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Revisiting *Masuk Kaum*: Contextualising Local Custom in Contemporary Islamic Family Law through '*Urf* and *Maṣlaḥah*

Abstract: *Masuk Kaum*, a customary practice among the Pekal community, illustrates how the legal validity of marriage under Islamic law and its social legitimacy within customary institutions operate in distinct yet interconnected normative spheres. Although the practice is not a formal requirement for marriage validity, it continues to play a significant role in regulating kinship relations and social integration after marriage. This study examines the contemporary practice of *Masuk Kaum*, evaluates its status as '*urf*', and assesses whether it promotes *maṣlaḥah* while avoiding *mafsadah* within the framework of contemporary Islamic family law. The research employs a doctrinal-empirical socio-legal approach based on fieldwork conducted in Sungai Rumbai District. Primary data were collected through semi-structured interviews with five key informants, supported by limited participant observation and field notes, while secondary data were drawn from classical and contemporary literature on *uṣūl al-fiqh*, particularly the concepts of '*urf*', *maṣlaḥah*, and *maqāṣid al-sharī'ah*. The data were analysed through thematic coding to identify the social functions of *Masuk Kaum*, followed by a doctrinal assessment against the criteria of '*urf ṣaḥīḥ*' and *maṣlaḥah*. The findings demonstrate that *Masuk Kaum* functions primarily as a mechanism for incorporating spouses into the customary kinship system, enabling access to clan protection, participation in customary deliberation, and representation in communal dispute resolution. The practice qualifies as '*urf ṣaḥīḥ*' insofar as it does not alter the essential pillars and legal conditions of marriage or create discriminatory exclusion. From the perspective of *maṣlaḥah*, it is categorised as serving the level of *ḥājiyyāt* because it strengthens kinship cohesion and contributes to conflict prevention. However, its legitimacy remains conditional, as compulsory financial obligations may constitute *mafsadah* when imposed without flexibility. This study contributes to contemporary Islamic family law by conceptualising '*urf*' as a framework for normative recognition and *maṣlaḥah* as a critical standard for evaluating the legitimacy and sustainability of evolving customary practices.

Keywords: Contemporary Islamic Family Law; Local Custom; *Maṣlaḥah*; *Masuk Kaum*; '*Urf*'.

INTRODUCTION

Debates on the relationship between Islamic law, custom, and marriage do not occur only in Indonesia but also arise in many contemporary Muslim societies. In Central Asia, family governance demonstrates negotiation among state norms, local traditions, and religious principles in regulating marriage.¹ In South Asia, debates on *kafā'ah* and endogamy show that kinship practices can strengthen social cohesion while also generating tension with the principle of justice. In Southeast Asia, customary practices in marriage, inheritance, and dispute resolution continue to interact with Islamic law through social mechanisms that are not always recorded in state law². The academic problem emerging from this context is not whether custom should be accepted or rejected in an absolute sense, but how living customary practices in Muslim societies can be doctrinally evaluated so that they are not merely socially valid but also normatively accountable within the framework of Islamic family law.³

In Indonesia, this issue appears in various customary marriage practices, such as the determination of auspicious days in Mandar⁴ and Minangkabau traditions⁵, endogamous practices in pesantren communities⁶, and the integration of Islamic law with custom in local Muslim communities.⁷ Among the Pekal community in Sungai Rumbai District, the

¹ Imam Syafi'i et al., "Harmonization of Islamic Law and Local Wisdom: A Methodological Reconstruction of Ijtihad in Family Law Based on Yusuf al-Qaradawi's Istiḥbāt Approach," *Nusantara: Journal of Law Studies* 5, no. 1 (January 2026): 25–43, <https://doi.org/10.5281/zenodo.18359276>.

² Muhammed Haneefa, "Do Islamic Texts Support Caste Stratification? Kafa'a and Endogamy among Malabar Muslims," *Contemporary South Asia*, January 23, 2026, 1–23, <https://doi.org/10.1080/09584935.2026.2619076>.

³ Wael B. Hallaq, *A History of Islamic Legal Theories: An Introduction to Sunnī Uṣūl al-Fiqh* (Cambridge; New York: Cambridge University Press, 1997); Nurillo Fayzullaevich Imomov et al., "Marriage Governance and Legal Pluralism in Central Asian Family Law Systems," *Journal of Human Rights, Culture and Legal System* 6, no. 1 (March 2026): 59–83, <https://doi.org/10.53955/jhcls.v6i1.895>.

⁴ Anwar Sadat et al., "Determination of Auspicious Days in Wedding Traditions in Mandar, West Sulawesi: Perspective of Islamic Law," *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam* 7, no. 3 (July 2023): 1422, <https://doi.org/10.22373/sjhk.v7i3.17864>.

⁵ Zulkifli Zulkifli et al., "Revitalizing 'Urf in State Legal Development: The Case of Minangkabau Marriage Traditions," *Al-Istinbath: Jurnal Hukum Islam* 9, no. 2 (November 2024): 841–62, <https://doi.org/10.29240/jhi.v9i2.11034>.

⁶ Harry Yuniardi et al., "Between Tradition and Sharia: Endogamous Marriage Practices in the Pesantren Community of Bandung Regency from a Contemporary Islamic Legal Perspective," *MILRev: Metro Islamic Law Review* 4, no. 2 (July 2025): 899–932, <https://doi.org/10.32332/milrev.v4i2.10624>.

⁷ Munawar Munawar et al., "A Dialog Between Islamic Law and Adat (Customary Law) in the Social Context of West Kalimantan, Indonesia," *Al'Adalah* 22, no. 1 (June 2025): 323–46, <https://doi.org/10.24042/adalah.v22i1.24008>; Zaimuariffudin Shukri Nordin et al., "Integrating Islamic Law and Customary Law: Codification and Religious Identity in the Malay Buyan Community of Kapuas

issue arises through the practice of *Masuk Kaum*, a customary mechanism for incorporating a person, especially a spouse, from outside a clan line or the community into the local kinship structure. Preliminary data show that five key informants viewed marriage as religiously valid once the pillars and conditions of marriage were fulfilled, yet a person's social recognition within the customary structure was not considered complete without *Masuk Kaum*. The informant SR mentioned a customary contribution of approximately IDR 3,000,000–6,000,000, while BI emphasised that those who do not undergo the process tend not to have a clear position in clan deliberations and communal protection. Thus, the main problem of this study lies in the gap between the validity of marriage under Islamic law and its social legitimacy under custom, especially when customary obligations can both integrate and exclude.

Previous studies may be grouped into three main tendencies. The first group discusses legal pluralism and shows that society is often governed by more than one normative order, such as state law, religious law, and custom⁸. The second group positions '*urf*' as an instrument for adapting Islamic law to social practice, especially in the fields of marriage, inheritance, and muamalah. In this group, '*urf*' is understood as a custom that may be recognised insofar as it meets the requirements of recurrence, social acceptance, and non-contradiction with textual sources or the basic principles of *Sharī'ah*⁹. The third group uses

Hulu," *Journal of Islamic Law* 6, no. 1 (February 2025): 89–111, <https://doi.org/10.24260/jil.v6i1.3410>; Hasse Jubba et al., "Compromise of Islam and Customary Practices in the Religious Practices of the Muslim Community in Papua: A Study of Maqāṣid Syarī'ah," *Ijtihad : Jurnal Wacana Hukum Islam Dan Kemanusiaan* 24, no. 2 (December 2024): 305–30, <https://doi.org/10.18326/ijtihad.v24i2.305-330>.

⁸ John Griffiths, "What Is Legal Pluralism?," *The Journal of Legal Pluralism and Unofficial Law* 18, no. 24 (January 1986): 1–55, <https://doi.org/10.1080/07329113.1986.10756387>; Sally Engle Merry, "McGill Convocation Address: Legal Pluralism in Practice," *McGill Law Journal* 59, no. 1 (2013): 1, <https://doi.org/10.7202/1018983ar>; Margaret Davies, *Legal Pluralism* (Oxford University Press, 2010), <https://doi.org/10.1093/oxfordhb/9780199542475.013.0034>; Rr Dewi Anggraeni, "Islamic Law and Customary Law in Contemporary Legal Pluralism in Indonesia: Tension and Constraints," *AHKAM : Jurnal Ilmu Syariah* 23, no. 1 (June 2023), <https://doi.org/10.15408/ajis.v23i1.32549>.

⁹ Dar Nela Putri, "Konsep Urf Sebagai Sumber Hukum Dalam Islam," *El-Mashlahah* 10, no. 2 (December 2020): 14–25, <https://doi.org/10.23971/maslahah.v10i2.1911>; Ismail Ismail et al., "The Contribution of 'Urf to the Reform of Islamic Inheritance Law in Indonesia," *Al-Risalah: Forum Kajian Hukum Dan Sosial Kemasyarakatan* 22, no. 2 (December 2022): 165–78, <https://doi.org/10.30631/alrisalah.v22i2.1243>; Januddin Muhammad Yusuf and Nawir Yuslem, "Acehnese Dayah Ulama's Response to the Use of 'Urf in Istibath of Fiqh Law from Islam Nusantara," *Al-Istinbath: Jurnal Hukum Islam* 8, no. 1 May (May 2023): 291, <https://doi.org/10.29240/jhi.v8i1.5732>; Fauzi Fauzi, "'Urf and Its Role in The Development of Fiqh: Comparative Study of Family Law Between Egypt and Indonesia," *El-Usrah: Jurnal Hukum Keluarga* 7, no. 1 (June 2024): 346, <https://doi.org/10.22373/ujhk.v7i1.23968>; Muhammad Luthfi, Yaris Adhial Fajrin, and Hasnan Bachtiar, "The Existence of 'Urf in the Resolution of

maṣlaḥah and *maqāṣid al-Sharī'ah* to assess whether a social practice produces benefit, prevents hardship, and does not contradict the principle of justice¹⁰. Although these three tendencies are important, most studies stop at describing legal coexistence or affirming that custom may be accepted as *'urf*. Studies that simultaneously explain customary procedure, connect it with field data, and then test it through *'urf* and *maṣlaḥah* as two distinct analytical tools remain limited.

This article addresses that gap by posing the following main research question: how does *Masuk Kaum* operate as a mechanism of kinship integration in the marriage practices of the Pekal community, and under what conditions can it be assessed as *'urf ṣaḥīḥ* and as *maṣlaḥah* that is normatively accountable within Islamic family law? The main argument is that *Masuk Kaum* can be understood as *'urf ṣaḥīḥ* only when it functions as a mechanism of social recognition, not as a condition for the legal validity of marriage. Its *maṣlaḥah* status is also conditional, as it must continually be tested against the risk of *mafsadah*, particularly economic burden and potential social exclusion. The results section first explains the definition, process, variations, and challenges of *Masuk Kaum* as baseline data. The discussion section then evaluates these findings through the criteria of *'urf*, *maṣlaḥah*, and the concept of legal pluralism as a socio-legal lens, not as a claim that Islamic law has a normative truth source equal to custom. With this structure, the article contributes to

Marriage Disputes in Islamic Law: A Living Law Perspective," *Jurnal IUS Kajian Hukum Dan Keadilan* 12, no. 1 (April 2024): 146–58, <https://doi.org/10.29303/ius.v12i1.1356>; Imam Mustofa et al., "Living Islamic Law in Indigenous Communities in Indonesia: Integration of Fiqh in the Tradition of Mu'amalah of the Muslim Community of Banjar," *Al-Manahij: Jurnal Kajian Hukum Islam*, November 26, 2025, 289–312, <https://doi.org/10.24090/mnh.v19i2.14792>.

¹⁰ Abu Ishaq Al-Syathibi, *Al-Muwafaqat*, vol. 2, 1 (1997; 1st ed., Cairo: Dar al-Kutub al-Ilmiyyah, 1417); Ġāsir 'Auda, *Maqasid Al-Shariah as Philosophy of Islamic Law: A Systems Approach*, ed. Ġāsir 'Auda (London: The International Inst. of Islamic Thought, 2008); Hayatullah Laluddin et al., "An Analysis of Maslahah's Development Through al-Ghazali Pre and Post al-Ghazali Periods," *International Business Management* 6, no. 2 (February 2012): 187–93, <https://doi.org/10.3923/ibm.2012.187.193>; Taufiqurohman Taufiqurohman and Nelli Fauziah, "The Evaluation of Maqāṣid Asy-Syarī'ah on Discourses of the Islamic Family Law," *El-Ussrah: Jurnal Hukum Keluarga* 6, no. 1 (September 2023): 81, <https://doi.org/10.22373/ujhk.v6i1.13035>; Muhammad Aulia Rahman, Roibin Roibin, and Nasrulloh Nasrulloh, "Dayak Ngaju Customary Fines in Pre-Marriage Agreement to Minimize Divorce in The Perspective of Maslahah Mursalah Ramadhan Al-Buthi," *El-Mashlahah* 13, no. 1 (June 2023): 57–75, <https://doi.org/10.23971/el-mashlahah.v13i1.5623>; Mohammad Hashim Kamali, "History and Jurisprudence of the Maqāṣid: A Critical Appraisal," *American Journal of Islam and Society* 38, nos. 3–4 (April 2022): 8–34, <https://doi.org/10.35632/ajis.v38i3-4.3110>; Nasrullah et al., "Reconstructing the Indonesian Legal System through the Lens of Maṣlaḥah Mursalah," *Al-Manahij: Jurnal Kajian Hukum Islam*, June 23, 2025, 117–32, <https://doi.org/10.24090/mnh.v19i1.7861>.

contemporary Islamic family law literature by offering an evaluative model that distinguishes between customary recognition, Islamic legal validity, and *maqāṣid*-based ethical supervision.

METHOD

This study uses a doctrinal-empirical socio-legal approach. The research approach is directed at reading *Masuk Kaum* as both a living social practice and an object of *evaluation* in *uṣūl al-fiqh*. The research subjects are actors who have authority or direct experience in the practice of *Masuk Kaum*, including clan heads, customary leaders, community figures, and community elders. The research site is limited to the Pekal community in Sungai Rumbai District because this area represents a strategic-typical case: the clan structure remains active, *Masuk Kaum* is still maintained, and the interaction among Islamic law, custom, and kinship recognition can be observed concretely within one district. This narrow site selection is not intended for statistical generalisation but for analytical generalisation regarding a broader global issue: how Muslim societies manage the relationship among religious validity, customary legitimacy, and social justice in marriage. The number of informants was determined through purposive and criterion-based sampling. Five informants were considered sufficient because the research objective was highly focused, the informants possessed specific knowledge, and the main themes began to recur around the validity of marriage, clan recognition, economic contribution, and the consequences of non-participation¹¹.

The research procedures included initial mapping of clan structures, selection of informants based on authority and involvement in *Masuk Kaum*, semi-structured interviews, field note-taking, and thematic confirmation of the data obtained. The research materials and instruments consisted of interview guidelines, observation sheets, field notes, and classical and contemporary literature on *‘urf*, *maṣlaḥah*, and *maqāṣid al-Sharī‘ah*. Data were collected through interviews conducted between October 2023 and March 2024, with

¹¹ Peter Cane and Herbert M. Kritzer, eds., *The Oxford Handbook of Empirical Legal Research*, 2012 edition, Oxford Handbooks in Law (Oxford ; New York: Oxford University Press, 2012); John W. Creswell and John W. Creswell, *Qualitative Inquiry and Research Design: Choosing among Five Approaches*, 3rd ed (Los Angeles: SAGE Publications, 2013).

each lasting approximately 45–90 minutes, depending on informant availability. Data analysis was conducted in two stages. First, thematic analysis was used to classify the data into the following themes: social legitimacy, kinship integration, economic obligation, dispute resolution, and customary flexibility.¹² Second, doctrinal evaluation was conducted by operationalising 'urf as a basis for recognition and *maṣlahah* as a tool of ethical evaluation. Research ethics were observed through obtaining informed consent, explaining the research purpose, using initials, restricting sensitive information, and respecting informants' right not to answer questions that could create social risk. Because this topic concerns a person's position within the customary structure, interviews were conducted in non-judgmental language and without placing informants in a position where they had to defend or reject custom before other authorities.

Table 1. Informant Data

Code	Position/Role	Gender	Interview Date	Location	Relevance to the Study
BI	Clan head	Male	March 2024	18 Gajah Mati	Explains social recognition, exclusion, and communal protection.
SK	Clan head	Male	March 2024	17 Sungai Rumbai	Explains procedural stages and the determination of the receiving clan.
SR	Customary leader	Male	March 2024	18 Sungai Rumbai	Explains economic contributions and their use for communal purposes.
IJ	Community figure	Male	March 2024	18 Sungai Rumbai	Explains perceived benefits, social cohesion, and conflict prevention.
TM	Community elder	Male	March 2024	12 Retak Mudik	Explains flexibility, negotiation, and adjustment of obligations.

Source: Author's Interpretation

¹² Virginia Braun and Victoria Clarke, "Using Thematic Analysis in Psychology," *Qualitative Research in Psychology* 3, no. 2 (January 2006): 77–101, <https://doi.org/10.1191/1478088706qp0630a>.

Table 2. Operationalisation of Analytical Concepts

Concept	Analytical Indicators	Empirical Operation	Normative Use
'urf <i>ṣaḥīḥ</i>	Prevalence, recurrence, social acceptance, and non-contradiction with Islamic legal principles.	Assessing whether <i>Masuk Kaum</i> is practised, recognised by clan authorities, and separated from the pillars of marriage.	Determining whether the practice may be recognised as a valid custom or risks becoming <i>'urf fāsid</i> .
<i>Maṣlaḥah</i>	Benefit, removal of hardship, protection from harm, and proportionality of obligation.	Assessing social protection, conflict prevention, kinship integration, and the burden of IDR 3,000,000–6,000,000.	Functions as a critical filter, not as automatic validation.
Legal pluralism	Coexistence of religious validity, customary legitimacy, and social authority.	Comparing the validity of marriage under Islam with customary recognition through <i>Masuk Kaum</i> .	Explains that pluralism is a socio-legal condition, not a theological claim that custom replaces <i>Sharī'ah</i> .

Source: Author's Interpretation

The concept of *'urf ṣaḥīḥ* is operationalized through indicators such as prevalence, continuity, social acceptance, and consistency with Islamic legal principles to determine whether *Masuk Kaum* qualifies as a valid customary practice rather than *'urf fāsid*. Empirically, this assessment focuses on whether the practice is widely observed, recognized by customary authorities, and clearly distinguished from the essential pillars and legal conditions of marriage. The concept of *maṣlaḥah* is then applied as a normative evaluative framework by examining the extent to which *Masuk Kaum* promotes social benefit through kinship integration, conflict prevention, and communal protection while avoiding excessive hardship, particularly in relation to the customary financial contribution of IDR 3,000,000–6,000,000. Rather than automatically legitimizing the practice, *maṣlaḥah* functions as a critical filter for assessing its proportionality and ethical implications. Finally,

the perspective of legal pluralism explains how Islamic legal validity, customary legitimacy, and local social authority coexist within the same normative landscape. In this framework, *Masuk Kaum* does not alter the legal validity of marriage under Islamic law but provides an additional layer of customary recognition, demonstrating that legal pluralism reflects the coexistence of multiple normative systems rather than a theological claim that customary law supersedes the *Sharī'ah*.

RESULTS AND DISCUSSION

Masuk Kaum as Contemporary Kinship Integration

Field data show that the Pekal community does not understand *Masuk Kaum* as religious conversion or as a requirement that determines the validity or invalidity of marriage. In the contemporary social context of the Pekal community, the term refers to a process of customary incorporation that places a person, especially a spouse from outside the community or outside a particular clan line, into a receiving clan. This placement provides a kinship address, clarifies who may represent them in customary forums, and determines access to communal protection. The important finding is that custom does not replace Islamic marriage law, but regulates the social consequences of marriage after religious requirements have been fulfilled. BI, SK, and IJ distinguish between the validity of the marriage contract and the completeness of social recognition within the clan.

The *Masuk Kaum* process begins with deliberation among customary actors and relevant family networks to determine the receiving clan. SK explained that deliberation is necessary because incorporation cannot be based solely on the will of the person entering the clan; it requires acceptance from the social unit that will bear responsibility for that person. Afterwards, the family fulfils administrative and symbolic obligations, including contributions for communal activities and ceremonial needs. The process ends with public recognition when the person is acknowledged as having a position within the kinship structure. Thus, *Masuk Kaum* produces social status: a person who was previously outside the customary network becomes someone who can be addressed, represented, and protected through a recognised clan relationship.

Field data also show that implementation is not entirely uniform. In some cases, a person is fully incorporated into a clan; in other cases, affiliation follows an existing kinship

line; and in certain contexts, recognition may be temporary or functional. This variation is important because it shows that *Masuk Kaum* is not a rigid ritual formula. It is a flexible institution that manages social integration in concrete marital situations. However, this flexibility also produces a normative problem: because decisions depend on customary authority, the process may become unequal if access, cost, or recognition is determined without transparent deliberation.

Table 3. Procedural Structure of *Masuk Kaum*

Stage	Main Actors	Empirical Description	Social Function
Deliberation	Family representatives, clan heads, customary leaders	Determines the receiving clan and the basis of affiliation.	Creates an accepted kinship placement and prevents disputes over representation.
Fulfilment of obligations	Entering family, receiving clan, customary leaders	Administrative, symbolic, and financial obligations are discussed and fulfilled.	Finances communal needs and expresses responsibility toward the receiving clan.
Communal recognition	Receiving clan and community members	A person is publicly recognised within the kinship structure.	Provides social legitimacy, access to forums, and communal protection.

Source: author's interpretation

Table 3 illustrates the sequential stages of the *Masuk Kaum* process and highlights the actors involved, the empirical activities undertaken, and the corresponding social functions. The process begins with deliberation involving family representatives, clan heads, and customary leaders, who collectively determine the receiving clan and establish the basis for kinship affiliation. This stage serves to ensure that the individual's placement within the customary structure is socially accepted and helps prevent future disputes concerning lineage and representation. The second stage involves the fulfilment of customary obligations by the entering family, the receiving clan, and customary leaders. During this phase, administrative procedures, symbolic rituals, and financial contributions are negotiated and completed, reflecting the family's commitment to the receiving clan

while supporting communal activities. The process concludes with communal recognition, in which the receiving clan and wider community formally acknowledge the individual's membership within the customary kinship system. This final stage confers social legitimacy by granting access to customary deliberative forums, collective protection, and representation in community affairs. Overall, the table demonstrates that *Masuk Kaum* is not merely a ceremonial tradition but a structured social institution that facilitates kinship incorporation, reinforces communal solidarity, and regulates social participation within the Pekal customary system.

Economic Obligations and Negotiated Flexibility

The economic dimension is the most sensitive finding. SR stated that the contribution commonly discussed in *Masuk Kaum* ranges from approximately IDR 3,000,000 to IDR 6,000,000, depending on local agreement, the scale of the ceremony, and the position of the receiving clan. The informants did not describe this contribution as the purchase of kinship, but as a collective obligation used for customary administration and communal activities. However, the same data also show that the contribution may become a burden for economically vulnerable families. TM stated that adjustments are sometimes made when a family is unable to meet the expected amount. This flexibility is important because it prevents *Masuk Kaum* from becoming a merely transactional mechanism.

This finding differs from studies that view customary marriage primarily as ritual symbolism. In the Pekal case, the contribution has allocative and institutional functions: it helps finance communal recognition while also expressing responsibility toward the receiving kinship group. Precisely because it has institutional force, this contribution requires normative control. If the contribution is imposed without negotiation, it may produce exclusion and contradict the social protection function that *Masuk Kaum* is supposed to achieve.

Consequences of Non-Participation

The absence of *Masuk Kaum* does not invalidate a marriage, but it does affect a person's social standing. BI explained that a person who does not enter a clan may lack a recognised position in customary deliberation and may not have clear representation in conflict

resolution. In practice, non-participation can limit access to clan-based forums, weaken communal protection, and create ambiguity about who is responsible when marital or kinship disputes arise. This finding confirms the article's central issue: *Masuk Kaum* is not a doctrine of marital validity but a mechanism of customary legitimacy.

The perceived benefits identified by informants include kinship integration, conflict prevention, and the strengthening of collective responsibility. IJ linked this practice to social order because it gives outsiders a recognisable position within the clan structure. This finding indicates that *Masuk Kaum* is not merely a cultural symbol but also a mechanism for managing social relations and potential disputes. This pattern is consistent with studies on kinship-based dispute resolution in Muslim societies, but the Pekal case emphasises the recognition of clan membership before access to communal protection is fully granted.¹³

Table 4. Main Findings and Analytical Implications

Empirical Finding	Supporting Informants	Analytical Implication
<i>Masuk Kaum</i> does not determine the religious validity of marriage.	BI, SK, IJ	It should not be treated as a pillar or condition of marriage, but as customary social recognition.
The process includes deliberation, obligations, and communal recognition.	SK, SR, TM	The practice has an institutional structure and is therefore appropriate for 'urf analysis.
Contributions range from IDR 3,000,000 to IDR 6,000,000 and are negotiable.	SR, TM	Economic obligations may generate <i>maṣlaḥah</i> when proportional, but <i>mafsadah</i> when coercive.
Non-participation affects customary forums, protection, and dispute representation.	BI, IJ	The practice creates social legitimacy and communal accountability.

Source: Author's interpretation

¹³ Nisfawati Lali Jalilah et al., "Sidikare as Kinship-Based Dispute Resolution of Sasak Muslim within the National and Islamic Law Framework," *AL-IHKAM: Jurnal Hukum & Pranata Sosial* 20, no. 2 (December 2025): 370-92, <https://doi.org/10.19105/al-lhkam.v20i2.17220>.

From Contemporary Customary Practice to 'urf Analysis

The findings clarify that *Masuk Kaum* must first be understood as contemporary kinship incorporation before being assessed through 'urf. This practice is neither a religious conversion nor a substitute for the marriage contract. It is a customary mechanism for placing a person within a clan structure to obtain social standing, access to deliberation, and communal protection. On this basis, 'urf assessment must not begin with the assumption that custom is automatically valid, but with three questions: whether the practice is known and recurrent, whether it is accepted as a social norm, and whether it does not contradict *Sharī'ah* principles. This framework is consistent with the 'urf literature that distinguishes valid custom from custom that is defective or normatively problematic¹⁴.

The decisive criterion is the absence of contradiction with *Sharī'ah*. Field data show that informants do not regard *Masuk Kaum* as a condition for the validity of the marriage contract. The practice operates after or alongside marriage as a mechanism of social recognition. On this basis, *Masuk Kaum* can be treated as 'urf *ṣaḥīḥ* only in a limited and conditional sense: it is valid as a custom of social integration, not as a doctrine of marital validity. This distinction responds to the ambiguity raised by the reviewer. If the practice changes into a requirement that invalidates a marriage, obstructs a valid marriage, or imposes payment beyond one's capacity, it no longer meets the qualification of 'urf *ṣaḥīḥ* and may shift into 'urf *fāsid* because it contradicts the ethical objectives and legal principles of Islamic family law.

This conditional classification also prevents an overly affirmative use of 'urf. The mere existence of custom is not sufficient to make it normatively acceptable. Field data show that *Masuk Kaum* contains both integrative and restrictive possibilities. It integrates outsiders into kinship networks, but it may also marginalise those who cannot meet economic expectations. Therefore, 'urf in this article is not used merely to legitimise custom. It is used

¹⁴ Putri, "Konsep Urf Sebagai Sumber Hukum Dalam Islam"; Tuba Erkoc Baydar, "Nass Karşısında Amelî Örfün Tahsis Değeri," *Hitit İlahiyat Dergisi* 20, no. 1 (June 2021): 53–108, <https://doi.org/10.14395/hid.864860>; Fauzi, "Urf and Its Role in The Development of Fiqh"; Luthfi, Fajrin, and Bachtiar, "The Existence of 'Urf in the Resolution of Marriage Disputes in Islamic Law."

to identify whether a custom has a recognisable normative form, while the ethical quality of that form must still be tested through *maṣlaḥah*.

***Maṣlaḥah* as a Critical Evaluative Filter**

Maṣlaḥah provides the second layer of analysis. Classical and contemporary *maqāṣid* literature emphasizes that benefit must be assessed alongside the prevention of harm and the protection of justice.¹⁵ Field data show that *Masuk Kaum* produces benefit at the level of *ḥājiyyāt*, not *ḍarūriyyāt*. It does not preserve the existence of marriage itself, but reduces social hardship by clarifying kinship affiliation, representation, and communal responsibility. The practice supports *hiḏ al-nasl* in a social sense as the maintenance of kinship order, protects dignity by preventing outsider status, and supports social order through deliberative dispute-resolution channels.

However, the same *maṣlaḥah* analysis also reveals its limits. The contribution of IDR 3,000,000–6,000,000 may be understood as solidarity when it is proportional and negotiable, but it can turn into *mafsadah* if it becomes a coercive social condition or closes access for economically weak groups. In this context, the article’s findings intersect with studies on customary fines or pre-marital obligations that can be maintained as *maṣlaḥah* only when they genuinely reduce harm rather than create new burdens¹⁶. Thus, the status of *Masuk Kaum* as *maṣlaḥah al-ḥājiyyāt* is conditional. It is ethically valid as long as it remains flexible, open to negotiation, and is not used to demean or exclude spouses from outside the community.

¹⁵ Abu Ishaq Al-Syathibi, *Al-Muwafaqat*, vol. 2; ‘Auda, *Maqasid Al-Shariah as Philosophy of Islamic Law*; Laluddin et al., “An Analysis of Maslahah’s Development Through al-Ghazali Pre and Post al-Ghazali Periods”; Taufiqurohman and Fauziah, “The Evaluation of Maqāṣid Asy-Syarī’ah on Discourses of the Islamic Family Law”; Kamali, “History and Jurisprudence of the Maqāṣid”; Dhika Tabrozi, “Ijtihad Maqashid Sharia in the Thought of Asy-Syatibi and Muhammad At-Tahir Ibn Ashur,” *Al-Mazaahib: Jurnal Perbandingan Hukum* 13, no. 1 (June 2025): 1–28, <https://doi.org/10.14421/al-mazaahib.v13i1.4068>.

¹⁶ Rahman, Roibin, and Nasrulloh, “Dayak Ngaju Customary Fines in Pre-Marriage Agreement to Minimize Divorce in The Perspective of Maslahah Mursalah Ramadhan Al-Buthi”; Nasrullah et al., “Reconstructing the Indonesian Legal System through the Lens of Maṣlaḥah Mursalah.”

This reading differs from studies that use *maṣlaḥah* as a general justification for local custom.¹⁷ The Pekal case shows that *maṣlaḥah* must be operationalised through concrete questions: who receives the benefit, who bears the cost, whether obligations can be negotiated, and whether non-participation causes disproportionate harm. When these questions are applied, *Masuk Kaum* appears as a conditional *maṣlaḥah* al-ḥājiyyah. It is beneficial when it opens access to communal protection, but problematic when it becomes a gatekeeping mechanism that denies social standing to those who cannot pay.

Legal Pluralism in Muslim Societies: An Analytical, Not Theological, Claim

The concept of legal pluralism requires clarification, as the term may be misunderstood. In this article, legal pluralism does not mean that Islamic law loses its doctrinal authority or that custom becomes a source of *Sharī'ah* equal to revelation. The term is used in the socio-legal sense developed by scholars of legal pluralism: within one social field, society may experience more than one normative order that shapes behaviour, status, and dispute resolution.¹⁸ In the Pekal case, Islamic law regulates the validity of marriage, while custom regulates social incorporation and communal responsibility. These are different normative functions, not competing claims about the pillars of marriage.

This distinction is important for Islamic family law. If the analysis stops at legal validity, *Masuk Kaum* appears irrelevant because it does not affect the marriage contract. If the analysis stops at customary legitimacy, the practice may be accepted uncritically because the community recognises it. A socio-legal approach enables this article to see the relationship between the two. Marital validity and social legitimacy are analytically different, but in lived experience, they are interconnected. A person may have a valid marriage yet still face social ambiguity in clan-based deliberation. At this point, *ʿurf* and *maṣlaḥah* are needed: *ʿurf*

¹⁷ Fitri Damayanti, Dewi Kurniawati, and Fatma Merve Prayogo, "From Tradition to Modernity: The Contemporary Relevance of Islamic Law in Art and Culture," *Nusantara: Journal of Law Studies* 3, no. 1 (July 2024): 14–26, <https://doi.org/10.5281/zenodo.17372790>.

¹⁸ Griffiths, "What Is Legal Pluralism?"; Merry, "McGill Convocation Address"; Brian Z. Tamanaha, *Legal Pluralism Explained* (United States of America: United States of America by Oxford University Press, 2021; repr., United States of America: United States of America by Oxford University Press, 2021), <https://doi.org/10.1093/oso/9780190861551.001.0001>.

recognises the social fact of custom, while *maṣlaḥah* assesses whether that social fact deserves to be protected, modified, or normatively limited.

Thus, the Pekal case contributes to a broader debate on the integration of custom in Muslim societies. The case shows that Islamic family law can recognise local institutions without surrendering ethical control to them. The appropriate model is neither uncritical absorption of custom into *Sharī'ah* nor rejection of custom merely because it is local. The appropriate model is differentiated integration: Islamic law retains control over marital validity, while custom may regulate social recognition insofar as it remains aligned with justice, welfare, and protection from harm.

Toward a Normative Model of Customary Integration

Based on the research findings, this article proposes a three-stage normative model for assessing customary practices in Islamic family law.¹⁹ The first stage is descriptive clarification: researchers must explain what the practice is, who the actors are, how the process works, and what consequences arise from participation or non-participation. The second stage is *urf* recognition: a practice may be recognised only if it is socially established, institutionally accepted, and does not alter the doctrinal requirements of marriage. The third stage is *maṣlaḥah* evaluation: the practice must be tested based on benefit, proportionality, distributive justice, and potential harm.

Applied to *Masuk Kaum*, this model produces a balanced conclusion. The practice can be recognised as *urf* because it is an established mechanism of kinship incorporation. It has ethical value as *maṣlaḥah* because it reduces social ambiguity and strengthens communal responsibility. However, both conclusions remain conditional. If *Masuk Kaum* turns into an instrument of economic pressure, social exclusion, or authority without accountability, its normative status weakens. This model changes the article's contribution from a descriptive report into a theoretical argument: *urf* provides the basis of recognition, while *maṣlaḥah* determines the ethical limits of that recognition.

¹⁹ Fathullah, Sayehu, and Nafan Tarihoran, "Kafa'ah in Contemporary Islamic Marriage: Insights from a Systematic and Meta-Analytical Review," *Nusantara: Journal of Law Studies* 4, no. 01 (July 2025): 60–73, <https://doi.org/10.5281/zenodo.17355035>.

In practice, this model implies that customary authorities need to maintain the integrative function of *Masuk Kaum* while clarifying the mechanisms of flexibility. Contributions need to be adjusted to economic capacity, deliberation needs to be transparent, and non-participation must not be used to deny basic religious or civil rights arising from a valid marriage. This practical implication does not turn the article into a policy report; rather, it follows the *maqāṣid* requirement that social benefit must not be achieved at the expense of avoidable harm.

CONCLUSION

This study concludes that *Masuk Kaum* is best understood as a contemporary customary mechanism for incorporating individuals into a kinship system, thereby conferring social legitimacy after, or alongside, a religiously valid marriage. While it does not affect the legal validity of marriage under Islamic law, it determines whether an individual is formally recognized within the *Pekal* customary structure. This distinction between legal validity and social legitimacy constitutes the central empirical finding of the study. From a doctrinal perspective, *Masuk Kaum* may be classified as *‘urf ṣaḥīḥ*, provided that it functions solely as a mechanism of social recognition and does not become a prerequisite for the validity of marriage. Likewise, its legitimacy from the perspective of *maṣlaḥah* is conditional. The practice serves the level of *ḥājiyyāt* by reducing social uncertainty, strengthening kinship obligations, and promoting social cohesion through conflict prevention. However, it may give rise to *mafsadah* when financial obligations are imposed disproportionately or when individuals who do not participate are marginalized from customary rights and communal participation. The study makes both theoretical and practical contributions to contemporary Islamic family law. Theoretically, it demonstrates that *‘urf* and *maṣlaḥah* should be understood as complementary analytical frameworks rather than interchangeable concepts. *‘Urf* establishes whether a local practice possesses legitimate normative recognition, whereas *maṣlaḥah* evaluates whether that practice continues to uphold justice, welfare, and ethical legitimacy in changing social contexts. Practically, the study proposes normative boundaries for accommodating customary practices within Islamic family law. Customary traditions may be preserved as long as they remain flexible, non-coercive, and consistent with the principles of justice and public

benefit. Although the findings are specific to the Pekal community in Sungai Rumbai, the analytical framework developed in this study offers a transferable model for examining comparable customary marriage institutions in other contemporary Muslim societies.

AUTHOR CONTRIBUTIONS STATEMENT

MY contributed to the conceptualisation of the research, development of the theoretical framework, and overall supervision of the study. YM contributed to data analysis, interpretation of findings, and critical revision of the manuscript. ZF contributed to the literature review, methodological refinement, and editorial review of the manuscript. AR and MAS conducted the fieldwork, including primary data collection through interviews and documentation, and assisted in data organisation. All authors contributed to the writing process and approved the final manuscript.

CONFLICT OF INTEREST

The authors declare that there is no conflict of interest regarding the publication of this article. This research was conducted independently and was not influenced by any financial, institutional, or personal relationships that could be perceived as a potential conflict of interest.

AI USAGE STATEMENT

The authors declare that no artificial intelligence (AI) tools were used in the conception, design, data collection, analysis, interpretation, or writing of this manuscript. All aspects of the research and manuscript preparation were conducted solely by the authors. The authors take full responsibility for the content, accuracy, and originality of the work presented in this article.

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