
Urf and Custom as Legal Foundations: A Comparative Analysis of Islamic and Western Jurisprudence

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Abstract

This study, titled “Urf and Custom as Legal Foundations: A Comparative Study of Islamic and Western Jurisprudence,” investigates the pivotal role of custom and usage in shaping legal systems. The study examines the conceptual foundations, classifications, and legal implications of ‘Urf (custom) and ‘Ādat (habit) within Islamic jurisprudence, juxtaposing them with their Western legal tradition counterparts. This comparative analysis is crucial for understanding how social norms and practices influence the development and application of legal rulings. It sheds light on the adaptability and dynamism inherent in Islamic and Western legal frameworks, emphasizing the role of community consensus in establishing justice and equity. The study employs a qualitative approach, utilizing primary sources from the Qur'an, Sunnah, and classical Islamic jurists such as Imam Abu Yusuf, Imam al-Sarakhsī, Ibn ‘Ābidīn and Abū Zuhra’ Misri, alongside Western legal theorists like Salmond and Coke. The research categorizes ‘Urf and ‘Ādat based on their soundness, usage, and generality, and examines their conditions for acceptability. Comparative analysis highlights the similarities and differences between the two traditions. The findings reveal that both Islamic and Western legal systems recognize the significance of custom and usage in shaping legal norms. Islamic jurisprudence accepts ‘Urf and ‘Ādat as valid sources of law, provided they align with divine teachings. Similarly, Western jurisprudence acknowledges custom's role in legal development, contingent on justice and public welfare. This study underscores the universality of human experiences and the enduring relevance of custom in legal practice.

Keywords: Urf (Custom), Ādat (Habit), Islamic Jurisprudence, Western Jurisprudence, Social Norms, Legal Maxims

Introduction

Legal systems have evolved over centuries, continuously adapting to the changing needs of societies. One of the key influences on legal development is the role of custom and societal practices. As a source of law, custom holds significant importance in both Islamic and Western legal traditions, shaping legal norms and ensuring their relevance to socio-cultural contexts. This study, titled “Urf and Custom as Legal Foundations: A Comparative Study of Islamic and Western Jurisprudence,” examines the role of customary practices in legal frameworks and their contribution to legal development. Specifically, it explores the conceptualization, classification, conditions of a valid urf, and its application in modern times in Islamic law, comparing them with analogous principles in Western legal traditions. Through comparative analysis, this research highlights the similarities and differences between these traditions, assessing the impact of custom on legal judgments and applications.

Legal traditions, across civilizations, have acknowledged the role of customs and societal norms in shaping legal systems. In Islamic jurisprudence, ‘Urf and ‘Ādat are considered valid sources of law, provided they do not contradict divine teachings. Similarly, Western legal traditions recognize customary practices as foundational principles in legal interpretation and development. Despite these parallels, significant differences exist in the methodologies, conditions, and authority of custom within each tradition. This study aims to provide a comparative analysis of how Islamic and Western legal systems incorporate custom as a legal foundation.

Scholars and jurists have extensively studied the role of custom in legal traditions. In Islamic jurisprudence, Imam Abu Yusuf (d. 182 AH / 798 CE), a prominent Hanafi jurist, was among the first scholars to recognize Urf as a source of law, though he regarded it as part of the Sunnah rather than an independent legal foundation. Later, al-Sarakhsī (d. 483 AH / 1090 CE) opposed this view, arguing that custom cannot override written texts. Other prominent scholars such as Ibn ‘Ābidīn (1784-1836) and Abū Zuhrah Al-misri (1898-1974) have elaborated on the conditions under which Urf and Ādat can be deemed legally valid. Their works emphasize the necessity of aligning custom with Islamic legal principles and outline methodologies for assessing the validity of customary practices.

In Western legal thought, jurists such as Sir Edward Coke (1552-1634) and Sir John Salmond (1862-1924) have explored the significance of customary law, particularly in the development of common law

principles. While Coke examined the integration of societal norms into statutory law, Salmond emphasized the historical continuity of legal customs. David J. Bederman explores the enduring significance of custom in both domestic and international law, analyzing its theoretical foundations and practical applications. Marie Seong-Hak Kim's research delves into the historical development of customary law in France and East Asia, highlighting the interplay between custom, codification, and the state-building process.

While previous studies have examined custom within individual legal traditions, this research sets itself apart by providing a comparative analysis. Unlike existing works that focus solely on either Islamic or Western legal perspectives, this study juxtaposes the two systems, offering a nuanced understanding of their similarities and differences. This approach enhances discourse on legal adaptability and the relationship between law and societal norms.

This study employs a qualitative research methodology, drawing from primary sources within both Islamic and Western legal traditions. The research analyzes the conceptual framework of Urf using the Qur'an, Sunnah, and classical Islamic juristic opinions. Simultaneously, Western legal theories and judicial precedents are examined to understand the role of custom in legal evolution.

A comparative approach is adopted to assess the classification, conditions, and legal implications of custom in both traditions. Through textual analysis, this study critically evaluates how different legal systems incorporate customary practices and the extent to which these practices shape legal principles. Employing a doctrinal research approach, the study provides an in-depth understanding of the foundational role of custom in legal development and its ongoing relevance in contemporary legal discourse.

Meaning of Urf and Custom

Lexicologists have given many meanings of Urf. Urf refers to knowing something because of its effect, and it is more general in scope than 'ilm (knowledge).¹

The Holy Qur'an has also used the word urf in the same sense.

يَعْرِفُونَهُ كَمَا يَعْرِفُونَ أَبْنَاءَهُمْ

"Those (to whom We gave the Scripture) recognise (this Prophet) as they recognise their sons."²

Urf, opposite to al-nukr, refers to all the deeds with which human nature is acquainted and satisfied.³ The Holy Qur'an says:

تَأْمُرُونَ بِالْمَعْرُوفِ وَتَنْهَوْنَ عَنِ الْمُنْكَرِ

"You enjoin right conduct and forbid indecency."⁴

One of the meanings of ‘urf is something lofty and well-known as the Holy Qur’ān says:

وَبَيْنَهُمَا حِجَابٌ وَعَلَى الْأَعْرَافِ رِجَالٌ يَعْرِفُونَ كُلًّا بِسِيمَاهُمْ

“Between them is a veil. And on the Heights are men who know them all by their marks.”⁵

Experts in jurisprudence hold divergent views regarding the definition of Urf. Ibn Ābidīn defines Urf as a state firmly established in the hearts, appealing logically, and embraced by pious natures.⁶ Abū Zuhrah of Egypt offers a simpler definition, stating that Urf is the way people are accustomed to, and their affairs habitually follow it.⁷ Shaykh Ahmad Fahmī describes Urf as a matter that satisfies the heart, is well understood, and is accepted because intellect demands it, with people of sound taste and nature not rejecting it.⁸ Abd al-Wahhāb al-Khallāf explains that Urf refers to something familiar to people, whether in words, practices, or omissions, and is also termed Ādat.⁹

Each of these definitions of Urf offers valuable meaning, though there remains room for a more comprehensive explanation tailored to our specific context. A more inclusive definition is the one proposed by Dr. Ahmad b. Alī: “Urf is a matter widely practised by people, acted upon by all or some cities. It may be at some specific time or at all ages.”¹⁰ Another comprehensive definition is provided by ‘Abd al-Wahhāb al-Khallāf, who states, “Urf is a matter widely recognized by the majority of people, whether in speech, practice, or omission, provided it does not contradict the Book of Allāh or the Sunnah of the Prophet.”¹¹ These definitions assert that a matter is recognized as Urf when a broad segment of society consistently practices it.

In the Western legal system, the term “Custom” corresponds to the Islamic concept of Urf and is defined as: “a practice that, through widespread acceptance and long-standing, consistent application, has attained the force of law.”¹² This definition highlights that custom is a practice widely accepted by the general public and has been in use for an extended period. In statutory law, a related term, “custom and usage,” is used to describe this concept and is defined as: “General rules and practices that have become commonly adopted through consistent habit and widespread use.”¹³ An eminent expert of law, Austin says, “Custom in its origin is a rule of conduct, which the governed observe spontaneously and not in pursuance of a law set by a political superior.”¹⁴ According to Halsbury, “A custom is a particular rule which has existed either actually or presumptively from time immemorial and has obtained the force of law in a particular locality, although contrary to or not consistent with the general common law of the realm.”¹⁵ In the words of Salmond, “Custom is

frequently the embodiment of those principles which have commended themselves to the national conscience as principles of justice and public utility.”¹⁶

All the above definitions and explanations lead to the conclusion that custom generally refers to the conduct and practices of people. While the terms “custom” and “usage” are often used interchangeably in the Western legal system, there is a distinction between the two. Usage represents the transitional phase of custom. Custom begins where usage ends. Usage refers to a widespread habit of action that has not yet received full legal recognition, whereas custom is a unified and self-consistent practice. Usage may sometimes be conflicting, but customs must be consistent.¹⁷

Conditions of a Valid Urf and Custom

In Islamic jurisprudence, the validity of Urf as a legal source depends on four essential conditions. First is permanent behavior, meaning that the practice must be stable, continuous, and enduring—sporadic or occasional practices do not qualify as valid ‘urf. However, it is not necessary for the custom to date back to ancient times. Second is its recognition as a social value. An action must evolve from an individual’s conduct into a widespread societal norm, embraced by an entire community. Only then does it become a valid custom in Islamic law. Third, it must carry a positive moral value, aligning with what the Qur’an refers to as *ma’rūf*—acts naturally accepted by sound minds and ethical conscience. This moral alignment ensures that Urf is not only socially prevalent but also ethically upright and spiritually acceptable.¹⁸ Forth, a valid custom aligns with the teachings of Sharia, does not contradict any explicit text from the Qur’an or Sunnah, and remains within the boundaries set by Islamic law to be considered legally acceptable.¹⁹

In Western jurisprudence, particularly within common law, certain conditions determine the validity of a legal custom. First, a custom must be reasonable, meaning it must conform to principles of justice and promote public welfare. It cannot become law if it contradicts fairness or rationality. Second, it must conform to statutory law—a custom has no legal standing if it conflicts with an Act of Parliament. As emphasized by Salmond that a custom must not be contrary to an Act of Parliament.²⁰ Coke also clarifies that legislative law holds higher authority over custom.²¹ Third, a custom must be observed as of right, meaning it is practiced openly and without coercion or the need for special permissions from those affected. Its legitimacy stems from consistent, voluntary public observance. In the words of Dr V D Mahajan, “The custom must have been followed openly, without the necessity for resource to force, and without

the permission of those adversely affected by the custom being regarded as necessary.”²² Finally, it must be of immemorial antiquity, having been practiced for so long that its origins are beyond human memory. As Salmond noted, it must be so ancient that “the memory of man runneth not to the contrary.”²³ Where a custom is contrary to justice, equity and good conscience, people are at liberty to reject it as the rule of decision.”²⁴ These criteria ensure that customs in Western law are not only socially rooted but also historically and legally sound.

Legitimate Status of Urf and Custom as Foundations of Law

In Islamic law, Urf is recognized as one of the secondary and valid sources of legislation because it reflects the society’s rooted practices grounded in justice, compassion, and ease. Many such customs, like knocking before entering or using household items as a guest, naturally evolved and were upheld across generations. Islam acknowledged and incorporated these social norms where they aligned with its values. Pre-Islamic Arab society also followed longstanding traditions—some influenced by Prophet Ibrāhīm, other religions, and local cultures—which Islam refined, validated, or rejected based on divine guidance. Rather than emerging in isolation, Islam perfected the moral and legal legacy of earlier revelations. Scholars like Mawdūdī emphasize that Islam did not borrow from past religions but completed the divine message, with ‘Urf serving as a natural, experience-based element in harmony with Sharia.

Commonly, the following verse of the Holy Qur’ān is cited which establishes that ‘urf is a source of law:

خُذِ الْعَفْوَ وَأْمُرْ بِالْعُرْفِ وَأَعْرِضْ عَنِ الْجَاهِلِينَ

“Keep to forgiveness and enjoin ‘urf (kindness) and turn away from the ignorant.”²⁵

The statement of ‘Abd Allāh b. Mas‘ūd (RA) also serves the same purpose:

مَا رَأَى الْمُسْلِمُونَ حَسَنًا، فَهُوَ عِنْدَ اللَّهِ حَسَنٌ.

“Whatever Muslims regard as good, it is good in the sight of Allāh.”²⁶

Imām Shātibī provided a deep and compelling analysis of the legitimate role of Urf in Islamic law, affirming its legitimacy through strong textual evidence and the practices of the Companions. He argued that the connection between causes and effects in Sharī‘a validates the importance of custom, noting that the consistency of Islamic rulings shows that the Lawgiver did not overlook societal practices. Since one of the core aims of Sharī‘a is to promote human welfare, incorporating established customs becomes both logical and necessary. Ignoring these ingrained habits, Shātibī warned, would lead to hardship and social unrest. Thus, the continued reliance on Urf across legal rulings highlights its essential place in the evolution of Islamic jurisprudence.²⁷

Custom has been a foundational source of Western law, especially in the evolution of Common Law, where long-standing social practices shaped legal norms. Though modern legal systems now emphasize statutes, precedents, expert opinions, and legislation, custom remains a recognized and legitimate source. Legal scholars like Salmond classify sources of law into formal (state-authorized) and material (substantive), with custom fitting both categories. While its role has declined with the rise of legislative authority, theorists such as P.J. Fitzgerald affirm that custom's early influence is integral to Western legal heritage. Historically, legal thought was divided between those who upheld state sovereignty, like Austin, and those who valued inherited legal traditions. Today, this distinction holds little practical weight, and the recognized sources of law have expanded to include five: custom, precedents, legislation, scholarly opinions, and agreements.²⁸

Application of Urf and Custom in Modern Times

Since its inception, Islam has guided humanity through eternal values (dīn) while allowing flexibility in practical applications (sharī'a). Dīn embodies unchanging universal truths, whereas sharī'a represents their contextual implementation, which can adapt to new circumstances without compromising core values. This balance between constancy and adaptability ensures Islam's continued relevance and prevents hardship. Legal adjustments in sharī'a are made only on valid grounds supported by precedents in the Qur'ān and Sunnah. These changes accommodate evolving customs, public interest, and social realities, enabling Islamic law to address contemporary needs while maintaining its foundational stability.

There is scholarly consensus that changing times necessitate revisions in certain injunctions based on ijtihād. The Islamic legal system ensures that social affairs remain practical and prevent undue hardship. Over time, scholars have adapted previous rulings to accommodate evolving customs and moral standards. Ibn 'Ābidīn illustrates the same point:

"One of the prerequisites of ijtihād (for a muftī and qāḍī) is familiarity with the habits of people, because lots of injunctions alter with change in time, and because the customs of people also alter, or some (new) needs rise, or people's morality deteriorates. Injunctions are meant for facility and the removal of harm, so that the worldly system might run finely. That is why great fuqahā' differed widely with the views of olden fuqahā' on many issues. Their views (correct and sound) were compatible with their own ages. Had they been in subsequent times, they would also have said much the same as the later occasion said."²⁹

Legal rulings based on customs evolve when societal norms change. Jurists agree that financial transactions, oaths, and fiqh matters influenced by custom must align with prevailing ‘urf. A muftī must consider the habits of the petitioner, not his own customs, while issuing a fatwa.

Islamic law, grounded in divine revelation, balances eternal values with necessary adaptability. The principles of ‘urf and qarā’ in support this flexibility, ensuring Islam remains relevant across different ages. The adaptability of shari‘a is evident in historical ijtihād, especially in the rulings of Caliph ‘Umar (RA), who adjusted laws based on changing circumstances. By recognizing the importance of ‘urf and pragmatic adjustments, Islamic jurisprudence continues to meet the evolving needs of Muslim societies.

Custom in Western Jurisprudence

Western scholars, both historical and contemporary, have consistently acknowledged the importance of custom and habit as foundational sources of law. Older thinkers such as Sir John Salmond emphasized custom as a principal source of law in his *Jurisprudence* (1902), while Sir Edward Coke, in his *Institutes of the Laws of England* (1628), rooted common law firmly in established customs. William Blackstone similarly upheld the significance of ancient customs within the common law tradition in his seminal *Commentaries on the Laws of England* (1765). In more recent scholarship, there has been a renewed focus on the relevance of custom in legal theory. H. Patrick Glenn, in *Legal Traditions of the World* (2014), advocates for a "revalorization of custom" within pluralistic legal contexts, recognizing its ongoing relevance across diverse legal traditions. Brian Z. Tamanaha, in *A General Jurisprudence of Law and Society* (2001), underlines the dynamic nature of law and the persistent influence of custom in shaping legal norms. Werner Menski offers a comparative perspective, integrating South Asian, Islamic, and Western legal traditions to highlight the centrality of custom in plural legal systems, as seen in *Comparative Law in a Global Context* (2006). Even earlier, Lon Fuller, in *The Morality of Law* (1969), asserted that shared social practices—habits and customs—are essential to the internal morality and legitimacy of legal systems. Together, these scholars illustrate a longstanding and evolving recognition of custom as an enduring and vital element in the formation and functioning of law.

Indeed, the Western legal systems have undergone significant transformation in response to continuous social change. What initially began as informal customs and social usages gradually evolved into formal, institutionalized statutory laws. To stay aligned with contemporary

realities, the West has repeatedly revised its legal frameworks, giving customs legal authority through formal recognition and structured legislative processes. Understanding this evolution involves exploring key jurisprudential theories that explain how customs transitioned into recognized sources of law.

Historical Theory views law as a reflection of the collective consciousness and historical experience of a community. According to this perspective, customs emerge from society's shared values and practices, making them a natural foundation for legal development. As Dr. V.D. Mahajan puts it, the foundation of law exists in the "common consciousness of the people," evident in their habits and customs.³⁰ However, critics argue that not all customs represent genuine collective will—some may persist due to social pressure or habit, and their actual role in legal development may be limited.

In contrast, Analytical Theory, supported by jurists like Austin and Holland, maintains that customs only become law when recognized by a sovereign authority or enforced by judicial decisions. Legal validity, in this view, depends not on societal acceptance but on institutional recognition. Customary practices gain legal status either by being adopted as statutes or by forming the basis of judicial precedents. This theory highlights the formal role of the state in transforming customs into enforceable laws.³¹

While these two theories offer different perspectives, modern legal systems often synthesize both. Historically, customs laid the groundwork for law, but in contemporary societies, new laws are shaped primarily by legislative bodies to meet present-day needs. As commerce, technology, and urbanization expanded, especially during the Industrial Revolution, new challenges prompted the development of legal systems addressing inheritance, commerce, finance, and social welfare—often inspired by earlier customs but adapted through modern mechanisms.

Today, Western law-making institutions operate with clear awareness of public needs. Laws are passed by official legislative bodies, ensuring legal reforms are responsive and efficient.³² This marks a dual evolution in the West: industrial and political changes accompanied by legal modernization, all while maintaining roots in custom.

In short, Western legal history demonstrates the enduring importance of custom in shaping laws. Although the methods of law-making have shifted from organic practices to structured legislation, custom continues to provide legitimacy and continuity. Like Islamic law, the Western legal tradition values adaptability, drawing on the past to craft laws suited for the present—illustrating the timeless role of custom as both a foundation and bridge in legal evolution.

Comparative Analysis

While both systems recognize custom as a fundamental component of law, they differ significantly in their philosophical foundations, conditions for validity, and integration within broader legal frameworks.

In Islamic jurisprudence, ‘urf (custom) is an inherently recognized and respected source of law, provided it does not conflict with the higher sources of the Qur’an and Sunnah. This reflects a deep-seated emphasis on aligning human practices with divine guidance. Islamic law is not static; rather, it permits dynamic interaction with evolving customs, especially when such customs serve justice, mercy, and the common good. The distinction between unchanging religious principles (dīn) and adaptable legal rulings (sharī‘a) allows for contextual flexibility. Scholars such as Imam Shātibī and Ibn ‘Ābidīn underscore that custom is not merely tolerated but is essential in achieving the higher objectives of the Sharī‘a (maqāṣid al-sharī‘a). Furthermore, the use of qarā’in (contextual indicators), many of which are rooted in social customs, aids jurists in deriving context-sensitive rulings. This openness to custom is not arbitrary; it is guided by Islamic ethical and legal principles, and it permits tools such as ijtihād to ensure continued relevance of the law in changing contexts.

In contrast, Western jurisprudence, particularly within the Common Law tradition, views custom as one of several sources of law. Historically, Western legal theory recognizes custom as the earliest form of law, emerging organically from the practices of communities. This view, articulated by jurists like Savigny, forms the basis of the Historical School, which sees law as a product of a nation’s spirit and evolving social norms. On the other hand, the Analytical School, represented by thinkers such as Austin, sees custom as subordinate to legislation, arguing that it gains legal authority only when endorsed by a sovereign. Over time, especially post-Industrial Revolution, Western legal systems increasingly favored codified statutes and legislation over customary norms. Nevertheless, the foundational role of custom remains embedded in the moral and social structures of Western societies, serving as a silent guide for many legal principles even in the age of formal lawmaking.

Despite these distinctions, both Islamic and Western legal traditions share an important philosophical commonality: the recognition that law must reflect lived human experiences. In both systems, custom serves as a bridge between abstract legal norms and the real-world conditions in which people live. Islamic law, with its divine reference points, permits custom to function within a moral framework shaped by revelation and prophetic tradition. Western law, grounded in secular and

often positivist principles, treats custom more as a product of historical experience and societal consensus.

The comparative study therefore, highlights that while Islamic jurisprudence sees custom as a tool to ensure that divine law remains contextually relevant, Western jurisprudence treats it as an origin point for legal evolution, later refined and often replaced by legislative processes. Yet, in both traditions, custom reveals the law's responsive nature—its ability to evolve, adapt, and serve justice by resonating with the moral and cultural realities of the community.

Conclusion and Suggestions

Based on this comparative study of Islamic and Western jurisprudence regarding the role of custom, several key suggestions can be drawn for jurists and researchers to further enrich the legal discourse and enhance practical jurisprudence:

1. **Encourage Deeper Engagement with Social Realities:** Jurists, particularly within Islamic jurisprudence, should continue to explore and analyze contemporary customs ('urf) with an eye toward social transformation, cultural shifts, and moral trends. This requires an ongoing process of contextual *ijtihād* that balances fidelity to divine principles with attentiveness to real-life human experiences.
2. **Integrate Maqāṣid al-Sharī'a in Custom-Based Judgments:** Islamic legal scholars should ensure that the application of 'urf is consistently evaluated in light of the objectives of Sharī'a (*maqāṣid al-sharī'a*)—namely the preservation of religion, life, intellect, progeny, and property. This will help avoid the risk of blindly following harmful or unethical customs while affirming those that promote public welfare and justice.
3. **Promote Interdisciplinary Legal Research:** Researchers should adopt interdisciplinary approaches that combine legal theory with insights from sociology, anthropology, history, and ethics. Such approaches can help jurists understand the formation, persistence, and evolution of custom, allowing for more nuanced and effective integration of societal norms into legal practice.
4. **Critically Reassess Historical Customs:** While historical customs may serve as precedents, both Islamic and Western jurists must assess them through contemporary moral and legal standards. Outdated or unjust customs must be identified and re-evaluated to ensure alignment with universal principles of justice, human dignity, and equity.
5. **Strengthen Comparative Jurisprudence Studies:** There is a need to expand comparative legal studies between Islamic and Western jurisprudence, not merely to identify differences, but to learn from each

other's strengths. For example, the Western emphasis on institutional codification can inspire clarity and structure in Islamic legal reforms, while Islamic jurisprudence's moral anchoring offers ethical depth to legal reasoning.

6. **Revive the Use of Qarā'in and Contextual Indicators:** Islamic jurists should place renewed emphasis on the use of qarā'in—contextual indicators often rooted in custom—in legal derivation. This ensures rulings are not only textually grounded but also contextually sound, enhancing the law's practical applicability.
7. **Document Contemporary Customary Practices:** Legal researchers should focus on systematically documenting modern customary practices across Muslim societies. This data can serve as an invaluable resource for jurists engaging in ijtihād and for legal scholars aiming to update or expand fiqh literature in line with present-day realities.
8. **Encourage Legal Pluralism and Tolerance:** Since both Islamic and Western legal traditions acknowledge the social roots of law, jurists and policymakers should advocate for legal pluralism where appropriate. Respect for regional and cultural diversity in custom-based legislation can foster legal harmony and inclusivity.
9. **Train Future Jurists in Custom-Sensitive Jurisprudence:** Legal education, especially in Islamic seminaries and universities, should include dedicated modules on the role of 'urf in law, its limitations, and its interaction with other sources of law. This can prepare future scholars to deal with emerging societal issues wisely and effectively.
10. **Maintain Ethical Vigilance:** Finally, both Islamic and Western jurists must maintain ethical vigilance in applying or rejecting custom. The test of any custom's validity should ultimately be its alignment with justice, human dignity, divine sources, and societal welfare—not merely its popularity or antiquity.

In conclusion, this study offers not only a comparative reflection but a call to action. Jurists and researchers are urged to view custom as a dynamic, living component of law—capable of bridging tradition with transformation, and legal ideals with human realities.

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