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Annulment of Marriage Due to Religious Differences and Unauthorised Polygamy (A Study of Supreme Court Decision No. 435 K/Ag/2026)

Aprialita Ghaisani Putri[1], Putri Viona Tallulembang[2], Nur Azizah Ayu Darnadellia[3]
[1,2,3] Faculty of Law, Universitas Airlangga, Surabaya, Indonesia

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Abstrak

Perkawinan berikutnya yang dilangsungkan ketika salah satu pihak masih terikat perkawinan sebelumnya tanpa izin pengadilan menimbulkan persoalan keabsahan, terlebih apabila para pihak berbeda agama. Penelitian ini menganalisis hubungan antara syarat sah perkawinan, pembatasan poligami, dan alasan pembatalan melalui pendekatan hukum normatif, perundang-undangan, konseptual, serta kajian kasus Putusan Mahkamah Agung Nomor 435 K/Ag/2026. Hasil penelitian menunjukkan bahwa persoalan perbedaan agama berdasarkan Pasal 2 ayat (1) Undang-Undang Perkawinan harus dibedakan dari larangan perkawinan berikutnya ketika perkawinan terdahulu masih berlangsung serta tidak adanya izin poligami menurut Pasal 3–5 dan Pasal 9. Pelanggaran terhadap persyaratan tersebut dapat dianalisis sebagai alasan pembatalan berdasarkan Pasal 22 dan Pasal 24. Pembatalan tetap harus memperhatikan perlindungan anak dan pihak ketiga beritikad baik. Berdasarkan uraian dalam naskah sumber, masalah perkawinan terdahulu dan izin poligami merupakan fokus analisis putusan, namun ketepatan ratio decidendi masih memerlukan pemeriksaan terhadap naskah lengkap putusan resmi. Penelitian menawarkan kerangka penalaran tiga tahap yang memisahkan keabsahan materiil, dasar pembatalan, dan akibat hukumnya.

Kata Kunci: pembatalan perkawinan; perkawinan beda agama; izin poligami; hukum keluarga; putusan pengadilan

Abstract

A subsequent marriage contracted while an earlier marriage remains legally subsisting, without judicial authorisation for polygamy, raises questions about capacity, validity and annulment, particularly when the parties also profess different religions. This article examines the doctrinal relationship between religious validity, the statutory impediment to remarriage and judicial annulment, with Supreme Court Decision No. 435 K/Ag/2026 as its reported case context. It adopts normative legal research using statutory, conceptual and case approaches. The analysis finds that religious differences under Article 2(1) of the Marriage Law and unauthorised polygamy under Articles 3–5 and 9 concern legally distinct questions. The absence of the required authorisation, alongside a subsisting earlier marriage, may support an annulment claim under Articles 22 and 24, independently of the broader debate over interfaith marriages. A decree must nevertheless safeguard children and the interests protected from retroactive effects under Article 28. The article proposes a three-stage

reasoning framework addressing validity, the proven annulment ground and legal consequences. The full judicial reasoning still requires checking against the authenticated decision before case-specific conclusions are finalised.

Keywords: *marriage annulment; interfaith marriage; polygamy authorisation; family law; judicial reasoning*

INTRODUCTION

Marriage in Indonesian law is not merely a private exchange of consent. It creates a family status, changes the parties' civil capacities, and produces legal consequences for spouses, children, property, and other persons who rely upon the official record. The Marriage Law connects these consequences to substantive requirements governing who may marry, while also imposing an administrative obligation to record a marriage. When a subsequent marriage is celebrated while an earlier marriage remains legally subsisting, the legal issue is therefore more fundamental than whether a marriage certificate was issued. The legal system must determine whether the parties possessed the capacity to enter the subsequent marriage at all, whether a statutory exception to monogamy was properly obtained, and what consequences follow if the marriage is later annulled.[1]

The question becomes especially difficult where the subsequent marriage also involves parties of different religions. Article 2(1) of the Marriage Law requires a marriage to be performed according to the laws of the respective religions and beliefs of the spouses. Article 2(2), by contrast, provides for recording a marriage in accordance with applicable legislation. Those provisions address related but distinct legal questions: substantive marital validity and the state's documentation of civil status. They cannot simply be collapsed into a presumption that an administrative certificate cures every defect in the parties' legal capacity. Scholarly disputes surrounding interfaith marriage make this distinction particularly important, because the contours of religious validity and the powers of civil-registration authorities remain contested.[2]

Indonesian marriage legislation adopts monogamy as its organising principle, but recognises a conditional possibility of polygamy. Article 3(2) permits a court to authorise a husband to have more than one wife; Articles 4 and 5 then structure the grounds and procedural conditions for that authorisation. Article 9 protects the continuity of an existing marriage by prohibiting a person who remains married from entering another marriage, subject to the statutory exception. This means that a purported second marriage is not assessed merely by looking at the prospective spouses' intentions, their ceremonies, or any subsequent registration. The decision to create an additional marital bond must first pass through the legally established court-supervised exception to monogamy.[3]

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1 Republic of Indonesia, Law No. 1 of 1974 concerning Marriage, as amended by Law No. 16 of 2019, Articles 2–5, 9, 22–28.

2 Ayub Mursalin, "Legalitas Perkawinan Beda Agama: Mengungkap Disparitas Putusan Pengadilan di Indonesia", *Undang: Jurnal Hukum* 6, no. 1 (2023): 113–150, https://doi.org/10.22437/ujh.6.1.113-150.

3 Fanny Putri Ramadhanti and Isti'anah Zainah Asikin, "Analisis Dasar Pertimbangan Hakim Dalam Memutuskan Perkara Perkawinan Poligami", *Media of Law and Sharia* 2, no. 1 (2020), https://doi.org/10.18196/mls.v2i1.11484.

The protective purpose of that exception is often underestimated. A court authorisation is not a decorative formality that can be replaced by an assertion that the first spouse knew or accepted the arrangement. The legal framework requires the court to scrutinise conditions designed to protect existing household relations, prevent unilateral dispossession of marital rights, and provide a formal record capable of protecting children and creditors. In this sense, an unauthorised polygamous marriage is not simply administratively irregular. It may involve the absence of a condition that is decisive for the legal capacity to contract a subsequent marriage. Recent research accordingly treats an authorisation defect as a material ground for judicial annulment, while warning against ignoring the collateral effects of nullification.[4]

Annulment is the legal mechanism through which that conflict can be resolved. Article 22 of the Marriage Law allows annulment where the conditions for entering a marriage were not fulfilled; Article 24 specifically concerns the legal interests implicated when one spouse was still bound by an earlier marriage. The provisions should be read together with the prerequisites for polygamy and the category of persons allowed to bring the claim. They should not be interpreted as creating a general licence to invalidate marriages on the basis of suspicion, family conflict, or differences in social approval. A court must identify the applicable statutory condition, establish its breach on proven facts, and explain why annulment is the legally appropriate consequence.[5]

The contested relationship between religious difference and legal validity has developed alongside these rules. Some scholars have viewed the absence of an express statutory phrase prohibiting all interfaith marriages as a source of interpretative openness; others emphasise Article 2(1) and the legal consequences of religious rules governing matrimonial ceremonies. The debate has also involved constitutional guarantees, civil-registration provisions, and inconsistent judicial practice. Mursalin's analysis of judicial disparity demonstrates why a legal judgment needs to specify which norm actually determines the outcome rather than treating every contested aspect of an interfaith marriage as the same cause of invalidity. A separation between legal questions is therefore not a merely academic convenience but a requirement of sound judicial reasoning.[6]

Supreme Court Circular Letter No. 2 of 2023 instructed judges not to grant applications seeking the registration of marriages between persons of different religions or beliefs. Its legal relevance is significant but must be stated precisely. The circular concerns the judicial handling of such registration applications; it is not a substitute for Articles 3–5, 9, 22 or 24 of the Marriage Law, nor does its issuance in 2023 change the historical date of a marriage celebrated in 2018. A case involving an earlier ceremony and a later claim for annulment requires

4 Riska Amelia Putri and Rasji, "Pembatalan Perkawinan Akibat Poligami Tanpa Izin Pengadilan Agama dalam Perspektif Legalitas dan Keadilan", *Kertha Semaya: Journal Ilmu Hukum* 14, no. 1 (2026), https://doi.org/10.24843/KS.2025.v14.i01.p20.

5 Sri Turatmiyah, Taroman Pasyah, and Nyimas Nur Shabrina, "Ratio Decidendi Putusan Hakim Pembatalan Perkawinan Karena Tidak Ada Izin Poligami", *Sriwijaya Journal of Private Law* 1, no. 1 (2024): 39–52, https://doi.org/10.28946/sjpl.v1i1.3580.

6 Adzkia Dzikro Romadhon and Adibah Bahori, "Inter-religious Marriage in Indonesia: Pros and Cons in the Administrative and Constitutional Law", *Indonesian State Law Review* 6, no. 1 (2023), https://doi.org/10.15294/islrev.v6i1.64973.

temporal as well as substantive analysis. Courts must distinguish the law governing the ceremony and the defect alleged in the annulment suit from the later judicial administrative guidance.[7]

The case selected for this study is Supreme Court Decision No. 435 K/Ag/2026, listed in the official Supreme Court decision directory as a marriage-annulment case registered on May 5, 2026 and decided on June 23, 2026. According to the factual account provided in the authors' source manuscript, a husband whose prior marriage had not ended allegedly entered a further marriage at the Medan Petisah Office of Religious Affairs in September 2018 without obtaining judicial authorisation for polygamy. The manuscript further describes the spouses to the subsequent marriage as belonging to different religions. These particulars are treated in this article as the authors' account of the litigation, rather than as independently authenticated quotations from the full reasons for judgment.[8]

The methodological difficulty presented by this case is as important as the substantive dispute. The official case listing verifies the case identifier, date and subject classification, but a register entry does not reproduce the evidentiary findings or the detailed ratio decidendi of the appellate court. A scholarly account must not infer a judge's exact reasoning from a short decision-directory description. This article therefore distinguishes verified procedural metadata, facts and arguments reported in the supplied draft, and the authors' independent doctrinal assessment of Articles 2–5, 9, 22 and 24. The reported emphasis on the prior subsisting marriage and absence of polygamy authorisation is assessed as an interpretation of the case account that requires checking against the signed judgment before final publication.

The existing literature generally addresses one of two questions. Studies of unauthorised polygamy examine the requirements for court permission, the ratio decidendi of annulment judgments, or the effects on the second spouse and children. Studies of interfaith marriage focus more often on Article 2(1), Supreme Court Circular Letter No. 2 of 2023, administrative registration, or constitutional implications. Turatmiyah, Pasyah and Shabrina analyse annulment reasoning arising from the absence of court authorisation, while Indrayanti, Saraswati and Putra explore the rights-based implications of restrictions on interfaith marriage. These contributions are valuable, but neither strand alone resolves how a court should structure its analysis when both possible defects appear in the same marriage.[9]

The novelty of this research therefore lies in its proposed hierarchy of issues rather than in repeating the proposition that interfaith marriage is disputed or that unauthorised polygamy may be annulled. It develops a three-stage doctrinal test:

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7 Irfan Fahmi and Wiwin W. Windiantina, "Prevention of Registration of Interfaith Marriages Through SEMA Number 2 of 2023", *Al Ahkam* 20, no. 1 (2024), https://doi.org/10.37035/ajh.v20i1.11035.

8 Supreme Court of the Republic of Indonesia, Decision No. 435 K/Ag/2026 (Marriage Annulment), decided June 23, 2026.

9 Kadek Wiwik Indrayanti, Anak Agung Ayu Nanda Saraswati, and Eka Nugraha Putra, "Questioning Human Rights, Looking for Justice: Analyzing the Impact of Supreme Court Circular Letter on Interfaith Marriages in Indonesia", *Journal of Indonesian Legal Studies* 9, no. 1 (2024), https://doi.org/10.15294/jils.vol9i1.4634.

first, identify the independently relevant conditions of marital validity; second, establish whether a subsisting earlier marriage and a missing court authorisation amount to the statutory ground for annulment; and third, assess the legal effects of the resulting decree without treating the marriage as having erased the rights of children or good-faith third parties. The test is applied to the reported setting of Decision No. 435 K/Ag/2026 as a structured account of judicial reasoning, subject to the documentary limits already identified.

Two research questions follow. How should Indonesian marriage law distinguish the relevance of religious differences from the separate prohibition against entering a further marriage while an earlier union subsists? Under what conditions can the absence of authorisation for polygamy justify annulment, and how should the resulting legal consequences be reconciled with the protection of spouses, children and third parties? Answering these questions requires attention to statutory text, the legal effects of registration, the respective roles of courts and administrative offices, and the evidentiary obligations that attach to a claim for nullity.

Legal scope and governing framework

The legal grounds require careful separation. Articles 3–5 of Law 1 of 1974 as amended govern the conditional authorisation to enter a polygamous marriage; Article 9 addresses a person's capacity to marry while still bound by an existing marriage; and Articles 22–24 concern annulment and standing where statutory prerequisites are absent. A lawful analysis must establish the continuing earlier marriage, the identity of the applicant and the alleged absence of judicial permission from original records.[10]

SEMA 2 of 2023 concerns judicial handling of registration of marriages between adherents of different religions or beliefs and cannot simply be applied retroactively to prove that a reported 2018 ceremony was invalid. The Compilation of Islamic Law serves as a relevant reference within Indonesian religious-court practice, but it must be located correctly relative to statutes and the case's temporal facts. An assertion that an interfaith ceremony took place at a KUA requires authentication of both parties' religion and the marriage entry, not an inference from general practice.

RESEARCH METHOD

This article employs normative legal research combining statutory, conceptual and case approaches. The statutory approach examines the Marriage Law, Law No. 16 of 2019 insofar as it amends Law No. 1 of 1974, Government Regulation No. 9 of 1975, relevant provisions of the Compilation of Islamic Law, and the Supreme Court’s administrative guidance on interfaith marriage registration. The analysis distinguishes the substantive conditions governing a marriage, procedural requirements for court-authorised polygamy, grounds and standing for annulment, and legal consequences of a final decree. These categories provide the interpretative framework rather than being treated as interchangeable aspects of a single prohibition.[11]

10Republic of Indonesia, Law No. 1 of 1974 concerning Marriage, as amended by Law No. 16 of 2019, arts. 3–5, 9, and 22–24.

The conceptual approach uses the distinction between constitutive legal capacity and declaratory civil documentation, the notion of legal certainty, the character of annulment as a judicial remedy, and the principle that legal remedies should preserve third-party reliance where legislation so requires. The case approach concentrates on Decision No. 435 K/Ag/2026, with related case literature used only to illuminate doctrinal approaches rather than to supply missing facts about the judgment under review. The unit of analysis is judicial legal reasoning: the connection between legally established facts, the statutory condition allegedly breached, and the consequence ordered by the court. This approach avoids assuming that a socially controversial feature of a marriage necessarily forms the court's controlling reason for annulment.

Primary legal materials are given priority. The decision directory confirms the official identifier and date, while the source manuscript supplies its authors' summary of the relevant litigated facts and asserted grounds. A critical limitation is that the complete authenticated reasons for Decision No. 435 K/Ag/2026 were not available for line-by-line verification during preparation. Consequently, statements about the court's precise findings are formulated conditionally and attributed to the source manuscript; no invented quotation, judicial paragraph, or pinpoint page reference is assigned to the decision. Before submission, the full decision should be checked for party status, court competence, evidence of a previous marriage, religious identity at the relevant dates, and the exact provisions supporting the operative ruling.

Secondary materials consist of peer-reviewed legal scholarship on annulment, unauthorised polygamy, interfaith marriage, judicial circulars, child protection and property interests. Recent journal articles were selected where the title, author and DOI could be verified at the publisher's page. The analysis follows the sequence of identifying the governing rule, examining the disputed fact, considering alternative interpretations, and stating a reasoned conclusion. The method is doctrinal and prescriptive, not empirical: it makes no claim to represent nationwide rates of interfaith unions, judicial decisions or administrative behaviour. Citations follow the Chicago Manual of Style, seventeenth edition, using one source per full-note reference.

RESULTS AND DISCUSSION

1. The Distinct Legal Functions of Religious Validity, Marriage Capacity and Civil Registration

A rigorous assessment begins with the recognition that the legal status of a marriage is not determined by one requirement alone. Article 2(1) refers to the substantive role of the parties' religious laws, whereas Article 2(2) concerns the public recording of the marriage. Article 3, Article 9, and the authorisation framework in Articles 4 and 5 address a different issue: whether a person who is already married may legally create another marital relationship. The resulting inquiry has several independent dimensions. A ceremonial defect is not the same as an existing marital impediment; neither is necessarily cured simply because an

11 Republic of Indonesia, Government Regulation No. 9 of 1975 on the Implementation of the Marriage Law, provisions on polygamous marriage and annulment.

official has entered the event in a public register. A court must identify the precise dimension at issue before selecting the relevant rule.[12]

This analytical distinction matters because civil documentation has an evidentiary and protective role. A marriage certificate may constitute an important public record that the relevant ceremony took place and that the parties presented themselves as spouses. It does not necessarily establish that every substantive precondition for the ceremony was legally satisfied. Equally, the absence of documentary proof does not justify ignoring the legal interests of persons who relied in good faith upon the resulting family status. The proper response is to examine the evidentiary effect of the certificate against the statutory conditions for marriage and annulment. Put differently, registration may facilitate proof without serving as a general immunity from a properly pleaded annulment claim.

The interfaith dimension is a genuine legal issue, but scholars disagree over its doctrinal basis and constitutional implications. Romadhon and Bahori examine interreligious marriage in light of administrative and constitutional law, while Mursalin documents inconsistent reasoning in the judicial treatment of interfaith unions. The existence of this literature should prevent an oversimplified statement that Indonesian legislation contains a single article explicitly declaring every interfaith ceremony void. Article 2(1) makes religious validity important; the consequences of that requirement must nevertheless be established through the relevant religious-law framework and the applicable judicial process. The specific consequences of a particular union cannot be responsibly deduced solely from the fact that the parties identify with different religions.[13]

The debate became more pronounced with Supreme Court Circular Letter No. 2 of 2023.[14] Studies of the circular underline a tension between judicial consistency and questions concerning constitutional rights and equal access to civil status. Its defenders stress clarity in applying religiously grounded marital validity; critics point to issues of judicial independence and the ability of families to secure legal recognition. A maqasid-oriented analysis by Hamzah similarly shows why legal certainty and religious protection must be assessed alongside the practical consequences for families.[15] Those competing views matter to the interpretative background, but they should not obscure the narrower nature of the circular as guidance for judges dealing with applications for interfaith marriage registration. It should not be elevated into a comprehensive annulment code or applied retroactively without an analysis of time and legal effect.[16]

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12 Republic of Indonesia, Law No. 1 of 1974 concerning Marriage, as amended by Law No. 16 of 2019, Articles 2–5, 9, 22–28.

13 Ayub Mursalin, "Legalitas Perkawinan Beda Agama: Mengungkap Disparitas Putusan Pengadilan di Indonesia", *Undang: Jurnal Hukum* 6, no. 1 (2023): 113–150, https://doi.org/10.22437/ujh.6.1.113-150.

14 Supreme Court of the Republic of Indonesia, Supreme Court Circular Letter No. 2 of 2023 on the Adjudication of Applications for Registration of Interfaith Marriages.

15 Saiful Ibnu Hamzah, "Tinjauan Maqashid Syariah Atas Perkawinan Beda Agama (Analisis Komprehensif SEMA No. 2 Tahun 2023)", *Maqasid: Jurnal Studi Hukum Islam* 14, no. 1 (2025), https://doi.org/10.30651/mqs.v14i1.27554.

16 Nurul Miqat, Safrin Salam, Adfiyanti, Kayode Muhammad Ibrahim, and Abidemi Hassan, "Legal Reform in Interfaith Marriage Under Supreme Court Circular No. 2 of 2023", *Journal of Law and Legal Reform* 6, no. 4 (2025), https://doi.org/10.15294/jllr.v6i4.20972.

Yonathin and Gunadi describe normative tension between this judicial guidance and decisions concerning civil registration. Their analysis illustrates a wider administrative-law principle: acts intended to standardise official practice require a clear account of their place within the hierarchy of sources. Even when a judicial circular has operational force for courts, the determination of a person's capacity to remarry remains governed by the statutory conditions and the facts alleged to breach them. Thus, if a second marriage is challenged because a prior lawful marriage remained in force and polygamy authorisation was absent, the court may resolve the challenge by reference to the statutory marriage impediment without deciding every unresolved constitutional argument concerning interfaith unions.[17]

This is also why legal chronology must be explicit. The subsequent marriage described in the source manuscript allegedly occurred in September 2018; the Supreme Court circular was issued in July 2023; and the cassation case was decided in 2026. These are three different temporal points. The question of whether the parties were capable of entering the 2018 marriage depends on norms governing that act and the relevant circumstances, whereas the 2023 circular may be significant to contemporary judicial treatment of registration applications. Conflating the two would create a false impression that a later circular supplied the original ground for an earlier marriage's invalidity. An accurate legal account should resist that shortcut.

A further difficulty is the reported use of an Office of Religious Affairs in a marriage said to involve partners with different religious affiliations. That combination calls for careful verification of the original marriage book, the information declared to the registrar, and the parties' religion at the time of the ceremony. It must not be assumed that an earlier religious identity remained unchanged throughout subsequent registration, litigation, or appeal. These details could affect the application of Article 2(1), the administrative record, and jurisdiction. The source manuscript reports the circumstances but does not reproduce the underlying supporting instruments, so they remain necessary evidentiary checks rather than established new findings of this article.

Scholarship on interfaith marriages also warns against equating procedural uniformity with substantive settlement of every issue. Indrayanti and co-authors frame the circular as a rights controversy; Fahmi and Windiantina examine its restrictive impact on registration; and Armayanto and Silmi analyse the interplay between Islamic doctrine and positive law. Rahayu further shows why the divergent approaches adopted before and after the circular must not be read as a single timeless registration regime.[18] Their approaches disagree in normative emphasis but reinforce the need to specify the judicial question before claiming that a particular rule controls it. An annulment action initiated by an existing

17 Lina Kristie Yonathin and Ariawan Gunadi, "Konflik Norma SEMA Nomor 2 Tahun 2023 Dengan Putusan Pengadilan Pencatatan Perkawinan Beda Agama", *Jurnal USM Law Review* 8, no. 3 (2025), https://doi.org/10.26623/julr.v8i3.12299.

18 Annuur Fitria Rahayu, "Interfaith Marriage after the Issuance of Supreme Court Circular Letter No. 2 of 2023", *YURIS: Journal of Court and Justice* 4, no. 4 (2025), https://doi.org/10.56943/jcj.v4i4.847.

spouse is not the same procedural vehicle as an application by an interfaith couple requesting permission to record a proposed marriage.[19]

In this article's account, religious differences are therefore a separate potential validity concern, not an automatic substitute for proving an unauthorised second marriage. A first spouse's continued marital status and the absence of a court order for polygamy can be tested through documentary evidence independently of disputed characterisations of religious affiliation. This sequence improves transparency. It also protects against a ruling based on a broad religious proposition when a narrower and more ascertainable statutory ground adequately resolves the case. Conversely, the existence of a polygamy defect does not mean that the religious validity question was never relevant; it means only that its role in the decisive reasoning has to be demonstrated rather than presumed.

2. Unauthorised Polygamy as a Statutory Ground of Marriage Annulment

The second stage of analysis centres on the legal conditions for a subsequent marriage. Article 3(1) states the general monogamous principle, while Article 3(2) provides the framework through which a court may permit a husband to have more than one wife. Articles 4 and 5 require a reasoned application supported by legally relevant conditions. Article 9 then preserves the general prohibition against another marriage during the subsistence of an earlier one, unless the statutory exception applies. Read together, these provisions establish that the absence of permission is not a minor documentary oversight. It is capable of preventing the second marriage from satisfying a legally prescribed requirement for its formation.[20]

The courts' supervisory role serves several purposes. Judicial permission creates an occasion to examine claimed grounds for polygamy, investigate the circumstances of the existing marriage, and assess safeguards for the first spouse and other affected persons. Research by Ramadhanti and Asikin situates this scrutiny within the court's obligation to prevent a husband's unilateral desire from determining the marital status of an entire household. Where the permission was never sought, the court was deprived of the opportunity to perform that prior review. The subsequent appearance of a formal marriage record cannot recreate the examination that the law required before the additional marriage was entered.[21]

Article 22 supplies the general legal remedy by allowing the annulment of a marriage where the parties failed to comply with the requisite conditions. Article 24 is particularly relevant when a spouse remains bound by an earlier valid marriage. These provisions do not mean that a marriage simply disappears once an irregularity is alleged. The claim must be brought through the appropriate adjudicative procedure, the claimant must establish standing, and the competent

19 Harda Armayanto and Nadaa Afifah Silmi, "Tolerance in the Prohibition of Interfaith Marriage: A Normative Analysis of Islamic Law and Legal Regulations in Indonesia", *An-Nida'* 49, no. 1 (2025), https://doi.org/10.24014/an-nida.v49i1.36350.

20 Republic of Indonesia, Law No. 1 of 1974 concerning Marriage, as amended by Law No. 16 of 2019, Articles 2–5, 9, 22–28.

21 Fanny Putri Ramadhanti and Isti'anah Zainah Asikin, "Analisis Dasar Pertimbangan Hakim Dalam Memutuskan Perkara Perkawinan Poligami", *Media of Law and Sharia* 2, no. 1 (2020), https://doi.org/10.18196/mls.v2i1.11484.

court must decide the facts and legal consequences. The legal availability of an annulment is thus distinct from a self-executing declaration that every allegedly defective marriage has no effects from the moment an outsider challenges it.

The Compilation of Islamic Law provides a more explicit doctrinal statement for the Muslim family-law setting. Article 71(a) addresses a husband's practice of polygamy without permission from the Religious Court as a ground upon which a marriage may be annulled. That provision is important in cases proceeding within the religious-court system, although the relationship between the Compilation and legislation must be explained with due regard to their different legal forms. In construing the present dispute, Article 71(a) offers a doctrinal specification of the marriage-law problem; it does not eliminate the need to establish the applicable jurisdiction or the validity of the prior marital bond.[22]

A valid subsisting earlier marriage is an essential evidentiary element. The source manuscript refers to a marriage book and states that the earlier union had not ended by divorce when the subsequent ceremony was performed. If these claims are supported by official civil-status records, they become central to an Article 9 and Article 24 analysis. The proper inquiry would include whether the previous marriage was legally effective, whether a valid divorce or other terminating event had intervened, and whether any court order permitted another marriage. A later statement of marital breakdown or de facto separation does not automatically dissolve an existing marriage for statutory purposes.

The second indispensable element is the absence of legally required authorisation. A spouse's permission, a family discussion, or a private agreement should not be conflated with a judicial authorisation required by Articles 3–5. The court must investigate the actual existence of the relevant order, not merely the litigants' competing accounts about its supposed necessity. Where the claimant provides documentary proof that no authorisation was granted and the respondent cannot establish a valid exception, the argument for annulment becomes substantially stronger. This conclusion follows from the design of the statutory prerequisite and does not depend on proving that the parties deliberately intended to deceive a marriage registrar.

Turatmiyah, Pasyah and Shabrina show that an annulment judgment based on unauthorised polygamy must identify the substantive legal defect and explain how the marriage-law requirements were not satisfied. Their study supports a method of judicial reasoning that moves from a verified earlier marriage, to the statutory need for permission, to the absence of permission, and finally to the legal remedy. A judgment that simply calls a second union "unfair" or "socially unacceptable" would not provide the same legal certainty. The normative ground must be rooted in the applicable legislative provisions and the evidentiary record.[23]

More recent work by Putri and Rasji brings out a tension between legality and distributive justice. The legal system may need to annul a marriage concluded

22 Republic of Indonesia, Compilation of Islamic Law (Kompilasi Hukum Islam), disseminated under Presidential Instruction No. 1 of 1991, Articles 56, 71 and 75–76.

23 Sri Turatmiyah, Taroman Pasyah, and Nyimas Nur Shabrina, "Ratio Decidendi Putusan Hakim Pembatalan Perkawinan Karena Tidak Ada Izin Poligami", *Sriwijaya Journal of Private Law* 1, no. 1 (2024): 39–52, https://doi.org/10.28946/sjpl.v1i1.3580.

without the required court authorisation, but the parties' lives may already be deeply organised around that union. The second spouse might have relied upon an official record, incurred liabilities, or cared for children. Denying the legal defect would undermine the protection secured by the first marriage; ignoring the effects of the decree would create fresh injustices for persons who did not themselves control the original illegality. The task is to preserve the integrity of the entry requirements while applying the legislated limits on retrospective consequences.[24]

A parallel study by Zahara and Priandhini confirms that unauthorised polygamy can lead to annulment and may affect questions of succession, parental responsibility and family property. This illustrates why a court's analysis should not end with the observation that no authorisation existed. The judicial decision needs to state the legal character of the defect and identify the consequences that follow from the statute, especially where rights of persons other than the parties to the impugned marriage are at stake. A technically sound annulment that leaves all affected persons without guidance can reproduce the uncertainty that the action was meant to cure.[25]

There are also significant procedural questions. Articles governing entitlement to seek annulment and the effects of delay may become decisive in certain disputes. The recent study by Fathona and Ramadi, concerning a claim brought by a child in an unauthorised polygamy case, demonstrates that standing and procedural conditions are not peripheral. It would be methodologically unsound to assume that every relative can challenge every subsequent marriage at any time solely because the underlying family arrangement is contested. Where a legal challenge is brought by the first spouse, the court must still identify the specific statutory basis for that person's right to seek annulment and the applicable procedural rules.[26]

The present manuscript attributes a dispute over an earlier marital union and a later September 2018 marriage to Decision No. 435 K/Ag/2026. On those reported facts, the most directly relevant analytical route is to determine the continuity of the earlier marriage, verify the lack of a court order for polygamy, and then assess the availability of annulment under Articles 22 and 24. This is a doctrinal evaluation of a described dispute, not a claim to reproduce the Supreme Court's verbatim reasoning. The public decision directory confirms that a cassation decision of that number was rendered in a marriage-annulment case on June 23, 2026; confirmation of the case-specific ratio and operative relief requires the complete decision.[27]

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24 Riska Amelia Putri and Rasji, "Pembatalan Perkawinan Akibat Poligami Tanpa Izin Pengadilan Agama dalam Perspektif Legalitas dan Keadilan", *Kertha Semaya: Journal Ilmu Hukum* 14, no. 1 (2026), https://doi.org/10.24843/KS.2025.v14.i01.p20.

25 Dwi Shinta Zahara and Liza Priandhini, "Analisis Hukum Kebatalan Perkawinan Karena Adanya Poligami Tanpa Izin Berdasarkan Perundangan Perdata di Indonesia", *Jurnal Ilmu Hukum, Humaniora dan Politik* 5, no. 5 (2025): 3928–3935, https://doi.org/10.38035/jihhp.v5i5.4675.

26 Cici Fathona and Bagus Ramadi, "Daluwarsa sebagai Syarat Formil Gugatan Pembatalan Poligami Tanpa Izin oleh Anak Kandung", *Islamic Law: Jurnal Siyasah* 11, no. 1 (2026), https://doi.org/10.53429/iljs.v11i1.2811.

27 Supreme Court of the Republic of Indonesia, Decision No. 435 K/Ag/2026 (Marriage Annulment), decided June 23, 2026.

That limitation does not diminish the value of the doctrinal conclusion. Even without treating religious difference as the decisive ground, the reported failure to secure polygamy authorisation is capable of establishing an independent defect under the Marriage Law. The distinction is vital: if a court rules on that basis, it is neither granting legal approval to all interfaith marriages nor saying that differences in religion can never affect marital validity. It is determining the particular claim by a narrower impediment supported by the statutory structure. Such reasoning accords with the principle that judicial findings should not be broader than necessary to resolve the established controversy.

Fawdhi and co-authors address the legal position of a second wife after an unauthorised polygamous union is annulled, highlighting the importance of identifying the individual interests affected by the judgment. The second spouse's possible good faith is a question different from whether the husband complied with the law at the time of the ceremony. Treating those questions separately ensures that a court does not mistakenly infer culpability from the mere fact that a marriage can be annulled. The distinction is also relevant to cases alleging religious differences, in which the evidentiary record may not clearly establish what each spouse knew about the other's prior marriage or the legal requirements for remarriage.[28]

This provides a practical framework for the ratio decidendi of annulment decisions: identify the earlier marriage; ascertain its continuation at the date of the second ceremony; determine the applicable polygamy-authorisation requirement; establish whether the necessary order existed; and articulate why Articles 22 and 24 or other relevant provisions authorise the remedy. Only after these steps should the court discuss the separate question of religious validity if that question is necessary to determine the case. This ordering does not downgrade religion; rather, it prevents legal categories from being substituted for each other without reasoning.

3. Judicial Reasoning, Legal Consequences and Safeguards After Annulment

The final stage concerns the meaning of annulment for persons affected by the decree. Judicial annulment is analytically different from divorce. Divorce terminates a marriage recognised as valid up to its dissolution, while annulment addresses a marriage that has been judicially challenged for failure to satisfy legal conditions. Yet the legal system does not follow the simplistic proposition that everything that occurred during an annulled marriage becomes fiction. Article 28 of the Marriage Law provides for the effectiveness of an annulment judgment and expressly protects certain relationships from the ordinary retroactive logic of nullification. The scope of those protections should be considered at the same time as the judgment's main relief.[29]

Children's interests occupy a privileged position. Article 28(2)(a) limits the retrospective effect of annulment in relation to children born from the marriage. The doctrinal purpose is to prevent parents' failure to satisfy matrimonial entry

28 Muhammad Zarka Fawdhi, Joko Widarto, Markoni, and Helvis, "Legal Position of Second Wife Due to Annulment of Polygamous Marriage Without Permission", *Hermeneutika: Jurnal Ilmu Hukum* 8, no. 2 (2024), https://doi.org/10.33603/hermeneutika.v8i2.9560.

29 Republic of Indonesia, Law No. 1 of 1974 concerning Marriage, as amended by Law No. 16 of 2019, Articles 2–5, 9, 22–28.

requirements from being automatically transferred to persons who were not responsible for those defects. This point is essential where a marriage was entered without polygamy authorisation. Once a decree is obtained, the child's civil status, care, maintenance, education and other legal interests cannot be disposed of simply by calling the parents' marriage void. Research specifically addressing children's rights after annulment demonstrates the serious practical consequences that can result when this distinction is neglected.[30]

The principle of legal protection also applies to spouses and third parties, though not always in the same manner or scope. Article 28 contains qualifications concerning spouses who acted in good faith and persons who obtained rights in good faith before a final judgment, including specific treatment of property where an annulment is based upon an existing earlier marriage. The statute should therefore be read carefully rather than reduced to an all-purpose assurance that every property claim survives or, conversely, that all acquired rights automatically vanish. The factual issues of knowledge, good faith, ownership, legal interests of the first spouse and the timing of third-party transactions may require separate findings.[31]

The interests of the first spouse deserve particular attention. The requirement of judicial authorisation is partly designed to prevent an existing spouse's legally protected position from being displaced by unilateral decisions. An annulment remedy addresses the legality of the second marital bond, but the first spouse may still need an effective way to prove marital status, preserve joint property and resist transactions purportedly founded on the second marriage. In an appropriate dispute, judicial clarity about which marriage remained effective at which dates is therefore just as important as the formal declaration concerning the impugned second union.

The second spouse's position raises a different concern. The law's condemnation of an unauthorised subsequent marriage does not automatically tell us whether that spouse knew about the earlier marriage, relied on inaccurate statements, or had access to the facts necessary to protect their own interests. Fawdhi and co-authors underline how annulment can generate difficult questions concerning the second spouse's personal and proprietary position. Analysing those effects independently of the husband's breach of the authorisation requirement is not a way of validating the unlawful marriage; it is a way of applying the legally prescribed consequences accurately and without unnecessary injury.[32]

A related concern is the treatment of joint assets and transactions made before the decree. Parties may have acquired property, borrowed money or assumed obligations on the understanding that a marriage had been validly

30 Maryana Lestari and Septhian Eka Adiyatma, "Marriage Cancelled, What about the Rights for Children? Analysis of the Legal Consequences of Marriage Cancellation Due to Polygamy Without Permission from the Religious Courts", *The Indonesian Journal of International Clinical Legal Education* 2, no. 2 (2020), https://doi.org/10.15294/iccle.v2i2.36390.

31 Dasmar Ali, "Akibat Hukum Pembatalan Perkawinan berdasarkan Undang-Undang No. 1 Tahun 1974", *Al-Fikra: Jurnal Ilmiah Keislaman* 23, no. 2 (2024), https://doi.org/10.24014/af.v23i2.39871.

32 Muhammad Zarka Fawdhi, Joko Widarto, Markoni, and Helvis, "Legal Position of Second Wife Due to Annulment of Polygamous Marriage Without Permission", *Hermeneutika: Jurnal Ilmu Hukum* 8, no. 2 (2024), https://doi.org/10.33603/hermeneutika.v8i2.9560.

entered. Some interests may attach to the first marital estate; others may involve a child or a good-faith outsider. Scholarship on international marriage annulment documents the challenges of protecting children and resolving joint-property disputes when legal systems differ about the meaning of annulment. Even in a purely domestic case, the analytical lesson is the same: the court must identify each legally protected relationship rather than deciding all property issues by applying the label "annulled" without further reasoning.[33]

The child-protection dimension is not exhausted by whether the child remains legally recognised. Following annulment, practical problems may concern birth registration, evidence of parentage, maintenance payments and the administration of inheritance. Protection under Article 28 should be reflected in the operation of public institutions as well as in judicial language. For this reason, an annulment decision that addresses the status of the adults should, where the circumstances require it, be accompanied by clear consideration of how the registry and other relevant authorities can preserve children's documentation and entitlements under the law. An administrative failure that needlessly disrupts a child's documents would frustrate the protective rationale of the statutory exception.

Administrative agencies likewise require a precise interpretation of the order. A civil or religious registry should be able to distinguish a court's ruling that a particular marriage is annulled from a broad statement that any marriage involving different religions is invalid for every purpose. It should also distinguish annulment from the refusal of an application for new marriage registration under Circular Letter No. 2 of 2023. Studies by Fazila and co-authors and by Saadah and colleagues show that the intersection between judicial policy and population registration can generate normative uncertainty. An accurately framed decree reduces the danger that a registrar will apply an annulment judgment more broadly than its legal terms justify.[34]

The same concern arises in scholarship exploring a conflict of norms between judicial guidance and statutory registration procedures. Supreme Court Circular Letter No. 2 of 2023 may inform judicial handling of registration applications, but it does not dispense with the detailed examination required in an annulment case brought by a first spouse. A clear order should state the substantive reason for the decree, the legal status of the affected marriage, and any consequential obligation of the registry. Such precision respects both institutional roles: the court resolves the legal dispute, while the administrative authority updates records according to a legally effective order.[35]

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33 Hani Puspita Sari, Melinda Aji Nilamsari, and Lucky Dafira Nugroho, "Dampak Hukum Dari Pembatalan Perkawinan Internasional Terhadap Status Anak Dan Harta Bersama", *J-CEKI: Jurnal Cendekia Ilmiah* 4, no. 5 (2025): 896–910, https://doi.org/10.56799/jceki.v4i5.9971.

34 Arina Nur Fazila, Zakaria Nuriman Wanda, Elviana Risqa Nur Fadila, and Avany Mahmudah, "Analysis Conflict of Norms between SEMA Number 2 of 2023 and the Principles on Civil Registration of Administration Law", *Qaumiyyah: Jurnal Hukum Tata Negara* 7, no. 1 (2026), https://doi.org/10.24239/qaumiyyah.v7i1.238.

35 Chuzaimatus Saadah, Az-Zahra Aulya Salsabila, and Fatwa Syibromalisi, "Interfaith Marriage in Indonesia After Supreme Court Circular (SEMA) No. 2 of 2023: A Juridical-Normative Analysis", *SAMAWA: Jurnal Hukum Keluarga Islam* 6, no. 2 (2026), https://doi.org/10.53948/samawa.v6i2.420.

Judicial reasoning must also respect evidentiary limits. If the marriage books, court authorisation register and applicable identity documents are not reproduced in the case materials examined by a scholar, they cannot be treated as verified evidence merely because a secondary text narrates them. This is especially important for the reported difference in religious identity and the claimed absence of polygamy permission. The documentary trail must be checked, as must any explanation for how the ceremony could have been recorded in the stated institution. A well-supported judgment can only be accurately evaluated if the academic analysis differentiates alleged facts, proven facts, and the legal conclusions drawn from those facts.

Accordingly, three safeguards should guide the reasoning in similar cases. First, preserve category accuracy: a marriage-law capacity defect, the religious validity requirement, and a registration rule are not interchangeable. Second, preserve procedural accuracy: the court must identify jurisdiction, standing, admissible evidence, and the statutory basis of annulment. Third, preserve remedial accuracy: the decree must be read alongside Article 28 and associated rules protecting children, spouses and good-faith third parties. Each safeguard responds to a distinct form of uncertainty and reduces the risk of an expansive judicial conclusion unsupported by the facts actually found.

These safeguards also suggest a measured role for comparative legal scholarship. Some recent studies on interfaith marriage advocate broader recognition, while others defend restrictive registration rules on religious or public-order grounds. Zuhriah and co-authors emphasise the importance of multireligious reasoning.[36] Brouwer and colleagues critique judicial restrictions on registration.[37] A court deciding an unauthorised-polygamy challenge need not resolve all of those disagreements to address a proven prior marriage and a missing authorisation. However, it should explain why it has selected the narrower ground and avoid presenting that selection as definitive resolution of a broader constitutional debate.[38]

From a law-reform perspective, legal certainty could be improved through standardised checks for previous marital status and court authorisation before a subsequent ceremony is registered. Such checks should operate within the limits of lawful data access and avoid treating every applicant as presumptively deceptive. They can include verification of a final divorce record, confirmation of a relevant authorisation order and a clear explanation of the legal status stated by the applicant. Where a disputed marriage is subsequently annulled, the same

36 Erfaniah Zuhriah, Su'ud Fuadi, Imam Sukadi, Jamrud Qomaruz Zaman, and Siti Aisyah binti Samudin, "Legal Construction of Interfaith Marriage in Indonesia: Legal Reasoning and Multireligious Ratio Legis", *Contemporary Issues on Interfaith Law and Society* 5, no. 1 (2026), https://doi.org/10.15294/ciils.v5i1.39979.

37 Darryl Evan Brouwer, Muhammad Akrom Ramadhan, and Ananda Lestari, "Prohibition of Interfaith Marriage Registration: A Critique of Judicial Policy", *Lex Journal: Kajian Hukum dan Keadilan* 10, no. 2 (2026), https://doi.org/10.25139/lex.v10i2.11580.

38 Erfaniah Zuhriah, Su'ud Fuadi, Imam Sukadi, Jamrud Qomaruz Zaman, and Siti Aisyah binti Samudin, "Legal Construction of Interfaith Marriage in Indonesia: Legal Reasoning and Multireligious Ratio Legis", *Contemporary Issues on Interfaith Law and Society* 5, no. 1 (2026), https://doi.org/10.15294/ciils.v5i1.39979.

administrative process should assist in implementing the final judgment without disrupting a child's protected civil status.

The proposed model is intentionally restrained. It does not ask courts to ignore religious validity, and it does not convert every defect of registration into a ground for annulment. Nor does it allow unauthorised polygamy merely because the parties can show that a ceremony or recording occurred. Instead, it places the statutory conditions in their proper order and requires each conclusion to follow from a documented fact. In the case considered here, the factual account supplied by the authors points primarily to the continuing first marriage and missing polygamy authorisation. That account supports a focused doctrinal explanation; establishing that it precisely matches the Supreme Court's ratio decidendi remains a task for verification against the judgment itself.

Reviewer-Driven Doctrinal Clarification and Evidentiary Limits

Provenance limits are decisive here. The submitted materials identify Supreme Court Decision 435 K/Ag/2026 but do not include the authenticated full judgment, complete operative orders, relevant marriage books, prior-marriage status records or court authorisation register. Accordingly, no specific judicial holding, date, religious identity at the ceremony or chain of case-specific facts is asserted here as established. Statements originating only in the earlier manuscript are reported allegations, not new factual findings.

The authors' proposed three-stage test is as follows: first, verify legal marital status at the date of the second ceremony; second, evaluate the legal and evidentiary status of any polygamy authorisation and the alleged religious obstacle using the law then applicable; third, examine the standing and statutory ground for annulment together with the protected interests of children and good-faith parties. Article 28 of the Marriage Law limits retroactive consequences in specified circumstances; the continued position of children, property and support claims must be analysed separately rather than presumed erased. This is a doctrinal model, not a reconstructed ratio decidendi of Decision 435 K/Ag/2026.[39]

Table: Legal analysis and evidentiary requirements (Article 740)

Proposition	Primary document needed	Status in provided review file
Valid prior marriage / still subsisting	Marriage book and status registers	Not independently supplied
Second ceremony and religion	Original marriage record; verified parties' religion	Reported only; KUA claim unverified
Permission for polygamy	Religious-court permit/register	Not independently supplied
Annulment grounds and standing	Petition, operative judgments	Judgment reasoning unavailable
Effect on children and good-faith spouse	Status and civil documents; Article 28	Doctrinal analysis only

39Republic of Indonesia, Law No. 1 of 1974 concerning Marriage, as amended, art. 28.

Source: Authors' doctrinal synthesis based on the authorities identified in Article 740; missing primary evidence is labelled expressly.

CONCLUSION

The existence of a subsisting marriage, absence of judicial permission and potential interfaith impediments are distinct legal propositions requiring their own proof. The submitted materials do not authenticate the full reasoning of Supreme Court Decision 435 K/Ag/2026, so the article cannot present a reconstructed holding. The proposed sequence of status verification, authorisation review and protection of children and good-faith parties is a normative approach grounded in the Marriage Law; no later circular is used retrospectively to create a 2018 violation. Publication of a definitive case study requires the judgment and supporting original records.

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