

Determination Of Applicable Law In Mixed Marriages : Analysis Of The Principle Of Choice Of Law In The Indonesian Legal System (A Study Of How Indonesian Law Determines The Applicable Jurisdiction In Mixed Marriages Based On Law No.1 Of 1974 And International Law)

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ABSTRACT

This study analyzes the applicable law in mixed marriages in Indonesia, focusing on choice of law principles in national and international law. Using normative juridical methods, it examines jurisdictional issues under Law No. 1/1974 and international law, finding that lex loci celebrationis and parties' national laws determine validity. The study highlights the need for legal harmonization to ensure protection and justice.

Keywords: *mixed marriage, choice of law, international law.*

A. INTRODUCTION

Marriage is a significant legal event in human life, as it establishes both emotional and legal bonds between a man and a woman to build a harmonious and lasting family unit, in accordance with religious teachings and applicable laws. Rapid advancements in science and technology have expanded opportunities for interaction among individuals, ethnic groups, and even nations, ultimately giving rise to new societal phenomena.¹ Mixed marriages, defined as unions between individuals of different nationalities, have become increasingly common in the era of globalization, including in Indonesia. This phenomenon raises various legal challenges, particularly concerning marriage registration procedures and determining the applicable law for couples originating from different countries.²

¹ Rizky Pratama, “Perkawinan Campuran di Indonesia: Masalah Hukum dan Solusi.” *Jurnal Hukum dan Keadilan*, Vol. 18, No. 2, 2023, Page. 115-130.

² Hendra Yulianto, *Hukum Keluarga Internasional: Masalah Hukum dalam Perkawinan Campuran* (Bandung: Alfabeta, 2019), Page. 125

*Under Indonesia's legal system, mixed marriages are governed by Law No. 1 of 1974 on Marriage, which stipulates that the validity of a marriage is determined by the religious and customary laws of each party and must be registered in accordance with applicable legal provisions. However, in practice, mixed marriages often encounter administrative and juridical obstacles, such as the requirement to process documentation from each partner's country of origin and the need to reconcile procedures between two distinct legal systems.³ Furthermore, international law establishes several governing principles, such as the *lex loci celebrationis* (the law of the place where the marriage is solemnized), which determines the formal validity of a marriage. This principle often interacts with other conflict-of-law rules, creating complex legal considerations for mixed marriages involving different nationalities.⁴ Additionally, international law recognizes fundamental principles such as *lex loci celebrationis* (the law of the jurisdiction where the marriage is performed) and the principle of non-discrimination. These principles play a crucial role in establishing legal jurisdiction and determining the validity of international marriages.⁵ Consequently, determining the applicable law in mixed marriages constitutes a critical legal discourse. This process serves three fundamental purposes: (1) establishing legal certainty, (2) safeguarding the rights of both parties, and (3) ensuring the marriage complies with principles of justice while maintaining social order.⁶*

B. METHOD

The method employed in this research article is a normative juridical approach⁷. This approach is carried out by examining primary legal sources through the analysis of theories, legal concepts, legal principles, and relevant legislation related to the research topic. The method used is an analytical approach.⁸ Namely by analyzing the provisions regarding jurisdiction in mixed marriages as regulated in Law Number 1 of 1974 and in

³ A.S. Baskoro, *Perkawinan Campuran di Indonesia: Perspektif Hukum dan Praktik*, (Yogyakarta: Penerbit Buku Ilmiah, 2021), Page. 45-48.

⁴ Michael Thompson, "*Prinsip Lex Loci Celebrationis dalam Perkawinan Campuran*," *Jurnal Hukum Internasional* 15, no. 2 (2019): Page. 45-46.

⁵ E. De Boer, (2018). "*Lex Loci Celebrationis dan Prinsip-prinsip Hukum Internasional dalam Perkawinan Campuran*". *Journal of International Law*, 32(3): hal. 215-230.

⁶ Andi Setiawan, *Hukum Internasional dan Perkawinan Campuran*, (Jakarta: Pustaka Hukum, 2020), Page. 112.

⁷ Farida Indrati, Maria. *Metodologi Penelitian Hukum dan Jurimetri*, (Jakarta: Rajawali Pers, 2016), Page 12-15

⁸ Soekanto, Soerjono, dan Sri Mamudji, *Penelitian Hukum Normatif Suatu Tinjauan Singkat*, (Jakarta: Raja Grafindo Persada, 2007), Page 30-35

C. ANALYSIS/DISCUSSION

A. Definition, Procedures, and Dynamics of Mixed Marriages

A mixed marriage (perkawinan campuran) is a union between two individuals subject to different legal systems in Indonesia due to differing nationalities, where one party is an Indonesian citizen, as stipulated in Article 57 of Law No. 1 of 1974 on Marriage. This national legislation establishes a unified legal framework for marriage applicable to all Indonesian citizens. Article 57 states:

"A mixed marriage under this law is a marriage between two individuals subject to different legal systems in Indonesia due to differing nationalities, where one party is an Indonesian citizen."

Based on this provision, a mixed marriage involves a union between two individuals governed by different legal regimes in Indonesia due to nationality differences, with at least one party being an Indonesian citizen.

Legal Validity Requirements

For a mixed marriage to be legally recognized, the couple must fulfill the requirements under Article 2 of the Marriage Law, which mandates that the marriage be conducted in accordance with the religious laws of each party:

- Muslim couples must solemnize their marriage under Islamic law and register it at the Office of Religious Affairs (KUA).
- Non-Muslim couples must conduct their marriage according to their respective religions/beliefs and register it at the Civil Registry Office (Kantor Catatan Sipil).

This legal framework ensures that mixed marriages comply with both national regulations and religious requirements, providing legal certainty for cross-national unions in Indonesia.¹⁰

Thus, the process and registration venue for mixed marriages are determined by the couple's religion and beliefs, in accordance with the prevailing legal provisions in Indonesia.¹¹

⁹ Fitriani, S. E., & Jaelani, E. (2024). "Pengaturan keabsahan perkawinan campuran ditinjau dari perspektif hukum perdata internasional dan Konvensi Den Haag 1978". Causa: Jurnal Hukum dan Kewarganegaraan, 2(7), 61–70. <https://doi.org/10.3783/causa.v2i7.2422>

¹⁰ Soehartono Soerjono, *Hukum Perkawinan Indonesia*, (Jakarta: RajaGrafindo Persada, 2019), Page. 45-47.

¹¹ M. Yahya Harahap, *Hukum Acara Perdata Indonesia*, (Jakarta: Sinar Grafika, 2017), Page. 78-79.

Legal scholar Prof. Dr. Sudikno Mertokusumo defines mixed marriage as a union between two individuals of different nationalities, which consequently leads to complex legal implications due to conflicting jurisdictions and the differing national laws of each party.¹²

According to Dr. HM Ali Alamsyah, a mixed marriage is a union between two individuals of different religions or ethnic backgrounds, which often requires: Firstly, legal adjustments - relating to the different legal systems applicable to each party. And Secondly cultural adaptation - to establish mutual understanding and harmony in married life.¹³

An international marriage is a marital union involving foreign elements, which may manifest in the following configurations:¹⁴

1. Different Nationalities

A marriage between two individuals holding distinct citizenships (e.g., an Indonesian citizen and a foreign national).

2. Cross-Border Wedding Location

A marriage where both spouses share the same nationality, but the ceremony is conducted outside their country of origin.

3. Combination of Both Elements

A marriage involving both differing nationalities and solemnization in a third country.

Based on various existing definitions, two main perspectives on mixed/international marriages can be identified.¹⁵

1. A marriage between partners with different domiciles, where each party is subject to the rules of international law from two distinct legal systems.¹⁶

2. A marriage is considered mixed if there is a difference in nationality between the two parties.¹⁷

To regulate the material validity of a marriage, international marriages apply the following key principles:

¹² Sudikno Mertokusumo, *"Hukum Acara Perdata Indonesia*, cet. 21, (Yogyakarta: Liberty", 2017), Page. 112

¹³ Ali Alamsyah Harahap, *Hukum Perkawinan Indonesia*, edisi revisi, (Jakarta: Sinar Grafika, 2018), Page. 78-79

¹⁴ Mochtar Kusumaatmadja, *Hukum Internasional dan Hukum Perdata Internasional*, cet. 12, (Bandung: Alumni, 2016), Page. 105-106

¹⁵ Moegni, *Hukum Perkawinan Internasional*, (Jakarta: Rajawali Pers, 2018), Page. 22-23.

¹⁶ Santoso, Budi, *Hukum Perdata Internasional*, (Bandung: Alumni, 2017), Page. 45-46

¹⁷ Wirjono Prodjodikoro, *Hukum Perkawinan di Indonesia*, (Jakarta: PT Pradnya Paramita, 2019), Page. 112.

1. The principle of *lex loci celebrationis* states that the material validity of a marriage is determined by the law of the place where the marriage ceremony is conducted.¹⁸
2. This principle dictates that the material requirements of a marriage adhere to the laws of the home countries of both parties prior to the marriage being solemnized.¹⁹
3. This principle establishes that the material validity of a marriage is based on the legal regulations of each party’s domicile before the marriage contract is executed.²⁰
4. A principle stating that the determination of a marriage’s material validity follows the law of the place where the marriage is performed, without disregarding the marriage regulations applicable in the parties’ home countries beforehand.²¹

The formal requirements of a marriage are determined under the principle of *lex loci celebrationis*, which refers to the *locus regit actum* doctrine across various jurisdictions. The very existence of Private International Law arises due to the presence of foreign elements in a legal relationship.²²

For foreign nationals (WNA) planning to enter into a mixed marriage in Indonesia, the following administrative requirements must be fulfilled:²³

1. Certified copy of a valid passport.
2. Marriage approval letter from the embassy/consulate of the foreign spouse’s home country.
3. Certificate of marital status (single/divorced/widowed) issued by the civil registry of the foreign spouse’s home country.
4. Three (3) passport-sized photographs (2×3 cm).
5. Confirmation of the marriage guardian’s (*wali nikah*) presence or a special power of attorney for the guardian (required if the foreign spouse is a woman).
6. Payment of marriage registration fees.

¹⁸ Mochtar Kusumaatmadja, *Hukum Internasional dan Hukum Perdata Internasional*, (Bandung: Alumni, 2016), Page. 97-98

¹⁹ Sudikno Mertokusumo, *Hukum Acara Perdata Indonesia*, (Yogyakarta: Liberty, 2017), Page. 123.

²⁰ Marzuki, Peter Mahmud, *Pengantar Hukum Internasional*, (Jakarta: Kencana, 2018), Page. 101.

²¹ Ali Alamsyah Harahap, *Hukum Perkawinan Indonesia*, (Jakarta: Sinar Grafika, 2018), Page. 85.

²² Sudikno Mertokusumo, *Hukum Acara Perdata Indonesia*, (Yogyakarta: Liberty, 2017), Page. 130.

²³ Ministry of Religious Affairs of the Republic of Indonesia, *Pedoman Pelaksanaan Perkawinan Campuran*, (Jakarta: Kemenag RI, 2020), Page. 15-17.

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Besides that marriage procedure for Indonesian citizens, every Indonesian citizen (WNI) intending to marry must follow the marriage service procedure at the local District Office of Religious Affairs (KUA) through the following stages:

Stage 1: Document Processing at Sub-District/Village Office

The prospective spouses must submit an application to the village/sub-district office to obtain:²⁴

- a) Marriage Certificate (Form N.1)
- b) Certificate of Origin (Form N.2)
- c) Spouses' Consent Statement (Form N.3)
- d) Parents' Certificate (Form N.4)
- e) Marriage Intention Notification (Form N.7)

Stage 2: Health Examination at Community Health Center (Puskesmas)

The marriage candidates must visit the community health center for:

- a) First dose of Tetanus Toxoid vaccination (for female candidates only)
- b) Issuance of immunization card
- c) Second dose of Tetanus Toxoid vaccination

After completing Stages 1 and 2 requirements, couples must proceed with marriage registration at the District KUA by:

1. Marriage Intention Notification ; Submit a written application using Form N7. If unavailable, may be represented by guardian or proxy.²⁵
2. Administrative Payment ; Standard fee for marriages at KUA/Nikah Hall. Additional fee for off-site marriages ("bedolan") per local Religious Office regulations.²⁶
3. Document Verification by Religious Officer (Penghulu), required documents include:²⁷
 - a. Form N1 (Marriage Certificate)
 - b. Birth certificate/acknowledgment of birth/Form N2
 - c. Form N3 (Spouses' Consent)

²⁴ Directorate General of Islamic Community Guidance, *Petunjuk Teknis Pelayanan Nikah di KUA*, (Jakarta: Kemenag RI, 2019), Page. 22-24.

²⁵ Ministry of Religious Affairs of the Republic of Indonesia, *Pedoman Pelaksanaan Pencatatan Perkawinan*, Page. 10

²⁶ Ministry of Religious Affairs of the Republic of Indonesia, *Pedoman Pelaksanaan Pencatatan Perkawinan*, Page. 12

²⁷ Ministry of Religious Affairs of the Republic of Indonesia, *Pedoman Pelaksanaan Pencatatan Perkawinan*, Page. 15

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- d. Form N4 (Parents' Certificate)
- e. Parental consent (Form N5) for applicants <21 years old
- f. Court approval if parental consent is unavailable
- g. Three 3x4 cm photographs
- h. Marriage dispensation for ages <19 years

- i. Marriage permit for military/police personnel
- j. Polygamy permit from court
- k. Divorce decree (for cases prior to Law No.7/1989)
- l. Spouse's death certificate (Form N6)
- m. Name change document (for Indonesian citizens of foreign descent).
- 4. Subsequent Processes, the following procedures must be completed:
 - a. Marriage announcement posting (using Form NC) for 10 days
 - b. Mandatory 1-day premarital course attendance
 - c. Issuance of course certificate as an administrative requirement
 - d. Marriage solemnization conducted by a religious officer (Penghulu)
 - e. Handover of marriage book after the solemnization
 - f. Registration deadline: Minimum 10 working days before the wedding date

Law No. 1 of 1974 stipulates that the validity of a marriage in Indonesia is determined based on the religion and beliefs of each party (Article 2 Paragraph 1). In the context of mixed marriages conducted in Indonesia, this provision requires that the marriage be carried out in accordance with Indonesian marriage law, where its validity must fulfill religious requirements and must be officially registered.

No issues arise if both prospective spouses adhere to the same religion. However, religious differences between the two parties can create interreligious legal complexities. This situation can be resolved simply if one party is willing to adopt the religion of their partner. The difficulty arises when both parties insist on maintaining their respective beliefs. This complexity is further exacerbated by the stipulation of Presidential Decree No. 12 of 1983, which states that the Civil Registry Office no longer has the authority to register marriages for Muslim couples. In practice, many interfaith couples opt for a pragmatic solution by conducting the marriage according to the rites of one religion only, for

administrative ease. Once the marriage is legally recognized as valid, each party usually returns to practicing their original religious beliefs.²⁸

The issue of interfaith marriage in Indonesia remains a legal dilemma that has yet to find an appropriate formulation. The absence of a specific legal framework has led to simplified practices, such as marrying under one religion

before reverting to their original beliefs, or holding marriage ceremonies abroad followed by domestic registration.

This phenomenon highlights the urgent need for:

- Comprehensive regulations on mixed marriages
- A more adaptive registration mechanism
- Resolution of legal conflicts between belief systems

By addressing these, legal certainty can be achieved without disregarding citizens' constitutional rights.

In the Indonesian legal system, Law No. 1 of 1974 on Marriage does not contain specific provisions regulating the registration mechanism for interfaith marriages. The absence of such specific regulations results in the application of general provisions under Article 2 Paragraph (2) of this law, supplemented by more detailed stipulations in Articles 2 to 9 of Government Regulation No. 9 of 1975 on the Implementation of the Marriage Law.

Specifically, there are two main provisions governing marriage registration in Indonesia: First, Article 2 Paragraph (2) of Law No. 1/1974 affirms the obligation to register every marriage in accordance with prevailing laws and regulations. Second, Article 2 of Government Regulation No. 9/1975 specifically stipulates that the registration of marriages conducted under Islamic law falls under the authority of Marriage Registrars (Pegawai Pencatat Nikah), as previously regulated under Law No. 32 of 1954 on the Registration of Marriage, Divorce, and Reconciliation (Nikah, Talak, dan Rujuk).

This situation creates a dual registration system in Indonesian marriage law. On one hand, there is a general mechanism through the Civil Registry Office (Kantor Catatan Sipil), while on the other, there is a special system through the

²⁸ Euis Nurlaelawati, *Modernization, Tradition and Identity: "The Kompilasi Hukum Islam and Legal Practice in the Indonesian Religious Courts"* (Amsterdam: Amsterdam University Press, 2010), Page. 98.

Office of Religious Affairs (Kantor Urusan Agama) for Islamic marriages.

However, the absence of explicit regulations on interfaith marriages often leads to complications in practice, particularly when dealing with couples of different religions. This legal gap results in uncertainty, forcing many couples to resort to workarounds—such as holding two separate ceremonies or registering their marriage abroad—to ensure legal recognition. The lack of clear provisions highlights the need for legal reform to harmonize marriage registration procedures while respecting Indonesia's pluralistic society. A unified yet flexible framework

could provide legal certainty without compromising constitutional rights to religious freedom.

The registration process for marriages conducted under religions and beliefs other than Islam is carried out by Marriage Registrars at the Civil Registry Office (Kantor Catatan Sipil), in accordance with the prevailing marriage registration laws. This provision applies without overriding the specific regulations on marriage registration procedures stipulated in Articles 3 to 9 of the relevant Government Regulation. However, complications arise when one or both prospective spouses insist on maintaining their stance regarding the marriage registration venue. This is due to the absence of specific provisions in Law No. 1 of 1974 on Marriage regulating the registration mechanism for mixed marriages—whether interfaith or international—leaving a legal gap that creates uncertainty in practice.

In practice, Indonesia's marriage registration system operates differently based on religion:²⁹

- a. For Muslim couples: Registration is conducted at the Office of Religious Affairs (Kantor Urusan Agama/KUA), regardless of differences in nationality.
- b. For non-Muslim couples: Registration takes place at the Civil Registry Office (Kantor Catatan Sipil), irrespective of any nationality differences between the spouses.

The fundamental issue requiring special regulation is the registration mechanism for interfaith marriages. This necessitates a comprehensive, multidimensional review to ensure equal legal protection for both parties.

B. The Principle of Choice of Law in Mixed Marriages in Indonesia

²⁹ Saifuddin Zuhri, *Hukum Perkawinan Islam di Indonesia*, (Jakarta: Rajawali Pers, 2015), Page. 98–102.

Choice of law is a fundamental principle in Private International Law (PIL) that governs the determination of the appropriate law to be applied when a legal case involves a foreign element. In the context of mixed marriages, this foreign element arises due to differences in nationality. Generally, the choice of law system in various countries is influenced by several key principles, including:

1. Lex Domicilii

Applicable jurisdiction refers to the country where the couple resides permanently after marriage. This principle is often applied in regulating marital property, inheritance rights, and child custody.³⁰ For example, if after marriage the couple

settles in Indonesia, then the provisions on joint property, for instance, will be subject to Indonesian law.

2. Lex Patriae

The applicable jurisdiction refers to the national law based on each individual's nationality—in other words, the law of the home country of the concerned parties. This provision specifically governs the substantive validity of a marriage.³¹ Example: An Indonesian citizen (WNI) must comply with the provisions of Indonesian marriage law. And a foreign national (WNA) is subject to the laws of their own country. As stipulated in Article 56 of Indonesia's Marriage Law, the validity of a mixed marriage in Indonesia requires compliance with the legal provisions of each spouse's respective country.³²

3. Lex Loci Celebrationis

The applicable jurisdiction refers to the law of the country where the marriage is performed. This primarily concerns the marriage procedures and formalities.³³ For example, if a couple marries in Indonesia, the ceremony must comply with Indonesian regulations.

In the practice of mixed marriages in Indonesia, the principle of dual compliance applies, meaning:

- The marriage must fulfill the requirements and provisions of Indonesian law (Marriage Law No. 1 of 1974).
- The marriage must also comply with the laws of each spouse's home country.

³⁰ Sudikno Mertokusumo, *Hukum Acara Perdata Indonesia*, Cet. 10 (Yogyakarta: Liberty, 2013), Page. 157-160.

³¹ Frederik G. von der Heyde, *Conflict of Laws in Indonesia* (The Hague: Kluwer Law International, 1999), Page. 45-50

³² R. Subekti, *Pokok-Pokok Hukum Perdata Internasional*, Cet. 7 (Jakarta: Pradnya Paramita, 2008), Page. 88-90.

³³ Sudikno Mertokusumo, *Hukum Acara Perdata Indonesia*, Page. 161–163.

This ensures that the union is legally valid in both jurisdictions.

The principle of choice of law in mixed marriages in Indonesia certainly presents challenges and implications:

- Differences in laws between countries: Each country has different marriage regulations—some are lenient, while others are strict.
- Different religions: Many countries (including Indonesia) have specific rules regarding interfaith marriages.
- Regulation of joint assets: Property laws in marriages between individuals from different countries can vary (e.g., separation of assets vs. communal property systems).³⁴
- In case of divorce, which country’s law applies? Should it follow the law of the country where the marriage took place, the domicile, or the nationality?³⁵

C. Legal Consequences of Mixed Marriages

1. The citizenship status of a child from a mixed marriage.

In the context of Indonesian citizenship law, a child born from a mixed marriage acquires citizenship status based on the principle of *ius sanguinis* (law of blood), as regulated under the Citizenship Law. Legally, the child essentially follows the father’s citizenship as the primary principle, without considering the place of birth (*ius soli*).

However, there are legal exceptions when the child’s country of birth follows the *ius soli* (law of the soil) principle. In such cases, a phenomenon of bipatridism or dual citizenship occurs for the child. Under Indonesian law, this situation requires the parents (particularly the father) to declare a citizenship choice for the child within one year after birth.³⁶

The legal implications of this provision are as follows:

- a. Legal certainty aspect: The citizenship declaration requirement is mandatory (imperative).

³⁴ Frederik G. von der Heyde, *Conflict of Laws in Indonesia*, Page. 53–57.

³⁵ R. Subekti, *Pokok-Pokok Hukum Perdata Internasional*, Page. 92–95.

³⁶ Jimly Asshiddiqie, *Hukum Kewarganegaraan dan Perlindungan Hukum bagi Anak*, (Jakarta: Rajawali Pers, 2010), Page. 45-50.

b. Legal protection aspect: The risk of statelessness (apatride) arises if the declaration is not made promptly.

c. Legal conflict aspect: Potential disharmony between the *ius sanguinis* and *ius soli* principles.

From the perspective of private international law, this mechanism constitutes a form of limited recognition of dual citizenship, which is temporary in nature. The primary principle remains the single citizenship principle, to be enforced after the one-year transitional period.

Under Article 5 Paragraph (1) of Law No. 12 of 2006 on the Citizenship of the Republic of Indonesia, it is explicitly stipulated that a child born from a legally valid marriage between an Indonesian citizen and a foreign national—provided they are under 18 years of age or unmarried and legally acknowledged by their

foreign-national father—retains recognition as an Indonesian citizen. In the case of a child holding dual citizenship (*bipatride*) until reaching adulthood (18 years) or marriage, the law grants them the right of option to choose their preferred citizenship. This selection mechanism can be executed directly by the individual or through a written delegation of authority to a representative appointed by the Minister, provided all stipulated documentary requirements are fulfilled. This regulation reflects the application of a modified *ius sanguinis* principle, incorporating limited recognition of dual citizenship, while demonstrating the state’s commitment to legal protection and certainty of citizenship status for children of mixed marriages.

For children with dual citizenship, their rights include issuance of a birth certificate in Indonesia, and issuance of a birth certificate in another country that recognizes them as a citizen.³⁷ Children are equally entitled to access public services in Indonesia, including education. This law fundamentally embodies Indonesia's commitment to protecting spouses married to foreign nationals, securing rights for children of transnational marriages, and eradicating discriminatory practices in citizenship regulations.³⁸

2. Inheritance Status of Children from Mixed Marriages.

The diversity of inheritance systems in Indonesia is reflected in its three main pillars, namely customary-based inheritance law, inheritance regulations

³⁷ M. Yamin, *Hukum Kewarganegaraan Indonesia*, (Bandung: Citra Aditya Bakti, 2008) Page. 78-83.

³⁸ Siti Nurhaliza, *Kewarganegaraan dan Hak Anak dalam Perkawinan Campuran* (Yogyakarta: Genta Press, 2021), Page. 78–79.

according to the Civil Code, and Islamic inheritance principles. These three demonstrate the complexity as well as the plurality of culture, customs, and religious beliefs adhered to by society.³⁹ The customary inheritance system is based on hereditary local practices and norms, unlike the Civil Code, which provides a universal legal foundation for resolving inheritance issues. On the other hand, Islamic inheritance law is grounded in Sharia provisions that regulate the distribution of inheritance for followers of Islam.⁴⁰

This diversity in inheritance systems reflects differing conceptual and operational approaches to inheritance rights in Indonesian society. Each system possesses a unique normative framework governing the transfer of assets and related rights. This situation creates the potential for overlapping inheritance law

jurisdictions in an individual, influenced by aspects such as religious beliefs, cultural traditions, and geographical location. Such pluralistic conditions present both challenges and opportunities for dialogue, requiring wise and thoughtful responses to ensure legal certainty and comprehensive protection of inheritance rights.⁴¹

It is important to understand that the variation in inheritance systems in Indonesia (customary, civil, Islamic) can produce differing provisions, particularly in mixed marriages. Therefore, more detailed and holistic regulations are needed to ensure legal clarity and fairness for all parties involved.⁴²

D. CONCLUSION

Mixed marriage is defined as a union between partners of different nationalities that takes place in Indonesia or involves spouses of the same nationality whose marriage was solemnized outside Indonesia’s jurisdiction. Under international private law, marriages between partners of different nationalities must comply with the respective laws of each individual’s country of origin. This introduces legal complexities, particularly when discrepancies exist in the legal requirements and provisions between the two nations.

³⁹ Jimly Asshiddiqie, *Hukum Waris di Indonesia: Perspektif Perkawinan Campuran*, Page. 22–30.

⁴⁰ R. Subekti, *Pokok-Pokok Hukum Perdata Internasional*, Page. 120–125.

⁴¹ Mohammad Hashim Kamali, *Islamic Law in Indonesia: A Study of the Implementation of Sharia*, (London: I.B. Tauris, 2008), Page. 85–90.

⁴² Rina Lestari, *"Implikasi Sistem Kewarisan terhadap Perkawinan Campuran di Indonesia,"* Jurnal Hukum Keluarga 12, no. 3 (2021): Page. 56–58.

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This study emphasizes the necessity of a deeper understanding of marriage law under Law No. 1 of 1974 (Indonesian Marriage Law) and international private law, particularly in the context of interstate relations. Concrete measures are needed to improve information accessibility, streamline procedures, and enhance legal protections for couples in mixed marriages. The government is expected to adopt a more inclusive approach to address existing challenges and ensure equitable legal treatment for all parties involved.

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