

Integrated Itsbat Nikah Services for Indonesian Migrant Workers Cross-Border Community Service Program at The Consulate General of The Republic of Indonesia Kuching, Malaysia

Ani Purwati¹, Gita Ruslita^{2*}, Aris Yulia³, Liza Marina⁴, Siti Chariyah Batubara⁵

¹Faculty of Law, Sahid University, Indonesia

² Doctoral Student in Communication, Sahid University, Indonesia

^{3,4}Faculty of Law, Sahid University, Indonesia

⁵ Master's Student in Law, Sahid University, Indonesia

*Corresponding Author:

Email: anipurwati@usahid.ac.id

Abstract.

Indonesian Migrant Workers (Pekerja Migran Indonesia-PMI) constitute a vulnerable population that frequently encounters family-law problems, particularly marriages that are religiously valid but not formally registered. From a legal standpoint, marriage registration is mandatory as an instrument to ensure legal certainty and family protection. In practice, however, many PMI marriages abroad remain unregistered due to limited access to legal information, cross-border administrative barriers, institutional fragmentation, and jurisdictional differences. This situation creates legal uncertainty regarding the status of spouses and children, obstructing the fulfillment of civil rights, access to public services, and family-law protections, thus undermining the state's mandate to protect PMI and their families. This cross-border Community Service Program (Pengabdian kepada Masyarakat-PKM) aims to bridge the gap between legal norms and lived realities through an integrated itsbat nikah (judicial marriage validation) service model implemented in Kuching, Malaysia. The program employs a socio-legal approach using a participatory community-engagement design combined with applied doctrinal legal research. Data were collected through regulatory review, field observation, limited interviews with PMI and stakeholders, and administrative and legal assistance. Qualitative analysis connected the regulatory framework of marriage, civil registration, and migrant-worker protection with legal service delivery and the social impacts experienced by migrant families. The program's outcomes indicate that an integrated itsbat nikah model enhances legal certainty for PMI families through judicial validation of marriage and the integration of legal documentation into civil registration processes. The program recommends strengthening cross-border integrated legal services and updating technical policies to better address the structural vulnerabilities of PMI as part of broader efforts to expand access to justice.

Keywords: Integrated itsbat nikah; Indonesian migrant workers; community service; socio-legal method and cross-border access to justice.

I. INTRODUCTION

Family-law vulnerability among Indonesian Migrant Workers (PMI) cannot be separated from the structural characteristics of Indonesia's labour migration. Indonesia is among the largest labour-sending countries in Southeast Asia. Official government data on PMI protection consistently show Malaysia as the primary destination, in both domestic and non-domestic sectors. This scale of migration has formed large and relatively permanent PMI communities in several areas, including Sarawak. In such circumstances, family formation including marriage becomes a common social phenomenon, yet it is often not followed by compliance with cross-border administrative requirements. This places many PMI families in a condition of legal invisibility, namely social existence that is not fully recognized by the legal systems of either the country of origin or the host country (Benda-Beckmann, 2007). Theoretically, modern family law functions as an instrument for recognizing and protecting legal identity. According to Lawrence M. Friedman, a legal system operates effectively only when legal substance, legal structure, and legal culture function simultaneously (Friedman, 1975). In the PMI context, unregistered marriages indicate a failure to integrate these three elements. The relevant norms exist, judicial and administrative institutions are available, yet legal culture and PMI's factual access to these institutions remain limited. Consequently, PMI families occupy a

“grey zone”: religiously valid but administratively and legally fragile. Migration statistics also show a trend of the feminization of migration, with many female PMI working in the domestic sector. Migration studies describe domestic workers as facing layered vulnerabilities economic, social, and in family relations and access to justice (Piper, 2003).

Such vulnerabilities affect the prevalence of unregistered marriages, particularly where marriages occur under economic dependency, incomplete identity documentation, or unequal power relations. In such contexts, the lack of marriage registration is not merely an administrative issue but may implicate human rights concerns especially the right to legal recognition and family protection. From a modern administrative-law perspective, marriage registration is part of a civil registration and legal identity system. The World Bank and UNDP frame legal identity as a prerequisite for access to state services and social protection. Without a marriage certificate, children of PMI risk barriers to birth registration, which in turn affects rights to education, health services, and even nationality status (Gelb & Clark, 2013). Therefore, *itsbat nikah* should not be narrowly treated as a technical matter of religious courts; it is closely linked to legal identity policy and social protection. Indonesia’s legal reforms have demonstrated a progressive direction. The revision of the marriage law that raised the minimum marriage age reflects the state’s commitment to protect vulnerable groups from socially and biologically harmful practices. In the field of PMI protection, the Indonesian Migrant Worker Protection Law shifts the paradigm from placement-oriented policy to comprehensive protection, including family-law protection (Rahardjo, 2009). Nonetheless, these normative reforms have not been fully translated into service mechanisms that are adaptive to PMI who live abroad. From the judiciary’s side, integrated service policies through circuit courts (*sidang keliling*) reflect the Supreme Court’s efforts to expand access to justice for communities that face geographic and socio-economic barriers to reaching courts.

This aligns with substantive justice theory, which argues that justice must not only be available normatively but also accessible in practice (Cappelletti & Garth, 1978). Yet such policies are primarily designed for domestic contexts. For PMI abroad, additional adaptation is required to address jurisdictional differences, evidentiary challenges, and cross-border coordination. Integrated cross-border *itsbat nikah* can be understood as a form of legal engineering that seeks to integrate normative legal reform with the social reality of labour migration. The program does not only validate marriages judicially but also consolidates legal recognition and documentation into a coordinated service chain. This approach resonates with the concept of responsive law, which positions law as a means to solve social problems rather than a rigid normative system (Nonet & Selznick, 1978). The cross-border integrated *itsbat nikah* program in Kuching is significant both as community service and as an academic-policy contribution: it functions as a socio-legal laboratory to test the effectiveness of family-law reform and PMI protection within international migration settings. By combining legal, administrative, and participatory approaches, the program is expected to strengthen PMI family legal certainty and contribute conceptually to the development of cross-border access-to-justice models in Indonesia.

II. METHODS

This study applies a community service design grounded in applied socio-legal research with a qualitative descriptive analytical approach. The socio-legal approach was selected to integrate doctrinal analysis of family law and PMI protection with the empirical realities of unregistered marriages abroad, treating law not merely as written norms but as social practice operating within migration contexts (Friedman, 1975). The program took place in Kuching, Sarawak, Malaysia, and involved PMI families who had conducted marriages according to religious norms but had not officially registered them within the state administrative system. Data collection combined document study, field observation, and semi-structured interviews. The document study reviewed relevant legislation and policies on marriage law, civil registration, PMI protection, and judicial policies on *itsbat nikah* and integrated services. This doctrinal mapping identified state legal obligations and corrective mechanisms available for PMI families (Soekanto, 1986). Field observation was conducted during legal education sessions, administrative assistance, and facilitation of *itsbat nikah* to identify factual barriers experienced by PMI in accessing family-law services. Limited

semi-structured interviews were conducted with PKM participants, community facilitators, and relevant stakeholders to obtain contextual insights into PMI family-law needs and perceptions of the integrated service model's effectiveness (Denzin & Lincoln, 2011).

Program activities included: (i) legal education on family law and marriage registration; (ii) assistance in preparing *itsbat nikah* petitions and supporting documentation; (iii) facilitation of judicial validation; and (iv) integration of the judicial outcomes into subsequent civil documentation needs. The program adopted a participatory approach, positioning PMI as active subjects of empowerment and access to justice, consistent with theories of access to justice for vulnerable groups (Cappelletti & Garth, 1978). Legal prudence was ensured by aligning assistance with applicable regulations while prioritizing family and child rights protection. Data analysis was conducted qualitatively and normatively by connecting empirical findings with regulatory frameworks and access-to-justice theory. The analysis followed data reduction, thematic categorization, and critical interpretation to assess alignment between legal norms (*das sollen*) and field realities (*das sein*). Validity was strengthened through source and method triangulation and critical reflection on the PKM process and outcomes. This analytical approach enabled comprehensive evaluation of integrated cross-border *itsbat nikah* as an adaptive family-law service model for PMI in international migration contexts (Rahardjo, 2009).

III. LITERATURE REVIEW

Contemporary family-law scholarship conceptualizes marriage not only as a religious and social institution, but also as a legal status that determines an individual's and a family's position within the state protection system. Marriage registration serves as the legal mechanism linking private family relations to public recognition by the state, generating legal consequences for the status of children, maintenance obligations, inheritance, and guardianship. The legal system approach emphasizes that the effectiveness of registration norms depends not merely on the existence of written rules, but on the integration of legal substance, institutional structure, and legal culture (Friedman, 1975). For PMI, limited access and legal literacy often prevent registration norms from functioning operationally. At the national normative level, marriage registration is firmly grounded in Article 2(2) of Law No. 1 of 1974 on Marriage, amended by Law No. 16 of 2019, including the equalization of the minimum marriage age at 19 for both men and women. Studies on unregistered marriages indicate that the central issue is not the religious validity of the marriage but the legal consequences of lacking authentic proof. Without official documentation, families become vulnerable in disputes, child documentation processes, and service access that depends on administrative proof. In legal pluralism terms, this reflects tension between community-based recognition and state administrative recognition, producing legal invisibility: families exist socially but are not fully protected legally (Benda-Beckmann, 2007). As a corrective mechanism, Indonesian Islamic family law positions *itsbat nikah* as a judicial remedy to validate marriages that occurred but cannot be proven through a marriage certificate.

Its normative basis is Article 7(2) of the Compilation of Islamic Law (KHI), which provides the legal avenue for applications and the jurisdiction of Religious Courts in marriage matters. Jurisprudential studies show that *itsbat nikah* practices may vary, especially regarding evidence assessment and social considerations. This has generated academic debate about the need for standardization and judicial consistency so that *itsbat nikah* can ensure legal certainty for vulnerable groups without undermining the fundamental obligation of marriage registration (Huda, 2014). Another crucial dimension is access to justice. Cappelletti and Garth's classical work describes the global access-to-justice movement evolving from legal aid approaches toward procedural and institutional reforms enabling rights to be realized effectively (Cappelletti & Garth, 1978). In Indonesia, this orientation is reflected in integrated circuit-court services under Supreme Court Regulation No. 1 of 2015, integrating judicial functions, marriage registration, and the issuance of civil documents. However, for PMI, cross-border contexts add complexity: jurisdictional issues, mobility constraints, costs and evidentiary barriers not fully addressed by domestic service designs. International migration studies also emphasize the link between migration and family vulnerability through the feminization of migration. Female domestic workers are widely described as facing layered

vulnerabilities in economic and social life as well as in power relations, which can influence family practices, including unregistered marriages due to documentation and institutional access limitations (Piper, 2003). This confirms that integrated *itsbat nikah* should be understood not simply as an administrative service but as a protective legal intervention sensitive to structural inequality and migrant vulnerability. In legal identity studies, civil documents including proof of marriage are positioned as prerequisites for public service access and social protection.

The World Bank's Identification for Development (ID4D) initiative stresses that legal identity and civil registration constitute the foundation of rights fulfilment and civic participation. In Indonesian law, this approach is operationalized through the Population Administration Law and technical regulations such as Presidential Regulation No. 96 of 2018. For PMI families, *itsbat nikah* should be read as restoring the legal identity chain by linking marriage validation with integrated family documentation and child rights protection (World Bank, 2018). In PMI protection policy, scholarship notes a paradigm shift from placement orientation toward comprehensive protection, as mandated by Law No. 18 of 2017 and Government Regulation No. 59 of 2021, covering protection before, during, and after employment. Nonetheless, implementation studies show persistent constraints in service coordination, information access, and procedural certainty for PMI families abroad. This gap provides the rationale for PKM contributions: transforming protection mandates into a practical, measurable, and adaptive family-law service model under international migration realities. Based on this literature mapping, the present community service program addresses three major gaps: (i) extending integrated service concepts from domestic to cross-border contexts; (ii) integrating access-to-justice and legal-identity frameworks so outputs extend beyond judicial decisions toward functional documentation integration; and (iii) developing an implementable model responsive to PMI structural vulnerability. Cross-border integrated *itsbat nikah* is positioned as a service prototype capable of both resolving individual cases and informing broader policy replication for PMI family-law protection.

IV. RESULT AND DISCUSSION

The program indicates that the main problems experienced by PMI families in Kuching are not limited to the absence of marriage books/certificates, but to the broken chain of legal recognition that affects spousal status, child status, and document-based access to public services. Under Article 2(2) of Law No. 1 of 1974 on Marriage, marriage registration is an instrument of family legal certainty. Yet within PMI communities, this norm often fails in practice due to cross-border administrative barriers, limited legal literacy, and evidentiary constraints. Field findings show that marriages valid under religious law remain legally vulnerable when families must meet formal legal needs, such as proving family relationships for child documentation, accessing certain services, or protecting private-law interests. This confirms the gap between *das sollen* (normative registration obligation) and *das sein* (the empirical reality of unregistered marriages in migration contexts). During legal education sessions, a key outcome was increased participant understanding of the distinction between religious validity and administrative validity. The sessions emphasized not only the obligation of registration but also the practical consequences of non-registration—namely, weakened authentic proof within state legal systems. Discussions revealed that many PMI couples previously regarded marriage legality as complete once religious requirements were fulfilled, treating registration as secondary. After the sessions, participants increasingly understood registration as a protective legal mechanism enabling the state to deliver its mandate to safeguard families, consistent with the comprehensive protection paradigm under Law No. 18 of 2017 and Government Regulation No. 59 of 2021.

In administrative and legal assistance, the most consistent findings indicate multilayered barriers. First, incomplete identity documents and insufficient proof of marriage events are exacerbated by migration mobility, time constraints, and distance from service points. Second, uncertainty in service pathways arises because judicial validation and administrative registration are often treated as separate processes, resulting in high social costs from repeated unsuccessful attempts. Third, evidentiary complexity limited witnesses, poorly documented chronologies, and non-standard document formats often delays proceedings. PKM assistance demonstrates that systematic document organization and clear event narratives can improve examination efficiency and reduce postponement risk. Here, *itsbat nikah* functions as a legal bridge, as it is

designed precisely for situations where marriage cannot be proven by a certificate, as provided in Article 7(2) of the Compilation of Islamic Law and within Religious Court jurisdiction. In the validation and documentation-integration stage, the most meaningful program outcome was not merely the issuance of a judicial decision (*penetapan itsbat*) but the conversion of social status into operational legal status through registration and strengthened family documentation. The “integrated” principle proved crucial because it reduced fragmentation between the judicial process (validation) and administrative processes (registration). This aligns with the policy rationale of Supreme Court Regulation No. 1 of 2015 on integrated services to facilitate the issuance of marriage and civil documents. Although designed for domestic contexts, PKM outcomes suggest its principle can be adapted cross-border: the more integrated the service chain, the lower the access burden for vulnerable groups and the less likely families remain “half-legal” religiously recognized but administratively incomplete.

The integrated model also directly strengthened the PMI family legal identity chain. After judicial validation, the next critical step is updating family and child documents to link marriage and birth events within civil registration systems. Under the Population Administration Law (Law No. 23 of 2006 as amended by Law No. 24 of 2013) and Presidential Regulation No. 96 of 2018, vital events form the basis for population-data updates. The program shows that marriage validation increases families’ capacity to complete subsequent documentation consistently, reduces the risk of children being excluded from the registration system, and strengthens access to document-dependent public services. Thus, the program does not stop at formal legalization but ensures family documents become functional in social and service contexts. From a policy-evaluation perspective, two issues emerged. First, standardization is needed to minimize disparities in handling *itsbat nikah* applications, particularly regarding evidence and judicial reasoning, so PMI family legal certainty does not depend excessively on variable interpretations. Second, cross-border contexts require more stable coordination protocols so integration among courts, registration, and civil administration does not impose new burdens on participants. These findings support recommendations to strengthen cross-border integrated service governance through harmonized requirements, realistic document verification mechanisms, and accessible information channels for PMI communities. Overall, the program demonstrates that integrated cross-border *itsbat nikah* functions as an access-to-justice intervention, transforming normative mandates into tangible legal services for vulnerable migrant communities.



Fig 1. Implementation of Community Service Program at the Indonesian Consulate General in Kuching, Malaysia.

V. CONCLUSION

The integrated cross-border *itsbat nikah* program for Indonesian Migrant Workers (PMI) in Kuching, Malaysia, demonstrates that the main family-law problem is not merely the absence of marriage certificates but the disruption of the legal recognition chain affecting spousal status, child status, and document-based access to public services. The results show that the gap between the normative obligation of marriage registration and the reality of unregistered marriages in migration contexts can only be bridged through integrated, adaptive, and access-to-justice-oriented legal services. Substantively, the program confirms that *itsbat nikah* functions effectively as a corrective mechanism when integrated with administrative assistance and family documentation registration. Marriage validation not only provides judicial legitimacy but also strengthens the PMI family legal identity chain by linking marriage and birth events within population administration systems.

The program output does not end at formal legalization; it produces documents that are functional for social life and public service access. From a policy standpoint, the findings highlight the importance of strengthening integrated cross-border service models as part of PMI protection and family safeguarding. Integration among marriage law, religious courts, population administration, and PMI protection policy should be treated as a single service ecosystem rather than separate domains. The program indicates that when legal norms are translated into simple, coordinated, and community-based service designs, law can operate as a tangible protective instrument for vulnerable migrant families. Integrated cross-border *itsbat nikah* can therefore be positioned as a policy prototype for PMI family-law services that is suitable for replication and further development. Its significance lies in strengthening access to justice, promoting family legal certainty, and operationalizing the state's mandate to protect PMI comprehensively—not only as workers, but as legal subjects and family members entitled to full legal recognition and protection.

REFERENCES

- [1] Cappelletti, M., & Garth, B. G. (1978). Access to justice: The newest wave in the worldwide movement to make rights effective. *Buffalo Law Review*, 27, 181–292.
- [2] Friedman, L.M. (1975). *The Legal System: A Social Science Perspective*. New York, NY: Russell Sage Foundation.
- [3] Huda, M. (2014). Jurisprudence of *isbat nikah* under Article 7 of the Compilation of Islamic Law. *Al-Ahwal: Jurnal Hukum Keluarga Islam*, 7(2), 121–138.
- [4] Piper, N. (2003). *The Feminisation of Migration*. Geneva: UNRISD.
- [5] Rahardjo, S. (2009). *Hukum Progresif: Hukum yang Membebaskan*. Jakarta: Kompas.
- [6] Republic of Indonesia. (1974). Law No. 1 of 1974 on Marriage. *State Gazette of the Republic of Indonesia* (1974) No. 1.
- [7] Republic of Indonesia. (1991). *Compilation of Islamic Law* (Presidential Instruction No. 1 of 1991). Jakarta.
- [8] Republic of Indonesia. (2006). Law No. 23 of 2006 on Population Administration. *State Gazette of the Republic of Indonesia* (2006) No. 124.
- [9] Republic of Indonesia. (2013). Law No. 24 of 2013 amending Law No. 23 of 2006 on Population Administration. *State Gazette of the Republic of Indonesia* (2013) No. 232.
- [10] Republic of Indonesia. (2017). Law No. 18 of 2017 on the Protection of Indonesian Migrant Workers. *State Gazette of the Republic of Indonesia* (2017) No. 242.
- [11] Republic of Indonesia. (2018). Presidential Regulation No. 96 of 2018 on Requirements and Procedures for Population Registration and Civil Registration. *State Gazette of the Republic of Indonesia* (2018) No. 184.
- [12] Republic of Indonesia. (2019). Law No. 16 of 2019 amending Law No. 1 of 1974 on Marriage. *State Gazette of the Republic of Indonesia* (2019) No. 186.
- [13] Republic of Indonesia. (2021). Government Regulation No. 59 of 2021 on the Implementation of Protection for Indonesian Migrant Workers. *State Gazette of the Republic of Indonesia* (2021) No. 93.
- [14] Supreme Court of the Republic of Indonesia. (2015). Supreme Court Regulation No. 1 of 2015 on Integrated Services for Circuit Courts in Issuing Marriage Certificates/Books and Birth Certificates. *State Gazette of the Republic of Indonesia* (2015) No. 1050.
- [15] Von Benda-Beckmann, F. (2007). *Legal Pluralism and Social Security*. Dordrecht: Springer.
- [16] World Bank. (2018). *Identification for Development (ID4D): World Development Report Background Paper*. Washington, DC: World Bank Group.