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An Analysis of Court Decisions Regarding Applications for Interfaith Marriage (Comparative Study of Decisions Number 131/Pdt.P/2021/PN Jkt.Sel and Number 122/Pdt.P/2020/PN.PTI)

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Abstract
The emergence of differences in views regarding whether or not interfaith marriages are permissible in Indonesia because it has not been clearly regulated in the Marriage Law has led several people to apply for interfaith marriages. The aim of this research is to find out the legal basis and considerations of judges in handing down decisions on interfaith marriages in the District Court and the implications of the judge's decisions on these marriages. This research is normative juridical research which is based on several laws and regulations regarding marriage. The results of this research explain that (1) Decision Number 131/Pdt.P/2021/PN Jkt.Sel is an application for permission to register interfaith marriages which was granted by the South Jakarta District Court, where the judge thought there was a lack of explanation of the law because in The law does not expressly prohibit interfaith marriages. The judge's consideration in deciding this case was because he understood Article 2 paragraph 1 of the Marriage Law Number 1 of 1974, which states that marriage is valid according to the laws of each religion and belief. Meanwhile, determination Number 122/Pdt.P/2020/PN.PTI is an application for a marriage permit which was rejected because this application was deemed to contain formal defects so it could not be accepted (niet on vankelijke verklaard). (2) The legal implication of the decree being granted is that there is no problem because legally it is permissible to carry out interfaith marriages. This includes the relationship between husband and wife and their children, which is regulated in law and has permanent legal force. Meanwhile, the implication of a rejected decision regarding the validity of the marriage is that it is invalid and all legal consequences arising from the marriage are not recognized.

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1. INTRODUCTION

Prior to the enactment of Law Number 1 of 1974 and the Compilation of Islamic Law, it had regulated interfaith marriages. The rules are contained in the legal regulations on Mixed Marriages which are known as GHR (Gemengde Huwelijken Regeling) for short. GHR is contained in Stbld (LN) 1898 No. 158[1]. In Article 1 of the Mixed Marriage Regulations, it is stated that what is meant by mixed marriage is a marriage between people who in Indonesia are subject to different laws. Furthermore, interfaith marriages are included in the mixed marriage section. Article 7 paragraph (2) of the GHR reads: Differences in religion, nation or origin are in no way an obstacle to marriage. After the enactment of Law Number 1 of 1974, there was a debate which in essence has not yet ended.

If the regulations regarding interfaith marriages include the issue of the validity of the marriage, of course the regulations regarding it are based on the provisions of article 2 paragraph (1) of Law Number 1 of 1974. This article states that "Marriage is valid, if it is carried out according to the laws of each religion and that belief." National legal experts have different views and opinions regarding making this article a legal regulation governing interfaith marriages. Some of them view Article 2 paragraph (1) of Law Number 1 of 1974 as a general rule containing legal provisions for the validity of marriages, including marriages between different religions. This means that if the religious law of both or one

of the interfaith couples who are going to get married declares it invalid or an obstacle to the marriage, then the marriage is prohibited and invalid. However, if the religious law of both states is not prohibited and is legal, then the marriage is permissible and legal[1]

The Civil Code does not provide an understanding of interfaith marriage, only Article 26 of the Civil Code provides limitations[2]. Article 26 of the Civil Code reads "The law views marriage only in civil relationships[2]. From this provision it can be seen that the Civil Code views marriage as merely a civil agreement, having nothing to do with the religion adhered to by the parties (the prospective bride and groom), as stated in Article 81 of the Civil Code "No religious ceremony may be carried out before both parties to the religious officials they proved that the marriage had taken place in the presence of a civil registrar."

Law Number 1 of 1974 does not justify interfaith marriages. However, in reality there are still marriages that occur in society, which are carried out in private or openly by carrying out the marriage abroad and then returning to Indonesia and registering it at the Civil Registry Office as if the marriage were the same as mixed marriages as intended in Article 57 of Marriage Law Number 1 of 1974. Article 2 paragraph (1) of Law Number 1 of 1974 can be interpreted to mean that as long as the religious law of each party allows interfaith marriages to occur, then interreligious marriages are not will be a problem. However, if the religious law of each party does not allow interfaith marriages, then this will be a problem because according to Article 2 paragraph (1) of Law Number 1 of 1974, the validity of a marriage is based on the religious law and beliefs of each party. so that there will be no more marriages outside the laws of their respective religions.

As time progressed, Article 2 paragraph (1) of Law Number 1 of 1974 gave rise to conflicting opinions regarding whether or not interfaith marriages could be carried out in Indonesia, because Law Number 1 of 1974 did not clearly regulate interfaith marriages. The official interpretation of the Marriage Law itself only recognizes marriages that are based on the same religion and beliefs of two people of different sexes who want to get married. In a pluralistic society like Indonesia, it is very possible for marriage to occur between people belonging to different religions. Thus, for applicants who are Muslim and who wish to enter into a marriage with a non-Muslim woman, it is impossible to carry out the marriage in front of a marriage registrar at the Civil Registry Office as the only possibility, because beyond that there is no longer any possibility of carrying out the marriage. Except by submitting a request for determination to the District Court to obtain permission to perform an interfaith marriage[3].

Legislation after 1974 has led to unification of legal regulations regarding marriage. Based on the above, the author is interested in finding out some of the problems that arise as a result of marriages between Indonesian citizens who adhere to Islamic and non-Islamic religions and learn how marriages between Indonesian citizens of different religions can actually occur, and how valid such marriages are according to the law. Marriage and the Compilation of Islamic Law. There are many cases that occur in society, such as those found in several District Courts in Central Java which provide decisions on requests for interfaith marriages. From several court decisions, it was found that several applications for permits for interfaith marriages were accepted and rejected by the District Court. Judges are officials who exercise judicial power. As officials who exercise judicial power, judges are enforcers of law and justice. In order to uphold law and justice, judges are obliged to understand legal values and the sense of justice in society. Judges must have knowledge of the laws that apply in society. Therefore, there is a prohibition on judges from rejecting, examining, adjudicating and deciding cases that have been submitted to them.

Judges in deciding cases must have high morality and responsibility, one of which is the principle of freedom. A judge must uphold and set an example regarding judicial

independence both in the individual and institutional aspects. When granting a request for an interfaith marriage, the judge looks at the main essence of the applicant's request. For example, a petition for interfaith marriage at the District Court in South Jakarta, South Jakarta District Court Determination Number: 131/Pdt.P/2021/PN Jkt.Sel Petitioner Cakra Dharma and Bernadeth Sylvanny Pramesya which has been granted and does not rule out the possibility in several district courts in other regions also grant applications for permits for interfaith marriages between Muslims and non-Muslims. However, different from the previous petition, the Pati District Court's decision number 122/Pdt.P/2020/PN.PTI of Petitioners Deddi Maulana and Nike Yulia Utami was rejected on the grounds that there was insufficient evidence to apply for marriage.

In the presence of inter-religious marriages, there will be differences in principle in the marriage, so it is feared that problems will arise that will be difficult to resolve in the future, for example regarding the rights and obligations of husband and wife, inheritance and child care. However, if the parents have different principles and beliefs, how do the parents educate the child about religious basics? Apart from that, the problem that will arise is if an interfaith couple divorces which court will handle the divorce case. Apart from that, if one of the interfaith couples dies, what about inheritance issues? From this inheritance problem, it will arise whether a child born from an interfaith marriage has the right to inherit from a father or mother who has a different religion than the child. Because interfaith marriages will only cause problems, many people oppose interfaith marriages. From the background description above, the author is interested in researching "Analysis of Court Decisions on Applications for Interfaith Marriages (Comparative Study of Decisions Number 131/Pdt.P/2021/PN Jkt.Sel and Number 122/Pdt.P/2020/PN. PTI)".

The purpose of this research is to determine the legal basis and considerations of judges in granting or rejecting requests for interfaith marriages at the Jakarta Sekat District Court and the Pati District Court and the consequences of granting or rejecting interfaith marriage requests related to the relationship between husband and wife and their children as well as the validity of the marriage if the application is rejected. Several previous studies which also discussed similar issues were research conducted by Patricia Karlina Dimiyati with the title Analysis of the Decision of the Surabaya District Court No.916/Pdt.P/2022/Pn.Sby Concerning Interfaith Marriages in the Judicial Activism Approach[4], research conducted by Lysa Setiabudi with the title Analysis of Interfaith Marriages (Study of District Court Decisions Regarding Permits for Interfaith Marriages)[5], and research conducted by Amal Zainun Naim with the title Analysis of Decisions on Interreligious Marriage Applications from a Progressive Legal Theory Perspective[6].

2. RESEARCH METHOD

This research is Normative Law research by conducting legal research on legal systematics carried out in certain laws or registered laws. The main aim is to identify the meanings or bases in law, namely legal society, legal subjects, rights and obligations, legal events and legal objects. Normative legal research or library legal research is the method used in legal research which is carried out by examining existing library materials[7]. Determining the research location is very important in order to account for the data obtained. What is meant by location in this case is the South Jakarta District Court which is located at Jl. Ampera Raya No.133 and the Pati District Court which is located at Jl. P. Sudirman No. Km 3, Gebyaran, Dadirejo, Kec. Margorejo, Pati Regency, Central Java.

There are 2 types of data used, namely primary data, namely data sources that directly provide data to data collectors or data obtained from the field through interviews, observations and documentation carried out in the field and secondary data, namely sources

obtained through the literature, including: The Book of Laws. Civil Law, Law Number 1 of 1974 concerning Marriage, INPRES No.1/1999 concerning the Compilation of Islamic Law. and Fatwa of the Indonesian Ulema Council (MUI) 1980/2005.

The data collection techniques that will be used are literature study and interviews. Meanwhile, the data analysis used in this research is interactive model analysis[7]. In this research, the interview subjects were the Magelang District Court Judge and the Ungaran District Court Judge. According to Miles and Huberman, in this model the three components of analysis, namely data reduction, data presentation and conclusion drawing, are carried out in an interactive form with the data collecting process as a cycle.[8]The three activities in interactive model analysis are: data collection, data reduction, data presentation and drawing conclusions.

3. RESEARCH RESULTS AND DISCUSSION

3.1.Legal Basis and Judges' Considerations in Handing Down Decisions in Cases, Supreme Court Decision Number 131/Pdt.P/2021/PN Jkt.Sel and Number 122/Pdt.P/2020/PN.PTI

According to the Judge of the South Jakarta District Court who decided case Number 131/Pdt.P/2021/PN Jkt.Sel, the judge's main consideration in granting the request for interfaith marriage was because the Marriage Law does not regulate expressly and clearly regarding interfaith marriage. thus, giving rise to different interpretations in society. The judge also considered the evidence and witnesses presented by the applicant. Moreover, the applicants had legally married according to Islamic law and the Catholic faith on November 7 2020.

The fact that the applicants have entered into a legal marriage according to Islamic law and the Catholic faith in the presence of witnesses, family and extended family as well as friends of both parties to the applicant shows that the marriage carried out is valid in accordance with what is contained in Article 2 paragraph (1) Marriage Law. Another condition that was taken into consideration by the judge in granting a determination on the application for an interfaith marriage was that the South Jakarta Population and Civil Registration Service rejected the process of administrative registration of the marriage, because the applicant had not attached a letter of determination from the Court relating to interfaith marriages as regulated in the provisions of Article 35 letter a Invite

Law No. 23 of 2006 concerning Population Administration and Civil Registration. The provisions of Article 35 letter a of Law No. 23 of 2006 concerning Population Administration as described above, the District Court considers the provisions to be contradictory to the provisions of Article 2 paragraph (1) of Law No. 1 of 1974 concerning marriage as a lex specialist that regulates matters marriage. If the marriage has been legally carried out by a religion, then the court does not have the right to annul the marriage, because based on the provisions of Article paragraph (1) it appears that marriage matters fall under the authority of religious institutions, while the state's authority is only to register the marriage as specified in Article 2 paragraph (2) Law No. 1 of 1974 concerning Marriage[9].

Through juridical analysis, the laws and regulations mentioned above should be considered carefully, wisely and in balance because they relate to cases/cases involving law between groups (Islam and Christianity). Through sociological analysis, it needs to be carried out wisely, taking into account that society now lives in an era of openness and heterogeneity along with the development of science and technology, especially in the fields of increasingly sophisticated technology and communication, thus accelerating the transformation in people's lives in all fields which results in shifts in systems and values, including in matters of marriage. Through adequate philosophical analysis, taking into

account that Pancasila is the basic philosophy and ideology of the Republic of Indonesia, we should use the noble values contained in Pancasila as a means to solve various problems in living together, including in the case of interfaith marriages. In this case, the State/Government should be able to take an adequate role in solving this problem.

State officials (including Supreme Court Judges) are leaders in the courtroom who are expected to be able to resolve various problems of life in the world fairly and wisely, so that welfare can be realized and various social tensions caused by religious differences can be reduced. Looking at cultural analysis, it seems like it is a very urgent need, because along with advances in science and technology, especially in the fields of communication, information and transportation, it has had a very broad and deep impact on various aspects of life, including in the social and cultural fields.

Supreme Court Decision Number 131/Pdt.P/2021/PN Jkt.Sel can be used as jurisprudence, so that when resolving inter-religious marriage cases, you can use this decision as one of the sources of law that applies in Indonesia. The essence of the jurisprudence of Supreme Court Decision Number 131/Pdt.P/2021/PN Jkt.Sel and Number 122/Pdt.P/2020/PN.PTI is as follows:

Even though the Petitioner is Muslim and according to the provisions of article 63 paragraph 1 letter a of Law No. 1 of 1974, it is stated that if court intervention is required, then this is the authority of the Religious Court, but because of the rejection of decision Number 122/Pdt.P/2020/PN .PTI in carrying out marriages is based on the incompleteness of the application documents for interfaith marriages, so it is clear that the basis for the refusal is not a prohibition on carrying out marriages as regulated in article 8 of Law No. 1 of 1974 in the future. Law No. 1 of 1974 does not contain any provisions which constitute a prohibition on marriage due to differences in religion, which is in line with article 27 of the 1945 Constitution which stipulates that all citizens have equal status under the law, including equal human rights to marry fellow citizens. even if they are of different religions. This principle is in line with the spirit of article 29 of the 1945 Constitution concerning the guarantee by the state of independence for every citizen to embrace their respective religion, so that decision Number 131/Pdt.P/2021/PN Jkt.Sel can be accepted and marriage registration can be carried out at the Population Service and South Jakarta Civil Registration.

Due to the fact that inter-religious marriages are not regulated in Law No. 1 of 1974 and on the other hand, colonial product laws even though they regulate marriages between people who are subject to different laws, these laws cannot possibly be used because of the very wide differences in principles and philosophies between Law No. 1 of 1974, then facing the case in decision Number 131/Pdt.P/2021/PN Jkt.Sel there is a lack of explanation of the Law.

Apart from the lack of explanation of the Law, also in the reality of life in Indonesia, where society is pluralistic/heterogeneous, there are quite a few inter-religious marriages, the Supreme Court of the Republic of Indonesia is of the opinion that it cannot be justified if because of the lack of explanation of the Law the reality and social needs such as above is left unresolved legally, because allowing the problem to drag on will definitely have a negative impact in terms of social and religious life in the form of smuggling of social and religious values and/or positive law, the Supreme Court of the Republic of Indonesia is of the opinion that it must be discovered and determined by law.

Whereas according to article 2 paragraphs 1 and 2 of Law No. 1 of 1974, registrar employees for marriages according to the Islamic religion are as intended in Law No. 32 of 1954 concerning the registration of Marriages, Divorce and Reconciliation, while for those of non-Islamic religions they are marriage registrar officers. at the civil registry office. Thus, for applicants who are Muslim and who are going to get married to a man

who is a Protestant Christian, it is not possible to get married in front of a marriage registrar at the civil registry office as the only possibility, because outside of that there is no longer a possibility to get married.

In this case, the applicant in decision Number 131/Pdt.P/2021/PN Jkt.Sel who is Muslim has entered into a marriage with a woman who is Catholic and wishes to register her marriage at the Civil Registry Office in South Jakarta, and in decision Number 122/Pdt.P/2020/PN.PTI, the applicant who is Muslim has submitted an application to carry out a marriage with a woman who is Christian to the Civil Registry Office in Pati Regency, it must be interpreted that the applicant wishes to carry out the marriage they wish. In the case that Thus, the Civil Registry Office as the only agency authorized to carry out marriages where both prospective husband and wife are not Muslim must accept the Petitioner's application.

Whereas based on this jurisprudence, inter-religious marriages can be carried out by registering the marriage at the Civil Registry Office to carry out the marriage at the Civil Registry Office. Even though the Supreme Court has determined this, the Civil Registry Office based on Article 21 of the Marriage Law can still declare that a marriage is cannot be carried out and registered if it violates the provisions of Law Number 1 of 1974. If this happens, the Civil Registry Office will issue a written rejection letter and then the rejection letter can be brought to court to further decide whether the rejection is appropriate or otherwise. it was decided that the marriage could be registered.

The judge in granting the request for permission for interfaith marriages Number 131/Pdt.P/2021/PN Jkt.Sel looked at Law Number 1 of 1974 concerning Marriage where the Law does not strictly and clearly regulate interfaith marriages. Meanwhile, the law also does not expressly prohibit interfaith marriages, resulting in a lack of explanation of the law. Marriage is the behavior of creatures created by God Almighty so that life in the natural world develops well.

It is natural that two people of different genders have a mutual attraction to each other to live together. For this reason, the State cannot prohibit and prevent someone from carrying out marriage. Based on a sense of humanity, namely to avoid and prevent immoral behavior in society. So, the judge was of the opinion that it was better for the parties to be united in marriage.

Referring to Law No. 1 of 1974 in Article 57 which states that a mixed marriage is a marriage between two people who in Indonesia are subject to different laws, due to differences in nationality and one of the parties is an Indonesian citizen. Based on Article 57 of Law No. 1/1974, interfaith marriages in Indonesia are not mixed marriages. So applications for interfaith marriages at both the KUA and the Civil Registry Office should be rejected.

The ambiguity and indecisiveness of the Marriage Law regarding inter-religious marriages in Article 2 states "According to the laws of each religion or belief". This means that if the marriage between the two prospective husband and wife is the same, there will be no difficulties. But if the religious laws or beliefs are different, then in the event of differences between the two religious laws or beliefs, all of them must be fulfilled, meaning once according to the law of the religion and belief of the candidate and once again according to the law of the religion or belief of the other candidate.

In practice, interfaith marriages can be implemented by adhering to one method, either according to religious law or the beliefs of the husband or prospective wife. This means that one of the other candidates follows or submits themselves to one of the laws of their partner's religion or beliefs. In the process of inter-religious marriage, an application for an inter-religious marriage can be submitted to the Civil Registry Office. So that Article 8-point f of Law Number 1 of 1974 is no longer an obstacle to accepting the application,

not because the two prospective partners are in their capacity as people of different religions, but because of the legal status of the religion or belief of one of the prospective partners. Regarding interfaith marriages in Indonesia, there are provisions in Law No. 23 of 2006 concerning Population Administration. In Article 35 of Law No. 23 of 2006 and its explanation, it is stated that marriages between people of different religions are determined by the Court.

It is hoped that this arrangement will end the uncertainty that has occurred so far regarding whether or not interfaith marriages carried out in Indonesia can be recognized by the State. So far, for couples of different religions who want to get married, this is generally done by getting married abroad or if they get married in Indonesia, they generally change their religion temporarily or permanently so that their marriage can take place. Sometimes they marry twice, for example first in the Church, then in the Islamic Religious Affairs Office.

According to the author, the judge cannot block an application for an interfaith marriage made by the applicant as long as the requirements that must be fulfilled to carry out the marriage have been met. Because marriage is a right of every human being that is inherent from birth. The legal principles that apply in Indonesia are, in principle, religious differences do not constitute an obstacle to marriage.

The author is of the opinion that even if the Petitioners' petition is granted, it cannot be avoided that the Petitioners' marriage is invalid according to religion (both Islam and Catholic/Christian) in accordance with the provisions of Article 2 paragraph (1) of Law No. 1 of 1974 concerning Marriage, therefore because of The religious angle has an invalid value, regarding the sin of the relationship between the Petitioners and the Petitioner's future wife, which is the Petitioner's responsibility to God. The state, through laws and regulations, only provides a solution for marriage between two prospective bride and groom who each maintain their religious beliefs.

In deciding the case regarding the application for an interfaith marriage permit Number 131/Pdt.P/2021/PN Jkt.Sel the judge used the provisions of Article 10 paragraph (1) of Law Number 48 of 2009 concerning Judicial Power. That the District Court has the authority to examine, hear and decide on petitions is contained in Article 10 paragraph (1) of Law Number 48 of 2009 on Judicial Power, which states: "The court is prohibited from refusing to examine, try and decide on a case submitted on the grounds that the law does not exist or is unclear, but it is mandatory to examine and adjudicate it.

The judge in his decision had ordered the Population and Civil Registration Service Office staff to carry out marriages which could not be carried out because normatively and empirically the Population and Civil Registration Service Office no longer had the authority to do so and there were no longer any officers who had the competence to carry out interfaith marriages. Apart from being based on the theory of truth, the legal considerations of court decisions are also based on the theory of justice. In order to realize justice or provide a sense of justice-to-justice seekers, different thoughts and methods and benchmarks for a sense of justice are needed. When considering decisions, you must be able to show and base the theory of justice transparently.

The judge, based on the principle that a judge may not reject a case submitted to him on the grounds that there is no law or unclear legal regulations, argued that there was a lack of explanation of the law regarding interfaith marriage, based on Article 27 and Article 29. The 1945 Constitution Amendment IV and the provisions of Article 10 paragraph (1), (2), and Article 16 paragraph (1) of Law Number 39 of 1999 which conclude that interfaith marriage is a constitutional right and human right that every person has. Indonesian citizens and interfaith marriages are also a reality in social life which has diverse cultures without barriers of differences in religion or living habits. In order to build an attitude of solidarity

and a sense of tolerance, according to the law, it is necessary to provide a solution so that it does not have a negative impact on social and religious life.

Furthermore, the marriage in question which will be registered is also a phenomenon that occurs in Indonesian society. This is the reason that underlies the judge's decision to grant permission to the Petitioner and order the Civil Official at the Population and Civil Registration Service Office to solemnize the marriage and record it in the register intended for this purpose.

In contrast to the request for interfaith marriage in the Supreme Court Decision Number 131/Pdt.P/2021/PN Jkt.Sel, the Supreme Court Decision Number 122/Pdt.P/2020/PN.PTI was not granted by the judge because there were several documents that were not completed. during the trial. Based on the provisions of Article 21 of Law Number 1 of 1974 concerning Marriage, the marriage registrar has the right to refuse to consummate a marriage if it is discovered that the marriage conditions have not been fulfilled as regulated in the Law.

Based on these conditions, the Judge did not have confidence that the applicants in decision Number 122/Pdt.P/2020/PN.PTI had taken the efforts outlined by the provisions of the law even though they had witnesses who stated that the applicants had attempted to complete the documents. required. So, the applicants are deemed to have not taken the steps they should have taken. On this basis, the judge considers that the planning for an interfaith marriage is too early to be submitted to the District Court, so that this application is deemed to contain formal defects, and on this basis this application deserves to be declared inadmissible (niet on vankelijke verklaard).

3.2.Analysis of the Judge's Considerations Who Denied the Right to Restitution for TIP Victims in Decision Case No. 359 / Pid.Sus / 2020 / PN Cbi

There are several articles that can be used as a basis for prohibiting interfaith marriages, in Article 2 paragraph (1) and Article 8 letter (f) of Law Number 1 of 1974 concerning marriage that "Marriage is valid, if it is carried out according to the laws of each religion and that belief." Then in the explanation it is stated "With the formulation of Article 2 paragraph (1) of Law Number 1 of 1974 concerning marriage, there is no marriage outside the law of each religion and belief, including the statutory provisions that apply to that group of religions and beliefs. as long as it does not conflict or is not otherwise specified in this Law."

If this article is carefully considered, it can be understood that the law leaves it to each religion to determine the methods and conditions for carrying out the marriage, in addition to the methods and conditions that have been determined by the State.[10]. So, whether a marriage is prohibited or not, or whether the prospective bride and groom have fulfilled the requirements or not, apart from depending on the provisions contained in Law Number 1 of 1974 concerning marriage, this is also determined by their respective religious laws. each.

From the perspective of religions in Indonesia, interfaith marriages are not permitted because they are not in accordance with the laws of religions recognized in Indonesia. It is reinforced by Article 8 letter (f) of the Law on Marriage that "Marriage is prohibited between two people who: have a relationship that is prohibited by their religion or other applicable regulations from marrying." It is feared that the parties' interfaith marriage will not be valid, and their relationship as husband and wife who remain of different religions, can be said to be a haram act from a religious perspective, and what is being done is tantamount to adultery. If later these parties have children, then the status of the children of these parties can be said to be illegitimate children, because they were born from a relationship that is prohibited and haram according to religious law.[11]

No religion allows its followers to marry using other religions' marriage procedures. It also prohibits interfaith marriages. Based on the Fatwa Decree of the Indonesian Ulema Council Number: 04/MUNAS VII/MUI/8/2005 concerning Interfaith Marriages, interfaith marriages are haram and invalid, and marriages between Muslim men and Ahlul Kita women according to Qaul Mu'tamad are haram and invalid. The definition of marriage according to Article 1 of Law No. 1974 states that marriage is a spiritual and physical bond between a man and a woman as husband and wife with the aim of forming a happy and eternal family (household) based on belief in the Almighty God. This is that marriage must not conflict with God, this can be seen from the religious teachings of each party. If each religion prohibits interfaith marriages, then marriages between parties of different religions are invalid according to religion.

Meanwhile, Article 2 paragraph (1) of Law Number 1 of 1974 concerning Marriage states that "Marriage is valid if it is carried out according to the laws of religion and belief". Based on this article, it is clear that interfaith marriages cannot be carried out, because no religion allows marriage between parties of different religions. From the formulation of Article 2 paragraph (1) of Law Number 1 of 1974 concerning Marriage and its explanation, it can be concluded that whether a marriage is valid or not is solely determined by the provisions of the religion and beliefs of those wishing to carry out the marriage. This means that a marriage that is carried out contrary to the provisions of religious law, according to this Marriage Law, is automatically considered invalid and has no legal consequences as a marriage bond.

According to the author, the jurisprudence of the Supreme Court of the Republic of Indonesia contained in the Decision of the Supreme Court of the Republic of Indonesia Number. 1400/K/Pdt/1986 can be understood that for those who carry out interfaith marriages, the understanding can be drawn that if they ignore one of their religions, they will automatically marry according to that religion. which he adheres to. Determinations Number 131/Pdt.P/2021/PN Jkt.Sel and Number 122/Pdt.P/2020/PN.PTI do not cause significant problems. The rights and obligations of husband and wife in mixed marriages are not regulated, either according to the Marriage Law, Law Number 1 of 1974 or in the Compilation of Islamic Law (Inpres Number 1 of 1991), in which case all the rights and obligations of husband and wife in ordinary marriages or Mixed marriages (different religions) are the same. The rights and obligations of husband and wife are regulated in Law Number 1 of 1974, they are regulated in Chapter VI, Articles 30 to Article 34, while according to the provisions of the Compilation of Islamic Law they are regulated in Chapter XII, Articles 77 to Article 84.

According to the author, regarding the legal position of children born to couples in interfaith marriages, you can refer to the provisions of Article 42 of the UUP which states that a legitimate child is a child born in or as a result of a valid marriage. So, if a child is born from a valid marriage conducted at either the Religious Affairs Office or the Civil Registry Office, the child's position is a legitimate child in the eyes of the law and has the rights and obligations of children and parents as in Article 45 to Article 45 of the UUP. Apart from that, parents of different religions also need to pay attention to the provisions of Article 42 of Law No. 23 of 2001 concerning Child Protection.

The Child Protection Law reads "102 (1) Every child has protection to worship according to his religion. (2) Before a child can make a choice, the religion the child adheres to follows the religion of his parents. In the explanation of Article 42 paragraph (2) of the UUPA, it is explained that children can determine the religion of their choice if the child is sensible and responsible, and fulfills the requirements and procedures in accordance with the provisions of the religion they have chosen, and applicable laws. Thus, all rights and obligations of husband and wife both in ordinary marriages and interfaith marriages are the

same and must comply with the applicable laws and regulations, namely Article 30 to Article 36 of Law Number 1 of 1974 concerning Marriage. However, in implementing the rights and obligations of husband and wife of different religions, it is feared that this will cause disputes between them. Where in a household there are 2 (two) people who are subject to 2 (two) religious laws. as will be the case with parenting patterns, where the child will later embrace which religion he chooses. This can be minimized by negotiating or talking between the husband and wife later.

In Determination Number 122/Pdt.P/2020/PN.PTI, the judge in deciding the case did not grant the petition submitted by the Petitioner. Failure to grant the applicant's request for an interfaith marriage will cause problems. Like the Validity of Marriage, a marriage is invalid and cannot be registered. Invalid marriages have consequences or legal consequences that do not recognize all the legal consequences of marriage. Such as the relationship between husband and wife, both their rights and obligations, as well as the relationship between parents and their future children.

4. CONCLUSION

1) From Determination Number 131/Pdt.P/2021/PN Jkt.Sel regarding the application for permission to register interfaith marriages, it has been stated that the religious marriage in this case was granted by the South Jakarta District Court. This petition was granted because the judge thought that the law did not expressly prohibit interfaith marriages. Apart from that, the decision is based on Article 2 paragraph (1) of the Marriage Law Number 1 of 1974, which in essence, marriage is valid if it is carried out according to the laws of their religion and beliefs. Meanwhile, stipulation Number 122/Pdt.P/2020/PN.PTI is an application for a marriage permit which was not accepted because this application was deemed to contain formal defects because it could provide proof of marriage legally according to Islamic law and Christian priests (lack of documents for submitting an application for an interfaith marriage) so it is unacceptable (niet on vankelijke verklaard).
2) The legal implication of the Court's decision Number 131/Pdt.P/2021/PN Jkt.Sel is that legally there is nothing that states that it is prohibited to carry out interfaith marriages, including the relationship between husband and wife and children born in the marriage that have permanent legal force. Meanwhile, the implication of the Court's decision Number 122/Pdt.P/2020/PN.PTI is that all husband-and-wife activities are not accepted by the applicant.

5. ACKNOWLEDGEMENT

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