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A Comparative Study of the Applicable Law to the Validity of Foreign-Related Marriages in China and Uzbekistan: Conflict-of-Laws Rules, Recognition and Legal Certainty

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Abstract: The cross-border mobility of individuals has increased the importance of determining the validity and recognition of marriages involving a foreign element. Differences in national family law and conflict-of-laws rules may create uncertainty regarding substantive marriage conditions, formal validity, and the legal effects of marriages concluded abroad. This article comparatively examines the applicable-law frameworks of the People's Republic of China and the Republic of Uzbekistan, focusing on the relationship between conflict-of-laws rules, foreign-marriage recognition, and the ascertainment of foreign law. The study employs doctrinal legal analysis, systematic statutory interpretation, and comparative legal methodology. It analyses Articles 21 and 22 of China's Law on the Application of Laws to Foreign-Related Civil Relations, relevant provisions of the Chinese Civil Code, and Articles 13–16 and 234–238 of the Uzbek Family Code. It also considers contemporary scholarship on the cross-border recognition of personal status and China's judicial framework for ascertaining foreign law. The analysis demonstrates that China expressly distinguishes between the law governing the conditions of marriage and the law governing marriage formalities, whereas Uzbekistan establishes a specific statutory framework for recognizing marriages concluded abroad, subject to defined domestic impediments. The article develops a structured model for analysing cross-border marriage cases and recommends clearer administrative guidance, improved verification of foreign law, and stronger institutional cooperation. Its contribution lies in identifying the legal stages at which inconsistencies may arise and proposing measures to enhance legal certainty without assuming that the two jurisdictions follow identical approaches.

Keywords: private international law, foreign-related marriage, conflict of laws, applicable law, marriage validity, recognition of foreign marriages, China, Uzbekistan, foreign law, legal certainty.

1. Introduction

The increasing movement of individuals across national borders has made foreign-related family relationships an important subject of private international law. International education, employment, migration, and cross-border personal relationships create situations in which a marriage may involve

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several legal systems. A marriage may be concluded in one country, involve spouses with different nationalities, and subsequently require recognition in another jurisdiction. In these circumstances, possession of a marriage certificate does not necessarily resolve every question concerning the marriage's legal status in the receiving state.

The legal analysis must distinguish at least three issues: the substantive conditions for entering into marriage, compliance with the formal requirements of the place of celebration, and recognition of the marriage in another jurisdiction. These questions are related, but they are not interchangeable. The law applicable to one issue does not automatically determine every other issue arising from the same relationship.

China and Uzbekistan provide a useful comparative framework because their legislation addresses foreign-related family relationships through different statutory techniques. China regulates applicable law through the Law of the People's Republic of China on the Application of Laws to Foreign-Related Civil Relations, adopted on 28 October 2010 and effective from 1 April 2011. Articles 21 and 22 establish separate rules for the conditions and formalities of marriage [1]. The Chinese Civil Code additionally regulates substantive marriage requirements, including marriageable age and circumstances in which a marriage is void [2].

Uzbekistan regulates foreign-related family relationships in Section VIII of its Family Code. Article 235 specifically addresses the recognition of marriages concluded outside Uzbekistan, while Article 238 establishes a procedure for determining the content of foreign family law [3]. These provisions are particularly important when a marriage certificate issued abroad must be evaluated by Uzbek authorities.

Recent scholarship has also emphasized the distinction between the circulation of civil-status documents and the recognition of the legal status evidenced by those documents. Yang's 2025 study identifies difficulties that arise when personal status established in one jurisdiction encounters different legal categories or recognition practices in another [4]. Although that research focuses on Asian regionalization and the Greater Bay Area, its conceptual framework is relevant to comparative research on foreign-related marriages more broadly.

Furthermore, China's Supreme People's Court issued an interpretation concerning the ascertainment of foreign law in foreign-related civil and commercial cases, effective from 1 January 2024 [5]. This development reinforces the importance of establishing the content of foreign law through appropriate legal methods rather than relying exclusively on informal explanations or translations.

Despite the relevance of these developments, the comparison between China's conflict-of-laws rules for marriage and Uzbekistan's statutory recognition framework requires further systematic examination.

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Research question: How do China and Uzbekistan determine the law applicable to the validity of foreign-related marriages, and what differences in their legal frameworks may affect the recognition of marriages across borders?

The article addresses four objectives:

1. To distinguish the substantive validity, formal validity, and recognition of foreign-related marriages.
2. To analyse the principal Chinese and Uzbek statutory rules governing these issues.
3. To identify the main similarities, differences, and potential sources of legal uncertainty.
4. To propose a practical framework for determining applicable law and improving cross-border legal certainty.

The article's principal contribution is an issue-based comparative model that separates the legal stages of marriage validity and recognition. Rather than assuming that either the place of celebration or the nationality of a spouse always determines the outcome, the model requires the decision-maker to identify the particular legal question and apply the corresponding statutory rule.

2. Materials and Methods

2.1. Research design

The study adopts a qualitative doctrinal and comparative legal research design. It relies on primary legislation, official legal materials, judicial interpretative instruments, and relevant scholarly literature. It does not claim to be an empirical study of the frequency or outcomes of cross-border marriage disputes.

The primary Chinese sources are the Law on the Application of Laws to Foreign-Related Civil Relations and the Civil Code of the People's Republic of China. The principal Uzbek source is the Family Code of the Republic of Uzbekistan, particularly Articles 13–16 and 234–238.

Secondary literature is used to contextualize the legal issues and develop the analytical framework. Particular attention is given to Yang's 2025 research on the cross-border recognition of personal status [4]. The study also considers China's 2024 judicial framework for ascertaining foreign law [5].

2.2. Analytical criteria

The two legal systems are compared using six criteria:

- the law governing the substantive conditions of marriage;
- the law governing marriage formalities;
- the statutory basis for recognizing marriages concluded abroad;
- the relevance of domestic marriage impediments;
- the ascertainment and application of foreign law;
- the implications for legal certainty and administrative practice.

These criteria enable the comparison to distinguish between rules that determine applicable law and rules that regulate the recognition or documentation of an existing marriage.

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2.3. Methodological limitations

The analysis is based on statutory interpretation and identified secondary literature. It does not claim to establish a comprehensive body of Chinese or Uzbek judicial practice concerning marriages between Chinese and Uzbek nationals. Any jurisdiction-specific case-law conclusions would require separate verification of published judgments and their legal relevance.

The article therefore distinguishes between conclusions supported directly by legislation and recommendations developed through comparative reasoning. This distinction is essential to avoid presenting proposed reforms as existing legal requirements.

3. Results

3.1. The Chinese framework: separate rules for substantive conditions and formalities

China's Law on the Application of Laws to Foreign-Related Civil Relations establishes a statutory framework for selecting the law applicable to foreign-related civil relationships.

Article 21 addresses the conditions of marriage. It provides a sequence of connecting factors: the parties' common habitual residence; in the absence of a common habitual residence, their common nationality; and, where neither exists, the law of the place of celebration if the statutory connection with a party's habitual residence or nationality is satisfied [1].

Article 22 addresses the formalities of marriage separately. Under this provision, marriage formalities are valid if they conform to the law of the place where the marriage is concluded or to the law of a party's habitual residence or nationality [1].

The distinction between these provisions is fundamental. Article 21 determines the law governing substantive marriage conditions, while Article 22 provides alternative connecting factors for formal validity. Consequently, a certificate demonstrating that a marriage was registered by a competent foreign authority may establish an important fact without necessarily resolving every substantive question.

The Chinese Civil Code provides the substantive context for applying these conflict-of-laws rules. Articles 1046–1049 regulate matters including voluntary consent, marriageable age, prohibited close relationships, and marriage registration. Article 1051 identifies circumstances in which a marriage is void [2].

However, the relationship between these domestic substantive provisions and foreign-related cases must be analysed through the applicable conflict-of-laws rules and relevant mandatory provisions. It would be methodologically incorrect to assume that every domestic marriage requirement automatically displaces the law designated by Article 21.

The general provisions of the 2010 statute are also relevant. Article 4 concerns mandatory provisions that apply directly to certain foreign-related civil relationships. Article 5 addresses the application of Chinese law where applying foreign law would damage China's social public interests. Article 10 concerns the ascertainment of foreign law [1].

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In 2024, the Supreme People's Court's Interpretation II on the Application of the Law on the Application of Laws to Foreign-Related Civil Relations entered into force. It provides a more detailed judicial framework for ascertaining foreign law in foreign-related civil and commercial proceedings [5]. Although the interpretation is not exclusively concerned with marriage, it is relevant to the broader methodological question of establishing foreign law where a conflict-of-laws rule refers to it.

3.2. The Uzbek framework: recognition of marriages concluded abroad

The Uzbek Family Code addresses foreign-related family relationships in Section VIII. Articles 234–238 regulate selected issues involving foreign citizens, marriages concluded abroad, adoption, and the ascertainment of foreign family law [3].

Article 235 is central to the present research. It provides that marriages between Uzbek citizens, as well as marriages between Uzbek citizens and foreign citizens or stateless persons, concluded outside Uzbekistan in compliance with the law of the state where they were concluded, are recognized as valid in Uzbekistan if the circumstances specified in Article 16 that prevent marriage are absent. The provision also addresses marriages between foreign citizens concluded abroad in accordance with the law of the state of celebration [3].

This provision establishes a direct statutory basis for the recognition of foreign marriages. It combines the law of the place of celebration with a domestic safeguard concerning specified marriage impediments for the categories of marriage expressly identified in the article.

Article 16 lists circumstances that prevent marriage under Uzbek law, including an existing registered marriage, certain close family relationships, and other legally specified impediments [3]. The relevance of any particular impediment must be determined in accordance with the wording of the applicable statutory provisions and the circumstances of the case.

Article 238 is significant when the relevant foreign family law must be established. It requires courts, civil-status registration authorities, and other competent bodies to determine the content of foreign family law in accordance with its official interpretation and application in the relevant foreign state. The provision allows the competent bodies to seek assistance from Uzbek authorities, consult experts, and consider documents submitted by interested persons. If the content of foreign family law cannot be established despite the prescribed measures, Uzbek law applies [3].

This mechanism highlights the practical importance of reliable legal information. In cross-border marriage cases, the decision-maker may need to establish whether a marriage complied with the foreign state's legal requirements and whether any relevant impediment affects recognition in Uzbekistan.

Article 235 should not be interpreted as making every foreign marriage automatically recognizable in all circumstances. Rather, recognition depends on the statutory conditions applicable to the relevant category of marriage.

3.3. Comparative analysis

The comparison reveals differences in the structure and emphasis of the two systems.

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Criterion	China	Uzbekistan
Principal legal framework	Law on the Application of Laws to Foreign-Related Civil Relations; Civil Code	Family Code, Section VIII
Substantive conditions	Article 21 of the conflict-of-laws statute	Article 235 refers to the law of the place of celebration and, for specified marriages involving Uzbek citizens, the impediments in Article 16
Formal validity	Article 22 expressly identifies alternative connecting factors	Article 235 refers to compliance with the law of the state where the marriage was concluded
Recognition of foreign marriages	Analysed through applicable conflict-of-laws rules and relevant substantive provisions	Expressly addressed by Article 235
Ascertainment of foreign law	Article 10 and relevant judicial interpretation	Article 238
Main analytical challenge	Coordinating substantive marriage conditions, formal validity, and applicable-law rules	Applying the recognition provision and establishing the relevant foreign law and domestic impediments

Source: Author's comparative analysis of the Chinese conflict-of-laws statute and the Uzbek Family Code [1–3, 5].

The table identifies a difference in legislative technique rather than proving that one system is necessarily more effective than the other.

China expressly separates substantive conditions from marriage formalities. Uzbekistan places particular emphasis on the recognition of marriages concluded abroad, specifying the relationship between foreign-law compliance and relevant domestic impediments.

Both systems require careful attention to the content of foreign law. However, the statutory placement of these requirements differs: China addresses ascertainment in a general conflict-of-laws statute, while Uzbekistan addresses it specifically in the Family Code's provisions on foreign-related family relationships.

3.4. A structured model for analysing cross-border marriage cases

The statutory comparison supports a six-stage analytical model.

Stage 1: Identify the legal issue. Determine whether the question concerns substantive eligibility to marry, formal compliance, or recognition of an existing marriage.

Stage 2: Establish the relevant connections. Identify the spouses' nationalities, habitual residences, and the place of celebration. These facts may determine which conflict-of-laws rule applies.

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Stage 3: Select the applicable law. Apply the relevant statutory connecting factor rather than assuming that one jurisdiction's law governs every aspect of the marriage.

Stage 4: Establish the content of foreign law. Obtain reliable statutory texts, official interpretations, or other legally appropriate evidence of the relevant foreign rules.

Stage 5: Examine the statutory conditions for recognition. Consider the relevant formal requirements and any domestic impediments specified by the applicable legislation.

Stage 6: Provide a reasoned determination. Explain which rule applies, how the relevant facts satisfy or fail to satisfy it, and whether any documentary or legal deficiency remains unresolved.

This model is an analytical proposal derived from the comparison. It is not presented as an existing official procedure adopted by either country.

4. Discussion

4.1. Why formal validity and substantive validity must remain distinct

One of the most important findings is that formal validity and substantive validity should not be treated as identical concepts.

Formal validity concerns the legal requirements governing the celebration or registration of marriage. Substantive validity concerns the legal conditions that determine whether the persons involved may validly enter into marriage.

China's Articles 21 and 22 expressly distinguish these issues [1]. This structure provides a clear starting point for analysing cases involving different nationalities or habitual residences.

Uzbekistan's Article 235 uses a recognition-based formulation that refers to compliance with the law of the state where the marriage was concluded and, for specified categories of marriage, the absence of impediments under Article 16 [3]. The legal assessment must therefore consider the exact scope of the statutory rule rather than treating the foreign certificate as conclusive in every respect.

The distinction is especially important when an authority must decide whether a document is authentic and whether the legal relationship evidenced by that document should be recognized. Yang's 2025 study similarly distinguishes the acceptance of a foreign public document from the determination of the legal effects of the status it records [4].

Accordingly, documentary verification and substantive recognition should be treated as related but separate tasks.

4.2. Foreign law, mandatory provisions, and public policy

The application of foreign law may raise questions concerning the fundamental rules of the forum state. In China, Articles 4 and 5 of the conflict-of-laws statute provide the relevant statutory framework for mandatory provisions and the protection of social public interests [1].

These provisions should not, however, be treated as a general authorization to disregard foreign law whenever domestic law differs from it. The application of a mandatory provision or public-policy exception requires a legal basis and an assessment of the circumstances of the particular case.

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For Uzbekistan, the analysis should begin with Article 235 and the statutory impediments to which it refers. Article 238 then becomes relevant when the content of foreign family law must be established [3].

A comparative study should distinguish between three questions:

1. Which law is designated by the applicable conflict-of-laws rule?
2. Has the content of that law been reliably established?
3. Does an applicable mandatory provision or statutory impediment affect the outcome?

Keeping these questions separate helps reduce the risk of confusing the existence of a conflict between legal systems with a legally justified ground for refusing recognition.

4.3. Contemporary scholarship and the cross-border circulation of personal status

Yang's 2025 study contributes a broader conceptual perspective by examining the relationship between private international law, civil registration, and the recognition of personal status [4]. It argues that differences between legal systems may make it difficult for individuals to maintain a consistent legal identity when moving between jurisdictions.

For marriage, this issue can arise when a marriage is validly recorded in one state but its recognition or legal effects are questioned in another. The resulting uncertainty may affect family registration and other legal relationships connected with marital status.

This scholarship does not establish that the same difficulties occur with a particular frequency in China–Uzbekistan cases. Rather, it supplies a relevant analytical framework for identifying the kinds of problems that may arise when two legal systems apply different connecting factors or recognition conditions.

The present comparison applies that framework to the statutory relationship between Chinese conflict-of-laws rules and Uzbek recognition provisions. Its specific contribution is to show how a staged legal assessment can help clarify the applicable law and the grounds for recognition.

4.4. The practical importance of determining foreign law

A conflict-of-laws rule is useful only if the content of the designated foreign law can be established with sufficient reliability.

China's Article 10 and the Supreme People's Court's 2024 framework for ascertaining foreign law are relevant in this respect [1, 5]. Uzbekistan's Article 238 provides a corresponding statutory mechanism within family law [3].

The two frameworks demonstrate the importance of official legal texts, competent authorities, expert assistance where appropriate, and careful interpretation of foreign legislation.

For a marriage involving a Chinese and an Uzbek national, the applicable law cannot be identified solely from the spouses' nationalities. The place of celebration, habitual residence, nature of the legal question, and relevant statutory connecting factors may also matter.

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A decision-maker should therefore avoid relying on a general statement that Chinese law governs because one spouse is Chinese, or that Uzbek law governs because the other spouse is Uzbek. The correct approach is to identify the particular issue and apply the corresponding statutory rule.

4.5. Recommendations for improving legal certainty

The comparative analysis supports four recommendations.

First, develop clearer administrative guidance. Guidance for authorities dealing with foreign marriage certificates should distinguish document authentication, applicable-law analysis, substantive marriage conditions, and recognition.

Second, strengthen access to authoritative foreign-law information. Official translations, consolidated legislation, and appropriate channels for obtaining foreign-law explanations can reduce uncertainty concerning the content of the designated law.

Third, improve institutional cooperation. Cooperation between competent authorities may facilitate the verification of civil-status documents and the exchange of reliable legal information. Any such arrangements should operate within the applicable national and international legal frameworks.

Fourth, promote reasoned and transparent decisions. Where recognition is refused or questioned, the decision should identify the relevant statutory provision and explain how the established facts relate to the legal requirements. This helps distinguish substantive impediments from missing documents or unresolved questions concerning foreign law.

These recommendations are proposed improvements, not claims that either jurisdiction currently lacks all such mechanisms.

5. Conclusion

This article has compared the legal frameworks governing foreign-related marriage validity and recognition in China and Uzbekistan. The analysis demonstrates that both jurisdictions address cross-border family relationships, but they employ different legislative techniques.

China's Law on the Application of Laws to Foreign-Related Civil Relations expressly distinguishes between the substantive conditions of marriage and its formalities. Articles 21 and 22 provide separate connecting rules, while Article 10 and the relevant judicial framework address the ascertainment of foreign law [1, 5].

Uzbekistan's Family Code specifically regulates the recognition of marriages concluded abroad under Article 235 and provides a mechanism for establishing foreign family law under Article 238 [3].

The central conclusion is that a foreign-related marriage should not be assessed through a single undifferentiated test. Substantive validity, formal validity, and recognition in another jurisdiction are distinct legal questions that may require different statutory rules and factual assessments.

The article's principal contribution is a six-stage analytical model that identifies the legal issue, establishes the relevant connections, selects the applicable law, determines the content of foreign law, examines recognition requirements, and produces a reasoned determination. This model provides a

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practical framework for comparative legal analysis without assuming that the two systems are identical.

The study recommends clearer administrative guidance, stronger access to authoritative foreign-law materials, institutional cooperation, and transparent reasoning in recognition decisions. These measures could improve legal certainty for individuals whose family relationships cross national borders.

The study is limited by its doctrinal design and does not claim to establish the frequency or outcome of China–Uzbekistan marriage disputes. Future research should examine verified judicial decisions, administrative practice, and concrete cross-border cases. Such research would help determine how the statutory frameworks operate in practice and whether additional legal or administrative measures are needed.

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