Strengthening Dispute Resolution Autonomy Through Acehnese Customary Institutions: Living Law and *Maqāṣid al-Sharī'ah* Perspectives

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Abstract

This study examines the urgency of strengthening the autonomy of legal dispute resolution through customary institutions in Aceh by engaging Eugen Ehrlich's Living Law theory and Jasser Auda's maqāṣid al-sharī'ah framework. Aceh's distinctive juridical and sociocultural status positions customary institutions as key actors in maintaining social cohesion and delivering justice grounded in local wisdom. However, their role is often marginalized by state legal formalism, creating a gap between statutory law and lived legal realities. This research employs a qualitative juridical-sociological approach, using literature review and document analysis. It conceptualizes customary institutions as expressions of Living Law that operate in alignment with the objectives of Islamic law, particularly the protection of life, intellect, dignity, and property. Auda's systemic and multidimensional conception of maqāṣid al-sharī'ah provides an analytical lens to understand these institutions as adaptive and participatory legal mechanisms. The findings demonstrate that strengthening the autonomy of customary dispute resolution reflects legal pluralism and contributes to substantive justice rather than legal conservatism. This study offers a methodological contribution by integrating Living Law and maqāṣid al-sharī'ah in rethinking national legal development. It recommends stronger juridical recognition and institutional empowerment of customary institutions within Indonesia's legal system.

Keywords: *Aceh Customary Institutions, Dispute Resolution, Living Law, Legal Pluralism, Maqāṣid al-Sharī'ah.*

Introduction

Aceh, as a special autonomous region, possesses unique legal characteristics due to the integration of Islamic law, customary norms, and national law within a

plural and complex social order.[1] The existence of customary institutions in Aceh is not merely a remnant of tradition, but rather a legal institution that has emerged from historical processes and societal needs to resolve conflicts peacefully, fairly, and in accordance with local values.[2] In many cases, customary institutions have proven more effective and socially accepted because they reflect the law that lives and is deeply rooted in the cultural fabric of society.[3]

Eugen Ehrlich's Living Law theory provides a relevant epistemic framework for understanding the dynamics of customary institutions in Aceh. Ehrlich asserted that the law that truly operates in society is not solely the written law of the state, but the law practiced by communities in their everyday lives.[4] In the Acehnese context, customary law implemented through customary institutions constitutes a manifestation of such living law. This demonstrates that the existence of customary institutions is a concrete expression of a legal system grounded in the community's social life.

On the other hand, within contemporary Islamic legal discourse, the *maqāṣid al-syarīʻah* approach developed by Jasser Auda serves as a bridge between normative religious values and evolving social realities. Auda proposes a reconstruction of *maqāṣid* through a systemic, dynamic, and contextual approach in order to address contemporary challenges.[5] This perspective opens space for Islamic law to engage with local values such as Acehnese custom, insofar as these

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[1] Andi Muhammad Galib and Abbas Sofwan Matlail Fajar, "Strengthening Customary Legal Autonomy in Aceh," *Peradaban Journal of Law and Society* 4, no. 1 (June 2025): 30–46, https://doi.org/10.59001/pjls.v4i1.489.

[2] Rini Anggreini, Budi Bahreisy, and Nurmalawaty, "Optimizing Aceh's Traditional Institutions to Provide Legal Protection for Children in Legal Conflict," *Acta Law Journal* 3, no. 1 (December 2024): 37–50, https://doi.org/10.32734/alj.v3i1.18968.

[3] Ahmad Qiram As-Suvi and Moh. Zainullah, "Sociology of Law in the Perspective of Roscoe Pound and Donald Black and Its Relevance in the Indonesian Context," *Peradaban Journal of Law and Society* 1, no. 2 (December 2022): 82–95, https://doi.org/10.59001/pjls.v1i2.39.

[4] David Nelken, "Eugen Ehrlich, Living Law, and Plural Legalities," *Theoretical Inquiries in Law* 9, no. 2 (June 2008): 443–71, https://doi.org/10.2202/1565-3404.1193.

[5] Jasser Auda, "Maqasid Methodology for Re-Envisioning Islamic Higher Education," *Journal of Contemporary Maqasid Studies* 1, no. 1 (December 2021): 31–58, https://doi.org/10.52100/jcms.v1i1.58.

values support the fundamental objectives of the Sharia, including the protection of life, intellect, property, lineage, and religion.[6]

The role of customary institutions in Aceh in resolving community disputes should not be understood as an archaic expression of a conservative legal system, but rather as an articulation of local legal autonomy that is participatory, reflective, and oriented toward public benefit (maṣlaḥah).[7] From a sociology of law perspective, the effectiveness of customary institutions in mitigating conflict and restoring social harmony demonstrates that law is not always synonymous with the formal judicial system of the state.[8] In many contexts, state law tends to be repressive and fails to adequately respond to the complexity of grassroots social problems.[9]

Nevertheless, juridical recognition of customary institutions remains uneven. Although Law Number 11 of 2006 on the Governance of Aceh provides a legal basis for their existence, customary institutions continue to operate under the shadow of state law supremacy.[10] These institutions have not yet fully acquired structural autonomy and substantive authority in legally formal dispute resolution. Consequently, their contribution to the development of local justice systems is often overlooked within the national legal framework.[11]

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[6] Galib and Matlail Fajar, "Strengthening Customary Legal Autonomy in Aceh."
[7] Nila Trisna, Muhammad Reza Aulia, and Nouvan Moulia, "The Role of the Aceh Customary Council in Implementing Hak Langgeh: Navigating Between Sharia and Customary Law," *As-Siyasi: Journal of Constitutional Law* 5, no. 1 (June 2025): 87–98, https://doi.org/10.24042/as-siyasiv.5i1.27254.
[8] Habib Fuqoha et al., "The Role of Community Traditional Institutions in Dispute Resolution in Multicultural Communities," *Journal of World Science* 3, no. 11 (November 2024): 1403–8, https://doi.org/10.58344/jws.v3i11.1224.
[9] Ahmad M et al., "Problematizing Law Enforcement in Indonesia: A Study from the Perspective of the Sociology of Law," *Journal of Legal Contemplation* 1, no. 1 (March 2025): 16–26, https://doi.org/10.63288/jlc.v1i1.2.
[10] Muhammad Reza Maulana, Zainal Abidin, and Mazwar Mazwar, "The Interpretation of Legal Principles by the Government in the Special Autonomous Region of Aceh," *Cakrawala: Jurnal Pengabdian Masyarakat Global* 5, no. 1 (February 2026): 09–21, https://doi.org/10.30640/cakrawala.v5i1.5793.
[11] Arskal Salim, "Adat and Islamic Law in Contemporary Aceh, Indonesia: Unequal Coexistence and Asymmetric Contestation," *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam* 5, no. 2 (December 2021): 529, https://doi.org/10.22373/sjhk.v5i2.11082.

Sociologically, Acehnese society tends to place greater trust in resolving conflicts through customary leaders, imum mukim, and teungku gampong rather than pursuing state judicial mechanisms, which are perceived as bureaucratic and disconnected from local wisdom.[12] Dispute resolution through customary institutions is not oriented toward punishment alone, but rather toward restoring social relations and rehabilitating the dignity of the disputing parties.[13] This orientation aligns closely with the spirit of *maqāṣid al-syarīʻah*, which emphasizes public benefit and substantive justice as the primary objectives of Islamic law.[14]

Despite this, strengthening customary institutions as dispute resolution entities faces significant challenges, including regulatory constraints, legal-political dynamics, and resistance from a hegemonic formal legal system.[15] Therefore, it is necessary to deconstruct national legal paradigms that remain positivistic and centralistic to accommodate legal pluralism in a fair and proportionate manner.[16] In this regard, Living Law theory and *maqāṣid al-syarīʻah* can operate synergistically to formulate an epistemological foundation for a contextual and socially responsive legal system.

This study is not only theoretically significant but also practically relevant, particularly in the context of developing a more democratic and inclusive legal system. With its special autonomy, Aceh holds strategic potential to demonstrate that local law, with all its diversity and complexity, can stand alongside state law and

[12] Fajri M. Kasim and Abidin Nurdin, "Study of Sociological Law on Conflict Resolution Through Adat in Aceh Community According to Islamic Law," *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam* 4, no. 2 (December 2020): 375, https://doi.org/10.22373/sjhk.v4i2.8231.
[13] Galib and Matlail Fajar, "Strengthening Customary Legal Autonomy in Aceh."
[14] Atti Janiah, "Maqāṣid Al-Syarīʻah and Constitutional Accountability in Urban Governance: An Islamic Legal Reflection on Public Safety Policy in Banjarmasin City," *Journal of Islamic Law and Humanitarian Studies* 1, no. 2 (December 2025): 65–77, https://doi.org/10.64268/jilhs.v1i2.57.
[15] Franz von Benda-Beckmann, "Who's Afraid of Legal Pluralism?," *The Journal of Legal Pluralism and Unofficial Law* 34, no. 47 (January 2002): 37–82, https://doi.org/10.1080/07329113.2002.10756563.
[16] Chagai Schlesinger, "Religious Legal Pluralism in the Shadow of the Centralistic State," *Oxford Journal of Legal Studies* 45, no. 3 (August 2025): 583–611, https://doi.org/10.1093/ojls/gqaf010.

even function as a critical complement to it.[17] Aceh's success in developing customary institutions as instruments of dispute resolution may serve as an alternative model for other regions with strong customary legal traditions.

This research also aims to reaffirm that law is not singular or universalistic, but plural, contextual, and dialogical in nature.[18] Accordingly, recognition of customary institutions is not merely an administrative measure but part of a broader effort toward legal decolonization and the restoration of epistemic sovereignty for local communities to articulate their own conceptions of justice.[19] Auda's *maqāṣid al-syarīʻah* framework offers strong potential for developing evaluative criteria to ensure that customary values remain aligned with the principles of contemporary Islamic justice.

Thus, the synergy between Living Law theory and *maqāṣid al-syarīʻah* is not only relevant for analyzing the role of customary institutions in dispute resolution, but also essential for formulating a legal approach that is more responsive to societal needs. This represents both a challenge and an opportunity for Islamic law to move beyond an exclusive reliance on textual sources or classical jurisprudence and to transform itself within real, dynamic social spaces.[20]

This study focuses on how customary institutions in Aceh function in resolving disputes, the extent to which they can be regarded as living law under Ehrlich's theory, and how Jasser Auda's *maqāṣid al-syarīʻah* may serve as an evaluative and legitimating instrument for these practices. This approach opens new horizons for

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[17] Zulfan Zulfan, "Model of Local Wisdom Legal Source and State Law in Aceh Government," *Indonesian Comparative Law Review* 1, no. 1 (2018), https://doi.org/10.18196/iclr.1106.
[18] Ester Widiyaningtyas et al., "Philosophical Theology as a Catalyst for Inclusive Interreligious Dialogue in Plural Societies," *Jurnal Theologia* 36, no. 1 (June 2024): 93–108, https://doi.org/10.21580/teo.2025.36.1.26004.
[19] Aris Sarjito and Mursidi Mursidi, "Decolonizing Bureaucracy in Papua: Indigenous Logics, Institutional Hybridity, and the Limits of Special Autonomy," *Jurnal Ilmu Sosial Dan Humaniora* 4, no. 1 (September 2025): 33–52, https://doi.org/10.57248/jishum.v4i1.665.
[20] Nur Alia et al., "Understanding and Implementing Islamic Law: Challenges and Solutions in Modern Contexts," *Antmind Review: Journal of Sharia and Legal Ethics* 1, no. 2 (December 2024): 72–82, https://doi.org/10.63077/qgjzc372.

understanding customary law not as a subordinate entity, but as an autonomous and normatively productive legal subject.

This study aims to strengthen the argument that dispute resolution through customary institutions in Aceh not only represents an articulation of living law embedded within society but also constitutes a *maqāṣid al-sharīʿah*–based legal instrument that remains relevant in the context of contemporary local justice. Previous studies have demonstrated that customary institutions in Aceh play a significant role in resolving disputes through deliberation and reconciliation mechanisms. Misran Ramli et al., for instance, argue that the resolution of minor disputes in Aceh Tamiang reflects the practice of legal pluralism, where state law, customary law, and Islamic law intersect.[21] Similarly, Sitti Mawar and Muhammad Iqbal show that, following the enactment of the Qanun on Customary Institutions, these institutions have gained stronger normative legitimacy in maintaining social harmony through peaceful settlement mechanisms.[22] Furthermore, Danial examines peacebuilding in Aceh from the perspective of *maqāṣid al-sharīʿah* and finds that the protection of life (ḥifẓ al-nafs) and religion (ḥifẓ al-dīn) serves as the primary foundation for resolving social conflicts.[23]

Nevertheless, existing studies tend to address customary institutions either from the perspective of legal pluralism or *maqāṣid al-sharīʿah* in isolation. There remains a limited number of studies that integratively bridge these two paradigms within a comprehensive conceptual framework. This gap underscores the novelty of the present study, which proposes an integrative approach combining the sociology of law and *maqāṣid al-sharīʿah* to demonstrate that the autonomy of customary

[21] Misran Ramli et al., "State, Custom, and Islamic Law in Aceh: Minor Dispute Resolution in the Perspective of Legal Pluralism," *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam* 8, no. 2 (May 2024): 872, https://doi.org/10.22373/sjhk.v8i2.15924.
[22] Sitti Mawar and Muhammad Iqbal, "Multicultural Dispute Resolution System in Aceh Before and After the Issuance of the Customary Institution Qanun," *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam* 9, no. 1 (2025), https://doi.org/https://doi.org/10.22373/sjhk.v9i1.19767.
[23] Syamsuar Syamsuar et al., "Maqashid Sharia as the Foundation of Religious Moderation and Resilience in Aceh's Border Communities," *Al-Qadha : Jurnal Hukum Islam Dan Perundang-Undangan* 11, no. 2 (December 2024): 328–44, https://doi.org/10.32505/qadha.v11i2.9852.

institutions in Aceh is not merely an expression of local cultural practices but also a manifestation of enduring universal principles of justice. Accordingly, this study contributes both theoretically and practically to the formulation of strategies to strengthen the autonomy of customary institutions as pillars of authentic, inclusive, and sustainable local justice.

Methods

This study employs a qualitative library-based approach grounded in an interpretivist epistemology, which views law not merely as a formal system of rules but as a socially embedded and meaning-laden practice. Within this framework, legal norms, doctrines, and texts are understood as dynamic constructs that require contextual and hermeneutical interpretation. Accordingly, the use of library research is not limited to textual compilation but functions as a socio-legal inquiry into how legal ideas, particularly those related to customary institutions, are constructed, interpreted, and legitimized across normative and sociological discourses. The study adopts a juridical-sociological perspective in a conceptual sense, by integrating normative legal analysis with insights from the sociology of law. Rather than relying on primary empirical fieldwork, the "sociological" dimension is addressed through critical engagement with documented social practices and findings from prior empirical studies on customary dispute resolution in Aceh. This allows the research to situate legal norms within their broader social context while maintaining a doctrinal and theoretical focus.

Primary data sources include authoritative legal and theoretical texts, such as Aceh Qanun, customary law documents, and the original works of Eugen Ehrlich and Jasser Auda. Secondary sources consist of peer-reviewed journal articles, books on legal theory, Islamic law, and socio-legal studies. Data collection was conducted through systematic literature identification using academic databases and institutional repositories, prioritizing relevance, credibility, and conceptual depth. Data analysis follows a qualitative content analysis approach with a deductive–inductive strategy. Initially, key analytical categories were derived deductively from

Living Law theory and *maqāṣid al-sharīʻah* (e.g., social embeddedness, legal effectiveness, *maṣlaḥah*, protection of fundamental interests). These categories were then used to code and classify relevant data from the literature. Subsequently, an inductive process was employed to identify emerging themes related to the functioning and autonomy of customary institutions. The analysis proceeded through stages of coding, categorization, thematic interpretation, and contextualization, enabling a systematic synthesis between theoretical frameworks and documented social realities.

To ensure analytical rigor, this study applies credibility and triangulation principles by cross-referencing interdisciplinary sources and comparing multiple scholarly perspectives. However, this study is subject to certain limitations. As a library-based inquiry, it does not incorporate direct empirical observation or field data, which may limit its capacity to capture the most recent practical developments. In addition, the reliance on secondary accounts of social practices may introduce interpretive bias. Nevertheless, this approach remains appropriate for advancing a conceptual and theoretical integration of Living Law and *maqāṣid al-sharīʻah* within the context of legal pluralism.

Discussion

The Existence and Role of Customary Institutions in Legal Dispute Resolution in Aceh

The existence of customary institutions within the framework of legal dispute resolution in Aceh is not merely a sociocultural artifact inherited from the past, but rather a concrete representation of living law that continues to pulse within the daily life of Acehnese society. Customary institutions in this region possess distinctive characteristics shaped by a dialectic among Islamic values, Acehnese ethnic localities, and residual colonial structures, which have been transformed through processes of Islamization and indigenization.[24] Within this framework,

[24] Purnamasari and Sami Barkah, "Islam and Local Cultural Acculturation in the Indonesian Archipelago," *Al-Fiqh* 3, no. 3 (March 2026): 180–95, https://doi.org/10.59996/al-fiqh.v3i3.927.

institutions such as Tuha Peut, Imum Mukim, and Keuchik hold dual legitimacy: sociologically, as representatives of customary communities, and normatively, as sub-entities within the local governance system formally recognized under the Aceh Governance Qanun.[25]

The presence of customary institutions as authorities for dispute resolution indicates the existence of an alternative legal epistemology that is not entirely subordinate to state legal formalism, but instead reflects cultural consensus emerging from lived social practices.[26] Eugen Ehrlich emphasized that living law is not found in statutory regulations, but rather in real social relationships where legal norms are continuously and consistently practiced.[27] In the Acehnese context, the sustained function of customary institutions constitutes concrete evidence that law does not rely solely on state constructions, but also on local knowledge systems shaped through historical sedimentation.

The role of customary institutions in dispute resolution extends beyond that of arbitral bodies, serving instead as spaces of encounter between *Sharia* values, local moralities, and the pursuit of social harmony. Dispute resolution procedures employed by customary institutions in Aceh frequently emphasize principles of reconciliation (peusijuk), acknowledgment of wrongdoing, and the restoration of social relations among individuals and groups, rather than retributive punishment as commonly found in positive law systems.[28] This demonstrates that customary institutions prioritize a restorative paradigm over a retributive one, aligning with

[25] Galib and Matlail Fajar, "Strengthening Customary Legal Autonomy in Aceh."
[26] Zubir Zubir and Alimuddin Alimuddin, "The Absolute Competence of Adat Institutions in Resolving Marital Disputes in Aceh, Indonesia," *Al-Qadha : Jurnal Hukum Islam Dan Perundang-Undangan* 12, no. 1 (June 2025): 166–80, https://doi.org/10.32505/qadha.v12i1.11149.
[27] Svitlana Karvatska, "Socio-Historical Factors of Law Perception in 'Living Law' Concept by Eugen Ehrlich," *Erlìhìvs'kij Žurnal* 1 (December 2017): 42–51, https://doi.org/10.31861/ehrlichsjournal2017.01.042.
[28] Happy Saputra, Mahdalena Nasrun, and Muhammad Anzaikhan, "Revitalizing Local Wisdom in Committing Radicalism in Aceh," *nusan: Journal for Religious Innovation Studies* 21, no. 2 (December 2021): 112–21, https://doi.org/10.30631/innovatio.v21i2.140.

the orientation of *maqāṣid al-syarīʻah*, particularly the protection of life (*ḥifẓ al-nafs*), intellect (*ḥifẓ al-ʻaql*), and dignity (*ḥifẓ al-ʻirḍ*).

In practice, customary institutions in Aceh also possess structural and cultural flexibility that enables them to adapt to the complexities of contemporary social dynamics. Although rooted in customary traditions and local Islamic norms, these institutions remain open to procedural modifications, including documentation practices, formal mediation mechanisms, and, when necessary, the involvement of village authorities or *Sharia* police.[29] Such flexibility indicates that customary institutions are not stagnant or anti-modern entities, but rather adaptive institutions capable of absorbing change while preserving their normative spirit.

From the perspective of living law theory, the continuity of customary institutions demonstrates the persistence of non-statutory law that does not depend on legislative formalization, but instead on social acceptance and communal trust. Social legitimacy granted to customary decisions endows them with effective performative power in resolving horizontal conflicts, particularly in cases such as land disputes, customary violations, and domestic conflicts.[30] In many instances, communities prefer customary dispute resolution because it is perceived as more just, expedient, and less socially injurious than formal judicial proceedings.

Furthermore, the customary legal structure in Aceh rests upon a strong normative foundation reinforced by the special autonomy granted by the state through Law Number 11 of 2006 on the Governance of Aceh. This autonomy provides legal space for customary institutions to operate within the framework of local governance, rendering them not only socially legitimate but also formally lawful within the positive legal system. This reinforces the position of customary

[29] Trisna, Aulia, and Moulia, "The Role of the Aceh Customary Council in Implementing Hak Langgeh: Navigating Between Sharia and Customary Law."
[30] Ratih Lestarini, "The Sociological Perspective on The Study of The Living Law: Is It a Part of Legal Discipline or Social Discipline?," *Jurnal IUS Kajian Hukum Dan Keadilan* 11, no. 3 (December 2023): 448–64, https://doi.org/10.29303/ius.v11i3.1270.

institutions as legal actors with strategic roles in conflict mediation and the development of restorative justice grounded in local values.[31]

Aceh's uniqueness as the only province authorized to implement Islamic law within Indonesia's national framework positions its customary institutions as a distinctive model for synthesizing Islamic law and local custom. Accordingly, customary institutions function not merely as complementary mechanisms to the judicial system, but as a third pillar of Aceh's legal order, alongside religious courts and general courts.[32] The coexistence of these three pillars constructs a pluralistic legal ecosystem in which diverse legal systems intersect in the management of conflict and the administration of justice.

More broadly, the role of customary institutions may be understood as a practical manifestation of *maqāṣid al-syarīʻah* at the local level. In numerous cases, customary institutions have successfully preserved values of justice, peace, and social reconciliation through approaches that are more humane and context-sensitive than formal judicial systems. This aligns with Jasser Auda's emphasis on the systemic, holistic, and participatory dimensions of *maqāṣid* implementation, ensuring that law functions not as an instrument of oppression, but as a pathway toward moral and social improvement.[33]

Nevertheless, the sustainability of customary institutions within the national legal system is not without challenges. Legal globalization, the dominance of positivistic legal paradigms, and the penetration of formal judicial systems often diminish the authority of customary institutions and marginalize their role in dispute resolution. Additionally, the absence of normative integration between customary legal products and the national legal system presents further obstacles

[31] Zubir and Alimuddin, "The Absolute Competence of Adat Institutions in Resolving Marital Disputes in Aceh, Indonesia."
[32] Salim, "Adat and Islamic Law in Contemporary Aceh, Indonesia: Unequal Coexistence and Asymmetric Contestation."
[33] Achmad Tohari, "Religious Moderation in the Perspective of Maqasid Syariah Jasser Auda," *MODERATIO: Jurnal Moderasi Beragama* 4, no. 1 (May 2024): 52, https://doi.org/10.32332/moderatio.v4i1.9037.

to positioning customary institutions as equal legal actors.[34] Consequently, a progressive legal policy is required to recognize the strategic role of customary institutions within a fair framework of legal pluralism.

In the context of national legal development, the existence of customary institutions in Aceh reveals a promising direction for advancing a bottom-up approach to lawmaking. Rather than designing legal systems through centralized and top-down mechanisms, customary legal practices demonstrate that law emerging from social praxis possesses greater vitality, as it is tested by time and sustained through active community participation.[35] Accordingly, customary institutions play not only legal roles but also function as guardians of communal morality and agents of social stability.

This function is further strengthened by customary values crystallized in the principle of *adat bak po teumeureuhom*, which signifies that custom must be subordinate to Sharia. This principle affirms that custom is not value-neutral, but must operate in synergy with Islamic values. It reinforces the argument that Acehnese customary institutions serve as arenas for the actualization of *maqāṣid al-syarīʿah* rooted in the lived realities of Acehnese Muslim society, rather than as mere normative transplants from classical *fiqh* literature.

Considering all these factors, it becomes evident that the role of customary institutions in legal dispute resolution in Aceh is neither marginal nor secondary, but rather strategic and crucial within the broader project of developing a just, inclusive, and locally grounded legal system. This study suggests that approaches to customary law should avoid romanticism or apologetics, and instead be grounded in critical analysis of both its strengths and limitations within modern legal dynamics.

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[34] Yenny Febrianty, Hasliza Ghapa, and Asmida Ahmad, "Integration of Customary Law in the National Legal System Comparative Study of Malaysia and Indonesia," *SASI* 30, no. 4 (December 2024): 379, https://doi.org/10.47268/sasi.v30i4.2303.

[35] Adhitya Anugrah Nasution and Ade Saptomo, "Application Of The Acehnese Customary Legal System And National Legal System In Combating Theft By Child Offenders," *Jurnal Hukum, Politik Dan Ilmu Sosial* 3, no. 1 (January 2024): 332–40, https://doi.org/10.55606/jhpis.v3i1.3384.

From the perspective of living law and *maqāṣid al-syarī'ah*, customary institutions can function as bridges between procedural justice and substantive justice, between positive law and moral law, and between the state and society. Therefore, national legal policymaking should provide space for customary institutions to operate as legitimate legal actors, while simultaneously recognizing that genuine justice concerns not only legality, but also social legitimacy and communal ethics.

Living Law Analysis of Customary Law Practices: Discovering Law as It Lives Within Society

An analysis of customary law practices through the lens of living law theory opens a new horizon of understanding regarding how law should not merely be perceived as a normative product created by legislative institutions, but rather as a crystallization of social structures and the relational dynamics of society.[36] Eugen Ehrlich firmly asserted that "real law" is not found in statute books, but in concrete social life, where legal norms are consistently implemented and practiced by communities.[37] In the context of indigenous communities in Aceh, this thesis finds its most authentic confirmation: customary institutions do not merely survive as cultural symbols, but function as active arenas where law lives and breathes in everyday reality.[38]

Acehnese customary law practices constitute a form of law that is not only de facto recognized by society, but also de jure legitimized by the state through local legislative frameworks such as Qanun Number 9 of 2008 on the Development of Customary Life and Traditions. This affirms that customary law in Aceh is not simply an ancestral legacy preserved nostalgically, but an alternative legal system that lives,

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[36] Theresia N.A Narwadan, "The Existence of Customary Law as a Living Law within Indonesia's Legal System: A Legal Pluralism Analysis," *Journal of Adat Recht* 2, no. 4 (November 2025): 28–38, https://doi.org/10.62872/2rw71057.

[37] Nelken, "Eugen Ehrlich, Living Law, and Plural Legalities."

[38] Aprilia Stefany Leliak, "Strengthening Legal Protection of Indigenous Peoples' Customary Land Rights In Indonesia's Disruption Era," *Litigasi* 26, no. 2 (May 6, 2026): 443–72, https://doi.org/10.23969/litigasi.v26i2.20032.

evolves, and gains recognition within the national legal order. Practices of dispute resolution, customary mediation, and the restoration of social relations, administered by institutions such as Tuha Peut and Imum Mukim, reflect a participatory and deliberative form of law, far removed from the procedurally legalistic character that is often ethically barren.

It is within this space that the concept of living law operates as an epistemological approach that challenges the dominance of legal positivism. Law is not presented as a dead text demanding formal compliance, but as a social process continuously constructed through interaction, adaptation, and the reinterpretation of local values.[39] Acehnese customary law practices demonstrate that communities possess the capacity to create law that is contextually appropriate, relevant, and, most importantly, effective in resolving disputes peacefully and justly.

Customary law praxis also reinforces the idea that genuine justice need not always be rooted in state institutions. Instead, it can grow from grassroots realities, from lived narratives that are not recorded in legal texts but are tangibly present in traditions, deliberations, and social consensus.[40] Consequently, ignoring customary law in the formulation of national legal policies is tantamount to denying the very legal reality that society practices. Herein lies the importance of living law as a theory that opens space for legal pluralism and dismantles the exclusivist walls of state-centric law.

In the Acehnese context, living law explains why many community members place greater trust in customary institutions than in formal courts. This trust arises not merely from considerations of efficiency or speed, but because customary institutions are perceived as more capable of understanding the cultural context and

[39] Ali Masyhar et al., "Reclaiming the Unwritten: Living Law's Prospects under Indonesia's 2023 Penal Reform," *Jambe Law Journal* 8, no. 1 (July 2025): 255–85, https://doi.org/10.22437/home.v8i1.502.
[40] I Gusti Agung Mas Rwa Jayantiari et al., "The Rights of Customary Law Communities to Resources: The Relationship of Coexistence of State Law and Customary Law," *Jurnal IUS Kajian Hukum Dan Keadilan* 13, no. 1 (April 2025): 187–98, https://doi.org/10.29303/ius.v13i1.1329.

collective emotions that accompany disputes.[41] This demonstrates that living law is not solely a matter of formal structures, but rather of meaning structures born from intersubjectivity and communal values.

Furthermore, the strength of customary law lies in its flexibility. It is not constrained by rigid normative systems, but instead opens space for negotiation, reinterpretation, and adaptation to social change. This is where customary law excels as living law: in its ability to remain relevant even as social realities undergo rapid transformation due to globalization, urbanization, and digitalization.[42]

Living law theory also dismantles the assumption that customary law is static and obsolete. On the contrary, it is a highly dynamic social product in which norms are continuously renegotiated in deliberative forums, customary events, and other forms of collective social action.[43] This illustrates that customary law is closer to the ideals of distributive and restorative justice than formal legal systems, which tend to lean toward retributivism.

When linked to *maqāṣid al-syarīʻah*, these living customary law practices often more accurately reflect the core values of Islamic law, namely the preservation of public benefit (*maslahah*) and the prevention of harm.[44] Jasser Auda emphasizes that *maqāṣid* should not be understood rigidly within the confines of only five foundational principles, but should be developed through a systemic approach that is adaptive to sociocultural contexts. In Acehnese customary law practices, this

[41] Abidin Nurdin et al., "The Implementation of Meunasah-Based Sharia in Aceh: A Social Capital and Islamic Law Perspective," *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam* 5, no. 2 (December 2021): 760, https://doi.org/10.22373/sjhk.v5i2.10710.
[42] Yuki Muhammad Fidaus, "Preserving Customary Law in the Era of Globalization within Indonesian Society and Legal System," *Law and Justice* 9, no. 1 (September 2024), https://doi.org/10.23917/laj.v9i1.597.
[43] Islamul Haq et al., "Legal Harmony: Integration of Customary, National, and Islamic Criminal Law in the Toraja Ma'rambu Langi," *Al-Ihkam: Jurnal Hukum & Pranata Sosial* 20, no. 2 (December 2025), https://doi.org/10.19105/al-lhkam.v20i2.17680.
[44] Aditya Prastian Supriyadi, Mustafa Lutfi, and Kurniasih Bahagiati, "Strengthening Indonesia's Green Investment Law: Legal Reconceptualisation toward Net-Zero Emissions under Green Constitution and Maslahah," *Jurisdictie: Jurnal Hukum Dan Syariah* 16, no. 2 (December 24, 2025): 411–51, https://doi.org/10.18860/j.v16i2.35169.

approach is concretely manifested in principles of peaceful settlement, the restoration of dignity, and the strengthening of social cohesion.

Customary law as living law also embodies wisdom that transcends the dichotomy between norms and reality. In many cases, living customary norms are more effective as tools of social control than rigid formal norms. When customary norms are practiced with collective awareness, they generate a strong moral obligation, in contrast to positive law, which often produces only legal obligation without heartfelt participation.[45]

Nevertheless, the sustainability of customary law as living law is inseparable from the social ecology that supports it. The destruction of customary communities, the commercialization of local values, and state interventions that are insensitive to local dynamics pose serious threats to the continuity of living law. Therefore, efforts to revitalize and strengthen the position of customary law within the national legal system must be accompanied by recognition of social structures and local epistemologies as the foundation of its validity.[46]

It is important to note that living law practices are not universal in substance, but universal in principle. This means that although the norms that live within one community may differ from those in another, the principle that law must be contextual, participatory, and responsive to societal dynamics is universal. Accordingly, an ideal national legal system is not uniform but one that accommodates diversity within an inclusive framework of justice.[47]

In light of living law theory, we learn that law cannot be monopolized by the state. Law also belongs to the people, created through their interactions,

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[45] Sally Falk Moore, "Law and Social Change: The Semi-Autonomous Social Field as an Appropriate Subject of Study," *Law & Society Review* 7, no. 4 (July 1973): 719–46, https://doi.org/10.2307/3052967.

[46] Ida Hanifah et al., "Strengthening Indigenous Welfare through the Role of Local Government Initiatives in Protecting Traditional Knowledge," *Volksgeist: Jurnal Ilmu Hukum Dan Konstitusi*, September 2025, 345–61, https://doi.org/10.24090/volksgeist.v8i2.13332.

[47] Khoirunnisa and Didi Jubaidi, "The Significance of the Living Law Concept in the New Criminal Code: A Perspective Of Progressive Law," *Journal of Namibian Studies : History Politics Culture* 33 (March 2023): 6116–40, https://doi.org/10.59670/jns.v33i.4603.

experiences, and aspirations for a just life. Thus, in this sense, customary law practices are not merely alternatives, but reflections of the very source of law itself: living and evolving social reality.[48]

Moreover, living law practices within Acehnese customary law have the potential to serve as a model for reconstructing a pluralistic and democratic Indonesian legal system. By positioning law as a social product, law can be viewed not as an entity imposed from above, but as the outcome of dialogue and consensus among grassroots communities.[49] This indicates that the concept of genuine justice cannot emerge without listening to the voices of the people in all their diversity.

In conclusion, living law theory dismantles the rigid walls of legal positivism and creates space for a more humane, contextual, and real-life-rooted approach to law.[50] Acehnese customary law practices, which endure and even undergo revitalization in the context of modernity, constitute empirical evidence that living law remains the primary pulse in the arteries of societal justice.

The Articulation of *Maqāṣid al-Sharīʻah* in the Practice of Customary Institutions: Ethical and Teleological Perspectives of Islamic Law

The articulation of *maqāṣid al-sharīʻah* within the practical domain of customary institutions in Aceh reveals a harmonious interweaving between the substantive values of Islamic law and the living local socio-cultural structures. In this regard, Jasser Auda's thought serves as a crucial analytical lens for understanding the dynamic relationship between *Sharia* norms and the social ethics embedded in Acehnese custom. Auda argues that *maqāṣid* do not merely rest upon the five classical objectives, namely the protection of religion, life, intellect, lineage, and property, but rather operate within a broader, more inclusive, systemic, and

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[48] Roger Cotterrell, *Law, Culture and Society* (Routledge, 2017), https://doi.org/10.4324/9781351217989.

[49] Ramli et al., "State, Custom, and Islamic Law in Aceh: Minor Dispute Resolution in the Perspective of Legal Pluralism."

[50] Yangto et al., "Contemporary Challenges and Prospects of Mediation in Contested Divorce Cases in Indonesia," *Nusantara: Journal of Law Studies* 5, no. 1 (2026): 44–59, https://doi.org/https://doi.org/10.66325/nusantaralaw.v5i1.

contextual framework. This perspective affirms that the ultimate objective of *Sharia* is the realization of *maṣlaḥah* across all interdependent dimensions of human life.

Amid the strong and autonomous configuration of Acehnese custom, customary institutions assume an ethical role as vehicles for the actualization of *maqāṣid* values. Dispute resolution practices grounded in deliberation and consensus, as exercised by customary structures such as *Tuha Peut, Imum Mukim*, and *Wali Nanggroe*, essentially reflect the Sharia-oriented commitment to ensuring justice, safeguarding individual dignity, and preventing social harm.[51] This resonates with Auda's *maqāṣid* framework, which advances a systemic approach that rejects the dichotomy between ethics, legal objectives, and legal instruments. Within Acehnese customary law, Islamic ethics do not appear in codified form but are embodied in communal practices and collective decision-making processes.

In Auda's perspective, *maqāṣid* emphasize dynamism, flexibility, and contextual accommodation of sociocultural realities. This stands in contrast to normative–legalistic approaches that tend to impose a singular legal form in the name of *Sharia*. In the practice of Acehnese customary institutions, such flexibility is reflected in dispute resolution mechanisms that prioritize relational restoration and social harmony over punitive outcomes. This demonstrates that *maqāṣid* function not only as the ultimate ends of Islamic law, but also as a methodology for realizing substantive justice.[52]

Auda underscores the importance of understanding *maqāṣid* in a multidimensional manner, transcending textual structures and entering the realm of concrete human relations. Within this framework, Acehnese customary institutions function not merely as mechanisms of conflict resolution, but also as media for the embodiment of Islamic transcendental values in everyday social life.

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[51] Galib and Matlail Fajar, "Strengthening Customary Legal Autonomy in Aceh."
[52] Anas Asy'ari Nashuha, Muthoifin, and Mariam Elbanna, "An Analysis of Jasser Auda's Thought on Maqashid Sharia and Its Implications for Sharia Economic Law," *Solo International Collaboration and Publication of Social Sciences and Humanities* 3, no. 03 (June 2025): 441–56, https://doi.org/10.61455/sicopus.v3i03.361.

For instance, in cases of domestic disputes or inter-family conflicts, customary approaches grounded in values such as *silaturahim* (social bonding), ta'āwun (mutual assistance), and '*afw* (forgiveness) are often closer to the objectives of *maqāṣid* than state-centered legal-formal approaches.

Within Auda's maqāṣid methodology, openness to social reality constitutes a central principle. Auda maintains that *maqāṣid* must not be understood in a vacuum, but should be read systemically and remain open to social, political, and cultural transformations. Acehnese customary institutions, with all their local complexities, provide a space for articulating Islamic values that are living and dynamic, values that are not frozen in texts, but evolve with the times. This approach represents an epistemological critique of classical *fiqh* methodologies that are overly textual and ahistorical.

The practices of customary institutions also demonstrate alignment with *maqāṣid* dimensions such as *al-karāmah al-insāniyyah* (human dignity) and *al-'adl* (justice). In Acehnese customary law, deliberative processes do not recognize caste or social status; all community members are afforded opportunities to voice their perspectives. This constitutes a manifestation of *maqāṣid* through deliberative participation, placing egalitarianism at the core of achieving *maṣlaḥah*.[53] Consequently, Acehnese customary law has effectively translated *maqāṣid* into highly practical and applicable forms.

The *tendency of the maqāṣid* to emphasize *niyyah* (intention) and *maqāṣid al-fardiyyah* (individual objectives) is also evident in dispute resolution through customary institutions. The focus on good faith, psychological restoration, and acknowledgment of wrongdoing represents not merely ethical conduct, but integral components of *maqāṣid* aimed at preserving *al-nafs* and *al-'irḍ*. In this context,

[53] Uthman Mehdad Al-Turabi and Jasser Auda, "Toward a Maqāṣid-Based Legal Reform: Systemic Thinking for Social Transformation in the Modern Muslim World," *Indonesian Journal of Islamic Law* 8, no. 2 (December 2025): 209–28, https://doi.org/10.35719/fhw10v84.

maqāṣid function as guiding principles rather than imperative texts, allowing for more humane and transformative legal resolutions.[54]

In Auda's conception, *maqāṣid* are not simply instruments for justifying *Sharia*, but rather constitute the ontological and axiological framework of Islamic law. This means that *maqāṣid* explain not only "what" the objectives of law are, but also "why" and "how" law ought to operate.[55] In Acehnese custom, these questions have long been addressed through social consensus and deliberative processes that reflect the values of *raḥmah* (compassion), *ḥikmah* (wisdom), and *maṣlaḥah* (public good).

Moreover, the concept of *maqāṣid* provides an evaluative framework for law itself. When a customary norm no longer generates maṣlaḥah or instead produces injustice, *maqāṣid* offer a justification for reconstruction. In several instances, Acehnese customary institutions have revised certain dispute-resolution mechanisms to be more inclusive of women and children, reflecting the maqāṣid imperative to protect vulnerable groups.[56] Here, *maqāṣid* function as a corrective ethical force within the customary legal system.

As a theory emphasizing systemic and participatory approaches, Auda's *maqāṣid* framework encourages the development of law that is not only just but also adaptive to social change. In an era of digital disruption and modern complexity, Acehnese customary legal practices continue to demonstrate epistemological resilience by adjusting their values to contemporary needs while remaining rooted in Islamic tradition. This confirms that *maqāṣid* are not static constructs, but "living" principles, much like customary law itself.[57]

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[54] Aslati et al., "Utilizing Science and Maqāṣid Al-Sharī'ah in Resolving Contemporary Issues of Islamic Family Law," *Al-Manahij: Jurnal Kajian Hukum Islam*, March 2024, 17–36, https://doi.org/10.24090/mnh.v18i1.10571.

[55] Mawloud Mohadi and Yasser Tarshany, "Maqasid Al-Shari'ah and the Ethics of Artificial Intelligence," *Journal of Contemporary Maqasid Studies* 2, no. 2 (July 2023): 79–102, https://doi.org/10.52100/jcms.v2i2.107.

[56] Aslati et al., "Utilizing Science and Maqāṣid Al-Sharī'ah in Resolving Contemporary Issues of Islamic Family Law."

[57] Isman, Muntaha Artalim Zaim, and Aisha Baha Eldeen, "Maqashid Sharia and Harmonizing Law in Indonesia: Impact for SDGs Global Context," 2024, 745–59, https://doi.org/10.1007/978-3-031-50939-1_60.

The close relationship between *maqāṣid* and customary law helps explain why customary institutions have endured amid the homogenizing pressures of state-centered legal systems. When state law often fails to align with societal perceptions of justice, customary law, when synergized with *maqāṣid*, emerges as a more aspirational alternative. It is here that the value of *maqāṣid* as a bridge between Islamic legal normativity and lived human realities is most evident.[58]

At this juncture, the articulation of *maqāṣid al-sharīʻah* within the practice of Acehnese customary institutions affirms that Islam and custom are not mutually negating entities. Rather, they may converge within an ethical, responsive, and *maṣlaḥah*-oriented legal configuration. Jasser Auda's maqāṣid theory opens pathways for the development of Islamic law that is not exclusive or legalistic, but inclusive and substantive, as evidenced in Acehnese customary practice.

Accordingly, Acehnese customary institutions may be understood as concrete spaces for articulating *maqāṣid*. They not only reflect localized expressions of Islamic law but also demonstrate the potential of *maqāṣid* as an ethical paradigm to address contemporary legal challenges in a contextual and progressive manner. This approach functions as an epistemological bridge between text and context, between Islamic normative ideals and lived socio-cultural realities.

In conclusion, the articulation of *maqāṣid al-sharīʻah* within the context of Acehnese customary institutions underscores that Islamic law is neither rigid nor homogeneous, but flexible and adaptive. By adopting Auda's systemic perspective, customary institutional practices illustrate how justice, *maṣlaḥah*, and social ethics can operate synergistically within a legal configuration that is both local and universal. Consequently, the revitalization of *maqāṣid* within customary law is not only relevant, but urgent, as a foundation for a more humane, pluralistic, and contextual future of Islamic law.

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[58] Restika Susanti, "Dowry Practices in Lampung Pesisir Traditional Marriages: An Islamic Legal Perspective," *Indonesia Private Law Review* 5, no. 1 (March 25, 2024): 1–10, https://doi.org/10.25041/iplr.v5i1.3185.

Toward Paradigmatic Synergy: Integrating Living Law and *Maqāṣid al-Sharī'ah* in Strengthening the Autonomy of Customary Institutions

The integration of Eugen Ehrlich's *living law* theory and Jasser Auda's conception of *maqāṣid al-sharī'ah* in the context of strengthening the autonomy of customary institutions in Aceh represents an effort toward paradigmatic synergy with the potential to harmonize the dimensions of formal law and socio-cultural law simultaneously. The living law paradigm emphasizes that effective law is law that grows and develops from the social realities of the community itself, rather than merely being a normative product dictated by state authority.[59] This proposition resonates with broader socio-legal scholarship, which argues that law derives its legitimacy from social acceptance and institutional practice, as reflected in studies on legal pluralism and community-based dispute resolution in Muslim societies. [60]In parallel, contemporary *maqāṣid*-oriented approaches, particularly those developed by Jasser Auda, emphasize a systems-based, context-sensitive understanding of Islamic law that accommodates social realities and prioritizes public welfare (*maṣlaḥah*).[61]

In the Acehnese context, customary institutions that are alive and deeply rooted in social practice reflect the realization of living law that is not only normative but also dynamic, flexible, and adaptive to the evolving needs of the community.[62] Similar patterns have been identified in comparative studies of customary justice systems, where the convergence of socially embedded legal norms and *maqāṣid*-oriented reasoning enables more responsive and sustainable

[59] Soni Zakaria, "The Contextualization of the Māqāṣid Āl-Šyāriāh Jasser Auda Theory in the Concept and Practice of Islamic Family Law," *Al-'Adl* 14, no. 2 (July 2021): 83, https://doi.org/10.31332/aladl.v14i2.2396.
[60] Arief Fahmi Lubis, "Legal Pluralism And Social Identity: An Analysis of State and Religious Law Interaction in Local Dispute Resolution in Indonesia and Pakistan," *Lex Localis - Journal of Local Self-Government* 23, no. 11 (October 2025): 1910–21, https://doi.org/10.52152/bt4pv061.
[61] Auda, "Maqasid Methodology for Re-Envisioning Islamic Higher Education."
[62] Mursyid Djawas et al., "Harmonization of State, Custom, and Islamic Law in Aceh: Perspective of Legal Pluralism," *Hasanuddin Law Review* 10, no. 1 (May 2024): 64, https://doi.org/10.20956/halrev.v10i1.4824.

dispute-resolution mechanisms.[63] This indicates that, unlike earlier studies that tend to position socio-legal and normative Islamic frameworks separately, the present analysis demonstrates their potential synergy, thereby providing stronger empirical and theoretical justification for the role of customary institutions in advancing locally grounded yet normatively coherent justice.

The integration of Eugen Ehrlich's living law theory and Jasser Auda's conception of *maqāṣid al-sharī'ah* in the context of strengthening the autonomy of customary institutions in Aceh represents an effort toward paradigmatic synergy with the potential to harmonize the dimensions of formal law and socio-cultural law simultaneously. The living law paradigm emphasizes that effective law is law that grows and develops from the social realities of the community itself, rather than merely being a normative product dictated by state authority. In the Acehnese context, customary institutions that are alive and deeply rooted in social practice reflect the realization of living law that is not only normative but also dynamic, flexible, and adaptive to the evolving needs of the community.

Meanwhile, *maqāṣid al-sharī'ah*, as formulated by Jasser Auda, offers a systemic framework and ethical objectives of Islamic law that emphasize *maṣlaḥah*, justice, and the protection of fundamental human values, namely religion, life, intellect, lineage, and property.[64] This paradigm opens space for a contextual and multidimensional understanding of Islamic law, not confined to literal texts, but oriented toward the attainment of holistic and sustainable legal objectives. When this paradigm is applied alongside living law, a symbiotic relationship emerges that enriches both the understanding and the practice of customary law in Aceh.

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[63] RR Dewi Anggraeni, "Islamic Law and Customary Law in Contemporary Legal Pluralism in Indonesia: Tension and Constraints," *Ahkam : Jurnal Ilmu Syariah* 23, no. 1 (June 2023), https://doi.org/10.15408/ajis.v23i1.32549.

[64] Krismiyarsi Krismiyarsi and Rayno Dwi Adityo, "The Urgency of Community Service Imposed as Punishment on Juvenile Delinquents: A Study of Al- Shatibi's Maqhasid Al-Syariah Concept," *De Jure: Jurnal Hukum Dan Syar'iah* 17, no. 1 (April 12, 2025): 132–48, https://doi.org/10.18860/j-fsh.v17i1.31246.

The historical and social context of Aceh, which is characterized by a strong tradition of customary law and the deep-rooted influence of Islamic law, provides a fertile arena for synthesizing these two paradigms. Customary institutions, as autonomous social institutions endowed with historical legitimacy, can actualize living law derived from habits, social norms, and religious values that are naturally internalized by the community.[65] Strengthening the autonomy of customary institutions by integrating *maqāṣid al-sharī'ah* principles signifies that customary practices are not based solely on tradition but are also aligned with the more universal ethical objectives of Islamic law.

The integration of these two paradigms presents strategic opportunities to improve the quality of dispute resolution in Aceh, which has long faced challenges stemming from overlaps between state law and customary law. By positioning living law as the epistemological foundation and *maqāṣid al-sharī'ah* as the ethical-normative framework, customary institutions can formulate conflict resolution mechanisms that are not only socially legitimate but also morally and religiously dignified.[66] This approach further strengthens the legitimacy of customary institutions' autonomy in the face of state regulations that tend to be homogeneous and formalistic.

It is important to emphasize that this integration is not merely a matter of standardization or the subordination of one paradigm to another, but rather a critical and productive dialogue that generates a more vibrant and meaningful legal paradigm. This paradigm rejects the reductionism often found in formal legal practices that neglect social and cultural contexts, while simultaneously avoiding relativism that could erode the universal principles of justice and public welfare

[65] Misri A. Muchsin and Fadhlur Rahman Armi, "The Dynamics of the Implementation of Islamic Law in Aceh: Historical Challenges and Issues," *Hikmah* 21, no. 2 (December 2024): 267–80, https://doi.org/10.53802/hikmah.v21i2.444.
[66] Ajidar Matsyah et al., "Cultural Continuity and Legal Adaptation: The Evolution of Suluh in Aceh's Conflict Resolution System," *Juris (Jurnal Ilmiah Syariah)* 24, no. 1 (June 2025): 101, https://doi.org/10.31958/juris.v24i1.13272.

embedded in the *maqāṣid*.[67] Herein lies the revolutionary potential of integrating living law and *maqāṣid al-sharī'ah*.

The implementation of this paradigmatic synergy to strengthen the autonomy of customary institutions requires intellectual and organizational capacity among customary leaders and the ulama to understand and translate these values both conceptually and practically.[68] Training and capacity-building programs that integrate sociological and theological insights are indispensable for ensuring that customary institutions not only perform their social functions but also fulfill their ethical role as guardians of *maqāṣid* values.[69] This approach simultaneously addresses the challenges of modernity and the increasing social pluralism in Aceh.

Within the dimension of legal theory, this synergy opens a new perspective that views law not merely as a closed normative system, but as an open and evolving social system, in which law reflects the living values of society while also serving as an instrument for achieving ethical legal objectives.[70] This approach liberates customary institutions from static, conservative constraints, positioning them instead as responsive and progressive.

From the perspective of contemporary Islamic law, this integration also addresses the traditional dualism between sharī'*ah* and customary law, which are often perceived as being in tension with one another. *Maqāṣid al-sharī'ah* provides an inclusive framework that enables the adaptation of Islamic norms to local values

[67] Auda, "Maqasid Methodology for Re-Envisioning Islamic Higher Education."
[68] Tholkhatul Khoir et al., "The Narrowing Spaces for Islamic Knowledge at Islamic Higher Education in Indonesia: Opportunity and Challenge," *Higher Education* 90, no. 4 (October 2025): 1145–73, https://doi.org/10.1007/s10734-024-01370-3.
[69] Efrita Norman et al., "Implementing Sharia-Based Total Quality Management in Islamic Educational Institutions Impact on Organizational Performance," *Eduprof : Islamic Education Journal* 6, no. 2 (February 2025): 116–34, https://doi.org/10.47453/eduprof.v6i2.299.
[70] Ilham Tohari, Siti Rohmah, and Ahmad Qiram As-Suvi, "Exploring Customary Law: Perspectives of Hazairin and Cornelis Van Vollenhoven and Its Relevance to the Future of Islamic Law in Indonesia," *Ulul Albab: Jurnal Studi Dan Penelitian Hukum Islam* 7, no. 1 (October 2023): 50, https://doi.org/10.30659/jua.v7i1.32600.

without compromising the essential objectives of Islamic law.[71] In this sense, the integration serves as a model for the contextual and humane renewal of Islamic law.

Moreover, this integration has significant implications for managing social conflict in Aceh more peacefully and civilly. An approach that prioritizes dialogue, deliberation, and the pursuit of collective *maṣlaḥah* in accordance with the principles of living law and *maqāṣid* enables restorative dispute resolution that emphasizes reconciliation and the restoration of social relationships rather than domination or punishment.[72] In this way, customary law functions not only as a regulatory instrument but also as a tool for inclusive and just social development.

Furthermore, this paradigmatic synergy reinforces the autonomy of customary institutions as custodians of vital values and norms in maintaining social cohesion and cultural identity within Acehnese society. The recognition and strengthening of customary institutions through the integration of living law and *maqāṣid al-sharīʻah* encourage the preservation of cultural heritage while simultaneously addressing the challenges of modernity that threaten to erode such identities.[73] This recognition also affirms the strategic position of customary institutions within a plural national legal system.

It should also be noted that strengthening the autonomy of customary institutions through this synergy does not negate the role of state positive law. On the contrary, this integration proposes a model of harmonious and complementary coexistence between customary law and state law, grounded in the shared objectives of justice and universal public welfare (*al-ʻadl wa al-iḥsān*).[74] Such

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[71] Ahmad Qiram As-Suvi and Erfaniah Zuhriah, "Ratio Legis of Interfaith Inheritance Reformulation from the Perspective of Fiqh Minority: A Study of the Thoughts of Yusuf Al-Qardhawi and Taha Jabir Al-Alwani," *Jurnal Pembaharuan Hukum* 10, no. 3 (December 2023): 361, https://doi.org/10.26532/jph.v10i3.33335.

[72] Mukhlis Mukhlis et al., "The Power of Local Wisdom in Hadih Maja : Mitigating Social Conflict in Aceh through Oral Tradition," *Cogent Arts & Humanities* 13, no. 1 (December 2026), https://doi.org/10.1080/23311983.2026.2658281.

[73] Galib and Matlail Fajar, "Strengthening Customary Legal Autonomy in Aceh."

[74] Fitri Arianti Saputri, "The Position of Customary Law in the Legal System: An ExplorationRole, Challenges, and Integration in the Context of National Legal Development," *Journal of Adat Recht* 1, no. 1 (May 2024), https://doi.org/10.62872/esmxh108.

coexistence necessitates continuous, dynamic, and open dialogue among legal institutions.

This context becomes increasingly relevant in an era of legal democratization and human rights that demands recognition of the rights of indigenous communities and the protection of cultural diversity. The synergistic paradigm of living law and *maqāṣid al-sharīʿah* provides both a philosophical and practical foundation for such recognition and protection without sacrificing universal values of justice and humanity.[75]

Institutional development is also a crucial aspect of realizing this paradigmatic synergy. Reforming customary institutions based on the principles of living law and *maqāṣid* can optimize their functions in addressing contemporary challenges such as globalization, migration, and rapid socio-cultural change.[76] This requires synergy between tradition and innovation to ensure the sustainability and continued relevance of customary institutions.

Methodologically, this integrative approach also calls for the development of interdisciplinary legal studies involving the sociology of law, Islamic theology, cultural anthropology, and political science. Such studies enable a holistic and comprehensive understanding of Acehnese customary law and the formulation of responsive, ethically grounded legal policies.[77]

Ultimately, the paradigmatic synergy between living law and *maqāṣid al-sharīʿah* offers not only a revolutionary conceptual model but also a practical foundation for strengthening the autonomy of customary institutions as living,

[75] Khalid Hussain Mir and Md. Rafique Anjum, "Universal Ethics for a Divided World: Maqasid Al-Shari'ah and the Pursuit of Human Brotherhood," *Journal of Islamic Studies and Culture*, November 13, 2025, https://doi.org/10.15640/jisc.v13p3.
[76] Tolkah Tolkah, "Customary Law Existency in The Modernization of Criminal Law in Indonesia," *Varia Justicia* 17, no. 1 (May 2021): 72–89, https://doi.org/10.31603/variajusticia.v17i1.5024.
[77] Djawas et al., "Harmonization of State, Custom, and Islamic Law in Aceh: Perspective of Legal Pluralism."

meaningful, and ethical legal entities.[78] This synergy serves as an epistemological bridge among tradition and modernity, norms and praxis, and religion and culture within the pluralistic context of Aceh.

Thus, strengthening the autonomy of customary institutions through the integration of these two paradigms is not merely a technical solution for dispute resolution, but a substantive effort to realize law that is humane, just, and civilized. This paradigm reaffirms that law cannot be separated from the living values of society and the noble objectives of the *sharīʿ*ah, thereby providing a strategic foundation for legal development in Indonesia, particularly in Aceh.

Conclusion

This study demonstrates that strengthening the autonomy of customary institutions in resolving legal disputes in Aceh can be effectively conceptualized by integrating the paradigms of Eugen Ehrlich's Living Law theory and Jasser Auda's *maqāṣid al-sharīʿah*. The findings confirm that customary institutions represent living law that derives its legitimacy from social practice, while the maqāṣid framework provides a normative-ethical foundation that aligns these practices with broader objectives of justice, public benefit (*maṣlaḥah*), and the protection of fundamental human interests. This study's primary scholarly contribution is an integrative socio-legal framework that bridges empirical legal pluralism and Islamic normative theory, thereby repositioning customary institutions not merely as cultural artifacts but as autonomous and normatively valid components of contemporary legal systems.

However, this study is subject to several limitations. As a library-based inquiry, it does not incorporate direct empirical fieldwork, which may limit its ability to capture the most recent dynamics and practical variations of customary dispute resolution. In addition, the reliance on secondary interpretations of social practices

[78] Moh. Fadli et al., "Mobilizing Society for Peace: Enhancing Access to Justice of Tribal Dispute Resolution in Baduy and Sasak Tribes, Indonesia," *Revista Juridica Portucalense* 35 (2024): 376–402, https://doi.org/https://doi.org/10.34625/issn.2183-2705(35)2024.ic-18.

may introduce analytical bias, particularly in representing the diversity of local contexts within Aceh.

Future research should therefore focus on empirical socio-legal investigations, such as field-based studies examining the actual performance, challenges, and institutional variations of customary dispute resolution across different regions in Aceh. Comparative studies between regions or between customary and formal judicial mechanisms would also be valuable in assessing effectiveness and legitimacy. Furthermore, interdisciplinary research integrating legal studies, anthropology, and Islamic jurisprudence is needed to develop more operational models for strengthening customary institutions within a pluralistic and democratic legal framework.

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