



Legal Reconstruction of the Distribution of Common Property through a Study of Sociological Jurisprudence

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Abstract: This study examines the division of joint property post-divorce using the sociological jurisprudence framework established by Roscoe Pound, emphasizing critiques of the normative stipulations in Article 97 of the Compilation of Islamic Law, which mandates an arithmetic division into semi-halves. The primary issue analyzed is the degree to which sociological methodologies may discern positive legal deficiencies in achieving substantive justice when the contributions of husband and wife are socially and economically inequitable. The used technique is normative juridical, using a theoretical approach that involves the examination of statutes, regulations, legal theory, and judicial practice. The study's findings indicate that inflexible positive legislation may overlook domestic and non-financial contributions, particularly from the wife. In some verdicts, judges use *contra legem* as a manifestation of judicial daring to maintain substantive justice grounded in genuine contributions. The sociological jurisprudence method facilitates a contextual and adaptive reconstruction of family law in response to societal processes. The allocation of communal assets should be grounded not only in the idea of formal equality but also in the acknowledgment of genuine contributions that often remain obscured by domestic labor and power dynamics inside the home.

Keyword: Common Property, Divorce, Sociological Jurisprudence.

INTRODUCTION

Divorce fundamentally constitutes the dissolution of the legal relationship between two parties formerly united by marriage. This incident signifies a rupture in the household order and the failure of private interactions to sustain peace. Behind the seemingly straightforward legal facts about the dissolution of a marriage partnership lies a complex domain of justice concerns for profound contemplation, particularly concerning the distribution of shared assets (Abror, 2020). In this sense, property transcends a simply countable and divisible item; it embodies a tangible representation of labor, sacrifice, compassion, and time, which is not usually formally recorded.

The matter of shared property arose as a result of discord in the marital partnership, undermining the previously established basis of unity. In actuality, it is usual for married

couples to establish formal property separation before marriage, since the union often originates from a shared existential spirit aimed at pursuing life from an equitable foundation. Nonetheless, some individuals, possessing a heightened legal consciousness and social insight, proactively create a separation of property agreement at the outset as a rational preemptive measure against potential discord, grounded in normative legal reasoning and reaction to the evolving social and economic circumstances within society. (Nafi & Solehah, 2020).

Indonesia's legal structure posits a mathematical normative assumption on the division of joint property, stipulating that assets acquired during marriage are deemed joint property and are to be shared equally (50:50) between spouses. This presumption is seen in several legal instruments, namely:

Article 35, paragraph (1) stipulates: "Property acquired during marriage constitutes joint property." While the Marriage Act does not explicitly stipulate a 50:50 division, it establishes a general framework indicating that property acquired during the marriage is joint property. In the event of a divorce, the division is governed by the applicable law (religious, customary, or civil), which is frequently interpreted in judicial practice as an equitable division.

In the Western legal system established by the Civil Code, particularly for non-Muslim residents, the notion of joint ownership is enshrined in Article 119, which asserts: "Upon the occurrence of marriage by law, there is a unanimous union of property between husband and wife." The KHI, as a legal framework in religious jurisprudence, reinforces the presumption of equitable division of communal property, articulated explicitly in Article 97 of the KHI: "Divorced widows or widowers are entitled to fifty percent of the joint property unless otherwise stipulated in the marriage contract."

The statement "each is entitled to a half" clearly illustrates an arithmetic methodology that underpins religious judicial practice in the quantitative division of communal property, rather than equitably distributing it based on real contributions.

The aforementioned rules demonstrate that family law in Indonesia, whether originating from national legislation, Dutch civil law, or codified Islamic law, conforms to the concept of arithmetic justice, defined as justice aligned with numeric equations. This perspective originates from Aristotle's *Nicomachean Ethics*, whereby mathematical justice is defined as a sort of justice that equitably balances two parties without regard for roles, contributions, or subjective conditions.

This kind of justice embodies the egalitarian perspective that within a married partnership, the contributions of both husband and wife, despite not necessarily manifesting as formal economic input, are seen as equal in establishing a home. Consequently, the distribution of wealth is not seen merely through the lens of work or income amount, but also via the principles of moral equality and collective accountability. In some instances, this mathematical method may provide challenges, particularly if one party can demonstrate a much larger contribution or the presence of systemic imbalances within the partnership. The legislation permits judicial discretion or court consideration, particularly if a marital agreement or evidence of contribution is shown. Moreover, some court rulings identified by the author as standard only guarantee procedural fairness, failing to address the essence of substantive justice. The norm evolves into a technocratic ritual that neglects the existential context of individuals entering marriage, particularly those whose contributions manifest as unacknowledged silent labor not captured in formal economic exchanges.

According to a survey conducted by PEKKA (Empowerment of Women Heads of Families), out of 120 respondents who divorced via the courts, only 4 individuals obtained the allocation of joint property by the parties' knowledge and local customary regulations. This (BADILAG MARI, 2025) problem is influenced by three primary factors: women's limited legal awareness of their rights, the prevalence of patriarchal customary norms, and societal stigma that discourages women from asserting their rights due to perceptions of taboo or

embarrassment. This indicates that the law operates within a context shaped by significant social, cultural, and informational disparities.

Moreover, within the societal context, many women assume comprehensive home responsibilities, facilitating their partners' employment, supervising children, and managing household duties, all while remaining unrecognized as official proprietors of familial assets. Upon the occurrence of divorce, inflexible and positivist rules transform into an unyielding barrier that negates this inherent contribution. The essential question, therefore, emerges: can law, first established to administer justice, continue to reflect human values if it relies only on textual interpretation and disregards reality?

The essential inquiry within legal philosophy is: can law, ideally established as the protector of justice, have moral significance when it relies only on normative texts and disregards the lived experiences of its subjects? If the legislation fails to address underlying vulnerabilities, accommodates unreported contributions, and does not deconstruct the structural inequities inherent in the husband-wife relationship, it will just become an administrative artifact devoid of its essence. Within the paradigm of Roscoe Pound's Sociological Jurisprudence, law should be seen as a social institution responsible for harmonizing human interests and values, rather than just mechanically executing laws.

Amidst the prevalence of legal positivism, which prioritizes normative certainty and procedural rigidity, Sociological Jurisprudence presents a more contemplative and humanistic approach to epistemic emancipation. According to Roscoe Pound, law should not be seen just as an independent and self-contained normative framework, but as a dynamic and interacting social institution that reconciles societal interests. Pound contends that the law ought to be seen as Law in Action rather than Law in Books, and he introduces the idea of Law as a mechanism for social engineering, whereby the law must fulfill its function as an instrument to establish a fair and adaptable social order in response to evolving human values and requirements. (Pound, 2018).

This paradigm refutes the traditional legalism perspective that regards law as an absolute normative authority, apart from its societal environment. According to Roger Cotterrell in *The Sociology of Law: An Introduction* (1992), A sociological perspective on law necessitates seeing law through the prism of its social context. The law is not only a framework of internal logic; it also embodies social conflicts, cultural constructs, and value tensions inherent in society. (Cotterrell, 1984). Consequently, the law must be receptive to human experience rather than depend only on procedural correctness.

Sociological Jurisprudence is very pertinent to the partition of marital property upon divorce. Justice should not be evaluated only by numerical divides, as articulated in Article 97 of the Compilation of Islamic Law, which presupposes an equal contribution between husband and wife. However, social reality indicates the contrary: many women provide emotional, domestic, and existential support without administrative acknowledgment or explicit legal validation. Martha Fineman's work, *The Neutered Mother, The Sexual Family, and Other Twentieth Century Tragedies* (1995), elucidates that women's domestic labor is frequently disregarded in contemporary legal frameworks, as these systems are predicated on masculine criteria that evaluate contributions solely based on measurable economic output. (Fineman, 2014).

Sociological Jurisprudence demonstrates its significance as a legal philosophical method that is both normative and transformational. Roberto Mangabeira Unger said in *Law in Modern Society* (1976) that the law must be liberated from the formalistic constraints that hinder its capacity to represent the aspirations and variety of human experience. (Unger, 1977) Effective legislation is not only procedurally sound but also capable of addressing tangible problems, accommodating the marginalized, and actualizing justice as an ethical principle rather than as a technical standard.

This inquiry originates from the philosophical concern that a law that only computes without comprehension fundamentally diminishes its human authority. Addressing the intricacies of common property necessitates a reconfiguration of the legal framework that reconciles the disparity between text and context, normativity and social experience, as well as structure and meaning. Sociological jurisprudence represents not merely a methodological proposition but an ethical advancement towards a more compassionate legal framework, wherein law functions not as an instrument of legalistic oppression but as an ethical practice that advocates, nurtures, and addresses social inequalities overlooked by positivistic law.

Based on the explanation, formulation of the problem : (1) In what manner does the sociological jurisprudence perspective expose the deficiencies of positive law regarding the allocation of common property according to contributions? and (2) How are the principles of substantive justice formulated within the framework of sociological jurisprudence to reconcile norms with social reality?.

METHOD

This research employs a normative juridical technique that focuses on the examination of law as a dynamic norm within the legal system and legal theory, rather than as a consequence of empirical observation of community behavior. (Mahmud Marzuki, 2011).

This approach conceptualizes law as a prescriptive system of norms and principles that specifies what should occur (*das sollen*) rather than just reporting what happens (*das sein*). The primary sources used in this context include legal texts such as the Marriage Law, the Compilation of Islamic Law (KHI), the Civil Code, and relevant opinions from religious tribunals and the Supreme Court.

This research utilizes secondary legal sources, such as textbooks, academic papers, and insights from distinguished legal scholars, especially in the fields of legal philosophy and justice theory. Tertiary legal papers are used to clarify the definitions of technical terms and to ensure conceptual consistency in analysis.

This normative method was chosen for its ability to evaluate the relevance and effectiveness of existing legal norms, pinpoint deficiencies or excessive rigidity in the law, and provide normative reconstruction based on the concept of substantive justice within the framework of sociological jurisprudence. This method views legislation not just as a prescriptive document, but as a conceptual framework that must continually reflect the values of justice, equality, and adaptation to complex and dynamic social conditions.

RESULTS AND DISCUSSION

The Relevance of Sociological Jurisprudence in Tracing the Gap between Legality and Justice in the Division of Common Property.

Sociological jurisprudence is a theoretical framework in law that perceives law not as an autonomous and detached set of principles, but as a product and instrument that exists within social interactions. (Syahyu & Fitriana, 2021). This notion was established by Roscoe Pound, who criticized the supremacy of Mechanical Jurisprudence, which emphasizes technical reasoning and legal deduction while neglecting the social purpose of law. (As-Suvi & Zainullah, 2022).

Pound contends that law ought to be seen as an instrument of social engineering, including not only the formulation of rules but also the realization of societal objectives such as justice, order, and communal welfare. From this perspective, law is successful not due to doctrinal purity, but because of its effectiveness in meeting social existence's demands and tangible obstacles. (Hidayat & Hainadri, 2021).

Sociological Jurisprudence focuses on the application, acceptance, and societal reaction to the law, highlighting the importance of sociological factors such as values, habits, family

structure, economic conditions, and psychological dynamics in understanding the law's practical operation.

This method reconstructs the link between law and society by transitioning from Law in Books to Law in Action. The validity and legitimacy of the legislation are assessed not only by its alignment with the hierarchy of norms but also by its efficacy and equity in the perception of society. Sociological jurisprudence plays a crucial role in facilitating a more contextual, sensitive, and inclusive interpretation of the law that aligns with the evolving human values within society. (Pound, 1910).

The law is currently seen not as an autonomous system functioning independently of social reality, but as a reflection of society's collective objectives and ethical dilemmas. This technique is relevant for assessing whether a legal norm attains substantive justice instead of simply procedural justice, and for analyzing the extent to which the law addresses the concerns of disadvantaged groups excluded from the formal legal process.

In his works "Interpretations of Legal History" (Pound, 2013) and "An Introduction to the Philosophy of Law," Roscoe Pound asserts that, (Pound & DeRosa, 2017) The law should function as a tool for social engineering. The distribution of property should not just depend on formal equity (arithmetical justice), but must also include socio-economic reality, the unrecognized burden of domestic obligations (such as childcare or housework), and the power imbalance between spouses. In this context, substantive justice may have been more efficiently achieved by an uneven distribution that corresponds with actual contributions and requirements.

For example, Mary Ann Glendon's publication "The Transformation of Family Law: State, Law, and Family in the United States and Western Europe" (University of Chicago Press, 1989) (Glendon, 1989) Demonstrates the transition of Western nations from mathematical justice to a contribution-based distribution model, recognizing the unpaid but economically significant domestic labor of women. Likewise, in "Family Law in a Nutshell" authored by Harry D. Krause (West Academic Publishing, 2016) (Myers & Krause, 2017) The mathematical method of property allocation post-divorce is often criticized for not addressing the economic dependency of one party, which arises from the separation of gender roles within the family.

If the law does not address social reality or instead perpetuates structural inequities, then the sociological jurisprudence method might function as an internal criticism of the legal system. This essential role makes this method significant in the reevaluation of positive laws that are inflexible or unresponsive to societal change. Sociological jurisprudence offers a more humanistic and ethical paradigm of law by examining its meaning via everyday life practices rather than just through normative frameworks, therefore connecting law as a norm with human life experiences. This method helps elucidate the disjunction between legality and fairness sometimes seen in family law matters, particularly concerning child custody, which will be the subject of the subsequent section.

The sociological jurisprudence approach highlights the inadequacies of the legal system in the division of common property, particularly when legal norms like Article 97 of the Compilation of Islamic Law (KHI) are applied mechanically, disregarding the actual contributions of the parties within the household. In several instances, the 50:50 division fails to accurately represent the genuine contributions, since it overlooks the home responsibilities, parenting, and emotional support often provided by one side, particularly the woman.

This method transitions the focus from law as codified to law as practiced, highlighting that the legitimacy of law derives not just from the hierarchical arrangement of rules, but from its capacity to address reality and contemporary societal ideals. Effective legislation, in this context, may mitigate inequality, address social injustice, and provide genuine protection for marginalized people. Sociological jurisprudence offers a fundamental foundation for judges to engage in *contra legem*, meaning to diverge from established legal standards to ensure substantive justice.

This approach underscores the structural inequities present in marriage relationships owing to the patriarchal system, which often relegates women to subservient roles, with their contributions remaining unacknowledged. Sociological jurisprudence serves as a conduit between normative regulations and social dynamics to achieve substantive justice, which encompasses not only legal fairness but also perceived equity in the lived experiences of those impacted.

Sociological jurisprudence, as articulated by Roscoe Pound, rejects the notion of law as a closed system, instead positioning it in perpetual interaction with social structures and human interests. This approach underscores that the assessment of the child custody system cannot rely just on the interpretation of positive norms; it must also include the effectiveness of these norms in achieving substantive justice. Children affected by divorce often endure legal ambiguity, emotional neglect, and potential trauma, indicating that the legal system has inadequately provided justice as a tangible social reality for them.

Moreover, the sociological jurisprudence method creates a reflection space for the institutional framework and legal culture that shapes judicial practice in Indonesia regarding the partition of communal property issues. A primary issue is the lack of a standardized method to thoroughly evaluate the real contributions of spouses in economic, household, and social dimensions within the court process. The lack of standardized tools incorporating specialists like family economists, social workers, or household financial advisors in data gathering highlights the constraints of the sociological aspect in the decision-making process.

The law, in the context of dividing common property, not only regulates ownership but also serves as a mechanism for socially acknowledging the significant contributions of invisible labor to family sustainability.

Sociological jurisprudence serves as an epistemic and normative link between rigorous legal positivism and the intricate, immeasurable nature of social reality. Through this perspective, the resolution of the common property division case is no longer viewed merely as a validation of formal rights derived from ownership or income documentation, but rather as a platform to promote substantive justice that acknowledges the genuine and holistic contributions of each party in creating the common wealth. Consequently, the Indonesian legal system must evolve from a legalistic-formal approach to an equity-based family justice system, namely one that considers contributions and social context. Sociological jurisprudence serves as both an alternative legal theory and a foundational conceptual framework for restructuring family law to be more compassionate, flexible, and sensitive to the complexities of contemporary domestic life.

Moreover, the sociological jurisprudence approach promotes critical examination of the legal framework and culture that continues to prevail in the administration of religious justice in Indonesia, particularly with the resolution of conflicts about the partition of communal property.

A legal culture characterized by positivism and formalism implies that judicial rulings frequently adhere to a literal interpretation of normative provisions, such as Article 97 of the Criminal Code, neglecting the intricate social realities about each party's actual contribution to the household. Within the context of sociological jurisprudence, law must be seen not just as a closed system of normative principles but as a social institution that evolves and integrates with societal processes. This implies that the law must include aspects not explicitly articulated in the legal language, like household labor, child-rearing, personal sacrifice, and the disparities in power dynamics between spouses.

When judges assess common property only based on formal ownership papers or income levels, the legal system effectively disregards the idea of substantive fairness, which is the primary objective of the law as articulated by Roscoe Pound. Sociological jurisprudence functions as a conceptual link between legal norms and tangible social realities, facilitating contextual, humanistic, and egalitarian interpretations of law. Consequently, the resolution of

joint property conflicts should not be seen only as a mathematical allocation of assets, but rather as a platform for the societal acknowledgment of intangible but vital contributions. A novel procedural methodology is required to facilitate the assessment of contributions via social evaluation instruments, involving professionals such as social workers, family psychologists, or household economic consultants, thereby enabling judges to consider the facts more comprehensively and equitably.

Pound posits that law, as an instrument of social engineering, must not remain static in its textual form but rather continually strive to cultivate a more equitable social order. If the legal system upholds a static and procedural normative framework, the law will only serve as a means for perpetuating inequality. Sociological jurisprudence serves as a crucial basis for the transformation of Indonesian family law from a purely legalistic approach to a contextual family justice framework, which embodies substantive justice that not only governs but also acknowledges and rectifies uneven social relations inside the home.

Conceptual Construction of Substantive Justice in the Sociological Paradigm of Jurisprudence

In Indonesia, legislation is often rendered in a formalistic manner characterized by a bifurcated structure. Nonetheless, these normative principles do not consistently embody real fairness, especially in instances when the contributions of husband and wife are socially and economically disparate. In this setting, the idea of Sociological Jurisprudence, pioneered by Roscoe Pound, gained significant relevance. Pound dismisses a strictly dogmatic and insular perspective on law, advocating for its role as a mechanism of social engineering. (Munir, 2025). The law must engage with its social context and provide justice according to the actual circumstances encountered by the community.

Pound asserts that the law's goal is to safeguard the interests of individuals, the public, and society harmoniously. (Matnuh, 2017). In the context of common property division, three elements converge: individual rights to labor and contributions, the public interest in domestic justice as a social entity, and societal values necessitating equality in gender relations and parenting. Pound's rationale posits that this harmonization cannot be attained by a stringent and insular interpretation of the law, but instead through an approach that prioritizes the actuality of contribution as the foundation of justice.

In Indonesia, several religious courts have started to use discretion in *contra legem* practices by allocating assets not equally at 50:50, but based on actual contributions. This technique exemplifies law as a sort of social engineering, since the conclusion arises not from the will of the norm, but from the need for genuine justice. The audacity to diverge from the text to attain substantive justice aligns with Roscoe Pound's legal postulates, asserting that the law must change in response to societal needs.

Pound said that each interest seeking legal protection must be evaluated within the context of its social purpose. The partition of common property must recognize domestic contributions, childcare, and the sacrifices made by the woman regarding her job as substantive interests with legal significance, rather than just moral obligations. A legal interpretation of property split cannot rely just on formal ownership proof; it must also account for substantive contributions that may not be formally recorded.

Moreover, Pound established the notion that "the law must be adaptable to preserve equilibrium among conflicting social interests." (Latipulhayat, 2014). The allocation of communal assets must reflect home reality and the dynamics of power relations inside the family. If not, the law ceases to serve as a way of addressing human needs and instead becomes a conservative instrument for perpetuating inequality.

The Surabaya High Court of Religion Decision Number 231/Pdt.G/2022/PTA. Sby serves as a significant precedent for comprehending the legal response to social injustice using a *contra legem* approach. The panel of judges resolved to annul the stipulations of Article 97 of the

Compilation of Islamic Law (KHI), which asserts that divorced widows or widowers are entitled to fifty percent of the communal property. Conversely, all assets were awarded to the Appellant (wife) due to the determination of a substantial disparity in contributions during the marriage.

Correspondingly, a case in the Bukit Tinggi Religious Court emphasized that the distribution of joint property may not always adhere to the idea of equal halves. In the verdict of the Bukit Tinggi Religious Court, the court allocated 1/3 of the property to the husband and 2/3 to the wife, attributing this division to the woman's predominant participation in the accumulation of the joint assets. This indicates that the empirical role and factual contribution of the couple throughout marriage need to serve as the foundation for legal issues. (Kurniawan, 2017).

The verdict signifies a shift from normative justice to substantive justice. This methodology aligns with Roscoe Pound's notion of sociological jurisprudence, which posits that law should transcend textual interpretation and change according to societal needs and values. Pound said that the function of law serves as an instrument of social engineering, capable of adapting to societal changes and addressing structural injustices.

In this environment, judges have assumed a progressive role as required by sociological jurisprudence, namely by examining the principles of substantive justice and recognizing the law as an institution that adapts to injustices arising from the rigid application of legal standards. The wife's sole repayment of the disputed debt serves as concrete proof of unequal participation, which, if disregarded, would render the law an instrument of oppression rather than liberation.

Roscoe Pound has contributed to legal philosophy with his concepts of Jural Postulates. A collection of fundamental principles that embody the normative expectations of civilized society toward the conduct of its members. Pound did not see the law as a self-contained, independent structure, but rather as an open system that perpetually evolves in response to social forces. (McManaman, 1958). Consequently, Jural Postulates function as an ethical-philosophical framework that underpins the development and modification of legal standards in response to the evolving social landscape.

Fundamental Legal Principles, Pound asserts that in a civilized society, people need to presume that others would not deliberately inflict damage, that they can manage the outcomes of their work or property, and that others will behave in good faith without imposing excessive risk on others. This postulate is not a static standard but a scalable concept that aligns with the evolution of social values and societal structure. (Gardner, 1962).

This approach is especially pertinent for evaluating the practice of communal property sharing, as affirmative legal standards, such as Article 97 of the Compilation of Islamic Law, sometimes employ mathematical reasoning without verifying its applicability against real social realities. Under the principles of Jural Postulates, the legal system ought to acknowledge that non-economic contributions to marriage, including childcare, emotional support, and domestic labor, are interests deserving of protection. In a fair society, the legal principle should indicate that the law does not need formal proof to acknowledge a socially and morally significant contribution.

From this perspective, inflexible and mechanical standards of wealth distribution do not satisfy the criteria of the jural postulate, since they do not align with the values deemed acceptable by contemporary cultures that acknowledge the significance of reproductive labor and gender roles within the home. If the law mandates that women must document their contributions to get legal recognition, it has forfeited its social purpose as an instrument of social engineering and contradicts the fundamental principles of societal civilization.

According to Leiboff & Thomas in *Deep Legal Theories in Principle* (2004), Jural Postulates serve as an evaluative principle that enables the law to evolve in response to societal needs, thereby acting as a crucial intersection between normative law and social expectations. (Leiboff, 2004). Pound asserts that this postulate is reflective and adaptive, functioning alone if

the law is receptive to the reformation of the notion of justice informed by individuals' lived experiences.

The inadequacy of the legal system to recognize the unacknowledged labor of women in domestic settings indicates that Indonesian law is ensnared in procedural positivism rather than being informed by substantive legal reasoning rooted in the ethical principles of civilized nations. In this environment, courts need to use Jural Postulates as an interpretative framework for judicial activism that liberates the law from stringent normative constraints and facilitates participative, sympathetic, and contextual methodologies.

The issue of dividing joint property post-divorce in Indonesia cannot be sufficiently addressed only via a legalistic framework that depends on normative provisions like Article 97 of the Compilation of Islamic Law.

Substantive justice necessitates a contextual, sympathetic, and sensitive interpretation of the law regarding social realities, particularly concerning power dynamics and contributions that are not necessarily shown as formal proof. This is where the significance of Roscoe Pound's social jurisprudence theory becomes evident.

The law must function as a dynamic instrument that not only controls but also rectifies and guides social processes toward civilization. By establishing jural postulates as a reflective framework, law may be seen as a tool for fair social engineering rather than only a protector of the normative status quo.

Progressive decisions acknowledging domestic and non-economic contributions as legal values are not aberrations but rectifications of the stagnation of justice confined under legal positivism. This is a pivotal time for the Indonesian court to broaden the scope of justice via substantive legal reasoning and to transform the law into a communal ethical domain that acknowledges the lived experiences and contributions often overlooked inside the domestic sphere. In the absence of these measures, the law will persist in its inability to comprehend reality, rendering it only a muted response to genuine social disparity.

CONCLUSION

The sociological jurisprudence method is very pertinent in pinpointing deficiencies within the national legal system, especially regarding the regulation of joint property split post-divorce. Favorable legal rules that use a mathematical methodology, such as Article 97 of the Compilation of Islamic Law, have shown insensitivity to the disparities in contributions between spouses.

Sociological approaches facilitate a contextual and responsive interpretation of social dynamics, encompassing gender inequality, unacknowledged domestic labor, and structural dominance that frequently suppresses women's rights. Judges have increasingly used *contra legem* as a corrective measure to inflexible standards to achieve substantive justice.

In these contexts, the idea of substantive justice may be established via sociological jurisprudence as a basis for reconciling the disparity between positive legal standards and intricate social reality. Enforcement must extend beyond formal certainty; it must align with the prevailing social and moral values of society.

The acknowledgment of genuine contributions both monetary and non-monetary within homes needs to serve as the foundation for the allocation of communal assets, representing a more compassionate and contextually relevant type of justice. Consequently, the reformation of the family law framework is essential to guarantee procedural equality and to rectify the substantive inequities faced by marginalized groups.

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