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'Urf in Traditional Islamic Built Environment Practices

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Abstract

Muslim legal scholars recognize the 'urf's importance as a source of law and societal behaviour mechanism. However, due to a lack of understanding, modern practices disregard the significance of 'urf. Instead, they replicate practices from other countries, which are incompatible with local requirements. Therefore, this paper will explore the application of 'urf and lessons from the traditional Islamic built environment. This qualitative study gathered the data from journals and books, while the analysis was accomplished via content analysis. The result found that urf plays an essential role to lay the groundwork for a better Islamic built environment in future.

Keywords: 'Urf; built environment; fiqh, traditions

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1.0 Introduction

The current Islamic built environment is improving due to increased awareness of Islam's potential in addressing global environmental issues. In most Islamic cities, the built environment is governed by Islamic guiding principles known as Shariah. Meanwhile, fiqh is a subdivision of shariah based on ijthad and social, material, and environmental factors. Many contemporary scholars advocate for localized fiqh. Muslim legal scholars recognized the importance of the urf as a source of law and mechanism of social behaviour. Like in traditional Islamic cities, 'urf will produce local uniqueness and diversity of Islamic built environment around the world. Due to a lack of understanding of its roles in the built environment, most contemporary practises disregarding the importance of 'urf . Instead, they adopt foreign practices. As a result, the planning and development failed to meet the community's needs. Thus, this article will explore the application of 'urf and lessons traditional Islamic built environment practises.

2.0 Literature Review

2.1 Concept of 'urf

Besim Selim Hakim (2019a) compiled several definitions of 'urf from the views of some leading scholars. The following table presents part of the definition of 'urf:

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Table 1. Definition of Urf according to the view of Islamic scholars

Num.	Scholars	Definitions
1.	Al-Ghazali	Refers to what is accepted by society and is compatible with their way of thinking and is usually adopted by those who regard it (something) as having a good character.
2.	Al-Jurjani	A person's act or belief agrees with the power of reasoning and believes it is reasonable for them to accept it.
3.	Ali Haider	Doing something consistently and repeatedly is well executed and accepted by society as a good character.
4.	Abdul Wahab al-Khallaf	Something that becomes habitual to society and is followed in words, actions and something that is rejected.
5.	Mustafa al-Zarka	The habits (or customs) of society in their words or actions.
6.	Abdulaziz al-Khayyat	Refers to the custom of society and what they follow in their pattern of life.

(Source:)(Besim Selim Hakim, 2019a)

'Urf (local customs) is a secondary source of law. It is one of the most important sources for Islamic law especially in problems relating to human relationships that cannot be resolved using the agreed-upon sources of the Qur'an, Sunnah and Qiyas., even some scholars do not consider it authoritative. 'Urf is accepted as a source of law if it does not contradict the Islamic principles and ethics, such as not endangering or harming others (K. H. Ahmed, 2015; Ben-Hamouche, 2008). Furthermore, Ahmed (2015) states that the application of 'urf as a source of law should be considered case-by-case and not generally applied. 'Urf's application is based on the fiqh method of 'Al-'Adah al-muhakkamah' (custom-made law) (Zahari Mahad Musa, 2016). Some fuqaha' cite the evidence of the Qur'an in Surah al-A'raf: verse 199 presented below as a basis of the law for 'urf acceptance:

"Accept what is easy for you to do, and enjoin what is good, and turn away (ignore) the ignorant (who are stubborn with their ignorance)." (Surah al-A'raf: 199).

Based on the preceding verse, Shariah accepts 'urf as fundamental of Islamic jurisprudence and judgement, particularly those related to knowledge and understanding of the locality (Besim Selim Hakim, 2019a).

2.2 Previous study on 'urf from Islamic built environment perspective; Roles of 'urf and dynamism of Islamic jurisprudence in the built environment

'Urf plays a significant role in shaping the built environment of an Islamic city of the past, particularly a neighbourhood with unique and diverse designs (Besim Selim Hakim, 2001). According to Borham et al. (2012), 'urf directs decision-making and community participation in construction matters between neighbours. Other communities with local customs and cultures cannot imitate the assessment based on the 'urf of a specific localization (K. G. Ahmed, 2020). For instance, although building the sabat is an 'urf and custom in some traditional Islamic cities, it is not a local 'urf in Muharraq and Manama (Besim Selim Hakim, 2007c).

More importantly, 'urf protects individuals, society's welfare and limiting government intervention because most decisions are made by tolerance and mutual consent of the population (K. G. Ahmed & Parry, 2020). Recognizing 'urf will also create a physical environment that is user-friendly. For example, 'urf emphasizes residents' privacy which manifested via the internal courtyard (Farhat, 2017).

While scholars have decided much ijihad and kept it in their fiqh treasury, such laws may only be appropriate or relevant at that time and place. New issues require current fiqh based on localities and realities, such as Malaysian fiqh. So, to be sustainable and resilient, new and modern solutions may be required (Eben Saleh, 1998). In this way, 'urf adapts to changes in time and technology, strengthening the framework of accepted community norms of behaviour (Besim Selim Hakim, 2019b). Islamic built environment also considers 'urf as a source of law to demonstrate the universality and dynamism of Islamic teachings (Zahari Mahad Musa, 2016). However, in conservative societies that continue to rely heavily on inherited customs, the changes may not be as drastic (Besim Selim Hakim, 2019a).

3.0 Methodology

This qualitative study used content analysis to identify critical themes regarding 'urf's applications and lessons from traditional Islamic built environment practises. Specifically, inductive and deductive methods of analysis were employed. The inductive method analyses data by drawing generalizations from specifics. In this case, the researcher examines 'urf in traditional practises from housing or resident, construction, maintenance, management, and disputes perspectives. In comparison, the deductive method is a way of thinking that seeks solutions based on general propositions to arrive at specific propositions. In this study, the researcher examines the opinions of scholars to analyze the lesson of 'urf in traditional Islamic built environments to fit contemporary practices.

4.0 Result and Discussion

4.1 Application of 'urf in traditional Islamic built environment practices

Various studies have discussed 'urf's application in traditional Islamic built environments, as discovered in previous readings. Most pre-Islamic 'urf influenced traditional societies in Islamic cities. In the lives of pre-Islamic Arab communities, meta-customs deeply embedded in various tribes in a specific region are manifested (Besim S. Hakim, 2007). Islam recognizes and permits some customs to continue after the Islamic era if they do not violate Islamic values and ethics (Besim S Hakim, 2008). For example, Rasulullah SAW's residence in

Madinah is like the ancient model of cluster courtyard building (Besim Selim Hakim, 2019a). The residence pattern in Medina at the Prophet Muhammad SAW resembles the Mesopotamian clustered courtyard building model. 'Urf is also recognized and applied in Byzantine law, known as the concept of *widespread consensus* and *longa consuetude* (Besim Selim Hakim, 2008).

In traditional Islamic societies, local customs shape development activities and construction mechanisms to express a community's worldview and way of life (Besim Selim Hakim, 2007c). Among the 'urf practised are Haram and Hawtah, a mechanism for designating land as a protected area which is only used for specific purposes, such as grazing.

Furthermore, in the Middle East, the Muslim community has preserved 'urf in water and land management, involving measurement techniques, equipment, instruments, and land demarcation. This 'urf practise provides a variety of frameworks. For example, a public agent (known as *Kiyyal al-maa'*) and the measurement technique uses habba units (the quantity of water released during the day and night through a small hole punched in a copper table; equivalent to 3.5 litres of water per minute) for the distribution of water to the sharing heirs are part of the 'urf applied (Ben-Hamouche, 2008).

Similarly, in traditional Islamic times, construction activities and methods were shaped by local customs, which gave uniqueness to the designs produced based on local practices (Besim Selim Hakim, 2001). Following current changes, society expresses a *world view* through building construction (Besim Selim Hakim, 2007c). Furthermore, *fina* and *sabat*, two construction concepts, are part of the 'urf, which have become the norm in traditional Islamic society (Ahmed, 2015; Shokry, 2012). *Fina* is an ample space surrounding all external configurations of a building structure and has a minimum area of one meter in size (3 feet). While the *sabat*, a physical structure constructed to connect public roads with additional space that provides pedestrians with convenience and protection (H. M. Shokry, 2012).

Shehada (2020) believes that most fuqaha' strongly rely on 'urf in resolving property rights disputes (easement right). For example, the determination of wall ownership is based on six (6) factors; namely wall bonding (*qimt*), the door on the wall, wooden beams inserted in the wall, small doors, construction on the wall, and facade (Besim Selim Hakim & Muhamad, 2017). The discussion brings up several points raised by the fuqaha' in determining who owns the wall. Imam Syafie, for instance, did not consider the six (6) elements in his decision to determine the ownership of the wall. On the other hand, Imam Abu Hanifah determined ownership of the wall by examining certain elements such as the bond ('aqd), the direction of the closed door, and the beam inserted if more than two (2) were present (Besim Selim Hakim & Muhamad, 2017). Hanafi has a conflicting view of the wall elements, and, in his opinion, he does not include the building elements on the wall and the face of the building in determining the owner of the wall. The approach used to resolve disputes involving ownership of a wall between two neighbouring persons via looking at the 'akd (wall bond) condition at the angle of intersection of two disputed walls is part of 'urf (Besim Selim Hakim, 2007a). Thus, Ibn al-Rami sees that the owner of a premise connected to 'aqd is not required to swear to prove his ownership because the wall is built concurrently with the 'aqd, based on a custom or 'urf justification. On the other hand, Ibn al-Majshun states that both parties must swear to determine ownership. This mechanism can be traced back to 622-632 CE in Medina and is still used today in some traditional Islamic cities (Besim Selim Hakim & Muhamad, 2017).

Changes and adaptations that occur over time require the community to adopt and adapt to the surrounding environment (Besim Selim Hakim, 2008). For example, new road construction and road widening in traditional Islamic cities are manifestations of the dynamics of decisions made by local communities, resulting in various and significant impacts (Besim Selim Hakim, 2019a). Making arches at the corners of buildings to facilitate the movement of animals carrying loads is also part of the 'urf that is still practised in some Islamic cities (Besim Selim Hakim, 2007c).

Besim Selim Hakim & Muhamad (2017) expand the discussion on the 'urf practices of the Andalus custom in which the tenant is responsible for cleaning the house while the landowner is responsible for cleaning the toilets. Most fuqaha accept this viewpoint as an urf in the practice of society in Andalus. According to Ibn al-Rami, the 'urf is also concerned with the construction work. If a person is hired to build a house; the construction equipment, hammers, large buckets or barrels, water, and leather buckets is typically based on the societal customs or 'urf applied for the specific places. If no rules exist, the host must provide the equipment (Besim Selim Hakim & Muhamad, 2017). Specific rules must be followed in the construction process, materials, and following local practice to facilitate the resolution process in future disputes or conflicts. In short, the applications of 'urf in traditional Islamic built environment are summarized in Figure 1 as presented below:



Fig. 1: Applications of 'urf in traditional Islamic built environment
(Source:) Author, 2021

4.2 Lesson learnt from the application of 'urf in traditional Islamic built environment practices

The built environment is constantly changing, and it is appropriate to adapt to each age as technology changes. Islamic jurisprudence must be coordinated with the principles and methods of Fiqhiyyah to solve the ummah's problems (Mastura Razali, 2015). Using fiqh does not imply ignoring the texts of the Qur'an and Hadith, but rather managing and guiding religious and human affairs for the benefit of the

ummah itself. It is vital to understand that Islam is more than just a ritualistic religion; it also includes social issues such as family, education, economy, law, jihad, and governance, all of which must be managed wisely (Mastura Razali, 2015).

Islamic law is fixed on matters of *usul* (fundamental) and flexible (*murunah*) on matters of *furū'* (subsidiaries), which involve many current issues in any aspect of human life. With this principle, laws are subject to *waqi'* or current reality, which refers to society's current cultural, customary or 'urf values and needs. In other words, *fiqh* is flexible and adaptable while adhering to Shariah fundamentals. The dynamism of the Islamic built environment is influenced by a set of rules based on the values held by the local community as a result of socio-cultural and religious habits; allowing for the development of physical forms unique as manifested in traditional Islamic neighbourhood and township systems (Al-Hathloul, 1981; Besim Selim Hakim, 2007b). The generative process that considers the elements of 'urf and dynamism in traditional Islamic cities has created residential habitats that are natural and continuous (Barau, 2010).

Conversely, the contemporary physical approach, which abandoned the 'urf, was more prescriptive. It is typically based on the same standards for all problems, rather than a verification process and adaptation to the local environment (Besim Selim Hakim, 2007a; H. Shokry, 2012). As a result, the building environment becomes monotonous. Thousands of suburbs built in Western countries, particularly the United States, explain the stagnation of contemporary built-environment standards and rules (Besim Selim Hakim, 2007c). It is implicitly understood that the rules of the built environment are a crystallization of accepted and appropriate local community traditions and practices.

Acknowledging local customs and traditions plays a vital role in preserving a country's or community's identity. It is possible to improve contemporary urban management by thoroughly understanding and mastering the *fiqh* of the built environment (*fiqh al-Bunyan*). Local 'urf will add variety and colour to the built environment while reflecting the universality and flexibility of Islamic law. A house's architecture, for example, can be linked to Malay customs and the built environment. Porches, for example, are a manifestation of 'urf, which aligns with the privacy principles in Malay-Muslim architecture.

Urban development planning must be Shariah-compliant and meet community needs in line with *Maqasid Syariah* which may be manifested via a symbiotic relationship between the physical environment and consumer desires. Islamic cities should not copy the Western municipal system without legal repercussions. However, many modern Islamic city concepts today are Westernized. Some say living in an Islamic city means copying Middle Eastern paint without considering the local geographical, cultural, or other factors. Consequently, built environment design with no consideration to religion-based, social inclusion, awrah preservation and alike failed to function properly.

Adapting architectural jurisprudence as a traditional practice should also consider lifestyle changes and technological advancements. According to Besim Selim Hakim (2007b), all parties involved in a construction project should be aware of local customs, traditions, and construction principles.

5.0 Conclusion

This study found that *urf* (traditions, customs) is essential in establishing established procedures in the built environment. Religious principles, values, and guidelines should guide the development of Islamic cities in planning, architecture, and policy. The study is limited by the lack of prior research on 'urf in the built environment for Malaysian context. Researchers must review current built environment regulations to make them more responsive and adaptable to local conditions. This statement is consistent with Besim Selim Hakim's (2019b) recommendation that contemporary architecture sees, examine, and recycle traditional processes as a precedent and guide for current practice. Thus, future research should focus on Malaysian cultural, customs, and geographical variables. Based on the *fiqh* perspective in the built environment, this study adds to the body of knowledge on 'urf. On the other hand, it emphasizes the roles and dynamism of 'urf to be globally applied. The discovery may help to broaden understanding of 'urf in Malaysian built environment.

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