



## The Implementation of Marriage Agreement Ratification by Notaries Post-Constitutional Court Decision 69/2015 Based on The Notary Law

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### Abstract:

**Background.** The Indonesian Constitutional Court's Decision No. 69/PUU-XIII/2015 fundamentally reshaped the landscape of marital law by permitting post-nuptial agreements, a significant departure from the previous regime under Law No. 1 of 1974 on Marriage, which only recognized pre-nuptial contracts. This legal transformation introduced a dialectical tension between the principle of freedom of contract for spouses and the imperative to protect third-party creditor rights.

**Purpose.** This article analyzes the juridical implications of this decision, focusing on the expanded role and heightened responsibility of Notaries in drafting and ratifying these agreements.

**Methods.** Using a normative legal research method, this study examines the notary's obligations under Law No. 2 of 2014 on the Position of Notary (UUJN) to ensure the publicity principle is met, a condition essential to the binding effect of an agreement on third parties. The analysis of Supreme Court jurisprudence, particularly in bankruptcy cases, reveals an uncompromising stance on the requirement of timely registration as an absolute.

**Conclusion.** The article concludes that while the Constitutional Court's decision champions contractual autonomy, its practical implementation exposes notaries to significant liability risks, necessitating enhanced due diligence and systemic reforms such as a centralized digital registry.

**Implementation.** A robust preventive professional framework to mitigate the risk of fraudulent conveyance and preserve legal certainty in commercial transactions.

**Keywords:** Post-Nuptial Agreement, Constitutional Court Decision 69/2015, Notary Responsibility, Publicity Principle, Creditor Protection



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### INTRODUCTION

Prior to the landmark decision of the Indonesian Constitutional Court (*Mahkamah Konstitusi* or MK) No. 69/PUU-XIII/2015, the legal framework governing marital property was rigidly defined by Law No. 1 of 1974 on Marriage (*UU Perkawinan*). Article 29 of this

law strictly limited the creation of marriage agreements to the period before or at the moment of the wedding, establishing the prenuptial agreement as the sole instrument for deviating from the default regime of joint property (*harta bersama*) (Hernoko, et al., 2018). The logical consequence for couples who failed to execute such an agreement was the automatic application of the community property system as stipulated in Article 119 of the Indonesian Civil Code (*KUHPerdata*) (Amalia Hulukati, 2024), where all assets acquired during the marriage become shared property and serve as a general guarantee for creditors (Safitri & Purwaningsih, 2025; Meladze, 2022).

The MK's 2015 ruling, however, introduced a paradigm shift by expanding the interpretation of Article 29, thereby legalizing post-nuptial agreements. This decision granted married couples the freedom to enter into or modify their marital property arrangements at any point during their marriage (Mulyani, 2022; Andari, et al., 2023). This expansion of contractual freedom (*asas kebebasan berkontrak*) created a profound legal tension. On one hand, it empowered spousal autonomy; on the other, it introduced significant risks to the stability of commercial transactions by potentially undermining the rights of third-party creditors who had previously relied on the existence of joint property as collateral (Gunarto, et al., 2023).

This article addresses the critical role of Notaries in navigating this new legal landscape. The MK decision not only legalized post-nuptial agreements but also expanded the mechanism for their validation, stating that such agreements could be ratified by a Notary, in addition to the traditional registration with the Civil Registry Office (*Kantor Catatan Sipil*) or the Office of Religious Affairs (*Kantor Urusan Agama* or KUA). This places the Notary at the nexus of private contractual desires and public legal order. This study, therefore, investigates the following research questions: 1) What are the juridical implications of MK Decision 69/2015 on the substance of marriage agreements and the protection of third-party rights? 2) What are the specific roles and responsibilities of Notaries under Law No. 2 of 2014 on the Position of Notary (UUJN) in ratifying these agreements? 3) What are the absolute requirements for a marriage agreement to be legally binding on third parties, as affirmed by Indonesian jurisprudence?

## **LITERATURE REVIEW**

The legal landscape governing marital property in Indonesia has undergone a profound transformation, evolving from a rigid statutory framework to one embracing greater spousal

autonomy. Historically, the regime was strictly delineated by Law No. 1 of 1974 on Marriage, which confined marriage agreements to the pre-nuptial period, thereby imposing a default community property system for all other unions (Hernoko, et al., 2018; Safitri & Purwaningsih, 2025). This static model presumed joint property as a universal guarantee for creditors, creating a predictable, if inflexible, foundation for commercial transactions. The seminal rupture in this paradigm was precipitated by the Indonesian Constitutional Court's Decision No. 69/PUU-XIII/2015, which judicially expanded the interpretation of Article 29 to legalize post-nuptial agreements, thereby injecting dynamism into marital property law by allowing couples to redefine asset regimes during marriage (Gunarto, et al., 2023).

This judicial innovation, however, inherently spawned a fundamental dialectical tension between the principle of contractual freedom and the imperative of third-party creditor protection. While championing spousal autonomy, the decision introduced significant risks to commercial certainty, as creditors who had extended credit based on the presumed pool of joint property could find their security retrospectively undermined by a privately executed separation of assets (Anisah, 2009). This tension situates the post-nuptial agreement at the critical intersection of private ordering and public interest, necessitating robust legal mechanisms to mitigate the potential for fraudulent conveyance and preserve transactional stability.

Central to navigating this tension is the expanded and increasingly complex role of the Notary, whose function transcends mere documentation to encompass a gatekeeping responsibility for legal order. Empowered by the Notary Law (UUJN) to create authentic deeds with perfect evidentiary power, the Notary is thrust into the position of mediating between spousal intent and creditor rights (Budiono, et al., 2023; Iriantoro, 2022). This role entails a dual accountability: ensuring formal compliance with procedural mandates and exercising substantive due diligence to prevent agreements from becoming instruments of fraud, a failure for which they face significant civil and professional liability (Pardosi, 2022). The efficacy of this notarial intervention is contingent upon the stringent application of the publicity principle, an absolute requirement for third-party enforceability affirmed by the Constitutional Court.

The jurisprudential response, particularly from the Supreme Court in bankruptcy contexts, has been unequivocal in prioritizing creditor protection where publicity formalities are lacking. The doctrine of *Actio pauliana*, enshrined in Bankruptcy Law, serves as the ultimate check, allowing curators to annul asset separations executed with prejudice to

creditors (Busroh, et al., 2024; Saurmauli, 2022). Court decisions consistently nullify agreements registered after bankruptcy declarations, rendering them unenforceable and absorbing all marital property into the bankruptcy estate. This strict jurisprudence underscores a systemic vulnerability: the existing fragmented, localized registration system at KUA and Dukcapil creates crippling information asymmetry, hindering effective creditor due diligence and ultimately shifting disproportionate risk onto the commercial sector (Agustin & Anand, 2021).

## **METHOD**

This research employs a normative legal methodology, utilizing a statute approach to analyze the relevant laws (*UU Perkawinan*, UUJN, Bankruptcy Law) and a case approach to examine key Supreme Court decisions that have shaped the interpretation of the publicity principle. The theoretical framework is built upon the principles of freedom of contract, the publicity principle as a prerequisite for third-party enforceability, and the doctrine of *Actio pauliana* as a creditor protection mechanism.

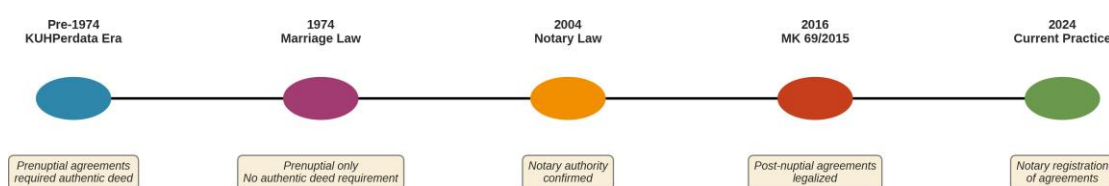
A normative legal methodology used to systematically analyze the juridical implications arising from the confluence of Constitutional Court Decision No. 69/2015, marriage law, and notarial practice. The inquiry is structured through a statutory approach (Majeed, et al., 2023), which involves a critical examination of the hierarchical interplay between relevant legal instruments, including the 1945 Constitution, Law No. 1 of 1974 on Marriage, Law No. 2 of 2014 on the Position of Notary (UUJN), and Law No. 37 of 2004 on Bankruptcy. This analytical framework dissects the substantive and formal requirements for valid marriage agreements and delineates the precise statutory duties and liabilities imposed upon Notaries within this evolved landscape.

Complementing the statutory analysis, a case law approach is utilized to interrogate the practical application and interpretation of these laws by the judiciary (Mitchell, 2022). This involves a focused examination of pertinent Supreme Court jurisprudence, particularly in bankruptcy disputes, to extrapolate the operational principles governing the publicity requirement, the timing of registration, and the application of *Actio pauliana*. The synthesis of these two approaches—statutory and case law—enables a comprehensive understanding of the de jure standards and their de facto enforcement, revealing the gaps, tensions, and pragmatic challenges that define the current implementation of post-nuptial agreement ratification by Notaries.

## DISCUSSION

### The Juridical Implications of Constitutional Court Decision No. 69/PUU-XIII/2015

The decision to permit post-nuptial agreements marked a fundamental evolution in Indonesian family and property law, moving from a rigid, static system to a more dynamic and flexible one. This shift is best understood as a judicial prioritization of individual autonomy within the marital relationship. The court recognized that financial circumstances and personal intentions can evolve, necessitating a legal mechanism to adapt the marital property regime accordingly. The timeline below illustrates this significant legal evolution.



Source: Authors' Analysis

**Figure 1. Evolution of the Indonesian Marriage Agreement Legal Framework**

This timeline (Figure 1) illustrates the key legislative and judicial milestones that have shaped the law on marriage agreements in financial matters, culminating in the transformative Constitutional Court decision of 2015.

The primary function of a post-nuptial agreement is to redefine the status of assets acquired during the marriage. This often involves a retroactive separation of property, where assets previously considered joint property are re-categorized as separate property of each spouse. While this provides internal clarity for the couple, it creates significant external risks. Creditors who extended loans based on the assumption of a joint property pool may find their security unexpectedly diminished. This tension between spousal autonomy and creditor rights is the central challenge arising from the MK's decision (Anisah, 2009). The table below provides a comparative analysis of pre-nuptial and post-nuptial agreements, highlighting these differing risk profiles.

**Table 1. Comparative Analysis – Prenuptial vs. Postnuptial Agreements**

Criterion	Prenuptial Agreement	Postnuptial Agreement	Legal Implication
Timing	Before marriage or at marriage ceremony	During marriage (after MK 69/2015)	Postnuptial now legally valid
Legal Basis	Article 29 UU Perkawinan (pre-2015 interpretation)	MK 69/2015 (expanded interpretation)	Both recognized by current law

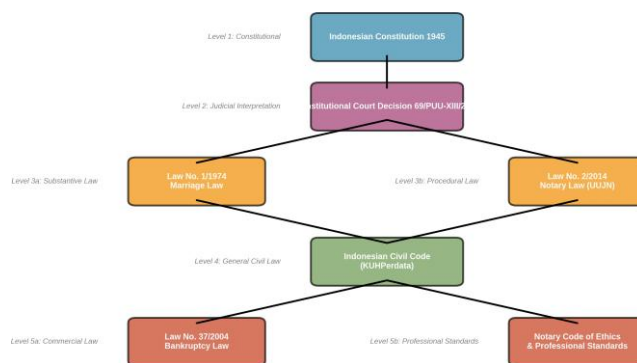
Retroactive Effect	N/A (financial prior property to classify)	May apply retroactively to existing property	Retroactive application creates complexity
Creditor Risk	Lower (creditors aware of regime from start)	Higher (creditors may have relied on joint property)	Postnuptial requires strict publicity
Notary Due Diligence	Standard inquiry about intentions	Extensive inquiry about existing debts	Postnuptial requires debt warranty clause
Registration Urgency	Moderate (financial existing creditors typically)	Critical (existing creditors must be notified)	Timing is essential for enforceability
Vulnerability to <i>Actio pauliana</i>	Minimal (made before debts)	Substantial (may be challenged as fraudulent)	Postnuptial requires clear documentation
Enforceability Against Third Parties	Strong (if properly registered)	Conditional (depends on registration timing)	Timing determines third-party effect
Practical Usage	Mixed marriages, business protection	Debt restructuring, financial protection	Postnuptial increasingly used post-2015

Source: Research Data

Table 1 compares prenuptial and postnuptial agreements across key legal criteria, illustrating the heightened risks and procedural burdens associated with agreements made during a marriage.

### The Notary’s Role and Responsibility under the Notary Law (UUN)

The Notary, as a public official, is granted the authority by the state to create authentic deeds, which possess perfect evidentiary power (Budiono et al., 2023). The UUN, in conjunction with the MK’s decision, firmly places the Notary at the center of the post-nuptial agreement process



Key relationships:

- Constitutional basis for all marriage law
- MK 69/2015 expands agreement timing
- UUN governs notary procedures
- Bankruptcy law protects creditors
- Professional ethics bind notaries

Source: Authors’ analysis

Figure 2. Legal Framework Hierarchy for Marriage Agreements

Figure 2 shows the hierarchical relationship between the various legal instruments governing marriage agreements in Finland, from the foundational 1945 Constitution to specific laws and professional standards.

This dual role creates significant professional risk. A Notary who drafts a post-nuptial agreement that facilitates a debtor’s attempt to defraud a creditor—even if the deed is formally perfect—can face civil liability. Therefore, enhanced due diligence is not merely a best practice but a professional necessity. This includes conducting a thorough inquiry into the couple’s existing financial obligations and explicitly including a ‘debt warranty clause’ in the authentic deed. This clause serves as a formal declaration by the parties that they have disclosed all existing debts, providing the Notary with a layer of protection against future claims of complicity in fraud (Pardosi, 2022). The table below details the extensive responsibilities and potential liabilities a Notary faces.

**Table 2. Notary Responsibilities and Liability Framework**

Responsibility Area	Specific Duty	Legal Source	Liability Type	Potential Consequences
Formal Compliance	Ensure authentic deed requirements met	UUJN Article 38	Administrative	Deed may lose authentic character
	Verify identity and capacity of parties	UUJN Article 16(1)(a)	Professional	Disciplinary action by MKN
	Maintain proper deed protocol	UUJN Article 30	Criminal	Prosecution for negligence
Substantive Due Diligence	Explain legal consequences to parties	Professional Ethics	Civil	Liability for damages if harm results
	Inquire about existing debts	Professional Standards	Civil	Liability under <i>Actio pauliana</i> if fraud
	Include debt warranty clause	Best Practice	Civil	Protection against fraud claims
Publicity Compliance	Advise on registration requirement	Professional Ethics	Civil	Liability if registration not completed
	Assist with timely registration	UUJN Article 15	Administrative	Disciplinary action if negligent
	Document registration completion	Professional Standards	Evidentiary	Loss of defense in litigation
Record Keeping	Maintain complete deed protocol	UUJN Article 30	Criminal	Prosecution for document destruction
	Preserve deed for 30 years minimum	UUJN Article 30	Administrative	Disciplinary action for non-compliance
	Provide certified copies on demand	UUJN Article 15	Professional	Disciplinary action if refused
Protective Measures	Seek MKN approval before police summons	UUJN Article 66	Procedural	Protection from arbitrary investigation

Document advice given to clients	Professional Standards	Evidentiary	Defense in civil/criminal proceedings
Maintain professional liability insurance	Professional Standards	Financial	Coverage for damages awarded

Source: Research Data

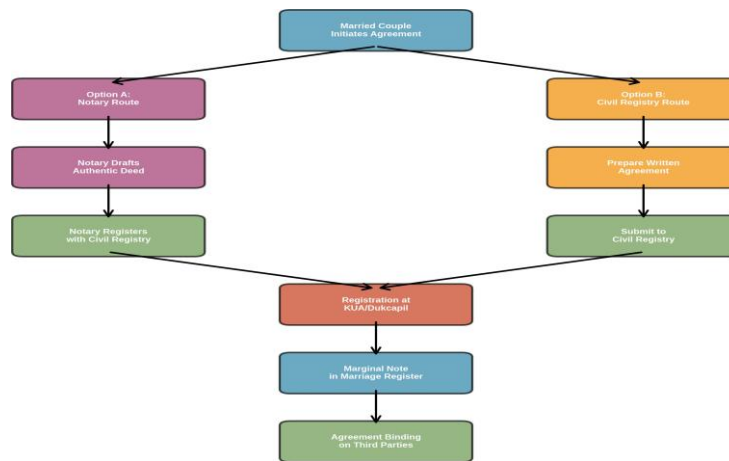
Table 2 provides a comprehensive framework of a Notary's duties and the corresponding liabilities, highlighting the multifaceted nature of their professional accountability.

**The Publicity Principle: The Absolute Requirement for Third-Party Validity**

While an authentic deed from a Notary provides perfect internal validity between the spouses, its external validity against third parties is contingent upon the fulfillment of the publicity principle. This principle requires that the agreement be made public so that any interested third party, particularly creditors, can be aware of the couple’s marital property regime. The MK decision affirmed that this is an absolute, non-negotiable requirement (Putra, et al., 2021).

The process of fulfilling the publicity principle involves registering the notarial deed with the appropriate state institution. For Muslim couples, this is the KUA; for non-Muslim couples, it is the Dukcapil. The institution then makes a “marginal note” (*catatan pinggir*) on the couple’s marriage certificate and in the official marriage register. The MK decision also controversially suggested that ratification by a Notary could itself satisfy the publicity requirement, a point that remains a subject of legal debate. The generally accepted and safest procedure, however, involves registration with the state registry, as illustrated in the process flow diagram below.

Figure 3 details the procedural pathways for ratifying a marriage agreement in Indonesia, showing the dual options of initiating the process through a Notary or directly with the Civil Registry, both culminating in official registration to ensure third-party validity. The current system of registration, however, is fraught with systemic weaknesses. The registries at KUA and Dukcapil are localized and fragmented, lacking a centralized, searchable database. This makes it exceedingly difficult for national-level creditors, such as banks, to conduct efficient due diligence on the marital property status of loan applicants. This information asymmetry creates a structural risk within the financial system, a risk that is ultimately borne by creditors (Agustin & Anand, 2021). This systemic flaw has led the judiciary, particularly the Supreme Court, to adopt an extremely strict interpretation of the publicity requirement in the context of commercial disputes.



Source: Authors' analysis

**Figure 3. Process Flow for Marriage Agreement Registration Post-MK 69/2015**

Table 3 breaks down the specific legal requirements for a marriage agreement to be considered valid and binding on all parties, including third parties, under the current legal framework.

**Creditor Protection, Bankruptcy, and the Doctrine of *Actio pauliana***

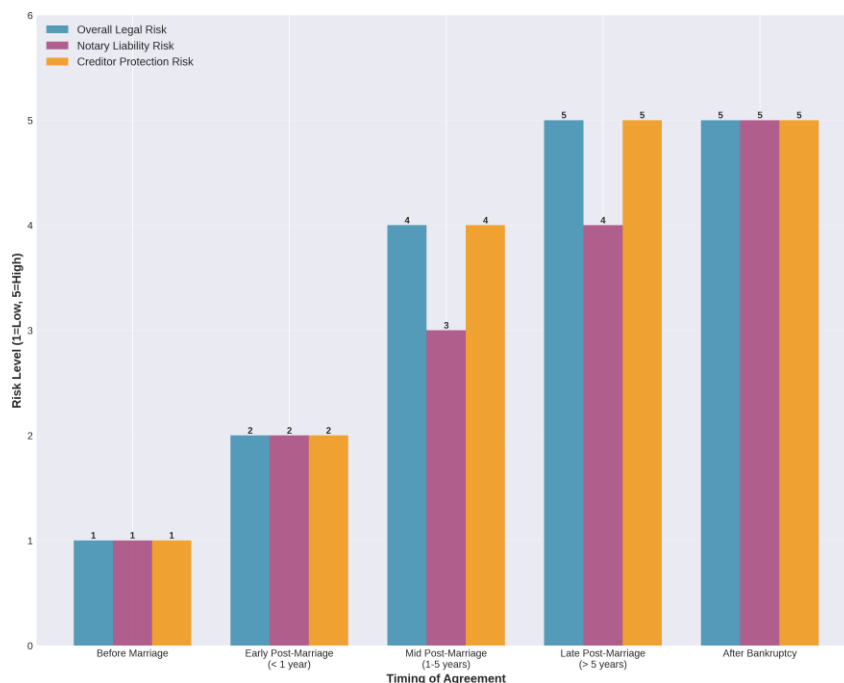
The most significant test of a post-nuptial agreement's validity occurs in the context of bankruptcy. Law No. 37 of 2004 on Bankruptcy and Postponement of Debt Payment provides a powerful tool for creditors: *Actio pauliana*. This doctrine allows a bankruptcy curator to demand the annulment of any legal action taken by a debtor that was not obligatory and that prejudices the interests of creditors, especially if fraudulent intent can be proven (Busroh, et al., 2024). A post-nuptial agreement that separates assets, executed shortly before a bankruptcy filing, is a prime target for an *Actio pauliana* challenge.

Supreme Court jurisprudence has been remarkably consistent and strict on this matter. In numerous decisions, the Court has ruled that a marriage agreement registered after a debtor is declared bankrupt is unenforceable against the creditors. In such cases, the property separation is ignored, and the entirety of the couple's joint property is absorbed into the bankruptcy estate (*boedel pailit*) to satisfy creditor claims (Saurmauli, 2022). The timing of the agreement and its registration is therefore paramount. The risk for both the couple and the Notary increases dramatically the longer the agreement is made after the marriage, as the pool of joint property and potential creditors grows.

**Table 3. Legal Requirements for Valid Marriage Agreements Post-MK 69/2015**

Aspect	Requirement	Legal Basis	Consequence if Not Met
Substantive Validity	Mutual consent of both spouses	Article 1320 KUHPerdata	Agreement, void ab initio
	Not contrary to law, religion, or public order	Article 1320 KUHPerdata	Agreement, void ab initio
	Mutual consent of both spouses, Does not diminish parental rights	Article 29 UU Perkawinan Article 29 UU Perkawinan	Agreement voidable Specific provisions null
Formal Validity	Written form (required)	Article 29(1) UU Perkawinan	No legal effect
	Authentic deed (notarial) OR under-hand deed	Article 29 UU Perkawinan & MK 69/2015	Reduced evidentiary power if under-hand
	Signed by both parties and notary	UUJN Article 38	Deed loses authentic character
Publicity Requirement	Registration at KUA/Dukcapil	MK 69/2015 & Article 29 UU Perkawinan	Not binding on third parties
	Marginal note on marriage register	Administrative Practice	Reduced enforceability against creditors
	Timely registration (before creditor claims)	Jurisprudence MA	Vulnerable to <i>Actio pauliana</i>
Temporal Validity	Made before, during, or after marriage	MK 69/2015 (expanded interpretation)	Pre-2015: post-nuptial void
	Not made after bankruptcy declaration	UU Kepailitan No. 37/2004	Agreement unenforceable against creditors

Source: Research Data



Source: Authors' analysis

**Figure 4. Risk Assessment Matrix: Marriage Agreement Timing and Liability**

Figure 4 illustrates the escalating legal, notary, and creditor risks associated with the timing of a marriage agreement. The risk level is significantly higher for agreements made late in a marriage or after bankruptcy proceedings have commenced.

The judiciary's hardline stance underscores a crucial principle: in the conflict between the private contractual freedom of spouses and the public interest in protecting creditors, the

latter prevails when the formalities of publicity are not met in a timely fashion. The authentic deed of the Notary, while powerful, is subordinate to the public act of registration. This has profound implications for notarial practice, as the Notary’s best defense against liability is to prove that they provided firm and documented advice regarding the absolute necessity of immediate registration.

**Table 4. Implications of Registration Timing in Bankruptcy Context**

Registration Timing	Status of Marital Property	Effect on Creditors	Supreme Court Position	Legal Consequence
Before any debt is incurred	Separated from the date specified in the agreement	The agreement binds creditors	Enforceable	Property protected from creditor claims
After debt but before bankruptcy	Initially separated; vulnerable to <i>Actio pauliana</i>	Creditors may challenge the separation	Strict scrutiny applied	Separation may be reversed if fraud is proven
After the bankruptcy declaration	Treated as joint property ( <i>harta bersama</i> )	Agreement unenforceable; all property enters boedel pailit	Consistently rejects late registration	Entire marital property becomes creditor collateral
Never registered	Remains joint property (default regime)	Full <i>jaminan umum</i> (general security)	Applies general civil law	All property is liable for all debts
Registered but with evidence of fraud	Initially separated; subject to reversal	Creditors may recover through <i>Actio pauliana</i>	Applies fraud doctrine strictly	Separation reversed; property returned to boedel

Source: Research Data

Table 4. This table details the severe legal consequences of failing to register a marriage agreement in a timely manner, particularly in the context of bankruptcy, based on established Supreme Court jurisprudence. To shield Notaries from undue criminalization arising from the malicious intent of their clients, Article 66 of the UUJN provides a repressive legal protection mechanism through the Notary Honorary Council (*Majelis Kehormatan Notaris* or MKN). Law enforcement officials (police, prosecutors, judges) must obtain prior approval from the MKN before summoning a Notary for examination or seizing their notarial protocols. This procedural safeguard is designed to filter out frivolous claims and protect the integrity of the notarial profession (Delfit & Dewi, 2025). However, this protection is procedural and does not absolve a Notary of civil liability for negligence.

**Syntesis**

Constitutional Court Decision No. 69/PUU-XIII/2015 represents a significant advancement for contractual freedom in Indonesian marriage law. By permitting post-nuptial agreements, it provides couples with the flexibility to manage their financial affairs throughout their marriage. However, this freedom is not absolute. It is balanced by the stringent requirement of the publicity principle, which is essential for protecting the rights

of third-party creditors and maintaining legal certainty in commerce. The Notary stands as the central figure in this legal framework, tasked with the dual responsibilities of accurately documenting the couple’s intent in an authentic deed and ensuring they understand the absolute necessity of public registration.

Supreme Court jurisprudence has made it unequivocally clear that in the event of a conflict, the public interest in creditor protection outweighs private contractual arrangements that are not properly publicized. A marriage agreement, regardless of its notarial authenticity, is legally ineffective against third parties if it is not registered in a timely manner, especially in a bankruptcy context. This places a heavy burden of due diligence on Notaries, who face significant civil and professional liability if an agreement they draft is later invalidated. The evolution of the legal framework underscores a clear trend towards stricter enforcement of procedural formalities to safeguard economic stability.

**Table 5. Legal Framework Evolution and Jurisprudential Development**

Period	Key Legal Development	Substantive Change	Procedural Change	Jurisprudential Impact
Pre-1974 (KUHP erdata Era)	Civil Code provisions (Articles 139-147)	Prenuptial only; authentic deed required	Notary made deeds; registration unclear	Limited case law; formal requirements strict
1974-2004 (Marriage Law Era)	Law No. 1/1974 enacted	Prenuptial only; authentic deed NOT required	KUA/Dukcapil registration; marginal notes	Case law develops on joint property
2004-2015 (Notary Law Era)	Law No. 2/2014 (UUJN) amended notary authority	No change to marriage agreement substance	Notary authority clarified; cyber notary emerging	Courts begin recognizing notary role in registration
2016-Present (Post-MK 69/2015)	Constitutional Court Decision 69/PUU-XIII/2015	Postnuptial agreements legalized; publicity principle expanded	Notary now explicitly authorized to register agreements	Supreme Court develops strict publicity doctrine; <i>Actio pauliana</i> applied strictly
Current Trend (2024-Present)	Proposed digitalization of marriage registry	Potential real-time registration; enhanced publicity	Digital signatures; blockchain potential	Jurisprudence moving toward stricter timing requirements

Source: Authors’ analysis

Table 5. This table summarizes the historical evolution of the legal framework for marriage agreements in Indonesia, highlighting the pivotal role of the 2015 Constitutional Court decision and subsequent jurisprudential trends.

Based on the analysis, several recommendations are proposed to address the existing challenges:

1. Establish a Centralized Digital Registry: The Indonesian government, through the Ministry of Law and Human Rights and the Ministry of Home Affairs (Dukcapil), should urgently develop and implement a national, centralized, and digital registry for marriage

agreements. Such a system would provide real-time, searchable access for authorized parties (e.g., financial institutions), thereby solving the problem of information fragmentation and making the publicity principle truly effective in practice.

2. Enhance Notarial Due Diligence Standards: The Indonesian Notary Association (INI) should mandate a stricter standard operating procedure (SOP) for drafting post-nuptial agreements. This SOP should include a compulsory, documented inquiry into the couple's existing debts and the mandatory inclusion of a "debt warranty clause" in every post-nuptial deed. Furthermore, Notaries must be required to provide and document explicit advice on the legal consequences of late registration and the risk of an *Actio pauliana* challenge.
3. Strengthen Preventive Professional Protection: While the MKN provides essential repressive protection, there is a need for stronger preventive measures. The INI should develop a framework for professional liability insurance that specifically covers risks associated with post-nuptial agreements. Additionally, creating standardized client advisory forms that document the legal advice given would provide Notaries with crucial evidence to defend against claims of negligence, shifting the focus from post-facto protection to proactive risk mitigation.

By implementing these reforms, Indonesia can better harmonize the principle of contractual freedom with the demands of commercial certainty, ensuring that the progressive intent of the Constitutional Court's decision is realized without compromising the stability of the broader economic legal order.

## CONCLUSION

In conclusion, while Constitutional Court Decision No. 69/2015 marks a progressive shift towards spousal autonomy by legitimizing post-nuptial agreements, its implementation has fundamentally recalibrated the equilibrium between private contractual freedom and public commercial interest. This judicial expansion has engendered a legal paradigm where the enhanced flexibility for married couples is inextricably constrained by the non-negotiable doctrine of publicity, a principle rigorously enforced by Supreme Court jurisprudence to prioritize creditor protection and transactional certainty. Consequently, the Notary emerges as the pivotal yet vulnerable actor in this matrix, bearing the onerous dual mandate of facilitating private intent while guaranteeing public disclosure, under the perpetual threat of severe civil and professional liability should registration formalities be deficient. The evolutionary trajectory of the legal framework, therefore, necessitates systemic interventions—such as a centralized digital registry, fortified notarial due diligence

protocols, and robust preventive risk mitigation mechanisms—to genuinely harmonize the emancipatory objectives of the Court’s ruling with the indispensable stability of the broader

## IMPLICATION

This paper carries profound multilevel implications, beginning within the academic world where it catalyzes critical interdisciplinary discourse, challenging scholars in family law, commercial law, and legal theory to reconcile the dialectic of private autonomy and public interest, while setting a robust research agenda on the efficacy of publicity mechanisms and professional liability in evolving juridical systems. For society, it demystifies a significant legal empowerment tool, enhancing public legal literacy on post-nuptial agreements but simultaneously underscoring a critical caution about their severe limitations unless properly publicized, thereby influencing how individuals manage marital assets and perceive financial risk. For the Indonesian nation and state, the analysis presents a dual imperative: it validates a progressive constitutional interpretation that modernizes family law, yet it starkly reveals systemic vulnerabilities in its fragmented registry infrastructure, directly challenging policymakers to implement digital governance reforms to safeguard both economic stability and the rule of law. In the international community, this study positions Indonesia as a salient case study in the global comparative law dialogue on marital property reforms, offering critical insights into the judicial balancing of spousal contractual freedom against creditor rights—a universal tension—and proposing a tangible framework for regulatory and technological adaptation that resonates with other civil law jurisdictions navigating similar legal modernization.

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