

Division Of Joint Property In The Panyabungan City Community, Mandailing Natal Regency, As Reviewed From UU No. 1 Of 1974 And KHI

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Info Articles	Abstract
<p>Article History Received : 2017-09-02 Revised: 2017-09-10 Published: 2017-09-30</p> <p>Keywords: <i>Joint Property, Islamic Law, KHI, Mandailing</i></p>	<p>The purpose of this thesis is to understand the concept of Law No. 1 of 1974 and the KHI regarding the division of joint property, to understand the distribution of joint property in Panyabungan City District, and to identify the factors underlying the division of joint property in Panyabungan City District. The research method used by the author is field research, where all data is obtained from the field. In this approach, the research is conducted in a natural setting but is preceded by some form of intervention from the researcher. The research will be conducted in Panyabungan City District, Mandailing Natal Regency. This article presents findings that the general understanding of the distribution of joint property among the people of Panyabungan Kota sub-district is still lacking. Only community leaders, and even then, only partially understand the concept. Many people in Panyabungan Kota sub-district still do not share joint property. However, some people do share joint property. However, the existing system of sharing joint property in this sub-district is still far from what is stipulated in community regulations. The dominant distribution of joint property is based on whoever has the most or who always earns the living in the household, who receives the largest share. The factors contributing to the poor implementation of joint property distribution in Panyabungan Kota sub-district are a general lack of understanding of joint property distribution, factors of justice, and economic factors.</p>

I. INTRODUCTION

The general purpose of marriage is to procreate and form a happy and lasting family, contributing to a harmonious and peaceful kinship life. However, even though there are regulations, norms, and guidelines for assessing or selecting a prospective husband or wife, divorce can still occur. This is because divorce has consequences, one of which is the status of the husband and wife after the divorce (Rofiq, 1995). The position of husband and wife regarding joint property according to the Compilation of Islamic Law after they divorce, namely: The position of husband and wife regarding joint property after divorce in the Compilation of Islamic Law is explained that the wife's property remains the right of the wife and is fully controlled by her, likewise the husband's property remains the right of the husband and is fully controlled by him (Article 86 (2) KHI), in addition to that, the

husband and wife have full rights to carry out legal actions regarding their respective property in the form of gifts, gifts, alms or others (Article 87 (2) KHI) (Latif, 1985).

Similarly, regarding the status of property during marriage, where Law No. 1 of 1974 and the Compilation of Islamic Law adhere to the same principle. The property brought by each husband and wife, as well as any property acquired as gifts or inheritance, remains under their respective control, unless the parties otherwise determine otherwise (Raihan, 2005).

Therefore, the issue of property brought and original property is clear, as both husband and wife remain under the control of each party during and after the marriage, allowing them to freely take legal action with such property. This contrasts with the status of joint property, where a husband and wife may act with the consent of

both parties. This principle is upheld by Law No. 1 of 1974 and the Compilation of Islamic Law.

Law No. 1 of 1974, Article 36, paragraph 1, states, "Regarding joint property, a husband or wife may act with the consent of both parties." Meanwhile, the Compilation of Islamic Law provides a similar provision in Article 92, which states, "A husband or wife is not permitted to sell or transfer joint property without the consent of the other party."

From these two articles, it can be concluded that during the marriage, a husband and wife can take legal action regarding joint property provided there is mutual consent. The husband gives his consent to the wife, and the wife, in turn, gives her consent to the husband. It is clear that the legal status of husband and wife regarding joint property during the marriage is equal. The husband and wife can act individually or jointly regarding joint property provided there is permission or consent from both parties.

II. RESEARCH METHODS

This study employed a qualitative field research approach conducted in Panyabungan Kota District, Mandailing Natal Regency. The research aimed to examine the implementation of joint property distribution within the community and to analyze its conformity with the provisions of Law Number 1 of 1974 concerning Marriage and the Compilation of Islamic Law (KHI). Data were collected directly from the field through interviews with community leaders, religious leaders, and local residents who possessed knowledge and experience regarding the distribution of joint property following divorce. In addition, the study utilized library research by reviewing relevant legal materials, including Law Number 1 of 1974, the Compilation of Islamic Law, legal literature, scholarly works, and other references related to marital property. The collected data were analyzed descriptively and analytically by comparing the actual practices of

joint property distribution in Panyabungan Kota with the applicable legal provisions under Indonesian positive law and Islamic law.

III. RESULTS AND DISCUSSION

A. The Concept of Joint Property in Indonesia According to Marriage Law No. 1 of 1974

The provisions stipulated in Marriage Law No. 1 of 1974 concerning joint property in marriage are contained in Chapter VII, which is regulated by three articles: Article 35, Article 36, and Article 37. Article 35 paragraph (1) states that property acquired during the marriage becomes joint property. And paragraph (2) states that property brought by each husband and wife, and property acquired by each as a gift or inheritance, is under their respective control, unless the parties specify otherwise. This means that the use of this property is entirely up to each party without the need for permission from the other party (Yahya, 1975). This means that the husband's property is no longer related to the marriage (the property brought in). The property the husband brought into the marriage, which is his own, is his own property and he has the right to dispose of it himself. Article 36 paragraph (1) regulates and stipulates that regarding joint property, a husband or wife may act with the consent of both parties. Paragraph 2 explains that regarding each other's property, the husband and wife have full legal rights regarding their property.

Thus, Articles 35 and 36 regulate the property of the husband and wife during the marriage, and Article 37 specifically regulates the joint property of the husband and wife in the event of a divorce. Regarding joint property of the husband and wife during the marriage, definite standards are provided in Articles 35 and 36. However, regarding joint property in the event of a divorce between a husband and wife, Article 37 does not provide a definitive resolution; it is instead subject to the respective laws of the husband and wife.

And if a divorce occurs, the status of the husband and wife's property will be separated or divided, as regulated in Marriage Law No. 1 of 1974. Furthermore, from Articles 35 and 36, we can understand that property brought in, whether as a gift or inheritance, during a marriage becomes the property and control of each party, the husband or wife.

Article 37, meanwhile, also stipulates that if a marriage ends in divorce, joint property is governed by their respective laws. These laws include: religious law, customary law, and other laws. This article also does not mention property brought in, as the status of property brought in is clear, as stated above: the husband's property remains his legal property. And when linked to Islamic law, in accordance with Marriage Law No. 1 of 1974, in a marriage, if a divorce occurs at the husband's will or desire, the husband must provide a gift to the wife he is divorcing (Djais, 2003).

Regarding how a husband and wife should act regarding their jointly owned assets, Gatot Supramono stated that the actions of a husband and wife regarding jointly owned assets must be based on mutual consent, as the absence of mutual consent can result in losses for either party (Supramono, 1998). This consent is expected to prevent a breakdown in the marital relationship. In the event of a divorce between a husband and wife, the law on the division of joint assets applies. The procedures for this division are regulated in Article 35(1) of Law No. 1 of 1974 concerning Marriage.

This article explains that assets acquired during a marriage become joint property. In the event of a divorce, the assets are automatically divided in half, with each husband and wife receiving 50% of the assets (Zainuddin, 2008).

In the case of divorce upon death, before the deceased's assets (the heirs) are distributed, the first step is to separate the joint assets from the individual assets. The joint assets are then divided

in half: half for the deceased and half for the survivor.

The deceased's portion of the assets is combined with the individual assets, and then passed on to the heirs, including the surviving spouse. This is, of course, after all funeral expenses, debts, and wills (if any) have been paid—no more than 1/3 of the assets—have been fulfilled.

In the distribution of joint assets, the principles of justice and transparency, or mandate, are paramount. This is because it is difficult to track legally. However, it requires greater awareness from the husband or wife to prevent violations of rights, injustice, or the unlawful appropriation of another's rights and assets.

Law No. 35 clearly distinguishes marital property into two types. First, joint property, which is property acquired since the marriage and remains valid for as long as the husband and wife are married. This term actually comes from Javanese. Gono means husband and gini means wife. Joint property refers to property owned jointly by husband and wife. In the event of a divorce, the property is divided with each party receiving 50% of the proceeds, as it is jointly owned.

Unless otherwise agreed upon before the marriage. Second, personal property refers to property acquired by each spouse in the form of inheritances, gifts, or grants—whether received before or after the marriage—or property acquired through the husband or wife's hard work before the marriage.

B. According to the Compilation of Islamic Law

Matrimonial property is not only mentioned in the marriage law but is also explained in the provisions of the Compilation of Islamic Law. This Compilation of Islamic Law consists of three books: Book I on marriage law, Book II on inheritance law, and Book III on endowment law,

which aligns with the decisions or primary authority of the Religious Courts. These books have been well-received by Islamic scholars and legal scholars throughout Indonesia in workshops and have been designated as guidelines for government agencies and the public who need them to resolve disputes in the three legal areas mentioned above (Rahman, 1992).

This Compilation of Islamic Law explains joint property in marriage, specifically in Book I, Articles 85 and 97. Article 85 of the Compilation of Islamic Law mentions marital property, but does not preclude the possibility of separate property for both the husband and wife.

Article 86 (1) states that there is essentially no mixing of husband and wife's assets due to marriage, while Article 86 (2) states: (2) regulates that the wife's property remains the right of the wife and is fully controlled by her, likewise the husband's property remains the right of the husband and is fully controlled by him.

Article 87 (1) regulates that the inherited assets of each husband and wife and assets obtained by each as a gift or inheritance are under their respective control, as long as the parties do not specify otherwise in the marriage agreement, while Article 87; (2) states that the husband and wife have full rights to carry out legal actions regarding their respective assets in the form of grants, gifts, *sodaqoh*, or others.

Article 88 explains that if there is a dispute between husband and wife regarding joint property, then the resolution of the dispute is submitted to the Religious Court. Article 89 states that the husband is responsible for looking after the joint property, the wife's property and his own property, while Article 90 states that the wife is also responsible for looking after the joint property, as well as the husband's property that is in her possession.

Article 91 consists of four paragraphs: (1) joint assets as mentioned in article 85 above can be in the form of tangible or intangible objects. (2)

Tangible joint assets can include immovable objects, movable objects and valuable documents. (3) Intangible joint assets can be in the form of rights and obligations. And (4) joint assets can be used as collateral by one party with the consent of the other party. Article 92 states that a husband and wife are not permitted to sell or transfer joint assets without the consent of the other party.

Article 93 consists of four paragraphs, namely: (1) Responsibility for the debts of a husband or wife is borne by their respective assets. (2) Responsibility for debts incurred for the benefit of the family is borne by joint assets. (3) If the joint assets are insufficient, they are borne by the husband's assets. (4) If the husband's assets are absent or insufficient, they are borne by the wife's assets.

Article 94 consists of two paragraphs: (1) Joint assets from the marriage of a husband who has more than one wife, each separate and independent. (2) Ownership of joint assets from the marriage of a husband who has more than one wife as referred to in paragraph (1), is calculated at the time of the second, third, or fourth marriage contract.

Article 95 consists of two paragraphs: (1) Without prejudice to the provisions of Article 24 paragraph 2 letter c of Government Regulation No. 9 of 1975 and Article 136 paragraph (2), a husband or wife may request the Religious Court to place a security deposit on joint assets without a divorce petition, if one of them commits an act that is detrimental and endangers the joint assets, such as gambling, drunkenness, wastefulness, and so on. (2) During the period of the seizure, the joint assets may be sold for the benefit of the family with the permission of the Religious Court.

Article 96 consists of two paragraphs: (1) If a divorce occurs due to death, half of the joint assets shall be the right of the surviving spouse. (2) The distribution of joint property for a husband or wife whose wife or husband is missing must be postponed until there is certainty of their actual

death or legal death based on a decision of the Religious Court.

Finally, Article 97 stipulates that a widow or widower who is divorced and living is each entitled to half of the joint property, unless otherwise stipulated in the marriage agreement.

From the articles of the Compilation of Islamic Law above, it can be understood that Indonesian Islamic law basically accepts customary provisions regarding joint property in marriage, and even accepts the idea of equality between husband and wife in matters of joint property (Saekan, 1997).

From the statements above, it can be concluded that the definition of joint property in the Compilation of Islamic Law is property or wealth acquired by the husband and wife during the marriage. Meanwhile, if the husband or wife's property existed before the marriage, such as property given, inherited, gifted, or other property, if at the time of the marriage that the property remained their own property, then the property will remain their own property and they have full authority over it.

C. According to Customary Law

The standardization of law regarding the division of joint property is indeed a commitment to legal unification efforts to resolve conflicts that may arise between parties due to legal pluralism. However, the question arises: to what extent can this concept of division of joint property satisfy a sense of justice in a heterogeneous society? Furthermore, can this concept of division of joint property also satisfy a sense of justice in cases where only one spouse has contributed to the acquisition of the joint property?

In general, we will describe the concept of joint property in customary law and then provide an analysis of this concept of division of joint property. Before further explaining the concept of joint property, it is necessary to clarify the difference between a concept and a conception. A conception is a concept that encompasses partial,

non-fundamental, applicable, empirical, and practical matters (Imam, 1981). A husband and wife, as a unit, together with their children in customary communities, are called somah or one household. Thus, marital assets are generally allocated for somah purposes. According to Ter Haar, marital assets in customary law can be divided into four types as follows:

- a. Property acquired by a husband or wife as an inheritance or gift from their respective relatives and brought into the marriage.
- b. Property acquired by a husband or wife for themselves and through their own services before or during the marriage.
- c. Property acquired by a husband and wife during the marriage as joint property.
- d. Property gifted to each husband and wife at the time of marriage.

Meanwhile, according to Wirjono Prodjodikoro, SH, in his book "Marriage Law in Indonesia," marital property, according to customary law, is divided into property owned by each husband or wife individually and joint property. The marital property that belongs to each husband or wife includes:

- a. Property acquired by each husband and wife as an inheritance from parents or ancestors.
- b. Property acquired by each husband and wife as a gift or through their own efforts.

The term "joint property" varies from region to region. In Minangkabau, joint property is called "hara suarang," in Kalimantan it is called "barang perpantang," in Bugis it is called "cakkara," in Bali it is also called "druwe gabro," in Java it is called "barang gin i" or "gono-gini," and in Pasundan it is called "guna kaya," "barang sekaya," "campur kaya," or "kaya reujeung."

In some regions, there are exceptions to this term. In Aceh, a husband's income becomes his personal property if his wife does not provide material support in the form of a garden or a residential yard for the family or provides

provisions for her husband's travels. Meanwhile, in West Java, if the wife is wealthy and the husband is poor at the time of marriage (a *nyalindung kagelung* marriage), then the income earned during the marriage belongs to the wife alone.

In other regions that recognize joint property, the concept is that all wealth acquired by a husband or wife during the marriage is considered joint property, as long as both husband and wife work together for the household's needs. Customary law also regulates the distribution of joint property when a marriage ends due to the death of one of the parties or through divorce. There is no uniformity in customary law regarding the procedures for dividing joint property.

In a patrilineal society, the wife's position is subject to the husband's kinship laws. Therefore, all marital assets are controlled by the husband, with no division of ownership. All assets, including joint assets, inherited assets (property from inheritances and gifts), and inherited assets (*pusaka*) are controlled (the right to dispose of them) by the husband.

In a matrilineal society, "residential assets, inherited assets, shared assets, and joint assets are divided." There is a separation of powers over marital assets. *Pusaka* assets are jointly owned by relatives, controlled by the Chief Warden. A husband or wife only has the right to use (for example, the right to cultivate and enjoy the harvest from inherited land, the right to live in a traditional house) and not to own it. Joint assets (*harata suarang*) are controlled jointly by the husband and wife, and inherited assets are controlled by each individual.

Furthermore, in a Parental Society, the status of husband and wife is equal, divided only into joint assets and inherited assets. Joint assets are controlled jointly for the common good, while inherited assets are controlled by each individual,

while inherited assets are controlled by each individual.

In studying the legal system, one will encounter the term customary law, which has sanctions that are moral movements, namely reactions from the legal community. Usually, the customary head has significant authority to enforce the laws in force within that community.

According to Prof. Mahadi, the characteristics of authentic Indonesian customary law are unwritten, developing freely without awareness because customs are ingrained in one's flesh and blood. There is fear of ancestral anger if customary law is violated, and there is constant advice to comply with the law. He also stated that customary law is obeyed for one's own benefit.

In marriage, there is something called Joint Property, which is regulated According to their respective laws (Islamic law, customary law, or BW). Article 37 states: "In patrilineal societies, divorce is not recognized, so if it occurs, it constitutes a violation of customary law, and the wife has no right to claim a share of the joint property (or any of her own assets) (Soimin, 2002).

In parental societies, and in general, joint property is divided between both parties, each receiving half. If one party dies, it falls under the control of the surviving party, who then inherits it to their children. If there are no children, it is distributed to the deceased's relatives. However, the mainstream practice in the division of joint assets is that each husband or wife receives half of the joint property. Some regions in Central Java have a custom of dividing joint assets with the husband receiving two-thirds and the wife receiving one-third.

This distribution principle in Central Java is called the "sakgendong sakpikul" principle. This distribution procedure is also known on the island of Bali, based on the "sasuhun-sarembat" principle. Similarly, in the Banggai Islands, the two-thirds-and-one-third principle exists.

However, over time, the "sagendong sapikul" or "sasuhun-sarembat" principle in the division of joint assets has gradually faded.

Furthermore, in the event of the death of one party, all joint assets typically remain under the control of the surviving party, who has the right to use them for his or her own living expenses.

In this case, the justification for a husband or wife's right to half of the joint assets is based on the role each plays as complementary partners in fostering family unity and sustainability.

Although the husband may not have worked alone to acquire the assets, by caring for the children and managing household affairs, the wife has received invaluable assistance that significantly impacts the smooth running of her daily activities, thus indirectly affecting the amount of assets acquired. Conversely, when the wife works, while the husband fails to fulfill his role as her partner in maintaining the unity and sustainability of the family, the division of joint assets, half for the wife and half for the husband, is not in accordance with a sense of justice.

In this case, the wife's share should be greater than the husband's. In this case, the principle of "sakgendong sakpikul" could be adopted as an option, but its application is reversed, meaning that the wife receives two-thirds of the joint assets and the husband only one-third.

Even if it turns out that the husband was wasteful during the marriage, frequently gambling, or drinking, then he should not be entitled to any rights in the division of joint assets. Balinese customary law is very strict in determining how to draw the line of succession, which gives strong power to the husband while remaining the head of the family.

The division of marital assets is based on who plays a greater role in the household. In the Batak kinship system, women are only part of their father's group before marriage.

However, there is a Batak proverb that states, "Dompok marmeme anak, dompak marmeme

boru," meaning that daughters and sons have equal status. However, in practice, when it comes to inheritance, daughters only receive: land (Hauma pauseang), lunch (Indahan Arian), inheritance from their grandfather (Dondon Tua), and just enough land (Hauma Punsu Tali).

However, the legal status of women has changed significantly, particularly in court disputes. "If a woman has no brothers, she is entitled to inherit property from her parents, except for heirlooms received from her grandfather," said Saur Sitindaon.

Meanwhile, Drs. BP Nababan, Head of the Dalihan Natolu Traditional Institution (LADN) of North Tapanuli, explained that among the Batak people, women are highly respected, as evidenced by the various honorific titles they are given, such as Soripada, Parsonduk Bolon, Tuan Boru, Boru Ni Raja, and others.

And in everyday life, women are also expected to be respected, as in the Batak proverb: "Huling-huling tali pasa, holi-holi sakkalia, Hormat ma lakka ni Ama, molo rap dohot akka Ina."

However, when it comes to marriage, the status of Batak women is not so encouraging, as is often expressed in the sayings: "Na Tinuhor" (The one bought), "Na Nialap" (The one picked up), and "Partalaga" (The one below). Likewise, the phrase "Molo Dung Magodang Boru Pamulion" (When a daughter is grown up, she is married off), and the word "Pamulion" seems to imply that she is ready to be sold or sold. This gave rise to the Batak traditional term Mangallang tuhorni boru (Eating the daughter's dowry) or Mangallang juhut.

The distribution of dowry assets in this Batak tradition is such that the husband's assets are greater because the woman has already received a dowry. In other words, as stated above, women can be bought and sold.

D. The Author's Analysis of the Division of Community Property in Panyabungan City District, Reviewed by Law No. 1 of 1974 and the Compilation of Islamic Law

Both the Marriage Law and the Compilation of Islamic Law have laid a more substantive foundation for marriage law than the Islamic jurisprudence perspective in assessing the relationship between husband and wife. The marriage paradigm established by the Marriage Law and the Compilation of Islamic Law tends to equate the status of husband and wife, with the only difference being their roles within the family institution. This paradigm is clearly understood in Article 31 paragraphs (1), (2), and (3) of Marriage Law No. 1 of 1974, which are not significantly different from Article 79 paragraphs (1), (2), and (3) of the Compilation of Islamic Law, as stated below:

- a. The husband is the head of the family and the wife is the housewife.
- b. The wife's rights and position are equal to those of the husband in domestic life and social interaction.
- c. Each party has the right to engage in legal action.

A closer examination of the foundations of marriage established by the Marriage Law and the Compilation of Islamic Law clearly demonstrates their influence on the formation of basic values in the law regarding joint property. Both the Marriage Law and the Compilation of Islamic Law establish several principles regarding joint property law:

- a. Joint property is property acquired during the marriage (Article 1 letter f of the Indonesian Compilation of Islamic Law).
- b. There is essentially no mixing of assets between husband and wife due to the marriage.
- c. Inherited property remains under the control of each party, unless otherwise specified by the marriage agreement.

Considering the articles of Marriage Law Number 1 of 1974, new legal principles reaffirmed by the Compilation of Islamic Law define joint property as property acquired during the

marriage, regardless of its registration and which of the spouses acquired it. In the event of a divorce, both parties retain half of the assets. Although the paradigm of the Marriage Law and the Compilation of Islamic Law seeks to establish the principles of equal rights and obligations, its application in subsequent articles still seems ambiguous. For example, in the articles on the rights and obligations of husband and wife, the author believes that this issue still seems strongly influenced by mainstream Islamic jurisprudence, even though in modern times, social realities are increasingly showing a broader development, where the economic function of the family is no longer solely the monopoly of the husband, but also the wife.

Wives do not simply stay at home and serve their husbands' needs; they also grapple with economic, social, and political endeavors and activities, and so on. A wife's income is not merely a supplementary or secondary source of income, but can even become the primary source of income. Particularly in urban areas, a wife's income is increasingly becoming the economic pillar of the family, including her husband's.

Thus, wives face a double burden. Therefore, it is clear that there has been a significant shift between old and new cultures, between the social structures of the past century and the present. Therefore, revoking all old laws and applying them to a new social structure is disproportionate and completely unfair.

Changes in societal lifestyles occur slowly but surely, leading to significant changes in societal values. Previously established values shift and take on new forms, and so on. For example, in the past, if a wife worked to support the family, it could negatively impact the husband's image in the eyes of society. But now, this is commonplace due to the demands and changing times. A wife not only helps but sometimes also becomes the family's financial backbone. This could be because the wife earns more income, is more educated, or

because, from a socioeconomic perspective, the wife has better opportunities to find work than the husband.

Likewise, a husband may spend more time caring for children and household chores than his wife because she works full-time. This shift in roles between the wife and the breadwinner can lead to a blurring of roles. The roles of husband and wife in fulfilling and carrying out their responsibilities can lead to a blurring of roles. These changes require a reexamination of the institution of joint property, whether acquired by the husband or the wife, despite its explicit provisions in Law Number 1 of 1974 and the 1991 Compilation of Islamic Law.

Sociologically, the concept of joint property is unknown in Islamic Sharia because the Islamic law that has survived to us was heavily influenced by Arab culture at the time, which did not recognize joint property between husband and wife. This opinion is closely related to the fact that Islamic jurists were generally Arabs, who did not recognize joint husband-wife livelihoods. Furthermore, sociologically, Arab patrilineal culture considers property acquired by a husband after marriage solely as the husband's property, with the wife merely acting as a trustee to safeguard it. Moreover, this position is strongly justified in several hadiths that appear to subordinate the wife's role within the household. A wife has no rights whatsoever to the property acquired by her husband during marriage, except for the maintenance provided by him. This was strongly supported by the cultural norms of the time, as it was rare for wives to work outside the home to help their husbands earn a living, and this culture persists to this day. Because the arrival of Islam was a response to the human problems of its time, many texts appear discriminatory against the wife's position from a modern perspective. However, when examined historically, the arrival of Islam at that time elevated the status and position of women in social relations, significantly

improving them compared to the understanding of Arab society that existed before the arrival of Islam. Therefore, it is understandable that there are still texts that appear to subordinate women to men, as they were indeed responses to social problems that existed at the time. Therefore, it is argued that the laws on the division of joint property, both those contained in the Marriage Law and the Compilation of Islamic Law, are merely Indonesian fiqh (Islamic jurisprudence) or contextual interpretations of Indonesian culture, which is highly susceptible to international cultural contamination. Therefore, it is not surprising that the social structure of marriage laws, particularly regarding the rights and obligations of husbands and wives, has undergone fundamental changes. It would be highly unfair to maintain the system of dividing joint property half for the husband and half for the wife in the event of divorce.

Based on the foregoing, it is agreed that the reinterpretation and reformulation of Islamic fiqh in matters of Islamic family law, including those in the Marriage Law and the Compilation of Islamic Law, needs to be seriously appreciated so that Indonesian women receive their rights fairly and through democratic processes, as the primary pillar of law is justice. Therefore, the discourse on the division of joint property based on contributions is crucial for upholding sharia principles in changing situations, or more specifically, enforcing proportional justice between the rights of husbands and wives under the law.

IV. CONCLUSION AND SUGGESTIONS

A. Conclusion

The concept of the division of joint assets in Law No. 1 of 1974, in Article 35, clearly states that marital assets consist of joint assets and inherited assets. Joint assets are assets acquired during the marriage and therefore belong jointly to the husband and wife. Because of this nature, actions

regarding joint assets between husband and wife can only be taken with mutual consent. Meanwhile, inherited assets are assets acquired by each husband or wife as a gift or inheritance during the marriage, and therefore become the rights and full control of each husband or wife. The Compilation of Islamic Law recognizes the concept of joint assets, as seen in the definition of joint assets in Article 1 letter f of the Compilation of Islamic Law. Regarding the division of joint assets between husband and wife due to the dissolution of the marriage, the Compilation of Islamic Law regulates this in Articles 96 and 97. The general understanding of the distribution of joint assets in the Panyabungan Kota sub-district is still unclear, with only community leaders having a partial understanding. The division of joint assets in Panyabungan District is still widely practiced, however, some communities do share joint assets, however, in the system of division of joint assets in this district, it is still far from what is already in the community regulations, it is still more dominant to divide joint assets depending on who has the most or who always earns a living in the household, then their share is the most, and such a division is the most fair according to the community.

The contributing factor to the implementation of the division of joint assets in the Panyabungan Kota district community is because the community in general does not understand the division of joint assets, so because of this ignorance, many Panyabungan residents do not share joint assets, and then because of the justice factor according to the community, the division in the community is a very fair division because during their marriage the husband is the breadwinner, and then it could also be due to economic factors, some people feel it is inappropriate to have the property questioned because the amount of property is very small, so they let their husbands control it.

B. Suggestions

Based on the findings of this study, several recommendations can be proposed. First, government institutions, particularly the Office of Religious Affairs (KUA), together with other relevant agencies, should intensify legal education and public awareness programs concerning the regulation of joint property under Law Number 1 of 1974 and the Compilation of Islamic Law. Such efforts are necessary to improve public understanding of the rights and obligations of spouses following divorce.

Second, religious leaders, customary leaders, and community leaders in Panyabungan Kota should play a more active role in providing guidance and legal counseling regarding the proper distribution of joint property. Their involvement is essential because they are often regarded as primary sources of advice and dispute resolution within the community.

Third, members of the community should be encouraged to enhance their legal awareness and understanding of joint property rights. The distribution of marital assets should not rely solely on local customs or personal perceptions of fairness but should also consider the principles of justice, legal certainty, and legal protection embodied in national legislation.

Furthermore, the Religious Courts and legal aid institutions should expand access to legal information and assistance for individuals involved in disputes concerning joint property. This is particularly important to ensure that the rights of both spouses, especially women who may be disadvantaged in traditional practices, are adequately protected.

Finally, future research should explore the implementation of joint property regulations in different cultural and social settings throughout Indonesia. Such studies would contribute to a broader understanding of how legal norms concerning marital property are applied in practice and whether they effectively promote justice and equality among divorced spouses. Through these efforts, the principles of justice, legal certainty, and social welfare can be better realized in the settlement of joint property disputes.

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