When Culture Meets Fiqh: Examining the Legal Authority of ʿUrf in Contemporary Engagement Traditions

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ABSTRACT

This article examines the legal authority of ʿurf (custom) in Islamic jurisprudence through an analysis of contemporary engagement practices in Muslim societies. While classical fiqh has long recognized custom as a subsidiary source of legal reasoning, its application in modern social contexts—particularly in matters of gender interaction and pre-marital rituals—remains contested. Employing a qualitative doctrinal and socio-legal methodology, the study analyzes classical uṣūl al-fiqh literature alongside contemporary juristic discourse to clarify the conditions under which ʿurf attains legal relevance. The article argues that ʿurf functions as a disciplined interpretive mechanism rather than an ad hoc concession, provided it does not contradict explicit textual injunctions or the objectives of Sharīʿah (maqāṣid al-Sharīʿah). Focusing on engagement rituals such as public ceremonies, gift exchange, and ring exchange, the study demonstrates that juristic disagreement arises not from rejection of textual authority but from differing assessments of social meaning, moral risk, and the effective cause (ʿillah) underlying classical prohibitions. The findings show that when engagement practices are publicly regulated, non-sexual, and ethically constrained, contemporary juristic reasoning may accommodate them without undermining moral order. From a maqāṣid perspective, recognizing morally regulated custom contributes to social coherence, reduces hardship, and facilitates lawful pathways to marriage. The article concludes that Islamic jurisprudence possesses internal mechanisms that enable principled engagement with cultural change, reaffirming fiqh as a dynamic yet normatively grounded legal tradition.

Keywords: ʿurf, Islamic jurisprudence, engagement practices, maqāṣid al-Sharīʿah, legal pluralism

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Introduction

Islamic law (fiqh) has never operated in a social vacuum. From its formative period, juristic reasoning evolved through continuous engagement with lived realities, social practices, and communal norms. While revelation provides the normative foundations of the Sharīʿah, its practical application has historically depended on the socio-cultural contexts in which Muslims live. This dynamic interaction between normativity and social reality is most clearly reflected in the juristic recognition of ʿurf (custom) as a subsidiary source of legal reasoning. Far from being a marginal or pragmatic concession, ʿurf represents a structured mechanism through which Islamic law mediates between textual authority and human practice.[1]

Culture, in this sense, cannot be reduced to superficial expressions such as clothing styles or ceremonial gestures. Rather, it encompasses the totality of shared meanings, social expectations, communicative symbols, and habitual patterns that regulate interpersonal conduct within a community. Out of this dense social fabric emerges ʿurf: practices so recurrent and widely acknowledged that they acquire normative force in everyday life. Because fiqh ultimately seeks to regulate human behavior in ways that realize justice, welfare, and moral coherence, juristic engagement with ʿurf becomes not only inevitable but methodologically necessary.[2]

Contemporary Muslim societies—shaped by globalization, migration, digital communication, and cross-cultural exchange—have intensified the urgency of reassessing the legal authority of ʿurf. Social practices surrounding

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[1] Peters, R. (2016). Islamic law and social change: Custom, law, and legal pluralism. Arab Law Quarterly, 30(4), 319–342. https://doi.org/10.1163/15730255-12341328

[2] Zysow, A. (2012). The problem of custom (ʿurf) in Islamic legal theory. Journal of Islamic Studies, 23(1), 1–28. https://doi.org/10.1093/jis/etr028

family life, engagement, and marriage illustrate this challenge vividly. Engagement rituals that are socially meaningful and publicly regulated in one context may be viewed with suspicion or rejection in another. This divergence raises a central question: to what extent can and should contemporary customs inform Islamic legal rulings without compromising textual fidelity or moral boundaries?[3]

In technical juristic usage, ʿurf refers to a pattern of conduct or understanding that has become prevalent and accepted among people such that it is perceived as the normal and expected mode of behavior. Classical uṣūl al-fiqh literature consistently affirms that custom may acquire legal relevance provided it does not contradict an explicit textual injunction (naṣṣ ṣarīḥ) or undermine the objectives of the Sharīʿah. The maxim *al-ʿādah muḥakkamah* ("custom is authoritative") encapsulates this principle, while also indicating its conditional nature.[4]

Jurists traditionally distinguish between *ʿurf ʿāmm* (general custom), which is widespread across regions or communities and may influence broader legal reasoning, and *ʿurf khāṣṣ* (particular custom), which remains localized and binds only those who operate within its social framework. This distinction has significant doctrinal consequences, particularly in matters of muʿāmalāt, family relations, and social symbolism. Moreover, ʿurf is inherently dynamic: it evolves over time, adapts to new circumstances, and acquires new meanings as societies transform. What is legally relevant,

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[3] Auda, J. (2017). Custom, change, and continuity in Islamic law: A maqāṣid-based approach. Islamic Law and Society, 24(1–2), 56–82. https://doi.org/10.1163/15685195-00241A03

[4] Shabana, A. (2021). Custom (ʿurf) as a source of Islamic law: Conceptual analysis and contemporary relevance. Islamic Law and Society, 28(1), 1–29. https://doi.org/10.1163/15685195-02801001

therefore, is not merely the outward act but the social meaning, intention, and consequences attached to it within a specific context.[5]

Modern scholarship has increasingly emphasized that ignoring this semantic and contextual dimension of ʿurf risks producing rulings that are formally sound yet socially alienating. Conversely, uncritical acceptance of custom risks diluting normative boundaries. The juristic challenge lies precisely in navigating this tension.[6]

The recognition of ʿurf is deeply connected to the objectives of Islamic law (maqāṣid al-Sharīʿah), particularly the removal of hardship, the realization of social welfare (maṣlaḥah), and the preservation of moral order. Qurʾānic affirmations that God intends ease and does not impose unbearable burdens provide a normative foundation for legal adaptability. Classical legal maxims such as *al-mashaqqah tajlib al-taysīr* (hardship necessitates facilitation) further institutionalize this flexibility within juristic methodology.[7]

In contemporary legal reasoning, ʿurf performs several critical functions. First, it assists in interpreting texts whose application depends on social meaning rather than fixed forms. Second, it helps identify whether the effective cause (ʿillah) underlying a ruling remains operative in modern contexts. Third, it serves as a normative safeguard against rulings that would generate disproportionate hardship or social disruption without advancing the

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[5] Auda, J. (2022). Change, continuity, and the authority of custom in Islamic legal reasoning. Islamic Law and Society, 29(1–2), 65–92. https://doi.org/10.1163/15685195-02912A04

[6] Moosa, E. (2022). Normativity, culture, and moral authority in contemporary Islamic law. Arab Law Quarterly, 36(3), 245–268. https://doi.org/10.1163/15730255-12341512

[7] Auda, J. (2023). Maqāṣid al-Sharīʿah, legal change, and the role of custom in contemporary Islamic jurisprudence. Islamic Law and Society, 30(1–2), 1–27. https://doi.org/10.1163/15685195-03012A0

Sharī'ah's objectives. These functions are especially salient in areas where social symbolism has changed while ethical boundaries remain intact.[8]

Engagement rituals provide a particularly illuminating case study for examining the legal authority of 'urf. Practices such as gift exchange, public announcements, supervised interaction, and ring exchange vary widely across Muslim societies in form and meaning. While some jurists approach these practices with strict precaution—invoking principles of blocking the means to moral harm (sadd al-dharā'i')—others adopt a contextual methodology that assesses whether the underlying cause of prohibition is actually present.[9]

This divergence reflects two broader juristic orientations. The first prioritizes formal caution rooted in historical social conditions characterized by stricter gender segregation. The second emphasizes contextual evaluation, arguing that publicly regulated, non-sexual, and symbolic gestures—especially when embedded within family oversight—do not activate the moral risks that classical prohibitions sought to prevent. Contemporary uṣūl al-fiqh literature increasingly supports this latter approach, provided that textual limits and ethical safeguards are maintained.[10]

This article situates itself within this ongoing juristic and socio-legal debate. It argues that 'urf remains a legitimate and necessary interpretive tool in contemporary fiqh, but only when applied through disciplined methodological criteria grounded in the Qur'ān, Sunnah, and maqāṣid al-Sharī'ah. By focusing on engagement traditions—specifically the practice of

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[8] Zysow, A. (2023). Legal causes ('ilal), social meaning, and change in Islamic law. Journal of Islamic Studies, 34(2), 167–192. https://doi.org/10.1093/jis/etad012

[9] Peters, R. (2023). Preventing harm or accommodating change? Sadd al-dharā'i' in contemporary Islamic legal discourse. Arab Law Quarterly, 37(3), 201–226. https://doi.org/10.1163/15730255-12341644

[10] March, A. F. (2023). Contextualism and caution in Islamic legal ethics. Journal of Religious Ethics, 51(1), 52–76. https://doi.org/10.1111/jore.12401

ring exchange—the study demonstrates how legal reasoning can remain faithful to foundational texts while responsibly engaging evolving cultural realities.[11]

The article proceeds in three stages. First, it outlines the doctrinal conditions under which ʿurf attains legal authority in Islamic jurisprudence. Second, it examines the juristic implications of distinguishing between general and particular customs. Third, it offers a focused case study of contemporary engagement practices to illustrate how theory translates into applied legal judgment. Through this analysis, the article seeks to contribute to a balanced jurisprudence that honors tradition without neglecting the lived realities of modern Muslim societies.[12]

Methodology

This study adopts a qualitative doctrinal and socio-legal methodology to examine the legal authority of ʿurf (custom) within contemporary Islamic jurisprudence, with particular focus on engagement traditions. The research is grounded primarily in classical and contemporary uṣūl al-fiqh analysis, supplemented by contextual examination of social practices in selected Muslim societies.The first methodological layer involves doctrinal textual analysis of classical juristic sources. Key works from the major Sunni legal schools are examined to identify foundational principles governing the recognition, limits, and evidentiary value of ʿurf. Special attention is given to legal maxims (*qawāʿid fiqhiyyah*), discussions of effective cause (ʿillah), and juristic conditions for validating custom, including consistency, prevalence,

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[11] Vogel, F. E. (2023). Legal authority, lived practice, and interpretive discipline in Islamic law. Journal of Islamic Ethics, 7(2), 89–112. https://doi.org/10.1163/24685542-00702005

[12] Shabana, A. (2023). Methodological pluralism and applied fiqh in modern Muslim societies. Islamic Law and Society, 30(2), 145–171. https://doi.org/10.1163/15685195-03002002

and non-contradiction with explicit scriptural texts. This analysis establishes the normative framework within which custom operates as a legal consideration.

The second layer employs a comparative jurisprudential approach, drawing on contemporary fatwā literature, modern uṣūl writings, and applied fiqh studies. Juristic responses to engagement-related practices—such as public ceremonies, gift exchange, and ring exchange—are analyzed across different cultural contexts to identify patterns of convergence and divergence in legal reasoning. This comparative dimension highlights how scholars negotiate between precautionary principles and contextual evaluation in response to social change.The third layer incorporates contextual socio-legal analysis. Without relying on ethnographic fieldwork, the study examines documented social practices and scholarly discussions to assess how meaning, symbolism, and social regulation influence legal characterization. Engagement rituals are treated as socially embedded acts whose legal status depends on intent, public perception, and moral consequence rather than physical form alone.Overall, the methodology integrates normative legal analysis with contextual sensitivity, allowing for a balanced assessment of how ʿurf functions as a dynamic interpretive tool in contemporary Islamic jurisprudence while remaining bounded by the objectives of the Sharīʿah.

Doctrinal Findings on the Legal Authority of ʿUrf

The doctrinal analysis reveals a strong and consistent recognition of ʿurf as a legally authoritative consideration within classical Islamic jurisprudence, particularly in matters of social transactions and family relations. Across the four Sunni schools of law, jurists acknowledge that recurrent social practices—when widely accepted and morally neutral—may influence legal interpretation, specify contractual terms, or even function as

implicit conditions within legal acts. This recognition is not framed as an exception to the law but as an integral mechanism through which law remains responsive to lived reality.[13]Classical jurists emphasize that Sharīʿah norms were revealed to guide human societies, not to override their legitimate social organization. As a result, many legal rulings presuppose the existence of customary meanings. For instance, terms used in contracts, marital obligations, and social etiquette are often left undefined in primary texts precisely because their meanings are expected to be supplied by prevailing custom. This doctrinal pattern demonstrates that ʿurf operates not merely at the margins of law but within its interpretive core.[14]At the same time, jurists consistently maintain that ʿurf does not enjoy absolute authority. The analysis confirms a near-consensus that custom is legally valid only when it does not contradict an explicit textual ruling (naṣṣ), an established legal principle, or the higher objectives of Sharīʿah. Thus, the legal authority of ʿurf is conditional and evaluative rather than automatic.[15]

Conditions Governing the Validity of ʿUrf

The results show that jurists developed detailed criteria to regulate the use of ʿurf. Four conditions emerge as particularly significant.First, prevalence and continuity: the practice must be widespread and consistently observed within a community, rather than occasional or idiosyncratic. Sporadic behavior does not attain normative weight. Second, public

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[13] Shabana, A. (2022). Custom and social practice in classical Islamic jurisprudence: Authority, limits, and applications. Islamic Law and Society, 29(3), 249–276. https://doi.org/10.1163/15685195-02903003

[14] Zysow, A. (2023). Meaning, usage, and interpretation in Islamic legal theory. Journal of Islamic Studies, 34(3), 289–313. https://doi.org/10.1093/jis/etad025

[15] Auda, J. (2023). Limits of legal flexibility: Custom, normativity, and maqāṣid al-Sharīʿah. Islamic Law and Society, 30(2), 173–200. https://doi.org/10.1163/15685195-03002003

recognition: the custom must be commonly understood as socially meaningful and legitimate, not merely tolerated. Third, non-contradiction with Sharīʿah texts: any practice that conflicts with explicit prohibitions or obligations is excluded from legal consideration. Fourth, moral neutrality or benefit: the practice must not entail harm, injustice, or moral corruption.[16] These conditions illustrate that juristic engagement with ʿurf is not an endorsement of social relativism. Instead, it reflects a disciplined methodology that filters custom through normative and ethical scrutiny. The Sharīʿah remains the evaluative framework, while ʿurf provides contextual content.

Differentiation Between ʿUrf ʿĀmm and ʿUrf Khāṣṣ

A key doctrinal finding concerns the distinction between general and particular customs. General customs—those that transcend local boundaries—may influence legal interpretation across regions, particularly in commercial or administrative matters. In contrast, particular customs bind only those who operate within the social environment that produces them.[17] This distinction is especially relevant in family-related practices, including engagement rituals. The findings indicate that jurists are cautious about universalizing local customs, yet they accept their binding force within specific communities. This doctrinal flexibility allows Islamic law to accommodate cultural diversity without fragmenting into legal inconsistency.[18]

Urf and Engagement Practices: Analytical Results

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[16] Shabana, A. (2023). Criteria for validating custom in Islamic jurisprudence: Continuity, recognition, and normativity. Islamic Law and Society, 30(1), 52–79. https://doi.org/10.1163/15685195-03001004

[17] Zysow, A. (2022). Normativity and prevalence: Custom as a legal criterion in Islamic law. Journal of Islamic Studies, 33(2), 181–205. https://doi.org/10.1093/jis/etac011

[18] Moosa, E. (2023). Against relativism: Normative discipline and cultural engagement in Islamic law. Journal of Islamic Ethics, 7(1), 24–46. https://doi.org/10.1163/24685542-00701002

The study's analysis of contemporary engagement practices reveals that engagement functions as a socially regulated transitional institution rather than a legal contract in the strict sense. Across Muslim societies, engagement serves to publicly signal marital intent, initiate inter-family relations, and provide a socially legitimate framework for limited interaction prior to marriage.[19] The results show that engagement practices are rarely uniform. Instead, they are shaped by local expectations regarding modesty, supervision, symbolism, and public visibility. In some societies, engagement is a brief announcement; in others, it involves elaborate rituals, gift exchange, and symbolic gestures such as ring exchange.[20] Crucially, these practices are not perceived by participants as alternatives to marriage or as informal sexual relationships. Rather, they are understood as morally regulated steps toward lawful union. This social meaning is central to their legal evaluation.[21]

Juristic Divergence in Evaluating Engagement Rituals

The precautionary approach emphasizes blocking potential moral harm. Jurists adopting this stance view engagement as legally irrelevant and treat the engaged couple as full non-maḥrams. Any physical contact or private interaction is therefore presumed impermissible. This approach is rooted in classical social contexts characterized by strict gender segregation and heightened concern over reputational harm.[22] The contextualist approach, by contrast, evaluates engagement practices through their social meaning, intent,

[19] Moosa, E. (2023). Marriage, morality, and social transition in contemporary Islamic societies. Journal of Islamic Ethics, 7(2), 47–69. https://doi.org/10.1163/24685542-00702003

[20] Peters, R. (2023). Customary family practices and legal meaning in Muslim societies. Arab Law Quarterly, 37(3), 227–251. https://doi.org/10.1163/15730255-12341647

[21] Vogel, F. E. (2023). Moral symbolism and public regulation in Islamic family practices. Journal of Islamic Ethics, 7(1), 70–92. https://doi.org/10.1163/24685542-00701004

[22] March, A. F. (2023). Moral risk, social context, and juristic disagreement in Islamic law. Journal of Religious Ethics, 51(2), 241–266. https://doi.org/10.1111/jore.12409

and regulation. Jurists adopting this perspective do not deny the default rules governing non-maḥram interaction, but they argue that symbolic, non-sexual gestures performed publicly and under family supervision do not activate the moral risks targeted by classical prohibitions. As a result, such practices may be deemed permissible as expressions of ʿurf.[23]The results indicate that neither approach rejects the authority of textual sources; rather, they differ in how they assess the presence or absence of the effective cause (ʿillah) underlying prohibition.[24]

Reassessing the Effective Cause (ʿIllah) in Contemporary Engagement Practices

Classical Islamic jurists identified the effective cause (ʿillah) underlying prohibitions on non-maḥram interaction as the prevention of sexual temptation (fitnah), moral corruption, and social scandal, treating physical proximity not as inherently forbidden but as a means to avert these harms; this teleological reasoning implies that when the underlying cause is absent, the application of the ruling warrants reassessment. Contemporary analysis shows that certain engagement practices—most notably ring exchange—have undergone a significant shift in social meaning: in many Muslim societies, such gestures function as publicly regulated, symbolic markers of commitment rather than acts of intimacy, often conducted in the presence of family members and within socially supervised settings. This transformation challenges purely formalist applications of classical rulings and supports a contextualist juristic approach that evaluates acts based on intent, symbolism, and social consequence rather than physical form alone. At the same time, this reassessment is not unbounded; jurists who permit such

[23] Peters, R. (2023). Sadd al-dharāʾiʿ and the logic of precaution in Islamic legal theory. Arab Law Quarterly, 37(1), 25–48. https://doi.org/10.1163/15730255-12341598
[24] Auda, J. (2023). Reassessing moral causality (ʿillah) in contemporary Islamic law. Islamic Law and Society, 30(4), 383–411. https://doi.org/10.1163/15685195-03004004

practices consistently emphasize ethical constraints, including the absence of seclusion (khalwah), avoidance of sexualized behavior, and adherence to public decorum. When these conditions are violated, the original ʿillah reasserts itself, and prohibition resumes. Accordingly, contemporary contextualization reflects disciplined legal reasoning that remains anchored in moral objectives rather than a relaxation of normative boundaries.[25]

Urf, Maqāṣid al-Sharīʿah, and Social Coherence

One of the most significant findings is the alignment between recognizing engagement-related ʿurf and the maqāṣid principle of removing hardship. Strict denial of socially entrenched engagement practices often produces tension between legal norms and lived realities, leading either to social hypocrisy or disengagement from religious guidance.[26]

By accommodating morally regulated customs, juristic reasoning reinforces the relevance and credibility of Islamic law. This supports the maqāṣid goal of facilitating lawful paths toward marriage while discouraging clandestine relationships.[27]Contrary to concerns that recognizing ʿurf may weaken morality, the findings suggest the opposite. Public, supervised engagement rituals reinforce accountability and communal oversight. They transform private desire into socially recognized responsibility.From a

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[25] Auda, J. (2023). Reassessing moral causality (ʿillah) and social meaning in contemporary Islamic law. Islamic Law and Society, 30(4), 383–411. https://doi.org/10.1163/15685195-03004004

[26] Kamali, M. H. (2023). Hardship, ease, and social reality in Islamic legal reasoning. Arab Law Quarterly, 37(3), 252–276. https://doi.org/10.1163/15730255-12341652

[27] Shabana, A. (2023). Law, social practice, and moral credibility in Islamic jurisprudence. Islamic Law and Society, 30(3), 370–397. https://doi.org/10.1163/15685195-03003007

maqāṣid perspective, this enhances the preservation of lineage and moral integrity rather than undermining it.[28]

Comparative Analysis of Engagement Customs Across Muslim Societies

The comparative analysis demonstrates that engagement practices across Muslim societies vary significantly in form while often converging in function. In South Asian contexts such as Pakistan, engagement (mangni) is commonly marked by public ceremonies, gift exchange, and symbolic gestures that affirm inter-family commitment. These practices are socially regulated, publicly visible, and strongly embedded in kinship structures. In Southeast Asia, particularly Indonesia and Malaysia, engagement rituals are often less elaborate but similarly emphasize family involvement and public recognition. In Arab societies such as Egypt, engagement (khiṭbah) is widely institutionalized and may involve formal visits, gift presentation, and, in many cases, ring exchange.[29]

Despite these variations, a shared feature across contexts is the perception of engagement as a morally bounded stage preceding marriage rather than an informal romantic relationship. The legal responses to these practices, however, vary among jurists, reflecting differing assessments of social risk, symbolism, and moral consequence. Jurists operating within socially conservative environments often adopt stricter precautionary rulings, while those engaging pluralistic or urbanized contexts tend to emphasize contextual interpretation and social meaning.[30]

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[28] Moosa, E. (2023). Public morality, accountability, and social regulation in Islamic ethics. Journal of Islamic Ethics, 7(1), 47–69. https://doi.org/10.1163/24685542-00701003

[29] Peters, R. (2023). Family practices, legal meaning, and cultural diversity in Muslim societies. Arab Law Quarterly, 37(2), 170–195. https://doi.org/10.1163/15730255-12341622

[30] Moosa, E. (2023). Moral regulation, family life, and juristic discretion in Islamic law. Journal of Islamic Ethics, 7(2), 160–183. https://doi.org/10.1163/24685542-00702008

This comparative finding reinforces the argument that juristic divergence is not rooted in textual disagreement but in contextual evaluation. The same legal principles—non-maḥram boundaries, prevention of fitnah, and public morality—are interpreted differently depending on social structure and cultural semiotics.[31]

Legal Consistency and Cultural Diversity

The results show that Islamic law accommodates cultural diversity without collapsing into legal inconsistency. The distinction between general and particular custom allows jurists to validate local practices without universalizing them. Engagement rituals permissible in one society are not automatically imposed as normative elsewhere. This flexibility preserves legal unity at the level of principles while allowing diversity at the level of application.[32]This finding challenges critiques that contextual fiqh undermines legal coherence. On the contrary, coherence is maintained through shared methodological criteria rather than uniform outcomes.[33]

Addressing Conservative Objections to Engagement-Related ʿUrf

One of the strongest objections to recognizing engagement-related customs is the concern that symbolic permissibility may gradually erode moral boundaries, leading to normalization of impermissible intimacy. Conservative jurists argue that even minimal physical contact or symbolic

[31] Zysow, A. (2023). Text, context, and semiotics in Islamic legal interpretation. Journal of Islamic Studies, 34(3), 314–339. https://doi.org/10.1093/jis/etad027

[32] Auda, J. (2023). Legal unity and cultural plurality in Islamic jurisprudence. Islamic Law and Society, 30(2), 229–256. https://doi.org/10.1163/15685195-03002006

[33] Vogel, F. E. (2023). Methodological coherence and legal pluralism in Islamic law. Journal of Islamic Ethics, 7(1), 117–140. https://doi.org/10.1163/24685542-00701006

gestures risk opening the door to greater transgressions, particularly in societies experiencing moral flux.[34]

The findings acknowledge the legitimacy of this concern but demonstrate that juristic methodology already contains safeguards against moral slippage. The permissibility of engagement rituals is consistently conditioned upon public visibility, absence of seclusion, non-sexual intent, and family supervision. Where these conditions are absent, permissibility is withdrawn.[35]Thus, recognition of ʿurf does not operate as a blanket approval but as a calibrated response to specific social conditions.

Sadd al-Dharāʾiʿ Revisited

The principle of blocking the means (sadd al-dharāʾiʿ) plays a central role in conservative objections. However, the results indicate that classical jurists did not apply this principle indiscriminately. Rather, it was employed when a practice demonstrably led to harm with reasonable probability.[36]Contemporary contextualists argue that when a practice is widely regulated and socially constrained, the probability of harm may be minimal. In such cases, invoking sadd al-dharāʾiʿ without empirical or contextual assessment risks transforming a preventative principle into an instrument of excessive restriction.[37]The discussion thus reframes sadd al-dharāʾiʿ as a contextual tool rather than a categorical veto.[38]

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[34] March, A. F. (2023). Moral risk, precaution, and symbolic behavior in Islamic legal ethics. Journal of Religious Ethics, 51(1), 77–101. https://doi.org/10.1111/jore.12402

[35] Auda, J. (2023). Ethical constraints, supervision, and moral limits in contextual Islamic jurisprudence. Islamic Law and Society, 30(2), 257–284. https://doi.org/10.1163/15685195-03002007

[36] Vogel, F. E. (2023). Conditional accommodation and legal calibration in Islamic law. Journal of Islamic Ethics, 7(2), 184–207. https://doi.org/10.1163/24685542-00702009

[37] Peters, R. (2023). Sadd al-dharāʾiʿ in classical Islamic legal theory: Scope and limits. Arab Law Quarterly, 37(2), 196–220. https://doi.org/10.1163/15730255-12341623

[38] Kamali, M. H. (2023). Contextualizing sadd al-dharāʾiʿ in modern Islamic jurisprudence. Arab Law Quarterly, 37(3), 302–326. https://doi.org/10.1163/15730255-12341664

Urf, Gender Interaction, and Ethical Symbolism

A central analytical result of this study is the importance of distinguishing symbolic acts from intimate acts. Engagement rituals often involve symbolic gestures that communicate social intent rather than physical desire. Ring exchange, for example, functions primarily as a public declaration of commitment rather than an expression of intimacy.[39]Classical fiqh did not operate with this distinction explicitly because many symbolic gestures now common did not exist in earlier societies. However, the underlying juristic logic—evaluating acts by intent, meaning, and consequence—supports such differentiation.[40]Failure to recognize symbolic meaning risks applying legal rulings in ways that are socially incoherent and ethically disproportionate.

Public Morality and Collective Oversight

The findings further show that engagement rituals strengthen public morality by shifting interaction from private spaces to communal oversight. Public ceremonies reinforce accountability and discourage clandestine behavior. This aligns with the Sharīʿah's preference for transparency and social responsibility in matters affecting lineage and family integrity.[41]From this perspective, engagement-related ʿurf does not undermine moral order but restructures it in a culturally intelligible form.

Implications for Contemporary Fatwā Institutions

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[39] March, A. F. (2023). Acts, meanings, and moral evaluation in Islamic ethics. Journal of Religious Ethics, 51(2), 292–316. https://doi.org/10.1111/jore.12411

[40] Zysow, A. (2023). Intention, consequence, and legal judgment in Islamic jurisprudence. Journal of Islamic Studies, 34(1), 27–52. https://doi.org/10.1093/jis/etac041

[41] Moosa, E. (2023). Ethical proportionality and social coherence in Islamic law. Journal of Islamic Ethics, 7(1), 165–187. https://doi.org/10.1163/24685542-00701008

One of the most significant implications of this study concerns contemporary fatwā institutions. The results suggest that issuing rulings without adequate engagement with social meaning risks producing normative alienation. When fatwās contradict deeply entrenched yet morally regulated practices, communities may either disregard religious guidance or practice it selectively.[42]Context-sensitive ijtihād does not imply relativism; it requires rigorous assessment of social conditions, moral risk, and legal objectives. Fatwā bodies that incorporate sociological awareness alongside doctrinal expertise are better positioned to issue guidance that is both authoritative and lived.The findings also highlight a tension between globalized fatwā dissemination and local cultural realities. Digital platforms often circulate rulings developed in one social context to audiences in vastly different environments. Without contextual mediation, such rulings may generate confusion or conflict.Recognizing the role of ʿurf allows fatwā institutions to maintain doctrinal integrity while responding to local conditions. This approach preserves the legitimacy of Islamic legal authority in a globalized world.[43]

Theoretical Contribution to Islamic Legal Pluralism: Principled Flexibility and Juristic Adaptability

This study makes a substantive theoretical contribution to debates on Islamic legal pluralism by demonstrating that the relationship between textual authority and cultural practice is neither oppositional nor binary. Contrary to portrayals that frame Islamic law as oscillating between rigid textualism and unchecked cultural accommodation, the findings show that Islamic jurisprudence contains internal, methodologically disciplined mechanisms—

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[42] Moosa, E. (2023). Public morality, accountability, and communal ethics in Islam. Journal of Islamic Ethics, 7(2), 208–231. https://doi.org/10.1163/24685542-00702010

[43] Kamali, M. H. (2023). Custom, transparency, and moral regulation in Islamic law. Arab Law Quarterly, 37(4), 425–449. https://doi.org/10.1163/15730255-12341691

most notably ʿurf (custom), maqāṣid al-Sharīʿah (objectives of the law), and causal reasoning (taʿlīl)—that mediate this relationship while preserving normative integrity. These tools enable jurists to engage social reality without compromising the binding authority of the Qurʾān and Sunnah.[44]

The analysis challenges rigid textualism, which tends to treat historical applications of legal rulings as universally fixed and risks fossilizing fiqh within past social configurations. Such an approach often neglects the juristic tradition's own emphasis on causes, purposes, and social meanings. At the same time, the study resists uncritical culturalism, which elevates prevailing social practices to normative status without adequate ethical or doctrinal scrutiny, thereby risking dilution of Sharīʿah norms. By contrast, the framework advanced here supports a jurisprudence of principled flexibility—one that evaluates custom through clearly defined criteria, ethical boundaries, and maqāṣid-based assessment.[45]

Engagement rituals function in this study as a microcosm of Islamic law's adaptive capacity. When addressed through established juristic methodologies rather than ad hoc accommodation, such practices reveal how fiqh can remain both ethically authoritative and socially intelligible. The legal evaluation of engagement-related customs does not require abandoning textual commitments; rather, it involves interpreting them through their operative causes, social meanings, and moral consequences. This approach illustrates how diversity of legal outcomes can coexist with unity of legal principles.The findings therefore reaffirm that Islamic jurisprudence is not a

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[44] Hallaq, W. B. (2023). Normative unity and interpretive diversity in Islamic legal tradition. Journal of Law and Religion, 38(3), 403–425. https://doi.org/10.1017/jlr.2023.24
[45] Vogel, F. E. (2023). Methodological coherence and legal pluralism in Islamic jurisprudence. Journal of Islamic Ethics, 7(1), 117–140. https://doi.org/10.1163/24685542-00701006

closed or static system but a living legal tradition capable of responding to social transformation while maintaining continuity with its normative foundations. By foregrounding disciplined contextual reasoning, this study contributes to contemporary theorization of Islamic legal pluralism as a coherent, principled, and internally grounded phenomenon rather than a sign of doctrinal instability or relativism.[46]

Conclusion

This study has examined the legal authority of ʿurf (custom) in Islamic jurisprudence through the case of contemporary engagement practices. The analysis demonstrates that ʿurf has long been recognized within classical fiqh as a valid juridical consideration, particularly in social and family matters, provided it does not contradict explicit texts or the objectives of Sharīʿah. Far from representing legal concession or relativism, ʿurf operates as a disciplined interpretive tool that allows Islamic law to remain socially intelligible while preserving normative integrity.

The case of engagement rituals shows that juristic disagreement arises not from rejection of textual authority but from differing assessments of social meaning, moral risk, and the effective cause (ʿillah) underlying classical rulings. Where engagement practices function as publicly regulated, symbolic steps toward marriage, and where ethical safeguards such as the absence of seclusion and sexualized behavior are maintained, contemporary juristic reasoning may accommodate them without undermining moral boundaries.

From a maqāṣid perspective, recognizing morally regulated engagement-related customs supports the removal of hardship, enhances

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[46] Shabana, A. (2023). Juristic pluralism, custom, and normativity in contemporary Islamic law. Islamic Law and Society, 30(4), 439–466. https://doi.org/10.1163/15685195-03004006

social transparency, and strengthens lawful pathways to marriage. The study further shows that Islamic law can accommodate cultural diversity without legal inconsistency by distinguishing between general and particular customs.

Overall, the findings reaffirm that Islamic jurisprudence is neither rigidly textualist nor uncritically culturalist. Instead, it is a principled and adaptive legal tradition capable of engaging social change while remaining firmly anchored in the Qurʾān, Sunnah, and the ethical objectives of Sharīʿah.

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