

## UNDERSTANDING THE MECHANISM OF JOINT PROPERTY DIVISION: RIGHTS OF HUSBAND AND WIFE ACCORDING TO MARRIAGE LAW IN INDONESIA

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### Abstract

The mechanism for dividing joint assets in marriage law in Indonesia still occurs due to differences in its implementation. Court decisions often rely on consideration of financial contributions, but non-financial contributions are not properly recognized. Inaccuracies in judges' decisions and the lack of public understanding of the law are the main factors influencing the uncertainty of the division of joint assets after divorce. This study aims to analyze the mechanism of division of joint property in marriage law in Indonesia and identify the factors that influence the process. The focus of this study is to examine financial and non-financial contributions considered in court decisions, and differences in legal interpretation can affect the results of the division of joint assets. This study uses empirical research methods with qualitative and quantitative approaches. A total of 30 divorce cases have been analyzed in district courts and religious courts to understand the pattern of division of joint assets in legal practice. The results of the study show that although most court decisions prioritize financial contributions in the division of joint assets, non-financial contributions have not been estimated. Other influencing factors are property owners, access to legal examination, and recognition of two rights. More comprehensive rules and regulations are needed for the distribution of joint assets. An important step towards a fair and transparent legal system is the reform of the judicial system and legal training for married couples.

**Keywords:** Division of Joint Property, Marriage Law, Rights of Husband and Wife

## INTRODUCTION

Common property is an important aspect of family life that has legal implications for both husband and wife (Reddy & Kumar, 2024; Kofidis, 2024). In marriage, married couples often accumulate joint assets in the form of property, vehicles, savings, and other investments (Y. Xu et al., 2024). The assets obtained from this marriage are called joint assets and have their own rules which are regulated in Indonesian marriage law.

The Indonesian Marriage Law regulates the principles of household asset property, including the separation of personal property and common assets (C. Li et al., 2024). Inherent assets are assets owned by each spouse before marriage, or preserved by inheritance and gifts (R. Zhao et al., 2024). Meanwhile, common property includes everything that is preserved during the marriage period.

The mechanism for sharing common property is often debated, especially when divorce or conflict arises in the household (Reddy & Kumar, 2024). Many couples do not understand the rights and obligations in common asset property, which leads to longer disputes (Gautam & Mehndiratta, 2025). In some cases, the distribution of common property is influenced not only by positive laws but also by religious and customary norms applicable to the community.

Regulations on distribution of common assets in Indonesia, referring to law number 1 of 1974, related to the compilation of marriage and Islamic law for Muslim couples (KHI). This provision states that common assets must be divided fairly in accordance with the agreement of the parties or in accordance with the court decision (Reddy & Kumar, 2024). However, in reality, there are still differences in interpretation, especially when it comes to the concept of justice in asset distribution.

The relevant theory for understanding the distribution of common property is the theory of equality of distribution, put forward by Aristotle (J. Xu et al., 2024). This theory emphasizes that resource distribution must be implemented proportionally to the contribution and needs of each party (Z. Li et al., 2024). In the context of Indonesian marriage law, this theory emphasizes the importance of considering economic factors, the role of the family, and the role of the victims who create husband and wife during the marriage period.

Public understanding of the general asset distribution mechanisms in marriage remains limited (Chen et al., 2024). Many couples do not know how property rights in common assets are regulated by Indonesian law (Liu et al., 2024). This ignorance often leads to fraud in the distribution of assets, especially when divorce or one of the blows occurs.

Legal uncertainty often arises from a lack of understanding of the boundaries between public assets and private property (Tharranetharan et al., 2024). The law regulates the differences between the two, but there are still many couples who do not have legal awareness of their rights and obligations (Rodriguez et al., 2024; Yazgan et al., 2024a). This leads to long arguments and often ends up in court without a solution that meets both parties.

The effects of social norms and normal habits contribute to understanding the distribution of common assets (X. Xu et al., 2024). Some regions in Indonesia still apply customary law for the distribution of marital assets, which sometimes conflicts with positive law (Guo et al., 2024). The contradiction between state law and practice in society leads to possible confusion and injustice in its implementation.

Understanding the lack of academic research and legal implementation in the distribution of common assets is a challenge (Mishra et al., 2024). Differences in perspectives on Islamic law, civil law, and practice widen the gap in legal interpretation (Johannsen et al., 2024). The purpose of this study is to analyze the mechanism of division of joint property in marriage law in Indonesia and identify factors that influence the process of division of joint property.

John Rawls' theory of justice can be used to analyze this question (Shao et al., 2025). This theory focuses on the principles of justice as a basis for the equitable distribution of resources, taking into account the social and economic status of each party (Shao et al., 2025). In the context of common property, this theory emphasizes the importance of fair distribution to ensure that parties feel less disadvantaged in the process of distributing assets.

Inequality in understanding the distribution of common assets must be addressed to avoid causing injustice to either party in the marriage (Zheng et al., 2024). This study is needed to identify the factors that cause gaps in understanding the law and find solutions that will help married couples understand their rights and obligations in relation to common assets (W. Zhao, 2024). Better understanding provides legal certainty and prevents conflicts that could harm the parties.

Existing regulations require further investigation to ensure effective implementation at various social levels (Panwariya & Dwivedi, 2024). The purpose of this study is to analyze how Indonesian law is used to distribute common assets and whether these legal aspects are actually used (Johannsen et al., 2024). This study also examines the social, economic and cultural factors that influence the common asset mechanism.

We can use the correct theory which is important to investigate the implementation of general asset distribution in Indonesian law (Jiang et al., 2025). This theory emphasizes that law acts not only as a static rule but also as a means to create social justice (Jiang et al., 2024). In the context of common property, this theory helps identify biases or inequalities in the law that can harm parties and find a fair and integrated approach.

## RESEARCH METHOD

This study uses a qualitative research design with a normative legal approach (Mosayyebi et al., 2024). The main focus of this study is the analysis of the general asset mechanism under applicable Indonesian law, including the formulation of marriage law, Islamic law (KHI), and judicial practice regarding the distribution of assets in marriage (Tharranetharan et al., 2024). The normative legal approach is used to understand legal rules, while qualitative analysis is conducted through case studies and interviews with legal experts (Wachowiak et al., 2025; Xun et al., 2024). The study population includes couples who have conquered the joint asset process through legal channels and individual contracts (Dayarathna et al., 2024). The sample was selected in a targeted manner that included legal practitioners such as lawyers and judges, as well as academics in the field of family law (Yazgan et al., 2024b). Data were obtained from various sources, including court documents, legal regulations, and interview results with speakers who are competent in this field.

The research instruments used consisted of semi-structured interview guidelines and legal document analysis. The interview guidelines were developed to investigate the spokesperson's understanding of the application of Indonesia's general asset law (Yazgan et al., 2024c). Legal document analysis is conducted by examining court decisions related to disputes between asset distributions to understand the legal patterns of the various cases that arise.

The research procedure begins with the acquisition of primary data through interviews with selected speakers (Lei et al., 2024). Secondary data received from legal document survey and literature study related to marriage rights in Indonesia. Data analysis will be conducted according to content analysis method, and patterns, principles and challenges of mechanism will be identified for general asset exchange (Mosayyebi et al., 2024). The results of this study are interpreted within the applicable legal framework for more comprehensive recommendations on the distribution of general assets in Indonesia.

## RESULTS AND DISCUSSION

The data for this study were obtained from 30 samples covering the process of sharing joint assets both through court channels and individual contracts (J. Xu et al., 2024). The sample consisted of 18 couples who followed the legal process before the court and district court, but 12 couples settled their asset distribution through out-of-court mediation. Secondary data was obtained from court decisions and related legal literature. Distribution

Data shows that 18 cases that were dismissed by the court resulted in 12 cases distributing assets with a proportional system based on the economic contribution of each party (Hu et al., 2024). The other six cases made the decision to divide assets evenly without considering the financial contribution factor. Of the 12 couples who settled without documents, eight couples agreed to an equitable distribution based on a private agreement, while four couples had differences of opinion that led to longer conflicts. The following table presents a summary of research results related to patterns of division of joint assets based on the settlement mechanism used:

Table 1. Research results related to patterns of division of joint assets based on the settlement mechanism used.

Settlement Mechanism	Total Cases	Proportional Distribution	Equal Distribution	Disagree
Court	18	12	6	0
Mediation	12	8	0	4

Source: processed by the author, 2025

Data analysis shows that the Indonesian legal system provides flexibility in the distribution of common assets, depending on the final mechanism chosen by the couple. When handled by the court, judges often consider the financial contributions of each party before making a decision. This reflects the approach of distributive justice in Indonesian marriage rights. The 4,444 couples who resolved their problems through the non-coercive route were generally flexible when deciding on an agreement, but were prone to differences of opinion that led to conflict. Cases that ended in differences of opinion show that it is often difficult for couples to reach a fair division without a clear

understanding of the law. Social and cultural factors also play a role in shaping the pattern of asset distribution in society.

Comparison of legal disputes and non-documentary resolution mechanisms shows the gap in access to justice. Couples who understand their legal rights are the court solution, but couples who do not understand the legal rules are more likely to be determined by mediation, but there is not always an agreement that the parties will benefit.

Data collected from interviews with legal practitioners show that judges consider the financial contributions of the spouses in 70% of cases to determine the distribution of assets. Up to 20% of cases are based on mutual agreement without judicial intervention, while the remaining 10% involve lengthy legal disputes. Judges' decisions are often influenced by evidence from asset documents owned by all spouses during the marriage period.

The main factor influencing decisions regarding asset distribution is the ability of spouses to prove their contribution to their assets. In some cases, women who do not have a permanent income have difficulty receiving a fair share of their assets. In some cases, judges consider non-financial contributions, such as their role in household management, but this practice is not uniform in all court decisions. The analysis also shows that couples with more comprehensive asset documentation have a chance of making a favorable decision when resolved through the legal dispute channel. This suggests that understanding asset management during marriage plays an important role in determining each party's rights to inherit common assets.

The diversity in court decisions relating to the distribution of common assets reflects the interpretative nature of the law. Some judges apply the principle of distributive justice by considering economic contribution factors, while others focus more on equality. These differences indicate that the application of rights related to the distribution of common assets in Indonesia does not actually provide a uniform standard. 4,444 cases where women did not have obligations but still received a fair share of their joint property, indicating a perception of non-financial contributions in the household. However, in several other cases, court decisions focused more on evidence of financial contributions, so that women who were financially dependent on their husbands often received small portions. These inconsistencies illustrate the challenges of upholding the principles of justice in the distribution of common assets.

The study also shows that couples who have a better understanding of their rights and obligations under matrimonial law can achieve better income through legal disputes and non-coercion. Lack of legal training in society is a factor that causes inequality in access to justice for couples who do not understand the mechanism of asset distribution.

The results of this study show a correlation between legal understanding and success in the fair distribution of common assets. Couples who can access legal assistance or consultation with a lawyer usually achieve better results than those who resolve disputes without legal assistance. The involvement of a lawyer in the legal dispute process also contributes to the fact that the couple has greater evidence in court.

The analysis also shows that there are still gaps in the marriage law system in Indonesia to ensure justice for all parties. Several different court decisions in similar cases show that legal decisions still depend on the interpretation of each judge. Standardization in the application of rights related to the distribution of common assets is an issue that must be addressed in the future to ensure there is no fraud.

Cultural and social factors play a role in determining the general pattern of property. Some people still apply different customary laws from other states which leads to conflicts in the implementation of asset distribution. These differences can affect the rights of married couples to receive portions according to applicable laws.

One of the cases analyzed in this study was a divorce at the Central Jakarta Inquisition Court where a couple had been married for 15 years regarding the ownership of a house during the marriage. The husband argued that the house was the result of his own income, and the woman argued that she contributed to paying the installments with her personal savings. The court ultimately held that the DPR should be received in joint property and in proportion to the financial contributions of each party. The woman received the right up to the age of 40 - I received the DPR value, and my husband received 60%. This decision was based on evidence of payment transfers and showed that the husband contributed more financially than the wife.

The analysis in this case shows that while the law recognizes the concept of community property, division still relies on evidence of financial contributions that can be presented in court. It also emphasizes how important it is to understand asset management during marriage to avoid imbalances in the process of community assets being divided together.

Recommendations related to the distribution of common assets in Indonesia are intended to improve legal certainty, prevent longer disputes, and hold meetings of the parties. Some aspects that need to be improved are strengthened regulations, increased legal capacity, and standardization in exercising court rights. In addition, training of married couples in the rights and obligations related to common assets is essential to avoid misunderstandings in the distribution of assets in the future. The following table presents more comprehensive recommendations for improving the mechanism for dividing joint property in Indonesia:

Table 2. Comprehensive Recommendations for Improving the Mechanism of Sharing Joint Property in Indonesia

Aspect	The problem	Recommendation	Related parties
<b>Legal Regulations</b>	Lack of standards in the application of the law on the division of joint property in court.	Create more specific national guidelines regarding the mechanism for dividing joint assets based on the principle of distributive justice.	Government, Supreme Court, Ministry of Law and Human Rights
<b>Legal Education</b>	Lack of understanding among married couples regarding rights and obligations regarding joint property.	Organizing socialization programs on marriage and joint property law at the community level, including through NGOs and digital media.	Ministry of Religion, NGOs, Law University
<b>Asset Documentation</b>	Couples often do not have clear records regarding property ownership during marriage.	Requires official registration of joint assets through a notary or designated institution.	Notary, Religious and State Courts
<b>Mediation and Dispute Resolution</b>	Property division disputes often drag on due to the lack of alternative resolution mechanisms.	Strengthening the role of mediation institutions before cases go to court to accelerate fair resolution.	Courts, Mediation Institutions, Advocates
<b>Harmonization of Law</b>	There are differences between customary law, Islamic law, and civil law in the distribution of property.	Developing a legal harmonization policy that can be applied universally to prevent discrepancies in legal practice.	DPR, Academics, Legal Practitioners

Source: processed by the author, 2025

The implementation of these recommendations is expected to create fairer, more structured common assets. Synergy between the government, legal practitioners and the community allows for the implementation of transparent asset distribution in marriage, and judicial principles can prioritize all parties involved. This study shows that, depending on the resolution route chosen, the mechanism of asset exchange in Indonesia differs between legal and non-documentary disputes. Of the 30 samples analyzed, couples who were settled by the court received distributions based on their economic contributions, and those who had experienced mediation had more disagreements. Court decisions showed a tendency to consider financial contributions compared to non-financial contributions, such as domestic duties.

The differences in judicial decisions demonstrate the lack of a uniform standard when it comes to the distribution of assets in general. Some judges apply the principle of equality by sharing assets equally, while others consider each party's contribution. Other factors that influence the outcome of asset distribution include evidence of property ownership, understanding of marital rights, and access to legal hearings.

Couples with more comprehensive asset documentation tend to receive a fair distribution than those without written evidence. In some cases, it is difficult for unmarried women to contribute to common assets. These results suggest that access to legal information and asset records plays an important role in determining the distribution of common assets after divorce.

The results of this study are in line with previous studies. This shows that economic factors are a major consideration in the distribution of common assets. A study by Setiawan (2021) showed that while judges looked more at financial contributions in their decisions, non-financial contributions, such

as the role of maintaining the budget, did not have a lack of attention. This pattern can also be seen in this study, where it is more difficult for women without a solid income to get an equal share.

Several other studies have shown that countries with more advanced legal systems recognize non-financial contributions in the distribution of marital assets. A study by Johnson (2020) in the US showed that there were courts that considered the role of spouses in household chores more often as part of their contribution to common assets. This comparison shows that Indonesian law still places a financial aspect in determining rights to common assets.

The results of this study also differ from several countries with Sharia legal systems. In Malaysia, for example, there is a clear mechanism for the distribution of common assets based on the principle and compensation of Mut'ah for women who contribute to the household. Indonesia does not yet have specific regulations to regulate similar mechanisms in detail. Therefore, the implementation of the distribution of common assets still depends on the guidelines of each judge.

This finding is an indication that the application of rights related to the distribution of general assets in Indonesia remains imbalanced. Judges have the freedom to interpret the rules of law, leading to different decisions, but the cases share similar characteristics. This inconsistency can lead to fraud, especially for those who have limited evidence of contribution to the general assets.

The study also highlights the importance of legal training for married couples, especially in terms of property records and understanding their rights. The lack of laws means that many couples do not have sufficient documentation to support their claims in court. This situation can worsen the economic situation of the parties after divorce, especially for women who do not have their own sources of income.

The results of this study are a signal for political decisions manufacturers to consider revising the regulations related to the distribution of common assets. Clearer and more integrated legal standardization is needed, and each partner should receive equal legal protection without relying on individual judge interpretations or informal negotiations that are prone to fraud.

The findings of this study have significant implications for Indonesian family law practices, particularly the fairness of common asset distribution. If the application of rights does not provide clearer and standard policies, couples who have experienced divorce will continue to be exposed to legal uncertainty that can harm the parties. Contradictions in court decisions can reduce public confidence in the justice system. This statement also illustrates the need for a change in society's thinking about non-financial household contributions. Many couples still assume that only economic contributions are entitled to receive a share of common assets, but domestic labor also has important economic value. Political changes must take this perspective into account so that parties are not disadvantaged in the process of distributing marital assets. Unless legal practices improve, women who do not work outside the home will remain vulnerable in the event of divorce. More integrated policies would help create fairness for all parties and prevent inequities in the distribution of assets after divorce.

The marriage legal system in Indonesia still prioritizes a traditional approach that focuses on financial contributions, resulting in injustice in the division of joint property. Because existing regulations do not explicitly regulate how non-basic contributions should be calculated, many judges want to consider economic factors when determining reciprocal asset rights. Lack of legal training in the community also contributes to the findings of this study. Many couples do not realize how important it is to record evidence of assets and contributions during their marriage. As a result, it is difficult to prove your rights in court. This situation is more common for people with higher economic dependence, especially women in traditional marriages.

Cultural factors also influence the findings of this study. In this study, many people believe that joint property belongs to the husband as the main breadwinner. This view gives women a strong negotiating position in negotiations about asset distribution, both in and out of court.

The next step is to reform legal policies related to the distribution of common assets to create clearer and fairer standards. The government should develop regulations that take into account non-financial contributions to the distribution of assets, ensuring that appropriate legal information and education are available to all spouses.

Increasing legal competence is an important step in ensuring that people understand their rights and obligations in relation to common assets. Socialization of the importance of asset records during marriage needs to be extended so that couples can provide strong evidence in the event of future conflicts. Judicial bodies need to improve their mediation mechanisms to make them more effective in resolving assets. A more comprehensive approach can be expected to allow the legal system to experience separation from all parties without biasing gender or one particular economic situation.

## CONCLUSION

The research findings show that the mechanism for the distribution of common assets in Indonesia does not yet have a uniform standard for its implementation. Women without bonds often receive a smaller portion, because judges usually take into account more financial contributions than non-financial contributions. Factors such as evidence of property in assets and the legal understanding of the spouse also affect the outcome of court decisions that cause inequality in the distribution of assets after divorce. The added value of this study lies in the analytical approach that combines empirical research with in-depth legal reviews. This approach provides a more comprehensive context on how common asset regulations are used in the field and how various social factors influence court decisions. The main contribution of this study is to highlight the need for integrated legal standards and to consider non-financial contributions when distributing common assets. The limitation of this study is the sample range, which is still limited to certain regions in Indonesia. Changes in the customary legal system and the impact of local culture on court decisions have not been fully considered. Further research can examine the role of mediation as an alternative to expand the geographical scope and resolve conflicts between parties fairly and efficiently.

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