

Ambivalent Women's Agency in Islamic Marriage Law: A Socio-Legal Analysis of *Kitab al-Nikah* by Sheikh Muhammad Arsyad Al-Banjari

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A B S T R A C T

This article examines the construction of women's agency in Islamic marriage law through a socio-legal analysis of *Kitab al-Nikah* by Sheikh Muhammad Arsyad Al-Banjari, a prominent eighteenth-century Banjar scholar. Rather than approaching the text as a purely doctrinal exposition of Shafi'i jurisprudence, the study situates *Kitab al-Nikah* within the socio-cultural context of Banjar society, where women actively participated in economic and social life. Employing a qualitative interpretive method and drawing on Pierre Bourdieu's concepts of habitus and field, this research analyzes how local practices, classical fiqh, and religious authority intersect in the production of marriage norms. The findings demonstrate that *Kitab al-Nikah* explicitly recognizes women's agency through legal provisions on joint marital property, consent in marriage and polygamy, and procedural protections in divorce and reconciliation. These provisions reflect women's lived experiences and position them as legal subjects within Islamic marriage law. At the same time, the study reveals that this recognition is constrained by patriarchal legal structures that prioritize male leadership and reproduce gender hierarchy within the family. This ambivalent gender logic is not an anomaly but a structural outcome of negotiating cultural accommodation and jurisprudential continuity. By engaging global scholarship on Islamic law and gender, this article contributes to comparative studies of Islamic legal traditions and demonstrates that gender negotiation within Islamic jurisprudence has deep historical roots beyond the Middle Eastern context. The study further highlights the relevance of Banjar Islamic legal thought for understanding the genealogy of contemporary Islamic family law in Indonesia and ongoing debates on gender justice in Muslim societies.

1. Introduction

Islamic marriage law has long functioned as a crucial site where religious doctrine, social norms, and gender relations intersect. Within Islamic legal tradition, marriage is not merely a private contract but a normative institution that regulates authority, responsibility, and moral order within Muslim societies (Al-Sharmani, 2018). Classical fiqh, largely formulated in Middle Eastern patriarchal contexts, has historically positioned men as primary legal subjects, while women's roles have often been framed in terms of domestic responsibility and legal dependency. As a result, debates on gender justice and women's agency in Islamic marriage law have become central concerns in contemporary Islamic legal studies (Ayubi, 2021).

However, Islamic law has never operated in a social vacuum. Across Muslim societies, particularly outside the Arab world, Islamic legal norms have continuously interacted with local cultures, customs, and lived experiences (Brown, 2017). In Southeast Asia, Islamic jurisprudence developed through complex processes of acculturation and adaptation, producing legal interpretations that often diverged from their Middle Eastern counterparts. These processes shaped distinctive forms of Islamic legal reasoning, especially in matters of family and marriage law, where local social realities – such as women's economic participation and communal notions of fairness – played a significant role (Arfiansyah et al., 2023).

Indonesia provides a particularly rich context for examining these dynamics. As the world's largest Muslim-majority country, Indonesia has a long tradition of locally grounded Islamic scholarship that predates modern state-based legal reforms (Kusmayanti et al., 2025). Long before the emergence of national marriage law or the Compilation of Islamic Law (*Kompilasi Hukum Islam*, KHI), Indonesian ulama had already engaged in the formulation of Islamic legal norms that negotiated between classical fiqh and local practices. Yet, despite their historical importance, many of these local legal texts remain underexplored in contemporary discussions on gender and Islamic law. This article seeks to address this gap by examining *Kitab al-Nikah*, a work by Sheikh Muhammad Arsyad Al-Banjari, and analyzing how women's agency was constructed within its legal reasoning.

Scholarly studies on Sheikh Muhammad Arsyad Al-Banjari have generally focused on three main areas. First, historical and biographical studies examine his role in the Islamization of South Kalimantan and his position within the broader network of Southeast Asian ulama educated in the Middle East (Arfiansyah et al., 2023; Ridwan et al., 2025; Ruslan et al., 2023; Sabirin & Zuhri, 2025; Syarifuddin, 2013). These works highlight his intellectual authority and his contribution to the dissemination of Shafi'i jurisprudence in the Banjar region. While valuable, such studies tend to emphasize intellectual genealogy rather than socio-legal analysis.

Second, a number of legal studies analyze Sheikh Arsyad's works – particularly *Sabil al-Muhtadin* and *Kitab al-Nikah* – from a normative or comparative perspective. These studies often compare *Kitab al-Nikah* with Indonesia's Marriage Law or the Compilation of Islamic Law, concluding that Sheikh Arsyad's legal formulations were comprehensive and, in some respects, progressive for their time (Hafidzi & Amalia, 2018; Ipansyah et al., 2021; Muzainah et al., 2025; Norcahyono, 2021; Pambudi et al., 2024). Other works focus on specific legal

concepts, such as *'iddah*, inheritance, or joint property, but treat them primarily as doctrinal rules rather than socially embedded practices.

Third, studies on gender and Islamic law in Indonesia have largely concentrated on modern legal reforms and contemporary feminist interpretations. Scholars such as A. Hidayah (2025), N. Hidayah (2019), Isla et al. (2023), Karimullah et al. (2024) and Mun'im et al. (2024) examine gender bias within the Compilation of Islamic Law and propose reformist or counter-legal drafts to address inequalities. Similarly, feminist scholarship explores women's experiences and activism in negotiating marriage law, polygamy, and divorce in postcolonial Indonesia. While these studies are crucial for understanding contemporary debates, they rarely trace the historical and intellectual roots of gendered legal reasoning to pre-modern local scholars.

Notably absent from this body of literature is an analysis that treats *Kitab al-Nikah* as a socio-legal text that both reflects and shapes women's agency within its cultural context. Existing studies acknowledge Sheikh Arsyad's sensitivity to local customs but do not systematically analyze how women's lived experiences informed his legal reasoning, nor how his work simultaneously enabled and constrained women's roles as legal subjects in marriage.

Based on the state of the art, this article identifies a clear scholarly gap. While Sheikh Muhammad Arsyad Al-Banjari has been widely studied as a historical figure and legal authority, his work has not been sufficiently examined through the lens of gender and women's agency. Most previous studies either celebrate his contributions to Indonesian fiqh or critique specific legal provisions without situating them within a broader socio-cultural and theoretical framework.

The novelty of this study lies in its analytical approach. Rather than treating *Kitab al-Nikah* as a static legal text, this article conceptualizes it as an arena of negotiation between classical Islamic jurisprudence, local Banjar culture, and women's lived experiences. By employing Pierre Bourdieu's concepts of habitus, field, and cultural capital, the study moves beyond normative comparison and offers a socio-legal analysis of how women's agency was constructed within Islamic marriage law in a non-Arab Muslim society.

This research is important for two reasons. First, it contributes to the growing scholarship on Indonesian fiqh by highlighting the role of pre-modern local scholars in shaping gendered legal norms. Second, it challenges the dominant narrative that gender-sensitive interpretations of Islamic law in Indonesia emerged only in the modern reformist period. Instead, it demonstrates that ambivalent forms of women's agency – both protective and restrictive – were already present in earlier local legal traditions.

Based on the gaps identified above, this article addresses the following research problems. How did Sheikh Muhammad Arsyad Al-Banjari conceptualize women's roles and agency within Islamic marriage law as articulated in *Kitab al-Nikah*? To what extent did local Banjar social practices and women's economic participation influence his legal reasoning? Why does *Kitab al-Nikah* simultaneously exhibit gender-just elements – such as recognition of women's consent and joint property – while maintaining patriarchal hierarchies that subordinate women within the marital structure?

These questions are crucial for understanding not only Sheikh Arsyad's legal thought but also the broader dynamics of gender, authority, and culture in Islamic law. Addressing

them allows for a more nuanced understanding of how Islamic legal norms are produced, negotiated, and legitimized within specific social contexts.

This article aims to analyze *Kitab al-Nikah* as a culturally embedded Islamic legal text that reflects the ambivalent construction of women's agency in Banjar society. Specifically, it seeks to (1) examine how women's lived experiences influenced the formulation of marriage law by Sheikh Muhammad Arsyad Al-Banjari, (2) identify gender-just and gender-biased elements within *Kitab al-Nikah*, and (3) explain these dynamics through a socio-cultural theoretical framework.

By achieving these objectives, the study contributes to broader debates on gender and Islamic law by offering a historical and locally grounded perspective from Southeast Asia. It also provides a theoretical contribution by demonstrating how women's agency in Islamic legal texts can be understood as relational and context-dependent, rather than as a simple dichotomy between oppression and emancipation. Ultimately, this article positions Indonesian Islamic legal heritage as an important source for global discussions on Islamic jurisprudence, gender, and legal pluralism.

2. Method

This study employs a qualitative socio-legal approach (Blandy, 2014) to examine the construction of women's agency in Islamic marriage law as articulated in *Kitab al-Nikah* by Sheikh Muhammad Arsyad Al-Banjari. Rather than treating the text as a purely doctrinal legal source, this research situates it within its socio-cultural and historical context, emphasizing the interaction between legal reasoning, local practices, and gender relations in Banjar society.

The primary data source of this study is *Kitab al-Nikah*, a Malay-language treatise on Islamic marriage law attributed to Sheikh Muhammad Arsyad Al-Banjari (2005). This text is analyzed as a cultural-legal artifact that reflects both classical Shafi'i jurisprudence and local social realities. Secondary data consist of scholarly works on Indonesian fiqh, Banjar history, Islamic legal epistemology, and gender studies, which provide contextual and theoretical support for the analysis.

To guide the analytical process, this study draws on Pierre Bourdieu's sociological concepts of habitus, field, and cultural capital. These concepts are used to explain how women's lived experiences in Banjar society constituted a legal habitus that influenced Sheikh Arsyad's legal reasoning, while simultaneously being shaped by the symbolic authority of classical Islamic jurisprudence. The field of Islamic legal authority is understood as a space in which different forms of capital—religious knowledge, cultural legitimacy, and social recognition—interact to produce normative legal outcomes.

Data collection is conducted through systematic textual analysis and critical reading of *Kitab al-Nikah*. Relevant legal provisions related to marriage, polygamy, joint property, and women's consent are identified and categorized. These textual findings are then interpreted in relation to socio-cultural practices documented in historical and ethnographic literature on Banjar society.

Data analysis follows an interpretive and iterative process, moving between text, context, and theory. By comparing legal norms articulated in *Kitab al-Nikah* with social

practices and gender relations in Banjar society, the study reveals the ambivalent nature of women's agency embedded in the text. This methodological strategy enables a nuanced understanding of Islamic marriage law as a product of negotiation between normative doctrine and lived social experience.

3. Results and Discussion

3.1. Analytical Framework: Habitus, Field, and Legal Authority

This section employs Pierre Bourdieu's sociological concepts of *habitus*, *field*, and *cultural capital* as an analytical lens to interpret the findings of this study. These concepts are not treated as abstract theoretical tools, but as interpretive instruments for understanding how Islamic marriage law in *Kitab al-Nikah* was shaped through the interaction between social practice, jurisprudential tradition, and religious authority.

The concept of *habitus* refers to a system of durable and embodied dispositions that guide perception, judgment, and action within specific social contexts (Bourdieu, 1977, 1990). In Banjar society, women's routine participation in economic activities, household management, and communal networks constituted a shared social habitus that normalized mutual responsibility within marriage. These embodied practices generated moral expectations regarding fairness, contribution, and entitlement, which in turn influenced how marriage was understood and regulated. From this perspective, women's agency in *Kitab al-Nikah* can be read as a legal articulation of socially internalized dispositions rather than as a purely doctrinal innovation.

At the same time, the production of Islamic legal norms took place within a specific *field* of religious authority. Bourdieu conceptualizes a field as a structured social space in which actors compete over legitimacy, authority, and symbolic power according to historically established rules (Bourdieu & Wacquant, 1992). In the Banjar context, the field of Islamic law was dominated by male scholars trained in classical Shafi'i jurisprudence. Sheikh Muhammad Arsyad Al-Banjari occupied a privileged position within this field due to his scholarly training and social recognition. His interpretations of marriage law were therefore shaped by the dual imperative of responding to local social realities while maintaining conformity with authoritative fiqh traditions.

The concept of *cultural capital* further explains how this negotiation became possible. Cultural capital, understood as mastery of recognized forms of knowledge and interpretive competence, enabled Sheikh Arsyad to translate local practices into legally legitimate norms (Bourdieu, 1986). His command of classical jurisprudence functioned as symbolic capital, allowing him to incorporate context-sensitive provisions – such as joint marital property and procedural safeguards for women – without openly challenging the epistemological foundations of Shafi'i law. Legal recognition of women's agency thus emerged through mediation by scholarly authority rather than through a direct reconfiguration of gender hierarchy.

By integrating habitus, field, and cultural capital, this study conceptualizes women's agency in *Kitab al-Nikah* as relational and context-dependent. Agency appears neither as absolute autonomy nor as mere subordination, but as a negotiated capacity shaped by social

practice and institutional constraint. This Bourdieusian framework provides a coherent lens for interpreting the findings presented in the following sections, particularly the simultaneous recognition and limitation of women's agency in Islamic marriage law.

3.2 *Kitab al-Nikah* as a Socio-Legal Text: Constructing Marriage Norms in Banjar Society

Kitab al-Nikah should be understood not merely as a doctrinal compilation of Islamic marriage law, but as a socio-legal text produced within a specific cultural and historical setting. Written in Malay rather than Arabic, the text reflects Sheikh Muhammad Arsyad Al-Banjari's conscious effort to make Islamic legal knowledge accessible to the Banjar Muslim community. This intention is explicitly visible in the practical tone of the text, which prioritizes clarity and applicability over theoretical abstraction. For instance, Sheikh Arsyad states that marriage regulations are explained "*supaya diketahui oleh orang awam akan hukum nikah dan segala yang bersangkutan dengannya*" (so that ordinary people may understand the law of marriage and all matters related to it). This formulation indicates that *Kitab al-Nikah* was designed as a guide for lived legal practice rather than a purely scholarly treatise.

Within the field of Islamic legal authority in Banjar society, Sheikh Arsyad occupied a dominant position as an ulama with strong symbolic capital derived from his Middle Eastern education and local recognition. This authority enabled him to translate classical Shafi'i jurisprudence into locally intelligible norms. At the same time, his legal reasoning was shaped by the social realities he encountered. This is evident in his discussion of marital responsibilities, where he emphasizes mutual obligations within marriage. While affirming the husband's duty to provide (*nafkah*), he also acknowledges the practical contributions of wives in sustaining household life, implicitly recognizing women's active roles within the family economy.

The socio-legal character of *Kitab al-Nikah* becomes particularly apparent in its treatment of marital property. Sheikh Arsyad introduces the concept of joint property acquired during marriage through mutual effort, stating that assets obtained "*dengan usaha keduanya, suami dan isteri, selama di dalam pernikahan*" (through the efforts of both husband and wife during the marriage) should be considered shared. This provision reflects the lived experience of Banjar society, where women commonly participated in economic activities alongside men. By incorporating this social reality into legal doctrine, Sheikh Arsyad moved beyond a rigid application of classical fiqh and acknowledged women as contributors to marital wealth, thereby positioning them as legal subjects rather than passive dependents.

Similarly, *Kitab al-Nikah* regulates concrete marital practices such as consent, guardianship, divorce, and reconciliation with a strong emphasis on procedural clarity. In discussing divorce and *ruju'*, Sheikh Arsyad insists that reconciliation must be expressed clearly and intentionally, not merely implied or spoken in jest. This concern for procedural seriousness suggests an awareness of the social vulnerability of women in marital disputes and the need for legal mechanisms to prevent arbitrary male authority. Such passages demonstrate how the text responds directly to social conditions in which women's security depended on clear legal recognition.

From a theoretical perspective, these legal formulations can be understood through Bourdieu's concept of habitus. Sheikh Arsyad's legal reasoning reflects dispositions shaped by

repeated social practices in Banjar society, particularly those related to shared economic responsibility and communal expectations of fairness. The recognition of joint property and the regulation of marital procedures indicate a legal habitus oriented toward maintaining social balance within the family. At the same time, this habitus operates within the broader field of Islamic legal authority, which remains structured by Shafi'i norms that privilege male leadership.

This tension is evident in passages where Sheikh Arsyad reiterates that the husband is the head of the household and the primary decision-maker, while the wife is obligated to manage domestic affairs "*dengan sebaik-baiknya*" (as well as possible). Such statements reaffirm patriarchal hierarchy even as other provisions recognize women's agency. The coexistence of these positions illustrates that *Kitab al-Nikah* does not represent a linear move toward gender equality, but rather an ambivalent negotiation between cultural accommodation and normative constraint.

In sum, *Kitab al-Nikah* should be read as a socio-legal artifact that constructs marriage norms through the interaction of religious authority, cultural habitus, and lived social practice. By articulating legal rules in a language accessible to the community and addressing concrete marital realities—particularly those involving women's economic and legal roles—Sheikh Muhammad Arsyad Al-Banjari produced a form of Islamic marriage law that was locally grounded and socially responsive. At the same time, the text preserves key elements of patriarchal legal structure, setting the stage for the ambivalent construction of women's agency that will be examined in the following sections.

3.3 Women's Lived Experiences and Legal Habitus in Banjar Society

Understanding women's agency in *Kitab al-Nikah* requires close attention to the lived experiences of women in Banjar society. Long before the codification of modern Islamic family law in Indonesia, Banjar women occupied an active and visible role in both domestic and public spheres. Historical and ethnographic accounts consistently show that women in Banjar communities were not confined solely to household duties but were also deeply involved in economic activities, particularly trade, small-scale commerce, and the management of family assets. This social reality formed an important backdrop against which Islamic marriage law was interpreted and practiced.

In everyday Banjar life, marriage functioned as a partnership in which economic survival depended on the contributions of both spouses. While men commonly worked in agriculture, fishing, or craftsmanship, women frequently engaged in market trading, river-based commerce, and home-based production. These practices were not exceptional but constituted a normalized pattern of social behavior. As a result, women's economic participation was widely recognized and socially legitimized, shaping communal expectations about fairness, responsibility, and entitlement within marriage. This normalization of women's productive labor complicates any simplistic assumption that pre-modern Banjar society was uniformly patriarchal.

From a Bourdieusian perspective, these patterns of social practice produced a distinct legal habitus—a system of dispositions through which individuals perceived and enacted marital norms. Women's routine involvement in economic life cultivated expectations that

marriage should recognize shared effort and mutual contribution. These expectations were internalized not only by women themselves but also by religious authorities and community leaders who observed and participated in the same social environment. Consequently, legal reasoning about marriage in Banjar society was shaped by an embodied understanding of gender relations grounded in everyday practice.

This legal habitus becomes particularly visible in disputes over marital property and post-divorce entitlements. When both husband and wife contributed to the accumulation of wealth, it was socially intuitive that both should have claims to that property. The prevalence of such disputes in Banjar society created pressure for legal clarification and normative regulation. Women's lived experiences thus functioned as an implicit source of legal knowledge, informing how justice was imagined and articulated in marital relations. Rather than being passive recipients of legal norms, women actively shaped the moral economy within which those norms operated.

At the same time, women's agency in Banjar society was not unlimited. Social recognition of women's economic roles coexisted with deeply embedded patriarchal structures that privileged male authority in formal decision-making. Men were widely regarded as heads of households and primary religious representatives of the family, even when women's economic contributions were substantial or even dominant. This structural asymmetry meant that women's agency was often exercised within, rather than against, established gender hierarchies. Such constraints illustrate how habitus operates not as a site of absolute freedom but as a space of regulated possibility.

The tension between women's active social roles and patriarchal norms created a dynamic field in which Islamic legal authority operated. Religious scholars like Sheikh Muhammad Arsyad Al-Banjari were embedded within this field and could not ignore the practical realities of women's lives. However, their interpretations remained shaped by classical fiqh traditions that prioritized male leadership. The result was a form of legal reasoning that selectively incorporated women's lived experiences while maintaining normative gender boundaries.

In sum, women's lived experiences in Banjar society constituted a crucial foundation for the legal habitus underlying Islamic marriage law. These experiences generated expectations of mutual responsibility and fairness that influenced legal formulations, including those found in *Kitab al-Nikah*. Yet, because this habitus operated within a patriarchal field of religious authority, women's agency was recognized in partial and conditional ways. This contextual understanding is essential for analyzing how women's agency is explicitly acknowledged—and simultaneously constrained—within the legal provisions of *Kitab al-Nikah*, which will be examined in the following section.

3.4 Recognition of Women's Agency in *Kitab al-Nikah*

One of the most significant ways in which *Kitab al-Nikah* recognizes women's agency is through its treatment of marital property. Unlike classical fiqh formulations that tend to individualize property ownership according to gendered roles, Sheikh Muhammad Arsyad Al-Banjari acknowledges the existence of joint property acquired through the mutual efforts of husband and wife during marriage. He explicitly states that wealth obtained "*dengan usaha*

keduanya, suami dan isteri, selama di dalam pernikahan” should be regarded as shared and subject to equitable division in the event of divorce. This legal recognition reflects the lived reality of Banjar society, where women’s economic contributions were integral to household survival. By affirming women’s entitlement to jointly acquired assets, *Kitab al-Nikah* positions women as legal subjects with material claims, rather than as dependents whose rights derive solely from male provision.

This recognition of joint property constitutes a concrete expression of women’s agency within Islamic marriage law. It acknowledges women’s productive labor as legally meaningful and deserving of protection. In doing so, Sheikh Arsyad departs from a rigid application of classical fiqh and incorporates local practices into legal reasoning. From a socio-legal perspective, this provision demonstrates how women’s everyday economic activities were translated into normative legal rights. The law thus functions not only as a regulator of marital relations but also as a mechanism for validating women’s social contributions within the legal order.

Women’s agency is also evident in *Kitab al-Nikah* through the emphasis on consent and procedural clarity in marriage and polygamy. Sheikh Arsyad underscores the necessity of clear consent (*ijab* and *qabul*) as a foundational requirement of a valid marriage. More significantly, in cases of polygamy, he stipulates that the wife’s permission must be obtained and legally recognized. This requirement is notable in a context where polygamy was culturally and religiously permissible but socially contentious. By mandating women’s consent, *Kitab al-Nikah* grants wives a degree of authority over marital arrangements that directly affect their lives, thereby recognizing their capacity to make legally consequential decisions.

Such provisions indicate that women in Banjar society were not imagined as silent or passive participants in marriage. Rather, their voices and approval were considered legally relevant, particularly in situations that posed risks to their welfare. The insistence on consent also functions as a protective mechanism, limiting arbitrary male authority and reinforcing the seriousness of marital commitments. In this sense, women’s agency in *Kitab al-Nikah* is expressed not only through material rights but also through procedural safeguards that affirm their moral and legal personhood.

Legal protection for women is further reinforced in Sheikh Arsyad’s regulation of divorce, *‘iddah*, and reconciliation (*ruju’*). *Kitab al-Nikah* requires that acts of divorce and reconciliation be articulated clearly and intentionally, rather than performed casually or ambiguously. Sheikh Arsyad emphasizes that *ruju’* must be expressed in explicit and earnest terms, not in jest. This insistence on clarity serves to protect women from uncertainty and exploitation, particularly in contexts where men could otherwise manipulate marital status to their advantage. By regulating these procedures, *Kitab al-Nikah* acknowledges women’s vulnerability within marital dissolution and seeks to mitigate it through legal formality.

Taken together, these provisions demonstrate that *Kitab al-Nikah* incorporates multiple mechanisms through which women’s agency is recognized and protected. Women are acknowledged as economic contributors entitled to shared property, as moral agents whose consent is necessary in key marital decisions, and as legal subjects deserving of procedural

protection in cases of divorce and reconciliation. These recognitions do not represent a radical reconfiguration of gender relations, but they do indicate a meaningful departure from purely patriarchal legal formulations.

However, it is important to note that this recognition of women's agency remains situational and conditional. The rights afforded to women in *Kitab al-Nikah* operate within a broader legal framework that continues to prioritize male authority. Nevertheless, these gender-just elements reveal how local social realities—particularly women's lived experiences—were translated into legal norms. They provide a critical foundation for understanding the ambivalent gender logic of *Kitab al-Nikah*, which will be further examined in the following section through an analysis of the limits and constraints imposed on women's agency.

3.5 Patriarchal Constraints and the Limits of Women's Agency

Despite the recognition of women's agency in certain legal provisions, *Kitab al-Nikah* simultaneously reinforces patriarchal structures that limit the scope of women's legal and social autonomy. These constraints are rooted in Sheikh Muhammad Arsyad Al-Banjari's adherence to classical Shafi'i jurisprudence, which places men in a position of normative authority within the family. As a result, women's agency in *Kitab al-Nikah* operates within clearly defined boundaries that ultimately prioritize male leadership and control over marital relations.

One of the most explicit expressions of patriarchal hierarchy in *Kitab al-Nikah* is the positioning of the husband as the head of the household (*qawwam*). Sheikh Arsyad reiterates that the husband bears responsibility for leadership, protection, and provision, while the wife is obligated to manage domestic affairs "*dengan sebaik-baiknya*." Although this division of roles is framed as complementary rather than hierarchical, it nonetheless establishes an asymmetrical power structure in which decision-making authority rests primarily with men. Women's contributions, particularly in the economic sphere, are acknowledged but not translated into equivalent authority within the marital hierarchy.

The limits of women's agency are further evident in Sheikh Arsyad's epistemological assumptions regarding gender and moral capacity. In a passage that equates pious women with foolish men, Sheikh Arsyad reproduces a gendered valuation of intellectual and moral authority that reflects classical fiqh assumptions. This analogy implicitly situates women as exceptions within a male-centered norm, reinforcing the idea that religious and legal authority is inherently masculine. Such reasoning constrains women's agency by framing their moral worth as derivative and conditional, rather than autonomous.

Moreover, while *Kitab al-Nikah* requires women's consent in certain marital decisions, such as polygamy, this consent does not fundamentally challenge the permissibility of polygamy itself. Instead, women's approval functions as a procedural requirement within an institution that remains structurally biased in favor of men. Consent, in this context, serves to regulate male behavior rather than to empower women to redefine marital norms. This illustrates how women's agency is acknowledged without disrupting the underlying patriarchal logic of marriage law.

From a Bourdieusian perspective, these constraints reflect the operation of the field of Islamic legal authority, in which symbolic capital is overwhelmingly concentrated in male religious scholars. Sheikh Arsyad's position within this field required him to maintain continuity with established jurisprudential traditions in order to preserve his legitimacy. Consequently, even when local practices encouraged more egalitarian arrangements, legal reform remained bounded by the need to align with authoritative fiqh doctrines. Women's agency, therefore, emerges as a negotiated outcome shaped by both cultural accommodation and institutional constraint.

The coexistence of gender-just provisions and patriarchal limitations in *Kitab al-Nikah* should not be understood as inconsistency or theoretical confusion. Rather, it reflects the structural conditions under which Islamic legal reasoning was produced in Banjar society. Women's lived experiences generated pressures for legal recognition, but these pressures were filtered through a normative framework that privileged male authority. The resulting legal text embodies an ambivalent gender logic that simultaneously acknowledges women as legal subjects and restricts the extent of their autonomy.

This ambivalence is crucial for understanding the broader significance of *Kitab al-Nikah* within the history of Indonesian Islamic law. It demonstrates that gender negotiation within Islamic jurisprudence is neither a purely modern phenomenon nor a linear process of progressive reform. Instead, it is characterized by ongoing tensions between social reality and normative tradition. These tensions will be further explored in the following section, which examines how culture, fiqh, and religious authority intersect to produce an ambivalent construction of women's agency in Islamic marriage law.

3.6 Ambivalent Gender Logic: Negotiating Culture, Fiqh, and Authority

The ambivalent gender logic identified in *Kitab al-Nikah* resonates with broader debates in the global study of Islamic law and gender. Rather than interpreting women's agency solely in terms of resistance to patriarchal norms, this study aligns with Saba Mahmood's critique of liberal feminist assumptions that equate agency with autonomy and opposition (Mahmood, 2011). Mahmood's concept of agency as a capacity cultivated within normative traditions provides a useful lens for understanding how Banjar women exercised agency through socially recognized economic roles and procedural participation in marriage, even while operating within patriarchal structures (Mahmood, 2001). *Kitab al-Nikah* reflects this form of embedded agency by recognizing women's consent and material rights without dismantling male authority.

At the same time, the text illustrates the structural constraints emphasized by Abdullahi An-Na'im in his analysis of Islamic law and reform (Na'im, 1996). An-Na'im argues that meaningful legal transformation requires rethinking the epistemological foundations of fiqh, rather than merely adjusting its applications. In *Kitab al-Nikah*, Sheikh Muhammad Arsyad Al-Banjari did not challenge the foundational assumptions of Shafi'i jurisprudence regarding male leadership. Instead, he introduced context-sensitive accommodations that remained epistemologically dependent on classical authority. This explains why women's agency in the text appears partial and conditional: it is recognized at the level of practice but not fully affirmed at the level of legal theory.

Brinkley Messick's concept of Islamic law as a discursive and textual practice further illuminates this dynamic (Messick, 1993). Messick emphasizes that legal texts are not static repositories of rules but sites where authority, interpretation, and social practice intersect. Viewed through this lens, *Kitab al-Nikah* emerges as a localized legal discourse that translates classical fiqh into the moral and social language of Banjar society. The use of Malay, the focus on concrete marital disputes, and the incorporation of joint property norms demonstrate how legal authority is negotiated through textual strategies that respond to lived realities. Women's agency thus becomes legible within the text not as an abstract principle but as a socially grounded concern.

These theoretical perspectives collectively highlight that the ambivalence in *Kitab al-Nikah* is not an anomaly but a characteristic feature of Islamic legal reasoning in practice. As Mahmood suggests, agency can coexist with subordination; as An-Na'im notes, reform is constrained by jurisprudential foundations; and as Messick demonstrates, legal meaning is produced through textual engagement with social life. *Kitab al-Nikah* embodies all three dynamics, offering a concrete historical example of how Islamic marriage law navigates competing demands of cultural legitimacy, doctrinal authority, and social justice.

By situating *Kitab al-Nikah* within these global conversations, this study contributes to the comparative study of Islamic law and gender in two significant ways. First, it provides empirical evidence from Southeast Asia that challenges Middle East-centric narratives of Islamic legal development. Second, it demonstrates that ambivalent gender logics are not merely transitional stages toward reform, but enduring features of Islamic legal traditions shaped by ongoing negotiation. This contribution positions Banjar Islamic jurisprudence as a valuable case for understanding how women's agency is articulated, limited, and reimaged within the lived practice of Islamic law.

3.7 Implications for Indonesian Fiqh and Contemporary Islamic Marriage Law

The findings of this study have significant implications for understanding the genealogy of Indonesian fiqh and contemporary Islamic marriage law. *Kitab al-Nikah* demonstrates that the accommodation of local socio-cultural realities—particularly women's economic participation and shared marital responsibilities—has deep historical roots in Indonesian Islamic jurisprudence. This challenges the assumption that gender-sensitive elements in modern Islamic family law, such as those found in the *Kompilasi Hukum Islam* (KHI), are merely products of twentieth-century legal reform or state intervention. Instead, these elements can be traced to earlier scholarly efforts to negotiate between classical fiqh and lived social practices.

Several provisions in the KHI, especially those concerning joint marital property (*harta bersama*), procedural safeguards in divorce, and the regulation of polygamy, resonate strongly with the legal logic articulated in *Kitab al-Nikah*. While the KHI formalizes these principles through state legislation, *Kitab al-Nikah* illustrates how similar concerns were already present within pre-modern religious scholarship. This historical continuity suggests that contemporary reforms in Islamic marriage law are not external impositions on Islamic tradition but extensions of an internal, context-responsive jurisprudential process.

At the same time, the ambivalent gender logic identified in *Kitab al-Nikah* also helps explain the persistent limitations of contemporary Islamic family law in Indonesia. Despite progressive elements, the KHI continues to uphold male leadership within the family and permits polygamy under regulated conditions. These continuities reflect the enduring influence of classical fiqh epistemology, which shapes both pre-modern texts and modern legal codifications. The case of *Kitab al-Nikah* thus provides a historical lens through which to understand why reform in Islamic marriage law often proceeds through incremental adjustment rather than structural transformation.

Beyond the Indonesian context, this study contributes to global discussions on Islamic law and gender by offering a Southeast Asian perspective on legal pluralism and reform. It demonstrates that Islamic legal traditions outside the Middle East have long engaged in creative negotiations between doctrine and culture, producing locally grounded yet normatively authoritative legal texts. By highlighting women's agency as a relational and context-dependent phenomenon, the study challenges universalizing narratives that frame Islamic law as either inherently oppressive or uniformly reformist.

Furthermore, the findings underscore the importance of socio-legal and ethnographic approaches in the study of Islamic law. Legal texts such as *Kitab al-Nikah* cannot be fully understood without reference to the social worlds in which they were produced and applied. This insight aligns with global scholarly calls to move beyond textualism and to examine Islamic law as a lived and negotiated practice. In doing so, the study positions Indonesian fiqh as a valuable site for theorizing the dynamics of authority, gender, and legal change in the Muslim world.

Kitab al-Nikah offers both historical depth and analytical clarity for contemporary debates on Islamic marriage law. Its ambivalent construction of women's agency reveals the possibilities and limits of gender reform within Islamic jurisprudence, providing critical insights for scholars, legal reformers, and policymakers seeking to engage Islamic law in ways that are both socially responsive and intellectually grounded.

4. Conclusion

This study has examined how women's agency is constructed in *Kitab al-Nikah* by Sheikh Muhammad Arsyad Al-Banjari through a socio-legal analysis that situates the text within the cultural, jurisprudential, and authoritative contexts of Banjar society. The findings reveal that *Kitab al-Nikah* cannot be understood merely as a doctrinal exposition of Islamic marriage law, but rather as a negotiated legal discourse shaped by women's lived experiences, local socio-economic practices, and the normative boundaries of Shafi'i jurisprudence. This approach allows the study to address the central research question concerning the extent and nature of women's agency within pre-modern Indonesian Islamic legal texts.

The analysis demonstrates that women's agency is explicitly recognized in several key legal domains. These include the acknowledgment of joint marital property derived from the shared efforts of husband and wife, the requirement of women's consent in marriage and polygamy, and procedural protections in matters of divorce, *'iddah*, and reconciliation. Such provisions reflect the active economic and social roles of Banjar women and illustrate how local practices were translated into legal norms. In this regard, *Kitab al-Nikah* affirms women

as legal subjects whose material interests and moral capacities are acknowledged within Islamic marriage law.

At the same time, the study finds that this recognition of agency operates within clear patriarchal constraints. Male leadership remains a foundational principle in the text, and women's legal autonomy is circumscribed by gendered hierarchies inherited from classical fiqh. Rather than challenging these structures, *Kitab al-Nikah* regulates them through procedural safeguards that mitigate harm without dismantling male authority. This ambivalence highlights the limits of context-based legal accommodation when it remains epistemologically dependent on established jurisprudential traditions.

By engaging global theoretical perspectives on Islamic law and gender, this study argues that the ambivalent construction of women's agency in *Kitab al-Nikah* reflects a broader pattern in Islamic legal history. Agency emerges not as absolute autonomy, but as a relational and context-dependent capacity shaped by power, authority, and social practice. The case of Banjar Islamic jurisprudence thus contributes to comparative scholarship by demonstrating that gender negotiation within Islamic law has deep historical roots beyond the Middle Eastern context.

In conclusion, *Kitab al-Nikah* offers important insights into the genealogy of Indonesian fiqh and contemporary Islamic marriage law. Its legal logic anticipates key elements of modern reforms, including those codified in the *Kompilasi Hukum Islam*, while also revealing the enduring challenges of achieving substantive gender equality within Islamic jurisprudence. This study underscores the importance of reading Islamic legal texts as socially embedded practices and provides a nuanced framework for future research on gender, authority, and legal reform in Muslim societies.

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