Journal of Islamic Law and Jurisprudence
https://almuhkamjournal.kips.or.id/index.php/al-muhkam/index
e-ISSN 3123-416X ‖ Vol. 2 No. 2 (2026) pp. 183 – 194
DOI: https://doi.org/10.65980/almuhkam.v2i2.73

The Dualism of Customary Law and Islamic Law Regarding Marriages Between First-Degree Cousins on the Father's Side in Minangkabau

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Recieved	19-06-2026	*Revised*	12-09-2026	*Accepted*	03-11-2026

Abstract: Marriage in Minangkabau society is not only understood as a relationship between two individuals but is also closely tied to the kinship system, family honor, and traditional values. One issue that has sparked differing viewpoints is marriage between cousins when the fathers of the bride and groom are full siblings. This study aims to analyze the perspectives of Minangkabau customary law and Islamic law on such marriages and to examine the relationship between the two in the city of Padang. This is a field research using a qualitative descriptive approach. Data were collected through interviews with *ninik mamak* (customary leaders) and religious leaders and supported by various relevant literary sources. The study concluded that Minangkabau customary law tends to reject cousin marriages because they are viewed as inconsistent with social propriety, have the potential to affect family honor, and may disrupt the harmony of kinship relationships within the community. Conversely, Islamic law permits such marriages because a cousin relationship does not fall under the category of *mahram*, relatives with whom marriage is prohibited. The findings also indicate that the relationship between customary law and Islamic law in Padang reflects legal pluralism rather than a conflict of norms, where customary law serves to uphold social propriety and kinship ties, while Islamic law provides the normative foundation for determining the validity of marriage. Thus, both legal systems remain relevant and complementary in fostering family harmony and social order within Minangkabau society.

Keywords: Dualism**,** cousin marriage, Minangkabau customary law, Islamic law

Introduction

Marriage is a social institution that plays a vital role in Minangkabau society. It is not only viewed as a bond between a man and a woman, but also involves relationships between families and clans, as well as the continuity of the kinship system that governs the society (Setiawan, 2023). The conduct of a wedding is not only governed by religious provisions but is also influenced by customary norms that are alive and evolving within society. In Minangkabau philosophy, there is a principle known as *adat basandi syarak, syarak basandi Kitabullah*, which indicates that custom and religion are the two main foundations

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for regulating community life, including matters of marriage (Ramadhani et al., 2024).

There are several forms of marriage that, in practice, give rise to differences in perspective between customary law and Islamic law. One of these is marriage between first cousins when the father of the groom and the father of the bride are full brothers (Mardius & Maulida, 2022). The Islamic law generally permits marriage between cousins because such relationships do not fall under the category of women whom it is forbidden to marry based on blood ties. However, in certain traditional Minangkabau communities, such marriages are often viewed as inappropriate or even opposed because they are considered to involve a kinship relationship that is too close and could potentially disrupt the harmony of the extended family (Abdurrahman & Elfia, 2020). According to Dewi & Nizam, (2023), the Minangkabau people view marriage not merely as a private matter, but also as one that concerns social interests and the honor of the extended family. Traditional considerations in determining the suitability of a marriage are not based solely on legal relationships but also take into account aspects of social appropriateness that have evolved within the community. The differing perspectives between traditional customs and Islamic law regarding marriage between first cousins present an interesting issue for study, particularly concerning the basis for traditional objections to such marriages and how Islamic law views this same marriage practice.

Studies on marriages prohibited by Minangkabau customary law have always been an intriguing topic of research because they relate to the interplay between customary norms and Islamic legal provisions in community life. A number of previous studies have examined this issue from various perspectives, including customary law, Islamic law, Islamic family law, and the sociology of Islamic law. Nurchaliza's (2020) study concluded that the prohibition against marriage within the same clan in Minangkabau society is understood as an effort to preserve the common good and lineage (*hifz al-nasl*), even though it is not explicitly prohibited under Islamic law. Destuliadi, (2022) found that marriage within the same clan is permitted under Islamic law but remains prohibited under Minangkabau customary law because it is considered to undermine the prevailing matrilineal kinship system. Furthermore, Ronanda et al., (2023) explain that the prohibition against certain marriages aims to maintain harmony in social and kinship relationships within the community. Meanwhile, Mardius & Maulida, (2022) demonstrate that violations of customary marriage prohibitions are still subject to both social and customary sanctions in several nagari in Minangkabau. Amin et al., (2024) conclude that traditional marriage prohibitions can be understood as an application of the concept of *sadd adz-dzari'ah*, that is, an effort to prevent harm from arising in the social life of the community.

These studies differ fundamentally from the author's research. The difference lies in the focus of the study, as previous research has primarily addressed prohibitions on marriage between members of the same clan, taboo marriages, customary sanctions, and the relationship between customary law and Islamic law in Minangkabau marriages. Meanwhile, this study places greater emphasis on the phenomenon of marriage between cousins, which is opposed by customary law because the fathers of the bride and groom are full siblings. This study attempts to fill a gap in the literature regarding the differing perspectives between Minangkabau customary law and Islamic law on a form of marriage that is

permitted under sharia but, in certain social contexts, still faces rejection under customary law.

This study aims to analyze the Minangkabau customary perspective on marriages between cousins whose fathers are full siblings and to examine the Islamic legal perspective on this practice. To clarify the direction of the study and define its scope, the author formulates two main questions: what are the grounds for Minangkabau customary law in rejecting or restricting marriages between cousins whose fathers are full siblings, and what is the perspective of Islamic law on such marriages? The urgency of this research stems from the differences between customary norms and Islamic law in viewing kinship relationships that may be considered in marriage. Under Islamic law, marriage between cousins is not classified as a prohibited form of marriage. Conversely, in the practices of certain indigenous communities, there are still views that reject such marriages based on social and cultural considerations. This situation indicates a space for dialogue between customary law and Islamic law that requires in-depth examination. Therefore, research on cousin marriages opposed by customary law is essential to understand the rationale behind customary law, the perspective of Islamic law, and their relevance in contemporary Minangkabau society.

Methods

his study is a field research with a qualitative descriptive approach. According to Afrizal, (2019), the qualitative descriptive approach is appropriate when researchers wish to describe social phenomena as they are, based on situations observed in the field. The data sources for this study consist of primary data obtained through direct observation in communities that still strongly adhere to Minangkabau customs, including observations of social responses, conversations among residents, and the views of traditional and religious leaders regarding marriage. Secondary data were obtained from books, journals, scientific articles, and writings discussing Minangkabau customs, Islamic marriage law, and the relationship between customary law and Islamic law.

Data collection was conducted through direct observation or field surveys. These observations focused on how the community perceives close kinship ties, how customary practices assess the suitability of marriages, and how religious views are linked to family decisions. The collected data was analyzed descriptively, that is, by describing and explaining phenomena as they are, without excessive generalization. In-depth interviews and observations yield more valid data because they allow the researcher to understand the social context more comprehensively (Ekawiyani & Nurman, 2020).

Result and Discussion

Legal Rationale Under Customary Law and Islamic Law Regarding Marriage Between Cousins

The legal reasoning from the perspectives of customary law and Islam reveals a fairly clear difference in orientation. From the perspective of customary law, the prohibition on marriage between first cousins is based on efforts to preserve family honor, kinship boundaries, and social order. According to Putri & Yunaldi, (2024), in Minangkabau society, close blood ties can give rise to certain social judgments regarding the appropriateness and dignity of the family. Customary law holds that if the fathers of the bride and groom are full brothers,

the relationship is still too close to be united through marriage. From an Islamic perspective, according to Twosia (2025), the cousins are not considered mahrams who are permanently prohibited from marrying, so such a marriage is permissible under sharia law.

Furthermore, the rationale behind traditional customs is not merely a matter of the closeness or distance of blood ties, but also a matter of how marriage affects the social structure of the extended family (Rahmadiah & F, 2024). The Minangkabau tradition views marriage is a collective event that brings honor to the clan. Therefore, the choice of a spouse is not determined solely by individual will but also by the considerations of the *ninik mamak* (customary leaders), parents, and the extended family (Setiawan et al., 2023). According to Marlina et al. (2024), traditional marriage rules serve to maintain order in social relationships within the extended family. Based on this logic, the traditional rejection of marriage between cousins can be understood as an effort to preserve social harmony and prevent confusion in kinship relationships.

The enforcement of customary law is evident in the way communities impose social sanctions and moral rejection (Apridila et al., 2025). In practice in Padang and the surrounding Minangkabau region, rejection does not always take the form of formal, written sanctions, but may manifest as reprimands, family deliberations, delays in customary proceedings, or rejection by the *ninik mamak* (customary leaders). This mechanism demonstrates that adat functions not as a rigid legal system, but rather as a living value system upheld through social legitimacy. In this regard, adat serves as a regulator of social relations, ensuring that marriage decisions do not cause shame, disputes, or harm to the dignity of the community (Ramadhan, 2026).

The enforcement of customary law in social practice is also evident in the deliberation process that takes place before a marriage decision is made (Firmansyah et al., 2023). In many cases, the *ninik mamak* will assess whether the marriage will bring benefits, cause problems, or even weaken relationships within the extended family. Such considerations mean that customary law is not merely a set of prohibitions but also a social instrument that guides the community toward choices deemed the safest and most appropriate (Zulkifli et al., 2024). Thus, the prohibition against marriage between first cousins in this case is not merely a formal rule but rather part of a social mechanism that maintains the community's balance.

Descriptively, the results of the interviews with four informants—namely, two traditional leaders (Ujang and Iwin) and two religious leaders (Firman and Yani) based in Padang, that the integration of these two institutions, traditional and religious—reveals differing perspectives among traditional and religious leaders regarding the interpretation of marriage between first cousins when the fathers of the bride and groom are full siblings (Mutiara et al., 2021). Ujang, as a traditional leader, stated that such a marriage is inconsistent with traditional values because the kinship relationship between the two prospective spouses is still considered too close, thereby potentially tarnishing the family's honor (Ujang, interview, 22 Mei 2026). A similar view was expressed by Iwin, who emphasized that such a close blood relationship could lead to certain social judgments within the community and potentially disrupt the harmony of relationships among relatives within the clan or extended family (Iwin, interview, 22 Mei 2026). Both customary leaders agreed that the rejection of such a marriage is based more on

social considerations and customary appropriateness than on formal legal considerations.

Conversely, Firman, a religious leader, explained that marriage between cousins does not fall under the category of marriages prohibited by Islamic law because cousins are not mahrams, relatives with whom marriage is permanently forbidden, and thus such marriages remain valid and permissible under Islamic law (Firman, interview, 22 Mei 2026). Yani, also a religious leader, added that although such marriages are permitted under Islamic law, the welfare of the family and social relationships must still be taken into account to ensure that the marriage does not lead to problems in the future (Yani, interview, 22 Mei 2026). Both groups of informants considered the aspect of the common good, but with different emphases. Traditional leaders emphasize social well-being and the continuity of kinship ties, while religious leaders emphasize well-being within the framework of Sharia law. These findings demonstrate that in Minangkabau society, marriage is assessed not only in terms of religious validity but also in terms of social appropriateness as embodied in local customs. A marriage that is valid under Sharia law is not necessarily fully accepted within the customary community if it is deemed inconsistent with the prevailing social values of the society. A summary of the core perspectives of the four informants is presented in Table 1 below:

Table 1. The Rationale for the Application of Customary Law and Islamic Law

Informant	The Enforcement of Customary Law	The Enforcement of Islamic Law	Analysis
Ujang, a customary leaders	Preserving family honor and social standing	Islam permits marriage between cousins, but custom imposes social boundaries	Custom emphasizes community norms
Iwin, a customary leaders	Preventing conflicts within extended families and maintaining community ties.	Islam continues to be respected as a moral foundation, but custom serves as a social filter	Custom is understood as a means of maintaining harmony
Firman, a religious leaders	Customs can be observed as long as they do not violate Islamic law	A cousin is not a mahram, so the default ruling is that it is permissible	Islam provides clarity on the sharia boundaries
Yani, a religious leaders	Customary prohibitions are respected because they serve a social purpose	Islamic law provides the legal basis for marriage	Both custom and religion converge in the principle of maslahat

Based on the research findings, the differences in perspective between customary leaders and religious leaders do not stem from differing objectives, but rather from differing orientations in evaluating a marriage (Syahriani & Jannah, 2025). From the perspective of Minangkabau customary law, marriage is understood as a social institution that not only connects two individuals but also involves the extended family, the clan, and a broader kinship network. The closeness of the blood relationship between the prospective bride and groom is a crucial consideration because it relates to family honor, the order of social relations, and the continuity of the kinship system within society. Meanwhile, Islamic law views marriage based on normative provisions derived from the

Qur'an and hadith. As long as there is no *mahram* relationship that renders the marriage unlawful, the marriage is still considered valid and permissible under Sharia law (Yustim et al., 2022).

This difference in perspective indicates that customs and Islam operate within different spheres of consideration. Customs emphasize aspects of social propriety and the potential impact on kinship relationships, whereas Islam places greater emphasis on legal validity and the public interest based on the provisions of sharia. Although they draw on different foundations, both share a relatively similar goal: to maintain family harmony, social order, and the public interest. This finding suggests that the philosophy of *adat basandi syarak, syarak basandi Kitabullah* does not necessarily mean that adat and sharia provide identical judgments on every issue, but rather indicates a complementary relationship in regulating community life.

The findings of this study also reveal the existence of legal pluralism in Minangkabau society, particularly in the city of Padang, where customary law, Islamic law, and state law coexist. Febria et al., (2022) explain that marriage practices in Minangkabau lie at the intersection of customary law, Islamic law, and state law. In the context of marriage between cousins, a marriage may be considered valid under Islamic law and state law, but it may not necessarily be fully accepted within the customary community due to considerations of social propriety and kinship ties. This situation demonstrates that society does not rely solely on a single legal system but rather takes into account various norms that coexist in social life.

The informants' reasoning indicates that customary leaders view marriage from the perspective of social appropriateness, not solely based on biological ties. They believe that close blood ties between the prospective bride and groom can lead to various social problems, such as a disruption of harmonious kinship relations, negative judgments from the community, and a decline in the honor of the family and the clan. From the perspective of Minangkabau customary law, marriage concerns not only individual interests but also involves the extended family and the customary community. Meanwhile, Firman, a religious leader, emphasizes the normative aspect of Islamic law, namely that cousins are not considered *mahram*, relatives with whom marriage is permanently prohibited, and thus marriage between cousins is, in principle, permitted. This difference demonstrates that customary law and Islamic law are based on different considerations, yet both share the same goal; to preserve family harmony and the common good of society.

The Dualism of Customary Law and Islamic Law in the City of Padang

These findings show that the Minangkabau people live in a context of legal pluralism, where customary law and Islamic law both serve as guidelines for regulating social life. Customary law derives its legitimacy from the authority of the *ninik mamak* (customary leaders) and values passed down through generations, while Islam serves as the primary reference for determining the validity of an action based on sharia (Setiawan et al., 2023). In practice, a marriage may be deemed valid under Islamic law but may not necessarily be fully accepted within the customary context. This situation is evident in marriages between first cousins, which are permitted under sharia but are still considered inappropriate in certain customary contexts due to concerns about close kinship ties. This phenomenon demonstrates that the relationship between adat and Islam is not

always one of conflict but rather reflects the interaction and negotiation between two value systems that coexist within Minangkabau society.

Table 2. The Dualism of Customary Law and Islamic Law in Padang

Informant	Dualism in Customary Law	Dualism in Islamic Law	Analysis
Ujang, a customary leaders	Custom dictates that it be rejected because it is considered too close.	Islam has permitted it, but local customs still have the authority to determine whether it is appropriate or not.	There is a difference in emphasis between social norms and sharia norms.
Iwin, a customary leaders	Customary decisions are made through community deliberation.	Islamic law remains a guiding principle, but it is not the only consideration.	Dualism is understood as coexistence.
Firman, a religious leaders	Customs are respected as long as they do not conflict with religion.	Sharia law determines whether a marriage is valid or not.	Custom and Islam exist on different levels.
Yani, a religious leaders	Customs preserve the social identity of the people of Padang.	Islamic law establishes the boundaries between what is permissible and what is forbidden (halal-haram)	It turns out that both customary law and Islamic law complement each other.

Based on the data in Table 2, the dualism of customary law and Islamic law in Minangkabau society indicates a division of authority in assessing a marriage. Customary informants view the assessment of a marriage as being based not only on legal aspects but also on social appropriateness, family honor, and community acceptance. Meanwhile, religious leaders regard Islamic law as the primary basis for determining the validity of a marriage according to sharia provisions. This difference indicates that customary law and Islam have distinct focuses but are not mutually exclusive. Customary law serves to regulate social dimensions of community life, while Islam provides a normative foundation regarding the permissible and prohibited boundaries in marriage.

The Possibility of Enforcing Customary Law and Islamic Law Simultaneously

Research findings indicate that the legal dualism observed in Minangkabau society is best understood as a form of legal pluralism, that is, the coexistence of multiple legal systems that are both active and recognized within the community. Destuliadi, (2022) explains that customary law retains its social legitimacy because it grows and evolves from the values embedded within the community, while Alhkarni & Yuriska, (2024) assert that Islamic law remains the normative reference for determining the validity of a marriage. In the context of marriage between first cousins, Islamic law provides a basis for permissibility because there is no sharia prohibition, whereas customary law makes judgments based on aspects of social appropriateness and kinship ties. These conditions indicate that the continuity of customary law and Islamic law depends heavily on the community's ability to harmonize these two value systems so that they can coexist in maintaining social order, family harmony, and the common good of society.

Table 3. The Possibility of Enforcing Customary Law and Islamic Law

Informant	The Possibility of Enforcing Customary Law	The Possibility of Enforcing Islamic Law	Analysis
Ujang, a customary leaders	It's still possible because of the way of life in the community.	Islamic law remains the primary guiding principle.	Both can be applied at the same time.
Iwin, a customary leaders	Limits are necessary to avoid conflicts with other norms.	Islamic law remains a moral and legal framework.	Both require harmonization, not standardization.
Firman, a religious leaders	A custom is accepted if it promotes the welfare of the community (maslahat).	Islamic law sets the parameters for validity.	They may be applied simultaneously as long as they do not contradict each other.
Yani, a religious leaders	Depending on social acceptance.	It is normative in nature and more binding.	Custom serves as a complement; Islamic law serves as the foundation.

Table 3 shows that informants generally believe that customary law and Islamic law still have a strong chance of continuing to be applied in Minangkabau society. Customary law continues to exist because it grows and develops from the values that are alive in society and gains social legitimacy through acceptance by the indigenous community. On the other hand, Islamic law holds a strong position because it serves as a normative guideline that regulates various aspects of life, including marriage. The existence of these two legal systems indicates that the Minangkabau people still regard custom and religion as important references in resolving various social issues.

The enforcement of customary law and Islamic law requires clear boundaries and harmonization so as not to cause conflicts of norms in practice. Customary law may be enforced as long as it does not conflict with the principles of Sharia, while the application of Islamic law must take into account the social and cultural conditions of the community where it is enforced. These findings indicate that the relationship between customary law and Islamic law is not aimed at standardization but rather at mutual complementarity in accordance with their respective functions and scopes. Thus, the possibility of enforcing both within Minangkabau society remains open as long as there is a balance between the social legitimacy of customary law and the normative legitimacy of Islamic law in fostering order, harmony, and the common good of the community.

The Relationship Between Customary Law and Islamic Law

The connection between customary law and Islamic law regarding marriage between cousins can be seen in the common goals they seek to achieve: safeguarding the well-being of the family and fostering order in community life. Customary law emphasizes the importance of preserving family honor, maintaining harmonious kinship ties, and avoiding potential social conflicts that may arise from marriages deemed inconsistent with prevailing societal values. Meanwhile, Islamic law regulates marriage based on sharia provisions to ensure that the relationship is conducted within lawful boundaries and brings benefit to individuals, families, and society. Although they are based on different considerations, both are oriented toward protecting social and family life.

The common values between customary law and Islamic law are evident in their shared emphasis on family honor, the prevention of harm, and the realization

of a harmonious and orderly life. Customary law emphasizes the aspect of social welfare that is directly experienced by the community through the maintenance of kinship ties and social stability, whereas Islamic law places welfare within a broader framework, encompassing both social and religious dimensions. This difference does not indicate a contradiction but rather reflects different approaches to achieving the same goal.

Table 4. The Similarity of Ideas and the Level of Maslahat

Aspect	The Customary Law	The Islamic Law
The similarity of ideas	Upholding family honor, preventing conflict, and maintaining community harmony.	The protection of family lineages, honor, and well-being.
Level of maslahah	It has high social value because it maintains order in the community.	Maslahah syar'i tinggi karena memberi kejelasan hukum.
The final direction	Harmonious customs and social stability.	The Sharia law validity and family harmony.

As shown in Table 4, there are substantial similarities between customary law and Islamic law in their views on the purposes of marriage, namely preserving family honor, preventing conflict, and fostering a harmonious life within society. Customary law emphasizes the importance of preserving family dignity and maintaining the order of kinship relationships as part of efforts to uphold social balance within the community. Meanwhile, Islamic law focuses on the protection of the lineage (*hifz al-nasl*), the preservation of honor (Kafutra, 2025), and the realization of the common good in family life. This shared orientation indicates that both customary law and Islam function as social instruments aimed at maintaining the stability and continuity of community life.

In terms of the public good, customary law and Islamic law make different yet complementary contributions. Customary law fosters social well-being through the maintenance of kinship ties, social acceptance, and order within the community, while Islamic law provides normative well-being through legal clarity and certainty regarding the boundaries permitted by Sharia. This difference does not indicate a contradiction but rather demonstrates that both systems have their respective roles in achieving the same goal. Thus, customary law and Islamic law can be understood as two value systems that reinforce one another in fostering family harmony, social peace, and the common good of society, as reflected in the philosophy of *adat basandi syarak, syarak basandi Kitabullah.*

Conclusion

This study shows that marriages between cousins, where the fathers of both spouses are full siblings, reveal differing perspectives between Minangkabau customary law and Islamic law in the city of Padang. Customary law tends to view such marriages as inappropriate, taking into account aspects of social propriety, family honor, and the harmony of kinship relationships within the community. Meanwhile, Islamic law considers marriages between cousins permissible because they do not fall under the category of marriages prohibited by sharia. This difference demonstrates that customary law and Islamic law use different bases for

evaluation when assessing a marriage, even though both share the same objectives: maintaining order, family harmony, and the common good of society.

This study also shows that customary law and Islamic law are not understood as two conflicting systems, but rather as two value systems that coexist and evolve side by side in Minangkabau society. Customary law plays a role in regulating aspects of social propriety and kinship relations, while Islamic law serves as the normative foundation for determining the validity of marriages. Thus, differing perspectives on marriage between first cousins reflect the legal pluralism that has developed within Padang society rather than a conflict between custom and religion.

Generative AI and AI-Assisted Technologies Statement

In this study, ChatGPT was specifically used as a tool to assist in the data analysis process, particularly to organize and present interview results in tabular form. The processed results were subsequently reviewed, edited, and revised by the author to ensure consistency with the original data and the research context. The author bears full responsibility for the accuracy and final interpretation of the data presented in this article.

Author Contribution Statement

The first author (Nabila Rahmadani) manually compiled the interview data, while the second author (Daniel Swandana Putra) performed the data analysis, specifically, organizing the data into tables, though with the assistance of AI. However, both authors jointly took responsibility for proofreading this article.

Journal of Islamic Law and Jurisprudence

Research Funding Statement

This research was self-funded without any assistance from other sponsors

Conflict of Interest

There are no conflicts of interest in this study, either among the authors or with the publisher or any other parties

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