

# Transforming Legal Values amid Modern and Traditional Social Dynamics A Socio-Legal Perspective

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## ABSTRACT

Rapid social changes in modern societies have far-reaching implications for the system of values, including those embedded in the legal order that once grew organically within traditional communities. This study aims to analyze the transformation of legal values within the interaction between modern and traditional societies through a socio-legal perspective. The socio-legal approach is considered relevant because it reveals the reciprocal relationship between law and social reality, explaining how legal norms are shaped and reinterpreted by social, economic, and cultural change. In the context of modernization and globalization, law has shifted from a communal, value-oriented foundation toward a more rational, formal, and individualistic system. Nevertheless, traditional values such as deliberation, mutual cooperation, social justice, and moral balance remain vital for maintaining social cohesion. In Indonesia, the coexistence of customary law, religious law, and state law illustrates the dynamic negotiation of values between the past and the present. This interaction shows that modernity does not eliminate tradition but rather demands continuous adaptation, reinterpretation, and integration of values. Thus, the transformation of legal values is not a process of substitution but a dialectic between continuity and change. The findings of this study are expected to contribute conceptually to the development of socio-legal studies in Indonesia and offer a critical reflection for policymakers in formulating an inclusive, contextual, and socially just legal system that meets the evolving needs of modern society.

## 1. Introduction

Social change is an inevitable phenomenon in the course of human civilization. Along with the advancement of science, technology, and globalization, modern societies have experienced significant shifts in various aspects of life, including in their value systems and legal structures. The rapid pace of modernization has profoundly affected the ways people understand, interpret, and apply law within social life. In traditional societies, law grew organically as part of communal living, emphasizing togetherness and social balance. In contrast, modern society tends to perceive law as a rational and formal institution that prioritizes certainty and individual

rights<sup>1</sup>. This shift raises a fundamental question: how do legal values transform when confronted with the complexity and dynamics of social change?

In traditional communities, law is not merely understood as a set of written rules but as a reflection of cultural values and social norms embedded in everyday life. Principles such as deliberation (*musyawarah*), mutual cooperation (*gotong royong*), and social justice serve as moral foundations for conflict resolution and collective decision-making. Conversely, modern legal systems are characterized by proceduralism, rationality, and formalism, emphasizing uniformity over context<sup>2</sup>. However, this transformation does not entirely erase traditional values. In practice, these enduring values continue to play a vital role in maintaining social harmony amid modernization.

This study adopts a socio-legal approach, which is considered most relevant to understanding the reciprocal relationship between law and social reality. This approach views law as an integral component of social, cultural, and political structures, not as an autonomous normative system. It thus allows for a deeper understanding of how legal norms are continuously negotiated, reinterpreted, and adapted in response to social change. Through this lens, the transformation of legal values can be examined not only in normative terms but also as an ongoing social process that reflects the evolving needs and consciousness of society.

Indonesia's plural legal system comprising customary law (adat law), religious law, and state law provides a concrete context for this transformation. These three systems coexist and interact within the same social space, creating a dynamic negotiation of values that bridges the traditional and the modern. Customary law, with its communal character, continues to serve as a moral and social reference in many communities; religious law provides spiritual legitimacy; and state law functions as a formal regulatory framework. This coexistence demonstrates that legal transformation in Indonesia is not a process of erasure but one of adaptation, reinterpretation, and continuous integration of values.

In the era of globalization, new challenges such as the commercialization of law, bureaucratization of justice, and widening gaps between formal law and legal consciousness have emerged<sup>3</sup>. These challenges call for a critical reflection on how law can maintain a balance between modern efficiency and traditional social justice. Therefore, the transformation of legal values must be understood as a dialectical process between continuity and change. Traditional values are not abandoned but are recontextualized to remain relevant in the modern world.

Accordingly, this study seeks to analyze the transformation of legal values within the dynamics of modern and traditional societies through a socio-legal perspective. The findings are expected to contribute to the conceptual development of socio-legal studies in Indonesia and to provide a critical reflection for policymakers in developing a more inclusive, contextual, and socially just legal system.

## 2. Research Method

This research employs a socio-legal approach, which positions law not merely as a formal normative system but as an integral part of social structures that evolve and interact with human behavior and cultural values. The socio-legal approach is particularly relevant for exploring the dynamic relationship between law and social reality, as it allows an understanding of law as a "living law" that grows and transforms in accordance with societal needs. This view aligns with

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<sup>1</sup> Viktoria Viktorovna, 'The Fundamental Legal Values of Modern Legal Regulation', in *Euro Asian Law Congress*, 2021, cxxxiv, 1–5, doi:<https://doi.org/10.1051/shsconf/202213400080>.

<sup>2</sup> Jiri Priban, 'A Sociology of Legal Distinctions: Introducing Contemporary Interpretations of Classic Socio-Legal Concepts', *Journal of Law and Society*, 44.1 (2017), pp. 1–18.

<sup>3</sup> Kien Thi, Bui Xuan, and Thanh Quang, 'Heliyon The Impact of Globalization and Modernization of Laws and Theories on the Modernization of Philosophy in Vietnam : Mediating Role of Modern Societies', *Heliyon*, 8.9 (2022), p. e10680, doi:10.1016/j.heliyon.2022.e10680.

Eugen Ehrlich's classic notion that the essence of law lies not in written statutes but in the social practices and values that govern everyday life.

This study is qualitative in nature and relies on library-based research as its primary method. Data were collected through a comprehensive review of scholarly literature, including classical and contemporary legal theory books, peer-reviewed journal articles, and official legal documents related to the transformation of legal values. The sources were critically analyzed to identify theoretical patterns and conceptual relationships between law, society, and value transformation in the context of both modernity and tradition. The analytical technique used is descriptive-interpretative analysis, which involves interpreting and elaborating legal concepts within their social contexts and connecting them to the empirical realities of Indonesian society.

The unit of analysis focuses on the transformation of legal values within the interaction between traditional and modern social settings. Rather than testing hypotheses empirically, this study seeks to provide a deep theoretical explanation of socio-legal phenomena through critical interpretation. To ensure the validity and credibility of findings, a triangulation of sources was conducted by comparing perspectives from major theoretical figures such as Max Weber<sup>4</sup>, Émile Durkheim<sup>5</sup>, Roscoe Pound<sup>6</sup>, and Sally Engle Merry<sup>7</sup>. This comparison enables the identification of convergences and divergences in understanding the dynamics of legal transformation and their relevance to the pluralistic Indonesian context.

The results of the analysis are presented systematically, moving from theoretical foundations to social realities. Special attention is given to the historical, cultural, and ideological contexts that shape the evolution of law. Through this methodological framework, the study aims to provide a comprehensive understanding of how law transforms from a community-based system into a rational and formal legal order, while preserving traditional values that continue to sustain social harmony amid the ongoing forces of modernization and globalization.

### 3. Results and Discussion

The results of this study reveal that the transformation of legal values within the intersection of modern and traditional societies is a complex, dynamic, and context-dependent process<sup>8</sup>. Drawing upon the socio-legal framework described earlier, this section integrates the findings of the literature review and theoretical interpretation to explain how law functions as both a product and a driver of social change. Rather than presenting results and discussion separately, the analysis is structured to highlight the interaction between empirical observations and conceptual reflection. It begins by examining the dynamic transformation of legal values across traditional and modern settings, followed by a critical exploration of how Indonesia's plural legal system negotiates between customary, religious, and state law in pursuit of social justice. Through this structure, the section aims to demonstrate that legal transformation is not a process of substitution but an ongoing negotiation between continuity and change, reflecting the adaptive and pluralistic nature of law in a modernizing society.

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<sup>4</sup> Max Weber, *Economy and Society*, ed. by Guenther Roth, 1st edn (University of California Press, 1978).

<sup>5</sup> Emile Durkheim, *The Division of Labour in Society*, ed. by Anthony Giddens, 1st edn (The Macmillan Press, 1984).

<sup>6</sup> Roscoe Pound, *An Introduction to the Philosophy of Law*, 1st edn (Yale University Press, 1922).

<sup>7</sup> Sally Engle Merry, 'LEGAL PLURALISM', *Law and Society Review*, 22.5 (2017), pp. 869–96  
<<http://www.jstor.org/stable/3053638>>.

<sup>8</sup> Sahin Husain, Nasir Purkon Ayoub, and Mukhammadolim Hassmann, 'Legal Pluralism in Contemporary Societies : Dynamics of Interaction between Islamic Law and Secular Civil Law', *Syariat*, 1.1 (2024), pp. 1–17.

**Table 1.** Comparative Characteristics of Legal Values in Traditional and Modern Societies

Aspect	Traditional Legal System	Modern Legal System
Source of Legitimacy	Rooted in communal consensus, customs ( <i>adat</i> ), and moral-spiritual authority.	Derived from codified statutes, formal institutions, and state sovereignty.
Nature of Law	Organic, flexible, and embedded in social relations ( <i>living law</i> ).	Rational, standardized, and bureaucratically formalized.
Orientation of Justice	Restorative and reconciliatory aimed at restoring social harmony and balance.	Retributive and procedural focused on enforcing rights and ensuring legal certainty.
Decision-Making Process	Based on deliberation ( <i>musyawarah</i> ) and consensus among community members.	Determined through formal adjudication and hierarchical legal procedures.
Social Function	Maintains moral order and communal solidarity through shared values.	Regulates behavior through universal norms and administrative mechanisms.
Role of Morality and Culture	Integral part of the legal process inseparable from religion, ethics, and tradition.	Considered external to the legal system; law is viewed as autonomous and secular.
Adaptability	High contextual flexibility; law evolves through custom and social negotiation.	Limited flexibility; adaptation occurs through formal legislative reform.
Example (Indonesia)	Customary law in <i>nagari</i> (West Sumatra) or <i>desa adat</i> (Bali), emphasizing reconciliation and local values.	National codified law emphasizing uniformity and procedural justice.

This table illustrates the fundamental differences and points of interaction between traditional and modern legal systems within Indonesia’s socio-legal context. The transformation of legal values occurs through the gradual integration of restorative, communal norms into modern legal institutions, creating hybrid forms of justice that balance social harmony with procedural legitimacy.

### 3.1. The Dynamics of Legal Value Transformation between Tradition and Modernity

The findings of this study reveal that the transformation of legal values within traditional and modern societies is a dynamic, multilayered, and context-dependent process. From a socio-legal perspective, law is no longer viewed solely as a set of formal and binding norms but as a social institution that continuously interacts with moral, cultural, and economic values<sup>9</sup>. As Eugen Ehrlich<sup>10</sup> proposed in his concept of living law, the true substance of law is not found merely in codified rules but in the social practices that embody people’s sense of justice and order. This perspective highlights that the transformation of legal values cannot be separated from broader processes of social change.

In traditional societies, law functions primarily as a mechanism for preserving harmony and equilibrium within the community. It is rooted in shared moral understandings and collective responsibilities. Values such as *musyawarah* (deliberation), *gotong royong* (mutual cooperation), and social justice shape the resolution of disputes

<sup>9</sup> Mustafa Yaylali, ‘Beyond the Law of the Nation-State’ (LUISS Guido Carli, 2011).

<sup>10</sup> Eugen Ehrlich, *Fundamental Principles of the Sociology of Law*, 1st edn (Routledge, 1963).

and guide decision-making processes. These principles emphasize reconciliation and the restoration of social relationships rather than punishment or retribution. As Émile Durkheim<sup>11</sup> explained in his transition from mechanical to organic solidarity, traditional law reflects collective conscience, maintaining cohesion through shared beliefs and moral order. This restorative and relational nature of traditional law is still visible in various Indonesian communities, such as the nagari legal practices in West Sumatra, the desa adat system in Bali, and indigenous dispute settlement institutions in Papua. These examples demonstrate that customary law remains a living reality that continues to regulate behavior and sustain communal justice despite the growing dominance of formal state law.

By contrast, in modern societies, law has undergone a profound process of rationalization and bureaucratization, as described by Max Weber<sup>12</sup>. Law becomes increasingly impersonal, universal, and formalized designed to ensure predictability and administrative efficiency. This transformation represents a shift from value-oriented to rule-oriented legal systems. Legal norms are codified and applied uniformly, often detached from the cultural and moral context of the communities they govern. Although this rationalization enhances procedural certainty and institutional stability, it also tends to create a gap between formal law and legal consciousness. Many laws fail to resonate with people's lived experiences, leading to limited compliance or even resistance at the community level. In Indonesia, for instance, the implementation of national regulations in local settings frequently encounters friction with deeply entrenched customary norms, illustrating the enduring tension between modernity and tradition.

The relationship between traditional and modern legal systems is not purely antagonistic. Instead, it constitutes a dialectical process of adaptation and negotiation. The interaction between communal and individualistic legal values produces hybrid forms of regulation that reflect both continuity and innovation. In many Indonesian contexts, for example, the settlement of family and land disputes involves both customary deliberation and formal adjudication, blending restorative and procedural justice. Such coexistence demonstrates that legal transformation does not replace traditional values but reinterprets them within modern institutional frameworks<sup>13</sup>.

This process of adaptation is also visible in the pluralistic nature of Indonesia's legal system, where customary law (adat law), religious law, and state law coexist and interact within the same social field. Customary law maintains its relevance as a moral compass in communal life; religious law provides spiritual and ethical guidance; and state law offers formal legitimacy and administrative enforcement. The ongoing interaction among these three systems illustrates how legal values evolve through negotiation rather than confrontation. The transformation of legal values, therefore, should not be understood as a linear replacement of old norms with new ones but as a continuous dialogue between tradition and modernity a synthesis that enables law to remain contextually relevant and socially accepted.

Ultimately, the transformation of legal values amid the dynamics of traditional and modern societies demonstrates the dual function of law: as a stabilizing force that preserves social order and as an adaptive mechanism that accommodates change. The socio-legal approach helps uncover this duality by showing that law is both a product and a driver of social transformation. Understanding this dynamic is essential for developing a legal system

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<sup>11</sup> Durkheim.

<sup>12</sup> Weber.

<sup>13</sup> D D Amato and others, 'Transformative Governance : Exploring Theory of Change and the Role of the Law', 23.March 2024 (2025), doi:10.1016/j.esg.2024.100230.

that balances certainty and justice, formality and morality, and the universal ideals of modern law with the cultural wisdom of traditional society<sup>14</sup>.

### 3.2. Negotiating Pluralism: Socio-Legal Reflections on Law, Modernization, and Justice.

The socio-legal analysis of legal transformation in Indonesia highlights that pluralism is not a sign of legal disorder but a manifestation of social negotiation and cultural resilience. The coexistence of multiple legal orders—customary, religious, and state law—represents a distinctive socio-legal reality in which law operates through interaction rather than domination. As scholars such as Benda-Beckmann<sup>15</sup> have observed, Indonesia's legal pluralism illustrates how diverse legal systems coexist within a single social framework while continuously negotiating legitimacy and authority. Rather than existing in isolation, these systems intersect in daily life, shaping how individuals and communities understand justice, obligation, and rights.

This pluralistic condition generates both opportunities and tensions. On one hand, it allows for flexibility and contextual sensitivity, as local customs and moral values can be incorporated into the administration of justice<sup>16</sup>. On the other hand, pluralism can also produce legal uncertainty when competing norms overlap or conflict. For instance, the application of state law in areas where customary law remains strong often requires negotiation between formal and informal mechanisms. Such negotiation is not merely procedural but normative—it involves redefining the meaning of justice itself. Through this ongoing dialogue, legal actors, from judges to community leaders, reinterpret laws to align with local expectations and ethical principles. The pluralistic structure of Indonesia's legal system thus embodies a living dialectic between tradition and modernity.

From a theoretical standpoint, this negotiation process reflects what Roscoe Pound termed law as a tool of social engineering. Law functions as a means of shaping social order by mediating between competing interests and adapting to changing societal conditions<sup>17</sup>. The effectiveness of law, therefore, depends not only on its formal coherence but also on its ability to reflect and respond to the social environment in which it operates. Within plural legal settings, the law must balance formal rationality—necessary for predictability and institutional stability—with substantive justice rooted in moral and cultural traditions. This balancing act underscores the need for a humanistic understanding of law that transcends legal formalism and embraces socio-cultural diversity.

Max Weber's concept of legal rationalization provides a useful contrast here. While rationalization promotes procedural efficiency and legal uniformity, it can also lead to the "dehumanization" of law, where the pursuit of bureaucratic order overshadows moral and communal considerations. In modern legal systems, excessive formalism risks detaching law from the lived realities of the people it seeks to regulate. In contrast, the Indonesian experience demonstrates that maintaining a space for local and moral values within the formal legal framework can strengthen the legitimacy and effectiveness of law. This

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<sup>14</sup> Hasinah Binte Abdullah Sani, 'State Law and Legal Pluralism : Towards an Appraisal', *The Journal of Legal Pluralism and Unofficial Law*, 52.1 (2020), pp. 89–109, doi:10.1080/07329113.2020.1727726.

<sup>15</sup> Keebet Von Benda-beckmann and Bertram Turner, 'Legal Pluralism , Social Theory , and the State', *The Journal of Legal Pluralism and Unofficial Law*, 50.3 (2019), pp. 255–74, doi:10.1080/07329113.2018.1532674.

<sup>16</sup> Ali Al-mazroui, 'Exploring Threads of Legal Sociology for Comprehending Transformative Engagements , Feminist Theories , Legal Pluralism , and Cultural Dynamics', *Social Science Chronicle*, 1.2 (2021), pp. 1–17, doi:https://doi.org/10.56106/ssc.2021.010.

<sup>17</sup> Pedro Plasencia-lozano, 'Transportation Research Interdisciplinary Perspectives Power Law Patterns in Urban Bridge Distribution across US Cities', *Transportation Research Interdisciplinary Perspectives*, 33.August (2025), p. 101585, doi:10.1016/j.trip.2025.101585.

indicates that modern law need not be entirely secular or value-neutral; it can still be anchored in ethical and cultural foundations that resonate with society's sense of justice.

Sally Engle Merry's<sup>18</sup> notion of the vernacularization of law further illuminates this dynamic. In the context of globalization, international legal norms such as human rights, gender equality, and democracy are not adopted uniformly but are translated and reinterpreted within local cultural frameworks. Communities do not passively absorb global values; instead, they localize them to fit their traditions, beliefs, and institutional realities. In Indonesia, this process is visible in the integration of restorative and community-based justice mechanisms within the national legal system, such as village mediation practices and restorative justice policies in criminal law. These developments exemplify how global and local values interact in productive, context-sensitive ways, giving rise to hybrid legal forms that reflect both universal principles and indigenous wisdom.

The negotiation of pluralism in Indonesia thus reveals that law is a site of continuous meaning-making<sup>19</sup>. Legal values evolve through an iterative process of reinterpretation shaped by history, culture, and social change. Modernization does not simply replace tradition; rather, it recontextualizes traditional norms to function within broader institutional and global frameworks. This adaptive capacity explains why Indonesia's legal system, despite its complexity, remains resilient and responsive to social realities.

Ultimately, the socio-legal reflection on pluralism underscores that the legitimacy of law lies not only in its authority but in its ability to embody social justice. An inclusive legal system must accommodate diversity while maintaining coherence; it must uphold certainty without sacrificing equity. Therefore, the transformation of legal values should aim not for homogenization but for dialogical integration where modern and traditional elements coexist, interact, and mutually enrich each other. Through this perspective, law can fulfill its dual role as both a stabilizer of order and an agent of social transformation, capable of navigating the moral, cultural, and political complexities of a rapidly modernizing society.

#### 4. Conclusion

This study concludes that the transformation of legal values amid the interaction between traditional and modern societies is not a linear or uniform process, but a continuous and dialogical one. Through a socio-legal lens, law is understood as a living institution rooted in social experience, cultural meaning, and collective morality rather than as a closed system of formal norms. The transformation of legal values thus represents a dialectic between continuity and change, where traditional norms are not erased by modernization but reinterpreted to remain relevant in the evolving context of social life.

In traditional societies, law functions as a moral and communal instrument that maintains social equilibrium through values such as deliberation, cooperation, and restorative justice. Modern law, by contrast, is characterized by rationalization and proceduralism, which emphasize predictability and formal legitimacy. However, these two orientations are not inherently opposed. When properly integrated, they complement one another ensuring that law remains both efficient and humane. The Indonesian experience demonstrates that legal pluralism, through the coexistence of customary, religious, and state law, provides a flexible framework for balancing these values. Rather than being a source of conflict, pluralism becomes a space for negotiation, adaptation, and hybridization that enriches the legal system's social foundation.

Theoretically, this study reinforces the relevance of the socio-legal approach in explaining how law evolves in response to social transformation. It highlights that effective legal development must acknowledge the interplay between cultural traditions, social justice, and

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<sup>18</sup> Merry.

<sup>19</sup> Viktorovna, CXXXIV.

modern institutional demands. Practically, it implies that policymakers should not pursue uniformity at the expense of diversity, but rather promote an inclusive, context-sensitive legal order that reflects Indonesia's moral and cultural pluralism.

In conclusion, transforming legal values requires more than institutional reform demands a reorientation of legal consciousness toward humanity, morality, and social harmony. A truly modern legal system is one that harmonizes certainty with justice, efficiency with empathy, and the rational spirit of modern law with the enduring wisdom of tradition.

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