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## Legal Protection for Endogamous Marriages of The Ahmadiyya Cogregation in Manislor Village: A Perspective of Law No. 1 of 1974

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### ABSTRACT

Administrative and social issues in the registration and recognition of endogamous marriages of the Ahmadiyya Community in Manislor Village reflect tensions between state legal norms and socio-religious conditions. According to Law Number 1 of 1974, the validity of a marriage is determined by the applicable religious law and must be registered to ensure legal certainty. However, in practice, the Ahmadiyya Community of Manislor Village faces administrative and social problems related to marriage registration. This study aims to analyze the conformity of the endogamous marriage practices of the Ahmadiyya Community with national legal regulations and to evaluate the importance of legal protection that the state should provide. Using a juridical-sociological and qualitative approach, this research employs a statutory and empirical framework, supported by field data collected in Manislor Village. The results of the study show that, normatively, there is no explicit prohibition on endogamy, but weak enforcement and a mismatch between law and social practice create legal uncertainty. This study concludes that legal protection is needed not to legitimize certain religious teachings, but to ensure citizens' constitutional rights to recognition and legal certainty in family life. This research contributes by formulating a non-discriminatory administrative framework in marriage registration for religious minority groups based on the theory of legal pluralism.

**Keywords:** Endogamous Marriage; Ahmadiyya Congregation; Marriage Law

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## A. INTRODUCTION

The existence of the Indonesian Ahmadiyya Congregation (JAI) in the religious context of Indonesia is part of a social process that has been ongoing since 1925 and received legal status from the Indonesian government in 1953.<sup>1</sup> Although its theological status is often debated, from a sociological perspective, Ahmadiyah is a group of citizens who exist, interact, and form social structures within Indonesian society. Throughout its history, the Ahmadiyya community has often experienced rejection, discrimination, or attacks.<sup>2</sup> and administrative restrictions that directly affect the fulfillment of their civil rights. One important issue that arises concerns the registration of marriages, especially in the implementation of marriages of the Ahmadiyya Congregation in Manislor Village, which is one of the largest bases of the Ahmadiyya Congregation. This issue is important because marriage is not only a religious institution but also a legal one.

Normatively, the legal system in Indonesia has established a fairly clear framework regarding the regulation of marriage through Law Number 1 of 1974 concerning Marriage. The law states that a marriage is valid if it's conducted in accordance with the laws of each religion or belief and registered in accordance with the applicable regulations.<sup>3</sup> This regulation covers two main aspects, namely the recognition of religious authority in determining the validity of marriage and the state's responsibility to ensure legal certainty through registration. However, in practice, the implementation of this norm is inconsistent. In the case of the Ahmadiyah congregation in Manislor Village, marriage registrations are hindered by issues related to their religious status.

This issue is closely related to the broader socio-political context, including the impact of the 2005 Fatwa of the Indonesian Ulema Council (MUI), which considers Ahmadiyah a deviant sect.<sup>4</sup> Although juridically a fatwa does not have the binding force of statutory regulations, in practice, it has a significant influence in providing direction and guidance for some officials and the public, especially regarding the treatment of the Ahmadiyya congregation. The impact's not only symbolic but also administrative, particularly in public services such as marriage registration. This situation creates a conflict between legal norms that guarantee equality and

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<sup>1</sup> Javier Ikram Wiradinata, Elly Esra Kudubun, and Antik Tri Susanti, "Fenomena Labeling Kafir dan Sesat Terhadap Komunitas Jemaat Ahmadiyah dan Pengaruhnya dalam Kehidupan Sosial Para Anggotanya," *Sosmaniora (Jurnal Ilmu Sosial dan Humaniora)* 4, no. 3 (2025): 814.

<sup>2</sup> Thomas Rizki Ali, Bowo Sugiarto, and Ahmad Sabiq, "Strategi Bertahan Kelompok Minoritas Agama Menghadapi Diskriminasi: Pengalaman Jemaat Ahmadiyah Indonesia Banjarnegara Jawa Tengah," *NUANSA Jurnal Penelitian Ilmu Sosial dan Keagamaan Islam* 19, no. 2 (2022): 148.

<sup>3</sup> Pasal 2 Undang-Undang Nomor 1 Tahun 1974 Tentang Perkawinan.

<sup>4</sup> Denden Matin Dayyin and Ahmad Zuhdi Ismail, "Analisis Fatwa MUI Tentang Pelarangan dan Penyesatan Kepada Kelompok Ahmadiyah di Indonesia," *Jurnal Iman dan Spiritualitas* 2, no. 4 (2022): 478.

administrative practices influenced by the majority's religious interpretation, resulting in a gap between written law and its implementation.

In this context, the practice of endogamous marriage among the Ahmadiyya Congregation has complex aspects. On one hand, endogamy's a socio-religious choice to maintain community integration, preserve identity, and safeguard the continuity of faith amid external pressures.<sup>5</sup> From the perspective of legal sociology, this practice represents a form of minority adaptation within a non-inclusive environment. However, when dealing with the state administrative system, issues of recognition and registration arise, affecting the family's legal status. Thus, endogamy in the context of Ahmadiyah is not only theological-cultural in nature but also concerns human rights and legal protection.

Several previous studies have analyzed the practice of endogamous marriage from various perspectives. Sahrul Hidayatullah, in his article, analyzed Ahmadiyah endogamous marriages in Yogyakarta from the perspective of Maqashid Al-Shariah and highlighted the importance of religious protection (hifz al-din) as a normative foundation. This study has theological strengths, but it has not linked its analysis within the framework of national positive law and human rights.<sup>6</sup> The similarity between this study and Sahrul's research lies in their shared focus on the practice of endogamous marriage within the Ahmadiyya congregation and on internal motivations as well as normative foundations. The difference is that Sahrul employs a theological maqashid sharia approach, whereas this study uses a juridical-sociological approach that integrates positive law and human rights. On the other hand, Anita Rosdiana et al. examine endogamous marriage in indigenous communities from a human rights perspective and highlight the conflict between collective rights and individual rights, but they do not discuss the context of religious minorities and national marriage law.<sup>7</sup> This study's similarity to Anita's research lies in the discussion of endogamy practices as a social phenomenon and the limitations in partner selection. The difference is that Anita focuses on indigenous communities and a human rights perspective, whereas this study emphasizes religious minority communities (Ahmadiyah) and their relation to national marriage law. Meanwhile, Hafida Ilma Fatuha discusses the normative aspects of fiqh and the Compilation of Islamic Law (KHI), but pays less attention to the empirical dimension and the protection of civil

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<sup>5</sup> Mirza Bashiruddin Mahmud, *Riwayat Hidup Mirza Ghulam Ahmad* (Bogor: Jemaat Ahmadiyah Indonesia), 31.

<sup>6</sup> Sahrul Hidayatullah, "Pernikahan Endogami Jemaat Ahmadiyah Yogyakarta Perspektif Maqashid Al-Shari'ah," *Al-Hukama: The Indonesian Journal of Islamic Family Law* 12, no. 2 (2022).

<sup>7</sup> Anita Rosdiana, et al., "Perkawinan Endogami di Desa Tenganan dalam Perspektif Hak Asasi Manusia," *JIHHP: Jurnal Ilmu Hukum, Humaniora dan Politik* 5, no. 3 (2025).

rights in state administrative practices.<sup>8</sup> This study is similar to Hafida's research in its examination of endogamous marriage practices from the perspective of Islamic law. The difference is that Hafida's work is normative, whereas this study integrates a normative-empirical approach and relates it to national law and human rights. This review highlights the need for a comprehensive analysis that not only assesses the normative legitimacy of endogamy practices but also their impact on the protection of national law.

There's a research gap regarding the integration of religious law, national law, and human rights principles based on empirical data. This study addresses that gap through a juridical-sociological approach, analyzing the normative legitimacy of endogamous marriage, evaluating its implementation within national law, and formulating a framework for non-discriminatory administrative protection for religious minorities. Its significance lies in balancing theoretical and practical aspects: theoretically, it contributes to the development of legal pluralism; practically, it is relevant to public administration, particularly the registration of minority marriages, by assessing the effectiveness of non-discrimination and equality principles in practice.

Based on this background, this study aims to analyze the practice of endogamous marriage among the Ahmadiyya congregation in Manislor Village in accordance with Law Number 1 of 1974, identify administrative and social obstacles to marriage registration, and formulate fair and equitable legal protection. Using a juridical-sociological approach, this research is expected to contribute to legal pluralism theory and provide policy recommendations to strengthen the civil rights of minority groups. The research questions in this study are as follows: (1) How are the practices of endogamous marriage and administrative obstacles for the Ahmadiyya congregation in Manislor? (2) How's the synchronization of state law with social realities in this practice?

## **B. RESEARCH METHODS**

This research employs a qualitative approach, employing a socio-legal research design that draws on the social sciences as a supporting tool, with a main focus on positioning law as a pattern of human behavior.<sup>9</sup> and examines law both as a norm and as a social practice. This method was chosen because the research emphasizes the interaction between positive legal norms, specifically Law Number 1 of 1974, and the practice of endogamous marriages within the Ahmadiyya Congregation in Manislor

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<sup>8</sup> Hafida Ilma Maftuha, "Polemik Efek Positif dan Negatif Pernikahan Endogami Perspektif Syafiiyah dan Kompilasi Hukum Islam (KHI)," *Sakina: Journal of Family Studies* 5, no. 3 (2021).

<sup>9</sup> Muhammad Chairul Huda, *Metode Penelitian Hukum (Pendekatan Yuridis Sosiologis)* (Semarang: The Mahfud Ridwan Institute, 2021), 22.

Village. Theoretically, a socio-legal approach is used to analyze the gap between written law and its implementation from the perspective of legal pluralism. The research informants numbered five people, consisting of 2 members of the Ahmadiyya Congregation who have entered into endogamous marriages, 1 congregation administrator, and 2 local community leaders.

The data sources consist of primary and secondary data. Primary data were obtained through in-depth interviews with informants selected through purposive sampling, including administrators of the Ahmadiyah congregation, married couples, and community leaders. Informant criteria included: (1) having in-depth knowledge of Ahmadiyah endogamous marriages; (2) having directly experienced the marriage registration process; (3) being active in the local organizational structure of the Ahmadiyah Indonesian Congregation (JAI). Secondary data were obtained through a review of legal and regulatory sources, such as the Compilation of Islamic Law and Law Number 3 of 1999 on Human Rights, as well as relevant academic literature and court decisions. The research was conducted in Manislor Village, Jalaksana Subdistrict, Kuningan Regency, as the center of the Ahmadiyah Indonesian Congregation community. Data collection was conducted through in-depth interviews, with the researcher serving as the primary instrument. The research stages included problem identification, data collection, analysis, and systematic conclusion drawing to produce findings that are comprehensive both normatively and empirically.

## C. RESULTS AND DISCUSSION

### 1. Administrative Obstacles Regarding Endogamous Marriage of Ahmadiyah Community in Manislor Village, Kuningan Regency

The concept of endogamous marriage within the Ahmadiyya Community in Indonesia is not closely tied to the historical and theological dynamics that have shaped it since its emergence in India in the late 19th century.<sup>10</sup> This practice emerged in response to a fatwa issued by Indian religious scholars declaring marriages between Ahmadis and non-Ahmadis invalid, thereby triggering social isolation. In response, in 1989, the Ahmadiyya Community theologically prohibited marriages outside the community, with the consequence of expulsion from membership for violations – a penalty that could lead to social isolation. However, under state law, marriages that do not follow the Ahmadiyya's internal regulations may still be deemed valid as long as they meet the pillars and requirements of marriage based on religious principles.<sup>11</sup> This phenomenon indicates the potential

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<sup>10</sup> Iskandar Zulkarnain, *Gerakan Ahmadiyah di Indonesia* (Yogyakarta: LKiS Yogyakarta, 2005), 169.

<sup>11</sup> Umar Haris Sanjaya, Agus Yudha Hernoko, and Prawitra Thalib, "Prinsip Masalahah pada Putusan Mahkamah Konstitusi Terhadap Perkawinan bagi Umat Beragama dan Penghayat Kepercayaan," *Jurnal Hukum Ius Quia Iustum* 28 no. 2 (2021): 274.

for conflict between a community's internal legal norms and state regulations. This situation reflects the complexity of the relationship between state entities, religious principles, and internal community laws within the framework of legal pluralism.

In this context, the Ahmadiyya Community's internal regulations prohibiting marriage outside the community not only reflect a form of legal autonomy but also entail clear organizational consequences. This is reflected in the statement by Mizra Masroor Ahmad (the Fifth Caliph), who said:

"If a member of the committee displays a rebellious attitude and announces her intention to marry a non-Ahmadi man, and even after being warned and advised, she disregards such advice, then she must be expelled from the community. It is the duty of the congregation, and the authorized officials must report the case to the central office and recommend that the person be expelled (from the congregation)".<sup>12</sup>

This normative basis was reaffirmed in a letter from Khalifatul Masih V to the Sadr of the Lajnah Imaillah Indonesia dated December 6, 2003.<sup>13</sup> This serves as the primary reference in the Ristha Nata (Matchmaking) system. The letter explicitly prohibits Ahmadi women from marrying non-Ahmadi men and establishes disciplinary mechanisms within the organization. Thus, marriage is viewed not only as a social contract but also as a theological event that shapes one's religious identity and organizational loyalty.

Institutionally, the practice of endogamy is facilitated by Ristha Nata, a matchmaking agency that helps parents find suitable partners for their children and handles marriage-related matters.<sup>14</sup> The wedding process includes the proposal, the wedding ceremony, the post-wedding celebration, and the wedding feast, guided by principles of simplicity and the involvement of religious or congregational leaders.<sup>15</sup> In practice, the marriage ceremony is still conducted with the assistance of a marriage officiant from the Office of Religious Affairs (KUA), and is therefore officially recognized under national law.

However, the main issue arises at the marriage registration stage. Normatively, Law Number 1 of 1974 on Marriage does not provide a legal basis for refusing the registration of a marriage based on religious affiliation or differences within Islam. Article 2 of the law states that a marriage is considered valid if it is conducted according to each party's religion and is registered in accordance with

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<sup>12</sup> *Pedoman Ristha Nata (Perjodohan)* (Bogor: Sekretaris Ristha Nata PB-Jemaat Ahmadiyah Indonesia, 2020), 39.

<sup>13</sup> *Pedoman Ristha Nata (Perjodohan)*, 15.

<sup>14</sup> Hidayatullah, "Pernikahan Endogami Jemaat Ahmadiyah Yogyakarta Perspektif Maqashid Al-Shari'ah," 2.

<sup>15</sup> *Pedoman Ristha Nata (Perjodohan)*, 21.

statutory regulations.<sup>16</sup> Nevertheless, according to informants, since around 2003, there has been administrative refusal of marriage registration for Ahmadiyah residents at the Jalaksana Subdistrict Office of Religious Affairs (KUA).

This refusal emerged as a result of increasing social pressure on the Ahmadiyah community in 2002–2003, especially following a seminar at Istiqlal Mosque, which reinforced negative public perceptions. This pressure continued administratively when BAKORPAKEM (Coordinating Board for Monitoring Mystical Beliefs in Society) of Kuningan District issued three letters in 2003, which, according to informants, ordered investigations into Ahmadiyah civil servants, denied issuance of ID cards, and withheld marriage registration at KUA Jalaksana. Although the archive letters are missing, their impact is still felt significantly by the Ahmadiyah Congregation.<sup>17</sup> While verification of physical documents is not possible, the effects of these policies can be traced through interviews with informants with direct experience. Methodologically, this is a recognized limitation, but the absence of documents does not negate the existence of discriminatory practices, as evidenced by the consistency and mutual corroboration of informant testimony. Thus, this research records the “collective memory” of the Ahmadiyah community as important empirical data in legal and social studies.

Since then, the Ahmadiyah community in Manislor has faced difficulties in registering marriages at the local KUA. They have had to resort to administrative strategies, such as temporarily changing domicile to process ID cards and family cards, and to register marriages in other areas, before returning to Manislor after obtaining the marriage certificate. Legally, this procedure is valid, but sociologically, it reflects unequal access to public services and rights that should be universal.<sup>18</sup> This phenomenon demonstrates a gap between formal legal norms and local administrative practices. Although the study did not obtain precise quantitative data regarding Ahmadiyah marriages in Manislor, including those using the domicile change strategy, the findings remain qualitatively valid due to the consistency of informant testimony and recurring patterns that reflect the community’s social reality.

The issue of marriage registration also intersects with population administration as regulated by Law Number 24 of 2013 on Population Administration. At the start of the E-KTP (electronic ID card) program, there were refusals and delays in recording the data of Ahmadiyah citizens due to interference

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<sup>16</sup> Pasal 2 Undang-Undang Nomor 1 Tahun 1974 Tentang Perkawinan.

<sup>17</sup> Yusuf Ahmadi, “Wawancara: Kepala Desa Manislor 2007-2019 sekaligus Ketua JAI Manislor Periode 2019-2022,” 1 Januari 2026.

<sup>18</sup> Asal Wahyuni Erlin Mulyadi, et al., “Pemahaman dan Penerapan Inklusi Sosial dalam Pelayanan Publik di Tingkat Desa,” *Musamus Journal of Public Administration* 7, no. 2 (2025): 253.

by certain parties.<sup>19</sup> After data recording, the issuance of E-KTPs was delayed because of controversy over the religion column, including proposals to leave it blank or remove “Islam,” reflecting the state’s symbolic efforts to shape Ahmadiyah religious identity. Resolution was achieved only in 2017 through negotiations with the Director General of Population and Civil Registration and local stakeholders, influenced by the MUI’s (Indonesian Ulema Council) religious legitimacy. Compromise was reached through a notarized statement by Ahmadiyah members declaring themselves Muslim, thereby allowing the issuance of E-KTPs with “Islam” in the religion column.<sup>20</sup>

Nevertheless, it can be critically assessed that although an administrative resolution was achieved, the “notarized statement” mechanism still reflects coercion of religious identity categorization upon the Ahmadiyah community. This situation is also influenced by the MUI’s religious legitimacy, which shapes local administrative practices. Thus, the policy does not fully reflect respect for religious freedom, but remains within a framework of administrative compromise that leaves substantive discrimination in place.

The dynamics of resolving this issue also involve regional coordination forums attended by government representatives, religious leaders, and the MUI. Although neither the MUI fatwa nor the Joint Decree of Three Ministers in 2008 explicitly regulates marriage registration, their moral legitimacy significantly influences local administrative policy. In the hierarchy of laws and regulations under Law Number 12 of 2011, MUI fatwas do not have the force of law or statutory regulations.<sup>21</sup> Nevertheless, sociologically, MUI fatwas have very strong moral legitimacy because they are seen as representing the highest religious authority in Indonesia.<sup>22</sup>

The MUI Fatwa of 2005 on Ahmadiyah and the 2008 Joint Decree of Three Ministers indirectly created a “normative atmosphere” that justifies discriminatory practices against the Ahmadiyah community at the local level. In practice, a non-binding fatwa becomes an official reference when institutionalized within the

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<sup>19</sup> Benny Bathara, *Strategi dalam Pemolisian Konflik Keagamaan* (Indramayu: CV. Adanu Abimata, 2024), 72.

<sup>20</sup> Ahmadi, “Wawancara: Kepala Desa Manislor 2007-2019 sekaligus Ketua JAI Manislor Periode 2019-2022.”

<sup>21</sup> Amanda Nikola, “Kajian Yuridis dan Metodologis Terhadap Penerapan Istibat Hukum dalam Fatwa MUI,” *Fatih: Journal of Contemporary Research* 2, no. 2 (2025): 1011.

<sup>22</sup> Tri Bambang Prasetio dan Wahyudin Bakri, “Practice of the MUI Authority in Maintaining Religious Harmony in Indonesia: Praktik Otoritas MUI dalam Menjaga Kerukunan Umat Beragama di Indonesia,” *Sosiologia: Jurnal Agama dan Masyarakat* 1, no. 2 (2023): 93.

national legal system.<sup>23</sup> This process is influenced by majority pressure, fear of conflict, and weak political will to protect minorities, resulting in a shift from state law to majority socio-religious legitimacy, and administrative decisions are no longer purely based on positive law.

From a policy perspective, the experience in Manislor underscores the urgency of reformulating administrative practices. Fundamentally, the state has guaranteed freedom of religion and belief as a basic right of all citizens, without exception.<sup>24</sup> including the right to form a family.<sup>25</sup> However, at the local level, there is still a gap between norms and implementation. Therefore, harmonization of bureaucracy with human rights principles is required, so that population administration and marriage registration are carried out objectively, non-discriminatorily, and free from the influence of particular theological interpretations.

Analytically, the Ahmadiyah community of Manislor Village reveals an inconsistency between the principle of a state based on law and administrative practice, in which the right to legal identity and recognition of marriage, which are constitutionally guaranteed and recognized as human rights under Law No. 39/1999 on Human Rights, are often unmet.<sup>26</sup> In practice, the fulfillment of these rights depends on local sociopolitical negotiations, underscoring the urgency of administrative reform grounded in non-discrimination and state neutrality. Population administration and marriage registration must be conducted objectively, not on theological grounds, because subjecting public services to majority pressure weakens the principle of equality before the law. The principle of non-discrimination in public services must be upheld so that marriage registration is inclusive and grounded in law, not in majority legitimacy. Administrative obstacles to endogamous marriages among the Manislor Ahmadiyah community reflect structural problems, demanding that the state assert its role as guarantor of the constitutional rights of all citizens, including minorities, so that the principle of a rule-of-law state is realized substantively.

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<sup>23</sup> Andi Asti Yuninsi, Rahma Aulia, and Ilham, "Fatwa-Fatwa Dewan Syariah Nasional Majelis Ulama Indonesia (DSN-MUI) dan Aspek Hukum Islam," *Journal of Islamic Banking and Finance Studies* 2, no. 1 (2025): 59.

<sup>24</sup> Ricco Andreas, et al., "Pengaturan Kebebasan Beragama dalam Kolom KTP: Memaknai Pancasila Sebagai Dasar Kebebasan Beragama dan Keyakinan," *Jurnal Restorative Justice: Jurnal Hukum Universitas Muhammadiyah Kalianda* 1, no. 2 (2025): 72.

<sup>25</sup> Elly Lestari, Encup, and Irfan Fahmi, "Perkawinan Beda Agama Pasca Surat Edaran Mahkamah Agung Nomor 2 Tahun 2023 dalam Perspektif Hifz Al-Din dan Hak Konstitusional Membentuk Keluarga," *Andrew Law Journal* 4, no. 2 (2025): 440.

<sup>26</sup> Pasal 10 Undang-Undang Nomor 39 Tahun 1999 Tentang Hak Asasi Manusia.

## 2. Synchronization between State Law and Social Reality

Law Number 1 of 1974 on Marriage aims to ensure that every marriage, in addition to being religiously valid, also attains legal validity in the eyes of the state through official registration.<sup>27</sup> The legal provisions on marriage in Indonesia are outlined in Article 1: “Marriage is a physical and spiritual bond between a man and a woman as husband and wife to form a happy and eternal family (household) based on the belief in One Supreme God.” Substantively, this article emphasizes marriage as a physical and spiritual bond between a man and a woman (*mawadah wa rahmah*) to build a household full of tranquility and peace, and to form a family based on belief in God Almighty.<sup>28</sup>

Then, Article 2 paragraph (1) states, “A marriage is valid if it is conducted according to the law of each party’s religion and belief.”<sup>29</sup> The first concept affirms the state’s recognition of the plurality of religious norms as the basis for the validity of marriage, thereby avoiding the imposition of a single religious law and validating marriages through formal registration.<sup>30</sup> This means that if the Ahmadiyah community conducts endogamous marriages according to their internal beliefs, the state normatively has no authority to annul their validity as long as religious requirements are met. The second concept limits the state’s authority to judge the substance of religion and emphasizes that religious validity does not automatically confer legal status before registration. Thus, “each religion and belief” refers to the conditions of each religion as long as they are not contrary to or differently regulated by the Marriage Law.<sup>31</sup>

Additionally, Article 2 paragraph (2) states, “Each marriage is recorded according to the prevailing laws and regulations.”<sup>32</sup> This means that state registration is established as an essential prerequisite to ensure legal certainty and order as formal proof of marital status.<sup>33</sup> Marriage registration serves as a mechanism to guarantee civil rights, including the issuance of birth certificates, the recognition and determination of children’s lineage, and access to public services

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<sup>27</sup> Muhamad Musta’in, “Analisis Keabsahan Nikah Sirri Menurut Undang-Undang Nomor 1 Tahun 1974 Tentang Perkawinan,” *Legal Advice Journal of Law* 2, no. 1 (2025): 38.

<sup>28</sup> Bing Waluyo, “Sahnya Perkawinan Menurut Undang-Undang Nomor 1 Tahun 1974 Tentang Perkawinan,” *Jurnal Media Komunikasi Pendidikan Pancasila dan Kewarganegaraan* 2, no. 1 (2020): 198.

<sup>29</sup> Pasal 2 Undang-Undang Nomor 1 Tahun 1974 Tentang Perkawinan.

<sup>30</sup> Enggar Wijayanto, “Konvergensi Politik Hukum, Hak Asasi Manusia dan Pancasila Terhadap Perkawinan Beda Agama di Indonesia,” *Wicarana* 2, no. 1 (2023): 46.

<sup>31</sup> Waluyo, “Sahnya Perkawinan Menurut Undang-Undang Nomor 1 Tahun 1974 Tentang Perkawinan,” 198.

<sup>32</sup> Pasal 2 Undang-Undang Nomor 1 Tahun 1974 Tentang Perkawinan.

<sup>33</sup> Rahmad Setyawan, “Menakar Pencatatan Perkawinan di Indonesia Perspektif Kaidah Fiqhiyyah: Antara Legalitas Negara dan Keabsahan Syariah,” *Jurnal Al-Hakim: Jurnal Ilmiah Mahasiswa, Studi Syariah, Hukum dan Filantropi* 6, no. 2 (2024): 205.

and social protection.<sup>34</sup> This provision does not determine the validity of a marriage, but serves as a means of proof. Registration must be carried out as an administrative act to ensure legal certainty, protection, and to prevent disputes.<sup>35</sup> However, the practice of registration still faces obstacles, especially for groups not aligned with the norms of the religious majority or hindered by exclusive administrative mechanisms.

In analysis, Article 2 of Law Number 1 of 1974 protects marriage rights by recognizing the validity of marriage under the laws of both parties' religions, while also requiring administrative registration for legal certainty.<sup>36</sup> However, this article does not regulate procedures for registering marriages that deviate from the general provisions, so discrimination arises from ambiguity in administrative implementation and interpretation, rather than from a statutory command.

The registration of Ahmadiyah marriages in Manislor Village is not merely an administrative matter. Still, it reflects a lack of synchronization between national law and local bureaucratic practices since 2003, resulting in weak protection of constitutional rights. Although the marriage is religiously valid, the absence of state registration creates legal ambiguity, where normative-religious validity is not formally recognized administratively.<sup>37</sup> Normatively, the right to marry and form a family is guaranteed by the 1945 Constitution, while freedom of religion and belief is a non-derogable basic right. This is in line with the International Covenant on Civil and Political Rights, ratified through Law No. 12/2005. Law No. 1/1974 obligates the registration of marriage as a form of legal recognition and protection by the state.<sup>38</sup> This provision is supported by Law No. 24/2013, which requires the registration of all citizens' vital events and does not prohibit Ahmadiyah marriages. However, in Manislor Village, the KUA of Jalaksana Subdistrict refuses to register, indicating that the problem lies not in a lack of norms but in inconsistent legal implementation stemming from social dynamics and local religious legitimacy.

In the context of the Ahmadiyah community, marriage registration highlights the tension between state administrative recognition and social practice. Law

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<sup>34</sup> Abdullah Karepesina, "Kehadiran Negara Terhadap Anak pada perkawinan Tidak Tercatat di Kabupaten Boven Digoel - Papua," *Jurnal Hukum Keluarga Islam El-Qisth* 9, no. 1 (2026): 61.

<sup>35</sup> Tri Winarti, Akhmad Nadirin, and Ismail, "Pencatatan Perkawinan Sebagai Upaya Perlindungan Terhadap Perempuan dan Anak (Studi Kasus di Kantor Urusan Agama Kecamatan Weru)," *Mahkamah: Jurnal Kajian Hukum Islam* 8, no. 2 (2023): 254.

<sup>36</sup> Awaliya Safithri and Hasbi Ash Shiddiqi, "Pencatatan Perkawinan Beda Agama (Kajian Terhadap Perlindungan Hak Sipil dan Keutuhan Keluarga Perspektif Maqasid Syariah)," *Jurnal Hukum Das Sollen* 10, no. 2 (2024): 175.

<sup>37</sup> Imam Faishol, "Implementasi Pencatatan Perkawinan di Indonesia (Studi Atas Undang-Undang Perkawinan No. 1 Tahun 1974)," *Ulumul Syar'i* 8, no. 2 (2019): 17.

<sup>38</sup> Nurma Harana Mora Siregar, et al., "Masalah Mursalah Sebagai Dasar Kewajiban Pencatatan Perkawinan," *Al-Zayn: Jurnal Ilmu Sosial & Hukum* 4, no. 1 (2026): 6060.

Number 1 of 1974 does not prohibit or restrict Ahmadiyah marriage rights, but bureaucratic officials are often influenced by majority views, resulting in implicit or explicit refusal of registration. Officials often cite “incompatibility with mainstream Islamic teachings” as the basis for refusal, even though there is no normative basis for this in the law.<sup>39</sup> From the perspective of state administrative law, discretionary authority should facilitate public service, not restrict citizens’ rights. However, KUA officials often refuse registration based on personal religious interpretations or social pressure, without any normative grounds. This situation reflects weak supervision and sanctions, so citizens’ rights depend on officials’ subjectivity rather than on objective legal norms.

Analytically, this condition highlights the disparity between written legal norms and field practice. Although the Marriage Law is neutral and inclusive, its implementation is influenced by social power relations, the dominance of the majority religious interpretation, and the absence of technical guidelines to protect minorities. From the perspective of legal pluralism, this reflects the interaction of state law, religious law, and social norms, which are not always in harmony.<sup>40</sup> The Ahmadiyah case demonstrates conflict between internal religious law and the socially dominant religious interpretation, which holds greater power, while state law fails to function as an impartial mediator.

The state’s failure to guarantee non-discriminatory marriage registration shows that the function of administration has shifted from legal protection to a tool of social exclusion. From the perspective of the rule of law, public administration should be universal and non-discriminatory. Yet, the practice of Ahmadiyah marriage registration in Manislor separates citizens based on religious affiliation, reflecting the “paradox of the rule of law”: inclusive norms are at odds with exclusive local practice. This underscores the weak implementation of the law in Indonesia, so that universal protection, especially for minorities, has not been achieved. The main problem does not lie in the absence of norms in Law No. 1/1974, but in the state’s limited commitment to implementing it on a human rights basis.<sup>41</sup>

Furthermore, Article 23 of the International Covenant on Civil and Political Rights (ICCPR) stipulates that the state is obliged to guarantee marriage rights and

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<sup>39</sup> Nasrullah, “Analisis Hukum Penerapan Pasal 2 Ayat (1) Undang-Undang Nomor 1 Tahun 1974 Tentang Perkawinan dan Pasal 35 Huruf A Undang-Undang Nomor 23 Tahun 2006 Tentang Administrasi Kependudukan pada Kasus Perkawinan Beda Agama,” *Tahkim: Jurnal Hukum dan Syariah* 16, no. 1 (2020): 10.

<sup>40</sup> Werner F. Menski, *Comparative Law in a Global Context: The Legal Systems of Asia and Africa*, 2 ed. (Cambridge: Cambridge University Press, 2006), 19.

<sup>41</sup> Alexander Kennedy, “Legal Compliance of Indonesian Marriage Law with the Universal Declaration of Human Rights,” *Ethics and Law Journal: Business and Notary* 5, no. 1 (2025): 52.

protect the family as the basic unit of society.<sup>42</sup> Indonesia, as a state party to the ICCPR, is legally bound by this international instrument to ensure that every citizen, regardless of religious background, receives equal protection in exercising marriage rights.<sup>43</sup> Within this analytical framework, the practice of refusing marriage registration for the Ahmadiyah community can be interpreted as a direct violation of the state's international obligations.

From the perspective of legal protection theory as developed by Philipus M. Hadjon, legal protection is distinguished between preventive and repressive forms. Preventive legal protection aims to prevent violations before losses occur, while repressive protection serves as a recovery mechanism after violations have taken place.<sup>44</sup> The Ahmadiyah case in Manislor Village demonstrates the state's failure in preventive legal protection, as there is no mechanism to prevent discrimination by KUA officials. As a result, citizens are forced to undertake an "administrative exodus" by temporarily relocating to secure their rights. Existing protection is repressive and arises from community adaptation rather than from the state system. Ideally, the state should provide preventive mechanisms, such as effective complaint channels and sanctions for discriminatory officials, so that legal protection is proactive and guarantees citizens' rights from the outset.

The state should ensure that administrative actions are fair, consistent, and non-discriminatory. However, in Manislor, the Ahmadiyah community is forced to temporarily change domicile for marriage registration, indicating that nationally guaranteed rights depend on local social contexts and reflect legal fragmentation. This lack of synchronization is exacerbated by the influence of the MUI fatwa and the 2008 Joint Decree of Three Ministers, which shape the local normative atmosphere.<sup>45</sup> Legally, these fatwas and decrees do not have the status of regulation, and the Joint Decree does not revoke civil rights to marriage registration. Yet, in local practice, theological legitimacy exerts symbolic pressure on the bureaucracy, so administrative actions are influenced by majority social opinion and sentiment rather than by written norms alone.

Werner Menski defines legal pluralism as an approach to understanding the relationship between state law, societal aspects, and natural law (morality/ethics/religion).<sup>46</sup> In the context of the Ahmadiyah community in

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<sup>42</sup> Pasal 23 International Covenant on Civil and Political Rights (ICCPR).

<sup>43</sup> UN. Committee on Economic, Social and Cultural Rights, *General Comment No. 19, The Right to Social Security (Art. 9)*, (Geneva, 2008), 47.

<sup>44</sup> Philipus M. Hadjon, *Perlindungan Hukum bagi Rakyat di Indonesia*, Cet. 1 (Surabaya: Bina Ilmu, 1987), 30.

<sup>45</sup> "Keputusan Bersama Menteri Agama, Jaksa Agung, dan Menteri Dalam Negeri Republik Indonesia (SKB 3 Menteri) Tentang Ahmadiyah," 2008.

<sup>46</sup> Menski, *Comparative Law in a Global Context: The Legal Systems of Asia and Africa*, 187.

Manislor Village, these three pillars do not operate in balance, but instead show the dominance of social and religious norms over state law. In Menski's legal pluralism perspective, state law, religious law, and social norms constantly interact in a plural society. The main feature of legal pluralism is the functioning of all legal systems as a whole rather than separately.<sup>47</sup> Normatively, Law Number 1 of 1974 on Marriage is neutral and inclusive, but inconsistent local administrative practices hinder its implementation in Manislor. Social pressure from the majority, reinforced by the 2005 MUI Fatwa and the 2008 Joint Decree of Three Ministers, hampers village and KUA officials from providing services, including marriage registration. In addition, the majority religious interpretation that does not recognize Ahmadiyah affects marriage legitimacy, even though internal community procedures are valid. This situation reflects the state's failure as a legal balancer, where social and religious legitimacy of the majority overrides positive legal norms, so that legal protection for minorities is not realized and the pillars of legal pluralism are not harmonious.

Legal pluralism can be understood as the formal acceptance of law, but also opens space for meaning-making by "non-legal" entities and structures that function as components forming society.<sup>48</sup> The state still has an important role as a constitutional balancer, in which the existence of constitutional norms imposes an obligation on the state to guarantee the continuity and effective protection of citizens' rights.<sup>49</sup> In the context of the Ahmadiyah community of Manislor, the triangle of legal pluralism is skewed, with the majority's social values and religious recognition more dominant than state law, resulting in inconsistent law enforcement and dualism in public service.

National law, through Law Number 1 of 1974 and Law Number 24 of 2013, is neutral, without distinguishing between schools of thought or religion. However, in Manislor, this neutrality is reduced by social pressure and local religious legitimacy. From Werner Menski's perspective on legal pluralism, this reflects the interaction among state law, religious norms, and social norms, but such interaction should not place state law under majority pressure.

The main problem is not the plurality of norms but the state's inability to manage constitutional diversity. When marriage registration rights can be fulfilled in other areas but not in their place of origin, the issue is not merely an

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<sup>47</sup> Hairun Tri Wahyuni Sagal, "Kajian Teori Pluralisme Hukum Terhadap Sistem Hukum di Aceh," *Interdisciplinary Journal on Law, Social Sciences and Humanities* 3, no. 2 (2022): 118.

<sup>48</sup> Eko Mukminto and Awaludin Marwan, "Pluralisme Hukum Progresif: Memberi Ruang Keadilan Bagi Yang Liyan," *Masalah-Masalah Hukum* 48, no. 1 (2019): 18.

<sup>49</sup> Violeta Elenabella and Friderikus Nopeli Giawa, "Peran Konstitusi dalam Menjamin Hak dan Kewajiban Warga Negara di Indonesia," *Jurnal Media Akademik* 3, no. 6 (2025): 7.

administrative policy but the state's consistency as a legal entity. In Manislor, the Ahmadiyah community is forced to undertake an "administrative displacement" as an informal solution, indicating that the state's integrative function is still suboptimal. Legal protection is necessary to uphold the state's constitutional status, guaranteeing equality and legal certainty for all citizens without discrimination. The "administrative exodus" strategy highlights the state's failure to provide fair public services, forcing Ahmadiyah members to bear extra costs, time, and effort. This practice can create a dualism in legal status, in which marriage is recognized administratively in one area but not fully acknowledged socially in the place of origin. This condition reflects the uneven presence of the state, in which a strong normative framework is not yet supported by fair and inclusive implementing regulations that protect constitutional rights.<sup>50</sup> However, this practice is not a solution, but an indicator of structural inequality in the fulfillment of civil rights, especially for minority religious groups.

In a democratic rule-of-law state, legitimacy is measured not by taking sides with the majority, but by its ability to protect minority rights. This principle is in line with John Stuart Mill's theory of constitutional democracy, which emphasizes proactive protection to prevent the tyranny of the majority. The greatest threat to individual freedom is not a tyrannical ruler, but collective opinion and custom that compels. The law must serve as a bulwark protecting individuals and minority groups from majority pressure.<sup>51</sup> Furthermore, Robert Dahl's concept of polyarchy asserts that an ideal democracy guarantees equal rights to all citizens without qualification or distinction. In the framework of constitutional democracy, there is a principle of limitation of rights, which states that certain rights may be limited in the public interest, but only if they meet three important principles: legality, legitimate purpose, and proportionality.<sup>52</sup> Therefore, legal protection for the Ahmadiyah community in Manislor is the constitutional responsibility of the state, not to legitimize certain theological teachings, but to uphold citizen dignity and ensure equality before the law. The state's failure to protect minorities is not merely an administrative issue, but a deviation from the basic principles of constitutional democracy.

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<sup>50</sup> Fitria Indriani, "Ketimpangan Penegakan Hukum pada Kelompok Minoritas Agama," *Philosophiamundi* 3, no. 4 (2025): 5.

<sup>51</sup> Marsya Odelia, et al., "Paradoks Kebebasan Beragama di Indonesia: Antara Ketertiban Sosial dan Hukum Negara," *Politica: Jurnal Hukum Tata Negara dan Politik Islam* 12, no. 2 (2025): 536.

<sup>52</sup> Yetti Octavianingsih and Rachmat Abdillah, "Hak Kebebasan Berekspresi Sebagai Hak Konstitusional: Analisis Normatif Berdasarkan UUD 1945 dan Teori Konstitusi," *At-Taklim: Jurnal Pendidikan Multidisiplin* 2, no. 6 (2025): 99.

## D. CONCLUSION

The practice of endogamous marriage among the Ahmadiyah community in Manislor Village proceeds according to the community's internal regulations as a form of legal autonomy. Still, it faces significant administrative barriers, especially in registration at the KUA. These obstacles arise not from legal norms but from local bureaucratic practices, influenced by social pressure and the legitimacy of the majority religion, that compel the community to adopt an "administrative exodus" strategy as an adaptive response. From the perspective of legal pluralism, this situation demonstrates an imbalance among state law, social norms, and religious norms. State law, which is normatively neutral and inclusive, is marginalized because officials prioritize majority socio-religious legitimacy, thereby deviating from the principles of the rule of law (Rechtsstaat) and constitutional democracy. This also affirms that although the supremacy of law in Indonesia is normatively strong, its implementation remains weak.

Theoretical findings confirm that the dominance of socio-religious norms can override the authority of state law, demonstrating a deficit in state capacity for preventive legal protection. Consequently, minority groups rely on informal mechanisms to secure their rights. Strengthening the state's role as the primary authority can be achieved through effective administrative supervision, non-discriminatory national technical guidelines, accessible complaint mechanisms, and increased capacity for civil servants, grounded in human rights principles. This research is limited by the lack of quantitative data and access to historical administrative documents, so the analysis largely relies on qualitative data and informant testimony, creating opportunities for further research to develop a more integrative and comprehensive approach.

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