

## JOINT PROPERTY OWNERSHIP OF SPOUSES ACCORDING TO SHARIAH TRADITIONS AND PRINCIPLES IN MALAY REGION

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Received :10 November 2025

Published : 20 January 2026

Revised :25 November 2025

DOI : <https://doi.org/10.54443/ijset.v5i1.1535>

Accepted :20 December 2025

Link Publish : <https://www.ijset.org/index.php/ijset/index>

### Abstract

This study examines the interaction between the concept of shared property in Malay custom and the principle of "dhimmah maliyah" in sharia, aiming to analyze differences and similarities in the practice of joint property ownership. With the framework of legal pluralism and a socio-legal qualitative approach, the study found the formation of a hybrid system. The fundamental difference lies in the communal principle of customary versus individual sharia. The similarities are found in syncretic practices where customary principles dominate acquired property during marriage, while sharia principles are applied selectively to inherited property and inheritance, suggesting the existence of creative negotiations.

**Keywords:** *Property Ownership, Tradition and Sharia, Malay Culture, Livelihood*

### INTRODUCTION

The arrangement of property in marriage is a crucial aspect that reflects the social and legal values of a society. Among the Muslim-majority Malay community, this arrangement is an arena for complex interaction between customary law and sharia law (Rahmaniah, 2015). Traditional traditions recognize the concept of joint property which emphasizes joint ownership of property acquired during marriage, based on communal values and mutual cooperation. On the other hand, sharia principles fundamentally recognize separate financial entities (\*Dhimmah Maliyah\*) for husband and wife (Asnawi & SHI, 2022). The existence of these two philosophically different systems of norms raises the question of how they operate simultaneously in the practice of daily life. Studies on Islamic family law and customary law often discuss the two systems separately. However, the understanding of the dynamics of interaction, negotiation, and adaptation between the concept of property and the principle of \*dhimmah maliyah\* in an empirical context is still limited. This phenomenon shows the existence of a living legal reality (\*Living Law\*) where society does not rigidly choose one of the norms, but creatively aligns it (Cammack & Feener, 2008). Therefore, this study seeks to answer how the Malay community interprets and practices the ownership of common property. The main focus is to identify the points of similarity and differences that arise from the process of syncretism of the two legal systems. The main purpose of this study is to analyze in depth the differences and similarities of joint property ownership of spouses according to Malay customary traditions and sharia principles. To achieve this goal, this study uses the theoretical framework of legal pluralism that allows an understanding of the coexistence and interaction of various normative systems. A qualitative approach with a socio-legal case study design is applied to explore real practices (\*law in action\*) in the community. Through this approach, the research will reveal how customary and sharia norms are negotiated, adapted, and form a unique hybrid system in regulating marital property.

### Theoretical Foundations

The theoretical framework of this research is based on the theory of legal pluralism (Griffiths, 1986). This theory suggests that in a social order, there is not only one prevailing state legal system, but various other legal systems such as religious law and customary law coexist and interact with each other (Shahar, 2008). In the context of Malay society, legal pluralism becomes relevant to analyze how sharia principles regarding property ownership and customary traditions regarding sequester property operate simultaneously. This approach allows for a

comprehensive understanding of the dynamics of the norms that govern a couple's shared property. According to legal pluralism, interactions between normative systems are not always conflictual, but can be in the form of negotiation and adaptation (Levni & Çelik, 2023). The sharia principle regarding the separation of individual property of husband and wife has undergone interpretation and adjustment when faced with the concept of joint property in Malay custom which emphasizes joint contribution. This theory helps to explain how the Malay community creatively reconciled religious teachings with deeply rooted communal values. This phenomenon shows that the practice of law in the field is the result of a continuous dialogue between formal norms and social norms. The concept of marital property in the Malay tradition is a manifestation of customary law that recognizes the equal contribution between husband and wife in building the household economy. Property acquired during the marriage period is considered the result of joint venture, without rigidly distinguishing the formal sources of income. This traditional perspective emphasizes the value of togetherness, justice, and mutual cooperation as the foundation of the family. Therefore, the distribution of wealth is based on the principle of real contribution, both material and immaterial, in maintaining family harmony and welfare.

On the other hand, sharia principles fundamentally recognize the concept of *\*dhimmah maliyah\** or separate financial entities for husband and wife. In classical fiqh, each couple has full rights to the property he or she acquires individually, both before and during marriage. The husband's property is hers, and the wife's property is his. The concept of joint ownership can only arise through a specific contract or agreement such as *\*shirkah\** (partnership). This framework emphasizes the economic independence of the individual in the marriage bond, which is different from the communal view in customs. Using the lens of legal pluralism, the practice of common property ownership among the Malay community can be understood as a form of legal syncretism. This is not a pure application of customary law or sharia law, but rather a unique hybrid system. Customary norms regarding property have been Islamized by absorbing the values of sharia justice, while sharia principles have been localized to suit local social and cultural realities. This framework allows researchers to analyze similarities and differences not as contradictions, but rather as products of living legal realities.

## METHOD

### 1. Research Approach and Design

This research uses a qualitative approach with the type of research empirical or socio-legal law (Hakim, 2016). This approach was chosen because it is relevant to examine the phenomenon of legal pluralism, where law is understood not only as a set of normative rules in the text (law in the books), but also as a social practice that lives in society (law in action) (Afandi, 2022). Through this approach, researchers can delve deeply into how the Malay community interprets, negotiates, and applies sharia principles and customary traditions regarding common property in daily life. The focus is on the legal realities experienced directly by the research subjects (Muholdor, 2012).

The research design used is a case study. This design allows for an intensive and in-depth investigation of the practice of shared property ownership in the specific context of the Malay community that is the locus of the research. Case studies are considered most appropriate to explore the complexity of the interaction between the sharia legal system and customary law holistically. By focusing on a single case or a few selected cases, this study can reveal in detail the dynamics of norm negotiation, adaptation processes, and the formation of unique hybrid systems in the arrangement of marital property, which would not be captured by surveys or quantitative methods. Philosophically, this research is based on the constructivism paradigm. This paradigm views that social reality, including legal practice, is not objective and singular, but is socially constructed through the interaction and interpretation of the actors in it. In this context, the Malay people's understanding of the concept of sequestration property and sharia principles is not something static, but the result of continuous dialogue and negotiation. A constructivist perspective allows researchers to understand how the meaning of shared property ownership is formed, maintained, and changed over time, which is in line with the theoretical framework of legal pluralism.

### 2. Location and Research Subject

This research was carried out in a district/city in Riau Province which is known as one of the centers of Malay culture in Indonesia or an area known as the home of the Malay family. This location was chosen purposively (purposive sampling) because the community historically and culturally still holds fast to Malay traditional values, as well as being a devout Muslim community. These socio-cultural conditions create an ideal arena to observe the interaction, negotiation, and syncretism between customary law regarding property and sharia principles regarding property ownership. This location selection allows researchers to dig deep into living law practice in its authentic

context. The main subjects in this study were married couples of Malay ethnicity who lived in the research location. The selection of subjects was carried out using purposive sampling techniques based on the criteria that have been set. These criteria include: minimum age of ten years of marriage to ensure significant accumulation of joint property, coming from diverse socio-economic backgrounds, and having direct understanding or experience related to the management and distribution of joint property. The number of subjects targeted is five to seven pairs to ensure rich and comprehensive data depth, in accordance with the objectives of the case study in qualitative research. In addition to the main subject, the research will also involve several key informants selected based on their expertise and strategic position in society. These key informants consist of traditional leaders who understand the philosophy and practice of seinarian property, scholars or religious leaders who have authority in interpreting the fiqh of muamalah, as well as legal practitioners such as judges in the Religious Court or advocates who often handle cases of common property. Their involvement aims to triangulate data and gain normative and institutional perspectives that can complement and validate the empirical experiences of married couples.

### 3. Types and Data Sources

This research will use two types of data, namely primary data and secondary data, to achieve a comprehensive understanding. Primary data is the main data obtained directly from the first source in the field. This data is qualitative, including narratives of experiences, views, interpretations, and meanings provided by research subjects regarding the practice of joint property ownership. The extraction of this primary data is crucial to understand the reality of living law and the dynamics of norm negotiation. Meanwhile, secondary data is supporting data derived from literature studies and documents to provide a theoretical and juridical foundation. The primary data sources in this study consist of two main groups. First, Malay married couples who are the core subjects of the study. From them, in-depth information will be dug up about asset management practices, financial decision-making processes, and their views on justice in the distribution of wealth based on religious traditions and teachings. Second, the key informants consist of traditional leaders, scholars, and legal practitioners. Traditional leaders will provide a philosophical perspective on semenarian property, scholars will provide a sharia foundation, and legal practitioners will provide insight into dispute resolution in the formal realm, especially in the Religious Court. Secondary data sources include relevant legal materials and scientific literature. Primary legal materials include applicable laws and regulations such as the Compilation of Islamic Law (KHI) and Law No. 1 of 1974 concerning Marriage. Secondary legal materials consist of muamalah fiqh books, scientific papers, research journals, and dissertations that discuss Islamic family law, Malay customary law, and legal pluralism. In addition, the decisions of the Religious Courts related to common property disputes in the research area will be analyzed as important secondary data to see how the judicial institution interprets and applies the law.

### 4. Data Collection Techniques

The main techniques used to collect primary data are In-depth interview. This method is applied in a semi-structured manner to married couples and key informants. The use of flexible interview guidelines allows researchers to delve deeply into the subjects' narratives, experiences, and meanings related to the practice of common property, negotiations between tradition and sharia, and their perceptions of justice (Princeton, 2023). The entire interview session will be recorded using an audio recorder with the consent of the participant to ensure the accuracy of the data during the transcription process. This approach is crucial to capture the living legal reality according to the perspectives of social actors. To complete the interview data, the researcher will also apply a participatory observation method. This technique aims to directly observe the interaction and practice of wealth management in the daily lives of the research subjects. Researchers will engage in a limited number of community social activities to understand the cultural context and social dynamics that influence household economic decisions. This observation is very important to validate the information obtained from the interviews and to see the manifestations of the law in action, namely how customary and sharia norms are actually practiced, not just spoken, in an authentic and natural context.

### 5. Data Analysis Techniques

The data analysis in this study uses an interactive model consisting of three main components: data reduction, data presentation, and conclusion drawn. At the data reduction stage, all qualitative data collected from interview transcripts and field notes will be sorted, focused, and simplified to identify the most relevant information. Furthermore, the data that has been reduced will be presented systematically in the form of a descriptive narrative, matrix, or chart. This presentation aims to organize information comprehensively so that patterns related to

similarities and differences between tradition and sharia in the ownership of common property can be clearly seen. The analysis process is continued using a thematic analysis approach. The researcher will carefully code all the data to identify key concepts. Through the open coding process, the data will be broken down into units of meaning. Then, through axial coding, the codes will be grouped into interconnected categories. The final stage is selective coding, where the core themes that represent the phenomenon of legal syncretism between the concept of property and sharia principles will be formulated. This theme will be the basis for explaining the dynamics of practice in the field. To ensure the credibility and validity of the findings, this study applied a triangulation technique. Triangulation of sources is carried out by comparing data from married couples, traditional leaders, scholars, and legal practitioners to obtain a holistic perspective. In addition, the triangulation method is also applied by comparing findings from in-depth interviews, observations, and analysis of documents such as court rulings. All the findings that have been validated will then be interpreted within the framework of legal pluralism theory to build a strong scientific argument on how Malay society creatively harmonizes two different norm systems in the practice of common property ownership.

## RESULTS AND DISCUSSION

### Conception and Implementation of Tangible Property in the Traditional Practices of the Malay Community

The conception of marital property in the Riau Malay society is understood as all the wealth obtained through the joint efforts of husband and wife during the marriage bond (Aibak & Anusantari, 2022). Based on in-depth interviews with traditional leaders and couples, the concept of "joint venture" is not interpreted narrowly as a mere financial contribution. More than that, it includes all forms of hard work, both material and immaterial, that support the integrity and economic welfare of the household. This understanding is firmly rooted in communal values. The implementation of the joint venture concept has proven to be very broad and inclusive. Findings from interviews with married couples revealed that the wife's domestic role, such as taking care of the house and educating children, is recognized to have economic value equivalent to the husband's income in the public sector. This immaterial contribution is considered the foundation that allows the husband to work optimally. One informant stated: "Without a wife at home, I can't focus on making a living." This recognition confirms that the accumulated wealth is the fruit of the synergy of the roles of the two. In the practice of daily asset management, the principle of joint property is manifested in the collective decision-making process. For the purchase of significant assets such as land or houses, decisions are almost always made through deliberation between husband and wife, although legally these assets are often registered in the name of the husband. Observations show a strong sense of shared ownership, where the assets are considered "ours" rather than "husband's". This practice reflects the work of customary law as a living law that regulates family financial harmony (Rahmaniah, 2015).

The role of traditional leaders as key informants confirms that the treasure of the search is not just a tradition, but a customary law institution that has a philosophy of justice and balance. According to them, this concept serves to protect the rights of wives and ensure their survival in the event of divorce or death of their husbands (Husin, 2017). Indigenous leaders actively maintain this norm through marriage counseling and informal dispute mediation. Their existence ensures that the values of togetherness and mutual cooperation in marriage remain sustainable in the midst of modernization. Although deeply rooted, the practice of sequestration also shows adaptation to socio-economic changes. The findings show that in couples where the wife also works and has a formal income, the concept of joint venture is increasingly emphasized. The wife's financial contribution is not seen as personal property, but is directly integrated into the household treasury as part of the marital property. This phenomenon does not shift, but rather strengthens the validity of the customary concept in the contemporary context, showing its flexibility in responding to the dynamics of modern gender roles.

### The Principle of Individual Property Ownership (Dhimmah Maliyah) in the Understanding of Local Sharia

Interviews with scholars and religious leaders at the research site confirmed the normative understanding of the principle of \*dhimmah maliyah\*. Theoretically, they teach that sharia recognizes a separate financial entity between husband and wife. The property obtained by the wife through business, inheritance, or grants is her wholly property and cannot be challenged by the husband. This principle is seen as a form of Islamic protection of women's property rights. However, scholars also acknowledge that at the level of social practice, this textual understanding often negotiates with the realities of local customs (Limbong, 2025). Although the principle of individual financial independence is theoretically recognized, findings from married couples show limited implementation. The concept of individual property of the wife in daily practice more often refers to innate property (pre-marital assets) and inheritance. The income that the wife earns from her work during the marriage period tends not to be seen as

exclusively private. Instead, the income is automatically considered to be integrated into the household economy and becomes part of the capital to accumulate common property or *\*joint property\**. The most consistent application of the principle of *\*dhimmah maliyah\** is found in the management of inheritance and inherited property. All of the couple's informants emphasized that assets derived from each party's family inheritance are treated as private property that cannot be mixed. The husband does not feel entitled to his wife's inheritance, and vice versa. A strong recognition of individual ownership in this context suggests that sharia principles are not rejected entirely, but rather are applied selectively to specific asset categories that have historically been separate from joint ventures.

The perspective of legal practitioners in the Religious Courts reinforces these findings. In dispute resolution, judges juridically strictly separate between inherited property, their respective acquired property (including inheritance and grant), and common property. The Compilation of Islamic Law (KHI) is the main reference that accommodates these two concepts. However, they also note that the majority of disputes are centered on the division of common property, which shows the dominance of the communal concept of individual ownership in the reality of Malay domestic disputes (Shawn & Scott, 2021). Overall, the local sharia understanding of property ownership shows the subordination of the principle of individualism (*\*dhimmah maliyah\**) under customary communal values. The principle of separation of property is theoretically accepted, but in practice, it is softened by the spirit of togetherness (*\*gotong royong\**) which is the foundation of the concept of *\*shared property\**. The community creatively interprets the teachings of sharia to be in harmony with social values that prioritize the economic integrity of the family as a unit, not as a combination of two separate financial individuals.

### **Dynamics of Negotiation and Adaptation between Customary and Sharia Norms in Collective Property Management**

The practice of daily financial management, customary norms regarding joint property tend to be more dominant than sharia principles regarding the separation of assets. The income of a working wife, for example, is generally not treated as the exclusive property of the individual. Instead, the income is automatically merged into the household economy. This phenomenon indicates the existence of an implicit negotiation process in which customary communal values are prioritized to maintain the financial integrity of the family, adapting more individualistic sharia principles to suit local social realities. The crucial adaptation mechanism in harmonizing these two norms is through the internalization of religious concepts such as *\*sincerity\** and *\*ridha\**. Interviews with couples and scholars revealed that the wife's financial contribution to the family economy is not seen as an obligation, but as a voluntary act based on sincerity. By framing these customary practices in sharia terminology (such as *\*alms\** or *\*grants\** from wives to families), people have succeeded in maintaining the principle of *\*dhimmah maliyah\** theoretically while legitimizing the communal practice of livelihood in real life. Negotiations between customary and sharia are not totally subordinate, but selective. Sharia principles regarding individual ownership (*\*dhimmah maliyah\**) are applied strictly and consistently to certain asset categories, namely inherited property and inheritance. Society consciously distinguishes between property acquired from joint venture during marriage and property derived from an individual's external source. This demarcation shows that there is a smart adaptation where each legal system is given its own operational space, so that the potential for conflict between norms can be effectively minimized (Bari, 1999).

The role of state law, especially the Compilation of Islamic Law (KHI), serves as an important institutional mediator. KHI formally recognizes the existence of "common property" in addition to "inherited property" and acquired property. According to legal practitioners, this juridical framework gives legitimacy to hybrid practices that live in society. Thus, when a dispute is brought to the Religious Court, the judge's ruling referring to the KHI not only resolves the case, but also strengthens and reproduces the results of negotiations between customary and sharia at the formal level. The dynamics of negotiations are also evident in the decision-making process related to high-value assets. Although land or property certificates are often registered in the name of the husband in a legal-formal manner, the purchase decision almost always involves intensive deliberation between the two spouses. This practice shows that the substance of common ownership carried by the custom is valued more than the legal formalities of individual ownership. Society adapts by separating formal juridical ownership from perceived social ownership, where shared contribution is the real determinant of rights (Shafie et al., 2014).

### Legal Syncretism in Property Ownership: A Hybrid System in Malay Society

The practice of property ownership in Malay society is not a pure application of customary or sharia law, but a unique hybrid system. This phenomenon is a form of legal syncretism, where the communal value of the concept of property is combined with the principle of individual ownership from sharia. This system was not born from contradictions, but from a long process of socio-cultural negotiations. The result is a new normative order that creatively accommodates both legal systems, reflecting the living reality of law as analyzed through the framework of legal pluralism (Bari, 1999). This process of syncretism is realized through the "Islamization" of customary norms. The concept of shared property, which emphasizes joint effort, is legitimized by absorbing the values of justice (\*'adl\*) and help-help (\*ta'awun\*) in Islam (Wan et al., 2023). Interviews with traditional leaders and scholars show that the equal contribution of husband and wife is not seen as contrary to sharia, but rather as a manifestation of harmonious partnership (\*mu'asyarah bil ma'ruf\*). Thus, deep-rooted customary practices have obtained religious justification, strengthening their position as legitimate norms and obeyed by the community. On the other hand, there is also a process of "localization" of sharia principles. The concept of \*dhimmah maliyah\* or individual financial independence which is absolute in fiqh, has been softened in the local context. This principle is not rejected, but its application is limited selectively, especially to inherited property and inheritance. For the income obtained during marriage, local interpretation prioritizes the spirit of togetherness. This shows that sharia teachings are not rigidly accepted, but are interpreted dynamically to be in harmony with local social and cultural realities.

The most obvious manifestation of this hybrid system is the treatment of the wife's income. Theoretically, the income is recognized as his according to sharia principles. But in practice, that income is voluntarily merged into the family economy. This action is framed in sharia terminology as \*alms\* or \*grants\* based on sincerity (\*ridha\*). This mechanism intelligently maintains the principle of formal individual ownership, while at the same time accommodating the customary communal practices that are the foundation of the household economy. This hybrid system not only lives in the informal realm, but is also reinforced by state law. The Compilation of Islamic Law (KHI) explicitly acknowledges the existence of "common property" in addition to "innate property", reflecting the dualism of this norm. Religious Court rulings referring to KHI give formal legitimacy to syncretic practices in society. Thus, state legal institutions act as mediators who confirm the results of negotiations between customary and sharia, changing them from social norms to positive legal norms.

### Comparison and Similarity of the Concept of Joint Property Ownership According to Tradition and Sharia

The most fundamental difference lies in the basic principle of ownership (Zainul Abidin & Jahari, 2022). Malay customary traditions are inherently communal, placing the concept of marital property as the primary norm for all assets acquired during marriage. In contrast, sharia principles are normatively individualistic, with the concept of \*dhimmah maliyah\* affirming separate financial entities for husband and wife. This philosophical contrast becomes the main starting point, where custom emphasizes the economic unity of the household, while sharia underscores the financial independence of individuals in the same marriage bond. Although they differ philosophically, these two systems meet the same goal, which is to realize justice and protect the rights of spouses. The concept of property in the custom protects the wife by recognizing the economic value of her immaterial contribution. On the other hand, the principle of \*dhimmah maliyah\* in sharia protects the wife by giving her full ownership rights over her property, freeing her from the financial obligations of the family. This common goal shows that both customary and sharia, with different mechanisms, strive to achieve balance and benefits in the family.

Significant differences are also seen in the scope and origin of the common property. In the Malay tradition, a search property is a broad concept and becomes an innate status for assets acquired during marriage. It does not require a specific agreement. On the other hand, in sharia jurisprudence, joint ownership (\*shirkah\*) is not an automatic concept resulting from marriage. It can only arise through an explicit contract or agreement between husband and wife. Without this contract, juridically Islamic does not recognize the existence of common property that is formed automatically. However, at the implementation level, a strong common ground was found. Hybrid practices in Malay society show a shared recognition of different asset categories. Innate property and inheritance are consistently treated as the property of individuals, in line with sharia principles. Meanwhile, property obtained from joint venture during marriage is recognized as joint property, in accordance with the essence of the customary property of the couple. This practical demarcation is a bridge that unites the two norm systems in the management of daily family assets. In synthesis, the main difference lies in the philosophical starting point, where the custom departs from the collectivity while the sharia of individuality. The similarities are found in the noble goal of achieving justice as well as in syncretic practices in the field. The Malay community did not choose one, but created a functional

hybrid model. This model selectively applies sharia principles to personal property (inheritance) and customary principles to jointly acquired property, showing the product of a living and dynamic legal reality.



**Figure 1. Integration Between Sharia Principles, Malay Customs, and Indonesian Positive Law In the Arrangement of Joint Property Ownership of Spouses**

### The Meeting Point between Shariah Principles and Malay Culture

Both sharia and Malay customs have the same spirit, namely upholding justice (al-'adl) and deliberation (as-syūrā) in the household. Islamic principles that emphasize the balance of rights and obligations are in line with Malay customary values that prioritize harmony and shared responsibility. In this context, a prenuptial agreement can be seen as a legal instrument that:

1. Maintaining the principle of sharia justice (al-'adl) by clarifying the rights of each party.
2. Realizing the value of consensus in Malay customs, because it was made on the basis of voluntary agreement.
3. It is a form of sharia maqasid in protecting property (hifz al-māl) and maintaining household harmony.

Therefore, the integration between Islamic law and Malay customs in the practice of prenuptial agreements will strengthen the cultural values that are just and civilized. This realization also shows that customary law and Islamic law do not have to be contradicted, but can complement each other within the framework of local wisdom.

### Socio-Cultural Reflections and Modern Law

In the modern era, the Malay community in Riau, the Riau Islands, and East Sumatra began to show an increased understanding of the importance of marital property management. Religious and customary institutions also play a role in providing education that the prenuptial agreement is not a violation of custom, but a means of tāḥṣīn al-'aqd (the completion of the contract). In legal practice, religious courts in Malay areas have also handled many cases of division of joint property, especially when divorce occurs. This phenomenon shows the need to strengthen sharia-based regulations and Malay customs so that every pre-marriage agreement can be legally recognized and socially accepted. Thus, the establishment of Islamic family law in Malay districts should consider the balance between:

- Religious values (sharia),
- State law (positive),
- And local wisdom (Malay customs).

## CONCLUSION

This study concludes that the practice of common property ownership in the Malay community is not a pure application of customary or sharia law, but a unique hybrid system as a manifestation of legal syncretism. The communal concept of the property of the search from the custom is dynamically combined with the individual principle of \*dhimmah maliyah\* from the sharia. This interaction, as analyzed through the framework of legal pluralism, is not contentious but negotiable. The community creatively creates a new functional normative order, where the value of customary togetherness is the main foundation of marital asset management, while sharia principles are applied selectively to accommodate social realities.

This syncretism mechanism is manifested through a double process: the Islamization of customs and the localization of sharia. The norm of property is Islamized by absorbing the values of justice and partnership in Islam,

thus gaining religious legitimacy. On the contrary, the principle of \*dhimmah maliyah\* is localized by limiting its application only to inherited property and inheritance. The practice of merging the wife's income into the family economy, framed as a voluntary act based on \*sincerity\* and \*ridha\*, is a prime example of how sharia principles are theoretically maintained while accommodating the dominant customary communal practices in daily life. The fundamental difference between the two systems lies in their basic philosophy: customs are communal while sharia is individualistic. However, both have the same goal of realizing justice and protecting the rights of their spouses. In practice, the Malay community does not choose one, but rather creates a functional hybrid model. This model selectively applies sharia principles to personal assets such as inheritance, and customary principles to jointly acquired property. This synthesis shows that similarities and differences are not static contradictions, but rather elements that make up a living and dynamic legal reality.

## REFERENCES

Afandi, F. (2022). Reza Banakar's Interdisciplinary Legal Research: The Urgency and Design of Socio-Legal Research. *Invite: Legal Journal*, 5(1), 231–255.

Aibak, K., & Anusantari, I. (2022). Joint Property Arrangement After Divorce: A Comparative Study of Islamic Family Law in Indonesia and Malaysia. *Islamic Law*, 22(2), 73–96.

Asnawi, M. N., & Shi, M. H. (2022). Joint property law: Comparative legal review, norm review, jurisprudence, and legal reform. *Medium Pregnancy*.

Bari, A. A. (1999). Some Thoughts on the Incorporation of Islamic and Traditional Values into the Malaysian Land Law. *IIUMLJ*, 7, 217.

Cammack, M. E., & Feener, R. M. (2008). Joint Marital Property in Indonesian Customary, Islamic, and National Law. *The Law Applied: Contextualizing the Islamic Shari'a*, 92–115.

Griffiths, J. (1986). What is legal pluralism? *The Journal of Legal Pluralism and Unofficial Law*, 18(24), 1–55.

Hakim, M. H. (2016). Shifting the orientation of legal research: from doctrinal to socio-legal. *Sharia: Journal of Law and Thought*, 16(2), 105–114.

Husin, S. N. M. S. (2017). The behaviour of the Malay Muslim community in marriage expenditure according to the Shariah perspective. *University of Malaya (Malaysia)*.

Levni, V., & Çelik, S. (2023). Legal Pluralism Theories and Their Position in Islamic Law. *Süleyman Demirel Üniversitesi Hukuk Fakültesi Dergisi*, 13(2), 1315–1352.

Limbong, R. (2025). A Legal Perspective on Inheritance of Joint Property: A Comparative Analysis of Various Legal Systems. *Legal Frontier*, 1(1), 11–18.

Muhdlor, A. Z. (2012). Development of legal research methodology. *Journal of Law and Justice*, 1(2), 189–206.

Pangaribuan, A. M. A. (2023). Interview Methods in Doctrinal and Socio-Legal Legal Research. *Law: Journal of Law*, 6(2), 351–383.

Rahmaniah, A. (2015). Joint Property in Marriage in Indonesia (According to the Perspective of Islamic Law). *Shariah: Journal of Law and Thought*, 15(1).

Shafie, F., Yusoff, W. Z. W., Zahari, W., Abdullah, S., & al-Edrus, S. M. D. (2014). Islamic real estate management: review on issues and challenges in managing inheritance property in Malaysia. *7th International Real Estate Research Symposium*, 2014.

Shahar, I. (2008). Legal pluralism and the study of shari'a courts. *Islamic Law and Society*, 15(1), 112–141.

Sulong, J., & Taha, M. M. (2021). Joint-Ownership on Agricultural Land: A Case Study on Muamalah Contracts and The Shariah Model. *Social Sciences*, 11(11), 1293–1306.

Wan, W. N. A. M., Rushdan, M. Z. M., & Mohd, Z. (2023). The Difference between The Inheritance of Common Heritage and Customary Heritage in The Practice of Adat Perpatih. *Journal of Academic Research in Business and Social Sciences*, 13(3), 24–37.

Zainul Abidin, N., & Jahari, N. A. (2022). Management of inheritance property in Selangor. *Journal of Islamic Philanthropy & Social Finance (JIPSF)*, 4(2), 29–36.