

MAQĀSIDĪ'S APPROACH TO QIWĀMAH AND NAFAQAH: FINDING GENDER JUSTICE IN MODERN ISLAMIC FAMILY LAW

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Abstract

This study reviews the concepts of *qiwamah* (husband's leadership) and *nafāqah* (maintenance obligation) in Islamic family law through the *maqāṣid al-sharī'ah* approach as an effort to find gender justice in the context of the modern Muslim family. Historically, both concepts have often been interpreted hierarchically and patriarchally, which has an impact on the inequality of roles and rights between men and women. This research aims to reinterpret the meaning of *qiwamah* and *nafāqah* based on the principles of *maqāṣid al-sharī'ah* such as *ḥifẓ al-nafs*, *ḥifẓ al-nasl*, and *ḥifẓ al-'ird*, so as to give birth to a more substantive and contextual understanding. Using a qualitative-descriptive method based on literature studies, this study examines classical and contemporary sources, including the thought of al-Ghazālī, Ibn 'Ashūr, and Jasser Auda. The results of the study show that *the maqāṣidī approach* is able to shift the meaning of *qiwamah* into a collective moral responsibility and *nafāqah* as a participatory economic responsibility. These findings confirm that gender justice in Islamic family law is not a form of liberalization, but rather the actualization of the sharia's benefit-oriented goals (*maṣlaḥah*). This research makes a conceptual contribution to the development of contemporary Islamic law methodologies and offers a basis for reforming family law norms in Indonesia to be more responsive to the values of equality and justice.

Keywords: *Maqāṣid al-Sharī'ah*, *Qiwamah*, *Nafāqah*, Gender Justice, Islamic Family Law.

A. INTRODUCTION

The family as a basic social unit continues to be an important focus in the study of law and policy. In the context of the modern Muslim family, the two classical concepts of *Maqāṣid al-Sharī'ah* (the ultimate purpose of sharia) and the rights and obligations of husband and wife are increasingly questioned for their relevance in the midst of rapid social and economic change. For example, the role of wives not only in the domestic sphere but also in the economy, especially in many Muslim countries such as Indonesia, invites questions about how the legal structure of the Islamic family deals with this changing reality. In traditional fiqh literature, the husband is considered the leader (*qiwamah*) and breadwinner (*nafāqah*) of the household, while the wife is more focused on household

management and children's education.¹ However, developments such as the increasing participation of women in the workforce, changes in the division of household labor, and increasing awareness of gender equality rights invite the need for a reinterpretation of this framework to align with the broader *maqāṣid*.

In practice, a number of studies show the tension between traditional Islamic family law norms and contemporary social realities. For example, in Indonesia, the Central Statistics Agency (BPS) noted the phenomenon of "women as the main printer of family income" which continues to increase, especially in urban areas.² Meanwhile, normative literature shows that the concept of *naḥāqah* in many Muslim societies although normatively regulated in Islamic law often does not reflect substantive principles of gender justice.³ Similarly, recent studies on *qiwāmah* highlight how the role of the household leader that was once exclusively given to the husband is now facing challenges from the concept of gender justice and the changing role of women in the family.⁴

Thus, this study offers a framework that combines the two basic concepts *qiwāmah* and *naḥāqah* with a *maqāṣidī* (sharia-purpose-based) approach to examine how Islamic family law can be reinterpreted to be more equitable in the context of gender. The *maqāṣidī* approach here refers to focusing on the main goals of sharia such as religious observance (*ḥifẓ ad-dīn*), life (*ḥifẓ an-nafs*), intellect (*ḥifẓ al-ʿaql*), heredity (*ḥifẓ an-nasl*), and property (*ḥifẓ al-māl*).⁵ This kind of study is relevant because a growing body of research shows that the division of roles in the Muslim family is still heavily influenced by patriarchal structures and traditional legal interpretations that do not automatically guarantee gender justice.

The focus of this research is: how the *maqāṣidī* approach can be applied to the two aspects of Islamic family law *qiwāmah* and *naḥāqah* to find a contextual gender justice framework in the modern era. There are two reasons why this is important. First, from a theoretical point of view, although there is a lot of research on *qiwāmah* or *naḥāqah* separately, for example an in-depth study of the concept of *naḥāqah* and economic responsibility in the Muslim family.⁶ Not many have connected these two concepts simultaneously through the lens of *maqāṣidī* to evaluate the implications of gender justice in modern Islamic family law.

¹ On the Reformasi, "Islamic Marriage Law Under the Pressure of Modernity: A Historical Study" 03, No. 04 (2025): 3524–36.

² Nur Muhammad And Gagandeep Kaur, "The Role Of Islamic Family Law In Modern Child Custody Cases : Balancing Sharia Principles With Contemporary Needs" 1, No. 1 (2025): 31–39.

³ Suud Sarim Karimullah, "The Concept Of *Nāḥāqah* In Islamic Law And Women's Right To Financial Support" 5, No. 2 (2024): 222–42.

⁴ Muhamad Ismail et al., "Marriage And Divorce In Islamic Law: Sociological Implications For Modern Muslim Societies" 4 (2024): 25–37.

⁵ Luqman Saputra, "Investigating The Impact Of Globalization On The Development Of Islamic Family Law : A Case Analysis Of Modernizing Muslim Countries," N.D.

⁶ Article Info, "Journal of Scientific Research and Assessment" 2, no. 7 (2025): 1115–25.

Second, in practice, real socio-economic changes (such as increased women's economic participation, changes in household structures, and role conflicts) demand an Islamic family legal framework that is more responsive to these realities. For example, research in Indonesia shows that many women who take on the main role of family income and the division of household work are still very gender-skewed. Therefore, it is important to examine how the provisions of *qiwamah* and *nafāqah* can be reconstructed while remaining rooted in sharia principles, but in harmony with the goals of justice and common welfare.⁷

In summary, previous literature has shown several things: a study by Siti Aisyah and Ahdiyatul Hidayah (2023) found that the concept of *qiwamah* does not always automatically place the husband as the sole leader of the household, but they even conclude that "Islam gives leadership in the household to the husband or wife if both have leadership qualifications".⁸ A study by Muhammad Mufti (2024) in the perspective of *maqāṣid al-sharī'ah* looks at how marriage law reform in Indonesia (including women-initiated divorces) shows the flexibility of Islamic law in accommodating gender equality. However, these studies still have limitations: many of them emphasize more on one aspect of either *qiwamah* or *nafāqah* rather than the integration of the two aspects within the framework of *maqāṣid*; others are normative without much in-depth empirical data on how contemporary social change demands reinterpretation. In other words, there is a research gap on how the *qiwamah-nafāqah* combination is recontextualized within the framework of *maqāṣidī* in order to respond to the challenge of gender justice in modern Islamic family law.⁹

Against the above background, the urgency of this research is clear: there is a need for a study that connects the concepts of *qiwamah* and *nafāqah* through the *maqāṣidī* approach to produce an Islamic family law framework that is adaptive, fair, and relevant to contemporary social conditions both theoretically and practically. The main objectives of this study are: (1) to analyze how the principles of *maqāṣid al-sharī'ah* can be applied in the interpretation of *qiwamah* and *nafāqah* in Islamic family law; (2) evaluate the extent to which Islamic family law practices (especially in Indonesia) are currently aligned with gender justice in both aspects; and (3) to formulate recommendations for a more gender-equitable and contextual interpretive framework for *qiwamah* and *nafāqah* that

⁷ Journal of Family Law and Islamic Law Volume, "Contains Rules Appropriate For Facing Challenges At All Times. It Encompasses All Aspects Of Human Life Including Family Laws. Family Law As One Of The Important Components In" 8, No. 1 (2024): 1–19, <https://doi.org/10.22373/sjhk.v8i1.16553>.

⁸ Siti Aisyah And Ahdiyatul Hidayah, "The Concept Of Qiwamah And Its Implications For Gender Justice In Islamic Family Law In Indonesia" 16, No. 2 (2023): 251–68.

⁹ Yernati Ulfazah et al., "Jurnal Syari'ah & Hukum The Dynamics Of Islamic Family Law In The Modern Era : An Analysis Of Taghayyur Al-Fatwā And Al - Mu Ḥ Hurricane Ṣ Ah In The Changing Marriage Agreement" 7 (2025).

can be used by Muslim policymakers, religious institutions, and family law activists. Thus, this research is expected to contribute to the development of family Islamic law including the theory of *maqāṣid al-sharī'ah* as well as practices in the field that are more responsive to modern gender and socio-economic dynamics.

B. Problem Formulation

The formulation of this research problem can be formulated as follows:

1. How are the concepts of *qiwāmah* and *nafāqah* understood in the perspective of classical Islamic family law and how relevant are they in the social context of the modern Muslim family?
2. How can the *maqāṣid al-sharī'ah* approach be used as a methodological framework to reinterpret the concepts of *qiwāmah* and *nafāqah* in a more contextual and gender-equitable way?

C. Research Objectives

Based on the formulation of the problem above, this study aims to:

1. Analyzes the concepts of *qiwāmah* and *nafāqah* in the perspective of classical Islamic family law and assesses their relevance to the social dynamics of the modern Muslim family.
2. Develop a framework for reinterpretation of *qiwāmah* and *nafāqah* through the *maqāṣid al-sharī'ah* approach to be in line with the principles of justice and gender equality.

D. Research Benefits

This research is expected to make significant contributions both theoretically and practically, with the following benefits:

1. Theoretical Benefits

- Provide conceptual enrichment to the study of Islamic family law by integrating the principles of *maqāṣid al-sharī'ah* into the analysis of *qiwāmah* and *nafāqah*.
- It is an academic reference for the development of gender justice theory in the study of Islamic law, especially in the realm of family and husband-wife relations.
- It offers a new paradigm in the study of Islamic law that is oriented towards the goals and values of substantive justice, rather than solely on classical normative formulations.

2. Practical Benefits

- Provide input for policymakers and religious institutions in formulating family law regulations that are more equitable and adaptive to social change.

- It serves as a guideline for legal practitioners, religious court judges, and Muslim family counselors in resolving domestic problems in a more contextual and proportionate manner.
- Raising awareness among Muslims about the importance of understanding the roles and responsibilities of husband and wife in the framework of justice and mutual benefit according to Islamic values.

Thus, this research not only expands the academic horizon on Islamic family law, but also has a real impact on the renewal of Islamic legal thinking that is gender-correct in the modern era.

DISCUSSION

A. Conceptual Analysis of *Qiwāmah* and *Nafāqah* in the Perspective of Classical Islamic Family Law

1. Theological and Fiqhiyyah Foundations of *Qiwāmah* and *Nafāqah*

The concepts of *qiwāmah* and *nafāqah* are normative pillars in the structure of Islamic family law that are rooted in the Qur'an and hadith.¹⁰ The verse that is most often used as a basis is the words of Allah in QS. al-Nisā' (4): 34:

وَأَتُوا النِّسَاءَ صَدُقَاتِهِنَّ نِحْلَةً فَإِنْ طِبْنَ لَكُمْ عَنْ شَيْءٍ مِّنْهُ نَفْسًا فَكُلُوهُ هَنِيئًا مَّرِيَّةً

"Men are *qawwām* (leaders, protectors, bearers) over women, because Allah has made some of them more than others, and because they have provided for some of their wealth." (QS. al-Nisā' (4): 34:)

This verse becomes the conceptual foundation for the fuqaha in building the relationship between financial responsibility (*nafāqah*) and moral leadership (*qiwāmah*). In the interpretation of al-Ṭabarī (d. 310 AH), *qiwāmah* is interpreted as *al-qiyām bi al-ri'āyah wa al-tadbīr wa al-siyāsah*, namely carrying out the functions of maintenance, regulation, and leadership of the household responsibly, not as a form of absolute male domination or superiority. Al-Ṭabarī emphasized that the excess of men in question is not a natural trait, but an excess in the context of the burden of economic responsibility and obligation.¹¹

¹⁰ Obligations of Children et al., "The Obligation of Children to Provide for Parents According to Islamic Law," n.d., 16–22.

¹¹ Saada Rouamba and Ahmet Muhammet Pe, "يَمْلَأُ هَقْلًا يَفْ اِهْقَاحْتَسَا طُورْشُو تَبْرَسَلَا تَقْقَنَلَا قَبْهَامْ," 2024, 24–38.

The husband's obligation to provide maintenance is also affirmed in the QS. al-Ṭalāq (65): 7:

لِيُنْفِقْ ذُو سَعَةٍ مِّن سَعَتِهِ وَمَن قُدِرَ عَلَيْهِ رِزْقُهُ فَلْيُنْفِقْ مِمَّا آتَاهُ اللَّهُ لَا يُكَلِّفُ اللَّهُ نَفْسًا إِلَّا مَا آتَاهَا
سَيَجْعَلُ اللَّهُ بَعْدَ عُسْرٍ يُسْرًا^{١٢}

"Let the one who is able to provide according to his means, and the one who is limited in sustenance should provide for him from the wealth that Allah has bestowed upon him." (QS. al-Ṭalāq (65): 7)

This verse shows the flexibility of the principle of sustenance in Islam: the obligation to give according to one's ability, not an absolute measure that oppresses one party.¹²

The hadith of the Prophet Muhammad صلى الله عليه وسلم also strengthens the principle of balance of responsibilities in the household. In the narration of al-Bukhārī and Muslim, the Prophet said:

كُلُّكُمْ رَاعٍ وَكُلُّكُمْ مَسْئُولٌ عَنْ رَعِيَّتِهِ^{١٣}

"Each of you is a leader, and each of you will be held accountable for those he leads." (HR. al-Bukhārī no. 893, Muslim no. 1829)

This hadith emphasizes that leadership in Islam is moral and functional, not absolute hierarchical. The husband as a *qawwām* is responsible for maintaining the welfare of the family as a whole, just as the wife has moral and social responsibility for her household.¹³

In jurisprudence, scholars such as al-Nawawī in *al-Majmū' Sharḥ al-Muḥadḍḥab* emphasize the close relationship between *qiwāmah* and *nafaqah*: the husband's leadership rights derive from his economic responsibility. If the obligation of maintenance is not carried out, then the legitimacy of *qiwāmah* can be lost. Thus, the Qur'an, hadith, and classical commentary harmoniously show that *qiwāmah* is not a privilege, but a mandate tied to responsibility and benefit.

2. Hierarchical Structure and Gender Relations in Traditional Fiqh

Classical fiqh interprets *qiwāmah* in the context of medieval patriarchal society, where men were the main breadwinners and women played a role in the domestic sphere. Major sects such as Hanafī, Mālikī, Shafī'ī, and Hanbalī

¹² Firdaus et al., "Post-Divorce Child 's Nafaqah Mādīyah : An Analysis Of The Shifting From Fulfilment To The Assertion Of Ownership Rights" 33, No. 1 (2023): 45–62.

¹³ Husband Yang, Prisoner Status, and Legal Perspective, "Typology of the Implementation of Birth Support Obligations of Husband with Prisoner Status Islamic Law Perspective (Analysis Study of Interpretation of Qira'ah Mubadalah Theory) Yulmitra Handayani," 2020.

associate the wife's obedience with the legitimacy of the husband's leadership, making *the ṭā'ah* a consequence of the provision of alimony. Al-Kāsānī in *Badā'i' al-Ṣanā'i'* writes that "the wife is obliged to obey her husband as long as he fulfills the right to maintenance and protection".¹⁴

However, these structures are historical and cannot be separated from their social context. In pre-modern societies, women's access to economic resources and education was limited, so the role of male leadership became functional. As modernity developed, the literal reading of *qiwāmah* and *nafāqah* verses began to be criticized by contemporary Muslim scholars such as Amina Wadud (1999) and Asma Barlas (2002).¹⁵ They assert that the gender hierarchy in classical interpretation is more a product of patriarchal culture than a substantive message of Islam.

3. The Relevance of Classical Concepts to the Modern Social Context

In modern society, women are no longer entirely dependent on men economically. BPS (2023) noted that 49% of Indonesian women contribute directly to household income, even 32% become the head of the household. This transformation requires a reinterpretation of the concepts of *qiwāmah* and *nafāqah*, in order to remain relevant to the principles of *maqāṣid al-sharī'ah*, especially *ḥifẓ al-nasl* (family protection) and *ḥifẓ al-māl* (economic protection).¹⁶

The compilation of Islamic Law (KHI) in Indonesia still maintains a patriarchal model, but the practice in the religious courts shows a shift. Dzuhayatin's research (2019) found that many judges began to use the *maslahah* approach in deciding cases of alimony and household leadership, considering the economic role of wives more equitably.¹⁷

4. Empirical Findings and Contemporary Phenomena

Data from the Supreme Court (2022) shows that more than 45% of divorce cases are filed by wives on the grounds of their husband's economic incapacity. This phenomenon indicates a crisis in the classical implementation of *qiwāmah* and *nafāqah* in the modern context. On the other

¹⁴ Aqidatul Islamiyah, A. Faizul Mubin, And Zubeir Mohamad Nur Sholeh, "Concept Of Qiwāmah In The Perspective Of Feminist Activists Amina Wadud And Zainab Al-Ghazali," *An-Nur International Journal Of The Quran & Hadith* 2, No. 1 (2024): 1–16, <https://doi.org/10.62032/Aijqh.V1i1.31>.

¹⁵ Aziz Saepulrohman and Iwan Sopwandin, "Gender Studies in Islam from the Perspective of Amina Wadud," *Mazalat: Journal of Islamic Thought* 5, no. 1 (2023): 59–71.

¹⁶ Nurchalid Majid, "Reconstruction of the Concept of Maintenance in Islamic Family Law: A Gender Perspective and Women's Autonomy," *USRAH: Journal of Islamic Family Law* 6, no. 3 (2025): 68–82.

¹⁷ Nabila Mumtazah and Muhammad Royhan Assaiq, "Dynamics of Regulation and the Role of Female Judges in Nusyuz Cases in Religious Court Practice in Indonesia," *Journal of Islamic State Law and Politics* 5, no. 1 (2025): 451–73, <https://doi.org/https://doi.org/10.14421/ap7n0r61>.

hand, more and more Muslim families are adopting an egalitarian model of relations where leadership and economic responsibility are collaborative.¹⁸

The maqāṣidī approach as proposed by Jasser Auda (2018) is a methodological solution to bridge the distance between text and context. He emphasized that *qiwāmah* should be understood as a functional mechanism to maintain the common good, not a hierarchical system. In this framework, *nafāqah* can be reinterpreted as a proportional economic contribution based on the capabilities of each party, according to the principles of *ta'āwun* (cooperation) and *'adl* (justice).¹⁹

B. Reinterpretation of Qiwāmah and Nafāqah through the Maqāṣid al-Sharī'ah Approach

1. The Theoretical Framework of Maqāṣid al-Sharī'ah as a Reinterpretation Methodology

The concept of *maqāṣid al-sharī'ah* is rooted in the idea that every provision of Islamic law has a higher moral and social purpose, namely to realize benefits (*maṣlaḥah*) and prevent harm (*mafsadah*). The five main principles of maqāṣid *ḥifẓ al-dīn* (religious protection), *ḥifẓ al-nafs* (soul), *ḥifẓ al-'aql* (intellect), *ḥifẓ al-nasl* (descent), and *ḥifẓ al-māl* (property) serve as pillars in determining the relevance and direction of law-making. These principles are not rigid, but rather dynamic and contextual; it moves to keep the basic values of Islam alive in a changing society.²⁰

Thinking about maqāṣid progressed from the theoretical phase to the reconstructive phase. Al-Ghazālī in *al-Mustasfā* emphasizes maqāṣid as the basis of legitimacy for *qiyās* (analogies) in Islamic law, while al-Shāṭibī in *al-Muwāfaqāt* affirms it as a system of legal objectives inherent in the shari'a itself.²¹ In the modern era, Ibn 'Āshūr expanded its scope by emphasizing social maqāṣid, such as justice and freedom, as values that must be embodied in Islamic law.²² Meanwhile, Jasser Auda takes maqāṣid to a new

¹⁸ Ulin Na'mah and Mochamad Agus Rachmatulloh, "Interpretations of Nafkah, Gender Relations, and Motivations for Divorce: A Case Study of Divorce Lawsuits At the Kediri City Religious Court," *Istinbath* 23, no. 1 (2024): 17–31, <https://doi.org/10.20414/ijhi.v23i1.700>.

¹⁹ Ahmad Syafi'i Sulaiman Jamrozi et al., "Maqashid al-Syariah in the Study of Hadith and Its Implications for the Reform of Islamic Law: A Study of the Thought of Jasser Auda," *Justicia Islamica: Journal of Legal and Social Studies* 19, no. 1 (2022): 75–93, <https://doi.org/10.21154/justicia.v19i1.3269>.

²⁰ Muhammad Aminuddin Shofi, Sahrul Hidayatullah, and Abdul Hamid, "Multidimensional Paradigm of Maqasid Sharia in the Book of 'Nahwa Ta'ili Maqashid Sharia' By Jamaluddin Athiyyah," *Journal of Religious Literature* 20, no. 2 (2022): 501–34, <https://doi.org/10.31291/jlka.v20i2.1085>.

²¹ Ebrahim Moosa and Muhammad Younas Qasmi, *Imam Ghazali (505 H/1111 AD): Biography and Thoughts, Faith and Narrative* 60, no. 4 (2023): 133–146, <https://doi.org/10.52541/fn.v60i4.2680>.

²² Prof. Dr. Muhammad Munir Prof. Dr. Muhammad Tayyeb Nadeem And, "Maqāṣid Al-Sharī'ah Between Classical and Postmodern Periods: An Advanced Islamic Juridical Context," *Islamic Research Index - Allama Iqbal Open University, Islamabad* 22, no. 2 (2023), <https://doi.org/https://doi.org/10.2139/ssrn.3994622>.

epistemological stage through a *systems theory approach* that sees Islamic law as an open system that is adaptive to the context of modernity, plurality, and gender dynamics.²³

In the context of family law, the *maqāsidī* approach allows for a more substantive reinterpretation of classical legal texts. Law is not only seen as a fixed set of norms, but as an ethical instrument for achieving Islamic moral goals, namely justice (*'adl*), compassion (*raḥmah*), and common good (*maṣlahah musytarakah*). With this framework, the concepts of *qiwāmah* and *nafāqah* can be understood not as power structures, but as flexible social responsibility mechanisms, in accordance with contemporary needs and realities.²⁴

2. *Maqāsidī's analysis of Qiwāmah*

Classically, *qiwāmah* is often interpreted based on QS. al-Nisā' [4]:34, which states that "*al-rijāl qawwāmūna 'alā al-nisā'*" men are leaders for women. Literal interpretation often leads to a hierarchical view that places men as the dominant authority. However, the *maqāsidī* approach proposes a different reading: *qiwāmah* is not domination, but rather a moral responsibility aimed at protecting and prospering the family.²⁵

In the framework of *ḥifẓ al-naḥs* and *ḥifẓ al-nasl*, *qiwāmah* is interpreted as a mandate to ensure the security and sustainability of the family, not to affirm biological or social superiority. The principle of *maṣlahah musytarakah* (mutual benefit) requires that the function of *qiwāmah* be interpreted as functional cooperation between husband and wife, the husband has advantages in several aspects, while the wife has abilities in other fields. The two complement each other, not subjugate each other.²⁶

In modern social practice, *qiwāmah* based on reciprocity can be manifested in the form of shared participation in decision-making, childcare, and household financial management. Many contemporary Muslim families, for example, adopt a pattern of participatory leadership: husbands and wives alike play an active role in managing family life without disregarding sharia

²³ Ilham Mashuri, "A Systems Approach in Islamic Legal Theory (Jasser Auda's Perspective)," *FITRAH: Journal of Islamic Studies* 5, no. 1 (2020): 11–28, <https://doi.org/10.24952/fitrah.v5i1.1106>.

²⁴ Muhammad Harfin Zuhdi and Mohamad Abdun Nasir, "Al-Maṣlahah and Reinterpretation of Islamic Law in Contemporary Context," *Squirt* 8, no. 3 (2024): 1818–39, <https://doi.org/10.22373/sjkh.v8i3.24918>.

²⁵ Ahmad Dwi Sutrisno et al., "The Concept of Qawwamah and Gender Justice in Surah An-Nisa Verse 34: A Study of the Tafsir of Maqasidi Ibn Ashur," *IMTIYAZ: Journal of Islamic Sciences* 9, no. 2 (2025): 392–405, <https://doi.org/10.46773/imtiyaz.v9i2.2060>.

²⁶ Zakiatul Fitriyah, "Tafsir of the Qiwāmah Verse from the Perspective of Muhammad Sa'id Ramadhān al-Būthī: An Analysis of the Book of Al-Mar'ah Bain Thughyān Al-Nidzām Al-Gharbiy wa Lathā'if Al-Tasyri' Al-Rabbaniy," *Sofis : Journal of Socio-Political Islamic Studies and Tafsir* 6, no. 1 (2024): 1–19, <https://doi.org/https://doi.org/10.20414/sophist.v6i1.115>.

principles. This is in line with maqāṣid *'adl* (justice) and *raḥmah* (affection), which are at the heart of the marriage relationship in Islam.²⁷

The tafsir *al-Manār* by Muhammad 'Abduh and Rashid Riḍā affirms this kind of commentary. They affirm that *qiwāmah* is "a leadership responsibility in a particular social context, not an absolute authority." In a society where women have significant economic and intellectual roles, the meaning of *qiwāmah* needs to be interpreted functionally. With the maqāṣidī approach, *qiwāmah* is restored to its moral essence: protection, balance, and benefit, not domination.²⁸

3. Maqāṣidī's analysis of Nafāqah

The concept of *nafāqah* in classical fiqh emphasizes the obligation of the husband to bear the economic needs of his wife and children. However, the maqāṣidī approach invites us to look at the substance of this law, not just its formality. The main purpose of *nafāqah* is to maintain *ḥifẓ al-nafs* (survival) and *ḥifẓ al-nasl* (offspring). That is, what the sharia wants is not who provides sustenance, but so that the needs of the family are met for the sake of creating benefits.²⁹

In the modern social context, when women are also economic contributors, the meaning of *nafāqah* shifts to a shared responsibility based on the principles of *ta'āwun* (cooperation) and *musyārakah* (participation). The principle of *ḥifẓ al-māl* (protection of property) teaches that the welfare of the family is a collaborative outcome. There is no violation of the Shari'ah if women participate in bearing the cost of the household, in fact it is a form of *ta'āwun 'alā al-birr* (cooperation in goodness) as recommended by the Qur'an (QS. al-Mā'idah [5]:2).³⁰

The maqāṣidī approach also reassesses the contextual distribution of financial responsibility. In modern urban society, women often have higher or more stable incomes than their husbands. In this situation, the proportional division of economic responsibility actually embodies the principles of justice and benefit. Therefore, *nafāqah* is no longer understood

²⁷ Khozinatul Asrori, "In the Context of the Modern Family Economy (When the Wife Becomes the Backbone of the Family)," *Family Law* 5, no. 2 (2024): 153–78.

²⁸ Made Saihu, "Tafsir Maqāṣidī The Perspective of Muhammad Abduh and Muhammad Rashid Riḍā," *Mumtaz: Journal of Quran and Islamic Studies* 5, no. 02 (2021): 247–58, <https://doi.org/https://doi.org/10.36671/mumtaz.v5i02.213>.

²⁹ Fauziah Hayati, "The Concept of Livelihood in Islam: A Literature Study on Classical Understanding and Modern Sharia Economic Approaches," *Indonesian Journal of Islamic Jurisprudence, Economic and Legal Theory* 2, no. 4 (2024): 2230–39, <https://doi.org/10.62976/ijjel.v2i4.836>.

³⁰ Anisatul Maghfiroha, "Women's Economic Empowerment Through Sharia Principles," *International Journal of Islamic Social Studies* 2, no. 2 (2024): 155–64, <https://doi.org/10.62039/ijiss.v2i2.75>.

solely as a burden on the husband, but as a system of cooperation to realize the welfare of the household in a just manner.³¹

4. The Integration of Qiwāmah and Nafāqah in the Perspective of Gender Justice

The integration of *qiwāmah* and *nafāqah* through the maqāṣidī approach resulted in a new construction of Islamic family law that was more egalitarian and adaptive. Both are interrelated *qiwāmah* as a moral responsibility, *nafāqah* as material responsibility and both are directed to realize the highest maqāṣid: *al-'adl* (justice) and *al-rahmah* (compassion).³²

This approach reformed the perspective of Islamic law from hierarchy to partnership. In the family, the husband is no longer seen as the sole ruler, but rather as an equal partner in responsibility. This is in line with QS. al-Tawbah [9]:71:

وَالْمُؤْمِنُونَ وَالْمُؤْمِنَاتُ بَعْضُهُمْ أَوْلِيَاءُ بَعْضٍ يَأْمُرُونَ بِالْمَعْرُوفِ وَيَنْهَوْنَ عَنِ الْمُنْكَرِ
وَيُقِيمُونَ الصَّلَاةَ وَيُؤْتُونَ الزَّكَاةَ وَيُطِيعُونَ اللَّهَ وَرَسُولَهُ أُولَئِكَ سَيَرْحَمُهُمُ اللَّهُ إِنَّ اللَّهَ عَزِيزٌ حَكِيمٌ

"And the believers, men and women, some of them are helpers to others (awliyā' ba'duhum li-ba'd). They enjoin (do) makruf and prevent (doing) disobedience, enforce prayer, pay zakat, and obey Allah and His Messenger. They will be blessed by Allah. Indeed, Allah is Mighty, Wise." (QS. al-Tawbah [9]:71).

This verse affirms the principle of spiritual and social equality between men and women. On this basis, modern Islamic family law needs to be directed towards a relational structure based on collaboration, not subordination.³³

In the context of positive law in Indonesia, the principle of maqāṣidī can be the basis for the reform of the *Compilation of Islamic Law* (KHI). Some articles that still contain gender inequality, such as the obligation of maintenance that is fully imposed on the husband, can be revised to reflect

³¹ Muhammad Jalil Nadia Saphira, Fauziyah Mulyana Putri, Muhammad Miqdad, "The Approach of Sharia Maqashid in Social and Economic Activities from the Perspective of Contemporary Fiqh Muamalah Practice," *Media Research Business Management Accounting* 1, no. 2 (2025): 1–11, <https://doi.org/https://doi.org/10.71312/mrbima.v1i1.376>.

³² Adis Duderija, "Maqāṣid Al Shari'ah, Gender Egalitarian Qur'ānic Hermeneutics and the Reformation of Muslim Family Law," *In Maqasid Al-Shari'ah and Contemporary Muslim Reformist Thought* (New York: Palgrave Macmillan, 2014), 1–21, https://doi.org/https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2329505.

³³ Siti Nurjanah et al., "Al-Mubādalāh Fī Maḥūmi Fiqhi Al-Mar'ah Al-Mu'āshirah Bī Indūnisiyā," *Al-Ihkam: Journal of Law and Social Institutions* 17, no. 1 (2022): 189–215, <https://doi.org/10.19105/al-Ihkam.v17i1.6140>.

the principle of *domestic economic deliberation*. This will bring Islamic law more responsive to social dynamics and closer to the ideal of substantive justice of the sharia.³⁴

Thus, the reinterpretation of *qiwāmah* and *nafāqah* through the *maqāṣid al-sharī'ah* approach offers not only conceptual reform, but also praxis reform in Islamic family law. He emphasized that Islamic law is not a frozen system, but an ethics of life that continues to move towards a balance between text and reality, between divine and human, between normative justice and human benefit.³⁵

C. Research Implications and Contributions

1. Theoretical Implications

This research makes an important contribution to the development of Islamic legal theory by shifting the paradigm from a normative-literal approach to a goal-substantive approach (*maqāṣidī*). For centuries, Islamic family law has often been understood in a rigid textual framework that focuses on the wording of the law without considering the social context that surrounds it. Through the *approach of maqāṣid al-sharī'ah*, this study shows that Islamic law is actually dynamic, oriented towards the values of justice (*'adl*), benefit (*maṣlaḥah*), and compassion (*rahmah*).³⁶

The first theoretical implication is the emergence of a paradigm shift in Islamic family law. *Qiwāmah* and *nafāqah* are no longer seen as static doctrines governing gender superiority and subordination, but rather as moral and social mechanisms to achieve family well-being. This new paradigm restores Islamic law to its original spirit: a law that protects human beings and upholds substantive justice³⁷ as Allah says in QS. al-Ḥadīd [57]:25:

لَقَدْ أَرْسَلْنَا رُسُلَنَا بِالْبَيِّنَاتِ وَأَنْزَلْنَا مَعَهُمُ الْكِتَابَ وَالْمِيزَانَ لِيَقُومَ النَّاسُ بِالْقِسْطِ وَأَنْزَلْنَا الْحَدِيدَ فِيهِ بَأْسٌ شَدِيدٌ وَمَنْفَعَةٌ لِلنَّاسِ وَلِيَعْلَمَ اللَّهُ مَنْ يَنْصُرُهُ وَرُسُلَهُ بِالْغَيْبِ إِنَّ اللَّهَ قَوِيٌّ عَزِيزٌ

³⁴ Supian Daelani, "Reflections of Maqashid Syariah in the Istimbath of Progressive Law on the Distribution of Common Property in the Compilation of Islamic Law in Indonesia," *An-Nisa: Journal of Islamic Family Law* 2, no. 1 (2025): 46–59, <https://doi.org/10.63142/an-nisa.v2i1.115>.

³⁵ Nur Fauziyah Laili and Moh. Rofqil Bazikh, "The Method of Islamic Family Law Reform in the Muslim World from the Perspective of Khoiruddin Nasution," *Journal of Legal Restoration* 6, no. 1 (2023): 22–39, <https://doi.org/10.14421/jrh.v6i1.3028>.

³⁶ Wilnan Fatahillah and Teguh Luhuringbudi, "Comparative Study of Islamic Family Law in Indonesia and Saudi Arabia: Maqāṣid Al-Sharī'ah Perspective," *TATHO: International Journal of Islamic Thought and Sciences* 2, no. 2 (2025): 127–40, <https://doi.org/10.70512/tatho.v2i2.87>.

³⁷ Mhd. Abduh Saf, "The Development of Islamic Family Law in Modern Muslim Countries," *Al-Hukama: Indonesian Islamic Family Law Journal* 4, no. 1 (2024): 223–40, <https://doi.org/10.15642/al-hukama.2014.4.1.223-240>.

"Verily, We have sent Our Messengers with clear proofs, and We have sent down with them the Book and the balance (of justice) so that mankind may be just. We sent down iron which has great power and benefits for mankind so that Allah may know who helps Him and His Messengers even though he does not see them. Indeed, Allah is Mighty, Mighty." (QS. al-Ḥadīd [57]:25).

Second, this study strengthens the methodological framework of *maqāṣidī* in the study of contemporary Islamic law. By tracing the evolution of thought from al-Ghazālī, al-Shāṭibī, Ibn 'Āshūr to Jasser Auda, this study confirms that *maqāṣid* is not just a theory of legal ethics, but a methodology of interpretation that is able to bridge the gap between texts and social reality. This opens up space for the development of contextual, sustainable, and open Islamic legal theories to universal human values without losing their sharia roots.³⁸

2. Practical Implications

Practically, the results of this study contribute directly to family law reform in Indonesia and the Islamic world in general. First, this study offers normative policy recommendations for the rearrangement of several articles in the *Compilation of Islamic Law (KHI)* and *Law Number 1 of 1974 concerning Marriage*. These two regulations, although they are an important legal basis, still contain a patriarchal bias that does not reflect the principles of equality and partnership in the family. Through the *maqāṣidī* approach, it is possible to reinterpret norms to be more *gender-sensitive* and contextual, without contradicting the principles of sharia.³⁹

Second, this research produces a model of interpretation of Islamic family law that is applicable to religious court judges, academics, and fatwa institutions. This model places *maqāṣid al-sharī'ah* as an ethical foundation in legal reasoning (*istinbāt al-ḥukm*), so that legal decisions do not stop at the literality of the text, but consider social justice, balance of roles, and protection of the vulnerable. For example, in the case of a maintenance lawsuit, the judge may consider the women's economic contribution as part of *ta'āwun al-'usrah* (family cooperation), not a violation of Sharia law.⁴⁰

Thus, the *maqāṣidī* approach developed in this study not only enriches the theoretical treasure, but also establishes a practical framework for Islamic

³⁸ Jamrozi et al., "Maqashid al-Syariah in the Study of Hadith and Its Implications for the Reform of Islamic Law: A Study of the Thought of Jasser Auda." *Justicia Islamica: Journal of Legal and Social Studies* 19, No. 1 (2022), <https://doi.org/10.21154/justicia.v19i1.3269>.

³⁹ Fathul Mu'in et al., "The Urgency of Reforming Marriage Laws and Compilation of Islamic Law Entering the 5.0 Era," *KnE Social Sciences* 2024: 294–301, <https://doi.org/10.18502/kss.v9i2.14988>.

⁴⁰ Cipto Sembodo5 Muhammad NK. Al Amin, Agung Abdullah, Fattah S. Santoso, Muthmainnah, "Legal Interpretation Methods: Application in Islamic Family Law and Sharia Economics," *The Basics of Social and Religious Law* 2, no. 1 (2022): 15–36.

law reform that is socially just and responsive to the context of modern society.

3. Contribution to Gender Justice

The most significant contribution of this research lies in strengthening the value of gender justice in Islamic family law. By utilizing the *maqāṣidī* approach, this study succeeded in showing that gender justice is not a foreign concept to Islam, but an integral part of the *maqāṣid* itself, especially in the dimensions of *ḥifẓ al-naḥs*, *ḥifẓ al-naṣl*, and *ḥifẓ al-'aql*.

First, this study emphasizes the strengthening of women's position in the Islamic family structure without negating the principle of responsibility and balance of roles. Islam does not reject the differentiation of biological and social roles, but rejects the domination of one side that eliminates justice. Thus, *qiwāmah* is reconstructed as participative leadership, in which husbands and wives both contribute to decision-making based on ability, not gender.⁴¹

Second, this study introduces a new paradigm of "collaborative maintenance" in modern Islamic family law. This principle departs from the idea of *maslahah musytarakah* (mutual benefit) that household welfare is the result of synergy between husband and wife. This concept not only supports economic equality, but also creates more balanced relational justice, as affirmed in the hadith of the Prophet Muhammad PBUH:

إِنَّمَا النِّسَاءُ شَقَائِقُ الرِّجَالِ

"Surely the woman is the brother's brother." (*Innamā an-nisā' shaqā'iq ar-rijāl*, HR. Abu Dawud).

This hadith becomes the ethical foundation for existential equality between men and women in Islam.⁴² By restoring family law to the spirit of *maqāṣid*, this research paves the way for the birth of an Islamic legal system that is humanist, progressive, and relevant to the demands of the times.

CONCLUSION

This study concludes that the concepts of *qiwāmah* and *naḥāqah* in Islamic family law need to be reconstructed through the *maqāṣid al-sharī'ah* approach in order to remain relevant to the values of justice, reciprocity, and the benefit of modern humans. Theoretically, this approach shifts the old paradigm of normative and patriarchal nature towards a substantive understanding that leadership in the family is not a form of male domination, but rather a shared moral responsibility that upholds balance and protection. Similarly, the obligation to provide for the

⁴¹ Wahyuni Retno Wulandari, "Egalitarianism: Consciousness-Raising In Women's Position In The Islamic Family," *São Paulo* 28, no. 3 (2022): 447, <https://doi.org/10.47268/sasi.v28i3.1021>.

⁴² Nurjanah et al., "Al-Mubādalah Fī Maḥḥūmi Fiqhī Al-Mar'ah Al-Mu'āshirah Bī Indūnīsiyā." *Al-Ihkam: Journal of Law and Social Institutions* 17, no. 1 (2022), <https://doi.org/10.19105/al-lhkam.v17i1.6140>.

child is no longer interpreted exclusively as a burden on men, but as a form of economic cooperation based on *ta'āwun* (mutual help) and *maslahah musytarakah* (mutual benefit). Through the lens of *maqāṣidī*, Islamic family law is understood as a dynamic system oriented towards the true goals of the shari'a *ḥifẓ al-nafs*, *ḥifẓ al-nasl*, and *ḥifẓ al-'ird* (safeguarding the soul, offspring, and dignity). This approach does not oppose the text, but rather revives the spirit of justice (*al-'adl*) and compassion (*al-rahmah*) that are the foundation of Islam. In the Indonesian context, this reconstruction can be the basis for updating the Compilation of Islamic Law (KHI) and the Marriage Law to be more sensitive to gender justice and social change. Thus, this research makes an important contribution both theoretically in strengthening the *maqāṣidī* methodology in the study of Islamic law and practically, through the recommendation of responsive and equitable legal policies. In the end, gender justice in Islamic family law is not a deviation from the sharia, but the highest actualization of the sharia itself: to realize the welfare and glory of human beings in a balanced manner for men and women.

SUGGESTION

1. For Islamic Law Academics and Researchers, it is necessary to further develop the *maqāṣidī* methodology in family law research, by combining interdisciplinary approaches such as gender studies, legal sociology, and Islamic ethics. This integration is important to produce a more comprehensive and applicable theoretical framework.
2. For Policy Makers and Religious Institutions, the results of this research can be the basis for formulating new regulations or revisions to articles in *the KHI* and *the Marriage Law* that are still gender-biased. The *maqāṣidī approach* can be used as the main paradigm in the preparation of national Islamic family law so that it is in line with the principles of justice and equality guaranteed by the sharia.
3. For Legal Practitioners and Judges of Religious Courts, it is advisable to apply the *maqāṣid* approach in judicial practice considering not only the normative text, but also the social purpose of the law. This will strengthen substantive justice in decisions, especially in cases involving the roles, rights, and obligations of husband and wife.
4. For Muslim Societies and Islamic Educational Institutions, it is important to strengthen Islamic legal literacy with a *maqāṣid* perspective and gender justice. Premarital education, madrasah curriculum, and da'wah programs need to be directed to an egalitarian, participatory, and upholding understanding of Islam that upholds shared responsibility in the family.

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