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Al-Manahij  
Jurnal Kajian Hukum Islam

ISSN : 1978-6670 e-ISSN : 2579-41-67

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Samuri, Nafi Mubarak, Suqiyah Musafirah, Yoga Irama 167-190

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**ISLAMIC LIVING LAW IN TRADITIONAL COMMUNITIES IN INDONESIA:  
INTEGRATION OF FIQH INTO THE TRADITION OF MU'AMALAH IN THE  
BANJAR MUSLIM COMMUNITY**

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**Abstrak:**

Artikel ini mengkaji bagaimana nilai-nilai fiqh Islam terintegrasi dalam praktik muamalah masyarakat Muslim Banjar, yang mencerminkan bentuk *Islamic Living Law* sebagai hukum yang hidup dalam konteks adat. Pertanyaan utama yang diajukan adalah bagaimana praktik jual beli dan interaksi ekonomi masyarakat Banjar mengartikulasikan prinsip-prinsip fiqh secara lokal melalui ungkapan dan tradisi lisan. Tulisan ini menegaskan posisinya dalam wacana hukum Islam kontemporer dengan menyoroti pluralisme hukum dan pentingnya pemahaman hukum sebagai fenomena sosial yang dinamis. Metode yang digunakan adalah penelitian kualitatif dengan pendekatan fenomenologis, didukung oleh observasi partisipatif, wawancara mendalam, dan analisis interaksi simbolik. Temuan menunjukkan bahwa ungkapan seperti *barelaan*, *mun kada cucuk*, *bullikakan*, dan *bawaja dulu* berfungsi sebagai *shighat al-'aqd* lokal yang menggabungkan prinsip kerelaan, kejujuran, dan tanggung jawab moral dalam transaksi. Studi ini menyimpulkan bahwa tradisi muamalah masyarakat Banjar bukan hanya representasi nilai adat, tetapi juga ekspresi konkret dari maqāshid syarī'ah, khususnya perlindungan harta (*hifz al-māl*), serta membuktikan bahwa fiqh dapat hidup berdampingan secara harmonis dengan nilai-nilai budaya lokal melalui pendekatan *living law* dan *local adaptation*.

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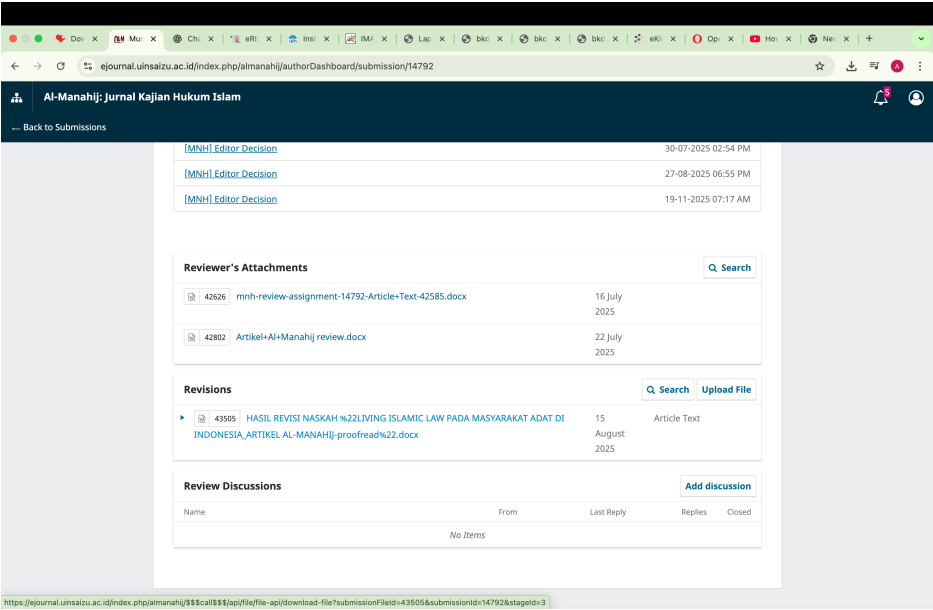
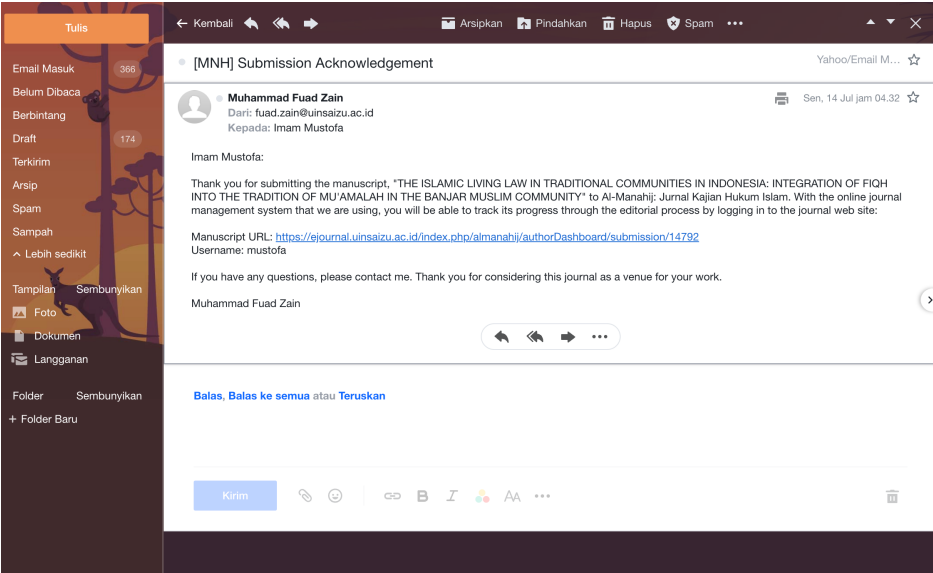
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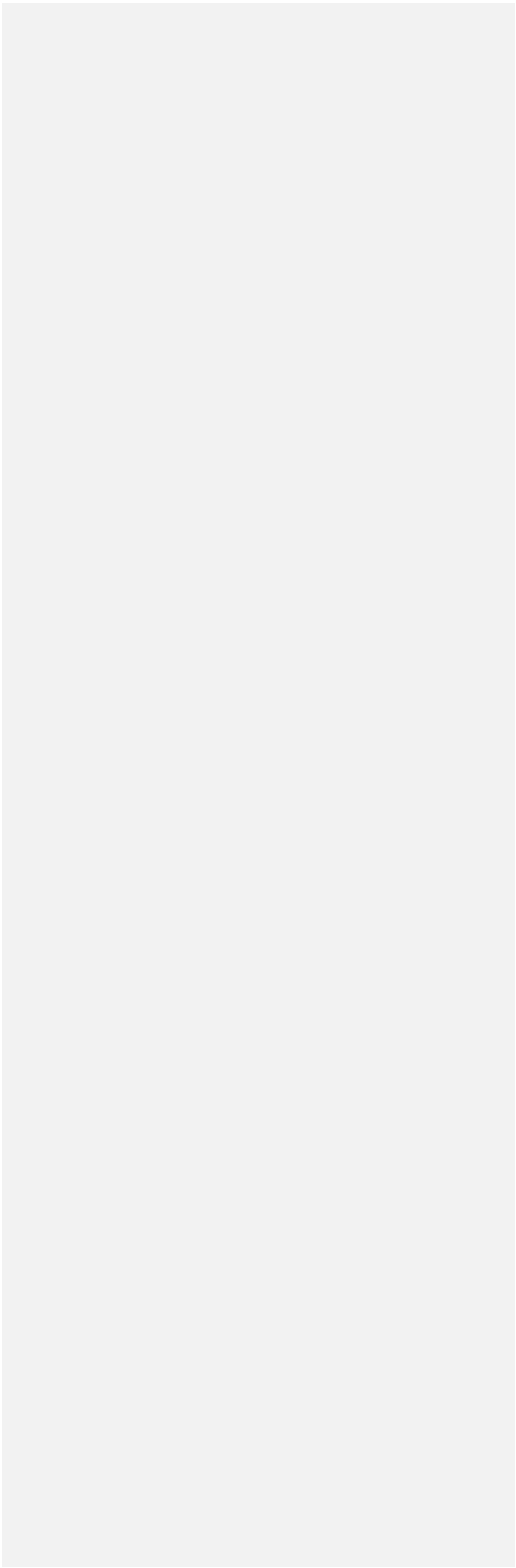
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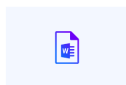
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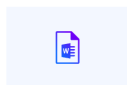
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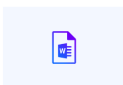
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## ISLAMIC LIVING LAW IN TRADITIONAL COMMUNITIES IN INDONESIA: INTEGRATION OF FIQH INTO THE TRADITION OF MU'AMALAH IN THE BANJAR MUSLIM COMMUNITY

### Abstrak:

Artikel ini mengkaji bagaimana nilai-nilai fiqh Islam terintegrasi dalam praktik muamalah masyarakat Muslim Banjar, yang mencerminkan bentuk *Islamic Living Law* sebagai hukum yang hidup dalam konteks adat. Pertanyaan utama yang diajukan adalah bagaimana praktik jual beli dan interaksi ekonomi masyarakat Banjar mengartikulasikan prinsip-prinsip fiqh secara lokal melalui ungkapan dan tradisi lisan. Tulisan ini menegaskan posisinya dalam wacana hukum Islam kontemporer dengan menyoroti pluralisme hukum dan pentingnya pemahaman hukum sebagai fenomena sosial yang dinamis. Metode yang digunakan adalah penelitian kualitatif dengan pendekatan fenomenologis, didukung oleh observasi partisipatif, wawancara mendalam, dan analisis interaksi simbolik. Temuan menunjukkan bahwa ungkapan seperti *barelaan*, *mun kada cucuk*, *bulikakan*, dan *bawaja dulu* berfungsi sebagai *shighat al-'aqd* lokal yang menggabungkan prinsip kerelaan, kejujuran, dan tanggung jawab moral dalam transaksi. Studi ini menyimpulkan bahwa tradisi muamalah masyarakat Banjar bukan hanya representasi nilai adat, tetapi juga ekspresi konkret dari maqāshid syarī'ah, khususnya perlindungan harta (*hifz al-māl*), serta

membuktikan bahwa fiqh dapat hidup berdampingan secara harmonis dengan nilai-nilai budaya lokal melalui pendekatan *living law* dan *legal pluralism*.

**Kata kunci:** *Islamic living law*, fiqh muamalah, tradisi , *legal pluralism* dan *maqshid Syariah*.

## Abstract

This article examines how Islamic jurisprudence (fiqh) values are integrated into the transactional practices of the Banjar Muslim community, reflecting a form of *Islamic Living Law* embedded in customary traditions. The central question addressed is how Banjar economic interactions manifest fiqh principles through local verbal expressions and practices. The article positions itself within contemporary Islamic legal discourse by emphasizing legal pluralism and the importance of law as a living, social phenomenon. The research employs a qualitative, phenomenological approach, utilizing participant observation, in-depth interviews, and symbolic interaction analysis. Findings reveal that expressions such as *barelaan*, *mun kada cucuk*, *bulikakan*, and *bawaja dulu* function as localized forms of contractual agreement (*shighat al-'aqd*), embodying the principles of mutual consent, honesty, and moral accountability. The study concludes that Banjar muamalah traditions are not merely cultural artifacts but represent the substantive application of *maqāṣid al-sharī'ah*, especially in safeguarding wealth (*ḥifẓ al-māl*). These findings affirm that fiqh can operate in harmony with local values through the frameworks of *living law* and *legal pluralism*.

**Key word:** *Islamic living law*, fiqh muamalah, tradisi , *legal pluralism* dan *maqshid Syariah*.

## Introduction

Every society basically has rules that are agreed upon among its members, whether written or unwritten. These rules are referred to as living law. Living law is born and develops as soon as a society is formed. Living law can originate from customs or traditions, religion, and other sources.<sup>1</sup> The concept of living law or the law that is alive within a society has become an important focus in the study of social law, particularly in the context of legal pluralism in developing countries such as Indonesia.<sup>2</sup> Living law can serve as an important source of law within a society, especially in the context of customary law or religious law.<sup>3</sup> However, living law can also cause conflicts with formal law, especially if social norms and formal law are not in line.<sup>4</sup> Therefore, it is important to

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<sup>1</sup> Sofyan Hadi, "Living Law dalam Perspektif Hukum Sosial," *DiH Jurnal Hukum* 13, no. 26 (2017): 159–60, <https://doi.org/10.30996/dih.voi0.1588>.

<sup>2</sup> Brian Z Tamanaha, "Understanding Legal Pluralism: Past to Present, Local to Global," *Sidney Law Review* 30, no. 3 (2008): 378.

<sup>3</sup> Gordon R Woodman, "Local Land Law in Globalizing World," *Journal of Legal Pluralism* 47, no. 1 (2015): 234 Baca jugav ; John Griffiths, "What Is Legal Pluralism?," *The Journal of Legal Pluralism and Unofficial Law* 18, no. 24 (Januari 1986): 1–55, <https://doi.org/10.1080/07329113.1986.10756387>.

<sup>4</sup> Cornelis Fasseur, "The Cultivation System," dalam *he Politics of Colonial Exploitation: Java, the Dutch, and the Cultivation System*, New York (Cornell University Press, 1992), 145 Baca juga ; Franz von Benda-Beckmann, "Riding or Killing the Centaur? Reflections on the Identities of Legal Anthropology," *Law and Anthropology* 12 (2009).

understand the dynamics between living law and formal law in society.<sup>5</sup> Studies on living law show that informal law can play an important role in resolving conflicts and promoting social justice.<sup>6</sup>

The main figure who introduced the term living law was Eugen Ehrlich. The term “living law” refers to law that arises and develops from the social practices of society that are not always reflected in formal legal texts. According to him, living law is a concept that emphasizes the importance of living law in society.<sup>7</sup> Law does not only originate from legislation but also from the practices and social norms that develop within society. This concept emphasizes that formal and informal law interact and influence each other.<sup>8</sup> Research on living law has developed in recent decades, focusing on how informal law and social norms interact with formal law.<sup>9</sup>

Indonesia, as a large and pluralistic nation, has a very pluralistic legal system formed in the context of living law. Similarly, in the context of Islamic law, it is not only present in the form of positive law accommodated by the state, but also develops culturally and normatively through indigenous practices that make Islamic values the basis of ethics and living law. This phenomenon is known as Islamic living law, which is Islamic law that lives and develops in society in practice, even though it is not always formalized in state regulations.<sup>10</sup> Islamic living law can be an important source of law in Muslim societies,<sup>11</sup> including in the context of family law and economic law.

The concept of Islamic living law emphasizes the importance of understanding Islamic law as a dynamic and adaptive,<sup>12</sup> system that can interact with the social and cultural context of society.<sup>13</sup> Traditional communities such as Banjar, Aceh, and Sasak are rich in Islamic values<sup>14</sup> that are not present in a textual normative form, but rather through symbols, language, and practices such as marriage, muamalah, or other practices where there is an intersection between tradition and

<sup>5</sup> Laura Nadeer, *The Life of the Law: Anthropological Projects* (Berkeley, California, USA: University of California Press, 2002), 55. Baca juga; John R. Bowen, *Islam, Law, and Equality in Indonesia: an Anthropology of Public Reasoning* (Cambridge, UK; New York, NY: Cambridge University Press, 2003), 57–78.

<sup>6</sup> Boaventura de Sousa Santos, *Toward a New Legal Common Sense: Law, Globalization, and Emancipation*, 2 ed. (London: Butterworths LexisNexis, t.t.), 123.

<sup>7</sup> Eugen Ehrlich, *Fundamental Principles of the Sociology of Law* (Cambridge: Harvard University Press, 1913), 37.

<sup>8</sup> Lebih lanjut baca David Nelken dan Johannes Feest, ed., *Adapting Legal Cultures*, Ofiati international series in law and society (Oxford; Portland, Or: Hart Pub, 2001).

<sup>9</sup> Sally Engle Merry, “Legal Pluralism,” *Law & Society Review* 22, no. 5 (1988): 869, <https://doi.org/10.2307/3053638>.

<sup>10</sup> Wael B. Hallaq, *Shari’a: Theory, Practice, Transformations* (Cambridge, UK; New York: Cambridge University Press, 2009). Baca juga; M. Noor Harisudin, “Diskursus Fikih Indonesia: Dari Living Laws Menjadi Positive Laws,” *Al-Manahij: Jurnal Kajian Hukum Islam* 10, no. 2 (23 Februari 2017): 169–84, <https://doi.org/10.24090/mnh.v10i2.932>. Lihat juga; Eza Aulia, “Kodifikasi Hukum Islam Sebagai Ius Constituendum terhadap Living Law yang Hidup di dalam Masyarakat,” *Ius Civile: Refleksi Penegakan Hukum dan Keadilan* 3, no. 2 (5 Desember 2019), <https://doi.org/10.35308/jic.v3i2.1439>.

<sup>11</sup> Jan Michiel Otto, “Judicial Lawmaking in Indonesia: Between Civil Law and Islamic Law,” dalam *Epistemology and Methodology of Comparative Law* (Oxford; Portland, Or: Hart Publishing, 2004), 20–12. Baca juga; Abdul Ghofur Anshori dan Yulkarnain Harahab, *Hukum Islam: Dinamika dan Perkembangannya di Indonesia* ([Yogyakarta]: [Ciganjur, Jagakarsa, Jakarta: Total Media; Distributor tunggal, Buku Kita, 2008], 63. Lihat juga; Ahmad Qodri A. Azizy dan Ahmad Qodri A. Azizy, *Hukum Nasional: Eklektisisme Hukum Islam dan Hukum Umum*, Ed. rev., cet. 1 (Jakarta: Ujung Berung, Bandung: Teraju; Didistribusikan oleh Mizan Media Utama, 2004), 102.

<sup>12</sup> Ziba Mir-Hosseini, “The Construction of Gender in Islamic Legal Thought and Strategies for Reform,” *Hawwa: Journal of Women of the Middle East and the Islamic World* 1, no. 1 (2003): 16–19, <https://doi.org/10.1163/15692078-00101002>.

<sup>13</sup> Baca Muhammad Khalid Masud, *Muslim Jurists’ Quest for the Normative Basis of Shari’a; Inaugural Lecture*, Occasional ISIM Paper (Leiden: ISIM, 2001); Baca juga Warkum Sumitro, *Hukum Islam di Tengah Dinamika Sosial Politik di Indonesia* (Malang: Setara Press, 2016), 220.

<sup>14</sup> Baca juga Sri Asuti A. Samad Munawwarah, “Adat Pernikahan dan Nilai-Nilai Islami dalam Masyarakat Aceh Menurut Hukum Islam,” *El-Ussrah: Jurnal Hukum Keluarga* 3, no. 2 (2020): 289–302; Daeng Sani Ferdiansyah, “Akulturasi Budaya Islam Dalam Tradisi Merariq Masyarakat Suku Sasak, Lombok Timur, NTB,” *Kuriositas: Media Komunikasi Sosial dan Keagamaan* 12, no. 1 (2019): 17–46.

Islamic law, passed down through generations.<sup>15</sup> They emphasize that Islamic living law is not only about codified fiqh, but also about the values of maqashid syariah that are manifested through local traditions, such as shigat akad in buying and selling, requests for “halal” after transactions, and dispute resolution based on deliberation guided by local religious leaders.

This study examines Islamic living law in the context of Banjar society. Banjar society demonstrates a variety of traditional practices rich in religious and cultural significance in their daily lives. Traditions such as baayun maulid, batampung tawar, bapalas bidan, bahaulan, and maulidan are concrete examples of the intertwining of Islamic rituals with local expressions. For example, baayun maulid, which is a form of thanksgiving for the birth of a child, combines the recitation of the maulid nabi with a colorful local procession.<sup>16</sup> Meanwhile, batampung tawar, which aims to ward off evil, involves water, flowers, and leaves as symbolic media, accompanied by Islamic prayers.<sup>17</sup> All of this shows that Islam as it is practiced in Banjar is an Islam that adapts, rather than rejects tradition.<sup>18</sup> Islamic living law in the context of Banjar society in this study is specified in the aspect of mu'amalah or activities related to economics.

Islamic living law as a concept of Islamic law that is alive in practice has been widely studied in the context of legal pluralism, but its exploration among the indigenous Banjar community remains limited, especially in the domain of mu'amalah. Studies such as those by Fadillah and Hidayatullah show that local expressions such as “tukar jual” (exchange sale), “jual seadanya” (sell as is), and “barelaan/minta rela” (ask for consent) are not merely post-codification idioms but function as shighat al-‘aqd bi al-lisan, directly articulating Sharia principles such as consent, honesty, and efforts to prevent fraud (ghisy) in the economic interactions of the Banjar community.<sup>19</sup> The local wisdom reflected through the practice of “minta halal” or “barelaan lah” in the economic interactions of the Banjar community is not merely a linguistic symbol, but reflects an understanding of the values of honesty, moral responsibility, and consent in economic transactions.<sup>20</sup>

This study focuses on and emphasizes the integration of the traditional values of the Banjar community with their economic activities or mu'amalah with fiqh. This study portrays the mu'amalah tradition of the Banjar community as a dimension of social legitimacy and moral authority possessed by mu'amalah practices. This research will reveal how the verbal forms of contracts in the Banjar language function as instruments of both customary and sharia legitimacy, bridging the gap between formal law and social-religious values. These findings position Islamic

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<sup>15</sup> Baca juga Euis Nurlaelawati, *Modernization, Tradition and Identity: The Kompilasi Hukum Islam and Legal Practice in the Indonesian Religious Courts*, ICAS Publications Series (Amsterdam: Amsterdam University Press, 2010), 97–102; Lebba Kadorre Pongsibanne, *Islam dan Budaya Lokal: Kajian Antropologi Agama*, Edisi revisi (Yogyakarta: Kaukaba, 2017).

<sup>16</sup> Arif Sugian dan Ady Muh Zainul Mustofa, “Symbolic Interaction Analysis of The Baayun Maulid Tradition of The Banjar Community,” *Indonesian Journal of Islamic Education and Local Culture* 1, no. 2 (27 Oktober 2023): 101–12, <https://doi.org/10.22437/ijielc.v1i2.30778>.

<sup>17</sup> Muhammad Rezky Noor Handy dkk., “The Religious Values in Tradition of Batahlil in Banjar Pahuluan Community,” *The Kalimantan Social Studies Journal* 2, no. 1 (24 Oktober 2020): 39, <https://doi.org/10.20527/kss.v2i1.2462>.

<sup>18</sup> Ahda Fithriani dan Niska Kamalia Rahim, “Exploring the Tradition of ‘Pamantang’: Prohibitions and Beliefs Surrounding Pre-Marriage Practices in the Banjar Society,” *Interdisciplinary Explorations in Research Journal* 2, no. 1 (10 Maret 2024): 437–49, <https://doi.org/10.62976/ierj.v2i1.451>.

<sup>19</sup> Rahmat Fadillah dan Muhammad Syarif Hidayatullah, “Dialog Masyarakat Banjar Dalam Interaksi Ekonomi (Telaah Kearifan Lokal Dalam Lensa Hukum Ekonomi Syariah),” dalam *Local and Global Aspects in The Malay World* (The 4th Annual Postgraduate Conference on Muslim Society, Banjarmasin, 2022).

<sup>20</sup> A. Syaifullah, “Moderasi Islam dalam Kitab Sabilal Muhtadin: Kearifan Lokal Tanah Banjar,” *Muḍṣarah: Jurnal Kajian Islam Kontemporer* 2, no. 1 (21 Juli 2020): 31, <https://doi.org/10.18592/msr.v2i1.3676>.



Living Law as a substantive legal phenomenon that is proven to be relevant in the context of modernity and legal pluralism in Indonesia. Theoretically, the existence of Islamic Living Law in Banjar society can be explained through the approach of legal pluralism, which is a state where various legal systems—state, customary, and religious—interact and coexist within a single social space.<sup>21</sup>

This study is based on qualitative field research with a phenomenological research design. The qualitative approach was chosen because it aims to deeply understand the meaning, norms, and practices of mu'amalah traditions in the context of Banjar customary society, which is integrated with Islamic and customary values. Qualitative research allows researchers to explore the subjective experiences, interpretations, and social meanings of participants directly, thereby clarifying how Islamic Living Law is internalized and practiced in the daily lives of the community.<sup>22</sup> This phenomenological approach also allows researchers to understand how these experiences and social meanings are shaped by the social and cultural context of the community.<sup>23</sup> This study focuses on a specific community with unique characteristics, thereby providing a comprehensive and contextual overview of mu'amalah practices within the framework of local and adaptive Islamic Living Law.<sup>24</sup> As such, this study offers a deeper understanding of how Islamic Living Law is internalized and practiced in the daily lives of the traditional Banjar community.

Data collection was conducted using participatory observation and in-depth interviews. Participatory observation was conducted to directly observe mu'amalah practices, including economic transactions, customs, and ceremonies related to Islamic norms and Banjar customs. Participatory observation allows researchers to understand the social context directly and obtain data rich in local cultural nuances. Additionally, in-depth interviews with traditional leaders, local religious scholars, and relevant community members were necessary to uncover their meanings and interpretations of existing mu'amalah practices, as well as how they integrate Islamic teachings with traditional customs. Data triangulation techniques through observation, interviews, and documentation were used to ensure the validity and reliability of the data obtained.

Data analysis in this study adopts the symbolic interaction analysis method. The data obtained will be systematically coded to identify the main themes related to the concepts of Islamic law, customary norms, and mu'amalah practices that take place in Banjar society. This approach is used to interpret the symbolic and cultural meanings of the practices found, thereby enabling an understanding of the depth of Islamic and customary values that govern their social and economic interactions.<sup>25</sup> Thus, the method used is able to reveal the dynamics and substantial meaning of mu'amalah traditions as part of Islamic living law, which is fluid and contextual in the lives of the Banjar indigenous community in Indonesia.

## Social and Religious Sketch of the Banjar Muslim Community

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<sup>21</sup> Griffiths, "What Is Legal Pluralism?"

<sup>22</sup> Norman K. Denzin dan Yvonna S. Lincoln, *Hand Book of Qualitative Research* (Yogyakarta: Pustaka Pelajar, 2009), 272.

<sup>23</sup> Clark E. Moustakas, *Phenomenological Research Methods*, Nachdr. (Thousand Oaks: Sage, 2009), 21–25; John W. Creswell, *Research Design: Qualitative, Quantitative, and Mixed Methods Ppproaches*, 4th ed (Thousand Oaks: SAGE Publications, 2014), 76–79.

<sup>24</sup> Robert E. Stake, *The art of Case Study Research* (Thousand Oaks: Sage Publications, 1995), 78.

<sup>25</sup> Herbert J. Rubin dan Irene Rubin, *Qualitative Interviewing: The Art of Hearing Data*, 3rd ed (Los Angeles [Calif.]: SAGE, 2012).

The Banjar people in South Kalimantan have a unique and profound religious heritage. Islam is not only present as a formal belief system, but has permeated every aspect of the community's social and cultural life. Since its early spread through royal channels, Islam has undergone a complex process of acculturation with local wisdom.<sup>26</sup> The Banjar kings, particularly Sultan Adam Al-Watsiq Billah in the 19th century, played a crucial role in integrating Islamic values into the legal and social systems of society through the Sultan Adam Law. This law not only contains laws on worship and muamalah, but also reflects the adaptation of Islamic teachings to the local context.<sup>27</sup> The Banjar community accepted Islam not only in its puritanical and textual form, but as a value system that was able to blend with their traditions and cultural symbols that had existed for centuries.<sup>28</sup>

Ulama played a central role in shaping the distinctive face of Banjar Islam. They were not only preachers but also social agents who were able to bridge religious and cultural norms.<sup>29</sup> Ulama such as Syekh Muhammad Arsyad al-Banjari were not only known for their intellectual prowess but also for their ability to transform fiqh teachings into a local context. His monumental work, *Sabilal Muhtadin*, was written in response to the Banjar community's need for an understanding of Islamic law that did not clash with local culture. The title "Tuan Guru Haji" bestowed upon Banjar ulama signifies their high social status, as they are not only learned but also serve as role models, community unifiers, and conflict resolvers.<sup>30</sup>

Social transformations occurring alongside the progression of time have brought dynamics to the religious practices of the Banjar community.<sup>31</sup> The influence of modernization and globalization, along with the introduction of ideas of Islamic purification, has shaken some traditions deemed impure. Practices such as tahlilan, manaqib, grave visits, and haul have begun to be criticized by some groups as innovations (*bid'ah*). However, these traditions have persisted because they are not only spiritual practices but also strengthen social solidarity. For example, the haul ceremonies for Guru Sekumpul and Datu Kalampayan are not only spiritual pilgrimages but also cultural events involving millions of people, while also stimulating the local economy through religious tourism and seasonal trade.<sup>32</sup>

Meanwhile, Banjar women also play a significant role in preserving religious traditions. They are active in religious study sessions and informal religious activities, such as the recitation of the manaqib of Siti Khadijah on the 11th day of the Hijri calendar, which serves as both a spiritual

<sup>26</sup> Siti Maimunah dkk., "Local Cultural Values in the Banjar Community," *The Kalimantan Social Studies Journal* 4 (31 Maret 2023): 178, <https://doi.org/10.20527/kss.v4i2.6649>.

<sup>27</sup> Tyas Alvionita Zahara, "Penerapan Syariat Islam di Kerajaan Banjar" 7, no. 2 (2023).

<sup>28</sup> Ahdi Makmur, "PERANAN ULAMA DALAM MEMBINA MASYARAKAT BANJAR DI KALIMANTAN SELATAN," *MIQOT: Jurnal Ilmu-ilmu Keislaman* 36, no. 1 (2 Juni 2012), <https://doi.org/10.30821/miqot.v36i1.114>.

<sup>29</sup> Yusuf Asyahr dkk., "Multiplier Effect of Religious Tourism for Income of the Surrounding Community in Banjar Regency," *International Journal of Tourism and Hospitality in Asia Pasific* 6, no. 2 (23 Juli 2023): 126–37, <https://doi.org/10.32535/ijthap.v6i2.2456>.

<sup>30</sup> Wardatun Nadhiroh, "Religious and Gender Issues In the Tradition of Basurung and the Polygamy of Banjar Tuan Guru in South Kalimantan," *Al-Albab* 6, no. 2 (1 Desember 2017): 263–80, <https://doi.org/10.24260/alalbab.v6i2.674>.

<sup>31</sup> Wisnu Subroto dkk., "Representations of Banjar Ethnicity and Religious Identity in Anang Ardiansyah's Song Lyrics: A Paul Ricoeur Hermeneutic Approach," *Dewa Ruci: Jurnal Pengkajian Dan Penciptaan Seni* 20, no. 1 (20 Juni 2025), <https://doi.org/10.33153/dewaruci.v20i1.7078>.

<sup>32</sup> Raihani Raihani, "BANJARESE ISLAMIC SCHOLARS ('ULEMA) AND SOCIAL TRANSFORMATION IN TEMBILAHAN (PRELIMINARY RESEARCH)," *Jurnal Ushuluddin* 26, no. 2 (13 Desember 2018): 215–24, <https://doi.org/10.24014/jush.v26i2.5130>.

space and a platform for social solidarity.<sup>33</sup> In this practice, the values of asceticism, family economic empowerment, and respect for Islamic female figures become a living and dynamic narrative within the community. These activities not only enliven domestic worship spaces but also serve as a means of religious education that is down-to-earth and rooted in the community.<sup>34</sup>

The values of local wisdom are strongly evident in various aspects of the religious life of the Banjar community. One such tradition is the pamantang, a series of customary prohibitions closely tied to the belief in spiritual balance.<sup>35</sup> One well-known pamantang is the prohibition against a bride or groom leaving their home before the wedding ceremony, with the belief that violating this prohibition could bring misfortune. This tradition, although not explicitly mentioned in classical Islamic sources, is still practiced because it does not contradict Islamic values and instead emphasizes caution, self-control, and respect for sacred moments.<sup>36</sup>

The tradition of batunggu kubur, or staying at the grave for several days after burial, is another practice that demonstrates how the Banjar community maintains a spiritual connection with their ancestors.<sup>37</sup> This activity is usually accompanied by recitations from the Qur'an and prayers, which aim to pray for the deceased to be granted a spacious grave. This tradition reflects the values of compassion, solidarity, and respect, and serves as an opportunity for introspection on the transience of life. This activity also strengthens social networks as it involves family, neighbors, and the wider community in a collective spiritual moment.

Local wisdom is also manifested in the daily lives of the Banjar community through the tradition of mawarung. The culture of gathering at a warung in the morning to drink coffee or simply chat has become a social tradition with educational and economic value. In this space, residents exchange information, discuss religious issues, and even engage in economic transactions. The warung serves as a public space where residents come together in an egalitarian atmosphere, strengthening a sense of belonging and community. In this context, Islam is not exclusive and formal, but rather present in the form of values such as honesty, mutual respect, and a spirit of togetherness.<sup>38</sup>

The process of cultural acculturation in Banjar is not one-sided.<sup>39</sup> The Banjar people are open to outside cultures, such as those of the Dayak, Bugis, Javanese, Madurese, and Chinese ethnic groups, who live side by side in this region. In a process known as Banjarization, other ethnic groups adopt the language, clothing, and religious rituals of the Banjar community, while the Banjar community also absorbs elements of other cultures as long as they do not conflict with Islamic values. Sasirangan fabric, for example, which was once used solely in cultural contexts, is

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<sup>33</sup> Alfisyah Alfisyah dkk., "Preserving Heritage: The Tradition of Manakib Recitation among Banjar Women," *KARSA Journal of Social and Islamic Culture* 33, no. 1 (29 Juni 2025): 297–318, <https://doi.org/10.19105/karsa.v33i1.20316>.

<sup>34</sup> Alfisyah dkk.

<sup>35</sup> Handy dkk., "The Religious Values in Tradition of Batahlil in Banjar Pahuluan Community."

<sup>36</sup> Zainal Muttaqin Dahli dkk., "Delegitimization Of Religious Motives in Polygamy in Banjar Society," *Syariah: Jurnal Hukum Dan Pemikiran* 24, no. 1 (27 Mei 2024): 119–35, <https://doi.org/10.18592/sjhp.v24i1.12392>.

<sup>37</sup> Wulan Sari, Muhammad Husni, dan Suryanti, "Batunggu Kubur Tradition: Exploring the Interplay of Spirituality and Social Cohesion in Banjar Society," *Journal of Islamic History* 5, no. 1 (18 Juni 2025): 91–111, <https://doi.org/10.53088/jih.v5i1.1932>.

<sup>38</sup> Subroto dkk., "Representations of Banjar Ethnicity and Religious Identity in Anang Ardiansyah's Song Lyrics."

<sup>39</sup> Muthofin dan Pristila Putri, *Social Level Parameters of Banjar Society in the Tradition of Jujuran Islamic Law Perspective*, 2021, <https://doi.org/10.2991/assehr.k.210421.014>.

now also present in religious celebrations such as haul and maulid nabi, and even used as a medium for da'wah and a symbol of pride in local Islamic identity.<sup>40</sup>

Performing arts such as the Radap Rahayu dance have also become a space for spiritual expression for the community. This dance, which was once used in traditional rituals, has undergone a transformation as part of religious practice and spiritual well-being. Each movement carries symbolic meaning associated with the values of harmony and prayer.<sup>41</sup> This indicates that local culture is not a threat to the purity of Islamic teachings, but rather an effective channel for instilling and spreading religious values in a form that is familiar and touches the hearts of the community.<sup>42</sup>

The religious landscape of the Banjar community fully illustrates how Islam has grown and taken root in the fertile local soil of culture.<sup>43</sup> Open religious discourse, tolerant social dynamics, and adaptive local wisdom form a strong foundation for maintaining harmony among the elements of society. In this context, Islam does not appear as a hegemonic force that oppresses culture, but rather as a spirit that animates tradition, refines morality, and strengthens social solidarity.<sup>44</sup>

Amidst the challenges of globalization, modernization, and religious purification, the Banjar community continues to possess strong cultural and spiritual capital. They have proven that a strong Islamic identity does not mean abandoning local culture. On the contrary, when Islam meets tradition and lives within the pulse of society, it transforms into a religion that is grounded, liberating, and humanizing.

**Expressions and Traditions of the Banjar Muslim Community in Economic Activities and Their Relevance to Fiqh Mu'amalah**

The Banjar Muslim community does not view Islamic law as mere fiqh dogma, but rather as ethical values that guide their daily trading practices. There are many traditions practiced by the Banjar Muslim community in their daily economic transactions. This study discusses several of them, namely: the expression *'berelaan lah'* or *'minta halal'*, *'tukar jual'*, *'jual seadanya'*, *'mun kada sadang hurupakan ja/bulikakan ja'*, *'bakalahi badahulu'*, the expression *'bawaja dulu'*, and the expression *'mun kada cucuk kubalikakan'*. Below is an explanation of each of these expressions. The expressions and customs of the Banjar community are fundamentally relevant and in line with fiqh mu'amalah or Islamic economic law.

The following is a table of the traditions and expressions of the Banjar community as mentioned above in economic activities and their relevance to fiqh mu'amalah.

No	Expressions/Traditions of the Banjar Muslim Community in Mu'amalah	Meaning	Relevance to Contemporary Mu'amalah Fiqh in Indonesia
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<sup>40</sup> Nisa Auliana, "Pengenalan Budaya Islam Banjar melalui Sasirangan sebagai Media untuk Pembelajar BIPA Muslim-Melayu Thailand," t.t.

<sup>41</sup> Edlin Yanuar Nugraheni dkk., "The Social Construction of the Banjar Ethnic Society Toward the Radap Rahayu Dance," *Jurnal Ilmiah Peuradeun* 12, no. 1 (30 Januari 2024): 51, <https://doi.org/10.26811/peuradeun.v12i1.1029>.

<sup>42</sup> Nasrullah Nasrullah, "Mulai Lawan Bismillah: Religiosity of the Banjar People in the Banjar Songs Composed by Anang Ardiansyah," *Al-Albab* 7, no. 1 (9 Oktober 2018): 33–54, <https://doi.org/10.24260/alalbab.v7i1.987>.

<sup>43</sup> Abdul Wahab Syakhrani dan Muhammad Nafis, "ISLAM SEBAGAI AGAMA DAN ISLAM SEBAGAI BUDAYA DALAM MASYARAKAT BANJAR," *MUSHAF JOURNAL: Jurnal Ilmu Al Quran dan Hadis* 2, no. 3 (13 Maret 2022): 270–74, <https://doi.org/10.54443/mushaf.v2i3.44>.

<sup>44</sup> Wahyu, *Local Wisdom in Banjar Cultural Perspective*, 2021, <https://doi.org/10.2991/assehr.k.210222.003>.

**Commented [O4UMY7]:** Why does the study focus exclusively on expressions? It is quite possible that there are also practices, artifacts, or behavioral patterns that signify the integration of fiqh mu'amalah within the local community. Limiting the analysis solely to expressions risks overlooking important material and performative dimensions that embody Islamic legal principles in daily economic life. Including these non-verbal forms would provide a more holistic understanding of how Islamic law is lived and negotiated in the cultural context. The authors are encouraged to consider broadening the scope to capture such manifestations or, at minimum, provide a rationale for focusing only on linguistic expressions.

**Commented [O4UMY8]:** What is the novelty of the expressions analyzed in this study, especially considering that similar proverbs or oral formulations reflecting Islamic economic values may also be found in other regions? The authors need to clearly articulate what makes these expressions distinctive or theoretically significant beyond their descriptive function. Do they offer new insights into the localization of fiqh? Do they represent a unique integration of Islamic norms with indigenous customs? Without a clear explanation of their originality and relevance, the contribution of the study risks appearing redundant.

1	<i>Barelaan</i>	<i>Barelaan</i> is an expression used by the Muslim community of Banjar when conducting trade. This expression is a practice of price negotiation that is an integral part of social and economic interactions in traditional markets. <i>Barelaan</i> is not merely understood as a bargaining process, but also reflects local cultural values such as politeness, consultation, and harmonious interpersonal relationships between sellers and buyers. <sup>45</sup>	The practice of <i>Barelaan</i> in the context of Islamic economics reflects the principle of ‘an-tarādī (mutual consent), as explained in Surat An-Nisa’ verse 29 and the hadith narrated by Ibn Majah, which states: “Indeed, buying and selling must be done based on mutual consent.” One of the valid conditions for a transaction is the consent of both parties. If a transaction is conducted under coercion or there is pressure from one party, the contract is invalid. <sup>46</sup> Scholars of the four madhhabs of Islamic jurisprudence agree that transactions must be conducted based on the mutual consent of both parties. If one party is unwilling, the contract becomes invalid (fasid), and if there is coercion, the transaction is nullified. <sup>47</sup>
2	<i>Tukar jual</i>	The term ‘ <i>tukar jual</i> ’ in Banjarese tradition refers to a form of traditional economic transaction that reflects a system of direct exchange (barter) between two parties without using money as a medium of exchange. <sup>48</sup>	<b>The practice of ‘<i>tukar jual</i>’ reflects the practice of <i>ijab qabul</i> (<i>shighat al ‘aqd bi al lisān</i>) and <i>akad</i> through action (<i>al mu’āthah</i>). Both sales contracts and barter transactions can be conducted through verbal <i>ijab qabul</i> or through actions, provided that local customs recognize such transactions as valid. Scholars of the four madhab of Islamic jurisprudence agree that contracts through <i>mu’āthah</i> are permissible if they have become customary in society and do not</b>

<sup>45</sup> Lutfi Sahal, Wawancara, Integrasi Fiqih dengan Tradisi Muamalah Masyarakat Muslim Banjar, 28 Juni 2025.

<sup>46</sup> Abu al-Walid Muhammad ibn Ahmad Ibn Rusyd, *Bidayat al-Mujtahid wa Nihayat al-Muqtashid* (Dar al-Kutub al-‘Ilmiyyah: Beirut, tt), II/158-159.

<sup>47</sup> Abdur Rahman al-Jaziri, *l-Fiqh ‘alā al-Madhāhib al-Arba’ah* (Beirut: Dar al-Kutub al-Ilmiyyah, tt), II/3-4.

<sup>48</sup> Ahmad, wawancara, Integrasi Fiqih dengan Tradisi Muamalah Masyarakat Muslim Banjar, 27 Juni 2025.

			involve elements of uncertainty ( <i>gharar</i> ). <sup>49</sup>
3	<i>Jual seadanya</i>	The expression ' <i>Jual seadanya</i> ' in Banjarese tradition refers to the practice of buying and selling goods in their current condition, without undergoing any repair, improvement, or quality adjustment before being sold to the buyer. This concept reflects the principles of openness and honesty in transactions, where the seller conveys the condition of the goods as they are, in terms of quality, quantity, and physical condition. <sup>50</sup>	' <i>Jual seadanya</i> ' is a commercial practice that demonstrates the presence of <i>Shighat al-'aqd</i> , which in Islamic commercial law serves not only as a statement of acceptance but also as an instrument to ensure the clarity of the contract and minimize the possibility of fraud ( <i>ghishh</i> ) in transactions. The clarity of the contract terms and the willingness of the parties are conditions for the validity of the sale, as they prevent disputes and fraudulent practices that harm one of the parties. <sup>51</sup> The scholars of the four madhhabs of thought emphasize the clarity of <i>ijab qabul</i> in contracts, accompanied by the principle of honesty ( <i>ṣidq</i> ), which is the key word in mu'āmalah to maintain blessings and avoid <i>ghishh</i> in transactions. <sup>52</sup>
4	<i>Mun kada sedang hurupakan ja</i>	The expression ' <i>Mun kada sedang hurupakan ja</i> ' is commonly used in the context of traditional buying and selling, especially when there is a shortage in the weight or measure of an item, but accompanied by the belief that the shortage will be made up for later. This practice reflects local wisdom values such as mutual trust, cooperation, and tolerance in economic interactions. In Banjar society, the relationship between seller	The practice of ' <i>Mun kada sedang hurupakan ja</i> ' in mu'āmalah jurisprudence is permissible as long as there is mutual consent ( <i>an-tarāḍī</i> ) and clarity in the agreement, and it does not contain elements of deception ( <i>gharar</i> ) or ambiguity that is detrimental. Among the valid conditions for a sale are mutual consent and honesty between the parties involved in the transaction. If there is a defect in the goods received by the buyer, Islamic law grants the buyer the right of <i>khiyār</i> to either cancel the contract or

<sup>49</sup> al-Jaziri, *I-Fiqh 'alā al-Madhāhib al-Arba'ah*, II/5-7.

<sup>50</sup> Ahmad, wawancara.

<sup>51</sup> Ibn Rusyd, *Bidayat al-Mujtahid wa Nihayat al-Muqtashid*, II/153-154.

<sup>52</sup> al-Jaziri, *I-Fiqh 'alā al-Madhāhib al-Arba'ah*, II/5-7.

		and buyer is not purely transactional but is also built on social closeness and moral integrity. <sup>53</sup>	demand its fulfillment. <sup>54</sup> Scholars from the four madhhabs of Islamic jurisprudence agree that in a sale transaction, there must be clarity in the contract and mutual agreement. If there are defects in the goods or measurements that are discovered later, the buyer has the right of <i>khiyār 'aib</i> to choose between continuing the contract with the condition that the defects are rectified or canceling it. <sup>55</sup>
5	<b>Bakalahi badahulu</b>	<i>'Bakalahi badahulu'</i> means that the buyer and seller must communicate and negotiate beforehand about the price and terms of the transaction. <sup>56</sup> This tradition emphasizes the importance of transparency and honesty in sales transactions. By communicating and negotiating beforehand, the buyer and seller can understand each other's needs and desires and reach a mutually beneficial agreement. <sup>57</sup> The meaning of this expression is that the seller must honestly explain any deficiencies or defects in the goods being sold before the transaction takes place. This is to prevent the buyer from feeling deceived when they discover defects in the goods after the transaction is complete. <sup>58</sup>	The customary practice of <i>'Bakalahi badahulu'</i> in economic interactions within the community is an implementation of the principles of <i>ash-shidq</i> (honesty) and <i>al-amānah</i> (maintaining trust), as emphasized in Islamic jurisprudence on transactions. Honesty and trustworthiness are the main principles in sales contracts to avoid <i>gharar</i> and <i>ghisy</i> , while ensuring fairness for all parties. <sup>59</sup> Scholars of the madhhab require the principles of honesty and good faith in contracts to avoid disputes and injustice. <sup>60</sup> The Compilation of Sharia Economic Law Article 21 mandates that every party to a contract must be honest, open, and act in good faith ( <i>al-ikhtiyārī</i> ) in order to achieve justice, benefit, and blessings in mu'amalah.

<sup>53</sup> Ahmad, wawancara.

<sup>54</sup> Ibn Rusyd, *Bidayat al-Mujtahid wa Nihayat al-Muqtashid*, II/158-160.

<sup>55</sup> al-Jaziri, *I-Fiqh 'alā al-Madhāhib al-Arba'ah*, II/7-9.

<sup>56</sup> Sahal, Wawancara.

<sup>57</sup> Ahmad, wawancara.

<sup>58</sup> Masruddin Tokoh Agama di Kabupaten Banjar, Kearifan Lokal dalam Muamalah Masyarakat Banjar, Wawancara, 27 Juni 2025.

<sup>59</sup> Ibn Rusyd, *Bidayat al-Mujtahid wa Nihayat al-Muqtashid*, II/153-156.

<sup>60</sup> al-Jaziri, *I-Fiqh 'alā al-Madhāhib al-Arba'ah*, II/7-9.

6	<b><i>Bawa ja dulu</i></b>	<b><i>Bawaja dulu</i></b> in Banjarese tradition is a practice of borrowing goods by small traders from large traders or suppliers, with the agreement that payment will be made after the goods are sold. <sup>61</sup> This term literally means " <i>take it first</i> ", reflecting the high level of trust and social solidarity in Banjarese trade relations. <sup>62</sup>	Local cultural practices such as the expression ' <i>Bawa ja dulu</i> ' in economic transactions among the community actually reflect the form of the <i>istijrār</i> contract in Islamic commercial law. Clarity in contracts is important, but customs can serve as a legal basis for mu'āmalah as long as they do not cause <i>gharar</i> or harm certain parties. <sup>63</sup> Customs based on good intentions ( <i>al-ikhtiyārī</i> ) and transparency among economic actors are recognized as part of Islamic mu'āmalah law. <sup>64</sup>
7	<b><i>Mun kada cucuk, bulikakan</i></b>	' <i>Mun kada cucuk, bulikakan</i> ' is a local expression that reflects the principles of justice, honesty, and responsibility in buying and selling transactions. Literally, this expression means 'if it doesn't fit, just return it,' reflecting openness between the seller and buyer in addressing discrepancies in goods after the transaction has been completed. <sup>65</sup>	Local cultural practices such as the expression ' <i>Mun kada cucuk, bulikakan</i> ', which means 'if it doesn't fit, just return it,' are an implementation of the principle of <i>ḥaq al-khiyār</i> in Islamic commercial law. Sharia grants the contracting parties the right to cancel or exchange goods under certain conditions, such as defects or special terms agreed upon beforehand. <sup>66</sup> Scholars of the four madhabs of thought acknowledge the importance of the right of choice to uphold justice, public interest, and prevent unfair practices in transactions. <sup>67</sup>

Source ???

The expression *Barelaan* is an integral part of local wisdom in the social and economic interactions of the Banjar community. Rissari Yayuk explains that after a transaction or joint activity ends, the parties involved will say 'barelean' as an expression of asking for the other party's consent so that there are no objections or losses, as well as to maintain a long-term relationship

Commented [O4UMY9]: The sources of data presented in the tables need to be clearly explained and properly cited

<sup>61</sup> Sahal, Wawancara.

<sup>62</sup> Ahmad, wawancara.

<sup>63</sup> Ibn Rusyd, *Bidayat al-Mujtahid wa Nihayat al-Muqtashid*, II/154-155.

<sup>64</sup> al-Jaziri, *I-Fiqh 'alā al-Madhāhib al-Arba'ah*, II/10-11.

<sup>65</sup> Ahmad, wawancara.

<sup>66</sup> Ibn Rusyd, *Bidayat al-Mujtahid wa Nihayat al-Muqtashid*, II/172-176.

<sup>67</sup> al-Jaziri, *I-Fiqh 'alā al-Madhāhib al-Arba'ah*, II/17-20.



between them.<sup>68</sup> Meanwhile, the expression *'Tukar Jual'* (exchange and sale) serves as a symbol of voluntary agreement (*'an tarāḍī*) and honesty in transactions, while also strengthening social trust. This dialogue affirms full awareness of intent, minimizes the possibility of *ghisy* (deception), and maintains harmony in local economic interactions.<sup>69</sup> This tradition aligns with the legacy of Sheikh Muhammad Arsyad al Banjari through the book *Sabīl al Muḥtadīn*, which requires verbal or gestural clarity in contracts to uphold social blessings and economic stability within the Banjar community.<sup>70</sup>

**The phrase *'jual seadanya'* (sell as is) is a verbal agreement or contract made with full moral awareness by both the seller and the buyer.**<sup>71</sup> The phrase *'seadanya'* (as is) serves as verbal and written verification that complements the religious nuances and openness of the local community.<sup>72</sup> Thus, the expression *'jual seadanya'* is not merely a ritual aspect of buying and selling but a practical means of fostering trust, sincerity, and blessings in the economic interactions of the Banjar community. Meanwhile, the expression *'bakalahi badahulu'* appears in dialogue when the buyer has not yet had the opportunity to confirm the suitability of the item being transacted. This expression highlights the importance of verbal clarity in the agreement to ensure the transaction is considered valid and ethical.<sup>73</sup>

From a linguistic and cultural perspective, the expression *'bakalahi badahulu'* holds an important position in maintaining social cohesion. Based on local linguistic research, *'bakalahi badahulu'* falls under the category of terms emphasizing dialogic politeness and respect for the interlocutor, minimizing the likelihood of hidden conflicts (the meaning of 'fighting' as speaking frankly and honestly).<sup>74</sup> Meanwhile, the term *'bawaja dulu'* in the context of a sales agreement means that the seller must hand over the item being sold to the buyer first before the buyer makes payment. This tradition emphasizes the importance of trust and honesty in sales transactions. By handing over the item first, the seller demonstrates seriousness and commitment to the sales transaction. The buyer can also inspect the goods received before making payment.<sup>75</sup> Meanwhile, *'Mun kada cucuk, bulikakan'* is a concrete form of local norms that function as a social mechanism to maintain trust and responsibility in buying and selling, by providing space for negotiation and post-transaction correction without formal legal intermediaries.

The above traditions are laws that are alive in the daily lives of the community. This concept is in line with Bedner's findings, which state that legal pluralism in Indonesia opens space for

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<sup>68</sup> Rissari Yayuk, *Kesantunan Berbahasa pada Masyarakat Banjar* (Banjarmasin: Balai Bahasa, Kementerian Pendidikan dan Kebudayaan, 2012);<sup>80</sup> Rahmat Fadillah dan Muhammad Syarif Hidayatullah, "Dialog Masyarakat Banjar Dalam Interaksi Ekonomi (Telaah Kearifan Lokal Dalam Lensa Hukum Ekonomi Syariah)" (The 4th Annual Postgraduate Conference on Muslim Society, Banjarmasin, 2022).<sup>56</sup>

<sup>69</sup> Fadillah dan Hidayatullah, "Dialog Masyarakat Banjar Dalam Interaksi Ekonomi (Telaah Kearifan Lokal Dalam Lensa Hukum Ekonomi Syariah)," 2022.<sup>55</sup>

<sup>70</sup> I. Ertanti dan M. Fahrizi, "Praktik Ijab-Kabul (Akad) dalam Transaksi Jual Beli oleh Masyarakat Banjar Ditinjau dari Perspektif Hukum Ekonomi Islam," *Diversi: Jurnal Hukum* 8, no. 2 (2022): 359–64.

<sup>71</sup> Hanafiah.Rahmadini, S., & Fatimah, S. N. (2024). "Aqad Selling and Buying in the Habits of the Banjar Tribes", *Islamologi: Jurnal Ilmiah Keagamaan*, 1(2), 3–6. 1(3), 8–12.

<sup>72</sup> Sahal, Wawancara.

<sup>73</sup> Rahmat Fadillah dan Muhammad Syarif Hidayatullah, "Dialog Masyarakat Banjar Dalam Interaksi Ekonomi (Telaah Kearifan Lokal Dalam Lensa Hukum Ekonomi Syariah)" (The 4th Annual Postgraduate Conference on Muslim Society: Local and Global Aspects in The Malay World, Banjarmasin, 2022).<sup>63</sup>

<sup>74</sup> Departemen Pendidikan Nasional Pusat Bahasa, *Kamus Bahasa Banjar Dialek Hulu Indonesia* (Banjarmasin: Balai Bahasa, 2008).

<sup>75</sup> Sahal, Wawancara.

customary law and social values to coexist with state law, especially in matters of mu'amalah or economic transactions of the people. The principles of openness and return of goods based on incompatibility indicate that society has developed fair and humanistic transactional ethical standards based on social experience, not merely contractual law.<sup>76</sup>

### Integration of Fiqh in the Mu'amalah of the Banjar Muslim Community

Traditions in the form of expressions described above are carried out in sales transactions or other mu'amalah, such as leasing or employing others. There are expressions such as '*barelaan*', '*tukar jual*', '*bawaja dulu*', and other expressions in mu'amalah. Al-Idrus states that such traditions developed because the Banjar community prioritizes the principle of '*pangaluaran*' (willingness), as well as values of trust and brotherhood in transactions. Sales contracts are not solely based on formal or written rules, but rather on verbal agreements and local moral standards believed to be sufficient to bind both parties.<sup>77</sup>

Mujiburrahman, a religious figure and leader of the Banjar Muslim community, states that one of the distinctive features of Banjarese commercial transactions is the use of local contractual phrases such as the Banjarese expressions '*tukar lah*' or '*jual lah*,' which are uttered after an agreement is reached.<sup>78</sup> Such expressions are typically used during transactions at traditional markets or shops.

Furthermore, Mujiburrahman stated that the expressions used in the commercial activities of the Banjar community originate from the ulama and religious leaders of the Banjar community and have become a tradition passed down through generations. However, this tradition aligns with the principles of Islamic commerce as outlined in fiqh mu'amalah.<sup>79</sup> Meanwhile, Ali Husein al-Idrus, a member of the Fatwa Commission of the Indonesian Ulama Council in Banjar Regency, stated that customs such as '*jual seadanya*', '*bawaja dulu*', '*bakalahi bedahulu*', and other local mu'amalah traditions do not entirely originate from direct recommendations by religious scholars. However, these practices have evolved over generations as part of the '*urf*' (local customs) of the Banjar community. In subsequent developments, some scholars and religious figures provided guidance and adjustments to ensure they remain consistent with sharia principles.<sup>80</sup>

The Banjar community, in their daily practices, particularly in matters of mu'amalah, generally tends to follow local religious scholars or figures whom they respect and regard as role models. This preference is greatly influenced by emotional closeness, pesantren culture, and the strong, enduring religious traditions passed down through generations within the Banjar community.<sup>81</sup>

Local religious scholars are considered the primary religious authority, as they not only understand Islamic jurisprudence but are also seen as understanding the social context of the

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<sup>76</sup> Adriaan Bedner, "Indonesian Legal Pluralism Revisited: Between State Law and Living Law," *Journal of Legal Pluralism and Unofficial Law* 53, no. 2 (2021): 174–93, <https://doi.org/10.1080/07329113.2021.1944302>.

<sup>77</sup> Ali Husein al-Idrus, anggota Komisi Fatwa Majelis Ulama Indonesia Kabupaten Banjar, Kearifan Lokal dalam Muamalah Masyarakat Banjar, Wawancara, 27 Juni 2025.

<sup>78</sup> Mujiburrahman tokoh agama dan tokoh Masyarakat muslim banjar, Tradisi Muamalah Masyarakat Muslim Banjar, Wawancara, 20 Mei 2025.

<sup>79</sup> tokoh agama dan tokoh Masyarakat muslim banjar.

<sup>80</sup> al-Idrus, anggota Komisi Fatwa Majelis Ulama Indonesia Kabupaten Banjar, Kearifan Lokal dalam Muamalah Masyarakat Banjar.

<sup>81</sup> al-Idrus, anggota Komisi Fatwa Majelis Ulama Indonesia Kabupaten Banjar.

Banjar community. In many cases, fatwas or advice from these figures are followed more than official decisions from the Indonesian Ulema Council (MUI), state regulations, or the contents of classical fiqh texts, especially if they are not directly conveyed by the local religious figures they know.<sup>82</sup> Most muamalah traditions have developed according to custom, but the ulama also provide guidance to ensure they remain in line with Islamic law.<sup>83</sup> The expressions in mu'amalah serve as an expression of belief as a traditional community and simultaneously as Muslims. The integration of religion and culture, fiqh and the traditions of the Banjar community demonstrates the community's submission to the ulama and local figures. Nurhajini, a religious and traditional leader, emphasizes that the Banjar community is more obedient to the guidance of local religious scholars than to fatwas from central institutions, due to their high emotional and social closeness.<sup>84</sup> This occurs because Banjar traditions and customs are deeply rooted in Islamic values.

The existence of rules in muamalah traditions among the Banjar Muslim community on one hand and fiqh provisions on the other is a form of legal pluralism. The concept of legal pluralism explains that in a society, more than one legal system can coexist, whether it be state law, religious law, or customary law.<sup>85</sup> In the context of Banjar society, muamalah practices such as the use of expressions like '*barelaan*', '*bawaja dulu*', and '*tukar lah*' along with various other traditions as outlined in the previous section, reflect the application of religious customary law derived from local, unwritten fiqh that is widely followed. As Santos points out, informal legal systems based on local community norms are often more effective than formal law in the context of everyday social relations.<sup>86</sup> This is evident in the loyalty of the Banjar community to the fatwas and views of local scholars rather than to formal authorities such as the Indonesian Ulema Council (MUI) or state regulations. Within the framework of legal pluralism, the existence of customary law based on Islamic values cannot be considered inferior, but rather as a living law that regulates economic practices in a contextual and participatory manner.<sup>87</sup> The theory of legal pluralism is an appropriate tool for understanding how the multiple relationships within Islamic law interact with one another. On one hand, there is "law in the book," which in this context refers to fiqh mu'amalah, and on the other hand, there is "law in action," namely the mu'amalah traditions of the Banjar community.

The mu'amalah tradition, which uses *ijab-qabul* and expressions in the Banjar regional language such as "*minta halal*" is a form of spiritualization of transactions. These expressions are only found in Banjar society. Such traditions are not only consistent with fiqh mu'amalah but also part of the *maqashid syariah*, which aims to uphold honor and integrity in economic transactions.<sup>88</sup> Taisirul Khairi, a religious figure in the Banjar community, believes that the existence of these expressions in Banjar community transactions demonstrates that the Banjar community has long practiced Islamic economic principles, even though not everyone understands the technical terms

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<sup>82</sup> al-Idrus, anggota Komisi Fatwa Majelis Ulama Indonesia Kabupaten Banjar.

<sup>83</sup> Tokoh Agama di Kabupaten Banjar, Kearifan Lokal dalam Muamalah Masyarakat Banjar.

<sup>84</sup> Nurhajini tokoh agama dan tokoh Masyarakat muslim Banjar, Integrasi Prinsip Fiqih dalam Tradisi Muamalah Masyarakat Muslim Banjar, Wawancara, 20 Mei 2025.

<sup>85</sup> Griffiths, "What Is Legal Pluralism?," 3.

<sup>86</sup> Santos, *Toward a New Legal Common Sense: Law, Globalization, and Emancipation*.

<sup>87</sup> Ido Shahar, "Legal Pluralism and the Study of Shari'a Courts," *Islamic Law and Society* 15, no. 1 (2008): 112–41, <https://doi.org/10.1163/156851908X287280>; M. B. Hooker, *Legal Pluralism: an Introduction to Colonial and Neo-Colonial Laws* (Oxford: Clarendon Press, 1975).

<sup>88</sup> Muhyiddin tokoh agama dan tokoh Masyarakat muslim banjar, Tradisi Muamalah Masyarakat Muslim Banjar, Wawancara, 20 Mei 2025.

of fiqh.<sup>89</sup> A similar view was expressed by Muhammad Arifin, another religious figure. He emphasized that customary law that does not contradict Sharia is a legacy of previous scholars that needs to be preserved.<sup>90</sup> Traditions that reflect religious values and customary norms. Traditions that reflect the integration of normative fiqh and customs in one activity.

The muamalah of the Banjar Muslim community, which integrates normative fiqh and social practices, when examined through the theory of maqashid syari'ah, points to *mashlahah hifzhul mal* (protection of property), which is one of the primary objectives of maqashid syari'ah.<sup>91</sup> Expressions such as '*minta halal*' and '*berelaan lah*' and the muamalah traditions among the Banjar Muslim community are verbal forms of agreements that emphasize willingness, clarity, and honesty, which substantively reflect the principles of valid contracts in fiqh muamalah.<sup>92</sup> In the context of asset protection, the clarity of the origin of goods, price transparency, and the honesty of Banjar traders in their transactions, as reflected in field narratives, constitute a practical application of the objectives of Islamic law (*maqashid al-Syari'ah*) regarding the preservation of wealth (*hifzhul mal*), namely preventing loss and fostering blessings.<sup>93</sup>

Meanwhile, the use of certain expressions and traditions in the context of ethics and morality in mu'amalah, the Banjar community highly values traditional and religious values such as justice and honesty in transactions, as an effort to maintain trust among community members, especially between sellers and buyers. Khairullah, a construction worker, stated that although he does not understand the structure of contracts, he knows that in Islam, transactions must be clear and not harmful. Therefore, he always states the price and condition of the goods at the beginning to avoid anyone feeling deceived.<sup>94</sup> Some merchants mention the original price of the goods before taking a profit to prevent any party from feeling disappointed, deceived, or experiencing other issues that could harm or damage the buyer's trust.

For the Banjar community, maintaining buyer trust is of utmost importance. Hikmah, a processed food merchant at Batuah Martapura Market, and Khairillah, a construction worker in Martapura, emphasized the importance of maintaining relationships and mutual trust among community members, especially between sellers and buyers or employers and employees, whose relationships tend to be transactional. They mention that the Banjar community still upholds traditional muamalah ethics, yet their religious values are very strong.<sup>95</sup> Local wisdom and traditions in mu'amalah are practiced and preserved because the emphasis on trust is very high in

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<sup>89</sup> Khairi tokoh agama dan tokoh Masyarakat muslim banjar, Integrasi Prinsip Fiqih dalam Tradisi Muamalah Masyarakat Muslim Banjar, Wawancara, 20 Mei 2025.

<sup>90</sup> Muhammad Arifin, tokoh agama dan tokoh Masyarakat muslim banjar, Integrasi Prinsip Fiqih dalam Tradisi Muamalah Masyarakat Muslim Banjar, Wawancara, 20 Mei 2025.

<sup>91</sup> Abu Hamid Muhammad bin Muhammad al-Ghazali, *al-Mustashfa min 'Ilmi al-Ushul* ((Digital Library, al-Maktabah al-Syamilah al-Ishdar al-Tsani, 2005), 286; Abu Ishaq Ibrahim bin Musa bin Muhammad al-Lakhmi al-Syathibi, *Al-Muwafaqat fi Usul al-Shariah* (Beirut: Dar al-Kutub al-Ilmiyah, 2003).

<sup>92</sup> Wahba az-Zuhaili, "Financial Transactions in Islamic Jurisprudence. Volume 1," Second edition (Damascus, Syria: Dar al-Fikr, 1428), 135.

<sup>93</sup> Mohammad Hashim Kamali, *Shari'ah Law: An Introduction*, Reprinted (Oxford: Oneworld Publ, 2010), 182; Ġāsir 'Auda, *Maqasid Al-Shariah as Philosophy of Islamic Law: A Systems Approach*, ed. oleh Ġāsir 'Auda (London: The International Inst. of Islamic Thought, 2008), 154.

<sup>94</sup> Khairullah seorang seorang buruh bangunan di Martapura, Implementasi Nilai Agama dan Adat dalam Mu'amalah Masyarakat Muslim Banjar, Wawancara, 21 Mei 2025.

<sup>95</sup> seorang seorang buruh bangunan di Martapura.

the Banjar community, as well as to maintain harmony and the smooth operation of the local economy.<sup>96</sup>

Expressions in Banjar community muamalah are not only an effort to maintain ethics in interaction and muamalah, but also an expression of a Muslim's faith and moral responsibility. Muhammad Bahrán, who runs a mobile phone counter while selling mineral water, said that every time he completes a transaction, he always says "*berelaan lah*" to his customers. According to him, this is not just a matter of politeness, but part of his moral responsibility as a Muslim to prevent future disputes.<sup>97</sup> Harisah, a cracker seller, stated that in the past, village scholars always taught that in buying and selling, one should not hide the flaws of the goods and must be honest, even if there is no written receipt.<sup>98</sup> This is done to maintain integrity and ethics in transactions.

Efforts to maintain trust between merchants and buyers are also made by honestly explaining the origin or ingredients of their merchandise. Mardiana, for example, a processed food merchant at Batuah Martapura Market, emphasizes the importance of clarity regarding ingredients and honestly discloses whether the ingredients used contain substances whose halal status is questionable.<sup>99</sup> Syamsuddin, a merchant who conducts online transactions, also notes that honesty in business is more important than making large profits. He firmly believes that halal income brings blessings.<sup>100</sup> Something not many merchants practice today, especially amid price competition and efforts to maximize profits. However, this practice is still upheld by some Banjarese communities to uphold ethical standards in business transactions and maintain customer trust.

The integration of traditional and Islamic values evident in Banjarese business practices demonstrates a form of legal pluralism aligned with the objectives of Sharia law. Local religious scholars not only issue fatwas but also act as social mediators, adapting normative laws to local contexts.<sup>101</sup> The community's trust in them is a key factor in the sustainability of this practice, which shows that the law does not only apply because of formal authority but also because of social and spiritual legitimacy.<sup>102</sup> The Banjar community's muamalah practices demonstrate that fiqh does not have to be exclusive within the textual or formal framework of the state but can be contextual and coexist productively with customary law. Pluralism in contemporary Islamic law shows that the interpretation of Islamic law continues to play a role in context.<sup>103</sup>

Customs in community activities are living law. This concept is reinforced by Moore, who states that living law is dynamic and responsive to social change.<sup>104</sup> Living law offers a critical lens for analyzing the interaction of customary law, Islam, and the state in a complex socio-legal space. Fiqh Muamalah in the context of Banjar society is not only written in normative law, but also lives

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<sup>96</sup> Tokoh Agama di Kabupaten Banjar, Kearifan Lokal dalam Muamalah Masyarakat Banjar.

<sup>97</sup> Muhammad Bahrán, pemilik dan penjaga toko HP dan penjual air minum di Pasar Batuah Martapura, Kearifan Lokal dalam Muamalah Masyarakat Banjar, Wawancara, 21 Mei 2025.

<sup>98</sup> Harisah Pedagang kerupuk di pasar Martapura, Etika Mu'amalah Masyarakat Muslim Banjar, Wawancara, 21 Mei 2025.

<sup>99</sup> Mardiana Pedagang makanan olahan di Pasar Batuah Martapura, Etika Mu'amalah Masyarakat Muslim Banjar, Wawancara, 21 Mei 2025.

<sup>100</sup> Syamsuddin Seorang Pedagang, Etika Mu'amalah Masyarakat Muslim Banjar, Wawancara, 21 Mei 2025.

<sup>101</sup> Bowen, *Islam, law, and equality in Indonesia*, 213.

<sup>102</sup> Clifford Geertz, *Local Knowledge: Further Essays in Interpretive Anthropology* (New York: Basic Books, 1983), 190.

<sup>103</sup> "Legal Pluralism in Contemporary Societies: Dynamics of Interaction Between Islamic Law and Secular Civil Law," *SYARIAT: Akhwal Syaksyah, Jinayah, Siyasah and Muamalah*, 1, no. 1 (2024): 2.

<sup>104</sup> Sally Falk Moore, *Law as Process: An Anthropological Approach*, 2. ed, Classics in African Anthropology (Hamburg: Lit [u.a.], 2000).

and is rooted in customary practices and social interactions in business activities. Values such as honesty, mutual consent, blessings, and moral responsibility are upheld through traditions such as shigat akad and requests for halal before parting. Islamic law in the form of fiqh muamalah does not only originate from fiqh books, fatwas from the Indonesian Ulama Council, or state-established rules such as the Compilation of Sharia Economic Law (KHES), which are textual in nature. Rather, fiqh muamalah among the Banjar community is alive and integrated into the culture. Thus, fiqh muamalah in Banjar society is not merely a text but a living fiqh that operates alongside the positive law established by the state, functioning socially and culturally.<sup>105</sup>

Legal pluralism opens space for recognition of local forms of fiqh guided by local ulama and adapted to social conditions. In this context, the integration of fiqh with Banjarese customs exemplifies the vernacularization of Islamic law, preserving the objectives of sharia without losing cultural context.<sup>106</sup> The emphasis on honesty, transparency, and trust as foundational values in transactions, as demonstrated in Banjar society's practices, reflects the strength of living law that does not conflict with state law but has not yet been fully accommodated in formal regulations, as emphasized by Benda-Beckman.<sup>107</sup> Such practices are important to be used as a model in the development of pluralistic and contextual Islamic law based on the objectives of Sharia.

Legal pluralism in Indonesia is evident in the customary legal system that continues to be practiced by the community even though it does not always receive formal recognition from the state. The existence of Acehnese customary law, for example, coexists unequally with Islamic law—where customary law seeks recognition through customary bureaucracy but remains subordinate to the more dominant Islamic qanun sharia.<sup>108</sup> Indeed, some customary laws that are unwritten and rooted in local community values have undergone a process of positivization through regional regulations, but they remain separate from the national legal framework, which is codified and written.<sup>109</sup> Basically, recognition of customary law or living law is constitutionally regulated in Article 18b paragraph (2) of the 1945 Constitution of the Republic of Indonesia, Article 5(1) of Law No. 48 of 2009 on Judicial Power, Article 103(d) and (e) of Law No. 6 of 2014 on Villages, and Article 6 of Law No. 39 of 1999 on Human Rights. These laws and regulations govern the recognition of local wisdom, customs, and indigenous rights.<sup>110</sup>

## Conclusion

This study reveals that the muamalah practices of the Banjar Muslim community contain Islamic fiqh values that are deeply rooted in local culture through expressions such as *asi barelaan*, *mun kada cucuk bulikakan*, and *bawaja dulu*. These expressions are not merely verbal traditions but function as a local form of *shighat al-'aqd* in transactions that are rich in the meanings of justice, willingness, and responsibility. This demonstrates that fiqh does not merely exist in

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<sup>105</sup> Ihsan Yilmaz, "Secular Law and the Emergence of Unofficial Turkish Islamic Law," *Middle East Journal* 56, no. 1 (2002): 117.

<sup>106</sup> Engle Merry, "Legal Pluralism"; Hallaq, *Shari'a*.

<sup>107</sup> Benda-Beckmann, "Riding or Killing the Centaur? Reflections on the Identities of Legal Anthropology," 14.

<sup>108</sup> Arskal Salim, "Adat and Islamic Law in Contemporary Aceh, Indonesia: Unequal Coexistence and Asymmetric Contestation," *Samarah: Jurnal Hukum Keluarga dan Hukum Islam* 5, no. 2 (25 Desember 2021): 529, <https://doi.org/10.22373/sjhk.v5i2.11082>.

<sup>109</sup> Nilna Aliyan Hamida, "Adat Law and Legal Pluralism in Indonesia: Toward A New Perspective?," *Indonesian Journal of Law and Society* 3, no. 1 (19 Maret 2022): 1, <https://doi.org/10.19184/ijls.v3i1.26752>.

<sup>110</sup> Anindita Tresa Valerina dan Daud Rismana, "Living Law in Modern Legal Systems: Challenges to The Principle of Legality," *Walisongo Law Review* 6, no. 1 (2024): 31, <https://doi.org/10.21580/walrev.2024.6.1.22062>.

normative texts but has also integrated into the social structure and cultural values of the community, forming an operational Islamic living law in daily life. The phenomenological approach used successfully explores the symbolic and practical dimensions of the economic interactions of the Banjar community, showing that Islamic law has undergone social and cultural internalization without losing the essence of *maqāṣid al-sharī'ah*, particularly in the aspect of property protection (*hifẓ al-māl*).

This finding points to the urgency of recognizing legal pluralism in the Indonesian context. Living law rooted in local culture has proven to be more responsive in maintaining social stability and economic ethics than a legal-formalistic approach. Therefore, this study encourages the formulation of national law, including formal Islamic law, to consider the existence and legitimacy of living legal practices in society. The muamalah tradition of the Banjar community is not merely a cultural heritage, but a functional legal system that represents a dynamic encounter between fiqh, adat, and human values. Thus, Islamic law has great potential to become a grounded, contextual, and relevant law throughout the ages through the strengthening of the living law approach.

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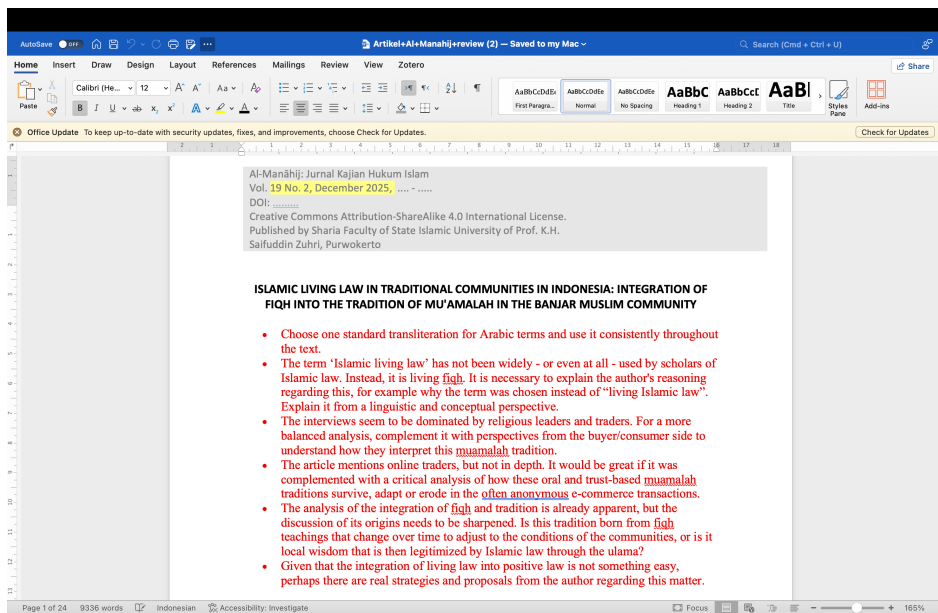
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**LIVING ISLAMIC LAW IN INDIGENOUS COMMUNITIES IN INDONESIA:  
INTEGRATION OF FIQH IN THE TRADITION OF MU'AMALAH OF THE MUSLIM COMMUNITY  
OF BANJAR**

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**Abstract:**

The interaction between Islamic law and local wisdom among the Muslim community of Banjar in South Kalimantan reflects the significant dynamics of Living Islamic Law within the framework of legal pluralism in Indonesia. The mu'amalah practices that have developed in this community are not limited to the application of normative fiqh alone, but are brought to life through cultural expressions and oral traditions—such as barelaan, tukar jual, jual lah seadanya, and bawa ja dulu—which serve a dual role as siqahat al-'aqq and as social devices for upholding the principles of voluntariness, openness, honesty, and justice. This study aims to trace the forms, meanings, and mechanisms of integrating of the principles of fiqh

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Title : Living Islamic Law in Indigenous Communities in Indonesia:  
Integration of Fiqh in the Tradition of Mu'amalah of the Muslim Community of Banjar

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DOI : <https://doi.org/10.24090/mnh.v19i2.14792> (After Published)

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then the article will be published in **Al-Manahij: Jurnal Kajian Hukum Islam, Vol. 19 No. 2 (2025)**.

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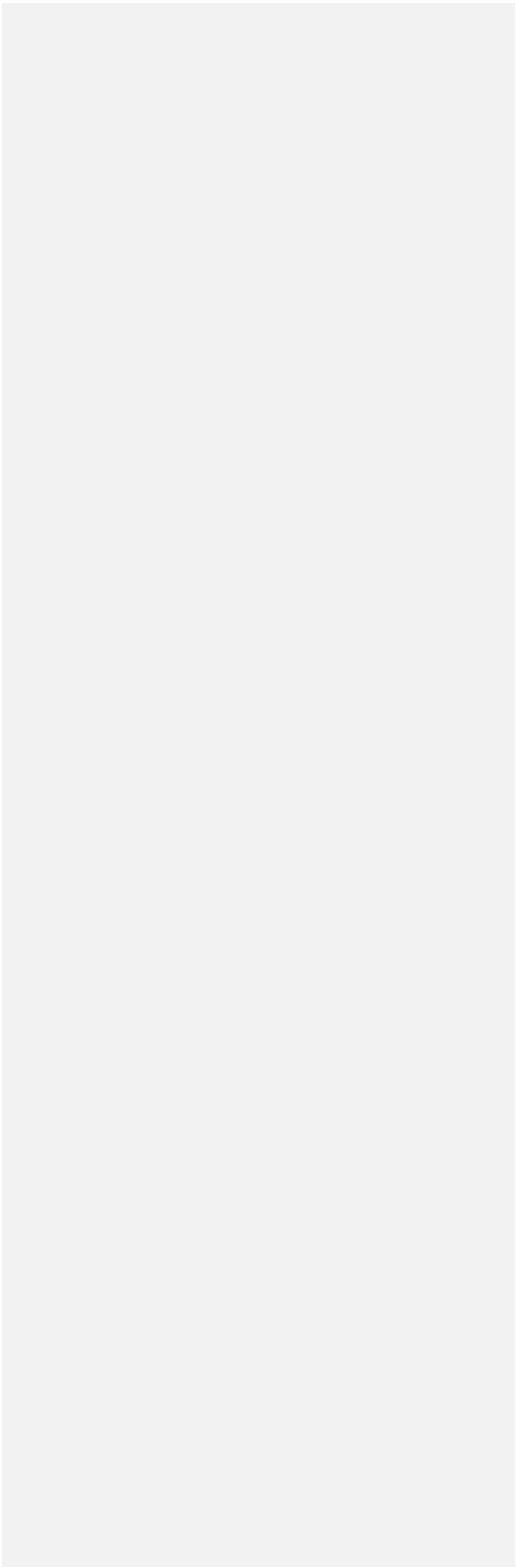
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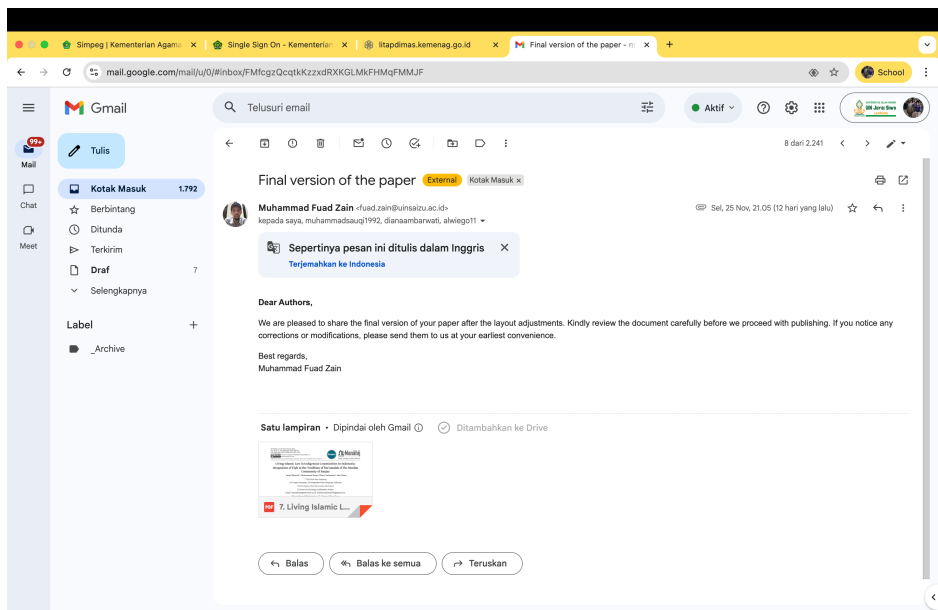
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## Living Islamic Law in Indigenous Communities in Indonesia: Integration of Fiqh in the Tradition of Mu'amalah of the Muslim Community of Banjar

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Submitted : 10-07-2025

Revision : 15-08-2025

Accepted : 27-08-2025

Published : 26-11-2025

**Abstract:** The interaction between Islamic law and local wisdom among the Muslim community of Banjar in South Kalimantan reflects the significant dynamics of living Islamic law within the framework of legal pluralism in Indonesia. The *mu'amalah* practices developed in this community are not limited to the application of normative fiqh alone, but are brought to life through cultural expressions and oral traditions, such as *barelaan*, *tukar jual*, *jual lah seadanya*, and *bawa ja dulu*, which serve a dual role as *siġhat al-'aqd* and as social devices for upholding the principles of voluntariness, openness, honesty, and justice. This study aims to trace the forms, meanings, and mechanisms of integrating the principles of *fiqh mu'amalah* into the customary order, as well as to assess its contribution to the discourse on living law and *maqāṣid al-sharī'ah*. A qualitative approach within a phenomenological framework is used. Research data were collected through participatory observation in traditional markets, interviews with local scholars, customary leaders, and traders. The results reveal that local scholars play a strategic role as mediators who interpret and adapt customary practices to align with the principles of Sharia. This process gives rise to a living legal system that is deeply rooted in social