

INTERCOUNTRY MARRIAGE IN THE PERSPECTIVE OF PRIVATE INTERNATIONAL LAW: LEGAL CERTAINTY AND CHALLENGES

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Abstract

The purpose of this study is to examine the principles of international private law in regulating marriages between countries in Indonesia and what challenges are faced by couples from different countries and how this affects legal certainty and protection for them. This study uses normative legal research methods with a comparative approach to various international and national legal systems to reveal how international private law handles legal conflicts arising from marriages from different countries. The results of this study identify legal problems that arise due to differences in the legal systems in force in the countries involved, including in terms of recognition and implementation of court decisions, the legal status of marriage, and personal and family rights. This research concludes that improvements and improvements are needed to existing regulations to provide better legal certainty for couples from different countries. By examining this case study in more depth, this research aims to contribute to further understanding of the complex legal issues regarding marriage between countries and unlock the potential for developing a more coordinated and efficient legal framework in a cross-border context

Keywords: Legal Certainty; Inter-Country Marriages; International Private Law.

INTRODUCTION

Marriage is a physical and spiritual bond between a man and a woman as husband and wife, with the purpose of establishing a harmonious and lasting family based on the values of Almighty God (Republic of Indonesia, 1974). Marriage is an important milestone in human life because it involves not only the couple themselves but also their families and the wider community. In Indonesia, marriage is regulated by legislation, namely Law Number 1 of 1974 concerning Marriage. This law governs various aspects of marriage, including its requirements, implementation procedures, and the legal consequences arising from it.

One of the aspects regulated under the law is marriage involving individuals of different nationalities. Article 57 defines mixed marriage as a marriage between two persons in Indonesia who are subject to different legal systems due to differences in nationality. In such cases, at least one party is an Indonesian citizen, while the other is a foreign national. The foreign element in such a marriage gives the civil relationship an international dimension, thereby placing it within the scope of Private International Law. Consequently, mixed marriages involve complex legal issues because they require consideration of two different legal jurisdictions governing the marriage (Herawati., et al. 2023).

Mixed marriages fall within the scope of Private International Law because they may be conducted abroad, thereby involving two distinct legal systems: Indonesian law and the law of the country where the marriage takes place. Such marriages may be celebrated in the home country of either spouse or in a third country considered neutral. Under Indonesian law, a marriage conducted abroad between Indonesian citizens or between an Indonesian citizen and a foreign national is considered legally valid if it complies with the