

Legality of Prenuptial Agreements: The Role of Notaries in Guaranteeing Legal Certainty

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Abstract

Prenuptial agreements serve as essential legal instruments that define financial arrangements and property rights between spouses before marriage. However, their enforceability and legal certainty depend heavily on compliance with legal formalities, particularly the role of notaries in ensuring their validity. This research examines the legal framework governing prenuptial agreements and the crucial function of notaries in guaranteeing legal certainty. Through a normative-juridical approach, this study analyzes statutory regulations, case law, and legal doctrines to highlight the importance of notarization in preventing disputes and ensuring enforceability. The findings reveal that notarial authentication plays a fundamental role in verifying the legal capacity of parties, ensuring mutual consent, and fulfilling formal requirements mandated by law. Additionally, the study identifies common legal challenges, including improper drafting, non-compliance with formalities, and potential fraudulent practices, which may render agreements void or unenforceable. To enhance the legal certainty of prenuptial agreements, this research recommends strengthening notarial regulations, improving legal awareness among couples, and reinforcing judicial oversight. Ultimately, the study underscores the significance of notarial involvement as a preventive legal measure to uphold the integrity and enforceability of prenuptial agreements in marital and financial planning.

Keywords: *Prenuptial Agreement, Legal Certainty, Notary, Enforceability, Marital Law*

INTRODUCTION

Prenuptial agreements (PNAs) function as legal instruments that define asset distribution and financial responsibilities between spouses, particularly during marital dissolution. Their enforceability requires strict adherence to legal formalities, with notaries playing a central role in drafting, authenticating, and registering these agreements in line with statutory requirements (Ramadhani et al., 2021; Riswadi & Situngkir, 2024). Once authenticated, PNAs become authentic deeds with probative value in court (Manullang & Sudiro, 2023; Suryadi & Rahayu, 2023), ensuring mutual understanding and reducing risks of coercion or fraud (Rahmat et al., 2023; Rimi, 2023). Article 15 of Law Number 2 of 2014 affirms the notary's legal authority in this process (Gita Ayu Thaharah et al., 2024; Lutfiana et al., 2023). Although PNAs are legally recognized, they often face cultural resistance due to perceptions of mistrust between spouses. Nevertheless, public awareness can promote fairness and wider acceptance (Ridzuan et al., 2023; Rouméas, 2023). Notaries enhance legal certainty and public trust through impartial validation (K. D. Kurniawan et al., 2022), yet inconsistencies in notarial practice and limited legal literacy hinder their effectiveness. Many PNAs remain unenforceable due to flawed drafting or procedural noncompliance (Rahmat et al., 2023; Rimi, 2023). While notaries are legally recognized as key actors, practical implementation of Article 15 and jurisdictional inconsistencies remain underexplored (Riswadi & Situngkir, 2024). Although formalization through notarial acts is widely supported (Agusfiyan et al., 2024; Ramadhani et al., 2021), further study is needed to evaluate practical enforcement.

PNAs allow spouses to regulate property arrangements outside of statutory marital regimes and support legal certainty by preemptively addressing disputes (Ridzuan et al., 2023; Rouméas, 2023). Their enforceability depends on contract law principles, including consent, capacity, and procedural requirements such as written form and notarial authentication (Aprilia et al., 2023; Barus et al., 2024; Dongoran & Aminah, 2024). Notarization strengthens legal

credibility by preventing fraud and misunderstanding (Ramadhani et al., 2021); failure to fulfill legal procedures may render the agreement void. Courts also require PNAs to meet standards of fairness. Agreements deemed excessively one-sided may be revised or invalidated to prevent injustice (Crisyanti et al., 2023; Gunawan, 2021; Rajamanickam et al., 2019; Rouméas, 2023), affirming the judiciary's role in safeguarding equity (Ridzuan et al., 2023). Clarity in defining assets, liabilities, and obligations is essential, as vague terms often lead to disputes and legal invalidation (Beckert, 2022; Dewi, 2023; Murti et al., 2024; Ridzuan et al., 2023; Setyowati et al., 2024). To maintain legal relevance and fairness, couples are advised to periodically revise their PNAs in response to evolving financial conditions (Gunawan, 2021; Rimi, 2023).

Notaries play a fundamental role in ensuring the legal validity, enforceability, and fairness of prenuptial agreements (PNAs) by acting as impartial public officials who authenticate and formalize such agreements. Their involvement transforms PNAs into authentic deeds with full evidentiary value in legal proceedings (Pranadia & Lie, 2023; Riswadi & Situngkir, 2024). Article 15 of Law Number 2 of 2014 mandates that notaries verify the identity and consent of the contracting parties, explain the legal consequences, and ensure fairness in agreement formulation (Paramita, 2023; Rahmat et al., 2023; Utomo, 2022). By preventing coercion, fraud, and unfair terms, and by ensuring proper registration, notaries uphold legal certainty and protect the rights of both parties in cases of marital dissolution (Agusfiyan et al., 2024; Iriantoro, 2022; Prakoso & Sukirno, 2023).

This function is aligned with Legal Certainty Theory (*Rechtszekerheid*), which stresses the necessity of clear, stable, and predictable legal norms to safeguard individual rights and maintain public confidence in the legal system. Gustav Radbruch identifies legal certainty, alongside justice and utility, as a core value of law, arguing that individuals must be able to rely on stable rules to make informed decisions without fear of arbitrary change (Hakim et al., 2024; Ulum & Nurdin, 2023). Codified legislation and consistent judicial precedents reduce ambiguity and enhance predictability in legal matters, particularly in contractual and property law (Ekawati et al., 2024; Natalius et al., 2024). Legal certainty also promotes social justice by ensuring the uniform application of laws and addressing structural disparities resulting from legal vagueness or inconsistency (Susanto et al., 2024; Ulum & Nurdin, 2023). A consistent and impartial legal system increases societal trust (Suhardana et al., 2024). Additionally, legal certainty must align with democratic principles, ensuring laws respect human rights and public accountability while remaining adaptable to evolving societal needs (Fasel & Weerts, 2024; Hakim et al., 2024).

Law Number 2 of 2014 provides the legal basis for regulating notarial duties, authority, and ethical conduct in Indonesia, expanding on Law Number 30 of 2004. This law obliges notaries to act with professionalism and integrity, particularly when drafting and authenticating legal documents, positioning them as central agents of legal certainty (Rahma et al., 2024; Riswadi & Situngkir, 2024). A key provision requires notaries to produce authentic deeds in accordance with prevailing legal norms. Failure to meet these obligations may result in civil or criminal sanctions, highlighting the need for ethical rigor in notarial practice (Rahma et al., 2024; Riswadi & Situngkir, 2024). Beyond their formal duties, notaries must also educate parties on the legal implications of their agreements to ensure informed consent and prevent disputes due to misunderstanding (S. Kurniawan et al., 2023; Riswadi & Situngkir, 2024). Article 15 authorizes notaries to authenticate, record, and safeguard legal documents, granting them full legal effect. Furthermore, the law imposes confidentiality obligations to protect sensitive legal information and build trust in legal processes. To maintain professional accountability, the law outlines sanctions such as fines, suspension, or license revocation for violations, reinforcing the state's commitment to ethical and legal standards in notarial practice (S. Kurniawan et al., 2023; Riswadi & Situngkir, 2024).

RESEARCH METHODS

This chapter details the research methodology employed in the study "Legality of Prenuptial Agreements: The Role of Notaries in Guaranteeing Legal Certainty." The study adopts a normative-juridical approach, which focuses on the systematic analysis of legal norms, statutory regulations, legal doctrines, and case law relevant to prenuptial agreements and the function of notaries in ensuring legal certainty. This method provides a structured framework for evaluating the legal validity and enforceability of prenuptial agreements, as well as the contribution of notaries to legal reliability (Rahmat et al., 2023; Riswadi & Situngkir, 2024). The normative-juridical research design emphasizes the interpretation of written legal norms (*ius constitutum*), rather than empirical application, making it suitable for assessing legal instruments such as Law Number 1 of 1974 on Marriage (as amended by Law Number 16 of 2019) and Law Number 2 of 2014 on Notary Positions.

Special attention is given to Article 15, which outlines the notary's authority in authenticating marriage agreements (Rahmat et al., 2023; Riswadi & Situngkir, 2024). The study also incorporates relevant legal doctrines, case analyses, and comparative insights from international legal systems. The research process involves several stages. First, it identifies core legal issues concerning the enforceability of prenuptial agreements and the role of notaries. Second, it collects legal materials from three main sources: primary sources (statutory laws, government regulations, and court decisions), secondary sources (textbooks, journals, and expert commentaries), and tertiary sources (legal dictionaries and encyclopedias). Third, the study conducts systematic analysis and interpretation of these materials to derive applicable legal norms and doctrines. In the final stage, the study synthesizes the findings to draw conclusions and formulate recommendations to improve the legal framework for prenuptial agreements and strengthen the notary's role in promoting legal certainty.

This study applies a normative-juridical approach to analyze the legal framework surrounding prenuptial agreements and the role of notaries in ensuring legal certainty in Indonesia. It focuses on the interpretation of positive law by examining legal norms, statutory regulations, and principles embedded in Law Number 2 of 2014 on Notary Positions, Law Number 1 of 1974 on Marriage (as amended by Law Number 16 of 2019), and the Indonesian Civil Code (*Burgerlijk Wetboek*), particularly in relation to contract law (Ramadhani et al., 2021; Suryadi & Rahayu, 2023). Through doctrinal analysis and systematic legal interpretation, the study evaluates how notaries contribute to the authentication, validation, and registration of prenuptial agreements, thus strengthening legal certainty. It also integrates statutory, conceptual, and comparative legal methods to enhance the depth and scope of the analysis (Fibrianti & Wahanisa, 2023; Imaniyati et al., 2024).

Unlike empirical research, normative-juridical research uses legal documents as data sources. Primary sources include key legislative texts such as Law Number 1 of 1974, Law Number 16 of 2019, and Law Number 2 of 2014—especially Article 15, which outlines the notary's authority to authenticate marriage agreements (Riswadi & Situngkir, 2024). Secondary sources comprise legal doctrines, journal articles, and expert commentaries on notarial duties and prenuptial agreements (Agusfiyan et al., 2024; Ramadhani et al., 2021), while tertiary sources consist of legal encyclopedias and dictionaries explaining relevant legal concepts (Hakim et al., 2024). The study gathers these materials through literature reviews and document analysis, utilizing law libraries, government publications, and online legal databases.

The main research instrument is document analysis, supported by tools such as legal norm frameworks, doctrinal interpretation guides, and case law review templates. Data collection is conducted through structured library research. The study then performs qualitative normative analysis, including statutory interpretation to determine legislative intent, legal systematization

to structure legal norms coherently, and doctrinal analysis to assess scholarly perspectives on legal certainty and the duties of notaries (Manullang & Sudiro, 2023; Suryadi & Rahayu, 2023). Case law analysis further supports the interpretation and enforcement of prenuptial agreements, especially those involving notarial authentication (Rahmat et al., 2023). The findings are presented using descriptive-analytical techniques, combining narrative explanations with comparative tables and charts when necessary. The study concludes with a synthesis of legal interpretations and offers practical recommendations to enhance notarial practices in drafting, authenticating, and registering prenuptial agreements, thereby reinforcing legal certainty.

This study adopts a normative-juridical methodology to systematically examine the legality and enforceability of prenuptial agreements, with a specific focus on the role of notaries in guaranteeing legal certainty. By analyzing legal sources and applying doctrinal interpretation, the research offers both theoretical foundations and practical recommendations to strengthen legal certainty and enhance the effectiveness of notarial functions. As a well-established method in legal research, the normative-juridical approach emphasizes the analysis of legal norms embedded in statutes, regulations, and court decisions, enabling researchers to understand the theoretical and practical dimensions of legal problems (Nugroho & Chandrawulan, 2022; Widiyono & Khan, 2023).

Through descriptive-analytical techniques, this approach allows for a structured articulation of legal norms and their implications (Damayanti & Priyono, 2022; Handayani et al., 2024). It integrates statutory, case law, and conceptual analyses to produce a more comprehensive understanding of legal phenomena, including notarial roles in prenuptial agreements, by synthesizing legislative texts, judicial interpretations, and legal doctrines (Fibrianti & Wahanisa, 2023; Imaniyati et al., 2024). Moreover, this methodology plays a crucial role in identifying legal inconsistencies, assessing regulatory gaps, and proposing reforms to improve legal enforcement and certainty (Arifin et al., 2023). Its relevance extends to dynamic legal fields such as cyberlaw and environmental law, where it supports the adaptation of legal structures to contemporary challenges (Syahrani et al., 2024; Wahab et al., 2023).

RESULT AND DISCUSSION

Prenuptial agreements, or *perjanjian pra-nikah*, serve as a vital legal instrument in safeguarding the financial and legal interests of each spouse within the framework of marriage, particularly in cases where the marriage may encounter serious challenges, such as separation, divorce, or instances of *Kekerasan Dalam Rumah Tangga (KDRT)*, or domestic violence. In Indonesia, these agreements have become increasingly relevant due to rising divorce rates and the growing awareness of personal rights within marriage (Abdul Kodir et al., 2024). As marital relationships evolve alongside societal and economic shifts, the *perjanjian pra-nikah* offers a mechanism for couples to regulate and clarify their respective rights and obligations over property and assets, providing a preventive legal tool that can reduce conflicts and legal uncertainty in the future as depicted in the following diagram :

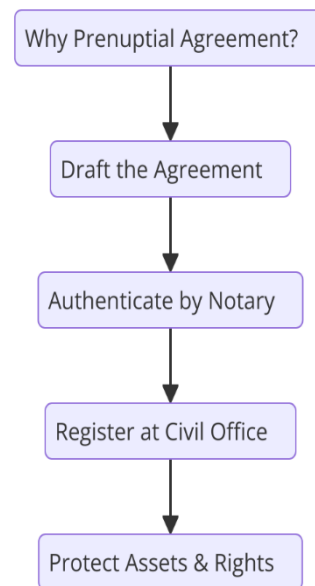


Figure 1. Prenuptial Agreement

The legal framework for prenuptial agreements (PNAs) in Indonesia is principally anchored in Law Number 1 of 1974 on Marriage, which was substantially revised through Law Number 16 of 2019. These statutes explicitly authorize prospective spouses to establish a prenuptial agreement regulating their property relations. Article 29 of the Marriage Law grants parties the legal right to mutually determine the separation of assets or financial arrangements governing their marriage. This provision is particularly significant given Indonesia's default marital property regime, which presumes joint ownership (*harta bersama*) of all assets acquired during the marriage. In the absence of a prenuptial agreement, both spouses share equal control over marital property, potentially leading to legal and financial complications during disputes or divorce proceedings. Complementing the Marriage Law, the Indonesian Civil Code (*Burgerlijk Wetboek* or BW) outlines additional requirements for PNAs. Article 147 of the BW mandates that such agreements must be concluded prior to the marriage ceremony, thereby emphasizing their preventive legal function—providing clarity and legal certainty before the marital bond is formalized.

Agreements made post-marriage generally lack legal validity, except under exceptional circumstances permitted by Constitutional Court Decision Number 69/PUU-XIII/2015, which allows for the establishment of post-marital agreements under specific conditions. A critical procedural requirement for the enforceability of PNAs in Indonesia is their authentication by a notary. As stipulated in the Marriage Law and regulated further under Law Number 2 of 2014 on Notary Positions, the agreement must be formalized as an authentic deed by a certified notary. This notarial authentication ensures compliance with prevailing legal standards, verification of the parties' legal capacity and consent, and clarity regarding the terms and legal implications of the agreement (Riswadi & Situngkir, 2024). Following authentication, the agreement must be registered with the Office of Civil Registration (*Kantor Pencatatan Sipil*). This registration is not merely procedural; it fulfills an essential legal function by ensuring legal certainty and protecting third-party rights, including those of creditors and future heirs, who may have legitimate interests in the property governed by the agreement.

The Indonesian legal system requires prenuptial agreements (PNAs) to undergo pre-marriage drafting, notarial authentication, and civil registration to ensure their enforceability. These formalities reflect the principle of Legal Certainty Theory (*Rechtszekerheid*), aiming to guarantee transparency, prevent disputes, and protect the rights of both spouses (Manullang & Sudiro, 2023). If parties fail to comply with these legal procedures, courts may declare the

agreement null and void. Legally binding PNAs allow couples to preemptively manage financial matters, including inheritance, business liabilities, and debt protection. For instance, a spouse operating a business can use a PNA to shield the other spouse's personal assets from creditors. Additionally, PNAs may serve as protective mechanisms in cases of domestic violence by securing financial autonomy and preventing economic abuse. Notaries play a central role in the legal framework governing PNAs in Indonesia.

Article 15 of Law Number 2 of 2014 on Notary Positions authorizes notaries to draft, authenticate, and register these agreements, affirming their duty to maintain the legal integrity and enforceability of such civil documents (Riswadi & Situngkir, 2024). The notary's involvement transforms a private contract into an *akta otentik* (authentic deed), which carries *prima facie* evidentiary value under Indonesian procedural law, and holds binding authority unless successfully contested in court (Manullang & Sudiro, 2023). This authentication process is not a mere formality; it embodies the principles of legal certainty. By appearing before a notary, parties confirm their legal capacity, consent, and understanding of the agreement's implications, ensuring the contract is free from duress or misrepresentation. The notary thereby operationalizes Legal Certainty Theory, which promotes fairness, predictability, and transparency in legal transactions (Hakim et al., 2024). This process strengthens both the enforceability of PNAs and public trust in the legal system.

The authentication process of prenuptial agreements (PNAs) in Indonesia plays a crucial role in preventing legal disputes related to coercion, fraud, or misunderstanding. The notary, acting as an impartial advisor, ensures both parties fully understand the agreement's content, legal consequences, and implications, including matters of asset division, debt obligations, spousal rights, and inheritance (Rahmat et al., 2023; Rimi, 2023). This legal counseling ensures informed consent and reinforces the notary's protective function. Upon authentication, the notary must register the PNA with the Office of Civil Registration (*Kantor Pencatatan Sipil*), a step that provides public notice, safeguards third-party interests, and enhances legal transparency. In fulfilling their duties, notaries not only ensure procedural compliance but also serve as gatekeepers to justice. They are authorized to reject agreements that are unconscionable, discriminatory, or contrary to public policy, thereby protecting both parties and upholding the public interest (Prakoso & Sukirno, 2023).

Their involvement in drafting, authenticating, and registering PNAs is fundamental to ensuring legal validity, enforceability, and legal certainty (*Rechtszekerheid*). By formalizing agreements into *akta otentik* (authentic deeds) and verifying legal capacity and mutual consent, notaries significantly reduce the risk of future disputes and contribute to the stability of marital property arrangements (Rahmat et al., 2023; Riswadi & Situngkir, 2024). This legal model aligns closely with civil law countries such as France, Germany, and the Netherlands, which also require notarial authentication and marital property registration (Ramadhani et al., 2021). In contrast, common law jurisdictions like the United States and the United Kingdom rely on judicial oversight rather than notarial procedures to ensure fairness and voluntariness (Ridzuan et al., 2023; Rouméas, 2023). These differences highlight the preventive function of notaries in civil law systems, where legal certainty is ensured through formalized legal mechanisms (Hakim et al., 2024; Ulum & Nurdin, 2023). Despite Indonesia's well-established legal framework—comprising Law Number 1 of 1974, Law Number 16 of 2019, and Law Number 2 of 2014—practical and cultural challenges remain. These include procedural inconsistencies and resistance rooted in traditional norms and societal perceptions of marriage, property, and trust within Indonesian communities.

Cultural stigma presents a major obstacle to the acceptance of prenuptial agreements (*perjanjian pra-nikah*) in Indonesia. Many Indonesians view marriage as a union based on unconditional trust and lifelong commitment, making the proposal of a prenuptial agreement appear as a sign of mistrust or an expectation of divorce, which contradicts traditional marital

ideals (Rouméas, 2023). This perception is strongly influenced by collectivist and patriarchal cultural norms, where discussing asset ownership, financial arrangements, or debt responsibilities is often considered inappropriate. Traditional gender roles further reinforce the belief that husbands should manage finances while wives' assets are automatically integrated into marital property (S. Kurniawan et al., 2023).

Despite these cultural barriers, empirical data reveal the increasing necessity of prenuptial agreements. The Kementerian Pemberdayaan Perempuan dan Perlindungan Anak (PPPA) reported over 3,173 domestic violence (KDRT) cases between January 2022 and February 2023, highlighting the need for legal instruments that protect financial and personal security—particularly for women. The rising number of divorce filings, such as the 5,400 cases reported in Surabaya in one year, further underscores the practical importance of enforceable agreements that address asset division, alimony, and financial obligations after separation. Prenuptial agreements act as preventive legal tools that ensure clarity and fairness in the event of marital dissolution. They establish agreed-upon terms regarding property division and financial responsibilities, reducing the risk of litigation and protecting personal assets from third-party claims, such as creditor actions in cases of spousal debt. They are particularly useful in marriages where one partner is involved in high-risk financial activities.

From a gender justice perspective, prenuptial agreements play a critical role in empowering women by legally recognizing sacrifices made in the context of marriage, such as career discontinuation or financial dependence. These agreements offer a layer of protection against post-divorce financial insecurity. To overcome societal resistance, public education and awareness initiatives are urgently needed. Legal professionals, notaries, and family counselors must actively promote accurate understanding of prenuptial agreements, shifting the narrative from mistrust to legal foresight and protection. Ultimately, prenuptial agreements should be reframed as instruments that promote equity and transparency in marriage. The state must ensure their accessibility, fairness, and enforceability by simplifying the registration process, offering affordable legal assistance, and reinforcing judicial consistency in upholding the legitimacy of such agreements (S. Kurniawan et al., 2023; Rouméas, 2023).

Although Indonesia has a strong legal basis for prenuptial agreements, social and cultural resistance continues to hinder their implementation. Many Indonesians view such agreements as undermining the ideals of trust and commitment in marriage. However, the increasing rates of domestic violence, divorce, and property disputes underscore the urgent need for legal instruments that protect individual rights and promote fairness within marriage (Indriastuti et al., 2020). Strengthening legal literacy and encouraging open discussions about financial planning can help normalize prenuptial agreements as protective tools in modern marital relationships. Prenuptial agreements offer vital legal protections. They enable spouses to retain ownership of personal assets and shield them from the financial liabilities of the other. For example, in cases of business failure, such agreements can protect one spouse from the other's debts (Ramadhani et al., 2021).

In inheritance matters, they clarify asset division, preventing disputes among heirs (Ridzuan et al., 2023). Furthermore, the drafting process promotes transparency and mutual understanding regarding debts and financial responsibilities, reinforcing the marital partnership (Rouméas, 2023). Legal validity requires mutual consent and adherence to formal procedures. Spouses are advised to consult legal professionals or notaries to ensure that the agreement aligns with legal standards and protects both parties' interests (Paramita, 2023; Utomo, 2022). Following Putusan Mahkamah Konstitusi Nomor 69/PUU-XIII/2015, couples in Indonesia may now establish prenuptial agreements not only before but also during marriage, allowing flexibility as circumstances change.

Prenuptial agreements also support the broader legal obligations outlined in Law Number 1 of 1974, the *Burgerlijk Wetboek (BW)*, and Law Number 23 of 2004 on the Elimination of

Domestic Violence (UU KDRT). Article 34 of the Marriage Law and Article 107 BW emphasize the husband's duty to provide financial support. Article 9 of the UU KDRT prohibits neglect and mandates mutual care within the household. These provisions reinforce the relevance of prenuptial agreements in defining financial responsibilities and protecting the rights of both spouses (S. Kurniawan et al., 2023; Rahma et al., 2024). Despite their legal benefits, societal misconceptions persist. Many individuals view prenuptial agreements as mistrustful or offensive, which makes mutual agreement difficult (K. D. Kurniawan et al., 2022). Low public awareness and misinformation contribute to resistance. Therefore, public education initiatives led by legal experts and family counselors are crucial to correcting these misperceptions and highlighting the protective function of prenuptial agreements, especially in preventing exploitation and abuse (Hakim et al., 2024).

Judicial rulings in Indonesia consistently emphasize the importance of adhering to formal requirements. Courts have invalidated agreements lacking proper notarization and registration, reinforcing the crucial role of notaries in ensuring legal certainty (Manullang & Sudiro, 2023; Suryadi & Rahayu, 2023). Additionally, judges must ensure agreements align with principles of justice and do not result in imbalanced outcomes (Gunawan, 2021). To improve implementation, policy reforms are needed. Mandatory training for notaries on ethical practices and fairness assessments should be introduced (Prakoso & Sukirno, 2023). Digitalization of agreement registration at Civil Registration Offices would streamline administrative processes and enhance legal accessibility (Pranadia & Lie, 2023). Strengthening judicial oversight through clear enforcement guidelines would further promote consistency and fairness (Rahmat et al., 2023).

CONCLUSION

This study critically examines the legality and enforceability of prenuptial agreements (Perjanjian Pra-Nikah) within Indonesia's legal system, highlighting the central role of notaries in promoting legal certainty (Rechtszekerheid). Employing a normative-juridical approach, the research evaluates statutory frameworks, legal doctrines, and case law to clarify the procedural and substantive requirements governing prenuptial agreements. The study confirms that notaries significantly contribute to the authentication and protection of these agreements, ensuring their function as preventive legal tools in marital arrangements (Rahma et al., 2024; Riswadi & Situngkir, 2024).

Prenuptial agreements play a crucial role in regulating the division of assets, liabilities, and financial responsibilities between spouses, especially in cases of divorce or separation. Their effectiveness depends on compliance with formal legal requirements as stipulated in Law Number 1 of 1974 (as amended by Law Number 16 of 2019), the Civil Code (Burgerlijk Wetboek), and Law Number 2 of 2014 on Notary Positions. These agreements must be executed before marriage, authenticated by a notary, and registered with the Civil Registration Office to be legally binding. Notaries, as public officials, are responsible for verifying the legal capacity and mutual consent of the parties, explaining the legal implications of the agreement, and ensuring conformity with applicable laws. Through this process, notaries convert prenuptial agreements into authentic deeds with legal evidentiary value, thereby reducing the risk of future disputes. They also ensure that agreements uphold fairness, avoid violating public order or morality, and accurately represent the intentions of the parties (S. Kurniawan et al., 2023; Rahma et al., 2024; Riswadi & Situngkir, 2024).

However, the implementation of prenuptial agreements faces practical challenges. Cultural stigma, limited public awareness, and traditional misconceptions hinder their acceptance. Many view these agreements as signs of distrust rather than as instruments of legal

protection. Furthermore, inconsistencies in judicial enforcement and procedural delays, particularly in registration, undermine their practical effectiveness. Comparative analysis with civil law countries such as France, Germany, and the Netherlands reveals a shared reliance on notarial authentication and property registration. In contrast, common law jurisdictions like the United States and the United Kingdom emphasize judicial oversight. These contrasts highlight the notary's preventive legal function in civil law systems such as Indonesia.

Based on these findings, the study proposes key recommendations: (1) strengthen notarial regulation with clear standards and mandatory training; (2) enhance public legal literacy through educational campaigns; (3) streamline administrative and registration processes via digitalization; and (4) develop consistent judicial guidelines to ensure fair enforcement of prenuptial agreements. Prenuptial agreements serve as essential legal instruments for financial transparency and the protection of individual rights in marriage. Despite societal resistance, the role of notaries is pivotal in ensuring legal certainty, fairness, and trust in the legal system. Comprehensive reforms and public education are necessary to maximize the function of prenuptial agreements in safeguarding marital relationships and preventing legal conflict (S. Kurniawan et al., 2023; Rahma et al., 2024; Riswadi & Situngkir, 2024).

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