

LEGAL PROTECTION EFFORTS FOR WIVES' RIGHTS TO JOINT PROPERTY IN POLYGAMOUS MARRIAGES IN POSITIVE LAW IN INDONESIA

Ahmad Baihaki^{1*}, Dwi Atmoko²

^{1,2}Bhayangkara University of Greater Jakarta, Jakarta, Indonesia

ahmad.baihaki@dsn.ubharajaya.ac.id^{*1}, dwi.atmoko@dsn.ubharajaya.ac.id²

Abstract

Polygamous marriage continues to constitute a complex legal issue both in theoretical discourse and in legal practice. This article examines disputes concerning joint marital property in polygamous marriages and explores the legal remedies available to wives in order to ensure the protection of their rights. The study employs a normative juridical research method using statutory and case approaches. The findings reveal that the existing positive legal framework governing wives' rights over joint marital property in polygamous marriages has not yet fully provided adequate legal protection. Legal protection for wives' rights relating to joint marital property in polygamous marriages may be realized through both preventive and repressive legal measures. One form of preventive legal protection contained in Law Number 1 of 1974 concerning Marriage and the Compilation of Islamic Law has not yet ensured justice and legal certainty with respect to the protection of wives' rights over joint marital property in polygamous marriages. Further provisions concerning this matter are found in the Compilation of Islamic Law, which stipulates that joint marital property in polygamous marriages is separate and independent for each marital relationship. Another preventive effort that may be undertaken by the parties is the establishment of a prenuptial agreement concerning the separation of joint property prior to entering into a polygamous marriage. Meanwhile, repressive legal protection serves as a legal remedy in the event of disputes through litigation before the court, mediation, settlement deeds, or judicial decisions.

Keywords: Legal Protection, Joint Marital Property, Polygamous Marriage

INTRODUCTION

The family constitutes the smallest social entity within society and simultaneously functions as the most fundamental social institution composed of a husband, wife, and children. In the perspective of Islamic law, the establishment of a family is directed toward the realization of a household characterized by *sakinah*, *mawaddah*, and *rahmah*. A harmonious family not only fulfills a private function but also performs a strategic role in shaping moral character, social values, and societal resilience. Consequently, the formation of a family must be based upon a legally valid marriage in accordance with religious principles and statutory regulations, since the validity of marriage serves as the juridical foundation for the emergence of legal relations between husband, wife, and children (Harahap, 1975; Nurani, 2021).

Marriage constitutes a legal bond between a man and a woman as husband and wife, giving rise to reciprocal rights and obligations. Such a union encompasses both outward and inward dimensions. Outwardly, the parties acquire legal status as spouses, whereas inwardly there exists a sincere commitment to build a shared life founded upon responsibility and mutual respect. The marital relationship is not merely personal in nature but also produces legal, social, and moral consequences governed by both national law and Islamic law. These legal consequences include the rights and obligations of spouses, the legal status of children, maintenance obligations, guardianship, and the regulation of matrimonial property (Nurani, 2021; Pelu & Dakhoir, 2021).

Within the Indonesian legal system, marriage law adopts the principle of non-absolute monogamy. In principle, a husband is expected to have only one wife; however, under certain circumstances, the law permits a man to marry more than one wife provided that strict legal grounds and requirements are fulfilled. Likewise, Islamic law does not permit polygamy without limitation, but rather subjects it to the husband's ability to exercise justice toward all wives. Accordingly, the Marriage Law, Government Regulation Number 9 of 1975, and the Compilation of Islamic Law position judicial authorization as a juridical control mechanism intended to ensure that the practice of polygamy does not prejudice women and children (Izzati, 2021; Solikhudin, 2024; Taufik et al., 2024).

Legal issues arising from polygamous marriages are not limited to the fulfillment of the legal grounds and requirements for polygamy, but also extend to the legal consequences emerging after the marriage takes place. One of the most contentious issues concerns the legal status of jointly acquired property between the husband and each of his wives. In monogamous marriages, property acquired during the marriage generally becomes joint matrimonial property unless otherwise stipulated through a marital agreement. However, in polygamous marriages, the regulation of joint property becomes considerably more complex because the jointly acquired property between the husband and the first wife must be separated from that of the second wife and subsequent wives (Marlina & Mubarak, 2022; Fitrianti, 2017; Sulaeman, 2022).

The separation of jointly acquired property in polygamous marriages is intended to prevent the commingling of assets that may prejudice one of the wives. Such separation is essential not only while the marriage remains intact, but also in the event of divorce or the death of one of the parties. Uncertainty regarding the legal status and boundaries of joint property may give rise to disputes among wives, heirs, and children from different marriages. Therefore, the regulation of matrimonial property within polygamous marriages should be understood as a form of legal protection for the economic rights of wives and as an instrument for ensuring legal certainty in the settlement of family disputes (Marlina & Mubarak, 2022; Farid & Sururie, 2024; Ahmad *et al.*, 2025).

Normatively, Article 35 paragraph (1) of the Indonesian Marriage Law stipulates that property acquired during marriage constitutes joint matrimonial property. This provision is

consistent with Articles 85 to 87 of the Compilation of Islamic Law, which distinguish between jointly acquired property, premarital property, gifts, and inheritance. By contrast, Article 119 of the Indonesian Civil Code provides for the automatic commingling of assets upon marriage unless otherwise agreed through a marital agreement. These differing legal constructions demonstrate that the regulation of matrimonial property in Indonesia still requires careful interpretation in order to avoid legal uncertainty within judicial practice (Pelu & Dakhoir, 2021; Khairina et al., 2024; Zulkarnain, 2026).

Within the context of polygamous marriages, Article 94 of the Compilation of Islamic Law expressly provides that jointly acquired property in polygamous marriages must remain separate between the husband and each respective wife. Consequently, the first wife, second wife, and subsequent wives each possess rights over the matrimonial property acquired during their respective marriages with the husband. This provision constitutes an important legal basis for protecting the economic rights of each wife and preventing the unjust amalgamation of assets. Accordingly, joint property in polygamous marriages must be regarded as legally autonomous property corresponding to the duration, contribution, and legal relationship of each marriage (Marlina & Mubarak, 2022; Maulidah et al., 2019; Muttaalliyah, 2022).

Although normative legal provisions have regulated the protection of wives' rights over joint property in polygamous marriages, practical realities frequently reveal persistent injustice. Husbands engaging in polygamy are often unable to fulfill their obligations proportionately toward all wives, whether in the form of maintenance, household support, or the equitable distribution of joint property. Such inequities become increasingly apparent in cases of divorce or death, where wives frequently encounter difficulties in proving their entitlement to jointly acquired assets. This condition demonstrates the existence of a significant gap between legal norms and social realities, thereby necessitating a more progressive legal approach (Rouf et al., 2023; Khairina et al., 2024; Mahfiana et al., 2025).

Legal protection for wives' rights over joint property in polygamous marriages cannot rely solely upon normative legal provisions. More comprehensive legal mechanisms are required to ensure substantive justice, particularly through the clarification of asset ownership, the registration of jointly acquired property, the utilization of marital agreements, and judicial reasoning that is responsive to the interests of wives. Marital agreements may function as preventive legal instruments to minimize disputes concerning matrimonial property within polygamous marriages. Moreover, courts must ensure that judicial decisions concerning the distribution of joint property not only fulfill legal certainty but also embody justice for parties who are vulnerable to disadvantage (Pawitasari, 2019; Iswantoro, 2018; Farid & Sururie, 2024).

Studies concerning the legal protection of wives' rights over jointly acquired property in polygamous marriages possess both academic and practical significance. Academically, such research is essential for re-examining the legal construction of joint marital property within polygamous marriages from the perspectives of justice and legal certainty. Practically, this study is expected to provide alternative legal mechanisms capable of strengthening the protection of wives' rights, whether through marital agreements, the enhancement of judicial reasoning and consideration, or the reformulation of family law norms. The principal focus of this research is to emphasize that the protection of wives' rights over jointly acquired property in polygamous marriages must ultimately be directed toward the realization of substantive justice, legal certainty, and the protection of women within unequal marital relations (Marlina & Mubarak, 2022; Rouf, 2024; Riasya et al., 2026). Justice and legal certainty constitute the ultimate objectives of law that must be achieved (Satjipto, 2000).

RESEARCH METHODS

The research method employed in this study is normative legal research using statutory, conceptual, and case approaches. These approaches are utilized to examine and analyze legal norms governing the protection of wives' rights over joint marital property in polygamous marriages, both within the framework of national law and Islamic law. This study focuses on the analysis of Law Number 1 of 1974 concerning Marriage, the Compilation of Islamic Law, judicial decisions of the Religious Courts, as well as legal doctrines related to joint marital property in polygamous marriages. The normative legal research method is intended to formulate a legal protection concept capable of ensuring justice, legal certainty, and legal utility concerning the rights of wives in polygamous marriages (Marzuki, 2022; Susanti & Efendi, 2023).

The scope of this research encompasses legal protection for wives' rights over joint marital property in polygamous marriages, particularly regarding ownership, distribution, and legal certainty of wives' economic rights. The research focuses on the analysis of legal protection concepts, principles of justice in Islamic family law, and the implementation of joint property distribution within the practices of the Religious Courts. The operational definitions applied in this study include "legal protection" as normative efforts to guarantee and safeguard wives' rights, "joint marital property" as property acquired during the course of marriage, and "polygamous marriage" as a marriage involving a husband with more than one wife conducted in accordance with prevailing legal provisions. This study also examines judges' legal considerations in resolving disputes concerning joint marital property in order to assess the effectiveness of legal protection afforded to wives in polygamous marriages.

The sources of data in this study consist of primary, secondary, and tertiary legal materials. Primary legal materials include statutory regulations, Religious Court decisions, and Islamic legal provisions related to joint marital property in polygamous marriages, while secondary legal materials comprise legal research books, scientific journal articles indexed in SINTA, and previous studies relevant to the research topic. Tertiary legal materials are obtained from legal dictionaries, legal encyclopedias, and other supporting references associated with the object of research. Data collection techniques are conducted through library research by inventorying, identifying, and systematically examining various legal materials comprehensively (Soekanto, 2022; Diantha, 2023).

The data analysis technique employed in this study is qualitative analysis using descriptive-analytical and prescriptive methods. Descriptive analysis is used to explain the legal regulations concerning joint marital property in polygamous marriages, whereas prescriptive analysis is applied to formulate an ideal model of legal protection for wives' rights. The analysis is carried out through legal interpretation, vertical and horizontal synchronization of statutory regulations, and examination of Religious Court decisions concerning disputes over joint marital property. Through these analytical techniques, this research is expected to produce a legal protection framework oriented toward substantive justice, legal certainty, and the protection of women's rights within the Indonesian family law system (Ali, 2024).

RESULT AND DISCUSSION**Legal Provisions Concerning Joint Marital Property in Polygamous Marriages under Indonesian Positive Law**

The regulation of joint marital property in Indonesia cannot be separated from the plurality of legal sources governing marital relations, particularly the Indonesian Civil Code (KUH Perdata), the Marriage Law, the Compilation of Islamic Law (Kompilasi Hukum Islam/KHI), and various implementing regulations applied within the Religious Courts. Within the framework of the Marriage Law, the principal provisions concerning marital

property are stipulated in Articles 35, 36, and 37. Furthermore, Article 29 of the Marriage Law occupies a significant position because it regulates marital agreements as a legal instrument through which spouses may determine the legal regime governing their marital assets. In this regard, joint property is understood as a legal consequence arising from a valid marriage and forms an inseparable part of the civil relationship between husband and wife (Pelu & Dakhoir, 2021; Asnawi, 2022).

Prior to the enactment of Law Number 1 of 1974 concerning Marriage, the regulation of marital property in Indonesia primarily referred to the provisions of the Indonesian Civil Code. Article 119 of the Civil Code adopted the principle of universal community property, whereby, upon marriage, all assets belonging to the husband and wife automatically merged into a single joint estate unless otherwise stipulated through a marital agreement. This model differs substantially from the system introduced by the Marriage Law, which distinguishes between joint property and separate property. Assets acquired during marriage are classified as joint property, whereas premarital assets, gifts, and inheritance remain under the ownership and control of each spouse unless otherwise agreed upon by the parties (Mustafa, 2019; Mayasari, 2017; Iswantoro, 2018).

This conceptual distinction reflects a transition from an absolute community property regime toward a limited separation of property between jointly acquired assets and individual property. Article 35 paragraph (1) of the Marriage Law explicitly states that property acquired during marriage constitutes joint property. Conversely, Article 35 paragraph (2) affirms that premarital assets, gifts, and inherited property remain under the authority of each spouse individually. Accordingly, the Marriage Law establishes a more balanced framework for safeguarding the economic rights of both husband and wife within marital relations (Puspytasari, 2020; Pelu & Dakhoir, 2021).

From the perspective of classical Islamic jurisprudence, the concept of joint marital property is not expressly recognized in the manner developed within Indonesian positive law. Traditionally, the property of the husband and the wife is regarded as individually owned unless a contractual arrangement, partnership, or contribution gives rise to shared ownership. Nevertheless, within the Indonesian context, the concept of joint property was subsequently incorporated into the Compilation of Islamic Law as a form of legal *ijtihad* responding to social transformation, the evolving economic relationship within families, and the necessity of protecting women's rights. Consequently, the recognition of joint property within the KHI may be understood as a contextual and progressive construction of Islamic family law in Indonesia (Yusoff, 2024; Harts, 2022; Zainurohmah, Andini, & Damayanti, 2023).

In polygamous marriages, the regulation of joint property possesses a greater degree of complexity compared to monogamous marriages. Article 94 paragraph (1) of the KHI stipulates that the joint property arising from a husband who has more than one wife must remain separate and independent between the husband and each respective wife. This provision implies that the joint property formed between the husband and the first wife may not be mixed with the joint property established with the second, third, or fourth wife. Such separation is intended to prevent ambiguity in ownership, minimize potential disputes, and ensure legal protection for each wife individually (Marlina & Mubarak, 2022; Fitrianti, 2017; Muttaalliyah, 2022).

Article 94 paragraph (2) of the KHI further provides that ownership of joint property in polygamous marriages is calculated from the date on which the second, third, or fourth marriage contract is concluded. Consequently, the second and subsequent wives possess no legal entitlement to the joint property that had already existed prior to their respective marriages. Conversely, assets acquired after the subsequent marriage takes place must be calculated proportionally according to the duration and existence of each marital relationship. This provision is fundamental in determining the civil rights of each wife concerning jointly

acquired property in polygamous marriages (Maulidah, 2019; Indah, 2023; Mayva & Prihatini, 2025).

Legal protection for wives in polygamous marriages is also emphasized in Article 65 paragraph (1) of the Marriage Law, which obliges a husband with multiple wives to provide equal support and guarantees of livelihood to all wives and children. In relation to joint property, this provision signifies that polygamy may not be utilized as a mechanism to diminish, transfer, or eliminate the economic rights of earlier wives. Legal protection within polygamous marriages must therefore be viewed as an effort to prevent domination by the husband over family assets and to avoid injustice toward wives who were previously bound in marriage (Pawitasari, 2019; Puspytasari et al., 2020; Riasya, Muhibbin, & Parmono, 2026).

The Supreme Court, through the Guidelines for the Administration of Religious Courts, has also provided technical guidance affirming that second and subsequent wives do not possess rights over joint property that existed prior to their marriages. Consequently, joint property acquired during the marriage between the husband and the first wife remains exclusively the property of that marital union. Such property cannot automatically be claimed by the second, third, or fourth wife. These technical provisions reinforce the principle of separation of joint property in polygamous marriages as established under Article 94 of the KHI (Sulaeman, 2022; Mansari et al., 2024; Farid & Sururie, 2024).

In cases of divorce, Article 97 of the KHI provides that widows or widowers are entitled to one-half of the joint property unless otherwise stipulated in a marital agreement. This principle also applies in polygamous marriages; however, its implementation must consider the period during which the property was acquired and the marital relationship within which the property was formed. Therefore, the division of joint property cannot merely rely upon an equal distribution formula but must also take into account the duration of marriage, the contributions of each spouse, and the separation of assets among the respective wives. Such an approach is necessary to ensure that the division of marital property genuinely reflects legal certainty and substantive justice (Khairina et al., 2024; Rouf et al., 2023; Farid & Sururie, 2024).

In practice, disputes concerning joint property in polygamous marriages frequently arise when there is no clear system of financial administration or asset recording. When a husband enters into a subsequent marriage, there exists a substantial risk of commingling assets acquired during the first marriage with assets obtained after subsequent marriages. This situation may prejudice earlier wives, particularly where previously accumulated joint property is utilized for the interests of later marriages without proper consent or transparent accounting. Accordingly, proper bookkeeping, proof of ownership, and clarity regarding the legal status of assets become essential components in protecting the rights of wives within polygamous marriages (Marryana, 2024; Puspytasari et al., 2020; Pawitasari, 2019).

Marital agreements constitute one of the most strategic legal instruments for preventing disputes over joint property in polygamous marriages. Following Constitutional Court Decision Number 69/PUU-XIII/2015, marital agreements may be concluded not only before marriage but also during the subsistence of marriage. This development enables spouses to regulate more clearly the status of premarital property, jointly acquired property, asset management, and the division of assets in the event of divorce or death. Within the context of polygamous marriage, marital agreements may therefore function as a preventive legal mechanism for protecting the rights of both earlier and subsequent wives (Iswantoro, 2018; Mayasari, 2017; Pawitasari, 2019).

From the perspective of gender justice, the regulation of joint property in polygamous marriages should not merely be understood formally as a matter of property division, but also as a mechanism for safeguarding women's economic position within the household. In many instances, the contribution of wives is not always manifested through direct financial income

but may instead consist of domestic labor, childcare, emotional support, and the management of household affairs. Consequently, wives who do not formally participate in paid employment still possess moral and legal grounds to claim a share of the joint property. This perspective aligns with the principle of substantive justice, which recognizes non-economic contributions in the accumulation of family wealth (Harts, 2022; Asnawi, 2022; Mahfiana *et al.*, 2025).

Indonesian positive law has fundamentally established a normative framework governing joint property within polygamous marriages through the Marriage Law, the Compilation of Islamic Law, and the technical guidelines issued by the Supreme Court. Nevertheless, the effectiveness of such protection depends significantly upon clear asset registration, the willingness of judges to adopt progressive legal interpretation, and the capacity of the judiciary to ensure that the division of joint property does not disadvantage earlier wives or economically vulnerable spouses. Therefore, the reconstruction of legal protection concerning wives' rights over joint property in polygamous marriages must be directed toward strengthening legal certainty, substantive justice, and more accountable evidentiary mechanisms (Khairina *et al.*, 2024; Riasya, Muhibbin, & Parmono, 2026).

Legal Protection of Wives' Rights Concerning Joint Property and Legal Settlement Mechanisms

Polygamous marriage possesses a substantial potential to generate disputes concerning joint marital property due to the more complex legal, economic, and familial relationships that arise within such marital arrangements compared to monogamous marriages. This complexity primarily emerges when property acquired during the marriage is not clearly separated between jointly acquired property, premarital assets, and the individual property of each spouse. In practice, disputes concerning matrimonial property frequently arise during divorce proceedings, after divorce has occurred, and even following the death of one of the spouses. Issues commonly contested include the determination of which assets constitute joint property, the commingling of joint assets with personal or inherited property, the proportion of property division between husband and wife, as well as the distribution among multiple wives in polygamous marriages (Marlina & Mubarak, 2022; Rouf *et al.*, 2023; Khairina *et al.*, 2024).

Disputes over joint property in polygamous marriages become increasingly complicated when the marriage is conducted without judicial authorization or remains unregistered. In such circumstances, wives are often placed in vulnerable positions because both the marital status and the legal status of property acquired during the marriage may be challenged. This legal uncertainty affects the protection of maintenance rights, rights over joint property, and even inheritance rights upon the death of the husband. Consequently, legal protection for wives in polygamous marriages is essential not only within the context of divorce but also in ensuring legal certainty, economic protection, and equitable distribution of marital assets (Lubis *et al.*, 2025; Faisal, 2025; Mahfiana *et al.*, 2025).

Legal protection for wives in polygamous marriages may generally be understood through two principal forms, namely preventive legal protection and repressive legal protection. Preventive protection seeks to prevent violations of wives' rights before polygamy is carried out, whereas repressive protection is afforded after a legal violation or dispute has already occurred. In the context of matrimonial property, preventive legal protection functions to ensure that polygamy is conducted only through lawful procedures, complies with statutory requirements, and does not prejudice the economic rights of wives. Meanwhile, repressive protection is implemented through dispute resolution mechanisms, whether through non-litigation settlement or litigation before the courts (Hadjon, 1987; Pawitasari, 2019; Farid & Sururie, 2024).

Preventive legal protection for wives' rights can be identified in the provisions of the Indonesian Marriage Law, which require judicial permission for a husband intending to marry more than one wife. Article 3 paragraph (2) of the Marriage Law stipulates that the court may grant permission for polygamy where justified by the relevant circumstances. This provision is reinforced by Article 40 of Government Regulation No. 9 of 1975, which requires applications for polygamy permits to be submitted in writing to the court. This judicial authorization mechanism constitutes an important legal instrument for examining whether the legal grounds and requirements for polygamy have been fulfilled, thereby ensuring that the rights of wives are not undermined by unilateral actions of the husband (Izzati, 2021; Solikhudin, 2024; Taufik et al., 2024).

Nevertheless, a significant legal problem arises because the Marriage Law does not explicitly regulate the legal consequences of polygamous marriages conducted without court authorization. Although the Compilation of Islamic Law declares that polygamous marriages performed without judicial approval lack legal force, such provisions still leave unresolved issues concerning concrete legal protection for wives, particularly regarding maintenance, joint property rights, and rights over assets acquired during the marriage. As a consequence, wives involved in unregistered or unauthorized polygamous marriages frequently encounter obstacles in proving their legal relationship and asserting their civil rights. This condition demonstrates the necessity of strengthening legal norms so that legal protection extends beyond formal recognition and effectively guarantees the restoration and protection of wives' economic rights (Muthalib, 2022; Lubis et al., 2025; Setyonugroho, 2024).

Where a husband engages in polygamy without judicial permission, the wife may seek annulment of the marriage pursuant to Article 24 of the Marriage Law and Article 71 of the Compilation of Islamic Law. In addition, the wife may file a petition for prevention of marriage where the prospective husband fails to satisfy the legal requirements established under Islamic law and statutory regulations. Such preventive measures represent an important form of legal protection because they provide wives with the legal opportunity to prevent marriages that potentially violate their rights. Thus, the law does not merely function to resolve disputes after they arise but also serves to prevent the establishment of unjust legal relationships from the outset (Nurunnisa et al., 2023; Muthalib, 2022).

Preventive protection is also reflected in statutory regulations governing the grounds and conditions for polygamy. Articles 4 and 5 of the Marriage Law, together with Article 41 of Government Regulation No. 9 of 1975, stipulate that husbands intending to practice polygamy must fulfill specific legal grounds and cumulative requirements. Similar provisions are contained in Articles 56 to 58 of the Compilation of Islamic Law, which generally require judicial permission, the consent of the wife, the husband's financial ability to support his wives and children, and the husband's commitment to treat his wives fairly. These provisions demonstrate that polygamy under Indonesian marriage law is not regarded as an absolute right of the husband but rather as a legal act subject to strict limitations aimed at protecting wives and children (Izzati, 2021; Fitrianti, 2017; Solikhudin, 2024).

The requirement of the wife's consent constitutes one of the most important instruments of legal protection. Such consent must be evidenced either in writing or orally before the court as required under Article 42 of Government Regulation No. 9 of 1975. This requirement seeks to prevent manipulation of the wife's consent and ensure that approval is given consciously, voluntarily, and free from coercion. Within the context of joint property protection, the wife's consent is also closely connected with ensuring that her economic rights are not neglected when the husband enters into a polygamous marriage (Pawitasari, 2019; Sulaeman, 2022; Puspytasari et al., 2020).

In addition to obtaining the wife's consent, the husband must also demonstrate his capacity to fulfill the living expenses of his wives and children. The court may evaluate such

capacity through evidence relating to income, occupation, assets, family responsibilities, and other relevant factors indicating the husband's financial capability. This assessment is crucial because polygamy unsupported by adequate financial capacity may result in injustice concerning maintenance obligations and the distribution of joint marital property. Accordingly, judicial examination of the husband's economic capability should be regarded as an integral component of legal protection for wives rather than merely an administrative formality in applications for polygamy permits (Nurani, 2021; Rahmi et al., 2025; Solikhudin, 2024).

Another essential requirement is the husband's ability to act fairly toward his wives. In judicial practice, such fairness may be evidenced through written declarations by the husband, testimony from the wife, and statements from witnesses. Fairness in polygamy extends beyond the mere distribution of time or emotional attention; it also encompasses maintenance obligations, management of joint property, and protection of the economic rights of each wife. Consequently, judges play a crucial role in substantively assessing whether the husband's commitment to fairness is realistic and capable of implementation, rather than merely accepting formal declarations at face value (Izzati, 2021; Taufik et al., 2024; Solikhudin, 2024).

From the perspective of family law, the principle of justice constitutes the central element of polygamy because it directly concerns the protection of wives' dignity and rights. Polygamous marriages lacking fairness have the potential to produce unequal relations, economic discrimination, and conflicts among wives. Therefore, the regulation of polygamy must be understood as a mechanism of limitation intended to prevent harm to wives. A sound marriage law framework should preserve the essential objectives of marriage, guarantee justice for all parties, and provide legal mechanisms for resolving disputes over joint marital property (Marlina & Mubarak, 2022; Farid & Sururie, 2024; Rouf, 2024).

Preventive protection of joint property within polygamous marriages is also reflected in judicial administrative guidelines issued by the Supreme Court. Under such guidelines, applications for polygamy permits should ideally be accompanied by petitions for the determination of joint property with the previous wife. Where the husband fails to request the determination of joint property and the previous wife does not file a reconventional claim concerning matrimonial property, the application for polygamy permission may be declared inadmissible. This requirement is significant because the determination of joint property prior to polygamy aims to prevent the commingling of assets between the previous wife and subsequent wives (Sary Hariyanti, 2014; Sulaeman, 2022; Mansari et al., 2024).

The determination of joint property prior to polygamy constitutes an important legal instrument for ensuring legal certainty. Through such determination, a clear distinction can be established between assets acquired during the first marriage and assets subsequently acquired in later marriages. Without such separation, both the first wife and subsequent wives may suffer legal and economic disadvantages because the status of joint property becomes uncertain. Therefore, in adjudicating polygamy permit cases, courts should not merely examine issues of consent and financial capability but must also ensure the protection of each wife's joint property rights (Puspytasari et al., 2020; Indah, 2023; Mayva & Prihatini, 2025).

Preventive legal protection may also be implemented through prenuptial or marital agreements. Following Constitutional Court Decision Number 69/PUU-XIII/2015, marital agreements may no longer be made solely before or at the time of marriage but may also be concluded during the subsistence of the marriage. This constitutional development broadens the legal space for spouses to regulate separation of property, community property arrangements, profit-and-loss sharing, and income-sharing agreements. Within the context of polygamy, marital agreements may function as an important legal instrument to ensure clarity

and protection of wives' rights over joint property (Iswantoro, 2018; Mayasari, 2017; Pawitasari, 2019).

Article 29 of the Marriage Law provides the legal basis for spouses to conclude marital agreements insofar as such agreements do not conflict with law, religion, or morality. Similarly, the Compilation of Islamic Law permits agreements concerning the mixing of personal assets or the separation of each spouse's acquired property provided that such arrangements are not contrary to Islamic principles. Where such agreements regulate the separation of joint property, they may not eliminate the husband's obligation to provide for the household. Accordingly, marital agreements may serve to protect the proprietary rights of wives but cannot be utilized to evade the husband's maintenance obligations (Pawitasari, 2019; Damanhuri, 2012).

In practice, marital agreements are particularly relevant in polygamous marriages because they may prevent disputes from arising at an early stage. Such agreements may regulate the boundaries between premarital assets, personal property, joint property with the first wife, and assets acquired following the polygamous marriage. Through clear agreements, each wife possesses a stronger legal basis to defend her rights in cases of divorce, the husband's death, or disputes among heirs. Consequently, marital agreements should be regarded as an important preventive instrument for protecting wives' rights over joint property (Pawitasari, 2019; Asnawi, 2022).

Meanwhile, repressive legal protection is afforded once disputes concerning joint property have already arisen. Dispute settlement may be conducted through non-litigation mechanisms such as family deliberation, mediation, or peace agreements. Non-litigation settlement possesses several advantages because it is generally faster, more flexible, and capable of preserving familial relationships. Nevertheless, informal settlements also contain risks where they are not grounded in adequate legal understanding, as the division of property may prejudice one of the parties, particularly wives occupying weaker economic positions (Pratama et al., 2020; Farid & Sururie, 2024).

Where non-litigation mechanisms fail to resolve the dispute, the wife may pursue litigation through a lawsuit concerning joint marital property before the court. Such claims may be filed simultaneously with divorce proceedings or after the divorce judgment has become final. In matrimonial property disputes, the court possesses authority to determine the objects constituting joint property, evaluate ownership evidence, assess the contributions of the parties, and determine equitable shares for each party. Judicial settlement is particularly important because it provides binding legal force, especially where conflicting claims arise among the husband, first wife, subsequent wives, or heirs (Asman, 2019; Zainurohmah et al., 2023; Riasya et al., 2026).

In adjudicating disputes concerning joint property arising from polygamous marriages, judges must consider not only formal legal norms but also principles of substantive justice. A purely mechanical distribution of joint property without considering contributions, social conditions, and the economic position of wives may result in injustice. Accordingly, several legal studies emphasize the necessity of adopting a progressive approach in the distribution of joint property, including recognition of the contributions made by both working wives and wives engaged primarily in domestic responsibilities. Domestic contributions performed by wives possess economic value and therefore deserve recognition as a legitimate basis for entitlement to joint marital property (Harts, 2022; Rouf, 2024; Khairina et al., 2024).

Legal protection for wives' rights over joint property in polygamous marriages must be constructed comprehensively through both preventive and repressive legal mechanisms. Preventive measures include judicial authorization, the wife's consent, assessment of the husband's financial capability, declarations of fairness, determination of joint property prior to polygamy, and marital agreements. Repressive protection, meanwhile, is implemented

through non-litigation and litigation dispute resolution mechanisms, including lawsuits concerning joint property, annulment proceedings, and other legal remedies enabling the restoration of wives' rights. Such legal protection is essential to ensure that marriage law provides not merely formal legal certainty but also substantive justice and effective protection for wives within polygamous marriages (Marlina & Mubarak, 2022; Farid & Sururie, 2024; Mahfiana et al., 2025).

Marriage agreements constitute a legal instrument that grants spouses the autonomy to determine the legal regime governing property relations within marriage. The parties may agree either to a complete separation of property or to a limited form of property union, such as the union of profits and losses. In this respect, a marriage agreement functions as a preventive legal mechanism intended to avoid the complete commingling of assets while simultaneously ensuring legal certainty concerning the respective rights and obligations of each spouse throughout the marital relationship (Pawitasari, 2019; Iswantoro, 2018).

Within the context of polygamous marriages, marriage agreements assume a particularly significant role as a means of legal protection for wives. A wife may conclude a marital property agreement with a husband who intends to practice polygamy, especially to stipulate the separation of assets between the husband and each wife. Through such arrangements, property acquired before or during the marriage remains under the control of each respective party, thereby minimizing the potential for disputes over joint marital property upon divorce (Marlina & Mubarak, 2022; Pawitasari, 2019).

Marriage agreements may also regulate issues relating to debt liability, transfer of property, sale of assets, and the use of property as collateral for credit facilities. Where it has been contractually stipulated that debts constitute the personal responsibility of the spouse who incurred them, the other spouse shall not automatically bear legal responsibility for such obligations. Likewise, where assets are registered in the name of one spouse, legal acts concerning those assets may be carried out pursuant to the terms of the agreement without necessarily requiring the consent of the other spouse, provided that such arrangements do not contravene applicable law (Mayasari, 2017; Damanhuri, 2012).

In polygamous marriages, the separation of marital property becomes an urgent legal necessity because it directly concerns the protection of the rights of the first wife as well as subsequent wives. The Compilation of Islamic Law explicitly provides that joint marital property in polygamous marriages must remain separate and independent between the husband and each respective wife. Consequently, joint property acquired during the marriage with the first wife cannot be merged with the joint property arising from subsequent marriages (Fitrianti, 2017; Marlina & Mubarak, 2022; Sulaeman, 2022).

Legal protection concerning wives' rights over joint marital property in polygamous marriages may be classified into preventive and repressive forms of protection. Preventive protection is implemented through marriage agreements, judicial authorization, the consent of the wife, and the separation of marital property from the outset of the marriage. Conversely, repressive legal protection becomes operative when disputes concerning joint marital property have already arisen, whether as a consequence of divorce, annulment of marriage, or actions committed by the husband that prejudice the wife's rights over jointly acquired assets (Philipus M. Hadjon, 1987; Puspytasari et al., 2020).

In practice, disputes concerning joint marital property are often initially resolved through family deliberation and amicable settlement. Nevertheless, informal settlements may result in injustice where the parties lack an adequate understanding of the positive legal framework governing wives' property rights. In many cases, wives accept disproportionate divisions of marital property merely to preserve family harmony, despite possessing legally protected rights over the assets acquired during the marriage (Farid & Sururie, 2024; Khairina et al., 2024).

Where a polygamous marriage is conducted without judicial authorization and without the consent of the wife, the wife may pursue legal protection by filing a petition for annulment of marriage. The legal consequences of annulment do not operate retroactively against children or spouses acting in good faith. However, an exception may apply with respect to joint marital property where the annulment is based upon the existence of a prior valid marriage (Nurunnisa et al., 2023; Muthalib, 2022).

Disputes concerning joint marital property in polygamous marriages generally arise concurrently with domestic conflicts culminating in divorce proceedings. For Muslim spouses, such disputes fall within the absolute jurisdiction of the Religious Courts, whereas disputes involving non-Muslim spouses are adjudicated before the General Courts. In resolving disputes over marital property, the courts function not merely as institutions for dispute resolution but also as mechanisms for ensuring that wives' rights are not undermined by unequal power relations inherent within polygamous marriages (Mansari et al., 2024; Marlina & Mubarak, 2022).

Mediation constitutes an essential mechanism in the settlement of disputes concerning joint marital property because it facilitates mutually beneficial solutions for the parties involved. Where mediation is successful, the resulting agreement may be formalized in a deed of settlement possessing binding legal force. Supreme Court Regulation (PERMA) Number 1 of 2016 affirms that mediation forms an inseparable component of judicial proceedings, including disputes relating to joint marital property before both Religious Courts and General Courts (Pratama et al., 2020; Farid & Sururie, 2024).

Where mediation fails to achieve settlement, the wife may pursue a civil lawsuit to claim her lawful share of the joint marital property. Under certain circumstances, where there is evidence of embezzlement, fraud, or unlawful transfer of assets, the dispute may also enter the realm of criminal law, provided that the constituent elements of the criminal offense are satisfied. This legal avenue is particularly important because both the first wife and subsequent wives possess legally recognized rights over the marital property acquired during their respective marriages (Faisal, 2025; Puspytasari et al., 2020).

In adjudicating disputes concerning joint marital property arising from polygamous marriages, judges are required to formulate comprehensive legal reasoning. Such considerations must encompass the factual circumstances of the case, the legal status of the marriage, the good faith of the parties, the origin of the assets, the respective contributions of each wife, and the applicable legal norms. Accordingly, the position of judges becomes crucial in realizing justice, legal certainty, and substantive legal protection for the rights of wives within polygamous marriages (Rouf et al., 2023; Khairina et al., 2024; Solikhudin, 2024).

CONCLUSIONS

Legal protection concerning wives' rights over joint marital property in polygamous marriages in Indonesia has been regulated through several statutory instruments, particularly Undang-Undang Nomor 1 Tahun 1974 tentang Perkawinan and Kompilasi Hukum Islam. These legal provisions are implemented through the requirement that a husband intending to enter into a polygamous marriage must first obtain judicial authorization, thereby ensuring that the legal grounds and statutory conditions prescribed by the applicable laws and regulations have been fulfilled. Within a polygamous marital structure, each wife possesses equal legal rights over the joint property acquired during the course of her marriage with the husband. The regime of joint marital property in polygamous marriages is legally distinct and autonomous between the husband and each respective wife, calculated from the commencement of the second and subsequent marriages, unless otherwise stipulated in a marital agreement.

In practice, however, despite the existence of legal regulations governing the protection of joint marital property in polygamous marriages, violations of wives' proprietary rights continue to occur frequently, particularly in relation to the control and division of marital assets. Indonesian positive law provides legal safeguards through both preventive and repressive forms of legal protection. Preventive legal protection is manifested through statutory provisions regulating the substantive grounds and procedural requirements for obtaining judicial permission to engage in polygamy. In addition, wives involved in polygamous marriages may establish marital agreements to secure and protect joint property acquired prior to subsequent marriages. Meanwhile, repressive legal protection may be pursued through litigation before the courts, mediation proceedings, the execution of settlement agreements, or judicial determinations rendered by competent courts.

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