

***Maqāsid al-Sharī'ah* as a Governance Framework: Institutionalizing Child Protection in Pontianak**

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Abstract

The high rate of violence against children in Pontianak City shows that the issue of child protection is not only normative in regulations, but has become a complex social problem. This study aims to analyze the dynamics of children's involvement as victims of crime in Pontianak City and examine the governance of child protection through the perspective of maqāsid al-syarī'ah. The research method used is qualitative with a socio-legal approach to examine the relationship between positive legal norms and the implementation of child protection at the regional level. The results of the study show that family vulnerability, weak parental supervision, uncondusive social environment, and low digital literacy are the main causes of the increased risk of children becoming victims of crime. Field findings also show that the Pontianak City Regional Child Protection Commission has implemented protection governance through integrated assessment SOPs, legal and health assistance, education sustainability supervision, direct and digital complaint services, and preventive programs based on community participation. The analysis based on maqāsid al-syarī'ah emphasizes the need to reconstruct the fiqh of child protection based on the principles of ḥifẓ al-nafs, ḥifẓ al-'aql, and ḥifẓ al-nasl as a normative foundation in child protection policies. This study recommends a stronger integration between regional regulations, institutional capacity strengthening, and internalization of the values of maqāsid al-syarī'ah so that the child protection system in Pontianak City becomes more substantive, responsive, and holistically oriented towards the benefit of children.

Keywords: *Maqāsid Al-Sharī'ah; Child Protection Governance; Socio-Legal Approach; Islamic Legal Reform; Regional Public Policy; Indonesia.*

Abstrak

Tingginya angka kekerasan terhadap anak di Kota Pontianak menunjukkan bahwa persoalan perlindungan anak tidak hanya bersifat normatif dalam regulasi, tetapi telah menjadi problem sosial yang kompleks. Penelitian ini bertujuan untuk menganalisis dinamika keterlibatan anak sebagai korban kejahatan di Kota Pontianak serta mengkaji tata kelola perlindungan anak melalui perspektif maqāsid al-syarī'ah. Metode penelitian yang digunakan adalah kualitatif dengan pendekatan socio-legal untuk menelaah relasi antara norma hukum positif dan implementasi perlindungan anak di

tingkat daerah. Hasil penelitian menunjukkan bahwa faktor kerentanan keluarga, lemahnya pengawasan orang tua, lingkungan sosial yang tidak kondusif, dan rendahnya literasi digital merupakan penyebab utama meningkatnya risiko anak menjadi korban kejahatan. Temuan lapangan juga menunjukkan bahwa Komisi Perlindungan Anak Daerah Kota Pontianak telah menjalankan tata kelola perlindungan melalui SOP asesmen terpadu, pendampingan hukum dan kesehatan, pengawasan keberlanjutan pendidikan, layanan pengaduan langsung maupun digital, serta program preventif berbasis partisipasi masyarakat. Analisis berbasis maqāṣid al-syarī'ah menegaskan perlunya rekonstruksi fiqh perlindungan anak yang berlandaskan prinsip *ḥifz al-nafs*, *ḥifz al-'aql*, dan *ḥifz al-nasl* sebagai fondasi normatif dalam kebijakan perlindungan anak. Penelitian ini merekomendasikan integrasi yang lebih kuat antara regulasi daerah, penguatan kapasitas kelembagaan, dan internalisasi nilai maqāṣid al-syarī'ah agar sistem perlindungan anak di Kota Pontianak menjadi lebih substantif, responsif, dan berorientasi pada kemaslahatan anak secara holistik.

Kata Kunci: Maqāṣid Al-Sharī'ah; Tata Kelola Perlindungan Anak; Pendekatan Socio-Legal; Reformasi Hukum Islam; Kebijakan Publik Daerah; Indonesia.

INTRODUCTION

Child protection has become an urgent socio-legal issue in Indonesia, particularly in the context of increasing cases of violence, early marriage, neglect, and structural vulnerabilities affecting minors.¹ Within this framework, safeguarding children constitutes a direct manifestation of preserving life (*ḥifz al-nafs*), intellect (*ḥifz al-'aql*), and lineage (*ḥifz al-nasl*), thereby positioning child protection as a core objective of Islamic law rather than merely a moral recommendation.² In the broader global discourse on Islamic governance, *maqāṣid al-sharī'ah* has increasingly been conceptualized not only as a doctrinal foundation of Islamic jurisprudence but also as a normative framework for public policy formulation, institutional accountability, and rights-based governance. Consequently, child protection may be situated within a maqāṣid-oriented governance paradigm that integrates ethical-religious imperatives with contemporary administrative systems. As a member of the family, the child constitutes a primary responsibility of the parents, extending from the prenatal phase through a defined stage of developmental maturity.³

¹Muhammad Fachri Said, 'Perlindungan Hukum Terhadap Anak Dalam Perspektif Hak Asasi Manusia', *JCH (Jurnal Cendekia Hukum)* 4, no. 1 (2018): 141–52.

²Djohan Effendi, *Pembaruan Tanpa Membongkar Tradisi: Wacana Keagamaan Di Kalangan Generasi Muda NU Masa Kepemimpinan Gus Dur* (Penerbit Buku Kompas, 2010).

³M Quraish Shihab, *Secercah Cahaya Ilahi: Hidup Bersama al-Quran* (Mizan Pustaka, 2007).

Law No. 35 of 2014 on Child Protection constitutes a concrete manifestation of the State's presence and responsibility. As articulated in Article 23 paragraph (1), "The State, the Government, and Regional Governments shall guarantee the protection, maintenance, and welfare of children, with due regard to the rights and obligations of parents, guardians, or other persons legally responsible for the child."⁴ Although the family ideally functions as the primary protective environment for children, structural challenges often undermine this role, thereby requiring state-supported protection mechanisms

This responsibility is operationalized through the active role of parents in laying a foundational framework for the child's character formation, cultivating personal integrity, fostering independence, and ensuring that the child lives and develops within a nurturing familial environment imbued with affection, care, and moral guidance. The affirmation of child protection is grounded in the doctrine of *Kodrat Alam* (the natural order).⁵ During the course of a child's development toward adulthood, a variety of factors, both internal and external, can significantly influence their cognitive patterns, personality formation, and behavioral tendencies.⁶

Previous studies have extensively explored the integration of *Maqāṣid al-Sharī'ah* into child protection and family law reform in Indonesia, highlighting its preventive potential against child marriage. A study emphasize that embedding *maqāṣid* principles within the legal framework of child adoption ensures comprehensive protection of children's rights, encompassing education, health, and overall welfare.⁷ Similarly, a study demonstrates that applying *maqāṣid* in the reform of case management for violence against women and children strengthens

⁴ Yayuk Siti Khotijah and Fathonah K Daud, 'Perlindungan Anak Atas Trauma Psikologis Pasca Perceraian Orang Tua', *Asy-Syari'ah* 23, no. 2 (2021): 229–44.

⁵ Kodrat Alam, 'Menakar Keterlibatan Dokter Dalam Pelaksanaan Tindakan Kebiri Kimia Bagi Pelaku Kekerasan Seksual Terhadap Anak', *Jurnal Hukum* 36, no. 2 (2020): 93–116.

⁶ Aditya Wiguna Sanjaya, 'Menyoal Pengaturan Pemberian Bantuan Hukum Terhadap Anak Pasca Reformasi', *Yurispruden: Jurnal Fakultas Hukum Universitas Islam Malang* 2, no. 2 (2019): 223–32.

⁷ Muhammad Alifza, and Muhammad Amin Nasution. "Integrating Maqāṣid Al-Sharī'ah into the Legal Framework of Child Adoption in Indonesia". *Al-Risalah Jurnal Ilmu Syariah Dan Hukum*, 25 no.2, (2025):372-85. <https://doi.org/10.24252/al-risalah.vi.58136>.

legal mechanisms and procedural responsiveness, providing a preventive approach to vulnerabilities faced by children.⁸

A study further underscore the significance of *maqāṣid*-based reconstruction of family law in legitimizing children's legal identity through marriage *isbat* applications, particularly in contexts involving early marriage.⁹ In alignment with these findings, a study advocate for a holistic *maqāṣid*-oriented strategy that integrates legal, social, and educational interventions to prevent early marriage while safeguarding children's welfare.¹⁰ Additionally, a study illustrate the practical application of *maqāṣid* in orphanage settings, emphasizing moral, educational, and social protection as preventive measures against institutional vulnerabilities.

Collectively, these studies substantiate that incorporating *Maqāṣid al-Sharī'ah* into family law and child protection frameworks is not merely normative but serves a proactive, preventive function, reinforcing children's rights and well-being while mitigating the risks associated with early marriage in Indonesia.¹¹ However, the existing body of scholarship predominantly emphasizes doctrinal interpretation, normative reconstruction, and judicial reform. Limited scholarly attention has been directed toward examining how *maqāṣid*-based principles are operationalized within regional governance institutions responsible for managing child-related crimes and violence. Thus, a significant gap remains between theoretical *maqāṣid* discourse and its practical institutional implementation at the local governance level.

This study aims to analyze crimes involving children as victims in Pontianak and to examine the *fiqh*-based protection framework implemented by the Regional Child Protection Commission (KPAD). By

⁸ Kutbuddin Aibak, "Implementation of Maqāṣid Sharī'ah in Reform of Case Management of Violence against Women and Children," *DE JURE: JURNAL HUKUM DAN SYAR'IAH*, 15 no.1 (2023): 82-98. <http://dx.doi.org/10.18860/j-fsh.v15i1.20666>.

⁹ Muhammad Jazil Rifqi, Nurul Asiya Nadhifah, Mukhammad Nur Hadi, Abdul Basith Junaidy, and Agus Solikin "Children's Legal Identity at Stake: Reconstructing Maqasid Al-Syari'ah through Marriage Isbat Applications by the Second Generation in Pasuruan". 2025. *El-Mashlahah* 15 (1): 125-48. <https://doi.org/10.23971/el-mashlahah.v15i1.9068>.

¹⁰ Azam Sukri, and Aris Fauzan. "Maqasid Al-Shariah and Child Protection: A Holistic Approach to Preventing Early Marriage". *KARSA Journal of Social and Islamic Culture*, 33 no.2 (2025), 600–636. <https://doi.org/10.19105/karsa.v33i2.21696>.

¹¹ Dedisyah Putra and Asrul HamidTinjauan Maqashid As-Syari'ah Terhadap Perlindungan Anak Panti Asuhan Siti Aisyah Kabupaten Mandailing Natal," *Jurnal Dusturiah*, 10 no. 1 (2020): <https://doi.org/10.22373/dusturiah.v10i1.7402>.

employing *maqāṣid al-sharī'ah* as a normative framework and *maṣlahah* as its practical manifestation, this research seeks to formulate a governance-oriented model of child protection at the regional level. The novelty of this study lies in its effort to bridge classical Islamic legal objectives with contemporary regional administrative systems, thereby contributing to a *maqāṣid*-based governance model for child welfare. This study addresses the following research questions: (1) How are children positioned and affected as victims of crime within the socio-legal context of Pontianak? (2) How are *maqāṣid*-based principles operationalized in the institutional practices of regional child protection governance? (3) To what extent can a *maqāṣid*-oriented framework strengthen institutional effectiveness in protecting children?.

The contribution of this research is twofold. Theoretically, it advances the discourse on *maqāṣid* by situating it within the realm of institutional governance rather than limiting it to doctrinal or judicial reform. Practically, it offers a governance-based model for integrating Islamic legal objectives into regional child protection policies, thereby reinforcing both normative coherence and institutional responsiveness in safeguarding children's welfare.

RESEARCH METHODS

The qualitative socio-legal¹² design was selected because the research problem concerns the gap between normative legal frameworks and their empirical implementation within institutional settings.¹³ A purely doctrinal legal method would be insufficient to capture lived experiences, bureaucratic dynamics, and value-based considerations embedded in practice. The socio-legal approach enables an integrative analysis of statutory law, institutional governance, and socio-religious values, thereby ensuring analytical depth and contextual validity. This design enhances methodological rigor by explicitly linking normative analysis with empirical field data.

Primary data were collected through in-depth semi-structured interviews with key informants holding authoritative positions and direct experience in handling child abuse, sexual exploitation, and custody

¹² Loraine Busetto, Wolfgang Wick & Christop Gumbinger, "How to use and assess qualitative research methods." *Neurological Research and practice*, 2 no. 14 (2020), 1-10. <https://doi.org/10.1186/s42466-020-00059-z>.

¹³ K Hammarberg, M. Kirkman, and De Lacey, S. (2016). Qualitative research methods: when to use them and how to judge them. *Human reproduction*, 31(3), 498-501. <https://doi.org/10.1093/humrep/dev334>.

disputes. Interviews were conducted using a structured interview guide to ensure consistency and replicability across respondents. Secondary data were sourced from official KPAD documents, Standard Operating Procedures (SOPs), 2023 case reports, internal policy guidelines, and related statutory regulations at national and regional levels.

To ensure validity and reliability, this study employed methodological triangulation through three sources of data: (1) interview data, (2) institutional documents and case reports, and (3) statutory and regulatory frameworks. Findings from interviews were cross-checked against documentary evidence and relevant legislation to confirm consistency, detect discrepancies, and strengthen evidentiary credibility. This triangulation strategy enhances internal validity and supports replicability in similar regional contexts.

The key informants in this study consisted of Niyah Nurniyati, Chairperson of Komisi Perlindungan Anak Daerah Kota Pontianak, who provided expert insights on crime patterns involving children, advocacy mechanisms, SOPs for special and health protection, and preventive–repressive policies; a KPAD Complaint Service Officer who explained reporting procedures, assessment processes, and case follow-up management; and a Child Rights Mediator who elaborated on mediation practices in custody disputes and broken-home cases.

Data analysis followed systematic qualitative procedures, including data reduction, thematic categorization, normative–sociological interpretation, and conclusion drawing with *maqāṣid al-sharī'ah*. We acknowledge a normative commitment to the *maqāṣid al-sharī'ah* framework, which may influence interpretative emphasis. It serves as the guiding principle for assessing public interest, while *maṣlahah* represents its adaptive, practical application.¹⁴ The paradigm shift moves from traditional *maqāṣid*¹⁵ as a central framework for the reform and modernization of Islamic law,¹⁶ provides a core philosophical

¹⁴Muhammad Nazir Alias, Muhammad Najib Abdulla, Mohd Farihal Osman, Nor Faizah Ismail, Mohd Sham Kamis, “The Position of Maqasid al-Shariah within Islamic Legal Sources: A Comprehensive Analysis.” *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam*, 9 no.2 (2025), 937-964. <https://doi.org/10.22373/q4byre51>

¹⁵ M Noor Harisudin and Muhammad Choriri, “On The Legal Sanction Against Marriage Registration Violation in Southeast Asia Countries: A Jasser Auda’s Maqasid Al-Shariah Perspective. *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam*, 5 no. 1 (2021), 471-495. <https://doi.org/10.22373/sjhc.v5i1.9159>

¹⁶ Nasruddin Yusuf, Nurlaila Harun, Syarifuddin, and Salma Mursyid, “Examining The Basis Of Maqashid Sharia In Renewal Of Islamic Law In Indonesia”,

and analytical foundation for advancing Islamic law amid globalization and modern social change,¹⁷ enabling Islamic jurisprudence to engage meaningfully with modern realities.¹⁸To minimize bias, the study applied systematic coding procedures, cross-checked empirical findings with documentary evidence, and maintained analytic transparency through detailed documentation of data collection and interpretation processes. Reflexive awareness was maintained throughout the research to distinguish empirical findings from normative evaluation.

RESULTS AND DISCUSSION

Structural Positioning of Children as Crime Victims in Pontianak's Socio-Legal Context

The findings demonstrate that children's involvement as victims of crime and sexual violence in Pontianak constitutes a structurally embedded socio-legal vulnerability rather than isolated incidents of deviance. Primary data derived from in-depth interviews with key informants from the Regional Child Protection Commission (KPAD) indicate that victimization emerges from intersecting familial instability, weakened parental supervision, peer influence, and socio-economic precarity. These structural conditions intensify children's exposure not only to physical and sexual harm but also to psychological trauma, neglect, and prolonged educational disruption. The empirical evidence therefore underscores that child victimization must be framed within a governance-based protection paradigm rather than a purely penal or incident-based legal approach.

Based on 2023 data from the Regional Child Protection Commission (KPAD) of Pontianak, child victimization cases are clustered as follows:

Table 1. Cases of Child Victimization Due to Violence in 2023

No.	Case Type	Number of Children
1	Missing child	1

PETITA: Jurnal Kajian Ilmu Hukum dan Syariah, 9 no.1 (2024):357-375. <https://doi.org/10.22373/petita.v9i1.224>

¹⁷ Abdurrohman Kasdi, "Actualizations of Maqāṣid Al-Shariah In Modern Life; Maqāṣid Al-Shariah Theory As a Method of The Development of Islamic Laws and Shariah Economics", *Justicia Islamica*, 16 no.2 (2019): 247-268. <https://doi.org/10.21154/justicia.v16i2.1666>.

¹⁸ Aslati, Armi Agustar, Silawati, Arisman, and Siti Arafah, "Utilizing Science and Maqāṣid Al-Sharī'ah in Resolving Contemporary Issues of Islamic Family Law". *Al-Manahij: Jurnal Kajian Hukum Islam*, 18 no. 1 (2024):17-36. <https://doi.org/10.24090/mnh.v18i1.10571>.

2	Sexual violence	23
3	Physical abuse	21
4	Special protection	2
5	Health protection	1
6	Neglect	1
7	Custody disputes	6
8	Human trafficking offenses	4

Source: Regional Child Protection Commission (KPAD) of Pontianak

Maqāṣid Analytical Mapping as a Governance Evaluation Framework

While the table provides descriptive statistical insight, the analytical contribution of this study lies in interpreting these clusters through a *maqāṣid al-sharī'ah* governance framework. Instead of treating violence merely as criminal deviation, this research maps empirical issues onto institutional responses and corresponding *maqāṣid* dimensions to assess governance performance.

Table 2. *Maqāṣid* Analytical Mapping

No.	Empirical Issue	Institutional Mechanism	Maqāṣid Dimension	Governance Implication
1	Sexual violence	Psychological and legal assistance	<i>ḥifẓ al-'aql / ḥifẓ al-nafs</i>	Restorative governance model
2	Physical abuse	Medical intervention and monitoring	<i>ḥifẓ al-nafs</i>	Protective accountability
3	Custody disputes	Mediation and parental agreement facilitation	<i>ḥifẓ al-nasl</i>	Preventive family stability
4	Human trafficking	Legal reporting and inter-agency coordination	<i>ḥifẓ al-nafs / ḥifẓ al-'ird</i>	Structural safeguarding governance
5	Neglect	Educational supervision and reintegration	<i>ḥifẓ al-'aql</i>	Social resilience policy

This mapping illustrates that child protection mechanisms implemented by KPAD can be normatively evaluated through *maqāṣid* dimensions. Sexual violence cases, for instance, are not solely violations of criminal law but represent threats to intellectual and psychological integrity (*ḥifẓ al-'aql*) and life security (*ḥifẓ al-nafs*), thus necessitating

restorative governance rather than purely retributive responses. Similarly, mediation in custody disputes aligns with *hifz al-nasl* by safeguarding lineage continuity and emotional stability, positioning family-centered mediation as a preventive governance strategy.

By embedding empirical data within *maqāṣid*-based analytical categories, this study moves beyond descriptive reporting and demonstrates how Islamic legal objectives may function as evaluative criteria for regional child protection governance. The findings suggest that effective child protection requires integration between statutory compliance, institutional responsiveness, and higher normative objectives of safeguarding life, dignity, intellect, and lineage.

Structural Vulnerability and Socio-Legal Deficits in Child Protection

The data released by KPAD Kota Pontianak confirms that children occupy a structurally vulnerable position as both objects and victims of crime in multiple forms. Nationally, reports from the Indonesian Child Protection Commission (KPAI)¹⁹ indicate that in 2019, 91% of children experienced violence within family environments, 87.6% within school settings, and 17.9% within the broader community. Furthermore, between 2011 and 2019, 12,367 cases involved children in conflict with the law.²⁰ Davit Setyawan, as cited by Yusnita Eva et al.,²¹ notes that between 2011 and February 2018, 26,954 child abuse cases were recorded, with 9,266 cases involving children in conflict with the law as both perpetrators and victims. Monthly reports from the Yayasan Kesejahteraan Anak Indonesia further document approximately 30 cases of child abuse, 40% of which involve physical and sexual violence.²² Human trafficking, described as a contemporary form of slavery, remains among the gravest violations of human dignity,

¹⁹ Aji Lukman Ibrahim, 'Politik Kriminal Penanggulangan Tindak Pidana Kekerasan Psikis Terhadap Anak Dalam Rumah Tangga', *Jurnal Madrasah Ibtidaiyah* Vol 3, no. 1 (2017): 68.

²⁰Kadek Wiwik Indrayanti, 'Pemenuhan Hak Anak Yang Dirampas Kebebasannya: Diskursus Standar Minimum Lembaga Pembinaan Khusus Anak (LPKA) Di Indonesia', *Arena Hukum* 15, no. 3 (2022): 558–81.

²¹ Yusnita Eva and Witia Oktaviani, 'Optimalisasi Peran Penegak Hukum Dalam Perlindungan Terhadap Anak-Anak Korban Kekerasan Kota Padang', *Mimbar Hukum* 33, no. 1 (2021): 90–113.

²² Usep Saepullah, 'Aplikasi Metode Dhariah Dalam UU No. 35/2014 Tentang Perubahan Atas UU Nomor 23 Tahun 2002 Tentang Perlindungan Anak', *Ijtihad: Jurnal Wacana Hukum Islam Dan Kemanusiaan* 16, no. 1 (2016): 105–29.

disproportionately affecting children.²³ Exploitation in public spaces, streets, markets, transportation hubs, and factories illustrates the normalization of child vulnerability within structural socio-economic arrangements.²⁴

Specifically, KPAD Pontianak identifies clusters of missing children, sexual violence, physical abuse, special protection cases, health protection cases, neglect, custody disputes, and human trafficking offenses (TPPO). These empirical patterns signal not merely episodic criminality but systemic governance deficits affecting children's developmental security. Article 21 Paragraph 1 of Law No. 35 of 2014 state:

“The State, Government, and Regional Governments are obliged and responsible for respecting the fulfillment of children's rights without discrimination based on ethnicity, religion, race, social group, gender, cultural background, language, legal status, birth order, or physical and/or mental condition.”

This Article 21 Paragraph 1 of Law No. 35 of 2014 mandates that the State and regional governments ensure non-discriminatory protection of children's rights. This provision reflects both normative idealism and institutional accountability. Protection is further reinforced by international law, particularly the Convention on the Rights of the Child (CRC), which establishes a binding global framework for safeguarding children.²⁵

Within the Islamic legal framework, marriage represents a foundational physical and psychological union oriented toward the establishment of a harmonious family²⁶ and the birth and nurturing of

²³ Meysasi Kirana Resa and Nyoman Serikat Putra Jaya, ‘Problematika Gugus Tugas Dalam Upaya Pencegahan Dan Penanganan Tindak Pidana Perdagangan Orang (Human Trafficking)’, *Masalah-Masalah Hukum* 50, no. 2 (2021): 161–71.

²⁴ Siti Nurjanah, ‘Keberpihakan Hukum Islam Terhadap Perlindungan Anak’, *Al-’Adalah* 14, no. 2 (2018): 391–432.

²⁵ Paul Atagamen Aidonojie and Ong Argo Victoria, ‘The Societal and Legal Missing Link in Protecting a Girl Child against Abuse before and Amidst the Covid-19 Pandemic in Nigeria’, *Jurnal Hukum* 38, no. 1 (2022): 61–80.

²⁶ Nasaruddin Mera, Marzuki Marzuki, M. Taufan B., Sapruddin Sapruddin, Andi Intan Cahyani, ‘Child Custody Rights for Mothers of Different Religions: Maqāṣid Al-Sharī'ah Perspective on Islamic Family Law in Indonesia’. *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam*, 8 no. 3 (2024): 1645-68. <https://doi.org/10.22373/sjhk.v8i3.23809>.

children.²⁷ Consequently, child protection originates at the familial level and encompasses five interrelated priorities: recognition of the child's rights in Islamic doctrine; preservation of life and development; adequate nutrition to support physical and cognitive well-being; education grounded in Islamic values; and personal as well as environmental hygiene.²⁸ From this perspective, safeguarding children and fulfilling their rights constitute a primary legal and moral obligation of parents, particularly the father as traditionally conceived within Islamic jurisprudence.²⁹

However, this study moves beyond the doctrinal articulation of familial duties and situates these obligations within a governance-based analytical framework. Family dysfunction, such as broken homes, persistent domestic conflict, economic strain, or inadequate parental care does not merely represent moral failure but produces structural vulnerabilities that heighten children's exposure to neglect, criminalization, and sexual violence. Thus, domestic responsibility is intrinsically linked to institutional accountability. When familial protection collapses, the burden shifts to public governance mechanisms. Field evidence from the Regional Child Protection Commission (KPAD) of Pontianak confirms that such dysfunctions significantly contribute to children's involvement in criminal activities and exposure to abuse, thereby necessitating coordinated socio-legal intervention.

Based on interviews with the Chairperson of KPAD Pontianak, children's involvement in criminal activities can be attributed to several interrelated factors:

“A lack of parental attention and oversight, as well as insufficient care from those in the child's immediate environment, which leads children to seek comfort in spaces outside the knowledge of their parents, beyond school and home. This results in prolonged absences from home. Other contributing factors include association with peers exhibiting

²⁷ Ahmad Tholabi Kharlie, Fathudin Fathudin, and Windy Triana "Reforming Islamic Marriage Bureaucracy in Indonesia: Approaches and Impacts," *al-Jami'ah: Journal of Islamic Studies*, 59, No. 2 (2021): 255-286 <https://doi.org/10.14421/ajis.2021.592.255-286>

²⁸ Ali Yafie, *Mengagas Fiqih Sosial: Dari Soal Lingkungan Hidup, Asuransi Hingga Ukhawah* (Mizan, 1994).

²⁹ Yusron Munawir, 'Tinjauan Masalah Terhadap Perlindungan Hukum Bagi Anak Yang Bekerja Di Indonesia', *Ahkam: Jurnal Hukum Islam* 11 (n.d.): 1-1.

negative behaviors, school dropout, following a romantic partner without parental awareness for more than three days, and witnessing frequent parental conflicts at home."³⁰

In addition, the Chairperson stated:

*"Several cases of missing children handled by KPAD Pontianak are attributable to broken-home situations. In families headed by a single parent who must sustain the household economically, parental attention toward the child diminishes, prompting the child to seek alternative spaces elsewhere."*³¹

These empirical findings position broken-home dynamics as a structural "axis" underlying multiple forms of victimization, including sexual violence. According to the Chairperson, sexual violence cases are categorized as follow:

*"First, children as victims of self-sale or transactional exploitation; second, children as victims of sexual abuse by close acquaintances; third, children as victims of peer-perpetrated sexual abuse. Additionally, such acts of sexual violence occur within school environments, but the majority take place at home or in hotels."*³²

Analytically, these patterns correspond to three typologies of violence: direct physical violence, structural violence³³ rooted in socio-economic hierarchies, and cultural violence embedded in stigmatization and normalization of abuse.³⁴ Crime itself may be conceptualized as both a violation against public order and an interpersonal harm requiring restoration.³⁵ Consequently, child sexual violence must be addressed not solely through retributive justice but also through restorative and preventive governance.³⁶

³⁰ Niyah Nurniyati, Interview, 15th January 2025.

³¹ Nurniyati.

³² Nurniyati.

³³ Dina Sakinah Siregar, 'Fenomena Kekerasan Berbasis Gender Terhadap Perempuan', *Yurispruden: Jurnal Fakultas Hukum Universitas Islam Malang* 7, no. 1 (2024): 40–58.

³⁴ Kartini Kartono, *Patologi Sosial*, 1st ed. (Jakarta: Raja Grafindo Persada, 2005).

³⁵ Rena Yulia, 'Viktimologi, Perlindungan Hukum Terhadap Korban Kejahatan', 2010.

³⁶ Teguh Prasetyo, *Kriminalisasi Dalam Hukum Pidana* (Bandung: Nusamedia, 2010).

The phenomenon of sexual violence against children in Pontianak therefore constitutes both a criminal offense and a persistent social problem characterized by duration, harm intensity, normative violation, and urgent need for intervention.³⁷ Law, as a social institution, must function beyond punitive enforcement to establish justice, stability, and normative cohesion.³⁸ In this regard, KPAD Pontianak operationalizes child protection through structured Standard Operating Procedures (SOPs), including special protection and health protection mechanisms. The Chairperson of KPAD Pontianak explained:

“Special protection is a form of safeguarding provided to children in specific situations and conditions to ensure a sense of security against threats that endanger their well-being and development. Such protection may be extended to children experiencing emergency circumstances, children in conflict with the law, children from minority or isolated groups, children subjected to economic and/or sexual exploitation, children who are victims of substance abuse including narcotics, alcohol, psychotropic drugs, and other addictive substances (NAFZA), children exposed to pornography, children living with HIV/AIDS, abducted, sold, or trafficked children, victims of physical and/or psychological violence, victims of sexual crimes, children affected by terrorism networks, children with disabilities, children subjected to abuse and neglect, children exhibiting socially deviant behavior, and children who experience stigmatization due to labels associated with their parents’ conditions”³⁹

In addition:

“There is also health protection, which is a form of safeguarding provided to children in specific situations and conditions to ensure their health against threats that endanger their well-being and development. This protection is particularly necessary when a child experiences obstacles, injuries, or pain that require immediate care and intervention.”⁴⁰

³⁷ Soetomo, *Masalah Sosial Dan Upaya Pemecahannya* (Yogyakarta: Pustaka Pelajar, 2010).

³⁸ Satjipto Raharjo, *Ilmu Hukum* (Bandung: Cintra Aditya Bakti, 2006).

³⁹ Nurniyati, Interview.

⁴⁰ Nurniyati.

At this juncture, the principal scholarly contribution of this article becomes explicit.

First, the study shifts *maqāṣid al-sharī'ah* from a predominantly judicial domain, where it functions mainly as interpretive reasoning in court decisions into the domain of governance. Here, *maqāṣid* operates as a structural design principle guiding administrative procedures, mediation mechanisms, and protection protocols at the regional level.

Second, *maqāṣid* is developed as a policy evaluation tool. The effectiveness of special protection, health intervention, mediation, and complaint services can be normatively assessed through their alignment with *ḥifẓ al-nafs* (protection of life), *ḥifẓ al-'aql* (protection of psychological integrity), and *ḥifẓ al-nasl* (protection of lineage and family stability).

Third, this study integrates Islamic legal objectives with the contemporary child-rights regime under national legislation and international frameworks such as the Convention on the Rights of the Child. Rather than positioning *maqāṣid* as an alternative normative system, the research demonstrates its convergence with human-rights-based child protection standards.⁴¹

Through this governance-oriented reconstruction, the article bridges classical Islamic legal theory and modern administrative child protection systems, thereby offering a novel contribution to socio-legal scholarship on Islamic law and child protection.

Institutional Operationalization of *Maqāṣid* in Regional Child Protection Governance

In providing protection for children, particularly those who are victims of violence and sexual abuse, the Chairperson of the Regional Child Protection Commission (KPAD) of Pontianak stated:

“The concrete measures implemented by KPAD Pontianak for children who are victims of violence and sexual abuse include ensuring that these children receive both physical and psychological treatment resulting from the abuse they have experienced. In addition, KPAD ensures that the educational rights of these children are upheld, providing them with the same opportunities as other children. Furthermore, KPAD encourages immediate caregivers and stakeholders, from the home environment, residential community, and school, to

⁴¹ UNICEF, *Child Protection Strategy 2021–2030* (New York: UNICEF, 2021)

actively safeguard the child and prevent the recurrence of such incidents.”⁴²

This institutional response demonstrates that child protection in Pontianak operates not merely as reactive case management, but as a structured governance mechanism integrating medical, psychological, educational, and community-based interventions. Rather than limiting protection to judicial prosecution, KPAD’s approach reflects an administrative model that distributes responsibility across multiple social actors.

In providing protection for children, KPAD Pontianak follows a structured procedure based on its Standard Operating Procedures (SOP), as explained by the Chairperson:

“First, conducting a comprehensive assessment of the victim, perpetrator, witnesses, parents, and immediate caregivers. Second, accompanying the child during physical and psychological health examinations. Third, assisting in the preparation and submission of reports on behalf of the victim. Fourth, monitoring the continuity of the child’s schooling to ensure their educational rights are maintained.”⁴³

These procedures illustrate a governance-oriented operationalization of child protection, where assessment, accompaniment, reporting, and educational monitoring form an integrated protection cycle. This administrative sequencing demonstrates that protection is conceived as a continuous process rather than a single legal event.⁴⁴

Beyond these SOPs, KPAD Pontianak provides protection through two complaint mechanisms, direct reporting and digital reporting via WhatsApp ensuring accessibility and procedural responsiveness. This dual-channel model strengthens institutional accountability and reduces structural barriers to reporting, aligning protection services with contemporary governance standards.⁴⁵

Preventive and cohesive measures further extend the institutional scope of protection:

⁴² Nurniyati.

⁴³ Nurniyati.

⁴⁴ *Komisi Perlindungan Anak Daerah (KPAD Kota Pontianak)*, 11 January 2025, kpad.pontianak.go.id/infografis.

⁴⁵ R. A. W. Rhodes, “The New Governance: Governing without Government.” *Political Studies* 44, no. 4 (1996): 652–667.

*“KPAD also conducts extensive socialization on the prevention of violence and the fulfillment of children’s rights directly within communities, involving community organizations, government bodies, and other child protection institutions. This includes collaboration with stakeholders, the creation of educational content, public advisories, and monitoring activities. Furthermore, KPAD promotes the establishment of child-friendly pesantrens, and implements preventive initiatives against violence in schools and university campuses.”*⁴⁶

The outreach materials, ranging from violence prevention and anti-trafficking awareness to community participation and child-friendly pesantren initiatives indicate that protection is framed as a collective social responsibility rather than an exclusively legal matter.

Within Islamic legal thought, Komaruddin Hidayat emphasizes the five universal objectives (*al-kulliyāt al-khamsah*):⁴⁷ *ḥifẓ al-dīn*, *ḥifẓ al-nafs*, *ḥifẓ al-māl*, *ḥifẓ al-a’rād*, and *ḥifẓ al-nasab*.⁴⁸ These objectives establish a normative-ethical foundation for safeguarding human dignity. In this study, however, *maqāṣid al-sharī’ah* is not confined to doctrinal exposition. Instead, it is repositioned within the domain of governance.⁴⁹

The principle of *maṣlahah*, as articulated by Imam al-Ghazālī,⁵⁰ *jalb al-manfa’ah and daf’ al-mafsadah*, provides a normative-legal foundation for rejecting all forms of violence and exploitation against children. Applied within institutional governance, *maṣlahah* becomes a policy orientation tool, guiding administrative decisions toward harm prevention and benefit maximization.

The fiqh principle of *maṣlahah* emphasizes promoting benefit (*jalb al-manf’ah*) and preventing harm (*daf’ al-mafsadah*) to safeguard the objectives of *sharī’ah*.⁵¹ Applied to child protection, it mandates that all forms of crime or sexual abuse against children must be fully rejected. The vision and mission of the Regional Child Protection Commission

⁴⁶ Nurniyati, Wawancara.

⁴⁷ Komarudin Hidayat, *Agama Punya Seribu Nyawa* (Jakarta: Noura Books, 2012).

⁴⁸ Al-Shāṭibī, Abū Ishāq Ibrāhīm ibn Mūsā. *Al-Muwāfaqāt fī Uṣūl al-Sharī’ah* (Beirut: Dār al-Kutub al-‘Ilmiyyah, n.d.),

⁴⁹ Mark Bevir, *Governance: A Very Short Introduction* (Oxford: Oxford University Press, 2012)

⁵⁰ Al-Ghazālī, Abū Hāmid Muḥammad ibn Muḥammad. *Al-Mustasfā min ‘Ilm al-Uṣūl* (Beirut: Dār al-Kutub al-‘Ilmiyyah, n.d.), 328

⁵¹ Mohammad Hashim Kamali, *Shari’ah Law: An Introduction*. Oxford: Oneworld Publications, 2008)

(KPAD) of Pontianak reflect this commitment, supported by the State through the Pontianak City Government to ensure comprehensive child protection. KPAD Pontianak's core functions include supervising child protection and rights fulfillment; providing policy input; collecting data and information; receiving and reviewing community complaints; mediating child rights disputes; collaborating with community organizations; and reporting suspected violations to relevant authorities.⁵²

“Child protection encompasses all activities aimed at guaranteeing and safeguarding children and their rights so that they can live, grow, develop, and participate optimally in accordance with human dignity and worth, while being protected from violence and discrimination.”

The importance of child protection by emphasizing several points: “For example, they explain that efforts to protect children are no longer solely a national issue; rather, the guarantee of fulfilling children's rights has become a matter of international concern⁵³. This is reflected in the establishment of the Convention on the Rights of the Child (CRC), originally proposed by Eglantyne Jebb in 1923 and formally adopted by the United Nations on November 20, 1989. The Convention obliges all states that recognize and ratify it to ensure the protection of children's rights within their jurisdictions. In Indonesia, the government officially ratified the CRC through Presidential Regulation No. 36 of 1990, thereby assuming the legal responsibility to guarantee the protection and fulfillment of children's rights throughout the country.”

From a regulatory perspective in Indonesia, child protection is explicitly reinforced through the imposition of sanctions and penalties. For instance, Article 76A of Law No. 35 of 2014 stipulates:

“No person shall: a) treat a child in a discriminatory manner that results in material or moral harm, thereby obstructing the child's social functions; or b) treat a child with disabilities in a discriminatory manner.”

Violations of Article 76A are addressed in Article 77, which prescribes:

⁵² ‘Tugas KPAD Kota Pontianak’, *Komisi Perlindungan Anak Daerah (KPAD Kota Pontianak)*, accessed 18 January 2025, kpad.pontianak.go.id/infografis/tufoksi-kpad-kota-pontianak.

⁵³ Nurini Apriandi, ‘Mengali Makna Pemaafan Hakim Bagi Anak Melalui Ratio Legis Pasal 70 Undang-Undang Sistem Peradilan Pidana Anak’, *Jurnal Arena Hukum* 16, no. 2 (2023): 424.

“Any person who violates the provisions as referred to in Article 76A shall be subject to imprisonment for a maximum of five (5) years and/or a fine not exceeding IDR 100,000,000 (one hundred million rupiah).”

Similarly, other prohibitory provisions, such as Article 76B, state: *“No person shall place, allow, involve, or instruct a child to be involved in situations of abuse or neglect.”*

Violations of Article 76B are penalized under Article 77B, which provides:

“Any person who violates the provisions as referred to in Article 76B shall be subject to imprisonment for a maximum of five (5) years and/or a fine not exceeding IDR 100,000,000 (one hundred million rupiah).”

These articles, 76A, 77, 76B, and 77B, illustrate two essential elements: the prohibition of harmful conduct on one hand, and the imposition of legal sanctions on the other. Substantively, these provisions are intended to protect children from exploitation, abuse, violence, and other destructive behaviors. Their significance is further reinforced in Article 1, paragraph 2, which underscores the importance of guaranteeing and safeguarding children from all forms of violence and discriminatory acts.

Several of the child protection provisions mentioned above reflect the State's responsibility and commitment, serving as a clear indication that Indonesia is a law-based country that guarantees and safeguards the rights of all its citizens. Law is an essential prerequisite for a moral and civilized life.” Beyond this, the law functions not merely as a set of rules but as a foundational framework that shapes ethical conduct, ensures justice, and upholds the dignity of every individual within society.⁵⁴

“As Lawrence M. Friedman stated, a good legal system fulfills three elements of law, namely: legal substance (substance) such as regulations, legal structure (structure) such as law enforcement, and legal culture (legal culture).”

This means that law is not merely a mandatory requirement. More than that, in its implementation, it requires three actualizing principles: legal substance (substance), legal structure (structure), and legal culture (legal culture). In the context of this writing, what is meant is law enforcement in relation to child protection in the country, and

⁵⁴ Hartawan Mandala Putra, ‘Mencegah Kematian KPK’, *Detik.Com*, Desember 2023, <https://news.detik.com/kolom/d-7113002/mencegah-kematian-kpk>.

specifically in Kota Pontianak. Including in the implementation of Law No. 35 of 2014 on Child Protection. This law is intended and aims, as implied in the preamble “considering” of Law No. 35 of 2014, which states that:

“a. the Unitary State of the Republic of Indonesia guarantees the welfare of every citizen, including protection of children’s rights as human rights; b. every child has the right to survival, growth, and development and the right to protection from violence and discrimination as mandated by the 1945 Constitution of the Republic of Indonesia; c. children, as the buds, potential, and young generation inheriting the nation’s ideals, have strategic roles, distinctive characteristics, and specific traits, and therefore must be protected from all forms of inhumane treatment that result in human rights violations.”

The constitutional mandate regarding Child Protection, as mentioned above, inherently and substantively carries a legal spirit encompassing specific elements articulated in Article 1, including definitions of a child; child protection; family; parents; guardians; neglected children; children with disabilities; gifted children; adopted children; foster children; custody authority; children’s rights; society; companions; special protection; violence; every person; the central government (hereinafter referred to as the government); and regional governments.

Within Article 1, the various titles mentioned essentially point to three primary objects of Law No. 35 of 2014, namely: (a) children; (b) child protection; and (c) the government or regional governments. These three elements are substantive, forming the core issue, the spirit, and the legal essence of Law No. 35 of 2014 on Child Protection. In Islam, intrinsic affirmation regarding child protection, as reflected in the maqāṣid al-syarī'ah, carries relevant and historical value and can serve as a constructive reference. The *Maqashid syari'ah*⁵⁵ can be understood as: “The meanings and wisdoms that the Sharī'ah takes into account and preserves in every form of its legal determination. This does not apply only to specific types of law but encompasses all attributes, general objectives, and the underlying meanings of the Sharī'ah contained within the law, including those legal meanings that may not be explicitly

⁵⁵ Ahmad Imam Mawardi, *Fiqh Minoritas Fiqh Al-Aqalliyat Dan Evolusi Maqashid Al-Syari'ah Dari Konsep Ke Pendekatan* (Yogyakarta: LKiS, 2012).

addressed in their entirety yet are nonetheless safeguarded across various forms of legislation.”

The idiomatic and technical scope of *maqāṣid al-syarī‘ah*, as mentioned above, is further elaborated by Al-Shāṭibī, who stated: “The obligations of the *Sharī‘ah* return to the preservation of its objectives for human beings. The *maqāṣid* are no more than three types: *daruriyyāt* (essential or primary interests), *ḥājiyyāt* (complementary or secondary interests), and *taḥsīniyyāt* (embellishments or tertiary needs).”⁵⁶

From the three categories of needs, *daruriyyāt* (essential/primary), *ḥājiyyāt* (complementary/secondary), and *taḥsīniyyāt* (tertiary/embellishments), as substantive elements of *maqāṣid al-syarī‘ah*,⁵⁷ the ultimate aim is to ensure human well-being (*maslahah*) both in this world and the hereafter. Likewise, the protection of children falls within the realm of *daruriyyāt* fundamental, indispensable, and non-negotiable. Clearly, safeguarding children is an inherent, obligatory, and absolute responsibility that must be fulfilled by parents, statutory law, or other applicable legal instruments in the country, thereby actualizing and fulfilling this essential aspect of *daruriyyāt*.

The enactment of Law No. 35 of 2014 on Child Protection represents a regulatory manifestation of *daruriyyāt*, designed to provide and secure protection for children. More importantly, this law underscores that no aspect of utility or social benefit should ever be neglected, particularly in the specific context of child protection in Kota Pontianak and, more broadly, across Indonesia. The guarantee and protection of children from destructive and harmful conditions, as mandated in Article 15 of Law No. 35 of 2014, constitutes an absolute and indisputable obligation. This principle is further clarified in Article 21, Paragraph 1, which states:

“The State, Government, and Regional Governments are obliged and responsible for respecting the fulfillment of Children’s Rights without discrimination based on ethnicity, religion, race, social group, gender, ethnicity, culture and language, legal status, birth order, and physical and/or mental condition.”

In this context, the socio-constructive role of the Regional Child Protection Commission (KPAD) of Kota Pontianak is critically

⁵⁶ Mawardi.

⁵⁷ Auda, Jasser. *Maqasid Al-Shariah as Philosophy of Islamic Law: A Systems Approach* (London: International Institute of Islamic Thought (IIIT), 2008)

important, grounded in the provisions and regulations of Law No. 35 of 2014, in providing advocacy and guidance for children. For instance, Article 76 stipulates that:

“The Indonesian Child Protection Commission is tasked with: a. supervising the implementation of child protection and the fulfillment of children’s rights; b. providing input and recommendations in the formulation of policies regarding the implementation of child protection; c. collecting data and information regarding child protection; d. receiving and reviewing public complaints concerning violations of children’s rights; e. mediating disputes related to violations of children’s rights; f. collaborating with community-based organizations in the field of child protection; and g. reporting to the authorities any suspected violations of this law.”

Article 76 serves as the *das sollen* and juridical corridor that defines how KPAD Kota Pontianak should “stand firmly” in exercising substantive participation by implementing child protection in the city in accordance with Law No. 35 of 2014. Furthermore, it provides the framework to actualize KPAD Kota Pontianak’s vision: “The Implementation of Child Protection that is Professional, Innovative, and with Integrity to Achieve a Superior, Intelligent, and Dignified Kota Pontianak.”

This study finds substantial conceptual convergence with previous scholarship in its emphasis on the normative and preventive function of *maqāṣid al-sharī'ah* in strengthening child protection frameworks. Similar to the work which integrates *maqāṣid* principles into the legal framework of child adoption to ensure holistic child welfare, the present study positions *ḥifẓ al-nafs*, *ḥifẓ al-‘aql*, and *ḥifẓ al-nasl* as foundational principles for safeguarding children within regional governance. Both studies affirm that *maqāṣid al-sharī'ah* operates not merely as a theological abstraction but as a normative-legal instrument capable of reforming institutional structures toward child-centered welfare.⁵⁸

The findings resonate with a research who demonstrates that the implementation of *maqāṣid al-sharī'ah* in case management reform enhances procedural responsiveness in addressing violence against

⁵⁸ Muhammad Alifza, and Muhammad Amin Nasution. “Integrating Maqāṣid Al-Sharī'ah into the Legal Framework of Child Adoption in Indonesia”. *Al-Risalah Jurnal Ilmu Syariah Dan Hukum*, 25 no.2, (2025):372-85. <https://doi.org/10.24252/al-risalah.vi.58136>.

women and children.⁵⁹ The Pontianak study similarly reveals that structured Standard Operating Procedures (SOPs), legal and health assistance, complaint mechanisms, and preventive community programs reflect the operationalization of *maqāṣid*-based governance at the regional level. Both studies therefore converge in underscoring the transformation of Islamic legal objectives into practical administrative mechanisms.

This study aligns with prior research that reconstructs family law through *maqāṣid* to safeguard children's legal identity in marriage isbat cases and applies *maqāṣid* in institutional child-care contexts such as orphanages.⁶⁰ Like these works, it affirms *maqāṣid al-sharī'ah* as a foundational normative framework for preventive child protection and family law reform. However, this research advances the discourse by situating *maqāṣid* within a broader socio-legal governance paradigm. Rather than limiting its function to judicial reasoning or doctrinal reform, the Pontianak study formulates a regionally embedded governance model that operationalizes *maqāṣid* within public administrative systems, addressing systemic violence, family dysfunction, and structural vulnerabilities through coordinated policy mechanisms. This governance-oriented reconstruction constitutes its principal scholarly contribution and novelty.

The study also converges with scholarship emphasizing the normative and preventive dimensions of *maqāṣid* in safeguarding post-divorce rights, marriage dispensation reform, and child labor protection, particularly through the realization of *ḥifẓ al-nafs* and *ḥifẓ al-nasl*.⁶¹ Yet, it extends this normative orientation⁶² beyond adjudication into regional governance structures by demonstrating how SOPs, complaint mechanisms, and integrated legal-health services translate *maqāṣid*

⁵⁹ Kutbuddin Aibak, "Implementation of Maqāṣid Sharī'ah in Reform of Case Management of Violence against Women and Children," *DE JURE: JURNAL HUKUM DAN SYARIAH*, 15 no.1 (2023): 82-98. <http://dx.doi.org/10.18860/j-fsh.v15i1.20666>.

⁶⁰ Dedisyah Putra and Asrul Hamid Tinjauan Maqashid As-Syari'ah Terhadap Perlindungan Anak Panti Asuhan Siti Aisyah Kabupaten Mandailing Natal," *Jurnal Dusturiah*, 10 no. 1 (2020): <https://doi.org/10.22373/dusturiah.v10i1.7402>.

⁶¹ Muhammad Husni Abdulah Pakarti, "Perlindungan Hak Anak Dalam Perceraian Menurut Hukum Keluarga Islam", *MAWADDAH: Jurnal Hukum Keluarga Islam*, 1 no.1 (2023): 1-20. <https://doi.org/10.52496/mjhki.v1i1.1>.

⁶² Rizqa Febry Ayu and Kamsi Kamsi, "Perlindungan Anak Sebagai Landasan Filosofis Dan Sosiologis Batas Usia Perkawinan Dalam Undang-Undang No.16 Tahun 2019 Perspektif Maqasid Asy- Syari'ah Jasser Auda". *Al-Ahkam: Jurnal Ilmu Syari'ah Dan Hukum*, 7 no. 1 (2022):11-34. <https://doi.org/10.22515/alahkam.v7i1.4096>.

principles into bureaucratic practice.⁶³ In doing so, maqāṣid functions not only as a doctrinal foundation but as an evaluative and operational framework compatible with welfare-state paradigms⁶⁴ and contemporary child-rights protection systems.⁶⁵

Maqāṣid as a Governance-Based Evaluation Framework for Institutional Child Protection

At this juncture, the core contribution of this article must be explicitly articulated. First, this study shifts *maqāṣid al-sharī'ah* from the judicial domain, where it traditionally operates as interpretive reasoning in court decisions into the domain of governance. It demonstrates that maqāṣid can structure administrative procedures, guide institutional design, and inform policy implementation at the regional level.

Second, the study develops maqāṣid as a policy evaluation tool. Institutional mechanisms, SOP implementation, mediation, complaint systems, preventive outreach can be normatively assessed based on their effectiveness in realizing ḥifẓ al-naḥs (protection of life), ḥifẓ al-'aql (protection of psychological integrity), and ḥifẓ al-nasl (protection of lineage and family stability). This transforms maqāṣid into an analytical framework for evaluating governance performance.

Third, the article integrates Islamic legal objectives with the modern child-rights regime, including the Convention on the Rights of the Child (CRC) and Indonesia's Law No. 35 of 2014. Rather than positioning Islamic law in opposition to international human rights norms, this study demonstrates normative convergence and complementary functionality.

Previous scholarship has emphasized *maqāṣid* within judicial reform, adoption law, marriage dispensation, and family-law

⁶³ Darlin Rizki, Frina Oktalita, and Ali Sodikin, "Maqāṣid Sharia Perspective in Changes the Marriage Age Limits for Women According to Law Number 16 of 2019". *Al-Istinbath: Jurnal Hukum Islam*, 7 no. 2 (2022):487-508. <https://doi.org/10.29240/jhi.v7i2.4016>.

⁶⁴ Wardatun Nabilah, Rido Putra, Fakhriyah Annisa Afroo, Nurjanah Nurjanah, and Etri Wahyuni. "Between Protection and Permissiveness: A Fiqh Siyasah Reexamination of Marriage Dispensation in Indonesia". *JURIS (Jurnal Ilmiah Syariah)*, 24 no.1 (2025):137-51. <https://doi.org/10.31958/juris.v24i1.11882>.

⁶⁵ Muhamad Harun, Fauziah Fauziah, Muhamad Sadi Is, Abdul Basir Bin Mohamad, and Abdul Haq Syawqi, "The Ideal Legal Protection of the Child Labor Rights in Indonesia: The Dimensions of Maqāṣid Al-Sharī'ah and the Welfare State". *JURIS (Jurnal Ilmiah Syariah)*, 23 no.1 (2024):167-78. <https://doi.org/10.31958/juris.v23i1.10537>.

reconstruction. While sharing this normative foundation, the present study distinguishes itself by embedding maqāṣid within regional public administration. The novelty lies in formulating a maqāṣid-based governance model that bridges classical Islamic legal theory with contemporary bureaucratic practice.

Through this governance-oriented reconstruction, *maqāṣid al-sharī'ah* evolves from a doctrinal objective into a living administrative ethic, capable of shaping institutional responsiveness, strengthening child-rights enforcement, and aligning religious legal philosophy with modern welfare-state paradigms.

CONCLUSION

This study confirms that child victimization in Pontianak City is a socio-legal phenomenon influenced by structural and cultural determinants, especially family dysfunction, weak parental supervision, and an uncondusive social environment. Sexual violence is the most dominant cluster of cases, occurring both in the domestic and public spheres with diverse patterns. The implementation of Law No. 35 of 2014 by the Pontianak City Regional Child Protection Commission shows that the state protection function is not only normative, but also realized through integrated assessments, legal and medical assistance services, education monitoring, offline and digital complaint channels, and mediation of custody disputes.

Theoretically, this study reconstructs maqāṣid al-syarī'ah, especially ḥifẓ al-nafs, ḥifẓ al-'aql, and ḥifẓ al-nasl as a normative foundation for child protection governance at the regional level. The integration of positive law and welfare principles in Islam results in a maqāṣid-based governance model that is able to synergize repressive, preventive, and restorative approaches in a single intact institutional framework. These findings show that the maqāṣid perspective can strengthen the social legitimacy of policies while expanding the dimension of child protection.

In terms of policy, this study emphasizes the importance of increasing institutional capacity, strengthening intersectoral coordination, and expanding community-based education and awareness programs. The preparation of regional regulations and education policies needs to integrate preventive and restorative mechanisms while making maqāṣid a cultural base that is compatible with human rights principles. The limitations of research sourced from institutional data and limited informants need to be answered through cross-regional comparative studies, quantitative analysis of policy impacts, and longitudinal

evaluation of maqāsid-based governance models. Thus, this study recommends the development of a more adaptive, participatory, and evidence-based child protection strategy to strengthen sustainable child protection governance.

BIBLIOGRAPHY

- Aibak, Kutbuddin, "Implementation of *Maqāsid Sharī'ah* in Reform of Case Management of Violence against Women and Children," *De Jure: Jurnal Hukum dan Syar'iah*, 15 no.1 (2023): 82-98. <http://dx.doi.org/10.18860/j-fsh.v15i1.20666>.
- Aidonojie, Paul Atagamen, and Ong Argo Victoria. 'The Societal and Legal Missing Link in Protecting a Girl Child against Abuse before and Amidst the Covid-19 Pandemic in Nigeria'. *Jurnal Hukum* 38, no. 1 (2022): 61–80.
- Alam, Kodrat. 'Menakar Keterlibatan Dokter Dalam Pelaksanaan Tindakan Kebiri Kimia Bagi Pelaku Kekerasan Seksual Terhadap Anak'. *Jurnal Hukum* 36, no. 2 (2020): 93–116.
- Al-Shāṭibī, Abū Ishāq Ibrāhīm ibn Mūsā. *Al-Muwāfaqāt fī Uṣūl al-Sharī'ah*. Beirut: Dār al-Kutub al-'Ilmiyyah, n.d.
- Al-Ghazālī, Abū Ḥāmid Muḥammad ibn Muḥammad. *Al-Mustaṣfā min Ilm al-Uṣūl*. Beirut: Dār al-Kutub al-'Ilmiyyah, n.d.
- Alias, Muhammad Nazir Muhammad Najib Abdulla, Mohd Farihal Osman, Nor Faizah Ismail, Mohd Sham Kamis, "The Position of Maqasid al-Shariah within Islamic Legal Sources: A Comprehensive Analysis." *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam*, 9 no.2 (2025), 937-964. <https://doi.org/10.22373/q4byre51>
- Alifza, Muhammad and Muhammad Amin Nasution. "Integrating Maqāsid Al-Sharī'ah into the Legal Framework of Child Adoption in Indonesia". *Al-Risalah Jurnal Ilmu Syariah Dan Hukum*, 25 no.2, (2025):372-85. <https://doi.org/10.24252/al-risalah.vi.58136>.
- Almanshur, Fauzan, and Djunaidi Ghony. 'Metodologi Penelitian Kualitatif'. *Yogyakarta: Ar-Ruzz Media*, 2012.
- Aprilianda, Nurini. 'Menggali Makna Pemaafan Hakim Bagi Anak Melalui Ratio Legis Pasal 70 Undang-Undang Sistem Peradilan Pidana Anak'. *Jurnal Arena Hukum* 16, no. 2 (2023): 424.
- Aslati, Armi Agustar, Silawati, Arisman, and Siti Arafah, "Utilizing Science and Maqāsid Al-Sharī'ah in Resolving Contemporary Issues of Islamic Family Law". *Al-Manahij: Jurnal Kajian Hukum*

- Islam*, 18 no. 1 (2024):17-36.
<https://doi.org/10.24090/mnh.v18i1.10571>.
- Auda, Jasser. *Maqasid Al-Shariah as Philosophy of Islamic Law: A Systems Approach*. London: International Institute of Islamic Thought (IIIT), 2008.
- Ayu, Rizqa Febry and Kamsi Kamsi, “Perlindungan Anak Sebagai Landasan Filosofis Dan Sosiologis Batas Usia Perkawinan Dalam Undang-Undang No.16 Tahun 2019 Perspektif Maqasid Asy-Syari’ah Jasser Auda”. *Al-Ahkam: Jurnal Ilmu Syari’ah Dan Hukum*, 7 no. 1 (2022):11-34.
<https://doi.org/10.22515/alakhkam.v7i1.4096>.
- Bevir, Mark. *Governance: A Very Short Introduction*. Oxford: Oxford University Press, 2012.
- Effendi, Djohan. *Pembaruan Tanpa Membongkar Tradisi: Wacana Keagamaan Di Kalangan Generasi Muda NU Masa Kepemimpinan Gus Dur*. Penerbit Buku Kompas, 2010.
- Eva, Yusnita, and Witia Oktaviani. ‘Optimalisasi Peran Penegak Hukum Dalam Perlindungan Terhadap Anak-Anak Korban Kekerasan Kota Padang’. *Mimbar Hukum* 33, no. 1 (2021): 90–113.
- Fadli, Mohammad, Marsudi Dedi Putra, and Miftahus Sholehudin. ‘Fast-Track Legislation Yang Benar Dan Demokratis’. *Jurnal Arena Hukum* 16, no. 3 (2023): 459.
- Harisudin, M Noor and Muhammad Choriri, “On The Legal Sanction Against Marriage Registration Violation in Southeast Asia Countries: A Jasser Auda’s Maqasid Al-Shariah Perspective. *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam*, 5 no. 1 (2021), 471-495. <https://doi.org/10.22373/sjhc.v5i1.9159>.
- Haroen, Nasrun. *Ushul Fiqh 1*. Ciputat: Logos Publishing House, 1996.
- Harun, Muhamad, Fauziah Fauziah, Muhamad Sadi Is, Abdul Basir Bin Mohamad, and Abdul Haq Syawqi, “The Ideal Legal Protection of the Child Labor Rights in Indonesia: The Dimensions of Maqāṣid Al-Sharī'ah and the Welfare State”. *JURIS (Jurnal Ilmiah Syariah)*, 23 no.1 (2024):167-78.
<https://doi.org/10.31958/juris.v23i1.10537>.
- Hidayat, Komarudin. *Agama Punya Seribu Nyawa*. Jakarta: Noura Books, 2012.
- Ibrahim, Aji Lukman. ‘Politik Kriminal Penanggulangan Tindak Pidana Kekerasan Psikis Terhadap Anak Dalam Rumah Tangga’. *Jurnal Madrasah Ibtidaiyah Vol 3*, no. 1 (2017): 68.

- Indrayanti, Kadek Wiwik. 'Pemenuhan Hak Anak Yang Dirampas Kebebasannya: Diskursus Standar Minimum Lembaga Pembinaan Khusus Anak (LPKA) Di Indonesia'. *Arena Hukum* 15, no. 3 (2022): 558–81.
- K Hammarberg, M. Kirkman, and De Lacey, S. (2016). Qualitative research methods: when to use them and how to judge them. *Human reproduction*, 31(3), 498-501. <https://doi.org/10.1093/humrep/dev334>
- Kamali, Mohammad Hashim. *Shari'ah Law: An Introduction*. Oxford: Oneworld Publications, 2008.
- Kartono, Kartini. *Patologi Sosial*. 1st ed. Jakarta: Raja Grafindo Persada, 2005.
- Kasdi, Abdurrohman, "Actualizations of Maqāṣid Al-Shariah In Modern Life; Maqāṣid Al-Shariah Theory As a Method of The Development of Islamic Laws and Shariah Economics", *Justicia Islamica*, 16 no.2 (2019): 247-268. <https://doi.org/10.21154/justicia.v16i2.1666>.
- Kharlie, Ahmad Tholabi Fathudin Fathudin, and Windy Triana "Reforming Islamic Marriage Bureaucracy in Indonesia: Approaches and Impacts," *al-Jami'ah: Journal of Islamic Studies*, 59, No. 2 (2021): 255-286 <https://doi.org/10.14421/ajis.2021.592.255-286>
- Khotijah, Yayuk Siti, and Fathonah K Daud. 'Perlindungan Anak Atas Trauma Psikologis Pasca Perceraian Orang Tua'. *Asy-Syari'ah* 23, no. 2 (2021): 229–44.
- Komisi Perlindungan Anak Daerah (KPAD Kota Pontianak)*. 'Tugas KPAD Kota Pontianak'. Accessed 18 January 2025. kpad.pontianak.go.id/infografis/tufoksi-kpad-kota-pontianak.
- Komisi Perlindungan Anak Daerah (KPAD Kota Pontianak)*. 11 January 2025. kpad.pontianak.go.id/infografis.
- Loraine Busetto, Wolfgang Wick & Christop Gumbinger, "How to use and assess qualitative research methods." *Neurological Research and practice*, 2 no. 14 (2020), 1-10. <https://doi.org/10.1186/s42466-020-00059-z>.
- Mandala Putra, Hartawan. 'Mencegah Kematian KPK'. *Detik.Com*, Desember 2023. <https://news.detik.com/kolom/d-7113002/mencegah-kematian-kpk>.
- Mawardi, Ahmad Imam. *Fiqh Minoritas Fiqh Al-Aqalliyat Dan Evolusi Maqashid Al-Syari'ah Dari Konsep Ke Pendekatan*. Yogyakarta: LKiS, 2012.

- Mera, Nasaruddin Marzuki Marzuki, M. Taufan B., Sapruddin Sapruddin, Andi Intan Cahyani, "Child Custody Rights for Mothers of Different Religions: Maqāṣid Al-Sharī'ah Perspective on Islamic Family Law in Indonesia". *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam*, 8 no. 3 (2024): 1645-68. <https://doi.org/10.22373/sjhc.v8i3.23809>.
- Munawir, Yusron. 'Tinjauan Maṣlaḥah Terhadap Perlindungan Hukum Bagi Anak Yang Bekerja Di Indonesia'. *Ahkam: Jurnal Hukum Islam* 11 (n.d.): 1–1.
- Nabilah, Wardatun, Rido Putra, Fakhriyah Annisa Afroo, Nurjanah Nurjanah, and Etri Wahyuni. "Between Protection and Permissiveness: A Fiqh Siyasah Reexamination of Marriage Dispensation in Indonesia". *JURIS (Jurnal Ilmiah Syariah)*, 24 no.1 (2025):137-51. <https://doi.org/10.31958/juris.v24i1.11882>.
- Nurcholis, Moch., Iffatin Nur, Abd. Holik, and Ahmad Muhtadi Anshor "Best Interest of the Child (Ḥifz al-Awḷād) Principle in Adjudicating Marriage Dispensation for Under-Age Couples", *Al-Ihkam: Jurnal Hukum dan Pranata Sosial*, 20 no. 2 (2025), <https://doi.org/10.19105/al-lhkam.v20i2.15927>.
- Nurjanah, Siti. 'Keberpihakan Hukum Islam Terhadap Perlindungan Anak'. *Al-'Adalah* 14, no. 2 (2018): 391–432.
- Pakarti, Muhammad Husni Abdulah "Perlindungan Hak Anak Dalam Perceraian Menurut Hukum Keluarga Islam", *MAWADDAH: Jurnal Hukum Keluarga Islam*, 1 no.1 (2023): 1-20. <https://doi.org/10.52496/mjhki.v1i1.1>.
- Prasetyo, Teguh. *Kriminalisasi Dalam Hukum Pidana*. Bandung: Nusamedia, 2010.
- Putra, Dedisyah and Asrul Hamid Tinjauan Maqashid As-Syari'ah Terhadap Perlindungan Anak Panti Asuhan Siti Aisyah Kabupaten Mandailing Natal," *Jurnal Dusturiah*, 10 no. 1 (2020): <https://doi.org/10.22373/dusturiyah.v10i1.7402>.
- Raharjo, Satjipto. *Ilmu Hukum*. Bandung: Cintra Aditya Bakti, 2006.
- Resa, Meysasi Kirana, and Nyoman Serikat Putra Jaya. 'Problematika Gugus Tugas Dalam Upaya Pencegahan Dan Penanganan Tindak Pidana Perdagangan Orang (Human Trafficking)'. *Masalah-Masalah Hukum* 50, no. 2 (2021): 161–71.
- Rhodes, R. A. W. "The New Governance: Governing without Government." *Political Studies* 44, no. 4 (1996): 652–667.
- Rifandhana, Raditya Fedra. 'Eksistensi Kewenangan Pemerintahan Dalam Mengatasi Status Kewarganegaraan Bagi Anak Dari

- Perkawinan Beda Agama'. *Jurnal Arena Hukum* 16, no. 3 (2023): 523.
- Rifqi, Muhammad Jazil, Nurul Asiya Nadhifah, Mukhammad Nur Hadi, Abdul Basith Junaidy, and Agus Solikin "Children's Legal Identity at Stake: Reconstructing Maqasid Al-Syari'ah through Marriage Isbat Applications by the Second Generation in Pasuruan". 2025. *El-Mashlahah* 15 (1): 125-48. <https://doi.org/10.23971/el-mashlahah.v15i1.9068>.
- Rizki, Darlin, Frina Oktalita, and Ali Sodiqin, "Maqasid Sharia Perspective in Changes the Marriage Age Limits for Women According to Law Number 16 of 2019". *Al-Istinbath: Jurnal Hukum Islam*, 7 no. 2 (2022):487-508. <https://doi.org/10.29240/jhi.v7i2.4016>.
- Saepullah, Usep. 'Aplikasi Metode Dhariah Dalam UU No. 35/2014 Tentang Perubahan Atas UU Nomor 23 Tahun 2002 Tentang Perlindungan Anak'. *Ijtihad: Jurnal Wacana Hukum Islam Dan Kemanusiaan* 16, no. 1 (2016): 105–29.
- Said, Muhammad Fachri. 'Perlindungan Hukum Terhadap Anak Dalam Perspektif Hak Asasi Manusia'. *JCH (Jurnal Cendekia Hukum)* 4, no. 1 (2018): 141–52.
- Sanjaya, Aditya Wiguna. 'Menyoal Pengaturan Pemberian Bantuan Hukum Terhadap Anak Pasca Reformasi'. *Yurispruden: Jurnal Fakultas Hukum Universitas Islam Malang* 2, no. 2 (2019): 223–32.
- Shihab, M Quraish. *Secercah Cahaya Ilahi: Hidup Bersama al-Quran*. Mizan Pustaka, 2007.
- Siregar, Dina Sakinah. 'Fenomena Kekerasan Berbasis Gender Terhadap Perempuan'. *Yurispruden: Jurnal Fakultas Hukum Universitas Islam Malang* 7, no. 1 (2024): 40–58.
- Soetomo. *Masalah Sosial Dan Upaya Pemecahannya*. Yogyakarta: Pustaka Pelajar, 2010.
- Sukri, Azam and Aris Fauzan. "Maqasid Al-Shariah and Child Protection: A Holistic Approach to Preventing Early Marriage". *KARSA Journal of Social and Islamic Culture*, 33 no.2 (2025), 600–636. <https://doi.org/10.19105/karsa.v33i2.21696>.
- UNICEF. *Child Protection Strategy 2021–2030*. New York: UNICEF, 2021.
- Yafie, Ali. *Menggagas Fiqih Sosial: Dari Soal Lingkungan Hidup, Asuransi Hingga Ukhuwah*. Mizan, 1994.

Yulia, Rena. 'Viktimologi, Perlindungan Hukum Terhadap Korban Kejahatan', 2010.

Yusuf, Nasruddin, Nurlaila Harun, Syarifuddin, and Salma Mursyid, "Examining The Basis Of Maqashid Sharia In Renewal Of Islamic Law In Indonesia", *PETITA: Jurnal Kajian Ilmu Hukum dan Syariah*, 9 no.1 (2024):357-375. <https://doi.org/10.22373/petita.v9i1.224>.



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