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The Dialectic of Customary Norms and Islamic Law: Social Restrictions on Widowers' Remarriage in Aceh

Karimuddin Abdullah Lawang
Universitas Islam Al-Aziziyah Indonesia (UNISAI), Indonesia
Nilasari Siagian
Institut Agama Islam Daar Al Uluum Asahan, Indonesia
Makmur
Sekolah Tinggi Agama Islam Poso, Indonesia
Ratna Rintaningrum
Institute of Technology Sepuluh Nopember, Indonesia
Loso Judijanto
IPOSS Jakarta, Indonesia
Email: karimuddin@unisai.ac.id

Abstract. This study analyzes the dialectic between customary norms and Islamic law in the social regulation of widowers seeking to remarry after the death of their wives, with particular focus on the sociocultural context of Pidie Regency, Aceh. In a communal society characterized by a matrilateral kinship system, there is a social expectation that widowers should demonstrate a period of mourning, empathy, and loyalty toward the deceased wife's family by postponing remarriage. Although this expectation is not explicitly stipulated in formal provisions of either customary law or Islamic law, it has evolved into a mechanism of social control maintained through customary institutional structures, particularly the Aceh Customary Council (*Majelis Adat Aceh*). At the regency and sub-district levels. This study employs a descriptive qualitative approach by exploring the perspectives of community members, customary leaders, the deceased wife's family, and widowers regarding the socially appropriate timing for remarriage. The findings indicate that such social restrictions constitute a form of normative compromise between customary values oriented toward family honor, kinship solidarity, and social stability, and the principles of Islamic law, which fundamentally do not prescribe a waiting period for widowers before remarrying. The dialectic between these two normative systems produces a hybrid norm that is not legally binding but possesses strong social influence and functions as a behavioral guideline within the Pidie community. These findings demonstrate that the relationship between customary norms and Islamic law does not necessarily take the form of subordination of one normative system to the other; rather, it may generate a process of negotiation and the formation of new social norms rooted in the local context.

Keywords: Customary Norms, Islamic Law, Widower Remarriage, Social Restrictions, Acehnese Customary Practices

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Abstrak: *Penelitian ini menganalisis dialektika antara norma adat dan hukum Islam dalam pembatasan sosial terhadap duda yang hendak menikah kembali setelah wafatnya istri dengan fokus pada konteks sosiokultural masyarakat Kabupaten Pidie, Aceh. Dalam kehidupan masyarakat yang bercorak komunal dan memiliki sistem kekerabatan matrilateral, terdapat ekspektasi sosial bahwa duda perlu menunjukkan masa berkabung, empati, dan loyalitas kepada keluarga almarhumah dengan menunda pernikahan kembali. Meskipun tidak secara eksplisit ditetapkan dalam ketentuan formal hukum adat maupun hukum Islam, ekspektasi tersebut berkembang menjadi mekanisme kontrol sosial yang dipertahankan melalui struktur kelembagaan adat, khususnya Majelis Adat Aceh (MAA) pada tingkat kabupaten dan kecamatan. Penelitian ini menggunakan pendekatan kualitatif deskriptif dengan menggali pandangan masyarakat, tokoh adat, keluarga almarhumah, serta duda mengenai kepantasan waktu untuk menikah kembali. Hasil penelitian menunjukkan bahwa pembatasan sosial tersebut merupakan bentuk kompromi normatif antara nilai-nilai adat yang berorientasi pada kehormatan keluarga, solidaritas kekerabatan, dan stabilitas sosial dengan prinsip hukum Islam yang pada dasarnya tidak menetapkan masa tunggu bagi duda untuk menikah kembali. Dialektika kedua sistem norma tersebut melahirkan norma hibrida yang tidak bersifat mengikat secara yuridis, tetapi memiliki daya pengaruh sosial yang kuat dan berfungsi sebagai pedoman perilaku dalam masyarakat Pidie. Temuan ini menunjukkan bahwa relasi antara adat dan hukum Islam tidak selalu berbentuk subordinasi salah satu sistem norma, melainkan dapat menghasilkan proses negosiasi dan pembentukan norma sosial baru yang berakar pada konteks lokal.*
Kata Kunci: *Norma Adat, Hukum Islam, Pernikahan Kembali Duda, Pembatasan Sosial, Praktik Adat Aceh*

Introduction

The evolving social dynamics of Acehnese society reveal a tension between customary norms and Islamic family law concerning widowers' remarriage. In some communities, an unwritten custom discourages widowers from remarrying soon after their wives' death, based on considerations of respect for the deceased, family honor, and responsibility toward young children. Although such a restriction has no explicit basis in Islamic law or state legislation, it may generate social pressure and conflict between widowers and the deceased wife's family. This phenomenon raises a fundamental legal question: can customary norms impose restrictions on remarriage beyond those prescribed by Islamic and state law. The gap between formal legal norms and customary expectations demonstrates the need to examine the dialectic between *'urf* and Islamic family law, particularly regarding *maslahah*, justice, family responsibility, and individual marital autonomy in Acehnese society.

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Historically, the relationship between customary law and Islamic law in Indonesia has always been dynamic. Several studies affirm that, in many cases, the two systems coexist as "living laws" within society.[1] In the context of marriage, the dialectic between adat and sharī'ah is often visible through local traditions regulating marital procedures, social restrictions and even boundaries concerning the validity of certain practices.[2] In Aceh, previous research has shown that adat is understood not merely as cultural heritage but also as a moral mechanism that governs social relations and safeguards family honor.[3] However, in the case of social prohibitions on widowers who wish to remarry, no study has specifically examined the dialectic between adat and sharī'ah within this context.

Relevant previous studies have mostly discussed issues of 'iddah, maṣlaḥah, and the shar'ī boundaries pertaining to waiting periods after divorce or the death of a spouse. It emphasizes that the concept of a waiting period for men should be understood primarily through a *maṣlaḥah*-based approach, rather than being regarded as a legally binding *shar'ī* requirement.[4] Islamic law also demonstrates that the concept of *'iddah* and restrictions on remarriage are primarily applicable to women, particularly in relation to biological considerations, the determination of lineage (*nasab*), and the protection of family rights. Accordingly, Islamic law does not prescribe an equivalent

[1]Dedy Sumardi et al., "The Niniak Mamak: Authority, Customary Law Construction, Jamee Tribe, Aceh, Indonesia," *Ahkam: Jurnal Ilmu Syariah* 26, no. 1 (2026), p. 183–96. Mursyid Djawas et al., "Harmonization of State, Custom, and Islamic Law in Aceh: Perspective of Legal Pluralism," *Hasanuddin Law Review* 10, no. 1 (2024). Sita Hidayah, "From Unity in Diversity to Culture Wars? Aceh Women's Mastery over Adat, Islam, and the State Inheritance Laws," *Women's Studies International Forum* 103 (2024). Franz von Benda-Beckmann and Keebet von Benda-Beckmann, "Islamic Law in a Plural Context: The Struggle over Inheritance Law in Colonial West Sumatra," *Journal of the Economic and Social History of the Orient* 55, no. 4/5 (2012). Ratno Lukito, "Mapping the Relationship of Competing Legal Traditions in the Era of Transnationalism in Indonesia," in *Pluralism, Transnationalism and Culture in Asian Law: A Book in Honour of M.B. Hooker*, 2017.

[2]John R. Bowen's, *Islam, Law, and Equality in Indonesia: An Anthropology of Public Reasoning* (Cambridge: Cambridge University Press, 2003). Jumarim, "The Practice of Adoption in the Sasak Community and Its Implications for Marriage Law in Indonesia," *Samarah* 8, no. 1 (2024), p. 445–67.

[3]Fatimah Zuhrah et al., "Tradition Beyond Formal Fiqh: Ethnic Perspectives on Negotiating Kafāʾah in Marriage within the Aceh Singkil Community," *Journal of Islamic Law* 6, no. 2 (2025). Al Fattah, Fatma Tria Arresti, and Fitria Noviatur Rizki, "A Structural Functionalism Theory Review of the Prohibition of Sara Urang Marriage in Asir-Asir Village Central Aceh," *AL-MANHAJ: Jurnal Hukum Dan Pranata Sosial Islam* 6, no. 1 (2024).

[4]Sami Al Daghistani, "Beyond Maṣlaḥah," *American Journal of Islam and Society* 39, no. 3–4 (2023). Al-Syathibi, *Al-Muwafaqat Fi Ushul Al-Ahkam*, I (Beirut: Dar Al-Fikr, n.d.).

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mandatory waiting period or comparable restriction on remarriage for men after divorce or the death of a wife.[5]

Meanwhile, from a maqāṣidī hermeneutical perspective, imposing a mandatory waiting period on a husband after his wife's death cannot be justified as an obligatory legal requirement without considering the broader objectives of *maqāṣid al-sharī'ah*, particularly justice, human welfare (*maṣlaḥah*), and the protection of family interests.[6] This reinforces the view that the dialectic between *adat* and Islam in Malay culture often gives rise to practices that operate primarily as moral and customary norms rather than as formal legal rules, despite their significant influence on social and familial behavior.[7] This study further affirms that restrictions placed on husbands cannot be equated with the *'iddah* required of women, as Islamic law does not prescribe a mandatory waiting period for men after divorce. Rather, such restrictions are primarily shaped by customary norms, social expectations, and considerations of family responsibility.[8] The adat–Islam dialectic in Aceh reveals a distinctive interaction in which adat functions as a powerful mechanism of moral and social regulation, even when its norms are not fully consistent with Islamic legal doctrine, creating tensions between customary expectations and formal Islamic legal principles.[9]

Based on these studies, it is evident that no research has directly addressed the social prohibition on widowers in Aceh from remarrying in the framework of a dialectical relationship between adat and Islamic law, particularly through a living law approach that captures empirical social practices. Most previous works focus instead on issues of 'iddah, shar'ī limitations on marriage, or the adat–Islam dialectic within different legal

[5]Sunuwati, Siti Irham Yunus, Rahmawati, "Gender Equality In Islamic Family Law: Should Men Take Iddah (Waiting Period After Divorce)?," *Russian Law Journal* 11, no. 3 (2023).

[6]Abdulmuid Aykul, "Iddah of Man in İslāmic Family Law," *Mutefekkir* 9, no. 18 (2022). Ahmad Ahda Sabila, "Idah Bagi Suami Dalam Konsep Hermeneutika Maqāṣidī Dan Relevansinya Dengan Pembaruan Hukum Keluarga (Studi Atas Surat Edaran Dirjen Bimas Islam Nomor P-005/Dj.Iii/Hk.007/10/2021)," *Qisthosia: Jurnal Syariah & Hukum* 5, no. 1 (2024), p. 54–67.

[7]Sunuwati, Siti Irham Yunus, Rahmawati, "Gender Equality In Islamic Family Law: Should Men Take Iddah (Waiting Period After Divorce)?"

[8]Khairul Umami and Aidil Aulya, "Konstruksi Iddah Suami (Studi Surat Edaran Dirjen Bimas Islam Nomor P-005/DJ.III/HK.007/10/2021)," *Ijtihad* 38, no. 2 (2022). Shofiatul Jannah and Dwi Hidayatul Firdaus, "Reformulation of the Concept of Iddah in The Compilation of Islamic Law Perspective of Negotiative Hermeneutics," *De Jure: Jurnal Hukum Dan Syar'iah* 15, no. 2 (2023).

[9]Dedy Sumardi, Ratno Lukito, and Moch Nur Ichwan, "Legal Pluralism within the Space of Sharia: Interlegality of Criminal Law Traditions in Aceh, Indonesia," *Samarah* 5, no. 1 (2021), p. 426–49. Muslim Zainuddin et al., "Protection of Women and Children in the Perspective of Legal Pluralism: A Study in Aceh and West Nusa Tenggara," *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam Hukum Islam* 8, no. 3 (2024), p. 1948–73.

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domains, such as adultery, elopement marriages, or clan-based marriage prohibitions. Consequently, a research gap exists in the absence of studies linking the widower remarriage prohibition as a customary practice with Islamic legal principles that impose no shar'ī restrictions on men after their wives' deaths.

This study offers novelty by examining the social prohibition experienced by widowers who seek to remarry in Aceh through a dialectical framework integrating adat, Islamic law, and social practices from a living law perspective. It maps the tension between individual marital rights and adat-based social control and proposes a reconstruction of the adat–sharī'ah relationship in accordance with maqāṣid al-sharī'ah while maintaining social harmony. Accordingly, the study aims to identify the forms and social mechanisms of these prohibitions, analyze them through the concepts of 'urf, maṣlaḥah, and marital rights, and formulate recommendations for harmonizing customary values with the principles of justice and public interest in Islamic law.

This study employs a qualitative approach with a field research design to gain an in-depth understanding of the dialectical relationship between customary practices and Islamic law in the social restrictions placed on widowers seeking to remarry after the death of their wives in Pidie Regency, Aceh Province. The qualitative approach was chosen because the phenomenon under investigation is closely related to the construction of meaning, cultural values, social relational structures, and the subjective experiences of the actors involved. This approach enables the researcher to capture the dynamics of the living law within the community and to understand how it is negotiated, interpreted, and reproduced by local society.

The research was conducted in Pidie Regency, a region known for its strong adherence to customary marital practices and kinship traditions. The location was selected purposively based on the continued existence of social restrictions imposed on widowers intending to remarry within 30–44 days after their wives' deaths. Pidie was chosen because its community exhibits strong interaction between adat, Islamic law, and extended family structures, a social sphere highly relevant for examining the dialectic between adat and Islamic law in the context of living Islamic family law.

Research informants were selected through purposive sampling, based on their knowledge and capacity to provide relevant information. They comprised five groups: community leaders in Pidie, regency-level ulama, the deceased wife's family, widowers experiencing social pressure to remarry, and customary leaders of the Majelis Adat Aceh (MAA) of Pidie Regency. The number of informants followed the principle of data saturation, with interviews concluding when no new information emerged. Data were collected through in-depth semi-structured interviews, field observations, and documentation of customary regulations, adat decisions, and village deliberation records.

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Interviews explored informants' experiences, motives, and religious and customary justifications, while observations examined interactions among families, customary leaders, ulama, and widowers. Data were analyzed using the Miles, Huberman, and Saldaña model through data condensation, display, and conclusion drawing. Coding and thematic matrices identified patterns related to mourning, family honor, Islamic legal legitimacy, and the dialectic between adat and Islamic law. Conclusions were drawn inductively to explain their interaction as a living law. Data validity was ensured through source triangulation and member checking involving customary leaders, ulama, widowers, and the deceased wife's relatives.

Adat, Social Norms, and Widowers' Behavior in Pidie After Spousal Bereavement

The social structure of Pidie Regency has historically been built upon the foundations of collectivism, adherence to adat, and profound respect for the wife's family, which holds a strong position within local kinship systems. Although Aceh generally follows a bilateral kinship pattern, practices in many gampong, particularly in certain customary regions of Pidie, show that the wife's family often plays a more dominant role in determining the moral legitimacy of a man's actions after his wife's death. This dominance is evident in the customary practice that restricts widowers from remarrying within a certain period. Although this restriction is neither codified in formal law nor derived from Islamic legal doctrine, it persists strongly as a socially binding custom transmitted across generations.

Field findings show that the post-death period of a wife is perceived in Pidie not only as a time of emotional mourning for the family but also as a symbol of honor (*martabat*) for the deceased wife's relatives. One subdistrict customary leader stated, "If the wife has just died, it is not proper for the man to remarry quickly. It is not because the law forbids it, but because it is inappropriate in the eyes of the woman's family." This statement illustrates that the main parameter is not sharʿi legality but social propriety tied to the stability of inter-family relationships. In local perception, remarrying too soon is seen as a sign of disloyalty, insensitivity to the wife's family's grief, and a hasty act that diminishes the dignity of the deceased wife's lineage.

Conceptually, the norm can be understood as a form of collective moral expectation requiring a husband to demonstrate empathy, patience, and respect toward his wife's family. These values reflect the character of Pidie society, which upholds harmony, modesty (*peu aôt*), and decorum in social relations. The customary norm not only serves as a guideline for individual behavior but also functions as a mechanism of social control that maintains relational balance between families, especially when the wife's relatives are in a vulnerable emotional state.

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The role of customary leaders, whether from the Majelis Adat Aceh (MAA) at the regency level or from subdistrict structures such as community elders, is central in sustaining the continuity of this norm. These leaders act not only as guardians of adat but also as mediators when tensions arise between the widower and the deceased wife's family. In an interview, a member of the Pidie MAA stated: "MAA does not prohibit a widower from remarrying, but we understand the adat in many gampong. We usually advise them to wait first to preserve good relations." This indicates that although the norm lacks legal prescriptiveness, customary authority exercises strong moral influence through advice, gentle reprimands, and ethical guidance.

This mechanism of adat control is generally informal and unwritten. It operates through social networks such as family advice, informal conversations among community members, and gradually emerging social pressure. In some cases, the deceased wife's family explicitly expresses objection when the widower plans to remarry too soon. One interviewed heir stated: "We feel it is not appropriate for him to marry now. Our sister just passed away, and already there is another woman." Such reactions demonstrate the strong emotional link between the wife's passing and the family's expectation that the husband show respect by observing a mourning period deemed suitable by the wife's relatives.

On the other hand, widowers experiencing social pressure describe varied experiences. Some accept the norm as part of adat that must be respected, even if they personally feel the need for emotional support or practical assistance such as childcare. One widower shared: "I actually wanted to remarry quickly because my children are still young. But my wife's family disagreed. If I insisted, it would definitely cause problems." This finding shows that customary norms not only influence the widower's personal choices but also affect life planning and the needs of the nuclear family.[10]

Nevertheless, some widowers attempt to resist the pressure, though such efforts often fail. In several instances, the deceased wife's family intervened more extensively by requesting customary leaders to advise the widower or even halt the marriage process. A *keuchik* from one gampong explained: "There was once a man who wanted to marry two weeks after his wife died. The woman's family came to me and asked that the marriage be postponed." Such situations show that customary norms do not exist merely in the realm of values but have tangible implications for personal decision-making in a widower's life.[11]

[10]The informant requested anonymity and did not consent to the disclosure of their name or village. Interview with NS (initial) on January 15, 2026, in a village in Pidie Regency, Indonesia.

[11]The informant requested anonymity regarding their name and village. Interview with MA (initial), The *Keuchik* (village head), on January 16, 2026, in a village in Pidie Regency, Indonesia.

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The strength of this norm becomes even more apparent when viewed through the cultural foundations of Pidie society, which places salutation (*silaturahmi*) and harmonious inter-family relations as vital social capital. Remarrying too quickly is considered capable of damaging long-standing relationships or even provoking inter-family conflict. Therefore, delaying a widower's remarriage is seen not only as an effort to maintain moral propriety but also as a strategy to preserve social stability and prevent greater disputes.

These findings indicate that the social prohibition against widowers remarrying in the immediate period after their wife's death is not a form of legal restriction but rather a manifestation of the interaction between adat and locally developed Islamic ethics. Adat governs the spaces not fully addressed by formal law or religious law, particularly in matters of public morality and social sensitivity. It is this interaction between adat and religion that ultimately shapes the living law, practices that are adhered to voluntarily despite lacking explicit normative grounding in fiqh. In the context of Pidie, this norm functions as an instrument for safeguarding the honor of the wife's family, affirming social identity, and ensuring harmony in inter-family relations, an enduring social mechanism that continues to operate today.

The Fiqh Perspective and the Interpretation of Pidie Regency Ulama on the Permissibility of Widowers to Remarry

From the perspective of normative fiqh, scholars agree that no 'iddah period is prescribed for men when their wives pass away or when a divorce occurs.[12] The waiting period, or 'iddah, is a shar'i obligation specifically applicable to women, either as a means of clarifying lineage, fulfilling aspects of worship, or serving as a psychological transition following the dissolution of marriage. Thus, textually, Islamic law does not impose a specific time limit for widowers to remarry. However, interviews with ulama at the Pidie Regency level indicate that their interpretation of this permissibility does not remain confined to the legalistic dimension; rather, they situate it within the framework of social ethics, maslahah, and akhlaq karimah as developed within Acehnese society.

A senior scholar from the Pidie Regency Majelis Permusyawaratan Ulama (MPU) emphasized: "From the shar'i perspective, a man may marry at any time after his wife passes away. The law does not prohibit it. But in adat and in ethics, we advise waiting because the woman's family is still in mourning."[13] This statement reflects a clear distinction between normative law grounded in

[12]Ahmad Fanani, "Hak Ex Offcio Hakim: Studi Kasus Perceraian Di Pengadilan Agama Sidoarjo No. 3513 Th. 2015," *Tsaqafah* 13, no. 2 (2018), p. 339.

[13]Interview with Tgk. H. Muhammad Ismi A. Jalil (Abu Ismi), Chairperson of the Pidie Regency Ulama Consultative Council (Majelis Permusyawaratan Ulama/MPU), on January 18, 2026.

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the scriptural texts and ethical values that emerge from the need to maintain social harmony. Such a view aligns with contemporary fiqh literature, which differentiates between hukm taklifi and the realm of social ethics embodied in *takhalluq bi al-akhlaq al-karimah* (adopting noble character), as developed in the discourse of social fiqh.[14]

A similar narrative appears among other ulama who assert that the encouragement to delay remarriage is not a shar'i restriction but a form of tasliyyah al-khathir, namely, providing emotional reassurance and respect to the deceased wife's family, who remain in a state of loss. In an interview, a subdistrict-level ulama who frequently mediates family issues at the village (*gampong*) level stated: "Even though men do not have 'iddah, if they marry immediately, it will offend the woman's family. In Islam, protecting others' feelings is part of ethics." This aligns with the maslahah framework developed by al-Thufi, who emphasizes that considerations of social welfare can serve as a basis for establishing ethical recommendations for the community.[15]

Normatively, Pidie ulama refer to the view of the jumhur of jurists that the 'iddah requirement does not apply to men because there are no considerations related to lineage, the womb, or biological processes that would necessitate a waiting period. This is supported by modern family fiqh scholarship, which affirms that men have no temporal restrictions regarding remarriage.[16] Nevertheless, Pidie ulama do not approach the textual sources in a rigid manner; they incorporate local values into the principles of akhlaqiyyah and maslahah 'ammah, thereby creating interpretive space to encourage the postponement of remarriage as an expression of loyalty to traditions of honoring the woman's family.[17]

In the view of Pidie ulama, local customary norms are not seen as contradicting Islamic law, as long as they remain within the domain of ethics rather than legal coercion. An MPU scholar explained: "Acehnese adat aligns with the Sharia. It does not add to the law, but it refines behavior. We cannot say it is haram to marry quickly, but we can advise delaying it for the sake of

[14]Mursyid Djawas et al., "The Integration Between Syara'and Ade'in Marriage Tradition Bugis Bone, South Sulawesi," *AL-IHKAM: Jurnal Hukum & Pranata Sosial* 18, no. 2 (2023).

[15]Maslahah Ath-thufi, Yuyun Tri Fatimah, and Abdul Haris, "Masa Tunggu Laki-Laki Pasca Perceraian Perspektif Maslahah Ath-Thufi," *Sakina: Journal of Family Studies* 7, no. 1 (2023), p. 1–11.

[16]Rahmad Setyawan et al., "Reforming Islamic Family Law in Indonesia through Syibhul Iddah for Husbands: State Policy and Penghulu Perspectives," *El-Mashlahah* 15, no. 2 (2025).

[17]Interview with Tgk. Muhammad Diah Adam, Chairperson of the Aceh Adat Council (Majelis Adat Aceh/MAA) of Pidie Regency, on January 14, 2026.

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maslahah."[18] This perspective corresponds with studies on customary and Islamic law showing that dialectical interaction between the two is not contradictory but mutually reinforcing, particularly within the realm of public morality. To reinforce this view, several ulama refer to the concept of syibh al-'iddah, or a state resembling a waiting period, not in a legal sense but in the sense of propriety. This concept has appeared in contemporary fiqh literature as ethical guidance for men not to rush into a new marriage, especially when emotional ties exist with the deceased's family.[19] Although not legally binding, Pidie ulama interpret this as an ethical mechanism to maintain family dignity and interpersonal relations.

Field findings also reveal that ulama often serve as mediators when tensions arise between the woman's family and the widower. A religious scholar from Pidie Regency explained "We cannot forbid it, but we explain to the man that marrying too soon may provoke slander and conflict. We want to preserve the relationship between the two families."[20] This demonstrates that ulama position themselves within the framework of maslahah al-'ammah, meaning social welfare that transcends the personal interests of the widower. This perspective is reinforced by social fiqh literature emphasizing that safeguarding social relations is part of the maqashid of family.[21]

Moreover, Pidie ulama also understand the social context of a community that is highly sensitive to mourning periods. In many cases, the deceased's family feels slighted when the widower remarries too quickly, potentially leading to prolonged conflict. In an interview, a subdistrict-level ulama explained: "Families of women in Pidie are very sensitive. If a husband remarries too quickly, they feel their daughter is not being honored."[22] This psychosocial aspect is also supported by literature on social relations and community cohesion, which can be disrupted by behavior perceived as inappropriate.

Therefore, although fiqh sets no definitive restrictions, Pidie ulama interpret the practice of postponement as part of the social harmony characteristic of Acehnese society. This is consistent with Acehnese customary

[18]Interview with Tgk. H. Muhammad Ismi A. Jalil (Abu Ismi), Chairperson of the Pidie Regency Ulama Consultative Council (Majelis Permusyawaratan Ulama/MPU), on January 18, 2026.

[19]Sartina and Lilik Andaryuni, "Konsep Syibhul Iddah Bagi Laki-Laki Ditinjau Dari Hukum Islam," *Jurnal Tana Mana* 3, no. 2 (2022), p. 288–300.

[20]Interview with Tgk. H. Syamsul Bahri (Abi Bambong), a member of the Pidie Regency Ulama Consultative Council (Majelis Permusyawaratan Ulama/MPU), on January 16, 2026.

[21]Muhammad Ali Murtadlo, "Islamic Family Law Reform in Indonesia," *Islamic Contemporary Issues in Social Sciences*, 2020.

[22]Interview with Dr. Tgk. Miswar Saputra, M.Pd., a young religious scholar and academic in Pidie District, on January 16, 2026.

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law studies that affirm adat does not aim to intervene in the domain of shar'i law but seeks to maintain social order through moral mechanisms.[23] Thus, the ulama occupy a mediating position between fiqh texts and the social needs of the local community.

At a more theoretical level, the views of Pidie ulama reflect the broader concept of dialectics between Islamic law and adat, which forms a significant part of the Indonesian legal tradition. As noted by various scholars, integrating adat and Sharia is a common practice among Indonesian Muslim communities, provided that adat does not contradict shar'i principles.[24] This corresponds with the fiqh muqaran perspective, which recognizes that many family issues are influenced not only by scriptural texts but also by the surrounding social reality.[25]

The perspective of Pidie ulama demonstrates that while the permissibility for widowers to remarry quickly is a normative fiqh ruling, its social implementation is heavily mediated by ethical considerations. The ulama assert a clear boundary between the non-prohibitive nature of shar'i law and customary values that emphasize courtesy, patience, and respect toward the woman's family. The dialectic between the two traditions gives rise to a local practice in which delaying remarriage is encouraged, not as a contradiction to Islamic law, but as a reinforcement of social harmony as part of the maqashid of family and the broader Acehnese community.

Dialectics between Customary Law and Islamic Law in the Formation of Living Law Concerning the Mourning Period for Husbands

The dialectic between customary law (*adat*) and Islamic law in the context of the husband's mourning period in Pidie Regency demonstrates a two-way interaction that is dynamic, flexible, and mutually influential. At the doctrinal level, Islamic law does not prescribe any 'iddah or obligatory mourning period for men, whether after divorce or the death of a wife. This provision is normative and has been agreed upon by the majority of classical jurists.[26] However, field findings show that the Pidie community has developed a living law in the form of a customary norm of delaying remarriage through a dialectical process between moral obligations embedded in adat and the

[23]Zuhrah et al., "Tradition Beyond Formal Fiqh: Ethnic Perspectives on Negotiating Kafāʾah in Marriage within the Aceh Singkil Community.". Muhammad Yusuf, "The Existence of The Jinayat Law in Indonesian Community," *Legitimasi: Jurnal Hukum Pidana Dan Politik Hukum* 10, no. 2 (2021).

[24]Ratno Lukito, "Islamic Law and Adat Encounter: The Experience of Indonesia," *ProQuest Dissertations and Theses* (1997).

[25]Karimuddin Abdullah Lawang, *Pernikahan Pelaku Khalwat Secara Hukum Adat Menurut Fiqh Dan Qanun Aceh*, ed. Syamsul Bahri, *Yayasan Sahabat Alam Rafflesia*, vol. Agustus (Yogyakarta: Yayasan Sahabat Alam Rafflesia, 2023).

[26]Aykul, "Iddah of Man in İslāmic Family Law."

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flexibility of fiqh principles. Adat does not introduce a new shar'i rule; instead, it functions as a mechanism of social control to preserve the honor of the deceased wife's family and maintain the psychosocial order of society. At the same time, Islamic legal principles such as maslahah, 'urf, and sadd al-dhari'ah provide legitimacy for the continuity of this custom as long as it does not contradict fundamental legal provisions.[27]

This dialectic within Muslim societies in the Malay–Indonesian archipelago demonstrates that Islamic legal norms never operate in isolation; rather, they remain in constant dialogue with the living social structures of local communities, including deeply rooted customary practices and cultural traditions.[28] In the Pidie context, the customary expectation that a widower postpone remarriage is not intended to alter fiqh rulings, but rather to refine their implementation through values of propriety (*al-murū'ah*). The interviewed ulama explained that delaying remarriage after a wife's death constitutes a form of tasliyyah al-khāṭir, namely providing emotional comfort to the bereaved family. This concept is not a legal construction but an expression of social ethics consistent with the maqāṣid al-sharī'ah, particularly the protection of honor (*hifz al-'ird*). Thus, customary norms and Islamic law complement one another rather than negate each other.

From the perspective of Islamic law, the existence of custom ('*urf*) is recognized as a legitimate basis for legal formulation as long as it does not contradict textual sources.[29] This viewpoint is in line with the legal maxim *al-'ādah muḥakkamah*, which has long formed the foundation for the relationship between Islamic law and local tradition. Therefore, the customary recommendation that a widower delay remarriage during the mourning period is acceptable within the framework of 'urf ṣaḥīḥ, custom that accords with shar'i principles. Field findings reinforce this: various ulama in Pidie affirmed that they never prohibit a man from remarrying quickly but strongly recommend postponement to preserve harmonious relations between the two extended families. This stance is consistent with the framework of social fiqh as analyzed by Prawiro, which argues that Islamic law offers room for social adaptation without altering the substance of fundamental rules.[30]

Pidie's customary norms interpret the mourning period not as 'iddah for men but as a moral obligation to show respect to the deceased wife's family.

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[27]Al Yasa' Abubakar, *Metode Istislahiah: Pemanfaatan Ilmu Pengetahuan Dalam Ushul Fiqh* (Banda Aceh: Bandar Publishing dan Pascasarjana IAIN Ar-Raniry Banda Aceh., 2012).

[28]Moh Dahlan, "Dialektika Norma Hukum Islam Paradigma Ulama Nahdlatul Ulama : Kajian Tipologis," *Jurnal Islam Nusantara* 03, no. 01 (2019), p. 238–62.

[29]Yusna Zaidah and Raihanah Abdullah, "The Relevance of Ihdad Regulations as a Sign of Mourning and Human Rights Restriction," *Journal of Human Rights, Culture and Legal System* 4, no. 2 (2024).

[30]Zaidah and Abdullah.

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This custom functions as a social safeguard to prevent conflict or offense between extended families, especially when a new marriage is deemed too soon and insensitive to the grief that is still ongoing. In field interviews, a subdistrict ulama explained that Pidie society highly values the mourning process and considers a hasty remarriage a violation of ethics, not of law. This observation is consistent with Amalia's findings, which show that Acehnese adat possesses strong mechanisms of social regulation and that customary provisions often function as instruments to maintain harmony within and between families.[31]

The framework of Islamic law provides space for such custom through the principle of maslahah. The formulation posits that maslahah may serve as a basis for ethical guidance when no textual evidence explicitly prohibits or mandates an action. Since there is no prohibition preventing a widower from remarrying immediately, the recommendation to delay can be justified on the basis of maslahah 'āmmah: avoiding slander (*fitnah*), preserving the honor of the deceased wife's family, and maintaining social cohesion. Within this perspective, the customary recommendation is not a new prohibition but part of broader efforts to preserve the social order, as evidenced in many other local traditions across the archipelago.[32]

Beyond maslahah, the principle of sadd al-dhari'ah also provides justification for the customary mourning period. This principle teaches that actions that may lead to harm or conflict should be prevented even if the actions themselves are legally permissible. In the Pidie context, quick remarriage by a widower may trigger misunderstanding, slander, family tension, or even inter-village conflict. Numerous interviews with ulama indicate that families of the deceased wife often feel deeply offended if the surviving husband remarries within a week or two after the death. The postponement of remarriage thus represents a social consensus regarded as a preventive measure against such conflicts. This situation aligns with Azani's analysis of family conflict management through communication mechanisms, emotional adaptation, and respect for the bereaved.[33]

Islamic law itself does not impose a mandatory mourning period on men. However, contemporary fiqh discussions have explored the possibility of *syibh al-'iddah*, or a "condition resembling a waiting period" for husbands.

[31]Daniel S. Lev, "The Supreme Court and Adat Inheritance Law in Indonesia," *The American Journal of Comparative Law* 11, no. 2 (1962). Abdurrahaman, *Peradilan Adat Di Aceh Sebagai Sarana Kerukunan Masyarakat* (Banda Aceh: Majelis Adat Aceh, 2009). Nanda Amalia, Mukhlis Mukhlis, and Yusrizal Yusrizal, "Model Penyelesaian Sengketa Dan Peradilan Adat Di Aceh," *Jurnal Hukum Ius Quia Iustum* 25, no. 1 (2018), p. 159–79.

[32]Ridwan and Abdul Basith, *Tradisi Perkawinan Masyarakat Kejawen (Kontruksi Hukum Perkawinan Dan Kewarisan)* (Yogyakarta: Pustaka Ilmu, 2022).

[33]Nurfajriyah Azani, Ahmad Arifi, and Lukman Harahap, "Studi Kualitatif Tentang Solusi Al- Qur ' an Terhadap Konflik Keluarga Pada Mahasiswa Program Studi Bimbingan Dan Konseling Islam," *Madania: Jurnal Ilmu-Ilmu Keislaman* 12, no. 2 (2022), p. 114–27.

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Although it does not constitute a binding *shar'i* ruling, this concept provides a normative space in which social considerations may shape ethical expectations. Field findings in Pidie indicate that customary norms operate within this space: the customary expectation that widowers observe a period before remarrying functions not as a legal obligation, but as a strong moral and social expectation reflecting respect for the deceased, family relations, and social propriety. Thus, adat and Islamic legal values interact in shaping a form of living law that derives its social force from customary practice while remaining subject to Islamic normative principles.

Accordingly, the dialectic between adat and Islamic law concerning widowers' mourning and remarriage in Pidie can be understood not simply as a conflict between customary and religious norms, but as a process of negotiation between social expectations and Islamic legal principles. Adat provides the cultural and moral framework through which the community expresses respect and social responsibility, while Islamic law establishes the normative boundaries within which such customs may operate. This interaction demonstrates how a non-binding customary expectation can acquire significant social authority as living law, provided that it does not contradict fundamental principles of *sharī'ah*, particularly justice, individual rights, and *maṣlaḥah*.

Social and Religious Implications for Widowers, Families, and Kinship Structures

Social restrictions imposed on widowers to refrain from remarrying too soon after the death of their wives in Pidie Regency demonstrate how non-formal norms operate as mechanisms of social control with binding power nearly equivalent to positive law and religious law. Although Islamic law does not prescribe a waiting period for men as it does for women through the concept of 'iddah, the people of Pidie have constructed a cultural norm that views the postponement of remarriage as an act of respect toward the family of the deceased wife and as a symbol of moral loyalty. This norm, as observed in various field interviews, is not merely an expression of customary propriety but also constitutes a structure of social sanctions that influences the behavior of widowers, extended families, and kinship relations.

For widowers, social pressure often creates a dilemma between emotional and practical needs and communal-moral expectations. Many widowers, both economically and socially, are in positions that require a new partner to manage the household, care for children, or meet affective needs. However, deciding to remarry quickly is perceived as inappropriate and even considered an act that "hurts" the wife's family. These findings show that some Indonesian communities develop the concept of *syibh al-'iddah* for men, a morally based, non-legal mourning period meant to preserve the honor of the wife's family. In the Pidie context, such pressure may take the form of advice,

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subtle reprimands, or even explicit rejection from the wife's family, as reflected in an informant's statement that "the wife's family usually refuses if a man marries before 30 days have passed since his wife's death."

This moral pressure often generates significant psychological and social implications for widowers. Kodoatie states that low social cohesion and weak social support can adversely affect an individual's quality of life, especially for those who are grieving.[34] In many cases found in the field, widowers planning to remarry face social isolation or negative judgment from the community, prompting them to delay remarriage despite urgent personal needs. In the narrative of one interviewed widower, the decision to postpone remarriage was not driven by personal conviction but because he "did not want to be called unfaithful or disrespectful to his wife's family."

For the wife's family, this restriction is understood as a mechanism for preserving dignity and ensuring that the mourning period is observed with proper respect. As explained by Inayah and Amin, communities in many regions of Indonesia interpret mourning as a space for emotional stabilization, maintaining honor, and ensuring that social transitions after death proceed in an orderly manner. In the context of Pidie, which adheres to a strong matrilateral kinship pattern, the deceased's family views the widower as having a moral obligation to show empathy, allow time for the children to adjust, and ensure that caregiving remains stable before the presence of a stepmother.

Beyond moral considerations, this restriction is also linked to the power relations embedded in the kinship structure. The customary adjudication in Aceh functions through networks of authoritative figures such as tuha peut, *keuchik*, and district-level customary councils.[35] In cases concerning pressure on widowers, customary leaders and ulama often act as mediators when conflicts arise between the widower seeking to remarry and the wife's family who opposes it. This role is evident in interviews with the Pidie Aceh Customary Council (MAA), which stated that "the ulama do not legally prohibit it but advise patience for the sake of family harmony."[36] This statement confirms that religious authorities reinforce the social legitimacy of customary norms even though they are not explicitly grounded in textual Islamic law.

The relationship between custom and religion in this case reflects a dialectical pattern. Islamic law, through the frameworks of maslahah, 'urf, and social ethics, provides room for local customs to shape social practices as long

[34]Beatrix Y. Kodoatie, et al., "Hubungan Antara Dukungan Sosial Dan Kohesi Sosial Dengan Kualitas Hidup Pada Lansia Di Desa Tambun Kecamatan Likupang Barat Kabupaten Minahasa Utara," *Kesmas* 7, no. 4 (2018).

[35]Amalia, Mukhlis, and Yusrizal, "Model Penyelesaian Sengketa Dan Peradilan Adat Di Aceh."

[36]Interview with Tgk. Muhammad Diah Adam, Chairperson of the Aceh Adat Council (Majelis Adat Aceh/MAA) of Pidie Regency, on January 14, 2026.

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as they do not contradict core sharia principles. Therefore, the community interprets the restriction on widowers not as a new religious requirement but as a local value consistent with Islamic ethics of empathy, respect, and maintaining harmony. Nevertheless, this norm also has the potential to produce prolonged conflict. When widowers face urgent economic or social needs but are restrained by customary norms, tension between families may escalate. Customary leaders and ulama often serve as intermediaries, weighing individual needs against collective expectations. From a broader perspective, this customary norm functions as a social control mechanism that maintains social cohesion and interfamily solidarity. The social solidarity in traditional communities is constructed through the continuous internalization of values and social sanctions.[37] A similar mechanism operates in Pidie, where the community collectively evaluates widowers' behavior through moral judgment or social appreciation. This norm becomes part of the community's strategy to preserve social stability, as also illustrated in Prawiro's study on the dialectical relationship between custom and Islamic law in Indonesia.[38]

From the perspective of legal pluralism, this phenomenon demonstrates that non-formal norms, although uncodified, can hold authority equal to formal law. In this context, custom is not merely an adjunct to Islamic law but functions as a normative regime that regulates individual behavior within particular social spaces. In many cases, custom is even more effective in guiding behavior because it derives from cultural legitimacy and strong kinship ties. This corresponds with the analysis by Rochma and Utami, who emphasize that local culture plays a central role in shaping legal compliance.

Social restrictions on widowers in Pidie are therefore not merely customary practices but representations of complex interactions among religion, custom, kinship, and social needs. This norm demonstrates how society maintains harmony, manages conflict, and safeguards family structures through mechanisms rooted in historical experience and cultural values intertwined with Islamic teachings. Within the framework of legal pluralism, this phenomenon provides evidence that non-formal norms can function as effective regulatory systems while also reflecting the distinctiveness of Acehnese society in harmonizing custom and sharia.

Conclusion

This study demonstrates that the social restriction on widowers in Pidie to delay remarriage after the death of their wives is not prescribed by Islamic law, but constitutes a customary expectation rooted in respect, empathy, family

[37]Siti Dian Natasya Solin et al., "Batak Customary Marriage: A Study of the Prohibition of Same-Clan Marriage and Its Relevance in the Contemporary Era," *El-Usrah* 7, no. 1 (2024).

[38]Teguh Prawiro, "Menggagas Fiqh Nusantara: Dialektika Adat Dan Hukum Islam Di Indonesia," *Alasma: Jurnal Media Informasi Dan Komunikasi Ilmiah* 2, no. 2 (2020), p. 139–52.

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honor, kinship solidarity, and social stability. Although Islamic law does not prescribe a waiting period for widowers, local custom expects them to observe an appropriate period of mourning and show consideration toward the deceased wife's family, without equating this practice with the legally prescribed ʿiddah. The interaction between custom and Islamic law occurs through negotiation and normative accommodation rather than the domination of one system over another. Religious scholars, customary leaders, families, and widowers play important roles in interpreting the norm and mediating conflicts, with *maslahah*, propriety, respect, and family harmony providing its social legitimacy. Although not legally binding, the norm has strong regulatory force through kinship relations, communal expectations, and customary institutions, particularly the Aceh Customary Council (Majelis Adat Aceh/MAA). It influences remarriage decisions and may affect family cohesion, child-rearing, communication, and kinship relations. The findings show that Pidie customary norms constitute a socially authoritative normative regime rather than merely a complement to Islamic and state law. The dialectical interaction between custom and Islamic law produces a hybrid social norm that mediates individual interests and collective expectations while maintaining social stability. This demonstrates the importance of a socio-legal approach that views custom, Islamic law, and family relations as interconnected systems in shaping social order.

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