

Interfaith Marriage Registration: A Philosophical and Sociological Legal Review

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Abstract. *This research aims to analyze the legal implications of a recent judicial policy concerning the registration of interfaith marriages from philosophical and sociological perspectives. The issue of interfaith marriage is among the most complex legal debates, as it intersects with positive law, religious norms, and human rights principles. The issuance of a judicial circular restricting the granting of interfaith marriage registration applications has generated significant controversy and raised questions regarding legal certainty, justice, and social effectiveness. The research method employed was normative legal research utilizing statutory, conceptual, and case approaches. The statutory approach examined relevant legislation on marriage and population administration; the conceptual approach explored theories of legal certainty, justice, and legal utility; and the case approach analyzed judicial practices concerning interfaith marriage registration. The novelty of this research lies in its integrated philosophical and sociological legal analysis of judicial policy, not merely assessing its juridical validity but also examining its broader social implications for civil rights protection and population administration. This research provides a multidimensional evaluation that connects normative conflicts with empirical societal realities. Based on the research, it concluded that the judicial policy is juridically problematic due to its inconsistency with higher-level legislation still in force. Philosophically, it reflects an overemphasis on formal legal certainty at the expense of justice and legal utility. Sociologically, it has proven ineffective in preventing interfaith marriages and may generate new administrative and civil rights complications. Therefore, comprehensive statutory regulation is required to ensure legal clarity, justice, and social protection.*

Keywords: *Interfaith; Marriage; Philosophy; Registration; Sociology.*

1. INTRODUCTION

Marriage is legally defined as a union between a man and a woman, intended to form a happy and everlasting family, based on belief in the One and Only God (Jasmine & Ramadhani, 2024; Law No. 1 of 1974; Ramadhan, 2025). Article 2, paragraph (1) of the Marriage Law stipulates that a marriage is valid only if conducted in accordance with the religious laws of the parties involved (Ibnudin et al., 2025; Solikhudin et al., 2024). This provision has become the primary legal basis for debates over interfaith marriage,

particularly because religious doctrines in Indonesia generally hold divergent views on the permissibility of such unions (Baihaki, 2023; Maryati et al., 2024; Yasin et al., 2023). Consequently, interfaith marriage remains one of the most controversial issues at the intersection of law, religion, and human rights.

Despite the Constitutional Court's rejection of judicial review petitions concerning Article 2 paragraph (1) of the Marriage Law, judicial practices at the District Court level have demonstrated a progressive trend. Several courts have granted applications for the registration of interfaith marriages by referring to Article 35 letter (a) of the Population Administration Law, which allows marriage registration based on court determinations. These decisions reflected an effort to provide legal certainty and administrative recognition for interfaith couples. However, the issuance of a judicial circular in 2023 instructing judges to reject such applications marked a significant shift in judicial policy and has generated renewed legal debate (Sampuju et al., 2023; Shodiqin et al., 2025).

The emergence of this policy highlights a fundamental legal gap between statutory norms and judicial practice. On the one hand, certain legislative provisions and historical regulations, such as the *Reglement op de Gemengde Huwelijken* (GHR), indicate the existence of legal space for interfaith marriage. On the other hand, the recent judicial directive bars judges from granting registration applications, raising questions about the normative hierarchy, legal consistency, and the protection of civil rights. This tension illustrates a conflict between legal certainty, justice, and social utility within the national legal system.

Previous studies have generally examined interfaith marriage from constitutional, religious, or human rights perspectives. However, limited research has comprehensively analyzed the issue through an integrated philosophical and sociological legal framework. This research therefore employed a normative legal research method using statutory, conceptual, and case approaches. Unlike earlier works that focus primarily on doctrinal analysis, this research combines Gustav Radbruch's theory of legal values with Lawrence Friedman's legal system theory to evaluate both normative coherence and social effectiveness (Hidayati et al., 2024; Hutasoit, 2023; Setiawan et al., 2024).

From a philosophical standpoint, the restriction on interfaith marriage registration raises questions regarding the balance between legal certainty, justice, and utility. From a sociological perspective, the policy may not eliminate interfaith marriage practices but instead redirect them toward alternative legal mechanisms, potentially creating administrative and civil rights complications. This situation demonstrates the need to assess not only the juridical validity of judicial policy but also its broader societal implications.

Based on this background, this research aims to analyze the implications of the 2023 judicial policy on interfaith marriage registration from philosophical and sociological legal perspectives, to examine whether the policy aligns with higher statutory regulations and fundamental legal values, and to evaluate its effectiveness in responding to social realities and protecting citizens' civil rights.

2. RESEARCH METHODS

This research employed a normative legal research approach that examines written legal norms, judicial decisions, and legal doctrines concerning interfaith marriage registration and the 2023 judicial policy. The research applies statutory, conceptual, and case approaches. The statutory approach analyzes relevant legislation, including the Marriage Law, the Population Administration Law, and the *Reglement op de Gemengde Huwelijken*, to assess normative consistency within the hierarchy of laws and regulations. The conceptual approach utilizes Gustav Radbruch's theory of legal values legal certainty, justice, and utility to evaluate the philosophical dimensions of the policy, as well as Lawrence M. Friedman's legal system theory (structure, substance, and legal culture) to examine its sociological implications and the interaction between legal norms and social reality. The case approach reviewed selected District Court decisions that granted interfaith marriage registration applications to identify patterns of legal progressiveness prior to the issuance of the judicial directive. The research specification is descriptive-analytical, aiming to provide a systematic and critical evaluation of normative conflicts and their practical consequences. Data are collected through library research using primary legal materials (statutory regulations and court decisions), secondary materials (scholarly books and journal articles), and tertiary materials (legal dictionaries and supporting references), and are analyzed qualitatively through normative interpretation to determine the juridical validity, philosophical coherence, and sociological effectiveness of the policy.

3. RESULTS AND DISCUSSION

Juridical Implications of SEMA Number 2 of 2023 on Applications for Registration of Interfaith Marriages

The 2023 judicial directive explicitly instructs courts not to approve applications for the registration of marriages between individuals of different religions or beliefs. This policy effectively terminates the progressive judicial practices previously developed by several District Courts, which had granted such applications through court determinations. As a consequence, access to legal recognition and administrative registration for interfaith couples is substantially restricted.

From a normative perspective, this directive generates a significant conflict of norms within the hierarchy of laws and regulations. The Population Administration Law provides legal space for the registration of marriages determined by court rulings, which has been interpreted as including interfaith marriages. Additionally, the *Reglement op de Gemengde Huwelijken* (GHR), which remains applicable insofar as it has not been explicitly revoked, recognizes differences in religion as not constituting a barrier to marriage. In contrast, the judicial directive functions as an internal administrative instrument and does not occupy a position within the formal hierarchy of statutory regulations. Therefore, its substantive restriction appears to be inconsistent with higher legal norms that remain valid.

The directive raises significant concerns regarding the principle of judicial independence, which constitutes a fundamental pillar of the rule of law. Under the Judicial Power Law, judicial authority is exercised independently to uphold law and justice, free from external interference, including pressure from other branches of government or internal institutional control. Judges are constitutionally mandated to examine, adjudicate, and

decide cases based on statutory provisions, legal principles, and their conscience. This independence enables judges to interpret ambiguous norms, reconcile conflicting regulations, and ensure that court decisions reflect substantive justice rather than merely procedural compliance.

However, when a binding directive categorically instructs judges to reject certain types of applications, the scope for judicial interpretation and legal discovery (*rechtsvinding*) is restricted. Instead of assessing each case individually based on its specific legal and factual circumstances, judges may feel institutionally compelled to follow uniform administrative guidance. This creates a structural tension between the goal of maintaining consistency in judicial decisions and the constitutional requirement that adjudication remain independent and case-specific. As a result, the directive may shift judicial reasoning from a principled evaluation of law and justice toward formal adherence to centralized policy, thereby challenging the balance between institutional coherence and independent judicial authority.

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From a philosophical standpoint, the directive can be assessed using Gustav Radbruch’s three fundamental legal values: legal certainty, justice, and utility. The analysis indicates that there is an imbalance in the realization of these values, as summarized below.

Table 1. Philosophical Analysis Based on Radbruch’s Legal Values

Basic Legal Value	Objective of the Policy	Implications and Criticism
Legal Certainty (<i>Rechtssicherheit</i>)	To create uniformity and consistency in court decisions	The certainty produced appears formalistic and regressive because it ignores prior progressive jurisprudence and conflicts with higher statutory norms.
Justice (<i>Gerechtigkeit</i>)	To align marriage registration with dominant religious interpretations	It overlooks constitutional guarantees of equality and the right to form a family, potentially resulting in religion-based discrimination in civil administration.
Utility (<i>Zweckmäßigkeit</i>)	To prevent practices considered inconsistent with religious and social values	It generates adverse administrative and social consequences, including risks to inheritance rights, child status, and legal protection for unregistered families.

The philosophical analysis based on Radbruch’s triad of legal values shows that the directive primarily emphasizes legal certainty (*Rechtssicherheit*) through the standardization of court decisions. Although uniformity is often justified as a means to prevent disparity, several recent studies indicate that excessive formalism may undermine the dynamic function of judicial interpretation. Jasmine and Ramadhani (2024) found that the shift toward strict uniformity after the issuance of the circular reduced judicial flexibility that previously allowed courts to accommodate interfaith marriage registration through progressive reasoning. Similarly, Hedi et al., (2025) argued that prioritizing administrative consistency without harmonizing higher statutory norms creates normative tension within the legal hierarchy. From Radbruch’s perspective, legal

certainty that contradicts justice or higher norms risks becoming “regressive certainty,” as it sacrifices the moral dimension of law for procedural uniformity.

Regarding justice (*Gerechtigkeit*) and utility (*Zweckmäßigkeit*), the directive’s alignment with dominant religious interpretations potentially sidelines constitutional guarantees of equality and the right to form a family. Research by Katili et al., (2025) demonstrates that restrictions on interfaith marriage registration may result in indirect discrimination and legal vulnerability, particularly affecting women and children in matters of civil status and inheritance. Furthermore, Palilati, (2022) questioned whether the policy truly resolves social tensions or merely transfers problems into the administrative sphere, thereby increasing unregistered marriages and weakening legal protection. These findings support the conclusion that the directive privileges formal certainty over substantive justice and social benefit. In the framework of a Pancasila-based rule of law, however, legal development should integrate certainty, justice, and utility in a balanced manner, ensuring that regulatory coherence does not override constitutional rights and lived social realities.

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From a sociological perspective, the directive represents a response from the legal structure particularly the Supreme Court to social divisions concerning interfaith marriage. Within Lawrence Friedman’s legal system theory, the directive constitutes a change in legal substance intended to influence social behavior. However, its effectiveness depends on its interaction with legal culture and social realities.

Interfaith marriage remains a tangible social phenomenon within Indonesia’s pluralistic society. Rather than eliminating the practice, restrictive regulation may redirect it into alternative mechanisms. Empirical tendencies suggest that couples may choose to marry abroad and subsequently report their marriage for administrative recognition, or they may enter unregistered unions that create long-term legal vulnerabilities, particularly concerning children’s civil status and inheritance rights (Miqat et al., (2025).

These developments indicate that the directive may shift the problem from the judicial arena to the socio-administrative sphere. In sociological terms, law functions effectively when it reflects the “living law” within society (Friedman, 2009). When legal substance diverges significantly from social realities, its regulatory capacity is weakened. Accordingly, the directive appears to function less as a comprehensive solution and more as a formal response that does not fully address the pluralistic character of contemporary society.

4. CONCLUSION

This research concludes that the 2023 judicial policy on interfaith marriage registration is juridically problematic because it contradicts higher statutory regulations, particularly the Population Administration Law and *the Reglement op de Gemengde Huwelijken*, and limits judicial independence in legal interpretation. From a philosophical perspective, the policy overemphasizes formal legal certainty while neglecting substantive justice and social utility, thereby creating potential religion-based discrimination in civil administration and conflicting with human rights principles. Sociologically, the policy proves ineffective in preventing interfaith marriages as a social reality and instead risks

generating new administrative and civil rights issues, including unregistered marriages and inadequate protection of children's rights. These findings are consistent with the research objective of evaluating the policy's juridical validity, philosophical coherence, and sociological effectiveness. Nevertheless, the absence of comprehensive statutory regulation on interfaith marriage remains an unresolved legal gap. Therefore, legislative reform at the statutory level is recommended to provide clear, consistent, and rights-based regulation that balances legal certainty, justice, and social benefit. A limitation of this research lies in its normative scope, which did not incorporate empirical field data; future research should complement this analysis with socio-legal empirical investigation to assess the real impact of the policy in practice. The government and the House of Representatives (DPR) need to immediately take legislative steps to revise Law No. 1 of 1974 concerning Marriage. This revision must comprehensively regulate the issue of interfaith marriage through regulations at the legislative level, so as to provide legal certainty that is fair and beneficial for all citizens. The Supreme Court is advised to review SEMA Number 2 of 2023, given its position that it cannot invalidate legal norms and its regressive impact on civil rights.

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