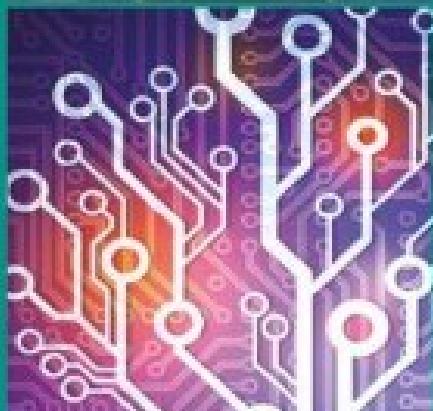
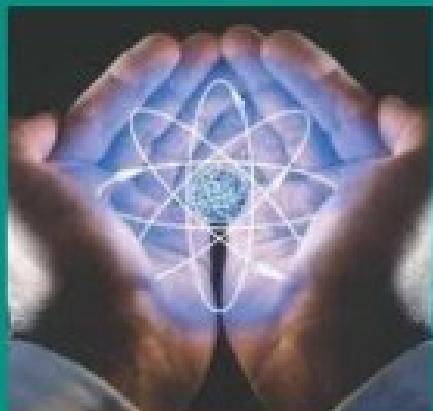


# Academia Open



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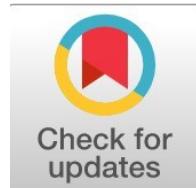
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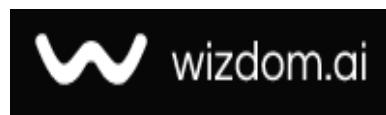
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# Legal Protection for Wives in Joint Property Division After Divorce

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## Abstract

**General Background:** The division of joint property following divorce remains a central issue in Indonesian family law, particularly under the normative framework of the Marriage Law and the Compilation of Islamic Law, which traditionally emphasize equal distribution. **Specific Background:** In practice, rigid application of a 50:50 division often fails to address situations where one spouse bears a dominant economic role, especially in cases involving wives as primary breadwinners. **Knowledge Gap:** There is limited doctrinal clarity on how courts should reconcile formal equality norms with factual disparities in economic contribution within marriage. **Aims:** This study aims to analyze legal protection for wives in joint property disputes where husbands fail to contribute economically, as reflected in Blitar Religious Court Decision Number 1560/Pdt.G/2023/PA.BL. **Results:** Using a normative juridical method with statutory, conceptual, and case approaches, the study finds that the court allocated 80% of joint property to the wife and 20% to the husband, based on evidence of the wife's exclusive financial contribution and the husband's failure to fulfill economic obligations. **Novelty:** The decision demonstrates judicial recognition that justice in joint property division need not follow a mathematical formula, but may adopt proportional distribution grounded in substantive justice. **Implications:** This ruling provides an important precedent for strengthening legal protection for wives, affirming that factual economic contributions and vulnerability after divorce must guide equitable resolution of joint property disputes in Indonesian religious courts.

## Highlights:

- Judicial reasoning prioritized factual economic roles over formal equal-sharing norms.
- Proportional allocation was grounded in evidence of exclusive financial responsibility.
- The ruling strengthens doctrinal support for equity-based asset distribution in divorce cases

**Keywords:** Joint Property, Legal Protection for Wife, Divorce, Economic Contribution, Court Decision.

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## Introduction

The division of joint property is one of the most fundamental aspects in resolving divorce cases in Indonesia. Since the enactment of Law Number 1 of 1974 on Marriage, which was later amended through Law Number 16 of 2019, the state has affirmed that all assets acquired during the marriage essentially become joint property of the husband and wife. This concept was born as a manifestation of the principle of equality within the household as regulated in Article 31 paragraphs (1) and (2), which places the husband and wife as partners who have equal moral, economic, and social responsibilities. However, in practice, the division of joint property often faces critical issues, especially when there is an imbalance in the contributions between the husband and wife in building the family economy.<sup>[1]</sup> Normatively, the Compilation of Islamic Law (KHI) through Article 97 stipulates that a divorced widow or widower is each entitled to half of the joint property. For years, this provision has been understood as a standard principle of a mathematical nature, namely equal distribution without considering who has contributed more to the acquisition of the joint property.<sup>[2]</sup> However, the development of religious court practices shows that a 50:50 division does not always reflect substantive justice, especially in cases where one party is the main breadwinner, while the other does not work adequately or even neglects their obligation to provide support. Such an imbalance in contribution has serious implications for the legal protection of wives, particularly in the socio-economic context of Indonesian society, which still places women in vulnerable positions after divorce.<sup>[3]</sup>

This phenomenon of injustice is evident in many household cases where wives work in the informal sector, abroad as migrant workers, or bear the double burden of being both breadwinners and household managers. On the other hand, there are quite a few husbands who do not provide adequate support due to being unemployed, doing odd jobs, or even acting exploitatively toward their wife's income. When divorce occurs, the application of mathematical division of joint assets without considering actual contributions has the potential to disadvantage women. This situation highlights the need for a legal approach that is more responsive, progressive, and based on substantive justice.<sup>[4]</sup> In this context, the Blitar Religious Court Decision Number 1560/Pdt.G/2023/PA.BL serves as a concrete example of how the judicial institution provides fairer legal protection for wives. In the case, the wife was proven to be the one who fully financed the construction of the house, sent money earned from working as a migrant worker, and supported the family's economic needs for many years. Meanwhile, the husband did not have a steady job and failed to fulfill his alimony obligations. The panel of judges then determined the division of joint property as 80% to the wife and 20% to the husband. This decision sets an important precedent that the principle of justice should not be interpreted formally or arithmetically, but must take into account factual contributions, social conditions, and protection for the more vulnerable party.<sup>[5]</sup>

Nevertheless, there is still much academic and practical debate regarding the limits of applying the contribution principle in the division of joint property. Some argue that deviations from a 50:50 split should be carried out very carefully so as not to contradict the spirit of togetherness within the household. Meanwhile, others contend that maintaining a strictly mathematical division actually ignores the diverse social realities, including cases where women become the primary breadwinners for their families. This debate highlights the importance of more in-depth research on how the principle of justice is applied in judicial practice.<sup>[6]</sup>

This research aims to analyze how legal protection for wives in the division of joint property can be ideally applied when there is an imbalance in economic contributions, as reflected in Decision Number 1560/Pdt.G/2023/PA.BL. This study employs a normative juridical approach to examine the legal basis governing joint property, as well as a case study approach to analyze the judge's considerations in the decision. Through this research, it is expected that a more comprehensive understanding of the application of substantive justice in the division of joint property can be formulated, while also providing an academic contribution to strengthening legal protection for women after divorce.

## Method

This study uses a normative juridical method, which is a method that views law as norms, rules, and principles that exist within the legislative system and court decisions. This method is used because the focus of the research is to analyze legal protection for wives in the division of jointly-owned property, which is essentially a study of how legal rules are applied and interpreted by judges in court decisions. The normative juridical approach allows the research to systematically examine the legal structure governing joint property, the concept of economic contribution in marriage, as well as the authority of judges in determining the proportion of division based on substantive justice.

To support this analysis, this study utilizes three main approaches. First, the statutory approach is used to examine the legal norms governing joint property, including Law Number 1 of 1974 in conjunction with Law Number 16 of 2019 concerning Marriage, the Compilation of Islamic Law (KHI), and other legislation related to the division of joint property and the protection of wives' rights. This approach aims to identify the scope, limitations, and relevant legal principles as a normative basis for assessing the conformity of court decisions with applicable regulations. Second, the conceptual approach is used to understand the fundamental concepts that form the basis of analysis, such as the concept of communal property, the economic contributions of husband and wife, the principle of substantive justice, and the doctrine of protection for the weaker party in family law. Through this approach, the research can link modern family law theories with the reality of economic contribution disparities within households. This approach also helps interpret how non-monetary contributions, such as household management, can or cannot be accounted for in the division of communal property.

Third, the case approach is used to analyze the Blitar Religious Court Decision Number 1560/Pdt.G/2023/PA.BL as the main object of the study. Through this approach, the research thoroughly examines the judge's considerations, the legal facts revealed, the evidence regarding the contributions of the husband and wife, as well as the basis underlying the panel of

judges' decision to allocate 80% of the joint property to the wife and 20% to the husband. This case approach is important for assessing the extent to which legal norms, the principle of justice, and the principle of women's protection are truly applied in court practice.

The data sources used in this study consist of two types of legal data. The primary data is in the form of Decision Number 1560/Pdt.G/2023/PA.BL as the main object of analysis. Secondary data was obtained through a literature study of academic literature, legal journals, textbooks, legislation, and other relevant official documents. All data were analyzed using a qualitative analysis method, which involves interpreting legal norms, understanding theoretical concepts, and relating them to the facts and legal considerations in the decision. By using this research method, it is expected that the study can produce a comprehensive understanding of the application of the principle of substantive justice in the division of marital property, as well as contribute to strengthening legal protection for wives who experience economic contribution inequality in marriage.

## Results and Discussion

### A. Wife's Economy as the Basis for the Formation of Joint Assets

The wife's economic contribution in case Number 1560/Pdt.G/2023/PA.BL plays a central role in the formation of all the disputed joint property. Based on the trial facts, the Plaintiff has worked as an Indonesian Migrant Worker (PMI) in Hong Kong from 2004 to 2021, or for approximately 17 years. While working abroad, the Plaintiff earned an income ranging from IDR 5 million to IDR 12 million per month and routinely sent these funds to her family in Indonesia to cover all household needs. Witness statements during the trial reinforced the fact that the construction of the house along with all its materials was fully financed by the Plaintiff's remittances, while the Defendant did not make any significant financial contribution. The witnesses explicitly stated that the Defendant only assisted in the house construction process in the form of physical labor, not in the form of funding. Building materials such as bricks, sand, cement, building frames, roofs, and even household furniture needs were all purchased using remittance funds sent by the Plaintiff who works in Hong Kong.<sup>[7]</sup>

Additionally, other joint property objects such as a motorcycle, refrigerator, washing machine, television, and a cow were also proven to have been acquired from the Plaintiff's remittance money. There is no evidence or witness indicating that the Defendant contributed financially to the purchase of these assets. This situation confirms that the household's economic structure relied entirely on the Plaintiff's work, effort, and income during 17 years of working abroad.<sup>[8]</sup> From the perspective of family law, the wife's economic contribution becomes an important basis for judicial decisions regarding the division of marital property. The doctrine of joint property in the Compilation of Islamic Law indeed stipulates that in divorce, joint property is divided equally (Article 97 KHI). However, modern doctrines in family law emphasize the importance of considering the actual contributions of each party, including financial and non-financial contributions.<sup>[9]</sup> When there is an extreme imbalance in contributions, a mathematical 50:50 division no longer reflects substantive fairness; instead, it can actually result in injustice, particularly for the party that is clearly the source of the family's income. In the context of this case, the panel of judges objectively observes that the Plaintiff's economic contribution is absolute, while the Defendant's contribution is minimal and cannot even be categorized as a contribution to joint assets. The fact that the Defendant does not have a permanent job and does not provide proper financial support while the Plaintiff works in Hong Kong reinforces the argument that there is no basis for the Defendant to receive an equal share of the joint assets.<sup>[10]</sup>

To clarify the disparity in contributions, here is a brief table illustrating the economic position of each party:

**Table 1.** Comparison of Husband's and Wife's Economic Contributions in Case Number 1560/Pdt.G/2023/PA.BL

Aspect	Wife (Plaintiff)	Husband (Defendant)
Employment Status	Hong Kong PMI (2004-2021)	Odd jobs
Monthly Income	IDR 5-12 million/month	Unstable, not significant
Contribution of Livelihood	Fully responsible for supporting the family	Not providing adequate support
House Construction	All costs of the Plaintiff's shipment	Effort alone, without funds
Asset Purchase	Purchased with the Plaintiff's money	No contribution
Economic Role	The backbone of the family	Does not support the family's needs

Based on these findings, the judge concluded that applying a proportional division of joint assets is a form of appropriate substantive justice. The judge viewed that an 80% share for the Plaintiff is a manifestation of their dominant financial contribution, while a 20% share for the Defendant represents a minimal acknowledgment of his status as a husband within the marital relationship.<sup>[11]</sup> Thus, this discussion shows that judicial decisions are not only based on normative rules but also take into account objective empirical facts and the principle of protection for the party that contributes more.

### B. Determination of Joint Property Objects and Judge's Considerations

In the dynamics of divorce in Indonesia, the division of joint property is not merely an administrative process or a simple matter of splitting numbers in half. It is a reflection of substantive justice that demands the court to understand the household life as it is, considering who works, who makes sacrifices, and who truly supports the family's economic structure.

In case Number 1560/Pdt.G/2023/PA.BL, the panel of judges was faced with a clear social picture: a wife who worked as an Indonesian Migrant Worker in Hong Kong for many years, shouldering the entire family livelihood, financing the construction of the house, and purchasing all family assets through the sweat of her brow and remittances sent from abroad. On the other hand, a husband who did not provide sufficient economic contribution, did not have a steady job, and was even absent in many hearings to account for his position.[12]

In the landscape of family law, such facts are not merely background; they are at the heart of the justice issue. Marital property cannot be separated from a fundamental question: Who truly created the economic value in the household? When evidence of transfers, witness testimonies, and on-site examinations show that all assets—houses, motorcycles, electronic devices, even livestock—were purchased with the wife's funds, the court cannot close its eyes to that reality. A mechanical 50:50 division of assets would actually create a new injustice. This is where the judge plays both a moral and judicial role: translating normative rules into justice that lives within reality.[13]

To read this situation more clearly, it is necessary to see how each asset was acquired and who financed it. The following table maps out the asset structure and the contributions of each party:

**Table 2.** Identification of Joint Assets and Their Sources

Assets	Decision Status	Source of Funds	Wife's Contribution	Husband's Contribution
Land & House	Joint Property	Hong Kong PMI Remittances	Full financing	Effort without funds
Motorcycle	Joint Property	Wife's funds	Full purchase	No funds
Refrigerator	Joint Property	Wife's funds	Full purchase	No funds
Washing Machine	Joint Property	Wife's funds	Full purchase	No funds
Television	Joint Property	Wife's funds	Full purchase	No funds
Cow	Joint Property	Wife's funds	Full purchase	No funds

This quantitative illustration is clarified through the following visualization of contributions, which shows the comparison between the wife's and husband's financial contributions to the total joint assets:

**Table 3.** financial contribution of wife and husband to all joint property objects

Assets	Wife's Contribution	Husband's Contribution (0)
House	1.00	0.00
Motorcycle	1.00	0.00
Refrigerator	1.00	0.00
Washing Machine	1.00	0.00
Television	1.00	0.00
Cow	1.00	0.00

From the visualization, it is clearly seen that the wife's financial contribution is at an absolute level for all asset categories, while the husband's contribution is zero. This indicates a structural contribution imbalance that cannot be masked through symmetric asset division mechanisms. The panel of judges then shifted the mindset from formal compliance to material justice, an approach that is increasingly relevant in modern religious court practice.[13] Theoretically, this approach aligns with the concept of equitable distribution, where the court considers the economic contributions of each party, rather than simply splitting shared assets fifty-fifty. In the context of this case, the judge not only enforces the rules but also responds to an ethical call: protecting the party who has genuinely worked, sacrificed, and supported the continuity of the household. Proportional distribution becomes not only rational but also dignified, as it prevents justice from being merely a legal formality without moral substance.[14]

Furthermore, from a sociological perspective, this ruling reflects a significant change in gender economic relations in Indonesia. More and more women, especially Indonesian Migrant Workers (PMI), are becoming the backbone of the family economy. However, in many cases, their contributions are overlooked due to patriarchal norms that regard the husband as the head of the family even when he does not provide for them. This ruling serves as an affirmation that the law must not succumb to social myths; it must side with the objective reality proven in law.[15] Ultimately, this ruling conveys an important message: justice in the division of joint property should be understood not as an equal division, but as a fair one. Fair in the sense of recognizing contributions, effort, and sacrifices. Fair in the sense of protecting the vulnerable and balancing inequalities. In this way, the court has established both a moral and legal standard that every penny earned through hard work must be respected by the law. This is the face of substantive justice, a justice that does not stop at the text but touches life. Justice that not only divides but also weighs. Justice that not only decides but also restores dignity.

## C. The Implementation of Substantive Justice through an 80% : 20% Distribution

Substantive justice is the soul of modern judiciary—a principle that does not stop at the text of the regulation but delves into the moral meaning behind it. In cases of joint property division, this principle becomes very important because the economic structure of a household is not always symmetrical. There are households built on joint work, but many others are based on the sole contribution of one spouse. In the context of Case Number 1560/Pdt.G/2023/PA.BL, this imbalance in contribution is very evident: the wife serves as the main breadwinner through remittances as an Indonesian Migrant Worker in Hong Kong, while the husband does not provide a significant economic contribution. The decision of the panel of judges to allocate joint property with 80% for the wife and 20% for the husband is not a spontaneous policy, but rather the result of a dialectic between normative law, trial facts, and principles of social justice. The judges believed that an equal division would actually betray the values of moral justice. Justice is not merely numerical equality, but equality of value: giving to each person according to their contribution and needs.

At this point, the court applies what Lawrence Friedman calls substantive responsiveness, which is the judiciary's ability to respond to the social conditions and empirical realities it faces (Friedman, Legal System, 1975). In other words, judges do not let the law remain a rigid text, but turn it into an instrument to uphold the dignity of those who have been working but remain unseen.

## D. Dominance of Economic Contribution in the 80% : 20% Distribution

Table 4. Dominance of Economic Contribution in an 80% : 20% Distribution

Substantive Justice Distribution	Source of the Decision
Wife (Financial Contribution) 80%	Remittance from the wife as a migrant worker (total contribution). The husband does not have a steady job and does not provide support. The judge determines the proportion based on actual contributions.
Husband (Financial Contribution) 20%	

Wife (80%) - Pillar of Household Economy The 80% proportion is not just a number, but a representation of the dominance of the wife's economic contribution. Evidence from remittance transfers, witness statements, and local inspection results shows that every material for house construction, motorcycle purchases, household furniture, and even cattle is fully funded by the wife. From the perspective of distributive justice, the wife is in the position of the primary economic generator, creating almost all of the family's wealth. Aristotle's theory of justice is relevant here: justice is giving each person "what is due to them" based on their contribution (Nicomachean Ethics). The wife has given 100% of the contribution, so it is reasonable for her to receive the largest share.

Husband (20%) - Symbolic Portion for Marital Status The court continues to allocate 20% to the husband. This portion reflects recognition of the marital status itself — that in Islam and in the national legal system, the existence of a 'family bond' has its own legal value. However, that value cannot be equated with economic contribution. Thus, the 20% is a moral portion, not an effort-based portion. The diagram above shows that the distribution of joint property based on substantive justice is not a deviation from the law but a form of legal maturation. The Compilation of Islamic Law does not regulate the percentage formula in detail but allows room for interpretation, so judges can assess the factual context of domestic life. This is where judicial discretion is used responsibly: not to obscure the rules, but to uphold the truth. Academically, there are at least three reasons why a 80% : 20% distribution actually best reflects substantive justice.

1. Causal Basis of Contribution In joint property law, contribution is not only understood as 'who gives what,' but also 'who enables the assets to come into existence.' All the assets in this case would not exist without the wife's financial contribution.
2. Protection for Economically Vulnerable Women The law must protect parties who are economically more vulnerable after divorce. Ratnawati's (2022) research in the Indonesian Journal of Family Law shows that female migrant workers are the most vulnerable group to losing assets after divorce due to weak family asset documentation.
3. Preventive Effectiveness through Judicial Security Seizure not only divides assets but also establishes a security seizure to prevent asset transfers during the ongoing process. This is a form of preventive legal protection as explained by Hadjon (1987), stating that legal protection must safeguard rights before a loss occurs.

The 80% : 20% division in this case is a strong example that substantive justice can be realized through the courageous interpretation of judges. This ruling affirms that family law should not serve as a tool to perpetuate gender injustice. On the contrary, it should be a space for emancipation, for restoring dignity, and for recognizing women's contributions that have long gone unrecorded in formal household statistics. Thus, this ruling is not merely a dispute resolution, but also a moral precedent that in the division of joint property: those who work hard should not be treated the same as those who do not work at all.

## Conclusion

Case Number 1560/Pdt.G/2023/PA.BL provides an important lesson on how family law in Indonesia should function: not merely enforcing the text of regulations, but serving justice as experienced in the concrete realities of the parties involved. The decision to divide marital property with 80% going to the wife and 20% to the husband demonstrates that the panel of

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judges did not get trapped in a rigid mathematical mechanism, but rather dared to examine the facts to uphold substantive justice. In this case, it was proven that all assets—whether the house, furniture, vehicles, or livestock—were accumulated through the efforts of the wife as an Indonesian Migrant Worker. Her contribution was not only dominant but absolute. Meanwhile, the husband had almost no financial contribution and was not even present to account for his position. This disparity in contribution formed the rational basis for the judge to apply an unequal division. Through this ruling, the religious court demonstrates that the law should not blindly remain neutral toward power relations within the household. Neutrality without sensitivity can actually give rise to new injustices. When women work hard to support the family, yet legally receive the same division as those who do not contribute, the law loses its ethical function. An 80% : 20% division is a form of moral correction against an unbalanced relational structure. Furthermore, this ruling emphasizes three important points. First, economic contribution is the main basis for assessing ownership of joint property, and judges have a wide interpretative space to ensure that the distribution is carried out fairly. Second, legal protection for women does not only exist in text, but must be present in concrete rulings that recognize their work, effort, and sacrifices. Third, the implementation of asset seizure demonstrates the court's preventive function in safeguarding assets from potential misuse by non-contributing parties.

Thus, this ruling does not merely resolve a single case, but also provides guidance for the future of religious court practices: substantive justice must be placed at the forefront, especially when it involves women who are often in more vulnerable socio-economic positions. This decision serves as an example that the law can be progressive—going beyond formalities, touching reality, and restoring dignity to those who have worked hard to build a household. Ultimately, this case demonstrates that joint property should not be viewed as 'two equal parts,' but as a space for moral judgment to see who creates value, who bears the burden, and who should receive greater protection. This is where the law finds its meaning: when it not only divides, but also restores.

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