

Interfaith and Inter-Customary Marriage: A Study of Legal Pluralism and Legal Certainty in Indonesia

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ABSTRACT: Indonesia is a religiously and culturally plural nation where marriage law is governed by state legislation, religious law, and customary (*adat*) law. This legal pluralism generates tension with legal certainty, particularly in interfaith and inter-customary marriages. This article examines how legal pluralism shapes the regulation of such marriages in Indonesia and how it can be reconciled with legal certainty. Using a normative juridical method with statutory, conceptual, and case approaches, the study analyzes primary legal materials including Law No. 1/1974 as amended by Law No. 16/2019, the Compilation of Islamic Law, Constitutional Court Decisions No. 68/PUU-XII/2014 and No. 97/PUU-XIV/2016, and Supreme Court Circular Letter (SEMA) No. 2/2023 alongside secondary literature. The results reveal that Indonesian marriage law remains a layered system where national statutes, religious doctrines, and customary norms coexist and compete. Consequently, judicial decisions on registering interfaith marriages remain inconsistent. While intended to unify judicial practice, SEMA No. 2/2023 creates new normative conflicts with constitutional guarantees regarding legal certainty and family formation. The article concludes that legal certainty requires a calibrated harmonization strategy that respects diversity while offering clear, predictable, and rights-respecting procedural pathways for interfaith and inter-customary couples.

Keywords: *Legal Pluralism, Legal Certainty, Interfaith Marriage, Inter-Customary Marriage, Marriage Law*

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I. INTRODUCTION

Indonesia is often described as the most religiously and culturally diverse nation-state in Southeast Asia, a condition captured in the national motto *Bhinneka Tunggal Ika* ("Unity in Diversity"). This diversity is not merely demographic; it is embedded in the structure of the legal system itself. Since the colonial period, Indonesian law has never operated as a single, unified body of rules applicable uniformly to every citizen. Instead, it has developed as a layered arrangement in which customary law (*hukum adat*), religious law, and state-made law coexist, overlap, and at times compete for authority over the same social relationships (Murdan, 2016). Nowhere is this layered structure more visible or more consequential for individual citizens than in the law of marriage.

Marriage in Indonesia is not treated purely as a private civil contract between two individuals. Article 1 of Law Number 1 of 1974 concerning Marriage defines marriage as a physical and spiritual bond between a man and a woman intended to form a happy and eternal family based on belief in one Supreme God, and Article 2(1) provides that a marriage is valid only if it is performed according to the laws of each party's own religion and belief (Ashsubli, 2016). This formulation was itself the product of a long and contested legislative history. Before the enactment of the 1974 Marriage Law, marriage in the Dutch East Indies was governed by a population-based system of legal pluralism: Europeans were subject to the *Burgerlijk Wetboek*, foreign Asians followed adapted civil provisions, and the indigenous population lived under a patchwork of customary and religious law that varied by region and ethnic group (Alfurqon et al., 2026). Successive waves of Islamic legal influence beginning with the Compendium Freijer under the Dutch administration and continuing through post-independence regulations on the registration of marriage, divorce, and reconciliation layered religious authority on top of the surviving customary substratum (Suradilaga, 2022). The 1974 Marriage Law was intended to unify this fragmented landscape into a single national marriage law, yet the legislative compromise that produced it deliberately preserved religious pluralism by making the validity of marriage contingent on compliance with each citizen's own religious law, while civil registration was retained as an administrative, rather than constitutive, requirement (Mubarok, 2012). Read against the longer arc of Islamic marriage law's formation in the archipelago, this outcome was less a rupture than a continuation of a pattern in which state authority repeatedly accommodated, rather than replaced, existing religious and customary practice (Wiranata, Ismail, & Alimi, 2022).

This settlement was itself the outcome of a protracted institutional struggle stretching from the colonial-era Freijer compendium through the post-independence marriage-registration statutes to the eventual codification of Islamic family law in the Compilation of Islamic Law, a trajectory that scholars of Indonesian Islamic family law describe as moving "from the Old Order to the Reform Order" without ever fully displacing the plural substratum beneath it (Rajafi, 2018). This compromise has proved durable but incomplete. It resolved the question of which religious law governs a marriage between two people of the same faith, but it left largely unanswered the question of what happens

when the parties do not share the same religion, or when the marriage is contracted according to customary rites that diverge from, or are only partially recognized by, both state law and organized religion. Interfaith marriage defined here as marriage between two Indonesian citizens who profess different officially recognized religions has never been explicitly regulated by the Marriage Law, a silence that has generated decades of inconsistent judicial practice (Wirarajasena, 2025). One direct and often overlooked consequence of this unsettled status concerns inheritance: because classical Islamic inheritance doctrine treats religious difference between an heir and the deceased as a bar to inheritance, spouses and children in interfaith marriages routinely face disputes over inheritance rights that Indonesian courts have historically resolved only through the discretionary doctrine of *wasiat wajibah* (obligatory bequest), itself an ad hoc judicial workaround rather than a settled statutory rule (Tohari & Hazyimara, 2023). District courts have sometimes granted judicial authorization (*penetapan*) allowing interfaith couples to register their marriages, treating Article 35(a) of Law Number 23 of 2006 on Population Administration, which permits the registration of marriages “determined by a court,” as a residual legal basis; other courts and the Supreme Court itself, most notably in Decision Number 1400 K/Pdt/1986, have refused to recognize such unions on the ground that Article 2(1) of the Marriage Law admits no exception for religious difference (Wirarajasena, 2025). The Constitutional Court entrenched this restrictive reading in Decision Number 68/PUU-XII/2014, unanimously rejecting a judicial review petition that sought to have interfaith marriage recognized as constitutionally protected, on the reasoning that the freedom to marry under Article 28B(1) of the 1945 Constitution is not absolute but is bounded by the religious character of marriage validity under Article 2(1) (Mulyadi & Yunanto, 2016). That decision did not, however, end the practice of judicial authorization at the district court level, and the resulting inconsistency between the Constitutional Court’s constitutional pronouncement and continuing district-court practice has left interfaith couples, their children, and civil registries in a state of persistent uncertainty regarding the legal status, inheritance rights, and matrimonial property regime attached to such unions (Setiawati, Noor, & Bangas, 2025).

The Supreme Court attempted to resolve this uncertainty in 2023 by issuing Circular Letter (*Surat Edaran Mahkamah Agung, SEMA*) Number 2 of 2023, which instructs judges not to grant petitions for the registration of interfaith marriages, effectively foreclosing the judicial-authorization pathway that many interfaith couples had relied upon (Herdiana & Ekawati, 2024). While SEMA 2/2023 was framed as a technical guideline intended to produce uniformity among judges and thereby strengthen legal certainty, its substantive effect has been to create a new layer of normative conflict: it sits uneasily alongside Article 28B(1) and Article 29 of the 1945 Constitution, alongside the non-discrimination guarantees of Law Number 39 of 1999 on Human Rights, and alongside the continuing divergence between district courts that regard themselves as bound by the circular and those that, in specific cases such as the North Jakarta District Court’s 2023 determination, have continued to grant registration on constitutional grounds (Hermanto, 2024). The pluralism of marriage law in Indonesia, in other words, has not

been resolved by unification; it has instead migrated from the register of substantive law (which religion governs the marriage) to the register of institutional authority (which body legislature, Constitutional Court, Supreme Court, or district court has the final word).

A parallel but distinct dimension of pluralism concerns customary, rather than religious, difference. Indonesia's more than three hundred *adat* communities organize marriage according to divergent kinship structures patrilineal, matrilineal, and parental each of which generates its own marriage forms, prohibitions, and validation rituals (Wahyuni et al., 2026). Patrilineal communities such as the Batak and Lampung practice *perkawinan jujur* (bridewealth marriage), in which the payment of customary goods transfers the bride into the husband's kin group; matrilineal communities such as the Minangkabau practice *perkawinan semenda*, in which the husband is incorporated into the wife's kin group; and communities organized on a parental or bilateral basis, common in Java and much of Sumatra, practice more autonomous forms of marriage in which extended kin exercise less formal control (Wahyuni et al., 2026). These customary structures generate their own internal prohibitions on intermarriage that are independent of, and sometimes stricter than, religious law. The Minangkabau prohibition on *kawin sasuku* marriage between two people belonging to the same matrilineal clan (*suku*) is a paradigmatic example: because Minangkabau descent and social identity run through the maternal line, marrying within one's own *suku* is treated as tantamount to incest even where no consanguineous relationship exists and where Islamic law, the community's professed religion, imposes no such bar (Nugroho, Mufidah, & Suwandi, 2022). Couples who violate this customary prohibition can face serious informal sanctions, including social ostracism and loss of customary inheritance rights, notwithstanding that their marriage may be entirely valid under both national law and Islamic law (Nugroho, Mufidah, & Suwandi, 2022). This customary prohibition endures in part because Minangkabau *adat* is popularly understood to be tightly interwoven with Islamic norms under the local maxim that "custom is founded on Islamic law, and Islamic law is founded on the Qur'an," a fusion that in practice extends the philosophy of Adat Basandi Syarak, Syarak Basandi Kitabullah well beyond matters explicitly regulated by religion (Asrinaldi & Yoserizal, 2020). A comparable tension exists in mixed-*adat* marriages, where the parties belong not merely to different clans but to entirely different customary law communities for instance a Batak partner practicing patrilineal *jujur* marriage and a Minangkabau partner practicing matrilineal *semenda* marriage raising unresolved questions about which customary regime governs matrimonial property, inheritance, and the status of children (Harahap, 2019). Although Constitutional Court Decision Number 97/PUU-XIV/2016 extended civil registration to marriages performed according to indigenous belief systems (*penghayat kepercayaan*), thereby strengthening legal certainty for one previously marginalized category of customary and belief-based marriage, it did not resolve the broader question of how conflicting *adat* regimes are to be reconciled when spouses come from different customary law communities (Wahyuni et al., 2026).

Taken together, these two dimensions of pluralism interfaith and inter-customary illustrate a structural problem in the Indonesian legal system that Sally Engle Merry, in her classic formulation of legal pluralism theory, described as the situation in which “two or more legal systems coexist in the same social field,” each claiming some form of binding authority (Merry, 1988). Indonesian marriage law is a textbook instance of this phenomenon: national statute, Islamic law as codified in the Compilation of Islamic Law, other religious laws, and a plurality of customary regimes all claim jurisdiction over the same event a marriage without a single, settled hierarchy for resolving conflicts among them. The normative consequence is a chronic deficit of what Gustav Radbruch identified as *Rechtssicherheit*, legal certainty: the assurance that legal subjects can predict, *ex ante*, which rules will govern their situation and what legal consequences will follow (Muslih, 2017). For interfaith and inter-customary couples in particular, this deficit is not an abstract jurisprudential curiosity but a lived reality with concrete consequences for the validity of their marriage, the legitimacy and inheritance rights of their children, and the recognition of their matrimonial property regime.

Building on this background, the present study addresses two central research questions. First, how does legal pluralism manifest in the regulation of interfaith and inter-customary marriage in Indonesia, both historically and in current positive law? Second, what is the nature of the tension between this pluralism and the constitutional and statutory demand for legal certainty, and through what mechanisms might that tension be reduced without erasing the legitimate diversity that pluralism is meant to protect? The novelty of this study lies in its integrated treatment of interfaith and inter-customary marriage as two expressions of a single underlying structural problem rather than as separate, unrelated topics and in its use of legal pluralism theory as an analytical bridge between doctrinal analysis of marriage law and the normative theory of legal certainty. The objective of the article is accordingly twofold: to map the pluralistic architecture of Indonesian marriage law as it bears on cross-religious and cross-customary unions, and to evaluate, from the standpoint of legal certainty theory, the adequacy of existing legal and quasi-legal instruments particularly the Constitutional Court’s jurisprudence and SEMA Number 2 of 2023 in resolving the resulting uncertainty.

II. METHOD

This study employs a normative juridical (*juridis normatif*) research method, appropriate for doctrinal legal research that treats law as a system of norms requiring internal analysis rather than as a social fact to be measured empirically. Three complementary approaches are used. The statutory approach (statute approach) is used to examine the relevant positive legal instruments, principally Law Number 1 of 1974 on Marriage as amended by Law Number 16 of 2019, the Compilation of Islamic Law (Kompilasi Hukum Islam), Law Number 23 of 2006 on Population Administration as amended by Law Number 24 of 2013, and Law Number 39 of 1999 on Human Rights. The conceptual approach (conceptual approach) is used to analyze the theoretical constructs of legal pluralism, as developed by Sally Engle Merry (1988), and legal certainty, as developed by Gustav Radbruch and

elaborated in subsequent Indonesian legal-theoretical literature (Muslih, 2017). The case approach (case approach) is used to analyze relevant judicial and quasi-judicial products, including Constitutional Court Decision Number 68/PUU-XII/2014 concerning the constitutionality of Article 2(1) of the Marriage Law, Constitutional Court Decision Number 97/PUU-XIV/2016 concerning the registration of belief-based marriage, Supreme Court Decision Number 1400 K/Pdt/1986, and Supreme Court Circular Letter Number 2 of 2023.

The data used in this research are exclusively secondary legal data, classified into three categories. Primary legal materials consist of the statutes, codifications, and judicial decisions listed above. Secondary legal materials consist of books, peer-reviewed journal articles, and academic commentary that discuss legal pluralism, legal certainty, and the regulation of interfaith and customary marriage in Indonesia, drawn principally from journals accredited under the Indonesian Science and Technology Index (Sinta) and internationally indexed publications. Tertiary legal materials consist of legal dictionaries and encyclopedic references used to clarify technical terminology. Data collection was conducted through library research (*studi kepustakaan*), involving the systematic tracing and compilation of statutory texts, court decisions, and scholarly literature relevant to the research questions.

The collected data were analyzed using a qualitative, descriptive-analytical method. This involved, first, a descriptive reconstruction of the historical and current legal framework governing interfaith and inter-customary marriage in Indonesia; second, a conceptual analysis that situates this framework within the theoretical vocabulary of legal pluralism and legal certainty; and third, an evaluative synthesis in which the identified tensions between pluralism and certainty are assessed against the normative benchmark of legal certainty theory, in order to formulate an argument regarding the direction that harmonization should take. This method is consistent with established practice in Indonesian normative legal scholarship on marriage law and legal pluralism (Sudirman & Herawati, 2025; Abbas et al., 2018).

III. RESULT AND DISCUSSION

Legal Pluralism in the Regulation of Interfaith and Inter-Customary Marriage in Indonesia

The first finding of this study is that Indonesian marriage law, notwithstanding the unifying ambition of the 1974 Marriage Law, remains a genuinely plural legal field in which national statute, religious law, and customary law operate as parallel and only partially integrated normative orders. This pluralism is most sharply visible, and most consequential, precisely in the cases that fall between the cracks of the dominant same-religion, same customary community paradigm around which the law was originally drafted: interfaith marriage and inter-customary marriage.

With respect to interfaith marriage, the pluralism operates along two axes. The first is doctrinal: Article 2(1) of the Marriage Law subordinates the validity of marriage entirely

to religious law, but Indonesia officially recognizes six religions: Islam, Protestantism, Catholicism, Hinduism, Buddhism, and Confucianism, each of which applies its own substantive rules regarding whether, and under what conditions, marriage to an adherent of a different faith is permissible. Because the state statute does not itself define a uniform rule for interfaith unions, it effectively delegates the question to religious law, and because the religious communities do not agree among themselves, the result is not harmonization but the importation of inter-religious doctrinal disagreement directly into state law (Ashsubli, 2016). The second axis is institutional: successive state bodies have offered conflicting answers to the resulting gap. The Supreme Court's 1989 decision in the case underlying Decision Number 1400 K/Pdt/1986 refused registration; several district courts nonetheless granted registration under Article 35(a) of the Population Administration Law throughout the 2000s and 2010s; the Constitutional Court in 2014 closed off the constitutional avenue by upholding Article 2(1) against a rights-based challenge (Mulyadi & Yunanto, 2016); and yet district-court practice continued to diverge even after that decision, illustrated by the North Jakarta District Court's 2023 determination authorizing registration in a specific case notwithstanding the Constitutional Court's earlier ruling (Hermanto, 2024). This layered institutional disagreement is a paradigm case of what Merry (1988) calls the coexistence of multiple legal orders within a single social field: religious law, national statute, constitutional adjudication, and ordinary judicial practice each assert authority over the same transaction without a settled meta-rule for resolving conflicts among them.

With respect to inter-customary marriage, the pluralism operates somewhat differently, because customary law in Indonesia does not present itself as a single alternative system to state law but as a mosaic of locally specific kinship regimes. The patrilineal, matrilineal, and parental kinship systems identified in the ethnographic and legal literature each generate distinct marriage forms: *jujur*, *semenda*, and various forms of autonomous or "free" marriage together with distinct rules on matrimonial property, post-marital residence, and inheritance (Wahyuni et al., 2026). Historically, these customary regimes possessed the status of living law, binding within their communities independently of formal state recognition, and the 1974 Marriage Law did not displace them so much as layer national statutory requirements principally civil registration on top of continuing customary validation rituals (Wahyuni et al., 2026). The persistence of the *kawin sasuku* prohibition among the Minangkabau is instructive precisely because it shows that customary pluralism can generate restrictions that are independent of, and even more stringent than, the couple's shared religion: two Minangkabau Muslims marrying within the same matrilineal clan face no impediment whatsoever under Islamic law or under the Marriage Law, yet they face a serious customary impediment rooted in the logic of matrilineal descent, on the theory that co-*suku* members are functionally "siblings" regardless of the absence of a biological relationship (Nugroho, Mufidah, & Suwandi, 2022). Comparable customary marriage prohibitions and preferences shaped by *adat* logics of descent, inheritance, and social order rather than by religious doctrine recur

across other regions, including in South Tapanuli, where Islamic law and Angkola-Batak customary law interact in complex and sometimes competing ways in the regulation of marriage (Harahap, 2019).

Where the two axes of pluralism intersect that is, in inter-customary marriages that also involve differences of *adat* linked religious practice, or in marriages where one party belongs to a customary community with strong marriage prohibitions and the other does not the resulting normative uncertainty compounds. A prospective bride and groom from different customary law communities cannot straightforwardly determine which customary property regime, if any, will govern their marriage, because Indonesian conflict of *adat* laws doctrine remains underdeveloped relative to the more heavily litigated question of interfaith marriage (Wahyuni et al., 2026). Historically, this problem was mitigated by the fact that customary communities were largely endogamous, and marriage typically occurred within a single *adat* jurisdiction; but rising geographic and social mobility, along with increased urban intermarriage between members of different ethnic and customary groups, has made inter-*adat* marriage an increasingly common, rather than exceptional, occurrence (Alfurqon et al., 2026). The overall picture that emerges from this first finding, then, is one of what might be called structural pluralism without a conflict-of-laws framework: Indonesian marriage law recognizes, in principle, the coexistence of religious and customary normative orders, but it has not developed a systematic mechanism comparable to private-international-law conflict rules for determining which order governs when the parties' religious or customary affiliations diverge.

The Tension Between Legal Pluralism and Legal Certainty, and the Search for Harmonization

The second and central finding of this study concerns the relationship between this structural pluralism and the principle of legal certainty. Following Radbruch's classical formulation, legal certainty (*Rechtssicherheit*) requires that law provide order and predictability, allowing legal subjects to know in advance what rules apply to their conduct and what consequences will follow (Muslih, 2017). Radbruch treated legal certainty as one of three basic values of law, alongside justice (*Gerechtigkeit*) and expediency (*Zweckmässigkeit*), values that stand in permanent tension with one another and that a mature legal system must continually balance rather than resolve once and for all (Muslih, 2017). Applied to Indonesian marriage law, this framework helps explain why the persistence of pluralism in the interfaith and inter-customary domain is experienced by affected citizens not as a benign accommodation of diversity but as a genuine deficit of legal certainty.

The clearest evidence of this deficit is the decades-long inconsistency in judicial treatment of interfaith marriage registration. Prior to 2023, an interfaith couple's ability to have their marriage recognized depended less on a stable body of substantive law than on which district court they approached, which judge heard their petition, and how that

judge chose to interpret the relationship between Article 2(1) of the Marriage Law and Article 35(a) of the Population Administration Law (Wirarajasena, 2025). This is precisely the kind of unpredictability that legal certainty theory identifies as corrosive of the rule of law: two couples in materially identical situations could receive opposite legal outcomes depending on the forum, a result inconsistent with even a minimal conception of formal equality before the law (Setiawati, Noor, & Bangas, 2025).

The Supreme Court's issuance of SEMA Number 2 of 2023 can be understood as an attempt to resolve precisely this deficit by imposing top-down uniformity: rather than leaving the question to divergent district court interpretation, the circular instructs all judges not to grant petitions for the registration of interfaith marriage, thereby seeking to eliminate forum-dependent variation (Herdiana & Ekawati, 2024). Understood in *Radbruch's* terms, SEMA 2/2023 represents a deliberate choice to prioritize *Rechtssicherheit* through uniform application over the case by case pursuit of substantive justice for individual interfaith couples a choice consistent with *Radbruch's* own observation that legal certainty sometimes requires the sacrifice of individualized outcomes in favor of predictable general rules (Muslih, 2017). Yet this study's analysis suggests that SEMA 2/2023 has not, in fact, delivered the legal certainty it promises, for at least three reasons.

First, a circular letter of the Supreme Court is not itself legislation; it is an internal administrative instruction directed at judges, and it does not formally amend Article 2(1) of the Marriage Law or Article 35(a) of the Population Administration Law. Because the underlying statutory ambiguity that produced decades of divergent rulings has not been legislatively resolved, SEMA 2/2023 functions as a policy override rather than a genuine harmonization of the conflicting norms leaving open the possibility, realized in practice, that individual judges may still interpret their constitutional and statutory obligations differently in specific cases, as occurred in the North Jakarta District Court's 2023 determination permitting registration notwithstanding the circular (Hermanto, 2024). Second, SEMA 2/2023 has generated a new and arguably more serious form of normative conflict: rather than reconciling religious law, national statute, and customary practice, it has placed a Supreme Court administrative circular into direct tension with constitutional guarantees under Article 28B(1) (the right to found a family) and Article 28J(1) read together with the non-discrimination provisions of Law Number 39 of 1999 on Human Rights, generating a fresh and unresolved dispute over the relative hierarchical authority of circular letters, statutes, and the Constitution itself (Herdiana & Ekawati, 2024). Third, and most fundamentally, SEMA 2/2023 addresses only the procedural question of civil registration; it does nothing to resolve the underlying substantive pluralism concerning which religious or customary law should govern the validity of an interfaith or inter-customary union in the first place. It suppresses the symptom of forum shopping and inconsistent registration outcomes without treating the underlying disease of unresolved normative pluralism, and in doing so risks pushing interfaith couples toward informal or

extraterritorial marriage strategies such as marrying abroad or engaging in nominal religious conversion that themselves generate new forms of legal uncertainty regarding the recognition of foreign marriages and the sincerity of religious status (Herdiana & Ekawati, 2024).

A comparable, if less acute, pattern of unresolved tension characterizes inter-customary marriage. Here, however, this study identifies a partially successful model of harmonization from which broader lessons can be drawn: Constitutional Court Decision Number 97/PUU-XIV/2016, which extended the right to civil registration to marriages performed according to indigenous belief systems (*penghayat kepercayaan*) that had previously been excluded from the “religion” column of the population administration system (Wahyuni et al., 2026). That decision is instructive precisely because it did not attempt to erase customary and belief-based pluralism by forcing adherents of indigenous belief systems into one of the six officially recognized religions; instead, it created a distinct, clearly defined administrative category “belief” (*kepercayaan*) alongside “religion” (*agama*) that preserved the substantive diversity of belief-based marriage practice while providing a predictable procedural pathway to state recognition. Subsequent regulation, including Government Regulation Number 40 of 2019, has further specified the procedural requirements for belief based marriage officiants, thereby converting what had previously been an area of significant legal uncertainty into a comparatively well defined administrative process (Wahyuni et al., 2026). This example suggests that legal certainty in a plural legal field need not require the suppression of substantive diversity; it can instead be achieved by clarifying the procedural rules through which diverse substantive practices gain state recognition, leaving the underlying religious or customary content of the marriage largely intact.

By contrast, the persistence of unresolved conflict of *adat* laws problems for inter-customary marriages between members of different kinship systems for example, between a party from a patrilineal *jujur* practicing community and a party from a matrilineal *semenda* practicing community illustrates the cost of failing to develop an equivalent procedural framework. Because Indonesian law has not articulated clear default or choice of law rules for such unions, questions regarding matrimonial property regime, post-marital kin affiliation of children, and inheritance remain governed by an ad hoc negotiation between the customary norms of the two families involved, with no authoritative state mechanism for resolving disagreement (Wahyuni et al., 2026). This gap is compounded by the persistence of highly localized prohibitions, such as the Minangkabau bar on *kawin sasuku*, which continue to be enforced through informal social sanction even though they have no counterpart in either national law or the couple’s shared religion, producing a further category of citizens whose marriages are legally valid under state and religious law but socially precarious under customary law (Nugroho, Mufidah, & Suwandi, 2022).

Read together, these findings support a central theoretical conclusion. Legal certainty in Indonesia's marriage law cannot realistically be achieved and, on the evidence of SEMA 2/2023, has not in fact been achieved by attempting to override substantive pluralism through blunt administrative uniformity. Doing so merely relocates uncertainty from the courts to the constitutional and human rights domain, and from formal law to informal practices of legal evasion. The more promising path, illustrated by the belief based marriage jurisprudence following Decision Number 97/PUU-XIV/2016, is to accept religious and customary pluralism as a durable feature of Indonesian society and to invest instead in clear, predictable, and rights-consistent procedural frameworks: statutory clarification of the relationship between Article 2(1) of the Marriage Law and Article 35(a) of the Population Administration Law, an explicit legislative or judicially developed choice of law framework for inter-customary marriages, and a formal legal status short of full validation under a single religious or customary regime for interfaith unions that at minimum protects the inheritance rights and legal status of children born within them. Such an approach would not eliminate pluralism, which is neither possible nor, from the standpoint of respecting Indonesia's constitutional commitment to religious and cultural diversity, desirable; but it would convert an unstructured pluralism that currently generates unpredictable outcomes into what might be called a managed pluralism, in which diversity of substantive norms is preserved while the procedural pathway to legal certainty is clarified and stabilized for every citizen, regardless of the religious or customary community into which they are born or into which they choose to marry.

IV. CONCLUSION

This study set out to examine how legal pluralism shapes the regulation of interfaith and inter-customary marriage in Indonesia and how the resulting tension with legal certainty might be addressed. The analysis shows that Indonesian marriage law has, from the colonial period to the present, never achieved genuine unification; it remains a layered system in which national statute, religious law, and a plurality of customary regimes coexist and periodically conflict, a condition most visible in interfaith and inter-customary unions that fall outside the same religion, same community paradigm around which the 1974 Marriage Law was principally designed. This pluralism produces a demonstrable deficit of legal certainty: decades of inconsistent judicial practice on interfaith marriage registration, a Constitutional Court ruling that closed the constitutional avenue without resolving the underlying statutory ambiguity, a Supreme Court circular letter (SEMA 2/2023) that has generated new constitutional tension rather than genuine harmonization, and an underdeveloped framework for resolving conflicts between divergent customary marriage regimes, exemplified by the persistence of localized prohibitions such as the Minangkabau bar on *kawin sasuku*. The comparatively more successful accommodation of belief based marriage following Constitutional Court Decision Number 97/PUU-XIV/2016 suggests, however, that legal certainty and legal pluralism are not inherently irreconcilable: certainty can be pursued not by suppressing substantive diversity but by clarifying the procedural pathways through which diverse

religious and customary marriage practices obtain predictable state recognition. Future legal reform in this field whether through legislative amendment of the Marriage Law, the development of an explicit inter *adat* choice of law framework, or the formulation of a distinct legal status for interfaith unions that protects the rights of children should accordingly be guided by the principle of managed pluralism rather than forced uniformity, so that Indonesia's constitutional commitment to religious and cultural diversity and its constitutional commitment to legal certainty can be realized together rather than at one another's expense.

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