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Contextualizing Islamic Legal Perspectives on Fruit Theft in *Perenggan* (Borderlands): A Case Study in Kuala Tungkal, Indonesia

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Abstract: The phenomenon of fruit-taking in *perenggan*—border areas between private land and public space—represents a recurring socio-legal issue in Kuala Tungkal, Indonesia. This study aims to examine Islamic legal perspectives on the practice of picking overhanging fruit beyond property boundaries, by integrating normative analysis with empirical data rooted in local custom (*'urf*). Employing a mixed-method case study design, the research involved 597 respondents through structured surveys and in-depth interviews with religious leaders, local authorities, and affected residents. The findings reveal that 88.2% of respondents had experienced fruit theft, and 57% believed the act was religiously or customarily permissible. These perceptions are shaped by economic pressures, normalized social behavior, and misconceptions of Islamic legal concepts—such as the mistaken belief that *shufʿah* grants harvesting rights when fruit overhangs public space. However, Islamic legal analysis affirms that such acts constitute *ghaṣb* (unlawful appropriation) and are prohibited (*ḥarām*) under sharīʿah. In parallel, Indonesian Civil Code Article 570 affirms that produce from privately owned trees remains the legal property of the owner, even when branches extend beyond the land boundary. The novelty of this study lies in the application of *contextual ijtihād*, employing the theoretical framework of *maqāṣid al-sharīʿah*, *qiyās* (analogical reasoning), *istiḥsān* (juristic preference), and *'urf* (customary practice) to propose humane and locally grounded legal responses. This approach enables a balanced application of the principle of wealth protection (*ḥifẓ al-māl*), societal welfare (*maṣlaḥah*), and harm prevention (*mafsadah*). Recommended interventions include neighbor agreements on surplus distribution, voluntary fruit-sharing arrangements, collective ethical reinforcement, and educationally oriented *taʿzīr*-based sanctions. The study's primary contribution is the formulation of a context-sensitive Islamic legal model based on socio-empirical realities, offering practical guidance for fatwa development, village policymaking, and public legal education. It enriches the growing field of applied contemporary *fiqh* and advances productive engagement between religious texts, state law, and local wisdom.

Keywords: contextual *fiqh*, fruit theft, perenggan, *maqāṣid* al-sharīʿah, qiyās, istiḥsān, *'urf*, Kuala Tungkal

Abstrak: Fenomena pengambilan buah di wilayah *perenggan*—yaitu area perbatasan antara lahan pribadi dan ruang publik—menjadi isu sosial-hukum yang terus berulang di Kuala Tungkal, Indonesia. Penelitian ini bertujuan mengkaji perspektif hukum Islam terhadap praktik pengambilan buah yang menjulur ke luar pagar, dengan memadukan pendekatan normatif dan data empiris berbasis kebiasaan lokal (*'urf*). Penelitian ini menggunakan metode studi kasus kualitatif-kuantitatif, melibatkan 597 responden melalui survei terstruktur serta wawancara mendalam dengan tokoh masyarakat, ulama, dan warga yang terdampak. Hasil penelitian menunjukkan bahwa 88,2% responden pernah mengalami pencurian buah, dan 57% menganggap tindakan tersebut diperbolehkan secara agama atau adat. Persepsi ini dipengaruhi oleh tekanan ekonomi, normalisasi sosial, serta pemahaman yang keliru terhadap konsep-konsep hukum Islam, seperti menganggap *shufʿah* memberi hak untuk memetik buah hanya karena menjulur ke wilayah publik. Padahal, menurut analisis hukum Islam, pengambilan buah tanpa izin termasuk perbuatan *ghaṣb* (perampasan hak) yang secara syariat tergolong haram. Dari sisi hukum positif Indonesia, KUHPerdata Pasal 570 juga menetapkan bahwa buah yang tumbuh dari pohon milik pribadi tetap menjadi hak pemiliknya, meskipun menjulur ke luar batas lahan. Kebaruan (novelty) studi ini terletak pada penerapan pendekatan *ijtihād kontekstual* dengan menggunakan teori *maqāṣid al-sharīʿah*, *qiyās*, *istiḥsān*, dan *'urf* untuk merumuskan solusi hukum yang manusiawi, kontekstual, dan aplikatif. Pendekatan ini memungkinkan penyeimbangan antara prinsip perlindungan harta (*ḥifẓ al-māl*), kebutuhan masyarakat (*maṣlaḥah*), dan pencegahan dampak buruk sosial (*mafsadah*). Penelitian ini merekomendasikan berbagai langkah seperti perjanjian antarwarga tentang pembagian hasil panen, distribusi buah berlebih secara sukarela, penegakan etika kolektif, serta sanksi ringan berbasis edukasi sebagai bentuk *taʿzīr*. Kontribusi utama dari studi ini adalah penyusunan model respons hukum Islam yang berbasis konteks sosial-empiris, yang dapat dijadikan rujukan dalam penyusunan fatwa, kebijakan desa, dan program edukasi hukum. Temuan ini memperkaya literatur fikih aplikatif kontemporer dan membuka jalan bagi dialog yang lebih produktif antara teks keagamaan, norma hukum negara, dan nilai-nilai kearifan lokal.

Kata kunci: *fikih kontekstual, pencurian buah, perenggan, maqāṣid al-sharīʿah, qiyās, istiḥsān, 'urf, Kuala Tungkal*

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Introduction

Islamic law (*sharīʿah*) upholds the protection of wealth (*ḥifẓ al-māl*) as a core objective (*maqāṣid al-sharīʿah*), aiming to safeguard individual rights while maintaining social order. In plural societies like Indonesia, the application of Islamic legal principles intersects with state law and local customs (*'urf*), often producing ambiguous zones where norms diverge. Such legal pluralism can give rise to confusion in property matters when customary practices conflict with formal Islamic rulings and statutory regulations.[1]

In Kuala Tungkal, the practice of picking fruits that overhang property boundaries (commonly referred to as *perenggan*) is perceived variably: some community members regard it as permissible custom, while others view it as wrongful appropriation. Economic pressures, inherited traditions, and informal religious advice shape these perceptions. Similar patterns of divergence between formal norms and lived practices have been documented in agrarian conflicts elsewhere in Indonesia, where customary allowances clash with formal legal provisions due to insufficient legal education and socio-economic needs.[2]

Classical *fiqh jināyah* (Islamic criminal jurisprudence) clearly categorises unauthorised taking of property as theft (*sariqah*) or usurpation (*ghaṣb*), with punishments varying according to the presence or absence of *ḥudūd* conditions. Modern comparative studies underline that reconciling Islamic criminal norms with contemporary contexts demands careful boundary analysis (e.g., Sharur's Theory) when minor or ambiguous acts occur near property lines.[3] Under *fiqh muʿāmalah*, anything grown on one's land—including fruits on overhanging branches—remains the owner's property; taking it without consent thus falls under *ghaṣb*, not under neighbourly rights like *shufʿah*. Yet local understanding often conflates these concepts.

Despite detailed classical discussions on fruit theft and property rights, there is limited empirical research exploring how Muslim communities interpret and negotiate these norms in daily life—particularly in semi-urban or peripheral settings like Kuala Tungkal. Studies on contextualising Islamic criminal verses in national law point to the importance of combining normative analysis with field data to understand real-world perceptions and behaviour.[4] This gap calls for a study that integrates quantitative/qualitative field data with rigorous *usūl al-fiqh* analysis.

To bridge the gap between classical texts and local realities, this study adopts a contextual *ijtihād* approach, employing *usūl al-fiqh* tools—such as *maslaḥah mursalah*, analogical reasoning (*qiyās*), consideration of *'urf* (custom) as a subsidiary legal factor, *istiḥsān*, and *istishḥāb*—while directly examining textual evidence. This framework evaluates whether, under pressing socio-economic and customary conditions, fruit-

[1] Rr Dewi Anggraeni, 'Islamic Law and Customary Law in Contemporary Legal Pluralism in Indonesia: Tension and Constraints', *Ahkam: Jurnal Ilmu Syariah*, 23.1 (2023), doi:10.15408/ajis.v23i1.32549.

[2] Abdul - Kodir and In'amul Mushoffa, 'Islam, Agrarian Struggle, and Natural Resources: The Exertion of Front Nahdliyin for Sovereignty of Natural Resources Struggle Towards Socio-Ecological Crisis in Indonesia', *KARSA: Journal of Social and Islamic Culture*, 25.1 (2017), doi:10.19105/karsa.v25i1.1160.

[3] Aroma Martha, Agus Triyanta, and Bayu Putra, 'Theft Punishment in Islamic Law and Indonesian Criminal Law: Initiative for Harmonization from the Perspective of Sharur's Boundary Theory', *Malaysian Journal of Syariah and Law*, 12 (2024), pp. 436–46, doi:10.33102/mjsl.vol12no2.663.

[4] Zulfiani Astutik, Ahmad Mulloh, and Adilla Diva, 'Theft under Islamic and Indonesian Criminal Law', *Indonesian Comparative Law Review*, 5 (2022), pp. 23–30, doi:10.18196/iclr.v5i1.15124.

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taking in *perenggan* could ever be justified, or must unambiguously remain a violation of *ḥifẓ al-māl* (protection of property).

Accordingly, this study addresses the central *maqāṣid*-driven question: "How can the protection of property (*ḥifẓ al-māl*) be upheld in communities where local custom (*'urf*) regards fruit-taking from perenggan areas as permissible, and what form of contextual *ijtihād* is necessary to resolve this discrepancy in Kuala Tungkal?". Field data were gathered via structured questionnaires involving 597 respondents who had direct experience with fruit theft near their property boundaries, supplemented by in-depth interviews with local religious leaders and social observers. The objectives are: (1) to map community perceptions of fruit-taking in *perenggan*; (2) to analyse its legal status under *fiqh jināyah* and *fiqh muʿāmalah*; (3) to propose context-sensitive fatwa guidelines and educational interventions; and (4) to contribute a model of responsive *ijtihād* suitable for analogous contexts.

Method

This study adopts a mixed-methods case study design to link empirical community data with Islamic legal analysis. Fieldwork was conducted in selected areas of Kuala Tungkal known for frequent "*perenggan*" fruit-taking incidents. First, a structured survey was administered to 597 adult residents who own or are directly affected by boundary-adjacent fruit trees. Using stratified purposive sampling, households were chosen in zones where overhanging-fruit issues are common. The questionnaire combined closed items (demographics, experience of fruit-taking, perceived permissibility, and sources of beliefs) with a few open-ended prompts about where respondents heard permissibility claims. To minimize bias, data collection was anonymized, delivered by trained enumerators, and preceded by informed consent; response rates and any refusals were logged for bias assessment.[5]

In parallel, about 25–30 semi-structured interviews and 3–4 focus groups were held with key informants (local religious leaders, village officials, elders, activists, and subgroups such as farmers or youth). Guides probed historical practices, informal religious advice, economic drivers, conflict experiences, and views on permission-seeking. Interviews were recorded (with consent), transcribed, anonymized, and thematically coded: initial codes (e.g., "solidarity practice," "religious guidance," "economic rationale," "awareness of rights") were refined iteratively, with inter-coder checks to ensure consistency. Qualitative findings illuminated why certain demographic groups justify or reject fruit-taking and informed the *fiqh* analysis.[6]

Quantitative data were analyzed with descriptive statistics (frequencies of incidents and permissibility beliefs, demographic breakdowns) and inferential tests (chi-square for associations; logistic regression to model predictors of permissibility attitudes). Software such as SPSS, Stata, or R was used, and sensitivity checks (e.g., early vs. late respondents) addressed potential nonresponse bias. These empirical "*urf*" insights served primarily as contextual input

[5] Annaprimadonita, 'Methodological Transformations in Contemporary Islamic Studies: Trends, Challenges, and Future Directions', *Sinergi International Journal of Islamic Studies*, 2 (2024), pp. 190–202, doi:10.61194/ijis.v2i3.610.

[6] Sukiati Sukiati, Abd Mukhsin, and Dava Al-Farizi, 'Methods of Analyzing Judges' Decisions in Normative Legal Research Case-Based Approach and Islamic Law', *Journal of Education, Humaniora and Social Sciences (JEHSS)*, 6 (2024), pp. 1310–19, doi:10.34007/jehss.v6i3.1972.

for legal reasoning rather than standalone conclusions.

The Islamic legal analysis followed a structured *usūl al-fiqh* procedure; assessment of *maslaḥah* versus harms; and incorporation of observed customary norms as *'urf* without overruling explicit prohibitions. A *maqāṣid*-oriented ijtihād evaluated how *ḥifẓ al-māl* could be upheld amid socio-economic pressures, concluding that unauthorized taking remains prohibited unless mediated by explicit permission or structured sharing. Draft guidelines for context-sensitive fatwas were then reviewed with local scholars and community representatives in a collective ijtihād step to ensure practical acceptability.[7]

Ethical procedures included institutional or community approval where needed, informed consent, confidentiality, respect for local customs (e.g., scheduling around prayer times), and secure data storage. Finally, Indonesian statutory provisions on property and fruit from land were analyzed alongside *fiqh* conclusions, and insights from interviews with village officials on existing dispute resolution informed realistic recommendations for legal-social interventions compatible with both Islamic principles and local frameworks.[8]

[7] Kutbuddin Aibak, 'Implementation of Maqāṣid Sharī'ah in Reform of Case Management of Violence against Women and Children', *De Jure: Jurnal Hukum Dan Syar'iah*, 15 (2023), pp. 82–98, doi:10.18860/j-fsh.v15i1.20666.

[8] Muhammad Solikhudin and others, 'Legal Certainty, Justice, and Maqasid al-Shari'ah in Polygamy Permits: A Case Study of Kediri Religious Court', *Indonesian Journal of Islamic Law*, 7 (2024), pp. 1–29, doi:10.35719/1xcbasch7.

Result and Discussion

The Gap between Community Perceptions and Legal Norms in Overhanging-Fruit Taking in Perenggan

In Tanjung Jabung Barat District, Jambi Province, there is an interesting phenomenon related to the perception of fruit tree ownership. Some people think that trees whose branches extend to the roadside or into other people's yards automatically lose the exclusive rights of the original owner. The fruit from these branches is considered legal to be taken by anyone who has physical access to it, without the need to ask permission from the tree owner.

This view has developed over generations and has become a kind of "unwritten law" in society. As a result, many tree owners feel aggrieved and lose their rights to their crops. In fact, some of them chose to cut down the trees as a form of disappointment because they could not control the actions of thecommunity who considered it legal to take fruit without permission.

This phenomenon indicates a mismatch between community perceptions and formal legal provisions related to ownership. In Indonesian civil law (KUHPerdata Article 570), everything that grows from the land is part of the fixed objects that belong to the owner of the land, including branches and fruits, even if they extend beyond the boundaries of the land. From the perspective of Islamic law, a tree that grows on someone's land remains the legal property of that person, including all parts of the tree that extend, unless the tree grows wildly on public land.

On the other hand, the perception of the people of Tanjung Jabung Barat can be understood as a form of social resistance to economic inequality. Structural poverty, which is not matched by legal education, creates a

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logic of justification for the act of taking fruit from other people's trees that are considered "hanging in public areas". In this context, the act is not seen as theft, but as a form of "fair access to resources".

Such collective perceptions eventually lead to social tensions between tree owners and local residents. The owner feels that his rights are being taken away, while the community feels they have the legitimacy to take what they consider to be in their territory. When the owner's sense of justice is not met, extreme measures such as cutting down trees are taken as a form of protest or desperation.

This phenomenon reflects the importance of local culture-based legal education and micro-regulation that can bridge between legal norms and social values. Below are the results of a questionnaire of several questions given to the owners of trees whose fruit was stolen:

Table 1. Distribution of Respondents' Experience and Perceptions of Fruit Theft in Perenggan

	Question	Respon	Percentage
1	Have you ever experienced fruit theft in your yard or garden?	Ever Never	60 40
2	Have you ever heard of a case of fruit theft in your yard, especially when the fruit dangles onto the road?	Ever Never	90 10
3	Have you ever heard a preacher say that it is permissible to pick fruit that dangles outside the fence or onto the road?	Ever Never	60 40
4	Is it permissible to pick fruit that has fallen outside one's fence or on the road?	Ever Never	62 38

Factors that influence fruit theft: [9]

Economic pressures play a central role in shaping attitudes toward overhanging-fruit taking. In communities facing structural poverty and limited income opportunities, easily accessible fruit may be seen as a vital supplementary resource or a means of minor financial relief. During periods of hardship or crisis, some individuals may rationalise the taking of overhanging fruit as a necessary shortcut, especially when alternative food sources or income streams are scarce. This economic rationale can be particularly compelling in households that depend on agricultural yields for their livelihood, as any loss of produce is felt acutely. Consequently, financial need can outweigh concerns about formal ownership, fostering a permissive attitude toward harvesting fruit without explicit permission.

Psychological and social dynamics further reinforce this permissibility. Among younger community members, picking fruit may begin as a spontaneous or playful activity rather than a premeditated act of theft; if peers normalise this behavior, what started as a casual action can become routine. In environments lacking clear social or legal sanctions, repeated minor appropriations become embedded as accepted practice. Moreover, confusion regarding customary law exacerbates the issue: some believe that fruit extending beyond property lines automatically falls into a communal domain, while misconceptions about Islamic concepts—such as misapplying the notion of shufʿah—lead to the incorrect conclusion that proximity or overhang grants harvesting rights. This normative conflict between local custom ("fruit that sticks out can be taken") and formal legal or religious injunctions ("unauthorised appropriation is prohibited") perpetuates uncertainty and sustains the unwritten norm.

From a religious and ethical standpoint, Islamic jurisprudence clearly prohibits taking

[9] Eck, Linning, and Bowers, "Does Crime in Places Stay in Places? Evidence for Crime Radiation from Three Narrative Reviews."

another's property without consent. The unauthorised harvesting of fruit constitutes ghaṣb and runs counter to the moral imperatives of honesty and respect for others' rights. While informal religious advice in some settings may suggest that minor taking is excusable if the owner does not object, such guidance often lacks grounding in proper *fiqh* analysis; true shufʿah pertains only to pre-emptive purchase rights in land transactions and does not justify crop-taking. A superficial or inconsistent internalisation of these principles can lead individuals to underestimate the seriousness of the act, viewing it as a harmless tradition rather than a violation. Thus, despite economic or social rationalisations, the ethical teaching remains that permission must be sought or explicit sharing arrangements made.

Table 2. Factors Influencing Overhanging-Fruit Taking

Factor Category	Brief Description	Possible Intervention
Economic Pressure	Structural poverty leads individuals to view overhanging fruit as needed	Economic support (e.g., livelihood programs); awareness campaigns on seeking permission
Psychological & Social	Spontaneous or recreational taking, normalized by lack of sanctions	Community dialogues; informal social norms enforcement; youth engagement activities
Customary Law Confusion	Belief that overhanging fruit becomes communal; misperception of shufʿah	Educational workshops comparing customary views with civil and *fiqh* property rights
Religious/Ethical Misunderstanding	Weak internalisation of prohibition on unauthorised taking; informal advice lacking *fiqh* basis	Targeted religious guidance (clear sermons/materials explaining ghaṣb and proper scope of *shufʿah*)

Contextual Ijtihād and Socio-Legal Dynamics of Fruit Theft in Perenggan

Poverty frequently emerges in the literature as a catalyst for theft, and in Kuala Tungkal's developing context, structural economic hardship can lead some individuals to rationalise taking overhanging fruit as a survival strategy or minor coping mechanism . Nonetheless, survey and interview data reveal that perpetrators are not exclusively from the poorest strata; rather, economic pressure interacts with other social factors, indicating that poverty acts as one driver among several.[10] Social norm theory explains how repeated minor appropriations become normalised when community sanctions are weak or ambiguous, especially among youth who may treat fruit-taking as a recreational activity or "harmless tradition" . Peer influence and informal religious advice further shape behaviour: when local sermons or elders tacitly condone minor taking in times of need, the boundary between permissible solidarity and wrongful appropriation blurs, perpetuating the "unwritten law" that overhanging fruit is free.

From the perspective of *fiqh jināyah*, unauthorised taking of another's property is fundamentally prohibited, yet classical criteria for *ḥudūd* punishment (e.g., nisāb threshold, secure guarding, clear intent) often do not apply to typical perenggan cases. For instance, the number of fruits taken in most incidents likely falls below nisāb, trees are seldom under guarded conditions, and intention is frequently trivial rather than calculated theft of significant value . Thus, *ḥudūd* would not be

[10] Nur Hasibuan, Zulfan Hasibuan, and Ahmad Sainul, 'Tinjauan Hukum Pidana Islam Terhadap Implementasi Restorative Justice Pada Tindak Pidana Pencurian Buah Kelapa Sawit', *Jurnal El-Thawalib*, 5 (2024), pp. 198–209, doi:10.24952/el-thawalib.v5i2.13371.

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imposed; instead, discretionary *taʿzīr* measures become relevant— as emphasized by Darmawan et al, where cases of minor theft (such as taking fruit below the nisāb threshold) are best addressed through restorative justice/*taʿzīr* that focuses on social and moral restoration rather than the severe hudūd penalties. [11] Local authorities or community leaders could apply light sanctions—such as admonitions, symbolic fines, or restorative acts (e.g., apologies or compensation)—calibrated to context. It is important to clarify these distinctions in educational programmes so that residents understand why severe punishments do not apply, yet unauthorised taking remains unlawful and ethically wrong.

Under *fiqh muʿāmalah*, anything grown on one's land—trees and their produce—remains the owner's property, regardless of overhang into adjacent or public spaces. Concepts such as *shufʿah* (pre-emptive purchase rights) do not extend to harvesting another's crops; conflating these fosters confusion. However, classical *fiqh* also recognises permissibility of sharing surplus or fallen produce under certain conditions, provided owner consent or communal arrangements exist .[12] Contemporary fatwas in some jurisdictions encourage voluntary charity (e.g., giving excess fruit to needy neighbours) rather than unilateral taking. Aligning these *fiqh* principles with field findings suggests promoting arrangements where owners intentionally offer surplus harvest, or villagers formally agree on limited sharing, thereby respecting ownership while addressing welfare needs.

A *maqāṣid*-oriented analysis weighs the protection of wealth (*ḥifẓ al-māl*) against potential benefits (*maṣlaḥah*) of meeting basic needs and preserving social harmony, as well as harms (*mafsadah*) such as neighbourly conflict and environmental loss. [13] Unauthorized fruit-taking infringes *ḥifẓ al-māl*, yet the perception of communal entitlement may be driven by urgent need or solidaristic impulses. A balanced ruling must uphold core prohibition against appropriation without permission, while recognising genuine welfare concerns. For example, if owners face surplus yield, facilitating its distribution can yield *maṣlaḥah* without violating property rights. Conversely, tolerating unilateral taking risks eroding respect for ownership, leading to broader social and ecological harms.

Building on empirical "*urf*" data and classical texts, a structured *ijtihād* process can produce humane, context-sensitive guidance. First, communities could establish neighbour agreements specifying that during certain seasons or when yield exceeds owners' needs, overhanging fruit may be offered or harvested under agreed conditions (e.g., asking permission, limiting quantity) . Second, local fatwa frameworks might instruct tree owners on proactive measures—such as regularly trimming branches that excessively overhang public paths or signaling when surplus is available—to reduce conflict. [14] Third,

[11] Joko Darmawan and others, 'Incorporating Islah Principles into Restorative Justice: Bridging Contemporary Legal Practice and Islamic Values', *MILRev: Metro Islamic Law Review*, 4 (2025), pp. 269–94, doi:10.32332/milrev.v4i1.10435.

[12] Husni Husni and Miftahul Khairat, 'Penetration of Muamalah Jurisprudence into Indonesian Law', *Al-Istinbath: Jurnal Hukum Islam*, 9 (2024), pp. 699–722, doi:10.29240/jhi.v9i2.11116.

[13] Nur Saniah, Nawir Yuslem, and Hasan Matsum, 'Analysis of Maqâshid Sharî'a on Substitute Heir in Compilation of Islamic Law (KHI)', *Al-'Adalah*, 20.1 (2023), doi:10.24042/adalah.v20i1.16062.

[14] Toha Andiko, Zurifah Nurdin, and Efrinaldi Efrinaldi, 'Implementation of Restorative Justice in a Customary Court in Rejang Lebong District, Bengkulu, Indonesia: A

encouraging the channeling of excess fruit to the needy via *zakāt* or *infaq* programmes addresses root welfare issues, reducing incentive for unauthorised taking.[15] Fourth, employing *qiyās* by analogy to classical rulings on fallen produce or gleaning rights in wild contexts can inform guidelines distinguishing between fallen fruit (often less contested) and hanging fruit. Finally, involving local scholars in collective *ijtihād* sessions ensures that these proposals are religiously grounded and socially acceptable.

Table 2. Contextual Ijtihād and Socio-Legal Dynamics of Fruit Theft in Perenggan

Perspective	Contextual Analysis	Proposed Contextual Response
Fiqh Jināyah	Unauthorized taking of overhanging fruit is classified as ghaṣb. Classical ḥudūd criteria (nisāb, guarding, serious intent) are typically unmet in perenggan cases; thus ḥudūd is not applied, but the act remains prohibited.	Light *taʿzīr* measures tailored to local context: clarify in educational materials why ḥudūd does not apply yet prohibition stands; apply admonitions, symbolic compensation, or mediation and restorative acts (apology, small compensation) when incidents recur.
Fiqh Muʿāmalah	Produce on one's land remains private property despite overhang. Misapplication of shufʿah leads to confusion. Classical *fiqh* allows sharing surplus or fallen fruit with owner consent or communal agreement.	Facilitate clear *fiqh* guidance distinguishing ownership vs shufʿah rights; encourage explicit surplus-sharing protocols (e.g., owner signals when excess yield is available, scheduled sharing) and community agreements to respect rights while addressing welfare.
Maqāṣid al-Sharīʿah	Balancing protection of wealth (*ḥifẓ al-māl*) with welfare (*maṣlaḥah*) and preventing harm (*mafsadah*). Unauthorized taking undermines ownership and social trust, yet unmet needs may drive rationalisations.	Promote lawful surplus distribution (e.g., via zakāt/infaq or neighbour agreements) that meets needs without violating property rights; integrate ecological stewardship in guidance; convene collective ijtihād sessions to formulate humane, context-sensitive local directives.

For practical implementation, *fiqh*-based recommendations must interface with existing legal mechanisms: Indonesian Civil Code Article 570 (ownership of what grows on land), village regulations on communal resources, and customary dispute resolution systems . For instance, village councils or adat assemblies could formalise the sharing agreements or mediation procedures for perenggan disputes, embedding them in local bylaws. Legal education campaigns can clarify statutory and *fiqh* positions, reducing misperceptions. Furthermore, linking *taʿzīr*-style sanctions to community mediation rather than formal courts preserves social harmony and avoids heavy-handed legalism, while still signalling that unauthorized taking is

Maqāṣid Al-Sharī'ah Review', *JURIS (Jurnal Ilmiah Syariah)*, 23 (2024), p. 93, doi:10.31958/juris.v23i1.12008.

[15] Karimatul Khasanah, Ansori, and Mohamad Sobirin, 'Distributing Philanthropic Funds to Indonesian Muslims amid the Pandemic through a Maṣlaḥah View: Weaving Social Safety Nets or Fortifying the Healthcare System?', *Al-Manahij: Jurnal Kajian Hukum Islam*, 17.2 (2023), doi:10.24090/mnh.v17i2.10226.

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unacceptable.

The divergence between formal religious norms and lived practice can be examined through social norm and legal consciousness theories. When peer influence and informal authority (e.g., local preachers) endorse permissive attitudes, formal norms lose traction. Strengthening the role of respected religious leaders in delivering consistent messages—coupled with participatory workshops where residents discuss dilemmas and co-develop sharing norms—can shift communal expectations. Engaging youth through educational activities and positive community initiatives fosters internalisation of property-respecting values.[16]

This study contributes to empirical *fiqh* literature by demonstrating how contextual data ("*urf*") and *maqāṣid* reasoning combine in *ijtihād* for agrarian issues.[17] It also offers a model for community-based deliberation in Islamic legal decision-making. However, reliance on cross-sectional survey data may not capture evolving attitudes over time; motivations behind fruit-taking may differ seasonally or across regions, warranting longitudinal or comparative studies. Additionally, while interview insights deepen understanding, further ethnographic work could illuminate subtler social dynamics. Finally, validation of proposed guidelines through pilot implementation and assessment of outcomes would strengthen evidence for their effectiveness.

By integrating socioeconomic analysis, sociological theory, and detailed *usūl al-fiqh* procedures oriented toward *maqāṣid al-sharīʿah*, the discussion moves beyond descriptive repetition of prohibitions to propose context-sensitive interventions. These aim to uphold property rights, address welfare needs, and reduce conflict, while aligning with both Islamic principles and Indonesian legal frameworks. Future research should monitor the impact of such interventions and refine guidelines through ongoing community engagement and scholarly review.

Conclusion

The phenomenon of fruit theft in *perenggan*—borderland areas where property lines blur between private and public spaces—presents a complex intersection between economic need, customary beliefs, and Islamic legal ethics. Empirical findings from Kuala Tungkal reveal that while a significant proportion of the community perceives overhanging fruit as fair game due to tradition or necessity, such perceptions are at odds with both Islamic legal doctrine and Indonesian statutory law.

Islamic jurisprudence (*fiqh jināyah* and *fiqh muʿāmalah*) clearly classifies the unauthorised taking of another's produce, even if it hangs over into public or neighbouring space, as *ghaṣb*—an unlawful appropriation of property. The act remains ethically and legally prohibited, regardless of mitigating circumstances such as economic hardship or local custom. Although classical ḥudūd punishments are generally inapplicable in these cases due to lack of qualifying conditions (nisāb, secured property, criminal

[16] Muhammad Sibawaihi, Devika Guspita, and Badriyah Badriyah, 'Islamic Legal Strategies in Indonesian Contexts to Combat Cybercrime and the Spread of Illegal Data DisseminationMENGATASI KEJAHATAN SIBER DALAM HUKUM ISLAM: STRATEGI DAN PENDEKATAN HUKUM', *Justicia Islamica*, 21 (2024), pp. 357–76, doi:10.21154/justicia.v21i2.9587.

[17] M I Sembiring and R S Siregar, 'Method Fatwa Assembly of Indonesian Ulama About Covid-19 Vaccination Law: A Maqashid Sharia Analysis', *Jurnal Ilmiah Mizani*, 9.1 (2022), pp. 130–40, doi:10.29300/mzn.v9i1.2890.

intent), Islamic law provides room for *taʿzīr*-based interventions, which may include community-based resolutions, restorative actions, and moral education.

Field data further highlight the role of social norms, peer influence, informal religious advice, and poverty in shaping community behaviours. Misunderstandings about concepts like *shufʿah*, which do not apply to fruit harvesting, contribute to widespread permissiveness. These findings underline the urgency of integrating religious guidance with public education on property rights and legal ethics, particularly through fatwas contextualised to contemporary rural realities.

A *maqāṣid al-sharīʿah*-oriented approach urges the protection of wealth (*ḥifẓ al-māl*) while also accounting for the *maṣlaḥah* (welfare) of the community. This balance justifies developing local norms that preserve ownership rights while promoting structured sharing practices, such as surplus distribution agreements or communal fruit collection with consent. Proactive involvement from religious scholars, village councils, and civil authorities is crucial to institutionalising these mechanisms.

Ultimately, this study contributes to the evolving field of contextual *fiqh* by offering a model for combining *uṣūl al-fiqh* methods with socio-empirical data to craft responsive legal guidance. The findings advocate for a humanistic and practical ijtihād process—one that honours Islamic legal integrity while pragmatically addressing rural socio-economic dynamics. Future policy interventions and fatwa formulations must therefore prioritise legal clarity, ethical consistency, and social harmony, ensuring that tradition and law are harmoniously reconciled for the betterment of both individual rights and communal wellbeing.

Credit Authorship Contribution

Nurul Hidayah Tumadi conceptualized the study, led the overall research design, and drafted the introduction and conclusion sections. Liana Masruroh conducted the comprehensive literature review and developed the theoretical framework. Iffatul Umniati Ismail managed data collection and performed the primary qualitative and quantitative analyses. Mumtaz coordinated fieldwork logistics and provided in-depth local context insights. Mustakim designed and refined the methodological approach, particularly the *fiqh*-analysis protocols. Arwan bin Kirim contributed comparative legal perspectives and critically reviewed the manuscript for cohesion. Raveenthiran Vivekanantharasa carried out the final editing, ensured academic rigor, and prepared the submission package. All authors read and approved the final version of the manuscript.

Declaration of Competing Interest

The authors declare that they have no competing interests. There are no financial or personal relationships that could have inappropriately influenced the research reported in this paper.

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