

## Faith and Culture in Mourning Practices of the Mongondow Muslim Community

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**Abstract:** This article explores the traditional pre-funeral rituals of the Mongondow community in Biga Village, North Sulawesi, focusing on *Tonggoluan* (symbolic corpse display) and *Mopodondaloy* (ritual lamentation). Using a qualitative field research design, the study combines juridical-normative and sociological-empirical methods, including participant observation, in-depth interviews with religious and traditional leaders, and document analysis. The findings reveal that *Tonggoluan*, which functions as a symbol of respect, aligns with Islamic legal principles and is categorized as '*urf sahiih*'. In contrast, *Mopodondaloy*, when performed excessively, may conflict with sharia norms and is potentially classified as '*urf fasid*'. This study advocates for cultural reinterpretation that harmonizes local traditions with Islamic law, emphasizing a cultural *ijtihad* approach. The results contribute to broader discussions on Islamic legal pluralism, restorative justice, and the relevance of customary law in national legal reform.

**Keywords:** traditional cemetery, Mongondow customary law, Tonggoluan, Mopodondaloy, Islamic Law.

### Introduction

Death is an inevitable universal event and is part of the cycle of human life. Every culture and religion has a distinctive way of treating the body, which is not only spiritually meaningful but also full of social, symbolic, and cultural values (Arslan & Aydın, 2024; Dominguez et al., 2024). In the Islamic context, the management of the body is a *fardhu kifayah* that must be fulfilled by the Muslim community, with procedures that have been regulated normatively, starting from bathing, shrouding, praying to burying as a final form of respect for human beings as creatures created by the noble Allah SWT (Sabiq, 2016). However, in the social reality of the Muslim community in various regions in Indonesia, the practice of burial is not completely sterile from the influence of local customs and culture (Al Qutuby et al., 2020). The interaction between sharia norms and local cultural values often results in unique and complex syncretic forms.

One of the interesting practices to be studied within the framework of customary law and Islamic law is the pre-funeral procession of the Mongondow

community in Biga Village, Kotamobagu City, North Sulawesi. This community still preserves two main forms of ritual before the funeral, namely *Tonggoluan* and *Mopoddaloy*. *Tonggoluan* is the placement of the body on a special bed decorated with traditional cloth (*lapi-lapi*) and white mosquito nets as a symbol of final respect. Meanwhile, *Mopoddaloy* is a form of expression of sadness through crying carried out by certain female figures to evoke an atmosphere of grief among mourners. This tradition, although it contains deep cultural meaning, raises a normative dilemma in Islam because it has the potential to fall into the category of *niyahah*, which is excessive lamentation that is prohibited by the Prophet Muhammad (At-Tirmidhi, No. 1005).

In the discourse of customary law, phenomena such as *Tonggoluan* and *Mopoddaloy* reflects the existence of local values that are recognized and respected by their community. Customary law in this context is a normative system that grows from habits, is accepted by the community, and becomes part of the cultural identity of an ethnic community (Koentjaraningrat, 2009); Bushar, 2010). The existence of customary law in indigenous peoples often coexists or even intersects with the religious law system and state law (Tamanaha, 2021). In Indonesia, juridically and constitutionally, the existence of customary law is recognized in Article 18B of the 1945 Constitution as long as it does not conflict with the principles of a unitary state and national law, including Islamic law, which is an important part of the life of the majority of the population (Hutabarat et al., 2024).

From an Islamic perspective, custom can be used as a legal basis ('urf) if it does not contradict the nash shar'i and brings benefits. Ushul fiqh scholars distinguish between '*urf sahih* (a practice that is valid according to Sharia) and '*urf fasid* (a habit that contradicts the principles of Sharia). Tradition *Tonggoluan*, which is merely symbolic and does not contain elements of belief or deviation of belief, can be categorized as '*urf sahih*. While *Mopoddaloy*, when it involves excessive emotional expression, can be '*urf fasid* that should be corrected. (Zuhaili, 2017; Scott, 2012). Thus, it is necessary to conduct a critical study of elements in local traditions to separate those that are symbolic-cultural and those that are contrary to the principles of Islamic faith and worship.

This research is important to answer contemporary challenges in building harmonious relations between Islam and customs, especially in the midst of the strong trend of legal homogenization in the name of sharia that has the potential to ignore the values of local wisdom. In many cases, a rigid approach to sharia actually generates resistance at the grassroots community level, especially when local practices that have been passed down from generation to generation are considered deviant without contextual understanding. Therefore, this article aims to critically analyze the pre-funeral procession of the Mongondow customary law in Biga

Village, identify the values of customary law contained in it, as well as assess its conformity with the principles of Islamic law within the framework of *Urf*.

### **Method**

This study uses a qualitative approach with the type of field research to explore and understand in depth the practice of the Mongondow traditional pre-funeral procession in Biga Village, Kotamobagu City, as well as assess its suitability in the perspective of Islamic law. The qualitative approach was chosen because it is in accordance with the characteristics of the study object which is loaded with cultural, symbolic, and interpretive meanings. In the context of customary law research, this approach allows researchers to capture complex social dynamics, understand the local values that live in communities, and interpret customary law practices not only from a normative but also sociological and anthropological perspective (Moleong, 2021).

This type of research is descriptive-analytical, with the aim of systematically describing the elements that make up the procession *Tonggoluan* and *Mopoddaloy*, as well as analyzing the practice in perspective '*Urf*' and the rules of Islamic law. The research was conducted directly in the field with data collection techniques through participatory observation, in-depth interviews, and documentation. Observations were made to observe the form of traditional processions carried out by the community, both at the time of mourning events and in the context of daily culture. Interviews were conducted purposively with key informants such as traditional leaders, religious leaders, cultural actors, and community members who were directly involved in the implementation of the funeral procession. This technique allows researchers to obtain authentic and contextual primary data (Scott, 2021).

In addition to primary data, this study also uses secondary data in the form of customary documents, literature on Islamic law, scientific journals, and relevant previous study results. The collected data is then analyzed through three stages: data reduction, data presentation, and conclusion drawn. Data reduction is carried out by sorting and selecting important information that is relevant to the focus of the study. The presentation of data is arranged in the form of a thematic narrative to facilitate reading and analysis, while conclusions are drawn based on the synthesis of field findings and a theoretical framework that has been built before (Huberman & Miles, 2014).

Data validity is maintained through techniques triangulation, which is comparing and confirming data from a variety of sources and methods, including source triangulation (indigenous figures vs. religious figures), technique triangulation (observation vs. interviews vs. documentation), and time triangulation (data collected in several different time stages to test consistency). Data

validity and reliability are strengthened through processes of member checking, which is to confirm the results of the researcher's interpretation to the informant to ensure that the meaning captured does not deviate from the social reality they are experiencing. This strategy is particularly important in culturally based qualitative research, as symbolic meanings in customary practices are often local and not always explicit (Creswell & Poth, 2018).

## Results and Discussion

### Funerary Customary Dialectics and Islamic Law: A Theoretical Perspective on Local Traditions

In examining the pre-funeral procession of the Mongondow community in Biga Village from the perspective of customary law and Islamic law, it is necessary to have a theoretical understanding of the basic concepts that underlie the interaction between customs, culture, and religious norms. Customary law is an unwritten legal system that grows, lives, and is maintained by indigenous peoples based on collective values that are accepted from generation to generation. It is contextual, flexible, and highly tied to the social structure and cultural identity of a society. According to Van Vollenhoven and explained again by Soepomo, customary law has binding power because it is a reflection of the legal awareness of the community, so that even though it is not standardized in writing, it is still valid and obeyed as formal law (Soepomo, 2010). In this context, customs in funerals such as *Tonggoluan* and *Mopoddaloy* It is part of the customary law of rituals, which are unwritten rules that govern the manner of interacting with the spiritual realm, including respect for the deceased.

From an Islamic perspective, customary law has a fairly important epistemological position as one of the secondary sources of law in *ushul fiqh* (Durrotul Bahiyah, 2024; Mudawam, 2021). A custom known in Islamic treasures as '*urf*' is recognized as valid in the determination of the law as long as it does not contradict the Qur'an, Hadith, *ijma'*, or *qiyas*. Al-Ghazali and Ibn Qayyim al-Jawziyyah, two great scholars in Islam, acknowledged that the customs or habits of the community can be used as legal considerations because they are a form of actualization of the principle *Maslahah* (Benefit). In this context, the scholars of *ushul fiqh* divide '*urf*' into two types: '*urf sahih*' that is, habits that do not contradict NASH and bring benefits, and '*urf fasid*' that is a habit that is contrary to sharia principles and must be rejected (Zuhaili, 2017). Therefore, in studying local funeral customs such as *Mopodondaloy*, it is necessary to evaluate the extent to which these customary elements are still in accordance with sharia principles, especially related to prohibitions *São Paulo* or excessive lamentation of the dead body as mentioned in the Hadith narrated by Bukhari and Muslim.

At this point, the *reception in complexu* theory and the relevant *receptie exit* theory are proposed. The *reception in complexu* theory developed by Snouck Hurgronje states that Islamic law is fully accepted by indigenous peoples if they embrace Islam, including in the case of funerals (Bowen, 2021). However, this theory is criticized and opposed by the theory of *receptie exit* from Hazairin, which asserts that customary law can actually coexist and develop in the corridor of Islam as long as it does not violate the creed and sharia (Tohari et al., 2023). This reflects the dynamic between customs and Islam that runs in a dialogical manner and is not always in a subordinate position. In the context of the Mongondow community in Biga, the practice of *Tonggoluan* can be said to be a form of customary reintegration into the Islamic order through a symbolic approach and values of respect for the corpse, while *Mopodondaloy* demands adjustments so as not to go beyond the limits of sharia on the expression of grief.

Furthermore, in the sociology of law approach, local cultural practices such as funeral customs must be seen as part of the living value system (living law) in society. Ehrlich & Ziegert (2017) stated that the laws that live in society are often not identical to the laws of the state, because the laws of the state represent only a formalistic normative system, while the laws that live reflect real social practices and are believed by society. Thus, the preservation of *Tonggoluan* can be seen as a form of local cultural expression that has social legitimacy, and will only be effectively organized through a cultural approach, not a purely normative approach. Meanwhile, the correction to *Mopodondaloy* is not carried out by means of a total ban, but through education on Islamic values that emphasize determination, patience, and *tawakkal* in response to death. On this theoretical basis, it is important for Islamic and customary law scholars to develop a methodology of cultural *ijtihad* that takes into account local wisdom in conveying Islamic values without erasing the richness of local traditions.

### ***Tonggoluan* Tradition: A Symbol of Honor in the Framework of Customs and Islam**

The *Tonggoluan* tradition is part of the pre-funeral ritual of the Mongondow people who are still alive and preserved in Biga Village, Kotamobagu City. *Tonggoluan* is a special bed used to lay the body before bathing and praying. This place is decorated with white mosquito nets and traditional cloth (*lapi-lapi*) which is a symbol of the last respect from the family and community for the deceased. White ornaments symbolize purity and sorrow, while the use of traditional motifs indicates the emotional and spiritual connection between the living and the deceased.

Based on observations and interviews with traditional and religious leaders, the practice of *Tonggoluan* is carried out simply, not accompanied by mantras or

non-Islamic rituals, and does not interfere with the process of *fardhu kifayah* such as bathing, shrouding, and blanching the body. Substantially, this tradition is merely a symbolic expression of respect and the strengthening of social values that death is a momentum that unites all elements of the extended family and society.

From the perspective of Islamic law, such practices fall into the category of '*urf sahih*', which is a habit that is widely accepted by the community, does not contradict the *nash shar'i*, and brings social benefits. Zuhaili (2017) emphasized that legal customs (*al-'urf al-shahih*) can be used as a basis for consideration in determining the law if the customs are consistent, do not contradict the Qur'an and Sunnah, and bring benefits to the community. So *Tonggoluan* It can be interpreted as a form of respect that does not deviate from Islamic principles as long as it maintains the boundaries of *shari'i* and is not accompanied by beliefs that are contrary to monotheism. This finding is in Amanah (2024) and Rangkuti et al. (2021), shows that many local traditions can be accommodated by Islam as long as they do not intersect with *aqidah* and *mahdahh* worship.

### ***Mopodondaloy*: Cultural Lamentations and the Limitations of Islamic Law**

In contrast to *Tonggoluan* the *Mopodondaloy* tradition or lamentation by mourners (especially women from Indian families or communities) gives rise to a sharper discourse in the perspective of Islamic law. This practice is carried out after the body is laid to rest in *Tonggoluan* and before it is bathed, where a group of women will chant praises, memories, and expressions of sadness in the form of gentle and even hysterical laments. In interviews, several ritual perpetrators stated that *Mopodondaloy* was the last form of love for the deceased and the media to convey unspoken sadness.

However, in Islamic law, the expression of grief over death has its limits. Islam allows crying as an expression of empathy and grief, as exemplified by the Prophet Muhammad when his son, Ibrahim died (Davoudi, 2022). However, Islam prohibits excessive forms of lamentation accompanied by screams, chest beatings, or words that indicate rejection of fate. This is known in jurisprudence as *niyahah*, and the hadiths of the Prophet Muhammad explicitly condemn this practice. In the hadith narrated by Bukhari and Muslim, it is stated:

"It is not among our group that slaps him on the cheek, tears his clothes, and cries out with the cry of ignorance" (HR. Bukhari No. 1294; HR. Muslim No. 103).

Thus, *Mopodondaloy* can be categorized as '*urf fasid*' if the practice of lamenting goes beyond the normal limits of expression of grief. Some of its forms even have the potential to cause slander, burden grieving families, and maintain a patriarchal cultural structure that makes women a symbol of suffering. In the study of Islamic

law, this tradition is unacceptable if it has damaged the principles of patience, *tawakkal*, and pleasure with fate. Therefore, a culture-based education process is needed for the community so that the spiritual values in *Mopodondaloy* are maintained such as the expression of prayers and memories but without hysteria and violation of sharia principles.

### **Harmonization of Customs and Islam: A Cultural Middle Way**

The findings of this study show that there is an active dialectic between Islamic values and customary systems that are still strong in the cultural practices of the Mongondow community, especially in pre-funeral processions such as *Tonggoluan* and *Mopoddaloy*. The community does not frontally reject the values of Islamic law; Instead, they try to combine religious teachings with cultural expressions that have been passed down from generation to generation. This condition shows that Muslim communities in customary areas such as Biga Village do not live in a dichotomous social space between customs and religion, but in a cultural space that seeks to harmonize the two. This is in line with Clifford Geertz's (1983) view that Indonesian society has a distinctive way of negotiating local religion and culture through symbolic and ritual channels. In the Mongondow tradition, customs are not only cultural heritage, but also value systems and identities that are integrated in a social-communal structure.

In this framework, the textual-formalistic approach of da'wah is not always effective because it ignores the cultural complexity of society. On the contrary, a contextual da'wah strategy is needed that places customs as part of the potential local wisdom, not as a threat to monotheism. This strategy is rooted in the principle '*Urf in ushul fiqh*, which recognizes the validity of customary as a secondary legal basis as long as it does not dispute the Qur'an and Sunnah. Customs as *living law* reflect laws that are truly alive and obeyed in society, in contrast to state laws that are often formal and not rooted in real life (Ehrlich, 2019). Therefore, the development of sharia awareness in indigenous peoples should not be directed to completely eliminate customs, but to transform values so that these customs do not deviate from Islamic teachings.

Theory *reception exit* initiated by Hazairin became a theoretical foundation that is very relevant in this context. Hazairin rejects the theory of *reception in complexu* from *Snouck Hurgronje*, who places customary law as the main reference for Muslims in Indonesia, and considers that Islamic law only applies if it does not contradict customary law. Instead, *Reception exit* states that after a person embraces Islam, then Islamic law becomes the main guideline for his life, including in matters of customs and cultural heritage (Hazairin, 1974). However, Hazairin also emphasized that Islam does not necessarily abolish customs, but filters and perfects

them. Therefore, customs that do not contradict the teachings of Islam can still be maintained and preserved. This principle supports an integrative pattern between Islam and culture, not confrontational.

This concept of harmonization is also in line with the theory *Ijtihad* Culture introduced by progressive Islamic legal thinkers, such as Abdullahi Ahmed An-Na'im, who argued that a responsive interpretation of Islam to the local cultural context is indispensable for Islam to remain relevant and grounded. According to An-Na'im (2008), in a pluralistic society like Indonesia, the approach to Islamic law must be dialogical and open to locality. Islam should not exist as a homogenizing force that erases cultural diversity, but rather as a moral inspiration that guides the transformation of local values towards a more civilized direction.

In practice, this harmonization is highly dependent on the role of social actors, such as religious leaders, traditional leaders, and local policy makers. Religious leaders can carry out da'wah with a cultural approach, explaining the boundaries that are allowed and those that are not in traditional practice. Traditional leaders, on the other hand, can be important mediators in the process of reinterpreting traditions so as not to violate Islamic teachings. Local governments also have a strategic role in building a multicultural-based education system and encouraging cross-disciplinary academic studies on customs and religion. This cross-sectoral collaboration is an urgent need to ensure that local cultural heritage, such as Tonggoluan, can continue to exist, but within the framework of tolerant, moderate, and adaptive Islamic values.

Thus, harmonization between customs and Islam is not a utopia, but an inevitability that can be achieved through an integrative approach. Islam as a religion of *rahmatan lil 'alamin* does not reject culture, but guides culture towards benefits. In the context of the Mongondow community, this approach allows for the preservation of local cultural identity without sacrificing commitment to Sharia values. Therefore, legal development in Indonesia especially in the aspects of family law and customary law must open up a wide space for creative encounters between customary and Islamic in the framework of a legal state that upholds plurality.

### **Transformation of Indigenous Values in the Younger Generation: Challenges and Opportunities**

One of the important dynamics in the preservation of traditional traditions such as *Tonggoluan* and *Mopodondaloy* is how these values are transmitted to the younger generation. In the midst of the rapid flow of modernization and cultural globalization, the involvement of the younger generation in traditional processions is decreasing, both in terms of physical participation and understanding of its symbolic meaning (Mohyeddin, 2024). The results of observations and interviews

in this study show that although some of the young generation of Mongondow in Biga Village are still passively present in the pre-funeral traditional procession, their involvement is more formal and tends to lack a substantial understanding of the traditional values that underlie the procession. In some cases, they do not even know the fundamental difference between traditions that are symbolic and those that are contrary to Islamic sharia principles.

This phenomenon shows a symptom of the blurring of meaning in traditional inheritance, where the younger generation only sees customary as a "social obligation" that must be attended to for the sake of manners and family status, not as an expression of collective values that contain ethics, spirituality, and communal identity (Johnson, 2025). This is reinforced by the observation that *Tonggoluan*, for example, is considered only as a "decoration of corpses", not a symbol of respect and solidarity of indigenous peoples. Meanwhile, *Mopodondaloy* by some Muslim youth is considered ancient, even deviant, because it resembles a form of pre-Islamic lamentation that is not in accordance with the value of patience and submission to Divine destiny.

According to the theory *Social Learning* developed by Albert Bandura (2001), the process of forming values and behaviors in society is greatly influenced by the process of observation, modeling, and social imitation. In this context, the weakening involvement of the younger generation can be caused by the lack of consistent role models from previous generations, as well as the absence of cultural education spaces that explain the symbolic values behind the traditional procession. If the younger generation is just a meaningless spectator, then the biggest risk is the collapse of the continuity of tradition due to the loss of historical awareness and cultural identity.

Furthermore, Abdurrahman Wahid (1999), in his writings about "My Islam, Your Islam, Our Islam", emphasizes the importance of transmitting culture flexibly, with an inclusive approach that is not repressive to social change. For him, Islam should not be a force that breaks the local cultural chain, but rather a guide so that the culture remains relevant and moral. In the context of Mongondow, cultural transmission to the younger generation must be carried out through a dialogical approach, where Islamic values and customary values are not contradicted, but mutually correct and complement each other. For example, the reinterpretation of *Mopoddaloy* It can be directed not as a hysterical emotional lament, but as a form of expression of prayer and respect packaged in sharia.

The role of Islamic education is very important in this context. Unfortunately, formal education curricula often do not provide enough space to discuss local customs contextually. This creates a distance between educational institutions and the local cultural reality. Therefore, the integration between Islamic education and

local wisdom needs to be strengthened through the *archipelago's Islamic approach*, where fiqh and moral materials are not only sourced from classical Arabic texts, but also clarified their relevance in the context of the local community's customs. Islamic boarding schools or madrasas based on indigenous communities have a great opportunity to carry out this role as a center for value formation that is able to bridge Sharia and tradition.

On the other hand, social media plays an ambivalent role. On the one hand, social media opens up wide access to the global world which sometimes encourages an instantaneous mindset and underestimates customs. But on the other hand, social media can also be a means of cultural education if managed creatively and productively. Content that features traditional processions in a short documentary format, accompanied by an explanation of the underlying Islamic values, can be a strategic medium in fostering awareness among the younger generation. As displayed by Krisnanik et al (2024), digitizing local traditions through social media is the main key to cultural preservation of Generation Z and millennials.

Thus, the transformation of traditional values in the younger generation is not only a challenge, but also an opportunity. If done with an educational, participatory, and contextual approach, the young generation of Mongondow will not only be physical continuators of traditions, but also heirs of the meaning and values of the customs they live. Therefore, collaboration between educational institutions, religious leaders, indigenous communities, and digital platforms is important to ensure that customs that are in harmony with Islam remain alive in the consciousness of future generations.

### **Customary Law as a Source of National Law: The Strategic Position of Local Traditions in the Reform of Islamic Law**

The debate between customary law and Islamic law is not only a theoretical issue, but also a praxis challenge in the development of Indonesian national law. In the context of indigenous peoples such as Mongondow, funeral traditions such as *Tonggoluan* and *Mopodondaloy* are not just a form of local customs, but a manifestation of the living *law* value system in the community. These traditions are recognized and respected, and have normative force in their social structure. Thus, customary law not only functions as a social system but also has great potential as a source of inspiration for the reform of Islamic law and national law, especially in the fields of family law, inheritance law, and funeral law.

Constitutionally, the recognition of the existence of customary law is affirmed in Article 18B paragraph (2) of the 1945 Constitution, which states that:

"The State recognizes and respects the units of customary law communities and their traditional rights as long as they are alive and in accordance with the

development of society and the principles of the Unitary State of the Republic of Indonesia".

This provision opens up formal legal space to accommodate customary norms into the national legal system, including in aspects related to local social-religious and cultural practices. In the realm of Islamic law, the recognition of customs as *'urf* has also long been accommodated in the theory of *ushul fiqh*. Thus, the existence of local traditions in Muslim societies such as Mongondow can be a meeting point between customary law, sharia, and national law.

The approach to contextual Islamic law reform by paying attention to local customs is part of the paradigm of progressive law developed by Satjipto Rahardjo (Aulia, 2018). In his thinking, the law does not have to be rigid and confined to normative texts, but must be able to answer the social and cultural realities of society. Progressive law provides space for local values to be an inspiration in the formation of laws that are substantive justice, not just legalistic. In this framework, traditional funeral processions such as *Tonggoluan* can be a reference for Islamic law reform that is more humane, inclusive, and responsive to cultural plurality. The tradition contains social values such as respect for death, strengthening social solidarity, and spiritual meaning of life and the end of life all in line with *maqashid al-shariah* (sharia goals).

Furthermore, A. Qodri Azizy (2002) In "the idea Islamic Law of the Archipelago", it emphasized that the formation of Islamic law in Indonesia cannot be separated from the cultural context of its people. He explained that Islamic sharia in Indonesia has undergone a process of reorganization through interaction with local customs, thus giving birth to a distinctive form of Islamic law rooted in the social reality of the community. In this perspective, Islamic law is not a foreign entity imposed from the outside, but rather develops endogenously through a dialectic with customs. Therefore, the reform of Islamic law can be carried out by making customary law a source of value and a concrete social structure. This is important to maintain the relevance and acceptability of Islamic law in a pluralistic society like Indonesia.

The *Mopodondaloy* tradition, although textually in sharia, needs to be criticized, but its collective spirit, namely the space for the expression of grief and social unification after death, contains restorative values that can be used as a reference in the reform of Islamic family law. In inheritance law, for example, recognition of the social function of the extended family in managing spiritual and emotional inheritance can be considered to enrich the narrative of inheritance *fiqh*, which tends to be individualistic. Similarly, in the legal arrangement of Islamic funerals, local traditions such as *Tonggoluan* that do not conflict with the principles of monotheism can be accommodated as a form of expression of local Islamic culture.

Thus, customary law not only needs to be preserved as a cultural heritage, but also needs to be recognized as one of the sources of substantive law that can inspire the reformulation of Islamic law and national law. In the era of regional autonomy and legal decentralization, it is increasingly important to encourage recognition of customary law practices in a positive legal system, through regional regulations, compilation of customary laws, and strengthening the role of customary institutions in resolving social and family cases. Overall, this confirms that Indonesia not only has cultural plurality, but also a plurality of laws that must be managed in a harmonious and equitable framework.

### **Restorative Justice in Traditional Burial Traditions: A Legal Sociology Perspective**

Traditional funeral traditions, such as *Tonggoluan* and *Mopodondaloy* in the Mongondow community, not only contain spiritual and symbolic dimensions, but also contain social functions that can be analyzed within the framework of restorative justice (Pointer, 2016). In this context, the customary procession becomes an arena for the restoration of social relations, a space for cultural negotiation, and a mechanism to re-strengthen social cohesion that may be fractured due to conflicts between family members, inheritance issues, or other social tensions.

Practices such as *Tonggoluan* provide an opportunity for all elements of the extended family to gather, unite in grief, and together pay their last respects to the deceased. More than just a ritual, these moments are often informal forums of reconciliation, where parties who were previously at odds can be reunited in a more open and reflective emotional atmosphere. This is a form of restorative justice in the cultural sense: not punishing, but restorative. According to John Braithwaite (2002), restorative justice is a conflict resolution model that relies on the restoration of social relations and the moral reintegration of perpetrators and victims into the community. In the context of Mongondow, the funeral procession became a medium of symbolic reintegration not only for the deceased, but also for the social rifts that existed around him.

Sociologically, *the Mopodondaloy* tradition can also be seen in terms of its social function. Although in sharia the practice of mourning needs to be ordered, on the other hand *Mopodondaloy* provides a space for women to express collective grief and spiritual connection with the deceased. In patriarchal societies, such spaces are often a "safe channel" for women to express their emotions within a socially accepted framework. Therefore, the approach needed is not a total ban, but a transformation of forms of expression to remain in harmony with Islamic values but not to remove women's social space in the local cultural structure.

When approached from the theory of living law by Eugen Ehrlich (2019), these customary practices reflect laws that live in the community and are carried out because they have social normative power, not because they are strengthened by state laws. This means that in the social system of indigenous peoples, justice is not only pursued through formal procedures, but through symbolic agreements and community morality. Therefore, the preservation of funeral traditional processions like this has strategic value in strengthening the cultural dimension of justice that is more substantive and humanistic.

Moreover, within the framework of Islamic law, the *islah* approach or peaceful settlement is an important principle in resolving conflicts. The Qur'an even underlines the importance of *ishlah dzāt al-bain* to improve human relations as part of the value of piety (Q.S. Al-Hujurat: 10). Thus, integrating elements of restorative justice in funeral customs practices can be considered in line with *maqashid al-shariah*, especially in the aspects of *hifz al-'ird* (safeguarding honor) and *hifz al-'urf* (preserving a noble culture that does not conflict with the sharia).

In order for these restorative values to remain sustainable, there needs to be a strengthening of customary institutions that are able to manage the social dynamics behind funeral practices. Customary institutions are not only cultural actors, but also locally based social justice mediators. It is in this context that the state needs to be present, not to control, but to facilitate community-based justice spaces to remain alive within a plural and participatory national legal framework.

## Conclusion

Based on the results of the research, it can be concluded that the traditional practices of *Tonggoluan* and *Mopodondaloy* in the Mongondow community in Biga Village are a tangible manifestation of customary law that is alive and obeyed by the community. The *tonggoluan* reflects a symbol of respect for the dead and is a means of strengthening social solidarity, while *Mopodondaloy* is an expression of collective grief that needs to be reviewed from the perspective of Islamic law. In the view of Islamic law, *Tonggoluan* can still be categorized as *'urf saheeh* because it does not contradict the basic principles of Islam, while *Mopodondaloy* has the potential to be included in *'urf fasid* if accompanied by excessive lamentation that is prohibited in the hadith. Therefore, it is necessary to recontextualize values so that living customs can still be preserved within the ethical limits of Islam.

The findings of this study provide important implications for the development of Islamic law and national law that is responsive to the cultural reality of Indonesian society. Local burial traditions such as those in Mongondow not only have cultural value, but also contain the potential to strengthen restorative and humanistic approaches in the Islamic legal system, particularly in aspects of family

and social law. The existence of this tradition is proof that customary law can be a source of Islamic law reform based on *maslahah* and *maqashid al-shariah*. In addition, this study emphasizes the importance of building an approach to Islamic education based on local culture, as well as encouraging integration between da'wah and traditional preservation as a strategy for social and spiritual harmonization.

This research has limitations in the scope and number of informants involved, which are still local in nature and limited to one indigenous community. Therefore, generalization of the results of this study to other indigenous communities needs to be done with caution and a contextual approach. In addition, a quantitative analysis of the perception of the younger generation has not been carried out more broadly, and has not involved aspects of comparison between regions or schools in Islam that can enrich the findings. Therefore, further research is recommended to explore similar practices in other indigenous communities and build an integrative model between indigenous and sharia in a broader, cross-disciplinary, and intergenerational perspective.

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