

Research Article

A Normative Reconstruction of the Rights of Spouses and Children in Mixed Marriages

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ABSTRACT

The growing occurrence of mixed marriages between individuals of different nationalities offers opportunities for cultural enrichment while also creating difficulties in legal protection. Matters such as citizenship, custody, and cross-border rights frequently generate uncertainty and discrimination for spouses and children. This study investigates the normative reconstruction of mixed marriages, with particular attention to spousal and child rights, by examining national legal frameworks and how they intersect with international law. Employing a juridical-normative and comparative method, the research analyzes legal practices in Indonesia, the Netherlands, Germany, Canada, and Australia. The findings show inconsistencies and discrimination within domestic regulations, especially regarding determinations of children's citizenship status, which may lead to statelessness and unequal treatment. Jurisdictions with human rights-oriented legal systems tend to adopt more flexible and inclusive policies, whereas those with strongly nationalistic approaches are reluctant to fully recognize rights across borders. The study emphasizes the urgent need to harmonize domestic laws with international human rights instruments in order to achieve legal certainty and fairness. It article a normative reconstruction model grounded in equality, recognition across jurisdictions, and the protection of children as subjects of international law. More broadly, it underscores the value of creating a humanistic and binding transnational legal framework to enhance cooperation and ensure justice for families affected by mixed marriages.

Keywords: Comparative law; International Law; Marriage rights; Mixed Marriage

A. INTRODUCTION

In recent decades, the phenomenon of mixed marriages has risen markedly, mainly owing to increased international mobility and greater interconnection among countries. When partners have different nationalities and legal systems, their marriages create substantial difficulties for national legal frameworks that have not yet developed full capacity to deal with these differences. As a mode of interaction across

cultures and nationalities, mixed marriages generate a range of legal concerns, especially with respect to ensuring family rights such as children's citizenship, inheritance rights, recognition of legal status, and safeguarding the rights of foreign wives or husbands. This complexity is further exacerbated by increasing global mobility and intermarriage between citizens of different legal systems (civil law, common law, dan islamic law). Therefore, it is crucial to

reconstruct the law not only based on a national normative approach but also taking into account the principles of international law where this principle is enshrined in Article 16 of the Universal Declaration of Human Rights (UDHR) and Article 23 of the International Covenant on Civil and Political Rights (ICCPR), which essentially address the freedom to enter into transnational marriages and the right to state protection in marriages involving different nationalities and races and the practices of other countries.

The phenomenon involving individuals with different citizenships and legal systems in mixed marriages is increasing in line with globalization and increasingly intensive cross-border mobility (Tarring, 2022). Data from the United Nations Department of Economic and Social Affairs (UN DESA) shows a significant increase in the number of international migrants, which has contributed to the high rate of inter-national and inter-cultural marriages (Petit, 2018). This phenomenon creates a need to reconstruct the legal norms governing the rights of husbands, wives, and children in mixed marriages to be more responsive to existing global complexities. In many countries, the rights and legal status of mixed marriages are commonly governed differently from those of marriages between local citizens. In the Indonesian legal context, for instance, Law No. 1 of 1974 on Marriage and its amendments, as well as Constitutional Court Decision No. 69/PUU-XIII/2015, create broader room for mixed marriages. Nevertheless, several

administrative and substantive obstacles persist and require attention, especially in relation to children's citizenship status and rights to property. Concerning a child's citizenship, specific provisions such as Article 6 of Law No. 12 of 2006 state that a child who holds dual citizenship must select one nationality at the age of 18 or upon marriage; this choice must be filed no later than three years after reaching either of those milestones. This provision effectively imposes a substantive restriction on the administration of citizenship for children with dual nationality. Furthermore, regarding property ownership, the Basic Agrarian Law stipulates that the right of ownership is reserved exclusively for Indonesian citizens. This gives rise to a complication where an Indonesian citizen marries a foreign national without a prenuptial agreement concerning the division of property, because, under Article 35 paragraph (1) of the Marriage Law, assets acquired during the marriage are, as a general rule, treated as marital property.

Although these marriages contribute to social and cultural diversity, they frequently bring complex legal issues concerning the recognition of spouses' and children's rights. Variations among countries' legal systems on matters such as marriage, divorce, child custody, maintenance, and inheritance can generate legal uncertainty and increase the likelihood of discrimination against either party or against children born from the union (Herawati et al., 2023). Within the framework of national law, responses to mixed

marriages differ considerably. Some jurisdictions adopt the principle of legal unification, whereas others seek to preserve each party's national law through a choice-of-law approach or via a *renvoi* mechanism. Such divergences can directly affect how effectively spouses' and children's rights are protected, especially in cross-border disputes or divorces (Lu & Yeung, 2024). For instance, inconsistencies in the definition of the division of marital property, in standards for domestic violence, or in the best criteria for children in custody proceedings may produce injustice and hinder the cross-national implementation of court decisions (Wahyuni et al., 2022). In mixed marriages, problems often emerge with respect to children's citizenship—for example, in Indonesia. A child born to parents of differing nationalities, for instance, may encounter substantial obstacles in obtaining legal recognition of citizenship in both countries. In addition, inheritance rights represent a major concern, since differences between the legal systems of the husband's or wife's country of origin and the inheritance entitlements of children or spouses with different nationalities can arise. Situations like these underscore the urgent need for clearer and fairer legal reform. Moreover, the question of spouses' and children's rights in mixed marriages also carries substantial international legal implications (Heriawanto, 2019). International legal instruments such as The Hague Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption (1993) has become an important foundation in

addressing cross-border issues related to children, such as child intercountry (Menon, 2024). The Hague Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption (1993). In the context of this study, the Convention establishes a humanistic mechanism for protecting children's rights regarding their legal status; essentially, it stipulates that a child may be adopted by a family or couple from another country while ensuring due consideration is given to background, financial security, and other aspects relevant to meeting the child's future needs. Consequently, intercountry adoption becomes a more regulated and structured process, thereby fostering the well-being and security of the child being adopted by a family or couple from another country. However, to date, there is no comprehensive international legal instrument that specifically addresses the rights of couples in mixed marriages. This has led to fragmentation and inconsistency in resolving disputes involving couples of different nationalities (Syamhudi, 2011; Latifiani et al., 2022).

This research is expected to produce more comprehensive and equitable policy recommendations and legal frameworks to protect the rights of spouses and children in mixed marriages, both at the national and international levels. The proposed normative reconstruction is expected to significantly contribute to the development of international family law that is more responsive to the realities of cross-border marriages and ensures the protection of human

rights for all parties involved (Carney, 2024; Hijriani et al., 2025).

Mixed marriages involving parties from different legal jurisdictions have become an increasingly common phenomenon with increasing global mobility. In Indonesia, the legal provisions addressing this matter are set out in Law No. 1 of 1974 on Marriage, specifically Article 57, which characterizes a mixed marriage as a marriage between two persons who are subject to different legal systems because of their citizenship. On the other hand, Law No. 12 of 2006 concerning Citizenship provides opportunities for children from mixed marriages to have dual citizenship for a limited period, namely until the age of 18 (Muzayanah, 2020). However, in practice, the implementation of this regulation still faces structural obstacles, both in administrative and social aspects, which have the potential to cause children to lose their citizenship (statelessness) and their civil rights to be violated (Faridy et al., 2021; Irawan et al., 2025).

In contrast, a number of countries have taken more advanced steps in addressing this issue. The Netherlands, for example, recognizes permanent dual citizenship and uses the Convention on the Rights of the Child (CRC) as a reference in establishing family law policies, particularly in determining the best interests of children (Lubis & Putra, 2022). In Germany, Article 6 of the Constitution, the Basic Law (Grundgesetz), offers protection to transnational

families and ensures the rights of children born to mixed marriages.

Canada follows an open legal approach by recognizing the legal status of foreign spouses and by respecting foreign court decisions through the principle of comity (Carney, 2024). Australia, through the Family Law Act 1975, facilitates the resolution of cross-jurisdictional disputes in family courts, and is also a party to the 1980 Hague Convention on International Child Abduction.

In the context of international law, there are a number of important conventions that provide protection for children and women in cross-border family relationships, such as: The Hague Convention on the Civil Aspects of International Child Abduction (1980), The Hague Convention on the Protection of Children and Co-operation in Respect of Intercountry Adoption (1993), the Convention on the Rights of the Child (CRC) (1989), the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) (1979), the Universal Declaration of Human Rights (UDHR), particularly Articles 15 and 16, and The International Covenant on Civil and Political Rights (ICCPR) (1966). However, there is no international legal instrument that specifically and comprehensively regulates the rights of couples in mixed marriages.

This research is very important and urgent, considering the potential vulnerabilities faced by couples and children in mixed marriages due to differences in legal systems and the lack of harmonization at the international level (Salim et

al., 2022). Comparative studies of the implementation of mixed-marriage laws in various countries are expected to provide further insight into best practices and challenges in protecting the rights of the parties involved. Analyzing the impact of national law implementation on international legal principles, such as non-discrimination, the best interests of the child, and reciprocal recognition of court decisions, is also crucial for identifying potential conflicts and the need for normative reconstruction (Salam et al., 2024). Given the comparison between the national legal system and international norms, there is an urgent need to reconstruct national law and promote more adaptive international norms. Consequently, this study will examine two primary issues: 1) the importance of the normative reconstruction of the rights of spouses and children in mixed marriages; and 2) the reconstruction of regulations regarding mixed marriages within international law.

Establishing the “state of the art” is essential for assessing the novelty of current research; to demonstrate the novelty of the present study, five prior studies are discussed, with an in-depth analysis of the differences between them and the current research. The first prior study is titled “Juggling Paperwork Across Borders: Theorizing Transnational Legal Space” by Betty de Hart. De Hart posits that a transnational family, for instance, an Iranian husband and a Dutch wife living in Belgium faces challenges that extend beyond mere geographical

relocation; they also encounter issues arising from the differing legal systems of the countries involved. This is evident in the lack of openness states often show toward non-citizens. De Hart argues for a legal framework that accommodates transnational social statuses, thereby fostering harmony between legal principles and human rights (de Hart, 2024). The distinction between that prior study and the current research lies in their respective focuses: the earlier study examines the issues faced by families comprising individuals of different nationalities and advocates for a legal framework to accommodate their social status. In contrast, the current research focuses on regulations regarding the legal recognition of individual rights and covering aspects such as marriage recognition treaties and the implementation of cross-border child adoption protections, offering a more comprehensive analysis and proposing solutions through the reconstruction of international law.

The second prior study is titled “Defining Transnational Families Across Countries and Time” by Budginaitė-Mačkinė et al. Fundamentally, this study examines the reality of transnational families, which has evolved into a more complex phenomenon; such families are defined not merely by differing citizenships but also by dispersed residential locations and the experience of complex citizenship-related obstacles (Budginaitė-Mačkinė et al., 2026). The distinction between that prior study and the current research lies in their respective

approaches: the former examined transnational families within a social context, whereas the current study analyzes them from a legal perspective, focusing on the protection and assurance of humanitarian rights for these families. The third prior study is titled “Status Anak dalam Perkawinan Campuran: Kewajiban Negara dan Perlindungan Hukum” by Naswar et al. Fundamentally, this study examines national protections regarding the rights and status of children in mixed marriages within the Indonesian context. It emphasizes the necessity of safeguarding complex family structures, specifically mixed-marriage families in Indonesia and asserts that the government must ensure these children are protected and enjoy the same rights as any other child (Naswar et al., 2024). The distinction between this prior study and the current research lies in their respective scopes: the earlier study focused primarily on the status of child protection in Indonesia, whereas the current research examines the reconstruction of international law, focusing not only on child protection status but also on safeguarding the right to non-discrimination for couples of mixed nationality and their children.

The fourth prior study is titled “Divorce of International Mixed Marriage and Marriage Held Abroad and Indonesian Private International Law” by Tiurma M. Pitta Allagan. This study primarily focuses on examining court jurisdiction in private international law cases concerning the divorce of mixed marriages. It reveals that, among five

cases in Indonesia, two involved the application of the principles of “*lis pendens*” and “*forum non conveniens*”, while the remaining three were adjudicated directly by Indonesian courts. These findings indicate that legal proceedings for such divorces sometimes encounter obstacles, potentially leading to uncertainty regarding the status of the spouses and their children (Allagan, 2026). The distinction between that prior study and the current research lies in their scope: the former focused specifically on jurisdiction over the divorce of international marriages, whereas the current study examines the broader normative reconstruction of international law regarding international marriages. It goes beyond divorce to address the need to protect the right to legal certainty for mixed-marriage couples and the children born of such unions.

The fifth prior study is titled “Choice of Law for Child Custody in Indonesia’s Mixed Marriages” by I Nyoman Sujana and Ni Nyoman Sri Puspawati. Essentially, this study examines mixed or transnational marriages taking place in Indonesia, emphasizing the “best interests of the child” principle; under this principle, judges play an active role by considering which citizenship status that derived from the parents or the place of birth would be most beneficial for the child. The distinction between that study and the current research lies in their respective focuses: the earlier study concentrated on determining the optimal citizenship status for children of mixed marriages, whereas the current research offers a

more comprehensive examination of the protection of rights associated with mixed marriages and the children involved, aiming to ensure adherence to the principles of non-discrimination and the best interests of the child, as well as the alignment of legal terminology. A comprehensive “state of the art” overview has been presented, demonstrating that the current research possesses novel aspects distinguishing it from previous studies (Sujana & Puspawati, 2026).

This reconstruction of the legal norms is designed to harmonize national regulations with international standards while also safeguarding the rights of spouses and children in mixed marriages, who are frequently pushed aside because domestic law does not bend. This alignment represents a deliberate measure toward developing a family law system that can respond to the evolving realities of global society (Menon, 2024).

B. RESEARCH METHODS

This research adopts a normative juridical approach with an emphasis on analyzing legal regulations, legal concepts, and legal practices that emerge in the context of mixed marriages. The method seeks to portray the ideal legal framework that ought to apply and to contrast it with the current normative situation. This study employs a qualitative approach, analyzing secondary data sources such as international conventions and scholarly literature; the findings

consisting of words and narratives are examined in depth with a focus on prioritizing humanitarian values. This study also employs a prescriptive research design. Prescriptive research involves analyzing data that has been gathered, specifically secondary data and comparative studies to propose a solution addressing an existing problem. In the context of this study, the proposed solution entails a reconstruction of international law to ensure non-discrimination against the children of binational couples and to protect the individual rights of both the partners and the children.

During the research process, three approaches were applied. First, a legislative approach was employed to analyze various Indonesian and international regulations concerning the rights of husbands, wives, and children in mixed marriages (Siahaan, 2019). The regulations analyzed encompass Law Number 1 of 1974 on Marriage, Law Number 12 of 2006 on Citizenship, and international instruments, including the Convention on the Rights of the Child (CRC) (1989) and the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) (1979).

Second, a comparative legal approach was applied to understand how countries such as the United States, Japan, Australia, the Netherlands, France, and Germany regulate and implement rights in mixed marriages. This comparison is intended to identify best practices that can be used as references when formulating national

legal policies. Third, a conceptual approach is used to develop a theoretical framework that can serve as a basis for legal reconstruction. In this approach, fundamental concepts such as justice, equality, and human rights protection are explored to strengthen the argument that national law needs to be responsive to social change and global demands (Zal, 2023).

The data for this study were gathered via a literature review. The primary legal materials comprised statutory regulations, while the secondary legal materials included scientific literature and prior research; tertiary legal sources consisted of legal dictionaries and encyclopedias. All data were analyzed qualitatively using systematic and comparative legal interpretation methods to generate normative formulations that may inform legal reform concerning the rights of husbands, wives, and children in the context of mixed marriages. Source selection followed a thorough initial collection procedure, followed by a screening of the collected materials according to their relevance to the topic of the normative reconstruction of existing international law. The interpretation approach adopted was systematic (logical) interpretation, which entails examining a particular regulation or convention and connecting it to other regulations or conventions that address related subject matter. In addition, comparative interpretation was employed by comparing how the law is applied across different countries.

C. RESULTS AND DISCUSSION

1. The Importance of Normative Reconstruction of the Rights of Spouses and Children in Mixed Marriages

Marriages between persons of differing nationalities and legal backgrounds, formerly deemed exceptional, have become progressively more prevalent as international mobility, enhanced communication, and intensifying cross-cultural engagement persist. Although intermarriage provides substantial diversity, opportunities to enrich cultural exchange, and affectionate bonds across varied backgrounds, it also presents a range of complex legal challenges that are frequently overlooked (Danilevich, 2012). Intermarriage is an increasingly visible global trend, consistent with rising mobility between countries. In Indonesia, the number of intermarriages is showing an upward pattern each year, especially in areas with high levels of international interaction (Antara Kepri, 2024). According to data from the Regional Office of the Ministry of Law and Human Rights of the Riau Islands, 215 mixed marriages were recorded by 2024, most of which (approximately 193) occurred in Batam City, an area open to international relations due to its geographical and economic location (Antara Kepri, 2024).

In the United States, according to the U.S. Census Bureau's 2024 American Community Survey (ACS), approximately 2.4 million individuals reported marrying within the prior 12 months, which corresponds to roughly 2.4 million

marriages. The data demonstrate the considerable scale and diversity of marriage in the United States (U.S. Census Bureau, 2024). Census information also indicates that interracial and interethnic married-couple households have risen markedly, increasing from 7.4% in 2000 to 10.2% in 2012–2016 (Rico et al., 2018). This increasing diversity may produce complex legal inquiries regarding the identification of marital rights, inheritance, and child custody where families maintain connections across different states or national borders.

Meanwhile, the situation in Japan differs. Even though there is no complete official quantitative record, Japan's legal framework generally places more restrictions on intermarriages (Matsumura et al., 2025). Its citizenship policy follows the principle of *jus sanguinis* and rejects permanent dual citizenship, producing administrative barriers and identity-related difficulties for children from inter-state marriages (Basri, 2021). Japan has also faced criticism regarding how it has implemented the 1980 Hague Convention on the repatriation of children from inter-state marriages.

In Australia and the Netherlands, although there are no specific statistics reported in academic publications, both countries are widely regarded as having progressive family law systems. Australia is administered under the Family Law Act 1975, which establishes a child-centred and comprehensive framework for family law. For instance, Section 60CA provides that the

child's best interests must be the paramount consideration when courts determine parenting orders. Further guidance is set out in Section 60CC, requiring courts to consider matters including the child's safety, views, developmental, psychological, emotional and cultural needs, and the child's relationship with significant family members. Where cases involve international child abduction, Section 111B of the Act further supplies a legal framework to give effect to Australia's obligations under the 1980 Hague Convention on the Civil Aspects of International Child Abduction. The Netherlands likewise places strong emphasis on the child's best interests, as shown in Article 3(1) of the Convention on the Rights of the Child 1989 and Article 1:247 of the Dutch Civil Code, both of which stress the child's well-being, safety, and development. Regarding nationality, the Netherlands permits dual nationality under specific conditions; however, it generally does not acknowledge unrestricted permanent dual citizenship and instead seeks to limit instances of multiple nationality under the Netherlands Nationality Act.

Based on these observations, it is evident that countries with more open legal systems that are consistent with international law principles are typically more responsive and better able to protect couples and children in mixed marriages. By contrast, countries that continue to apply a single citizenship regime or that lack adequate cross-border recognition mechanisms frequently generate legal uncertainty, discrimination, and

even citizenship-related problems, which may leave individuals stateless (Mayana et al., 2024).

This line of reconstruction is particularly significant because current national and international legal frameworks are not yet fully capable of accommodating and safeguarding the rights of individuals engaged in cross-border marriages. In many countries, legal systems are built on the assumption of citizen homogeneity and often do not anticipate the complexities that emerge when two different legal systems intersect within a single family. Significant distinctions may arise in relation to, *inter alia*, the legality of the marriage, the distribution of assets, and determinations regarding child custody (Naswar et al., 2024).

For instance, consider a couple holding Indonesian and French citizenship who marry and live in Indonesia. If they divorce, which law governs the division of joint property that may be claimed in both countries? What mechanism governs the enforcement of child custody determinations when one party elects to return to their home country? These questions emphasize the importance of establishing clear, equitable, and functional legal standards across international boundaries (Zeinudin, 2024). The lack of harmonized norms not only creates legal uncertainty, but also creates room for discrimination, where one party who is usually considered “foreign” by the local legal system is placed in a more vulnerable position (Demamu, 2024; Saporwadi et al., 2026).

As part of normative reconstruction, a comparative examination of how mixed-marriage laws are applied across countries is essential. Each country implements its own approach for regulating the rights of spouses and children in mixed marriages, and this approach is determined by the relevant legal system, whether civil law, common law, or religious law. Under the Convention on the Rights of the Child (CRC), every child is entitled to sufficient protection and care regardless of the citizenship status of their parents. In practice, however, the rights of children in mixed marriages are frequently not fully realized. For instance, children born to parents of different nationalities may face difficulties obtaining citizenship or accessing education in certain countries. Countries such as Indonesia, which have strict citizenship rules, often struggle to meet the rights of children in mixed marriages, which should be safeguarded in accordance with international law (Cretney & Masson, 2020; Setyawan et al., 2025).

There are examples showing how international law can help protect the rights of individuals in mixed marriages. For instance, in countries such as France and Germany, there are principles that specifically govern the citizenship status of children born to mixed marriages, which differs from the framework adopted in countries that prioritize religious law, such as Indonesia. In France, the right of children to acquire dual citizenship is formally recognized, thereby affording them greater flexibility regarding legal

protection (Lubis & Putra, 2022). By contrast, in Indonesia, although laws exist that permit dual citizenship in the setting of mixed marriages, their implementation frequently encounters various obstacles, especially relating to inheritance rights and property ownership for foreign spouses. As an example, this problem arose in Constitutional Court Decision No. 69/PUU-XIII/2015, concerning Ike Farida, an Indonesian citizen married to a foreign national. The absence of a marital agreement separating the spouses' assets created difficulties for land ownership, because Indonesian agrarian law limits land ownership under the right of ownership to Indonesian citizens. The Constitutional Court later allowed marital agreements to be concluded not only prior to marriage but also throughout the marriage, thereby affording enhanced legal protection to Indonesian spouses in mixed marriages. Comparable challenges arise in international divorce cases, where divergences in the principles governing the division of joint property and the criteria for child custody engender legal uncertainty. The necessity of normative reconstruction of the rights of spouses and children in mixed marriages further substantiates an examination of the implications for international law. International legal instruments, including the Hague Convention on the Civil Aspects of International Child Abduction (1980) and the Hague Convention on the Protection of Children and Cooperation in Relation to Transnational Adoption (1993), have been

adopted to address a broad spectrum of challenges confronting transnational families. Nevertheless, despite attempts to regulate various cross-border matters, international law is still insufficient to provide adequate protection for the rights of spouses in mixed marriages (Wijayanti et al., 2025; Rahsel, 2016).

This challenge becomes even more complex when considering children born to mixed marriages. Such children often occupy a distinctive and vulnerable position, potentially holding dual citizenship while growing up within two different cultures. As a result, legal identity and rights protection may be difficult to secure. In custody disputes, differences between countries in the "best interests of the child" standard can trigger serious ethical and legal dilemmas (Lubis & Riza, 2022). Therefore, normative reconstruction must ensure that children's rights such as the right to identity, citizenship, education, and protection from violence and discrimination are recognized regardless of the citizenship of their parents (Pahutar et al., 2024). These rights are guaranteed under Article 15(1) of the UDHR; Article 24(3) of the ICCPR; Article 7(1) of the CRC; Article 28D(4) of the 1945 Constitution of the Republic of Indonesia; and Article 53(2) of Law No. 39 of 1999.

At the international legal level, although initiatives have been pursued to tackle specific matters, including cross-border child abduction under the Hague Convention, there is no legal instrument that fully and comprehensively

regulates the rights of couples in mixed marriages. Fragmentation and insufficient harmonization of private international law across jurisdictions render it more difficult to resolve legal disputes involving cross-border families. International legal principles, including non-discrimination, gender equality, and the best interests of the child, are frequently challenging to apply effectively in mixed-marriage settings because of substantial differences among national laws (Sugiasuti et al., 2025). The need for normative reconstruction is urgent and cannot be overstated. This is not only an academic concern, but an urgent requirement to ensure justice and adequate protection for every individual involved in contemporary family life (Kristianto et al., 2025).

Intermarriage between Indonesian citizens and ASEAN citizens (WNI and WNA) is highly beneficial and provides a comprehensive basis for determining the status of children born from such unions (Basri, 2021). Under Law Number 12 of 2006 on Citizenship of the Republic of Indonesia, children from intermarried families are expected to hold a less restrictive form of dual citizenship until they turn 18 years old. After surpassing that age, they are required to obtain a single citizenship within three years, as provided in Article 6 paragraphs (1) and (2) of Law Number 12 of 2006 (Muzayanah, 2020).

In practice, however, the implementation of this rule is shaped by several challenges. One major barrier is parents' lack of understanding

and insufficient information regarding the limited procedures for registering their children's dual citizenship. Consequently, many children from intermarriages are not officially registered, which means they lose the right to choose Indonesian citizenship when they reach 21 years of age. This, in turn, affects the legal status of children in Indonesia, including their rights to education, employment, and ownership of assets (Faridy et al., 2021).

A study by Nahdhah et al. shows that although Law No. 12 of 2006 opens the opportunity for children from mixed marriages to have limited dual citizenship, its implementation still faces administrative obstacles and a lack of public awareness (Nahdhah et al., 2022). This creates legal uncertainty for these children, particularly regarding access to civil and economic rights in Indonesia.

Furthermore, Sudarmawan revealed that children born from mixed marriages often face identity dilemmas and limited opportunities to enjoy their rights as citizens, especially if they are not officially registered as Indonesian citizens. This phenomenon demonstrates the need for harmonization between national law and international legal principles that guarantee children's rights without discrimination (Sinaga et al., 2024).

In the context of interstate marriages, the rights and obligations of husband and wife, particularly regarding child support, are a complex issue. This is due to the differences in legal

systems in each country. While the basic rights of every spouse, such as the right to live together, the right to child support, and protection against domestic violence, are universally recognized, their implementation can vary depending on the laws of the country where they reside, their respective countries of origin, and relevant international treaties. A real case of the complexity of child-support obligations in cross-border family disputes can be seen in *WJ v LP* (Case C-644/20), decided by the Court of Justice of the European Union in 2022. The case involved Polish parents who had previously lived in the United Kingdom, where their two children were born. In 2017, the mother moved to Poland with the children and subsequently decided to remain there. In 2018, the children, represented by their mother, brought a claim for maintenance against their father before a Polish court. The Polish court ordered the father to make monthly maintenance payments for the children. The dispute subsequently raised questions concerning international jurisdiction and the determination of the child's habitual residence under the applicable European and international private-law framework. The case illustrates how the enforcement and determination of child-support obligations can become legally complex when parents and children reside in different jurisdictions (*WJ v AP*, Case C-644/20, 2022).

One of the principal challenges in cross-border marriages is the recognition of marital status. In some jurisdictions, mixed marriages

may be recognized automatically under the law of the place where the marriage was concluded (Gaspar et al., 2022). In contrast, other countries may require additional steps or formal legalization in order to recognize the marriage as valid (Kamalludin et al., 2025; Hawkins et al., 2022). This, in turn, affects a range of matters, including the rights that the husband or wife acquires through the marriage.

Concerning child support, whether a husband must provide child support to his wife, both during the marriage and after a divorce, depends largely on the laws of each individual country. In particular, the extent of a husband's duty to provide child support to his wife during the marriage and after divorce primarily rests on domestic legal rules. In some countries, family law explicitly sets out the requirement to pay child support; in others, the governing rules are more flexible or may be limited by prevailing restrictions. Furthermore, many countries have acceded to international instruments, such as the 1973 Hague Convention, in order to facilitate the cross-border enforcement of maintenance obligations. Under Article 1, the Convention governs maintenance duties arising from family relationships, parentage, marriage, or affinity; Article 4, in contrast, sets out the recognition and enforcement of maintenance decisions that are satisfied for and issued in one Contracting State in another Contracting State.

After divorce, spousal support obligations often become a complex issue, notably when one

spouse is confronted with financial hardship. Many countries contain provisions on post-divorce alimony that permit the less financially advantaged party to seek support. For example, Section 72(1) of Australia's Family Law Act 1975 states that a spouse may be required to maintain the other spouse if the latter cannot adequately support themselves and the former is reasonably able to provide that support. In assessing the maintenance amount, the court must consider a spectrum of factors, including the parties' age, health, income, property, financial resources, employability, and responsibilities for children under 18 (Family Law Act 1975 (Cth), ss. 72, 75), although the duration and amount of alimony awarded may differ markedly across each country's distinct legal framework. Similarly, France provides a compensatory mechanism under Article 270 of the French Civil Code 1804, which allows one spouse to be ordered to pay a *prestation compensatoire* to compensate, as far as possible, for differences in the respective living conditions that stem from the dissolution of the marriage. The total compensation is ascertained by taking into account the needs of the receiving spouse and the other spouse's financial resources, together with other pertinent circumstances, as specified in Article 271. Taken collectively, these provisions indicate that post-divorce financial support is recognized across multiple legal systems as a mechanism for mitigating economic disparities between former spouses.

Overall, the rules governing spousal rights and alimony obligations in marriages involving more than one jurisdiction are strongly shaped by each country's jurisdictional framework and by the presence of international treaties. Differences in culture and legal systems often call for a more adaptable approach, as well as for the use of international legal mechanisms to address disputes that may arise between spouses from different countries (Lowe & Douglas, 2015).

In the international context, *jus soli* and *jus sanguinis* are applied to determine a child's citizenship. However, differing modes of implementation of these principles across countries may place children born to mixed marriages at risk of statelessness. Consequently, harmonizing citizenship laws is necessary so that they reflect the best interests of children and avert statelessness (Miqat et al., 2023).

Such harmonization can be facilitated through bilateral or multilateral cooperation among the countries concerned with mixed marriages, while also revising national approaches to reflect the principles set out in international legal instruments such as the Convention on the Rights of the Child. In this way, children born to mixed marriages can gain legal certainty and receive sufficient protection for their rights as citizens (Kusumadara, 2022).

2. Reconstruction of Regulations Regarding Mixed Marriages within International Law

Normative reconstruction of spousal and child rights in mixed marriages focuses on

revising prevailing policies and legal frameworks to foster a more inclusive trajectory of social and international legal development. In the context of mixed marriages, this normative reconstruction approach involves not only revising domestic law, but also adapting international standards applicable to states with different legal systems. Mixed marriages, defined as unions between individuals from distinct national or cultural backgrounds, have long represented a complex area within international law. The problem stems from the substantial differences among legal systems across countries, especially with respect to the recognition of the rights of spouses and children in such marriages (Moret et al., 2021). In some regions, customary or religious law has an impact on marital arrangements, whereas in other regions, civil or secular law provides the primary basis (Župan & Drventić, 2023). This mismatch between national laws frequently undermines the ability to recognize and safeguard individual rights in mixed marriages (Ryabov & Zhang, 2019).

In this context, legal reconstruction is essential for identifying solutions that protect individual rights in mixed marriages across jurisdictions. The reconstruction procedure employs a comprehensive strategy that integrates comparative law, normative analysis, and pertinent case studies, aiming to establish an international legal order that is more inclusive and better suited to respond to continuously changing social, cultural, and legal developments (Anderson, 2021). Reforming regulations

governing mixed marriages under international law requires applying a set of techniques to close existing legal gaps. Although each technique focuses on a distinct dimension, collectively they operate in a synergistic manner to yield comprehensive results (Ayu et al., 2026). A comparative approach is particularly advantageous for legal reform because it facilitates an assessment of the ways in which different countries' legal systems vary. Accordingly, comparisons may be drawn among states that follow markedly different legal approaches to marriage, including Indonesia, the United States, and France (Handayani & Hardiyanti, 2025).

Indonesia's marriage law, for example, is chiefly grounded in religious principles and functions under either Islamic law or customary law linked to ethnic traditions. Conversely, the United States operates a federal system in which marriage regulations differ across states, whereas France applies a secular civil law model that acknowledges unions between individuals of different nationalities, contingent upon the satisfaction of applicable administrative conditions (Hacker, 2017). In Indonesia, the legal status of marriage is fundamentally intertwined with religion and personal conviction: Article 2(1) of Law No. 1 of 1974 on Marriage provides that a marriage is legally valid only when it is solemnized in accordance with the religious laws and beliefs of the parties, and Article 2(2) further stipulates that such marriages must be formally registered. In the

United States, marriage primarily falls within state jurisdiction, which is consistent with the country's federal structure. The U.S. Supreme Court has recognized that states have long possessed authority to regulate marriage, while federal law extends recognition to marriages that were validly formed under the governing state law—an approach reflected, among other provisions, in 1 U.S.C. § 7. France, meanwhile, regulates marriage mainly through its secular civil law tradition. Articles 143 and 144 of the French Civil Code specify the substantive prerequisites for marriage, and Article 144 acknowledges marriages between French nationals and foreign citizens when the relevant legal and formal conditions are satisfied. Article 171-2 also establishes administrative duties for French citizens who marry abroad before foreign authorities. Taken together, these differences show how each country's distinctive legal inheritance and institutional design influence its way of recognizing marriage, particularly across international borders.

Through this comparative perspective, it becomes clear that countries apply different principles and mechanisms when regulating marriages between citizens, and these divergences often create obstacles to obtaining legal recognition for such marriages elsewhere (Yulia, 2016). This emphasizes an urgent requirement for reforming international law—reform capable of accommodating such differences more flexibly, without undermining the

protection of individual rights (Cheung & Chiu, 2021). Normative analysis is designed to assess whether existing legal rules remain adequate and responsive to the challenges confronting couples in mixed marriages. In this connection, it is important to examine how existing international conventions and frameworks have been used in such situations (Al Amin, 2017). A key instrument is the International Covenant on Civil and Political Rights (ICCPR), affirming the right of individuals to marry and to create a family without discrimination.

However, a central challenge in mixed marriages lies in how the dominant state laws governing the citizenship or legal status of partners from other countries interact with broader international principles. Consequently, any legal reform must consider the congruence between international norms and domestic laws to guarantee equal protection for couples in mixed marriages. International institutions, including the United Nations and the International Law Commission, exert a significant influence on the formulation of international guidelines and policies related to family rights in mixed marriages. A particularly relevant international instrument here is the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), which highlights the necessity of safeguarding women's rights within marriage, including marriages involving individuals from different countries (Jati, 2024; Yeoh et al., 2021).

Within international law, these institutions can serve as a catalyst for legal reform that is better able to respond to the difficulties encountered by couples in mixed marriages. By drafting guidelines or conventions, states can obtain more explicit direction for regulating the rights of individuals in international marriages. Through this comparison between national legal systems and international norms, an urgent need is revealed to rebuild domestic law and to advance more flexible international norms, namely: (1) automatic recognition of the legal status of cross-border marriages by states that agree to them through multilateral agreements, such as the Marriage Recognition Treaty. (2) the adoption of permanent dual citizenship for children born into mixed marriages, together with an extension of the age for determining citizenship without losing civil rights. (3) the comprehensive integration of the best interests of the child principle into the national justice system, in accordance with Article 3 of the Convention on the Rights of the Child. (4) the adjustment of terminology and legal doctrines in national legislation to harmonize with international norms on anti-discrimination, gender equality, and the protection of children's identity. (5) the creation of an international judicial forum or a cross-border dispute resolution mechanism to address custody issues and the legal status of children in a transnational setting.

A key result of this legal reconstruction is the need for stronger recognition of mixed marriages at the global level. A central outcome of this legal reconstruction is the necessity of enhanced global recognition of mixed marriages. International law should compel states to recognize and protect couples in mixed marriages without discrimination based on nationality, religion, or culture. This is significant to ensure that individuals in mixed marriages can access equal rights irrespective of their country of origin (McKenzie & Xiong, 2021). In addition to recognizing such marriages, the reconstruction also involves safeguarding the rights of children born into mixed marriages, who must be guaranteed citizenship, inheritance rights, and other pertinent rights regardless of their parents' nationality or cultural background (Sarkanto et al., 2025).

Furthermore, the outcome of the reconstruction is an effort to harmonize international marriage laws, which can include rules regarding citizenship, inheritance rights, and the legal status of partners in mixed marriages. With this legal harmonization, countries will be able to address potential legal conflicts that may arise in mixed marriages, as well as ensure the recognition of the rights of couples globally.

D. CONCLUSION

Mixed marriage, viewed as concurrently social and legal in character across the world, has generated distinct dynamics within multiple legal

systems, at both national and international levels. This study shows that, with respect to the rights of spouses and children in mixed marriages, there are inequities embedded in legal norms and shortcomings in the enforcement of regulations, which in turn produce vulnerability, legal uncertainty, and discrimination. Fundamental rights such as citizenship, legal identity, recognition of family status, and social and civil protection are not fully secured, especially when differences arise among jurisdictions, legal doctrines, and national interests between countries. Mixed marriage therefore appears as a coherent outcome of globalization-driven dynamics, which have substantially influenced areas of family law, particularly in relation to spouses' and children's rights. Differences in the national legal systems of the parties involved generate complexities that serve as major obstacles to safeguarding fair and equal legal protection. When rules concerning marriage, divorce, custody, citizenship, and children's legal status are inconsistent, they can generate legal uncertainty and discrimination, particularly for parties regarded as "foreign" under a national jurisdiction. This indicates that the legal frameworks in many countries do not adequately address the needs of spouses and children in mixed marriages. Existing legal mechanisms frequently rely on the assumption of citizen equality, which is inconsistent with the realities of contemporary cross-border families. Children born into mixed marriages are especially at risk,

both regarding citizenship and legal identity and in their access to basic rights.

A comparative analysis of the legal systems of the United States, Japan, Australia, Netherlands, France, and Germany. Jurisdictions with comparatively open, human-rights-oriented legal frameworks, including Canada and the Netherlands, generally demonstrate stronger progressiveness in safeguarding family rights transnationally. By contrast, Indonesia reflects a comparatively restrictive stance, especially concerning interfaith marriage and the recognition of children born to mixed marriages involving foreign nationals. This condition is significantly intensified as a result of inefficient administrative procedures, regulatory provisions being harmonized, and the failure to issue implementation guidelines suited to international conditions. The comparison therefore underscores the need to reform domestic laws and to craft more flexible international norms through: (1) automatic recognition of cross-border marriages under multilateral agreements; (2) permanent dual citizenship for children of mixed marriages, paired with extended periods for determining citizenship; (3) thorough application of the best interests of the child principle under Article 3 of the Convention on the Rights of the Child; (4) harmonizing national legislation with international standards on non-discrimination, gender equality, and children's identity; and (5) international judicial processes or cross-border dispute resolution mechanisms for matters of

custody and disputes regarding a child's legal status.

Aligning citizenship principles for children born of mixed marriages is a strategic measure to prevent statelessness and to better secure children's right to citizenship. Looking forward, greater international cooperation, the progression toward more comprehensive international norms, and inclusive, responsive national legal reforms are critical for dealing with the rising complexity of challenges related to transnational family law.

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