Legal Argumentation for the Resolution of Joint Property Dispute Through Decisions of the Supreme Court of the Republic of Indonesia from a Justice Perspective

Muhammad Hizbullah[1], Achyar Zein[2], Mhd. Yadi Harahap[3]
[1]muhammadhizbullah@umnaw.ac.id

[1]Universitas Muslim Nusantara Al-Washliyah
[23]Universitas Islam Sumatera Utara

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Abstract
Based on the Supreme Court's annual reports from 2021 to 2023, there has been a significant increase in cassation-level cases involving joint property disputes. The number rose from 156 cases in 2021 (including remaining cases from 2020) to 167 in 2022, and further to 238 in 2023. This upward trend indicates growing dissatisfaction with the resolution of joint property cases in terms of justice and benefit for the disputing parties. This research aims to analyze the legal argumentation in resolving joint property disputes at the cassation level from a justice perspective, focusing on two Supreme Court decisions: Number 78/K/AK/2021 and Number 298/K/AK/2022. These decisions reveal contrasting interpretations of justice. In case 78/K/AK/2021, the division was 70% to the wife and 30% to the husband, differing from Article 97 of the Compilation of Islamic Law (KHI), which mandates equal distribution. Conversely, case 298/K/AK/2022 upheld a 50:50 division. The study uses a qualitative method with a normative juridical approach, analyzing Supreme Court jurisprudence, relevant positive law, and statutory provisions. Joint property division in Indonesia is governed by the Civil Code, Law No. 1 of 1974, customary law, and KHI, with varying approaches based on legal traditions and societal values. The findings suggest that legal interpretations should consider philosophical, juridical, and social dimensions. Therefore, justice in joint property division may require flexible proportions (e.g., 70:30), rather than a rigid 50:50 split, to reflect each party's actual contributions and to uphold fairness and benefit for all parties involved.

I. Introduction

Assets left behind, whether due to death or divorce, have legal implications for the surviving party, both in the context of inheritance and joint property (commonly known as "gono-gini" in Indonesia). Customary law across various regions of Indonesia has different terms to refer to joint property. These terms include *"harta gono-gini"* (Java), *"harta syarikat"* (Aceh), *"harta suarang"* (Minangkabau), *"harta syarikat"* (Melayu), *"harta guna kaya"* (Sunda), *"barang perpantangan"* (Kalimantan), and *"druwe gabro"* (Bali)(Yunanto, 2018). In the context of household asset acquisition, this is categorized as *Syirkah Abdaan Mufawadhah* in Islamic jurisprudence. Typically, both husband and wife collaborate to earn income to meet daily needs and save for the future, with both contributing to the workforce. Although both are involved in work, the physical roles of husband and wife may differ. Consequently, responsibilities are divided, with the husband generally working outside the home while the wife manages household affairs and childcare(Auspos, 2023; Kincaid, 2018). This is in accordance with the verse in the Qur'an, Surah An-Nisa, vers: 34

ٱلرِّجَالُ قَوَّٰمُونَ عَلَى ٱلنِّسَآءِ بِمَا فَضَّلَ ٱللَّهُ بَعۡضَهُمۡ عَلَىٰ بَعۡضٖ وَبِمَآ أَنفَقُواْ مِنۡ أَمۡوَٰلِهِمۡۚ

The translation : "Men are the protectors and maintainers of women because Allah has given one more strength than the other, and because they support them from their means". (Al Qur'an dan Terjemahnya, 2018: 113)

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The obligation of the husband to provide for his wife is also mentioned in surah al- baqarah : 233

وَٱلۡوَٰلِدَٰتُ يُرۡضِعۡنَ أَوۡلَٰدَهُنَّ حَوۡلَيۡنِ كَامِلَيۡنِۖ لِمَنۡ أَرَادَ أَن يُتِمَّ ٱلرَّضَاعَةَۚ وَعَلَى ٱلۡمَوۡلُودِ لَهُۥ رِزۡقُهُنَّ وَكِسۡوَتُهُنَّ بِٱلۡمَعۡرُوفِۚ لَا تُكَلَّفُ نَفۡسٌ إِلَّا وُسۡعَهَاۚ لَا تُضَآرَّ وَٰلِدَةُۢ بِوَلَدِهَا وَلَا مَوۡلُودٞ لَّهُۥ بِوَلَدِهِۦۚ وَعَلَى ٱلۡوَارِثِ مِثۡلُ ذَٰلِكَۗ فَإِنۡ أَرَادَا فِصَالًا عَن تَرَاضٖ مِّنۡهُمَا وَتَشَاوُرٖ فَلَا جُنَاحَ عَلَيۡهِمَاۗ وَإِنۡ أَرَدتُّمۡ أَن تَسۡتَرۡضِعُوٓاْ أَوۡلَٰدَكُمۡ فَلَا جُنَاحَ عَلَيۡكُمۡ إِذَا سَلَّمۡتُم مَّآ ءَاتَيۡتُم بِٱلۡمَعۡرُوفِۗ وَٱتَّقُواْ ٱللَّهَ وَٱعۡلَمُوٓاْ أَنَّ ٱللَّهَ بِمَا تَعۡمَلُونَ بَصِيرٞ

The translation : Mothers should breastfeed their children for two full years, for those who wish to complete the nursing period. The father is obliged to provide food and clothing for the mothers in a fair manner. No soul is burdened beyond its capacity. A mother should not suffer harm because of her child, nor should a father because of his child. The same duty applies to the heir. If both parents decide, by mutual consent and consultation, to wean the child before two years, there is no sin on them. And if you wish to have your children breastfed by a wet nurse, there is no sin in that as long as you pay fairly. Fear Allah, and know that Allah is All-Seeing of what you do. (Al Qur'an dan Terjemahnya, 2018: 50)

This verse is one of the verses in the Qur'an that provides comprehensive guidance regarding the rights and obligations of parents in child-rearing, particularly during the nursing period. The verse states that mothers should breastfeed their children for two full years for those who wish to complete the nursing period. The responsibility of providing food and clothing to the wives in a fair manner lies with the husband.

The principles contained in Surah Al-Baqarah, Verse 233, have strong relevance to the context of family law in Indonesia, particularly as reflected in the Compilation of Islamic Law (KHI) and Law No. 1 of 1974 on Marriage. The Compilation of Islamic Law, which serves as a legal guideline for Islamic law in Indonesia, adopts many principles from this verse in regulating the rights and obligations of spouses and their responsibilities toward their children. For instance, Article 77(3) of the Compilation of Islamic Law states that both husband and wife are responsible for the care and upbringing of their children, including their physical, spiritual, intellectual growth, and religious education.

In line with this principle, the Compilation of Islamic Law as a legal guideline for Islamic law in Indonesia elaborates in detail on the husband's obligation to provide financial support (*nafkah*). Article 80(4) of the Compilation of Islamic Law states that according to his income, the husband is responsible for: a) providing maintenance, clothing, and housing for the wife; b) covering household expenses, healthcare, and medical costs for the wife and children; and c) paying for the children's education. This provision explicitly outlines the components of financial support that are the husband's responsibility, including the wife's needs for food, clothing, and shelter, as well as various household needs, including healthcare and children's education.

In a harmonious family, ownership of property is generally not an issue. However, if disputes arise between the husband and wife leading to divorce, that is the starting point for various problems related to the property acquired during the marriage. Therefore, the primary priority when a divorce occurs is to separate and divide the property that was jointly acquired during the marriage, as both parties have rights to the property (Effendi, 2004). This is regulated in Article 37 of Law No. 1 of 1974 on Marriage, which states: "Upon the dissolution of marriage due to divorce, the property shall be regulated according to each party's respective law." Furthermore, Article 97 of the Compilation of Islamic Law states that "A widow or widower who has divorced shall be entitled to half of the joint property unless otherwise stipulated in a prenuptial agreement" (Ristianawati, 2021), on these provisions, each party is literally entitled to half of the joint property.

If we refer to the Annual Report of the Supreme Court of the Republic of Indonesia over the past three years, from 2021 to 2023, there has been an increase in cassation cases in the religious chamber. This is evident in the Supreme Court's Annual Report as shown below:

Performance of Cassation Case Settlement at the Religious Affairs Chamber in 2021

	Clasification	**Unresolved**	**Received**	**Total**	**Close**	**Unresolved**
		2020	**2021**	**Burden**	**2021**	**End**
	Divorce lawsuit	0	298	298	296	2
	Divorce by repudiation	2	144	216	214	2
	Inheritance	2	159	161	159	2
	Joint property/Marital Property	3	153	156	156	0
	Sharia economics	0	44	44	44	0
	Custody (of children)	0	32	32	31	1
	Gift/Grant	0	24	24	24	0
	Resistance to execution	0	12	12	12	0
	Endowment	0	9	9	9	0
	Marriage Registration	0	8	8	8	0
	Objection/appeal	0	6	6	6	0

	Compulsory guardian	0	4	4	4	0
	Annulment of marriage	0	3	3	3	0
	Prevention of marriage	0	2	2	2	0
	Will/Testament	0	2	2	2	0
	Child legitimation	0	1	1	1	0
	Other marital disputes	1	19	20	20	0
	Total	8	990	998	991	7

The number of religious civil cassation cases received in 2021 increased by 11.36% compared to 2020, which received 889 cases. The number of cases decided also increased by 12.49% from 2020, when 881 cases were resolved. The number of remaining cases decreased by 12.50% from 2020, which had 8 pending cases. The case resolution productivity ratio increased by 0.20% from 99.10% in 2020 to 99.30% in 2021. A total of 989 religious civil cassation cases (99.80%) were decided in less than 3 months. The number of cases that were finalized and sent to the submitting court amounted to 1,141 cases, with a clearance rate of 115.25%. The categories of religious civil cassation verdicts in 2021 were as follows: (1) granted 121 cases (12.21%), (2) rejected 597 cases (60.24%),
(3) rejected with revision 206 cases (20.79%), (4) inadmissible 63 cases (6.36%), and (5)
withdrawn 4 cases (0.40%).

2. Performance of Cassation Case Settlement at the Religious Affairs Chamber in 2022

	Clasification		**Unresolved**	**Receive**	**Total**	**Close**	**Unresolved**

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			2021	**2022**	**Burden**	**2022**	**End**
	Divorce lawsuit		2	317	319	319	0
	Inheritance		2	220	222	222	0
	Diverce by repudiation		2	204	206	206	0
	Joint property		0	167	167	167	0
	Sharia law		0	42	42	42	0
	Custody		1	40	41	41	0

	Gift/Grant	0	25	25	25	0
	Annulment of marriage	0	20	20	20	0
	Objection/Appeal	0	19	19	19	0
	Resistance to execution	0	9	9	9	0
	Marriage validation	0	9	9	9	0
	Other marital disputes	0	8	8	8	0
	Compulsory guardian	0	5	5	5	0
	Endowment	0	4	4	4	0
	Will/Testament	0	4	4	4	0
	Prevention of marriage	0	3	3	3	0
	Other	0	4	4	4	0
	Total	7	1.100	1.107	1.107	0

Compared to 2021, which received 990 cases. The number of cases decided also increased by 11.71% from 2021, when 991 cases were resolved. The case resolution productivity ratio increased by 0.70%, from 99.30% in 2021 to 100% in 2022. A total of 1,107 religious civil cassation cases (100%) were decided in less than 3 months. The number of cases that were finalized and sent to the submitting court amounted to 1,259 cases, with a clearance rate of 114.45%. The categories of religious civil cassation verdicts in 2022 were as follows: (1) granted 133 cases (12.01%), (2) rejected 719 cases (64.95%),
(3) rejected with revision 198 cases (17.89%), (4) inadmissible 56 cases (5.06%), and (5)
withdrawn 1 case (0.09%).

Table 3. Performances of Cassation Case Settlement at the Religious Affairs Chamber in 2023

	Clasification	**Unresolved**	**Received**	**Total**	**Closed**	**Unresolved**
		2022	**2023**	**Jumlah**	**2023**	**End**
	Divorce lawsuit	0	343	343	343	0

	Inheritance	0	253	253	253	0
	Divorced by repudation	0	251	251	251	0
	Joint property	0	238	238	238	0
	Custody	0	58	58	58	0
	Sharia law	0	57	57	57	0
	Gift/Grant	0	27	27	27	0
	Annulment marriage	0	24	24	24	0
	Resistance axecution	0	18	18	18	0
	Marriage validation	0	17	17	17	0
	Objection/appeal	0	15	15	15	0
	Other marital disputes	0	14	14	14	0
	Endowment	0	12	12	12	0
	Marriage dispensation	0	8	8	8	0
	Will/ tesment	0	5	5	5	0
	Compulsory guardian	0	3	3	3	0
	Others	0	16	16	16	0
	Total	0	1.359	1.359	1.359	0

The number of religious civil cassation cases received in 2023 increased by 23.55% compared to 2022, which received 1,100 cases. The number of cases decided also increased by 22.76% from 2022, when 1,107 cases were resolved. The case resolution productivity ratio reached 100%. A total of 1,359 religious civil cassation cases (100%) were decided in less than 3 months. The number of cases that were finalized and sent to the submitting court amounted to 1,393 cases, with a clearance rate of 102.50%. The categories of religious civil cassation verdicts in 2023 were as follows: (1) granted 217 cases (15.97%), (2) rejected 829 cases (61%), (3) rejected with revision 240 cases
(17.66%), (4) inadmissible 69 cases (5.08%), and (5) withdrawn 4 cases (0.29%).

In this annual report of the Supreme Court, the researcher focuses on cassation cases related to joint property. From 2021 to 2023, there has been a significant increase in these cases. In 2021, adding the remaining cases from 2020, there were 156 joint property cases, which increased to 167 in 2022, and further increased to 238 cases in 2023. This indicates a growing number of disputes over joint property submitted to the Religious Courts, the High Religious Courts, and the Supreme Court. It serves as a barometer for the resolution of joint property disputes that are perceived to lack justice and benefit for the parties involved, or due to the need for legal flexibility in the provisions governing the division of joint property.

Based on this, the author will investigate the role of law in resolving joint property disputes through the Supreme Court at the cassation level by examining two rulings: Number 78/K/AK/2021 and Number 298K/AK/2022. In these two rulings, there are significant differences, as the ruling in case Number 78/K/AK/2021 decided not to divide the joint property 50-50, but rather allocated 70% to the wife and 30% to the husband. This indicates a discrepancy between the judge's decision and the Compilation of Islamic Law in Article 97, resulting in legal contradictions between the judge's ruling and the Compilation of Islamic Law. Additionally, this cassation ruling appears to reinforce previous rulings from judges at both the Religious Courts and the High Religious Courts. In contrast, the ruling in Number 298K/AK/2022 decided to divide the property equally, 50-50, between the husband and wife, in accordance with Article 97 of the Compilation of Islamic Law.

The increasing number of joint property dispute cases at the cassation level of the Supreme Court from 2021 to 2023 reflects a growing dissatisfaction with how these disputes are being resolved by the Religious Courts. The discrepancy between judicial decisions and the normative provisions, such as Article 97 of the Compilation of Islamic Law (KHI), which prescribes a 50:50 division, raises

fundamental questions about the sense of justice in legal practices. Against this backdrop, the research addresses three main problems: how joint property is regulated from the perspectives of Positive Law and Islamic Law; what forms of dispute resolution exist for joint property division from a justice perspective; and how the law is applied in resolving joint property disputes through the Supreme Court of the Republic of Indonesia.

This study aims to identify the legal framework governing joint property in both Positive Law and Islamic Law, to analyze the methods of dispute resolution through the lens of justice, and to explore the legal arguments presented in Supreme Court rulings on such disputes(Adlhiyati & Achmad, 2023).

The theoretical framework for this research draws on Aristotle's concepts of justice—namely, distributive and corrective justice. Distributive justice refers to fairness based on proportional contribution, rather than equal division, implying that each party should receive a share that reflects their role and input in the accumulation of joint property. This principle challenges the rigid application of a 50:50 split. On the other hand, corrective justice focuses on restoring fairness when one party has committed a wrong, such as misuse or negligence in managing joint property. In such cases, a party may be entitled to a smaller share as a form of accountability. Applying these theories, this study emphasizes the importance of fairness and contextual consideration in legal reasoning to ensure equitable outcomes in joint property disputes at the cassation level of the Supreme Court.

2. Research Method

This research employs a normative juridical approach, also known as doctrinal legal research, as its primary method (Sidik, 2023; Sonata et al., 2014). This approach is appropriate because the study focuses on analyzing legal norms, statutory regulations, and judicial decisions related to the division of joint property, particularly at the cassation level of the Supreme Court of the Republic of Indonesia. The research emphasizes the interpretation and systematic analysis of legal materials, including the Civil Code, Law No. 1 of 1974 on Marriage, the Compilation of Islamic Law (KHI), and selected Supreme Court rulings—specifically decisions Number 78/K/AK/2021 and Number 298/K/AK/2022.

Through this method, the study aims to examine the consistency, justice, and legal reasoning behind differing judicial outcomes in joint property disputes. Several approaches are integrated within the normative juridical method, including the statutory approach, which examines written laws and regulations; the case approach, which analyzes court decisions to understand the application and interpretation of legal norms; and the conceptual approach, which applies theories of justice— particularly Aristotle's distributive and corrective justice—to evaluate the fairness of legal rulings. This methodology allows for a deep exploration of legal principles and their philosophical underpinnings in relation to real-world judicial practices. While primarily normative, this research may also draw on elements of comparative analysis to highlight inconsistencies or evolving

interpretations within Supreme Court jurisprudence on joint property division, thereby contributing to the broader discourse on justice in family law.

3. Results and Discussion

Legal Regulation of Joint Property in Indonesia

The settlement of joint property disputes is a process that often occurs after divorce or the dissolution of marriage. Joint property, which is also known as gono-gini in Indonesian customary law, refers to property acquired during the marriage, regardless of who acquired it. When there is a dispute over the division of this property, the divorced couple has two main options to resolve it: through litigation (the court) or non-litigation (out of court). Litigation in the settlement of joint property disputes involves a formal legal process in the court. This process begins with the filing of a lawsuit by one of the parties to the Religious Court for Muslim couples or the District Court for non-Muslim couples.

In this lawsuit, the plaintiff must detail the joint property that is the object of the dispute along with the evidence of ownership. After the lawsuit is accepted, the court will summon both parties for the first hearing. While non-litigation (out of court) offers a more flexible approach and the potential to maintain better relations between the parties. The most common non-litigation methods are negotiation and mediation. In negotiation, both parties try to reach an agreement directly, either with or without the assistance of legal advisors. As the legal basis for the settlement of joint property disputes through litigation:

1. The Concept of Joint Property in Positive Law
   - Division of Joint Property in the KUH Perdata

In the Indonesian Civil Code, the rules regarding joint property or the union of property in marriage are regulated in Book I, Chapter VII. Article 119 states that from the moment the marriage is solemnized, there is a complete union between the husband and wife's property, unless there is a prenuptial agreement that regulates this differently. Article 120 mentions that the separate property of each husband and wife and all their respective earnings and income during the marriage are included in the union, except if they are obtained from inheritance or gifts.

Meanwhile, Article 121 affirms that all property acquired during the marriage, by whatever name, will become joint property, except if it is obtained from inheritance or gifts. Furthermore, Article 128 stipulates that if the marriage is dissolved due to divorce, the joint property is divided equally between the husband and wife.

- In the Indonesian Marriage Law (Law Number 1 of 1974 on Marriage)

  This new law replaces the previous regulations concerning property in marriage. Article 35 of the Marriage Law states: "Property acquired during the marriage period becomes joint property. Property brought by each spouse, as well as property acquired by each as gifts or inheritance, remains under the control of each party, unless otherwise stipulated by both parties (Monoarfa et al., 2023), 37 of the law states that: If a marriage is dissolved due to divorce, the division of joint property is regulated according to the applicable law of each party. The term "applicable law of each party" is further clarified in the explanation of the article as: "Religious law, customary law, and other laws."

- The Division of Joint Property in Customary Law

  In Indonesia, there are various kinship systems with different patterns of descent. This diversity has a significant influence on the way property is regulated and controlled within marriages. Theoretically, kinship systems can be divided into several systems(Hadikusuma, 1980):

- Patrilineal System, where descent is determined through the father's line and the position of men is more dominant in terms of inheritance and control of marital property. Examples are Gayo, Batak, Nias, Lampung, Buru, Seram, Nusa Tenggara, Irian.
- Matrilineal System, where descent is determined through the mother's line, and the position of women is more prominent in terms of inheritance and control of property. Examples are Minangkabau, Enggano, Timor, Semendo.
- •Parental/Bilateral System, where descent is determined through both parents (father and mother) with no difference in the position between men and women in terms of property control and inheritance. Examples are Aceh, East Sumatra, Riau, Java, Kalimantan, and others.

2. The Concept of Joint Property in the Compilation of Islamic Law

   The codification of Islamic law in the form of statutory regulations is necessary primarily to fill the void in family law for Indonesian Muslim citizens. The Compilation of Islamic Law is a collection of these rules that have been compiled with the aim of providing material legal guidelines for judges in the Religious Courts (Helmi, 2016), the Compilation of Islamic Law plays an important role in providing legal certainty and guidance in handling cases related to Islamic law in Indonesia.

   The concept of joint property in the Compilation of Islamic Law is one of the important aspects in Islamic marriage law in Indonesia. The Compilation of Islamic Law regulates joint property in detail in Chapter XIII, articles 85-97. This regulation reflects the adaptation of Islamic law to the needs and realities of Indonesian society. According to the Compilation of Islamic Law, joint property

is defined as property acquired during the marriage, whether the husband or wife works or only one of the parties works.

This concept is different from some classical fiqh (Islamic jurisprudence) views that do not recognize the concept of joint property. The Compilation of Islamic Law acknowledges the existence of joint property without questioning in whose name the property is registered. In the event of a divorce, the Compilation of Islamic Law stipulates that the joint property is divided equally between the husband and wife, as stated in Article 97.

3. The Concept of Joint Property in Classical Fiqh

The issue of joint property between husband and wife is not explicitly found in classical fiqh books. However, its discussion is closely related to the concept of the rights and duties of husband and wife. This issue relates to the husband's responsibility to provide for the family, while the wife is responsible for managing the household. So far, fiqh scholars have not given special attention to the aspect of property in marriage. The property acquired by the husband is entirely under his control, while the wife is only obligated to manage the household, take care of the children, and serve her husband. Although classical fiqh books do not specifically regulate joint property, its benefits for household life can be demonstrated. This is evident from the sense of equality in the rights and obligations between husband and wife, which is later regulated in the Compilation of Islamic Law (KHI).

Al-Sarkhasi stated that the division of household items should be based on the needs of each party. If an item is a necessity for the wife, it belongs to the wife, and similarly for the husband (Ridwan, 2021). Imam Shafi'i opined that if a dispute arises between a husband and wife over household items, either due to divorce or the dissolution of the marriage, both parties are asked to swear an oath. If one party refuses to swear, the items will belong to the party willing to swear. If both parties are willing to swear, then the assets or household items should be divided equally, regardless of whether the items are typically used by men, women, or both.

In principle, Islamic law does not have specific provisions regarding the merging of assets between husband and wife during marriage. As a result, from the perspective of Islamic law, the wealth of the husband and wife is considered separate entities, with each having full rights over their own property (Ridwan, 2021). The absence of discussion regarding joint property in fiqh literature is due to the lack of specific explanations about this concept in both the Quran and Hadith (Mesraini, 2012). Fiqh books primarily focus on discussing wealth or household items within a marriage.

Resolution of Joint Property Disputes from a Justice Perspective

In Arabic, the word "adil" can be translated and understood through several key terms, each with a slightly different nuance of meaning:

a) عدْلَ (Adl), word "Adl" derived from the root word "عدَلَ" which means justice in a broader sense, involving equality, balance, and equal treatment before the law. This is a concept of justice that encompasses various aspects of life, both in legal, moral, and social contexts.

b) قسطْ (Qisṭ) word "Qisṭ" also refers to justice, but places more emphasis on the aspect of fair distribution or equality in giving something. It is often used in the context of providing something according to one's rights, without bias or injustice.

c) مِيزَان (Mizan) word "Mizan" literally means "scale." In the context of justice, "Mīzān" is used as a metaphor for balance or precise measurement. It implies justice in the sense of balancing various factors or elements to achieve a fair and equitable outcome.

Aristotle was the first philosopher to formulate the meaning of justice. Giving something according to its rights is Aristotle's concept of justice (Amin, 2019). Aristotle's view of justice is found in his work Nicomachean Ethics. He believes that justice should be understood in the sense of equality; however, for Aristotle, there is a crucial distinction between numerical equality and proportional equality.

Numerical equality provides that every person is treated as a single unit; for example, all citizens are equal before the law. On the other hand, proportional equality is the kind of equality that gives each person their rights based on their abilities, contributions, and achievements (P, 2018). According to Aristotle, there are two types of justice: distributive justice and corrective justice. Distributive justice applies in the realm of public law, while corrective justice applies in the realm of civil and criminal law (Djojoraharjo, 2019).

The concept of dividing joint property based on contributions in marriage is inherent in Aristotle's theory of distributive justice (justitia distributive), which states: "Justice is giving each person a share based on their merits or contributions." In other words, justice means dividing something proportionally rather than equally. Meanwhile, corrective justice involves compensation for losses aimed at restoring the original state to balance the inequity caused by injustice (Adlhiyati & Achmad, 2023).

Based on the concept of dividing joint property according to contributions and corrective justice, suppose the husband does not actively fulfill his obligations as the breadwinner and is indifferent to household finances. With the concept of distributive justice, in the event of a divorce, the wife is entitled to receive a larger share of the joint property than the husband. The wife could receive 2/3 or 3/4, while the husband would only receive 1/3 or 1/4 because the wife's contributions are greater than the husband's.

This is also reinforced by corrective justice, which imposes penalties on the husband for his negligence. If the husband neglects to provide for the family, or engages in domestic violence, excessive spending, gambling, or drinking, then in the name of corrective justice, his share of the joint property may be reduced as a form of punishment for his negligence.

Legal Arguments in the Resolution of Joint Property Disputes from the Perspective of Justice

In the two decisions, Number 78/K/AK/2021 and Number 298K/AK/2022 issued by the Supreme Court, a significant difference emerged. The ruling in Number 78/K/AK/2021 decided not to divide the joint property 50-50, but rather allocated 70% to the wife and 30% to the husband. This indicates a discrepancy between the court's ruling and the Compilation of Islamic Law in Article 97, resulting in a legal contradiction between the court's decision and the Compilation of Islamic Law. In contrast, in Decision Number 298K/AK/2022, the judge ruled to divide the property equally, 50-50, for both husband and wife, in accordance with Article 97 of the Compilation of Islamic Law (KHI).

In its arguments, the Supreme Court of the Republic of Indonesia also considered the contributions of each party during the marriage. This reflects an understanding that justice does not always mean equality in division, but rather proportionality based on roles and contributions. The Supreme Court acknowledged that contributions to the household are not solely in the form of direct financial input but also encompass non- financial roles such as household management and child-rearing. This acknowledgment became the basis for the Supreme Court to allocate a larger portion to the party deemed to have made a more significant contribution, even if that contribution was not always material.

The Supreme Court also considered socio-economic factors in its arguments. The justices paid attention to the economic conditions of each party post-divorce, particularly their ability to meet living needs and responsibilities toward their

children. In several cases, the Supreme Court decided to grant a larger portion to the party considered more economically vulnerable, such as a wife who did not work outside the home during the marriage and might face difficulties in earning a living after the divorce. This consideration reflects the Supreme Court's efforts to ensure that the decisions made are not only formally just but also have a positive impact on the welfare of the parties involved in the long term.

In the Aristotelian approach to justice, both distributive and corrective justice are relevant. In Decision Number 78/K/AK/2021, the panel of judges decided to allocate joint property with a composition of 70% for the wife and 30% for the husband. This ruling contradicts the provisions of Article 97 of the KHI. Based on this finding, the panel opined that in the interest of upholding justice, the wife (as the plaintiff) deserves a larger share of the joint property. This decision reflects the court's efforts to apply the principle of distributive justice by considering the actual contributions of each party to the accumulation of joint property, rather than merely dividing it equally in a formal sense. This ruling shows that the court, in this case, the Supreme Court, has the flexibility to interpret and apply laws regarding the division of joint property, while still paying attention to the principles of justice and the specific conditions of each case.

In this ruling, it is stated that the wife's contribution to the accumulation of joint property is greater than the husband's. Furthermore, even though the wife has contributed to the accumulation of joint property, she continues to fulfill her duties as a wife, which places her in a situation of "double burden," referring to the scenario where a person must simultaneously bear two main roles or responsibilities. On one hand, women are expected to contribute to the family economy by working professionally, just like men. On the other hand, they are also expected to maintain traditional roles in managing the household, including cooking, cleaning, doing laundry, and taking care of children.

In the corrective justice approach in the Supreme Court Decision No. 78/AG/2021, the panel decided to allocate a larger portion to the wife, specifically 70% of the total joint property, while the husband received 30%. This decision was based on considerations and evidence revealed during the trial. The panel found that the husband did not contribute to the family’s livelihood from his earnings and also neglected his responsibilities to provide support, thus he was punished with a reduction in his share of the joint property.

4. Conclusion

The regulation of joint property law in positive law is governed by the Civil Code, Law No. 1 of 1974 on marriage, and customary law. The Civil Code states that if a marriage ends in divorce, joint property is divided equally between the husband and wife, while distinguishing between joint property, gifts, wills, and inheritance. Law No. 1 of 1974 does not specify the amount of the joint property division but states that the distribution of joint property is regulated according to the respective laws. The term "respective laws" is clarified in the explanation of the article, namely "religious law, customary law, and other laws."

In customary law, the distribution is divided into three forms: the patrilineal system, where descent is determined through the father's line, with men having a more dominant position in inheritance and control of marital property; the matrilineal system, where descent is determined through the mother's line, with women having a more prominent position in inheritance and control of property; and the parental/bilateral system, where descent is determined through both parents without any distinction between men and women in property control and inheritance. Meanwhile, in the Compilation of Islamic Law, it states that a divorced widow or widower is entitled to half of the joint inheritance as long as it is not stipulated otherwise in the marriage agreement.

Joint property from the perspective of justice in this study utilizes Aristotelian justice, specifically distributive justice, which involves proportional distribution based on fair principles. Aristotle emphasizes that the distribution of joint property should consider the contributions or services provided by each individual. Those who contribute more should receive a larger share, while those who contribute less justifiably receive a smaller portion. Corrective justice can also result in different distributions of joint property. The concept of corrective justice plays a crucial role in restoring injustices that occur. If a husband or wife fails to fulfill their roles, corrective justice can reduce the division of joint property. Where the standard division is 50:50, it may be reduced due to negligence.

The Supreme Court's decisions in disputes over the division of joint property are final and binding on the parties involved. Furthermore, these decisions also serve as jurisprudence and references for lower courts in handling similar cases. In the resolution process, the Supreme Court also considers aspects of legal protection, philosophy, and social factors, particularly regarding women's rights, especially for housewives who contribute non-financially.

This approach aims to prevent discrimination and ensure justice for wives in the division of joint property while applying the theory of maslahah as the objective of Islamic law in its rulings. Through its role in resolving disputes over joint property division, the Supreme Court of the Republic of Indonesia strives to guarantee legal certainty and achieve justice for the disputing parties.

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