

**GUS DUR'S THOUGHT ABOUT ACCOMMODATION
OF ISLAMIC LAW AND CULTURE****Suardi Kaco H***Al-Asyariah University of Mandar, Indonesia
kamarallingsuardi@yahoo.com***Busrah***Al-Asyariah University of Mandar, Indonesia
busrahbucci@yahoo.co.id**Submitted: 2021-11-11**Revised: 2021-11-26**Published: 2021-12-31*©2021 by the authors. Submitted for possible open access publication under the terms and conditions of the Creative Commons Attribution (CC-BY-SA) license (<https://creativecommons.org/licenses/by-sa/4.0/>)DOI : [10.30983/alhurriyah.v6i2.4995](https://doi.org/10.30983/alhurriyah.v6i2.4995)**Abstract**

This paper is a study of Gus Dur's thoughts on the accommodation of Islamic law and culture. The research method used is the library research method by analyzing the data qualitatively. In this study it was found that Gus Dur is a contemporary Islamic law thinker whose Islamic legal thought is accommodating to culture. In his thinking, Gus Dur used *ushul fiqh*, *qaidah fiqh*, and *maqashid syariah* in responding to personal problems that occurred in Indonesia. One of the cases that Gus Dur responded to within the cultural framework was zakat law, Islamic marriage law, and Islamic inheritance law. In these cases, in Gus Dur's view, the law may be applied with cultural instruments, in this case is customs (*adat*).

Keywords: Gus Dur; Accommodation; Islamic Law; Culture**Abstrak**

Tulisan ini meneliti pemikiran Gus Dur tentang akomodasi hukum Islam dan kebudayaan. Metode penelitian yang digunakan, yakni metode penelitian kepustakaan (library research) dengan menganalisis data secara kualitatif. Dalam penelitian ini ditemukan bahwa Gus Dur adalah pemikir hukum Islam kontemporer yang pemikiran hukum Islamnya akomodatif terhadap kebudayaan. Gus Dur dalam pemikirannya banyak menggunakan ushul fiqh, qaidah fiqh, dan maqashid Syariah dalam merespon persoalan-persoalan hukum yang terjadi di Indonesia. Salah satu kasus yang direpson oleh Gus Dur dalam kerangka kebudayaan adalah zakat, perkawinan, dan kewarisan. Kasus-kasus ini, dalam pandangan Gus Dur, hukumnya boleh diaplikasikan dengan perangkat kebudayaan, dalam hal ini adalah adat.

Kata Kunci: Gus Dur; Akomodasi; Hukum Islam; Kebudayaan.**INTRODUCTION**

Islamic law is a practical law that is explored in earnest with a deep understanding by mujtahids of the Qur'an and Hadith. The practicality of Islamic law makes it dynamic (*harakah*) in order to remain compatible with the changing times and places where the law is applied. This dynamic character makes Islamic law easy to move and develop anywhere and

anytime. In fact, Islamic law can change with changing situations, times, and places.¹

One of the dynamic forms of Islamic law is being accommodating to the culture that develops in an area. This is contained in the rules of *fiqh*, *al 'adat al-muhakkamah* (customs can become law). In the process of applying Islamic law, accommodation of Islamic law and culture is sometimes unavoidable because legal issues that arise often require practical

¹ Alaidin Koto, *Ilmu Fiqh Dan Ushul Fiqh*, 5th ed. (Jakarta: Rajawali Press, 2014), 23–28.

answers in society. Accommodation of Islamic law and culture actually aims to create the benefit of mankind. As the essence and purpose of the Islamic religion, which is nothing but for the benefit itself. This is mentioned in QS. Al-Anbiya: 107, namely as follows:

وَمَا أَرْسَلْنَاكَ إِلَّا رَحْمَةً لِّلْعَالَمِينَ

"We have not sent you (Prophet Muhammad) except as a mercy to all the worlds."

However, in the development of Islamic law in Indonesia, the concept of accommodation of Islamic law and culture is still lacking in study interest. Moreover, in the last two decades, there are religious groups that carry the notion of purification of Islam, namely returning to the Qur'an and Hadith, in which this group rejects the concept of accommodation of Islamic law and culture. For this group, Islam is a sacred religion that should not be mixed with profane culture.

However, one of the thinkers who carries an understanding of the accommodation of Islamic law and culture is Gus Dur or his full name Abdurrahman Wahid. Gus Dur is the fourth President as well as an Islamic scholar who has mastered many fields of Islamic knowledge, one of which is Islamic legal thought. His ideas on the accommodation of Islamic law and culture can be found in the theory of Indigenization of Islam which was written around the 1980s and his writings on "Making Islamic Law as a Support for Development".²

Gus Dur's concept of accommodation of Islamic law and culture is very relevant to be developed and applied in the midst of a rigid and textual legal situation. Moreover, the

character and cultural entities of the Muslim community in various regions in Indonesia are so diverse, so it is very appropriate to apply this thought to answer legal phenomena that are currently emerging.

DISCUSSION

Gus Dur And His Views On Islamic Law

Gus Dur or his full name Abdurrahman Wahid was born on September 7, 1940 in Denanyar, near Jombang City, East Java. His father K.H. Abdul Wahid Hasyim is the son of K.H. Hasyim Asy'ari, founder of the Tebuireng Islamic boarding school and founder of Nahdlatul Ulama. Gus Dur, apart from being known as the 4th President of the Republic of Indonesia, is also known to the public as a contemporary Islamic thinker. His thinking about Islam, especially Islamic law is very inclusive and progressive.

The inclusiveness and progressiveness of Gus Dur's Islamic legal thought was obtained from a very long educational process and experience. Starting from Islamic boarding school education to modern universities, from reading classical books to contemporary thinking books. The treasures of the tradition of classical Islamic thought, and the tradition of modern thought as well as the values and culture of the Archipelago became a single unit in the basis of Gus Dur's Islamic thought.

In terms of mastery of Islamic law (fiqh), Gus Dur, studied a lot of classical fiqh (Islamic law) from various scholars or kiai. For example, he studied with K.H. Wahab Hasbullah, K.H. Abdul Fattah, K.H. Ali Ma'sum, Mbah Imam, Mbah Zubair, and K.H. Khudlari. He even taught books with the theme of Islamic law, such as the book of al-Asybah wa al-Nadhā'ir by Imam Jalaluddin as-

² Abdurrahman Wahid, *Islam Kosmopolitan: Nilai-Nilai Indonesia Dan Transformasi Kebudayaan* (Jakarta: The Wahid Institute, 2007), 44.

Suyuti and the book of al-Fawā'id al-Janiyyah by Sheikh Yasin al-Fadani.³

Regarding Gus Dur's thoughts on Islamic law. There are several Gus Dur writings that discuss Islamic law, but here the author only selects three short articles belonging to Gus Dur which discuss clearly about Islamic law, such as: "Making Islamic Law as Support for Development", Islamic Criminal Law and Human Rights, and "Indigenization of Islam". These three writings of Gus Dur should explain the condition and direction of the development of Islamic law in Indonesia which is considered to be static and apologetic. Gus Dur wanted Islamic law in Indonesia to be understood and applied dynamically. Thus, Islamic law will be relevant in every development of people's lives and be able to answer the needs of the community.⁴

"... Islamic law must be able to develop a dynamic character for itself, including being able to make itself a supporter of the development of national law... this dynamic character can only be possessed, if Islamic law places its emphasis on worldly problems that are in the life of our nation today, and provide solutions to actual life problems faced today. Thus, Islamic law is required to develop itself in a process that is fluid (fluid situation), and is not only bound to the image of the imaginary world which according to theory has been created in the past.⁵

From the quote above, it can be understood that Gus Dur really wanted Islamic law in Indonesia to be developed dynamically. The dynamics of Islamic law can only occur when the study or process of ijtihadi in Islamic law responds to the actual problems faced by the nation and society. This means that Islamic law must be able to be a solution and answer to the problems that occur in Indonesia. On the other hand, Gus Dur strongly opposed the idea of Islamic law which only focused on the divine aspect based on standard and static legal literature.

In Gus Dur's writing entitled, "Making Islamic Law as Support for Development", he revealed that Islamic law will move dynamically if in the process of study and ijtihad Islamic law presents a historical perspective, uses a multi-dimensional approach, not only based on textual interpretation, and the existence of a single authority in the form of an institution that is able to equalize legal decisions in society.⁶

Gus Dur's thoughts, can be understood substantially that ijtihad needs to be done in the development of Islamic law in Indonesia. Ijtihad should not stop at the era of the Islam scholar's mazhab. Ijtihad must continue to roll out as part of the intellectual activities of scholars. Without the tradition of ijtihad, the production and reproduction of Islamic law will stop, and even die. If this happens, then the needs of Islamic law in responding to legal changes in society will not be fulfilled. So that in the end it forms the attitude and mentality of the community to return to the opinions of classical scholars which are no longer relevant to people's lives today.

That is why, Gus Dur really hoped that the tradition of ijtihad would rise up among the Islamic scholars in Indonesia. He wants

³ Suardi Kaco. H, "Fiqh Lokalitas: Integrasi Hukum Islam Dan Budaya Lokal (Studi Pemikiran Hukum Islam Kontekstual Abdurrahman Wahid," *J-Alif Jurnal Penelitian Hukum Ekonomi Syariah Dan Sosial Budaya Islam* 4, no. 1 (2019): 32.

⁴ Wahid, *Islam Kosmopolitan: Nilai-Nilai Indonesia Dan Transformasi Kebudayaan*, 49.

⁵ Wahid, 50.

⁶ Wahid, 51–54.

that scholars who meet the qualifications of mujtahids to no longer be fixated on fiqh literature which is considered to be so static. Gus Dur's opinion does not mean that reading the works of classical scholars is not allowed, even for Gus Dur it is very necessary as an effort to understand how the process of fiqh scholars used to be and the methodology used in ascribing a law.

Gus Dur himself in his Islamic legal thought is very identical with the scientific treasures of classical scholars, such as the idea of ushul fiqh, fiqh rules, and maqashd sharia. For example, in responding to issues of Islamic law in Indonesia, Gus Dur often used ushul fiqh (methodology of Islamic legal thought) such as "al-maslahah mursalah" and his fiqh rule "al-maslahah al-ammah" in cases, such as the enforcement of an Islamic state, non-Muslim leaders, women leaders, and so on. In the context of leadership, Gus Dur often used the fiqh rule "tasharruful imam 'alā ra'iyatihi manūthun bil maslahah" (a leader's actions are determined by the benefit and welfare of his people). This means that, in his thoughts, Gus Dur allowed leaders from any circles. The main reason for leadership is the achievement of the benefit and welfare of the community.

In addition, Gus Dur also often used Islamic legal methodologies such as qiyas, 'urf, and fiqh rules "al-ādah al muhakkamah". He applies this methodology and rule of law to legal cases that are localistic in nature. Imparting Islamic law based on the traditions or culture of a particular community, such as tithing with rice, inheritance, marriage, and so on.

The Relation of Islamic Law And Culture

Islam and culture are two different entities. Islam is a divine religion revealed by

Allah SWT to humans, while culture is understood as a human product in the world. But the two entities met when Islam began to be revealed to humans. According to Muchit Muzadi, Islam and culture cannot be separated. Because Islam is a religion for humans while humans are influenced by the environment. The influence of the environment is what causes the birth of culture.⁷

The same view was also expressed by Afifuddin Muhajir, that Islam, apart from having a divine dimension, also has a human dimension. In this dimension of humanity, Islam does not threaten the existence of culture, in fact both are mutually accommodating or mutually accepting of each other.⁸ This difference in dimensions, according to Gus Dur, makes Islam and culture have their own independence. Islam is based on revelation and is normative, while culture is man-made and dynamic. But in reality, these differences do not rule out the possibility of manifestations of Islam in the form of culture.⁹

The difference between Islam and culture in the reality of their encounter also cannot be avoided from resistance or polarization. Because, said Gus Dur, polarization or overlap in the encounter of Islam and culture is something that is unavoidable and will happen continuously. And reconciliation or accommodation between the two will appear naturally, marking the occurrence of the process of indigenization. Meanwhile, the indigenization of Islam is a reconciliation or accommodation

⁷ Muchit Muzadi, "Tidak Mungkin Agama Terlepas Dari Tradisi Lokal," *Tashwirul Afkar* 23, no. 1 (2007): 110.

⁸ Afifuddin Muhajir, *Fiqh Tata Negara: Upaya Mendialogkan Sistem Ketatanegaraan Islam* (Yogyakarta: IRCiSoD, 2017), 194.

⁹ Abdurrahman Wahid, *Pergulatan Negara, Agama, Dan Budaya* (Depok: Desantara, 2001), 117.

of Islam and culture that occurs not in the process of assimilation such as syncretism which negates the original nature of Islam.¹⁰

In the context of the relationship between Islamic law and culture, the relationship between the two cannot be separated. Islamic law requires culture and vice versa, the two are mutually symbiotic-mutualism. Why is that? because Islamic law is the result of *ijtihad* or reasoning against the arguments of the Qur'an and *hadith* which in the process of formulation requires an understanding that considers contextual aspects, one of which is tradition, customs, and culture of a society.

In the scientific tradition of *ushul fiqh* (Islamic legal methodology) there is one methodology that is often used by *fuqaha* (Islamic legal experts) in ascribing Islamic law, namely *al-'urf* (tradition). *Al-'urf* etymologically comes from the word *'arafa-ya'rifu*, which means something known and good, something high, sequential, recognition, and patience.¹¹ In addition, *al-'urf* is a habit that is carried out.¹² According to Abdul Wahhab Khalaf, the meaning of *al-'urf*, is no different with *adat* (*al-'ādah*). It is a tradition that has been known to humans in the form of words, deeds, or things left behind.¹³

Afifuddin Muhajir said the same thing, *al-'urf* is a tradition or custom that applies in society. In establishing Islamic law, one must

pay attention and consider the existence of *al-'urf* in society. Because ignoring *al-'urf* is the same as opposing the ideals of benefit as the goal of *sharia*. Even according to Afifuddin Muhajir quoting the opinion of al-Sarakhsi, he said that "(legal provisions) set by *al-'urf* are the same as (legal provisions) stipulated by texts".¹⁴

In addition, there is a word that is often identified with the word *al-'urf*, namely *al-ādah*. Etymologically *al-ādah* comes from the word *'āda-ya'ūdu* which means repetition. Therefore, everything that is used to be done without effort is called *adat*. While something that has just been done is not yet called *adat*.¹⁵

In *fiqh* rules known among scholars, namely *al-ādah muhakkamah* (customs can become law) or *al-ādah syar'i'ah muhakkamah* (customs are *shari'a* stipulated as law).¹⁶ This rule is also often used by Islamic jurists in establishing Islamic law if the laws contained in the Qur'an and *hadith* are not explicitly stated. Gus Dur in his Islamic legal thought also often used this rule in responding to a number of legal cases that occurred in Indonesia.

Accommodation of Islamic Law And Culture In Gus Dur's Thought

Gus Dur's thoughts on accommodation of Islamic law and culture are contained in his writing entitled, "Indigenization of Islam". In this article, there is a sub-discussion that discusses the relationship between Islamic law and a mutually accommodating culture. This accommodative relationship was explained by Gus Dur using *fiqh* rules, namely *al-'adat*

¹⁰ Wahid, 119.

¹¹ Sarjana Sunan Autad and Imam Kamaluddin Suratman, "Konsep 'Urf Dalam Penetapan Hukum Islam," *Tsaqafah Jurnal Peradaban Islam* 13, no. 2 (2017): 282.

¹² Faiz Zainuddin, "Konsep Islam Tentang Adat: Telaah Adat Dan Urf Sebagai Sumber Hukum Islam" 9, No. 2 (2015).," *Jurnal Lisan Al-Hal* 9, no. 2 (2015): 391.

¹³ Abdul Wahhab Khalaf, *Ilmu Ushul Fiqh* (Kairo: Maktabah al-Da'wah al-Islamiyah Syabab Al-Azhar, n.d.), 89.

¹⁴ Muhajir, *Fiqh Tata Negara: Upaya Mendialogkan Sistem Ketatanegaraan Islam*, 194.

¹⁵ Zainuddin, "Konsep Islam Tentang Adat: Telaah Adat Dan Urf Sebagai Sumber Hukum Islam" 9, No. 2 (2015).," 390.

¹⁶ Khalaf, *Ilmu Ushul Fiqh*, 90.

muhakkamah (customs can become law).¹⁷ This rule was often used by Gus Dur in responding to various legal issues that had just emerged recently which had no legal basis in the Qur'an or hadith.

The fiqh rules used by Gus Dur above are rules that have been well-known among previous fiqh experts. This rule is included in one of the rules of fiqh called al-qawā'id al-khamsah (the five basic principles of fiqh).

In addition to the above-mentioned rules, there is also a methodology of Islamic legal thought (ushul fiqh) which places the culture or tradition of society as very special, namely al-'urf. According to Afifuddin Muhajir, al-'urf is a tradition or custom that is experienced and lived by humans both personally and communally. In establishing Islamic law al-'urf must be considered and considered. Because ignoring the valid al-'urf (according to the principles of the Shari'a) is contrary to the ideals of benefit as the goal of the Shari'a. Afifuddin Muhajir, quoting al-Sarakhsi's opinion, said that, "atstsabit bil'urf katstsabit binnash", meaning: "the legal provisions stipulated by al-'urf are the same as the legal provisions stipulated by the texts."¹⁸

In Gus Dur's thought, the application of the rules of fiqh and ushul fiqh as above requires caution, because in Islamic law there are principles that must be considered. For example, customs or traditions cannot change texts (al-Qur'an and hadith) but only change or develop their application. As Gus Dur said the following:

"Because of the strict principles of Islamic law, adat cannot change the text itself but only changes or

develops its application and indeed the application will change by itself".¹⁹

The method of applying Islamic law as above, said Gus Dur, is also a form of "postponing" full implementation by using transitional legal decisions, such as customary law instead.²⁰ Gus Dur used this method in addressing legal issues that arose in Indonesia, one of which was the law of zakat, marriage, and inheritance. The three legal cases will be elaborated by the researchers below:

1. Zakat Law

Zakat is the granting of ownership rights over certain assets to certain people who have been determined by the Shari'a, solely for the sake of Allah. The law of paying zakat is obligatory, namely getting a reward for those who carry out and sin for those who leave. This is contained in the Qur'an Surah Al-Baqarah verse 43, which means "and establish prayer and pay zakat".²¹

In the context of zakat fitrah or zakat an-nafs, the obligation to pay zakat fitrah is carried out in the month of Ramadan to purify the soul.²² And the object or goods that must be tithe is wheat or dates. These two objects are stipulated in the hadith of the Prophet, "The Messenger of Allah required to pay zakat fitrah one Sha' of dates or one Sha' of wheat for Muslims; whether slave or free, male or female, small or large."

The order to pay zakat fitrah, as in the hadith above, will certainly experience

¹⁹ Wahid, *Pergulatan Negara, Agama, Dan Budaya*, 123.

²⁰ Wahid, *Islam Kosmopolitan: Nilai-Nilai Indonesia Dan Transformasi Kebudayaan*, 51.

²¹ Badan Amil Zakat Nasional, *Fikih Zakat Kontekstual Indonesia* (Jakarta: Badan Amil Zakat Nasional, 2018), 37.

²² Akhmad Haries Hervina, "Pandangan Ulama Tentang Hukum Surung Sintak Pada Pelaksanaan Zakat Fitrah Di Kota Samarinda," *Fenomena* 5, no. 2 (2013).

¹⁷ Wahid, *Pergulatan Negara, Agama, Dan Budaya*, 121.

¹⁸ Muhajir, *Fiqh Tata Negara: Upaya Mendialogkan Sistem Ketatanegaraan Islam*, 194.

problems in its implementation, if it is implemented in Indonesia, which incidentally does not contain wheat or dates. Meanwhile, Muslims in Indonesia are also required to pay zakat like Muslims in Arab countries. This problem certainly moves the scholars who are experts in this field to find legal answers to these problems.

Gus Dur is one of the scholars who later issued his views on the issue of zakat in Indonesia. He said that rice in Indonesia is the same as wheat or dates in Arabia. Therefore, the law of paying zakat using rice for Muslims in Indonesia is the same as wheat used by Muslims in Arabia. Regarding this, Gus Dur wrote in his book, "The Struggle of the State, Religion, and Culture" as follows:

"...The Prophet never set rice as an object of zakat, but wheat. Then the scholars who define wheat as qutul balad, staple food. And because of that definition, wheat has turned into rice for Indonesia."²³

Gus Dur's view above is a contextual zakat fiqh view. An Islamic legal thought that is not tied to a textual understanding of the texts. Gus Dur's thinking certainly has a legal basis that has been practiced by previous scholars in using the legal *istimbat* method, such as *qiyas* and *al-urf*. Both methods are considered very appropriate to be applied in the case of zakat law in Indonesia.

2. Marriage Law

In addition to zakat law in Indonesia, Gus Dur also responded to the growing issue of marriage law in Indonesia. He considered that the practice of marriage carried out by

Muslims in various regions was a form of accommodation of Islamic marriage law with customs or traditions prevailing in society. In this regard, Gus Dur said in his writings as follows:

"In relation to marriage, for example, the pillars for the validity of a husband-wife relationship are very few, namely *ijab*, *qabul*, witnesses and guardians. While the rest is left to customs, for example regarding the implementation of the inauguration ceremony. Here, *adat* acts as a liaison for new patterns of behavior while still adhering to the normative rules of religion. This pattern of relations between religion and customs is very healthy."²⁴

Gus Dur's view above can be understood that the relationship between marriage law (*fiqh munakahat*) and tradition is very accommodating. The relationship between the two is not mutually exclusive. Even Islamic marriage law which contains normative teachings has not changed by accommodating *adat* in the implementation process.

The tradition of the reception or wedding ceremony is indeed known in Islamic teachings, namely *walimah al-ursy* whose application is left to custom or tradition. Gus Dur on the same occasion also touched on how cultural manifestations in wedding rituals such as wedding clothes are considered part of the cultural domain, so the authority lies in customs, not religion. This was stated by Gus Dur below:

"While the Javanese wedding dress shows the shoulders of the bride, Muslims do not view it as 'damaged' as adultery, disobedience to parents, and other serious crimes. Such

²³ Wahid, *Pergulatan Negara, Agama, Dan Budaya*, 123.

²⁴ Wahid, 122.

*shortcomings can generally be understood as part of adat, as long as the religious requirements of marriage and subsequent relationship arrangements, such as matters of living and household obligations, are still regulated by Islam. While the cultural manifestations are left to customs... this pattern of relationship is accommodated in al'adah muhakkamah, so that customs can be supported without reducing the validity of the marriage.'*²⁵

Nevertheless, Gus Dur still emphasized that the accommodation of Islamic law with culture only concerns the cultural aspect. Regarding the matter of marriage guardians, adoptive fathers are still not allowed to become marriage guardians for their adopted children. This provision, said Gus Dur, is a religious norm, not custom or tradition.²⁶

3. Inheritance Law

The development of Islamic inheritance law in Indonesia has also undergone many adjustments to customary inheritance law. However, long before Islamic inheritance law was known and applied in Indonesia, customary inheritance law was existential or applied in society. According to Yulia, customary inheritance law that is generally applicable in Indonesia consists of three characteristics, namely: first, inheritance in the customary law system is not a unit that can be valued at its price, but is a unit that cannot be divided or can be divided but according to its type. The interests of the heirs; secondly, customary inheritance law does not recognize the principle of legitimacy portie or absolute part; Third, customary inheritance law does not recognize the right for heirs to demand that the inheritance be distributed immediately.²⁷

Therefore, the existence of customary law in Indonesia is slowly being influenced by Islamic inheritance law. Both accommodate or accept each other. For example, the share of female heirs and the share of male heirs is distinguished because the roles and responsibilities in the household are different. In Bugis and Mandar, people know the term *urane mallampe, burane ma'jujung* (men carry, women uphold). Because the roles and responsibilities of men and women are different, the share of inheritance rights is also different. This tradition is in accordance with the provisions of Islamic inheritance law, which distinguishes the two parts.

On the other hand, the integration of Islamic inheritance law with customary inheritance law can also be found, in terms of, for example, the division of inheritance between husband and wife. In this case, Gus Dur said as follows:

*"...in Indonesia, it has long been the case that the distribution of inheritance between husband and wife has received input in the form of two models derived from adat, namely the abstinence custom in Banjarmasin and gono Gini in Jogja-Solo...household assets are considered as a joint acquisition of husband and wife, which therefore must be separated before being inherited, when one of the husband/wife dies. Half of the property is divided among the heirs according to Islamic inheritance law, while the other half belongs to the husband/wife who is still alive..."*²⁸

The custom of dividing joint property or gono gini as mentioned above has now become part of the Islamic inheritance system in the KHI (Compilation of Islamic Law). This shows that Islamic inheritance law which is now part of national law accommodates

²⁵ Wahid, 122.

²⁶ Wahid, 122.

²⁷ Yulia, *Buku Ajar Hukum Adat* (Lhokseumawe: Unimal Press, 2016), 82–83.

²⁸ Wahid, *Pergulatan Negara, Agama, Dan Budaya*, 121.

customary inheritance law that has been in effect for a long time in Indonesia. Apart from Java, in other areas, joint assets are also known, such as in Aceh (hareuta siharekat), Minangkabau (sound property), Sunda (to be rich), Bali (duwe gabbro), and Kalimantan (abstinence goods).²⁹

CONCLUSION

Gus Dur is a contemporary Islamic legal thinker. He is very responsive to the discourse on the development of Islamic law in Indonesia, especially on legal issues related to cultural manifestations. Gus Dur understood and studied every contemporary legal issue with a contextual and multi-dimensional approach while still referring to legal theories and principles, such as ushul fiqh, qawaid fiqh, and maqashid sharia. So that in Gus Dur's hands, Islamic law is dynamic, not apologetic or static. Although Gus Dur understood Islamic law flexibly, the principal aspects of Islamic law that had not changed were still in place. So, Gus Dur's thoughts about accommodation of Islamic law with culture are not changing the texts (Al-Qur'an and Hadith) but changing their application. And one application of Islamic law is custom or tradition.

²⁹ Etty Rochaeti, "Analisis Yuridis Tentang Harta Bersama (Gono-Gini) Dalam Perkawinan Menurut Pandangan Hukum Islam Dan Hukum Positif," *Jurnal Wawasan Hukum* 28, no. 1 (2013).

REFERENCES

- Autad, Sarjana Sunan, and Imam Kamaluddin Suratman. "Konsep 'Urf Dalam Penetapan Hukum Islam." *Tsaqafah Jurnal Peradaban Islam* 13, no. 2 (2017).
- Badan Amil Zakat Nasional. *Fikih Zakat Kontekstual Indonesia*. Jakarta: Badan Amil Zakat Nasional, 2018.
- Hervina, Akhmad Haries. "Pandangan Ulama Tentang Hukum Surung Sintak Pada Pelaksanaan Zakat Fitrah Di Kota Samarinda." *Fenomena* 5, no. 2 (2013).
- Kaco, H, Suardi. "Fiqh Lokalitas: Integrasi Hukum Islam Dan Budaya Lokal (Studi Pemikiran Hukum Islam Kontekstual Abdurrahman Wahid)." *J-Alif Jurnal Penelitian Hukum Ekonomi Syariah Dan Sosial Budaya Islam* 4, no. 1 (2019).
- Khallaf, Abdul Wahhab. *Ilmu Ushul Fiqh*. Kairo: Maktabah al-Da'wah al-Islamiyah Syabab Al-Azhar, n.d.
- Koto, Alaididin. *Ilmu Fiqh Dan Ushul Fiqh*. 5th ed. Jakarta: Rajawali Press, 2014.
- Muhajir, Afifuddin. *Fiqh Tata Negara: Upaya Mendialogkan Sistem Ketatanegaraan Islam*. Yogyakarta: IRCiSoD, 2017.
- Muzadi, Muchit. "Tidak Mungkin Agama Terlepas Dari Tradisi Lokal." *Tashwirul Afkar* 23, no. 1 (2007).
- Rochaeti, Etty. "Analisis Yuridis Tentang Harta Bersama (Gono-Gini) Dalam Perkawinan Menurut Pandangan Hukum Islam Dan Hukum Positif." *Jurnal Wawasan Hukum* 28, no. 1 (2013).
- Wahid, Abdurrahman. *Islam Kosmopolitan: Nilai-Nilai Indonesia Dan Transformasi Kebudayaan*. Jakarta: The Wahid Institute, 2007.
- . *Pergulatan Negara, Agama, Dan Budaya*. Depok: Desantara, 2001.
- Yulia. *Buku Ajar Hukum Adat*. Lhokseumawe: Unimal Press, 2016.
- Zainuddin, Faiz. "Konsep Islam Tentang Adat: Telaah Adat Dan Urf Sebagai Sumber Hukum Islam" 9, No. 2 (2015)." *Jurnal Lisan Al-Hal* 9, no. 2 (2015).