



Islamic Legal Philosophy in a Reinterpretation of Social Justice

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Article info:	Abstract
Keywords: <i>Contextual justice, Islamic legal philosophy, Literal obedience, Reinterpretation, Social justice</i>	When justice (<i>'adl</i>) in Islamic law is reduced to a textual adherence devoid of social context, a philosophical reinterpretation becomes imperative. This study aims to reconstruct the concept of social justice in Islamic law through an integrative and critical approach to the philosophy of law. This study employs a qualitative approach with a legal philosophy analysis design that is both normative-critical and interpretative-hermeneutic. The results confirm that the main problem with contemporary Islamic law does not fundamentally lie in the limitations of the norms or the absence of the principle of justice in the sources of <i>shari'ah</i>, but rather in an epistemological failure to reinterpret justice as a living, dynamic and contextual social praxis. In empirical reality, Islamic law is often trapped in a legalistic approach that prioritises textual compliance as the primary objective, thereby neglecting the substantive dimension of justice itself. Consequently, the law risks becoming an instrument for legitimising social inequality, particularly when legal interpretation is influenced by patriarchal biases, political interests and economic domination that hinder the protection of vulnerable groups. Therefore, this study emphasises the need for a paradigm shift from a focus on formal compliance towards contextual justice that integrates the <i>maqāṣid al-shari'ah</i>, prophetic ethics, and modern theories of social justice within a single transformative framework which not only upholds the normative legitimacy of Islamic law but also ensures its relevance in addressing contemporary issues of injustice.
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Introduction

The debate regarding social justice within the context of contemporary Islamic law has come to the fore as social structures grow increasingly complex, economic inequalities widen, and global political dynamics affect Muslim communities across the world. Social justice, which in the Islamic tradition is rooted in the principles of *al-'adl* and *al-qist*, was originally understood as a normative value inherent in the entire structure of *sharī'ah*.¹ However, in historical practice, it has often been reduced to a mere formal legal norm, detached from its ethical and contextual dimensions. This situation creates tension between normative texts and social reality, particularly when Islamic law confronts issues such as the unequal distribution of resources, the marginalisation of vulnerable groups, and structural injustices that are not fully accommodated within classical *fiqh* formulations.

Within the landscape of Islamic legal philosophy, several approaches have been developed to explain the relationship among law, morality, and justice. The normative-theological approach, rooted in classical *ushul al-fiqh*, tends to position justice as a derivation of divine will manifested in revelatory texts.² Consequently, legal interpretation focuses more on textual authority and the methodology of *istinbāt*. On the other hand, the rational-critical approach, influenced by modern thought, opens the door to reinterpreting the concept of justice through dialogue with Western philosophical theories, such as distributive justice and justice as fairness.

Recent studies indicate efforts to integrate *maqāṣid al-sharī'ah* as a more flexible normative framework in responding to the needs of social justice, emphasising the protection of the five fundamental principles (religion, life, intellect, lineage, and property) and their extension to the broader dimension of the public interest.³ However, this approach still faces criticism because it often remains at a conceptual level, lacking the methodological elaboration needed to be operational within the context of policy and legal practice.

Several previous studies have made significant contributions to linking Islamic law with issues of social justice, particularly through the exploration of the concepts of *maqāṣid*, distributive justice, and social ethics in Islam.⁴ These studies generally emphasise that Islamic law possesses strong normative potential to promote social justice, particularly through instruments such as *zakat*, *waqf*, and the prohibition of *riba*.⁵ Other studies suggest that reinterpreting legal texts through a contextual hermeneutical

¹ Suud Sarim Karimullah, "The Relevance of the Concept of Justice in Islamic Law to Contemporary Humanitarian Issues," *Al-Ahkam: Jurnal Ilmu Syari'ah Dan Hukum* 8, no. 1 (2023): 83–98, <https://doi.org/10.22515/alakhkam.v8i1.7654>; Sumiyati Beddu et al., "From Doctrine to Action: Islamic Law's Journey towards Social Change," *Jurnal Wawasan Yuridika* 8, no. 1 (2024): 1–24, <https://doi.org/10.25072/jwy.v8i1.4177>.

² Azwarfajri Azwarfajri et al., "The Construction of Contemporary Maqasid: A Paradigm Shift from Textual to Contextual Approaches," *Jurnal Pemikiran Islam* 5, no. 2 (2025): 197–218, <https://doi.org/10.22373/jpi.v5i2.32960>.

³ Zumiyati Sanu Ibrahim et al., "Integration of Maqasid Al-Shari'ah in the Criminal Law Reform to Achieve Justice and Human Dignity," *Jurnal Hukum Islam* 23, no. 1 (2025): 105–44.

⁴ Ismail Saifnazarov et al., "The Interplay between Sharia Law, Religious Principles, and Social Justice in the Islamic Tradition," *Pharos Journal of Theology* 106, no. 3 (2025), <https://doi.org/10.46222/pharosjot.106.3033>; Juliyan Junaidi, Latifah Abdul Majid, and Mohd Arif Nazri, "Revisiting Social Justice: Exploring the Qur'anic Paradigm in Addressing Contemporary Challenges," *Afkar: Jurnal Akidah Dan Pemikiran Islam* 25, no. 2 (2023): 153–92, <https://doi.org/10.22452/afkar.vol25no2.5>; Habib Ahmed, "Islamic Normative Legal Theory: Framework and Applications," *Journal of Law and Religion*, 2025, 1–31, <https://doi.org/10.1017/jlr.2025.10056>.

⁵ Rohmawati Rohmawati, Muhammad Zulfan Abdusyakur, and Ghazy Ahmad Filando, "The Dynamics of Islamic Law in the Practice of Modern Religious Philanthropy," *Insani: Jurnal Pranata Sosial Hukum Islam* 1, no. 2 (2025): 144–61, <https://doi.org/10.65586/insani.v1i2.41>; Akmal Bashori, Arif Sugitanata, and Suud Sarim Karimullah, "Dekonstruksi Pemaknaan Mualaf Sebagai Penerima Zakat Di Indonesia," *DIKTUM: Jurnal Syariah Dan Hukum* 22, no. 1 (2024): 11–23, <https://doi.org/10.35905/diktum.v22i1.5027>.

approach can open up space for a more inclusive and progressive reading of issues such as gender equality, minority rights, and economic justice.⁶

This study possesses characteristics that distinguish it significantly from various previous studies on *maqāṣid al-sharī'ah*, social justice and the philosophy of Islamic law. Unlike previous studies, which tended to treat these three fields separately and in a sectoral manner, this study seeks to construct an integrative framework that combines normative, philosophical and practical dimensions within a single, coherent analytical framework. Most previous studies on *maqāṣid al-sharī'ah* have generally focused on the objectives of Islamic law within the framework of protecting the five fundamental principles (*al-darūriyyāt al-khams*), but have not yet thoroughly linked them to the complex and multidimensional issues of contemporary social justice.⁷ On the other hand, studies on social justice in Islam often emphasise only the moral aspects and the distribution of welfare without developing a strong epistemological foundation within the philosophy of Islamic law.⁸ Meanwhile, studies on the philosophy of Islamic law itself tend to centre on methodological and historical issues without being specifically directed towards the formulation of an applicable model of social justice within the context of modern society.⁹

This study offers a different approach through the development of a conceptual model that explicitly integrates the ontological, epistemological and axiological dimensions of social justice within the framework of Islamic law. This approach is significant because the issue of justice is not merely concerned with the normative validity of a rule, but also relates to the way in which legal knowledge is constructed, interpreted and applied within social reality. Consequently, this study does not stop at a textual reading of the principles of *sharī'ah*, but also links them to the socio-political dynamics underpinning legal practice.¹⁰ This analysis demonstrates that justice in Islam cannot be understood merely as an abstract and normative concept, but must be positioned as an instrument of social transformation aimed at creating the collective common good and eliminating various forms of structural inequality.

Another novelty that characterises this study lies in the use of a critical hermeneutic approach to bridge the tradition of Islamic law with contemporary theories of justice. Unlike previous research, which tended to pit Western and Islamic thought against one another in a dichotomous manner, this article develops a critical dialogue between these

⁶ Husnul Fatarib et al., "Progressive Legal Reasoning in Contemporary Islamic Legal Reform: Negotiating the Maqāṣid and Hermeneutic Approaches," *JURIS (Jurnal Ilmiah Syariah)* 24, no. 2 (2025): 277–94, <https://doi.org/10.31958/juris.v24i2.16123>; Abdul Karim and Moh Muhtador, "Re-Examining Social Verses through Justice and Inequality: A Critical Hermeneutical Approach to Qur'anic Exegesis," *QOF* 9, no. 2 (2025): 279–300, <https://doi.org/10.30762/qof.v9i2.3251>.

⁷ Edi Kurniawan et al., "Recent Studies on the Maqāṣid Al-Sharī'ah of Abū Ishāq Al-Shāṭibi: A Systematic Literature Review," *AJIS: Academic Journal of Islamic Studies* 10, no. 1 (2025): 1–26, <https://doi.org/10.29240/ajis.v10i1.11282>; Akhmad Sulaiman et al., "Ideology, Maqāṣid, and Politics: The Paradox of Al-Qaraḍāwī's Islamist Thought," *Asy-Syir'ah: Jurnal Ilmu Syari'ah Dan Hukum* 59, no. 2 (2025): 171–90, <https://doi.org/10.14421/ajish.v59i2.1615>.

⁸ Maulana Afandito, "From Maqāṣid Shariah to Policy An Epistemological Framework for Ethical, Holistic, and Sustainable Islamic Economic Development," *El-Qish: Journal of Islamic Economics* 5, no. 2 (2025): 180–91, <https://doi.org/10.33830/elqish.v5i2.13308.2025>; Mughees Shaukat, Bushra Shafique, and Araby Madbouly, "Islamic Framework for Behavioral and Socio-Economic Justice," in *Islamic Finance in the Modern Era* (Routledge, 2024), 52–78, <https://doi.org/10.4324/9781003366751-5>.

⁹ Wildani Hefni, Imam Mustofa, and Rizqa Ahmadi, "Looking for Moderate Fiqh: The Thought of Mohammad Hashim Kamali on the Reformation of Rigidity and Inflexibility in Islamic Law," *Al-Istinbath: Jurnal Hukum Islam* 10, no. 1 (2025): 30–57, <https://doi.org/10.29240/jhi.v10i1.10694>; Imat Hibbatulloh et al., "The Secularisation of Islamic Criminal Law and Its Implications for the Protection of Human Rights in Indonesia," *Insani: Jurnal Pranata Sosial Hukum Islam* 1, no. 1 (2025): 17–31, <https://doi.org/10.65586/insani.v1i1.7>.

¹⁰ Qadriani Arifuddin, Asep Saifuddin, and Noorhani Dyani Laksmi, "Islamic Law in Contemporary Indonesian Local Political Culture," *Insani: Jurnal Pranata Sosial Hukum Islam* 1, no. 2 (2025): 162–77, <https://doi.org/10.65586/insani.v1i2.47>.

two traditions of thought in order to produce a conceptual synthesis that is more relevant to the context of modern Muslim societies. This approach enables *maqāṣid al-sharī'ah* to be understood not only as the normative objectives of the law, but also as an ethical and methodological paradigm capable of adapting to social change without losing its epistemological foundation.

This study pays particular attention to the pluralistic context of contemporary Muslim societies, characterised by cultural, economic and political diversity. Previous studies have generally remained universalistic in nature and have failed to adequately consider the social complexities that influence the application of Islamic law in modern states. This article, however, positions plurality as a key variable in reinterpreting the concept of social justice, thereby yielding a perspective that is more contextual and responsive to the challenges of contemporary injustice. This analysis demonstrates that the implementation of justice within Islamic law requires an adaptive and dialogical approach to remain relevant in addressing issues of poverty, marginalisation, discrimination, and unequal access to social and legal resources.

The fundamental distinction between this article and previous studies lies in its ability to construct an interdisciplinary synthesis between *maqāṣid al-sharī'ah*, the philosophy of Islamic law, contemporary theories of justice, and critical social analysis within a coherent framework. This article not only broadens the theoretical horizons regarding social justice in Islam but also offers a methodological contribution that can be utilised to formulate legal and social policies that are fairer, more inclusive and oriented towards societal transformation. Consequently, this study holds both academic and practical relevance in the endeavour to develop an Islamic legal paradigm capable of addressing the challenges of social justice in the modern era.

Methods

This study employs a qualitative approach with a normative-critical and interpretative-hermeneutic legal philosophy analysis design, chosen for its ability to reconstruct the meaning of social justice in Islamic law in depth through a dialogue between normative texts, social contexts, and contemporary theories of justice. The focus of the study is directed at the concept of social justice in Islamic law, operationalised into ontological dimensions (the nature of justice as a divine and social value), epistemological dimensions (methods of deriving and interpreting principles of justice through *ushul al-fiqh*, *maqāṣid al-sharī'ah*, and modern theories of justice), and axiological dimensions (the practical implications of justice in social life and public policy). The research subjects comprise qualitative data sources, including primary texts (the Qur'an, hadith, and classical works on *ushul al-fiqh*) and secondary texts (contemporary literature on the philosophy of Islamic law, theories of justice, and recent academic articles), selected using purposive sampling based on conceptual relevance.

The research instruments are supported by document analysis guidelines and a conceptual categorisation matrix developed through the construction of thematic indicators, with data validity tested through source triangulation, observational rigour, and conceptual trace audits to ensure interpretative consistency. Data collection was carried out in stages through literature identification, critical selection, thematic classification, and iterative in-depth reading.¹¹ Data analysis utilised qualitative content analysis techniques combined with a critical hermeneutic approach and comparative-

¹¹ Muhammad Naeem et al., "A Step-by-Step Process of Thematic Analysis to Develop a Conceptual Model in Qualitative Research," *International Journal of Qualitative Methods* 22 (2023): 16094069231205788, <https://doi.org/10.1177/16094069231205789>.

conceptual analysis to interpret, compare, and synthesise various perspectives on justice, thereby producing a coherent theoretical framework relevant to the study's objective of reformulating social justice within the framework of contemporary Islamic legal philosophy.

Result and Discussion

A Reconstruction of the Concept of Justice (*'Adl*) in Islamic Legal Philosophy Based on the Contemporary Indonesian Context

In the Islamic tradition, justice is not merely an abstract ethical principle, but the ontological foundation of a legal and social order oriented towards balance, proportionality and the common good. However, in historical practice, this concept has often been reduced to a legalistic framework that emphasises formal adherence to the text rather than a substantive commitment to social justice. From a normative-theological perspective, the concept of justice in Islam has deep roots in the Qur'an and Hadith, which consistently position it as a universal principle that transcends social, ethnic, and religious boundaries. The Qur'an affirms the command to uphold justice, even towards oneself or groups one dislikes, as reflected in verses emphasising honesty, balance, and the prohibition of oppression.¹²

Justice is understood not only as the distribution of rights and obligations, but also as a manifestation of piety and humanity's moral responsibility as stewards of the earth. The Prophet's Hadith also reinforces the ethical dimension of justice by emphasising the importance of empathy, the protection of the vulnerable, and the prohibition of exploitation. Within the intellectual heritage of classical scholars, the concept of justice (*'adl*) was systematically developed within the framework of legal philosophy and political ethics. Al-Ghazali, for example, viewed justice as a balance between the rational, emotional, and instinctual forces within the human being, which is then reflected in a harmonious social order. From his perspective, Islamic law aims to safeguard the five fundamental principles (*al-darūriyyāt al-khams*), namely religion, life, reason, lineage, and property, all of which are manifestations of divine justice in human life.

Justice, in this context, relates not only to the distribution of resources but also to the protection of fundamental human rights.¹³ Meanwhile, Ibn Rushd offers a more rational and philosophical approach by emphasising the compatibility between law and reason, as well as the role of justice in creating a rational and civilised social order. He views law as an instrument for achieving collective happiness (*al-sa'ādah al-madaniyyah*), which can only be realised through the application of rational and contextual principles of justice. Although both figures made significant contributions to formulating the concept of justice in Islam, their approaches remain within a relatively homogeneous social and political context, which makes them difficult to apply to more complex modern societies.

In contemporary Indonesia, challenges to social justice are becoming increasingly complex due to the interplay of economic, political, and cultural factors that give rise to various forms of inequality and marginalisation.¹⁴ Indonesia, as a country with a Muslim majority yet a pluralistic society, faces a dilemma in integrating Islamic values of justice

¹² Suyuti Dahlan Rifa'i et al., "Qur'anic Narratives on Nature and Ecological Activism in Indonesia," *Jurnal Lentera Insani* 1, no. 2 (2025): 126–40, <https://doi.org/10.65586/jli.v1i2.27>.

¹³ Suud Sarim Karimullah, "Humanity and Justice: Exploring Human Rights in the Context of Islamic Law," *TAJIDID* | 30, no. 2 (2023): 166–87, <https://doi.org/10.36667/tajdid.v30i1.1497>; Zumiyati Sanu Ibrahim et al., "Islamic Law and Human Rights: Convergence or Conflict?," *Nurani: Jurnal Kajian Syari'ah Dan Masyarakat* 24, no. 2 (2024): 431–48, <https://doi.org/10.19109/nurani.v24i2.19595>.

¹⁴ Rizal Al Hamid et al., "Political Conflict between Islamic Law and National Law in Indonesia," *Insani: Jurnal Pranata Sosial Hukum Islam* 1, no. 1 (2025): 48–62, <https://doi.org/10.65586/insani.v1i1.4>.

with the principles of democracy and diversity.¹⁵ In this regard, the reconstruction of the concept of justice (*'adl*) cannot be undertaken solely on a textual basis, but must take into account the surrounding social context. Economic inequality, for instance, indicates that the distribution of resources does not yet fully reflect the principle of substantive justice, whilst the marginalisation of certain groups, such as indigenous communities or minority groups, demands a more inclusive and participatory approach to justice. Therefore, the concept of justice in Islamic legal philosophy needs to be reformulated to address these issues in concrete terms.

One relevant approach in this reconstruction is the integration of Islamic concepts of justice with local Indonesian values, such as *gotong royong* and social justice within the Pancasila.¹⁶ *Gotong royong*, as a cultural value emphasising solidarity and cooperation, aligns strongly with Islamic principles of justice that emphasise collective responsibility and concern for one's fellow human beings.¹⁷ Similarly, the fifth principle of Pancasila, which emphasises social justice for all the people of Indonesia, can be understood as a modern articulation of the Islamic principle of justice oriented towards the common good.

This integration not only enriches our understanding of justice but also provides a stronger normative foundation for its implementation in public policy and social practice. In this regard, justice is no longer understood as a static concept but as a dynamic process involving the interaction between religious, cultural, and political values.¹⁸ The reconstruction of justice (*'adl*) in the Indonesian context also requires an adaptive approach to social change and global challenges. Globalisation, urbanisation, and technological development have significantly altered society's social structure, thereby demanding a paradigm of justice capable of responding to these dynamics.

The concept of *maqāṣid al-sharī'ah* can serve as a flexible normative framework for integrating values of justice across various spheres of life, including the economy, education, and the environment.¹⁹ By emphasising the law's objectives oriented towards the public good, this approach allows for innovation in legal interpretation whilst remaining rooted in the fundamental principles of Islam. However, this approach must be complemented by in-depth social analysis to avoid becoming trapped in normative generalisations that lack operational applicability. Based on the above discussion, this study proposes a model of contextual justice as a form of reconstruction of the concept of justice (*'adl*) within Islamic legal philosophy that is relevant to the contemporary Indonesian context.

¹⁵ Andi Luhur Prianto et al., "Hijacking of State Power on Religious Freedom by Community Organizations in Indonesia," *Jurnal Ilmiah Islam Futura* 24, no. 2 (2024): 348–67, <https://doi.org/10.22373/jiif.v24i2.17916>.

¹⁶ Muhammad Ilham Daffa et al., "The Narrative of New Order Development in the Relationship between Pancasila and the Legitimacy of Power," *Jurnal Pelita Raya* 1, no. 3 (2025): 215–30, <https://doi.org/10.65586/jpr.v1i3.34>; M Nawawi et al., "The Meaning of Pancasila in Civil Society Movements for Strengthening Democracy," *Jurnal Pelita Raya* 1, no. 3 (2025): 166–81, <https://doi.org/10.65586/jpr.v1i3.31>.

¹⁷ Bahrul Ulum et al., "The Narrative of Pancasila as Indonesia's Moral Identity in Global Politics," *Jurnal Pelita Raya* 1, no. 3 (2025): 182–97, <https://doi.org/10.65586/jpr.v1i3.32>; Mohammad Azka Al Azkiya, Ilhamda Fattah Kaloko, and Aisyah Chairil, "The Dynamics of Transnational Religious Movements on the Resilience of the Pancasila Ideology," *Jurnal Pelita Raya* 1, no. 3 (2025): 198–214, <https://doi.org/10.65586/jpr.v1i3.33>; Ngurah Wisnu Murthi et al., "Indonesia's Inclusive Economic Diplomacy Based on the Pancasila Ideology," *Jurnal Pelita Raya* 1, no. 3 (2025): 152–65, <https://doi.org/10.65586/jpr.v1i3.30>.

¹⁸ Maulana Hayatullah, Moh Arrofiar Rohman, and Novan Gonzales, "Analysis of Shiite Political Thought in Iran and Its Influence in Indonesia," *Jurnal Lentera Insani* 1, no. 1 (2025): 16–31.

¹⁹ Suud Sarim Karimullah, "Exploration of Maqasid Al-Shariah Concepts in the Development of Islamic Economic Policies," *Mu'amalah: Jurnal Hukum Ekonomi Syariah* 2, no. 2 (2023): 153–72, <https://doi.org/10.32332/muamalah.v2i2.7747>; Rosdalina Bukido, Muhammad Azhar Muslih, and Suud Sarim Karimullah, "Family Economic Empowerment Strategies in Gangga II Village: A Maqashid Shariah Perspective," *Al-Mujtahid: Journal of Islamic Family Law* 5, no. 1 (2025): 1–12, <https://doi.org/10.30984/ajifl.v5i1.3438>.

Contextual justice is understood as an approach that combines the normative, ethical, and social dimensions of justice, whilst taking into account the specific context in which the law is applied. This model emphasises that justice is not merely measured by conformity with normative texts, but also by its impact on social welfare and the reduction of inequality. Within this framework, Islamic law is not positioned as a rigid system but as a source of values that can be creatively interpreted to address society's needs. Contextual justice also emphasises the importance of public participation in the process of legal interpretation and implementation, thereby creating space for dialogue between various social groups.

The Dialectic of *Maqāṣid Al-Sharī'ah* and Social Justice in a Democratic State

The dialectic between *maqāṣid al-sharī'ah* and social justice within the context of a democratic state, particularly in Indonesia, demands a philosophical interpretation that does not merely view Islamic law as a static normative system, but as a dynamic and transformative ethical framework for responding to the complexities of modern life. In the classical tradition, *maqāṣid al-sharī'ah* is understood as the primary objectives to be achieved by Islamic law, generally formulated in five fundamental principles: *ḥifẓ al-dīn* (protection of religion), *ḥifẓ al-naḥs* (protection of life), *ḥifẓ al-'aql* (protection of reason), *ḥifẓ al-nasl* (protection of lineage), and *ḥifẓ al-māl* (protection of property). These five principles constitute an articulation of the vision of justice in Islam, oriented towards the preservation of human dignity and social balance. However, in its historical development, *maqāṣid* has often been reduced to a normative justification for existing legal products, without further exploration of its potential as a critical framework for analysing and transforming social reality.

Within the framework of a democratic state, social justice is understood not only as a moral principle but also as a political objective that must be realised through public policy, the distribution of resources, and the protection of citizens' rights. Indonesia, as a constitutional state founded on Pancasila and the constitution, places social justice among the main pillars of state administration. However, reality shows that various forms of structural inequality persist, such as economic disparities between regions, unequal access to education and healthcare services, and weak enforcement of just laws. In this context, *maqāṣid al-sharī'ah* can serve as a philosophical framework that not only provides normative legitimacy but also offers a critical perspective on public policies that are inconsistent with the principle of justice.

The application of the five fundamental principles of *maqāṣid* in this context enables a comprehensive analysis of various aspects of social life. The principle of *ḥifẓ al-dīn*, for instance, relates not only to religious freedom but also to the protection of pluralism and tolerance within a multicultural society. In the Indonesian context, this means that the state must guarantee freedom of religion whilst preventing discrimination against minority groups.²⁰ The principle of *ḥifẓ al-naḥs* demands the protection of human life, which in practice encompasses access to healthcare, protection from violence, and social security guarantees.

The principle of *ḥifẓ al-'aql* relates to the development of human intellectual capacity, implying the importance of quality and equitable education. Meanwhile, *ḥifẓ al-nasl* concerns generational continuity, encompassing the protection of families, children, and a healthy social environment. As for *ḥifẓ al-māl*, it emphasises the importance of

²⁰ Faizah Abdullah Latif, Moh Dahhur, and Sasi Sabila Musakinah Ramadhany, "Protection of Freedom of Religion in Islamic Law in Secular Turkey and Its Relevance for Indonesia," *Insani: Jurnal Pranata Sosial Hukum Islam* 1, no. 1 (2025): 1-16, <https://doi.org/10.65586/insani.v1i1.1>.

economic justice, including the fair distribution of wealth and the protection of property rights. From a legal philosophy perspective, Islamic law can be understood as a normative ethical system that not only regulates individual behaviour but also shapes a just social structure. In this regard, *maqāṣid al-sharī'ah* serves as a bridge between legal norms and ethical values, thereby enabling the integration of legal and moral dimensions in legal practice. However, to function effectively within a democratic context, *maqāṣid* must be developed as a tool for social critique capable of identifying inequalities and injustices in public policy.

On the issue of economic inequality, the principle of *ḥifẓ al-māl* can be used to critique fiscal policies that do not favour low-income people and to promote the redistribution of resources through instruments such as zakat, progressive taxation, and social welfare programmes.²¹ In the field of education, the principle of *ḥifẓ al-'aql* can serve as a basis for demanding equal access and improved quality of education, so that every individual has an equal opportunity to develop their intellectual potential. Meanwhile, within the judicial system, the principle of justice in the *maqāṣid* can be used to evaluate the integrity and independence of legal institutions and to ensure that the law is enforced fairly without discrimination.

The development of the *maqāṣid* as a framework for social transformation demands a paradigm shift from merely legal objectives to an instrument of social change based on distributive and inclusive justice. In this regard, *maqāṣid* is no longer understood as a rigid normative constraint, but as a dynamic principle that can be interpreted contextually to address the challenges of the times. This approach aligns with the concept of distributive justice in modern philosophy, particularly in the thought of John Rawls, which emphasises the importance of the fair distribution of resources and the protection of the most vulnerable groups.

In Rawls's theory, justice as fairness demands that social and economic inequalities are only justifiable if they provide the greatest benefit to the least advantaged.²² This principle resonates strongly with the concept of *maṣlaḥah* in Islam, which emphasises the public good as the primary objective of the law. By integrating these two perspectives, *maqāṣid al-sharī'ah* can be developed into a theoretical framework that is not only normative but also operational in the realisation of social justice.

In the Indonesian context, the integration of *maqāṣid* with modern concepts of social justice must also take into account local values and applicable constitutional principles. Pancasila, as the state ideology, embodies the values of social justice, humanity, and unity that align with the principles of *maqāṣid*. Therefore, the development of *maqāṣid* as a framework for social justice must be achieved through dialogue between Islamic tradition and national values, thereby producing a contextual and inclusive synthesis. In practice, this can be realised through public policies oriented towards the common good, community participation, and the protection of vulnerable groups. Furthermore, this approach demands reforms to the legal and institutional systems to ensure that principles of justice are effectively implemented.

²¹ Lalu Hendri Nuriskandar et al., "The Convergence of Islamic Law and Customary Law in the Management of Zakat in Indonesia and Malaysia," *Insani: Jurnal Pranata Sosial Hukum Islam* 1, no. 1 (2025): 63–79, <https://journal.mahkotascience.org/index.php/insani/article/view/5>; Mu'adil Faizin et al., "Development of Zakat Distribution in the Disturbance Era," *Jurnal Ilmiah Mizani: Wacana Hukum, Ekonomi Dan Keagamaan* 10, no. 2 (2024): 186–97, <https://doi.org/10.29300/mzn.v10i2.2997>.

²² Charles R Beitz, "Rawls's Law of Peoples," *Ethics* 110, no. 4 (2000): 669–96, <https://doi.org/10.1086/233369>.

An Epistemological Critique of Formal Islamic Legal Practice from the Perspective of Social Justice

Epistemological criticism of the practice of formal Islamic law from the perspective of social justice stems from the assumption that law never exists in a neutral space, but is always influenced by the constructions of knowledge, power relations and the socio-political context in which it is embedded. In the Indonesian context, the institutionalisation of Islamic law through the religious courts, the Compilation of Islamic Law (KHI), Law No. 7 of 1989 on Religious Courts and its subsequent amendments, as well as various fatwas issued by the Indonesian Ulema Council (MUI), demonstrates that Islamic law has become an integral part of the national legal system.²³ However, these developments do not always go hand in hand with the realisation of substantive justice, particularly for vulnerable groups such as women, children and the underprivileged. The practice of formal Islamic law still exhibits a legalistic tendency that prioritises adherence to texts and procedures as the primary objective, whilst the ethical and social dimensions of justice are often not given adequate attention.

In the practice of religious courts, this issue can be seen concretely in cases of divorce, polygamy and the division of joint property. The KHI, for example, through Article 79, designates the husband as the head of the family and the wife as the housewife.²⁴ This normative formulation indirectly reproduces patriarchal relations by assuming a division of domestic and public roles based on gender.²⁵ In practice, this assumption influences judges' deliberations in cases concerning maintenance, child custody and the division of joint property. Many divorce rulings still reflect a tendency whereby women must demonstrate greater suffering than men in order to secure their full rights.²⁶

In a number of divorce cases brought before religious courts, women who are the primary breadwinners still face difficulties in obtaining a proportional division of assets, as their domestic economic contributions are often not regarded as equivalent to their husbands' financial contributions.²⁷ This demonstrates that formal law still operates within a gender-biased epistemological framework. Patriarchal bias is also evident in the regulation of polygamy.²⁸ Law No. 1 of 1974 on Marriage and the Compilation of Islamic

²³ Moh Rosil Fathony et al., "Resistance to Gender Equality: Criticism of Physical Violence from the PKDRT Law Perspective," *Indonesian Journal of Islamic Law* 7, no. 1 (2024): 105–24, <https://doi.org/10.35719/1xjdkk59>.

²⁴ Suud Sarim Karimullah, "A Feminist Critique of the Practice of Polygamy in the Context of Islamic Law and Human Rights," *Indonesian Journal of Law and Islamic Law (IJLIL)* 6, no. 1 (2024): 38–53; Arif Sugitanata, Suud Sarim Karimullah, and Faradila Hasan, "Dinamika Dalam Praktik Pernikahan: Tawaran Untuk Mengurangi Prevalensi Poligami Di Era Kontemporer," *AT-THARIQ: Jurnal Studi Islam Dan Budaya* 4, no. 01 (2024): 33–41, <https://doi.org/10.57210/trq.v4i01.284>.

²⁵ Ihyani Malik et al., "Gender Analysis in the Islamic Law-Based Ecofeminism Movement for Ecosystem Protection," *El-Mashlahah* 15, no. 1 (2025): 101–24, <https://doi.org/10.23971/el-mashlahah.v15i1.9040>.

²⁶ Ahmed Abdel Fattah et al., "Negotiating Women's Reproductive Rights Within the Framework of Islamic Law," *Insani: Jurnal Pranata Sosial Hukum Islam* 1, no. 2 (2025): 178–93, <https://doi.org/10.65586/insani.v1i2.57>.

²⁷ Suud Sarim Karimullah et al., "The Concept of Nafaqah in Islamic Law and Women's Right to Financial Support," *El-Izdiwaj: Indonesian Journal of Civil and Islamic Family Law* 5, no. 2 (2024): 222–42, <https://doi.org/10.24042/el-izdiwaj.v5i2.23534>; Nur Insani et al., "Empowering Muslim Women: Bridging Islamic Law and Human Rights with Islamic Economics," *De Jure: Jurnal Hukum Dan Syar'iah* 16, no. 1 (2024): 88–117, <https://doi.org/10.18860/j-fsh.v16i1.26159>.

²⁸ Arif Sugitanata and Suud Sarim Karimullah, "Nalar Kritis Poligami Sebagai Kekerasan Dalam Rumah Tangga: (Analisis Terhadap Undang-Undang KDRT Nomor 23 Tahun 2004)," *HUNILA: Jurnal Ilmu Hukum Dan Integrasi Peradilan* 1, no. 2 (2023): 63–76, <https://doi.org/10.53491/hunila.v1i2.515>; Suud Sarim Karimullah, "Pembaruan Islam Bidang Keluarga Dan Relevansinya Dengan Peraturan Poligami Di Indonesia," *El-Izdiwaj: Indonesian Journal of Civil and Islamic Family Law* 2, no. 2 (2021): 61–81; Suud Sarim Karimullah, "Poligami Perspektif Fikih Dan Hukum Keluarga Negara Muslim," *MADDIKA: Journal of Islamic Family Law* 2, no. 1 (2021): 7–20, <https://doi.org/https://doi.org/10.24256/maddika.v2i1.2118>.

Law (KHI) do indeed require court authorisation and the wife's consent for polygamy.²⁹ However, in practice, religious courts often place greater emphasis on the fulfilment of administrative requirements than on an in-depth analysis of the psychological, social and economic impacts experienced by the wife and children.

Rulings on polygamy generally stem from the assumption that a man's economic capacity is the primary indicator of justice, whilst relational and emotional aspects are not given serious consideration.³⁰ This situation reveals a reduction of the meaning of justice to mere procedural compliance. From the perspective of substantive justice, justice should encompass the protection of the dignity and well-being of all family members, including women's right to be free from discrimination and psychological pressure.³¹

Similar criticism can also be directed at the practice of Islamic inheritance law in Indonesia. Provisions governing the distribution of inheritance, which normatively grant men a share twice as large as that of women, are often applied literally without taking into account changes in the socio-economic structure of modern society. In contemporary society, women are no longer confined to the domestic sphere but also contribute significantly to supporting the family economy. However, formal inheritance law practices still largely adhere to a literal interpretation of classical texts.

Several studies indicate that, in the practice of Muslim families in Indonesia, the distribution of inheritance is often resolved through family deliberation to achieve a more equitable distribution than that prescribed by the formal rules of *faraidh*.³² This phenomenon highlights a tension between formal legal norms and the evolving sense of social justice within society. From a critical epistemological perspective, this situation indicates that society is, in fact, engaged in a practical reinterpretation of the law in order to achieve a more substantive public good.

In the field of Islamic economics, epistemological criticism is also relevant for explaining how Islamic economic regulations and practices have not yet fully reflected the principle of distributive justice. The fatwas of the MUI's National Sharia Council regarding Islamic banking are fundamentally aimed at creating an economic system that is free from usury and more ethical.³³ However, in practice, Islamic financial institutions are often more accessible to the middle and upper classes than to people with low incomes. The murabahah financing scheme, for example, tends to be more dominant than profit-sharing contracts such as mudharabah and musyarakah, as it is considered safer from a business perspective. Consequently, the orientation of the Islamic economy

²⁹ M Rafli Kurniawan et al., "Political Analysis of Islamic Law on the Regulation of Interfaith Marriage in Indonesia," *Insani: Jurnal Pranata Sosial Hukum Islam* 1, no. 1 (2025): 32–47, <https://doi.org/10.65586/insani.v1i1.2>; Suyuti Dahlan Rifa'i et al., "Reformulation of Marriage Law Based on a Gender Justice Perspective," *Indonesian Journal of Gender Justice and Family Law* 1, no. 1 (2026): 69–85, <https://doi.org/10.65586/ingefal.v1i1.5>; Suud Sarim Karimullah, "Poligami Dalam Tinjauan Hifdz Al-Nasl," *MADDIKA: Journal of Islamic Family Law* 4, no. 2 (2023): 11–26, <https://doi.org/10.24256/maddika.v4i2.3291>.

³⁰ Cahaya Rembulan et al., "The Impact of the Digital Economy on Economic Empowerment Models for Muslim Youth in Indonesia," *Jurnal Lentera Insani* 1, no. 1 (2025): 48–63, <https://doi.org/10.65586/jli.v1i1.17>.

³¹ Haerozi et al., "Preserving Cultural Heritage in Marriage: Exploring Meanings of Kebon Odeq Tradition in the Sasak Community of Lombok Tengah, Indonesia," *AL-HUKAMA: The Indonesian Journal of Islamic Family Law* 13, no. 2 (2023): 202–28, <https://doi.org/10.15642/alhukama.2023.13.2.202-228>.

³² Moh Ainul Muttaqin et al., "The Dynamics of the Relationship between Islamic Law and Customary Law in Inheritance Disputes in Indonesia," *Insani: Jurnal Pranata Sosial Hukum Islam* 1, no. 1 (2025): 80–95, <https://doi.org/10.65586/insani.v1i1.6>; Roy Prabowo Lenggono, "Islamic Inheritance Law in Practice Among Multiethnic Muslim Families in Indonesia," *Insani: Jurnal Pranata Sosial Hukum Islam* 1, no. 2 (2025): 127–43, <https://doi.org/10.65586/insani.v1i2.39>.

³³ Maulana Hayatullah et al., "Implementation of Gender Equality Principles in Religious Court Decisions Related to Divorce," *Indonesian Journal of Gender Justice and Family Law* 1, no. 1 (2026): 36–51, <https://doi.org/10.65586/ingefal.v1i1.3>.

aligns more closely with the logic of the capitalist market than with the spirit of wealth redistribution, which is the objective of *maqāṣid al-sharī'ah*. This criticism highlights that the 'sharī'ah' label does not automatically guarantee the realisation of social justice if the underlying economic structure continues to reproduce inequality.

In the context of religious fatwas, ideological and power biases can also be identified. Fatwas issued by the Indonesian Ulema Council (MUI) regarding women's leadership, pluralism, or family issues often reflect the dominance of conservative interpretations that leave little room for perspectives on gender equality and human rights.³⁴ Male dominance within religious authority institutions also influences the nature of the legal interpretations produced. Women's perspectives and the experiences of marginalised groups rarely serve as primary sources in the process of *istinbāt* (derivation of Islamic law), meaning that the resulting laws tend to perpetuate established social structures.³⁵ From a critical epistemological perspective, this situation demonstrates that Islamic legal knowledge is not value-free. Still, it is produced within specific power relations that can influence the direction and purpose of the law itself.

An analysis of formal Islamic legal practice in Indonesia reveals a fundamental distinction between procedural justice and substantive justice.³⁶ Procedural justice emphasises compliance with formal rules, whilst substantive justice assesses the extent to which the law is capable of providing tangible protection for human rights and dignity. In many religious judicial practices, legal certainty is often regarded as more important than the achievement of broader social justice. Consequently, the law risks becoming an instrument for legitimising inequality if applied without sensitivity to the surrounding social context and power relations. Therefore, a paradigm shift in Islamic law is required, moving from a textual approach towards a contextual and emancipatory approach that takes *maqāṣid al-sharī'ah* as an ethical orientation in realising the public good.

This emancipatory approach demands a reinterpretation of Islamic law that is more open to modern theories of justice, particularly those emphasising equality, participation and social redistribution. The integration of *maqāṣid al-sharī'ah* with contemporary perspectives on social justice enables Islamic law to function not only as a normative system, but also as an instrument of social transformation that champions vulnerable groups. In the Indonesian context, this can be realised through the reform of Islamic family law, the enhancement of a gender perspective in the training of religious court judges, the strengthening of access to justice for women and people with low incomes, and the development of a *sharī'ah* economy that is more oriented towards social empowerment. Thus, Islamic law is no longer understood merely as a set of formal rules, but as a living ethical system capable of addressing the challenges of social injustice in a more humane, inclusive and progressive manner.

³⁴ Mahrus Alwi Hasan Siregar, Abdeldzhalil Abdeldzhalil, and M Hamim, "Reconstructing the Concept of Gender Justice in Indonesia's Family Law System Based on Constitutional Values," *Indonesian Journal of Gender Justice and Family Law* 1, no. 1 (2026): 1-18, <https://doi.org/10.65586/ingefal.v1i1.1>.

³⁵ Hijriatu Sakinah et al., "Legal Policy on Women's Protection in the National Family Law System," *Indonesian Journal of Gender Justice and Family Law* 1, no. 1 (2026): 19-35, <https://doi.org/10.65586/ingefal.v1i1.2>; Rizqa Febry Ayu et al., "Legal Analysis of the Position of Women as Heads of Households in National Law," *Indonesian Journal of Gender Justice and Family Law* 1, no. 1 (2026): 52-68, <https://doi.org/10.65586/ingefal.v1i1.4>.

³⁶ Suyahman Suyahman, Suud Sarim Karimullah, and Muh Akbar Fhad Syahril, "Intersectionality in Social Justice: Unpacking the Complexity of Oppression," *Jambura Law Review* 7, no. 1 (2025): 275-308, <https://doi.org/10.33756/jlr.v7i1.27828>.

Conclusion

The concept of justice (*'adl*) in contemporary Islamic legal philosophy must be understood as substantive justice that goes beyond compliance with formal procedures and normative legality, as various empirical realities in Indonesia demonstrate that the application of legally valid laws does not always result in justice as perceived by the public. The high divorce rate, the practice of polygamy that disregards the protection of women and children, and unequal access to *sharī'ah*-compliant economic services reflect a gap between the objectives of *maqāṣid al-sharī'ah* and the practice of Islamic law, which remains influenced by a textualist and patriarchal approach, as well as the dynamics of power relations within society. Therefore, the reform of Islamic law is not aimed at undermining the legitimacy of *sharī'ah*, but at reconstructing its interpretative paradigm by strengthening the *maqāṣid al-sharī'ah* as a contextual, inclusive, rights, and dignity-oriented ethical and methodological framework for the protection of vulnerable groups. Through this approach, Islamic law can be actualised as an instrument of social transformation that integrates Islamic values with modern principles of justice, thereby not only guaranteeing legal certainty but also realising a form of social justice that is fairer, more participatory and more sustainable.

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