ILSIIS
Islamic Law and Social Issues in Society

Vol. 2, No. 2 (November, 2026), 131-152
P-ISSN: 3109-6344 | E-ISSN: 3110-0147
DOI: https://doi.org/10.64929/ilsiis.v2i2.64
https://ejournal.tuah.or.id/index.php/ilsiis/index

| Research Article |

Codifying *ʿUrf*, Negotiating *Ta'zīr*: Legal Discourse and Sharia–*Adat*–State Interaction in the Written Customary Law of Desa Semundam, Mukomuko

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Received: April 22, 2026 | Accepted: October 31, 2026 | Published: November 23, 2026

Abstract: The codification of customary law in Muslim-majority Indonesian villages raises important questions about how Islamic legal concepts are linguistically and discursively translated, localized, and contested in the transformation of oral *ʿurf* (custom) into written village regulation, a dimension that remains insufficiently examined in existing scholarship on Sharia–*adat*–state legal pluralism. To address this gap, this study analyzes the Semundam Village Customary Regulation No. 01 of 2024, a recently codified customary regulation in Mukomuko, Bengkulu, that combines Islamic legal terminology, Malay-*adat* idioms, and state legal references. Drawing on Islamic legal theory, legal pluralism, and critical discourse analysis (CDA), the study examines the regulation's 22 articles and interviews conducted in June 2025 with key local stakeholders, including customary, religious, village, community, and youth representatives. The study finds that, first, *ʿurf* codification in Desa Semundam operates as a discursive strategy to stabilize local authority through administrative form and a stated commitment to compatibility with state criminal law; second, customary sanctions expressed through Malay-*adat* idioms exhibit functional affinities with *ta'zīr*, while interview accounts reveal both restorative aspirations and social and economic burdens; and third, the regulation's legal language systematically negotiates three normative authorities, Sharia, *adat*, and state, through lexical choice, modality, and code-mixing, while its practical acceptance remains subject to deliberation, fairness, and protection needs. The study contributes to legal pluralism scholarship by identifying mechanisms of normative hybridization within a village regulation. It proposes an interdisciplinary framework for examining textual authority claims alongside local accounts of their interpretation.

Keywords: *ʿUrf* Codification, *Ta'zīr*, Legal Pluralism, Malay Customary Law, Mukomuko.

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Introduction

Historically, scholarship on Indonesian law has described the interaction between Islamic law (*sharīʿa*), customary law (*adat*), and state law at the level of institutions, doctrines, and national codes. This institutional perspective leaves a question unanswered: How does a village council construct normative authority when it codifies oral *ʿurf* into a formal document stamped, signed, and numbered like a state regulation? The act of writing down custom is not neutral: it fixes practices that were once fluid, selects among varied practices, and brings categories from three normative traditions into a single text. The Semundam Village Customary Regulation No. 01 of 2024 (*Peraturan Adat Desa Semundam Nomor 01 Tahun 2024*), promulgated on August 18, 2024, by the Customary Deliberation Council (BMA) of Desa Semundam in Mukomuko Regency, Bengkulu Province, is one such document (Badan Musyawarah Adat Desa Semundam, 2024, pp. 1–3). Its 22 articles, arranged in four chapters, combine Arabic-Islamic terminology (*muhrim*, *fardu kifayah*, *rujuk*, *talak*) with Malay-*adat* idioms concerning village cleansing (*cuci kampung*), a communal meal (*memutih nasi menguning kuah*), a ritual offering (*iban secarano*), and rotation (*gedang bagele*). The document also refers to the Kantor Urusan Agama (Religious Affairs Office) and *hukum pidana positif* (positive criminal law). The signatures of the Ketua BPD (chair of the village representative body) and Kepala Desa (village head) further link the document to the village administration.

National legal developments in 2026 make this village regulation particularly relevant. The new National Criminal Code (KUHP, Law No. 1 of 2023) took effect in January 2026. Article 2 provides a conditional statutory basis for recognizing *hukum yang hidup dalam masyarakat*, or living law, as a source of criminal liability (Butt, 2023; Hardinanto et al., 2024). Government Regulation No. 55 of 2025 further specifies the criteria and procedures, including the establishment of qualifying customary offenses through regional regulations. A village codification does not automatically acquire state penal authority (Republic of Indonesia, 2025). This context makes it necessary to distinguish a village document's claims to normative authority from its recognition within state criminal law. It also directs attention to how religious, customary, and state references are combined in the text and interpreted locally.

Existing scholarship provides the starting point for examining these interactions. Nurlaelawati (2010) studies how the *Kompilasi Hukum Islam* (Compilation of Islamic Law) negotiates tradition and modernity in religious courts, while Anggraeni (2023), Dahwal and Fernando (2024), and the Malay Buyan study of Kapuas Hulu (Journal of Islamic Law, 2025) examine negotiations between *adat* and Islamic law in local communities. Research on discretionary sanctions includes Harefa's (2025) discussion of the severity of state-imposed *taʿzīr*. Together, these studies establish the importance of normative interaction but leave room for closer analysis of how village codifications express authority through language and how local actors qualify those expressions in their accounts of practice.

Building on this scholarship, the present study focuses on the relationship between the wording of a village regulation and local accounts of its application. The analysis examines how the document constructs normative authority through its wording, its use of multiple registers, its idioms for sanctions, and the limits of its explicit definitions. Critical discourse analysis (CDA), as developed by Fairclough (1995, 2003) and discussed by Wodak and Meyer (2016), treats legal language as a site of norm construction rather than a transparent medium for transmitting rules. Recent CDA applications to Indonesian customary texts, such as Magfira et al.'s (2022) study of the Bima Land customary law manuscript, have begun to show what can be learned by reading these texts closely. Machin (2022) similarly argues that the law, like any form of language, carries ideas and values, and that each word choice highlights some realities and obscures others. Reading the Semundam regulation through this lens and comparing that reading with interview accounts connects the regulation's language to what participants reported about deliberation, the burdens of sanctions, and acceptance.

Three research questions therefore guide this article. First, how does the written regulation discursively codify *ʿurf* through its administrative form, local classifications, and references to state law? Second, how do communal sanctions expressed through Malay-*adat* idioms relate to the classical *fiqh* concept of *taʿzīr*, and how do local actors explain their purposes and burdens? Third, how do lexical choices, modality, and code-mixing across Arabic-Islamic, Malay-*adat*, and Indonesian-state registers express the negotiation of three normative authorities, and how do interview accounts of implementation and acceptance reflect that negotiation?

Addressing these questions requires connecting doctrinal interpretation, textual analysis, and local accounts. The analysis combines Islamic legal theory, customary law scholarship, and applied linguistics. Each perspective serves a distinct purpose. *Fiqh* concepts clarify doctrinal questions. Legal pluralism situates the interaction among authorities, and linguistic analysis identifies how the text expresses their claims. The study proposes a framework that links these textual mechanisms to interview accounts that support, qualify, or contest the regulation's claims to authority. Its wider applicability remains a question for subsequent comparative research.

Method

This study adopts a qualitative socio-legal design with an interpretive-critical orientation to examine how customary norms are expressed in writing and understood by local actors. It combines doctrinal-textual analysis of the Semundam Village Customary Regulation No. 01 of 2024 with critical discourse analysis based on Fairclough's three-dimensional model (Fairclough, 1995, 2003, 2010), supplemented by accounts from interviews conducted on June 1 and 2, 2025. The interviews provide perspectives on the regulation's interpretation, the administration of sanctions, and

the conditions under which customary settlement is accepted or questioned. The material includes accounts from a customary leader, the village head, a religious leader, a community leader, a youth representative, and residents. Table 1 identifies the informants by initials, role, and interview date.

Table 1. Interview informants

Informant initials	**Role**	**Interview date**
JA	Customary leader	June 1, 2025
AM	Village head	June 1, 2025
JA	Resident	June 1, 2025
JM	Religious leader	June 2, 2025
HB	Community leader	June 2, 2025
KM	Resident	June 2, 2025
MS	Youth representative	June 2, 2025

Source: interviews, June 1–2, 2025. The two informants sharing the initials JA are distinguished by their roles.

The principal documentary source is the 18-page customary regulation, consisting of the formal decree (Decision, pp. 1–3) and its *Lampiran* (Annex, pp. 4–18). The annex comprises Chapter I on *Jumlah Kaum dan Penyelenggara Adat* (Number of Kinship Groups and Customary Administrators, Articles 1–4), Chapter II on *Adat Sebenar Adat* (custom grounded in divine order, Articles 5–6), Chapter III on *Adat Pegang Pakai* (custom adaptable to circumstances, Articles 7–22), and Chapter IV, *Penutup* (Closing Provisions) (Badan Musyawarah Adat Desa Semundam, 2024). The regulation supplies the textual basis for examining normative categories, institutional arrangements, and sanctions, while the interviews document local actors' interpretations and reported experiences. Classical Arabic literature on *ʿurf* and *taʿzīr*, scholarship on Islamic law and legal pluralism, and studies of Indonesian *adat* and living law provide the conceptual and legal context for reading these sources together.

The analysis uses the three interrelated dimensions of Fairclough's model to examine these sources. At the textual level, the analysis considers lexical choice, modality, transitivity, and nominalization in the regulation's 22 articles. At the level of discursive practice, it examines the document's formal production and compares its authority claims with interview accounts of interpretation and application. At the level of social practice, the analysis considers how these features and accounts reflect the interaction of sharia, *adat*, and state law. Together, these dimensions link the regulation's wording to participants' accounts of deliberation and the broader normative context. The evidence on deliberation comes from interviews, so it reflects what participants reported.

The analysis begins with a close reading of the regulation and then compares the textual findings with the interview material. First, technical terms are classified into Arabic-Islamic, Malay-*adat*, and Indonesian-state registers, and sanction provisions

are mapped across the document. These textual patterns are then examined in relation to the *fiqh* concepts of *ʿurf* and *ta'zīr*. Next, interview excerpts are grouped by theme: deliberation, restoration and deterrence, religious evaluation, administrative support, objections, economic burden, and choice of dispute-resolution forum. The comparison identifies points of agreement and disagreement by examining accounts that support the regulation's stated purposes alongside those that qualify its authority or reveal burdens. Selected Indonesian excerpts are presented in English translation. The resulting synthesis informs the proposed Tri-Authority Discursive Negotiation (TADN) framework.

The scope of this synthesis is limited by the nature and timing of the evidence. The interviews document participants' views but do not independently verify compliance, proportionality, deterrence, or lasting reconciliation. Without observation of BMA deliberations, case records, or follow-up evidence, claims about practical outcomes remain provisional. The analysis treats the 2026 national legal developments as context that postdates the June 2025 interviews. The study thus examines textual constructions and reported local perspectives rather than implementation under the later regulatory framework.

Conceptual Foundations

This section establishes the conceptual basis for examining the Semundam regulation and interview accounts. It explains *ʿurf* and *ta'zīr* in Islamic jurisprudence, situates village codification within legal pluralism, and introduces critical discourse analysis as a method for examining claims to authority. Together, these perspectives guide the analysis while distinguishing doctrinal concepts from local actors' descriptions of customary practice.

1. ʿUrf as a Source of Law in Islamic Jurisprudence

The first conceptual point of reference is *ʿurf*. Classical Islamic legal tradition recognizes *ʿurf* (custom) as a subsidiary source alongside the *Qurʾān*, *Sunna*, *ijmāʿ*, and *qiyās*. The earliest systematic treatments appear in *Ḥanafī* jurisprudence, where the maxim *al-ʿāda muḥakkama* ("custom is authoritative") was codified as the third foundational maxim of Ibn Nujaym's *al-Ashbāh wa al-Naẓāʾir* (Ibn Nujaym, 1999; al-Suyūṭī, 1990). The *Shāfiʿī* tradition, to which most Indonesian Muslims adhere, accepts *ʿurf* under more restrictive conditions but still gives it legal effect when it does not contradict a clear textual ruling (al-Zuḥaylī, 1989; Kamali, 2003). Al-Qarāfī's treatment of *al-furūq* between *ʿurf*-based and text-based rulings (al-Qarāfī, n.d.) is still cited as foundational.

Two distinctions guide the analysis. The first concerns *ʿurf ṣaḥīḥ* (sound custom) and *ʿurf fāsid* (corrupt custom). A sound custom must not violate a definitive textual prohibition, introduce harm (*ḍarar*), or eliminate an established benefit (*maṣlaḥa*). Developed in detail by al-Shāṭibī in *al-Muwāfaqāt* and refined in al-Būṭī's *Ḍawābiṭ al-*

Maṣlaḥa (al-Būṭī, 2001; al-Shāṭibī, 2006), this distinction governs which village practices a jurist may legitimately accept. When Desa Semundam's regulation lists *melakukan ritual perdukunan* among sanctionable offenses in Article 6, the provision can be examined through this distinction, although the regulation does not itself use the category *ʿurf fāsid*. The second concerns *ʿurf ʿāmm* (general) and *ʿurf khāṣṣ* (particular). Indonesian village customs fall under the latter. Indonesian *Shāfiʿī* jurists accept that particular custom can override general textual presumptions in specific cases, provided the custom meets four conditions: consistency with the text, continuity, predictability, and communal acceptance (al-Zuḥaylī, 1989; Kamali, 2003; Opwis, 2010). The 2024 regulation records local normative commitments; codification alone does not establish that every practice satisfies these conditions. Religious scrutiny and participants' acceptance therefore remain questions for analysis.

2. Taʿzīr between Classical Fiqh and Contemporary Application

The treatment of custom raises a related question about sanctions and their authority. *Taʿzīr* in classical *fiqh jināyah* refers to discretionary punishment imposed by a legitimate authority (*al-imām*) for offenses outside the fixed categories of *ḥudūd* and *qiṣāṣ* or when those punishments cannot be applied because the evidence is insufficient (Abū Zahra, 1998; ʿAwda, 2005; Peters, 2005). Its form is flexible, its severity can be adjusted, and its justification rests on *maṣlaḥa* and *sadd al-dharāʾiʿ*. Classical jurists such as al-Māwardī located *taʿzīr* within *al-aḥkām al-sulṭāniyya*, tying it to the ruler's authority (al-Māwardī, 1985), while Ibn Taymiyya and Ibn Qayyim developed its justification on the basis of *maṣlaḥa* (Ibn Taymiyya, 1983; Ibn Qayyim al-Jawziyya, 1973).

Contemporary debates in Indonesia have raised new questions about *taʿzīr*. Harefa (2025) argues that *taʿzīr* applied through state law can involve punishments more severe than classical *ḥudūd*, particularly in drug trafficking cases. Peters (2005) and Lange (2008) note that the flexibility that made *taʿzīr* useful in premodern Muslim polities has made it susceptible to instrumentalization in modern states. Aceh's Qanun Jinayat incorporates the category into provincial criminal law alongside *ḥudūd* (Jufrizal, 2025; Mubarok, 2025). Against this background, the Semundam regulation sets out communal sanctions administered by the Badan Musyawarah Adat. The regulation expresses these sanctions in Malay-*adat* idioms instead of classical legal terms such as *jald*, *ḥabs*, or *tawbīkh*. The theoretical question is whether these local sanctions qualify as *taʿzīr* in the jurisprudential sense, or whether they constitute a distinct normative category that serves some of the same functions. The study uses *taʿzīr* as an analytical concept. The term does not appear in the regulation or the interviews.

3. Legal Pluralism and Village-Level Codification

The distinction between doctrinal concepts and local institutions also requires a broader account of normative interaction. In Griffiths's (1986) account, legal pluralism refers to the empirical fact that multiple normative orders operate

simultaneously in a single social field. Merry's (1988) classic review distinguished classical legal pluralism from new legal pluralism. Benda-Beckmann (2002) and Tamanaha (2008) further refined the concept, cautioning against treating plural orders as distinct systems when they overlap at every level of practice. Hooker's foundational work on Southeast Asian legal pluralism (Hooker, 1975) remains influential because it recognized that colonial and Islamic orders had never been fully separable in the Malay world. Indonesia illustrates this interdependence. Davidson and Henley (2007) documented the revival of *adat* discourse; Bowen (2003) and Hefner (2000) showed how Muslim communities navigate religious obligations through state courts, *adat* councils, and Islamic scholars; Crouch (2013) analyzed how plural orders produce conflict in West Java's religious courts. Village-level codification has received less sustained attention. Anggraeni (2023), Alifuddin et al. (2024), Pairin et al. (2024), and the Kapuas Hulu study (2025) note the emergence of written *adat* codes but focus on inheritance, marriage, or ritual rather than on the role of legal discourse in codification.

4. Legal Discourse and Critical Discourse Analysis

CDA complements this account of legal pluralism by examining how normative interaction is expressed within a text. Its analytical value lies in treating legal language as part of authority construction. Fairclough's three-dimensional model (Fairclough, 1995) reads a text simultaneously as a linguistic artifact, a product of discursive practices, and an element of social practice. Wodak's discourse-historical approach (Wodak & Meyer, 2016) traces the historical development of discursive strategies; van Dijk's socio-cognitive approach (van Dijk, 2008) focuses on how discourse produces power relations. Tiersma (1999), Gibbons (2003), and Conley and O'Barr (2005) have shown that features such as nominalization, passive voice, modality, and technical vocabulary construct authority, assign agency, and encode ideology. Following Magfira et al.'s (2022) application to the Bima Land manuscript, the analysis below begins with the Semundam document's form, then examines its classifications, sanctions, and linguistic negotiation of authority.

Codifying *ʿUrf* in Desa Semundam

The preceding section established the conceptual distinctions needed to examine custom, sanctions, and normative authority. This section applies those distinctions to the Semundam regulation's administrative form, selection of customary norms, and classification of divinely grounded and adaptable custom. Interview accounts clarify how written provisions serve as a reference in local deliberations.

1. The Architecture of Codification

The regulation asserts its authority in part through its administrative form. The opening page carries the emblem of Mukomuko Regency and the header "Semundam Village Customary Regulation (*Peraturan Adat Desa Semundam*) of Ipuh District, Mukomuko Regency" (Badan Musyawarah Adat Desa Semundam, 2024, p. 1). The

document follows the structure of an Indonesian decree: *Menimbang* (Considering), *Mengingat* (Having Regard To), *Memperhatikan* (Taking Into Account), *Memutuskan* (Deciding), and *Menetapkan* (Determining) (pp. 1–3). The final page contains signatures from six *kaum* (kinship-group) heads; the Ketua BMA (council chair), Arpan; the Wakil Ketua (deputy chair), Suarman; the Ketua BPD, Edi Suanto, S.Pd.; and the Kepala Desa, Anril Mukmin (p. 18), each accompanied by an official stamp. The document uses the visual and structural conventions of state regulation to present customary authority in a familiar administrative form. In the legal pluralism literature, codification is often read as a process by which the state absorbs customary orders (Griffiths, 1986; Merry, 1988; Benda-Beckmann, 2002). Semundam illustrates a complementary process: a customary institution adopts state-style documentary conventions to formalize local norms. The interviews help distinguish this formal presentation from the practical relationship between village government and *adat* institutions.

AM, the village head, reports that the customary institution administers sanctions with administrative support from the village government, whose officials sometimes witness deliberations (interview, June 1, 2025). AM's account points to institutional cooperation but does not establish that the BMA instrument has the same legal status as a formally enacted Peraturan Desa (Village Regulation). HB adds that "written provisions serve as a reference, but the circumstances of the case are also discussed in deliberation" (interview, June 2, 2025, translated excerpt). The written regulation therefore provides a reference for deliberation, during which participants interpret the provisions in light of the case.

2. Selection and Preservation: What Gets Written

The regulation explains the reasons for codification in the *Menimbang* clauses. The first appeals to the *pelestarian* (preservation) and *pengelolaan* (management) of tradition. The second frames the document as an *acuan dasar* (foundational reference). The third acknowledges an existing oral *adat pegang pakai* tradition and identifies a need for revision through the phrase "*dipandang perlu untuk merevisi*" (revision was considered necessary) in response to contemporary needs (Badan Musyawarah Adat Desa Semundam, 2024, p. 1).

These stated reasons connect preservation with adaptation. The verb *merevisi* indicates that codification builds on earlier interpretations of custom. The *Mengingat* section notes that oral *adat* "*telah terbentuk tetapi belum memenuhi dan menjawab penyelesaian beberapa masalah*" (p. 2), a justification for filling a regulatory gap that follows the conventions of state regulation. The *Memperhatikan* section then invokes "*kebutuhan dan kemajuan zaman*" (p. 3), which can be compared analytically with the maxim *taghayyur al-aḥkām bi-taghayyur al-azmān* (changes in rulings as times change) associated with Ibn Qayyim al-Jawziyya (1973) and al-Qarāfī. This comparison identifies a possible affinity with *fiqh* reasoning about change; it does not demonstrate that the drafters consciously invoked that principle. Chapter I then specifies the six

kaum (Melayu Gedang, Malenggang, Dirajo, Empat Belas, Delapan Ditengah, and Lima *Suku*), the 15-member BMA, and 16 types of *acara yang diadatkan* (events governed by custom), including *Nyalang Kepala Desa*, a local term for an event involving the village head, and *Nuzul Qur'an* (commemoration of the revelation of the *Qurʾān*) (pp. 4–7). Oral Mukomuko tradition, as documented elsewhere (Ajisman, 2018; Harijanto et al., 2023), includes a wider range of practices. The codified list includes only some of them, and omitted practices may still carry local normative significance.

3. Religious Grounding and Mutable Custom

The regulation organizes the selected norms into two categories, *adat sebenar adat* and *adat pegang pakai*, introduced above as divinely grounded and adaptable custom, respectively. These local categories identify different grounds of authority and should be distinguished from the *fiqh* classification of sound and corrupt custom. Chapter II on *Adat Sebenar Adat* opens with a definition: "*Yang dimaksud adat sebenar adat adalah segala sesuatu yang bersifat sunatullah atau aturan hukum yang mengatur aturan manusia yang berasal dari penciptanya*" (*Adat sebenar adat* refers to that which has the character of *sunnat Allāh*, or rules governing human affairs that originate from the Creator) (p. 7). The text fuses *adat sebenar adat*, a Minangkabau concept, with *sunnat Allāh*, a Qurʾānic-Islamic concept. In doing so, it identifies the highest tier of custom with divine order itself.

The definition supplies a religious frame for the offenses listed in Article 6: *perzinaan* (illicit sexual relations), *korupsi* (corruption), *maling/mencuri* (stealing), *membunuh* (killing), *mabuk* (intoxication), *judi* (gambling), *membuli orang* (bullying), *mencaci maki* (verbal abuse), *perkelahian* (fighting), and *melakukan ritual perdukunan* (performing shamanic rituals) (Article 6, p. 8). The sanctions combine *cuci kampung* with restrictions on *adat* services, except in cases of death or *fardu kifayah* (communal religious obligations) (Article 6, point 10, p. 9). This framing can be compared with the distinction between *ʿurf ṣaḥīḥ* and *ʿurf fāsid*, but it does not independently demonstrate the doctrinal validity of every offense or sanction. JM's emphasis on reviewing fairness and possible harm, discussed below, indicates that religious assessment remains necessary at the level of individual decisions.

Chapter III expressly allows for change. Article 7 defines *adat pegang pakai* as norms that "*dapat berubah sesuai dengan kepantasan dan keadaan zaman*" (can change according to propriety and the conditions of the era) (p. 9). The phrase *dapat berubah* situates Chapter III within the domain of adaptable *ʿurf* proper, subject to negotiation, in contrast to the divine grounding claimed for *adat sebenar adat* in Chapter II. This two-tier classification, although not explicitly labeled in Arabic, can be read alongside *fiqh* discussions of custom and changing circumstances. The local distinction concerns whether a custom can change, whereas the fiqh classification of *ʿurf* as sound or corrupt concerns whether a custom is doctrinally acceptable.

Negotiating *Taʿzīr* through Malay-*Adat* Idioms

The preceding section examined how the regulation formalizes customary authority and distinguishes its normative categories. This section turns to the sanctions attached to those categories, examining their ritual and material forms, vernacular idioms, and the institutions that administer them. Interview accounts illuminate restorative purposes and practical burdens, providing a basis for assessing functional affinities with *taʿzīr* without assuming doctrinal equivalence.

1. The Sanction Catalog

The distinction between normative categories also shapes the sanction provisions. Article 6 in Chapter II, together with provisions in Chapter III, sets out ritual, material, and social obligations expressed largely through *adat* terminology. These include *memutih nasi menguning kuah* (a ritual meal of communal reconciliation), *memotong kambing* (slaughtering a goat), *memotong kerbau atau sapi* (slaughtering a buffalo or cow), *cuci kampung* (ritually cleansing the village), monetary fines ranging from Rp 300,000 to Rp 4,550,000 (Articles 6, 12, 21), and the withdrawal of customary services, described as "*tidak dilayani oleh orang adat*" (not served by customary representatives) (Articles 6, 16, 19).

The sanctions are organized around ritual reconciliation, material expenditure, and restrictions on communal services. These forms invite comparison with aspects of *taʿzīr*, particularly discretionary responses, deterrence, and communal benefit. However, neither the Arabic term nor a formal claim to that jurisdiction appears in the regulation. Article 7 provides for escalation when someone refuses a sanction, including withdrawal of *adat* services except for funeral obligations (p. 9). The interview accounts clarify the tension between the intended restoration of relationships and the pressures through which sanctions operate.

JA, the customary leader, makes the restorative purpose explicit. He explains that sanctions aim "to restore social balance and harmony among residents" and are decided through deliberation that considers the violation and its social effects (interview, June 1, 2025, translated excerpt). He identifies public apologies and obligations involving animals, cloth, or money, and notes that families sometimes participate in settlements. His account supports a restorative reading of the sanction catalog by explaining its stated purpose. The outcomes have yet to be independently verified.

2. Performative Idioms as Sanctions

This connection between material obligations and communal settlement is particularly clear in the idiom *memutih nasi menguning kuah*, which appears twelve times in the regulation in provisions concerning fornication (Article 6.1), adultery (Article 6.4), marriage to a *muhrim* (Article 6.5), entry into a *kaum* (Article 9.1), elopement (Article 21.3), and divorce (Article 19.2). Literally, the phrase describes the preparation of a ritual meal: white rice and yellow-hued curry, served to assembled

adat members. In offense-related provisions, the idiom links material provision to communal settlement. Its use in provisions on joining a *kaum* shows that the phrase can also describe an obligation unrelated to punishment or an admission of wrongdoing. Material expenditure and public acknowledgment offer points of comparison with discussions of financial and admonitory sanctions in *fiqh*. Their precise doctrinal classification requires separate justification. The idiom alone cannot establish that participation is voluntary or that reconciliation has been achieved.

The phrase *iban secarano* describes obligations associated with joining a *kaum*, as set out in Articles 3.2 and 9.2. The regulation associates it with white cloth (*kain putih sekabung*), thread in three colors (white, black, and yellow), cotton, betel nut, and a payment of Rp 1,600,000 (p. 9). These requirements show how community membership is expressed through vernacular ritual and material obligations. The available interviews do not explain the symbolic meaning of each object, so neither a specific cosmology nor equivalence with Islamic *kafāra* can be established from this evidence.

Reading these idioms as communal obligations brings their practical burden into focus. Residents' perspectives qualify the restorative account. JA, the resident, reports that people may experience shame or social exclusion as more burdensome than formal punishment (interview, June 1, 2025). KM similarly observes that "sanctions can also feel burdensome, especially when costs must be borne" and asks that financial capacity be considered (interview, June 2, 2025, translated excerpt). The material cost of a sanction should therefore be distinguished from the time and procedural costs of reaching a settlement. These accounts indicate that reconciliation and deterrence may coexist with unequal burdens. They do not establish that all sanctions are proportionate.

3. The Authority Question

The burdens of sanctions raise a question about who determines and evaluates them. Article 2 identifies a 15-member BMA composed of a Ketua (chair), Wakil Ketua (deputy chair), Sekretaris (secretary, drawn from kinship-group heads), Bendahara (treasurer, drawn from kinship-group heads), one Kepala Dusun (hamlet head), the six Kepala *Kaum* (kinship-group heads), four Pegawai Syarak (religious functionaries, locally titled *Imam*, *Bhilal*, *Khotib*, and *Ghorim*), and an Orang Tua Negeri (community elder) (p. 4). The Kepala Desa serves as Pembina/Pelindung (advisor/protector) rather than a council member. This composition is itself a discursive statement. The four Pegawai Syarak carry titles borrowed from classical Islamic administration (*imām*, *bilāl*, *khaṭīb*, *gharīm*), and their inclusion gives religious functionaries a place in *adat* governance. Establishing their decision-making powers requires evidence beyond their titles. These religious offices are assigned on a rotational basis (*gedang bagele*, Article 20), which ties the offices to the organization of the local community. From a CDA standpoint, the arrangement links religious office to communal membership and rotation without establishing how expertise or influence is distributed in practice.

Article 20.2 specifies that the rotating officer "*sebaiknya tahu akan agama, tahu akan adat istiadat dan bersasal dari kaum tersebut dan belum pernah dihukum oleh adat*" (p. 14). The provision thus lists knowledge of religion and *adat*, communal affiliation, and moral record as qualifications. The result is a composite institutional arrangement. Interview accounts help specify its deliberative character without equating the BMA with the classical *al-imām*.

Within this institutional setting, JM describes the religious leader's role as offering a religious assessment that considers "whether the sanction is fair" and whether it harms any party (interview, June 2, 2025, translated excerpt). He also stresses the need to refer to actual cases before characterizing practice conclusively. HB states that objections should be heard and discussed again (interview, June 2, 2025). This qualifies AM's description of decisions as final and binding (interview, June 1, 2025): the accounts suggest tension between the authority claimed for a decision and the space for further deliberation, without demonstrating a formal appeal procedure.

The Discursive Negotiation of Sharia, *Adat*, and State

The preceding section examined the forms, purposes, burdens, and administration of customary sanctions. This section examines how the regulation expresses normative authority through lexical registers, modality, and code-mixing. It then considers the clause that makes use of the regulation conditional on compatibility with state criminal law. Interview accounts connect these textual features to religious evaluation, institutional cooperation, and participants' choices between customary and state forums.

1. Lexical Registers as Indicators of Authority

The regulation's language reflects the same combination of institutions. A lexical inventory of the 22 articles identifies three recurring registers. Arabic-Islamic terms include *muhrim* (used locally in connection with marriage prohibitions), *fardu kifayah* (communal religious obligations), *aqiqah* (a birth-related sacrificial rite), *kurban* (sacrificial offering), *Isra' Mi'raj* (the Prophet's night journey and ascension), *Nuzul Qur'an* (commemoration of Qurʾānic revelation), *Syariat Agama Islam* (Islamic religious law), *talak* (repudiation of marriage), *rujuk* (resumption of marriage following revocable divorce), *khuluk* (wife-initiated divorce involving compensation), and the Pegawai Syarak titles. The Malay-*adat* register includes the cleansing, meal, offering, and rotational idioms discussed above, together with *berasan gedang*, *nyalang*, *badarak*, *masuk kaum* (entering a kinship group), *nurut kaum*, *menanggal subang*, and *orang adat* (customary representatives). Where the available evidence does not establish a term's local meaning, the analysis retains the original wording. Administrative and institutional terms include NA Kepala Desa (the village-head document referred to as NA), Kantor Urusan Agama (KUA, Religious Affairs Office), Pengadilan Agama (Religious Court), Badan Musyawarah Adat (BMA, Customary Deliberation Council),

Badan Perwakilan Desa (BPD, Village Representative Body, as named in the source), *Setoran Bank* (bank deposit), and *hukum pidana positif* (positive criminal law). The terms refer to institutions with different sources of authority: BMA names the customary council, whereas KUA and Pengadilan Agama refer to state institutions. The vocabulary they share therefore does not determine where each institution derives its authority. Arabic-Islamic terminology invokes religious legitimacy. Whether the provisions substantively comply with sharia remains open to examination. Malay terms situate practices within inherited Minangkabau-Bengkulu traditions, while state-related terms connect them to Indonesia's administrative infrastructure. The regulation switches registers when it stipulates that a civil divorce registered at the Pengadilan Agama requires no *adat* sanction (Article 18, p. 13) and when it imposes a fine of Rp 4,550,000 for elopement without obtaining the NA from the Kepala Desa (Article 6.8, p. 8). These examples show how rules are expressed through references to more than one normative source. Assessing their practical authority requires consideration of both institutional roles and local interpretation.

2. Modality and the Distribution of Obligation

Alongside lexical references to authority, modality indicates how obligations are assigned. Obligations are frequently expressed through passive or impersonal constructions. The most frequent markers of modality are *dikenakan* (is subjected to), *wajib* (obligatory), *tidak boleh* (is not permitted), *diperbolehkan* (is permitted), and *harus* (must). Article 6.6 reads: "*orang tersebut dikenakan sanksi dengan di berhentikan dari jabatannya*" (p. 8). The provision does not identify who administers the sanction. This passage illustrates the pattern Tiersma (1999) identified in legal language: passive constructions obscure agency and elevate the legal rule itself to the status of actor. Article 21.4 specifies that the Rp 1,500,000 bounty for capturing a fornicating couple "*diberikan kepada orang yang menangkap*" (p. 15). Unlike the earlier clause, this provision explicitly identifies the recipient. The contrast illustrates how grammatical choices can foreground some participants while leaving others unspecified.

3. Code-Mixing and the Hierarchy of Legitimacy

The lexical registers and constructions of obligation come together in passages that combine administrative and customary terms. A single sentence can traverse three registers. Article 18.2 reads: "*Apabila sepasang suami istri yang menikah tidak tercatat di Kantor Urusan Agama (KUA) atau nikah bawah tangan, melakukan perceraian secara adat, maka dikenakan biaya Led Adat*" (p. 13). The sentence moves from the Indonesian state-law register (Kantor Urusan Agama, KUA, tidak tercatat) to Indonesian-Islamic vocabulary (*nikah bawah tangan*, unregistered marriage) and then to Malay-*adat* vocabulary (*perceraian secara adat*, customary divorce; *Led Adat*, the locally named fee). Bringing the registers together in a single sentence shows that the normative orders interact but does not establish that their institutions have equal power or jurisdiction. The explicit compatibility clause in the Closing Provisions and

the interview accounts of forum choice qualify any claim that the three authorities have equal standing.

4. The Closing Provisions and Compatibility with State Criminal Law

Point 6 of Chapter IV, Closing Provisions (p. 17), specifies a limit on the regulation's use: "*Atas persetujuan bersama, maka peraturan adat ini dapat menjadi pedoman terhadap masalah yang dihadapi masyarakat sepanjang tidak bertentangan dengan hukum spidana*" (By mutual agreement, this customary regulation may serve as a guide as long as it does not conflict with criminal law). The quotation preserves the original spelling, which alone cannot establish the drafters' training or intentions. The substantive point is that the document makes its use conditional on compatibility with criminal law, a textual accommodation relevant to the legal-pluralism concerns discussed by Benda-Beckmann (2002). This condition appears after 22 articles that combine religious, customary, and administrative references. The compatibility clause does not establish formal recognition of the BMA instrument as a source of state criminal liability.

This textual accommodation does not resolve how participants choose between available forums. The interviews provide contrasting accounts of that choice. AM views some young people's preference for the police as a challenge to the continuity of *adat* (interview, June 1, 2025). MS offers a conditional position: "If a dispute can still be discussed safely and fairly, I am willing to follow customary settlement"; matters involving safety or legal protection may instead lead him to consider the police (interview, June 2, 2025, translated excerpt). His request for a clearer explanation of procedures and rights indicates selective engagement rather than wholesale rejection of *adat*. These contrasting accounts connect textual negotiation to participants' assessments of fairness and protection.

Comparative Analysis: Semundam in the Indonesian Landscape

Aceh offers a comparison at the provincial level. Its 2014 Qanun Jinayat codifies Islamic criminal law and imposes *ḥudūd* and *taʿzīr* sanctions (including *jald*) for offenses such as *khalwat*, *ikhtilāṭ*, *maisir*, *khamr*, and adultery (Feener, 2013; Jufrizal, 2025; Mubarok, 2025). The Aceh model is centralized, provincial, and state-sanctioned. It uses Arabic *fiqh* vocabulary directly and implements classical sanctions such as public flogging. Desa Semundam's regulation operates at the village level, is promulgated by a traditional council rather than a provincial parliament, does not use the Arabic term *taʿzīr*, and expresses its sanctions through Malay-*adat* forms. Aceh's code draws on formal state penal authority, whereas Semundam's regulation draws on communal authority. Administrative support from village officials, as reported by AM, should be distinguished from recognition of penal jurisdiction. Interviewees describe burdens associated with Semundam's ritual, material, and social sanctions that a comparison focused on corporal punishment would overlook.

Closer comparisons at the community level include the Malay Buyan case in Kapuas Hulu (Journal of Islamic Law, 2025), the Butonese *Fiqh Kankilo* system (Alifuddin et al., 2024), the integration of Islamic and customary law among the Tolaki (Pairin et al., 2024), and the Rejang Kelpeak Ukum *Adat* (Dahwal & Fernando, 2024). Against this comparative background, the Semundam document brings together a 2024 codification, the *adat sebenar adat / adat pegang pakai* distinction, a rotational *gedang bagele* arrangement for religious office, and a compatibility clause concerning state criminal law. These features suggest three points of comparison: institutional links with state authority, the use of religious and customary registers, and the forms and reported burdens of sanctions. They do not establish a quantitative ranking or a uniform hierarchy of severity. The comparison instead highlights variation in how local orders combine normative sources and organize authority.

Taken together, these comparisons clarify the complementary roles of the three analytical perspectives. Islamic legal theory provides a basis for examining Desa Semundam's regulation through the concepts of *ʿurf* and *taʿzīr* without assuming that its drafters applied a particular doctrinal framework. From the perspective of customary law, the regulation records the community's transition from oral custom to a written form that borrows from state law to stabilize *adat* authority (Davidson & Henley, 2007; Holleman, 1981; Hooker, 1975). From the perspective of applied linguistics, the regulation draws on Arabic-Islamic, Malay-*adat*, and Indonesian-state vocabulary and uses modality, transitivity, and nominalization to construct a claim to legitimacy grounded in all three registers (Fairclough, 2003; Wodak & Meyer, 2016; Tiersma, 1999). Read alongside the interviews, these perspectives distinguish the construction of authority from its reported exercise and acceptance. This distinction provides the basis for the integrative framework that follows.

An Integrative Model: The Tri-Authority Discursive Negotiation Framework

To organize these relationships, we propose the Tri-Authority Discursive Negotiation (TADN) Framework. The framework distinguishes three sources of authority and four textual operators. Table 2 summarizes these operators and illustrates them with examples in the Semundam regulation.

The three axes represent the sources of authority invoked in the document: the *Sharīʿa* axis, indexed by the Arabic-Islamic lexicon and *fiqh*-derived categories; the *Adat* axis, indexed by the Malay or local vernacular lexicon, ritual-performative idioms, genealogy (*kaum*, *suku*), and communal sanctions; and the State axis, indexed by bureaucratic vocabulary (KUA, Pengadilan Agama, NA, BPD) and explicit references to *hukum pidana positif*. The four operators describe how a text negotiates among these sources of authority. Lexical switching is the alternation among registers within short passages, which brings different claims to authority into the same construction. Hierarchization clauses are explicit passages that rank the axes, typically

subordinating the local-hybrid order to state criminal law. Structural mimicry is the adoption of the structural conventions of state documents to present customary authority in a recognizable administrative form. Idiomatic encoding is the preservation of *adat* idioms (such as *memutih nasi menguning kuah*) to express ritual and material obligations. These obligations provide a basis for comparison with aspects of *ta'zīr*.

Table 2. The TADN Framework: Operators and Effects

Operator	**Indicators**	**Effect**	**Example in Semundam**
Lexical switching	Shifts between registers within a sentence	Combines three authority claims	Article 18 on divorce
Hierarchization	Explicit priority statements	Makes use conditional on compatibility with criminal law	Chapter IV, point 6
Structural mimicry	Structure of state documents	Adopts administrative form	Decree format, seals, and signatures
Idiomatic encoding	Preserved vernacular idioms	Encodes customary obligations	*Memutih nasi menguning kuah*

We propose the framework as a tool for diagnosing textual patterns. It has yet to be validated as a predictive model. It distinguishes textual authority claims, compatibility clauses, administrative form, and vernacular sanction idioms. Applying the framework to reported practice requires examining accounts of who deliberates, whose objections are heard, and when participants seek another forum. Dense register mixing or a state-law compatibility clause cannot by itself demonstrate institutional equality, drafting intentions, or readiness for recognition under Article 2 of the KUHP. Further case studies are needed to assess the framework's wider applicability.

Discussion

The combined analysis suggests that codification provides a stable written reference while leaving some questions about authority, fairness, or acceptance unresolved. The interviews show how local actors qualify the regulation's claims to authority.

The first implication concerns Islamic legal theory. The Semundam case identifies functional affinities between communal sanctions and aspects of *ta'zīr*, particularly case-sensitive deliberation, deterrence, and concern for communal welfare. The customary leader's restorative account and JM's insistence on examining fairness support this comparison but do not resolve the doctrinal question of

legitimate sanctioning authority. Moreover, residents' accounts of shame and financial burden show that an appeal to *maṣlaḥa* cannot substitute for evaluating the effects of a particular sanction. *Ta'zīr* therefore serves as a basis for analytical comparison. The evidence does not show that local actors use the term to describe their practice.

For legal pluralism, the case links the interaction of normative orders in the text to local actors' accounts of how they negotiate authority. AM describes administrative support from the village government; JM describes religious evaluation; HB emphasizes deliberation and reconsideration of objections; and MS describes conditional recourse to *adat* or the police. These accounts show that the presence of multiple normative registers in a text does not establish equal authority or universal acceptance. This distinction between local normative authority and state jurisdiction also matters for public policy. Article 2 of the KUHP must now be read together with Government Regulation No. 55 of 2025, which specifies criteria and procedures for identifying qualifying customary offenses through regional regulation. When the elements of an act are identical or equivalent to those of an offense in the KUHP, the KUHP applies (Republic of Indonesia, 2025). Semundam's compatibility clause clarifies its stated relationship to state law but does not automatically confer state penal authority. The June 2025 interviews cannot establish implementation or recognition under this later regulatory framework.

The analysis also contributes to applied linguistics and legal discourse studies by linking written claims to local interpretations. The case shows the value of examining codified customary law alongside participants' accounts. Lexical switching, hierarchization clauses, structural mimicry, and idiomatic encoding show how the text constructs authority. The interviews show how deliberation, the burdens of sanctions, and the need for protection qualify those claims. The evidence nevertheless remains limited to a single regulation and a small set of interview accounts. The study lacks direct observations of BMA meetings, records of sanction cases, and follow-up evidence needed to assess deterrence, proportionality, or lasting reconciliation. Further research should examine these processes and outcomes, including the perspectives of parties directly subjected to sanctions.

Conclusion

The analysis of the Semundam Village Customary Regulation No. 01 of 2024, read alongside interviews with key local stakeholders, including customary, religious, village, community, and youth representatives, addresses the research questions by focusing on how the text constructs authority and how participants report interpreting it. First, the regulation uses an administrative structure and classifies customs in an effort to stabilize communal authority. It also makes its use conditional on compatibility with state criminal law. HB's account indicates that written provisions

serve as a reference in deliberations that consider the circumstances of each case. Second, its ritual, material, and social sanctions exhibit functional affinities with aspects of *ta'zīr*, but these similarities do not establish their doctrinal status. The customary leader emphasizes restoration, while residents identify social pressure and economic burden. Third, local accounts of religious evaluation, administrative support from village officials, and conditional choices about where to resolve disputes reflect the interaction of Islamic, *adat*, and state registers. Acceptance therefore remains subject to negotiation even after codification.

The study brings together close textual analysis and contrasting local accounts by drawing on Islamic legal theory, legal pluralism, and applied linguistics. The proposed TADN framework identifies four textual operators and directs attention to how local actors qualify the regulation's claims to authority in practice. Its wider applicability should be tested in other cases. Recognition under the living-law framework must be distinguished from local administrative endorsement, while assessment of *adat* sanctions requires attention to participation, fairness, material capacity, and protection needs. The evidence points to ongoing negotiation among normative orders. It does not establish uniform compliance or consistently restorative outcomes.

Declarations

Funding. This research received no specific grant from any funding agency in the public, commercial, or not-for-profit sectors.

Conflict of interest. The authors declare that they have no competing interests.

Ethical Statement. The study was conducted in accordance with the principles of voluntary participation, confidentiality, anonymity, and respect for participants' rights. The researchers obtained informed consent before collecting data. The authors declare that the study complies with applicable ethical research principles.

AI Usage Declaration. While preparing this manuscript, the authors used ChatGPT to assist with initial reference searches and the formulation of theoretical concepts. The authors reviewed, verified, and thoroughly edited all generated output. The authors bear full responsibility for all published content.

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