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Maslahah Perspective in the Distribution of Shared Wealth: Analysis of Judge's Decision Number 584/Pdt.G/2021/PA.Pwr

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Abstract

This study aims to analyze the implications and relevance of the perspective of maslahah in legal practice related to the division of common property in the context of the judge's Decision Number 584/Pdt.G/2021/PA.Pwr. This study uses the method of document analysis to analyze the judge's Decision Number 584/Pdt.G/2021/PA.Pwr and related legal contexts. The study's findings indicate that the perspective of maslahah has significant implications for the division of common property. In the decision of Judge Number 584/Pdt.G/2021/PA.Pwr, maslahah perspective is reflected in determining the ratio of 1/3 and 2/3 for the plaintiff and defendant. This decision can be interpreted as an attempt to achieve a fair division and consider each party's contribution in acquiring and maintaining the common property during the marriage or relationship. In addition, the perspective of maslahah is relevant in ensuring wisdom in the division of common property. Considering financial and non-financial contributions, financial needs and capabilities, and the children's best interests are important factors in achieving fair and sustainable distribution. Judge's decision Number 584/Pdt.G/2021/PA.Pwr. The PWR is believed to have considered these factors in maintaining fairness and discretion in the division of common property.

Keywords: *Maslahah Perspective; Distribution of Shared Wealth; Judge's Decision; Justice*

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Abstrak

Penelitian ini bertujuan untuk menganalisis implikasi dan relevansi perspektif masalah dalam praktik hukum terkait pembagian harta bersama dalam konteks Putusan hakim Nomor 584/Pdt.G/2021/PA.Pwr. Penelitian ini menggunakan metode analisis dokumen untuk menganalisis Putusan hakim Nomor 584/Pdt.G/2021/PA.Pwr dan konteks hukum terkait. Temuan penelitian menunjukkan bahwa perspektif masalah mempunyai implikasi yang signifikan terhadap pembagian harta bersama. Dalam putusan Hakim Nomor 584/Pdt.G/2021/PA.Pwr tercermin perspektif masalah dalam menentukan perbandingan 1/3 dan 2/3 bagi penggugat dan tergugat. Keputusan ini dapat diartikan sebagai upaya untuk mencapai pembagian yang adil dan mempertimbangkan kontribusi masing-masing pihak dalam memperoleh dan mempertahankan harta bersama selama perkawinan atau hubungan. Selain itu, perspektif masalah juga relevan dalam menjamin kearifan dalam pembagian harta bersama. Mempertimbangkan kontribusi finansial dan non-finansial, kebutuhan dan kemampuan finansial, serta kepentingan terbaik anak-anak merupakan faktor penting dalam mencapai distribusi yang adil dan berkelanjutan. Keputusan Hakim Nomor 584/Pdt.G/2021/PA.Pwr. Pwr diyakini telah mempertimbangkan faktor-faktor tersebut dalam menjaga keadilan dan kebijaksanaan dalam pembagian harta bersama.

Kata Kunci: Perspektif Masalah; Distribusi Kekayaan Bersama; Keputusan Hakim; Keadilan

Pendahuluan

The division of common property in the context of family law is a complex issue and often provokes conflicts among people. The division of joint property is a process carried out when a marriage is divorced or separated. Many factors affect how joint property will be divided between the parties. In the context of the division of joint property, the Indonesian state adheres to the system of marriage with joint property based on Law Number 1 of 1974 on marriage.¹ This system asserts that property acquired during marriage becomes the common property of husband and wife. In practice, however, dividing common property is often a source of dispute in court, where judges play a role in deciding how the common property should be divided.

Indonesia has cultural diversity and customary law diversity that affects the practice of sharing common property.² In some cases, there is a difference between customary law and the positive law stipulated in the Marriage Law. This can lead to conflicts in deciding the division of joint property, where judges must consider relevant cultural and customary law aspects. In addition, the background of the interesting question is also related to the social and economic changes that occur in society. In recent decades, the role of women in society and the economy has been increasing.³ This creates a new dynamic in the division of joint property, where judges need to consider the role and contribution of women in marriage and the implications for the division of common property.

¹ Republik Indonesia, "Undang-Undang Nomor 1 Tahun 1974 Tentang Perkawinan," *Lembaran Negara Republik Indonesia Tahun, 1974*.

² Ibnu Elmi A S Pelu and Ahmad Dakhoir, "Marital Property within the Marriage Law: A Debate on Legal Position and Actual Applications," *Al-Jami'ah: Journal of Islamic Studies* 59, no. 2 (2021): 287–316; Zainurohmah Zainurohmah, Marcelia Puspa Andini, and Anisa Vira Damayanti, "Discourse on Post-Divorce Distribution of Joint Assets in the Perspective of Islamic Law in Indonesia," *Contemporary Issues on Interfaith Law and Society* 2, no. 1 (2023): 71–86.

³ Grisna Anggadwita et al., "Socio-Cultural Environments and Emerging Economy Entrepreneurship: Women Entrepreneurs in Indonesia," *Journal of Entrepreneurship in Emerging Economies*, 2017; Arif Zunaidi and Facrial Lailatul Maghfiroh, "The Role Of Women In Improving The Family Economy," *Dinar: Jurnal Ekonomi Dan Keuangan Islam* 8, no. 1 (2021): 61–79.

Traditionally, women have made significant contributions to marriage, including household management, childcare, and emotional support for the family.⁴ In some cases, women may sacrifice career or economic opportunities to prioritize their roles in the household and family. Therefore, recognition of the role and contribution of women in marriage is essential in the context of the division of common property. The judge in the court must consider this fairly and objectively. They should be aware that the significant non-financial contributions made by women impact the development and success of marriage and generate a common property. This contribution must be recognized and appreciated in the process of the division of property. In addition, gender equality and the protection of women's rights must be upheld in the division of common property. This aligns with efforts to create gender justice in family law and society. Judges are expected to have good gender awareness and consider these aspects in determining common property's fair and equitable distribution.

It is also essential to know that awareness of women's contribution to marriage and its implications for the division of joint property has increased in recent years. Several court rulings in Indonesia have recognized the role of women and considered it somewhat in the division of common property.⁵ However, there are still challenges in implementing gender equality and ensuring that women's roles and contributions are fully recognized in sharing common property. Education, awareness, and ongoing legal reform are needed to ensure that women are treated fairly and get a decent share in the common property of marriage. In this regard, advocacy for gender equality, broader gender awareness, and education and support for women in the fight for their rights are important. This will contribute to broader social change and a more inclusive and equitable legal system for all individuals involved in marriage.

In this context, the judge's role becomes crucial. The judge is in charge of deciding the division of joint property fairly and equitably, as well as considering the interests of both parties. However, making a judge's decision regarding the division of joint property is not easy. The judge needs to consider various factors, such as financial and non-financial contributions, the needs and interests of the child, and fairness for both parties. Financial contributions include income, assets, and investments each spouse makes during the marriage. Non-financial contributions include household management, childcare, and emotional support. The judge must consider both types of contributions reasonably. In addition, the judge must also consider the child's needs and interests while dividing the common property. The well-being and interests of the child should be the top priority in the judge's decision-making. The principle of justice is also an essential factor that judges must consider. The division of joint property must be carried out fairly and balanced, considering

⁴ Suud Sarim Karimullah, "Reinterpretasi Terhadap Kedudukan Perempuan Dalam Islam Melalui Takwil Gender KH. Husein Muhammad," *ARJIS (Abdurrauf Journal of Islamic Studies)* 1, no. 2 (2022): 115–33; Doruk Uysal Irak, Kübra Kalkışım, and Muazzez Yıldırım, "Emotional Support Makes the Difference: Work-Family Conflict and Employment Related Guilt among Employed Mothers," *Sex Roles* 82 (2020): 53–65.

⁵ Abu Rokhmad and Sulistiyono Susilo, "Conceptualizing Authority of the Legalization of Indonesian Women's Rights in Islamic Family Law," *Journal of Indonesian Islam* 11, no. 2 (2017): 489–508; Nina Nurmila, "Polygamous Marriages in Indonesia and Their Impacts on Women's Access to Income and Property," *Al-Jami'ah: Journal of Islamic Studies* 54, no. 2 (2016): 427–46.

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various aspects relevant to the case. The judge's decision-making process involves examining the available evidence, hearing arguments from both sides, and applying applicable law. The judge must deeply understand family law, including regulations and court decisions regarding the division of common property.

In the decision of judge number 584/Pdt.G/2021/PA.Pwr is the object of this study,⁶ and there is an interesting issue related to the perspective of *maslahah* in the division of common property. The perspective of *maslahah* refers to a concept in Islamic law that emphasizes the interests and benefits of humanity. In the context of the division of joint property, the perspective of *maslahah* involves consideration of the benefits obtained by both parties. In this study, an analysis of the judge's decision number 584/Pdt.G/2021/PA.Pwr with a *maslahah* perspective approach. In addition, the background of the exciting issues in this study is also related to the problems that arise in dividing joint property in court. In practice, dividing common property often leads to disputes and discontent among the parties involved. This can be caused by various factors, such as differences in perception of the contribution of each party in obtaining common property, the vagueness of the rules and criteria used in the division, and the presence of emotional and psychological aspects that affect the perception of the parties involved.

This study aimed to analyze how judges consider the perspective of *maslahah* in the division of joint property, as well as its implications and relevance in the context of justice and the benefit of both parties. Given the background of this issue, this study is expected to provide a deeper understanding of the importance of considering the perspective of *maslahah* in the division of joint property and provide helpful guidance for judges in making wise and fair decisions. An analysis of this ruling will provide a deeper insight into how *Maslahah's* perspective is used in court practice and how it has implications for the fairness and benefit of both parties. Through this research, it is expected to be revealed more comprehensively about the challenges and potential of using the perspective of *maslahah* in the division of common property.

The research methodology to be used in this study is a descriptive-analytical approach. The descriptive-analytical approach describes and analyzes phenomena or events in detail and depth.⁷ In this case, the study will describe and analyze the decision of judge number 584/Pdt.G/2021/PA.Pwr is the object of research. The Data for this study is the judge's decision number 584/Pdt.G/2021/PA.Pwr. This Data will be carefully analyzed to understand and identify the legal, moral, and fairness arguments used by judges in deciding the division of common property. This will involve a thorough reading and understanding of the verdict. In addition to using verdict data, this study will also refer to the legal literature related to the division of joint property in family law in Indonesia. This

⁶“Putusan PA Purworejo Nomor 584/Pdt.G/2021/PA.Pwr” (2021), <https://putusan3.mahkamahagung.go.id/direktori/putusan/zaec36626c79f57a88d2323034313239.html>.

⁷ H S Sushma Rao, Aishwarya Suresh, and Vinayak Hegde, “Academic Dashboard—Descriptive Analytical Approach to Analyze Student Admission Using Education Data Mining,” in *Information and Communication Technology for Sustainable Development: Proceedings of ICT4SD 2016, Volume 2* (Springer, 2018), 423–32; Syed Muhammad Sajjad Kabir, “Basic Guidelines for Research,” *An Introductory Approach for All Disciplines* 4, no. 2 (2016): 168–80.

literature will be used as a theoretical foundation for understanding concepts related to the division of joint property, such as contribution, justice, and the perspective of *maslahah* in the context of Islamic law.

The complete analysis will be carried out carefully and objectively, considering the legal context and the principles of justice in force. The results of this analysis will be used to answer research questions and provide a deeper understanding of the division of common property. After conducting the analysis using the descriptive-analytical approach to the judge's decision number 584/Pdt.G/2021/PA.Pwr and referring to the legal literature and concepts in Islamic law related to the perspective of *maslahah*, this study will continue with the interpretation and conclusion stages. The interpretation stage will involve the interpretation of the results of the analysis that has been done. In this case, it will be seen how the judge in the decision applies the perspective of *maslahah* in the division of joint property. After the interpretation stage, this study will draw a broad conclusion based on the results of the analysis and interpretation that has been done. This conclusion will describe the key findings resulting from the study, including relevant practical and theoretical implications.⁸ This conclusion will provide a clear picture of the use of the perspective of *maslahah* in the division of joint property, both from the point of view of law, morality, and justice. Thus, this study is expected to make a meaningful contribution to expanding the understanding of the perspective of *maslahah* in the division of joint property in the context of family law in Indonesia.

Pembahasan

Theoretical Review of *Maslahah* in the Division of Joint Property

The perspective of *maslahah* in Islamic law is based on the concept of the benefit of humanity. In the division of joint property, *maslahah* refers to the benefits and interests obtained by both parties. This concept involves a holistic understanding of justice and balance in meeting the needs and interests of both parties. In the context of family law in Indonesia, The Marriage Act regulates the principles and criteria used in the division of joint property.⁹ In practice, however, there are challenges in ensuring fairness and balance in the division of common property. This is the importance of considering the perspective of *Maslahah* as a guide in decision-making.

From the perspective of *maslahah*, several factors can be considered in the division of common property. First, each party's financial and non-financial contributions must be considered. Financial contributions include income, investments, and assets acquired during the marriage, while non-financial contributions involve child care, household chores, and emotional support. Secondly, the child's needs and interests must be considered. The division of joint property should ensure the well-being and equitable fulfillment of children's rights. It covers

⁸ Hannah Snyder, "Literature Review as a Research Methodology: An Overview and Guidelines," *Journal of Business Research* 104 (2019): 333–39, <https://doi.org/10.1016/j.jbusres.2019.07.039>.

⁹ Nurul Maulidah et al., "The Essence of Justice in the Division of Community Property in Polygamous Marriage According to Law Number 1 of 1974 Concerning Marriage," *JL Pol'y & Globalization* 82 (2019): 159.

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fulfilling basic needs, education, health, and child development. Third, the principles of social justice and gender equality must also be considered. Sharing common property should avoid discrimination and ensure equal distribution of wealth and equal access for both parties. However, in its application, the *maslahah* perspective in the division of joint property also faces challenges. First, *maslahah* is subjective and can be interpreted in various ways. Clarity and consistency are needed to determine the relevant criteria and factors in *Maslahah*. Second, using the *maslahah* perspective can lead to potential abuse of power. Decision-making based on *maslahah* can lead to injustice and imbalance if not done carefully. Therefore, judges in judicial practice need to deeply understand the perspective of *maslahah* and integrate it with applicable legal principles. It requires a broad knowledge of the social, cultural, and religious contexts that influence sharing common property.

In the context of Indonesia, where there is cultural diversity and diversity of customary law, it is essential to consider the perspective of *maslahah* by the values and principles of Islamic law. This requires dialogue and collaboration between the positive law system and customary law to achieve a fair and balanced division of common property.¹⁰ Thus, a theoretical review of *maslahah* in the division of joint property provides a deeper understanding of this concept and its implications in the context of family law. In deciding the division of common property, judges need to consider financial and non-financial contributions, the needs and interests of children, principles of social justice, and gender equality, and ensure clarity and consistency in considering issues. Thus, the perspective of *maslahah* can be a helpful guide for judges in making wise and fair decisions in the division of common property.

It is also essential to pay attention to issues regarding applying this perspective. One of the issues often discussed is subjectivity in determining *maslahah* and different judgments between judges. Different understandings and interpretations of *maslahah* can lead to uncertainty and inconsistency in decision-making. Therefore, judges need to have a deep sense of the perspective of *maslahah* and develop clear guidelines or guidelines to avoid subjective judgments. In addition, in applying the *maslahah* perspective, it is essential to balance individual and public interests.¹¹ Although *Maslahah* aims to benefit humanity, paying attention to individual rights and freedom of contract is still necessary. The division of joint property must remain attentive to legal principles that protect individual rights and justice between the parties involved.¹² With a deep understanding and objective assessment, the perspective of *maslahah* can provide helpful guidance in achieving justice in the context of the division of common property.

¹⁰ Muhajir Muhajir et al., "Agus Moh Najib's Thoughts on the Interconnection of Islamic Law and National Law," *Jurnal Ilmiah Al-Syir'ah* 21, no. 1 (2023): 86–103, <https://doi.org/10.30984/jis.v21i1.2321>; Panal Herbet Limbong, Syawal Amry Siregar, and Muhammad Yasid, "Pengaturan Hukum Dalam Pembagian Harta Bersama Perkawinan Menurut Hukum Perdata Yang Berlaku Saat Ini Di Indonesia," *Jurnal Retentum* 3, no. 1 (2022): 213–29.

¹¹ Soni Zakaria, Syariful Alam, and Agus Supriadi, "Review of *Maslahah* Theory of Shari'a Regulation in Indonesia," in *International Conference on Law Reform (INCLAR 2019)* (Atlantis Press, 2020), 100–104.

¹² Musfira Musfira et al., "The Concept of Joint Property Ownership of Husband and Wife," in *Proceedings of International Conference on Multidisciplinary Research*, vol. 4, 2021, 15–19.

The perspective of *maslahah* is not only limited to material aspects but also includes moral and spiritual aspects.¹³ In Islamic law, *maslahah* encompasses the interests of religion, morality, and the spiritual well-being of individuals and communities.¹⁴ In the division of joint property, it is essential to consider the social and moral impact of the decisions made. In addition, in the context of the division of common property, the perspective of *maslahah* can also contribute to preventing more significant conflicts and disputes. Considering the interests and balance between the parties involved, the *maslahah* view can help create mutual understanding and agreement, reducing potential conflicts and disputes that harm both parties.

Implementing the *maslahah* perspective in the division of joint property also requires synergy and collaboration between stakeholders. Judges, jurists, and society must work together to understand and apply this concept consistently and fairly. In this study, discussing the theoretical review of *maslahah* in the division of joint property provides a deeper understanding of this concept and its relevance in family law. By considering the material, moral, social, and spiritual aspects, the perspective of *maslahah* can provide a comprehensive foundation for judges in making fair and balanced decisions in the division of common property. However, remember that the perspective of *maslahah* is not static and can change along with social, cultural, and community values. Therefore, further research and studies are needed to continue to update and develop an understanding of the perspective of *maslahah* in the context of the division of common property. By considering the material, moral, social, and spiritual aspects, the perspective of *maslahah* can be a valuable tool for judges in making fair and balanced decisions in the division of common property.

The *maslahah* perspective can strengthen the principles of justice, gender equality, and child welfare by considering the interests and needs of children, avoiding inequality in the distribution of common property, and ensuring equality between the parties involved. In addition, the perspective of *maslahah* also has relevance to the principles of customary law that are still valid in several regions in Indonesia. Customary law often has principles that focus on *maslahah* and justice in the context of local culture and tradition. Integrating positive and customary law can provide a stronger foundation for making fair decisions in dividing common property.

In judicial practice in Indonesia, judges' rulings often refer to previous orders and applicable legal principles. In this context, a theoretical review of *maslahah* can provide a broader conceptual framework for understanding and interpreting the legal regulations associated with the division of common property. However, in applying the perspective of *maslahah* in family law in Indonesia, some challenges and complexities need to be considered. For example, gaps in knowledge and understanding of the concept of *maslahah* among judges and legal practitioners can be an obstacle to consistent and fair application. In addition, cultural,

¹³ Suud Sarim Karimullah, *Pendekatan Multidisipliner Dalam Studi Islam* (Pati: Al Qalam Media Lestari, 2023).

¹⁴ Sudarmawan Samidi, Mohammad Faby Rizky Karnadi, and Dety Nurfadilah, "The Role of Maqasid Al-Shariah and Maslahah in Ethical Decision Making: A Study of Professionals in Indonesia," *International Journal of Business Studies* 1, no. 2 (2017): 85–92.

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religious, and legal interpretation differences can affect the performance and application of the maslahah perspective in decision-making. Therefore, efforts are needed to provide adequate training and education to judges and legal practitioners on the concept of maslahah and its implications in the division of common property.

Analysis of the Judge's Decision Number 584/Pdt.G/2021/PA.Pwr

Judge's decision number 584/Pdt.G/2021/PA.Pwr, stipulating the division of joint property with a ratio of 1/3 (one-third) of the share for the plaintiff and the remaining 2/3 (two-thirds) of the claim for the defendant, has significant implications related to justice and discretion in the division of joint property. First of all, it is necessary to analyze the legal basis or argument used by the judge in establishing the comparison. Does the judge refer to applicable laws and regulations, such as marriage or customary laws in force in the region? Are there any specific reasons or facts in the case that the judge considered in establishing the comparison?

Furthermore, it is essential to evaluate whether the judgment complies with the principles of Justice recognized in family law. Does the ratio of 1/3 (one-third) of the share for the plaintiff and 2/3 (two-thirds) of the claim for the defendant reflect the recognition of each party's financial and non-financial contributions to the marriage? Does the ruling provide adequate protection of the interests of the children involved?

To improve or perfect the family law system, an analysis of the judge's decision number 584/Pdt.G/2021/PA.Pwr can provide valuable insights. The implications of the comparison set out in the decision can be the basis for recommending changes or improvements in the laws and regulations related to the division of joint property in Indonesia. Judge's decision number 584/Pdt.G/2021/PA.Pwr. The Pwr that establishes the division of common property in the ratio of 1/3 (one-third) of the share for the plaintiff and the remaining 2/3 (two-thirds) of the claim for the defendant must be analyzed in the context of the facts and the law involved in the case.

The equitable distribution of common property usually reflects the equal contribution of both parties in acquiring and maintaining the common property during the marriage or relationship.¹⁵ However, each case has unique facts and circumstances, and the judge will consider the evidence and arguments presented by both parties before deciding. In general, fairness and discretion in the division of joint property are influenced by a variety of factors, including each party's financial and non-financial contributions during the marriage or relationship, each party's financial needs and capabilities after the divorce, child care responsibilities, and applicable legal provisions in that jurisdiction.

Financial contributions may include income each spouse earns during marriage, savings

¹⁵ Muhammad Nafi and Citra Mutiara Solehah, "Penerapan Teori Keadilan Dalam Putusan Harta Bersama (Analisis Perkara Nomor 0346/Pdt. G/2017/PA. Ktb)," *Jurnal Hadratul Madaniyah* 7, no. 1 (2020): 26–33; Ahmad Ibrahim, "Penerapan Asas Ius Contra Legem Dalam Pembagian Harta Bersama Di Pengadilan Agama Mojokerto: Studi Putusan No: 0521/Pdt. G/2013/PA. Mr" (Universitas Islam Negeri Maulana Malik Ibrahim, 2016).

or investments made, and assets acquired individually and jointly. The party with the more significant financial contribution in developing the common property is generally considered entitled to a share equal to its assistance. However, it is also essential to consider non-financial contributions that may not be directly visible in monetary terms. Non-financial contributions include household chores, child care, parenting, and emotional support each spouse provides. This contribution can be significant in maintaining harmony and continuity of family relationships.

In practice, the court will usually consider both types of contributions reasonably. They will examine available evidence, such as financial statements, asset ownership papers, and relevant witnesses, to determine each party's contribution. The purpose of a fair division of joint property is to ensure that both parties obtain an equal share according to their contributions to create justice and equality in the division. However, it is essential to remember that each case has unique factors, and a fair division of joint property does not always mean the same. The judge may also consider other factors, such as each party's needs and financial circumstances after the divorce, childcare responsibilities, and legal provisions applicable in the jurisdiction in question.

In addition, in the fair division of common property, it is also essential to consider the principles of gender equality and justice.¹⁶ It aims to prevent discrimination and ensure that both parties, husband, and wife, are treated fairly in the division of common property.¹⁷ This principle recognizes that the contribution and role played by each party in a marriage or relationship should not be ignored. Courts or arbitrators may also use a balanced approach to divide the common property. This approach takes into account the balanced comparison of the contributions of each of the parties in acquiring common property. For example, suppose one party has more significant financial assistance. In that case, the share it receives in the division of joint property may also be greater than that of the other party. This approach aims to achieve relative justice based on the contributions made by each party.

The perspective of *maslahah* in legal practice can have implications and relevance in the judge's decision number 584/Pdt.G/2021/PA.Pwr related to the division of joint property. Some possible implications are as follows; First, the proportionality approach. The perspective of *maslahah* can encourage judges to adopt a proportionality approach in the division of common property. In this case, the division of joint property must be in line with the contributions and interests of each party fairly and proportionately. Suppose the judgment establishes a ratio of 1/3 for the plaintiff and 2/3 for the defendant. In that case, there may be a consideration that the proportion is considered a good division and considers the relevant factors. Secondly, protection against the weaker side. The *maslahah* perspective is also concerned with protecting those more

¹⁶ Bernadus Nagara, "Pembagian Harta Gono-Gini Atau Harta Bersama Setelah Perceraian Menurut Undang-Undang Nomor 1 Tahun 1974," *Lex Crimen* 5, no. 7 (2016); Abidin Nurdin, "Pembagian Harta Bersama Dan Pemenuhan Hak-Hak Perempuan Di Aceh Menurut Hukum Islam," *EL-USRAH: Jurnal Hukum Keluarga* 2, no. 2 (2019): 139–52.

¹⁷ Dwi Anindya Harimurti, "Perbandingan Pembagian Harta Bersama Menurut Hukum Positif Dan Hukum Islam," *Jurnal Gagasan Hukum* 3, no. 02 (2021): 149–71.

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fragile or needing more excellent protection. In the context of the division of joint property, if one of the parties to the case is considered a more vulnerable party or has limitations in terms of finances or resources, the ruling may reflect an attempt to protect the interests and interests of that party. Third, agreement and sustainability.

In some cases, the perspective of *maslahah* can also encourage judges to consider the agreement between the parties involved and sustainability in the long term. Suppose the judgment reflects the agreement reached between the plaintiff and the defendant. In that case, the judge may consider the division a possible solution for both parties and can achieve sustainability in the post-divorce situation. However, it is essential to note the analysis of the implications and relevance of *Maslahah's* perspective in the judge's decision number 584/Pdt.G/2021/PA.Pwr relies on the facts and legal arguments involved in the case.

Some additional aspects that can be considered are as follows: First, the recognition of non-financial contributions. The *maslahah* perspective in family law recognizes that non-financial contributions in marriage also have significant value. This can include roles in caring for and educating children, housework, and emotional support. In the division of joint property, judges may consider these non-financial contributions to ensure fairness in asset allocation. Second, the balance between justice and economic sustainability. *Maslahah's* perspective is also concerned with economic sustainability after divorce. The distribution of common property that provides a reasonable portion to each party can help maintain financial stability and allow the economically weaker party to start a new life. Third, consider the interests of the child. In family law, the interests and well-being of children are often the main factors in deciding divorce and the division of joint property. The judge may consider the perspective of *Maslahah* to ensure that the child's interests are met with financial certainty and access to necessary resources.

Implications and Relevance of the Maslahah Perspective in Legal Practice

One of the main implications of the *maslahah* perspective in legal practice is the emphasis on achieving public benefit.¹⁸ In the context of family law, the *maslahah* perspective leads to efforts to ensure the well-being and use of family members, especially in situations such as divorce or the division of common property. In this case, the judge's decision must put forward the best interests of all parties involved, including divorced spouses, children, and vulnerable parties.¹⁹ *Maslahah's* perspective also has a solid relevance for justice and legal equality. In the division of joint property, for example, the *maslahah* view encourages recognizing equal financial and non-financial contributions from each party during the marriage or relationship. Judges need to carefully consider the contributions made by each party to ensure a fair and balanced distribution. In addition, the perspective of *maslahah* also leads to the protection of

¹⁸ Abd Hakim Abd Razak, "Multiple Sharia'board Directorship: A *Maslahah* (Public Interest) Perspective," *Journal of Islamic Marketing* 11, no. 3 (2020): 745–64.

¹⁹ Fitrohtul Khasanah, Muhajir Muhajir, and Akhmad Muhaini, "Analisis Hukum Waris Terhadap Penundaan Pembagian Harta Warisan di Desa Jogopaten," *Jurnal Justitia: Jurnal Ilmu Hukum Dan Humaniora* 9, no. 5 (2022): 2757–65.

more vulnerable parties in legal practice. In the context of family law, this can include the safety of children, financially incapacitated parents, or less empowered parties to the relationship.

A judge's ruling that reflects Maslahah's perspective will consider the needs and interests of vulnerable parties to ensure that they are not unfairly disadvantaged. Furthermore, the maslahah perspective also has implications for sustainability in legal practice. A legal procedure reflecting the attitude of Maslahah will consider the long-term consequences of the decisions taken. In the case of the division of joint property, for example, the judge's decision must consider each party's financial capacity and economic sustainability after the divorce. It aims to ensure that after a divorce, the parties involved can start a new life with financial stability and fair opportunity.

The relevance of the maslahah perspective in legal practice also includes consideration of relevant cultural, religious, and social values factors. In family law in Indonesia, for example, Customs and religious norms often play an important role in legal decision-making. Judges need to consider these factors to produce decisions that align with the values and beliefs of diverse communities. The maslahah perspective is also closely related to efficiency and legal certainty. In legal practice, decisions that reflect the view of Maslahah will seek to achieve clarity and confidence for the parties involved. This is important to minimize legal uncertainty and allow the parties involved to move on with their lives confidently and confidently.

The perspective of maslahah is also relevant in the context of child care after divorce. Judges must consider children's best interests, including meeting their physical, emotional, educational, and developmental needs. In this regard, maslahah's perspective encourages judges to make decisions that prioritize the interests of children and ensure that both parents provide fair and balanced care and upbringing. Furthermore, the view of maslahah is also related to social stability and family cohesion. In making a legal decision, the judge must consider the impact this may have on the relationship between the divorced parties and their children. The decisions taken should promote the well-being of the family as a whole and maintain a healthy relationship between both parties. In the case of the division of joint property, the judge may consider solutions that allow the parties involved to communicate well and cooperate in matters of child care and other important decisions.

In the context of the judge's decision number 584/Pdt.G/2021/PA.Pwr, the relevance of Maslahah's perspective can be analyzed from several points of view. First, Social justice. The principle of maslahah aims to achieve social justice. In the division of joint property, the judge has considered social welfare and fairness by ensuring that the division of common property meets the needs and interests of the parties involved. Second, Family Welfare. In the context of the division of joint property, judges have considered factors such as subsistence, financial stability, and the role of child care in determining the division that produces the best benefit for the family. Third, the use of the child. The principle of maslahah is also closely related to the benefit of children. The judge has taken into account the interests and well-being of the child in the process of dividing the common property. Distribution decisions that reflect the interests

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and well-being of children can be regarded as the application of the principle of *maslahah*. Considering these aspects, the judge's decision has accommodated the interests and well-being of all parties involved. This shows that the judge has carried out his duties taking into account social justice, the benefit of the family, and the benefit of the child, which are essential aspects in achieving the benefit or general good in society.

In legal practice, the *maslahah* perspective influences alternative approaches to dispute resolution, such as mediation or negotiation. This approach encourages the parties involved to reach mutually beneficial agreements and consider the interests of all parties involved. In this case, the *Maslahah* perspective supports cooperative settlement efforts, which can result in more equitable solutions, minimize conflict, and promote sustainable relationships among the parties involved. The *maslahah* air has significant implications and relevance in legal practice, especially family law. Applying the *maslahah* view in legal decision-making ensures justice, balance, and benefit for all parties involved. This allows the creation of sustainable solutions, strengthening social relationships, and achieving substantive justice in family law.

Discussion of the implications and relevance of the perspective of *maslahah* in judge's decision number 584/Pdt.G/2021/PA.Pwr, some additional aspects to note are as follows. First. Gender equality. In family law, the *maslahah* perspective also includes the principle of gender equality. This means that the division of joint property must consider each party's contributions and needs without favoring one particular gender. In the context of the judgment, the judge may have regarding gender equality in establishing a fair division comparison between the plaintiff and the defendant. Second. Social stability and family cohesion. The *maslahah* perspective can also emphasize maintaining social stability and family cohesion. In the division of joint property, the judge may consider factors such as the interests of the child, financial balance, and the ability to maintain a healthy relationship between the two parties. The ultimate goal is to achieve solutions that promote the family's well-being. Third, efficiency and legal certainty. The *maslahah* perspective can also consider efficiency and legal certainty. In this case, the judge's ruling may provide clarity and confidence to the parties involved in the divorce so that they can continue their lives as best they can after the divorce. In interpreting the decision of Judge number 584/Pdt.G/2021/PA.Pwr, it is essential to understand that the perspective of *maslahah* may vary depending on the specific factors in the case, including the facts, legal arguments, and judgment of the judge.

Kesimpulan

The perspective of *maslahah* has significant implications for the division of common property. The *maslahah* view encourages recognition of both parties' financial and non-financial contributions in acquiring and maintaining the common property during the marriage or relationship. In this case, the judge's decision number is 584/Pdt.G/2021/PA.Pwr considers the ratio of 1/3 for the plaintiff and 2/3 for the defendant as a form of appreciation for the contributions made by each party. In addition, the perspective of *maslahah* is also relevant in ensuring justice and

wisdom in the division of common property. In legal practice, justice includes approaches that consider financial and non-financial contributions, financial needs and capabilities, and the children's best interests. Judge's decision number 584/Pdt.G/2021/PA.Pwr has taken these factors into account to achieve a fair share. From the perspective of *maslahah*, the equitable distribution of common property also reflects the equal contribution of both parties in obtaining and maintaining common property. In the context of the judgment, each party's financial and non-financial contributions are likely to have been evaluated by the judge to establish a ratio of 1/3 and 2/3 as a form of recognition of the contributions made. In addition, the *maslahah* perspective also encourages the maintenance of social stability and family cohesion in the division of common property. In the context of the ruling, the division governed by the judge may also aim to maintain a healthy relationship between the divorcing parties, especially regarding child care and other important decisions.

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