Apriori
Indonesian Journal of Islamic Thought

E-ISSN: 3163-4176
Vol. 1, No. 2, 2026, pp. 99–117
DOI: 10.66277/aijit.1.2.413

OPEN ACCESS

Reorienting Islamic Law in Indonesia: The Compilation of Islamic Law as a Manifestation of Maqashid-Oriented Ijtihad

Ziyan Al Ghifari[1*], Mohamed Elmantar[2]

Doctoral Candidate, Laboratory of Religious Discourse Structure and Family Studies, Faculty of Letters and Human Sciences, Mohammedia, Hassan II University of Casablanca, Morocco[1],
Associate Professor, Laboratory of Religious Discourse Structure and Family Studies, Faculty of Letters and Human Sciences, Mohammedia, Hassan II University of Casablanca, Morocco[2]
[*]Corresponding author: alghifariziyan@gmail.com

Abstract

The Compilation of Islamic Law (KHI) represents an important milestone in the development of Islamic law in Indonesia. Enacted through Presidential Instruction No. 1 of 1991, the KHI was intended not only as a guideline for Religious Court judges but also as an instrument of Islamic legal reform adapted to Indonesia's social, cultural, and national legal context. Nevertheless, much of the existing scholarship continues to position the KHI primarily as a codification of Shafi'i legal doctrine, while limited attention has been given to understanding it as a product of Maqashid-oriented Ijtihad aimed at realizing public welfare. This study aims to analyze the KHI as a product of Maqashid-oriented Ijtihad in the formation of Islamic family law in Indonesia. This normative legal study employs conceptual, historical, and Maqashid Al-Shari'ah approaches. Data were obtained through library research involving legislation, works of ushul al-fiqh, Maqashid Al-Shari'ah literature, and relevant previous studies, and were analyzed qualitatively using content analysis. The findings demonstrate that the KHI does not merely adopt the opinions of a particular legal school but constitutes a product of collective Ijtihad (Ijtihad jama'i) that integrates the Qur'an, Sunnah, ijma', qiyas, maslahah mursalah, sadd al-dhariʿah, ʿurf, and the needs of Indonesian society. The study further finds that Maqashid Al-Shari'ah, particularly hifz al-din, hifz al-nafs, hifz al-nasl, hifz al-mal, dan hifz al-'ird, underpin provisions on marriage, marriage registration, polygamy, divorce, hadanah, guardianship, and inheritance. Thus, the KHI constitutes a manifestation of Maqashid-oriented Ijtihad in transforming fiqh into national positive law oriented toward the welfare of Indonesian society.

Keywords:

Compilation of Islamic Law; Maqashid-Oriented Ijtihad; Maqashid Al-Shari'ah; Islamic Legal Reform; Islamic Family Law.

Article History: Received: 29-07-2026 | Revised: 20-09-2026, 24-10-2026 | Accepted: 25-10-2026

Introduction

The development of Islamic law in Indonesia has undergone a continuous process of transformation, particularly in the context of national legal reform. As a country with the largest Muslim population in the world, Indonesia requires an Islamic legal framework that not only derives its normative legitimacy from the Qur'an and Sunnah but also responds to the social, cultural, and legal realities of Indonesian society. This need became particularly

Copyright © 2026 by Author(s)
This work is licensed under a Creative Commons Attribution 4.0 International License.

significant in the field of Islamic family law following the enactment of Law No. 1 of 1974 on Marriage. Before the promulgation of the *Compilation of Islamic Law* (*Kompilasi Hukum Islam*, hereafter KHI), judges of the Religious Courts relied on various classical *fiqh* texts in resolving family law disputes. The absence of a standardized substantive legal reference could result in differences in judicial decisions because judges could rely on different juristic opinions and schools of Islamic law. The formulation of the KHI through Presidential Instruction No. 1 of 1991 therefore represented an important stage in the development and institutionalization of Islamic family law in Indonesia. Ahmad Rofiq explains that the formulation of the KHI was closely related to the need for greater uniformity and certainty in the application of Islamic law within the Religious Courts.[1] The KHI subsequently became an important reference in the adjudication of Islamic family law while simultaneously reflecting the continuing process of transforming Islamic legal norms within Indonesia's national legal system.

The significance of the KHI, however, cannot be reduced to its function as a compilation of classical *fiqh* opinions. Its formulation emerged through an interaction between Islamic legal traditions, Indonesian social realities, judicial practice, and the national legal system. Andi Herawati characterizes the KHI as a product of the *Ijtihad* of Indonesian scholars, indicating that its formulation involved the selection and adaptation of various *fiqh* opinions in response to the legal needs of Indonesian society.[2] Similarly, Abd. Muin and Ahmad Khotibul Umam position the KHI within Indonesia's positive legal system and emphasize its role in providing a legal framework for Muslims while transforming Islamic legal values into national law.[3] The central methodological question, therefore, is how the KHI can be understood beyond its function as a codification of established fiqh opinions. In particular, it is necessary to distinguish its role as a product of collective legal reasoning from the question of whether its substantive provisions can be assessed in light of the broader objectives of Islamic law. This distinction provides a basis for examining the KHI within the wider development of Islamic legal thought in Indonesia.

The methodological question becomes more significant when the KHI is examined through the perspective of *Maqashid Al-Shari'ah*. In the development of Islamic legal thought, *Maqashid Al-Shari'ah* has evolved from a discussion of the objectives underlying legal rulings into an important methodological framework for Islamic legal reform. Classical scholars such as Abu Ishaq Al-Shatibiestablished the systematic foundation of *Maqashid*, while later scholars such as Ibn 'Ashur and Ahmad Al-Raysuni developed its theoretical dimensions. Contemporary scholars, including Jasser Auda, have further developed *Maqashid* as a framework for understanding Islamic law in relation to changing social realities.[4] From this perspective, Islamic legal reasoning considers not only the

[1] Ahmad Rofiq, *Pembaharuan Hukum Islam Di Indonesia* (Yogyakarta: Gama Media, 2001), 85–92.

[2] Andi Herawati, "Kompilasi Hukum Islam (KHI) Sebagai Hasil Ijtihad Ulama Indonesia," *Hunafa: Jurnal Studia Islamika* 8, no. 2 (December 2011): 321–40.

[3] Abd. Muin and Ahmad Khotibul Umam, "Eksistensi Kompilasi Hukum Islam Dalam Sistem Hukum Positif," *Risalah: Jurnal Pendidikan dan Studi Islam* 1, no. 1 (2016): 63–70.

[4] Abu Ishaq Ibrahim bin Musa Al-Shatibi, *Al-Muwafaqat Fi Ushul Al-Syari'ah*, vol. 2 (Beirut: Dar Al-Kutub Al-'Ilmiyyah, 1997); Muhammad Al-Tahir bin 'Asyur, *Maqashid Al-Syari'ah Al-Islamiyyah* (2001: Dar

interpretation of legal texts but also the realization of maslahah and the prevention of mafsadah. Applied to the KHI, the Maqashid approach provides a framework for assessing whether its provisions concerning marriage, divorce, lineage, children, property, and inheritance are consistent with the broader objectives of the Shari'ah. Such a normative assessment, however, does not by itself establish that the KHI's original formulators explicitly employed a systematic Maqashid methodology.

Previous studies have examined the relationship between *Maqashid Al-Shari'ah* and the KHI from several perspectives. Khairil Anwar, Mohd. Soberi Awang, and Mualimin Mochammad Sahid, for example, analyze several provisions of the KHI, particularly marriage registration, *ta'liq al-talaq* , and marriage involving pregnant women, through the perspective of *Maqashid Al-Shari'ah*. They argue that these provisions reflect the protection of religion (*hifz al-din*), life (*hifz al-nafs*), intellect (*hifz al-'aql*), lineage (*hifz al-nasl*), and property (*hifz al-mal*).[5] Muhammad Ali Murtadlo examines the Counter Legal Draft of the KHI (CLD-KHI) using Jasser Auda's theory of *Maqashid Al-Shari'ah* and emphasizes the relevance of human rights, democracy, and social justice in contemporary Islamic family law reform.[6] Meanwhile, Al Fitri situates the KHI within the broader development of Islamic family law reform in Indonesia and highlights the continuing influence of the Shafi'i legal tradition as well as the need for further development in response to contemporary challenges.[7] Taken together, these studies address the KHI's position within the national legal system, its relationship with Maqashid Al-Shari'ah, and the possibilities for Islamic family law reform. However, the relationship between the KHI's formation as collective Ijtihad and a systematic Maqashid-based assessment of its substantive provisions remains insufficiently integrated in the existing literature.

Despite these valuable contributions, an academic gap remains concerning the relationship between the formulation of the KHI and *Maqashid*-oriented *Ijtihad* as a comprehensive methodology of Islamic legal development. Existing studies have identified *Maqashid* values within particular provisions of the KHI and have discussed the KHI as a product of Indonesian scholarly *Ijtihad*, but these two dimensions have rarely been examined together as part of a single analytical framework.[8] This study addresses this gap by bringing the historical and institutional formation of the KHI into dialogue with a normative assessment of its provisions through Maqashid Al-Shari'ah. Its novelty lies in

---

Al-Nafa'is, 2001); Ahmad Al-Raysuni, *Nazariyyat Al-Maqashid 'inda Al-Imam Al-Shatibi* (Cairo: Dar Al-Kalimah li Al-Nashr wa Al-Tawzi', 2014); Jasser Auda, *Maqashid Al-Syari'ah as Philosophy of Islamic Law: A Systems Approach* (London: The International Institute of Islamic Thought, 2008).

[5] Khairil Anwar Al Jufri, Mohd Soberi Awang, and Mualimin Mochammad Sahid, "Maqasid Syariah Menurut Imam Al-Ghazali dan Aplikasinya dalam Penyusunan Undang-Undang Islam Di Indonesia: Maqasid Syariah According To Imam Al-Ghazali And Its Application In The Compilation Of Islamic Law In Indonesia," *Malaysian Journal of Syariah and Law* 9, no. 2 (December 2021): 240.

[6] Muhammad Ali Murtadlo, "Analisis Maqasid Syariah Jasser Auda Terhadap Counter Legal Draft Kompilasi Hukum Islam," *Al-Syakhsiyyah: Journal of Law and Family Studies* 3, no. 2 (December 2021): 1–24.

[7] Al Fitri, "Pembaruan Hukum Keluarga Di Indonesia Melalui Kompilasi Hukum Islam," *Mahkamah Agung Republik Indonesia Pengadilan Tinggi Agama Kupang* (Kefamenanu), 2020.

[8] Herawati, "Kompilasi Hukum Islam (KHI) Sebagai Hasil Ijtihad Ulama Indonesia," 321–40; Jufri, Awang, and Sahid, "Maqasid Syariah Menurut Imam Al-Ghazali dan Aplikasinya dalam Penyusunan Undang-Undang Islam di Indonesia."

integrating these two dimensions within a single analytical framework while maintaining a clear distinction between historical evidence and normative interpretation. Rather than assuming that the KHI's collective formulation proves the explicit use of a systematic Maqashid methodology by its original formulators, this study examines the extent to which its substantive provisions are consistent with the objectives of the Shari'ah. In doing so, it moves beyond identifying Maqashid values in individual provisions and clarifies the methodological significance of the KHI for the development of Islamic family law in Indonesia.

Based on this background, this study aims to analyze the KHI as a manifestation of *Maqashid*-oriented *Ijtihad* in the formation of Islamic family law in Indonesia. The study focuses on the methodological character of the KHI and examines how *Maqashid Al-Shari'ah* is reflected in its formulation and substantive legal provisions. To achieve this objective, the study adopts a normative legal research design, employing statutory, conceptual, historical, and *Maqashid Al-Shari'ah* approaches. Primary legal sources consist of the KHI, Law No. 1 of 1974 on Marriage, Law No. 7 of 1989 on the Religious Courts and its subsequent amendments, and Presidential Instruction No. 1 of 1991. Secondary sources include classical and contemporary works on *usull al-fiqh* and *Maqashid Al-Shari'ah*, including *Al-Muwafaqat* by al-Shatibi, *Maqashid Al-Shari'ah al-Islamiyyah* by Ibn 'Ashur, *Naẓariyyat al-Maqashid 'inda al-imam al-Shatibi* by Ahmad al-Raysuni, and *Maqashid Al-Shari'ah as Philosophy of Islamic Law: A Systems Approach* by Jasser Auda.[9] This study employs documentary research and qualitative analysis to examine the relationship between the KHI's formation and the objectives of Islamic law reflected in its substantive provisions. The analysis distinguishes evidence concerning the historical process of legal formulation from the normative interpretation of the resulting legal provisions. Through this approach, the study seeks to assess the extent to which the KHI can be understood as a product of collective Ijtihad whose substantive provisions are consistent with Maqashid Al-Shari'ah in the socio-legal context of Indonesian society. Through this approach, the study seeks to demonstrate that the KHI is not merely a codification of classical *fiqh* but a manifestation of collective *Maqashid*-oriented *Ijtihad* responsive to the socio-legal context of Indonesian society.[10]

Results and Discussion

The Historical Formation of the Compilation of Islamic Law in Indonesia

The emergence of the Compilation of Islamic Law (Kompilasi Hukum Islam, KHI) must be understood within the historical development of Islamic law and the Religious Courts in Indonesia. Before the formulation of the KHI, judges of the Religious Courts relied on various fiqh manuals as references in adjudicating cases involving marriage,

[9] Abu Ishaq Ibrahim bin Musa Al-Shatibi, *Al-Muwafaqat Fi Ushul Al-Syari'ah*, vol. 2; Muhammad Al-Tahir bin 'Asyur, *Maqashid Al-Syari'ah Al-Islamiyyah*; Ahmad Al-Raysuni, *Nazariyyat Al-Maqashid 'inda Al-Imam Al-Shatibi*; Jasser Auda, *Maqashid Al-Syari'ah as Philosophy of Islamic Law: A Systems Approach*.

[10] Ilham Tohari and Moh Anas Kholish, "Maqasid Syariah sebagai Pijakan Konseptual dalam Pembaruan Hukum Keluarga Islam Indonesia," *Arena Hukum* 13, no. 2 (August 2020): 315–17.

inheritance, and related matters. A major reference was the Circular of the Bureau of Religious Courts No. B/1/735 of 18 February 1958, which recommended thirteen fiqh books as references for judges. The reliance on multiple fiqh texts, however, did not necessarily produce uniformity in judicial decisions. The need for a more systematic and nationally applicable substantive legal reference consequently became increasingly important, particularly following the enactment of Law No. 1 of 1974 on Marriage and the development of the Religious Courts within the national legal system. The official explanation accompanying the KHI also records that the enactment of the Marriage Law and subsequent legislation had increased the need to expand the existing legal references by considering other schools of law, judicial decisions, scholarly opinions, and comparative legal materials..[11]

The institutional process that eventually produced the KHI began with the Joint Decree of the Chief Justice of the Supreme Court and the Minister of Religious Affairs No. 07/KMA/1985 and No. 25 of 1985 concerning the implementation of the Project for the Development of Islamic Law through Jurisprudence. The project was subsequently undertaken through cooperation between the Supreme Court and the Ministry of Religious Affairs. Its objective was to formulate a body of Islamic substantive law that could serve as a reference for judges of the Religious Courts. The process culminated in a national workshop of Indonesian ulama' held in Jakarta from 2 to 5 February 1988. The three books of the KHI—marriage, inheritance, and waqf—were accepted at the workshop and were subsequently disseminated through Presidential Instruction No. 1 of 1991, issued on 10 June 1991.[12] This institutional sequence is significant because it situates the KHI within a process of collective legal formulation rather than attributing its development to an individual jurist. The involvement of state institutions and Islamic scholars also demonstrates that the formulation of the KHI was shaped by the interaction between jurisprudential knowledge and the practical requirements of the national legal system. Nevertheless, evidence of collective participation establishes the institutional character of the formulation process; it does not, by itself, demonstrate that the participants explicitly employed a systematic Maqasid al-Shari'ah methodology.

The preparation of the KHI also involved several methods of collecting and evaluating legal materials. According to the historical account of its formulation, the project examined classical fiqh literature, consulted Indonesian ulama', reviewed decisions of the Religious Courts, considered legal developments in other Muslim-majority countries, and ultimately brought the results together through the national workshop.[13] The examination

[11] Abdurrahman, *Kompilasi Hukum Islam Di Indonesia* (Jakarta: Akademika Pressindo, 1992), 17–18 The official explanation of Presidential Instruction No. 1 of 1991 also states that the existing legal materials needed to be expanded by considering other schools of law, Religious Court jurisprudence, scholarly opinions, and comparative legal developments.

[12] "Inpres No. 1 Tahun 1991," Database Peraturan | JDIH BPK, accessed September 14, 2026, http://peraturan.bpk.go.id/Details/293351/inpres-no-1-tahun-1991 The Instruction records the three books of the KHI and the acceptance of the draft by Indonesian ulama' at the national workshop of 2–5 February 198.

[13] Busthanul Arifin, *Pelembagaan Hukum Islam Di Indonesia: Akar Sejarah Dan Prospeknya* (Jakarta: Gema Insani, 1996), 31–52.

of fiqh literature was particularly extensive. Research conducted for the KHI involved 38 fiqh books covering approximately 160 legal issues, with the study distributed among seven IAIN institutions.[14] The materials were not restricted exclusively to the Shafi'i school. Although Shafi'i works constituted a substantial portion of the references, the sources also included works associated with the Hanafi, Maliki, Hanbali, Ẓahiri, and Shiʿi traditions, as well as comparative fiqh works.[15] These findings provide a stronger basis for characterizing the KHI as the outcome of comparative jurisprudential assessment rather than a straightforward reproduction of a single madhhab. The use of diverse legal references indicates that the formulation process accommodated a broader range of juristic perspectives. However, the diversity of sources should not automatically be equated with the explicit application of Maqasid al-Shariʿah. Its significance for a maqasid-oriented interpretation must instead be assessed by examining how particular legal norms address the interests, rights, and forms of protection recognized by Islamic law.

The historical evidence therefore indicates that the formulation of the KHI involved a form of collective legal reasoning. The participation of Islamic scholars, judges, academics, and government institutions created a process in which different forms of legal knowledge were brought into dialogue. The KHI was subsequently placed within the national legal system through Presidential Instruction No. 1 of 1991. The Instruction expressly states that the KHI consists of Book I on marriage, Book II on inheritance, and Book III on waqf, and records that these materials had been accepted by Indonesian ulamaʾ during the 1988 national workshop.[16] he historical findings establish two important characteristics of the KHI: the comparative evaluation of Islamic jurisprudential materials and the institutionalization of selected legal norms as a reference for the Religious Courts. These characteristics explain why the KHI should not be treated merely as a reproduction of classical fiqh. Nevertheless, the historical account provides evidence about how the KHI was formulated, not conclusive proof that its original formulators systematically applied maqasid theory.

Accordingly, the argument that the KHI represents Maqasid-oriented Ijtihad requires two complementary but analytically distinct findings. The historical analysis establishes the KHI's character as an institutional product of collective legal reasoning, while the normative analysis evaluates the extent to which its substantive provisions are consistent with the objectives of Islamic law. The first finding provides the institutional context for understanding the KHI; the second supplies the substantive basis for assessing its maqasid orientation. Combining these findings allows the study to evaluate the KHI's contribution to Islamic family law reform without attributing undocumented methodological intentions to its original formulators. It also shifts the discussion from a descriptive account of the KHI's history toward a critical assessment of the legal

[14] Moh Asyâ€™ari, "Kompilasi Hukum Islam sebagai Fiqh Lintas Madzhab di Indonesia," *AL-IHKAM: Jurnal Hukum & Pranata Sosial* 7, no. 2 (2012): 234–46.

[15] Asyâ€™ari.

[16] Database Peraturan | JDIH BPK, "Inpres No. 1 Tahun 1991."

protections, public interests, and implications for the development of Islamic family law in Indonesia.

Manifestations of Maqashid Al-Shari'ah in the Compilation of Islamic Law

The Maqashid dimension of the KHI can be examined more concretely through its substantive provisions rather than through general assumptions about its legislative character. The KHI contains provisions in the fields of marriage, divorce, lineage, child custody, guardianship, property, and inheritance that can be related to the protection of essential human interests identified in the classical theory of Maqashid Al-Shari'ah. A study by Khairil Anwar, Mohd. Soberi Awang, and Mualimin Mochammad Sahid, for example, specifically identifies the application of Maqashid Al-Shari'ah in several provisions of the KHI concerning marriage registration, ta'liq al-talaq , and marriage involving pregnant women. Their findings associate these provisions with the protection of religion (*hifz al-din*), life (*hifz al-nafs*), lineage (*hifz al-nasl*), and property (*hifz al-mal*).[17] These findings provide a point of departure for the present analysis, but the relationship between particular legal provisions and Maqashid objectives must also be explained through the provisions' legal functions and implications.

The protection of religion (hifz al-din) can first be observed in the KHI's conception of marriage. Article 2 of the KHI defines marriage as a very strong covenant (*mitsaqan ghalizan*) undertaken in obedience to Allah's command and characterizes its performance as worship.[18] This formulation places marriage within both a legal and religious framework. The KHI therefore does not treat marriage solely as a private contractual relationship but connects its legal institution with religious obligations. The protection of religion is also reflected in the KHI's regulation of prohibited marriages, including prohibitions based on lineage, fosterage (rada'ah), and affinity. These provisions can therefore be interpreted as supporting hifz al-din through the institutional regulation of marriage in accordance with religious principles. However, the identification of this objective is a normative interpretation of the provisions; it should not be taken as independent historical proof that the original formulators systematically applied Maqashid theory.

The protection of life (*hifz al-nafs*) is particularly visible in the KHI's regulation of divorce. Article 115 provides that divorce can only be carried out before a Religious Court after the court has attempted to reconcile the parties.[9] The requirement of judicial proceedings introduces procedural oversight into the dissolution of marriage and creates an opportunity for reconciliation before a final decision is made. From a Maqashid perspective, the significance of this provision lies not simply in the existence of a judicial procedure but in its potential to prevent avoidable harm and protect the interests of the parties. Its connection with hifz al-nafs, however, requires careful qualification: the provision does not expressly state that the protection of life is its objective. Its more immediate normative relevance is the prevention of harm (dar' al-mafasid) through an

[17] Jufri, Awang, and Sahid, "Maqasid Syariah Menurut Imam Al-Ghazali dan Aplikasinya dalam Penyusunan Undang-Undang Islam di Indonesia."

[18] Database Peraturan | JDIH BPK, "Inpres No. 1 Tahun 1991."

institutional process that considers whether the marriage can be reconciled before it is dissolved. The significance of this mechanism is also consistent with the broader understanding of Maqashid in contemporary Islamic legal scholarship, in which the protection of human welfare is not limited to physical survival but includes the conditions necessary for a secure and dignified life.[19]

The protection of lineage (hifz al-nasl) is among the most visible dimensions of the KHI. Article 5 requires that every marriage be recorded in order to ensure orderly administration, while Article 7 establishes the evidentiary consequences of marriage registration and provides a mechanism for *itsbat-nikah* under specified circumstances.[20] Marriage registration therefore provides legal documentation of the marital relationship and contributes to the determination of the legal status of spouses and children. Research specifically examining marriage registration from a Maqashid perspective has found that registration contributes to the protection of women's and children's legal rights, including matters related to lineage, maintenance, inheritance, and marital property.[21] The analytical connection with hifz al-nasl lies in the role that legal documentation can play in establishing and protecting family status and the rights associated with it. Its relationship with hifz al-mal is complementary: legal certainty concerning marital status can also affect the ability of spouses and children to assert relevant economic rights. These connections should be understood as explanations of the provisions' potential legal effects, rather than as an assumption that registration automatically resolves every dispute concerning lineage or property.

The same concern for family welfare can be examined through the KHI's provisions on hadanah and guardianship. The regulation of child custody establishes responsibilities concerning the care and upbringing of children following the dissolution of marriage, while provisions on guardianship provide a legal mechanism for protecting children when parental responsibility cannot be exercised adequately. The relevance of these provisions to Maqashid lies in their attention to the interests of children, whose welfare may be affected by parental separation or inadequate care. In this context, hifz al-nasl can be understood as encompassing not only the preservation of lineage but also the legal protection of children within the family structure. The provisions may also be related to the protection of life and intellect insofar as appropriate care and upbringing contribute to children's physical welfare and intellectual development. Nevertheless, these connections require analysis of the particular legal responsibilities and protections established by the relevant provisions; they should not be inferred solely from the general objective of family welfare.

The protection of property (*hifz al-mal*) is also explicitly reflected in the KHI's regulation of family economic relations. The KHI regulates *mahr*, maintenance, marital property, gifts, wills, and inheritance. Its provisions concerning marital property are

[19] Jasser Auda, *Maqashid Al-Syari'ah as Philosophy of Islamic Law: A Systems Approach*.
[20] Database Peraturan | JDIH BPK, "Inpres No. 1 Tahun 1991" Pasal 5 dan 7.
[21] Kuni Qoneta, "Pencatatan Perkawinan sebagai Perlindungan Hukum Terhadap Perempuan dan Anak Perspektif Maqashid Syari'ah Al-Syatibi," *El-Iqthisady : Jurnal Hukum Ekonomi Syariah* 7, no. 1 (May 2025): 160–71.

particularly significant because the concept of *harta bersama* is formally recognized within Indonesian family law. Article 85 of the KHI recognizes the existence of marital property, while Articles 96 and 97 regulate its division under particular circumstances.[22] These provisions establish a legal framework for recognizing and distributing property associated with marriage. Their relationship with hifz al-mal lies in providing a basis for determining property rights and reducing uncertainty when the marital relationship ends. Research on marital property in Indonesian law has likewise shown that harta bersama has acquired a clear legal position under both the Marriage Law and the KHI and has been applied nationally.[23] This evidence supports the practical significance of marital property regulation, while the Maqashid interpretation explains why the recognition and distribution of property rights are relevant to the protection of wealth and the prevention of economic injustice.

Taken together, these provisions illustrate different ways in which the KHI can be assessed through Maqashid Al-Shari'ah. Article 2 connects the institution of marriage with religious norms; Article 115 establishes judicial oversight and an opportunity for reconciliation in divorce proceedings; Articles 5 and 7 address the documentation and legal recognition of marriage; provisions on *hadanah* and guardianship concern the protection of children; and Articles 85, 96, and 97 provide a framework for marital property rights. The strength of the maqasid argument, however, differs according to the legal function of each provision. Some connections are relatively direct, such as the relationship between property regulation and *hifz al-mal*, while others require a more qualified explanation of how procedural rules contribute to the prevention of harm or the protection of family welfare. Accordingly, the findings support the use of Maqashid Al-Shari'ah as a framework for evaluating the substantive orientation of the KHI, but they do not independently establish that every provision was originally formulated through an explicit and systematic maqasid methodology. This distinction strengthens the central argument by grounding the claim in the legal content and implications of particular provisions rather than in a general characterization of the KHI.

Manifestations of Maqashid-Oriented Ijtihad in the KHI

The relationship between the Compilation of Islamic Law (KHI) and Maqashid Al-Shari'ah can be examined by assessing how its substantive provisions respond to the legal and social interests of Indonesian Muslim families. Rather than assuming that nearly all provisions of the KHI necessarily reflect Maqashid Al-Shari'ah, this analysis evaluates the relationship between particular legal norms, the interests they protect, and the objectives of Islamic law. From this perspective, the selection and adaptation of juristic opinions may be considered maqasid-oriented when their legal implications can be justified in terms of maslahah and the prevention of mafsadah. Nevertheless, the normative compatibility of a provision with Maqashid Al-Shari'ah must be distinguished from historical evidence that

[22] Database Peraturan | JDIH BPK, "Inpres No. 1 Tahun 1991" Pasal 85, 96, dan 97.

[23] Ibnu Elmi AS Pelu and Ahmad Dakhoir, "Marital Property within the Marriage Law: A Debate on Legal Position and Actual Applications," *Al-Jami'ah: Journal of Islamic Studies* 59, no. 2 (November 2021): 287–316.

its original formulators explicitly employed a systematic maqasid methodology. As argued by Ilham Tohari and Moh. Anas Kholish, the reform of Islamic family law should be grounded in methodologies derived from the Islamic intellectual tradition itself, with the Maqashid approach providing a conceptual framework capable of reconciling the principles of the Shari'ah with the demands of contemporary society.[24]

1. Dimensions of Maqashid Al-Shari'ah in Marriage Regulation

Articles 2 and 3 of the Compilation of Islamic Law (KHI) stipulate that marriage is a solemn covenant (*mitsaqan ghalizan*) intended to establish a family characterized by *sakinah* (tranquility), *mawaddah* (affection), and *rahmah* (compassion). These formulations provide a basis for examining marriage through the objectives of Maqashid Al-Shari'ah, particularly the protection of religion (*hifz al-din*) and lineage (*hifz al-nasl*), alongside the welfare of family members. The reference to marriage as a solemn covenant and the emphasis on family tranquility, affection, and compassion indicate that the legal institution of marriage encompasses religious commitments and responsibilities toward the family. From a maqasid perspective, the protection of lineage is relevant because the family provides a framework for establishing parentage and fulfilling responsibilities toward children, while the protection of religion relates to the recognition of marriage as an institution governed by Islamic norms. These connections, however, should be understood as a normative interpretation of the provisions rather than proof that the original drafters explicitly derived them from a systematic maqasid analysis. The relationship between family life and the objectives of Islamic law is also discussed by Tohari and Kholish.[25]

From the perspective of Maqashid Al-Shari'ah, the objective of marriage extends beyond legitimizing the relationship between a man and a woman; it is fundamentally directed toward establishing the family as the cornerstone of society. This demonstrates that the drafters of the KHI adopted a more comprehensive conception of marriage than the classical fiqh tradition, which primarily emphasizes the legal pillars and conditions of the marriage contract. This approach is consistent with Abdullah Saeed's concept of context-based Ijtihad, which argues that legal interpretation should consider not only the literal meaning of the scriptural texts but also the social context and the public welfare that the Shari'ah seeks to achieve. Accordingly, the KHI reflects a paradigm shift from a purely normative approach toward a more functional model of Islamic law that responds to the needs of Indonesian society.[26]

2. The Maqashid of Marriage Registration

Marriage registration provides an important example of how the Compilation of Islamic Law (KHI) can be assessed through the framework of Maqashid Al-Shari'ah.

[24] Tohari and Kholish, "Maqasid Syariah sebagai Pijakan Konseptual dalam Pembaruan Hukum Keluarga Islam Indonesia," 317–21.
[25] Tohari and Kholish, "Maqasid Syariah sebagai Pijakan Konseptual dalam Pembaruan Hukum Keluarga Islam Indonesia."
[26] Abdullah Saeed, *Islamic Thought: An Introduction* (London: Routledge, 2006), 55.

Classical fiqh literature generally does not treat state registration as a condition for the validity of marriage in the same way as the prescribed requirements of the marriage contract. In the Indonesian legal context, however, registration serves an important administrative and evidentiary function by documenting the marital relationship and facilitating the protection of the rights arising from it. The relevant question is therefore not simply whether marriage registration is explicitly established in classical fiqh, but whether its legal function is consistent with the objectives of the Shari'ah.

This policy represents the implementation of the Maqashid Al-Shari'ah principles of protecting lineage (hifz al-nasl), property (*hifz al-mal*), and legal rights (*hifz al-huquq*). Through marriage registration, the state ensures legal certainty regarding the status of spouses, the lineage of children, inheritance rights, maintenance, and other civil rights. Accordingly, marriage registration constitutes a development of Islamic law that is oriented toward the realization of the public interest (*al-mashlahah al-'ammah*), even though it is not explicitly recognized in the classical fiqh tradition. Mohammad Hashim Kamali argues that the Maqashid methodology allows for the formulation of new legal regulations, provided that they address the needs of contemporary society, including accountability, good governance, the protection of citizens's rights, and legal certainty. Accordingly, the requirement of marriage registration may be understood as a form of administrative Ijtihad that remains fully consistent with the universal objectives of the *Shari'ah*.[27]

The analytical significance of marriage registration lies in its function as a legal mechanism for protecting interests that may otherwise be difficult to establish or enforce. Its compatibility with Maqashid Al-Shari'ah can therefore be justified through its contribution to legal certainty and the protection of family rights. Nevertheless, this normative justification should not be treated as conclusive evidence that the original formulators of the KHI explicitly applied a systematic maqasid methodology. It demonstrates instead that the provision can be evaluated as maqasid-oriented in terms of its legal purpose and implications.

3. Maqashid Al-Shari'ah in the Regulation of Polygamy

The regulation of polygamy under the KHI likewise reflects a Maqashid-oriented approach. Although Islamic law permits polygamy, the KHI does not recognize it as an absolute right of the husband. Instead, it imposes strict conditions, including authorization from the Religious Court, the wife's consent, the husband's ability to treat his wives fairly, and his financial capacity to provide maintenance. These restrictions indicate that polygamy is regarded not as an objective (*maqshad*) of the Shari'ah but as a means (*wasilah*), the exercise of which must remain subject to the principles of justice and public welfare. In this regard, the KHI reflects the state's exercise of *siyasah al-syar'iyyah* to ensure that the practice of polygamy does not result in harm to women or children.[28]

[27] Mohammad Hashim Kamali, "Maqasid Al-Shari'ah and Ijtihad as Instruments of Civilisational Renewal: A Methodological Perspective," *ICR Journal* 2, no. 2 (2011): 246–51.

[28] Tohari and Kholish, "Maqasid Syariah sebagai Pijakan Konseptual dalam Pembaruan Hukum Keluarga Islam Indonesia," 322–24.

The relevant maqasid connections include the protection of dignity (*hifz al-'ird*), lineage (*hifz al-nasl*), and property (*hifz al-mal*). These connections arise from the potential effects of polygamy on equitable treatment within the family, children's welfare, and the fulfillment of maintenance obligations. The legal maxim *dar' al-mafasid muqaddam 'ala jalb al-masalih*—preventing harm takes precedence over securing benefit—provides a relevant analytical principle for evaluating such restrictions. Its application requires consideration of the interests potentially affected and the safeguards established by law, rather than the assumption that every instance of polygamy necessarily produces harm.

Accordingly, the maqasid significance of the KHI's regulation lies in subjecting the exercise of polygamy to legal requirements intended to protect rights and promote justice. This does not establish that the original drafters explicitly used Maqashid Al-Shari'ah as a systematic method when formulating these provisions. Rather, the provisions can be interpreted as consistent with maqasid-oriented reasoning to the extent that their legal operation protects identifiable interests and helps prevent injustice. This distinction strengthens the argument by grounding the analysis in the function of legal safeguards rather than in an unsupported claim about the historical intentions of the drafters.

The Implementation of Maqashid Al-Shari'ah in the Compilation of Islamic Law

As a product of Islamic law enacted through the national legislative process, the *Compilation of Islamic Law* (KHI) contains numerous provisions that substantively reflect the objectives of *Maqashid Al-Shari'ah*. A comprehensive reading of Book I on Marriage, Book II on Inheritance, and Book III on Waqf demonstrates that their provisions are primarily oriented toward safeguarding the five essential interests (*al-daruriyyat al-khams*): religion (*hifz al-din*), life (*hifz al-nafs*), intellect (*hifz al-'aql*), lineage (*hifz al-nasl*), and property (*hifz al-mal*). Moreover, several provisions also reflect contemporary *Maqashid* concerns, particularly the protection of human dignity (*hifz al-'ird*) and the rights of the family.

This demonstrates that the implementation of *Maqashid Al-Shari'ah* in the KHI is reflected not only in the substance of its legal provisions but also in the methodology through which they were formulated. As noted by Ilham Tohari and Moh. Anas Kholish, *Maqashid Al-Shari'ah* has evolved from a theoretical concept in *ushul al-fiqh*into a methodological framework for the reform of Islamic law capable of responding to the dynamics of contemporary society. Accordingly, the provisions of the KHI should be interpreted not merely according to their textual formulation, but also in light of the higher objectives of the Shari'ah, namely the protection of the welfare of individuals, families, and society.[29]

Unlike the classical fiqh manuals, which are generally organized around the normative rules of worship and social transactions, the KHI was designed as an instrument of positive law capable of addressing the needs of modern society. Consequently, its drafters considered not only the validity of the legal evidence but also the practical effectiveness of its implementation. This approach demonstrates that Maqashid Al-Shari'ah serves not

[29] Tohari and Kholish, 317–21.

merely as a philosophical foundation but also as an operational methodology for formulating legal norms. It further illustrates the shift in Indonesia's Islamic legal legislation from a predominantly textual approach to a functional one that places public welfare at its core.

1. Protection of Religion (*Hifz al-din*)

The protection of religion (*hifz al-din*) is one of the fundamental objectives of the Shari'ah. Within Indonesian Islamic family law, its relevance can be examined through Article 2 of the Compilation of Islamic Law (KHI), which characterizes marriage as a solemn covenant (mitsaqan ghalizan) undertaken in obedience to Allah and as an act of worship. This provision gives marriage a religious dimension that extends beyond the establishment of a legally recognized relationship between spouses. From a Maqasid al-Shari'ah perspective, the significance of this formulation lies in its normative conception of marriage as an institution in which religious commitment and family responsibilities are interconnected. Jasser Auda's broader understanding of hifz al-din provides an analytical framework for examining how religious values are embodied in family life and transmitted across generations.[30] However, this conceptual compatibility should not, by itself, be taken as historical evidence that the drafters of the KHI explicitly employed Auda's contemporary framework or a systematic Maqasid methodology.

The relevance of *hifz al-din* also appears in the KHI's regulation of prohibited marriages, including prohibitions based on consanguinity, fosterage *(rada'ah),* and affinity. These provisions establish legal boundaries for the formation of marital relationships in accordance with Islamic norms. Their relationship with hifz al-din is therefore reflected in the preservation of the religious character of marriage and compliance with the normative boundaries prescribed by the Shari'ah. Nevertheless, the provisions also have a distinct relationship with the protection of lineage *(hifz al-nasl)*, demonstrating that a single legal rule may serve more than one objective. This overlap is analytically important: the maqasid-oriented character of the KHI should be assessed by examining the functions and implications of particular rules rather than assigning each provision exclusively to one objective.

Abdullah Saeed argues that the interpretation of scriptural texts should be guided by the higher objectives of the Shari'ah rather than confined to their literal meaning. Accordingly, the purpose of marriage under the KHI extends beyond the fulfillment of the legal pillars and conditions of the marriage contract; it also serves as a means of fostering families grounded in piety, moral responsibility, and social welfare. This approach demonstrates that the protection of religion is realized through strengthening the quality of religious life within the family rather than through mere legal formalism.[31]

[30] Jasser Auda, *Maqashid Al-Syari'ah as Philosophy of Islamic Law: A Systems Approach*, 16–21.
[31] Abdullah Saeed, *Islamic Thought: An Introduction*, 55.

2. Protection of Life *(Hifz al-nafs)*

The protection of life (*hifz al-nafs*) provides another framework for evaluating the objectives and effects of Indonesian Islamic family law. In the context of the KHI, this objective is relevant to provisions concerning family relationships, the resolution of marital disputes, and the legal process of divorce. The ideal of a family characterized by *sakinah, mawaddah*, and *rahmah* provides an ethical orientation for family life. Nevertheless, the existence of this ideal does not automatically establish that every provision of the KHI effectively protects the physical, psychological, and social well-being of family members. A stronger maqasid-oriented analysis must identify the legal mechanisms through which protection is pursued and assess the extent to which those mechanisms can prevent or reduce harm. Jasser Auda's broader treatment of Maqasid al-Shari'ah offers a conceptual basis for examining legal objectives in relation to human well-being, while the specific connection between an individual KHI provision and h*ifz al-nafs* still requires a reasoned explanation.[32]

Hifz al-nafs is also reflected in the regulation of divorce under the KHI. Although Islamic law permits divorce, the KHI does not allow it to be carried out freely. Divorce may only be granted through the Religious Court after the judge has made efforts to reconcile the parties. This provision represents a form of Maqashid-oriented Ijtihad aimed at reducing the incidence of divorce while protecting the interests of the husband, wife, and children. The involvement of the court provides an opportunity for mediation, reconciliation, and the peaceful resolution of disputes before the marriage is legally dissolved. From the perspective of Maqashid Al-Shari'ah, this mechanism reflects the implementation of the principle of dar' al-mafasid, which prioritizes the prevention of harm over the mere formal resolution of disputes. Ahmad Imam Mawardi explains that the Maqashid approach continues to employ classical *ushul al-fiqh* instruments, such as *istihsan*, *maslahah mursalah,* and *sadd al-dhari'ah* while directing all of these instruments toward realizing the objectives of the Shari'ah. Therefore, the requirement that divorce be settled through the Religious Court may be understood as a legal policy intended to preserve the continuity of the family and minimize the negative effects of divorce on the husband, wife, and children.[33]

Taken together, these provisions suggest that the KHI provides legal mechanisms that can be interpreted in light of the protection of religion and life. Their significance lies not simply in their compatibility with broad Islamic values, but in the particular ways they structure marriage, define prohibited relationships, and regulate the dissolution of marriage. At the same time, the analysis must distinguish the normative potential of these rules from their actual effects and from claims about the historical intentions of their drafters. The KHI can therefore be examined as compatible with certain objectives of Maqasid al-Shari'ah without assuming, in the absence of direct historical evidence, that its entire formulation was explicitly derived from a systematic maqasid methodology.

---

[32] Jasser Auda, *Maqashid Al-Syari'ah as Philosophy of Islamic Law: A Systems Approach*, 21.

[33] Ahmad Imam Mawardi, *Fiqh Minoritas: Fiqh Al-Aqaliyyat Dan Evolusi Maqashid Al-Syari'ah* (Yogyakarta: LKiS, 2010), 226.

3. Protection of Lineage *(Hifz al-nasl)*

The protection of lineage *(hifz al-nasl)* provides an important framework for analyzing the provisions of the Compilation of Islamic Law (KHI) concerning marriage, marriage registration, lineage, child custody *(hadanah),* guardianship, and maintenance. These provisions regulate the establishment of family relationships and the rights and responsibilities arising from them. However, their relationship with *hifz al-nasl* should not be assumed to be identical in every case. Some provisions directly concern the recognition and protection of lineage, whereas others protect children's welfare, parental responsibilities, and the legal interests of family members. A maqasid-oriented analysis therefore needs to identify the particular interest protected by each rule rather than treating all family-law provisions as serving the same objective.

In contemporary Maqasid al-Shari'ah theory, the protection of lineage can be examined beyond the biological continuity and clarity of descent to include the protection of family relationships and children's rights. Jasser Auda's approach provides a conceptual framework for examining this broader dimension of legal protection.[34] Marriage registration, for example, can be analyzed as a legal mechanism that facilitates the documentation of marital status and the protection of the rights arising from marriage. Although registration is distinct from the classical fiqh discussion of the validity of a marriage contract, its legal significance in the contemporary context lies in providing evidence of the marital relationship and supporting the legal recognition of the rights of spouses and children. Its relationship with hifz al-nasl is therefore indirect but significant: reliable documentation may help prevent disputes concerning family status and lineage, while its connection with the protection of property and other legal rights should be assessed as complementary objectives.

The provisions concerning child custody (*hadanah*) and guardianship further demonstrate that the legal protection of children cannot be reduced to the preservation of lineage alone. Custody concerns the care and upbringing of children, while guardianship may involve the representation and management of a child's interests, including property where applicable. These functions can be interpreted as supporting *hifz al-nasl* because they help maintain the conditions necessary for children's welfare and the continuity of family responsibilities. Nevertheless, the claim that the KHI's drafters explicitly prioritized child protection as a systematic application of Maqasid al-Shari'ah requires historical evidence beyond the wording of the provisions themselves.

Ahmad Imam Mawardi's discussion of the development of Maqasid al-Shari'ah offers a theoretical basis for examining legal provisions that respond to contemporary social needs while remaining connected to the broader framework of *ushul al-fiqh* .[35] Applied to the KHI, this perspective helps explain how legal mechanisms concerning children's rights and parental responsibilities may be evaluated according to the interests they protect and the harms they seek to prevent. The analytical conclusion is not that every provision

[34] Jasser Auda, *Maqashid Al-Syari'ah as Philosophy of Islamic Law: A Systems Approach*, 21.
[35] Ahmad Imam Mawardi, *Fiqh Minoritas: Fiqh Al-Aqaliyyat Dan Evolusi Maqashid Al-Syari'ah*, 196.

necessarily originated from an explicitly articulated maqasid methodology, but that these provisions can be assessed through a maqasid-oriented framework. This distinction allows the KHI's normative contribution to family protection to be evaluated without making unsupported claims about the historical intentions of its drafters

4. Protection of Property *(Hifz al-mal)*

The protection of property (*hifz al-mal*) is another important objective for evaluating the KHI's regulation of economic rights within the family. Its provisions concerning *mahr* (dower), maintenance, marital property, gifts (*hibah*), wills, and inheritance establish rules governing the acquisition, use, and transfer of property in family relationships. The maqasid-oriented significance of these provisions lies not simply in the existence of financial regulations, but in their potential to clarify entitlements, protect legitimate interests, and reduce disputes over family assets. Their contribution to *hifz al-mal* must therefore be demonstrated through the specific rights and legal consequences established by the relevant rules.

Jasser Auda's approach to Maqasid al-Shari'ah provides a broader conceptual perspective for examining the protection of property in relation to social welfare and the consequences of legal rules.[36] Within this framework, the KHI's economic provisions can be assessed according to whether they provide legal clarity and protection for the financial interests of family members. This does not mean that every provision directly promotes economic development or reduces social inequality; such outcomes require separate evidence. Rather, the more immediate legal contribution of these provisions is to regulate financial responsibilities and property rights within the family, thereby providing a normative basis for resolving disputes and protecting the interests of the parties concerned.

The regulation of marital property (*harta bersama* or *gono-gini*) offers a particularly relevant case for this analysis. The KHI recognizes marital property as a distinct legal category and regulates its consequences when a marriage ends. This framework can be interpreted as responsive to the social and economic realities of Indonesian families, in which the accumulation of assets may occur during the marriage under different forms of contribution by the spouses. From a maqasid-oriented perspective, the significance of this regulation lies in its potential to protect the economic interests of both parties and provide a legal basis for resolving disputes over assets. Ahmad Rofiq's discussion of Islamic legal reform in Indonesia provides a reference for examining the development of Indonesian Islamic family law in relation to its social context. [37] Nevertheless, the claim that the recognition of *harta bersama* specifically constitutes an application of *maslahah mursalah* should be presented as a jurisprudential interpretation unless direct evidence establishes that this was the explicit method used by the KHI's drafters.

The same analytical approach applies to the KHI's provisions on maintenance, inheritance, gifts, and wills. These rules govern different forms of financial responsibility and property transfer, and they should not be treated as interchangeable manifestations of

[36] Jasser Auda, *Maqashid Al-Syari'ah as Philosophy of Islamic Law: A Systems Approach*, 17.
[37] Ahmad Rofiq, *Pembaharuan Hukum Islam Di Indonesia*.

hifz al-mal. Maintenance concerns the fulfillment of financial obligations, whereas inheritance, gifts, and wills concern the transfer or allocation of property under particular legal conditions. Their common maqasid-oriented significance lies in providing normative rules for determining rights and responsibilities and for addressing potential conflicts over wealth. Whether these rules produce equitable outcomes in practice, however, depends on their interpretation, implementation, and the circumstances of individual cases.

Taken together, the provisions discussed under *hifz al-nasl* and *hifz al-mal* demonstrate how the KHI can be evaluated through the objectives of the Shari'ah. The former concerns the protection of lineage and the legal and welfare interests associated with family relationships, while the latter focuses on financial rights, obligations, and property allocation. Some provisions may contribute to both objectives, particularly where the legal recognition of family status affects children's rights or economic entitlements. The central finding is therefore that the KHI contains provisions whose functions can be interpreted as consistent with these maqasid objectives. This normative finding should remain distinct from the historical question of whether the drafters systematically employed *Maqasid al-Shari'ah* as an explicit methodology during the KHI's formulation.

Conclusion

This study concludes that the Compilation of Islamic Law (KHI) can be understood as a product of collective Islamic legal *ijtihad* (*ijtihad jama'i*) that responds to the legal and social context of Indonesian Muslims. Its provisions concerning marriage, registration, lineage, child custody, marital property, polygamy, and divorce can be interpreted as consistent with several objectives of *Maqasid al-Shari'ah*, particularly the protection of religion, life, lineage, and property, as well as the prevention of harm and the promotion of public welfare. However, this normative compatibility does not, by itself, establish that the KHI's drafters explicitly employed a systematic *Maqasid*-based methodology during its formulation.The principal theoretical contribution of this study is to distinguish between the KHI's historical formation as a product of collective *ijtihad* and its normative evaluation through the framework of *Maqasid al-Shari'ah*. This distinction provides a more precise basis for understanding the KHI's contribution to Indonesian Islamic family law without conflating its historical origins with subsequent theoretical interpretations.

The study is limited by its normative and library-based approach and does not examine how maqasid-oriented reasoning is applied in judicial practice. Future research should therefore analyze Religious Court decisions and judges' legal reasoning to assess the practical application of maqasid principles. Further studies could also evaluate the adequacy of the KHI in addressing contemporary family-law issues, particularly the protection of women and children and emerging developments in family relationships.

Declaration of AI Use

The authors acknowledge the use of artificial intelligence (AI) tools for language assistance and editorial support during the preparation of this manuscript. All scholarly arguments,

interpretations, analyses, and conclusions remain the responsibility of the authors, who have reviewed and approved the final version of the article.

Author Contributions

Ziyan Al Ghifari contributed to the conceptualization of the research, development of the research methodology, data collection, and analysis. Mohamed Elmantar contributed to the literature review, interpretation of the findings, and critical revision of the manuscript. Both authors participated in the preparation of the manuscript, reviewed the final version, and approved it for publication.

Data Availability Statement

All data supporting the findings of this study are contained within the article. No additional datasets were generated or are required

Funding

This research received no external funding. No financial support was received from any institution, organization, or individual for the conduct of this research or the preparation of this article.

Conflict of Interest

The authors declare that there are no conflicts of interest related to the research, authorship, or publication of this article.

References

Al Fitri. "Pembaruan Hukum Keluarga di Indonesia Melalui Kompilasi Hukum Islam."

Al-Alwani, Taha Jabir. *Issues in Contemporary Islamic Thought*. Herndon, VA: The International Institute of Islamic Thought, 2005.

Al-Qaradawi, Yusuf. *Dirasah fi Fiqh Maqashid al-Syari'ah*. Cairo: Dar al-Syuruq, 2006.

Al-Raysuni, Ahmad. *Naẓariyyat al-Maqashid 'inda al-Imam al-Shaṭibi*. Cairo: Dar al-Kalimah li al-Nashr wa al-Tawzi', 2014.

Al-Syaṭibi, Abu Ishaq Ibrahim ibn Musa. *Al-Muwafaqat fi Ushul al-Syari'ah*. Beirut: Dar al-Kutub al-'Ilmiyyah, 1997.

Andi Herawati. "Kompilasi Hukum Islam (KHI) sebagai Hasil Ijtihad Ulama Indonesia." *HUNAFA: Jurnal Studia Islamika* 8, no. 2 (2011): 321–340.

Auda, Jasser. *Maqasid al-Shariah as Philosophy of Islamic Law: A Systems Approach*. London: The International Institute of Islamic Thought, 2008.

Ibn 'Asyur, Muhammad al-Ṭahir. *Maqashid al-Syari'ah al-Islamiyyah*. Amman: Dar al-Nafa'is, 2001.

Kamali, Mohammad Hashim. "Maqasid al-Shari'ah and Ijtihad as Instruments of Civilisational Renewal: A Methodological Perspective." *Islam and Civilisational Renewal* 2, no. 2 (2011): 245–271.

Khairil Anwar, Mohd. Soberi Awang, dan Mualimin Mochammad Sahid. "Maqashid al-Syari'ah dalam Kompilasi Hukum Islam: Analisis terhadap Ketentuan Perkawinan di Indonesia."

Mawardi, Ahmad Imam. *Fiqh Minoritas: Fiqh al-Aqalliyat dan Evolusi Maqashid al-Syari'ah*. Yogyakarta: LKiS, 2010.

Muhammad, Husein. *Perempuan, Islam dan Negara: Pergulatan Identitas dan Entitas*. Yogyakarta: Qalam Nusantara, 2016.

Muin, Abd., dan Ahmad Khotibul Umam. "Eksistensi Kompilasi Hukum Islam dalam Sistem Hukum Positif." *Jurnal Risalah* 1, no. 1 (2016): 63–70.

Mulia, Siti Musdah. *Muslimah Reformis: Perempuan Pembaru Keagamaan*. Bandung: Mizan, 2005.

Murtadlo, Muhammad Ali. "Analisis Maqasid Syariah Jasser Auda terhadap Counter Legal Draft Kompilasi Hukum Islam." *Al-Syakhsiyyah: Journal of Law and Family Studies* 3, no. 2 (2021): 1–24.

Rofiq, Ahmad. *Pembaharuan Hukum Islam di Indonesia*. Yogyakarta: Gama Media, 2001.

Saeed, Abdullah. *Islamic Thought: An Introduction*. London: Routledge, 2006.

Tohari, Ilham, dan Moh. Anas Kholish. "Maqasid Syariah sebagai Pijakan Konseptual dalam Pembaruan Hukum Keluarga Islam Indonesia." *Arena Hukum* 13, no. 2 (2020): 314–328.

Laws and Regulations

Instruksi Presiden Republik Indonesia Nomor 1 Tahun 1991 tentang Penyebarluasan Kompilasi Hukum Islam.

Republik Indonesia. *Undang-Undang Nomor 1 Tahun 1974 tentang Perkawinan.*

Republik Indonesia. *Undang-Undang Nomor 7 Tahun 1989 tentang Peradilan Agama.*