



Volume 40 No 1, January 2025

DOI: <https://doi.org/10.20473/ydk.v40i1.60238>

Fakultas Hukum Universitas Airlangga, Jalan Dharmawangsa Dalam Selatan

Surabaya, 60286 Indonesia, +6231-5023151/5023252

Fax +6231-5020454, E-mail: yuridika@fh.unair.ac.id

Yuridika (ISSN: 0215-840X | e-ISSN: 2528-3103)

by <http://e-journal.unair.ac.id/index.php/YDK/index> under a Creative Commons Attribution 4.0 International license.

FAKULTAS HUKUM UNIVERSITAS AIRLANGGA



Article history: Submitted 11 July 2024; Accepted 1 November 2024; Available Online 30 January 2025.

Prenuptial Agreement and the Principle of Balanced Justice in the Division of Joint Property in Islamic Marriage Law

Abd.Shomad¹ and Sri Hajati²

sri.hajati@fh.unair.ac.id

^{1 2} Universitas Airlangga, Indonesia

Abstract

The issue of joint property or shared assets (*harta gono-gini*) is actually a legal area that has not been fully explored, a domain open to *ijtihad*. The concept of joint property and all its details are not found in the studies of medieval Islamic jurisprudence (*fiqh*) or classical *fiqh*. The concepts surrounding joint property have continued to develop and are crucial to be discussed in contemporary studies. The urgent aspect to be researched is the model of managing marital property and the application of the principle of balanced justice in the distribution of marital property within the context of *fiqh munakahat* and marriage agreements in Islamic law. The research model used is normative juridical with a legislative approach and a conceptual approach. Thus, the result is that joint property, based on *qiyas*, can be managed through a marriage agreement. If not specified in the marriage agreement, then using the principle of balanced justice found in Islamic inheritance law.

Keywords: Prenuptial Agreement; Joint Property; Principle of Justice.

Introduction

The Marriage Law (ML) is national legislation in the field of marriage which seeks to reform as an effort to end pluralism in marriage law, although it is still “not yet” optimal. The ML absorbs the values of Islamic Marriage Law, *fiqh munakahat*, including its Article 2 which determines that marriage is valid if it is carried out according to the laws of each religion and belief. The Qur’an Surah An-Nisa’ verse 21 determines that marriage is a sacred, strong and sturdy agreement (*mitsagan ghalizhan*). Marriage is a partnership (*shirkah*) between husband and wife in many matters, including property. As a result of the marriage relationship, property becomes *shirkah* property, whether collected individually or jointly. The opinion of Islamic legal experts majority is that Islamic law does not recognize the concept of joint property in marriage (the mixing of property between husband and

wife). Facing the fact that there are joint property institutions in society attracts *fiqh* experts to make *ijtihad* regarding the existence of joint property or mutual property.¹

Nash Syariah does not provide a provision that the property acquired by the husband during the marriage is fully the husband's right, and the wife is only limited to the maintenance provided by her husband. It also does not regulate the property obtained by the husband during marriage, so the wife is also directly entitled to the property. The joint assets property or *Gono-gini* assets are not mentioned clearly in either the Koran or Sunnah, so it is an open area for *ijtihad*.²

Joint property or *gono-gini* assets are better known as part of the traditions or customs that exist in Indonesian society and its surroundings.³ The concept of joint property is similar to several concepts of property ownership in Islamic law. The concept of joint property and all the details of its provisions are not found in classical *munakahat* jurisprudence studies - which carry out studies based on the perspective that was developing at that time. Over time, the discourse around joint assets has developed more and become urgent to be discussed in contemporary studies. One aspect that is very urgent to research is the model of managing marital assets and the application of balanced justice principle in the distribution of marital assets in *fiqh munakahat*. One aspect of joint property that is interesting to study is the marital agreement. Is there a marital agreement in Islamic law?.

Marital Assets in *Fiqh Munakahat*

Sharia as a provision that must be obeyed by the Islamic community is prescribed for the benefit of humans as stated in the *maqasid* of sharia which has benefit as its core. The benefits to be achieved are spiritual benefits and worldly benefits. Sharia pays great attention to the protection of each individual, namely

¹ Eko Rial Nugroho Bagya Agung Prabowo and Rohidin, 'Granting of Property During Marriage as an Inherited Property in Indonesia' (2024) 7 *El-Usrah: Jurnal Hukum Keluarga*. [311].

² Muhammad Tigas Pradoto, 'Aspek Yuridis Pembagian Harta Bersama Dalam Perkawinan (Tinjauan Hukum Islam Dan Hukum Perdata)' (2014) 4 *Jurisprudence*.

³ Padma D Liman and Aulia Rifai, 'Analysis Of The Legal Basis Of Marriage Agreements And Their Implications For The Position Of Inheritance Property' (2014) 40 *Jurnal Hukum Unissula*. [143].

through protection for all individual matters of a material and moral nature. Sharia protects the life of each individual, protecting everything on which his life depends, property and everything he owns. The most basic protection is maintaining honor (*nasab*), namely lineage, which is the place of growth and lineage of descendants. Maintaining reason is the basis for imposing obligations and responsibilities, as well as maintaining religion and the individual's relationship with God. Studying the protection that Islam provides for the soul and honor requires us to study Islam's protection for property and offspring.⁴

Nash Syariah does not provide an explicit provision that the property acquired by the husband during the marriage is fully the husband's right, and the wife is only limited to the support provided by her husband. It also does not clearly state whether the property acquired by the husband during marriage means the wife is also directly entitled to that property. The issue of wealth is not mentioned clearly in the Koran or hadith.

The issue of joint property or *gono-gini* property is actually an untouched legal area, an area open to *ijtihad*.⁵ The concept of joint property and all its details is not found in studies of medieval Islamic jurisprudence or classical jurisprudence. Scholars have carried out studies based on the perspective that has developed so that the study of *Munakahat Fiqh* is completely based on what was taught by the Prophet Muhammad SAW.

Furthermore, the concepts surrounding joint property have developed more and are very urgent to be discussed in contemporary studies. The concept of joint property or *gono-gini* property is better known in the traditions of Indonesian society. This concept is part of the heritage of various traditions or customs in Indonesia and its surroundings. The concept of joint property is similar to several concepts of property ownership in Islamic law.

⁴ Ahmad Al Mursi Husain Jauhar, *Maqashid Syariah* (terjemahan: Khikmawti ed, Amzah 2009).[xi].

⁵ Desi Fitrianti, 'Harta Bersama Dalam Perkawinan Poligami Menurut Undang-Undang Nomor 1 Tahun 1974 Dan Hukum Islam' (2017) 6 *Jurnal Intelektualita: Keislaman, Sosial, dan Sains*.

Zahri Hamid views that Islamic law regulates a system of separation between the husband's property and the wife's property as long as it is not specified otherwise in the marriage agreement. Islamic law also provides leeway for the two of them to make a marriage agreement according to both of their wishes, and the agreement ultimately binds them legally.

Ahmad Azhar Basyir⁶ believes that Islamic law gives each partner, both husband/wife, the right to own property individually, which cannot be interfered with by either party. A husband who receives a gift, inheritance, etc., has the right to fully control the property he receives without any interference from his wife. A wife who receives a gift, inheritance, etc., has the right to fully control the property she receives without any interference from her husband. Personal property owned before marriage becomes the property of each husband and wife. During the marriage period, these are assets that come from the husband as support for his wife. If only the husband fulfils household needs, the wife does not work formally. If a husband gives his wife property that is considered common according to custom, the property becomes the wife's property. If the property given to the wife does not specifically belong to her, such as household furniture, the property belongs to the husband.

If it turns out that if the wife also works to help with the household economy, the wife still has rights to her assets. The ratio of distribution of mutually beneficial assets during marriage is determined based on who had the largest and smallest share of these assets. Logically, if the husband gives more shares, he is entitled to a larger share and vice versa. If the wife contributed a larger share, she is entitled to a larger share.

If the wife works and earns an income, the wife has full rights to the property. If the wife uses the assets to help the family, this is considered alms, which has two rewards, namely the reward of alms and the reward of doing good to the family. This provision is based on the hadith of the Prophet Muhammad SAW to the wife of Abdullah bin Mas'ud who gave charity to her husband because her husband was

⁶ M Azhar Basyir, *Hukum Islam Tentang Wakaf Ijarah, Shirkah* (Al-Ma'arif 2002).[66-67].

a poor man (HR Bukhari and Muslim).

In a marriage relationship, apart from having the right to own her own property, the wife also has the right to jointly share her property with her husband. This is based on surrah An-Nisa verse 32, “*Lirrijoli fateun mimmaktasabu wa linnisai fateun mimmaktosabn* (For men there is a share according to what they have earned and for women there is also a share according to what they have earned).” This means that both husband and wife are entitled to a share of mutually beneficial assets during the period of their marriage.

Islamic law, which separates the assets of husband and wife, actually makes it easier to separate what is the husband’s property and what is the wife’s property. Which part is the husband/wife’s property which was obtained individually during the marriage, and which part is the jointly owned property which was obtained jointly during the marriage.⁷ This separation of assets will be very useful in separating the husband’s assets or the wife’s assets if a divorce occurs in their marriage. The provisions of Islamic law above remain in effect until the marriage ends or one of the two dies.

If a marriage breaks up due to death, inheritance assets left by husband/wife are divided based on *faraidl* provisions. Inheritance assets that are divided are the rights belonging to each husband/wife who has died, namely after being separated from the assets of the surviving husband/wife. The wife’s assets are not included as inherited assets that must be divided. The wife still has the right to own her own personal property, and she is also entitled to a share of her husband’s inheritance.⁸

The property obtained by the husband during the marriage becomes the husband’s right, while the wife is only entitled to the maintenance provided by her husband. The Al-Quran and Sunnah do not state that the property acquired by the husband during the marriage is entirely the husband’s right, and the wife is

⁷ Abidin Nurdin, ‘Pembagian Harta Bersama dan Pemenuhan Hak-Hak Perempuan di Aceh Menurut Hukum Islam’ (2019) 2 (2) el-Urah: Jurnal Hukum Keluarga.

⁸ Zahri Hamid, *Pokok-Pokok Hukum Perkawinan Islam dan UU Perkawinan di Indonesia* (Binacipta 1978).[110].

only limited to the maintenance provided by her husband. And it does not clearly confirm that the property obtained by the husband during the marriage means that the wife is also directly entitled to the property.

The concept of joint property originates from customs that have developed in community traditions from generation to generation. The concept of joint property developed and gave rise to two main views regarding its position in marriage from the perspective of Islamic marriage law.

With marriage, there is no mixing of assets between husband and wife because of marriage: The wife's personal assets remain the property of the wife and are fully controlled. The husband's property remains the husband's property and is fully controlled. The wife is still considered capable of acting even without her husband's help in any matter, including in managing property so that it is considered that the wife can carry out all legal actions in social life. The husband has no right to his wife's property because the wife's power over property is permanent and not reduced in the slightest, even though the two of them were tied together through a marriage relationship. A husband may not use his wife's assets for household expenses unless he has permission from his wife. If the husband uses his wife's assets without her consent, the assets become the husband's debt which must be paid to the wife unless the wife is willing to release the responsibility.

The assets that the wife owned before the marriage period remain her property. Assets in the form of inheritance, gifts, grants, gifts from parents, or dowry given by swami, remain the property of the wife. Assets which are inherited assets and acquired assets are not considered mutual assets.

Shared Property as an Ijtihad Zone

The issue of joint property remains interesting to study regarding the mystery of love and marriage. Islamic law generally recognizes two types of legal sources. Firstly, the source of law is *naqliy* and the source of law is *aqliy*. The source of *naqliy* law is the Al-Quran and As-Sunnah, while the source of *aqliy* law is the effort to find law by making *ijtihad* using various methods. The legal content in the Al-Qur'an and

As-Sunnah sometimes requires interpretation.⁹ Legal sources in the form of *ijtihad* results are closely related to *fiqh* and the development of Islamic law application in various regions of the world, including Indonesia. This source of law also plays a major role in differences of opinion between experts regarding various aspects of life and generates *madzab* in Islamic law. However, any differences in *madzab* are mostly due to differences in methods of *ijtihad*, *ushul fiqh*, personal interests or political groups, as well as differences in quality and intellectual capacity.¹⁰ The difference between *madzab* is not that the *madzab* departs from Islamic Sharia as long as it refers to the Al-Qur'an and As-Sunnah in its *Ushul Fiqh*.¹¹ Differences of opinion in formulating law are caused by several reasons which can be concluded in one main reason that can accommodate other reasons, namely differences in understanding the propositions of Sharia', the Qur'an and Al-Hadith. Apart from that, there are some scholars who had opinions before examining the arguments and study only served to strengthen their opinions. The situation is reversed. Sharia, which is basically a source and guide in formulating law, now functions as a reinforcer for emerging opinions.¹² This kind of condition arises because of the political influence they adhere to or because of customs that they consider to be compatible with Islamic law. Islamic law includes several provisions that overhaul several provisions of pre-Islamic traditions in Arab society - *asathir al awwalin* - pre-Islamic mythology in Arab society.

Joint Assets *As-shirkah* Assets

Shirkah or fellowship is one of the oldest legal institutions that still exists and is practiced by Muslim communities. In line with the dynamics of human thought, the *shirkah* contract undergoes a modification process in order to adapt to human

⁹ Abd Shomad, *Hukum Islam: Penormaan Prinsip Syariah Dalam Hukum Indonesia* (Kencana 2017).

¹⁰ Muchtar Adam, 'Perbandingan Madzab Dalam Islam Permasalahannya' in Tjun Suryaman (ed), *Hukum Islam di Indonesia, Pemikiran dan Praktek* (Remaja Rosdakarya 1991).[209].

¹¹ Juhaya S Praja, 'Pengantar' in Tjun Surjaman (ed), *Hukum Islam di Indonesia, Penularan dan Praktek* (Remaja Rosdakarya 1991).[V].

¹² Amir Syaifuddin, 'Hubungan Dalil Hukum Syara' Dengan Pendapat Mujtahid, *Studi Islamika*, No.10 Tahun IV' (1979).[10-11].

needs which are always evolving. *Shirkah* also means *al-ikhtilath*, means combining or mixing. *Shirkah* means the rights of two or more people to something. According to Hanafiah scholars, *shirkah* is a combination of assets and/or skills to be used as business capital and the results in the form of profits or losses are shared together.

There are various kinds of *shirkah* in the study of classical jurisprudence, which are influenced by local practices and the range of thought at that time. Meanwhile today, new views on *shirkah* have emerged due to the increasingly complex civilization,. *Shirkah* is divided into two types, namely: *shirkah-amwal* and *shirkah-abdan*. In another perspective, *shirkah* can also be differentiated into *shirkah amlak* (ownership); and *shirkah uqud* (contract). *Shirkah amwal* is a *shirkah* that is formed when the parties in a union own property together through a certain business or without a certain business. *Shirkah amwal* includes *shirkah amlak ikhtiari* and *shirkah amlak ijbari*. *Shirkah amlak ikhtiari* is the provision of funds by the sharia to be used as business capital. *Shirkah amlak ijbari* is joint ownership by heirs of inherited property due to the death of parents. *Shirkah abdan* is cooperation to carry out certain businesses with “capital” in the form of skills among *sharik*. *Shirkah amlak* occurs due to certain efforts or occurs naturally (*ijbari*) and is divided into two, namely *shirkah amlak ikhtiari*, and *shirkah amlak ijbari*. *Shirkah amlak-ikhtiari* occurs, among other things, in cases of gift, will and purchase contracts. Joint ownership is the result of a gift, will, or something else which does not contain a *wakalah*/power of attorney agreement. The *Shariks* are not permitted to manage and/or utilize joint assets without permission from other *shariks*. *Amlak-ijbari shirkah* is *shirkah* of two or more *shariks* that occurs due to natural events, such as death.

Joint property or *gono gini*, is defined as *shirkah* in Islamic law. The concept of *gono-gini* property and all its details is not found in classical jurisprudence studies as a product of *ijtihad* produced by scholars before the modern era. Classical *fiqh* views the existence of separation between the husband’s property and the wife’s property. What the wife produces is her property, likewise what the husband produces is his property. By carrying out *qiyas* on *shirkah*, joint assets can be

equated or classified into *shirkah* assets, because the wife can carry the burden of the household or domestic work.

With the marriage relationship, the wife becomes “*syarikatur rajuli filhayati*,” namely a joint partnership for a husband to serve the ark of life. If a divorce occurs, these assets are divided between husband and wife according to the size of their roles in *shirkah*. The *shirkah* assets referred to are assets obtained by a married couple after their marriage relationship takes place and through either the efforts of both of them or the efforts of one of them.

Gono-gini assets are assets produced by a married couple during their marriage; therefore, *gono-gini* assets can be grouped into *shirkah mufawadhah* or *shirkah abdan*. Most married couples work together to earn a living to meet their household needs. *Gono-gini* assets are included in the type of *shirkah mufawadhah* because the partnership between husband and wife is unlimited. What a husband and wife produce during marriage is mutual property, while inheritance and gifts belonging to both are exceptions.

Shirkah gono-gini is simply cooperation in building *sokinah*, *mawaddah*, *wa rahmah* marriage, although it also includes matters relating to marital property. The partnership between husband and wife is different from partnerships in society generally, because it is usually eternal in relation to the purpose of the marriage itself. The partnership between husband and wife is not only related to material matters, but also regarding the souls and descendants of their children in the future.

Joint Assets as a Benefit for Murlah and Al-Urf

There is a view that the basis of sharia regarding joint property is *Maslahat* (benefits). Benefits are all conditions that have a positive impact or influence on humans, both short and long term, especially those related to primary needs (*adhdharuriyyat al-khams*) which include: protection of religion (*hifzh addin*), protection of life (*hifzh annafs*), protection against reason (*hifzh al-aql*), protection of property (*hifzh al-mal*), and protection of descendants (*hifzh annas/ hifzh al-*

”*ardh*), One of the rules of *fiqh*: “All laws revolve around benefit.¹³ and when this benefits then there is the law of Allah”.¹⁴ Sharia was established with a specific aim, namely creating what is best for the benefit of humanity, both in this world and in the afterlife, ensuring that it does not cause chaos, damage and crime to both individuals and society.¹⁵ In the rule, “Preventing damage (*mafsadat*) takes priority over attracting benefits (benefits)”. Islamic law cannot possibly be contrary to what is best for humans and bring misery and damage. It cannot achieve smaller benefits, while it will cause greater danger, both to the mind, body, self-esteem, property, and ethics, even though it sometimes has a positive economic impact for some people.¹⁶

The concept of *gono-gini* property basically comes from various customs. The basis of sharia, as another argument, regarding joint property is the rule of *ushul fiqh* which states *al-'adatu muhakkamah*. The word “custom” comes from an Arabic word which means “return again” or “repeat”.¹⁷ Abdul Wahhab Khallaf defines it as something that is known to the society and where they usually do it, both in words and deeds. Broadly speaking, ‘*urf*’ is divided into two types, namely ‘*Urf Sahih* and ‘*Urf Fasid*. ‘*Urf Sahih* is something that is known to the society whose implementation does not conflict with the text, does not forget about *maslahah* (goodness) and does not cause *mafsadat*. ‘*Urf Fasid* is something that is known to society, but contrary to the *Shari'ah* or circumstances it can indeed invite evil or forget goodness.¹⁸ The mujtahid does not need to pay attention to ‘*urf fasid* in his *ijtihad* or in his fatwa, nor does the judge need to recognize it in making his decision.¹⁹

The law of *ijtihadiah* which is determined based on ‘*Urf* will undergo changes if the ‘*Urf* which is the basis undergoes changes according to time and

¹³ Abdul Mudjib, *Al-Qawa'idul Fiqhiyah (Kaidah-Kaidah Ilmu Fiqh)* (Kalam Mulia 1994). [9-18].

¹⁴ Teungku Muhammad Hasbi Ash-Shidieqy, *Memahami Syari'at Islam* (Pustaka Rizki Putra 2000).[71].

¹⁵ Yusuf Qardhawi, *Reformasi Pemikiran Islam Abad 21* (terjemahan: Moh. Farid Zaini ed, Bina Ilmu 1998).[76-77].

¹⁶ *ibid.*

¹⁷ Anwar Harjono, *Hukum Islam* (Bulan Bintang 1984).[13].

¹⁸ *ibid.*[207].

¹⁹ Ash-Shidieqy (n 14).[477].

place, as long as it remains within the field of permitted actions.²⁰ Different laws are due to differences in *'Urf* in a country and changes in *'Urf* due to changes in time, differences of opinion between them occur because of differences in place and time, not differences in evidence and reasons.

Joint assets can be used as an argument for *syar-iy* and *'Urf* can be accepted as a source of *Ijtihadiyah* law if it meets the following conditions:²¹

1. *'Urf* is general and runs continuously.
2. *'Urf* must be accepted by feelings and common sense.
3. *'Urf* must not conflict with *Nash's Qath'i* (certain). If it conflicts with the general *Nash* established by *dhonni* (allegations), both in the legal provisions and the designation of the postulates, then it functions as a *takhsis*-exception-from *dhonni*. Anything that is contrary to the spirit of the Sharia with the wisdom of its aims and with *Nash*, is not recognized by the sharia at all.
4. The *'Urf* existed when the *Ijtihadiyah* law was formed.
5. *'Urf* is not prohibited by certain conditions.
6. *'Urf* is only valid forever, no *'Urf* is permitted that comes later.

As a result, joint property meets the requirements as *'Urf*.

Principles of Balanced Justice in Managing Marital Property Disputes

One of the principles in Islamic inheritance law is the principle of balanced justice that there must be a balance between rights and obligations, between the rights obtained and the obligations that must be carried out.²² In inheritance, the rights obtained by men and women are balanced with the obligations borne by each party in family and community life.²³

Islamic law underlines the need to resolve life's problems in the world with justice, including in terms of the distribution of wealth. In the Qur'an, Surah AL-Hujurat (49:13) states, "O all mankind, indeed We have created you from a man and a woman, and We made you into nations and tribes so that you may know each other.

²⁰ *ibid.*[473].

²¹ Shomad (n 9).

²² Adi Nur Rohman, 'Shifting The Role Of Mediation In Islamic Inheritance Disputes: An Overview Of Islamic Legal Philosophy' (2022) 7 Diponegoro Law Review.[230-244].

²³ Abd.Shomad and Prawitra Thalib, *Hukum Waris Islam Di Indonesia* (Lutfansah Mediatama 2013).[18-22].

Verily The noblest among you in the sight of Allah is the most righteous among you. Indeed, Allah is truly All-Knowing, All-Aware". The Prophet Muhammad SAW said, "The best among you is the one who (behaves) best towards his family" (*HR Ibnu Majah*). Deliberation on the division of mutually beneficial assets between husband and wife is still important in any case. Islamic Law Compilation (KHI) article 97 states that "Widows or widowers who are divorced each have the right to half of the joint property as long as it is not specified otherwise in the prenuptial agreement". Therefore, each gets half of the joint property (50 : 50). If it turns out that the distribution is determined based on agreement or willingness between the two of them based on the hadith "Peace is permissible (made) between Muslims, except for peace that forbids what is halal or makes lawful what is haram" (*HR Al-Hakim, Abu Daud, Ibn Hibban, and at-Tirmidhi*). One of the principles in Islamic Inheritance Law is the principle of balanced justice, which means that there must be a balance between rights and obligations, in this case the rights obtained and the obligations that must be carried out must be balanced. So that the inheritance of rights obtained by men and women is balanced with the obligations carried by each party in family and community life.

In its development, using the principle of balanced justice known in Islamic inheritance law, joint property can be divided according to the size of the contribution of husband and wife in collecting assets that become joint assets.

Conclusion

Differences of opinion in formulating Islamic law are caused by several reasons; the main reason which can accommodate other reasons is the differences in understanding the Islamic propositions. Apart from that, there are some scholars who had opinions before examining the arguments and study only served to strengthen their opinions. The situation is reversed. Sharia, which is basically a source and guide in formulating law, functions as a reinforcement of opinions that arise because of the political influence they adhere to or because of customs that they consider to be compatible with Islamic law.

Joint property or *Gono-gini* assets using qiyas are *shirkah* assets that can be managed based on a marriage agreement. If it has not been specified in the marriage agreement, using the principle of balanced justice known in Islamic inheritance law, joint property can be divided according to the size of the husband and wife's contribution in collecting the assets that become joint property. By applying the principle of justice, it is hoped that there will be no disputes in the future.

Bibliography

Abd.Shomad and Prawitra Thalib, *Hukum Waris Islam Di Indonesia* (Lutfansah Mediatama 2013).

Adam M, 'Perbandingan Madzab Dalam Islam Permasalahannya' in Tjun Suryaman (ed), *Hukum Islam di Indonesia, Pemikiran dan Praktek* (Remaja Posdakarya 1991).

Ash-Shidieqy TMH, *Memahami Syari'at Islam* (Pusataka Rizki Putra 2000).

Basyir MA, *Hukum Islam Tentang Wakaf Ijarah, Shirkah* (Al-Ma'arif 2002).

Fitrianti D, 'Harta Bersama Dalam Perkawinan Poligami Menurut Undang-Undang Nomor 1 Tahun 1974 Dan Hukum Islam' (2017) 6 Jurnal Intelektualita: Keislaman, Sosial, dan Sains.

Hamid Z, *Pokok-Pokok Hukum Perkawinan Islam Dan UU Perkawinan Di Indonesia* (Binacipta 1978).

Harjono A, *Hukum Islam* (Bulan Bintang 1984).

Jauhar AAMH, *Maqashid Syariah* (terjemahan: Khikmawti ed, Amzah 2009).

Liman PD and Rohidin, 'Analysis Of The Legal Basis Of Marriage Agreements And Their Implications For The Position Of Inheritance Property' (2014) 40 Jurnal Hukum Unissula.

Mudjib A, *Al-Qawa'idul Fiqhiyah (Kaidah-Kaidah Ilmu Fiqh)* (Kalam Mulia 1994).

Nugroho ER, 'Granting of Property During Marriage as an Inherited Property in Indonesia' (2024) 7 El-Ussrah: Jurnal Hukum Keluarga.

Pradoto MT, 'Aspek Yuridis Pembagian Harta Bersama Dalam Perkawinan

(Tinjauan Hukum Islam Dan Hukum Perdata)' (2014) 4 *Jurisprudence*.

Praja JS, 'Pengantar' in Tjun Surjaman (ed), *Hukum Islam di Indonesia, Penularan dan Praktek* (Remaja Rosdakarya 1991).

Qardhawi Y, *Reformasi Pemikiran Islam Abad 21* (terjemahan: Moh. Farid Zaini ed, Bina Ilmu 1998).

Rohman AN, 'Shifting The Role Of Mediation In Islamic Inheritance Disputes: An Overview Of Islamic Legal Philosophy' (2022) 7 *Diponegoro Law Review*.

Shomad A, *Hukum Islam, Penormaan Prinsip Syariah Dalam Hukum Indonesia* (Kencana 2017).

Syaifuddin A, 'Hubungan Dalil Hukum Syara' Dengan Pendapat Mujtahid, Studi Islamika, No.10 Tahun IV' (1979) 10.

HOW TO CITE: Abd.Shomad and Sri Hajati, 'Prenuptial Agreement and the Principle of Balanced Justice in the Division of Joint Property in Islamic Marriage Law' (2025) 40 *Yuridika*.