

Influence of Religion and Culture on Women's Rights in Joint Property Settlements in Java, Indonesia

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Cultural discourse is still dominated by stereotypes that categorize women as second-class citizens with limited roles in the domestic sphere. This view was eroded by modernity but still had implications for minimal protection of women's rights, including in the settlement of joint property after divorce. The hypothesis was that the mechanism for resolving joint property did not provide optimal protection for women's rights due to legal factors, culture biases, and a gender-biased understanding of the law. Therefore, this study examined the problems of resolving joint

property through three dimensions, namely (1) Ontological, which showed the inequality of justice for women in the division of joint property, (2) Epistemological, which examined the method of resolution that was still patriarchal due to a lack of understanding of equal rights, partner egoism, and the dominant patriarchal culture, and (3) Axiological, which discussed policy options that were more inclusive and fair for women. The method used was a sociological-empirical (non-doctrinal) analysis of legal regulations, and empirical data from real cases were collected through interviews. This study offered two main innovations, and the first filled a significant gap in the investigation of strategies for resolving joint property that favors women. The second innovation was the preparation of a model **affirmative action** in the Division of Joint Property as a solution to gender discrimination in law. The results were expected to be the basis for policies and strategies for gender mainstreaming in Islamic family law in Java, Indonesia. Furthermore, this study contributed to uncovering gender inequality in the division of joint property through a holistic method, including ontological, epistemological, and axiological dimensions. Based on empirical data from real-life practices, the result showed that the legal system remained patriarchal and failed to provide optimal protection for women's rights.

Wacana budaya masih didominasi oleh stereotip yang menempatkan perempuan sebagai warga negara kelas dua dengan peran terbatas di ranah domestik. Pandangan ini, meskipun terkikis oleh modernitas, tetap berimplikasi pada minimnya perlindungan hak-hak perempuan, termasuk dalam penyelesaian harta bersama pasca perceraian. Penelitian ini berangkat dari hipotesis bahwa mekanisme penyelesaian harta bersama belum memberikan perlindungan optimal bagi hak-hak perempuan akibat faktor hukum, budaya, dan pemahaman yang bias gender. Penelitian ini mengkaji permasalahan penyelesaian harta bersama melalui tiga dimensi: (1) Ontologis, yang menyoroti ketimpangan keadilan bagi perempuan dalam pembagian harta bersama; (2) Epistemologis, yang mengkaji metode penyelesaian yang masih patriarki akibat minimnya pemahaman tentang persamaan hak, egoisme pasangan, dan dominannya budaya patriarki; dan (3) Aksiologis, yang membahas pilihan kebijakan yang lebih inklusif dan adil bagi perempuan. Pendekatan yang digunakan adalah analisis sosiologis-empiris (non-doktrinal) terhadap peraturan perundang-undangan dan data empiris dari kasus nyata melalui wawancara. Penelitian ini menawarkan dua inovasi utama. Pertama, melengkapi kajian tentang strategi penyelesaian harta bersama yang berpihak kepada perempuan. Kedua, penyusunan model tindakan afirmatif dalam pembagian harta bersama sebagai solusi diskriminasi gender dalam hukum. Hasil kajian ini diharapkan dapat menjadi dasar bagi kebijakan dan strategi pengarusutamaan gender dalam hukum keluarga Islam di Jawa, Indonesia. Penelitian ini berkontribusi dalam membongkar ketimpangan gender dalam pembagian harta bersama melalui pendekatan ontologis, epistemologis, dan aksiologis yang holistik. Dengan data empiris dari praktik di lapangan, penelitian ini menunjukkan bahwa sistem hukum masih cenderung patriarkal dan belum memberikan perlindungan optimal bagi perempuan.

Keywords: *affirmative action, community property, family law, gender mainstreaming*

Introduction

Marriage grounded in devotion to the Almighty God implies that it is not merely a union based on mutual desire, but rather a sacred institution bestowed upon humanity as a divine gift (Nugraha, 2024). In the Compilation of Islamic Law, the purpose of marriage is to realize a household life that is built on peace (*sakinah*), love (*mawaddah*), and compassion (*rahmah*) (Hariyanto et al., 2021). Husbands and wives should support and complement each other in personal growth, fostering spiritual and physical well-being (Habudin, 2021). Sastroatmdjo also said, "Marriage is prescribed to ensure that humans have legitimate descendants and families towards a happy life in this world and the hereafter under the auspices of God's love and Pleasure". Marriage also aims to form a happy and eternal family or household (Habudin, 2021).

Husbands and wives must help and complement each other to develop a personality that helps in achieving spiritual and physical well-being. A couple is a combination of two people with different educational backgrounds, families, emotions, and many more, who come together to build a household (Davinić, 2023). Despite the noble intention of building a harmonious family founded on tranquility (*sakina*), deep love (*mawaddah*), and mutual compassion (*rahmah*), many couples encounter significant challenges along the way. Household disputes are inevitable, and rather than improving over time, the situation often deteriorates, sometimes culminating in a divorce or marital impasse. Divorce is a primary cause of marital dissolution, carrying significant legal implications, including determinations of child custody, *child support*, wife support, and joint property. The consequences of divorce are related to joint property, which is obtained during the marriage (Ismail, 2023; Susilawati et al., 2023; Andrea and Awaliyah, 2022; Nelli et al., 2023).

Islamic legal experts have two opinions regarding joint property. First, joint property exists and is regulated in Islamic law; this is based on the verses of the Qur'an, such as Surah Al-Baqarah verse 228 and Surah An-Nisa verses 21 and 34. These verses show that joint property results from effort within a marital partnership, whether by combined labor or by one party working while the other manages the household. Second, joint property is not known in Islam, except for *an alliance* (agreement) between husband and wife made before or at the time of marriage (Aisya, 2024). There are three problems in this study: The first is

ontological problems related to justice. Every human being has the right to be treated fairly in various aspects of life, specifically in terms of marriage and divorce, specifically joint property. Facts show that in the resolution of joint property disputes, women frequently face unfair treatment in the distribution process (Abubakar, 2022). The second problem is that ontological problems are related to justice. Epistemology relates to the method used in understanding a concept. In the context of joint property settlement, the process often fails to protect women's rights. This unfairness is caused by limited understanding of equal division, a desire for dominance by one party, and influence of patriarchal values in society. The third level is axiology, which is related to the utility value/benefit or choice of actions taken. The division of joint property that protects women's rights ensures fair treatment for those who contribute to meeting household needs through both domestic responsibilities and economic support (Zafar & Abu-Hussin, 2025). In the development of studies addressing joint property issues, various earlier works have contributed to the discussion. The study by Roro Retno Wulan Sari, titled *Variety of Judges' Decisions Regarding Joint Property Analysis of Legal Certainty Against Religious Court Decisions Regarding Joint Property in Indonesia*, shows that the division of assets between spouses must consider each party's contributions during the marriage. If harm occurs due to prolonged failure by one party to fulfill obligations, equal distribution is not required, allowing legal certainty to be maintained (Retno, 2023a).

According to Siti Nur Aisyah and Hidayah in the study *Analysis of Judge's Decisions on the Mixing of Consigned and Joint Property from John Bordley Rawls's Perspective*, the judge's decision is consistent with Rawls's concept of justice. This fulfilled the criteria of fairness despite initial impressions of inconsistency in the division of marital assets. The study shows that the decisions reflect fairness principles consistent with Rawlsian theory in the context of joint property settlement (Lubis, 2025). Who explained that joint assets after a divorce are generally divided equally between husband and wife. The division of joint assets in marriage must be based on a sense of justice for all parties (Jati, 2024). The justice in question includes the division not discriminating against one party. The interests of each party must be accommodated in accordance with actual circumstances. According to Rini Sidi Astuti, the management of joint assets in Islam is grounded in mutual respect and the

principle of non-discrimination. However, public knowledge about joint assets is still low and uneven. Joint assets have three scopes that must be distinguished from each other, namely control, ownership, and management. In Jakarta, joint assets are formed through a tacit agreement between husband and wife (Astutik, 2020). Meanwhile, Eka Susylawati (2019) and Abd Rouf (2024), through the concept of justice in joint property disputes based on legal plurality, showed that judges' decisions are predominantly guided by procedural justice. This form of justice typically results in an equal division of half for each spouse, provided the disputed assets are formally proven to be joint property. According to Rouf (2024), such procedural justice is heavily influenced by the legal assumption of a balanced and equal position between husband and wife within marriage. In addition, a related study titled *Inheritance Law in Indonesia Challenges Solutions and the Role of Culture and Religion* shows that a solid understanding of inheritance law, supported by legal reform, education, and cooperation across sectors, forms the foundation for addressing inheritance-related issues in Indonesia. This joint effort will have a positive impact on justice, gender equality, and the welfare of the Indonesians (Evendi, 2023). The main causes of conflict include the greed of heirs, limited understanding of inheritance law, lack of documentation of asset transfers, unfair distribution, and delays in inheritance distribution. Women's inheritance rights in Bone customary law are maintained through deliberation during the distribution process (Tarmizi, 2024). Preventing inheritance disputes is also consistent with the study conducted by Arbanur Rasyid (Dakhoir, 2021).

An interesting aspect of the study is the information presented on three provinces in particular, namely Central Java, East Java, and West Java. The three pieces of information provide information related to several important decisions related to the study of influence of Religion and Culture on Women's Rights in the Settlement of Joint Property in Indonesia. The study presents two key contributions related to women's rights in the settlement of joint property in Indonesia, with strong influence drawn from religious and culture dimensions surrounding the resolution process.

An examination of recent study trends provides several important points. Based on preliminary data, studies related to joint property consistently show a lack of justice in its resolution. First, the settlement process often fails to deliver a fair outcome for both parties.

Second, the transfer of joint property is frequently driven by the egoism of one party, typically without mutual consent, reflecting power imbalances within the family. Third, judicial decisions tend to be limited to administrative justice, lacking a deeper analysis of the socio-cultural and gender dimensions. These issues reflect a core concern that the mechanisms for resolving joint property disputes in Indonesia have not provided sufficient protection for women's rights, due to the complex interplay of religious norms, cultural expectations, and gender-biased legal practices. Therefore, this study aimed to re-examine influence of religion and culture on women's rights in the settlement of joint property in Indonesia by exploring its historical, genealogical, and conceptual dimensions to develop a more just and gender-sensitive legal framework.

Method

A sociological-empirical (non-doctrinal) method was adopted to examine influence of religion and culture on women's rights in the settlement of joint property in Java, Indonesia. This method, combined with a gender perspective to examine the applicable legal aspects and the social realities that shaped practices in the field (Sumarna & Kadriah, 2023). Empirical data were obtained through interviews with legal experts in joint property settlement cases. The data showed that religious interpretations and local culture norms significantly influenced how judges settle joint property disputes after divorce. These rulings often prioritized patriarchal values, resulting in limited recognition of women's full legal rights to marital assets. The analysis applied a qualitative method, where the collected data was examined descriptively and critically to identify consistent patterns in the settlement of joint property. Furthermore, the extent to which religion and culture affect the recognition of women's rights within that process was examined (Çakın, 2024). Various cases of joint property settlement were compared to identify trends and challenges in the application of gender-just laws. The results of this study contributed to the formulation of more inclusive legal policies, taking into account women's rights in the legal system in Indonesia as well as dominant religious and culture factors in social practices in society (Kadriah, 2023).

Influence of religion and culture on women's rights in joint property settlement in Java, Indonesia

The analysis conveys five important sub-points to be explained in narrative form. *First*, the concept of inclusive and women-friendly religiosity. Inclusive and women-friendly religiosity originated from various theological frameworks that challenge feminist interpretations (Rouf, 2024). On patriarchy and promoting gender equality, feminist theology focused on women's experiences, aiming to develop a better understanding of representative religious narratives (Nurlaelawati, 2019). Similarly, women's theology centers on the unique struggles of black women, recommending justice and a more inclusive method to spirituality (Wilson, 2025).

Islamic feminism grew to enrich this discourse by showing the importance of women's voices in Islamic tradition, thereby addressing gender inequality in a religious context (Lestari, 2024). In addition, ecofeminist spirituality and goddess spirituality celebrate the divine feminine and the interconnectedness of life, promoting a holistic understanding of nature and spirituality (Pelu, 2021). These movements jointly develop a more inclusive religiosity, empower women, and challenge traditional norms, forming space for the experiences and perspectives of religious women (Hefner, 2024).

Religion and culture have a major influence on women's rights in the settlement of joint property in Indonesia (Pelu, 2021). Normatively, the teachings of Islam, Christianity, Hinduism, and other religions in Indonesia provide principles of justice and respect for women's rights, including in the division of joint property after divorce (Nurlaelawati, 2019). For example, in Islamic law, which is practiced by the majority of Indonesian society, women have the right to joint property based on the principles of justice and proportionality according to the contribution of each party during the marriage (Pelu, 2021). However, the implementation of this right often conflicts with normative interpretations of religion influenced by patriarchal traditions, often placing women in a disadvantageous position (Heriyanto, 2023)

Local culture plays a strong role in shaping the practice of settling joint property. In certain indigenous cultures, such as the Batak, Minangkabau, or Balinese, there are customary rules that govern the division of property (Rouf, 2024). In some areas, patriarchal culture

still dominates, causing women to often get a smaller share or even lose the right to joint property. Meanwhile, in the Minangkabau culture, which adheres to a matrilineal system, women have a stronger position in inheritance rights and property ownership (Rouf, 2024). This shows that culture influence can strengthen or hinder the implementation of women's rights depending on the values adopted (Bedner & Van Huis, 2010).

This interaction between religion and culture develops complex dynamics in the settlement of joint property in Indonesia (Davinić, 2023). Religious and civil court decisions must consider local values and religious norms to achieve substantive justice. However, challenges arise when culture conflicts with the principles of justice mandated by religion and national law necessitate efforts to reinterpret cultural and religious values to be more responsive to women's rights (Davinić, 2023). Through an adaptive and progressive method, the settlement of joint property can shift from a space of discrimination to a mechanism for ensuring equitable rights for women (Huis, 2015). Therefore, by developing a climate and atmosphere of inclusive diversity that will build a friendly law to women, the next process can grow and provide space for friendliness to joint property dominated by men (Wakhidah, 2024).

Second, joint property division after divorce that does not protect women's rights. This subsection outlines several conditions that contribute to the ongoing lack of protection for joint property and women's rights. Provisions in the Civil Code regarding the status of women in marriage, which previously classified wives as legally incapable of acting independently, are no longer applicable. This shift is driven by the gender emancipation movement, which recognizes women as fully capable of participating in professional and social activities. Article 108 of the Civil Code, which required a wife to obtain her husband's assistance to perform legal acts, was rendered invalid following the issuance of SEMA Number 3 of 1963. Subsequent revisions in marriage law further confirmed that the legal status of women in marriage does not restrict a wife's ability to act independently or to manage personal assets and property (Zamrani, 2019). Meanwhile, Legal Structure Judges, as law enforcement officers in deciding a divorce case, first must advise the husband and wife who want a divorce (plaintiff and defendant). According to Socrates, there are four codes of ethics for judges, *namely listening politely* (hearing with polite and civilized), *answering*

wisely (answering with wise and prudent), *considering wisely* (considering without influence anything), and *deciding impartially* (deciding without any heavy nearby) (Devlin & Dodek, 2016). As a reflection of the values found in these characteristics, judges, as enforcers of the law, are guided by judicial ethics in resolving joint property disputes. In fulfilling this role, every effort must be made to offer guidance and seek the most appropriate resolution for both plaintiff and defendant through the process of mediation (Faizah, 2024).

Several obstacles hinder the judge's efforts in resolving joint property disputes. These include a limited number of judges, the absence of parties during scheduled mediation sessions, challenges in achieving reconciliation due to immaterial factors, such as emotional conflict, and the presence of additional costs when using mediators outside the judiciary. The judge then takes action through the procedure of the trial when there is no best way out of the peace process. Before deciding the case, the judge must first hold a deliberation (Faizah, 2024). In earlier practice, when one party disagreed with the trial decision, the judge provided advice and information during the initial stage of the proceedings. The party expressing disagreement was then permitted to pursue the next legal remedy through the appeal process (Pons, 2022).

Third, the Position of Women in Settlement of Joint Property in the Law. Article 27, paragraph 1 of the 1945 Constitution stated that all citizens have equal standing before the law and government and are required to uphold the law and government without exception. The provisions of this paragraph show that men and women have the same opportunities, positions, and rights in any legal act or marriage. According to Article 1, letter f of the Compilation of Islamic Law, joint property refers to assets acquired during marriage, whether obtained individually or collectively by the husband and wife, without regard to the name under which property is registered. This explanation shows that a wife also plays a role in earning a living and joint property in marriage (Holden & Nurlaelawati, 2019). To establish mutual understanding in the division of joint property, it is necessary to recognize that both men and women are equal as human beings, and this recognition forms the foundation for a balanced marital relationship (Faizah, 2024). Both have the right to receive respect as human beings. However, because of the differences, equality in certain areas does not make both completely the same. This form of equality is understood as the fulfillment of equal rights,

and when these are upheld, justice follows (PLATT, 2019). This inequality will not degrade the position of one party and favor the other. This is consistent with the liberal feminist movement, which only wants economic and equal rights in the distribution of wealth, because fair opponent is included in the goals of feminism (Faizah, 2024).

The division of joint assets after divorce will provide legal protection for women's rights, and this process can be strengthened through several steps. A key step is the provision of access to knowledge and information within the community, which enables women to recognize rights that may have been denied by former spouses. This concept extends beyond basic awareness of legal provisions and functions as a resource that encourages adherence to legal obligations, builds confidence, strengthens resolve, and enables the pursuit of entitled rights. The legal literacy program includes conducting socialization and understanding for the community, specifically women, about marriage, divorce, and the rights obtained after divorce related to joint assets from various perspectives. The community, specifically women, must understand information on how to file a lawsuit in court. There is a need for a movement to change understanding about culture, specifically regarding the role of husbands (men) who are relatively advantaged because culture of society still adheres to patriarchal beliefs (Royani, 2021; Sulubara, 2023; Yusriana & Hum, 2022).

Mediation or deliberation between the husband and wife, as discussed by Faizah (2024), must consider financial responsibilities related to both parties and the children. According to Rouf (2024), this process should also assess the capacity of each party to manage future expenses. The roles carried out by a neutral mediator hold significant importance in the resolution process. As part of this function, the village head serves as an official responsible for supporting citizens in resolving disputes. This position requires a neutral stance, a thorough understanding of the complexities of joint property, and the capacity to guide the process toward resolution.

Fifth, even when no earlier agreement exists within the marriage, the husband and wife may negotiate the terms of property division through mutual discussion, reaching a consensus that can be formalized in a written agreement or joint declaration. *Sixth*, in the future, it is necessary to develop other alternative solutions in the form of dispute resolution models (ADR), such as arbitration disputes. This solution must include a third party as a

referee who makes decisions that must be obeyed and implemented by the disputing parties because the characteristics of the decision are final and binding, and the settlement of joint property can be resolved properly without harming either party (Royani, 2021).

Affirmative Action Gender in the Division of Community Property (Platt, 2019; Shin, 2024). Efforts to address persistent discrimination and violations of women's rights necessitate strategies to integrate a gender perspective into policies and programs. Gender justice and equality are prioritized as core principles in all governmental initiatives through gender mainstreaming. This method identifies disparities and gaps, enabling targeted interventions to address gender-related issues. Therefore, the goal of gender mainstreaming becomes narrow and even to eliminate gender gaps (Muqtada, 2024). This is logical because the family is the first and main vehicle for education. In addition to gender mainstreaming, the next strategy needed is *affirmative action*. This strategy is the development of special programs (women's empowerment) to improve gender equality in the fields of employment and development.

Affirmative action (Çakın, 2024; Tjahjadi, 2024) is positive discrimination or affirmative action against individuals/groups who are in a more disadvantaged situation compared to others because of race, ethnicity, gender, age, or religion. In the context of gender, *affirmative action* is an alternative action taken by favoring the disadvantaged sex, usually, women. *Affirmative action* is a movement of awareness and improvement of these weaknesses. The most effective means of implementation is through legislation, with constitutional and legal guarantees ensuring enforcement. This requires establishing regulations via laws that are enforceable within a country (Davinić, 2023). This was confirmed by rulings from several courts in Central Java, including the Semarang High Religious Court's decision Number 103/Pdt.G/2025/PTA Smg. The panel of judges upheld the Kebumen Religious Court's decision, affirming that assets acquired during the marriage—such as land, houses, and proceeds from the sale—constitute joint marital property subject to equal division between spouses. The judge applied the principles of Islamic law as contained in the Compilation of Islamic Law (KHI) and the Marriage Law. This principle focuses on the fairness of the assets division regardless of whose name is recorded in ownership. In this context, religion serves as a basis for strengthening women's rights in joint ownership of assets. This

case also reflects influence of local culture, where the man (ex-husband) had unilaterally controlled and sold joint assets without the wife's consent, showing a patriarchal mindset that still colors social practices. The strong influence of religious legal norms applied by the courts has helped correct culture tendencies that undermine women's rights, ensuring that rights to joint property remain protected and enforced (Semarang court decision, No. 103, 2025).

In the decision of the Sukoharjo Religious Court Number 216/ Pdt.G /2025/ PA.Skh, the panel of judges rejected the woman's lawsuit requesting the division of joint property because the disputed objects, namely land and buildings, were owned by the defendant's parents, and there was no evidence of a legal transfer of rights. Although the compilation of Islamic Law through Article 97 guarantees women's rights to half of joint property after divorce. In this case, influence of local culture, which views land as a family inheritance, weakens the position of women. The plaintiff's inability to prove formal rights to the land, coupled with the unknown whereabouts of the defendant, caused the application to be rejected. This case shows that although religious norms have provided guarantees of justice, culture realities and weak land ownership administration in society hinder women from obtaining the rights to joint property (Sukoharjo, 2025).

In the Indramayu Religious Court, despite the region having the highest divorce rate in Indonesia, many divorcing couples prioritize ending the marriage without understanding or claiming the rights, often saying, "The important thing is to get divorced." Only a few filed for joint property, as reported by Maman (Maman, 2024). In a case from Indramayu, Dea agreed to a divorce and granted full authority to a representative to manage the process. Based on a greater contribution to building the house and purchasing rice fields, a request was made for a larger portion of the assets. The request was accepted by the husband, resulting in a mutual agreement on the division of property (Dea, 2024). This was consistent with the Jurisprudence of Supreme Court Regulation Number 1 of 2016, which explained that mediation is a method for resolving disputes through negotiation to reach an agreement between parties with the assistance of a mediator. Ideally, a mediator is expected to maintain neutrality and possess sufficient experience. This standard was not reflected in the case of Imah, who was married for three years to a farm laborer and

later worked in Hong Kong for two years with permission from the husband. During that period, Imah regularly sent money to the husband's account. After returning, the husband became temperamental and demanded full control over earnings, including those acquired before the marriage. A mediation was held by the village head, who happened to be the husband's brother, after the decision to divorce. The mediation was biased, favoring the husband. Feeling cornered, Imah agreed to divide all assets equally, witnessed by the family and the village head (Imah, 2024)

The deliberation process described above was biased and detrimental to one party due to a previous emotional connection between the village head and the other party. This led to a non-neutral agreement lacking clear rules and professional facilitation. In mediation, both spouses must consider living expenses, children's needs, and future financial responsibilities (Faizah, 2024). Even without a prenuptial agreement, the spouses can still negotiate a fair division of joint property through mutual consent. According to Warto, fair division requires both parties to set aside ego and prioritize reason. In certain situations, assets may also be allocated to the children. In situations where the wife faced employment restrictions, economic dependence, domestic violence, or served as the primary provider, entitlement may be claimed to half or a greater portion of joint assets (Warto, 2024)

Ihsan (2024) reported that when joint property dispute is brought before a religious court, the judge proceeds to divide the assets equally between the husband and wife or the respective heirs after finalizing the divorce, without examining the origin of property. The considerations used by the judge in determining the decision on the division of joint assets are as follows: (1) Considerations refer to evidence. The plaintiff submitted written evidence that served as a basis for informing and persuading the judge to issue a favorable decision. The defendant was unable to refute the submitted material. (2) Considerations based on Article 35 of Law Number 1 of 1974 establish that assets acquired during marriage are classified as joint property. As a result, during divorce proceedings, joint assets are to be divided equally between the former husband and wife. (3) Considerations based on Article 88 of the Compilation of Islamic Law state that disputes over joint assets must be submitted to the competent Religious Court. (4) Considerations based on Article 97 of the Compilation of Islamic Law regulate the percentage of joint asset division. According

to the court decision, joint assets were divided equally, with one-half allocated to the plaintiff and one-half to the defendant. This is consistent with the explanation given by Umar regarding the resolution of joint property disputes outside the court. Lawyers may act as legal representatives for both sides, and community leaders, kyais, or other trusted figures may contribute to the resolution process. The role of the village head is considered important as a peacemaker. However, the challenge arises when community leaders, kyais, trusted individuals, and village heads lack sufficient understanding of joint property, which prevents neutral and effective mediation (Umar, 2024). According to Khafid, the distribution of joint property is by customs and family, and not all community leaders and village officials understand the settlement mechanism, specifically in terms of the religious courts (Khafid, 2024). This is also supported by several decisions in the Court in the West Java Region, including in the Brebes Religious Court Decision Number 4691/ Pdt.G / 2024 / PA- Bbs. The woman's application as the plaintiff to determine a plot of land and buildings as joint property was rejected due to the inability to establish that the assets were acquired during the marriage. The panel of judges considered the principle contained in the Compilation of Islamic Law that joint property is obtained during the marriage bond. This case shows how influence of Islamic religious norms is strictly applied in determining the right to joint property, where the burden of proof is the main key. Women's rights in this case are weakened due to the lack of formal and strong evidence. Although religion provides the principle of justice, implementation in the field is dependent on the technical aspects of proof (Brebes Court Decision, No. 4691, 2024).

In the Decision of the Brebes Religious Court Number 4512/ Pdt.G /2024/PA- Bbs, the panel of judges granted the woman's lawsuit as the plaintiff to obtain the right to half of the total joint assets obtained during the marriage. This consideration was based on the principles in Article 35 of Law Number 1 of 1974 and Article 97 of the Compilation of Islamic Law, that assets obtained during marriage are joint assets, and each party is entitled to half of the share. In this context, Islamic religious values provide a strong normative basis for ensuring gender justice, where women have the right to share assets proportionally without discrimination. This decision also shows how religious courts affirm the principle of justice based on religious teachings by accommodating women's rights to assets in a

balanced and fair manner (Brebes Court, No. 4512, 2024).

The Court in Malang prefers to resolve joint property cases after the divorce process through deliberation only. This was carried out due to the decision to immediately resolve all post-divorce matters quickly without complications. The argument is supported by a statement from Ani (2024), who conveyed a preference for resolving the divorce promptly without a lengthy court process. Regarding joint property, resolution outside the court was considered more favorable, particularly since a portion of the assets had already been depleted by the husband through gambling. What was expressed by Ani, reinforced by Ipul that the process of resolving joint property outside the court through an agreement, some went smoothly, but many did not. In most cases, assets were already held by one party before the divorce took place, then the party was not willing to share with the ex-wife or husband properly. One party would dominate control of joint property to avoid prolonged conflict with the other, and in many cases, women would relinquish claims. However, the case will be different when assisted by a lawyer. When resolution cannot be achieved through non-litigation efforts with family members and village officials, the matter should be submitted to the court (Ipul, 2024)

In the decision of the Ngawi Religious Court Number 10/ Pdt.G /2025/ PA. It was evident that the mechanism of religious law in Indonesia protects women's rights in the division of joint property after divorce. The court determined the division of joint property fairly with the principle of half of each party, following the provisions of the Compilation of Islamic Law (KHI) and Law No. 1 of 1974 on Marriage. Influence of Islam in this case is quite strong, where the panel of judges showed the principles of justice and legal certainty based on religious norms. However, this case also shows how women still have to actively fight for rights in court (Ngawi Court Decision No. 10, 2025).

Another example is the decision of the Jombang Religious Court Number 248/ Pdt.G /2025/ PA.JBG, which shows how influence of Islam is implemented in the settlement of joint property through the principles of justice and equality of rights. In this case, the panel of judges prioritized the principle of equal division of joint property between the former husband and wife, as stated in Law Number 1 of 1974 concerning Marriage and the Compilation of Islamic Law. Settlement through mediation, concluded with a Peace Deed,

shows a method consistent with Islamic teachings, which prioritize peaceful resolution in addressing disputes.

The three examples show that the settlement of joint property in Indonesia is strongly influenced by culture and religion. Roro Retno reported that decisions on joint property are different and shaped by local religious and culture values. Seri Mughni Sulubara also reported that joint property can be divided after divorce based on Article 32 (2) of the Marriage Law through a judge's decision. Similarly, Muhammad Tsqib reported that Islamic law promotes the continuity of marriage, yet in cases of divorce, the protection of women's rights remains essential, as supported by Article 41 of the Marriage Law (Idary et al., 2024). This is consistent with a statement by Yohanes regarding the position of the wife in the division of property under Islamic Family Law and the Marriage Law in Indonesia, showing the role of mediation, advocacy, and education in ensuring fair recognition of women's rights in marriage (Don, 2024).

Dispute resolution models in simple and modern societies are negotiation, mediation, arbitration, and adjudication (Yusriana & Hum, 2022). *First*, Negotiation is a dispute resolution model that does not include a third party but is resolved through compromise. Negotiation is a dispute resolution model conducted through direct discussion between the disputing parties to reach a form of settlement acceptable to all concerned parties. The disputing parties negotiate directly (sometimes accompanied by a lawyer) based on the principle *middle way*. Negotiations are usually informal, unstructured, and unlimited in time. The efficiency and effectiveness of negotiations depend on the good ethics of the disputing parties. The use of optimal negotiation channels based on good etiquette brings many benefits to the parties concerned. According to Adi, negotiation is a "multi-purpose" tool that can be used to resolve all kinds of matters, including family disputes. However, the success of using this tool is largely determined by the ability of the parties conducting the negotiations.

Second, Mediation is a dispute resolution model that includes a third party as a mediator. The third party is passive because the decision taken is still based on the agreement of the disputing parties. Mediation is a dispute resolution model in which an impartial and neutral external party (mediator) helps the disputing parties resolve a dispute. This model is a

development of negotiation, and the disputing parties include a neutral and impartial third party. The mediator only provides substantive and procedural assistance and advice, while the decision maker remains the agreement with the disputing parties.

This study shows two formal models of dispute resolution, namely arbitration and adjudication. Arbitration includes a neutral third party (arbitrator) who delivers a binding and final decision to resolve the conflict based on mutual agreement. This makes the model a valuable mechanism for settling disputes outside traditional courts. Meanwhile, adjudication refers to dispute resolution through judicial institutions, where decisions are legally binding and enforceable by law.

Conclusion

In conclusion, this study shows that patriarchal culture continues to strongly influence the resolution of joint property disputes after divorce, resulting in suboptimal protection of women's rights. Three key dimensions of injustice are shown, namely ontological, epistemological, and axiological. The main academic contribution of this study is in addressing a critical gap by proposing a strategic framework for protecting women's rights in joint property division and introducing an affirmative action model to combat gender discrimination in law. The results deepen scholarly understanding of gender and legal pluralism in Islamic family law and also provide valuable insights for international audiences concerned with gender justice and legal reforms. Furthermore, a foundation for policy development was provided aimed at achieving greater equity within diverse culture and religious contexts. This study contributes to enriching interdisciplinary legal discourse by bridging gender studies, Islamic family law, and socio-legal methods. A context-sensitive model that can be adapted for comparative studies in other regions facing similar challenges in post-divorce asset distribution was provided.

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