# The Dynamics of Interfaith Marriage Law in Warungasem District, Batang Regency: A Socio-Legal Analysis of The Gap Between Normative Rules and Social Reality

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## Abstract

This study examines the legal and social dynamics of interfaith marriage in Warungasem District, Batang Regency, Central Java. The central focus lies in analysing the gap between the normative legal framework and empirical social realities (das sein). Normatively, Indonesian positive law particularly Law No. 1 of 1974 in conjunction with Law No. 16 of 2019, the Compilation of Islamic Law (KHI), and Supreme Court Circular Letter (SEMA) No. 2 of 2023 strictly prohibits interfaith marriages and instructs registration institutions and courts to reject such applications. However, empirical findings in Warungasem District reveal that couples continue to seek alternative legal circumventions, such as administrative religious conversion (muallaf), unregistered religious marriages (nikah siri), or registration outside the jurisdiction. Utilising a socio-legal research method with primary data gathered through interviews with officials from the Office of Religious Affairs (KUA) in Warungasem, religious leaders, and community members, this study analyses the problem through Lawrence M. Friedman's Legal Effectiveness Theory and the concept of Maqasid as-Syari'ah. The results show that while legal substance and structural enforcement by KUA Warungasem maintain strong legal certainty, legal culture and individual motives perpetuate local dynamics. The study concludes that enforcing strict legal boundaries is essential for protecting legal certainty and family resilience (hifdz ad-din and hifdz an-nasl).
***Keywords***: interfaith marriage; legal effectiveness; maqasid as-Syari'ah; legal pluralism

## Introduction

Marriage in the Indonesian legal system is not understood merely as a civil contract. It is regarded as a sacred bond of body and soul that is deeply infused with religious and spiritual values. This understanding is explicitly mandated in Article 2 paragraph (1) of Law No. 1 of 1974 on Marriage (as amended by Law No. 16 of 2019), which states that a marriage is valid only if it is conducted according to the laws of the respective religions and beliefs of the parties (Law No. 1/1974 jo. Law No. 16/2019). This legal construction affirms that the validity of a marriage in Indonesia is fundamentally dependent on the religious law of the individuals concerned.

In the course of social development, Indonesian society frequently encounters situations in which couples from different religious backgrounds desire to enter into marriage. The normative tension surrounding this issue has become sharper with the issuance of Supreme Court Circular Letter (SEMA) No. 2 of 2023 concerning Guidelines for Judges in Adjudicating Applications for the Registration of Interfaith Marriages. The SEMA imperatively instructs judges and civil registration institutions not to grant applications for the registration of interfaith marriages, thereby closing legal loopholes that had previously been exploited through court determinations (SEMA No. 2/2023). Nevertheless, at the local level, such as in Warungasem District, Batang Regency, social phenomena reveal distinctive dynamics. Warungasem is demographically dominated by a Muslim population with a strong cultural base of pesantren and religious tradition, while at the same time bordering the more urban and heterogeneous area of Pekalongan. The collision between obedience to normative rules (das sollen) and the lived choices of certain residents (das sein) produces a socio-juridical gap that is highly relevant for scholarly examination.

Based on this background, the present study seeks to answer three main research questions: 1) What is the social reality (das sein) of the practice and dynamics of interfaith marriage in Warungasem District, Batang Regency? 2) How do positive legal norms and Islamic law (das sollen) regulate interfaith marriage after the enactment of SEMA No. 2 of 2023? 3) How can the gap between normative rules and field practices be analysed, and what are its implications for legal certainty and family resilience in Warungasem District?

## Method

This research adopts an empirical legal (socio-legal) approach that examines positive legal norms and Islamic law in relation to social practices and the legal behaviour of the community (Sugiyono, 2018; Suteki & Taufani, 2018). The research location includes the Office of Religious Affairs (KUA) of Warungasem District, the Religious Court of Batang / Civil Registry Office of Batang Regency, and the wider community of Warungasem. Primary data were collected through in-depth interviews with the Head of KUA / Marriage Registrar of Warungasem, Islamic Religious Instructors, local religious leaders (kiai), and community members who have experienced or are familiar with cases of interfaith marriage. Secondary data were drawn from primary legal materials such as Law No. 1 of 1974 jo. Law No. 16 of 2019, the Compilation of Islamic Law (KHI), SEMA No. 2 of 2023, as well as books, scholarly journals, and official documents of marriage rejection at KUA Warungasem.

Data were analysed qualitatively and descriptively through the stages of data reduction, data display, and conclusion drawing (verification). The analytical framework employed is Lawrence M. Friedman's Legal Effectiveness Theory comprising legal substance, legal structure, and legal culture together with the Maqasid as-Syari'ah approach, particularly hifdz ad-din (protection of religion) and hifdz an-nasl (protection of lineage) (Friedman, 1975; Auda, 2008).

## Result

### Empirical Reality of Interfaith Marriage in Warungasem District (Das Sein)

Warungasem District possesses a distinctive socio-religious character. Although the majority of its population is Muslim and maintains close cultural ties with the Nahdlatul Ulama tradition, high mobility of residents toward urban Pekalongan and industrial areas of Batang has facilitated interreligious interaction. Field research conducted through interviews with KUA officials, religious leaders, and community members reveals several recurring patterns of sociological adaptation.

Administrative Religious Conversion (Muallaf Formality)

The most frequently observed pattern is that one party usually the non-Muslim partner undergoes a formal conversion to Islam shortly before the marriage. In practice, however, such conversion is often merely administrative in nature so that the administrative requirements of the KUA can be fulfilled. After the marriage, a number of couples return to practising their original religions or live in a condition of dual religious belief within the household. Informants from KUA Warungasem confirmed that this pattern is the most common attempt to circumvent the prohibition.

Unregistered Marriage (Nikah Siri) or Special Institutions

When the KUA rejects the marriage documents because of religious difference and the couple is unwilling to convert, some couples choose the path of nikah siri or seek assistance from certain foundations or institutions outside the district that provide interfaith marriage services. Such marriages remain unregistered with the state and create long-term legal uncertainty for the couple and their future children.

Administrative and Civil Implications for Children

Couples who conclude interfaith marriages without official registration at KUA Warungasem face significant obstacles in obtaining birth certificates for their children. Under the Population Administration Law, children born from such unions are recorded as having a civil relationship only with the mother (administratively treated as children born out of wedlock). This situation affects inheritance rights, guardianship, and future civil protection of the children.

### Enforcement of Positive Legal Norms and Islamic Law (Das Sollen)

From a constitutional and normative standpoint, Indonesia does not recognise interfaith marriage. This position has been further strengthened by both national legal instruments and Islamic law.

Indonesian Positive Law

Article 2 paragraph (1) of Law No. 1 of 1974 jo. Law No. 16 of 2019 stipulates that a marriage is valid only if performed according to the religious law of each party. This requirement is cumulative and absolute. SEMA No. 2 of 2023 was issued to halt the practice of applying for interfaith marriage registration through the District Court. The SEMA instructs judges not to grant applications for the registration of interfaith marriages, thereby reinforcing the firmness of KUA institutions in rejecting such applications (SEMA No. 2/2023).

Islamic Law and the Compilation of Islamic Law (KHI)
Article 40 letter c of the KHI prohibits marriage between a woman and a man of different religions. Article 44 of the KHI explicitly states that a Muslim woman is prohibited from marrying a non-Muslim man. The Fatwa of the Indonesian Ulema Council (MUI) No. 4/MUNAS VII/MUI/8/2005 affirms that interfaith marriage is haram and invalid according to Sharia. KUA Warungasem consistently implements these norms by issuing a Marriage Rejection Letter (Form N8) whenever the documents of a prospective couple indicate different religions.

**Findings on Legal Effectiveness (Friedman's Theory)**

The application of Lawrence M. Friedman's Legal Effectiveness Theory yields the following findings:

1. Legal Substance is very clear and has been further strengthened by SEMA No. 2 of 2023, which closed previous judicial loopholes that had been exploited through applications to the District Court.
2. Legal Structure is effective: KUA Warungasem and Islamic Religious Instructors not only reject applications but also provide family counselling for couples facing difficulties.
3. Legal Culture constitutes the main source of the gap. A portion of the community is influenced by modern human-rights perspectives, personal feelings of love, and individualism that prioritise individual choice over compliance with state and religious law. Some members of the community regard administrative formality (temporary conversion) as a "practical solution" to avoid legal prohibition.

**Findings from the Maqasid as-Syari'ah Perspective**

From the perspective of Maqasid as-Syari'ah, the prohibition of interfaith marriage enforced by KUA Warungasem is oriented toward two primary benefits (Auda, 2008; al-Syathibi, 1997):

1. Protection of Religion (Hifdz ad-Din) Interfaith marriage risks blurring religious practice, generating faith conflicts within the household, and threatening the religious identity of children. The legal prohibition aims to safeguard the purity and consistency of Islamic practice.
2. Protection of Lineage and Civil Status (Hifdz an-Nasl) Marriages that are invalid under both religious and state law adversely affect the civil status of children, including clarity of lineage, guardianship rights, and inheritance rights. Maqasid as-Syari'ah demands such clarity in order to guarantee sustainable family resilience.

## Discussion

The findings of this study confirm the existence of a clear gap between the normative legal framework and social practice in Warungasem District. While the legal substance and legal structure have functioned effectively in rejecting interfaith marriage applications, the legal culture of a segment of the community continues to produce alternative pathways that undermine formal legal certainty. This gap has direct implications for the civil status of children born from unregistered or administratively converted marriages. The absence of a clear legal marital status creates long-term problems in inheritance, guardianship, and population administration. At the same time, the consistent enforcement by KUA Warungasem

demonstrates that a well-functioning legal structure, supported by clear legal substance, can still maintain a significant degree of legal certainty at the local level.

From the perspective of Maqasid as-Syari'ah, the strict enforcement of the prohibition serves the higher objectives of protecting religion and lineage. Allowing interfaith marriages without clear religious and legal boundaries risks generating continuous conflict within the household and ambiguity regarding the religious identity and civil rights of children. Therefore, the maintenance of firm legal boundaries remains justified not only from the standpoint of positive law but also from the teleological perspective of Islamic legal theory.

**The Legal Framework of Interfaith Marriage: Positive Law, Islamic Law, and SEMA No. 2 of 2023**

The legal framework governing interfaith marriage in Indonesia rests on three main pillars. First, Article 2 paragraph (1) of Law No. 1 of 1974 jo. Law No. 16 of 2019 establishes that a marriage is valid only when performed according to the religious law of each party. Second, the Compilation of Islamic Law (KHI), particularly Articles 40 and 44, explicitly prohibits interfaith marriage for Muslims. Third, SEMA No. 2 of 2023 provides concrete operational guidance to judges and registration institutions to reject applications for the registration of interfaith marriages (SEMA No. 2/2023). These instruments collectively close previous loopholes that had allowed interfaith couples to obtain court determinations for registration. The framework prioritises religious validity as the foundation of marital legality and seeks to protect both legal certainty and the religious identity of the family.

**The Phenomenon of Interfaith Marriage in Warungasem District: Patterns and Local Dynamics**

In Warungasem District, interfaith marriage does not appear as an open and formally registered practice. Instead, it manifests through adaptive strategies that attempt to navigate or circumvent the existing legal restrictions. The most common patterns include formal conversion shortly before marriage, unregistered religious ceremonies (nikah siri), and efforts to register the marriage in other jurisdictions. These practices reflect the tension between personal desire and institutional prohibition, and they are shaped by the district's socio-religious character as well as its proximity to more heterogeneous urban areas.

**Potential Harms and Legal Uncertainties Associated with Interfaith Marriage Practices**

The alternative practices observed in Warungasem generate several categories of harm and uncertainty. Administrative conversion that is not accompanied by genuine religious commitment can produce dual religious practice within the household and confusion regarding the religious upbringing of children. Unregistered marriages leave the couple and their children without clear civil status, creating difficulties in obtaining birth certificates, inheritance rights, and legal protection. These outcomes directly affect the long-term resilience of the family and the clarity of lineage (nasab).

### Analysing the Gap through Friedman's Legal Effectiveness Theory and Maqasid as-Syari'ah

The application of Friedman's theory reveals that legal substance and legal structure in Warungasem function effectively, while legal culture remains the primary source of the gap (Friedman, 1975). From the Maqasid as-Syari'ah perspective, the prohibition of interfaith marriage serves the objectives of protecting religion (hifdz ad-din) and protecting lineage (hifdz an-nasl) (Auda, 2008; al-Syathibi, 1997). The combination of these two analytical frameworks demonstrates that the maintenance of firm legal boundaries is both legally coherent and teleologically justified.

### Broader Implications for Islamic Family Law and Community Practice

The findings of this study have several implications. At the theoretical level, they illustrate the continuing relevance of legal effectiveness theory and Maqasid as-Syari'ah in analysing contemporary family-law issues in Indonesia. At the practical level, they suggest that KUA institutions, religious leaders, and local authorities need to strengthen not only enforcement but also educational and counselling efforts so that the community better understands the rationale behind the prohibition. An integrative approach that combines legal certainty with public education is essential for reducing the gap between das sollen and das sein.

## Conclusion

Based on the examination of the dynamics of interfaith marriage law in Warungasem District, Batang Regency, several conclusions can be drawn. First, from the perspective of Indonesian positive law, the regulation of marriage through Law No. 1 of 1974 as amended by Law No. 16 of 2019, particularly Article 2 paragraph (1), places religious law as the foundation of marital validity. This provision is reinforced by the Compilation of Islamic Law for Muslims and by SEMA No. 2 of 2023. Second, in the social context of Warungasem, the dynamics of interfaith marriage must be understood through the interaction of religious understanding, personal choice, family relations, and administrative mechanisms. Third, according to Lawrence M. Friedman's legal system theory, the effectiveness of interfaith marriage regulation is influenced by three main elements: legal substance, legal structure, and legal culture. While substance and structure function effectively, legal culture remains the principal source of the observed gap. Fourth, from the Maqasid as-Syari'ah perspective, the regulation of marriage should be directed toward the protection of religion (hifdz al-din), the protection of lineage (hifdz al-nasl), and the overall benefit of the family. Fifth, this study affirms the importance of an integrative legal approach—one that prioritises not only legal certainty but also substantive justice and legal utility. In the context of social transformation, the state needs to provide transparent, educational, and accountable marriage administration services without neglecting the principles of religious law and applicable legislation.

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