



Determinant Factors for Delays in Settlement of *Gono-Gini* (Joint) Asset Disputes

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Abstract:

This article discusses the highest factors that hinder the resolution of disputes over mixed assets. The determinant factors that impede the implementation of the religious court's decision on the resolution of disputes over arbitrary assets in the City of Gorontalo to those who apply for the separation of arbitrary assets are internal and external factors. Internal factors include obstacles: the lack of human resources for judges at court, as well as the knowledge of judges in resolving cases where the wife who is more dominantly working earns income while the husband does not work. In this case the judge uses the principle of justice by determining that the ex-wife gets $\frac{3}{4}$ of the share while the ex-husband gets $\frac{1}{4}$ of the share. External factors include: Partners between ex-husbands and ex-wives are not willing, do not accept, or do not agree with the results of the decision from the court. The approach used in writing this article is empirical juridical with a case study approach. Based on the data found in this article, the highest factor in the delay in resolving disputes over Gono-Gini assets is disagreement between ex-husbands and ex-wives over the decision of the Class IA Gorontalo Religious Court.

Keywords: Settlement; Dispute; Gono gini's Treasure.

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Introduction

Harmonious household relations are the ideals of all married couples when they marry. More broadly, marriage has a goal of building a *sakinah mawadah*



warahmah family. And all of this can be realized if the husband and wife are considered to meet the requirements in the law. Marriage.

To see the definition of marriage based on the marriage law according to the version of Law no. 5 of 1974, we can see the conceptual basis for the notion of marriage and the division of joint property or *Gono gini* below. According to Article 1 of Law No. 1 of 1974 it was changed to Law No. 16 of 2019 concerning Marriage, that marriage is a physical and mental bond between a man and a woman as husband and wife, the aim of which is to form a happy and eternal family (household) based on Belief in the One Almighty God. With the ongoing marriage, the assets obtained become joint property. A marriage is a holy and sacred bond to be carried out. (Kamba and Kasim 2022)

Gono gini assets are marital assets that are jointly acquired by the husband and wife while the marriage is still ongoing. The concept of *gono gini* assets originally came from customs that developed in Indonesia, then this concept is supported by Islamic law and positive law that applies in Indonesia, married couples who are divorced are increasingly making a fuss over the issue of dividing assets. Such as the joint property problem experienced by the MA mother, where the joint property has been fully controlled by her ex-husband, the settlement of the separation of *Gono gini* assets or joint assets can also be carried out through distribution based on the compilation of Islamic Law (KHI) as explained in the explanation of the distribution of joint assets based on a compilation perspective. According to Islamic law, where shared assets are divided into *Gono gini* assets, it is regulated in Article 96 of the compilation of Islamic laws whereby the distribution of *Gono gini* assets between a person who dies and their spouse who lives longer, that is, each gets half a share. As



for Article 97 of the Compilation of Islamic Law (KHI) stipulates the division of Gono gini assets between divorced husband and wife, each of them gets a half share anyway.

Thus, a legal line can be taken that according to the provisions of the Islamic Law Compilation (KHI), both in cases of death and divorce, each spouse gets half of the Gono gini Assets. For Indonesians who are not Muslim, except for those who are subject to their customary laws and as long as their religious laws do not specify otherwise, the distribution of arbitrary assets between them refers to the provisions of Article 128 KHU civil which reads: "*After the dissolution of the union, the assets of the unity divided in half between husband and wife, or between their respective heirs, regardless of the question of which party the goods were obtained from.* Even though the distribution of joint assets has been determined by law, there are still ex-husband and wife couples who demand that they do not accept the decision given by the Religious Courts, resulting in delays in the process of resolving disputes over marital assets.

Problem Statement

The reason for this problem is that the husband and wife do not know about the existence or whereabouts of joint assets and the husband and wife do not know that in the religious courts the settlement of *gono-gini* assets is fairer as a result, the husband controls the joint assets which should be shared together. And there is also the problem of joint property where the wife who is more dominant earns income while the husband does not work or you can call it unemployment, the distribution of the ex-wife gets $\frac{3}{4}$ while the husband gets $\frac{1}{4}$ because the wife fulfills more of the household needs while the husband does not have a job.

Method

The type of research used is empirical juridical legal research with a case study approach in completing research findings related to the object of research. Empirical juridical research is by looking at the reality in the field. The connection with this research is that it is the object of research on decisions on types of cases in divorce suits, especially in the separation of joint assets or mutual assets at the Religious Courts of Gorontalo City, so researchers must be in the field or at the religious court where the research is conducted. The empirical juridical approach is also known as a sociological approach which is carried out directly in the field.

Discussion

To see the case of Gono gini's assets, the researcher first displays the number of lawsuits for Gono gini's assets seen from the data in the field. Why was this done because not all divorce lawsuits in the Gorontalo City Religious Court, the plaintiff and the defendant filed to include the demand for separation of assets *gono gini* in the divorce trial at the Gorontalo City Religious Court. This analysis after looking at the data at the Religious District Court of the City of Gorontalo as shown in the table below is as follows:

Table 1. Divorce Case Data (Gorontalo Religious Court Class 1A, 2019-2021)

Year	Things Received	Type of Case Accepted		Amount Case Divorced	Percentage Case Divorced	Case Divorce is granted	Percentage of Kabul divorce cases
		Divorce Lawsuit	Divorce				
2019	1,276	613	199	812	63.636 %	667	85.40%
2020	1,046	518	168	686	65.583 %	578	84.25 %
2021	1,222	557	170	727	59.492 %	627	86.24 %



number	3,484	1688	537	2,225	63.863 %	1872	84.134 %
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Source: Secretariat of the Gorontalo Religious Court, 2022.

Based on the table above, it shows that divorce cases at the Religious District Court of Gorontalo City from 2019 to 2021 received a total of 3,484 divorce claims. This data shows that the divorce rate in Gorontalo Province has increased, meaning that a divorce suit will affect the issue of ownership of joint assets or Gono gini assets if the court decides.

This is the case with the types of cases accepted by the court, be it divorce cases or divorce divorces, the figures of which, when accumulated from the last 3 years, amount to 1,688 contested divorces and 537 divorce divorces. Furthermore, when analyzing the total number of divorce cases totaling 2,225 with a percentage of 63,863%, it shows that the problem of joint property (*gono-gini*) for couples who have entered court will be the obligation of the religious court of Gorontalo City to resolve up to the level of separation of joint assets so that other problems do not occur resulting in actions Actions that are detrimental to both parties are related to the distribution of joint assets or *gono gini*.

Furthermore, if you look at the next column regarding divorce cases that have been granted in the last 3 years, there are 1,872 couples, the religious courts have a very large amount of homework, if the court's decision reaches the settlement of joint assets or Gono-Gini assets. Thus the percentage of divorce cases granted from 2019 to 2021 with a percentage of 84,134% will be the responsibility of the Gorontalo religious court to resolve the issue of shared assets or Gono gini assets if the husband and wife who filed for divorce understand the importance of separating common assets in the marital relationship. Why is that because sometimes as a result of divorce a husband or wife acts alone to transfer joint assets to other people or to new

partners after they (who are divorced) build a household with their new partner. In order not to have the desired things happen, especially losses to the couple who filed for divorce, it would be nice to reach the settlement of the joint property which was decided by the religious court. So that a just decision from the religious court will not affect other cases. For example, criminality due to disputes or sole possession by one of the divorced spouses.

To see more about what the Gorontalo Religious Court has done in divorce cases. Let us see more clearly the types of cases accepted and decided by the religious courts in the last 3 years, especially on types of joint property cases through the table below as follows:

Table 2. Types of Cases from 2019 to 2021 accepted and decided

Year	Case type	Accept	Separated	Not yet Separated	Granted	Reject	NO	Aborted	Fall	Cross out	Unplug	Peace
2019	Shared property	7	7	0	2	0	1	0	0	0	4	0
2020	Common property	9	9	0	2	0	2	0	1	0	3	1
2021	Common property	7	7	0	4	0	0	0	0	0	2	1
Amount		23	23	0	8	0	3	0	1	0	8	2

Source: Data from the secretariat of the Gorontalo Religious Court, 2022.

Based on data on the types of cases that have been decided by the religious court on the types of joint property or joint property cases from 2019 to 2021, there were 23 cases, while NO 3 cases and 8 withdrawn, and amicable 2 types of joint property cases. Thus, the divorce case raises problems in the distribution of joint assets or joint assets which have been decided by the religious court of Gorontalo City.

When traced from one of the research respondents who had been terminated at the Gorontalo City religious court for a divorce suit, they gave responses when interviewed by researchers about the joint property problem above during post-divorce at the Religious Court, based on the results of the interview, the mother with the initials MA stated her response as follows:



"For the divorce suit of her ex-husband at the Religious Court of Gorontalo City, the issue regarding the separation of the joint assets in question did not separate the joint assets because of ignorance and misunderstanding that the Religious Courts have the authority to separate marital assets acquired jointly, as a result, after a divorce in court, the assets obtained jointly controlled by her ex-husband. The property is a residence (housing type 36) and is now occupied by her ex-husband and new wife. Apart from that, the movable object of the car which was jointly taken using joint credit payments also fell under the control of her ex-husband. At the time of his marriage and when he filed for divorce at the Religious Court, he did not get any children, while his ex-husband's status already had children, his first wife was blessed with one daughter (interview, 20 June 2022)."

Based on the search on the respondents above, it shows that there are still many who do not understand about marital assets as joint assets that must be separated in the event of a divorce in court. The examples of cases above are relevant to the data in table 1. Data on Divorce Cases at the Gorontalo Religious Court Class 1A from 2019 to 2021, the total number of those who filed for divorce was 3,484 married couples, but only 23 married couples filed for separation of joint assets.

The phenomenon of the problem of joint property or *Gono gini* assets will illustrate the problem for couples who have been divorced in the Gorontalo City religious court without suing the separation of joint assets or *Gono gini* assets as experienced by one of the research respondents with the initials MA To explore references how *Gono* assets should be separated –*Gini* based on a legal approach, we can explore the references below.

1. Distribution of Post-Divorce *Gono-Gini* Assets According to the Perspective of the Islamic Law Compilation (KHI).

Post-Divorce Distribution of *Gono gini* Assets in the Perspective of Islamic Law Basically, Islamic rules do not recognize the term mixing of assets between husbands and wives because of marriage. The permanent wife's assets belong to the wife and are fully controlled by her, as well as the husband's assets are owned by the husband and are fully controlled by the husband. (Ismuha, 1978: 38). Because wealth means the main need, it is not easy to combine. so that to own and control assets is absolutely



an obligation for each husband and wife. In joint assets in marriage, it does not rule out the possibility of each own property as follows:

- a) Basically, there is no mixing of husband's property and wife's property due to marriage.
- b) The wife's property remains the wife's right and is fully controlled by her, likewise the husband's property remains the husband's right and is fully controlled by him.

Article 97 KHI Widows or divorced widowers are each entitled to half of the joint property unless otherwise specified in the marriage agreement. Broadly speaking, in Islamic Law *Gono gini* Property or Joint Property is not explicitly mentioned, but in the Complications of Islamic Law it is stipulated that *Gono gini* property or joint property is each entitled to get half of the joint property as long as the parties do not specify an agreement marriage. Therefore, the effort for married couples to make a joint property agreement in marriage, in the event of a divorce, the joint property agreement letter becomes the evidence. In accordance with Inpres No. 1 of 1974 Concerning the Compilation of marriages, both prospective bride and groom can make a written agreement that is certified by the Marriage Registrar.

2. Distribution of *Gono gini* Assets in Review of Law No. 1 of 1974. Which has been amended into Law no. 16 of 2019.

In a marriage known as *Treasure Gono - gini*. said *Gono's* treasure often becomes hotly discussed and grabs a lot of public attention, especially regarding divorce cases related to disputes about the division of *Gono's* assets which are published in public. Divorce cases which are the subject of the problem will actually be more complicated and convoluted and often even invite emotions in divorce trials in court if it is compiled using demands for the division of *Gono-Gini* assets, or if there is a reconciliation of *Gono gini* assets in a divorce case. When a divorce occurs, it will definitely have an impact on the division of joint assets. On average, the emergence of joint property problems is caused by one party feeling more entitled to the disputed property. For example, a husband and wife who are divorced and fighting over a house. In the past, the house was purchased on credit by them, but on the way the wife paid more for the credit installments, so the wife felt that most of the value of the house was her share. Sometimes a question arises, whether later



the property will be divided equally between the husband and wife. If that happens, then the wife will feel unfair, because in fact most of the wealth in the property is greater than her husband. Or vice versa, the husband who works day and night to earn a living, while the wife just stays at home taking care of the children and taking care of the household. From the results of their husband's business, they have been able to buy several things, such as houses, land, and so on. In this case, if there is a divorce between them, will the wife get the same share of the assets obtained from the hard work of the husband?

According to Anshary, the provisions regarding *Gono-Gini* assets have clearly been regulated in the positive law in force in Indonesia, that the assets that can be shared jointly for divorced husband and wife are limited to assets acquired during the marriage bond. As for the inherited property remains under the power of each, in the Marriage Law contained in Article 37 regulates as follows:

"If the marriage is broken up due to divorce, the assets of Gono gini are regulated according to their respective laws", what is meant by the word "each law" must first look at the explanation of the article. In the elucidation of the article, what is meant by using their respective laws is religious law, customary law and other laws.

Thus, the settlement of *Gono gini* assets for husband and wife can be done with 3 legal alternatives, namely based on religious law, customary law or other laws. For people who are Muslim, as well as for people who still adhere strictly to adat, as long as they are Muslim, if there is a dispute over the distribution of the Gono assets, this will be resolved according to Islamic law. Whereas for indigenous peoples who are not Muslim, it will be resolved based on their customary law as long as this is not regulated in their religious teachings. M. Yahya Harahap stated that in essence all assets acquired during the marriage bond became the jurisdiction of the Gonogini Property which was developed in the judicial process. based on the above development, the marital assets included in the jurisdiction of the *Gono gini* Property are as follows:

- a) Property purchased during the marriage bond lasts. Every item purchased during the marriage bond is the jurisdiction of the *Gono gini* Property.
- b) Property purchased and built post-divorce funded by *Gono gini* Property. An item is included in the jurisdiction of *Gonogini* Property or is not determined by the

origin of the cost of purchasing or building the item in question, even though the item was purchased or built after the divorce.

- c) Assets that can be proven acquired during the marriage bond. all assets acquired during the marriage bond automatically become *Gono gini* Assets.
- d) Earnings *Gono gini's* Property and inheritance. Income originating from *Gono gini* Assets is the jurisdiction of *Gono gini* Assets, as well as income from the personal assets of the husband and wife are also included in the jurisdiction of the *Gonogini* Assets. All personal income of husband and wife. As long as there is no separation of the husband and wife's direct income, a merger will automatically occur into *Gono gini* Assets. This combination of the direct income of the husband and wife occurs by law, as long as the husband and wife do not specify otherwise in the marriage agreement.

In article 36 paragraph (1) of the Marriage Law which stipulates that with regard to *Gono gini* Assets, a husband or wife can act with the consent of both parties, this reflects an equal position in terms of power over *Gono gini* Assets in marriage. The equal position of husband and wife in respect of the *Gono gini* Assets results in the responsibility of the husband and wife when they jointly or one of them commits a legal action. In article 36 paragraph (1) of the Marriage Law which stipulates that with regard to *Gono gini* Assets, a husband or wife can act with the consent of both parties, this reflects an equal position in terms of power over *Gono gini* Assets in marriage. The equal position of husband and wife in respect of the *Gono gini* Assets results in the responsibility of the husband and wife when they jointly or one of them commits a legal action.

If you only look at the provisions of Article 37 of the Marriage Law and the explanation of the article, the author thinks that it is as if the distribution of *Gono gini* Assets does not have a standard reference, because the Marriage Law does not regulate this matter in detail. The Marriage Law does not state the amount of the portion, that in the event of a divorce, the *Gono gini* Property will be divided equally between the ex-husband and ex-wife or in other amounts. so that in the opinion of several legal experts the division of the *Gono gini* Assets will be carried out in a balanced manner. What is meant by balanced here is not necessarily equal, but rather the extent to which each party contributes their services and efforts in producing said *Gono gini* Assets. therefore according to some legal experts, the inclusion of the word "regulated according to each



law", indicates that the decision regarding the division of the Gono gini Assets will be left to the judge's discretion. thus it will better fulfill the sense of justice of the disputing parties.

To understand the provisions of Article 37 of the Marriage Law and the explanation of the article does not become complicated when we look at other regulations that regulate it. For Indonesians who are not Muslim and are not subject to customary law and as long as their religion does not stipulate otherwise, the distribution of Gono gini Assets as a result of divorce can also refer to the provisions of Article 128 of the Civil Code which reads: "after the dissolution of the union, the assets of the unity are divided in half *between husband and wife, or between their respective heirs, regardless of which party the goods were obtained from.*

In the book "Marriage Property" written by Sonny Dewi Judiasih added that, the regulation of marital property in the Civil Code has different legal provisions from the Marriage Law, where according to the provisions of Article 119 it is stated that from the moment the marriage takes place, for the sake of law unanimous unity applies. between the wealth of husband and wife. There are many differences of opinion or explanations regarding the division of Gono gini's assets. According to Law Number 1 of 1974 concerning marriage, marital property in the Marriage Law is only regulated in three articles, namely Article 35 to Article 37 of the Marriage Law. Article 35 of the Marriage Law regulates the following matters:

- a) Property acquired during marriage becomes Gono gini Assets.
- b) Inheritance of each husband and wife and assets obtained by each as a gift or inheritance are under the control of each as long as the parties do not specify otherwise.

Hilman Hadikusuma also added, when compared to the description of marital assets in Law Number 1 of 1974, the description in the Civil Code is up to 18 more articles. In Law no. 1 of 1974 concerning marriage is only described in three articles. Between the two laws there is a fundamental difference. According to Law No. 1 of 1974 that, property acquired during marriage becomes Gono gini Assets. Meanwhile, the inheritance of each husband and wife, whether as a gift or inheritance, is under the control of each as long as the parties do not specify otherwise. Regarding Gono gini Property, the husband or wife



can act upon the agreement of both parties. Meanwhile, each husband and wife have the full right to carry out legal actions regarding their property. If the marriage is broken up due to divorce, the Gono gini Assets are regulated according to their respective laws. What is meant by "law" respectively is religious law, customary law and other laws .

Law Number 1 of 1974 concerning marriage is closer to customary law and other laws and away from European civil law which is far different from Indonesian law. Which does not mean that our national marriage law has accepted customary law concerning marital property. Indeed, it may be suitable for families/households that are parental in nature, but not suitable for families/households that are patrilineal or matrilineal. Therefore in the Law the rule is used 'as long as the parties do not specify otherwise', or the rule is regulated according to their respective laws. Marital assets according to the Marriage Law are divided into two groups, namely original assets or inherited assets and Gono-Gini assets or often referred to as Gono-Gini assets. This article strictly regulates the distribution of Gono gini Assets as a result of divorce, and from this article at least four legal lines can be drawn. First, the distribution of Gono gini Assets can occur in cases of divorce and death. Second, the amount of acquisition from the Gono gini Assets is that each husband and wife receive an equal half share. Third, in cases of divorce and death, the heirs will receive a share of the Gono gini assets. Fourth, in determining Gono gini Assets, it does not take into account who is more dominant in business. That is, as long as the property is obtained during the marriage bond, it is counted as Gono gini Assets regardless of who is more dominant and contributes more.

Distribution of Gono gini Assets in cases of divorce and death, according to the provisions stipulated in Article 128 of the Civil Code and in the Marriage Law Number 1 of 1974 was changed to Law no. 16 of 2019 concerning marriage and the compilation of Islamic law, each husband and wife gets half the same share. As it is known that divorce has legal consequences not only for those who are related to the divorce, but more than that it also has legal consequences for the assets of the husband and wife obtained during the marriage in the dispute over Gono gini Assets. It is this Gonoginal Property that will become the venue for disputes between husband and wife, and the judiciary will also play a significant role in the settlement process regarding how Gono gini Assets are due to the breakup of a marriage, and what are the judges' considerations in determining the division of Gono gini Assets as a result of the divorce, and in terms of other aspects .



According to Anshary, Article 37 of the Marriage Law does not explicitly regulate how the actual rules regarding the distribution of Gono gini Assets, the article only states that the distribution of Gono gini Assets is regulated according to their respective laws as explained in the elucidation of the article. And according to the elucidation of the article, there are several alternatives that can be taken to settle the division of the Gono gini Property, namely through religious law, or customary law, or other laws.

Thus, for people who are Muslim by themselves to settle the distribution of the Gono gini Assets, of course, they will use the rules of their religious law, namely the provisions of Islamic law. In Indonesia, in the field of Gono gini Assets, Muslims in Indonesia have succeeded in formulating normative laws contained in the Al-Qur'an, Al-Hadith, and the doctrines of Islamic Jurists contained in fiqh books to become national law and constitute material law for the Religious Courts in carrying out its judicial duties in resolving disputes over Gono gini Assets between Muslims. These rules are packaged in the form of a Presidential Instruction in the form of an Islamic Law Compilation. Article 96 paragraph (1) of the compilation of Islamic law is regulated as follows: *"In the event of a death divorce, then half of the Gono gini Property becomes the right of the spouse who has lived longer"*.

Whereas in article 97 of the compilation of Islamic law it is stated: *" A divorced widow or widower each has the right to half of the Gono gini Property as long as it is not specified otherwise in the marriage agreement"*.

The division of Gono gini Assets, can be interpreted that, Article 96 of the compilation of Islamic law regulates the division of Gono gini Assets between a person who dies and his spouse who lives longer, that is, each gets half a share. Meanwhile, Article 97 of the Islamic Law Compilation stipulates the distribution of Gonoginia assets between divorced husband and wife, each of them also gets a half share. Thus it can be taken a legal line that according to the provisions of the compilation of Islamic law, both in cases of death and divorce, each spouse gets half of the Gonogyn Assets.

For Indonesians who are not Muslim, except for those who are subject to their customary laws and as long as their religious laws do not specify otherwise, then the distribution of Gono gini Assets between them refers to the provisions of Article 128 KHU civil which reads: "After the dissolution of the union, the assets of the unity are divided



into *two between husband and wife, or between their respective heirs, regardless of which party the goods were obtained from.*

From some of the contents of the article above, a legal line can also be drawn that a wife does not have the obligation to earn a living for the family, because the wife's duty according to the provisions of Article 34 paragraph (2) of the Marriage Law is to manage household affairs as well as possible. But if a wife contributes to carrying out activities of economic value whose purpose is to help her husband earn a living for the family, that is a good deed of the wife, but not an obligation. The provisions of Article 34 paragraph (2) of the Law on Marriage The wife is in charge of managing household affairs while the husband tries to make a living for the family, but in the event of a divorce, the wife still gets the same share as the share received by her husband, that is, each gets the same share. Because what is meant by the term work includes domestic tasks managing household affairs.(Mushafi and Faridy 2021)

Based on the results of an interview with Mr. Hamka Musa MH as a Judge at the Religious Court of Gorontalo City that:

"The method of distribution of the joint property is divided into $\frac{1}{2}$ of the joint property as long as it is not specified otherwise in the marriage agreement, in accordance with the contents of Article 97 KHI. Sometimes clients also ask for mediation because the litigation process takes quite a long time, not only time but also thought and energy. Therefore, a peace deed will be made so that the process does not take too long. If it is divided amicably, there must be an agreement and it is stated in the decision so that it doesn't change, there must be black and white, then there must be legal certainty. And usually the Religious Courts ask for the Divorce process to be completed first after that for the Distribution of Joint Assets.

However, studies from a legal perspective with conditions in the field of separation of Gono gini assets after the District Court's decision sometimes encounter obstacles when the decisions of the Religious Courts and District Courts have been executed by both ex-husbands or ex-wives. To see what the determinant factors that inhibit it can be seen the results of the research below.

3. Inhibiting Factors in the distribution of shared assets (gono-gini) after the decision of the Gorontalo City Religious Court .



Usually, court decisions in divorce cases in religious courts are not immediately accepted by both parties, so conflicts often occur between ex-wives and ex-husbands. But in a different field, to explore it, the researcher analyzed the results of interviews that had something to do with the object of research. (Saputra 2013) The inhibiting factors in the distribution of joint assets (gono-gini) are:

- 1) Barriers Internal factors include the lack of human resources for judges in court, as well as the knowledge of judges in resolving cases where the wife who is more dominant works to earn income while the husband does not work in this case the judge uses the principle of justice by determining the ex-wife gets $\frac{3}{4}$ share while the ex Husband gets $\frac{1}{4}$ part.
- 2) Barriers to external factors include: External factors include: The spouses between ex-husbands and ex-wives are unwilling, do not accept, or do not agree with the results of the court's decision. This factor is very often an obstacle or barrier in the distribution of joint assets.

Conclusion

Based on the results of research on the Determinant Factors for the Delay in Settlement of Gono-Gini Asset Disputes at the Religious Courts of Gorontalo City, it can be seen from the determinant factors that impede the implementation of the Religious Court's decision on the settlement of arbitrary object disputes in Gorontalo City against those who submitted requests for arbitrary separation of goods are as follows: Barriers Internal factors include; lack of human resources which results in the distribution of joint assets, and external factors, namely between ex-husbands and ex-wives who do not agree and are not willing, do not accept, the results of court decisions. Based on the results of research on the Determinant Factors for the Delay in Settlement of Gono-Gini Asset Disputes at the Religious Courts of Gorontalo City, it can be seen from the determinant factors that impede the implementation of the Religious Court's decision on the settlement of arbitrary object disputes in Gorontalo City against those who submitted requests for arbitrary separation of goods are as



follows: Barriers Internal factors include; lack of human resources which results in the distribution of joint assets, and external factors, namely between ex-husbands and ex-wives who do not agree and are not willing, do not accept, the results of court decisions.

Recommendation

There are still many who file for divorce without being accompanied by the separation of joint assets as the results of observations show that divorce cases at the Gorontalo City Religious Court from 2019 to 2021 cases received totaled 3,484 divorce claims. This data shows that the divorce rate in Gorontalo Province has increased, meaning that divorce claims will have an impact on the issue of joint property ownership or joint assets if decided by the court. Likewise with the types of cases accepted by the court, both divorce and talak divorce cases, which when accumulated over the last 3 years amounted to 1,688 contested divorces and 537 talak divorces. Furthermore, if analyzed from the number of divorce cases totaling 2,225 with a percentage of 63,863%, it shows that the problem of joint property (gono gini) for couples who have entered the Court will be the obligation of the Gorontalo City Religious Court to resolve it. the level of separation of joint assets so that other problems do not occur which result in actions that are detrimental to both parties related to the distribution of joint assets or gono gini.

References

Kamba, Sri Nanang Meiske, and Nur Moh Kasim. 2022. "Sosialisasi Pembinaan Anak Dalam Rangka Mencegah Perkawinan Di Bawah Umur Berbasis Masyarakat." *Jurnal Abdidas* 3 (4): 662–66.



Mushafi, Mushafi, and Faridy Faridy. 2021. "Tinjauan Hukum Atas Pembagian Harta Gono gini Pasangan Suami Istri Yang Bercerai." *Batulis Civil Law Review* 2 (1): 43–55. <https://doi.org/10.47268/ballrev.v2i1.473>.

Saputra, Anggi Adi. 2013. "PELAKSANAAN PEMBAGIAN HARTA BERSAMA AKIBAT PERCERAIAN DI PENGADILAN AGAMA KOTA TEGAL." *Notarius* 4 (1): 18. <https://doi.org/10.14710/nts.v4i1.5692>.