

Ownership Status of Implementation of Assets in Mixed Marriages

Bintang Nur Rohman^{a✉}, Vina Durrotul Mukhoyyaroh^a,
Adelia Arnanda Arifin^a

^a Faculty of Law, Universitas Negeri Semarang,
Semarang, Indonesia

✉ Corresponding email: bintangrohman@mail.unnes.ac.id

Abstract

Mixed marriages, where spouses belong to different legal and cultural backgrounds, pose unique challenges regarding the ownership status and management of assets acquired during the course of the marriage. This paper examines the complex legal and financial considerations surrounding the ownership status of assets in mixed marriages, particularly in contexts where divergent legal systems govern property rights. Through a comparative analysis of relevant legal frameworks, including civil law, common law, and Islamic law, this study explores the implications of mixed marriages on asset ownership, management, and distribution. It delves into issues such as community property regimes, prenuptial agreements, and inheritance laws, considering how these factors influence the disposition of assets during the marriage and upon dissolution. Additionally, this paper investigates the role of cultural norms, societal expectations, and individual preferences in shaping the ownership dynamics within mixed marriages. By examining case studies and legal precedents, this study aims to elucidate the complexities inherent in navigating asset ownership in mixed marriages and to offer insights into



potential strategies for addressing these challenges. The findings of this research contribute to the broader discourse on family law and international private law, providing guidance for policymakers, legal practitioners, and individuals involved in mixed marriages seeking to clarify and protect their respective property rights.

KEYWORDS *Mixed Marriage, Immovable Property, Gono Gini Property*

Introduction

Marriage is one of the legal events governing marriage law and is part of the civil law regarding a man and a woman who have the goal of living together for a long time in accordance with the rules set by law.¹ Marriage Law no. 1 of 1974 concerning marriage, that is, marriage is an inner and outer bond between a man and a woman as husband and wife which aims to form a happy and eternal family or household based on Belief in One Almighty God. Meanwhile, according to civil relations article 26 Burgerlijk Wetboek, marriage is a legal relationship between a man and a woman for a long time.

Today, there are many marriages conducted between Indonesian citizens and foreign nationals or what are called mixed marriages. The legality of mixed marriages is regulated in Articles 57-62 of Law No. 1 concerning Marriage or what is commonly called the Marriage Law. Article 57 of Law No. 1 of 1974 states that what is meant by mixed marriage is a marriage between two people who live in Indonesia and are subject to different laws, because they have different nationalities and one of the parties is an Indonesian citizen. Mixed marriages can also result in one party losing its citizenship or acquiring citizenship from one of the parties. However, if one of the parties does not want to change citizenship,

¹ Choirunnisa Nur Novitasari, Dian Latifiani, and Ridwan Arifin, "Analisis Hukum Islam Terhadap Faktor Putusnya Tali Perkawinan," *SAMARAH: Jurnal Hukum Keluarga Dan Hukum Islam* 3, no. 2 (2019): 322, <https://doi.org/10.22373/sjhk.v3i2.4441>.

the citizen can submit his wish through a statement given to the Official or Representative of the Republic of Indonesia.

Mixed marriage also refers to how the division of inheritance in the bond. Assets that have been collected during the household so that they become *gono gini* property between husband and wife are called *gono gini* property. In the international world, the term property obtained in marriage is called matrimonial property, but in Indonesia itself this term is still quite foreign, so in the discussion of this article the term *gono gini* property assets is used. This definition is in accordance with the definition of *gono gini* property mentioned in Law no. 1 of 1975 concerning Marriage Article 35 which reads "Properties acquired during marriage become joint property". Legal terms that are used officially and formally in Indonesian laws and regulations, both in Law no. 1 of 1974 concerning Marriage, The Civil Code, Compilation of Islamic Law, is a joint property. However, the term joint property is more commonly known as *gono gini* property compared to the term officially used in conversional law.²

In the bond of marriage, known as the term divorce. Divorce is the legal completion of a marriage because the marriage relationship did not work properly. Divorce usually begins with conflict between husband and wife. Settlement of divorce cases is carried out in religious courts and causes various changes in emotions and feelings which in the process also cannot be denied that there will be a division of assets acquired while living together as husband and wife.

The research and writing of this article is based on a methodology to obtain accurate data or information. The author emphasizes more on a research method that is a qualitative method. Qualitative method is a method used to answer the questions how, what, and why a phenomenon occurs.³ The goal itself of this qualitative research is to gain new

² Etty Rochaeti, "Analisis Yuridis Tentang Harta Bersama (Gono Gini) Dalam Perkawinan Menurut Pandangan Hukum Islam Dan Hukum Positif," *Jurnal Wawasan Yuridika* 28, no. 1 (2013): 650–61, <https://doi.org/10.25072/jwy.v28i1.61>.

³ Reski Yuliana Widiastuti, "Dampak Perceraian Pada Perkembangan Sosial Dan Emosional Anak Usia 5-6 Tahun," *Jurnal Pendidikan Dan Pembelajaran Anak Usia Dini Trunojoyo* 2, no. 2 (2015): 76–86.

understanding, to be able to develop the theory obtained and later to be able to explain in a complex or detailed manner the issues discussed.

Matrimonial Property

The legal basis for *gono gini* property can be traced through the following laws and regulations:

1. Marriage Law No. 1 of 1974 Article 35 paragraph (1) explains that what is meant by joint property is "property acquired during the marriage period". This means that assets acquired prior to marriage are not referred to as *gono gini* property.
2. Civil Code Article 119, explains that "From the time the marriage took place, according to the law there is joint property between husband and wife, insofar as there are no other provisions in the marriage agreement. The joint property, as long as the marriage is running, may not be abolished or changed by an agreement between the husband and wife."
3. Article 85 of the Compilation of Islamic Law states that "The existence of joint property in a marriage does not rule out the possibility of the existence of property owned by each husband and wife." This article explains that the existence of *gono gini* property does not rule out the existence of assets in each spouse as well.⁴

The existence of *gono gini* property in marriage still allows each partner to have their own property.⁵ Actually there is no such thing as a mix of assets. The wife's property remains the property of the wife and the husband's property remains the property of the husband if both partners wish in the marriage agreement. The assets brought by each partner remain the property of each as long as both parties do not specify anything in the marriage agreement.

Then, in the Compilation of Islamic Law, *gono gini* property have been identified in the form of *syirkah*. Article 1 letter (f), in Book I reads:

⁴ Muhammad Tigas Pradoto, "Aspek Yuridis Pembagian Harta Bersama Dalam Perkawinan (Tinjauan Hukum Islam Dan Hukum Perdata)," *Jurnal Jurisprudence* 4, no. 2 (2017): 85–91.

⁵ Tihami and Sobari Sahrani, *Fiqih Munakahat Kajian Fiqih Lengkap* (Jakarta: Rajawali Press, 2013).

"Assets that are in marriage or *syirkah* are assets obtained from each partner or together with husband and wife during the marriage, hereinafter referred to as joint property without questioning whether it is registered in the name of anyone.⁶ Based on the definition of joint property as mentioned above, it is clear that *gono gini* property is wealth acquired during marriage except in the form of inheritance and gifts. Which means the acquisition process is obtained from the results of each during the marriage which also has an impact on property. Assets in the form of fixed objects or movable objects acquired during the marriage bond become *gono gini* property and do not distinguish who gets it or who gets it. The marriage agreement is important to avoid permanent ownership of assets by one party and to avoid disputes over assets when a divorce occurs. This can also be a deterrent to injustice in the distribution of jointly owned assets. The marriage agreement is made before or when the marriage takes place, then the agreement will be ratified by the Office of Religious Affairs for Muslims and the Civil Registry Office for adherents of religions other than Islam. And it's also good if the marriage agreement is ratified by a notary.⁷

The definition of *gono gini* property, apart from being found in the Compilation of Islamic Law, is also found in Article 35 of Law No. 1 of 1974 on Marriage, paragraph (1) states: "Property acquired during marriage becomes joint property", while paragraph (2) stated: "Property inherited from each husband and wife and property acquired by each as a gift or inheritance are under the control of each as long as the parties do not decide otherwise". Whereas objects according to Article 499 of the Civil Code are all goods and rights that can belong to people (property objects).⁸ According to Tirtodiningrat, objects are all goods that can be tools of human production, which are all goods, animals and rights that

⁶ Hubbul Wathan, "Keabsahan Pelaksanaan Harta Bersama Sebagai Implementasi Akad *Syirkah*," *TAQNIN: Jurnal Syariah Dan Hukum* 1, no. 1 (2019): 89–108, <https://doi.org/10.30821/taqnin.v1i1.4884>.

⁷ Sri Hariati, "Ketidakadilan Dalam Pembagian Harta Gono Gini Pada Kasus Perceraian," *Jurnal Restorative Justice* 4, no. 1 (2020): 27–41, <https://doi.org/10.35724/jrj.v4i1.2825>.

⁸ Yosef Freinademetz Sabon Doni, "Kedudukan Fitur-Fitur Virtual Game Online Dalam Kitab Undang-Undang Hukum Perdata," *Universitas 17 Agustus 1945 Surabaya*, 2020, 1–16.

can be owned by people or legal entities. Likewise in the control and attachment of ownership rights to 2 types of assets in marriage which have been clearly separated by the Marriage Law.⁹ In civil law, the provision of zakat or objects is used not in the sense of tangible goods, but in the sense of "part of the property". In the Civil Code, the word *zaak* has two meanings. The first is in the sense of goods that have a form, the second is in the sense of part of the property. In this second meaning (namely as part of assets) which are included as *zaak* are in addition to tangible objects, also certain rights as intangible goods. In civil law, objects are generally referred to as objects of rights (*zaak*) which have a presence with the subject of rights, namely private entities (*persoon*). The definition of objects is first of all focused on tangible goods that can be captured by the five senses.¹⁰ In the economic sense, goods or commodities are services or objects that have value. The value of an item can be determined because the item has the ability to fulfill its needs. In macroeconomics and accounting, an item is often contrasted with a service. What can be divided into *gono gini* property are movable objects. The object itself consists of movable objects because of their nature and movable objects because of statutory provisions.¹¹

1. Movable objects because of their nature according to Article 510 of the Civil Code are all objects that can move, for example chickens, goats, books, pencils, tables, chairs, and others (Article 509 of the Civil Code). Also included as movable objects are ships, boats, mills and baths mounted on boats and so on (Article 510 of the Civil Code).
2. Movable objects due to statutory provisions (Article 511 of the Civil Code), for example:
 - a) Usufructuary rights and usufructuary rights over movable objects;
 - b) The right to the agreed interest;

⁹ Beri Risky, "Konsep Pembagian Harta Bersama Menurut Hukum Islam Dan Undang-Undang Perkawinan," *Lentera: Indonesian Journal of Multidisciplinary Islamic Studies* 2, no. 1 (2020): 63–74, <https://doi.org/10.32505/lentera.v2i1.2115>.

¹⁰ Risky.

¹¹ Hilman Hadikusuma, *Hukum Perkawinan Indoensia Menurut Perundangan: Hukum Adat* (Bandung: Mandar Maju, 2003).

- c) Billing or receivables;
- d) Shares or shares in trade unions, and others.

Division of Property in Mixed Marriages

The distribution of *gono gini* property resulting from mixed marriages cannot be sued by heirs, let alone those with different persons, because on August 8, 1959, based on the decision of the Supreme Court, Reg. Number 258 K/Sip/1959 which states that someone other than the wife or husband, the children of the person who gave the gossip cannot demand the distribution of the property.¹² The method of distribution of arbitrary assets is usually divided equally with each receiving half of the proceeds of the arbitrary assets, but must be the same as the provisions contained in Presidential Instruction number 1 of 1991 relating to Islamic Law.¹³ However, the distribution of assets can be different. Based on Law no. 1 of 1974, if the husband is an Indonesian, then the provisions of the material law relating to assets are regulated in accordance with the law brought by the husband. If a marriage agreement is not entered into which contains marital assets originating from a mixed marriage, then the arrangement of marital assets is based on Article 35 which explains:

1. Paragraph (1), Property obtained from the marriage will become joint property.
2. Paragraph (2), Property brought by the husband and wife, as well as property acquired by each, is used for gifts or inheritance. As long as both parties do not determine anything else then the property will be under their own control.

In completing the implementation related to the distribution of *gono gini* property, the Criminal Code is used as a legal basis by legal practitioners in Indonesia in terms of solving problems regarding the distribution of assets. Based on the Marriage Law in Article 35 No. 1 of 1974 there are regulations that have discussed the assets of a marriage. But

¹² Bernadus Nagara, "Pembagian Harta Gono-Gini Atau Harta Bersama Setelah Perceraian Menurut Undang-Undang Nomor 1 Tahun 1974," *Lex Crimen* 5, no. 7 (2016): 51–57.

¹³ Erni C. Singal, "Pembagian Harta Gono-Gini Dan Penetapan Hak Asuh Anak Akibat Perceraian Berdasarkan Undang-Undang Nomor 1 Tahun 1974," *Lex Crimen* 6, no. 5 (2017): 91–97.

until now there is still no regulation specifically regarding the implementation based on the Marriage Law No. 1, 1974 which regulates the division of assets. Therefore, the Civil Code is still the basis for regulating marital assets contained in Article 37 of the Marriage Law.¹⁴

Based on paragraph (1) of Article 36, which regulates joint property which can be run simultaneously between husband and wife. However, in any legal action regarding *gono gini* property, an agreement must be obtained between the two parties concerned. If the two parties have agreed to carry out the Marriage Agreement, which is an agreement made to regulate the separation of assets. Therefore, the agreement must be legalized at the Office of Religious Affairs (KUA) or the Civil Registry Office which is handled by the marriage registrar and must be notarized. Throughout the times, after the marriage took place the practice in the marriage agreement could be carried out on condition that a request had been submitted to the local court. And the court has obtained eternal legal force. He considers marriages to be legally mixed assets, namely when the marriage agreement is not legalized at the marriage registrar's office and it is deemed that there is no marriage agreement.¹⁵ With regard to the inherited property of each husband and wife, it will be the full right to carry out legal actions.

Legal actions governing property are contained in Article 36 paragraph (2). The husband's provisions will apply to the wife if the husband is a foreign citizen, then the wife is an Indonesian citizen. In addition to this article, there are also regulations that need attention, namely the Minister of Agrarian Regulation or the Head of the National Land Agency No. 7 of 1996 concerning Requirements for the Ownership of Residential or Residential Houses by Foreigners and Government Regulation (PP) No. 41 of 1996 concerning Ownership of Residential or Residential Houses by Foreigners residing in this country. The essence of

¹⁴ Syahrul Fadil Alim, "Analisis Putusan Pengadilan Agama Tuban Nomor: 1325/PDT.G/2019 Tentang Pembagian Harta Gono Gini" (UPN Veteran Jawa Timur, 2020).

¹⁵ Herni Widanarti, "Akibat Hukum Perkawinan Campuran Terhadap Harta Perkawinan (Penetapan Pengadilan Negeri Denpasar No: 536/Pdt.P/2015/PN.Dps.)," *Diponegoro Private Law Review* 2, no. 1 (2018): 161–69.

these two regulations is that the presence of foreigners in Indonesia can provide benefits for national development, in which they will have a place to live like a house with certain land rights that are made on the surface of Land Use Rights. Foreigners here are those who invest in Indonesia to get a house to live in, so they can maintain the economic interests of the Indonesian state.

If there is a divorce, then the existing *gono gini* property are managed based on their respective laws (Article 37). The respective laws are religious law, customary law, and other laws in the Marriage Law. Therefore, in mixed marriages, national law or foreign law can be applied according to the Marriage Law No. 1 of 1974. If the divorce is filed in a court in Indonesia, the reasons and conditions for the divorce must be in accordance with the provisions in Indonesia, such as the provisions in Law no. 1 of 1974 and Government Regulation no. 9 of 1975 both for mixed marriages that occur in the country and abroad. Then the provisions contained in Government Regulation no. 10 of 1983 and Government Regulation no. 45 of 1990 was devoted to civil servants. The existence of a divorce will have an impact on assets, namely *gono gini* property will be divided in half (2) between the husband and wife if the marital assets become *gono gini* property and if the marital assets are separated, then the assets will be divided according to the ownership of each after the existence.¹⁶

Status of Ownership of Implementation in Mixed Marriages

Every marriage will definitely have a legal impact on the parties concerned, namely on the relationship between husband and wife, position of children, and on assets that also occur in mixed marriages. In addition, the consequences of mixed marriages are matters relating to the nationality of the spouse, the nationality of the children, and the assets in the mixed marriage. The property in question is like ownership of fixed objects, for example land and all things due to nature, due to the actions of the humans themselves and because of the designations attached to the

¹⁶ Widanarti.

land. Based on Law No. 5 of 1960 regarding the Policy Regulation of Agrarian Trees, the essence of which is that only Indonesian citizens (WNI) can obtain ownership rights to land. But for Foreign Citizens (WNA), they will experience difficulties in obtaining buildings or land with ownership rights. This issue is in accordance with Article 26 paragraph (1) of Law no. 12 of 2006 concerning Citizenship which states, "Women who are Indonesian Citizens (WNI) who marry men who are Foreign Citizens (WNA) lose Indonesian citizenship if according to the law of their husband's country of origin, the wife's nationality follows the husband's citizenship as a result of the marriage."

If an Indonesian citizen (WNI) is legally married to a foreign citizen (WNA) and then the Indonesian citizen gets assets in the form of land with the status of ownership rights, Building Rights (HGB), Cultivation Rights (HGU), ownership rights over Apartment units on Building Rights (HGB) land, whether due to inheritance, transfer of rights through sale and purchase, grants or wills. Therefore, he is obliged to give up these rights. Relinquishment of these rights through a number of ways, such as selling or granting land rights within 1 (one) year of obtaining these rights.¹⁷ The provisions contained in Article 21 paragraph (3) of the Law No. 5 of 1960 regarding the Policy Regulation of Agrarian Trees Article 27 paragraph (2) explain that every sale and purchase, exchange, gift, gift by will and other actions aimed at directly or indirectly transferring the property rights to foreigners. To a citizen who besides Indonesian citizenship has foreign citizenship or to a legal entity except as stipulated by the government referred to in Article 21 paragraph (2), it is explained that this is null and void because the law and the land fall to the state with the provision that the rights of the parties other things that burden him can still take place and all payments that have been submitted to the owner can no longer be claimed.¹⁸ This is contrary to Article 27 paragraph (1) of the 1945 Constitution which explains that all citizens have the same

¹⁷ Irma Devita Purnamasari, *Kiat-Kiat Cerdas, Mudah Dan Bijak Memahami Masalah Hukum Waris* (Bandung: Mizan Pustaka, 2014).

¹⁸ Dian Andriani, Bambang Santoso, and Oksidelfa Yanto, "Pemisahan Harta Perkawinan Campuran Dan Akibat Hukumnya Jika Diwariskan Tanpa Wasiat Kepada Anak Berkewanegaraan Ganda," *Jurnal Lex Specialis* 1, no. 1 (2020): 61–70.

position before the law, because one of the parties carrying out mixed marriages is an Indonesian citizen (WNI) who has the same rights as Indonesian citizens (WNI).) in order to have land rights.¹⁹

In Article 21 paragraph 3 Law No. 5 of 1960 regarding the Policy Regulation of Agrarian Trees No. 5 of 1960, that after the enactment of this law for every foreigner will get property rights due to inheritance without a will or mixing of assets due to a marriage bond. Then for Indonesian Citizens (WNI) who have property rights and after this law comes into force, they will lose their citizenship, which must relinquish these rights within 1 (one) year of obtaining these rights. If property rights cannot be relinquished, then these rights are forfeited because the law and the landfall on the state and there are provisions, namely the rights of other parties who burden them will continue.

Based on the above regulations, Indonesian Citizens (WNI) must relinquish their land rights within 1 (one) year starting from when they marry a Foreign Citizen (WNA).²⁰ If after that period the property right is not relinquished, then the said right is nullified by law. As a result, the land fell to the state with the provision that the burdensome rights of other parties would continue.²¹ The main requirement for obtaining land ownership rights for Indonesian citizens is that there is a mixture of assets resulting from marriage, namely a single Indonesian citizen (not dual citizenship) and holding a marriage agreement. This provision is based on Article 23 paragraph (3) of the Law No. 5 of 1960 regarding the Policy Regulation of Agrarian Trees.

In mixed marriages, people who can hold ownership rights, building use rights, and Cultivation Rights (HGU), but there is a record that those concerned have held the marriage agreement at the beginning of marriage,

¹⁹ Rahmia Rachman, Erlan Ardiansyah, and Sahrul, "Tinjauan Yuridis Terhadap Kepemilikan Hak Atas Tanah Dalam Perkawinan Campuran," *JALREV: Jambura Law Review* 3, no. 1 (2021): 1–18.

²⁰ Ahmadika Safira Edithafitri, "Status Kepemilikan Benda Tidak Bergerak Dalam Perkawinan Campuran Di Indonesia," *Lex Privatum* 3, no. 2 (2015): 73–83.

²¹ Maria Tamaroba Mengga, "Tinjauan Hukum Terhadap Penyelesaian Sengketa Hak Atas Tanah Berdasarkan Peraturan Menteri Agraria Dan Tata Ruang/Kepala Badan Pertanahan Nasional Republik Indonesia Nomor 11 Tahun 2016 Tentang Penyelesaian Kasus Pertanahan," *Lex Privatum* 8, no. 4 (2020): 13–23.

are those who are Indonesian citizens. The agreement in question is an agreement that manages the separation of these assets. The assets held by the parties will become private property due to the occurrence of an agreement which cannot mix assets.

The definition of a marriage agreement in terms of principle is almost the same as the understanding of an agreement in general, namely an agreement made by the prospective bride and groom to arrange or regulate the assets of both parties before the marriage is carried out and must obtain approval from a marriage registrar. In general, *Prenuptial Agreement* discusses the arrangements related to the assets of the prospective bride and groom. For further arrangements, it has been regulated in Article 29 of the Marriage Law:

- a. Before entering into a marriage based on the agreement of both parties, a written agreement can be made. If there are still related third parties, the contents of the agreement apply to them.
- b. If it still violates the limits determined by law both in terms of religion and decency, then the agreement cannot be ratified beforehand.
- c. When the marriage is held, the agreement is enforced.
- d. The agreement cannot be replaced while the marriage is still going on and as long as there is an agreement to replace it beforehand.

Third parties are people based on representation, whether representation is due to law or representation is caused by an agreement. In addition, holding on to a legal action through the parties to the agreement.²² The study of the agreement was drawn up before the wedding in accordance with Article 29 and it is clear that the Marriage Law stipulates that before the wedding ceremony is not determined within a maximum limited time.²³

²² Justitia Henryanto Ghazaly, "Kepemilikan Hak Atas Tanah Dalam Perkawinan Campuran," *JCH (Jurnal Cendekia Hukum)* 5, no. 1 (2019): 117–30, <https://doi.org/10.33760/jch.v5i1.183>.

²³ Rilda Murniati, "Pembaharuan Hukum Perjanjian Perkawinan Dan Akibat Hukumnya Terhadap Harta Dalam Perkawinan," *Jurnal Jatiswara* 33, no. 3 (2018): 367–76, <https://doi.org/10.29303/jatiswara.v33i3.184>.

For those who are Muslim, the marriage agreement is drawn up at the Office of Religious Affairs, then for those who are non-Muslim, it is drawn up at the nearest Civil Registry Office and must obtain approval from their employee or from a notary.²⁴ Those who cannot obtain land rights are those who in a previous mixed marriage did not have an agreement on the separation of assets prior to the existence of a legal marriage.

For foreigners living in Indonesia, they can only get land rights with the status of lease rights and use rights.²⁵ Based on Article 41 of the Law No. 5 of 1960 regarding the Policy Regulation of Agrarian Trees, the definition of usage rights is the right made to carry out and utilize the fruit of the land that has been occupied by another person or the state, which gives a power and also the responsibility that has been imposed by the decision. It is the official who has the authority to provide in a lease agreement or agreement in cultivating land and all other things as long as it does not conflict with the provisions contained in this Law. According to Article 41 of the Law No. 5 of 1960 regarding the Policy Regulation of Agrarian Trees which explains that usufructuary rights are rights granted over a building and an agricultural land. State land can be converted into usufructuary rights to those entitled to it by registering usufructuary rights with the authorized official. Land rights which were originally property rights can be transferred to use rights based on an agreement between the owner of the land rights and the applicant for the use rights. Based on the provisions in force in Indonesia, those entitled to obtain use rights are Indonesian Citizens, Indonesian Legal Entities, Foreign Citizens living in Indonesia, as well as Foreign Owned Legal Entities and having representatives in Indonesia.

²⁴ Irma Bandiyah and Abraham Ferry Rosando, "Kepemilikan Hak Atas Tanah Warga Negara Indonesia Yang Melaksanakan Perkawinan Campuran," *DiH: Jurnal Ilmu Hukum* 13, no. 25 (2017): 105–23.

²⁵ Andina Damayanti Saputri, "Perjanjian Nominee Dalam Kepemilikan Tanah Bagi Warga Negara Asing Yang Berkedudukan Di Indonesia," *Jurnal Repertorium* 2, no. 2 (2015): 96–104.

Conclusion

The legal framework governing the concept of *gono gini* property is delineated in various statutes, including Marriage Law No. 1 of 1974 Article 35 paragraph (1), Civil Code Article 119, and Compilation of Islamic Law Article 85. *Gono gini* property encompasses assets acquired during marriage through individual efforts, excluding inheritance or gifts. These assets result from endeavors undertaken jointly or individually by spouses during their marriage, thus impacting the disposition of their property. According to Civil Code Article 499, *gono gini* property comprises movable and immovable assets.

In the case of mixed marriages involving an Indonesian husband, asset ownership is governed by the law applicable to the husband as stipulated in Marriage Law No. 1 of 1974. In instances where a marriage agreement omitting provisions related to marital assets exists, subsequent arrangements can be made post-marriage through judicial proceedings. Such proceedings necessitate prior court recognition, typically obtained through a finalized court decision. Assets brought into the marriage by both spouses afford them full rights to manage their respective properties, as outlined in Article 36 paragraph (2).

In the event of divorce, *gono gini* property distribution is determined by the applicable law agreed upon by the parties involved. Marriage Law acknowledges the autonomy of each party's legal system, including customary, religious, and other laws. For Muslim couples, marriage agreements are formalized at the Office of Religious Affairs, while non-Muslim couples must register their agreements at the nearest Civil Registry Office, often requiring approval from an employer or notary.

Under Indonesian law, rights to use *gono gini* property are extended to Indonesian citizens, Indonesian-owned legal entities, foreign nationals residing in Indonesia, and foreign-owned legal entities with local representation. This legal framework ensures equitable treatment and delineation of property rights within the context of mixed marriages, reflecting Indonesia's commitment to legal clarity and fairness in asset management.

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DECLARATION OF CONFLICTING INTERESTS

The authors state that there is no conflict of interest in the publication of this article.

FUNDING INFORMATION

None

ACKNOWLEDGMENT

None

HISTORY OF ARTICLE

Submitted : December 18, 2022

Revised : March 21, 2022; June 29, 2022

Accepted : July 8, 2023

Published : July 31, 2023