

Implications of Interfaith Marriage in the Napu Valley on Guardianship and Inheritance

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ABSTRAK

Marriage is the union of two different persons. This situation itself has certainly become a problem because two different personalities unite to know and understand each other and unite their hearts which is not easy to do, let alone the union of two individuals of different religions who are very prone to conflict. This study aimed to determine the status of guardianship and the process of dividing inheritance from interfaith marriages. This type of research is a case study with a normative, juridical, historical, and cultural sociology approach. The results of this study are: First, the guardianship process is divided into three parts: a) using a guardian judge, b) a guardian from the government, and c) The marriage carried out by a traditional institution with the non-Muslim female parent as guardian. The process of dividing the inheritance is completed through deliberation, and if an agreement cannot be reached, then it is left to the laws of each religion. Second, the status of guardianship in cases of interfaith marriages is considered valid if it is in accordance with the procedures of religious law, and invalid if it violates the rules that have been set. In the context of the validity of a marriage, it is not permissible to give legitimacy to customary institutions to deal with marriage problems. In addition, revisions to the marriage law are primarily done in the section on sanctions for violators.

1. Introduction

Diversity in Indonesia is not only separated by islands because even within the same island is diverse. It is even considered to have the largest cultural diversity in the world, as seen from the geographical area of Indonesia and the various ethnicities, religions, and cultures. (Gina Lestari, 2005). This diversity and plurality allow for cultural contact and association between community groups, which will eventually lead to interfaith marriages for various reasons. Some think that marriage occurs because they consider it a destiny that cannot be changed. Another reason is the lack of understanding of legal provisions, whether the law comes from qath'iy texts or state law.

In addition to the reasons above, there are other reasons for interfaith marriages, among others: (a) Daily association in social life. Indonesia is a heterogeneous society with various ethnicities and religions. Daily life associations without seeing religious differences greatly affect the emergence of feelings of liking for each other that cannot be avoided. (b) Lack of

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religious education. Providing inadequate religious education to children will affect their lives as adults. In the daily association, they do not question the religion they believe in, which will continue to the marriage level. (c) The background of parents who first carried out interfaith marriages will become an example pattern for their children in the future. (d) Freedom in choosing a partner, especially these days, children will choose their partner according to their wishes without being restricted by religion. Frequently, many children choose partners of different religions for reasons of mutual love. (e) The effects of globalization cannot be filtered out. Mixing with foreign cultures for the sake of "prestige" to find a "foreign" partner also encourages the process of interfaith marriages (Jane Marlen Makalew, 2013).

In order to guarantee the benefit of mankind, the state has legally and formally made a set of regulations governing marriage as a norm that must be adhered to and obeyed. In reality, there are many regulations that discuss interfaith marriages, both those that have been promulgated and those through the ideas of experts and scholars. However, many still do not fully comply with these regulations, especially those related to interfaith marriages.

Interfaith marriages, according to Islam, are marriages that are not based on the same creed, and this requires sacrifice because each party maintains the truth of his/her religion. As already mentioned, the problem that might arise in the future as a result of interfaith marriages is guardianship status, which means the guardian for the daughter who is about to get married. The Compilation of Islamic Law (KHI) states that one of the pillars of marriage is a marriage guardian with certain conditions. (KHI Articles 4 and 20).

The Fiqh experts agree that guardians have certain conditions that make a marriage valid: First, maturity (kamal al-ahliyah), which is marked by the age of puberty, intelligence, and independence. Second, similarity in religion. The guardianship of a non-Muslim is invalid over the marriage of a Muslim child or a Muslim parent marrying off his non-Muslim child. Third, the guardian is a male. Fourth, he is fair. Fifth, he is smart. (BP4 Center, 2008). Another problem that arises from interfaith marriages is inheritance law. The mazhab scholars agree that a Muslim cannot inherit a non-Muslim and vice versa. (Abd. Rahman al-Jaziri. 1990).

Poso Regency is a district in Central Sulawesi Province that consists of several sub-districts having various tribes, groups, races, ethnicities, cultures, and religions. This plurality allows the occurrence of cultural contact and association between members of the community, which in the end, can lead to interfaith marriages. Interfaith marriage is a very sensitive matter because it involves belief. After all, the truth in religion is absolute. According to Nasruddin Baidhan, interfaith marriages were very sensitive in the eighties because they were seen as troubling Indonesian Muslims (Nasruddin Baidhan, 2001).

Humans were created as the most perfect creatures among other creatures, so to preserve their life, marriage is prescribed as an institution to obtain offspring blessed by Allah SWT. and according to the instructions of His Messenger as human nature. Theologically normative, this problem can be found in many verses of the Qur'an and the hadith of the Prophet regarding marital problems. In order to guarantee the benefit of mankind, the state has legally and formally made a set of regulations governing marriage as a norm that must be adhered to and obeyed. In reality, there are many regulations that discuss interfaith marriages, both those that have been promulgated and those through the ideas of experts and scholars. However, many still do not fully comply with these regulations, especially those related to interfaith marriages.

From the background of the problem, the focus of this paper is:

- a. How is the process of guardianship and inheritance in the case of interfaith marriages in the Napu Valley, Poso Regency?
- b. How is the status of guardianship in the case of interfaith marriages in the Napu Valley, Poso Regency, from an Islamic Law Perspective?
- c. How is the Inheritance Law in the Case of Interfaith Marriages in the Napu Valley, Poso Regency, from Islamic Law Perspective?

The purpose of this paper is:

- a. To obtain objective data on the process of guardianship and inheritance practices in the case of interfaith marriages in the Napu Valley, Poso Regency. Also, the efforts that can be made to handle this problem so that the practice of interfaith marriages can be minimized and/or will not reoccur, considering the many impacts it causes.
- b. To obtain accurate data on guardianship status in cases of interfaith marriage based on the perspective of Islamic law.
- c. To find out the practice of dividing inheritance in cases of interfaith marriages from the perspective of Islamic law.

2. Literature Review

2.1. Definition

Interfaith Marriage. Marriage means Wedding; celebrations (affairs (etc.) of marriage. While religion is defined as all beliefs. (Indonesian Dictionary, 2006). Interfaith marriages are marriages of Muslim people (male/female) with non-Muslim people (male/female). It can occur between: (a) A Muslim prospective wife and a non-Muslim prospective husband, either ahl al-kitab or mushrik; (b) A Muslim prospective husband and a non-Muslim prospective wife, either ahl al-kitab or mushrik (Abdul Aziz Dahlan, et. Al., 2001). What the researcher means by interfaith marriage is the marriage relationship between one another with different beliefs.

Guardianship and Inheritance. Guardianship comes from the word "guardian", which means the caretaker of the bride. Guardianship is defined as everything regarding the affair of the guardian (Indonesian Dictionary, 2006). While inheritance means people who are entitled to receive inheritance (relics) from people who have died. Inheritance means to inherit. (Indonesian Dictionary, 2006). In Arabic, the word inheritance means fara'id, the science that discusses the problem of dividing inheritance. The word fara'id comes from the word al-fara'id, which is the plural form of the word faridhah. The word faridhah itself comes from the word faradhah which means determination or provision (al-taqdir) from Allah SWT. (Abdul Aziz Dahlan, et. Al., 2001).

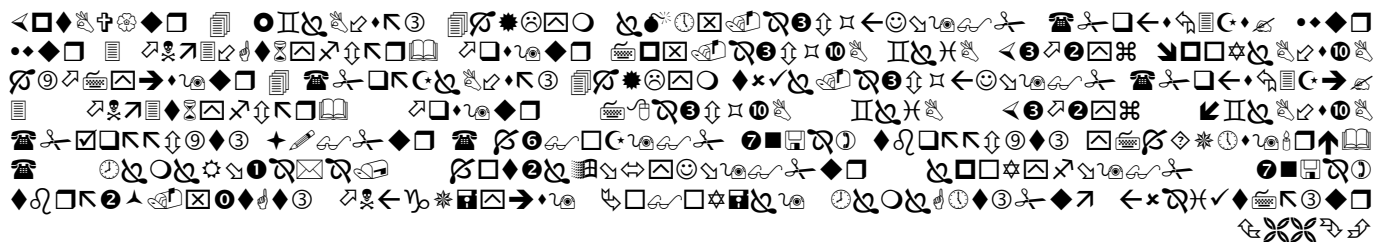
Islamic law means syara, rules, and regulations regarding life, based on the Holy Qur'an and hadith (Indonesian Dictionary, 2006). Islamic law is a set of rules based on the revelation of Allah SWT. and the sunnah of the prophet about the behavior of mukallaf, which is recognized and believed to be valid and binding for all Muslims (Abdul Aziz Dahlan, et. Al., 2001). According to Amir Syarifuddin, Islamic law is a set of regulations based on Allah's revelation and the Sunnah of the Prophet regarding the behavior of Mukallaf that are recognized and believed to be binding on all Muslims (Amir Syarifuddin, 1997)

2.2. Basic Concept of Prohibition of Interfaith Marriage

Interfaith marriage is a physical and spiritual bond between a man and a woman in forming a family through the process of marriage with two different religions.

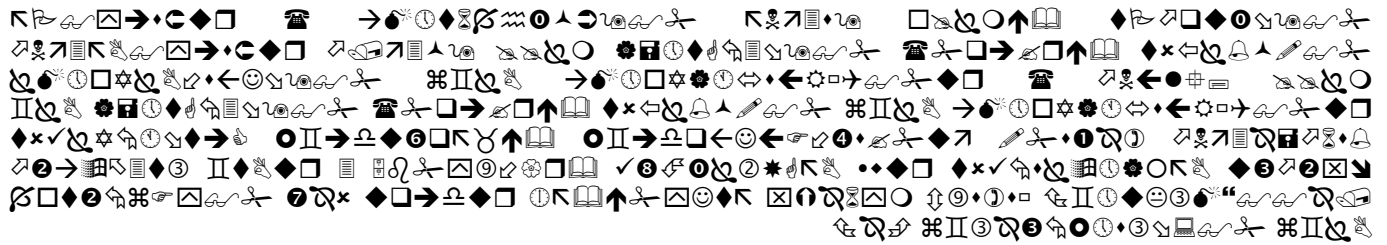
Interfaith marriages reap many fundamental problems, such as the issue of the safety of faith, the safety of the Islamic generation, and the insecurity of family life (Nasrul Umam Syafi'i and Ufi Ulfiah, 2004). This concern is inseparable from religious dogma, which explicitly discusses the issue of interfaith marriage. This can be seen in the word of Allah SWT., as follows:

2.2.1. Q.S. al-Baqarah (2): 221



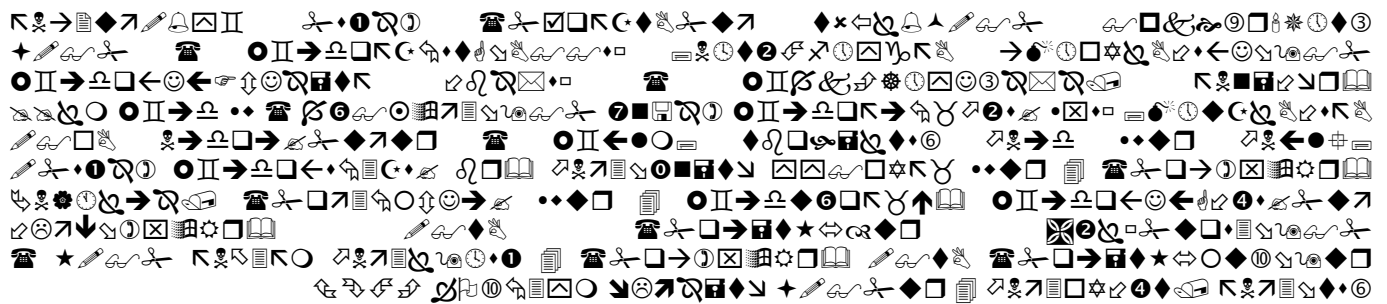
Translation: "And do not marry polytheistic women until they believe. And a believing slave woman is better than a polytheist, even though she might please you. And do not marry polytheistic men [to your women] until they believe. And a believing slave is better than a polytheist, even though he might please you. Those invite [you] to the Fire, but Allah invites to Paradise and to forgiveness, by His permission. And He makes clear His verses to the people that perhaps they may remember".

2.2.2. Q.S. al-Maidah (5): 5.



Translation: “This day [all] good foods have been made lawful, and the food of those who were given the Scripture is lawful for you and your food is lawful for them. And [lawful in marriage are] chaste women from among the believers and chaste women from among those who were given the Scripture before you, when you have given them their due compensation, desiring chastity, not unlawful sexual intercourse or taking [secret] lovers. And whoever denies the faith – his work has become worthless, and he, in the Hereafter, will be among the losers.”

2.2.3. al-Mumthahanah 60): 10.



Translation: “O you who have believed, when the believing women come to you as emigrants, examine them. Allah is most knowing as to their faith. And if you know them to be believers, then do not return them to the disbelievers; they are not lawful [wives] for them, nor are they lawful [husbands] for them. But give the disbelievers what they have spent. And there is no blame upon you if you marry them when you have given them their due compensation. And hold not to marriage bonds with disbelieving women, but ask for what you have spent and let them ask for what they have spent. That is the judgement of Allah; He judges between you. And Allah is Knowing and Wise”.

3. Methodology

This type of research is a case study, which is a form of in-depth research on an aspect of the social environment, including humans (S. Nasution, 2008), using a normative, juridical, historical, and cultural theological approach. The research location is the Napu Valley, Poso Regency. The choice of location for this research was driven by the balance of population according to religion, between Islam, Christianity, and Hinduism, and was driven by geographical location and socio-cultural mobility.

Data collection techniques were through observation, interviews, questionnaires, and documentation. The techniques used in data processing are to collect all the data and then analyze them carefully, with the process of systematically searching and compiling the data obtained by organizing the data into categories and describing it into units, synthesizing, arranging in a pattern, choosing what is important and what will be studied and making conclusions so that they are easy to understand.

4. Results And Discussion

Based on the results of a study conducted by the researcher, interfaith marriages that occur in the Napu Valley, Poso Regency are as follows:

First, the guardianship process is divided into three: a) marriages that occur in conditions of one religion, using a guardian judge, b) marriages that occur by maintaining their respective religious beliefs, using guardians from the government, c) marriages carried out through traditional institutions, the guardians from the parents of non-Muslim women.

Second, the status of guardianship in cases of interfaith marriages. If the marriage is carried out under conditions of one religion, it is done through a Marriage Registrar, using a guardian judge, then the guardianship status from the perspective of Islamic law is valid. However, if the marriage is held under conditions of different religions, whether through the Civil Registry Office or a traditional institution, attended by a lineage guardian or guardian from the government, then the guardianship from an Islamic legal perspective is invalid.

Third, the practice of distributing inheritance is resolved through deliberation, and if an agreement cannot be reached, then it is submitted to the respective religious laws.

5. Conclusion

- a. The process of guardianship, using a lineage guardian/judge if the marriage is carried out in the same religion (Islam). The guardian is from the government if the marriage is carried out by defending their respective religions. If the marriage is carried out through a traditional institution, they use a non-Muslim guardian.
- b. Guardianship status of marriages carried out with different religions in the Islamic perspective is not valid
- c. Distribution of inheritance even though deliberation is the best way. However, in the perspective of Islamic law, it is not allowed because the inheritor and the heir are of different religions.
- d. The researchers hope that interfaith marriages that occur within the jurisdiction of Indonesia can be minimized or do not occur anymore, considering the impact it brings. By looking at the condition of the Napu Valley community, Poso Regency who carry out interfaith marriage practices, the authors recommend:
 - 1) Officers' readiness to disseminate the Law of the Republic of Indonesia Number 1 of 1974. Law of the Republic of Indonesia Number 16 of 2019 concerning Marriage, Presidential Instruction of the Republic of Indonesia Number 1 of 1991 concerning the Compilation of Islamic Law, and Fatwa of the Indonesian Ulema Council concerning Interfaith Marriage and Inheritance of Different Religions,
 - 2) To traditional institutions, not to legitimize interfaith marriages,
 - 3) The government would like to review the Marriage Law by including articles regarding sanctions for parties carrying out interfaith marriages.

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