

Legal Implications of Interfaith Marriage on Inheritance Rights and Child Status in the Perspective of Islamic Law and Civil Law

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ABSTRACT

Interfaith marriage remains a controversial issue within Indonesia's pluralistic legal system, which recognizes both religious and civil legal frameworks. This paper examines the legal implications of interfaith marriage concerning inheritance rights and the legal status of children from the perspectives of Islamic law and civil law. Employing a normative legal research method and a literature-based approach, the study analyzes statutory regulations, judicial decisions, and legal doctrines relevant to the rights of interfaith families. The findings reveal that in Islamic law, religious differences serve as a barrier to inheritance and affect the legitimacy of the child's legal status. In contrast, civil law provides broader protection, recognizing inheritance rights and child status without religious discrimination. Although legal reconciliation efforts—such as the doctrine of wasiat wajibah (compulsory bequest) and recognition of biological paternity—offer partial solutions, the lack of regulatory harmony continues to produce uncertainty and legal challenges. Therefore, harmonizing existing regulations is essential to ensure justice and legal certainty for interfaith families in Indonesia.

Keywords : *Interfaith Marriage, Inheritance Rights, Child Status, Islamic Law, Civil Law.*

A. INTRODUCTION

Interfaith marriage remains a debated phenomenon in Indonesia, both from the perspective of Islamic law and civil law. Although Law Number 1 of 1974 concerning Marriage does not explicitly regulate marriage between adherents of different religions, Article 2 Paragraph (1) states that a marriage is considered valid if it is conducted according to the religion and belief of each party involved.¹ This provision creates legal issues, especially concerning the recognition and legal validity of interfaith marriages within the Indonesian legal system.

¹ Law Number 1 of 1974 concerning Marriage, Article 2 Paragraph (1).

From the perspective of Islamic law, the majority of scholars agree that interfaith marriage is prohibited, except when a Muslim man marries a woman from the People of the Book (Jews or Christians), subject to certain conditions as stated in Surah Al-Maidah verse 5.² However, most contemporary scholars, including those in Indonesia, forbid interfaith marriages altogether to prevent conflicts of faith and social problems. Meanwhile, civil law does not explicitly forbid interfaith marriage. Yet, because interfaith marriages are not recognized within the national legal framework, many couples resort to marrying abroad and subsequently registering their marriage in Indonesia. This situation causes legal implications, particularly concerning inheritance rights and the status of children.

Under Islamic law, the status of children born from interfaith marriages is questionable, especially regarding lineage and inheritance rights. In contrast, civil law recognizes a child born from such a marriage as legitimate and grants inheritance rights from both parents according to Article 832 of the Civil Code, regardless of religion.³ Previous studies, such as Susiknan Azhari's (2020) research on marriage law in Islam and its implications in the Indonesian legal system,⁴ and Yahya Harahap's (2018) analysis of inheritance rights in interfaith marriages from civil and religious law perspectives,⁵ have addressed these issues. However, comprehensive research on the legal status of children and inheritance rights within these two different legal systems is still limited.

The issues in interfaith marriages bring various legal consequences, particularly about the status of children born from such marriages and inheritance rights. Key problems include the legal validity of interfaith marriages, the legal status of children born from these unions, and how inheritance is distributed, especially if a child chooses one parent's religion or even adopts a different faith. These questions reflect the legal complexities arising from interfaith marriage practices in Indonesia. Thus, this study aims to thoroughly examine how Islamic law and civil law in Indonesia regulate the legal status of children and inheritance rights for interfaith couples and to identify legal solutions that can be implemented.

Based on these issues, the focus of this study is directed to how Islamic law and civil law provisions regulate interfaith marriages and their legal implications. This research employs a normative juridical approach through a literature study analyzing primary legal

² Wahbah Zuhaili, *Fiqh Islam wa Adillatuhu*, Beirut: Dar al-Fikr, 1989, p. 49.

³ R. Subekti, *Pokok-Pokok Hukum Perdata*, Jakarta: PT Intermasa, 1996, p. 87.

⁴ Susiknan Azhari, *Hukum Perkawinan dalam Islam*, Yogyakarta: UII Press, 2020, p. 75.

⁵ Yahya Harahap, *Hukum Waris Perdata*, Jakarta: Sinar Grafika, 2018, p. 123.

sources such as legislation, books, and academic articles. The results are expected to contribute to the understanding and development of family law, particularly concerning the status of children and inheritance rights in the context of interfaith marriage under the two legal systems applicable in Indonesia.

B. METHOD

This writing applies a normative legal research method, which is an approach that studies law as norms or rules valid in society. This research focuses on the study of relevant legal documents, including legislative regulations, fatwas, legal doctrines, and court decisions related to inheritance rights and the status of children in the context of interfaith marriages. This approach emphasizes *library research*,⁶ meaning all data are obtained and analyzed through literature review of written legal sources.

To achieve a comprehensive understanding, this study uses several complementary approaches. First, the statute approach is employed to review various positive legal regulations that govern or relate to interfaith marriage, including the Marriage Law, the Compilation of Islamic Law, and the Indonesian Civil Code (KUH Perdata). Second, the comparative approach is conducted by comparing legal arrangements concerning interfaith marriage across different legal systems in Indonesia, particularly Islamic law and civil law, to identify substantial similarities and differences. Third, the conceptual approach is used to explore the theoretical and philosophical understanding of the concept of interfaith marriage from a legal perspective, including how the law positions inheritance rights and the status of children born from such marriages.⁷

The type of analysis used in this research is qualitative analysis, which interprets and examines data in depth to see the relationship between the findings and the legal issues studied, as well as the relationships among the data themselves. Data collection is carried out through documentation of primary legal sources such as legal textbooks, scholarly journal articles, court judgments, and other relevant literature. The results of this data collection and analysis are expected to provide a comprehensive overview of how the Indonesian legal system views and regulates the legal status of children and inheritance

⁶ Abdulkadir Muhammad, *Hukum dan Penelitian Hukum*, (Bandung: Citra Aditya Bakti, 2004), p.134.

⁷ Peter Mahmud Marzuki, *Penelitian Hukum*, (Jakarta: Kencana, 2011), p. 95.

rights in interfaith marriages.

C. ANALYSIS/DISCUSSION

Interfaith Marriage in the Legal Order of Indonesia

Interfaith marriage is one of the most complex issues in Indonesia’s legal system because it involves positive law, religious values, and human rights dimensions. Law Number 1 of 1974 concerning Marriage (Marriage Law) does not explicitly regulate prohibition or permission of interfaith marriages, but Article 2 Paragraph (1) states that “A marriage is valid if it is carried out according to the respective religion and belief of the parties.” This formulation makes the validity of marriage in Indonesia subject to the religious provisions of each prospective spouse. Therefore, if a religion does not permit interfaith marriage, the state cannot legally validate it.⁸

In practice, many couples seek alternative ways through civil marriage abroad or one spouse converting to the other’s religion. The Constitutional Court was petitioned to review the constitutionality of Article 2 Paragraph (1) of the Marriage Law, and in Decision No. 68/PUU-XII/2014, the Court affirmed the article’s constitutionality as it reflects respect for religious values. The Court reasoned that the state cannot enforce legalization of marriages invalid under the religion professed by the parties.⁹

Conversely, in the civil law legacy inherited from colonial times, particularly the Burgerlijk Wetboek (BW) or Civil Code, there is room for recognizing interfaith marriages in civil law terms, especially for non-Muslim citizens. Although the current Indonesian legal system does not fully adhere to BW, many principles remain applicable in cases not explicitly regulated by the Marriage Law. Thus, there are practices where interfaith marriages are registered civilly, although their legal validity in the national context is often debated.¹⁰

Furthermore, the Compilation of Islamic Law (Kompilasi Hukum Islam, KHI), which serves as a legal reference in religious courts, explicitly prohibits marriage between a Muslim and a non-Muslim. Article 40 letter c of the KHI states that a Muslim man is

⁸ Republic of Indonesia, Law Number 1 Year 1974 concerning Marriage.

⁹ Constitutional Court of the Republic of Indonesia, Decision Number 68/PUU-XII/2014 (Jakarta: Constitutional Court, 2015), p. 45.

¹⁰ K. Sidharta, “Interfaith Marriage in the Perspective of National Law,” *Journal of Law & Development* 38, no. 3 (2008): 273–284.

forbidden from marrying a non-Muslim woman, and vice versa. This view is based on fiqh law that holds interfaith marriage can disrupt household harmony and the faith of descendants.¹¹ Therefore, under Islamic law, interfaith marriage is void by law and cannot produce legal consequences such as inheritance rights or legitimate recognition of children according to Sharia.

This contrasts with civil law provisions, where a child born from an interfaith marriage is still recognized legally as a legitimate child, as long as the marriage is registered. Article 42 of the Marriage Law states that children born from a lawful marriage have civil relations with their parents. Consequently, such children have inheritance rights from both father and mother under the Civil Code.

The inconsistency in these legal frameworks demonstrates tension between the plural national legal system and the religious values underpinning marriage legality. The state tends to take a neutral position but remains bound by the religion of its citizens. This situation raises further issues regarding the legal status of children, civil registration, and inheritance recognition, ultimately affecting justice and legal certainty for interfaith couples and their offspring. Thus, an inclusive and contextual legal approach is needed to address the needs of a plural society without disregarding religious principles.¹²

Legal Implications of Interfaith Marriage on the Status of Children.

Based on Article 1 of Law Number 1 of 1974 concerning Marriage, it is explained that the bond between husband and wife is a sacred covenant based on the belief in the One and Only God. Marriage is not merely a formal relationship between two individuals but encompasses spiritual and religious values inseparable from the religious beliefs of each spouse. The primary purpose of this bond is not only to regulate lawful sexual relations within a relationship but also to build a harmonious, peaceful, and happy household life between husband and wife. Thus, marriage is considered a sacred commitment between a man and a woman in order to create a prosperous family.¹³

One of the main principles emphasized in the Marriage Law is that a marriage is only

¹¹ Directorate General of Islamic Guidance, *Compilation of Islamic Law in Indonesia* (Jakarta: Ministry of Religious Affairs RI, 2006), Article 40.

¹² Ni'matul Huda, *Law and Political Citizenship in Indonesia* (Yogyakarta: Faculty of Law UII Press, 2012), 155–158.

¹³ Rosnidar Sembiring, *Hukum Keluarga (Harta-harta Benda dalam Perkawinan)* [Family Law (Property in Marriage)], Jakarta: PT. RajaGrafindo Persada, 2016, p. 43.

considered valid if conducted according to the religion and beliefs of the respective parties. This means that the validity of a marriage is largely determined by the religious provisions adhered to by the prospective spouses. Therefore, spouses basically must adhere to the same religion or belief unless their religious teachings provide otherwise. This provision is affirmed in Article 2 paragraph (1) of the Marriage Law as the legal basis for the validity of marriage within the Indonesian legal system.¹⁴

The legal status of children born from interfaith marriages is a sensitive and complex issue in Indonesian law. When a marriage cannot be legally validated due to conflicts with certain religious laws, questions arise regarding the legitimacy of children born from such unions. Under Indonesian positive law, children born from a lawful marriage obtain status as legitimate children, including civil rights such as inheritance rights, the right to bear the father's name, and rights to support. However, in the context of unregistered or legally unrecognized interfaith marriages, the child's legal position becomes uncertain, especially in Islamic law and civil registration.¹⁵

The Indonesian Ulema Council (Majelis Ulama Indonesia, MUI) of DKI Jakarta issued a fatwa on the legality of marriage between Muslims and non-Muslims in Fatwa Number: 13/Fatwa/MUI-DKI/II/2000. This fatwa refines an earlier statement by MUI DKI Jakarta on interfaith marriage from 26 Muharram 1407 H (September 30, 1986).¹⁶ The key points are:

1. Marriage between a Muslim man and a polytheist woman, or a Muslim woman and a polytheist man, is forbidden and invalid.
2. Muslim women are absolutely forbidden to marry infidels, whether polytheists, People of the Book (Jews and Christians), or others. If forced, such marriage is void and invalid.
3. Under certain strict conditions, a Muslim man may marry a woman from the People of the Book (Jews and Christians).

Children born from a Muslim woman and a non-Muslim man are considered illegitimate under Islamic law. This is based on the MUI fatwa emphasizing that Muslim women are

¹⁴ Rosnidar Sembiring, *Hukum Keluarga (Harta-harta Benda dalam Perkawinan)*, p. 43.

¹⁵ Lilik Mulyadi, *Interfaith Marriage and Its Legal Implications on Children*, Bandung: Mandar Maju, 2010, pp. 122–124.

¹⁶ Majelis Ulama Indonesia, *Fiqh Indonesia (Collection of Contemporary Fatwas)*, Jakarta: Al Mawardi Prima, 2003, p. 171.

absolutely prohibited from marrying non-Muslim men. If such marriage occurs, it is void and the marital relationship deemed forbidden (haram).

This matter is also regulated in the Compilation of Islamic Law (Kompilasi Hukum Islam, KHI), which states that a child is deemed legitimate only if born from a lawful marriage under Islamic teachings. Article 99 of the KHI asserts that a legitimate child is one born during or as a result of a lawful marriage. However, since Article 40 letter c of the KHI forbids interfaith marriage, children from such unions cannot be legally considered legitimate in Islamic law. Consequently, the child has no nasab (lineage) relationship with the father and thus no inheritance rights from him.

Similarly, children born from a Muslim man and a non-Muslim woman might be considered illegitimate unless the woman is from the People of the Book. However, many contemporary scholars argue that the People of the Book category is difficult to apply strictly today because most adherents formally identify with a religion. Imam Shafi'i narrated Atha's statement that Arab Christians are not considered People of the Book because this classification properly refers to those from Bani Israel who directly received the Torah and Gospel; converts thereafter do not fall within this category.

In interfaith marriage contexts, the legal relationship between child and parents depends on the parents' religious combination:

1. If the father is Muslim and the mother non-Muslim, before the child chooses a religion, the child is automatically considered as following the father's religion. If the child later chooses another religion, including the mother's, the nasab relationship with the Muslim father is severed.
2. Conversely, if the father is non-Muslim and the mother Muslim, the child is regarded as illegitimate because Islamic lineage follows the father. If the child later embraces Islam, the child only has a nasab relationship with the Muslim mother, not with the father.

Guardianship of children from a marriage between a Muslim father and a non-Muslim mother lies with the father. If the child is female, the father is legally her guardian for marriage matters. If she adopts a religion other than Islam, the guardianship no longer applies to the father, and the father cannot act as her marriage guardian due to religious differences. Conversely, children born from a Muslim woman married to a non-Muslim man only have guardianship granted to the mother, as lineage is only recognized through the

mother in this case.¹⁷

In Islamic law, a child is considered legitimate if born from a lawful marriage under Sharia. Since interfaith marriage is considered invalid, the child's status can be *ghairu nasabiyyah* (without lineage to the biological father), affecting inheritance, marriage guardianship, and custody matters.¹⁸

In contrast, civil law based on the Indonesian Civil Code (KUH Perdata) and Constitutional Court decisions emphasizes protecting the child's rights without disputing the legality of the parents' marriage. Article 42 of the Marriage Law states that children born from lawful marriages have civil relations with their parents.¹⁹ Therefore, children retain inheritance rights from both parents per the Civil Code. The Constitutional Court Decision Number 46/PUU-VIII/2010 affirms that children born outside marriage keep civil relations with their biological fathers if scientifically or otherwise legally proven. This decision upholds the principle of non-discrimination toward children, including those from interfaith marriages without official registration.²⁰

The principle of child protection is aligned with Law Number 35 of 2014 on Child Protection, which guarantees every child's right to identity, care, and legal protection without discrimination. Although not explicitly regulating interfaith marriages, this law obligates the state to protect children's rights regardless of their parents' marital legality, including civil administration, legal recognition, and inheritance rights through other legal mechanisms such as *wasiat wajibah* or gifts.

Legal Implications of Interfaith Marriage on Inheritance Rights.

The legal issues surrounding inheritance rights in the context of interfaith marriage represent a critical concern due to their connection with civil rights inherent within family relationships, including those between spouses and between parents and children. Indonesia's pluralistic legal system recognizes three applicable inheritance law systems: Islamic inheritance law, civil inheritance law (Civil Code/KUH Perdata), and customary inheritance law. In cases of interfaith marriage, these three systems often produce significant

¹⁷ Fitria Agustin, "Legal Status of Children from Interfaith Marriages According to Indonesian Marriage Law," *Journal of Legal Studies*, 2(1), 2018, pp. 51–52.

¹⁸ Abd. Rahim, *Status of Children in Islamic Law*, Bandung: Pustaka Setia, 2019, p. 97.

¹⁹ Law Number 1 of 1974 concerning Marriage, Article 42.

²⁰ Constitutional Court of the Republic of Indonesia, Decision Number 46/PUU-VIII/2010, Jakarta: Constitutional Court, 2010, p. 34.

discrepancies regarding who is entitled to inherit and how inheritance assets are distributed.²¹

Under Islamic law, primary references in inheritance matters include the Qur'an, Hadith, scholarly consensus (ijma'), and the Compilation of Islamic Law (KHI) as codified Indonesian Islamic law. The Qur'an does not explicitly address inheritance between individuals of different faiths. However, a relevant Hadith explicitly governs interfaith inheritance: Prophet Muhammad (peace be upon him) said, “A Muslim does not inherit from a non-Muslim, nor does a non-Muslim inherit from a Muslim” (Narrated by Bukhari and Muslim).²² This Hadith establishes that religious difference constitutes a barrier to inheritance rights, both from testator to heirs and vice versa.

Scholars vary in their interpretation. Some hold that Muslim heirs may inherit from non-Muslim testators. Yet the majority of scholars from the four major Sunni schools—Imams Abu Hanifah, Malik, Shafi'i, and Ahmad ibn Hanbal—agree that religious difference is an absolute impediment to inheritance. They argue that blood relations or marriage alone do not permit inheritance if parties differ in creed.²³ This consensus extends to the inheritance rights of children born from interfaith marriages: if one party is Muslim and the other is not, inheritance between them is not recognized, irrespective of lineage or marital ties.²⁴

Indonesian law reflects these views in the KHI, which adopts the classical scholars' stance that religious difference blocks inheritance. Article 171(b) of the KHI stipulates: “The testator is a person who, at the time of death or declared deceased by court, leaves heirs and inheritance assets.” Meanwhile, Article 171(c) defines heirs as those related through blood or marriage to the testator, are Muslim, and are not legally barred from inheritance. While not explicitly stating religious difference as a bar, Article 171(c) requires both testator and heir to be Muslim for inheritance rights to apply, making religious difference an implicit blockade.²⁵

This religious difference applies when one party is Muslim and the other is not. Thus, if

²¹ Maria Farida Indrati, *Ilmu Perundang-Undangan: Jenis, Fungsi, dan Materi Muatan*, Yogyakarta: Kanisius, 2007, pp. 92–95.

²² Hadith narrated by Bukhari no. 6764, Muslim no. 1614.

²³ Budi Hariyanto, “Juridical Review of Inheritance Division in Interfaith Marriages Based on the Civil Code and Islamic Compilation Law,” *Jurnal IUS*, 8(2), 2020, p. 38.

²⁴ Khalid, “Fuqaha's View on the Inheritance of Children from Interfaith Marriages According to the Civil Code and Islamic Compilation,” *Jurnal Of Islamic Law*, 2(2), 2018, p. 94.

²⁵ Compilation of Islamic Law (Kompilasi Hukum Islam), Articles 171(b) and 171(c).

a Muslim dies leaving inheritance to a non-Muslim heir, the inheritance process between them cannot legally proceed. This rule is grounded in the Islamic principle that inheritance is contingent on shared faith.

The Indonesian Ulema Council (MUI) reinforced this in Fatwa Number 5/MUNAS VII/9/2005 on interfaith inheritance:

1. Islamic inheritance law forbids mutual inheritance between Muslims and non-Muslims.
2. Transfer of wealth between people of different faiths is only permissible by gift, bequest, or donation.

This fatwa is a binding reference in Indonesian Islamic inheritance practice, particularly where KHI remains silent.²⁶

Therefore, from an Islamic inheritance law perspective, children born from interfaith marriages do not have inheritance rights unless they share the same faith as the Muslim testator. However, Indonesian courts have allowed alternative solutions through the concept of *wasiat wajibah* (compulsory bequest). Supreme Court Decision No. 368 K/AG/1995 permits non-Muslim heirs to receive a portion of a Muslim testator’s estate via *wasiat wajibah*. This mechanism serves to protect family ties and promote social justice amidst religious diversity. It represents a compromise between Islamic legal principles and humanitarian considerations within the national legal framework.²⁷

In contrast, civil law governed by the Civil Code (KUH Perdata) applies to non-Muslims and does not prohibit inheritance on religious grounds. As long as familial relations are legally proven—by birth certificate, marriage certificate, or legal acknowledgment—inheritance rights apply regardless of religious differences. Thus, civil law is more inclusive and disregards religion in inheritance matters.²⁸

Article 832 of the Civil Code states that inheritance passes to blood relatives irrespective of religion. Hence, children from interfaith marriages have inheritance rights from both parents under civil law.²⁹

To reconcile these differences, many interfaith couples utilize gifts or wills as

²⁶ Majelis Ulama Indonesia, Fatwa No. 5/MUNAS VII/9/2005 on Interfaith Inheritance.

²⁷ Supreme Court of Indonesia, Decision No. 368 K/AG/1995; M. Yahya Harahap, *Islamic Inheritance Law*, Jakarta: Sinar Grafika, 2011, pp. 186–190.

²⁸ R. Subekti, *Fundamentals of Civil Law*, Jakarta: Intermasa, 2002, pp. 75–76.

²⁹ R. Subekti, *Fundamentals of Civil Law*, p. 87.

alternatives to inheritance transfer, permitted in Islamic law for up to one-third of total assets (Article 209 of KHI).

According to the fatwa by the MUI DKI Jakarta, related rules include:

1. Upon both parents' death, all property passes to heirs who form the inheriting family.
2. If the parents are Muslim, their inheritance can only be passed to Muslim children and not to children of other faiths.

A key feature of Islamic inheritance law per the Qur'an is that heirs must be related by blood or marriage, be Muslim, and not legally disqualified from inheritance. The religious requirement is absolute, disqualifying non-Muslims from inheriting from Muslim testators. Thus, religion plays a central, inseparable role in Islamic inheritance distribution.³⁰

The contrast between Islamic and civil inheritance law often causes confusion in society, especially when one spouse dies in an interfaith marriage. Islamic law sets strict boundaries on cross-religion inheritance, while civil law provides room to exercise inheritance rights regardless of faith. Consequently, it is crucial for interfaith couples to perform clear legal planning—such as drafting wills or civil agreements—to prevent future conflicts.

A Juridical Review of the Implications of Interfaith Marriage in Indonesia.

Interfaith marriage in Indonesia creates a complex legal dilemma, especially regarding family law aspects such as the legal status of children and inheritance rights. Although the constitution guarantees freedom of religion and the right to form a family, national marriage law does not provide clear pathways for the legality of interfaith marriage. Article 2 paragraph (1) of Law No. 1 of 1974 states that a marriage is considered valid if conducted according to the law of each religion. This provision directly affects the legal consequences of marriage, such as recognition of the child's status and inheritance rights, because the validity of the marriage determines the legal relationship between family members.

In terms of the child's status, Islamic law, as reflected in the Compilation of Islamic Law (KHI), holds that a child's legitimacy depends heavily on the validity of the parents' marriage. Thus, if an interfaith marriage is not recognized under Islamic law, the child born from that marriage lacks a strong *nasab* (lineage) relationship, especially with the father of a different religion. This affects the child's civil rights such as inheritance, custody, and

³⁰ Fitria Agustin, “Status of Children from Interfaith Marriages According to Indonesian Marriage Law,” *Jurnal Ilmu Hukum*, 2(1), 2018, p. 52.

recognition of the father's name. Conversely, in civil law, the child's status is more flexible, as the Civil Code (KUH Perdata) grants legal recognition to children born within or outside marriage, provided biological relation and paternal acknowledgment can be proven.³¹

Constitutional Court Decision No. 46/PUU-VIII/2010 is a milestone guaranteeing the rights of children born outside marriage, including those from interfaith marriages, to maintain civil legal relations with their biological fathers. The Court emphasized the principle of non-discrimination for children and mandated state protection for all children regardless of their parents' marital status. This ruling expands the scope of children's rights to legal recognition and inheritance, although it does not directly legitimize interfaith marriage.

Regarding inheritance, the conflict between Islamic law and civil law is pronounced. Islamic law forbids inheritance between people of different religions due to the principle of *mawani' al-irith* (barriers to inheritance). This is based on an authentic Hadith stating that a Muslim does not inherit from a non-Muslim and vice versa. However, civil law permits inheritance rights as long as family relationships can be legally established, regardless of religious difference.

To address this legal deadlock, the Supreme Court jurisprudence introduced the concept of *wasiat wajibah* (compulsory wills) as an alternative way to distribute property to heirs barred by religious differences. *Wasiat wajibah* is regarded as a form of social justice and family protection. Some contemporary scholars support this by allowing bequests even when inheritance is prohibited under sharia, based on principles of *maslahat* (public interest) and familial bonds.³²

Despite these juridical attempts to bridge the tension, legal problems persist due to disharmony between religious law and state law. The lack of explicit regulations on interfaith marriage and its implications results in inconsistent and case-by-case legal enforcement. This highlights the urgent need for harmonizing laws through derivative regulations of the Marriage Law or strengthening the national family law system to accommodate Indonesia's pluralistic society.³³

In practice, Indonesian notaries, judges, and family lawyers often face ethical and legal

³¹ R. Subekti, *Pokok-Pokok Hukum*, pp. 112–115.

³² M. Yahya Harahap, *Hukum Kewarisan*, pp. 186–190.

³³ I. Gusti Ayu Ketut Rachmi Handayani, “Status Anak dan Hak Waris dalam Perkawinan Beda Agama,” *Jurnal Hukum IUS* 6, no. 1 (2018): 89–102.

dilemmas handling interfaith family cases. Lawmakers need to play an active role in formulating clearer rules on the legal status of children and inheritance rights in interfaith marriage contexts to ensure legal certainty and justice for all citizens without violating religious principles and Indonesia’s foundational Pancasila ideology. Additionally, some legal solutions for interfaith couples to protect their civil rights include marrying abroad with subsequent registration in Indonesia, religious conversion of one spouse (although this raises doctrinal debates), and marriage agreements that regulate inheritance, child custody, and property division through gifts or wills.³⁴

D. CONCLUSION

Interfaith marriage generates complex legal implications, particularly regarding the status of children and inheritance rights, due to inconsistencies between Islamic law and civil law in Indonesia. Under Islamic law, religious differences act as barriers to inheritance and affect the legitimacy of a child's status, whereas civil law is more accommodating of cross-religious family relationships. These findings highlight the need for a more integrative legal harmonization, either through the formulation of derivative regulations under the Marriage Law or the refinement of the Compilation of Islamic Law to better address the dynamics of Indonesia’s multicultural society. As a recommendation, the state should provide a fair and inclusive legal mechanism for interfaith families, such as strengthening the role of *wasiat wajibah* (compulsory wills), legal recognition of children based on biological relationships, and developing more progressive and uniform positive legal guidelines for law enforcement officials.

³⁴ Yahya Harahap, *Hukum Waris Perdata* (Jakarta: Sinar Grafika, 2002), p. 123; Munawir Sjadzali, *Islam dan Tantangan Zaman* (Jakarta: UI Press, 2005), p. 146.

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