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THE RIGHT TO INHERIT CHILDREN IN MIXED MARRIAGES BETWEEN BALINESE AND FOREIGN NATIONALS

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Abstract

Currently, the province of Bali does not rule out the possibility of inter-citizenship marriages, in this case between Balinese Indonesian citizens and foreigners raise doubts about the inheritance rights of children born from this mixed marriage, whether inheriting from the father's family or from the mother's family. The importance of legal certainty about children's inheritance rights is due to problems that occur. It is important to examine the position of children born from mixed marriages in the field of inheritance, considering the absence of special arrangements regarding inheritance in mixed marriages. This study aims to examine the citizenship and inheritance rights of children from Balinese-foreign national mixed marriages. This study employs normative legal research with a statutory and conceptual approach. It utilizes primary, secondary, and tertiary legal materials collected through a card system technique and employs evaluative, systematic, interpretative, and argumentative analysis methods. The result of the study revealed that the citizenship status of a child who is from a mixed marriage is determined in Article 4 and Article 6 of the Citizenship Law of a child born from a mixed marriage, between Balinese Indonesian citizens and foreigners, status as Indonesian citizens. Only in the event that the nationality obtained from the marriage of the parents causes the child to have dual citizenship, then the child must choose his nationality when the child is 18 years old or married. The inheritance rights of children born from mixed marriages depend on the form of marriage of their parents.

Keywords: children; inheritance rights; mixed marriages

1. INTRODUCTION

Based on statistical data published by the Bali Provincial Government from January to May, the number of foreign tourist visits to Bali was 2,348,455 people. Foreign tourists who come to Bali come from various countries. They absolutely have a different nationality and culture from the Balinese people. Foreign tourists often find Bali welcoming and comfortable, prompting some to consider settling there. Many times, foreign tourists establish associations, form romantic relationships

with local Balinese individuals, and even progress to marriage.

Marriage in the view of indigenous peoples is sacred in nature. The differences in ethnicity, customs and religion of society cannot limit human nature as social beings who need each other, so it is necessary to understand the meaning of marriage itself as a marriage bond that contains the sincerity to live together in forming a family so that rights and obligations as husband and wife will arise (Gandasubrata, 1988:11). In Article

57 of Law Number 1 of 1974 concerning Marriage (hereinafter written Marriage Law) marriage between foreign nationals (hereinafter written foreigners) and Balinese who are Indonesian citizens can be classified as mixed marriages, which are regulated in Chapter XII Part Three.

At present, in Indonesia, there have been many mixed marriages, although it is recognized that there is not enough official data on the actual number of mixed marriage perpetrators in Indonesia, based on the statement of Rulita Anggraini, as the supervisory board of Indonesian mixed marriage (*PERCA INDONESIA*), as quoted *Tribun-Bali.com*, the perpetrators of mixed marriages who are members of *PERCA* are at least 1,200 people. Among them, there are those who have been married for 25 years and have several children and some of their children who have established themselves choose to become Indonesian citizens (hereinafter written *WNI*) (Ardans, 2018). *PERCA INDONESIA* is an organization of mixed marriage societies in Indonesia, which has the following objectives:

Fight for legal improvements that better support the protection and welfare of perpetrators of mixed marriages;

Carry out various activities aimed at empowering the mixed marriage community while bringing benefits to the wider community;

Strengthen the role and position of the mixed marriage community actively and positively in the life of society at large in Indonesia;

Explore and actualize the potential of the whole mixed marriage community.

PERCA INDONESIA has representatives in several regions of Indonesia, such as Jakarta, Batam, Bali, South Kalimantan, South Sulawesi, Central Java, Java and East Java. In Bali, the Coordinator of the Board of *PERCA PERWAKILAN BALI* (Indonesian mixed marriage of Bali representative) is currently held by Melinda Cowan.

Based on data from the Denpasar City Population and Civil Registration Office, the number of mixed marriage registrations in 2018 was 76 people, including 14 Indonesian grooms and 62 Indonesian brides. The number of mixed marriages that are held, is apparently the consequence of the island of Bali (as well as the province of Bali) as one of the tourist destinations. Based on this, there are interesting things, as follows:

In Badung Regency (72 Balinese Hindu men, 57 Balinese Hindu women, and 24 divorced couples). The number of divorced couples (24 couples) is higher than in other districts in Bali.

Buleleng Regency (65 Balinese Hindu men, 167 Balinese Hindu women, and 33 divorced couples). The number of Balinese Hindu women (167 people) is much higher than in other districts in Bali.

Klungkung Regency is "special", there are no divorced Mixed Marriage couples because there are no Hindu Balinese from this district who hold Mixed Marriages during 2014-April 2019.

Based on the description above, it can be seen that mixed marriage occurs more in tourist destinations which are also temporary residences of tourists, compared to tourist destinations that are not at the same time temporary residences of tourists. Apart from the distribution of the number of mixed marriages that varies in each district/city in the Bali area, one thing that is certain is that mixed marriages in Bali are a necessity. The number is already quite large and is likely to continue to increase along with the increasing arrival of foreigners to Bali. Of course, the existence of mixed marriages cannot be separated from problems related to the law.

Problems related to the status of children are interesting to examine more deeply, in contrast to legal issues related to residence permits and work permits which are the domain of state law (laws and regulations) solely so that for the solution it is clear that the reference is

state law, the problem of child status in mixed marriages does not only refer to the provisions of state law, but also concerns customary law that applies to mixed marriage families. Although children need guidance from adults to develop their lives and independence, they do not belong to adults (such as parents or family members) or the State. Therefore, various laws and regulations are made to fulfill the rights of a child (Dewi et al., 2022).

Aspects of child status related to child citizenship are clear legal provisions, namely referring to the Citizenship Law, namely Law Number 12 of 2006 concerning Citizenship of the Republic of Indonesia (Citizenship Law), but other issues are related to the status of children in the family. The status of children in inheritance is in contact with customary law because in Indonesia there is no national family law. Based on that argument, legal issues related to the status of children become interesting, relevant and important to deepen.

An heir also has rights which can be used by heirs if required as set in the Civil Code in article 833 paragraph (1) which is called the right of Saisine, i.e. other than heirs by itself because of the law acquire rights to all goods, all rights and all receivables that decease. In addition, saisine rights are rights that give the heirs immediate action at the death of the testator to take over all the rights and obligations of the testator without any action on their part, even if they do not know it (Hasan, 2011).

According to the Marriage Law and written *awig-awig*, it seems that marriage seems to prioritize personal matters (loving each other) but in reality, the Balinese customary law or *awig-awig* that has not been written is not entirely so. Marriage is essentially a personal, family, and community affair (*desa pakraman*).

Based on the provisions of Article 6 paragraph 1 of the Marriage Law, it is emphasized that marriage must be based on the consent of the bride and groom

because it is very important that there is love between the bride and groom. In reality, love does not reduce the boundaries of citizenship, so there are marriages between people of different nationalities. The Marriage Law defines marriage between people of different religions under the term mixed marriage.

Mixed marriages have civil relations that contain foreign elements and each country has a different legal system, if it contains foreign elements then the scope is Private International Law. This foreign element needs to be considered considering that civil relations are increasing in Indonesia, especially in Bali, especially regarding marriages involving two legal institutions from two different countries.

Mixed marriages not only have legal consequences for husbands and wives but also have legal implications for the position of children born from such marriages. The Marriage Law only regulates the definition of Mixed Marriage, while the position of children in mixed marriages is regulated in the Citizenship Law. Another issue that is no less important than mixed marriage is the position of the child in family law, the child's citizenship status does not directly affect family law so it is still a question about the child's position in inheritance law (Klassen & Eggens, 1970).

Currently, the Indonesian nation does not have a family law that applies nationally except in the field of marriage. Other aspects of family law such as the position of children in the family, the position of children in inheritance and others are still regulated according to their respective laws. For Balinese indigenous people (ethnic Balinese Hindus) applicable in the field of family law, including inheritance is Balinese customary law.

Today, in the global community that occurs in Bali today, it does not rule out the possibility of inter-citizenship marriage, in this case between Balinese who are Indonesian citizens and foreigners. In marriages between Balinese men marrying foreigners, or vice versa, between Balinese

women and foreign men, it may happen that they can choose forms of marriage known in Balinese society that are subject to Balinese customary law. Issues related to the form of marriage and its effect on the position of children as outlined above are not regulated by state law, in this case, the Marriage Law, but are governed by Balinese Customary Law. Thus, aspects concerning the inheritance rights of children in mixed marriages cannot be found in the answers of the land, but rather must be sought the answer is in Balinese customary law. Mixed marriages between Balinese and foreigners apply to more than one legal system. In legal theory, the condition of the enactment of more than one legal system in the same area of life is called legal pluralism. In the case of mixed marriages, more than one system applies to these marriages, namely state law and customary law. In aspects related to citizenship, state law applies, in this case, the Citizenship Law.

For the formal aspects of marriage, including conditions, procedures, registration, and more, state law is also applicable, specifically the Marriage Law and its associated regulations. In aspects related to the forms of marriage that result in the death of children in inheritance are regulated by family law and inheritance law of each husband and wife, including Balinese Customary Law because, in the marriage referred to here, the wife is a Balinese woman who is subject to Balinese customary law.

The condition of the application of more than one legal system in mixed marriages between Balinese and foreigners raises doubts about the family law that controls the marriage and the legal consequences that accompany it. From the doubts referred to above, one of the doubts that is important to find the answer is the relationship with mixed marriages between Balinese and foreigners, there is doubt about the inheritance rights of children born from this mixed marriage, whether inherited from the father's family or from the mother's family. The importance of

legal certainty about children's inheritance rights is because children are the next generation who are very important to be guaranteed and protected by their rights, including their rights to inherit.

The previous related study conducted by Sujana (2017) showed the results that in a mixed marriage divorce, child custody typically goes to the mother/ex-wife, with the former husband responsible for child support until they reach adulthood or age 18. The ex-husband must also provide financial support to the former wife. Additionally, the results study conducted by Deni & Mutia (2021) indicated that the law governing mixed marriages is determined by principles such as *lex loci celebrationis*, joint nationality or residence, where the marriage occurs, and where the spouses become citizens or reside. In cases of unrecorded mixed marriages, the child's inheritance rights, especially from the father, are maintained if there's authentic recognition. Unrecorded marriages don't void the marriage but simply lack official recognition, resulting in children being considered born out of wedlock. Constitutional Court Decision No. 46/PUU-VIII/2010 ensures that unrecorded mixed marriages still establish civil rights for children as legal heirs.

Based on the background and the previous studies above, it is important to conduct research on the inheritance rights of children born from mixed marriages, in this case, mixed marriages between Balinese Indonesian citizens and foreigners. It is important to examine the position of children born from mixed marriages in the field of inheritance, considering the absence of special arrangements regarding inheritance in mixed marriages. This research is important because Bali as a tourist destination will cause association between nations, between citizens will become more intensive in such conditions. With the large number of mixed marriages in Indonesia, especially between Balinese and foreigners, legal protection in mixed marriages should be well accommodated

in the laws and regulations in Indonesia. Thus, this research becomes relevant and associated with the development of an increasingly floundering society. In the current era of globalization, national boundaries have become increasingly blurred in the community so the interaction between foreigners and local residents in Bali seems to have no boundaries. Therefore, the objectives of this study are to examine the citizenship and inheritance rights of children from Balinese-foreign national mixed marriages.

2. METHOD

This study uses normative legal research, normative legal research which is also known as doctrinal legal research. Normative research is legal research conducted by reviewing or observing legal materials, these legal materials are sourced or derived from laws and regulations and various legal literature. Normative research can also be carried out in response to a legal scientific article, a court decision that has obtained or obtained permanent legal force, then the results of normative legal research conducted previously, and others that are considered by the researcher to need more elaboration in another related to efforts to develop legal science (*rechtbeoefening*) (Soekanto & Mamudji, 2007). This study employs statutory and conceptual approaches and utilizes three types of legal materials: primary, secondary, and tertiary.

3. DISCUSSION

Citizenship Status of Children Born from Mixed Marriages between Balinese and Foreigners

Indonesia adheres to the principle of personality (*lex patriae*) there are two principles in determining a person's nationality, namely *ius soli* (place of birth) citizenship is determined based on his place of birth, and *ius sanguinis* (descent) citizenship is determined based on descent usually from the father's lineage. Save the author, if an Indonesian man marries a

foreign woman, the child born from that marriage can choose the principle of *ius sanguinis* based on descent, namely from the father's lineage to determine his nationality (Jehani & Harpen, 2006:23).

The impact on developments in the current era of globalization that occurs in society is very rapid. This also affects the implementation of marriage between Indonesian women and foreign men. Marriages of Indonesian citizens held abroad apply Article 56 paragraph (1) of the Marriage Law, which regulates every marriage of Indonesian citizens abroad applies the principle of *lex loci celebrationis*, which means that the marriage must be carried out based on the law of the country where the marriage took place and for Indonesian citizens does not violate the provisions of the Marriage Law. Balinese citizens who marry foreigners can still become Indonesian citizens by making a statement to an official or representative of the Republic of Indonesia at their place of residence after 3 (three) years from the date of the marriage. Loss of Indonesian citizenship can occur due to marriage due to the working of the citizenship law of the couple's country.

Article 19 paragraph (1) of the Citizenship Law confirms that foreigners who are legally married to Indonesian citizens can obtain citizenship of the Republic of Indonesia by submitting a statement of becoming a citizen before an authorized official, this statement is made if the person concerned has resided in the territory of the Republic of Indonesia for at least 5 (five) consecutive years or at least 10 (ten years) not consecutively, except with the acquisition of such citizenship resulting in dual citizenship. Thus, a Balinese marrying a foreigner first acquires foreign citizenship, if he was previously an Indonesian citizen, and then of his own volition acquires foreign citizenship, then Article 23 letter a of the citizenship law applies and a person loses his citizenship.

The problem that often arises in mixed marriages of different nationalities is the

nationality of children. This old Citizenship Law adheres to the principle of single citizenship so that children born can only have one citizenship, namely the nationality of their father. The citizenship law of 1958 has been replaced by a new citizenship law, namely Law Number 12 of 2006.

The issue of the citizenship status of children born from mixed marriages between Indonesian citizens and foreigners is regulated in Article 4 and Article 6 of Law Number 12 of 2006. In full, Article 4 specifies as follows:

Indonesian citizens are:

any person who based on laws and regulations and/or based on the agreement of the Government of the Republic of Indonesia with other countries before this Law comes into force has become an Indonesian Citizen;

children born from a legal marriage of an Indonesian father and mother;

a child born from a legal marriage of an Indonesian father and a foreign mother;

children born from a legal marriage of a foreign father and an Indonesian mother;

a child born from a legal marriage to an Indonesian mother, but the father does not have citizenship or the laws of the father's home country do not grant citizenship to the child;

a child born within a grace period of 300 (three hundred) days after the father dies from a legal marriage and the father is an Indonesian citizen;

a child born out of legal wedlock to an Indonesian mother;

a child born out of legal wedlock to a foreign mother who is recognized by an Indonesian father as his child and the recognition is made before the child turns 18 years old or unmarried;

children born in the territory of the Republic of Indonesia who at the time of birth have unclear citizenship status of their father and mother;

newborn children found in the territory

of the Republic of Indonesia during the absence of the father and mother;

children born in the territory of the Republic of Indonesia if the father and mother are stateless or whose whereabouts are unknown;

a child born outside the territory of the Republic of Indonesia to an Indonesian father and mother who, due to the provisions of the country in which the child was born, grants citizenship to the child concerned;

the child of a father or mother who has been granted citizenship application, then the father or mother dies before taking the oath or pledging allegiance.

From the provisions of Article 4, especially letters c, d, and e it can be seen that children born from mixed marriages get Indonesian citizenship status. It is not important who among his parents is an Indonesian citizen or a foreign citizen, what is important is that one of his parents is an Indonesian citizen. However, problems will arise in determining the citizenship status of the child if the result of the mixed marriage of both parents causes the child to obtain double diversity.

The new Citizenship Law allows that before the child turns 18 and is unmarried. However, when the child is 18 years old or married, the person concerned cannot have dual citizenship again. When the child is 18 years old or married, the person concerned chooses his nationality. This is specified in Article 6 of the Citizenship Law which states as follows:

In the event that the status of Citizenship of the Republic of Indonesia for children as referred to in Article 4 letter c, letter d, letter h, the letter i, and Article 5 results in children with dual nationality, after the age of 18 years or married, the child must declare choosing one of his citizenship.

A declaration to choose nationality as referred to in sub-article (1) shall be made in writing and submitted to the Officer by attaching a document as specified in the

laws and regulations.

A declaration to choose nationality as referred to in paragraph (2) shall be submitted within no later than 3 (three) years after the child turns 18 (eighteen) years old or married.

Based on the description above, it can be affirmed here that the citizenship status of a child born from a mixed marriage between Balinese and foreigners is Indonesian citizenship unless the Indonesian citizenship status obtained causes the child to have dual citizenship. In the event that the child has dual citizenship, the dual citizenship status will continue until the child is 18 years old or married. At that time the child is obliged to choose his nationality.

The Right to Inherit Children in Mixed Marriages Between Balinese and Foreign Nationals

The right to inherit children born from mixed marriages between Balinese and foreign nationals. The position of conjugal citizenship in a mixed marriage will affect the position of the husband and wife in the family. After everything is clearly known, then it can be analyzed about the legal position of the child in the family, including his right to inherit because it must also be ascertained the position of citizenship of the husband and wife in the mixed marriage. Whether the child was born from the marriage of a Balinese Indonesian man with a foreign woman or vice versa between a person and a foreigner (Sitorus, 2004:30).

Balinese indigenous people adhere to the patrilineal family system or fatherhood which is more widely known in Balinese society with the term *kepurusa* or *purusa*. The principles in the *purusa* family system are the same as the family system adopted in the *Manawa Dharmasastra*, known as one of the Hindu books of law. That is why the family system adopted by the indigenous Balinese people is said to be imbued with the teachings of Hinduism which is embraced by the majority of Balinese people. Admittedly, there is a

very close blend of Balinese customs and Hinduism in the applicable family law, although it cannot be said that the law that applies to Balinese indigenous people is Hindu law itself.

In accordance with the general principles adopted in the patrilineal family system, there are at least three basic principles adopted in the *purusa* family system. Descent is traced from the male line (father), legally only individuals who come from one father of origin (*wit*) are counted as families both in the *batih* family and the extended family. People who fall into this line are commonly called the family *so purusa*. Meanwhile, people from maternal families, who are commonly called families *so prefunded*, are not counted as families at all.

In mixed marriages between Balinese citizens and foreigners, the possibilities that occur are:

Marriage between Balinese Indonesian men and foreign women;

Marriage between Balinese Indonesian women and foreign men.

Based on Article 62 jo Article 59 paragraph (1) of the Marriage Law, it can be seen that the applicable law, both in the field of public law and civil law, to husband and wife and the position of children born from mixed marriages is determined by the nationality obtained from the mixed marriage. If Indonesian citizenship is obtained from the marriage, the applicable law is Indonesian law.

In mixed marriages between Balinese and foreigners, more than one legal system applies (legal pluralism). In addition to state law (the national law of the bride and groom) also applies customary law. The applicable state law is the national marriage law and or the national law of the foreigner of one of the bride and groom. The interaction between each of these laws can be coexisting or complementary. The enforceability of state law primarily concerns the administrative legal aspects of marriage, such as marriage registration and its

accompanying requirements. Article 59 paragraph (2) specifies that: "Mixed marriages performed in Indonesia are carried out according to this Marriage Law". Although the above article does not specify the law that applies if a mixed marriage is performed abroad, it can be understood a contrario that a mixed marriage performed abroad applies to the law of the country in which the marriage is performed, so that the applicable administrative terms and procedures will be adjusted to the provisions of the law of the country concerned.

The applicability of customary law in mixed marriages between Balinese and foreigners in provisions concerning the validity of marriage and the consequences of such marriage in the field of family law, especially regarding the position of husband and wife and the position of children in the family, including inheritance. Thus, the position of conjugal citizenship in mixed marriages between Balinese and foreigners is very important to know as a starting point for analysis.

According to Article 4 paragraph (1) jo Article 6 paragraph (1) of the Citizenship Law, a child born from a mixed marriage is an Indonesian citizen, unless because of the Indonesian citizenship status obtained it results in the child having dual citizenship, then after the child turns 18 years old or after marriage must choose citizenship. Thus, in accordance with the provisions of Article 62 jo Article 59 paragraph (1) of the Marriage Law, the law that applies to a child born from a mixed marriage is Indonesian law. With regard to children's inheritance rights, the law in Indonesia is not uniform, but each resident is subject to his own law (Islamic law for Muslims, Civil Code for European residents or customary law for indigenous Indonesians who are not Muslim). It happened because the Indonesian nation did not yet have a national inheritance law.

When analyzing the inheritance rights of children born from mixed marriages between Balinese Indonesian men and

foreign women, the analysis must adhere to Balinese Customary Law, because the inheritance law that applies to the child is Balinese customary law. In accordance with the principles of the purusa kinship system adopted in Balinese customary law, as mentioned by Windia & Sudantra and mentioned above, a man has the status of purusa in his marriage with anyone, including marriage with foreign women. Unless the form of marriage is ecstatic.

In ordinary marriages, the bridegroom has the status of purusa, while the bride has the status of pradana, which is included in her husband's kinship system. Then, the child born from the marriage automatically has a legal position in the father's family. He gets rights and fulfills legal obligations in the father's family, while with the mother's family, he has no legal relationship. The relationships that exist between the child and the mother's family are only social and moral. One of the rights of children according to Balinese customary law is inheritance rights. Thus, children born from a marriage between an Indonesian Balinese man and a foreign woman have full inheritance rights to the property inherited by their father.

Different conditions occur in marriages between Balinese women and foreign men. In the perspective of Balinese customary law, there are two possibilities: first, the possibility is that there is a marriage between a Balinese woman and a foreign man with an ordinary form of marriage. The second possibility is that the form of marriage is nyeburin or nyentana. The choice of the two forms of marriage has different legal consequences on the position of children in the family and inheritance.

In accordance with the principle of marriage in Balinese society which has a purusa kinship system, then in the form of ordinary marriage, a wife has a pradana status and is out of her native family environment, breaks legal relations with her biological parents, and siblings and relatives in her father's family environment, then enters her husband's

family and gets rights and fulfills her obligations in the husband's family. The child born from the marriage has a legal position in his father's family. In this case, a child born from that marriage gets his inheritance rights from his father's family. The child is not entitled to the estate left by the family on his mother's side. That's the conclusion from the perspective of Balinese customary law. Maybe the conditions will be different when viewed from the perspective of the law that applies to his father who is a foreign national.

The condition will be different if the form of marriage is *nyeburin* or *nyentana*. This form of marriage is one alternative or way out for families who have only children or have several siblings but all women. To avoid the breakup of offspring or generation (*kaputungan*), one of the daughters in the family (usually the eldest daughter) will be confirmed by her parents to remain in her house and have the status of *kapurusa*, in order to continue the *tri rna* sowing and continue the *swadharma parhyangan*, *pawongan* and *palemahan* to the family and *pakraman* village. This *kapurusa* daughter is known as *sentana rajeg*. This daughter is then sought by a husband who is willing to marry *nyeburin*.

In *nyeburin* marriage or *nyentana* marriage, the wife has the status of *kapurusa* and the status of the husband becomes *predana*. As a sign that the marriage is *nyeburin*, the religious ceremony that certifies the marriage (*masakapan*) is carried out in the bride's family home and the entire series of marriages is the responsibility of the woman. The legal effect of marriage is inexplicable on the position of the child that the child born from the marriage has a legal position in the mother's family environment. Obtain his rights and fulfill legal obligations in the maternal family.

In the case of prospective non-Hindu religious couples, in the preliminary process of marriage, a *Sudhiwadani* ceremony (Hindu entrance/embracing

ceremony) is carried out. An important step that should be done before marriage, namely the first, convey to parents and family that the bride and groom will embrace Hinduism and the marriage is carried out in accordance with Hinduism. Second, consultation with the local PHDI on the technical implementation of the *Sudhiwadani* ceremony (Hindu entry ceremony). Third, proof that a person has embraced Hinduism, is marked by a statement letter of having embraced Hinduism given by PHDI. Fourth, the *Sudhiwadani* ceremony was then held. This ceremony can be held a few days before the wedding ceremony or a few hours before the wedding ceremony. Fifth, new marriage ceremonies can be carried out in accordance with Balinese customary law, Hinduism, and national law.

Returning to the topic of discussion about children's inheritance rights, in a mixed marriage between Indonesian Balinese women and foreign men with a *nyeburin* form of marriage, a child has a legal position in his mother's family. That means that the child gets rights and obligations in the field of family law to the mother's family, while to the father's family, he has no legal relationship and does not have legal rights and obligations. With a legal position as part of the mother's family, the child is entitled to inheritance from his parents and his mother's family. He has no right of inheritance to the property left by his Father's family, unless the inheritance has been passed down to his Father, in case the law of inheritance from his Father allows a married man to inherit the right.

Discussing the problem of mixed marriages between Balinese women and men with German citizenship, with the foreigner's unwillingness to change nationality becomes a problem in the future regarding the status of children born from the marriage and inheritance in the marriage. In the theory of legal pluralism, it states a situation where two or more legal systems work side by side in a field of social life, when related to this

problem, the enactment of Indonesian law, especially Balinese customary law due to choosing the form of *nyentana* marriage and all the consequences that must be obeyed, and the law of the foreigner's home country, Germany, applies, He was unwilling to change citizenship.

Based on the theory of legal protection, seen from the nature of legal protection, namely preventive, is legal protection provided before a dispute occurs with the aim of preventing disputes from occurring, it is better before a mixed marriage occurs between Indonesian women and foreign men who choose the form of *nyentana* marriage, should make a marriage agreement before the marriage occurs, not after the marriage occurs to prevent disputes.

A marriage agreement is a written agreement made before the marriage takes place, the marriage agreement as an agreement between prospective husband and wife is in principle the same as the agreement in general because both are bound by Article 1320 of the Civil Code which regulates the terms of validity of the agreement. The marriage agreement in foreign terms is called the Prenuptial agreement, "Prenuptial agreement is an agreement entered by the parties to a marriage before the marriage". A marriage agreement is an agreement made by the parties before the marriage takes place. The definition of a marriage agreement according to Sudikno Mertokusumo is "a marriage agreement is an agreement made before the marriage takes place and binds both parties of the bride and groom who will marry and is valid during the marriage".

4. CONCLUSION

Based on the description of the discussion that has been stated above, it can be drawn the conclusion that 1) the citizenship status of a child born from a mixed marriage is determined in Article 4 and Article 6 of Law Number 12 of 2006 concerning Citizenship of the Republic of Indonesia. Based on these articles, a child

born from a mixed marriage, between Balinese Indonesian citizens and foreigners, has the status of an Indonesian citizen. Only in the event that the nationality obtained from the marriage of the parents causes the child to have dual citizenship, then the child must choose his nationality when the child is 18 years old or married. 2) The inheritance rights of children born from mixed marriages, depending on the form of marriage of their parents. In the case of a Balinese Indonesian father and a foreign mother with an ordinary form of marriage, the laws that control the marriage of his parents are the Indonesian National Marriage Law (concerning formal aspects, such as marriage requirements and registration) and Balinese customary law (concerning aspects of legalization and form of marriage). In the event that the mother is Balinese while the father is a foreigner and the form of marriage is an ordinary marriage, then the law that controls the marriage is the marriage law of the father's state so that the child's inheritance rights are determined by the law of the father. A child born from a mixed marriage has inheritance rights from his mother or his mother's family, if in a mixed marriage his parents, the mother is Balinese and the father is a foreigner and chooses the form of *nyeburin*.

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