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## Women, Law, and Maqashid Syari'ah: An Analysis of Protection in Indonesia and Malaysia

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### Abstract

This study aims to analyze the concept of women's protection as implemented in the legal systems of Indonesia and Malaysia through the perspective of *maqashid syari'ah*. This is because women are a vulnerable group, prone to discrimination, violence, and limited access to justice. In the context of positive law, for example, both countries have regulatory instruments to provide protection for women, such as the Law on the Elimination of Domestic Violence (PKDRT Law) in Indonesia and the Domestic Violence Act 1994 in Malaysia. However, in reality, there is still a gap between the idealism of the law and the practice of protection. Using a qualitative-comparative approach, this study compares the concepts and principles of women's protection in Indonesia and Malaysia with reference to the fundamental theory of Islamic law (*maqashid syari'ah*). As a result of the study, this study shows that Indonesia and Malaysia place the protection of women as part of the fulfillment of basic rights, despite differences in legal approaches, institutional structures, and policy implementation. This study also emphasizes that the integration of *maqashid syari'ah* values into the national legal system can be strengthened through the legitimization of women's protection to create a legal system that is fair, responsive, and inclusive of contemporary challenges. This study also opens up space for reflection on the development of contemporary Islamic law that is not only normative but also serves as a solution in facing the dynamics and challenges of the modern world.

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## INTRODUCTION

The phenomenon of women within the legal framework has always been a hot and relevant topic in academic discourse and public policy. In Indonesia and Malaysia, as the two countries with the largest Muslim populations in Southeast Asia, the issue of women's protection occupies an important position in legal and social development. Women are not only viewed as legal subjects who deserve fair treatment, but also as important actors in strengthening family, community, and national values. However, in reality, legal protection for women often faces serious challenges, both in terms of regulation, implementation, and compliance with the principles of *maqashid syari'ah*.

Social reality shows that women are still often victims of structural and cultural injustice.<sup>1</sup> Cases of gender-based violence, discrimination in the workplace, and limited access to justice reveal the gap between the ideal of the law promising protection and the reality on the ground that falls far short of expectations.<sup>2</sup> Indonesia and Malaysia actually already have a number of regulations related to the protection of women, ranging from laws on domestic violence, policies on the protection of migrant workers, to the ratification of various international conventions. However, the effectiveness of these laws is often hampered by cultural bias, patriarchy, and limited enforcement mechanisms.

On the other hand, the idealism of Islamic law through *maqashid syari'ah* provides a normative framework that emphasizes the importance of protecting basic human rights, including those of women.<sup>3</sup> The concept of *maqashid*, which is oriented towards the protection of religion (*hifdz al-din*), life (*hifdz al-nafs*), reason (*hifdz al-'aql*), offspring (*hifdz al-nasl*), and property (*hifdz al-mal*), opens up space for progressive interpretation in responding to contemporary needs.<sup>4</sup> In the context of women, *maqashid syari'ah*

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<sup>1</sup> Zulfatun Ni'mah, "The Violation on Women's Rights in the Unilateral Divorce in Sasak Community From a Feminist Legal Theory," *Al-Ihkam: Jurnal Hukum Dan Pranata Sosial* 13, no. 1 (2018).

<sup>2</sup> Sukendar Sukendar, Muhammad Saifullah, Priyambudi Sulistiyanto, Luthfi Rahman, & A. Hasan Asy'ari Ulamai, "Women's Access To Justice: Mediation For The Victims of Domestic Violence In Central Java, Indonesia," *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam* 7, no. 1 (2023).

<sup>3</sup> Kutbuddin Aibak, "Implementation of Maqāṣid Shari'ah in Reform of Case Management of Violence against Women and Children," *De Jure: Jurnal Hukum Dan Syari'ah* 15, no. 1 (2023), <https://doi.org/10.18860/j-fsh.v15i1.20666>.

<sup>4</sup> Iffatin Nur, Syahrul Adam, M. Ngizzul Muttaqien, "Maqasid Al-Shari'at: The Main Reference and Ethical Spiritual Foundation for the Dynamization Process of Islamic Law," *Ahkam: Jurnal Ilmu Syariah* 20, no. 2 (2020).

demands protection of the right to a decent life, freedom from violence, access to education, and full participation in public life.

Indonesia and Malaysia, as countries with different social and political characteristics, provide an interesting picture of how the protection of women is regulated and implemented. Indonesia, with its pluralistic legal system that combines customary law, Islamic law, and national law, faces its own complexities in addressing women's issues. Meanwhile, Malaysia, with its dual legal system of civil law and Sharia law, also exhibits different dynamics, particularly in terms of the personal status of Muslim women. A comparison between these two countries is important because both present the reality of Islamic law within the framework of a modern state.<sup>5</sup>

The phenomenon of female migrant workers, for example, is a clear example of how reality and legal ideals are worlds apart. Thousands of Indonesian women work in Malaysia as domestic workers, with the promise of legal protection from both countries. However, exploitation, violence, and limited access to justice are still common practices. Here we see that despite bilateral regulations and protection agreements, their implementation does not fully reflect the values of *maqashid syari'ah*, particularly in protecting the lives and dignity of women.<sup>6</sup>

In the field of family law, issues of polygamy, divorce, and child custody also reveal a tug-of-war between Sharia values, social norms, and modern regulations. In Indonesia, the practice of polygamy is restricted by certain conditions in positive law, but it is still often abused. In Malaysia, differing regulations between states lead to differences in interpretation that sometimes disadvantage women. From a *maqashid* perspective, this situation should be addressed with a focus on protection and justice, rather than simply maintaining the formal practice of law.

Gender-based violence is another issue that highlights the gap between legal reality and idealism. Indonesia passed the Sexual Violence Criminal Law (TPKS Law) in

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<sup>5</sup> Sadiah Boonstra, "Indonesia-Malaysia Relations. Cultural Heritage, Politics and Labour Migration, Written by Marshall Clark and Juliet Pietsch," *Journal of the Humanities and Social Sciences of Southeast Asia* 172, no. 2 (2016): 394–96, <https://doi.org/10.1163/22134379-17202012>.

<sup>6</sup> L. Lutfiyah, Nurdien Harry Kistanto, & Muhammad Akmaluddin, "Women Migrant Workers in Fiqh Perspectives," *SAWVA: Jurnal Studi Gender* 15, no. 1 (2020): 17–36, <https://doi.org/10.21580/sa.v15i1.556>.

2022 as a step forward in protecting women.<sup>7</sup> However, its implementation still faces cultural resistance and a lack of understanding among officials. Meanwhile, in Malaysia, Sharia and civil law sometimes do not work synergistically, so that female victims face complicated legal processes. *Maqashid syari'ah* demands that the law focus more on protecting victims, rather than adding to their suffering through complex procedures.

The issue of women's representation in policy-making is also important to consider. In an ideal democracy, women should have equal opportunities to participate in politics and decision-making.<sup>8</sup> However, the reality in Indonesia and Malaysia still shows a limited number of women in strategic positions, including in legal and religious institutions. In fact, *maqashid syari'ah* can be used as a basis for strengthening the role of women in the public sphere, because their involvement concerns the importance of maintaining social justice. In addition, the issue of female workers in the informal sector also shows weak legal protection. In Indonesia, many women work in sectors that are not recorded and are not protected by labor regulations. In Malaysia, female migrant workers face the same situation, where their rights are often ignored. This reality is contrary to the idealism of *maqashid*, which emphasizes the protection of property and life, as well as economic justice.<sup>9</sup>

The study of *maqashid syari'ah* opens up space for reinterpretation of the law to be more responsive to women's issues.<sup>10</sup> If in reality formal law is often rigid, then *maqashid* offers a substantial approach by emphasizing the noble objectives of sharia.<sup>11</sup> Thus, women's issues are not only viewed from a legalistic perspective, but also from the perspective of justice, welfare, and the protection of human rights.<sup>12</sup> A comparison

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<sup>7</sup> Fatimatuz Zahrah, "UU TPKS Berlaku, Mengapa Korban Kekerasan Seksual Belum Juga Aman?," *Yayasan Kesehatan Perempuan*, 22 April, 2022, <https://ykp.or.id/uu-tpks-berlaku-mengapa-korban-kekerasan-seksual-belum-juga-aman/>.

<sup>8</sup> Roudlatul Maunah, Sri Kusriyah, & Umar Ma'ruf, "Local Government Policies In Protection Of Women And Children From Violence In Semarang City," *Proceeding of International Conference on The Law Development For Public Welfare*, 2021, 170.

<sup>9</sup> Wee Chan Au, Uracha Chatrakul Na Ayudhya, Yan Soon Tan, & Pervaiz K. Ahmed, "The Work-Life Experiences of an Invisible Workforce: The Case of Live-in Women Migrant Domestic Workers in Malaysia," *Equality, Diversity and Inclusion* 39, no. 5 (2020), <https://doi.org/10.1108/EDI-02-2019-0059>.

<sup>10</sup> See Siti Nurjanah & Iffatin Nur, "Gender Fiqh: Mobilization of Gender-Responsive Movement on Social Media," *Ijtihad: Jurnal Wacana Hukum Islam Dan Kemanusiaan* 22, no. 1 (2022).

<sup>11</sup> Muhammad Ngizzul Muttaqin & Iffatin Nur, "Menelusuri Jejak Maqashid Syari'ah Dalam Istimbath Hukum Imam Hambali," *Ahkam: Jurnal Hukum Islam* 7, no. 1 (2019).

<sup>12</sup> Alimatul Qibtiyah, "Indonesian Muslim Women and The Gender Equality Movement," *Journal of Indonesian Islam* 3, no. 1 (2009): 193.

between Indonesia and Malaysia provides broader opportunities for analysis of how *maqashid syari'ah* can be used as a framework for the protection of women. Both countries consider Islam to be an important part of their legal identity, but with different implementations. Indonesia emphasizes legal pluralism and democracy, while Malaysia tends to emphasize legal dualism between Sharia and civil law. This creates a real difference in the reality of women's protection, even though the ideal of *maqashid* remains a common goal.

This phenomenon confirms the gap between positive legal reality and the idealism of *maqashid syari'ah*. Reality shows discrimination, violence, and limited access to justice for women, while the idealism of *maqashid* demands substantive justice, protection of dignity, and equality.<sup>13</sup> This gap is an important basis for academic research, so that law can be studied not only in normative terms, but also in terms of its implementation and impact on women. In an academic context, this study enriches the discourse on contemporary Islamic law, particularly in relation to gender issues. *Maqashid syari'ah* as a theoretical framework is able to bridge the needs of the law with the social reality of women in Indonesia and Malaysia. Thus, this study is not only normative but also applicable, as it emphasizes the relevance of *maqashid* in modern legal practice.

The urgency of this research is expected to be compelling given the increasing public awareness of gender equality and women's protection in the digital age. Social media and digital public spaces amplify women's voices, but they also reveal the prevalence of gender-based violence. The law is expected to respond to this reality, while *maqashid syari'ah* can provide a value orientation that reinforces the goal of protection. In addition, globalization and the ratification of various international conventions require Indonesia and Malaysia to adjust their regulations. The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) is an important reference, although its implementation often faces cultural resistance. This is where *maqashid syari'ah* can serve as a bridge between the universal values of human rights and Islamic legal traditions.<sup>14</sup>

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<sup>13</sup> See Ahmad Muhtadi Anshor & Muhammad Ngizzul Muttaqin, "The Implementation of Gender-Responsive Fiqh: A Study of Model Application of Women-Friendly and Child Care Village in Post-Covid-19 Pandemic," *Justicia Islamica: Jurnal Kajian Hukum Dan Sosial* 19, no. 1 (2022).

<sup>14</sup> Habib Sulthon Asnawi & Habib Ismail, "Discrimination against Wife in the Perspective of CEDAW and Islam Mubādalah," *Ijtihad: Jurnal Wacana Hukum Islam Dan Kemanusiaan* 20, no. 2 (2020).

Furthermore, a comparison between Indonesia and Malaysia can reveal best practices that can be adopted reciprocally. For example, Indonesia, with its TPKS Law, can be a model for the protection of victims of violence, while Malaysia, with its more established sharia legal system, can provide lessons in the integration of religious law. An analysis of *maqashid* sharia helps to assess the extent to which these practices truly benefit women. This study also highlights how legal constructs can be critiqued and improved using the maqasid approach. Law should not be an instrument of oppression, but rather a means of empowerment. In this case, maqasid syari'ah demands that law be viewed in terms of its function to protect, not merely in terms of its text.

Thus, this study departs from the awareness that the protection of women cannot only be approached from a formal legal perspective, but must also consider the substantial values of Sharia law. The social reality, which is still full of challenges, must continue to be compared with the idealism of *maqashid* in order to find real room for legal improvement. This approach also emphasizes that contemporary Islamic legal studies should not stop at dogmatism, but must be able to answer humanitarian problems, including women's issues. Indonesia and Malaysia, as laboratories of modern Islamic law, provide ample space to test the relevance of *maqashid* in the context of women's protection. Finally, this study aims not only to identify the gap between the reality and ideal of women's protection but also to offer the perspective of *maqashid syari'ah* as a solution. A comparative analysis between Indonesia and Malaysia is expected to show how the law can be directed towards more equitable, inclusive, and Sharia-compliant protection. Thus, this study provides academic and practical contributions to developing a legal framework that is more responsive to women's needs in the contemporary era.

The research method used in this study is a qualitative approach with library research and comparative studies.<sup>15</sup> A qualitative approach was chosen because it allows researchers to gain an in-depth understanding of the normative and practical realities of women's protection from the perspective of *maqashid syari'ah* in two countries with different social, political, and legal contexts, namely Indonesia and

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<sup>15</sup> Abdul Wahid & Muhammad Irfan, *Penelitian Hukum Normatif Dan Empiris* (Bandung: Pustaka Setia, 2012).

Malaysia.<sup>16</sup> The main data sources are primary literature in the form of regulatory texts, constitutions, specific laws related to the protection of women, and relevant Islamic legal documents, both from Indonesia and Malaysia. In addition, secondary data was obtained from previous research, journal articles, academic books, international agency reports, and publications from state agencies and civil society organizations concerned with women's protection issues. The data collection method was carried out using documentation techniques, namely searching, reading, recording, and analyzing documents related to the research issue.<sup>17</sup> Furthermore, the data presentation was compiled in a descriptive-analytical manner, classifying the data based on broad thematic categories, such as the principles of women's protection, legal implementation, and relevance to the objectives of *maqashid syari'ah*. The analysis was conducted using a comparative method, comparing the regulations and implementation of women's protection in Indonesia and Malaysia with the normative framework of *maqashid syari'ah*. The research steps began with issue identification and problem formulation, literature and regulation collection, data processing and categorization, comparative analysis with the *maqashid syari'ah* framework, to drawing conclusions that emphasized the meeting between the idealism of Islamic law and the social reality of law in both countries.<sup>18</sup> With this methodological design, the research is expected to provide a holistic understanding and solution-oriented recommendations regarding the protection of women that are in line with Islamic values and relevant to contemporary needs.

## RESULTS AND DISCUSSION

### Protection of Women as a Demand of the Contemporary World

The issue of women's protection has become a major theme in global social, legal, and political dynamics.<sup>19</sup> In the contemporary world, women are not only seen as subjects of the household, but also as important actors in development, education, and social transformation. However, reality shows that women are still often a vulnerable group

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<sup>16</sup> Noeng Muhadjir, *Metodologi Keilmuan: Paradigma Kualitatif, Kuantitatif, Dan Mixed* (Yogyakarta: Rake Sarasin, 2007).

<sup>17</sup> Mukhtar, *Metode Praktis Penelitian Deskriptif Kualitatif* (Jakarta: Referensi, 2013).

<sup>18</sup> Burhan Bungin, *Analisis Data Penelitian Kualitatif* (Jakarta: Raja Grafindo, 2008).

<sup>19</sup> Arifah Millati Agustina, "Assessing Women Ulama's Perspectives On Gender Contestation And Law Establishment In Indonesia," *Jurnal Ijlil: Indonesian Journal Of Law And Islamic Law* 4, no. 1 (2022): 2-7.

facing discrimination, violence, and marginalization.<sup>20</sup> Therefore, the need for comprehensive protection, both legally and socially, has become an urgent demand. The concept of women's protection can be understood as a systematic effort by the state, society, and international institutions to guarantee the fulfillment of women's basic rights, including the right to live free from violence, the right to education, the right to health, and the right to political participation. This protection is not only repressive against cases of violence, but also preventive through the strengthening of regulations, education, and empowerment.<sup>21</sup>

In the context of globalization, the issue of women's protection has received serious attention from the international community. The United Nations (UN), for example, has established various international instruments, such as the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), which emphasizes the elimination of discrimination and the protection of women's rights.<sup>22</sup> This shows that demands for the protection of women are no longer just a local agenda, but part of a global agreement. On the other hand, demands for the protection of women also arise from the awareness that the role of women in development cannot be ignored. Several data show that women's participation in the world of work, politics, and education has a significant contribution to the progress of a nation. However, this contribution will not be optimal without guarantees for the protection of women's rights and dignity. This is what makes the protection of women a multidimensional demand of the contemporary world.<sup>23</sup>

Theoretically, the issue of women's protection can be analyzed through feminist theory. This theory highlights the structural injustices faced by women as a result of the patriarchal system. According to the feminist perspective, the protection of women is a form of recognition of the inequality that has existed for centuries and is a step towards gender justice. Thus, feminist theory provides a critical framework for understanding why the protection of women is so urgent in the modern world. In addition to feminism, human rights theory is also a key foundation for discussing women's protection. Women's

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<sup>20</sup> Ahmad Muttaqin, "Women's Identity in the Digital Islam Age: Social Media, New Religious Authority, and Gender Bias," *QIJS: Qudus International Journal of Islamic Studies* 8, no. 2 (2020).

<sup>21</sup> See Maimun Maimun, "The Women's Rights in Divorce and Gender Equality Discourse in The Dynamics of Divorce in Madura," *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam* 6, no. 1 (2022).

<sup>22</sup> See Habib Sulthon Asnawi & Habib Ismail, "Discrimination against Wife in the Perspective of CEDAW and Islam Mubādalāh."

<sup>23</sup> Arifah Millati Agustina, "Hak-Hak Perempuan Dalam Pengarusutamaan Ratifikasi Cedaw Dan Maqashid Asy-Syariah," *Al Ahwal: Jurnal Hukum Keluarga Islam* 9, no. 2 (2016): 201-10.



rights are part of human rights that are universal, inalienable, and must be respected by everyone. This view emphasizes that any policy that ignores women's rights violates the basic principles of human rights. Therefore, a human rights approach is an important instrument in safeguarding women's protection.<sup>24</sup>

In the contemporary world, the protection of women cannot be separated from the perspective of sustainable development. The Sustainable Development Goals (SDGs) agenda sets gender equality as one of its main objectives. The SDGs not only target the elimination of discrimination, but also encourage the full participation of women in economic, social, and political development. This shows that the protection of women has been integrated into the global development framework. The phenomenon of violence against women is one of the most prominent issues driving the demand for protection in the contemporary era. This form of violence includes domestic violence, sexual harassment, human trafficking, and femicide.<sup>25</sup>

In the study of law and justice, legal aspects play an important role in realizing the protection of women. State institutions are required to have strict regulations that favor victims. For example, there should be specific laws on gender-based violence or mechanisms for the protection of female workers. In many countries, this legal framework is still being developed to be more responsive to the real needs of women in society. From an Islamic legal perspective, the protection of women also has a strong foundation. The principle of *maqashid syari'ah* places *hifdz al-nafs* (protection of life), *hifdz al-'ird* (protection of honor), and *hifdz al-nasl* (protection of offspring) as part of the objectives of Islamic law that are relevant to the issue of women's protection. Thus, Islamic law can be positioned as a normative foundation for fighting for the protection of women in the contemporary world. However, there is a gap between the idealism of the law and social reality.<sup>26</sup> The idealism of the law emphasizes that women must be protected, respected, and empowered. However, in reality, discrimination and violence are still rampant. This gap

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<sup>24</sup> See Marianna Fotaki & Alison Pullen, "Feminist Theories and Activist Practices in Organization Studies," *Organization Studies* 45, no. 4 (2023).

<sup>25</sup> Lilis Hidayati Yuli Astutik, Iffatin Nur, & Mashuri, "Family Expectation and Poverty Alleviation Program: Approaches To Population Development and Family Development Laws, Sustainable Development Goals, and Maqasid Sharia," *Justicia Islamica: Jurnal Kajian Hukum Dan Sosial* 19, no. 1 (2022).

<sup>26</sup> Arifah Millati Agustina, "Gender Construction in The Perspective of Living Fiqh in Indonesia," *Justicia Islamica Jurnal Kajian Hukum Dan Sosial* 18, no. 2 (2021): 203.

confirms that the protection of women is not only a matter of normative law, but also requires cultural, social, and political transformation.<sup>27</sup>

In another context, social theory also helps explain why the protection of women is a necessity in the contemporary world. For example, social construction theory explains that gender roles are formed through social norms, culture, and customs. As long as social construction continues to place women in a subordinate position, protection becomes an important means of ensuring justice and equality. In the economic sphere, women often face injustices such as lower wages than men or lack of access to business capital. This phenomenon creates a need for affirmative policies that provide special protection for female workers or entrepreneurs. Thus, the protection of women is also closely related to the agenda of economic justice.<sup>28</sup>

In addition, the protection of women in the field of health is also a major concern. Issues of reproductive health, access to medical services, and protection from harmful practices such as child marriage are important indicators of the extent to which women are protected. Public health theory asserts that inequality in access to health care will affect the overall quality of life of women. The phenomenon of digitalization also brings new challenges for the protection of women. On the one hand, technology provides greater opportunities for participation, but on the other hand, it presents risks such as online harassment, data misuse, and digital sexual exploitation.<sup>29</sup> Therefore, the protection of women in the digital age must be specifically formulated to keep pace with the times.

From a political perspective, women's representation in legislative and executive institutions remains a challenge. Protecting women in the political sphere means not only protecting them from discrimination, but also giving them equal opportunities to participate in decision-making. Political representation theory states that women's participation is essential for producing more gender-equitable policies. It is also important to note that the protection of women cannot be left solely to the state. Civil society, non-governmental organizations, and local communities also have a vital role to play in creating a safe and fair environment for women. Women-based social movements have

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<sup>27</sup> Ziba Mir-Hosseini, "The Construction of Gender in Islamic Legal Thought: Strategies for Reform," *Hawwa: Journal of Women in the Middle East and the Islamic World* 1, no. 1 (2003): 17.

<sup>28</sup> See Mohamed el-Tahir el-Mesawi, "Gender Issues in Islam: Recovering The Measure and Restoring the Balance," *International Journal of Islamic Thought* 6, no. 2 (2017): 49.

<sup>29</sup> See Omar Anchassi, "Status Distinctions and Sartorial Difference: Slavery, Sexual Ethics, and the Social Logic of Veiling in Islamic Law," *Islamic Law and Society* 28, no. 3 (2021), <https://doi.org/10.1163/15685195-bja10008>.

made significant contributions, both in policy advocacy and in providing direct support to victims of violence.<sup>30</sup>

In academic circles, research on the protection of women is growing. This academic discourse enriches theory and practice in efforts to protect women. Interdisciplinary studies ranging from law, sociology, psychology, to religious studies have shown that the protection of women is a complex issue that requires a multidimensional approach. As a demand of the contemporary world, women's protection requires synergy between normative ideals, legal regulations, and public awareness. Without the integration of these three elements, women's protection will only remain at the level of discourse without real realization. Therefore, theories discussing this issue need to underline the importance of a comprehensive approach.

Finally, the protection of women as a contemporary global demand can be understood through the theoretical frameworks of feminism, human rights, *maqashid syari'ah*, sustainable development, and social, economic, and political theory.<sup>31</sup> All of these theories emphasize that the protection of women is not merely a practical necessity, but also a moral, legal, and spiritual obligation. With a strong theoretical foundation, the protection of women can be positioned as a strategic agenda that supports the achievement of social justice and a more humane civilization.

### ***Maqashid Shari'ah and Legal Equality***

*Maqashid syari'ah* is a fundamental concept in Islamic law that refers to the main objectives of sharia. This concept was developed to ensure that Islamic law is understood not only textually, but also contextually.<sup>32</sup> In its development, *maqashid* serves as a methodological instrument for understanding the relevance of Islamic law to contemporary issues, including issues of legal equality. Legal equality here is defined as a condition in which every individual, both men and women, has equal access to justice without discrimination. Historically, the theory of maqasid is rooted in the thinking of al-Shatibi (d. 790 AH) in his monumental work *al-Muwafaqat*,<sup>33</sup> which emphasizes that the

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<sup>30</sup> Edward Aspinall, Sally White, & Amalinda Savirani, "Women's Political Representation in Indonesia: Who Wins and How?," *Journal of Current Southeast Asian Affairs* 40, no. 1 (2021).

<sup>31</sup> See Siti Ruhaini Dzuhayatin, "Gender Glass Ceiling in Indonesia: Manifestation, Roots and Theological Breakthrough," *Al-Jami'ah: Journal of Islamic Studies* 58, no. 1 (2020).

<sup>32</sup> Saim Kayadibi, "The State As An Essential Value (Daruriyyat) Of The Maqashid Al-Shari'ah," *Ahkam: Jurnal Ilmu Syariah* 19, no. 1 (2019).

<sup>33</sup> Abu Ishaq al-Shatibi, *Al-Muwafaqot Fi Ushul Al-Syari'ah* (Beirut: Dar al-Kutub al-Ilmiyah, 2004).

objectives of Islamic law are to preserve religion (*hifdz al-din*), life (*hifdz al-nafs*), intellect (*hifdz al-'aql*), lineage (*hifdz al-nasl*), and property (*hifdz al-mal*). Later, this concept developed with the addition of collective *maqashid*, such as *hifdz al-bi'ah* (preservation of the environment) and *hifdz al-'ird* (protection of dignity). The increasingly inclusive development of *maqasid* provides ample space for the achievement of legal equality in modern Muslim societies.

Legal equality itself is a universal principle that affirms that the law must apply equally to all people regardless of social status, gender, race, or religion. In the context of Islam, the principle of legal equality is in line with the teachings of the Qur'an, which affirms that all human beings are servants of Allah who were created from the same origin (QS. al-Hujurat: 13). Thus, *maqashid syari'ah* provides a normative framework for realizing legal equality in the implementation of sharia. The relationship between *maqashid* and legal equality can be understood through the concept of *mashlahah* (benefit). *Mashlahah* demands that the law must bring benefits and reject harm to all human beings. In relation to equality, *mashlahah* ensures that no party is harmed by structural discrimination. This means that *maqashid syari'ah* not only guarantees substantive justice, but also leads to distributive justice that is evenly distributed to each individual.<sup>34</sup>

In contemporary studies, a number of Islamic scholars and legal thinkers such as Jasser Auda emphasize the importance of viewing *maqashid* within a broader framework.<sup>35</sup> According to Auda, *maqashid* are not merely fixed goals, but dynamic principles that must be continually reinterpreted in line with the challenges of the times.<sup>36</sup> This systemic approach allows *maqashid* to address issues of legal equality, for example, related to the rights of women, minorities, or other vulnerable groups. Legal equality also has a strong theological basis in Islam. The Qur'an emphasizes that Allah does not discriminate between people's deeds based on gender or social status, but rather based on piety (QS. al-Nahl: 97). This principle affirms that equality is part of the value of justice, which is the main *maqashid* of sharia. Thus, *maqashid* not only provides normative legitimacy, but also theological legitimacy for the realization of legal equality.

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<sup>34</sup> Iffatin Nur & Muhammad Ngizzul Muttaqin, "Reformulating The Concept of Maṣlaḥah: From A Textual Confinement Towards A Logic Determination," *Justicia Islamica Jurnal Kajian Hukum Dan Sosial* 17, no. 1 (2020).

<sup>35</sup> Jasser Auda, *Maqasid Al-Shariah as Philosophy of Islamic Law: A Systems Approach* (London: the International Institut of Islamic Thought, 2007).

<sup>36</sup> Jasser Auda, *Fiqh Al-Maqasid Inat Al-Ahkam Bi Maqasidiha* (Herndon: IIIT, 2007).

In classical fiqh, there are legal differences between men and women, or between Muslims and non-Muslims, which are often understood as a form of inequality. However, with the *maqashid* approach, these differences can be contextualized in accordance with the principle of justice in the modern era. For example, in the issue of women's testimony, the *maqashid* approach can be used to reinterpret legal texts to be in line with the value of equality without neglecting the principles of sharia. Modern *maqashid* theory also emphasizes the importance of *hifdz al-karamah al-insaniyyah* (protection of human dignity). This principle is directly related to the issue of legal equality. In the contemporary world, legal discrimination is considered a violation of human dignity. Therefore, *maqashid* sharia, which emphasizes the protection of dignity, must be the basis for Islamic legal reform in order to be more responsive to the value of equality.<sup>37</sup>

Legal equality is not only important in gender relations, but also in the context of protecting minorities. *Maqashid syari'ah*, which is oriented towards universal benefit, can be used as a basis for defending the rights of minority groups in Muslim societies. This is in line with the principle of *la darar wa la dirar* (no harm to oneself or others), which is one of the important fiqhiyyah rules in Islamic law. In practice, the application of *maqashid* to achieve legal equality requires a reinterpretation of classical fiqh texts. This reinterpretation is not intended to negate the classical heritage, but rather to actualize it so that it is relevant to the contemporary context. Therefore, *maqashid* acts as a bridge between normative texts and dynamic social realities, especially on issues of equality.<sup>38</sup>

Legal equality within the framework of maqasid can also be understood through the theory of maqasid *tahsiniyyah* (perfection). *Tahsiniyyah* emphasizes the aspects of morality and civility that beautify human life. Legal equality is part of universal moral values that beautify the social order. By upholding equality, maqasid not only fulfills basic human needs, but also strengthens harmonious noble values. A number of contemporary Muslim thinkers link maqasid with the principles of democracy and human rights. For example, Abdullahi An-Na'im asserts that the application of Islamic law must always take maqasid into consideration so as not to conflict with the values of equality and freedom.<sup>39</sup> In this way, *maqashid* can serve as a bridge between Islamic law and global norms, so that legal equality can be realized in both national and international legal systems.

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<sup>37</sup> Fauzi, *Hak Asasi Manusia Dalam Fikih Kontemporer* (Depok: PRENADAMEDIA GROUP, 2018).

<sup>38</sup> Abdul Mun'im Saleh, *Hukum Manusia Sebagai Hukum Tuhan: Berfikir Induktif Menemukan Hakikat Hukum Islam Model Al-Qawa'id Al-Fiqhiyyah* (Yogyakarta: Pustaka Pelajar, 2009).

<sup>39</sup> Abdullahi Ahmed An-Na'im, *Dekonstruksi Syariah* (Jogjakarta: LKiS, 1994).

Within the framework of modern legal theory, legal equality is often associated with the concept of the rule of law. This principle asserts that the law applies equally to all people without exception. When *maqashid* is applied within the framework of the rule of law, Islamic law will reveal its fair, inclusive, and responsive nature to the needs of all humanity. Thus, *maqashid* strengthens the legitimacy of legal equality in the modern context. One of the major challenges in realizing legal equality through *maqashid* is resistance from conservatives who adhere strictly to the literal text. However, Islamic history itself shows that contextual *ijtihad* has been part of the dynamics of Islamic law. By emphasizing *maqashid*, contemporary scholars seek to assert that legal equality does not mean ignoring the text, but rather understanding the text in accordance with the objectives of sharia.

Legal equality can also be viewed from the perspective of *maqashid* kulliyah (universal objectives). The universal objective of Sharia law is to bring mercy to all of creation (*rahmatan lil-'alamin*). This principle cannot be realized if the law is practiced in a discriminatory manner. Therefore, *maqashid* kulliyah becomes a strong foundation for ensuring that Islamic law truly brings justice and equality for all. In the context of Indonesia and Malaysia, *maqashid syari'ah* is widely used as the basis for family law reform, women's protection, and public policy. Both countries are trying to integrate *maqashid* with the principle of legal equality through regulations that are adaptive to the local social and political context. This shows that *maqashid* has practical relevance in building a more just and equitable legal system.

From a gender perspective, *maqashid* serves to correct patriarchal biases that are still deeply rooted in legal practice. By emphasizing *maqashid* such as *hifdz al-nafs* and *hifdz al-'ird*, Islamic law can be directed to protect women from violence, discrimination, and marginalization. Gender equality in law is a true reflection of the objectives of Sharia law, which is oriented towards the protection and respect for human dignity. In addition, *maqashid* can also serve as a moral basis for the state in formulating equitable public policies. A state that uses *maqashid* as a foundation will prioritize legal equality, as this is in line with the principle of *mashlahah*. Thus, *maqashid* is not only relevant in academia, but also in the implementation of modern state policies. Methodologically, *maqashid* can be used as a framework for reinterpreting laws that are considered discriminatory. For example, the issue of women's inheritance rights, which has been understood differently

from those of men, can be reviewed through the *maqashid* of justice and *mashlahah*. With the *maqashid* approach, Islamic law can continue to evolve in line with the values of legal equality that are demanded by the times.

Finally, *maqashid syari'ah* is an important instrument in realizing legal equality in the contemporary world.<sup>40</sup> The concept of *maqashid* emphasizes that the objectives of Islamic law are to bring about justice, benefit, and protection of human dignity. Legal equality is not only a socio-political demand, but also part of the noble objectives of Sharia law. With the *maqashid* approach, Islamic law can appear as a legal system that is inclusive, adaptive, and relevant to the needs of the times, while also responding to the challenges of equality in modern society.

### **Comparison of Women's Protection in Indonesia and Malaysia: Analysis from the Perspective of *Maqashid syari'ah***

The protection of women in the context of modern states is an important issue that continues to receive attention in both Indonesia and Malaysia. These two countries have historical, cultural, and legal systems that are both rooted in Islam, but differ in their positive legal practices. From the perspective of *maqashid syari'ah*, the protection of women is not merely a matter of fulfilling practical needs, but also leads to the preservation of the objectives of sharia, such as protecting religion, life, reason, lineage, and property. Indonesia and Malaysia both place women as subjects of law whose rights must be guaranteed. However, women's protection policies in the two countries are implemented with slightly different approaches. Indonesia places greater emphasis on legal pluralism, while Malaysia places strong emphasis on Islamic law as an integral part of the national legal system. An analysis of *maqashid syari'ah* helps to reveal the extent to which these two approaches are able to guarantee substantive justice for women.<sup>41</sup>

One of the main pillars of *maqashid syari'ah* is *hifdz an-nafs* (protection of life). Protection of life for women includes security from violence, harassment, and discrimination. In Indonesia, the enactment of Law No. 23 of 2004 on the Elimination of Domestic Violence is proof of the state's commitment to protecting women's lives.

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<sup>40</sup> Aksin Wijaya & Shofiyullah Muzammil, "Maqasidi Tafsir: Uncovering and Presenting Maqasid Ilahi-Qur'ani into Contemporary Context," *Al-Jami'ah: Journal of Islamic Studies* 59, no. 2 (2021).

<sup>41</sup> See Mehrun Siraj, "Women and the Law: Significant Developments in Malaysia," *Law & Society Review* 28, no. 3 (1994), <https://doi.org/10.2307/3054075>.

Malaysia has the Domestic Violence Act 1994,<sup>42</sup> which has a similar purpose. Both regulations are in line with the principles of Sharia law, which prohibits injustice against others, including women. From the aspect of *hifdz al-nasl* (protection of offspring), the protection of women is closely related to marriage regulations. In Indonesia, Law Number 1 of 1974 concerning Marriage, which was later updated by Law Number 16 of 2019, raised the minimum age for marriage for women to 19 years.<sup>43</sup> This policy aims to prevent child marriage, which is harmful to women physically and psychologically. Malaysia, with the Islamic Family Law (Federal Territories) Act 1984, sets the minimum age for women to marry at 16 years, but still allows for dispensations. From a *maqashid* perspective, Indonesian regulations are more progressive in protecting women from the practice of early marriage.<sup>44</sup>

The protection of women in the dimension of *hifdz al-'aql* (protection of reason) is closely related to access to education. Indonesia considers women's education a fundamental right, which is reflected in various national programs for women's empowerment.<sup>45</sup> Malaysia, with affirmative action policies such as the National Women's Policy, also encourages women's participation in higher education. In terms of *maqashid*, both countries demonstrate a commitment to the development of women's intellect, although Indonesia faces challenges of regional disparities, while Malaysia faces problems of gender stereotypes in STEM fields.<sup>46</sup>

In terms of *hifdz al-mal* (protection of property), Indonesian law gives women full rights to own, manage, and inherit property. Malaysia also recognizes women's rights to property under Islamic and civil law. However, implementation at the community level sometimes still faces cultural biases that marginalize women. The *maqashid* perspective demands that the protection of women's economic rights be not only formal legal, but also cultural and structural. Indonesia and Malaysia both make *hifdz ad-din* (protection of

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<sup>42</sup> Randawar, A, Kamarudin, & Jayabalan D.K., "Current Family Law Concern - a Need for Creating Legal Awareness of Domestic Violence under the Domestic Violence Act 1994 in Malaysia," *Baltic Journal of Law & Politics* 16, no. 2 (2023): 629-39, <https://doi.org/10.2478/bjlp-2023-0000046>.

<sup>43</sup> Muhammad Irfan AD, "Changes in the Minimum Age for Marriage in Law Number 1 of 1974 Jo Law Number 16 of 2019: Perspectives from the Health Dimension and Sadd Adz-Dzari'ah," *Ijtihad* 39, no. 2 (2023): 6-17.

<sup>44</sup> Azizah binti Mohd, "An Appraisal of the Application of Fiqh Alhanafi Under Islamic Family Law (Federal Territories) Act 1984," *IIUM Law Journal* 27, no. 2 (2019).

<sup>45</sup> Cyril Anfasha Firmansyah & Estro Dariatno Sihalo, "The Effects of Women Empowerment on Indonesia's Regional Economic Growth," *Jurnal Ekonomi Pembangunan: Kajian Masalah Ekonomi Dan Pembangunan* 22, no. 1 (2021).

<sup>46</sup> C. Choong, "Race-Based Affirmative Action in Malaysia: Misrecognised Subjectivities, Enduring Inequalities," *Asian Journal of Social Sciences* 50, no. 2 (2022), <https://doi.org/10.1016/j.ajss.2021.12.001>.



religion) a constitutional basis. In the context of women, this protection includes the right to practice religious obligations without discrimination. However, challenges arise when there are debates about women's freedom in public spaces, for example, regarding dress codes. Indonesia tends to be more pluralistic, while Malaysia is relatively strict within the framework of Islamic law. From a *maqashid* perspective, religious protection must ensure that women are not forced to violate Sharia law while also not losing their freedom to express themselves responsibly.<sup>47</sup>

One of the important issues in the protection of women in Indonesia is the high number of cases of gender-based violence. Data from the National Commission on Violence Against Women shows an increase in cases from year to year. Malaysia also faces similar problems, especially cases of domestic violence and harassment in the workplace. In *maqashid*, violence against women contradicts the principles of protecting life (*hifdz al-nafs*) and human dignity. Thus, the effectiveness of regulations in both countries needs to be criticized as to whether they are truly capable of reducing the number of violence cases or merely stopping at the normative level. In terms of institutions, Indonesia has the Ministry of Women's Empowerment and Child Protection, while Malaysia has the Ministry of Women, Family, and Community Development. These two institutions have almost similar mandates, namely to ensure gender-responsive policies. However, in practice, Indonesia faces coordination issues with regional institutions, while Malaysia faces the challenge of bureaucratic dominance that often slows down policy implementation.

In the context of family law, both countries apply Islamic law, but its implementation differs. Indonesia places the Compilation of Islamic Law (KHI) as a reference for judges in the Religious Court.<sup>48</sup> Malaysia is more formal, with sharia courts in each state that has legislative autonomy.<sup>49</sup> From a *maqashid* perspective, Indonesia tends to be flexible in accommodating legal plurality, while Malaysia is more consistent in its approach to Islamic law. Both models have their advantages and disadvantages. One aspect of women's protection in Indonesia is related to political rights. Indonesia provides

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<sup>47</sup> See Merry Morashh & Deborah A. Kashy, "The Relevance of Women's Economic Marginalization to Recidivism," *Criminal Justice and Behavior* 49, no. 3 (2021).

<sup>48</sup> Andi Herawati, "Kompilasi Hukum Islam (KHI) Sebagai Hasil Ijtihad Ulama Indonesia," *Hunafa: Jurnal Studia Islamika* 8, no. 2 (2011).

<sup>49</sup> M. S. Shuaib, F. S., Kamal, M. H., Bustami, T. A., Othman, N. & Sulaiman, "Towards an Apex Sharia Court in Malaysia," *Pertanika J. Soc. Sci. & Hum* 25 (2017).

considerable space through affirmative action policies, namely a 30% quota for women's representation in parliament.<sup>50</sup> Malaysia also has a similar policy, but its implementation has not been optimal. The principle of *maqashid* demands women's involvement in politics as part of *hifdz al-'aql* and *hifdz ad-din*, namely maintaining the role of women in social and community development.

In the field of criminal law, Indonesia passed the Sexual Violence Criminal Law (TPKS Law) in 2022. This law is a breakthrough in providing legal protection to victims, the majority of whom are women. Malaysia has similar provisions in its Penal Code and Sexual Harassment Act 2022.<sup>51</sup> Both regulations affirm the state's serious efforts to protect women's dignity. From a *maqashid* perspective, this is a tangible form of preserving life, intellect, and lineage. An interesting comparison can be seen on the issue of polygamy. In Indonesia, polygamy is strictly limited by certain conditions through the Marriage Law. In Malaysia, polygamy is permitted with the permission of a Sharia court. From a *maqashid* perspective, both countries seek to balance preserving Sharia law (polygamy is permitted in Islam) with maintaining justice for women. However, the practice in the field often raises issues of substantive justice.<sup>52</sup>

Another issue that often arises is that of female migrant workers. Indonesia, as the largest sender of workers to Malaysia, faces challenges in protecting female workers who are vulnerable to exploitation. Malaysia, as the recipient country, is also often criticized for its weak legal protections.<sup>53</sup> From the perspective of *maqashid*, this touches on the aspects of *hifdz al-nafs* and *hifdz al-mal*. Both countries need to work more closely together to make the protection of women across borders more effective. From a cultural perspective, women in Indonesia and Malaysia both face gender stereotypes that limit their freedom of movement. Patriarchal values remain strong and often hinder the implementation of laws. The *maqashid* perspective teaches that all forms of culture that contradict the principle of justice must be corrected, because sharia aims to bring about *mashlahah*, not to perpetuate discrimination.

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<sup>50</sup> Tim Editor, "Kebijakan Kuota 30% Keterwakilan Perempuan Di Parlemen: Apakah Akan Tembus Pada Pemilu 2024?," *Kompasiana.Com*, Dec 2, 2021, <https://www.kompasiana.com/shafacamill/61a86b4e62a7044c1c424ca2/kebijakan-kuota-30-keterwakilan-perempuan-di-parlemen-apakah-akan-tembus-pada-pemilu-2024>.

<sup>51</sup> "Undang-Undang TPKS No. 12 Tahun 2022,".

<sup>52</sup> See M. Nurul Irfan, "Kriminologi Poligami Dan Nikah Sirri," *Jurnal Al-'Adalah X*, no. 2 (2011).

<sup>53</sup> See Yeni Huriani & Nablur Rahman Annibras, "Decision Making Process of Women Migrant Workers in West Java: The Intertwine of Religion, Culture, and Social Reality," *Wawasan: Jurnal Ilmiah Agama Dan Sosial Budaya* 5, no. 1 (2020): 58–66, <https://doi.org/10.15575/jw.v5i1.8068>.

As an analysis, Indonesia is relatively more open to the discourse of gender equality based on international human rights,<sup>54</sup> while Malaysia is more cautious because it considers the sensitivity of Islamic law. Although different, both countries still try to interpret *maqashid* in a contemporary context. Indonesia prioritizes harmony between national law and global norms, while Malaysia seeks to uphold Islamic values without losing international relevance. In the field of employment, Indonesia has a Labor Law that guarantees the right to maternity leave, childbirth, and breastfeeding. Malaysia also has similar regulations through the Employment Act 1955. This protection is in line with *maqashid*, particularly *hifdz an-nasl*. However, implementation in the field often encounters obstacles in the form of discrimination against female workers who are pregnant or married.<sup>55</sup>

Regarding the protection of women in the health sector, Indonesia, through BPJS Kesehatan, guarantees reproductive health services, while Malaysia has a National Reproductive Health and Social Education Policy.<sup>56</sup> Both demonstrate the state's concern for women's health. From a *maqashid* perspective, this falls under the categories of *hifdz al-nafs* and *hifdz al-nasl*. In terms of customary law, Indonesia faces the challenge of plurality, which often conflicts with the protection of women. Some customary practices are still discriminatory, for example in terms of inheritance. Malaysia is relatively more homogeneous, but differences between states remain. The principle of *maqashid* demands that customary law should not sacrifice the protection of women, because justice is the spirit of sharia.

Furthermore, non-governmental organizations (NGOs) in Indonesia play a more active role in advocating for women's protection than in Malaysia. The presence of these NGOs strengthens the implementation of *maqashid* through the social role of civil society. Malaysia relies more on official state institutions, so grassroots movements are relatively limited. From a *maqashid* perspective, the measure of success in protecting women is not simply the existence or absence of regulations, but whether those regulations truly bring about *mashlahah* (benefit) and reject *mafsadat* (harm). Indonesia excels in terms of

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<sup>54</sup> See Alimatul Qibtiyah, "Indonesian Muslim Women and The Gender Equality Movement."

<sup>55</sup> See Norshahril Saat, *The State, Ulama and Islam In Indonesia and Malaysia* (Amsterdam: Amsterdam University Press, 2018).

<sup>56</sup> Dyan Widyaningsih, Elza Samantha Elmira, & Andi Misbahul Pratiwi, "Poor Women's Access to Pregnancy and Childbirth Examination Services in Indonesia: Case Study in Five Districts," *Jurnal Perempuan* 24, no. 3 (2019).

progressive regulations, while Malaysia excels in the consistent application of Sharia law. However, both countries still face obstacles in ensuring substantive protection.

In terms of diplomacy, Indonesia often raises the issue of women's protection in international forums, while Malaysia emphasizes an internal approach. This shows that Indonesia tends to interpret *maqashid* in a global framework, while Malaysia interprets it in a national framework. This difference is interesting to explore further. The protection of women in the creative economy is also beginning to receive attention. Indonesia through its women's MSME empowerment program, Malaysia through its Women Entrepreneur Development program. Both countries view women's economic empowerment as important for family independence. In *maqashid*, this empowerment is in line with the principle of *hifdz al-mal*.<sup>57</sup>

The major challenges facing both countries are digitization and women's safety in cyberspace. Cases of online gender-based violence are on the rise. Indonesia has responded with ITE regulations, while Malaysia relies on the Communications and Multimedia Act 1998. Through *maqashid* analysis, digital protection includes protecting women's lives, minds, and dignity. From a sociological perspective, Indonesian society is more open to the discourse of Islamic feminism, while in Malaysia this discourse is still considered sensitive. This influences policies on the protection of women. *Maqashid* provides space to reinterpret religious texts to be more adaptive to contemporary demands for justice.<sup>58</sup>

As an analysis, the implementation of *maqashid* in Indonesia more often appears through progressive interpretations by academics and activists, while in Malaysia it is more through official Sharia institutions. Both approaches have important contributions in bringing justice to women. When compared, Indonesia is superior in terms of harmonizing national and international law, while Malaysia is superior in terms of Sharia consistency. Both models can be viewed as applications of *maqashid* in different contexts, global *mashlahah* and national *mashlahah*. In terms of public participation, Indonesian women are relatively more active in politics, economics, and education, despite still facing discrimination. In Malaysia, women's participation is quite high in the education sector,

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<sup>57</sup> See Rekha Mehra, "Women, Empowerment, and Economic Development," *The Annals Of The American Academy Of Political and Social Science* 554, no. 1 (2016), <https://doi.org/10.1177/0002716297554001009>.

<sup>58</sup> See Siti Nurjanah & Iffatin Nur, "Gender Fiqh: Mobilization of Gender-Responsive Movement on Social Media."

but not yet balanced in the political sector. This indicates that there are still gaps in the protection of women in the structural realm.<sup>59</sup>

In general, both Indonesia and Malaysia have shown great commitment to the protection of women. However, their approaches differ, with Indonesia adopting legal pluralism and Malaysia adopting a formal Sharia orientation. From a *maqashid* perspective, it appears that both countries are actually striving to achieve the same goal, namely justice and the welfare of women. In conclusion, a comparison of the protection of women in Indonesia and Malaysia from a *maqashid* sharia perspective reveals two different but equally valid approaches. Indonesia emphasizes the harmonization of national, customary, and international laws to protect women. Malaysia emphasizes consistency in the application of Islamic law. From the perspective of *maqashid*, both are taking the same path, namely ensuring that women's rights are guaranteed in order to achieve justice, equality, and the welfare of humanity.

## CONCLUSION

The protection of women in Indonesia and Malaysia from the perspective of *maqashid syari'ah* shows that there are common goals, namely ensuring justice, equality, and welfare for women, even though the two countries take different paths in accordance with their respective social, political, and legal contexts. Indonesia places greater emphasis on harmonizing national law with international norms and legal pluralism, as reflected in progressive policies such as raising the minimum age for marriage, enacting the TPKS Law, and implementing quotas for women's political representation. Meanwhile, Malaysia places greater emphasis on the consistent application of Islamic law through official sharia institutions and state policies, which provide strong legitimacy to religious principles despite still facing challenges in fulfilling substantive justice. From the perspective of *maqashid syari'ah*, both countries are trying to uphold the five main objectives of sharia, namely religion (*hifdz al-din*), life (*hifdz al-nafs*), intellect (*hifdz al-'aql*), lineage (*hifdz al-nasl*), and property (*hifdz al-mal*) for women. However, structural issues, patriarchal culture, and suboptimal law implementation remain serious obstacles to providing comprehensive protection for women. Therefore, it is necessary to integrate the normative approach of Sharia with

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<sup>59</sup> See Mehrun Siraj, "Women and the Law: Significant Developments in Malaysia."

contemporary needs based on social justice so that the protection of women truly reflects the spirit of *maqashid* as a means of bringing about *mashlahah* and rejecting *mafsadat* amid the dynamics of the modern world.

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