

Child Protection in Mixed Marriages Between Indonesia and The Netherlands: a Settlement Through the Hague Convention and National Administrative Regulations

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Abstract. *Child protection in mixed marriages between Indonesia and the Netherlands often faces obstacles due to fundamental differences in family law, civil registration, citizenship, and cross-border dispute resolution mechanisms. Administratively valid marriages in the Netherlands do not always receive similar recognition in Indonesia, leaving children's identities and legal status uncertain. The aim of this study is to comprehensively describe how the two countries regulate the status of children in mixed marriages and to assess any inconsistencies that pose risks to identity security and parenting. The method used is a normative-comparative analysis through a reading of the provisions of BW 1, Rijkswet op het Nederlanderschap, Wet Basisregistratie Personen, the 1980 and 1996 Hague Conventions, and Indonesian regulations such as the Marriage Law, the Population Administration Law, the Child Protection Law, and the Citizenship Law. The analysis shows that the Netherlands has a more integrated mechanism for child protection, supported by a national registration system and international instruments, while Indonesia still relies on religious legality and administrative procedures that often hinder identity registration. The analysis also shows that the asymmetry in the recognition of documents and decisions between countries is a major source of uncertainty regarding children's status. Recommendations include the need to ratify the Hague Convention, strengthen administrative cooperation between Indonesia and the Netherlands, simplify document legalization, and reform the Civil Registration and Civil Registration system to ensure more stable and equitable child protection in both countries.*

Keywords: *Administrative; Child; Convention; Mixed Marriage.*

1. Introduction

The phenomenon of increasing global population mobility demonstrates that relations between countries are no longer confined to rigid geographical boundaries, as the intense flow of human movement has created new social dynamics, including an increase in intermarriages. Eurostat records more than 430,000 intermarriages annually in the European Union, a figure that demonstrates how cross-border interactions have created increasingly complex legal consequences. (Lendák-Kabók & Örkény; 2025). Marriage between citizens has become a common phenomenon that requires serious attention, because the civil status of family members, especially children, can no longer be resolved sufficiently through a single legal approach in a country. (Bengngu; 2024). The interaction between national legal systems and international instruments requires a harmonized mechanism so that the certainty of a child's identity is not reduced by administrative differences or jurisdictional conflicts. This development is also reflected in Indonesia-Netherlands relations, which show a relatively high level of intermarriage. The Indonesian Embassy in The Hague reported more than "1,200 Indonesian-Dutch marriage registrations in five years," and the actual figure is believed to be higher, as not all couples register in both countries. (Indonesian Embassy in The Hague; 2025). In 2025, the Jakarta Civil Registration Agency recorded 90 marriages between Indonesian citizens and Dutch citizens in the Jakarta administrative area alone, so the national figure is estimated to be much higher considering that many mixed marriages occur abroad and not all of them are registered as double marriages. (ftnews; 2025). This situation suggests that the historical relationship between Indonesia and the Netherlands continues to create significant cross-border family interactions. Unsynchronized registration results in many marriages being recognized by only one country, which subsequently impacts the status of children, particularly when families relocate or process legal documents that require double verification.

This situation becomes even more problematic when considering the fact that children of mixed marriages face various identity uncertainties. The registration of 90 mixed marriages by the Jakarta Civil Registration Agency throughout 2025 shows the potential for an increasing number of children facing obstacles to identity registration if the two countries do not synchronize civil documents. A 2023 report from the Indonesian Ministry of Foreign Affairs showed that approximately "28% of Indonesian children in the Netherlands experienced delays or errors in identity registration" due to the parents' inconsistent marriage documents between the two countries. (IDN Times; 2024). This inaccurate registration is not merely an administrative issue, but also has the potential to disrupt children's rights to citizenship, certainty of name, civil legitimacy, and access to public services. Children are the ones who bear the consequences of disharmonious documentation systems between the two countries, so their legal status can change depending on which country conducts the legal assessment first. (Aqila Ningrum; 2025).

The complexity becomes even more apparent when comparing the Indonesian and Dutch family law systems, which are based on different conceptual foundations. Indonesia regulates marriage through Law No. 1 of 1974 concerning Marriage (the Marriage Law), which is based on "religious civil law," requiring the validity of a marriage according to religious law as a prerequisite for legality. The Netherlands, on the other hand, implements a secular civil law system that places civil registration as the sole requirement for the validity of a marriage, without any connection to religion. (Simbolon et al.; 2024). This fundamental difference gives rise to a conflict of norms regarding the validity of a marriage, particularly when a marriage is considered valid under Dutch law but does not meet the administrative requirements for religion under Indonesian law. This discrepancy immediately raises questions about the status of children: whether they are considered born of a valid marriage or a marriage that does not yet have full legal force. The interrelationship between these legal systems can be explained through the theory of International Conflict of Laws, which asserts that differences between *lex loci celebrationis*, *lex patriae*, and *lex domicilii* can result in different marital and child statuses in each country. A marriage that meets the "*lex loci celebrationis*" standard in the Netherlands often still requires additional legalization to be fully recognized in Indonesia based on the "*lex patriae*" principle. (Emalia et al.; 2025). When this is not done, the country of origin may view the child as being born from an unregistered marriage, thus giving rise to the issue of civil legitimacy. (Murtadho; 2025). The differences in marriage verification mechanisms demonstrate that national legal systems operate on their own principles without automatic tolerance for the application of other countries' laws. Fulfillment of children's rights must be viewed through the principle of the best interests of the child, which is the basis of various international instruments and is also reflected in Law Number 35 of 2014 concerning Amendments to Law Number 23 of 2002 concerning Child Protection. This principle requires the state to establish administrative mechanisms that do not place children as victims of differences in the legal systems of their parents' countries. Delays in birth registration, data asymmetry, and unclear citizenship status are forms of vulnerability that can hinder the fulfillment of children's basic rights. Therefore, the state should develop procedures that are more adaptive and responsive to the realities of families across jurisdictions. (Yulianto; 2025).

The situation between Indonesia and the Netherlands demonstrates that administrative issues are the biggest obstacle to children's legal status. Children from mixed marriages often face difficulties obtaining birth certificates, which must be recognized by both countries, because the format, legalization, and verification of documents are not uniform. (Mungawanah; 2025). Indonesia still practices dual citizenship limited to a certain age, unlike the Netherlands, which regulates citizenship based on the principles of *jus sanguinis* and *jus soli* under certain conditions. Approximately 350 cases of administrative obstacles were reported to the Indonesian Representative Office between 2020 and 2023, indicating that this problem is structural, not a case of individual excess. (South Kalimantan Antara News; 2024). This lack of synchronicity is particularly evident at the legalization stage, when civil documents from one country are not automatically recognized by another.

These administrative conflicts extend to issues of foster care and child transfers across jurisdictions. The Netherlands records an average of 97 international child abduction cases each year, some involving mixed-race families. (Penasthika et al.; 2018). When parents separate, differences in jurisdiction make custody disputes not just a family issue, but also a matter of international law. Children are vulnerable when one parent takes them to their home country without the consent of the other, as the repatriation process often requires complex international mechanisms, especially if the home country is not a party to the relevant international instruments. (Naswar et al.; 2024). This situation demonstrates that child protection cannot rely on a single legal system, as disharmony between the *lex fori* and *lex domicilii* can result in conflicting decisions. Vulnerabilities increase when national authorities apply the child's best interests parameters differently, making interstate coordination a determining factor in whether children's rights are truly restored or hindered by multi-layered legal procedures. The most relevant legal instruments to address this issue are the Hague Conventions, such as the 1996 Convention on the Protection of Children, the 1980 Convention on the Civil Aspects of International Child Abduction, and instruments concerning the recognition of civil documents. (Wilda Malika Mufrihah & Elan Jaelani; 2024) This convention provides a mechanism for cooperation between countries to ensure that a child's status remains unchanged due to sudden relocation or administrative discrepancies. This instrument is crucial for the Indonesia-Netherlands relationship, as the differences between their legal systems cannot be adequately resolved through stand-alone domestic regulations. The lack of symmetrical legal positions results in one country having stronger legal capacity to determine the validity of documents or custody jurisdiction, thus increasing the potential for substantive injustice to both children and parents. (Andim et al.; 2025). When one country relies on international mechanisms and another country still places the solution in the national administrative regime, the risk of inconsistencies in child protection is unavoidable, especially when decisions or documents issued in one jurisdiction do not acquire full legal effect in the other jurisdiction.

Problems arise because the Netherlands is an active member of most of the Hague Conventions, while Indonesia has not ratified all of them. This imbalance creates unequal mechanisms for resolving child cases, particularly when disputes arise in the Netherlands, which uses international instruments, while Indonesia prioritizes national instruments. This asymmetry impacts the process of recognizing certificates, cross-border foster care, and the repatriation of children taken unilaterally. When one country is bound by international obligations and the other is not, children can be caught in procedural uncertainty because the two countries use different legal bases. (Rajagukguk & Allagan; 2025). This situation demonstrates that the resolution of the problem cannot be entirely left to international law, as the child's status remains dependent on the population administration system regulated by the Population Administration Law, the Child Protection Law, and the Citizenship Law in Indonesia, as well as the Burgerlijke Stand system in the Netherlands. Each country positions the civil registration authority as a legal gateway that must be met before a child's civil status is confirmed. (Zaida Hayati et al.; 2025). Differences in institutional structures, verification mechanisms, and the scope of authority of civil registrars mean that the document recognition process does not always proceed linearly. Bilateral cooperation between Indonesia and the Netherlands does not yet provide a unified mechanism for the exchange or integration of marriage and birth data, leaving families often caught between inconsistent procedures between the two countries. When a parent's marriage document is not recognized by either country, the child automatically faces different legal statuses between the country where they reside and the country of their parents' citizenship. (Zahra Murdia Mujib & Anwar Hafidzi; 2025). The absence of a unified mechanism results in case resolution relying more on the interpretations of individual administrative officials than on a uniform standard. These issues highlight the urgency of in-depth research into how the Hague Convention can be integrated with Indonesian and Dutch administrative regulations. Strengthening international instruments needs to be accompanied by the reconstruction of national registration mechanisms to eliminate double standards. A comprehensive analysis is needed to formulate measures that ensure optimal legal protection for children, from document recognition and citizenship, cross-jurisdictional custody, to the repatriation of children in international disputes.

2. Research Methods

This research uses a normative legal method, namely research that focuses on examining written legal materials as the foundation of analysis. According to Soerjono Soekanto, normative legal research is research that relies on library materials and aims to discover the principles, legal structures, and synchronization of applicable regulations. (Soekanto & Mamudji, 2001; Soerjono Soekanto, 1986; Soerjono Soekanto & Mamudji, 2004) This is reinforced by Johnny Ibrahim's view, which explains that the normative juridical method is used when researchers want to examine the consistency of norms, inter-regulatory relationships, and their application in concrete problems that give rise to legal uncertainty. (Suparno, 2024). The position of this method is relevant for analyzing child protection in mixed Indonesian-Dutch marriages, because the issue lies at the intersection of national law, population administration law, and international instruments such as the Hague Convention.

This approach is conducted through legislative, conceptual, and comparative approaches, by examining the provisions of the 1980 and 1996 Hague Conventions, Indonesian regulations on children's rights and civil registration, and Dutch regulations

regarding cross-border family jurisdiction. Administrative data, such as records of 90 Indonesian-Dutch marriages at the Jakarta Civil Registration Office in 2025, are used to strengthen the empirical context without changing the nature of normative research. In line with Peter Mahmud Marzuki's opinion, normative research does not simply explain what is written in the law, but also assesses the suitability of the rules to resolve concrete problems.(Peter Mahmud Marzuki, 2007, 2008, 2011, 2019). Thus, this method allows for an in-depth analysis of whether the combination of the Hague Convention and national administrative regulations is able to provide effective legal protection for children from mixed marriages.

3. Results and Discussion

3.1. Provisions for the Protection of Children in Mixed Marriages According to Indonesian Law

Mixed marriages involving Indonesian citizens and foreign citizens always depend on two legal regimes at once, but for Indonesia the starting point for assessment remains Law Number 1 of 1974 concerning Marriage. Article 2 paragraph (1) states that "A marriage is valid if it is conducted according to the laws of each religion and its beliefs," while paragraph (2) emphasizes that "Every marriage is recorded according to the applicable laws and regulations." This normative structure places religious requirements as the foundation, while registration serves as administrative evidence that determines its validity in the realm of state law.(Frahma, 2024)When a marriage takes place in the Netherlands, which only requires civil registration, the absence of religious verification leads the state to classify it as a marriage that does not fulfill the legal requirements under national law. This situation creates tension between the Dutch *lex loci celebrationis*, or the validity of a marriage determined by the law of the country where it was held, and the Indonesian *lex patriae*, or the applicable law of the country of citizenship, which creates uncertainty about the marital status, especially at the stage of determining the legal status of children.(Syarah Zahrotussalma & Anwar Hafidzi, 2025)If a marriage that takes place abroad is not registered in Indonesia, the couple faces serious administrative risks. Such a marriage is considered an "unregistered marriage" in the population registration system, so all its civil consequences cannot be fully applied. Children born of an unregistered marriage are often trapped in the position of having to be registered through a recognition or legalization mechanism.(N et al., 2024). Administratively, a child can be categorized as an "illegible child" because there is no formal proof of the marital relationship between his parents in the eyes of the state.(Setyawan, 2024). To avoid a legal vacuum, parents usually require a legalization order from the court, but this procedure adds administrative burdens and prolongs the uncertainty of the child's identity. The discrepancy between Dutch documents and Indonesian administrative requirements shows that the religious requirement in Article 2 paragraph (1) is a major obstacle to the automatic recognition of a valid marriage in the Netherlands.

The vulnerability of children from mixed marriages emerges when reviewing Law No. 23 of 2002 concerning Child Protection, as amended by Law No. 35 of 2014. Article 5 affirms that "every child has the right to a name as a means of identification and citizenship status," while Article 13 affirms protection from discrimination in any form. These norms provide explicit guarantees, but their application is not always linear in cross-jurisdictional cases because Indonesia's population system relies heavily on document

consistency. When parents' marriage certificates are not recognized, children's rights to identity are often hampered because data required for birth registration cannot be verified.(Moodoeto et al., 2025). The principle of "best interests of the child" is recognized in Indonesia, but its application is often limited when administrative officials are faced with foreign documents that do not meet national standards.

Protection of children in mixed marriages becomes increasingly complex when entering the realm of citizenship. Law Number 12 of 2006 concerning Citizenship provides space for mixed children to obtain limited dual citizenship up to the age of 18, as regulated in Article 4 letter b, which states that "children born of the legal marriage of a father and mother are Indonesian citizens." However, this citizenship must be registered within the specified timeframe through administrative mechanisms at Indonesian representatives or at the Civil Registration Office (Dukcapil). If parents do not process it in a timely manner, the child may lose their right to Indonesian citizenship. The Netherlands establishes citizenship through a combination of *jus sanguinis* and *jus soli*. *Ius sanguinis*, as explained in Black's Law Dictionary as the principle that determines citizenship based on lineage, and emphasized by Oppenheim as the principle that a person's legal identity follows the citizenship of their parents, is the primary basis for determining a child's status in the Netherlands.(Perl-Rosenthal & Erman, 2024)On the other hand, the element of *ius soli*, which according to Brownlie is the granting of citizenship based on place of birth, is recognized by the Netherlands under certain conditions, for example when a child is born in Dutch territory and does not have another citizenship.(Wells-Greco, 2024)A 2023 Ministry of Foreign Affairs report showing a 28% delay in registering the identities of Indonesian children in the Netherlands demonstrates that administrative obstacles are a significant factor in the actual loss of children's rights.

These difficulties are even more apparent at the birth registration stage. The Civil Registration System (Dukcapil) requires legalization of foreign documents and multiple verification processes to ensure the validity of birth and marriage certificates.(Rori et al., 2024)This procedure often causes problems because Dutch document formats do not always align with Indonesian standards, particularly regarding the spelling of names, the order of parental names, and the structure of the information contained in the deed. While the use of an apostille simplifies some documents, Indonesia still requires field verification for some types of deeds.(Pradana & Fakhry, 2024)This obstacle affects the issuance of Indonesian birth certificates, the determination of National Identification Numbers (NIK), and even the issue of name changes, which must be consistent across the two countries, creating administrative complications for children.

The biggest impact of these barriers is the disruption of children's access to public services that require valid population data. Children who do not have a National Identification Number (NIK) cannot be registered for formal education facilities, government-based health programs, or other administrative services.(Caeli et al., 2024)The 350 administrative obstacles reported to the Indonesian Embassy over three years demonstrate that this issue is not an isolated incident, but rather a structural problem that has yet to be comprehensively resolved. Data discrepancies between Dutch documents and the Civil Registration and Civil Registration system have placed children in an uncertain position, even when the parents' marital status is legally valid under the laws of the country where the marriage took place.

The next aspect of child protection arises in the realm of foster care and the transfer of children outside the country. The Child Protection Law provides the normative basis that

parents are obliged to care for, maintain, and protect children, while the Population Administration Law regulates the movement of residents, including children. However, Indonesian court decisions regarding custody often do not have automatic legal effect in the Netherlands due to the lack of a mutual recognition agreement. Indonesia's lack of ratification of the 1980 Hague Convention on Child Abduction and the 1996 Convention on Child Protection makes cross-border custody disputes difficult to resolve, especially when one parent unilaterally takes the child to their home country.

In custody disputes, jurisdictional differences demonstrate how weak a child's legal position is in the absence of an international mechanism governing repatriation. An Indonesian court may award custody to either the mother or the father, but such a decision has no binding force in the Netherlands without an exequatur process, or a mechanism for cooperation between authorities.(Maulana & Safitri, 2024)Children can become trapped in prolonged situations because different countries use different standards of care. In the Netherlands, child abduction is considered a serious violation subject to the 1980 Convention, while Indonesia still assesses child transfers based on national norms.(Ruiz-Casares, 2024). This imbalance in mechanisms presents a risk that Indonesian–Dutch children will not receive consistent care guarantees.

The fragility of Indonesian regulations is also evident in the disjointed nature of the rules. Regulations regarding marriage, child protection, population administration, and citizenship are scattered across various laws, each with a different approach.(Muhammad Yusrizal, 2024)When dealing with cross-border cases, fragmented regulations leave administrative officials left to interpret how foreign documents should be assessed. This creates inconsistencies between regions and registration offices, adding to the uncertainty surrounding children's status. Reliance on manual legalization and physical verification also slows the process, even though timely recognition of children's identity status is crucial to ensure the continuity of their rights.

The greatest risk of all these weaknesses is the loss of certainty of a child's status when they change jurisdictions. A child may be recognized as an Indonesian citizen but not meet the administrative requirements in the Netherlands, or conversely, be registered as a Dutch citizen but lack adequate residency documents in Indonesia. These differences in systems create the possibility of children having different identities between the two countries, a situation that is difficult to accept from the perspective of children's rights, which demand certainty of status. When the two legal systems do not recognize each other's documents, children are the most affected, as all access to education, health care, and public services is rooted in valid residency administration.

This series of problems demonstrates that child protection in mixed marriages in Indonesia has not fully addressed the dynamics of global mobility. The legal system still prioritizes religious requirements and registration, even though the reality of mixed marriages requires harmony between countries.(Parut et al., 2024)When foreign documents are not adequately recognized, children are trapped between differing norms, jurisdictions, and administrative uncertainty. This situation highlights the need for reconstruction of population administration mechanisms, reform of cross-border regulations, and expansion of international cooperation to ensure children receive stable protection that is not diminished by differences in their parents' legal systems.

3.2. Child Protection Regulations in Mixed Marriages According to Dutch Law

The Dutch family law system positions marriage as a civil institution that is entirely under the control of the state, as stipulated in the Civil Code (BW 1). Article 30 of BW 1 stipulates that a marriage is only valid if it is performed before a state official and registered in the official register, the Burgerlijke Stand. (Lukmanulhakim et al., 2025) This provision demonstrates that the Netherlands implements civil marriage as the only form of marriage with legal consequences, so that religious ceremonies do not affect the legal status of the couple. The implementation of this system allows the country to maintain administrative consistency because every registered marriage is included in the Basisregistratie Personen (BRP), the national population registration system. When a couple marrying abroad applies for registration, the ambtenaar van de burgerlijke stand will only check the authenticity of the documents without considering religious elements, so that marriages from Indonesia are recognized as long as they meet the authentication requirements according to Besluit burgerlijke stand. (Fraanje, 2025).

Child protection in the Dutch system is firmly grounded in Civil Code 1, particularly Article 247, which stipulates that parents are obligated to provide care, education, and supervision that guarantees the child's moral and physical development. The Dutch system does not differentiate between legitimate and illegitimate children, as Article 394 of Civil Code 1 provides equal legal standing regarding care and maintenance. (Novi et al., 2024) This structure eliminates the discrimination that often arises in legal systems that rely on the legality of marriage. The principle of the child's best interests is explicitly applied in every case, and the court is given broad authority to assess the child's specific circumstances. Furthermore, child protection measures (Kinderbeschermingsmaatregelen) can be applied when circumstances threaten the child's well-being, demonstrating that protection is not dependent on the parents' marital status. (Seppälä et al., 2024).

Citizenship is regulated through the Rijkswet op het Nederlanderschap, which places the principle of *ius sanguinis* as its primary principle. Article 3 states that "a child whose father or mother is a Dutch citizen acquires Dutch citizenship from birth," regardless of place of birth. (Sirks, 2025) However, the element of *jus soli* emerges through Article 6, which opens up the possibility of automatic naturalization for children born in the Netherlands, residing there for a certain period of time, and holding no other citizenship. The Netherlands also allows a child to hold more than one citizenship under certain circumstances, including for children from mixed marriages, as long as they meet administrative requirements. (Fuspitasari et al., 2024) This flexibility creates identity stability for children, especially when compared to Indonesia, which limits dual citizenship to the age of 18 according to Law Number 12 of 2006.

In the realm of parenting, BW 1 Article 251 stipulates that after divorce, both parents retain joint custody unless the court decides otherwise in the child's best interest. Joint custody has become the standard because the state believes that shared parenting improves a child's emotional stability. (Riser, 2025) When disputes arise, courts rely on the assessment of the Child Protection Agency (Raad voor de Kinderbescherming) under Article 240 of the Civil Code (BW 1), which authorizes the agency to investigate family circumstances. The Raad's recommendations are often crucial for judges, as it has a specific mandate to ensure that court decisions do not neglect the child's developmental needs. This systematic assessment system makes child protection a process based on professional evaluation, not simply the interpretation of documents.

The Netherlands also has an international framework that provides additional protection, particularly in cases involving the movement of children across jurisdictions. The 1980 Hague Convention on International Child Abduction is implemented through a Central Authority, which is authorized to receive and act on requests for the return of children.(Chanda et al., 2025)Article 3 of the Convention states that the transfer of a child is considered unlawful if it conflicts with the rights of custody applicable in the country of origin. Furthermore, the 1996 Hague Convention on Jurisdiction and Recognition of Judgments provides guidelines on how countries determine their authority to decide cases involving children.(Hood KC, 2024)These two conventions strengthen the Dutch system by providing legal tools to prevent protracted cross-border disputes. Conversely, Indonesia's lack of ratification has created an imbalance in relations between the two countries.

The Dutch civil administration supports these legal norms through strict identity registration standards in the *Wet Basisregistratie Personen* (BRP)(Purwanti & Natalis, 2025). Every birth certificate must contain the identity of the child, parents, and information regarding legal status that may affect the registration of parenting.(Gaitenidis, 2024)Dutch authorities may reject foreign documents if they do not meet the requirements of Article 2.8 of the BRP, which requires them to be authentic, complete, and verifiable. This requirement often requires additional legalization for verification of Indonesian documents, particularly since Indonesian deed formats do not always include the identity elements required in the Netherlands. Consequently, registration may be delayed until the document is confirmed as valid and complete.

These administrative obstacles can directly impact a child's civil status. If a parent's birth or marriage documents are not received, establishing the legal relationship between the child and the parent can be delayed, hindering the issuance of basic documents such as the Burger Service Number (BSN).(Abdul Ghani et al., 2025)Without the National Child Protection Agency (BSN), children's access to basic services such as education, healthcare, or state benefits is hampered. In cases of custody disputes, document discrepancies can delay court decisions because parental status or legal relationships cannot be quickly verified. This situation demonstrates that administrative accuracy is a pillar of child protection in the Netherlands, on par with substantive norms and international instruments.

Looking at this overall framework, child protection in the Dutch system is not solely determined by written rules, but by the integration of legal norms, a precise administrative system, and a network of international cooperation through the Hague Convention. When children find themselves in cross-border situations or facing jurisdictional conflicts, the combination of these three elements enables the Netherlands to provide a swift and measured legal response. This model contrasts with Indonesia, where child protection mechanisms still rely on domestic administrative norms without the support of equivalent international instruments. This situation highlights the critical need for harmonizing cross-border family law to prevent children from mixed Indonesian-Dutch marriages from continuing to face the risk of identity instability and uncertain legal status.

3.3. Comparison of Indonesian and Dutch Regulations on Child Protection in Mixed Marriages

The most fundamental difference between Indonesia and the Netherlands in providing protection to children from mixed marriages stems from the philosophical foundations that shape each country's family law system. Indonesia positions marriage as both a religious and civil institution, as reflected in Article 2 paragraph (1) of the Marriage Law, which requires compliance with religious law as a prerequisite for validity. The Netherlands, through Article 30 of BW 1, takes a completely secular position that positions marriage as a legitimate administrative act only after it is registered at the Burgerlijke Stand. This philosophical difference is not merely theoretical, but has the direct consequence that a marriage that is administratively accepted in the Netherlands could have its validity questioned in Indonesia.(Prihatmaka et al., 2025)This dualism places children from mixed marriages in a vulnerable situation because the "legitimate" status of the parents can have different legal values in each jurisdiction.

These philosophical implications extend to the differences in child protection structures in the two countries. The Indonesian system divides child protection authority between the Child Protection Law, the Population Administration Law, and the Marriage Law, so administrative logic often prevails over a child-rights-based approach.(Nia Dwi Yuniawanti, 2025)Errors in documents, inconsistencies in the format of deeds, or incomplete legalization can directly impact a child's civil status. In contrast, the Netherlands integrated child protection into Civil Code 1 (specifically Articles 247, 251, and the Child Protection Act) and reinforced it through the 1980 and 1996 Hague Conventions. This has made Dutch courts more consistent in applying the principle of the child's best interests in an operational, rather than merely declarative, manner. The Raad voor de Kinderbescherming (Child Protection Court) provides a professional dimension not found in the Indonesian system, ensuring that child protection assessments are based on field evaluations, not just on documents.(Luh Putu Maitra Agastya et al., 2024).

These philosophical implications extend to the differences in child protection structures in the two countries. The Indonesian system divides child protection authority between the Child Protection Law, the Population Administration Law, and the Marriage Law, so administrative logic often prevails over a child-rights-based approach. Documentation errors, inconsistencies in deed formats, or incomplete legalization can directly impact a child's civil status.(Muhammed Sadam Yudha Laksana, 2025). In contrast, the Netherlands integrated child protection into Civil Code 1 (specifically Articles 247, 251, and the Child Protection Act) and reinforced it through the 1980 and 1996 Hague Conventions. This has made Dutch courts more consistent in applying the principle of the child's best interests in an operational, rather than merely declarative, manner. The Raad voor de Kinderbescherming (Child Protection Court) provides a professional dimension not found in the Indonesian system, ensuring that child protection assessments are based on field evaluations, not just on documentation.

At the civil registration level, the differences are even more apparent. Indonesia still uses Presidential Instructions (Inpres) and technical provisions of the Civil Registration and Civil Registration Agency (Dukcapil), whose formats vary across regions, with multi-layered legalization procedures through the Ministry of Law and Human Rights, the Ministry of Foreign Affairs, and embassies. This system is error-prone, lacks national

integration, and relies heavily on manual verification. The Netherlands, on the other hand, operates the Wet Basisregistratie Personen (BRP), establishing a national digital system where all residents have a single database connected to public services. Birth certificates in the Netherlands have very precise standards, so Indonesian documents often lack mandatory elements such as the identity of biological parents or marriage certificates.(Maskur et al., 2024)This lack of synchronization means that children from mixed marriages can potentially have "complete" status in the Netherlands, but their registration in Indonesia is hampered because the documents don't meet local formats or require additional legalization.

To provide a more systematic overview of the fundamental differences between the two countries, here is a comparative table that can clarify the characteristics of each system:

Aspect	Indonesia	Dutch
Philosophy of Marriage	Religious civil law; valid if it complies with religious law and is recorded	Secular; fully valid after being recorded at the Burgerlijke Stand (BW 1 Article 30)
Child Protection	Based on national and administrative norms	BW Book 1, Raad voor de Kinderbescherming institutions, Hague Conventions 1980 & 1996
Citizenship	Limited dual citizenship (Law 12/2006)	Flexible; automatic ius sanguinis (RWN Article 3), conditional ius soli element
Civil Registration	Multi-level legalization, non-uniform format, system not yet integrated	BRP digital system, national standards, fast verification
Cross-Border Parenting	Depends on national court decisions	1980 & 1996 Conventions: repatriation, jurisdiction, coordination of the Central Authority
Acknowledgement of Documents/Decisions	No automatic recognition	Following international standards; verification based on BRP and conventions

The most critical difference arises in the mechanisms for resolving cross-border disputes. The Netherlands has international legal instruments that provide speed and certainty in cases involving international child abduction, unauthorized transfer, and jurisdictional conflicts. The Central Authority in the Netherlands operates under convention obligations, requiring each case to be processed within specific timeframes.(Hariyanto et al., 2024)Indonesia cannot provide a symmetrical response because it has not ratified either the 1980 or 1996 Conventions, so all resolutions depend on court decisions, which are not automatically binding internationally. As a result, children are often caught in protracted jurisdictional conflicts.

The asymmetry is increasingly apparent in the recognition of judgments and documents. Indonesian court decisions have no direct effect in the Netherlands because there is no treaty on the recognition and enforcement of judgments.(Verdian, 2025)In contrast, Dutch documents are relatively easily accepted in Indonesia through standard legalization procedures. This asymmetrical legal relationship reinforces the fact that the Dutch system holds a superior position internationally, while Indonesia still relies on domestic mechanisms not designed to handle global cases.

These differences have direct implications for children's lives. Children may have two citizenship statuses with different rules, two versions of their parents' marital status, two foster care systems that are not always in sync, and two administrative regimes that are

incompatible with each other.(Shapiro et al., 2025)This situation creates the potential for administrative discrimination, for example, where a child is considered legitimate in the Netherlands, but registration in Indonesia is delayed due to document legalization issues. This uncertainty hinders children's rights to identity, public services, and even cross-border mobility. This situation reinforces the urgency of harmonization through international instruments. Ratification of the 1980 and 1996 Hague Conventions by Indonesia would eliminate most procedural obstacles, clarify court jurisdiction, and expedite the repatriation of children in international abduction cases. These instruments also ensure that cross-border decisions are always based on the consistent principle of the best interests of the child.(Almadison et al., 2025)Without this step, the dispute will continue to be asymmetrical and potentially detrimental to the child.

Bilateral cooperation between Indonesia and the Netherlands in document verification and population data exchange is another strategic necessity. Mismatched document formats and legalization complexities can be mitigated through simpler verification protocols, such as electronic document verification. Such technical integration will reduce the risk of delays in child identity registration. Strengthening the Indonesian Civil Registration System (Dukcapil) is also absolutely necessary to bridge administrative gaps. Simplifying document formats, digitizing records, implementing stricter national standards, and the ability to quickly verify foreign documents are the minimum requirements for Indonesia to engage with the administrative systems of developed countries like the Netherlands. These obstacles are not merely technical but touch on the very essence of child protection, which relies on identity certainty.

Ultimately, these differences demonstrate that child protection in mixed marriages cannot be viewed solely as a family issue, but rather as a cross-jurisdictional issue that demands harmonization of norms, administration, and international cooperation. As long as Indonesia and the Netherlands differ in their marital philosophies, registration standards, citizenship systems, and international frameworks, children will remain in a state of legal uncertainty. Therefore, the reconstruction of national regulations and the establishment of international cooperation are urgent steps to ensure more stable protection of children's rights to identity, custody, and citizenship in both countries.

4. Conclusion

Child protection in mixed marriages between Indonesia and the Netherlands still faces significant vulnerabilities due to fundamental differences in how the two countries assess the validity of marriages, determine citizenship, register identities, and handle cross-jurisdictional custody disputes. Indonesia remains reliant on religious legality and strict administrative procedures, while the Netherlands operates a secular system integrated under BW 1, the BRP, and the mechanisms of the 1980 and 1996 Hague Conventions. This lack of synchronization can result in a child having different citizenship statuses, identity documents, and custody positions between the two countries, creating the risk of administrative discrimination and prolonged legal uncertainty. To create more stable protection, Indonesia should consider ratifying the Hague Convention, strengthening administrative cooperation with the Netherlands, simplifying and digitizing the Civil Registration System (Dukcapil), harmonizing document verification standards, and providing greater flexibility in regulating children's citizenship so that their identities and rights are not compromised by the differences in the two countries' legal regimes.

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