

The Legal Implications for Citizenship Status of Mixed Marriages Registered at The Office of Religious Affairs

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Abstract

Married couples of different nationalities must have a thorough understanding of the Religious Affairs Office's mixed marriage registration process because it has significant legal ramifications for the future of the family, including joint property ownership and the citizenship status of the children. This study looks at how mixed marriages are handled administratively at the Religious Affairs Office in Gumukmas District, Jember Regency, and considers the legal implications for citizenship status. A case study and legal approach are used in this empirical legal research, and interviews and documentation are used as data collection methods. The data is then subjected to a number of analysis techniques, including data editing, classification, verification, and analysis, before being presented in a succinct, clear, and straightforward but still engaging conclusion narrative. The findings of the study indicate that the Office of Religious Affairs is authorized to offer mixed marriage registration services in accordance with Minister of Religious Affairs Regulation Number 24 of 2024, subject to a number of administrative constraints. A permit from the appropriate Embassy, a Certificate of No Impediment, also known as a single letter, a copy of the passport, and, in the event that the foreign national's country of origin is unrelated, all documentation must be translated into Indonesian are additional requirements for mixed marriages. Because mixed marriages can result in such complicated legal implications, the Office of Religious Affairs' marriage registrars have a specific and urgent duty to educate prospective brides and grooms about the significance of the administrative process. Mixed marriages have legal implications for both husband and wife since they provide them the option to keep their individual citizenships or adopt their partner's citizenship. The citizenship status of children from mixed marriages is also affected; for example, children from mixed marriages retain dual citizenship until they turn 18 until they choose to adopt their mother's or father's citizenship.

Keywords: *administration, citizenship, religious affairs office, mixed marriages.*

Abstrak

Kesadaran hukum dan pemahaman tentang pencatatan perkawinan campuran di Kantor Urusan Agama merupakan hal yang sangat urgen bagi pasangan suami istri beda kewarganegaraan, sebab perkawinan campuran menimbulkan beberapa implikasi hukum yang sangat vital bagi masa depan keluarga, seperti status kewarganegaraan anak dan kepemilikan harta bersama. Fokus riset ini mengkaji proses administratif perkawinan campuran di Kantor Urusan Agama Kecamatan Gumukmas Kabupaten Jember serta menganalisis implikasi hukumnya terhadap status kewarganegaraan. Riset yuridis empiris ini menggunakan pendekatan studi kasus dan pendekatan perundang-undangan, dengan wawancara dan dokumentasi sebagai teknik pengumpulan datanya, data yang terkumpul melalui serangkaian teknik analisis yakni: pengeditan data, klasifikasi, verifikasi, analisis data, serta kemudian disajikan dalam narasi simpulan yang singkat, padat, lugas namun tetap komunikatif. Hasil riset menunjukkan bahwa berdasarkan Peraturan Menteri Agama Nomor 24 tahun 2024, Kantor Urusan Agama memiliki legalitas untuk memberikan layanan pencatatan perkawinan campuran, dengan beberapa syarat administratif yang harus dipenuhi. Hanya saja dalam kasus perkawinan campuran terdapat beberapa syarat tambahan seperti: surat izin dari Kedutaan yang bersangkutan, Certificate of No Impediment (CNI)

atau yang lebih dikenal dengan surat single, salinan paspor, dan apabila negara asal warga negara asing bukan negara serumpun seluruh dokumen harus diterjemahkan ke dalam bahasa Indonesia. Fungsi dan peran petugas pencatat perkawinan di Kantor Urusan Agama memiliki urgensi tersendiri, sebisa mungkin harus memberikan pemahaman terhadap calon mempelai terkait pentingnya proses administratif, sebab perkawinan campuran dapat menimbulkan implikasi hukum yang sedemikian kompleks. Secara hukum perkawinan campuran berimplikasi pada status suami istri dengan boleh memilih mengikuti kewarganegaraan pasangannya atau bertahan pada kewarganegaraan masing-masing. Perkawinan campuran juga berimplikasi pada status kewarganegaraan anak, sebelum menginjak usia 18 tahun anak hasil dari perkawinan campuran masih berstatus berkewarganegaraan ganda, hingga nanti ketika anak tersebut memutuskan untuk mengikuti kewarganegaraan ayah atau ibunya.

Kata Kunci: administrasi, kewarganegaraan, kantor urusan agama, perkawinan campuran.

A. Introduction

Relationships between people with universal feelings—regardless of skin color, religion, ethnicity, or race—have been impacted in some way by Indonesia's openness in the global arena.¹ Therefore, it makes sense for people of different nationalities to get married, whether they are Indonesian citizens (WNI) or foreign citizens (WNA), a practice known as mixed marriages. Given the rapid advancement of technology, nations no longer appear to have the barriers necessary to establish worldwide communication relationships, regardless of differences in race, religion, tribe, or skin color.²

In Indonesia, mixed marriages are not a recent development; they have become common in practically every area of the nation and are not just found in major cities. The quick development of information technology, which is crucial for interpersonal relationships in the age of global mobility, may be the cause of this. The stigma attached to mixed marriages—unions of foreigners and Indonesians—has been eradicated by the globalization of the economy, information, education, and transportation.³

Furthermore, the regulations pertaining to mixed marriages resulting from disparities in citizenship have been elucidated in Law Number 16 of 2019, which replaced Law Number 1 of 1974 concerning Marriage. Indonesian citizens are specifically instructed to consult Article 57-62 of this Law.⁴ According to Article 60 of the Marriage Law, this marriage must occur in order for:

1. Before it is established that each partner has complied with the marriage conditions set forth by the applicable legislation, mixed marriages cannot be consummated.
2. Those who are authorized to register marriages under the applicable laws for each party will be given a certificate certifying that the requirements have been met in order to

¹ Valensia Tedjanegara and Suzy Azeharie, "Social Interaction in Intercultural Marriages (Case Study of Mixed Marriages Between Foreigners Married to Balinese Ethnic and Converted to Hinduism)," *Advances in Social Science, Education and Humanities Research* 570, no. Icebsh (2021): 768–74.

² Amalia Chasanah Astari Saraswati and Yudho Taruno Muryanto, "Land Right Inheritance Obtained by the Children of Mixed Marriage," *International Journal of Multicultural and Multireligious Understanding* 5, no. 4 (2018): 435, <https://doi.org/10.18415/ijmmu.v5i4.423>.

³ Rahmia Rachman, Erlan Ardiansyah, and Sahrul, "A Juridical Review Towards The Land Rights Ownership In Mixed Marriage," *Jambura Law Review* 3, no. 1 (2021): 1–18, <https://doi.org/10.33756/jlr.v3i1.6857>.

⁴ M. Nur Kholis Al Amin, "Perkawinan Campuran Dalam Kajian Perkembangan Hukum: Antara Perkawinan Beda Agama Dan Perkawinan Beda Kewarganegaraan Di Indonesia," *Al-Ahwal: Jurnal Hukum Keluarga Islam* 9, no. 2 (2017): 211, <https://doi.org/10.14421/ahwal.2016.09206>.

demonstrate that the conditions listed in paragraph (1) have been met and that there are no barriers to conducting a mixed marriage.⁵

The administrative procedure and execution of mixed marriages in the Religious Affairs Office (KUA) in Gumukmas District, Jember Regency's will be examined in this study, along with the legal implications for the citizenship status of the husband and wife who perform mixed marriages as well as the offspring. The purpose of this focus was to present a legal analysis and review of the validity of mixed marriages from the viewpoints of the marriage registrar, the organizing institution, the couple who consummates the mixed marriage, and the citizenship status of the offspring.

This study will use both a case approach and a statute approach to investigate the problem of administrative procedures and the organization of mixed marriage. Law Number 12 of 2006 concerning Citizenship of the Republic of Indonesia, Law Number 24 of 2013 concerning Amendments to Law Number 23 of 2006 concerning Population Administration, and Law Number 16 of 2019 concerning Amendments to Law Number 1 of 1974 concerning Marriage, and the Civil Code are among the laws cited in this study.

A number of earlier studies are cited in the framework for discussing this research in order to highlight the differences from other studies and the novelty generated. One such study is that of Tifonia Tionusa, which describes the effects of mixed marriages on property ownership rights in Indonesia. This study focuses more on the legal effects of mixed marriages on land ownership rights, specifically ownership rights, business use rights, and building use rights.⁶ Next, Dian Aries Mujiburohman's research on the different causes of mixed marriages is presented.⁷ Subsequently, Maulidia Mulyani researched the significance of drafting a marriage contract before to a mixed marriage.⁸ Following that, Kustini Kosasih researched Indonesia's marriage registration history.⁹ Additionally, Muhammad Habibi Miftakhul Marwa's research on citizenship status in the contemporary era.¹⁰

Although the research mentioned and several other studies have been conducted, the majority of them concentrate on background factors, the validity of mixed marriages, their legal implications, and other related topics. As a result, there are still gaps in the analysis of mixed marriages that require more thorough analysis. The implementation of mixed marriages and related administrative procedures in the Office of Religious Affairs (KUA) will thus be the focus of this study; in the interim, the legal implications for citizenship status will also be examined.

The Office of Religious Affairs' (KUA) implementation of mixed marriages and all of its administrative procedures need to be reviewed immediately; at the very least, the public should be aware of the possible legal implications of conducting mixed marriages.

⁵ Sekretariat Negara Republik Indonesia, "Undang-Undang Republik Indonesia No 16 Tahun 2019 Tentang Perubahan Undang-Undang Nomor 1 Tahun 1974 Tentang Perkawinan," Undang-Undang Republik Indonesia § (2019), <https://peraturan.bpk.go.id/Home/Details/122740/uu-no-16-tahun-2019>.

⁶ Tifonia Tionusa and Arsin Lukman, "The Notary Role and Responsibility in Making The Deed of Mixed Marriage," *ULREV Unram Law Review* 7, no. 1 (2023), <https://doi.org/10.30652/jih.v2i02.1143.4>.

⁷ Dian Aries Mujiburohman et al., "The Issues of Land Tenure in Mixed Marriage," *Jurnal Ilmiah Peuradeun* 11, no. 1 (2023): 19–38, <https://doi.org/10.26811/peuradeun.v11i1.818>.

⁸ Maulidia Mulyani, "Legal Effects of the Constitutional Court's Ruling Against Marital Agreement in Mixed Marriages," *Ay-Syir'ah: Jurnal Ilmu Syariah Dan Hukum* 55, no. 2 (2022): 287, <https://doi.org/10.14421/ajish.v56i2.660>.

⁹ Kustini Kosasih, "Dinamika Pelaksanaan Syariah, Perkawinan Dalam Kontestasi Negara Dan Agama," *Harmoni* 20, no. 2 (2021): 330–38, <https://doi.org/10.32488/harmoni.v20i2.516>.

¹⁰ Muhammad Habibi and Miftakhul Marwa, "Tinjauan Maqashid Syariah Kontemporer Terhadap Keadaan Tanpa Kewarganegaraan," *Jurnal Hukum Ius Quia Iustum* 31, no. 2 (2024): 270–92, <https://doi.org/10.20885/iustum.vol31.iss2.art2>.

The Indonesian diaspora is making a lot of effort to fight for the possibility of dual citizenship because of the challenges they face in defending their rights and the status of their children who were born before Law Number 12 of 2006 concerning Citizenship was passed. These recent events have sparked a number of new perspectives on the citizenship issue.¹¹

This study examines the legal implications for citizenship status as well as the administrative procedure and execution of mixed marriages at the Religious Affairs Office (KUA), in Gumukmas District Jember Regency. Due to the lack of public awareness on the legal implications and administrative requirements involved in executing marriages with foreign nationals, this topic was selected. Jember Regency's Gumukmas District Religious Affairs Office was selected due to its history of hosting mixed marriages between Indonesian nationals and foreigners from other nations.

Research on the administrative process and implementation of mixed marriages at the Religious Affairs Office (KUA) in Gumukmas District, Jember Regency, along with its legal implications for citizenship status is classified as empirical legal research with a case study approach, so the legal analysis carried out in this research refers to several examples of cases of implementing mixed marriages that have been handled by the Gumukmas District Religious Affairs Office, Jember Regency, as well as a legislative approach to analyze the relevance of the citizenship status of mixed marriage couples and their children, with reference to Law Number 24 of 2013 concerning Amendments to Law Number 23 of 2006 concerning Population Administration, and Law Number 12 of 2006 concerning Citizenship of the Republic of Indonesia.

Five individuals serve as the primary data sources or key informants for this study: Hiroki (Child of Mixed Marriages), Agus Supriyadi (Perpetrator of Mixed Marriages), Agus Setiawan Catur (Perpetrator of Mixed Marriages), Abdurahman S.Ag (Penghulu of Religious Affairs Office Gumukmas), and Aziz S.Ag (Head of Religious Affairs Office Gumukmas). To gather specific information about the administrative procedure and execution of mixed marriages that have been performed, the Head and Penghulu of Religious Affairs Office Gumukmas District were chosen. In contrast, one informant is the kid of a mixed marriage pair, while the other two are Indonesian citizens living in the Gumukmas District who are married to foreign nationals.

Documentation and interviewing techniques are used in the study data collection process. In order to gather firsthand information regarding the administrative procedure and the execution of mixed marriages, interviews are conducted with both the authorities and the individuals involved in the marriage. Documentation is employed to perform documentation studies pertaining to the primary concerns, particularly the examination of documents pertaining to mixed marriages and literature reviews to bolster the rigor of the analysis in this study.

The collected data will undergo a number of data analysis techniques, including data classification to make data presentation and analysis easier, data editing to keep data consistent with the primary focus of the study, data verification to ensure the validity of the collected data to ensure the credibility of the research findings, and data analysis to establish a dialogue between the collected empirical data and pertinent theoretical studies so that it can be presented in a brief, straightforward, and communicative narrative conclusion.

¹¹ Bagus Hermanto, "Dinamika Putusan Mahkamah Konstitusi Terhadap Pengaturan Kewarganegaraan Indonesia," *Jurnal Konstitusi* 20, no. 2 (2023): 216–37, <https://doi.org/10.1017/als.2020.49.Rajab>.

B. Discussion

Implementation of Mixed Marriages and Administrative Procedures at the Religious Affairs Office (KUA) Gumukmas District, Jember Regency

One of the standards of Indonesian international civil law recognizes the principle of *lex loci celebrationis*, which holds that the legitimacy of a marriage is determined by the laws of the nation in which it occurs. Consequently, if a mixed marriage takes place in Indonesia, it is obviously governed by the nation's marriage laws. The *locus regit actum* rule, which stipulates that the law of the nation in which a legal act occurs regulates its form, is in line with this.¹² Therefore, the legal implications of mixed marriages performed in Indonesia are based on the laws and rules governing such marriages as well as the requirements in the Marriage Law.¹³

Numerous factors can lead to intermarriage, including socioeconomic ones like the desire of women from poor countries to marry men from more prosperous countries in order to improve their standard of living, economic ones like the rise in transnational migrant workers, and social ones like the increased social interaction between migrant workers and the local population as a result of economic growth. The desire to change citizenship, the ease of traveling abroad, the desire to raise one's standard of living, intermarriage brought on by a single profession, and the allure of a foreign nation for economic and professional progress are other causes.¹⁴

The Minister of Religion's Regulation Number 24 of 2024 concerning the Organization and Work Procedures of the Religious Affairs Office governs the duties performed by the Religious Affairs Office (KUA) Gumukmas Jember when providing mixed marriage registration services. These duties include the execution of services, supervision, recording, and reporting of marriages and reconciliations.¹⁵ The mixed marriage records completed in the Religious Affairs Office Gumukmas District, Jember Regency, East Java Province, are the object of this study. A number of mixed marriage couples are listed, including Agus Supriadi, an Indonesian citizen, and Ropaida, a foreign national from Malaysia, and Agus Setiawan Catur, an Indonesian citizen and Makie Sata, a foreign national from Japan. They were married in Japan for a year before re-registering their union with the Religious Affairs Office.

As the head of the Religious Affairs Office for the Gumukmas District, Aziz explained:

"A marriage between an Indonesian and a foreigner is known as a mixed marriage. In actuality, the rules, processes, and even expenses of an international marriage are identical to those of a traditional marriage. However, a letter from the embassy is the sole extra requirement in place." (Interview with Aziz, 27 February 2024).

One of the participants in mixed weddings, Agus Setiawan Catur, stated that the conditions for mixed marriages in Indonesia are more intricate than those in Japan:

"In Indonesia, marriage is a complex process. In Japan, visiting an office such as the KUA in Indonesia is sufficient. However, in Indonesia, you are still required to affix a single certificate, a

¹² Herni Widanarti, Husni Kurniawati, and Kornelius Benuf, "Kendala Pelaksanaan Jual Beli Properti Bagi Pasangan Perkawinan Campuran," *Masalah-Masalah Hukum* 51, no. 2 (2022): 153–61, <https://doi.org/10.14710/mmh.51.2.2022.153-161>.

¹³ Mutia Cherawaty Thalib, "Implications of Mixed Marriage in the Perspective of Gorontalo Customary Law and Its Reality Based on International Private Law Principles," *Jambura Law Review* 5, no. 1 (2023): 179–98, <https://doi.org/10.33756/jlr.v5i1.16798>.

¹⁴ Mujiburohman et al., "The Issues of Land Tenure in Mixed Marriage."

¹⁵ Kementerian Agama, "Peraturan Menteri Agama Nomor 24 Tahun 2024 Tentang Organisasi Dan Tata Kerja Kantor Urusan Agama," 15 Kementerian Hukum dan Hak Asasi Manusia § (2024).

certificate from your parents, and numerous others". (Interview with Agus Setiawan Catur, 04 June 2024).

The prerequisites for international mixed marriages are essentially the same as those for marriage in general. A single letter or document proving one's eligibility to marry an Indonesian citizen, known as a CNI (document of No Impediment), is one of the additional requirements, but, and there are variations in the filing. This letter was acquired from the nation's authorized agency, such as the embassy. This CNI will be acquired by submitting it to the district-level authorized authority; for instance, in Malaysia, the Religious Officer—which is equivalent to the KUA in Indonesia—is the name. Agus Supriadi provided the following explanation:

"Yes, I have visited religious officials in the past, including the Ministry of Religious Affairs in Malaysia. After that, I received a letter directing me to either the Malaysian Civil Marriage Registration Office or the Islamic Religious Affairs Office, depending on whether the bride and groom are Muslims." (Interview with Agus Supriadi, 20 April 2024).

According to Minister of Religious Affairs Regulation Number 20 of 2019¹⁶, Indonesian citizens who want to marry foreign nationals must fulfill a number of administrative conditions (Article 27 paragraph 1), including:

1. Consent from the relevant country's embassy representative;
2. If a foreign national brings a marriage permit from their home country, the embassy of that nation legalizes the permit;
3. If a foreign national does not have an embassy of their home country in Indonesia, they may request the permit mentioned in letter a from the relevant country's authorized agency;
4. If a husband plans to have multiple wives, obtain permission for polygamy from the court or other authorized body in the prospective bride and groom's home country;
5. Include a photocopy of the birth certificate;
6. Attach a divorce certificate or death certificate for widowers or widows;
7. Attach a photocopy of the passport;
8. Attach the information of both foreign parents in accordance with the information on the marriage certificate;
9. All documents in foreign languages must be translated into Indonesian by an official translator.

Document translation is strictly regulated in this Minister of Religion regulation. Therefore, all documents must be translated into Indonesian first if the marriage is to be consummated with a foreigner whose language is not the same as Malaysian, but is nearly the same and understandable. There is no need to translate if the language is still intelligible in Indonesia and it is still a cognate. Abdurahman explained this as follows:

"One way that Malaysia differs from unrelated nations is that English needs to be translated first. The nation's embassy in Indonesia is the one providing the translation". (Interview with Abdurahman, 27 February 2024).

Proceed to the Ministry of Law and Human Rights to complete the permit letter to perform a marriage with a foreign person in Indonesia following translation (for marriages with foreign nationals from various ethnic groups) and legalization from the foreign embassy. Agus Supriadi provides the following explanation for this:

"After that, continue to the Ministry of Law and Human Rights to request a letter of permission to carry out the marriage in Indonesia". (Interview with Agus Supriadi, 20 April 2024).

¹⁶ Kementerian Agama, "Peraturan Menteri Agama Nomor 20 Tahun 2019 Tentang Pencatatan Pernikahan," Kementerian Hukum dan Hak Asasi Manusia § (2019).

The letter that has been received is subsequently sent to the Ministry of Religious Affairs in Indonesia. Obtain the Ministry of Religious Affairs' approval before requesting the village chief's signature at the wedding location. at the Religious Affairs Office, after which the marriage can be registered. In his capacity as the penghulu of the Gumukmas District's Religious Affairs Office (KUA), Abdurahman explained:

"For example, if a Malaysian wants to marry a Gumukmas person, he has to go to the Religious Official in Malaysia, like the KUA here. After that, go to the embassy. Then from the Malaysian embassy to the Indonesian embassy and from the embassy to the Religious Affairs Office." (Interview with Abdurahman, 27 February 2024).

If a mixed marriage was performed prior to the law's enactment or solely in a religious manner without being registered by a marriage registrar, Abdurrahman added, you must first register at the Religious Affairs Office (KUA) in order to submit a marriage confirmation to the Religious Court:

"If, for example, the mixed marriage is secret (sirri), if you want it to be recorded, you have to submit a marriage confirmation to the KUA and then a hearing at the Religious Court." (Interview with Abdurahman, 27 February 2024).

In accordance with the date of the marriage, the KUA will release a marriage certificate with the date of the marriage's isbat determination following the Religious Court's decision. As Abdurahman explained:

"A marriage certificate is then released by KUA following the court's ruling. The date of the marriage in the marriage book and the date of the marriage determination will, of course, differ." (Interview with Abdurahman, 27 February 2024).

It is clear from the results of the interviews with the penghulu of Religious Affairs Office Gumukmas District and the individuals who committed mixed marriages that, in terms of protocol, the execution of mixed marriages that were performed had complied with the regulations and the provisions of the relevant laws. Mixed marriages must adhere to the standards set forth by each party's separate legislation, as stated in Article 60 of the Civil Code. A man and a woman of different nations must marry in Indonesia in accordance with the laws of their respective religions or beliefs, according to Article 62 of the Civil Code¹⁷.

In Law No. 16 of 2019 concerning Marriage, it is explained that: Mixed marriages are recorded by authorized registrars (Article 61 paragraph 1) by first fulfilling the requirements as stipulated in Articles 6-12 of this law. In Law No. 23 of 2006 concerning Population Administration, it is stipulated that: Registration of marriages as referred to in Article 34 also applies to: a) marriages determined by the Court; and b) marriages of Foreign Citizens conducted in Indonesia at the request of the Foreign Citizen concerned (Article 35)¹⁸.

The distinctions between mixed marriages between related and non-related countries are as follows:

Table 1.
Administrative Procedures for Mixed Marriages

No	Mixed Marriages	Procedures
1	Marriage of Indonesian citizens with foreign citizens of related	Fill out the required letters, which do not require translation into Indonesian, and include a cover letter from the country of origin agency

¹⁷ Burgerlijk Wetboek, "KUHP: Kitab UU Hukum Perdata," 2007.

¹⁸ Sekretariat Negara Republik Indonesia, Undang-undang Republik Indonesia No 16 Tahun 2019 Tentang Perubahan Undang-Undang Nomor 1 Tahun 1974 Tentang Perkawinan.

	countries	
2	Marriage of Indonesian citizens with foreign citizens of non-related countries	Fill out the necessary paperwork and include a cover letter from your home country, which needs to be translated into Indonesian and authorized by the country's embassy in Indonesia

According to the Gumukmas District Religious Affairs Office, Jember Regency, description of the administrative procedure for arranging mixed marriages, marriage registrars—and the registrar in particular—have a crucial role to play in helping prospective brides and grooms understand the significance of the administrative procedure for mixed marriages due to the complex legal implications. Article 41 of the Minister of Religion's (PMA) Regulation Number 20 of 2019 gives the Religious Affairs Office's officers the power to register mixed marriages.¹⁹ Being the leaders of the Office of Religious Affairs, the presence of penghulu is crucial; they can be seen as qimudin or harosatud din, state representatives entrusted with maintaining Islam as a viable religion in the community. Their responsibilities include communicating Islamic teachings, settling disputes, and socializing laws in accordance with the Office of Religious Affairs' purview.²⁰

It is imperative that the Office of Religious Affairs keep improving the administrative procedure for marriage services. The normalization of marriage registration in the Office of Religious Affairs presents both opportunities and challenges, according to the research findings of Rahmat Saehu et al. Opportunities for normalizing the administrative process of marriage services at the Office of Religious Affairs include service revitalization and shifts in employee attitudes toward providing services. Misconceptions regarding procedures and service fees, as well as the community's ongoing negative stigma regarding service quality, are challenges to standardizing the administrative process of marriage services at the Office of Religious Affairs.²¹

Legal Implications of Mixed Marriages on the Citizenship Spouses Status

In addition to the legal implications of a valid marriage, mixed marriages will also have legal implications such as shared property, parent-child relationships, and husband-wife interactions. In actuality, mixed marriages should be legally protected by the government through relevant laws and regulations. The Civil Code, the Marriage Law, and Law Number 12 of 2006 concerning Citizenship are among the legislation that govern mixed marriages in Indonesia.²²

Law No. 12 of 2006 about Citizenship and Law No. 1 of 1974 on Marriage both regulate implications for husband and wife in mixed marriages, specifically:²³

1. After residing in the Republic of Indonesia for at least five (five) consecutive years or at least ten (ten) non-consecutive years, Indonesian citizens who are legally married to foreign nationals can obtain citizenship by submitting a statement of citizenship to an official. However, if obtaining citizenship results in dual citizenship, the application will be denied;

¹⁹ Achmad Murtadho Usman, “Kewenangan Pencatatan Nikah Melalui Penghulu Dan Kepala Kua Dalam Perspektif Peraturan Menteri Agama Dengan Peraturan Pendencygunaan Aparatur Negara,” *Harmoni* 20, no. 1 (2021): 144–65, <https://doi.org/10.32488/harmoni.v20i1.468>.

²⁰ Usman.

²¹ Rahmat Saehu et al., “Netnographic Study on The Narrative of Marriage at The Office of Religious Affairs (KUA): Opportunities and Challenges,” *Harmoni* 23, no. 2 (2024): 159–79.

²² Rachman, Ardiansyah, and Sahrul, “A Juridical Review Towards The Land Rights Ownership In Mixed Marriage.”

²³ Padma D. Liman, “Perlindungan Hukum Terhadap Perkawinan Campuran Di Indonesia,” *Jurnal Ilmiah Publika* 9, no. 2 (2021): 183, <https://doi.org/10.33603/publika.v9i2.6354>.

2. Should the legislation of her husband's country of origin dictate that the wife's citizenship follows the husband's as a result of the marriage, an Indonesian citizen woman who marries a foreign national will lose her Indonesian citizenship;
3. A male Indonesian citizen who marries a foreign woman will forfeit his Indonesian citizenship if, in accordance with the laws of his wife's country of origin, the husband's citizenship becomes the wife's as a result of the marriage.²⁴

The existence of a legal relationship, joint property, and responsibility to later-born offspring are the three legal implications of marriage.²⁵ The citizenship status of the married parties is one of the legal implications of mixed marriages. Having a mixed marriage gives a person the freedom to select where he lives. According to Agus Supriadi:

"Yes, you have the option to become a foreign citizen or to stay an Indonesian citizen if you are married. Because she is Malaysian, my wife has the freedom to live wherever she pleases. I chose to stay in Indonesia". (Interview with Agus Supriadi, 27 February 2024).

For instance, the state doesn't require that you become an Indonesian citizen once you have decided to live in Indonesia. Agus Setiawan Catur provided the following explanation for this:

"It is a human right that the state doesn't require you to be an Indonesian or foreign national. Because she still has her mother and relatives in Japan, my wife continues to identify as Japanese". (Interview with Agus Setiawan Catur, 04 June 2024).

If intend to visit Indonesia for a brief period of time, that's will need a temporary residence permission. This permission needs to be renewed annually. An individual must get a permanent residence visa if they wish to remain in Indonesia indefinitely without forfeiting their citizenship in their native nation. This is explained by Agus Setiawan Catur as follows:

"My spouse remains a citizen of Japan. Her residency permit is transitory. That was after we relocated to Indonesia. Additionally, it gets renewed annually. I created a permanent residency permit because it runs out frequently. It's for life. However, the cost is high and the procedure is intricate". (Interview with Agus Setiawan Catur, 04 June 2024).

Since the declaration of human rights, the idea of citizenship has evolved in the modern period since it is strongly linked to equality before the law and fundamental human rights. Ethnicity and religion are no longer factors in deciding a person's citizenship status; instead, national legislation is used. A person is deemed a legitimate citizen if they have fulfilled the qualifications to be considered a citizen. Another way to find out someone's citizenship status is to apply to the relevant nation. In the present period, the phrase "naturalization" is often employed. The understanding that explains that everyone has the freedom to determine their citizenship based on the principles of place of birth (*ius soli*), descent (*ius sanguinis*), or legal unity (marriage) is the basis for determining citizenship status in a modern nation rather than ideology and religion.²⁶

More focus needs to be placed on being clear and strong about citizenship status for both husband and wife, as well as for any children born, as being stuck in a stateless situation will undoubtedly be highly harmful to both parties' futures. Revocation of citizenship status due to violations in obtaining citizenship status, termination of

²⁴ Kementerian Hukum dan Hak Asasi Manusia, "Undang-Undang Republik Indonesia Nomor 12 Tahun 2006 Tentang Kewarganegaraan Republik Indonesia," 13 § (2006).

²⁵ Nur Sa'adah and Guntarto Widodo, "Penetapan Ahli Waris Akibat Perkawinan Campuran Yang Belum Tercatatkan," *Arena Hukum* 16, no. 3 (2023): 609–30, <https://doi.org/10.21776/ub.arenahukum.2023.01603.8>.

²⁶ Habibi and Marwa, "Tinjauan Maqashid Syariah Kontemporer Terhadap Keadaan Tanpa Kewarganegaraan."

citizenship status because one already holds citizenship in another country, and voluntary actions to renounce one or more citizenship statuses held from two or more countries are the three main causes of losing citizenship status. Removing someone's citizenship is, in theory, illegal and leads to a stateless situation. That provides context for the idea that a persons without citizenship will be the outcome of losing citizenship.²⁷

There are significant humanitarian concerns in such a circumstance. For instance, not having citizenship can make it more difficult to get married, work, education, and health care. Even being stateless can make it impossible for the affected individual to fully use the legal system and their rights, which can lead to social, political, and economic exclusion from the community.²⁸ According to modern maqashid sharia, statelessness hinders a person's ability to exercise their human rights, which is detrimental. The inability to secure protection for one's religious beliefs, soul, mind, descendants, and property makes it challenging to cultivate kulliyat al-khamsah. Because it will do more harm than good, anything that results in someone losing their citizenship status should be avoided.²⁹

Legal Implications of Mixed Marriages on Children's Citizenship Status

Referring to the Law on Citizenship, recognition of the citizenship status of children born out of mixed marriages adheres to the following principles:³⁰

1. The basis for citizenship status is the ius sanguinis concept, which refers to blood connections or descent;
2. According to the principle of ius soli, citizenship status is determined by the country of birth.;
3. The single citizenship concept, which mandates that each kid select a single citizenship at the age of 18.;
4. According to the limited dual citizenship concept, children born into mixed marriages before the age of eighteen have this status..

More specifically, according to Law No. 12 of 2006 for Citizenship, a child born into a mixed marriage is entitled to the following citizenship:³¹

1. Children possess dual citizenship, specifically Indonesian and foreign, due to: a) Having both parents who are citizens of Indonesia and another country, b) Nationals of their birth country, since that nation upholds ius soli for citizenship;
2. The child with dual citizenship must write down his or her wishes and submit them to an official in order to select one of their citizenships after becoming eighteen or after getting married before turning eighteen;
3. The deadline for submitting this statement is three (3) years after the child turns eighteen or gets married. The child will forfeit their Indonesian citizenship if no declaration is made selecting one of the citizenships if: a) Living outside of the Republic of Indonesia's territory for five years in a row, not while serving in the state, without a valid reason, and purposefully failing to declare his or her desire to remain an Indonesian citizen before the end of the five years, and then failing to submit a statement of that desire to the Representative of the Republic of Indonesia whose work area includes the person's place of residence every five years after that, even after the representative of the Republic of Indonesia has notified the person in writing, provided

²⁷ Habibi and Marwa.

²⁸ Habibi and Marwa.

²⁹ Habibi and Marwa.

³⁰ Anugerah Gilang Priandena, "Perlindungan Hukum Bagi Anak Yang Lahir Dari Perkawinan Campuran," *Jurnal Jurisprudence* 4 (2014): 15–23.

³¹ Raditya Fedra Rifandhana, "Eksistensi Kewenangan Pemerintahan Dalam Mengatasi Status Kewarganegaraan Bagi Anak Dari Perkawinan Beda Negara," *Arena Hukum* 16, no. 3 (2023): 509–31, <https://doi.org/10.21776/ub.arenahukum.2023.01603.4>.

- that the person in question does not become stateless. b) Not deny or relinquish another citizenship while the child is still able to do so.
4. Unless they are born in a nation that upholds the *ius soli* principle, illegitimate children who are acknowledged as legal do not possess dual citizenship. If the dad who acknowledges it is: a) Foreign nationals: if the mother is an Indonesian citizen and the child is not yet 18 (eighteen) or married, the child is an Indonesian citizen. b) Indonesian citizens: if the mother is a foreign national and the child is not yet 18 (eighteen) years old or married, the child is an Indonesian citizen.

Children born into mixed marriages are required to select one of their parents' citizenships between the ages of 18 and 21. According to what Agus Setiawan Catur explained:

"Children must be able to choose between taking their mother's or father's citizenship when they are about 18 to 21 years old". (Interview with Agus Setiawan Catur, 04 June 2024).

No one pressures children to choose their citizenship. The decision must be made solely by the individual. As stated by Hiroki, Agus Setiawan Catur's son:

"I was asked at the age of eighteen if I wanted to be Japanese or Indonesian. And the reason I went with Indonesia is that I was born and raised there, therefore I adore my homeland. Administratively and otherwise, I would want to be Indonesian because I also wanted to study there". (Interview with Hiroki, 25 June 2024).

According to Hiroki's reasoning, youngsters who have been indoctrinated with a passion for their country since they were young will typically choose the one in which they were born and reared. To put it simply, kids already feel at home in their birthplace. Nevertheless, children sometimes still wish to live in the country where their parents are from. Hiroki stated:

"Yes, if there is a desire. I want to live in Japan, because that is my mother's country. But that might be later, someday.". (Interview with Hiroki, 25 June 2024).

According to Constitutional Court Decision Number 54/PUU-XI/2013, a child's birth must be documented and registered as a population event in order for it to serve as a springboard for the child's citizenship. According to international human rights standards, particularly the universal right to citizenship, this can even stop a child from being born without citizenship status provided the family takes proactive measures to record the birth event. Thus, it is reasonable to support the Population Administration Law's policy requirement that families register a child's birth.³²

Following the consummation of their marriage, a mixed-marriage couple may choose to become citizens. If the foreign partner will also acquire Indonesian citizenship, or if the opposite is true. Both parties must agree on everything, even whether to keep their separate citizenships. Articles 20, 21, and 22 of Law of the Republic of Indonesia Number 23 of 2006 concerning Population Administration³³, stipulate that if you reside in Indonesia, you must have a limited stay permit or a permanent stay permit.

According to Law Number 12 of 2006's Article 4, children born to mixed marriages between Indonesian and foreign nationals (WNI and WNA) are eligible to hold dual citizenship until they turn 18 or get married. According to Article 6 of this law, children must be able to vote after they become 18 or get married. According to the rules of Articles 4 and 6 of Law Number 12 of 2006 respecting Citizenship of the Republic of

³² Hermanto, "Dinamika Putusan Mahkamah Konstitusi Terhadap Pengaturan Kewarganegaraan Indonesia."

³³ Kementerian Hukum dan Hak Asasi Manusia, "Undang-Undang Republik Indonesia Nomor 23 Tahun 2006 Tentang Administrasi Kependudukan," 13 § (2006).

Indonesia, a child automatically forfeits their Indonesian citizenship if they fail to cast a ballot within the allotted time.

In determining citizenship, Indonesia typically does not specifically follow the *ius soli* concept, also known as the principle of place of birth. Nonetheless, Indonesia formally upholds the *ius sanguinis* (the principle of blood) principle, which states that a person's citizenship is decided by his parents' citizenship rather than his birthplace. For instance, regardless of where the child was born, if one or both of his parents are Indonesian nationals, the youngster will immediately become an Indonesian citizen (WNI).

Since mixed marriages are founded on very significant differences between husband and wife, including differences in citizenship, law, socio-culture, customs and traditions, and even religion, married couples from different countries should carefully consider the legal implications of such marriages.³⁴ When two people have distinct habits, it can cause discomfort for the other person. These distinctions can surely lead to arguments in mixed marriages, which can hinder the attainment of the marriage's objective of building a happy and long-lasting family.³⁵

Marriage Contract in Mixed-Marriage Situations: Addressing the Legal Implications

Due to its interconnectedness, Indonesian national law severely regulates civil-law relations involving foreign elements through the application of international civil law. Every nation has its own national law that is utilized to settle disputes involving foreign parties, known as international civil law. The Republic of Indonesia is an independent and sovereign nation with a system of international civil law that embodies the features of Indonesian legal culture. According to the aforementioned reasoning, international civil law—which is not necessarily only governed by marriage law—will regulate mixed marriages that involve foreign components.³⁶

In Indonesia, the rules pertaining to marriage vary depending on the demographic group, reflecting the country's diverse legal environment. This brings up legal questions between groups over marriage, namely which law will apply when people of various nations get married. The protection of its residents with a focus on gender equality is the result of a variety of ideas that were taken into consideration during the formulation of Law Number 12 of 2006, making it far more progressive and democratic than Law Number 62 of 1958. However, sufficient protection is also needed for children born to mixed marriages between Indonesian and foreign nationals.³⁷

According to I Nyoman Putu Budiarta's research, marriage agreements are crucial and can benefit partners who marry outside of their country. This helps predict the future effects of mixed marriages. Therefore, a marriage contract with the necessary terms should be made before to the wedding. However, in order for the agreement and the marriage to have legal force, this practice can only be carried out if the marriage is performed lawfully

³⁴ Ni Wayan Meliana, "The Strategies of Mixed-Marriage Families to Transmit Languages to Their Children," *Humanis: Journal of Arts and Humanities* 10, no. 2 (2015): 1–7.

³⁵ Putu Devi Yustisia Utami et al., "Sistem Hukum Dalam Penyelesaian Perkara Perceraian Pada Perkawinan Campuran Di Indonesia," *Jurnal Ilmiah Pendidikan Pancasila Dan Kewarganegaraan* 7, no. 1 (2022): 189, <https://doi.org/10.17977/um019v7i1p189-197>.

³⁶ Widanarti, Kurniawati, and Benuf, "Kendala Pelaksanaan Jual Beli Properti Bagi Pasangan Perkawinan Campuran."

³⁷ Rosa Kisworo and Dona Budi Kharisma, "Problematika Hukum Perkawinan Campuran Berdasarkan Kasus Pernikahan Jessica Iskandar Dengan Ludwig Frans Willibald Dalam Perspektif Hukum Perdata Internasional," *Jurnal Privat Law* 7, no. 1 (2019): 43, <https://doi.org/10.20961/privat.v7i1.30096>.

at the appropriate institutions, such as the Office of Religious Affairs and the Civil Registry Office.³⁸

Within the framework of family law, international civil law concerns have their own place. For instance, the number of people who commit mixed marriages is rising year. This implies that foreign issues affect marriage in addition to economics, politics, and other general matters.³⁹ One example of the difficulties that would arise is the fact that, absent a prenuptial agreement, the husband and wife in a mixed marriage are not permitted to hold immovable property. An Indonesian citizen cannot purchase land with ownership rights during a mixed marriage, even if one of the partners is an Indonesian, as the land will be jointly owned with the foreigner they married. This goes against the citizenship principle, which stipulates that only citizens of Indonesia are eligible to possess land.⁴⁰

According to McKenzie's research, transnational marriage—marriage between two individuals from different nations—is frequently referred to as "intimate globalization" since it illustrates the profound effects of globalization. Indeed, transnational marriage is made possible by global flows of people through migration and relocation. Understanding how people, particularly those in comparatively ethnically, racially, and nationally homogeneous regions of the world, adjust to or even reject globalization will help us better understand the psychological effects of contemporary globalization. These global flows of people, cultures, and ideas have made transnational marriage possible.⁴¹

C. Conclusion

The Office of Religious Affairs is authorized to offer mixed marriage registration services in accordance with Minister of Religious Affairs Regulation Number 24 of 2024, subject to a number of administrative criteria. However, there are a number of extra requirements for mixed marriages, including a permit from the appropriate Embassy Office, a Certificate of No Impediment (CNI), also known as a single letter, a copy of the passport, and the requirement that all documents be translated into Indonesian if the foreign national's country of origin is not a related country. In particular, the marriage registrar has a specific urgency in their duty and function within the Office of Religious Affairs. Since mixed marriages can have such complex legal implications, they must do everything in their ability to educate potential brides and grooms on the significance of the administrative procedure of mixed marriages.

Legally, mixed marriages have an impact on a couple's citizenship status; they can decide to keep their individual citizenships or adopt their partner's. Mixed marriages have an impact on children's citizenship status as well. Until they turn 18, children from mixed marriages maintain dual citizenship until they choose to adopt their mother's or father's citizenship. Since Indonesia upholds the single citizenship principle, which maintains that an individual may only hold one citizenship, mixed marriage couples and their future children must adopt a clear stance while selecting their citizenship.

³⁸ Andi Novita Mudriani Djaoe, Suriani Bt. Bolo, and Fatihani Baso, "The Impact of Mixed Marriage in Civil Law Review," *Al-'Adl*, 2023, <https://doi.org/10.22225/jn.2.1.151.1-12>.

³⁹ Umar Haris Sanjaya, "The Implementation of the Principle of Justice in Post-Nuptial Agreement towards Mixed Marriage: Hope or Challenge?," *Jurnal Hukum Novelty* 12, no. 2 (2021): 282–94, <https://doi.org/10.26555/novelty.v12i2.a17856>.

⁴⁰ Sonny Dewi Judiasih, "The Status of Matrimonial Property Ownership in Mixed Marriages," *Mimbar Hukum - Fakultas Hukum Universitas Gadjah Mada* 27, no. 1 (2015): 145, <https://doi.org/10.22146/jmh.15902>.

⁴¹ Jessica McKenzie and Kajai C. Xiong, "Fated for Foreigners: Ecological Realities Shape Perspectives of Transnational Marriage in Northern Thailand," *International Journal of Intercultural Relations* 82, no. March (2021): 121–34, <https://doi.org/10.1016/j.ijintrel.2021.03.010>.

D. Recommendations

Research on the legality of registering mixed marriages at the Office of Religious Affairs and its consequences for citizenship status has led to the following recommendations:

1. The legal requirements for the administrative registration of a marriage must be understood and followed by couples in mixed marriages, as this directly affects their children's and their own citizenship status;
2. Given that the marriage registration certificate is one of the documents that attests to the validity of their union, the marriage registrar should educate and inform people about the importance of registering mixed marriages;
3. Given that many individuals are still unaware of the legal implications of mixed marriages, the Ministry of Religion should engage in public outreach and education on the subject;
4. The legal approach taken in this study has limits of its own, notably that mixed marriages are only viewed from the standpoint of legality and legal implications. This makes it difficult for other researchers to do research on mixed marriages from a more comprehensive perspective.

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