

Song Copyright Royalties as Distribution Joint Assets in Decision No.1622/ Pdt.G /2023/PAJB Islamic Law Perspective

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Abstract: This study analyzes the distribution of song copyright royalties as joint property in West Jakarta Religious Court Decision No.1622/Pdt.G/2023/PAJB from the perspective of Islamic law. The research was conducted using a qualitative method involving an in-depth analysis of the court decision and a literature review on the concept of joint property and intellectual property rights in Islamic law. The results showed that song copyright royalties obtained during marriage can be categorized as joint property if both parties contribute equally in obtaining it. According to the view of Islamic law, joint property is considered to arise from the principle of cooperation between husband and wife (*syirkah abdan*) in earning a living to meet family needs. The division of joint property is submitted based on agreement (*ash-shulh*) by considering the contribution and justice for each party. The decision of the West Jakarta Religious Court has considered the rights and contributions of both parties fairly in the distribution of song copyright royalties by giving half of the share to each party. This research is useful to provide a comprehensive understanding of the status of song copyright royalties as an object of joint property and how the division can be done fairly according to the principles of Islamic law.

Keywords: Royalties, Copyright, Joint property, Islamic law.

Introduction

Every individual is given the gift of reason by the Almighty Creator. With this mind, humans can distinguish between the positive and the negative, and understand the concept of truth and error. This ability of the mind allows humans to produce works of art in various forms, such as writing, painting, architecture, movies, and so on. The process of creating a piece of music is one of human expression of personal experience or with others, which is influenced by various feelings and emotions such as happiness, sadness, frustration, longing, hatred, and affection.

The birth of intellectual works in the field of music does not happen by chance, but through a long journey, sacrifice, and struggle, involving time, thoughts, energy, costs, and other sacrifices. The result is a beautiful work that is not only enjoyed by the creator himself, but also by other listeners or viewers. Whether in the present or the future, every beautiful work will continue to be immortalized in the memory throughout the ages through various communication channels.

Music is a form of intellectual property rights or copyright that is guaranteed protection by law in Indonesia. It is derived from a thought process that produces ideas, concepts, or products that are useful to others. Intellectual property rights can be interpreted as rights that are owned both collectively and individually for creating something that provides benefits to others.¹

By being able to be enjoyed by others, it is common for creators of works in the field of music to receive benefits from anyone who enjoys their work by paying royalties. This allows for a return on all the effort expended and allows the owner of the work to make a profit. If the copyright is acquired while in a marriage, then the profits are considered as joint property.

In married life, joint property is important as part of the marital bond between husband and wife. Marriage is an agreement between a man and a woman to form a family that is happy and blessed by God. Joint property helps create a peaceful and loving family life. Husband and wife are jointly responsible for managing the property to achieve domestic happiness, as explained in verse 34 of QS An-Nisa:

الرِّجَالُ قَوَّامُونَ عَلَى النِّسَاءِ بِمَا فَضَّلَ اللَّهُ بَعْضَهُمْ عَلَى بَعْضٍ وَبِمَا أَنْفَقُوا مِنْ أَمْوَالِهِمْ فَالصَّالِحَاتُ قَنَاطٌ لِّلْغَيْبِ بِمَا حَفِظَ اللَّهُ وَالَّتِي تَخَافُونَ نُشُوزَهُنَّ فَعِظُوهُنَّ وَاهْجُرُوهُنَّ فِي الْمَضَاجِعِ وَاضْرِبُوهُنَّ فَإِنْ أَطَعْنَكُمْ فَلَا تَبْغُوا عَلَيْهِنَّ سَبِيلًا إِنَّ اللَّهَ كَانَ عَلِيمًا كَبِيرًا

The verse says that men are responsible for the financial needs of the family because they have been given advantages by Allah. If there are problems in the household, have a good talk with the wife and give light sanctions if necessary. However, if the wife is obedient, do not find fault with them. The primary responsibility for providing for the family lies

¹ Anggun Lestari Suryamizon, "Pengaruh Teknologi Terhadap Perkembangan Hukum Hak Kekayaan Intelektual Di Indonesia," *Pagaruyuang Law Journal* 1, no. 1 (2017): 58-75.

with the man. So, joint property belongs to the husband and is used for the family. If the wife has her own income, it is not considered as joint property. This is in accordance with the teachings of the Quran, as verse 233 of Surah Al-Baqarah and verse 4 of Surah An-Nisa, indicate that men are obligated to give their wives a dowry.

Regarding the division of objects, Article 91 paragraph (1) of the Compendium of Islamic Law (KHI) divides joint property into two main types: tangible objects (*lichamelijk zaak*) and intangible objects (*onlichelijk zaak*). Article 91 paragraph (2) stipulates that tangible joint property can include fixed land, movable goods, and securities. Furthermore, Article 91 paragraph (3) stipulates that intangible common heritage can be in the form of rights or obligations.²

The division of objects that do not have a physical form in the joint property, as explained in Article 91 paragraph (3), is the main focus of this paper. The explanation is focused on the division of objects in the form of rights and obligations. Examples of intellectual property rights fall under property rights in civil law. Intellectual property rights can be owned by an individual or collectively by two or more people. Ownership of intellectual property rights by a group of individuals makes it a shared asset between them.³

Although it is not directly seen that the husband or wife who has the right to wealth is involved in cooperation, but because the origin of the concept of joint property comes from the concept of *syirkah al-abdân* (partnership in the body or marriage), and direct involvement in producing work or innovation is not an absolute requirement for the validity of the *syirkah al-abdân* agreement that produces joint property. Therefore, the understanding of the concept of joint property as “acquired in marriage” can feel ambiguous and less than firm.

Nowadays, cases of joint property disputes between ex-husbands and wives after divorce are increasingly occurring. One of the unique and interesting objects of dispute to be studied is related to copyright royalties for songs created by one of the parties during the marriage period.

² Arso Arso, “Hak Atas Kekayaan Intelektual (HAKI) Sebagai Harta Bersama Dalam Perspektif Undang-Undang Nomor 1 Tahun 1974 Dan Kompilasi Hukum Islam” (Pascasarjana UIN-SU, 2016).

³ Arso Arso, “Hak Atas Kekayaan Intelektual (HAKI) Sebagai Harta Bersama Perspektif Kompilasi Hukum Islam,” *Al-Daulah: Jurnal Hukum dan Perundangan Islam* 7, no. 1 (2017): 28–56.

These song copyright royalties are then demanded by one of the parties, usually the ex-wife, as joint property that must be divided after divorce. In fact, song copyrights are the result of individual work and personal thoughts of the songwriter. A dispute of this nature recently arose in West Jakarta Religious Court Decision No. 1622/Pdt.G/2023/PAJB. In that case, the ex-wife sued for the right to royalties on songs created by her ex-husband while they were married.

The ex-wife argued that her ex-husband's song royalties were known to transfer royalties from his songs to the label and were obtained while they were still married, so they should be joint property that must be divided equally after divorce. On the other hand, the musician as the songwriter refused to have royalties included as joint property.⁴

This decision is interesting to be studied in more depth regarding the status of royalties as joint property and its distribution in the context of Islamic law. Overall, in Islamic law, any wealth acquired during marriage is considered joint ownership between husband and wife. This research aims to analyze the understanding of song copyright royalties as a division of joint property in Decision No.1622/Pdt.G/2023/PAJB from the perspective of Islamic law.

Therefore, it is important to analyze the decision of the Religious Court to understand how Islamic law views song copyright royalties obtained during marriage as well as the rules for their distribution in the event of divorce. The results of the analysis are expected to provide a comprehensive understanding and fair legal solutions for similar cases in the future.

Research Method

The research was conducted using an approach or method of literature review (Library Research) is a literature review obtained from various sources of books, journals or other writings as a reinforcement of research, especially in analyzing. The main or primary data used by researchers is Decision No.1622/Pdt.G/2023/PAJB from the West Jakarta Religious Court regarding gono-gini property in the form of song copyright royalties. Secondary data used in this study are books and journals related to gono-gini property in the form of royalty rights.

⁴ Anggraini Pingkan, "Isi Gugatan Perdata Inara Rusli Ke Virgoun Soal Dugaan Pengalihan Royalti Lagu," *Hot.Detik.Com*, last modified 2023, accessed March 1, 2024, <https://hot.detik.com/music/d-7094242/isi-gugatan-perdata-inara-rusli-ke-virgoun-soal-dugaan-pengalihan-royalti-lagu>.

Results and Discussion

Song copyright royalty

Song copyright royalties are an important element in the music industry ecosystem that ensures that songwriters are properly rewarded for their work.⁵ In this context, it is important to understand how this royalty system operates, from the way it is calculated to the distribution of royalties to copyright owners. These royalties are paid to copyright owners for songs used or broadcast by other parties, such as record producers, radio or television broadcasters, or digital platforms. The economic value of copyright is the non-physical wealth owned by its owner, which can include the creator and/or the copyright holder. The creator benefits from owning his/her copyrighted work.

First of all, let's discuss how song copyright royalties are calculated. There are several types of royalties that may be awarded to copyright owners, such as mechanical royalties, performance royalties, and synchronization royalties. A mechanical royalty is paid on the sale of a physical or digital recording of a song, where the copyright owner receives a portion of the sales revenue as a royalty. The amount of the mechanical royalty is usually set as a certain percentage of the selling price of the recording.⁶

Furthermore, there are performance royalties paid for the airing of songs in media such as radio, television, or concerts. Performance royalties are calculated based on the frequency or duration of the song's airing, and the amount can vary depending on the size and popularity of the radio or television station, as well as the number of viewers or listeners. Meanwhile, synchronization royalties are paid to copyright owners for the use of songs in audiovisual productions such as movies, commercials, or video games.

In addition to how they are calculated, it is also important to understand how song copyright royalties are distributed to copyright owners. In many countries, there are copyright management organizations tasked with collecting royalties from various sources, performing calculations, and distributing them to songwriters or

⁵ Raihana Raihana et al., "Analisis Yuridis Keberadaan Royalti Dalam Hak Cipta (Studi Ciptaan Lagu)," *Innovative: Journal Of Social Science Research* 3, no. 5 (2023): 7861–7868.

⁶ Muhammad Dwi Ardiansyah, Kanti Rahayu, and Imam Asmarduin, *Pengaturan Pemberian Royalti Atas Hak Cipta Aransemen Lagu Di Indonesia Dan Amerika Serikat* (Penerbit NEM, 2021).

copyright owners.⁷ These organizations, such as ASCAP, BMI in the United States, PRS for Music in the UK, and KCI in Indonesia, act as intermediaries between music users and copyright owners.

The royalty distribution process is based on song usage data reported by stakeholders, such as radio stations, music stores, or streaming platforms. The copyright management organization then uses this data to calculate the royalties due to each copyright owner. Royalty payments are usually made periodically, for example every quarter or every year, depending on the policies of the copyright management organization.⁸

It is important to note that the agreement between the songwriter and the party using the song also plays an important role in determining the royalty amount and other terms. In this contract, various things will usually be regulated, such as the amount of royalties to be received, the division of royalties if there is more than one songwriter, and restrictions on the use of songs.

As such, song copyright royalties are an important component in the music industry ecosystem that ensures that songwriters are properly rewarded for their work. Through this royalty system, songwriters are encouraged to continue creating and contributing to the overall development of art and culture.

Statutory joint property

In linguistic terms, “treasure” refers to the goods or money that make up one's wealth. In general, property can also be understood as something that can be owned and used. Joint property known as “gono gini property” is property that is used or used jointly by many parties.⁹

In this context, joint property or gono-gini property denotes assets owned by the husband and wife jointly as a result of their efforts during the marriage. This emphasizes the principle of equality and cooperation between husband and wife in building family wealth. Article 35 of Marriage Law No. 1 Year 1974 emphasizes that the joint property will be managed and divided between husband and wife in accordance with the

⁷ MUHAMMAD EVAN NAUFAL ADYATMA, “PELAKSANAAN PEMUNGUTAN ROYALTI ATAS KARYA CIPTA LAGU DAN MUSIK OLEH LEMBAGA MANAJEMEN KOLEKTIF NASIONAL DITINJAU DARI UNDANG-UNDANG NOMOR 28 TAHUN 2014 TENTANG HAK CIPTA” (Universitas Katholik Soegijapranata Semarang, 2022).

⁸ Isniyatin Faizah, “Nafkah Sebuah Konsekuensi Logis dari Pernikahan”, *The Indonesian Journal of Islamic Law and Civil Law*, Vol. 1, No. 1.2020.

⁹ Happy Susanto, *Pembagian Harta Gono-Gini Saat Terjadi Perceraian* (VisiMedia, 2008).

provisions stipulated in the law.

The origin of the term “joint property” can be traced to the tradition of customary law in Indonesia, which has recognized the principle of equality in property ownership between husband and wife. Although Indonesia has diverse cultures and customs, this principle is generally accepted throughout the region as part of the family law system governing marriage and joint property. Therefore, although the origin of this term may come from customary law culture, the regulation and recognition of joint property has become an integral part of marriage law in Indonesia.¹⁰

Article 119 of the Civil Code confirms that after a marriage is entered into, the assets of the husband and wife are legally united in the absence of a marriage agreement stipulating otherwise. This property union remains in effect during marriage and can only be changed through a marriage agreement, in accordance with the rules contained in Articles 139 to 154 of the Civil Code. This confirms that changes to the property union can only be made through an established legal process, namely through a marriage agreement.

If the marriage ends, Articles 128 to 129 of the Civil Code state that the joint property will be divided equally between husband and wife regardless of who acquired it. However, a marital agreement can be recognized as long as it complies with the prevailing social rules.

During the period of marriage, property acquired by the husband or wife, either jointly or individually, is considered joint property. However, they retain control over assets received as gifts or inheritance, unless other provisions apply. The husband or wife has the right to manage the joint property with the consent of both.¹¹

Article 36 paragraph (2) of Law Number 1 Year 1974 concerning Marriage and Article 87 paragraph (2) of the Compilation of Islamic Law emphasize that wives have full rights to their personal property and do not need the husband's consent to manage it. Both articles emphasize the principle of equality between husband and wife in terms of ownership

¹⁰ Dengan Rakhmat et al., “UU No. 1 Tahun 1974 Tentang Perkawinan” (1974): 1–15.

¹¹ Muhammad Za'im Muhibbulloh, Dewi Niswatin Khoiroh, A. Rofi'ud Darojad, Hak Istri dalam Rujuk Menurut Fikih Empat Mazhab dan Kompilasi Hukum Islam (Perspektif *Maqasid Al-Shari'ah*), *The Indonesian Journal of Islamic Law and Civil Law*, Vol. 2, No. 2.2021.

and management of their respective personal property. This means that the wife has full authority to manage her personal assets without having to seek permission or approval from the husband. This legal protection ensures that the wife has full control over her personal assets, as well as asserting her independence in financial matters.

Joint Property According to the Marriage Law

According to Marriage Law No. 1 of 1974, Article 1 states that marriage is a spiritual and physical relationship between a man and a woman as husband and wife, with the aim of forming a prosperous and lasting family, based on belief in God Almighty.¹² This shows that the relationship between husband and wife involves a close bond, encompassing both physical and spiritual dimensions, so that they are united not only in material terms but also in spiritual terms. In connection with Article 35 of Marriage Law No.1 of 1974 regulates property in marriage by stipulating:

- 1) All wealth acquired during the marriage is considered as joint property.
- 2) Assets owned by husband and wife individually, including assets obtained as gifts or inheritance, remain the personal responsibility of each unless there is another agreement between the two.

Article 36:

1. Regarding joint property, husband and wife have the authority to take actions that require the consent of both.
2. Regarding personal property, both husband and wife have full rights over their respective property and are entitled to take legal action regarding their own ownership.¹³

These articles show that in a household there are two most important types of property.

- a) Personal property and inherited property are terms used to refer to wealth owned by a husband or wife before their marriage, as well as assets they acquired as gifts or inheritance. The husband or wife has full authority over the use of these assets without the need for consent from the other party, or the assets brought by each husband or wife can be integrated into joint property or marital property.

¹² Dengan Rakhmat et al., "UU No. 1 Tahun 1974 Tentang Perkawinan" (1974): 1-15.

¹³ Dengan Rakhmat et al., "UU No. 1 Tahun 1974 Tentang Perkawinan" (1974): 1-15.

- b) Joint assets are assets acquired during the marriage, either through the individual efforts of the husband, wife, or both. Since the origin of the property is not mentioned in the provisions, in order to use the joint property, the consent of both husband and wife is required. When a marriage ends due to divorce, the handling of rules regarding joint property is adjusted to the law followed by the husband and wife, according to religious law, customs, or other enacted provisions. If a marriage ends due to divorce (not due to death), therefore, the article specifies that the arrangement of joint property will be adjusted to the religious beliefs of the husband and wife or in accordance with the customary traditions prevailing in the region.

Joint Property in the Compilation of Islamic Law

The law regarding the division of joint property in the Compilation of Islamic Law can be found in Part XIII, starting from Article 85 to Article 97. In summary, the outline of the latest rules regarding joint property can be summarized as follows:

- a. Although there is joint property in marriage, article 85 allows for individual ownership of assets by either husband or wife.
- b. Article 86 KHI emphasizes that there is no automatic merger of the husband and wife's assets as a result of marriage. The wife's property remains fully owned and managed by her, as well as the husband's property.
- c. Article 87 KHI emphasizes that the assets brought by each husband and wife, including assets obtained as gifts or inheritance, are still considered as their personal ownership, unless there are other regulations stipulated in the marriage agreement.
- d. Settlement of disputes related to joint property is carried out through the Religious Court in accordance with Article 88 KHI.
- e. The husband's obligations include the management and protection of joint property, wife's property, and his personal property, in accordance with Article 89 KHI.
- f. Article 90 KHI prohibits a husband or wife from selling or transferring joint property without the consent of the other party, including rights and obligations that can be used as collateral.

- g. Article 91 explains that joint property can be physical or non-physical. Physical assets can be in the form of property, movable objects, or securities. Non-physical assets can be in the form of rights and obligations. This article also states that joint assets can be used as collateral by one party with the consent of the other party.
- h. Article 92 requires that a husband or wife may not sell or transfer joint property without the consent of the other party.
- i. Article 93 KHI regulates the debt responsibility of the husband or wife, which will be borne by their respective assets, including debts for family needs which are the responsibility of the joint property.
- j. Article 94 KHI states that the joint property of a husband who has more than one wife will be separated and have individual ownership at the time of the second, third, or subsequent marriage.
- k. Article 95 of the KHI authorizes a husband or wife to apply to the court to impose confiscation or security over the joint property if one of the parties commits acts that harm the joint property, such as gambling or extravagance.
- l. In the situation of divorce or death, Article 96 KHI regulates the division of joint property, where half of the property is given to the surviving spouse.
- m. Article 97 states that upon divorce, the woman or man left behind by their spouse is entitled to half of the joint property, unless otherwise agreed upon in the marriage contract.¹⁴

Joint Property and Division of Joint Property in Islamic Law

The principle of gono-gini property and all its provisions do not exist in fiqh literature. The issue of joint property or gono-gini property is a legal issue that has not been considered or thought about by previous fiqh scholars, because this topic has only emerged and become a major discussion in the modern era.¹⁵ In the classical Islamic jurisprudence literature, the main attention is often focused on issues such as maintenance arrangements and inheritance law, which are the main

¹⁴ Mahkamah Agung RI, *Himpunan Peraturan Perundang-Undangan Yang Berkaitan Dengan Kompilasi Hukum Islam Serta Pengertian Dalam Pembahasannya*, Perpustakaan Nasional RI : Data Katalog Dalam Terbitan, vol. 1, 2011.

¹⁵ Evi Djuniarti, "Hukum Harta Bersama Ditinjau Dari Perspektif Undang-Undang Perkawinan Dan KUH Perdata (The Law of Joint Property Reviewed from The Perspective of Marriage Law and Civil Code)," *Jurnal Penelitian Hukum P-ISSN 1410* (2017): 5632.

concerns in classical fiqh studies. In the context of exploring the issue of joint property in marriage, this is less of a focus of attention in classical fiqh studies.¹⁶

In Islamic teachings, the concept of gono-gini is not recognized. More specifically, Islam recognizes the separation of property between husband and wife. In the fiqh literature, this concept is explained as the property obtained from the joint efforts of husband and wife during their marriage. This can be interpreted as property obtained through the cooperation of husband and wife so that ownership between the two can no longer be distinguished. The legal basis is found in the Qur'an, Surah An-Nisa' verse 32, which emphasizes that both men and women are entitled to the fruits of their labor.¹⁷

Views on property ownership in Islam often relate to the principle of nafaqah (financial support) that husbands should provide to their wives and families. While Islamic law recognizes the husband's right to own and manage property acquired during marriage, this does not limit the wife's right to receive proper maintenance from her husband, as stipulated in Islamic teachings.¹⁸

In addition, while some scholars assert that the wife has no automatic claim to the husband's property in Islam, there are also views that emphasize the principles of fairness and balance in the marital relationship. In practice, the handling of joint property in marriage is often adapted to customary law and legislation in various countries with a majority Muslim population. Therefore, although there is no explicit provision in the Qur'an and Hadith on the wife's right to her husband's joint property, the handling of this issue is often influenced by the prevailing social, cultural and legal context.

Islamic law's approach to the concept of joint property or gono-gini is in line with the view of Muhammad Syah, who argues that joint business between husband and wife should be included in the realm of mu'amalah (transaction matters), although it is not discussed in detail.

¹⁶ Zulfiqar Mokodompit, "Penerapan Hukum Positif Terhadap Harta Gono-Gini Dihubungkan Dengan Hukum Islam," *Lex Administratum* 3, no. 6 (2015).

¹⁷ Mushafi Mushafi and Faridy Faridy, "Tinjauan Hukum Atas Pembagian Harta Gono Gini Pasangan Suami Istri Yang Bercerai," *Batulis Civil Law Review* 2, no. 1 (2021): 43-55.

¹⁸ NOVITA PRATAMA SARI, "Analisis Yuridis Pertimbangan Hakim Di Pengadilan Agama Kebumen Dalam Penolakan Gugatan Rekonvensi (Studi Kasus Putusan No. 1055/Pdt. G/2021/PA. Kbm)" (IAINU Kebumen, 2022).

This may be due to the fact that the authors of the fiqh books generally come from an Arab background which may not be familiar with the concept of joint husband-wife livelihood. The term that is often used is *shirkah* or partnership in the context of joint property division.¹⁹ The legal basis for *shirkah* in Islam is the Quran, Sunnah (tradition of the Prophet Muhammad), and *Ijma'* (consensus of scholars).

According to the scholars, *Shirkah 'Inan* (partnership of capital and profit) is permissible by consensus. However, there is a difference of opinion regarding *Shirkah Mufawwadhah* (full partnership where partners have equal capital, work and responsibilities) and *Shirkah Abdan* (labor partnership). The Hanafi and Maliki Madhhabs allow the practice of *Shirkah Mufawwadhah*, but the Shafi'i Madhhab prohibits it. Likewise, in terms of *Shirkah Abdan*, the Shafi'i Madhhab also rejects it, while the Maliki and Hambali Madhhabs allow it on the condition that the work done must be of the same kind and done in one place. In terms of *Shirkah Wujuh*, the Hanafi and Hambali Madhhabs allow it, while the Shafi'i and Maliki Madhhabs do not.

Imam Shafi'i rejected *Shirkah Mufawwadhah* because it was considered to contain the potential for fraud and uncertainty. The reason for the rejection of *Shirkah Abdan* by Imam Shafi'i is because he believes that *Shirkah* only applies to the aspect of property ownership in the context of Islamic business, not to the contribution of labor. However, the Maliki and Hambali Madhhabs allow it on the grounds that *shirkah* aims to facilitate the division of joint property, such as in cases of divorce where the division of joint property depends on the agreement of the husband and wife, referred to as *as-Shulhu* (peace) between husband and wife.

Verse 128 of Surah An-Nisa in the Qur'an, this verse emphasizes that peace is a better goal for both husband and wife, as conflicts and quarrels will only cause unhappiness and strain in their relationship. Therefore, efforts to reach agreement and harmony in the course of family life are strongly encouraged in Islam. This shows the importance of communication and amicable settlement in husband and wife relationships with the aim of reaching a mutually beneficial agreement.

¹⁹ Ulfi Sukrina and Yuni Siti Rahayu, "HARTA BERSAMA DALAM PERKAWINAN POLIGAMI DAN FUNGSINYA DALAM PEMBANGUNAN HUKUM NASIONAL," *University of Darussalam Gontor 15-16 September 2018* (2018): 382.

Shirkah Abdan, or a partnership involving the contribution of labor, is permissible in various situations in Islam. This applies whether the two parties are doing the same or different work, whether both are actively working or only one of them is working, and whether they are working individually or together. In Islamic literature, this kind of partnership is also known by several other terms, such as syirkah a'mal (work), shana'i (craft), or taqabbul (acceptance). However, while syirkah abdan is permissible, it is important to operate it in accordance with sharia principles, including in terms of profit sharing and responsibilities.

The evidence for the permissibility of this shirkah is the narration from Abu Ubaidah that Abdullah Ibn Mas'ud said: "I allied myself with 'Ammar and Sa'd in the division of the results of the battle of Badr. Sa'd came with two captives, while 'Ammar and I came with nothing."²⁰

In general, scholars do not provide definitive rules regarding the division of property in a shirkah when the partnership ends, including in a shirkah abdan or as-shulhu. Therefore, in situations where a husband and wife are divorced and wish to divide the joint property, they may opt for reconciliation (as-shulhu) to settle their dispute, where the division of the joint property depends on the agreement reached through mutual consultation and agreement. The division may vary, such as the husband and wife receiving 50% each, or the husband receiving 30% and the wife receiving 70%, or any other division according to the agreement reached. All of these forms of division are recognized by sharia as long as they are the result of a settlement that is determined based on the agreement of the two parties.

Settlement of Copyright Royalty Sharing as Joint Property in Decision No.1622/Pdt.G/2023/PAJB

Copyright Law "Royalties are payments for the use of economic rights to a work or related rights received by the creator or rights holder concerned."²¹ Thus, it can be concluded that royalties are specific payments made to the owner of intellectual property rights as compensation for the economic benefits derived from those rights, determined by an agreement between the parties involved for a specific period.

The Tribunal considered the arguments of the lawsuit filed by the

²⁰ Abi Abdurrahman an-Nasa'I, *Sunan An-Nasa'I* (Riyadh: darussalam, n.d.), 646.

²¹ Hak Cipta, "Undang-Undang Nomor 28 Tahun 2014 Tentang Hak Cipta," no. 1 (2014).

Convention Plaintiff in relation to the object in the form of 50% of the Net Royalty Income obtained by the Convention Defendant as the creator of the song "Surat Cinta untuk Xxx" and publisher of PT Xxx. These arguments have not been explicitly refuted by the Defendant Convention and have been supported by the evidence presented, such as documents and witness testimony.

Based on the definition of royalties in copyright law, which is a reward for the utilization of the economic rights of a work, and because royalties are part of the economic rights derived from copyright, the Tribunal decided that royalties are the object of marital property. The expert opinion submitted by the Convention Plaintiffs also strengthens the argument that royalties are an object of marital property.

The court decision confirmed that 50% (fifty percent) of the net royalty income earned by the Convention Defendant as the creator of the song "Surat Cinta Untuk Xxx", Evidence, and Congratulations from PT. xxx as a publisher is joint property between the Convention Plaintiff and the Convention Defendant, in accordance with applicable law. This shows that the court recognized the equal rights between the Convention Plaintiff and the Convention Defendant to the income from the jointly created work, in accordance with the principles of justice and protection of intellectual property rights. The West Jakarta Religious Court has the authority to hear and decide on the Convention Plaintiff's claim for royalties on behalf of the Convention Defendant.

In a case where both parties contribute equally to the income from the song and have rights to the joint property, the above decision is in accordance with the principle of division of joint property in Islamic law. The division has recognized the contribution of each party, where half of the net royalty income is obtained by the Defendant Convention (which in this case is Virgoun as the songwriter), while the remaining half belongs to the Plaintiff Convention (which in this case is Inara as the publisher of the song).

In Islamic teachings, property owned jointly by husband and wife is based on the principle of cooperation and joint contribution in acquiring wealth during marriage.

is based on the principle of cooperation and joint contribution in acquiring wealth during marriage. This is recognized as part of the

concept of shirkah abdan, where both have a contribution in acquiring joint property.

Alternatively, a solution that is more in line with the principles of Islamic law is through deliberation and agreement between husband and wife regarding the division of joint property, as mentioned in the concept of as-shulhu. The division can be based on each party's contribution, economic needs, and other factors deemed relevant by both.

Therefore, the court decision stipulates that half ($\frac{1}{2}$) of the property, as described in numbers 8.1, 8.2, and 8.3 in the judgment, belongs to the Plaintiff Convention, while the other half ($\frac{1}{2}$) belongs to the Defendant Convention. The division of the property means that half will be given to the Convention Plaintiff and the other half will be given to the Convention Defendant. In this case, the division of joint property has taken into account the contributions of both, in accordance with the principles of justice and agreement in Islamic law. Therefore, it can be said that the decision has fairly considered the rights of both of them.

Closing

Song copyright royalties obtained during marriage can be classified as joint property if both parties equally contribute in obtaining it. Islamic law views joint property (gono-gini) is considered to arise from the principle of cooperation between husband and wife (syirkah abdan) in earning a living for family needs. The division of joint property according to Islamic law is submitted based on the agreement of the husband and wife (as-shulhu) by taking into account the principles of justice and the contribution of each party.

So it can be concluded that the decision of the West Jakarta Religious Court has considered the rights of both fairly in the distribution of song copyright royalties. The division has recognized the contribution of each party, where half of the net royalty income is obtained by the songwriter, while the remaining half belongs to the song publisher. In the context of Islamic law, the division is in accordance with the principle of division of joint property, which recognizes the contribution of each party in obtaining income from the song. Therefore, the implication between the verdict and the perspective taken is appropriate.

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