AN INTERLEGALITY-BASED ETHNOGRAPHY OF LIVING FIQH IN MINANGKABAU MARRIAGE PRACTICES

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Received: 15/07/2025	Revised: 07/10/2025	Approved: 20/11/2025

DOI: 10.32332/akademika.v30i2.11259

Abstract
This article explores the issue of ethnographic-based interlegality of living fiqh in Minangkabau marriage practices. The purpose is to explain the uniqueness of negotiation and the embodiment of Islamic jurisprudence within Minangkabau socio-cultural settings. This study emphasizes the cognitive biases of the dichotomy between local-global, peripheral-central, and traditional-modern. The data examined came from the experience of the Minangkabau community in internalizing Islamic marriage law as a living legal practice, ranging from the marriage procedure, marriage contract, *walimah*, mediation, to divorce. This research collected, analyzed, and interpreted empirical legal data that reveals the integration of Islamic, customary and state legal norms in marriage practice. The findings of this study show the existence of a legal tripartite legal construction: first, the practice of customary marriage formed by Islamic jurisprudence. Second, the awareness of Islamic law is influenced by customary law. Third, the regulatory intervention of the state that wants the formation of harmonization between customs and Islam. This study has implications for living fiqh literacy which shows the universal principles of sharia law in cross-cultural life.

Keywords: Interlegality; Living Fiqh; Islamic Family Law; Legal pluralism; *Maqashid Syari'ah*

A. Introduction

Firstly, it is necessary to emphasize the epistemological boundary between two important premises in Islamic studies: that "Islamic religion" and "Islamic thought" are two different things. Both need to be placed in a proportional definition (Abdullah, 2001, 2014; Sirozi, 2008). Otherwise, it is feared that discussions about Islamic thought, especially contemporary *ahwal fiqh*, will be trapped in the practice of diluting meaning and failing to think scientifically, which should be comprehensive and progressive.

This paper intends to explain matters that are within Islamic thought only. Specifically, it attempts to understand the dynamics of scholarship in the realm of Living Fiqh, a study that explores how fiqh is accepted and/or rejected based on the

thinking and Islamic understanding of its adherents (Ahimsa-Putra, 2012; Qudsy, 2016). Islamic thought in the aspect of fiqh, is included in the *umūru ad-dunya* (worldly affairs) that have been guaranteed by the Prophet, as aspects that only "we" can know the level of authority well.

Based on legal literature, there are academic debates that form the basis for this study. The concept of living law proposed by Eugen Ehrlich (1913) emphasises law as a social practice that lives in society, not just a normative text (Utama, 2020). Legal pluralism studies (Suartina, 2014) It highlights the existence of various legal systems operating simultaneously in one social space. In the Indonesian context, the discourse of Living Fiqh (Ahimsa-Putra, 2012; Harisudin, 2017; Wimra et al., 2023) shows how Islamic law transforms when it comes into contact with *adat* and state law. This article positions itself in the intersection of these debates by using an interlegal framework to read the dynamics of fiqh in Minangkabau.

Furthermore, the same literature search, as referenced from the book on the new directions of Islamic studies (Sirozi, 2008) who questioned the possibility of the direction of Islamic studies that no longer indicated dichotomous (Abdullah, 2014). The division of approaches into two indicators alone is actually a legacy of postmodernism, which has failed. The division of scientific paradigms into traditional on the one hand and modern on the other. Furthermore, the structure of the base versus the supra-structure, the peripheral (regional) *kaula* as opposed to the citizens of the center (Abdullah, 2001). Practices of fiqh that are fairly simple and implemented in the habitus of customary law communities are positioned as traditional models. Regulations drafted by the state in collaboration with the community of ulama holding fiqh authority are referred to as modern forms. This dichotomous nuance also has an impact on cultural practices to patterns of acceptance, rejection and negotiation of legal authority between state law, Islamic law and customary law.

Pre-marital activities such as proposing, the procession of marriage contracts, marriage registration, walimah, mediation of marital conflicts, and various fiqh activities in the field of marriage that the state wants for administrative order, are not necessarily complied with because the classical fiqh practiced by the community does not explain the administrative mechanism. On the same issue, the Islamic community, which understands Islam from a Sufism perspective, criticizes the fiqh state procedure as an imperfect form of marriage. This style of legal thinking is demonstrated through the practice of *nikah batin* and *nikah mamak* in the Shathariyah community in Pariaman (Amir & Hidayat, 2019). The marriage regulated by the state and fiqh is only a physical marriage, not a spiritual marriage.

Based on a critical reading of the available literature, there is a research gap that needs to be addressed. Previous studies have mostly highlighted specific cases or practices partially, without presenting a comprehensive synthesis of the general pattern of interaction between adat, sharia and the state. The research questions raised are: (1) how do Minangkabau marriage practices reflect the interlegalities between adat, fiqh and state law when viewed through a synthesis of previous literature? and (2) how can inter-legalities-based meta-ethnography enrich contemporary Islamic family law studies?

This article makes three contributions. First, empirically, this article presents a systematic compilation of previous research findings on marriage practices in Minangkabau, ranging from *khitbah*, dowry, *akad*, conflict mediation, divorce, to inheritance. Second, theoretically, this article extends the application of the concept of interlegality in the study of Islamic family law, by showing how fiqh categories are reinterpreted through socio-customary practices. Third, methodologically, this article

offers interlegality-based meta-ethnography as an approach to re-reading and synthesizing existing ethnographic data, thus providing a fuller picture of the dynamics of law in society

B. Methods

This research uses meta-ethnography (Noblit & Hare, 1988) as a methodological approach. The primary data did not come from new field observations, but rather from a synthesis of previous research documenting Minangkabau family law practices. The corpus analyzed consisted of twelve academic works in the form of relevant journal articles, dissertations and monographs, with inclusion criteria: (1) directly examining Minangkabau marriage practices, (2) based on field data with informants such as *ninik mamak*, ulama, married couples, and KUA officials, and (3) published by credible academic institutions. With this approach, the research departs from "textual informants" to build a comprehensive picture of the dynamics of living fiqh.

The field logistics were derived from previous studies, covering nagari in West Sumatra such as Padang, Pariaman, Agam and Tanah Datar, as well as the overseas context. The timeframe of the referenced research spans from 1986 to 2023, providing a longitudinal perspective on relatively consistent practice patterns. The language factor was also considered, as some of the data was recorded in Minangkabau and then translated into Indonesian in the academic report. To preserve meaning, the meta-ethnographic process compared multiple sources to maintain contextual nuance.

Data processing was carried out through several stages: identification of relevant literature, grouping findings by theme (*khitbah*, dowry, contract, mediation, divorce, inheritance), iterative thematic coding, and preparation of an interlegality matrix to map the interaction of adat, fiqh, and state law. Validity was maintained through inter-source triangulation, cross-checking with fiqh and adat documents, and the author's reflexivity in her position as a secondary reader. Ethical aspects are maintained by honestly mentioning all sources, not revealing individual identities because they have been anonymized by the original researcher, and using neutral and non-stigmatizing terms. Thus, this method not only presents an empirical synthesis, but also confirms the relevance of interlegalities-based meta-ethnography for understanding living fiqh in Indonesia.

C. Findings and Discussion

1. Findings

Ethnographic Realities of Living Fiqh in Minangkabau Marriages

Exploration of the practice of fiqh that lives in the community actually observes how the existence of fiqh values in current practices (Wimra et al., 2023). The object that is the focus of his study is the knowledge and practice of fiqh that is embedded and implemented integratively in the realm of 'urf in contemporary Muslim society. This research discipline produces an explanation of the construction and patterns of acceptance and rejection of fiqh by people who already have a legal culture before and after the arrival of fiqh.

An examination of the practice of fiqh in the community shows that Islamic normative values do not stop at the text, but are embedded in daily life through the customs (*'urf*) that are practised together. In the Minangkabau context, family law shows how Islamic norms, customs, and state law meet, negotiate, and even compete. This phenomenon confirms the living law view, legal pluralism (Utama, 2020), to interlegality that law actually exists in plural social practices.

The field findings show that the practice of marriage in Minangkabau shows the

dynamics of living fiqh born from the encounter of custom, sharia and state law. The *khitbah* procession by the woman is legalized by custom and fiqh and accommodated by the state, while the tradition of dowry or *japuik* money is negotiated from a material burden to a symbol of responsibility. Marriage ceremonies gain polycentric legitimacy because they are sanctioned by *shar'i*, recognized by adat, recorded by the state, and sometimes even given the blessing of tarekat. The resolution of domestic conflicts is first pursued through customary mediation (*manjapuik*) before involving state procedures. In sensitive cases such as divorce, muhallil, or inheritance, there is often a tug-of-war between classical fiqh, *adat pusako*, and state regulations, which is then resolved through family compromise. All of these practices confirm that living fiqh in Minangkabau is dynamic, flexible and constantly negotiated according to social, cultural and legal needs. To clarify this interaction pattern, the following table summarises the practice of living fiqh in Minangkabau family law:

Table 1. Living Fiqh Practices in Minangkabau Family Law

No	Practice	Actors	Norms (adat/fiqh/state)	Interactions	Outcome	Implication
1	Khitbah (pinang-meminang)	Women, family, ninik mamak	Matrilineal custom; fiqh khitbah; KUA rules	Custom precedes, fiqh is flexible, state accommodates	Khitbah by the woman is socially & fiqh valid	ʿUrf ṣaḥīḥ, maqāṣid (ridha, silaturrahmi)
2	Dowry (maisi sasuduik, uang japuik, uang hilang)	Men, women, extended family	Minang custom; fiqh of dowry (QS 4:4); state law	Negotiating adat & fiqh values	Symbolic variation; sometimes social burden	Reinterpreting dowry: a symbol of responsibility, not prestige
3	Akad & Baralek	Ninik mamak, penghulu, KUA, ulama tarekat	Fiqh munakahat; adat; state regulation	State treaties supplemented by adat & tarekat	Polycentric legitimacy	Interlegality as sharia-adat-state harmony
4	Mediation (manjapuik)	Ninik mamak, bundo kanduang, extended family	Adat basandi syarak; fiqh islah; state law	Customary mediation is more dominant	Conflict resolved without trial	Integration into KUA procedures; social fiqh model
5	Talak 3 & Muhallil	Husband, wife, penghulu, KUA	Fiqh talak (al-Nawawi); local customs	The difference between classical fiqh & adat bacindua	Adat is considered a solution but fiqh rejects it	Distinguish between valid ʿurf & fasid ʿurf
6	Warisan	Male & female heirs	Fiqh faraidh; adat pusako; state law	Compromise between high pusako &	Man hands over	Social redistribution; family

				faraidh	property to sister	harmony

Case after case of fiqh practice based on the experience of Minangkabau indigenous people can actually be said to be an old story. Since the fame of the Padri purification movement (Adrianto et al., 2019) with the actor tiger nan salapan (1800s) to the time of Sheikh Khatib al-Minangkabauwi's thought movement (1900s) have discussed ahwal and its ins and outs. However, the conceptual acceptance based on the science of fiqh has not been clearly stated. It is this opportunity and potential on a case-by-case, practice-by-practice basis of Living Fiqh that this paper sees as a new realm of fiqh studies. Its spirit needs to take part in the contestation of the study of positive law versus customary law and how it is proposed in the state's strategic plan in managing the promotion of various cultures in this country through Law Number 5 of 2017 concerning the Promotion of Culture.

In the past, discussions regarding this customary proposition seem to have been less controversial than they are today. A short statement summarising how simple, yet powerful, *ʿUrf* actually is has been attributed to Imam al-Ghazālī's opinion: "Custom is what is established in the human mind based on logic and a sound mind accepts it (Libson, 1997). It is interesting to note that the criteria of "logic" and "sound mind" are not elaborated or discussed in detail. In fact, most legal literature on adat assumes the obvious and essentially authorises and trusts jurists to come to their own conclusions on the matter. This conclusion, however, is determined by the broader notion of what society considers acceptable, proper and worthy. The rule of *al-ʿādah muḥakkamah* (binding custom), which underlies many legal discussions, is often justified in the words of Ibn Masʿūd, also quoted as a Prophetic tradition: "That which is considered good by Muslims is considered good by God." Here, it is clear and unequivocal that the position of Muslims with their various cultural differences is to understand customs as clear, binding, and legally sound.

Meanwhile, on a broader, international level, Abbas Barzegar's views on the issue of Islamic International Law, which are widely cited in this paper, are intended to review the current discussion on the existence of the living fiqh as a field of Islamic jurisprudence. The "living fiqh" of non-secular and non-sectarian Muslim humanism should be understood as a rich repository of practical customs (*ʿUrf*) through which Muslim ethicists can develop concrete normative positions that can help bridge the dichotomy between secular humanism and non-secular humanism in the classical Islamic tradition. That is, instead of creating theological justifications from classical sources to justify or convince practitioners of the potential integration of Islamic and secular ethics, the normative traditions emerging in the Muslim humanitarian sector offer an arsenal of discursive resources that are already at work in social life.

It is fully enmeshed in both Islamic and secular traditions. Thus, the position of the ethicist is no longer a position to convince or debate the potential of the normative stance, but only to strengthen it. Tracing one by one the practice of the living fiqh in the study of Islamic jurisprudence is one way of strengthening it. In a sense, according to Barzegar, it aims to provide a "reverse reification" of existing practices to ensure that they are not treated as mere anecdotes or coincidences, but are supported by legitimate hermeneutical traditions. For such reverse reification to take place and remain viable, Muslim ethicists need to utilise intellectual practices grounded in classical Islamic traditions when they formulate their positions. Here, it is worth suggesting that they utilise the practice of ʿUrf (the living fiqh) to do so.

The contemporary challenges of the forced migration crisis for Muslim ethicists

and scholars are staggering. Muslim countries, these days, are plagued by internal and sectarian strife in a fragile political context where fundamental issues of citizenship, identity and citizens' rights remain unresolved. Amidst this turmoil, the transnational Muslim relief and development sector, through its continued engagement with universally recognized principles of humanitarian engagement, has developed a living tradition of customary practices that prioritize the unconditional rights of beneficiaries over considerations of nationality, religion or sect.

The discursive environment that enables these practices is firmly rooted in Islamic discourse, texts and traditions, so there is no doubt as to their compatibility with the historical traditions of many Islamic civilizations and cultures in the world. Barzegar's argument holds academic critiques and suggestions that Muslim ethicists, jurists and intellectuals will recognize that the protracted discussions and questions surrounding the relationship between Sharia and issues of custom, citizenship and human rights can be revived in this dynamic and largely understudied social space. The author agrees with Barzegar's view that such an agenda of intellectual practice not only promises to answer the theoretical questions of law and ethics that modern-day Muslims have had for generations, but also provides ethical and moral guidance to help achieve a shared vision for resolving the humanitarian crises that are expected to continue to cut across global communities for generations to come.

2. Discussion

Interlegality and the Socio-Legal Meaning of Living Fiqh in Minangkabau

a. *Pinang-maminang* (*khitbah*) procession

In Minangkabau society, the procession of *pinang-meminang* has its own peculiarities because it is influenced by the matrilineal kinship system which places women as the owners of bloodlines and traditional houses (Sukmawati, 2019). This makes it customary for the female party to initiate the proposal process, which is certainly different from the custom in classical Islamic jurisprudence, which is usually carried out by the male party (Masduki, 2019). This tradition does not simply translate the term *khitbah* into the local language, but forms a distinctive cultural system, such as *maresek* (initial visit) (Ardillah, 2019), *manapiak bandua* (asking for permission through a messenger) (Umulhusni & Fatoni, 2020), *batimbang tando* (symbolic agreement between families) (Nugra Heni & Subiyanto, 2021). Each of these stages has social, moral and spiritual meanings that show how the concept of khitbah has been localised by considering customary values and Islamic norms. (Taufiq, 2019).

The living fiqh approach to the *khitbah* procession of Minangkabau people philosophically explains how the practice of *khitbah* in Minangkabau does not deviate from Islamic law, but rather reflects the flexibility of Islamic law in responding to the socio-cultural context (Wimra et al., 2023). In this perspective, the proposal by the woman is not considered contrary to Islamic jurisprudence, but rather a form of respect for the value of collectivity and *maslahah* in accordance with the character of matrilineal society (Arif et al., 2022). Traditions such as *batimbang tando* in fiqh are a *muqaddimah* (prelude) to the marriage contract and have a permissible ruling, but when accompanied by certain promises or symbols, they become morally and socially honorable. *Batimbang tando* in this case can be considered a form of *i'tikadiyah* (moral commitment) contract that is permissible, as long as it does not violate Islamic principles, such as *khalwat* (being alone together), *ikhtilat* (non-mahram mixing), or a marriage contract without a guardian and witnesses (Zuhaili, 2011). Living fiqh provides space for Islamic norms to live within the framework of a dynamic local

culture (Wimra et al., 2023), where *khitbah* is not only interpreted as a bond between two individuals, but as a space for inter-clan dialogue that brings together the values of adat, *syarak* and history. The marriage of the bride and groom carries a broader meaning, namely the cultural marriage of two large families.

Social changes such as urbanization and interaction with state laws have led to modifications in the implementation of *khitbah* adat, but key values such as *ridha*, deliberation and responsibility have been maintained (Taufik, 2024). Thus, the practice of *pinang-meminang* in Minangkabau is a manifestation of *shahih urf* reinforced by *maqashid al-shari'ah*, as well as a vehicle for character education and maintenance of Islamic values in a living local context. (Wimra et al., 2023).

b. Dowry

The practice of giving dowry in Minangkabau marriages has been adapted to local customs but remains in line with Islamic principles. Although the dowry is not stipulated as a pillar of marriage, it is a symbol of social responsibility and respect between families. One form is *maisi sasuduik*, which is a gift from the man to the woman's family that reflects commitment and readiness to fulfil the role of husband. (Busyro et al., 2024). This practice is common in the Limopuluah Koto community and some Badgers of Agam and Tanahdatar. Climbing the gadang house of a woman (wife) for a man (husband) is a bet on the honour of his extended family. The momentum of the opportunity to become a husband in his wife's house is shown by a husband with the ability to *maisi sasuduik*. The meaning to be shown is that the marriage is fought not only by the bride and groom, but also by two extended families

In addition, there is also the term *uang japuik* or *uang jemputan*, which is a gift from the woman to the man, marking the groom's entry into the matrilineal social structure (Fauzy, 2024). This practice occurs in the customary legal context of Pariaman, the suburbs of Padang and the south coast. Although considered odd from a classical fiqh perspective, the living fiqh approach views this practice as part of a valid urf (local custom), as long as it does not remove the basic legal principle of dowry from the man. The rules of *'Urf* such as *al-'adatu al-muhakkamah* (Sunah, 1947) (customary law can be a source of law) and *ast-tsabitu bi al-dalili al-'urfi katsabitu bi al-dalili an-nashi* (the determination of a law based on the proposition of 'urf is considered equal in validity to the determination of a law based on the proposition of the nash) finds its operational space and has been functioned by its adherents (living).

In addition to *maisi sasuduik* and *uang japuik*, there are also other terms, namely money lost (Razak et al., 2023), This is a form of compensation given by the male party to cover the costs of traditional processions such as *malam bainai* and *baralek*. This tradition reflects the view that marriage is a collective event involving shared responsibilities between two extended families. However, over time, the symbolic meaning of these three forms of dowry can become distorted, especially when the amount is determined on the basis of prestige or social status. In some cases, this has even led to the postponement of marriages (Salsabila et al., 2023). Living fiqh considers such a situation as a deviation from the principles of justice in Islam and encourages deliberation and flexibility in setting the dowry in order to uphold the values of blessing and togetherness.

As religious literacy and social awareness increased, some Minangkabau people began to adapt dowry practices to the spirit of simplicity and sincerity, without neglecting traditional values. Material symbols such as gold or jewelry are still used, but their meaning has shifted from a status symbol to a symbol of responsibility and goodwill (Razak et al., 2023). Traditional leaders and scholars have begun to reinterpret

the role of *pitih japuik* as a moral symbol, not a material burden. Thus, the living fiqh approach becomes important in bridging Minangkabau matrilineal customs with patriarchal Islamic law, so that both can work together to form a contextualised, just and harmonious family law system (Salsabila et al., 2023).

c. Marriage contract (*akad/sighat*) and *Baralek* (walimatul urs').

The structure of the contract recommended by munakahat fiqh, such as "I marry my daughter (name) to you for a dowry of (so much)", is accepted as the official *sighat* of the contract in the religious affairs office. However, the model of akad that they usually use in traditional marriage ceremonies and marriages according to the understanding of certain theological schools is also still implemented. There is a marriage contract added to the *marapulai's* speech by the *mamak* when releasing his niece to marry in the *darek* Minangkabau region, which in principle is the same as the *khutbah nikah* (marriage sermon).

The people of Padang Pariaman with the Satariyah *tarikat* background have an inner marriage contract mechanism. This is a marriage that takes place on the bride and groom's first night with the aim of establishing their inner marriage more deeply (Amir & Hidayat, 2019). Not only that, but the marriage that the Minang people call a marriage between two tribes or two extended families also has a communal marriage contract that is entered into by the *mamak* with the *mamak* of the bride and groom. This marriage contract is called *nikah mamak*.

Nikah mamak *baralek* remains a reflection of the harmonization between Islamic law and Minangkabau custom. With the spirit of living fiqh, this celebration can be understood as a dynamic form of social worship, capable of accommodating change without losing the substance of its values. The principles of *gotong royong*, simplicity and community involvement that are at the core of *baralek* are in line with Islamic teachings on togetherness and sincerity, so this tradition remains relevant as a model of fusion between Islamic law and local culture (Wimra et al., 2023).

d. Conflict Resolution and Divorce

Household conflict resolution in Minangkabau society involves not only the married couple, but also the extended family and the wider customary community. Mediation is the main approach that is carried out collectively through the important role of *ninik mamak*, traditional leaders, and sometimes ulama, who prioritize deliberation and the values of *adat basandi syarak, syarak basandi Kitabullah*. An example is Surya Fadli's findings, in his thesis entitled *Manjapuik* Tradition in *Baganyi* Action (Mediation Study in the Prevention of Divorce in Minangkabau Society) (Fadli, 2025). The *manjapuik* tradition in Minangkabau society is a form of customary mediation that is deeply rooted in family values and social harmony. Household conflicts, especially when *baganyi* (husband leaving wife's house due to disputes) occurs, have a serious impact on the wife and children, both emotionally and economically. In the face of this situation, Minangkabau society does not necessarily leave resolution to formal legal channels, but instead relies on socio-cultural mechanisms through *manjapuik*, where extended family, especially *ninik mamak* and *bundo kanduang*, intervene as mediators.

Their main function is to reduce conflict, reconcile the couple, and keep the marriage from ending in divorce. In its implementation, this tradition also reflects the harmonization between customary norms and the principles of Islamic teachings that live in the community, with an approach of deliberation, mutual respect, and social responsibility. From the perspective of living fiqh, the *manjapuik* tradition shows that Islamic law does not exist outside the cultural context, but instead lives and develops within it. Living fiqh views Islamic law as a flexible norm that can adapt to local social

realities, as long as it remains within the framework of *maqāṣid al-sharīʿah* such as protecting honour, offspring, and family welfare.

Furthermore, the *manjapuik* tradition is an expression of social *fiqh* that is responsive and based on the needs of the community, where the role of traditional leaders as *hakam* (arbiters) refers not only to positive Islamic law, but also to cultural values that have proven capable of maintaining peace and harmony. In this case, mediation is not only understood as a legal tool, but as a social process that restores relationships and strengthens family structures. Meanwhile, *manjapuik* acts as a social mechanism that maintains community stability. It is not just a resolution of conflicts between individuals, but part of a broader value system and social structure. It functions to maintain the balance between the individual and the community, as well as between religious and customary norms. By involving traditional leaders and extended family as arbiters, *manjapuik* helps maintain social integration and strengthen collective norms.

Thus, the household conflict resolution system in Minangkabau is a tangible form of living fiqh that integrates local and Islamic values in building harmony. The mediation process, whether through customary forums or family conversations, reflects deep local wisdom and shows that Islamic law can be applied contextually and inclusively. The family harmony achieved through this approach not only affects the individual, but also strengthens social cohesion, making the family an important pillar in maintaining the sustainability of Minangkabau society.

e. Divorce and Reconciliation with first husband

That in Minangkabau, there are cases in the field of family law that intersect with the fiqh on triple divorce with the technical framework of *nikah muhallil* (An-Nawawi, 1968). If a husband who has divorced his wife with a triple divorce wants to reconcile, then his former wife must first marry another man. This marriage is really a marriage in the sense that bodily relations between husband and wife occur. If divorce also occurs during this marriage, then the ex-husband who divorced his wife with a triple divorce is allowed to remarry his ex-wife at that time.

This fiqh rule on marriage after divorce was socialized as Islam was accepted by Indigenous communities that previously had no such *nikah-rujuk* mechanism. When confirmed in the realm of community practice, the mechanism of *rujuk* (reconciliation) in divorce from divorce is accepted in principle, but there is a shift in the form of its implementation. In nagari Palembayan in Agam, in Surantiah in South Pesisir, in Mungo and several places in Batangtabik in Limapuluh Kota, there is a *muhallil* marriage method that has a different form from the fiqh rules. In this case, the woman who has been divorced three times still performs her *muhallil* marriage, which is called *nikah bacindua* or *nikah cinobuto*, but only performs the contract, without proceeding to bed activities as a valid husband and wife according to fiqh. This is due to the agreement at the beginning of the contract that this is only a conditional marriage. In fact, based on the practice of the Palembayan Community, the man who married the third-divorced woman was hired by the male ex-husband who wanted to reconcile (Fadli, 2025). The man who was hired was deliberately chosen to be a down syndrome survivor, aka an idiot, so that this transactional contract could take place smoothly without protests and objections.

This observation on the case of *muhallil* marriage is only in the aspect of Living Fiqh in the field of family law. Of course, it will be more comprehensive if the search is continued in other aspects of law such as sharia economic law, criminal law, constitutional law, or even in the aspect of comparative mazhab. In general, what

happens in practice is the crossing of authorities (interlegalities/interlaw), between customary law and Islamic law (*fiqh*), as well as with state law. In particular, the exploration targets how *fiqh* shapes indigenous peoples and how customary law shapes fiqh (Wimra et al., 2023).

f. Inheritance

The faraidh pattern offered by *fiqh* meets and intersects with the inheritance pattern of *harato pusako* in Minangkabau. The *faraidh* rule: the share of men and women is one to two, which according to critical sociological interpretation is indicated to contain patriarchal bias (a form of patrilineal). Meanwhile, the matrilineal awareness of Minangkabau customary law (a form of matriarchy) favors women's power in the ownership and management of property. As a result, there is a practice where after the division of property in *faraidh*, the male party prefers to leave the property to his sister. There is a sense of shame for Minang men to bring heirloom property to their wives' homes (Adnan, 2018).

Waris is the most explicit arena where patriarchal fiqh and matrilineal customs clash. Fiqh *faraidh* stipulates that men get twice the share of women, while Minangkabau custom gives women a high inheritance. The result is a compromise: men often leave their *faraidh* share to their sisters because they feel ashamed of bringing wealth to their wives' homes. This phenomenon shows interlegality in its truest form: *fiqh*, adat and the state are all present, but what really works is social compromise. In terms of legal pluralism, this case shows that customary law has a more dominant authority in the realm of inheritance, while *fiqh* serves as a moral framework. In the perspective of Islamic legal theory, this practice is legitimate as *ʿurf ṣaḥīḥ*, because it does not negate the basic principles of inheritance, but adapts them to matrilineal social logic. Imam al-Ghazali asserted that customs accepted by reason and society are binding law. Barzegar even emphasises that living fiqh should be read as "reverse reification": social practices should not be considered anecdotal, but should be linked to the normative tradition of Islam.

The policy implications of these findings are important: the state needs to recognize the role of adat in inheritance, while providing fiqh education that emphasizes maqāṣid al-sharīʿah, so that people do not see fiqh and adat as clashing, but rather as a space for dialogue.

D. Conclusion

The interlegality of Islamic marriage law with the awareness of customary law and its relationship with state interference based on the marriage practices of the Minangkabau people gave birth to the construction of a legal triangle. Firstly, shar'i law shapes customary law. Second, customary law shapes shar'i law. Third, the state's regulative interference that requires positivistic legal structuring. These three models may also occur in other customary law communities in the archipelago and the world. As a field of study, it is fertile ground for the growth of contemporary fiqh studies. There are scientific enigmas contained in the fiqh practices of cross-cultural communities. For example, as already noted, the practice of *fiqh munakahat* in Minangkabau society is colored by the cultural awareness of the community. The *nikah batin* and *nikah mamak* in Pariaman, renting a husband for the purpose of *muhallil* marriage in Agam district are models of practice that imply this mutual shaping process. Some other practices also occur in various cultural clusters in the Islamic world, as can be seen in the video distribution of marriage contracts in which the marriage guardian does not simply say the general phrase: I marry my daughter to you

with such a dowry, as stipulated in classical fiqh books and referred to as is by interpreters in the state-established Office of Religious Affairs.

E. Acknowledgements

The authors would like to express their sincere gratitude to Universitas Islam Negeri Imam Bonjol Padang and Universitas Islam Negeri Mahmud Yunus Batusangkar for the academic and logistical support provided during the research process. Special thanks are also extended to KU Leuven University for facilitating academic resources that enriched the methodological framework of this study. The authors are indebted to colleagues, reviewers, and participants whose previous research on Minangkabau marriage practices has served as the foundation for this meta-ethnography. Any remaining shortcomings are solely the responsibility of the authors.

F. Author Contributions Statement

ZW conceptualized the research design and supervised the overall project. ABW contributed to the theoretical framing of interlegality and provided critical insights on the socio-legal context of Minangkabau marriage. MB conducted the meta-ethnographic synthesis and drafted the initial manuscript. MY contributed to the refinement of the methodological framework and assisted in final editing. All authors read, reviewed, and approved the final version of the manuscript.

G. References

Abdullah, A. (2001). *Studi Agama Normativitas atau Historisitas*. Pustaka Pelajar.

Abdullah, A. (2014). *Implementasi Pendekatan Integratif Interkonektif dalam Kajian Pendidikan Islam*. Pascasarjana UIN Sunan Kalijaga.

Adnan, A. (2018). *Pelaksanaan Terkini Pewarisan Harta Pencaharian pada Masyarakat Minangkabau," Disertasi*. UIN Imam Bonjol Padang.

Adrianto, H. A., Spracklen, D. V, Arnold, S. R., Sitanggang, I. S., & Syaufina, L. (2019). Forest and Land Fires Are Mainly Associated with Deforestation in Riau Province, Indonesia. *Remote Sensing*, *12*(1), 3. https://doi.org/10.3390/rs12010003

Ahimsa-Putra, H. S. (2012). The Living Al-Qur'an: Beberapa Perspektif Antropologi. *Walisongo: Jurnal Penelitian Sosial Keagamaan*, *20*(1), 235. https://doi.org/10.21580/ws.20.1.198

Amir, Y., & Hidayat, T. (2019). Praktik Nikah Batin di Padang Pariaman. *Turast : Jurnal Penelitian Dan Pengabdian*, *6*(2). https://doi.org/10.15548/turast.v6i2.36

An-Nawawi, I. (1968). *Al-Majmū' Syarḥ al-Muhadzdzab* (17th ed.). Dar al-Fikr.

Ardillah, N. (2019). Komunikasi Dalam Kegiatan Maresek Untuk Mempersiapkan Adat Pernikahan Minang (Etnografi Komunikasi Tradisi Maresek Adat Minang Bukittinggi Nagari Salo). *Jurnal Online Mahasiswa (JOM) Bidang Ilmu Sosial Dan Ilmu Politik*, *6*(1), 1–14.

Arif, A., Rachmawati, A., Kamaluddin, I., & Naifah, N. (2022). The Use of Marijuana for Medical Purposes: Between Normativity and the Principle of Islamic Law perspective. *Mazahib*, *21*(2), 315–339. https://doi.org/10.21093/mj.v21i2.4751

Busyro, B., Asmara, M., Wadi, F., Manap, N. A., & Tarihoran, A. S. (2024). Maisi Sasuduik: Restrengthening the Implementation of the Concept of al-Ba`ah in some Minangkabaunese Traditional Marriages. *Al-Istinbath: Jurnal Hukum Islam*, *9*(1), 63. https://doi.org/10.29240/jhi.v9i1.9619

Fadli, S. (2025). *Tradisi Manjapuik dalam Tindakan Baganyi (Studi Mediasi dalam Pencegahan Peceraian di Masyarakat Minangkabau).* [UIN Sunan Kalijaga

Yogyakarta]. https://digilib.uin-suka.ac.id/id/eprint/70521/

Fauzy, S. D. (2024). Resolusi Konflik Budaya "Uang Japuik" Suku Pariaman di Sumatera Barat. *Syntax Literate ; Jurnal Ilmiah Indonesia*, *9*(3), 1880–1890. https://doi.org/10.36418/syntax-literate.v9i3.14824

Harisudin, M. N. (2017). Diskursus Fikih Indonesia: Dari Living Laws Menjadi Positive Laws. *Al-Manahij: Jurnal Kajian Hukum Islam*, *10*(2), 169–184. https://doi.org/10.24090/mnh.v10i2.932

Libson, G. (1997). On the Development of Custom as a Source of Law in Islamic Law: *Islamic Law and Society*, *4*(2), 131–155. https://doi.org/10.1163/1568519972599770

Masduki, M. (2019). Kontekstualisasi Hadis Peminangan Perempuan Terhadap Laki-Laki. *Jurnal Studi Ilmu-Ilmu Al-Qur'an Dan Hadis*, *20*(1), 62–80. https://doi.org/10.14421/qh.2019.2001-04

Noblit, G. W., & Hare, R. D. (1988). *Meta-Ethnography: Synthesizing Qualitative Studies*. SAGE Publications.

Qudsy, S. Z. (2016). Living Hadis: Genealogi, Teori, dan Aplikasi. *Jurnal Living Hadis*, *1*(1), 177. https://doi.org/10.14421/livinghadis.2016.1073

Razak, R. P. S., Marjon, D., & Yasniwati. (2023). Pelaksanaan Kawin Bajapuik Dan Uang Hilang Di Kabupaten Padang Pariaman. *UNES Law Review*, *6*(1), 1853–1861. https://doi.org/https://doi.org/10.31933/unesrev.v6i1.980

Salsabila, S., S, N., Putra, I., & Dewi, S. F. (2023). Studi perubahan persepsi masyarakat tentang uang japuik. *Journal of Education, Cultural and Politics*, *3*(1), 172–178. https://doi.org/10.24036/jecco.v3i1.110

Sirozi, M. (2008). *Arah baru studi Islam di Indonesia: Teori dan Metodologi*. Ar-Ruzz Media.

Suartina, T. (2014). Pluralisme Hukum dan Sistem Perkawinan Wong Sikep. *Jurnal Masyarakat Dan Budaya*, *16*(3), 399–410. https://jmb.lipi.go.id/jmb/article/view/43

Sunah, A. F. A. (1947). *Al-'Urf Wa al-'Adah Fi Ra'Yi al-Fuqaha*. Maktabah al-Azhar.

Taufik, A. (2024). *Analisis NIlai Ideal Moral Hadith KHitbah dan Relevansinya di Era Kontemporer (Perspektif Teori Double Movements Fazlur Rahman)* [Universitas Islam Negeri Kiai Haji Achmad Siddiq Jember]. https://digilib.uinkhas.ac.id/38307/1/Akhmat Taufik, Watermark.pdf

Taufiq, M. (2019). *Relasi Budaya Minang Dan Al-Qur'an Dalam Perkawinan Adat Di Minangkabau* [Insitut PTIQ]. https://repository.ptiq.ac.id/id/eprint/686/1/20219-MUHAMMAD TAUFIQ-2016.pdf

Umulhusni, A., & Fatoni, N. (2020). Uang Sasuduik Dalam Sistem Perkawinan Di Nagari Situjuah Gadang Kecamatan Situjuah Limo Nagari Kabupaten Lima Puluh Kota Provinsi Sumatera Barat. *Al-Ahwal Al-Syakhsiyyah: Jurnal Hukum Keluarga Dan Peradilan Islam*, *1*(1), 1–14. https://doi.org/10.15575/as.v1i1.7797

Utama, T. S. J. (2020). 'Hukum Yang Hidup' Dalam Rancnagan Kitab Hukum Pidana (KUHP): Antara Akomodasi dan Negasi. *Masalah-Masalah Hukum*, *49*(1), 14. https://doi.org/10.14710/mmh.49.1.2020.14-25

Wimra, Z., Huda, Y., Bunaiya, M., & Hakimi, A. R. (2023). The Living Fiqh: Anatomy, Philosophical Formulation, and Scope of Study. *JURIS (Jurnal Ilmiah Syariah)*, *22*(1), 185. https://doi.org/10.31958/juris.v22i1.9491

Zuhaili, W. (2011). *Al-Fiqhul Islam Wa Adillatuhu 3*. Gema Insani.