

Regulations in Mixed Marriage: A Comparative Review Between the Marriage Legal System In Indonesia and the Marriage Legal System in Nigeria

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Abstract:

According to Law Number 1 of 1974, a marriage is considered valid as long as it is carried out in accordance with religion or belief. Marriage is a physical and spiritual bond between a man and a woman as husband and wife with the aim of forming a happy and eternal family based on God Almighty. Mixed marriage is a marriage between two people who are subject to different laws due to differences in citizenship. This study uses a normative legal research approach that utilizes primary and secondary legal materials in its analysis so that the legal data used is secondary data or data that is not obtained directly such as law books, academic journals, and official documents. This study aims to analyze mixed marriages between Indonesian citizens and foreign citizens according to Law Number 1 of 1974 concerning Marriage and the marriage laws in force in Nigeria.

Keywords: Marriage, Mixed Marriage, Indonesia, Nigeria

1. Introduction

Marriage is a physical and spiritual bond between a man and a woman as husband and wife, with the aim of forming a happy and eternal family based on the Almighty God. Marriage involves a deep relationship, not only physically but also emotionally and spiritually between husband and wife. This relationship creates a strong and mutually supportive bond in everyday life. Humans need partners for several reasons related to emotional, social, and health needs. One of the main purposes of marriage is to create a harmonious and happy family. In a household, husband and wife commit to love, respect, and support each other, and raise children in a loving environment. Overall, the need for a partner is not only related to love and happiness, but also includes aspects of health, emotional support, and the formation of a harmonious family (Sudarsono, 2005).

Marriage must be carried out in accordance with the laws in force in each religion or belief. In Indonesia, Law Number 1 of 1974 concerning Marriage stipulates that every marriage must be registered in accordance with applicable laws and regulations in order to be legally recognized. A marriage is considered valid if it is carried out on the basis of the free consent of both parties. This consent must be clearly stated in the presence of valid witnesses, thus confirming the commitment of both parties. Unlike in Nigeria, a person must be legally married under one of the three recognized marriage systems. There are three legal systems in force in Nigeria, namely: Statutory Law (English), Customary Law, and Islamic Law. These legal systems regulate various areas of society including family law, inheritance, and succession. Therefore, a person can legally marry under Statutory Law, Customary Law, or Islamic Law, and a combination of two or more of these systems.

Within marriage, there is mixed marriage. Mixed marriage is defined as marriage between two people who are subject to different laws, especially when one party is an Indonesian citizen and the other party is a foreign citizen. Mixed marriage in Indonesia is an increasingly common social phenomenon, where individuals from different citizenship backgrounds decide to marry. This phenomenon not only reflects the developing social dynamics, but also involves various aspects of law, culture, and religion. According to

Law Number 16 of 2019 concerning amendments to Law Number 1 of 1974, mixed marriage includes marriage involving differences in citizenship, where one of the partners is a foreign citizen. This was also regulated in the *Regelingen Op de Gemengde Huwelijken* (GHR) or Mixed Marriage Regulations, which were regulations governing mixed marriage in Indonesia before the enactment of Marriage Law Number 1 of 1974. GHR is listed in *Staatsblad* 1898 Number 158 (Nawawi, 2012).

2. Research Method

This study uses a normative juridical method. The normative juridical research method is a legal research method based on primary legal materials such as norms or laws and regulations. The purpose of normative research is to study and analyze applicable norms, regulations, and legal rules. The writing approach used in this writing is a conceptual and comparative legal approach that aims to analyze and understand the basic principles of law and compare the legal systems of two different countries.

The legal data used is secondary data or data that is not obtained directly such as law books, academic journals, official documents, and previous research results. And, the legal materials used are primary and secondary legal materials. Primary legal materials are binding and authoritative such as laws and court decisions. Meanwhile, secondary legal materials are not official documents that provide explanations of primary legal materials, such as literature, expert opinions, internet articles, and other research results.

3. Discussion

3.1 Mixed Marriage

The marriage law is egalitarian, does not recognize ethnic, racial and nationality boundaries. Therefore, marriages can occur between citizens of different countries. According to Law Number 1 of 1974, Article 57, a mixed marriage is a marriage between two people who are subject to different laws in Indonesia due to differences in nationality, and one party is an Indonesian citizen. Provisions regarding mixed marriage are contained in Articles 58 to 62 of the Marriage Law. For people of different nationalities who enter into a mixed marriage, they can obtain citizenship from their husband/wife and can also lose their citizenship, according to the methods determined in the applicable Citizenship Law of Republic of Indonesia (Jamaluddin & Amalia, 2015).

Mixed marriage often occurs in the era of globalization, especially with increasing international mobility. An example is the marriage between an Indonesian citizen who works as a professional abroad with a foreign national from Nigeria who has a different cultural and legal background. The administrative process and registration of marriages often require coordination between agencies, both in Indonesia through the Indonesian Embassy (KBRI) and local authorities in Nigeria. Another case, for example, is the marriage between an Indonesian man and a Nigerian woman held in Indonesia. In practice, this couple must comply with the provisions of the Indonesian Marriage Law, including taking care of legal requirements such as residence permit documents for the foreigner and recognition of the religious law practiced by each party. Provisions resulting from citizenship obtained in mixed marriage:

- A. Citizenship obtained as a result of marriage or dissolution of marriage determines the applicable laws, both regarding public law and civil law.
- B. Mixed marriage held in Indonesia is carried out according to this Marriage Law

To avoid a marriage that violates the laws of each prospective bride and groom, the prospective bride and groom are required to prove that they have not violated the laws and regulations in their respective countries. This evidence is in the form of a certificate issued by the authorized marriage registrar in their respective countries. Mixed marriage cannot be carried out before it is proven that the marriage requirements stipulated by the applicable laws for each party have been met. To carry out a mixed marriage, three stages are required, namely pre-marriage in the form of a certificate of fulfillment of the requirements to carry out a mixed marriage; during the implementation and after the marriage in the form of recording the mixed marriage.

Regarding the place of registration of mixed marriages between Indonesian citizens and foreign citizens, in accordance with Law Number 1 of 1974 concerning Marriage Article 59 paragraph (2), it is carried out by the marriage registrar at the Civil Registry office in the area where the marriage is carried out. This provision shows that mixed marriage is recognized and thus, state recognition through Law Number 1 of

1974 concerning Marriage must be connected with its registration and recording. In other words, mixed marriage is a marriage that is declared valid and recognized by the State. Differences in citizenship do not imply different requirements for conducting a marriage (Setyaningsih & Nugrahani, 2021).

The regulations of mixed marriage in Nigeria are different from those in Indonesia. Mixed marriage in Nigeria is quite complex and multi-faceted, due to the combination of customary law, Islamic law, and civil law that apply in the country. The national laws that apply in Nigeria are the Marriage Act of 1914 and the Matrimonial Causes Act of 1970, the two laws that regulate aspects of marriage and divorce in Nigeria. The Marriage Act of 1914 establishes the formal procedures for conducting a marriage. This law includes the requirements that must be met by couples before getting married, including notification to the marriage registrar and official registration. All marriages conducted in accordance with this Act are considered valid and lawful. Meanwhile, the Matrimonial Causes Act of 1970 focuses on the aspect of divorce and the rights of spouses after divorce (Chianu, 2016)

The main problems in mixed marriage include:

A. Compliance with Marriage Law

Differences in laws between countries can complicate the process of registering a marriage, such as different administrative requirements. In Indonesia, one of the important requirements is to include a Permit from the Office of Religious Affairs (KUA) or the Civil Registry Office. In Nigeria, couples must choose between statutory court, customary court, sharia court which have different rules.

B. Child Status and Citizenship

In mix marriage, the child's citizenship status becomes complex, especially if one country does not recognize dual citizenship. For example, Indonesian law through Law Number 12 of 2006 concerning Citizenship provides a time limit until the child is 18 years old to choose citizenship, while Nigerian law allows dual citizenship under certain conditions.

C. Legal Dualism of Law and Conflict of Jurisdiction

Legal dualism between Indonesian and Nigerian laws is often an obstacle, especially when the laws of the two countries regulate differently regarding marital status, divorce, or children's rights. In Indonesia, the differences in religion of a couple often become an issue in whether or not a marriage is valid. While in Nigeria, interfaith marriage is allowed, customary law provisions can have a big influence, especially in traditional communities (Basuki, 2014)

D. Recognition of Marriage in Both Countries

This problem arises when a marriage conducted in one country is not recognized by the other country. For example, if a marriage is conducted under Nigerian customary law, Indonesian authorities often require additional documents or further certification to ensure the validity of the marriage.

3.2 Differences in Mixed Marriage Regulation in Indonesia and Nigeria

Mixed marriage regulations in Indonesia and Nigeria are different. The legal system regarding marriage in Indonesia is regulated by Law Number 1 of 1974 concerning marriage. Meanwhile, in Nigeria, there are generally three types of marriage, namely marriage according to the Law or official marriage, customary marriage and marriage according to Islamic law. Indonesia also has different legal systems such as customary law and Islamic law that can be followed by the community, but in terms of marriage, Indonesia has a special law that regulates marriage.

Nigeria is a country with a complex legal system, which combines state law, Islamic law, and customary law. Therefore, mix marriage laws will depend on various factors, including religion, the legal status of the parties involved, and the competent jurisdiction. The Marriage Act in Nigeria stipulates that the following must occur so that the marriage is recognized as a valid marriage.

1) Marriage Act in Nigeria.

This Act is the main legal framework that regulates marriage in Nigeria, including mixed marriage between Nigerian citizens and foreign nationals.

- a) Marriage Registration: Marriage between foreign and Nigerian couple in Nigeria must be registered at the civil registry office, which is a legal procedure for recognizing the marriage in Nigeria.

- b) Age of Marriage: One of the basic requirements is that both parties must be of legal age for marriage, which is 18 years in Nigeria.
- c) Citizenship: There are no specific restrictions on foreign couples who want to marry Nigerian citizens, but they must meet administrative requirements, such as a valid residence permit or visa.

The Marriage Act also recognizes foreign marriage performed outside Nigeria. The Act provides that a marriage between parties, one of whom is a Nigerian citizen, if solemnized in a country outside Nigeria in front of a marriage officer in his office, shall be as legally valid as if the marriage had been solemnized in Nigeria in front of a civil registrar in a Civil Registry Office. For a marriage to be considered valid under Nigerian law, it must be conducted in accordance with the applicable legal process.

2) Islamic Law in Nigeria

Marriage under Islamic law in Nigeria is governed by the teachings of Sharia (Islamic Law) derived from the *Quran*, *Hadith*, and the principles of *fiqh*, which govern marriage for Muslims. This means that marriage conducted under Islamic law must be conducted in accordance with Islamic religious procedures. This involves several important things such as the consent of both parties, the marriage guardian, and the dowry. Some northern states (such as Kano, Sokoto, and several other states) implement Sharia law as part of their legal system. If a marriage is conducted in Nigeria between a Nigerian citizen and a foreign national, the marriage must still follow Islamic law and must also be registered with the Nigerian Marriage Registration Office for legal recognition in Nigeria. If a couple enters into an Islamic marriage in Nigeria, they can choose to register the marriage with a Sharia Court in a state that practices Sharia law. However, if the couple seeks general legal recognition, registration with the Marriage Registration Office is still required.

As for Christians in Nigeria, marriage is usually conducted in church and under the rules set by the church concerned. In mixed marriage, foreign Christian couple can marry according to the relevant church regulations. A marriage certificate is issued to both parties after the marriage takes place. The final step is the signing of the marriage certificate and must be done by the couple and witnessed by 2 people and the priest. A copy of the marriage certificate must be sent to the Marriage Registrar within seven (7) days after the wedding celebration. The Marriage Registration Office will keep the marriage certificate after they receive it. After all the steps are followed, the marriage is valid under the Law.

3) Customary Law in Nigeria

If using customary law in Nigeria, it is very diverse and changes depending on the region and ethnicity. Customary marriage in Nigeria is usually influenced by the customs and traditions of the local community. Each ethnicity or community in Nigeria has their own customary marriage practices, and this marriage often involves a series of customary ceremonies and rituals that must be fulfilled by both parties and their families. Generally, customary marriage in Nigeria is polygamous or monogamous depending on local customs, and the groom is usually required to pay a bride price to the bride's family. Although customary marriage in Nigeria does not usually require formal registration, there is a requirement that customary marriage conducted in Nigeria must be registered with the Customary Court within 60 days of the marriage taking place. This is intended to give legal recognition to the marriage and make it easier for the couple to claim the legal rights associated with their marriage and is an important step, especially for foreign couples who want to ensure that their marriage is legally recognized by Nigerian law and can proceed to other administrative steps, such as registration in the respective countries of origin of the parties (Umezuruike, 2024).

Regulation of mixed marriage in Indonesia is regulated by Law Number 1 of 1974 concerning Marriage. There are requirements for mixed marriage that must be followed in order to make the marriage valid which include:

- a) The marriage must take place in Indonesia.
- b) The marriage must be subject to different laws due to differences in citizenship, and one

- party must be an Indonesian citizen.
- c) The marriage must be carried out according to the respective religions and beliefs of the husband and wife.
 - d) Mixed marriage must be officially registered by an authorized official. If the marriage is carried out outside Indonesia, the marriage certificate must be registered at the Marriage Registration Office where they live within one year after returning to Indonesia.

To prove that the requirements for marriage have been met, an authorized official can provide a certificate. If the official refuses, the court can issue a decision that cannot be appealed again. This certificate is not valid if the marriage is not carried out within six months of being given. Mixed marriage according to Law Number 1 of 1974 in Indonesia is a marriage involving an Indonesian citizen and a foreign citizen. The marriage must be registered at the Civil Registry Office in Indonesia in order to be recognized as valid under Indonesian law. If the mixed marriage is conducted abroad, the couple must register their marriage at the Embassy of the Republic of Indonesia or the Consulate General of the Republic of Indonesia in the country where the marriage is held so that the marriage is recognized as valid under Indonesian law.

People of different nationalities can obtain citizenship from their husband or wife and can also lose their citizenship in accordance with the methods stipulated in the Citizenship Law of the Republic of Indonesia. Thus, the regulation of mixed marriage in Indonesia is very strict and requires the full requirements stipulated in Law Number 1 of 1974 concerning Marriage (Akbar, 2024).

Under the Law Number 1 of 1974, there are several acts that are considered as offences and if committed, will result in serious consequences. These offences include but are not limited to:

- a) Marriage to a person with the knowledge that the person is already married to another person. A person who commits this offence is liable to imprisonment for 5 years.
- b) If a person makes a statement for falsification related to legal obstacles in marriage, they can be subject to a maximum prison sentence of 5 years.
- c) If a person stands as a witness knowing that he is not qualified to do so, he shall be liable to imprisonment for 5 years.
- d) A person who knows well that the marriage being performed is an invalid marriage but still goes ahead with it is liable to imprisonment for 5 years.

Table 1
Comparison Between Mix Marriage Regulations in Indonesia and Nigeria

Aspects	Indonesia	Nigeria
Legal Basis	Indonesia has Law Number 1 of 1974 concerning Marriage and Law Number 16 of 2019 concerning the amendment of Law Number 1 of 1974.	Nigeria has state law, Islamic law and customary law as well as Marriage Act of 1914 and Matrimonial Causes Act of 1970
Court	Indonesia has Islamic Court for Muslims and District Court for Non-Muslims.	Nigeria has statutory court, customary court and sharia court.
Administrative Requirements	Couples must register their marriage to the Office of Religious Affairs (KUA) for Muslims, or Civil Registry Office for Non-Muslims, with the addition of foreign national documents.	Couples must gain the permit from the local government, register the marriage to the Marriage Registration Office.
Documents	Couples must have general documents for Indonesian Citizens	Documents for both parties are the same and do not need a lot unlike

	and Foreign Nationals, such as N1, N2, N3, and N4 forms for Indonesian Citizens and Certificate of No Impediment (CNI) for foreign nationals.	in Indonesia which include identity card, birth certificate, and permit.
Child Citizenship	Child citizenship is automatically given for the Children are allowed to have dual citizenship. children of Indonesian citizens; the choice is made after the age of the child is 18 years if he/she has dual citizenship.	Children are allowed to have dual citizenship.

From the comparison above, it can be seen that mix marriage regulations have major challenges in accommodating couples with different legal backgrounds. Therefore, there needs to be (Lambok, 2021):

- a) Harmonization of international law, especially regarding the registration and recognition of marriages.
- b) Utilization of bilateral mechanisms such as treaties or international agreements to ensure legal certainty.
- c) Effort in increasing the role of the Indonesian Embassy and diaspora organizations in helping mixed couples understand and comply with applicable regulations.

3.3 Effectiveness of Laws in Indonesia and Nigeria in Regulating Mix Marriage

In Indonesia, mixed marriage law is regulated by Law Number 1 of 1974 concerning Marriage. This law stipulates that mixed marriage is valid if it is carried out in accordance with the laws of the country where the marriage takes place (the principle of *lex loci celebrationis*) and must meet the requirements set, including official registration at the Population and Civil Registry Office. It is important for couples to understand that if the marriage is not registered, the legal status of the marriage can be considered non-existent, which has implications for children's rights and the division of property in the event of a divorce.

The administration of mix marriage involves several more detailed stages and stricter procedures. The main challenge lies in the lack of understanding of the registration procedure and the legal consequences of not doing so. Many Indonesian citizens who marry foreign nationals abroad do not realize the importance of reporting to the Population and Civil Registration Office within one year. Marriage between Indonesian citizens and foreign spouses must meet complex administrative requirements, which can be time-consuming and involve a lot of paperwork. The registration process at the civil registry office can be time-consuming and involves many administrative requirements that must be met properly. Delays or errors in submitting documents can slow down the registration process after the marriage, if not done, the marriage status can be considered invalid. One of the more complicated administrative procedures in Indonesia is the rules regarding citizenship, because Indonesia does not allow dual citizenship. For children born from mix marriages, they have dual citizenship and must choose one citizenship by the age of 18. If the child does not choose Indonesian citizenship by the age of 22, then his or her citizenship status will automatically change. The administrative costs for mixed marriages are higher because they involve several stages of document checking, registration at the embassy, and processing the child's citizenship.

Meanwhile in Nigeria, the regulation for marriage follows the legal system that applies in Nigeria, including customary law, Islamic law, and state law. Customary law can vary significantly between ethnic communities, so there is no single approach to regulating mixed marriages. The process can involve recognition from local chiefs or traditional figures, and often involves strong social norms. The process of mix marriage in Nigeria is less complicated when compared to countries that have stricter administrative requirements. The administration of mix marriage in Nigeria is more flexible and simpler because it is quite straightforward and does not require going through complicated legal procedures compared to Indonesia.

This procedure involves submitting documents such as passports, birth certificates, certificates of unmarried, and other documents. After that, the couple will fill out a form and undergo an administrative examination. If all documents are complete and valid, the marriage registration process can usually be completed in a relatively short time.

In addition, Nigeria also allows marriage to be conducted based on religious law (Islam or Christian) or customary law, which provides flexibility for couples who want to marry according to their beliefs or traditions. Religious laws in Nigeria, especially those governing marriage between Muslims and Christians, are quite flexible and allow for interfaith marriages. Nigeria allows dual citizenship if a child is born to parents who have different citizenships. Nigeria recognizes dual citizenship for children born to parents who are Nigerian citizens, and can retain Nigerian citizenship even if they have another citizenship.

4. Conclusion And Suggestion

Conclusion

This study discusses the regulation and implementation of laws in mix marriage, with a focus on the comparison between the national legal system in Indonesia and international law in Nigeria. The regulation and implementation of mixed marriage laws in Indonesia and Nigeria show significant differences in procedures and complexity. In Indonesia, mixed marriage law is regulated by Law Number 1 of 1974, which stipulates that mixed marriage must meet certain requirements, including official registration at the Population and Civil Registration Office. This process can be complicated because it involves many documents and strict administrative procedures. If not registered, the legal status of the marriage can be considered invalid, which has an impact on the rights of children and the division of property in the event of divorce. In addition, Indonesia does not allow dual citizenship, so children from mixed marriages must choose a citizenship at a certain age.

In contrast, Nigeria has a more flexible legal system in regulating mixed marriage, accommodating customary law, Islamic law, and state law. The administrative process in Nigeria tends to be simpler and faster, without complicated legal procedures like in Indonesia. Nigeria also allows dual citizenship for children from mixed marriage, providing additional benefits for them. Overall, although both countries have different legal principles in regulating mixed marriage, the main challenge for cross-border couples is understanding the applicable administrative procedures. A good knowledge of each country's regulations is essential to avoid future legal problems related to the status of marriage and the citizenship of children.

Suggestion

Based on the conclusion in this study, the suggestion that can be given is the importance of strengthening understanding and socialization regarding the legal regulations of mixed marriage in each country. In Indonesia, there needs to be an effort to simplify administrative procedures related to mixed marriage, in order to reduce the complexity that can affect the legal status of marriage and the rights of children. This can be done by formulating more efficient policies in recording and managing documents. On the other hand, Nigeria, which has a more flexible legal system, can consider introducing some more structured administrative procedures, in order to avoid potential confusion for international couples. It is important for both countries to increase efforts to socialize and educate the public about the applicable legal regulations, especially for couples who have mixed marriages. Socialization programs involving state institutions, embassies, and international organizations can help cross-border couples better understand the applicable procedures, as well as their legal rights and obligation.

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