

# Muslim women adhering to Minangkabau's *bajapuik* tradition in Cirebon, West Java: compromising a gendered culture in Islamic law

**Wardah Nuroniyah**

*Universitas Islam Negeri Syarif Hidayatullah Jakarta*  
E-mail: wardah.nuroniyah@uinjkt.ac.id

**Bani Syarif Maula**

*Universitas Islam Negeri Prof. K.H. Saifuddin Zubri Purwokerto*  
E-mail: banisyarifm@uinsaiizu.ac.id  
DOI: 10.18326/ijtihad.v22i2.135-153

*Bajapuik* refers to a customary engagement (*kehibah*) of the Minangkabau Pariaman community, where the prospective bride's family gives a certain amount of money (*japuik*) to the groom's family prior to a marriage. Islamic law allows a person to give a certain amount of money or gifts in the process of engagement. However, when the engagement is revoked and the marriage fails, the status of the money given during the engagement has been much contested. This study aims to explore and understand the positive relationship between Islamic law in the *bajapuik* tradition and local traditions. This study focuses on the legal aspects of engagement in the *bajapuik* tradition viewed from Islamic law and gender analysis. A descriptive qualitative approach was adopted with the primary data obtained through interviews. Data analysis was carried out using a legal approach, a sociological approach, and a philosophical approach. This study concludes that the *bajapuik* tradition depicts women as having a higher position than men. For the Pariaman community in Cirebon, the annulment of an engagement (*kehibah*) is a disgrace to tradition. An engagement is considered as a legally binding contract. In other words, customary provisions have coercive power to bounded communities. If an engagement is revoked without a valid reason, the responsible person can be sued for breaking the contract with certain compensations. Moreover, when a dispute occurs over

property or finances, Minangkabau customary law allows the aggrieved party to take action against the *kebijab* violators in the form of returning property or money.

Bajapuik merupakan adat pertunangan (*kebijab*) masyarakat Minangkabau Pariaman. Prakteknya adalah keluarga calon mempelai perempuan memberi sejumlah uang (japuik) kepada pihak calon mempelai laki-laki sebelum pernikahan dilaksanakan. Hukum Islam membolehkan seseorang memberikan sejumlah hadiah atau uang dalam proses pertunangan. Hanya saja, saat pertunangan dibatalkan dan gagal menikah, bagaimana dengan status uang yang diberikan ketika pertunangan tersebut. Kajian ini bertujuan untuk memahami dan melihat hubungan positif antara hukum Islam dalam tradisi bajapuik dengan budaya dan tradisi lokal. Penelitian ini memfokuskan pada aspek hukum pertunangan dalam tradisi bajapuik dilihat dari hukum Islam dan analisis gender. Jenis penelitian ini adalah deskriptif kualitatif, dengan data primer diperoleh melalui wawancara. Analisis data dilakukan secara deskriptif kualitatif dengan menggunakan pendekatan hukum, pendekatan sosiologis, dan pendekatan filosofis. Kajian ini berkesimpulan bahwa tradisi bajapuik menggambarkan perempuan memiliki posisi lebih tinggi daripada laki-laki. Bagi komunitas Pariaman di Cirebon, pembatalan pertunangan (*kebijab*) merupakan suatu aib secara adat, karena pertunangan sudah dianggap sebagai kontrak yang mengikat secara hukum adat. Ketentuan adat memiliki daya memaksa bagi komunitas yang terikat. Jika pertunangan itu dilanggar tanpa alasan yang sah, orang yang bertanggung jawab dapat dituntut ganti rugi karena ingkar janji. Namun demikian, jika pertunangan dibatalkan dan ada perselisihan di antara pasangan atas properti atau keuangan, hukum adat Minangkabau memungkinkan mereka untuk mengambil tindakan terhadap pelanggar *kebijab* berupa pengembalian properti atau uang.

**Keywords:** *bajapuik tradition; Cirebon; engagement; Minangkabau*

## **Introduction**

A valid marriage covenant from the Islamic law's perspective requires only a dowry (*sadāq*), namely a gift from the groom to the bride. Studies of marriage dowries in Muslim societies have mainly focused on the origins of pre-Islamic Arab law, which establishes a distinction between the dowry paid to the wife's family and the one given directly to the bride. However, the debate about the origin of dowry in the Arabic culture has obscured the history of the marriage gift in pre-modern Muslim societies (Rapoport, 2000). Beyond the Arabic region, the practice of giving gifts prior to marriage occurs in various forms, such as the one called as *japuik* money in the Minangkabau Pariaman community in Indonesia.

On the one hand, the majority of Indonesians are adherents of Islam, while Indonesian society is a heterogeneous one with various local traditions and cultures. Consequently, Indonesian Muslims attempt to negotiate between cultural customs and Islamic values,

including the issue of engagement. Different societies in Indonesia tend to have different customary laws that regulate marriage, either before marriage or during marriage. The author is specifically keen to study the marriage custom of the Minangkabau people who live outside the Minang region (read: diaspora), namely in Cirebon, West Java. The Minangkabau tradition describes how local customs can negotiate with the religious teachings or morals of Islam, which merge into the emerging guidelines and norms of society and eventually become customary laws (Schrijvers and Postel-Coster, 1977).

One of the customary laws in Minangkabau society is reflected in the engagement process (*kehijabab*) carried out by the prospective bride. The engagement custom in Minangkabau is different from other regions, in which the engagement process is generally carried out by the prospective groom to the prospective bride. In contrast, what applies to the Minangkabau community is that women propose to men. This custom is also different from the provisions of Article 13 KHI which implicitly places women as objects of engagement and men as subjects of engagement. This different custom is due to the Minangkabau community implementing a matrilineal kinship system, including the diaspora community in Cirebon, West Java. Matrilineal is a kinship system that is passed through the female lineage (mother), and therefore the female lineage has the right to inheritance. The matrilineal system can strengthen the position of women, including for the Minangkabau community, such as an inheritance system that allows women to control property and to become more economically secure. However, the role of men (namely *mamak* or the mother's brother) is also essential in terms of controlling the use of the property (Rasyad, 2009).

When a woman in Minangkabau society enters the age of marriage and is ready to start a household, the woman's family will start looking for a potential husband for her. If they have found a suitable husband for her, both the woman's and the man's families will carry out negotiations. As the prospective groom accepts the proposal of the woman's family, the official engagement ceremony (*batimbang tando*) will be carried out led by the mother's brother (*mamak*) of the woman. The mother's brother on the woman's side come to the man's house for the engagement accompanied by several other relatives. Items of dowry that are handed over by the woman's family to the man's family as a sign of the engagement

include golds, jewelry, golden thread *besuji* cloth (*balapak* cloth), and traditional weapons such as *keris*.

Following the giving of the dowry, the two families discuss a matter of the *bajapnik* tradition (picking up the groom). In this tradition, the woman's family picks up the groom by giving a certain amount of *japnik* money to show some respect to the prospective groom as a newcomer to the woman's family (*urang sumando*). In certain cases, the consequences if a party cancels the wedding plan are conveyed, such as returning the *japnik* money, during the official engagement ceremony (*batimbang tando*). When all parties reach the agreement regarding the marriage proposal, the official customary engagement can be continued, and the mother's brother from the woman's side can pick up the prospective groom by giving *japnik* money. The money will later be used to fund the wedding party organized by the man's family. After the wedding, the man's family will reimburse the *japnik* money by giving gifts to the bride in the form of rings, necklaces, and gold bracelets whose value can be greater than the amount of *japnik* money. As such, the *bajapnik* custom implies mutual respect between the woman's family and the man's family. The *bajapnik* custom also represents an official engagement (*khitbah*) process, which emphasizes the bond between the prospective groom and the prospective bride prior to the marriage covenant. The *bajapnik* is also a symbol of the promise of marriage between the groom and the bride that must be kept.

Migration for the Minangkabau people symbolizes the search for a new and better life without leaving their own local customs (Siregar et al., 2022). Minangkabau people, especially those from Pariaman who settle in Cirebon, West Java, still adhere to the *bajapnik* tradition when they get married. This study focuses on how the Minangkabau community maintains matrilineal values in foreign lands through the *bajapnik* tradition. Malinowski (1958) argues that in research on society, researchers must look at its overall function. This can provide an illustration that all traditions that exist in society have certain functions that must be understood as parts of the community and that all traditions practiced by society can be explained through their role in the present (Malinowski, 1958). All elements of culture, including tradition, pose benefits for the people who uphold them (Razak and Nurtawaban, 2007). This confirms the functionalist view which emphasizes that every behavior, belief, tradition, and attitude of the community is part of the culture they profess

(Hadikusuma, 2010).

This study aims to reveal the extent of the position of women in Minangkabau society who live in foreign lands such as in Cirebon, West Java. In addition, this study also aims to observe the positive relationship between Islamic law regarding engagement (*kehibah*) in the *bajapuik* tradition and the customs believed by the Minangkabau people in Cirebon. This study focuses on the legal aspects of engagement (*kehibah*) in the *bajapuik* tradition viewed from Islamic law and gender analysis.

## **Method**

This research is a descriptive qualitative with a sociology of law approach. The object of this research is the *bajapuik* custom in the engagement tradition (*kehibah*) of the Minangkabau community in Cirebon, West Java. The data sought in this study are the provisions of customary law around the *bajapuik* tradition practiced by the Minangkabau Pariaman diaspora in Cirebon. Primary data in this study were obtained from interviews with administrators and members of Pariaman Family Communion (PKDP) and Minang Rukun Sepakat Family Communion (HKMRS), along with Minangkabau people in Cirebon City who practice the *bajapuik* tradition. Secondary data were obtained from expert opinions through scientific journals and books on customary law and Islamic law. Data analysis was carried out descriptively using a legal approach, a sociological approach, and a philosophical approach (Huda, 2022). Conclusions were drawn using the inductive method and were presented descriptively and prescriptively in order to answer the problems being studied.

## ***Bajapuik* tradition of Minangkabau marriage in Cirebon**

In general, there are four parts of Minangkabau customs, namely: (1) *adat nan sabana adat*, (2) *adat nan diadatkan*, (3) *adat nan taradat*, and (4) *adat istiadat*. *Adat nan sabana adat* is an original custom that is unchangeable and contains the provisions of the rules and basic characteristics of humanity and human relations. Meanwhile, *adat nan diadatkan* refers to regulations that come from consensus or habits that are generally applicable in a certain area and are not coercive. *Adat nan taradat* is a habit in society that may be abandoned because it is only complementary. Unlike the others, *adat istiadat* refers to people's habits that can change over time due to the dynamics of life (Piliang, Sungut and Arfianda, 2011).

The engagement (*kebitbah*) procedure in relation to the marriage tradition of the Minangkabau people in Cirebon is not much different from the engagement tradition in their native Minangkabau region. For example, in Pariaman, a part of Minangkabau region, there is a *bajapuik* tradition which refers to picking up a man or proposing to a man by giving a certain amount of *japuik* money (pick up money) for a guarantee. This tradition is the hallmark of the Pariaman community during a marriage process. The *bajapuik* tradition is considered as *adat nan diadatkan*, which is a marriage process that reflects the common practice of the Pariaman people in general. This tradition can change according to different places and times. This tradition aims to foster mutual respect and mutual assistance between the two marriage parties in preparing for a new family life. This tradition is firmly held by the Minangkabau Pariaman community, as well as other communities that hold a similar custom in their area (Roslaili, 2019).

*Bajapuik* is viewed as a part of the Minangkabau Pariaman customary law that is carried out before a marriage covenant is finalized (Azwar, 2011). *Japuik* money is usually in the form of assets of economic value, especially money. Over time, the model and form of this *japuik* money has changed. At present, *japuik* money can be in the form of gold-made jewelry such as rings, bracelets, and necklaces. *Japuik* money is adjusted according to the agreement of both marriage parties and the financial ability of the woman's family (Aprizal, 2010).

*Japuik* money is arranged during the discussion of engagement (*batimbang tando*). The mother's brother (*mamak*) will ask the prospective bride (*anak daro*) regarding the financial readiness for a wedding since the cost of the wedding party including *japuik* money will be provided by the woman's family. The amount of *Japuik* money will be determined by both parties by considering the woman's family wealth. *Japuik* money is handed over to the man's family when the woman's family picks up the groom from his house (*manjapuik marapulai*) before the marriage covenant takes place (Yunita, Syaiful and Basri, 2013). *Japuik* money will eventually be returned by the man to the woman in the form of a gift at the *mantalang mintuo* event, usually the day after the wedding. The value of the gift is usually more than or twice the value of *japuik* money in the form of gold jewelry and clothing (Kesuma, 2021). For the man, giving more is an achievement in itself, and if the return value of the *japuik* money is the same or less, it can be seen as unsatisfactory or unreasonable (Nazwir, 2021).

For Minangkabau people, the *bajapuik* tradition poses a deep meaning, which is to describe mutual understanding and mutual respect between a groom and a bride. Historically, the *bajapuik* tradition contains two elements of exchange, namely: the exchange of noble titles or descendant titles such as *Sidi*, *Bagindo*, and Sutan, and the exchange of socioeconomic status. However, the exchange aspect in recent times is only in the form of socio-economic status. These changes were caused by population growth which resulted in the narrowing of land, education factors, migrations, and the modernization of society (Aprizal, 2010).

The Minangkabau community, including the Pariaman, believes that the values contained in the *bajapuik* custom include cultural values, religious values, and social values. The social value in this tradition is reflected in mutual respect between women and men prior to their marriages and building a family. The tradition of the Minangkabau community in respecting the position of men is illustrated through the giving of *japuik* money by the women's family. This giving reflects the appreciation and respect for tradition and mutual responsibility between the men's family and the women's family (Kesuma, 2021).

The Minangkabau people view the *bajapuik* tradition as not contradicting Islamic teachings since they do not consider *japuik* money as a dowry (*sadāq*) that is referred to in fiqh. This *bajapuik* tradition does not necessitate women to pay a dowry to men. In other words, *japuik* money is not a mandatory requirement for marriage but is part of an agreement between two parties involved in a marriage. As such, it is only considered as a gift before the marriage process begins. During the marriage covenant, the groom is still required to pay the dowry to the bride in accordance with Islamic teachings (Chan, 2021). For Minangkabau men, the role of husband is not an easy matter because they are required to carry out dual tasks simultaneously, namely being the elder family *mamak* who has no control over the property but is expected to carry out all decisions related to family matters (Kesuma, 2021).

According to a Minangkabau Pariaman figure in Cirebon, the process of implementing the *bajapuik* tradition consists of several stages, namely: 1) *Babaua* or *baundi*, the gathering of mother's brothers and sisters (*ninik* and *mamak*) and parents in the woman's family home. This stage aims to find and assess male candidates in terms of their personal qualities and family backgrounds. The one who judges the candidates is the *mamak*, while the parents do not

interfere in this matter. This gathering results in one candidate agreed upon by the woman's family members. 2) *Maresek* or *maantaan asok*, in which *mamak* will come to meet the man's family to make a marriage proposal. 3) *Batimbang tando* refers to the official proposal made by the woman's family and ask for an engagement. In this stage, the amount of *japuik* money is discussed and agreed upon by both marriage parties (Hendra, 2021; Nazwir, 2021).

Many people misunderstand *japuik* money in this *bajapuik* process, especially people from outside Pariaman. They consider the *bajapuik* tradition as unfair due to the impression that the woman's family "buys" the groom. They also think that this tradition is burdensome for the woman's family and consider such giving as contradicting common traditions. The Minangkabau people themselves believe that the *bajapuik* tradition in Pariaman does not mean to buy a groom, but it is used as a symbol of mutual respect between the two families. The amount of *japuik* money is also the result of an agreement between the two families (Nazwir, 2021).

The Minangkabau Pariaman community in Cirebon practices a simplified version of *bajapuik* tradition in which this tradition is carried out to preserve Minangkabau culture (Hendra, 2021; Kesuma, 2021). In the wedding procession, *mamak* is fully responsible for each prospective bride. The Minangkabau Pariaman people carry out this *bajapuik* tradition to maintain the dignity of their families and preserve their local traditions and culture.

Every tradition in society tends to embrace some changes. These changes are apparent if we examine the state of a society at a certain time and compare it with the state of society in the past. The Pariaman diaspora in Cirebon shows that they still maintain the traditional customs of their area of origin, especially in the case of marriage. The concept of diaspora is not only relevant in the discussion of identity but also is important for understanding the complexities of urbanization and globalization, where people migrate and face problems in establishing their identity in different customary environments (Setianto, 2015). *Japuik* money in the *bajapuik* tradition is given when there is a marriage between two people who come from or are descendants of Pariaman. While this tradition applies to respect the mother's brothers and sisters (*niniak* and *mamak*), it can be carried out partially or omitted altogether when the other marriage party does not come from Pariaman, depending on the agreement between the two parties (Hendra, 2021).

### **Minangkabau women in a gendered culture of the *bajapuik* tradition**

The Minangkabau people are adherents of the matrilineal system, namely a kinship system whose lineage and inheritance follow the mother's line (Blackwood, 2010). The apparent symbol of this matrilineal system is reflected through *rumah gadang*, namely a communal house inhabited by women (Kesuma, 2021). *Rumah gadang* symbolizes the essential position and role of Minangkabau women in maintaining culture and traditions (Valentina and Putera, 2007). Women in Minangkabau pose a strategic position in terms of the heredity system, in which they control their family's properties such as rice fields and houses. With this system, Minangkabau customs strengthen women's economical rights. Likewise, the basic rules of Minangkabau marriage regulate that in the event of a divorce the husband must leave the house. However, men also take part in managing agricultural rice fields or family businesses that are under women's control. As such, they obtain economic rights from their extended family (Chan, 2021).

Minangkabau customary norms treat men and women fairly and equally based on the position inherited to them although the lineage is passed on to women. The customary title (*marga*) given to men comes from the mother's lineage (Amir, 2007). In addition, Minangkabau customs also pay particular attention to women. If there is an unmarried adult woman, especially if the woman is an only child, the family is concerned about the possibility of a lineage break. For this reason, the family views the necessity to find someone to be her husband with certain criteria that are suitable for her and give *japuik* money to the man's family. Once a wedding agreement is reached, the man's family will return *japuik* money with *agiah jalang* money, which values are twice the *japuik* money and are given in the form of gold jewelry and clothes (Nazwir, 2021).

Outside the home or in the public sphere, Minangkabau society acknowledges the role of women and their positions in the social, economic, and political fields. The role of women can also be seen from their position in Minangkabau customs as the decision makers. In a customary forum, the topic of discussions and all decisions must be approved by the eldest woman (*bundo kanduang*). Thus, the role of women in Minangkabau culture both in the domestic and public spheres is strategic since any activity cannot be carried out without the involvement of women (Zakia, 2011). This causes women to perform two

roles, namely domestic and public roles simultaneously (Jamna, 2004).

in Minangkabau culture, men and women by nature cannot be equated as this would be in contrary to a Minangkabau principle “*adat basandi syarak dan syarak basandi kitabullah*” (the culture is based on law, while the law is based on Al-Quran). The position of women in the family and society is essential because they function as heirs of inheritance (Kesuma, 2021). Arguably, the matrilineal tradition highly acknowledges the role of women since in addition to practicing their role as women, they must be able to protect their inheritance and pose a leadership quality. This makes Minangkabau women have greater responsibilities than men; not to mention they have to develop a strong scientific and religious basis in order to be able to carry out their roles in a balanced manner (Blackwood, 2010).

Current scholarly debates often emphasize how pre-modern concepts of customary law and religious law should be interpreted within modern legal frameworks, such as universal human rights, contemporary democratic and emancipatory ideals, and secularism (Khalfaoui, 2020). The description above explains that based on modern constructions on gender, Minangkabau customs give women a role not only in household affairs, but also in social affairs in the public sphere. Women are also required to support themselves by working and maintaining the assets of the shared wealth. Women in Minangkabau not only have access to wealth, but also become the determinants of lineage (Nurdin, 2022).

When viewed from the aspect of freedom, Minangkabau women have the freedom to make choices after they reach the position of *bundo kanduang*. Before that, they were under the influence of men, namely the mother’s brothers (*mamak*). Thus, Minangkabau women obtain a high position when they are in the highest family status, meaning that this position is obtained through a family process (Bahardur et al., 2022). Minangkabau women with their privileges as *bundo kanduang* play a decisive role in solving various problems in their people and in society (Blackwood, 2010). The position of Minangkabau women as *bundo kanduang* is in line with the views of liberal feminism which fights for women’s rights to be equal to men. Liberal feminism contends that women and men have equal rights and positions both in the domestic and public spheres (Taylor, 2015).

However, along with a high social position, Minangkabau women traditionally carry the mandate as educators for the next generation who will maintain their cultural values (Tono et

al., 2019). In liberal feminism's perspective, this condition is the actual role of women in public since the duty bearer to maintain tradition is the determinant of public policy (Arat, 2015). As policy makers, women have the right to obtain a decent education on a par with men because it will empower them to become independent individuals (Bailey and Graves, 2016).

Minangkabau women are traditionally required to adhere to Islamic values (Aziz, Dzofir and Widodo, 2020). Therefore, same-sex or opposite-sex relationships should be carried out responsibly based on Islamic and customary values while maintaining rational behavior (Harding, 1982). Minangkabau women have a high and strategic position in the family system so that all family decisions, including marriage matters, are in the hands of women. Consequently, decisions regarding engagement for marriage are determined by the woman's family (Arat, 2015).

Based on this description, according to the analysis of existential feminism theory (Brenner, 1996), the customary practice of engagement by women to men, based on the reality that exists in the Minangkabau community, shows that women and men have the equal rights in making choices for marrying. Women proposing to men, according to existential feminism, shows that they have the right to make their own decisions and a bargaining power over anything that might happen to them. Thus, the practice of customary law of women proposing to men in the Minangkabau diaspora, including the Pariaman community in Cirebon, shows that in social life, Minangkabau women have a high position and role, including in making important decisions for their lives, both in the household and in public spheres. Women have the right to choose their potential life partner, while men only have the right to accept what has been decided by women.

### **Compromising a gendered culture in Islamic law**

Law Number 1 of 1974 concerning Marriage does not regulate the issue of engagement or proposal. Engagement in the Marriage Law is considered as non-binding and is not part of marriage, thus it has no legal implications. This view is different from the Compilation of Islamic Law (KHI), which determines that engagement is a legal event since a woman who has been proposed to and is already engaged cannot be proposed to another man, thus the engagement event poses implications for legal norms. Engagement is regulated by KHI in Article 1 letter (a) and Articles 11 to 13. The engagement arrangement is deemed necessary

by KHI because the issue of engagement is a legal issue when viewed from the perspective of *fiqh* or Islamic legal norms.

Engagement is not required by Islamic law, but in customary law engagement can be considered as an event that should not be missed since it is the manifestation of the seriousness of marriage from the man to the woman, and vice versa (Ambrus, Field, and Torero, 2010). According to Islamic law, engagement can be categorized as a promise (*wa'd*) to marry or a form of the sincerity of a man to carry out the marriage covenant with a woman in the future (Ibn 'Abidin, 2003). Thus, engagement is not a marital bond and does not have a legal effect on the existence of the marriage that was agreed upon. In other words, engagement is only a request for marriage (Al-Syarbini, 1994). The Compilation of Islamic Law (KHI) states that engagement is an arranged marriage activity in an effort to organize a marriage between a man and a woman. The engagement does not always come from the man's side, but the woman also has the right to propose for an engagement, as in the Minangkabau tradition.

Engagement does not entail any legal consequences and is not binding. In a sense, both marriage parties can still choose to continue the marriage or cancel it (Ambrus, Field, and Torero, 2010). However, for the Pariaman community in Cirebon, an engagement involves a large amount of property and can have legal consequences if the marriage does not take place. There are at least legal consequences in terms of property that have been given from one party to another or customary consequences for those who cancel it (Nazwir, 2021).

In the Pariaman community in Cirebon, engagement is a tradition with various ceremonial events involving property. This tradition is based on customary law originating from Minangkabau but has been adapted to the conditions of the foreign regions (the Minangkabau diaspora in Cirebon). This tradition is to give a dowry when proposing an engagement, either partially or wholly. This tradition does not violate Islamic law. In Islam, a person may give *japuik* money before the marriage covenant takes place. However, there have been some inquiries about the status of *japuik* money when the engagement is canceled such as whether it must be returned by the man's family or not. According to Wahbah al-Zuhaili (2002), the *fuqaha* (*fiqh* experts) have agreed that money given before the marriage (in this case the *japuik* money) which is given at the time of the engagement may be requested back, whether the cancellation is from the man or the woman. If the

money has been used, it should be returned in nominal form or goods with similar values (Al-Jaziri, 1990). This might happen because engagement is not a covenant. As long as there is no covenant, the money given at the time of the engagement is the property of the party who gave it, thus if the engagement is canceled, the money given must be returned to the owner. This case is different if the money is given voluntarily, which means that it cannot be taken back since it has become the property of the recipient.

The Pariaman community in Cirebon who adheres to Minangkabau customs have the same view in case of annulment of the engagement, which is to return *japuiik* money to the giver (the woman's family). Traditionally, the cancellation of an engagement is considered as a disgrace, thus social sanctions usually apply to those who cancel. However, the annulment of an engagement must be resolved amicably. The sanctions for canceling the engagement include returning *japuiik* money and other goods that have been received (Nazwir, 2021).

The method of Islamic law (*Uṣūl al-Fiqh*) explains that customary law (*al-'urf*) is not a stand-alone legal proposition, but it is related to the concept of *maslahab*. The concept of *maslahab* in Islamic law can be applied to events that have become applicable customs as long as they do not conflict with Islamic teachings. Customary law (*al-'urf*) can be a binding legal provision for the community where the law applies. This acceptance of Islamic law towards customary law (*al-'urf*) shows the adaptability and provides recognition of legal norms based on customary law as legal provisions recognized by Islam (Khallaf, 2014).

The purpose of an engagement (*ḵbiṭbah*) is to establish a social (not legal) agreement to carry out the marriage, thus an engagement is not a binding agreement such as a marriage covenant. This is what the jurists implicitly express in the books of fiqh (Islamic jurist corpus) that are approved by the Compilation of Islamic Law (KHI). An engagement (*ḵbiṭbah*) does not pose legal force as a marriage covenant, causing the choice to continue the agreement until marriage or not is still open to each prospective bride. If an engagement (*ḵbiṭbah*) involves a number of properties, for example the suitor has given a number of gifts to the betrothed or his family, then it does not change the status of the engagement (*ḵbiṭbah*) as a mere social agreement, not a legal agreement. A social agreement is based on the community's need to maintain the harmony of a family (Wani, 2001). Formal (legal) juridical agreements are binding and must be fulfilled, but social agreements based on

customs are non-binding, as are engagement agreements (Azzam and Hawwas, 2014).

Wahbah al-Zuhaili (2009) states that any form of agreement must be fulfilled, including engagement (*khithbah*), even though an engagement does not cause legal consequences. Engagement (*khithbah*) is an agreement so that the cancellation of an agreement can be considered as a violation. If a *khithbah* agreement involves a number of properties and the engagement is later canceled, the properties are viewed as non-binding and must be returned to the giver on the basis of harmony. Islamic law came to promote benefits and avoid dangers (*mudarat*). In particular, avoiding dangers precedes gaining benefits (Khallaf, 2014).

In Minangkabau culture, engagement is considered as a legally binding covenant. This means if an engagement is cancelled without a valid reason, the person responsible can be sued for damages for breaking the promise. Nevertheless, if an engagement is annulled and there is a dispute between the two parties over property or money, Minangkabau customary law allows them to take action against each other in the form of returning the property or money. These customary law provisions allow third parties involved (such as the family members) to take customary actions (Hendra, 2021). When two engaged people give each other gifts (*japuik* money), there is an assumption that the gifts will be returned when the engagement ends. However, if the giver dies, it is considered as an unconditional gift. In this case, the surviving party can keep the money. This presumption only applies to *japuik* money given during the *bajapuik* tradition process. It does not apply to gifts given before or after the *bajapuik* (Nazwir, 2021). Under customary law, if a person gives an engaged couple a wedding gift, then it is considered that the couple is the co-owner of the gift, but this can be disputed if there is evidence to the contrary (Chan, 2021).

For the Pariaman community in Cirebon, annulment of engagement (*khithbah*) is viewed as a traditional disgrace. Even though the customary provisions are not written, they have the power or coercive power for the community that is bound by the custom. Legal experts agree that custom is one of the legal rules that apply in society. Customary law is a legal norm that poses authority (match authority) and is obeyed by the community wholeheartedly (Sudiyat, 1995). Customary law comes from the rules of decency in society that have received general recognition and must be obeyed (Hadikusuma, 1990). Thus, the Minangkabau custom of engagement is a longstanding tradition and is the basic provision

or rule for the stages of organizing a marriage. This tradition has been determined by the ancestors (*lelubur*) in Minangkabau, and it applies to all people of Minangkabau descent wherever they are, including the Minangkabau diaspora in Cirebon who are members of the Pariaman community.

The emergence of a new civilization in certain regions causes a process of acculturation or mixing between cultures, which sometimes takes the form of syncretism. Harmonization and balancing between two civilizations can also be synthesis in the form of a unified whole (Aziz, Dzofir, and Widodo, 2020). To form a cultural acculturation, it is necessary to precede negotiations between the two different cultures. Negotiations for the marriage of the Pariaman Muslim community in Cirebon involve financial transactions including discussions about dowry and gifts based on religion and custom. In addition to the practice of *japuik* money and dowry, demands made by women's families against men's families have become a widespread practice that is not supported by state law or private law, but it is carried out to strengthen Minangkabau customary law in foreign areas (diaspora).

This study found that there was a historical assimilation of *japuik* money practices with Islamic values, including debates about its social consequences on Pariaman women's rights in Cirebon. The existing practice of *japuik* money continues to compromise the rights of Pariaman women in Cirebon. These findings show new interpretations of classical gender concepts in Islam and how they are understood and applied by Pariaman Muslims in Cirebon in the context of implementing *japuik* money in their married life.

*Bajapuik* tradition is a system that has been maintained in Minangkabau for decades; this tradition has currently become a strong cultural element in the structure of Minangkabau society everywhere. This tradition which projects that women have a superior position than men everywhere, including the Pariaman community in Cirebon, agrees with the demands of the *bajapuik* adat. The whole cultural process has strengthened the matrilineal stance which inspires many people that women can be decisive in decision making.

## Conclusion

Migrants or the Minangkabau diaspora who came from Pariaman to Cirebon, West Java, practice the *bajapuik* tradition. *Bajapuik* tradition projects that women have a superior

position than men. This study found that there was a historical assimilation of *bajapuik practice* with the values of Islamic teachings, that someone may give *japuik* money prior to the marriage covenant. In Minangkabau culture, engagement in the *bajapuik* tradition is considered a legally binding covenant. However, when the engagement is canceled without a valid reason, the responsible person can be sued for compensation for breaking the promise. If the engagement is annulled and there is a dispute between the two parties over property or money, Minangkabau customary law allows them to take action against each other in the form of returning the property or money, as cultural provisions have coercive power over the bound community.

### **Bibliography**

- Al-Jaziri, A.-R. (1990) *Kitāb al-Fiqh 'ala al-Mazāhib al-Arba'ah*. 4th edn. Beirut: Dār al-Kutub al-Ilmiyyah.
- Al-Syarbini, M. al-K. (1994) *Al-Iqna' fi Hall Alfāzi Abi Syujā'*. Beirut: Dār al-Fikr.
- Al-Zuhaili, W. (2009) *Al-Tafsīr al-Munīr fi al-'Aqā'id al-Syari'ah wa al-Manhaj*. Beirut: Dār al-Fikr.
- Ambrus, A., Field, E. and Torero, M. (2010) 'Muslim Family Law, Prenuptial Agreements, and the Emergence of Dowry in Bangladesh', *The Quarterly Journal of Economics*, 125(3), pp. 1349–1397.
- Amir M.S. (2007) *Adat Minangkabau: Pola Tujuan Hidup Orang Minang*. Jakarta: Mutiara sumber Widy.
- Aprizal, M. (2010) *Eksistensi Tradisi Bajapuik dalam Perkawinan Masyarakat Pariaman Minangkabau Sumatera Barat*. Institut Pertanian Bogor.
- Arat, Z.F.K. (2015) 'Feminisms, Women's Rights, and the UN: Would Achieving Gender Equality Empower Women?', *The American Political Science Review*, 109(4), pp. 674–689.
- Aziz, E., Dzofir, M. and Widodo, A. (2020) 'The Acculturation of Islam and Customary Law: an Experience of Minangkabau, Indonesia', *Qudus International Journal of Islamic Studies (QIJIS)*, 8(1), pp. 131–160. doi:10.21043/qijis.v8i1.7197.
- Azwar, W. (2011) *Matrilokal dan Status Perempuan dalam Tradisi Bajapuik*. Yogyakarta: Galang Press.

- Azzam, A.A.M. and Hawwas, A.W. (2014) *Fiqh Munakahat: Khibitbah, Nikah, dan Talak*. Jakarta: Amzah.
- Bahardur, I. *et al.* (2022) 'Matrilineal marriage traditions and hegemonic masculinity in Marah Rusli's Sitti Nurbaya', *Masculinities and Social Change*, 11(1), pp. 26–51.
- Bailey, L.E. and Graves, K. (2016) 'Gender and Education', *Review of Research in Education*, 40(Education Research: A Century of Discovery), pp. 682–722.
- Blackwood, E. (2010) 'Representing Women: The Politics of Minangkabau Adat Writings', *The Journal of Asian Studies*, 60(1), pp. 125–149. doi:10.2307/2659507.
- Brenner, S. (1996) 'Reconstructing Self and Society: Javanese Muslim Women and "The Veil"', *American Ethnologist*, 23(4), pp. 673–697.
- Chan, N. (2021), personal interview in Cirebon, 20 January.
- Hadikusuma, H. (1990) *Pokok-pokok Pengertian Hukum Adat*. Bandung: Alumni.
- Hadikusuma, H. (2010) *Antropologi Hukum Indonesia*. Bandung: Alumni.
- Harding, S. (1982) 'Is Gender a Variable in Conceptions of Rationality? A Survey of Issues', *Dialectica*, 36(2/3), pp. 225–242.
- Hendra, K. (2021), personal interview in Cirebon, 1 February.
- Huda, M.C. (2022) *Metode Penelitian Hukum: Pendekatan Yuridis Sosiologis*. Edited by I. Muhsin. Salatiga: The Mahfud Ridwan Institute.
- Ibn 'Abidin, M.A. (2003) *Radd al-Muhtār 'alā ad-Dur al-Mubkhtār*. 3rd edn. Beirut: Dār al-Kutub al-'Ilmiyyah.
- Jamna, J. (2004) *Pendidikan Matrilineal*. Padang: Guna Tama.
- Kesuma, M.I. (2021), personal interview in Cirebon, 18 January.
- Khalfaoui, M. (2020) 'Current Muslim Understandings of Classical Family Law in a Modern Secular Context: Germany as a Case Study', *Journal of Muslim Minority Affairs*, pp. 1–11. doi:10.1080/13602004.2020.1741163.
- Khallaf, A.W. (2014) *ʿIlm Uṣūl al-Fiqh*. Beirut: Dār al-Fikr.
- Malinowski, B. (1958) *The dynamics of culture change: an inquiry into race relations in Africa*. Edited by P.M. Kaberry. New Haven: Yale University Press.
- Nazwir, K. (2021), personal interview in Cirebon, 3 February.
- Nurdin, Z. (2022) 'Legal protection of customary rights under legal pluralism and its

- impact on the minangkabau society: An empirical study in the district of Lima Puluh Kota, West Sumatra’, *Cogent Social Sciences*, 8(1), pp. 1–10. doi:10.1080/23311886.2022.2045722.
- Piliang, E., Sungut, N.D.M. and Arfianda, H. (2011) *Tambo Minangkabau (Budaya dan Hukum Adat di Minangkabau)*. Yogyakarta: Galang Press.
- Rapoport, Y. (2000) ‘Matrimonial Gifts in Early Islamic Egypt’, *Islamic Law and Society*, 7(1), pp. 1–36.
- Rasyad, Z. (2009) *Ranah dan Adat Minangkabau*. Jakarta: Agra Wirasanda.
- Razak, Y. and Nurtawaban, E. (2007) *Antropologi Agama*. Jakarta: UIN-Jakarta Press.
- Roslaili, Y. (2019) ‘Kajian ‘Urf tentang Adat Ranub Kong Haba dan Akibat Pembatalannya di Aceh’, *Samarah: Jurnal Hukum Keluarga dan Hukum Islam*, 3(2), pp. 417–437.
- Schrijvers, J. and Postel-Coster, E. (1977) ‘Minangkabau Women: Change in a Matrilineal Society’, *Archipel*, 13, pp. 79–103.
- Setianto, Y.P. (2015) ‘Mediatization of Religion: How the Indonesian Muslim Diasporas Mediatized Islamic Practices’, *Journal of Media and Religion*, 14(4), pp. 230–244.
- Siregar, F.A. *et al.* (2022) ‘Merantau in The Ethnic Tradition of Minangkabau: Local Custom Without Sharia Basis?’, *Samarah: Jurnal Hukum Keluarga dan Hukum Islam*, 6(1), pp. 115–138. doi:10.22373/sjkh.v6i1.9954.
- Sudiyat, I. (1995) *Azas-azas Hukum Adat*. Yogyakarta: Liberty.
- Taylor, R. (2015) ‘Syariah as Heterotopia: Responses from Muslim Women in Aceh, Indonesia’, *Religions*, 6(2), pp. 566–593. doi:10.3390/rel6020566.
- Tono, S. *et al.* (2019) ‘The harmonious relationship between minangkabau custom and islam in the distribution of inheritance’, *Al-Shajarah: Journal of the International institute of Islamic Thought and Civilization (ISTAC)*, 24(Special Issue: Shariah and Law as Catalysts for Global Peace), pp. 39–55.
- Valentina, T.R. and Putera, R.E. (2007) ‘Posisi Perempuan Etnis Minangkabau dalam dunia Patriarki di Sumatera Barat dalam Perspektif Agama, Keluarga dan Budaya’, *Demokrasi*, 6(2), p. 17.
- Wani, M.A. (2001) ‘Muslim women’s right to “mahr”’: an appraisal of the statutory laws in muslim countries’, *Journal of the Indian Law Institute*, 43(3), pp. 388–409.

Yunita, R., Syaiful M, S. and Basri, M. (2013) 'Uang Japuik dalam Adat Perkawinan Padang Pariaman di Bandar Lampung', *Jurnal Pendidikan dan Penelitian Sejarah*, 1(1), pp. 1–15.

Zakia, R. (2011) 'Kesetaraan dan keadilan gender dalam adat Minangkabau', *Kafaah: Jurnal Ilmiah Kajian Gender*, 1(1), pp. 39–52.

Zuhaili, W. al- (2002) *Al-Fiqh al-Islami wa Adillatuhu*. Damascus: Dār al-Fikr.

