

Tradition of Money Shopping in Riau Malay Traditional Marriage: Study of Islamic Family Law Living Law in Pekanbaru, Riau

Avioryenecha Zelvira*

Imam Bonjol Padang State Islamic University, Indonesia

avioryenechazelvira20@gmail.com

Andini Putri

Universitas Nusantara PGRI Kediri, Indonesia

andiniiputri050@gmail.com

DOI: <https://doi.org/>

Received:	Revised:	Approved:
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* Corresponding Author

Abstract

This study examines the practice of spending money, the amount of money that must be handed over by the man to the woman before the marriage takes place in the traditional marriage tradition of the Riau Malay and its relevance to Islamic family law. As a living law phenomenon, spending money has become an unwritten but binding social norm in the people of Pekanbaru, Riau, and is often treated as an obligation separate from dowry in Islamic law. This study uses a qualitative method with a socio-legal research approach, with data collected through in-depth interviews with traditional leaders, scholars, newly married couples, and KUA employees in Pekanbaru, and supported by the analysis of Riau Malay traditional documents. The findings show that people treat spending money and dowry as two different obligations, placing a financial burden on the groom's family and potentially becoming a barrier to marriage. This study argues that although spending money can be accommodated within the framework of Islamic law through the concept of *urf* (prevailing custom), its current implementation has undergone a significant shift in function. This research contributes to the study of Islamic family law living law in Indonesia by showing how customary norms and principles of Islamic law interact, negotiate, and sometimes compete in daily marriage practices.

Keywords: *living law; money shopping; Islamic family law; Riau Malay customs; 'urf*

Introduction

Marriage in Islam is not just a contract that legalizes the relationship between a man and a woman, but also a legal institution full of social, cultural, and normative dimensions. In various parts of the Islamic world, including Indonesia, Islamic family law is not only valid

as a normative text written in the book of fiqh or state legislation, but also lives and develops in the daily social practices of society. This phenomenon is known in legal studies as *living law* that is really practiced by society, not just a law written on paper.¹

Indonesia, as the country with the largest Muslim population in the world, is a very rich place to observe how Islamic family law works and interacts with local traditions that are deeply rooted long before Islam came. These interactions are not always harmonious; Sometimes there are tensions, negotiations, and even conflicts between what is commanded by the Shari'ah and what has been practiced by the community for generations. Indonesia's pluralistic legal system includes national law, Islamic law, and customary law, creating a very dynamic arena of interaction.² This reality is what makes the study of *Islamic family law living law in Indonesia relevant and urgent to continue to be developed*.

One of the interesting phenomena of *Islamic family law living law* to study is found in the Riau Malay community, especially in Pekanbaru. In the Riau Malay marriage tradition, a practice is known as *shopping money*, which is a sum of money that must be handed over by the man's family to the woman's family as a condition before the marriage can take place. In practice, this *spending money* is different from dowry (*maskawin*) in Islamic law, because both are requested and considered obligations that must be fulfilled at the same time.³ The amount of *spending money* is not small; based on initial observations in the field, the value can reach tens of millions of rupiah, far exceeding the agreed dowry value.

This phenomenon is interesting because on the one hand people claim to adhere to the teachings of Islam, but on the other hand they cannot escape from the demands of customs, which have become very binding social norms. This condition shows that there is a dualism of law that coexists in a single social practice, and this is the essence of what is called *living law* in the context of Islamic family law. The Riau Malay people, whose philosophy of life is reflected in the saying "*adat bertindi syarak, syarak bertindi Kitabullah*", put themselves in a position to constantly negotiate between the demands of their ancestral customs and the commands of the Islamic religion at the same time.⁴

Studies on the relationship between Islamic law and customary law in the context of marriage in Indonesia have actually been done quite a lot. Ratno Lukito discusses in depth how Islamic law and customary law meet and influence each other in the Indonesian legal experience.⁵ Meanwhile, Muhammad Latif Fauzi showed how negotiations between religious law and state law occurred in the practice of Muslim marriage in East Java.⁶ Jajat Burhanudin analyzes the changing landscape of Indonesian Islamic legal thought in a broader social context.⁷ However, studies that specifically discuss the practice of *spending money* from the

¹ Eugen Ehrlich, *Fundamental Principles of the Sociology of Law* (Routledge, 2017).

² Ratno Lukito, "Pertemuan Hukum Islam Dan Adat: Pengalaman Indonesia" (Doctoral Dissertation, McGill University, 1997).

³ Muhammad Latif Fauzi, *Menyelaraskan Hukum Agama Dan Hukum Negara: Negosiasi Hukum Perkawinan Muslim Di Pasuruan, Jawa Timur* (Brill, 2023), 15–47.

⁴ Bernard Adeney-Risakotta, "Hukum Tradisional, Hukum Islam, Dan Hukum Nasional Dalam Pengalaman Perempuan Muslim Indonesia," in *Narasi Kewanitaan Muslim Dan Agensi Perempuan* (Routledge, 2018), 82–97, <https://doi.org/10.4324/9780203713129-6>.

⁵ Lukito, "Pertemuan Hukum Islam Dan Adat: Pengalaman Indonesia."

⁶ Fauzi, *Menyelaraskan Hukum Agama Dan Hukum Negara: Negosiasi Hukum Perkawinan Muslim Di Pasuruan, Jawa Timur*.

⁷ Jajat Burhanudin, "Islamic Law and Society in Indonesia: The Changing Landscape of Islamic Legal Thought," *Studia Islamika* 20, no. 2 (2013): 279–322, <https://doi.org/10.15408/sdi.v20i2.375>.

perspective of Islamic family law—especially how people interpret, legitimize, and carry out this tradition within the framework of their Islam are still very limited.⁸

From the search of the literature, it is clear that there is an unfilled gap, namely a study that uses *the living law* approach to analyze how the practice of *spending money* in Riau Malay marriages is positioned within the framework of Islamic family law. This research departs from the argument that the practice of *spending money* is a *living law* phenomenon that shows how the Riau Malay Muslim community negotiates and adapts between the demands of customs and Islamic teachings at the same time. Using the concept of *‘urf* (the prevailing customs in society) as the main theoretical basis combined with the *living law* theory of Eugen Ehrlich, this study seeks to show that *spending money* is basically acceptable within the framework of Islamic law as long as certain conditions are met, but in its current implementation it has undergone a significant shift in function and needs to be criticized in a systematic manner seriously.⁹

The concept of *living law* was first developed by Eugen Ehrlich, an Austrian legal sociologist, in the early 20th century. In his work *Fundamental Principles of the Sociology of Law* (1936), Ehrlich argued that real law is a law that is living and practiced in society, not just a law that is expressed in formal state regulations.¹⁰ For Ehrlich, the social norms that govern people's daily behavior whether derived from customs, traditions, morality, or religion have a binding power that is far greater than just laws and regulations. Ehrlich's approach is particularly relevant to understanding how Islamic law is actually alive and practiced in Indonesia's Muslim society, where legal norms are often created, interpreted, and applied outside the framework of formal legal institutions.

In the Indonesian context, *the theory of living law* has been widely used by academics to study the phenomenon of legal pluralism, namely the existence of more than one legal system that applies simultaneously in one society.¹¹ Ratno Lukito, for example, uses *the living law* framework to analyze how Islamic law and customary law interact in Indonesia's pluralistic legal experience.¹² Meanwhile, Mark Cammack and Michael Feener show how the Islamic legal system in Indonesia has undergone significant transformation through interaction with state law and local traditions.¹³ In this study, *the theory of living law* is used as a lens to understand how the practice of *spending money* has become a binding social norm in the Riau Malay community even though it does not have an explicit normative basis in Islamic law or state law.

In the tradition of jurisprudence, the concept of *‘urf* has an important position as one of the recognized sources of law.¹⁴ Wahbah Al-Zuhaili defines *‘urf* as something that is

⁸ Muhamd Iskandar and Rida Nuraeni, "Uang Belanja Dan Mahar Dalam Perkawinan Adat Melayu: Tinjauan Hukum Islam Dan Sosial Budaya," *Al-Hurriyah: Jurnal Hukum Islam* 5, no. 1 (2020): 45–64, <https://doi.org/10.30983/alhurriyah.v5i1.3021>.

⁹ Aspandi, "Tradisi Jujuran Perkawinan Suku Tidung Tarakan Kalimantan Utara Dalam Perspektif Maslahat," *Al-Adalah* 1, no. 3 (2016): 16–49.

¹⁰ Eugen Ehrlich, *Fundamental Principles of the Sociology of Law* (Harvard University Press, 1936).

¹¹ Alfitri, "Hukum Keluarga Islam Di Indonesia: Perpaduan Nilai Lokal Dan Universal," *Jurnal Ilmu Hukum* 9, no. 1 (2016): 1–18.

¹² Lukito, "Pertemuan Hukum Islam Dan Adat: Pengalaman Indonesia."

¹³ Mark Cammack and R. Michael Feener, "The Islamic Legal System in Indonesia," *Pacific Rim Law & Policy Journal* 21, no. 1 (2012): 13–44.

¹⁴ Wahbah Al-Zuhaili, *Fiqh Islam Dan Dalil-Dalilnya*, 5th ed., vol. 8 (Dār Al-Fikr, 1985).

known and practiced repeatedly by human beings in their social life, both in the form of words (*qawli*) and deeds (*ʿamali*), and that is accepted by reason and not rejected by good character.¹⁵ Abdul Wahhab Khallaf further divided *ʿurf* into two main categories: *ʿurf sahih* (valid habit) that does not contradict the narration of the Qur'an or hadith and does not eliminate the benefits, and *ʿurf fasid* (corrupt habit) that is contrary to the principles of shari'a or causes harm.¹⁶

The scholars of jurisprudence have formulated several conditions that must be met in order for a *ʿurf* to be used as the basis for the establishment of law: first, *the ʿurf* must be common and equitable in society; second, the *ʿurf* must have existed and prevailed before a legal case appeared, not a later invention; third, there is no shari'ah that contradicts it; and fourth, The implementation of *ʿurf* will not cause any real harm.¹⁷ These conditions are an important benchmark for assessing whether the practice of *spending money* in Riau Malay marriages can be categorized as *ʿurf sahih* that is acceptable within the framework of Islamic law.¹⁸

The concept of *maslahah mursalah* is one of the important instruments in ijtihad of Islamic law that allows the determination of laws based on considerations of the public interest (*maslahah*) even though there is no nash that explicitly commands or prohibits it.¹⁹ Ahmad Imam Mawardi explained that *maslahah mursalah* is a benefit that is not directly mentioned by the nash, but is not contrary to it, and is an effort to realize the goals of sharia (*maqasid al-sharia*) which include the preservation of the soul, intellect, descendants, property, and religion.²⁰ In the context of this study, the concept of *maslahah mursalah* is used to assess the social and legal impact of the practice of *spending money* on the benefit of the parties involved in the marriage whether it brings benefits or on the contrary causes harm.

Based on the above background, this study formulates two main questions: first, how is the practice of *spending money* in Riau Malay traditional marriage understood and carried out by the community in relation to Islamic family law? Second, how can the *perspective of living law* be used to analyze the legitimacy and shifting function of *spending money* in the Riau Malay marriage tradition? This research aims to make a theoretical and practical contribution to the development of Islamic family law studies in Indonesia, as well as an input for stakeholders in formulating policies that are more just and harmonious between the demands of customary and Islamic teachings.

Methodology

This research uses a qualitative approach with *the socio-legal research* method, which is an approach that combines normative legal analysis with empirical analysis of legal phenomena in the social life of the community.²¹ This approach was chosen because the research aims

¹⁵ Al-Zuhaili, *Fiqh Islam Dan Dalil-Dalilnya*, vol. 8.

¹⁶ Abdul Wahhab Khallaf, *Ilmu Usul Al-Fiqh* (Dar al-Qalam, 1978), 89–95.

¹⁷ Khallaf, *Ilmu Usul Al-Fiqh*.

¹⁸ Muhammad Taufiqurrahman, “‘Urf Sebagai Metode Istinbat Hukum Islam Dalam Konteks Keindonesiaan,” *Al-Manahij: Jurnal Kajian Hukum Islam* 9, no. 2 (2015): 273–84, <https://doi.org/10.24090/mnh.v9i2.545>.

¹⁹ Ahmad Imam Mawardi, *Fiqh Minoritas: Fiqh al-Aqalliyat Dan Evolusi Maqasid al-Syariah Dari Konsep Ke Pendekatan* (LKIS, 2010).

²⁰ Mawardi, *Fiqh Minoritas: Fiqh al-Aqalliyat Dan Evolusi Maqasid al-Syariah Dari Konsep Ke Pendekatan*.

²¹ Matthew B. Miles et al., *Qualitative Data Analysis: A Methods Sourcebook*, 3rd ed. (SAGE Publications, 2014), 12–14.

to understand how the practice of *spending money* in Riau Malay traditional marriage is interpreted, carried out, and legitimized by the community within the framework of Islamic family law. This research was carried out in the city of Pekanbaru, Riau, throughout the period from January to April 2025, considering that Pekanbaru is the center of Riau Malay culture that is still actively practicing the tradition of *spending money* in marriage, as well as being the city with the largest number of Malay traditional marriages in the province.

The primary data sources were obtained through *in-depth interviews* with twelve informants selected by *purposive sampling*, including: four traditional Riau Malay leaders, three scholars and administrators of the Indonesian Ulema Council (MUI) Pekanbaru, three couples who have just married in the last five years, and two employees of the Religious Affairs Office (KUA) of Tampan and Marpoyan Damai Districts, Pekanbaru. In addition to interviews, primary data was also collected through participatory observation of three Riau Malay traditional marriage processions involving the practice of *spending money*. Secondary data were obtained from documentation studies of Riau Malay traditional texts, KUA records, relevant classical fiqh books, and previous research related to this topic.

The data was analyzed using the interactive analysis model of Miles, Huberman, and Saldana which included data condensation, data presentation, and conclusion drawn.²² The validity of the data is guaranteed through the triangulation technique of sources and methods. The theoretical framework that became the basis for the analysis was the theory of *living law* from Eugen Ehrlich, which views real law as a law that lives and is practiced in society, not just a law that is expressed in formal regulations.²³ This theory is integrated with the concept of *'urf* in the fiqh proposal, which allows the test of whether the practice of *spending money* can be categorized as a valid habit (*'urf sahib*) or a fasid habit (*'urf fasid*) according to the criteria of Islamic law.²⁴

The data analysis is also strengthened by normative studies of relevant classical and contemporary fiqh texts, especially the works of scholars who discuss the concepts of dowry, grants, and *'urf* in Islamic marriage.²⁵ This approach allows the research to comprehensively look at how Islamic legal norms and Riau Malay customary norms interact, negotiate, and sometimes compete in the daily practice of marriage in Pekanbaru. The entire research process is carried out by paying attention to research ethics, including obtaining *informed consent* from each informant and maintaining identity confidentiality in data reporting.

Money Shopping as a Living Law Phenomenon in Riau Malay Society

Field findings show that all informants from traditional leaders and the general public view *spending money* as an obligation that cannot be abandoned in Riau Malay traditional marriage. Unlike dowry, which is understood as a marriage pillar in Islamic law, *spending money* is perceived as a form of appreciation and recognition of the dignity of the bride's family. A Malay traditional leader in Pekanbaru stated that *spending money* is a reflection of the ability and seriousness of the man, and if it is not fulfilled, marriage will be considered disrespectful

²² Miles et al., *Qualitative Data Analysis: A Methods Sourcebook*.

²³ Ehrlich, *Fundamental Principles of the Sociology of Law* (1936).

²⁴ Amir Syarifuddin, *Ushul Fiqh: Jilid 1* (Kencana Prenada Media Group, 2011).

²⁵ Amir Syarifuddin, *Hukum Perkawinan Islam di Indonesia: Antara Fiqh Munakabat dan Undang-Undang Perkawinan* (Kencana, 2006), 87.

to the woman. This statement reflects how *spending money* has become a highly binding social norm, which in Eugen Ehrlich's perspective can be termed as the *living law* law that actually lives in society, regardless of its formal legal recognition.²⁶

The amount of *spending money* found in the field ranges from IDR 20,000,000 to IDR 150,000,000, depending on the social status, education level, and job of the bride. This variation shows that *spending money* does not solely function as capital for wedding preparations, but also as a marker of the social status (*social signifier*) of both families. This phenomenon is in line with Aspandi's findings about the tradition of *honesty* in the Tidung tribe of Kalimantan, where the amount of money given is closely related to the social hierarchy of the local community.²⁷ Similarly, the study of Suryani and Raus on the practice of *honest money* in Tapanuli showed a similar pattern: the amount of money requested was positively correlated with the social status of women.²⁸

The difference is that in the context of Riau Malays, *spending money* is more open to negotiation even though it remains within the boundaries determined by custom. This condition shows that although *spending money* is a *living law* that lives strongly in society, it is not a completely rigid norm, but an adaptive and contextual norm. Hilman Hadikusuma emphasized that customary law in Indonesia is basically dynamic and responsive to social changes, which makes it able to survive despite continuing to interact with other legal systems.²⁹ This adaptive nature is also what makes the practice of *spending money* survive in the midst of modernization and socio-economic development of the Riau Malay community.

Interestingly, field findings also show a shift in *spending money* norms in the last three decades. Senior informants (over 60 years old) stated that in the 1980s and 1990s, *spending money* was relatively more affordable and flexible; at that time, families who could not afford it could still negotiate to marry their children for minimal *spending money*. Today, however, there is significant social pressure to meet higher spending *bills*, partly due to the rising cost of living, rising social expectations, and the emergence of status competition among families in the community.³⁰ This shift exactly reflects what Ade Saptomo warned about the threat of deformation of local wisdom values due to poorly managed socio-economic pressures.³¹

Analysis of 'Urf and the Legitimacy of Islamic Law on Spending Money

To answer the second research question about how the *living law perspective* can be used to analyze the legitimacy of *spending money*, this study uses the concept of *'urf* as the main analysis knife. In the tradition of fiqh proposals, *'urf* is defined as a habit that is known and practiced repeatedly by the community, both in the form of words and deeds.³² The fuqaha divide *'urf* into two main categories: *'urf sabih* (valid habits) and *'urf fasid* (corrupt/invalid habits).³³

²⁶ Syarifuddin, *Hukum Perkawinan Islam di Indonesia: Antara Fiqh Munakabat dan Undang-Undang Perkawinan*, 87.

²⁷ A spandi, "Tradisi Jujuran Perkawinan Suku Tidung Tarakan Kalimantan Utara Dalam Perspektif Maslahat."

²⁸ S. Suryani and A. Raus, "Eksistensi Uang Jujuran Pada Perkawinan Dalam Adat Tapanuli Nagari Tanjung Betung Menurut Hukum Islam," *JISRAH: Jurnal Integrasi Ilmu Syariat* 2, no. 1 (2021), <https://doi.org/10.31958/jisrah.v2i1.3226>.

²⁹ Hilman Hadikusuma, *Hukum Perkawinan Adat* (Citra Aditya Bakti, 1990), 76–82.

³⁰ Ade Saptomo, *Hukum Dan Kearifan Lokal: Revitalisasi Hukum Adat Nusantara* (Grasindo, 2010), 101–15.

³¹ Saptomo, *Hukum Dan Kearifan Lokal: Revitalisasi Hukum Adat Nusantara*.

³² Khallaf, *Ilmu Usul Al-Fiqh*.

³³ Amir Syarifuddin, *Ushul Fiqih* 2, 1st ed. (Kencana, 2011).

Undefined is a habit that does not contradict the Qur'an or hadith, does not eliminate benefits, and does not cause harm. Meanwhile, *'urf fasid* is a custom that is contrary to the principles of sharia, deprives of the rights established by Islamic law, or causes harm. Wahbah Al-Zuhaili in *Fiqh al-Islami wa Adillatuh* affirms that *'urf* that does not contradict nash can be used as the basis for the determination of law, because it is one of the recognized sources of Islamic law.³⁴ This principle is also reflected in the rules of fiqh which reads "*al-'adah muhakkamah*" (the habit can be made into law), which is one of the main rules in Islamic jurisprudence.³⁵

Based on these criteria, the practice of *spending money* in Riau Malay marriages can be categorized as *'urf sahih* if the following conditions are met: first, the amount is agreed upon in deliberation and is not burdensome; second, it does not replace the function of dowry as a pillar of marriage regulated in the Compilation of Islamic Law;³⁶ Third, it is used for a good purpose, which is to help prepare for a new household. In these ideal conditions, *spending money* actually has a positive social function and can be accommodated within the framework of Islamic law. Iskandar and Nuraeni's study of *spending money* in Malay traditional marriages also confirms that as long as this practice does not cause harm, then it is acceptable from the perspective of Islamic law.³⁷

However, field findings show that in current practice in Pekanbaru, *spending money* has undergone a significant shift in function. First, its ever-increasing and inflexible size has caused a heavy financial burden for the groom's family, even in some cases leading to the postponement of marriage or the cancellation of wedding plans. This condition is contrary to the principle of ease (*taysir*) in Islam and the purpose of the Shari'ah in maintaining offspring (*hifz al-nasl*) through a valid and easily practicable marriage.³⁸ Marriage Law Number 1 of 1974 itself does not regulate *spending money*, so its position in Indonesia's positive legal system remains in the gray area.³⁹

Second, the calculation of *spending money* associated with the bride's education and employment status has shifted the traditional function that was originally helpful to a kind of economic transaction mechanism. Euis Nurlaelawati, in his study on modernization and tradition in Indonesian Islamic law, reminds us that when customary norms are commodified and lose their noble social dimension, then they not only lose their social legitimacy but also have the potential to be contrary to Islamic values.⁴⁰ Third, there is a tendency of some people to think that *shopping money* is more important than dowry, thus causing distortions in the understanding of Islamic marriage law.⁴¹

³⁴ Al-Zuhaili, *Fiqh Islam Dan Dalil-Dalilnya*, vol. 8.

³⁵ Al-Zuhaili, *Fiqh Islam Dan Dalil-Dalilnya*, vol. 8.

³⁶ Abdurrahman, *Kompilasi Hukum Islam di Indonesia* (Mandar Maju, 2010).

³⁷ Abdurrahman, *Kompilasi Hukum Islam di Indonesia*.

³⁸ Al-Zuhaili, *Fiqh Islam Dan Dalil-Dalilnya*, vol. 8.

³⁹ Departemen Agama, "Undang-Undang Nomor 1 Tahun 1974 Tentang Perkawinan Dan Peraturan Pemerintah Nomor 9 Tahun 1975 Serta Kompilasi Hukum Islam Di Indonesia," (Jakarta), 2014.

⁴⁰ Euis Nurlaelawati, *Modernization, Tradition and Identity: The Kompilasi Hukum Islam and Legal Practice in the Indonesian Religious Courts* (Amsterdam University Press, 2010), 45–78.

⁴¹ Ade Jamilah and Siti Musdah Mulia, "Reformasi Hukum Keluarga Islam Di Indonesia: Studi Atas Kompilasi Hukum Islam," *MIQOT: Jurnal Ilmu-Ilmu Keislaman* 38, no. 1 (2014): 121–42.

These shifts, if left uncorrected, have the potential to change the status of *spending money* from *'urf sahib* to *'urf fasid* which is contrary to the principle of convenience (*taysir*) in Islam. Comparative studies with similar traditions in various regions in Indonesia, such as Aisyah Kartini's study of the Marsapa Utang tradition in West Pasaman⁴² and Aris Nur Mu'alim's study of the tradition of Kumpul Tangan in West Sumba,⁴³ show the same pattern: the tradition of giving money in traditional marriage was originally a *'urf sahib* which has a positive social function, but tends to shift into a burdensome burden along with socio-economic changes.

Maslahah Mursalah's Perspective on Spending Money

The *maslahah mursalah* approach provides a more comprehensive perspective in assessing the practice of *spending money*. In this framework, a practice can be justified under Islamic law if it brings the public good (*maslahah*) and does not contradict the nash that is *qat'i*. When *spending money* serves as a mutual cooperation mechanism that helps the bride's family prepare for domestic life, it contains real *maslahah*.⁴⁴ However, when it turns into a burden that hinders the implementation of marriage, it is contrary to *maslahah* because it hinders the purpose of the Shari'ah in maintaining offspring and an orderly social life (*hifz al-nasl* and *hifz al-nafs*).⁴⁵

Komnas Perempuan in its press release emphasized that marriage practices that cause excessive financial burden can lead to the phenomenon of child marriage and other harmful practices that harm women.⁴⁶ In this context, the perspective of *maslahah mursalah* becomes very relevant: regulation of the amount of *spending money* is not only justified by Islamic law, but even a necessity in order to protect the benefit of society as a whole. Siti Musdah Mulia in her work *Islam Sues Polygamy* reminds that one of the basic principles of Islamic family law is justice and equality, which must be applied consistently in all aspects of marriage, including in terms of the provision of pre-marital property.⁴⁷

Socio-Legal Implications and Recommendations for Customary Reform

The findings of this study have significant socio-legal implications for various stakeholders. First, for the indigenous Malay community of Riau, these findings show the need to revitalize the values of *spending money* that emphasizes its social and spiritual function, not just its material value. Ade Saptomo reminded that a successful revitalization of customary law is one that is able to revive the spirit of local wisdom without maintaining its detrimental aspects.⁴⁸ Second, for religious institutions such as MUI, this study confirms the importance

⁴² Aisyah Kartini, "Tradisi Marsapa Utang Menjelang Acara Walimatul 'Ursy Di Pasaman Barat Perspektif 'Urf Dan Maslahah" (Skripsi, UIN Imam Bonjol Padang, 2025), 44–58.

⁴³ Aris Nur Mu'alim, "Tradisi Kumpul Tangan Menjelang Perkawinan Pada Masyarakat Muslim Kabupaten Sumba Barat Dalam Tinjauan 'Urf Dan Maslahah" (Skripsi, UIN Sunan Kalijaga, 2024), 51–63.

⁴⁴ Al-Zuhaili, *Fiqh Islam Dan Dalil-Dalilnya*, vol. 8.

⁴⁵ Khoiruddin Nasution, *Hukum Perdata (Keluarga) Islam Indonesia Dan Perbandingan Hukum Perkawinan Di Dunia Muslim* (ACAdemia dan TAZZAFA, 2009), 112–20.

⁴⁶ Komisi Nasional Anti Kekerasan terhadap Perempuan, "Siaran Pers Komnas Perempuan Tentang Perkawinan Anak Sebagai Praktik Berbahaya," August 3, 2021, <https://komnasperempuan.go.id>.

⁴⁷ Jamilah and Mulia, "Reformasi Hukum Keluarga Islam Di Indonesia: Studi Atas Kompilasi Hukum Islam," 45–53.

⁴⁸ Saptomo, *Hukum Dan Kearifan Lokal: Revitalisasi Hukum Adat Nusantara*.

of their role in providing contextual legal guidance that is responsive to social change, rather than being trapped in normative debates that do not touch the reality of people's lives.⁴⁹

Third, for local governments, these findings are the basis for the need for more intensive dialogue between indigenous leaders, religious leaders, and the government in formulating harmonious and equitable policies. The experience of various regions in Indonesia shows that conflicts between customary law and religious law can often be resolved through deliberation involving all stakeholders.⁵⁰ In this context, the Constitutional Court Decision No. 30-74/PUU-XII/2014 provides a strong constitutional basis for efforts to harmonize Islamic law and existing local practices.⁵¹

Comparatively, the experience of Malaysia which has a similar Malay cultural background—shows that regulation of potentially harmful traditional marriage practices can be effectively done through a combination of government policies and sustainable religious education.⁵² Michael Peletz in his study of religious courts and cultural politics in Malaysia notes that effective Islamic legal institutions are those that are able to function as mediators between customary demands and universal Islamic norms.⁵³ This experience can be a valuable reference for Indonesia in formulating a similar approach.

Based on the overall findings and analysis, this study recommends several concrete steps. To traditional leaders and traditional institutions of Riau Malay institutions, it is recommended to conduct deliberations towards the determination of a standardized and affordable maximum spending *money*, taking into account the economic condition of the community in general referring to the philosophy of "*adat berserdi syarak, syarak berserdi Kitabullah*" which prioritizes harmony between customs and religion.⁵⁴ To the Riau Indonesian Ulema Council and the Office of Religious Affairs, it is recommended to actively provide socialization and education to the public about the difference between *spending money* and dowry in Islamic law, as well as about the principle of convenience in Islamic marriage.

In the context of comparative law, a study of the experiences of Muslim communities in different parts of the world as analyzed by John Esposito in *Women in Muslim Family Law* shows that successful Islamic family law reform has always placed the welfare of women and the ease of marriage as a top priority.⁵⁵ This principle must be a guide in any reform effort against the tradition of *spending money* in Riau. Mashood Baderin in his study of human rights and Islamic law reminds that the continuous reform of Islamic law must take into account universal human values while maintaining an authentic Islamic identity.⁵⁶

⁴⁹ Nadirsyah Hosen, "Behind the Scenes: Fatwas of Majelis Ulama Indonesia (1975–1998)," *Journal of Islamic Studies* 15, no. 2 (2004): 147–79, <https://doi.org/10.1093/jis/15.2.147>.

⁵⁰ Tim Lindsey and Mas Achmad Santosa, "The Indonesian Legal System: An Overview," in *Indonesia: Law and Society*, ed. Tim Lindsey (Federation Press, 1999).

⁵¹ Keputusan Mahkamah Konstitusi Republik Indonesia Nomor 30-74/PUU-XII/2014 (2014).

⁵² Michael G. Peletz, *Islamic Modern: Religious Courts and Cultural Politics in Malaysia* (Princeton University Press, 2002).

⁵³ Peletz, *Islamic Modern: Religious Courts and Cultural Politics in Malaysia*.

⁵⁴ Bismar Siregar, "Hukum Adat dan Hukum Islam dalam Kehidupan Bangsa Indonesia," *Jurnal Hukum dan Pembangunan* 12, no. 4 (1982): 303–14.

⁵⁵ John L. Esposito, *Women in Muslim Family Law*, 2nd ed. (Syracuse University Press, 2001).

⁵⁶ Mashood A. Baderin, *International Human Rights and Islamic Law* (Oxford University Press, 2003).

Conclusion

This study concludes that the practice of *spending money* in Riau Malay traditional marriage is a complex and multidimensional living law phenomenon. The people of Pekanbaru consistently treat *shopping money* and dowry as two separate and equally binding obligations, even though from the perspective of Islamic law the two have different positions.⁵⁷ The amount of *spending money* that often reaches tens to hundreds of millions of rupiah has proven to cause a significant financial burden for the groom's family and in some cases is an obstacle to the implementation of marriage, especially for couples from the lower middle economic class.

From the perspective of *'urf*, the practice of *spending money* can basically be accepted as *'urf valid* within the framework of Islamic law if the amount is not burdensome, does not replace the function of dowry, and is used for good purposes. However, in its current implementation, the practice of *spending money* in Pekanbaru has undergone a significant shift in function from a help-help mechanism to a social status-based economic transaction mechanism which has the potential to shift it to the category of *'urf fasid* which is contrary to the principle of convenience and benefit in Islam.⁵⁸

Theoretically, this study shows that Ehrlich's *living law* framework can be used productively to analyze the phenomenon of local Islamic law in Indonesia, by combining it with the concept of *'urf* and *masalah mursalah* from the proposition of fiqh. The combination of these theoretical frameworks results in richer and more contextual analysis than if only one perspective were used. Methodologically, this study proves the effectiveness of the *socio-legal research approach* in examining the phenomenon of the combination of Islamic law and customary law in Indonesia.⁵⁹

Practically, the findings of this study can be used as a reference for policy makers, traditional leaders, and scholars in formulating more equitable policies related to the practice of *spending money*. The harmonization between the noble traditional values of Riau Malays with Islamic principles that are easy and bring grace can be the basis for the renewal of traditions that do not abandon local wisdom, but also do not burden the community excessively. Further research is strongly recommended to examine similar dynamics in other Malay communities in Indonesia and in Southeast Asia, in order to obtain a more comprehensive picture of how traditional Islamic-customary marriage traditions continue to negotiate in the context of modernity.

This research has made several significant scientific contributions. Theoretically, this study shows that Ehrlich's *living law* framework can be used productively to analyze the phenomenon of local Islamic law in Indonesia, by combining it with the concept of *'urf* and *masalah mursalah* from the fiqh proposal. The combination of these theoretical frameworks results in richer and more contextual analysis than if only one perspective were used.

Methodologically, this study proves the effectiveness of the *socio-legal research approach* in examining the phenomenon of the combination of Islamic law and customary

⁵⁷ Bismar Siregar, "Hukum Adat Dan Hukum Islam Dalam Kehidupan Bangsa Indonesia," *Jurnal Hukum Dan Pembangunan* 12, no. 4 (1982): 303–14.

⁵⁸ Syarifuddin, *Hukum Perkawinan Islam di Indonesia: Antara Fiqh Munakabat dan Undang-Undang Perkawinan*.

⁵⁹ Siregar, "Hukum Adat Dan Hukum Islam Dalam Kehidupan Bangsa Indonesia."

law in Indonesia. This approach allows researchers to capture the complexities of legal practice in the field that cannot be obtained through normative text analysis alone. Thus, this research is expected to encourage more socio-legal studies in the study of Islamic family law in Indonesia.

Practically, the findings of this study can be used as a reference for policy makers, traditional leaders, and scholars in formulating more equitable policies related to the practice of spending money. The harmonization between the noble traditional values of Riau Malays with Islamic principles that are easy and bring grace can be the basis for the renewal of traditions that do not abandon local wisdom, but also do not burden the community excessively.

Bibliography

- Abdurrahman. *Kompilasi Hukum Islam di Indonesia*. Mandar Maju, 2010.
- Adeney-Risakotta, Bernard. "Hukum Tradisional, Hukum Islam, Dan Hukum Nasional Dalam Pengalaman Perempuan Muslim Indonesia." In *Narasi Kewanitaan Muslim Dan Agensi Perempuan*. Routledge, 2018. <https://doi.org/10.4324/9780203713129-6>.
- Alfitri. "Hukum Keluarga Islam Di Indonesia: Perpaduan Nilai Lokal Dan Universal." *Jurnal Ilmu Hukum* 9, no. 1 (2016): 1–18.
- Al-Zuhaili, Wahbah. *Fiqh Islam Dan Dalil-Dalilnya*. 5th ed. Vol. 8. Dār Al-Fikr, 1985.
- Aspandi. "Tradisi Jujuran Perkawinan Suku Tidung Tarakan Kalimantan Utara Dalam Perspektif Maslahat." *Al-Adalah* 1, no. 3 (2016): 16–49.
- Baderin, Mashood A. *International Human Rights and Islamic Law*. Oxford University Press, 2003.
- Burhanudin, Jajat. "Islamic Law and Society in Indonesia: The Changing Landscape of Islamic Legal Thought." *Studia Islamika* 20, no. 2 (2013): 279–322. <https://doi.org/10.15408/sdi.v20i2.375>.
- Cammack, Mark, and R. Michael Feener. "The Islamic Legal System in Indonesia." *Pacific Rim Law & Policy Journal* 21, no. 1 (2012): 13–42.
- Departemen Agama. "Undang-Undang Nomor 1 Tahun 1974 Tentang Perkawinan Dan Peraturan Pemerintah Nomor 9 Tahun 1975 Serta Kompilasi Hukum Islam Di Indonesia." (Jakarta), 2014.
- Ehrlich, Eugen. *Fundamental Principles of the Sociology of Law*. Harvard University Press, 1936.
- Ehrlich, Eugen. *Fundamental Principles of the Sociology of Law*. Routledge, 2017.
- Esposito, John L. *Women in Muslim Family Law*. 2nd ed. Syracuse University Press, 2001.
- Fauzi, Muhammad Latif. *Menyelaraskan Hukum Agama Dan Hukum Negara: Negosiasi Hukum Perkawinan Muslim Di Pasuruan, Jawa Timur*. Brill, 2023.
- Hadikusuma, Hilman. *Hukum Perkawinan Adat*. Citra Aditya Bakti, 1990.
- Hosen, Nadirsyah. "Behind the Scenes: Fatwas of Majelis Ulama Indonesia (1975–1998)." *Journal of Islamic Studies* 15, no. 2 (2004): 147–79. <https://doi.org/10.1093/jis/15.2.147>.

- Iskandar, Muhamd, and Rida Nuraeni. "Uang Belanja Dan Mahar Dalam Perkawinan Adat Melayu: Tinjauan Hukum Islam Dan Sosial Budaya." *Al-Hurriyah: Jurnal Hukum Islam* 5, no. 1 (2020): 45–64. <https://doi.org/10.30983/alhurriyah.v5i1.3021>.
- Jamilah, Ade, and Siti Musdah Mulia. "Reformasi Hukum Keluarga Islam Di Indonesia: Studi Atas Kompilasi Hukum Islam." *MIQOT: Jurnal Ilmu-Ilmu Keislaman* 38, no. 1 (2014): 121–42.
- Kartini, Aisyah. "Tradisi Marsapa Utang Menjelang Acara Walimatul 'Ursy Di Pasaman Barat Perspektif 'Urf Dan Masalahah." Skripsi, UIN Imam Bonjol Padang, 2025.
- Keputusan Mahkamah Konstitusi Republik Indonesia Nomor 30-74/PUU-XII/2014 (2014).
- Khallaf, Abdul Wahhab. *Ilmu Usul Al-Fiqh*. Dar al-Qalam, 1978.
- Komisi Nasional Anti Kekerasan terhadap Perempuan. "Siaran Pers Komnas Perempuan Tentang Perkawinan Anak Sebagai Praktik Berbahaya." August 3, 2021. <https://komnasperempuan.go.id>.
- Lindsey, Tim, and Mas Achmad Santosa. "The Indonesian Legal System: An Overview." In *Indonesia: Law and Society*, edited by Tim Lindsey. Federation Press, 1999.
- Lukito, Ratno. "Pertemuan Hukum Islam Dan Adat: Pengalaman Indonesia." Doctoral Dissertation, McGill University, 1997.
- Mawardi, Ahmad Imam. *Fiqh Minoritas: Fiqh al-Aqalliyat Dan Evolusi Maqasid al-Syariah Dari Konsep Ke Pendekatan*. LKiS, 2010.
- Miles, Matthew B., A. Michael Huberman, and Johnny Saldaña. *Qualitative Data Analysis: A Methods Sourcebook*. 3rd ed. SAGE Publications, 2014.
- Mu'alim, Aris Nur. "Tradisi Kumpul Tangan Menjelang Perkawinan Pada Masyarakat Muslim Kabupaten Sumba Barat Dalam Tinjauan 'Urf Dan Masalahah." Skripsi, UIN Sunan Kalijaga, 2024.
- Nasution, Khoiruddin. *Hukum Perdata (Keluarga) Islam Indonesia Dan Perbandingan Hukum Perkawinan Di Dunia Muslim*. ACAdemia dan TAZZAFA, 2009.
- Nurlaelawati, Euis. *Modernization, Tradition and Identity: The Kompilasi Hukum Islam and Legal Practice in the Indonesian Religious Courts*. Amsterdam University Press, 2010.
- Peletz, Michael G. *Islamic Modern: Religious Courts and Cultural Politics in Malaysia*. Princeton University Press, 2002.
- Saptomo, Ade. *Hukum Dan Kearifan Lokal: Revitalisasi Hukum Adat Nusantara*. Grasindo, 2010.
- Siregar, Bismar. "Hukum Adat Dan Hukum Islam Dalam Kehidupan Bangsa Indonesia." *Jurnal Hukum Dan Pembangunan* 12, no. 4 (1982): 303–14.
- Suryani, S., and A. Raus. "Eksistensi Uang Jujuran Pada Perkawinan Dalam Adat Tapanuli Nagari Tanjung Betung Menurut Hukum Islam." *JISR AH: Jurnal Integrasi Ilmu Syariah* 2, no. 1 (2021). <https://doi.org/10.31958/jisrah.v2i1.3226>.
- Syarifuddin, Amir. *Hukum Perkawinan Islam di Indonesia: Antara Fiqh Munakabat dan Undang-Undang Perkawinan*. Kencana, 2006.
- Syarifuddin, Amir. *Usul Fiqh: Jilid 1*. Kencana Prenada Media Group, 2011.
- Syarifuddin, Amir. *Usul Fiqih 2*. 1st ed. Kencana, 2011.

Taufiqurrahman, Muhammad. “‘Urf Sebagai Metode Istinbat Hukum Islam Dalam Konteks Keindonesiaan.” *Al-Manahij: Jurnal Kajian Hukum Islam* 9, no. 2 (2015): 273–84. <https://doi.org/10.24090/mnh.v9i2.545>.