

The Legal Concept of Joint Property of Mixed Marriage in the International Civil Law System from the Perspective of Legal Justice

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Abstract

Mixed marriage between Indonesian citizens and foreign citizens has become an increasingly common phenomenon due to rapid globalization and increasing tourist visits to Indonesia. One of the main issues is regarding the arrangement of joint property, which is influenced by the various legal systems of each couple's home country. This study aims to analyze the perspective of legal justice in the reform of joint property arrangements in mixed marriages. The research method uses a normative legal approach, with data collection through relevant literature reviews and in-depth interviews. The data was systematically analyzed and tested for validity using the triangulation method to ensure validity. The results of the study show that differences in legal systems between countries create significant challenges for couples in managing, owning, and dividing joint property. Inequality and discrimination are common, especially in cross-border property ownership, which can be detrimental to one party. To overcome this challenge, harmonization of international civil law is needed through the application of the principles of universal justice and inclusive legal reform. In addition, the development of marriage agreements that are responsive to globalization can be a solution to provide better legal protection, reduce uncertainty, and ensure that the rights of couples are met fairly. This study recommends legal reforms that prioritize the principles of justice and the protection of rights in mixed marriages, in order to create a legal system that is more responsive to the dynamics of globalization.

Keywords: *Mixed marriage, legal concept, common property, international civil law, justice.*

INTRODUCTION

Humans, according to their nature, live together because they need each other. The human soul realizes the importance of living in society, which is driven by biological needs such as the desire to have offspring as a form of happiness (Ghazaly, 2019; Arliman, 2019). Getting offspring is done through the formation of a happy family and blessed by Allah SWT, which is manifested through marriage bonds (Kholik, 2019). Marriage is the main foundation in community life, and also plays an important role in shaping the next generation which is the pillar of the state and nation.

In the era of globalization, the dynamics of marriage have undergone significant changes. Increasing international mobility has the potential to help individuals from different cultural backgrounds and nationalities to meet each other, establish relationships, and get married (Simbolon, 2024). Based on data from the International Organization for Migration (IOM), the number of international migrants in 2020 reached more than 272 million and continues to increase, which has an impact on the high rate of mixed marriages (Herawati, 2023). However, building a family with a Foreign Citizen spouse presents its own challenges. Differences in religion, language, culture, and nationality often add complexity to these relationships (Sulchan & Widiyari, 2017). Nevertheless, cross-border matchmaking is inevitable, and with good commitment and understanding, mixed marriage can be the foundation for a harmonious family in the midst of global diversity.

Since the enactment of the book of laws and regulations on marriage No. 1 of 1974 (UUP), it has been stipulated that all previous rules on marriage are declared invalid, so marriage

must refer to the provisions in this law. According to Article 2 paragraph (1) of the UUUP, the validity of marriage is determined by its implementation in accordance with the laws of religion and their respective beliefs. In addition, Article 2 paragraph (2) states that every marriage must be recorded in accordance with the applicable laws and regulations. Without registration, marriage is not considered valid in the eyes of state law.

This recording is regulated in Government Regulation No. 9 of 1975, which states that Muslim couples register their marriage at the Religious Affairs Office (KUA), while non-Muslim couples register it at the Civil Registration Office. This is also strengthened by Law No. 23 of 2006 concerning Population Administration, which regulates the recording of important events, including marriage, divorce, and death (Ghafur, 2020). Qualified registration provides legal certainty and protects the legal interests of married couples.

In a mixed marriage or marriage between two individuals of different nationalities, one of the main challenges is the arrangement of joint property, which is influenced by the legal system of each spouse's home country. This creates various legal challenges, especially in the management, ownership, and distribution of common property (Akbar, 2024; Wafaa, 2023). The legal arrangement of joint property in marriage is an important aspect that regulates how the property obtained during marriage is managed, owned, and divided between husband and wife. In Indonesia, this is regulated by the Civil Code and Law Number 1 of 1974 concerning Marriage. Article 35 of the Marriage Law stipulates that property obtained during marriage becomes joint property, unless there is another agreement agreed upon by both parties (Djuniarti, 2017). However, in mixed marriages, the application of this rule becomes more complicated due to the possibility of different applications of foreign laws, which can create legal uncertainty.

1. Principles of determination of applicable law

In the international civil law system, legal relations involving cross-border elements, including mixed marriages, are regulated through principles such as *lex domicilii* (domicile law), *lex patriae* (citizenship law), and *lex loci actus* (law where the legal act occurs) (Herawati, 2023). The determination of the applicable law (*lex causae*) is one of the main challenges, especially in regulating joint property in mixed marriages (Aminah, 2019).

2. Inconsistency of the legal system

Each country has different rules regarding common property. For example, there are countries that divide common property equally, while in other countries the division is carried out based on the contribution of each party. This inconsistency can cause legal uncertainty for mixed marriage couples (Rizqo, 2024).

3. Conflict of law

Legal conflicts often arise when two different legal systems attempt to regulate the same relationship. In mixed marriages, this conflict can include the division, management, and ownership of joint property (Irfani, 2020).

4. Lack of harmony between countries

The lack of harmonization of international civil law in the regulation of joint property in mixed marriages often leads to injustice. For example, in divorce cases, uncertainty regarding the division of assets can worsen the emotional and financial condition of the couple concerned (Az-zahra, 2024).

5. Cultural and social aspects

Differences in cultural values and social norms between the countries of origin of married couples can influence their views on common property. In some countries, this concept may be based on different religious or customary principles, which could potentially give rise to conflicts or misunderstandings in mixed marriages (Haidar, 2023).

The perspective of legal justice is the main pillar in the regulation of the legal system, including in the dynamics of joint property in mixed marriages. Legal justice not only

includes the objective application of legal norms, but also considers ethical and moral dimensions that ensure the rights and obligations of the parties are fulfilled proportionately (Hoesein, 2012). In this regard, it is important to explore how legal justice can be applied in the arrangement of common property, including the challenges that arise in its application.

Legal justice can be understood through three perspectives, namely distributive, procedural, and substantive justice. Distributive justice emphasizes the fair distribution of resources between the parties, including property acquired during the marriage which must be divided impartially (Salinding, 2019). Procedural justice focuses on justice in the legal process, ensuring transparency, consistency, and equal access for the parties involved (Arowana, 2019). Meanwhile, substantive justice demands that legal decisions are not only in accordance with applicable rules but also reflect moral values and justice that are relevant to society (Fendri, 2011).

In the arrangement of joint property in mixed marriages, legal justice must be realized through the consistent application of the law to all couples, regardless of their nationality (Bengngu, 2024). So that it can avoid legal uncertainty that can result in one party losing its rights. The protection of women's rights is also an important issue, considering that women are often more vulnerable in the management and distribution of wealth, especially in certain cultures that have gender stereotypes (Asnawi, 2022; Noor, 2018). Justice in the distribution of common property must also consider the contribution, duration of marriage, and sacrifice of each party proportionally (Fitrianingrum, 2024). In addition, the principles of universal justice, such as non-discrimination and respect for human rights, must be the cornerstone of international legal arrangements related to mixed marriage (Arifin, 2018). However, the application of these principles often faces challenges, including the inconsistency of legal systems between countries and cultural stereotypes that hinder gender equality in the distribution of wealth (Pratisiya, 2023). Previous research by (Widanarti, 2018) shows that the impact of mixed marriages on property law marriages based on Marriage Law no. 1 of 1974 concerning marriage, if the parties have not entered into a marriage then the property becomes joint property. In its development, the practice of marriage agreements can be made after the marriage has taken place by submitting a request to the court and having received a court decision which has permanent legal force. With Denpasar District Court Decision Number 563/Pdt.P/2015/PN.Dps.

Previous research (Mundung et al., 2023) shows that children from marriages of different nationalities still have the right to the inheritance given by their parents. Even though the child does not yet have citizenship, his inheritance rights will not be removed. However, to obtain inheritance rights in Indonesia, children from mixed marriages must wait until they are 18 years old. If the child chooses to become a foreign citizen, he is required to renounce his inheritance rights within one year after obtaining these rights.

Lack of legal awareness is also a problem, where many mixed-marriage couples do not understand their legal rights and obligations. This can be exacerbated by complicated legal processes and high costs, thus becoming an obstacle for individuals from weak economic backgrounds (Prabandari, 2009). Therefore, to understand more deeply the legal problems of common property in mixed marriages, it is necessary to conduct a comprehensive case study. Case studies can provide more concrete insights into how joint property law is applied in various mixed marriage situations, and the concept of joint property related to mixed marriage is in accordance with the principles of justice faced by the couples involved. Based on the background mentioned above, the author examines it more deeply by pouring it into the form of legal writing with the title: "The concept of property law with mixed marriage in the international civil law system from the perspective of legal justice"

RESEARCH METHODS

This research uses a normative legal approach, which emphasizes the analysis of legal norms that apply in society, focusing on legal texts such as laws, regulations, doctrines, and court decisions (Disemadi, 2022). The goal is to understand, interpret, and criticize legal norms, as well as assess their conformity with the principles of justice and societal values. Normative, or doctrinal, legal research focuses on the study of written legal sources such as laws and regulations, international agreements, court decisions, and legal literature, by analyzing the relationship between legal norms and their validity and consistency in application (Efendi, 2018). The legal materials used include primary legal materials, such as national laws, government regulations, jurisprudence, and international agreements, as well as secondary legal materials, such as journal articles, legal literature, and legal commentary. In addition, tertiary materials, such as law encyclopedias and legal indexes, are also used to deepen understanding. Practice documents and empirical data, such as pre- or post-nuptial agreements, statistical data, and case studies, are also used to provide real context to the analysis.

Data collection was carried out through relevant literature reviews and in-depth interviews with legal practitioners, judges, academics, and parties involved in civil law disputes. The study also includes case studies, such as disputes over common property, inheritance rights, or marriage agreements, to illustrate the application of civil law in practice. After the data is collected, it is then systematically analyzed and tested for validity using the triangulation method. Triangulation can help validate research results by comparing data from different sources or methods to ensure consistency and reliability. This approach ensures that the results of normative legal research have high validity and are relevant to real conditions.

RESULT AND DISCUSSION

The arrangement of joint property in mixed marriages is greatly influenced by the legal system of each couple's home country and the location of their residence. Some countries provide flexibility by allowing couples to choose a particular legal system through a prenuptial agreement or international convention. In Indonesia, in particular, after marriage takes place, the rights and obligations of husband and wife become one, including in terms of wealth management that supports domestic life. According to Article 35 paragraph (1) of the Marriage Law, all property obtained during the marriage period is considered as joint property, whether in the form of movable or immovable objects, tangible or intangible, which comes from the work of one or both parties until the marriage ends due to divorce or death.

The arrangement of joint property in mixed marriages is a complex issue in international civil law, as it involves different legal systems that govern the rights and obligations of couples across countries. These differences often include aspects of property management, ownership, and other rights. The legal uncertainty experienced by couples in mixed marriages is often exacerbated by differences in legal approaches to joint property. In the *civil law* system, property acquired during marriage is generally considered as community *property*, while in *common law*, the property can remain separate property, unless there is a prenuptial agreement to the contrary. This difference in approach has the potential to trigger conflicts if the couple does not have a clear prenuptial agreement. Discussion on the arrangement of joint property in mixed marriages based on several international civil law systems, including:

Table 1. Comparison of legal systems in the division of mixed marriage property

Legal System	Explanation
Civil Law System (Continental Europe)	In the civil law system, which is applied in countries such as France, Germany, and the Netherlands, there is generally a division of common property (community property) in marriage. This system tends to treat all property acquired during marriage as joint property, unless there is a prenuptial agreement that specifies otherwise. In a mixed marriage, these countries usually pay attention to the laws in force in the country where the couple lives (domiciles) or where the marriage is legalized. Many civil law countries have international conventions, such as the Hague Convention on the Law Applicable to the Marriage Regime (1978), which allows couples in mixed marriages to choose which law applies to the arrangement of property.
Common Law legal system (United States and United Kingdom)	In countries with common law systems, such as the United States and the United Kingdom, the approach to common property tends to be more individualistic. Each spouse is considered to have property that they acquired on their own during the marriage, unless the property is explicitly divided or combined. In the case of a mixed marriage, the courts in common law countries may apply choice of law based on the spouse's residence or domicile, or in some cases, based on the country in which the assets are located. Many couples in mixed marriages in the common law system also sign a prenuptial agreement to determine the rules for joint property ownership or assets outside the general rules.
Sharia legal system (Islamic Countries)	In many countries that apply sharia law in their family law, such as Saudi Arabia and Pakistan, there is no concept of joint property as found in the civil law or common law system. In Islamic law, the property acquired by each spouse during the marriage remains the personal property of each other, even though they are bound in the marriage bond. However, in mixed marriages involving couples from countries with sharia systems and non-sharia countries, the rules for property ownership often become complicated and require the establishment of a prenuptial agreement. These countries often base their choice of law on the nationality or religious origin of each spouse.
International Law and Multilateral Conventions	For mixed marriages between countries, several international conventions regulate the choice of law in the aspect of joint property, such as the Hague Convention of 1978 which gives couples the freedom to choose the law of the country of origin or country of domicile to be applied. The Convention also allows for future changes in choice of law if necessary. In Europe, for example, there is the EU Regulation on the Law of Wealth in Marriage (2016), which gives couples the option to choose the law of nationality of one of the spouses or the country of residence. This rule is important for mixed pairs of EU member states with other countries outside the EU.

Furthermore, other challenges are also found in cultural factors and social norms that affect the management of common property, because each society has different views on the role of husband and wife and the division of property. In some cultures, the husband may be

considered the main manager of the family property, while other cultures emphasize full equality between the partners. Tensions can also arise due to gender inequalities that are still seen in many traditional legal systems, although legal reforms have attempted to address them. In mixed marriages, the application of the principle of equality is weakened due to differences in national laws, which can be detrimental to women if their rights are not protected.

Procedural differences in different legal systems also add to the complexity, especially in the division of property. In some jurisdictions, courts have the freedom to determine the division of property based on the principle of justice, while in others strict rules apply. This mismatch complicates the legal process, increasing the emotional burden, time, and cost for the couple. The existence of children also adds a new dimension, because the law in some countries prioritizes the needs of children in the distribution of property, while in other countries this is less noticed.

In the European Union, regulations such as the Brussels Convention IIa and Regulation (EC) No 2201/2003 govern family law conflicts, including the division of property in mixed marriages. Couples are usually given the freedom to choose the law that applies in their marriage, creating flexibility to resolve property disputes based on the chosen law. In *common law countries* such as the United States and the United Kingdom, the arrangement of joint property is influenced by the legal principles of the country where the spouses live. In this region, the separation of private property takes precedence, although some states use the principle of *community property*. Therefore, a prenuptial agreement is very important to ensure the division of property according to the couple's preferences.

In Indonesia, the arrangement of joint property in mixed marriages is regulated by civil law and Islamic law based on Marriage Law No. 1 of 1974. Joint property is recognized in marriage, but its division follows the principles of Islamic law for Muslim couples and civil law for non-Muslim couples. Challenges arise when couples of different religions or nationalities have to resolve property disputes, as differences in legal systems can make it difficult to achieve a fair solution.

Mixed marriages in Indonesia must follow the provisions of the applicable Marriage Law. In the absence of a marriage agreement, mixed couples face obstacles in owning property, such as land, because joint property in marriage includes ownership by foreign nationals. According to Abdul Kadir Muhammad (2000), the joint property generated during marriage is considered to belong to husband and wife, both from an economic and legal point of view, although the two have different concepts.

The main problem often arises when common property includes land that can only be owned by Indonesian Citizens . Based on Article 9 paragraph (1) and Article 21 paragraph (1) of the Basic Agrarian Law (BAL), land ownership rights are only intended for Indonesian citizens, because land ownership by foreigners is contrary to the principle of National Rights, namely the highest right to control land in Indonesia owned by all Indonesian people (Eddy Nyoman Winarta, 2017).

The case experienced by Mrs. Ike Farida, an Indonesian citizen who is married to a Japanese citizen, is a clear example of this problem. After paying off the purchase of a flat in Jakarta, the purchase agreement was unilaterally canceled by the developer. The reason for the annulment is based on Article 36 paragraph (1) of the Basic Agrarian Law (BAL) and Article 35 paragraph (1) of the Marriage Law, which states that the property obtained during the marriage becomes joint property. In a mixed marriage without a marriage agreement that separates property, the ownership of the flat is considered to involve foreigners, so it is not allowed. The developer's decision was strengthened by the East Jakarta District Court in Determination Number 04/CONS/2014/PN. JKT. Team.

The Constitutional Court Decision Number 69/PUU-XIII/2015 brought significant changes in marriage law in Indonesia, especially for mixed couples. Previously, a marriage agreement could only be made before or during the marriage. However, with this decision, mixed couples can draw up a marriage agreement during the marriage period, which must then be legalized by the marriage registrar. This agreement applies to third parties as long as the party is involved in the legal acts stipulated in the marriage agreement.

This decision reflects the Constitutional Court's efforts to protect human rights and constitutional rights of citizens, especially for mixed couples to have better access to property ownership in Indonesia, including land. A marriage agreement should be made on the principles of freedom of contract, trust, binding force, and good faith. In addition, this agreement must be recorded at the Religious Affairs Office for Muslim couples or at the civil registry office for non-Muslim couples.

Although often considered controversial, marriage agreements have important benefits. On the one hand, this agreement can help couples manage their rights and obligations related to joint property, including in the event of divorce. However, there is a view that the public considers this agreement to reflect a lack of trust in the relationship. In fact, if made with good intentions and in accordance with the law, a marriage agreement can be a useful tool to maintain household harmony. Consultation with legal experts is strongly recommended so that the agreement is valid and does not violate human values.

In mixed marriages, the concept of legal justice plays an important role in ensuring that couples have equal access to their rights, without discrimination based on nationality. However, restrictions on property ownership for foreign nationals remain a challenge that needs to be considered in legal reform in Indonesia. Legal injustice related to joint property ownership in mixed marriages encourages the need for fairer legal reforms. Currently, foreign spouses only have the right to use or use the property, without full ownership. This condition creates inequality, especially when divorce or death of one of the spouses occurs, where foreigners often lose the right to common property. More inclusive reforms are needed to ensure equality of rights between couples.

The provisions of Indonesian law that require a prenuptial agreement to be made before marriage are also considered to limit the flexibility of the couple in regulating joint property ownership. Reforms that encourage the creation of agreements made after marriage can give couples the opportunity to adjust the agreement as needed. In addition, the protection of children's rights from mixed couples also requires special attention, considering that children often face uncertainty of inheritance rights due to differences in citizenship status.

For this reason, harmonization of national and international laws is important because mixed couples often have assets in different countries. Jurisdictional conflicts can be minimized with reforms that take into account the provisions of international law. A faster, simpler, and affordable legal process is also needed to overcome access obstacles for foreigners in resolving joint property disputes. Legal reform must also pay attention to cultural barriers that tend to favor Indonesian citizens in the arrangement of common property. A fair legal system should override cultural biases and provide equal rights for foreign spouses. In addition, regulations that restrict property rights for foreigners often affect the stability of mixed couples' households. Reforms that provide legal certainty can strengthen relationships and reduce potential conflicts within families.

Gender equality is also an important part of legal reform, with the aim of addressing discrimination against women in the ownership of common property. Non-financial contributions, such as childcare and household chores, should be valued equally. In the context of cultural diversity, legal reform also needs to provide flexibility for couples to choose laws that suit their values, such as through prenuptial agreements.

Therefore, the close relationship between legal justice and joint property management in mixed marriage shows the level of complexity that arises due to the diversity of applicable legal systems, cultures, and procedures. Therefore, legal reform is needed that is immediately implemented with a focus on the principles of justice, gender equality, protection of children's rights, and harmonization with the provisions of international law. Some of the key points related to this are as follows:

a. Indonesia's Legal Framework in Regulating Joint Property

Legal arrangements regarding joint property in marriage in Indonesia are regulated through Law Number 1 of 1974 concerning Marriage and the Civil Code. Article 35 of the Marriage Law explains that property acquired during marriage becomes joint property, while inherited property, gifts, or inheritance remain the property of each spouse unless there are different provisions stipulated in the marriage agreement. However, this legal framework faces special challenges in mixed marriages involving Foreign Nationals. Current legal limitations are often an obstacle in ensuring justice and equality of property ownership rights for foreign spouses. This condition raises an urgent need for legal reform so that couples in mixed marriages obtain clearer legal certainty and equal treatment in joint property ownership. Thus, the renewal of the legal framework that refers to the principles of justice and equality is expected to provide better protection for mixed couples, as well as reflect the dynamics of Indonesian society which is increasingly global.

b. Marriage Agreement in the Context of Joint Property

Based on Article 29 of the Marriage Law, couples can make a written agreement before or during the marriage, which must be ratified by the marriage registrar. This agreement comes into effect from the time the marriage takes place and may include arrangements for the separation or management of joint property. In mixed marriages, this agreement is very relevant to prevent legal conflicts between countries. The importance of harmonization with international law is in the spotlight, considering that in some countries the right to own property is automatically recognized through law without the need for a written agreement. In contrast, in Indonesia, a marriage agreement is the only way to separate joint property. Therefore, agreements drawn up by mixed couples must comply with the provisions of the law in the country of origin of the foreign spouse in order to be recognized by the laws of both countries. This step is essential to avoid legal uncertainty, especially if the couple faces legal proceedings abroad. In addition, there are also efforts to develop a more flexible and inclusive legal framework, which will strengthen the recognition and protection of spousal rights, ensuring that the principles of justice are upheld more comprehensively in the global community.

c. Differences in Legal Systems and Their Impact

Indonesia adheres to a mixed legal system that includes elements of customary law, religious law (especially Islam), and western law (Civil Law). This system can pose complexity, especially in mixed marriages, if one of the spouses is from a country with a different legal system, such as common law. Differences in understanding of joint property, for example, can affect the way property is divided during divorce. Therefore, harmonization with international law is important to provide better protection and ensure fairness in the arrangement of common property. More flexible policies will help mixed couples to live a household life with equal rights and fair access to jointly acquired assets. This step will help Indonesia create a more inclusive and adaptive legal climate to global marriage trends. Understanding and accommodating differences in legal systems will strengthen protection for Indonesian citizens married to foreigners and support equality of rights in various aspects of mixed couples' lives.

d. Aspects of Islamic Law in Indonesian Civil Law.

Aspects of Islamic law in the Indonesian civil law system have a significant role, especially in issues of family, marriage, and inheritance. As a country with a majority Muslim population, Indonesia integrates the principles of Islamic law into national law, which is reflected in the Compilation of Islamic Law (CIL). CIL regulates various aspects related to marriage, divorce, and inheritance distribution for Muslims. For Muslim couples, the arrangement of joint property also refers to the provisions in the CIL which is regulated through Presidential Instruction Number 1 of 1991. The CIL stipulates that the property acquired during the marriage becomes joint property, whose management and division must follow Islamic principles. However, with the increasing number of cross-border marriages and global interactions, harmonization with international law has become very important. Thus ensuring that the rights of individual Muslims in Indonesia are recognized and protected internationally, while building an adaptive and inclusive legal system. Such a legal system will remain in accordance with Islamic law but is also relevant to changes in global dynamics.

e. Challenges in Mixed Marriages

Mixed marriage in Indonesia faces various challenges related to legal harmonization between the Indonesian legal system and the country of origin of foreign couples. One of the main challenges is the arrangement of property rights over common property, especially property. Under the Basic Agrarian Law, foreign nationals cannot own land in Indonesia, which limits the rights of foreign spouses to control common property. Although couples can enter into a prenuptial agreement to arrange for the separation of property, strict bureaucracy often makes it difficult to implement. Then other issues that arise in mixed marriages are the arrangement of inheritance rights, the citizenship status of children, differences in the divorce legal system, child custody, alimony after divorce, visa and residence permit issues, cultural and religious aspects, and negative views of society are additional challenges for mixed couples. Therefore, from these legal challenges, there is a great need for an approach to harmonization of international law so that the rights of mixed couples can be properly protected. Indonesia needs to update its legal system to be more adaptive to the needs of mixed couples, create an inclusive legal climate and support their well-being in a stable and fair life.

f. Citizenship and its Implications

Citizenship in mixed marriages between Indonesian citizens and foreigners carries complicated legal implications, especially related to the rights and obligations of children resulting from the marriage. Based on Law No. 12 of 2006 on Citizenship, children born from mixed marriages can have dual citizenship up to the age of 18, after which they must choose one nationality. Although this policy provides space to accommodate diversity in mixed marriages, challenges arise in its implementation, especially regarding citizenship rights after children reach adulthood.

This citizenship has a far-reaching impact on individuals in mixed marriages, as it can affect rights in both different countries. Therefore, harmonization of international law is essential to overcome regulatory differences between countries. Providing assurance that couples in mixed marriages can enjoy equal rights and fair access, as well as obtain adequate legal protection. The principle of justice in citizenship is key in providing opportunities for individuals in mixed marriages to integrate harmoniously in the international community.

g. The Role of Religious Courts and District Courts

In Indonesia, the settlement of joint property disputes in marriage depends on the religion adopted by the couple. Muslim couples will handle their cases through the Religious Court, while non-Muslim couples will have to involve the District Court. These differences in jurisdiction add to the complexity in mixed marriage cases, especially in terms of the application of different laws. Therefore, the role of the Religious Court and the District Court has an important position to provide fair protection of the rights of couples, regardless of

religion or nationality. Harmonization with international law is indispensable to achieve balanced justice in every court decision. This effort to ensure fairness and balance is crucial to maintaining the integrity of Indonesia's legal system, especially in the face of the increasingly complex challenges of mixed marriage in the era of globalization.

h. Marriage Law and Protection of Women's Rights

The Marriage Law in Indonesia aims to protect women's rights in marriage, although in practice, such protection is often hampered by differences in interpretation of the law at the local level or the existence of cultural norms that discriminate against women. Legal reforms continue to provide gender equality in the arrangement of common property. Overall, the reform in the Marriage Law that prioritizes justice and harmonization with international law will greatly benefit women, especially those in mixed marriages. With this step, women will not only enjoy their rights equally in marriage, but will also be protected in various aspects of family life, both in Indonesia and abroad.

i. International Agreements and Implementation in Indonesia

Indonesia is bound by various international treaties, such as the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), which affect the country's civil law. The application of these international agreements in national law shows that the arrangement of common property in mixed marriages is in accordance with the principles of justice and equality. Thus, the need for the implementation of international agreements that show Indonesia's commitment to justice and equality, especially in mixed marriages. This step also strengthens Indonesia's position in the international community as a country that supports global legal justice and human rights for all its citizens.

j. The Influence of Globalization and the Need for Legal Reform

Globalization has increased the number of mixed marriages, which requires Indonesia's legal system to be more adaptive and responsive to international changes. Legal reform is essential to accommodate these changes, including by adopting and harmonizing international law to provide legal certainty and fair protection for couples in mixed marriages.

The solution to legal changes related to joint property in mixed marriages needs to involve a careful adaptation process to the principles of international and national legal justice. With the priority of gender equality, the protection of individual rights, and recognition of international norms, Indonesia can create a legal system that not only protects couples in mixed marriages, but also promotes justice and well-being for all citizens.

Broadly speaking, the arrangement of joint property for couples in mixed marriages in Indonesia does not fully reflect the values of equality and non-discrimination. The existing provisions still prioritize property protection for Indonesian citizens, with strict restrictions for foreign spouses. To realize true justice, Indonesia's legal system needs to update regulations to be more inclusive, so that foreign couples in mixed marriages can feel security and justice in terms of joint property ownership. With this improvement, it is hoped that Indonesian and foreign couples in mixed marriages will get equal legal protection in property rights and access to common property. This step will not only reflect the principle of justice in marriage, but also support human rights, make Indonesia more inclusive, and better prepared to face the dynamics of globalization and increasingly complex relations between countries.

CONCLUSION

The concept of joint property in mixed marriage involves various different legal systems between countries, such as different rules regarding the ownership, management, and division of common property, each of which is regulated based on the domestic legal norms of each country.

This creates difficulties for mixed-marriage couples who need to comply with the legal provisions of two or more jurisdictions, which often have fundamental differences. Domestic legal provisions often create difficulties for couples who have to comply with more than one jurisdiction, which can give rise to discrimination or inequality, particularly in cross-border property ownership. Therefore, harmonization of international civil law is needed to ensure justice and equality of rights for couples in mixed marriages. This involves inclusive legal reform and the application of the principles of universal justice. Marriage agreements that are responsive to globalization can also help couples create agreements as needed, referring to fairness-oriented international legal standards. Thus, with a stronger legal framework, the rights of couples in mixed marriages will be better protected, and legal uncertainty can be minimized.

REFERENCES

- Akbar, A., Lubis, A., Putri, M. N., Habib, M. H., & Andinata, M. F. (2024). *Sejarah Pernikahan Campuran di Indonesia*. Jurnal Pendidikan Tambusai, 8(1), 4448-4457.
- Aminah, A. (2019). *Pilihan Hukum dalam Kontrak Perdata Internasional*. Diponegoro Private Law Review, 4(2).
- Arifin, R., Rasdi, R., & Alkadri, R. (2018). *Tinjauan Atas Permasalahan Penegakan Hukum dan Pemenuhan Hak dalam Konteks Universalisme dan Relativisme Hak Asasi Manusia di Indonesia*. Legality: Jurnal Ilmiah Hukum, 26(1), 17-39.
- Arliman, L. (2019). *Peran Lembaga Catatan Sipil Terhadap Perkawinan Campuran Berdasarkan Undang-Undang Perkawinan*. JCH (Jurnal Cendekia Hukum), 4(2), 288-301.
- Arwana, Y. C., & Arifin, R. (2019). *Jalur Mediasi dalam Penyelesaian Sengketa Pertanahan Sebagai Dorongan Pemenuhan Hak Asasi Manusia*. Jambura Law Review, 1(2), 212-236.
- Asnawi, M. N., & SHI, M. (2022). *Hukum harta bersama: Kajian perbandingan hukum, telaah norma, yurisprudensi, dan pembaruan hukum*. Prenada Media.
- Az-zahra, I. A. (2024). *Dinamika Penyelesaian Harta Bersama: Perbedaan Pandangan Tokoh Agama di Kecamatan Bagan Sinembah*. Jurisprudensi: Jurnal Ilmu Syariah, Perundang-Undangan dan Ekonomi Islam, 16(2), 394-407.
- Bengngu, J. G. P., & Widiatedja, I. G. N. P. (2024). *Akibat Hukum Mengenai Status Anak yang Lahir Dalam Perkawinan Campuran (Studi Perbandingan Indonesia dan Belanda)*. Ethics and Law Journal: Business and Notary, 2(3), 119-135.
- Disemadi, H. S. (2022). *Lenses of Legal Research: A Descriptive Essay on Legal Research Methodologies*. Journal of Judicial Review, 24(2), 289-304.
- Djuniarti, E. (2017). *Hukum Harta Bersama Ditinjau dari Perspektif Undang-Undang Perkawinan dan KUH Perdata (The Law of Joint Property Reviewed from The Perspective of Marriage Law and Civil Code)*. Jurnal Penelitian Hukum P-ISSN, 1410, 5632.
- Efendi, J., Ibrahim, J., & Rijadi, P. (2016). *Metode Penelitian Hukum: Normatif dan Empiris*. Prenada Media.
- Fendri, A. (2011). *Perbaikan sistem hukum dalam pembangunan hukum di indonesia*. Jurnal Ilmu Hukum Riau, 1(02), 9073.
- Fitrianingrum, F. A., Basri, A. H., & Solihin, R. A. (2024). *Asas Contra Legem Dalam Pembagian Harta Bersama (Studi Putusan Pengadilan Tinggi Agama Surabaya Nomor 231/Pdt. G/2022/PTA. Sby)*. Syariati: Jurnal Studi Al-Qur'an dan Hukum, 10(1), 79-94.

- Ghafur, F., Kanggas, F. Z. H., & Lahuri, S. B. (2020). *Kedudukan pencatatan perkawinan dalam hukum islam dan hukum positif di Indonesia*. Journal of Indonesian Comparative of Syari'ah Law, 3(2), 219-231.
- Ghazaly, J. H. (2019). *Kepemilikan Hak Atas Tanah Dalam Perkawinan Campuran*. JCH (Jurnal Cendekia Hukum), 5(1), 117-130.
- Haidar, A. F., Ahmad, R. N., Hapsari, R. S., Natanael, R., & Sukmawati, R. L. S. N. (2023). *Tantangan Hukum dan Aspek-Aspek Multikultural dalam Pernikahan Internasional*. Causa: Jurnal Hukum Dan Kewarganegaraan, 1(6), 1-10.
- Herawati, E. M., Azzahra, V. F., Syafadita, S., Pinasty, P. B., & Arrigo, F. (2023). *Kepastian Hukum Perkawinan Beda Negara Berdasarkan Hukum Perdata Internasional Indonesia*. Socius: Jurnal Penelitian Ilmu-Ilmu Sosial, 1(4).
- Hoesein, Z. A. (2012). *Pembentukan Hukum dalam Perspektif Pembaruan Hukum*. Jurnal Rechts Vinding: Media Pembinaan Hukum Nasional, 1(3), 307-327.
- Irfani, N. (2020). *Asas Lex Superior, Lex Specialis, dan Lex Posterior: Pemaknaan, Problematika, dan Penggunaannya dalam Penalaran dan Argumentasi Hukum*. Jurnal Legislasi Indonesia, 16(3), 305- 325.
- Kholik, A. (2019). *Konsep Keluarga Sakinah, Mawaddah Dan Rahmah Dalam Perspektif Hukum Islam*. Masile, 1(1), 108-126.
- Mundung, D. J., Muaja, H. S., & Wewengkang, F. S. (2023). *Perlindungan Hukum Terhadap Pemenuhan Hak Waris Anak Dalam Perkawinan Campuran Ditinjau Dari Hukum Perdata Internasional*. Lex Privatum, 12(1).
- Noor, A. (2018). *Kedudukan Perempuan Terhadap Laki-Laki Dalam Melakukan Perbuatan Hukum Perolehan Dan Peralihan Hak Atas Tanah Berdasarkan UU Nomor 5 Tahun 1960*. Jurnal Hukum Positum, 3(1), 117-132.
- Prabandari, E. W. (2009). *Perlindungan Hukum terhadap Isteri atas Masalah Harta yang Dipersengketakan dalam Gugatan Harta Bersama dalam Perkara Perceraian* (Studi di Pengadilan Agama Semarang) (Doctoral dissertation, PROGRAM STUDI MAGISTER KENOTARIATAN).
- Pratisiya, V., Pantes, A., Fahira, S., Musa, D. T., Alamri, A. R., & Mutmainnah, M. (2023). *Perubahan konstruksi sosial dalam pembagian kerja domestik: Studi hubungan antara suami istri keluarga modern*. Yinyang: Jurnal Studi Islam Gender Dan Anak, 18(2), 197-222.
- Rizqo, H. F., Rato, D., & Susanti, D. O. (2024). *Pemahaman Tentang Kekayaan Bersama Dalam Pernikahan Menurut Hukum Islam Dan Hukum Indonesia*. Jurnal Hukum & Pembangunan Masyarakat, 15(4).
- Salinding, M. B. (2019). *Prinsip Hukum Pertambangan Mineral dan Batubara yang Berpihak Kepada Masyarakat Hukum Adat*. Jurnal Konstitusi, 16(1), 148-169.
- Simbolon, E. Z., & Sandini, J. (2024). *Dinamika Hukum Perdata: Interpretasi Dan Aplikasi Bw Buku 1 Di Era Modern*. Multilingual: Journal of Universal Studies, 4(2), 69-78.
- Sulchan, A., & Widiasari, N. I. (2017). *Tinjauan Yuridis Tentang Perolehan Hak Atas Tanah Bagi Perempuan WNI Yang Terikat Perkawinan Campuran* (Studi Kasus Putusan MK Nomor. 69/PUU-XIII/2015). Jurnal Akta, 4(1), 25-28.
- Widanarti, H. (2018). *Akibat Hukum Perkawinan Campuran Terhadap Harta Perkawinan* (Penetapan Pengadilan Negeri Denpasar No: 536/Pdt. P/2015/PN. Dps.). *Diponegoro Private Law Review*, 2(1).