
THE LEGAL STATUS OF SUPREME COURT CIRCULAR LETTER NO. 2 OF 2023 ON INTERFAITH MARRIAGE

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ABSTRACT

*Interfaith marriage has long been a contested legal and social issue in Indonesia, given the country's cultural diversity, particularly in terms of religion. Article 2, paragraph (1) of Law No. 1 of 1974 concerning Marriage provides that a marriage is valid if it is conducted in accordance with the laws of the respective religions and beliefs of the parties. Another relevant provision is found in Law No. 23 of 2006 concerning Population Administration. The Explanation of Article 35 letter states that "marriages determined by a court" refer to marriages between persons of different religions. Based on these two provisions, interfaith marriage may be understood as being recognized under Indonesian positive law. However, Supreme Court Circular Letter No. 2 of 2023 concerning Guidelines for Judges in Adjudicating Applications for the Registration of Marriages between Persons of Different Religions and Beliefs provides otherwise. In essence, the Circular Letter instructs judges and judicial bodies under the Supreme Court not to grant applications for the registration of marriages between persons of different religions and beliefs. In this context, SEMA No. 2 of 2023 appears to conflict with the Marriage Law and the Population Administration Law, thereby creating a conflict of norms. Such a conflict should be resolved based on the principle of *lex superior derogat legi inferiori*, which means that lower-ranking regulations must not contradict higher-ranking regulations. This study employs a statutory approach and a conceptual approach to examine the normative conflict concerning interfaith marriage under the applicable legal framework in Indonesia.*

Keywords: *Conflict of norms; interfaith marriage; Supreme Court Circular Letter.*

INTRODUCTION

As a state based on law, Indonesia has judicial institutions that play a vital role in upholding justice and legal certainty. Formal dispute resolution is generally carried out through judicial institutions. In performing their functions, courts are tasked with applying the law, including assessing alleged violations of legal norms and regulations. However, legislation as a source of law may contain ambiguous norms or give rise to multiple interpretations. In fact, the purpose of legislation is to ensure legal certainty and provide protection for society.¹ Therefore, where a statutory provision is ambiguous, the Supreme Court has the authority to provide legal interpretation.

The Supreme Court is one of the institutions exercising judicial power in Indonesia, as affirmed in Article 24 of the 1945 Constitution of the Republic of Indonesia. This provision states that the Supreme Court has the authority to adjudicate cases at the cassation level, review laws and regulations below the level of statutes, and exercise other powers granted by law. In addition to these powers, the Supreme Court also has the authority to issue Supreme Court Circular Letters, commonly referred to as SEMA. In essence, SEMA is internal in nature,

¹Wijayanti, W. "The Existence of Law as a Legal Product in the Fulfillment of Justice for the People: Analysis of the Constitutional Court Decision Number 50/PUU-X/2012." *Constitutional Journal* 10, no. 1 (2016): 187.

meaning that it is addressed to courts under the Supreme Court as a guideline or directive for carrying out their duties and functions.²

The Supreme Court issued Supreme Court Circular Letter No. 2 of 2023 concerning Guidelines for Judges in Adjudicating Applications for the Registration of Marriages between Persons of Different Religions and Beliefs on July 17, 2023. The substance of the Circular Letter emphasizes that judges and judicial bodies under the Supreme Court should not grant applications for the registration of marriages between persons of different religions and beliefs.

The issuance of SEMA No. 2 of 2023 has generated public debate and controversy. Interfaith marriage is not a new practice in Indonesia and has often attracted attention from various groups with different backgrounds and perspectives, resulting in both support and opposition. Some have even argued that SEMA No. 2 of 2023 may hinder efforts to promote religious moderation.

The 1945 Constitution of the Republic of Indonesia recognizes marriage as a legal act protected by law and as part of the human rights guaranteed to every citizen. This is reflected in Article 28B paragraph (1), which states that every person has the right to form a family and continue their lineage through a lawful marriage. This provision serves as the constitutional basis for marriage regulation in Indonesia. Accordingly, lawmakers enacted Law No. 1 of 1974 concerning Marriage to address the legal needs of society in relation to the implementation of marriage and to ensure legal certainty in marriage matters. Within this legal framework, Article 2 paragraph (1) of the Marriage Law is particularly important, as it provides that a marriage is valid if it is conducted in accordance with the laws of the respective religions and beliefs of the parties.³ This provision indicates that Indonesian law may provide legal space for the recognition of interfaith marriage.

In addition to the above provision, another legal basis concerning marriage is found in Law No. 23 of 2006 concerning Population Administration, particularly Article 35 letter a. The Explanation of this article states that “marriages determined by a court” refer to marriages between persons of different religions.⁴

Following the issuance of Supreme Court Circular Letter No. 2 of 2023 concerning Guidelines for Judges in Adjudicating Applications for the Registration of Marriages between Persons of Different Religions and Beliefs, a legal question arises as to whether a Supreme Court Circular Letter may prohibit interfaith marriages that have been regulated by statute. When viewed in light of the hierarchy of laws and regulations as stipulated in Law No. 12 of 2011 concerning the Formation of Laws and Regulations, the Supreme Court Circular Letter occupies a position below statutory law. Therefore, SEMA No. 2 of 2023 may conflict with the principle of *lex superior derogat legi inferiori*, which provides that lower-ranking regulations must not contradict higher-ranking regulations. This condition gives rise to a legal issue in the form of a conflict of norms, namely a conflict between applicable legal provisions.

The legal issue in this case, namely the conflict of norms, cannot be separated from Hans Kelsen’s theory of *Stufenbautheorie*. This theory seeks to construct a universal framework for understanding the hierarchical structure of legal norms. Kelsen’s idea was later developed by Hans Nawiasky through the theory of *von Stufenbau der Rechtsordnung*, which explains that legal norms within a state are not only systematically arranged but also stratified and layered, from the highest norm to the lowest norm.

²Fajarwati, Meirina. “The Validity of the Supreme Court Circular Letter (SEMA) Number 7 of 2014 concerning the Submission of Review in Criminal Cases Reviewed from the Perspective of Law Number 30 of 2014 concerning Government Administration.” *Indonesian Legislative Journal* 14, no. 2 (2017): 146.

³Sekarbuana, Made Widya, et al. “Interfaith Marriage in the Perspective of Human Rights in Indonesia.” *Journal of Legal Preferences* 2, no. 1 (2021): 17.

⁴Yunus, Fakhurrizi M., et al. “Interfaith Marriage in Law Number 23 of 2006 concerning Population Administration: Review of Islamic Law.” *Journal of Sharia Media* 20, no. 2 (2018): 140.

According to this theory, legal norms within a state are grouped into several levels: the fundamental norm of the state (*staatsfundamentálnorm*), the basic rules of the state (*staatsgrundgesetz*), formal laws (*formell gesetz*), and implementing or autonomous regulations (*verordnung* and *autonome satzung*).⁵ In this context, lower legal norms derive their validity from, and must be based on, higher legal norms, ultimately leading to the highest norm, known as the basic norm (*grundnorm*). According to Hans Kelsen, this reflects a dynamic system of norms, in which laws are created and repealed by authorized institutions in accordance with their respective powers. Therefore, lower norms may only be formed on the basis of higher norms. In this way, the legal system is structured in stages and layers, forming a hierarchy of legal norms.⁶

This research is expected to contribute to academic discussions and serve as a reference for future studies on related issues. It is also expected to provide practical benefits for law enforcement officials in Indonesia, particularly in addressing legal issues concerning Supreme Court Circular Letter No. 2 of 2023 and its conformity with the Marriage Law and the Population Administration Law in relation to interfaith marriage. In addition, this study aims to offer an updated argument regarding the legal position of Supreme Court Circular Letters, particularly whether such circular letters may override the hierarchy of laws and regulations applicable in Indonesia.

Based on the above discussion, this article examines the legal position of Supreme Court Circular Letter No. 2 of 2023 concerning Interfaith Marriage. More specifically, it analyzes interfaith marriage from the perspective of Law No. 1 of 1974 concerning Marriage and Law No. 23 of 2006 concerning Population Administration, as well as the position of Supreme Court Circular Letter No. 2 of 2023 within Indonesia's hierarchy of laws and regulations.

METHODS

This study employs a normative legal research method to examine legal norms contained in laws and regulations. Normative legal research is based on theories, principles, legal concepts, and statutory regulations relevant to the legal issues discussed in this study. This study uses three approaches: the statutory approach, the conceptual approach, and the case approach. First, the statutory approach is used to comprehensively understand and analyze laws and regulations relevant to the legal issues examined in this study, such as Law No. 1 of 1974 concerning Marriage. Second, the conceptual approach is used to examine doctrinal views in legal scholarship, particularly legal concepts and principles relevant to the issue under study. Third, the case approach is used to analyze the application of legal norms in court decisions, such as Decision No. 423/Pdt.P/2023/PN Jkt.Utr.⁷

ANALYSIS AND DISCUSSION

Interfaith Marriage Reviewed from Law Number 1 of 1974 concerning Marriage and Law Number 23 of 2006 concerning Population Administration

Marriage is a bond between a man and a woman as husband and wife, aimed at forming a happy and harmonious household in which both parties support and complement each other. The solemnization of marriage must be based on legal requirements recognized by

⁵Muhtadi. "The Application of Hans Kelsen's Theory in the Indonesian Legal Order." *Fiat Justitia Journal of Legal Sciences*, 2012.

⁶Aziz, Syamsuddi. *The Process and Techniques of Law Drafting*. Jakarta: Sinar Grafika, 2011.

⁷*Ibid.*

both religion and the state. In Indonesia, marriage is primarily regulated by Law No. 1 of 1974 concerning Marriage. This law plays an important role in determining the validity of marriage, as stipulated in Article 2 paragraph (1), which provides that a marriage is valid if it is conducted in accordance with the laws of the respective religions and beliefs of the parties. This provision affirms that there is no valid marriage outside the religious laws and beliefs adhered to by the parties. In this context, the 1945 Constitution of the Republic of Indonesia may be interpreted as recognizing the laws of each religion and belief, including the statutory provisions applicable to those religious and belief communities, provided that they do not conflict with or are not otherwise regulated by law.

Furthermore, Article 2 paragraph (2) of Law No. 1 of 1974 emphasizes that every marriage must be registered in accordance with the applicable laws and regulations. Thus, the validity of a marriage must be determined by reference to the religious laws and beliefs of the respective parties, as recognized under the Marriage Law. Therefore, Indonesian citizens who wish to marry are required to comply with the provisions of the religious law they adhere to. For example, Muslims must solemnize marriage in accordance with Islamic law. The same principle applies to adherents of other religions, such as Protestantism, Catholicism, Hinduism, Buddhism, and Confucianism.

However, Law No. 1 of 1974 also regulates marriage prohibitions based on religion or other applicable legal provisions. This is stipulated in Article 8 letter f, which provides that marriage is prohibited between two persons whose relationship is prohibited from marriage by their religion or other applicable regulations. Thus, the validity of a marriage depends on the parties' compliance with the provisions of positive law and the religious laws they adhere to.

Some of the religious views related to marriage are as follows:⁸

a. Islamic View

According to the Islamic view, interfaith marriage is not permitted unless both prospective spouses adhere to the same religion, namely Islam. This provision is regulated under Islamic law, particularly Article 40 of the Compilation of Islamic Law, which prohibits marriage between a man and a woman where one of the parties is not Muslim. Based on this provision, it can be concluded that Islam does not permit interfaith marriage.

b. Protestant Christian View

The Protestant Christian view is generally similar to the Islamic view in that it does not permit interfaith marriage. This prohibition is reflected in the Bible, particularly 2 Corinthians 6:14, which states: "Do not be unequally yoked with unbelievers. For what partnership has righteousness with lawlessness?" Based on this verse, Protestant Christianity encourages marriage between persons who share the same faith or belief.

c. Catholic Christian View

According to the Catholic view, a marriage is considered valid if it is solemnized and blessed by Church officials in accordance with all applicable marriage procedures and requirements, and is witnessed by two witnesses. A marriage may be considered invalid if one of the prospective spouses is not Catholic. Thus, it can be concluded that Catholicism, in principle, does not justify interfaith marriage.

⁸Satriawan, I Gusti Ayu Evarini. "The Legal Arrangement of Interfaith Marriage Reviewed from the Marriage Law." *Kertha Negara Journal* 10, no. 1 (2022): 4.

d. Hindu View

In the Hindu view, a marriage is considered valid if it is conducted in accordance with Hindu religious ceremonies and legal provisions. Marriages that are not performed according to Hindu religious rites and rituals are considered invalid. In addition, under Balinese customary law, marriage must comply with both the Marriage Law and Hindu religious law. Therefore, Hinduism generally does not approve of interfaith marriage among its adherents.

e. Buddhist View

Unlike the previous religions, Buddhism does not require both prospective spouses to be Buddhists as a legal requirement for marriage. In Buddhism, interfaith marriage is not necessarily viewed as an obstacle, provided that the marriage is performed according to Buddhist rites, namely in the name of the Buddha, the Dharma, and the Sangha.

f. Confucian View

In Confucian teachings, there is no provision that expressly prohibits interfaith marriage. In the Confucian tradition, the concept of *Li Yuan* is known as a marriage between a Confucian man and woman. Nevertheless, Confucianism may, in principle, justify marriage between persons of different religions. Therefore, interfaith marriage is not absolutely prohibited.

According to Abdul Hafidz, interfaith marriage refers to a marriage between persons who adhere to different religions. Meanwhile, Hilman Hadikusuma defines interfaith marriage as a marriage between a man and a woman who hold different religious beliefs, while each party continues to maintain his or her own religion.⁹

Interfaith marriage is closely related to Law No. 1 of 1974 concerning Marriage and other relevant legislation, particularly Law No. 23 of 2006 concerning Population Administration, commonly referred to as the Population Administration Law. Article 35 letter a of the Population Administration Law provides that marriage registration also applies to marriages determined by a court. The Explanation of this article states that “marriages determined by a court” refer to marriages between persons of different religions. Based on this provision, it can be argued that the Population Administration Law provides legal space or a legal mechanism for the registration of interfaith marriages.

However, the Explanation of Article 35 letter a of the Population Administration Law was submitted for judicial review before the Constitutional Court. The petitioners argued that the Explanation of the article was contrary to the constitutional and philosophical values contained in Article 29 paragraph (1) of the 1945 Constitution of the Republic of Indonesia and the first principle of Pancasila, as reflected in the Preamble to the 1945 Constitution. The petitioners interpreted Indonesia as a state based on religious values, which constitute one of the constitutional foundations for the life of the nation and the state.

In his legal considerations, Constitutional Justice Saldi Isra stated that the principle of Indonesia as a state based on law must be understood from the perspective of the 1945 Constitution. According to this view, Indonesia is a state based on law that places belief in the One and Only God as a fundamental principle and recognizes religious values as a foundation in the life of the nation and the state. Indonesia is therefore not a country that strictly separates religion from the state, nor does it fully adhere to individualism or communalism.¹⁰

Constitutional Court Decision No. 71/PUU-XX/2022 subsequently became an important basis for strengthening the legal position of interfaith marriage. In the *a quo* decision, the

⁹Markus, Elia Juan, et al. “Analysis of the Implementation of Interfaith Marriage in Indonesia.” *Journal of Law to-ra* 9, no. 1 (2023): 25.

¹⁰*Ibid.*

Constitutional Court declared the petitioners' application inadmissible, as it did not conflict with the provisions of the 1945 Constitution. However, even after Constitutional Court Decision No. 71/PUU-XX/2022, many Indonesian citizens continued to submit applications for interfaith marriage.¹¹

According to the Marriage Law, the validity of a marriage is determined by whether it is conducted in accordance with the religious laws and beliefs of the respective parties. In relation to interfaith marriage, religious and belief systems differ in their views: some permit it, while others prohibit it. Therefore, the Marriage Law may be understood as opening the possibility of interfaith marriage within certain limits. This provision may also operate alongside the Population Administration Law, which provides a mechanism for registering interfaith marriages through a court determination.

An example of the mechanism for registering interfaith marriages through a court determination can be found in Decision No. 423/Pdt.P/2023/PN Jkt.Utr. In this case, the judge granted the application for the registration of an interfaith marriage. The decision was based, among other considerations, on Article 35 letter a of the Population Administration Law, which provides that marriages determined by a court include marriages between persons of different religions. The judge also referred to Article 50 paragraph (3) of Ministerial Regulation No. 108 of 2019, which states that marriages between persons of different religions, as well as marriages that cannot be proven by a marriage certificate, may be registered based on a court determination. In addition, the petitioners had conducted a Catholic marriage ceremony on February 1, 2023, at St. John Bosco Parish Church, Danau Sunter, Diocese of Jakarta. Based on the relevant statutory provisions and the fact that the marriage ceremony had already been conducted, the judge determined that the interfaith marriage could be registered after obtaining a determination from the North Jakarta District Court.¹²

In addition to the case discussed above, the mechanism for registering interfaith marriages through court determinations in Indonesia can also be seen in Decision No. 141/Pdt.P/2023/PN Yyk. In the *a quo* decision, the judge granted the application for interfaith marriage filed by Yuan Carera and Angelia Giovanni Susanto. The judge's legal considerations were based on several grounds, including the constitutional right of citizens to form a family under Article 28B paragraph (1) of the 1945 Constitution of the Republic of Indonesia, the freedom to embrace a religion under Article 29 paragraph (2) of the 1945 Constitution, and Article 35 letter a of Law No. 23 of 2006 concerning Population Administration, which provides legal space for marriage registration based on a court determination. In addition, the judge also considered sociological aspects, particularly the need to ensure legal certainty in population administration for interfaith couples.¹³

Under Indonesian positive law, the Marriage Law does not specifically regulate the registration of interfaith marriages. However, the Population Administration Law provides a mechanism for the registration of interfaith marriages by requiring the parties to submit an application to the District Court in order to obtain a court determination.¹⁴

In principle, rejecting the validity of interfaith marriage in Indonesia may be considered discriminatory, as it is inconsistent with the fundamental principles of human rights, particularly the right of Indonesian citizens to freedom of religion. Article 29 paragraph (2) of the 1945 Constitution affirms that "the State guarantees the freedom of every citizen to embrace his or

¹¹*Ibid.*

¹²Hutapea, Manna Hasiholan Paris. "Analysis of the Validity of Interfaith Marriage Based on the Court's Determination of Interfaith Marriage after the Birth of SEMA Number 2 of 2023." *Rewang Rencang: Lex Generalis Legal Journal* 5, no. 6 (2024): 11.

¹³Agus Dwi Prasetyawan, (2025), "Review of the Registration of Interfaith Marriages (Study of the Decision of the Yogyakarta District Court Number 141/Pdt.P/2023/PN. Yyk)", Thesis, University of Muhammadiyah Yogyakarta, p. xii.

¹⁴*Ibid.*

her own religion and to worship according to his or her religion and belief.” This article serves as the legal basis for the protection of religious freedom in Indonesia. Religious freedom is understood as a fundamental right; therefore, state interference must be limited and justified by law.

Based on the discussion above, it can be concluded that the 1945 Constitution of the Republic of Indonesia is the written basic law and the highest source of law in Indonesia. Article 28B paragraph (1) of the 1945 Constitution grants Indonesian citizens the right to enter into marriage and form a family. This constitutional right is binding on all state institutions, including judicial bodies. Therefore, courts in Indonesia that examine and resolve legal issues concerning interfaith marriage must refer to and comply with the highest source of law, namely the 1945 Constitution of the Republic of Indonesia.

Legal Position of Supreme Court Circular Letter Number 2 of 2023 in the Laws and Regulations System in Indonesia

The Supreme Court Circular Letter is classified as a policy regulation (*beleidsregel*) because it is explicitly addressed to judges, clerks, and other judicial officers within the judicial bodies under the Supreme Court. Policy regulations (*beleidsregel*) are a consequence of the implementation of the rule-of-law principle. They take the form of policies or guidelines issued by authorized officials in the context of government administration.¹⁵ Another characteristic of policy regulations is that they are not directly binding as laws and regulations, although they still have legal relevance. Policy regulations provide guidance on how a state administrative body exercises governmental authority (*beschikking bevoegdheid*).¹⁶ Therefore, it can be said that the issuance of SEMA 2 of 2023 will affect every organ in the Judiciary.

However, a weakness of policy regulations is that they are not directly binding in the same way as laws and regulations. To have legal relevance, policy regulations must be based on the exercise of discretion by authorized officials. Without such discretion, policy regulations do not have an independent position within the legal system and function only as internal guidelines for the exercise of governmental authority.

The Supreme Court Circular Letter is not expressly recognized within the hierarchy of laws and regulations in Indonesia. Article 7 paragraph (1) of Law No. 12 of 2011 concerning the Formation of Laws and Regulations sets out the types and hierarchy of laws and regulations as follows: (1) the 1945 Constitution of the Republic of Indonesia; (2) Decrees of the People’s Consultative Assembly; (3) Laws/Government Regulations in Lieu of Laws; (4) Government Regulations; (5) Presidential Regulations; (6) Provincial Regional Regulations; and (7) Regency/City Regional Regulations.¹⁷

In legal theory, several principles govern the hierarchy of laws and regulations. First, higher-ranking laws and regulations may serve as the legal basis for lower-ranking regulations. Second, lower-ranking laws and regulations must derive their authority from higher-ranking laws and regulations. Third, in terms of substance, laws and regulations must not deviate from or contradict higher-ranking laws and regulations. Fourth, a law or regulation may be repealed, replaced, or amended by a higher-ranking regulation, or at least by a regulation of equal rank. Fifth, where two regulations govern the same subject matter, the newer regulation

¹⁵Cahyadi, Irwan Adi. “The Legal Position of the Supreme Court Circular Letter in Positive Law in Indonesia.” *Brawijaya Law Student Journal*, 2014, 3.

¹⁶Hadjon, P. M. *Introduction to Indonesian Administrative Law*. Yogyakarta: Gadjah Mada University Press, 2002, 24.

¹⁷Indonesia. *Law No. 12 of 2011*. LN of 2011 No. 82, TLN No. 5234, Article 7.

prevails, even if it does not expressly repeal the older regulation. In addition, specific rules take precedence over general rules.¹⁸

When examined in relation to Supreme Court Circular Letter No. 2 of 2023, the Circular Letter serves as a guideline for judges. One of its provisions instructs courts not to grant applications for the registration of marriages between persons of different religions and beliefs.¹⁹ The substance of SEMA No. 2 of 2023 has therefore generated controversy regarding its position within the hierarchy of laws and regulations, as it intersects with higher-ranking legal instruments, namely Law No. 1 of 1974 concerning Marriage, Law No. 23 of 2006 concerning Population Administration, and the 1945 Constitution of the Republic of Indonesia.

Provisions concerning the validity of marriage are regulated in Article 2 paragraph (1) of Law No. 1 of 1974, which provides that a marriage is valid if it is conducted in accordance with the laws of the respective religions and beliefs of the parties. This provision indirectly places the validity of marriage within the framework of the religious laws and beliefs of each party. Furthermore, Article 35 letter a of the Population Administration Law provides that marriage registration also applies to marriages determined by a court. The Explanation of this article states that “marriages determined by a court” refer to marriages between persons of different religions. Thus, these two laws may be understood as providing legal space for interfaith marriage.

In addition, Article 28B paragraph (1) of the 1945 Constitution of the Republic of Indonesia grants Indonesian citizens the right to marry and form a family. This right is binding on all state institutions. This provision is also closely related to Article 29 paragraph (2) of the 1945 Constitution, which affirms that the state guarantees the freedom of every citizen to embrace his or her own religion and to worship according to his or her religion and belief. This article serves as the legal basis for the protection of religious freedom in Indonesia. Religious freedom is understood as a fundamental right; therefore, state interference must be limited and justified by law.

However, SEMA No. 2 of 2023 prohibits courts from granting applications for the registration of interfaith marriages. This prohibition raises legal issues because it appears to conflict with the principles governing the formation of laws and regulations, particularly the principle that the substance of lower-ranking regulations must not contradict higher-ranking regulations. This condition demonstrates a lack of synchronization among the Marriage Law, the Population Administration Law, SEMA No. 2 of 2023, and the 1945 Constitution of the Republic of Indonesia. Such disharmony may create legal uncertainty for couples who intend to enter into interfaith marriages.

The conflict of norms is inconsistent with the principle of *lex superior derogat legi inferiori*, which provides that higher-ranking laws and regulations prevail over lower-ranking regulations. According to Peter Mahmud Marzuki, the principle of *lex superior derogat legi inferiori* applies where two or more laws and regulations govern the same subject matter, in which case the higher-ranking regulation must take precedence over the lower-ranking regulation.²⁰ Meanwhile, Bagir Manan and A.A. Oka Mahendra explain that this principle emphasizes that laws and regulations with a higher hierarchical position prevail over lower-ranking regulations, except where the higher-ranking regulation expressly delegates regulatory authority to the lower-ranking regulation.²¹

¹⁸Huda, Ni'matul. “The Position of Regional Regulations in the Hierarchy of Laws and Regulations.” *Legal Journal* 13, no. 1 (2006): 33.

¹⁹Supreme Court. *Supreme Court Circular Letter concerning Instructions for Judges in Adjudicating Cases of Marriage Registration Applications Between Religions and Beliefs*. SEMA No. 2 of 2023.

²⁰Marzuki, Peter Mahmud. *Legal Research*. Jakarta: Kencana Prenada Media Group, 2013, 139.

²¹Mustika, Chindyva Thalia, et al. “The Application of the Principle of *Lex Superior Derogat Legi Inferiori* in the Settlement of Public Information Disputes.” *Journal of Banua Law Review* 3, no. 1 (2021): 95.

Based on the explanation above, this study argues that SEMA No. 2 of 2023, which is hierarchically positioned below statutory law, conflicts with higher-ranking laws and regulations, particularly the Marriage Law, the Population Administration Law, and the 1945 Constitution of the Republic of Indonesia in the context of interfaith marriage regulation. The enactment of SEMA No. 2 of 2023 therefore fails to provide legal certainty for interfaith marriages. In principle, the government should review the legal framework governing interfaith marriage by considering whether the prohibition violates the human rights of prospective spouses and whether it is consistent with the Constitution.

CONCLUSION

Rejecting the validity of interfaith marriage in Indonesia may be considered discriminatory because it is inconsistent with the fundamental principles of human rights, particularly the right of Indonesian citizens to freedom of religion. The 1945 Constitution of the Republic of Indonesia is the written basic law and the highest source of law in Indonesia. Article 28B paragraph (1) of the 1945 Constitution grants Indonesian citizens the right to marry and form a family. This constitutional right is binding on all state institutions, including judicial bodies. Therefore, courts in Indonesia that examine and resolve legal issues concerning interfaith marriage must refer to and comply with the highest source of law, namely the 1945 Constitution of the Republic of Indonesia. In relation to SEMA No. 2 of 2023, the Circular Letter is hierarchically positioned below statutory law. Therefore, it may be considered inconsistent with higher-ranking laws and regulations, particularly the Marriage Law, the Population Administration Law, and the 1945 Constitution of the Republic of Indonesia, in the context of interfaith marriage regulation. As discussed above, this normative conflict creates legal uncertainty regarding the recognition and registration of interfaith marriages in Indonesia.

This study suggests that lawmakers should affirm and harmonize the relevant regulations by revising Law No. 1 of 1974 concerning Marriage. Such revision is necessary to avoid conflicts of norms and legal uncertainty in judicial practice in Indonesia, as well as to ensure the protection of citizens' constitutional rights in matters of marriage. Considering that the 1945 Constitution of the Republic of Indonesia is the written basic law and the highest source of law in Indonesia, Article 28B paragraph (1) of the 1945 Constitution, which grants Indonesian citizens the right to marry and form a family, must be respected by all state institutions. Therefore, interfaith marriage in Indonesia should be legally recognized within a clear and harmonized regulatory framework. Law enforcement officials and judicial bodies are also advised to adhere to the principle of the hierarchy of laws and regulations when examining and deciding cases concerning interfaith marriage in Indonesia.

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