

## JURIDICAL ISSUES OF LAND OWNERSHIP RIGHTS IN MIXED MARRIAGES IN INDONESIA

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**Abstract.** *The increasing number of mixed marriages between Indonesian citizens and foreign nationals has created legal challenges regarding land ownership rights in Indonesia. These challenges arise from the inconsistency between the Basic Agrarian Law, which strictly applies the nationality principle, and the Marriage Law, which recognizes joint marital property. This study aims to analyze the legal regulation of land ownership in mixed marriages, identify the normative conflicts between agrarian and marriage law, and formulate strategies to strengthen legal certainty. This research employs a normative juridical method using statutory and conceptual approaches. Legal materials were collected through library research and analyzed qualitatively using a descriptive-analytical method. The findings reveal that the interaction between the nationality principle and the concept of joint marital property creates significant legal uncertainty for Indonesian citizens who marry foreign nationals, particularly in the absence of a marital agreement. Although Constitutional Court Decision Number 69/PUU-XIII/2015 permits postnuptial agreements and provides greater legal protection, it has not fully resolved the existing regulatory inconsistency. Therefore, harmonized agrarian and marriage laws, stronger institutional coordination, and greater public legal awareness are essential to ensure legal certainty and protect the land ownership rights of Indonesian citizens.*

**Keywords:** *Land Ownership Rights; Legal Certainty, Legal Harmonization, Mixed Marriage; Nationality Principle.*

### 1. Introduction

Land is a resource that plays a strategic role in Indonesian society across economic, social, and legal aspects. Economically, land is a high-value factor of production that contributes to public welfare. From a social perspective, it serves as a place of residence and a component of community identity. Additionally, land possesses a political dimension, as it relates to the control and distribution of resources within a state. In the context of national development, land is a vital asset across various sectors, such as agriculture, industry, and infrastructure. Therefore, legal regulations concerning land are highly crucial to ensure certainty and justice for all of society (Harsono, 2008).

Under Indonesian agrarian law, ownership rights (*Hak Milik*) constitute the strongest and most comprehensive form of land tenure recognized by the Basic Agrarian Law (Law Number 5 of 1960). These rights grant the holder broad authority to use, control, and benefit from land while remaining subject to its social function. A fundamental characteristic of Indonesia's agrarian system is the nationality principle, under which only Indonesian citizens may hold ownership rights over land (Permatadani & Irawan, 2021). This principle reflects the state's constitutional responsibility to safeguard national sovereignty over land resources and prevent foreign domination of strategic assets. Consequently, restrictions on foreign ownership constitute one of the principal legal foundations underlying Indonesia's land law system.

olds the position as the strongest and most complete right. This provision is regulated under Law Number 5 of 1960 concerning Basic Regulations on Agrarian Principles (*Undang-Undang Pokok Agraria/UUPA*), which simultaneously reinforces the principle of nationality. This principle signifies that only Indonesian citizens can possess ownership rights over land, thereby prohibiting land ownership by foreign nationals. This restriction aims to safeguard state sovereignty over agrarian resources. Additionally, this principle serves to protect national economic interests from foreign dominance. Consequently, these regulations reflect the nationalistic character of Indonesian agrarian law. Indonesian law recognizes mixed marriage as a lawful union between an Indonesian citizen and a foreign national under the Marriage Law (Pertiwi et al., 2019; Putra et al., 2022). Such marriages generate legal consequences extending beyond family relations, particularly regarding nationality, property ownership, and marital assets. One significant implication concerns jointly acquired property, which is generally presumed to constitute marital property unless otherwise stipulated through a marital agreement. This legal framework creates complex interactions between family law and agrarian law when immovable property forms part of the marital assets (Enggi Holt, 2008; Abon et al., 2022).

On the other hand, the progression of globalization has driven increased interaction between citizens of different nations, including in the form of mixed marriages between Indonesian citizens and foreign nationals. High transnational human mobility inevitably leads to social and cultural integration, with mixed marriage being one of the consequences of this phenomenon. Within the Indonesian legal system, mixed marriage is recognized and regulated under Law Number 1 of 1974 concerning Marriage, as amended by Law Number 16 of 2019. This law also governs the rights and obligations of husbands and wives, as well as the regulation of property in marriage. One crucial concept is joint property (*harta bersama*), which refers to property acquired during marriage that belongs to both parties. This concept serves as the foundation for determining the ownership status of property within a marriage (Wiguna et al., 2020; Kezia, 2023).

The concept of joint marital property occupies a central position in determining ownership rights over assets acquired during marriage (Harahap, & Setyorini, 2023). In principle, property obtained after marriage becomes jointly owned by both spouses unless separated through a prenuptial or postnuptial agreement. Following Constitutional Court Decision No. 69/PUU-XIII/2015, spouses are permitted to execute marital agreements after marriage, thereby providing greater legal flexibility in protecting ownership rights, particularly in mixed marriages involving Indonesian and foreign citizens.

A legal problem then arises when two distinct legal regimes intersect: agrarian law and marriage law. On one hand, agrarian law strictly prohibits foreign nationals from possessing ownership rights over land. On the other hand, marriage law allows for joint property (*harta bersama*) in mixed marriages, which can indirectly involve the foreign spouse in property ownership, including land. This condition creates a potential conflict of norms between the two legal systems (Bandiyah & Rosando, 2017; Kezia, 2023). This conflict reflects a disharmony within national legal regulations. Furthermore, differing objectives between the two legal regimes exacerbate this clash of norms. Therefore, precise legal interpretation is required to resolve this issue.

The interaction between the nationality principle under the Basic Agrarian Law and the concept of joint marital property under the Marriage Law gives rise to a normative conflict concerning land ownership in mixed marriages. While agrarian law strictly prohibits foreign ownership of land under ownership rights, marriage law recognizes joint ownership of assets acquired during marriage regardless of nationality. This inconsistency creates uncertainty regarding the legal status of land acquired by Indonesian citizens after entering mixed marriages and highlights the need for a more coherent interpretation of the existing legal framework (Irfani & Aidi, 2026).

This conflict has implications for the emergence of various legal issues, particularly regarding the status of land ownership in mixed marriages. In practice, Indonesian citizens married to foreign nationals' risk losing their land ownership rights if there is no separation of property through a prenuptial or postnuptial agreement (*perjanjian perkawinan*) (Sudiarto, 2021). This occurs because land acquired during marriage can be categorized as joint property. Furthermore, there are legal consequences in the form of an obligation to release land rights within a specific timeframe if agrarian law provisions are violated. If this obligation is not met, the land rights may be forfeited by law and revert to state land. This condition undoubtedly inflicts losses upon the Indonesian citizen. This situation also reflects the weak legal protection in the practice of mixed marriages (Nurhidayat & Herni Widanarti, 2016).

Based on the explanation above, it is evident that land ownership rights in mixed marriages create complex juridical problems. This issue relates not only to the conflict of norms but also concerns aspects of legal protection and legal certainty. Moreover, this phenomenon indicates a need to harmonize agrarian law and marriage law (Sulchan & Widiyari, 2017; Prastyawan, 2021). Without synchronization, potential legal conflicts will continue to occur in practice. Therefore, an in-depth study is required to analyze these issues. This research is expected to contribute to the development of agrarian law in Indonesia. Additionally, the results of this study are hoped to provide applicable solutions for society.

The disharmony between the Basic Agrarian Law (*Undang-Undang Pokok Agraria/UUPA*) and the Marriage Law demonstrates a significant legal gap in the regulation of land ownership within mixed marriages. UUPA strictly prohibits foreign nationals from holding land ownership rights (*hak milik*), whereas the Marriage Law recognizes joint property (*harta bersama*) in a marriage. This lack of synchronization creates ambiguity in determining the legal status of land acquired during a mixed marriage. In practice, this condition frequently leads to multiple interpretations among law enforcement officials and the general public. Furthermore, the absence of comprehensive technical regulations

exacerbates the ongoing legal uncertainty (Septiawan, 2017; Ati et al., 2025). Consequently, the public often finds themselves in a position vulnerable to legal losses.

The lack of legal certainty is also evident from the still-diverse practices in applying rules related to land ownership in mixed marriages. Not all couples understand the importance of a marriage agreement (*perjanjian perkawinan*) as an instrument to separate property. In fact, in many cases, marriage agreements are not made due to limited knowledge or cultural factors. This is despite the fact that the Constitutional Court has provided an avenue through Decision Number 69/PUU-XIII/2015, which allows for the creation of marriage agreements after the marriage has taken place (Assyayuti, 2022). However, the implementation of this decision has not been fully effective in providing a solution to the existing problems. This indicates a gap between legal norms and practice in the field. Therefore, efforts are required to enhance public legal understanding more broadly (Harsono, 2008; Ramulyo, 2017).

The urgency of this research lies in the importance of providing legal protection for Indonesian citizens in mixed marriages, particularly regarding land ownership rights (*hak milik*). Without adequate protection, Indonesian citizens risk losing land rights that they should legally be entitled to hold. Furthermore, this research is vital to encourage harmonization between agrarian law and marriage law, thereby preventing ongoing conflicts of norms. Such harmonization is necessary to create a more consistent and integrated legal system. In addition, this study holds high relevance to the continuously evolving practice of law in Indonesia (Sumardjono, 2007). Therefore, this analysis is expected to make a tangible contribution to national legal reform.

This research is directed toward analyzing, in depth, the juridical problem of land ownership rights in mixed marriages in Indonesia. It also aims to provide recommendations for future regulatory improvements. Thus, the outcomes of this study are expected to be not only theoretical but also applicable within legal practice.

Based the introduction presented above, it can be seen that this study analyzes the following three research questions:

1. How is land ownership by Indonesian citizens in mixed marriages regulated under Indonesian law?
2. What legal conflicts arise between agrarian law and marriage law regarding land ownership in mixed marriages?
3. How can Indonesia's legal framework be strengthened to ensure legal certainty for land ownership in mixed marriages?

## **2. Research Methods**

This study utilizes a normative legal research method (*yuridis normatif*), which focuses on examining prevailing legal norms in legislation and relevant legal doctrines. This research is conducted by reviewing various legal provisions related to land ownership rights (*hak milik*) in mixed marriages, particularly within the Basic Agrarian Law (UUPA) and the Marriage Law. This approach was chosen because the issue under study involves

a conflict of legal norms that requires conceptual and systematic analysis. Furthermore, normative research allows the researcher to assess the alignment between existing legal norms and field practices within society. Consequently, this study aims to establish sound legal arguments to resolve the issues under review.

The approaches employed in this study include the statute approach and the conceptual approach. The statute approach is carried out by examining various regulations related to the object of research, such as Law Number 5 of 1960 concerning Basic Regulations on Agrarian Principles, Law Number 1 of 1974 concerning Marriage along with its amendments, and the Constitutional Court Decision Number 69/PUU-XIII/2015 (Marzuki, 2021). Meanwhile, the conceptual approach is used to analyze legal concepts such as the principle of nationality, joint property (*harta bersama*), and the conflict of norms. These two approaches are utilized in an integrated manner to obtain a comprehensive understanding of the issues researched.

This study utilizes primary, secondary, and tertiary legal sources. The primary materials chiefly comprise pertinent statutory frameworks and judicial rulings directly connected to the subject of investigation. Secondary legal materials consist of books, scientific journals, and previous research findings that discuss agrarian law, marriage law, and the conflict of norms. Meanwhile, tertiary legal materials encompass legal dictionaries and encyclopedias used to strengthen the understanding of concepts. The utilization of these three types of legal materials aims to obtain valid and comprehensive data (Irwansyah, 2021; Diantha, 2021).

Legal materials for this study were gathered through a comprehensive literature review, which involved analyzing pertinent statutory regulations, academic literature, peer-reviewed journal articles, and official documents related to the subject matter (Susanti & Efendi, 2023). The collected legal materials were systematically classified according to their relevance to the issues under investigation. This technique was chosen because normative legal research does not require field data, but instead focuses on analysis of available legal materials. The collected data were subjected to a qualitative descriptive-analytical evaluation, wherein prevailing legal norms were interpreted and contextualized within relevant legal frameworks and doctrines. The analysis further examined normative conflicts between agrarian law and marriage law to formulate appropriate legal solutions, thereby providing a comprehensive understanding of the legal issues addressed in this study. Consequently, this study is envisioned to enrich legal discourse, offering valuable insights particularly within the realms of agrarian and family law.

### **3. Results and Discussion**

#### **3.1. Legal Regulation of Land Ownership in Mixed Marriages under Indonesian Law**

Land ownership in mixed marriages is governed by an interconnected legal framework comprising agrarian law and family law, both of which determine the legal status of immovable property acquired during marriage. Under Law Number 5 of 1960 concerning Basic Agrarian Principles (UUPA), the nationality principle constitutes a fundamental doctrine limiting ownership rights (*Hak Milik*) exclusively to Indonesian citizens. Consequently, foreign nationals are prohibited from holding ownership rights over land, although they may obtain more limited land rights as provided by statutory regulations.

This restriction reflects the constitutional objective of safeguarding national sovereignty over land resources while ensuring that ownership rights remain under the control of Indonesian citizens. This right grants its holder the authority to optimize the use, exploitation, and benefits of the land, provided it does not conflict with applicable legal provisions. Furthermore, the right of ownership (*hak milik*) possesses a hereditary, strongest, and most complete nature compared to other land rights, thereby providing higher legal certainty for its holder. In practice, the right of ownership also serves a social function, meaning its utilization must take into account the interests of the wider public (Permatadani & Irawan, 2021). Consequently, the right of ownership is not merely viewed as an individual right, but it also carries a social dimension in its application.

In its regulation, the right of ownership over land is based on the principle of nationality, which serves as a fundamental principle in Indonesian agrarian law. This principle asserts that only Indonesian citizens may hold ownership rights over land, as stipulated in Article 21 paragraph (1) of the UUPA. This restriction strictly prohibits foreign nationals from holding ownership rights over land in any form. The primary objective of the nationality principle is to protect agrarian resources from foreign control that could potentially harm national interests. Moreover, this principle reflects the character of Indonesian agrarian law, which is oriented toward the interests of the nation and the state. Therefore, the existence of the nationality principle stands as an essential pillar in Indonesia's land law system.

Furthermore, the restriction on land ownership for foreign nationals carries strong rationality from both the perspective of state sovereignty and national interests (Mamahit, 2013). As a limited resource, land holds strategic value in economic development and public welfare. If land ownership were opened freely to foreign parties, it could potentially trigger disparities in land control and threaten national sovereignty. Additionally, this restriction aims to prevent land speculation by foreign entities that could disadvantage local communities. In this context, the state plays a vital role in regulating and controlling land control through agrarian law policies. Consequently, limiting land ownership by foreign nationals is a rational and strategic form of legal policy.

However, in practice, these regulations do not always operate effectively, particularly within legal relationships involving foreign elements, such as mixed marriages. In several cases, attempts to circumvent legal provisions have been found through the use of an Indonesian citizen's name as the formal land owner (nominee arrangement) (Irfani & Aidi, 2026). This practice triggers legal issues because it violates the principle of nationality and creates a potential for future disputes. Moreover, this condition highlights the existence of loopholes within the legal system that can be exploited by certain parties. Therefore, stricter supervision and law enforcement are required to ensure the effectiveness of existing regulations.

The legal consequences of mixed marriage become particularly significant when land is acquired during the marriage. Pursuant to Law Number 1 of 1974 concerning Marriage, as amended by Law Number 16 of 2019, property acquired during marriage is generally presumed to constitute joint marital property unless otherwise stipulated through a marital agreement. As a result, when an Indonesian citizen is married to a foreign national, the interaction between the nationality principle under the UUPA and the concept of joint marital property creates a distinctive legal situation in determining the ownership status of land. This interaction demonstrates that land ownership in mixed

marriages cannot be examined solely through agrarian law but must also consider the legal consequences arising from family law.

To address these issues, Indonesian law provides a solution through marriage agreements, which can be made either before the marriage takes place (prenuptial agreement) or during the course of the marriage (postnuptial agreement). The marriage agreement functions to separate the assets of the husband and wife, thereby preventing the mixing of property. A significant development in this regard is the Constitutional Court Decision Number 69/PUU-XIII/2015, which permits the creation of marriage agreements after the marriage has commenced. This ruling provides flexibility for couples, particularly in mixed marriages, to regulate their property status more clearly. With a marriage agreement in place, the risk of violating agrarian law provisions can be minimized.

The findings indicate that Indonesian law formally recognizes the right of Indonesian citizens in mixed marriages to own land under ownership rights, provided that such ownership complies with the nationality principle and other statutory requirements. Nevertheless, the legal status of land acquired during marriage largely depends on whether the spouses have executed a valid marital agreement separating their property. Following Constitutional Court Decision Number 69/PUU-XIII/2015, postnuptial agreements have become legally permissible, providing greater legal certainty for Indonesian citizens in preserving their ownership rights despite being married to foreign nationals. Accordingly, marital agreements have emerged as an essential legal instrument for preventing potential conflicts regarding land ownership in mixed marriages (Harahap, & Setyorini, 2023).

Despite this, in practice, many couples still do not make a marriage agreement due to a lack of legal understanding as well as socio-cultural factors. This causes the provisions regarding joint property to apply automatically by default, thereby creating potential legal issues in the future. Furthermore, the implementation of marriage agreements still faces various administrative and technical obstacles. This condition indicates that the existence of legal regulations has not been fully matched by the effectiveness of their application in society. Therefore, it is necessary to enhance legal understanding and conduct broader dissemination regarding the importance of marriage agreements (Susanti & Efendi, 2023).

### **3.2. Normative Conflicts between Agrarian Law and Marriage Law**

The findings reveal that the principal legal issue concerning land ownership in mixed marriages arises from the normative conflict between Indonesia's agrarian law and marriage law. While the Basic Agrarian Law (UUPA) strictly applies the nationality principle by restricting ownership rights (Hak Milik) exclusively to Indonesian citizens, the Marriage Law recognizes property acquired during marriage as joint marital property unless otherwise agreed through a marital agreement. This interaction creates legal uncertainty when immovable property is acquired by an Indonesian citizen who is married to a foreign national, as the two legal regimes pursue different regulatory objectives and provide different legal consequences regarding ownership rights.

This inconsistency demonstrates that the conflict does not merely concern the interpretation of statutory provisions but also reflects the absence of harmonization

between two equally applicable legal regimes (Permatadani & Irawan, 2021). Agrarian law prioritizes the protection of national sovereignty over land ownership, whereas marriage law seeks to safeguard the equal proprietary interests of spouses within the marital relationship. Consequently, Indonesian citizens in mixed marriages may formally satisfy the nationality requirement while simultaneously encountering legal uncertainty due to the legal consequences attached to jointly owned marital property. The findings therefore indicate that the issue extends beyond ownership status and encompasses broader concerns relating to legal certainty, consistency, and the coherence of Indonesia's legal system.

The impact of this conflict of norms is highly significant, particularly for Indonesian citizens in mixed marriages. Indonesian citizens risk losing their land ownership rights if they are deemed to have violated the provisions within the UUPA. In fact, in several cases, land rights may be declared null and void by law or must be released within a specific timeframe. This condition undoubtedly disadvantages the Indonesian citizen due to the loss of rights over an asset legally acquired (Sumardjono, 2007). Furthermore, this situation creates injustice, as Indonesian citizens must bear the legal consequences of an unsynchronized system. Moreover, regulatory flaws and legal practices further exacerbate the existing problems. The absence of clear and integrated regulations between agrarian law and marriage law leads to legal loopholes that can be exploited by certain parties. Practices such as the use of nominees also indicate attempts to circumvent applicable legal provisions. Additionally, a lack of understanding among the public and law enforcement officials regarding this issue serves as a hindering factor in conflict resolution. This condition demonstrates that the problem lies not only within the legal norms themselves but also in their implementation.

The conflict of norms between the Basic Agrarian Law (UUPA) and the Marriage Law needs to be analyzed through a legal interpretation approach to find an appropriate solution. One approach that can be utilized is the principle of *lex superior derogat legi inferiori*, meaning a higher legal norm overrides a lower one. Additionally, the principle of *lex specialis derogat legi generali* can be applied, where a specific norm overrides a general one.<sup>[1]</sup> In this context, the UUPA, as a specific regulation in the land sector, can be viewed as *lex specialis*, whereas the Marriage Law generally regulates legal relations within a marriage.

However, the application of the *lex specialis* principle does not automatically resolve the existing problem because both laws exist on an equal hierarchical level. This sparks a debate regarding which norm should be prioritized in practice (Marzuki, 2021). On one hand, the UUPA holds specificity in regulating land affairs, but on the other hand, the Marriage Law possesses legitimacy in regulating property relations within a marriage. This condition indicates that the conflict of norms cannot be resolved solely through a hierarchical approach; it also requires a systematic approach and legal harmonization. Therefore, a legal interpretation that is not partial, but rather comprehensive regarding the entire national legal system, is required.

However, the application of the *lex specialis* principle does not automatically resolve the existing problem because both laws exist on an equal hierarchical level. This sparks a debate regarding which norm should be prioritized in practice (Nugroho, 2022). On one hand, the UUPA holds specificity in regulating land affairs, but on the other hand, the Marriage Law possesses legitimacy in regulating property relations within a marriage.

This condition indicates that the conflict of norms cannot be resolved solely through a hierarchical approach; it also requires a systematic approach and legal harmonization. Therefore, a legal interpretation that is not partial, but rather comprehensive regarding the entire national legal system, is required.

When viewed from the perspective of the national legal system, contradictions between laws and regulations should ideally not occur, as every legal norm ought to be mutually supportive and integrated. In this case, however, an inconsistency exists that indicates a flaw in the formation of regulations. The disharmony between the UUPA and the Marriage Law reflects suboptimal synchronization between different legal sectors. This has implications for the emergence of legal uncertainty for the public, particularly in the context of mixed marriages. Furthermore, this regulatory disharmony can be criticized as a mismatch between legal norms and societal development. Globalization, which drives the increase in mixed marriages, has not been met with adequate regulatory reforms. Consequently, the law becomes less responsive to ongoing social dynamics. Additionally, the absence of clear regulations governing the relationship between these two laws increases the potential for practical conflict. Therefore, a reformulation of legal policy that is more adaptive and integrative is highly required (Sudiarto, 2021).

One preventive solution that can be implemented to address land ownership issues in mixed marriages is through a marriage agreement (*perjanjian perkawinan*). This agreement allows for the separation of property between husband and wife, thereby preventing the mixing of assets that could involve the foreign spouse. With a marriage agreement in place, ownership rights (*hak milik*) over land can still be held by the Indonesian citizen without violating the provisions of the UUPA. Furthermore, this agreement provides legal certainty for the parties involved in regulating their property relations during marriage. Therefore, a marriage agreement serves as an effective legal instrument in preventing legal conflicts.

In addition, legal protection for Indonesian citizens must be strengthened within the context of mixed marriages. The state must ensure that Indonesian citizens are not disadvantaged by the lack of synchronization between existing regulations. One form of such protection is by providing clarity regarding the legal status of land ownership in mixed marriages. Moreover, there is a need to increase public dissemination regarding the importance of marriage agreements. Consequently, the public can better understand the potential legal risks that may arise and how to avoid them. This legal protection is essential to guarantee justice for all citizens (Nugroho, 2022).

Furthermore, the harmonization of regulations between the UUPA and the Marriage Law is a highly necessary step to resolve the existing conflict of norms. This harmonization can be achieved through the revision of legislation or the formulation of new regulations that specifically govern mixed marriages and land ownership. With harmonization in place, it is expected that conflicting norms leading to legal uncertainty will no longer occur. Additionally, harmonization can enhance the effectiveness of law enforcement in both land and marriage sectors. In addition to harmonization, legal reform must also be carried out to adapt regulations to societal developments. This reform may encompass updating legal norms, improving the quality of law enforcement, and strengthening the relevant institutional bodies. In this context, the roles of the government and legislative bodies become highly crucial in formulating responsive legal policies. Moreover, the

participation of academics and legal practitioners is required to provide constructive input throughout the reform process (Nugroho, 2022).

### **3.3. Strengthening the Legal Framework for Land Ownership in Mixed Marriages**

The findings of this study indicate that strengthening the legal framework for land ownership in mixed marriages should not be limited to preserving the nationality principle under the Basic Agrarian Law, but should also ensure consistency between agrarian law and family law. The existing legal framework has demonstrated that both legal regimes pursue legitimate yet different objectives. Agrarian law primarily seeks to protect national sovereignty over land ownership, whereas marriage law emphasizes equal proprietary rights between spouses. In practice, these objectives frequently intersect, particularly when immovable property is acquired during marriage by an Indonesian citizen married to a foreign national. The study finds that the absence of harmonized legal provisions has become one of the principal causes of legal uncertainty, requiring a more integrated regulatory approach capable of balancing constitutional protection over land with the civil rights of Indonesian citizens in mixed marriages (Bandiyah & Rosando, 2017; Wijaya, 2022).

Another important finding concerns the role of marital agreements following Constitutional Court Decision Number 69/PUU-XIII/2015. The decision has significantly expanded legal protection by allowing both prenuptial and postnuptial agreements, thereby enabling Indonesian citizens in mixed marriages to preserve ownership rights over land without automatically being affected by the legal consequences of joint marital property. Nevertheless, the findings reveal that marital agreements should not be regarded as a comprehensive legal solution because their effectiveness depends largely on the legal awareness and initiative of individual spouses. Consequently, Indonesian citizens who fail to execute such agreements may continue to experience legal uncertainty regarding ownership rights despite complying with the nationality requirement under the Basic Agrarian Law. This demonstrates that contractual arrangements provide preventive legal protection but cannot substitute for a coherent statutory framework capable of ensuring equal legal certainty for all citizens (Sulchan & Widiyari, 2017; Septiawan, 2017; Putra et al., 2022).

The study further demonstrates that strengthening legal certainty also requires institutional harmonization among authorities responsible for land administration and family law. At present, the implementation of regulations relating to mixed marriages frequently involves multiple institutions, including the Ministry of Agrarian Affairs and Spatial Planning/National Land Agency (ATR/BPN), civil registration authorities, and notaries. Differences in administrative interpretation among these institutions may result in inconsistent legal practices concerning the registration, transfer, inheritance, and encumbrance of land rights. The findings therefore suggest that legal certainty should be supported not only through legislative refinement but also through standardized administrative procedures and integrated institutional guidelines. Such coordination would minimize conflicting interpretations while improving the effectiveness of legal services provided to Indonesian citizens involved in mixed marriages (Irvan et al., 2019; Prastyawan, 2021; Devi et al., 2023).

Furthermore, this study finds that future legal reform should adopt a more adaptive approach capable of accommodating social developments without undermining the nationality principle. The increasing mobility of Indonesian citizens, globalization, and the growth of cross-national marriages require a legal system that provides both certainty and flexibility. Rather than relaxing restrictions on foreign ownership, legislative reform should clarify the legal consequences of jointly acquired immovable property and establish explicit mechanisms for protecting the ownership rights of Indonesian citizens throughout the duration of marriage, inheritance proceedings, and divorce settlements. Such clarification would significantly reduce legal ambiguity while strengthening public confidence in Indonesia's agrarian legal system. Previous studies similarly emphasize that unresolved legal uncertainty concerning marital property remains one of the principal challenges in protecting ownership rights within mixed marriages (Irawan, 2018; Wiguna et al., 2020; Kezia, 2023).

The findings suggest that strengthening Indonesia's legal framework requires a comprehensive approach that integrates legislative harmonization, institutional coordination, and consistent legal interpretation. Legal certainty cannot be achieved solely through judicial decisions or individual contractual arrangements, but instead requires a coherent legal system in which agrarian law and marriage law operate in a complementary manner. Such an approach would not only reduce normative conflicts but also reinforce the constitutional principles of justice, legal certainty, and equality before the law. Accordingly, this study argues that future legal development should prioritize the harmonization of interconnected legal regimes rather than introducing isolated regulatory amendments, thereby ensuring more effective legal protection for Indonesian citizens while preserving the fundamental objectives of Indonesia's agrarian law (Ati et al., 2025; Bandiyah & Rosando, 2017; Wijaya, 2022).

#### **4. Conclusion**

Based on the results of this research, it can be concluded that land ownership rights (*hak milik*) in mixed marriages in Indonesia create complex juridical problems due to a conflict of norms between the Basic Agrarian Law (UUPA) and the Marriage Law. The UUPA strictly applies the principle of nationality, which prohibits foreign nationals from holding ownership rights, whereas the Marriage Law recognizes joint property (*harta bersama*) in marriage, including within mixed marriages. This conflict creates ambiguity in determining the legal status of land ownership acquired during the marriage.

The implication of this conflict of norms is the emergence of legal uncertainty, particularly for Indonesian citizens married to foreign nationals. Indonesian citizens risk losing their land ownership rights if there is no separation of property through a marriage agreement. Furthermore, there are legal consequences in the form of an obligation to release land rights, which can ultimately lead to the forfeiture of ownership rights by law. This condition demonstrates that the existing legal system has not yet fully provided optimal protection for Indonesian citizens in mixed marriages.

Through legal analysis, it can be concluded that although the UUPA—as *lex specialis* in the land sector—should ideally be prioritized, the resolution of this conflict of norms cannot be carried out partially. A systematic and harmonious approach between agrarian law and marriage law is required to create legal certainty. Therefore, this issue demands

not only legal interpretation but also regulatory reforms that are more integrative and responsive to societal developments.

To enhance legal certainty regarding land ownership in mixed marriages, several measures should be prioritized. First, greater public legal awareness is needed, particularly among couples in mixed marriages, regarding the importance of marital agreements as a preventive mechanism for protecting property rights. Second, the government should harmonize the Basic Agrarian Law and the Marriage Law to eliminate normative conflicts and establish clearer legal standards governing land ownership in mixed marriages. Finally, broader legal reform should strengthen regulatory coherence, institutional coordination, and law enforcement to ensure that Indonesia's legal system remains adaptive, consistent, and capable of providing effective legal protection in response to evolving social conditions.

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