

# Resolving the interfaith conflict over burial preparation: Who has the right to bury the dead?

*by Ansori Ansori Et Al*

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# Resolving the interfaith conflict over burial preparation: Who has the right to bury the dead?



## Authors:

Ansori Ansori<sup>1</sup>   
Karimatul Khasanah<sup>2</sup>   
Mohamad Sobirin<sup>3</sup>

## Affiliations:

<sup>1</sup>Faculty of Islamic Law,  
Universitas Islam Negeri  
Prof. K.H. Saifuddin Zuhri,  
Purwokerto, Indonesia

<sup>2</sup>Department of Islamic  
Economics Law, Faculty of  
Islamic Law, Universitas Islam  
Negeri (UIN) K.H.  
Abdurrahman Wabikid,  
Pekalongan, Indonesia

<sup>3</sup>Department of Qur'anic  
Sciences and Tafsir, Faculty of  
Islamic Theology, Literature  
and Humanities, Universitas  
Islam Negeri Prof. K.H.  
Saifuddin Zuhri, Purwokerto,  
Indonesia

## Corresponding author:

Ansori Ansori,  
ansori@uinsaizu.ac.id

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The body of the deceased is not an object but still a person. It deserves to be treated respectfully, and often this respect is expressed through religious rites. However, problems arise when the family of the deceased follow different faiths and disagree over the burial rite. Such a scenario is examined in this study where the immediate family of the deceased professed different faiths and could not agree on the burial rites to be performed. This research is intended to examine the issue of burial rights as a reason for interfaith conflict. Who has the right to prepare the body of the deceased for the burial? Which rites should be followed? Using the theological and legal approaches, we found that the conflict was caused by (1) belief in an afterlife and (2) law, culture and religion give the right to decide the burial or disposal of the body to living parties. The legitimate way to determine how to treat the body of the deceased and according to which religious rite the burial is to be performed is by confirming the religious identity of the deceased as stated in the legal document. In other words, the burial rites to be followed by the family of the deceased depend on the proven religious identity of the deceased, whether Christian or Muslim.

**Contribution:** This article attempts to justify the right of the deceased to be buried according to their personal faith, which may not be identical with the faith practised and professed by their family. In cases of religious conversion, both parties claim their right to bury the deceased according to their own religious rites, and it is often difficult for both sides to reach an agreement. Nevertheless, this conflict can be resolved peacefully if the rights of the deceased are respected by the bereaved.

**Keywords:** interfaith; conflict resolution; corpse; right; religious burial rite.

## Introduction

Anything that has no soul is called an inanimate object. We have different ways of treating animate and inanimate objects. Human behaviour is characterised by treating others in a respectful and affectionate manner, unlike lifeless objects. This, however, does not apply to a certain kind of object which is the body of the deceased (Fahlander & Oestigaard 2008; Mathijssen 2021; Schwarz et al. 2021).

Especially for religious people it is important that the body of the deceased is treated well and given due attention and respect by those entrusted with its care. Each religious community has their own burial rites. These ritual practices are, for most religious communities, not merely an expression of their culture but intimately linked to their faith and belief in the afterlife.

However, problems may arise and develop into acute social conflicts when the body of the deceased is not put to rest according to the religious teachings of the bereaved family members. In the last decade, there occurred two cases of interfaith conflict in Indonesia and the United States of America over the issue of claiming the body of the deceased. Both individuals concerned had disputed religious identities where their families consisted of Muslims and Christian Protestants, both groups claiming their right to bury the deceased according to their respective faith.

What made this problematic situation worse is that this disagreement over the burial not only involved the immediate family but soon extended to their religious community, each side defending their right to bury the deceased in question. Reviewing these two cases, the question of 'rightful ownership' arises. Does the deceased have the sole right to decide according to which faith he wants to be buried, depending on his professed religious identity while he was still alive? Or does the family have the right to claim his body and decide on his behalf? And

what if two parties lay a claim on his body, one Muslim and the other one Christian? If such interfaith conflicts arise, how are they properly resolved? And what can be done to prevent the occurrence of similar conflicts in the future?

The issue of ownership and burial of the dead body has been studied extensively, from a religious, cultural and legal perspective. Regarding the Islamic perspective, Aramesh (2009) discussed some issues related to body ownership in medicine. Medical training requires the dissection of corpses; however, this is prohibited in Islamic law. Thus, any form of dismemberment of the body is not allowed, even if the family of the deceased have given their consent. In Islam, the body of the departed must be treated with utmost respect, and the dignity of the deceased must remain intact. The only exception applies to organ donation when the procedure is necessary to save another person's life. Consequently, the body ownership does not lie with the deceased or his family but to God, and the burial must be in accordance with Islamic law.

Meanwhile, from a cultural perspective, the issue of body ownership and burial rituals is viewed less dominantly. Every culture has its own rituals surrounding death, ranging from washing and shrouding the body to releasing it, either by burying it in the ground, burning it, or preserving it. Traditionally, the burial ceremony is part of the ethnic and religious culture of the community (Palgi & Abramovitch 1984). In contemporary secular society, on the other hand (e.g. in the United States of America), the religious, medical and commercial aspects are combined into a unique way of perceiving corpses (Emerick 2000). Thus, the fate of the body is decided by the social environment of the deceased (Foltyn 2008)

In contrast to the religious and cultural perspectives, the legal debate around the issue of body ownership is based on four principles of impossibility, significance, the time limit and conflict of interest between the living and the dead. The point of Smolensky's research is that the deceased possesses legal rights, although the issue is about the corpses inheritance (Smolensky 2011).

Meanwhile, the research conducted by Woods (2013) discussed the issue of recognising the body ownership rights after death. He argued that such a right must exist in order for the family members to take care of the deceased.

Thus, property rights to human corpses were proposed for ensuring proper burial. This conclusion was reached after considering the New Zealand Supreme Court case, *Takamore v. Clarke, Gravatt and Toi Moko*. The recommendations presented in this study state the superiority of the wishes of the living over those who are dead, and the importance of joint decision-making in matters relating to death and grief (Woods 2013). However, this study did not review the conflicts arising because of different religious beliefs of the heirs and their perception of a decent and proper burial.

In addition, Stepputat (2016) discussed the legal framework of this issue in detail, yet without considering ownership rights from the religious perspective. His study reviewed the law applying to the transfer of bodies from one country to another, bodies of victims of conflict and war and mutilated bodies.

According to Stroud (2018), the differences in opinion depend on our perception of the body of the deceased. Should it be treated as a person or an inanimate object? The human corpse as an object means that it is a material object that needs to be disposed of in some way or another because it is in a state of decay and biological decomposition. However, the body of a dead human being is not the same as the body of a dead animal. The person could be our father, our child or our friend, and 1 day, even ourself. Thus, dead bodies are not just objects but former people. Even to the most secular of people, corpses deserve to be treated with dignity and respect. This difference in perception brought the law into three interrelated domains, namely, definition, use and ritual.

Although none of the studies mentioned above discussed the issue of body ownership in the context of interfaith conflict, each of them represents a specific viewpoint and highlights certain aspects surrounding it.

## Research methods

The authors explored this qualitative research data through in-depth interviews and documentation (Bazeley 2001; Corbin & Strauss 2008). In this case study, the authors conducted interviews with parties who were directly involved in two unrelated incidents of conflict over the body of the deceased in Indonesia and the United States of America. Both cases provided the study with rich data to examine the issue of body ownership in association with interfaith conflict variables. For privacy reasons the identity of the involved parties had to remain undisclosed, and both cases had never been covered in the media. What was permitted to be disclosed, such as the time and location, was included in the study to support the accuracy of the data in this case study. Meanwhile, the authors used two approaches to analyse the object of this study. The first approach was theological and involved examining religious burial customs and related concepts, such as belief in salvation and resurrection. The second, legal approach focused on the rights of the deceased and the ownership of the body by consulting relevant legal documents.

## Findings

From a cultural perspective, individual identity ends with death, which means that the deceased has neither rights nor obligations. However, the body is not considered as a mere object because it housed the spirit of someone who used to be a parent, child, loved one or friend. Thus, many cultures regulate and protect the way in which the body is released because it deserves dignity and respect (Emerick 2000; Foltyn 2008; Sørensen 2009). It follows that the corpse is still

considered a person, which is also reflected in the perspective of international law (ICRC-International Committee Geneva n.d.), Islamic law (Jamiu Muhammad & Muhammad 2018; Salisu 2017) and political point of view, which concluded that if corpses are objects, then there is no way that corpses are really important for the living (Posel & Gupta 2009).

Notwithstanding, the human body is sometimes objectified. Human corpses have been positioned as useful objects for the needs of educators and medical students. Thus, the status of the human corpse is that of a kind of pseudo-property, something that cannot be bought or sold, while some have a stronger claim on it than others. The bodies of the least powerful and significant – the poor, the non-white, the unidentified – are often treated, if not officially as property, but almost indistinguishable from it (Stroud 2018).

In this case study, the ritual of burying the body of the deceased as a form of releasing it back to nature is practised by Muslims and Protestants alike; however, the permissibility of cremation is still contested (Hutchinson & Aragon 2008; Stepputat 2016; 2020). For Muslims, there is no doubt that the dead have to be buried in the ground, which is the only lawful way to dispose of them in accordance with Islamic teachings. In contrast, cremation is considered contrary to the Shari'a (female participant 1, wife of A, Muslim, interviewed 22 February 2021; male participant 1, son of A, Muslim, interviewed 22 February 2021; female participant 2, wife of B, Muslim, interviewed 05 August 2021) and viewed as a sign of atheism and lack of humanity (Knight 2018). Meanwhile, the Protestant participants did not reject cremation or thought it contradicted the teachings of the Bible and a more efficient and cost-effective way of disposing the dead than burial (Beard & Burger 2017), especially in overpopulated cities. They have stated that there is no scriptural prohibition of cremation in the New Testament. The Bible neither favours nor forbids the process of cremation. For them, it allows that ashes to be scattered or interred in the ground, niche wall or columbarium (male participant 2, son of the late A, Protestant, interviewed, 11 January, 2021; and male participant 3, son of the late B, Protestant, interviewed, 07 March 2021).

The conflict over which religious ritual to follow for the burial is very complicated and can lead to intense disputes among families of mixed religion. Each group will insist on practising their own religious tradition to show their respect to the deceased as reflected in their belief system. Thus, the ritual burial is believed to prepare the deceased for the resurrection from the grave (Merricks 2009) and the afterlife (Filippo 2006).

In our interviews with Muslims and Protestants it transpired that all participants believe in the Day of Resurrection. However, there is a sharp difference between them in the meaning of resurrection. The Protestants believe that it does not matter if the body is cremated because the resurrection is in the form of a spiritual body, as stated in Daniel 12:2–3 (male participant 2, son of A, Protestant, interviewed 11

January 2021; male participant 3, son of B, Protestant, interviewed 07 March 2021). Muslim philosophers discussed the same issue at length and agreed with this logical assumption. It is not actually an Islamic belief that the body must be preserved: all bodies decay in the ground, yet all people who have ever lived will be resurrected. Meanwhile, the Muslims among them believe in the resurrection of the physical body. They believe that their bodies would not be able to be resurrected if they have been cremated. Therefore, cremation is prohibited in Islam. They hold this belief firmly because of the promise of Allah that all those lying in their graves will be resurrected on the Last Day, as they stated by quoting the verses in the Qur'an such as Surah al-Hajj: 7. This is excluded for the bodies of victims of fire or bombs and drowning in oceans or rivers and other destructive disasters (female participant 1, wife of A, Muslim, interviewed 22 February 2021; male participant 1, son of A, Muslim, interviewed 22 February 2021; and female participant 2, wife of B, Muslim, interviewed 05 August 2021).

Because of these differences in belief, the families of the deceased preferred different types of laying the deceased to rest. Both the Protestants and Muslims agreed on the burial, but some of the Protestants preferred the current trend of cremation. Both parties did not have a conflict over the ownership right of the body but were concerned about the spiritual consequences of an improper release of the body.

Regarding the doctrine of salvation of the soul, various religious rituals are performed to help the dying depart from this world and transit smoothly to the next (Anderson & Souza 2021; Hunter & Ammann 2016; Pace & Mobley 2016; Petit et al. 2015). In this case study, the Muslim relatives were more concerned about preserving the body for the afterlife than the Protestant relatives. They believe that it is important to perform the necessary rituals for the deceased to ease his state while waiting for the Day of Judgement and consider the burial as an important part of the final phase of life. It consists of a series of rituals; the body is washed, purified, shrouded, prayed over and buried. In their view, being able to complete all the elements of the ritual is a sign of blessing and hope for what is yet to come (female participant 1, wife of A, Muslim, interviewed 22 February 2021; male participant 1, son of A, Muslim, interviewed 22 February 2021; female participant 2, wife of B, Muslim, interviewed 05 August 2021). Salvation and entry into Paradise is what every Muslim hopes to experience after death (Seise 2021). Meanwhile, the Protestants do not see any specific causal relationship between a person's salvation and the burial (male participant 2, son of A, Protestant, interviewed 11 January 2021; male participant 3, son of B, Protestant, interviewed 07 March 2021). Given these different convictions, the tension between both groups and the tendency to come into conflict over a deceased relative is understandable.

The resolution of the conflict between the Muslim and Protestant relatives in the two cases was pursued through legal mediation. Based on the legal records of the deceased, both parties contested each other's right to ownership of the

body so that they could bury or cremate it in their own fashion. In the first case, the deceased was registered as a Muslim in Indonesia; therefore, the ownership rights of the body were given to his Muslim son who buried his father following the Islamic rituals. Meanwhile, in the second case, the deceased had been an American citizen married to an Indonesian woman, but the legality of their marriage was contested in his home country. Subsequently, the right of ownership of his body was given to his Protestant son in the United States of America who proceeded to cremate his father.

## Discussion

### Two cases of interfaith conflict on body ownership

There are two cases as objects of this study: the first locus is in Indonesia and the second is in the United States of America. The first case was about A, an ethnic Chinese Muslim who died in Jakarta, Indonesia. The conflict occurred after A's body was taken to the funeral home in Sokaraja, Banyumas, Indonesia. His first wife had been Protestant, and so were the children he had with her, while his second and surviving wife and their children were Muslim. His Protestant children believed that their father had converted to Protestantism 2 years before his death (male participant 2, son of A, Protestant, interviewed 11 January 2021). Meanwhile, A's Muslim children contested whether he had been a Muslim and served as a chairman of PITI (Indonesian Chinese Islamic Association) for two periods in the Banyumas Regency. They had also observed him practising Islam in his everyday life (male participant 1, son of A, Muslim, interviewed 22 February 2021). This was confirmed by the current chairman of PITI who attested that A had been a Muslim (Chairman of the State Harmony Forum of Interfaith/Forum Kerukunan Umat Beriman, Banyumas, interviewed 27 March 2021).

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The conflict between the descendants of the deceased was not so much caused by themselves but by other members of their religious community who felt that they needed to intervene and show their solidarity and support. Thus, it is a private case of disagreement over A's religious identity and burial that quickly turned into a community affair, with the Christians on one side of the fence and the Muslims on the other side.

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For A's Muslim children it was inconceivable to see their father being put into a coffin in his best clothes and buried in a Christian cemetery. Also, they felt they had an obligation to ensure that their Muslim father was washed, buried as a Muslim, and the Islamic prayer said over his body. However, A's body had already been taken from the hospital and transported to a Christian funeral home by his Protestant children. Upon hearing this, A's Muslim children resorted to taking A's body from the funeral home, without due permission, to wash him, shroud him and bury him in a Muslim cemetery (Chairman of the State Harmony Forum of Interfaith/Forum Kerukunan Umat Beriman, Banyumas, interviewed 27 March 2021).

Thereupon, A's Protestant children and members of their community went to report the incident to the police in Banyumas and filed an official complaint of body theft. Since the chief of police was a Christian himself, he abstained from taking any immediate action because he feared to appear biased and cause a riot. Instead, he decided this case to be mediated by the chairman of the Banyumas Regency FKUB (Forum for Religious Harmony) in the Banyumas police headquarters (Chairman of the State Harmony Forum of Interfaith/Forum Kerukunan Umat Beriman, Banyumas, interviewed 27 March 2021).

This mediation session was attended by the two parties in the presence of A's Christian son, his two companions and three of A's Muslim children. Also present were FKUB, Banyumas Resort Police, PITI, MUI (Indonesian Ulama Council) of Banyumas, East Purwokerto District, Welfare Service, National Political Unity Agency, Department of Population and Civil Registration and Anshor-Banser NU Banyumas (Chairman of the State Harmony Forum of Interfaith/Forum Kerukunan Umat Beriman, Banyumas, interviewed 27 March 2021).

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The main aim of this mediation session was to ensure that the conflict would be resolved immediately so that A could be buried as soon as possible. Therefore, both parties agreed that the mediation should be completed in the same night. It lasted from 00 pm to 01:00 am. A's Christian family argued that A had been baptised 2 years before, while A's Muslim family presented evidence in support of him having been a practising Muslim. This argument by each party was checked by the mediator based on A's personal administrative records in the Department of Population and Civil Registration service (Chairman of the State Harmony Forum of Interfaith/Forum Kerukunan Umat Beriman, Banyumas, interviewed 27 March 2021).

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However, no record of A's presumed baptism or conversion from Islam to Christianity was found. Based on this fact, it was decided that indeed A had been a Muslim; therefore, the right to reclaim the corpse was given to his Muslim family who would perform the Islamic funeral rites for him (Chairman of the State Harmony Forum of Interfaith/Forum Kerukunan Umat Beriman, Banyumas, interviewed 27 March 2021; and Vice Chairman of Indonesian Ulama' Council, Banyumas, 05 April 2021).

This incident occurred 5 years ago but was not reported in the media at that time. Given its sensitivity and potential cause for sectarian unrest and violence, it was decided to conclude the mediation process as quickly as possible and put his matter to rest. A's Protestant's son respected the decision, although he still believed that his father had been baptised and should have been given a Christian burial. However, because his father had died as a registered Muslim, he could not argue this case (Chairman of the State Harmony Forum of Interfaith/Forum Kerukunan Umat Beriman, Banyumas, interviewed 27 March 2021).

In the second case, a conflict occurred over the body of an American citizen, B. Before moving to Indonesia, he had been married to an American woman, and later married a second time, an Indonesian. His first wife B had their four children who were Protestant, while his second wife was a Muslim convert. After B and his second wife had moved back to Washington, DC in the United States of America, he died of a heart attack on 22 August 2016, at the age of 66 (female participant 2, wife of B, Muslim, interviewed 05 August 2021).

The conflict over the care of B's body began when he was brought by his Protestant children from his first wife to the funeral home. According to U.S. law, only funeral homes are permitted to collect the bodies of the deceased from hospitals. Considering the cost of a complete burial (\$20 000), his family decided to have his body cremated (female participant 2, wife of B, Muslim, interviewed 05 August 2021).

Upon hearing of this plan to cremate B, his Muslim widow and representatives of the local Islamic centre protested, supported by the Indonesian consulate where she held the position of chair coordinator. However, the Muslim party failed to obtain their right to give B an Islamic burial, and the body was eventually cremated. B's Muslim widow had submitted evidence to support her claim in the form of an Indonesian marriage book in which B was recorded as a Muslim. However, this record was not accepted as proper evidence by the local legal authorities (female participant 2, wife of B, Muslim, interviewed 05 August 2021; Indonesian diplomat, interviewed 09 August 2021; and a member of the Islamic centre congregation in Washington DC, interviewed 07 August 2021).

In addition, the second party also showed other evidence to prove the Muslim identity of B in the form of a *shahadah* [conversion] certificate issued by the Islamic centre that witnessed B's conversion to Islam in 2013. This certificate had been used by B to fulfil the legal requirements to marry a Muslim woman at the Indonesian Religious Affairs Office (KUA). However, both documents were not accepted as official and legally binding documents (female participant 2, wife of B, Muslim, interviewed 05 August 2021; and a member of the Islamic centre congregation in Washington DC, interviewed 07 August 2021).

Although the widow further attested that B had studied under many Islamic religious teachers in Indonesia, such as HBP (initials of his full name), a caretaker of a mosque in Bandung, who gave a statement in support, also did not have any legal force in the mediation process according to U.S. law. Also, her appeal to emphasise with her husband's situation was unsuccessful. She recalled that her husband had been reading the English translation of the Qur'an for the past one-and-a-half years, as evident from a record in her diary:

'Your special present for my birthday March 2016 by finished your recitation of Quran in 2 and half years, is an amazing gift I

ever ever had in my life. No one did it before. Event in this world from newbie Muslim who don't care he can't read it from the original language such mostly Muslim done on this earth. But you said you will recite it all, 6666 verses by translation. And you never give up with the obstacle! That is an ultra extra remarkable birthday's present.' (female participant 2, wife of the late B, Muslim, 2016)

However, in the end, the mediator's decision was that the rights of B's body were given to the heirs of the first party, B's Protestant children who proceeded to cremate him. This legal decision was justified by U.S. law, but it was difficult for the second party to accept.

### The right of the deceased: Grounded theory of conflict resolution

Various perspectives from religion, culture and law indicate that the body of the deceased is considered as a person rather than an object. Only the medical perspective allows to see the body of a deceased individual as a specimen to be dissected and studied. In any case, however, the body should be treated respectfully and without violating the dignity of the deceased. The respectful treatment of the human body in death is evident throughout human history and supported by the presence of specific rituals before, during and after the disposal of a spiritual or religious nature.

In the two cases discussed above, conflicts over body ownership may arise between the adherents of different religions because the burial ceremony and release of the body are part of the sacred, not profane. Whether Christian or Muslim, the relatives of the deceased believe that the teachings and rituals of their religion are the most appropriate to honour the body of their parents. This raises the question of who indeed is entitled to determine the fate of the deceased's body. Answering this question would help prevent the occurrence of interfaith conflicts of this kind which are bound to become more frequent in today's globalised and interconnected world.

Several perspectives have sought an answer to this question, but there is still a considerable potential for conflict among the religions. Most previous studies stopped at the issue of body ownership to determine the ritual of disposing the body, without considering the other variables. From the cultural perspective, for example, the treatment of the body depends on the prevailing culture of the location, which usually prevents any conflict. However, from a religious perspective, God has the only authority to decide how the body of the departed should be treated and prepared for the afterlife. This religious perspective is, however, only relevant in homogeneous communities where all members practise the same faith.

In contrast, the legal perspective holds that the rightful person to determine the fate of the body is the closest next of kin. Only in cases where the body cannot be identified or no known relatives exist, the rights and obligations are handed over to the state authorities. In addition, the law also regulates

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the obligation to take care of the corpse and release it respectfully. This legal perspective is effective in solving issues such as the use of bodies for medical purposes, bodies of war victims, bodies that are outside their national territory, donation of certain body parts and the like. However, the two cases examined in this study cannot be resolved from the legal perspective.

[AQ11] Some theories are found in resolving a conflict both in the litigation and non-litigation domains (Deutsch 1983; Deutsch, Coleman & Marcus 2006; Groom 1994; 1997; Hansen 2008). Mediation is one of the non-litigation conflict resolution strategies (Billikopf-Encina 2002; Jones 2000). In the first case, non-litigation through mediation was an option, while the second case was resolved through non-litigation in a legal setting.

Although the two conflicts followed different settlement paths, they were both resolved. This is not solely the result of a successful legal approach but because both parties were motivated to reach a peaceful solution out of respect for their father. The affected Muslim party gave priority to the need for an immediate disposal of the body rather than prolonging the process and delaying it unnecessarily.

[AQ12] The legal procedure followed in both cases required the submission of legal documents as proof of the religious identity of the deceased, which had implications for the religious character of the disposal ceremony. Even though this legal approach successfully resolved the conflict, it was deemed insufficient to satisfy the defeated parties in the mediation. The documents issued by religious authorities and institutions were not accepted on legal grounds, such as the *shahadah* certificate issued by the Islamic centre in the United States of America and the baptism certificate by the church in Indonesia. The only documents admitted in the mediation to determine the deceased's religious identity were the legal documents issued by the authorities in the state administration. In the first case, these were the documents registered in the Administration of the Ministry of Home Affairs (ADMINDUK) which records the religion or belief of Indonesian citizens. These data are regulated on *Laws of the Republic Indonesia Number 23 year 2006 about Population Administration, Chapter VI Population Data and Documents, Part One: Population Data* (2006). Meanwhile, in the second case, the legal documents issued by American institutions were considered valid but not those issued by the Indonesian government. Although the legal document is regulated in the Indonesian legal system, that is, *Law Annotation Based on the Decision of the Constitutional Court Law of the Republic of Indonesia Number 1 Year 1974 Concerning Marriage* (2018), which is regulated by the Office of Religious Affairs (KUA) under the Ministry of Religious Affairs, Republic of Indonesia, it is not legalised by the U.S. government (e.g. the United States Consulate in Indonesia). Thus, the document is not considered valid according to the legal provisions.

Considering these facts, there are two further recommendations to ensure the peaceful settlement of similar cases that involve interfaith conflict over body ownership in the future. Firstly, the religious authorities and institutions must confirm the legality of the religious identity of individuals before the law. Secondly, the legal authorities in the state must provide legal recognition of the status of an individual's religious identity issued by the religious authorities and institutions.

However, this is only possible if religious identity is properly regulated by the authorities. In the context of Indonesia which guarantees religious freedom and diversity in its constitution, these regulations are well in place, but the situation is different in a secular country like the United States of America where religion is considered a private and personal matter.

Thus, an important theoretical finding in this study is that the right to receive the body of the deceased and carry out the burial ceremony should not be given to next of kin but to the deceased. If the wish of the deceased is respected, in accordance with his religious identity established during his lifetime and attested by his community, current and future interfaith conflicts would be easily and swiftly resolved.

## Conclusion

The main factors causing interfaith conflicts over body ownership rights are because of the perception that the body of the deceased is not an object but rather still a person. Furthermore, the issue of proper and rightful burial cannot be separated from the ethical consideration of respecting the body of the deceased and the belief in an afterlife. Religious teaching and practices regarding the proper burial ceremony ought to be respected and treated with the tact they deserve. As discussed earlier, the issue of burial or cremation is highly sensitive and has serious theological implications for the deceased as well as the next of kin.

Islam prohibits the cremation of the body, and this injunction cannot be altered for the sake of efficiency or convenience. Also, it is a tradition in Indonesia to visit the grave of deceased family members (*ziarat kubur*). Furthermore, there are numerous signs to be observed before and after the burial ceremony, which indicate the fate of the departed soul in the afterlife; therefore, the preparation for the burial is of great significance for Muslims. On the other hand, most modern Protestants accept cremation and have no religious objections to it as it bears no consequence to the deceased's salvation in the afterlife.

Having examined these two cases, we can conclude that the legal perspective alone is not sufficient to present a solution to such conflicts because of the lack of regulation. Therefore, based on the findings in the case settlement, the relevant authorities must formulate a regulatory framework to prevent interfaith conflict over the right of body ownership and the right of the body to be preserved and released



according to the deceased's professed and proven religion or belief. Likewise, the right of body ownership exercised by the next of kin or state authorities must not violate the right of the deceased.

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## Competing interests

The authors have declared that no competing interest exists.

## Authors' contributions

A.A., K.K. and M.S. were all involved in draft preparation, conceptualisation, analysis, data collection, funding acquisition, editing, reviews and writing of the manuscript. M.S. was involved in writing the original draft, investigation and resources. A.A and K.K. were involved in validation, data curation, review and editing related to the law. A.A holds the paramount position in the research.

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## Ethical considerations

This article followed all ethical standards for a research without direct contact with human or animal subjects.

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## Data availability

Data sharing is not applicable to this article as no new data were created or analysed in this study.

## Disclaimer

The views and opinions expressed in this article are those of the authors and do not necessarily reflect the official policy or position of any affiliated agency of the authors.

## References

- Anderson, D. & Souza, J.D., 2021, 'The importance and meaning of prayer rituals at the end of life', *British Journal of Nursing* 30(1), 34–39. <https://doi.org/10.12968/bjon.2021.30.1.34>
- Aramesh, K., 2009, 'The ownership of human body: An Islamic perspective', *Journal of Medical Ethics and History of Medicine* 2, 4.
- Bazeley, P., 2001, *Qualitative research methods for the social sciences*, 4th edn., Pearson Education Company, Boston, MA.
- Beard, V.R. & Burger, W.C., 2017, 'Change and innovation in the funeral industry', *Omega* 75(1), 47–68. <https://doi.org/10.1177/003022815612605>
- Billikopf-Encina, G., 2002, 'Narrative mediation: A new approach to conflict resolution', *International Journal of Conflict Management* 13(1), 100–104.
- Corbin, J. & Strauss, A., 2008, *Basics of qualitative research: Techniques and procedures for developing grounded theory*, 3rd edn., Sage, Thousand Oaks, CA.
- Deutsch, M., 1983, 'Conflict resolution: Theory and practice', *Political Psychology* 4(3), 431–453. <https://doi.org/10.2307/3790868>
- Fahlander, M., Coleman, P.T. & Marcus, E.C., 2006, *The handbook of conflict resolution: Theory and practice*, John Wiley and Sons. [AQ14]
- Emerick, E.J., 2000, 'Death and the corpse: An analysis of the treatment of death and dead bodies in contemporary American Society', *Anthropology of Consciousness* 11(1–2), 34–38. <https://doi.org/10.1525/ac.2000.11.1-2.34>
- Fahlander, M., Estigaard, T., 2008, *The materiality of death. Bodies, burials, beliefs*. [AQ15]
- Ford, D.S., 2006, *Religious interpretations of death, afterlife & NDEs*.
- Foltny, J.L., 2008, 'The corpse in contemporary culture: Identifying, transacting, and recoding the dead body in the twenty-first century', *Mortality* 13(2), 99–104. <https://doi.org/10.1080/13576270801954351>
- Groom, A.J.R., 1994, 'Conflict resolution, theory and practice: Integration and application', *International Affairs* 70(1), 120–121. <https://doi.org/10.2307/2620730>
- Hansen, T., 2008, 'Critical conflict resolution theory and practice', *Conflict Resolution Quarterly* 25(4), 403–427. <https://doi.org/10.1002/crq.215>
- Hunter, A. & Ammann, E.S., 2016, 'End-of-life care and rituals in contexts of post-migration diversity in Europe: An introduction', *Journal of Intercultural Studies* 37(2), 95–102. <https://doi.org/10.1080/07256868.2016.1142052>
- Hutchinson, D.L. & Aragon, L.V., 2008, 'Chapter 2. Collective burials and community memories: Interpreting the placement of the dead in the Southeastern and Mid-Atlantic United States with reference to ethnographic cases from Indonesia', *Archeological Papers of the American Anthropological Association* 11(1), 27–54. <https://doi.org/10.1525/ap3a.2002.11.1.27>
- International Committee Geneva, n.d., *Humanity after life: Respecting and protecting the dead*.
- Jamii Muhammad, B. & Muhammad, J., 2018, 'Al-wasiyyah (Bequest) according to the four Sunni schools: A concise analysis', *IOSR Journal of Humanities and Social Science (IOSR-JHSS)* 23(2), 52–61. <https://doi.org/10.9790/0837-2302115261>
- Jones, D.L., 2000, 'Mediation, conflict resolution and critical theory', *Review of International Studies* 26(4), 647–662. <https://doi.org/10.1017/S0260210500006471>
- Knicht, F., 2018, 'Cremation and Christianity: English Anglican and Roman Catholic attitudes to cremation since 1885', *Mortality* 23(4), 1–19. <https://doi.org/10.1080/13576275.2017.1382460>
- Merricks, T., 2021, 'The human corpse as aesthetic-therapeutic', *Mortality*. <https://doi.org/10.1080/13576275.2021.1876009> [AQ16]
- Merricks, T., 2009, 'The resurrection of the body', in *The Oxford handbook of philosophy of religion*. [AQ17]
- Pace, J.C. & Mobley, T.S., 2016, 'Rituals at end-of-life', *Nursing Clinics of North America* 51(3), 471–487. <https://doi.org/10.1016/j.cnur.2016.05.004>
- Palgi, P. & Abramovitch, H., 1984, 'Death: A cross-cultural perspective', *Annual Review of Anthropology* 13(1), 385–417. <https://doi.org/10.1146/annurev.an.13.100184.002125>
- Petit, A., Mouveaux, S., Gambin, V. & Cazin, B., 2015, 'Hospital caregivers facing rituals, practices and customs in end of life', *Medicine Palliative* 14(2), 78–83. <https://doi.org/10.1016/j.medpal.2014.12.002>
- Posel, D. & Gupta, P., 2009, 'The life of the corpse: Framing reflections and questions', *African Studies* 68(3), 299–309. <https://doi.org/10.1080/00020180903381248>
- Salisu, T.M., 2017, 'Will-making (Wasiyyah) in Islam: A juristic exposition', *Jurnal Syariah* 24(1), 157–180. <https://doi.org/10.22452/js.vol24no1.7>
- Schwarz, C.S., Münch, N., Müller-Salo, J., Kramer, S., Walz, C. & Germerott, T., 2021, 'The dignity of the human corpse in forensic medicine', *International Journal of Legal Medicine* 135(5), 2073–2079. <https://doi.org/10.1007/s00414-021-02534-x>
- Seise, C., 2021, 'Dying a good death: Indonesian rituals and negotiations about the end of life', *International Journal of Islam in Asia* 1(2), 168–190. <https://doi.org/10.1163/25899996-bja10014>
- Smoler, R., 2011, 'Rights of the dead', *SSRN Electronic Journal* 37. [AQ18]
- Sørensen, T.F., 2009, 'The presence of the dead: Cemeteries, cremation and the staging of non-place', *Journal of Social Archaeology* 9(1), 110–135. <https://doi.org/10.1177/1469605308099373>
- Stamat, F., 2016, *Governing the dead: Sovereignty and the politics of dead bodies*.
- Stroud, E., 2018, 'Law and the dead body: Is a corpse a person or a thing?', *Annual Review of Law and Social Science* 14, 115–125. <https://doi.org/10.1146/annurev-lawsocsci-110316-113500>
- Woods, M., 2013, *To rest in peace: A proprietary analysis of the treatment of human remains after death*, Victoria University of Wellington, Wellington. [AQ19]
- 2006, *Laws of the Republic Indonesia number 23 year 2006 about population administration, chapter VI population data and documents, part one: Population data*.
- 2018, *Law annotation based on the decision of the constitutional court law of the Republic of Indonesia number 1 year 1974 concerning marriage*.
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