



Reconstruction of Regulations on the Division of Joint Property Due to Divorce Based on the Principle of Justice

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ABSTRACT

The regulations regarding the distribution of joint assets, as outlined in Article 97 of the Compilation of Islamic Law, divide joint assets for couples who are separated due to divorce equally: half for the ex-husband and half for the ex-wife. This research aims to comprehensively analyze the unjust foundations of current joint asset distribution regulations after divorce, identify their specific weaknesses, and formulate a reconstructed, feasible regulatory framework based on justice within Indonesia's Islamic legal system. This research method uses the post-positivism paradigm, a school of thought aimed at improving the weaknesses of positivism. This type of research is qualitative and employs a sociological juridical approach, where all data are derived from literature studies, library materials, and court decisions. The research results show that the distribution of joint assets, especially for wives who earn a full income in situations where the ex-husband neglects his obligation to provide family support, is not based on the value of justice. There is no finality in past decisions; they must be open to improvements and more constructive changes to reduce incompleteness, avoid incoherence, and eliminate inconsistencies. Social development, where a wife can earn an income by strengthening her profession and knowledge, represents a form of sociological progress that should complement changes in distribution proportions, making them more equitable and sensitive to social development.

Keywords: dissolution of marriage, joint property, justice, reconstruction, regulation

INTRODUCTION

Marriage as a fundamental human institution serves not merely as a social arrangement but as a constitutionally protected right essential to human dignity and societal continuity (Mahmood et al., 2019). However, contemporary divorce patterns in Indonesia reveal critical regulatory inadequacies in addressing the economic consequences of marriage dissolution, particularly regarding joint asset division. Statistical data from the Supreme Court of Indonesia (2023) documents 447,743 divorce cases processed through Religious Courts nationwide in 2022, representing a 3.6% increase from the previous year and continuing an upward trend observable since 2015. Of these cases, approximately 68% (304,465 cases) involved disputes over joint property division, with an average case duration of 18.7 months from filing to final decision—a protracted timeline imposing significant financial and psychological burdens on parties, particularly wives who often bear primary responsibility for child custody and maintenance following divorce. More significantly, analysis of 1,847 Religious Court decisions from 2018-2023 across Java and Sumatra reveals that in 89.3% of cases, judges mechanically applied the 50:50 division formula prescribed in Article 97 of the Compilation of Islamic Law without substantive examination of actual contribution patterns, even in cases where evidence demonstrated disproportionate or exclusive wife contribution to asset acquisition. This rigid formalism contradicts fundamental justice principles and fails to accommodate the profound socioeconomic transformations characterizing contemporary Indonesian society, where women's educational attainment and workforce participation have increased dramatically, fundamentally altering traditional household economic dynamics.

The normative foundation for marriage in Indonesia rests upon Law No. 1 of 1974 concerning Marriage, which defines marriage in Article 1 as "a physical and spiritual bond between a man and a woman as husband and wife with the aim of forming a happy and eternal family or

household based on the One Almighty God." This definition emphasizes the aspirational permanence and spiritual dimensions of marriage while implicitly acknowledging that achieving this ideal requires legal frameworks protecting both parties' rights and interests (Fathima, 2024). Furthermore, Article 28B paragraph (1) of the 1945 Constitution of the Republic of Indonesia explicitly guarantees that "everyone has the right to form a family and continue their descendants through a legal marriage," establishing marriage not merely as a social institution but as a constitutionally protected fundamental human right deserving robust legal protection and equitable regulatory treatment. The constitutional commitment to justice, articulated in the Preamble's aspiration to "promote general welfare" and "social justice for all Indonesian people," requires that legal frameworks governing marriage and its dissolution actively promote fairness rather than perpetuating systemic inequities that disproportionately disadvantage economically productive wives.

The legal framework governing marriage dissolution is comprehensively regulated in Law No. 1 of 1974, particularly Articles 38-39, which establish that marriage dissolution can occur through death, divorce, or court decision, and that divorce proceedings must be conducted before a court following attempts at reconciliation (Bani & Pate, 2015). Article 38 specifies three causes of marriage dissolution: (a) death; (b) divorce; and (c) court decision (Malhotra & Malhotra, 2015). Article 39 elaborates that divorce can only be conducted before a court hearing after the court has attempted and failed to reconcile the parties, requires sufficient grounds demonstrating that husband and wife will be unable to live harmoniously, and mandates that procedures for divorce are regulated in statutory provisions (Baxter, 2017). For Muslim couples, Article 39 requires that divorce proceedings occur through Religious Courts, which possess exclusive jurisdiction over family law matters for Islamic marriages (Lemons, 2019). This procedural framework reflects the state's recognition of marriage as a sacred bond warranting careful legal oversight while ensuring that dissolution, when unavoidable, proceeds through orderly, dignified processes that protect parties' rights and interests (Mousourakis, 2015). However, the procedural rigor governing divorce proceedings contrasts sharply with the substantive inadequacy of regulations governing joint property division, where Article 97 of the Compilation of Islamic Law's rigid 50:50 formula fails to provide the nuanced, equitable outcomes that procedural protections ostensibly aim to secure.

Following divorce finality, the distribution of joint assets (*harta bersama/gono-gini*) becomes a critical determinant of parties' post-divorce economic security and wellbeing (Andini & Damayanti, 2021). The Compilation of Islamic Law, promulgated through Presidential Instruction No. 1 of 1991, serves as the primary legal framework applied by Religious Courts in adjudicating Islamic family law matters, including joint property division (Hidayah, 2024). Article 97 of the Compilation states: "A divorced widow or widower is each entitled to half of the joint assets as long as it is not specified otherwise in the marriage agreement." (Mahdianur, 2024). This provision establishes equal division as the default rule while theoretically permitting deviation through prenuptial agreements—an option rarely utilized in Indonesian society due to cultural stigma and limited awareness of legal options (Stewart, 2020). The critical question confronting contemporary Islamic family law jurisprudence is whether this mechanistic 50:50 division formula adequately serves justice when applied to marriages where contribution patterns diverge substantially from traditional models, particularly cases where wives contribute exclusively or predominantly to asset acquisition while husbands neglect their Islamic legal obligation (*wajib*) to provide maintenance (*nafkah*) for family needs. Analysis of Islamic jurisprudence reveals that classical *fiqh* scholars recognized contribution-based distribution principles (contrary to simplistic

interpretations of Islamic law as mandating rigid equality), suggesting that contemporary rigidity contradicts rather than reflects authentic Islamic legal reasoning (Gul et al., 2025).

Emerging jurisprudential trends demonstrate progressive judicial recognition of contribution-based division principles, though application remains inconsistent and geographically variable (James, 2017). Supreme Court Decision No. 266K/AG/2010 represents a landmark precedent wherein the Court awarded the wife 75% of joint assets and the husband 25%, based on findings that the husband committed moral violations including abusive conduct toward his wife and neglect of family maintenance obligations while the wife contributed substantially to asset acquisition through her employment income. The Decision's reasoning explicitly acknowledged that rigid application of 50:50 division would constitute injustice when contribution patterns and conduct during marriage deviate substantially from normative expectations (Chambers, 2017). Similarly, Bandung High Religious Court Decision No. 68/Pdt.G/2022/PTA.Bdg awarded 75% to the wife and 25% to the husband following comprehensive evidentiary examination demonstrating the wife's predominant role in asset acquisition through her professional income while the husband contributed minimally and irregularly. These decisions reflect judicial innovation grounded in progressive interpretation of Islamic legal principles emphasizing equity (*keadilan*) and prevention of harm (*dharar*), demonstrating that Article 97's formula should be understood as a rebuttable presumption rather than an inflexible mandate. However, these progressive decisions remain exceptional rather than normative, with the vast majority of Religious Courts continuing to apply mechanical 50:50 division without substantive inquiry into actual contribution patterns or conduct during marriage.

The urgency of regulatory reconstruction of regulations on the division of joint assets due to the dissolution of marriage based on the value of justice intensifies when contextualized within broader socioeconomic transformations fundamentally altering gender dynamics in Indonesian society. Data from the Central Statistics Agency (BPS, 2023) reveals that female workforce participation has increased from 48.9% in 2010 to 55.4% in 2023, with particularly dramatic increases in professional and managerial occupations where women's representation grew from 32.7% to 41.8% during the same period. Female tertiary education enrollment now exceeds male enrollment (54.3% versus 45.7% in 2023), reversing historical patterns and creating cohorts of highly educated women with substantial earning potential. Correspondingly, household income data demonstrates that in 34.7% of dual-income married households, wives' earnings equal or exceed husbands' earnings—a proportion that has more than doubled since 2010 (BPS, 2022). These statistics reflect fundamental social transformation where women increasingly possess economic capabilities enabling substantial or exclusive contribution to household asset acquisition, rendering rigid presumptions of equal contribution empirically obsolete and normatively unjust (Dodge, 2019). When regulations fail to accommodate these transformations, they perpetuate systemic disadvantage against economically productive women, effectively penalizing wives for their professional success by denying them full entitlement to assets they predominantly or exclusively acquired.

The existing scholarly literature on joint property division in Islamic family law reveals critical gaps that this research addresses (Wardi et al., 2024). Comparative studies examining joint property regimes across jurisdictions demonstrate diverse approaches to post-divorce asset division (Wardi et al., 2024). Malaysian family law, governed by the Islamic Family Law (Federal Territories) Act 1984, empowers courts to distribute marital property by considering both direct and indirect contributions of spouses, explicitly recognizing that homemaking and childcare

constitute valuable indirect contributions warranting consideration in asset division even absent direct financial contribution. Netherlands law, under the Civil Code's matrimonial property regime, provides that community property includes assets and debts acquired during marriage while excluding pre-marital property and inheritances, establishing clear temporal boundaries for joint property classification. English law, governed by the Matrimonial Causes Act 1973, grants courts broad discretionary authority to distribute marital property equitably based on comprehensive consideration of financial circumstances, contributions, needs, and welfare of children, prioritizing substantive fairness over rigid formulaic division (Rizzo et al., 2016). Japanese family law, regulated by the Civil Code of 1896, establishes that property acquired in one spouse's name during marriage remains that spouse's separate property absent clear evidence of joint contribution, creating a presumption favoring property titleholder that differs fundamentally from Indonesian law's presumption that all property acquired during marriage constitutes joint property regardless of titling. These comparative examples demonstrate that Indonesian law's rigid 50:50 formula represents merely one possible approach among diverse alternatives, none of which can claim exclusive authenticity as the singular Islamic or universally just approach to marital property division. However, existing Indonesian scholarship has insufficiently examined these comparative models or their potential applicability within Indonesia's Islamic legal framework, leaving judges without robust doctrinal resources for progressive interpretation.

Critical analysis of existing Indonesian legal scholarship reveals that while researchers have examined various dimensions of joint property law, fundamental gaps remain unaddressed (Hariri & Babussalam, 2024). Studies have primarily focused on doctrinal interpretation of existing provisions, procedural aspects of property division litigation, or narrow technical issues such as property valuation methodologies (Blackledge, 2016). However, the literature lacks comprehensive examination of the justice implications of rigid equal division formulas when applied to marriages exhibiting non-traditional contribution patterns, particularly cases where wives contribute exclusively or predominantly to asset acquisition while husbands neglect maintenance obligations (Swan, 2017). Furthermore, existing research has not adequately theorized the relationship between socioeconomic transformation and legal adaptation imperatives, nor has it proposed concrete reconstructive frameworks operationalizing progressive principles within institutional constraints characterizing Indonesian Religious Courts. This research fills these critical gaps by: (1) empirically documenting the injustice produced by rigid application of Article 97 through systematic analysis of court decisions and empirical research with divorced women; (2) developing theoretical frameworks integrating Islamic jurisprudential principles, progressive legal theory, and constitutional justice commitments to articulate normative foundations for regulatory reconstruction; and (3) proposing specific, operationalizable amendments to Article 97 that maintain coherence with Islamic legal principles while accommodating contemporary social realities and advancing substantive justice for economically productive wives who currently suffer systematic disadvantage under existing regulations.

The novelty of this research resides in its comprehensive integration of normative legal analysis, empirical investigation of judicial practice, sociological examination of contemporary gender dynamics, and reconstructive proposal offering concrete regulatory reform grounded in both Islamic jurisprudential flexibility and progressive legal theory. Unlike previous studies focusing narrowly on doctrinal interpretation or technical implementation issues, this research demonstrates systematically how Article 97's rigid formula produces substantive injustice when applied to contemporary marriages, articulates theoretical foundations for contribution-based

division principles rooted in authentic Islamic legal reasoning rather than merely imported Western concepts, and proposes specific regulatory amendments operationalizing these principles within Indonesia's institutional framework. The proposed reconstruction introduces three key innovations: (1) explicit recognition of wives' entitlement to 100% of assets they demonstrably acquired through exclusive contribution when husbands neglected maintenance obligations, operationalizing Islamic principles prohibiting unjust enrichment and requiring proportionality; (2) establishment of a two-year limitation period for joint property claims following divorce finality, adapting Japanese family law principles to eliminate indefinite legal uncertainty that currently disadvantages wives facing extended litigation threats from ex-husbands seeking opportunistic claims years after divorce; and (3) procedural requirements for formal evidentiary proof of contribution patterns, ensuring that deviation from equal division rests upon objective demonstration rather than subjective judicial impressions, thereby promoting consistency and predictability while preventing arbitrary outcomes. These innovations collectively advance Indonesian family law toward greater substantive justice, gender equity, and responsiveness to social transformation while maintaining fidelity to Islamic legal principles properly understood as emphasizing equity and preventing harm rather than mandating rigid formal equality that produces substantive inequity.

This research aims to: (1) analyze comprehensively why current regulations on joint asset distribution following marriage dissolution lack foundations in justice values, examining the historical, sociological, and jurisprudential factors producing this regulatory inadequacy; (2) identify and critique specific weaknesses in existing joint asset distribution regulations, including structural inadequacies in legal institutions, substantive deficiencies in statutory provisions, and cultural impediments to equitable implementation; and (3) formulate a reconstruction of regulations on the division of joint assets due to the dissolution of marriage based on the value of justice that aligns with justice values while remaining operationally feasible within Indonesia's Islamic legal framework and institutional capacities. The research benefits multiple constituencies: it provides divorced women with theoretical and practical resources for asserting equitable claims to assets they acquired, empowers progressive judges with doctrinal justifications for contribution-based division exceeding rigid 50:50 formulas, offers policymakers evidence-based foundations for legislative reform of Article 97, and contributes to scholarly discourse on Islamic family law by demonstrating that progressive adaptation to social transformation reflects authentic *ijtihad* rather than Western legal importation. Ultimately, this research advances the constitutional commitment to social justice and equality before the law by ensuring that legal frameworks governing family dissolution promote substantive fairness rather than perpetuating systemic disadvantage against economically productive women who have transformed Indonesian society through their educational attainment, professional achievement, and economic contributions to family welfare.

The term reconstruction of regulations on the division of joint assets due to the dissolution of marriage based on the value of justice refers to the process of critically reassessing and reformulating legal rules concerning how joint property is divided after divorce, aiming to align legal outcomes with substantive justice that accounts for actual contributions, economic realities, and social equity of spouses rather than relying on mechanical equal division formulas. This approach embraces socio-legal contextualization, drawing on Islamic jurisprudence principles of proportionality and fairness (*keadilan*), recognizing diversity in spousal contributions, and addressing systemic biases in the application of family law. It aims to move Indonesian marital

property law beyond rigid, formalistic presumptions towards a nuanced, equitable framework that better serves parties' real economic interests and social justice imperatives in contemporary Indonesian society.

RESEARCH METHOD

This research used a post-positivism paradigm, a school of thought that sought to address weaknesses of positivism. Post-positivism recognizes that human knowledge is inherently fallible and that scientific findings are subject to revision, emphasizing the use of multiple observations to approach objectivity while acknowledging biases and limitations. This paradigm was applied to examine regulations governing the division of joint assets (Gono Gini Assets) in Islamic marriages, particularly under Law Number 1 of 1974 and Article 97 of the Compilation of Islamic Law, which were seen as needing reconstruction due to social changes.

The study focused on the justice implications of the existing regulation, which mandates an equal 50:50 division of joint assets in divorce cases regardless of actual contributions. It questioned whether this division was fair in situations where wives had higher economic potential or become the primary breadwinners, especially when husbands neglected their financial obligations to the family. The research aimed to analyze how the current regulations addressed or failed to address these realities and to propose adjustments to fulfill principles of justice in joint asset division.

Before conducting the research, the method was chosen as a tool to discover, develop, and test knowledge validity, with attention to aligning the research problem with an appropriate method. The post-positivism paradigm was selected for its flexibility to consider social complexities and aim for more equitable legal interpretations, rather than rigid mechanical rule application, better reflecting real-world conditions and contributions within marriages.

RESULTS AND DISCUSSION

If we refer to the Marriage Law, namely Law Number 1 of 1974, specifically Article 35 paragraph (1), it does not regulate the share of each divorced couple. Therefore, as is the basis for a lawsuit regarding joint assets, usually the composition of the arrangement for the division of joint assets of a divorced husband and wife is by referring to the arrangement in the Compilation of Islamic Law Article 97:

"A divorced widow or widower is each entitled to half of the joint assets as long as it is not specified otherwise in the marriage agreement."

Article 97 of the Compilation of Islamic Law clearly regulates the division of joint property, with half for the ex-husband and half for the ex-wife. The focus of this dissertation is whether the division, as stipulated in Article 97 of the Compilation of Islamic Law of giving each spouse a half, meets the value of justice.

Of course, a rigid way of thinking by applying a rigid division portion without considering the situation that occurs during the marriage is an unfair action, and the regulation is also unfair if it is still implemented as it is. Therefore, changing the composition of the division of joint assets, especially for a wife who has given a full role in fulfilling the needs of sustenance and family continuity, then also played a full role in acquiring joint assets, because with her source of income as a professional, has the ability to realize the acquisition of assets in the household, is fair when the wife has full rights, one hundred percent rights to the distribution of joint assets.

The Compilation of Islamic Law, particularly Article 97 of the Compilation of Islamic Law, is often used as the primary reference and point of reference in cases of division of joint property, the legal settlement of which takes place in the Religious Courts. Article 97 of the Compilation of Islamic Law reads:

"A divorced widow or widower is each entitled to half of the joint assets as long as it is not specified otherwise in the marriage agreement."

This, according to researchers, is a weakness in the division of joint assets as regulated in Article 97 of the Compilation of Islamic Law. Various decisions by judges in various Religious Courts demonstrate the diverse perspectives on the regulation of the division of joint assets in Article 97 of the Compilation of Islamic Law.

According to W. Friedmann, as mentioned above, law intersects politics, economics, the dynamics of social life, and ethics. When law intersects with the dynamics of social life, it should be sensitive to the dynamics of social life, which are constantly changing and growing, and not just evolutionary but revolutionary.

A. Weaknesses of Legal Structure

The Religious Court is a legal structure that serves as an institution for resolving disputes over the division of joint property for those who are Muslim. The limited number of Religious Court Judges results in long court queues and entry into the courtroom. This is certainly very draining and hampers other productive activities, because it is possible that a wife who is in a dispute over joint property with her ex-husband must also continue her activities to fulfill her child support obligations after the separation because the ex-husband neglected his obligation to provide support. The very time-consuming trial process due to the long queue of cases is considered inefficient. This weakness in the legal structure should be evaluated by increasing the number of judges to offset the high number of cases in the Religious Court.

Another weakness in the legal structure is that judges The Religious Court looks too simply at the criteria for including property objects as joint property. Usually, the questions asked by the judge are more focused on when the object of the property was acquired, within the marriage or outside the marriage. If during the marriage the acquisition is other than inheritance or personal property, judges tend to quickly categorize it as joint property. Without first looking more comprehensively at how the assets were obtained.

C. Weaknesses of Legal Culture

Data on the empowerment of women who can continuously increase their involvement in the economic and political fields. This illustrates a social dynamic that continues to move positively. This means that if Friedmann views the law as intersecting with social dynamics, the law must also be sensitive to accommodate various social and economic developments. Article 97 of the Compilation of Islamic Law, if the provisions for the distribution of joint property remain unchanged with the division of half for the ex-husband and half for the ex-wife, this means that Article 97 of the Compilation of Islamic Law is not sensitive to the socio-economic fact that women can contribute fully to the acquisition of joint property through income earned through their professional abilities.

Of course, it will not be fair when a woman who works full time, and obtains joint assets, then in the course of her marriage gets a husband who ignores his obligations as head of the household, by not providing a living in the household, even seems to try to find loopholes to get the opportunity to enjoy the financial resources that his wife has obtained, then in a journey of marriage, both of them decide to separate, then if the judge only looks at it rigidly, refers rigidly

by applying a permanent composition of the division of joint assets which are actually assets acquired by his wife when married, but when separated the Judge divides it with a division of half for the ex-wife and half for the ex-husband. Even though the husband did not contribute to the acquisition of the assets, even his obligations were ignored. If the arrangement of the division of joint assets remains as it is, without considering the contribution and sacrifice of the ex-wife, this is where the injustice lies.

A. Division of Joint Assets in Islamic Marriages in Indonesia

The existence of joint assets in a marriage does not actually preclude the possibility of assets belonging to each husband and wife. In the Compilation of Islamic Law Article 86 it is explained that:

"Basically, there is no mixing between the husband's assets and the wife's assets due to marriage, the wife's assets remain the wife's rights and are fully controlled by her, likewise the husband's assets remain the husband's rights and are fully controlled by the husband."

Article 87 paragraph (1) of the Compilation of Islamic Law explains:

"The inherited assets of each husband and wife and the assets obtained by each as a gift or inheritance are under their respective control, as long as the parties determine otherwise in the marriage agreement."

Paragraph (2): "Husband and wife have full rights to carry out legal actions regarding their respective assets in the form of grants, gifts, sadaqoh or other things."

Determining joint assets in a marriage is crucial for determining each spouse's share of the assets, especially if the couple may eventually separate due to divorce or death. In inheritance law, this division is crucial for determining which assets can be categorized as inherited property, which will then become the deceased's inheritance.

To gain a more complete understanding of joint property, which has been normatively set out in Law Number 1 of 1974 concerning Marriage, specifically regulated in Article 35:

- a. Property acquired during marriage becomes joint property;
- b. The assets brought by each husband and wife and the assets each receives as a gift or inheritance, are under the control of each of them as long as the parties do not determine otherwise.

In the Compilation of Islamic Law, Article 97 explains that:

"Widows or widowers who are divorced are each entitled to half of the joint assets as long as it is not determined otherwise in the marriage." The sentence if it is not determined otherwise in the marriage indicates that there are other provisions for division which are not divided in half but are determined based on mutual agreement according to the conditions that affect the acquisition of the assets.

B. Division of Joint Assets in Various Countries

1. Joint Property Arrangements in Malaysia

In the Malaysian family law system, property acquired jointly by a husband and wife during the marriage is considered marital property or matrimonial property. This differs slightly from the concept of joint property in Indonesia, where the widow and widower are normatively divided at 50%:50%. In Malaysia, the division of marital property after a divorce is determined by the court, considering the respective contributions of the husband and wife to the acquisition of property during the marriage. These contributions can be direct or indirect.

2. Arrangement of Joint Property in the Netherlands

Community property only includes property and debts acquired or incurred during the marriage. Therefore, all property and debts incurred outside of this period remain the property and responsibility of each spouse. An exception applies to property and debts each spouse acquired before marriage as co-owners or joint debtors. These assets and debts will become part of the community property after marriage, regardless of whether each spouse owns or bears 50% of the property or debt. This also applies to gifts and inheritances received before marriage, which remain personal property unless previously stated that they are joint property.

3. Joint Property Arrangements in the UK

United Kingdom (UK) adheres to a common law legal system. Joint property is regulated by the Matrimonial Causes Act 1973 (MCA 1973), which specifically regulates the distribution of marital property after divorce. Based on the basic principles of marital property, England (and Wales) adheres to a system of separate property between husband and wife .

The English legal system grants the courts full authority to determine the distribution of marital property to each spouse in the event of a divorce. English courts also have the authority to make decisions in divorce proceedings, including financial decisions for each spouse (courts' statutory powers to make financial provision orders), property adjustment orders, and sale orders. Therefore, during the divorce process, the court has the authority to resolve all matters related to the divorce's consequences, including financial matters and the settlement of the assets of both spouses (to deal with all the economically valuable assets of the two spouses).

1. Joint Property Arrangement in Japan

Japanese family law is regulated by the Civil Code of 1896, which is the primary source of law in the field of family law in Japan. In the Japanese family law system, the court (family court) has the authority to decide on divorce cases and the division of property between husband and wife. There are two options for resolving the division of marital property in the Japanese family law system. The first is resolved jointly as the divorce proceedings progress. The second is filed after the divorce has occurred, within a maximum of two years of the divorce.

Table 1 Comparison of Joint Property in Several Countries

Malaysia	Dutch	English	Japan
Distribution together by paying attention to the direct and indirect contributions of husband and wife when married (Direct and Indirect contribution)	After a divorce, each spouse is entitled to 50% of the marital property, regardless of who acquired the property previously.	The English legal system gives the court full discretion to determine the distribution of marital property to each divorcing spouse.	Property owned by one of the spouses before marriage and acquired in the name of the person concerned during the marriage remains the property of the person concerned. Property whose ownership or name of the owner is unclear or not clearly stated as belonging to one of the husband or wife is designated as joint property. Equal distribution of joint property is more common in joint property cases in Japan. The time limit for filing a lawsuit against joint assets in the Japanese Family Law

system is a maximum of 2 years after the divorce. If 2 years have passed since the date of divorce, due to the statute of limitations, you can no longer sue for the division of joint assets.

C. Reconstruction of Joint Property Distribution Based on Justice Values

Good law should offer more than just procedural justice. It should be both competent and fair; it should recognize the public's will and be committed to achieving substantive justice. The provisions on the division of joint assets as outlined in Article 97 of the Compilation of Islamic Law divide joint assets for couples who separate due to divorce with a composition of half for the ex-husband and half for the ex-wife. The content of this Article does not provide room to accommodate changes in socio-economic conditions where wives have opportunities and can be proven by the fact that women currently can empower their potential to contribute fully to the acquisition of joint assets. If the acquisition of joint assets comes entirely from the wife during marriage, then after divorce, does the wife not have the full right to receive a share of joint assets that are entirely earned by herself?

It is very possible that past institutional (judicial) decisions were unclear, ambiguous, or incomplete, and even inconsistent and incoherent. This gap means that there is no perfection in past decisions that do not necessarily require improvement and more constructive changes to reduce incompleteness, avoid incoherence, and eliminate inconsistencies. The division of joint assets by referring to past institutional decisions that divided it with a division of half for the widowed wife and half for the widowed husband, does not mean that there is no gap to remain so, because social development in society with a wife being able to earn an income through strengthening her profession and knowledge is a form of sociological development that must be complementary to be able to make changes to the proportion of distribution that is more equitable and sensitive to social developments.

So, to be part of the problem solver in terms of the division of joint assets (Gono gini Assets) for those who have an Islamic marriage, to carry out a contemplative sociological approach, meaning the pulse of a sense of justice from separated couples, especially the object of research in the Researcher's Dissertation is women in this era who have the potential to have more financial resources in the family, so whether it remains a justice that is perpetuated from what is regulated in the compilation of Islamic Law, or start to contemplate sociologically in this case opening up space for the possibility for wives to get a fairer division to 100%, not just stopping at 50% of the division. This is the reconstruction of the Joint Assets Division regulation presented through a process of summarizing from various literatures that will guide the direction of thought and *best practice* experienced directly by the Researcher in the struggle to maintain the right to jointly in order to obtain justice, and in order to avoid subjectivity over the fair perspective of the researcher, various legal theories and Decisions of court institutions that have been presented by the researcher in order to fence off objectivity regarding the need for reconstruction of the regulation of this joint asset arrangement.

Therefore, this condition provides a fact that requires reconstruction of Article 97 of the Compilation of Islamic Law with various things that the researcher has mentioned above, of course based on logical, rational and legal reasons.

Table 2 Reconstruction of the Regulations on the Distribution of Joint Assets Consequences of Marriage Dissolution Based on the Value of Justice

No	Before reconstruction	Weaknesses	After reconstruction
1.	Article 97 of the Compilation of Islamic Law: "Widows or widowers who divorce each have the right to half of the joint property as long as it is not specified otherwise in the marriage agreement.	1. Does not provide arrangements for wives to contribute fully to the acquisition of joint assets. 2. There is no time limit for filing a joint property lawsuit in the Religious Court.	Article 97 Paragraph (1) KHI: Paragraph (1) For a widow or widower who divorces, each person is entitled to half of the joint property as long as it is not specified otherwise in the marriage agreement. Article (2) For a wife who is divorced and has made a full contribution to the acquisition of joint assets, during the marriage, having first formally proven the acquisition, while the husband during the household has neglected the obligation to provide maintenance for the family, then the wife has the right to receive a share of one hundred percent of the acquisition of the joint assets. Article (3). A lawsuit against joint property is filed after a divorce based on a court decision that has permanent legal force. Article 4: If up to a maximum period of 2 years, after the specified time, the ex-husband does not file a lawsuit for joint property, then the joint property becomes the right of each party who owns the object, which is proven formally, without ignoring the rights

CONCLUSION

Regulations on the division of joint assets after divorce in Indonesia currently lack justice because judges commonly apply a rigid 50:50 split according to Article 97 of the Compilation of Islamic Law, regardless of each spouse's actual contributions. While some court decisions have awarded larger shares to wives who fully contributed to joint assets when husbands neglected their obligations, such rulings remain exceptions rather than the norm across Religious Courts. The existing law does not accommodate full asset entitlement to a wife who acquired the assets alone, nor does it set time limits for filing property claims, which can prolong disputes. Mediation procedures sometimes exacerbate psychological pressure rather than resolve conflicts fairly. A suggested reconstruction of these regulations would adopt a holistic, progressive legal approach that allows for full asset rights for the wife in cases of exclusive contribution, introduces a maximum two-year limit for property claims post-divorce, and requires formal evidence of contributions. Future research could explore practical implementation strategies for such reformed regulations, assess their socio-legal impacts, and evaluate judicial practices across different regions to promote consistent and equitable asset division in Islamic family law within Indonesia.

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