

# Method of Sharing Marriage Properties in the Religious Court, Palu

Moh. Thariq Godal<sup>1\*</sup>, Syarif Hasyim<sup>2</sup>, Musyahidah Musyahidah<sup>3</sup>

<sup>1</sup> Islamic Family Law Department, Postgraduate, Institut Agama Islam Negeri Palu

<sup>2</sup> Islamic Family Law Department, Postgraduate, Institut Agama Islam Negeri Palu

<sup>3</sup> Islamic Family Law Department, Postgraduate, Institut Agama Islam Negeri Palu

---

## ABSTRACT

The aim of this paper is to discuss Marriage properties method sharing in the Religious Court of Palu City. This study uses qualitative methods and data was gathered through observation, in-depth interviews, and written material. Data analysis was analyzed using grounded theory approach. The results of this study indicate that terminating the distribution of marital assets is sufficient to provide justice for the plaintiffs and defendants. Joint assets are divided in half for each party if under normal conditions, namely the husband provides support for the family and the wife takes care of the household. The division of joint assets based on contributions in marriage is one of the considerations by the judge in deciding joint property cases. This means that the sharing of joint assets does not refer to Article 97 of the Compilation of Islamic Law, namely that joint assets are divided in two for each party, but divided by 2/3 for the wife and 1/3 for the husband in certain cases (casuistik). Judges in the decision on the distribution of joint assets are still based on legal principles and norms

---

## ARTICLE INFORMATION

---

### Keywords:

Marriage properties,  
sharing, religious  
court, Palu

## 1. Introduction

In the tradition of marriage in Indonesia there is what is known as joint property or so-called *harta gono-gini*. Joint property is the assets that are utilized together.<sup>1</sup> The joint assets can be in the form of tangible or intangible objects. Tangible collective assets can be in the form of movable objects, immovable objects and securities. Meanwhile, intangible joint assets can be in the form of rights and obligations.<sup>2</sup>

Furthermore, in Islamic law, both in the Qur'an and in the Hadith, there is no discussion about shared assets, but in the books of fiqh there is a discussion which can be interpreted as a discussion of shared assets, which is called *syirkah*.<sup>3</sup>

In the case of the assets of both parties and the assets obtained as gifts or inheritance are under their respective control, as long as the parties do not determine otherwise. Husband and wife have the full right to take legal actions on their respective assets, whether it is a gift, almsgiving, or other.<sup>4</sup>

Assets are not included in the classification of *gono gini* assets. Husband and wife have the right to use their respective assets, and can also take legal actions against them. The basis is the Marriage Law, Article 36 paragraph 2, "Regarding the assets of each other, the husband or wife has the full right to take legal actions regarding their property". The same thing is also stated in KHI article 87, paragraph 2, "Husband and wife have the full right to take legal actions on their respective assets in the form of grants, gifts, alms, or others". This means that under this provision, the assets that are owned privately by each partner cannot be changed by the other partner.<sup>5</sup>

Congenital assets can become *gono-gini* assets if the prospective bride and groom determine this in the marriage agreement they make. Or in other words, the marriage agreement that they agree on determines the existence of a mixture of congenital and *gono-gini* assets.

In the Qur'an and Hadith, there is no detailed discussion of joint property in marriage, but Islamic law recognizes the existence of *syirkah*.<sup>6</sup> Assets generated by husband and wife who work together are also seen as *syirkah* assets between husband and wife. Meanwhile, the definition of joint assets according to Article 35 paragraph (1) of Marriage Law No. 1 of 1974 is "Property acquired during marriage becomes joint property". Even though Islamic law does

---

<sup>1</sup> Departemen Pendidikan Nasional, *Kamus Besar Bahasa Indonesia*, 1<sup>st</sup> edition (Jakarta: PT. Gramedia Pustaka Utama; 2008), 512.

<sup>2</sup> Direktorat Jendral Pembinaan Agama Islam, *Kompilasi Hukum Islam* (Jakarta: Departemen Agama R.I, 2000), Article 91 paragraph 1-3, 47.

<sup>3</sup> Muslih, I., Nurdin, N., & Marzuki, M. (2020). Effectiveness of Marriage Services Through Information System Management (SIMKAH) at Palu City Religious Court *INTERNATIONAL JOURNAL OF CONTEMPORARY ISLAMIC LAW AND SOCIETY*, 2(1), 20-36.

<sup>4</sup> Tihami dan Sohari Sahrani, *Fikih Munakahat: Kajian Fikih Nikah Lengkap*, 1<sup>st</sup> edition, (Jakarta: Rajawali Pers; 2009), 178.

---

<sup>5</sup> Hasbullah Bakry, *Pedoman Islam Di Indonesia*, (Jakarta: UI Press, 1988), 186-187.

<sup>6</sup> Fadhli Bahri, *Ensiklopedi Muslim*, 4<sup>th</sup> Edition. (Jakarta: Darul Falah, 2002), 516.

not recognize the existence of joint assets in marriage, this does not mean that the Religious Court is not authorized to settle the distribution of joint assets, as stipulated in Marriage Law No.1 of 1974, Chapter VII Article 35 paragraphs (1), 36 and 37, as well as in the Compilation of Islamic Law (KHI) Chapter XIII Articles 85, 88, 89, 91 and 97, then the problem of sharing joint assets can be resolved at the Religious Court.<sup>7</sup>

In modern times, there are also many husbands who neglect their obligations, especially in terms of fulfilling their family livelihoods. Therefore, the reality is that there are many wives who take part in fulfilling the family's livelihood. This is of course irrelevant to what is contained in the existing marriage law, which is the obligation of a husband to his family.<sup>8</sup>

Along with the times, the view of society has also changed towards the role and position of women in society. Women are no longer considered to be taboo to play a role in society either as part-time worker or leader. So, now there are many women who have careers, both in government and in the private sector, some even have careers in the military and police just like men. Modern life

does not provide an opportunity to restrict women's movements.<sup>9</sup>

The role of women who help their husbands in supporting the family economy is important. If there is a divorce between husband and wife,<sup>10</sup> in the distribution of assets, all assets obtained in a marriage, whether produced by the husband or wife, are joint assets.<sup>11</sup>

In the case of the settlement of joint property, it can be submitted to the Religious Court to be finalized by the panel of judges by going through the existing trial process. In completing a case, of course, the panel of judges has the basis for legal considerations to try joint property cases.

For example, there were two joint property cases that took place at the Palu Religious Court. In the joint property case number 270/Pdt.G/2016/PA.Pal, the parties in the case succeeded in pursuing a peaceful path by entering into several agreements agreed upon by both parties, assisted by a mediating judge. Then, the panel of judges punished both parties for obeying the contents of the peace agreement that is agreed upon.<sup>12</sup>

And in the case number 318/Pdt.G/2017/PA.Pal, this case failed

---

<sup>7</sup> Sukaenah, S., Rusli, R., & B, M. T. (2020). The Effectiveness of Indonesia Supreme Court Regulation Number 1 Year 2016 Concerning Mediation of Marriage Disputes *INTERNATIONAL JOURNAL OF CONTEMPORARY ISLAMIC LAW AND SOCIETY*, 2(1), 63-80.

<sup>8</sup> Amir Syarifuddin, *Hukum Perkawinan Islam di Indonesia* (Jakarta: Prenada Media, 2007), 160.

---

<sup>9</sup> Huzaemah Tahido Yanggo, *Fiqh Perempuan Kontemporer*, 1<sup>st</sup> edition (Jakarta: Ghalia Indonesia 2010), 62.

<sup>10</sup> For more study on talaq, see Rusli Rusli, "Hermeneutical Reading of Ṭalāq," *HUNAFA: Jurnal Studia Islamika* 12, no. 2 (2016): 209-229.

<sup>11</sup> Pusat Bahasa, *Kamus Besar Bahasa Indonesia*, 4<sup>th</sup> edition (Jakarta: PT. Gramedia Pustaka Utama, 2008), 485.

<sup>12</sup> Pengadilan Agama Palu, PUTUSAN Nomor 270/Pdt.G/2016/PA.Pal.

to take a peaceful path; so it had to continue in the trial process until this decision was issued by the Palu Religious Court. In the contents of the verdict of the case, there is a counterclaim (reconvention) from the defendant to the plaintiff, so that the position of the defendant in the convention also becomes the plaintiff for the reconvention. And vice versa, the plaintiff in the convention becomes the defendant in the convention. The legal basis and considerations made by the judge can be seen in the above description.

## 2. Literature Review

### 2.1 Joint Assets According to Islamic Law

In the Qur'an and Hadith, there is no discussion of shared assets, but in the books of fiqh there is a discussion which can be interpreted as a discussion of shared assets, which is called *syirkah* or *syarikah*. *Syirkah* means the association of two or more things, such as a partnership of property rights or a business union.<sup>13</sup> Meanwhile, in the terminology of Islamic law, scholars of Islamic law have different opinions regarding the meaning of *shirkah*. Sayyid Sabiq said *syirkah* is a contract between people who unite in capital and profit.<sup>14</sup>

In general, *syirkah* is divided into *syirkah amlak* and *syirkah 'uqud*. The

former means joint ownership and its existence occurs when two or more people accidentally acquire joint ownership of an asset without making a formal partnership agreement. For example, two people who receive an inheritance or property, whether or not it can be divided.<sup>15</sup>

Meanwhile, *syirkah al-'uqud* can be considered as a true partnership, because the parties concerned voluntarily want to make a joint investment agreement and share the benefits and risks. The agreement in question does not need to be a formal and written agreement. The agreement can be informal and verbal.<sup>16</sup>

The shared assets fall into the category of *shirkat al-'uqud*. In Islam itself, there are no specific rules on how to divide *gono-gini* property. Islam only provides general signs in solving common problems. The distribution of *gono-gini* property depends on the agreement of the husband and wife. This agreement in the Qur'an is referred to as *al-sulh*, which is an agreement to make peace between the two parties (husband and wife) after they disagree.<sup>17</sup>

*Al-Sulh* is a contract to resolve an argument or dispute into peace. This term is discussed by *fiqh* scholars in matters of transaction or contract, marriage, war and rebellion. For

---

<sup>13</sup> Ghufroon A. Mas'adi, *Fiqh Muamalah Kontekstual*, (Jakarta: PT. Raja Grafindo Persada, 2002), 191.

<sup>14</sup> Sayyid Sabiq, *Fiqh Sunnah*, vol. 4, (Jakarta: Pena Pundi Aksara, 2006), 317.

---

<sup>15</sup> Sayyid Sabiq, *Fiqh Sunnah*, vol 4, 317-318.

<sup>16</sup> *Ibid*, 319.

<sup>17</sup> *Definisi Ash-Shulhu*, (online), <http://alawiyah18.blogspot.com/2011/04/as-h-shulhu-perdamaian.html>, Accessed on 26 November 2017.

example, a wife can no longer stand the treatment and rude attitude of her husband, then the wife asks *khulu'* with her willingness to return the dowry she received first. So, if the husband is willing to receive *khulu'* that his wife asks for, it means that they have done *al-sulh*. Peace like the example above is allowed and even encouraged in Islam.<sup>18</sup>

## 2.2 The Scope of Joint Properties

According to Marriage Law, Article 35 paragraph (1), joint property includes assets acquired by husband and wife throughout the marriage. Assets acquired before marriage and after divorce are each other's personal assets. Gifts, grants, wills and inheritance become personal property unless the parties wish to include them in joint property.<sup>19</sup>

Then, to clarify the status of assets ownership in marriage, including joint assets or personal assets, Yahya Harangkap has stated about the scope of joint assets acquired during marriage:<sup>20</sup>

### 1. Properties purchased during marriage

The first standard to determine whether an item is a joint property object or not, is determined at the time of purchase. Every property purchased during the marriage becomes the joint property of the husband and wife regardless of who buys it. The important thing is that the property purchased

during the marriage period automatically becomes the object of joint property by law.

It is different if the money used to buy these items comes from the personal property of the husband or wife. If the money for the purchase of these items comes purely from personal assets, the items purchased are not included in the object of joint assets. Such assets remain the private property of husband and wife.

### 2. Property purchased and built after a divorce that is financed from joint assets

The standard for determining property that is included in joint property, is determined by the origin of the money to purchase the goods or to build something, even though they were purchased or built after the divorce took place. For example, a husband and wife during the marriage have assets and savings, and then divorce occurs, husband's assets and savings are controlled by the husband, and have not yet been distributed. From the husband's savings, he buys or builds a house after a divorce occurs; if the purchase money or construction costs come from joint assets, it is still included in the object of joint assets.

### 3. Property that can be proven and obtained during marriage

All assets acquired during marriage automatically become joint assets. However, we realize that in disputes over joint property matters, it is not that simple. In general, in every joint property case, the accused party always argues

---

<sup>18</sup> "As-Sulh", Ensiklopedi Hukum Islam, 1<sup>st</sup> edition, vol 5 (Jakarta: PT. Ichtiar Baru van Hoeve, 1996), 1653.

<sup>19</sup> Marriage Law Number 1 Year 1974.

<sup>20</sup> Yahya Harahap, *Kedudukan Kewenangan Dan Acara Peradilan Agama* (Jakarta: Sinar Grafika, 2003), 275-278.

that the property being sued is not joint property, but personal property. Ownership rights of the defendant can be transferred based on the right to purchase, inheritance or grant. If the defendant submits such an argument, the standard for determining whether an item is joint property or not, is determined by the ability and success of the plaintiff to prove that the property being sued was actually acquired during the marriage and the purchase money did not come from personal money.

#### 4. Income from joint assets and personal assets

Income that grows or comes from joint assets will become joint assets. However, not only what comes from joint property which falls into the object of joint property between husband and wife, but also income that grows from the private property of husband and wife will fall into the object of joint property. Thus, the function of private property in marriage can support and improve family welfare. Even though the rights and ownership of private property are absolutely under the control of the owner, private property cannot be separated from its function and the interests of the family.

The basic goods are not inviolable, but the results that grow from them fall into objects of common property. This provision applies as long as the husband and wife do not specify otherwise in the marriage agreement. If the marriage agreement does not regulate the results arising from personal assets, all those obtained from the private assets of the

husband and wife fall into joint assets. For example, a house purchased from personal property does not fall into personal property, but falls into collective property. Therefore, it is necessary to distinguish between assets purchased from the sale of personal assets and those obtained from from personal assets.

#### 5. All personal income from husband and wife

All income of husband or wife, whether obtained from profits through their respective trades or from being employee, is included into the joint assets of the husband and wife. As long as there is no separation of husband or wife's income, it is automatically merged into joint assets. This combination of husband and wife's personal income occurs for the sake of law, if the husband or wife does not specify otherwise in the marriage agreement.

### 2.3 The Boundaries of Joint Property

Personal assets are controlled by their respective owners, namely husband or wife. The Marriage Law Article 36 paragraph 2 states. "Regarding the assets of each, the husband or wife has the full right to take legal actions regarding their property". The purpose of this article explains the right of a husband or wife to spend their respective assets. However, if the husband and wife decide otherwise, for example, by means of a marriage agreement, then control over the assets is carried out in accordance with the contents of the agreement. Likewise, in the event of a divorce, the assets are controlled and carried by the respective

owners, unless the marriage agreement stipulates otherwise.

Acquired property is property that is acquired by each as a gift or inheritance. Basically, its ownership is the same as personal assets. Each husband or wife has the full right to take legal actions regarding the property he has acquired. If the husband and wife decide otherwise, for example by means of a marriage agreement, then control of the acquired assets is carried out in accordance with the contents of the agreement. Likewise, in the event of a divorce, the acquired assets are controlled and carried by the respective owners, unless the marriage agreement stipulates otherwise.<sup>21</sup>

### 3. Methodology

This study uses qualitative approach to investigate a method of sharing marriage properties in the Religious Court of Palu City. Data were collected through observations, in-depth interviews with twenty citizens from the district and shared written documents. The interview last between 30 to 45 minutes.

Data analysis consists of several procedures: reduction and verification techniques with various data sources.<sup>22</sup>

---

<sup>21</sup> Batasan-batasan harta bersama, (on-line), <http://mylaaw.blogspot.com/2013/07/sekilas-tentang-hukum-perdata.html>, Accessed 26 July 2018.

<sup>22</sup> Nurdin, N. (2017a). Research in Online Space: The Use of Social Media for Research Setting *Jurnal Sistem Informasi (Journal of Information System)*, 13(1), 67-77.

<sup>23</sup>The reduced data is then analyzed reflecting on theoretical concepts used in this study.<sup>24</sup>

## 4. Result and Discussion

### 4.1 Method of Sharing Joint Assets

In order to ensure that legal regulations can continue to be accepted by all members of society, the existing legal regulations must be in accordance with and must not conflict with the principles of justice.<sup>25</sup>

The method of sharing joint assets at the first level at the Palu Religious Court is as follows<sup>26</sup>

- a. Steps that must be taken by the husband or wife (the plaintiff):
  - 1) Submit a lawsuit in written or verbal form to the Religious Court/Syariah Court (Article 118 HIR, 142 RBg jo Article 66 Law No. 7 of 1989 as amended and supplemented by Law No. 3 of 2006 and Law No. 50 of 2009).
  - 2) The plaintiff is advised to ask the Religious Court/Syariah Court for guidance on how to make a lawsuit

---

<sup>23</sup> Nurdin, N. (2017b). To Research Online or Not to Research Online: Using Internet-Based Research in Islamic Studies Context. *Indonesian Journal of Islam and Muslim Societies*, 7(1), 31-54.

<sup>24</sup> Nurdin, N., & Yusuf, K. (2020). Knowledge management lifecycle in Islamic bank: the case of syariah banks in Indonesia. *International Journal of Knowledge Management Studies*, 11(1), 59-80.  
<https://doi.org/10.1504/ijkms.2020.105073>

<sup>25</sup> Rusli, R. (2013). The Role of Musalahah in Conflict Resolution: A Historical Perspective. *Hunafa: Jurnal Studia Islamika*, 10(2), 203-220.

<sup>26</sup> Ibid.

(Article 119 HIR, 143 RBg jo Article 58 Law No.7 of 1989 as amended and supplemented by Law No.3 of 2006 and Law No. 50 of 2009).

- 3) The letter of lawsuit can be changed as long as it does not change the *posita* and *petitum*. If there is no change, then go to the clerk before being forwarded to the judge for examination.
- 4) The lawsuit is submitted to the religious court/syari'ah court whose jurisdiction covers the place where the object of the dispute is located (Article 50 of Law No.7 of 1989).

b. Acceptance of Case

- 1) Justice seekers who wish to file a lawsuit must first register at table one. A lawsuit is received by the first desk clerk, then the cost of the case is then calculated, and SKUM (Procuration to pay) is made.
- 2) After receiving the SKUM, the justice seeker comes to the cashier to pay the down payment fee; the cashier receives and signs the SKUM, then give it a number and the evidence of payment.
- 3) If the plaintiff is an incapacitated person, the State bears the cost of the case; the incapacitated party must attach a statement of incapacity (Article 60B of Law No. 50 of 2009)).
- 4) The clerk at table three registers the lawsuit and then gives the case number according to the SKUM number. After that, the case file is submitted to the head of Religious Court through the clerk/deputy.
- 5) The case file that has been received by the head of the Religious Court is

studied, and then the head determines Judge Council.

- 6) The clerk makes the appointment of a substitute clerk and submits the case file to the Panel of Judges.
- 7) The panel of judges appointed to examine and adjudicate the case and determine the day of the trial, then orders the bailiff to summon the parties who are in jail. After that, the Panel of Judges examines and decides the case.
- 8) After the case has been decided by the Panel of Judges, table three receives the case files that have been decided by the Panel of Judges, and then gives the decisions to the parties who are not present through the bailiff.

c. Way of case settlement

- 1) After the plaintiff registered his lawsuit at the religious court/syari'ah court, the judge examined the case whether it met the requirements for trial or not. The judge has the authority to reject a case if there are conditions that are not met.
- 2) Determination of the implementation of the trial by the judge by looking at the domicile of the plaintiff and the defendant.
- 3) The plaintiffs and defendants were summoned by the religious court/syari'ah court to attend the trial.
- 4) Stages of the trial:
  - a) At the first trial hearing, the Panel of Judges tried to reconcile the two parties, and the parties in the case had to come personally (Article 82 of Law No.7 of 1989).



- b) If it does not work, then the judge requires both parties in a case to first go through mediation (PERMA No.1 of 2008 Article 2 paragraph (2) and (4)).
- c) If the report from the mediating judge states that the mediation failed or was not successful, then the case examination is continued by reading out a lawsuit.
- d) The defendant replied to the lawsuit.
- e) Plaintiff's response to the respondent's answer (*replik*).
- f) Defendant's response to replication (*duplik*).
- g) In the response phase, the defendant can file a counterclaim in accordance with Article 132 a HIR, 158 RBg.
- h) Evidence by the plaintiff and the defendant by presenting evidence including written evidence and witness (Article 1866 of the Civil Code).
- i) After all evidence and information have been obtained, the panel of judges shall conduct deliberations to make a decision. At this stage, the panel of judges conducts deliberation by considering the whole, starting from the answer, replication, duplication or claim for reconstruction, then witness testimony and evidence from each party. Then, they separate the assets (with evidence and witnesses) which are inherited and which are joint assets. The panel of judges conducts local examination on the disputed object. Then the panel of

judges determines whether the joint property can be divided based on KHI article 97 or not, and remains in the principles of justice.

- j) The reading of the decision by the Panel of Judges which is open to the public.

#### 4.2 Legal Position of Inherited and Joint Assets

Marriage is one of the things that everyone wants, because with marriage people can have offspring and live in harmony in a household, in addition to fulfilling religious orders. However, not all households can survive until one of the married couples dies. Many couples have to divorce due to differences of opinion and other things that can lead to divorce. In a marriage, there are assets that are owned by the husband and those owned by the wife. Property is also one of the supporting factors for a harmonious and happy household. Property in the household is divided into personal assets and joint assets.

Property acquired during marriage becomes joint property. The inheritance of each husband and wife and the property obtained by each as a gift or inheritance is under their respective control as long as the parties do not determine otherwise.<sup>27</sup>

Before entering a marriage, sometimes the husband or wife already owns their respective assets, either in the form of assets resulting from his own business, inheritance from his family or gift. Assets that existed prior to the

---

<sup>27</sup> Marriage Law Number 1 Year 1974, Article 35.

marriage, if brought into marriage, will not change their ownership status.<sup>28</sup> In Marriage Law, Article 35 paragraph (2) Law, it is stipulated that the inheritance of each husband and wife is under their respective control as long as the parties do not specify otherwise.

A husband and wife, according to KHI Articles 89 and 90, are responsible for maintaining and protecting the wife's or her husband's assets as well as joint property. The personal assets belong to each person, if one of spouses died, the one who lives longer becomes the heir of the person who died. If the personal assets do not belong to each person, it will return to the way it was before. If both of them die, their heir will be their children.<sup>29</sup>

Joint assets in Marriage Law are regulated in Article 35. Based on Article 35 Paragraph (1) the Marriage Law stipulates that property acquired during marriage becomes joint property. Meanwhile, Joint Assets in the Compilation of Islamic Law (KHI) are regulated in Article 85. In the case of a dispute between husband and wife regarding joint property, the settlement of the dispute shall be submitted to the Religious Court.

Joint assets can be in the form of tangible or intangible objects. Prizes, honoraria, awards, and so on, obtained by each party which make an increase in income related to the profession or daily work of the husband or wife become

joint property. All property acquired by a husband and wife during their marriage becomes joint property. According to KHI Article 1 letter f,

"Assets in marriage or *syirkah* are assets obtained either individually or together with husband and wife while the marriage is in progress, and hereinafter referred to as joint assets without questioning whether the assets are registered or acquired on whose behalf, husband or wife"<sup>30</sup>

One of the goals of marriage is to seek lawful sustenance (collecting property). Regarding the assets obtained during this marriage, it is not considered whether the husband or wife has the income. According to Marriage Law No.1 of 1974, Article 36 Paragraph (1), *the rights and position of the wife is equal to the rights and position of the husband in domestic life and in social life together in society*; then in paragraph (2), *each party has the right to do legal action*. In this case, if the wife works for household purposes, then all property she had acquired during the marriage becomes joint property.

#### 4.3 Judge's Considerations in Deciding the Case of Joint Property

In this regulation, it is stated, if a dispute occurs over joint assets, the settlement is at the Court. In order to better know the process of the decision in a joint property lawsuit case, it is necessary to put forward an example of a

---

<sup>28</sup> Interview with Abd. Pakih, a Judge of Religious Court Palu, 11 August 2018.

<sup>29</sup> Ibid.

---

<sup>30</sup> Direktorat Jendral Pembinaan Agama Islam, *Kompilasi Hukum Islam*, (Jakarta : Departemen Agama R.I, 2001), Pasal 1 huruf f, 13.

joint property lawsuit decision obtained from a decision that has permanent legal force.

Based on the authority to examine and resolve a case submitted to the Palu Religious Court, the judge has succeeded in trying and verifying the lawsuit registered at the Registrar's Office of the Palu Religious Court with Case Register Number: 318/Pdt.G/2017/PA.Pal. regarding joint property lawsuit.

This case is sufficient to provide justice for the plaintiff and defendant. Joint assets are divided in half for each party if under normal conditions, namely the husband provides support for the family and the wife takes care of the household. The division of joint assets based on contributions in marriage is one of the considerations by the judge in deciding joint property cases. This means that the sharing of joint assets does not refer to Article 97 of the Compilation of Islamic Law, namely that joint assets are divided in two for each party, but divided by 2/3 for the wife and 1/3 for the husband in certain cases (casuistik). Judges in the decision on the distribution of joint assets are still based on legal principles and norms.

## 5. Conclusion

The steps of the justice seekers have been guaranteed by law. Starting from filing a lawsuit, registering the lawsuit to the trial process until the decision stage has been regulated in the Civil Code and Code of civil procedure to provide a sense of justice for the community. Therefore, the panel of judges in conducting deliberations to make decision on the cases of sharing of joint

assets must carefully consider and decide cases so that legal regulations can continue and are accepted by all members of society, especially those who are litigating, and this should not be in conflict with the principles of justice.

## REFERENCES

- Abd al- Baqi Fuad Muhammad. *al-Mu'jam al- Mufahras li al-Faz al- Quran al- Karim*. Beirut : Dar al-Fikr, 1987
- Abu Dawud, Sunan Abu Dawud, juz 2, cetakan Beirut: Daar al-Kutub, 1996,
- Abdul Kadir Muhammad, *perkembangan Hukum Keluarga di Beberapa Negara Eropah*, Citra Aditya Bakti, Bandung, 1998
- A. Moeliono Anton., et.al, *Kamus Besar Bahasa Indonesia*, Jakarta: Balai Pustaka 1996.
- A. Moeliono Anton., et.al, *Kamus Besar Bahasa Indonesia*, Balai Pustaka, Jakarta, 1996.
- Ali Atabik dan A. Zuhdi Muhdor, *Kamus Kontemporer Arab-Indonesia*, Multi Karya Grafika, Yogyakarta, 2003.
- Ahmad Warson Munawir, *Kamus Al-Munawir*, Pustaka Progesif, Surabaya, 1997.
- Al Khozy Syekh Muhamad bin Qosim, *Fathul Qorieb*, Jilid 2, alih bahasa Ahmad Sunarto, AlHidayah, Surabaya, 1992.
- Al Hamdani, *Risalah Nikah*, Jakarta : Pustaka Amani, 2002.
- Departemen Pendidikan Nasional, *Kamus Besar Bahasa Indonesia*, (Cet.I; Jakarta; PT. Gramedia Pustaka Utama; 2008), 512.

- <sup>1</sup>Direktorat Jendral Pembinaan Agama Islam, *Kompilasi Hukum Islam*, (Jakarta; Departemen Agama R.I; 2000), Pasal 91 Ayat 1-3, 47.
- Ghazaly Abd Rahman, *Fiqh Munakahat*, Jakarta : Kencana, 2010
- Hasan Mustofa, *Pengantar Hukum Keluarga*, Bandung: Pustaka Setia, 2011.
- Junus Mahmud, *Hukum Perkawinan Islam Menurut Mazhad : Sayfi'I, Hanafi, Maliki dan Hambali*. Jakarta : Pustaka Mahmudiyah, 1989.
- Hasbullah Bakry, *Pedoman Islam Di Indonesia*, (Jakarta; UI-press; 1988), 186-187
- Imam Taqiyuddin Abu Bakar Al-Husaini. *Terjemahan Kifayatul Akhyar*, Surabaya, Bina Ilmu 1997
- Kabah Rifyal, *Permasalahan Perkawinan*, Varia Peradilan No. 271 Th XXII Juni 2008, Jakarta, IKAHI .
- kamal Abu Malik, *Fikih sunnah Wanita*. Jakarta: Pena Pundi Aksara, 2007
- Manan Abdul, *Problematika Perceraian Karena Zina dalam Proses Penyelesaian Perkara di Lingkungan Peradilan Agama*, Mimbar Hukum No 52 Th XII Mei- Juni 2001, Jakarta, al-hikmah & DITBINBAPERA Islam
- L. Berger Peter, *Invitation to Sociologi: A Humanistic Prospective*, alih bahasa Daniel Dhakidae, inti Sarana Aksara, Jakarta, 1992.
- Manan Abdul, *Reformasi hukum Islam di Indonesia*, PT Raja grafindo Persada, Jakarta, 2006
- Mudzhar M. Atho, *Pendekatan Studi Islam dalam Teori dan Praktek*. Yogyakarta: Pustaka Pelajar, 1998
- Muslih, I., Nurdin, N., & Marzuki, M. (2020). Effectiveness of Marriage Services Through Information System Management (SIMKAH) at Palu City Religious Court *INTERNATIONAL JOURNAL OF CONTEMPORARY ISLAMIC LAW AND SOCIETY*, 2(1), 20-36.
- Nurdin, N. (2017a). Research in Online Space: The Use of Social Media for Research Setting *Jurnal Sistem Informasi (Journal of Information System)*, 13(1), 67-77.
- Nurdin, N. (2017b). To Research Online or Not to Research Online: Using Internet-Based Research in Islamic Studies Context. *Indonesian Journal of Islam and Muslim Societies*, 7(1), 31-54.
- Nurdin, N., & Yusuf, K. (2020). Knowledge management lifecycle in Islamic bank: the case of syariah banks in Indonesia. *International Journal of Knowledge Management Studies*, 11(1), 59-80. <https://doi.org/10.1504/ijkms.2020.105073>
- Pusyakhois Fifi Niya, *Tinjauan Hukum Islam Terhadap Cerai di Luar Pengadilan Agama dan Implikasinya pada Masyarakat Desa Penaruban Kecamatan Weleri Kabupaten Kendal*. Di kota Kendal semarang, Institut Agama Islam Negeri Semarang
- Peters A. G. dalam Soemitro Ronny Hanitijo, *Study Hukum dan Masyarakat*, Alumni, Bandung, 1985
- Rasjid Sulaiman, *Fiqh islam* Sinar Buku Algrindo, 2007
- Rifa'i Moh., *Fiqh Islam Lengkap*. Semarang: PT karya toha putra 1978

- Rahardjo Satjipto. *Pemanfaatan Ilmu Sosial Bagi Pengembangan Ilmu Hukum*, Alumni, Bandung, 1977.
- Rusli, R. (2013). The Role of Musalahah in Conflict Resolution: A Historical Perspective. *Hunafa: Jurnal Studia Islamika*, 10(2), 203-220.
- Rusli, Rusli, "Hermeneutical Reading of Ṭalāq," *HUNAFA: Jurnal Studia Islamika* 12, no. 2 (2016): 209-229.
- Siraj Muhammad " *Hukum Keluarga di Mesir dan Pakistan " dalam Islam, Negara dan Hukum*.Seri INIS XVI Kumpulan Karangan di Bawah Redaksi Johannnes den Heijer, Syamsul Anwar. Jakarta : INIS, 1993
- Shokhi Muhammad Yalis b, *Sanksi Hukum terhadap Talaq di Luar Pengadilan Agama, Studi Perbandingan Pandangan Akademisi Hukum Positif dan Akademisi Hukum Islam* di Kota Malang. Malang. Tesis tidak di terbitkan.Universitas Islam Negeri Maulana Malik Ibrahim Malang.
- Sukaenah, S., Rusli, R., & B, M. T. (2020). The Effectiveness of Indonesia Supreme Court Regulation Number 1 Year 2016 Concerning Mediation of Marriage Disputes *INTERNATIONAL JOURNAL OF CONTEMPORARY ISLAMIC LAW AND SOCIETY*, 2(1), 63-80.
- Syaifuddin Muhammad dkk, *Hukum Perceraian* Jakarta: Sinar Grafika, 2013
- Syekh Zainudin ibnu Syekh Abdul Aziz, *Fathul Mu'in* , Alih Bahasa H. Ali As'ad, Al Hidayah, Surabaya, 1979.
- Taufiq, *Peradilan Keluarga Indonesia*, Mahkamah Agung RI, Jakarta, 2001
- Tihami H.M.A. dan Sahrani Sohari, *Fikih Munahakat; Kajian Fikih Nikah Lengkap*, cet.3, Jakarta: Rajawali Pers, 2013
- Qodar Nurul, *Perceraian di Luar Pengadilan pada Masyarakat Muslim Desa Sumberharjo Kecamatan Prambanan Kabupaten Sleman*. Di kota Jogjakarta, Universitas Islam Negeri Suanan Kalijaga Jogjakarta