



# Legal Politics in Transforming Islamic Norms in Sexual Violence Law: A *Maqāsid al-Shariah* Analysis

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## Abstract

**Background:** Law Number 12 of 2022 concerning the Crime of Sexual Violence (TPKS Law) marks a significant shift in Indonesia's criminal law reform by adopting a victim-centered approach. However, inconsistent implementation and limited scholarship explaining how legal politics transforms *Maqāsid al-Sharī'ah* into statutory law remain important challenges.

**Methods:** This study employs normative legal research using statutory, conceptual, and comparative approaches. Primary legal materials include the 1945 Constitution, the TPKS Law, and related legislation, while secondary materials comprise scholarly works on legal politics, victim protection, and *Maqāsid al-Sharī'ah*. Data were analyzed through doctrinal legal interpretation using Jasser Auda's systems approach.

**Results:** The findings show that Indonesia's legal politics has institutionalized victim protection through prevention, rehabilitation, restitution, compensation, and procedural safeguards that substantially correspond with the objectives of *Maqāsid al-Sharī'ah*. Nevertheless, institutional fragmentation, inconsistent law enforcement, and victim-blaming continue to hinder effective implementation.

**Discussion:** The study demonstrates that legal politics serves as a normative bridge linking Islamic legal values, constitutional principles, human rights, and restorative justice within Indonesia's plural legal system.

**Conclusion:** Effective victim protection requires stronger institutional capacity and consistent implementation aligned with the objectives of *Maqāsid al-Sharī'ah*.

**Novelty:** This study develops a doctrinal framework explaining how legal politics mediates the transformation of *Maqāsid al-Sharī'ah* into Indonesia's victim-centered sexual violence legislation.

**Keywords:** *legal politics; sexual violence law; victim protection; Maqāsid al-Sharī'ah; Indonesia.*

## INTRODUCTION

Sexual violence constitutes a persistent and multidimensional legal problem within contemporary Indonesian society, involving not only criminal wrongdoing but also structural failures in the protection of human dignity and rights. Law Number 12 of 2022 concerning the Crime of Sexual Violence (TPKS Law) was enacted as a landmark reform aimed at transforming Indonesia's criminal justice approach from a perpetrator-centered model toward a victim-centered framework. This legislative shift reflects a broader global trend in criminal law reform that emphasizes victim protection, restorative justice, and human rights-based governance. The TPKS Law introduces comprehensive mechanisms, including prevention strategies, procedural protection, restitution, compensation, and recovery services for victims. However, despite its progressive normative design, implementation remains inconsistent across institutions. Victims of sexual violence continue to face barriers such as weak law enforcement

coordination, limited institutional capacity, and persistent socio-cultural stigma that undermines access to justice. These conditions demonstrate that legal reform alone is insufficient without structural and cultural transformation within the criminal justice system. More importantly, the enactment of the TPKS Law raises a fundamental legal-political question regarding how normative legal systems in Indonesia integrate universal human rights principles with Islamic legal values within a plural legal order.

The central legal problem lies not in the absence of normative protection for victims, but in the effectiveness of transforming victim-centered principles into a coherent and operational legal system. Although the TPKS Law provides detailed provisions on victim rights, enforcement practices reveal significant gaps between legal norms and legal reality. Victims often experience secondary victimization during reporting, investigation, and trial processes, which indicates a disconnect between statutory objectives and institutional implementation. This gap reflects a deeper doctrinal issue concerning the nature of legal politics in shaping criminal legislation in Indonesia. Legal politics does not merely determine the formation of laws, but also influences how legal norms are interpreted, implemented, and institutionalized. In this context, the question is whether Indonesia's legal politics has successfully produced a victim-centered criminal justice system that is capable of delivering substantive justice, or whether it remains constrained by procedural formalism and institutional fragmentation. Accordingly, the issue of sexual violence law must be understood not only as a policy concern, but as a doctrinal question concerning the coherence between legal norms, institutional practice, and justice outcomes. This necessitates a normative legal inquiry that goes beyond descriptive policy analysis toward a deeper interpretation of legal principles and statutory objectives.

From an Islamic legal perspective, the protection of human dignity and the prevention of harm constitute foundational objectives of the Shari'ah. The theory of *Maqāṣid al-Shari'ah* provides a normative framework that emphasizes the realization of public welfare (*maṣlaḥah*) and the prevention of harm (*mafsadah*) as core objectives of Islamic law. Within this framework, sexual violence is understood as a serious violation that threatens essential human interests, including the protection of life (*ḥifẓ al-naḥs*), intellect (*ḥifẓ al-'aql*), lineage (*ḥifẓ al-nasl*), and human dignity (*ḥifẓ al-'ird*). Contemporary developments in maqāṣid theory, particularly those advanced by Jasser Auda, expand the traditional legal understanding into a systems-based approach that emphasizes flexibility, interdisciplinarity, and contextual relevance. In this sense, Maqāṣid al-Shari'ah functions not only as an ethical foundation but also as a normative interpretive framework for evaluating the legitimacy and effectiveness of modern legal systems. Therefore, victim protection in cases of sexual violence is not only a legal obligation under national law but also a manifestation of Islamic legal objectives that prioritize justice, human dignity, and social welfare. This positions maqāṣid as a bridge between Islamic legal philosophy and contemporary statutory law within plural legal systems such as Indonesia.

Existing scholarship has extensively examined sexual violence law, victim protection mechanisms, and the application of Islamic legal principles in modern contexts; however, several critical gaps remain. Studies such as Ariyanti (2023) and Rahmawati et al. (2023) focus on victim protection and sentencing disparities, while others explore the relevance of maqāṣid theory in criminal law reform (Juliansyahzen & Ocktoberinsyah, 2022; Huda et al., 2024). Although these studies provide valuable insights, most of them analyze the TPKS Law from isolated perspectives such as victimology, criminal law doctrine, or normative Islamic jurisprudence without integrating the dimension of legal politics. Furthermore, maqāṣid-based studies tend to remain at a conceptual or philosophical level and rarely operationalize maqāṣid as a doctrinal analytical tool for evaluating statutory law. As a result, there is limited understanding of how Islamic legal values are transformed through legal-political processes into Indonesia's positive law on sexual violence (Abdullah, 1994; Abubakar et al., 2023). In addition, the normative convergence between victim-centered criminal justice and maqāṣid objectives has not been systematically analyzed within the framework of Indonesia's plural legal system. These gaps highlight the need for a more integrated doctrinal approach that connects legal politics, statutory interpretation, and Islamic legal philosophy in a single analytical framework.

This study addresses these gaps by examining how legal politics facilitates the transformation of Islamic legal norms into Indonesia's victim-centered sexual violence legislation through the analytical framework of Maqāṣid al-Shari'ah. Rather than treating Islamic law and national law as separate normative systems, this research conceptualizes their interaction as a process of normative convergence shaped by legal politics and institutional dynamics. The study argues that the effectiveness of victim protection under the TPKS Law must be evaluated not only in terms of statutory compliance but also in relation to the higher objectives of Islamic law, including the

preservation of life, dignity, intellect, lineage, and property. Accordingly, this research has three main objectives: (1) to analyze the compatibility between victim protection mechanisms under Law Number 12 of 2022 and *Maqāṣid al-Sharī'ah* principles; (2) to examine the role of legal politics in transforming Islamic legal values into statutory norms; and (3) to develop a doctrinal framework for strengthening victim-centered legal protection in Indonesia. The novelty of this study lies in constructing an integrated analytical model that links legal politics with *Maqāṣid al-Sharī'ah* to explain the normative transformation of Islamic legal principles into contemporary criminal law reform.

## LITERATURE REVIEW

The discourse on the protection of victims of sexual violence in Indonesia has developed gradually within the broader evolution of criminal law and human rights studies. Earlier legal scholarship and practice were strongly influenced by a retributive criminal justice paradigm that emphasized the punishment of offenders as the primary objective of the legal system. Within this framework, victims were often positioned as secondary actors in criminal proceedings, functioning mainly as sources of evidence rather than as rights-bearing subjects. This structural orientation contributed to systemic neglect of victim recovery, resulting in procedural injustice and secondary victimization during reporting, investigation, and adjudication processes. Early legal analysis of Indonesia's criminal justice system highlighted that such conditions were closely related to the dominance of formal legalism and the lack of victim-oriented policy integration within criminal law structures (Barlinti, 2011; Harahap et al., 2024). At this stage, victim protection had not yet been conceptualized as a central normative objective of criminal justice, but rather as an incidental concern within offender-focused legal reasoning.

Subsequent developments in Indonesian legal thought demonstrate a gradual shift toward integrating Islamic legal values, social justice principles, and plural legal perspectives into national legal discourse. Studies on the interaction between Islamic law and state law show that Indonesia operates within a complex normative system that accommodates statutory law, Islamic jurisprudence, and customary norms (*'urf*) (Hefni, 2020). Within this plural framework, legal reform has increasingly been directed toward achieving substantive justice rather than merely formal legal compliance. Karimullah (2022) explains that the harmonization between Islamic legal concepts and national legal structures reflects an adaptive legal process in which Islamic values contribute to the moral and ethical foundations of legislation. Similarly, Putra and Ahyani (2022) argue that Islamic legal principles can support progressive criminal law reform by strengthening the normative basis of justice-oriented legal policies. These studies indicate an emerging recognition of Islamic law as a constructive normative resource in Indonesian legal development, although the operational mechanism of its integration into statutory criminal law remains insufficiently theorized.

A more structured theoretical development appears through contemporary scholarship on *maqāṣid al-sharī'ah*, which provides a purposive framework for understanding Islamic legal objectives. Classical formulations by al-Shāṭibī define *maqāṣid al-sharī'ah* as the protection of five essential values: religion (*ḥifẓ al-dīn*), life (*ḥifẓ al-nafs*), intellect (*ḥifẓ al-'aql*), lineage (*ḥifẓ al-nasl*), and property (*ḥifẓ al-māl*). Contemporary scholars have expanded this framework to include justice, dignity, and human welfare as essential dimensions of Islamic legal philosophy (Al-Qaradawi, 2017; Analisa et al., 2022). A significant methodological advancement is introduced by Jasser Auda (2008), who conceptualizes *maqāṣid* through a systems approach that emphasizes openness, complexity, and multidimensional interpretation. Within this framework, law is not merely a set of textual rules but a dynamic system oriented toward achieving ethical and social objectives. In the context of sexual violence, *maqāṣid* theory provides a strong normative justification for victim protection, as sexual violence directly violates multiple essential objectives of Islamic law. It threatens life, damages psychological integrity, undermines dignity, disrupts lineage, and destabilizes social order. Therefore, legal responses such as prevention, accountability, restitution, and rehabilitation are not external additions but intrinsic manifestations of Islamic legal objectives in contemporary governance systems (Asror et al., 2023; Kamalludin et al., 2023; Alfaatih et al., 2024; Solehudin et al., 2024).

Parallel to the development of Islamic legal theory, recent empirical and doctrinal studies have increasingly focused on victim protection and sexual violence legislation in Indonesia. Research in victimology highlights that victims of sexual violence experience multidimensional harm, including psychological trauma, social exclusion, and economic vulnerability, which require comprehensive legal responses beyond punitive sanctions. Rahmawati et al. (2023) identify persistent disparities in legal protection and sentencing practices, indicating inconsistencies in judicial interpretation and enforcement. Ariyanti (2023) emphasizes the importance of integrating victim

protection within both victimological and Islamic legal (*fiqh jināyah*) perspectives to achieve a more holistic legal framework. More recent studies, such as Huda et al. (2024), demonstrate that *maqāṣid*-based reasoning provides a flexible and adaptive approach to legal interpretation in contemporary Indonesian criminal law. Ismail et al. (2022) and Anggraeni (2023) further highlight the role of human rights discourse and socio-legal transformation in shaping modern Islamic legal thought. Despite these contributions, the existing literature remains fragmented, as most studies either focus on statutory analysis of sexual violence law or theoretical discussions of Islamic legal philosophy without integrating both within a unified doctrinal framework.

Despite the growing scholarship on sexual violence law, victim protection, and *maqāṣid al-sharī'ah*, a significant conceptual and methodological gap persists. Existing studies have not sufficiently explained how legal politics functions as a mediating mechanism in the transformation of Islamic legal values into Indonesia's victim-centered criminal justice system under Law Number 12 of 2022. Moreover, *maqāṣid*-based research remains largely theoretical and has not been fully operationalized as an analytical tool for evaluating statutory legal structures. As a result, the normative convergence between victim-centered criminal justice reform and Islamic legal objectives remains under-theorized within Indonesia's plural legal system. This study addresses this gap by employing Jasser Auda's systems approach to examine the compatibility between victim protection mechanisms under the TPKS Law and the higher objectives of *maqāṣid al-sharī'ah*. It argues that victim protection must be evaluated not only in terms of formal legal compliance but also through its substantive capacity to realize justice, dignity, psychological recovery, and social welfare. By integrating legal politics and *maqāṣid al-sharī'ah* within a unified doctrinal framework, this study contributes to a more coherent and systematic understanding of sexual violence law and advances the development of a victim-centered legal paradigm grounded in both Islamic legal philosophy and contemporary legal reform.

## **METHODOLOGY**

This study employs a normative legal research design to examine the protection of victims of sexual violence in Indonesia through the analytical framework of *maqāṣid al-sharī'ah*. Normative legal research is appropriate because the primary object of analysis is legal norms, doctrines, principles, and statutory regulations rather than empirical social data. In this approach, law is conceptualized as a normative system that must be interpreted through doctrinal reasoning, conceptual analysis, and critical engagement with legal texts. The study focuses on how Indonesian positive law constructs victim protection mechanisms and how these mechanisms correspond to the higher objectives of Islamic legal philosophy. Normative legal research enables systematic interpretation of legislation while situating legal norms within broader ethical, philosophical, and socio-legal dimensions (Creswell, 2014). In the context of sexual violence law, this approach is essential because legal regulation does not only involve procedural criminal justice issues but also substantive questions of justice, dignity, human rights, and victim recovery. Therefore, the study positions legal analysis as a bridge between statutory interpretation and normative evaluation grounded in Islamic legal theory.

The study adopts a qualitative doctrinal approach that emphasizes interpretive and critical analysis of legal materials. This approach enables the examination of how victim protection is constructed, articulated, and operationalized within Indonesia's criminal justice framework. The analysis is conducted through three complementary approaches. First, the statute approach is used to analyze primary legal instruments, including the 1945 Constitution of the Republic of Indonesia, Law Number 12 of 2022 concerning the Crime of Sexual Violence, the Indonesian Criminal Code, and related human rights regulations. These instruments form the normative foundation of victim protection in Indonesia, covering aspects of prevention, restitution, compensation, rehabilitation, and procedural safeguards. Second, the conceptual approach is applied to examine theoretical perspectives on victimology, legal politics, human rights, and Islamic legal philosophy. This approach allows the study to move beyond textual interpretation and critically evaluate the normative assumptions underlying criminal justice policy, particularly regarding justice orientation and victim-centered legal reform. Third, the *maqāṣid al-sharī'ah* approach is employed as the principal analytical framework, drawing on Jasser Auda's systems theory (2008), which conceptualizes Islamic law as a dynamic, open, and purpose-oriented system. Within this framework, legal evaluation is based on the extent to which legal norms achieve *maṣlahah* (public welfare) and prevent *mafsadah* (harm), particularly in relation to victim protection and recovery. This also allows the integration of legal politics as a mediating concept that explains how Islamic legal values are transformed into statutory norms.

The legal materials in this study consist of primary, secondary, and tertiary sources. Primary legal materials include the 1945 Constitution, Law Number 12 of 2022, provisions of the Indonesian Criminal Code, and regulations related to human rights protection and victim assistance services. Secondary legal materials consist of scholarly books, peer-reviewed journal articles, and academic writings on sexual violence, victim protection, Islamic law, legal reform, and *maqāṣid al-sharī'ah*. Key references include Karimullah (2022), Putra and Ahyani (2022), Ariyanti (2023), Rahmawati et al. (2023), Salmah and Jaman (2024), and Huda et al. (2024), which collectively provide doctrinal and theoretical insights into the intersection of criminal law reform and Islamic legal philosophy. Tertiary materials such as legal dictionaries, encyclopedias, and reference databases are used to clarify technical legal terminology and conceptual definitions. Data collection is conducted through library-based research and systematic document analysis, in which legal texts and scholarly works are identified, classified, and evaluated based on relevance to the research objectives.

The analytical method used is qualitative content analysis, which involves systematic stages of data reduction, categorization, interpretation, and synthesis. The collected materials are thematically organized into key domains such as victim rights, legal protection mechanisms, institutional responsibility, restorative justice, and *maqāṣid*-based ethical principles. Through this process, the study critically evaluates the coherence between Indonesian positive law and Islamic legal objectives. Particular attention is given to the preservation of essential *maqāṣid* values, including the protection of life (*hiḏz al-naḑs*), intellect (*hiḏz al-'aql*), lineage and dignity (*hiḏz al-nasl* and *hiḏz al-'ird*), and property (*hiḏz al-māl*). Ultimately, this methodological framework enables a doctrinal synthesis between legal politics and *maqāṣid al-sharī'ah*, allowing the study to assess whether Indonesia's victim-centered sexual violence law achieves substantive justice in accordance with both constitutional principles and Islamic legal philosophy.

## RESULT AND DISCUSSION

### Legal Framework for the Protection of Sexual Violence Victims in Indonesia

The legal protection of victims of sexual violence in Indonesia reflects a significant normative shift in criminal law orientation from an offender-centered model toward a victim-centered justice paradigm. Historically, the Indonesian criminal justice system prioritized retributive objectives, focusing on the prosecution and punishment of perpetrators while marginalizing the legal standing and recovery needs of victims. Within this structure, victims were often positioned as procedural instruments rather than substantive rights-holders in criminal proceedings. Such an approach produced systemic vulnerability in the form of secondary victimization, where survivors experienced not only the original harm but also additional suffering during legal processes, including stigmatization, evidentiary burden, and institutional insensitivity. This condition demonstrates that the problem of sexual violence law in Indonesia is not merely normative, but structural, reflecting limitations in legal design and implementation (Ariyanti, 2023).

The enactment of Law Number 12 of 2022 concerning the Crime of Sexual Violence (TPKS Law) constitutes a critical legal transformation within Indonesia's criminal justice architecture. Normatively, the law expands the definition of sexual violence to include physical, psychological, sexual, and technology-based violence, thereby reflecting a more comprehensive understanding of harm. More importantly, the TPKS Law introduces a victim-centered legal framework that institutionalizes prevention, protection, restitution, compensation, rehabilitation, and recovery mechanisms. This represents a shift in legal reasoning from punitive rationality toward restorative and protective justice. However, from a doctrinal perspective, the existence of such comprehensive legal provisions does not automatically guarantee normative effectiveness. The gap between legal formulation and legal implementation indicates that Indonesian legal politics has successfully produced progressive legislation, but has not fully ensured its institutional consolidation in practice (Salmah & Jaman, 2024).

From a constitutional and normative standpoint, the development of victim protection is grounded in the 1945 Constitution, which guarantees human dignity, equality before the law, and protection from violence and degrading treatment. These constitutional principles provide the foundational legitimacy for victim-centered criminal law reform. However, the translation of constitutional values into operational legal mechanisms remains partial and uneven. While the legal substance has evolved toward human rights-based protection, the legal structure and legal culture still exhibit significant limitations. This condition suggests that Indonesia's criminal justice reform is characterized by normative advancement without full structural alignment. Consequently, victim protection operates in a fragmented manner, depending heavily on institutional capacity, regional enforcement disparities, and administrative commitment (Setiawan et al., 2022; Sopyan et al., 2023). Empirical findings in

existing literature further confirm that the implementation of the TPKS Law is constrained by systemic and socio-cultural factors. Institutional weaknesses such as limited legal aid availability, insufficient training of law enforcement officers, inadequate psychosocial support systems, and procedural delays reduce the effectiveness of victim protection mechanisms. At the same time, socio-cultural norms such as victim-blaming, stigma, and reluctance to report sexual violence continue to undermine the accessibility of justice for survivors. These conditions indicate that the central issue is not merely legal deficiency but the persistence of structural and cultural resistance within the justice system. In this sense, the effectiveness of victim protection is determined not only by statutory design but also by the interaction between legal norms and social realities (Rahmawati et al., 2023; Rahman et al., 2024).

From a theoretical perspective, these findings can be explained through Friedman's legal system theory, which emphasizes the interaction between legal substance, legal structure, and legal culture. Although Indonesia has significantly strengthened its legal substance through the TPKS Law, the structural and cultural dimensions of the legal system remain underdeveloped. This imbalance creates a disjunction between normative progress and practical outcomes. Therefore, legal reform must move beyond legislative production toward institutional strengthening and cultural transformation. In the context of legal politics, the TPKS Law represents a progressive normative achievement; however, its effectiveness depends on whether state institutions are able to translate victim-centered principles into consistent legal practice. Without such alignment, victim protection risks remaining at the level of normative commitment rather than substantive realization of justice.

#### ***Maqāṣid al-Sharī'ah* as the Foundation of Victim Protection**

*Maqāṣid al-Sharī'ah* represents a foundational normative framework in Islamic legal theory that conceptualizes law not merely as a system of rules, but as a purposive structure oriented toward the realization of human welfare (*maṣlahah*) and the prevention of harm (*mafsadah*). Classical jurists articulated this framework through the doctrine of *al-darūriyyāt al-khams*, namely the preservation of religion (*ḥifẓ al-dīn*), life (*ḥifẓ al-naḥs*), intellect (*ḥifẓ al-'aql*), lineage (*ḥifẓ al-nasl*), and property (*ḥifẓ al-māl*). These five essentials constitute the normative foundation of Islamic legal objectives and serve as evaluative benchmarks for determining the legitimacy and effectiveness of legal rulings. In contemporary Islamic legal thought, this framework has been expanded beyond its classical formulation to include human dignity, justice, and rights-based considerations, thereby transforming *maqāṣid* into a dynamic interpretive methodology capable of engaging with modern legal systems and complex social realities (Auda, 2008; Fauzi et al., 2020; Bachri et al., 2023). Within this paradigm, legal validity is no longer assessed solely through textual conformity but through its capacity to produce ethical and socially beneficial outcomes, particularly in contexts involving multidimensional harm such as sexual violence.

In the context of sexual violence, the *maqāṣid al-sharī'ah* framework provides a comprehensive normative basis for victim protection by framing harm as multidimensional and systemic rather than purely physical or procedural. Sexual violence constitutes a direct violation of *ḥifẓ al-naḥs* due to its physical and psychological consequences, including trauma, anxiety disorders, and long-term mental health instability that undermine the victim's overall well-being and life integrity. It also disrupts *ḥifẓ al-'aql*, as trauma significantly impairs cognitive functioning, emotional regulation, and decision-making capacity, thereby affecting victims' ability to reintegrate into social, educational, and economic life. From a doctrinal perspective, this implies that legal responses cannot be limited to punitive sanctions but must include restorative and rehabilitative dimensions such as psychological recovery, social reintegration, and sustained institutional support. Furthermore, sexual violence constitutes a violation of *ḥifẓ al-nasl* and human dignity (*al-karāmah al-insāniyyah*), as it damages familial structures, social honor, and communal trust while simultaneously exposing victims to secondary victimization through stigma and victim-blaming. Accordingly, a *maqāṣid*-based legal system requires not only accountability mechanisms but also protective structures that ensure dignity preservation, trauma-sensitive procedures, and comprehensive victim recovery as integral components of justice realization (Al-Qaradawi, 2017).

The systems-oriented approach developed by Jasser Auda further strengthens the applicability of *maqāṣid* in contemporary legal analysis by reconceptualizing Islamic law as an interconnected, open, and purpose-driven system. Auda's framework rejects linear and rigid legal reasoning, emphasizing instead complexity, multidimensionality, and the interrelationship between legal components in achieving holistic justice outcomes (Auda, 2008). Within this systems paradigm, the effectiveness of law is measured not only by procedural compliance but by its substantive ability to protect vulnerable groups, restore harm, and achieve social equilibrium. Applied to sexual violence legislation, this approach implies that victim protection must be

understood as an integrated legal system encompassing prevention, protection, restitution, rehabilitation, and institutional coordination rather than isolated legal provisions. Empirical developments in contemporary Indonesian Islamic legal scholarship demonstrate increasing engagement with *maqāṣid*-based reasoning in areas such as gender justice, family law reform, and restorative legal ethics (Putra & Ahyani, 2022; Ahyani et al., 2023; Huda et al., 2024). These developments indicate that *maqāṣid al-sharī'ah* functions not only as a theological framework but also as a normative-analytical tool capable of bridging Islamic legal philosophy with modern victim-centered criminal justice systems, particularly within plural legal contexts such as Indonesia.

### **Harmonization of Indonesian Positive Law and *Maqāṣid al-Sharī'ah***

The relationship between Islamic law and Indonesian positive law reflects an ongoing process of normative interaction within a plural legal system characterized by the coexistence of state law, customary norms, and religious values. Rather than operating as separate and competing normative orders, these legal systems increasingly demonstrate patterns of selective convergence, particularly in areas where ethical and social objectives overlap. As a Muslim-majority country, Indonesia does not formally codify Islamic law as state law; however, Islamic legal values continue to exert significant influence on legislative development and legal reasoning, especially in domains related to family law and criminal justice reform. This condition illustrates that legal development in Indonesia is not merely a technical legislative process, but also a form of legal politics in which normative values are negotiated, translated, and institutionalized within a constitutional framework based on Pancasila. Within this context, *maqāṣid al-sharī'ah* provides an important conceptual bridge that enables the articulation of compatibility between Islamic normative objectives and contemporary human rights-based legal systems (Barlinti, 2011; Karimullah, 2022).

The enactment of Law Number 12 of 2022 concerning the Crime of Sexual Violence (TPKS Law) represents a concrete manifestation of this normative convergence. The law reflects a shift from a retributive criminal justice paradigm toward a victim-centered and restorative legal framework that emphasizes prevention, protection, recovery, restitution, and state responsibility. From a *maqāṣid*-based perspective, these legal instruments demonstrate substantial alignment with the preservation of life (*ḥifẓ al-naḥs*), intellect (*ḥifẓ al-'aql*), dignity and lineage (*ḥifẓ al-nasl*), and property (*ḥifẓ al-māl*). More importantly, the recognition of victims as rights-bearing subjects signifies a doctrinal transformation in which legal protection is no longer limited to punishment of offenders but extended to the restoration of human dignity and welfare. This reflects the core orientation of *maqāṣid al-sharī'ah*, which prioritizes *maṣlahah* (public benefit) and harm prevention (*maḥsadah*) as central evaluative criteria of legal legitimacy. In this sense, the TPKS Law can be understood as an instance of normative alignment between Islamic ethical-legal objectives and contemporary Indonesian criminal law reform, particularly in its attempt to institutionalize comprehensive victim protection mechanisms (Muhsin et al., 2021; Danial et al., 2023; Salmah & Jaman, 2024).

A deeper level of harmonization emerges in the shared normative emphasis on justice (*'adl*) and human dignity (*karāmah insāniyyah*) as foundational legal principles. Both Indonesian constitutional law and Islamic legal theory conceptualize justice not merely as procedural compliance but as substantive protection of human welfare and the rectification of structural harm. Auda's systems approach to *maqāṣid* (2008) strengthens this interpretive orientation by positioning law as a dynamic, interconnected system whose validity depends on its ability to generate justice, equity, and social benefit in a given context. Within this framework, legal effectiveness is assessed not only through formal compliance but through its real-world impact on vulnerable groups, particularly victims of sexual violence. Indonesian legal developments, including the expansion of psychological support services, witness protection mechanisms, and restitution frameworks, indicate a gradual institutional movement toward this substantive justice paradigm. However, the harmonization process remains incomplete due to persistent structural and cultural constraints, including institutional fragmentation, patriarchal norms, and victim-blaming attitudes. These factors create a disjunction between normative convergence at the legislative level and uneven implementation in practice, highlighting that legal harmonization is ultimately contingent upon both institutional capacity and socio-cultural transformation.

### **Challenges and Future Directions for Victim-Centered Legal Protection**

Although Indonesia has achieved significant normative advancement through the enactment of Law Number 12 of 2022 concerning the Crime of Sexual Violence (TPKS Law), the realization of a genuinely victim-centered legal protection system remains constrained by persistent structural, cultural, and institutional limitations. This condition demonstrates that legal reform in the field of sexual violence cannot be assessed solely from the

perspective of legislative achievement, but must also be evaluated through its implementation capacity and socio-legal responsiveness. The gap between normative legal design and empirical implementation indicates that Indonesia's criminal justice reform is still in a transitional phase, where progressive legal substance has not been fully supported by adequate institutional structures and legal culture. From the perspective of *maqāṣid al-sharī'ah*, this implementation gap is normatively significant because the ultimate objective of law is not formal compliance, but the realization of *maṣlaḥah* (public welfare) and the prevention of *mafsadah* (harm). Accordingly, the effectiveness of victim protection must be assessed based on its substantive impact on human dignity, recovery, and justice outcomes.

One of the most persistent barriers to effective victim-centered protection is the entrenched socio-cultural stigma and victim-blaming discourse surrounding sexual violence. In many contexts, survivors are still subjected to moral judgment that shifts responsibility away from perpetrators and toward victims, often based on gender norms, behavioral assumptions, or cultural expectations. Such narratives reinforce secondary victimization and significantly discourage reporting, thereby weakening the accessibility and effectiveness of formal legal mechanisms. The persistence of underreporting indicates that legal reform alone is insufficient without parallel transformation of social attitudes and cultural norms. Within the *maqāṣid al-sharī'ah* framework, such conditions represent a violation of *ḥifẓ al-'ird* and *ḥifẓ al-nasl*, as they undermine human dignity and social integrity while intensifying harm rather than facilitating protection and recovery. This also contradicts the Islamic ethical principle of *karāmah insāniyyah*, which requires unconditional respect for human dignity regardless of social status or victimhood (Koburtay et al., 2023; Masyhar et al., 2024; Muljan et al., 2024).

A second critical challenge lies in the structural limitations of legal and institutional frameworks responsible for implementing the TPKS Law. Despite comprehensive statutory provisions, disparities in institutional capacity across regions continue to affect the consistency and quality of victim protection services. These include insufficiently trained law enforcement personnel, limited access to psychological and medical services, weak inter-agency coordination, and inconsistent application of victim assistance mechanisms. In some cases, procedural inefficiencies and bureaucratic fragmentation further delay justice delivery, thereby reducing public trust in the criminal justice system. Friedman's legal system theory remains relevant in explaining this condition, as legal effectiveness depends on the interaction between legal substance, legal structure, and legal culture (Friedman, 1975). While Indonesia has made progress in strengthening legal substance through legislative reform, structural and cultural dimensions remain underdeveloped, resulting in a persistent gap between normative ambition and practical realization of victim protection.

In addition to institutional weaknesses, deeply embedded gender inequality and patriarchal norms continue to shape the interpretation and enforcement of sexual violence laws. These norms influence not only social perceptions but also institutional responses, often resulting in subtle forms of bias that disadvantage victims, particularly women and children. Such structural inequality contradicts both constitutional principles of equality and the *maqāṣid* principle of justice (*al-'adl*), which requires equal protection of rights and dignity without discrimination. Therefore, victim-centered legal reform must extend beyond statutory change and include systemic transformation through capacity building, gender-sensitive training, and institutional sensitization. Without such reforms, legal provisions risk remaining formally progressive but substantively ineffective. From a forward-looking perspective, strengthening victim-centered legal protection requires an integrated and multidisciplinary approach that connects legal reform with institutional capacity building and socio-cultural transformation. Legal protection should be understood as a continuum that includes prevention, emergency response, psychological recovery, social reintegration, and long-term empowerment. This approach aligns with the *maqāṣid* objective of comprehensive welfare (*maṣlaḥah 'āmmah*) and harm prevention (*daf' al-ḍarar*), ensuring that justice is not limited to punishment but extends to restoration and healing. Effective implementation requires coordinated collaboration among law enforcement institutions, healthcare systems, social services, civil society actors, and religious institutions. Furthermore, institutional capacity must be strengthened through trauma-informed and rights-based approaches to victim assistance in order to ensure consistent and humane treatment of survivors.

Finally, *maqāṣid al-sharī'ah* provides a normative and methodological foundation for guiding future reforms in victim protection policy. Contemporary *maqāṣid* scholarship emphasizes systemic coherence, contextual reasoning, and adaptability in addressing evolving social realities (Auda, 2008). This allows Islamic legal principles to function as a dynamic evaluative framework that complements modern human rights discourse and

positive law. In the context of sexual violence, this framework supports the development of a justice system that integrates dignity, welfare, and accountability within a unified legal structure. Ultimately, the future effectiveness of victim protection in Indonesia depends on the successful transition from a predominantly retributive paradigm to a restorative and rights-based legal order. By aligning positive law with the ethical imperatives of *maqāṣid al-sharī'ah*, Indonesia has the normative foundation to develop a more humane, inclusive, and substantively just legal system for survivors of sexual violence.

## CONCLUSION

This study concludes that the legal protection of victims of sexual violence in Indonesia has undergone a significant normative transformation following the enactment of Law Number 12 of 2022 concerning the Crime of Sexual Violence (TPKS Law). The legal framework reflects a paradigmatic shift from an offender-centered criminal justice model toward a victim-centered approach that emphasizes prevention, protection, recovery, restitution, and social reintegration. However, despite this normative progress, the effectiveness of victim protection remains constrained by implementation gaps, including institutional limitations, unequal access to justice, victim-blaming culture, and inconsistent law enforcement practices. These findings demonstrate that legal reform alone is insufficient without parallel structural and cultural transformation to ensure substantive justice for victims of sexual violence.

In answering the research questions, this study finds, first, that victim protection mechanisms under the TPKS Law have significantly expanded legal recognition of victims' rights, including access to protection, legal assistance, restitution, and recovery services. Second, the transformation of Islamic legal norms into Indonesian sexual violence legislation is evident through the convergence between the objectives of *maqāṣid al-sharī'ah* and the victim-centered orientation of the TPKS Law. This includes alignment with the preservation of life (*ḥifẓ al-naḥs*), intellect (*ḥifẓ al-'aql*), lineage and dignity (*ḥifẓ al-nasl* and *ḥifẓ al-'ird*), and property (*ḥifẓ al-māl*). Third, legal politics plays a mediating role in translating ethical and religious values into statutory norms, although its implementation remains limited by institutional capacity and socio-cultural resistance. Thus, while normative convergence exists, its practical realization is still incomplete.

From a theoretical perspective, *maqāṣid al-sharī'ah* provides a robust normative and evaluative framework for assessing victim protection in sexual violence cases. The *maqāṣid* approach shifts legal analysis from formal compliance toward substantive justice by emphasizing *maṣlaḥah* (public welfare) and preventing *maḥṣadah* (harm). The findings show that Indonesian positive law, particularly the TPKS Law, reflects partial alignment with *maqāṣid* principles through its incorporation of preventive, protective, and restorative mechanisms. However, this alignment remains largely normative, as its effectiveness depends on institutional coordination, legal culture transformation, and consistent implementation. Therefore, *maqāṣid al-sharī'ah* functions not only as an Islamic legal theory but also as an analytical tool for evaluating the quality of justice in plural legal systems.

The main limitation of this study lies in its normative legal research design, which does not involve empirical fieldwork or direct engagement with victims, law enforcement actors, or institutional practice. As a result, the analysis is limited to doctrinal interpretation of legal texts and secondary literature. Additionally, the study focuses specifically on Indonesian legal frameworks and does not conduct comparative empirical analysis with other jurisdictions. Future research is recommended to incorporate empirical socio-legal methods to examine how victim protection mechanisms are implemented in practice, as well as comparative studies to enrich the understanding of victim-centered justice across different legal systems. Despite these limitations, this study contributes to legal scholarship by offering an integrated framework that connects legal politics and *maqāṣid al-sharī'ah* in analyzing sexual violence law reform in Indonesia

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