

Living Law in Islamic Family Law: Practice, Values, and Dispute Resolution in the Local Community of Koto Tangah Padang City

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Abstract

This study aims to examine the phenomenon of living law within the context of Islamic family law as practiced in local communities. Living law is understood as law that lives and operates in society, even if it is not formally codified. The research focuses on family dispute resolution practices, the role of religious leaders, and social norms that shape unwritten yet effective rules. Using a qualitative case study approach, data were collected through in-depth interviews, participatory observation, and analysis of local documents. Thematic analysis was employed to identify patterns of social norms functioning as living law. Findings reveal that living law plays a significant role in maintaining family harmony, strengthening the legitimacy of religious leaders, and providing alternative dispute resolution outside formal institutions. However, these practices also pose challenges regarding the protection of women's and children's rights, as well as the relationship between local norms and positive law. This study contributes to the understanding of the interaction between formal law and living law in Muslim societies and its relevance to the development of Islamic family law in Indonesia.

Keywords: *living law*; Islamic family law; sociology of law; dispute resolution; social norms.

Introduction

Throughout the Muslim world, the arrangement of family life is shaped not only by written provisions and classical fiqh, but also by a network of norms and everyday practices often called *living law*. This phenomenon in which social expectations, religious authority, and local dispute settlement habits result in de facto rules becomes important because it determines how rights, obligations, and remedies are practiced on the ground. Academically, the study of *living law* bridges doctrinal analysis and sociological study of law; practically, it is relevant to access to justice, the protection of vulnerable family members, and the legitimacy of religious and state institutions. Therefore, the empirical study of the legal realities living in the context of the Muslim family becomes urgent and of scholarly value.

This article narrows the focus on family dispute resolution practices in the community of Koto Tangah Padang, West Sumatra. The material objects of the study are a series of

normative practices: mediation by religious leaders, the formulation of customary settlements, and household-level negotiations that regulate marriage, divorce, child custody, and maintenance in daily life. In Koto Tangah, these practices interact with national family law and the structure of local councils or administrators, resulting in outputs that often differ from formal provisions.¹ An analysis of this context allows for an understanding of how local actors interpret and operationalize Islamic legal concepts such as *ijtihad* and *maslahah* in practice that have a real impact on legal pluralism and the experience of family law.

A brief literature review shows three major currents in Islamic family law literature. First, doctrinal and comparative studies that map texts, law reforms, and court decisions to clarify formal rules. Second, sociological and anthropological studies that document legal negotiations in practice, emphasizing the concept of *living law*, customary norms, and the role of religious authorities. Third, feminist and human rights research that criticizes the gender impact of formal and informal regimes, especially women's access to recovery and protection.² This perspective emerged a research gap that became the starting point of this article. The main argument of this article is that *living law* in the Koto Tangah community does not simply fill the void of formal law, but actively shapes, challenges, and sometimes shifts official Islamic family law norms with complex implications for gender justice and the protection of vulnerable groups.

This article sets out four research questions: (1) How do *forms of living law* emerge and function in the resolution of Islamic family law disputes in local communities? (2) Who are the main actors who shape and enforce *living law* in the context of the family, and how do their roles interact with formal institutions? (3) What are the implications of *living law practice* on access to justice and protection of the rights of women and children? (4) Under what conditions does *living law* strengthen or weaken the application of formal legal norms?

The concept of *living law* has its roots in the sociology of law Eugen Ehrlich, who distinguishes between the laws that live in society and those codified in official texts.³ In the context of Islam, this concept is closely related to the fiqh tradition which recognizes the variety of local practices as part of legitimate diversity (*ikhtilaf*), as well as to the discourse on customary law (*'urf*) as one of the recognized sources of Islamic law. Studies of Islamic law in Indonesia, such as Ratno Lukito's⁴ work on the meeting of Islamic and customary law, have shown that the interaction between the two is dynamic, negotiable, and unpredictable in a linear manner.

When looking at Islamic family law in Indonesia, a number of studies have documented the variation in practice between formal provisions and actual practice. Muhammad Latif Fauzi, in his study of Muslim marriage in Pasuruan, East Java, shows how negotiations between religious law and state law result in hybrid practices that do not fully fit into one system. Similarly, Bernard Adeney-Risakotta documents how Indonesian Muslim

¹ Yus, "Mediasi Dalam Penyelesaian Sengketa Perkawinan Pada Mahkamah Syar'iyah Di Aceh."

² Yusuf et al., "Analisis Pertimbangan Hakim Pada Gugatan Perceraian Berdasarkan Alasan Perselisihan Dalam Rumah Tangga (Studi Putusan Nomor 17/Pdt. G/2021/PN. Tjk)."

³ Hasugian, "living law eugen ehrlich dalam konflik masyarakat adat toba dan pt toba pulp lestari."

⁴ Lukito, "The Enigma of Legal Pluralism in Indonesian Islam."

women navigate between traditional, Islamic, and national norms in their daily legal experiences.

The literature on community mediation and the role of religious leaders highlights that the authority of religious leaders in the context of family dispute resolution is multidimensional: it comes not only from knowledge of religious texts, but also from social capital, community beliefs, and practical capabilities in facilitating agreement. The tension between local norms and formal law which is one of the central themes in this literature—is the starting point of this study, with an empirical focus on the Koto Tengah community which has a distinctive Minangkabau matrilineal context.

In addition to Ehrlich's perspective, the development of contemporary legal pluralism theory confirms that the state is not the only producer or enforcer of legal norms in society. The approach to legal pluralism developed by scholars suggests that individuals simultaneously reside within various normative regimes, such as state law, religious law, customary law, and community norms, that interact with each other in regulating social behavior.⁵ This condition in the context of the Indonesian Muslim community, causes the resolution of family problems not always referring to one particular legal system, but is the result of negotiations that consider religious legitimacy, social acceptance, legal certainty, and practical needs of the community. Therefore, *living law* needs to be understood as part of a legal ecosystem that works simultaneously with formal law, not as a phenomenon that is outside the national legal system.

In the study of Islamic family law, the development of *legal consciousness* theory also provides⁶ an important perspective to understand why people choose certain settlement mechanisms. This theory explains that compliance with the law is not solely determined by the existence of written rules, but also by the way people interpret the law based on social experiences, cultural values, and power relations that they face. The community's choice to prioritize mediation of religious leaders or customary deliberation over formal litigation reflects a form of legal awareness built on trust, social closeness, and the belief that community-based settlements are better able to maintain the harmony of family relationships.⁷ Therefore, the effectiveness of a legal norm is highly dependent on the process of internalizing legal values at the societal level.

Although the study of Islamic legal and family law pluralism in Indonesia has developed quite rapidly, most research still focuses on the normative relationship between Islamic law, customary law, and state law, or on the analysis of religious court decisions. Research that specifically examines how *living law* is produced, practiced, and negotiated by local actors in everyday life is still relatively limited. Fewer⁸ studies have analyzed how these mechanisms affect the protection of women's and children's rights, as well as shaping patterns of relationships between customary institutions, religious leaders, and state legal institutions. This emptiness is the main contribution of this research.

⁵ Nelken, "Eugen Ehrlich, Living Law, and Plural Legalities."

⁶ Elviandri et al., "Green Legal Consciousness."

⁷ Surasa et al., "Penyelesaian Sengketa Perkawinan Melalui Mediasi Sebagai Pencegahan Terjadinya Perceraian."

⁸ Irfan and Khasanah, "Sosialisasi Hukum Sebagai Upaya Peningkatan Kesadaran Hukum Masyarakat Desa Mejiyan."

Based on these gaps, this study positions living *law* not only as a descriptive object, but as an analytical framework to explain how Islamic family law works in the social reality of local communities. Koto Tangah as the location of this research, the Muslim community as a case study. This study seeks to explain the mechanism of norm formation, the pattern of distribution of legal authority, and the factors that determine whether *living law* strengthens or weakens the effectiveness of formal law. This approach is expected not only to enrich the study of legal pluralism in Indonesia, but also to make a conceptual contribution to the development of Islamic family law policies that are more contextual, responsive to social dynamics, and able to integrate local values with the principles of rights protection in the national legal system.

Methodology

This study uses a qualitative approach with a case study design to capture the dynamics of *living law*⁹ in the practice of Islamic family law in the community of Koto Tangah, West Sumatra. The case study approach was chosen because the purpose of the research is to understand complex and contextual socio-legal processes, i.e., how unwritten norms are operationalized in family dispute resolution, that cannot be adequately captured by quantitative methods or broad surveys. The selection of research subjects (families experiencing disputes, religious leaders, local mediators, and representatives of formal institutions) is based on their direct relevance to the research question.

The data source consists of primary data and secondary data. Primary data included semi-structured interviews with 28 informants: 12 family members who had undergone mediation, 8 local religious leaders/religious extension workers, 4 community mediators or council administrators, and 4 representatives of formal institutions (religious courts or religious affairs offices). The interview is *in-depth* and lasts between 45–90 minutes. In addition, participatory observations were carried out in 10 mediation sessions or family deliberations. Secondary data include local documents (minutes of deliberations, council decisions, local fatwas), national laws and regulations related to family law, and relevant academic literature.

Data analysis was carried out through systematic thematic analysis. Interview transcripts and field notes are inductively and deductively coded to identify patterns, categories of actors, norm enforcement mechanisms, and completion outcomes. The analysis is associated with the theoretical framework of *living law*, the theory of legal pluralism, and Islamic family law concepts such as *ijtihad* and *maslahah*. To ensure validity and reliability, the study applied source triangulation, actor triangulation, and *member checking* of key findings.

Results and Discussion (First Aspect of the Discussion)

Forms of Living Law in Family Dispute Resolution

The findings of the study revealed that *living law* in the Koto Tangah community is present in three main forms: mediation based on religious leaders, traditional deliberation of

⁹ Siregar and Gumiri, “Perkawinan Kontrak Dalam Perspektif Living Law Eugen Ehrlich.”

extended families, and household-level negotiations mediated by senior women. These three forms operate in parallel with the formal religious court system, and in many cases are the first choice of settlement mechanisms accessed by troubled families. Mediation by religious leaders, known as *shaykhs* or *ustadz*, is the most dominant form. This process involves the recitation of relevant Qur'anic verses and Hadiths, local interpretations of the provisions of fiqh, and the formulation of morally binding agreements even though they have no formal legal force.

The traditional deliberations of the extended family involve *ninik mamak* and *bundo kanduang* as respected Minangkabau customary authorities.¹⁰ These deliberations often result in decisions that reflect the synthesis between Islamic norms and Minangkabau matrilineal norms decisions that often differ significantly from positive legal provisions, for example in terms of the division of common property and child custody.¹¹ Household-level negotiations mediated¹² by senior women emerged as a more hidden but no less effective third form, particularly in the management of marital conflict in the early stages before escalation to more public forums.¹³

The existence of these three forms of *living law* shows that the resolution of family disputes in Koto Tangah is not only understood as a matter of applying legal norms, but also as a process of restoring social relations involving the collective values of the community. The main orientation of mediation and deliberation is not solely to determine the right or wrong side, but to restore the balance of family relations (*restorative justice*) and maintain the honor of the extended family.¹⁴ Therefore, the settlement mechanism that develops is not adversarial like the litigation process in court, but rather prioritizes dialogue,¹⁵ consensus, and the maintenance of social harmony. This condition explains why people tend to choose non-formal mechanisms first before taking the state legal route.¹⁶

Furthermore, these findings show that *living law* does not function as a legal system that stands outside the law of the state, but rather as a complementary mechanism that fills spaces that formal law is not fully able to reach. The flexibility of the procedure, the emotional closeness of the mediators to the parties, and the social legitimacy of religious leaders, *ninik mamak*, and *bundo kanduang* make community-based settlements easier to accept by the community.¹⁷ From the perspective of legal pluralism, this condition reflects the dynamic interaction between Islamic law,¹⁸ Minangkabau customary law, and state law, where each system has a different function and level of authority according to the character of the problem at hand.¹⁹ This synergy shows that the effectiveness of dispute resolution is

¹⁰ N Dt Bandaro, Wawancara 3 April 2026

¹¹ RK (Istri yang berkonflik), Wawancara 3 April 2026

¹² Marwa, "Model Penyelesaian Perselisihan Perkawinan Perspektif Hukum Adat Dan Hukum Islam."

¹³ AN (Suami yang berkonflik), Wawancara 3 April 2026

¹⁴ N Dt Bandaro, Wawancara 3 April 2026

¹⁵ Yazid et al., "Kesejahteraan Keluarga Pasangan Hasil Dispensasi Kawin Di Kota Medan."

¹⁶ Iqbal et al., "Maqashid Syariah Dalam Mediasi Keluarga."

¹⁷ Thomas, "Kedudukan Hukum Perkawinan Adat Dalam Sistem Hukum Perkawinan Nasional."

¹⁸ Zaini, "Membentuk Keluarga Sakinah Melalui Bimbingan Dan Konseling Pernikahan."

¹⁹ Irfan and Khasanah, "Sosialisasi Hukum Sebagai Upaya Peningkatan Kesadaran Hukum Masyarakat Desa Mejayan."

not solely determined by juridical binding power, but also by the level of social acceptance of the outcome of the settlement.

On the other hand, the practice of *living law* also faces a number of challenges that need attention. The reliance on the authority of community leaders causes the quality of settlement to be greatly influenced by the capacity, integrity, and perspective of the mediators involved. In addition, the absence of a standard standard of procedure has the potential to cause inconsistencies in the resolution of similar cases, especially regarding the protection of the rights of women and children if decisions are based more on social compromise than on the principle of substantive justice.²⁰ Therefore, strengthening the relationship between customary institutions, religious leaders, and religious justice institutions is important to build a family dispute resolution model that is able to maintain the social legitimacy of *living law* while ensuring the fulfillment of the principles of justice, legal certainty, and protection of human rights in accordance with the national legal system.

Main Actors and Their Interactions with Formal Institutions

Three main categories of actors were identified as the formers and enforcers of *living laws* in Koto Tangah: religious leaders (local ulama and ustadz), customary authorities (*ninik mamak* and *bundo kanduang*), and informal community mediators. Religious figures occupy a central position because their authority is twofold: recognized both as interpreters of religious texts and as moral figures of the community.²¹ Their legitimacy does not come from state certification or formal appointments, but rather from a combination of pesantren education, social networks, and a track record of successful dispute resolution.²² The relationship between *living law* actors and formal institutions especially the Religious Court and the Office of Religious Affairs is ambivalent and contextual. On the one hand, formal institutions are used as a "safety net" when informal mechanisms fail or when one of the parties needs legal documents. On the other hand, the decisions of formal institutions are often ignored or renegotiated through informal post-decision mechanisms. Some informants reported choosing not to formally register a divorce citing cost, proximity to court, or concerns about social stigma.

The success of *living law* actors in maintaining their authority shows that the legitimacy of the law at the community level is not solely built through the authority granted by the state,²³ but also through social *trust* that accumulates over the long term. Religious leaders, *ninik mamak*, and *bundo kanduang* received recognition because they were seen as understanding local values, having emotional closeness to the parties, and being able to offer solutions that considered religious, customary, and family aspects at the same time.²⁴ Thus, public compliance with the results of mediation is based more on moral and social legitimacy than on the threat of legal sanctions. This phenomenon confirms that the effectiveness of a

²⁰ Yus, "Mediasi Dalam Penyelesaian Sengketa Perkawinan Pada Mahkamah Syar'iyah Di Aceh."

²¹ Ustadz Nurdin (Tokoh Agama), Wawancara 4 April 2026

²² Hopipah et al., "Efektivitas Mediasi Non Litigasi Dengan Menggunakan Metode Couple Therapy Sebagai Cara Penyelesaian Sengketa Perceraian."

²³ Jalil, "Manajemen Konflik Dalam Keluarga Relevansinya Dalam Membentuk Keluarga Sakinah."

²⁴ Maharani, *Dinamika Hukum Dan Masyarakat Di Era Digital*.

legal norm is greatly influenced by the level of public acceptance of the actors who implement the norm.

The ambivalent relationship between *living law actors* and formal institutions also shows the practice of legal pluralism that takes place in a pragmatic manner.²⁵ The community does not position state law and living law as two systems that eliminate each other, but rather chooses the mechanism that is considered most suitable for the needs and concrete situation faced. Religious courts are generally taken when legal certainty is needed, the ratification of marital or divorce status, and the protection of civil rights. On the other hand, settlement through religious leaders and traditional leaders is prioritized when the main goal is to maintain family harmony, avoid open conflicts, and minimize the social consequences that can arise from the litigation process.²⁶ This pattern shows an adaptive division of functions between formal institutions and community-based legal mechanisms.

On the other hand, the findings regarding the persistence of divorces that are not officially registered indicate a gap between formal legality and social legality. Although sociologically the divorce has been considered valid by the community because it has obtained legitimacy from religious leaders or customary deliberative decisions, juridically the legal status of the parties has not yet been certain.²⁷ This condition has the potential to cause legal problems in the future, especially related to population administration, inheritance rights, maintenance rights, distribution of common property, and protection of women and children. Therefore, a closer collaboration model is needed between *living law* actors with the Religious Court, the Office of Religious Affairs, and the state government through a *referral system* that allows customs-based and religious-based settlements to still obtain administrative recognition without eliminating the participatory character and local wisdom that are the main strengths of *living law* in Koto Tengah.

Implications for the Protection of Women's and Children's Rights

These findings provide a complex picture of the implications of *living law* on the protection of women's and children's rights. On the one hand, informal mechanisms have proven to be able to provide faster, cheaper, and more contextual access to justice than formal courts. In a number of cases, mediation by religious leaders has succeeded in securing the right to alimony, custody, and housing rights for women who are victims of neglect—rights that are difficult to access through formal channels due to procedural and economic barriers. On the other hand, the *mechanism of living law* has also been proven to reproduce gender inequality.²⁸ In some divorce cases, customary pressure to "maintain the good name of the family" results in a deal that is detrimental to women. Even more problematic, children born of marriages that are not civilly registered do not have birth certificates, so their access to formal education, health services, and social protection programs is structurally hampered.

²⁵ Ridwan et al., "Kajian Sociological Jurisprudence Eugen Ehrlich Dan Roscoe Pound Dalam Konteks Hukum Di Indonesia."

²⁶ Yusuf et al., "Analisis Pertimbangan Hakim Pada Gugatan Perceraian Berdasarkan Alasan Perselisihan Dalam Rumah Tangga (Studi Putusan Nomor 17/Pdt. G/2021/PN. Tjk)."

²⁷ Fitri and Harianto, "Kajian Sosiologi Hukum Tanggung Jawab Sosial Dan Lingkungan Ptpn Ivr1 Berdasarkan Teori Living Law."

²⁸ Sulfinadia et al., "Negotiating Islamic Inheritance and Customary Law."

This paradox shows that *living law* has a character that is highly dependent on the social context and the capacity of the actors who carry it out. When religious and customary values are interpreted with a perspective that puts the welfare of the family and the protection of the vulnerable as priorities, informal mechanisms can result in responsive and just solutions.

²⁹ On the other hand, if the solution is more influenced by power relations in the family or patriarchal culture that is still entrenched, then the deliberation process has the potential to override the interests of women and children in order to maintain social harmony.

³⁰ Therefore, the effectiveness of *the living law* cannot be measured only by the success of resolving conflicts, but also by the extent to which the results of the settlement ensure the fulfillment of the basic rights of all parties involved.

These findings also indicate that the protection of women's and children's rights within the framework of *living law* requires strengthening the principles of substantive justice. A settlement reached through deliberation should not only be oriented towards reaching an agreement, but also ensure that the agreement is made voluntarily, without social pressure, and does not prejudice the rights guaranteed by national law or the principles of Islamic law.

³¹ The role of religious leaders, *ninik mamak*, and *bundo kanduang* is very strategic to internalize the values of protection for vulnerable groups in every mediation process. *Living law* can develop as a dispute resolution instrument that not only has social legitimacy, but is also in line with the principles of justice, equality, and protection of human rights.

In addition, the problem of children who do not have population documents shows that community-based settlement is not yet fully connected to the state administrative system. The absence of marriage and divorce records not only creates uncertainty in the legal status of parents, but also has a direct impact on the fulfillment of children's civil rights in the long run. ³² Therefore, there is a need for stronger synergy between the *living law* mechanism and the formal legal system through increasing community legal literacy, population administration assistance, and coordination between the state government, the Office of Religious Affairs, Religious Courts, and customary institutions. Such integration will allow dispute resolution to remain rooted in local values living in society, while ensuring that the rights of women and children are protected effectively both socially and judicially.

Conditions for Strengthening and Weakening Formal Legal Norms

The thematic analysis identified a number of conditions that determine whether *living law* tends to strengthen or weaken the application of formal legal norms. *Living law* tends to strengthen formal law when: (a) the religious leaders involved have a good understanding of the provisions of positive law; (b) either party has access to legal information; and (c) cases involving issues that are recognized as state authority, such as domestic violence. In contrast,

²⁹ Sulfinadia and Roszi, *Moderasi Bermaʿzhab Dalam Hukum Keluarga Pada Masyarakat Sumatera Barat*.

³⁰ Zarianto and Adityarani, "Eksistensi Sosiologi Hukum Pada Masyarakat Indonesia (Literature Review Atas Teori Living Law Eugen Ehrlich)."

³¹ Noviyansah, "Hukum Perdata Islam Sebagai Landasan Dalam Penyelesaian Sengketa Perkawinan."

³² Noviyansah, "Hukum Perdata Islam Sebagai Landasan Dalam Penyelesaian Sengketa Perkawinan."

living law tends to weaken formal law when cases are closely related to customary norms, or when access to formal institutions is hampered by geographical and economic factors.³³

These findings are in line with the literature on legal pluralism in Indonesia, which emphasizes that the relationship between state law and local law is dynamic and contextual. The concept of *maslahah* in Islamic jurisprudence has proven to be a theological mechanism used by religious leaders to legitimize adaptation in the practice of *living law*, while the principle of *ijtihad* allows for a responsive reinterpretation of the changing social context. This dynamic confirms that *living law* is not a residue of primitive law, but rather a normative system that continues to adapt and negotiate with the broader legal order. The findings show that the relationship between *living law* and formal law cannot be understood in a dichotomous framework mutually supportive or contradictory but rather as an interdependent relationship. In practice, *living law* functions as a *filtering mechanism* that determines the extent to which state legal norms are accepted, modified, or even rejected by society.³⁴ The level of acceptance is greatly influenced by the legitimacy of the actors who convey the norms, the relevance of the norms to local values, and the practical benefits felt by the community.³⁵ Thus, the success of the implementation of formal law at the community level depends not only on the power of state regulation and sanctions, but also on its ability to gain social legitimacy through local institutions that have long been trusted by the community. These findings indicate that the effectiveness of national law in plural societies cannot be separated from the internalization process through the mechanism of *living law*.

Furthermore, the use of the concepts of *maslahah* and *ijtihad* by religious leaders shows that the flexibility of Islamic law is one of the main factors that allows the harmonization between state law, religious law, and customary law. However, this study also shows that these concepts do not always result in progressive interpretations.³⁶ In some cases, *maslahah* arguments are used to defend local practices that are not necessarily in line with the principles of gender equality, child protection, and legal certainty guaranteed by national law. This shows that the concept of *maslahah* is interpretive and is greatly influenced by the perspective and intellectual capacity of the actors who use it.³⁷ Therefore, the quality of *living law* is not only determined by the existence of local norms, but also by the epistemic quality of the actors who carry out the process of interpreting these norms.

From the perspective of conflict resolution theory, the findings of this study also show that *living law* not only functions as a system of norms that governs people's behavior, but also as a community-based conflict resolution mechanism.³⁸ Most of the family disputes found in the study were not necessarily directed to resolution through the judiciary, but were first resolved through a dialogue process facilitated by religious leaders, *ninik mamak*, and

³³ Fitri and Harianto, "Kajian Sosiologi Hukum Tanggung Jawab Sosial Dan Lingkungan Ptpn Ivrl Berdasarkan Teori Living Law."

³⁴ Widayanti, "Hukum Sebagai Instrumen Rekayasa Sosial Dalam Pembentukan Legal Consciousness Melalui Penerapan ETLE."

³⁵ Jalil, "Manajemen Konflik Dalam Keluarga Relevansinya Dalam Membentuk Keluarga Sakinah."

³⁶ Manurung, "Mendalami Dampak Perselisihan Orang Tua Terhadap Kecerdasan Emosional Anak Di Keluarga Kristiani."

³⁷ Qarnain, *Problematisa Keluarga Blended Dalam Mewujudkan Keharmonisan Rumah Tangga Perspektif Maslahah Mursalah*.

³⁸ Noviyansah, "Hukum Perdata Islam Sebagai Landasan Dalam Penyelesaian Sengketa Perkawinan."

community leaders. This pattern is in line with the *Alternative Dispute Resolution* (ADR) approach,³⁹ especially mediation and negotiation, which places dispute resolution as a process of reaching a mutual agreement through communication, deliberation, and finding solutions that are acceptable to all parties. In the context of a society that is still strongly influenced by *living law*, the success of conflict resolution is not solely determined by the application of positive legal norms, but also by the ability of mediators to build trust, maintain family relationships, and present solutions that are seen as fair according to local values and religious teachings.⁴⁰

From the perspective of mediation theory, religious leaders and traditional leaders in this study carry out the function of a *trusted third party* that has moral and social legitimacy. Unlike judges who are oriented towards the application of legal norms in an adjudicative manner, mediators in resolving family conflicts play a role in facilitating communication, identifying the interests of the parties, and helping them find common ground without imposing a verdict. These characteristics are in line with the facilitative *mediation model*, where the mediator does not determine who is right or wrong, but encourages the parties to reach an agreement voluntarily.⁴¹ In societies that uphold social harmony, this approach is more effective than litigation resolution because it is able to minimize the escalation of conflicts, maintain family relationships, and maintain social cohesion after the dispute is resolved. Thus, *living law* provides an institutional space that allows mediation practices to develop organically in accordance with the social character of the community.

In addition to mediation, the negotiation process also appears to be the main mechanism in the formation of family agreements. Based on the theory of *interest-based negotiation*, sustainable conflict resolution is achieved when the parties not only maintain their respective positions,⁴² but seek to identify the needs, interests, and values that underlie their demands. The findings of the study show that religious leaders often direct the parties to consider the common good (*maslahah*) rather than simply winning individual demands. This approach shows the compatibility between modern negotiation principles and Islamic legal values that emphasize *ishlah* (peace), deliberation (*shur*), and protection of the welfare of the family. Therefore, the negotiation process in *living law* not only results in compromise, but also builds a moral commitment to implement the results of the agreement because the decision is seen as born from mutual awareness, not from the coercion of state authority.

However, the effectiveness of mediation and negotiation within the framework of *living law* still has limitations. The success of these two mechanisms is highly dependent on the balance of the *bargaining power* of the parties and the neutrality of the mediator.⁴³ In some cases, the dominance of certain actors, unequal power relations between husbands and wives, and strong pressures of customary norms have the potential to result in agreements that are socially acceptable but do not necessarily reflect substantive justice, especially in the

³⁹ Johar and Sulfinadia, "Manajemen Konflik Sebagai Upaya Mempertahankan Keutuhan Rumah Tangga."

⁴⁰ Fitri and Harianto, "Kajian Sosiologi Hukum Tanggung Jawab Sosial Dan Lingkungan Ptpn Ivr1 Berdasarkan Teori Living Law."

⁴¹ Sihombing and Tobing, "Ruang Damai Dalam Tradisi: Mediasi Adat Sebagai Jalan Tengah Dalam Sengketa Warisan Perempuan Batak."

⁴² Johar and Sulfinadia, "Manajemen Konflik Sebagai Upaya Mempertahankan Keutuhan Rumah Tangga."

⁴³ Yus, "Mediasi Dalam Penyelesaian Sengketa Perkawinan Pada Mahkamah Syar'iyah Di Aceh."

protection of women's and children's rights.⁴⁴ Therefore, the non-litigation resolution of family conflicts through *living law* needs to be understood not as a substitute for formal law, but as a complementary mechanism that must remain within the corridor of the principles of human rights, protection of vulnerable groups, and legal certainty.⁴⁵ Collaboration between customary institutions, religious leaders, and state institutions is important so that mediation and negotiation not only produce social peace, but also ensure the fulfillment of the legal rights of each family member in a fair and sustainable manner.⁴⁶

Theoretically, the findings of this study enrich the discourse of legal pluralism by showing that the interaction between state law and *living law* does not take place through the dominance of one system over another, but through a *continuous legal negotiation* process.⁴⁷ The state is not fully able to monopolize the production and implementation of legal norms at the local level, while *living law* cannot function optimally without the support of the state's legal structure in providing certainty and protection of rights.⁴⁸ Therefore, a more appropriate relationship model is not the subordination of one legal system, but collaborative *legal pluralism*, where formal law provides a framework of legal certainty, while *living law* provides social legitimacy and implementation effectiveness at the community level. This finding also emphasizes that the development of national law in Indonesia should not only be oriented towards the formation of regulations, but also on strengthening the capacity of local actors as a bridge that connects state norms with the social reality of society.

Conclusion

This research confirms that *living law* in Islamic family law in the Koto Tengah community is a normative system that is lively, adaptive, and has strong social legitimacy in regulating family life. *Living law* not only functions as an alternative dispute resolution, but also as a mechanism that bridges the values of Islamic law, Minangkabau customs, and state law through the mediation of religious leaders, customary deliberations, and family negotiations. The findings of the study show that the relationship between *living law* and formal law is not dichotomous, but rather interacts with each other in a dynamic pattern of legal pluralism. On the one hand, *living law* is able to expand access to justice through faster, cheaper, and more appropriate settlements in accordance with the social context of the community. However, on the other hand, the mechanism still leaves problems related to legal certainty, protection of women's and children's rights, and family administration records when local norms are not fully aligned with the provisions of national law.

The main contribution of this research lies in the development of a perspective of legal pluralism in Islamic family law by showing that the effectiveness of legal implementation is

⁴⁴ Zarianto and Adityarani, "Eksistensi Sosiologi Hukum Pada Masyarakat Indonesia (Literature Review Atas Teori Living Law Eugen Ehrlich)."

⁴⁵ Jalil, "Manajemen Konflik Dalam Keluarga Relevansinya Dalam Membentuk Keluarga Sakinah."

⁴⁶ Nissa, "Eksistensi Hukum Yang Hidup (Living Law) Sebagai Alasan Penghapus Sifat Melawan Hukum Dalam Putusan Pengadilan Pasca KUHP Nasional."

⁴⁷ Nissa, "Eksistensi Hukum Yang Hidup (Living Law) Sebagai Alasan Penghapus Sifat Melawan Hukum Dalam Putusan Pengadilan Pasca KUHP Nasional."

⁴⁸ Widayanti, "Hukum Sebagai Instrumen Rekayasa Sosial Dalam Pembentukan Legal Consciousness Melalui Penerapan ETLE."

determined not only by the existence of formal regulations, but also by the social legitimacy of local actors who interpret and enforce norms at the community level. This research offers the conception of *collaborative legal pluralism*, which is a model of collaborative relationship between state law, Islamic law, and *living law*, where formal law provides legal certainty, while *living law* provides social legitimacy and implementation effectiveness. These findings have practical implications that family law reform in Indonesia needs to integrate the roles of religious leaders, customary institutions, and local governments within a more participatory policy framework, so that the protection of citizens' rights remains guaranteed without ignoring the social realities that live in the community.

However, this study still has limitations because it focuses on a single community with relatively specific social, cultural, and customary characteristics, so the findings cannot be generalized to all Muslim communities in Indonesia. In addition, this research focuses more on normative dynamics and family dispute resolution practices, so it has not studied in depth the influence of external factors such as the digitization of legal services, changes in social structure, migration, and the transformation of religious authorities on the development of *living law*. Therefore, further research needs to develop comparative studies across regions and indigenous communities, as well as combine qualitative and quantitative approaches to produce a conceptual model of the transformation of *living law* that is able to explain the relationship between social change, the effectiveness of Islamic family law, and the strengthening of the national legal system more comprehensively.

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