

The Legal Status of Marriages Between Indonesian Citizens and Non-Partner Foreign Nationals: A Juridical Review under the Marriage Law

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HIGHLIGHTS

- Mixed marriage uncertainty
- Normative legal approach
- Bilateral legal cooperation

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ABSTRACT

Marriages between Indonesian citizens (WNI) and foreign citizens (WNA) from non-partner countries face complex legal challenges, especially in terms of registration and recognition in Indonesia. Although Law Number 1 of 1974 concerning Marriage has regulated provisions regarding mixed marriages, its implementation is often hampered by differences in legal systems between countries, the difficulty of obtaining official documents such as the Certificate of No Impediment (CNI), the absence of diplomatic representatives from the country of origin of the WNA, and the lack of understanding of the couple regarding the required registration procedures. As a result, many marriages are not legally registered, which has implications for the legal uncertainty of the marital status and the protection of the rights of the couple and children born from the marriage. This study uses a normative legal method with a statutory approach to analyze related regulations, a conceptual approach to understand the legal impact of registration constraints, and a philosophical approach to examine the role of the state in ensuring legal certainty for mixed marriage couples. The results of the study show that there are still many obstacles in the implementation of mixed marriage regulations with foreign nationals from non-partner countries, so it is necessary to increase socialization regarding mixed marriage legal procedures, bilateral cooperation between Indonesia and non-partner countries to facilitate the processing of marriage documents, and more flexible regulations or special mechanisms for couples who experience administrative obstacles. With these steps, it is hoped that legal certainty for mixed marriage couples can be guaranteed and their rights can be optimally protected in the Indonesian legal.

A. INTRODUCTION

Mixed marriages between Indonesian citizens and foreign nationals have become an increasingly common phenomenon in the era of globalization. However, when the foreign national originates from a country that does not maintain a bilateral partnership (non-mitral) with Indonesia, various legal challenges arise that require special attention. Law Number 1 of 1974 on Marriage stipulates that a mixed marriage refers to a union between two individuals who, in Indonesia, are subject to different legal systems due to differences in nationality. Nevertheless, the implementation of this provision often encounters obstacles, particularly in relation to the recognition and official registration of such marriages.

One of the main issues in mixed marriages involving foreign nationals from non-partner countries is the process of registration and legal recognition of the marriage in Indonesia. According to research, marriages conducted abroad between an Indonesian citizen and a foreign national must be registered in Indonesia within a specific period in order to be legally recognized.¹

However, the lack of public dissemination and understanding regarding these procedures often results in couples failing to register their marriages, which in turn affects the legal status of their union.

In addition, differences in legal systems between Indonesia and the foreign national's country of origin—particularly when the latter is a non-partner state—can lead to further complications. Some countries may not recognize marriages conducted in Indonesia or may impose additional requirements for such marriages to be acknowledged under their national laws. These discrepancies may impact the legal status of the couple and any children born

¹ Reysista Paparang. (2022). *Status Hukum Perkawinan Beda Kewarganegaraan Yang Dilangsungkan Di Luar Negeri*. Lex Administratum 10 (3). <https://ejournal.unsrat.ac.id/v3/index.php/administratum/article/view/41918>

from the marriage, especially with respect to nationality and other civil rights.²

Another legal obstacle relates to the administrative requirements that must be fulfilled by the couple. For instance, the foreign national is required to provide a Certificate of No Impediment (CNI) or a certificate of single status issued by their country of origin. Obtaining this document can be complex and time-consuming, especially if the foreign national's home country does not have diplomatic representation in Indonesia.³ Furthermore, all foreign documents must be translated into Bahasa Indonesia by a sworn translator, adding to the complexity of the administrative process.

The legal implications of failing to meet these requirements are substantial. A marriage that is not officially registered may be considered invalid, which can affect the rights of the spouses, such as inheritance rights, the citizenship status of children, and access to public services. Moreover, without clear legal recognition, the couple may encounter difficulties in obtaining other official documents, such as residence visas or work permits for the foreign national.⁴

Another challenge arises in the context of divorce and legal dispute resolution. Differences between the legal systems of Indonesia and the foreign national's country of origin may complicate the dispute resolution process, particularly if one party returns to their home country. The absence of bilateral agreements between Indonesia and non-partner countries regarding the recognition of court decisions further adds to the complexity of enforcing the legal rights of the spouses.⁵

² Atika Sandra Dewi. (2022). *Analisis Perkawinan Campuran Dan Akibat Hukumnya*. Jurnal Insitusi Politeknik Ganesha Medan 5 (1). <https://jurnal.polgan.ac.id/index.php/juripol/article/view/11323>

³ Administrator. (2019). *Aturan WNA yang Akan Menikah dengan WNI*. Indonesia.go.id. <https://indonesia.go.id/layanan/kependudukan/sosial/aturan-wna-yang-akan-menikah-dengan-wni/>. Accessed on November 18, 2024.

⁴ Patrisia Yolanda. (2020). *Perkawinan Campuran Antara Wni Dan Wna Berdasarkan Peraturan Perundang-Undangan Di Indonesia*. E-Journal Fatwa Hukum Faculty of Law Universitas Tanjungpura 3 (4). <https://jurnal.untan.ac.id/index.php/jfh/article/view/44017/>

⁵ Rosa Kisworo.(2019).*Problematika Hukum Perkawinan Campuran Berdasarkan Kasus Pernikahan Jessica Iskandar Dengan Ludwig Frans Willibald Dalam Perspektif Hukum Perdata*

In addition, the citizenship status of children born from such mixed marriages is also a matter of concern. The Indonesian Citizenship Law adopts the principle of limited dual citizenship for children resulting from mixed marriages. However, the implementation of this principle requires proper administrative procedures, and non-compliance may result in the child becoming stateless or encountering difficulties in determining their national identity.⁶

Therefore, it is essential for the Indonesian government to provide adequate outreach and guidance to couples intending to enter into mixed marriages with foreign nationals from non-partner countries. This includes offering clear information regarding marriage registration procedures, required documentation, and potential legal implications. In doing so, couples can ensure that their marriage is legally recognized and that their rights are protected in accordance with applicable laws.

B. RESEARCH METHOD

This study employs a normative legal research method,⁷ aimed at analyzing the legal status of marriages between Indonesian citizens and foreign nationals from non-partner countries based on the Indonesian Marriage Law. The research examines the legal provisions governing mixed marriages as well as the legal challenges encountered in the registration and recognition of such marriages.

To achieve these objectives, the study adopts a statutory approach, focusing on an analysis of Law Number 1 of 1974 on Marriage, government regulations, and other technical regulations related to the registration of mixed marriages. This analysis also assesses the alignment of domestic

Internasional. Jurnal Privst Law 7 (1).
<https://jurnal.uns.ac.id/privatlaw/article/viewFile/30096/20410/>

⁶ Syafrizal. (2023). *Akibat Hukum Perkawinan Campuran Antar Negara WNI dengan WNA Terhadap Status Personal Anak*. Majalah Ilmiah Warta Dharmawangsa 17 (3).
<https://jurnal.dharmawangsa.ac.id/index.php/juwarta/article/view/3410/>

⁷ H. Zainuddin Ali. (2017). *Metode Penelitian Hukum*. Jakarta: Sinar Grafika.

regulations with international legal principles concerning cross-border marriages.

In addition, a conceptual approach is used to understand the legal rights of Indonesian citizens in marriages with foreign nationals from non-partner countries, particularly in relation to marriage registration, the citizenship status of children, and other legal implications. A historical approach is also applied to trace the development of regulations governing mixed marriages in Indonesia and to examine how these rules have evolved in response to the challenges posed by globalization and international migration.

By combining these methods, the study is expected to provide a comprehensive analysis of legal protection for Indonesian citizens in mixed marriages and to formulate more effective regulatory solutions to address the existing legal obstacles.

C. RESULTS AND DISCUSSION

Legal Provisions in Indonesia Concerning Marriages Between Indonesian Citizens and Foreign Nationals, Particularly from Non-Partner Countries

Mixed marriages between Indonesian citizens and foreign nationals have become an increasingly common phenomenon in the era of globalization. In Indonesia, the legal provisions governing mixed marriages are regulated under Law Number 1 of 1974 on Marriage. Article 57 of this law defines a mixed marriage as a marriage between two individuals who, in Indonesia, are subject to different legal systems due to differences in nationality. This definition encompasses all marriages between Indonesian citizens and foreign nationals, regardless of the latter's country of origin.⁸

The procedure for conducting a mixed marriage in Indonesia requires compliance with the legal requirements of both parties. Article 60 of the

⁸ Moh. Taufiqur Rohman. (2011). *Perkawinan Campuran dan Perkawinan Antar-Agama*. Al-Ahwal 4 (1). <https://ejournal.uin-suka.ac.id/syariah/Ahwal/article/download/1146/1023/>

Marriage Law stipulates that a mixed marriage may be performed if the conditions determined by the laws applicable to each party are fulfilled. In other words, both the Indonesian citizen and the foreign national must adhere to the marriage laws of their respective countries of origin. In addition, they must also comply with Indonesian law, including administrative requirements such as the registration of the marriage at the Civil Registry Office (Kantor Catatan Sipil) or the Office of Religious Affairs (Kantor Urusan Agama), depending on their religion or belief.⁹

One essential document that must be provided by the foreign national is the Certificate of No Impediment (CNI), issued by the authorities in their home country. This certificate states that the individual is not currently bound by another marriage and is legally free to marry. However, for foreign nationals from non-partner countries that do not have diplomatic representation in Indonesia, obtaining a CNI can pose a significant challenge. The absence of official representation means that the foreign national must obtain the document directly from their home country, which can involve additional time and financial costs.¹⁰

In addition, differences between the legal systems of Indonesia and those of the non-partner foreign national's country of origin can create obstacles in the recognition and registration of the marriage. Some countries impose additional requirements or follow different procedures in recognizing marriages conducted outside their territories. This may affect the legal status of the marriage in the foreign national's home country, which in turn can impact the rights of the spouses, such as inheritance rights, the citizenship status of children, and other civil entitlements. Therefore, it is crucial for couples to understand and comply with the legal requirements of both countries prior to entering into marriage.¹¹

The registration of mixed marriages in Indonesia carries significant legal implications. A marriage that is not officially registered may be

⁹ *Ibid.*

¹⁰ Atika Sandra Dewi. *Op. Cit.*

considered invalid under Indonesian law, affecting the rights of both spouses and any children born from the union. For example, without official registration, the couple may encounter difficulties in obtaining other civil documents, such as family cards, birth certificates for their children, or even residence permits for the foreign spouse. Consequently, registering the marriage is a critical step that must not be overlooked by couples entering into a mixed marriage.¹²

Furthermore, the citizenship status of children born from mixed marriages is also a vital issue. Law Number 12 of 2006 concerning the Citizenship of the Republic of Indonesia provides that a child born from a lawful marriage between an Indonesian citizen and a foreign national is eligible for limited dual citizenship until a certain age. However, to ensure the child's citizenship rights, parents must register the child's birth in accordance with applicable regulations. Failure to do so may result in the child becoming stateless or facing difficulties in determining their nationality in the future.¹³

In the context of divorce, mixed marriages present their own legal challenges. The divorce process must be carried out in accordance with the laws of the jurisdiction where the marriage was conducted or registered. This means that if the marriage took place and was registered in Indonesia, the divorce must follow Indonesian legal procedures. However, differences in legal systems and procedural requirements between Indonesia and the foreign spouse's country of origin may lead to complications, especially concerning the recognition of divorce rulings abroad. Therefore, couples considering divorce must understand the legal

¹¹ *Ibid*

¹² Muhsin. (2022). *Perkawinan Campuran Perspektif Undang-Undang Perkawinan Indonesia*. Proceeding of 2nd Annual Interdisciplinary Conference on Muslim Societies (AICOMS) 2 (1). <https://repository.iainponorogo.ac.id/1344/>

¹³ Fredy Ghandi. (2023). *Perkawinan Antara Warga Negara Indonesia dan Warga Negara Asing dalam Melindungi Hak Perempuan dan Anak (Implementasi UU Nomor 12 Tahun 2006 Tentang Kewarganegaraan RI)*. Syakhshiyah Jurnal Hukum Keluarga Islam 3 (1). <https://e-journal.metrouniv.ac.id/syakhshiyah/article/download/7075/3343/>

implications in both countries and may require legal assistance to properly navigate the process.¹⁴

Overall, the legal provisions in Indonesia concerning marriages between Indonesian citizens and foreign nationals, including those from non-partner countries, have been regulated through various statutory instruments. However, the implementation of these provisions frequently encounters obstacles, particularly regarding differences in legal systems, administrative requirements, and the lack of public awareness about the procedures that must be followed. Therefore, it is essential for the government and relevant authorities to provide adequate information and guidance to couples planning to enter into mixed marriages, in order to ensure that their rights are protected and their legal obligations are fulfilled in accordance with applicable regulations.¹⁵

Legal Challenges in the Registration and Recognition of Marriages Between Indonesian Citizens and Foreign Nationals from Non-Partner Countries

Marriages between Indonesian citizens and foreign nationals from non-partner countries face various legal obstacles in the process of registration and recognition in Indonesia. One of the primary challenges is the difference in legal systems between Indonesia and the foreign national's country of origin. These differences can result in inconsistencies in marriage requirements and procedures, thereby complicating the official registration process in Indonesia. For instance, some countries may not issue a document equivalent to the Certificate of No Impediment, which is required by Indonesian authorities. This can hinder the registration of such mixed marriages.¹⁶

¹⁴ Tantri Naratama. (2023). *Perceraian Pada Perkawinan Campuran di Indonesia dalam Perspektif Hukum Perdata Internasional*. Majalah Ilmiah Warta Dharmawangsa 17 (3). <https://jurnal.dharmawangsa.ac.id/index.php/juwarta/article/download/3582/2438/>

¹⁵ Patrisia Yolanda. *Op. Cit.*

¹⁶ Yusuf Falakh. (2024). *Artikel Hukum Perdata Internasional Problematika dan Implikasi Perkawinan yang di Laksanakan di Luar Negeri*.

Moreover, the absence of diplomatic representation from the foreign national's country in Indonesia further adds to the complexity of obtaining the required documents. Foreign nationals from non-partner countries may find it difficult to obtain official documents mandated by Indonesian law, such as birth certificates or certificates of marital status. Without these documents, the Indonesian Civil Registry Office cannot proceed with the marriage registration, resulting in legal uncertainty regarding the status of the marriage.¹⁷

Another obstacle lies in the lack of awareness among couples about the applicable legal procedures and requirements. Many couples are unaware that marriages conducted abroad must be reported and re-registered in Indonesia in order to be legally recognized. Article 56 of Law Number 1 of 1974 on Marriage stipulates that a marriage conducted outside Indonesia between an Indonesian citizen and a foreign national must be reported and registered in Indonesia within a specific time frame. Failure to comply with this requirement may result in the marriage being considered legally invalid under Indonesian law.¹⁸

In addition, religious differences between spouses can also serve as a barrier to marriage registration. Indonesian law does not explicitly regulate interfaith marriages, which creates legal uncertainty for couples of different religious backgrounds. Some couples choose to marry abroad to circumvent these obstacles; however, they still face challenges when attempting to register and obtain legal recognition of their marriage upon returning to Indonesia.¹⁹

https://www.academia.edu/126845475/ARTIKEL_HUKUM_PERDATA_INTERNASIONAL_PROBLEMATIKA_DAN_IMPLIKASI. Accessed on December 03, 2024.

¹⁷ *Ibid*

¹⁸ Hamalatul Qurani. (2024). Status Perkawinan WNI di Luar Negeri Menurut Hukum Indonesia. <http://www.hukumonline.com/stories/article/lt665c3b2c5a95c/status-perkawinan-wni-di-luar-negeri-menurut-hukum-indonesia/>. Accessed on December 03, 2024.

¹⁹ Jandri Irwadi. (2021). *Pelaksanaan Pendaftaran Perkawinan Warga Negara Indonesia (WNI) Beda Agama di Indonesia yang Menikah di Luar Negeri*. Lex Privatum 9 (8). <https://ejournal.unsrat.ac.id/v2/index.php/lexprivatum/article/download/35169/32928/>

The lack of socialization and information regarding the procedures for registering mixed marriages further compounds the difficulties faced by such couples. Many are not provided with adequate information about the necessary steps to ensure that their marriage is legally recognized in Indonesia. This underscores the crucial role of the government and relevant institutions in providing clear education and guidance for couples planning to enter into mixed marriages, particularly with foreign nationals from non-partner countries.²⁰

D. CONCLUSION

Based on the discussion regarding the legal provisions and challenges in the registration and recognition of marriages between Indonesian citizens and foreign nationals from non-partner countries, it can be concluded that Indonesian law—specifically Law Number 1 of 1974 on Marriage—clearly regulates mixed marriages. However, in practice, couples who marry foreign nationals from non-partner countries face a range of obstacles, particularly in obtaining the necessary documents for marriage registration in Indonesia. Differences in legal systems between countries, the absence of diplomatic representation from the foreign national's country, and the couple's limited understanding of applicable legal procedures further complicate the process of legalizing such marriages. As a result, the legal status of these mixed marriages often remains uncertain, which may adversely affect the rights of the spouses and the children born from these unions.

To address these issues, the Indonesian government must enhance public outreach and education regarding the legal procedures for mixed marriages, especially for those involving foreign nationals from non-partner countries. In addition, bilateral cooperation with non-partner countries should be pursued to facilitate the processing of marriage-related documents in accordance with Indonesian legal requirements. The government may also

²⁰ Fathlia Mursidin. (2024). *Implikasi Hukum Perkawinan Antarnegara dalam Hukum Perdata Internasional*. Jurnal Hukum Cossowary 1 (1). <https://jurnal.asthagrafika.com/index.php/cas/article/view/75/>

consider implementing special mechanisms or more flexible regulations for couples facing administrative difficulties due to limitations in the foreign national's country of origin. Through these measures, it is hoped that every mixed marriage can achieve clear legal certainty and offer optimal protection for all parties involved

REFERENCES

Buku

H. Zainuddin Ali. (2017). *Metode Penelitian Hukum*. Jakarta: Sinar Grafika.

Journals

Atika Sandra Dewi. (2022). Analisis Perkawinan Campuran dan Akibat Hukumnya. *Jurnal Insitusi Politeknik Ganesha Medan*, 5(1). <https://jurnal.polgan.ac.id/index.php/juripol/article/view/11323>

Fathlia Mursidin. (2024). Implikasi Hukum Perkawinan Antarnegara dalam Hukum Perdata Internasional. *Jurnal Hukum Cossowary*, 1(1). <https://jurnal.asthagrafika.com/index.php/cas/article/view/75/>

Fredy Ghandi. (2023). Perkawinan Antara Warga Negara Indonesia dan Warga Negara Asing dalam Melindungi Hak Perempuan dan Anak (Implementasi UU Nomor 12 Tahun 2006 Tentang Kewarganegaraan RI). *Syakhshiyah: Jurnal Hukum Keluarga Islam*, 3(1). <https://ejournal.metrouniv.ac.id/syakhshiyah/article/download/7075/3343>

Hamalatul Qurani. (2024). Status Perkawinan WNI di Luar Negeri Menurut Hukum Indonesia. <http://www.hukumonline.com/stories/article/lt665c3b2c5a95c/status-perkawinan-wni-di-luar-negeri-menurut-hukum-indonesia/>. Accessed on December 3, 2024.

Jandri Irwadi. (2021). Pelaksanaan Pendaftaran Perkawinan Warga Negara Indonesia (WNI) Beda Agama di Indonesia yang Menikah di Luar Negeri. *Lex Privatum*, 9(8). <https://ejournal.unsrat.ac.id/v2/index.php/lexprivatum/article/download/35169/32928>

Moh. Taufiqur Rohman. (2011). Perkawinan Campuran dan Perkawinan Antar-Agama. *Al-Ahwal*, 4(1). <https://ejournal.uin-suka.ac.id/syariah/Ahwal/article/download/1146/1023/>

Muhsin. (2022). Perkawinan Campuran Perspektif Undang-Undang Perkawinan Indonesia. *Proceeding of 2nd Annual Interdisciplinary Conference on Muslim Societies (AICOMS)*, 2(1). <https://repository.iainponorogo.ac.id/1344/>

Patrisia Yolanda. (2020). Perkawinan Campuran Antara WNI dan WNA Berdasarkan Peraturan Perundang-Undangan di Indonesia. *E-Journal Fatwa Hukum Faculty of Law Universitas Tanjungpura*, 3(4). <https://jurnal.untan.ac.id/index.php/jfh/article/view/44017/>

Reysista Paparang. (2022). Status Hukum Perkawinan Beda Kewarganegaraan yang Dilangsungkan di Luar Negeri. *Lex Administratum*, 10(3).

<https://ejournal.unsrat.ac.id/v3/index.php/administratum/article/view/41918>

Rosa Kisworo. (2019). Problematika Hukum Perkawinan Campuran Berdasarkan Kasus Pernikahan Jessica Iskandar dengan Ludwig Frans Willibald dalam Perspektif Hukum Perdata Internasional. *Jurnal Privat Law*, 7(1).

<https://jurnal.uns.ac.id/privatlaw/article/viewFile/30096/20410>

Safrizal. (2023). Akibat Hukum Perkawinan Campuran Antar Negara WNI dengan WNA Terhadap Status Personal Anak. *Majalah Ilmiah Warta Dharmawangsa*, 17(3).

<https://jurnal.dharmawangsa.ac.id/index.php/juwarta/article/view/3410/>

Tantri Naratama. (2023). Perceraian Pada Perkawinan Campuran di Indonesia dalam Perspektif Hukum Perdata Internasional. *Majalah Ilmiah Warta Dharmawangsa*, 17(3).

<https://jurnal.dharmawangsa.ac.id/index.php/juwarta/article/download/3582/2438>

Yusuf Falakh. (2024). Artikel Hukum Perdata Internasional: Problematika dan Implikasi Perkawinan yang Dilaksanakan di Luar Negeri.

https://www.academia.edu/126845475/ARTIKEL_HUKUM_PERDATA_INTERNASIONAL_PROBLEMATIKA_DAN_IMPLIKASI

Internet Sources

Administrator. (2019). Aturan WNA yang Akan Menikah dengan WNI. *Indonesia.go.id*.

<https://indonesia.go.id/layanan/kependudukan/sosial/aturan-wna-yang-akan-menikah-dengan-wni/>. Accessed on November 18, 2024.