

Marriage Agreement Literacy as a Legal Protection for Indonesian Migrant Workers in Malaysia

Dina Silvia Puteri¹ , Suhadi² , Dani Muhtada³ 

¹Universitas Negeri Semarang, <https://orcid.org/0009-0007-6984-5975>

²Universitas Negeri Semarang, <https://orcid.org/0009-0007-7041-702X>

³Universitas Negeri Semarang, <https://orcid.org/0000-0003-3537-0792>

Corresponding author's email: dinasputeri@mail.unnes.ac.id

Abstract

Indonesian Migrant Workers (PMI) represent a vulnerable group within transnational legal systems, particularly when facing issues related to marriage and joint property abroad. The low level of legal literacy—especially concerning prenuptial and postnuptial agreements—has resulted in many migrant workers lacking awareness of their legal rights and obligations. This article aims to analyze the urgency of improving marriage agreement literacy among Indonesian migrant workers in Malaysia and to examine its relevance within the context of legal protection and social justice. This study employs a socio-legal method with an empirical approach through a community service program conducted at the Indonesian Embassy (KBRI) in Kuala Lumpur. The findings indicate that improving literacy on marriage agreements not only strengthens the legal standing of migrant workers in cross-border marriages but also serves as a preventive mechanism against potential economic and social losses resulting from legal ignorance.

Keywords: marriage agreement, migrant workers, legal protection, legal literacy, private international law

INTRODUCTION

Indonesian migrant workers in Malaysia constitute one of the most legally vulnerable groups, particularly concerning marital and property arrangements. Employment as migrant workers continues to grow in popularity, as evidenced by an increase of more than 30% in 2024.¹ Data show that since 2007, Malaysia has been the primary destination for Indonesian migrant workers, hosting the majority out of 5,184,369 Indonesian migrants², with 36,500 newly deployed in the January–August 2024 period alone.³ The majority of these workers are women, totaling 1,049 female workers compared to 662 male workers in 2023.⁴

The main reasons for choosing to work abroad include the desire to improve living standards through

¹ Hops.id, “TKI dan TKW meningkat tahun 2024: Sebanyak 29.803 orang Indonesia memilih untuk menjadi pekerja migran, berikut statistiknya,” 2024, diakses 12 Maret 2025, _

<https://www.hops.id/trending/29412728631/tki-dan-tkw-meningkat-tahun-2024-sebanyak-29803-orang-indonesia-memilih-untuk-menjadi-pekerja-migran-berikut-statistiknya>.

² Kompas.com, “Pekerja migran Indonesia capai 5.184.369 sejak 2007, terbanyak di Malaysia,” 18 Desember 2024, diakses 12 Maret 2025, <https://nasional.kompas.com/read/2024/12/18/14083431/pekerja-migran-indonesia-capai-5184369-sejak-2007-terbanyak-di-malaysia>.

³ Antaraneews, “Deretan negara yang didominasi pekerja migran Indonesia,” 2024, diakses 12 Maret 2025, _
<https://www.antaraneews.com/berita/4413553/deretan-negara-yang-didominasi-pekerja-migran-indonesia>.

⁴ Pemerintah Kabupaten Deli Serdang, “Tenaga kerja Indonesia ke negara Malaysia,” 2024, diakses 12 Maret 2025, <https://data.deliserdangkab.go.id/hu/dataset/tenaga-kerja-indonesia-ke-negara-malaysia/resource/94989db9-7272-464e-81b5-c3d9c99c998b>

higher income opportunities,⁵ while Malaysia is preferred due to its proximity, linguistic similarity, and the established Indonesian migrant community.⁶ However, reports from the field indicate that many migrant workers—both male and female—face family issues, such as discovering that their spouses in Indonesia have remarried using the remittances sent by the workers themselves.⁷ Consequently, the need for a marriage agreement is critical to protect the property earned during their employment abroad.

Previously, marriage agreements in Indonesia could only be made before marriage. However, the Constitutional Court Decision No. 69/PUU-XIII/2015 extended this right, allowing couples to enter into postnuptial agreements during the course of marriage,⁸ provided they do not harm third parties.⁹ Such agreements can regulate property separation, define spousal rights and obligations, and set other mutually agreed-upon terms.¹⁰

Ideally, migrant workers should possess sufficient understanding of marriage agreements to protect their rights regarding finances, child custody, and legal certainty. In Indonesia, Article 29 of Law No. 1 of 1974 on Marriage (as amended by Law No. 16 of 2019) stipulates that before or during marriage, both parties may, by mutual consent, establish a written agreement ratified by a marriage registrar, whose contents also apply to third parties as long as they are involved. This allows spouses to regulate property ownership separately and avoid future legal disputes.

From this analysis, it can be concluded that Indonesian migrant workers in Malaysia face significant challenges in understanding and applying marriage agreements as a form of legal protection. Therefore, increasing legal literacy on marital agreements is essential to help them understand their rights and obligations and to prevent potential legal disputes in the future.

The main problems identified among Indonesian migrant workers in Malaysia include: (1) low legal literacy regarding marriage agreements, (2) lack of access to information and procedures for drafting marriage agreements, and (3) high rates of marital legal disputes. To address these issues, this community service program aims to enhance migrant workers' legal awareness and provide practical solutions to safeguard their rights and assets.

The proposed activities include seminars and legal counseling to introduce the concept, benefits, and

⁵ Times Indonesia, "Mengapa orang Indonesia tertarik bekerja di luar negeri?" 2024, diakses 12 Maret 2025, <https://timesindonesia.co.id/kopi-times/437767/mengapa-orang-indonesia-tertarik-bekerja-di-luar-negeri>; BP3TKI Jakarta, "Alasan mengapa banyak orang memilih menjadi TKI," 2024, diakses 12 Maret 2025, <https://bp3tkijakarta.com/alasan-mengapa-banyak-orang-memilih-menjadi-tki/>.

⁶ S. Susilo, "Beberapa faktor yang menentukan TKI dalam memilih negara tujuan sebagai tempat bekerja: studi di Desa Aryojeding Kabupaten Tulungagung," *Jurnal Pendidikan Geografi: Kajian, Teori, dan Praktek dalam Bidang Pendidikan dan Ilmu Geografi* 21, no. 2 (2016): 110–119.

⁷ Jawa Pos Radar Solo, "Pulang dari luar negeri, istri sudah kawin lagi," 2024, diakses 12 Maret 2025, [https://radarsolo.jawapos.com/solo/841664156/pulang-dari-luar-negeri-istri-sudah-kawin-laginbsp](https://radarsolo.jawapos.com/solo/841664156/pulang-dari-luar-negeri-istri-sudah-kawin-laginbsp;); Sindonews, "Sungguh merana, TKI ini dapati istri menikah lagi sepulang dari Malaysia, akhirnya hancurkan rumah," 2024, diakses 12 Maret 2025, <https://daerah.sindonews.com/read/1496467/704/sungguh-merana-tki-ini-dapati-istri-menikah-lagi-sepulang-dari-malaysia-akhirnya-hancurkan-rumah-1732983116>; Riau Aktual, "Istri jadi TKW, hasil jerih payahnya dipakai suami nikah lagi," 2024, diakses 12 Maret 2025, <https://riauaktual.com/news/detail/42126/istri-jadi-tkw-hasil-jerih-payahnya-dipakai-suami-nikah-lagi.html>; Detik News, "WNI di Madinah 14 tahun tak pulang, ngaku sakit hati suami nikah lagi," 2024, diakses 12 Maret 2025, <https://news.detik.com/berita/d-7314299/wni-di-madinah-14-tahun-tak-pulang-ngaku-sakit-hati-suami-nikah-lagi>; Detik News, "TKW di Pati robohkan rumah hasil kerjanya yang dipakai eks suami nikah lagi," 2024, diakses 12 Maret 2025, <https://news.detik.com/berita/d-7499145/tkw-di-pati-robohkan-rumah-hasil-kerjanya-yang-dipakai-eks-suami-nikah-lagi>; Buruh Migran, "Suami jadi TKI, istri mau kawin buruh migran lagi?" 22 Desember 2011, diakses 12 Maret 2025, <https://buruhmigran.or.id/2011/12/22/suami-jadi-tki-istri-mau-kawin-buruh-migran-lagi/>.

⁸ Hukum Online, "Bisakah membuat perjanjian kawin setelah perkawinan berlangsung (postnuptial agreement)," 2024, diakses 12 Maret 2025, <https://www.hukumonline.com/klinik/a/bisakah-membuat-perjanjian-kawin-setelah-perkawinan-berlangsung-ipostnuptial-agreement-i-lt583e9ba62c691/>.

⁹ M. Sopiyan, "Analisis perjanjian perkawinan dan akibatnya menurut Undang-Undang Perkawinan di Indonesia," *Misykat Al-Anwar: Jurnal Kajian Islam dan Masyarakat* 6, no. 2 (2023), <https://jurnal.umj.ac.id/index.php/MaA16/index>.

¹⁰ Hukum Online, "Bentuk-bentuk perjanjian kawin," 2024, diakses 12 Maret 2025, <https://www.hukumonline.com/klinik/a/bentuk-bentuk-perjanjian-kawin-lt5d10395b1ff28/>.

legal consequences of marriage agreements, as well as technical guidance sessions on how to draft and register such agreements in accordance with Indonesian law.

Through these activities, it is expected that Indonesian migrant workers in Malaysia will gain a stronger understanding of their rights and obligations in marriage, minimize potential legal conflicts, and achieve greater legal certainty within their marital relationships.

In developing this article, several key novelties can be identified when compared to previous studies. The first study, *“Perlindungan Hukum Internasional Terhadap Anak Luar Kawin Pekerja Migran Indonesia (Analisis Kritis Penerapan Prinsip Non-Diskriminasi)”*¹¹, focuses on the international legal protection of children born out of wedlock to Indonesian migrant workers through the application of the principle of non-discrimination. While this study shares a similar concern for the protection of Indonesian migrant workers abroad, it does not specifically address issues related to marital agreements or legal literacy concerning cross-border marriages. In contrast, this article explores how increasing awareness and understanding of *prenuptial and postnuptial agreements* can strengthen the legal protection of Indonesian migrant workers—particularly in Malaysia—representing a novel thematic focus that bridges family law and migrant protection.

The second study, *“Peningkatan Financial Literacy dan Kompetensi Keahlian bagi Pekerja Migran Indonesia (PMI) di Malaysia”*¹², examines initiatives to improve financial literacy and professional competence among Indonesian migrant workers in Malaysia. Although it similarly promotes empowerment through literacy, it confines its analysis to financial aspects and does not explore legal literacy or marital issues. The novelty of the present article lies in expanding the concept of literacy from the financial to the legal domain, focusing specifically on how understanding marital agreements can provide preventive legal protection and strengthen the bargaining position of Indonesian migrants in cross-border marriages.

The third reference, *“Literasi Payung Pelindung Tenaga Kerja untuk Pekerja Migran Indonesia di Taiwan melalui Edukasi Hukum”*¹³, emphasizes general legal education for Indonesian migrant workers in Taiwan, especially those in informal sectors such as domestic work and fishing. Although this research aligns with the broader aim of enhancing legal literacy among migrant workers, it does not engage with the specific issue of marital agreements or the unique legal dynamics in Malaysia. Hence, this article introduces a fresh perspective by integrating the notion of legal literacy into the context of cross-border marital arrangements, thereby addressing a different but highly relevant aspect of migrant vulnerability.

The fourth comparative study, *“Analisis Komparatif Kesesuaian Hukum Nasional Indonesia dan Malaysia dengan Instrumen Hukum Internasional dalam Perlindungan Pekerja Migran”*¹⁴, focuses on the harmonization between Indonesian and Malaysian labor laws with international legal instruments for migrant protection. Although it shares the same geographical scope—Indonesia and Malaysia—it limits its discussion to employment law and labor protection frameworks. The current article, however, introduces an additional dimension by examining marriage and family law as an essential yet often overlooked area of migrant protection, particularly in mixed marriages. This focus on the intersection between private law and labor migration demonstrates a clear conceptual advancement over existing literature.

Lastly, while existing books and legal references on marital agreements and literacy offer valuable theoretical foundations, none have yet examined their practical application among Indonesian migrant workers in Malaysia. The present article therefore fills this significant research gap by linking *marital agreement literacy* to the broader discourse of legal empowerment and social justice for migrant communities.¹⁵ Moreover, it engages with recent legal developments such as the Draft Bill on Private International Law (Rancangan Undang-Undang Hukum Perdata Internasional), which has growing relevance for cross-border marriages involving Indonesian citizens.

¹¹ Ibnu Mardiyanto, “Perlindungan Hukum Internasional terhadap Anak Luar Kawin Pekerja Migran Indonesia (Analisis Kritis Penerapan Prinsip Non-Diskriminasi),” *PROGRESIF: Jurnal Hukum* 18, no. 1 (2024), <https://doi.org/10.33019/progresif.v18i1.5119>

¹² Andhega Wijaya, Muhammad Turhan Yani, and Oce Wiriawan, “Peningkatan Financial Literacy dan Kompetensi Keahlian bagi Pekerja Migran Indonesia (PMI) di Malaysia,” *PROFICIO: Jurnal Abdimas FKIP UTP* 6, no. 1 (2025), <https://doi.org/10.36728/jpf.v6i1.4156>.

¹³ Alfin Hikmaturokhman, Silvia Van Marsaly, Adanti Wido Paramadini, and Erin Sumarsini, “Literasi Payung Pelindung Tenaga Kerja untuk Pekerja Migran Indonesia di Taiwan melalui Edukasi Hukum,” *SITECHMAS: Jurnal Sistem Informasi dan Teknologi Masyarakat* 5, no. 2 (November 2024), <https://doi.org/10.32497/sitechmas.v5i2.5670>.

¹⁴ Katie Nur, *Upaya Perlindungan KBRI Kuala Lumpur dalam Melindungi Perempuan Pekerja Migran Indonesia di Malaysia Tahun 2023* (Undergraduate thesis, Universitas Komputer Indonesia, 2024).

¹⁵ Mita Noveria et al., *Perlindungan Pekerja Migran Indonesia* (Jakarta: Yayasan Pustaka Obor Indonesia, 2020).

In summary, the novelty of this article lies in its integrative approach—combining legal literacy, family law, and migrant protection within the socio-legal context of Indonesia–Malaysia relations. It moves beyond the conventional labor protection discourse and introduces the marital agreement as a preventive legal instrument, supported by current diplomatic and legal outreach initiatives by the Indonesian Embassy in Kuala Lumpur that aim to educate migrant workers about their rights and obligations as part of mixed marriages.

METHOD

To achieve the program's objectives, implementation was carried out in several structured stages. The first stage involved socialization and seminars, aimed at introducing the program to Indonesian migrant workers in Malaysia and emphasizing the importance of marriage agreements as a form of legal protection. This stage also highlighted the potential legal risks arising from ignorance of marital law.

The next stage consisted of legal counseling and technical workshops on the procedures for drafting marriage agreements. These sessions focused on the conceptual understanding, preparation, and legal implications of such agreements, including their content, legal formalities, and registration processes.¹⁶

With this structured method, the community service program is expected to produce tangible and sustainable impacts on enhancing the legal protection of Indonesian migrant workers in Malaysia.

RESULT & DISCUSSION

Legal protection for Indonesian migrant workers, especially those in Malaysia, extends beyond employment rights to encompass personal and family matters such as marriage. Education on marriage agreements can serve as a vital protective mechanism, as issues surrounding property, maintenance, and child custody frequently lead to disputes that harm migrant workers. With adequate understanding of marriage agreements, workers gain a tool to secure their rights even while living apart from their families.¹⁷

The Constitutional Court Decision No. 69/PUU-XIII/2015, which allows postnuptial agreements, further reinforces this protection. Previously, marriage agreements could only be made before marriage, leaving many couples unable to safeguard property acquired afterward. Educating migrant workers about this ruling is crucial, as it enables them to protect assets earned through their labor, even during ongoing marriages.¹⁸

The low level of legal literacy among migrant workers remains a key obstacle. Many prioritize economic pursuits while neglecting legal awareness, which can have severe consequences. For instance, cases where remittances are misused by spouses in Indonesia illustrate the importance of having legal mechanisms like marriage agreements to prevent financial exploitation.¹⁹

Legal education on marriage agreements is also essential from a gender equality perspective. Given that most Indonesian migrant workers in Malaysia are women, such agreements can protect them from exploitative practices, including polygamy and unjust control of assets. By understanding the significance of marriage agreements, female migrant workers can strengthen their bargaining power and ensure economic security.²⁰

¹⁶ *Hukum Online*, "Isi perjanjian pranikah," 2024, diakses 12 Maret 2025, <https://www.hukumonline.com/berita/a/isi-perjanjian-pranikah-lt666d42878bfc7/>; *Legalitas.org*, "Semua tentang perjanjian pra-nikah dan perjanjian pisah harta," 2024, diakses 12 Maret 2025, <https://legalitas.org/tulisan/semua-tentang-perjanjian-pra-nikah-dan-perjanjian-pisah-harta>; *K-Case Lawyer*, "Seputar perjanjian perkawinan: dasar hukum, fungsi, materi yang diatur, dan waktu pembuatan," 2024, diakses 12 Maret 2025, <https://kcaselawyer.com/seputar-perjanjian-perkawinan-dasar-hukum-fungsi-materi-yang-diatur-dan-waktu-pembuatan/>; Kantor Urusan Agama (KUA) Bali, "Perjanjian perkawinan," 2024, diakses 12 Maret 2025, https://kua-bali.id/syarat-layanan/kua_banjar/kua_banjar%20perjanjian%20perkawinan.

¹⁷ L. Santoso dan D. Abror, "Pola Pemenuhan Hak Asuh Anak pada Keluarga Buruh Migran Indonesia: An Maqashid Shariah Perspective," *Al-Syakhsiyyah: Journal of Law & Family Studies* 2, no. 1 (2020): 56–73, <https://doi.org/10.21154/syakhsiyyah.v2i1.2160>.

¹⁸ A. S. Azmy, *Pelindungan Negara atas Perempuan Pekerja Migran Indonesia* (Jakarta: Prenada Media, 2020).

¹⁹ A. D. Rusmiyanto, "Fenomena perceraian yang terjadi bagi pasangan yang bekerja sebagai TKI: sebuah kajian teologis," *Ritornela – Jurnal Teologi Pentakosta Indonesia* 3, no. 1 (2023).

²⁰ S. Hamdi, "Tantangan Migrasi, Pengelolaan Remitansi, dan Kekerasan terhadap Buruh Migran

From the standpoint of positive law, Article 29 of the Marriage Law provides a legal foundation for written property separation agreements. However, this provision remains underutilized due to limited dissemination and public awareness. Legal education on the procedural aspects of drafting, notarization, and registration of marriage agreements is vital so that migrant workers can apply this knowledge effectively.

Marriage agreements extend beyond mere property separation; they also regulate spousal responsibilities. For migrant workers, this ensures clarity regarding maintenance obligations, the use of remittances, and protection of children's rights. Therefore, marriage agreements represent a comprehensive legal protection tool, not just a financial safeguard.

Legal literacy initiatives further serve a preventive function against future civil disputes. Many returning migrant workers face conflicts over property division. If marriage agreements were made beforehand, such disputes could be minimized through clear legal arrangements—thereby supporting the principles of legal certainty and justice.²¹

From a broader perspective, marriage agreement education aligns with the concept of legal empowerment,²² enhancing migrant workers' ability to assert their rights independently.²³ Thus, legal protection is not only provided by the state but also emerges from the workers' own capacity to utilize available legal instruments.²⁴

Nevertheless, legal education alone is insufficient without institutional support. The Indonesian government, through its overseas missions, must ensure access to legal information and services, including facilitation of marriage agreement documentation.²⁵ Comprehensive legal education should be supported by accessible infrastructure to enable real-world implementation.²⁶

The Draft Law on Private International Law (RUU HPI) currently under discussion in Indonesia holds significant relevance for Indonesian citizens married to foreign nationals, including Indonesian migrant workers abroad. The draft law aims to provide legal certainty in cross-border relationships involving marriage, inheritance, child adoption, and contractual obligations. In the context of mixed marriages, the RUU HPI offers a normative basis for determining applicable law—whether Indonesian law, the law of residence, or the law of the spouse's country—thereby minimizing conflicts of law.

One of the key features of the RUU HPI concerns the applicable law governing the effects of marriage and transnational marriage agreements. It recognizes the validity of marriage agreements made under the parties' mutual consent and chosen legal system (choice of law). This provision aligns with the Hague Convention on the Law Applicable to Matrimonial Property Regimes (1978), which grants flexibility to couples in determining the governing law for their personal legal relations.

Within the framework of the community service activities at KBRI Kuala Lumpur, the discussion of the RUU HPI is particularly relevant as it provides a normative foundation for Indonesian migrant workers to understand their legal status as transnational legal subjects. This understanding is crucial for anticipating potential disputes arising from differences between Indonesian and Malaysian legal systems, particularly concerning marital status, property division, and inheritance rights.

Overall, the findings demonstrate that education on marriage agreements has substantial potential as a mechanism for legal protection of Indonesian migrant workers in Malaysia. Such education enhances legal literacy, strengthens bargaining positions, and ensures legal certainty in marriage-related matters. With greater awareness, migrant workers are expected to focus not only on economic well-being but also on securing their hard-earned assets through appropriate legal instruments.

Perempuan Asal Lombok di Malaysia dan Arab Saudi," *RESIPROKAL: Jurnal Riset Sosiologi Progresif Aktual* 3, no. 1 (2021): 22–24, <https://doi.org/10.29303/resiprokal.v3i1.60>.

²¹ I. A. Widodo, "Runtuhnya budaya patriarki: perubahan peran dalam keluarga buruh migran," *Marwah: Jurnal Perempuan, Agama dan Jender* 19, no. 1 (2020), <https://doi.org/10.24014/marwah.v19i1.8443>.

²² M. Noveria et al., *Perlindungan Pekerja Migran Indonesia: Kesepakatan dan Implementasinya* (Jakarta: Yayasan Pustaka Obor Indonesia, 2020).

²³ T. Angelia dan A. Suherman, "Analisis hukum tentang perlindungan hak asasi manusia bagi pekerja migran Indonesia di negara tujuan," *Jurnal Inovasi Hukum dan Kebijakan* 5, no. 4 (2024).

²⁴ M. A. Tampatty, A. T. S. F. Mangundap, dan H. B. Tambajong, "Akibat hukum perjanjian kawin dalam perkawinan campuran terhadap ahli waris" (Skripsi, Universitas Katolik De La Salle Manado, 2024).

²⁵ M. Shidqi, "Perjanjian perkawinan—pemisahan harta bagi pasangan suami istri dalam Putusan Mahkamah Konstitusi No. 69/PUU-XIII/2015: perspektif maqāsid al-Syari'ah" (Tesis, Institut Agama Islam Negeri Ponorogo, 2021).

²⁶ M. Bukhari, T. Herawati, dan D. Krisnatuti, "Strategi koping, komunikasi keluarga, dukungan sosial dan kualitas perkawinan pada keluarga pekerja migran Indonesia (PMI)" (Tesis, Institut Pertanian Bogor, 2020).

CONCLUSION

Educational programs on marriage agreements for Indonesian migrant workers in Malaysia are crucial for increasing legal literacy and strengthening the protection of their rights. The lack of understanding of marital law often results in financial losses, child custody disputes, and uncertain marital status—particularly affecting women. By understanding Constitutional Court Decision No. 69/PUU-XIII/2015 and Article 29 of the Marriage Law, migrant workers can utilize marriage agreements as a legal protection instrument that ensures both fairness and legal certainty.

To sustain and maximize the effectiveness of such programs, collaboration among the Indonesian government, overseas missions, and civil society organizations focusing on migrant worker protection is essential. The government must ensure accessible legal information and services, including assistance in drafting and registering marriage agreements. Furthermore, continuous legal education—through training, digital media, and engagement with migrant communities—is vital so that understanding of marital legal rights becomes internalized and effectively applied in their everyday lives.

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