdar et al., "Interactionism and Social Harmonization in Wonomulyo as the Multiethnic City," *Jurnal Ilmiah Peuradeun* 12, no. 2 (30 May 2024): 899–928.

<sup>23</sup> Musda Mulia et al., eds., *Pernikahan Beda Agama: Kesaksian, Argumen Keagamaan, dan Analisis Kebijakan*, 1 (Jakarta: Komnas HAM-ICRP, 2005), 131.

<sup>24</sup> See: Enggar Wijayanto, "Konvergensi Politik Hukum, Hak Asasi Manusia dan Pancasila terhadap Perkawinan Beda Agama di Indonesia," *Wicarana* 2, no. 1 (28 March 2023): 39–55; Wahyu Abdul Jafar et al., "Philosophical Foundations and Human Rights in the Bajapuk Tradition: Bridging Local Wisdom and Islamic Law in Minangkabau Marriage Practices," *De Jure: Jurnal Hukum dan Syar'iah* 16, no. 1 (30 June 2024): 212–33; Qodariah Barkah et al., "Abandonment of Women's Rights in Child Marriage; An Islamic Law Perspective," *Al-Ihkam: Jurnal Hukum & Pranata Sosial* 17, no. 2 (31 December 2022): 383–411; Ibnu Elmi AS Pelu et al., "Polygamy Law Reform Through the Development of the Aceh Qanun: A New Approach to Protecting the Rights of Women and Children in Indonesia," *El-Mashlahab* 14, no. 1 (30 June 2024): 149–68.

<sup>25</sup> See: Lene Arnett Jensen et al., "Love, Sex, and Marriage Across Cultures," in *The Oxford Handbook of Human Development and Culture*, ed. Lene Arnett Jensen (Oxford University Press, 2015), 570–85; Belinda Hewitt and Brendan Churchill, "Convergence and Difference: Marriage and Family Life from a Cross-Cultural Perspective," in *Cross-Cultural Family Research and Practice* (Elsevier, 2020), 57–102.

lasting and harmonious households, living happy family lives and having children and grandchildren. Additionally, an interesting fact is that many interfaith couples today follow family traditions, where their parents were interfaith couples in the past. This phenomenon indicates that family harmony is not determined by religious similarity but rather by the relationship quality and the couple's commitment to facing challenges together.<sup>26</sup>

In ICRP Jakarta's view, choosing a spouse is a fundamental right of every individual, akin to the freedom of religious belief. Both are crucial aspects of personal freedom and human rights that must be respected and protected. The freedom to choose a spouse reflects a person's right to determine their life path, including selecting a partner, entering into marriage, and forming a family.<sup>27</sup> It expresses individual autonomy and free will, which should not be constrained by rigid rules or norms. In a broader context, the Constitution and various international human rights instruments guarantee freedom of religion and belief. This right encompasses the freedom to choose, change, and practice religion without coercion or discrimination. Similarly, choosing a life partner must be recognised as an inviolable right. Restrictions on this right, whether through social pressure or discriminatory legal regulations, can lead to human rights violations and harm individual well-being.<sup>28</sup>

ICRP Jakarta asserts that the freedom to choose a partner regardless of religion can contribute to diversity and tolerance in society.<sup>29</sup> It is considered to strengthen social bonds and help overcome prejudice between religions. In many cases, interfaith couples have shown that cooperation and understanding between two different faiths can result in strong and harmonious relationships. Protecting the individual's right to choose a spouse and religious beliefs is essential to creating a just and inclusive society. It also emphasises the importance of respecting personal decisions when selecting a partner and encouraging respect for their agreements, which will strengthen social life bonds in a harmonious and dynamic framework.<sup>30</sup>

Furthermore, ICRP Jakarta stated that protecting civil rights in the context of interfaith marriage reflects the principles of democracy and personal freedom. The state should not impose certain religious norms that may limit an individual's freedom to choose a life partner.<sup>31</sup> Instead, the state must create a fair and inclusive legal framework that allows all citizens to enjoy their rights equally. This approach also recognises that marriage is a dynamic

<sup>26</sup> PT, Personal Interview with the Management of ICRP Jakarta.

<sup>27</sup> Ariane Utomo and Oki Rahadiano Sutopo, "Pemuda, Perkawinan, dan Perubahan Sosial di Indonesia," *Jurnal Studi Pemuda* 9, no. 2 (30 September 2020): 77.

<sup>28</sup> See: Zeynep Reva and Oguz Polat, "Forced Marriages as Human Rights Violation," *International Journal of Social Sciences and Education Research* 5, no. 1 (1 January 2019): 69–77; Ikhwan Matondang et al., "Resolving Human Rights Violation Cases in Aceh, Indonesia: Position and Role of Ulama," *Al-Risalah: Forum Kajian Hukum dan Sosial Kemasyarakatan* 24, no. 1 (30 June 2024): 42–57; Dian Andi Nur Aziz et al., "Examining Qanun in Aceh from a Human Rights Perspective: Status, Substance and Impact on Vulnerable Groups and Minorities," *Ijtihad: Jurnal Wacana Hukum Islam dan Kemanusiaan* 23, no. 1 (5 June 2023): 37–56; Mursyid Djawas et al., "The Position of Non-Muslims in the Implementation of Islamic Law in Aceh, Indonesia," *AHKAM: Jurnal Ilmu Syariah* 23, no. 1 (19 June 2023): 95–120.

<sup>29</sup> TP, Personal Interview with the Management of ICRP Jakarta.

<sup>30</sup> Mochamad Taufiqurrachman and Agus Machfud Fauzi, "Harmony in Diversity: The Dynamics of Interfaith Families," *Jurnal Sosiologi Agama Indonesia (JSIAI)* 4, no. 3 (30 November 2023): 328–41.

<sup>31</sup> Ratno Lukito, "The Enigma of Legal Pluralism in Indonesian Islam: The Case of Interfaith Marriage," *Journal of Islamic Law and Culture* 10, no. 2 (July 2008): 179–91.

social institution that must evolve with social and cultural changes. ICRP Jakarta asserts that by prioritising the protection of civil rights, the state can ensure that the institution of marriage remains relevant and adaptive to the needs of an increasingly plural and inclusive society. Therefore, solutions to the issue of interfaith marriage must involve efforts to ensure that the civil rights of all citizens are respected and protected. It includes legal revisions that may be necessary to remove unjust and discriminatory legal barriers and education and campaigns to raise awareness about the importance of tolerance and respect for diversity in society.<sup>32</sup>

ICRP Jakarta further explains that from a social and cultural perspective, criminalising interfaith marriages is incompatible with the values of a pluralistic and inclusive society. Modern societies value diversity and recognise that religious differences should not limit human relationships. Through the practice of interfaith marriage, people can learn to be inclusive, increase tolerance, explore new things, and even have the opportunity to understand each other's different religious traditions.<sup>33</sup> Criminalising interfaith marriage can lead to discrimination, marginalisation, and even violence against couples of different religions. It can also divide communities and undermine social harmony. From a practical standpoint, ICRP Jakarta stresses that criminalising interfaith marriages is also ineffective in reducing the number of such marriages. On the contrary, it will only encourage interfaith couples to seek more covert and possibly more dangerous avenues to marry and register their marriages abroad.<sup>34</sup>

ICRP Jakarta unequivocally asserts that interfaith marriage should not be considered a criminal act. Classifying interfaith marriage as a criminal offence is not only morally indefensible but also legally untenable. Such categorisation constitutes a violation of human rights and restricts individual freedom.<sup>35</sup> In numerous countries, the right to marry a partner of one's choice, regardless of religious differences, is a fundamental human right. From ICRP Jakarta's perspective, criminalising interfaith marriage contravenes the principles of religious freedom and freedom of expression enshrined in the Indonesian Constitution, the Universal Declaration of Human Rights (UDHR), and the International Covenant on Civil and Political Rights (ICCPR).<sup>36</sup> These documents affirm that everyone can select their life partner without interference or discrimination from the state or other entities, including marriage registration requirements that mandate one partner's conversion to their partner's religion.<sup>37</sup> Therefore, safeguarding civil rights in interfaith marriage ensures that every citizen can enjoy the freedoms and justice guaranteed by legal and human rights principles.

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<sup>32</sup> TP, Personal Interview with the Management of ICRP Jakarta.

<sup>33</sup> Hannah K. Shoaf et al., "Strengths and Strategies in Interfaith Marriages," *Marriage & Family Review* 58, no. 8 (17 November 2022): 675–701.

<sup>34</sup> Sri Wahyuni, "Running Away from Authority to Gain Recognition (The Case of Indonesian Interfaith Marriage Overseas)," *AIUA Journal of Islamic Education* 1, no. 1 (2019): 123–46.

<sup>35</sup> Mohd. Yusuf DM and Geofani Miltree Saragih, "Juridical Overview of the Prohibition of Interfaith Marriage from the Perspective of Human Rights and Criminal Law in Indonesia," *Journal of Scientific Research, Education, and Technology (JSRET)* 1, no. 2 (6 December 2022): 69–82.

<sup>36</sup> PT, Personal Interview with the Management of ICRP Jakarta.

<sup>37</sup> Sachin Yadav, "Criminalisation of Conversion for Interfaith Marriages," *Age the Royal Gondwana Research Journal of History, Science, Economic, Political and Social Science* 3, no. 3 (7 April 2022): 107–12.

## Legal Interpretation of State Law on Interfaith Marriage

The number of interfaith marriages across Indonesia continues to rise yearly, indicating that such unions are a persistent social phenomenon. If these marriages do not receive equitable legal treatment, it may undermine civil rights protection.<sup>38</sup> Marriage in Indonesia is governed by several national regulations, including Marriage Law No. 1 of 1974. Although this law was later amended by Law No. 16 of 2019, the revisions introduced few substantial changes. The primary modification pertains to the minimum marriage age, now 19 years for both men and women.<sup>39</sup> According to ICRP Jakarta, civil rights issues related to interfaith marriage arise from divergent interpretations of Article 2, paragraph (1) of the Marriage Law No. 1 of 1974. ICRP Jakarta contends that Article 2, which addresses interfaith marriages, remains ambiguous, vague, and unequivocal. Consequently, Article 2 has given rise to various legal interpretations of interfaith marriage, which can be categorised into three distinct models.<sup>40</sup>

First, the legal interpretation that deems interfaith marriage prohibited is based on Article 2, paragraph 1, in conjunction with Article 8 of the Marriage Law No. 1 of 1974. This interpretation stipulates that a valid marriage must comply with the laws of each religion and belief adhered to by the prospective bride and groom. This provision aligns with the 1945 Constitution of the Republic of Indonesia,<sup>41</sup> which implies that a Muslim and individuals of other faiths such as Christianity, Catholicism, Hinduism, or Buddhism cannot contravene their respective religious laws. Religious law plays a decisive role in validating marriage, so a marriage not sanctioned by religious law cannot be deemed valid by the state.<sup>42</sup> This view is further supported by Article 2 in conjunction with Article 56 of the Marriage Law No. 1 of 1974, which asserts that marriages between individuals prohibited by religion or other regulations cannot be conducted or recognised by the state.<sup>43</sup> Thus, a marriage forbidden by religious law can be considered invalid under state law.<sup>44</sup>

<sup>38</sup> Cindy Silvy Forestry, "Problem Perlindungan Hukum terhadap Perkawinan Beda Agama di Indonesia: Studi UU No. 1 Tahun 1974 serta UU No. 39 Tahun 1999 dan Hukum Islam," *Yudisia: Jurnal Pemikiran Hukum dan Hukum Islam* 7, no. 1 (2016): 017–054.

<sup>39</sup> See: Amal Hayati et al., "The Impact of the Minimum Age Limit Regulation for Continuing Child Marriage After the Birth of Law Number 16 of 2019 on the Child's Future," *El-Ushrah: Jurnal Hukum Keluarga* 6, no. 1 (1 July 2023): 174–82; Ahmad Dakhoir and Sri Lumatus Sa'adah, "Meta-Juridical Analysis on the Legal Arguments beyond Changes in Indonesian's Marriage Age Rule," *AL-IHKAM: Jurnal Hukum & Pranata Sosial* 18, no. 1 (1 June 2023): 80–101; Mahmudin Bunyamin, "The Implementation of the Concept of Maslahat (Benefits) in Determining the Minimum Age of Marriage in Islamic Family Law in Indonesia and Jordan," *Al-'Adalah* 18, no. 2 (23 December 2021): 315; Isroqunnajah Isroqunnajah, Agus Iqbal Hawabi, and Umdatul Khoirot, "Legal Capacity and Legal Authority of Adult Age in Indonesia: Medical, Psychological and Islamic Law Perspectives," *Samarah: Jurnal Hukum Keluarga dan Hukum Islam* 8, no. 1 (20 January 2024): 105–25.

<sup>40</sup> TP, Personal Interview with the Management of ICRP Jakarta.

<sup>41</sup> Prahasti Suyaman and Temmy Fitriah Alfiany, "Polemics of Interfaith Marriage Reviewed from the Perspectives of Marriage Law and the Compilations of Islamic Law," *KnE Social Sciences*, 537–549.

<sup>42</sup> Jana Van Niekerk and Maykel Verkuyten, "Interfaith Marriage Attitudes in Muslim Majority Countries: A Multilevel Approach," *The International Journal for the Psychology of Religion* 28, no. 4 (2 October 2018): 257–70.

<sup>43</sup> Benny Krestian Heriawanto, "Interfaith Marriages Based on Positive Law in Indonesia and Private International Law Principles," *UNIFIKASI: Jurnal Ilmu Hukum* 6, no. 1 (20 August 2019): 94.

<sup>44</sup> Nurhayati Nurhayati, "The Implementation of State Law and Religious Law in Indonesian Muslim Society," *Jurnal Online Studi Al-Quran* 13, no. 1 (1 January 2017), 23–33.

Second, the legal interpretation that permits interfaith marriage is based on the absence of an explicit prohibition in the Marriage Law No. 1 of 1974.<sup>45</sup> Several arguments support this viewpoint. First, interfaith marriages are deemed valid if they follow one of the recognised religions in Indonesia. Second, the King's Stipulation dated 29 December 1896, No. 158 (STB 1898 No. 158), which regulates Mixed Marriages or *Regeling op de Gemengde Huwelijken* (GHR), acknowledges that mixed marriages involve individuals of different religions or nationalities.<sup>46</sup> Third, Article 35 of Population Administration Law No. 23 of 2006 provides a basis for allowing courts to grant interfaith marriages and record them at the civil registry office.<sup>47</sup> Finally, interfaith marriage is considered a human right as outlined in the Universal Declaration of Human Rights (UDHR) and the International Covenant on Civil and Political Rights (ICCPR), as well as in Human Rights Law No. 39 of 1999, applicable in Indonesia. Therefore, interfaith marriage is a civil right that must be respected and recognised.<sup>48</sup>

The third legal interpretation holds that interfaith marriage is not clearly and explicitly addressed in the Marriage Law No. 1 of 1974.<sup>49</sup> Article 57 is interpreted as pertaining only to marriages involving individuals subject to different laws due to citizenship, not religious differences.<sup>50</sup> This interpretation offers an alternative for interfaith couples to register their marriages at the Civil Registration Office (Direktorat Jenderal Kependudukan dan Pencatatan Sipil or Disdukcapil). It reverts to the regulatory framework before the Marriage Law No. 1 of 1974 was enacted. According to this view, the ambiguity surrounding regulating interfaith marriage in the Marriage Law No. 1 of 1974 creates a legal loophole that can be exploited.<sup>51</sup> This interpretation proposes a solution-oriented and adaptive approach to Indonesia's religious diversity by recognising interfaith marriage as a social reality that demands adequate legal recognition and protection.

Regarding the norms applicable in Indonesia, ICRP Jakarta identifies a contradiction in the context of interfaith marriage. Constitutionally, the 1945 Constitution asserts that everyone has the right to form a family and raise offspring through legal marriage (Article

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<sup>45</sup> Moh. Zeinudin and Arief Santoso, "Rekonstruksi Hukum Perkawinan Beda Agama dalam Perspektif Undang-Undang Nomor 1 Tahun 1974 tentang Perkawinan dan Undang-Undang Nomor 24 Tahun 2013 tentang Perubahan Atas Undang-Undang Nomor 23 Tahun 2006 tentang Administrasi Kependudukan," *Jurnal Jendela Hukum* 8, no. 1 (23 April 2021): 39–49.

<sup>46</sup> See: Sri Wahyuni, *Perkawinan Beda Agama di Luar Negeri: Kajian Filosofis, Yuridis, Prosedural, dan Sosiologis*, 1 (Yogyakarta: SUKA-Press, 2014), 149–50; Dian Aries Mujiburohman et al., "The Issues of Land Tenure in Mixed Marriage," *Jurnal Ilmiah Peuradeun* 11, no. 1 (30 January 2023): 19–38; Nurul Husna et al., "Children Citizenship Status of Acehnese-Rohingya Mixed Marriage in Aceh: Maqāṣid Sharī'ah Perspective," *Al-Ahkam* 34, no. 1 (30 April 2024): 169–92.

<sup>47</sup> Ayub Mursalin, "Legalitas Perkawinan Beda Agama: Mengungkap Disparitas Putusan Pengadilan di Indonesia," *Undang-Undang: Jurnal Hukum* 6, no. 1 (12 May 2023): 113–50.

<sup>48</sup> Anicée Van Engeland, "The Balance between Islamic Law, Customary Law and Human Rights in Islamic Constitutionalism through the Prism of Legal Pluralism," *Cambridge Journal of International and Comparative Law* 3, no. 4 (2014): 1321–48.

<sup>49</sup> Zalma Afika Nandaprawati, Anjar Sri Ciptorukmi Nugraheni, and Andina Elok Puri Maharani, "A Juridical Analysis of Abroad Interfaith Marriage's Position in Indonesia's Law," *Interdisciplinary Social Studies* 1, no. 10 (1 July 2022): 1242–49.

<sup>50</sup> H. M. Anshary MK, *Hukum Perkawinan di Indonesia: Masalah-Masalah Krusial*, 1 (Yogyakarta: Pustaka Pelajar, 2010), 52.

<sup>51</sup> Yulies Tiena Masriani, Maskus Suryoutomo, and Ridho Pakina, "Validitas Perkawinan Beda Agama di Luar Negeri dalam Regulasi Hukum Privat Indonesia," *Notary Law Research* 5, no. 2 (3 June 2024): 1–12.

28B, paragraph 1). Additionally, individuals are entitled to develop themselves by fulfilling their basic needs (Article 28C, paragraph 1), to recognition, guarantees, protection, and the certainty of just and equal treatment under the law (Article 28D, paragraph 1), and to live in physical and mental well-being, have adequate housing, and enjoy a good and healthy environment (Article 28H, paragraph 1). However, in the context of interfaith marriages, including those involving Lesbian, Gay, Bisexual, and Transgender (LGBT) individuals,<sup>52</sup> these freedoms appear to be constrained by existing regulations. It creates a scenario where constitutional rights seem to conflict with specific rules.<sup>53</sup>

ICRP Jakarta has explained that contradictions between norms arise during the efforts to synchronise the Marriage Law No. 1 of 1974, the Compilation of Islamic Law (Kompilasi Hukum Islam or KHI), Government Regulation No. 9 of 1975, and Population Administration Law No. 23 of 2006, as amended by Law No. 24 of 2013.<sup>54</sup> The Marriage Law No. 1 of 1974 cannot be effectively implemented without a range of complementary regulations. Government Regulation No. 9 of 1975, which serves as a technical regulation for the Marriage Law No. 1 of 1974, does not address interfaith marriages. It does not imply that interfaith marriages can be legalised in Indonesia, as the matter is ultimately determined by the implementers of the Population Administration Law No. 24 of 2013, namely the marriage registrar. If the Marriage Law No. 1 of 1974 is aligned with the KHI, marriages may be prohibited based on religious differences. For instance, Article 40 of the KHI states that non-Muslim women cannot marry Muslim men, and Article 44 prohibits Muslim women from marrying non-Muslim men. However, this creates a conflict compared to STBL 1898 No. 158 on the Regulation of Mixed Marriages, which explicitly permits marriages between individuals subject to different laws without considering religious differences as a barrier.<sup>55</sup> This polemic in synchronisation ultimately leads to ongoing fear and legal uncertainty for interfaith couples.<sup>56</sup>

Regarding the Supreme Court Registrar's Answer Letter No. 231/PAN/HK.05/1/2019, which states that a marriage between individuals of different religions can be registered if it is conducted according to the religion of one spouse and the other spouse submits to that religion, there are significant issues of legal interpretation. According to ICRP Jakarta, implementing this Answer Letter presents problems, as the 'religious submission' concept does not necessarily equate to religious conversion.<sup>57</sup> Compelling someone to convert from their religion may be considered an unconstitutional violation. Furthermore, the Supreme Court Registrar's explanation in the Answer Letter—

<sup>52</sup> See: Syarifudin Syarifudin, "Application of the Legal Maxim of al-Ashl fi al-Ibdha 'al-Tahrim to the Phenomena of Homosexuality," *Al-Manabij: Jurnal Kajian Hukum Islam* 16, no. 1 (30 May 2022): 45–58; Warda Silwana Hikmah, Hasnan Bachtiar, and Kuku Dwi Kurniawan, "Bisexual Orientation, Divorce and Islamic Law in Indonesia: Legal Standing and Arguments," *AHKAM: Jurnal Ilmu Syariah* 22, no. 1 (30 June 2022): 137–60.

<sup>53</sup> PT, Personal Interview with the Management of ICRP Jakarta.

<sup>54</sup> TP, Personal Interview with the Management of ICRP Jakarta.

<sup>55</sup> Danu Aris Setiyanto, "Larangan Perkawinan Beda Agama dalam Kompilasi Hukum Islam Perspektif Hak Asasi Manusia," *Al-Daulah: Jurnal Hukum dan Perundangan Islam* 7, no. 1 (19 September 2017): 87–106.

<sup>56</sup> Ermi Suhasti, Siti Djazimah, and Hartini Hartini, "Polemics on Interfaith Marriage in Indonesia between Rules and Practices," *Al-Jami'ah: Journal of Islamic Studies* 56, no. 2 (30 May 2019): 367–94.

<sup>57</sup> PT, Personal Interview with the Management of ICRP Jakarta.

that if the interfaith marriage is based on Christianity, it should be registered at the Civil Registration Office, whereas if it is based on Islam, it should be registered at the KUA—introduces another legal interpretation issue. Does this imply that interfaith couples must obtain a marriage certificate from a religious leader? What if an interfaith couple marries using both Islam and Christianity? The Registrar’s response suggests an element of administrative coercion. Consequently, conversion becomes a strategy interfaith couples employ to gain administrative legalisation of their marriage.<sup>58</sup>

In contrast to the 2019 Supreme Court Registrar’s Answer Letter, Supreme Court Circular Letter (SEMA) No. 2 of 2023, which is directed at judges, effectively precludes the practice of interfaith marriages conducted abroad. However, SEMA No. 2 of 2023 presents at least three legal issues. First, it explicitly prohibits courts from granting requests for marriage registration between individuals of different religions and beliefs. This stance is paradoxical, as it seems to disregard Article 2 of the Marriage Law No. 1 of 1974, Supreme Court Decision No. 1400K/Pdt/1986, Article 35 of the Population Administration Law No. 24 of 2013, and Minister of Home Affairs Regulation No. 9 of 2016.<sup>59</sup> Second, the SEMA stipulates that interfaith marriages performed overseas cannot be officially registered, are deemed invalid, and are considered as if they never occurred unless valid evidence shows that the marriage complies with the laws of the country where it was conducted. The phrase “unless...” does leave room for interfaith couples to register their marriages officially, provided they adhere to the regulations of the country where the marriage took place.<sup>60</sup> Third, since SEMA is not a statutory regulation and only pertains to judges, it does not impact other institutions, such as the Embassy of the Republic of Indonesia (KBRI). Consequently, marriages conducted at the KBRI, where procedures align with the host country’s regulations, cannot be rejected solely based on this SEMA.<sup>61</sup> It means that interfaith marriages can still be performed abroad, as they do not involve domestic judicial processes.

### **Holistic Advocacy on Interfaith Marriage**

In ICRP Jakarta’s view, interfaith marriage is an everyday social reality in pluralistic societies. This phenomenon is part of an ever-growing reality that increasingly triggers dilemmas in social life within the public sphere. To address the negative stigma attached to interfaith marriage and the contradictions between norms in civil rights and legal interpretations, ICRP Jakarta develops a holistic advocacy strategy. The organisation seeks to break the hegemony and promote equal rights for interfaith couples through a combination of juridical advocacy, practical legal assistance, social advocacy involving religious leaders, and direct advocacy, offering intensive support to interfaith couples facing challenges.

<sup>58</sup> Rondang Herlina, “Disparity in Interfaith Marriage: Legal Conflicts on Marriage Regulations and Population Administration,” *3rd Borneo International Conference on Islamic Higher Education (BICIHE) 2023* 1, no. 1 (27 June 2023): 248–55.

<sup>59</sup> Siti Ropiah, “Perkawinan Beda Agama Pasca SEMA No .2 Tahun 2023 (Analisa Yuridis Sosiologis Perkawinan Beda Agama di Indonesia),” *Al-Ulum Jurnal Pemikiran dan Penelitian Ke Islaman* 11, no. 2 (24 May 2024): 20–32.

<sup>60</sup> Teguh Kharisma Putra, “Penerapan Surat Edaran Mahkamah Agung Nomor 2 Tahun 2023 terhadap Perkawinan Beda Agama di Luar Negeri,” *Jurnal Studi Islam Indonesia (JSII)* 2, no. 1 (7 May 2024): 39–56.

<sup>61</sup> Rafael Tunggu, “Disparitas Penetapan Pengadilan terhadap Permohonan Perkawinan Pasangan Berbeda Agama,” *Governance: Jurnal Ilmiah Kajian Politik Lokal dan Pembangunan* 10, no. 3 (8 February 2024), 133–46.

### *Juridical Advocacy*

The juridical advocacy carried out by ICRP Jakarta includes assistance and provision of legal aid to interfaith couples, from document preparation to resolving legal conflicts that may arise. This practical legal assistance is particularly important given the complexity and confusing nature of Indonesia's interfaith marriage regulations.<sup>62</sup> In providing juridical advocacy, ICRP Jakarta works closely with advocates and legal experts to ensure that interfaith couples receive the correct information and assistance they need.<sup>63</sup> This juridical advocacy follows the legal interpretation process conducted by ICRP Jakarta to address contradictions between norms governing interfaith marriage.

ICRP Jakarta considers that interfaith marriages can be conducted, are valid, and can be accounted for administratively using a juridical basis. ICRP Jakarta refers to the state constitution, specifically Articles 27 and 28 of the 1945 Constitution, for the juridical advocacy of interfaith marriage. Article 27 affirms that every citizen has equal standing before the law (equality before the law), including the right to enter into marriage, whether of the same religion or different religions. ICRP Jakarta also argues that Article 28B, paragraph 1, states that everyone has the right to form a family and continue their lineage through legal marriage without distinguishing between types of marriage.<sup>64</sup> Citizens have the right to enter into marriage, whether of the same religion or different religions, which is part of the fulfilment of basic needs (Article 28C, paragraph 1). Therefore, all citizens, whether they enter into a marriage of the same religion or of a different religion, must receive recognition, guarantees, protection, fair legal certainty, and equal treatment before the law (Article 28D, paragraph 1), as well as the right to live in physical and mental prosperity, have a place to live, and enjoy a good and healthy living environment (Article 28H, paragraph 1).<sup>65</sup>

According to ICRP Jakarta, the Supreme Court's 20 January 1989 decision 1400 K/Pdt/1986 strengthened the case for performing interfaith marriages. The Supreme Court challenged the use of Article 60 of the Marriage Law No. 1 of 1974 to deny interfaith marriages, stating that Article 60 should be viewed in conjunction with Articles 57, 58, and 59, which regulate mixed marriages based on nationality, not religion. In its juridical advocacy, ICRP Jakarta refers to the Supreme Court's explanation that the Marriage Law No. 1 of 1974 does not explicitly prohibit interfaith marriage.<sup>66</sup> ICRP Jakarta also uses Population Administration Law No. 24 of 2013 as a legal basis for interfaith marriages. The Law emphasises the value of anti-discrimination in administrative matters, including marriage registration. Article 2 states that all citizens have equal rights in marriage registration. This

<sup>62</sup> See: Rajafi et al., "The "Double-Faced" Legal Expression," 19–43; Achmad Yafik Mursyid, Muhammad Dzilfikri AlBaihaqi, and Alvy Ra'isatul Murtafi'ah, "Politics and Pluralism: Analyzing State Official Tafsir and Interfaith Discourse in Indonesia," *Jurnal Studi Ilmu-Ilmu Al-Qur'an dan Hadis* 25, no. 1 (14 May 2024): 57–75.

<sup>63</sup> TA, Personal Interview with the Management of ICRP Jakarta.

<sup>64</sup> Bani Syarif Maula and Ilyya Muhsin, "Interfaith Marriage and the Religion–State Relationship: Debates between Human Rights Basis and Religious Precepts," *Samarah: Jurnal Hukum Keluarga dan Hukum Islam* 8, no. 2 (11 May 2024): 791–820.

<sup>65</sup> TP, Personal Interview with the Management of ICRP Jakarta.

<sup>66</sup> Diana Debora Ginting et al., "Dinamika Pernikahan Beda Agama: Studi Kasus tentang Perspektif Masyarakat, Agama, dan Negara," *Jurnal Ilmiah Wabana Pendidikan* 10, no. 8 (May 2024): 387–95.

law provides equal rights regarding civil registration documents, administrative services, and legal certainty, including court decisions ordering the Civil Registration Office to officially record interfaith marriages (Article 34 and Article 35A).<sup>67</sup>

ICRP Jakarta conducts juridical advocacy related to interfaith marriages by following the Supreme Court Registrar's Reply Letter No. 231/PAN/HK.05/1/2019. This letter states that an interfaith marriage can be registered if it is based on the religion of one of the partners and the other partner submits to that religion. For example, if the marriage is based on Christianity, it is registered at the Civil Registration Office, and if it is based on Islam, it is registered at the KUA. ICRP Jakarta sees this as an opportunity for interfaith couples to register their marriages officially.<sup>68</sup> If in-country juridical advocacy is unsuccessful due to complicated procedures or long lead times, ICRP Jakarta recommends marrying abroad. This recommendation is based on Minister of Home Affairs Regulation No. 12 of 2010, which guarantees that marriages conducted abroad can be registered at the Indonesian Embassy. This regulation does not differentiate between religious and non-religious marriages. Although SEMA No. 2 of 2023 strictly regulates the legalisation of interfaith marriages within the country, there is still an opportunity for interfaith couples to marry abroad as long as all processes and procedures adhere strictly to the rules of the country where the marriage occurs.<sup>69</sup>

In the context of juridical advocacy, ICRP Jakarta handled the case of LI and LO, an interfaith couple who decided to get married despite their different religious backgrounds. LI is Muslim, while LO is Catholic. One of their biggest challenges was applying for their marriage records, often characterised by bureaucratic obstacles and resistance from various parties. These obstacles left LI and LO feeling frustrated and hopeless, as their dream of legally formalising their relationship seemed increasingly out of reach. LI and LO received assistance from ICRP Jakarta during this confusion and uncertainty. A team of advocates from ICRP Jakarta accompanied them through every step of the legal process, providing comprehensive guidance and support. The advocates helped them file the necessary documents, facilitated communication with relevant authorities, and ensured their rights were respected throughout the process; with the assistance provided by ICRP Jakarta, LI and LO finally managed to overcome the obstacles in filing their marriage records.<sup>70</sup>

### *Social Advocacy*

ICRP Jakarta engages interfaith religious leaders in social advocacy related to interfaith marriage. These religious leaders play an essential role in shaping public opinion. By working with leaders from various faiths, ICRP seeks to break the negative stigma against interfaith marriage and spread the message of tolerance and diversity. ICRP Jakarta's approach to

<sup>67</sup> S. Pompe, "Mixed Marriages in Indonesia: Some Comments on the Law and the Literature," *Bijdragen tot de taal-, land- en volkenkunde / Journal of the Humanities and Social Sciences of Southeast Asia* 144, no. 2 (1988): 259–75.

<sup>68</sup> PT, Personal Interview with the Management of ICRP Jakarta.

<sup>69</sup> Kadek Wiwik Indrayanti, Anak Agung Ayu Nanda Saraswati, and Eka Nugraha Putra, "Questioning Human Rights, Looking for Justice: Analyzing the Impact of Supreme Court Circular Letter on Interfaith Marriages in Indonesia," *Journal of Indonesian Legal Studies* 9, no. 1 (9 May 2024): 385–416.

<sup>70</sup> LI & LO, Personal Interview with Interfaith Couples from Jakarta, 28 July 2022.

engaging religious leaders is careful and strategic. They start with an internal coordination meeting to assess potential interfaith religious leaders. This process ensures that only those who align with ICRP's vision are invited to collaborate. ICRP Jakarta gathers information on each figure's background, history, and contributions to their communities. It critically reviews their lectures to assess their views on human rights, tolerance, inclusivity, and attitudes towards interfaith marriage.<sup>71</sup>

The interfaith religious leaders chosen to work with ICRP Jakarta share a joint mission in four key areas. The first is human rights, which involves understanding and respecting the fundamental rights of every individual, including the right to choose a life partner without discrimination. The second is tolerance, which entails showing a tolerant attitude towards differences in religion and belief, and supporting harmony between religious communities. The third is inclusiveness, prioritising an inclusive approach to interacting with different communities and encouraging the involvement of all parties in dialogue and cooperation. The fourth is moderate, which means having no extreme views and being open to dialogue and discussion on interfaith marriage issues.<sup>72</sup> ICRP Jakarta can ensure their social advocacy is effective by working with interfaith religious leaders. This collaboration provides several strategic advantages. First, ICRP can reach a broader and more diverse audience. Second, the presence of respected religious figures adds credibility to their message, reduces resistance, and increases acceptance in the community. Third, it highlights interfaith solidarity and demonstrates that interfaith marriage is a humanitarian issue.

ICRP Jakarta worked with Islamic religious leaders who argued that the registration of interfaith marriages should be seen as an “emergency exit” to accommodate the civil rights of interfaith couples. This concept does not ignore religious principles but offers a better solution than allowing couples to live in legal and social uncertainty.<sup>73</sup> Without official registration, interfaith marriages can lead to problems such as legal uncertainty, lack of legal protection for the couple and their children, and negative social stigma.<sup>74</sup> Official registration is seen as a way to minimise these problems. This “emergency exit” view demonstrates a moderate and inclusive approach to different faiths, as well as the flexibility of Islam in dealing with complex social realities.<sup>75</sup> The challenge is to strike a balance between

<sup>71</sup> TA, Personal Interview with the Management of ICRP Jakarta.

<sup>72</sup> TA, Personal Interview with the Management of ICRP Jakarta.

<sup>73</sup> IS, Personal Interview with an Islamic Religious Leader in Jakarta, June 19, 2022.

<sup>74</sup> See: Rusman Rusman, Yusuf Hidayat, and Anis Rifai, “Religious Marriage in Indonesia in the Perspective of Islamic Law and Positive Law in Indonesia: Legal Complexities and the Issuance of Supreme Court Circular Letter No. 2 of 2023,” *Indonesian Journal of Innovation Studies* 25 (22 November 2023), 8–18; Rohmawati Rohmawati and Syahril Siddik, “Legal Protection for Children Out of Wedlock: Ensuring the Best Interests of Children Through Judge Decisions,” *Al-Adalah* 19, no. 2 (25 December 2022): 315–38; Arbanur Rasyid et al., “Dynamics of Childless Marriage Through the Lens of Maqasid al-Shari’a,” *Jurnal Ilmiah Peuradenn* 12, no. 2 (30 May 2024): 763–86; Syukrawati Syukrawati et al., “Post-Divorce Rights of Women and Children in Pekalongan City, Central Java: Challenges in Islamic Law Analysis,” *Al-Abkam* 34, no. 1 (30 April 2024): 121–46; Fitriyadi Fitriyadi et al., “Redefining Legal Frameworks: Progressive Methods in Ascertaining Children’s Lineage from Fasid Marriages in Religious Court Proceedings,” *Syariah: Jurnal Hukum dan Pemikiran* 24, no. 1 (28 May 2024): 148–71.

<sup>75</sup> See: Muflikhatul Khoiroh and Abd Syakur Syakur, “The Flexibility of Islamic Law in the Ganjur Tradition in Lamongan, Indonesia,” *Ijtihad: Jurnal Wacana Hukum Islam dan Kemanusiaan* 23, no. 2 (25 December 2023): 139–59; Berlian Puji Pangastuti, “Contextualizing Justice in Times of Crisis: A Study of QS. Al-Mā’idah 5:38 and Its Application in Criminal Theft Cases,” *Jurnal Studi Ilmu-Ilmu Al-Qur’an dan Hadis* 24, no. 1 (31

safeguarding religious principles and respecting individual rights.<sup>76</sup> Through collaboration with Islamic religious leaders who share this view, ICRP Jakarta seeks to create better solutions for interfaith couples while respecting Islamic religious principles and advocating for the rights of interfaith couples.

In dealing with interfaith marriages, Catholic religious leaders explained that, according to Canon Law, interfaith marriages fall under the category of mixed marriages. This category is divided into two types: inter-church marriages and inter-religious marriages.<sup>77</sup> Inter-church marriages are regulated by Canon 1124, while inter-religious marriages are regulated by Canon 1086, paragraphs 1 and 3. An inter-religious marriage is defined as one between a person baptised in the Catholic Church and a non-baptised person (neither Christian nor Catholic).<sup>78</sup> An interfaith couple can apply for a marriage dispensation, which can be obtained from the Bishop, Vicar General, or Vikaris Episkopal.<sup>79</sup> This dispensation is granted if the couple meets the conditions outlined in Canons 1125 and 1126: (1) The Catholic party must promise to remain faithful to his or her faith, (2) educate and baptise the children in the Catholic Church, (3) inform the non-baptised partner of these conditions, and (4) understand the nature of marriage according to the Catholic Church. These conditions are taken into consideration even when interfaith couples face divorce.<sup>80</sup> With this religious understanding, ICRP Jakarta can appropriately advocate for interfaith couples when one of the partners is Catholic, ensuring they navigate the legal and religious requirements effectively.

In contrast to the views of other religious leaders on the sacredness of marriage, Buddhist religious leaders regard marriage primarily as a social matter and a fundamental human right.<sup>81</sup> In Buddhism, there is no marriage mandate or a prohibition against choosing not to marry. Buddhist leaders view marriage as a personal choice rather than an obligation. For Buddhist religious leaders, couples of different religions should carefully consider the aspects of balance taught in Buddhist doctrines before marrying. These include *samma sadi* (right faith), *samma sila* (right morality), *samma cagga* (right generosity), and *samma panna* (right wisdom).<sup>82</sup> Buddhist scriptures do not explicitly regulate interfaith marriage, including its commands and prohibitions. The religious leaders explained that Buddhism's dynamic and

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January 2023): 161–80; Hilmi Ridho, Hamim Maftuh Elmy, and Muhammad Sibawaihi, “Fiqh al-Aqalliyat; Jurisprudence for Muslim Minorities as a Guide to Living in Non-Muslim Countries,” *Syariah: Jurnal Hukum dan Pemikiran* 23, no. 1 (16 October 2023): 93–106; Suadi Zainal, Kamarulzaman Askandar, and Muhammad bin Abubakar, “Why Was “Self-Government” Not Achieved in Aceh? The Challenges of Implementing a Peace Agreement,” *Jurnal Ilmiah Peuradeun* 10, no. 3 (30 September 2022): 875–98.

<sup>76</sup> IS, Personal Interview with an Islamic Religious Leader in Jakarta.

<sup>77</sup> Antonius Padua Dwi Joko, “Perkawinan Campur dan Beda Agama: Sikap dan Kebijakan Gereja,” *Lux et Sal* 1, no. 2 (2020): 117–30.

<sup>78</sup> Dismas Kwirinus, “Pencatatan Perkawinan Campuran Beda Agama Berdasarkan Hukum Kanonik dan Hukum Positif,” *Kamaya: Jurnal Ilmu Agama* 7, no. 1 (9 February 2024): 1–11.

<sup>79</sup> KA, Personal Interview with a Catholic Religious Leader in Salatiga, 5 July 2022.

<sup>80</sup> Budi Hermono, Nurul Hikmah, and Astrid Amidiaputri Hasyiyati, “Juridic Review of Different Religion Divorce on Islamic and Catholic Religions,” in *Proceedings of the International Joint Conference on Arts and Humanities Research 2022 (IJCAH 2022)*, ed. Slamet Setiawan et al., vol. 724, *Advances in Social Science, Education and Humanities Research* (Paris: Atlantis Press SARL, 2023), 137–46.

<sup>81</sup> Visuddha and P. Balachandran, “The Principles of Marriage in Theravada Buddhism,” *Golden Research Thoughts* 3, no. 11 (2014): 1–6.

<sup>82</sup> K. Dhammananda, *A Happy Married Life: A Buddhist Perspective* (Kuala Lumpur: Buddhist Missionary Society, 1987), 19–24.

inclusive nature allows it to respond flexibly to the phenomenon of interfaith marriage. For Buddhists, interfaith marriages are generally approved as long as there is a solid commitment to live together. It is because such marriages are seen as similar to marriages across different sects, traditions, or schools within Buddhism.<sup>83</sup>

ICRP Jakarta's social advocacy was exemplified in the case of AH and RA, an interfaith couple struggling to get married. AH is Muslim, and RA is Catholic. Their biggest challenge was finding a religious leader willing to marry them with two religious rituals, a long and arduous search due to numerous rejections. However, through ICRP Jakarta's extensive network of religious leaders from various faiths, AH and RA found a solution. ICRP Jakarta leveraged these relationships to connect AH and RA with religious leaders who support inclusivity and tolerance. With guidance and support from these religious leaders, facilitated by ICRP Jakarta, AH and RA could finally have their wedding conducted with two religious rituals.<sup>84</sup> This advocacy process not only helped AH and RA formalise their relationship but also demonstrated that interfaith cooperation and dialogue can overcome seemingly insurmountable obstacles. Their story illustrates how ICRP Jakarta's network of relationships with interfaith religious leaders can create solutions that support the rights of interfaith couples and promote tolerance and diversity in society.

#### *Direct Advocacy*

Direct advocacy for interfaith couples involves ICRP Jakarta's direct intervention, offering an efficient and practical approach to assist couples facing unique challenges. In addition to juridical and social advocacy, ICRP Jakarta provides emotional and psychological support, conflict mediation, and social assistance. Emotional and psychological support is crucial, as social pressure and stigma can lead to mental health issues such as anxiety and depression. These pressures can stem from families, communities, or religious institutions that do not support interfaith marriages. To address this, ICRP Jakarta offers counselling, support groups, and family mediation to help couples cope with these pressures, mitigate negative mental health impacts, and strengthen their relationships. This support aids couples in managing stress before it escalates, fortifying their bond, and developing better communication skills.<sup>85</sup>

Interfaith couples often face significant resistance from their families or communities, leading to tensions and conflicts that test the strength of their relationship.<sup>86</sup> Mediation and conflict resolution are crucial in these challenging situations due to legal positivism.<sup>87</sup> ICRP Jakarta provides a range of professionally facilitated mediation and dialogue to help reduce tensions, facilitate better communication, and seek peaceful solutions acceptable to all parties. ICRP Jakarta engages neutral professional mediators to create a safe and open

<sup>83</sup> BU, Personal Interview with a Buddhist Religious Leader in Salatiga, 26 June 2022.

<sup>84</sup> AH & RA, Personal Interview with Interfaith Couples from Surabaya, 18 August 2022.

<sup>85</sup> PT, Personal Interview with the Management of ICRP Jakarta.

<sup>86</sup> Muhammad Husni Abdulah Pakarti et al., "Persepsi Masyarakat terhadap Pernikahan Beda Agama: Studi tentang Stereotip, Prasangka, dan Dukungan Sosial dalam Konteks Multireligius," *El-Bait: Jurnal Hukum Keluarga Islam* 2, no. 2 (2 July 2023), 1–16.

<sup>87</sup> Yohanes Kaesnube and Armada Riyanto, "Positivisme Hukum dalam Mengatasi Konflik Hukum Perkawinan Beda Agama," *Borneo Review* 2, no. 2 (21 December 2023): 104–15.

environment where all parties can express their views and feelings without fear of judgment or negative reactions. The mediation process involves various stages, beginning with identifying the main issues causing the conflict.<sup>88</sup>

In the context of interfaith couples, family mediation often involves addressing prejudices and stereotypes held by family or community members. This process can include discussions on inclusivity, tolerance, and respect for diversity.<sup>89</sup> Mediators work to bridge gaps in understanding and strengthen family relationships by encouraging open and empathetic communication. Through constructive dialogue, family members who initially rejected or did not support the interfaith marriage can start to see the situation from a broader and more humane perspective. According to ICRP Jakarta, successful mediation and conflict resolution in this context depend on the commitment of all parties to seek peaceful solutions. It includes a willingness to compromise, set aside differences, and work together towards a positive outcome.<sup>90</sup> Effective mediation and conflict resolution enable interfaith couples to overcome resistance from their families or communities peacefully and constructively. It helps them lead a more harmonious and peaceful married life and contributes to broader social change by promoting the values of inclusiveness and tolerance in society.<sup>91</sup>

With proper mediation, ICRP Jakarta asserts that interfaith couples can find ways to live harmoniously with their families and communities while maintaining their identity and life choices. Many interfaith couples are often unaware of their legal rights, particularly concerning property and family rights.<sup>92</sup> ICRP Jakarta addresses this gap by offering direct social assistance, providing comprehensive and transparent information on these rights, and guiding couples on protecting and enforcing them. This information is shared through consultation sessions, information brochures, and workshops. Accessing public services can also be challenging for interfaith couples, especially if they encounter discrimination or bureaucratic red tape. ICRP Jakarta's social assistance includes helping couples access healthcare, education, and other social services. This support may involve assisting with the registration process, filling out forms, or accompanying couples during visits to public service offices.<sup>93</sup> Such assistance not only helps couples obtain the necessary access but also reduces the stress and confusion associated with navigating complex systems.

ICRP Jakarta accompanied the couple NA and AL, who faced numerous challenges in their interfaith marriage. NA is a Muslim, and AL is a Protestant Christian. After deciding to get married, the couple encountered obstacles, including family rejection, complicated administrative issues, and concerns about their domestic life. Despite their preparations—

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<sup>88</sup> TA, Personal Interview with the Management of ICRP Jakarta.

<sup>89</sup> See: Nasrul, Yusuf, and Mubarak, "Pernikahan Beda Agama Tinjauan Fikih dan Tantangan Kehidupan Multikultural di Indonesia," 243–52; Ani Aryati and A. Suradi, "The Implementation of Religious Tolerance: Study on Pesantren Bali Bina Insani with Bali Hindus Communities," *Jurnal Ilmiah Penuraduan* 10, no. 2 (30 May 2022): 471–90.

<sup>90</sup> Kate McCarthy, "Pluralist Family Values: Domestic Strategies for Living with Religious Difference," *The ANNALS of the American Academy of Political and Social Science* 612, no. 1 (July 2007): 187–208.

<sup>91</sup> Azhari Akmal Tarigan et al., "Islam and Christianity at Rumah Gadang: The Household Characteristics of Minangnese Interfaith Marriage," *JURIS (Jurnal Ilmiah Syariah)* 23, no. 1 (10 June 2024): 27–39.

<sup>92</sup> Zaen Musyirifin, "Urgensi Layanan Konseling pada Pernikahan Beda Agama," *Madaniyah* 8, no. 1 (31 January 2018): 53–74.

<sup>93</sup> TA, Personal Interview with the Management of ICRP Jakarta.

such as saving money, contacting a registrar in Australia, and even paying for a photo session—they continued to face significant problems. ICRP Jakarta provided direct advocacy to meet all their needs, from family mediation to the conduct of the wedding and official registration. Leveraging its extensive network, ICRP Jakarta successfully helped NA and AL get married in Jakarta and officially register their marriage in Sleman, Yogyakarta.<sup>94</sup> This support ensured the couple could navigate challenges effectively and formalise their marriage despite obstacles.

## Conclusion

The study of interfaith marriage in Indonesia reveals unique aspects, particularly in the work handled by ICRP Jakarta. By emphasising civil rights discourse, employing an interdisciplinary approach to interpret contradictions between applicable norms, and providing direct advocacy to interfaith couples, ICRP Jakarta plays a crucial role in shaping understanding and policies that are more inclusive and tolerant of interfaith marriages. These three key variables—resistance to negative stereotypes, addressing stigmas, and challenging hegemonic knowledge—reflect ICRP Jakarta’s efforts to overcome societal prejudices against interfaith marriage. This organisation exemplifies how research and practical action can collaboratively drive positive change in a diverse and multicultural society.

This research has several limitations and weaknesses. First, the geographical scope of the study is confined to the Jakarta area, which may not fully reflect the broader national conditions characterised by greater cultural and religious diversity. Second, the research is based on the experiences of a limited number of couples, meaning the findings may not be representative of all interfaith couples in Indonesia. Third, the advocacy approach employed by ICRP Jakarta may not be universally applicable due to varying local policies and levels of community acceptance. To address these limitations, future research could involve a broader geographic scope, including multiple regions across Indonesia, to obtain a more comprehensive view of interfaith marriage. Researchers might employ diverse methods, such as national surveys or in-depth case studies, to gather more representative and detailed data. Additionally, exploring how the advocacy approaches successful in Jakarta could be adapted and implemented in other regions with distinct cultural and religious contexts would offer valuable insights for enhancing advocacy efforts nationwide.

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<sup>94</sup> NA & AL, Personal Interview with Interfaith Couples from Malang, 3 August 2022.

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