

The Role of Mixed Marriage Organizations in the Processing of Residence Permits for Foreign Nationals

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Abstract

This research aims to explain the role of mixed marriage organizations in the process of obtaining residence permits for foreign nationals. This research uses the normative juridical method, with data obtained from the identification and clarification of legal facts from mixed marriage organizations. In recent years, population migration between countries has continued to increase. Along with the times, more and more foreign nationals choose to live in Indonesia, one of which is due to mixed marriages. A mixed marriage is a marriage between two individuals who are subject to different legal systems in Indonesia, usually due to differences in citizenship, where one of the spouses is an Indonesian citizen. Foreign nationals married to Indonesian citizens are required to apply for a residence permit in Indonesia, such as a permanent residence permit (ITAP). To obtain an ITAP, the applicable requirements must be met according to the purpose of the application. This process includes applying for a status change from a limited stay permit (ITAS) for family unification to a permanent residence permit (ITAP). The Mixed Marriage Organization plays an important role in helping to resolve the various issues faced by families in mixed marriages. The organization carries out its activities through three main pillars: Advocacy, Socialization, and Consultation. This topic was chosen by the author because it has not been discussed in previous articles.

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1. INTRODUCTION

Marriage is a sacred legal event in a person's life if the marriage is legally recognized. Marriage not only affects the lives of both partners, but also their families and the community around them. Many people consider marriage to be sacred because of the beliefs that link the rules of marriage to religious teachings. Marriage creates a legal relationship between two individuals as husband and wife, as well as between them as parents and their children. (Prasida Alya Putri, 2023)

Based on Article 57 of Law Number 1 Year 1974 in conjunction with Law Number 16 Year 2019 concerning Marriage states that: "What is meant by mixed marriage is a marriage between two people who in Indonesia are subject to different laws, due to differences in citizenship and one of the parties has Indonesian citizenship." (Dewi & Syafitri, 2022). Marriage Law articles 57-62 explain that what is meant by a mixed marriage is a marriage that occurs due to differences in citizenship. Thus, the Marriage Law emphasizes that mixed marriages are not marriages between couples of different religions, but marriages between Indonesian citizens and foreign citizens (different nationalities). (Ika

et al., 2019) The requirements for mixed marriages between foreigners and Indonesian citizens in Indonesia are that the prospective husband or wife must submit a certificate from their country of origin stating that they can and intend to marry an Indonesian citizen. This letter is known as a Certificate of No Impediment (CNI) or single letter.

Based on selective policies that uphold the values of human rights, the entry of foreigners into Indonesian territory is regulated. Similarly, Foreigners who obtain a residence permit in Indonesia must be in accordance with the purpose of their arrival. In accordance with the policy and to protect national interests, only Foreigners who provide benefits and do not endanger security and public order are allowed to enter and reside in the territory of Indonesia. (Ummah, 2019)

Law No. 6 of 2011 on Immigration replacing Law No. 9 of 1992 provides convenience for foreign nationals who are married to Indonesian citizens. (Syaputra et al., 2023) Spouses of mixed marriages who have been legally married and recognized by the state for two consecutive years can apply for a change in the status of residence permit for a spouse who is a foreign national. In this case, the spouse of an Indonesian citizen can be a guarantor for changing the status of a limited stay permit (ITAS) to a permanent stay permit (ITAP). The Immigration Law entitles foreign nationals married to Indonesian citizens to obtain a permanent residence permit. However, this permanent residence permit only applies to those married to Indonesian citizens, not to foreign nationals working in Indonesia.

The enactment of Law No. i6 of 2011 on Immigration has led to a number of cases of document forgery or false data, where both foreign nationals and Indonesian nationals have misused the provisions of Article i123(1). This article regulates the use of forged documents, forged data, or intentionally falsified information to obtain a visa or a stay permit, either for oneself or for another person. One of the cases that came to light was the alleged falsification of data by an alien citizen from Yemen, whose aim was to obtain a Permanent Stay Permit (ITAP). His marriage with an Indonesian citizen was found not to have been recorded at the Office of Religious Affairs (KUA) of Tanjung Priok District, North Jakarta. This was revealed after my mother's marriage certificate, which was used for the ITAP application, was examined, and the ITAP application was cancelled. (Rahma, 2021). In contrast, in order to obtain a permanent residence permit (ITAP), it is necessary to apply for a change of status from a limited residence permit (ITAS) to a permanent residence permit (ITAP).

In order to overcome this problem, there is the Organization of Mixed Marriages (PerCa) whose members consist of 2,426 mixed-marriage couples and whose role is in advocacy, socialization, and consultation. This organization is a forum for citizens of Indonesia and citizens of foreign countries who come from mixed-marriage families, in accordance with the provisions of Article i57 of the Law on Marriage Number 1 of 1974. The vision of PerCa Indonesia is to achieve equality between civil and constitutional citizens of Indonesia who are involved in mixed marriages. Meanwhile, the mission of PerCa Indonesia is to be a means of bringing change to the regulations and legislation in the lives of mixed marriage families in Indonesia, to build the important role of mixed marriage families in Indonesian society, and to be a forum that accommodates the needs and aspirations of the mixed marriage community in an integrated manner. (Mixed Marriage Organization, in.d.)

The main problem in this article is how is the role of mixed marriage organizations in the management of residence permits for foreign nationals and what are the obstacles for foreign nationals in managing residence permits in Indonesia.

2. RESEARCH METHOD

The method used in this research is the informative juridical method. Informative juridical research is a study of legal principles, legal systematics, legal synchronization, and legal history research. The data of this research is obtained from the identification and clarification of legal facts from the mixed marriage organization. The method of approach used in this research is the approach of legislation, which is an approach that is carried out by examining all laws and regulations and regulations that are related to the legal issues. Such as, the status of the permit that is left is in accordance with the research of the author.

3. RESULTS AND DISCUSSION

The Role of the Organization for Mixed Marriages in the Management of Residency Permits for Foreign Nationals

Foreign nationals who enter Indonesia using a Visa on Arrival (VOA) or a Visit Visa can enter into marriage in Indonesia. In terms of immigration, the most important thing is the residence permit (VOA, Visa, ITAS, or ITAP) and passport that is still valid. In addition, foreign nationals must prepare a Certificate of Non-Impediment (CNI) or a single letter that will be issued by the competent authority in their country. The letter is a certificate of single status. The marriage must also be carried out legally and registered with the Civil Registry so that the alien citizen can easily obtain a permit to stay in Indonesia. Without proof of a valid marriage, the alien citizen cannot obtain a visa, ITAS or ITAP for family unification. (Rahma, i2022)

The requirements for mixed marriages for foreign nationals include:

- a. A letter of permission from the embassy or representative of the foreign country concerned.
- b. If a citizen of a foreign country has a marriage license from his/her country, the document must be legalized by the embassy of that country.
- c. If in Indonesia there is no embassy in the country of origin of the alien citizen, the permission as referred to in point he can be obtained from the authorized agency in his country.
- d. Permission for polygamy from the court or authorized agency in the country of origin of the man who wants to have more than one wife.
- e. Photocopy of birth certificate.
- f. Divorce certificate or death certificate of the previous spouse for the father or widow.
- g. Photocopy of passport.
- h. Data of the two persons who are citizens of foreign countries which is in accordance with the information in the marriage certificate.
- i. All documents in the foreign language must be translated into the Indonesian language by an authorized translator. (Denpasar, 2023)

Foreign nationals who wish to obtain an ITAP through the transfer of status from an ITAS must have lived in Indonesia for more than three years consecutively or have been married to an Indonesian citizen for at least two years. Meanwhile, foreign nationals who can directly obtain ITAP without the need to hold ITAS first include children of dual nationals, children of ITAP holders who were born in Indonesia, and children of Indonesian citizens who lost their nationality in the Indonesian territory (Nurul, 2022).

According to PP i31/2013 Article 162 (1) and (2) and Article 163 (1) regulate the following matters:

- a. In the case of a mixed marriage which has been in existence for 10 years or more, the permission to stay shall be granted to a citizen of a foreign country on the basis of the validity of the marriage, even if the marriage is terminated as a result of divorce or a judicial decision.

- b. The holder of the permanent residence permit is required to have a guarantor who is an Indonesian citizen.
- c. For mixed marriages of less than 10 years of age, the residence permit shall remain valid even if the marriage ends as a result of divorce or a judicial decision, provided that the alien citizen has a guarantor. (Dwi, 2023)

For foreign nationals, it is necessary to have a guarantor who is an Indonesian citizen so that the residence permit can continue to be valid even if the marriage has ended due to divorce.

Table 1. Mixed Marriage Organization Members Update as of July 2024

Region	Total
Jakarta	909
Bali	525
Batam	287
Balikpapan	128
Jawa timur	154
Jawa tengah	102
Yogyakarta	109
Lombok	94
Medan	34
Makasar	18
Singapore	66
Total	2.426

Source: PerCa Indonesia Secretariat

The table above describes the data of the perpetrators of mixed marriages who are members of PerCa Indonesia, the large number of perpetrators of mixed marriages who are members of PerCa Indonesia proves that PerCa Indonesia provides services to the perpetrators of mixed marriages in assisting the problems of the perpetrators of mixed marriages.

The Organization for Mixed Marriages (PerCa) is an organization of Indonesian citizens and foreigners from mixed marriage families. The organization is headquartered in Jakarta and was established on 29 April 2008 and registered with the Ministry of Law and Human Rights of the Republic of Indonesia. The organization has three main pillars, namely advocacy, socialization and consultation.

1. Advocacy

Advocacy has been the core and passion of PerCa Indonesia since it was first established. As a community made up of people in mixed marriages who often face challenges and injustices in the life of the nation and the state, PerCa Indonesia strives to be a platform to convey the interests and aspirations of Indonesian citizens involved in mixed marriages. This organization continues to raise these issues through the appropriate channels, while respecting the legal principles of the country. One of the main missions of PerCa Indonesia is to be a voice for change, especially in addressing legal and policy issues that affect the lives of people living in mixed marriages, such as marriage issues, marriage registration, population registration, citizenship, immigration, employment, property ownership, and inheritance.(Organization for Mixed Marriages, n.d.).

Advocacy in mixed marriages functions as a means to convey aspirations and fight for the interests of mixed marriage couples to the government and state institutions. In addition, advocacy aims to create a society that has legal awareness.

In this process, the Organization for Mixed Marriages (PerCa) makes various efforts, including putting pressure on government agencies, law enforcement agencies, and immigration agencies. For example, visits to the immigration office to convey their aspirations, discuss with immigration officials, and convey the various obstacles faced by mixed-marriage families. In its role, this organization also helps the immigration agency to simplify the procedures for managing residence permits for foreign nationals, with the hope that the process will become easier and more efficient.

The Indonesian Mixed Marriage Organization in this role advocates for changes in laws and regulations that affect mixed marriage families, especially those related to residence permits for foreign nationals. Mixed-marriage organizations also contribute to the enforcement of immigration law in Indonesia as community parties who are involved in the drafting of immigration policies, such as Law No. 6 of 2011, including the deliberation of the Immigration Law which will be discussed.

The mixed marriage organization conducts advocacy through intensive socialization to the mixed marriage community. This socialization was not only aimed at the general public, but was also carried out directly at the Immigration and Civil Registration offices regarding the residence permit policy for spouses of foreign nationals. This step is intended so that the facilities provided by the state can be utilized to the fullest. Based on the Immigration Law, spouses in mixed marriages have the right to easy access to work, to earn a living, and to obtain permission to live in Indonesia. In this way, it is hoped that clarity will be created regarding the residence permit obtained through a mixed marriage and the permit to work in Indonesia.

2. Socialization

Socialization is the process of instilling or transferring values, habits, and rules from one generation to the next within a group or society. Some sociologists associate socialization with role theory, because it is through this process that individuals are taught the various roles they must perform.(Normina, 2014)

In the theory of legal certainty, this concept can be interpreted as a guarantee that someone will get what they expect in a particular situation. Legal certainty is characterized by clear norms, so that it can function as a guideline for the people who are subject to the rules. With the existence of legal certainty, it is hoped that it will create clarity and firmness in its application, thus minimizing differences in opinion and avoiding diverse interpretations.(Moho, 2019) According to Suedikno Mertokusumo, legal certainty is one of the most important elements in legal enforcement. He stated that legal certainty is a form of protection against arbitrary actions, where a person will get whoever is on his side in a particular situation.(Moho, 2019)

Based on this theory, socialization has an important role in providing understanding and reminders to families in mixed marriages. This aims to make them better understand the procedures for obtaining a residence permit for foreign nationals. The reason is that there are still many people who do not know the rules related to the residence permit for foreign citizens in the context of mixed marriages.

1. In the context of mixed marriage organizations, socialization is done after the advocacy process. The aim is to provide information related to the regulations that apply to couples in mixed marriages, including regulations regarding permission to stay for foreign nationals, so that these regulations can be understood by couples in mixed marriages. This organization held an activity or discussion known as

PerCa Menyapa. After the activity or discussion, the information obtained is disseminated through platforms such as the website, Instagram, and Facebook.

2. Consultation

Consultation is generally conducted individually through a direct meeting between the counselor (as consultant) and the client (as consultee). However, if desired, consultation can also involve two or more consultees (Susilowati, 2012).

Consultation is a direct counseling session that is conducted face-to-face. This session takes place in a relaxed atmosphere, involving two parties, namely the PerCa administrator and the client. In this consultation, the client can convey the various problems faced by the family of the mixed marriage, namely by answering questions related to the problems of the mixed marriage, such as the management of the residence permit, the rejection of the application, the lack of documents, or the problems of communication with the immigration authorities. Consultation can be done after the socialization is completed. If the client is unable to attend the socialization, they can directly visit the PerCa secretariat office which is available in several regions in Indonesia.

Consultation aims to help people in mixed marriages to deal with their problems by providing advice to couples in mixed marriages. In the management of residence permits, consultation with mixed marriage organizations provides assistance in administrative procedures such as visas, residence permits and other important documents related to the legal status of mixed marriage couples. Consultation can also provide recommendations such as lawyers, legal institutions depending on the problem.

Constraints of Foreign Citizens on the Processing of Residence Permits in Indonesia

Every foreigner who enters the territory of Indonesia is required to undergo an inspection by an Immigration Officer at an Immigration Inspection Point, such as a port, airport, or other location that has been designated by the Minister of Justice as an entry point into or exit from the territory of Indonesia. In planning your travel to Indonesia, the immigration procedures imposed by the Indonesian Government must be followed. Immigration officers will check the arrival of foreigners, including ensuring the completeness of documents such as passports and visas. In addition, in accordance with the general explanation of the Immigration Law, it is stated that the service and supervision of foreigners is carried out based on the principle of selectivity. Based on this principle, only foreigners who bring benefits to the welfare of the people, the nation, and the state of Indonesia, who do not endanger security and order, and who are not hostile to the people or the Unitary State of the Republic of Indonesia, based on the Pancasila and the 1945 Constitution, are allowed to enter Indonesia. (Editorial Journal., 2015)

The theory of nationalism is the embodiment of a deep sense of love and loyalty to one's homeland, country, and nation, and is the main foundation for the formation of a nation and national character. The nationalism that underlies the formation of the state and the identity of the nation is the nationalism that values pluralism, humanism, and respects the human race. In general, nationalism is an ideology that emphasizes the unity, identity, and sovereignty of the nation, and emphasizes the importance of the welfare of the people and the nation. (Islam & Choliq, n.d.)

Based on that theory, the issuance of residence permits to citizens of foreign countries can be seen as part of the efforts of the state to maintain its sovereignty and manage the impact of the presence of foreigners in its territory. Indonesia grants permission for foreigners to stay in Indonesia as part of its commitment to the values of nationalism, which are inclusive, sovereign, and in accordance with the principles of

nationalism. Foreigners who obtain permission to live in Indonesia must be in accordance with the purpose of their arrival. In accordance with the aforementioned policy and in order to protect the national interest, only those Foreigners who provide benefits and do not endanger the security and public order are allowed to enter and reside in the territory of Indonesia.

According to the research conducted by the author, there are a number of obstacles in the processing of residence permits for foreign nationals. The first obstacle is due to the administrative process which is difficult. The information about the requirements and procedures for managing the residence permit is sometimes inconsistent or difficult to access, and the lengthy processing time can be a problem, especially for residents of foreign countries who have urgent needs. Language and cultural barriers can affect communication with officials to complete administrative procedures. Not all foreign nationals are fluent in Bahasa Indonesia, which can make it difficult for them to understand the procedures for obtaining a residence permit. Cultural differences between foreign nationals and officials also affect communication, which has the potential to complicate interactions during the administrative process. Another obstacle is the financial constraint for some foreign nationals. The high cost of obtaining a residence permit, including visa, renewal, and the cost of a fine if it is delayed.

3. CONCLUSION

The role of the mixed marriage organization (PerCa) has three main pillars, namely advocacy, socialization and consultation. Advocacy in mixed marriages has a role in voicing the aspirations and interests of the perpetrators of mixed marriages to the government and state institutions, such as immigration agencies, to provide aspirations and input as well as to convey the constraints of mixed marriage families in the field. In this advocacy role, the mixed marriage organization has a role in assisting the immigration authorities to simplify the procedures for obtaining a residence permit for residents of foreign countries or in other words, they want a simpler process in obtaining a residence permit for residents of foreign countries. The socialization is conducted after the advocacy process. The purpose is to provide information regarding the rules that apply to couples in mixed marriages, including the rules regarding permission to leave for citizens of foreign countries, so that these rules can be understood by couples in mixed marriages. After the socialization is completed, the information obtained is disseminated through platforms such as websites, Instagram, and Facebook. Consultation is a direct counseling session that is conducted face-to-face. This session takes place in a relaxed atmosphere, involving two parties, namely the PerCa management and the client. In this consultation, the client can convey the various problems faced by the family of the mixed marriage, namely by answering questions related to the problems of the mixed marriage, such as the management of the permission to leave.

The process of obtaining a residence permit for foreign nationals faces many obstacles in Indonesia, including difficult administrative processes, long processing times, language and cultural barriers that affect communication with officials to complete administrative procedures, and high fees for obtaining residence permits, including visas, extensions, and late fees.

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