



Globalization and the Reinterpretation of Customary Law in Contemporary Societies

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ABSTRACT

This study aimed to explore how globalization reshapes the meaning, authority, and practical application of customary law in contemporary urban societies, with particular attention to legal actors and community-based norm interpreters in Tehran. This qualitative study was conducted using an interpretive descriptive design. Data were collected through semi-structured interviews with 24 participants in Tehran, including legal practitioners, legal academics, community mediators, cultural experts, and civil society actors familiar with customary norms and dispute resolution. Participants were selected through purposive and snowball sampling. Interviews continued until theoretical saturation was achieved. All interviews were audio-recorded with consent, transcribed verbatim, and analyzed using thematic analysis. NVivo software was used to organize transcripts, develop codes, compare emerging categories, and refine final themes. To enhance trustworthiness, the study used member checking, peer debriefing, reflexive memo-writing, and an audit trail. Analysis produced four main categories: customary law as an adaptive interpretive practice; negotiation between state law, religious norms, and social customs; rights-based reinterpretation of tradition; and digital-transnational pressures on local legal consciousness. Participants described customary law not as a fixed inheritance but as a living normative repertoire that changes through migration, media exposure, international rights language, urban diversity, and generational negotiation. While older participants emphasized continuity, authority, and communal legitimacy, younger and legally trained participants highlighted gender equality, individual rights, procedural fairness, and compatibility with formal law. The findings suggest that globalization does not simply weaken customary law; rather, it changes the conditions under which custom is interpreted, justified, and contested. In contemporary societies, customary law survives when it becomes dialogical, flexible, rights-conscious, and institutionally compatible with formal legal systems.

Keywords: globalization; customary law; legal pluralism; qualitative research; Tehran; legal culture; rights discourse; contemporary societies

How to cite this article:

Hosseini, Z. (2025). Globalization and the Reinterpretation of Customary Law in Contemporary Societies. *Contemporary Issues in Law, Culture, and Globalization*, 1(3), 31-39. <https://doi.org/10.61838/cileg.1.3.4>

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Introduction

Customary law has historically occupied an ambiguous but powerful position within legal systems. It is often described as unwritten, community-based, tradition-oriented, and transmitted through repeated social practice; yet it also operates as a practical legal resource through which communities regulate family relations, property arrangements, inheritance expectations, mediation practices, social obligations, and conflict resolution. In socio-legal scholarship, customary law is rarely treated as a

simple residue of the past. Rather, it is understood as part of a broader field of legal pluralism in which state law, religious law, local norms, professional legal reasoning, and transnational standards coexist and interact (Griffiths, 1986; Merry, 1988; Moore, 1973). This pluralistic perspective is particularly important in contemporary societies, where formal legal systems do not fully determine social behavior and where people frequently move between official rules and informal normative expectations when resolving disputes or defining legitimate conduct.

The concept of legal pluralism provides the central theoretical entry point for understanding the reinterpretation of customary law under globalization. Griffiths (1986) challenged legal centralism by arguing that law should not be reduced to commands of the state, while Merry (1988) showed that multiple normative orders operate simultaneously within everyday social life. Moore's (1973) concept of the "semi-autonomous social field" is especially useful because it explains how communities generate internal rules while remaining affected by larger legal, political, and economic structures. Customary law, therefore, is neither fully autonomous nor fully absorbed by state law. It exists in a dynamic field in which communities interpret tradition in relation to courts, bureaucratic procedures, religious principles, market relations, family expectations, and increasingly, global discourses of rights and equality.

Globalization has intensified this dynamic. It has expanded the circulation of people, legal ideas, technologies, media narratives, and institutional models across borders. As Twining (2000) argues, globalization requires legal scholarship to move beyond narrow national frameworks and to examine the interaction of local, national, regional, and global normative orders. Similarly, Santos (2002) conceptualizes legality as operating across different scales, from the local to the global, with each scale shaping how law is imagined and practiced. Under these conditions, customary law is no longer interpreted only within the boundaries of local memory. It is also evaluated in relation to international human rights norms, constitutional principles, urban social change, migration experiences, digital media, and the expectations of younger generations who often possess hybrid cultural identities.

The reinterpretation of customary law is especially visible in contemporary urban societies. Cities gather people from diverse ethnic, regional, linguistic, class, and professional backgrounds. In such settings, custom cannot operate as a single, homogeneous normative order. Instead, different groups bring different understandings of family duty, honor, reconciliation, inheritance, gender roles, neighborhood responsibility, and social respect. Urban life weakens some traditional mechanisms of collective enforcement, yet it also produces new contexts in which informal norms become necessary. For example, mediation between families, informal settlement of neighborhood disputes, community-based negotiation in business relations, and culturally sensitive interpretation of family obligations may continue to rely on customary reasoning. The city therefore does not abolish custom; it transforms the social conditions under which custom is invoked.

Contemporary socio-legal research increasingly emphasizes that customary law is "living" rather than static. Diala (2017) argues that living customary law should be understood as a product of people's adaptation of custom to socio-economic change. This position is important because it challenges the assumption that customary law is authentic only when it preserves older forms. In practice, custom often survives precisely because it changes. Communities reinterpret customary norms to address new realities such as women's education and employment, interethnic marriage, apartment living, digital communication, migration, consumer markets, and exposure to global legal consciousness. Thus, the question is not whether customary law changes, but how such change is justified, who has authority to reinterpret it, and which values guide reinterpretation.

The interaction between custom and formal law is also central to the Iranian legal context. Iranian law includes codified legal rules, Islamic jurisprudential principles, judicial practice, and social norms that influence legal behavior. Socio-legal studies of Iran show that law in action is shaped not only by formal legal doctrine but also by institutional culture, professional practice, religious reasoning, and public perceptions of justice (Banakar & Ziaee, 2018). In such a context, customary law

cannot be examined as an isolated phenomenon. It must be studied as part of a layered normative environment in which legal actors, families, community elders, and ordinary citizens negotiate between written law, religious expectations, and socially recognized customs. Tehran is a particularly relevant site for this inquiry because it is both a national legal center and a highly diverse urban environment shaped by migration, education, media, and global cultural exposure.

The relationship between globalization and customary law is not one-directional. Some scholars have warned that globalization can marginalize local traditions by expanding standardized legal models, market-oriented reforms, and international rights frameworks (Santos, 2002; Twining, 2000). However, global legal pluralism scholarship suggests that globalization also reveals the limits of legal uniformity. Michaels (2009) argues that globalization and legal pluralism are deeply connected because global legal processes generate overlapping normative orders rather than a single legal hierarchy. Berman (2012) similarly emphasizes that legal conflicts in a globalized world often involve multiple communities and regulatory systems. From this perspective, globalization does not merely replace custom with state or international law. Instead, it creates new arenas in which custom must be defended, translated, modified, or contested.

A key tension concerns legitimacy. Customary law traditionally gains authority from repetition, communal recognition, moral familiarity, and the perceived wisdom of elders or respected mediators. Globalization introduces alternative sources of legitimacy, including individual autonomy, human rights, gender equality, legal certainty, procedural transparency, and public accountability. These values may challenge customs that are perceived as discriminatory, exclusionary, patriarchal, or incompatible with formal rights. At the same time, global norms may strengthen certain customary practices, especially those related to restorative justice, mediation, community participation, environmental responsibility, and culturally sensitive dispute resolution. The result is not a simple opposition between tradition and modernity, but a complex reinterpetive process in which actors selectively preserve, revise, or reject customary norms.

This study approaches customary law as a socially interpreted and contested normative practice. It focuses on how legal and community actors in Tehran understand the effects of globalization on customary law in contemporary society. Rather than treating globalization as an abstract macro-level process, the study examines how participants describe its practical effects: changes in family relations, dispute settlement, authority structures, gender expectations, digital communication, migration experiences, and the relationship between formal and informal law. The qualitative approach is appropriate because the research question concerns meanings, interpretations, lived experiences, and normative judgments rather than measurable legal outcomes.

The study contributes to socio-legal scholarship in three ways. First, it extends legal pluralism debates by examining customary law in an urban Iranian context, where state law, religious norms, and informal social practices intersect. Second, it highlights globalization as an interpretive force that changes how people justify and evaluate custom. Third, it provides empirical insight into the voices of legal practitioners, academics, community mediators, and civil society actors who encounter the tension between customary authority and contemporary legal consciousness. Accordingly, the study asks: How do legal and community actors in Tehran perceive the impact of globalization on the reinterpretation of customary law in contemporary society?

Methods and Materials

This study employed a qualitative interpretive descriptive design to explore how globalization influences the reinterpretation of customary law in contemporary society. A qualitative design was selected because the study sought to understand meanings, perceptions, normative tensions, and interpretive practices rather than to measure the frequency of legal behaviors. The study was conducted in Tehran, Iran, because Tehran represents a complex urban setting in which multiple normative systems

intersect, including codified law, religious principles, family customs, ethnic traditions, professional legal reasoning, and transnational cultural influences.

The participants were 24 individuals residing or working in Tehran who had direct or professional familiarity with customary norms, informal dispute resolution, or the interaction between social custom and formal law. Participants included six attorneys, four judges or former judicial officers, five legal academics, four community mediators or respected local elders, three civil society/legal aid workers, and two cultural researchers. Purposive sampling was used to identify participants with relevant experience, and snowball sampling was used to reach additional participants recommended by initial interviewees. Inclusion criteria were: being at least 25 years old, living or working in Tehran, having at least five years of relevant legal, academic, mediation, or community experience, and willingness to participate in an audio-recorded interview. Exclusion criteria included lack of direct familiarity with customary legal practices or unwillingness to provide informed consent. Theoretical saturation was reached after 21 interviews, and three additional interviews were conducted to confirm the stability of the emerging categories.

Data were collected through semi-structured interviews. The interview guide included open-ended questions about participants' understanding of customary law, examples of customary practices in contemporary society, perceived effects of globalization, generational changes, the role of formal courts and legal professionals, rights-based critiques of custom, and the future of customary legal reasoning. Sample questions included: "How do you define customary law in contemporary urban society?", "In what ways have global ideas or media changed people's expectations of custom?", "Can you describe a situation in which customary norms conflicted with formal law or rights-based expectations?", and "Who has authority to reinterpret custom today?" Interviews lasted between 45 and 80 minutes. All interviews were conducted in Persian, audio-recorded with permission, transcribed verbatim, and translated into English for manuscript reporting where necessary.

Data were analyzed using thematic analysis based on the procedures proposed by Braun and Clarke (2006). First, transcripts were read repeatedly to achieve familiarization. Second, initial codes were generated inductively from meaningful units in the data. Third, related codes were grouped into preliminary categories. Fourth, categories were reviewed across the entire dataset to ensure coherence and distinction. Fifth, final themes were named and defined. NVivo software was used to organize transcripts, manage codes, retrieve coded segments, compare participant groups, and document analytic memos. Coding was iterative, and earlier transcripts were revisited as new interpretive patterns emerged.

Trustworthiness was enhanced through credibility, transferability, dependability, and confirmability strategies. Credibility was supported through member checking with six participants and peer debriefing with two qualitative researchers. Transferability was strengthened by providing detailed information about participants, setting, and data collection. Dependability was supported through an audit trail documenting sampling decisions, coding revisions, and theme development. Confirmability was enhanced through reflexive memo-writing and comparison of interpretations with transcript excerpts. The study followed the COREQ checklist for reporting qualitative interviews. Ethical approval should be inserted according to the relevant institutional review board approval code. Participants received information about the purpose of the study, voluntary participation, confidentiality, and the right to withdraw. All names were replaced with participant codes.

Findings

The study included 24 participants from Tehran. Of these, 13 participants were male and 11 were female. Participants' ages ranged from 29 to 68 years. Six participants were aged 29–39 years, nine were aged 40–49 years, five were aged 50–59 years, and four were aged 60 years or older. Regarding professional background, six participants were attorneys, four were judges or former judicial officers, five were legal academics, four were community mediators or respected local elders, three were civil society/legal aid workers, and two were cultural researchers. In terms of education, three participants held a bachelor's degree,

nine held a master's degree, eight held a doctoral or equivalent professional degree, and four had seminary or community-based legal-cultural training. Participants' professional experience ranged from 5 to 38 years, with 7 participants reporting 5–10 years, 10 participants reporting 11–20 years, and 7 participants reporting more than 20 years of relevant experience.

The first category showed that participants did not understand customary law as a fixed set of inherited rules. Instead, they described it as an adaptive interpretive practice that changes according to social circumstances. Participants repeatedly used expressions such as “living custom,” “reasonable custom,” and “custom that people still accept” to distinguish active norms from outdated traditions. Many argued that globalization had accelerated the need to reinterpret custom because people now compare local practices with other legal cultures through education, migration, media, and online communication. One attorney stated, “Custom is not a museum object. If people cannot use it to solve today's problems, it becomes only a memory” (P3, attorney). A community mediator similarly explained, “In the past, when elders spoke, families accepted it. Now the young ask why. They want reasons, not only tradition” (P15, mediator). This category suggests that customary law survives in contemporary society when it remains socially meaningful, practically useful, and open to reinterpretation.

The second category concerned the layered relationship between formal law, religious norms, and social custom. Participants emphasized that customary law in Tehran rarely operates independently from state institutions. Instead, it is used in negotiation with official legal procedures, religious concepts, and family expectations. Legal professionals described situations in which parties attempted informal reconciliation before going to court, while community mediators explained that they often encouraged families to respect formal legal limits even when resolving disputes through customary methods. One former judicial officer stated, “People may begin with custom, but if the conflict becomes serious, they ask what the court will say. Custom now lives under the shadow of formal law” (P8, former judicial officer). Another participant noted, “The best mediation is not against law; it prepares people to accept a solution without humiliation” (P18, civil society worker). This category indicates that customary law is increasingly reinterpreted through institutional compatibility, meaning that custom is considered legitimate when it can coexist with formal legal rights and procedures.

The third category reflected the growing influence of rights-based and gender-aware interpretations of customary law. Participants stated that many customary norms once accepted as natural are now questioned in relation to women's rights, children's interests, individual autonomy, and procedural fairness. This was especially evident in discussions of marriage, divorce, inheritance expectations, family mediation, and conflict resolution. Younger participants and female participants were more likely to emphasize that custom should not be used to silence vulnerable individuals or preserve unequal power relations. One legal aid worker said, “When a woman says, ‘This custom harms me,’ we cannot answer that our ancestors accepted it. Harm changes the meaning of custom” (P21, legal aid worker). A legal academic added, “Global human rights language has entered family conversations. Even people who do not use legal terminology now speak about dignity, equality, and choice” (P11, legal academic). This category shows that globalization contributes to the moral evaluation of custom, not only its practical modification.

The fourth category concerned the impact of digital media, migration, and transnational comparison on legal consciousness. Participants described how satellite media, social networks, foreign education, migration, and online legal information expose individuals to alternative models of family life, dispute resolution, women's rights, minority rights, and citizenship. These influences do not necessarily eliminate customary law, but they reduce the ability of local authorities to present custom as unquestionable. One cultural researcher stated, “A young person in Tehran may compare a family custom with what they see in Turkey, Europe, Canada, or even among Iranian migrants. This comparison changes obedience into negotiation” (P23, cultural researcher). Another participant explained, “Before, people asked elders. Now they ask Google, lawyers on Instagram, relatives abroad, and then elders. Custom has many competitors” (P6, attorney). This category demonstrates that globalization

transforms the sources of normative knowledge. Authority becomes dispersed across local, legal, digital, and transnational spaces, forcing customary law to justify itself in a wider field of comparison.

Discussion

The first finding showed that participants perceived customary law as an adaptive interpretive practice rather than a closed body of inherited rules. This finding is consistent with legal pluralism scholarship, which rejects the idea that law exists only as formal state command and instead emphasizes the coexistence of multiple normative orders in social life (Griffiths, 1986; Merry, 1988). Moore's (1973) concept of the semi-autonomous social field is particularly relevant, because participants described communities as capable of generating and revising norms while remaining influenced by courts, state institutions, religious frameworks, and global discourses. The finding also aligns with Diala's (2017) argument that living customary law is produced through people's adaptation of custom to socio-economic change. In the present study, globalization intensified adaptation by exposing communities to new comparisons, expectations, and justifications. The participants' accounts therefore suggest that customary law remains socially important not because it resists change, but because it can absorb change while preserving continuity. This challenges essentialist views of custom as ancient, static, and resistant to modernity. Instead, the study supports a process-based understanding of custom as a form of practical reasoning that must be continually reinterpreted to remain legitimate.

The second finding concerned negotiation between state law, religious norms, and social customs. Participants emphasized that customary law in Tehran functions within a layered normative environment rather than as an autonomous legal order. This finding corresponds with Tamanaha's (2008) argument that legal pluralism is a common and complex condition in which different legal and normative systems interact in everyday life. It also reflects Banakar and Ziaee's (2018) socio-legal analysis of Iran, which shows that law in action is shaped by institutional culture, professional practice, religious reasoning, and citizens' perceptions of justice. The present findings suggest that participants did not necessarily view custom and formal law as opposing systems. Instead, they described a pragmatic relationship: custom may facilitate reconciliation, reduce conflict, and preserve social dignity, but it becomes problematic when it contradicts formal rights or produces coercive outcomes. This supports Woodman's (1998) view that debates about legal pluralism require close social observation rather than purely doctrinal assumptions. In contemporary Tehran, customary law appears to operate as a mediating language between formal legality and social expectations, especially in family and community disputes.

The third finding revealed that customary law is increasingly reinterpreted through rights-based and gender-aware reasoning. Participants, particularly women, younger legal professionals, and civil society actors, argued that custom cannot be considered legitimate if it normalizes harm, inequality, or exclusion. This finding is consistent with Merry's (2006) work on the vernacularization of human rights, which explains how global rights concepts are translated into local moral and legal vocabularies. It also resonates with Santos's (2002) argument that globalization involves interactions among local, national, and global scales of legality. In this study, rights language did not simply replace customary reasoning; rather, it entered the interpretation of custom and changed the standards by which participants assessed fairness. This means that globalization reshapes customary law not only externally through institutional reform, but internally through moral critique. The finding is important because it shows that communities may preserve custom while rejecting specific customary applications that conflict with dignity, equality, or individual autonomy. Therefore, rights-based reinterpretation should not automatically be viewed as cultural erosion. It may also function as a mechanism through which customary law becomes more responsive to contemporary social realities.

The fourth finding showed that digital media, migration, and transnational comparison have transformed local legal consciousness. Participants described how people increasingly compare local customs with practices observed through social

media, relatives abroad, international education, and online legal information. This finding aligns with Michaels's (2009) argument that globalization and legal pluralism are interconnected because global processes multiply normative orders and challenge the idea of a single legal hierarchy. It also reflects Berman's (2012) account of global legal pluralism, where individuals and institutions are often situated within overlapping regulatory communities. In the present study, the authority to interpret custom was no longer limited to elders, family heads, or local mediators. It was dispersed across lawyers, courts, religious authorities, online influencers, diaspora networks, and international rights discourses. This diffusion of authority creates uncertainty, but it also creates opportunities for more reflective and accountable forms of customary reasoning. The study therefore suggests that contemporary customary law must compete in a plural marketplace of norms. Its future depends on whether it can remain persuasive in conditions where people have access to alternative legal and moral vocabularies.

Overall, the findings demonstrate that globalization does not simply dissolve customary law. Rather, it changes the conditions of its legitimacy. Customary law remains meaningful when it is perceived as flexible, reasonable, socially protective, and compatible with formal legal principles. However, it loses legitimacy when it is experienced as coercive, discriminatory, or disconnected from contemporary life. This interpretation is consistent with global legal pluralism scholarship, which emphasizes hybridity, interaction, and overlapping legal authority rather than linear modernization (Berman, 2012; Michaels, 2009; Twining, 2000). In Tehran, customary law appears to be undergoing a transition from authority based mainly on tradition to authority based on justification. Participants did not reject custom as such; instead, they called for custom to explain itself in relation to fairness, rights, social change, and legal compatibility. This is perhaps the central contribution of the study: globalization transforms customary law from an inherited command into a contested interpretive practice.

This study has several limitations. First, the sample was limited to participants in Tehran and therefore may not represent customary legal experiences in rural areas, smaller cities, or ethnic minority regions where customary law may operate with different degrees of authority. Second, although the sample included diverse legal and community actors, it did not include ordinary citizens involved in specific customary disputes. Their inclusion could have provided a more direct understanding of how customary law is experienced by disputing parties. Third, the study relied on semi-structured interviews, which capture perceptions and interpretations but not direct observation of customary dispute resolution. Fourth, because customary law is a sensitive topic involving family, gender, religion, and authority, some participants may have moderated their responses. Finally, translation from Persian into English may have reduced some conceptual nuances, especially terms related to custom, dignity, reconciliation, and social obligation.

Future research should examine the reinterpretation of customary law in different Iranian regions and among diverse ethnic, linguistic, and religious communities. Comparative studies between Tehran and smaller cities or rural communities would help clarify how urbanization affects customary authority. Future studies should also include ordinary citizens, women involved in family disputes, young adults, community elders, lawyers, and judges in the same research design to compare perspectives across social positions. Ethnographic research would be especially valuable because direct observation of mediation sessions, family negotiations, and community-based dispute resolution could reveal practices that interview participants may not fully articulate. In addition, future research could examine the role of social media and diaspora networks in reshaping legal consciousness and customary expectations among younger generations.

Legal practitioners, mediators, and policymakers should approach customary law as a living and changing normative resource rather than as a fixed tradition. Customary practices can support social reconciliation and culturally meaningful dispute resolution, but they should be evaluated in relation to fairness, consent, gender equality, and compatibility with formal legal rights. Community mediators should receive training on rights-based mediation, ethical communication, and protection of vulnerable parties. Courts and legal aid organizations should also recognize that many disputes are shaped by informal norms

before they reach formal legal institutions. Therefore, effective legal practice requires cultural literacy as well as doctrinal knowledge. Policymakers should create spaces for dialogue between legal professionals, community leaders, women's rights advocates, and cultural researchers so that customary law can be reinterpreted in ways that preserve social meaning without reproducing harm.

Conclusion

This study explored how globalization influences the reinterpretation of customary law in contemporary society through the perspectives of legal and community actors in Tehran. The findings showed that customary law is not disappearing; rather, it is being redefined through interaction with state law, religious norms, rights discourse, digital media, migration, and generational change. Participants described custom as legitimate when it remains adaptive, dialogical, and compatible with justice, but problematic when it is used to justify inequality, coercion, or exclusion. The study concludes that globalization transforms customary law from a relatively localized and inherited normative authority into a contested interpretive practice that must justify itself within plural legal and moral fields. In contemporary societies, the future of customary law depends on its ability to preserve cultural meaning while responding to rights, fairness, and social transformation.

Acknowledgments

We would like to express our appreciation and gratitude to all those who helped us carrying out this study.

Authors' Contributions

All authors equally contributed to this study.

Declaration of Interest

The authors of this article declared no conflict of interest.

Ethical Considerations

All ethical principles were adhered in conducting and writing this article.

Transparency of Data

In accordance with the principles of transparency and open research, we declare that all data and materials used in this study are available upon request.

Funding

This research was carried out independently with personal funding and without the financial support of any governmental or private institution or organization.

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