



Normative Juridical Analysis of the Decision South Jakarta District Court No. 508/pdt.p/2022/pn jkt.Sel About Interfaith Marriage

History of Author	Abstract
<p>Andika Mubarak</p> <p>Postgraduate of Universitas Islam Negeri Salatiga, Indonesia</p> <p>Corresponding Author: ✉ andikamubarak12@gmail.com</p>	<p><i>Indonesia is a country with various religions that makes influence factors of pluralism. There are many diverse and recognized religions in Indonesia, so this has led to many different religious marriages being proposed in Indonesia. This article is about to discuss the normative juridical analysis of the South Jakarta District Court decision No. 508/Pdt.P/2022/PN JKT. The cell under review also uses an approach to Islamic law and positive law. The writing of this article uses a library research approach by examining journals, theses and other theses related to interfaith marriage. As for the results of this study, according to Islamic law (Al-Qur'an and Madhazab Ulama) interfaith marriage is permitted on condition that the woman is not a polytheist and is a woman of the Bible. According to Positive Law (KHI Article 40 & Article 44 and Law No. 1 of 1974 concerning Marriage Article 2 paragraph 1) it is explained that interfaith marriage is illegal and cannot be carried out by both Muslim men and non-Muslim women. Then according to the MUI Fatwa Number 4/MUNAS VII/MUI/8/2005 the law is haram with the consideration that interfaith marriages cause more mafsada than benefits.</i></p> <p>Keywords: Positive Law, Interfaith Marriage, and Decision No. 508/Pdt.P/2022/PN JKT. Sel</p>

Introduction

Indonesia is a socio-anthropological country that is diverse in race, ethnicity, culture and religion influenced by the geographical conditions of the country. Geographically, Indonesia is positioned between the continents of Asia and Europe, bordering the Indian Ocean as well as the Pacific Ocean. Because of these factors, the development of cultural, class, ethnic and religious pluralism in Indonesia (*Pruralistic Society*) has a great influence.¹

Indonesia is a religiously diverse country, thus influencing the creation of a diverse *pluralist* religion consisting of: Islam, Catholic Christianity, Protestant Christianity, Buddhism, Hinduism, and Khonghuchu. This obliges the state to protect the rights of the people to practice their religion in accordance with their beliefs in accordance with the conscience of each person. The people have the right to determine their religion based on Article 29 paragraph (2) of the Constitution. This article reads: "The State guarantees every person the freedom to embrace a religion and to worship according to his religion."²

¹ Mifatakhul Bil Ibad, "Perkawinan Beda Agama Perspektif Majelis Ulama Indonesia Dan Muhammadiyah," *Al-Hukama'* 9, no. 1 (2019): 195–230, <https://doi.org/10.15642/alhukama.2019.9.1.195-230>. interfaith marriages are unlawful with the proposition of chapter of al-Baqarah verse 221. While Muhammadiyah believes interfaith marriages are permissible on the basis of al-Maidah verse 5. MUI forbids interfaith marriages because it can lead to conflicts between Muslims and cause unrest in the community. Muhammadiyah allows interfaith marriages because in Islamic history it is known that the Prophet Muhammad was married to a Christian woman from Egypt, namely Maria al-Qibthiyyah. Some of the Companions of the Prophet also married the women of the Book. MUI equates ahlu al-Kitab (Nashrani and Jewish

² Mahkamah Konstitusi, "Undang - Undang Dasar 1945" 105, no. 3 (1945): 129–33, <https://webcache.googleusercontent.com/search?q=cache:BDsuQOHoCi4J:https://media.neliti.com/media/publications/9138-ID-perlindungan-hukum-terhadap-anak-dari-konten-berbahaya-dalam-media-cetak-dan-ele.pdf+cd=3&hl=id&ct=clnk&gl=id>.

Marriage is a sacred ceremony, the purpose of marriage is to maintain offspring for humans. The absence of a clear relationship can cause chaos in society, even the saddest if the matter is not regulated firmly causing free sex or cohabitation, can cause fatal consequences.³ In Indonesia there are laws and regulations that specifically regulate marriage which are regulated in Law Number 1 of 1974. In this Act also alludes to the validity of marriage based on personal religion which is regulated in Article 2 paragraph (1).⁴ The prohibition of marriage of different religions in Indonesia is regulated by Islamic law which is explained in KHI Articles 40 and 44. MUI also regulates the prohibition of marriages of different religions in MUI (Majelis Ulama Indonesia) fatwa Number 4/MUNAS VII/MUI/8/2005.⁵

Marriages of different religions lead to conflicts over the legal interpretation of marriages of different religions, compared to the applicable marriage law in Indonesia. Not only in marriage law. But the controversy of different religious marriages in Islam is also interpreted variously for Muslims. This is caused because as a consequence of the Qur'an there is no in-depth explanation relating to the legal issues of different religious marriages, so that it can provide opportunities for very varied interpretations.⁶

Due to the many controversies related to marriages of different religions, both in marriage law and in the interpretation of Qur'anic verses. So, there are still many who perform different religious marriages filed in Indonesia and the marriage is granted by the District Court. So, it causes imbalance to KHI, Marriage Law and also MUI Fatwa Decree Number 4/MUNAS VII/MUI/8/2005 prohibition of different religion marriage.

This research is the main object of using the main theme of different religious marriages. The study of different religious marriages uses a normative juridical approach with the author's data collection method, namely literacy studies. The source of this research is documents as a primary source in the form of a copy of the Decree Number 508/Pdt.P/2022/PN JKT.SEL of a different religious marriage. Secondary sources include all documents that have a relationship with Marriage of Different Religions and which are needed to analyse normative juridical copy of Determination Number 508/Pdt.P/2022/PN JKT.SEL marriage of different religions.

The author sorted the data, and categorised it according to the discussion that discusses marriages of different religions. The identification finds the consideration of the South Jakarta District Court judge in granting the application file for a different religion marriage. The next step is to classify the results of the normative juridical analysis of application Number 508/Pdt.P/2022/PN JKT.SEL. Then, data analysis is carried out by rewriting the things found to be explained. The formulation of this research problem, namely: 1). How is the basis for the legal philosophy of the judge granting interfaith marriage?; 2). How is the consideration of the South Jakarta District Court granting application Number 508/Pdt.P/2022/PN JKT.SEL for interfaith marriage?

³ Dedé Rihana, "Pernikahan Beda Agama Perspektif Al-Qur'an (Kajian Sosio-Historis Terhadap QS. Al-Mumtahanah/60:10)," 2017, 1-71.

⁴ Republik Indonesia, "Undang-Undang Nomor 1 Tahun 1974 Tentang Perkawinan," *Peraturan Pemerintah Republik Indonesia Nomor 1 Tahun 1974 Tentang Perkawinan*, no. 1 (1974): 2, <https://peraturan.bpk.go.id/Home/Details/47406/uu-no-1-tahun-1974>.

⁵ Majelis Ulama Indonesia, "Fatwa MUI Perkawinan Beda Agama," *Majelis Ulama Indonesia* 2, no. 2 (2005): 472-77.

⁶ Srimurhayati Nurcahaya, Mawardi Dalimunthe, "Perkawinan Beda Agama Dalam Perspektif Hukum Islam" *Xviii*, no. 2 (2018): 141-56.

The Concept of Marriage of Different Religions from the Perspective of Islam and Positive Law

A marriage of different religions is a marriage between a Muslim and a non-Muslim with the aim of uniting people who are not yet married.⁷ Here are some examples of different religion marriages: The man (prospective husband) is Muslim, while the woman (prospective wife) is non-Muslim or belongs to the Ahl al-Kitab / polytheists. Conversely, the woman (prospective wife) is a Muslim and the man (prospective husband) is a non-Muslim who is categorised in the Ahl al-Kitab / polytheist group. Marriage between different religions has been confirmed in Islam, which is regulated in: Al-Qur'an, Imam Madhhab, and of course the Indonesian Ulema Council for the context in Indonesia. The marriage of different religions is also regulated in positive law, which is explained as follows:

Interfaith Marriage from a Qur'anic Perspective

Marriage of different religions in the Qur'an is also regulated, which consists of Surah Al-Baqarah verse 221, Surah Al-Midah verse 5, and Surah Al-Mumtahanah verse 10. Although in the Qur'an it has been clearly confirmed and regulated regarding marriage of different religions either legalised or forbidden. However, in a capitalist society more and more people are marrying people of different religions. Surah Al-Baqarah verse 221 describes the strict prohibition of marrying polytheists, and a Muslim man marrying a non-Muslim woman and vice versa. The verse is as follows:

“Do not marry a polytheist woman until she believes. Verily, a slave of a believing woman is better than a polytheist woman, even if the polytheist woman appeals to you. Do not marry a polytheist man to a believing woman before the (polytheist) man becomes a believer. Indeed, the slave (believing) man is better than the polytheist man, even if the polytheist man attracts you. For the polytheist incites to Hell, while Allah incites to Paradise and forgiveness with His permission. (Allah) confirms His verses to the people that they may learn a lesson.” (Al-Baqarah/2:221)

The above verse confirms that Allah gives guidance to Muslim men or Muslim women in choosing a partner. The prohibition for Muslim men to marry polytheist women (worship idols) before the woman (polytheist) believes in Allah SWT and the Prophet Muhammad SAW. A slave woman (believer) is better than a polytheist woman who grabs your heart because of beauty, descent, wealth. This verse also forbids the guardians to marry off a believing woman to a polytheist (idolatrous) man before believing. A man who is a slave (believer) is better than a polytheist man who captures your heart because of his glamour, position or wealth. The polytheist will always invite you into polytheism that can lead to hell, while Allah guides, guides and invites you to the path of heaven and forgiveness with the pleasure of Allah's permission.⁷

- 1) The permissibility of Muslim men to marry women of *the book* is confirmed in Surah Al-Maidah verse 5, namely:

“Today you are allowed to (eat) everything that is *thayib* (good). The food of the People of the Book is lawful for you, and your own food is lawful for them. (You may marry) chaste women among the believing women and chaste women among those who received the Scripture before you, if you pay their dowry for their marriage and do not intend to commit adultery or make them partners in adultery. whoever disobeys after that, his deeds are in vain, and he will be among the losers in the Hereafter.” (Al-Ma'idah/5:5)

⁷ Prahasti Suyaman, “Tinjauan Sosiologis Al-Quran Surah Al-Baqarah Ayat 221 Tentang Pernikahan Beda Agama,” *Mutawasith: Jurnal Hukum Islam* 4, no. 2 (2021): 116–27, <https://doi.org/10.47971/mjhi.v4i2.367>.

In this verse there is confirmation that is found in the lafad *alladzina utu al- kitab*. The majority of scholars agree that what is meant by al - kitab here are Jews and Christians. However, there are different ideas related to Jews and Christians here, namely whether the adherents of Jews and Christians are past generations and their descendants, or Jews and Christians including adherents until now whether they are still valid.⁹ Then, there is the lafad *wa al-mushshanatu* (women who maintain their dignity). This lafad indicates to Muslim men that those who should be married are women who maintain their honour (believers or *Ahl Kitab*).

As for those who understand lafad *wa al-mushshanatu* by being coupled with lafad *utu al-kitab*, it is defined as a free woman. Basically, the word can be interpreted as independent or as a woman who upholds her honour. However, this verse explains that the precedence for a Muslim man to marry is a believing woman.⁸

- 2) The prohibition against believing women marrying disbelieving men. It is regulated in Surah Al-Mumtahanah verse 10, as follows:

“O you who believe, when believing women approach you, you should test their faith. Allah is well aware of her faith. If you understand their state and that they are believing women, do not oppose them to those who associate partners with Allah (their husbands). They are not lawful for the disbelievers, nor are the disbelievers lawful for them. Give her husband the dowry they have given you. There is no sin in marrying her if you paid the dowry for it. Do not rely on marriage to a disbelieving woman. You should take back from the disbeliever the gift (dowry) that you gave (the woman who returned to the disbeliever). They (the disbelievers) must take back the dowry they have paid (to their believing ex-wives). This is the law of Allah which He has established among you. Allah is All-knowing and All-wise.” (Al-Mumtahanah/60:10).

This verse contains a prohibition and forbids Muslim women to marry polytheist men. In the early days of Islam, it was still permissible for a polytheist man to marry a believing woman. At that time the marriage of believing women with polytheist men was carried out by Abdul as Ibnur Rabi' who was the husband of the daughter of the Prophet Muhammad named Zainab R.A. Zainab is a Muslim woman, while her husband named Abdul As Ibnur Rabi' still adheres to and adheres to the religion of his people or non-Muslims.⁹

Interfaith Marriage from the Perspective of the Mahdzab Ulama

The discussion begins with an initial explanation of the meaning of different religious marriages. Marriage of different religions is a marriage that is carried out with different beliefs or religions, for example, the marriage of a Muslim and a mushrikeen or vice versa.¹⁰ The law of marriage of different religions according to the madhazab scholars is that some do not allow it and some legalise it with conditions. According to the Ulama Mahdzab, the law of marriage between different religions, namely:

⁸ Lutfan Muntaqo, “Islamic Thoughts on Interfaith Marriage in Local and Global Context,” *Manarul Qur'an: Jurnal Ilmiah Studi Islam* 20, no. 1 (2020): 69–79, <https://doi.org/10.32699/mq.v20i1.1615>.

⁹ Azkiya Khikmatiar Ulummudin, “PERNIKAHAN BEDA AGAMA DALAM KONTEKS KEINDONESIAAN (Kajian Terhadap Q.S. Al-Baqarah: 221, Q.S. Al-Mumtahanah: 10 Dan Q.S. Al-Maidah:5),” *Frontiers in Neuroscience* 14, no. 1 (2021): 1–13.

¹⁰ Ahmad Dahlan Misbahul Munir, “Tinjauan Hukum Islam Terhadap Nikah Beda Agama Dalam Kitab Tafsir Al-Ahkam Karya Syaikh Aly Al-Shabuny,” *Jurnal Asa* 2 (2020): 25–31.

1. Imam Abu Hanafiah said that the Shariah strictly prohibits Muslim men from marrying polytheist women, but allows Muslim men to marry women of Ahl al- Kitab (Jews and Christians).¹¹
2. The Maliki Madhhab uses the perspective of *Sad Al-Dhariah* (blocking the path to Mafsadatan) when considering interfaith marriage. If it is feared that there will be mafsadatan in an interfaith marriage, then it is forbidden.¹²
3. The Shafi'i Madhhab allows a man to marry from a different religion as long as his wife is a person in the lineage of the Israelites (Jews and Christians) and does not belong to a nation outside Israel. Because the Prophet Moses and the Prophet Jesus were sent solely for the Israelites, not for other nations (outside Israel).¹³
4. The Hambali Madhhab is of the opinion that it is permissible to marry a woman of a different religion under the same conditions as his teacher (Imam Shafi'i). However, without any restrictions on the People of the Book (Jews and Christians) of the Children of Israel. Rather, Jews and Christians have not been sent as apostles since the time of the prophet Muhammad.¹⁴

MUI (Majelis Ulama Indonesia) first issued a fatwa on marriage of different religions on 1 June 1980. Furthermore, the previous MUI fatwa was confirmed by MUI with Fatwa Number: 4/Munas VII/MUI/8/2005 concerning marriage between different religions. The content of this fatwa is not much different from the fatwa on 1 June 1980, as for the content of the fatwa as follows:

1. The marriage of different religions is not permissible (*haram*) and is also not valid.
2. Based on the *Qaul mu'tamad*, the marriage of a Muslim man to an *Ahl al-Kitab* woman is *haram* and also not valid.

The consideration of MUI forbidding interfaith marriage is: To avoid mafsadatan after doing marriage, because after interfaith marriage many things happen - mafsadatan things that cause danger for those who undergo different religious marriages. The prohibition of marriage of different religions causes damage to the order of life.¹⁵

Interfaith Marriage in Positive Law

Marriages of different religions in Indonesia are governed by positive law. The positive law of marriage of different religions is regulated in the 1974 Marriage Law, a collection of Islamic laws. Juridically, Marriage Law No. 1 of 1974 regulates the marriage of Indonesian citizens and also Presidential Instruction No. 1 of 1991 Compilation of Islamic Law, which is positive law regulating the marriage of Indonesian citizens who are Muslims.¹⁶

¹¹ Ahmad Azmi Perkasa Alam, "Interfaith Marriage Perspective of Fiqh Law and Positive Law," *NUSANTARA: Journal Of Law Studies* 1, no. 1 (2022): 33–39.

¹² Abdul Aziz, *Fiqh Munakahat*, (Jakarta :Amzah, 2009), hal 37

¹³ Jafar Shodiq, Misno Misno, and Abdul Rosyid, "Pernikahan Beda Agama Menurut Imam Madzhab Dan Hukum Positif Di Indonesia," *Al-Mashlahah Jurnal Hukum Islam Dan Pranata Sosial* 7, no. 01 (2019): 1, <https://doi.org/10.30868/am.v7i01.543>.

¹⁴ Islamiyati Islamiyati, "Analisis Putusan Mahkamah Konstitusi No. 68/Puu/Xii/2014 Kaitannya Dengan Nikah Beda Agama Menurut Hukum Islam Di Indonesia," *Al-Ahkam* 27, no. 2 (2017): 157, <https://doi.org/10.21580/ahkam.2017.27.2.1572>. moral values, culture and principles of marriage law in Indonesia. The existence of Islamic law can be reestablished by the interpretation of Article 2 Paragraph (1)

¹⁵ Majelis Ulama Indonesia, "Fatwa MUI Perkawinan Beda Agama."

¹⁶ Asiah Nur, "Kajian Hukum Terhadap Perkawinan Beda Agama Menurut Undang-Undang Perkawinan Dan Hukum Islam,"

The Compilation of Islamic Law provides for the prohibition of marriages of different religions, confirmed in Article 40(c), which prohibits Muslim men from marrying non-Muslim women. Article 40(c) states: “A Muslim man may not marry a non-Muslim woman”. Then Article 44 prohibits Muslim women from marrying non-Muslim men. Article 44 reads: “A Muslim woman may not marry a non-Muslim man”.¹⁷ Thus, from Article 40(c) and Article 44 it can be concluded that Islamic law regulates and prohibits every Muslim from entering into a marriage of a different religion.

Marriage Law No. 1/1974 does not contain a clear prohibition on marriages of different religions. However, it merely confirms the conditions for the validity of marriage based on the relevant religious law, while the conditions for the validity of marriage are confirmed in Law No. 1/1974 Article 2 (1) which reads: “A marriage is valid in Indonesia if it is performed in accordance with religious law and in accordance with the individuals and their beliefs”. This issue is also explained in Article 2 (2) of Marriage Law No. 1/1974 which states: “Every marriage shall be registered in accordance with the prevailing laws and regulations”.¹⁸

Furthermore, Article 35 paragraph (a) of the Population Management Law No. 23 Year 2006 is explained in Article 36 paragraph (a) which reads: “Court-ordered marriage means marriage between different religions.” This article provides the possibility to register an interfaith marriage provided that you apply for an interfaith marriage registration by requesting a judgement from the court.¹⁹

Legal Standing of the Case Decision No. 508/Pdt.P/2022/PN JKT. Sel South Jakarta District Court

Application number 508/Pdt.P/2022/PN JKT. SEL, filed by Petitioner 1 by the name of “Devina Renata Sianipar (Female Christian)” with Petitioner 2 by the name of “Jaka Nughraha (Male Muslim)”. Prior to filing an application for a marriage of different religions at the South Jakarta District Court, Applicant 1 named “Devina Renata Sianipar (Christian)” and Applicant 2 named “Jaka Nughraha (Muslim)” had already performed a Church marriage at the Nusantara Church in West Jakarta in front of Pastor Frenki Tampubolon at the Nusantara Christian Church, West Jakarta. The issuance of the Ecclesiastical Marriage charter numbered: 394/NIK/GKN-JNDRS/2022 on 31 May 2022.

The application number 508/Pdt.P/2022/PN JKT. SEL, filed at the South Jakarta District Court, on the registration date of 27 June 2022 to file a petition consisting of:

1. Request for the legalisation of an interfaith marriage performed at the Nusantara Christian Church in West Jakarta on 31 May 2022.

Jurnal Hukum Samudra Keadilan 10, no. 2 (2015): 214, <https://media.neliti.com/media/publications/240404-kajian-hukum-terhadap-perkawinan-beda-ag-31c2c207.pdf>.

¹⁷ Ketua Mahkamah Agung Republik Indonesia, “Kompilasi Hukum Islam,” 2015 § (2001), <http://www.helpa-prometheus.gr/διαγνωστικές-εξετάσεις-για-τον-καρκί/>. LexA-AP3 and PI were expressed on the bait vector, and GAL4 AD-AG and/or SEP3-MIK were expressed on the prey vector. When two genes were expressed on the same vector, they were both driven by ADH1 promoters. Amino-acid residues 1±167 and 1±171 were used for the truncated AP1-MIK and SEP3-MIK proteins, respectively. Other processes and the colony-lift b-gal assays were performed in accordance with the manufacturer’s instructions (Clontech

¹⁸ Indonesia, “Undang-Undang Nomor 1 Tahun 1974 Tentang Perkawinan.”

¹⁹ Diana Farid et al., “Interfaith Marriage: Subjectivity of the Judge in Determination of No. 454/Pdt.p/2018 Surakarta District Court” 7, no. 2 (2022): 347–62.

2. The applicant applied for an order from the South Jakarta District Court to be registered at the South Jakarta Civil Registry Office.

The panel of judges after receiving and examining the petition filed by Petitioner 1, “Devina Renata”, a Christian, and by Petitioner 2, “Jaka Nughraha”, a Muslim. The panel of judges issued a decision on this petition which reads as follows:

1. Rejection of the validation of the interfaith marriage of Applicant 1 and Applicant 2, who were married at the Nusantara Church in West Jakarta.
2. Grant a licence to register the couple’s marriage at the registry office of the South Jakarta Administrative Region.

Order the South Jakarta Civil Registry Office to register the marriage of different religions between Applicant 1 and Applicant 2 in the Marriage Book and direct that a marriage certificate be issued.²⁰

Analysis of the Foundations of Legal Philosophy Against Judges in Granting Religious Marriage

As for the basis for the legal philosophy of the South Jakarta District Court judge approving the request for a different religious marriage with Applicant Number 508/Pdt.P/2022/PN JKT.SEL Religious Marriage, the South Jakarta District Court Judge by looking at the principles of justice, freedom and looking at human rights. The South Jakarta District Court Judge has carefully considered the decision in granting the request for a different religion marriage and instructing the Civil Registry Office to record the marriage, which will not harm either party and will not conflict with the basic principles of law.

In this case, the judges of the South Jakarta District Court have seen and considered the individual rights of applicants who apply for interfaith marriages to choose their own religion and beliefs and the judges also do not discriminate against applicant couples who are of different religions. Furthermore, the judge also considered the interests of the community to maintain religious harmony. So that the different religious marriages filed by the applicants at the South Jakarta District Court are not expected to cause problems that threaten social stability. Because the applicant for a different religion marriage filed at the South Jakarta District Court has carefully considered the causes and consequences of the risks that can occur in a different religion marriage. After that, the District Court approved the application for interfaith marriage with Number 508/Pdt.P/022/PN JKT. Sel by granting a confirmation (stipulation), ordering the West Jakarta Civil Registry Office to register the marriage of different religions and ordering it to immediately issue a marriage certificate to Sister Devina Reanita Sianipar and Mr Jaka Nughraha. This is because the couple had a wedding at the Nusantara Christian Church, West Jakarta and had an ecclesiastical marriage charter with the number: 394/NIK/GKN-JNDRS/2022 on 31 May 2022 issued by the Nusantara Christian Church, West Jakarta.

²⁰ Pengadilan Negeri Jakarta Selatan, “Penetapan Nomor 508.P/2022/PN JKT.SEL,” 2022.

Analysis of the Consideration of the South Jakarta District Court in Granting Application Number 508/Pdt.P/2022/PN JKT.SEL for Interfaith Marriage

From the results of the analytical study of Decision Number 508/Pdt.P/2022/PN JKT Sel, information is obtained that this couple is constrained from being recorded by the State because the Marriage Law only allows marriage with one religion. So, this applicant submitted a stipulation to South Jakarta so that it would be recorded by the state.

The author's analysis, in this case regarding the single Judge named Arlandi Triyogo, the decision to reject the application for a marriage of different religions to be legalised was correct. Because if the petition is granted, it will cause imbalance to KHI Article 40 and Article 44, this Article is a prohibition for both Muslim men or Muslim women to marry different religions. The imbalance also creates a conflict that contradicts Article 2 paragraph

(1) of Law 1/1974 on Marriage. This article reads *"Marriage is valid if it is carried out based on religious law and individual beliefs"*. This means that *"A valid marriage is only carried out according to each religion. This marriage was carried out according to Christian procedures and Jaka did not convert, he only married according to Christian procedures. So, the marriage could not be legalised by Judge Triyogo because it contradicted Article 40 KHI and Article 44 KHI."*

The South Jakarta District Court granted the petition filed by Devina Renata Sianipar and Jaka Nughraha regarding their interfaith marriage, only granting and ordering the marriage to be recorded at the South Jakarta Civil Registry Office. Because the reporting of the marriage was more than 30 days after the marriage. Based on Article 9 (2) of Kepmendagri No. 131/1997, it is explained that *"Condorification/Recording needs to be confirmed/decreed from the District Court"*. Article 2 of Law 1/1974 also explains that *"Every marriage shall be recorded in accordance with the applicable law."*

Subsequently, the Jakarta District Court granted the petition to order the South Jakarta Civil Registry Office to register the interfaith marriage, which was the right decision. Article 35 letter a of Law Number 23 Year 2006 on Population Administration is explained in Article 36 letter a which reads: *"Court-ordered marriages refer to marriages that actually take place between people of different religions"*. This article regulates the registration of marriages of different religions to conduct marriage registration with the condition that they must submit an application for registration of marriage of different religions by requesting a determination from the Court. This decision of the South Jakarta District Court does not conflict with the applicable positive law.

Conclusion

Marriage of different religions is only allowed based on the Qur'an and Mahdzab Ulama, provided that the marriage is not with a polytheist and the marriage is allowed with a person who is ahl kitab. Marriage of different religions in Indonesia is not allowed under both Positive Law and according to the MUI fatwa. The prohibition of marriage of different religions in positive law is confirmed in Articles 40 and 44 KHI and Marriage Law No. 1 Year 1974 in Article 2 Paragraph (1). Meanwhile, the prohibition of marriage according to MUI is regulated in Fatwa No. 4/MUNAS VII/MUI/8/2005. The legal philosophy of judges accepting marriage applications of different religions must consider the principles of justice, human rights, freedom and consideration of social aspects, as well as the interests of society in protecting harmony between religious communities.

A marriage of a different religion in Indonesia granted by the District Court is a grant to issue a stipulation to register a marriage of a different religion where the petitioner has already performed a marriage in the Christian manner 508/Pdt.P/20222/PN JKT Sel. However, the marriage has not been registered with the State and this petition seeks legalisation of the interfaith marriage and requests that the marriage be registered with the State. However, only the South Jakarta District Court granted the marriage registration, and ordered the South Jakarta Civil Registry Office to register the marriage. By looking at the consideration of looking at the regulations, namely Article 9 (2) Kepmendagri Number 131 of 1997, it is explained that “Conditioning / Recording needs to be confirmed / determined by the District Court” and Article 35 letter a of Law Number 23 of 2006 concerning Population Administration explained in Article 36 letter a which reads: “Court-ordered marriages refer to marriages that actually take place between people of different religions.”

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