

Negotiating Sharia and Local Wisdom in Indonesia: Reconstructing Islamic Law through Legal Pluralism

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Abstract

The interaction between Islamic law and local wisdom remains an important issue in Indonesia because Muslim communities practice religious norms within diverse customary, social, and legal environments. Previous studies have examined the accommodation of local customs through *urf*, *maslahah*, and *maqasid al-shariah*, but many studies remain focused on particular traditions or descriptive accounts of legal pluralism and provide limited explanation of how local practices can be transformed into contemporary Islamic legal reasoning. This study examines how Islamic legal norms negotiate with local customary practices and how such negotiations contribute to the reconstruction of Islamic law in Indonesia. The study employs qualitative normative legal research through library research, using Islamic legal literature, legislation, judicial materials, and recent scholarly studies on Islamic law, customary law, and legal pluralism as its primary data sources. Data were selected purposively according to their relevance to the relationship between Islamic norms and local practices and were analyzed through qualitative content analysis involving identification, classification, comparison, interpretation, and synthesis. The findings demonstrate two major patterns. First, local customs influence Islamic legal practices through selective accommodation, particularly when customs support social order, family stability, and public benefit. Second, the accommodation process does not merely reproduce tradition but reconstructs customary practices through *urf*, *maslahah*, and *maqasid al-shariah*. The study proposes a culturally responsive model of Islamic legal reconstruction that combines normative fidelity with empirical sensitivity. Future research should test this model through comparative socio-legal studies across different Indonesian communities.

Keywords: Islamic Legal Pluralism, Local Wisdom, *Maqasid al-Shariah*, *Urf*, Legal Reconstruction

Introduction

Indonesia presents a distinctive legal environment in which Islamic law, state law, and customary norms operate simultaneously within a socially and culturally diverse society. Muslim communities do not encounter Islamic legal norms in an abstract space but interpret and practice them through family structures, customary institutions, economic relationships, and local traditions. This condition is particularly visible in areas where customary authority continues to regulate marriage, inheritance, kinship, and community relations. Recent studies demonstrate that Indonesian legal pluralism generates continuous interaction between Islamic law, customary law, and state law rather than a simple coexistence of separate legal systems. In Aceh, for example, Islamic

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family law operates within a plural legal environment in which state institutions, religious norms, and customary practices interact in determining access to justice. Similar tensions appear in inheritance practices, where matrilineal, patrilineal, and parental customary systems may produce different legal expectations from those generated by Islamic inheritance law and state law. These conditions demonstrate that the relevance of Islamic law in Indonesia depends not only on its textual authority but also on its capacity to engage with social realities without losing its normative foundations.

Existing scholarship has established that local custom can become an important consideration in Islamic legal reasoning. The principles of *urf* and *al-adah muhakkamah* provide methodological space for recognizing customary practices when they do not contradict fundamental Islamic norms. Recent normative-philosophical studies have emphasized the roles of *maqasid al-shariah*, *urf*, and *maslahah mursalah* in accommodating diverse Indonesian traditions while maintaining the ethical objectives of Islamic law. Other research has demonstrated that local wisdom can contribute to the formulation and development of Islamic legal norms, including the Compilation of Islamic Law (KHI). Nevertheless, the existing literature contains an important limitation. Some studies primarily describe particular customs, while others discuss the compatibility of Islamic law and local wisdom at a philosophical level. Consequently, insufficient attention has been given to the mechanism through which customary practices are selected, evaluated, reconstructed, and transformed into legally meaningful Islamic norms. The issue is therefore not simply whether Islamic law accepts local culture, but how the interaction produces new forms of legal reasoning.

Previous studies also reveal that the relationship between Islam and custom cannot be understood through a binary opposition between textual Islamic law and cultural practice. Research on Islamic and customary legal pluralism demonstrates that legal actors frequently negotiate between multiple normative orders. Recent research on rural Muslim communities further indicates that Muslims may selectively appropriate different schools of Islamic jurisprudence while simultaneously maintaining customary practices, producing localized forms of Islamic legal reasoning. Studies of contemporary family law likewise show that customary practices may retain social significance even when they are not formal requirements of Islamic or state law. The recent study of *masuk kaum*, for instance, demonstrates that a customary marriage practice can function as an instrument of kinship integration even though it is not a formal requirement for the validity of marriage. These findings position local custom not merely as an external cultural variable but as a normative resource that may influence the interpretation and social operation of Islamic law. The present study therefore evaluates the interaction between Islamic norms and local wisdom from a legal pluralism perspective, emphasizing the process of normative selection and reconstruction.

Based on this background, the study addresses two questions. First, what forms of interaction emerge between Islamic legal norms and local customary practices in contemporary Indonesia? Second, how can the interaction between *sharia*, *urf*, *maslahah*, and *maqasid al-shariah* contribute to the reconstruction of Islamic law? This study argues that the relationship between Islamic law and local wisdom is neither simple accommodation nor complete rejection. Rather, it is a selective and transformative

process in which customary practices are evaluated according to their consistency with Islamic principles, social benefit, justice, and the objectives of the law. Local wisdom can therefore contribute to Islamic legal development when it functions as an empirical source for contextual reasoning rather than as an unquestioned substitute for Islamic normativity. The study consequently proposes the concept of culturally responsive Islamic legal reconstruction, in which textual principles and social realities are connected through systematic legal reasoning.

Method

This study focuses on the interaction between Islamic law and local wisdom because the relationship constitutes one of the central characteristics of Indonesian legal pluralism. The persistence of customary practices in family, inheritance, kinship, and community relations demonstrates that formal Islamic legal rules do not operate independently from social institutions. The research therefore employs qualitative normative legal research combined with a socio-legal perspective. The normative dimension is used to examine Islamic legal principles, jurisprudential concepts, legislation, and legal doctrines concerning custom and public benefit. The socio-legal dimension is employed conceptually to understand how legal norms interact with social and cultural realities. This approach is appropriate because the research does not seek statistical measurement but aims to interpret the processes through which Islamic legal norms encounter, evaluate, and respond to customary practices.

The data consist of secondary materials selected through purposive relevance. Primary legal materials include Indonesian legislation, the Compilation of Islamic Law, and selected legal and judicial documents relevant to Islamic family law and customary practices. Secondary materials include books on Islamic jurisprudence and legal theory, peer-reviewed journal articles, studies of Indonesian legal pluralism, and recent scholarship addressing *urf*, *maslahah*, *maqasid al-shariah*, local wisdom, and customary law. Recent studies concerning Aceh, inheritance, Bugis-Makassar customs, rural Muslim communities, and the interaction between Islam and local wisdom were used to identify contemporary patterns of legal negotiation. Sources were selected when they directly addressed the relationship between Islamic norms and social practices, provided identifiable methodological or conceptual arguments, and contributed to understanding the transformation of customary practices into legally meaningful norms.

Data collection was conducted through documentation and systematic literature review. The collected materials were first identified according to their relevance to the research questions and then classified into four analytical categories: Islamic normativity, customary practice, legal negotiation, and legal reconstruction. The analysis followed five stages. First, relevant legal concepts and empirical descriptions were identified. Second, materials were classified according to the type of relationship between Islamic law and local custom. Third, similarities and differences among the studies were compared to identify recurring patterns. Fourth, the findings were interpreted through the concepts of *urf*, *maslahah*, *maqasid al-shariah*, and legal pluralism. Fifth, the results were synthesized to formulate a conceptual model of culturally responsive Islamic legal reconstruction. The analysis emphasized patterns supported by multiple sources and

avoided treating individual customary practices as universally representative of Indonesian Islamic law.

Result

Negotiating Islamic Norms and Local Customary Practices

the interaction between Islamic law and local wisdom takes at least three forms: accommodation, modification, and boundary-setting. Accommodation occurs when a customary practice supports social relationships and does not conflict with fundamental Islamic principles. Modification occurs when a tradition contains socially beneficial elements but also requires adjustment to conform to principles of justice, protection, and public welfare. Boundary-setting occurs when a customary practice produces consequences inconsistent with essential Islamic values and therefore cannot be legitimized merely because it is culturally established. This pattern indicates that *urf* does not function as an automatic mechanism for converting every custom into Islamic law. Instead, custom becomes legally relevant after passing a process of normative evaluation. Contemporary studies similarly show that local wisdom can be accommodated when it contributes to social harmony while remaining consistent with Islamic legal principles.

The factors that determine whether a customary practice can be incorporated into Islamic legal reasoning. Three factors appear particularly influential: normative compatibility, social acceptance, and beneficial consequences. Normative compatibility concerns whether a practice contradicts explicit Islamic principles or established legal objectives. Social acceptance concerns whether the practice remains genuinely recognized and practiced by the relevant community rather than merely being presented as an ancestral tradition. Beneficial consequences concern whether the practice promotes family stability, protects vulnerable persons, maintains social order, or resolves practical problems. These factors explain why the same type of custom may receive different legal evaluations in different communities. Research on customary inheritance demonstrates that Indonesian communities may operate under different kinship structures, creating different relationships between Islamic inheritance norms and customary distribution systems. The legal significance of custom is therefore contextual rather than automatic.

The accommodation of local wisdom produces transformative consequences when custom becomes a source of contextual legal reasoning rather than a fixed cultural prescription. In family law, customary practices may regulate social relationships surrounding marriage, property, kinship, and post-marital integration without necessarily determining the formal validity of a marriage. The *masuk kaum* tradition among the Pekal community illustrates this distinction: the practice remains socially important for kinship integration even though it is not a formal condition for marriage validity. Similar patterns can be observed in customary property and inheritance arrangements, where community expectations interact with formal Islamic and state law. The implication is that Islamic legal development can recognize the social function of custom without collapsing the distinction between cultural legitimacy and formal legal validity. This

distinction provides a basis for developing Islamic law that is socially responsive while preserving institutional and normative boundaries.

Reconstructing Islamic Law through *Urf*, *Maslahah*, and *Maqasid*

Contemporary Islamic legal reconstruction depends on the integration of three methodological instruments: *urf*, *maslahah*, and *maqasid al-shariah*. *Urf* provides recognition of established social practices; *maslahah* evaluates whether a practice produces meaningful benefit or prevents harm; and *maqasid al-shariah* provides a broader normative framework for determining whether the resulting legal interpretation advances justice, welfare, dignity, family protection, and social order. Recent research on Islam and local wisdom in Indonesia similarly identifies these three concepts as central mechanisms for accommodating and reforming customary practices. The findings therefore suggest that local wisdom should not be treated as an independent source that overrides Islamic law, but as contextual evidence that participates in the process of interpreting and applying Islamic legal principles.

The factors supporting reconstruction are visible in situations where formal Islamic doctrine does not provide a sufficiently detailed response to specific social arrangements. In such circumstances, legal reasoning may examine the purpose of a rule, the social context in which it operates, and the consequences of applying a particular interpretation. The process becomes particularly important in family law because marriage, property, inheritance, and kinship are deeply embedded in social institutions. Recent research on Bugis-Makassar marriage traditions demonstrates how local practices such as *uang panai* can generate questions that require the interaction of Islamic legal principles, *maqasid*, and legal anthropology. Likewise, research on indigenous communities has demonstrated the relevance of *maqasid al-shariah* for understanding family resilience and legal practices within culturally distinct communities. These findings show that contextual legal reasoning is most productive when it begins with a precise understanding of the social function of a practice.

The transformative implication is the emergence of a reconstruction model that moves from custom to legal evaluation rather than directly from custom to legal recognition. The model consists of four interconnected stages: identifying the actual practice, testing its conformity with Islamic principles, evaluating its social consequences through *maslahah* and *maqasid*, and formulating an appropriate legal interpretation within the institutional framework of Indonesian law. This process can prevent two opposite tendencies: rigid formalism that ignores social realities and unrestricted cultural relativism that legitimizes every tradition. It also corresponds with contemporary scholarship on legal pluralism, which emphasizes interaction among multiple normative systems rather than treating legal orders as completely isolated. The resulting approach may be termed culturally responsive Islamic legal reconstruction, in which local wisdom becomes an empirical resource for contextualizing Islamic law while Islamic normativity remains the framework for critical evaluation.

Discussion

The results demonstrate that Islamic law and local wisdom in Indonesia interact through selective accommodation, critical modification, and normative boundary-setting. The relationship therefore cannot be adequately described as either the domination of Islamic law over custom or the preservation of custom outside Islamic legal reasoning. The findings instead reveal a layered process in which customary practices acquire legal significance when they satisfy normative, social, and consequential criteria. This finding is consistent with scholarship emphasizing the role of *urf*, *maslahah*, and *maqasid al-shariah* in contextualizing Islamic law in Indonesia. At the same time, the findings extend the discussion by distinguishing social legitimacy from formal legal validity. A practice can remain culturally authoritative without becoming a formal requirement of Islamic law or state law. This distinction is particularly important in family law because social expectations surrounding marriage and kinship may remain powerful even when they do not determine the legal validity of an act.

The causes of this interaction are rooted in Indonesia's plural social structure and the historical coexistence of different normative systems. Islamic law entered and developed within communities that already possessed established institutions of kinship, property, authority, and social obligation. Consequently, Islamic legal practice was repeatedly interpreted through local social structures rather than implemented in a culturally empty environment. Legal pluralism explains why these interactions persist: individuals and communities may simultaneously recognize religious, customary, and state-based sources of normativity. Research on Indonesian inheritance law illustrates how differences between matrilineal, patrilineal, and parental systems create continuing negotiation among Islamic, customary, and state law. Similarly, contemporary research on rural Muslim communities demonstrates that local Muslims may negotiate between a dominant *madhhab*, customary expectations, and everyday social realities. Thus, the persistence of local wisdom should not necessarily be understood as resistance to Islamic law; it may instead reflect the community's effort to make Islamic norms intelligible and workable within existing social structures.

The consequences of this interaction are significant for contemporary Islamic legal theory. If local custom is treated only as a cultural residue, Islamic law risks becoming disconnected from the realities it seeks to regulate. Conversely, if every custom is treated as legally authoritative, Islamic normativity may lose its critical function. The findings suggest that the more productive approach is methodological integration. *Urf* provides contextual information, *maslahah* evaluates benefit and harm, while *maqasid al-shariah* provides an ethical and normative orientation. Such integration enables legal reasoning to distinguish between the social function of a tradition and its formal legal consequences. This is particularly relevant in family law, where practices concerning marriage, property, inheritance, and kinship often have consequences for vulnerable family members. Recent studies on indigenous communities and contemporary family law similarly demonstrate that *maqasid*-oriented analysis can connect legal norms with family resilience, social justice, and community realities.

The present findings both confirm and refine previous studies. Earlier scholarship on Islamic and customary legal pluralism has established that Indonesia contains multiple

overlapping normative orders. Research on local wisdom and Islamic law has further demonstrated that *urf* and *maqasid* can provide mechanisms for accommodating Indonesian traditions. More recent studies have moved toward specific empirical contexts, including Aceh, Bugis-Makassar, indigenous communities, and rural Muslim societies. The present study contributes to these discussions by connecting the specific findings into a broader reconstruction mechanism. Rather than asking whether custom should be accepted or rejected, the proposed framework asks how custom should be identified, evaluated, modified, and positioned within Islamic legal reasoning. This shift is important because legal pluralism is not merely a condition of coexistence but a continuing process of negotiation among competing and complementary normative claims.

The policy and conceptual implication is that Islamic legal development in Indonesia should strengthen mechanisms for contextual interpretation without abandoning normative accountability. Religious courts, legal scholars, legislators, and community institutions can contribute by distinguishing customary legitimacy from formal legal validity and by documenting the actual social consequences of customary practices. In family law, judicial interpretation should consider relevant social context while remaining anchored in legislation and recognized Islamic legal principles. At the methodological level, future Islamic legal scholarship should combine textual analysis with empirical studies of communities so that legal reform is informed by both normative ideals and lived realities. Recent research on interlegality in Aceh demonstrates the importance of moving beyond static models of legal pluralism toward analysis of dynamic interaction among legal orders. Accordingly, culturally responsive Islamic legal reconstruction should not be understood as a new independent school of jurisprudence, but as a methodological orientation for producing context-sensitive interpretations that remain accountable to Islamic values, Indonesian law, and social justice.

Conclusion

This study finds that the relationship between Islamic law and local wisdom in Indonesia is characterized by selective accommodation, modification, and normative boundary-setting. Customary practices become relevant to Islamic legal reasoning when they demonstrate social acceptance, provide beneficial consequences, and remain compatible with fundamental Islamic principles. The findings also show that cultural legitimacy and formal legal validity should not be treated as identical. A tradition may remain socially authoritative without becoming a formal condition of Islamic or state law. This distinction allows Islamic legal scholarship to recognize the continuing role of local wisdom without assuming that every cultural practice automatically possesses legal authority.

Conceptually, the study contributes a model of **culturally responsive Islamic legal reconstruction** based on the interaction of *urf*, *maslahah*, and *maqasid al-shariah*. The model places local practice at the empirical level, Islamic principles at the normative level, and legal reconstruction at the interpretive level. Through this relationship, local wisdom can function as contextual evidence for Islamic legal reasoning

while Islamic normativity provides the critical framework for evaluating cultural practices. The model is particularly relevant to Islamic family law because marriage, inheritance, property, and kinship are strongly influenced by social institutions. It therefore provides an alternative to both rigid formalism and unrestricted cultural relativism.

The study has several limitations. It relies primarily on published literature, legal documents, and conceptual analysis rather than systematic fieldwork in particular communities. Consequently, the proposed reconstruction model requires empirical testing across different regions, ethnic groups, and family-law practices. Future research should employ comparative socio-legal methods to examine how communities, religious courts, customary institutions, and legislators negotiate conflicting normative claims in practice. Comparative research across Aceh, Minangkabau, Bugis-Makassar, Java, and other Indonesian contexts would also clarify whether the proposed model operates consistently or requires local adaptation. Such research would strengthen the empirical foundation of culturally responsive Islamic legal reconstruction and contribute to a more context-sensitive development of contemporary Islamic family law.

Credit Authorship Contribution Statement

Maizul Imran contributed to Conceptualization, Methodology, Investigation, Data Curation, Formal Analysis, Writing – Original Draft, and Writing – Review & Editing. Hendri contributed to Conceptualization, Methodology, Supervision, Validation, Formal Analysis, Writing – Review & Editing, and Project Administration. Both authors approved the final version of the manuscript and agreed to be accountable for all aspects of the work.

Declaration of Competing Interests

The authors declare that they have no known competing financial interests or personal relationships that could have appeared to influence the work reported in this paper.

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Ethics Approval and Consent to Participate

Ethics approval was not required for this study because the research relied exclusively on publicly available legal materials and published academic literature and did not involve human participants or the collection of personal data.

Data Availability Statement

The data supporting the findings of this study are derived from publicly available legal documents and published scholarly sources. All materials used in the analysis can be accessed through relevant legal databases and academic databases.

Declaration of Generative AI and AI-Assisted Technologies in the Writing Process

During the preparation of this work, the authors used ChatGPT (OpenAI) to assist with language editing, grammatical improvement, and the organization of the manuscript. After using this tool, the authors reviewed and edited the content as needed and take full responsibility for the content of the publication.

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