

# Revitalizing the *paoppangi tanah* customary sanction in Sulawesi, Indonesia: a *fiqh jināyah* perspective

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This study examines the *Paoppangi Tanah* customary sanction as a punishment for *ẓinā* offenders from the perspective of *fiqh jināyah* in Gowa Regency, Sulawesi, Indonesia. The sanction consists of banishment without a defined time limit and is decided through deliberation (*musyawarah*) among customary leaders, religious figures, and the offender's family. Employing a juridical-sociological approach within Islamic criminal law, the study draws on interviews, observation, and documentation. Informants included customary leaders, religious leaders, and community members, purposively selected based on their involvement in and knowledge of *Paoppangi Tanah*. The findings indicate that the sanction correlates with *ta'zīr* in *fiqh jināyah*, a discretionary punishment for offenses not regulated by an explicit scriptural text (*nās*) in the Qur'an and Hadith, so that implementation is entrusted to authorized authorities, such as the government or recognized customary leaders. The sanction plays a significant social role in maintaining public order and communal morality, as well as in deterring norm violations. The novelty of this study lies in examining a local sanctioning mechanism that has received limited attention in *fiqh jināyah* scholarship, particularly within Makassar customary society. The findings also show that interaction between Islamic law and customary law is not only harmonious but can enable a more context-sensitive reconstruction of *fiqh jināyah*. Accordingly, this study offers a theoretical contribution to the development of Islamic criminal law as a framework that is not merely normative, but also contextual and grounded in local wisdom, thereby strengthening a *maqāṣid al-sharī'ah* paradigm in the application of law within society.

Penelitian ini bertujuan untuk mengkaji praktik sanksi adat *paoppangi tanah* sebagai bentuk hukuman terhadap pelaku zina dalam perspektif fikih jināyah di Kabupaten Gowa, Sulawesi, Indonesia. Sanksi ini berupa pengasingan tanpa batas waktu yang dijatuhkan melalui *musyawarah* antara tokoh adat, tokoh agama, dan keluarga pelaku. Penelitian ini menggunakan pendekatan hukum pidana Islam melalui yuridis sosiologis dengan pengumpulan data melalui wawancara, observasi, dan dokumentasi. Informan terdiri tokoh adat, tokoh agama, dan masyarakat yang dipilih secara purposif berdasarkan keterlibatan dan pengetahuan mereka terhadap praktik *Paoppangi Tanah*. Hasil penelitian menunjukkan bahwa sanksi *paoppangi tanah* memiliki korelasi dengan konsep *ta'zīr* (hukuman) dalam fikih jināyah, yaitu bentuk hukuman yang tidak memiliki ketentuan nash eksplisit dalam Al-Qur'an dan Hadist, sehingga pelaksanaannya diserahkan kepada otoritas yang berwenang seperti pemerintah atau pemuka adat. Hukuman ini memiliki fungsi sosial yang signifikan dalam menjaga ketertiban dan moralitas masyarakat serta memberikan efek jera kepada pelaku pelanggaran norma. Keaslian penelitian ini terletak pada eksplorasi terhadap mekanisme sanksi lokal yang belum banyak dikaji dalam ranah fikih jināyah, terutama dalam konteks masyarakat adat Makassar. Temuan ini menunjukkan bahwa interaksi antara hukum Islam dan hukum adat tidak hanya bersifat harmonis, tetapi juga membuka ruang bagi rekonstruksi pemahaman fikih jināyah yang lebih adaptif terhadap konteks sosial-budaya lokal. Implikasinya, penelitian ini menawarkan kontribusi teoretis dalam pengembangan konsep hukum pidana Islam yang tidak sekadar normatif, tetapi juga kontekstual dan berbasis kearifan lokal, sehingga memperkuat paradigma *maqāṣid al-syarī'ah* dalam penerapan hukum di masyarakat.

**Keywords:** *customary law; fiqh jināyah; Gowa; Paoppangi Tanah; ta'zīr; ẓinā.*

## Introduction

The Makassar are widely recognised as one of Indonesia's major ethnic groups, noted for upholding customary value systems and norms in their social life (Musfira, Gani, and Haling, 2023). Makassar social organisation places honour and honesty at the centre of communal life (Pabbajah, Ashufah, and Eitriya, 2023). From birth, individuals are situated within an ordered moral framework, including customary rules that function as social and ethical guidelines (Mitra and Pal, 2022). One customary legal practice that remains operative is *Paoppangi Tanah*, a form of permanent banishment imposed on serious offenders, including those involved in adultery. In Bolaromang Village, Gowa Regency, this practice continues to be applied as a social sanction for violations of decency norms. In this way, Makassar customary culture maintains a sanctioning mechanism intended to preserve social harmony and strengthen community identity.

The *Paoppangi Tanah* customary sanction imposed on *zīnā* offenders in Bolaromang Village raises questions regarding its compatibility with the principles of *fiqh jināyah* in Islam. This matters because customary sanctions are often grounded not only in social norms but also in moral and religious considerations (Rahmi and Henny, 2020). In Islam, *zīnā* is considered a major sin and is associated with *ḥudūd* punishment, such as *rajm* for *muḥṣan* offenders and flogging for *ghayr muḥṣan* offenders (Supardin and Syatar, 2021). However, *fiqh jināyah* requires strict standards of proof, which differs from customary sanctioning approaches that may be procedurally looser yet socially severe in their consequences (Mahendra, 2019). Debate emerges when customary sanctions are viewed as potentially violating justice principles and human rights, while at the same time being considered effective in maintaining social order (Santuraki, 2018). For this reason, it is important to analyse carefully where *Paoppangi Tanah* sits on the spectrum between customary law and Islamic law.

Several previous studies have discussed the application of customary sanctions to *zīnā* offenders in different regions, yet none have specifically examined *Paoppangi Tanah* from a *fiqh jināyah* perspective. In the Batanghari Customary Institution, for example, the resolution and sanction for adultery may involve expulsion from the village if a fine is not paid (Abdi, Anita and Hardi, 2020). In the Panyabungan community, customary law for *zīnā muḥṣan*

offenders also takes the form of expulsion (Rasyid, 2022). Rizki and Zulfiko report that *zina* cases in Jorong Ladang Laweh are resolved through *musyawarah*, although customary leaders are not always involved (Rizki and Zulfiko, 2022). Handoko and colleagues document forms of customary “banishment” at multiple levels in Kenagarian Garagahan, from *buang siriah* to *buang pulus*, while still allowing an opportunity for the offender to return (Handoko, Effendi and Hendra, 2015). Yet none of these studies addresses a phenomenon such as that in Bolaromang Village, where *zina* offenders receive lifelong banishment with no possibility of social reintegration, even after repentance. This permanent pattern differs significantly from customary practices elsewhere, which are generally temporary or conditional. This distinctiveness raises an important theoretical issue concerning the limits of *ta’zir* in *fiqh jinayah* and the extent to which customary law can shape the legitimacy of socially and religiously framed sanctions. Accordingly, this study seeks to fill that gap through a comprehensive analysis of *Paoppangi Tanah* within the framework of Islamic criminal law.

This research aims to analyse in depth the practice of the *Paoppangi Tanah* sanction imposed on *zina* offenders in Bolaromang Village from the perspectives of customary law and *fiqh jinayah*. This focus is chosen because the phenomenon represents local legal pluralism (Griffiths, 2024), in which customary law and Islamic law interact and negotiate moral and social authority. In this context, theories on integrating customary law and Islam (Utama, 2021; Azam et al., 2025) are relevant for understanding how shari’ah values may be absorbed into customary dispute-resolution mechanisms. The study also examines the concept of *ta’zir* in *fiqh jinayah*, both in classical juristic thought (*fuqahā*) and in contemporary scholarship (’Audah, 2013), particularly concerning the legitimacy of social sanctions such as banishment (*Paoppangi Tanah*) as a means of upholding communal morality. Through this approach, the study is expected not only to explain customary practice as a local phenomenon, but also to extend conceptual discussion on the relationship between *ta’zir*, human rights, and the objectives of the law (*maqāṣid al-shari’ah*) within modern Islamic criminal law. In doing so, it contributes to the development of integration theory between customary law and *fiqh* within Indonesia’s plural legal landscape.

The central argument of this study is that *Paoppangi Tanah*, as a customary sanction,

aims to safeguard morality and social order; yet, it requires reassessment through *fiqh jināyah* to ensure alignment with the principles of Islamic justice. Lifelong banishment without opportunities for reconciliation raises ethical and juridical concerns (Ismail, Hendri and Nurhakim, 2023) because it may conflict with the protection of individual rights and proportionality in Islamic legal reasoning (Okon, 2014). Therefore, *Paoppangi Tanah* needs to be reinterpreted within the framework of *maqāṣid al-sharī'ah* so that it remains culturally relevant while also being normatively sound.

## Method

This study employs a qualitative field-research design with an empirical sociological orientation (Darmalaksana, 2022). Its main focus is to investigate in depth the *Paoppangi Tanah* customary sanction imposed on *ẓinā* offenders in Bolaromang Village as a social phenomenon that operates as “living law” within the community. This approach was selected because it enables the researcher to understand the values, norms, and social logic underlying the imposition of the sanction (Alfarisi and Afriani, 2021). The field findings were then analysed using a *fiqh jināyah* framework as a normative analytical tool to assess the compatibility of customary practice with principles of Islamic law (Kasdi, 2019). Accordingly, the study is empirical in its data collection and interpretive–normative in its analysis, offering a comprehensive understanding of the relationship between customary law and Islamic law (Arfa and Marpaung, 2016).

Data were collected through three primary techniques: participant observation, semi-structured interviews, and documentation. This triangulated strategy was adopted to enhance depth, validity, and the diversity of information obtained from multiple sources. Primary data were derived from three purposively selected informants, representing a customary leader, a religious figure, and a community member, chosen based on their direct involvement in and knowledge of *Paoppangi Tanah*. Secondary data were obtained from books, journal articles, and online media. Tertiary sources, including Islamic encyclopaedias and the *Kamus Besar Bahasa Indonesia*, were used to strengthen the terminological and conceptual context. Together, these sources enabled the study to construct a holistic account of how customary, religious, and state perspectives respond to alleged *ẓinā* in the local setting.

The data were analysed in staged procedures that included data reduction, data display, data editing, and conclusion drawing (Ridder et al., 2014). This approach helped organise the field data into a systematic and meaningful form in addressing the research questions. Data reduction involved selecting core information, while data display clarified the flow of information through narrative presentation. Data editing ensured the validity and coherence of the datasets, and conclusions were drawn through the synthesis of field evidence. The analytical framework employed *fiqh jināyah* theory and the concept of *jarimah ta'zir* (non-fixed/discretionary offences and punishments) (Huda, Sukirno and Ma'mun, 2020) to compare customary sanctions and shari'ah prescriptions. This process enabled the researcher to identify linkages between the *Paoppangi Tanah* customary practice and relevant Islamic legal principles, both theoretically and empirically.

### **The emergence of the *Paoppangi Tanah* sanction in Bolaromang Village, Tombolopao District, Gowa Regency, South Sulawesi**

The *Paoppangi Tanah* sanction constitutes the highest form of customary punishment, transmitted intergenerationally among the people of Bolaromang Village, Tombolopao District (Hasan, 2025). Based on local historical accounts, before the customary institution established this sanction, the community was familiar with harsher punishments such as *rajm* (stoning) and disposing of offenders by throwing them alive into a ravine. He further explains that in the 1950s, there was a serious violation in the form of an incestuous relationship between two biological siblings (*tau salimara*). Both offenders were sentenced to *rajm*, namely being buried up to the neck and then pelted with stones until death (2025). According to him:

“After the Constitution (Law) came into force, the punishment of *rajm* was no longer applied because anyone who kills will receive punishment in accordance with the law. Since then, the *Paoppangi Tanah* sanction emerged.” (Hasan, 2025).

This account indicates a historical transformation from fatal physical punishment to a social sanction in the form of banishment. In this customary practice, *zina* offenders are considered to have “died socially” and to have lost the right to return to their homeland. In extreme cases in the past, offenders were even wrapped in a mat and thrown from a waterfall; if they survived, they were regarded as having become “pure again” from sin. This phenomenon illustrates a customary view of purification and moral recovery that

differs from the concept of repentance in Islamic law.

Zainal (Zainal, 2025), a representative of the Indonesian Council of Ulama (MUI) in the local area, considers that the *Paoppangi Tanah* sanction resembles the concept of *ta'zīr* in *fiqh jināyah*. He states:

“The term *Paoppangi Tanah*, from the perspective of *fiqh jināyah*, does indeed exist within *ta'zīr*, namely being expelled from one's homeland. In that law, when someone is subjected to *Paoppangi Tanah*, as long as they do not return to that area, they should not be punished with another punishment.” (Zainal, 2025).

This view reflects an effort to interpret customary law through a *fiqh*-based perspective (Fauzan, 2022). However, a critical analysis of the statement suggests that expulsion under *ta'zīr* is temporary and proportional, in line with the principle of public benefit (*maṣlahah*) as determined by *ulū al-amr* (Audah, 2013). Accordingly, lifelong banishment, as practiced in Bolaromang, has important theoretical implications because it exceeds the temporal limits commonly found in the classical concept of *ta'zīr*.

Bahrūn, a community figure and village security officer, explains that the form and level of customary sanctions in Bolaromang are differentiated according to the severity of the violation. First, lifelong *Paoppangi Tanah* is imposed on *zīnā* offenders when both parties are legally married and commit *appangga'di* (elopement). Second, if only one party is married, banishment is imposed for a certain period until a family reconciliation agreement (*abbaji*) is reached. Third, if a woman who has been formally proposed to elopes with another man (*assilariang*), the offender is only required to pay a fine amounting to twice the value of the previous engagement gift. Fourth, for cases involving two unmarried individuals, the violation is resolved by paying a fine in accordance with a family agreement (Bahrūn, 2025).

This classification indicates a proportionality system within customary law, even though it is not codified in formal written rules. From the perspective of legal anthropology, this reflects a social-control mechanism that functions to maintain community cohesion (Launay, 2022). Customary sanctions serve not only as punishment (Hasan et al., 2022), but also as a means to restore social balance and collective honour (*siri' na pacce*). However, from the perspective of *fiqh jināyah*, the application of permanent banishment raises questions about its compatibility with the principles of *al-'adl* (justice) and *raf' al-ḥaraj* (removal of

hardship), because Islamic law emphasises corrective justice rather than exclusionary justice (ʿAudah, 2013).

From these findings, it can be concluded that the emergence of the *Paoppangi Tanah* sanction represents an adaptation of customary law to the dynamics of changes in the national legal system and modern humanitarian values. The transformation from violence-based sanctions to social and moral sanctions reflects a process of localizing justice norms rooted in the community's cultural awareness. This process indicates that the people of Bolaromang Village not only preserve tradition, but also reconstruct notions of justice in line with contemporary social contexts and humanitarian ethics.

Nevertheless, from the perspective of *fiqh jināyah*, the practice of *Paoppangi Tanah* requires reinterpretation and normative verification in order to remain within the corridor of the objectives of Islamic law (*maqāṣid al-sharīʿah*) (Bukido and Ishak, 2024), particularly in ensuring the principles of justice (*al-ʿadl*), public benefit (*al-maṣlaḥah*), and protection of human dignity and honour (*ḥifẓ al-ʿird*) (Bukido and Ishak, 2024), terutama dalam menjamin prinsip keadilan (*al-ʿadl*), kemaslahatan (*al-maṣlaḥah*), dan perlindungan martabat manusia (*ḥifẓ al-ʿird*) (Rasyid, 2022). With this approach, *Paoppangi Tanah* is not only understood as cultural heritage, but also as a social instrument that potentially supports the function of *taʿzīr* in Islamic criminal law, namely producing deterrence while safeguarding the honour of both the offender and the community.

*Paoppangi Tanah* can be understood as an expression of local justice, representing a dialogue between customary norms and *sharīʿah* principles. It functions as a bridge between positive law, religious values, and living local wisdom within the community. However, to become part of an ideal Islamic legal system, this practice still requires reframing so that it does not contradict foundational principles of Islamic law and can contribute to the development of a responsive and contextual model of Islamic criminal law enforcement.

### **The practice of the *Paoppangi Tanah* sanction in Bolaromang Village, Tombolopao District, Gowa Regency, South Sulawesi**

The practice of customary sanctions in Bolaromang Village constitutes a strong reflection of a living and deeply rooted cultural value system, particularly in responding to moral and social violations. *Paoppangi Tanah*, as the highest form of customary sanction,

functions as a mechanism of social control over serious offences, such as adultery (*zina*) or violations of the *siri' na pace* norm (honour). The implementation of this sanction proceeds through stages of deliberation (*musyawarah*), evidentiary assessment, and the involvement of customary leaders and the community. Based on the statement of Mahamuddin, a local Nahdlatul Ulama figure, the decision to impose *Paoppangi Tanah* is made only after evidence and testimony are considered sufficient (Mahamuddin, 2025). This caution highlights the importance of procedural justice within customary law, as well as an effort to prevent abuses of customary authority. Mahamuddin (Mahamuddin, 2025) emphasises that:

“Customary law in Bolaromang Village does not immediately impose the *Paoppangi Tanah* punishment; rather, there must be clear evidence.” (Mahamuddin, 2025).

However, from the perspective of modern law and human rights, this mechanism contains potentially problematic elements. Social banishment for an indeterminate period can generate a new form of social exclusion with long-term consequences for an individual's right to live with dignity, obtain legal protection, and carry out social and economic activities (Güler and Yıldırım, 2025). The absence of time limits or recovery mechanisms (social rehabilitation) makes this sanction prone to producing permanent stigma for the offender and their family. From a restorative justice perspective, this form of punishment is not fully proportional, as it prioritizes retribution and the enforcement of communal honour over efforts to restore social relations between the offender, the victim, and the wider community.

Suhardi, one of the customary office-holders, explains that before the sanction is imposed, the offender's family is invited to deliberate in order to determine their willingness to uphold the principle of *paentengi siri'na* (upholding honour). This procedure involves elements of local government, such as the hamlet head and village head, and results in a collective decision that is final. Even so, the absence of an appeal mechanism or formal legal safeguards for the sanctioned party indicates the limitations of the customary system in guaranteeing citizens' basic rights (Suhardi, 2025). In the context of national law, this condition raises questions about the extent to which *Paoppangi Tanah* can be categorised as law enforcement consistent with the principle of due process of law (Winata, 2018).

In terms of values and objectives, *Paoppangi Tanah* is intended to uphold social order and produce deterrence, as stated by Muhammad Amin. This orientation is, in principle,

consistent with an Islamic legal rationale, namely deterrence (*zajr*) and moral reform (*islāh*) ('Audah, 2013). Yet in practice, tensions between customary norms and positive law persist. Suhardi acknowledges that enforcing *siri' na pace* (honour and empathy) sometimes conflicts with national legal principles that prohibit all forms of violence or assault in the pursuit of justice (Suhardi, 2025). For this reason, local communities often request intervention from security officers to prevent anarchic acts.

“With a firm sanction, it is hoped that it can create a peaceful, tranquil society that obeys the rules... If we only give advice, the offender does not care, but when we banish them in a real way, a deterrent effect will arise.” (Amin, 2025).

Accordingly, this view supports the assumption that the operation of customary sanctions is not merely to create deterrence (Ismail et al., 2022), but also to internalise moral values through an approach that is corrective and preventive. Nevertheless, this customary legal practice cannot be separated from tensions with the national legal system (Joesoef, 2020). Suhardi states that, in principle, customary law grounded in *siri' na pace* (honour and empathy) sometimes conflicts with the provisions of positive law (Suhardi, 2025). This occurs because customary law places family honour in a very high position, to the extent that people may be willing to risk their lives to uphold it. By contrast, Indonesian national law prohibits all forms of violence, assault, or killing in the enforcement of justice (Irawadi, Rodliyah and Natsir, 2019). Therefore, according to him:

“There needs to be an understanding of law and customs; on the one hand, we also often ask for help from the police to secure the offender so that acts of violence and killing do not occur.” (Suhardi, 2025).

Conceptually, *Paoppangi Tanah* illustrates an interesting dialectic between preserving cultural identity and adapting to universal human rights principles and national law. In the context of the Bolaromang customary community, this sanction functions not only as a form of moral punishment but also as a social instrument to maintain community cohesion and preserve *siri' na pace* as a shared ethical foundation. This value underscores the importance of honour, social responsibility, and balanced human relations in Bugis–Makassar society. However, amid the dynamics of legal modernisation and global human rights awareness, *Paoppangi Tanah* faces a serious conceptual challenge: how to position

customary law as an expression of local wisdom without neglecting humanitarian principles and the protection of individual rights.

Within the national legal framework, Indonesia recognizes the existence of customary law, provided it does not contradict the values of Pancasila, the 1945 Constitution of the Republic of Indonesia, and applicable legislation (Yusuf, 2021). This means that customary sanctions, such as *Paoppangi Tanah*, still have a place to exist, but they need to be re-examined to ensure they do not violate the principles of proportionality and non-discrimination as outlined in national and international human rights instruments (Menropa et al., 2023). An indeterminate banishment sanction can be considered disproportionate to the offence, because it produces prolonged social, psychological, and economic suffering. From a restorative justice perspective, this model has not provided offenders with an opportunity to atone, repair social relations, and contribute to their community (Ismail et al., 2024).

Efforts are therefore needed to revitalise customary law so that it remains relevant and humane without losing its cultural value (Neltje et al., 2023). Such revitalisation can be pursued through reinterpreting *siri' na pacce* (honour and empathy) as a moral principle that promotes social responsibility and restoration, rather than punishment alone. Integrating customary values with a restorative justice paradigm would enable *Paoppangi Tanah* to transform into a resolution mechanism based on deliberation, mediation, and the restoration of social relationships. In this way, customary law can become part of a national legal system that is adaptive to social change while upholding human dignity.

*Paoppangi Tanah* should not be understood merely as a residual traditional practice, but as a social laboratory for developing a contextual model of justice oriented toward *maslahah* (public benefit). The dialectic between customary law, Islamic law, and state law can generate a new synthesis: a justice system oriented not only toward punishment, but also toward reconciliation, acknowledgement of wrongdoing, and the restoration of shared honour. Through such an approach, *Paoppangi Tanah* has the potential to shift from a symbol of exclusion into an instrument of social restoration that reflects universal humanitarian values within the framework of local wisdom in Makassar, Indonesia.

*Fiqh Jināyah analysis of the Paoppangi Tanah sanction (banishment)*

*Fiqh jināyah* is a branch of Islamic legal scholarship that regulates criminal acts (*jarimah*) and their corresponding sanctions based on the principles of divine justice (Sakhawi, 2022). Classical *jināyah* literature commonly classifies crimes and punishments into three main categories: *hudūd*, *qisās-diyah*, and *ta'zīr*. *Hudūd* concerns violations of God's rights, accompanied by fixed penalties, such as *zīnā*, theft, and false accusation without proof (Hasan, 2021). *Qisās-diyah* refers to violations of human rights that involve life and bodily injury (Hasan et al., 2022). *Ta'zīr*, by contrast, covers offences for which no specific punishment is stipulated by an explicit scriptural text (*naṣṣ*); therefore, the form of sanction is left to the discretion of *ulū al-amr* or competent local authorities ('Audah, 2013). In the socio-cultural context of the Indonesian archipelago, this flexibility in *ta'zīr* creates space for Islamic law to adapt to local norms and traditional wisdom.

The *Paoppangi Tanah* sanction in Bolaromang Village may be situated within this framework, namely as a social instrument aimed at enforcing collective morality through the banishment of persons who commit *zīnā*. Based on field interviews with the customary figure Harun Zainal, *Paoppangi Tanah* is implemented by prohibiting the offender from residing in, interacting within, or even merely passing through their own village area. The primary objective is not physical punishment as such, but the restoration of the community's *siri' na pacce* (honour) perceived to have been violated by the immoral act. Sociologically, this sanction reflects a communitarian conception of justice in which social stability and collective honour are prioritised over the offender's individual rights (Zainal, 2025).

However, when assessed through *fiqh jināyah* and the *maqāṣid al-sharī'ah* framework, fundamental concerns emerge regarding proportionality and justice. Islam maintains that punishment should realise *maṣlaḥah* for both the offender and society and should not produce permanent suffering. The principles of *al-'adl* (justice), *raḥmah* (compassion), and *maṣlaḥah* (public benefit) function as key parameters for evaluating the legitimacy of a sanction (Al-Syatibi, 2003). In the case of *Paoppangi Tanah*, indefinite banishment without a pathway to reconciliation raises serious ethical problems. Such a sanction may undermine *ḥifẓ al-nafs* (protection of life) and *ḥifẓ al-'ird* (protection of honour/dignity), both of which are core objectives of Islamic law.

Field findings further indicate that many Bolaromang residents continue to view *Paoppangi Tanah* as effective for safeguarding social honour. Yet from the offender's standpoint, the sanction can generate profound social suffering. One interviewed offender stated that, despite expressing remorse and apologising, they remained ostracised, and their family also lost social and economic standing within the community. From a *fiqh jināyah* perspective, the removal of social rights in this manner conflicts with the principle of *tambah* (repentance), which opens the possibility of moral and social rehabilitation for wrongdoers. Islam emphasises that after serving a punishment or repenting sincerely, a person should have the opportunity to be accepted again in society. For this reason, permanent banishment may be viewed as exceeding the bounds of *shar'i* justice (Mahamuddin, 2025).

This analysis must also be placed within Indonesia's legal pluralism. Griffiths argues that legal systems in postcolonial states are pluralistic, in the sense that multiple legal regimes—state, religious, and customary—interact dynamically (Griffiths, 2024). Within this frame, *Paoppangi Tanah* provides a concrete example of customary law functioning as a living normative order within society, at once complementing and challenging the authority of formal state law (Utama, 2021). On the one hand, the sanction represents an effective mode of social control for preserving communal moral values. On the other hand, it may not align with either Islamic legal principles or the human rights norms recognised by the state.

Article 18B(2) of the 1945 Constitution of the Republic of Indonesia explicitly recognises customary law communities and their rights, insofar as they remain consistent with justice principles and humanitarian values (Taufiqurrohman, Wibowo and Victoria, 2024). This constitutional recognition provides legitimacy for practices such as *Paoppangi Tanah* while simultaneously imposing normative limits: customary norms must not violate human rights and substantive justice (Ardhana and Puspitasari, 2023). In this regard, Law of the Republic of Indonesia No. 39 of 1999 on Human Rights affirms that every person is entitled to the protection of their honour and human dignity (*Republic of Indonesia*, 1999). Accordingly, indefinite social banishment can be categorised as a violation of the right to live with dignity.

Importantly, critique of *Paoppangi Tanah* is not intended to negate the value of *siri' na pacce* that lies at the heart of Makassar's moral life. On the contrary, this value can serve

as the foundation for articulating a more contextual and humane model of justice. In *fiqh*, the concept of *ta'zīr* provides substantial room to calibrate sanctions to social conditions and the degree of wrongdoing (Danial, 2023). Al-Būṭī stresses that *ta'zīr* must consider the public interest and must not lead to injustice or oppression (Al-Būṭī, 1999). On this basis, *Paoppangi Tanah* may be revitalised as a local form of *ta'zīr* (Alam et al., 2022), oriented toward education and rehabilitation rather than purely social-exclusionary punishment.

Within the *maqāṣid al-sharī'ah* framework, reform of customary sanctions can be directed toward three central dimensions. First, *al-'adl* (justice), which requires balancing society's interest in protecting honour with the offender's right to humane treatment (Edie, 2024). Second, *al-raḥmah* (compassion), which supports proportional sanctions and leaves room for forgiveness. Third, *al-maṣlahah* (public benefit), which frames punishment as a means of education and moral improvement rather than the erosion of human dignity. These principles can be operationalised through restorative justice mechanisms (Habi, Adawiyah and Harun, 2024), emphasising the restoration of social relationships among offender, victim, and community (Hasan, 2019).

This restorative model resonates strongly with the philosophy of *siri' na pacce* (honour and empathy). The value of *pacce*, understood as empathy and social solidarity, contains an ethic of moral healing rather than permanent condemnation. Therefore, if *Paoppangi Tanah* is reinterpreted through *pacce*, it could shift from banishment toward social reconciliation measures, such as community service, public apology, or participation in customary activities. Such an approach would strengthen social cohesion without sacrificing individual rights, while also demonstrating integration between local values and Islamic justice principles.

*Paoppangi Tanah* also reflects a broader process of localising Islamic law at the community level. In Werner Menski's (2006), legal pluralism theory, Islamic law in Muslim societies of Southeast Asia often operates dialectically across three axes: *shar'ī* law (divine law), state law, and social/customary law. These axes do not function in isolation; instead, they interact and negotiate the legitimacy of norms. In Bolaromang, *Paoppangi Tanah* emerges from the dialectic between Islamic norms that emphasize morality and local customs that elevate social honor. Tensions arise, however, when local norms exceed the boundaries of *maṣlahah* as defined by the *sharī'ah*.

Methodologically, the case shows why integrating empirical and normative approaches is crucial for understanding “living law.” Empirical inquiry reveals the social function of customary sanctions and community perceptions, while normative-*fiqh* analysis evaluates their compatibility with Islamic justice principles. This dual approach enables research to move beyond sociological description and offer theoretical recommendations for reconstructing customary law, aligning it with *shari’ah* values and human rights norms.

In light of the findings and analysis above, *Paoppangi Tanah* has a significant social function in maintaining morality and community cohesion. Yet, from a *fiqh jinayah* standpoint, it requires reinterpretation to avoid violating justice principles and the protections of human dignity (Syatar et al., 2023). Lifelong banishment without the possibility of reintegration not only conflicts with the spirit of *maqāṣid al-shari’ah*, but may also generate structural injustice (Salleh, Bahori and Yahya, 2021). For this reason, customary sanctions should be reoriented toward more restorative models (Ismail et al., 2024), with *siri’ na pacce* (honour and empathy) serving as the ethical foundation for humane social justice.

The most pressing challenge for customary communities and Islamic legal scholars is to develop a legal paradigm capable of accommodating value pluralism without losing the moral compass of the *shari’ah* (Syarifah, 2021). Islamic law should function as a moral force that guides social transformation, rather than merely legitimising inherited traditions. Conversely, customary law must be revitalised to remain responsive to evolving humanitarian values and universal justice principles (Al Farisi et al., 2023). Integration between custom and *fiqh* cannot be achieved through uniformisation, but through sustained dialogue and reinterpretation. In this sense, *Paoppangi Tanah* can serve as a social laboratory for demonstrating how religious and cultural norms may adjust to one another without mutual negation.

Accordingly, a *fiqh jinayah* analysis of *Paoppangi Tanah* underscores that customary legal practice in Indonesia cannot be separated from legal pluralism and *maqāṣid al-shari’ah*. Customary law remains a vehicle for collective moral expression, but it must be guided by Islamic justice principles that strike a balance between individual rights and social interests. Reinterpretation grounded in *siri’ na pacce* and restorative justice would enable custom to operate not as an instrument of exclusion, but as a pathway to reconciliation

and social healing. In this way, *Paoppangi Tanah* may be transformed into a symbol of local justice consistent with the Islamic ideal of *rahmatan lil-'ālamīn* and with the national legal aspiration of social justice for all Indonesians. It also offers an important contribution to global debates on the relationship between customary law, Islamic law, and international human rights standards by proposing a conceptual model for reconstructing local norms in line with substantive justice and universal humanitarian values.

## **Conclusion**

This study concludes that *Paoppangi Tanah*, a customary sanction in the form of social banishment imposed on persons who commit *zīnā* in Bolaromang Village, represents an adaptation of customary law to Islamic values of justice and morality. Conceptually, the practice is closely related to *ta'zīr* within *fiqh jināyah*, as both are oriented toward preventing immoral conduct and restoring social order. However, this alignment is functional rather than procedural, because *Paoppangi Tanah* remains problematic in terms of proportionality and the absence of a clear temporal limit to banishment. As a result, it may conflict with *maqāṣid al-sharī'ah* principles concerning justice, public benefit (*maṣlaḥah*), and the protection of human dignity. Theoretically, this research contributes to the development of a contextual *fiqh jināyah* by advancing the idea of “social-communal *ta'zīr*,” namely, a mode of moral norm enforcement grounded in community participation rather than relying solely on formal authority.

The customary sanction also reflects a distinctive restorative justice model, in which punishment is not purely punitive but is intended to restore social harmony. Nevertheless, this study has methodological limitations, as it is still dominated by the narratives of customary and religious figures, without examining in depth the voices of victims or offenders, and it has not fully integrated *maqāṣid al-sharī'ah* and legal pluralism frameworks into the analysis. Future research should therefore be directed toward more inclusive and normatively grounded studies in order to reformulate *Paoppangi Tanah* as a form of local justice that is consistent with Islamic legal principles and universal humanitarian values within Indonesia's plural customary law context. Academically, this article offers an important contribution to global debates on the relationship between customary law,

Islamic law, and international human rights standards by proposing a conceptual model for reconstructing local norms in line with substantive justice and universal humanitarian values.

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