Perkawinan Campuran Serta Permasalahan Hukumnya Di Indonesia Dewasa Ini

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Although since the passing of Law No. 1/1974 marriages between people of different religions can no longer be performed, in practice mixed marriages can still be carried out through Article 66 Law No. 1 Year 1974, with reference to Article 7, paragraph (2) GHR which does not prohibit marriages between people of different religions. Marriages are held at the Civil Registry Office after obtaining a permit from the Court. In Jakarta this was practiced until January 1, 1989 when Instruction No.36/425.92 of the Civil Registry Office of the Province of DKI (the Special Region of the Capital City of Jakarta), dated 30 December 1983 which stated that as of January 1, 1989 the Civil Registry Office of DKI only registers marriages of non-Muslim people which have been legalized by their own religions. Thus those offices do not perform marriages. As a result, people of different religions intending to get married, go abroad and get married by "evading the law" or get married twice; for example, once at the KUA (Office for Muslim Religious Affairs), and then again in church.

Apart from marriages between different religions, there are also marriages between different nationalities. Such marriages also often cause problems if a couple decides to get a divorce. Children born from such a marriage, based on 'ine siongints' which is followed by our present Citizenship Laws (Law No.62/1938), will get their father's status. If the father is foreign, the child will get the status of foreigner. Although the child has been put in the custody of the mother (an Indonesian national), and the mother and her child have lived all their life in Indonesia, the child as a foreigner has a limited stay permit, and faces the threat of deportation if they fail to extend this permit. There is no regulation which allows the mother to give her nationality to her children, until the child reaches the age of 19, in spite of the fact that Indonesia has ratified the UN Convention on the Rights of Children and has various other regulations to protect children. In terms of the mother's rights, Indonesia has also ratified UN Convention on Eliminating All Form of Discrimination Against Women 1979 by issuing Law No.7 of the year 1984, on the eradication of all forms of discrimination against women which gives women the same rights in relation with the citizenship of their children.

A. Pengertian Perkawinan Campuran

Sebelum menguraikan pengertian perkawinan campuran, akan diuraikan dulu apa yang dimaksudkan dengan istilah perkawinan. Dari sudut ilmu bahasa atau semantik, perkataan perkawinan

*) Permasalahan Perkawinan Campuran yang dibahas di dalam tulisan ini meliputi pula pengertian Perkawinan Campuran yang dianut oleh GHR- dan yang dianut dalam Undang-undang No. 1 Tahun 1974, Tentang Perkawinan.

**) Penulis adalah pengajar di Fakultas Hukum Universitas Indonesia. Ahli lukum perdata yang dihormati di Solok pada tahun 1941 ini pernah menjabat sebagai Wakil