



Islamic Legal Philosophy in the Context of Normative Pluralism among Southeast Asian Muslims

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Article info:	Abstract
Keywords: Customary law, Islamic legal philosophy, Normative pluralism, Southeast Asia, State law	Islamic law can no longer be understood as a single, definitive and hegemonic normative authority, but rather as a dynamic, dialogical epistemic horizon continually negotiated through the interaction among <i>shari'ah</i> , customary law and state law. This study aims to provide a comprehensive analysis of the philosophy of Islamic law within the context of Muslim normative pluralism in Southeast Asia, focusing in particular on how the philosophical principles of Islamic law are employed to understand, explain and evaluate the diversity of norms emerging within multicultural societies. This study employs a qualitative, interpretative-critical approach to Islamic legal philosophy, with conceptual and contextual analysis. The findings indicate that the dynamics of the relationship between Islamic law, customary law and state law in Indonesia, Malaysia and Brunei Darussalam constitute a significant source for the revitalisation of the epistemology of Islamic law itself, as law is no longer positioned as a monolithic, closed system, but rather as an arena for ethical dialogue that is continually shaped through social practice, normative negotiation and collective <i>ijtihad</i> . Through the integration of the concepts of epistemological hybridisation, normative co-existence and negotiation, and the development of <i>maqāṣid al-shari'ah</i> grounded in pluralism, this study broadens the horizons of Islamic legal philosophy from the classical normative framework towards a transformative paradigm that is more inclusive, adaptive and responsive to the complexities of multicultural societies, whilst affirming that the flexibility of Islamic law is not a deviation from <i>shari'ah</i> , but rather a fundamental prerequisite for its sustainability and relevance in the face of contemporary social dynamics.
Article history: Received: 27/05/2026 Revised: 17/06/2026 Accepted: 23/06/2026 Published: 24/06/2026	
Article DOI: 10.65586/insani.v2i1.87	

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Available online at: <https://journal.mahkotascience.org/index.php/insani>
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Introduction

The development of Muslim societies in Southeast Asia over the past few decades has revealed increasingly complex dynamics, particularly in the relationship between Islamic legal norms, social practices and the state legal framework.¹ This region, which encompasses countries such as Indonesia, Malaysia, Brunei Darussalam, Southern Thailand and the Southern Philippines, presents a reality of diversity that is not only ethnic and cultural in nature, but also normative. In this context, Islamic law does not appear as a single, uniform system, but rather exists as a plurality of norms that interact with state law, local customs, and historically developed social practices.²

This phenomenon gives rise to what may be termed normative pluralism, namely, the coexistence and mutual influence of various normative systems within Muslim societies. Consequently, an understanding of Islamic law in Southeast Asia cannot be separated from a philosophical approach capable of explaining its ontological, epistemological, and axiological foundations. Within the framework of Islamic law, law is not merely a collection of textual normative rules, but rather the result of an interpretive process that engages social, political, and cultural contexts. This becomes increasingly relevant when confronted with the reality of Southeast Asia, characterised by colonialism, legal modernisation, and the globalisation of democratic values and human rights.³

The interaction between *shari'ah* and the modern legal system inherited from Western colonialism has given rise to a unique legal configuration, in which Islamic norms are selectively accommodated within the national legal system.⁴ In Indonesia, for example, Islamic law is institutionalised in specific fields such as family law and *shari'ah* economics, whilst in Malaysia, there is a dual legal system comprising civil law and *shari'ah*. This situation demonstrates that normative pluralism is not merely an empirical phenomenon but also a political and legal construct that requires in-depth philosophical analysis.

Several previous studies have examined legal pluralism in Southeast Asia from the perspectives of law, anthropology, and Islamic studies. These studies generally highlight how Islamic law adapts to local contexts and how the state manages the diversity of norms within its legal system.⁵ Research conducted by contemporary scholars indicates that legal pluralism in this region is not merely descriptive but also normative, as it involves questions of legitimacy, authority, and justice.

¹ Zaini Nasohah, "Dynamics of Islamic Family Law in Facing Current Challenges in Southeast Asia," *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam* 8, no. 1 (2024): 1-19, <https://doi.org/10.22373/sjhk.v8i1.16553>.

² Moh Ainul Muttaqin et al., "The Dynamics of the Relationship between Islamic Law and Customary Law in Inheritance Disputes in Indonesia," *Insani: Jurnal Pranata Sosial Hukum Islam* 1, no. 1 (2025): 80-95, <https://doi.org/10.65586/insani.v1i1.6>.

³ Tumian Lian Daya Purba, Suud Sarim Karimullah, and Silvester Magnus Loogman Palit, "Eco-Apartheid: Unpacking Environmental Injustice and Its Impact on Human Rights," *Journal of Southeast Asian Human Rights* 9, no. 2 (2025), <https://doi.org/10.19184/jseahr.v9i2.52546>; Suud Sarim Karimullah, Sulastri Sulastri, and Kamsi Kamsi, "Islamic Law and the Regulation of Human Rights Issues in Separatist Conflicts," *FITRAH: Jurnal Kajian Ilmu-Ilmu Keislaman* 10, no. 2 (2024): 373-94, <https://doi.org/10.24952/fitrah.v10i2.12260>.

⁴ Suud Sarim Karimullah, "Comparison of the Concept of Justice in Islamic Law and Western Law," *UNISKA LAW REVIEW* 4, no. 2 (2023): 145-73, <https://doi.org/10.32503/ulr.v4i2.4379>.

⁵ Suud Sarim Karimullah, "From Tradition to Mainstream: Understanding the Integration of Islamic Law in Various Global Settings," *Justicia Islamica* 20, no. 2 (2023): 214-40, <https://doi.org/10.21154/justicia.v20i2.6478>; Lalu Hendri Nuriskandar et al., "The Convergence of Islamic Law and Customary Law in the Management of Zakat in Indonesia and Malaysia," *Insani: Jurnal Pranata Sosial Hukum Islam* 1, no. 1 (2025): 63-79, <https://journal.mahkotascience.org/index.php/insani/article/view/5>.

Some studies emphasise the importance of a legal pluralism approach in understanding the interaction between state law, customary law, and religious law.⁶ On the other hand, some studies criticise the state's dominance in defining and controlling Islamic law, thereby neglecting local practices that remain alive within society.⁷ However, most of these studies still tend to view normative pluralism from an empirical and institutional perspective, without delving deeply into the philosophical dimensions of Islamic law.⁸

The philosophy of Islamic law, as an analytical framework capable of bridging texts, contexts, and values, has not yet been optimally utilised in analysing the phenomenon of normative pluralism in Southeast Asia. However, a philosophical approach enables researchers to explore the fundamental principles underpinning the diversity of interpretations of Islamic law, such as the concepts of *maqāṣid al-sharī'ah*, justice (*'adl*), public interest (*maṣlaḥah*), and *ijtihād*. Without a deep understanding of these dimensions, analysis of normative pluralism risks becoming trapped in superficial descriptions, unable to explain the internal logic that shapes it.

Developments in the study of contemporary Islamic law reveal an increasingly complex dynamic, particularly when it confronts the realities of a pluralistic modern society. In this context, normative pluralism has become a key issue, as Muslim communities interact not only with *sharī'ah* but also with customary law, local traditions, and various universal values emerging within the global order. Southeast Asia is a region of particular interest for study as it possesses social, cultural and historical characteristics that differ from those of the Middle East.⁹ This region has long dominated the discourse on Islamic law. The diversity of ethnic groups, local traditions, political systems and colonial experiences in this region has given rise to distinctive forms of legal interaction, thereby illustrating how Islamic law evolves through a dynamic process of adaptation, negotiation and reinterpretation.

There is a tendency in the existing literature to separate the study of Islamic law from that of legal pluralism. The philosophy of Islamic law is generally discussed within an abstract, normative-theoretical framework, emphasising its epistemological, ontological and axiological aspects, whilst legal pluralism is more frequently examined through an empirical-sociological approach that focuses on the diversity of legal systems within society. This separation has led to a lack of integration between the two fields, leaving no analytical framework to explain how the philosophical principles of Islamic law operate within the context of normative pluralism. Furthermore, the majority of studies on Islamic law still place the Middle East at the center of research, leaving

⁶ Fernanda Pirie, "Beyond Pluralism: A Descriptive Approach to Non-State Law," *Jurisprudence* 14, no. 1 (2023): 1–21, <https://doi.org/10.1080/20403313.2022.2108608>; Mursyid Djawas et al., "Harmonization of State, Custom, and Islamic Law in Aceh: Perspective of Legal Pluralism," *Hasanuddin Law Review* 10, no. 1 (2025): 64–82, <https://doi.org/10.20956/halrev.v10i1.4824>.

⁷ Muttaqin et al., "The Dynamics of the Relationship between Islamic Law and Customary Law in Inheritance Disputes in Indonesia"; 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, no. 2 (2024): 419–48, <https://doi.org/10.21580/ahkam.2024.34.2.20843>.

⁸ Achmad Hariri and Basuki Babussalam, "Legal Pluralism: Concept, Theoretical Dialectics, and Its Existence in Indonesia," *Walisono Law Review (Walrev)* 6, no. 2 (2024), <https://doi.org/10.21580/walrev.2024.6.2.25566>; Siti Latifah, Zulkarnaen Zulkarnaen, and Amroeni Drajat, "The Hermeneutical Approach in Understanding Islamic Law: A Philosophical Study," *Jurisprudensi: Jurnal Ilmu Syariah, Perundang-Undangan Dan Ekonomi Islam* 17, no. 2 (2025): 35–53, <https://doi.org/10.32505/jurisprudensi.v17i2.9110>.

⁹ Sabrina Chikh-Amnache and Lotfi Mekhzoumi, "The Influence of Socioeconomic Factors on Female Entrepreneurship in Southeast Asian Countries," *Journal of Entrepreneurship in Emerging Economies* 16, no. 1 (2024): 33–70, <https://doi.org/10.1108/JEEE-12-2022-0371>.

attention to Southeast Asia as a distinct sphere of Islamic legal development relatively limited.¹⁰

Recent developments indicate a growing focus on issues of human rights, gender equality, democracy and civil liberties within the discourse on Islamic law.¹¹ This situation presents new challenges for normative pluralism, as Islamic norms must interact with universal values that are often associated with Western traditions. In the Southeast Asian context, this interaction has given rise to various forms of interesting normative negotiation, such as the reinterpretation of Islamic family law,¹² the strengthening of women's roles in religious institutions, and the emergence of a progressive and inclusive discourse on Islam. These various phenomena demonstrate that Islamic law does not develop statically but rather undergoes continuous transformation in accordance with social contexts and societal needs. Nevertheless, research specifically linking these phenomena to the philosophy of Islamic law within the framework of normative pluralism remains very limited.

Given this situation, a significant research gap can be identified. Firstly, there remains a lack of integration between Islamic legal philosophy and the analysis of normative pluralism in Southeast Asia. Secondly, the majority of research focuses on institutional and empirical aspects, thereby failing to explore the conceptual and normative dimensions that underpin the diversity of Islamic legal practices. Thirdly, few studies explicitly examine how the philosophical principles of Islamic law can be used to understand, explain and evaluate the phenomenon of normative pluralism in a contemporary context. Fourthly, the literature that positions Southeast Asia as the primary locus for the study of Islamic law remains relatively limited; consequently, the region's contribution to global discourse has not been fully explored.

Building on these research gaps, this study seeks to integrate Islamic law's philosophy as the primary analytical framework for examining Muslim normative pluralism in Southeast Asia. This study not only describes the diversity of norms developing within Muslim societies but also analyses them philosophically by exploring the fundamental principles underpinning various forms of interpretation and practice of Islamic law. Consequently, this study aims to comprehensively examine the philosophy of Islamic law within the context of Muslim normative pluralism in Southeast Asia, particularly regarding how the philosophical principles of Islamic law can be utilised to understand, explain and evaluate the diversity of norms developing within contemporary societies. The significance of this study lies in its contribution to enriching the body of knowledge in the field of the philosophy of Islamic law and legal pluralism, particularly within the context of Southeast Asia, which has so far received insufficient attention in global academic discourse.

The philosophy of Islamic law is a branch of thought that seeks to understand the nature, objectives, basis of legitimacy, and fundamental values contained within Islamic

¹⁰ Abbas Sofwan Matlail Fajar and Nur Rohim Yunus, "Reconstruction of Islamic-Based Marriage Law Politics: A Comparison between Legal Traditions in the Middle East and Southeast Asia," *Legitima: Jurnal Hukum Keluarga Islam* 8, no. 1 (2025): 47–61, <https://doi.org/10.33367/legitima.v8i1.8356>.

¹¹ Mahrus Alwi Hasan Siregar, Abdeldzhilil Abdeldzhilil, and M Hamim, "Reconstructing the Concept of Gender Justice in Indonesia's Family Law System Based on Constitutional Values," *Indonesian Journal of Gender Justice and Family Law* 1, no. 1 (2026): 1–18, <https://doi.org/10.65586/ingefal.v1i1.1>; Zumiyyati Sanu Ibrahim et al., "Islamic Law and Human Rights: Convergence or Conflict?," *Nurani: Jurnal Kajian Syari'ah Dan Masyarakat* 24, no. 2 (2024): 431–48, <https://doi.org/10.19109/nurani.v24i2.19595>.

¹² Hijriatu Sakinah et al., "Legal Policy on Women's Protection in the National Family Law System," *Indonesian Journal of Gender Justice and Family Law* 1, no. 1 (2026): 19–35, <https://doi.org/10.65586/ingefal.v1i1.2>; Maulana Hayatullah et al., "Implementation of Gender Equality Principles in Religious Court Decisions Related to Divorce," *Indonesian Journal of Gender Justice and Family Law* 1, no. 1 (2026): 36–51, <https://doi.org/10.65586/ingefal.v1i1.3>.

law.¹³ This study is concerned not only with the normative aspects of law but also with rationality, justice, the public interest, and the relationship between revelation and social reality. Within the Islamic intellectual tradition, the philosophy of law has developed through the thought of scholars of *usul al-fiqh* and Muslim philosophers who have sought to explain the objectives of *sharī'ah*, or *maqāṣid al-sharī'ah*, as the primary foundation for the formation of law. The concept of *maqāṣid al-sharī'ah* places human welfare at the centre of Islamic law, so that the law is not understood merely as a set of textual rules, but rather as an ethical instrument aimed at safeguarding religion, life, reason, lineage and property.

In the context of normative pluralism, the approach of Islamic legal philosophy is significant as it explains how diverse interpretations of the law can be accommodated within the framework of *sharī'ah*.¹⁴ Differences in schools of thought, local traditions, and social practices across various Muslim regions demonstrate that Islamic law possesses epistemological flexibility, allowing for adaptation to specific social contexts. Southeast Asia clearly illustrates this dynamic through the practices of Islamic law that interact with customary law and state legal systems.¹⁵ In Indonesia, for example, Islamic family law has undergone codification through the Compilation of Islamic Law, the result of a compromise among *sharī'ah* norms, national law and local traditions.¹⁶ Meanwhile, in Malaysia and Brunei Darussalam, Islamic law is applied within a legal dualism framework that combines civil law and *sharī'ah*.

The phenomenon of normative pluralism in Southeast Asia demonstrates that Islamic law cannot be understood in a singular, monolithic manner. Rather, Islamic law evolves through a process of dialogue between texts, traditions, religious authorities and social realities. In such circumstances, the philosophy of Islamic law plays a vital role as an analytical tool for assessing the legitimacy, rationality and ethical orientation of the various forms of legal practice that emerge. A philosophical approach enables a more in-depth analysis of questions concerning justice, authority, freedom, and the relationship between religious norms and individual rights in a pluralistic society.

The development of globalisation and modernisation has also influenced the transformation of Islamic law in Southeast Asia. The increasingly open flow of information and exchange of ideas has led Muslim societies to confront various new issues that were previously not widely discussed in classical literature, such as democracy, religious pluralism, women's rights, bioethics, and digital technology. This situation has spurred various reinterpretations of Islamic law, seeking to adapt its principles to the demands of modern society. On the one hand, these reinterpretations demonstrate the flexibility of Islamic law in responding to changing times; on the other hand, they have also given rise to debates regarding the limits of interpretative authority and the legitimacy of legal change.

¹³ Habib Ahmed, "Islamic Normative Legal Theory: Framework and Applications," *Journal of Law and Religion*, 2025, 1–31, <https://doi.org/10.1017/jlr.2025.10056>.

¹⁴ Hafiz Falak Shair Faizi and Hafiz Sfarish Ali, "The Core Principles of Islamic Jurisprudence within Legal Theory: A Comprehensive Analysis," *Online Journal of Research in Islamic Studies* 11, no. 2 (2024): 57–72, <https://doi.org/10.22452/ris.vol11no2.4>.

¹⁵ R Michael Feener, "Islamic Jurisprudence and Adat in Southeast Asia," in *Southeast Asian Islam* (Routledge India, 2024), 61–85, <https://doi.org/10.4324/9781032702902-5>.

¹⁶ Bisri Ali Mustofa, "Reconstructing Qiwāmah and Wilāyah in the Shāfi'i Legal Tradition: Toward a Reform of Islamic Family Law in Indonesia," *Jurnal Mahkamah: Kajian Ilmu Hukum Dan Hukum Islam*, 2025, 345–58, <https://doi.org/10.25217/jm.v10i2.6846>.

Methods

This study employs a qualitative, interpretative-critical approach, grounded in Islamic legal philosophy, oriented towards conceptual and contextual analysis. This approach was chosen for its ability to elucidate the dialectical relationship between normative principles and the practice of legal pluralism within Muslim societies in Southeast Asia. The focus of the study is directed towards the construction of normative pluralism, operationally defined as the dynamic interaction between Islamic law, state law, and local social norms, as well as towards the philosophical principles of Islamic law, such as *maqāṣid al-sharī'ah*, justice, public interest, and *ijtihād* as the primary analytical framework.¹⁷ The subjects of study include legal documents (legislation, fatwas, court rulings), recent academic literature, and selected social practices in Indonesia and Malaysia, serving as regional representatives, selected through purposive sampling based on substantive relevance and depth of information.

The research instruments consist of document analysis guidelines and a thematic categorisation framework developed iteratively through a literature review, and their validity is tested using source and theory triangulation to ensure the credibility, reliability, and confirmability of the data. Data collection was conducted in stages through systematic literature reviews, searches of reputable scientific databases, and analysis of legal and policy documents, which were subsequently enriched by critical reflection on the social context. Data analysis was carried out using qualitative content analysis techniques combined with legal hermeneutics and the *maqāṣid* approach to uncover the normative meaning, structure of argumentation, and ethical implications of legal pluralism, thereby enabling the development of a comprehensive conceptual framework relevant to the study's objectives in explaining and evaluating normative pluralism philosophically and contextually.

Result and Discussion

A Reconstruction of the Epistemology of Islamic Legal Philosophy within the Framework of Normative Pluralism

Traditionally, the epistemological foundations of Islamic law are established through the framework of *usul al-fiqh*, which identifies the Qur'an, the *Sunnah*, *ijma'* and *qiyas* as the primary sources in the process of *istinbath al-ahkam*. This structure reflects a normative rationality that seeks to maintain a balance between revelation and reason in the determination of legal rulings. However, in practice, *uṣūl al-fiqh* is often understood in a formalistic, textualist manner, rendering it less responsive to complex social dynamics, particularly in the context of multicultural societies in Southeast Asia. In fact, upon closer examination, *uṣūl al-fiqh* possesses highly flexible epistemological potential, particularly through concepts such as *istihsan*, *maslahah mursalah*, and *'urf*, which enable the integration of religious norms with local realities.

Maqāṣid al-sharī'ah plays a central role as an epistemological paradigm that can shift the orientation of Islamic law from a literalist to a substantive one. *Maqāṣid* functions not only as the objectives of the law but also as an epistemic principle that guides the legal reasoning process to be oriented towards fundamental values such as justice, the public interest, and the protection of human rights.¹⁸ In the context of normative pluralism, the *maqāṣid* approach enables Islamic law to interact constructively with other legal systems

¹⁷ Eka Sutisna et al., "Artificial Intelligence and Ethical Ijtihād in the Production of Islamic Knowledge," *Jurnal Lentera Insani* 1, no. 2 (2025): 111-25, <https://doi.org/10.65586/jli.v1i2.26>.

¹⁸ Suud Sarim Karimullah, "Humanity and Justice: Exploring Human Rights in the Context of Islamic Law," *TAJ DID* | 30, no. 2 (2023): 166-87, <https://doi.org/10.36667/tajdid.v30i1.1497>.

without losing its normative identity. For instance, when confronting state laws regulating certain aspects of social life, *maqāṣid* can be used to assess how well such regulations align with the principles of justice and public interest in Islam.

The concept of *ijtihād* as an epistemological mechanism in Islamic law also needs to be reconstructed to be more responsive to normative pluralism. *Ijtihād* can no longer be understood as an individual activity confined to certain scholars, but rather as a collective process involving various actors, including academics, legal practitioners, and civil society. In Southeast Asia, where Islamic law interacts with modern legal systems and local traditions, *ijtihād* must accommodate diverse perspectives and varied social experiences. This demands an expansion of *ijtihād* methods, including interdisciplinary approaches that integrate legal studies, sociology, anthropology, and philosophy.

The epistemological reconstruction of Islamic law within a framework of normative pluralism also demands a paradigm shift from legal centralism towards legal pluralism. Legal centralism, which assumes that there is only one legitimate and universally applicable legal system, is no longer adequate to explain the legal reality in Southeast Asia. Conversely, legal pluralism acknowledges the coexistence and interaction of various legal systems within society. From this perspective, Islamic law is not the sole source of normative legitimacy, but rather one of several legal knowledge systems that possess authority within specific contexts.¹⁹ This shift does not imply a relativisation of Islamic law, but rather a recognition of social complexity that demands a more inclusive and dialogical approach.

The concept of 'epistemological hybridisation' can be proposed as a model of reconstruction that integrates Islamic normative rationality with local legal practices and the state legal framework. This model does not aim to mix various legal systems eclectically, but rather to build an epistemological synthesis that enables productive interaction between various sources of legal knowledge. Epistemological hybridisation positions Islamic law as a system open to dialogue with other norms, thereby enabling the production of legal forms that are contextual and relevant to society's needs. For instance, in Indonesian family law, the integration of Islamic law, customary law, and state law has resulted in regulations that reflect a compromise among various normative interests. From the perspective of epistemological hybridisation, this phenomenon is not viewed as a deviation but rather as a legitimate and necessary form of epistemological adaptation.

This approach also provides a philosophical basis for the flexibility of Islamic law within a multicultural society. Flexibility is not understood as normative relativism, but rather as the law's ability to adapt to context without losing its fundamental principles.²⁰ In this regard, a reconstructed epistemology of Islamic law must be able to distinguish between universal values that are fixed and forms of implementation that are contextual. However, this epistemological reconstruction also faces various challenges, both theoretical and practical.

Theoretically, there is resistance from those who still uphold a textualist and exclusive approach to Islamic law. Meanwhile, in practice, implementing the epistemological hybridisation model requires institutional and political support that is not always available. Therefore, sustained efforts are needed to build epistemological awareness among academics, legal practitioners, and the wider public regarding the

¹⁹ Muttaqin et al., "The Dynamics of the Relationship between Islamic Law and Customary Law in Inheritance Disputes in Indonesia."

²⁰ Philip Sales, "Certainty and Flexibility in the Law," *Judicial Review* 30, no. 1 (2025): 7-18, <https://doi.org/10.1080/10854681.2025.2467592>.

importance of a more inclusive and dialogical approach to understanding Islamic law. Within a broader framework, this epistemological reconstruction of the philosophy of Islamic law is relevant not only to Southeast Asia but also has global implications for contemporary discourse on Islamic law. Thus, this epistemological reconstruction not only enriches the body of knowledge but also provides a philosophical foundation for fairer, more inclusive, and sustainable legal practices within pluralistic Muslim societies.

The Dialectic between *Shari'ah*, Customary Law and State Law in the Social Practices of Southeast Asian Muslims

The dialectic among *shari'ah*, customary law and state law in the social practices of Muslims in Southeast Asia is a complex and dynamic phenomenon that not only reflects the interaction among different normative systems but also demonstrates how communities negotiate identity, power and legitimacy in the context of ongoing social change. In this context, *shari'ah*, as the Islamic legal system derived from the Qur'an and Hadith, does not exist in a vacuum, but rather interacts with adat as a local value system that was deeply rooted before the arrival of Islam, as well as with state law as a product of modernity shaped through the processes of colonialism and nation-state building. The interaction of these three systems has produced a distinctive socio-legal configuration in Southeast Asia, particularly in countries with Muslim majorities such as Indonesia, Malaysia, and Brunei Darussalam.

From a historical perspective, the spread of Islam in Southeast Asia occurred gradually through trade routes, da'wah, and cultural interaction, thereby facilitating the accommodation of Islamic teachings with local traditions. This explains why, in many Muslim communities across the region, adat was not simply abandoned but rather integrated with the principles of *shari'ah* through a normative synthesis. Concepts such as "*adat bersendi syarak, syarak bersendi Kitabullah*" (custom is rooted in *shari'ah*, *shari'ah* is rooted in the Book of Allah), which developed in Minangkabau, serve as a concrete example of how communities construct a harmonious relationship between adat and *shari'ah*.²¹ Within this framework, adat is viewed as a local expression of Islamic values, whilst *shari'ah* provides religious legitimacy to adat practices deemed consistent with Islamic teachings.

The relationship between *shari'ah* and adat is not always harmonious, as there is potential for conflict, particularly when interpretations of *shari'ah* are perceived to contradict long-standing adat practices. In this context, debates arise over the authority to determine valid social norms, whether one should take religious texts literally or take local cultural contexts into account. This debate often reflects the tension between textualist and contextualist approaches to understanding *shari'ah*, where the former group tends to reject customary practices lacking an explicit basis in Islamic sources, whilst the latter is more open to reinterpretations that take social realities into account.

The introduction of state law as a third normative system further complicates this dialectic, particularly since the colonial era, when colonial governments introduced a Western legal system that is epistemologically distinct from *shari'ah* and customary law. In Indonesia, for example, the national legal system is the result of legal pluralism that accommodates customary law, Islamic law, and Western law. Following independence, the state sought to integrate these various legal systems within the national legal framework. However, this process has not always proceeded smoothly due to

²¹ Ibrahim Narongrasakhet, Toni Hartono, and Afdhol Rinaldi, "The Harmony of Sharia and Culture: A Living Hadith Study on Tepuk Tepung Tawar Tradition in the Riau Malay Community," *Al-Tahrir: Jurnal Pemikiran Islam* 26, no. 1 (2026): 15-33, <https://doi.org/10.21154/altahrir.v26i1.11972>.

differences in interests, ideologies, and interpretations. In many cases, state law serves as a mediator, seeking to balance the demands of modernity with society's religious aspirations.²²

In social practice, the dialectic among *shari'ah*, customary law and state law is evident across various aspects of life, including family law, inheritance, marriage and the management of natural resources. In Indonesia, for example, marriage law is regulated by the Marriage Act, which accommodates Islamic principles whilst also taking into account customary values and the interests of the state.²³ Similarly, in inheritance law, there is an interaction between Islamic law, which governs distribution based on the principle of *faraid*, and customary practices that often adapt such distribution to local social needs and kinship structures. This demonstrates that society does not always rigidly adhere to a single legal system, but rather selects and adapts according to the context at hand.

In Malaysia, the relationship between *shari'ah* and state law has distinct characteristics, marked by clear legal dualism between *shari'ah* courts and civil courts.²⁴ This system allows for the application of Islamic law in specific areas such as family and worship, whilst civil law governs other general aspects. However, this dualism also gives rise to jurisdictional issues and legal conflicts, particularly in cases involving individuals with complex religious identities. In this context, adat often functions as a bridge, helping communities navigate the differences between the two legal systems.

In Brunei Darussalam, the application of *shari'ah* in a more formalised manner through the state legal system demonstrates an effort to integrate *shari'ah* as the primary source of national law.²⁵ However, even within this context, adat continues to play a significant role in everyday social practice, particularly in matters relating to local culture and traditions. This demonstrates that whilst the state possesses the authority to enact laws, social legitimacy remains dependent on public acceptance, which is often influenced by customary values.

Within a theoretical framework, the dialectic between *shari'ah*, adat, and state law can be understood through a legal pluralism approach that acknowledges the coexistence of various legal systems within a single social space. Legal pluralism emphasises that law does not originate solely from the state, but also from other sources such as religion and tradition. In Southeast Asia, legal pluralism is not merely descriptive but also normative, as communities actively select and combine various legal systems to meet their needs. This reflects the agency of the agency within society in shaping legal practices relevant to the local context.

A constructivist approach in the sociology of law can also help understand how the meanings of *shari'ah*, adat, and state law are constructed and negotiated in social interactions. From this perspective, law is not a static entity but rather the result of a

²² Souad Ezzerouali, Mohamed Cheikh Banane, and Brahim Hamdaoui, "Sharia in Moroccan Law: A Perpetual Source and Guiding Reference," *Legality: Jurnal Ilmiah Hukum* 33, no. 1 (2025): 44–68, <https://doi.org/10.22219/ljih.v33i1.36744>.

²³ Haerozi et al., "Preserving Cultural Heritage in Marriage: Exploring Meanings of Kebon Odeq Tradition in the Sasak Community of Lombok Tengah, Indonesia," *AL-HUKAMA: The Indonesian Journal of Islamic Family Law* 13, no. 2 (2023): 202–28, <https://doi.org/10.15642/alhukama.2023.13.2.202-228>; Afthon Yazid, Suud Sarim Karimullah, and Arif Sugitanata, "Comparative Study On Childfree Marriage In Some Selected Countries," *Jurnal Al-Hakim: Jurnal Ilmiah Mahasiswa, Studi Syariah, Hukum Dan Filantropi* 5, no. 2 (2023): 267–84, <https://doi.org/10.22515/jurnalalhakim.v5i2.7869>.

²⁴ Rina Septiani, Sa'adah Sa'adah, and Abdullah Abdullah, "Islamic Legal Pluralism and Constitutional Tolerance: A Normative Study of State-Sharia Interaction in Malaysia and Indonesia," *ASEAN Journal of Islamic Studies and Civilization (AJISC)* 1, no. 1 (2024): 69–100, <https://doi.org/10.62976/ajisc.v1i1.1414>.

²⁵ Muhammad Nur et al., "Negotiating Legal Pluralism: Sharia and Civil Law Integration in Brunei Darussalam," *LEGALITY: Jurnal Ilmiah Hukum* 33, no. 2 (2025): 535–52, <https://doi.org/10.22219/ljih.v33i2.40916>.

social process involving various actors with differing interests. Consequently, the dialectic between these three legal systems concerns not only norms but also power, identity, and legitimacy. For instance, certain groups may use *sharī'ah* to reinforce religious identity, whilst others use adat to preserve local traditions, and the state uses the law to maintain stability and order.

In the context of globalisation and modernisation, this dialectic becomes increasingly complex as external influences introduce new values, such as human rights, democracy, and gender equality.²⁶ These values often challenge traditional interpretations of *sharī'ah* and adat, thereby necessitating more inclusive, context-specific reinterpretations. On the other hand, globalisation also reinforces religious identity in the form of Islamic revivalist movements that demand the more formal application of *sharī'ah*. The tension between these two currents creates new dynamics in the relationship between *sharī'ah*, adat, and state law.

In practice, Muslim communities in Southeast Asia demonstrate a high capacity for adaptation to these dynamics. They are not merely the objects of legal change but also active agents in shaping and directing it. This is evident in various local initiatives that integrate *sharī'ah* principles with customary values and state policies to achieve sustainable development goals. For example, in the management of natural resources, Islamic principles of justice and sustainability are often combined with local wisdom to create effective and equitable management systems.

The Relevance of *Maqāṣid al-Sharī'ah* in Managing Diversity and Multicultural Justice

Islamic law confronts the reality of normative pluralism, characterised by the interaction among state law, customary law and diverse socio-religious practices. In the context of a multicultural society, *maqāṣid al-sharī'ah* can no longer be understood merely as a classical teleological framework oriented solely towards the protection of the five fundamental elements, namely, religion, life, intellect, lineage and property, but must be reconstructed as an ethical and epistemological paradigm capable of addressing the complexity of inter-normative relationships in modern society. Southeast Asia, with its colonial history, ethnic diversity and plural legal systems, is a highly relevant context for developing a more inclusive, adaptive and contextual approach to *maqāṣid*, so that Islamic law is not positioned as an instrument exclusive to a particular group, but as a source of substantive justice that strengthens social cohesion across identities.

In the classical tradition, *maqāṣid al-sharī'ah* was developed by thinkers such as al-Ghazālī and al-Shāṭibī as an effort to understand the fundamental objectives of *sharī'ah*, which are oriented towards the public good and the prevention of harm. This approach offers methodological flexibility, as it allows legal reasoning that does not rely solely on literal interpretation but also takes into account the substantive values that the *sharī'ah* seeks to realise. However, in contemporary developments, the application of *maqāṣid* still often focuses on protecting individual rights without adequately accommodating the collective dimensions of cultural, religious and legal diversity. Therefore, it is necessary to broaden the scope of *maqāṣid* towards a pluralistic *maqāṣid* approach that treats social diversity as part of a reality that must be managed through the principles of justice, inclusivity, and respect for human dignity.

²⁶ Rizqa Febry Ayu et al., "Legal Analysis of the Position of Women as Heads of Households in National Law," *Indonesian Journal of Gender Justice and Family Law* 1, no. 1 (2026): 52–68, <https://doi.org/10.65586/ingefal.v1i1.4>; Suyuti Dahlan Rifa'i et al., "Reformulation of Marriage Law Based on a Gender Justice Perspective," *Indonesian Journal of Gender Justice and Family Law* 1, no. 1 (2026): 69–85, <https://doi.org/10.65586/ingefal.v1i1.5>.

The development of a pluralistic *maqāṣid* is important because it offers a reinterpretation of the objectives of *sharī'ah* that is not only oriented toward protecting individual Muslims but also toward fostering social harmony within a pluralistic society. From this perspective, *maqāṣid* is understood as an ethical framework that promotes peaceful coexistence between legal systems and cultures by emphasising the principles of distributive justice, the protection of vulnerable groups, respect for minority rights, and the strengthening of social solidarity. This approach enables Islamic law to interact constructively with both state law and customary law without losing its normative identity. This is particularly relevant in Southeast Asia, which exhibits a strong character of legal pluralism through the simultaneous existence of civil law, customary law and Islamic law.

In Indonesia, the relevance of *maqāṣid al-sharī'ah* is evident in the development of Islamic family law, as seen in Law No. 1 of 1974 on Marriage and the Compilation of Islamic Law (KHI). These regulations demonstrate an integration of the principles of *sharī'ah*, national law, and the social needs of modern society. For example, the restriction on polygamy through the requirement for court authorisation and the wife's consent in the Marriage Act can be understood as an application of *maqāṣid* oriented towards the protection of women's rights and family justice.²⁷ This approach does not merely interpret legal texts literally, but takes into account the public interest and protection against potential injustices in marriage practices. Furthermore, the raising of the minimum marriage age for women to 19 years through the 2019 revision of the Marriage Act demonstrates the state's efforts to integrate the principles of child protection and gender equality into Islamic family law.²⁸ From a *maqāṣid* perspective, this policy can be interpreted as a form of protection for life, reason and progeny.

In the field of inheritance law, normative pluralism in Indonesia is evident through the coexistence of Islamic inheritance law, customary law and Western civil law. In some regions, such as Minangkabau, the matrilineal customary inheritance system is still maintained alongside Islamic inheritance law. The *maqāṣid* approach allows recognition of such customary practices, provided they do not conflict with the principles of justice and the public good. Thus, *maqāṣid* functions as an epistemological bridge facilitating dialogue between religious norms and local traditions. A similar approach is also evident in the practice of resolving family disputes in Religious Courts, which increasingly prioritise mediation and substantive justice over the mere formal application of legal rules.

In Malaysia, legal pluralism appears more complex as the state's legal system adopts a dualism between civil law and *sharī'ah*. Each state has the authority to regulate the administration of Islamic law, including family law, inheritance law and *sharī'ah* courts. In this context, *maqāṣid al-sharī'ah* plays a vital role as a normative foundation for adapting Islamic law to the needs of Malaysia's multicultural society, comprising Muslim Malays, ethnic Chinese, Indians and other minority groups. Reforms to Islamic family law in Malaysia, such as the Islamic Family Law Act, demonstrate the state's efforts to strengthen protections for women by restricting unilateral divorce and regulating spousal maintenance. Although these regulations continue to draw criticism

²⁷ Ahmed Abdel Fattah et al., "Negotiating Women's Reproductive Rights Within the Framework of Islamic Law," *Insani: Jurnal Pranata Sosial Hukum Islam* 1, no. 2 (2025): 178–93, <https://doi.org/10.65586/insani.v1i2.57>; Roy Prabowo Lenggono, "Islamic Inheritance Law in Practice Among Multiethnic Muslim Families in Indonesia," *Insani: Jurnal Pranata Sosial Hukum Islam* 1, no. 2 (2025): 127–43, <https://doi.org/10.65586/insani.v1i2.39>.

²⁸ Nurmu'izzatin Zaharatul Parhi et al., "Tension between Islamic Law and Human Rights in Child Marriage Cases in Indonesia," *Insani: Jurnal Pranata Sosial Hukum Islam* 1, no. 1 (2025): 96–110, <https://doi.org/10.65586/insani.v1i1.3>.

from human rights groups, they reflect a balancing act among *sharī'ah* principles, the demands of modernity, and international standards for protecting women and children.

In the field of Islamic economics, Malaysia is one of the most advanced countries in integrating the principles of *maqāṣid* into public policy. Malaysia's Islamic banking and financial system is not only aimed at ensuring formal compliance with *sharī'ah*, but also at creating distributive justice and social welfare.²⁹ This is evident in the development of instruments such as social sukuk, productive zakat and Islamic social finance, which aim to reduce economic inequality within society.³⁰ The *maqāṣid* approach allows the *sharī'ah* economy to be understood not merely as an interest-free system, but as an ethical instrument for creating collective well-being within a pluralistic society.

Brunei Darussalam demonstrates a more formal approach to integrating Islamic law through the implementation of the *sharī'ah* Penal Code Order since 2014.³¹ This regulation positions Islamic law as a vital component of the state's identity and the national legal system. Within the context of normative pluralism, the application of *sharī'ah* criminal law in Brunei has sparked debate regarding the relationship between *sharī'ah*, human rights, and the protection of non-Muslim minority groups. The Brunei government argues that the application of this law aims to uphold social morality and societal stability in accordance with the *maqāṣid al-sharī'ah*, particularly the protection of religion and public order. However, international criticism suggests that this law must be continually evaluated to ensure it does not conflict with the principles of universal justice and respect for fundamental human rights.³² In this regard, a pluralism-based *maqāṣid* framework can serve as a vital tool for assessing whether a policy genuinely promotes social welfare inclusively or, conversely, leads to the exclusion of certain groups.

Within the context of the *sharī'ah* court system, the three countries demonstrate different approaches to managing legal pluralism. Indonesia, through its Religious Courts, places greater emphasis on resolving family and *sharī'ah* economic matters within a pluralistic national legal framework.³³ Malaysia grants broader powers to state-level *sharī'ah* courts, whilst Brunei integrates *sharī'ah* courts more formally into the state structure. These differences demonstrate that the political, historical and social contexts of each country always influence the application of Islamic law.³⁴ Therefore, *maqāṣid al-sharī'ah* must be understood contextually so that it can function as a flexible ethical principle in addressing the diversity of legal systems and cultures.

²⁹ Shahida Shahimi and Siti Aisyah Zahari, "Principles of Sustainability in Islamic Finance," in *Islamic Finance and Sustainability* (Routledge, 2025), 75–104, <https://doi.org/10.4324/9781003518617-5>.

³⁰ Rohmawati Rohmawati, Muhammad Zulfan Abdusyakur, and Ghazy Ahmad Filando, "The Dynamics of Islamic Law in the Practice of Modern Religious Philanthropy," *Insani: Jurnal Pranata Sosial Hukum Islam* 1, no. 2 (2025): 144–61, <https://doi.org/10.65586/insani.v1i2.41>; Zainal Arifin et al., "Transformation of Productive Zakat for the Empowerment of Urban Poor Families," *Jurnal Pelita Raya* 1, no. 2 (2025): 137–51, <https://doi.org/10.65586/jpr.v1i2.23>; Mu'adil Faizin et al., "Development of Zakat Distribution in the Disturbance Era," *Jurnal Ilmiah Mizani: Wacana Hukum, Ekonomi Dan Keagamaan* 10, no. 2 (2024): 186–97, <https://doi.org/10.29300/mzn.v10i2.2997>.

³¹ Nurul Aqilah binti Othman et al., "Ta'zir Punishment in the Mazhab Syafi'i and Its Application in Syariah Court of Brunei Darussalam," *Al-Mazaahib: Jurnal Perbandingan Hukum* 14, no. 1 (2026): 29–56, <https://doi.org/10.14421/al-mazaahib.v14i1.4538>.

³² Suud Sarim Karimullah, "The Implications Of Islamic Law On The Rights Of Religious Minorities In Muslim-Majority Countries," *MILRev: Metro Islamic Law Review* 2, no. 2 (2023): 90–114, <https://doi.org/10.32332/milrev.v2i2.7847>.

³³ Rosdalina Bukido, Muhammad Azhar Muslihin, and Suud Sarim Karimullah, "Family Economic Empowerment Strategies in Gangga II Village: A Maqashid Shariah Perspective," *Al-Mujtahid: Journal of Islamic Family Law* 5, no. 1 (2025): 1–12, <https://doi.org/10.30984/ajifl.v5i1.3438>.

³⁴ Bhakti Wiranti et al., "Political Feminism and Women's Representation in Public Policy in Indonesia," *Jurnal Pelita Raya* 1, no. 1 (2025): 1–16, <https://doi.org/10.65586/jpr.v1i1.11>; Suyuti Dahlan Rifa'i et al., "Deconstructing Colonial Law Through Critical Race Theory in Indonesian Regulations," *Jurnal Pelita Raya* 1, no. 1 (2025): 46–60, <https://doi.org/10.65586/jpr.v1i1.12>.

Beyond family law and *sharī'ah* courts, the relevance of the *maqāṣid* is evident in issues of religious freedom and social tolerance. In Indonesia, for example, the state's approach to religious moderation can be understood as the implementation of the *maqāṣid* to maintain social harmony amidst religious and cultural diversity.³⁵ In Malaysia and Brunei, issues of religious conversion, the use of religious symbols, and the limits of freedom of expression have become key arenas for negotiation between Islamic norms and the principles of modern pluralism. In this context, a pluralism-based *maqāṣid* can be used to balance the protection of the majority's religious identity with the rights of minority groups, thereby creating an inclusive and just public sphere.

The development of a pluralism-based *maqāṣid* also faces significant challenges, particularly from groups who view the reinterpretation of *maqāṣid* as a threat to the authority of classical tradition.³⁶ Some fear that extending *maqāṣid* to encompass issues of pluralism, democracy and human rights may blur the normative boundaries of *sharī'ah*.³⁷ However, the pluralistic *maqāṣid* approach is not fundamentally intended to replace the basic principles of *sharī'ah*, but rather to actualise them within a more complex and multicultural social context. Within an epistemological framework, this approach demonstrates that Islamic law is an open, dynamic and dialogical system of knowledge, capable of interacting productively with other legal systems and the developments of modern society.

Conclusion

Islamic law in Southeast Asia is best understood as a dynamic, dialogical and contextual epistemic system rather than as a single, static normative system, as its formation and application are constantly shaped by ongoing interaction with customary law and state law, resulting in a hybrid legal configuration that is continually subject to a process of negotiation. This phenomenon is reflected in the integration of Islamic law into the Compilation of Islamic Law and the practices of the Religious Courts in Indonesia, which accommodate customary values and the national legal system, the dualism between civil law and the Shari'ah Courts in Malaysia, which reflects institutional pluralism in the regulation of various aspects of Muslim life, and the formalisation of Islamic law through the Shari'ah Penal Code in Brunei Darussalam, which continues to face the challenges of social pluralism and human rights issues. These findings indicate that the epistemological reconstruction of Islamic law through the strengthening of contextual *uṣūl al-fiqh*, the development of *maqāṣid al-sharī'ah* that is responsive to pluralism, and the transformation of *ijtihād* towards collective social *ijtihād*, is capable of broadening the development of legal pluralism theory through the concepts of epistemological hybridisation and normative co-existence and negotiation as a more adequate analytical framework for explaining non-linear legal dynamics. Thus, this paradigm not only provides a theoretical foundation for the formulation of legal policies that are more inclusive, adaptive and sensitive to socio-cultural diversity, but also reinforces the direction of the development of Islamic legal philosophy towards being more reflective, interdisciplinary and transformative in responding to changes in contemporary Muslim societies in Southeast Asia.

³⁵ Muslich Shabir et al., "Religious Moderation as Living Islamic Law: A Maqāṣid Perspective in Indonesia and Brunei Darussalam," *Al-Ahkam* 36, no. 1 (2026): 21-46, <https://doi.org/10.21580/ahkam.2026.36.1.31446>.

³⁶ Zumiyati Sanu Ibrahim et al., "Integration of Maqāṣid Al-Sharī'ah in the Criminal Law Reform to Achieve Justice and Human Dignity," *Jurnal Hukum Islam* 23, no. 1 (2025): 105-44.

³⁷ Suud Sarim Karimullah, "For True Humanity: Harmonization of Islamic Law and Human Rights Towards Universal Justice," *Matan: Journal of Islam and Muslim Society* 5, no. 2 (2023): 40-56, <https://doi.org/10.20884/1.matan.2023.5.2.9125>.

Declaration of Conflicting Interests

The authors report no conflicts of interest associated with this publication.

Funding Information

The authors declare that no funding was obtained for the conception, conduct, or publication of this article.

Acknowledgement

The authors acknowledge all those who supported this publication and thank the editors and anonymous reviewers for their constructive feedback.

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