

THE *SOMBALABU* TRADITION IN THE TOLAKI TRIBE OF KONAWE REGENCY: AN ISLAMIC LEGAL PERSPECTIVE

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ABSTRACT

This study explores the Sombalabu tradition from the perspective of Islamic law, emphasizing its validity within both customary and religious frameworks. Utilizing an ethnographic approach, this qualitative research aims to understand cultural phenomena within their natural contexts. Informants were selected through purposive sampling and included three Islamic religious scholars and two Tolaki traditional leaders, whose perspectives are essential in capturing the socio-cultural dimensions of Sombalabu. Data were primarily collected through in-depth interviews, focusing on the core essence of the tradition and its relation to Islamic marriage principles. The findings indicate that Sombalabu is not recognized as a valid form of marriage or divorce under Islamic law, due to the absence of a valid marriage contract (ijab-qabul) and the failure to follow the prescribed legal

procedures governing divorce. Furthermore, the study reveals that Sombalabu does not meet the criteria of 'urf shahih (valid custom), rendering it legally void. The ethnographic analysis also shows that the detrimental consequences of Sombalabu outweigh any perceived benefits, making it incompatible with Islamic legal values. Given its potential to disrupt social order and individual well-being, the study concludes that Sombalabu should not be acknowledged as a legitimate practice within Islamic jurisprudence.

Keywords: Customary Practice, Islamic law, Marriage Contract, Sombalabu, Tolaki

INTRODUCTION

Marriage is defined as a profound bond between two individuals who love each other, aimed at establishing a harmonious family under divine guidance (Alfahira, 2023). Achieving this ideal requires the fulfillment of essential requirements stipulated by both Islamic and civil law. Legal validity plays a central role in determining the formal recognition of a marriage (Ghozali, 2010). The absence of these conditions renders the marriage invalid under both religious and state regulation (Al-Juzairi, 2016). These requirements serve as the foundation for a marriage that is legally and religiously recognized.

There are five fundamental pillars of marriage: the bride and groom, a guardian, two witnesses, and the *ijab-qabul* (Meirina, 2023). Among these, *ijab-qabul* holds profound philosophical significance, symbolizing sincerity in establishing a household. According to the consensus of scholars (*Jumhur Ulama*), the *sighat aqad* in the form of *ijab-qabul* constitutes an essential pillar of marriage and must not be disregarded, as it represents a religious commitment (Nuruddin, 2004). Although scholars have debated the components of marriage pillars, the *ijab-qabul* remains a primary determinant of a marriage's validity, with both the Maliki and Shafi'i schools affirming its centrality in Islamic legal thought (Al-Juzairi, 2016)).

Marriage requirements within Islamic law reinforce the proper implementation of these pillars. One such condition is that the marriage must align with the religious and belief systems of both parties, ensuring its legal and spiritual legitimacy (Nuruddin, 2004). While some scholars classify these aspects as legal conditions rather than pillars, both are equally vital in determining the legitimacy of a marriage and must be fulfilled. Failure to meet these requirements constitutes a violation of

divine law, and any practice contradicting this is invalid in Islamic jurisprudence. When these conditions are satisfied, the marriage is considered legitimate, as they define the mutual rights and responsibilities of the husband and wife (Meirina, 2023; Mubarak et al., 2023; Mardianingsih and Meidina, 2023; Sukmawati, 2023).

In Indonesia, formal marriage requirements sometimes diverge from traditional practices. Numerous cultural traditions with unique characteristics are preserved across the archipelago (Elfira et al., 2023). These traditions reflect the richness of local wisdom and serve as evidence of the nation's strong commitment to its cultural heritage. Despite this diversity, Indonesia remains united through a framework of tolerance that reinforces its identity as a multicultural nation (Herwandito et al., 2024; Hadi, 2021; Hermawan, 2023). One example of this cultural diversity is the *Sombalabu* tradition, found in certain regions of Southeast Sulawesi, particularly in Konawe Regency. This practice, deeply rooted in the Tolaki tribe, is considered unconventional as it involves both marriage and divorce occurring simultaneously due to familial disputes (Koodo, 2011).

These disputes often arise from a sense of familial shame caused by violations of moral norms, such as premarital pregnancy. The *Sombalabu* tradition is used as a means of preserving family honor through immediate marriage and divorce. In such cases, families may agree to this practice to maintain their reputation. This tradition has received legal acknowledgment through Konawe Regency Regional Regulation No. 1 of 2018, concerning the implementation of customary marriage laws for the Sara Merapu Tolaki community.

A distinctive feature of *Sombalabu* is the absence of *ijab-qabul* in the marriage

process. Compared to other customary practices in Indonesia that aim to resolve issues of family honor, *Sombalabu* stands out for this reason. In some regions, family honor is protected by marrying the daughter to a different man rather than to the individual involved in the moral transgression (Koodo et al., 2011). *Sombalabu* also resembles the *Kahi' Pura* tradition practiced by the Sinjai people, which involves marriage followed by divorce with parental approval as a means of preserving family honor (*Passampo Siri'*). While both traditions share similarities, they also differ significantly: *Sombalabu* lacks the formal *ijab-qabul*, whereas *Kahi' Pura* includes it. These practices highlight the complexity of marriage customs in Indonesia and challenge conventional religious and legal frameworks (Susanti and Sabariman, 2023; Oktafian, 2020; Djun'astuti et al., 2022; Novitasari et al., 2023).

Initial observations and phone interviews with several *Pabitara* (customary spokespersons of the Tolaki Tribe) reveal that *Sombalabu* cases have persisted for many years and remain prevalent in Konawe Regency, which is presented in Table 1.

Table 1. *Sombalabu* Cases in Konawe Regency

No	Traditional Leader	Address	Years of Service	<i>Sombalabu</i> Cases Handled
1	Nasruddin T.	Anggaberi District	> 20 years	Numerous
2	Baharuddin B.	Anggaberi District	> 20 years	Numerous
3	Ahmad	Konawe District	20 years	6–7 pairs
4	Wiwin Imran	Wawotobi District	2 years	6 pairs

Source: Initial interviews with customary leaders, 2025

This phenomenon highlights two important issues: (1) the high number of marriage and divorce cases over the past two decades in Konawe Regency, which demands closer examination, and (2) the need for a comprehensive study from both Islamic and Indonesian legal perspectives to clarify the legal status of *Sombalabu*, in order to prevent misinterpretation within a multicultural society.

Law Number 1 of 1974, Articles 1 and 2, establishes that the validity of a marriage is based on the religious or belief system of the parties involved and requires registration at the Office of Religious Affairs (KUA) to obtain an official marriage certificate (Hafsari et al.,

2023; Maharani and Bakri, 2023; Rahman and Syafrida, 2023; Hidayat and Wibowo, 2022). If *Sombalabu* were considered a legitimate marriage, records of its occurrence over the past 20 years would appear in the National *SimkahWeb* application or be formally recorded at the KUA for Muslims, or at the Civil Registry Office (*Dukcapil*) for non-Muslims, even if it ultimately resulted in divorce. Furthermore, traditional leaders in various Konawe districts would be required to report such cases if *Sombalabu* were officially recognized. However, no such documentation exists.

The recognition of *Sombalabu* as a valid marriage practice presents a critical challenge to Islamic marital law, primarily due to the absence of *ijab-qabul*, which is a core requirement for legal validity in Islamic jurisprudence. Although the practice has been accepted locally through customary norms and regional regulation, it remains incompatible with national legal standards and theological principles. The lack of official documentation further undermines its legal status. Nevertheless, Islamic legal thought upholds the principle of *tabayun*, which encourages the clarification of facts to prevent false accusations (*fitnah*). In this context, the present study provides a contextual analysis that incorporates both normative Islamic legal frameworks and the sociocultural realities of the Tolaki community. The research aims to bridge the conceptual and practical divide between local traditions and state-recognized religious law, offering a clearer understanding within Indonesia's multicultural legal environment.

Literature Review

The Concept of Marriage in Islamic and State Law

In Islam, marriage is both a legal contract and a sacred covenant. A key component of its validity is the *ijab-qabul* (offer and acceptance), symbolizing mutual consent between the bride and groom (Nuruddin, 2004; Julianda, 2023). Marriage must meet specific pillars and conditions (*arkan wa syurut*) to be deemed valid (Al-Juzairi, 2016). Imam Shafi'i, in *Al-Umm*, emphasizes *ijab-qabul* as an essential pillar to legitimize the marital bond. From the perspective of Indonesian state law, Law No. 1 of 1974 on Marriage stipulates that

a marriage is valid if it conforms to the couple's religious teachings and is officially registered (Hafsari et al., 2023; Aliyah et al., 2023). This aligns with normative legal theory, which posits that the legitimacy of legal acts relies on adherence to prescribed legal procedures.

Previous Studies on Customary Marriages and Their Implementation

Numerous studies have explored the endurance of customary marriage practices that occasionally contradict both Islamic and national legal systems. Barkah et al. (2023) discuss how traditional marriages persist even when not aligned with national regulations. This phenomenon corresponds with Griffiths' theory of legal pluralism, which acknowledges the coexistence of multiple legal systems within a single society (Griffiths, 1986).

Husain et al. (2024) examine the interaction between customary law and state law, emphasizing the community's capacity to maintain social tolerance. Santoso et al. (2022) identify the difficulties in aligning diverse customary marriage practices with national and religious legal frameworks. Similarly, Pelu and Dakhoir (2021) highlight legal disputes concerning the validity of customary marriages. Merry's theory of legal pluralism (1988) is pertinent here, as it explains how state, religious, and customary legal systems can overlap and influence each other.

***Sombalabu* in the Perspective of Islamic and State Law**

Sombalabu is a unique marriage practice within Tolaki customary law that notably omits the *ijab-qabul* process. According to Koodoh and Ahimsa-Putra (2018), this tradition, which is also referred to as *Kawisoro* or *Popolosoro*, is typically practiced in two scenarios:

1. When a woman is pregnant without her parents' knowledge, often due to uncertain paternity or sexual violence.
2. When the woman's family disapproves of the father of the child, often on religious or social grounds.

Tolaki traditional leaders regard *Sombalabu* as an abnormal or emergency marital form (*mesokei*), where *somba* means "sailing" and *labu* means "anchoring," symbolizing a marriage immediately followed

by divorce. This practice raises significant legal and ethical concerns. From an Islamic standpoint, the absence of *ijab-qabul* renders such a union invalid (Nuruddin, 2004; Meirina, 2023). It also contradicts the principles of *maqashid syariah*, especially the protection of lineage (*hifz al-nasl*) (Al-Syatibi, 2003).

In terms of state law, *Sombalabu* is not officially recorded in Indonesia's marriage registration system (Maharani and Bakri, 2023), unlike other customary marriages that are often legally registered (Nkuna-Mavutane & Jamneck, 2022). Under Kelsen's positivist legal theory, this lack of formal recognition disqualifies *Sombalabu* from legal validity, as lawfulness depends on conformity to the established legal structure (Kelsen, 1945).

Research Gaps and Contributions

Although there is extensive research on customary marriages, few studies focus specifically on the legal and social implications of *Sombalabu* within the frameworks of Islamic and national law (Djun'astuti et al., 2022). The socio-legal effects of this practice on family integrity and community norms in Konawe remain underexplored. This study addresses this gap by analyzing *Sombalabu's* legal standing and its broader social impact, thereby contributing to a nuanced understanding of customary marriage within Indonesia's plural legal system.

Conceptual Framework

This study adopted the theory of legal pluralism (Griffiths, 1986; Merry, 1988) as a foundational analytical lens to examine the dynamic interplay between customary marriage traditions and formal legal systems, specifically Islamic jurisprudence and national statutory law in Indonesia. Legal pluralism posits the coexistence of multiple normative orders within a single socio-legal field, enabling indigenous traditions to function alongside religious and state-sanctioned legal frameworks.

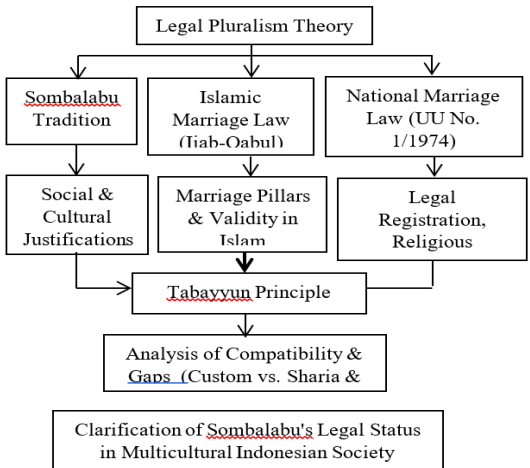
The central focus of this research is the *Sombalabu* tradition, a culturally embedded marriage-divorce practice unique to the Tolaki ethnic group in Konawe Regency. This practice does not involve the Islamic legal element of *ijab-qabul* (marital offer and acceptance), reflecting a significant tension between cultural continuity and legal-religious

legitimacy. In Islamic family law, *ijab-qabul* constitutes a non-negotiable pillar (*rukun nikah*), while Indonesian Law No. 1 of 1974 requires both religious compliance and formal state registration for a marriage to be legally recognized.

An in-depth analysis was conducted to examine the cultural significance, social function, and legal status of *Sombalabu*. Particular attention was given to the interpretations of Tolaki traditional leaders (*Pabitara*), Islamic scholars, and legal practitioners. The research explored how *Sombalabu* aligns with or contradicts Islamic jurisprudence (*fiqh*) and Indonesia's positive law. Data were gathered through interviews and document analysis, including marriage law statutes, religious fatwas, and regional regulations. The interpretive process was guided by the principle of *tabayyun* (clarification and verification), which ensured that conclusions were drawn respectfully, objectively, and in accordance with both cultural and religious sensitivities.

Figure 1 presents the conceptual framework developed in this study. It illustrates the intersection of the *Sombalabu* tradition with legal pluralism theory, emphasizing the negotiation between customary norms, Islamic legal principles, and the national legal system.

Figure 1. Conceptual Framework



Source: Theory of legal pluralism (Griffiths 1986; Merry 1988)

RESEARCH METHOD

This study utilizes an ethnographic approach, a qualitative methodology aimed at understanding cultural phenomena within their natural settings (Creswell & Poth, 2018).

Ethnography facilitates an in-depth examination of social practices and beliefs through the researcher's immersion in the cultural context of the community under study (Hammersley & Atkinson, 2019).

The research adopts purposive sampling to identify five key informants: three Islamic religious scholars and two Tolaki customary leaders. This sampling technique ensures that all participants have substantive knowledge and direct involvement with the *Sombalabu* tradition, thereby providing credible and contextually rich data (Patton, 2015).

Primary data collection is carried out through in-depth interviews, which focus on exploring the meaning, structure, and legal implications of *Sombalabu*. In ethnographic research, interviews serve as a vital instrument for gaining deep insights into cultural values, traditional practices, and prevailing social norms (Flick, 2018). This approach is in line with Geertz's (1973) notion of "thick description," which emphasizes the need to interpret cultural behaviors within their broader social and symbolic frameworks.

DISCUSSION

The interviews addressed three primary issues:

1. The Islamic legal perspective on the concept of *Sombalabu* in Tolaki custom.
2. The Islamic legal perspective on its implementation.
3. The Islamic legal perspective on its impact.

Traditional leaders, religious scholars, and community elders participated in the interviews to provide insights into the meaning, practice, and implications of *Sombalabu*. The findings were examined through the lens of Islamic law and prevailing customary norms. A summary of the interview responses is presented in Table 2.

Table 2. Summary of Interview Results on *Sombalabu*: Concept, Implementation, and Impact in the Context of Islamic Law

No	Category	Informant	Statement
1	The Meaning of <i>Sombalabu</i> in Tolaki Customs	Tolaki Traditional Leader	<i>Sombalabu</i> serves as a solution for women who experience biological abuse when the man refuses to take responsibility.
2	Perspective of Customary Norms	Tolaki Traditional Leader	<i>Sombalabu</i> is considered an abnormal

No	Category	Informant	Statement
3	Linguistic Meaning	Tolaki Traditional Leader	marriage in Tolaki customs because it does not involve mutual consultation between both families. Linguistically, <i>Somba</i> means "to sail," and <i>Labu</i> means "to dock," symbolizing a marriage that ends immediately in divorce.
4	Islamic Perspective	Chairman of MUI Konawe	<i>Sombalabu</i> does not fulfill the concept of marriage in Islam as it lacks sincerity and involves external intervention. Islam does not recognize a marriage-divorce concept that occurs simultaneously without undergoing marital life stages.
5	Islamic Legal Perspective	NU Administrator of Konawe	<i>Sombalabu</i> is a customary marriage that has legal recognition based on regional regulations. The process resembles a traditional marriage but excludes the involvement of the Office of Religious Affairs (KUA) and does not include a marriage contract.
6	Tolaki Customary Perspective on the Implementation of <i>Sombalabu</i>	Tolaki Traditional Leader	
7	Implementation Procedure	Tolaki Traditional Leader	
8	Islamic Perspective on the Implementation of <i>Sombalabu</i>	MUI Administrator of Konawe	<i>Sombalabu</i> does not meet the essential pillars of Islamic marriage as it lacks the <i>ijab qabul</i> (marriage contract).
9	Islamic Legal Perspective on the Implementation of <i>Sombalabu</i>	NU Administrator of Konawe	It contradicts the Compilation of Islamic Law (KHI), which regulates marriage contracts.

No	Category	Informant	Statement
10	Positive Impact – Cultural Preservation	Tolaki Traditional Leader	<i>Sombalabu</i> is part of local wisdom that should be preserved.
11	Positive Impact – Social Values	Tolaki Traditional Leader	Customary rules in <i>Sombalabu</i> provide a foundation for social behavior within the community. It can be classified as ' <i>Urf</i> ' (customary practice) if it does not contradict Islamic law.
12	Positive Impact – Islamic Perspective	MUI Administrator of Konawe	It helps prevent conflicts between families due to violations of social norms. Women who undergo <i>Sombalabu</i> often experience sadness and trauma.
13	Positive Impact – Conflict Prevention Potential	Tolaki Traditional Leader	Children born from <i>Sombalabu</i> marriages do not have a legitimate lineage to their biological father.
14	Negative Impact – Psychological Trauma	Tolaki Traditional Leader	It has the potential to normalize violations of moral norms under the pretext of tradition.
15	Negative Impact – Child Status	Chairman of MUI Konawe	It risks being misused by men to evade marital responsibilities.
16	Negative Impact – Social Consequences	NU Administrator of Konawe	
17	Negative Impact – Exploitation by Certain Parties	Preacher and Religious Leader	

Source: Initial interviews with customary leaders, 2025

Islamic Legal Perspective on the *Sombalabu* Customary Concept

The *Sombalabu* tradition, long practiced among the Tolaki people, represents a unique form of customary marriage. Its legalization through Konawe Regional Regulation in 2018, particularly Article 23, underscores its social significance. This article mandates sanctions for individuals who fail to complete the *Mowindahako* ceremony, an essential component of *Sombalabu*.

However, this customary practice is often not recorded at the Office of Religious Affairs (KUA), which contrasts with national

legal standards, such as Law No. 1 of 1974, Government Regulation No. 9 of 1975, and Law No. 16 of 2019. These laws require all marriages to be formally registered. From an Islamic legal perspective, marriage aims to establish a harmonious household (*sakinah*, *mawaddah*, and *rahmah*). This principle aligns with *maqashid al-shariah*, particularly the objective of preserving lineage (*hifz al-nasl*) through lawful unions. The Qur'an states:

"And among His signs is that He created for you wives from among yourselves so that you may find tranquility in them, and He placed between you affection and mercy..." (Q.S. Ar-Rum: 21).

Based on the verse from Surah Ar-Rum (Q.S. 30:21), Islam emphasizes the importance of fostering a harmonious household rooted in *sakinah* (tranquility), *mawaddah* (affection), and *rahmah* (compassion). The objective of marriage in Islam is to establish a stable and nurturing family environment built on mutual respect, love, and obedience to divine guidance (Nurhayati, 2011; Kusmidi, 2018; Taufiq, 2017; Habib & Hambali, 2019).

Qur'anic scholars provide detailed interpretations of *as-sakinah* in the marital context, which include 1) creating a peaceful and safe atmosphere within the household; 2) Observing Allah's commands and cultivating mutual respect between spouses; and 3) fostering tolerance and harmony in daily interactions.

From this foundation of *sakinah*, the quality of *al-mawaddah*—a deep, emotional bond—develops, strengthening the sense of responsibility and commitment between husband and wife. Al-Qurtubi and Al-Qasimi (as cited in Nurhayati, 2011) explain that *as-sakinah* and *al-mawaddah* lead to *ar-rahmah*, which manifests as compassion and divine blessings. This dynamic, in turn, supports the formation of a righteous family and the healthy development of offspring (Ziyanatuzzahro, 2021).

In Islamic legal studies, divorce (*talaq*) is treated as a legal action subject to strict procedural and ethical guidelines. Ibn Qayyim al-Jawziyyah's theory of Islamic legal flexibility (*taysir*) emphasizes that the application of Islamic law should serve the community's welfare while upholding core principles. Thus, regulations surrounding divorce aim to protect the rights of both spouses and ensure the well-being of children.

Islam provides clear guidelines on divorce, as codified in the Compilation of Islamic Law (KHI). According to Article 117, *talaq* is the husband's declaration made in a Religious Court session, which formally initiates the process of marital dissolution. Articles 129, 130, and 131 further elaborate the legal consequences of divorce, highlighting the requirement for formal procedures and judicial oversight.

In contrast, the *Sombalabu* tradition represents a customary form of divorce practiced within the Tolaki community, which diverges significantly from Islamic legal norms. Unlike Islamic divorce, *Sombalabu* does not involve judicial proceedings, lacks a formal marriage contract, and is not registered through official religious institutions.

One relevant concept in Islamic jurisprudence is *Talaq Ba'in Sughra*, a form of irrevocable divorce that permits remarriage only through a new marriage contract. Islamic law recognizes *Talaq Ba'in Sughra* under three specific conditions: 1) divorce prior to consummation (*qabla al-dukhul*); 2) divorce by mutual agreement with compensation (*khulu*); and 3) divorce granted by a Religious Court.

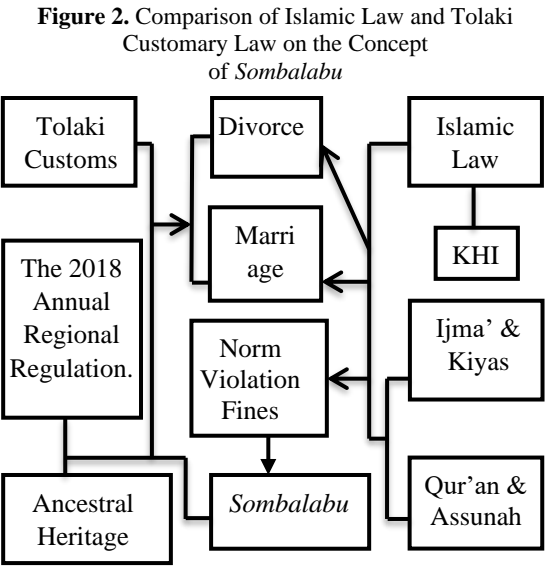
As stated in Article 119 (1–2) of the KHI, *Talaq Ba'in Sughra* ends the marriage, but allows the couple to remarry with a new contract. These provisions reinforce the principle that marital relationships and their dissolution must be clearly regulated and documented to ensure legal certainty (Sudrajat & Amanita, 2020).

The key differences between Islamic and customary legal perspectives are clearly evident in the practice of *Sombalabu*. While Tolaki custom regards *Sombalabu* as a legitimate response to moral transgressions, especially when a man refuses to take responsibility for a woman he has dishonored, Islamic law does not recognize such unions or their dissolution outside the framework of formal marriage contracts and judicial procedures.

Therefore, a legal and social approach aligned with Islamic principles, particularly regarding marriage registration and divorce procedures, should be prioritized to ensure justice and protect the rights of all parties involved. The Islamic legal concept of *maslahah mursalah*, as formulated by Imam Malik, offers a useful framework for

integrating customary practices with Islamic law. This principle supports the development of regulations that respect local traditions while ensuring they do not contradict core Islamic legal values, thereby promoting the common good.

The divergence between Islamic legal interpretations and Tolaki customary law regarding the concept and implementation of *Sombalabu* is illustrated in Figure 2 below.



Source: Researcher Analysis, 2025

As illustrated in Figure 2, under Islamic law, *Sombalabu* is regarded as a customary response to moral violations, particularly when a man avoids responsibility for premarital relations. It is not recognized as a legitimate form of marriage or divorce under Islamic principles. By applying the concept of *maslahah mursalah*, the public interest doctrine introduced by Imam Malik, Islamic legal scholars and lawmakers may consider harmonizing local customs with Islamic values to promote justice and societal well-being.

The Islamic Legal Perspective on the Implementation of the *Sombalabu* Customary Concept

This study reveals that *Sombalabu*, a matrimonial practice rooted in Tolaki tradition, exhibits procedural similarities to conventional marriage customs. However, unlike formal matrimonial unions, *Sombalabu* omits the legally mandated contractual agreement (*ijab-qabul*), which is an essential condition for the validity of a marriage in Islamic jurisprudence. Therefore, *Sombalabu* is categorized as a customary, rather than a religious, marriage.

This classification is closely associated with the inclusion of *Mowindahako*, a key cultural element in Tolaki marriage practices. *Mowindahako* symbolizes the formal transfer of custodial responsibility from the bride's parents to the husband, who then assumes the legal and financial obligations previously borne by the bride's family. Etymologically, *Mowindahako* derives from the root word *winda* with the suffix *ho*, forming *windaho*, which means to release or sever a bond, indicating the formal relinquishment of parental guardianship (Personal Communication, Altin T, Tolaki Traditional Leader, January 2023).

From an Islamic legal perspective, a marriage that lacks the *ijab-qabul* is considered null and void. Al-Baihaqi (Nurhayati, 2011) notes that the Qur'an employs two primary terms related to marriage: *zawwaja* and its derivatives, which appear approximately 20 times, and *nakaha* and its derivatives, found in about 17 verses. In this context, *nikah* refers to the formal contractual bond establishing a marital relationship. Ali once explained to Ibn Jini that the meaning of *nakaha al-mar'ah* depends on context: *nakaha fulan fulanah* denotes the establishment of a marriage contract, whereas *nakaha imraatahu* signifies consummation (Muid & Maburrosi, 2022). The Qur'an consistently uses *nikah* to refer to the contractual nature of marriage, employing euphemisms rather than explicit references to conjugal relations as a matter of rhetorical propriety.

In the realm of Islamic jurisprudence (*fiqh*), the absence of a binding contract renders a *Sombalabu* marriage invalid. Although the various Islamic schools of thought differ in their definitions of marriage, all emphasize the necessity of an explicit contractual agreement. The Shafi'i school defines marriage as a contract legitimizing conjugal relations through explicit terms such as *nikah* or *kawin*, while the Hanafi school defines it as a contract permitting lawful conjugal relations between a man and a woman, provided there are no legal impediments (Ziyanatuzzahro, 2021). Although most scholars insist on the use of specific terminology, the Hanafi school allows alternative expressions that imply the permissibility of conjugal relations, such as *hibah*.

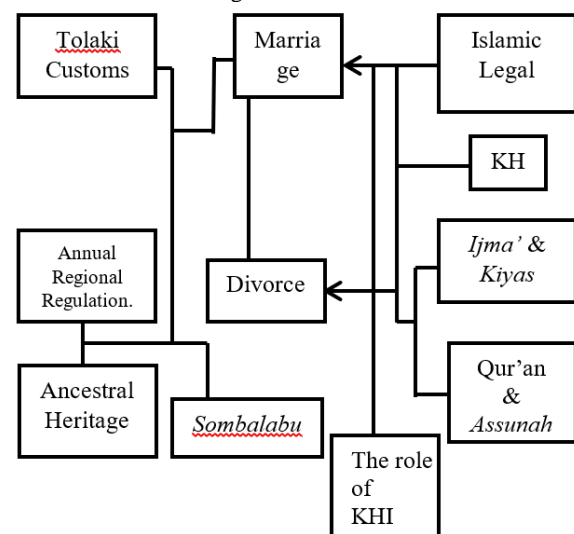
The Hanafi school also places emphasis on the absence of legal prohibitions, such as consanguinity (*mahram*) and religious incompatibility (for example, marriage with a polytheist). Other schools, however, do not explicitly include these prohibitions in their definitions, considering them inherent requirements. Imam Muhammad Abu Zahrah (d. 1394 H/1974 M), a renowned scholar from Al-Azhar University, argues that these definitional variations are nominal rather than substantive. Fundamentally, all schools regard marriage as a legal contract that legitimizes conjugal relations and establishes reciprocal rights and responsibilities (Nurhayati, 2011; Ziyanatuzzahro, 2021).

Additionally, from an Islamic legal standpoint, the practice of immediate divorce following a *Sombalabu* union is considered invalid. First, because the *Sombalabu* marriage lacks a valid *ijab-qabul*, any subsequent divorce declaration is legally meaningless. Second, even if *Sombalabu* were hypothetically regarded as a legitimate marriage, its immediate dissolution would contravene the procedural norms governing divorce in Islamic law, particularly as outlined in the Compilation of Islamic Law (*Kompilasi Hukum Islam*).

In accordance with Islamic legal procedure, a husband seeking divorce must submit a formal verbal or written petition to the Religious Court within the jurisdiction of the wife's residence. This petition must include legally valid grounds and must be resolved through an official court hearing (Syaifuddin et al., 2022; Nasution, 2022; Malik & Purnomo, 2022). The immediate dissolution observed in *Sombalabu* thus stands in direct opposition to these procedural requirements.

To further illustrate the divergence between Tolaki customary law and Islamic jurisprudence in the context of marriage, reference is made to Figure 3.

Figure 3. Divergence Between Tolaki Customary Law and Islamic Jurisprudence in the Context of *Sombalabu* Marriage Tradition



Source: Researcher Analysis, 2025

As shown in Figure 3, Islamic legal doctrine categorically invalidates *Sombalabu* as a legitimate marriage due to the absence of *ijab-qabul*. Furthermore, its method of divorce does not comply with the structured legal mechanisms established in the Compilation of Islamic Law, reaffirming its incompatibility with Islamic jurisprudence.

The rejection of *Sombalabu* from an Islamic legal perspective is based on its nature as a socio-cultural practice rather than a religiously sanctioned institution. As a customary tradition among the Tolaki people, *Sombalabu* is accepted through communal consensus and transmitted across generations. However, Islamic jurisprudence employs the concept of '*urf*' (custom), which differs from *adah* (customary practice) (Rizal, 2019). While '*urf*' encompasses practices widely accepted by a community and can be classified as '*urf sahih*' (valid) or '*urf fasid*' (invalid), *adah* more broadly refers to customs, including individual habits.

Sombalabu is classified as '*urf fasid*' because it is limited to a specific region, namely certain areas of Southeast Sulawesi inhabited by the Tolaki ethnic group, and is inconsistent with Islamic legal principles. This classification is based on several factors: (1) it contravenes shariah principles, (2) it encourages moral violations (*fasad*), (3) it lacks broad acceptance within the Muslim community, and (4) it does not align with the normative framework of *ibadah mahdah* (acts

of worship), as it remains culturally specific rather than universally practiced by Muslims.

The Islamic Legal Perspective on the Impacts of the *Sombalabu* Customary Concept

Drawing from the analysis of data obtained in this study, it is evident that a significant divergence exists between Tolaki customary law and Islamic jurisprudence regarding the perceived positive impacts of *Sombalabu*. However, both perspectives converge in recognizing the negative implications of this practice. From the standpoint of Tolaki customary law, *Sombalabu* is considered beneficial in two primary aspects. First, it preserves the indigenous wisdom and cultural heritage of the Tolaki people, an ethnic group among the many officially recognized in Indonesia. Second, it serves as a mechanism for maintaining familial harmony and preventing conflicts arising from moral transgressions committed by their offspring.

In contrast, Islamic jurisprudence does not validate *Sombalabu* as an acceptable practice unless it meets two fundamental criteria. The first criterion is that *Sombalabu* must qualify as a *shahih* (valid) customary practice, as only '*urf shahih* (customs that align with Islamic principles) are acknowledged within Islamic legal discourse. However, *Sombalabu* fails to meet this requirement because it lacks the essential contractual element of *ijab-qabul* (offer and acceptance), which is integral to a valid marriage contract. Consequently, any recognition of *Sombalabu* as a form of marriage, despite its legalization under regional regulations, is null and void from the perspective of Islamic law. The second criterion is that even if *Sombalabu* does not meet the conditions of '*urf shahih*, it may still be permissible under the principle of *darurah* (necessity). In this case, however, the application of *darurah* is inapplicable because alternative legal mechanisms for resolving conflicts already exist, such as *kalo sara*, a customary dispute-resolution process within Tolaki society. According to Rahman (2020), *kalo sara* functions as a traditional mechanism of conflict resolution that aligns with Islamic legal principles, provided it does not contradict the *nash syar'i*.

This indicates that the presence of a legitimate customary institution diminishes the necessity-based justification for *Sombalabu*. Furthermore, *Sombalabu* is practiced exclusively within certain regions of Southeast Sulawesi inhabited by the Tolaki ethnic group. This categorizes it as *al-'urf al-khas* (specific custom), which is not universally applicable within the broader framework of Islamic jurisprudence. As emphasized by Sari (2019), a local custom may only be considered '*urf shahih* if it does not conflict with Islamic principles and is widely accepted (*umum al-balwa*). Customs that are specific to small communities do not automatically meet these criteria.

According to Al-Zarqa (as cited in Wandu, 2018; Huda and Evanti, 2018; Hidayat and Bin Ahmad, 2016), a customary practice can serve as a source of Islamic legal reasoning only if it fulfills the following conditions. First, the custom, whether specific or general, '*amali* (practical) or *qauli* (verbal), must be widely practiced and accepted by the majority of society. Since *Sombalabu* is restricted to the Tolaki ethnic group, it constitutes a localized rather than a universal custom. Second, the custom must have predated the legal issue in question. In the case of *Sombalabu*, it emerged as a reactive measure following a rise in moral transgressions among youth, rather than existing as a longstanding preventive norm. Third, the custom must not contradict explicit Islamic legal principles. *Sombalabu* directly contravenes Islamic jurisprudence by disregarding the essential pillars of marriage, particularly *ijab-qabul*. Fourth, the custom may only be employed as a legal basis if no explicit textual evidence (*nass*) exists regarding the issue. However, Islamic law already provides clear regulations on marriage and its requirements, as outlined in the Qur'an, Sunnah, and the Compilation of Islamic Law in Indonesia. Additionally, Indonesian civil law explicitly mandates that a valid marriage must be conducted in accordance with religious principles and be legally registered.

Consequently, the assertion that *Sombalabu* serves as a legitimate mechanism for preserving indigenous cultural values and preventing familial discord is legally untenable. In Islamic jurisprudence, the preservation of local traditions is permissible only when such customs fall under '*urf shahih*. However, *Sombalabu* falls within the category

of *'urf fasid* (invalid custom) because its primary function, resolving moral infractions, is already governed by established Islamic legal provisions. Therefore, *Sombalabu* cannot be employed as a valid legal argument for upholding indigenous cultural values (Putri, 2020; Zainuddin, 2015).

Additionally, the purported positive function of *Sombalabu* as a conflict-resolution mechanism is invalid from an Islamic legal perspective because the practice itself contradicts fundamental Islamic principles. Even if *Sombalabu* were examined through the lens of *darurah*, it would still be deemed impermissible. Islamic legal doctrine only permits otherwise prohibited actions under conditions of absolute necessity, where no alternative exists to prevent harm or destruction. Given the availability of alternative legal and customary dispute-resolution mechanisms, the justification of *Sombalabu* under *darurah* is rendered void. Consequently, the claim that *Sombalabu* can be lawfully practiced to mitigate social conflicts is unfounded.

In Islamic legal doctrine, *rukhsah* (legal concession) is nullified when it facilitates sinful acts. *Rukhsah* linguistically denotes leniency, ease, or mitigation, and jurisprudentially refers to legal dispensations granted under exceptional circumstances to alleviate undue hardship (Siregar, 2019). The principle of *al-Masyaqqatu Tajlibu at-Taysir* (hardship begets ease) in Islamic jurisprudence dictates that legal concessions are granted only when absolute hardship exists, leaving no viable alternatives. However, the application of this principle to *Sombalabu* is untenable because alternative mechanisms for conflict resolution remain accessible through civil, customary, and Islamic legal frameworks. Since the justification of *darurah* is invalid, any potential relaxation of legal restrictions regarding *Sombalabu* is likewise void.

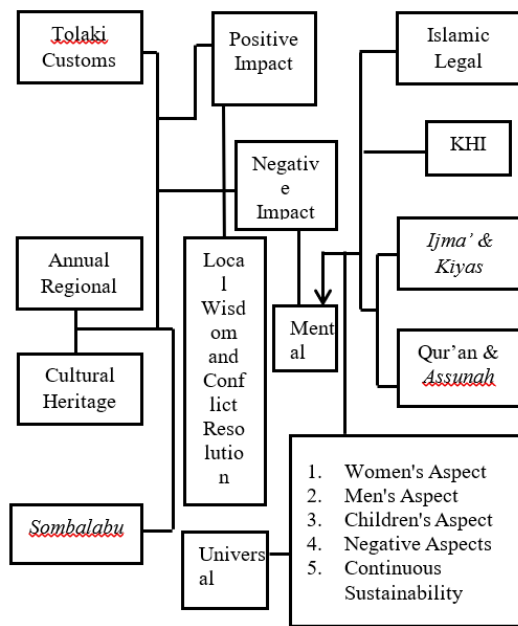
Beyond its perceived benefits, this study has also identified the adverse consequences of *Sombalabu*, as recognized within Tolaki customary law. The most significant of these is the severe psychological distress imposed upon women who are unilaterally divorced under *Sombalabu*. From an Islamic legal standpoint, the detrimental impact extends beyond the woman, as any child conceived from such a union would also suffer legal and social ramifications. Additionally, *Sombalabu*

creates opportunities for recidivism among men with financial means, who may exploit the practice to repeatedly engage in extramarital relations without legal consequences. This diminishes the severity of *zina* (fornication or adultery) within the Tolaki community by enabling its resolution through financial transactions, thereby trivializing the gravity of the offense.

Furthermore, *Sombalabu* fails to serve as an effective deterrent against illicit sexual conduct. On the contrary, its existence may facilitate systematic sexual exploitation, as perpetrators could exploit the custom as a means to evade legal repercussions. If left unregulated, *Sombalabu* may inadvertently provide institutional cover for acts of sexual misconduct, thereby normalizing extramarital relations under the guise of customary reconciliation. Such an outcome is in direct contravention of Islamic law, which unequivocally prohibits *zina* and forbids any action that leads to its commission. As explicitly stated in the Qur'an (Al-Isra: 32), Allah commands believers to uphold the sanctity of marriage and strictly forbids fornication.

In light of the foregoing analysis, it is evident that *Sombalabu* lacks both legal and moral legitimacy within the framework of Islamic jurisprudence. Its failure to meet the criteria of *'urf shahih*, its contradiction with established Islamic legal principles, and its facilitation of morally and legally reprehensible acts collectively render it invalid within Islamic legal discourse. To facilitate a clearer understanding of the differing perspectives of Islamic law on the impacts of the *Sombalabu* customary practice, refer to Figure 4.

Figure 4. Islamic Legal Perspectives on the Legitimacy and Impacts of the *Sombalabu* Customary Practice



Source: Researcher analysis, 2025

Based on Figure 4, it can be concluded that the negative impact of the *Sombalabu* customary practice, from the perspective of Islamic law, is more universal in nature, as it carries a greater potential to cause long-term harm. Furthermore, Islamic law does not recognize any positive impacts of *Sombalabu* because it fails to meet the criteria of '*urf shahih*'. This customary practice is confined to the Tolaki ethnic group, emerged in response to increasing cases of moral transgressions, and contradicts Islamic principles by disregarding the essential pillars of marriage. Moreover, marriage in Islam is governed by clear legal regulations found both in Islamic law and in Indonesia's national legal framework, as stipulated in civil law. Therefore, the implementation of *Sombalabu* not only contradicts Islamic principles but also lacks a valid legal foundation. Consequently, from the perspective of Islamic law, the negative consequences of *Sombalabu* outweigh any perceived benefits, rendering the practice legally and morally unacceptable.

CLOSING

This study offers a critical analysis of the *Sombalabu* customary practice from the perspective of Islamic law. The findings reveal a fundamental conflict between the *Sombalabu* tradition and the core principles of Islamic jurisprudence. While Tolaki customary law

regards *Sombalabu* as a mechanism to uphold cultural identity and prevent familial conflict, Islamic law deems the practice invalid due to its noncompliance with essential legal requirements, particularly the absence of *ijab-qabul* in marriage contracts. The practice is further disqualified as '*urf shahih*' because it does not reflect a widely accepted and non-contradictory custom within the Islamic legal framework. Additionally, *Sombalabu* is not justified under the principle of *darurah* (necessity), as alternative and lawful avenues for resolving moral and familial issues are already available within both Islamic and customary legal systems.

The implementation of *Sombalabu* also gives rise to significant legal and moral concerns, such as the marginalization of women, the vulnerability of children born outside formally recognized marriages, and the risk of enabling repeated moral transgressions. These adverse consequences are recognized not only in Islamic law but also within Tolaki customary law, underscoring the broader social harm of maintaining this practice. Therefore, from an Islamic legal standpoint, the continuation of *Sombalabu* cannot be justified. It is imperative that both religious and customary leaders collaborate to discourage its use and promote alternative dispute resolution mechanisms that align with Islamic principles and uphold human dignity.

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