

The Mangaku Induak Tradition as a Living Fiqh: A Study of the Integration of Customary Law and Islamic Family Law in Sijunjung

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Abstract

This study examines the dialectic between universal Islamic family law and local matrilineal customs through the lens of the Mangaku Induak tradition in Sijunjung Regency, West Sumatra. While previous scholars have often polarized the relationship between sharia and custom, or predominantly focused on customary marriages in coastal areas, this study investigates how the socio-juridical mechanisms of the acceptance of outsiders into being part of local clans function as a living form of law. Using a qualitative socio-legal approach with field data collected through in-depth interviews with traditional leaders (Ninik Mamak) and religious court judges, this study analyzes the structural legal impact of these traditions on marital guardianship, civil relations, and Islamic inheritance rights. This study argues that Mangaku Induak is not just an empty ceremonial formality, but a pragmatic manifestation of Living Fiqh that functions as an integrative instrument to bridge the needs of formal fiqh such as the certainty of a marriage guardian for converts or immigrants with a communal structure of matrilineal kinship. This article contributes to the anthropology of Islamic law by showing how indigenous peoples formulate legal harmony without asserting Islamic normative principles and offers a new analytical framework for religious court judges in resolving complex socio-legal issues.

Keywords: *Living Fiqh, Mangaku Induak, Matrilineal Customary Law, Marriage Guardianship, Sijunjung.*

Introduction

In the discourse of Islamic law in the contemporary Muslim world, the interaction between formal legal doctrine (*fiqh texts*) and living law (*living law/living fiqh*) constantly triggers substantial academic dynamics. This complexity generally arises when universal religious norms are confronted with local customary structures that are deeply rooted, especially in

the kinship system of the community.¹ In different parts of the Islamic world, such as in the family law tradition in North Africa or customary systems in Southeast Asia, legal syncretism is often an adaptive strategy to minimize value system tensions.² This phenomenon confirms that Islamic law at the practical level is not a static entity, but a negotiable entity capable of assimilating local wisdom as long as it does not negate the principles of Islamic universality (*shari'ah*). Therefore, examining how Islamic law operates empirically in the domestic sphere is crucial in order to understand the elasticity of Islamic family law in the modern era.³

The theory of *Living Law* introduced by Eugen Ehrlich emphasizes that real law does not come solely from written texts or state regulations, but grows and develops in the life of society itself.⁴ In this framework, *Living Fiqh* is present as a contextual elaboration of the theory in the realm of Islamic law, which is an approach that sees fiqh not only as normative-dogmatic law, but also as a socio-juridical reality that continues to interact with the dynamics of the people's lives.⁵ With this perspective, Islamic law is not seen as a closed and rigid system, but rather as a system that is responsive to the concrete needs of its people, as long as it does not conflict with *maqashid al-shari'ah* (the main objectives of the shari'a).⁶

In Indonesia, the most obvious manifestation of the dialectic between Islamic law and custom is deeply reflected in the Minangkabau culture in West Sumatra. As a society that adheres to the philosophy of "*Adat Basandi Syarak, Syarak Basandi Kitabullah*" (ABS-SBK),⁷ Minangkabau uniquely implements a matrilineal kinship system in which lineages, tribes, and inheritances are passed down through the maternal line. This system makes Minangkabau one of the most interesting examples in the study of legal pluralism in the Islamic world, because it combines a strong Islam with an equally strong matrilineal system.⁸ Legal pluralism here is not only understood as a conflict, but as the co-existence of a complementary normative system.⁹

One of the customary law phenomena that is very specific and directly intersects with the aspect of Islamic family law that occurs in Sijunjung Regency is the *Mangaku Induak tradition*.¹⁰ This tradition is a customary mechanism in which a person or a family from outside the Minangkabau indigenous community or from another country formally "confesses" or begs to be appointed as part of one of the local kinship tribes (clans) in Sijunjung. Materially, the impact of *Mangaku Induak* is not only social, but also has formal juridical consequences on the validity of marital guardianship, civil relations, customary

¹ Soerjono Soekanto, *Prinsip Sosiologi Hukum* (Rajawali Pers, 2014), 17–25.

² Rahmat Hakim, *Sosiologi Hukum Keluarga Islam di Indonesia* (Rajawali Pers, 2021), 55–61.

³ Ratno Lukito, *Hukum Islam dan Pertemuan Adat: Pengalaman Indonesia* (Universitas McGill, 1997), 11–15.

⁴ Eugen Ehrlich, *Prinsip-prinsip Dasar Sosiologi Hukum* (Routledge, 2017), 493–500.

⁵ Nur Azizah, "Dinamika Fiqih Hidup dalam Adat Perkawinan Masyarakat Minangkabau," *Jurnal Hukum Keluarga Islam* 8, no. 1 (2023): 45–62.

⁶ Mohammad Nurdin, "Harmonisasi Hukum Adat dan Hukum Islam di Sumatera Barat: Dinamika Fiqih Hidup," *Jurnal Studi Hukum Islam* 9, no. 1 (2024): 45–68.

⁷ Benda-Beckmann, dan Franz Von, "Forum Belanja dan Forum Belanja: Pemrosesan Sengketa di Desa Minangkabau," *Jurnal Pluralisme Hukum*, no. 19 (1981): 17–24.

⁸ Sulistyowati Irianto, "Pluralisme Hukum dalam Hukum Keluarga Indonesia: Debat dan Praktik," *Jurnal Pluralisme Hukum dan Hukum Tidak Resmi* 44, no. 66 (2012): 17–24.

⁹ John R. Bowen, "Tentang Konstruksi Politik Tradisi: Gotong Royong di Indonesia," *Jurnal Studi Asia* 45, no. 3 (1986): 545–61.

¹⁰ Darfian Petra et al., "Tradisi Mangaku Induak dan Manimbang Salah dalam Perkawinan di Nagari Taratak Baru Kecamatan Tanjung Gadang Kabupaten Sijunjung," *Jurnal FKIP Universitas Bung Hatta*, 2016, 4–8.

inheritance rights, and the resolution of domestic conflicts at the customary government level, making it a material object that is very relevant in the sociological and anthropological analysis of Islamic family law.¹¹

Studies on the interaction of Islamic law and Minangkabau customs have actually been carried out by many previous scholars. Based on the current literature review, these studies can be mapped into three main typologies. *First*, a research group focused on the theoretical tension between Islamic inheritance law (patrilineal-individual) and Minangkabau customary inheritance law (matrilineal-collective).¹² *Second*, a study that looks at aspects of shifting the role of customary institutions, such as the position of *ninik mamak* in overseeing marriage in the modern era.¹³ *Third*, research that examines the assimilation of syarak customs in specific marriage traditions in the West Sumatra region. Much of this literature sees customary law and Islamic law in a dichotomous position or focuses on coastal areas. However, there has been no study that has in-depth examined the *Mangaku Induak* tradition in deep areas (*luhak/region*) such as Sijunjung Regency, especially in looking at how the attractiveness of this tribe affects the position of guardianship and civil law in the Islamic family law corridor.¹⁴

Therefore, this article aims to fill the academic gap (*research gap*) by positioning the *Mangaku Induak* tradition within the framework of *Living Fiqh* theory and Legal Sociology. This article argues that the *Mangaku Induak* tradition in Sijunjung Regency is not just a traditional ceremonial formality, but a form of living legal pragmatism that functions as an integrative instrument to harmonize the legal needs of the Islamic family (such as the certainty of a marriage guardian for converts or immigrants) with the communal structure of matrilineal customs.¹⁵ The authenticity of this article lies in its analysis that does not separate between the norms of formal Islamic legal texts and field practice, but rather shows how the people of Sijunjung formulate family law in harmony.¹⁶ To achieve this goal, this article is designed to answer two main research questions: (1) What is the existence and mechanism of implementation of the *Mangaku Induak* tradition in the communal community order in Sijunjung Regency? (2) What is the perspective of Islamic family law and legal sociology on the implications of civil and guardianship born from the *Mangaku Induak* tradition?

Methodology

This research is a *field research* that applies a socio-legal approach with a *Living Fiqh* perspective. The socio-legal approach was chosen because the research not only examines the norms of Islamic law contained in jurisprudence literature and laws and regulations, but also examines how these norms are practiced, understood, and internalized in the lives of

¹¹ Asman and Firdaus, "Dialektika Hukum Islam dan Adat Minangkabau dalam Kewarisan Matrilineal," *Jurnal Hukum Islam* 20, No. 2 (2022): 185–204.

¹² Asman and Firdaus, "Dialektika Hukum Islam dan Adat Minangkabau dalam Kewarisan Matrilineal."

¹³ Muhammad Zein, "Sistem Perwalian Pernikahan pada Komunitas Adat Matrilineal," *Yurisdiksi: Jurnal Hukum dan Syariah* 14, no. 2 (2023): 210–35.

¹⁴ Mark Cammack dan R. Michael Feener, "Sistem Hukum Islam di Indonesia," *Jurnal Hukum & Kebijakan Pacific Rim* 21, no. 1 (2012): 13–42.

¹⁵ Zein, "Sistem Perwalian Pernikahan pada Komunitas Adat Matrilineal."

¹⁶ Nurdin, "Harmonisasi Hukum Adat dan Hukum Islam di Sumatera Barat: Dinamika Fiqih Hidup."

indigenous peoples.¹⁷ This approach is in line with Creswell's principle that qualitative research aims to understand social phenomena from the perspective of participants in depth.¹⁸

The material object in this study is the *Mangaku Induak tradition* that developed in Sijunjung Regency, West Sumatra, while the formal object focuses on the relationship between Islamic family law and Minangkabau customary law in the practice of social life of the community. Sijunjung Regency was chosen as the location for the research with the consideration that: (1) the *Mangaku Induak tradition* is still actively practiced and recognized by local customary institutions; (2) Sijunjung is a *regional area* that historically received many immigrants from outside Minangkabau so that this tradition is socially functional; (3) there has been no academic research that specifically examines this tradition from the perspective of Islamic family law.

The data used consists of primary data and secondary data. Primary data was obtained through *in-depth interviews* with a number of informants including *ninik mamak*, community leaders, *Mangaku Induak traditional* actors, and judges of the Sijunjung Religious Court. The interviews were conducted in a semi-structured manner to obtain in-depth information about the mechanism of implementing the tradition, the social position of *the Mangaku Induak* perpetrators, and its implications for aspects of guardianship and civil relations.¹⁹ The secondary data was obtained through documentation studies on various relevant sources, such as books, reputable journal articles (indexed by Sinta and Scopus), results of previous research, customary documents, laws and regulations, and other references related to Islamic family law, Minangkabau customary law, *Living Fiqh* theory, and legal sociology studies.

The data that has been collected is then analyzed using qualitative analysis methods through the stages of data reduction, data presentation, and conclusion drawn.²⁰ The analysis process was carried out by connecting field findings with the theory of *Living Fiqh* and *Living Law* to explain how the Sijunjung community builds and maintains harmonization between customary norms and sharia norms in the practice of *Mangaku Induak*.²¹ The data validity technique in this study uses source triangulation, namely by comparing data from interviews, customary documents, and relevant academic literature.²² In addition, the perspective of Islamic family law is used to examine the implications of this tradition on the issue of marital guardianship and civil relations. Thus, this study not only describes customary practices empirically, but also analyzes the legal values and social functions contained in them.

¹⁷ Lexy J. Moleong, *Metodologi Penelitian Kualitatif*, Edisi Revisi (PT Remaja Rosdakarya, 2021).

¹⁸ John W. Creswell dan J. David Creswell, *Desain Penelitian: Pendekatan Metode Kualitatif, Kuantitatif, dan Campuran*, edisi ke-5 (Publikasi SAGE, 2018).

¹⁹ Creswell dan Creswell, *Desain Penelitian: Pendekatan Metode Kualitatif, Kuantitatif, dan Campuran*.

²⁰ A. Muri Yusuf, *Metode Penelitian: Kuantitatif, Kualitatif, dan Penelitian Gabungan* (Kencana, 2019), 400–407.

²¹ Azizah, “Dinamika Fiqih Hidup dalam Adat Perkawinan Masyarakat Minangkabau,” 50–55.

²² Moleong, *Metodologi Penelitian Kualitatif*, 174–81.

The Existence and Socio-Cultural Foundations of the Mangaku Induak Tradition in Sijunjung Regency

The *Mangaku Induak* tradition is one of the traditional institutions that still survives and is run by the people of Sijunjung Regency as a mechanism for accepting someone into the Minangkabau traditional kinship structure. The word "*Mangaku*" comes from the Minangkabau language which means "to acknowledge" or "to declare", while "*Induak*" means "mother" or "mother". Literally, *Mangaku Induak* can be interpreted as "declaring or acknowledging someone as an adoptive mother" in the context of customs, which more broadly includes the recognition of the entire matrilineal kinship system of the tribe in question.²³ This tradition is generally carried out for immigrants from outside the country or outside the tribe who will settle or marry with the local community.²⁴

In the matrilineal Minangkabau social system, tribal identity has a very fundamental position because it determines a person's position in customary structures, kinship relationships, and various social rights and obligations.²⁵ The Minangkabau matrilineal system is not only about lineage through the mother, but also includes an inheritance management system, customary decision-making mechanisms, tribal exogamous marriage patterns, and the resolution of internal clan disputes.²⁶ Therefore, an immigrant who does not have an ethnicity in Minangkabau will have difficulty accessing the various social and legal rights inherent in the tribe's membership status.²⁷ The existence of *the Mangaku Induak* tradition is present as a pragmatic solution to overcome this problem, namely as a means of social integration that allows a person to obtain recognition and customary protection from the tribe that receives it.²⁸

From a historical perspective, the *Mangaku Induak* tradition in Sijunjung is inseparable from the context of migration and population mobility which is quite high in this region. As a *regional* area that borders several provinces and regencies outside of West Sumatra, Sijunjung has long been a migration destination for various ethnic groups, including Javanese, Batak, Malays, and immigrants from various other regions.²⁹ These heterogeneous demographic conditions create a real need for social integration mechanisms that are able to bridge the gap between immigrant communities and local customary structures. It is in this context that *Mangaku Induak* finds its relevance as a functional and adaptive socio-juridical instrument.³⁰

Research findings in the field show that a person's motivation to do *Mangaku Induak* is very diverse. First, marital motivation, which is the need for a man or woman from outside Minangkabau to have a legal traditional marriage guardian when going to get married. Second, social motivation, namely the desire to get social protection from local indigenous communities. Third, religious motivation, especially for converts who convert to Islam and

²³ Bushar Muhammad, *Prinsip Hukum Adat* (Pradnya Paramita, 2006).

²⁴ Petra et al., "Tradisi Mangaku Induak dan Manimbang Salah dalam Perkawinan di Nagari Taratak Baru Kecamatan Tanjung Gadang Kabupaten Sijunjung."

²⁵ Yulfian Azrial, *Budaya Alam Minangkabau* (Angkasa Raya, 2008).

²⁶ Navis, AA, *Alam Terkembang Jadi Guru: Adat Dan Kebudayaan Minangkabau* (Grafiti Pers, 1984), 105–18.

²⁷ M. B. Hooker, *Adat Law in Modern Indonesia* (Oxford University Press, 1978), 7–30.

²⁸ Ira Indrawardana, "Berketuhanan dalam Perspektif Kepercayaan Komunitas Adat," *Melintas* 30, no. 1 (2014): 105–18.

²⁹ Azrial, *Budaya Alam Minangkabau*, 67–80.

³⁰ Roger Cotterrell, *The Sociology of Law: An Introduction*, 2nd ed. (Butterworths, 1992), 25–40.

then want to fully integrate into the Minangkabau Muslim community.³¹ Fourth, economic motivation, namely to gain access to customary or heirloom land management rights that can only be accessed by legitimate tribal members. This diversity of motivations shows that *Mangaku Induak* is not just a ceremonial ritual, but a customary law institution that is multifunctional and responsive to various needs of the community.³²

Mechanism and Procedure for the Implementation of the Mangaku Induak Tradition

The implementation of *the Mangaku Induak* tradition begins with deliberation between the immigrant family and *the ninik mamak* or the head of the tribe who will receive them. The deliberations aim to reach an agreement on the acceptance of a person into a certain tribal environment while ensuring that the process obtains the approval of the customary stakeholders. In practice, this deliberation also includes a discussion of the rights and obligations that will be held by the parties who are *Mangaku Induak-kan*, including the obligation to submit to the customary norms of the tribe that receives them.³³

After an agreement was reached, a traditional procession was held which marked the official recognition of the individual concerned as part of the indigenous family. This procession generally involves several series of symbolic rituals, including: (1) *malapeh* or customary release from the community of origin; (2) *manakuik* or official recognition in front of traditional leaders; (3) *manjapuik* or pick-up as a symbol of acceptance into the new tribe; and (4) eating together as a symbol of unity and communal acceptance.³⁴ After the procession is over, *the ninik mamak* will officially announce that the person in question has become part of the tribe and has the same rights and obligations as other tribal members in the customary context.³⁵

Through the *Mangaku Induak* procession, a person acquires social status as *a nephew* in the tribe that receives him without changing his biological destiny.³⁶ This is a very important aspect to understand, because this tradition operates at the level of social-customary identity, not at the biological-genealogical level. Thus, *Mangaku Induak* functions more as a social and cultural recognition than the appointment of *nasab* in the sense of Islamic law. This clear distinction between genealogical identity and social identity in the indigenous Minangkabau people is key to understanding the compatibility of these traditions with the principles of Islamic law.³⁷

Field findings also reveal that in its development, the *Mangaku Induak* procession in Sijunjung has undergone several adaptations without leaving its substantial essence. For example, in some cases, the procession that used to have to be carried out completely with all traditional stakeholders can now be carried out more simply while still requiring the

³¹ Wahyu Fitri, "Perubahan Tradisi Mangaku Induak sebagai Syarat Walimah al-'Ursy di Kalangan Masyarakat Sitiung," *Jurnal Sakinah* 5, no. 1 (2023): 8–12.

³² Fitri, "Perubahan Tradisi Mangaku Induak sebagai Syarat Walimah al-'Ursy di Kalangan Masyarakat Sitiung."

³³ Fitri, "Perubahan Tradisi Mangaku Induak sebagai Syarat Walimah al-'Ursy di Kalangan Masyarakat Sitiung."

³⁴ Fitri, "Perubahan Tradisi Mangaku Induak sebagai Syarat Walimah al-'Ursy di Kalangan Masyarakat Sitiung."

³⁵ Fitri, "Perubahan Tradisi Mangaku Induak sebagai Syarat Walimah al-'Ursy di Kalangan Masyarakat Sitiung."

³⁶ Hazairin, *Hukum Kekeluargaan Nasional* (Tintamas, 1982), 11–22.

³⁷ Amir Syarifuddin, *Hukum Perkawinan Islam di Indonesia: Antara Fiqh Munakabat dan Undang-Undang Perkawinan* (Kencana, 2006), 73–85.

presence of the main *ninik mamak* from the tribe concerned. This kind of adaptation reflects the flexibility of customary law in responding to social change without losing its normative legitimacy, a character that Ehrlich refers to as *law in action* as opposed to *law in the books*.³⁸

Legal Implications of the Mangaku Induak Tradition on Marriage Guardianship in the Perspective of Islamic Family Law

One of the most significant legal implications of the *Mangaku Induak* tradition was its effect on the institution of matrimonial guardianship (*wilāyat al-nikāḥ*). In Islamic law, marital guardianship is one of the legal requirements for marriage that cannot be ignored.³⁹ The Compilation of Islamic Law (KHI) Articles 19-23 explicitly regulates the guardian of marriage, by prioritizing the guardian of the nasab (guardian based on blood relationship) as the top priority, and the guardian judge as the last option when the guardian of the nasab does not exist or is unknown.⁴⁰

The issue of guardianship is very crucial for immigrants who do not have guardians in the Minangkabau region, especially for converts or individuals who are disconnected from their biological families.⁴¹ In this kind of condition, in the absence of a customary mechanism such as *Mangaku Induak*, the only option is to marry a guardian judge through a religious court. However, this study found that the Sijunjung people pragmatically used *Mangaku Induak* as a mechanism to "create" traditional marriage guardians who were then socially recognized by the community. After a person is *Mangaku Induak-kan* into a tribe, the *ninik mamak* of that tribe can act as a traditional marriage guardian in the marriage procession.⁴²

From the perspective of Islamic law, the position of the *ninik mamak* law as a customary marriage guardian for a person who has been *Mangaku Induak-kan* needs to be studied more deeply. It should be emphasized that *Mangaku Induak* does not change the relationship of a person's biological nasab, so formally in Islamic law, the *ninik mamak* who is the wali of the custom does not meet the criteria of wali nasab.⁴³ However, based on the findings of the field from the interview with the judge of the Sijunjung Religious Court, in practice there are two paths taken: first, if the legal guardian still exists even though he is far away, then the guardianship process still refers to the guardian with a representative mechanism; second, if the guardian of the nasab really does not exist or is under certain conditions, then the case is directed to the guardian judge.⁴⁴

These findings suggest that in practice, the *Mangaku Induak* functions more as a "social bridge" than a direct replacement for the guardian of the nasab in the sense of formal Islamic law. This tradition provides social-customary legitimacy for a person to be accepted by the community and get the protection of the *ninik mamak* as a traditional leader, which then facilitates the process of formalizing marriage at the Office of Religious Affairs (KUA) or the Religious

³⁸ Ehrlich, *Fundamental Principles of the Sociology of Law*.

³⁹ Syarifuddin, *Hukum Perkawinan Islam di Indonesia: Antara Fiqh Munakabat dan Undang-Undang Perkawinan*.

⁴⁰ Abdurrahman, *Kompilasi Hukum Islam di Indonesia* (Mandar Maju, 2010), 112–20.

⁴¹ Khoiruddin Nasution, *Status Wanita di Asia Tenggara: Studi terhadap Perundang-undangan Perkawinan Muslim Kontemporer di Indonesia dan Malaysia* (INIS, 2002), 45–61.

⁴² Abdul Manan, *Aneka Masalah Hukum Perdata Islam di Indonesia* (Kencana, 2008), 77–91.

⁴³ Rahmadi Usman, "Pilihan Hukum dalam Perjanjian Perkawinan menurut Perundang-Undangan yang Berlaku," *Al-Ahwal: Jurnal Hukum Keluarga Islam* 10, no. 2 (2017): 167–84.

⁴⁴ M. Yahya Harahap, *Kedudukan, Kewenangan dan Acara Peradilan Agama* (Sinar Grafika, 2009), 115–30.

Court.⁴⁵ In other words, *Mangaku Induak* fills a void of social protection that cannot be fully filled by formal law, a function that reflects the essence of *Living Fiqh* as a community's pragmatic response to concrete legal needs.⁴⁶

Mangaku Induak, Civil Relations, and Customary Heritage

In addition to the dimension of marital guardianship, *Mangaku Induak* also has important implications for civil relations and inheritance in the context of Minangkabau customary law. Once a person is officially accepted through the *Mangaku Induak* procession, he or she customarily acquires social rights as a member of the tribe, including the right to communal protection, the right to participate in customary deliberations, and in some cases, the right to the management of low-income inheritances (*livelihood assets*) acquired jointly within the scope of the indigenous family.⁴⁷ However, it is strictly necessary to distinguish between customary rights obtained through *Mangaku Induak* and inheritance rights in the sense of Islamic law.

Islamic inheritance law uses the *farāḍ* system which is based on the relationship of biological fate, with the portion of each heir being determined in detail in the Qur'an and Sunnah.⁴⁸ A person who is *Mangaku Induak-kan* does not automatically acquire inheritance rights in the sense of *farāḍ* from the traditional family that receives it, because no relationship of descent has changed.⁴⁹ This is one of the clear examples of the principle of *al-nasab lā yatsbutu bi al-ittifāq* (nasab is not determined by agreement), which is a fundamental principle in Islamic family law.⁵⁰

However, in the context of Minangkabau customary law, the implications of the inheritance of *Mangaku Induak* are more functional-social than normative-formal. A person who has been *Mangaku Induak-kan* can inherit or continue the management of *low inheritance* (property acquired during living together, not high inheritance which is inherited from generation to generation) based on the agreement of the traditional family concerned.⁵¹ This mechanism shows the elasticity of Minangkabau customary law in accommodating social realities without explicitly violating the principles of Islamic law, especially by distinguishing between high inheritance that is collective-communal and low inheritance that is more individual-functional.⁵²

These findings are reinforced by a comparative study with Asman and Firdaus' research on the dialectic of Islamic inheritance law and Minangkabau customs, which shows that Minangkabau people in general have found a compromise formula in the management of inheritance: high inheritance is regulated by customary law (matrilineal), while acquired property tends to be regulated according to Islamic law.⁵³ In the context of *the Mangaku*

⁴⁵ Hakim, *Sosiologi Hukum Keluarga Islam di Indonesia*.

⁴⁶ Petra et al., "Tradisi Mangaku Induak dan Manimbang Salah dalam Perkawinan di Nagari Taratak Baru Kecamatan Tanjung Gadang Kabupaten Sijunjung."

⁴⁷ Muhammad, *Pokok-Pokok Hukum Adat*, 15–30.

⁴⁸ Mohd Idris Ramulyo, *Hukum Perkawinan, Hukum Kewarisan, Hukum Acara Peradilan Agama dan Zakat menurut Hukum Islam* (Sinar Graphics, 2006), 66–80.

⁴⁹ Hilman Hadikusuma, *Hukum Perkawinan Adat* (Citra Aditya Bakti, 1990), 33–48.

⁵⁰ Ahmad Rofiq, *Hukum Perdata Islam di Indonesia* (Rajawali Pers, 2015), 65–80.

⁵¹ Azizah, "Dinamika Fiqih Hidup dalam Adat Perkawinan Masyarakat Minangkabau."

⁵² Helza Nova Lita, "Perlindungan Hak Perempuan Dalam Perkawinan Adat Minangkabau," *Jurnal Hukum Padjadjaran* 7, No. 1 (2020): 1–18.

⁵³ Asman and Firdaus, "Dialektika Hukum Islam dan Adat Minangkabau dalam Kewarisan Matrilineal."

Induak, this compromise formula is more obvious because a person newly admitted through this mechanism does not have the right to high inheritance (which can indeed only be passed down hereditary to members of the original tribe), but can obtain a share of the low inheritance accumulated during the joint period.⁵⁴

Mangaku Induak as Living Fiqh: A Theoretical Analysis

When analyzed through the perspective of *Living Fiqh*, the *Mangaku Induak* tradition reflects a process of dialogue between Islamic values and local customs that takes place dynamically and sustainably.⁵⁵ The concept of *Living Fiqh* itself can be understood as an elaboration of Ehrlich's *concept of living law* in the context of Islamic law, namely fiqh that is not only confined to the texts of classical books, but also that is "alive" and interacts with the social reality of the Muslim society.⁵⁶ In this perspective, *Mangaku Induak* represents how the Minangkabau Muslim community in Sijunjung "fiqh" their social needs, namely by creating mechanisms that do not substantially contradict Islamic principles while accommodating real integrative needs.⁵⁷

From the perspective of the theory of *'urf* (a custom recognized in Islamic law), *Mangaku Induak* can be categorized as *'urf sahib* (a lawful custom under the Shari'ah) because it meets several criteria: first, this tradition has been around for a long time and is widely recognized by the Minangkabau people; second, it does not directly contradict the nash (texts of the Qur'an and Hadith); third, it brings benefits (*maslahah*) for the community, especially in terms of social integration and legal certainty for migrants.⁵⁸ The relevant fiqhiyah rule here is "*al-'ādah muḥakkamah*" (custom can be the source of law) which is one of the five main rules (*al-qawā'id al-khams*) in ushul fiqh.⁵⁹

Wahyu Fitri's research on the practice of *Mangaku Induak* in Sitiung shows that this tradition is seen as a form of *'urf sahib* by local scholars and traditional leaders because it provides real benefits, does not contradict the Qur'an and Hadith, and contributes to maintaining the order of social relations of the community.⁶⁰ The findings of this study in Sijunjung further strengthen this conclusion by adding a more specific dimension of Islamic family law, namely the dimensions of Islamic marital and civil guardianship.

From the point of view of legal sociology, the continuity of *the Mangaku Induak* tradition shows the existence of legal pluralism that co-exists and complements each other in Sijunjung.⁶¹ This tradition is not understood by society as an alternative to Islamic law, but rather as a complementary instrument that works in a space that has not been fully regulated by formal law.⁶² In this context, *Mangaku Induak* operates as an "*interstitial law*" that fills in the gaps that formal law, both Islamic law and state law, cannot reach.⁶³ This is in line with

⁵⁴ Asman and Firdaus, "Dialektika Hukum Islam dan Adat Minangkabau dalam Kewarisan Matrilineal."

⁵⁵ Hakim, *Sosiologi Hukum Keluarga Islam di Indonesia*.

⁵⁶ Sejujurnya, *Prinsip-prinsip Dasar Sosiologi Hukum*.

⁵⁷ Hilman Hadikusuma, *Antropologi Hukum Indonesia* (PT. Alumni Bandung, 2010).

⁵⁸ Wahbah Zuhaili, *Al-Fiqh Al-Islami Wa Adillatuhu* (Dar Al-Fikr, 2011).

⁵⁹ A. W. Khallaf, *Ulm Usul al-Fiqh* (Dar al-Fikr al-Arabi, 2000), <https://archive.org/details/ilm-usul-al-fiqh-abdul-wahab-khallaf>.

⁶⁰ Fitri, "Perubahan Tradisi Mangaku Induak sebagai Syarat Walimah al-'Ursy di Kalangan Masyarakat Sitiung."

⁶¹ Soekanto, *Prinsip Sosiologi Hukum*.

⁶² Hakim, *Sosiologi Hukum Keluarga Islam di Indonesia*.

⁶³ Manan, *Aneka Masalah Hukum Perdata Islam di Indonesia*.

Hooker's conception of legal pluralism in Indonesia as a system in which various legal systems (customary, Islamic, and state) operate simultaneously without one of them completely dominating.⁶⁴

From the philosophical aspect of ABS-SBK, the *Mangaku Induak tradition* is also a real manifestation of the productive dialectic between "customs" and "syarak" which is the ideological foundation of the Minangkabau people.⁶⁵ This philosophy does not understand customs and sharia as two opposing systems, but as two foundations that support each other in building a harmonious social life.⁶⁶ In the context of *Mangaku Induak*, "adat" provides a mechanism for social integration through kinship processions, while "syarak" provides a moral and normative framework that ensures that such mechanisms do not violate universal principles of divinity and humanity.⁶⁷

Implications for Religious Justice Practice

The findings of this study have important implications for judicial practice in Religious Courts, especially in handling cases involving elements of Minangkabau customary law.⁶⁸ The Religious Court Judge interviewed in this study admitted that understanding the *Mangaku Induak tradition* is very relevant in resolving several types of cases, including: (1) the case of determining a marriage guardian for immigrants or converts; (2) cases of division of common property involving parties who are *Mangaku Induak-kan*; and (3) cases of disputes within the family involving questions about the status of tribal membership.⁶⁹

In handling such cases, Religious Court judges need to have a comprehensive understanding not only of formal Islamic law, but also of Minangkabau customary law and how the two systems interact in practice.⁷⁰ The right approach in this case is a socio-legal approach that does not solely apply formal legal norms rigidly, but also considers the socio-cultural context behind the case.⁷¹ This is in line with the principles of Islamic justice which emphasizes the importance of *the ijtihad* of judges in exploring substantive justice behind formal norms.⁷²

Furthermore, the findings of this study show the need to develop more specific guidelines or jurisprudence regarding the legal position of various customary mechanisms such as *Mangaku Induak* in the context of Islamic family law in Indonesia.⁷³ Currently, the absence of clear guidelines has led to inconsistencies in the handling of cases involving these customary mechanisms in various Religious Courts.⁷⁴ The development of such guidelines needs to involve collaboration between Islamic law academics, religious judges, customary

⁶⁴ Pelacur, *Hukum Adat di Indonesia Modern*.

⁶⁵ Welsa Aini dkk., *Analisis Budaya Dalam Tradisi Perkawinan di Adat Minangkabau*, n.d.

⁶⁶ Nurdin, "Harmonisasi Hukum Adat dan Hukum Islam di Sumatera Barat: Dinamika Fiqih Hidup."

⁶⁷ Syarifah Gustiawati Mukri and Nurrohim, "Strategi Dakwah dalam Perspektif Dinamika Sosial," *Jurnal Bimas Islam* 9, no. 3 (2016): 377–408.

⁶⁸ Anita Afriana and Efa Laela Fakhriah, "Implementasi Asas Hakim Pasif dalam Perkara Perdata," *Padjadjaran Jurnal Ilmu Hukum* 2, no. 3 (2015): 571–91.

⁶⁹ Fitri, "Perubahan Tradisi Mangaku Induak sebagai Syarat Walimah al-Ursy di Kalangan Masyarakat Sitiung."

⁷⁰ Taufiq Hamami, *Peradilan Agama dalam Reformasi Kekuasaan Kebakiman di Indonesia* (Tatanusa, 2013), 45–60.

⁷¹ Achmad Ali, *Menguak Tabir Hukum* (Ghalia Indonesia, 2008), 209–25.

⁷² Mardani, *Hukum Keluarga Islam di Indonesia* (Grup Prenadamedia, 2016), 51–65.

⁷³ Barzah Latupono dan lain-lain, *Buku Ajar Hukum Islam* (Deepublish, 2017), 91–100.

⁷⁴ Zainuddin Ali, *Hukum Perdata Islam di Indonesia* (Sinar Graphics, 2012), 57–68.

stakeholders, and community leaders to produce a comprehensive and contextual approach.⁷⁵

Conclusion

This research has succeeded in examining in depth the *Mangaku Induak* tradition in Sijunjung Regency as a *Living Fiqh phenomenon* that represents the integration of matrilineal customary law and Islamic family law. Based on the analysis that has been carried out, there are several important conclusions that can be put forward. First, the *Mangaku Induak tradition* is a living and functional customary institution in Sijunjung Regency, with an implementation mechanism that involves customary deliberation, a symbolic procession of recognition of tribal membership, and an official announcement by *ninik mamak*. This tradition is driven by a range of practical motivations that include the need for marriage, social integration, communal protection, and access to indigenous rights. Second, from the perspective of Islamic family law, *Mangaku Induak* operates as a "social bridge" that facilitates the resolution of marital guardianship issues for immigrants and converts, although formally it does not change the biological relationship. This tradition serves as a complementary instrument that fills a void of social protection that cannot be fully filled by formal law, both Islamic law and state law.

Third, within the framework of *Living Fiqh theory* and legal sociology, *Mangaku Induak* is a tangible manifestation of the legal pluralism that co-exists in Minangkabau. This tradition can be categorized as *'urf sahib* because it meets the criteria of benefit, does not contradict Islamic principles, and contributes to social order. The existence of this tradition also reflects the implementation of the ABS-SBK philosophy as a value system that is able to integrate the customary dimension and the sharia dimension in harmony. Fourth, this research has important implications for the practice of religious justice, namely the need for a comprehensive understanding of the interaction between Islamic law and customary law among judges of the Religious Court, as well as the need to develop more specific jurisprudence guidelines regarding the legal position of customary mechanisms such as *Mangaku Induak* in the context of Islamic family law in Indonesia.

This study recommends several things: (1) the need for systematic documentation of the *Mangaku Induak tradition* and similar customary traditions as reference material for religious court judges; (2) strengthening coordination between customary institutions (*Nagari Customary Density*) and formal institutions (KUA, Religious Courts) in handling guardianship and civil issues involving immigrants; (3) the development of an Islamic legal education curriculum that pays more attention to the sociological dimensions of law and legal pluralism, especially in the context of Indonesia which is rich in cultural diversity.

⁷⁵ Nurdin, "Harmonisasi Hukum Adat dan Hukum Islam di Sumatera Barat: Dinamika Fiqih Hidup."

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