

## INTEGRATION AND SIMPLIFICATION OF ADAT, RELIGIOUS, AND NATIONAL LAW: REALIZING A HARMONIOUS AND EFFECTIVE INDONESIAN LEGAL SYSTEM

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**Abstract:** *Indonesia's legal system is characterized by its pluralistic structure, integrating Adat Law, Religious Law, and National Law. This paper examines the harmonization of these systems to establish a cohesive legal framework that respects cultural diversity while ensuring national unity. The study highlights the coexistence and interaction between these legal traditions, addressing their complementary roles as well as conflicts arising from overlapping jurisdictions and differing principles. It explores mechanisms for legal integration, emphasizing the importance of constitutional recognition, inclusive regulations, and effective governance to reconcile conflicts. The findings suggest that strengthening legal pluralism through dialogue, legal education, and revitalization of local customs can enhance fairness and social harmony. Ultimately, this paper advocates for a dynamic legal framework that balances tradition, religion, and modern law to meet the evolving needs of Indonesian society.*

**Keywords:** *Legal Pluralism, Adat Law, Religious Law, National Law, Harmonization, Indonesia.*

### INTRODUCTION

Indonesia is characterized by its diverse culture, religion, and ethnicity. With more than 17,000 islands, the country has various local legal systems, including Adat Law that has been passed down through generations. However, as a nation with a majority Muslim population, religious law, particularly Islamic law, influences many aspects of societal life, especially those related to personal conduct, inheritance, and family law (Rika and Yanti, 2023). Moreover, Indonesia possesses its own legal system, grounded in the Constitution and statutory laws, and upholds the principles of a modern rule of law.

Interestingly, Indonesia adopts all three legal systems simultaneously, namely the national legal system, the Adat Law system, and the Islamic law system. The existence of these three legal systems has demonstrated legal pluralism, which is a characteristic of the living and evolving legal system in Indonesia, capable of unifying and even creating tranquility in society (Somadiyono, 2020). However, this legal pluralism also sometimes poses significant challenges when the principles or standards adopted by each legal system conflict with one another. For example, this can be seen in the conflicts between National Laws and Adat Law

regarding the management of natural resources, or the differences between religious law and government policies addressing specific issues such as women's and children's rights.

A fair and inclusive legal system is certainly created through a process of harmonization between national law, religion, and custom. This harmonization process essentially aims to ensure that each legal system can contribute constructively without conflicting with one another. The recognition of the existence of adat and religious law is allowed, as long as it does not contradict the principles of the unitary state, considering Indonesia's position as a rule of law state (*Rechtsstaat*), as has been reaffirmed through the 1945 Constitution (Rika and Yanti, 2023).

Furthermore, the primary objective of this article is to comprehensively understand how the harmonization process between Adat Law, religious law, and national law can be achieved effectively. This article will also discuss the recognition of Adat Law and religious law within the national legal system, the issues encountered in integrating these three legal systems, and the opportunities that can be utilized to strengthen the relationship between the Adat Law system, the religious law system, and the national legal system. The influence of these three legal systems on Indonesia's National Legal System serves as evidence of the legal awareness, morality, inner values, and norms adopted by Indonesian society, which also holds great hope for the creation of a more relevant and responsive legal system to meet the various needs of the Indonesian people today (Prawiro, 2017).

## **METHOD**

This study employs a qualitative research methodology to examine the integration and harmonization of Adat Law, Religious Law, and National Law within Indonesia's legal framework. It adopts a normative juridical approach, analyzing legal

principles, statutory regulations, and doctrines to identify inconsistencies, gaps, and overlaps among the three systems. Data collection methods include literature review, document analysis, comparative analysis, and historical reviews, focusing on legal sources, government regulations, customary rules, and religious texts. The analytical framework combines descriptive, normative, comparative, and prescriptive analyses to assess structure, compatibility, and harmonization while proposing integration strategies. The study emphasizes respect, impartiality, and inclusiveness, with data validation through triangulation and expert consultations to ensure reliability. This framework provides a systematic approach to understanding Indonesia's legal pluralism and proposes strategies to enhance legal coherence and justice.

## **ANALYSIS AND DISCUSSION**

### **General Overview of the Legal System in Indonesia**

The Indonesian legal system reflects the cultural, traditional, and historical diversity of Indonesia itself. With a background as a pluralistic nation, it adopts various legal elements from local traditions (*adat law*), religious norms, and modern legal systems. This pluralism creates a complex but dynamically changing structure, where each legal system plays a crucial role in maintaining social balance

### ***Explanation of Legal Pluralism in Indonesia***

Legal pluralism in Indonesia demonstrates that Indonesian society operates under several concurrent legal systems. It is important to understand that this legal pluralism is not intended to create a new legal system. Instead, this concept emphasizes the importance of recognizing the various existing and operational legal diversities within the society (Rika and Yanti, 2023). Broadly speaking, Indonesia

has three main legal systems, namely:

*1. National Law (Positive Law)*

Indonesian national law consists of a collection of regulations created by the state through a formal legislative process, which are derived from Laws, Government Regulations, Regional Regulations, and other legislative regulations. The Civil Law system in Indonesia was established during the Dutch colonial administration and has the characteristic of being "written law," which has a significant influence on the national legal system today (Anna Maudina Manurung et al., 2023). Furthermore, in order to create legal certainty and equal justice, national law itself is binding and universally applicable to all citizens without exception.

*2. Adat Law*

Adat Law originates from the personal habits of humans endowed with reason, thought, and behavior in their roles within society (Aprilianti, 2022). The flexibility and adaptability in responding to social changes within the community are distinct characteristics of this legal system.

*3. Religious Law*

The relationships among the members of the Muslim community in Indonesia are significantly influenced by religious law, particularly Islamic law (Masriani, 2023). The regulations regarding marriage, zakat, inheritance, and Islamic economics are tangible forms of the influence of the Islamic legal system. Furthermore, the Constitution itself has fully guaranteed the right to freedom of religion, including the existence of other religious laws, such as Hindu, Buddhist, Christian, and Confucian laws, which also have a place in the life of the community.

Therefore, it can be seen that each of

the three legal systems mentioned above has its own influence on the legal system in Indonesia today (Aditya, 2019).

**The National Legal Framework Based on the 1945 Constitution of the Republic of Indonesia**

The 1945 Constitution of the Republic of Indonesia, which is the constitution of the state and the source of all legal sources in Indonesia, has essentially formed the framework of Indonesia's national law. The 1945 Constitution of the Republic of Indonesia forms the basis of a monistic system in Indonesia, where all state laws are derived from this constitution. The 1945 Constitution of the Republic of Indonesia serves as the legal umbrella that regulates the relationship between Adat Law, religious law, and the state's legal system, ensuring that all three are in line with the principles of the rule of law. The 1945 Constitution of the Republic of Indonesia is also considered the highest source of law that guarantees legal certainty in accordance with its Articles (Rudy, 2015).

In addition to being established within the fundamental framework of the 1945 Constitution of the Republic of Indonesia, Indonesia's legal system is also based on Pancasila, as stated in the Preamble of The 1945 Constitution of the Republic of Indonesia, which positions Pancasila as the philosophical foundation of the state. The placement of Pancasila as the grundnorm within the scope of the 1945 Constitution of the Republic of Indonesia serves as tangible evidence that Indonesia explicitly declares itself a rule-of-law state (Rechtsstaat) with the objective of creating prosperity for its people. This underscores that the national legal system envisioned by the founding fathers in the 1945 Constitution of the Republic of Indonesia is one that is grounded

in dynamic norms, capable of governing and fostering the well-being of the Indonesian society (Anna Maudina Manurung et al., 2023).

In general, Indonesia's legal system is coherent in integrating national, adat, religious, and even international laws. National law regulates relationships between individuals, the state, and society, while adat and religious laws govern community life based on cultural wisdom and spiritual beliefs. The 1945 Constitution of the Republic of Indonesia establishes how these three legal systems operate in harmony within the framework of the Indonesian legal state, which is founded on Pancasila.

### **The Relationship Between Adat Law, Religious Law, and National Law**

The relationship between adat law, religious law, and national law in Indonesia reflects the complexity of legal pluralism in the country. Indonesia often strives to integrate these three legal systems into its own legal framework, given its commitment to the principles of the rule of law and social justice. Three main patterns can be used to explain how these legal systems interact with one another in Indonesia.

#### ***Collaborative Relationship***

Adat law and religious law complement national law in certain specific situations. For example:

- a. *Adat Dispute Resolution:* Conflict resolution based on adat law is often employed to address disputes within local communities, such as adat land disputes, before escalating to national legal proceedings.
- b. *Role of Religious Courts:* The application of Islamic law, which is accommodated within the national legal framework, is utilized to resolve family disputes among Muslim communities

#### ***Subordinative Relationship***

Adat law and religious law are often subject to the control of national law in addressing matters of national interest as a whole. For example:

- a. *Conflict between Communal Rights and National Law:* Although adat law recognizes communal rights as indigenous peoples' land ownership, such rights can often be limited by national law, particularly in cases involving infrastructure development projects or natural resource management.
- b. *National Regulation of Religious Practices:* National law imposes restrictions on certain religious practices to uphold justice and equality, such as prohibiting discrimination in inheritance law or marriage regulations.

#### ***Conflictual Relationships***

Conflicts arise when traditional legal norms or principles and religious laws conflict with national law, as in the following examples:

- a. *Adat Law Practices that Contradict Human Rights:* Under national law, certain adat traditions, such as social sanctions or specific Adat Laws, are considered to violate human rights principles.
- b. *Religious Law and Women's Rights:* Islamic law governs the distribution of inheritance between men and women, which often becomes a subject of debate within national law concerning gender equality.

### **Adat Law in the Indonesian Legal System Definition and Characteristics of Adat Law**

Adat law originates from traditional values and local customs that are passed down through generations and form an integral part of the identity of local communities (Raihan Dzaky Ferdiansyah,

2024). The characteristics of adat law include the following:

*Unwritten:* Adat law is typically communicated orally, through rituals and practices, although some communities have begun documenting their adat rules.

*Flexibility:* Adat law evolves over time to adapt to the dynamic social and cultural conditions.

*Community-Centric:* Unlike national laws that focus on individuals, Adat Law emphasizes the collective interests of a community.

*Contextual:* Adat rules apply specifically to certain regions or communities, with varying standards tailored to the specific conditions of the local society.

### ***The Role of Adat Law in the Life of Local Communities***

Adat law plays a crucial role in various aspects of the lives of indigenous communities in Indonesia, particularly in the following areas:

#### ***1. Dispute Resolution***

Adat law is often used as a means of resolving disputes at the local level, such as conflicts over ulayat land, violations of adat norms, and family issues. This resolution process also involves adat leaders and institutions, such as adat councils or assemblies, which are authorized to handle adat law disputes (Handayani and Prabowo, 2024).

#### ***2. Natural Resource Management***

Adat law is used by indigenous communities to regulate the utilization of forests, land, and other natural resources. One example of this is the concept of ulayat land, which grants indigenous communities

collective rights over a certain area (Hantoro et al., 2016).

#### ***3. Rituals and Traditions***

Adat law regulates rituals, ceremonies, and customs such as marriage, funerals, and harvest celebrations.

#### ***4. Social Life***

Adat law regulates social behavior, maintains balance and order, and serves as an expression of the identity and solidarity of a community (Turyani et al., 2024).

### ***Recognition of Adat Law in the National Legal System***

Adat law is officially recognized in various national legal instruments, provided that its implementation does not conflict with the principles of the Republic of Indonesia and the values of the constitution.

#### ***1. Recognition in the Constitution***

Article 18B paragraph (2) of the 1945 Constitution of the Republic of Indonesia recognizes the existence of Adat Law and its rights within society as long as they remain relevant and in accordance with societal developments. This article serves as a legal foundation to protect and respect Indonesia's Adat Law tradition.

#### ***2. Recognition in the Law***

Law No. 5 of 1960 concerning the Basic Agrarian Law: Acknowledges ulayat land rights and adat law in land management, provided that it does not conflict with national interests.

- a. Law No. 6 of 2014 concerning Villages: Grants adat villages the autonomy to regulate and manage

their own territories in accordance with adat law.

- b. Law No. 41 of 1999 concerning Forestry: Recognizes the rights of indigenous peoples to manage forests, although its implementation often leads to various issues.

Every country essentially has a legal system that reflects its own culture. A national legal system grows from the common sense and legal awareness of the people, so that the law reflects the culture they possess (Sumarman, 2003). Therefore, adat law is very important as a cultural representation within the Indonesian legal system, provided it is recognized and enforced properly.

## **Religious Law in the Indonesian Legal System**

### ***1. Definition and Characteristics of Religious Law***

One of the pillars of the Indonesian legal system is religious law, in relation to the religious beliefs adhered to by the Indonesian people. Article 29 of the 1945 Constitution of the Republic of Indonesia fundamentally states that the Indonesian state is based on the belief in the One and Only God, which guarantees the freedom of every citizen to adhere to their respective religions and worship according to their beliefs and religions. This provision further strengthens the position of religious law and forms the foundation for its legal validity in Indonesia (Saragih et al., 2022). The main characteristics of Islamic law are as follows:

- a. *Derived from the Holy Scriptures and Religious Traditions:* Hadith, official religious teachings, and the holy book are generally used as sources of religious law.
- b. *Governs Personal and Social Life:* Religious law covers regulations regarding worship, ethics, family, and social relations.

- c. *Universal for Adherents of a Specific Religion:* Religious law applies to all individuals who follow that religion, regardless of their geographical location.
- d. *Normative and Religious:* Religious law contains spiritual values that shape devotion to God and regulate worldly life.

## **Islamic Law as the Main Example of Religious Law in Indonesia**

As a country with a Muslim majority population, Indonesia's legal system is heavily influenced by Islamic law, which provides regulations governing the relationship between humans and between humans and Allah (Aris, 2015). Several aspects of Islamic law that are recognized and officially applied in Indonesia include:

### ***1. Family and Marriage Law***

*Marriage:* According to Law No. 1 of 1974 on Marriage, which states that Muslim marriages must comply with Islamic law. *Divorce and Maintenance:* Child custody, maintenance, and divorce are resolved through the Religious Court in accordance with Islamic law.

### ***2. Inheritance Law***

The determination of inheritance for Muslims follows the faraidh (Islamic inheritance law), although it is often adjusted according to the laws and agreements of the heirs.

### ***Islamic Economics and Finance***

*Islamic Banking:* Based on Law No. 21 of 2008 on Islamic Banking, Islamic law is integrated into the national financial system through Islamic banking, which prohibits usury (riba) and implements profit-sharing. *Zakat and Endowment (Wakaf):* Law No. 23 of 2011 on Zakat Management and Law No. 41 of 2004 on Wakaf regulate the collection, distribution of zakat, and the

management of wakaf in accordance with Islamic law.

### ***Religious Court System***

Based on Law No. 7 of 1989 on Religious Courts, the Religious Court has the authority to handle cases related to Islamic law, such as marriage, divorce, inheritance, and wakaf.

### **Recognition of Religious Law in the National Legal System**

The state legal system recognizes the existence of religious law, including Islamic law and other religious laws, based on:

#### ***1. Article 29 of The 1945 Constitution of The Republic of Indonesia***

*Paragraph (1):* The State is based on the belief in the One and Only God. *Paragraph (2):* The State guarantees freedom for its citizens to embrace and practice their religion according to their beliefs.

### ***Regulations and Laws***

The principles of religious law are incorporated into national law through the enactment of the Marriage Law, the Religious Courts Law, and the Islamic Banking Law.

### ***Local Context of Other Religions***

Other religions also influence Adat Law or the traditions of certain religions, for example Hindu law influences Balinese customs, or Christian law influences several customs in Eastern Indonesia.

Religious law is an integral part of the Indonesian legal system, reflecting the diversity and religiosity of the Indonesian people (Gunawan, 2019). The role of religious law can continue to contribute to the creation of inclusive justice and maintain social and spiritual harmony among diverse

communities through proper recognition and harmonization.

### **Challenges in the Harmonization of Adat Law, Religious Law, and National Law**

One of the major issues within the Indonesian legal system is the harmonization between Adat Law, religious law, and national law, which often leads to conflicts or disagreements among these three legal systems due to the complexity of their philosophical foundations, characteristics, and mechanisms that are fundamentally different (Fauzi et al., 2023). The regulations, implementation, and adaptation to dynamic social changes often become obstacles in the integration process aimed at achieving synergy between legal systems.

Here is a description of the main issues frequently encountered in efforts to harmonize the three legal systems:

### ***Conflict of Interest Between the Three Legal Systems***

Each legal system has principles, standards, and objectives that sometimes conflict with one another:

#### ***1. Adat Law and National Law***

Problems often arise when adat law is not aligned with national law, as frequently happens in conflicts of interest between indigenous people's rights and commercial interests, such as those of large corporations. The tangible threat of modernization can also lead to the erosion of parts of adat law (Tionika et al., 2023). Example: Disputes over communal land belonging to indigenous communities, which is often taken for national development purposes without considering the fundamental rights of the indigenous people.

#### ***2. Religious Law and National Law***



Problems also arise when the principles of religious law conflict with the characteristics of national law, which are secular or universal. Example: The provisions of Islamic law that differentiate between men and women regarding inheritance rights conflict with the principle of gender equality in national law.

### *3. Adat Law and Religious Law*

Conflicts often arise between local traditions and religious teachings within indigenous communities that have been influenced by a particular religion. Example: Traditional ceremonies involving offerings, which are sometimes rejected by certain religious groups, are considered to contradict religious teachings.

The issues mentioned above often lead to the marginalization of certain legal systems due to dependence on political power or public support.

### ***The Lack of Clear Regulations for Integration***

To date, the regulations governing the relationship between religious law, adat law, and national law cannot yet be considered complete and harmonious. Several challenges that are often encountered include:

#### *a. Legal Vacuum*

The formal legal framework at the national level does not support many aspects of adat and religious law. For example, the rights of indigenous peoples over ulayat land are often neglected because certain regulations do not explicitly recognize these rights.

#### *b. Regulatory Overlap*

Existing regulations often overlap and lack clarity, which hinders implementation in the field (Tionika et al., 2023). Example: Indigenous peoples' rights to forest areas

frequently conflict with Law No. 41 of 1999 on Forestry.

#### *c. Lack of Representation*

Public participation in decision-making processes ensures that the decisions made reflect the needs, interests, and aspirations of the community as a whole (Santosa, 2001). In reality, indigenous communities and religious groups are often not actively involved in the legislative process, resulting in regulations that do not fully address their needs.

#### *d. Weak Law Enforcement*

In many cases, poor implementation of regulations is often encountered due to the influence of political and economic pressures, as well as the lack of understanding among law enforcement officials.

### ***The Influence of Globalization and Modernization on Adat Law and Religion***

The impacts of modernization and globalization on adat law and religion have resulted in significant social changes, often threatening the existence of both. The challenges that frequently arise include:

#### *a. Changes in Social Values*

For the most part, the younger generation influenced by global culture tends to adopt modern norms, which are considered more relevant and flexible, rather than traditional Adat Laws or religious laws (Latifa et al., 2024). Example: The influence of urban and contemporary culture has led to a decline in the practice of Adat Law by indigenous communities.

#### *b. Commercialization of Resources*

Economic globalization drives large-scale exploitation of natural resources that belong to indigenous peoples, often without consideration of the applicable adat laws in the area. Example: Conflicts over mining and



large plantations in indigenous territories that damage the environment and violate adat land rights.

### *c. Criticism of Religious Law*

The adoption of religious values into national law can lead to "derelegiousation," meaning that the metaphysical and transcendental values inherent in religious teachings will become biased (Febriansyah Ramadhan et al., 2023). Specifically, global values such as human rights, gender equality, and individual freedom are often seen as conflicting with religious legal norms, which leads to debates at both national and international levels. Example: Criticism of Islamic laws that restrict women's rights in certain aspects of life.

### **Inequality of Treatment towards Certain Indigenous or Religious Communities**

Indonesia is a diverse country; however, not all indigenous and religious communities are treated equitably. This inequality is generally manifested in the following:

#### ***Marginalization of Indigenous Communities***

The inconsistency in the recognition of the existence of Adat Law communities has resulted in the state often violating the rights of indigenous peoples (Wibisana et al., 2024). Example: Some indigenous communities, such as the Anak Dalam Tribe in Jambi, face challenges in obtaining legal recognition of their territories.

#### ***Discrimination against Minority Religions***

Some minority religious groups believe that the national legal system tends to favor the majority religion, both in terms of regulations and their enforcement.

Discriminatory treatment and injustices carried out by the majority group towards minority groups can lead to tensions and even ongoing conflicts (Umihani, 2019). Example: Local regulations that sometimes create difficulties for certain minority religious groups to establish their places of worship.

### ***Shift in Social Roles***

Religious and indigenous communities, which are less involved and often marginalized in the development process, have lost their roles within the broader society.

### **Opportunities and Solutions for Legal Harmonization**

Several strategic steps need to be taken to achieve alignment between adat law, religion, and national law. The following are some important opportunities and solutions in this process:

#### ***Strengthening Dialogue among Stakeholders from Adat Law, Religion, and Government***

The government, adat leaders, and religious figures must engage in constructive dialogue with one another to achieve mutual understanding. This can be achieved through the establishment of forums or dialogue platforms that involve various stakeholders to discuss issues related to Adat Law, religion, and national law. By addressing current issues, they can formulate joint solutions and take preventive measures to avoid potential conflicts (Pambudi, 2024).

#### ***Formulation of Inclusive Regulations that Respect Local Values***

The formulation of laws that recognize adat law and religion, while providing space for local norms, as long as they do not violate human rights and the fundamental principles

of national law, will undoubtedly help balance the need for development with the cultural and religious diversity in Indonesia.

### ***Enhancement of Legal Education that Includes Understanding of Legal Pluralism***

Pluralism education is a type of education that emphasizes the importance of actively participating in diversity and differences to build a just civilization (Pratiwi, 2021). The integration of a curriculum on legal pluralism in both formal and non-formal legal education, as well as training for law enforcement officials on the diversity of legal systems, will strengthen the understanding of the importance of respecting adat law and religion alongside national law.

### ***Revitalization of Adat Law and Religion for Relevance in Modern Society***

Adat practices and religious values need to be adjusted to the conditions of the times without losing their original essence and values. This demonstrates that religiosity and the cultural identity of indigenous communities remain a solid foundation, even though societal modernization has brought about changes due to the effects of modernization and globalization (Adhariaty *et al.*, 2024). The revitalization of adat law and religion through studies involving legal experts, adat leaders, and religious figures can serve as a guarantee that these laws remain relevant when addressing modern issues such as human rights, gender equality, and technological advancements.

## **CONCLUSION**

Harmonization between Adat Law, Religion, and National Law continues to play a crucial role in the sustainability of Indonesia's pluralistic legal system. The three must collaborate to create social justice and respect diversity, despite each legal system in Indonesia having different principles and values.

Adat Law and religion in Indonesia play a significant role in society that is essential and cannot be disregarded. Adat Law reflects local values that have been practiced and upheld for a long time, while religious law provides moral guidance in accordance with the teachings of the religion adhered to by the majority of the Indonesian population. Although they often conflict with or oppose universal secular national law, both still hold a respected place in the social structure.

The relationship between religious law, national law, and adat law is not always harmonious due to frequent conflicts of interest, especially when adat and religious laws contradict national laws centered on human rights, gender equality, and sustainable development. Efforts to unite these three legal systems are often hindered by the lack of clarity or overlapping regulations.

Despite these challenges, there are still significant opportunities to achieve legal harmonization in Indonesia. Intensive dialogue between the government, religious groups, and indigenous stakeholders is urgently needed to create inclusive regulations that respect local values and accommodate the existing legal diversity. Legal education emphasizing legal pluralism will enhance public and law enforcement understanding of the importance of respecting various legal systems in place.

The revitalization of adat law and religious law is crucial to ensure these laws remain relevant with the changing times. Both adat law and religious law can be updated without losing their essence and values to strengthen their position in modern society while maintaining equality and justice.

Overall, the harmonization of adat law, religion, and national law requires a strong commitment from all parties to create an inclusive, just legal system based on respect for cultural and religious diversity. With the

right steps, Indonesia can achieve a legal system that is not only effective in delivering justice but also capable of celebrating the diversity that defines the nation.

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