

# CHAPTER I

## INTRODUCTION

### 1.1 Background

Bali, known as the "Island of The Gods or also called as *Pulau Dewata* holds a special place in the hearts of travelers as one of Indonesia's most treasured destinations. From KBBI, *dewata* can be interpreted as *dewa; sifat dewa; kedewaan*; which means God; God like properties; or God.<sup>1</sup> Bali, as a geographical entity, has been referenced in various historical inscriptions. Notably, the term *Walidwipa*, meaning *Bali Dwipa* or Bali Island, was discovered inscribed on the Blanjong pillar during the reign of Sri Kesari Warmadewa. This inscription holds significant historical value as it provides evidence of Bali's existence as an island entity. The presence of the term *Walidwipa* in the Blanjong inscription allows for the interpretation that it refers specifically to the island of Bali. This inscription serves as a valuable historical source, shedding light on the early recognition and designation of Bali as a distinct island within the Indonesian archipelago.<sup>2</sup>

This spiritual atmosphere and rich cultural heritage , combined with the island's natural beauty, has captivated visitors from around the world, earning Bali the well-deserved title of "Island of The Gods."Embraced by awe-inspiring natural

---

<sup>1</sup> KBBI, Kamus Besar Bahasa Indonesia, "Arti Kata Dewata" <https://kbbi.web.id/dewata>

<sup>2</sup> N. P. B., ., K. S. A. S. M., & ., D. D. M. O. P. M. (2020). Pura Blanjong Di Desa Sanur Kauh, Denpasar Selatan, Bali (Sejarah, Struktur, Fungsi dan Potensinya Sebagai Sumber Belajar Sejarah di SMA) . *Widya Winayata : Jurnal Pendidikan Sejarah*, 8(3), 24–30.

landscapes, including crystal-clear turquoise waters, soft sandy beaches, majestic waterfalls, and vibrant emerald rice fields, Bali presents a mesmerizing tapestry of nature's marvels combined by rich culture has successfully gained Bali a reputation as paradise on earth <sup>3</sup>(Kim)

In the year 2022, Bali experienced an astounding influx of visitors, with a remarkable total of 2,155,747 tourists gracing its shores. These figures unequivocally cement Bali's position as a coveted global hotspot, capturing the hearts and imaginations of travelers from around the world. Its irresistible allure and magnetic appeal make it a top choice among international explorers, solidifying Bali's reputation as an unparalleled destination that leaves an indelible mark on the hearts of those who visit.

Table 1.1 Amount of Monthly Foreign Visitors Entrance to Bali BPS

Foreign Visitor Entrance	Amount of Monthly Foreign Visitors Entrance to Bali BPS					
	Jan	Feb	Mar	Apr	May	Jun
Ngurah Rai Airport	0	1,293	14,717	58,315	115,553	1,811,545
Benoa Harbour	3	17	3	20	58	80
Total	3	1,310	14,620	58,335	115,611	181,625

<sup>3</sup> Kim, 1 Luchman Hakim 2 Jae Eun. "Cultural Landscape and Ecotourism in Bali Island, Indonesia." *Journal of Ecology and Environment* 32(1) ( 2009): p 7.

Foreign Visitor Entrance	Amount of Monthly Foreign Visitors Entrance to Bali BPS						
	Jul	Aug	Sep	Okt	Nov	Dec	Yearly
Ngurah Rai Airport	246442	276627	291115	305152	287025	376361	2155747
Benoa Harbour	62	32	47	92	373	915	1702
Total	246504	276659	291162	305244	287398	377276	2155747

Source : Badan Pusat Statistik ( BPS ) Bali ,” Banyaknya Wisatawan Mancanegara Bulanan ke Bali Menurut Pintu Masuk (Orang) , 2022.<sup>4</sup>

Investment plays a crucial role in fostering economic growth, as the rate of investment growth is directly linked to the overall economic growth rate<sup>5</sup>. In Bali, investment is concentrated in specific sectors and areas. The tourism sector, in particular, attracts significant investment and is predominantly driven by foreign investors. The tourism sector in Bali has flourished, drawing a substantial number of visitors each year, with a minimum average of four million tourists being attracted to the island. This impressive influx of tourists serves as a testament to the robustness and vibrancy of Bali's tourism industry. Several factors contribute to the thriving tourism in Bali, including a favourable political climate characterized by stability, an abundance of natural resources, ongoing infrastructure development initiatives, and the captivating diversity of its cultural heritage. Consequently, these

<sup>4</sup> Badan Pusat Statistik ( BPS ) Bali ,” Banyaknya Wisatawan Mancanegara Bulanan ke Bali Menurut Pintu Masuk (Orang), <https://bali.bps.go.id/indicator/16/106/2/banyaknya-wisatawan-mancanegara-bulanan-ke-bali-menurut-pintu-masuk.html> accessed in April 2023.

<sup>5</sup> Gobalet, Jeanne G., and Larry J. Diamond. “Effects of Investment Dependence on Economic Growth: The Role of Internal Structural Characteristics and Periods in the World Economy.” *International Studies Quarterly*, vol. 23, no. 3, 1979, pp. 412–44. *JSTOR*, <https://doi.org/10.2307/2600175>. accessed in 30 June 2023.

factors collectively appeal not only to domestic travellers but also to international tourists from various parts of the globe, resulting in Bali's status as a sought-after destination on a global scale.<sup>6</sup>

According to the Investment Coordinating Board i.e. *Badan Koordinasi Penanaman Modal* (BKPM), as of the latest available data, investment realization in Bali Province reached IDR 9.65 trillion by December 31, 2020. This amount comprises IDR 4.22 trillion of foreign investment i.e. *Penanaman Modal Asing* (PMA) and IDR 5.43 trillion of domestic investment i.e. *Penanaman Modal Dalam Negeri* (PMDN). Foreign investment in Bali's tourism sector, specifically in hotels and restaurants, accounted for approximately 52 percent, with a value of US\$152.516 million or Rp.2.19 trillion. While foreign investors have contributed significantly, it is essential to note that encouraging domestic investment is equally important for a balanced and sustainable economic growth trajectory.<sup>7</sup>

To achieve a populist economy and ensure that the benefits of the thriving tourism sector reach the Balinese people, the government has implemented various measures. One of the measure is by giving incentive, providing ease of investment , and workshop to enable transfer of knowledge to Balinese people. These initiatives aim to create opportunities for locals to actively participate in and benefit from the.

---

<sup>6</sup> Badan Koordinasi Penanaman Modal <https://investindonesia.go.id/en/article-investment/detail/4-reasons-why-investment-tourism-in-bali-keeps-thriving> accessed 30 June 2023

<sup>7</sup> <https://databoks.katadata.co.id/datapublish/2022/03/31/realisasi-investasi-indonesia-naik-terus-dalam-5-tahun-terakhir> Realisasi Investasi Indonesia Naik Terus dalam 5 Tahun Terakhir accessed 2023

tourism industry and other industries.<sup>8</sup> By diversifying investment sources and promoting a favourable investment climate, the government strives to attract both foreign and domestic investments in Bali.

Table 1.2 Realization of Foreign Investment in Bali Province by Regency/City (Million Rupiah )

Regency / City	Realization of Foreign Investment in Bali Province by Regency/City (Million Rupiah)			
	2020	2021	2022	Percentage 2022
Jembrana	1722	55661	107299	1.66%
Tabanan	94481	1066835	670349	10.39%
Badung	2783261	2315029	3238136	50.20%
Gianyar	234196	618811	944099	14.64%
Klungkung	273871	123249	164481	2.55%
Bangli	1352	4411	8597	0.13%
Karangasem	120010	49639 (katadata)	55008	0.85%
Buleleng	277252	1108616	126336	1.96%
Denpasar	436687	1256461	1136541	17.62%
Bali Province	4222832	6598711	6450848	

Source : Badan Pusat Statistik ( BPS ) Bali ,” Realisasi Penanaman Modal Asing di Provinsi Bali Menurut Kabupaten/ Kota ( Juta Rupiah )”, 2022.<sup>9</sup>

Can be inferred from the data of the table, it is clearly indicative that investment in Bali's tourism sector is currently experiencing high demand from foreign investors. The investment is especially concentrated in Badung with 50.2 % of total investment followed by Denpasar with 17.32 %. Consequently, it is

<sup>8</sup> <https://www.baliprov.go.id/web/wp-content/uploads/2022/06/BUKU-I-LHP-LKPD-PROVINSI-BALI-TA-2021.pdf> Laporan Hasil Pemeriksaan Atas Laporan Keuangan dan Kinerja Pada Pemerintah Provinsi Bali Tahun 2021 accessed 30 Juni 2023

<sup>9</sup> Badan Pusat Statistik ( BPS ) Bali ,” Realisasi Penanaman Modal Asing di Provinsi Bali Menurut Kabupaten/ Kota ( Juta Rupiah )”, <https://bali.bps.go.id/indicator/13/247/1/penanaman-modal-asing.html> accessed in April 2023.

essential to pay special attention to asset ownership in Bali to safeguard the interests of local communities and ensure they benefit from the thriving tourism industry.<sup>10</sup>

The influx of foreign tourists to Bali has naturally led to increased interaction between foreign nationals and the local Balinese population. This heightened interaction has resulted in a significant number of mixed-marriages in Bali. According to the head Immigration Ministry of Law and Human Rights (*Kemenkumham*) Bali, the number of mixed-marriage in Bali is considered substantial in Indonesia.<sup>11</sup> Given the prevalence of mixed-marriages, particularly with foreign nationals in Bali, it becomes crucial to address these unions with careful attention, ensuring that they are legally binding and that the rights and conditions of both parties are appropriately protected. This necessitates the establishment of clear and binding rights and conditions for mixed-marriages, allowing for a harmonious and mutually beneficial partnership between Indonesian citizens and foreign spouses.<sup>12</sup>

In the Indonesian Law context, marriage is regarded as a sacred bond, both physically and spiritually, between a man and a woman. Marriage bond is aimed to form an eternal household based on Indonesia 's Pancasila, Belief in One Almighty God, (*Ketuhanan yang Maha Esa*).<sup>13</sup> Marriage is considered as an important event

---

<sup>10</sup>Bali Bisnis, Asing Dominasi Investasi Pariwisata di Bali <https://bali.bisnis.com/read/20210322/561/1370829/asing-dominasi-investasi-pariwisata-di-bali> accessed in 1 June 2023

<sup>11</sup>Berita Bali, Bali disebut wilayah paling banyak perkawinan campuran <https://www.beritabali.com/news/read/bali-disebut-wilayah-paling-banyak-perkawinan-campuran> accessed 30 June 2023

<sup>12</sup> Mamahit, Laurensius. "Hak Dan Kewajiban Suami Isteri Akibat Perkawinan Campuran Ditinjau Dari Hukum Positif Indonesia." *Lex Privatum* 1.1 (2013).

<sup>13</sup> Undang Undang No 1 Tahun 1974 tentang Perkawinan Pasal 1

for human beings that is sacred. Additionally, mixed-marriages, which involve individuals subject to different laws in Indonesia due to differences in nationality, religion, or population groups, have a unique significance in fostering cultural exchange and societal dynamics.<sup>14</sup>

Marriage regulations in Indonesia are governed by the 1945 Constitution, which upholds the Pancasila principles and emphasizes the sanctity and importance of marriage. It is important to note that there are different perspectives on marriage, including those outlined in the Marriage Law and the Civil Code.

In the Civil Code, it is stated that: *“Undang-undang memandang soal perkawinan hanya dalam hubungan perdata”*.

In which, the above law can be literally interpreted as: “The law views the issue of marriage only in civil relations.” In civil relations, it means that a valid marriage is a marriage that fulfils the requirements set out in the Civil Code.<sup>15</sup> The Civil Code focuses solely on the civil relations aspect of marriage, defining a valid marriage as one that fulfils the requirements specified in the code.

Marriages with foreign nationals are referred to as mixed-marriages which can be defined as:

*“Yang dimaksud dengan perkawinan campuran dalam Undang-Undang ini ialah perkawinan antara dua orang yang di Indonesia tunduk pada hukum yang berlainan, karena perbedaan kewarganegaraan dan salah satu pihak berkewarganegaraan Indonesia.”*

The literal interpretation refers to mixed marriages as, what is meant by mixed marriage in this Law is a marriage between two people who in Indonesia

---

<sup>14</sup> Nuraudya, *Negosiasi Nilai Budaya Pada Pasangan Kawin Campur 2017*, p 16

<sup>15</sup> Pasal 26 Kitab Undang-Undang Hukum Perdata

are subject to different laws, because of differences in nationality and one of the parties is an Indonesian citizen.

To put differently, wishing this context, mixed marriage can be defined, in accordance with Indonesian law, as a form of marital union involving two individuals who are subject to different legal systems in Indonesia due to variances in nationality, wherein one of the parties holds Indonesian citizenship. This encompasses marriages between individuals of different faiths, nationalities, and ethnic backgrounds.<sup>16</sup>

This research aims to delve into the complexities of land ownership regulations for mixed-marriage spouses in Bali, exploring the legal frameworks, rights, and limitations surrounding their acquisition of land in this coveted destination. By examining the implementations of laws and their practical implications, we will shed light on the measures in place to safeguard the interests of mixed-marriages spouses. Additionally, we will explore the challenges faced in striking a harmonious balance between Bali's thriving tourism industry and the need for responsible land ownership practices especially for mixed-marriages spouses.

Through this analysis, we seek to provide a comprehensive understanding of the legal landscape surrounding land ownership for mixed-marriage spouses in Bali. As we delve into the multifaceted aspects of land ownership regulations in Bali, it becomes evident that addressing these complexities requires a nuanced approach that upholds the principles of fairness, cultural preservation, and economic growth. By unravelling the intricacies of this topic, we hope to contribute

---

<sup>16</sup> Undang Undang No 1 Tahun 1974 tentang Perkawinan Pasal 57



to the ongoing dialogue aimed at shaping policies that strike the delicate balance between tourism appeal and safeguarding Bali's invaluable heritage and also discussing with the interest of mixed-marriages spouses unique rights that bind them.

The interactions between foreigners and local Balinese may eventually result in mixed-marriages. Among all regions in Indonesia, Bali has the highest number of mixed-marriages.<sup>17</sup> With mixed-marriages, there are special provisions for the nationality of the spouse, the nationality of the children, and property in the marriage<sup>18</sup>. With the high number of mixed-marriages in Bali, it is hoped that mixed-marriage communities will receive protection by law. Some mixed-marriages spouses ignore the special rights and obligations that bind them. Much negligence, both intentional and unintentional by the mixed-marriage community can result in obstacles that can arise in the future. Therefore, awareness is needed, especially for people of mixed-marriages to understand the provisions that apply to mixed-marriage spouses.

Based on the aforementioned information, the present study aims to delve into the subject matter by adopting a focused approach under the title of :

**LAND OWNERSHIP RIGHTS IN BALI FOR MIXED MARRIAGES  
BETWEEN LOCAL WIFE AND FOREIGN HUSBAND: A LEGAL  
PERSPECTIVE**

---

<sup>17</sup> Berita Bali , Bali disebut wilayah paling banyak perkawinan campuran  
<https://www.beritabali.com/news/read/bali-disebut-wilayah-paling-banyak-perkawinan-campuran>  
accessed 30 June 2023

<sup>18</sup> Penyelundupan Hukum Kepemilikan Hak Milik Atas Tanah di Indonesia. N.p., Penerbit Alumni, 2021. page 155

## **1.2 Research Questions**

Based on the description on the background of the problems described above, the authors formulate the main issues to be answered through this research, namely:

1. What are the existing regulations in Indonesia concerning the legal standing of land ownership for spouses in mixed-marriages?
2. How are the existing regulations in Indonesia implemented in regard to the land ownership of mixed-marriage spouses in Bali involving foreign husbands and Balinese wives ?

## **1.3 Research Objectives**

1. To study the existing regulations in Indonesia concerning the legal standing of land ownership for spouses in mixed-marriages;
2. To analyse on how the implementation of the existing regulations in Indonesia in regard to the land ownership owned by mixed-spouses in Bali involving foreign husbands and Balinese wives.

## **1.4 Research Contribution**

1. Finding the existing regulations in Indonesia concerning the legal standing of land ownership for spouses in mixed-marriages;
2. Finding the implementation of the existing regulations in Indonesia in regard to the land ownership owned by mixed- spouses in Bali involving foreign husbands and Balinese wives

#### **1.4.1 Theoretical Contribution**

This research is intended to provide more references and foundations in regulating the ownership of assets owned by mixed-marriage spouses specifically in Bali involving foreign husbands and Balinese wives, and in particular the implementation of these arrangements when compared to the current regulations in Indonesia.

#### **1.4.2 Practical Contribution**

This research is intended to provide a community perspective and description, and various other stakeholders' understanding of the civil nature of land ownership owned by mixed-marriage spouses specifically in Bali involving foreign husbands and Balinese wives.

#### **1.5. Writing Structure**

The writing structure chapter by chapter, will be briefly described as follows :

##### **CHAPTER I. INTRODUCTION**

The introduction will contain the background and reasons that support the importance of carrying out this research. This chapter consists of several sections, namely: Research Questions, Research Objectives, and Research Contribution , and Writing Structure

##### **CHAPTER II. LITERATURE REVIEW**

The literature review will contain an overview of regulations and civil law on asset ownership by foreign nationals in Indonesia, namely those who are bind into mixed-marriages consisting of Indonesian citizenship and foreign nationality.

This literature is compiled to provide a comprehensive and critical analysis of existing scholarly literature and research on a specific topic or research questions that have been formulated above . The structure will consist of Theoretical Framework / Theoretical Review and Conceptual Review

### **CHAPTER III. RESEARCH METHODOLOGY**

The research method will explain the methods used for this research which in particular consist of type of research, law material , data collection tools, research approach, and data analysis

### **CHAPTER IV . RESEARCH RESULTS AND ANALYSIS**

In this chapter, the answers to the main problems formulated in Chapter I will be explained in detail by carrying out a comparative analysis of regulations and implementation of asset ownership by mixed-marriage individuals of foreign nationals in Indonesia.

### **CHAPTER V. CONCLUSION AND RECOMMENDATION**

The conclusions and suggestions that have been explained in the previous chapter will be compiled into coherent and refined suggestions and conclusions to increase the discussion of the author's research subject.