
Joint Property Rights and Post-Disaster Housing Policy in Aceh: An Analysis of Joint Titling under Indonesia's Compilation of Islamic Law (2025-2026)

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Abstract

Aceh's post-2004 tsunami reconstruction produced one of the most cited lessons in gender-responsive land policy: joint husband-wife titling in the RALAS project. Two decades later, recovery from the 2025-2026 Aceh floods raises the same question: in whose name are new land and houses recorded? This article analyzes post-flood permanent housing (huntap) policy against the RALAS experience, the doctrine of marital joint property in the Marriage Law and the Compilation of Islamic Law (KHI), and BNPB Regulation No. 2 of 2026 on gender mainstreaming in disaster management. Using comparative policy document analysis with an access-participation-control-benefit framework and no human participants, it shows that RALAS moved from male-dominated registration (68.4% in Banda Aceh and Aceh Besar; joint titles only 3.9%) to 63,181 of 222,628 titles (about 28%) issued to women alone or jointly after joint titling was adopted in late 2006. By contrast, 2025-2026 huntap policy states that certificates will be issued in the name of the household head, initially required private land ownership, and publishes no sex-disaggregated recipient data, while BNPB Regulation No. 2/2026 addresses women's access to housing but not ownership. The article terms this "institutional amnesia" and argues that the KHI's joint-property doctrine offers a religious normative basis for joint titling, not merely a secular gender norm.

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Introduction

The floods and landslides that struck Aceh, North Sumatra, and West Sumatra in late November 2025 forced the state once again to rebuild housing in Aceh on a large scale. As of 5 September 2026, Aceh needed 34,777 permanent housing units (*hunian tetap*, huntap), of which only 649 had been completed.¹ From the outset, the government promised that huntap would consist not merely of buildings but would also come with secure land status. The National Disaster Management Agency (BNPB) stated that huntap land certificates would be issued in the name of the household head,² and the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency (ATR/BPN) affirmed that certificates would be handed over once the houses were completed.³ For Aceh's predominantly Muslim society, the decision about whose name appears on a certificate is not merely a matter of land administration. It bears directly on Islamic family law concerning marital joint property and inheritance, which in Aceh is also enforced through the Mahkamah Syar'iyah (Sharia Court).

Aceh in fact has a well-documented experience with this issue. Fitzpatrick shows that in the early phase of the *Reconstruction of Aceh Land Administration System* (RALAS) project, fewer than 5% of land parcels were registered jointly in the names of husband and wife, and that the RALAS manual merely permitted, rather than required, joint registration.⁴ The World Bank later reported that after a *joint titling* policy was adopted in late 2006, 63,181 of the 222,628 certificates distributed, or about 28%, were issued in the names of women, either alone or jointly with their spouses.⁵ The World Bank's gender impact study noted that awareness of this policy remained low and recommended that all new certificates for married couples be issued in both names.⁶ More recent studies of women and property in Aceh have focused mainly on inheritance, such as egalitarian inheritance practices in South Aceh⁷ and the

¹Antara, "649 Unit Huntap di Aceh Telah Rampung, Terbanyak di Aceh Utara" [649 permanent housing units in Aceh completed, most in North Aceh], *JawaPos.com*, 8 September 2026, <https://jawapos.com/berita-daerah/2609080011/649-unit-huntap-di-aceh-telah-rampung-terbanyak-di-aceh-utara> (data from the Regional Command Post of Satgas PRR Aceh as of 5 September 2026).

²Antara, "BNPB: Korban Bencana Sumatra Terima Huntap Beserta Sertifikatnya" [BNPB: Sumatra disaster victims to receive permanent housing with certificates], *Tirto.id*, 24 December 2025, <https://tirto.id/bnpb-korban-bencana-sumatra-terima-huntap-beserta-sertifikatnya-honm>.

³Iqbal Dwi Purnama, "Nusron Wahid soal Sertifikat Tanah Jadi 'THR' Lebaran buat Korban Bencana Sumatera" [Nusron Wahid on land certificates as an Eid bonus for Sumatra disaster victims], *Okezone Economy*, 19 January 2026, <https://economy.okezone.com/read/2026/01/19/470/3196279/nusron-wahid-soal-sertifikat-tanah-jadi-thr-lebaran-buat-korban-bencana-sumatera>.

⁴Daniel Fitzpatrick, *Women's Rights to Land and Housing in Tsunami-Affected Aceh, Indonesia*, ARI Aceh Working Paper No. 3 (Singapore: Asia Research Institute, National University of Singapore, 2008).

⁵Keith Clifford Bell, "Lessons from the Reconstruction of Post-Tsunami Aceh: Build Back Better through Ensuring Women Are at the Center of Reconstruction of Land and Property," *SmartLessons* (Washington, DC: International Finance Corporation/World Bank, August 2011).

⁶World Bank, *Study on Gender Impacts of Land Titling in Post-Tsunami Aceh, Indonesia* (Jakarta: World Bank, [2010]).

⁷Harnides, Syahrizal Abbas, and Khairuddin Hasballah, "Gender Justice in Inheritance Distribution Practices in South Aceh, Indonesia," *Samarah: Jurnal Hukum Keluarga dan Hukum Islam* 7, no. 2 (2023): 1293–1316, <https://doi.org/10.22373/sjhk.v7i2.16688>.

ways in which women in Banda Aceh navigate between custom (*adat*), sharia, and state law,⁸ while studies of gender mainstreaming in disaster management in Aceh have focused on preparedness.⁹ No study has yet examined whether the lessons of RALAS were carried over into the next disaster recovery regime, and none has read *joint titling* from within the Islamic legal doctrine of marital joint property.

This article analyzes the certification policy for post-flood huntap in Aceh in 2025-2026 from the perspective of women's rights to land and housing. Specifically, it addresses three questions. First, how do public data on RALAS and huntap reveal differences in registration outcomes for women? Second, how does the policy of issuing certificates in the name of the household head relate to the doctrine of marital joint property in Law No. 1 of 1974 and the Compilation of Islamic Law (*Kompilasi Hukum Islam*, KHI), and to BNPB Regulation No. 2 of 2026? Third, what lessons from a comparison of the two reconstruction regimes can be applied before most huntap certificates are issued? The third question is urgent because, with construction progress still low, most registration decisions have not yet been made.

The article argues that the 2025-2026 huntap policy exhibits "institutional amnesia", that is, the return of a registration pattern that was corrected two decades ago because the policy lesson was never institutionalized in regulation. The principle of issuing certificates in the name of the household head, within a legal system that designates the husband as head of the family, tends to produce certificates in men's names for households headed by married couples. This pattern contradicts the doctrine of marital joint property, which treats husband and wife as co-owners of property acquired during marriage. The article further argues that the KHI's doctrine of marital joint property provides a strong religious normative basis for joint registration, so that *joint titling* in Aceh need not be presented as a gender agenda originating outside the Islamic legal tradition.

Literature Review

Women's Rights to Land

Agarwal defines women's rights to land as claims that are socially and legally enforceable and stresses the importance of independent rights, that is, rights that do not depend on a woman's status as a wife or as a member of a male-headed family.¹⁰ In her view, independent land rights matter for four reasons: welfare, efficiency, equality, and empowerment. Doss and colleagues caution that the size of the gender gap in land ownership and control depends heavily on how ownership and control are defined, so that formal ownership must be

⁸Sita Hidayah, "From Unity in Diversity to Culture Wars? Aceh Women's Mastery over Adat, Islam, and the State Inheritance Laws," *Women's Studies International Forum* 103 (2024): 102881, <https://doi.org/10.1016/j.wsif.2024.102881>.

⁹Rina Suryani Oktari et al., "Gender Mainstreaming in a Disaster-Resilient Village Programme in Aceh Province, Indonesia: Towards Disaster Preparedness Enhancement via an Equal Opportunity Policy," *International Journal of Disaster Risk Reduction* 52 (2021): 101974, <https://doi.org/10.1016/j.ijdr.2020.101974>.

¹⁰Bina Agarwal, *A Field of One's Own: Gender and Land Rights in South Asia* (Cambridge: Cambridge University Press, 1994).

distinguished from actual control.¹¹ A review by Meinzen-Dick and colleagues finds strong evidence that women's land rights are associated with bargaining power within the household, consumption decisions, and investment in children's human capital.¹² Sen explains the mechanism of this bargaining power through the idea of cooperative conflict: each household member's position is determined by his or her *fallback position*, that is, what that person would have if household cooperation broke down.¹³ A name on a title document strengthens that fallback position.

Women's rights to land can be categorized by the route through which they are acquired: inheritance, marriage, the market, and the state. Deere and León show that the state route, such as agrarian reform and titling, can either expand or narrow women's rights depending on who is designated as the program beneficiary, and that programs targeting the "household head" have historically benefited men more.¹⁴ Empirical evidence on joint titles underlines the importance of this choice. In Rwanda, land tenure regularization improved access to land for legally married women;¹⁵ in Vietnam, certificates in the names of both spouses did not reduce land productivity;¹⁶ and in eastern Nepal, joint ownership certificates were followed by increases in women's savings, access to credit, income, and participation in household decisions.¹⁷ Kabeer adds that resources such as land become meaningful for empowerment only when accompanied by agency, that is, the ability to make choices and act upon them.¹⁸ Within this categorization, ownership registration in post-disaster programs is a decisive state route, because within a short period the state issues ownership documents to tens of thousands of families at once.

Marital Joint Property in Indonesian Islamic Marriage Law

Indonesian marriage law recognizes marital joint property (*harta bersama*) as property acquired during marriage. Article 35 of Law No. 1 of 1974 distinguishes joint property from premarital property and from property acquired by either spouse as a gift or inheritance, and Article 36 provides that either spouse may act with respect to joint property with the consent of the other.¹⁹ The KHI affirms this doctrine in Articles 85 to 97. Article 92 prohibits either

¹¹Cheryl Doss et al., "Gender Inequalities in Ownership and Control of Land in Africa: Myth and Reality," *Agricultural Economics* 46, no. 3 (2015): 403–34, <https://doi.org/10.1111/agec.12171>.

¹²Ruth Meinzen-Dick et al., "Women's Land Rights as a Pathway to Poverty Reduction: Framework and Review of Available Evidence," *Agricultural Systems* 172 (2019): 72–82, <https://doi.org/10.1016/j.agsy.2017.10.009>.

¹³Amartya Sen, "Gender and Cooperative Conflicts," in *Persistent Inequalities: Women and World Development*, ed. Irene Tinker (New York: Oxford University Press, 1990), 123–49.

¹⁴Carmen Diana Deere and Magdalena León, *Empowering Women: Land and Property Rights in Latin America* (Pittsburgh: University of Pittsburgh Press, 2001).

¹⁵Daniel Ayalew Ali, Klaus Deininger, and Markus Goldstein, "Environmental and Gender Impacts of Land Tenure Regularization in Africa: Pilot Evidence from Rwanda," *Journal of Development Economics* 110 (2014): 262–75, <https://doi.org/10.1016/j.jdevco.2013.12.009>.

¹⁶Carol Newman, Finn Tarp, and Katleen van den Broeck, "Property Rights and Productivity: The Case of Joint Land Titling in Vietnam," *Land Economics* 91, no. 1 (2015): 91–105, <https://doi.org/10.3368/le.91.1.91>.

¹⁷Puspa Raj Ghimire et al., "Does Joint Land Ownership Empower Rural Women Socio-Economically? Evidence from Eastern Nepal," *Land Use Policy* 138 (2024): 107052, <https://doi.org/10.1016/j.landusepol.2024.107052>.

¹⁸Naila Kabeer, "Resources, Agency, Achievements: Reflections on the Measurement of Women's Empowerment," *Development and Change* 30, no. 3 (1999): 435–64.

¹⁹Law No. 1 of 1974 on Marriage, Articles 35 and 36.

spouse from selling or transferring joint property without the other's consent, while Articles 96 and 97 provide that the surviving or divorced spouse is each entitled to half of the joint property.²⁰ Marital joint property is not a concept imported from outside the Islamic legal tradition of the Indonesian archipelago. Tarantang and colleagues show that the concept of *harta perbantangan* in the Banjar tradition is an *ijtihād* rooted in custom and justified through *'urf* and *maṣlaḥah*.²¹ The doctrine also continues to develop: Supreme Court cassation decisions have begun to move from a rigid 50:50 division to a proportional division that takes into account economic contributions and unpaid domestic work,²² and some religious courts have awarded a larger share to wives who are the primary breadwinners.²³

The doctrine of marital joint property creates three categories of property within marriage: premarital property, personal property acquired through gift or inheritance, and joint property. This distinction determines who has authority over an asset and how it is divided when the marriage ends. A recurring problem is the mismatch between legal status and administrative status. Legally, a house acquired during marriage is joint property; administratively, its certificate often bears only one name. This mismatch places the burden of proof on the party whose name does not appear. At the Mahkamah Syar'iyah of Banda Aceh, the difficulty of proving joint property and the sale of disputed property by defendants are among the obstacles to resolving joint property cases.²⁴ Mahfiana and colleagues likewise find that patriarchal norms and limited legal understanding weaken women's rights in the division of joint property.²⁵ Fitzpatrick observed this pattern in post-tsunami Aceh and cautioned that joint registration without adequate information may actually harm women who own premarital property, because their personal property may be recorded as if it were joint property.²⁶ The KHI's categorization of property must therefore form part of the registration procedure.

Gender in Post-Disaster Recovery

The literature on gender and disasters views disasters as social events that magnify pre-existing inequalities. Enarson and Morrow show that women face disasters with resources,

²⁰Presidential Instruction No. 1 of 1991 on the Dissemination of the Compilation of Islamic Law, Book I, Articles 85–97; see also Law No. 1 of 1974, Articles 35–36.

²¹Jefry Tarantang et al., "Rereading the Concept of Joint Property: Fiqh Literacy in the Book of Sabilal Muhtadin and the Genealogy of Sheikh Arsyad's Thoughts," *Samarah: Jurnal Hukum Keluarga dan Hukum Islam* 8, no. 3 (2024): 1840–58, <https://doi.org/10.22373/sjhk.v8i3.23016>.

²²Nur Lailatul Musyafaah Darmawan, Mohammad Ikhwanuddin, and Muhammad Syafiq Mughni, "Istiḥsān and Judicial Recalibration of Marital Property Rights in Indonesia's Religious Courts," *AHKAM: Jurnal Ilmu Syariah* 26, no. 1 (2026): 131–48, <https://doi.org/10.15408/ajis.v26i1.50333>.

²³Zulkifli Nasution, Dhiauddin Tanjung, and Hasan Matsum, "The Position of the Wife as the Primary Breadwinner in the Division of Joint Property: A Legal Review of Decision No. 2388/Pdt.G/2023/PA.Im," *Al-Risalah: Jurnal Ilmu Syariah dan Hukum* 25, no. 2 (2025): 776–91, <https://doi.org/10.24252/al-risalah.vi.61691>.

²⁴Mohd Kalam Daud and Ridha Saputra, "Problematika Penyelesaian Perkara Kumulasi Gugatan Perceraian dan Harta Bersama (Studi Kasus di Mahkamah Syar'iyah Banda Aceh)" [Problems in resolving cumulative claims for divorce and joint property: A case study at the Mahkamah Syar'iyah of Banda Aceh], *Samarah: Jurnal Hukum Keluarga dan Hukum Islam* 1, no. 2 (2017): 436–57.

²⁵Layyin Mahfiana et al., "Influence of Religion and Culture on Women's Rights in Joint Property Settlements in Java, Indonesia," *Ijtihad: Jurnal Wacana Hukum Islam dan Kemanusiaan* 25, no. 1 (2025): 117–38, <https://doi.org/10.18326/ijtihad.v25i1.117-138>.

²⁶Fitzpatrick, *Women's Rights to Land and Housing*.

roles, and vulnerabilities that differ from those of men.²⁷ Bradshaw adds that the reconstruction phase is often treated as a technical matter of physical construction, even though this phase determines the long-term distribution of assets.²⁸ More recent literature emphasizes that women are active agents of recovery rather than mere victims,²⁹ and that gender mainstreaming in reconstruction, as studied in post-earthquake reconstruction in Bantul and Sleman, must simultaneously protect women's vulnerabilities and draw on their capacities.³⁰ Global normative trends point in the same direction. The Sendai Framework 2015–2030 states that empowering women to lead gender-equitable approaches to recovery and reconstruction is key,³¹ while CEDAW General Recommendation No. 37 calls for priority to be given to eliminating discrimination in the ownership, access, control, and inheritance of property and land, and stresses women's access to official documents, including land registration documents.³² In Indonesia, this trend is reflected in BNPB Regulation No. 2 of 2026, which replaced the 2014 gender mainstreaming regulation.³³

In Indonesian policy, gender mainstreaming is commonly operationalized through four dimensions: access, participation, control, and benefit (APKM). BNPB Regulation No. 2 of 2026 includes control over resources as one of its indicators³⁴ and requires the use of disaggregated data in implementing gender mainstreaming.³⁵ These four dimensions manifest differently in recovery. Access concerns whether women can obtain *huntau*; participation concerns women's involvement in planning and verification; control concerns who has authority over the asset, including whose name appears on the certificate; and benefit concerns who enjoys the asset over the long term. The distinction matters because a policy can be gender-responsive in one dimension yet neutral, or even biased, in another. Oktari and colleagues found a similar pattern in the Disaster-Resilient Village program in Aceh, with the finding that gender equality had been achieved only procedurally and not substantively.³⁶

The three bodies of literature above have weaknesses when applied to Aceh. The literature on women's land rights, including Agarwal and Deere and León, was built mainly on South Asian and Latin American contexts and therefore tends to position religious and customary law as obstacles to women's rights, whereas studies in Aceh show that women actively and

²⁷Elaine Enarson and Betty Hearn Morrow, eds., *The Gendered Terrain of Disaster: Through Women's Eyes* (Westport, CT: Praeger, 1998).

²⁸Sarah Bradshaw, *Gender, Development and Disasters* (Cheltenham: Edward Elgar, 2013).

²⁹Julie Drolet et al., "Women Rebuilding Lives Post-Disaster: Innovative Community Practices for Building Resilience and Promoting Sustainable Development," *Gender & Development* 23, no. 3 (2015): 433–48, <https://doi.org/10.1080/13552074.2015.1096040>.

³⁰Tri Yumarni and Dilanthi Amaratunga, "Gender Mainstreaming as a Strategy to Achieve Sustainable Post-Disaster Reconstruction," *Built Environment Project and Asset Management* 8, no. 5 (2018): 544–56, <https://doi.org/10.1108/BEPAM-10-2017-0086>.

³¹United Nations Office for Disaster Risk Reduction, *Sendai Framework for Disaster Risk Reduction 2015–2030* (Geneva: UNISDR, 2015), para. 32.

³²Committee on the Elimination of Discrimination against Women, *General Recommendation No. 37 (2018) on the Gender-Related Dimensions of Disaster Risk Reduction in the Context of Climate Change*, CEDAW/C/GC/37 (13 March 2018), paras. 31(a) and 38(c).

³³National Disaster Management Agency (BNPB) Regulation No. 2 of 2026 on Gender Mainstreaming in Disaster Management, enacted 6 July 2026, Article 38 (revoking BNPB Regulation No. 13 of 2014).

³⁴BNPB Regulation No. 2 of 2026, Article 5(c).

³⁵BNPB Regulation No. 2 of 2026, Article 1(19) and Article 21.

³⁶Oktari et al., "Gender Mainstreaming."

strategically use custom, sharia, and state law.³⁷ Studies of marital joint property in Indonesian Islamic law are strong on division when a marriage ends but rarely address the registration stage, even though it is at that stage that the owner's name is fixed. The literature on gender and disasters is rich on the dimensions of access and participation but seldom addresses control over assets. This article fills these gaps by treating marital joint property in the KHI as a normative source for joint registration and by focusing the analysis on the dimension of control in recovery policy.

Methods

The object of this study is the policy for registering land and housing ownership in two disaster recovery regimes in Aceh: the 2005–2009 post-tsunami reconstruction under the Rehabilitation and Reconstruction Agency (BRR) and the RALAS project, and the 2025–2026 post-flood recovery through the huntap program. Aceh was selected for three reasons. First, it is the only region in Indonesia that has experienced two large-scale reconstruction regimes within two decades, which allows a diachronic comparison within a single society. Second, the RALAS experience has been publicly documented by international agencies and scholars. Third, Aceh has a Mahkamah Syar'iyah with jurisdiction over joint property and inheritance cases, so that the relationship between Islamic family law and land policy is concrete.

This is a qualitative study using a comparative policy document analysis design combined with a normative juridical approach. Document analysis was chosen because all the policy decisions examined are recorded in documents that can be publicly verified.³⁸ All data are secondary and fall into four types: (1) legislation, namely Law No. 5 of 1960, Law No. 1 of 1974, the KHI, BNPB Regulation No. 6 of 2017, and BNPB Regulation No. 2 of 2026; (2) RALAS evaluation reports from the World Bank and the Asia Research Institute; (3) official statements by BNPB, Ministry of ATR/BPN, and local government officials published in national media; and (4) huntap progress data compiled by the Task Force for the Acceleration of Rehabilitation and Reconstruction in Aceh (Satgas PRR Aceh).

The study involved no human participants and collected no data from disaster survivors. This decision was made deliberately to avoid placing an additional burden on survivors who are still in the recovery phase and to ensure that every claim in the article can be checked by readers. The place of informants is taken by a corpus of documents selected purposively according to three criteria: issued by an official institution or containing statements by identifiable officials; containing information on recipients, ownership, or asset registration; and publicly accessible. The officials whose statements were analyzed include the Executive Chair of the BNPB Steering Committee, the Minister of ATR/Head of BPN, the Regent of Bireuen, and the Head of the Regional Command Post of Satgas PRR Aceh.

The research was conducted in four stages in September–October 2026. The first stage traced RALAS documents to identify data on the distribution of certificates by sex and the chronology of the *joint titling* policy. The second stage traced official statements and

³⁷Hidayah, "From Unity in Diversity to Culture Wars?"

³⁸Glenn A. Bowen, "Document Analysis as a Qualitative Research Method," *Qualitative Research Journal* 9, no. 2 (2009): 27–40.

regulations on huntap in 2025–2026 using the keywords “certificate”, “household head”, “land”, and “recipient”. The third stage traced provisions of marriage and agrarian law relevant to ownership registration. The fourth stage was an article-by-article reading of BNPB Regulation No. 2 of 2026 to map provisions concerning access, participation, control, and benefit in rehabilitation and reconstruction. Each document was recorded with its date and source of publication.

The data were analyzed using two techniques. The first was a diachronic comparative analysis comparing the two reconstruction regimes on four variables: who was designated as recipient, in whose name certificates were issued, whether sex-disaggregated data were available, and whether there were specific provisions on marital joint property. The second was an APKM gender analysis applied to each policy provision and statement to determine which dimensions were regulated and which were not. The results of both techniques were then tested against the norms of marriage law to assess whether the policy was consistent with, neutral toward, or in conflict with the doctrine of marital joint property. Validity was ensured through source triangulation and through a strict distinction between policy statements, binding regulations, and implementation data.

Results

Evidence 1: Statistical Data from Two Reconstruction Regimes

The RALAS data reveal a sharp change. In the early phase, certification in Banda Aceh and Aceh Besar showed that 68.4% of land parcels were registered in the names of men alone, 27.7% in the names of women alone, and only 3.9% jointly.³⁹ Yet before the tsunami, 74.7% of widows and 68.5% of female household heads among displaced persons reported owning land.⁴⁰ By May 2007, only about 20,000 certificates had been distributed.⁴¹ After the *joint titling* policy was formulated in late 2006 by BPN together with BRR and the Aceh Government, the final RALAS results recorded 63,181 of 222,628 certificates, or about 28%, issued in the names of women, alone or jointly with their spouses.⁴² For huntap in 2025–2026, the only available data concern the number of units: 34,777 units needed and 649 completed as of 5 September 2026, or about 1.9%.⁴³ There are no public data on huntap recipients by sex or marital status (Table 1).

Table 1. Comparison of Public Data from Two Reconstruction Regimes in Aceh

Variable	Post-tsunami reconstruction (RALAS)	Post-flood recovery (huntap)
Scale of registration	222,628 certificates distributed	34,777 huntap units needed; 649 completed (5 Sep 2026)
Initial registration	68.4% men; 27.7% women; 3.9% joint (Banda Aceh and Aceh Besar)	Certificates in the name of the household head (BNPB statement, 24 Dec 2025)

³⁹Fitzpatrick, *Women’s Rights to Land and Housing*.

⁴⁰Fitzpatrick, *Women’s Rights to Land and Housing*.

⁴¹Fitzpatrick, *Women’s Rights to Land and Housing*.

⁴²Bell, “Lessons from the Reconstruction of Post-Tsunami Aceh.”

⁴³Antara, “649 Unit Huntap di Aceh Telah Rampung.”

Variable	Post-tsunami reconstruction (RALAS)	Post-flood recovery (huntap)
Corrective policy	Joint titling adopted in late 2006	None yet
Outcome for women	63,181 certificates (approx. 28%) in women's names, alone or jointly	Not published
Sex-disaggregated data	Available in evaluation reports	Not available in public progress data

Source: compiled from Fitzpatrick (2008), Bell (2011), BNPB statements, and Satgas PRR Aceh data as cited in the footnotes.

The difference in these figures is explained by policy rather than by changes in the community's ownership structure. At the start of RALAS, the project manual merely permitted joint registration without requiring it, so officials and communities followed the habit of recording men's names.⁴⁴ The gap between women's claims of ownership before the tsunami and the low level of registration in women's names after the tsunami shows that the certification process can erase rights that were previously recognized socially. The increase to about 28% occurred after the policy explicitly opened registration in women's names, both individually and jointly.⁴⁵ The lesson of these data is that registration outcomes are highly sensitive to the *default* rule set by policy. When the default is a single name, that name tends to be a man's.

When the RALAS data are set against the huntap policy, it becomes clear that the huntap policy repeats the initial conditions of RALAS rather than the conditions after correction. The principle of issuing certificates in the name of the household head is a single-name default rule. The absence of sex-disaggregated recipient data means that the outcomes of this policy cannot be monitored, unlike RALAS, whose outcomes could be measured because they were accompanied by evaluation reports. The slow progress of huntap, however, offers an opportunity. With about 98% of units still unfinished as of September 2026, most certificates have not yet been issued, so the policy can still be corrected before single-name registration becomes an administrative fact that is difficult to change.

Evidence 2: Normative and Regulatory Data

A reading of the regulations reveals three relevant layers of norms. The first is agrarian law: Article 9(2) of Law No. 5 of 1960 guarantees that every citizen, male or female, has an equal opportunity to acquire rights to land.⁴⁶ The second is marriage law: Articles 35–36 of Law No. 1 of 1974 and Articles 85–97 of the KHI define property acquired during marriage as joint property that may be transferred only with the consent of both spouses.⁴⁷ However, Article 31(3) of Law No. 1 of 1974 also designates the husband as the head of the family.⁴⁸ The third is disaster regulation: BNPB Regulation No. 2 of 2026 governs the participation of target groups in rehabilitation and reconstruction, consideration of the needs of target groups in

⁴⁴Fitzpatrick, *Women's Rights to Land and Housing*.

⁴⁵Bell, "Lessons from the Reconstruction of Post-Tsunami Aceh."

⁴⁶Law No. 5 of 1960 on Basic Agrarian Principles, Article 9(2): "Every Indonesian citizen, whether male or female, has an equal opportunity to acquire rights to land."

⁴⁷KHI, Arts. 85–97.

⁴⁸Law No. 1 of 1974 on Marriage, Article 31(3): "The husband is the head of the family and the wife is the mother of the household."

huntap, and fair access to huntap and its facilities and infrastructure, but contains no provision on in whose name recovery assets are to be registered.⁴⁹

These three layers of norms explain why the principle of “in the name of the household head” is problematic. In households headed by married couples, the provision that the husband is the head of the family makes a certificate in the name of the household head almost certainly a certificate in the husband’s name. Yet huntap received by a married couple from the state during marriage constitutes joint property under Article 35 of Law No. 1 of 1974 and the KHI. As a result, the legal status and the administrative status of the house diverge from the very first day. For households headed by women, such as widows affected by the floods, the household-head principle is actually favorable, because the certificate will be registered in their names. The problem, then, lies not with women as a general category but with wives in married households, who are far more numerous and whose rights are hidden behind their husbands’ names.

The relationship among the three layers of norms reveals a gap in the dimension of control. BNPB Regulation No. 2 of 2026 conceptually recognizes control over resources as an indicator of gender equality,⁵⁰ but its operational provisions on huntap stop at access and participation.⁵¹ Provisions on ownership registration lie in the domain of land law, while provisions on marital joint property lie in the domain of family law. None of these three domains contains a bridge requiring joint property to be registered jointly in recovery programs. It is this gap that allows the default rule of population administration, namely the household head, to fill the space that ought to be filled by the doctrine of marital joint property. In Sen’s framework, this gap weakens the wife’s fallback position: if the marriage ends, the wife must prove her right to a house that does not bear her name.⁵²

Evidence 3: Comparative Case Study of RALAS and Huntap

The first case is RALAS. The project was implemented by BPN with funding from the Multi Donor Fund to rebuild land administration after land documents and boundaries were lost in the tsunami. In addition to the *joint titling* policy, RALAS worked with mobile Mahkamah Syar’iyah courts to determine heirs and guardians for orphans and used community-based land mapping.⁵³ The second case is post-flood huntap. In January 2026, the first phase of 1,000 huntap units in Bireuen Regency was allocated to victims who had completed data collection and owned private land, while more than a thousand families who had lost their land were asked to wait.⁵⁴ In the same month, the Minister of ATR/Head of BPN stated that certificates would be issued after the houses were completed by subdividing land parcels, and that the idea of handing over certificates earlier still needed to be discussed.⁵⁵

⁴⁹BNPB Regulation No. 2 of 2026, Article 35(a), (d), (e), and (f).

⁵⁰BNPB Regulation No. 2 of 2026, Art. 5(c).

⁵¹BNPB Regulation No. 2 of 2026, Art. 35.

⁵²Sen, “Gender and Cooperative Conflicts.”

⁵³Fitzpatrick, *Women’s Rights to Land and Housing*.

⁵⁴Whisnu M., “Pembangunan 1.000 Huntap Korban Bencana di Bireuen Sementara untuk Warga Pemilik Lahan Pribadi” [Construction of 1,000 permanent housing units for disaster victims in Bireuen initially for residents who own private land], *Metrotvnews.com*, 8 January 2026, <https://www.metrotvnews.com/read/KRXCQnpl-pembangunan-1000-huntap-korban-bencana-di-bireun-sementara-untuk-warga-pemilik-lahan-pribadi>.

⁵⁵Purnama, “Nusron Wahid soal Sertifikat Tanah.”

The two cases reveal differences in how the state treats registration. In RALAS, registration was treated as a socio-legal process involving the community and the religious courts, so that questions of inheritance, guardianship, and marital property could be resolved together with certification. The *joint titling* policy emerged from that process after early data revealed inequalities. In the huntap policy, registration is treated as the final stage of physical construction: houses are built first, and certificates are issued afterwards. The private land requirement in Bireuen shows that old certificates have become the gateway to new houses, so that past inequalities in registration may carry over into new assets. The experience of post-tsunami Banda Aceh shows that reconstruction decisions that appear technical can have unintended long-term socio-economic consequences, including pushing poor households into high-risk coastal areas.⁵⁶ The same may happen with the name on the certificate: if the old land is registered in the husband's name, the huntap built on it is very likely also to be registered in the husband's name, even though the house was built with public funds for the whole family.

When the three bodies of evidence are put together, a consistent picture emerges. The statistical evidence shows that a single-name default produces male-dominated registration and that a policy correction can change this significantly. The normative evidence shows that the doctrine of marital joint property provides a legal basis for joint registration but that no regulatory bridge requires it in disaster recovery. The case study evidence shows that the RALAS experience, including cooperation with the Mahkamah Syar'iyah, is absent from the design of the huntap policy. All three support the argument of institutional amnesia: a lesson already proven in Aceh was not institutionalized and therefore has to be relearned in the next recovery regime.

Discussion

The findings can be summarized in three points. First, the RALAS data show that the name on a certificate is strongly determined by the policy's default rule: joint registration accounted for only 3.9% when it was optional, and certificates bearing women's names reached about 28% after the *joint titling* policy was adopted. Second, the 2025–2026 huntap policy returns to a single-name default through the household-head principle, which in married households is inconsistent with the status of joint property under Law No. 1 of 1974 and the KHI. Third, BNPB Regulation No. 2 of 2026 regulates women's access to and participation in huntap but does not regulate the dimension of control over assets.

These findings reaffirm the thesis of Agarwal and of Deere and León that the state route can expand or narrow women's land rights depending on who is designated as the recipient,^{57,58} and are consistent with evidence from Nepal that joint titles strengthen women's economic position.⁵⁹ However, the findings also correct the tendency of that literature to position religious law as an obstacle. In the case of Aceh, Islamic family law as codified in the KHI in fact

⁵⁶Jamie W. McCaughey et al., "Socio-Economic Consequences of Post-Disaster Reconstruction in Hazard-Exposed Areas," *Nature Sustainability* 1, no. 1 (2018): 38–43, <https://doi.org/10.1038/s41893-017-0002-z>.

⁵⁷Agarwal, *A Field of One's Own*.

⁵⁸Deere and León, *Empowering Women*.

⁵⁹Ghimire et al., "Does Joint Land Ownership Empower Rural Women?"

provides the strongest basis for joint registration, because the KHI defines marital property as jointly owned and prohibits unilateral transfer; this accords with readings of Islamic inheritance as balanced justice in the practice of communities in South Aceh.⁶⁰ The obstacle comes not from religious doctrine but from the administrative rule on the household head. The findings also extend the literature on gender and disasters. Şeremet and colleagues show that in post-earthquake recovery housing in Van, patriarchal structures and women's family status continued to shape their vulnerability years after relocation,⁶¹ while Oktari and colleagues found that equality in Aceh remained merely procedural.⁶² This article shows that the gap between procedural and substantive equality is sharpest in the dimension of control over assets.

These findings should be read with the conditions facing implementers on the ground in mind. The government is under heavy pressure to move tens of thousands of families out of evacuation centers and temporary shelters quickly, so administrative simplifications such as the household-head principle can be understood as an effort to speed things up. Yet the RALAS experience shows that such acceleration carries deferred costs. The mismatch between legal and administrative status is invisible when the house keys are handed over and emerges only in the event of divorce, the husband's death, or an inheritance dispute, which usually occur years later and come before the Mahkamah Syar'iyah, where proving joint property is already known to be a difficult point.⁶³ In other words, today's speed is paid for with a future burden of proof borne by women. This reflection also shows that policy lessons do not survive in evaluation reports alone; they survive only if they are written into regulation.

The significance of these findings lies in scale and timing. Huntap certificates will be the main ownership documents for tens of thousands of families in Aceh for a generation or more. Decisions about the names on certificates taken in 2026–2027 will determine wives' bargaining position within the household, the rights of widows and children in the division of inheritance, and women's access to financing that requires collateral. Because huntap progress stood at only about 1.9% as of September 2026, most of these decisions have not yet been made. The findings are also significant for Indonesia more broadly, because major disasters keep recurring and every recovery regime will face the same question. Without binding regulation, each regime risks repeating the initial mistake of RALAS.

Why were the lessons of RALAS not carried over? There are at least three explanations. First, the RALAS *joint titling* policy was a donor-funded project policy rather than legislation, so it ended when the project ended. Second, the recovery institutions changed: BRR has been dissolved, and the 2025–2026 recovery is run by BNPB, line ministries, and new task forces that did not inherit BRR's institutional memory. Third, the division of authority among disaster management, land administration, and family law means that each institution handles only its own part. BNPB regulates access to huntap, BPN regulates certificates, and the Mahkamah

⁶⁰Harnides, Abbas, and Hasballah, "Gender Justice in Inheritance."

⁶¹Mehmet Şeremet et al., "Precarity and Patriarchal Bargain: Women's Experiences in Post-Disaster Recovery Housing after the 2011 Van Earthquake," *Gender, Place & Culture* 31, no. 7 (2024): 954–78, <https://doi.org/10.1080/0966369X.2023.2229063>.

⁶²Oktari et al., "Gender Mainstreaming."

⁶³Daud and Saputra, "Problematika Penyelesaian Perkara Kumulasi."

Syar'iyah handles joint property disputes after a marriage ends. No institution is responsible for ensuring that the three domains meet at the moment of registration.

Based on these findings, four steps can be taken before most huntap certificates are issued. First, the Ministry of ATR/BPN and BNPB could issue guidelines requiring huntap received by married couples to be registered in the names of both husband and wife, citing Articles 35–36 of Law No. 1 of 1974 and Articles 85–97 of the KHI as the legal basis. Second, recipient registration forms should include mandatory questions on marital status and property status, as Fitzpatrick recommended for RALAS,⁶⁴ so that women's premarital property is not recorded incorrectly. Third, Satgas PRR Aceh should publish data on recipients and certificate holders disaggregated by sex and marital status, in line with the requirement for disaggregated data in BNPB Regulation No. 2 of 2026.⁶⁵ Fourth, the Mahkamah Syar'iyah and Acehnease ulama could be involved in public outreach explaining that joint registration is an embodiment of the doctrine of marital joint property, and in disputes that arise later, judges can refer to the guidelines for adjudicating cases involving women in conflict with the law set out in Supreme Court Regulation (PERMA) No. 3 of 2017.⁶⁶

Conclusion

The most important finding of this article is that the certification policy for post-flood huntap in Aceh in 2025–2026 repeats the initial conditions of RALAS rather than the conditions after its correction. By setting certificates in the name of the household head, the policy revives the single-name default that two decades ago was shown to produce male-dominated registration. Unlike earlier studies that stopped at the post-tsunami era, this article shows that policy lessons can be lost when recovery regimes change, and it names this phenomenon institutional amnesia.

The article makes two conceptual contributions. First, it shows that the doctrine of marital joint property in Law No. 1 of 1974 and the KHI can serve as a religious normative basis for joint registration, so that *joint titling* can be positioned as an implementation of Islamic family law rather than as a gender agenda from outside. Second, it offers the concept of institutional amnesia to explain the loss of policy lessons between disaster recovery regimes. Its methodological contribution is a diachronic comparative design of two reconstruction regimes within a single society, using public data and an APKM analysis focused on the dimension of control.

This study has three limitations. First, because sex-disaggregated data on huntap recipients have not been published, the article cannot measure what percentage of huntap certificates will be or have been registered in women's names; the analysis rests on rules and policy statements. Second, the officials' statements analyzed may change as the policy develops, so the findings reflect the situation as of October 2026. Third, the study does not directly present the experiences of women survivors. Further research should trace data on huntap certificates

⁶⁴Fitzpatrick, *Women's Rights to Land and Housing*.

⁶⁵BNPB Regulation No. 2 of 2026, Art. 21.

⁶⁶Muhammad Isna Wahyudi, "Women Dealing with the Law in Religious Courts," *AHKAM: Jurnal Ilmu Syariah* 18, no. 2 (2018): 305–20, <https://doi.org/10.15408/ajis.v18i2.7491>.

already issued through public information disclosure mechanisms, analyse joint property cases at the Mahkamah Syar'iyah involving post-disaster assets, and conduct ethical field research with women survivors on their understanding and experience of ownership registration.

Declarations

Use of AI

The authors used an AI assistant (Claude, Anthropic) to support source searching, drafting, language editing, and translation. All data, quotations, and references have been rechecked by the authors, who take full responsibility for the content of the manuscript.

Author contributions

All authors contributed to the conceptualization, methodology, analysis, drafting, and revision of the manuscript. All authors read and approved the final version.

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Conflict of interest

The authors declare no conflict of interest.

Research ethics

This study uses only public documents and data and involves no human participants, including disaster survivors.

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