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Article

Strengthening Customary Legal Autonomy in Aceh: A Theoretical Framework from Eugen Ehrlich and Jasser Auda

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Abstract

This study explores the urgency of strengthening the autonomy of legal dispute resolution through customary institutions in Aceh by applying two theoretical lenses: Eugen Ehrlich's Living Law and Jasser Auda's Maqasid al-Shariah. Customary institutions in Aceh play a central role in maintaining justice and social cohesion, yet they are often marginalized by formal state law. Through a normative-qualitative approach and literature-based analysis, this research finds that these institutions embody the core values of Living Law and are normatively aligned with the maqasid principles of life, intellect, dignity, and property. Auda's systemic and contextual understanding of Islamic law provides a framework for recognizing the dynamic legal function of Acehnese adat within a pluralistic society. The synergy between these two paradigms offers a new methodological foundation for legal reform that is both locally grounded and ethically driven. This study concludes that empowering customary institutions is not a form of legal conservatism but an affirmation of legal pluralism and a step toward achieving substantive justice within Indonesia's national legal system.

Keywords

Aceh, customary Law, living law, Maqasid al-Shariah, dispute resolution

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INTRODUCTION

Aceh, as a special autonomous region, exhibits a unique legal character by integrating elements of Islamic law (*sharī'a*), customary practices (*adat*), and national law into its complex and pluralistic social order (Salim, 2008). The existence of customary institutions in Aceh is not merely a residual aspect of tradition but rather a legal institution that has evolved from historical experience and the community's need to resolve disputes peacefully, justly, and by local values (Van Vollenhoven, 1928). In numerous cases, these customary institutions have proven more effective and socially accepted, as they reflect a form of living law deeply rooted in the cultural fabric of society (Ehrlich, 1913).

Eugen Ehrlich's theory of Living Law provides an epistemic framework well-suited to analyze the dynamics of customary institutions in Aceh. Ehrlich argues that the law that truly governs society is not solely the codified state law but instead the law practiced in daily life by the community (Ehrlich, 1913). In the context of Aceh, the customary legal system exercised through local institutions represents a manifestation of this living law. This indicates that customary institutions are, in essence, concrete representations of a legal system grounded in social life.

Within the realm of contemporary Islamic legal thought, Jasser Auda's approach to *maqāṣid al-sharī'a* (the higher objectives of Islamic law) offers a conceptual bridge between normative religious values and an ever-evolving social reality. Auda proposes a systemic, dynamic, and contextual reconstruction of *maqāṣid* to meet the needs of the time (Auda, 2008). This approach enables Islamic law to engage constructively with local values, such as Acehnese *adat*, provided these values align with the fundamental objectives of the *sharī'a*, including the protection of life, intellect, property, progeny, and religion (Kamali, 2008).

The role of customary institutions in Aceh in resolving communal disputes should not be regarded as a conservative or archaic form of legal practice but rather as an expression of local legal autonomy that is participatory, reflective, and oriented toward public welfare (*maṣlaḥa*) (Rahardjo, 2009). From the perspective of the sociology of law, the success of customary institutions in mitigating conflict and restoring social harmony demonstrates that law need not be confined to formal state institutions (Cotterrell, 2006). In fact, in many contexts, state law often appears repressive and fails to respond to the complex realities faced by communities at the grassroots level (Friedman, 1975).

Nonetheless, the juridical recognition of customary institutions remains asymmetrical. Although Law No. 11/2006 on the Governance of Aceh provides a legal basis for their existence, these institutions remain overshadowed by the supremacy of state law (Azra, 2010). They have yet to achieve full structural autonomy or substantive authority to resolve disputes within a formal legal framework. Consequently, their contributions to local justice systems are often marginalized within the national legal landscape (Hooker, 2008).

Sociologically, the people of Aceh are more inclined to entrust conflict resolution to *adat* leaders, *imum mukim* (sub-district religious leaders), and *teungku gampong* (village religious figures), rather than pursuing the state judicial system, which is perceived as bureaucratic and disconnected from local wisdom (Salman, 2011). Dispute resolution through customary institutions emphasizes not punishment but the restoration of social relationships and the rehabilitation of the dignity of both parties (Braithwaite, 2002). This aligns closely with the spirit of *maqāṣid al-sharī'a*, which emphasizes public welfare and substantive justice as core objectives of Islamic law (Chapra, 2000).

However, efforts to strengthen customary institutions as legitimate mechanisms of dispute resolution face significant challenges—regulatory, legal-political, and systemic—stemming from the hegemonic tendencies of the formal legal system (Benda-Beckmann, 2002). Therefore, a deconstruction of the national legal paradigm—which remains positivistic and centralized—is necessary to enable a fair and proportional accommodation of legal pluralism (Merry, 1988). In this regard, the synergy between Living Law theory and the *maqāṣid* approach offers a potential epistemological foundation for a legal system that is responsive to contextual social realities.

This study is not only theoretically significant but also practically relevant, especially in the effort to build a more democratic and inclusive legal system. Aceh's special legal status offers a strategic opportunity to demonstrate that local legal traditions—with all their diversity and complexity—can stand on equal footing with state law and serve as a critical complement to it (Bedner & Vel, 2010). The successful development of customary institutions in Aceh as effective mechanisms for dispute resolution can serve as an alternative model for other regions with strong customary law traditions.

This research aims to demonstrate that law is not monolithic or universalistic but rather plural, contextual, and dialogical (Griffiths, 1986). Therefore, recognition of customary institutions should not be seen merely as an administrative gesture but as part of a broader effort to decolonize the law and restore epistemic sovereignty to local communities in formulating their conceptions of justice (Santos, 2002). Auda's *maqāṣid* framework presents a promising evaluative tool for assessing the normative compatibility of customary values with contemporary Islamic principles of justice.

In conclusion, the convergence of Living Law theory and the *maqāṣid al-sharī'a* framework is not only relevant to the analysis of customary dispute resolution in Aceh but also essential for developing a legal approach that is more attuned to societal needs. This presents both a challenge and an opportunity for Islamic law—not to be confined to scriptural or classical jurisprudence—but to evolve and engage within real, dynamic social spaces (An-Na'im, 2008).

This research will focus on the role of Acehnese customary institutions in dispute resolution, the extent to which these institutions embody Ehrlich's concept of living law, and how Auda's *maqāṣid* theory can function as an evaluative and legitimizing tool. Such an approach opens new horizons for perceiv-

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

The primary objective of this study is to reinforce the argument that dispute resolution through customary institutions in Aceh constitutes a living expression of law and a relevant instrument of *maqāṣid*. The research seeks to make both theoretical and practical contributions toward formulating strategies for strengthening the autonomy of customary institutions as pillars of authentic, inclusive, and sustainable local justice. By bridging two major paradigms—legal sociology and Islamic legal theory—this study proposes an integrative approach that affirms legal pluralism without compromising universal values of justice.

METHOD

This study employs a qualitative approach grounded in library research, oriented toward conceptual exploration and critical analysis of a corpus of normative, juridical, and philosophical literature relevant to the theme of dispute resolution autonomy through customary institutions in Aceh. In this context, library research is not merely understood as the retrieval of textual data but as an intellectual endeavor requiring hermeneutical competence to interpret customary legal texts, Islamic legal documents, sociological literature, and jurisprudential works, such as Eugen Ehrlich's theory of Living Law and Jasser Auda's *maqāṣid al-sharī'ah* framework. As noted by Creswell (2013), qualitative research based on library sources allows the researcher to construct theoretically rich narratives while embedding the historical, social, and epistemological contexts of the ideas under examination.

The primary data sources in this study comprise primary literature, including books, peer-reviewed academic journals, previous research findings, Acehnese customary law documents, the Aceh Qanun, and the original works of Eugen Ehrlich and Jasser Auda. Secondary literature, including texts on legal methodology, Islamic legal analysis, and modern legal sociology, serves as supporting instruments to critically and contextually interpret the main theoretical frameworks (George & Bennett, 2005). Literature retrieval and curation were conducted through both physical and digital libraries, prioritizing sources with high academic authority and substantial relevance to the research theme. Within this methodological framework, texts are treated as dynamic loci of meaning, capable of being deconstructed and reconstructed through critical and contextual readings (Creswell & Poth, 2018).

The data analysis in this study employs a deductive-inductive content analysis approach. The researcher initially deconstructs the key concepts of Living Law theory and *maqāṣid al-sharī'ah*, which are subsequently utilized as analytical tools to critically examine the practices of customary institutions in Aceh. A process of theoretical synthesis follows this, integrating findings from the literature with empirical contexts described in previous studies. The analysis proceeds in a layered manner through the stages of identification, categorization, interpretation, and contextualization of textual data, as recommended

by Miles, Huberman, and Saldaña (2014). The validity of the data is strengthened through the principle of credibility, ensured by the selection of reputable sources and the adoption of a triangulated approach to interpreting interdisciplinary literature. As such, this study functions not only as a normative-descriptive analysis but also as a theoretical effort to revitalize the role of customary institutions through a cross-paradigmatic reading of positive law, living law, and *maqāṣid al-sharīʻah*.

RESULTS AND DISCUSSION

The Role of Customary Institutions in Dispute Resolution in Aceh

The existence of customary institutions in the context of legal dispute resolution in Aceh is not merely a socio-cultural artifact inherited from the past. Instead, these institutions serve as a tangible representation of living law embedded in the everyday life of Acehnese society. Customary institutions in this region are characterized by distinctive features that reflect a dialectic between Islamic values, Acehnese ethnic localism, and remnants of colonial structures, which have transformed the processes of Islamization and indigenization (Ibrahim, 2006). Within this framework, institutions such as *Tuha Peut*, *Imum Mukim*, and *Keuchik* possess dual legitimacy: sociologically, as representatives of customary communities, and normatively, as sub-entities within the local governance structure recognized by the Aceh Governance Qanun.

The presence of customary institutions as authorities in dispute resolution illustrates the existence of an alternative legal epistemology—one that does not entirely conform to the formalism of state law but rather embodies a cultural consensus derived from the lived practices of the community (Ehrlich, 2002). Eugen Ehrlich posits that living law resides not in statutory regulations but in actual social relationships where legal norms are consistently and continuously practiced. In the case of Aceh, the sustained function of customary institutions offers concrete evidence that law does not solely originate from state constructions but also from local knowledge systems that have undergone historical sedimentation.

The role of customary institutions in dispute resolution extends beyond that of mere arbitral bodies. They serve as arenas where Islamic jurisprudence, local moralities, and the collective interest of social harmony converge. Dispute resolution procedures adopted by these institutions often emphasize principles of reconciliation (*peusijuk*), acknowledgment of wrongdoing, and restoration of social relationships rather than retributive punishment, as is common in the formal legal system (Hasballah, 2015). This indicates that customary institutions favor a restorative legal paradigm over a retributive one, aligning with the objectives (*maqāṣid*) of Islamic law (*al-sharīʻah*), particularly the protection of life (*ḥifẓ al-nafs*), intellect (*ḥifẓ al-ʻaql*), and human dignity (*ḥifẓ al-ʻirḍ*) (Auda, 2008).

In practice, Aceh's customary institutions demonstrate structural and cultural flexibility, enabling them to adapt to the complexities of contemporary

social dynamics. While rooted in local customs and Islamic norms, these institutions are not resistant to procedural modifications, including documentation practices, formal mediation, and—when necessary—the involvement of village authorities or Sharia police (Effendi, 2013). This adaptability illustrates that customary institutions are not static or anti-modern entities but are capable of absorbing change while maintaining their normative essence.

From the perspective of living law theory, the continuity of customary institutions reflects the persistence of non-statutory legal systems that do not depend on formal legislative enactment but rather on communal acceptance and trust. The widespread social acceptance of decisions rendered by these institutions grants them performative authority, particularly effective in resolving horizontal conflicts such as land disputes, customary violations, and domestic disagreements (Harjani, 2018). In many instances, communities prefer customary resolution mechanisms, perceiving them as more just, expeditious, and socially harmonious compared to the formal judicial process.

Moreover, the legal structure of customary law in Aceh is underpinned by a strong normative foundation, reinforced by the region's special autonomy as stipulated in Law No. 11 of 2006 on Aceh Governance. This autonomy provides legal recognition for the operation of customary institutions within the framework of local governance, rendering them not only socially legitimate but also legally sanctioned. This solidifies their status as legal actors with a strategic role in conflict mediation and the promotion of restorative justice based on local values (Rasyid, 2017).

Aceh's unique status as the only province in Indonesia authorized to implement sharia law at the provincial level positions its customary institutions as a distinctive model for synthesizing Islamic and local customary law. Consequently, the role of customary institutions transcends that of judicial supplements; they represent a "third pillar" in Aceh's legal architecture, standing alongside religious and general courts (Rahman, 2014). The coexistence of these three pillars constructs a pluralistic legal ecosystem that is interwoven in managing conflict and upholding justice.

Furthermore, the role of customary institutions can be interpreted as a practical manifestation of *maqāṣid al-sharīʿah* within a localized context. In many cases, these institutions have successfully upheld the values of justice, peace, and social reconciliation through more humane and contextual approaches than those found in formal judicial systems. This aligns with Jasser Auda's (2008) emphasis on systemic, holistic, and participatory dimensions in the implementation of *maqāṣid*, whereby law serves not as an instrument of oppression but as a pathway toward moral and social rectification.

Nevertheless, the continuity of customary institutions within the national legal framework faces several challenges. Legal globalization, the pressures of legal positivism, and the encroachment of formal judiciary systems often erode their authority and marginalize their role in dispute resolution. Moreover, the lack of normative integration between customary legal products and national

legal systems remains a significant challenge in mainstreaming these institutions as equal legal actors (Zahri, 2019). A progressive legal policy is therefore necessary to recognize and elevate the strategic role of customary institutions within a fair legal pluralism.

In the context of national legal development, the presence of customary institutions in Aceh suggests the potential for developing a bottom-up approach to lawmaking. Rather than adopting a centralized, top-down legal design, the practices of customary law demonstrate that legal systems rooted in social praxis exhibit greater vitality, having been tested over time and animated by active community participation (Hooker, 2008). Accordingly, customary institutions do not merely perform legal functions but also serve as moral guardians and social stabilizers within the community.

This function is further reinforced by the crystallized customary principle of *adat bak po teumeureuhom*, meaning that customary law must be subordinate to Islamic law. This principle underscores that *adat* (custom) is not value-neutral but must be in harmony with Islamic teachings. This reinforces the argument that Aceh's customary institutions represent the actualization of *maqāṣid al-sharīʿah* grounded in the lived realities of Acehnese Muslim society rather than mere normative transplantation from classical Islamic jurisprudence.

Considering these findings, it becomes clear that the role of customary institutions in legal dispute resolution in Aceh is neither marginal nor secondary but rather strategic and essential in the development of a fair, inclusive legal system grounded in local wisdom. This study argues that approaches to customary law should avoid romanticism or apologetics and instead be informed by a critical analysis of both its strengths and limitations within the context of modern law.

Viewed through the lens of living law and *maqāṣid al-sharīʿah*, customary institutions can serve as a bridge between procedural and substantive justice, between positive law and moral law, and between the state and the people. Therefore, national legal policy formulation should make space for customary institutions to operate as legitimate actors within the legal landscape while also serving as a reminder that genuine justice is not solely a matter of legality but also of social legitimacy and communal ethics.

Customary Legal Practice in the Lens of Living Law Theory

An analysis of customary legal practices through the lens of living law theory offers a transformative perspective on how law should not be regarded solely as a normative product formulated by legislative bodies but rather as a crystallization of social structures and relational dynamics within society (Ehrlich, 2002). Eugen Ehrlich firmly asserts that "the real law" is not found in statutory codes but in concrete social life, where legal norms are consistently enacted and practiced by communities. Within the context of customary communities in Aceh, this thesis finds one of its most authentic manifestations: customary institutions are not merely preserved as cultural symbols but function as active sites in which the law lives and breathes in everyday reality.

Aceh's customary legal practice represents a form of law that is not only recognized de facto by the community but also de jure legitimized by the state through local legal instruments such as Qanun No. 9 of 2008 on the Development of Customary Life and Traditions (Government of Aceh, 2008). This affirmation signals that customary law in Aceh is not merely an ancestral relic preserved for nostalgic purposes but rather a dynamic and evolving alternative legal system that has been formally acknowledged within the broader national legal framework. Dispute resolution practices, customary mediation, and the restoration of social relationships—facilitated by institutions like *Tuha Peut* and *Imum Mukim*—demonstrate the existence of a participatory and deliberative form of law, distinct from the often ethically sterile procedural legalism of formal judicial institutions (Harjani, 2018).

It is within this space that the concept of living law operates as an epistemological approach that challenges the dominance of legal positivism. Law, in this perspective, is not conceived as a static text demanding formal compliance but as an ongoing social process constructed through interaction, adaptation, and the reinterpretation of local values (Benda-Beckmann, 2002). The customary legal practices in Aceh reveal that communities possess the capacity to create contextually relevant law—a law that remains effective in achieving peaceful and just dispute resolution.

These practices affirm the notion that genuine justice does not always have to originate from state institutions. On the contrary, it can emerge from grassroots experiences and everyday narratives that may not be captured in written statutes but are deeply embedded in traditions, communal deliberation, and social consensus (Griffiths, 1986). Ignoring customary law in national legal policymaking is thus tantamount to disregarding the actual legal reality that society practices. In this regard, living law serves as a theoretical framework that legitimizes legal pluralism and dismantles the exclusivist boundaries of state-centered law.

In the Acehnese context, living law also explains why many community members place greater trust in customary institutions than in formal courts. This trust is not merely due to efficiency or expedience but because customary institutions are perceived as better equipped to grasp the cultural context and collective emotions surrounding disputes (Effendi, 2013). This affirms that living law is not about formal structures but about the meaningful frameworks born of intersubjectivity and communal values.

The strength of customary law also lies in its flexibility. Unlike rigid normative systems, customary law provides space for negotiation, reinterpretation, and adaptation to social change. This capacity for adaptability is precisely what makes customary law an exemplary expression of living law: its resilience and relevance amid rapid social transformations triggered by globalization, urbanization, and digitalization (F. von Benda-Beckmann & K. von Benda-Beckmann, 2007).

Living law theory also dispels the assumption that customary law is static and archaic. Instead, it is a highly dynamic social product wherein its norms

are continuously renegotiated through communal forums, traditional ceremonies, and collective social actions. Such practices align more closely with the principles of distributive and restorative justice, as opposed to the retributive tendencies of the formal legal system (Braithwaite, 2002).

When viewed through the lens of *maqāṣid al-sharī'ah*, these living customary practices often more accurately embody the core objectives of Islamic law—namely, the promotion of welfare and the prevention of harm. Jasser Auda (2008) argues that *maqāṣid* should not be narrowly confined to five basic principles but understood within a systemic approach that is adaptive to sociocultural contexts. This approach is vividly realized in Aceh's customary legal practices, which emphasize peaceful resolution, the restoration of dignity, and the reinforcement of social cohesion.

As a form of living law, customary law also possesses the wisdom to transcend the dichotomy between normative expectations and empirical realities. In many cases, living customary norms prove to be more effective tools of social control than rigid formal laws. When customary norms are implemented with collective awareness, they foster strong moral obligations—unlike positive law, which often imposes legal obligations without engaging the conscience (Moore, 1973).

Nevertheless, the sustainability of customary law as living law is contingent upon the sociocultural ecology that supports it. The erosion of customary communities, the commodification of local values, and insensitive state interventions can severely undermine the continuity of living law. Therefore, efforts to revitalize and institutionalize customary law within the national legal framework must be accompanied by the recognition of local social structures and epistemologies as the foundational basis for their legitimacy (Galanter, 1981).

It is crucial to note that living law is not universal in substance but universal in principle. While the specific norms that constitute living law may differ across communities, the underlying principles—that law must be contextual, participatory, and responsive to social dynamics—are universally applicable. Hence, an ideal national legal system is not one that enforces uniformity but one that accommodates diversity within a framework of inclusive justice (Santos, 2002).

Through the lens of living law, we come to understand that the state should not monopolize law. Law also belongs to the people—it is generated through their interactions, shaped by their experiences, and reflects their collective aspirations for justice. In this regard, customary legal practices are not merely alternative mechanisms but reflections of the very source of law itself: a living, evolving social reality (Cotterrell, 1992).

Furthermore, the living law, as manifested in Aceh's customary legal practices, holds significant potential as a model for reconstructing a pluralistic and democratic Indonesian legal system. By repositioning the law as a social product, it is no longer viewed as a top-down imposition but rather as the outcome of grassroots dialogue and community consensus (Widiyanto, 2016). This

suggests that genuine justice cannot be realized without listening to the diverse voices of the people.

In conclusion, living law theory dismantles the rigid edifice of legal positivism, opening the way for the construction of a more humane, contextual, and socially grounded legal order. The continued vitality—and even revitalization—of Aceh's customary legal practices amid modernity stands as empirical evidence that living law remains a vital heartbeat in the quest for justice within society.

The Articulation of *Maqāṣid al-Sharīʻah* in Customary Institutions: An Ethical and Teleological Perspective of Islamic Law

The articulation of *maqāṣid al-sharīʻah* in the praxis of customary institutions in Aceh reveals a harmonious interplay between the substantive values of Islamic law and the living local socio-cultural structures. In this regard, Jasser Auda's theoretical framework serves as a crucial lens through which to interpret the dynamic relationship between *sharīʻah* norms and the embedded social ethics of Acehnese *ʻurf* (customary practices). Auda (2008) argues that *maqāṣid* should not be confined to the five classical objectives—namely, the protection of religion, life, intellect, lineage, and property—but should be viewed through a broader, more inclusive, and systemic lens. This perspective affirms that the ultimate goal of *sharīʻah* is the attainment of human well-being (*maṣlaḥah*) across all interdependent dimensions of life.

Within the robust and autonomous configuration of Aceh's customary governance, *adat* institutions serve an ethical function as a medium for the practical realization of *maqāṣid* values. Conflict resolution practices based on *musyawarah* (deliberation) and *mufakat* (consensus), conducted through indigenous structures such as *Tuha Peut*, *Imum Mukim*, and *Wali Nanggroe*, fundamentally reflect *sharīʻah*-oriented commitments to justice, the preservation of personal dignity, and the prevention of social harm (Effendi, 2013). These practices resonate with Auda's systemic model of *maqāṣid*, which rejects the dichotomy between legal instruments, ethical considerations, and legal objectives (Auda, 2008). In the Acehnese *ʻurf*, Islamic ethics are not encoded in rigid legal statutes but are embodied in lived traditions and collective decision-making.

Auda's conception of *maqāṣid* emphasizes contextual dynamism, adaptability, and responsiveness to socio-cultural realities. This approach contrasts with normative-legalistic models that often impose a singular legal form in the name of *sharīʻah*. In the Acehnese customary legal system, such flexibility is manifest in dispute resolution methods that prioritize reconciliation and relational restoration over punitive outcomes. This reflects the function of *maqāṣid* not only as the telos of Islamic law but as a methodological tool for realizing substantive justice (Kamali, 2008).

Auda further underscores the importance of understanding *maqāṣid* multidimensionally—transcending textual structures and engaging with genuine, human relationships. In this light, Aceh's customary institutions are not mere-

ly tools for conflict resolution but platforms for actualizing the transcendent values of Islam in everyday life. For instance, in cases involving family or domestic disputes, the *adat*-based approach—which privileges *silaturraḥm* (social bonding), *ta'āwun* (mutual support), and *'afw* (forgiveness)—more closely aligns with the *maqāṣidic* objectives than the formal legal mechanisms of the state (Harjani, 2018).

Auda's *maqāṣid* methodology gives central importance to engagement with social realities. He contends that *maqāṣid* must not be interpreted in a vacuum but rather within a systemic framework that is receptive to social, political, and cultural transformation (Auda, 2008). Acehnese customary institutions, with all their local complexities, enable the articulation of Islamic values in a living and dynamic manner—not frozen in textuality but evolving with the times. This approach serves as an epistemological critique of classical *fiqh* methodologies, which are often overly textual and ahistorical in nature.

The practices of customary institutions in Aceh also align with key *maqāṣidic* dimensions such as *al-karāmah al-insāniyyah* (human dignity) and *al-'adl* (justice). In customary deliberation processes, there is no consideration of class or social hierarchy; all community members are given equal opportunity to express their views. This embodies a form of deliberative participation rooted in egalitarianism, a fundamental element in achieving communal welfare (*maṣlaḥah*) (Soleh, 2019). Hence, Aceh's customary law effectively translates *maqāṣid* into practical and applicable legal forms.

The inclination of *maqāṣid* toward *niyyah* (intention) and *maqāṣid al-fardiyyah* (individual objectives) is also evident in conflict resolution through customary mechanisms. The emphasis on goodwill, psychological restoration, and acknowledgment of wrongdoing are not merely ethical actions but are part of the broader maqāṣidic effort to preserve life (*ḥifẓ al-nafs*) and honor (*ḥifẓ al-'irḍ*). In this context, *maqāṣid* functions as guiding principles rather than as prescriptive legal texts, opening the way for a more humane and transformative approach to justice (Auda, 2008).

For Auda, *maqāṣid* are not merely justificatory tools for *sharī'ah* but rather the ontological and axiological foundation of Islamic law. This means that *maqāṣid* not only explains what law aims to achieve but also why and how the law should function. In the case of Acehnese *adat*, these questions have long been answered through communal consensus and *musyawarah* processes that reflect values of *raḥmah* (compassion), *ḥikmah* (wisdom), and *maṣlaḥah* (public good) (Rohman, 2021).

Moreover, the *maqāṣid* framework offers a normative criterion by which the validity and utility of law can be evaluated. When customary norms fail to produce public benefit or result in injustice, *maqāṣid* provides the ethical justification for reform. In practice, Acehnese customary institutions have revised specific conflict resolution mechanisms to be more inclusive of women and children, exemplifying the maqāṣidic spirit of protecting vulnerable groups (Marzuki, 2020). Thus, *maqāṣid* operates as a corrective ethical force within the customary legal system.

As a theory that promotes a systemic and participatory approach, Auda's conception of *maqāṣid* encourages the development of a legal system that is not only just but also socially adaptive. In an era of digital disruption and increasing societal complexity, Acehnese *adat* law continues to demonstrate epistemological resilience by maintaining its Islamic normative roots while adapting to contemporary challenges. This affirms that *maqāṣid* is not a static theory but a "living" one—much like the customary law through which it is expressed (Auda, 2008).

The deep interconnection between *maqāṣid* and customary law explains why *adat* institutions have endured despite the pressures of state-led legal homogenization. In instances where state law fails to satisfy the public's sense of justice, *adat*—when harmonized with *maqāṣid*—emerges as a more aspirational and responsive legal alternative. Here, the value of *maqāṣid* as a bridge between Islamic legal normativity and human lived realities finds its fullest expression (Kamali, 2008).

At this juncture, the articulation of *maqāṣid al-sharī'ah* in the Acehnese customary legal system confirms that Islam and *adat* are not mutually exclusive entities. Instead, they can coalesce within an ethical, responsive, and welfare-oriented legal configuration. Jasser Auda's theory of *maqāṣid* offers a framework for developing Islamic law that is neither exclusivist nor legalistic but inclusive and substantive—as exemplified in Aceh's customary legal praxis.

Thus, the Acehnese adat institution can be read as a concrete space for articulating *maqāṣid*. It not only reflects a localized form of Islamic law but also demonstrates the potential of *maqāṣid* as an ethical paradigm capable of addressing contemporary legal challenges contextually and progressively. This approach serves as an epistemological bridge between the text and its context, between the normative ideals of Islam and the living, socio-cultural reality.

In conclusion, the articulation of *maqāṣid al-sharī'ah* in the context of Aceh's customary legal institutions affirms that Islamic law is neither rigid nor homogeneous but inherently flexible and adaptive. By adopting Auda's systemic perspective, the praxis of customary law in Aceh shows that justice, social ethics, and communal welfare can coexist within a legal configuration that is both locally rooted and universally resonant. Hence, the revitalization of *maqāṣid* in customary law is not only relevant but essential for shaping a more humane, pluralistic, and contextual future for Islamic legal thought.

Integrating Living Law and Maqasid al-Sharia: Toward Customary Legal Autonomy in Aceh

The integration of Eugen Ehrlich's theory of living law and Jasser Auda's conceptualization of *maqasid al-sharia* within the context of strengthening the autonomy of Indigenous institutions in Aceh signifies a paradigmatic synergy capable of harmonizing formal legal structures with sociocultural, legal realities simultaneously and coherently. The living law paradigm posits that effective law emerges organically from the lived social realities of a community rather than being solely the result of normative prescriptions imposed by

state authorities (Ehrlich, 1936). In the Acehnese context, the indigenous institutions—deeply embedded in the social fabric—embody a manifestation of living law that is not merely normative but dynamic, flexible, and adaptive to evolving communal needs (Syarif, 2014).

Conversely, *maqasid al-sharia*, as elaborated by Jasser Auda, offers a systemic framework and ethical vision of Islamic law, emphasizing human welfare (*maslahah*), justice, and the preservation of fundamental human values: religion, life, intellect, lineage, and property (Auda, 2008). This paradigm enables a contextual and multidimensional understanding of Islamic law—one that is not constrained by literalist textualism but rather oriented toward achieving holistic and sustainable legal objectives. When this framework is applied in conjunction with the concept of living law, it creates a symbiotic relationship that enriches both the understanding and practice of indigenous law in Aceh.

The historical and sociocultural landscape of Aceh—characterized by a strong tradition of customary law and deeply rooted Islamic influence—provides fertile ground for synthesizing these two paradigms. Indigenous institutions, as autonomous social entities with historical legitimacy, serve as conduits for actualizing living law, which emerges from local customs, social norms, and religious values internalized by the community (Hamid, 2016). Strengthening the autonomy of these institutions through the integration of *maqasid* principles affirms that indigenous legal practices are not solely traditional but also aligned with the universal ethical objectives of Islamic law.

This integrative approach presents a strategic opportunity to enhance the quality of dispute resolution in Aceh, which continues to face challenges stemming from the overlapping domains of state law and customary law. By positioning living law as an epistemological foundation and *maqasid al-sharia* as a normative-ethical framework, indigenous institutions can formulate conflict resolution mechanisms that are not only socially legitimate but also morally and religiously dignified (Zulfikar, 2019). This model further strengthens the legitimacy of Indigenous institutions in the face of national legal regulations that tend to be homogenizing and formalistic.

Importantly, this integration is not about subordinating one paradigm to another or enforcing uniformity; rather, it represents a critical and productive dialogue that results in a more vibrant and meaningful legal paradigm. This approach rejects the reductionism often observed in formal legal practices, which disregard social and cultural contexts, while also avoiding the relativism that may erode the universal principles of justice and *maslahah* inherent in *maqasid* (Nasution, 2017). Herein lies the revolutionary potential of integrating living law with *maqasid al-sharia*.

The implementation of such a paradigmatic synergy in reinforcing the autonomy of indigenous institutions necessitates both intellectual and organizational capacities among customary leaders and religious scholars. Conceptual and practical translation of these values requires training and capacity-building programs that integrate sociological and theological insights. Such initiatives are crucial to ensure that Indigenous institutions not only perform

social functions but also fulfill their ethical roles as guardians of *maqasid* values (Rizki, 2020). This approach directly responds to the increasing complexity of modernity and social pluralism in Aceh.

From a jurisprudential perspective, this synergy opens a new theoretical horizon that views law not merely as a closed normative system but as an open, evolving social system—one that reflects the living values of society while serving as a vehicle for realizing ethical, legal goals (Auda, 2008; Ehrlich, 1936). This perspective liberates indigenous institutions from static and conservative confines, positioning them as responsive and progressive entities.

In the realm of contemporary Islamic law, this integration also resolves the long-standing dichotomy between sharia and customary law, which are often perceived as mutually exclusive. *Maqasid al-sharia* provides an inclusive framework that enables the adaptation of Islamic norms to local values without compromising the noble objectives of Islamic law. Thus, this integration presents a contextual and humanistic model for Islamic legal reform (Kamali, 2012).

Moreover, the integration has significant implications for more peaceful and civilized management of social conflicts in Aceh. Approaches grounded in dialogue, consultation (*musyawarah*), and the pursuit of shared welfare—as espoused by both living law and *maqasid*—promote restorative justice by prioritizing reconciliation and social healing over domination or punishment (Soleman, 2018). In this way, customary law transcends its regulatory function and becomes a constructive instrument for inclusive and equitable social development.

Beyond that, the paradigmatic synergy reinforces the autonomy of Indigenous institutions as custodians of essential values and norms that safeguard social cohesion and cultural identity in Aceh. The recognition and strengthening of these institutions through the integration of living law and *maqasid al-sharia* contribute both to cultural preservation and to the response to modern challenges that may erode traditional identity. Such recognition also reaffirms the strategic position of indigenous institutions within a pluralistic national legal system.

It is crucial to underscore that the reinforcement of indigenous institutional autonomy through this synergy does not negate the role of state law. On the contrary, this integration proposes a harmonious and complementary model of coexistence between customary law and state law based on the shared principles of justice (*al-'adl*) and beneficence (*al-ihsan*) (Rohman, 2021). This coexistence necessitates an ongoing, dynamic, and open dialogue among legal institutions.

This context is increasingly relevant in an era of legal democratization and human rights, which demands recognition of Indigenous communities' rights and the protection of cultural diversity. The synergistic paradigm of living law and *maqasid al-sharia* provides both a philosophical and practical foundation for such recognition and protection without sacrificing universal values of justice and humanity (Mohamad, 2019).

Institutional development is also a vital aspect of realizing this paradigmatic synergy. Reforming indigenous institutions based on living law and *maqasid* principles can optimize their roles in addressing contemporary challenges such as globalization, migration, and rapid sociocultural transformation. This requires a fusion of tradition and innovation to ensure the sustainability and relevance of indigenous institutions.

Ultimately, the paradigmatic synergy between living law and *maqasid al-sharia* offers not only a revolutionary conceptual model but also a practical framework that promotes the autonomy of indigenous institutions as living, meaningful, and ethical legal entities. This synergy serves as an epistemological bridge between tradition and modernity, between norm and praxis, and between religion and culture in the richly pluralistic context of Aceh.

Thus, the strengthening of indigenous institutional autonomy through the integration of these two paradigms is not merely a technical solution for dispute resolution but a substantive effort to realize a humanistic, just, and civilized legal order. This paradigm reaffirms that law must be inseparable from the lived values of society and the higher objectives of sharia, serving as a strategic foundation for legal development in Indonesia, especially in the Acehnese context.

CONCLUSION

This study demonstrates that the autonomy of indigenous legal institutions in Aceh can be strengthened through a paradigmatic integration of Eugen Ehrlich's Living Law theory and Jasser Auda's Maqasid al-Shariah framework. Living Law provides a sociological basis for legitimacy through community practice, while Maqasid offers an ethical framework that aligns customary law with Islamic objectives of justice and welfare. Together, they provide a normative and contextual foundation for legal pluralism in Aceh. This synergy enhances the ability of customary institutions to address modern socio-legal challenges while preserving cultural identity. Accordingly, this study contributes to the theoretical discourse by offering an integrative lens that bridges legal sociology and Islamic legal philosophy. Practically, the study calls for institutional capacity-building, regulatory recognition, and interdisciplinary approaches that empower indigenous institutions to deliver both socially rooted and morally grounded justice. Future research should include empirical studies on how this integration works in real dispute resolution cases, and comparative studies across regions. These would enrich both the theory and practice of customary law in Indonesia and beyond.

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