

The Legality Of Interfaith Marriages Held Abroad In The Perspective Of International Civil Law

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Abstract: *Interfaith marriage held abroad is one of the legal issues that still raises debate in the Indonesian legal system. The difference in regulations between Indonesian law that bases the validity of marriage on religious law and the laws of some countries that recognize civil marriage cause many Indonesian couples to choose to marry abroad. This study aims to analyze the legal arrangements regarding interfaith marriages held abroad and analyze its legality and legal consequences from the perspective of Indonesian International Civil Law. This study uses normative legal research methods with a statutory approach, a conceptual approach, and a case approach. Legal materials are obtained through literature studies consisting of primary, secondary, and tertiary legal materials, then analyzed qualitatively. The results of the study show that the legality of interfaith marriages held abroad is not only determined by the law of the country where the marriage takes place (lex loci celebrationis), but must also pay attention to Indonesian national law through the principle of lex patriae and the principle of ordre public. Article 56 of Law Number 1 of 1974 concerning Marriage recognizes marriages carried out abroad as long as they do not conflict with the provisions of Indonesian law. Therefore, the recognition of interfaith marriages held abroad must consider the balance between respect for foreign law and protection of the basic principles of national law in order to realize legal certainty and protection of the rights of the parties.*

Keywords: *Interfaith Marriage, International Civil Law, Legality.*

INTRODUCTION

Marriage is one of the legal institutions that has an important position in social life because it is the basis for the formation of the family as the smallest unit in society. In the Indonesian legal system, marriage is not only seen as a civil relationship between a man and a woman, but also as a bond that has religious, social, and legal dimensions. Therefore, the regulation of marriage in Indonesia places religious values as the main basis in determining whether a marriage is valid or not. This is reflected in Article 2 paragraph (1)

of Law Number 1 of 1974 concerning Marriage as amended by Law Number 16 of 2019 which states that marriage is legal if it is carried out according to the laws of each religion and belief.¹

The development of modern society, which is characterized by increasing population mobility, advances in information technology, and the intensity of interstate relations, has caused interaction between individuals with different religious, cultural, and civic backgrounds to increase. This condition has resulted in more and more marriages containing foreign elements, including interfaith marriages carried out by Indonesian citizens abroad. Some countries give everyone the freedom to enter into civil marriages without making the same religion a legal condition for marriage. This situation has prompted some Indonesian couples of different religions to choose to marry abroad so that their marital relationship can be legally recognized.²

Although the marriage is legal under the law of the country where the marriage took place, its recognition in Indonesia is still controversial. This is due to the provisions of Article 56 of the Marriage Law which stipulates that marriages held abroad must be carried out according to the laws of the country where the marriage takes place and for Indonesian citizens must not contradict the provisions of the Marriage Law. This provision gives rise to various interpretations regarding the relationship between the law of the country where the marriage takes place and the national law of Indonesia, especially regarding the validity of interfaith marriage. This problem is even more complex because until now there has been no regulation that explicitly regulates the mechanism for recognizing interfaith marriages carried out abroad.³

From the perspective of International Civil Law, this issue is a form of conflict of laws because it involves more than one legal system that has the potential to regulate the same legal relationship. In its solution, several important principles are known, such as *lex loci celebrationis* which determines that the formal validity of marriage follows the law of the country where the marriage takes place, *lex patriae* which links personal status to the citizenship law of the parties, and the principle of *public order* which gives authority to a country to refuse the enforcement of foreign law if it is contrary to the fundamental principles of national law. The existence of these principles suggests that the recognition of foreign marriages depends not only on the laws of the country where the marriage takes place, but must also take into account the interests of national law.⁴

The legal problems that have arisen show that there is legal uncertainty regarding the legality of interfaith marriages carried out abroad by Indonesian citizens. On the one hand, there is a need to provide legal protection for the rights of citizens who have legally married under the laws of other countries. On the other hand, the state is also obliged to maintain the consistency of the national legal system that makes religious law the basis for the validity of marriage. Therefore, a comprehensive study of the legality of interfaith marriages held abroad from the perspective of Indonesian International Civil Law is needed in

¹ Law Number 1 of 1974 concerning Marriage as amended by Law Number 16 of 2019, Article 2 paragraph (1).

² Sudargo Gautama, *Indonesian International Civil Law*, Volume I (Bandung: Alumni, 2010), pp. 183–190.

³ Bayu Seto Hardjowahono, *Basics of International Civil Law* (Bandung: Citra Aditya Bakti, 2013), pp. 166–170.

⁴ Constitutional Court Decision Number 68/PUU-XII/2014

order to gain an understanding of the limits of legal recognition of such marriages and the legal consequences they cause.

METODELOGY

This research uses a normative legal research method, which is a research that examines legal norms contained in laws and regulations, court decisions, doctrines, and legal literature related to the legality of interfaith marriage held abroad from the perspective of Indonesian International Civil Law.

The approaches used include the statute approach, the conceptual approach, and the case approach. This approach is carried out by examining the provisions of laws and regulations governing marriage, the concepts of International Civil Law, and court decisions related to interfaith marriage.

The legal materials used consist of primary, secondary, and tertiary legal materials. The collection of legal materials was carried out through library research, then analyzed qualitatively with descriptive-analytical methods to obtain conclusions about the legality of interfaith marriages held abroad based on Indonesian International Civil Law.

RESULTS AND DISCUSSION

A. Legal Regulation of Interfaith Marriage Held Abroad According to Indonesian Law and International Civil Law.

Marriage is one of the legal events that has an important position in human life because it not only creates a legal relationship between a man and a woman as husband and wife, but also gives birth to various legal consequences on personal status, family relationships, the rights and obligations of the parties, the position of children, and the issue of property. Therefore, each country has its own legal system that regulates the terms, procedures, and legal consequences of a marriage. In Indonesia, the regulation of marriage is not only based on the civil aspect, but is also influenced by the religious, moral, and cultural values that live in society.⁵

The existence of the national marriage law basically aims to provide legal certainty for every citizen in carrying out marriage. Prior to the birth of Law No. 1 of 1974 concerning Marriage, the regulation of marriage in Indonesia was still pluralistic due to the enactment of various legal systems, such as customary law, Islamic law, Burgerlijk Wetboek (Civil Code), and various other colonial regulations. This condition causes differences in legal treatment of the community based on the population group, so a legal unification is needed that is able to create uniformity in the marriage arrangement.⁶ Therefore, Law Number 1 of 1974 was born which was later updated through Law Number 16 of 2019 as the main legal basis in the implementation of marriage in Indonesia.

Article 1 of Law Number 1 of 1974 states that marriage is a birth and mental bond between a man and a woman as husband and wife with the aim of forming a happy and eternal family based on the One

⁵ Subekti, *Principles of Civil Law* (Jakarta: Intermasa, 2005), p. 23.

⁶ Soetojo Prawirohamidjojo, *Indonesian Marriage Law* (Surabaya: Airlangga University Press, 2008), p. 15.

Godhead. The formulation shows that marriage according to Indonesian law is not only a contractual relationship as known in the Western civil law system, but also contains a religious dimension that is the basis for the formation of the family. Thus, Indonesian marriage law places religious values as an element that cannot be separated from the validity or not of a marriage.⁷

This principle is emphasized in Article 2 paragraph (1) of the Marriage Law which determines that a marriage is valid if it is carried out according to the laws of each religion and its beliefs. This provision has the consequence that the state does not directly determine the validity of a marriage, but leaves its judgment to the religious law adopted by the bride-to-be. After the marriage is declared valid according to religion, the state then registers it as a form of administrative recognition as stipulated in Article 2 paragraph (2) of the Marriage Law.⁸

In practice, this provision raises various problems, especially for couples who have religious differences. Each recognized religion in Indonesia has its own provisions regarding marriage requirements. Some religions require the existence of religious similarities between the husband and wife-to-be, while others provide different arrangements. These differences in arrangements cause that not all interfaith couples can get married in Indonesia in accordance with the provisions of their respective religious laws. As a result, various legal efforts have emerged by couples of different religions to obtain recognition of their marital relationship.⁹

One of the efforts that is often made is to hold a marriage abroad. Countries such as Australia, Singapore, Hong Kong, the Netherlands, and several other European countries generally adhere to the civil marriage system, which is a system that separates the legality of marriage according to the state and the legality of marriage according to religion. In this system, the state only assesses the fulfillment of administrative and civil law requirements without making religious similarity an absolute requirement. Therefore, Indonesian couples of different religions often choose to get married in these countries in order to obtain legal recognition based on the laws of the country where the marriage takes place.¹⁰

This phenomenon then raises legal problems when the couple returns to Indonesia and submits their marriage registration to the authorized agencies. The problem that arises is no longer about whether or not marriage is legal according to the law of a foreign country, but about whether the Indonesian state can recognize the marriage considering that the parties remain in the status of Indonesian citizens who are subject to the provisions of the Marriage Law. This issue is one of the objects of study in International Civil Law because it involves a foreign element in a civil law relationship.¹¹

In International Civil Law, a case is said to contain foreign elements if there are factors that connect more than one legal system, such as differences in nationality of the parties, the place where legal events took place, domicile, or the location of legal objects. Interfaith marriages performed by Indonesian citizens

⁷ Law Number 1 of 1974 concerning Marriage as amended by Law Number 16 of 2019.

⁸ Article 2 paragraph (1) and paragraph (2) of Law Number 1 of 1974 concerning Marriage.

⁹ Hilman Hadikusuma, *Indonesian Marriage Law* (Bandung: Mandar Maju, 2007), p. 31.

¹⁰ Sudargo Gautama, *Indonesian International Civil Law*, Volume I (Bandung: Alumni, 2010), p. 183.

¹¹ Bayu Seto Hardjowahono, *Basics of International Civil Law* (Bandung: Citra Aditya Bakti, 2013), p. 48.

abroad meet these criteria because there is a relationship between Indonesian law as the national law of the parties and the law of the country where the marriage takes place. Thus, it is not enough to resolve legal issues using national law alone, but also requires an International Civil Law approach to determine which laws should be applied.¹²

One of the principles known in International Civil Law is *lex loci celebrationis*, which states that the formal validity of a marriage is determined based on the law of the country where the marriage takes place. This principle develops from the practice of international law which aims to provide legal certainty for a marriage that has been legally performed according to local law. With this principle, a marriage is basically considered to meet formal requirements if it has been carried out in accordance with the procedures and legal provisions of the country where the marriage takes place.¹³

However, the application of the principle of *lex loci celebrationis* does not mean that a country is obliged to recognize all the legal consequences of foreign marriages without considering its own national laws. In the practice of International Civil Law, each country still has the right to refuse the application of foreign law if it conflicts with the fundamental principles embraced by the national legal system. Therefore, even if interfaith marriage is declared valid according to the law of the country where the marriage takes place, its recognition in Indonesia must still be reviewed based on the provisions of national law applicable to Indonesian citizens.¹⁴

In addition to the principle of *lex loci celebrationis*, International Civil Law also recognizes the principle of *lex patriae*, which is the principle that determines that a person's personal status, including the material requirements of a marriage, is subject to national law or the citizenship law of the parties. In the context of interfaith marriages performed by Indonesian citizens abroad, this principle means that even though the marriage has fulfilled the legal provisions of the country where the marriage took place, the parties are still bound by Indonesian national law as their personal law. Thus, the material validity of marriage is not only assessed based on the law of the country where the marriage takes place, but must also pay attention to the provisions of Indonesian law that govern the legal conditions of a marriage.¹⁵

This provision can be seen in Article 56 of Law Number 1 of 1974 concerning Marriage which states that a marriage that takes place abroad between two Indonesian citizens or between an Indonesian citizen and a foreign citizen is valid if it is carried out according to the law of the country where the marriage takes place and for Indonesian citizens it does not violate the provisions of the Marriage Law. The phrase "*does not violate the provisions of the Marriage Law*" is an important element that shows that the recognition of foreign marriages is not absolute, but remains limited by Indonesian national law. Therefore, these provisions are often the basis for debates regarding the legality of interfaith marriages performed abroad by Indonesian citizens.

¹² Riduan Syahrani, *Sumkuman Intisari of Law* (Bandung: Citra Aditya Bakti, 2011), p. 124.

¹³ Sudargo Gautama, *Indonesian International Civil Law*, p. 205.

¹⁴ Bayu Seto Hardjowahono, *Fundamentals of International Civil Law*, p. 151.

¹⁵ Ibid., p. 168.

Normatively, Article 56 contains two cumulative conditions that must be met. First, the marriage must be valid according to the law of the country where the marriage took place. Second, for Indonesian citizens, the marriage must not be contrary to the provisions of the Marriage Law. Both conditions show that the lawmaker not only recognizes the applicability of foreign law, but also maintains the applicability of national law to its own citizens. Thus, Indonesian law remains attached to the personal status of its citizens even though legal events occur outside the territory of Indonesia.¹⁶

In practice, there are differences in interpretation of these provisions. Some people argue that as long as a marriage has been declared valid according to the law of the country where the marriage is performed, then Indonesia should recognize the legal consequences of the marriage. This opinion is based on the principle of respect for legal relations that have been legally born in another country (*vested rights doctrine*). According to this theory, a right that has been legally acquired under the law of a particular country should in principle be respected by another country as long as it does not cause a violation of the public interest.

On the contrary, there is a view that the recognition of foreign marriage cannot be separated from the principle of public order (*ordre public* or public policy). This principle gives a country the authority to reject the application of foreign law if it is contrary to the fundamental values embraced by the national legal system. In Indonesian International Civil Law, the principle of public order is an instrument that functions to protect national interests so that they are not disturbed by the enforcement of foreign laws that are contrary to state ideology, morals, religion, and mandatory legal provisions. Therefore, even if an interfaith marriage is declared valid under the laws of a foreign country, Indonesia can restrict recognition if it is considered to be contrary to the basic principles of national marriage law.¹⁷

The issue is even more complex because the Marriage Law does not provide explicit regulations regarding the mechanism for recognizing interfaith marriages carried out abroad. As a result, administrative practices and court decisions often show differences in approach. In some cases, couples who have married abroad can register their marriage at the Population and Civil Registration Office after meeting the administrative requirements. However, the recording is essentially an administrative action that aims to record the existence of a legal event, not determine whether or not marriage is valid according to Indonesian material law. Thus, administrative registration does not necessarily erase the debate about the legality of the marriage according to the Marriage Law.

Another problem that often arises is the assumption that holding a marriage abroad is a way to avoid the provisions of Indonesian law regarding interfaith marriage. From the perspective of International Civil Law, this act is known as legal smuggling (*fraus legis*), which is an attempt by a person to choose a certain legal system with the aim of avoiding the applicability of the law that should apply to him. If it is proven that the choice of law is made solely to avoid coercive provisions of national law, the state may refuse to provide legal consequences for such acts based on the principle of public order. Therefore, the

¹⁶ Article 56 of Law Number 1 of 1974 concerning Marriage.

¹⁷ Constitutional Court Decision No. 68/PUU-XII/2014.

concept of *fraus legis* is one of the important considerations in assessing the legality of interfaith marriages held abroad.

On the other hand, the development of the global community shows an increase in population mobility and the intensity of relationships between citizens of different religions and nationalities. Globalization has caused legal relationships that contain foreign elements to occur more and more frequently, including in the field of family law. This condition requires a legal system that is able to provide legal certainty without ignoring the values embraced by the state. In the Indonesian context, the challenge lies in how to balance respect for international legal relations with the principles of national law that place religion as the basis for the validity of marriage.

When analyzed comprehensively, the regulation of interfaith marriages held abroad shows a close relationship between national law and international civil law. The validity of a marriage is not enough to be assessed based on the laws of the country where the marriage is performed, but must also pay attention to national laws that regulate the personal status of Indonesian citizens. Thus, Article 2 paragraph (1) and Article 56 of the Marriage Law must be understood systematically so as not to give rise to conflicting interpretations. The arrangement also shows that Indonesia adheres to a selective approach to the recognition of foreign marriages, which is to still recognize the applicability of the laws of other countries as long as they do not conflict with the fundamental principles of national law.

Based on this description, it can be understood that the legality of interfaith marriages held abroad is a legal issue that is not only related to national marriage law, but also involves the principles of International Civil Law. The recognition of marriage must consider the balance between the principles of *lex loci celebrationis*, *lex patriae*, vested rights, and *ordre public*, so as to be able to realize legal certainty, protection of citizens' rights, and maintain the consistency of the Indonesian national legal system.

B. Juridical Analysis of the Legality and Legal Consequences of Interfaith Marriage Held Abroad in the Perspective of Indonesian International Civil Law (1/2)

Interfaith marriage held abroad is one of the legal issues that is still debated in the Indonesian legal system. The development of globalization, technological advancements, and increasing people's mobility have expanded interaction between individuals from various countries, cultures, and religions. This condition causes legal relationships that contain foreign elements to occur more frequently, including in the field of family law. One form of such legal relationship is marriage between two people of different religions and choosing to hold a marriage in a country that gives everyone the freedom to marry without requiring the same religion.¹⁸

This phenomenon is generally carried out by Indonesian citizen couples who have difficulty getting married in Indonesia due to the provisions of Article 2 paragraph (1) of Law Number 1 of 1974 concerning Marriage which states that a marriage is declared valid if it is carried out according to the law of each religion and its beliefs. This provision results in whether or not a marriage is valid or not depends on the religious provisions embraced by the prospective bride. As a result, couples who still want to maintain their

¹⁸ Bayu Seto Hardjowahono, *Basics of International Civil Law* (Bandung: Citra Aditya Bakti, 2013), p. 41.

respective religions often choose to marry abroad as an alternative to obtain legal recognition of their marital relationship.¹⁹

From the perspective of International Civil Law, this situation raises the question of which law should be applied to determine the validity of marriage. This problem is known as a conflict of laws, which is a situation when a legal relationship is related to more than one legal system, each of which has the potential to apply to the same case. In interfaith marriages carried out by Indonesian citizens abroad, there is a relationship between Indonesian law as the national law of the parties and the law of the country where the marriage takes place as the law where the legal event occurs.²⁰

In resolving legal conflicts, International Civil Law recognizes several principles that are used as a basis for determining applicable law. One of the most commonly used principles in marriage cases is *lex loci celebrationis*, which is the principle that determines that the formal validity of a marriage follows the laws of the country where the marriage takes place. Based on this principle, if a marriage has met the formal requirements according to the law of the country where the marriage is performed, then formally the marriage is considered valid. This principle is applied by many countries as a form of respect for the legal system of other countries as well as to provide legal certainty for parties who carry out marriages outside the territory of their country.²¹

However, in International Civil Law, not all marriage issues are resolved using the principle of *lex loci celebrationis*. In addition to formal requirements, there are also material requirements related to the personal status of the parties, such as age, consent of the bride-to-be, marriage prohibition, and provisions regarding religion. To determine these material requirements, many countries, including Indonesia, use the principle of *lex patriae*, which is the law that follows a person's nationality. Thus, as long as the couple is still an Indonesian citizen, they are still subject to the provisions of Indonesian law regarding the legal requirements of marriage even if the marriage is carried out abroad.²²

The problem becomes even more complex when the legal provisions of the country where the marriage takes place are different from the national laws of Indonesia. For example, a country allows interfaith marriage through civil marriage, while Indonesian law links the legality of marriage to the laws of their respective religions. These differences raise questions about whether Indonesia is obliged to recognize the marriage when the parties return to Indonesia. This question is important because the recognition of a marriage is not only related to the status of husband and wife, but also concerns various other legal consequences such as inheritance rights, joint property, child status, population administration, and civil rights of the parties.²³

In practice, couples who have married abroad usually apply for marriage registration to the Population and Civil Registration Office after returning to Indonesia. The registration is based on the

¹⁹ Law Number 1 of 1974 concerning Marriage as amended by Law Number 16 of 2019.

²⁰ Sudargo Gautama, *Indonesian International Civil Law*, Volume I (Bandung: Alumni, 2010), p. 55.

²¹ *Ibid.*, pp. 203–206.

²² Bayu Seto Hardjowahono, *Fundamentals of International Civil Law*, pp. 166–169.

²³ Soetojo Prawirohamidjojo, *Indonesian Marriage Law* (Surabaya: Airlangga University Press, 2008), p. 46.

provisions of Article 56 of the Marriage Law which regulates marriages held abroad. However, this provision cannot be understood simply because in addition to requiring that the marriage must be valid according to the law of the country where the marriage takes place, the law also affirms that for Indonesian citizens, the marriage must not conflict with the provisions of the Marriage Law. Therefore, various interpretations have emerged regarding the extent to which the state should recognize interfaith marriages performed abroad.²⁴

From the point of view of state administration, marriage registration is a form of public service that aims to provide administrative certainty for a legal event. However, recording is not always synonymous with the legalization of marriage from a material legal perspective. This means that even though a marriage has been recorded by the competent authorities, there is still room for debate about the legality of the marriage when reviewed based on the provisions of national law that govern the conditions for the legality of a marriage. The difference between the administrative aspect and the material aspect often causes legal uncertainty in the practice of holding interfaith marriages in Indonesia.²⁵

In addition, the Constitutional Court through Decision Number 68/PUU-XII/2014 in principle affirms that the provisions of Article 2 paragraph (1) of the Marriage Law remain constitutional and do not contradict the 1945 Constitution of the Republic of Indonesia. The ruling shows that the lawmakers do want religious law to remain the main basis in determining whether or not a marriage is valid in Indonesia. Therefore, the decision further strengthens the national legal position in dealing with the issue of interfaith marriage, including if the marriage is held abroad.²⁶

However, the development of international relations and the increasing number of interstate marriages show that the current legal arrangements still leave various problems of interpretation. On the one hand, the state is obliged to provide legal protection to its citizens regardless of the place where the marriage takes place. On the other hand, the state must also maintain the consistency of the national legal system so as not to conflict with the basic values that are the basis for the formation of the Marriage Law. Therefore, a more in-depth analysis is needed on the application of the principle of public order (*ordre public*), the theory of *vested rights*, and the concept of legal smuggling (*fraus legis*) in determining the legality and legal consequences of interfaith marriage held abroad.²⁷

One of the principles that has an important role in resolving legal conflicts in International Civil Law is the principle of public order (*ordre public* or *public policy*). This principle gives a country the authority to reject the application of foreign laws if the application of such laws is contrary to the fundamental principles embraced by the national legal system. In the context of interfaith marriages held abroad, the principle of public order is the basis for Indonesia to assess whether a marriage that is legal under the laws of another country can be recognized and give rise to legal consequences in Indonesia.²⁸

²⁴ Article 56 of Law Number 1 of 1974 concerning Marriage.

²⁵ Law Number 23 of 2006 concerning Population Administration as amended by Law Number 24 of 2013.

²⁶ Constitutional Court Decision No. 68/PUU-XII/2014.

²⁷ Sudargo Gautama, *Indonesian International Civil Law*, p. 228.

²⁸ Bayu Seto Hardjowahono, *Fundamentals of International Civil Law*, pp. 190–194.

In the Indonesian legal system, religious values are one of the fundamental principles that are the basis for the regulation of marriage law. This is reflected in Article 2 paragraph (1) of Law Number 1 of 1974 concerning Marriage which relates the validity of a marriage to the laws of their respective religions. Therefore, if there is a marriage that is formally valid according to the law of a foreign country, but the substance is contrary to the provisions of national law, then the state has a basis to restrict the recognition of the marriage through the application of the principle of *ordre public*. Thus, the principle of public order functions as a mechanism for the protection of national identity and basic legal values in the midst of the development of international legal relations.²⁹

In addition to the principle of public order, International Civil Law also recognizes the theory of *vested rights* or the theory of recognition of rights that have been obtained. According to this theory, a right that has been legally born under the law of one country should in principle be respected by another country in order to maintain legal certainty and stability of international legal relations. In relation to interfaith marriage, this theory can be used to support the opinion that marriages that have been declared valid by the state where the marriage took place should be recognized by other countries as long as they do not conflict with fundamental principles. The application of this theory aims to avoid situations where a marriage is considered valid in one country but not recognized in another, thus creating uncertainty about the legal status of the parties.³⁰

On the other hand, there is the concept of legal smuggling (*fraus legis*), which is the action of a person who deliberately chooses the laws of another country to avoid the provisions of national law that should apply to him. In the case of interfaith marriage, this concept is often associated with the actions of Indonesian citizen couples who get married abroad solely because they know that the marriage cannot be performed in Indonesia. If it is proven that the election of foreign law is carried out only to avoid the provisions of national law that are coercive in nature, then the state may refuse to provide legal consequences for the marriage. Therefore, the concept of *fraus legis* is one of the important instruments in assessing whether a marriage is really carried out because of a reasonable relationship with a foreign country or just as an effort to avoid Indonesian law.³¹

The difference of views between the theory of *vested rights* and the concept of *fraus legis* shows that the settlement of interfaith marriage cases held abroad cannot be carried out using only one principle of International Civil Law. Judges and state administrative officials must comprehensively consider various aspects, including the purpose of establishing the Marriage Law, the interests of the parties, the protection of human rights, and legal certainty. This approach is necessary so that there is no imbalance between respect for international legal relations and protection of national legal principles.

The legal consequences of recognizing or not recognizing interfaith marriages performed abroad have far-reaching consequences. If the marriage is recognized, the parties obtain certainty regarding their status as husband and wife and all rights and obligations attached to the marital relationship, including the right to obtain legal protection, the right to joint property, the right to alimony, and the right to take care of

²⁹ Hilman Hadikusuma, *Indonesian Marriage Law* (Bandung: Mandar Maju, 2007), p. 57.

³⁰ Sudargo Gautama, *Indonesian International Civil Law*, p. 239.

³¹ Riduan Syahrani, *Sumkuman Intisari Ilmu Hukum* (Bandung: Citra Aditya Bakti, 2011), p. 129.

population administration. On the other hand, if the marriage is not recognized, various legal problems can arise that affect the lives of the parties and their family members.

One of the most important legal consequences has to do with the position of the child born of the marriage. Recognition of marital status will affect birth registration, civil relations between children and their parents, the right to obtain legal identity, maintenance rights, and inheritance rights. Therefore, certainty regarding the legality of marriage is very important to ensure the protection of the best interests of children as mandated in various provisions of Indonesian laws and regulations.

In addition, the legal status of marriage also affects the arrangement of joint property. In Indonesian law, property acquired during the marriage is in principle joint property, unless otherwise stipulated through a marriage agreement. If the legality of marriage is questioned, then the division of joint property in the event of divorce or death of one of the parties will also cause legal problems. Similarly, in the field of inheritance, the status as a legal husband or wife determines a person's position as an heir according to the provisions of applicable law.

From the perspective of population administration, legal certainty regarding marital status is also needed for various purposes, such as the issuance of Family Cards, the recording of children's birth certificates, changes in status on Identity Cards, passport management, and various other public services. Unclear legal status of marriage can hinder the fulfillment of citizens' administrative rights and potentially lead to legal disputes in the future.

Based on this analysis, it can be understood that the issue of the legality of interfaith marriages held abroad is not only related to the validity or not of a marriage, but also related to the protection of the civil rights of the parties and legal certainty in the implementation of state administration. Therefore, there is a need for harmonization between the provisions of International Civil Law and national marriage law in order to be able to provide fair solutions, provide legal certainty, and still respect the values that are the basis of the Indonesian legal system. Regulatory updates and a more comprehensive interpretation of Article 2 and Article 56 of the Marriage Law also need to be considered so as not to continue to cause differences in interpretation in practice.

CONCLUSIONS

The legality of interfaith marriages held abroad from the perspective of Indonesian International Civil Law is not only determined by the laws of the country where the marriage takes place, but must also pay attention to the provisions of Indonesian national law. Based on Article 2 paragraph (1) and Article 56 of Law Number 1 of 1974 concerning Marriage as amended by Law Number 16 of 2019, marriages carried out abroad can be recognized as long as they comply with the provisions of the laws of the local country and do not conflict with the marriage laws in force in Indonesia. In International Civil Law, the application of the principles of *lex loci celebrationis*, *lex patriae*, and *ordre public* is the basis for determining the recognition of the marriage.

In addition, the legality of interfaith marriages held abroad has legal consequences for marital status, the position of children, joint property, inheritance rights, and population administration. Therefore,

there is a need for legal certainty through harmonization between the provisions of International Civil Law and national marriage law in order to create legal protection for citizens while maintaining the basic principles that are the foundation of the Indonesian legal system.

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REFERENCES

- Bayu Seto Hardjowahono, *Dasar-Dasar Hukum Perdata Internasional* (Bandung: Citra Aditya Bakti, 2013), hlm. 166–170.
- Bayu Seto Hardjowahono, *Dasar-Dasar Hukum Perdata Internasional*, hlm. 151.
- Hilman Hadikusuma, *Hukum Perkawinan Indonesia* (Bandung: Mandar Maju, 2007), hlm. 31.
- Hilman Hadikusuma, *Hukum Perkawinan Indonesia* (Bandung: Mandar Maju, 2007), hlm. 57.
- Pasal 2 ayat (1) dan ayat (2) Undang-Undang Nomor 1 Tahun 1974 tentang Perkawinan.
- Pasal 56 Undang-Undang Nomor 1 Tahun 1974 tentang Perkawinan.
- Pasal 56 Undang-Undang Nomor 1 Tahun 1974 tentang Perkawinan.
- Putusan Mahkamah Konstitusi Nomor 68/PUU-XII/2014.
- Putusan Mahkamah Konstitusi Nomor 68/PUU-XII/2014.
- Putusan Mahkamah Konstitusi Nomor 68/PUU-XII/2014.
- Riduan Syahrani, *Rangkuman Intisari Ilmu Hukum* (Bandung: Citra Aditya Bakti, 2011), hlm. 124.
- Riduan Syahrani, *Rangkuman Intisari Ilmu Hukum* (Bandung: Citra Aditya Bakti, 2011), hlm. 129.
- Soetojo Prawirohamidjojo, *Hukum Perkawinan Indonesia* (Surabaya: Airlangga University Press, 2008), hlm. 15.
- Soetojo Prawirohamidjojo, *Hukum Perkawinan Indonesia* (Surabaya: Airlangga University Press, 2008), hlm. 46.
- Subekti, *Pokok-Pokok Hukum Perdata* (Jakarta: Intermasa, 2005), hlm. 23.

Sudargo Gautama, *Hukum Perdata Internasional Indonesia*, hlm. 205.

Sudargo Gautama, *Hukum Perdata Internasional Indonesia*, hlm. 228.

Sudargo Gautama, *Hukum Perdata Internasional Indonesia*, hlm. 239.

Sudargo Gautama, *Hukum Perdata Internasional Indonesia*, Jilid I (Bandung: Alumni, 2010), hlm. 183–190.

Sudargo Gautama, *Hukum Perdata Internasional Indonesia*, Jilid I (Bandung: Alumni, 2010), hlm. 183.

Sudargo Gautama, *Hukum Perdata Internasional Indonesia*, Jilid I (Bandung: Alumni, 2010), hlm. 55.

Undang-Undang Nomor 1 Tahun 1974 tentang Perkawinan sebagaimana diubah dengan Undang-Undang Nomor 16 Tahun 2019.

Undang-Undang Nomor 1 Tahun 1974 tentang Perkawinan sebagaimana telah diubah dengan Undang-Undang Nomor 16 Tahun 2019, Pasal 2 ayat (1).

Undang-Undang Nomor 1 Tahun 1974 tentang Perkawinan sebagaimana telah diubah dengan Undang-Undang Nomor 16 Tahun 2019.

Undang-Undang Nomor 23 Tahun 2006 tentang Administrasi Kependudukan sebagaimana telah diubah dengan Undang-Undang Nomor 24 Tahun 2013.