

Institutionalising Legal Pluralism: Islamic, Customary, and State Legal Authority in Indigenous Muslim Local Governance

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Abstract

Legal pluralism in Indonesia is constitutionally recognised, yet the coexistence of state, customary, and Islamic legal authorities does not necessarily produce effective institutional pluralism in local governance. The central problem lies not only in the recognition of multiple legal orders, but in the absence of a sufficiently articulated framework governing their interaction, jurisdiction, and mutual accountability. This study examines how Islamic and customary legal authority can be institutionally accommodated within Indonesia's constitutional and local governance framework. Employing a normative legal research approach, the study analyses constitutional provisions, legislation, legal scholarship, and contemporary literature on legal pluralism, Indigenous legal orders, and substantive autonomy. The analysis demonstrates that formal recognition remains insufficient where customary and Islamic authorities lack clear jurisdictional boundaries and institutional mechanisms for interacting with state law. Building on relational legal pluralism and recent scholarship on substantive autonomy, the study develops a relational governance model comprising five interconnected elements: legal recognition, jurisdictional allocation, institutional linkage, reciprocal recognition, and constitutional accountability. The model advances the argument that substantive autonomy requires not only legal recognition and institutional capacity but also the relational capacity to engage with other legal authorities within a shared constitutional space. The study contributes to the literature by reframing institutionalised legal pluralism from the coexistence of multiple legal orders towards the institutional design of relationships among legal authorities. This framework provides a conceptual basis for integrating Islamic and customary authority into local governance without reducing either to subordinate extensions of state law.

Keywords:

legal pluralism; Islamic law; indigenous communities; relational governance; local governance.

Abstrak

Pluralisme hukum di Indonesia diakui secara konstitusional, namun keberadaannya bersama otoritas hukum negara, hukum adat, dan hukum Islam tidak serta-merta menghasilkan pluralisme kelembagaan yang efektif dalam tata kelola pemerintahan daerah. Masalah utamanya tidak hanya pada pengakuan terhadap berbagai tatanan hukum, melainkan pada ketiadaan kerangka kerja yang jelas untuk mengatur interaksi, yurisdiksi, dan akuntabilitas timbal balik di antara tatanan-tatanan tersebut. Studi ini

mengkaji bagaimana otoritas hukum Islam dan hukum adat dapat diakomodasi secara kelembagaan dalam kerangka konstitusi dan tata kelola pemerintahan daerah di Indonesia. Dengan menggunakan pendekatan hukum normatif, studi ini menganalisis konstitusi, peraturan perundang-undangan, kajian hukum, serta literatur mengenai pluralisme hukum, tatanan masyarakat adat, dan otonomi substantif. Analisis menunjukkan bahwa pengakuan formal tidaklah memadai jika otoritas adat dan Islam tidak memiliki batasan yurisdiksi serta mekanisme kelembagaan untuk berinteraksi dengan hukum negara. Berlandaskan konsep pluralisme hukum relasional dan kajian mengenai otonomi substantif, studi ini mengembangkan model tata kelola relasional yang mencakup lima elemen: pengakuan hukum, pembagian yurisdiksi, keterhubungan kelembagaan, pengakuan timbal balik, dan akuntabilitas konstitusional. Model ini berargumen bahwa otonomi substantif tidak hanya memerlukan pengakuan hukum dan kapasitas kelembagaan, tetapi juga kapasitas relasional untuk berinteraksi dengan otoritas hukum lainnya dalam ruang konstitusional bersama. Studi ini berkontribusi pada literatur dengan mengubah perspektif mengenai pluralisme hukum yang terlembagakan, dari sekadar kebersamaan tatanan hukum menjadi desain kelembagaan antarotoritas hukum. Kerangka ini menyediakan landasan konseptual untuk mengintegrasikan otoritas Islam dan adat ke dalam tata kelola pemerintahan daerah tanpa mereduksi keduanya menjadi sekadar perpanjangan tangan yang subordinat terhadap hukum negara.

Kata Kunci:

pluralisme hukum; hukum Islam; masyarakat adat; tata kelola relasional; tata kelola pemerintahan daerah.

Introduction

Legal pluralism has become increasingly significant to contemporary governance because social life is not necessarily organised around a single source of normativity. State law may coexist with customary law, religious law, and community-based norms deriving their legitimacy from history, identity, and established social practices. In this context, legal pluralism should not be understood merely as the simultaneous existence of several legal systems, but as a condition in which different normative orders may regulate the same social relations through distinct sources of legitimacy and institutional mechanisms.¹ Recent scholarship on legal pluralism in Indonesia likewise demonstrates that the relationship between state law, customary law, and religious law is neither static nor uniform, but continually shaped by processes of negotiation, integration, and contestation.² The more fundamental question, therefore, is not simply whether different legal orders can coexist, but how their presence is translated into recognised positions of authority within the same governance structure.

This issue becomes particularly significant in the context of indigenous communities. Developments in international law have expanded the understanding of indigenous recognition beyond cultural protection towards recognition of the right of indigenous peoples to maintain and develop their social, political, and legal institutions. The United Nations Declaration on the Rights of Indigenous Peoples expressly recognises

¹ John Griffiths, "What Is Legal Pluralism?," *Journal of Legal Pluralism and Unofficial Law* 18, no. 24 (1986), <https://doi.org/10.1080/07329113.1986.10756387>; Brian Z. Tamanaha, *Legal Pluralism Explained: History, Theory, Consequences* (Oxford: Oxford University Press, 2021), <https://doi.org/10.1093/oso/9780190861551.001.0001>.

² Achmad Hariri and Basuki Babussalam, "Legal Pluralism: Concept, Theoretical Dialectics, and Its Existence in Indonesia," *Walisongo Law Review (Walrev)* 6, no. 2 (2024), <https://doi.org/10.21580/walrev.2024.6.2.25566>.

the right of indigenous peoples to maintain and strengthen their institutions and to preserve their legal systems and customs, provided that these are consistent with internationally recognised human rights standards.³ Recent scholarship, however, demonstrates that formal recognition by the state does not necessarily result in stronger indigenous authority.⁴ In some contexts, recognition may instead generate bureaucratisation, constrain institutional autonomy, or marginalise customary leaders when formal governmental structures do not adequately correspond with community-based systems of governance.⁵ The legal question concerning indigenous communities has therefore shifted from recognition of existence to recognition of institutional authority.

Indonesia provides a particularly relevant context for examining this problem. Article 18B(2) of the 1945 Constitution recognises and respects customary law communities and their traditional rights, subject to their continued existence, conformity with societal development, and compatibility with the principles of the Unitary State of the Republic of Indonesia.⁶ This constitutional framework interacts with decentralisation and the Village Law, which provide legal space for the recognition of rights derived from local origins and customary practices. Yet existing studies indicate that legal recognition of indigenous communities continues to encounter problems of implementation, regulatory fragmentation, and uncertainty over the distribution of authority between governmental institutions and customary bodies.⁷ Research on the development of customary governance further demonstrates that recognition through regional regulations may simultaneously create institutional space for customary governance and generate new forms of dependence on state procedures and authority.⁸ Constitutional recognition, therefore, does not automatically produce institutional autonomy.

The problem becomes more complex in indigenous communities that are socially and historically Muslim. In such contexts, customary law does not necessarily operate as a normative system detached from Islam. Religious norms may shape community practices and institutions, while customary arrangements provide local mechanisms through which such norms are preserved, interpreted, and applied. Research on legal pluralism in Indonesia demonstrates that Islamic law, customary law, and state law may regulate the same social domain—particularly family relations, inheritance, and community affairs—while deriving their legitimacy from different sources.⁹ More recent scholarship further indicates that Islamic legal practice within local communities may

³ United Nations, *United Nations Declaration on the Rights of Indigenous Peoples*, A/RES/61/295 (New York: United Nations, 2007), arts. 5 and 34.

⁴ Tody Sasmitha Jiwa Utama, "Between Adat Law and Living Law: An Illusion of Customary Law Incorporation into Indonesia Penal System," *Journal of Legal Pluralism and Unofficial Law* 53, no. 2 (2021): 269–89, <https://doi.org/10.1080/07329113.2021.1945222>.

⁵ Lala M. Kolopaking, Sofyan Sjaf, and Sampean, "Problems and Prospects of Recognition of the Ammatoa Kajang Indigenous Community in Indonesia," *Development in Practice*, October (2025): 1–14, <https://doi.org/10.1080/09614524.2025.2562478>.

⁶ Republic of Indonesia, The 1945 Constitution of the Republic of Indonesia, art. 18B(2).

⁷ Afif Syarifudin Yahya, "The Recognition and Protection of Indigenous Peoples' Rights within the Framework of Regional Autonomy in Indonesia," *Natapraja* 13, no. 2 (2025): 176–92, <https://doi.org/10.21831/natapraja.v13i2.84838>.

⁸ Bresca Merina and Tomy Bawulang, "Indigenous Leadership and Local Policy Implementation: Evidence From the Recognition of Indigenous Peoples Regulation in Teluk Bintuni, Indonesia," *Jurnal Bina Praja* 17, no. 3 (2025), <https://doi.org/10.21787/jbp.17.2025.2881>.

⁹ Rr Dewi Anggraeni, "Islamic Law and Customary Law in Contemporary Legal Pluralism in Indonesia: Tension and Constraints," *Ahkam: Jurnal Ilmu Syariah* 23, no. 1 (2023), <https://doi.org/10.15408/ajis.v23i1.32549>.

emerge through negotiation between fiqh, customary norms, and the changing social needs of the community.¹⁰ Indigenous Muslim communities should therefore not be viewed simply as customary communities that happen to be Muslim. They constitute plural normative communities in which state law, Islamic law, and customary law may simultaneously claim relevance while negotiating the boundaries of their respective authority.

The existence of these three legal orders, however, does not in itself produce institutional pluralism. A customary norm may remain socially embedded within a community while the institution responsible for applying it lacks a clearly recognised position within the governmental structure. Likewise, Islamic norms may possess substantial social legitimacy without automatically conferring public authority upon religious institutions. This distinction between normative coexistence and institutional recognition is therefore crucial. Studies of customary law in Indonesia demonstrate that its positivisation through state regulation may provide formal recognition while simultaneously defining and constraining the scope of its application.¹¹ Scholarship on living law has further warned that incorporating customary norms into the state legal system may freeze the dynamic character of customary law and transform it into a legal category subject to state control.¹² Formal recognition can consequently function as an instrument of empowerment, but it may also become a mechanism of state domestication of non-state law.

This problem demonstrates that the relationship between state law, Islamic law, and customary law cannot be adequately explained through the binary frameworks of conflict or harmonisation alone. The three legal orders derive their legitimacy from different sources and may be exercised through different institutions. State law derives authority from the Constitution and legislation; Islamic law derives normative legitimacy from religious sources and recognised forms of religious authority; while customary law derives its force from community acceptance and the continuity of social practice. When these legal orders regulate the same social matters, the legal questions become more complex: who is entitled to determine the applicable norm, which institution has authority to implement it, and how should conflicts of authority be resolved? Recent research on legal pluralism in Indonesia demonstrates that tensions among Islamic law, customary law, and state law remain evident in practice, including situations in which formal state institutions privilege particular normative frameworks over others.¹³ Legal pluralism is therefore not merely a matter of normative diversity, but also a question of the distribution of legal authority.

Local governance constitutes the most concrete arena in which these issues arise because it is at this level that different sources of legal legitimacy encounter the practical needs of community governance. Local governments exercise powers derived from state law, while customary institutions may perform functions of representation, mediation, social regulation, and community dispute resolution. Within Muslim communities, religious leaders and institutions may likewise influence the formulation and application of Islamic norms. Recent research on customary leadership and local policy

¹⁰ M. Abd Aziz et al., "Islamic Legal Pluralism and Localized Ijtihad in Rural Indonesia: Negotiating Madhhab, Custom, and Multicultural Muslim Life," *Mazahibuna: Jurnal Perbandingan Mazhab* 8, no. 1 (2026): 92–111, <https://doi.org/https://doi.org/10.24252/mazahibuna.vi.65263>.

¹¹ Nilna Aliyan Hamida, "Adat Law and Legal Pluralism in Indonesia: Toward A New Perspective?," *Indonesian Journal of Law and Society* 3, no. 1 (2022): 1, <https://doi.org/10.19184/ijls.v3i1.26752>.

¹² Utama, "Between Adat Law and Living Law: An Illusion of Customary Law Incorporation into Indonesia Penal System."

¹³ Utama.

implementation indicates that the effectiveness of indigenous recognition is significantly influenced by the institutional position of customary leaders and bodies within local governmental processes.¹⁴ Conversely, research on indigenous recognition in Indonesia demonstrates that fragmented governmental authority can generate uncertainty over which institution is empowered to recognise and regulate indigenous communities.¹⁵ Local governance is therefore not merely a site where state law is implemented; it is an institutional arena in which different legal orders negotiate their practical authority.

Despite the growing literature on legal pluralism in Indonesia, an important analytical gap remains. Existing studies have examined customary law as living law, the relationship between Islamic and customary law, and the recognition of indigenous communities within the state legal order.¹⁶ More recent scholarship has also questioned the formalisation of customary law and highlighted the risks that arise when the state transforms community-based norms into legally defined categories subject to administrative control.¹⁷ Nevertheless, scholarly attention has remained concentrated on coexistence, conflict, recognition, or the incorporation of legal norms, while comparatively less attention has been given to how different legal orders are institutionally organised within local governance. This gap matters because the existence of multiple normative orders does not, by itself, determine how authority should be allocated, how institutions should coordinate, or how jurisdictional boundaries should be established. The unresolved problem, therefore, is how legal pluralism can be institutionalised without eroding the normative and institutional character of non-state legal orders.

Against this background, this article examines how Islamic law, customary law, and state law interact and may be institutionalised within local governance among indigenous Muslim communities in Indonesia. It argues that legal pluralism cannot adequately be established through formal recognition of customary or Islamic norms alone. Legitimate pluralism requires institutional mechanisms capable of connecting recognition, authority, coordination, and legal boundaries. The article's principal contribution is to shift the understanding of legal pluralism from the coexistence of normative orders towards institutional coordination among legal orders. Within this framework, indigenous Muslim communities are not treated merely as subjects to be accommodated within state law, but as institutional actors within a plural legal order. The article consequently identifies three interconnected mechanisms through which pluralism can be institutionalised: recognition, which establishes the legal standing of different normative orders; coordination, which connects the authority of different institutions; and boundary-setting, which prevents institutional domination and jurisdictional overlap. This framework conceptualises local governance not as a site of legal uniformisation, but as an arena in which diverse sources of law can be organised through legitimate, accountable, and context-sensitive institutional arrangements.

¹⁴ Merina and Bawulang, "Indigenous Leadership and Local Policy Implementation: Evidence From the Recognition of Indigenous Peoples Regulation in Teluk Bintuni, Indonesia."

¹⁵ Rizki Jayuska et al., "The Ambiguous Authority of Provincial Governors in Customary Law Recognition: Regulatory Fragmentation in Indonesia's Decentralization Era," *Khazanah Hukum* 7, no. 2 (2025), <https://doi.org/10.15575/kh.v7i2.46367>.

¹⁶ Sartika Intaning Pradhani, "Pendekatan Pluralisme Hukum Dalam Studi Hukum Adat: Interaksi Hukum Adat Dengan Hukum Nasional Dan Internasional," *Undang: Jurnal Hukum* 4, no. 1 (2021), <https://doi.org/10.22437/ujh.4.1.81-124>.

¹⁷ Ardian Kurniawan et al., "Recolonizing Formal Restorative Justice: A Socio-Legal Critique of Indonesia's Shift from Customary Justice to State Law," *Diponegoro Law Review* 10, no. 2 (2025): 294–309, <https://doi.org/10.14710/dilrev.10.2.2025>.

Methodology

This study adopts a normative legal research design grounded in a doctrinal approach and complemented by legal pluralism and institutional analysis. The doctrinal approach is used to identify, interpret, and systematise the legal norms governing the status and authority of state law, Islamic law, and customary law in the context of indigenous Muslim communities in Indonesia.¹⁸ Normative legal research is concerned not with measuring legal behaviour empirically, but with examining law through authoritative and conceptual sources relevant to the legal questions under investigation.¹⁹ Since the study does not involve interviews, observations, surveys, or fieldwork, legal pluralism is employed as an analytical lens, rather than as an empirical research design.²⁰ This framework enables the study to examine how multiple normative orders acquire legal standing, interact with one another, and are delimited within a single legal and institutional structure.

The research materials comprise primary and secondary legal materials. Primary legal materials include the 1945 Constitution, legislation concerning indigenous peoples, regional and village governance, and other legal instruments relevant to the status of Islamic law and customary institutions. Secondary legal materials consist of peer-reviewed journal articles, scholarly books, and previous studies addressing legal pluralism, Islamic law, customary law, indigenous governance, and the relationship between state and non-state law. The materials were selected purposively on the basis of their legal and conceptual relevance, rather than their quantity alone. In doctrinal legal research, the selection and interpretation of legal materials should be directed towards their capacity to clarify the legal problem, construct a coherent legal argument, and substantiate the legal proposition advanced by the study.²¹ Accordingly, the materials were organised around four analytical dimensions: legal recognition, institutional authority, inter-institutional coordination, and jurisdictional boundaries.

The analysis proceeds through legal-institutional analysis of the three legal orders examined in this study. First, the study identifies the sources of legitimacy and the foundations of authority established by state law, Islamic law, and customary law. Second, it examines how state law recognises, delimits, or accommodates the authority of customary and Islamic legal institutions. Third, it identifies normative points of intersection at which the three legal orders regulate similar social matters and may generate overlapping claims of authority. Fourth, these relationships are examined through three analytical categories developed in this study: recognition, coordination, and boundary-setting. This approach is significant because legal pluralism concerns not only the existence of multiple normative orders but also the relationship between sources of legitimacy, institutions, and the authority to apply particular norms.²² The analysis therefore moves beyond the question of what laws coexist to the more institutional question of how legal authority is recognised, coordinated, and bounded.

¹⁸ P. Ishwara Bhat, *Idea and Methods of Legal Research*, *Idea and Methods of Legal Research*, 2020, <https://doi.org/10.1093/oso/9780199493098.001.0001>.

¹⁹ Mike McConville and Wing Hong Chui, eds., *Research Methods for Law*, 3rd ed. (Edinburgh: Edinburgh University Press, 2024).

²⁰ Tamanaha, *Legal Pluralism Explained: History, Theory, Consequences*.

²¹ Lisa Webley, "The Why and How to of Conducting a Socio-Legal Empirical Research Project," in *Routledge Handbook of Socio-Legal Theory and Methods*, 2019, <https://doi.org/10.4324/9780429952814-4>.

²² Hamida, "Adat Law and Legal Pluralism in Indonesia: Toward A New Perspective?"

Finally, the study develops an institutionalisation of legal pluralism framework through the interpretation and systematic analysis of the relevant legal materials. Recognition is understood as the legal basis through which non-state normative orders or institutions are accorded a recognised status; coordination refers to mechanisms through which the authority of different institutions can interact without eliminating their distinct sources of legitimacy; and boundary-setting concerns the delineation of jurisdictional limits to prevent overlapping or dominating claims of authority. The framework does not seek to homogenise Islamic, customary, and state law. Rather, it seeks to identify the normative and institutional conditions under which these legal orders may operate within a clearly defined and legally accountable distribution of authority. The analysis thus moves from a doctrinal examination of legal plurality towards a legal-institutional construction of how pluralism may be institutionalised within local governance among indigenous Muslim communities.²³

Findings and Discussion

From Legal Recognition to Institutional Authority: Repositioning Customary and Islamic Law

The central problem of legal pluralism in Indonesia is no longer whether customary law and Islamic law receive legal recognition, but what institutional consequences follow from such recognition. Article 18B(2) of the 1945 Constitution recognises and respects customary law communities and their traditional rights, yet conditions such recognition upon their continued existence, conformity with societal development, consistency with the principles of the Unitary State of the Republic of Indonesia, and further statutory regulation.²⁴ Constitutional recognition, therefore, does not necessarily amount to full recognition of the jurisdictional authority inherent in a customary community. Scholarship on the constitutionalisation of customary law likewise demonstrates that its trajectory remains shaped by the tension between legal pluralism and the enduring politics of legal unification.²⁵ The problem is consequently not simply a recognition deficit, but an institutional translation deficit: customary norms and identity may be formally recognised without that recognition being proportionately translated into institutional authority.

This distinction becomes particularly evident in the governance of indigenous communities. Kadaryanto, Kurniawan, and Burhanuddin demonstrate that the inclusion of indigenous communities within village autonomy policy remains predominantly administrative and has yet to produce substantive autonomy capable of overcoming structural marginalisation and the continuing dominance of state law.²⁶ Their finding is significant because it shifts the analytical question from whether indigenous communities are recognised to whether recognition generates enforceable institutional authority. Legal inclusion does not necessarily produce substantive autonomy; formal

²³ Utama, "Between Adat Law and Living Law: An Illusion of Customary Law Incorporation into Indonesia Penal System"; Griffiths, "What Is Legal Pluralism?"

²⁴ Republic of Indonesia, The 1945 Constitution of the Republic of Indonesia, arts. 18B(2) and 28I(3).

²⁵ Syahriza Alkohir Anggoro and Tunggul Anshari Setia Negara, "The Struggle for Recognition: Adat Law Trajectories under Indonesian Politics of Legal Unification," *International Journal on Minority and Group Rights* 29, no. 1 (2021), <https://doi.org/10.1163/15718115-bja10040>.

²⁶ Bagio Kadaryanto, Ardian Kurniawan, and Burhanuddin, "Reconstruction of Indigenous Community Inclusion in Village Autonomy Policy: Towards a Substantive Autonomy Model in Indonesia," *Al-Risalah: Forum Kajian Hukum Dan Sosial Kemasyarakatan* 25, no. 1 (2025): 1–19, <https://doi.org/10.30631/alrisalah.v25i1.1845>.

recognition may instead create a form of institutionally constrained pluralism in which indigenous communities are incorporated into state governance without acquiring a corresponding capacity to determine the scope and exercise of their own authority.²⁷ From this perspective, the effectiveness of legal pluralism cannot be assessed merely by the presence of customary law within legislation. It must also be assessed by whether institutions representing the community possess legally intelligible authority to determine, interpret, and exercise norms derived from their own normative order.

This problem resonates with contemporary international scholarship on Indigenous legal orders. McKerracher argues that the resurgence of Indigenous legal orders in Canada challenges the assumption that the state is the exclusive source of legal authority. At the same time, state recognition may create a paradox: once Indigenous law is incorporated through state legislation, its authority may appear to derive from the state rather than from the Indigenous community itself.²⁸ This reveals a fundamental tension in recognition through incorporation. Formal recognition may strengthen the visibility and institutional presence of non-state law, while simultaneously relocating the source of its legal authority towards the state. The consequence is what may be described as delegated pluralism: a form of pluralism in which non-state law is accommodated only insofar as the state determines the conditions under which it may operate. The Indonesian experience raises precisely this concern, although within a distinct constitutional and institutional setting.

Roughan provides a further conceptual basis for moving beyond a state-centred understanding of recognition. Rather than treating the relationship between state and Indigenous legal orders simply as one in which one legal order recognises another, she emphasises the possibility of interdependence between legal orders and the need to reconcile their respective claims to authority.²⁹ This perspective is particularly relevant to the present study because it reframes recognition as a relational institutional arrangement, rather than a unilateral act of state validation. The crucial question consequently becomes not merely whether the state recognises customary law, but how recognition structures the institutional relationship between the community, its legal institutions, and public authorities. Recognition that preserves no meaningful institutional space for the recognised community risks reproducing the very legal centralism that legal pluralism seeks to challenge.

The experience of Aotearoa New Zealand further demonstrates that the transition from recognition to effective authority depends substantially on institutional design. Examining the institutional arrangements governing the Waikato and Waipā Rivers, Clark, Fisher, and Macpherson show how co-governance and co-management arrangements can create greater space for Iwi authority, Māori law, self-determination, and Indigenous participation in public governance.³⁰ The significance of this experience does not lie in its direct transplantability to Indonesia, but in the institutional principle it

²⁷ Kadaryanto, Kurniawan, and Burhanuddin. The study explicitly calls for a shift from procedural autonomy towards substantive autonomy, grounded in recognition, subsidiarity, legal pluralism, stronger customary institutions, harmonised sectoral regulations, and fiscal reform.

²⁸ Kelty McKerracher, "Relational Legal Pluralism and Indigenous Legal Orders in Canada," *Global Constitutionalism* 12, no. 1 (2023), <https://doi.org/10.1017/S2045381722000193>.

²⁹ Nicole Roughan, "Plurality of Laws and Conflict of Laws: Reconciling Through Recognition?," in *Philosophical Foundations of Private International Law*, 2024, <https://doi.org/10.1093/oso/9780192858771.003.0011>.

³⁰ Cristy Clark, Karen Fisher, and Elizabeth Macpherson, "Indigenous Rights and Ontological Plurality in the Institutional Arrangements for the Waikato and Waipā Rivers in Aotearoa," *International Journal of Human Rights*, 2024, <https://doi.org/10.1080/13642987.2024.2361650>.

reveals: recognition acquires substantive meaning when it is translated into arrangements that determine who exercises authority, how decisions are made, and how Indigenous authority interacts with state authority.³¹ Institutional design therefore constitutes the critical bridge between formal recognition and effective authority. This insight strengthens the argument that legal pluralism should be assessed not merely through the coexistence of different normative orders, but through the institutional arrangements that determine how those orders acquire practical authority.

The Indonesian experience, however, demonstrates that institutionalisation can also operate in the opposite direction. Utama shows that the incorporation of adat as living law within Indonesia's criminal-law reform may appear to strengthen legal pluralism while simultaneously enabling the state to determine which customary norms qualify for legal recognition and application.³² Formalisation, therefore, does not necessarily expand autonomy. It may instead freeze otherwise dynamic customary practices and extend state control over community-based normative orders. This concern is reinforced by more recent scholarship on living law under Indonesia's new Criminal Code, which indicates that recognition of local norms continues to operate through criteria and procedures determined by the state.³³ The paradox is therefore clear: customary law may become more visible within positive law while becoming less autonomous in determining its own institutional boundaries.

These developments require a sharper distinction between normative existence, legal recognition, and institutional authority. These concepts should not be treated as interchangeable. A normative order may exist and possess internal legitimacy; the state may subsequently recognise that order; yet such recognition does not necessarily confer authority upon the institutions through which the community historically interprets and applies its norms. This distinction reveals the asymmetrical character of legal pluralism in Indonesia. Anggraeni's analysis of the interaction between customary and Islamic law, for example, demonstrates that customary norms may become marginalised when they encounter Islamic and state law within particular fields of legal regulation.³⁴ The implication is that legal pluralism does not necessarily produce institutional parity among legal orders. Rather, it may generate differentiated recognition, whereby different normative orders acquire different degrees and forms of institutional capacity.

The asymmetry becomes particularly apparent when customary law is considered alongside Islamic law. Islamic law has not been recognised as a single autonomous legal system standing wholly outside the state, but particular domains of Islamic law have acquired relatively stable institutional pathways through legislation and state institutions. The Religious Courts, for example, provide a formal judicial mechanism through which Islamic legal norms acquire juridical consequences within the national legal system. Legislation concerning marriage, zakat, waqf, pilgrimage, and halal product assurance likewise demonstrates how norms originating in Islamic legal traditions have

³¹ Clark, Fisher, and Macpherson. The study demonstrates that, despite implementation limitations, the institutional arrangements for the Waikato and Waipā Rivers can expand the space for Iwi authority, self-determination, Māori law, and legal pluralism.

³² Utama, "Between Adat Law and Living Law: An Illusion of Customary Law Incorporation into Indonesia Penal System."

³³ Maarten Manse, "The Plural Legacies of Legal Pluralism: Local Practices and Contestations of Customary Law in Late Colonial Indonesia," *Legal Pluralism and Critical Social Analysis* 56, no. 3 (2024), <https://doi.org/10.1080/27706869.2024.2377447>.

³⁴ Nikodemus Niko et al., "The Living Law in Indonesia's New Criminal Code: Legal Pluralism, Indigenous Autonomy, and the Risk of State Co-Optation," *Masalah-Masalah Hukum* 55, no. 1 (2026): 231–57, <https://doi.org/10.14710/mmh.55.1.2026.231-257>.

been translated into positive law through state legislative processes. Rokhmad identifies this process as a form of institutionalisation through which Islamic law operates not merely as a source of values but, in particular fields, as a source of law within national legal development.³⁵ Unlike customary law, whose institutional recognition frequently remains dependent upon administrative recognition of communities and their institutions, Islamic law in several domains has developed stable institutional channels through which its norms can be interpreted and applied.

The significance of this difference is not that Islamic law is institutionally superior to customary law, but that the two have undergone different trajectories of institutionalisation. Both possess sources of legitimacy that cannot be reduced to state authority, yet their access to formal institutional structures is not equivalent. Islamic law in particular fields has been channelled through relatively stable legislative and judicial institutions, whereas customary authority continues to confront questions concerning representation, recognition, jurisdiction, and the extent to which the state may determine its institutional boundaries.³⁶ Legal pluralism in Indonesia should therefore not be reduced to a binary opposition between state law and non-state law. The more consequential issue is the distribution of institutional authority among different legal orders.

The first finding of this study can therefore be formulated more precisely: legal recognition is institutionally consequential but not institutionally neutral. Recognition determines not only whether a normative order becomes visible within the legal system, but also who may act on its behalf, through which institutions, and within what jurisdictional boundaries. Recognition that is too weak produces marginalisation; recognition that is merely administrative may produce symbolic rather than substantive autonomy; while recognition wholly controlled by the state risks transforming legal pluralism into a new form of subordination of non-state law.³⁷ Accordingly, institutionalising legal pluralism requires a connection between recognition and institutional authority while preserving the internal legitimacy of each legal order. For indigenous Muslim communities, this means that customary and Islamic law should not merely be treated as normative traditions accommodated by the state. Their institutional positions must instead be examined in terms of how their respective authorities are recognised, enabled, and bounded within local governance. This finding leads directly to the next issue: once multiple legal authorities possess distinct forms of legitimacy and institutional standing, how can their interaction be coordinated without producing domination, conflict, or overlapping jurisdiction?

Coordinating Multiple Legal Authorities

Recognition of customary and Islamic law does not by itself determine how different sources of legal authority should operate when they occupy the same governance space. Indonesian village legislation recognises authority based on rights of origin and expressly provides customary villages with powers to administer matters

³⁵ Anggraeni, "Islamic Law and Customary Law in Contemporary Legal Pluralism in Indonesia: Tension and Constraints."

³⁶ Abu Rokhmad, "Institutions and Contributions to Islamic Law in Indonesia's Legal System," *Walisongo Law Review (Walrev)* 3, no. 1 (2021), <https://doi.org/10.21580/walrev.2021.3.1.7282>.

³⁷ Utama, "Between Adat Law and Living Law: An Illusion of Customary Law Incorporation into Indonesia Penal System"; McKerracher, "Relational Legal Pluralism and Indigenous Legal Orders in Canada"; Kadaryanto, Kurniawan, and Burhanuddin, "Reconstruction of Indigenous Community Inclusion in Village Autonomy Policy: Towards a Substantive Autonomy Model in Indonesia."

arising from those rights, including the management of customary affairs.³⁸ Such recognition, however, operates within the broader constitutional and statutory order of the Republic of Indonesia.³⁹ The resulting configuration is therefore neither a purely unitary legal system nor a collection of autonomous legal orders. It constitutes a plural institutional arrangement in which different authorities possess distinct sources of legitimacy but may exercise overlapping normative and jurisdictional claims.⁴⁰

Overlapping authority becomes legally significant when the same social relationship attracts rules from customary law, Islamic law, and state law. In inheritance, family relations, land, marriage, and community disputes, for example, normative claims may derive simultaneously from kinship-based customary rules, religious norms, and state legislation. Recent research on Indonesian legal pluralism demonstrates that such intersections may generate tension because customary, Islamic, and state law do not merely provide different substantive rules; they are also embedded in different institutional structures and mechanisms of adjudication.⁴¹ The resulting problem is therefore more precise than the conventional question of whether several legal orders coexist. It concerns which authority may determine the applicable norm, within what jurisdiction, through which procedure, and with what legal consequences.⁴²

Legal pluralism accordingly requires attention to the institutional relations through which legal orders interact. Shahar and Yefet's recent reconstruction of the field emphasises plurality, relationality, power, and agency as core premises of a pluri-legal perspective.⁴³ Their intervention is important because it moves legal-pluralism analysis away from a static description of multiple normative orders towards examination of the relationships among those orders and the power relations that shape their interaction.⁴⁴ In the Indonesian setting, such a relational perspective is particularly relevant because formal recognition of customary or religious norms does not necessarily alter the institutional distribution of authority between state and non-state actors.

Harmonisation therefore provides only a partial answer to the problem of legal plurality. Harmonising substantive rules may reduce normative contradiction, but harmonisation can also reproduce institutional hierarchy where the state remains the principal authority determining which customary or religious norms are legally acceptable.⁴⁵ The incorporation of customary law into formal legal systems illustrates this tension. Research on the Indonesian criminal-law reform process, for instance, shows that the recognition of living law may simultaneously expand the formal visibility of

³⁸ Republic of Indonesia, Law No. 6 of 2014 concerning Villages, arts. 103–104.

³⁹ Constitution of the Republic of Indonesia, 1945, arts. 18B(2), 28I(3).

⁴⁰ Michael Coyle, "E Pluribus Plures: Legal Pluralism and the Recognition of Indigenous Legal Orders," in *The Oxford Handbook of Global Legal Pluralism*, 2020, <https://doi.org/10.1093/oxfordhb/9780197516744.013.5>; Dwight Newman, "Indigenous Rights and Intrastate Multijuridicalism," in *The Oxford Handbook of Global Legal Pluralism*, ed. Paul Schiff Berman (Oxford: Oxford University Press, 2020), <https://doi.org/10.1093/oxfordhb/9780197516744.013.6>.

⁴¹ Anggraeni, "Islamic Law and Customary Law in Contemporary Legal Pluralism in Indonesia: Tension and Constraints."

⁴² Anggraeni.

⁴³ Ido Shahar and Karin Carmit Yefet, "Rethinking the Rethinking of Legal Pluralism: Toward a Manifesto for a Pluri-Legal Perspective," *Law and History Review* 42, no. 2 (2024), <https://doi.org/10.1017/S0738248023000184>.

⁴⁴ Shahar and Yefet. The authors specifically identify plurality, relationality, power, and agency as core premises of a pluri-legal perspective.

⁴⁵ Shane Chalmers, "Law's Pluralism: Getting to the Heart of the Rule of Law," *Law, Culture and the Humanities* 17, no. 2 (2021), <https://doi.org/10.1177/1743872117707276>; Coyle, "E Pluribus Plures: Legal Pluralism and the Recognition of Indigenous Legal Orders."

customary law and subject its validity and operation to state-defined criteria and procedures.⁴⁶ Formal incorporation can thus produce recognition without necessarily producing institutional parity. Normative accommodation and institutional equality are not equivalent outcomes.

A stronger analytical basis emerges from relational legal pluralism. McKerracher argues that relations between state and Indigenous legal orders cannot adequately be organised through one-sided state recognition. Distinct legal orders may instead mutually constitute their relationship through reciprocal recognition, while retaining their own internal status as law.⁴⁷ Such an approach is particularly relevant to the present study because it challenges the assumption that recognition must necessarily flow from a single sovereign centre. More importantly, it introduces the concept of linkage norms—tertiary rules that establish relationships among legal orders and make reciprocal interaction, jurisdictional coordination, and shared authority possible.⁴⁸

The significance of linkage norms lies precisely in their ability to address a problem that conventional recognition frameworks leave unresolved. Recognition answers whether a legal order or institution is acknowledged; linkage norms address how recognised authorities are to relate to one another. McKerracher's analysis identifies reciprocal recognition, jurisdictional boundaries, and mechanisms for shared decision-making as practical questions that arise once multiple legal authorities are taken seriously.⁴⁹ The conceptual contribution is therefore not to create a hierarchy among legal orders, but to provide an institutional grammar through which different authorities can determine when and how their respective decisions interact.⁵⁰

Legal entanglement provides a complementary explanation for why such institutional mechanisms are necessary. Von Benda-Beckmann's analysis of Indonesia, Nepal, and Thailand demonstrates that legal orders do not necessarily remain discrete normative domains; they become intertwined through processes of translation, negotiation, adaptation, and institutional practice.⁵¹ Law in such settings is consequently produced through interactions among different normative and institutional formations rather than through the operation of one legal system in isolation. Pluralism is therefore not merely a condition of coexistence; it is also a condition of interaction. Once interaction becomes the object of analysis, institutional mechanisms connecting different authorities become analytically indispensable.

Indonesian customary governance illustrates the institutional consequences of this entanglement. Law No. 6 of 2014 provides a legal basis for customary villages to exercise authority derived from rights of origin, while simultaneously situating those authorities within the national village-governance framework.⁵² The arrangement creates legal space for customary institutions but does not, by itself, comprehensively specify how

⁴⁶ Utama, "Between Adat Law and Living Law: An Illusion of Customary Law Incorporation into Indonesia Penal System."

⁴⁷ McKerracher, "Relational Legal Pluralism and Indigenous Legal Orders in Canada."

⁴⁸ McKerracher. McKerracher expressly connects linkage norms with tertiary rules of recognition and reciprocal relations among legal orders.

⁴⁹ McKerracher.

⁵⁰ McKerracher.

⁵¹ Keebet von Benda-Beckmann, "Trajectories of Legal Entanglement Examples from Indonesia, Nepal, and Thailand," *Legal Pluralism and Critical Social Analysis* 54, no. 1 (2022), <https://doi.org/10.1080/27706869.2022.2056372>.

⁵² Republic of Indonesia, Law No. 6 of 2014 concerning Villages, arts. 103–105. The statutory framework provides that customary villages exercise authority based on rights of origin while administering those powers according to the principle of diversity.

customary decisions should relate to decisions or procedures administered by state institutions and other normative authorities. Recent research on Indigenous inclusion in village autonomy reaches a related conclusion: formal recognition under the Village Law remains insufficient where indigenous participation, institutional capacity, resource access, and the practical position of customary institutions within the national governance structure remain constrained.⁵³

The distinction between recognition and effective authority consequently becomes central. Kadaryanto, Kurniawan, and Burhanuddin argue that Indigenous inclusion should move beyond procedural recognition towards a model of substantive autonomy grounded in recognition, subsidiarity, legal pluralism, stronger customary institutions, regulatory reform, and institutional support.⁵⁴ Their argument identifies an important institutional deficit: recognition may confer formal status without providing the conditions necessary for that status to produce meaningful autonomy. The present analysis extends that insight by identifying inter-authority coordination as an additional condition of substantive autonomy. A customary institution cannot exercise meaningful authority if its decisions remain institutionally disconnected from the state institutions through which legal recognition, administration, adjudication, or enforcement are ultimately organised.

Islamic legal authority introduces another layer of institutional complexity. Islamic law in Indonesia possesses formal channels of recognition through legislation and state institutions, while religious norms and authorities also operate through social and community structures beyond the formal state apparatus.⁵⁵ The interaction between Islamic and customary law is therefore not reducible to a conflict between two sets of substantive rules. Research on Indonesian inheritance law, for example, shows that customary kinship structures may come into tension with Islamic and state law, with judicial and institutional practices affecting which normative order ultimately prevails.⁵⁶ The issue is consequently one of institutional translation and authority allocation: how claims grounded in Islamic and customary legitimacy enter decision-making processes structured by state law.

Aceh provides a particularly important illustration because state law, Islamic law, and customary law have been institutionally accommodated within a single jurisdiction. Recent research characterises this arrangement primarily in terms of legal harmonisation, demonstrating the possibility of institutional coexistence among the three normative orders.⁵⁷ Yet the harmonisation approach leaves a further analytical question insufficiently developed: what institutional mechanisms govern the relationship among the authorities that represent these different legal orders? Harmonisation concerns the compatibility of norms; coordination concerns the allocation, sequencing, recognition, and limitation of institutional authority. The distinction matters because compatible norms can still be administered through asymmetric institutional relationships.

⁵³ Kadaryanto, Kurniawan, and Burhanuddin, "Reconstruction of Indigenous Community Inclusion in Village Autonomy Policy: Towards a Substantive Autonomy Model in Indonesia."

⁵⁴ Kadaryanto, Kurniawan, and Burhanuddin. The study explicitly links substantive autonomy to recognition, subsidiarity, legal pluralism, institutional strengthening, and broader structural support.

⁵⁵ Nasaruddin Umar et al., "Reproduction of Islamic Law in The Era of Globalization and Pluralism," *Jurnal Hukum Dan Peradilan* 12, no. 3 (2023), <https://doi.org/10.25216/jhp.12.3.2023.629-654>.

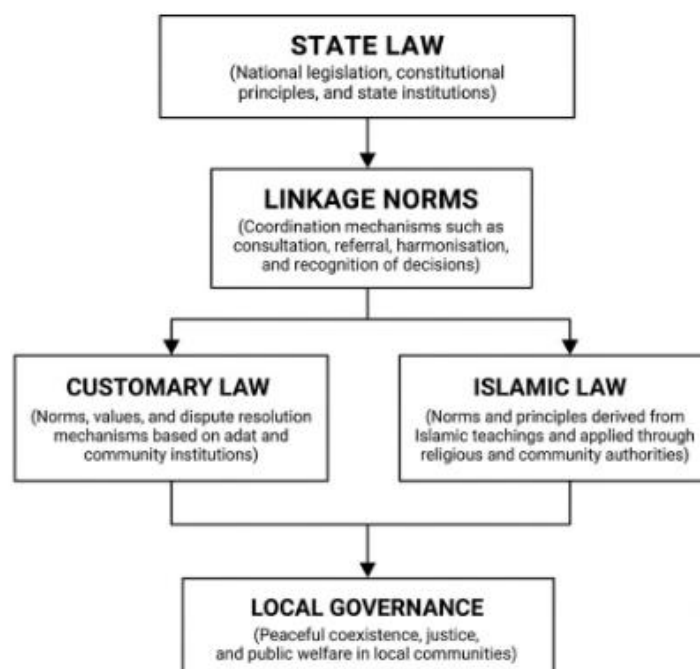
⁵⁶ Anggraeni, "Islamic Law and Customary Law in Contemporary Legal Pluralism in Indonesia: Tension and Constraints."

⁵⁷ Mursyid Djawas et al., "Harmonization of State, Custom, and Islamic Law in Aceh: Perspective of Legal Pluralism," *Hasanuddin Law Review* 10, no. 1 (2024), <https://doi.org/10.20956/halrev.v10i1.4824>.

A coordination framework must therefore address at least four institutional questions. First, jurisdictional delimitation must establish the substantive and territorial boundaries within which each authority may legitimately act.⁵⁸ Secondly, institutional referral is required where a matter exceeds one authority's competence or simultaneously engages more than one legal order.⁵⁹ Thirdly, reciprocal recognition and deference are necessary where a decision generated within one normative order is expected to have significance within another.⁶⁰ Fourthly, constitutional safeguards must establish limits on plural authority where fundamental rights, equality, due process, or legal certainty are implicated.⁶¹ These mechanisms do not require legal orders to become identical. Their function is to make difference institutionally governable.

Taken together, these mechanisms indicate that legal pluralism should be understood not only as the coexistence of different normative orders, but also as an institutional arrangement requiring coordination among their respective authorities. The central issue is therefore how these authorities manage overlapping competencies, cross-normative decisions, and contested legal authority. The framework below conceptualises such coordination through the interaction of state, Islamic, and customary authorities, connected by linkage norms.

Figure 1. Coordination of Multiple Legal Authorities



Source: Developed by the authors by adapting the relational legal pluralism framework, particularly the concepts of reciprocal recognition, linkage norms, and jurisdictional coordination.

⁵⁸ McKerracher, "Relational Legal Pluralism and Indigenous Legal Orders in Canada." The study explicitly raises questions concerning jurisdictional boundaries and overlapping jurisdiction in plural legal environments.

⁵⁹ McKerracher.

⁶⁰ McKerracher.

⁶¹ McKerracher.

Figure 1 captures the principal analytical proposition of this subsection. State law, customary law, and Islamic law are not represented as equivalent institutions or as elements of a single hierarchy. Linkage norms occupy the connecting space through which their respective authorities can interact. Recognition establishes an authority's legal or institutional standing; coordination determines how that authority operates in relation to other authorities.⁶² The distinction provides a more precise way of conceptualising institutionalised legal pluralism because it identifies the relationship among authorities as a separate object of legal regulation.

Substantive autonomy consequently requires more than the recognition of customary institutions. It also requires mechanisms through which customary authority can interact with the wider legal system without being reduced to an administrative extension of state authority.⁶³ The same principle applies to Islamic authority where religious norms intersect with customary institutions and state-administered legal processes. Institutional coordination should not therefore be understood as assimilation. Its purpose is to create structured reciprocity without eliminating normative distinctiveness. McKerracher's account is instructive here: reciprocal recognition allows different legal orders to maintain their own internal sources of legitimacy while creating the conditions necessary for shared authority and coordinated jurisdiction.⁶⁴

The institutional implications extend beyond Indonesia. Comparative scholarship on Indigenous legal orders demonstrates that recognition becomes substantively meaningful only when legal systems possess mechanisms capable of mediating their interaction rather than merely acknowledging their existence. Coyle's analysis of Indigenous legal orders similarly stresses the importance of mechanisms that mediate between state and Indigenous norms without presuming that Indigenous governance must conform entirely to state conceptions of law.⁶⁵ Newman, likewise, frames Indigenous rights within states as raising questions of intrastate multijuridicalism, where the recognition of multiple legal systems requires institutional arrangements capable of managing their coexistence.⁶⁶ These perspectives reinforce the argument that the central institutional problem of legal pluralism is not simply the recognition of normative diversity, but the design of relationships among authorities operating within the same constitutional space.

Legal pluralism thus becomes institutionally sustainable when plurality is accompanied by mechanisms governing inter-authority relations. Recognition without coordination may leave customary and Islamic institutions formally visible but substantively dependent, while unrestricted plurality may generate jurisdictional uncertainty and competing claims to authority.⁶⁷ A relational architecture offers a different possibility: state, customary, and Islamic authorities may retain distinct sources of legitimacy while operating within legally defined relationships of jurisdiction, referral, recognition, and constitutional accountability.

⁶² McKerracher. McKerracher distinguishes external recognition from shared authority and argues that mutual recognition can make shared authority, coordination of jurisdictions, and other operational arrangements possible.

⁶³ Kadaryanto, Kurniawan, and Burhanuddin, "Reconstruction of Indigenous Community Inclusion in Village Autonomy Policy: Towards a Substantive Autonomy Model in Indonesia."

⁶⁴ McKerracher, "Relational Legal Pluralism and Indigenous Legal Orders in Canada."

⁶⁵ Coyle, "E Pluribus Plures: Legal Pluralism and the Recognition of Indigenous Legal Orders."

⁶⁶ Newman, "Indigenous Rights and Intrastate Multijuridicalism."

⁶⁷ Utama, "Between Adat Law and Living Law: An Illusion of Customary Law Incorporation into Indonesia Penal System"; Kadaryanto, Kurniawan, and Burhanuddin, "Reconstruction of Indigenous Community Inclusion in Village Autonomy Policy: Towards a Substantive Autonomy Model in Indonesia."

The resulting analytical shift is from the plurality of laws to the governance of plural authority. That shift constitutes the central finding of this subsection. Existing scholarship has established the importance of recognition, legal pluralism, substantive autonomy, and harmonisation; the present analysis connects these strands by identifying coordination as the missing institutional layer between recognition and effective plural governance.⁶⁸ The proposition is consequently more specific than a general call for legal pluralism: institutionalised pluralism requires linkage mechanisms capable of translating recognition into structured inter-authority relations.

Institutionalisation therefore becomes the next analytical step. Once recognition is distinguished from coordination, and coordination is understood through concrete linkage mechanisms, the remaining question concerns the form that such an institutional architecture should take within local governance. The final subsection develops that architecture by bringing together recognition, jurisdictional allocation, reciprocal institutional relations, procedural safeguards, and constitutional accountability. The objective is not to construct another hierarchy in which customary and Islamic law remain subordinate to state law, but to formulate a governance arrangement in which legal plurality can operate through structured institutional reciprocity rather than unregulated competition or unilateral state incorporation.

Institutionalising Legal Pluralism: Toward a Relational Governance Model

Legal recognition of customary and Islamic authority does not automatically produce meaningful legal pluralism. Indonesia's constitutional framework recognises customary communities and their traditional rights, while the Village Law provides a statutory basis for customary villages to exercise authority derived from rights of origin.⁶⁹ Yet recognition remains embedded within the national legal order and does not by itself determine how customary, Islamic, and state authorities should interact when their jurisdictions overlap.⁷⁰ The central problem therefore shifts from whether multiple legal authorities are recognised to how their authority is institutionally organised.

That distinction is important because formal recognition may coexist with institutional dependency. Recent research on indigenous inclusion in Indonesian village autonomy finds that recognition under the Village Law remains largely administrative and that procedural autonomy does not necessarily produce substantive autonomy. The study proposes recognition, subsidiarity, legal pluralism, institutional strengthening, regulatory harmonisation, and fiscal reform as foundations for substantive autonomy.⁷¹ The present study extends this argument by identifying a further institutional condition: autonomy must also possess a relational dimension. An institution cannot exercise meaningful autonomy merely because its existence is recognised; it must also have legally intelligible mechanisms for interacting with other authorities operating within the same governance space.

Relational legal pluralism provides the conceptual basis for this extension. Shahar and Yefet conceptualise legal pluralism not as a single explanatory theory but as a

⁶⁸ Shahar and Yefet, "Rethinking the Rethinking of Legal Pluralism: Toward a Manifesto for a Pluri-Legal Perspective"; McKerracher, "Relational Legal Pluralism and Indigenous Legal Orders in Canada."

⁶⁹ Republic of Indonesia, The 1945 Constitution of the Republic of Indonesia, art. 18B(2); Republic of Indonesia, Law No. 6 of 2014 concerning Villages, arts. 96–110.

⁷⁰ Kadaryanto, Kurniawan, and Burhanuddin, "Reconstruction of Indigenous Community Inclusion in Village Autonomy Policy: Towards a Substantive Autonomy Model in Indonesia."

⁷¹ Kadaryanto, Kurniawan, and Burhanuddin.

perspective attentive to plurality, relationality, power, and agency.⁷² McKerracher develops this relational orientation further by arguing that state and Indigenous legal orders can be understood through reciprocal recognition rather than unilateral incorporation, with linkage norms providing mechanisms through which distinct legal orders can establish relationships without losing their respective normative identities.⁷³ The implication for Indonesia is significant: institutionalising legal pluralism requires rules governing relationships among legal authorities, not merely rules recognising their existence.

Legal entanglement reinforces this proposition. Different legal orders rarely operate as isolated systems; they may be translated, negotiated, adapted, and reconstructed through institutional practice. Von Benda-Beckmann's analysis of Indonesia and other Southeast Asian settings demonstrates how state, religious, and local legal orders become historically intertwined rather than simply coexist as separate normative spheres.⁷⁴ Consequently, a governance model based solely on identifying which law applies risks overlooking the institutional processes through which competing or complementary legal claims are converted into decisions. The relevant unit of analysis is therefore not only the legal norm, but the relationship between the authorities that interpret and apply it.

Such a relationship requires more than general commitments to harmonisation. Harmonisation primarily addresses consistency between legal rules, whereas institutionalised pluralism must also address allocation of authority, procedural interaction, recognition of decisions, and constitutional accountability. Scholarship on Indigenous legal orders similarly demonstrates that recognition within a state-centred framework can remain asymmetrical when the state retains exclusive control over the conditions under which non-state law becomes legally effective.⁷⁵ The institutional challenge is consequently to avoid two opposite outcomes: hierarchical incorporation, in which customary and Islamic authority become subordinate extensions of state administration, and jurisdictional fragmentation, in which different authorities operate without mechanisms for resolving overlap.

A relational governance model addresses this problem through five mutually reinforcing elements: recognition, jurisdictional allocation, institutional linkage, reciprocal recognition, and constitutional accountability. Recognition establishes institutional standing; jurisdictional allocation clarifies the domain of legitimate authority; institutional linkage connects procedures and decisions across legal orders; reciprocal recognition prevents one-sided validation of authority; and constitutional accountability establishes the limits within which plural authority may operate.⁷⁶ Together, these elements transform legal pluralism from a condition of normative diversity into a structured mode of governance.

⁷² Shahar and Yefet, "Rethinking the Rethinking of Legal Pluralism: Toward a Manifesto for a Pluri-Legal Perspective."

⁷³ McKerracher, "Relational Legal Pluralism and Indigenous Legal Orders in Canada." McKerracher develops reciprocal recognition and linkage norms as mechanisms for relations between state and Indigenous legal orders.

⁷⁴ Benda-Beckmann, "Trajectories of Legal Entanglement Examples from Indonesia, Nepal, and Thailand."

⁷⁵ Coyle, "E Pluribus Plures: Legal Pluralism and the Recognition of Indigenous Legal Orders"; Newman, "Indigenous Rights and Intrastate Multijuridicalism."

⁷⁶ Republic of Indonesia, The 1945 Constitution of the Republic of Indonesia, arts. 28D, 28I

Table 1. From Legal Recognition to Relational Governance

Dimension	Recognition-centred approach	Relational governance approach	Institutional outcome
Legal status	Recognition of customary/religious authority	Recognition of distinct and legitimate authority	Institutional standing
Jurisdiction	Predominantly state-defined	Delimitation and coordination of jurisdictions	Reduced jurisdictional conflict
Institutional relations	Hierarchical incorporation	Linkage and structured interaction	Coordinated authority
Decision-making	Predominantly unilateral	Reciprocal recognition and referral	Inter-authority cooperation
Autonomy	Procedural or formal autonomy	Substantive and relational autonomy	Meaningful self-governance
Accountability	State-centred legality	Constitutional and rights-based accountability	Legitimate plural governance
Overall architecture	Managed legal plurality	Relationally institutionalised pluralism	Sustainable local governance

Source: Developed by the authors by synthesising the relational legal pluralism framework, Indigenous multijuridicalism, legal-entanglement perspective, and substantive-autonomy approach.

The table makes the principal theoretical move of this study explicit. Recognition is treated as the starting condition, not the institutional endpoint. Existing scholarship has convincingly established the importance of recognising Indigenous and customary authority and has increasingly questioned purely procedural models of autonomy.⁷⁷ The contribution developed here is to connect that literature with relational legal pluralism and to argue that substantive autonomy becomes institutionally viable only when recognised authorities are connected through predictable mechanisms of jurisdiction, referral, reciprocal recognition, and accountability.

Jurisdictional allocation is therefore not simply a technical exercise in drawing boundaries. It determines whether different authorities can coexist without continuously competing for the same decision-making space. McKerracher's analysis of relational legal pluralism identifies jurisdictional coordination as one of the practical implications of reciprocal recognition among legal orders.⁷⁸ A comparable principle can be applied to Indonesian local governance: customary authority should neither be presumed to possess unlimited jurisdiction nor treated as legally irrelevant whenever state

⁷⁷ Kadaryanto, Kurniawan, and Burhanuddin, "Reconstruction of Indigenous Community Inclusion in Village Autonomy Policy: Towards a Substantive Autonomy Model in Indonesia"; Coyle, "E Pluribus Plures: Legal Pluralism and the Recognition of Indigenous Legal Orders"; Newman, "Indigenous Rights and Intrastate Multijuridicalism."

⁷⁸ McKerracher, "Relational Legal Pluralism and Indigenous Legal Orders in Canada."

institutions are present. Defined jurisdiction allows plurality to remain distinct without becoming fragmented.

Institutional linkage provides the mechanism through which those jurisdictions interact. Referral procedures, consultation, joint deliberation, recognition of decisions, and other forms of institutional communication can connect authorities where a matter crosses normative or jurisdictional boundaries. The importance of such mechanisms follows directly from the concept of linkage norms, which McKerracher presents as rules capable of establishing reciprocal relationships between distinct legal orders.⁷⁹ Their significance in the Indonesian context lies in creating a middle position between state absorption and institutional isolation. Customary and Islamic authorities can remain institutionally distinctive while participating in a wider legal order through defined relational mechanisms.

Reciprocal recognition further changes the direction of legal authority. Under a conventional state-centred model, recognition generally flows from the state towards customary or religious institutions. A relational model asks instead how different authorities can recognise each other's legitimate institutional space while remaining subject to constitutional constraints.⁸⁰ Such reciprocity does not imply identical legal status or unlimited equality of jurisdiction. It means that the existence of state authority does not automatically extinguish the authority of other legally recognised orders, just as customary or religious authority cannot automatically displace constitutional law.

Constitutional accountability supplies the necessary boundary. Article 18B(2) of the 1945 Constitution recognises customary communities and their traditional rights subject to conditions established by the Constitution and legislation.⁸¹ The recognition of legal plurality must therefore operate alongside equality, human rights, legal certainty, and due process.⁸² This prevents relational governance from becoming a justification for unreviewable customary or religious authority. Pluralism is sustainable precisely because institutional autonomy is accompanied by constitutional responsibility.

The resulting model also extends the concept of substantive autonomy developed in recent Indonesian scholarship. Kadaryanto, Kurniawan, and Burhanuddin demonstrate that substantive autonomy requires more than formal inclusion and should be grounded in recognition, subsidiarity, legal pluralism, institutional strengthening, regulatory reform, and fiscal support.⁸³ The present model adds relational capacity to that framework: the institutional capacity to exercise recognised authority while maintaining legally structured relationships with state and other non-state authorities. This addition is consequential because autonomy without relational capacity may produce isolation, whereas coordination without autonomy may reproduce subordination.

The novelty of the model therefore lies not in claiming that legal pluralism, customary recognition, or Indigenous autonomy are new concepts. Those propositions are well established.⁸⁴ Novelty emerges from their institutional synthesis. The study

⁷⁹ McKerracher.

⁸⁰ McKerracher.

⁸¹ Republic of Indonesia, The 1945 Constitution of the Republic of Indonesia, art. 18B(2); Republic of Indonesia, Law No. 6 of 2014 concerning Villages, arts. 96–110.

⁸² Republic of Indonesia, The 1945 Constitution of the Republic of Indonesia, arts. 28D, 28I.

⁸³ Kadaryanto, Kurniawan, and Burhanuddin, "Reconstruction of Indigenous Community Inclusion in Village Autonomy Policy: Towards a Substantive Autonomy Model in Indonesia."

⁸⁴ Coyle, "E Pluribus Plures: Legal Pluralism and the Recognition of Indigenous Legal Orders"; Newman, "Indigenous Rights and Intrastate Multijuridicalism"; McKerracher, "Relational Legal Pluralism and

proposes that the movement from recognition to substantive legal pluralism requires an intermediate architecture of relational governance:

Recognition → Jurisdictional allocation → Institutional linkage → Reciprocal recognition → Constitutional accountability → Relationally institutionalised legal pluralism.

This sequence should not be understood as a rigid linear process. Rather, the elements operate as mutually reinforcing institutional conditions. Recognition without jurisdiction produces uncertainty; jurisdiction without linkage produces fragmentation; linkage without reciprocal recognition risks hierarchy; and recognition without constitutional accountability risks arbitrary authority. Relational governance becomes meaningful only when these elements operate together.

The model consequently reframes the central question of legal pluralism in local governance. Instead of asking which legal order should prevail, the analysis asks how legally distinct authorities can govern within the same constitutional space without either domination or fragmentation. That reframing moves the discussion beyond the descriptive identification of legal plurality towards the institutional design of plural governance. It also provides a more precise conceptual bridge between legal pluralism and substantive autonomy: legal pluralism supplies the recognition of plurality, substantive autonomy supplies the capacity for self-governance, while relational governance supplies the institutional architecture connecting them.

For Indonesia's indigenous Muslim communities, such an architecture is particularly relevant because customary and Islamic authority may overlap within the same social and institutional environment. Their relationship with state law should therefore not be reduced to a binary choice between incorporation and resistance. A relational model permits differentiated authority within a shared constitutional framework, allowing customary institutions and Islamic normative authority to retain meaningful institutional space while remaining connected to state governance through defined procedures and accountability mechanisms.

The principal contribution of this subsection, therefore, is the proposition that institutionalised legal pluralism is not achieved by adding customary and Islamic law to the existing state legal order, but by redesigning the relationships through which their respective authorities interact. Recognition provides the legal foundation; coordination provides the operational mechanism; relational governance provides the institutional architecture. Such an approach offers a basis for moving Indonesian local governance from symbolic recognition toward substantive, accountable, and relationally structured pluralism.

Conclusion

Legal pluralism in Indonesia cannot be effectively institutionalised through formal recognition alone. The analysis demonstrates that recognition of customary and Islamic legal authority remains insufficient when the legal order provides no clear mechanisms for allocating jurisdiction, coordinating institutions, and recognising decisions across different normative authorities. The central challenge is therefore not the existence of multiple legal orders, but the institutional relationship among them.

This study proposes relational governance as an institutional framework for addressing that challenge. The model connects recognition, jurisdictional allocation, institutional linkage, reciprocal recognition, and constitutional accountability. Together,

Indigenous Legal Orders in Canada"; Shahar and Yefet, "Rethinking the Rethinking of Legal Pluralism: Toward a Manifesto for a Pluri-Legal Perspective."

these elements move legal pluralism from a condition of normative coexistence towards a structured form of governance in which state, customary, and Islamic authorities can retain differentiated institutional roles while operating within a shared constitutional framework.

The principal contribution of the study lies in extending the debate on substantive autonomy by introducing its relational dimension. Meaningful autonomy requires not only recognition and institutional capacity, but also the capacity to engage with other legal authorities through predictable and accountable mechanisms. Recognition without coordination risks symbolic pluralism; coordination without autonomy risks renewed subordination; and autonomy without accountability risks institutional fragmentation. Relational governance seeks to overcome these tensions by connecting autonomy with coordination and constitutional responsibility.

Accordingly, strengthening legal pluralism in Indonesia requires a shift from state-centred recognition towards institutionally structured relationships among legal authorities. Future legal and policy reforms should therefore prioritise clear jurisdictional arrangements, inter-institutional referral and coordination mechanisms, reciprocal recognition of legitimate authority, and constitutional safeguards for rights and equality. Such reforms would provide a more sustainable foundation for integrating Islamic and indigenous legal authority into local governance without reducing either to mere extensions of state law.

Declarations:

Author Contributions

Hasbi Umar contributed to the conceptualisation, research design, methodology, investigation, analysis, and drafting of the manuscript. Burhanuddin contributed to the conceptual development, analysis, interpretation of findings, critical revision, and refinement of the manuscript. Both authors reviewed and approved the final version of the manuscript.

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All legal materials, legislation, scholarly literature, and other secondary materials analysed in this research are fully cited in the manuscript and are publicly accessible through the sources identified in the references. No confidential or restricted empirical dataset was used.

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