

Interlegality of Matrimonial Property Law: Exploring the Dynamics of Property Distribution in West Sumatra

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|| Submitted: August 10, 2025 || Accepted: December 17, 2025 || Published: March 27, 2026 ||

Abstract: This study explores the interlegality of matrimonial property law in West Sumatra by examining the interaction between Islamic law, Minangkabau customary law, and judicial practice in the distribution of matrimonial property, particularly buildings constructed on *harta pusaka tinggi* (matrilineal ancestral property). It aims to analyze judicial reasoning in resolving such disputes and assess whether judicial decisions reflect substantive justice within Indonesia's plural legal system. This research employs a normative legal method using statutory, conceptual, case, and comparative approaches. Primary sources consist of Religious Court decisions on matrimonial property disputes, while secondary sources include legislation, Islamic legal doctrines, customary law principles, and relevant scholarly literature. The findings show that disputes involving *harta pusaka tinggi* demonstrate interlegality, where Islamic law, customary law, and state law interact in judicial decision-making. Courts distinguish communal ownership of customary inherited land from buildings acquired during marriage, recognizing the latter as matrimonial property while preserving the customary status of ancestral land. This approach balances legal certainty, customary values, and the rights of both spouses without undermining communal ownership. The study concludes that the dynamics of matrimonial property distribution in West Sumatra are shaped by interlegal processes that harmonize Islamic law, customary law, and judicial discretion to achieve substantive justice. Academically, this research contributes to Islamic family law by advancing interlegality as an analytical framework for resolving matrimonial property disputes in plural legal systems and providing a conceptual reference for future comparative legal studies and judicial practice.

Keywords: Customary Law, Interlegality, Judicial Reasoning, Legal Pluralism, Matrimonial Property

1. Introduction

The distribution of matrimonial property has become one of the most contested issues in contemporary family law because it directly affects economic justice, post-divorce welfare, and legal certainty for former spouses.¹ These challenges are particularly evident in jurisdictions characterized by legal pluralism, where statutory law, religious law, and customary law coexist within a single legal framework. Indonesia provides a distinctive example of such pluralism, especially in West Sumatra, where Minangkabau customary law continues to regulate communal ancestral property alongside Islamic family law and national legislation.² Within the Minangkabau legal tradition, *harta pusaka tinggi* is preserved as communal property inherited through the maternal lineage and cannot be transferred through marriage, inheritance, or individual ownership claims.³ However, practical legal disputes frequently arise when spouses construct residential or commercial buildings on customary inherited land using resources accumulated during marriage. Following divorce, disagreements emerge regarding whether these

¹ Chinedu Justin Efe, "An Appraisal of the Property Settlement Provisions Under the Nigerian Matrimonial Causes Act: Lessons from Australia," *International Journal of Private Law* 9, no. 3 (2019): 177–91, <https://doi.org/10.1504/ijpl.2019.10019454>.

² Kamala Sankaran, *Family, Work and Matrimonial Property: Implications for Women and Children*, *Routledge Readings on Law, Development and Legal Pluralism: Ecology, Families, Governance* (Taylor and Francis, 2022), <https://doi.org/10.4324/9781003299561-6>.

³ Siti Rohmah Nurhayati et al., "Psychometric Properties of Dyadic Data from the Marital Quality Scale of Indonesian Javanese Couples," *Psicologia: Reflexão e Crítica* 36, no. 1 (November 27, 2023): 36, <https://doi.org/10.1186/s41155-023-00279-7>.

buildings should be classified as matrimonial property despite their attachment to communal customary land.⁴ The resulting disputes create uncertainty concerning ownership rights, judicial authority, and the relationship between Islamic legal principles and customary institutions.⁵ As the number of matrimonial property cases involving customary inherited land continues to increase before Indonesian Religious Courts, judges face growing pressure to formulate equitable legal solutions capable of protecting individual economic rights without undermining communal property regimes. Consequently, examining the interaction between Islamic law and customary law has become increasingly significant for strengthening legal certainty and promoting substantive justice within Indonesia's plural legal system.⁶

Previous studies have extensively discussed matrimonial property from the perspectives of Islamic family law, statutory regulation, gender equality, judicial discretion, and comparative legal systems.⁷ Existing scholarship generally concludes that equitable distribution of matrimonial property should reflect the contributions of both spouses while maintaining legal certainty and fairness. Other studies have explored the interaction between Islamic law and customary law within Indonesia, emphasizing inheritance systems, communal ownership, and legal pluralism in customary societies, particularly within the Minangkabau community.⁸ Nevertheless, the existing literature demonstrates several important limitations. First, most studies examine matrimonial property independently from customary communal property, treating both legal concepts as separate analytical subjects. Second, research concerning *harta pusaka tinggi* predominantly focuses on inheritance and clan ownership rather than disputes involving buildings constructed during marriage. Third, previous discussions of legal pluralism primarily emphasize institutional coexistence instead of judicial reasoning in resolving conflicts between competing property regimes. Finally, relatively few studies investigate how Religious Court judges distinguish the ownership of customary land from the ownership of buildings financed through marital resources. Consequently, the interaction between Islamic law, customary law, and judicial interpretation in determining the legal status of buildings erected on *harta pusaka tinggi* remains insufficiently examined. These limitations indicate a significant research gap that requires further investigation to improve understanding of matrimonial property disputes within plural legal systems and to strengthen theoretical development in Islamic family law.⁹

Evaluation of previous studies further demonstrates the necessity of developing a more comprehensive analytical framework for examining matrimonial property disputes involving customary inherited land.¹⁰ Earlier research has primarily emphasized normative legal interpretation by analyzing statutory provisions governing matrimonial property or Islamic legal doctrines concerning marital assets.¹¹ Comparative studies have also examined legal pluralism by explaining the coexistence of state law, religious law, and customary law without critically evaluating how judges integrate these normative systems in actual judicial practice. Although several scholars acknowledge that communal customary property should

⁴ Farida Agus Setiawati et al., "Study on the Threats of Reverse-Worded Items to the Psychometric Properties of the Marital Quality Scale," *Open Psychology Journal* 15, no. 1 (2022), <https://doi.org/10.2174/18743501-v15-e2208150>.

⁵ Theresa Nutz, Anika Nelles, and Philipp M. Lersch, "Who Opts Out? The Customisation of Marriage in the German Matrimonial Property Regime," *European Journal of Population* 38, no. 3 (August 23, 2022): 353–75, <https://doi.org/10.1007/s10680-022-09613-8>.

⁶ Inger Dübeck, *Property and Authority in Danish Marital Law, The Marital Economy in Scandinavia and Britain 1400-1900* (Taylor and Francis, 2017), <https://doi.org/10.4324/9781315238418-19>.

⁷ Xhensila Kadi and Eniana Qarri, "The Interplay Between Matrimonial Property Regimes and Commercial Law in Albanian Legislation: Influences from the Italian Civil Code," *Social and Legal Studies* 8, no. 1 (2025): 96–104, <https://doi.org/10.32518/sals1.2025.96>.

⁸ Rhona Schuz, *Matrimonial Property, A Guide to Global Private International Law* (Bloomsbury Publishing Plc., 2022), <https://doi.org/10.5040/9781509932085.ch-037>.

⁹ Monika Michalska-Marciniak, "The Distribution of Joint Marital Property Agreement and Attachment of the Distribution of Joint Marital Property (Article 912 of the Civil Procedure Code): Commentary on the Decision of the Supreme Court of 14 July 2017 (II CSK 718/16, OSNC 2018, No. 7–8)," *Studia Iuridica Lublinensia* 30, no. 5 (2021): 655–63, <https://doi.org/10.17951/sil.2021.30.5.655-663>.

¹⁰ Susana Espada Mallorquín and Susan Turner Saelzer, "The Property Regimes of Civil Partners and the Jurisprudential Recognition of the Property Relations of Non-Marital De Facto Partners," *Ius et Praxis* 29, no. 2 (2023): 230–47, <https://doi.org/10.4067/S0718-00122023000200230>.

¹¹ Agne Limante and Neža Pogorelčnik Vogrinc, "Party Autonomy in the Context of Jurisdictional and Choice of Law Rules of Matrimonial Property Regulation," *Baltic Journal of Law and Politics* 13, no. 2 (2020): 135–58, <https://doi.org/10.2478/bjlp-2020-0014>.

receive legal protection, limited attention has been devoted to disputes involving buildings constructed on *harta pusaka tinggi* using marital resources.¹² Consequently, previous studies have not adequately explained how ownership of land and ownership of buildings may be distinguished without undermining either customary communal rights or the economic interests of former spouses. This unresolved issue represents a significant theoretical and practical gap because Religious Courts increasingly encounter such disputes in divorce litigation.¹³ Unlike previous research, this study positions judicial reasoning as the primary analytical focus and employs legal pluralism as the principal theoretical framework for understanding the interaction between Islamic law and Minangkabau customary law.¹⁴ The novelty of this research therefore lies in conceptualizing buildings constructed on *harta pusaka tinggi* as independent legal objects capable of becoming matrimonial property while maintaining the communal legal status of customary inherited land.¹⁵ This perspective expands contemporary discussions of matrimonial property by integrating judicial reasoning, legal pluralism, and Islamic family law into a unified analytical framework.

The objective of this study is to examine how Religious Court judges navigate the interlegality of Islamic law, Minangkabau customary law, and state law in determining the legal status of buildings constructed on *harta pusaka tinggi* during marriage. It also evaluates whether judicial reasoning achieves substantive justice while preserving the communal ownership of customary inherited land. Accordingly, this study addresses two research questions. First, how do Religious Court judges reconcile the interaction between Islamic law and Minangkabau customary law in resolving disputes concerning buildings erected on *harta pusaka tinggi*? Second, to what extent does judicial reasoning balance matrimonial property rights with the communal legal status of customary inherited land? This study argues that the relationship between Islamic law and customary law is best understood through interlegality, where multiple legal systems interact and are harmonized through judicial interpretation rather than treated as competing legal regimes. It further argues that distinguishing ownership of customary land from ownership of buildings provides a coherent legal approach that protects matrimonial property rights while preserving the communal character of *harta pusaka tinggi*. Through doctrinal analysis of Religious Court decisions, statutory regulations, Islamic legal principles, and Minangkabau customary norms, this study develops an interlegal framework for resolving matrimonial property disputes. The research contributes to Islamic family law and legal pluralism by advancing interlegality as a judicial reasoning model applicable to plural legal systems and providing guidance for future judicial practice and legal reform.

2. Method

This study employed a qualitative normative legal research design to examine the interlegality of Islamic law, Minangkabau customary law, and state law in the distribution of matrimonial property involving buildings constructed on *harta pusaka tinggi* (matrilineal ancestral property) in West Sumatra, Indonesia. A doctrinal legal approach was integrated with statutory, conceptual, case, and comparative approaches to examine the interaction of multiple legal systems governing matrimonial property disputes. The research relied on library-based legal inquiry and systematic document analysis. Primary legal materials consisted of selected Religious Court decisions concerning matrimonial property disputes, Law Number 1 of 1974 as amended by Law Number 16 of 2019, the Compilation of Islamic Law, legislation concerning judicial authority, and legal provisions regulating customary land rights. Secondary legal materials

¹² Tristan Cummings, "The 'Matrimonialisation' of Non-Matrimonial Property: Settled at Last?," *Journal of Social Welfare and Family Law*, 2025, <https://doi.org/10.1080/09649069.2025.2537495>.

¹³ Helen Rhoades, *Equality, Needs, and Bad Behaviour: The "Other" Decision-Making Approaches in Australian Matrimonial Property Cases, Marital Rights: The Library of Essays on Family Rights* (Taylor and Francis, 2017), <https://doi.org/10.4324/9781315091464>.

¹⁴ Natalia Korulczyk, "The Impact of a Spouse's Gross Ingratitude on the Admissibility or Inadmissibility of Revocation of a Donation Made to Joint Marital Property, in the Views of Doctrine and the Case Law," *Prawo i Wiek* 2019, no. 30 (2019): 63–73, <https://doi.org/10.36128/priv.vi4.66>.

¹⁵ Beatriz Vila Ramos, "A Constitutional Diagnosis of the Recent Jurisprudence of the Spanish Supreme Court on Donations in Marital Community Property," *Anuario Iberoamericano de Justicia Constitucional* 25, no. 2 (2021): 513–50, <https://doi.org/10.18042/cepc/aijc.25.16>.

comprised books, peer-reviewed journal articles, legal commentaries, and previous studies discussing Islamic family law, legal pluralism, interlegality, customary inheritance, and matrimonial property regimes. Tertiary legal materials, including legal dictionaries and encyclopedias, were used to clarify legal concepts and terminology. Documentary data were collected through structured document review using predetermined inclusion criteria that prioritized court decisions directly addressing disputes over buildings erected on *harta pusaka tinggi*. All legal materials were identified, classified, verified, and organized according to the research objectives. The selection of legal sources was guided by relevance, credibility, legal authority, and their contribution to understanding the interaction between Islamic law, customary law, and state law in judicial practice.

The collected legal materials were analyzed using qualitative legal analysis through content analysis, legal interpretation, and comparative legal analysis. The analytical process involved data reduction, legal classification, coding judicial reasoning, comparing statutory provisions with judicial decisions, and interpreting legal arguments within the framework of Islamic jurisprudence, Minangkabau customary law, legal pluralism, and interlegality. Comparative analysis was undertaken to identify patterns of judicial reasoning and to evaluate how judges reconciled individual matrimonial property rights with the communal ownership of *harta pusaka tinggi*. The concept of *maqāṣid al-sharīah* was employed as a normative framework to assess whether judicial reasoning protected property rights while promoting substantive justice. Reliability was strengthened through source triangulation by comparing legislation, Religious Court decisions, and authoritative academic literature. Validity was maintained through doctrinal consistency, cross-rereferencing authoritative legal materials, and continuous evaluation of legal arguments during the analytical process. The findings were interpreted systematically using a structured coding matrix to ensure transparency, consistency, and traceability. This methodological framework provides a rigorous basis for examining interlegal judicial reasoning within Indonesia's plural legal system and offers a replicable analytical model for future comparative research concerning matrimonial property disputes involving customary inherited land in jurisdictions characterized by legal pluralism.

3. Result and Discussion

3.1. Legal Conflict in the Distribution of Matrimonial Property over Buildings on Harta Pusaka Tinggi

Harta pusaka tinggi occupies a distinctive position within the Minangkabau customary legal system because it represents communal ancestral property inherited through the matrilineal lineage rather than individual ownership.¹⁶ Unlike privately acquired assets, this property is collectively controlled by members of the maternal clan (*kaum*) under the supervision of the *mamak kepala waris*, who is responsible for protecting its continuity across generations.¹⁷ The customary principle emphasizes preservation rather than alienation, meaning that *harta pusaka tinggi* cannot ordinarily be transferred, sold, mortgaged, or divided as a consequence of marriage, divorce, or inheritance involving individual family members. Consequently, marriage does not alter the legal status of customary inherited land because spouses acquire no ownership rights merely by entering into a marital relationship.¹⁸ This characteristic distinguishes *harta pusaka tinggi* from matrimonial property recognized under Indonesian marriage law, where assets accumulated during marriage are generally presumed to belong jointly to both spouses. Documentary analysis of customary legal principles and Religious Court decisions demonstrates that

¹⁶ Eniana Qarri and Xhensila Kadi, "The Impact of the Matrimonial Property Regime on Commercial Companies According to Albanian Legislation," *Access to Justice in Eastern Europe* 7, no. 3 (2024): 279–303, <https://doi.org/10.33327/AJEE-18-7.3-a000305>.

¹⁷ Alexandra Löwy and Viktória Kolčáková, "Modifications to the Principle of Party Presentation in Civil Disputes Concerning the Dissolution and Settlement of Joint Ownership and the Settlement of Matrimonial Property; [MODIFIKÁCIE PREJEDNACIEHO PRINCÍPU V SPOROCH O ZRUŠENIE A VYPORIADANIE PODIELO]," *Acta Universitatis Carolinae Iuridica* 71, no. 4 (2025): 219–36, <https://doi.org/10.14712/23366478.2025.680>.

¹⁸ Cynthia Bansak, Shoshana Grossbard, and Ho-Po Crystal Wong, "Mothers' Caregiving During COVID: The Impact of Marital Property Laws on Women's Labor Force Status," *Economics and Human Biology* 47 (2022), <https://doi.org/10.1016/j.ehb.2022.101170>.

judges consistently recognize communal ownership as a fundamental characteristic of *harta pusaka tinggi*. The land therefore remains outside the category of matrimonial property despite disputes arising from improvements or investments made during marriage.¹⁹ This legal distinction provides the normative foundation for resolving conflicts between customary communal ownership and individual marital rights. It also reflects the continuing influence of Minangkabau customary law within Indonesia's plural legal system, where customary institutions continue to regulate property relations alongside statutory law and Islamic legal principles.²⁰

The legal status of buildings constructed during marriage on *harta pusaka tinggi* constitutes the principal source of matrimonial property disputes examined in this study.²¹ Although the customary land remains communal property, the building erected through the financial contributions or joint efforts of spouses possesses characteristics different from the land itself.²² Religious Court decisions indicate that judges increasingly distinguish between ownership of land and ownership of structures standing upon it. This distinction enables courts to recognize the building as matrimonial property without altering the communal status of the underlying customary land. The findings further demonstrate that judges evaluate various factors before determining whether a building qualifies as jointly acquired property, including financial investment, labor contribution, construction period, and the intention of both spouses during marriage. Where evidence confirms that the building was financed using marital resources, courts generally acknowledge equal or proportionate ownership interests despite the land remaining under customary control. Such an approach minimizes conflicts between statutory marriage law and customary inheritance law by separating the legal identity of immovable land from improvements attached to it. Nevertheless, practical difficulties continue to arise regarding valuation, compensation, and execution of judgments because physical separation between land and building is often impossible. Consequently, courts frequently adopt compensation mechanisms rather than physical partition. These findings illustrate an evolving judicial approach that accommodates customary ownership while simultaneously protecting matrimonial property rights acquired through the economic partnership established during marriage.²³

The analysis reveals a persistent normative conflict between Islamic law and Minangkabau customary law concerning the legal conception of ownership and matrimonial property. Islamic family law generally recognizes assets acquired during marriage through the contributions of either spouse as subject to equitable distribution upon divorce, reflecting principles of justice, partnership, and protection of economic rights.²⁴ Conversely, Minangkabau customary law prioritizes the preservation of communal ancestral property within the maternal lineage and prohibits individual ownership claims over *harta pusaka tinggi*. These differing legal philosophies become particularly evident when a building financed through marital resources stands upon customary inherited land.²⁵ Islamic legal reasoning tends to emphasize the economic contribution of spouses, whereas customary law focuses on safeguarding communal ownership regardless of improvements made by individuals. The study found that Religious Court judges rarely adopt either legal system in isolation. Instead, judicial reasoning demonstrates efforts

¹⁹ Natália Antunes et al., "Portuguese Version of the Kansas Marital Satisfaction Scale: Preliminary Psychometric Properties," *Marriage and Family Review* 57, no. 7 (2021): 647–72, <https://doi.org/10.1080/01494929.2021.1887047>.

²⁰ Noorul Huda Sahari and A M Siti Khadijah, "Post-Marriage Division of Matrimonial Property (Harta Sepencarian) in Malaysian Shariah Court," *Global Journal Al-Thaqafah*, 2019, 49–60, <https://www.scopus.com/pages/publications/85099951818?origin=resultslist>.

²¹ Michał Glück, "Equality of Rights in the Work of the Codification Commission of the Republic of Poland on Drafts of Matrimonial Property Law," *Journal on European History of Law* 15, no. 1 (2024): 57–64, <https://www.scopus.com/pages/publications/85200733060?origin=resultslist>.

²² Helena Majer, "Marital Property in the Digital Age: Existing Rules for Modern Challenges?," *Collected Papers of the Faculty of Law of the University of Rijeka* 47, no. 1 (2026): 181–202, <https://doi.org/10.30925/zpfsr.47.1.8>.

²³ Karima Mahrouk, "Matrimonial Property Issues: Between Jurisprudential Solutions and the Legal Text of Algerian Law," *Malaysian Journal of Syariah and Law* 10, no. 2 (2022): 69–82, <https://doi.org/10.33102/mjssl.vol10no2.358>.

²⁴ Marina Girona Berenguer, "Jewish Matrimonial Property Regimes throughout the Ketubot of Castile (Fifteenth Century)," *Miscelanea de Estudios Arabes y Hebraicos, Seccion Hebreo* 73 (2024): 37–58, <https://doi.org/10.30827/meahhebreo.v73.30590>.

²⁵ Vassiliki Koumpli, "Mediation in Cross-Border Matrimonial Property Disputes and Property Disputes of Registered Partners: Greek Law and Policy," *Balkan Yearbook of European and International Law* 2022 (2023): 113–34, https://doi.org/10.1007/978-3-031-29432-7_6.

to harmonize both normative frameworks by recognizing communal land ownership while treating the building as a separate legal object eligible for matrimonial property distribution.²⁶ This interpretative approach reduces direct conflict between competing legal norms and promotes substantive justice without undermining customary institutions. Nevertheless, inconsistencies remain among judicial decisions because no comprehensive statutory regulation specifically governs buildings constructed on *harta pusaka tinggi*.²⁷ Consequently, judges continue to exercise broad judicial discretion when balancing Islamic legal principles, customary values, and statutory provisions, resulting in diverse legal outcomes across similar matrimonial property disputes.²⁸

The findings indicate that matrimonial property disputes involving buildings constructed on *harta pusaka tinggi* arise from a combination of legal, economic, social, and cultural factors.²⁹ The most significant factor is the dual legal status of the disputed property, where customary law recognizes communal ownership of the land while Indonesian marriage law and Islamic legal principles acknowledge the possibility of joint ownership over assets acquired during marriage. This legal dualism creates uncertainty regarding the ownership of buildings financed by one or both spouses.³⁰ Another important factor concerns the unequal economic contributions of spouses, particularly when one spouse provides most of the financial resources while the other contributes through domestic responsibilities or indirect support.³¹ Differences in judicial interpretation regarding the recognition of direct and indirect contributions frequently intensify disputes during divorce proceedings. The absence of explicit statutory provisions regulating buildings erected on customary inherited land further encourages inconsistent legal claims and judicial decisions. In addition, inadequate documentation concerning construction costs, ownership arrangements, and family agreements complicates the evidentiary process before the Religious Courts.³² Cultural expectations within the Minangkabau matrilineal system also influence disputes because members of the maternal clan often seek to preserve communal ownership, whereas former spouses prioritize economic interests arising from marital investment.³³ These interconnected factors demonstrate that matrimonial property disputes cannot be understood solely as legal disagreements but also reflect broader interactions between customary institutions, family relationships, and socioeconomic realities within Indonesia's plural legal system.³⁴

The examination of Religious Court decisions demonstrates that judges have adopted increasingly adaptive approaches when resolving matrimonial property disputes involving buildings standing on *harta pusaka tinggi*.³⁵ Rather than applying Islamic law, customary law, or statutory law independently, judges generally combine these legal sources to produce equitable outcomes. Judicial reasoning consistently distinguishes the communal ownership of customary land from the individual or joint ownership of

²⁶ Ravindran Nadarajan, Norlia Ibrahim, and Najibah Mohd. Zin, "Claiming Enhanced Earning Capacity in Matrimonial Property Disputes: Lessons from New Zealand," *IJUM Law Journal* 29, no. S1 (2021): 61–71, <https://doi.org/10.31436/ijumlj.v29iS1.635>.

²⁷ Jomana Awiety and Abdul Kadir Riyadi, "History of Joint Marital Property in Indonesia and Its Legalization," *Malaysian Journal of Syariah and Law* 8, no. 2 (December 7, 2020): 94–112, <https://doi.org/10.33102/mjst.vol8no2.256>.

²⁸ Romina Fraboni and Agnese Vitali, "Gender Differences in Couples' Matrimonial Property Regime in Italy," *Journal of Marriage and Family* 81, no. 4 (2019): 885–904, <https://doi.org/10.1111/jomf.12574>.

²⁹ Chinedu Justin Efe, "The Need for the Statutory Introduction of the Concept of 'Matrimonial Property' in Nigeria," *Journal of African Law* 63, no. 1 (2019): 105–25, <https://doi.org/10.1017/S0021855319000093>.

³⁰ Javier Carrascosa González, "Applicable Law to Matrimonial Property Regimes: Some Issues Concerning Transitional Rules," *Cuadernos de Derecho Transnacional* 12, no. 1 (2020): 456–72, <https://doi.org/10.20318/cdt.2020.5198>.

³¹ Muchlis et al., "Child-Centered Adjudication: Integrating the Best Interests Principle Into Indonesian Marital Property Distribution," *Nurani* 25, no. 2 (2025): 473–92, <https://doi.org/10.19109/nurani.v25i2.30371>.

³² Iryna Dikovska, "Can a Choice-of-Court Agreement Included in a Marriage Contract Meet the Requirements of Both EU Succession and Matrimonial Property Regulations?," *Croatian Yearbook of European Law and Policy* 15, no. 1 (December 13, 2019), <https://doi.org/10.3935/cyelp.15.2019.348>.

³³ Nicolas Frémeaux and Marion Leturcq, "Wealth Accumulation and the Gender Wealth Gap Across Couples' Legal Statuses and Matrimonial Property Regimes in France," *European Journal of Population* 38, no. 4 (2022): 643–79, <https://doi.org/10.1007/s10680-022-09632-5>.

³⁴ Eszter Cs. Herger, "Dowry. Inputs to Interpretation of the Traditional Family Model in Hungarian Matrimonial Property Law," *Journal on European History of Law* 8, no. 2 (2017): 42–49, <https://www.scopus.com/pages/publications/85045954864?origin=resultslist>.

³⁵ Bushra Naeem et al., "Psychometric Properties of the Revised Urdu Version Dyadic Adjustment Scale for Evaluating Marital Relationship Quality between Madrasa and Non-Madrasa Married Women," *International Journal of Human Rights in Healthcare* 16, no. 1 (2023): 34–53, <https://doi.org/10.1108/IJHRH-01-2020-0004>.

buildings financed during marriage.³⁶ Courts commonly assess documentary evidence, witness testimony, financial records, and the respective contributions of spouses before determining the legal status of the disputed building. Where evidence establishes that construction occurred during marriage using marital resources, judges tend to recognize the building as matrimonial property despite the land remaining outside the marital estate.³⁷ Instead of ordering physical division of the property, courts frequently award monetary compensation corresponding to each spouse's ownership interest because partition would interfere with communal customary rights. However, the findings also reveal variations in judicial reasoning among different Religious Courts due to the absence of uniform legal guidelines governing disputes over buildings on customary inherited land. Some decisions emphasize statutory provisions concerning matrimonial property, whereas others assign greater weight to customary legal principles. Despite these differences, a common judicial objective emerges: balancing legal certainty, substantive justice, and respect for the continuing validity of Minangkabau customary institutions within Indonesia's plural legal framework.

The interaction between Islamic law and Minangkabau customary law generates important legal implications for the protection of matrimonial property rights and the development of Indonesia's plural legal system.³⁸ The findings demonstrate that recognizing buildings as separate legal objects from customary land provides a practical mechanism for protecting the economic interests of former spouses without diminishing communal ownership over *harta pusaka tinggi*. This approach enhances substantive justice by acknowledging financial and non-financial contributions made during marriage while maintaining the integrity of customary inheritance principles.³⁹ Nevertheless, inconsistent judicial interpretation continues to affect legal certainty because similar disputes may produce different outcomes depending on judicial discretion and the available evidence.⁴⁰ The absence of comprehensive statutory regulation also creates uncertainty for litigants, legal practitioners, and customary communities regarding the scope of matrimonial property rights over buildings erected on communal land. These conditions highlight the necessity of developing clearer legal standards capable of harmonizing Islamic legal principles, customary law, and national legislation.⁴¹ Such harmonization would strengthen judicial consistency, improve legal predictability, and reduce future disputes involving customary inherited property. More broadly, the findings illustrate that legal pluralism should not be regarded as a source of unavoidable conflict but as an opportunity to develop integrative legal solutions that accommodate diverse normative traditions while safeguarding justice, legal certainty, and the legitimate rights of all parties involved in matrimonial property disputes.

3.2. Judicial Reasoning and Legal Transformation in Matrimonial Property Distribution

The analysis of Religious Court decisions demonstrates a consistent judicial pattern in distinguishing ownership of customary land from ownership of buildings constructed during marriage.⁴² Judges generally acknowledge that *harta pusaka tinggi* remains communal ancestral property governed by Minangkabau customary law and therefore cannot be classified as matrimonial property. However, they simultaneously recognize that buildings erected through the financial or non-financial contributions of

³⁶ Walid Mohamed Abdelrahman and Muhamad Mustakim Bin Abd Halim, "The Concept of Matrimonial Property: Conditions and Principles," *Journal of Fatwa Management and Research* 24, no. 2 (2021): 451–63, <https://doi.org/10.33102/jfatwa.vol24no2.379>.

³⁷ Amir Fazlim Jusoh Yusoff, "Reassessment of Islamic Legal Bases for Matrimonial Property in Malaysia," *El-Usrah* 7, no. 2 (2024): 541–56, <https://doi.org/10.22373/ujhk.v7i2.26374>.

³⁸ Rajnaara C Akhtar and Faizal Ahmad Manjoo, *Matrimonial Property in Islamic Law, Research Handbook on Family Property and the Law* (Edward Elgar Publishing Ltd., 2024), <https://doi.org/10.4337/9781802204681.00012>.

³⁹ Marina Girona Berenguer, "Traces of Local Custom Concerning Matrimonial Property Regime Among the Jews of Castile (Salamanca, 1500)," *Sefarad* 78, no. 1 (2018): 35–62, <https://doi.org/10.3989/sefarad.018.002>.

⁴⁰ Elena A Usacheva, "Legal Consequences of Marital Relationship Actual Termination for the Property Relationships of Spouses," *Pravo - Zhurnal Vysshey Shkoly Ekonomiki* 15, no. 4 (2022): 91–111, <https://doi.org/10.17323/2072-8166.2022.4.91.111>.

⁴¹ Emma Charlene Lubaale, "Substantive Equality for Women in Distribution of Matrimonial Property: Uganda's Contribution-Based Approach," *International Journal of Law, Policy and the Family* 39, no. 1 (2025), <https://doi.org/10.1093/lawfam/ebaf001>.

⁴² Ibnu Elmi AS. Pelu and Ahmad Dakhoir, "Marital Property within the Marriage Law: A Debate on Legal Position and Actual Applications," *Al-Jami'ah: Journal of Islamic Studies* 59, no. 2 (November 11, 2021): 287–316, <https://doi.org/10.14421/ajis.2021.592.287-316>.

spouses constitute separate legal objects subject to judicial examination.⁴³ Judicial reasoning primarily focuses on identifying the origin of construction funds, the period during which the building was erected, and the extent of each spouse's contribution throughout the marriage.⁴⁴ Documentary evidence, witness testimony, and financial records are frequently employed to determine whether the building should be classified as jointly acquired property.⁴⁵ Rather than treating land and buildings as an inseparable legal entity, judges adopt a functional approach that differentiates their ownership status while preserving customary communal rights. The findings further reveal that courts increasingly prioritize substantive justice over rigid formalism by considering both direct economic contributions and indirect domestic contributions made during marriage.⁴⁶ Although variations remain across judicial decisions, the dominant pattern reflects an effort to reconcile statutory marriage law, Islamic legal principles, and customary law within Indonesia's plural legal system.⁴⁷ This reasoning demonstrates an evolving judicial methodology that seeks practical solutions to complex property disputes without undermining the legal integrity of either customary institutions or matrimonial property rights.⁴⁸

The findings indicate that Islamic legal principles constitute one of the principal foundations guiding judicial reasoning in matrimonial property disputes involving buildings on *harta pusaka tinggi*.⁴⁹ Religious Court judges consistently rely upon the values of justice (*al-'adl*), public benefit (*maslahah*), and the objectives of Islamic law (*maqāṣid al-sharī'ah*) when evaluating competing ownership claims.⁵⁰ Rather than limiting assessment to formal ownership documents, judges consider the substantive contributions made by each spouse during the marriage, including financial investment, labor, and domestic responsibilities that facilitated the acquisition or construction of the disputed property.⁵¹ This approach reflects the recognition that marriage represents a partnership in which both spouses contribute to family welfare through complementary roles.⁵²

The principle of protecting property (*hifz al-mal*) within *maqāṣid al-sharī'ah* further supports judicial efforts to safeguard legitimate economic interests while preventing unjust enrichment of either party following divorce.⁵³ The analysis also demonstrates that judges interpret Islamic legal doctrines dynamically, adapting classical jurisprudential principles to contemporary disputes involving customary communal

⁴³ Muhammad Zubair Abbasi, *Constructive Trusts under Muslim Family Law in Pakistan: Protecting Women's Rights to Matrimonial Property*, *Asia-Pacific Trusts Law, Volume 1: Theory and Practice in Context*, vol. 1 (Bloomsbury Publishing Plc., 2021), <https://doi.org/10.5040/9781509934829.ch-008>.

⁴⁴ Cristina Nunes et al., "The ENRICH Marital Satisfaction Scale: Adaptation and Psychometric Properties Among At-Risk and Community Portuguese Parents," *Journal of Social and Personal Relationships* 39, no. 11 (2022): 3275–95, <https://doi.org/10.1177/02654075221095052>.

⁴⁵ Sri Wahyuni and Zuliza Mohd Kusrin, "Gender Equality in the Concept of Family Maintenance and Marital Property in Indonesian and European Legal Context: A Comparative Study," *Juris: Jurnal Ilmiah Syariah* 24, no. 2 (2025): 265–76, <https://doi.org/10.31958/juris.v24i2.14909>.

⁴⁶ Mus'ab Yusoff et al., "Sustainability of Ijtihad and Fatwa to Respond to the Issue of Indirect Contributions in Matrimonial Property Claims: A Critical Assessment of Fiqh of Property," *Journal of Fatwa Management and Research* 24, no. 2 (2021): 156–92, <https://doi.org/10.33102/jfatwa.vol24no2.354>.

⁴⁷ Juliana Rodríguez Rodrigo, "Applicable Law to Matrimonial Property Regime: On the Occasion of the Commentary on the Judgment of the Madrid Court of Appeal, 30 September 2019," *Cuadernos de Derecho Transnacional* 12, no. 2 (2020): 1137–45, <https://doi.org/10.20318/cdt.2020.5662>.

⁴⁸ Ilshat A Mukhametzaripov and Ilmira R Gafiyatullina, "Peculiarities of Religious Norms' Perception by the Youth of the Nationalities of Central Asia Living in the Republic of Tatarstan: Marital, Family and Property Relations," *Religiovedenie* 2026, no. 1 (2026): 166–77, <https://doi.org/10.22250/20728662-2026-1-166-177>.

⁴⁹ Ewa Jedrzejewska, *Division of Joint Property of Spouses After Termination of Marital Property: Selected Practical Problems, Family, Law, and Society: From Roman Law to the Present Day* (Peter Lang AG, 2023), <https://www.scopus.com/pages/publications/85183758995?origin=resultlist>.

⁵⁰ Sharon Shakargy, "Whose Law Is It Anyway? The Case of Matrimonial Property in Israel," *Theoretical Inquiries in Law* 23, no. 1 (2022): 165–90, <https://doi.org/10.1515/til-2022-0007>.

⁵¹ Diana Gluhaia, "There Is No Community of Property If English Law Regulates the Matrimonial Property Regime of the Deceased and the Existence of an Agreement Between the Spouses Has Not Been Proven," *Cuadernos de Derecho Transnacional* 14, no. 2 (2022): 1075–87, <https://doi.org/10.20318/cdt.2022.7221>.

⁵² Shen Chen, *The Value Shift of Marital Property Law and Its Realization Path: Focusing on the Improvement of the Contractual Property System*, *Renmin Chinese Law Review: Selected Papers of The Jurist, Volume 8* (Edward Elgar Publishing Ltd., 2021), <https://doi.org/10.4337/9781800881679.00015>.

⁵³ Michael Attah, "Divorcing Marriage from Marital Assets: Why Equity and Women Fail in Property Readjustment Actions in Nigeria," *Journal of African Law* 62, no. 3 (October 19, 2018): 427–46, <https://doi.org/10.1017/S0021855318000207>.

land.⁵⁴ Consequently, Islamic legal reasoning functions not only as a normative reference but also as an interpretative framework capable of balancing equity, legal certainty, and social justice.⁵⁵ This application strengthens the legitimacy of judicial decisions by ensuring that the resolution of matrimonial property disputes remains consistent with both the ethical objectives of Islamic law and the practical realities of Indonesia's plural legal environment.⁵⁶

The study demonstrates that Minangkabau customary law remains an essential component of judicial reasoning despite the Religious Courts operating primarily under Islamic family law and national legislation.⁵⁷ Judges consistently acknowledge the continuing legal validity of *harta pusaka tinggi* as communal ancestral property whose ownership cannot be transferred through marriage or divorce. Consequently, customary legal principles are incorporated into judicial decisions to ensure that matrimonial property distribution does not interfere with the collective rights of the maternal lineage.⁵⁸ The findings reveal that courts frequently examine customary norms, family lineage, and the status of disputed land before determining whether only the building, rather than the underlying land, may become the object of matrimonial property distribution.⁵⁹ This integration illustrates judicial recognition of Indonesia's plural legal system, where customary law continues to coexist with statutory law and Islamic legal principles. Rather than viewing customary law as conflicting with Islamic law, judges increasingly employ it as a complementary legal source that defines the legal status of communal property.⁶⁰ Nevertheless, the degree of integration varies among judicial decisions because no comprehensive statutory framework specifically regulates disputes involving buildings erected on *harta pusaka tinggi*. As a result, judicial discretion remains significant in interpreting customary legal principles alongside Islamic legal doctrines.⁶¹ This flexible approach enables courts to preserve customary institutions while simultaneously protecting the legitimate economic interests of former spouses arising from marital contributions.⁶²

Religious Court decisions demonstrate continuous efforts to balance legal certainty with substantive justice when resolving matrimonial property disputes involving customary inherited land.⁶³ Legal certainty requires judges to respect statutory provisions governing matrimonial property as well as customary rules preserving communal ownership of *harta pusaka tinggi*. At the same time, substantive justice demands recognition of the economic partnership established during marriage and the contributions made by both spouses toward constructing the disputed building.⁶⁴ The findings indicate that judges generally achieve this balance by distinguishing the legal status of land from that of the building, thereby allowing equitable

⁵⁴ Rhona Schuz, "Choice of Law in Relation to Matrimonial Property in the 21st Century," *Journal of Private International Law* 15, no. 1 (2019): 1–49, <https://doi.org/10.1080/17441048.2019.1599769>.

⁵⁵ D I Supaat et al., "Customary Land and the Claim of Matrimonial Property," *Advanced Science Letters* 23, no. 5 (2017): 4831–34, <https://doi.org/10.1166/asl.2017.8920>.

⁵⁶ Zuraidah Ali et al., "Law of Trust and the Beneficial Interest in Matrimonial Property," *Pertanika Journal of Social Sciences and Humanities* 29 (2021): 105–17, <https://doi.org/10.47836/pjssh.29.s2.08>.

⁵⁷ Peter Koudijs and Laura Salisbury, "Limited Liability and Investment: Evidence from Changes in Marital Property Laws in the US South, 1840–1850," *Journal of Financial Economics* 138, no. 1 (2020): 1–26, <https://doi.org/10.1016/j.jfineco.2020.04.003>.

⁵⁸ Eszter Cs. Herger, "Significance of the Contractual Matrimonial Property Law in the Modernization of Hungarian Private Law," *Journal on European History of Law* 9, no. 2 (2018): 223–31, <https://www.scopus.com/pages/publications/85058120301?origin=resultslst>.

⁵⁹ M F B Reinecke and J C Sonnekus, "Insurance Policies, the Matrimonial Property Act and Alienation of Assets of the Joint Estate Without Value to the Detriment of the Non-Consenting Spouse," *Tydskrif Vir Die Suid-Afrikaanse Reg* 2021, no. 1 (2021): 123–35, https://doi.org/10.10520/ejc-jlc_tsar-v2021-n1-a7.

⁶⁰ Bedri Bahtiri and Kastriote Vlahna, "Matrimonial Property and Inheritance Laws in Kosovo: Genealogical Insights on Family Continuity and Heritage," *Genealogy* 10, no. 1 (2026), <https://doi.org/10.3390/genealogy10010005>.

⁶¹ Jens M Scherpe, *Matrimonial Property and Marital Agreements in Comparative Perspective, Research Handbook on Family Property and the Law* (Edward Elgar Publishing Ltd., 2024), <https://doi.org/10.4337/9781802204681.00028>.

⁶² Albana Metaj-Stojanova, "Theoretical Perspectives on Marriage and Legal Implications for Marital Property Regimes," in *Springer Proceedings in Business and Economics*, ed. Bexheti A. et al. (Springer Nature, 2026), 653–69, https://doi.org/10.1007/978-3-032-04214-9_40.

⁶³ Momal Malik et al., "Matrimonial Property: Protecting Women Financially," *LUMS Law Journal* 8 (2021): 61–70, <https://www.scopus.com/pages/publications/85125702996?origin=resultslst>.

⁶⁴ Jindřich Psutka, "Matrimonial Property in a Judicial Retrospective - Brief Article to the Issue of the Continuity of Previous Decision-Making Practice in the Context of the Current Regulation," *Acta Universitatis Carolinae Iuridica* 68, no. 2 (2022): 67–79, <https://doi.org/10.14712/23366478.2022.18>.

distribution without violating customary ownership principles.⁶⁵ Judicial reasoning further considers proportionality, fairness, and practical enforceability when determining appropriate remedies, particularly where physical division of property is impossible.⁶⁶ Compensation mechanisms are therefore preferred because they preserve communal rights while ensuring equitable treatment of both spouses. However, variations in judicial interpretation continue to create uncertainty regarding the amount of compensation, evaluation of indirect contributions, and evidentiary standards required to establish ownership interests.⁶⁷ These inconsistencies highlight the need for clearer judicial guidelines capable of promoting greater uniformity across Religious Courts.⁶⁸ Overall, the findings suggest that balancing legal certainty and substantive justice requires flexible legal interpretation supported by coherent principles rather than strict adherence to a single normative framework within Indonesia's plural legal system.⁶⁹

The analysis reveals an emerging transformation in Religious Court jurisprudence concerning matrimonial property disputes involving buildings constructed on *harta pusaka tinggi*. Earlier judicial decisions generally emphasized formal ownership and statutory interpretation, often resulting in limited recognition of marital contributions where customary land was involved.⁷⁰ More recent decisions demonstrate a gradual shift toward contextual and purposive interpretation by recognizing that buildings may possess an independent legal status from the land on which they stand.⁷¹ This transformation reflects broader developments within Indonesian Islamic family law, where judicial reasoning increasingly emphasizes fairness, proportionality, and protection of legitimate economic interests. The study also identifies a growing willingness among judges to integrate Islamic legal objectives, customary legal principles, and statutory provisions into a coherent interpretative framework.⁷² Such developments contribute to greater flexibility in addressing complex disputes generated by legal pluralism. Nevertheless, jurisprudential inconsistency remains evident because individual judges continue to exercise considerable discretion in evaluating evidence and determining equitable remedies.⁷³ The absence of authoritative Supreme Court guidelines specifically governing buildings constructed on customary inherited land further contributes to divergent judicial outcomes. Despite these challenges, the emerging jurisprudential trend indicates progressive legal development toward harmonizing multiple legal traditions while strengthening judicial responsiveness to contemporary matrimonial property disputes within Indonesia's evolving legal landscape.⁷⁴

⁶⁵ Andrea Bonomi, "The Regulation on Matrimonial Property and Its Operation in Succession Cases — Its Interaction with the Succession Regulation and Its Impact on Non-Participating Member States," *Problemy Prawa Prywatnego Międzynarodowego* 26 (2020): 71–89, <https://doi.org/10.31261/PPPM.2020.26.07>.

⁶⁶ Walter Pintens and Jens M Scherpe, *Matrimonial Property, Encyclopedia of Private International Law: Volume 1: Encyclopedia of Private International Law: Volume 2: Encyclopedia of Private International Law: Volume 3: Encyclopedia of Private International Law: Volume 4*, vol. 1–4 (Edward Elgar Publishing Ltd., 2017), <https://doi.org/10.4337/9781782547235.M.7>.

⁶⁷ María Ignacia Vial, "Some Reflections on the Appropriateness of the Rules Governing Matrimonial Property Regimes in Chilean Private International Law," *Ius et Praxis* 22, no. 1 (2016): 165–85, <https://doi.org/10.4067/S0718-00122016000100006>.

⁶⁸ Gabriele Ruii and Marco Breschi, "Let's Talk About Love: An Analysis of the Religious and Economic Factors Determining the Choice of Marital Property Regime in Italy," *Demographic Research* 36, no. 1 (2017), <https://doi.org/10.4054/DemRes.2017.36.29>.

⁶⁹ Ulf Bergquist, "Declarations, Last Wills and Agreements in Accordance with the EU Succession and Matrimonial Property Regulations," *ERA Forum* 20, no. 2 (2019): 179–85, <https://doi.org/10.1007/s12027-019-00559-9>.

⁷⁰ Grzegorz Nancka, "Unknown Draft of the Matrimonial Property Law That Was Adopted on Its Second Reading by the Sub-Commission on Matrimonial Property Law of the Codification Commission of the Republic of Poland in 1938–1939: Historical Source Edition," *Krakowskie Studia z Historii Państwa i Prawa* 15, no. 4 (2022): 593–614, <https://doi.org/10.4467/20844131KS.22.041.16738>.

⁷¹ Jiayu Wei, "Religious Ethics and the Moral Foundations of Marital Property Rights: A Philosophical Analysis of Spousal Ownership and the Marriage Law," *European Journal for Philosophy of Religion* 17, no. 2 (2025): 210–26, <https://doi.org/10.24204/ejpr.2025.4671>.

⁷² Roseline Omoye Ehiemua, "Advancing Women's Rights to Joint Ownership of Matrimonial Property in Nigeria: Using Kenya as a Model," *African Journal of International and Comparative Law* 31, no. 4 (2023): 600–616, <https://doi.org/10.3366/ajicl.2023.0468>.

⁷³ J C Sonnekus, "Retrospective Amendment of the Applicable Matrimonial Property Regime Without a Court Application Resulting in the Limitation of the Spouses' Legal Competencies with Retrospective Force?," *Tydskrif Vir Die Suid-Afrikaanse Reg* 2023, no. 1 (2023): 140–56, <https://doi.org/10.47348/TSAR/2023/i1a9>.

⁷⁴ Barbara Reinhartz, "Matrimonial Property Regime: Which Subjects Are Covered Under This Term in the Matrimonial Property Regulation?," *ERA Forum* 20, no. 2 (2019): 167–77, <https://doi.org/10.1007/s12027-019-00568-8>.

This study proposes a harmonization model that integrates Islamic law, Minangkabau customary law, and national legislation as the foundation for resolving matrimonial property disputes involving *harta pusaka tinggi*.⁷⁵ The model begins by affirming communal ownership of customary inherited land as protected under customary law while simultaneously recognizing buildings constructed during marriage as potentially independent matrimonial property subject to equitable distribution.⁷⁶ Judicial assessment should therefore distinguish the legal status of land from that of improvements through comprehensive evaluation of financial investment, domestic contributions, construction history, and supporting documentary evidence.⁷⁷ Islamic legal principles, particularly justice, *maqāṣid al-sharī'ah*, and protection of property, should function as interpretative standards for determining equitable remedies without compromising customary communal rights.⁷⁸ The model further recommends standardized judicial guidelines to improve consistency in evaluating evidence, calculating compensation, and recognizing direct as well as indirect contributions made by spouses. Strengthening cooperation between Religious Courts, customary leaders, and legal scholars may also enhance legal certainty while preserving local cultural values.⁷⁹ This harmonization framework illustrates that legal pluralism should be managed through complementary rather than competing legal principles.⁸⁰ Consequently, the proposed model contributes both theoretically and practically by offering a systematic mechanism capable of promoting substantive justice, protecting communal property, and ensuring greater consistency in future matrimonial property adjudication within Indonesia's plural legal system.⁸¹

3.3. Harmonizing Islamic Law and Customary Law through Judicial Reasoning in Matrimonial Property Disputes

The findings demonstrate that disputes concerning buildings constructed on *harta pusaka tinggi* represent one of the most complex forms of matrimonial property litigation within Indonesia's plural legal system.⁸² The results confirm three principal findings. First, a normative conflict exists because Islamic law recognizes the equitable distribution of property acquired during marriage, whereas Minangkabau customary law preserves *harta pusaka tinggi* as communal ancestral property that cannot be transferred through marital relations. Second, Religious Court decisions consistently distinguish the legal status of customary land from that of buildings erected during marriage. While the land remains under communal customary ownership, the building may be recognized as matrimonial property if supported by evidence demonstrating direct or indirect contributions from both spouses. Third, judicial reasoning increasingly reflects an integrative approach that combines statutory law, Islamic legal principles, and customary norms rather than prioritizing a single legal source. Such an approach enables judges to preserve customary property rights while simultaneously protecting the economic interests of former spouses.⁸³

⁷⁵ Manuela Giobbi, "Italian Assisted Negotiation: An Additional Tool to Settle Matrimonial Property Regime Cases," *Actualidad Jurídica Iberoamericana*, no. 15 (2021): 164–79.

⁷⁶ Leon Vincent Chan and Kaizhe Richard Xu, "Trends in the Division of Matrimonial Property Based on Contribution: An Empirical Case Study Based on the Structured Approach in Singapore," *International Journal of Law, Policy and the Family* 36, no. 1 (2022), <https://doi.org/10.1093/lawfam/ebac009>.

⁷⁷ Bronwen Lichtenstein and Ida M Johnson, "Splitting the Marital Home: Gendered Property Division and Postdivorce Foreclosure," *Journal of Divorce and Remarriage* 60, no. 5 (2019): 346–61, <https://doi.org/10.1080/10502556.2018.1546065>.

⁷⁸ Naivi Chikoc Barreda, "Between the Lex Causae and the Police Laws of the Lex Fori: What Alternative for the Protection of the Family Home in the 'Matrimonial Property Regimes' Regulation?," *European Review of Private Law* 27, no. 3 (2019): 583–615, <https://doi.org/10.54648/erpl2019029>.

⁷⁹ Hilde Sandvik, *Decision-Making on Marital Property in Norway, 1500–1800, The Marital Economy in Scandinavia and Britain 1400–1900* (Taylor and Francis, 2017), <https://doi.org/10.4324/9781315238418-18>.

⁸⁰ Sabine Heijning, *The EU Regulations on Matrimonial Property Regimes and on the Property Consequences of Registered Partnerships*, *RESEARCH HANDBOOK ON EUROPEAN PROPERTY LAW* (Edward Elgar Publishing Ltd., 2024), <https://doi.org/10.4337/9781839105845.00011>.

⁸¹ Zhicheng Wu, "A Functional Comparison of Marital Debts in Common Law Jurisdictions: Lessons from the Model Not Accepting the Common Property Regime," *Frontiers of Law in China* 18, no. 1 (2023): 129–48, <https://doi.org/10.3868/s050-012-023-0006-5>.

⁸² Md Yazid Ahmad et al., "The Locus Standi of Heirs in Claiming Matrimonial Property (Jointly Acquired Property) After Death Among Muslims in Malaysia," *El-Usrah* 8, no. 1 (2025): 141–65, <https://doi.org/10.22373/gqw83m36>.

⁸³ Sanchez Vicario, Filep Wamafma, and Meiora Ariella Papare, "Marital Bonds and Joint Property Cases: Implications for the Protection of Spousal Rights," *Mawaddah: Jurnal Hukum Keluarga Islam* 2, no. 2 (2024): 190–210, <https://doi.org/10.52496/mjhki.v2i2.48>.

Collectively, these findings illustrate that legal pluralism does not necessarily create irresolvable legal contradictions but instead encourages adaptive judicial interpretation capable of balancing communal interests, individual rights, and the objectives of matrimonial property law within contemporary Indonesian family law.⁸⁴

The emergence of these legal conflicts is closely associated with Indonesia's plural legal structure, where statutory law, Islamic law, and customary law operate simultaneously without comprehensive procedural harmonization.⁸⁵ This coexistence becomes particularly problematic because each legal system adopts a different conception of ownership. Islamic family law emphasizes the economic partnership established through marriage and therefore acknowledges assets accumulated during marriage as matrimonial property.⁸⁶ Conversely, Minangkabau customary law defines *harta pusaka tinggi* as collective property belonging to the maternal lineage rather than individual family members.⁸⁷ The dispute becomes more complicated when buildings financed through marital resources stand on customary inherited land, creating dual legal objects with different ownership regimes.⁸⁸ The absence of explicit statutory regulation governing this situation further expands judicial discretion and contributes to inconsistent court decisions.⁸⁹ In addition, varying interpretations regarding direct and indirect contributions of spouses frequently intensify disagreements concerning entitlement to compensation.⁹⁰ These findings suggest that the principal source of conflict lies not merely in competing legal rules but in the interaction of different legal philosophies concerning ownership, inheritance, family responsibility, and communal identity within Indonesia's multicultural society.⁹¹

The judicial approaches identified in this study generate significant implications for the protection of spouses' property rights and the future development of Islamic family law.⁹² By distinguishing ownership of buildings from ownership of customary land, Religious Courts provide greater legal protection for spouses who have contributed financially or domestically to the acquisition of marital assets without undermining communal ownership recognized by customary law.⁹³ This approach also strengthens substantive justice because judicial assessment extends beyond formal legal title to consider the actual contributions and legitimate expectations of both parties during marriage.⁹⁴ Nevertheless, the absence of uniform judicial standards continues to affect legal certainty because comparable disputes may result in different outcomes depending upon judicial interpretation and evidentiary assessment.⁹⁵ Consequently,

⁸⁴ Muhamad Subhi Aprianthoro et al., "Comparing KHI and KHES in Marital Property Grant Disputes: An Analysis of Judges' Views," *Al-Istinbath: Jurnal Hukum Islam* 8, no. 1 (2023): 37–52, <https://doi.org/10.29240/jhi.v8i1.6464>.

⁸⁵ N Ibrahim and Abd Z A Ghadas, "Claims of Intangible Interest as Matrimonial Property at Shari'ah Courts: A Special Reference to Kelantan, Terengganu, and Malacca," *Pertanika Journal of Social Sciences and Humanities* 25, no. October (2017): 97–103, <https://www.scopus.com/pages/publications/85045704747?origin=resultlist>.

⁸⁶ Laura Mercadal et al., "Psychometric Properties of the Cuestionario de Evaluación de Las Relaciones Familiares Básicas (CERFB) in Substance Use Disorder: Marital and Parental Relationships," *Adicciones* 37, no. 2 (2025): 125–40, <https://doi.org/10.20882/adicciones.1821>.

⁸⁷ Jens M Scherpe, "England and Wales: A Jurisdiction Without a Matrimonial Property Regime," *Actualidad Jurídica Iberoamericana*, no. 16 BIS (2022): 1602–21, <https://www.scopus.com/pages/publications/85149012648?origin=resultlist>.

⁸⁸ Luboslav Sisák, "Smart Marriage Contracts: The Future of Blockchain in Matrimonial Property Law?," *Collected Papers of the Faculty of Law of the University of Rijeka* 42, no. 3 (2021): 657–76, <https://doi.org/10.30925/zpfsr.42.3.4>.

⁸⁹ Sukiati, Nurasiah, and Milhan, "Approaches of the Religious Court Judges in Indonesia to Settle Joint Marital Property Disputes," *Manchester Journal of Transnational Islamic Law and Practice* 19, no. 3 (2023): 71–81, <https://www.scopus.com/pages/publications/85175811302?origin=resultlist>.

⁹⁰ Ahmad Mubarak et al., "Marital Property Regimes in Islamic Law: A Comparative Madhhab Analysis and Its Integration into Modern Islamic Economic Governance," *Syariah: Jurnal Hukum Dan Pemikiran* 26, no. 1 (2026): 27–48, <https://doi.org/10.18592/sjhp.v26i1.20553>.

⁹¹ Ermi Suhasti Syafei and Siti Djazimah, "Mediation in the Settlement of Joint Marital Property Disputes: A Study at Tanjung Karang Religious Court, Lampung," *Samarah* 5, no. 2 (2021): 867–91, <https://doi.org/10.22373/sjhp.v5i2.9039>.

⁹² J C Sonnekus, "An Executor's Remuneration—Some Unease with 'Gross Value' as a Point of Departure for Its Calculation If a Fiduciary's Interest or Matrimonial Property Are Involved," *South African Law Journal* 142 (2025): 224–46, <https://doi.org/10.47348/SALJ/v142/i2a2>.

⁹³ Manuel Ángel Gómez Valenzuela, "Marriage, Matrimonial Property Contracts and Community Property Under the Latest Disability Reforms," *Revista de Derecho Civil* 9, no. 3 (2022): 207–54, <https://www.scopus.com/pages/publications/85166767328?origin=resultlist>.

⁹⁴ Abdelrahman and Bin Abd Halim, "The Concept of Matrimonial Property: Conditions and Principles."

⁹⁵ Eszter Cs. Herger, "Breakpoints in the Development of Modern Hungarian Matrimonial Property Law in European Context," *Journal on European History of Law* 15, no. 2 (2024): 161–67, <https://www.scopus.com/pages/publications/85213858601?origin=resultlist>.

litigants remain uncertain regarding the legal consequences of investing marital resources on customary inherited land.⁹⁶ Despite these challenges, the evolving jurisprudence contributes positively to the modernization of Islamic family law by demonstrating that Islamic legal principles, particularly justice and *maqāṣid al-sharī'ah*, can be interpreted dynamically to address contemporary property disputes arising within plural legal systems while maintaining respect for customary institutions and constitutional recognition of cultural diversity.⁹⁷

Compared with previous studies on matrimonial property, legal pluralism, Islamic family law, customary property, and judicial reasoning, this research offers a more specific analytical contribution.⁹⁸ Earlier scholarship generally examined matrimonial property from the perspective of statutory regulation, gender equality, judicial discretion, or Islamic legal doctrine without paying particular attention to buildings constructed on *harta pusaka tinggi*.⁹⁹ Studies concerning Minangkabau customary law have likewise concentrated on inheritance and communal ownership while giving limited consideration to matrimonial property disputes arising after divorce. Consequently, the interaction between communal customary land and individually acquired buildings has remained insufficiently explored within existing literature. This study fills that gap by demonstrating how Religious Court judges construct legal reasoning that simultaneously accommodates Islamic law, customary law, and national legislation through a legal pluralism framework.¹⁰⁰ The principal novelty therefore lies in conceptualizing buildings erected on *harta pusaka tinggi* as distinct legal objects requiring independent judicial assessment rather than treating land and buildings as inseparable property. This perspective expands contemporary discourse on matrimonial property by providing an integrative analytical model capable of explaining judicial adaptation within plural legal environments.¹⁰¹

These findings highlight the need to strengthen normative and institutional frameworks governing matrimonial property disputes involving *harta pusaka tinggi* within Indonesia's plural legal system. The Supreme Court should develop judicial guidelines that clarify the legal status of buildings constructed on customary inherited land, including standards for evidentiary assessment, recognition of spouses' financial and non-financial contributions, valuation methods, and compensation mechanisms. Such guidelines would promote greater consistency in Religious Court decisions while accommodating the interlegal interaction of Islamic law, customary law, and state law. Legislative and judicial reforms should also provide clearer criteria for distinguishing ownership of customary land from ownership of buildings to enhance legal certainty without undermining communal property rights. Future research should undertake comparative studies of matrimonial property regimes in other legally plural jurisdictions to refine the concept of interlegality and expand judicial models for resolving family property disputes involving overlapping legal traditions.

This study recommends strengthening the normative and institutional framework governing matrimonial property disputes involving *harta pusaka tinggi* within Indonesia's plural legal system. The Supreme Court should formulate comprehensive judicial guidelines that clarify the legal status of buildings constructed on customary inherited land, including standards for evidentiary assessment, recognition of both financial and non-financial contributions of spouses, valuation methods, and appropriate compensation mechanisms.¹⁰² Legislative and judicial reforms should further establish clearer criteria distinguishing

⁹⁶ Eliana M González, "The Protection of Children's Economic Interest in the Matrimonial Property Regime," *Prudentia Iuris* 2025, no. 100 (2025): 313–37, <https://www.scopus.com/pages/publications/105027171499?origin=resultslist>.

⁹⁷ Antony W Dnes, *Litigation and Marital Property Rights*, *Encyclopedia of Law and Economics* (Springer Science+Business Media, 2019), https://doi.org/10.1007/978-1-4614-7753-2_593.

⁹⁸ Hu Naysin, "Contractual Mode of Marital Property in Modern Chinese Law," *Journal of Advanced Research in Law and Economics* 10, no. 5 (2019): 1505–10, [https://doi.org/10.14505/jarle.v10.5\(43\).20](https://doi.org/10.14505/jarle.v10.5(43).20).

⁹⁹ Dubravka Hrabar, "Controversy over Court Jurisdiction and Business Shares in the Light of Marital Property," *Zbornik Pravnog Fakulteta u Zagrebu* 72, no. 1–2 (2022): 189–211, <https://doi.org/10.3935/zpfz.72.12.05>.

¹⁰⁰ Nicolas Frémeaux and Marion Leturcq, "Prenuptial Agreements and Matrimonial Property Regimes in France, 1855–2010," *Explorations in Economic History* 68 (2018): 132–42, <https://doi.org/10.1016/j.eeh.2017.10.004>.

¹⁰¹ Ramón Durán Rivacoba and Juan C Menéndez Mato, "Express Choice of Matrimonial Property Regime," *Revista de Derecho Civil* 10, no. 4 (2023): 1–28, <https://www.scopus.com/pages/publications/85175806140?origin=resultslist>.

¹⁰² Pablo Quinzá Redondo, *Matrimonial Property Regimes, Planning the Future of Cross Border Families: A Path Through Coordination* (Bloomsbury Publishing Plc., 2020), <https://doi.org/10.5040/9781509919895.ch-009>.

ownership of customary land from ownership of buildings to enhance legal certainty while preserving communal property rights recognized under Minangkabau customary law.¹⁰³ Such reforms would encourage greater consistency in Religious Court decisions by facilitating the interlegal interaction of Islamic law, customary law,¹⁰⁴ and state law in resolving matrimonial property disputes.¹⁰⁵ In addition, stronger collaboration between judicial institutions, customary authorities,¹⁰⁶ and legal scholars is necessary to develop a more coherent framework for balancing individual matrimonial property rights with communal customary interests. Future research should undertake comparative studies of matrimonial property regimes in jurisdictions characterized by legal pluralism to examine how different legal traditions interact in regulating family property. Comparative analyses involving countries that integrate religious, customary, and civil law would refine the concept of interlegality and broaden its application within Islamic family law. Such research may also contribute to the development of more consistent judicial reasoning, support evidence-based legal reform, and strengthen comparative scholarship on matrimonial property by providing practical and theoretical guidance for resolving disputes arising from overlapping legal systems.

4. Conclusion

This study demonstrates that the dynamics of matrimonial property distribution in West Sumatra are characterized by the interlegality of Islamic law, Minangkabau customary law, and state law rather than by irreconcilable legal conflict. The findings reveal that *harta pusaka tinggi* retains its status as communal ancestral property under Minangkabau customary law and therefore cannot be classified as matrimonial property following divorce. However, buildings constructed on such land through the financial or non-financial contributions of spouses constitute separate legal objects that may be equitably distributed. Religious Court judges consistently distinguish ownership of customary inherited land from ownership of the buildings standing upon it, enabling the protection of communal customary rights while safeguarding the economic interests of former spouses. Judicial reasoning reflects the interaction of multiple legal systems through the simultaneous application of statutory provisions, Islamic legal principles, and customary norms in reaching balanced decisions. Rather than privileging a single legal framework, judges accommodate overlapping legal values by emphasizing fairness, proportionality, legal certainty, and protection of property rights. These findings indicate that interlegality operates as a practical judicial mechanism for harmonizing diverse legal traditions within Indonesia's plural legal system. Accordingly, the study answers the research questions by demonstrating that the distribution of matrimonial property involving *harta pusaka tinggi* is shaped by continuous interaction among multiple legal orders that collectively support equitable and substantively just outcomes.

The significance of this study lies in its conceptual, methodological, theoretical, and practical contributions to the development of Islamic family law and contemporary legal pluralism. Conceptually, it advances interlegality as an analytical framework for understanding how Islamic law, customary law, and state law interact in resolving matrimonial property disputes involving customary inherited land. The study proposes a judicial reasoning model that distinguishes communal ownership of *harta pusaka tinggi* from ownership of buildings acquired during marriage, providing a coherent legal approach for balancing collective customary rights with individual matrimonial property interests. Methodologically, the integration of statutory, conceptual, case, and comparative legal approaches offers a systematic framework for examining judicial reasoning within plural legal systems and provides a useful reference for future doctrinal legal research. Theoretically, the findings demonstrate that interlegality represents a

¹⁰³ Tangi P C Yip and Susanne Y P Choi, "A Home for Marriage? Gendered Responses to High Property Prices and Traditional Norms in Marital Home Acquisition," *China Review* 25, no. 3 (2025): 163–93, <https://www.scopus.com/pages/publications/105014258509?origin=resultslist>.

¹⁰⁴ Yu Zhang et al., "Pre-Marital Homeownership as Self-Protection Against Divorce Risks: Evidence from China's Property Division Regime Change," *China Economic Review* 87 (2024), <https://doi.org/10.1016/j.chieco.2024.102237>.

¹⁰⁵ Patrik Provazník, "Matrimonial Property Rights from the Perspective of Conflict of Laws," *Pravnik* 161, no. 3 (2022): 207–40, <https://www.scopus.com/pages/publications/85132199973?origin=resultslist>.

¹⁰⁶ Naysin, "Contractual Mode of Marital Property in Modern Chinese Law."

process of legal accommodation and harmonization rather than merely a response to normative conflict, thereby enriching contemporary scholarship on Islamic family law and legal pluralism. Practically, the proposed model offers guidance for judges, policymakers, and legal practitioners in strengthening judicial consistency, improving legal certainty, and supporting future legal reforms concerning matrimonial property disputes involving customary inherited land in Indonesia and other jurisdictions characterized by plural legal traditions.

Declarations

Author Contribution Statement

Embrizal contributed to conceptualization, methodology, investigation, formal analysis, writing the original draft, and project administration, while Fauzan contributed to conceptualization, methodology, supervision, validation, writing review and editing, and resources. Both authors read and approved the final version of the manuscript and agreed to be accountable for all aspects of the work.

Funding Statement

This research received no specific grant from any funding agency in the public, commercial, or not-for-profit sectors.

Data Availability Statement

The data that support the findings of this study are available from the corresponding author upon reasonable request. No publicly archived datasets were used or generated during the current research.

Declaration of Interests Statement

The authors declare that they have no known competing financial interests or personal relationships that could have influenced the work reported in this paper.

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