

Legal Implications for Children of Mixed Marriage and On Citizenship Rights in Indonesia

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ABSTRACT

Mixed marriages between Indonesian Citizens (WNI) and Foreign Citizens (WNA) are increasing along with globalization. This phenomenon has significant legal implications, especially in the aspects of immigration and citizenship. Children born of mixed marriages (between Indonesian citizens and foreigners) have dual citizenship limited to the age of 18 years (or a maximum of 21 years). This is regulated in UU No. 12 of 2006 concerning Citizenship. Children automatically obtain Indonesian citizenship if one of their parents is an Indonesian citizen (principle of *ius sanguinis*). After 18 years, the child must choose one of the nationalities. If they do not choose on time, the child can become an *apatride* (without citizenship). The impact of mixed marriage poses problems including the Risk of *Apatride*, the Risk of *Bipatride*, Limited Inheritance Rights and Confusion in Legal Procedures.

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Introduction

Marriage in Indonesia is regulated in Law No. 1 of 1974, which defines marriage as an innate bond between a man and a woman to form a happy and eternal family (UU No. 1 Tahun 1974). In Islamic law, marriage is also considered a sacred covenant (*Mitsaqon Gholidhon*) that must be obeyed in accordance with Allah's commands (UU No. 1 Tahun 1974). The purpose of marriage in Islam is to create a family that is *sakinah* (calm), *mawaddah* (full of love), and *rahmah* (full of affection). This is affirmed in the Qur'an, Surah Ar-Rum verse 21, which states that Allah created a life partner for humans so that they feel at peace, as well as foster love and affection between them (Ramadhani, 2024). In addition, marriage is a way to maintain human survival, honor, and noble dignity.

In addition, marriage is also a means to maintain human survival, honor, and noble dignity, as explained in various other verses, such as QS. An-Nur: 32 who calls for unmarried people to be married immediately so that people will avoid heinous acts.

In a hadith narrated by Bukhari and Muslim, the Prophet PBUH said: *"O young men, whoever among you is able to get married, then get married. Because actually marriage is more subdued to the gaze and more to protect the genitals..."* (HR. Bukhari and Muslim)

According to the opinion of experts, among others, Soedharyo Saimin, marriage is an agreement made by two people, in this case an agreement between a man and a woman with a material purpose, namely to form a happy and eternal household) must be based on the One Godhead, as the first principle in Pancasila (Saimin, 1992). Ali Afandi stated that marriage is a family agreement. Family consent is not ordinary consent, but has certain characteristics (Afandi, 2000).

Legally, marriage law is a set of legal rules that govern legal acts and consequences between two parties — a man and a woman — who agree to live together for a long period of time, according to the provisions of the law. These rules regulate many marital relationships based on religious norms, decency, and politeness.

As a complement to the national legal system, Indonesia also implements the Compilation of Islamic Law (KHI) promulgated through Presidential Instruction Number 1 of 1991. KHI is a source of unwritten law that applies in the context of religious justice for Muslims, and regulates in detail the principles and conditions of marriage, guardians, dowries, as well as divorce procedures, inheritance, and joint property.

In modern social developments, marriage laws in Indonesia continue to be adjusted to accommodate the dynamics of society, including the existence of mixed marriages, namely marriages between Indonesian citizens (WNI) and foreign citizens (WNA). This phenomenon poses its own challenges in the legal field, including civil registration, immigration, and the legal status of the child resulting from the marriage.

To regulate the aspect of citizenship in this context, UU Nomor 12 Tahun 2006 concerning Citizenship of the Republic of Indonesia provides space for children of mixed marriages to obtain dual citizenship limited to the age of 18. After that, children are required to choose one nationality through the "option" mechanism as stipulated in Pasal 6 ayat (1) UU.

This regulation is important because it concerns the legal status and basic rights of children, such as education, health, and identity documents. Therefore, both national and Islamic law place marriage not only as a contract between two individuals, but also as a social institution that carries broad legal consequences on descent, inheritance, and family law status.

In its development, marriage law in Indonesia continues to undergo adjustments to accommodate increasingly complex social dynamics. Marriage regulations not only regulate the relationship between husband and wife, but also cover various other legal aspects, such as marriage registration, rights and obligations in the household, as well as legal consequences, including in terms of citizenship and immigration. Along with the increase in interaction between nations due to globalization, the phenomenon of marriage involving individuals of different nationalities is commonly known as mixed marriage.

Regulations related to mixed marriage are regulated in various laws and regulations, such as Undang-Undang Nomor 1 Tahun 1974 concerning Marriage, hereinafter referred to as the Marriage Law, Undang-Undang Nomor 12 Tahun 2006 concerning Citizenship, and various regulations related to immigration. Article 57 of the Marriage Law states about the definition of mixed marriage: "What is meant by mixed marriage in this law is a marriage between two people who in Indonesia are subject to different laws, due to differences in nationality and one of the parties has Indonesian citizenship". The definition of mixed marriage according to Stb (*Staatsblad*) 1898 No. 158 which was previously GHR (*Gemengde Huwelijken Regeling*) in article 1 is stated as follows, mixed marriage, namely marriage between people who in Indonesia are subject to different laws (Pradanata, 2023).

From the above definition, what is included as a mixed marriage is:

- 1) International Marriage; that is, between citizens and foreigners, between foreigners with different laws, and marriages solemnized abroad;
- 2) inter-caste marriage; (intergentile). The existence of mixed marriages between groups was due to the division of population groups by the Colonial Government;
- 3) Inter-Indigenous marriages, such as marriages between Sundanese women and Javanese men;
- 4) Interfaith marriage, interfaith marriage, is also called mixed marriage (Widanarti, 2019).

One of the main challenges in mixed marriage is the citizenship status of the foreign couple as well as the children born from the marriage. In the Indonesian legal system, citizenship adheres to the principle of *ius sanguinis* (based on heredity), but also considers the aspect of *ius soli* (based on place of birth) under certain conditions. This often leads to legal uncertainty for children of mixed marriages, especially when there are policy differences between the foreign parents' home countries and Indonesia.

This insynchronization between citizenship and immigration regulations has the potential to create legal uncertainty for couples in mixed marriages, especially in terms of the right to residence, the right to work, and access to public services in Indonesia. Therefore, this study aims to analyze the implications of mixed marriage law on immigration and citizenship rights in Indonesia, identify emerging problems, and explore solutions to create more harmonious and inclusive policies. From the Background; In the above example, the existing problem can be formulated, namely How are the implications of the law of mixed marriage on the impact of child status from the results of mixed marriage according to laws and regulations in Indonesia?

Study of Conception and Theory

1. Conception

a. Legal Implications

Legal implications are juridical consequences arising from an act or legal circumstance. In the context of mixed marriage and child status, legal implications include legal recognition of marital status, protection of children's rights, and citizenship status that

can affect individual civil and political rights. The state must formulate adaptive legal policies so as not to cause legal uncertainty, especially for children born from cross-border marriages.

b. Children

Children are legal subjects who have special rights and protections based on national and international laws. In the case of mixed marriages, the status of children is often an important issue, especially related to citizenship status, custody, and inheritance rights. The protection of children is also regulated in various legal instruments such as the Convention on the Rights of the Child which emphasizes the principle of non-discrimination and the best interests of the child.

c. Mixed Marriage

A mixed marriage is a marriage between two individuals who have different nationalities or legal backgrounds. This marriage carries cross-border legal consequences, especially in terms of legal recognition, the citizenship status of children, and family rights. In Indonesia, mixed marriage is regulated in Law No. 1 of 1974 concerning Marriage and the relevant immigration and citizenship provisions.

d. Rights

Rights are interests that are protected by law. In this context, rights include the civil rights of children and spouses in mixed marriages, including the right to identity, education, clear legal status, and protection from discrimination. The state has an obligation to guarantee that every individual, regardless of his or her nationality background, obtains equal rights before the law.

e. Nationality

Citizenship is a legal status that indicates a person's membership in a country, which carries certain rights and obligations. In mixed marriages, the citizenship status of the child is often a complex issue, especially if the parents' home country applies the principle of *ius sanguinis* (based on blood) or *ius soli* (based on place of birth). The Indonesian Citizenship Law has accommodated limited dual citizenship for children of mixed marriages, but there are still implementation challenges in its implementation.

2. Legal Theory

a. Legal Certainty Theory

Legal certainty is one of the important principles in the legal system, which means that the law must provide clarity, order, and predictability. In the context of mixed marriage and child status, legal certainty is crucial to ensure that children's rights, including citizenship status and other civil rights, are properly protected (Rahardjo, 2006). According to Gustav Radbruch, legal certainty is one of the three basic values of law besides justice and utility. Legal certainty demands that legal norms must be enforced consistently and stably. In mixed marriages, legal uncertainty can arise from differences in legal systems between countries,

inconsistencies in national regulations, or legal gaps related to the arrangement of children's citizenship.

Legal uncertainty in the case of children resulting from mixed marriages, for example, arises when children have to choose citizenship at the age of 18 but do not receive clear information, assistance, or procedures. If there is no certainty of the legal mechanism, the child can become stateless (without state). Therefore, efforts to create a harmonious legal framework and effective administrative procedures are a form of implementation of the principle of legal certainty. The State has an obligation to ensure that regulations on the status of children of mixed marriages are implemented clearly, transparently, and easily accessible to all citizens. In addition, in the practice of state administration, legal certainty requires certain procedural guarantees, such as transparent citizenship registration services, the availability of a lawsuit mechanism in the event of an administrative error, and the protection of the rights of children as vulnerable legal subjects. Furthermore, legal certainty in the context of children resulting from mixed marriages is not only related to the existence of legal norms, but also concerns the functioning of law enforcement institutions.

Many regulations are available, but their implementation is often disrupted by complex bureaucracy, insynchronization between agencies, and weak supervision of policy implementation. Legal certainty becomes blurred when, for example, the Population and Civil Registration Office (Disdukcapil) does not have an integrated database with the Directorate General of Immigration, so that the data of children from mixed marriages is not recorded accurately or is updated late. One of the important elements of legal certainty is *legal foreseeability*, which is the ability of individuals to estimate the legal consequences of an action. In this context, parents of children from mixed marriages should be able to clearly understand how the procedure for registering the child's citizenship, the administrative requirements, and the consequences if the child does not choose citizenship when they reach adulthood. But in reality, this information is often not easily accessible, even by the educated public, because official documents are difficult to understand or not available in a language that is easily digestible by the general public. The problem of legal certainty is even more complicated when children from mixed marriages live from moving countries with their parents.

In this condition, children can lose clarity of legal status because their citizenship or identity documents are not recognized by the country where they live at the time. This not only has the potential to make children experience statelessness (statelessness), but also hinders access to education, health services, and legal protection from local state officials. Weak legal certainty in matters of children's citizenship status also has an impact on the psychological and social dimensions. Unclear legal identity can make children feel that they have no place in society, are marginalized from basic rights, and even become victims of stigma. This is contrary to the principle of child protection, which is supposed to ensure the growth and development of children in a safe, stable, and socially supportive environment.

It is also important to review the concept of *legal certainty* in the framework of human rights (Human Rights). In international human rights principles, legal certainty is considered the primary instrument for guaranteeing substantive justice. The state must ensure that the law is not only available, but also can be applied effectively and inclusively to all citizens, especially vulnerable groups such as children. In this context, the insynchronization between the Citizenship Law and its administrative implementation creates a legal loophole that endangers the group of children resulting from mixed marriages.

Legal certainty is also closely related to state accountability. When a country issues a regulation on the citizenship status of children resulting from mixed marriages, the state is also fully responsible for the effectiveness of its implementation. For example, if a child loses his citizenship status due to state administrative failure, the state is obliged to provide restoration or *restoration of status* through a clear and non-discriminatory legal mechanism.

To create true legal certainty, an integrated approach is needed between policymakers (legislators), policy implementers (executive), and supervisory institutions (judiciary or ombudsman).

The drafting of laws and regulations must involve stakeholders from across sectors, including civil society organizations and child support groups. This is important so that the law is not only made from the top-down, but also reflects the real needs of the community on the ground (bottom-up).

It should also be emphasized that legal certainty has an educational aspect. The state has an obligation to socialize the rule of law to the public, including through digital media, training of public service officers, and regular legal counseling. This socialization is very important, especially in border areas or Indonesian diaspora communities abroad who are prone to facing child citizenship issues due to cross-border intermarriage.

Finally, building legal certainty must also be accompanied by strengthening the capacity of implementing agencies at the local level. For example, civil registry officers in the region must have a thorough understanding of the limited dual citizenship determination procedures, including the requirements for renewal and selection of citizenship. Without adequate competence, good law enforcement will only be an empty hope. Thus, institutional reform is an important prerequisite for upholding the principle of legal certainty in its entirety, fair, and child-friendly manner.

b. Legal Purpose Theory

Gustav Radbruch, a German legal philosopher, argued that the purpose of law consists of three fundamental values, namely: justice (*gerechtigkeit*), utility or utility (*zweckmäßigkeit*), and legal certainty (*rechtssicherheit*). These three values must be considered in a balanced manner in the formulation and application of the law. In Radbruch's perspective, justice is concerned with treating all individuals fairly and equally.

In the context of children resulting from mixed marriages, justice requires the state to provide equal protection of rights without discrimination, whether the child chooses to become an Indonesian citizen or not. Benefits are related to legal remedies in achieving

social welfare. In the arrangement of the citizenship status of children of mixed marriages, the law must provide the child with the flexibility to determine his or her citizenship identity without burdening them with complex or discriminatory procedures.

Legal certainty, as a third value, requires that the law must be reliable, stable, and enforceable. The administrative process related to registration, naturalization, or citizenship selection should be designed in such a way that it is easy to understand and implement.

Gustav Radbruch also introduced the concept of the "Radbruch formula" after World War II, which stated that positive laws (applicable laws) could be ignored if they were extremely unjust. In the case of children resulting from mixed marriages, if the regulation results in the child losing his legal status and identity, then legal reform is necessary in order to achieve a higher value of justice, as the Radbruch principle.

Thus, Radbruch's theory of legal purpose provides a philosophical foundation that regulation regarding children in mixed marriages must reflect a balance between justice, utility, and legal certainty in order to protect the basic rights of the child. Furthermore, in the context of the implementation of the theory of legal objectives, the principle of justice is not only realized through non-discriminatory norms, but also through equal access to the implementation of the law. Children of mixed marriages are often in a vulnerable position, both socially and administratively. The state must ensure that they receive fair legal services, including access to citizenship information, legal aid, and adequate administrative facilities, regardless of their parents' citizenship background. The principle of justice that Radbruch refers to is not merely formal justice, but also substantive justice that touches on social reality.

Then, in terms of benefits, the law should be able to accommodate the increasingly complex development of the global society, including the increasing cases of mixed marriage. Rigid legal provisions, such as time-limited citizenship selection requirements without clear administrative guidance, can actually be counterproductive. The benefits of the law should be realized through the flexibility of procedures and problem-solving mechanisms that are adaptive to social dynamics, so that the law does not become a burden, but a tool of liberation for children of mixed marriages. The utility also demands the law to provide a guarantee of long-term protection. Children who grow up in the uncertainty of citizenship status are at risk of being hampered in education, employment, or asset ownership. Therefore, the state needs to reorganize the legal service system in order to provide real benefits, such as ease of registration, inheritance rights guarantees, and civil protection, including the right to name, identity, and family. All of this is the embodiment of the value of utility that is integrated in the purpose of law.

Meanwhile, the value of legal certainty according to Radbruch contains the understanding that the law must be enforced consistently, without changing interpretations between regions or between officers. In the legal reality in Indonesia, there is a disparity in treatment in the field in terms of handling the status of children resulting from mixed marriages. This shows the weak legal certainty that should apply uniformly. Standardization

of procedures, training of apparatus, and supervision systems are important elements to ensure that legal certainty is not only a theoretical discourse.

Radbruch through his "Radbruch formula" also reminds that if the law loses justice to the extreme, then the positive law loses its moral validity and is not fit to be applied. In this context, if the regulation on children resulting from mixed marriages leads to discrimination or the removal of the child's basic rights, then legal reform is an ethical demand. The law should not be a tool of oppression against vulnerable groups, but should be a path to equitable universal protection.

In the Indonesian context, the application of Radbruch's theory of legal objectives requires synchronization between the Citizenship Law, the Marriage Law, and immigration regulations. The disharmony of regulations actually creates a legal gap that has a direct impact on certainty and justice for children of mixed marriages. Harmonization of regulations will create certainty of norms, improve the efficiency of legal procedures, and strengthen public trust in legal institutions.

Thus, the theory of legal purpose formulated by Radbruch provides a very relevant legal philosophical framework in designing policies and regulations related to children from mixed marriages. The three main values—justice, utility, and legal certainty—must be the basis for building a humane, responsive, and inclusive legal system. In the current global situation, it is not enough for national law to be based on normative principles, but must be open to social changes and international demands in order to be able to carry out the protection function to the maximum.

c. Child Protection Theory

Child protection theory departs from the view that children are vulnerable individuals and need special legal protection from the state, society, and parents. This protection includes aspects of the right to life, the right to grow and develop, the right to identity, the right to protection from discrimination, exploitation, and violence. In the context of children resulting from mixed marriages, child protection theory requires the state to guarantee the rights of the child regardless of the citizenship status of the parents. Child protection is emphasized in various international instruments, especially the Convention on the Rights of the Child (CRC) which has been ratified by Indonesia through Presidential Decree No. 36 of 1990. Children of mixed marriages face special risks, such as unclear legal status (apatride), discrimination in access to education, inheritance rights, and limitations on other civil rights. Therefore, a child protection approach requires:

- 1) Recognition and recording of citizenship status early to ensure the legal identity of children.
- 2) A child-friendly citizenship choice mechanism, by providing information, legal assistance, and mentoring.
- 3) Prevention of discrimination against children with dual status, so that they get equal rights with other children.

- 4) Protection of inheritance rights and other civil rights that may be affected by differences in citizenship status.

States must also adopt the principle of "the best interests of the child" in all policies and regulations relating to children in mixed marriages, as affirmed in Article 3 of the Convention on the Rights of the Child. This principle means that in any decision or legal action that impacts the child, the primary consideration is the protection and welfare of the child.

In addition to the principle of *the best interests of the child*, the state must also apply a holistic approach in child protection, especially for children resulting from mixed marriages. Child protection cannot be seen as a purely sectoral obligation (e.g. by a civil registration agency), but rather as a cross-sectoral responsibility involving educational, health, immigration, and child protection institutions. Coordination between institutions is key so that children's rights can be fulfilled comprehensively without administrative loopholes that can endanger children's legal position.

In this case, the state needs to build a data and reporting system that is inclusive and sensitive to the existence of children from mixed marriages. Many cases of a child's status are not fully recorded because the civil registration bureaucracy does not recognize foreign documents, or because of parental ignorance. This unrecorded has the potential to cause children to be unable to access formal education, health services, and even lose the opportunity to obtain identity documents such as passports or family cards. With a good data system, the state can intervene more quickly against children in these vulnerable conditions.

Furthermore, legal protection for children resulting from mixed marriages must also include guarantees of non-discrimination in the acquisition of civil rights. Children who have dual citizenship or are at risk of losing their citizenship often experience restrictions in terms of property ownership, inheritance, and access to social assistance. In fact, as long as the child is still recognized as part of a citizen, he or she should receive equal legal treatment. The state needs to revise and harmonize sectoral regulations so as not to give rise to discriminatory practices against children in dual citizenship situations.

One of the real challenges in the protection of children from mixed marriages is the weak access to legal aid and mentoring. Many families are unaware of their child's rights, including how the citizenship registration procedure or citizenship option will be after the age of 18. This is where the importance of the state's presence in the form of structural legal aid programs, including the provision of legal information in a variety of languages that are easy to understand, given that many mixed marriage couples come from different cultural and linguistic backgrounds.

Child protection must also be oriented towards the child's future. The state should not only focus on the formal recognition of the status of children, but also ensure that children have equal opportunities to develop their potential, both through education, skills training, and social integration. The state can design affirmative programs for children of mixed

marriages who face administrative barriers, such as special scholarships or affirmation pathways in public service.

In addition, the state needs to anticipate potential conflicts of authority between the two countries of origin of the child's parents. In many cases, there is a clash between the Indonesian legal system and foreign countries regarding who has the authority to determine a child's citizenship or how his or her rights are recognized across borders. In this context, bilateral cooperation and international agreements are essential to ensure that the protection of children is not hampered by jurisdictional boundaries. Legal diplomacy and foreign policy must include the interests of children as a strategic issue.

Finally, strengthening the protection of children from mixed marriages can not only be done through formal policies, but also requires a change in social paradigm. These children often face social stigma because they are considered "impure" nationally. Therefore, public education and raising public awareness about children's rights and the value of inclusivity must be part of the national strategy for child protection. It is not enough for the state to guarantee legal protection textually, but it must actively remove social and cultural barriers that threaten the development of children as a whole.

Method

This study uses the normative juridical approach method. In research or study of normative law (Nadrah et al, 2022). That is legal research conducted by researching literature materials or secondary data. In this study, three types of legal materials were used, namely:

- 1) Primary legal materials are in the form of relevant laws and regulations such as Law Number 12 of 2006 concerning Citizenship of the Republic of Indonesia, Law Number 23 of 2002 concerning Child Protection as amended by Law Number 35 of 2014, and other implementing regulations.
- 2) Secondary legal materials, in the form of literature or doctrine that support legal analysis, including scientific journals, legal textbooks, and legal articles.
- 3) Tertiary legal materials, in the form of legal dictionaries, legal encyclopedias, and other sources that provide instructions and explanations of primary and secondary legal materials

Results and Discussion

Implications of the Law of Mixed Marriage on the Citizenship Status of Couples and Children Resulting from Mixed Marriages According to Laws and Regulations in Indonesia

The urgency of using philosophical, sociological, and juridical foundations in the formation of laws and regulations is very important to ensure substantive justice, including in the context of protecting the rights of children from mixed marriage. The philosophical foundation reflects the basic values that live in society; the sociological foundation pays attention to social realities and the needs of society; and the juridical foundation ensures synchronization with the national legal system (Gea, 2024). Thus, the establishment or

improvement of regulations related to the citizenship status and civil rights of children resulting from mixed marriages must consider these three aspects in order to reflect the needs of Indonesia's pluralistic society while not overruling the principles of justice and legal certainty.

1. Citizenship Principles in Indonesian Law

In Indonesian citizenship law, the main principles used in determining a person's citizenship status are *ius sanguinis* (rights based on descent) and *ius soli* (rights based on place of birth). This principle is regulated in Law Number 12 of 2006 concerning Citizenship of the Republic of Indonesia, which replaces the previous regulation, namely Law Number 62 of 1958 hereinafter referred to as the Citizenship Law."

According to the theory of citizenship, the state has full authority in determining a person's citizenship status as a form of sovereignty. Indonesia adheres to the *principle of ius sanguinis* which emphasizes the importance of lineage as the basis for determining citizenship, as stipulated in the Citizenship Law. This theory reflects the state's efforts to maintain national identity and the integration of citizens with constitutional values.

According to Suryati, the principle of *ius sanguinis* is more dominant in Indonesian citizenship law because it is closely related to the concept of nationalism based on heredity. Meanwhile, *ius soli* which is applied in a limited way aims to avoid stateless status which can cause legal problems for individuals born in Indonesia without clear citizenship (Suryati, R., 2010).

Soehino also emphasized that the application of limited *ius soli* in Indonesia is based on historical considerations, considering that in the past many foreign residents settled and gave birth to offspring in Indonesia without clarity on their legal status (Soehino, 1995). There are several principles in citizenship law, namely:

- a. *The principle of Ius Sanguinis* means that a person's nationality is determined based on lineage, not place of birth. In Article 4 of the Citizenship Law, it is stated that "a child born to a father or mother who is an Indonesian citizen (WNI) automatically obtains Indonesian citizenship".
- b. The principle of limited *ius soli* is that although Indonesia adheres to *ius sanguinis*, the principle of *ius soli* also applies to a limited extent. Based on Article 4 paragraph (1) letter d of the Citizenship Law which reads: "Children born in Indonesian territory can obtain Indonesian citizenship if both parents do not have citizenship or the child's citizenship status is unclear". This aims to prevent cases of *statelessness* or statelessness. Other countries that apply the full *ius soli* principle often have the goal of encouraging diversity and immigration, while Indonesia limits its application to protect legal interests and national identity
- c. Principle of Naturalization, In addition to birth, citizenship can also be obtained through the naturalization or citizenship process. Article 8 of Citizenship stipulates that a person who wants to become an Indonesian citizen must meet certain requirements, such as having lived in Indonesia for at least 5 consecutive years or 10 years non-consecutively, being able to speak Indonesian, and recognizing Pancasila and the 1945 Constitution. Naturalization aims to provide opportunities for foreign nationals who have contributed in Indonesia to become part of the nation legally
- d. The principle of limited dual citizenship. This law also introduces the concept of limited dual citizenship, which is given to children resulting from mixed marriages between Indonesian citizens and foreign citizens. Article 6 of the Citizenship states that "a child

of mixed marriage has the right to dual citizenship until the age of 18, after which he must choose one of his or her citizenships". This aims to provide flexibility to children in choosing their citizenship identity, without directly losing the right to Indonesian citizenship. This policy also helps in accommodating the increasing number of intermarriage due to globalization.

- e. Principle of Loss of Citizenship, In Indonesian citizenship law, a person can lose the status of an Indonesian citizen if he fulfills one of the provisions in Article 23 of the Citizenship Law, such as voluntarily obtaining other citizenship, entering the military service of a foreign country without the President's permission, or not expressing a desire to remain an Indonesian citizen after reaching the age of 18 for those who have dual citizenship. Loss of citizenship can also occur automatically if a person commits an act contrary to the national interest or makes a personal application to renounce Indonesian citizenship.

2. Status of children in mixed marriages

Mixed marriage has significant implications for the citizenship status of children, who within the framework of citizenship theory and legal protection must be guaranteed their full rights from birth. Previously, the rules on mixed marriage between foreign citizens and Indonesian citizens were contained in Law Number 62 of 1958. The law severely limits the relationship between a mother and her child, especially if the marital relationship is broken due to divorce. However, currently the Law has been replaced by the Citizenship Number Law, which with the birth of this new law is expected to reduce problems arising from mixed marriages, one of which is in regulating the citizenship status of children resulting from mixed marriages.

After the enactment of the Citizenship Law in Indonesia, Indonesia automatically adheres to the dual citizenship system. This means that children born of mixed marriages after the enactment of this law can have or obtain dual citizenship, either the citizenship of their mother or the nationality of their father until they reach the age of 18 or at the latest when they are 21 years old. That means children can have dual citizenship but it is limited to the age of 18.

The next right is the right to inherit, where the child has the right to inherit the parent's inheritance if he is related by blood to his parents. To see the relationship, it must first be proven the marital status of the parents, if the marriage is legal, then the child has the right to inherit his parents' property, but if the marriage is invalid, then the child only has a legal relationship with his mother and only has the right to inherit his mother's property. It is different in the case of marriages that have children with dual citizenship status where the child is automatically recognized as an Indonesian citizen as well as a foreign citizen so that the child cannot become an heir to his parents' property.

This is clearly explained in Article 21 paragraph (1) of the Basic Agrarian Law which states that "only Indonesian citizens can have property rights". The explanation is explained in paragraph (3) of article 21 which states that "foreigners who acquire ownership rights to land after the enactment of the UUPA are obliged to relinquish the right within a period of one year from the date of its acquisition and if that period of time and the right is not relinquished, the right is removed because the law and the land falls on the state".

In addition, paragraph (4) explains "as long as a person besides his Indonesian citizenship has foreign citizenship, he cannot have land with property rights or inherit the property of his parents who have property in Indonesia". However, there is one solution that

can be used to solve the above problem, which is when the child is 18 years old, the child must choose to become an Indonesian citizen so that the child can inherit the property of one of his parents who are Indonesian citizens.

In addition, in Indonesia, children born from mixed marriages who already have dual citizenship status have rights, including the right to carry out marriages in Indonesian territory by fulfilling the conditions that have been regulated in the Marriage Law, one of which is that they must be 19 years old for men and 16 years old for women. When the child with dual citizenship is domiciled in Indonesia and wants to carry out a marriage in Indonesia, he must comply with all the conditions that have been regulated in the applicable law.

3. Risks of Apatride and Bipatride in mixed marriages

The main problems that often arise are the risks of apatride (without state) and bipatride (dual citizenship). The risk of statelessness and bipatride is a real challenge in the context of global citizenship theory. In the theory of legal protection, the state is obliged to prevent stateless situations as a form of protection of human rights. The incompatibility of the citizenship system between the parents' countries can create a legal vacuum that threatens the citizenship status of the child.

a. Risks of Apatride in Mixed Marriages

Apatride occurs when an individual is not recognized as a citizen by any country. In the context of mixed marriage, this risk can occur if the child's two parent countries have conflicting citizenship systems. For example, Indonesia applies the principle of *ius sanguinis*, which means citizenship is obtained based on ancestry, while other countries apply *ius soli*, which means citizenship is obtained based on place of birth. If a child is born in a country that only recognizes *ius sanguinis*, but the parents are from a country that recognizes *ius soli*, then the child is at risk of becoming stateless (UN Convention, 1961). According to Article 4 of the Citizenship Law, it states that a child can obtain Indonesian citizenship if born to Indonesian parents. However, if the child's birth is not recorded or the parents do not meet the administrative requirements, then the child has the potential to have no citizenship (Law No. 12 of 2006). To address the risk of statelessness, countries have ratified the 1961 UN Convention on the Reduction of Stateless Cases, which encourages countries to grant citizenship to individuals who do not have a clear citizenship status. Indonesia itself has not ratified this convention, so the protection for children at risk of becoming stateless still depends on the existing national mechanism (Law No. 12 of 2006).

b. Risks of Bipatride in Mixed Marriages

Bipatride occurs when an individual has more than one nationality. This can occur in a mixed marriage when both countries of the child's parents recognize citizenship on the basis of *ius sanguinis* or grant citizenship automatically to a child born in their territory. In the context of Indonesian law, Article 6 of the Citizenship Law gives children of mixed marriages the right to have dual citizenship up to the age of 18. After reaching that age, children are required to choose one of their citizenships through the mechanism of renunciation or naturalization in the country they want to choose. Bipatride can cause legal and administrative problems, such as tax obligations in two countries, military service, and difficulties in obtaining travel documents and residence permits. Some countries such as the United States allow dual citizenship without restrictions, but Indonesia only allows dual citizenship limited to a certain age, after which a citizenship election must be held (Government Regulation No. 2 of 2007).

c. Efforts to Overcome the Risk of Apatride and Bipatride

To avoid statelessness and manage bipatride properly, Indonesia has established several regulations, including:

- 1) Granting limited dual citizenship to children resulting from mixed marriages up to the age of 18, so that children have the opportunity to consciously determine their citizenship.
- 2) Facilitating the citizenship process for individuals at risk of becoming stateless, through naturalization procedures in accordance with Article 8 of the Citizenship Law (Circular Letter of the Directorate General of Immigration, 2018).
- 3) Establish cooperation with other countries in terms of the protection of citizenship rights for children of mixed marriages through bilateral agreements.

Conclusion

The legal implications of mixed marriage on the citizenship status of spouses and children show that there is a progressive legal framework but is not yet fully operational in the field. Indonesia's citizenship law system has formally granted recognition to children resulting from mixed marriages through the concept of dual citizenship limited to the age of 18 or at least 21 years old, as stipulated in the Citizenship Law. This shows the will to accommodate the reality of globalization that gives birth to cross-border families. However, on the other hand, its implementation faces significant challenges, ranging from the lack of socialization to the public about the mechanism of citizenship selection, the risk of statelessness due to differences in the legal system between countries, to the limited civil rights of children with dual citizenship status. The gap between normative regulation and the reality on the ground shows that legal certainty in the field of citizenship has not been fully achieved, especially for children who are subject to the law in complex situations.

The government needs to develop an integrated legal system that is harmonious between citizenship and immigration policies, accompanied by administrative bureaucracy reforms to strengthen legal protection for couples and children of mixed marriages. There is a need for system integration between the Directorate General of Immigration, Dukcapil, and other legal agencies so that the process of submitting ITAS, KITAP, and citizenship registration can be carried out efficiently and accurately. The harmonization of regulations between the Citizenship Law and Law No. 6 of 2011 is a crucial step so that there is no more overlap of regulations that confuse citizens. The government also needs to draft implementing regulations that guarantee the right of residence of foreign spouses after divorce or death of an Indonesian spouse, so that they can continue to live in Indonesia based on humanitarian reasons and family attachment. In addition, there needs to be an affirmative policy for children resulting from mixed marriages so that they do not become victims of legal gaps in their citizenship status. Another concrete step is to encourage the ratification of the 1961 Convention on the Reduction of Stateless Cases, so that the protection of children's rights in the Indonesian legal system is stronger.

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