Received : 2024 - 09 - 02
Revised : 2025 - 02 - 09
Accepted : 2025 - 06 - 13
Published regularly : June 2025

Al-'Adalah
Volume 22, No. 1, June 2025
ISSN: 0854-1272; E-ISSN: 2614-171X
DOI: http://dx.doi.org/10.24042/adalah.v22i1.24008

A Dialog Between Islamic Law and Adat (Customary Law) in the Social Context of West Kalimantan, Indonesia

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Abstract: This study examines the relationship between Islamic law (*Sharia*) and Customary law (*Adat* law) in the social context of West Kalimantan, Indonesia. The study's primary objective is to examine how these two legal systems coexist and interact within the region. The study employs a qualitative methodology, with data collection conducted through interviews with key informants, including religious leaders, Customary authorities, community members, and local government officials. The study also examines selected documents to ascertain the content of Customary law that is explicitly or implicitly related to Islamic law. The study finds that West Kalimantan Customary law has adopted Islamic law into its legal structure, as evidenced by the emergence of specific vocabulary or terms known in Islamic law that have similar meanings. Furthermore, there are differences in the situation between the Malay heartland, where Islam is strict, and the non-Malay heartland (Dayak Zone), where Islam is loose. These findings demonstrate local Customary law's active role, resilience, and adaptability in socio-economic change and broader legal reform. This study significantly contributes to law and sociology and offers a deeper understanding of the dialogue between Customary law and religion.

Keywords: customary law, sharia, sociology of law, Malay tradition

Abstrak: Penelitian ini mengkaji hubungan antara hukum Islam (Syariah) dan adat (hukum adat) dalam konteks sosial Kalimantan Barat, Indonesia. Tujuan utama dari studi ini adalah untuk mengkaji cara kedua sistem hukum ini saling berdampingan dan berinteraksi di dalam wilayah tersebut. Studi ini menggunakan metodologi kualitatif, dengan pengumpulan data dilakukan melalui wawancara dengan informan kunci, termasuk pemimpin agama, otoritas adat, anggota masyarakat, dan pejabat pemerintah setempat. Studi ini juga melakukan telaahan terhadap dokumen-dokumen tertentu untuk memastikan konten hukum adat yang secara eksplisit atau implisit terkait dengan hukum Islam. Penelitian ini juga menemukan fakta bahwa hukum adat Kalimantan Barat telah mengadopsi hukum Islam ke dalam struktur hukumnya yang dibuktikan dengan munculnya kosa kata atau istilah tertentu yang dikenal

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dalam hukum Islam yang memiliki makna yang sama. Selain dari itu, ada perbedaan situasi di wilayah pusat Kemelayuan, yang Islam-nya ketat, dengan wilayah non-pusat Kemelayuan (Zona Dayak), yang Islamnya longgar. Temuan ini menunjukkan peran aktif, ketahanan, dan kemampuan beradaptasi hukum adat lokal dalam perubahan sosial ekonomi dan reformasi hukum yang lebih luas. Studi ini memberikan kontribusi yang signifikan bagi bidang hukum dan sosiologi serta menawarkan pemahaman yang lebih mendalam tentang dialog antara hukum adat dan agama.

Kata kunci: hukum adat, syariah, sosiologi hukum, adat Melayu

Introduction

The relationship between Islamic law and positive law in Indonesia is a social phenomenon that continues to develop positively and dynamically. In Indonesia, except Aceh which has declared the application of Islamic law[1], Islamic law has even served as the spirit or inspiration in several aspects of life[2], particularly in the drafting of legislation.[3] Islamic educational institutions, from elementary schools to universities, further support this notion, which specifically study, strive for, and maintain this complementarity. In short, Islamic law has a unique place in Indonesian society, particularly in areas related to Religious Courts.[4]

[1] Faisal Husen Ismail and others, 'Customary and Islamic Practices in Inheritance Distribution: Insights from The Gampong Customary Court in Pidie', *Al-Risalah: Forum Kajian Hukum dan Sosial Kemasyarakatan*, 24.2 (2024): 1–16, doi:10.30631/alrisalah.v24i2.1544.

[2] Ahmad Subakir and others, 'Islamic Law and Local Religious Interpretations in the Samin Community of Central Java', *El-Mashlahah*, 15.1 (2025): 41–58, doi:10.23971/el-mashlahah.v15i1.7886; Nasruddin Yusuf and others, 'Mapalus Tradition: North Sulawesi Muslim Society in the *Maqâshid Syarîah* Discourse', *AL-IHKAM: Jurnal Hukum & Pranata Sosial*, 20.1 (2025), doi:10.19105/al-lhkam.v20i1.14025; Norcahyono Norcahyono, Thoat Stiawan, and Mamdukh Budiman, 'Reconstructing the Philosophy of Marriage: Banjar Wedding Rituals as Cultural Implementation of *Maqâshid al-Nikâh* in Achieving Spiritual Sanctity and Social Harmony', *Syariah: Jurnal Hukum Dan Pemikiran*, 24.2 (2024): 393–410, doi:10.18592/sjhp.v24i2.15617.

[3] Hendra Irawan and Eka Selviana, 'Dinamika Internalisasi Hukum Islam ke dalam Peraturan Perundang-Undangan di Indonesia', *Istinbath*, 18.2 (2021): 352–68, doi:10.32332/istinbath.v18i2.4017; Yogi Prasetyo, 'Transformasi Nilai-Nilai Islam dalam Hukum Positif', *-Ahkam: Jurnal Ilmu Syari'ah dan Hukum*, 5.1 (2020): 91–106, doi:https://doi.org/10.22515/al-ahkam.v5i1.1943; Jefik Zulfikar Hafizd, 'Sejarah Hukum Islam di Indonesia: dari Masa Kerajaan Islam Sampai Indonesia Modern', *Tamaddun: Jurnal Sejarah dan Kebudayaan Islam*, 9.1 (2021): 165–184, doi:10.24235/tamaddun.v9i1.8087.g3804; Marwadi, Mughni Labib, and Muhammad Fuad Zain, 'Reforming the Islamic Calendar and Religious Authority: Dynamics of Hijri Calendar Calculation in Indonesia within Persatuan Islam's Thought', *Al-Manahij: Jurnal Kajian Hukum Islam*, 19.1 (2025): 149–166, doi:10.24090/mnh.v19i1.10574.

[4] Imam Sukadi and Erfaniah Zuhriah, 'The Legal Policy of Judicial Power: The Idea

DOI: http://dx.doi.org/10.24042/adalah.v22i1.24008

However, for many, this position remains unsatisfactory. The discourse on the comprehensive application of Islamic law (*kaffah*) in Indonesian Muslim society has been a long-standing and persistent narrative. Efforts to implement Islamic law in everyday life have even been championed through various means, including establishing an Islamic state as a path to its implementation.[5]

On the other hand, Islamic law and Customary law in Indonesia can be viewed as two entities whose dialectics are considered to resolve legal issues. Islamic law and Customary law have provided colour and substance, and served as a philosophical foundation for the formulation and renewal of positive law and its implementation in society.[6] It is interesting to observe that the concept of Customary law has changed in its development. If in the past, Customary law was an unwritten legal heritage of the community,[7] now, in various communities in Indonesia, Customary law exists as a form of compiled and written law.[8] Customary

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of Implementation of Small Claim Courts in Religious Courts', *De Jure: Jurnal Hukum dan Syar'iah*, 13.1 (2021): 1–13, doi:10.18860/j-fsh.v13i1.10913; Arbanur Rasyid, Rayendriani Fahmei Lubis, and Idris Saleh, 'Contestation of Customary Law and Islamic Law in Inheritance Distribution: A Sociology of Islamic Law Perspective', *Al-Ahkam*, 34.2 (2024): 419–448, doi:10.21580/ahkam.2024.34.2.20843.

[5] Nancy Lee Peluso, 'A Political Ecology of Violence and Territory in West Kalimantan', *Asia Pacific Viewpoint*, 49.1 (2008): 48–67, doi:10.1111/j.1467-8373.2008.00360.x; Rr Dewi Anggraeni, 'Islamic Law and Customary Law in Contemporary Legal Pluralism in Indonesia: Tension and Constraints', *AHKAM*, 23.1 (2023): 25–48, doi:10.15408/ajis.v23i1.32549; Khairuddin Hasballah, Dhaiful Mubarrak, and Saddam Rassanjani, 'Disparity in Judge Decisions in Resolving Rad Inheritance Disputes: Case Study at the Sharia Court in Banda Aceh City', *El-Usrah: Jurnal Hukum Keluarga*, 6.2 (2023): 249, doi:10.22373/ujhk.v6i2.8612; Ija Suntana, 'From Internalization to Formalization; Islamic Law Development in Indonesia', *The Islamic Quarterly*, 64.1 (2020): 115–126.

[6] Irawan and Selviana, 'Dinamika Internalisasi Hukum Islam ke dalam Peraturan Perundang-Undangan di Indonesia'; Jefik Zulfikar Hafizd, 'Sejarah Hukum Islam di Indonesia: dari Masa Kerajaan Islam Sampai Indonesia Modern', *Tamaddun: Jurnal Sejarah dan Kebudayaan Islam*, 9.1 (2021): 165–184, doi:10.24235/tamaddun.v9i1.8087.g3804; Prasetyo, 'Transformasi Nilai-Nilai Islam dalam Hukum Positif'; Winardi Winardi, 'Eksistensi dan Kedudukan Hukum Adat dalam Pergumulan Politik Hukum Nasional', *WIDYUR*, 3.1 (2020): 95, doi:10.31328/wy.v3i1.1364; Ahmad Rusyaid Idris, Muhammad Khusaini, and Syaiful Anwar Al-Mansyuri, 'Contemporary Islamic Law in Indonesia: The Fulfillment of Child Custody Rights in Divorce Cases Caused by Early Marriage', *MILRev : Metro Islamic Law Review*, 3.1 (2024): 1, doi:10.32332/milrev.v3i1.8907.

[7] Anthony C. Diala, 'The Concept of Living Customary Law: A Critique', *Journal of Legal Pluralism and Unofficial Law*, 49.2 (2017): 143–165, doi:10.1080/07329113.2017.1331301.

[8] Achmad Asfi Burhanudin, 'Eksistensi Hukum Adat di Era Modernisasi', *SALIMIYA: Jurnal Studi Ilmu Keagamaan Islam*, 2.4 (2021): 96–113.

DOI: http://dx.doi.org/10.24042/adalah.v22i1.24008

law already has standard benchmarks, which become the community's reference in imposing Customary sanctions. Thus, Customary law has manifested itself like positive law.[9]

On another level, the desire to implement Customary law in community life and the effort to gain state recognition also became interesting civil movements. Through the Indigenous Peoples Alliance of the Archipelago (AMAN), community members are empowering the community and demanding the achievement of these goal.[10] Customary law complements positive law (state law) by providing significant space for the growth and development of community identity.[11]

In West Kalimantan, customary law and Islamic law are binary. The prevailing narrative is that there is a conflict between Islamic law and Muslims on one side and Customary law and indigenous communities on the other. This bipolar situation does not stand alone. As written by Peluso,[12] Kristianus,[13] Alloy et al.,[14] ethnic rivalry has occurred in West Kalimantan since religions developed within society. Islam, intertwined

[9] Andriyani Andriyani and Rusmala Dewi, 'Local Wisdom Becomes the Commander in Criminal Resolution', *Nurani: Jurnal Kajian Syari'ah dan Masyarakat*, 23.2 (2023): 313–326, doi:10.19109/nurani.v23i2.19935; Elfia Elfia, Surwati Surwati, and Bakhtiar Bakhtiar, 'The Struggle of Custom and Sharia: Classic Dilemma of Inheritance Settlement in Javanese and Minangkabau Ethnic Communities in Indonesia', *Al-Istinbath: Jurnal Hukum Islam*, 8.1 May (2023): 75, doi:10.29240/jhi.v8i1.5480; Read also Donna Asteria and others, 'Adat Law and Culture: The Local Authority Elements of Baduy Tribe on Environment Preservation', *IOP Conf. Ser.: Earth Environ. Sci.*, 716.1 (2021): 012-049, doi:10.1088/1755-1315/716/1/012049; Achmad Asfi Burhanudin, 'Eksistensi Hukum Adat di Era Modernisasi', *SALIMIYA: Jurnal Studi Ilmu Keagamaan Islam*, 2.4 (2021): 96–113.

[10] F. Fatimah and F. Nataly, 'Strategi Komunikasi Aliansi Masyarakat Adat Nusantara (AMAN) dalam Memperjuangkan RUU Masyarakat Hukum Adat', *Jurnal Ilmiah Komunikasi (JIKOM) STIKOM IMA*, 14.3 (2022): 116–124.

[11] Doni Azhari and others, 'Beseang (Customary Divorce) in Sasak Society from the Perspective of *Maqâsid al-Shariah*', *Malaysian Journal of Syariah and Law*, 12.3 (2024): 574–82, doi:10.33102/mjsl.vol12no3.932; Danel Aditian Situngkir, 'Perlindungan Hak Ulayat Masyarakat Adat dalam Hukum Positif di Indonesia', *Ensiklopedia Education Review*, 4.3 (2022): 255–263, doi:https://doi.org/10.33559/eer.v4i3.1580.

[12] Peluso, 'A Political Ecology of Violence and Territory in West Kalimantan'; See also Anggraeni, 'Islamic Law and Customary Law in Contemporary Legal Pluralism in Indonesia: Tension and Constraints'.

[13] K. Kristianus, 'Nasionalisme Etnik di Kalimantan Barat', *Masyarakat Indonesia,* 37.2 (2017): 147–176.

[14] Sujarni Alloy, Albertus, and Chatarina Pancer Istiyani, *Mozaik Dayak: Keberagaman Subsuku dan Bahasa Dayak di Kalimantan Barat* (Pontianak: Institute Dayakologi, 2008), pp. 9–21.

DOI: http://dx.doi.org/10.24042/adalah.v22i1.24008

with the Malays and the Dayaks, intertwined with non-Muslims, is engaged in a struggle for hegemony in important geographical spaces that have become centres of economic and political power. The struggle occurs on various fronts and scales and continues to this day. King's research,[15] Purba et al.,[16] and many other writings, depict the ebb and flow of the relationship between the two communities.[17]

Meanwhile, the relationship between Islamic law and Customary law in West Kalimantan has become an interesting topic attracting much attention from researchers. Studies on the topics can be found, among others, in the work of Arkanudin and Rupita.[18] Nordin et al,[19] Zaelani et al,[20] Hidayat,[21] Hasan, et al,[22] and Habibah.[23] Previous studies on Islam and local customs have mainly discussed the relationship between Islam, customs, and ethnicity from historical, political, and social conflict perspectives. The relationship between Customary law and positive law is complementary in specific communities in Indonesia, such as the Dayak community, parts of the Malay community, the Mentawai, and others.

So far, the understanding of the position of these two laws in society is still not entirely accurate. In some communities, there is a

[15] V. King, *The Peoples of Borneo* (Blackwell, 1993), pp. 26–29.

[16] Juniar Purba and others, *Penyebaran Dan Pengaruh Budaya Melayu di Kalimantan*. (Jakarta: Direktorat Nilai Sejarah, Kementerian Kebudayaan dan Pariwisata, 2011), pp. 12–19.

[17] Davidson, J. S., 'Violence and Politics in West Kalimantan, Indonesia'.

[18] A. Arkanudin and R. Rupita, 'Keberlangsungan Adat Suku Dayak Ribun di Sanggau Kalimantan Barat: Suatu Tinjauan Etnografi', *Ideas: Jurnal Pendidikan, Sosial, dan Budaya*, 7.3 (2021): 27–34.

[19] Zaimuariffudin Shukri Nordin and others, 'Integrating Islamic Law and Customary Law: Codification and Religious Identity in the Malay Buyan Community of Kapuas Hulu', *Journal of Islamic Law*, 6.1 (2025): 89–111, doi:10.24260/jil.v6i1.3410.

[20] Abdul Qodir Zaelani and others, 'An Implementation of the Joint Inheritance Division of Ethnic Groups in Lampung, Indonesia', *Samarah: Jurnal Hukum Keluarga dan Hukum Islam*, 7.3 (2023): 1373, doi:10.22373/sjhk.v7i3.9125.

[21] Rahmat Hidayat, Mohammad Muhibbin, and Mohammad Afifullah, 'Pembagian Harta Warisan Menurut Hukum Islam dan Adat Melayu (Studi Kasus Desa Sungai Muntik Sanggau)', *DiH: Jurnal Ilmu Hukum*, 18.2 (2022): 223–233, doi:10.30996/dih.v0i0.6558.

[22] Muhammad Hasan, Dahlia Haliah Ma'u, and Muallimin Mochammad Sahid, 'Inheritance Property Distribution Models Among the Muslim Community of Borneo-Nusantara', *Al-'Adalah*, 21.1 (2024): 175, doi:10.24042/adalah.v21i1.22310.

[23] Siti Maizul Habibah and Asif Nur Fauzi, 'Pengakuan Hak Masyarakat Adat Mentawai Sebagai Penegakan Asas Kemanusiaan Warga Negara', *Jurnal Masyarakat Indonesia*, 47.2 (2021): 221–230.

DOI: http://dx.doi.org/10.24042/adalah.v22i1.24008

notion that religious law and Customary law are two opposing entities. Religion does not compromise with Customary law because it is believed that anything outside of religion is heretical or an innovation (*bid'ah*).[24] On the contrary, religion is referred to as a new entity that comes from outside and degrades customary law. As trust in religion increases, the community's trust in Customary law diminishes.[25]

Meanwhile, the academic world has not yet provided adequate information to explain the situation, which is that the polarisation is not clear-cut. Early studies show limited information regarding customs among the Malay-Muslim community and, conversely, the existence and development of Customary law among the Dayak community. Even if studies do not support that polarisation, the information does not easily reach the public.

Based on this situation, this study aims to analyze the pattern of Islamic law integration in the compilation of Malay Customary law in West Kalimantan through the study of Customary law articles applicable in Kapuas Hulu, Sekadau, Melawi, Sambas, and Kubu Raya. More specifically, this study will identify Customary law articles that contain terminology and concepts of sharia law, explain how sharia values are integrated into Customary law, and examine the factors influencing this integration process in each region.

Research Methods

This research uses a field study method with a sociological approach. This sociological analysis is based on concrete case studies of Malay

[24] Rusdayati Rusli, 'Akulturasi Agama dan Budaya pada Perayaan Mandi Safar Adat Misool Kampung Lilinta Distrik Misool Barat Kabupaten Raja Ampat', *Al-Hikmah*, 2.1 (2022): 94–99, doi:10.47945/al-hikmah.v2i1.745; M. S. Al Farisi, N. A. Agustin, and M.I. Muttakin, 'Perselisihan Hukum Adat Umat Muslim Indonesia dalam Merayakan Maulid Nabi Muhammad SAW', *Relinesia: Jurnal Kajian Agama dan Multikulturalisme Indonesia*, 3.3 (2024): 182-184., art. 3, doi:https://doi.org/10.572349/relinesia.v3i3.1976.

[25] Ilyas Ilyas and others, 'The Accommodation of Customary Law to Islamic Law: Distribution of Inheritance in Aceh from a Pluralism Perspectives', *Samarah*, 7.2 (2023): 897–919, art. 2, doi:10.22373/sjhk.v7i2.15650; Muhamad Yusuf and others, 'Persepsi Hukum Adat Larvul Ngabal pada Masyarakat Kei Perantauan di Kota Jayapura Provinsi Papua', *Poros Onim J. Sos. Keagamaan*, 2.1 (2021): 20–36, doi:10.53491/porosonim.v2i1.47.

DOI: http://dx.doi.org/10.24042/adalah.v22i1.24008

communities to examine how Customary law is applied in specific contexts and its impact on social dynamics.

Data were collected through interviews with several traditional and community leaders and documentation from relevant publications from the regions of Kapuas Hulu, Melawi, Sekadau, Sambas, and Kubu Raya. These regions represent three (3) typologies of ethnic territories: Kapuas Hulu is the most remote region, where the Malay group is dominant. Melawi and Sekadau are central regions where the Dayak group is more dominant, whereas Sambas and Kubu Raya are coastal regions where the Malay group is dominant. The data obtained through interviews and documentation were then categorised according to the research theme and analysed to draw argumentative conclusions.

Results and Discussion

Islam and Pluralism in West Kalimantan

Islam is part of the mosaic of religious diversity in West Kalimantan. As is known, the three main religions practised by the people in this region are: Islam (60 per cent), Catholicism (20 per cent), and Protestantism (25 per cent); the rest are Confucianism, Buddhism, and Hinduism. The ethnic groups in West Kalimantan are Malay, Dayak, Chinese, and others.[26]The primary distribution of Islam is in coastal-urban areas, such as Pontianak, Ketapang, Mempawah, and Sambas. Meanwhile, Catholics and Protestants are the majority in interior regions, such as Landak, Sanggau, and most rural areas. However, any district in West Kalimantan has no homogeneous area. Socially, adherents of different religions share living spaces in areas that, although territorially referred to as bases of certain religious-ethnic groups, are not.[27]

[26] Ismail Ruslan, Faizal Amri, and Yusriadi Yusriadi, 'Religion, Education, and Maintaining Ethno-Religious Harmony in Sanggau, West Kalimantan', *Dinamika Ilmu*, 24.1 (2024): 111–126, doi:10.21093/di.v24i1.8763; M Jailani, J A Dewantara, and E F Rahmani, 'The Awareness of Mutual Respect Post-Conflicts: Ethnic Chinese Strategy through Social Interaction and Engagement in West Kalimantan', *Journal of Human Behavior in the Social Environment*, 33.1 (2021): 17–34, doi:https://doi.org/10.1080/10911359.2021.1990170.

[27] John Haba, 'Etnisitas, Hubungan Sosial dan Konflik di Kalimantan Barat', *Jurnal Masyarakat dan Budaya*, 14.1 (2012): 31–52, doi:https://doi.org/10.14203/jmb.v14i1.86; Iva

DOI: http://dx.doi.org/10.24042/adalah.v22i1.24008

The community has accepted Islam in West Kalimantan since the 14th century in Sanggau, the 16th century in Sambas, the 17th century in Ketapang and Sintang, and the 18th century in Pontianak.[28] This long historical development provides a unique visualization of the ethno-religious landscape in this region. Islam is associated with the Malays, and non-Islam is linked to the Dayaks.

Sharî'a and Malay Customary Law of Kapuas Hulu

The Malay community of Kapuas Hulu consists of two groups: "native" Malays and indigenous people who have "become Malays." Looking at the traces, the second group is larger than the first group. Research by Isman,[29] and others show that many Malays from Kapuas Hulu have the exact origin as the Iban, a large Dayak group. Aripin's research,[30] three generations ago, the Malays in Sungai Buah Bunut Hulu were Iban people. Some of the Melayu Jongkong are linked to the Dayak Palin.[31] When they embraced Islam, they performed the traditional ritual "srotu" as a process of becoming Malay. This ritual is considered mandatory to establish the boundaries of Islam and marks someone as pure (*fitrah*).

Rachmawati and Machya Astuti Dewi, 'Nationalism in Border Community: Temajuk, Sambas District, West Kalimantan, Indonesia', *Journal of Nationalism, Memory & Language Politics*, 15.2 (2021): 210–229, doi:10.2478/jnmlp-2021-0002; Dwi Surya Atmaja and others, 'Islam and the Struggle for Multiculturalism in Singkawang, West Kalimantan: Local Ulama, Theological-Economic Competition and Ethnoreligious Relations', *Ulumuna*, 27.1 (2023): 172–200.

[28] A. Y. Abang Ishar, *Sejarah Kesultanan Melayu Sanggau* (Jakarta: Yayasan Pustaka Obor Indonesia, 2016), pp. 14--23; Helius Sjamsuddin, 'Kerajaan Islam Sintang', *HISTORIA: Jurnal Pendidikan Sejarah*, IX.2 (2008): 33--44, doi:https://doi.org/10.17509/historia.v9i2.12170; Atmaja and others, 'Islam and the Struggle for Multiculturalism in Singkawang, West Kalimantan: Local Ulama, Theological-Economic Competition and Ethnoreligious Relations'; J. L. Kurz, *How Boni Became Borneo Became Brunei: An Argument for Boni in Western Borneo, Pontianak* (Routledge, 2022), In Routledge Handbook of Contemporary Brunei (pp. 81-99); Maryani and Wendi Parwanto, 'Tujuh and Sembilan Sacred Tombs Sites in Ketapang, West Kalimantan: Historical-Archaeological Studies and Receptions', *Journal of Islamic History and Manuscript*, 1.2 (2022): 123–140, doi:10.24090/jihm.v1i2.6960.

[29] Z Isman, 'Dayak dan Melayu di Kalimantan', *Jurnal Ilmu-Ilmu Sosial dan Humaniora*, 19.2 (2014): 1–13, doi:http://dx.doi.org/10.26418%2Fproyeksi.v19i02.456.

[30] Zainal Aripin, 'Islam Relation in The Iban and Malay Communities Jongkong, Kapuas Hulu', *Journal of Islamic Studies*, 8.1 (2018): 63–77, doi:10.24260/khatulistiwa.v8i1.1279.

[31] Yusriadi Yusriadi, *Bahasa dan Identiti Melayu di Riam Panjang* (Bangi: ATMA-SEASREP, 2014), pp. 21-22.

DOI: http://dx.doi.org/10.24042/adalah.v22i1.24008

In addition to changing their religion to Malay, residents had to change their names to resemble Malay, including adopting names containing Arabic elements. In many cases, this change also affected their language, as in Sungai Buah, where the language changed from Iban to Ulu Kapuas Malay. In short, customs and traditions have undergone several changes, all carried out to align with Islamic law. This process became the entry point for dialogue between custom and Islamic law in the Kapuas Hulu Malay community.

In the Customary law that persists within the Kapuas Hulu Malay community, elements of Islamic law can be explicitly traced in several articles of Customary law contained in the book "Adat Melayu Kapuas Hulu" (Kapuas Hulu Malay Customs) (2012). The following explanation illustrates the relationship between local Customary law provisions and Sharia law.

1. Inheritance and Wills

   Article 23, paragraph 2 stipulates the limitation of wills for adopted children, siblings, or adoptive parents, which cannot exceed 10% of the inheritance. This provision is in line with the maximum bequest provisions in Islamic law.

2. Divorce and Talaq

   Article 38 stipulates: If the husband and wife agree to divorce, the wife redeems the talaq that the husband has withheld. If the husband refuses, the divorce decision is submitted to the Religious Court, with the husband being subjected to Customary fines. Similarly, Article 40, paragraph 3 stipulates: The husband has the right to determine the number of talaq (1, 2, or 3), and the decision regarding the divorce is handed over to the Religious Court. Article 42, paragraphs 1–2 stipulate *khulu'* (repudiation by the wife) with a specific compensation. If the husband refuses, he is subject to a Customary fine. This khulu's evidence directly refers to Sharia law.

3. Iddah Period and Violations During the Iddah Period

   Article 45, paragraph 2 stipulates the prohibition of marriage during the iddah period for women who have been divorced. If a man outside the village wants to marry the woman before her iddah

DOI: http://dx.doi.org/10.24042/adalah.v22i1.24008

is over, he will be subjected to a heavy Customary fine. Similarly, Article 46 paragraphs 1–2 stipulate sanctions for women who are divorced or widowed; if they have relations with another man during the iddah period, they will be subjected to a Customary fine and are required to marry after the iddah period ends.

4. Moral and Honour Violations

   Article 49, paragraph 1 stipulates traditional sanctions for men who elope with women who are not their *mahram*.

5. Accidents Resulting in Death

   Article 24 paragraph 4.c.3 stipulates that if an accident occurs on land or in a river that results in death, the perpetrator will be subject to a Customary fine of IDR 30,000,000.00 (thirty million rupiah), plus funeral costs, including the Customary of *irin ari-yasinan*.

From the above description, the dialogue and relationship between Customary law and Sharia can be summarised in several key topics as follows:

(1) *Integration of Islamic Legal Concepts in Customary Articles*. This pattern is demonstrated by using Islamic legal terms such as talaq, iddah, khulu', will, and Religious Court in the formulation of Customary articles.

(2) *Adoption of Sharia Substance in Customary Law Practice*.

   This tendency includes provisions on the iddah period, compensation for khulu', sanctions for violations during the iddah period, and restrictions on wills regulated by Islamic jurisprudence.

(3) *Socio-Religious Consensus in the Formulation of Customary Law*.

   Adat leaders, religious scholars, district Ministry of Religious Affairs elements, and local law enforcement were directly involved in formulating the 2016 Buyan Customary law compilation.

(4) *The Formal Role of Religious Courts in Customary Law Cases*.

   This tendency is demonstrated by the provisions regarding Customary divorce cases, which must be decided in a Religious Court for administrative validity and formal state law.

DOI: http://dx.doi.org/10.24042/adalah.v22i1.24008

(5) *Socio-Administrative Considerations*.

Submission to the Religious Court is accommodated in Customary law articles because it has administrative implications for Customary law citizens who divorce.

(6) *Compromise Dialogue between Local Law and Sharia*.

Customary law still upholds local sanctions such as fines, which can be in the form of clothing, goods, and money, but it also adheres to Sharia principles in moral and social norms.

Religious References in the Customs of Sekadau and Melawi

Traces of Islamic references in Malay Customary law can be found in Merapi Village, Sekadau Village, and Nanga Pinohillage, Melawi. Merapi Village is approximately 17 kilometres from Sekadau, a Malay village in the Dayak region. In this region, Islam and the Malay community are marginalized. However, uniquely, local Customary law, inherited and applied within the community from generation to generation, has not been able to escape the influence of Islamic law, which is essentially a foreign law.

Malay Customary law in Merapi Village, Kapuas Hulu, has 14 articles containing the following rules: Article 1 on Engagement (Proposal); Article 2 on Dowry; Article 3 on Misunderstanding Customs; Article 4 on Blood Oath; Article 5 on Customary Sanctions; Article 6 on Appointment; Article 7 on the practice of Beramau; Article 8 on Village Deliberation (Pesupan Kampung) and Parental Deliberation; Article 9 on *Jeragan Mocah Timak*; Article 10 on Life and Death; Article 11 on Defamation; Article 12 on Childbirth Customs; Article 13 on Village Divorce; and Article 14 on Court Procedure Regulations.

Although not much is regulated in Kapuas Hulu Malay Customary Law, Merapi Customary Law contains numerous provisions demonstrating that Islamic law has been considered a primary reference in lawmaking. This tendency is evident in several terminologies used, particularly in Article 6 of the Customary law of *naik* (the Customary law of marriage), Article 7 of the Customary law of *beramau*, Article 8 of the Customary law

DOI: http://dx.doi.org/10.24042/adalah.v22i1.24008

of *pesupan* kampung (village marriage), and Article 13 of the Customary law of village divorce.

Although not much is regulated in Kapuas Hulu Malay Customary Law, Merapi Customary Law contains numerous provisions demonstrating that Islamic law has been considered a primary reference in lawmaking. This tendency is evident in several terminologies used, particularly in Article 6 of the Customary law of naik (uplifting), Article 7 of the Customary law of beramau (marriage), Article 8 of the Customary law of pesupan kampung (village divorce), and Article 13 of the Customary law of divorce (village divorce).

Several terms in the Articles above are derived from Islamic law, such as "perzinahan" or "adultery." The Customary law of Merapi implicitly divides adultery into two situations: "*Adat Terangkat*" and "Adat Beramau." *Adat Terangkat* is adultery committed by single and unmarried couples, whereas Adat Beramau is adultery committed by married individuals. In Islam, *Adat Terangkat* is equivalent to *zina ghairu muhsan* (unmarried), whereas *Adat Beramau* is equivalent to *zina muhsan* (married).

Although not much is regulated in Kapuas Hulu Malay Customary Law, many provisions in Merapi Customary Law indicate that Islamic law has been used as a primary reference in lawmaking. This tendency is evident in several terminologies used, particularly in Article 6 of the Customary law of *Terangkat*, Article 7 of the Customary law of *Beramau*, Article 8 of the Customary law of *Pesupan Kampung*, and Article 13 of the Customary law of *Cerai Kampung.*

Religious references are also explicitly included in Merapi Customary law, such as in Article 8 concerning Village Deliberation (*Pesupan Kampung*), Article 13 concerning village divorce (*Cerai Kampung*), and Article 13 concerning the Religious Affairs Office and issues of valid marriage according to religion.

Meanwhile, in Nanga Pinoh District, Melawi, a village located in the southern downstream of Kapuas Hulu and categorized as a Malay settlement, the local community calls themselves *Kebahan*, a Customary identity equivalent to Dayak and Malay. In this village, community leaders, representing 22 villages in Nanga Pinoh District, successfully compiled a

DOI: http://dx.doi.org/10.24042/adalah.v22i1.24008

Malay Customary Law Code along with Dayak Customary Law in 2001, based on the principle of "*same roots and easy to unite*." The book consists of two parts: the first on Dayak Customary Law and the second on Malay Customary Law. This book serves as a guide for Customary leaders in all villages in deciding Customary matters. In this book, several terms refer to Islamic law or Islamic jurisprudence. For example, in the section on the division of assets (Chapter III of Customary Law on Divorce), Article 10, paragraph 4 states: "If a divorce occurs and there are children, then the children are entitled to a portion of the existing assets." The heirs and the Customary council regulate the distribution following Sharia law (*farâidl*).

A similar tendency can also be found in Article 10, paragraph 5: "For further divorce proceedings, the Customary Council shall submit the case to the Sharia Court." Also Article 11 paragraph 4 which states: "The subsequent reconciliation process is regulated according to Islamic law", and Article 15 or 4 which states: "Basa bedusa is an act deliberately carried out by a person who is in bed with a girl or another person's wife to have intimate relations without a legal marriage bond, whether or not it has been carried out. The person who does this is subject to the Customary basa bedusa of 20 reals per gold and a village fine of 5 reals per gold."

The vocabulary of Islamic law, such as *sharîa, farâidh*, Religious Court, *ruj*û'/reconciliation, and legitimate marriage, used in Articles 10, 11, and 15 above, indicates that Islamic law has become a reference in Malay Customary law in Nanga Pinoh.[32] The terms *Sharia* (God's law as a guideline for religion), *farâidh* (division of inheritance), and *ruj*û (reconciliation from divorce) are terms that exist in Islamic law. Furthermore, the phrase "*Religious Court*" in Article 10 relates to the court institution that oversees the implementation of Islamic law in marriage cases based on Islamic law. Similarly, the statement "*legitimate marriage*" in Article 15 refers to marriage procedures according to Islamic law. Therefore, based on this data, it can be said that Malay Customary law in Nanga Pinoh is related to Islamic law, it even makes Islamic law the basis in several Customary cases.

[32] KHI, *Kompilasi Hukum Islam* (Dirjen Pembinaan Kelembagaan Islam Departemen Agama, 2001), pp. 1-107.

DOI: http://dx.doi.org/10.24042/adalah.v22i1.24008

Karman and Empty Space Customary Law of Sambas

Sambas is a region rich in Malay-Islamic culture, symbolically represented by the Sambas Sultanate, a Malay-Islamic kingdom.[33] Many experts believe the Malays originated in the western part of Kalimantan, around Sambas. This sultanate has existed since the 15th century and has become a centre for Islamic development and education.[34] The Sambas Palace once *had* regulations called *qanûns* during the reign of Sultan M. Syafiuddin I. The *Qanûns* are sultanate laws that regulate social relations based on Islamic law. These *qanûns* are partly used to resolve legal issues within the community.[35]

In the Sambas region, the dialogue between Customary law and Islamic law differs from the pattern observed in the coastal areas of West Kalimantan, namely in Kapuas Hulu, Sekadau, and Melawi.[36] In Sambas, despite the dominance of Islam, customs and Customary law also have a place in local society. While not all Customary laws permeate the social fabric, certain aspects demonstrate the presence of Customary law and local culture in the lives of the Malay-Muslim community here. For example, as noted by Ma'u et al.,[37] in the Sambas-Sajingan-Aruk border communities, a custom called *Cerai Manis* (sweet divorce) existed. This "Sweet Divorce" is a resolution to marital problems that occur informally or not officially, according to Indonesian marriage law. Furthermore, in the Tangaran region of Sambas, there is also Customary law symbolized by a golden needle. This custom imposes a penalty for violators: payment of an equivalent amount of gold. However, today, this golden needle custom is only a memory.

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[33] J T Collins and Awang Sariyan, *Borneo and the Homeland of the Malays: Four Essays* (Kuala Lumpur: Dewan Bahasa dan Pustaka, 2017), pp. 45–63.

[34] Risa Risa, 'Islam di Kerajaan Sambas Antara Abad XV–XVII: Studi Awal Tentang Islamisasi di Sambas', *Jurnal Khatulistiwa–Journal of Islamic Studies*, 4.2 (n.d.): 105–116, doi:10.24260/khatulistiwa.v4i2.244.

[35] F Fitriyani, 'Sistem Pewarisan Pada Masyarakat Hukum Adat Melayu Sambas Kabupaten Sambas Kalimantan Barat' (unpublished, Program Pascasarjana Universitas Diponegoro, 2002), p. 2.

[36] Erwin Mahrus, Zaenuddin Hudi Prasojo, and B Busro, 'Messages of Religious Moderation Education in Sambas Islamic Manuscripts', *Mdn*, 24.1 (2020): 39, doi:10.29300/madania.v24i1.3283.

[37] Dahlia Haliah Ma'u, Wagiyem Wagiyem, and Rita Mustika Rahayu, 'The Construction of Cerai Manis (Prefered Divorce) on the Border of Indonesia and Malaysia Communities', *Adalah*, 20.1 (2023): 19, doi:10.24042/adalah.v20i1.16518.

DOI: http://dx.doi.org/10.24042/adalah.v22i1.24008

As times change and positive law becomes stronger, replacing the "lost" Customary law in Sambas, the idea of reviving Customary law has emerged. The case of Hasan Karman, the Mayor of Singkawang, who was charged with Customary law for allegedly insulting the Malay people by stating that Malays are descended from pirates,[38] sparked this discourse. The Sambas Palace and the Sambas Malay Customary and Cultural Council (MABM), an entity that symbolically represents the Sambas Malay community and upholds Sambas customs, are currently in dialogue regarding the form and type of Customary law to be implemented and how they will determine it. Islamic law (*Qanûn*) is the foundation for developing Sambas Customary law in this Sambas dialogue. This event illustrates that Customary law emerged from a long historical process and has experienced fluctuations in its application.

Imam and Construction Customary Law Kubu Raya

Kubu Raya differs from Sambas, Sekadau, Melawi, and Kapuas Hulu. Due to its expansion from Mempawah, Kubu Raya is a new region with no specific characteristics in terms of culture and customs. The areas of Kubu Raya located within the circle of Pontianak City have long been considered part of the Pontianak Malay culture. Kubu Raya shows a gap in terms of Customary law.

When the community in Mengkalang Jambu in Kubu Raya need an alternative role from the internal community to manage common interests without formal law, they agree to establish Customary law. The agreement involves elements of village administrators, community leaders, and religious figures. The deliberation held at the village mosque resulted in a mutual agreement on the necessity of Customary law. The new Customary law relates to the rules and Customary sanctions, one of them is a prohibition for catching shrimp in the large ditch in the village of Mengkalang Jambu using nets, trawls, and poison. Shrimp may only be caught with a fishing rod, and shrimp that are spawning must be released back.

[38] Antara, *Menyinggung Melayu, Walikota Singkawang Minta Maaf*, Agustus 2024 <https://www.antaranews.com/berita/208429/menyinggung-melayu-walikota-singkawang-minta-maaf.> [downloaded 20 August 2024].

DOI: http://dx.doi.org/10.24042/adalah.v22i1.24008

The village head's awareness of creating village Customary law involving religious leaders is based on the understanding that the voices of religious leaders in the community are critical. The voice of the mosque imam resonates in the minds and actions of the community, which is primarily Muslim. The community's dependence on the imam is very high for religious, belief, and socio-religious activities. Customary law becomes the regulation to maintain shrimp in the main ditch, then extends to Customary law for the central canal that connects the main ditch to the Kapuas River flow.

Relationship Patterns Between Islamic Law and Customary Law in West Kalimantan

The relationship between Islamic law and Customary law in West Kalimantan can be identified into four typologies: integrative-substantive, selective-symbolic, Pragmatic-Administrative, and Historical-Dominative. The following table shows the application of these four typologies.

Table 1. The Relationship Between Islamic Law and Customary Law in West Kalimantan

Region	Relationship Pattern	Dialogue Form	Actor Note	Note
Kapuas Hulu	Integrative Substantive	Sharia Customary norms, Applicative Customary Law	Customary leaders-MABM, religious leaders, KUA	Balanced Malay-Dayak, Dayak Zone
Melawi	Selective-Symbolic	Sharia terminology, Applicative Customary Law	Traditional leader, village administrator	Balanced Malay-Dayak, in the Dayak zone
Sekadau	Selective-Symbolic	Sharia terminology, Applicative Customary Law	Traditional leader, village administrator	Melayu Minorities, Dayak Zone
Kubu Raya	Pragmatic-Administrative	Village Deliberation	Village and Religious Administrator,	Malay Bugis majority, Malay Zone
Sambas	Historical-Dominative	Dominant Sultanate Law, Symbolic Customary Law	Sultanate, Religious Leader	

The table shows that in Kapuas Hulu, the relationship is integrative-substantive, where Customary law not only adopts sharia terms but also

DOI: http://dx.doi.org/10.24042/adalah.v22i1.24008

substantive norms applied in social life. The key actors in such a tendency are customary leaders, MABM, religious leaders, and KUA (the Office of Religious Affairs).

In Melawi and Sekadau, on the other hand, the relationship is selectively symbolic. Customary law only absorbs Sharia terminology such as *iddah, talaq, and farâidh* for legitimacy without fully applying substantive norms. The key actors in such a tendency are customary leaders and village administrators.

Meanwhile, Kubu Raya shows a pragmatic-administrative pattern. Customary law is formed through village deliberations involving religious leaders to regulate social-community interests not covered by formal law. Such a tendency is influenced by the region's character resulting from expansion with a population of Malays and Bugis.

As for Sambas, the relationship pattern takes the form of a historical dominant, where Islamic law in the reign of the sultanate *qanûn* becomes a symbolic legal norm, while Customary law plays a limited role in minor cases. The Sultanate and local religious leaders previously initiated such a legal dialogue.

The above examples from various regions show that the relationship between Islamic law and Customary law in West Kalimantan varies. This variation is influenced by many aspects, including the demographic composition, political and cultural position of the community, and the role of local actors in their respective social spaces.

Conclusion

The results of this study indicate the presence of dialogical interaction between Sharia law and Customary law in West Kalimantan regions. This interaction is reflected in the terms and concepts of Islamic law adopted in Customary law. There are different patterns of interaction in each region. In Kapuas Hulu, for instance, the dialogue is intense with many Islamic elements adopted in Customary law. In contrast, in Merapi, Sekadau, and Nanga Pinoh, the adaptation of Islamic law within Customary law is more limited.

DOI: http://dx.doi.org/10.24042/adalah.v22i1.24008

Meanwhile, in Sambas and Kubu Raya, customary law is revived with the encouragement of Islamic values. The gap between religious and Customary norms in those regions is bridged through adjustments in theological and sociological aspects, allowing both to complement each other. In practice, Customary law based on Sharia principles is applied in some instances, accompanying and even replacing formal law. This phenomenon indicates that the assumption that customs and religion are always in opposition is irrelevant, particularly in the Malay community of West Kalimantan. Moreover, this finding also emphasizes the importance of the roles of Customary and religious leaders in mediating legal dialogues.

Author Contribution

Munawar Munawar, Yusriadi Yusriadi, Juniawati and Dedy Ari Asfar are responsible for collecting field data, conducting interviews, processing data, and writing drafts. Dilah Tuah is responsible for formulating concepts, processing documentation, editing, and finishing the final draft.

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