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Harmonization of Customary Law, Green Constitution and Green Fatwa: Case Forest Burning and Land for Agriculture in Central Kalimantan

Muhammad Wahdini[1]*, Hasse Jubba[2], Kamsi[3], Achmadi[4], Ardi Akbar Tanjung[5], Ahmed Sarjoon Razick[6]

[1]Universitas Muhammadiyah Palangkaraya, Indonesia. E-mail: muhammadwahdini99@gmail.com
[2]Universitas Muhammadiyah Yogyakarta, Indonesia. E-mail: hasse@umy.ac.id
[3]Universitas Islam Negeri Sunan Kalijaga Yogyakarta, Indonesia. E-mail: kamsi@uin-suka.ac.id
[4]Universitas Muhammadiyah Palangkaraya, Indonesia. E-mail: achmadiump@gmail.com
[5]Universitas Muhammadiyah Palangkaraya, Indonesia. E-mail: ardi.akbar15@gmail.com
[6]South Eastern University of Sri Lanka, Sri Lanka. E-mail: sarjoonra@seu.ac.lk
*Corresponding Author

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Abstract

This study aims to examine the intersection of customary law, Islamic law, and state law in the context of *manugal*—a traditional land-burning practice for farming among the Dayak people of Central Kalimantan. Often perceived as conflicting with environmental sustainability principles enshrined in national law, *manugal* raises legal and ethical questions about how indigenous traditions could align with modern ecological frameworks. By using socio-legal and comparative methods, the study analyzed the compatibility and convergence of three legal systems in addressing environmental concerns while preserving cultural identity. The results showed that a harmonization framework was possible through two main instruments, the "green constitution," reflected in Law No. 32 of 2009 and Central Kalimantan Regional Regulation No. 1 of 2020, and the "green fatwa," as seen in MUI Fatwa No. 30 of 2016. These legal tools provided both statutory and religious justifications for limited, environmentally responsible *manugal* practices grounded in the principles of *maslahah* (public interest) and *'urf shahih* (legitimate custom). This study offered an original interdisciplinary perspective by bridging legal pluralism, environmental law, and indigenous rights. Its contribution was rooted in demonstrating how traditional ecological knowledge could be integrated into formal legal systems to promote inclusive and sustainable environmental governance. The study suggested that this harmonized model could serve as a reference for similar policy innovations in other culturally diverse regions of Indonesia and beyond.

Keywords: ***Manugal*; Customary Law; Green Constitution; Green Fatwa; Ecological Justice.**

Abstrak
Penelitian ini bertujuan untuk mengkaji interseksi antara hukum adat, hukum Islam, dan hukum negara dalam konteks *manugal*—praktik pembakaran lahan tradisional untuk pertanian di kalangan masyarakat Dayak di Kalimantan Tengah. Sering dianggap bertentangan dengan prinsip-prinsip keberlanjutan lingkungan yang tercantum dalam hukum nasional, manugal menimbulkan pertanyaan hukum dan etis tentang bagaimana tradisi asli dapat selaras dengan kerangka kerja ekologi modern. Dengan menggunakan metode sosiologis-hukum dan perbandingan, penelitian ini menganalisis kesesuaian dan konvergensi ketiga sistem hukum dalam menangani masalah lingkungan sambil menjaga identitas budaya. Hasil penelitian menunjukkan bahwa kerangka harmonisasi dapat diwujudkan melalui dua instrumen utama, yaitu "konstitusi hijau," yang tertuang dalam Undang-Undang Nomor 32 Tahun 2009 dan Peraturan Daerah Kalimantan Tengah Nomor 1 Tahun 2020, serta "fatwa hijau," sebagaimana tercantum dalam Fatwa MUI Nomor 30 Tahun 2016. Alat hukum ini memberikan landasan hukum dan agama untuk praktik manugal yang terbatas dan bertanggung jawab secara lingkungan, yang didasarkan pada prinsip *maslahah* (kepentingan umum) dan *'urf shahih* (kebiasaan yang sah). Studi ini menawarkan perspektif interdisipliner yang orisinal dengan menghubungkan pluralisme hukum, hukum lingkungan, dan hak-hak masyarakat adat. Kontribusinya berakar pada menunjukkan bagaimana pengetahuan ekologi tradisional dapat diintegrasikan ke dalam sistem hukum formal untuk mempromosikan tata kelola lingkungan yang inklusif dan berkelanjutan. Studi ini menyarankan bahwa model terpadu ini dapat menjadi acuan untuk inovasi kebijakan serupa di wilayah-wilayah lain di Indonesia yang beragam secara budaya dan di luar negeri.
Kata Kunci: *Manugal*; Hukum Adat; Konstitusi Hijau; Fatwa Hijau; Keadilan Ekologis.

Introduction

Forest and land fires in Indonesia have become a national, regional, and international problem (Purnomo et al., 2017). Besides being an economic, environmental, and social disaster, forest and land fires in Indonesia are also a significant cause of deforestation (Purnomo et al., 2019). The incident continues to recur from year to year and has become a serious problem (Tata et al., 2018). This phenomenon has become an important environmental issue due to the impact of haze and the carbon emissions produced. The main impact of these fires is the generation of smoke with particulate emissions that are harmful to the environment and human health (Heriyanto et al., 2015). The cause is allegedly anthropogenic, as forests are naturally wet environments that tend not to burn naturally (Budiningsih et al., 2022). The anthropogenic causal factors are, First, the negligence of humans who are carrying out their activities in the forest. The second is due to deliberate factors such as deliberate land clearing and plantations. However, the human negligence factor has less influence than the deliberate factor of taking part in the forest and land-burning crisis (Sidiq, 2019).

In the last three decades, Indonesia has faced severe threats from recurrent forest and land fires. A study by the World Bank stated that Indonesia suffered losses of around

IDR 221 trillion due to forest and land fires in 2015. Forest and land fires in 2019 were estimated to cost the country approximately IDR 75 trillion. The massive fires in 2019 also affected millions of people with acute respiratory diseases (Thoha et al., 2023). Additionally, fires contributed to the loss of about 50% of primary forests in Indonesia. These incidents are closely related to the habit of land clearing for large-scale and small-scale agricultural and agroforestry activities, specifically for oil palm which is often associated with burning (E. P. Purnomo et al., 2021).

Besides Riau, Jambi, South Sumatra, and West Kalimantan provinces, Central Kalimantan has the highest rate of forest and land fires. In 2015, forest and land fires in the province became the largest after South Sumatra with 2.7 million hectares of peat, according to data from the Ministry of Environment's Sipongi (2020). Although South Sumatra is the province with the highest forest and land fires, it has less peat when compared to Central Kalimantan. Papua also has a lower percentage of burnt and damaged peat than Kalimantan and Sumatra (Yurismi et al., 2022).

The fact is related to the local knowledge of Dayak community which is an indigenous tribe of Central Kalimantan on how to farm. The tribe has customary rules and rituals performed by the community before preparing for farming or *bahuma*. Part of the rituals performed by *Dayak Ngaju* community before preparing is land burning. Two important aspects must be considered in practice, namely (1) the customary rules and rituals observed before burning and (2) the techniques applied during burning. The customary rituals performed before burning include respecting the supernatural beings present on the land, while burning technique comprises the selection of a suitable time of day (Hadiwijoyo et al., 2017). Additionally, these activities are carried out nomadically or on the move. The term in Dayak community is also known as *manugal*, which is planting rice seeds in preparation for farming. Before *manugal*, the land is usually burned first (Dormauli et al., 2023). This shifting cultivation system is said to be one of the causes of forest fires and haze disasters (Wardana, 2022). So that it becomes a concern for various parties how to review these customs from various legal perspectives.

The Dayak practice of *manugal*, the burning of land as part of a shifting cultivation system, is still an enduring agrarian tradition in some parts of Kalimantan. In the last decade, studies have shown that this practice cannot be categorized as illegal burning or a significant cause of forest fires because it is carried out within a customary framework that regulates the timing, location, and procedure of burning (Cairns, 2015). *Manugal* also involves spiritual rites and relationships that show humanity's connection to nature, which is often overlooked in the state's regulative approach.

In the last decade, the issue of land burning by indigenous peoples as part of shifting cultivation has become a global concern, especially in tropical regions such as Southeast Asia, Africa and Latin America. The practice of *manugal* by Dayak communities in Kalimantan is part of a custom-based agrarian tradition similar to swidden agriculture practices in other regions. International studies such as by (Dressler et al., 2017) and (Fox et al., 2014) Shows that customary shifting cultivation systems, if practiced with the proper rotations, are not only sustainable but also have the potential to maintain biodiversity and food security for local communities. Meanwhile, the eco-theology approach or ecological spirituality is also developing in a global context. Studies by (Jenkins et al., 2018) and (Ives & Kidwell., 2019) emphasized that religious perspectives and local spirituality could be critical moral resources in building just and sustainable environmental governance. This correlates with ecological fatwa efforts in Indonesia, such as MUI Fatwa No. 30 of 2010, which is still not fully connected to indigenous religious practices. Studies around fatwas with environmental nuances have then developed as green fatwa studies (Mufid, 2020).

However, there are a number of significant gaps. First, few studies explore the intersection of Dayak *manugal* practices with legal pluralism, eco-theology (green fatwa), and green constitutionalism in a single analytical framework. Second, there is limited empirical analysis on how indigenous communities navigate the legal standing between state laws and customary ecological values. Third, policy models that legally and practically distinguish traditional land burning from industrial-scale practices remain absent at both national and international levels. Lastly, the spiritual dimension central to *manugal* in Dayak local culture is rarely addressed as a critical aspect of environmental governance. Therefore, there is a need for studies that place *manugal* at the intersection of customary law, national law, and religious ethical norms both in the local context and in the framework of global legal and ecological discourse. Previous theories of intersection in Indonesia have evolved from the conflict between Islamic and conventional law. These theories include the theories of incomplex acceptance, outward acceptance, and contrary acceptance (Syaikhu et al., 2023).

Methods

This study applied a socio-legal method to compare three legal systems relating to Dayak practice of *manugal* or land burning, namely customary law, state law, and religious norms. The method used normative comparative legal analysis to identify and evaluate how each system regulated, accepted, or addressed the traditional practice. In this study, the literature materials included applicable laws and regulations in Indonesia, namely Law No. 32/2009 on Environmental Protection and Management, religious community fatwas

such as from the Indonesian Ulema Council (MUI), as well as customary law documents that regulated the practice of *manugal* in the Dayak community. The analysis aimed to show how each of these legal systems viewed, regulated, and influenced the practice of land burning in the context of environmental law and the rights of indigenous peoples.

This study method adopted a comparative approach using normative analysis of written legal sources, such as laws, fatwas, and customary documents, as well as scientific literature discussing the role of each legal system in natural resource management. In this case, the study would examine the tension that arised between customary law, which recognized and legitimizes the practice of *manugal* as part of tradition and ecological sustainability, and state law, which tended to criminalize land burning due to its negative impact on the environment (Benda-Beckmann et al., 2009). On the other hand, religious norms, especially MUI's fatwa on environmental protection, will be analyzed to see to what extent ecological principles in religious teachings can be integrated with customary and state laws in regulating *manugal* practices (Jenkins et al., 2018).

This comparative approach will explore the similarities and differences between the three legal systems in responding to traditional ecological practices, as well as a review of the potential harmonization or reconciliation that can be made between these three legal systems. It will also reveal the role of law in mediating the tension between the ecological, social, and cultural needs of indigenous peoples and the demands of the state and globalization, which increasingly prioritize environmental conservation (Myers et al., 2021).

Results and Discussion

Green Constitution and The Existence in Indonesia

The term "Green Constitution" in international legal instruments could be connected to Article 25 of the Universal Declaration of Human Rights, stating "Everyone has the right to a standard of living adequate for the health and well-being of himself and his family." Meanwhile, the International Covenant on Economic, Social and Cultural Rights, Article 12 Paragraph (1) clearly stated that "States parties to the present covenant recognize the right of everyone to the enjoyment of the highest attainable standard of physical and mental health." These terms indicated that every citizen was entitled to a constitutional guarantee to live and experience a good and healthy environment to grow and develop. Additionally, the oversight of environmental rights in the constitution demonstrates the state's commitment to the protection and management of the environment (Qurbani & Rafiqi, 2022).

Green Constitution included the principles of environmental sustainability as an essential part of the country's legal system. It aimed to ensure that the country's development and policies not only considered economic and social progress but also maintained the sustainability of the ecosystem for generations to come (Budimansyah et al., 2021; da Silva, 2022). In Indonesia, the concept of Green Constitution was enacted through an amendment to the 1945 Constitution, which included environmental rights among the fundamental rights of citizens. Article 28H of the amended Constitution guaranteed every person the right to a good and healthy environment. Additionally, Article 33 of the 1945 Constitution provided a legal basis for natural resource management based on the principle of sustainability by stipulating that the earth, water, and other natural resources were controlled by the state and used for the greatest prosperity of the people.

Jimly Asshiddiqie first introduced Green Constitution in Indonesia in his book entitled "Green Constitution: Green Nuances of the 1945 Constitution of the Republic of Indonesia". Green Constitution implemented environmental sovereignty, or democracy, where the environment was no longer an object that humans could carelessly manipulate but as a subject with intrinsic rights to protection and preservation. The fourth amendment to the 1945 Constitution was therefore regarded as Indonesia's first Green Constitution (Asshiddiqie, 2009).

As global awareness of environmental issues increased, Green Constitution concept became associated with the development of third-generation human rights. This evolution was reflected in key international events such as the Stockholm Conference in Sweden during the Second World Development Decade (1970–1980), the 1992 Rio de Janeiro Conference, the 2002 Johannesburg Summit, and the Rio+20 Conference in 2012 (Yusa & Hermanto, 2018). In Indonesia, the developmental regime of national environmental law started with statutory law products or the era of legislation. Following the reform era, Indonesia entered a phase of constitutionalization marked by amendments to the 1945 Constitution (UUD NRI Tahun 1945), which was amended four times. These amendments included Article 28H(1), which guaranteed environmental rights, and Article 34(4), affirming the state's obligation to ensure sustainable development. These provisions signified that the 1945 Constitution had formally embraced the constitutionalization of environmental norms, thereby qualifying as Green Constitution (Yusa & Hermanto, 2018).

In this case, environmental sustainability in Indonesia was recognized as a necessity, and supporting human life and other living organisms constituted a key component of the concept of sustainable development. This concept was juridically formulated in Article 28H paragraph (1) and Article 33 paragraph (4) of the 1945

Constitution. It was constitutionally regulated in the 1945 Constitution and incorporated into Indonesia's primary environmental legislation, Law Number 32 of 2009 on Environmental Protection and Management (UUPPLH 2009). This law served as the foundational legal basis for implementing the principles of sustainable development in Indonesia.

The concept of Green Constitution in UUPPLH 2009 was reflected in the provisions of Article 28H paragraph (1) and Article 33 paragraph (4) of the 1945 Constitution, as well as in the considerations outlined in letters a, b, and f, Article 1 paragraph (2), Article 44, Explanation of Part I General paragraphs (1) and (5) of Law No 32 Year 2009. These provisions correlated with Article 28H paragraph (1), affirming that environmental sustainability supporting human life and other living things, remained a crucial element of sustainable development, as formulated in Green Constitution.

Furthermore, Indonesia's constitutional and legal framework on human rights and the environment underwent three significant legislative transformations. Initially governed by Environmental Law No. 4 of 1982, it was later amended to Law No. 23 of 1997, and then to Law No. 32 of 2009 on Environmental Protection and Management. Currently, the law continued to serve as the main legal framework for environmental regulation in Indonesia. However, it had undergone substantial revisions through the enactment of Job Creation Law (Law No. 11 of 2020) and its amendment (Law No. 6 of 2023). These amendments introduced significant changes, including the replacement of environmental permits with environmental approvals, and modifications in the procedures and functions of Environmental Management Efforts (UKL) and Environmental Monitoring Efforts (UPL).

Green Fatwa: Muslim Community Response to Environmental Issues

As the largest Muslim country in the world, Indonesia played a significant strategic role in promoting environmental awareness and sustainability. Indonesian government prioritized this objective through outreach and extension programs aimed at raising awareness of the need to preserve and protect the environment (Izmuddin et al., 2022). Religion also played a crucial role in shaping moral behavior by reminding people not to engage in environmentally harmful practices. Beyond religion, community customs were also respected. Therefore, it was important to engage traditional and religious leaders as agents of change. These leaders, including Islamic scholars and community elders, helped influence public attitudes towards the responsible use and conservation of natural resources (Hilabi, 2020).

Green Fatwa referred to religious views and fatwas that responded to environmental issues, integrating Islamic principles with nature conservation efforts. The Muslim community's response to environmental problems was often guided by the view that Islam taught the care of the earth as a trust that should be safeguarded by humanity (Mufid, 2020). Several major Islamic organizations in Indonesia that have fatwa institutions, such as Muhammadiyah, Nahdhatul Ulama, and the Indonesian Ulema Council, responded to various environmental issues with multiple responses, such as issuing fatwas with environmental nuances to advocating, or assisting in environmental cases (Koehrsen, 2021). The Institute for Environmental and Natural Resources Conservation (LPLH-SDA) of the Indonesian Ulema Council (MUI) was established on September 23, 2010 with the Decree of the Leadership Council of the Indonesian Ulema Council Number: Kep-485/MUI/IX/2010. MUI also actively participated in responding to efforts related to the environment. Additionally, the Indonesian Ulema Council (MUI) issued several fatwas related to nature conservation and environmental preservation, such as Fatwa No.02/2010 on Recycled Water and Fatwa No.22/2011 on Environmentally Friendly Mining, Fatwa No.43/2012 on the Misuse of Formalin, No.04/2014 on the Preservation of Rare Animals for Ecosystem Balance, No.47/2014 on Waste Management, No.01/MUNAS-IX/MUI/2015 on the Utilization of ZISWAF for the construction of Clean Water and Sanitation Facilities, and No.30/2016 on the Law of Forest and Land Burning and Its Control (Hilabi, 2020).

Furthermore, Nahdhatul Ulama, Since the 29th Congress in Cipasung, Tasikmalaya, West Java, the idea of addressing this environmental crisis has emerged. After that, there have been many fatwas and movements involved in environmental issues. Some of them were the Fatwa on Burning and Sinking Illegal Fishing Vessels, Disproportionate Exploitation of Nature, Land Conversion, Eradication of Plastic Waste, and Fatwa on Environmentally Friendly Renewable Energy. Nahdlatul Ulama also established a special institution that deals with environmental issues, namely the Institute for Disaster Management and Climate Change (LPBI) (Mufid, 2020).

In addition, Muhammadiyah has an Environmental Assembly (MLH), which was established by PP Muhammadiyah in 2000 as a result of the 49th Muhammadiyah Congress in Makassar. MLH deals explicitly with environmental issues. In fact, the Environmental Assembly is part of the central Muhammadiyah leadership's efforts to implement environmental programs (Zaman & Tanjung, 2022). Several products such as Fikih Air and Fikih Kebencanaan are also Muhammadiyah's response to environmental issues.

Manugal Custom in Central Kalimantan

Originally, Dayak tribe was a nomadic tribe that moved frequently. Known as hunters and gatherers of forest products as well as shifting cultivators, the community was renowned for preserving its rich traditions. Dayak community across Kalimantan practiced a shifting cultivation system, which comprised several stages, such as cutting and burning forests, harvesting agricultural products, and managing the land through a traditional farming method known as manugal. The community believed that planting rice or other crops in long-standing forests improved soil fertility through natural fertilizers, thereby enhancing crop yields (Purwaningsih & Wulansari, 2023).

In some provinces, *manugal* was performed in August, while in others, it occurred in September or October. During *manugal* activities, men, women, and children each had specific roles. The men typically made planting holes in the soil, while the women and children sowed the rice seeds. Many Dayak community continued to follow the helu or Kaharingan religion in some provinces. The field owners or initiators of *manugal* process organized communal feasts and thanksgiving ceremonies to ensure smooth and safe farming activities. After this indigenous prayer session, the entire community would proceed to the fields to engage in *manugal* together (Djungan, 2021).

In implementing *manugal*, particularly in terms of natural resource utilization, the traditional rice farming system had been passed down through generations. However, since this practice included the use of fire to clear farmland, it was increasingly perceived as environmentally unfriendly. When land burning was poorly managed, it often led to forest fires. Consequently, some indigenous groups began to abandon this ancestral wisdom due to factors such as population growth, forest depletion, and legal consequences for forest burning (Djungan, 2021).

Dayak indigenous community in the interior of Central Kalimantan continued to practice a rice-growing tradition known as *manugal*. Indigenous community often cleared the land for farming by burning it first. Children and older people, both men and women, participated in *manugal* process. Even in a village, the tribe typically participated in *manugal* together, except for the women who prepared food. Additionally, indigenous community frequently worked together, taking turns in cultivating one another's fields to ensure faster completion when the rice planting season arrived. The tribe began in the morning, and by the time noon had passed and the sun was hot, the work would have been completed (Efendi et al., 2020).

Land clearing and cultivation in Dayak were minimal and controlled due to hereditary rules. Following the ancestral wisdom implicit in customary law, traditional farmers were adept at applying safe burning methods. Over the years, anthropologists

have investigated the farming systems of Central Kalimantan. For example, Michael R. Dove [1988] conducted a study on the farming methods used by Dayak community of Kalimantan. The analysis mentioned slash-and-burn farming as an adaptation strategy of community to the environment. The tropical rainforest significantly influenced soil acidity, and the burning system helped reduce this acidity while increasing soil fertility. For Dayak, farming followed customary principles, relying on traditional knowledge and local seed varieties (Agon & Liadi, 2020). Analysis conducted by Syaufina (2008) and Syaifullah & Sodikin (2014) as cited by Irfan and friends further confirmed that land burning remained a preferred method due to its practicality, cost-effectiveness, and capacity to enrich the soil (Musthafa et al., 2021).

Picture 1. Manugal Activities after Land Burning

Source: Mata Kalteng

Adat *Manugal*, Accommodating Green Constitution and Harmonizing Green Fatwa

For example, in August 2023, Central Kalimantan Regional Police arrested a farmer in East Kotawaringin District who was suspected of burning land to clear an agricultural area. Although the farmer was from an indigenous community, the legal process continued because land burning was considered a violation of applicable regulations (Dionisius Reynaldo Triwibowo, 2019). Gusti Maulidin (63) and Sarwani, who were farmers from Rungun Village, Kotawaringin Lama Sub-district, West Kotawaringin Regency, were also arrested and charged for burning agricultural land. Despite the claim to have prevented the fires from spreading, both were sentenced to prison by Pangkalan Bun District Court. The case was controversial because the same judge acquitted a large company engaged in a land fire case (Budi Baskoro, 2019).

Normatively, *manugal* law had been accommodated in Green Constitution principle through Central Kalimantan Regional Regulation Number 1 of 2020. The regulation

recognized the practice of land burning by customary communities for traditional farming, provided it was conducted on non-peat land and under strict supervision. However, in practice, many conventional farmers continued to face legal proceedings due to a lack of understanding or adequate supervision.

Historically, Central Kalimantan Regional Government had also juridically regulated this custom through several Regional Regulations of Central Kalimantan Province. These included Regional Regulation (PERDA) of Number 5 of 2003 concerning Control of Forest and or Land Fires, Governor Regulation Number 15 of 2010 concerning Amendments to Governor Regulation 52 of 2008 concerning Guidelines for Land and Yard Clearing for Communities, Governor Regulation Number 24 of 2017, and most recently Central Kalimantan Provincial Regulation Number 1 of 2020 concerning Land Fire Control.

Article 6, paragraphs (1) and (2) of Central Kalimantan Provincial Regulation Number 1 of 2020 concerning Land Fire Control were as follows. The granting of burning permits on non-peat land, as referred to in Article 5 paragraph (3), was limited to a maximum of 20 hectares per village on the same day for exceptional cases. Furthermore, under Article 5 paragraph (2), each family head could burn up to one hectare of non-peatland to plant rice or seasonal crops. This regulation outlined the government's efforts to integrate local wisdom in a legal framework that promoted environmental safety.

Laws and regulations ensured that the suppression of land fires by local communities using fire should be done in a controlled manner. According to Government Regulation No. 4 of 2001 on the Control of Environmental Damage and Pollution Related to Forest and Land Fires (Article 17), fire management provisions did not apply to indigenous communities burning land in their recognized farming areas, provided the fires did not extend beyond these boundaries and were purposefully lit for agricultural use.

Tabel 1: Legal Provisions on Natural Resources and Indigenous Land Clearing

Number	Laws and regulations	Substance
1	UUD NRI 1945	The use of natural resources for the benefit of human prosperity.
2	UU 32/2009	Indigenous communities are allowed to clear land by burning it under certain conditions and terms.
3	PP 04/2001	Indigenous communities are allowed to clear land by burning it under certain conditions and terms.

4	PERDA Kalteng 01/2020	Indigenous communities are allowed to clear land by burning it under certain conditions (maximum 1 hectare).

Source: Authors interpretation

Table 1 shows that when *manugal* practice, which included land clearing through traditional burning by indigenous community had received recognition and accommodation in various laws and regulations in Indonesia ranging from the constitution to regional regulations. The 1945 Constitution, particularly Article 33, provided a normative basis that natural resources were controlled by the state and utilized to the greatest extent for the prosperity of the people. This served as the constitutional basis for traditional agricultural practices such as *manugal*, which were carried out to meet the basic needs of Indigenous community. Furthermore, Law No. 32 of 2009 on Environmental Protection and Management explicitly permitted land clearing by burning through the customary law, provided it was carried out with consideration of local wisdom and did not cause pollution or environmental damage. The provision was necessary because it emphasized the differentiation between burning for industrial purposes and subsistence-based customary practices.

Similar provisions were reiterated in Government Regulation No. 04 of 2001, stating that customary law could conduct land burning under special conditions, including control and supervision to prevent environmental damage. This accommodation showed that the state recognized the existence of traditional agrarian practices passed down through generations and needed to be treated differently from large-scale burning. Finally, Central Kalimantan Regional Regulation No. 1 of 2020 became the most concrete form of accommodation at the local level. This regional regulation stipulated that people in customary law were allowed to clear land by burning with a maximum limit of one hectare per household, not on peatland, carried out collectively, not for commercial purposes, and must be monitored to prevent spreading. This regulation not only recognized the practice of *manugal* but also established a monitoring mechanism that reconciled customary values and environmental protection.

Furthermore, the body that issued a fatwa regarding the law on forest and land burning was MUI through Fatwa Number 30 of 2016 on the Law of Forest and Land Burning and Its Control. MUI, through its Fatwa Commission, had issued a fatwa declaring forest and land burning as *haram*. The fatwa emphasized that forest burning that caused environmental damage, pollution, harm to others, health disturbances, and other adverse effects was prohibited (Johar, 2020). The Qur'an, which had warned against causing

corruption on earth for over 1400 years, also affirmed Allah's mercy was near to those who did good. This underscored the divine importance for forest preservation (Rahmi, 2016).

MUI fatwa did not automatically prohibit all forest and land burning. There was a legal provision in No. 5 that stated "The utilization of forests and land in principle is allowed under the following conditions. (a.) Obtaining legitimate rights for utilization. (b.) Obtain utilization permits from the authorized parties following applicable regulations. (c.) Intended for the common good. (d.) Avoiding damage and adverse effects, including environmental pollution. This implied that, concerning the customs of Dayak tribe, the fatwa did not contradict their practices, as *manugal* tradition was essentially performed to achieve benefits, such as improving soil fertility for farming. According to *manugal* customs, burning of land for farm preparation must be carried out under farmers' supervision to prevent fire from spreading, fulfilling the fatwa's requirement to avoid damage and environmental pollution. MUI Fatwa Number 30 of 2016 recommended that people explore alternative methods of land preparation that did not include burning. Since this recommendation was advisory and not obligatory, the analysis asserted that *manugal* practice did not conflict with the fatwa when carried out under customary regulations.

Meanwhile, Muhammadiyah and NU had not issued fatwas specifically addressing forest and land burning. Muhammadiyah, through *Fikih Kebencanaan*, promoted preventive actions in disaster management. First, it emphasized understanding causality which served as the law of cause and effect for humans to grasp why disasters occurred. Second, Muhammadiyah outlined the human role as *khalīfah* (God's representative on earth) in managing the universe, as commanded by religion. In these understandings, disaster risks could certainly be minimized. In 2007, the Central Board of NU launched the *National Movement for Forestry and the Environment* (GNHLN), resolving that the government and the people should take decisive action to stop the destruction of forests, the environment, and residential areas, and to eradicate social vices in community (Fauzanto, 2020).

Table 2: Fatwa of Indonesian Islamic Councils on Farming and Disaster Mitigation

Number	Fatwa Council	Fatwa
1	MUI	Fatwa Number 30 of 2016 (Permissible for farming use with mitigation)
2	Muhammadiyah	There is no specific fatwa (the substance of disaster *fiqh* must prioritize mitigation)

3	Nahdhatul Ulama	There is no specific fatwa. (Principle of *Fiqh Bi'ah* for the common good)

Source: Authors interpretation

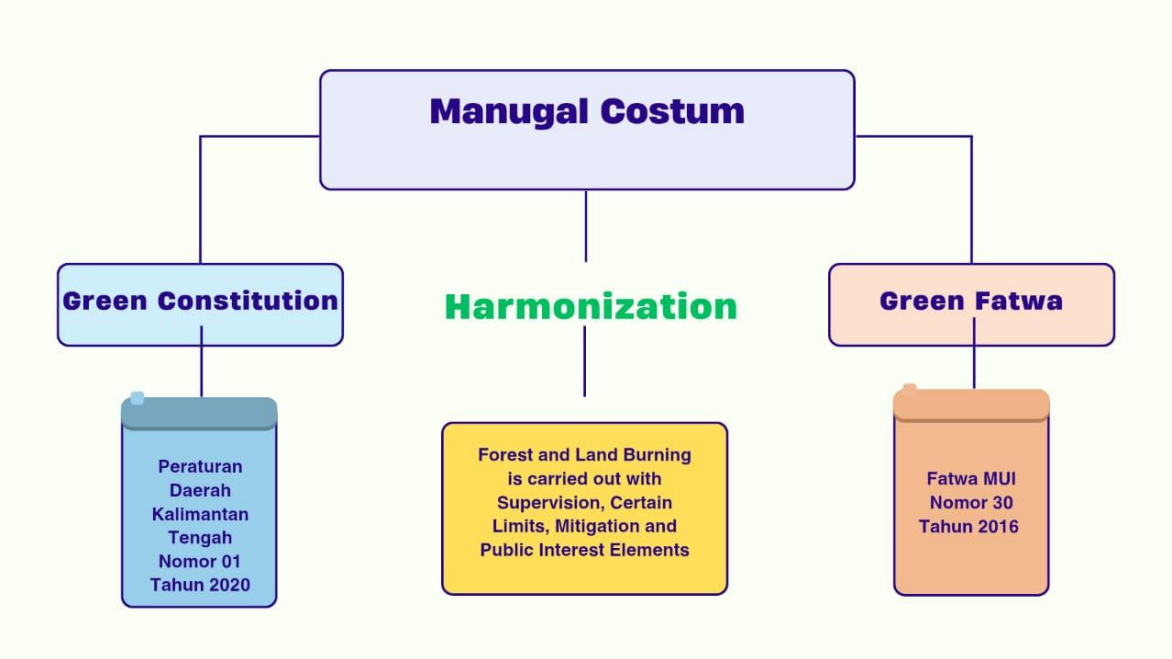
Table 2 illustrates the positions and responses of three major religious organizations in Indonesia namely MUI, Muhammadiyah, and NU. This was regarding the issue of land burning in the context of *manugal* by indigenous community, particularly in the framework of the respective fatwas and jurisprudential views.

First, MUI had issued Fatwa Number 30 of 2016 concerning the Law on Forest and Land Burning, which served as a normative reference in this matter. In the fatwa, MUI emphasizes that forest and land burning that caused ecological damage was haram. However, the fatwa also provided an exception for land burning on a limited scale by customary law communities, provided it was done with mitigation principles, such as controlled burning and not causing wider damage. This implied that MUI explicitly recognized the practice of *manugal* as part of local wisdom permitted under certain conditions.

Second, Muhammadiyah had not issued a specific fatwa regarding land burning in the context of traditional agriculture. However, it had substance of disaster jurisprudence that emphasized the importance of mitigation and ecological responsibility (Wahdini et al., 2025). In several statements and documents of the Majelis Tarjih and Tajdid, there was a call for every action having ecological impacts to be considered concerning public welfare and preventing harm (*mafsadah*) (Arifin et al., 2022). Although there was no formal fatwa, the direction of Muhammadiyah's environmental ethics favored the precautionary principle in managing nature, including the practice of *manugal*.

Third, NU did not have a specific fatwa regarding land burning or manugal, but NU possessed the concept of *Fiqh Bi'ah* (environmental jurisprudence), which was based on the principles of benefit and maintaining ecological balance (Luth et al., 2022). In NU method, environmental preservation was part of religious duty, and any activities that have the potential to cause damage should be prevented. In the context of local wisdom such as *manugal*, NU method tended to be more flexible provided it was carried out responsibly and did not cause damage.

Picture 2. Conceptualization of *Manugal* Customary Harmony



The conceptualization showed that the principle of Green Constitution, in a tiered manner, indicated a pattern of genuine accommodation towards *manugal* practices, reflecting the model of green legal pluralism. In this model, national law, customary law, and regional law synergized not only to protect the rights of indigenous community but also to ensure that these practices remained environmentally friendly and sustainable.

In the context of Green Fatwa, only MUI had issued a formal and explicit fatwa on land burning, while Muhammadiyah and NU developed normative methods that were ethical and conceptual. All three emphasized mitigation, ecological responsibility, and the protection of public welfare, thereby opening up the interpretation that the practice of *manugal*, when conducted wisely and in a controlled manner, could be accepted in the framework of Islamic law and religious policy.

Conclusion

In conclusion, this study showed that the harmonization of customary, religious, and state law in the context of *manugal* in Central Kalimantan led to a model of ecological justice respecting socio-cultural diversity while ensuring environmental protection. The Regional Regulation of Central Kalimantan No. 1 of 2020 legally accommodated *manugal* practices as part of local wisdom, and the MUI Fatwa No. 30 of 2016 provided a religious framework that permitted traditional land-clearing under specific ethical conditions rooted in *maslahah* and *'urf shahih*. These findings demonstrated a substantive convergence between legal systems, illustrating that pluralistic legal frameworks could

work in tandem to achieve sustainable environmental governance. A major strength of this study was rooted in its interdisciplinary method, combining legal analysis with socio-cultural and religious dimensions to unpack how traditional practices could coexist with modern legal norms. This triangulated framework provided a valuable model for policy-makers and legal scholars rooting for inclusive methods to environmental regulation in multicultural societies. However, the study was limited by its focus on a single region, which did not fully capture the diversity of customary practices or legal interpretations across Indonesia. Future studies could benefit from comparative analysis across different provinces or cultural contexts to test the broader applicability of the harmonization model proposed in this paper.

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