

## Negotiating *Shari'ah* and Customary Law: Legal Pluralism in Familial Relationships among the Suku Anak Dalam in Jambi

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### Abstract

This article explores how the Suku Anak Dalam (SAD) community resists the application of Islamic law in family matters, specifically in the determination of dower (*mahr*), the management of joint property, and the distribution of inheritance. While most SAD members have formally converted to Islam, their legal practices remain rooted in a matrilineal customary system passed down through generations. Challenging prevailing scholarly emphasis on integrative frameworks between Islamic law and local custom, this study demonstrates that, in the SAD context, resistance emerges when elements of Islamic jurisprudence (*fiqh*) clash with the community's socio-cultural structure and shared values. Using a socio-legal approach and qualitative methods, the research draws on in-depth interviews with seven key informants, including a religious leader, the *tumenggung* (tribal chief), customary elder, community facilitator, subdistrict head, and SAD community members. The findings reveal a persistent orientation toward collective female authority: *mahr* is determined by the bride's maternal kin group; joint property, upon divorce, is granted entirely to the wife; and inheritance follows a strictly matrilineal line. Rather than rejecting Islamic law on theological grounds, this resistance reflects a form of public reasoning grounded in ancestral consensus. The study highlights the importance of interpreting Islamic law through contextual, dialogical, and adaptive lenses—particularly within societies shaped by legal pluralism.

[Artikel ini mengkaji bentuk-bentuk resistensi yang muncul dalam komunitas Suku Anak Dalam (SAD) terhadap penerapan hukum Islam dalam ranah hukum keluarga, khususnya terkait penetapan mahar, pengelolaan harta bersama, dan pembagian warisan. Meski secara formal mayoritas anggota komunitas SAD telah memeluk Islam, praktik hukum yang dijalankan tetap berpijak pada sistem hukum adat matrilineal yang diwariskan lintas generasi. Berbeda dari kecenderungan literatur sebelumnya yang menekankan model integratif antara syariah dan adat, studi ini justru menunjukkan bahwa dalam konteks SAD, resistensi muncul ketika ketentuan-ketentuan fikih dianggap tidak sejalan dengan struktur sosial dan nilai-nilai kolektif komunitas. Dengan pendekatan sosio-legal dan metode kualitatif, penelitian ini mengumpulkan data melalui wawancara mendalam dengan tujuh informan kunci: tokoh agama, tumenggung (kepala suku), pemimpin adat, pendamping komunitas, pejabat lokal, dan anggota komunitas SAD. Temuan utama memperlihatkan bahwa praktik hukum keluarga di komunitas ini lebih menekankan otoritas kolektif perempuan, tercermin dari penentuan mahar oleh keluarga pihak ibu, pengalihan penuh harta bersama kepada istri setelah perceraian, serta sistem pewarisan

*yang mengikuti garis keturunan perempuan. Artikel ini berargumen bahwa resistensi tersebut bukan merupakan penolakan teologis terhadap hukum Islam, melainkan lahir dari penalaran publik yang bertumpu pada konsensus adat. Temuan ini menegaskan pentingnya pendekatan hukum Islam yang lebih kontekstual, dialogis, dan responsif terhadap pluralitas hukum dalam masyarakat adat.]*

**Keywords:** Customary Law, Dower, Inheritance, Islamic Law, Joint Property, Resistance, Suku Anak Dalam.

## Introduction

In several Indigenous communities in Indonesia that have embraced Islam, there has been a marked shift toward the adoption of *fiqh* (Islamic jurisprudence)-based norms, particularly in the domain of Islamic family law.<sup>1</sup> This process of Islamization signifies not only a religious transformation but also a normative realignment—from localized customary legal systems to Islamic legal frameworks presumed to carry higher religious authority and universal legitimacy.<sup>2</sup> Numerous studies have shown that Muslim Indigenous groups tend to adapt their traditional practices to align with the principles of Islamic law, although such alignment often entails significant changes to deeply embedded social structures.<sup>3</sup> In this context, customary law is not entirely abandoned, but rather subordinated to Islamic law,<sup>4</sup> forming hybrid legal arrangements in which Islamic law increasingly dominates as the principal normative system.<sup>5</sup>

However, this trajectory does not unfold uniformly across all Indigenous Muslim communities. The case of the Suku Anak Dalam (SAD) or Anak Dalam Tribe in Jambi illustrates a contrasting pattern—one that challenges the prevailing assumption that Islamic law is gradually integrated into customary systems.<sup>6</sup> Unlike the Melayu Buyan community in West Kalimantan, which has successfully internalized Islamic principles within its customary

<sup>1</sup> See: Ilyas Ilyas et al., “The Accommodation of Customary Law to Islamic Law: Distribution of Inheritance in Aceh from a Pluralism Perspectives,” *Samarah: Jurnal Hukum Keluarga dan Hukum Islam* 7, no. 2 (May 28, 2023): 897–919.

<sup>2</sup> Hazar Kusmayanti et al., “Judges’ Acceptance of Sharia-Inspired Laws in Indonesia,” *Al-Manahij: Jurnal Kajian Hukum Islam* 17, no. 2 (October 27, 2023): 199–214.

<sup>3</sup> See: Pairin Pairin et al., “The Integration of the Islamic and Customary Law in Tolaki Society, Southeast Sulawesi: Islamic History and Education Perspectives,” *Samarah: Jurnal Hukum Keluarga dan Hukum Islam* 8, no. 3 (August 31, 2024): 1669–90; Mursyid Djawas et al., “The Integration Between Syara’ and Ade’ in Marriage Tradition Bugis Bone, South Sulawesi,” *AL-IHKAM: Jurnal Hukum & Pranata Sosial* 18, no. 2 (October 15, 2023): 342–63; Anis Masykhur, “Titik Singgung Hukum Islam dengan Hukum Adat pada Naskah Perundang-Undangan Kerajaan Islam di Nusantara,” *Al-Manahij: Jurnal Kajian Hukum Islam* 14, no. 2 (December 3, 2020): 295–306.

<sup>4</sup> See: Cem Behar, “Neighborhood Nuptials: Islamic Personal Law and Local Customs - Marriage Records in a Mahalle of Traditional Istanbul (1864-1907),” *International Journal of Middle East Studies* 36, no. 04 (November 2004): 537–59; Sidik Tono et al., “The Harmonious Relationship between Minangkabau Custom and Islam in the Distribution of Inheritance,” *Al-Shajarah: Journal of the International Institute of Islamic Thought and Civilization (ISTAC)*, no. Special Issue (November 29, 2019): 39–55.

<sup>5</sup> See: Romi Adetio Setiawan, “Impact of Islamic Jurisprudential on Traditional Financial Customs and Legal Integration in Indonesia,” *Journal of Islamic Thought and Civilization* 13, no. 2 (December 6, 2023): 195–209; Subhan Subhan, Fuad Rahman, and Albert Alfikri, “Transintegration of Customary Law and Sharia: Lesson from Historical Law and Cultural Law,” *Substantive Justice International Journal of Law* 7, no. 1 (June 29, 2024): 70–83.

<sup>6</sup> Field Notes on Observations of the Daily Life of the Anak Dalam Tribe, December 2019.

legal framework,<sup>7</sup> the SAD community continues to uphold its matrilineal customary law as the primary normative structure, especially in key areas such as marriage, divorce, and inheritance. In divorce, for instance, joint marital property (*gono-gini*) is entirely transferred to the wife; in inheritance, women receive a greater share, in ways that depart significantly from the rules outlined in *fiqh*.<sup>8</sup> These practices suggest that Islamic law has yet to replace the social legitimacy of customary law within the SAD community, reflecting the enduring vitality of a localized legal system even in a context of formal Islamic observance.<sup>9</sup>

To date, prior research has not comprehensively addressed forms of practical resistance to Islamic law in Indigenous Muslim contexts—particularly with regard to marriage and inheritance. Existing studies tend to fall into three main interpretive categories. The first examines resistance within the framework of national legal reform.<sup>10</sup> Muh Alfian, for example, argues that social dynamics compel shifts in values that necessitate a contextual adaptation of *fiqh*. This line of argument stresses the importance of flexibility in Islamic law as a response to societal change.<sup>11</sup> The second strand focuses on value dissonance between Islamic norms and local traditions.<sup>12</sup> Muji Mulia et al. contend that resistance often emerges from clashes between local values and formalist understandings of Islamic law.<sup>13</sup> The third views resistance as a deviation from normative *fiqh* provisions.<sup>14</sup> In this view, Widodo and Karnawati argue that frequent departures from Islamic legal norms signal the weak authority

<sup>7</sup> Zaimuariffudin Shukri Nordin et al., “Integrating Islamic Law and Customary Law: Codification and Religious Identity in the Malay Buyan Community of Kapuas Hulu,” *Journal of Islamic Law* 6, no. 1 (February 28, 2025): 89–111.

<sup>8</sup> Nurbaiti, “Interview with the Elder of Suku Anak Dalam, September 19, 2019.”

<sup>9</sup> Rahmi Hidayati Al Idrus et al., “Flexibility of Women’s Inheritance Distribution in Jambi Malay Society: Compromising Islamic and Customary Law,” *El-Ushab: Jurnal Hukum Keluarga* 7, no. 1 (June 30, 2024): 42–61; Faisal Husen Ismail et al., “Customary and Islamic Practices in Inheritance Distribution: Insights from the Gampong Customary Court in Pidie,” *Al-Risalah: Forum Kajian Hukum dan Sosial Kemasyarakatan* 24, no. 2 (December 30, 2024): 1–16.

<sup>10</sup> See: Suwandi Suwandi and Teguh Setyobudi, “The Synthesis of Islamic Law and Javanese Culture A Prophetic Approach,” *De Jure: Jurnal Hukum dan Syaria’ah* 12, no. 2 (December 31, 2020): 255–78; Ayu Sari Ningsih, “Reforming Islamic Family Law: The Relevance of Ibn Qayyim al-Jawziyyah’s Concept of Legal Change,” *Jurnal Ilmiah Mizani: Wacana Hukum, Ekonomi dan Keagamaan* 12, no. 1 (April 17, 2025): 114–27; Muh Alfian, “Pembaharuan dan Progresif dalam Eksistensi Pembinaan Hukum Islam serta Pranata Sosial,” *Jurnal Hukum Caraka Justitia* 1, no. 1 (2020): 1–20.

<sup>11</sup> Alfian, “Pembaharuan dan Progresif dalam Eksistensi Pembinaan Hukum Islam serta Pranata Sosial,” 1–20.

<sup>12</sup> See: Muji Mulia et al., “Conflict And Consensus in Fiqh Siyasa: The Practice of Islamic Law Across Various Cultures,” *Jurnal Ilmiah Peuradeun* 12, no. 3 (September 30, 2024): 1263–88; Moamen Gouda and Jerg Gutmann, “Islamic Constitutions and Religious Minorities,” *Public Choice* 186, no. 3–4 (March 19, 2021): 243–65; Miftahul Huda, “Toward a New Theology for a Religiously Restless Region the Accommodation of Local Traditions into Islamic Law in Lombok,” *Journal of Indonesian Islam* 13, no. 1 (June 2, 2019): 50–72.

<sup>13</sup> Mulia et al., “Conflict and Consensus in Fiqh Siyasa,” 1263–88.

<sup>14</sup> See: Priyantoro Widodo and Karnawati Karnawati, “Moderasi Agama dan Pemahaman Radikalisme di Indonesia,” *PASCA: Jurnal Teologi dan Pendidikan Agama Kristen* 15, no. 2 (November 2019): 9–14; Budi Juliandi, “Demanding Equal Inheritance Rights For Women: Tension Among Shari’a and Tunisia’s New Constitution 2014,” *Al-Abkam Jurnal Ilmu Syari’ah dan Hukum* 7, no. 2 (December 31, 2022): 177–88; Muhammad Fauzinudin Faiz, Khoiruddin Nasution, and Ali Sodiqin, “Converging Religious Doctrine: Sunni-Shi’i Marriages in Indonesia,” *Al-Abwal: Jurnal Hukum Keluarga Islam* 17, no. 1 (June 30, 2024): 123–46; Darlin Rizki, Frina Oktalita, and Ali Sodiqin, “Maqasid Sharia Perspective in Changes the Marriage Age Limits for Women According to Law Number 16 of 2019,” *Al-Istinbath: Jurnal Hukum Islam* 7, no. 2 (December 1, 2022): 487–508.

of *Shari'ah* in everyday practice.<sup>15</sup> These approaches remain largely normative in nature and leave little room for understanding law as lived practice, sustained and negotiated in daily communal life. This article seeks to address that gap by exploring three guiding questions: What forms does resistance to Islamic law take in SAD family practices? What socio-cultural factors underlie this resistance? Moreover, how does the interaction between Islamic and customary law shape local legal authority? The article argues that resistance to Islamic law among the SAD is not a theological rejection, but rather a reflection of the fundamental incongruity between a local, matrilineal value system and a legal framework rooted in patrilineal and formalist structures.

This study employs a field-based research design grounded in a socio-legal approach. Fieldwork was conducted over six months in two separate phases in Dusun Pasir Putih, Karya Bakti Village, Pelepat Subdistrict, Muaro Bungo Regency, Jambi Province, Indonesia. The first phase, carried out between September 13 and December 20, 2019, focused on participatory observation of the daily lives of the SAD community, particularly in relation to their marriage traditions and inheritance practices. The second phase, conducted from February 15 to April 30, 2020, aimed to verify and deepen the initial data. In-depth interviews were conducted with seven key informants, including a religious leader, the *tumenggung* (tribal chief), a customary elder of the SAD, a community facilitator, the subdistrict head, and two SAD community members—one a Muslim and the other an adherent of Animist beliefs. Secondary data were drawn from scholarly literature on Islamic and customary law. All data were analyzed qualitatively using the framework of public reasoning as articulated by John R. Bowen. According to Bowen, ideal law emerges from a deliberative process between communities and legal authorities, in which local norms are not erased but rather rationalized and preserved as part of a shared value system.<sup>16</sup> In the case of the SAD, adherence to customary law reflects a form of collective rationalization that prioritizes substantive justice and cultural meaning, positioning customary law as the system deemed most relevant and fair by the community itself.

### Socio-Cultural Background of the Suku Anak Dalam Community

The SAD—also known as the *Orang Rimba*—are broadly divided into two main groups: those who have embraced Islam and those who continue to follow Animist beliefs.<sup>17</sup> Among these, the majority now identify as Muslims.<sup>18</sup> In their daily lives, Muslim SAD community members engage in various formal religious practices, such as observing the five daily prayers, fasting during Ramadan, and paying zakat. They reside in government-constructed permanent housing and have access to a small prayer hall (*mushola*) that serves both as a place of worship and as an informal religious education center for children.<sup>19</sup> A Qur'anic teacher

<sup>15</sup> Widodo and Karnawati, "Moderasi Agama dan Pemahaman Radikalisme di Indonesia," 9–14.

<sup>16</sup> John R. Bowen, *Islam, Law, and Equality in Indonesia: An Anthropology of Public Reasoning* (New York: Cambridge University Press, 2003), 253–4.

<sup>17</sup> Hari, "Interview with the Leader of Suku Anak Dalam, September 19, 2019."

<sup>18</sup> Alhusni Alhusni, Edi Kurniawan, and Prisma Mulyatin, "The Islamization of Suku Anak Dalam in Jambi and Animism Claims: From Aqidah to Fiqh al-Salah Consolidation," *Al-Risalah: Forum Kajian Hukum dan Sosial Kemasyarakatan* 21, no. 1 (June 30, 2021): 131–43.

<sup>19</sup> Field Notes on Observations of the Daily Life of the Anak Dalam Tribe, December 2019.

(*guru ngaji*) assigned by the Ministry of Religious Affairs provides instruction in basic Islamic rituals, including prayer techniques and Qur'anic recitation.<sup>20</sup> Nevertheless, in terms of social norms and community governance, customary law continues to serve as the principal framework guiding individual behavior and social relations.<sup>21</sup> This reality suggests that conversion to Islam has been primarily formal and normative, while the community's social structure and legal practices remain firmly rooted in long-standing *adat* (customary) values.<sup>22</sup>

Historically, the SAD community in Jambi shares deep genealogical ties with the Minangkabau people of West Sumatra.<sup>23</sup> These connections are evident in their kinship system, which follows a matrilineal structure characteristic of the *Adat Perpatih* tradition.<sup>24</sup> Under this system, ownership and inheritance rights are passed down through the maternal line. All daughters in a family hold collective rights over inherited assets, particularly ancestral land.<sup>25</sup> The concept of individual land ownership does not exist within this framework; instead, female clan members jointly manage and benefit from communal resources. Authority over household decision-making and the arrangement of marriages likewise rests with the maternal line. This matrilineal value system and social structure, still consistently practiced within the SAD community today,<sup>26</sup> underpins their resistance to Islamic legal norms, which are often perceived as patriarchal and male lineage-oriented.<sup>27</sup>

The social structure of the SAD is governed by a customary leadership system centered on the *tumenggung*,<sup>28</sup> the highest authority figure in the community, who holds judicial, normative, and spiritual power. The *tumenggung* functions as the guardian of customary law, the arbiter of sanctions for social violations, and the ceremonial leader in collective rituals and traditional observances. Decisions issued by the *tumenggung* are considered final and binding, and are collectively upheld by all community members.<sup>29</sup> This authority is supported by a set of normative guidelines known as *seloko*—a corpus of life principles, indigenous wisdom, and social norms transmitted orally across generations. The values embedded in *seloko* emphasize the importance of order, communal harmony, clear boundaries, honesty,

<sup>20</sup> Suminah, "Interview with the Teacher Koran of Suku Anak Dalam, September 20, 2019."

<sup>21</sup> Bambang Prastio et al., "An Ecolinguistic Study: The Representation of Forest Conservation Practices in the Discourse of *Anak Dalam Jambi* Tribe, Indonesia," *Cogent Arts & Humanities* 10, no. 1 (December 31, 2023): 2262788.

<sup>22</sup> Ismail et al., "Customary and Islamic Practices in Inheritance Distribution," 1–16.

<sup>23</sup> See: Steven Sager, "Negotiating Identity, Ethnicity, and Place in Sumatra: Through Orang Rimba Origin Stories, Myths, and Legends," *Anthropos* 113, no. 1 (2018): 65–80; Waryono Waryono et al., "Islam Rimba: Islamic Philosophy and Local Culture Engagement in Sumatera," *HTS Teologiese Studies/Theological Studies* 77, no. 4 (August 5, 2021), a6561.

<sup>24</sup> Dian Mustika and Wenny Dastina, "Religious, Economic, and Political Shifting in Inheritance System of Suku Anak Dalam," *AHKAM: Jurnal Ilmu Syariah* 20, no. 1 (June 30, 2020): 49–78.

<sup>25</sup> Gadis, "Interview with the Community Member of Suku Anak Dalam, September 19, 2019."

<sup>26</sup> Field Notes on Observations of the Daily Life of the Anak Dalam Tribe, December 2019.

<sup>27</sup> See: Adis Duderija, "Tensions between the Study of Gender and Religion," *Hawwa* 15, no. 3 (December 7, 2017): 257–78; Bambang Husni Nugroho, Ahmad Mustaniruddin, and Ahmad Taufik, "Ideological Contestation on the Production of Gender Exegesis within Institutional Quranic Interpretation in Indonesia," *Jurnal Studi Ilmu-Ilmu Al-Qur'an dan Hadis* 25, no. 2 (October 1, 2024): 346–69; Muhammad Fauzinudin Faiz and Ferhat Koca, "Negotiation, Adaptation and Women's Resistance to Patriarchal Norms in the Context of Forced Marriage," *Indonesian Journal of Islamic Law* 7, no. 1 (June 25, 2024): 1–15.

<sup>28</sup> Samsu Samsu et al., "Tumenggung Leadership and Educational Model in Leading Indigenous People: Suku Anak Dalam Portrait," *Cogent Social Sciences* 8, no. 1 (December 31, 2022): 2123634.

<sup>29</sup> Hari, "Interview with the Leader of Suku Anak Dalam, September 19, 2019."

and reverence for nature and ancestral spirits.<sup>30</sup> For instance, the maxim “*dimano bumi dipijak, di situ langit dijunjung*” (wherever one stands, the sky must be upheld—a call to respect local customs) underscores the necessity of adapting to prevailing norms, while “*ado rimbo ado bungo, ado bungo ado dewo*” (where there is forest, there are flowers; where there are flowers, there are guardians)<sup>31</sup> conveys a sacred perception of the natural environment. These principles serve as moral foundations and operate as an informal regulatory system, shaping social order and conferring legitimacy upon the community’s legal practices.<sup>32</sup>

Despite having formally embraced Islam, SAD community members continue to observe a range of customary rituals imbued with local spiritual significance, including reverence for ancestral spirits and acknowledgment of metaphysical entities such as nature deities.<sup>33</sup> These rituals reflect a continuity between pre-Islamic belief systems and Islamic religious structures, reinforcing the role of cultural heritage as a medium for invoking blessings, safety, and well-being. A notable example is the traditional process of appointing customary leaders such as the *tumenggung* (chief) and *jenang* (deputy chief), which involves a series of tests based on spiritual strength, physical capability, and social legitimacy.<sup>34</sup> Another key ritual is *melangun*, the temporary relocation of a household following the death of a family member, carried out as an expression of respect for the departed soul. Traditionally, this period of displacement lasted up to three years before resettlement in a new location.<sup>35</sup> These varied practices demonstrate that, while Islamic symbols and rituals have been accepted to a certain extent, customary values and legal traditions continue to define the normative framework of everyday life within the SAD community. In this regard, customary law does not merely supplement Islamic norms; it constitutes an autonomous and dominant legal system that shapes the community’s collective life.<sup>36</sup>

### Resistance to *fiqh* Norms: *Mabr*, Joint Property, and Inheritance

Resistance to *fiqh* norms within the SAD community does not occur across the board, but is concentrated in three crucial areas of family law: *mabr* (dower), the division of joint property following divorce, and inheritance. These domains are particularly significant because they reveal clear normative tensions between the formalized provisions of Islamic law and the customary legal practices inherited across generations. By contrast, in matters of individual religious observance—such as daily prayers, fasting during Ramadan, and the payment of *zakat*—Islamic teachings have been widely internalized and are practiced by Muslim SAD members with little or no resistance.<sup>37</sup> This selective reception indicates that Islamic teachings

<sup>30</sup> Tamigan, “Interview with the Religious Leader of Suku Anak Dalam, September 20, 2019.”

<sup>31</sup> Heni Nopianti Aisyah Febrianty, Sri Handayani Hanum, “Nilai-Nilai dan Norma Kehidupan Suku Anak Dalam yang Mendiami Kawasan Bukit Dua Belas,” in *Seminar Nasional Penelitian LPPM UMJ*, 2021, 8.

<sup>32</sup> Ali Abubakar et al., “The Postponement of the Implementation of Inheritance Distribution in the Seunuddon Community, North Aceh in the Lens of ‘Urf Theory and Legal Pluralism,” *El-Usrab: Jurnal Hukum Keluarga* 6, no. 2 (December 30, 2023): 411–29.

<sup>33</sup> Prastio et al., “An Ecolinguistic Study,” 2262788.

<sup>34</sup> Nurbaiti, “Interview with the Elder of Suku Anak Dalam, September 19, 2019.”

<sup>35</sup> Ahmad Zain Sarnoto and Muhammad Ridho, “Budaya Lokal dan Pendidikan Islam: Studi Kasus Suku Anak Dalam di Jambi,” *Profesi: Jurnal Ilmu Pendidikan dan Keguruan* 8, no. 1 (June 5, 2019): 1–14.

<sup>36</sup> Idrus et al., “Flexibility of Women’s Inheritance Distribution in Jambi Malay Society,” 42–61.

<sup>37</sup> Field Notes on Observations of the Daily Life of the Anak Dalam Tribe, December 2019.

are more readily accepted when they do not conflict with the community's social structure and collective values, whereas legal norms that disrupt customary arrangements tend to provoke latent forms of resistance.<sup>38</sup>

In this context, resistance to Islamic law should not be interpreted as a rejection of the religion itself. Rather, it reflects a conscious effort to preserve a value system and social structure that have proven effective in maintaining community cohesion. The matrilineal kinship system upheld by the SAD offers an institutional framework fundamentally distinct from the patrilineal orientation of *fiqh*, especially in matters of inheritance and the distribution of family wealth.<sup>39</sup> As such, customary norms regulating *mahr*, inheritance, and joint property are not merely traditional practices; they constitute a form of living law—a dynamic legal system continually enacted and sustained because it is seen as more just, contextually appropriate, and socially resonant.<sup>40</sup> Accordingly, any analysis of family legal practices among the SAD requires an understanding of local power relations, social structure, and legal legitimacy, which do not necessarily align with the normative logic of formal *fiqh*.

### *Resistance in the Practice of Mahr Determination*

Within *fiqh*, *mahr* (also known as *ṣadaq*, *nihlah*, or *farīdah*) is regarded as an essential component of the marriage contract (*akad nikah*).<sup>41</sup> It refers to the obligatory transfer of property from the husband to the wife as a condition for the legitimacy of the marriage.<sup>42</sup> Wahbah al-Zuhailī defines *mahr* as the wealth a husband must provide at the time of the contract, serving as compensation for establishing the marital bond. In the Ḥanafī school of law (*madhhab*), *mahr* is understood as a legal consequence of the marriage itself.<sup>43</sup> In practice, *mahr* can take the form of either monetary or non-monetary assets and does not necessarily have to be paid in full at the time of the wedding.<sup>44</sup> Classical *fiqh* literature distinguishes between two types of *mahr*: *mahr musammā*, explicitly specified during the contract, and *mahr mithl*, which is determined by prevailing local custom or what is deemed appropriate within the social environment. *Mahr* is not merely symbolic within Islamic law; it embodies principles of justice and a recognition of women's rights within the framework of marriage.<sup>45</sup>

<sup>38</sup> Idrus et al., "Flexibility of Women's Inheritance Distribution in Jambi Malay Society," 42–61.

<sup>39</sup> Mahmood Kooria, "When Men Get No Share: Matrilineal Muslims and Their Laws of Succession," *Comparative Studies of South Asia, Africa and the Middle East* 43, no. 2 (August 1, 2023): 163–75.

<sup>40</sup> See: Djawas et al., "The Integration Between Syara' and Ade' in Marriage Tradition Bugis Bone, South Sulawesi," 342–63; Berlian Puji Pangastuti, "Contextualizing Justice in Times of Crisis: A Study of QS. Al-Mā'idah 5:38 and Its Application in Criminal Theft Cases," *Jurnal Studi Ilmu-Ilmu Al-Qur'an dan Hadis* 24, no. 1 (January 31, 2023): 161–80.

<sup>41</sup> 'Abd al-Rahmān al-Jazīrī, *Al-Fiqh 'alā al-Madhābīb al-Arba'ah*, vol. 4 (Al-Qāhirah: Al-Maktabah al-Thaqāfiyyah li al-Nashr wa al-Tawzī', 2000), 79–86.

<sup>42</sup> See: Lenka Bezoušková and Monika Pauknerová, "Mahr ('Dowry') in the Right of Muslim Countries and International Private Law," *Pravnik* 158, no. 4 (2019): 349–69; Barzah Latupono, "Transformation of Marriage Dowry into Shares in a Limited Liability Company: A Review of Civil Law and Its Implications," *Journal of Ecobumanism* 3, no. 3 (June 25, 2024): 877–84; Endri Yenti et al., "A Set of Prayer Outfits as a Mahar? Discrimination against Women in the 'Urf Reality of the Archipelago's Fiqh," *Al-Risalah: Forum Kajian Hukum dan Sosial Kemasyarakatan* 20, no. 1 (May 28, 2020): 17–30.

<sup>43</sup> Wahbah al-Zuhailī, *Al-Fiqh al-Islamī wa Adillatuh*, vol. 9 (Bayrūt: Dār al-Fikr, 1984), 230.

<sup>44</sup> Abū Ishāq Ibrāhīm bin 'Alī bin Yūsuf al-Fayrūzābādī al-Shīrāzī, *Al-Muhadhdhab fī Fiqh al-Imām al-Shāfi'i*, vol. 2 (Dimashq: Dār al-Qalam, 1992), 463.

<sup>45</sup> Al-Jazīrī, *Al-Fiqh 'alā al-Madhābīb al-Arba'ah*, 4:87.

There is a broad consensus among Islamic jurists that *mahr* is the wife's exclusive right and should be determined through mutual consultation between the two parties, even though, in practice, it is typically left to the groom to decide, often based on his financial capacity.<sup>46</sup> There is no specific injunction in *fiqh* texts stipulating whether the bride or groom must determine the *mahr*.<sup>47</sup> Islam emphasizes moderation: *mahr* should neither be so high as to burden the groom,<sup>48</sup> nor so low as to diminish its significance. While Islamic scholars (*'ulamā'*) agree that there is no maximum limit to *mahr*, they diverge on the issue of its minimum value. Imām al-Shāfi'ī, Aḥmad ibn Ḥanbal, Ishāq, Abū Thawr, and several *'ulamā'* from Medina hold that no minimum is required—anything of value may be offered. In contrast, Imām Mālik sets the minimum at one-quarter *dinar*, while Imām Abū Ḥanīfah stipulates ten *dirhams*. Despite these differences, most jurists concur that *mahr* must consist of something valuable, lawful, pure, and not acquired through illegitimate means (*ghaṣb*).<sup>49</sup>

Nevertheless, in societies with matrilineal kinship systems, the social realities surrounding *mahr* often diverge from formal *fiqh* prescriptions.<sup>50</sup> In such contexts, customary norms not only interact with but frequently dominate the formation of family law practices, producing forms of resistance to Islamic legal structures deemed incompatible with local social configurations. One of the most illustrative examples of this normative tension is found in the *mahr* practices of the SAD community in Jambi. Although most SAD members are formally Muslim and observe ritual practices in line with *fiqh* norms, family matters such as the determination of *mahr* remain firmly under the jurisdiction of customary law.<sup>51</sup> Within the matrilineal kinship structure of the SAD, women occupy a central role in domestic decision-making.<sup>52</sup> It is particularly evident in the determination of *mahr*, where the authority to decide the form and amount of the dower often rests not solely with the bride herself but with her extended maternal family. As one customary leader in the SAD community remarked, “Mahr is given to the bride according to her request.”<sup>53</sup> In practice, however, the determination of *mahr* is not treated as a private matter between the bride and groom, but rather as a collective decision involving the bride's broader maternal kin group. The *mahr* is not only allocated to the bride but is also distributed among her mother, her maternal aunts, and her sisters. As another customary leader explained, “The mahr is determined by the bride's

<sup>46</sup> Arshi Showkat, “The Principle and Practice of Mahr in Muslim Marriages,” *Feminist Theology* 31, no. 2 (January 2023): 197–209.

<sup>47</sup> Mohammad Walid Ishaq Zai and Sayed Ajmal Sadat, “Identification of Dowry (Mahr) in Islam,” *Sprinj Journal of Arabic-English Studies* 2, no. 02 (August 11, 2023): 38–46.

<sup>48</sup> See: I Pandang et al., “Delayed *Mabar*: The Perspective of Islamic and Customary Law,” *IOP Conference Series: Earth and Environmental Science* 175 (July 24, 2018): 012140; Hilmi Yusron Rofi'i, “Husein Muhammad's Thoughts on Husband's Iddah and His Contribution to the Development of Family Law in Indonesia,” *SMART: Journal of Sharia, Traditon, and Modernity* 3, no. 2 (December 29, 2023): 29; Fardan Mahmudatul Imamah, Puja Alviana Dewantri, and Yuqiong Lin, “The Role of Islam in Affecting the Transformation of Traditional Agriculture Knowledge: A Systematic Review of Dewi Sri Literature,” *LAS Journal of Localities* 2, no. 2 (August 27, 2024): 143–57.

<sup>49</sup> Al-Jaziri, *Al-Fiqh 'alā al-Madhāhib al-Arba'ah*, 4:79.

<sup>50</sup> Kooria, “When Men Get No Share,” 163–75.

<sup>51</sup> Field Notes on Observations of the Daily Life of the Anak Dalam Tribe, December 2019.

<sup>52</sup> Halimatussa'diyah Halimatussa'diyah et al., “Minangkabau Matrilineal: The Correlation between the Qur'an and Gender,” *HTS Teologiese Studies / Theological Studies* 80, no. 1 (January 22, 2024): a8643.

<sup>53</sup> Hari, “Interview with the Leader of Suku Anak Dalam, September 19, 2019.”



family and handed over to her mother, who then divides it equally among her sisters and the bride's sisters."<sup>54</sup> This arrangement reveals that marriage within the SAD community is understood as a communal affair. It clearly contrasts with *fiqh* norms, which frame *mahr* as a bilateral, individually negotiated agreement between husband and wife as parties to the contract.<sup>55</sup>

This collective approach to *mahr* underscores a broader understanding of marriage within the SAD community as a social institution involving the extended family, rather than a private contractual relationship between two individuals. Here, *mahr* serves not only as a symbol of respect for the bride but also as a representation of social responsibility and an acknowledgment of customary authority structures. A parallel can be observed in the Ngada community of East Nusa Tenggara, another matrilineal society, where *belis*—a form of bride wealth—is a tribute to the bride's family and is determined through consensus among customary elders.<sup>56</sup> Such similarities point to a recurring pattern in matrilineal societies: resistance to Islamic legal doctrines and state regulations concerning property is not rooted in ideological opposition to Islam, but rather emerges as an expression of enduring social values that position women as the locus of kinship legitimacy and rights distribution.<sup>57</sup> These distinctions reaffirm that religious or customary law is a socially constructed institution that lives and evolves within its particular context.<sup>58</sup> In the case of the SAD, the continued adherence to customary *mahr* practices reflects a preference for a legal system perceived as more functional, equitable, and aligned with the community's lived social realities.

### *Resistance in the Management and Distribution of Joint Property*

In Islamic legal doctrine, the concept of joint marital property is not explicitly outlined in the core normative sources such as the Qur'an and *ḥadīth*. Nevertheless, classical jurists have developed analogical frameworks through the concept of *shirkah* (partnership) to address the economic relationship between spouses, particularly in the accumulation of assets during marriage.<sup>59</sup> Within *fiqh*, the Ḥanafī, Mālikī, Shāfi'ī, and Ḥanbalī *madhhabs* each propose various forms of *shirkah* as interpretive models for marital economic cooperation. Two forms most relevant to the spousal context are *shirkah amlāk* (shared ownership without joint enterprise) and *shirkah 'uqūd* (contractual partnerships in trade or investment). Imām Mālik and Imām al-Shāfi'ī further elaborate this typology to include variations such as *shirkah 'inān*, *mufāwadhah*, *wujūh*, and *abdān*. Of these, *shirkah abdān*—which captures the idea of collaborative labor and mutual effort—is often considered the most fitting for describing the collective economic contribution of spouses to household formation.<sup>60</sup> This model has been taken up

<sup>54</sup> Suminah, "Interview with the Teacher Koran of Suku Anak Dalam, September 20, 2019."

<sup>55</sup> Al-Zuhāilī, *Al-Fiqh al-Islamī wa Adillatuh*, 9: 6912.

<sup>56</sup> Agus Kowe et al., "Makna Belis dalam Perkawinan Matrilineal Masyarakat Ngada (Ditinjau Berdasarkan Kitab Hukum Kanonik No. 1062)," *Jurnal Adat dan Budaya* 6, no. 1 (2024), 94–5.

<sup>57</sup> Jyoti Singh and Kajori Bhatnagar, "Evaluating the Categorical Exclusion of Khasi Women from Inheritance and Property Rights: A Case of East Khasi Hills," *International Journal on Minority and Group Rights* 31, no. 4 (January 30, 2024): 715–36.

<sup>58</sup> Fauzi Fauzi, "Urf and Its Role in the Development of Fiqh: Comparative Study of Family Law Between Egypt and Indonesia," *El-Ushab: Jurnal Hukum Keluarga* 7, no. 1 (June 30, 2024): 346–71.

<sup>59</sup> Imam Taqiyuddin Abū Bakr bin Muḥammad al-Ḥusaynī, *Kifāyah al-Akhyār fī Ḥall Ghāyat al-Ikhtisār*, vol. 1 (Bayrūt: Dār al-Khayr, 1991), 269–70.

<sup>60</sup> Wahbah al-Zuhāilī, *Al-Fiqh al-Islamī wa Adillatuh*, vol. 5 (Bayrūt: Dār al-Fikr, 1984), 3380–7.

by Indonesian *'ulamā'* as a normative basis for recognizing the existence of joint marital property, even as the terminology itself is rooted in customary legal traditions.<sup>61</sup>

While the notion of joint property resonates more naturally with customary systems across Indonesia's local communities, the reinterpretation of *shirkah* has enabled the contextual integration of *fiqh*-based values into household economic arrangements.<sup>62</sup> The Ḥanafī *madhhab*, for instance, allows for various forms of *shirkah* provided that there is explicit agreement between parties. The Mālikī and Ḥanbalī *madhhabs* likewise accommodate spousal economic cooperation, whereas the Shāfi'ī *madhhab* emphasizes proportional capital contributions in forming valid partnerships.<sup>63</sup> Terms such as *al-māl al-ḡanjayni* (property of husband and wife) and *matā' al-bayt* (household furnishings) appear in *fiqh* literature as categories that can be paralleled with the contemporary Indonesian understanding of joint marital property.<sup>64</sup> Thus, recognition of such property does not inherently conflict with Islamic law principles, so long as justice, mutual consent, and transparency between spouses are maintained.<sup>65</sup>

However, when *fiqh*-based norms intersect with social structures shaped by matrilineal values, forms of resistance often emerge, revealing the layered complexities of the relationship between religious and customary legal systems.<sup>66</sup> One such manifestation is found in the SAD community of Jambi, where joint property acquired during marriage is regarded entirely as the wife's possession, irrespective of the husband's financial contribution.<sup>67</sup> Women exercise full ownership and control over assets from the outset, and in the event of divorce, the husband is expected to leave the household without claiming any share of the property. It is affirmed by a customary leader who stated, "If a couple divorces, the husband leaves the house and receives nothing from the joint property."<sup>68</sup> This practice diverges significantly from *fiqh* norms, which emphasize justice and deliberation in asset division after divorce, acknowledging the contributions of both spouses.<sup>69</sup> In other words, SAD customary

<sup>61</sup> See: Ismail Ismail et al., "The Contribution of 'Urf to the Reform of Islamic Inheritance Law in Indonesia," *Al-Risalah: Forum Kajian Hukum dan Sosial Kemasyarakatan* 22, no. 2 (December 28, 2022): 165–78; Jefry Tarantang et al., "Rereading the Concept of Joint Property: Fiqh Literacy in the Book of Sabīl Muhtadin and the Genealogy of Sheikh Arsyad's Thoughts," *Samarah: Jurnal Hukum Keluarga dan Hukum Islam* 8, no. 3 (November 16, 2024): 1840–58.

<sup>62</sup> Fauzi, "'Urf and Its Role in the Development of Fiqh," 346–71.

<sup>63</sup> Ahmad Akram Mahmad Robbi and Mek Wok Mahmud, "Maqāṣid al-'Adl (Keadilan) dalam Isu Tuntutan Harta Sepencarian di Malaysia (The Objective of Fairness (al-'Adl) in the Matrimonial Property Conflict in Malaysia)," *Journal of Islam in Asia* 17, no. 3 (November 4, 2020): 291–320.

<sup>64</sup> Mohd Norhusairi Mat Hussin et al., "The Legal Recognition of a Wife's Rights of Harta Sepencarian in Malaysia," *Asian Women* 39, no. 1 (March 31, 2023): 23–44.

<sup>65</sup> See: Abd Rouf, Mufidah Ch, and Zaenul Mahmudi, "Joint Property Division in Indonesia: A Gender Equality Viewpoint," *De Jure: Jurnal Hukum dan Syariah* 15, no. 2 (December 29, 2023): 230–50; Eko Rial Nugroho, Bagya Agung Prabowo, and Rohidin Rohidin, "Granting of Property During Marriage as an Inherited Property in Indonesia," *ElUshab: Jurnal Hukum Keluarga* 7, no. 1 (June 30, 2024): 310–25; Nurunnisa Nurunnisa et al., "Implications of Annulment of Marriage on the Distribution of Joint Assets According to the Compilation of Islamic Law and National Law," *Syariah: Jurnal Hukum dan Pemikiran* 23, no. 1 (July 4, 2023): 1–23.

<sup>66</sup> Kooria, "When Men Get No Share," 163–75.

<sup>67</sup> Nurbaiti, "Interview with the Elder of Suku Anak Dalam, September 19, 2019."

<sup>68</sup> Hari, "Interview with the Leader of Suku Anak Dalam, September 19, 2019."

<sup>69</sup> See: Abd Rouf, "Jurimetrics in the Reconstruction of the Joint Property Division Model for Wage-Earner Wives in Indonesia," *Al-Ahkam* 34, no. 1 (March 20, 2024): 1–32; Syaikh Syaikh et al., "The Maqashid

law privileges the wife as the normative beneficiary, reflecting a value system that frames household ownership through a matrilineal lens.

This resistance is inextricable from the social foundation of the SAD community, whose kinship structure is rooted in matrilineality. Within this system, property is categorized into two main types: *pusako tinggi*, ancestral property inherited through the maternal line, and *pusako rendah*, assets accumulated during the course of marriage. Even the latter remains under female control following divorce.<sup>70</sup> This arrangement grants women a central role in inheritance and asset management, reinforcing the view that maintaining the family's economic continuity is primarily a woman's responsibility. As one SAD community member said, "If a divorce occurs, all joint property belongs to the wife, following the matrilineal system."<sup>71</sup> Another SAD community facilitator added, "When a marriage ends, the husband leaves without taking anything acquired during the marriage, because it is the woman who is responsible for raising the children."<sup>72</sup> The wife's exclusive claim over joint property thus reflects a collective value orientation that prioritizes household continuity and post-divorce stability—particularly for the children's sake. In this regard, customary law functions not merely as a social norm but as an institutional mechanism that safeguards vulnerable groups—specifically women and children—by ensuring their economic security after the dissolution of marriage.<sup>73</sup>

Similar property arrangements can be found in the *semendo* tradition, in which a husband who joins his wife's household relinquishes marital assets to her family upon separation.<sup>74</sup> In Sambas, joint property is divided through negotiated processes guided by customary principles of harmony and communal justice.<sup>75</sup> These parallels point to a broader cultural pattern across Indonesia's local communities—especially in matrilineal systems—in which economic authority tends to be vested in women in the post-marital context.<sup>76</sup> Hence, the practices of the SAD are not anomalous, but rather part of a wider spectrum of legal pluralism that reflects how Indigenous communities manage domestic life in accordance with local values and practical needs.<sup>77</sup> This resistance is not a theological rejection of Islamic law,

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Sharia Construction on Inheritance in Dayak Ngaju Customs within the Tumbang Anoi Agreement," *El-Mashlahab* 13, no. 2 (December 31, 2023): 181–202.

<sup>70</sup> Halimatussa'diyah et al., "Minangkabaunese Matrilineal," a8643.

<sup>71</sup> Suci, "Interview with the Community Member of Suku Anak Dalam, September 19, 2019."

<sup>72</sup> Indah, "Interview with the Companion of Suku Anak Dalam, September 19, 2019."

<sup>73</sup> Kuku Pramono Budi et al., "Adjudicating Joint Property Dispute in Islamic Jurisprudence: Balancing the Best Interests of the Child with a Focus on Residency," *Syariah: Jurnal Hukum dan Pemikiran* 23, no. 2 (2023): 245–66.

<sup>74</sup> Linda Firdawaty, Habib Shulton Asnawi, and Siti Mahmudah, "Semanda Lekok in the Sai Batin Community, Lampung: Wife's Domination of Marital Assets from Maqāṣid al-Sharī'ah Perspective," *Samarah: Jurnal Hukum Keluarga dan Hukum Islam* 8, no. 3 (September 14, 2024): 1734–62.

<sup>75</sup> Asman Asman, Nilhakim Nilhakim, and Andrey V. Kotyazhov, "Legal Relations of Contemporary Islamic Family: A Study of the Existence of Local Culture in Sambas, West Kalimantan," *Jurnal Ilmiah Al-Syir'ab* 22, no. 2 (December 30, 2024): 246.

<sup>76</sup> Hamda Sulfinadia and Jurna Petri Roszi, "Moderation of Madhhabs in West Sumatra Towards Hadhanah of Minors Whose Mothers Remarry," *El-Ushrah: Jurnal Hukum Keluarga* 7, no. 2 (December 31, 2024): 789–815.

<sup>77</sup> Abubakar et al., "The Postponement of the Implementation of Inheritance Distribution in the Seunuddon Community, North Aceh in the Lens of 'Urf Theory and Legal Pluralism," 411–29.

but rather an affirmation of a localized legal system whose relevance, stability, and functionality have been tested and validated within the community over time.<sup>78</sup>

### *Resistance in Inheritance Distribution*

In Islamic legal construction, inheritance is understood as a mechanism for transferring ownership of a deceased person's assets to their rightful heirs.<sup>79</sup> These assets may include land, money, property, or other legally recognized forms of wealth.<sup>80</sup> The foundational principle of Islamic inheritance law (*'ilm al-farā'id*) is based on proportional justice, in which male heirs typically receive a larger share than their female counterparts.<sup>81</sup> This differentiation is not intended to discriminate against women, but rather to reflect the division of social responsibilities—especially financial obligations—which are structurally placed on men. A male heir is expected to provide for his wife, children, and other dependent family members. Thus, the larger share granted to male heirs is not merely a privilege, but correlates with the economic burden inherent in their role within the Islamic family structure.<sup>82</sup>

Islamic inheritance law offers a detailed distribution formula, including provisions related explicitly to daughters.<sup>83</sup> Several primary stipulations apply.<sup>84</sup> First, if the deceased leaves only one daughter and no sons, she is entitled to half of the estate. Second, if there are two or more daughters and no sons, they collectively receive two-thirds of the estate. Third, if daughters inherit alongside sons, the principle of *'aṣabah bi al-ghayr* applies, wherein a male receives twice the share of a female, as outlined in Surah al-Nisā' (4:11): *"li al-dhakarī mithlu haṣṣ al-unthayayn"* (to the male, a portion equal to that of two females).<sup>85</sup> This principle is reinforced in various classical exegetical works, including those of Ibn Kathīr, who emphasized that this rule was intended to correct pre-Islamic practices (*jāhiliyyah*) that excluded women entirely from inheritance rights.<sup>86</sup> As such, the rules of Islamic inheritance law are not only normative but also historically progressive within the socio-legal context of

<sup>78</sup> Jabbar Sabil, Faisal Faisal, and Muhammad Zukhdi, "Fiqh Reform in the Sultanate of Aceh Darussalam: Is It Modernism or Moderatism? A Study of the Hareuta Sihareukat Custom," *Jurnal Ilmiah Peuradenn* 13, no. 1 (January 30, 2025): 569–98.

<sup>79</sup> Wahbah Al-Zuhaili, *Al-Fiqh al-Islami wa Adillatub*, vol. 10 (Bayrūt: Dār al-Fikr, 1984), 7697.

<sup>80</sup> See: Abdulmajeed Hassan Bello, "Islamic Law of Inheritance among the Yoruba of Southwest Nigeria: A Case Study of Dar Ul-Qadha (Arbitration Panel)," *Journal of Islamic Law* 5, no. 1 (February 29, 2024): 44–61; Henky Fernando et al., "Crime of the Personal Closeness: Characteristics Perpetrators of Child Sexual Abuse," *Nurani: Jurnal Kajian Syari'ah dan Masyarakat* 23, no. 1 (June 8, 2023): 11–24.

<sup>81</sup> Sayyid Sābiq, *Fiqh al-Sunnah*, vol. 1 (Al-Qāhira: Dār al-Ḥadīth, 2004), 1099.

<sup>82</sup> See: Muḥammad 'Alī al-Shābūnī, *Al-Mawāriṭh fī al-Sharī'ah al-Islāmiyyah fī Ḍaw' al-Kitāb wa al-Sunnah* (Makkah al-Mukarramah: Jāmi'at Umm al-Qurā, 2015), 12–23. Yusida Fitriyati et al., "Reconsidering Inheritance Equality: Gender Justice in Religious Court Decisions through the Lens of Maqashid al-Shariah," *Nurani: Jurnal Kajian Syari'ah dan Masyarakat* 25, no. 1 (May 1, 2025): 122–40.

<sup>83</sup> Al-Zuhaili, *Al-Fiqh al-Islami wa Adillatub*, 10:7774–5.

<sup>84</sup> Muhammad Lutfi Hakim and Khoiruddin Nasution, "Accommodating Non-Muslim Rights: Legal Arguments and Legal Principles in the Islamic Jurisprudence of the Indonesian Supreme Court in the Post-New Order Era," *Oxford Journal of Law and Religion* 11, no. 2–3 (July 25, 2023): 288–313.

<sup>85</sup> Muhammad Lutfi Hakim, "Ismail Mundu on Islamic Law of Inheritance: A Content Analysis of Majmū' al-Mirāth fī Ḥukm al-Farā'id," *Al-Jami'ah: Journal of Islamic Studies* 61, no. 1 (June 30, 2023): 70–71.

<sup>86</sup> Al-Ḥāfiẓ 'Imād al-Dīn Abū al-Fidā' Ismā'īl bin 'Umar bin Kathīr, *Tafsīr Ibn Kathīr: Tafsīr al-Qur'ān al-'Aẓīm*, vol. 2 (Bayrūt: Dār Ibn Hazm, 2000), 447.

their revelation. They embody a justice framework grounded in functional and familial responsibility rather than formal equality alone.<sup>87</sup>

In the SAD community, inheritance is governed by local kinship values and social structures that diverge fundamentally from Islamic inheritance law. As a matrilineal society, the SAD places women at the center of inheritance practices.<sup>88</sup> Women are not only allocated larger portions of the estate but are also recognized as the primary custodians and managers of family assets. In practice, wives and daughters receive a dominant share of inheritance, surpassing that of sons or other male relatives. As one SAD community facilitator explained, “*The inheritance system practiced among the SAD does not follow Islamic law. Most of them allocate a larger share to women (wives and daughters) than to men.*”<sup>89</sup> This practice reflects the continuation of customary values that position women as the custodians of matrilineal continuity and as those responsible for maintaining economic stability following the death of the family head.<sup>90</sup>

A key foundation of this resistance lies in the operational—not merely symbolic—role of women within SAD social structures.<sup>91</sup> Under customary law, women are not only recipients of inheritance but also exercise exclusive control over land, houses, and ancestral possessions.<sup>92</sup> While men may contribute economically and participate in labor, they are perceived as lacking the structural ties to the household necessary to justify prioritization in inheritance distribution. Another community facilitator affirmed, “*Property is handed entirely to women because, in the SAD community, women carry greater family responsibility than men.*”<sup>93</sup> From the SAD perspective, female control over property is seen as ensuring familial continuity and embodying a distribution model that is considered more just and contextually appropriate than the gender-based arithmetic of Islamic inheritance law.<sup>94</sup>

Further distinguishing SAD inheritance practices is the classification between *pusako tinggi* and *pusako rendah*. *Pusako tinggi* refers to ancestral property handed down through generations, which may neither be sold nor transferred outside the maternal line. *Pusako rendah* includes property acquired during a person’s lifetime but remains subject to matrilineal

<sup>87</sup> See: Muḥammad al-Sayyid Ṭaṭṭāwī, *Al-Wasīṭ*, vol. 1 (Al-Qāhirah: Majma’ al-Buḥūth al-Islāmiyyah, 1968), 875–79; Sule Toktas and Mary Lou O’Neil, “Competing Frameworks of Islamic Law and Secular Civil Law in Turkey: A Case Study on Women’s Property and Inheritance Practices,” *Women’s Studies International Forum* 48 (January 2015): 29–38; Zunly Nadia and Niswatin Faoziah, “Gender Equality within Family in Islamic Perspective: Insights from the Hadiths of Ummul Mukminin,” *Jurnal Studi Ilmu-Ilmu Al-Qur’an dan Hadis* 25, no. 1 (June 14, 2024): 161–86.

<sup>88</sup> Indah, “Interview with the Companion of Suku Anak Dalam, September 19, 2019.”

<sup>89</sup> Suci, “Interview with the Community Member of Suku Anak Dalam, September 19, 2019.”

<sup>90</sup> See: Maimanah Maimanah et al., “Delay in the Division of Inheritance: A Theoretical Review within Legal System Framework in Indonesia,” *Syariah: Jurnal Hukum dan Pemikiran* 24, no. 1 (June 1, 2024): 241–57; Fahmi Fatwa Rosyadi Satria Hamdani et al., “Traditional Law vs. Islamic Law; An Analysis of Muslim Community Awareness in Inheritance Issues,” *Al-Abkam* 32, no. 1 (April 28, 2022): 109–30.

<sup>91</sup> Halimatussa’diyah et al., “Minangkabaunese Matrilineal,” a8643.

<sup>92</sup> Nurbaiti, “Interview with the Elder of Suku Anak Dalam, September 19, 2019.”

<sup>93</sup> Indah, “Interview with the Companion of Suku Anak Dalam, September 19, 2019.”

<sup>94</sup> See: Agus Suharsono, Nanik Prasetyoningsih, and Sunyoto Usman, “Women’s Inheritance Rights in Indonesia from the Perspective of the Triangular Concept of Legal Pluralism,” *El-Masblahah* 14, no. 2 (November 8, 2024): 259–80; Muhammad Amrullah Drs Nasrul et al., “Unraveling Legal Complexities: Muslim and Non-Muslim Estate Administration Process in Malaysia and Brunei,” *De Jure: Jurnal Hukum dan Syar’iah* 16, no. 2 (December 30, 2024): 531–54; Hani Sholihah, Nani Nani Widiawati, and Mohd Khairul Nazif bin Hj Awang Damit, “Reinterpretation of Justice in Islamic Inheritance Rights Based on Gender,” *Al-’Adalah* 21, no. 1 (June 25, 2024): 101–24.

inheritance principles.<sup>95</sup> These assets—especially *pusako tinggi*—can only be managed by the eldest woman in the family and cannot be passed down to male heirs.<sup>96</sup> As a result, men have no inheritance claims under this system, further solidifying resistance to Islamic inheritance law. This practice is encapsulated in a well-known saying among the SAD: “*In matters of inheritance, follow the decision of the sanak betino (the womenfolk).*”<sup>97</sup> The tradition underscores the importance of preserving assets within the maternal family line as a symbol of cultural and economic stability across generations.<sup>98</sup> From the SAD perspective, *fiqh*-based provisions that permit the individualization and mobilization of inherited assets run counter to this preservation ethic. In their view, inheritance is not a matter of individual ownership but a communal family entity that must be protected and collectively managed.

### Factors Driving Resistance to Islamic Family Law Practices

Resistance to Islamic law within the SAD community is neither spontaneous nor reducible to a simplistic ideological rejection. Instead, it constitutes a complex social response rooted in a deeply embedded value system and kinship structure that has long shaped community life.<sup>99</sup> This study identifies at least five key factors underlying why certain aspects of Islamic family law—particularly those relating to *mahr*, joint property, and inheritance—face obstacles in implementation. While ritual practices such as prayer, fasting, and *zakat* are more readily accepted and internalized,<sup>100</sup> legal provisions that intersect with social structures and power relations are often met with latent resistance. It is therefore imperative to understand this resistance not as a negation of Islam per se, but as an affirmative expression of loyalty to a local legal system that is perceived as more relevant, functional, and socially coherent in the context of SAD communal life.

The first and most prominent factor is the strong commitment to preserving ancestral traditions passed down through generations.<sup>101</sup> Among SAD members, customary law is not merely a social norm but a spiritual system, embodying reverence for ancestral spirits believed to directly affect communal harmony. Violating *adat* is thought to invite misfortune.<sup>102</sup> In the context of determining the *mahr*, for instance, there exists a collective convention that its amount must be equivalent or comparable to what the bride’s maternal aunts previously received. A member of the SAD community explains: “*The mahr is given according to the request of the bride’s side. It is the bride’s family who decides the amount, and it is not given solely to the young woman, but also to her mother, her mother’s sisters, and her own sisters—everyone receives a share.*”<sup>103</sup> This practice positions *mahr* not as an individual entitlement, as it is constructed in *fiqh*, but as a symbol of kinship and collective solidarity. Thus, in customary law, *mahr* functions not only

<sup>95</sup> Halimatussa’diyah et al., “Minangkabaunese Matrilineal,” a8643.

<sup>96</sup> Kooria, “When Men Get No Share,” 163–75.

<sup>97</sup> Hari, “Interview with the Leader of Suku Anak Dalam, September 19, 2019.”

<sup>98</sup> Ahmad Wira et al., “Legal Study of Dzurri Waqf and Its Implementation towards Strengthening High Heritage Assets in Minangkabau, West Sumatra, Indonesia,” *JURIS (Jurnal Ilmiah Syariah)* 22, no. 2 (December 18, 2023): 329.

<sup>99</sup> Idrus et al., “Flexibility of Women’s Inheritance Distribution in Jambi Malay Society,” 42–61.

<sup>100</sup> Field Notes on Observations of the Daily Life of the Anak Dalam Tribe, December 2019.

<sup>101</sup> Hari, “Interview with the Leader of Suku Anak Dalam, September 19, 2019.”

<sup>102</sup> Nurbaiti, “Interview with the Elder of Suku Anak Dalam, September 19, 2019.”

<sup>103</sup> Suci, “Interview with the Community Member of Suku Anak Dalam, September 19, 2019.”

as an economic instrument but also as a mechanism for preserving social identity and maintaining the female-centered kinship network within the community.<sup>104</sup>

The second factor concerns the matrilineal kinship system, which situates women at the center of social and economic authority.<sup>105</sup> Within this framework, key decisions in marriage—including the approval of a prospective husband, the setting of the *mahr*, and the division of property upon divorce—are made by the maternal lineage.<sup>106</sup> In many cases, men who divorce their wives are expected to leave the home and relinquish all jointly acquired property, which, according to custom, belongs exclusively to the woman's side. As a SAD community facilitator observed, “If a man divorces, he must leave with nothing. Everything accumulated during the marriage is considered the woman's.”<sup>107</sup> This structure establishes a configuration of authority that safeguards women and reinforces their dominance in domestic and economic affairs. In this context, Islamic family law—which prescribes more balanced rights and responsibilities for spouses based on distributive justice—is perceived as misaligned with a social reality that casts women as the principal actors in household decision-making and property management.<sup>108</sup>

The third factor is a strong cultural commitment to the continuity of *adat* as a sacred inheritance that must not be altered.<sup>109</sup> In the SAD community, tradition is not regarded as a flexible option, but as a moral and spiritual obligation. Violations of *adat* are seen not merely as social deviations, but as denials of sacred values.<sup>110</sup> As expressed in a local proverb, “*Dimano biawak terjun, disitu anjing tertulung*”—loosely translated, “Where the monitor lizard leaps, the dog gets caught.”<sup>111</sup> The saying warns that every action must follow customary rules to avoid disturbing social equilibrium. Islamic legal provisions on inheritance and *mahr* are often perceived as threats to this value system, with the potential to disrupt community harmony.<sup>112</sup> In this light, adherence to *adat* becomes a cultural strategy for safeguarding social cohesion and spiritual balance amid the pressures of external change.<sup>113</sup>

<sup>104</sup> M. Tahir Maloko et al., “Sompā Tanah in Makassar Bugis Customary Marriages: Legal, Religious, and Cultural Perspectives,” *Jurnal Ilmiah Peuradenn* 12, no. 3 (September 30, 2024): 1213–36.

<sup>105</sup> Tamigan, “Interview with the Religious Leader of Suku Anak Dalam, September 20, 2019.”

<sup>106</sup> Kooria, “When Men Get No Share,” 163–75.

<sup>107</sup> Indah, “Interview with the Companion of Suku Anak Dalam, September 19, 2019.”

<sup>108</sup> See: M Rozali, Ulya Hikmah, and Yuliatin Yuliatin, “Married ‘Urfi in the View of Contemporary Scholars Sheikh Muhammad Ali Jum’ah,” *SMART: Journal of Sharia, Tradition, and Modernity* 3, no. 1 (July 30, 2023): 69; Doni Azhari and Syihabuddin Qalyubi, “The Rights of Sasak Noble Muslim Women in Choosing A Mate: An Analysis of the Marriage of Noble Women with Jajar Karang Men From the Perspective of Islamic Law,” *Al-Adalah* 20, no. 2 (December 20, 2023): 381–404; Aksin Wijaya, Ibnu Muchlis, and Dawam Multazam Rohmatulloh, “Rethinking Gender Justice in the Quran: A Critical Exploration of Muslim Feminist Perspectives,” *Jurnal Studi Ilmu-Ilmu Al-Qur’an dan Hadis* 26, no. 1 (March 2, 2025): 77–98; Syabbul Bachri, “The Differences of Men’s and Women’s Shares in Islamic Inheritance Law Defense to Criticism and Blasphemy,” *Nurani: Jurnal Kajian Syari’ah dan Masyarakat* 22, no. 1 (July 4, 2022): 17–30.

<sup>109</sup> Suminah, “Interview with the Teacher Koran of Suku Anak Dalam, September 20, 2019.”

<sup>110</sup> Mustika and Dastina, “Religious, Economic, and Political Shifting in Inheritance System of Suku Anak Dalam,” 48–78.

<sup>111</sup> Nurbaiti, “Interview with the Elder of Suku Anak Dalam, September 19, 2019.”

<sup>112</sup> Rahmi Hidayati et al., “Dynamics of Child Marriage in Suku Anak Dalam Community,” *Justicia Islamica* 20, no. 2 (October 30, 2023): 261–80.

<sup>113</sup> Muhammad Syarif and Khamim, “Antar Pakatan and the Reproduction of Social Solidarity: A Cultural Strategy for Addressing the Economic Burden of Customary Marriage in the Sambas Malay Community,” *Indonesian Journal of Sharia and Socio-Legal Studies* 1, no. 1 (May 31, 2025): 94–110.

The fourth factor is the status of customary law as a product of collective consensus, enjoying high legitimacy within the community.<sup>114</sup> Unlike normative laws that originate from external authorities, SAD customary law emerges from deliberative processes involving customary elders and extended families. Customary decisions are not optional; they are binding, and violations are viewed as offenses against the dignity of the community and the ancestors.<sup>115</sup> As one SAD community facilitator explained, “Once a decision has been made by the *ninik mamak* (customary elders), it cannot be challenged. Rejecting adat law is like disobeying one’s parents and ancestors—it invites misfortune.”<sup>116</sup> Thus, acceptance of new norms, including Islamic legal norms, requires more than theological legitimacy; it must undergo a prolonged and intricate process of social negotiation.<sup>117</sup> This structure explains why *adat* continues to serve as the primary regulatory system, and why Islamic law has yet to be fully embraced as a binding source of authority in socially sensitive domains such as marriage and inheritance.<sup>118</sup>

The fifth factor is the limited internalization of Islamic teachings, which remain relatively recent in the history of the SAD community.<sup>119</sup> Most SAD members have only encountered Islam in formal terms within the last two decades, largely through government-facilitated resettlement programs and institutionalized religious outreach.<sup>120</sup> While ritual practices such as prayer and fasting are gradually being observed, understanding of Islamic legal principles—particularly in the realm of family law—remains limited. A lack of access to religious education, the absence of locally rooted *‘ulamā’*, and the nonexistence of active religious institutions at the community level have prevented Islamic law from taking root in the community’s normative consciousness.<sup>121</sup> As a result, there is a selective pattern of adoption: personal rituals are more easily assimilated, whereas legal provisions that challenge customary structures tend to be resisted. In this context, resistance to Islamic law reflects the dynamics of interaction between written legal systems and the living law that governs everyday life in Indigenous communities.<sup>122</sup>

<sup>114</sup> Hari, “Interview with the Leader of Suku Anak Dalam, September 19, 2019.”

<sup>115</sup> Rahmi Hidayati, “Pergeseran Sistem Perkawinan dan Perceraian pada Suku Anak Dalam,” *Al-Risalah: Forum Kajian Hukum dan Sosial Kemasyarakatan* 16, no. 01 (December 1, 2018): 151–68.

<sup>116</sup> Indah, “Interview with the Companion of Suku Anak Dalam, September 19, 2019.”

<sup>117</sup> See: Hotnidah Nasution and Ahmad Rifqi Muchtar, “Negotiating Islamic Law: The Practice of Inheritance Distribution in Polygamous Marriages in Indonesian Islamic Courts,” *Al-Manabij: Jurnal Kajian Hukum Islam* 18, no. 1 (June 12, 2024): 125–44; Muhammad Adib Alfarisi et al., “Negotiating Customary Law and Fiqh Norms: The Transformation of the Mepahukh Tradition in the Indigenous Marriage Practices of the Alas People in Southeast Aceh,” *Indonesian Journal of Sharia and Socio-Legal Studies* 1, no. 1 (May 28, 2025): 72–93.

<sup>118</sup> Putra Halomoan Hsb, Fatahuddin Aziz Siregar, and Suud Sarim Karimullah, “Inheritance in the Mandailing Community: Value Changes from a Legal Culture Perspective,” *Nurani: Jurnal Kajian Syari’ah dan Masyarakat* 25, no. 1 (April 10, 2025): 83–108.

<sup>119</sup> Indah, “Interview with the Companion of Suku Anak Dalam, September 19, 2019.”

<sup>120</sup> Field Notes on Observations of the Daily Life of the Anak Dalam Tribe, December 2019.

<sup>121</sup> See: Tarmizi Tarmizi et al., “Inheritance Distribution and Conflict Resolution in Bone Regency: Upholding Women’s Rights and Islamic Law Objectives,” *De Jure: Jurnal Hukum dan Syari’ah* 16, no. 2 (December 17, 2024): 255–77; Ismail et al., “Customary and Islamic Practices in Inheritance Distribution,” 1–16; Arbanur Rasyid, Rayendriani Fahmei Lubis, and Idris Saleh, “Contestation of Customary Law and Islamic Law in Inheritance Distribution: A Sociology of Islamic Law Perspective,” *Al-Abkam* 34, no. 2 (October 31, 2024): 419–48.

<sup>122</sup> Djawas et al., “The Integration Between Syara’ and Ade’ in Marriage Tradition Bugis Bone, South Sulawesi,” 342–63.



### Customary Law as a Site of Negotiation in the Development of Islamic Law

This study demonstrates that resistance to the implementation of Islamic law within the SAD community is not a simple rejection of religious doctrine but rather the outcome of a deeper social negotiation between externally introduced religious norms and long-standing local value systems. Although the SAD community has formally embraced Islam, in practice, they continue to rely on matrilineal customary law as the primary framework for regulating key aspects of family life, including the determination of *mahr*, the management of joint marital property, and the distribution of inheritance.<sup>123</sup> Within this structure, *mahr* is transferred to the bride's maternal family; post-divorce property becomes the exclusive right of the wife; and inheritance flows through the maternal line. Such forms of resistance reflect the community's intention to preserve a living law—a socially and culturally validated legal system that undergirds their internal power relations and communal cohesion.<sup>124</sup>

This resistance is shaped by at least five structural and normative factors. First, the continuity of ancestral tradition is seen as a sacred inheritance—both spiritual and social—that must be protected. Violating *adat* is believed to cause imbalance and misfortune. Second, the dominance of a matrilineal kinship system positions women at the center of authority, with direct implications for property rights and household decision-making. Third, the preservation of *adat* is regarded as a moral obligation—one that not only maintains communal identity but also guarantees social stability. Fourth, customary law derives its legitimacy from collective deliberation, making it difficult to replace with externally imposed textual norms. Fifth, Islam is still relatively new to the SAD and remains primarily internalized through ritual observance; its legal dimensions, particularly in family matters, have yet to be fully integrated. These five factors form a complex field of negotiation in which Islamic norms must interact contextually with deeply rooted local structures. In this context, resistance is not rejection but rather the community's effort to uphold a well-established legal order.

Comparable dynamics can be observed in Skala Brak, Lampung, where inheritance law is shaped by a combination of Hindu and Islamic influences, suggesting that the interaction between Islamic and customary law should be understood as dialogical rather than confrontational.<sup>125</sup> In classical Islamic legal discourse, the status of *adat* as a secondary source of law has long been recognized, particularly in the form of *'urf* (custom) that does not contradict the foundational principles of Islamic law.<sup>126</sup> *'Ulamā'* across the *madhhab*—including Ibn Qudāmah of the Ḥanbalī *madhhab* and numerous Mālikī jurists—affirmed that prevailing customs could serve as legal grounds so long as they do not violate canonical texts. The Islamic legal maxim "*al-'ādah muḥakkamah*" (custom is authoritative) is a key principle in *uṣūl al-fiqh* (Islamic legal theory) that opens space for local social dynamics to inform the legal process.<sup>127</sup> Even in contemporary legal theory, *adat* is recognized as a vital mechanism for sustaining the relevance and applicability of Islamic law in multicultural societies.

<sup>123</sup> Halimatussa'diyah et al., "Minangkabaunese Matrilineal," a8643.

<sup>124</sup> Djawas et al., "The Integration Between Syara' and Ade' in Marriage Tradition Bugis Bone, South Sulawesi," 342–63.

<sup>125</sup> Ratno Lukito, *Pergumulan antara Hukum Islam dan Adat di Indonesia*, INIS 35 (Jakarta: INIS, 1998), 94.

<sup>126</sup> Ibn Qudāmah, *Al-Mughnī*, 6th ed. (Al-Qāhirah: Dār al-Manār, 1947), 485.

<sup>127</sup> Ibn Nujaym, *Al-Ashbāh wa al-Naẓā'ir* (Bayrūt: Dar Kutub al-'Ilmiyyah, 1999), 79–88.

In the SAD context, evolving customary legal practices can be interpreted as a part of living *fiqh*—a body of norms that undergoes adaptation and negotiation through ongoing reinterpretation of scripture, context, and social need.<sup>128</sup> From the standpoint of public reasoning, resistance to Islamic law in the SAD community may be understood as the outcome of collective deliberation involving local actors—including customary leaders and ordinary community members—who work to formulate legal norms most compatible with their social structure. Practices such as collective *mabr* determination, matrilineal property distribution, and restrictions on male inheritance claims reflect this deliberative logic, aimed at preserving social balance and economic stability.<sup>129</sup> It mirrors findings from Gayo (Aceh) and Minangkabau (West Sumatra) communities, where customary structures have been adapted to Islamic teachings through normative compromises grounded in *musyawarah* (consultation) and consensus.<sup>130</sup> In such contexts, resistance is not an antagonistic stance but a rationalization of values that brings Islamic and customary law into dialogue within a democratic and participatory public sphere.<sup>131</sup>

The findings of this study affirm that law within society is neither static nor unidirectional; rather, it emerges through the dynamic interaction between normative texts and social contexts.<sup>132</sup> Legal transformation is often driven by local demands rooted in the lived realities of daily life. Accordingly, the legitimacy of Islamic law can be strengthened by expanding the role of community participation in forming normative frameworks.<sup>133</sup> In the case of the SAD community, resistance to *fiqh*—particularly in matters of *mabr*, inheritance, and joint property—should not be construed as a denial of Islam, but as an effort to reconcile religious doctrine with social realities. As Khaled Abou El Fadl argues, while many Islamic legal rulings have been revealed, not all of them can be uniformly applied across all Muslim societies.<sup>134</sup> The classical principle of “*taghayyur al-ahkām bi taghayyur al-azmān wa al-amkinah*”—that legal rulings change in accordance with shifts in time and place<sup>135</sup>—becomes particularly relevant in this context, offering a lens through which such resistance can be viewed not as deviation, but as part of the ongoing enrichment of Islamic legal thought.

<sup>128</sup> See: Djawas et al., “The Integration Between Syara’ and Ade’ in Marriage Tradition Bugis Bone, South Sulawesi,” 342–63; Alfarisi et al., “Negotiating Customary Law and Fiqh Norms,” 72–93.

<sup>129</sup> Maloko et al., “Sompā Tanah in Makassar Bugis Customary Marriages,” 1213–36.

<sup>130</sup> See: Nuzul Iskandar, “Kompromi Hukum Islam dan Adat dalam Kewarisan Pusaka Tinggi di Minangkabau,” *JISRAH: Jurnal Integrasi Ilmu Syariah* 3, no. 3 (December 31, 2022): 483; Sita 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 (March 2024): 102881.

<sup>131</sup> See: Hsb, Siregar, and Karimullah, “Inheritance in the Mandailing Community,” 83–108; Asman, Nilhakim, and Kotyazhov, “Legal Relations of Contemporary Islamic Family,” 246–61.

<sup>132</sup> Muhammad Hasan, Dahlia Haliah Ma’u, and Muallimin Mochammad Sahid, “Inheritance Property Distribution Models Among the Muslim Community of Borneo-Nusantara,” *Al-’Adalah* 21, no. 1 (June 25, 2024): 175–98.

<sup>133</sup> Ismail Ismail and Nofiarda Nofiarda, “Shifting Inheritance Patterns in the Minangkabau Tribe in Negeri Sembilan, Malaysia,” *El-Usrah: Jurnal Hukum Keluarga* 7, no. 1 (June 30, 2024): 294–309.

<sup>134</sup> Khaled Abou El Fadl, “Qur’anic Ethics and Islamic Law,” *Journal of Islamic Ethics* 1, no. 1–2 (July 27, 2017): 7–28.

<sup>135</sup> See: Ibn al-Qayyim al-Jawziyyah, *I’lām al-Muwaqqi’īn ‘an Rabb al-’Ālamīn*, ed. Abū ‘Ubayyah Mashhūr ibn Ḥasan ‘Alī Salmān (Mesir: Dār Ibn al-Jawziyyah, n.d.), 49; Yūsuf al-Qaraḍāwī, *Mujībāt Taghayyur al-Fatwā fī ‘Ashrinah* (Al-Qāhira: Maktab al-Amānah al-’Āmmah, n.d.), 41.

Thus, the customary legal practices found in communities such as the SAD should be recognized as living legal traditions, organically developed and contextually sustained. In keeping with the spirit of contextual Islamic ethics, Islamic law has the capacity to evolve through constructive engagement with social reality, including through the recognition of customary law that does not fundamentally contradict core religious principles.<sup>136</sup> An inclusive and dialogical approach to legal pluralism not only enhances community receptivity to *Shari‘ah*<sup>137</sup> but also opens the door to more responsive, equitable, and enduring models of Islamic law within multicultural societies.<sup>138</sup> In this regard, public reasoning grounded in *musyawarah* among stakeholders becomes a crucial element in shaping an Islamic legal framework that is both locally relevant and normatively legitimate.<sup>139</sup>

## Conclusion

This study finds that resistance to Islamic law within the family law practices of the Suku Anak Dalam (SAD) community manifests most clearly in three key areas: the giving of *mahr* (dower), the division of joint marital property (*gono-gini*), and the distribution of inheritance. These domains reveal distinct departures from the mainstream provisions of *fiqh* (Islamic jurisprudence)—including the personal right of the wife to her *mahr*, the principle of distributive justice in marital assets, and the division of inheritance. This resistance does not arise in a vacuum; rather, it is rooted in a matrilineal kinship system that positions women at the center of authority, in the preservation of *adat* as a marker of collective identity, and in deliberative decision-making processes that lend strong legitimacy to local norms. In the SAD community, customary law has evolved into a form of living law—a socially embedded legal framework that is more widely accepted than Islamic law, which remains relatively new and insufficiently internalized within the community’s structure of authority. As such, resistance to Islamic law in this context should not be interpreted as theological rejection, but as a deliberative process of public reasoning aimed at preserving a legal system that is perceived as more just, functional, and contextually appropriate.

The implications of these findings suggest that implementing Islamic law in multicultural societies like the SAD requires an approach that is more inclusive, adaptive, and context-sensitive. Islamic law cannot be imposed as a singular normative framework without taking into account deeply rooted local socio-cultural configurations. These findings also reinforce the importance of recognizing customary law as a legitimate source in developing Islamic family law, particularly in legally plural communities. Nevertheless, this study is limited by the number of informants and the geographical scope of its fieldwork,

<sup>136</sup> Ayman Shabana, “Custom and Modern Constructions of Shari‘a: Transnational Juristic Discussions on the Status of ‘Urf,” *Journal of Islamic Ethics* 3, no. 1–2 (December 27, 2019): 30–63.

<sup>137</sup> Erie Hariyanto et al., “The Resistance of Madurese Muslim Society to the Development of Non-Muslim Tourism Objects,” *Jurnal Ilmiah Peuradeun* 12, no. 1 (January 30, 2024): 27–50.

<sup>138</sup> See: Abdul Mutakabbir, Hastuti Hastuti, and Mikdar Rusdi, “The System of Inheritance Distribution in South Sulawesi,” *Ijtihad: Jurnal Wacana Hukum Islam dan Kemanusiaan* 23, no. 1 (June 22, 2023): 57–76; Masyithah Mardhatillah and Saoki, “Women in the Madurese Translation of the Qur’an: Questioning Gender Equality in Family Legal Verses,” *Jurnal Studi Ilmu-Ilmu Al-Qur’an dan Hadis* 26, no. 1 (March 2, 2025): 99–130.

<sup>139</sup> Siti Mahmudah et al., “Resistance to Religious Moderation in Indonesian’s Lower to Middle-Class Communities,” *Jurnal Ilmiah Peuradeun* 13, no. 2 (May 30, 2025): 931–58.

making its conclusions context-specific and not readily generalizable. Future research should broaden its empirical base and explore the long-term interaction dynamics between Islamic and customary law, including the possibility of normative transformation over time. Within this framework, resistance should not be viewed as the endpoint of Islamic law's application, but rather as part of an evolving process toward legal harmonization that is more just and attuned to the community's needs.

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