

## Reconstruction of Islamic Legal Thought in Thailand: Efforts to Realize Justice for the Muslim Minority

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### ABSTRACT

*Ideally, Islamic law in Thailand serves as a moral and juridical foundation for the Muslim community, particularly in the southern provinces of Pattani, Yala, and Narathiwat. In reality, however, the secular nature of the national legal system and the centralized state policy have restricted the implementation of Islamic law. As a result, Muslim minorities continue to experience structural injustice and social marginalization in accessing their religious and legal rights. This study aims to reconstruct Islamic legal thought in Thailand as an effort to achieve justice for Muslim minorities. The research employs a qualitative descriptive-analytical library approach, examining academic works, legal documents, and the thoughts of contemporary Muslim scholars in Thailand. The findings indicate that the application of maqasid al-shariah principles—such as al-'adl (justice), musawah (equality), and maslahah (public interest)—can provide a foundation for a more inclusive and adaptive reform of Islamic law within a secular state context. Such reconstruction has the potential to strengthen Islamic institutions, promote just policies, and foster interreligious dialogue as a basis for social harmony in Thailand.*

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## INTRODUCTION

Thailand, as a country with a predominantly Buddhist population, presents unique social, political, and legal complexities in the context of religious diversity. Among the communities facing significant challenges is the Muslim minority,

which is largely concentrated in the southern regions such as Pattani, Yala, and Narathiwat. The long history of Islam in this area demonstrates that Islam is not a recent presence, but rather an integral part of the social and cultural identity of the Patani community (Aree & Joll, 2020). Nevertheless, the dynamics of relations between the state and Muslim communities continue to be shaped by structural problems rooted in a highly centralized national legal and policy framework. As a result, Islamic law in Thailand lacks strong formal recognition, except in a limited form within the domains of family and inheritance law that are regulated locally.

In the socio-political context, tensions between the state's secular national policies and the religious aspirations of Muslim communities constitute a recurring issue. The Thai government has adopted a model of national integration based on cultural homogenization, which indirectly constrains the expression of local Islamic identities. This condition has generated various forms of inequality, particularly in terms of legal recognition, social justice, and political representation for Muslims (Machae & Mohamad, 2014). At the same time, a growing awareness has emerged among Muslim scholars in Thailand regarding the need to reconstruct Islamic legal thought so that it can function contextually and adaptively within a pluralistic and secular state system. This initiative is not merely theoretical, but also strategic, as an effort to pursue substantive justice for the Muslim minority (จันทร์ตัน, 2020).

Ideally, Islamic law serves as an instrument of universal justice that transcends territorial boundaries and specific systems of governance. Fundamental principles such as *al-'adl* (justice), *musawah* (equality), and *maslahah* (public welfare) should function as moral and ethical guidelines in public policymaking, including in non-Muslim countries such as Thailand. However, empirical realities indicate that the Thai legal system remains dominated by a secular paradigm that separates religion from the public sphere. Consequently, the existence of Islamic law is largely confined to a symbolic level, lacking genuine transformative capacity in shaping the social life of Muslims. This situation creates a gap between theological ideals and the empirical realities experienced by Muslim communities in Thailand (Yeewae & Ahmad, 2025).

The central problem addressed in this study arises from the misalignment between the universal values of Islamic law and Thailand's national legal practices and policies, which do not fully accommodate legal pluralism. As a result, Muslim minorities experience marginalization in access to justice, religious education, and political participation. Structural challenges such as the centralization of legal authority, dominant cultural bias, and the weak institutional position of Islamic religious bodies further exacerbate these conditions. Therefore, there is an urgent need to reassess and reformulate the framework of Islamic legal thought so that it can respond constructively to Thailand's socio-political realities.

The primary objective of this study is to examine the reconstruction of Islamic legal thought as both a conceptual and practical strategy for advancing justice for Muslim minorities in Thailand. This research seeks to explore how the core values of Islamic law can be transformed into a paradigm of justice that is

relevant within a secular state context, while also offering a more inclusive model of legal integration. Furthermore, the study aims to analyze the contributions of Thai Muslim scholars in proposing adaptive, participatory, and pluralistic reforms of Islamic law.

The academic contribution of this research lies in its attempt to bridge two major discourses that are often perceived as contradictory: Islamic law and modern secular legal systems. Through a reconstructive approach, this study seeks to expand the space for dialogue between Islamic normative principles and universal concepts of justice recognized within Thailand's national legal system. In addition to contributing theoretically to contemporary Islamic legal studies, this research is expected to provide practical insights for policymakers, religious institutions, and civil society actors in building a more just and civilized legal order.

## LITERATURE REVIEW

Studies on the reconstruction of Islamic legal thought in the context of Muslim minorities in Thailand are not entirely new. A number of scholars have examined the position of Islamic law in Southern Thailand using various approaches. Hamdan Yeewae and Akli Ahmad, in their work entitled; “Application of *Maqāṣid Sharīah* in Religious Institutions in Southern Thailand: A Study at the Islamic Religious Council of Pattani Province (MAIWP)”, discuss the application of *maqāṣid al-sharī‘ah* values in the practices of religious institutions in Southern Thailand (Yeewae & Ahmad, 2025). The similarity between their work and the present study lies in the use of *maqāṣid al-sharī‘ah* as an ethical framework for addressing issues of justice for Muslim minorities. The difference, however, is that Yeewae and Ahmad focus primarily on the level of local institutional practices, whereas this study seeks to formulate a more conceptual and systematic model for reconstructing Islamic legal thought so that it can engage in dialogue with the secular national legal order.

Teeuw and Wyatt, in their work entitled; “*Hikayat Patani the Story of Patani*,” provide an important historical reference for understanding the formation of Islamic legal and political identity in Southern Thailand. The *Hikayat* portrays the period of the Patani Sultanate, during which Islamic law functioned as the foundation of political legitimacy and social morality, while also serving as a symbol of resistance against external domination and a marker of collective Malay–Patani identity (Teeuw & Wyatt, 1970). The similarity between this work and the present study lies in the recognition of the importance of the historical dimension in understanding contemporary issues of Islamic law. However, the difference is that *Hikayat Patani* is descriptive-historical in nature and tends to idealize the past, whereas this research focuses on reconstructing those historical values into a modern legal-ethical framework that is relevant to the current national legal system.

Saroja Dorairajoo, in her article entitled; “*Peaceful Thai, Violent Malay-Muslim: A Case Study of the ‘Problematic’ Muslim Citizens of Southern Thailand*,”

examines the issue of Muslim minorities from a critical anthropological perspective. She explores how the Thai state and mainstream media construct the image of the “problematic Muslim,” which ultimately legitimizes repressive and discriminatory policies against Muslim communities (Dorairajoo, 2009). The similarity with the present study lies in the acknowledgment of the realities of discrimination and injustice experienced by Muslim minorities. The difference is that Dorairajoo places greater emphasis on descriptive-critical analysis of power relations, whereas this study moves further toward normative reconstruction by offering an adaptive and inclusive Islamic legal framework as a transformational solution.

Based on this literature review, it can be concluded that a significant research gap remains. Most previous studies tend to be disciplinarily fragmented—across history, anthropology, and law—without fully integrating the normative dimension of Islam into an applicable framework for legal reconstruction within a secular state context. Moreover, *maqāṣid al-sharī‘ah* is generally positioned merely as a source of moral inspiration or ethical discourse, rather than being developed as a reconstructive paradigm capable of bridging Islamic legal idealism with the realities of Thailand’s national legal system. Therefore, this study seeks to fill this gap by formulating a reconstruction of Islamic legal thought based on *maqāṣid al-sharī‘ah* and a contextual legal approach, with the aim of realizing substantive justice for Muslim minorities while strengthening legal integration and social peace within the framework of the Thai nation-state.

## RESEARCH METHODOLOGY

This article employs a library research design using a qualitative descriptive-analytical approach. This methodology is selected because the focus of the study lies in examining concepts, texts, and ideas developed by Islamic legal scholars, as well as the socio-legal dynamics of Muslim communities in Thailand. The study investigates the reconstruction of Islamic legal thought as a framework for achieving justice for Muslim minorities by critically reviewing scholarly literature, official documents, and relevant previous studies. This approach enables an in-depth exploration of the philosophical, theological, and juridical dimensions of Islamic legal reform that are adaptive to the context of a secular state such as Thailand.

The primary data sources consist of scholarly works that directly address the dynamics of Islamic law in Thailand, including Hamdan Yeewae and Akli Ahmad’s *Application of Maqashid Shariah in Religious Institutions in Southern Thailand*, Sulaiman Dorloh’s *Shari’ah Court in Thailand: Between Inspiration and Challenge*, as well as the classical text *Hikayat Patani*, which serves as an important historical source for understanding the socio-Islamic foundations of Southern Thailand. Secondary data sources include academic journals, research

reports, Thai government policies, and literature related to Islamic legal theory, legal pluralism, and social justice.

Data analysis is conducted through content analysis, focusing on interpreting meanings, patterns, and conceptual tendencies within the examined texts. Data validity is ensured through source and conceptual triangulation, by comparing perspectives across various scholarly works and theoretical interpretations. The credibility of the data is further strengthened by maintaining argumentative consistency, contextual relevance, and accuracy of academic references. The manuscript is structured thematically and argumentatively, beginning with problem identification, followed by theoretical review, textual data analysis, and concluding with reflective conclusions that highlight the study's conceptual contribution to the development of contemporary Islamic legal thought in Thailand.

## RESULTS AND DISCUSSION

### *The Historical and Socio-Legal Context of Islamic Law in Thailand*

Islam entered the region now known as Southern Thailand long before the formation of the modern nation-state. The process of Islamization did not occur through military conquest, but rather through trade interactions, intermarriage, and da'wah activities carried out by Arab, Gujarati, and Malay merchants since the thirteenth century. The coastal areas of Pattani, Yala, and Narathiwat became important nodes in the Indian Ocean trading network that connected the Islamic world with the Malay Archipelago. As recorded in *Hikayat Patani*, Islam was gradually accepted as a socio-political value system when the Kingdom of Patani transformed into an Islamic sultanate under King Phaya Tu Nakpa, who later embraced Islam and adopted the title Sultan Ismail Shah. This transformation marked a cultural shift from Hindu-Buddhist traditions toward a more structured Islamic religious and legal system (Teeuw & Wyatt, 1970).

During the golden age of the Patani Sultanate in the sixteenth and seventeenth centuries, Islam functioned not merely as a religion but as the foundation of political authority, economic life, and legal order. Ulama from Arabia, India, and Aceh came to teach fiqh, tafsir, and tasawwuf, while the port of Patani emerged as a center of international trade and Islamic intellectual exchange in the Malay Peninsula. Within the governmental structure, Islamic law was applied to various aspects of social life—particularly family law, inheritance, and commercial transactions—and served as a key source of political legitimacy. Historical chronicles and local legal manuscripts indicate that the institution of the qadi and Islamic courts operated as mechanisms for enforcing justice based on sharia principles (Dorloh, 2023). Thus, Islamic law was not merely a normative system but also a representation of Patani's political identity and sovereignty as an Islamic polity amid the dominance of Buddhist kingdoms in the north.

A significant transformation occurred between the eighteenth and nineteenth centuries when the expansion of the Siamese Kingdom (modern-day

Thailand) into the southern regions gradually eroded Patani's political autonomy. Following the conquest of 1786, Patani was systematically incorporated into Siamese rule through the Monthon administrative system, which substantially curtailed the authority of Islamic law. This marked the beginning of the marginalization of Islamic law as a consequence of centralized state policies aimed at legal uniformity. Under this assimilationist framework, Islamic law was relegated to the status of "local custom" rather than recognized as a formal legal system. Consequently, the role of the qadi diminished, and the jurisdiction of sharia courts survived only informally at the community level (Ulath & Zulkifli, 2024).

European colonialism in Southeast Asia further influenced this transformation. As British power expanded in the Malay Peninsula and Dutch control intensified in the Indonesian archipelago, Patani became geopolitically squeezed between colonial interests and Siam's efforts to preserve sovereignty. The Anglo-Siam Treaty of 1909, which formally delineated the border between Malaysia and Thailand, severed Patani's organic ties with the broader Malay-Islamic world (Ulath & Zulkifli, 2024).

With the introduction of modern legal systems influenced by Western jurisprudence, Siam adopted a national legal codification rooted in European civil law traditions. As legal modernization progressed, the sharia system in Patani became increasingly subordinated. Nevertheless, at the community level, Islamic law continued to be practiced in matters of family and inheritance, albeit without full state recognition. This tension between national law and local practice gave rise to a distinctive form of legal pluralism. According to Sulaiman Dorloh, this condition constitutes a form of "pseudo-pluralism," wherein Islamic law is symbolically acknowledged as cultural identity but lacks genuine institutional autonomy within Thailand's constitutional framework (Dorloh, 2023).

Socially, Muslims in Southern Thailand have maintained Islamic law not merely as a religious obligation but as a symbol of collective identity. Within a Buddhist-majority context, Islam functions as a cultural marker that reinforces communal solidarity and resistance to national assimilation. Dorairajoo argues that the "Malay-Muslim" identity in Southern Thailand is not simply ethnic but represents a political expression of historical marginalization. The practice of Islamic law in family life, education, and community institutions serves as a means of preserving cultural autonomy within a state structure inclined toward homogenization. This helps explain why social conflicts in the region often stem from issues of justice and legal recognition rather than purely religious differences (Dorairajoo, 2009).

Politically, the Thai government faces an enduring dilemma between maintaining national integration and accommodating legal pluralism. Since the constitutional reforms of 1997 and 2007, greater space has been afforded to religious freedom and community rights. However, implementation remains constrained by the principle of "national unity," which is closely associated with Buddhist-Thai cultural identity. In practice, sharia courts in Thailand lack the

autonomy enjoyed by their counterparts in Malaysia or Brunei. Decisions in Islamic family law cases must still be ratified by civil courts, positioning Islamic law as a subordinate subsystem rather than a parallel legal framework. As a result, many Muslim communities perceive Islamic law as being recognized in principle but inadequately enforced in practice.

Culturally, relations between Muslim communities and the Buddhist majority are marked by complex dynamics. On one hand, peaceful coexistence is evident in economic and social interactions; on the other, prejudice and stereotyping persist, portraying Muslims as a “problematic” group. National media frequently depict the southern provinces as conflict zones, further undermining public perceptions of Islam. Meanwhile, state education provides limited space for narratives on Patani’s history or Islam’s contribution to Thai civilization. This situation weakens social integration and reinforces feelings of exclusion among Muslims (Islam, Education and Reform in Southern Thailand, n.d.).

Nevertheless, Islamic educational institutions—particularly pondok schools and tadika—play a crucial role in preserving Islamic legal values and knowledge. These institutions function as centers of socio-religious reproduction, sustaining the continuity of Islamic law in everyday community life. In recent decades, Thai Muslim intellectuals such as Hamdan Yeewae and Rohanee Machae have proposed *maqāṣid al-shari‘ah* (the objectives of Islamic law) as a foundation for dialogue between Islamic law and the national legal system (Yeewae & Ahmad, 2025). This approach points toward a reconstruction of Islamic legal thought that is adaptive to a secular state context while remaining grounded in universal principles of justice.

Contemporary social conditions in Thailand indicate that challenges facing Islamic law extend beyond legal recognition to issues of representation in public policy. Muslims in the southern provinces continue to experience limitations in political representation and participation in legal policymaking. Although the government established the Central Islamic Council of Thailand (CICOT) to coordinate religious affairs, the institution is often perceived as representing state interests more than local community aspirations. This imbalance reinforces the argument that Islamic law in Thailand is not merely a regulatory issue but is deeply intertwined with power relations and identity politics.

### ***The Position of Islamic Law within the Thai Legal System***

Islamic law occupies a distinctive position within the legal system of Thailand. As a country whose population is predominantly Buddhist, Thailand formally adheres to a secular principle in the administration of national law, yet it provides limited recognition to Islamic law, particularly in the areas of family and inheritance law. This recognition is not merely the result of social compromise but also reflects an adaptation to the long-standing legal pluralism embedded in Southern Thailand, especially in the provinces of Pattani, Yala, Narathiwat, and

parts of Songkhla. Historically, these regions were part of the former Malay Sultanate of Patani, which had applied Islamic law as the foundation of social life since the fifteenth century (Machae & Mohamad, 2014). Consequently, the position of Islamic law in contemporary Thailand represents an intersection between local Malay-Islamic traditions and a centralized national legal system headquartered in Bangkok.

Formally, Thailand's legal system is based on the civil law tradition, heavily influenced by continental European legal models, particularly those of France and Germany. Within this system, positive law is codified in a rigid manner and emphasizes the state as the primary source of legal authority. However, in the Muslim-majority southern provinces, the state grants limited legal autonomy through the application of Islamic family and inheritance law. This recognition is not nationwide but rather local in scope, grounded in constitutional and administrative legitimacy (Pherali, 2023). Accordingly, Islamic law in Thailand does not constitute a full subsystem of national law but functions as a complementary legal framework intended to maintain social and cultural stability within Muslim communities.

The legal basis for this recognition can be traced to the Constitution of the Kingdom of Thailand and several Royal Decrees that regulate the authority of Islamic officials in matters of family and inheritance. Under these legal provisions, cases involving Muslims in these domains may be adjudicated through Islamic Committees, with the outcomes subsequently ratified by state courts. This procedure reflects a hybrid mechanism between religious law and state law: while Islamic law provides substantive norms, the enforceability of decisions remains under the jurisdiction of civil courts. Through this arrangement, Thailand seeks to balance national legal integration with respect for the legal identity of its Muslim minority.

One of the key institutions within the Islamic legal framework in Thailand is the Islamic Court or Sharia Court at the provincial level. Despite its designation as a “court,” this institution does not operate independently in the manner of religious courts in Indonesia or Sharia Courts in Malaysia. Decisions rendered by Islamic Courts in Thailand must receive validation from civil courts to acquire binding legal force. This structure reveals a subordinative pattern, whereby Islamic law is acknowledged only within the private sphere and does not extend to public legal jurisdiction. Nevertheless, the existence of Islamic Courts remains strategically significant in maintaining equilibrium between state law and the religious values of southern Muslim communities (Jamal & Al Ahmadi, 2023).

Juridically, the presence of Islamic law in Thailand is regulated by the Act on the Application of Islamic Law in the Provinces of Pattani, Yala, Narathiwat, and Satun, which provides formal legal grounds for the application of Islamic family and inheritance law. This legislation stipulates that in cases involving two Muslim parties, Islamic law must serve as the basis for adjudication. In such contexts, Thai legal authorities are obliged to recognize fatwas and decisions issued by Islamic institutions as legitimate references. However, if one party is

non-Muslim, the dispute is resolved under general civil law. This provision demonstrates that the recognition of Islamic law remains particularistic rather than universal and is highly contingent upon the religious status of the litigants.

From a constitutional perspective, the recognition of Islamic law in Thailand reflects a pragmatically developed model of legal pluralism. The state does not incorporate Islamic law as an integral component of the national legal system but rather treats it as a social instrument designed to accommodate the legal needs of minority communities. This approach aligns with the principle of “Unity in Diversity under One Nation,” frequently articulated by the Bangkok government. Nevertheless, this model generates ambiguity: Islamic law is legally acknowledged on one hand, yet structurally constrained on the other. This ambiguity constitutes a significant source of tension between Muslim communities in the south and the central government, particularly when disputes arise over interpretations of Islamic family law (Tooltham & Nakham, 2024).

The limited status of Islamic law is also closely related to political and national security considerations. Ongoing separatist conflicts in the southern region have made the Thai government cautious about granting extensive legal autonomy. Concerns over the emergence of a parallel legal system have led the state to favor administrative recognition over institutional independence. Despite this, many legal scholars argue that the presence of Islamic law contributes to social stability by providing Muslim communities with legitimate avenues to express their religious values. In this sense, Islamic law functions as an instrument of moral legitimacy within a complex societal framework.

From a formal-juridical standpoint, the relationship between Islamic law and Thailand’s national law is governed by a coordinative mechanism. Legal proceedings typically begin at the level of the Islamic Committee, after which the resulting decision is submitted to a civil court for ratification. This process underscores a form of synergy between two distinct legal systems while ensuring that the application of Islamic law does not contradict general principles of national law. In practice, however, discrepancies in interpretation often arise between civil judges and Islamic scholars, particularly in cases involving inheritance or divorce. This situation highlights the limited understanding of interlegality among legal practitioners.

Sociological analysis indicates that the sustainability of Islamic law in Thailand is determined not only by the normative strength of statutory regulations but also by its social legitimacy within Muslim communities. Strong Islamic legal traditions in Pattani and surrounding areas encourage communities to continue practicing sharia-based norms in daily life, even when such practices lack full state recognition. In this context, Islamic law operates as a living law—a socially recognized legal order that persists regardless of formal state validation. This phenomenon demonstrates that legal pluralism in Thailand is shaped not only through top-down regulation but also through bottom-up social processes (Samah et al., 2017).

Within the framework of Thailand's contemporary legal reform, emerging discourses advocate for strengthening the position of Islamic law as part of the national legal system. Scholars from institutions such as Prince of Songkla University and Fatoni University have proposed models for integrating Islamic law through constitutional approaches grounded in minority rights. These proposals emphasize that recognizing Islamic law does not pose a threat to the nation-state but rather represents a fulfillment of substantive justice for Muslim communities. This approach is also consistent with principles of human rights and religious freedom endorsed by various international instruments.

Nevertheless, a central challenge lies in harmonizing Islamic law with principles of gender equality and human rights that are central to international discourse. As a member of ASEAN and a state bound by multiple human rights conventions, Thailand must ensure that the application of Islamic law does not result in discrimination against women. Consequently, normative reform through contextual reinterpretation of fiqh is necessary to ensure that Islamic law can operate in harmony with universally recognized values within Thailand's legal system. This harmonization process should not be viewed as secularization, but rather as the actualization of *maqāṣid al-sharī‘ah* within the framework of a modern state.

### ***The Problem of Legal Injustice toward the Muslim Minority in Thailand***

Legal injustice toward the Muslim minority in Thailand constitutes a complex issue rooted in historical, political, and structural dimensions of the state's legal system. Although Thailand is often regarded as a relatively stable country with a modern civil law-based legal framework, substantive justice for Muslim communities—particularly in the southern regions of Pattani, Yala, and Narathiwat—remains far from being realized. This problem is not limited to the absence of full recognition of Islamic law but also encompasses systematic socio-political marginalization. Within the context of legal pluralism, the state tends to position Islamic law in a subordinate relationship to national law, thereby placing Muslims in a persistent dilemma between adherence to sharia principles and compliance with state legal norms (Marddent, 2017).

Historically, Southern Thailand was part of the former Malay Sultanate of Patani, where Islamic law had long served as the foundation of social and legal order. Following its annexation by the Siamese kingdom in the eighteenth century, the previously autonomous Islamic legal system came under pressure and underwent forced assimilation. The Bangkok government sought to integrate the region into a secular national legal system, leading to the gradual erosion of Islamic legal institutions such as Sharia courts and the office of the qadi, which had formerly symbolized local justice. This unilateral process of legal integration constitutes the structural root of the legal injustice experienced by Muslims to this day (Aree & Joll, 2020).

In contemporary practice, legal injustice toward the Muslim minority is evident in the limited recognition of sharia law. The Thai government formally acknowledges the application of Islamic law only in matters of family and inheritance, and even then, solely within four southern provinces. This narrow scope reinforces the perception that Islamic law does not enjoy equal status with national law (จันทร์ตัน, 2020). Moreover, decisions issued by Sharia courts must be ratified by civil courts before acquiring binding legal force. This mechanism underscores the subordinate status of Islamic law and undermines the principle of religious autonomy that should be guaranteed under minority rights frameworks. As a result, many Muslims perceive the national legal system as failing to reflect the values and sense of justice they uphold.

From the perspective of legal politics, this inequality is further exacerbated by state policies that frequently frame Southern Thailand through the lens of national security. Since the 1960s, the Bangkok government has often treated Islamic issues in the south as matters of separatism rather than as legitimate expressions of cultural and religious identity. Consequently, legal responses have tended to be repressive rather than restorative. Emergency laws and counterterrorism policies are frequently enforced without adequate regard for due process of law and the civil rights of Muslim citizens. This situation illustrates how law may function as an instrument of political control rather than as a mechanism for social justice.

Discrimination against Muslims in Thailand is also evident in access to justice. Many Muslim communities in the southern provinces report difficulties in obtaining legal assistance, a shortage of judges and prosecutors with adequate knowledge of Islamic law, and institutional bias within judicial bodies. In numerous cases, security personnel and state officials stationed in the south do not originate from local communities, resulting in ineffective legal communication between society and the state. The absence of local representation within legal structures produces epistemic inequality, whereby state legal knowledge dominates while Islamic law and community-based values are relegated to a secondary position (Puteh & Jehwae, 2022).

This legal injustice has significant implications for social tension in the southern region. Armed conflicts that have persisted since the early 2000s between separatist groups and state authorities cannot be separated from the pervasive sense of legal alienation experienced by Muslim communities. Numerous studies suggest that the roots of the conflict lie not merely in separatist ideology but in perceptions of injustice in the distribution of legal and political rights. Under such conditions, law—which should serve as an instrument of reconciliation—becomes instead a symbol of exclusion. This paradox perpetuates cycles of violence and deepens public distrust toward the state.

Inequality is also evident in the socio-economic sphere, which is closely linked to the legal system. National development programs initiated by the central government are often not accompanied by fair legal mechanisms for resource distribution. Despite its rich natural resources, Southern Thailand

remains one of the regions with the highest levels of poverty and unemployment. This structural injustice demonstrates that Thailand's legal system has not fully upheld the principle of equitable justice for all citizens regardless of religious affiliation. Consequently, law loses its moral legitimacy in the eyes of segments of the Muslim population.

From a socio-cultural perspective, legal discrimination is further reflected in the marginalization of Islamic symbols in public spaces. Administrative regulations frequently restrict the use of the Malay language, Islamic symbols, and even certain religious practices within public institutions. This situation indicates that law functions not only as a regulatory framework but also as a hegemonic instrument to enforce a homogeneous national identity. From the standpoint of critical legal theory, this condition may be understood as a manifestation of legal centralism, whereby state law is imposed to standardize minority cultural values. When law fails to respect pluralism, injustice becomes an inevitable outcome (Nishi, n.d.).

Legal inequality toward the Muslim minority is also driven by the weakness of legal pluralism within Thailand's legislative framework. Although the constitution guarantees freedom of religion, it lacks explicit provisions ensuring the right of communities to autonomously apply their own legal systems. Recognition of Islamic law remains administrative rather than constitutional, rendering it vulnerable to shifts in political priorities. In this respect, Thailand lags behind neighboring countries such as Malaysia and Indonesia, which possess more robust and institutionalized mechanisms for religious law within their national legal systems. This structural weakness constitutes a primary source of the injustice experienced by Thai Muslims.

Nevertheless, this legal injustice should not be viewed as a total failure. In recent decades, a growing awareness has emerged among Thai academics and policymakers regarding the need to reform the legal system to make it more inclusive. Interreligious dialogues and consultative forums involving legal officials and local ulama have begun to take place at institutions such as Fatoni University and Prince of Songkla University. These initiatives indicate a degree of political will to construct a more pluralistic and locally responsive legal system. However, the central challenge lies in transforming symbolic dialogue into concrete and sustainable policy reform (Jiamsawad & Insorn, 2024). To address legal injustice toward the Muslim minority, a new paradigm is required—one that situates legal pluralism as an essential component of substantive justice. An integrative legal approach must be developed, whereby Islamic law is not confined solely to the private sphere but is granted a meaningful role within public legal structures relevant to the social context.

### ***Reconstruction of Islamic Legal Thought as a Solution to Justice***

The reconstruction of Islamic legal thought in Thailand constitutes a crucial effort to reaffirm the function of Islamic law as an instrument of social justice amid

the dominance of a secular legal system. In the context of a Muslim minority society, reconstruction does not merely signify the renewal of normative texts but also entails a reinterpretation of the universal principles of Islam so that they remain relevant within Thailand's modern social and political structures. Islamic legal thought must be understood dynamically as a value system that is open to change without losing its ethical essence of justice (Dorairajoo, 2009). Accordingly, this process requires a careful balance between fidelity to the normative sources of Sharia and adaptation to the realities of a pluralistic and secular national legal system.

Theoretically, the reconstruction of Islamic law rests upon three fundamental principles: al-'adl (justice), musāwah (equality), and maṣlahah (public interest). The principle of al-'adl demands that Islamic law function as an instrument that guarantees the protection of individual rights without discrimination based on race, religion, or ethnicity. In the Thai context, this principle is particularly relevant given the frequent experience of structural injustice faced by Muslim communities. Musāwah emphasizes equality before the law, including equality between the Muslim minority and the Buddhist majority. Meanwhile, maṣlahah provides a pragmatic foundation enabling Islamic law to address societal needs by taking local socio-political contexts into account without neglecting Islam's transcendent values ('Auda, 2008).

Historically, the renewal of Islamic legal thought in Thailand emerged from the awareness among local Muslim scholars and intellectuals that stagnation in legal interpretation contributed to the marginalization of the Muslim community. Figures such as Ismail Lutfi Japakiya, Sulaiman Dorloh, and Abdulrosak Abdulloh have played a significant role in promoting a contextualized discourse on Islamic legal reform. They emphasized that Islamic law should not be understood solely through a textualist lens but must be contextualized within Thailand's secular-Buddhist legal and social framework. This perspective opened space for social ijtihād, in which Islamic law is mobilized to address issues of justice within a plural society.

The reconstruction of Islamic legal thought in Thailand does not aim to replace national law but rather to offer an alternative paradigm of justice that complements the existing system. From the perspective of Thai Muslim thinkers, Islamic law can function as a moral compass for a national legal system that often lacks ethical sensitivity. For instance, the principles of *maqāṣid al-shari'ah* (the objectives of Sharia) may serve as an ethical foundation in public policy-making, particularly in Muslim-majority regions. Thus, the reconstruction of Islamic law is oriented toward value integration rather than systemic confrontation, which is essential for fostering inclusive justice without provoking identity-based conflict (Dorloh, 2009).

One of the most prominent reconstructive approaches is the application of *maqāṣid al-shari'ah* as a philosophical framework for legal reform. This approach allows Islamic law to be understood as a system of objectives rather than merely a collection of formal rules. In the Thai context, *maqāṣid* can serve as

a basis for articulating civil rights, religious freedom, and gender equality for Muslims (Yeewae & Ahmad, 2025). Thai Muslim scholars such as Hamdan Yeewae and Ahmad Baha Mokhtar have demonstrated that *maqāṣid* reasoning can strengthen legal arguments that align with Thailand's constitutional principles, including public welfare and social harmony.

In addition to *maqāṣid*, the principle of *mashārahah mursalah* holds significant relevance in the reconstruction of Islamic law in Thailand. This principle allows legal decisions to be based on social benefit even when such rulings are not explicitly mentioned in the normative texts. For Thailand's Muslim minority, *mashārahah* can function as a bridge for negotiating communal rights without generating resistance from the secular state. For example, the adaptation of Islamic family law to align with Thailand's civil legal system represents a form of contextual *mashārahah* that prioritizes social harmony while preserving Islamic identity (Jiamsawad & Insorn, 2024).

Nevertheless, the reconstruction of Islamic legal thought faces both epistemological and political challenges. Epistemologically, differences persist among scholars between textual-normative and contextual-reformist approaches. Politically, resistance arises from government perspectives that continue to view expressions of Islamic law as potential threats to national integration. To address these challenges, Thai Muslim intellectuals have increasingly adopted dialogical and academic approaches, positioning Islam not as an opponent of the state but as a moral partner in the development of a just legal system.

One concrete manifestation of Islamic legal reconstruction is the strengthening of the role of Sharia courts in the southern provinces. This institutional reform aims to ensure that Islamic courts function not merely as administrative mechanisms but as spaces for the application of substantive Islamic justice. In this framework, Islamic law is expected to serve not only ritual religious needs but also broader objectives of social justice. Achieving this goal requires enhancing the capacity of judges, *qādīs*, and legal practitioners to translate the principles of *al-'adl* and *musāwahah* into judicial decisions that are responsive to the lived realities of Muslim communities.

The reconstruction of Islamic legal thought also necessitates reform in Islamic legal education in Thailand. Islamic higher education institutions such as Fatoni University have pioneered the development of modern and adaptive Islamic law curricula. By integrating classical scholarship with contemporary legal methodologies, a new generation of Muslim scholars is expected to articulate Sharia values within the framework of the modern nation-state. In this way, Islamic legal education becomes a strategic arena for producing thinkers capable of negotiating Islamic identity alongside the demands of modern citizenship.

Beyond the academic sphere, the idea of reconstructing Islamic law has begun to emerge in public discourse. Islamic civil society organizations, councils of *ulama*, and *da'wah* institutions in southern Thailand increasingly address issues of social justice, gender equality, and civil rights from a Sharia perspective

(Machae et al., 2015). This development reflects a shift from normative Islam toward a transformative Islam that prioritizes human welfare. Such an orientation resonates with the spirit of *maqāṣid*, which places justice and humanity above legal formalism. It is within this framework that Islamic law finds renewed relevance in responding to contemporary challenges and fostering interreligious solidarity in Thailand.

Conceptually, the reconstruction of Islamic legal thought in Thailand holds the potential to serve as a model for other countries facing similar challenges. An adaptive conception of Islamic law that remains rooted in universal values while engaging constructively with a secular state offers a new approach to religion-state relations. This model demonstrates that Islamic law need not occupy a subordinate position but can function as a constructive partner in building a plural legal system. In this sense, the reconstruction of Islamic law represents not merely a local solution but also an intellectual contribution by Thai Muslims to the global discourse on justice and legal pluralism.

## **CONCLUSION**

The findings of this study indicate that the reconstruction of Islamic legal thought in Thailand constitutes a historical and juridical necessity in responding to the realities of legal and social pluralism within a predominantly Buddhist country. Although Islamic law is recognized in a limited manner in the fields of family and inheritance, the position of Muslims in Thailand—particularly in the southern regions such as Pattani, Yala, and Narathiwat—remains characterized by tension between religious identity and a secular national legal system. Substantive justice has yet to be fully realized due to structural discrimination, the limited authority of Sharia courts, and state policies that tend to overlook the principles of legal pluralism and minority rights. Consequently, the reconstruction of Islamic legal thought emerges as a crucial middle path between the ideals of Sharia and the realities of the modern nation-state.

Through the *maqāṣid al-shari‘ah* approach, the principles of *al-‘adl* (justice), *musāwah* (equality), and *maṣlaḥah* (public interest) can serve as foundational frameworks for advocating the rights of Muslim minorities in an inclusive and contextual manner. This reconstruction should not remain merely theoretical but must be translated into public policy, Islamic legal education, and interreligious dialogue oriented toward peace and social justice. Accordingly, this study affirms that justice for Muslim minorities in Thailand can be achieved through the integration of universal Islamic values within a national legal system that genuinely respects plurality. Such an approach represents a strategic step toward a harmonious, equitable, and civilized social order amid differences in belief and culture.

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