
Integrating Dimensions of Justice into Marital Property and Inheritance Rulings in Religious Courts

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Abstrak: This research analyzes the integration of moral, legal, and social justice dimensions in rulings on marital property and inheritance cases in Indonesian Religious Courts. The study is motivated by the juridical dilemma faced by judges when reconciling normative legal certainty with dynamic substantive justice demands in contemporary Islamic society. This research explores the synergy between Western philosophy (Plato, Aristotle, Rawls) and Islamic philosophy (Al-Farabi, Al-Ghazali) to analyze harmony, proportionality, and social benefit. Using a layered theoretical framework ranging from legal protection to social engineering, this study employs a normative juridical method to examine judicial reasoning. The findings argue that the *ijtihad* performed by judges is essentially a method of legal discovery (*rechtsvinding*). This pattern of *rechtsvinding* demands interpretative flexibility, enabling judges to move beyond rigid statutory boundaries. By prioritizing substantive justice over formalistic norms, judges may employ *contra legem* decisions, ensuring that legal discovery functions as a responsive tool for social engineering and equity. The research concludes that judges function as both moral agents and social engineers responsible for harmonizing legal certainty with moral and social values. This harmonization is the essence of judicial *ijtihad* to realize a comprehensive and contextual Islamic legal justice in Indonesia.

Keywords: Marital property; Islamic inheritance; judicial *ijtihad*; progressive law; substantive justice.

Introduction

The Theory of Justice has been a central discourse in philosophy, ethics, and legal science since the era of classical Greece to contemporary thought, in both Western and Islamic traditions. In the Western tradition, the concept

of justice developed from Plato, who viewed justice as the ideal state policy, Aristotle with his distinction between distributive and corrective justice, to John Rawls with the concept of *justice as fairness* and the idea of the *veil of ignorance*, as well as Immanuel Kant who positioned justice as the basic principle of ethics. Meanwhile, in the Islamic tradition, the theory of *al-'adalah* contains the meaning of equality, balance, and impartiality, as developed by Al-Farabi (political justice), Ibn Sina (ethics and justice), Ibn Taymiyyah (justice in the application of sharia), Al-Ghazali (moral justice), Sayyid Qutb, and Ayatollah Ruhollah Khomeini (social justice and the Islamic legal system).

Various theoretical formulations show that justice cannot be merely reduced to formal equality but necessitates proportionality, equal treatment before the law, and respect for the rights and contributions of each individual. From Rawls' perspective, *justice as fairness*, justice demands an institutional design that protects the most disadvantaged parties through a fair social cooperation scheme for all.¹ Rawls argues that justice in the implementation of law must ensure that all individuals, without exception, receive equal opportunities and equal treatment before the law. The concept of the "veil of ignorance" helps avoid bias and encourages fairer and more universal decisions.²

This study analyzes the discourse on the integration of moral justice based on Islamic transcendental values, legal justice relying on the hierarchy of positive norms, and social justice rooted in the principle of Pancasila's utility in judicial practice in Indonesia. The problem arises when the application of formal regulations, such as the division of marital property and inheritance in the Compilation of Islamic Law (*Kompilasi Hukum Islam*), clashes with empirical reality that demands the fulfillment of a sense of substantive justice. The phenomenon of proportional rulings (not equal distribution) and the expansion of the obligatory bequest (*wasiat wajibah*) indicates a paradigm shift from textual certainty to progressive legal discovery (*rechtsvinding*). Through the role of judges as moral agents and social engineers, the integration of these three dimensions of justice is realized through responsive legal interpretation—including the practice

¹ Vidya Prahassacitta, *Makna Keadilan Dalam Pandangan John Rawls*, n.d., <https://business-law.binus.ac.id/2018/10/17/makna-keadilan-dalam-pandangan-john-rawls/>.

² Rahma Ariani Roshadi, *Filsafat Hukum (Konsep-Konsep Dasar Filsafat Hukum dan Analisis Isu-Isu Kontemporer)* (Anak Hebat Indonesia (Anggota Ikapi), 2024).

of *contra legem* to produce rulings that are legally valid, philosophically accountable, and relevant to the living law in society.

Proceeding from this situation, the main problems to be examined in this research are: (1) how the three aspects of justice moral, legal, and social are articulated and operationalized in marital property and inheritance rulings in the Religious Courts; (2) to what extent judges conduct *ijtihad* and progressive legal discovery, including the possibility of *contra legem* rulings, to bridge the tension between normative certainty and substantive justice; and (3) how the theoretical construction of this justice integration can be formulated as a more systematic model of legal discovery for religious court practice.

The main idea offered by this research is the development of a justice integration model based on three dimensions: moral justice rooted in divine values and normative texts (the Qur'an and Hadith), legal justice based on the hierarchy of regulations and the principle of certainty, and social justice based on Pancasila, utility, and *living law*.³ This model will be placed within the framework of a grand theory of authority and legal protection, a middle-range theory concerning justice, utility, and legal certainty, as well as an applied theory in the form of progressive law and law as a tool of social engineering, so that it is expected to become a conceptual basis for judicial *ijtihad* in realizing rulings that are more comprehensive, adaptive, and substantively just in marital property and inheritance cases in Indonesian Religious Courts.

In several Religious Court decisions analyzed, the integration of legal, moral, and social justice remains suboptimal, as judges often treat these dimensions as competing choices rather than a unified whole. Consequently, decisions tend to prioritize one form of justice at the expense of others. To address this fragmentation, this study proposes a comprehensive integration method that harmonizes these three pillars of justice, ensuring that judicial outcomes are not only legally certain but also morally sound and socially beneficial.

Research Method

This research is a normative legal research (*legal research*) based on a literature study focusing on the analysis of Religious Court rulings in

³ Isniyatin Faizah et al., "Rekonsiliasi Waris Tiga Dimensi: Strategi Toleransi Antara Hukum Islam, Adat, Dan Perdata Di Indonesia," *Proceedings of Annual Conference for Muslim Scholars* 09, no. 01 (2025): 1134–49, <https://doi.org/10.36835/ancoms.v9i1.766>.

Indonesia. The approach used is multidimensional, covering: the statutory approach to dissect the *ratio legis* and consistency of norms; the philosophical approach to explore the values of justice underlying judicial considerations; and the case approach to examine the *ratio decidendi* in 4 marital property rulings and 4 inheritance rulings selected purposively based on criteria of relevance, representativeness, and the uniqueness of the progressive judicial *ijtihad* (*rechtsvinding*).

Data sources are classified into three levels of legal materials: primary legal materials which include constitutional instruments, the Marriage Law, the Religious Courts Law, the Compilation of Islamic Law, the Qur'an, Hadith, and Supreme Court jurisprudence; secondary legal materials in the form of minutes of judges' deliberation meetings; and tertiary legal materials as supporting interpretation. The research flow is carried out systematically through the identification of legal facts, the collection of relevant materials, the review of critical issues, up to the drawing of argumentative conclusions. All data is processed using qualitative analysis to produce a deep prescriptive description of the integration of justice dimensions in judicial practice in the Religious Courts.

Results and Discussion

The Relationship Between Law and Justice

The relationship between law and justice is hierarchical-functional, where law acts as a strategic instrument to actualize the supremacy of justice which is laden with ethical-moral dimensions. In the context of judicature, judges are obliged to integrate doctrinal truth and empirical relevance to bridge the dichotomy between formal legal certainty and the community's sense of justice. This research converges the triad theory of justice moral, legal, and social by focusing on Moral Justice within the theocentric Islamic legal tradition. Based on the doctrine of the Qur'an (such as QS. An-Nisa: 58 and Al-Ma'idah: 8) and the prophetic tradition, justice is defined as a manifestation of piety that requires impartiality, integrity of *ijtihad*, and eschatological responsibility.⁴ Therefore, judges' rulings in religious courts should not be trapped in rigid proceduralism, but must be a form of ethical-religious accountability capable of concretely realizing benefit (*kemaslahatan*) and substantial justice.

⁴ Isniyatin Faizah et al., "Bagian Ahli Waris Laki-Laki Dan Perempuan Dalam Kajian Hukum Islam," *The Indonesian Journal of Islamic Law and Civil Law* 2, no. 2 (2021): 152-69, <https://doi.org/10.51675/jaksya.v2i2.166>.

The principle of acting justly as in the treatise of Qadha Caliph Umar bin Khattab, among its contents is:

وَأَسْ بَيْنَ النَّاسِ فِي وَجْهِكَ وَمَجْلِسِكَ وَقَضَائِكَ حَتَّى لَا يَطْمَعَ شَرِيفٌ فِي حَيْفِكَ وَلَا يَيْئَسُ ضَعِيفٌ مِنْ عَدْلِكَ

Meaning: Make equal the position of people in your sight, your assembly, and your judgment, so that the noble (powerful) does not covet your partiality and the weak does not despair of your justice.⁵

Legal justice in Indonesia is based on the principle of legal certainty which is structured in the hierarchy of laws and regulations according to the theories of Hans Kelsen and Nawiasky.⁶ Within this framework, law enforcement is regulated by four main principles: *lex superiori derogat legi inferiori* (superiority of the higher norm), *lex specialis derogat legi generali* (specialization of matter), *lex posteriori derogat legi priori* (updating of the norm), and the principle of annulment of law by a regulation of the same rank or higher. Academically, this structure functions as a guarantor of juridical order so that every legal decision has a valid and consistent formal foundation in the national legal system.

Ideally, judges must maintain a progressive stance when adjudicating cases that demand outcomes beneficial to seekers of justice. This progressive approach is significantly influenced by several critical factors, including the prevailing social conditions of the local community and the specific role of gender in contributing to the acquisition of marital assets. By considering these elements, judges can ensure that their decisions are not only legally sound but also contextually equitable and socially impactful.

Principles and Functions of Law

The Indonesian legal system adopts four fundamental principles in managing norm conflicts and arranging the hierarchy of laws and regulations:

First, *lex superiori derogat legi inferiori*; affirms the supremacy of law where a higher regulation overrides a lower one to maintain constitutionality.

⁵ Abd Malik, "Prinsip-Prinsip Peradilan Dalam Risalah Al-Qadha Umar Bin Khattab," *Al-Ubudiyyah: Jurnal Pendidikan Dan Studi Islam* 2, no. 2 (2021): 45-57.

⁶ Jimly Asshiddiqie, *Teori Hierarki Norma Hukum*, Cet. 2 (Konstitusi Press, 2021). Lihat juga Undang-Undang Nomor 15 Tahun 2019 Tentang Perubahan atas Undang-Undang Nomor 12 Tahun 2011 Tentang Pembentukan Peraturan Perundang-undangan Pasal 7 ayat (1).

Second, lex specialis derogat legi generali; gives priority to regulations that are specific over general rules within the same scope of material.

Third, lex posteriori derogat legi priori; guarantees the updating of law by enforcing the newest rules to abolish the relevance of old provisions. A regulation can only be abolished by a regulation of the same rank or higher.

According to experts, law has four functions, among others: Law as a maintainer of order; Law as a means of development; Law as a means of enforcing justice; and Law as a means of educating the public. Roscoe Pound argues that law aims to engineer society, meaning law as a tool of social engineering⁷. The same is said by Lawrence Friedman, that the function of law is as a system of control, dispute resolution, social engineering, social maintenance, and supervising the authorities.⁸

Realizing Substantive Justice

Justice based on equality rests on the principle that law binds all subjects universally through two main manifestations: numerical equality which guarantees the equal position of every individual before the law (*equality before the law*), and proportional equality which emphasizes the granting of rights distributively according to each person's portion and worthiness.⁹ Justice becomes the moral foundation of law and at the same time a benchmark for the positive legal system. Without justice, a rule is not worthy of being law. If in enforcing a rule, it tends more toward the principle of legal certainty, then the values of justice and utility will shift.¹⁰

Justice is very important in law to be enforced because it is subjective and individual and not about equalizing as in legal norms.¹¹ Law must be enforced based on justice, and justice must be based on law. Both have a vertical relationship. Law as the bearer of the value of justice according to Radbruch becomes the measure of the fairness or unfairness of the legal order. The value of justice also becomes the basis of law as law. Thus, justice has a normative as well as a constitutive nature for law. Justice becomes the basis for every dignified positive law.¹²

⁷ Aris Prio Agus Santoso, *Hukum Administrasi Negara* (Pustaka Baru Press, 2020).

⁸ Didiek R. Mawardi, *Fungsi Hukum Dalam Kehidupan Masyarakat, Masalah-Masalah Hukum*, Vol.44, no. No. 3 (2015).

⁹ Aris Prio Agus Santoso et al., *Pengantar Filsafat Hukum* (Pustaka Baru Press, 2022).

¹⁰ Aris Prio Santoso et al., *Teori Hukum Suatu Pengantar* (Pustaka Baru Press, 2022).

¹¹ Margono, *Asas-Asas Keadilan, Kemanfaatan & Kepastian Hukum Dalam Putusan Hakim* (Sinar Grafika, 2019).

¹² Yovita A. Mangesti Bernard L. Tanya, *Moralitas Hukum* (Genta Publishing, 2014).

In every case, the judge will conduct an in-depth analysis of the facts of the trial and link them to the applicable legal regulations. The judge will find the values of God's justice. The judge's findings in this process can be one of the following three possibilities:¹³

First, the applicable law is in line with or in accordance with the values of God's justice, and therefore can be applied fully to the case *in concreto*.

Second, the applicable law is not entirely in line with the values of God's justice, so adjustments (modifications) are needed in the application of the existing legal rules.

Third, the applicable law is completely contrary to the values of God's justice, so the judge reaches a different conclusion and contradicts the existing legal rules (*contra legem*).

Social justice within the Indonesian juridical framework is centered on the axiological value of the Fifth Principle of Pancasila, which demands that judicial rulings are not merely formal-legalistic but also have utility for society. Adopting the utilitarianism paradigm of Jeremy Bentham, law is positioned as an instrument to maximize pleasure and reduce pain for justice seekers. In the dynamics of society that is transforming acceleratively, a reorientation of law is needed from an individualistic approach to a contextual social law concept.¹⁴ In line with Johnson's thinking, the integration of the aspect of utility alongside justice and legal certainty becomes an absolute prerequisite for court rulings to function as a relevant umbrella of welfare for the times and the sociological needs of contemporary society.¹⁵

Social justice as formulated in the Constitution and the fifth principle of Pancasila, is synonymous with the term *social justice* in English or *soziale Gerechtigkeit* in German. Justice will always be relevant only in the relationship between one individual and other individuals. Justice, or in John Rawls' more precise understanding: *fairness*, ultimately has no individual relevance. The issue of fair or unfair can only arise as a result of a series of actions and reactions in the complex behavior of coexisting humans. Therefore, human relationships that are full of justice issues make

¹³ Amran Suadi, *Filsafat Keadilan, Biological Justice dan Praktiknya dalam Putusan Hakim*, Edisi Pertama, Cet ke-2 (Kencana, 2021).

¹⁴ Elva Imeldatur Rohmah and Isniyatin Faizah, "Konsep Keadilan Dalam Hukum Waris Muhammad Syahrur," *The Indonesian Journal of Islamic Law and Civil Law* 3, no. 2 (2022): 186-200, <https://doi.org/10.51675/jaksya.v3i2.255>.

¹⁵ Aris Prio Agus Santoso, *Sosiologi Hukum* (Pustaka Baru Press, 2022).

them always sensitive to a sociological review.¹⁶

It is an undeniable reality that every community must have a tradition or custom ('urf) that they inherit from generation to generation. This tradition may be the same as or similar to traditions in another community. Islam as a religion that is relevant for every condition of space and time, certainly has a solution for every custom in every community.¹⁷ In the basic *fiqhiyah* (Islamic legal maxims) rule it is mentioned:

العادة محكمة

Meaning: "Local wisdom or custom can be a benchmark or legal reference"¹⁸

The discourse on the judicial role in the modern legal system is experiencing a fundamental shift, where judges are no longer positioned merely as the "mouthpiece of the law" (*le bouche de la loi*), but as moral agents and social engineers. Based on the mandate of Article 5 paragraph (1) of Law Number 48 of 2009 concerning Judicial Power, judges have a theological and sociological obligation to explore and integrate the legal values and sense of justice living within the community (*the living law*) into the *ratio decidendi* of their rulings.

The essence of judicial independence lies in the courage to conduct legal discovery (*rechtsvinding*) through progressive interpretation. If the rigid application of positive legal norms actually leads to the decadence of justice, judges are justified doctrinally to take *contra legem* actions. This is done in the interest of prioritizing legal utility and substantive justice over rigid formal legal certainty.

Theoretically, the Supreme Court emphasizes the importance of comprehensive rulings by balancing the principles of certainty, justice, and utility. Although in practice judges face challenges in the form of less responsive norm structures and the plurality of 'urf (customs) at the grassroots level, the idealism of law enforcement still demands judges to be a bridge between the text of the law and the reality of contextual justice.

The Concept of Moral Justice in the Settlement of Marital Property and Inheritance Disputes

Moral justice is a paradigm of substantive justice that places ethical values and morality as a fundamental foundation, going beyond mere

¹⁶ Budiono Kusumohamidjojo, *Filsafat Hukum Problematik Ketertiban Yang Adil* (Yrama Widya, 2022).

¹⁷ Kholid Saifulloh, "Aplikasi Kaidah Al-'Adah Muhakkamah Dalam Kasus Penetapan Jumlah Mahar," *Al-Majaalis* 8, no. 1 (2020): 57–85.

¹⁸ Jalaluddin al-Suyuthy, *al-Asybah Wa al-Nadzâir*, Juz 1 (Dar el-Salam, 2009). J.1

compliance with procedural-formal aspects. Etymologically and terminologically, this concept integrates the principle of *justus* (moral truth) and *al-'adl* (balance), which manifests justice as a proportional, objective, and non-arbitrary action. In the discipline of law, the essence of moral justice lies in fulfilling rights and obligations appropriately (*al-inshaf*) to realize the restoration of conditions that are aligned with the standards of moral truth.¹⁹ As a legal term, *al-'adl* in Arabic means *al-inshaf* or *I' tha' almar' I ma lahu wa akhaza ma' alayhi* (giving what belongs to someone and taking what is their obligation).²⁰ It is "placing something in its rightful place where it belongs" and also "according equal treatment to others or reaching a state of equilibrium in transaction with them".²¹ One of the most important elements of Islamic teaching is the idea that justice is an essential quality of God. (p. 10) Muslims are considered by Sayyid Qutb to be callers to justice. (p. 10) The nature of Muslims according to him does not only move within the mosque environment. (p. 10) However, they should translate the concept of justice that is understood and affirmed into the form of life. (p. 10) Abolishing all evil (*kemungkaran*) and oppression (*kezaliman*) is an element of the nature of justice itself.²²

Moral justice is a manifestation of transcendental and universal justice sourced from theological doctrine and the axiology of classical philosophy. Epistemologically, this concept adopts the principles of impartiality and equality to realize the collective good through an approach that transcends legal formalism. Its main characteristic lies in the integration of moral integrity, honesty, and practical virtues as normative standards in restoring a substantially just social order.

The Concept of Legal Justice in the Settlement of Marital Property and Inheritance Disputes

Legal Justice is a form of justice proposed by Aristotle in his thinking. According to Aristotle, Legal Justice is a form of justice related to law and rules that have been established in society. Legal Justice plays a role in ensuring that existing laws are understood and followed by all members of

¹⁹ Rifyal Ka'bah, *Hukum Islam Di Indonesia* (Universitas Yarsi, 1999).

²⁰ *Majma' al-Lughah al-'Arabiyyah, Jamhuriyyah Mishr al-'Arabiyyah, al-Mu'jam al-Wasith* (Dar al-Ma'arif, 1980).

²¹ Mohammad Hashim Kamali, *Freedom, Equality and Justice in Islam* (Ilmiah Pablisers Sdn. Bhd, 1999).

²² Sayyid Qutb, *Fial Tarikh, Fikrah Wamanhaj* (Cairo, n.d.). Sebagaimana dikutip oleh Imam Jauhari, 2010, Dalam *Siyasah Syar'iyah Menurut Konsep Al-Qur'an*, *Mimbar Jurnal Hukum dan Peradilan*, No 70 Januari, hlm. 97

society. Aristotle is of the view that Legal Justice is needed to create order, justice, and harmony in social interactions. With clear and enforced laws, individuals in society have the same guidelines in living their daily lives. This also means that everyone is expected to submit to the same rules, so that equality in society can be maintained.²³

Ontologically, legal justice is contingent and does not always represent absolute justice, thus demanding a dialectical evaluation of positive law to achieve the true essence of justice. Referring to Aristotelian thought, positive law is understood as a human convention that is practical, concrete, and situational, which sharply distinguishes it from natural law which is universal and static. Aristotle emphasizes the principle of the supremacy of law as an instrument for regulating the social order that must be applied impartially without discrimination of status or wealth. Thus, the effectiveness of positive law lies not only in its juridical formality but in its role as part of a social-political practice that is responsive to the dynamics of community agreement, as well as being a means to subordinate the authority of the ruler under the control of objective norms.

Aristotle realized that positive law would continue to change following human thought and decisions. However, Aristotle argues that the laws made must be flexible and responsive to changing circumstances, which allows for adjustments and reforms if needed to advance the common good. Law reform must prioritize justice and the effectiveness of the legal system. Legal justice aims to ensure that individuals who have committed violations are required to be responsible for their actions. This conflict is resolved through established legal norms.²⁴

The Concept of Social Justice in the Settlement of Marital Property and Inheritance Disputes

The concept of social justice is a fundamental yet complex philosophical issue in a pluralistic society. It is said to be fundamental because it relates to the deepest foundations of human life concerning the appreciation and recognition of oneself as a dignified subject in a diverse community. Social justice is not only determined by individual attitudes and behavior but more by the structure of the process that surrounds it. Political, economic, cultural, or religious process structures need to provide fair appreciation to

²³ Raden Farhan Kartawijaya et al., "Legal Justice dan Natural Justice Aristotle," *Praxis: Jurnal Filsafat Terapan* 1:2 (2024): 1-25, <https://doi.org/10.11111/praxis.xxxxxxx>.

²⁴ Kartawijaya et al., "Legal Justice dan Natural Justice Aristotle."

every individual and group that exists. The disregard for human rights as individuals or groups fairly will end in contempt for human dignity.²⁵

Social justice is a complex problem because it is related to various dimensions of human life. Humans are multidimensional beings so in building community life that is just and civilized they have their own uniqueness and complexity. Many aspects need to be considered to produce a just decision. Emphasis on one aspect will give birth to a certain philosophical school of thought. Liberalism pays more attention to respecting human dignity as a person, socialism pays more attention to respecting human dignity as a social being. A one-sided view that emphasizes one aspect of human life becomes a weakness when understanding the concept of social justice in living in society.²⁶

The Theory of the Ideal Judicial Ruling

Judicial rulings contain formal and substantial dimensions that are inseparable from each other. Formally, they must meet the rules of procedural law, and substantially, they must contain divine values as the theological basis of justice for humanity. Judges must not be negligent, lazy to think, inaccurate, let alone dishonest. Judges must have extensive knowledge to be able to understand and comprehend a case correctly. Judges must have a clean conscience to be able to capture legal events calmly and hand down a just ruling. Before examining a case, the judge should first ask his conscience or listen to the decision of his conscience and then look for articles in the regulations to support that decision, and not consult his stomach's interests first, then look for articles to provide legitimacy for his stomach's decision.²⁷

The following are key elements that form the theory of the ideal judicial ruling:

Integration of Three Main Principles

An ideal ruling must be able to harmonize the three goals of law, namely:

First, justice (gerechtigheit); focus on substantial justice, which is justice that is truly felt by the community, not just formal justice according to

²⁵ Bernadus Wibowo Suliantoro and Caritas Woro Murdiati Runggandini, "Konsep Keadilan Sosial dalam Kebhinekaan Menurut Pemikiran Karen J. Warren," *RESPONS*, No.01, Vo. 23 (2018): 39-58.

²⁶ Suliantoro and Runggandini, "Konsep Keadilan Sosial dalam Kebhinekaan Menurut Pemikiran Karen J. Warren."

²⁷ Suparman Marzuki "Putusan Hakim sebagai Mahkota" dalam *Bunga Rampai: Memotret Pertimbangan Putusan Hakim Dari Berbagai Perspektif* (Komisi Yudisial Republik Indonesia, 2024).

procedure.

Second, legal certainty (*rechtssicherheit*); rulings must be based on applicable laws and regulations so that they can be predicted and obeyed.

Thrid, utility (*zweckmassigkeit*); rulings must have a positive impact on the parties and social order more broadly.²⁸

Strong Legal Reasoning (*Ratio Decidendi*)

An ideal judicial ruling is a ruling based on strong, clear, and easy-to-understand *ratio decidendi* or legal reasoning, so that anyone who reads the ruling can easily understand the reasons or arguments used by the Judge in deciding the case. If there is no relationship between the legal reasoning or *ratio decidendi* and the verdict, then it can be said that the judicial ruling is not an ideal ruling. Conversely, if the relationship between the *ratio decidendi* or legal reasoning and the verdict is clear, then the Judge's ruling is an ideal ruling that should be emulated or followed by other Judges.²⁹ This consideration must include: (1) Philosophical Aspect: Reflecting the values of truth and morality. (2) Juridical Aspect: Compliance with the hierarchy of laws and regulations and jurisprudence. (3) Sociological Aspect: Alignment with the reality and living legal culture in society.

Application of Progressive Law

The implementation of progressive law in discovering law demands judges to be brave and honest in deciding a case and brave enough to step outside the normative order of law as one way of seeking and freeing rigidity in creating justice and upholding human rights to obtain justice.³⁰ Progressive rulings have the following characteristics:³¹ (1) The judicial ruling is not merely legalistic, meaning it is only a mouthpiece of the law, although judges should always be legalistic because their rulings are still guided by applicable laws and regulations; (2) The judicial ruling does not merely meet legal formalities or just maintain order, but the ruling must function to encourage improvement in society and build social harmonization in interactions; (3) The judicial ruling must have a forward-thinking vision (visionary), which has the moral courage to make legal breakthroughs (*rule breaking*), where in the event that an existing statutory

²⁸ Abdul Manan, *Penerapan Hukum Acara Perdata Di Peradilan Agama* (Kencana, 2012).

²⁹ Insyafli, *Ratio Desidendi dari Seorang Hakim*, November 9, 2023, <https://ptabandarlampung.go.id/artikel-makalah/977-ratio-desidendi-dari-seorang-hakim>.

³⁰ Amran Suadi, *Fislasafat Hukum, Refleksi Filsafat Pancasila, Hak Asasi Manusia, Dan Etika* (Kencana, 2019).

³¹ Suteki, *Masa Depan Hukum Progresif* (Thafa Media, 2015).

provision contradicts the public interest, propriety, civilization, and humanity, namely the values living within the community, the judge is free and authorized to take *contra legem* action, which is making a decision contrary to the relevant article of the law with the aim of achieving truth and justice. The judicial ruling is biased towards and sensitive to the fate and condition of the nation and state, aiming at improving the welfare and prosperity of the community and bringing the nation and state out of adversity.

Judge Characteristics (Judicial Integrity)

Judicial integrity is the main foundation in enforcing justice and public trust in the judicial system. The discourse on factors influencing judicial integrity has developed over several decades, with two main approaches often debated: supervision (control approach) and welfare improvement (welfare approach).³² The quality of a ruling is highly dependent on the integrity of the judge who decides it, which includes: (1) Independence: Free from interference from outside parties or biased public opinion. (2) Impartiality: Not taking sides and providing equal access to justice for all parties. (3) Competence: Deep understanding of the law and the sensitivity of the conscience in weighing trial facts.

Matrix of Findings

Marital Property Rulings

Decision Number 482/Pdt.G/2024/PA.Blk

Aspect of Justice	Main Finding	Explanation
Moral Justice	50:50 division does not consider the contribution of each party	Creates potential moral injustice because it does not look at actual contributions and the different economic value of the object received
Legal Justice	Consistent with positive Indonesian law (Article 97 KHI & Article 35 Marriage Law No. 1/1974)	Division based on the category of marital property and private property, without unequal division because there is no proof of unbalanced contribution

³² Muamar, "Antara Pengawasan Dan Peningkatan Kesejahteraan: Komparasi Teoretis Terhadap Variabel Yang Memengaruhi Hakim," *Marinews.Mahkamahagung.Go.Id*, May 23, 2025, <https://marinews.mahkamahagung.go.id/artikel/komparasi-teoritis-terhadap-variabel-yang-memengaruhi-hakim->.

Social Justice	Money compensation mechanism reflects adaptation to modern community needs	Shows progress in inclusive family law interpretation and equal division without gender discrimination
Compensation	Defendant is obliged to provide IDR 75,000,000, Plaintiff is obliged to provide IDR 7,500,000	Money compensation as a balance for the difference in the economic value of the shared property objects

Decision Number 772/Pdt.G/2024/PA.Pra

Aspect of Justice	Main Finding	Explanation
Moral Justice	Recognition of joint contribution and private property rights, avoiding wrongful taking of property	Respects the moral principle of justice by acknowledging payment contributions for land and pawn money and maintaining private property rights
Legal Justice	Consistent with the Marriage Code, KHI, and Law No. 16/2019, as well as the division of separate and marital property	Differentiates between separate and marital property according to positive law and strengthens the legitimacy of the ruling with <i>syar'i</i> arguments
Social Justice	Proportional division and clear responsibility for bank debt	Avoids unfair social burden, provides social certainty after divorce, and reduces potential family conflict

Decision Number 586/Pdt.G/2024/MS.Lsk

Aspect of Justice	Main Finding	Explanation
Moral Justice	Recognition of the Defendant's real contribution and appreciation for the Plaintiff's role;	Avoids the injustice of equal division by respecting contributions and individual rights, including the rejection of the cross-claim

	proportional division 70% : 30%	
Legal Justice	Consistent with Marriage Law No. 1 of 1974 and KHI; flexible according to contribution and judicial discretion	Emphasizes the separation of separate and marital property based on facts and law, according to Supreme Court jurisprudence
Social Justice	Protection of vulnerable parties, legal certainty, and reduction of social conflict through proportional division	Balances rights and obligations after divorce, and respects social rights to individual assets such as Hajj deposits

Decision Number 211/Pdt.G/2024/PA.Bjb

Aspect of Justice	Main Finding	Explanation
Moral Justice	Appreciation for the real contribution of husband and wife according to the principle of Aristotelian distributive justice; application of the principle of benefit	Acknowledges the dual role of the wife as an additional income earner and homemaker, and the husband as the main income earner; avoids losses and uncertainty through the conversion of debt and marital property
Legal Justice	Based on positive legal norms, Supreme Court jurisprudence, and legal doctrine; use of the principle of utility and benefit	Ensures the legality and legal certainty in proving marital property, division of KPR installments, and the condition that the Defendant's whereabouts are unknown
Social Justice	Protection of the Plaintiff's rights who bore the debt	Adjusts to modern social reality and dynamic husband-wife relationship patterns;

	burden for 7 years; proportional division that avoids social conflict	prevents social inequality through proportional and fair division of property and joint debt
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Decision Number 1079/Pdt.G/2023/PA.Gs

Aspect of Justice	Main Finding	Explanation
Moral Justice	Respects equality and joint contributions during marriage with a reduction for the down payment value before marriage	Enforces distributive justice by acknowledging joint installment payments for more than 14 years and real contributions, not just the certificate name
Legal Justice	Compliance with Article 35, 37 Law No. 1/1974 jo. Law No. 16/2019 and Article 1f, 97 KHI; MA ruling No. 266K/AG/2010	Flexible division of marital property based on contributions with the principle of strong proof and no marital agreement
Social Justice	Acknowledges the social-economic reality of modern families, encourages peaceful settlement and protection of the economic welfare of former spouses	Accounts for the financial and non-financial contributions of husband and wife, reduces social conflict after divorce through proportional division

Inheritance Rulings

Decision Number 141/Pdt.G/2025/PA.Pdg

Aspect of Justice	Main Finding	Explanation
Moral Justice	Respect for biological and emotional family ties; 2:1 proportion between male and female children according to Islamic	Maintains inheritance rights fairly according to social-economic family responsibilities; no legal impediment for heirs

	tradition	
Legal Justice	Compliance with Article 173, 174, 185 KHI; rejection of agreements that are invalid and do not involve all heirs	Maintains the supremacy of law, ensures proportional division according to Islamic law, and avoids unequal rights
Social Justice	Division of inheritance according to Islamic law maintains family social balance; rejection of incomplete agreements	Avoids social conflict due to the neglect of inheritance rights; different proportions reflect traditional social values that can cause tension in a modern context

Decision Number 468/Pdt.G/2024/PA.Yk

Aspect of Justice	Main Finding	Explanation
Moral Justice	Respect for the rights of family and descendants; recognition of substitute heirs and obligatory bequests	Protects the rights of women and intergenerational justice; detailed and proportional division avoids inequality and conflict
Legal Justice	Compliance with the Qur'an, KHI, and SEMA No. 3 of 2015; application of substitute heirs and obligatory bequests	Determination of heirs and division according to Islamic and national law; rejection of invalid claims strengthens legal certainty
Social Justice	Involvement of substitute heirs and obligatory bequest recipients maintains family social balance	Prevents marginalization, especially of women; transparent division prevents social conflict and strengthens family solidarity

Decision Number 3684/Pdt.G/2023/PA.Sda

Aspect of Justice	Main Finding	Explanation
Moral Justice	Determination of heirs based on consanguinity and marital ties; application of the <i>Munasakhah</i> principle to safeguard descendant rights.	Upholding natural and moral familial rights; preventing injustice resulting from deaths occurring prior to distribution; proportional allocation mitigates disparity among heirs.
Legal Justice	Adherence to Article 49 of Law No. 7/1989 (as amended by Law No. 3/2006 and Law No. 50/2009), the Compilation of Islamic Law (KHI), and the Marriage Law regarding marital property.	Ensuring legal certainty in inheritance distribution; averting overlapping claims and disputes; utilizing the <i>rad</i> mechanism for the precise allocation of residuary estates.
Social Justice	Recognition of the wife's rights (60%) and the daughter's rights (40%), alongside the substitution of deceased heirs to foster social equity.	Preserving the social welfare of the surviving spouse; strengthening familial cohesion and solidarity; minimizing intra-familial social conflict through legal resolution.

Decision Number 362/Pdt.G/2024/PA.Bjb

Aspect of Justice	Main Finding	Explanation
Moral Justice	Recognition of adopted children as recipients of <i>wasiat wajibah</i> (obligatory bequests); proportional	Respecting familial bonds, the welfare of adopted children, and religious norms; granting <i>wasiat wajibah</i> to heirs of different faiths as a form of social protection.

	distribution to prevent inequality.	
Legal Justice	Compliance with Article 171 of the KHI and Supreme Court jurisprudence regarding testators, heirs, obligatory bequests, and matrimonial law.	Separation of marital property and inheritance in accordance with the law; transferring unclaimed estates to <i>Baznas</i> (National Alms Agency) for social benefit, aligned with the Sharia principle of <i>jihatul Islam</i>
Social Justice	Inclusion of adopted children and equitable treatment of heirs of different faiths to bolster social solidarity within the family.	Preventing social conflict and discrimination; the transfer of inheritance to <i>Baznas</i> reflects collective social responsibility and communal welfare (<i>maslaha</i>).

Conclusion

This research concludes that the integration of justice dimensions within religious court decisions concerning marital property and inheritance disputes has transcended formal proceduralism toward the attainment of substantive justice. Through the paradigm of progressive law, judges no longer treat the law as a rigid text, but rather as a dynamic instrument dedicated to humanity. This actualization manifests in the convergence of a triad of justice: Legal Justice through the normative certainty of Article 35 of the Marriage Law and Article 97 of the KHI; Moral Justice through the recognition of real contributions and theocentric responsibility; and Social Justice through the protection of vulnerable groups and gender equality. As a theoretical and practical synthesis, this study formulates the deep legal reasoning model as a holistic method of legal discovery (*rechtsvinding*). This model transforms the adjudication process through stages of factual exposition, ethical-transcendental contemplation, and social impact projection. Consequently, the resulting decisions not only guarantee juridical certainty but also possess moral acceptability and sustainable social utility.

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