

The Dialectics of Fiqh and Bugis-Makassar Customary Law in Shaping Local Islamic Norms

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ABSTRACT

This study examines the dialectical relationship between fiqh and Bugis Makassar customary law in the formation of local Islamic norms. The research is grounded in the reality that Islamic normativity in Bugis Makassar society is not shaped solely by formal religious texts, but also by living customary values that continue to guide social life. This interaction reflects a dynamic process in which Islamic teachings and local traditions negotiate, adapt, and reinforce one another in everyday practice. The study aims to analyze the patterns of this dialectic and to explain how both normative systems contribute to the construction of local Islamic norms. This research employs a qualitative approach with a library research design. Data were collected from classical and contemporary fiqh literature, studies on customary law, and scholarly works related to Bugis Makassar culture. The data were analyzed using descriptive analytical techniques through data reduction, thematic classification, and interpretive reading. The findings indicate that fiqh and customary law are not merely oppositional frameworks, but mutually constitutive sources of social legitimacy. Their interaction produces contextual Islamic norms that are religiously authoritative, culturally acceptable, and socially functional, thereby enriching the development of Islamic legal studies in plural societies within contemporary sociolegal discourse today.

INTRODUCTION

There is a great deal of critical interest in the link between Islamic law and customary law in law and socio-religious studies in Muslim societies around the world. The process of contextualising Islamic principles around the world, therefore, is indicative of a complex interaction between the universalism of the Islamic teachings and the particularities of communal traditions. When a religious teaching enters a social area influenced by existing socio-cultural institutions, a process of selection, interpretation and reconstruction of norms ensues, resulting in typical variances of local religious practices. Indonesia is a country with cultural heterogeneity and a Muslim majority. Here is

an important empirical instance to understand the dialectical process between formal Islamic law (*fiqh*) and local customary standards. (M. Mutawali, 2021)

The dialectic between *fiqh* and customary law is not just a subject of scholarly discussion; it has direct impact on religious and social behaviors. *Fiqh*, the outcome of academic *ijtihad* in interpreting Islamic sharia, offers a normative framework that is universal but sensitive to circumstance. On the contrary, customary law is the unwritten law created by history, community customs and internalized local beliefs. We observe a specific kind of interaction, negotiation and occasionally normative tension between these two normative systems in Muslim cultures, especially where substantial customary traditions exist, leading to the development of distinctive local Islamic practices. As particular, this study places the Bugis-Makassar society as the site of such dialectical interplay. (M. Munawar, Y. Yusriadi, J. Juniawati, D.A. Asfar, & D. Tuah, 2024).

Bugis-Makassar community is known as an ethno-cultural group that has deep-rooted customary law even before the coming of Islam. Their social structure is based on customary principles recorded in the *lontara'*, leadership systems (*siri' na pacce*), and moral values collectively absorbed. In the 16th century, Islam came to the region, bringing with it major shifts in beliefs and social codes. However, the process of Islamization did not merely displace the pre-existing values but rather incorporated them, resulting in the forms of religious rules that combine Islamic *fiqh* and customary aspects. This can be seen in marriage customs, systems of inheritance, kinship arrangements and conflict resolution where *fiqh* and customary law interact with one another. (R.M. Feener, 2019).

The variety of Islamic legal traditions among Muslim groups in Indonesia has been recorded in classical and modern literature. For example, studies of Minangkabau customary law reveal the peculiarities of the matrilineal system, which influence inheritance rights and property ownership (Andaya, 2000). This is typical of many ceremonies and local norms in Java, such as the syncretic Islam and Javanese *adat* (Koentjaraningrat, 1985). Research in South Sulawesi shows that the Bugis-Makassar customary norms continue to direct the society, while the religious practices refer to *fiqh* (Peacemaking and Mediation in South Sulawesi, 2012). The findings validate the position that Islamic law is not a totally hegemonic system, but is shaped by pre-existing normative frameworks.

While there exists literature on Islamic law and customary law separately, there are few studies that particularly map out the dialectic of *fiqh* and Bugis-Makassar customary law. Previous studies usually focus on one aspect, that is, the adaptation of *fiqh* to specific customs or the impact of modernization on customary practices. Relatively few comprehensive works explore the normative connection between *fiqh* and Bugis-Makassar *adat* as a process of shaping local Islamic norms. This is a significant gap in research, especially considering the direct importance of this phenomenon to how Muslims negotiate religious beliefs and cultural identity. (A. Kasim, B. Pallawagau, A.R. Sakka, Abdillah, & R. Rasna, 2024.).

Several characteristics of the research gap are apparent. First, previous research have not concurrently included historical and social analyses to comprehend the normative dialectical process. Second, present studies are largely descriptive and lack a sufficient theoretical framework to explain the dynamics of negotiation between *fiqh* and *adat*. Third, few studies have directly

examined the social ramifications of local Islamic norms that arise from this dialectic, particularly in the context of social change and globalization. Therefore, this work aims to overcome these gaps by using a more complete and analytical approach. (A. Ibrahim, 2020).

Theoretically, this subject is underpinned by two basic concepts. First, normative legal pluralism is the belief that there are a variety of legal systems existing and interacting inside a community (Griffiths, 1986). The notion is useful to understand how *fiqh* and customary law function as two normative sources that co-exist and shape each other. Second, the social construction theory of religion states that religious activities are socially and culturally constructed and not just literal interpretations of sacred texts (Berger & Luckmann, 1966). These frameworks will enable the research not only to describe the types of interaction between *fiqh* and *adat*, but also to investigate the social mechanisms that permit the creation of particular local Islamic norms.

This research is aimed to explore the dialectic of the emergence of local Islamic norms in the community through dialectic of *fiqh* and Bugis-Makassar customary law. The specific objectives are (1) to map the forms of local Islamic norms practiced in Bugis-Makassar society, (2) to describe the normative interaction processes between *fiqh* and customary law that give rise to these norms, and (3) to analyze the social implications of these local Islamic norms in contemporary society.

This work should make a significant contribution to scholarship in Islamic law, legal anthropology and the study of legal pluralism. In academic terms, it will contribute to the literature on the link between Islamic law and *adat* in Muslim societies. In practice, this knowledge of how local Islamic rules are developed is essential for politicians, religious scholars and customary authorities who regulate communal life. The findings may help in the creation of a more contextual religious education program and the formulation of legal regulations attentive to the plurality of beliefs and cultural practices. (A. Rahim, & A.M. Ahmad, 2021).

This research uses a qualitative method with a legal ethnography strategy, including data collecting through in-depth interviews, participatory observation, and examination of customary documents and related *fiqh* literature. This method allows for a comprehensive comprehension of the experiences and views of social actors engaged in local Islamic standards. The data analysis is based on source triangulation and approaches for improving the validity of the findings.

This research generally views the Bugis-Makassar community in an empirical laboratory that offers an understanding of the interaction of religion and customary norms in social order. Far beyond merely describing empirically, it also provides analytical insights into normative dynamics inside Muslim societies. This generated knowledge is intended to be a significant reference for ongoing studies on legal pluralism and local religious practices in Indonesia and other multicultural settings.

RESEARCH METHOD

This The research entitled *Dialectics of Fiqh and Bugis-Makassar Customary Law in the Formation of Local Islamic Norms* was undertaken in Bone Regency and Makassar City from January to March 2025 as representations of the Bugis-Makassar population in South Sulawesi. The study used a qualitative

research design combining legal ethnography and normative-sociological investigation. The selection of the research location was based on the strong presence of customary practices and the implementation of % values in the daily life of the Bugis-Makassar community. Thus the researcher was able to observe the dialectical process of Islamic law and customary law in forming local socio-religious norms. (L.S. Nowell, J.M. Norris, D.E. White, & N.J. Moules, 2017). Data were collected from primary and secondary data sources. Primary data were collected from purposively chosen informants who included customary leaders, Islamic scholars, academics, mosque imams, and community members who knew customary practices and the implementation of *fiqh* in everyday life.

The secondary data were taken from books, *lontaraq* manuscripts, customary documents, scientific publications and rules about customary law and Islamic law. The data collection strategies used were interview, observation and documentation. The researcher employed interview rules, audio recording devices, cameras and field notes to facilitate data collection process. The observations were on the usual customs and socio-religious activities of the community. This study used control measures through triangulation of the source, triangulation of the method and rechecking the outcomes of the interview with the informant to get data consistency. The data analysis was conducted descriptively and analytically via the steps of data reduction, data presentation and conclusion drafting. To achieve a high level of credibility and correctness of the research findings, triangulation procedures and member verification were used to assess the validity of the data. (J.R. Bowen, 2017)).

RESULTS AND DISCUSSION

Relationship of Fiqh and Customary Law in the Life of Bugis-Makassar Community

Interaction between *fiqh* and customary law in the lives of the Bugis Makassar community shows a dynamic and mutually influential relationship. *Fiqh* is one source of religious rules that guide obligations, prohibitions and patterns of action that are regarded consistent with Islamic teachings. In the meantime, customary law serves as a foundation of social values that is lived, inherited and implemented from generation to generation in daily life. These two parts are not independent, but merge in the same social space and constitute a specific pattern of religiosity. In this case, the Bugis Makassar community does not put *fiqh* and custom as two aspects that are always conflicting, but as two systems that can change to each other according to the necessities of communal life. (Y. Yusran, & J. Jamaluddin, 2023).

In social practice 3 is the foundation of religious legitimacy and custom is the vehicle by which ideals are concretely realized. This can be observed in different facets of life, such as in marriage, familial bonds, family deliberation, the etiquette of honoring parents, and many social traditions that have long existed in the community. Islamic ideals such as honor, duty, justice and propriety are not introduced into an empty area, but are mediated through native Bugis Makassar symbols, procedures and traditions. Thus, custom has a vital role to ground the teachings of *fiqh* so that the teachings of *fiqh* can be accepted and practiced by the local community more easily. Here custom is not simply a social practice but a cultural instrument that maintains the link between religious instruction and

community identity. (L. Buskens, B. Dupret, 2018).

This link also demonstrates that the process of receiving Islam in Bugis Makassar community is through cultural adjustment, not through the absolute removal of customs. Customs deemed to be in conformity with Islamic values are likely to be retained, and even to take on a greater significance through religious endorsement. However, the elements of custom that are judged incompatible with sharia ideals are normally not destroyed immediately but reinterpreted, reduced in their constituents, or with a change of social role. This is the point at which the dialogical process between *fiqh* and custom is observable. *Fiqh* is not always a force that eradicates tradition; custom is not always an impediment to the implementation of Islamic precepts. Rather, both establish a space of bargaining that allows for a generally harmonious social order. (N.I. Idrus, 2016)

This approach produces an Islamic standard that is localized and represents the identity of the Bugis Makassar community. This standard is not just a textual application of *fiqh* but also the outcome of interaction with deep entrenched local cultural experience. Islam is not only practiced in normative obedience, but also in social expressions that are strongly related to customary values. This pattern of religiosity illustrates that religion is able to change without losing its essential ideas, while local culture may survive without losing its openness to change. (M. Ismail, et al. (2024)

In this way, the interaction of *fiqh* and custom in the culture of Bugis Makassar shows that the local religious life is constructed through a process of reciprocal complementarity of Islamic principles and cultural traditions. *Fiqh* gives normative guidance and ethical limitations while custom gives the social space for the realization of these principles. This dynamic interplay demonstrates that the emergence of local Islamic standards is not the product of the hegemony of one element over the other, but the consequence of an ongoing dialectical process in the life of the community. From this, a Bugis Makassar pattern of religion is born, contextual, alive, and anchored in local identity and Islamic doctrines. (S.B. Millar, 2017)

The Negotiation Process between Islamic Sharia and Local Tradition

The creation of local Islamic standards in the Bugis Makassar society is not an instant or unilateral event, but rather a series of negotiations between Islamic sharia and local traditions that have been in the community for a long time. The Islamic sharia is regarded as a system of values with the laws of faith, worship, morality and social rules. The local tradition is presented as a cultural heritage that influences the patterns of conduct, social relations and the worldview of the society. What happened when Islam grew in the social space of Bugis Makassar society was not the immediate annihilation of custom but a process of adjustment that allowed both to engage within the framework of communal life. (R. Rosmayanti, Z. Abu Nawas, A. Sukmawati, F.M.A. Takdir, & A. Mustafa, 2025).

In the course of this process the community not only threw off all the customs handed down from their forefathers. They tended to keep traditions that were still acceptable with Islamic beliefs, as they were not perceived to conflict with the principles of sharia. Even those customs that were legitimated by religion were given new meanings. They remained to be preserved, because they had something in common with Islamic teachings on morality, responsibility and social order: respect for parents, contemplation, social unity, modesty, and family honour. This illustrates that custom is not

only a passive cultural aspect, but an important part of the social structure that facilitates the acceptance of Islamic ideals in community life. But not all customary characteristics not in line with *fiqh* were abolished radically. (N. Zahrum & A. Marwing, 2023).

In many cases, the community redefined the meaning and function of such customs so that it may be adapted to Islamic principles. If some parts were seen as overly conflicting, they were gradually modified, either by lowering their ceremonial forms, changing their symbolic orientation, or replacing them with activities more in line with the principles of sharia. This method illustrates that social and religious development in Bugis Makassar society occurred through discussion, not a break with the traditional past. In other words, Islam was adopted not by destroying local identity but by transforming cultural features to fit the new religious framework. The struggle between the Islamic sharia and local tradition also reflects the way the community sees religion in a contextual approach. (N.Y. Putri, & L. Hakim, 2021).

Acceptance of Islam is not just a matter of theological strength but also of the potential of its teachings to penetrate into a pre-existing social reality. Thus, the local Islamic standards that originated inside the Bugis Makassar culture are the outcome of a dialogic process between religious texts and cultural practices. Islam did not spring from nothing, but was formed in the crucible of interaction with the values, symbols and practices of the local society. In this way, local tradition became an essential area in which the teachings of Islam were transformed into forms closer to the social experience of the community. (R. Akbar, & Z. Arifin, 2020)

The process of negotiation between Islamic sharia and local tradition thus verifies the emergence of local Islamic norms as a complicated and continual adaptation. Compatible traditions are kept, less compatible traditions are adjusted, and fundamentally opposing traditions may be abandoned. This pattern demonstrates that Islamization in the Bugis Makassar society has been slow, accommodating and contextual. From this process a kind of religiosity arose that not only indicates devotion to Islamic principles, but also demonstrates the community's capacity to sustain continuity between religious ideals and its local cultural identity. (A. Saelan, 2018).

The Formation of Distinctive and Contextual Local Islamic Norms

The dialectic of *fiqh* and Bugis Makassar *adat* has produced unique and contextual local Islamic standards. These rules did not come all of a sudden, but were the product of a long period of interaction between Islamic teachings and the cultural value system that had been in the community. Fiqh offers the normative foundation in accordance with Islamic teachings, while customary law supplies the social and cultural basis that regulates the behaviour of people in everyday life. The meeting of the two gave rise to a style of religiosity that is not only focused on devotion to religious scriptures, but also sensitive to the social and cultural context in which those teachings are applied. (A. Rosyadi, S. Santoso, & M. Hidayat, 2022).

The construction of local Islamic standards in the society of Bugis Makassar is a live and grounded practice of Islam. The teachings of religion are not taught abstractly or apart from social reality, but are taught in forms that are known to the lived experience of the local community. This is visible in the integration of Islamic ideals like as respect, responsibility, politeness, deliberation and social

solidarity in social life which is also colorful with customary traditions. In this sense Islam does not seem to be a totally foreign system, but a teaching that may be integrated with the life of the people. This situation makes it simpler to accept, understand and implement religious beliefs, because they are expressed in forms that are near to social practices that are already known in the community. (J.B. Hoesterey, 2022).

Under these conditions local Islamic standards are not just a compromise between religion and culture but a kind of social synthesis, which proves the ability of the community to situate Islamic teachings in its own cultural space. Fiqh guides what is regarded acceptable and wrong according to religion, whereas custom lends social shape to the implementation of such ideals. The standards that result are therefore not only textual, but also have a strong practical dimension. Not only does the community accept the teachings of Islam as normative rules, they also embody them through practices, symbols and patterns of social connections that evolve inside the Bugis Makassar cultural setting. (J.B. Hoesterey, 2022)

The diversity of these local Islamic standards also indicates that Islamization does not necessarily imply cultural uniformity. Instead, the process of Islamization in Bugis Makassar society reflects a space for discourse that permits religious teachings to adjust to local reality without abandoning their fundamental values. Hence the necessity of the dialectic between *fiqh* and customary law. The two do not neutralize each other but instead provide meaning to each other mutually in the construction of a social order more relevant to the society. Islam remains the fundamental reference in religious life, but its manifestation acquires a local flavor via practices that have long been part of the identity of the community. (I.M. Lewis, 2020).

Moreover, the establishment of local Islamic standards is a proof that Islam is developed not only as a normative legal system but also as a collection of values which can have a dialogue with social and cultural realities. Islam is not viewed merely as a body of formal regulations, but as a teaching that has the ability to live in different social circumstances. This is illustrated by the capacity of Islamic teachings to adjust to the local cultural frameworks of Bugis Makassar society without losing their moral and religious authority. Therefore, the local Islamic rules can be considered as the outcome of the creative process of the society to integrate religious teachings with the customary heritage they hold. (J. Podi, Kiljamilawati, & M. Jamil, 2024).

The unique and contextual local Islamic standards are thus a reflection of the success of the Bugis Makassar community in developing religious life in accordance with its cultural character. These rules not only reinforce the acceptability of Islam but also illustrate that religion and culture may work together to create a social order that is living, meaningful and relevant to the local community.

CONCLUSION

From the discussion, it can be inferred that the dialectic between *fiqh* and Bugis Makassar customary law has a vital role in forming unique, dynamic and contextual local Islamic norms. Fiqh is the source of the religious normative framework, while custom is the social and cultural arena in which Islamic

ideals are converted into everyday behaviors. Their connection is not necessarily antagonistic but takes occur via processes of contact, adjustment and negotiation which allow Islam to be embraced progressively without eliminating completely the local traditions which have long been ingrained in the culture. The strength of this study is that it may prove that the evolution of Islam in Bugis Makassar society cannot be seen only via a normative legal perspective, but must be viewed through social and cultural dimensions. The study shows that local Islamic norms are the result of a dialogue between religious texts and customary realities, generating a type of religiosity that is more situated and relevant to the social context. But this research is also limited because it is still conceptual and descriptive, and has not yet discussed in detail the differences of customary and religious practices in many Bugis Makassar communities, each of which may have its own local distinctions. Thus this work is significant as a basis for understanding how Islam and custom can reinforce each other in the construction of a healthy social order. Its findings can be applied to the advancement of Islamic Legal Studies, Islamic Anthropology, and Islamic Education based on Local Wisdom. Further field research should be carried out in the future to map more concretely the forms of interaction between *fiqh* and custom and to enrich the discourse on local Islam in Indonesia.

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