



المحكمة: مجلة الشريعة الإسلامية

**Al-Mahkamah: Islamic Law Journal**

ISSN: 3031-0857 (Online)

DOI: <https://doi.org/10.61166/mahkamah.v4i1.71>

Vol. 4 No. 1 (2026)

pp. 72-86

Research Article

## Harmonization of Islamic Law Guarantees Human Rights in Indonesian Judicial Practice

**Anita Putri Aningsih<sup>1</sup>, Annisa Hilda Amelia<sup>2</sup>, Putri Asla Annisa Soleha<sup>3</sup>,  
Rahmat Syah<sup>4</sup>, Asrizal Saiin<sup>5</sup>**

1. Hukum Ekonomi Syariah, STAIN Sultan Abdurrahman Kepulauan Riau, Indonesia;  
[anitaptri.2408@gmail.com](mailto:anitaptri.2408@gmail.com)
2. Hukum Ekonomi Syariah, STAIN Sultan Abdurrahman Kepulauan Riau, Indonesia;  
[annisahildaug@gmail.com](mailto:annisahildaug@gmail.com)
3. Hukum Ekonomi Syariah, STAIN Sultan Abdurrahman Kepulauan Riau, Indonesia;  
[keynahanaya@gmail.com](mailto:keynahanaya@gmail.com)
4. Hukum Ekonomi Syariah, STAIN Sultan Abdurrahman Kepulauan Riau, Indonesia;  
[rahmatsyah170904@gmail.com](mailto:rahmatsyah170904@gmail.com)
5. Hukum Ekonomi Syariah, STAIN Sultan Abdurrahman Kepulauan Riau, Indonesia;  
[asrizal@stainkepri.ac.id](mailto:asrizal@stainkepri.ac.id)

Copyright © 2026 by Authors, Published by **Al-Mahkamah: Islamic Law Journal**. This is an open access article under the CC BY License <https://creativecommons.org/licenses/by/4.0/>

Received : March 12, 2026

Revised : April 18, 2026

Accepted : May 16, 2026

Available online : June 15, 2026

**How to Cite:** Anita Putri Aningsih, Annisa Hilda Amelia, Putri Asla Annisa Soleha, Rahmat Syah, & Saiin, A. (2026). Harmonization of Islamic Law Guarantees Human Rights in Indonesian Judicial Practice. *Al-Mahkamah: Islamic Law Journal*, 4(1), 72–86. <https://doi.org/10.61166/mahkamah.v4i1.71>

**Abstract.** Harmonizing Islamic law with national law in Indonesia is a necessity to realize a fair judicial system that upholds human rights values. This study aims to examine the extent to which Islamic legal principles, particularly those based on the *maqāṣid al-syarī'ah* (obligatory objectives), are implemented in Indonesian judicial practice, thus aligning with human rights principles. The research method used is a juridical-normative approach with a legislative approach and literature review. The results show

that Islamic legal values are not fundamentally in conflict with human rights, but rather have common ground in the protection of basic human rights, such as the right to life, freedom of religion, protection of property, intellect, and descendants. In judicial practice, this is reflected in regulations in Islamic family law, sharia economics, and several court decisions that accommodate sharia values without ignoring constitutional principles. However, challenges remain in the form of a stigma of disharmony, particularly on the frequently debated issues of religious freedom and gender equality. In conclusion, the harmonization of Islamic law with human rights is a complementary process, which not only strengthens the protection of citizens' constitutional rights, but also affirms the national legal identity based on the nation's religious and cultural values.

**Keyword:** Islamic Law, Human Rights, Judicial Practice

## INTRODUCTION

Indonesia is a predominantly Muslim country, making the integration of Islamic law and the national legal system a crucial issue in the context of a state based on the rule of law and pluralism. On the one hand, Islamic law has long been embedded in the religious practices of society and is an inseparable part of social identity; on the other hand, the state is obligated to guarantee the protection of human rights (HAM) as formulated in the constitution and international instruments, as stated in Article 28 of the 1945 Constitution (Yustitiantingtyas & Krisnawati, 2024: 1-8). These human rights principles demand equality before the law, religious freedom, and respect for human dignity. These challenges are increasingly apparent in the legislative process and in the application of law in the judiciary. The struggle between religious values and human rights principles raises fundamental questions about their compatibility within the context of a modern legal system.

This issue of harmonization is increasingly crucial in the modern era, as public demands for justice, equality, and citizen rights increase. The public is increasingly critical of legal policies deemed inconsistent with constitutional principles and protection. HAM. Many people are concerned about the conflict between bureaucratic or traditional Islamic norms and universal human rights principles. This concern arises because some interpretations of Islamic law are perceived as restricting certain civil liberties. However, some researchers argue that Islamic law contains many elements of values that align with human rights, such as justice, equality, and human dignity. In fact, historically, Islamic law has functioned as a progressive legal system for its time. Therefore, the debate over the compatibility of Islamic law and human rights cannot be reduced to mere contradictions. Instead, a thorough study of the social context, legal epistemology, and the dynamics of sharia interpretation is required. Within this framework, it is crucial to understand that Islamic law is not monolithic but rather open to *ijtihad* and reform. This *ijtihad* process can bridge the gap between religious values and modern legal standards. Therefore, it is crucial to examine how these concepts are translated into judicial practice in Indonesia (Widiawan, 2025: 100-110).

Indonesia's constitutional history reflects the country's efforts to incorporate human rights principles into the national legal framework. This process did not occur overnight, but rather through long political dynamics and ideological debate.

Following the amendments to the 1945 Constitution, several articles on human rights (Articles 28A to 28J) were strengthened, making human rights an integral part of the national legal system. This strengthening demonstrates the state's commitment to modern legal standards and international human rights instruments. However, the presence of human rights principles in the constitution does not automatically guarantee harmony in the implementation of the law in practice. Challenges arise when the constitutional text is confronted with religious law, including Islamic law, in the context of dispute resolution through religious courts. Religious courts have authority based on sharia norms, particularly in the area of family law. In some cases, judges' interpretations can differ depending on their *fiqh* approach and understanding of human rights principles. These differences in interpretation sometimes create tension between religious values and demands for equality before the law (Caniago & Wibowo, 2024: 200-209). Therefore, harmonizing Islamic law and human rights requires adaptive and contextual legal reasoning methods. One relevant approach is the reinterpretation of religious norms in accordance with the principles of substantive justice. Therefore, the challenge of this harmonization is not merely a normative issue but also encompasses methodological and institutional aspects. Continuous efforts are needed to ensure that human rights principles and Islamic law can coexist within the Indonesian national legal system.

In this context, the *maqāṣid al-syarī'ah* (objectives of sharia) approach is relevant as a theoretical foundation for bridging Islamic law with human rights. This approach emphasizes benefit (*maslahah*) and the prevention of harm (*mafsadah*), rather than simply the literal application of the text. Thus, *maqāṣid al-syarī'ah* provides more flexible interpretative space in understanding Islamic law. This approach allows for an adaptive and responsive interpretation of Islamic law to meet the demands of contemporary justice. Furthermore, *maqāṣid* places universal values such as justice, equality, and respect for human dignity at the heart of sharia implementation. A number of modern Islamic scholars and legal thinkers also emphasize that *maqāṣid* can be a relevant instrument of legal reform in the context of the modern state. In Indonesian legal practice, this approach is increasingly being considered in the reasoning process of judges, particularly in religious courts. However, its application still faces methodological challenges because not all judges or legal institutions share a uniform understanding of this concept. Differences in educational background and Islamic jurisprudence often influence the outcome of decisions. Therefore, capacity building is needed through training, academic discourse, and the development of a *maqāṣid*-based Islamic law curriculum. If applied consistently, this approach can strengthen the harmonization of Islamic law and human rights within the national legal structure (Mesawi, 2020: 263-295).

Thus, *maqāṣid al-sharī'ah* serves not only as a theoretical framework but also as a practical guide for law enforcement. Ultimately, this approach can help create a legal system that is more humane, inclusive, and relevant to Indonesia's current social realities. There is scope for dialogue between these two value frameworks, although debate remains at the implementation level. The basic principles of Islamic law are theoretically very likely to align with human rights norms, although challenges arise in certain cases, such as religious freedom and women's rights. This suggests that the

primary issue lies not in the underlying concepts, but in the interpretation and practice of law on the ground. The values of justice and equality in Islamic law can strengthen human rights protection in Indonesia, provided there is an interpretive dialogue between tradition and modernity (Azhar, 2021: 247-269). Furthermore, there remains a gap in understanding among academics, judges, and the public regarding how human rights concepts should be integrated into Islamic legal practice. There is a tendency for resistance to emerge from groups who consider human rights a Western product. However, many human rights values can be found in Islamic teachings since the early days of Muslim civilization. This provides an important foundation for developing a more constructive approach. Thus, the continued development of empirical and theoretical studies opens up opportunities for harmonizing Islamic law and human rights in the Indonesian context.

Although numerous processes have emerged regarding the relationship between Islamic law and human rights, there remains a gap waiting to be filled by real-life experiences. Often, only theory and norms are highlighted, while the day-to-day life of the courts is rarely revealed. Judges in religious courts face complex challenges when interpreting and applying Islamic values and human rights, from weighing religious texts and positive regulations to considering human rights interests in real-life social contexts. Each decision is born of a long process, not merely a formality, but the fruit of deliberations that prioritize justice and the public interest. Throughout this journey, we see how legal theory is tested by societal dynamics, and how Islamic and human rights values intertwine to create balance. The resulting decisions reflect efforts to balance tradition, individual rights, and humanitarian demands. The judges' in-depth involvement demonstrates that the harmonization of Islamic law and human rights is not merely a concept, but a living and evolving journey. Behind every legal document lies a story of considerations, dilemmas, and innovations in upholding justice. This process affirms that law is not merely a rule, but a medium capable of delivering humane justice that is relevant to the needs of society. Each step, though sometimes challenging, bears witness to how the principles of justice, welfare, and human rights can coexist with Islamic legal traditions. Throughout this journey of harmonization, judicial practice demonstrates that normative values can be embodied in vibrant, adaptive, and progressive decisions (Arfan et al., 2024: 105-128).

## RESEARCH METHODS

This research uses a normative juridical approach, namely legal research that focuses on the study of secondary legal materials, such as legislation, Islamic law books, and expert doctrines. This approach was chosen because the research focuses on examining the harmonization between Islamic law and human rights (HAM) in the Indonesian justice system, rather than collecting field data (Zahrah, 2020: 55). The type of research used is descriptive qualitative, with the aim of providing a systematic and in-depth picture of the harmony between the principles of *maqāṣid al-syarī'ah* and human rights values in judicial practice (Muhaimin, 2020: 45). The data sources for this research are entirely secondary data, consisting of primary legal materials (regulations and court decisions), secondary legal materials (legal books and

literature), and tertiary legal materials (legal dictionaries and Islamic encyclopedias). Data collection was conducted through library research, while data analysis was conducted qualitatively and normatively, describing the content and meaning of Islamic legal norms and their relevance to human rights principles in the context of Indonesian justice. This research is expected to contribute scientifically to efforts to integrate Islamic values into the national legal system, ensuring the protection of human rights (Hermanto, 2022: 10).

## RESULTS AND DISCUSSION

### Harmonization of Islamic Law and Human Rights in Indonesian

Judiciary Judicial practice in Indonesia is gradually integrating Islamic legal principles with human rights values. This is evident in rulings in Religious Courts, which emphasize not only the formal legal aspects of Sharia but also consider the principles of *maqāṣid al-Shari'ah* (the principle of the principles of justice) to protect basic human rights. For example, in divorce cases, judges prioritize the principles of child protection (*ḥifẓ al-nasl*) and family welfare (*ḥifẓ al-naḥs*), as reflected in several recent rulings (Suhaili, 2025: 29). This also demonstrates the consistency between the substantive justice principles of Islamic law and the standards of human rights protection guaranteed by the 1945 Constitution and international instruments ratified by Indonesia. Constitutional Court rulings demonstrate that the harmonization of Sharia and human rights is dynamic: sometimes creating tension, but always aimed at maintaining a balance between individual and public interests. Furthermore, the dynamics of this harmonization are evident in the reasoning methodology of judges, which relies not only on normative texts but also considers the social context of pluralistic Indonesian society.

Judges at various levels of the judiciary are now beginning to use the benefit approach and the principles of substantive justice as the basis for their decision-making, so that the collaboration between sharia and human rights is not limited to theory. A number of recent decisions demonstrate the courage of judges in adopting universal humanitarian values without ignoring the distinctive characteristics of Islamic law. This demonstrates that the integration of the two can coexist when legal interpretation is carried out progressively and responsively to current developments. This demonstrates that efforts to harmonize Islamic law and human rights principles in Indonesia are not spontaneous but are driven by an increasingly mature national regulatory framework. The Religious Courts Law, the Human Rights Law, and various technical regulations of the Supreme Court provide an important foundation for the integration of human rights values into sharia-based judicial practices (Hakim & Kurniawan, 2021: 869).

The presence of several jurisprudence cases that open up space for human rights considerations also strengthens the direction of harmonization, making judicial practice more responsive to the development of universal values of justice. The harmonization process still faces several challenges, particularly on sensitive socio-religious issues. In cases related to religious freedom, the protection of minority groups, or cases that touch on aspects of public morality, differing interpretations of sharia teachings and international human rights standards cannot always be fully

reconciled. This situation indicates that harmonization is still gradual and requires systematic efforts, such as improving the competence of judges, updating regulations, and strengthening ongoing dialogue between stakeholders, both within Islamic law and within the human rights field. This creates a more constructive direction for development, leading to a legal system that is inclusive, adaptive, and rooted in the values of justice (Ibrahim et al., 2024: 431)

The harmonization of sharia law and human rights cannot be separated from the ever-changing national socio-political dynamics. Shifting government policy orientations, pressure from public opinion, and the strengthening of more moderate religious discourses have all shaped judges' perspectives on the relationship between Islamic law and human rights principles. In some regions, local values and traditional wisdom even act as a balancing force, helping to maintain the relevance, proportionateness, and humaneness of judicial practice in addressing complex societal issues. In this context, legal education plays a crucial role. The quality of judges' interpretations depends heavily on their ability to master contemporary Islamic legal theories and understand the foundations and objectives of modern human rights (Mukharrom & Abdi, 2023: 40-57). With this increased intellectual and methodological capacity, the harmonization process will no longer be a mere formality but will truly result in decisions that are just, contextual, and reflective of universal human values. Harmonization between sharia and human rights does not always mean the equalization of all existing principles, but rather focuses on finding common ground so that the two value systems can coexist.

Many judges utilize the concept of *maqāṣid al-syarī'ah* as an instrument to bridge this integration process, because *maqāṣid* emphasizes the protection of life, mind, descendants, property, and religion values that are fundamentally aligned with the objectives of human rights. This effort provides judges with flexibility to interpret the law more proportionally, so that the resulting decisions remain based on sharia but do not ignore universal humanitarian aspects. Several decisions of the Religious Courts have begun to demonstrate innovative applications of this approach, particularly in cases of divorce, child custody, and division of joint property. Judges also pay attention to the psychological, social, and economic circumstances of the parties in dispute as part of efforts to achieve substantive justice. The judiciary not only resolves disputes but also provides protection for more vulnerable parties. Overall, these developments demonstrate that the harmonization process has moved toward a more mature, responsive, and relevant stage to the needs of society. Overall, the harmonization of Islamic law and human rights principles in the Indonesian judicial system is no longer merely a conceptual discourse or normative theory discussed only in academic circles (Heryani et al., 2024: 173-191).

This harmonization has found its practical application in judicial practice, particularly through decisions that demonstrate the courage and creativity of judges in integrating sharia values with universal standards of justice. This phenomenon indicates a shift in the perspective of religious law enforcers, from a previously textual and normative approach to a more responsive, contextual approach that takes into account the needs of modern societal development. This harmonization process still faces various challenges, particularly when dealing with sensitive issues such as

religious freedom, the rights of minority groups, and cases that touch on the boundaries between social norms, public morality, and the positive legal framework (Rellang et al., 2024: 33). In these sensitive areas, it is clear that the integration of sharia and human rights requires methodological precision, multidisciplinary understanding, and the ability to Judges should interpret the law by considering broader social and humanitarian impacts.

The development of this harmonization is a crucial part of the legal transformation process in Indonesia. Efforts to build a more inclusive, adaptive, and humane legal system lie not only in regulatory changes or the addition of new legal instruments, but also in strengthening the capacity of actors directly involved in the law enforcement process. Therefore, the quality of judges' understanding of contemporary Islamic legal theories, modern *istinbath* methodology, and internationally accepted human rights principles is a key factor in determining the direction of future judicial development. The ongoing harmonization is gradual and requires continuity, both in terms of updating the legal education curriculum, strengthening judicial professional training, and increasing dialogue among stakeholders, such as academics, legal practitioners, human rights institutions, and religious authorities. Although this harmonization process has not yet reached its ideal form, completely free from conceptual tensions and differences of interpretation, the progress that has been achieved demonstrates steady, measurable, and significant progress (Yusmita et al., 2025: 831).

Ultimately, this development will serve as an important foundation for the future agenda of national legal reform. The increasingly mature harmonization of sharia and human rights is expected to move the Indonesian legal system toward a model that not only reflects religious values but also aligns with the principles of global justice, the protection of human dignity, and the evolving needs of a multicultural society. Thus, the direction of national legal development is increasingly clear, moving toward a more inclusive, adaptive, and responsive paradigm to changing times (Royani & Park, 2023: 155).

### **The Application of *Maqāṣid al-Syarī'ah* Values in Religious Court Decisions as Evidence of Harmonization**

In Religious Courts, judicial practice is no longer simply about enforcing written rules. Judges have begun to view the law as a means to deliver justice and protect human rights. The values of the *maqāṣid al-syarī'ah*, such as the protection of life (*ḥifẓ al-nafs*) and offspring (*ḥifẓ al-nasl*), now serve as guidelines in considering every decision, so that Islamic law is not merely formal but also touches the real lives of society. For example, in cases of default divorce, the judge does not simply validate the divorce based on the defendant's absence. He considers the weaker party to avoid legal disadvantage, assesses the wife's social and psychological condition, and ensures that her rights are protected. Decision Number 0166/Pdt.G/2017/PA.Bdg is a clear example of how judges balance normative provisions with the needs of substantive justice (Nazah et al., 2025: 1328). In this process, protection for individuals and families is combined with the principles of Islamic law, resulting in a harmony that reconciles Sharia values with modern justice.

Every decision not only upholds the law but also reflects concern for people and society. The application of the *maqāṣid al-syarī'ah* values in religious court practice demonstrates that Islamic law can align with humanitarian principles, acting as a bridge between normative provisions and social needs, while strengthening public trust in justice that favors the common good. Behind every divorce decision in the Religious Courts, we see how judges not only enforce the law but also act as a balance between the law and human life. Judges often examine family backgrounds, understand the emotional and psychological well-being of the parties, and consider the social impact of their decisions. For example, when a wife faces divorce, the judge will consider her well-being and that of her dependent children, ensuring that the decision is not merely formal but also protects their rights and interests (Suhaili, 2025: 29-42).

The judges' approach places the values of the *maqāṣid al-syarī'ah* (Islamic principles), where the protection of life (*ḥifẓ al-nafs*) and offspring (*ḥifẓ al-nasl*) are a crucial part of the decision-making process. In this way, each decision bridges the provisions of Islamic law with humanitarian needs, demonstrating the harmony between sharia principles and the protection of human rights (Hisbullah et al., 2022: 295). The law no longer feels rigid or distant from reality, but rather presents itself as an instrument of justice that favors the welfare of society. In handling divorces, judges in Religious Courts are not only fixated on formal rules but also consider the principle of public interest to protect vulnerable parties. For example, when there is evidence of domestic violence, judges strive to prioritize the safety of the victim when deciding on a divorce. This approach demonstrates that the values of the *maqāṣid al-syarī'ah*, particularly the public interest and protection of life, serve as the foundation for decision-making that touches on the rights of vulnerable individuals.

In addition, judges also pay special attention to the wife's rights, including maintenance during the iddah period, property division, and child custody. While the application of these rights is not always consistent in every case, this attention demonstrates the courts' efforts to harmonize Islamic law with human rights principles. Thus, each decision not only upholds sharia provisions but also serves as a means of protection and justice for the community, demonstrating how the *maqāṣid al-sharī'ah* can be effectively integrated with human rights principles in religious court practice. In divorce decisions, judges are often faced with a difficult choice between formally enforcing the law and ensuring the well-being of the affected family (Ramadan et al., 2025: 128). Many judges attempt to balance these two issues by considering the actual circumstances of the parties, especially children and the weaker party. For example, judges can assess the impact of the decision on child custody, maintenance, and the continuity of family life, ensuring that the decision is not merely procedural but also considers the welfare and protection of all family members.

However, challenges still arise when the situation is more complex, such as when one party is absent or the husband disappears. Some judges tend to focus on procedural certainty, so that aspects of protection and justice for wives and children do not always receive optimal attention. This condition shows that although the *maqāṣid al-syarī'ah* values, such as the protection of the soul (*ḥifẓ al-nafs*) and

offspring (*hifz al-nasl*), have become guidelines, their application in practice still requires the judge's caution and sensitivity. Thus, each decision is a form of effort to harmonize Islamic law, legal certainty and the protection of human rights, although the process is still developing and being adapted to social reality. Behind every court decision, there is a real effort to integrate the values of *maqāṣid al-syarī'ah* and human rights. However, this journey is not always smooth. Factors such as local customs, judges' perspectives, and limited social data often influence decisions, resulting in inconsistent harmonization of Islamic law and human rights (Sofian, 2023: 29-46).

This challenge underscores the need for more in-depth judicial training and clear interpretative guidelines so that each decision fully reflects these values. Nevertheless, various case studies clearly demonstrate that the principles of the *maqāṣid al-syarī'ah* (Islamic principles) are beginning to penetrate actual practice, demonstrating that the integration of Islamic law and human rights is no longer merely discourse but is underway, slowly but surely, although there is still room for improvement and adjustment (Khoirurrizal & Luthfi, 2025: 39). The journey of implementing the values of *maqāṣid al-syarī'ah* in judicial practice demonstrates a complex and multi-layered dynamic. Although respect for human rights is beginning to emerge, its implementation is uneven due to the influence of local customs, judges' perceptions, and limited social information. This situation emphasizes that the harmonization of Islamic law and human rights is not merely a matter of theory, but of how these principles are understood and applied in real contexts. Each decision reflects an effort to balance legal interests, justice, and the public good.

Limited data and broad interpretation often pose challenges, but also open up opportunities for innovation and more contextual interpretation. Therefore, updating technical guidelines and training judges is crucial for a more consistent integration of the principles of sharia and human rights. This effort allows each decision to be not only legally formal but also oriented toward protecting the rights and well-being of the parties involved. This harmonization journey can also be seen as a continuous learning process. Each decision is not simply a number or document, but a reflection of how the principles of justice and humanity are tested in reality. Sometimes decisions achieve a satisfactory balance, while other times they leave open questions about more optimal rights protection. This process illustrates that law is not a static entity, living with society, but adapting to constantly changing social and cultural contexts (Heriandita et al., 2025: 231).

With patience and deep understanding, the values of the *maqāṣid al-syarī'ah* and human rights are slowly merging into practice, marking a long but tangible journey toward a more harmonious and humane judiciary. At each step, interpretations and policies are continually tested by varying social dynamics. Local factors, societal perceptions, and the real needs of the parties involved shape how the law is applied. This emphasizes the importance of flexibility and judges' ability to understand the broader context, rather than simply following the legal text rigidly (Muhajir et al., 2023: 889). On the other hand, the integration of the values of public welfare and human rights protection encourages more balanced decisions, providing space for more humane justice. Slowly but surely, this process demonstrates that

judicial practice can become a living laboratory, a place where legal theories and principles are tested, adapted, and applied to concretely achieve the goals of the *maqāṣid al-syarī'ah*.

### Harmonization in the Protection of Children and Women

The protection of children and women is a central issue in harmonizing Islamic law with human rights. In the context of Indonesian justice, cases involving children and women often serve as indicators of how Islamic values and human rights are integrated. Law Number 35 of 2014 concerning Child Protection affirms that every child has the right to survive, grow, and develop naturally. This principle aligns with the *maqāṣid al-syarī'ah*, which places *ḥifẓ al-naḥs* (protection of life) and *ḥifẓ al-nasl* (protection of offspring) as the primary objectives of sharia. In practice, Religious Court judges often use the child's best interests as the primary basis for their decisions, for example in determining custody (*ḥaḍānah*). The Makassar Religious Court's decision demonstrates that judges adhere not only to the normative text of the Compilation of Islamic Law (KHI), but also consider the child's psychological condition, social environment, and educational needs. This confirms the harmonization between Islamic law and the principle of *The Best Interest of the Child* adopted from the UN Convention on the Rights of the Child (Zulhairi, 2025: 102).

On the other hand, the issue of domestic violence (DV) against women also demonstrates an important dynamic in the harmonization of Islamic law and human rights. Law Number 23 of 2004 concerning the Elimination of Domestic Violence provides protection for women as victims of domestic violence (Republik Indonesia, 2004). In divorce decisions filed due to domestic violence, judges not only refer to the KHI article on divorce but also use the PKDRT Law as legal considerations. This demonstrates the integration of sharia norms and human rights standards in the context of women's protection. However, this harmonization is not without challenges. Several studies have found that some judges still prioritize the husband's interests in divorce cases, often neglecting the wife's rights, for example in determining *iddah* and *mut'ah* maintenance. This indicates that the internalization of human rights values in court decisions is not yet fully consistent, even though Islam normatively teaches the principles of mutuality (*mubādalah*) and justice in the household.

Furthermore, in practice, in determining the age of marriage, the Constitutional Court, through Decision No. 22/PUU-XV/2017, raised the minimum age for marriage for women from 16 to 19. This decision was based on considerations of protecting children's rights, particularly girls, so they do not become victims of early marriage (Mahkamah Konstitusi RI, 2017). From the perspective of the *maqāṣid al-syarī'ah* (obligatory principles of Islamic law), this policy aligns with the principle of protecting life and offspring. Despite criticism from some who consider it contrary to sharia, the majority of contemporary scholars support this measure as a form of modern legal *ijtihad*. Beyond formal regulations, the role of judges in grounding the *maqāṣid* is also crucial. Judges who are oriented towards the *maqāṣid* are more capable of producing progressive decisions that protect women and children than judges who focus solely on formal texts. This demonstrates that harmonizing Islam and human

rights is not sufficient at the regulatory level but must be internalized in the perspectives of judicial officials.

Thus, the protection of children and women in Indonesian judicial practice demonstrates that harmonization between Islamic law and human rights is not merely a normative concept but has been implemented in court decisions. While challenges remain in consistent application, these empirical findings demonstrate a positive trend that Islamic law is able to adapt to human rights standards, universal without losing its Islamic character. The harmony between Islamic law and human rights is also evident when judicial practice emphasizes the importance of social context in every decision (Fahmi & Nasrulloh, 2024: 40-45). Judges consider not only the legal text but also the real conditions faced by children and women in their daily lives. These decisions demonstrate that the law can be an instrument of protection and learning for society. Each step demonstrates that the *maqāṣid al-syarī'ah* (the principles of Islamic law) is lived in practice, not merely a theory on paper.

The protection of women in cases of domestic violence increasingly demonstrates the integration of sharia norms with human rights standards. Judges consider the psychological, economic, and social impacts on victims, ensuring that their decisions provide comprehensive protection. This approach emphasizes that harmonizing Islamic law and human rights allows for more humane decisions without diminishing the authority of Islamic law. In the long term, this practice fosters a judicial culture that is more responsive to women's rights. Awareness of the importance of children's education and well-being is also beginning to be evident in decisions regarding custody. Determining children's residence rights and scheduling interaction time is done by considering psychological aspects and the environment that supports their growth and development. Judges are beginning to see that protecting children is not merely a formal obligation, but part of the objectives of the *maqāṣid al-syarī'ah* (the principles of Islamic law), which safeguard life and posterity. The integration of these values makes judicial practice a concrete means of upholding the principles of public welfare and justice (Asni, 2021: 67-82).

While this harmonization has shown positive results, challenges to consistency remain. Cultural factors, traditional perceptions, and limited social data sometimes influence decisions, so that children's and women's rights are not always optimally guaranteed. However, judicial training and technical guidelines emphasizing the *maqāṣid al-syarī'ah* and human rights are beginning to lead to more progressive decisions. Each decision represents a small step toward a more humane judiciary, demonstrating that Islamic law can adapt to universal human rights standards without losing its identity. This harmonization demonstrates that law is not merely a formal rule, but a medium for upholding justice, the common good, and protecting the rights of the community (Wardhani, 2021: 21-31). This harmonization process demonstrates that judicial practice relies not only on legal texts but also coexists with real social dynamics. Judges are beginning to prioritize the interests of children and women, considering the psychological, social, and educational impacts of each decision. In some cases, the resulting decisions successfully balance the interests of all parties, demonstrating that the principles of *maqāṣid al-syarī'ah* can be effectively realized.

Despite differing perceptions and cultural pressures, this process creates space for fairer and more humane decisions. Each step demonstrates that Islamic law can adapt to universal human rights standards without losing its Islamic character. This process demonstrates that law is not merely a formality, but a means to uphold justice and the public good. However, the challenge of consistency remains, as judges' interpretations are sometimes influenced by local customs or limited social information. Therefore, ongoing training and technical guidelines that integrate the *maqāṣid al-syarī'ah* (objectives of sharia) and human rights are key. The protection of children and women is no longer merely theoretical, but is realized through progressive decisions that take into account the real context. Decisions like these reinforce the perception that the harmonization of Islamic law and human rights is a real and ongoing process. Every decision that The principles of justice and humanity that emerged from this practice affirm that Islamic law can coexist. In this way, the judiciary not only enforces regulations but also fosters a responsive, just, and humane legal culture. In addition to direct protection for children and women, the harmonization of Islamic law and human rights is also reflected in prevention efforts and public education (Nugroho & Dewi, 2020: 1-19).

The legal approach is no longer merely reactive but has become proactive, for example through the socialization of children's rights, campaigns against violence against women, and family development. These steps demonstrate that the judiciary plays a role as an agent of social change, not merely a formal adjudicator. In this context, the principle of *maqāṣid al-syarī'ah* serves as a guideline for creating a safe and supportive environment for children and women. Increased public awareness, coupled with progressive court decisions, opens up opportunities for the creation of a just and beneficial legal culture. Thus, the harmonization of Islamic law and human rights is not only visible in decisions but also in real and sustainable social transformation (Kusmayadi & Umam, 2023: 155).

## CONCLUSION

The harmonization of Islamic law in Indonesian judicial practice plays a crucial role in guaranteeing human rights, as the sharia values enshrined therein are fundamentally aligned with the principles of universal justice. This is evident in various aspects, particularly in family law, such as marriage, divorce, and child protection. Islamic law exists not only as a religious rule but also as an instrument for protecting the rights of individuals and groups. The application of Islamic law in judicial practice demonstrates that the principles of justice, equality, and humanity can coexist with human rights values, ensuring that they do not conflict. However, in practice, the implementation of this harmonization still faces several obstacles, including regulatory limitations, weak understanding among law enforcement officials, and cultural factors within society that sometimes create biases in viewing the relationship between sharia and human rights. These challenges must be addressed gradually so that Islamic law can be truly implemented in accordance with its purpose as a means of protecting rights and justice.

## BIBLIOGRAPHY

- Arfan, Abbas., Arfan, I. A., Alkoli, A., & Ramadhita, R. (2024). The Implementation of Maqashid Sharia: Heterogeneity of Scholars' Fatwas Towards Islamic Banking Contracts. *Legality: Jurnal Ilmiah Hukum*, 32(1), 105–128. <https://doi.org/10.22219/ljih.v32i1.32170>
- Asni, Asni. "Putusan Serta Merta dalam Perkara Hadhanah di Pengadilan Agama dalam Rangka Perlindungan Anak." *Al-Manahij: Jurnal Kajian Hukum Islam* 15, no. 1 (2021), 67–82. <https://doi.org/10.24090/mnh.v15i1.4115>
- Azhar, H. F. (2021). Muatan Hak Asasi Manusia dan Moral Hukum Putusan Hakim dalam Perspektif Maqāshid al-Syari'ah: Kajian Putusan Nomor 7P/HUM/2020. *Jurnal Yudisial*, 14(2), 247–269. <https://doi.org/10.29123/jy.v14i2.457>
- Caniago, M. A. I., & Wibowo, M. G. (2024). Determinants of Human Development Index in Indonesia with Maqashid Sharia approach. *Jurnal Ilmiah Ekonomi Islam*, 10(1), 200–209. <https://doi.org/10.29040/jiei.v10i1.12353>
- El-Mesawi, Mohamed El-Tahir, "Maqāshid al-Shari'ah: Meaning, Scope and Ramifications," *Al-Shajarah* 25, no. 2 (2020): 263–295, <https://doi.org/10.31436/shajarah.v25i2.1141>
- Fahmi, M. U., & Nasrulloh. "Hak Asuh Anak di Luar Nikah Perspektif Hukum Islam." *JSI: Journal of Scientific Interdisciplinary* 1, no. 4 (2024), 40–45. <https://doi.org/10.62504/jsi1036>
- Hakim, Lukman, & Kurniawan, Nalom. (2021). Membangun Paradigma Hukum HAM Indonesia Berbasis Kewajiban Asasi Manusia. *Jurnal Konstitusi*, 18(4), 869–897. <https://doi.org/10.31078/jk1847>
- Heriandita, P., Mutiara, S., Alwyni, F. F., Muttaqin, M. I., & Hannase, M. "The Role of Islamic Inheritance Law with a Maqasid al-Shariah Approach in Addressing the Challenges of Social Justice for Women." *AJIS: Academic Journal of Islamic Studies* 10, no. 1 (2025): 231. <https://doi.org/10.29240/ajis.v10i1.11931>
- Hermanto, Agus, *Maqashid al-Syari'ah: Metode Ijtihad dan Pembaruan Hukum Keluarga Islam* (Malang: Literasi Nusantara, 2022), hlm. 10.
- Heryani, M, Umar, H., & Ulum, B. (2022). Hak Perempuan dalam Amar Putusan Cerai Menurut Perspektif Maqashid Syari'ah Pada Pengadilan Agama Kuala Tungkal Kelas 1B. *Jurnal Ilmiah Mutiara Indonesia*, 2(4), 173–191. <https://doi.org/10.61404/jimi.v2i4.276>
- Hisbullah, Hanaping, Misbahuddin, Samin, S., Darma, A. M. R., Jaki, M., & Sofyan. (2022). Harmonisasi Syari'at dan Hakikat dalam Penerapan Hukum Islam di Indonesia: Kajian falsafah tasyri'. *Bilancia: Jurnal Studi Ilmu Syariah dan Hukum*, 16(2), 295. <https://doi.org/10.24239/blc.v16i2.1361>
- Ibrahim, Z. S., Karimullah, S. S., Assaad, A. I., Septiani, R., & Okur, H. (2025). Integration of Maqashid al-Shari'ah in the Criminal Law Reform to Achieve Justice and Human Dignity. *Jurnal Hukum Islam*, 23(1), 105–144. <https://doi.org/10.28918/jhi.v23i1.04>
- Ibrahim, Z. S., Karimullah, S. S., Sulastri, G. Y., & Okur, H. (2024). Islamic law and Human Rights: Convergence or Conflict?. Nurani: *Jurnal Kajian Syari'ah dan Masyarakat*, 24(2), 431. <https://doi.org/10.19109/nurani.v24i2.19595>

- Khoirurrisal, & Luthfi, Afnan. 2025. "Maqāṣid al-Syarī 'ah dan Ketahanan Keluarga Berbasis Komunitas: Peran Muhammadiyah dan NU di Perkotaan Indonesia." *JSHI: Jurnal Syariah Hukum Islam* 4(1): 39. <https://doi.org/10.47902/jshi.v4i1.418>
- Kusmayadi, Rudy Catur Rohman & Umam, Khoirul. 2023. "KDRT dalam Perspektif Maqashid Syariah." *Jurnal Pusaka: Media Kajian dan Pemikiran Islam* 13 (02): 155. <https://doi.org/10.35897/ps.v13i02.1315>
- Mahkamah Konstitusi Republik Indonesia. 2017. *Putusan Nomor 22/PUU-XV/2017 tentang Uji Materi Undang-Undang Perkawinan*. Jakarta: Mahkamah Konstitusi RI.
- Muhaimin, *Metode Penelitian Hukum* (Mataram: Mataram University Press, 2020), hlm. 45.
- Muhajir, M., Talli, A. H., dan Kiljamilawati. "Tinjauan Yuridis Terhadap Hak Pemeliharaan Anak Akibat Perceraian di Pengadilan Agama Kelas I B Parepare Tahun 2021–2022." *Qadauna: Jurnal Ilmiah Mahasiswa Hukum Keluarga Islam* 4, no. 3 (2023): 889. <https://doi.org/10.24252/qadauna.v4i3.37124>
- Mukharrom, T., & Abdi, S. (2023). Harmonizing Islam and Human Rights Through the Reconstruction of Classical Islamic Tradition. *Samarah: Jurnal Hukum Keluarga dan Hukum Islam*, 7(1), 40–57. <https://doi.org/10.22373/sjhc.v7i1.16436>
- Nazah, F. N., Gustiana, R., Saadah, T., & Suryadi, A. (2025). Gender Justice in Child Custody Disputes: The Maqāṣid al-Sharī 'ah Approach in Contemporary Judicial Practice. *MILRev: Metro Islamic Law Review*, 4(2), 1328. <https://doi.org/10.32332/milrev.v4i2.10790>
- Nugroho, Arifin, & Dewi, R. 2020. "Enhancing Mechanisms for Protecting Women's Rights within Islamic Family Law: A Comparative Study of Indonesia and Middle Eastern Practices." *Indonesian Journal of Islamic Law* 3 (2): 1–19. <https://doi.org/10.35719/ijil.v3i2.2005>.
- Ramadan, Putra, Munir, Badrul dan Amri, Aulil. "Tinjauan Maqāṣid Syariah terhadap Penolakan Hakim dalam Gugatan Hak Asuh Anak bagi Ayah ataupun Ibu." *Al Fuadiy: Jurnal Hukum Keluarga Islam* 7, no. 2 (2025): 128. <https://doi.org/10.55606/af.v7i2.1674>
- Rellang, A., Kamilah, & Nazaruddin. (2024). Penggunaan Prinsip Hak Asasi Manusia untuk Menyelesaikan Konflik Agama di Indonesia: Pandangan Hukum Nasional dan Islam. *Al-Ahkam: Jurnal Hukum Pidana Islam*, 6(1), 33. <https://doi.org/10.47435/al-ahkam.v6i1.2445>
- Republik Indonesia. 2004. *Undang-Undang Nomor 23 Tahun 2004 tentang Penghapusan Kekerasan dalam Rumah Tangga*. Lembaran Negara Republik Indonesia Tahun 2004 Nomor 110.
- Royani, Y. M., & Park, H. C. (2023). Striking a balance: Exploring Harmony in Indonesian Criminal Law and Islamic Jurisprudence. *Walisongo Law Review (Walrev)*, 5(2), 155. <https://doi.org/10.21580/walrev.2023.5.2.18196>
- Sofian, Muhamad. 2023. "Penegakan Hukum HAM Ditinjau dari Perspektif Hukum Maqashid Syariah." *Juris Humanity: Jurnal Riset dan Kajian Hukum Hak Asasi Manusia* 2, no. 1: 29–46. <https://doi.org/10.37631/jrkhm.v2i1.16kh>

- Suhaili, A. (2025). Integrasi Maqāṣid al-Syarī‘ah dalam Praktik Peradilan Agama di Indonesia: Studi Alternatif Penyelesaian Sengketa Keluarga. *Mabahits: Jurnal Hukum Keluarga Islam*, 6(1), 29. <https://doi.org/10.62097/mabahits.v6i01.2236>
- Wardhani, Karenina Aulery Putri. 2021. “Perlindungan Hukum terhadap Perempuan Korban Kekerasan Dalam Rumah Tangga (KDRT) pada Tingkat Penyidikan berdasarkan Undang-Undang No. 23 Tahun 2004 tentang Penghapusan Kekerasan Dalam Rumah Tangga (UUPKDRT).” *Jurnal Riset Ilmu Hukum (JRIH)* 1, no. 1: 21–31. <https://doi.org/10.29313/jrih.viii.70>
- Warsidi, M., Musthofa, M., & Fahham, A. Implementasi Maqāṣid al-Syarī‘ah dalam Pertimbangan Hakim pada Sengketa Ekonomi Syariah. *Maqasid: Jurnal Hukum Islam*, Vol. 14, No. 3 (2024), <https://doi.org/10.30651/mqsd.v14i3.28691>
- Widiawan, M. R. “Hak Asasi Manusia dalam Perspektif Hukum Islam dan Relevansinya di Indonesia,” *Lentera Ilmu* 2, no. 1 (2025): 100–110, <https://doi.org/10.59971/li.viii.82>
- Yusmita, Y., Sitorus, I. R., Shesa, L., Rachman, E. S., & Sa’adah, S. L. (2025). Legal Pluralism and the Transformation of Islamic Inheritance law: A Study of Sasak Customary Practices in Indonesia. *Al-Istinbath: Jurnal Hukum Islam*, 10(2), 831. <https://doi.org/10.29240/jhi.v10i2.12500>
- Yustitiantingtyas, L., & Krisnawati, N. D. (2024). Enforcement of Human Rights in the Perspective of Islam and Shariah in Indonesia. *The Journal of Socio-Legal and Islamic Law*, 3(1), 1–8. <https://doi.org/10.30651/jssl.v3i1.22326>
- Zahrah, M. Abu. *Uṣūl al-Fiqh* (Kairo: Dār al-Fikr al-‘Arabī, 2020), hlm. 55.
- Zulhairi. 2025. “Perilaku Seksual Menyimpang dan KDRT Sebagai Alasan Perceraian: Studi Komparatif atas Dua Putusan Pengadilan Agama.” *Tahkim: Jurnal Peradaban dan Hukum Islam* 8 (1), 102. <https://doi.org/10.29313/tahkim.v8i1.8182>.