



## Political Analysis of Islamic Law on the Regulation of Interfaith Marriage in Indonesia

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Article info:	Abstract
<p><b>Keywords:</b> Freedom, Human rights, Interfaith marriage, Islamic law; Legal policy</p>	<p>This study aims to reveal the limitations and implications of legal exclusivism on protecting human rights, particularly freedom of religion, the right to choose a spouse, and the protection of vulnerable groups in Indonesia. This study uses a qualitative approach with critical document and literature analysis methods, placing legal products and state policies as the main objects of study with a synthesis between political theory and the theory of social construction of Islamic law. The results indicate that Indonesia remains trapped in a cycle of compromise between religious conservatism and constitutional promises regarding human rights, resulting in the law often serving as a tool to restrict rather than protect diversity. The state's reliance on majority interpretations and the postponement of legislative reform not only perpetuate discrimination against individuals who choose different ways of life but also threaten social integration and reduce the meaning of religious freedom to narrow administrative spaces. However, amidst challenges and resistance from conservative groups, there is an opportunity to reconstruct the family law paradigm by reaffirming commitment to substantive justice, pluralism, and respect for individual rights, so that the state can establish a legal system that is truly inclusive and fair for all its citizens without exception.</p>
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<div style="display: flex; align-items: center;">  <p>*Author correspondence email: <a href="mailto:dikson_yasin@iaingorontalo.ac.id">dikson_yasin@iaingorontalo.ac.id</a>  Available online at: <a href="https://journal.mahkotascience.org/index.php/insani">https://journal.mahkotascience.org/index.php/insani</a>  Copyright (c) 2025 by Insani: Jurnal Pranata Sosial Hukum Islam</p> </div>	

## Introduction

The regulation of interfaith marriage in Indonesia reveals the ambivalent nature of Islamic political law. On the one hand, Islamic political law is used as an instrument to strengthen the collective identity of Muslims and maintain the hegemony of Islamic values in the public sphere.<sup>1</sup> On the other hand, Islamic political law also operates as a mechanism for state control over religious practices, positioning religious institutions as both partners and subordinates of the state in matters of private citizens' affairs. In other words, Islamic political law in Indonesia is not only normative but also highly political and instrumental, serving as an arena for articulation, negotiation, and even co-optation between the state, religious authorities, and individual citizens.<sup>2</sup>

Upon closer examination, the construction of Islamic political law in regulating interfaith marriage in Indonesia is essentially a reflection of the state's efforts to negotiate national identity, public morality, and socio-political stability.<sup>3</sup> The state uses law as a tool to manage differences and limit conflict, but in the process it often sacrifices the rights of minorities and individual freedoms. This phenomenon reveals a major paradox in Indonesian legal politics: the state seeks to be a neutral referee in inter-religious relations, yet at the same time it becomes the main actor in strengthening the exclusivism of the majority religion.

In order to strengthen the academic foundation and understand the position and contribution of this study, it is important to examine previous studies that highlight the issue of interfaith marriage from the perspectives of Islamic law, Indonesian national law, as well as the context of political law and human rights. This review not only helps to map the development of thought, but also reveals the gaps and challenges that still exist today. Some studies highlight the conflict between Indonesian positive law and the constitutional rights of citizens.<sup>4</sup> These studies assert that the 1974 Marriage Law tends to delegitimise interfaith marriage practices, thereby violating the rights to freedom of religion and the right to choose a spouse as guaranteed by the 1945 Constitution.

Other studies have outlined the social, psychological, and economic impacts experienced by couples and children from interfaith marriages.<sup>5</sup> These studies show how legal pressure and social stigma drive the emergence of dual identities, legal evasion practices, and legal uncertainty regarding the status of children. Additionally, there has

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<sup>1</sup> Dilyana Mincheva, "# DearSister And# MosqueMeToo: Adversarial Islamic Feminism within the Western-Islamic Public Sphere," *Feminist Media Studies* 23, no. 2 (2023): 525–40, <https://doi.org/10.1080/14680777.2021.1984273>.

<sup>2</sup> Krismono Krismono, Supriyanto Abdi, and Syahmirwan Syahmirwan, "Negotiating Islam, Democracy and Pluralism: Islamic Politics and the State in Post-Reform Indonesia," *Mazahib* 24, no. 1 (2025): 101–30, <https://doi.org/10.21093/mj.v24i1.10078>.

<sup>3</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 (2024): 19–43, <https://doi.org/10.24260/jil.v5i1.2153>.

<sup>4</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 (2024): 2308174, <https://doi.org/10.1080/23311886.2024.2308174>; Moh Najib, A Suganda, and Zuhdi Rifa'i, "Interfaith Marriages in Indonesia: A Study in The Perspective of Islamic Law and State Law," in *International Conference on Law, Public Policy, and Human Rights (ICLaPH 2023)* (Atlantis Press, 2024), 39–52, [https://doi.org/10.2991/978-2-38476-279-8\\_6](https://doi.org/10.2991/978-2-38476-279-8_6); Mohamad Abdun Nasir, "Negotiating Muslim Interfaith Marriage in Indonesia: Integration and Conflict in Islamic Law," *Mazahib* 21, no. 2 (2022): 155–86, <https://doi.org/10.21093/mj.v21i2.5436>.

<sup>5</sup> Muhammad Adil and Syahril Jamil, "Interfaith Marriage in Indonesia: Polemics and Perspectives of Religious Leaders and Community Organizations," *Religion & Human Rights* 18, no. 1 (2023): 31–53, <https://doi.org/10.1163/18710328-bja10031>; Jony Eko Yulianto and Made Diah Lestari, "Inter-Ethnic Relationships and Marriages in Indonesia: Family Dynamics and Well-Being," in *The Routledge International Handbook of Interracial and Intercultural Relationships and Mental Health* (Routledge, n.d.), 233–44, <https://doi.org/10.4324/9781003385547-22>; Isnawati Hidayah et al., "The Role of Parental Child Marriage in Children's Food Security and Nutritional Status: A Prospective Cohort Study in Indonesia," *Frontiers in Public Health* 12 (2024): 1469483, <https://doi.org/10.3389/fpubh.2024.1469483>.

been a failure of judicial review at the Constitutional Court, which was filed to legalise interfaith marriages.<sup>6</sup> From all the literature reviews, it is clear that the issue of interfaith marriages in Indonesia is not isolated but is caught in a tug-of-war between state power, religious norms, the interests of civil society organisations, social pressure, and the aspirations for freedom of individuals and minority groups. Most studies highlight the stagnation of legal reform due to the hegemony of conservative interpretations and the weak protection of constitutional rights. Additionally, the gap between social practices and legal norms is stark, while resistance, legal evasions, and various adaptation strategies continue to evolve at the grassroots level.

In this context, the objective of this study is to critically analyse how Islamic legal politics plays a role in shaping and controlling interfaith marriage regulations in Indonesia, highlighting the mechanisms of power negotiation between the state, religious authorities, and individuals, as well as identifying the dynamics of contestation and opportunities for more inclusive legal reform. The essence of this study lies in its attempt to unpack the political-legal constructions that have long relied on pragmatic compromises between the state and majority religious authorities, as well as their impact on justice and equality for citizens. This study does not merely reiterate normative arguments of Islamic law but presents a political-legal perspective that combines criticism of power relations, analysis of social practices, and reflection on the urgency of legal reform grounded in the values of justice, pluralism, and respect for human rights.

## Methods

This study uses a qualitative approach with critical document and literature analysis methods, placing legal products such as law no. 1 of 1974 on marriage, religious fatwas, court jurisprudence, and state policies as the main objects of analysis. This approach highlights that interfaith marriage regulations are not merely a collection of formal norms but social and political constructs that emerge from encounters, negotiations, and power struggles between the state, religious institutions, and civil society. Through an in-depth review of documents and literature, this study traces the dynamics of policy formation, implementation, and development, placing various legal sources and academic discourses as material for critical reflection.

The analysis is conducted in layers, starting with the identification and categorisation of arguments, narratives, and legal logic that shape interfaith marriage regulations. This reveals the power relations, interests, and ideologies at work behind each policy. The theoretical framework of this study is a synthesis of legal political theory and the theory of social construction of Islamic law.<sup>7</sup> Political theory of law is used to understand law as a product, arena, and instrument of power that is not neutral, but rather laden with political interests, negotiations, and the hegemony of majority groups over minorities.<sup>8</sup> Meanwhile, the theory of social construction of Islamic law positions sharia and religious interpretations as the result of a dynamic, adaptive, and vulnerable

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<sup>6</sup> Adzкия Dzikro Romadhon and Adibah Bahori, "Inter-Religious Marriage in Indonesia: Pros and Cons in the Administrative and Constitutional Law," *Indonesian State Law Review* 6, no. 2 (2023): 133–76, <https://doi.org/10.15294/isrev.v6i2.23146>; Judith Koschorke, "Legal Pluralism in Indonesia: The Case of Interfaith Marriages Involving Muslims," in *Legal Pluralism in Muslim Contexts* (Brill, 2019), 199–229, [https://doi.org/10.1163/9789004398269\\_010](https://doi.org/10.1163/9789004398269_010); Mohamad Abdun Nasir, "Religion, Law, and Identity: Contending Authorities on Interfaith Marriage in Lombok, Indonesia," *Islam and Christian-Muslim Relations* 31, no. 2 (2020): 131–50, <https://doi.org/10.1080/09596410.2020.1773618>.

<sup>7</sup> Nur Insani et al., "Islamic Law and Local Wisdom: Exploring Legal Scientific Potential in Integrating Local Cultural Values," *Kanun Jurnal Ilmu Hukum* 26, no. 1 (2024): 101–24, <https://doi.org/10.24815/kanun.v26i1.32930>.

<sup>8</sup> Robertus Robet, Meila Riskia Fitri, and Marista Christina Shally Kabelen, "The State and Human Rights under Joko Widodo's Indonesia," *Cogent Social Sciences* 9, no. 2 (2023): 2286041, <https://doi.org/10.1080/23311886.2023.2286041>.

social construction susceptible to political, cultural, and state policy interventions. The integration of these two theories enables research to critically examine how interfaith marriage regulations reflect religious norms and positive law and manifest shifts in interpretation, state co-optation of spiritual authority, and the marginalisation of the rights of individuals and minority groups.

## Result and Discussion

### Political Contest between Islamic Law Principles and State Policy in the Regulation of Interfaith Marriage

The encounter between Islamic and national law regulating interfaith marriage has become a sharp ideological contest. Conservative Islamic groups, through mass organisations and religious authorities such as the Indonesian Ulema Council, have consistently demanded that the state not open any loopholes for the legalisation of interfaith marriage. The narrative constructed is one of a threat to religious beliefs, moral decadence, and the destruction of the Muslim family structure. These authorities play a significant role in shaping public opinion and influencing state policy through political pressure, fatwas, and legislative advocacy. Meanwhile, despite strong academic arguments, progressive groups prioritising the *maqasid* (objectives) of Islamic law and human rights tend to be marginalised in the public sphere and the state's legislative process.<sup>9</sup> The hegemony of conservative interpretations in marriage law marginalises diversity of interpretation within the Islamic tradition itself, while ignoring the real needs of Indonesia's pluralistic society.

The state, in this case, is in a dilemma. On the one hand, the constitution guarantees freedom of religion and the right to form a family. On the other hand, the state faces intense pressure to maintain social harmony, political stability, and avoid horizontal conflicts based on religion. The compromises made, as seen in the Marriage Law and various court decisions, are often ambiguous: affirming the principle of pluralism at the level of discourse, but adopting religious interpretive exclusivism at the level of implementation. The Constitutional Court, in several judicial reviews related to the legality of interfaith marriages, has affirmed the state's position as a facilitator of social harmony that must respect the values of the majority religion, even while facing international demands for the protection of human rights. This policy construction reveals the nature of Indonesian legal politics, which has not yet been able to completely free itself from the hegemony of conservative interpretations, while also demonstrating the continuation of historical compromises between the state and the majority religious forces.

Further conflict arises at the level of legal interpretation. Stakeholders tend to read the law textually and literally, especially the phrase 'according to the laws of their respective religions and beliefs' in Article 2 of the Marriage Law. This literal interpretation closes the space for critical hermeneutics that should open up possibilities for recognising minority rights. The Supreme Court itself has, in several rulings, permitted the administrative registration of interfaith marriages, but these rulings have never become binding jurisprudence and remain highly contested.

This legal uncertainty demonstrates the state's failure to fulfil its primary function as a modern state governed by the rule of law: to provide certainty, justice, and

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<sup>9</sup> Sundus Serhan Ahmed, "The Evolving Role of Sustainable Development in Shaping Political Progress: A Contemporary Islamic Perspective on Human Rights and Civil Institution," *MILRev: Metro Islamic Law Review* 4, no. 1 (2025): 1-30, <https://doi.org/10.32332/milrev.v4i1.10128>.

protection of citizens' an equal basis.<sup>10</sup> In this vacuum of certainty, creative compliance practices have emerged, such as marrying abroad, using the services of lawyers specialising in interfaith marriages, or simply registering the marriage administratively without a religious ceremony. Such practices signify the gap between norms and social reality and indicate resistance to the hegemony of conservative interpretations and the state's institutions regulating citizens' affairs. Paradoxically, this phenomenon reinforces the status as a regulator while revealing its weakness in accommodating the dynamics of a pluralistic society.

From the Islamic legal doctrine perspective, contemporary discourse indicates a significant shift in interpretation.<sup>11</sup> Several modern Muslim scholars and intellectuals, both at the international and national levels, have begun to promote an approach to Islamic law that emphasises the principles of public interest, justice, and respect for individual rights as the primary considerations in establishing law<sup>12</sup>. This interpretation opens up the possibility of reinterpreting the prohibition of interfaith marriage, especially in a pluralistic society and modern democracy. However, this thought transformation has not penetrated the wall of formal religious authority in Indonesia, which tends to be conservative, nor has it gained sufficient political legitimacy to be adopted in the national legal system. Inclusive interpretative innovations remain constrained by identity politics and strong majority sentiments in legislation and state policy.<sup>13</sup>

Behind the conflict of interpretations and implementation of interfaith marriage regulations, there is an ideological dimension that is no less important to analyse. The modern Indonesian state, despite adopting the principle of non-sectarianism, in practice often uses Islamic law as the moral foundation and legitimacy for public policy, especially on issues related to morality and family life. Indonesian legal politics, in this case, tends to take a compromise position: it does not officially make Islamic law the state law, but it also does not dare to completely free itself from the moral and political pressure of the majority religious group. This compromise shapes a pattern of ambivalent legislation and policy implementation, where the state is forced to choose a 'middle path' that creates new uncertainty and injustice for citizens.

It cannot be denied that the influence of Islamic law in the Indonesian legal system is reinforced by a national narrative that places religion, particularly Islam, as the primary identity of the nation.<sup>14</sup> In this narrative, any attempt to revise or open up legal space for interfaith marriage is always suspected of threatening public morality and family stability. Collective fears capitalised upon through various discursive devices, ranging from religious sermons, fatwas, to media campaigns become practical tools for strengthening conservative positions in legal politics. The state, instead of being a protector of minority rights, often becomes a catalyst for religious exclusivism in the regulation of public life.

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<sup>10</sup> David Leslie et al., "Artificial Intelligence, Human Rights, Democracy, and the Rule of Law: A Primer," *ArXiv Preprint ArXiv:2104.04147*, 2021, <https://doi.org/10.5281/zenodo.4639743>.

<sup>11</sup> Sumiyati Beddu et al., "From Doctrine to Action: Islamic Law's Journey towards Social Change," *Jurnal Wawasan Yuridika* 8, no. 1 (2024): 1-24, <https://doi.org/10.25072/jwy.v8i1.4177>.

<sup>12</sup> Rizal Al Hamid, Arif Sugitanata, and Suud Sarim Karimullah, "Sinkronisasi Pendekatan Sosiologis Dengan Penemuan Hukum Islam Sui Generis Kum Empiris," *Bertuah Jurnal Syariah Dan Ekonomi Islam* 4, no. 1 (2023): 48-60, <https://doi.org/https://doi.org/10.56633/jsie.v4i1.553>.

<sup>13</sup> Suud Sarim Karimullah, "Pursuing Legal Harmony: Indonesianization of Islamic Law Concept and Its Impact on National Law," *Mazahib* 21, no. 2 (December 27, 2022): 213-44, <https://doi.org/10.21093/mj.v21i2.4800>.

<sup>14</sup> Muhajir Muhajir et al., "Agus Moh Najib's Thoughts on the Interconnection of Islamic Law and National Law," *Jurnal Ilmiah Al-Syir'ah* 21, no. 1 (2023): 86-103, <https://doi.org/10.30984/jis.v21i1.2321>.

The consequence of this pattern of relations is the deepening of the divide between 'us' and 'he' in 'ocie'y, both legally and socially. Interfaith couples not only face administrative obstacles but also have to deal with stigma, discrimination, and even persecution in their daily lives.<sup>15</sup> Children born to interfaith marriages often experience legal uncertainty, loss of certain civil rights, and social exclusion. Within the framework of a modern constitutional state, this situation constitutes a failure of the state to fulfil its constitutional mandate to provide protection and justice to all citizens, without exception.

Amidst the strong currents of globalisation, changing values, and increasingly intense intercultural interactions, Indonesia's changes to interfaith marriage regulations are growing. The need to align the national legal system with international human rights standards and the realities of a pluralistic society has become increasingly urgent. However, this change is not easy to achieve, as it must overcome the formidable barriers of conservatism, identity politics, and resistance from religious and state institutions that have long been accustomed to the patterns of majoritarian compromise. Political and legal contests remain fierce, with the state often choosing the most politically 'safe' path, even at the expense of principles of justice, freedom, and pluralism that should form the foundation of a modern state.

The contest between Islamic legal principles and state policy in regulating interfaith marriage in Indonesia represents a larger ideological battle over the face of the state and the future direction of the nation. Will Indonesia continue to be a pluralistic country that stops at rhetoric, or will it dare to take transformative steps towards justice and equal rights for all its citizens? The policy choices made by the state in this issue will not only determine the fate of individuals or interfaith couples. Still, they will also shape the future architecture of the nation's justice, identity, and social cohesion. In all its complexity, this contestation teaches one crucial lesson: law never stands in a vacuum but is always a mirror of the ongoing struggle between power, ideology, and the evolving hopes of society.

### **The Role of Political Actors and Islamic Groups in Influencing Policy and Legislation Related to Interfaith Marriage**

Political actors' involvement in interfaith marriage in Indonesia cannot be separated from the historical dynamics and power practices that have shaped the relationship between the state and religion since independence. On the one hand, the state has sought to position itself as a mediator and facilitator of social harmony in a multicultural society. However, on the other hand, the political and social power of Islamic groups, both conservative and moderate continues to demand that the state not only act as a mediator but also as a protector and guardian of public morality by Islamic values.<sup>16</sup> In practice, the state's role is often caught between the demands of modernity championed by pluralist groups and the regressive or restrictive impulses led by conservative Islamic groups.

Conservative Islamic groups, through institutions such as the Indonesian Ulema Council (MUI), the Indonesian Islamic Propagation Council (DDII), and large mass organisations such as Muhammadiyah and Nahdlatul Ulama, in specific segments, consistently reject the legalisation of interfaith marriage. This rejection is typically

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<sup>15</sup> Emel Genç, "Anti-Muslim Hatred in the US: Couple Therapy Implications for Discriminated Muslim Couples," *Spiritual Psychology and Counseling* 7, no. 1 (2022): 7-21, <https://doi.org/10.37898/spc.2022.7.1.163>.

<sup>16</sup> Fayeze Mahamid, Muayad Hattab, and Denise Berte, "Palestinian Law to Protect Family and Prevent Violence: Challenges with Public Opinion," *BMC Public Health* 23, no. 1 (2023): 412, <https://doi.org/10.1186/s12889-023-15276-9>.

framed within narratives of protecting religious beliefs, preserving the purity of Muslim families, and safeguarding societal morality from the influence of secularism or pluralism, which are perceived as undermining the very foundations of national life. These groups' legal and political strategies are highly systematic and multi-layered: from legislative advocacy, lobbying government officials and parliament members, mobilising fatwas, to grassroots movements organised through mosques, religious study circles, and social media networks focused on Islamic preaching.

One of their strategy's main instruments is using fatwas as an authoritative source for guiding public attitudes and policymakers. For example, Fatwas issued by the MUI are often used as formal references by state agencies such as the Ministry of Religious Affairs in drafting technical guidelines for marriage registration and even in responding to judicial review petitions at the Constitutional Court. These fatwas are not only guidelines for Muslims, but also political tools that exert moral and political pressure on the state not to open legal loopholes for interfaith marriages. This pressure has often effectively held back legal reform agendas proposed by pluralist groups or progressive state actors.

Conservative groups are also adept at exploiting majority sentiment and identity narratives as tools of political legitimisation. They tend to construct interfaith marriage as an existential threat to Muslims and the nation as a whole. This narrative is reinforced through a discourse of 'cultural war' that pits pure Islamic values against the penetration of foreign or secular cultures. Efforts to open space for dialogue or compromise on the issue of interfaith marriage are often framed as attempts at liberalisation or westernisation that are contrary to the nation's identity.

These sentiments are then politicised in electoral agendas, petitions, demonstrations, and massive online campaigns, turning every issue related to interfaith marriage into a platform for political consolidation and strengthening the bargaining position of conservative groups in the national political arena. Conservative groups' strategy is also evident in their co-optation of the state bureaucracy.

Many public officials in executive and legislative institutions, both at the central and regional levels, openly identify with conservative Islamic values or are even part of these religious organisations' networks.<sup>17</sup> Through these networks, the influence of conservative groups transcends the formal boundaries of state institutions, influencing the drafting of laws, technical policies, and implementation at the administrative level. Cases of refusal to register interfaith marriages at the Office of Religious Affairs (KUA), for example, are not merely the implementation of positive law, but also a reflection of the internalisation of religious values and norms within the state apparatus.

Moderate Islamic groups have taken a different approach to this issue. They generally do not support full legalisation of interfaith marriages but open space for dialogue to discuss the possibility of legal tolerance and seek more humane and just solutions. Historically, several moderate Islamic scholars and thinkers have proposed more flexible interpretations of verses and hadiths related to interfaith marriage, particularly by prioritising Islamic law's maqasid (objectives), namely public interest, justice, and respect for individual rights.<sup>18</sup> They emphasise that the interpretation of Islamic law must be adaptive to social change and the pluralistic reality of modern

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<sup>17</sup> Ani Sarkissian and Ann Marie Waincott, "Benign Bureaucracies? Religious Affairs Ministries as Institutions of Political Control," *Democratization* 31, no. 6 (2024): 1160–82, <https://doi.org/10.1080/13510347.2023.2293147>.

<sup>18</sup> Arif Sugitanata and Suud Sarim Karimullah, "Implementasi Hukum Keluarga Islam Pada Undang-Undang Perkawinan Di Indonesia Mengenai Hak Memilih Pasangan Bagi Perempuan," *SETARA: Jurnal Studi Gender Dan Anak* 5, no. 01 (2023): 1–14, <https://doi.org/10.32332/jsqa.v5i01.6536>.

society. However, this moderate stance is often not strong enough to counter the consolidation of conservative forces in the political arena and within state institutions. Moderate Islamic groups' strategy in policy advocacy emphasises interfaith dialogue, strengthening progressive Islamic legal literacy, and encouraging the state not to get caught up in legal formalism that restricts the rights of minorities.

They seek to build bridges between religious interpretations and the protection of human rights, for example, by proposing mediation mechanisms or administrative recognition that respect religious freedom without completely sacrificing religious norms. In practice, they participate in academic discussion forums, initiate critical research, and offer policy briefs to the government and legislature. These efforts have not yet significantly changed the legal construct, but they are slowly opening up space for discourse and reducing destructive political polarisation.

The role of political actors, whether in the legislative, executive, or judicial branches, is crucial in determining the direction of policies and legislation related to interfaith marriage. Many members of parliament who come from Islam-based parties or who have strong Muslim constituencies choose to take a conservative stance to maintain political support.<sup>19</sup> They tend to block any efforts to change or reform the law that could potentially legalise interfaith marriage. A similar situation exists in the executive bureaucracy, where officials in the Ministry of Religious Affairs, the Directorate General of Islamic Community Guidance, and local civil registration authorities prefer to take a safe position by refusing to register or legalise interfaith marriages. Meanwhile, in the judicial sphere, despite progressive rulings allowing the registration of interfaith marriages under certain conditions, the Constitutional Court and the Supreme Court tend to affirm the supremacy of religious interpretation in matters of marriage.<sup>20</sup>

Political negotiations between these actors and groups have resulted in ambiguous and often inconsistent public policies. Under pressure from conservative groups, the state tends to take a compromise position, namely by not explicitly prohibiting interfaith marriages in positive law, but also by not providing precise legal mechanisms for their administrative recognition. This ambiguity is interpreted in various ways by state officials at the implementation level: some completely close the door to registration, while others provide loopholes on humanitarian grounds or administrative discretion. As a result, citizens who wish to marry across religions are trapped in a legal grey area, facing the risk of administrative rejection, social stigma, and legal uncertainty for themselves and their children.

The most tangible impact of this political and legal negotiation and contestation is the emergence of inconsistent, discriminatory public policies that often fail to protect the constitutional rights of citizens. Local governments and technical agencies frequently hide behind religious interpretations to reject the registration of interfaith marriages, without providing alternative solutions or adequate legal protection. In such situations, interfaith couples must seek legal loopholes, such as marrying abroad or undergoing administrative conversion to obtain state recognition. These practices signify the state's failure to guarantee access to justice and equality of rights, while also highlighting the hegemonic power of conservative Islamic groups in dictating the direction of public policy beyond their internal communities.

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<sup>19</sup> Suud Sarim Karimullah, "From Tradition to Mainstream: Understanding the Integration of Islamic Law in Various Global Settings," *Justicia Islamica* 20, no. 2 (2023): 214–40, <https://doi.org/10.21154/justicia.v20i2.6478>.

<sup>20</sup> Frangky Suleman et al., "The Review of the Maslahah Mursalah Related to Early Marriage: Implementation and Orientation," *Jurnal Dinamika Hukum* 23, no. 3 (2023): 573–86, <https://doi.org/10.20884/1.jdh.2023.23.3.3783>.

However, amid the dominance of conservative narratives, resistance continues to grow from various civil society actors, academics, human rights organisations, and even some urban young Muslims who demand that the state be more responsive to the realities of pluralism and social change.<sup>21</sup> They employ strategies such as policy advocacy, judicial review, social media campaigns, and public opinion building through the mass media. This contestation keeps the issue of interfaith marriage alive in public discourse. It serves as a barometer of the maturity of democracy and the quality of human rights protection in Indonesia. The success of conservative groups in influencing policy so far cannot be separated from the state's weak capacity to act as a balancer and protector of all groups, as well as the tendency of political elites to be pragmatic, preferring to maintain coalitions and electoral support rather than fighting for progressive legal reform.

This dynamic also underscores that law is not a neutral entity standing above all interests, but rather a battleground where social, economic, political, and ideological forces take turns dominating the course of policy. In Indonesia, the contest between conservative and moderate Islamic groups, as well as political actors linked to pragmatic interests, makes any attempt to change the regulations on interfaith marriage a highly sensitive issue laden with political identity. On various occasions, the state has demonstrated its limitations as a mediator. It more often becomes an arena where negotiations, co-optation, and compromises take place without a clear direction, leaving the protection of minority rights in a vulnerable position.

Amidst the tide of globalisation and demands for alignment with international human rights standards, pressure on the state to improve interfaith marriage regulations has intensified. However, the power of the status quo maintained by conservative groups has made the change process slow, full of resistance, and vulnerable to political backlash. Moderate Islamic groups face a significant dilemma: between maintaining community harmony and opening up new space for *ijtihad* that is more in line with the principles of justice and humanity.<sup>22</sup> Meanwhile, the state continues to be torn between competing interests, unable to take any real breakthrough steps to free its citizens from discrimination and legal uncertainty.

The issue of interfaith marriage has become more than a matter of legality or religious norms; it has become a mirror of the overall political dynamics of Indonesian law. The contest between conservative and moderate groups, political actors, and the state has crystallised in public policies that are often ambiguous, defensive, and even repressive towards individual freedoms and minority rights. This situation challenges all segments of society to continue striving for a valid rule of law. This state does not succumb to narrow majoritarian pressures but stands for justice, humanity, and the principles of diversity that form the essence of Indonesia's independence. In this context, the legal and political strategies of conservative and moderate Islamic groups become a decisive factor in shaping the direction of democracy, pluralism, and the future of family law policy in this country.

## **The Impact of Islamic Legal Regulations on Interfaith Marriage on Civil Rights, Freedom of Religion, and Social Diversity in Indonesia**

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<sup>21</sup> Nur Insani, Suud Sarim Karimullah, and Sulastri, "Islamic Law Challenges in Addressing Human Trafficking and Sexual Exploitation," *Jurnal Hukum Islam* 21, no. 2 (2023): 357-87, <https://doi.org/10.28918/jhi.v21i2.1732>.

<sup>22</sup> Suud Sarim Karimullah, "The Relevance of the Concept of Justice in Islamic Law to Contemporary Humanitarian Issues," *Al-Ahkam: Jurnal Ilmu Syari'ah Dan Hukum* 8, no. 1 (2023): 83-98, <https://doi.org/10.22515/alahkam.v8i1.7654>.

The most fundamental impact of Islamic legal regulations on interfaith marriage is the deprivation of individuals' civil rights to freely and consciously choose their life partner. The choice of a spouse, which should be every citizen's private and autonomous right, is instead made a subject of state intervention through rigid and often exclusive religious interpretations. Under the pretext of safeguarding public morality and social harmony, the state imposes administrative and legal requirements that can only be met by same-faith couples. As a result, citizens who wish to marry someone of a different religion are faced with a legal and moral dilemma: should they sacrifice their beliefs or identity to meet the formal requirements for marriage registration? Many choose to undergo a superficial religious conversion or marry secretly abroad to avoid social stigma and legal sanctions within the country.

This phenomenon clearly shows how legal regulations not only restrict but also encourage the emergence of social hypocrisy, identity manipulation, and psychological vulnerability for individuals and families.<sup>23</sup> These regulations directly impact freedom of religion as a constitutional right that the state should protect. The 1945 Constitution guarantees freedom of religion and belief for every citizen, without coercion or intervention in even the most personal matters of faith. However, in its implementation, the regulation on interfaith marriage presents the state as a central actor in determining the validity and legality of citizens' religious expressions. Policies that require marriage according to the laws of each religion and belief not only negate individual freedom in choosing the form and path of their spiritual life, but also place the state above the religious autonomy of every individual. At this point, the state is no longer merely a public servant but becomes the 'gatekeeper' of formally recognised religious interpretations. In contrast, minority interpretations, unique spiritual experiences, or religious practices that do not conform to the mainstream are marginalised or even excluded from the legal sphere.

A further consequence that is often overlooked is the emergence of systemic discrimination within the state administrative system. Citizens who marry outside their religion face legal uncertainty, both for themselves and the children born from such marriages. Many cases demonstrate that birth certificates, family cards, and civil rights such as inheritance or recognition of identity are difficult to obtain, or even completely denied, simply because the state refuses to record or recognise interfaith marriages legally.

In a modern society where all rights and access are highly dependent on population administration, these consequences are not merely bureaucratic issues but serious violations of citizens' fundamental civil rights. In this way, the state is widening the social exclusion gap through legal instruments and policies that should serve as guarantees of protection and equality. The psychosocial impact of these regulations is no less profound.

Interfaith couples and children born into such families must face stigma, social pressure, and sometimes persecution from their surroundings. A society accustomed to mainstream religious narratives, supported by existing legal frameworks, collectively builds walls of exclusivism and intolerance that make those who are different feel alienated, marginalised, and even considered 'problematic' in moral and religious terms. In many cases, such social pressure leads to internal family conflicts, the breakdown of social networks, or even migration, both internal and external in search of a safer and

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<sup>23</sup> Aga Natalis, "Power, Law, and the Semiotics of Marginalisation: Rethinking Prostitution, Health Risk, and Legal Discourse in Indonesia," *International Journal for the Semiotics of Law-Revue Internationale de Sémiotique Juridique*, 2025, 1-31, <https://doi.org/10.1007/s11196-025-10310-y>.

more inclusive living space.<sup>24</sup> This phenomenon demonstrates how discriminatory legal policies create problems at the legal-formal level and also permeate the social and psychological spheres, affecting citizens' quality of life in the long term.

Social pluralism, one of the main foundations of Indonesia as a nation-state, has been eroded by legal regulations that place a particular religion as the main parameter of legality in the private lives of citizens. In a diverse society inhabited by various faiths, ethnicities, and cultures, the state should facilitate a shared living space that is fair, inclusive, and equal.<sup>25</sup> However, the opposite is happening: the state, with its legal policies emphasising the supremacy of the majority's religious interpretation, is closing the space for pluralistic practices and interconnections between religious groups. When confronted with rigid and unchanging legal barriers, efforts to build social cohesion, tolerance, and respect for diversity often fail.

Instead of creating harmony, these legal policies widen the gap and reinforce the boundaries of segregation that have long been a source of tension in Indonesian society. Another aspect that deserves attention is how these legal regulations strengthen the hegemony of the majority religious group, particularly Islam, in the realm of public policy.

In the process of legislation and policy implementation, the voice of the majority group, which often claims to represent all Muslims dominates the discourse and state decisions. The voices of minority groups, both religious and within Islam itself, are frequently sidelined, ignored, or even eliminated from the decision-making process. This imbalance in representation marks the state's failure to realise the principles of substantive democracy that respect the diversity of views, needs, and aspirations of all citizens. In extreme cases, this phenomenon even gives rise to practices of persecution and violence against minority groups who choose interfaith marriage, either directly or indirectly through social and economic intimidation.<sup>26</sup>

The potential for discrimination is further exacerbated when legal regulations impact access to public services, such as education, healthcare, and social assistance. Children born to interfaith marriages often face administrative barriers in school registration, identity documentation, and access to state assistance.<sup>27</sup> Such exclusionary practices demonstrate that discriminatory legal regulations not only target adult individuals but also 'punish' the next generation, who should be free from the burden of their parents' religious choices. In many cases, the state fails to distinguish between the protection of public morality, often used as a justification, and the constitutional obligation to protect and fulfil the fundamental rights of all its citizens without discrimination.

From a legal political theory perspective, this phenomenon shows how law does not exist in a vacuum but is always the product of negotiation, contestation, and even co-optation between the state, religion, and other social forces. Indonesia, with all its idealistic pluralism, often succumbs in practice to pressure from conservative religious groups seeking to maintain the supremacy of Islamic legal norms in the realm of family

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<sup>24</sup> J Crawford et al., "A Critical Review of Social Exclusion and Inclusion among Immigrant and Refugee Women," *Advances in Public Health* 2023, no. 1 (2023): 8889358, <https://doi.org/10.1155/2023/8889358>.

<sup>25</sup> Arif Sugitanata, Suud Sarim Karimullah, and Rizal Al Hamid, "Hukum Positif Dan Hukum Islam: Analisis Tata Cara Menemukan Hukum Dalam Kacamata Hukum Positif Dan Hukum Islam," *JURISY: Jurnal Ilmiah Syariah* 3, no. 1 (2023): 1-22, <https://doi.org/10.37348/jurisy.v3i1.242>.

<sup>26</sup> Nur Insani et al., "Empowering Muslim Women: Bridging Islamic Law and Human Rights with Islamic Economics," *De Jure: Jurnal Hukum Dan Syar'iah* 16, no. 1 (2024): 88-117, <https://doi.org/10.18860/j-fsh.v16i1.26159>.

<sup>27</sup> Adary Zhang et al., "Birth Registration Policies in the United States and Their Relevance to Sexual and/or Gender Minority Families: Identifying Existing Strengths and Areas of Improvement," *Social Science & Medicine* 293 (2022): 114633, <https://doi.org/10.1016/j.socscimed.2021.114633>.

law. These negotiations usually result in ambiguous, inconsistent policy compromises prone to injustice. Legal politics, which should be a tool for liberation and protection, has become a tool for social control and preserving the status quo.

The primary challenge is resolving the tension between rigid Islamic legal principles and the need to recognise and respect social diversity. Modern states face a dilemma: between maintaining social harmony by accommodating the aspirations of the majority and fulfilling their constitutional obligation to protect the rights of minorities and ensure equality before the law. In reality, states tend to choose the safest political path that is, maintaining compromises that balance the interests of the majority and the minority without truly resolving the root causes of discrimination.

The result is ambiguous and inconsistent public policies that often leave dangerous grey areas for those outside the mainstream. Even at the international level, discriminatory legal regulations on interfaith marriage in Indonesia are a serious concern. Indonesia's commitment to international conventions such as the ICCPR and CEDAW requires the state to guarantee the right to freely choose a spouse, freedom of religion, and freedom from discrimination. The state's inability to accommodate the needs of citizens who wish to marry across religions is often criticised in international human rights reports, highlighting the gap between constitutional promises and practical implementation on the ground.<sup>28</sup> The long-term implications of this situation are not only detrimental to Indonesia's reputation in international forums but also narrow the space for social and political participation for groups that are different in terms of identity and religious orientation.

Amidst advances in information technology and increasing social mobility, the state's efforts to maintain legal exclusivity regarding interfaith marriage are becoming increasingly difficult to sustain. Young people who grew up in a global, multicultural, and open environment are increasingly critical of legal policies restricting their freedoms and choices. Interfaith marriage practices, which were previously considered taboo, are now gaining space in social media, urban communities, and public advocacy campaigns demanding legal change. On the other hand, the state remains hesitant to respond positively to these changes, often choosing to delay change or even tighten regulations in response to pressure from conservative groups. This pattern only reinforces social polarisation, deepens collective wounds, and hinders the realisation of a truly just and inclusive society.

The long-term impact of discriminatory legal policies on interfaith marriage is the erosion of the nation's social capital. When the state fails to protect all its citizens equally, public trust in legal institutions, the government, and even the concept of the nation-state itself will slowly weaken. The disappointment and alienation experienced by minority groups, interfaith couples, and their children will lead to scepticism, apathy, or even silent resistance against the state.<sup>29</sup> In a society that has lost mutual trust, national integration becomes fragile. At the same time, the seeds of horizontal conflict can easily sprout at any time, triggered by issues of identity, religion, or discriminatory policies.

The rigid Islamic legal framework governing interfaith marriages in Indonesia is not merely a matter of moral preference or religious compliance. Still, this country's future of civil rights, religious freedom, and social diversity has become a significant issue. The state faces a difficult choice: to continue upholding a discriminatory conservative

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<sup>28</sup> Zumiyati Sanu Ibrahim et al., "Islamic Law and Human Rights: Convergence or Conflict?," *Nurani: Jurnal Kajian Syari'ah Dan Masyarakat* 24, no. 2 (2024): 431-48, <https://doi.org/10.19109/nurani.v24i2.19595>.

<sup>29</sup> Suud Sarim Karimullah, "Children's Rights in Islam: Towards Gender Equality and Youth Justice," *Muadalah* 11, no. 2 (2023): 87-98, <https://doi.org/10.18592/muadalah.v11i2.11113>.

compromise, or to pave the way for legal reforms that uphold the values of justice, equality, and respect for pluralism. The answer to this challenge can no longer be postponed, as the stakes are the survival of a nation united in diversity, and the respect for human dignity above all religious, ideological, and lifestyle differences.

Thus, the impact of Islamic law on interfaith marriage in Indonesia has penetrated to the heart of state life: limiting civil rights, diminishing religious freedom, and threatening social diversity, which should be the nation's main asset. In such a situation, the state is required to take bold progressive steps, dismantle the barriers of legal exclusivism, and establish regulations that truly protect, respect, and accommodate all its citizens, not only those in the mainstream, but also those who choose to live and love on a different path. Through such measures, Indonesia can only realise its vision of an inclusive, just, and truly humanistic nation.

### **Conclusion**

State regulations in Indonesia are not merely a reflection of religious norms, but also the product of political compromise and contestation, laden with the interests and dominance of majority groups. Instead of protecting all citizens equally, the laws enforced by the state restrict civil rights and individual freedoms in choosing a partner and expressing personal beliefs. Systemic discrimination is evident across various domains, from administrative bureaucracy to social pressure at the community level, leading to legal uncertainty and social fragmentation that threaten the nation's cohesive capital.

The phenomenon of interfaith couples being forced to marry in secret, move abroad, or manipulate their identities highlights the state's failure to guarantee substantive justice and accommodate the increasingly pluralistic dynamics of society. However, behind these challenges and uncertainties lies an opportunity for regulatory transformation toward a more progressive, fair, and inclusive family law system. The state must dare to step out of the shadow of majoritarian compromise and begin to place respect for human rights and the principle of substantive justice as the primary foundation of every policy. Synergy between state power, the academic community, and civil society is needed to fight for a paradigm shift, build a space for interfaith dialogue, and redesign regulations that guarantee protection and equality for all citizens. In this way, Indonesia can create a civilised legal system, where pluralism is no longer a source of conflict, but a foundation for social harmony and national strength amid diversity.

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