



LEGAL REVIEW OF THE DIVISION OF JOINT PROPERTY IN MARRIAGE BASED ON THE PERSPECTIVE OF CIVIL LAW

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ABSTRACT

This study examines the legal review of the division of marital property from a civil law perspective. The main focus of this study is to analyze how the concept of marital property is understood and applied in legal practice in Indonesia, and how the balance between legal certainty and substantive justice is realized in the resolution of marital property disputes. The method used in this study is normative juridical with a statutory, conceptual, and case study approach to court decisions related to joint property. The results of the study indicate that the regulation of joint property in marriage cannot be separated from the construction of marriage law, which places husband and wife in equal positions as legal subjects. The concept of joint property in the Indonesian legal system is also pluralistic due to the influence of customary law, Islamic law, and Western civil law, but there is a common ground in the recognition of joint contributions in the formation of assets during marriage. Furthermore, it was found that the division of joint property in judicial practice is not always carried out equally, but rather takes into account the actual contributions of each party, both economic and non-economic. This study also found inconsistencies in decisions in joint property cases due to the lack of standard provisions that regulate in detail the proportion of distribution based on the parties' contributions. This situation creates potential legal uncertainty, while also providing judges with discretion to apply substantive justice based on the facts of the trial. Therefore, harmonization and more operational guidelines are needed for the division of joint assets to ensure consistent court decisions. The conclusion of this study is that the division of joint assets, from a civil law perspective, is the result of the interaction between legal norms, judicial practices, and social dynamics. Therefore, a balance between legal certainty and substantive justice is necessary so that the family law system in Indonesia can provide fair, consistent, and responsive protection to societal developments.

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1. INTRODUCTION

The nature of humans as social beings shows that every individual always needs interaction and relationships with others. Marriage is a form of legal relationship between two individuals that is recognized by law and by society (Nurfitriah, 2023). Marriage also has sacred value and is one of the important events in human life because it is related to the formation of a family (Amiri, 2021). In the Indonesian legal system, Law Number 1 of 1974 concerning Marriage (hereinafter referred to as the Marriage Law) is the legal basis that regulates marriage as a legal event in the civil realm that is closely related to the fulfillment of basic human rights as guaranteed in the 1945 Constitution of the Republic

of Indonesia, specifically Article 5 paragraph (1), Article 20 paragraph (1), and Article 29. These provisions emphasize that marriage is a constitutional right of every citizen.

The Marriage Law defines marriage as a physical and spiritual bond between a man and a woman aimed at establishing a happy and eternal family based on the One Almighty God (Hutabarat, 2022). From this definition, it can be understood that marriage not only has social and spiritual dimensions but also contains a legal dimension that binds the parties. As a legal relationship, marriage gives rise to various legal consequences, including the rights and obligations of husband and wife, the rights and responsibilities towards children, and the regulation of marital property, including joint property. In practice, household life is not always harmonious because differences of opinion and perspective often arise between partners. Various factors can trigger conflict in marriage, such as economic problems, differences in child-rearing patterns, and differences in life principles (Utama, 2023). If these conflicts cannot be resolved amicably, they can lead to the dissolution of the marriage through divorce (Royani, 2021). This divorce then gives rise to further legal consequences, particularly those related to child custody and the division of assets acquired during the marriage, known as joint property. This issue of joint property is often the object of dispute and requires resolution based on applicable legal provisions (Swislyn, 2021).

Marriage in Indonesian society is not only understood as a physical and spiritual bond between a man and a woman, but also as a social and legal institution that has legal consequences for the parties involved (Suryatni, 2021). From a legal perspective, marriage is a legal event that has implications for the civil status of husband and wife, both related to their respective rights and obligations and in the management of assets acquired during the marriage (Suprayogi, 2023). Thus, marriage is not merely a symbol of emotional and spiritual relationships, but also gives rise to a legal relationship that regulates the ownership, control, and distribution of property between husband and wife (Cahyani, 2020). Furthermore, the legal relationship arising from the marriage creates an economic unity between husband and wife, where all forms of income and assets obtained during the marriage are in principle considered joint property, unless otherwise stipulated through a marriage agreement. This concept shows that the law does not only view marriage as a personal relationship, but also as a patrimonial relationship that has implications for the ownership of property (Pasaribu and Hoesein, 2025).

In the context of civil law, the regulation of marital property is crucial because it directly relates to the protection of each party's rights. This is due to the fact that contributions to a household are not always material, but can also include non-material contributions such as household management, childcare, and moral and emotional support. Therefore, the law strives to provide balanced recognition of all forms of these contributions in determining rights to joint property. Furthermore, the dynamics of household life often indicate that the management of joint property is not always harmonious. Differences of opinion, imbalances in economic contributions, and external factors such as social and economic pressures can trigger conflict within the household. This situation can ultimately lead to divorce, which not only severs the marriage but also raises further legal issues related to the division of joint property.

In practice, resolving disputes over joint property is often the most complex aspect of divorce cases. This is due to the difficulty of proving the origin of the assets, the contributions of each party, and the possibility of asset transfer or concealment by one party. This situation demands an active role for the judiciary in rendering decisions that are not only based on legal certainty but also consider aspects of substantive justice. Therefore, the existence of clear and comprehensive legal regulations regarding joint property is crucial to provide legal certainty for the parties. Without such clarity, the potential for disputes will increase, ultimately harming one party who is economically weaker.

In this context, the law plays a crucial role in providing certainty and justice regarding the management of assets acquired during marriage, including the mechanism for their distribution in the event of a marital breakup, whether due to divorce or the death of one of the parties. The concept of joint property, also known as shared property, emerged as a way to regulate the earnings of a husband and wife during their married life (Muhammad, 2022). Essentially, joint property encompasses all assets acquired during the marriage for which individual ownership cannot be explicitly determined, as they are considered the result of joint contributions (Asnawi & SHI, 2022). The concept of joint property is inseparable from the fundamental principle that marriage forms an economic partnership between husband and wife. In this partnership, each party plays a complementary role in building and maintaining family well-being, both through financial and non-financial contributions. Therefore, the law considers that the proceeds obtained during marriage cannot be fully claimed individually without considering the contributions of each party to the household. In practice, determining the status of joint property is often not as simple as the theory suggests. Many cases demonstrate the difficulty in distinguishing between assets brought in, gifts, inheritances, and assets actually acquired during the marriage. This ambiguity often becomes a source of disputes during divorce, especially when there is no record or strong evidence of the origin of the ownership of the assets.

Furthermore, the development of social and economic dynamics in society also influences the complexity of joint property arrangements. For example, women's increased participation in the economic sector has changed the pattern of household contributions, which were previously dominated by husbands. This situation demands a more



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adaptive legal interpretation to ensure the principle of justice in the distribution of joint property. Therefore, the regulation of joint property is not merely normative but also requires a sociological and contextual approach. This is crucial so that the law not only provides certainty but also achieves justice that is in line with the realities of modern society.

The status of joint property is significant because it reflects the principle of equality between husband and wife in contributing to the family economy, both directly in material form and indirectly through domestic roles. However, in practice, issues regarding the division of joint property often give rise to disputes, particularly during divorce, where each party claims rights to the property (Utami & Dalimunthe, 2023). The Indonesian legal system, which adheres to legal pluralism, also influences the regulation of joint property. This legal pluralism is characterized by the concurrent application of several legal systems, namely customary law, Islamic law, and Western civil law, codified in the Civil Code (KUHPerdata) (Disantara, 2021). These three legal systems do not negate each other but rather coexist according to their respective scopes and legal subjects (Lintang, 2025). This condition provides richness in the national legal system, but also poses challenges in terms of harmonization and uniformity of legal application, especially in the field of family law which is closely related to social, cultural, and religious values (Disantara, 2021).

Normatively, the definition of marriage is regulated in Article 1 of Law Number 1 of 1974 concerning Marriage, which states that marriage is a physical and spiritual bond between a man and a woman as husband and wife with the aim of forming a happy and eternal family based on the One Almighty God. This provision shows that marriage has not only a personal dimension, but also a legal dimension that regulates the rights and obligations of the parties, including those related to marital property (Purnomo, 2020). In the practice of household life, it is undeniable that various conflicts can arise, whether caused by economic factors, differences of opinion, or other issues. If these conflicts cannot be resolved, divorce becomes one solution taken by a married couple. Divorce itself is a form of dissolution of marriage that must be carried out through a court decision (*echtscheiding*) (Abror, 2020). The legal consequences of divorce are not only related to the severance of the husband and wife relationship, but also give rise to new problems, especially related to the division of joint property.

In judicial practice, the division of joint assets is not always carried out equally. This can be seen in Decision Number 2802/Pdt.G/2018/PA.Dpk, where the judge decided to divide the joint assets at 30% for the husband and 70% for the wife, considering that the wife has a more dominant contribution to meeting the family's economic needs. This decision demonstrates that judges not only adhere to formal positive legal provisions but also consider aspects of substantive justice in deciding cases. This decision reflects a paradigm shift in judicial practice, from a rigid legalistic approach to a more progressive and responsive approach to the social conditions of the parties (Utami and Dalimunthe, 2023).

In this context, judges have discretion to interpret the law more flexibly to achieve justice that aligns with the facts of the trial. This substantive justice approach is crucial given that not all contributions to a household can be measured mathematically or financially. Non-economic contributions such as childcare, household management, and psychological support often have a significant impact on a family's economic well-being, even though they are not always directly visible in the form of income. Furthermore, the variation in decisions in joint property cases demonstrates the lack of truly uniform standards in judicial practice in Indonesia (Trisnawati and Fathoni, 2022). This can potentially lead to inconsistent decisions, which ultimately impact the level of legal certainty for the parties to the case.

Therefore, clearer and more measurable guidelines are needed for handling joint property disputes, so that judges have a more consistent reference in issuing decisions. This way, a balance between legal certainty and substantive justice can be achieved more optimally. Based on the above description, it can be understood that the regulation and practice of the division of joint property in marriage still face various complexities, both from a normative and implementation perspective. Therefore, a more in-depth study is needed to analyze how the law provides certainty, justice, and benefits in resolving joint property disputes. Therefore, this research is important to conduct a comprehensive review of the legal review of the division of joint property in marriage from a civil law perspective, in order to find an ideal regulatory pattern to realize substantive justice for the parties in the case.

2. RESEARCH METHODS

This research is a normative legal study that focuses on the study of legal norms governing the division of joint property in marriage from a civil law perspective. This normative legal research is conducted by examining various applicable legal provisions and legal concepts related to joint property in marriage, both during and after the marriage is dissolved. The approaches used in this research include a statutory approach, a conceptual approach, and a case approach. The statutory approach is carried out by examining laws and regulations related to marriage and joint property, specifically Law Number 1 of 1974 concerning Marriage and the Civil Code as the legal basis from a civil

law perspective. The conceptual approach is used to analyze legal concepts regarding joint property, marriage, property division, and the principle of justice in civil law. Meanwhile, the case approach is used to examine relevant court decisions, including decisions regarding the division of joint property, to see the application of the law in judicial practice.

The legal materials used in this study consist of primary legal materials, secondary legal materials, and tertiary legal materials. Primary legal materials include laws and court decisions related to the division of joint property in marriage. Secondary legal materials include law books, scientific journals, and previous research results discussing marriage law and joint property. Tertiary legal materials include legal dictionaries and other supporting sources used to clarify the legal terms used in this study. The legal material collection technique was carried out through library research by collecting, reading, identifying, and reviewing various literature relevant to the research object. All legal materials obtained were then analyzed qualitatively using the analytical descriptive method, namely by systematically describing, explaining, and analyzing the legal regulations regarding the division of joint property in marriage.

The analysis of legal materials is carried out by interpreting the applicable legal norms and connecting them with civil law theories and judicial practices, so that a comprehensive picture can be obtained regarding the legal review of the division of joint property in marriage based on the perspective of civil law in Indonesia.

3. RESULTS AND DISCUSSION

The study's findings indicate that the regulation of joint property is inextricably linked to the legal structure of marriage, which places husband and wife in equal positions as legal subjects. This equality is reflected in the principle that all property acquired during a marriage essentially becomes joint property, unless otherwise stipulated through a prenuptial agreement. This provision aligns with the character of marriage as a physical and spiritual bond that is not only personal but also has legal implications for the family's economic aspects (Hutabarat, 2022). From a legal perspective, the rules regarding joint property not only regulate the emotional aspects of the marital relationship but also regulate the equitable distribution of wealth between husband and wife as a legal consequence of the marriage itself. The national legal system imposes legal consequences on property acquired during a marriage and places it as joint property that must be divided fairly upon dissolution (Handayani and Putra, 2025). Normative research also indicates that the regulation of joint property in Indonesian law is the result of a construction of various applicable legal provisions, including the provisions of the Civil Code and the Marriage Law, which simultaneously provide a conception of joint property and its distribution (Ridwan et al., 2023). Legal pluralism, comprising customary law, Islamic law, and Western civil law, creates variations in understandings of community property. However, all three traditions share a common ground in recognizing that property acquired during marriage is the result of joint contributions from both husband and wife (Disantara, 2021). This demonstrates that community property regulations are dynamic and influenced by prevailing social and cultural values within Indonesian society (Lintang, 2025).

Furthermore, the study's findings indicate that the existence of joint property is closely related to the concept of the family as an economic unit. Within this unit, husband and wife complement each other's roles in meeting household needs, both through direct contributions in the form of income and indirect contributions through domestic management. This aligns with the view that marriage not only forms a personal relationship but also a patrimonial relationship that regulates collective ownership of wealth (Pasaribu and Hoesein, 2025). Therefore, the division of joint property cannot be separated from an analysis of the roles of each party in building the family economy. The study also found that the social dynamics of modern society influence changes in contribution patterns within marriage. The increased participation of women in the public and economic sectors has led to a shift in traditional roles within the household. This has resulted in an increasingly diverse range of contributions from each partner in marriage. In this context, the law is required to adapt to social realities to remain relevant and provide proportional justice (Utama, 2023).

Furthermore, the study's findings indicate that divorce, as the end of a marriage, has direct implications for the division of joint property. Divorce not only ends the marital relationship but also has legal consequences in the form of the division of assets acquired during the marriage (Royani, 2021). In many cases, the division of joint property is the most complex aspect because it involves proving the origin of the assets and the contributions of each party during the marriage. The study also revealed that in judicial practice, judges often face difficulties in determining the exact portion of each party's contribution. This is because not all contributions can be measured quantitatively, particularly non-economic contributions such as childcare and household management. This situation requires judges to use more flexible and contextual considerations in issuing decisions (Utami and Dalimunthe, 2023). This approach demonstrates that the law is oriented not only toward certainty but also toward substantive justice.

The study also shows that differing interpretations of joint property in judicial practice can lead to varying decisions. This variation occurs because there is no standard that specifically regulates the proportion of joint property distribution based on each party's contribution. This situation has the potential to create legal uncertainty in resolving



joint property disputes (Trisnawati and Fathoni, 2022). Therefore, harmonization in the application of the law is needed to create consistent decisions within the judiciary. Furthermore, the study shows that civil law provides room for judges to interpret existing norms through a case-by-case approach. This approach allows judges to consider empirical facts in determining the division of joint property. In this context, law is understood not only as a written rule but also as an instrument that lives within society and evolves according to the needs of justice. Thus, the division of joint property from a civil law perspective is the result of the interaction between legal norms, judicial practice, and the social realities that develop within society.

In a marriage, a husband and wife can essentially own joint assets acquired during the marriage. From a civil law perspective, the regulation of joint assets in Indonesia is essentially rooted in the provisions of the Civil Code (KUHPerdata), which remains one of the main legal bases for regulating civil relations, including the relationship of assets within a marriage (Cahyani, 2020). In addition, these regulations are also influenced by Law Number 1 of 1974 concerning Marriage and its implementing regulations. The Civil Code, specifically Articles 119 to 138, stipulates that upon marriage, assets automatically merge between husband and wife, unless a prenuptial agreement has been made that stipulates otherwise (Puspytasari, 2020). This provision demonstrates that in the civil law system, marriage is not only viewed as a personal relationship but also has legal consequences for the assets of the parties. Thus, in principle, all assets owned before and during the marriage will become a single unit of joint assets (union assets).

Furthermore, the Civil Code also stipulates that not all assets automatically become joint property. Assets obtained through gifts or inheritance can essentially be excluded from joint property, unless the donor or testator explicitly stipulates that the assets are included in joint property (Yusup, 2022). This demonstrates that civil law provides certain exceptions to the concept of mixing assets, primarily to protect private ownership derived from special acquisitions. Along with legal developments in Indonesia, regulations regarding joint property have also been strengthened in the Marriage Law, specifically Articles 35 to 37. Article 35 emphasizes that assets acquired during marriage constitute joint property, while assets brought before marriage remain the property of each party. Meanwhile, Article 37 stipulates that in the event of divorce, the division of joint property is carried out based on applicable law or an agreement between the parties, taking into account the principle of justice (Erwinsyahbana and Syahbana, 2022).

Compared to the Civil Code, there is a shift in the provisions in the Marriage Law, namely the affirmation that assets brought in and assets acquired before marriage remain personal property, while assets acquired during the marriage become joint property. Nevertheless, the basic principle of commingling assets in civil law remains the main basis for understanding the concept of joint property, especially in the absence of a prenuptial agreement. Thus, from a civil law perspective, the division of joint property is essentially based on the principle of commingling assets that occurs since the marriage took place, with certain exceptions stipulated in the prenuptial agreement or statutory provisions. Therefore, the regulation of joint property not only emphasizes the aspect of legal certainty, but also provides space for protection of the rights of each party in the marriage in accordance with the principle of justice in civil law.

The division of joint property from a civil law perspective demonstrates a shift in understanding from a rigid normative approach to one that is more responsive to substantive justice. The Civil Code provides a framework that assets acquired during marriage are considered a single unit of joint property. In practice, this framework does not always adequately address the complexities of actual contributions to marital life. Broadly speaking, the concept of joint property is understood not only as an administrative arrangement for assets but also as a manifestation of the legal relationship arising from marriage. Marriage, in this context, is viewed not only as a social and emotional bond but also as a legal event that impacts the property ownership status of husband and wife. This demonstrates that the law positions marriage as an institution with an economic dimension that is inseparable from domestic life (Suprayogi, 2023).

Furthermore, marriage, as a physical and spiritual bond between a man and a woman aimed at forming a happy and eternal family based on the One Almighty God, demonstrates that this relationship has comprehensive legal consequences, including in the management of property (Hutabarat, 2022). Therefore, joint property cannot be separated from the purpose of marriage itself, namely building a harmonious and economically and socially sustainable family life. The regulation of joint property in civil law is also inseparable from the context of legal pluralism prevailing in Indonesia. The coexistence of customary law, Islamic law, and Western civil law indicates that the meaning of joint property can differ between legal systems. However, all three remain similar in recognizing the shared contribution to the formation of property during marriage (Disantara, 2021). This condition indicates that the concept of joint property is the result of the integration of legal values that have developed in Indonesian society.

In this context, social and cultural developments have also influenced changes in the pattern of husband-wife relationships within the household. The dynamics of modern society indicate a shift in roles, where women no longer play a role solely in the domestic sphere but are also active in public economic activities. This change has resulted in

an increasingly diverse range of contributions within marriage, both material and non-material (Utama, 2023). Therefore, the assessment of joint property cannot be based solely on financial contributions. The concept of joint property is also closely related to the view that marriage forms an economic union between husband and wife. Within this union, any income earned during the marriage is, in principle, considered the result of joint efforts, although the contributions of each party may vary in form and intensity (Pasaribu and Hoesein, 2025). This view reinforces the position that joint property represents a form of legal recognition of economic cooperation within the household.

However, in practice, determining the status of joint property is often not simple. Difficulty distinguishing between assets brought in, gifts, inheritances, and assets actually acquired during the marriage is a major issue in joint property disputes. This ambiguity often leads to conflict during divorce, especially when there is no strong evidence regarding the origin of the property's ownership (Swislyn, 2021). This demonstrates that the evidentiary aspect is a crucial factor in resolving joint property disputes. Furthermore, divorce, as the termination of a marital relationship, not only impacts personal aspects but also has legal consequences for the division of joint property. Divorce often becomes a point of contention as each party claims rights to assets acquired during the marriage (Royani, 2021). In such circumstances, the court plays a crucial role in determining a fair distribution based on the facts revealed in court.

In judicial practice, the division of joint property is not always carried out equally, but rather takes into account each party's contribution to the household. Judges in this case not only adhere to normative provisions but also consider aspects of substantive justice arising from the facts of the trial. This demonstrates that the law is not only textual but also contextual in its application (Utami and Dalimunthe, 2023). However, the variation in decisions in joint property cases indicates that there is no truly uniform standard in judicial practice in Indonesia. Differences in interpretation of each party's contribution and the absence of standard guidelines lead to potential inconsistencies in decisions (Trisnawati and Fathoni, 2022). This situation can ultimately affect the level of legal certainty for the parties in the case.

The division of joint property in civil law reflects the interaction between legal norms, social realities, and values of justice in society. The regulation of joint property serves not only as a normative rule but also as an instrument for achieving a balance between legal certainty and substantive justice in family life. Therefore, a more comprehensive understanding is needed so that the application of the law can be more responsive to the evolving social dynamics in Indonesian society. Law Number 1 of 1974 concerning Marriage strengthens the position of joint property as a legal consequence of a valid marriage. This provision provides the basis that the marital relationship creates an economic bond between husband and wife. In its implementation, this provision does not stand alone, as it is influenced by judicial practices and increasingly complex social developments.

From a marital law perspective, the physical and spiritual bond between a man and a woman is not only interpreted as a personal relationship, but also as a legal relationship that has consequences for the management of household assets. Marriage aims to form a happy and eternal family based on the One Almighty God, so that all aspects of life together, including economic aspects, are seen as an integral part of that goal (Hutabarat, 2022). Therefore, joint property is a logical consequence of the formation of a family unit in marriage. Marriage as a legal institution has not only social and spiritual dimensions, but also a juridical dimension that binds the parties within it. The legal status of husband and wife in marriage carries consequences for the rights and obligations of each party, including in the management of assets acquired during the marriage (Suprayogi, 2023). Therefore, joint property cannot be separated from the construction of the legal relationship that arises from the marriage itself.

In a broader context, the regulation of joint property is also inseparable from Indonesia's pluralistic legal system. The coexistence of customary law, Islamic law, and Western civil law creates variations in the understanding and application of the concept of joint property. However, all three legal systems share a common principle: recognizing the joint contribution of husband and wife to the formation of marital property (Disantara, 2021). This demonstrates that the regulation of joint property is a synthesis of prevailing legal values within society. Furthermore, developments in modern society have influenced the dynamics of role division within the household. Changes in social structure have resulted in the waning of the rigid division of roles between the husband as the primary breadwinner and the wife as the household manager. Today, many families exhibit more flexible contribution patterns, with both parties playing equal roles in both the economic and domestic sectors (Utama, 2023). This change demands a more adaptive legal approach to assessing contributions in the distribution of joint property.

Differences in economic contributions within a household are one factor influencing variations in judges' decisions. In many cases, one party plays a more dominant role in earning income, while the other contributes to domestic matters. Domestic contributions such as childcare, household management, and emotional support are crucial for maintaining family stability, although they cannot always be measured financially. Therefore, assessing these contributions requires a more comprehensive approach and is not solely mathematical. Furthermore, the concept of joint property from a civil law perspective is also related to the view that marriage forms an economic union between husband and wife. Within this economic union, all proceeds obtained during the marriage are, in principle, considered



joint ventures, unless proven otherwise by applicable legal provisions (Pasaribu and Hoesein, 2025). This emphasizes that the division of joint property is not only based on formal ownership but also on contributions to building the family economy.

In judicial practice, Decision Number 2802/Pdt.G/2018/PA.Dpk demonstrates the application of a substantive justice approach in resolving joint property disputes. The division is not carried out mathematically, but rather based on consideration of actual contributions to meeting family needs. In this decision, the judge determined that one party had a more dominant economic contribution, thus influencing the proportion of joint property distribution. This approach demonstrates that judges are not only bound by formal principles but also consider aspects of justice based on the facts of the trial (Utami and Dalimunthe, 2023).

Furthermore, this ruling can be understood as an application of the ratio decidendi, which relies on proving the parties' actual contributions during the marriage. The judge not only examines the formal ownership of assets but also assesses how those assets were formed through the process of economic cooperation within the household. Proof of each party's contribution is a crucial element in determining the proportion of the division, whether through income proof, witnesses, or facts of the household revealed in court. Thus, this ruling demonstrates that the division of joint assets is not automatically equal, but rather contextual and based on concrete evidence (Suprayogi, 2023).

Furthermore, the ruling reflects the evolving paradigm of family law, which increasingly accommodates the concept of contribution-based justice. In this paradigm, justice is measured not only by formal equality (50:50), but also by the extent to which each party contributes to building the family economy. This contribution encompasses not only financial aspects but also non-material contributions such as household management, childcare, and emotional support that enable the other party to work optimally in the public sector. This view aligns with the development of modern family law thinking, which positions domestic roles as indirect economic contributions (Utama, 2023). Judicial discretion in joint property cases is a crucial aspect of the Indonesian civil law system. This discretion empowers judges to interpret the law according to the concrete circumstances of the trial. In the context of Decision Number 2802/Pdt.G/2018/PA.Dpk, judicial discretion is evident in the ability to assess the weight of each party's contribution qualitatively, not just quantitatively. This aligns with the character of civil law, which is not only normative but also allows for sociological considerations in its application. However, the use of overly broad discretion can lead to differences in decisions between cases with similar characteristics (Trisnawati and Fathoni, 2022).

From a legal perspective, the judge's considerations in this decision also demonstrate an effort to maintain a balance between legal certainty and substantive justice. Legal certainty is reflected in the recognition that assets acquired during marriage are jointly acquired, while substantive justice is reflected in the flexibility of division based on actual contributions. This approach demonstrates that the judge sought to avoid rigidly applying norms that could potentially lead to injustice in the context of households with varying characteristics. However, the application of a contribution-based approach in this decision also presents its own challenges, particularly in standardizing contribution assessments. The lack of standardized measures for calculating the extent of economic and non-economic contributions leads to potential subjectivity in the judge's assessment. This situation can lead to disparities in decisions in jointly acquired property cases, as has been found in several contemporary family law studies (Hutabarat, 2022).

Therefore, Decision Number 2802/Pdt.G/2018/PA.Dpk can be positioned as a significant example in the development of community property jurisprudence in Indonesia, demonstrating a shift from a normative approach to a contextual one. This decision also confirms the courts' strategic role in filling the gap in norms regarding the proportional distribution of community property based on the parties' contributions. In the long term, this practice can serve as a basis for establishing clearer guidelines to ensure consistency in future decisions.

Inconsistent rulings have the potential to reduce legal certainty for the parties in a dispute. This situation arises from the lack of a standard that specifically regulates the proportion of joint property distribution based on each party's contribution. Several studies have shown that variations in rulings in joint property cases indicate differences in judges' interpretations of the concept of justice in the domestic context (Trisnawati and Fathoni, 2022). Therefore, more operational guidelines are needed to ensure uniformity in the application of the law. Furthermore, inconsistent rulings are also influenced by the lack of uniform parameters used by judges to assess the parties' contributions. Research shows that in practice, the wife's economic contribution to the division of joint property is often an important factor considered by judges, especially when there is a significant difference in economic income during the marriage (Faizal, 2025). Meanwhile, domestic contributions often lack a definitive legal measure, so their assessment depends heavily on the judge's belief in interpreting the facts of the trial (Nugroho, 2021). This leads to differing approaches to determining the proportion of joint property distribution, even when the cases examined have similar characteristics.

On the other hand, the complexity of proving in joint property cases contributes to the variation in decisions. Proof of the origin of assets, sources of income, and contributions of each party to the household is often not formally documented. This situation forces judges to rely on indirect evidence such as witness testimony and legal suspicion.

In this context, research shows that judges tend to use a case-by-case approach in assessing contributions, ultimately leading to differences in decisions (Sari and Wahyuni, 2022). These differing interpretations are essentially a consequence of the nature of family law, which is closely intertwined with the social and emotional aspects of society. Law functions not only as a normative rule but also as a means to respond to the highly diverse dynamics of family life. Comparative studies also show differences in approaches between positive law and Islamic law in viewing the division of joint property, particularly in assessing the basis for justice and the contributions of each party (Harimurti, 2021). This demonstrates that family law in Indonesia is developing in a pluralistic and interpretative manner.

From a civil law perspective, a balance between legal certainty and substantive justice is the primary goal in resolving joint property disputes. Legal certainty provides predictability for the parties, while substantive justice allows judges to consider the factual circumstances of the household. These two principles cannot be separated but must be placed proportionally to optimally achieve legal objectives (Harahap, 2021). Furthermore, this balance also requires strengthening legal instruments that can serve as guidelines for judges in deciding joint property cases. Several studies have stated that differences in decisions also arise due to the lack of uniform technical guidelines for assessing the measurable contributions of each party (Kusuma, 2022). Therefore, the development of more operational judicial guidelines is necessary to ensure that judges' discretion remains within a measurable framework.

Furthermore, developments in modern family law also show a tendency to recognize non-financial contributions as an equal share in the formation of joint property. Contemporary family law research confirms that domestic work, childcare, and emotional support are forms of indirect economic contributions that must be legally recognized (Pratama, 2023). This aligns with findings in recent legal studies that indicate that the distribution of joint property after divorce depends not only on financial contributions but also on non-material contributions that have socio-economic value (Fiqannawati & Yustikarini, 2024). Therefore, the division of joint property in marriage cannot be understood solely through a normative approach. An approach that accommodates social realities, real contributions, and the principles of justice that exist in society is needed. This aligns with developments in family law that increasingly emphasize the importance of the social context in the application of legal norms, so that the law not only provides certainty but also delivers more substantive justice in practice. The division of joint property in marriage, from a civil law perspective, is complex and multidimensional, as it relies not only on normative provisions but is also influenced by judicial practices, social dynamics, and the evolving construction of substantive justice within society. Therefore, strengthening more operational and standardized legal guidelines is necessary to provide legal certainty for the parties, without neglecting the principle of justice, which considers the real contributions of each husband and wife to marital life. Therefore, harmonizing legal certainty and substantive justice is key to realizing a more consistent, responsive, and equitable system for the distribution of joint property in Indonesian family law practice.

4. CONCLUSION

Based on the results and discussion of the legal review of the division of joint property in marriage from a civil law perspective, it can be concluded that the regulation of joint property in marriage is a legal consequence of the formation of a legal marriage bond, which places husband and wife in an equal position as legal subjects. This equality is the basis that all assets acquired during the marriage are in principle joint property, unless there is a marriage agreement that stipulates otherwise. Furthermore, the concept of joint property in Indonesian law is pluralistic because it is influenced by customary law, Islamic law, and Western civil law that operate side by side. Although there are differences in the normative approaches of each legal system, all three share a common principle, namely the recognition of the joint contribution of husband and wife in the formation of property during marriage. This shows that the regulation of joint property is the result of the integration of legal values that exist in Indonesian society.

The study also shows that the division of joint assets is not merely normative but is also heavily influenced by social realities and the dynamics of roles within the household. Changes in social structures, particularly the increased participation of women in the public sector, have shifted the pattern of contributions within marriage, moving beyond traditional ones. Therefore, contributions to the household cannot be measured solely in financial terms but also encompass non-economic contributions such as childcare, household management, and emotional support. Furthermore, divorce, as the end of a marriage, has direct implications for the division of joint assets, which often give rise to legal disputes. The complexity of this division arises from the difficulty of proving the origin of the assets and objectively determining each party's contribution. In judicial practice, this requires judges to use a more flexible and contextual approach in assessing joint assets.

In judicial practice, it has been found that there is no uniform standard for determining the proportion of joint property distribution, resulting in varying decisions between cases with similar characteristics. This situation has the potential to reduce legal certainty for the parties in the case, although on the other hand, it provides room for judges to apply substantive justice based on the facts of the trial. Furthermore, judges in deciding joint property cases tend to use a case-by-case approach, considering the actual contributions of each party, both economic and non-economic.



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This approach demonstrates that the law is not only oriented towards formal legal certainty, but also towards substantive justice that is more responsive to the concrete conditions within the household.

Court decisions in joint property cases also demonstrate a paradigm shift from mathematical division to contribution-based justice. In this paradigm, justice is no longer understood as a consistently equal distribution, but rather as a division that takes into account the actual roles and contributions of each party during the marriage. Therefore, it can be concluded that the division of joint property from a civil law perspective is the result of an interaction between legal norms, judicial practices, and social realities. This interaction demonstrates that family law is dynamic and continues to evolve in response to social changes in society.

Finally, it can be emphasized that there is a need for strengthened, more operational and standardized legal guidelines for the distribution of joint assets, in order to provide legal certainty without neglecting the principle of substantive justice. Harmonizing legal certainty and substantive justice is key to creating a more consistent, equitable, and responsive system for the distribution of joint assets to the developments of modern society.

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