

---

## INDONESIAN CRIMINAL LAW INTEGRATING MAQĀSHID AL-SYARĪ‘AH with Ibn ‘Āsyūr’s Theological Approach to Qiṣāṣ and Theft

Muhammad Dakhlan Gazali<sup>1</sup>

Al-Zaitunah Univercity, Tunisia

Emial: [mdakhlengazali@gmail.com](mailto:mdakhlengazali@gmail.com)

ARTICLE INFO	ABSTRACT
<p><i>Article History</i> <i>Recieved Sept 2025</i> <i>Accepted Okt 2025</i> <i>Available Nov 2025</i></p>	<p>This study examines the integration of maqasid al-syariah in the Indonesian criminal law system through the theological perspective of Ibn 'Asyur, particularly in relation to qiṣāṣ and theft. The background to this study is the challenge of reconciling Islamic values with the 2023 Criminal Code amid a diverse society. Using a normative method supplemented by qualitative, theological, and comparative analysis—drawing on the works of Ibn 'Asyur, regulations, and crime data from the Central Statistics Agency (BPS) and the Indonesian National Police (Polri)—this study finds that the application of maqasid in criminal law is still incomplete. Nevertheless, the 2023 Criminal Code begins to provide space for a restorative approach that is in line with the principles of protecting life (hifz al-nafs) and property (hifz al-mal). Ibn 'Asyur's thinking, which emphasizes universality, flexibility, and joint ijthad, is an important foundation for building a more humane, inclusive, and easily applicable legal model. These findings open up space for discussion on national legal reform and provide concrete recommendations for policymakers in creating a criminal justice system that is fair, responsive, and in line with the diverse character of Indonesian society.</p>
<p><i>Keywords:</i> <i>maqāshid al-syarī‘ah, Ibn ‘Āsyūr, 2023 Criminal Code, Indonesian criminal law, qiṣāṣ, thef.</i></p>	

## Introduction

Indonesia with the world's largest Muslim population reaching more than 244 million people or about 87% of the total population <sup>1</sup>, faces complex epistemological challenges in harmonizing Islamic values with the prevailing national criminal law system <sup>2</sup>. As a country based on Pancasila and the 1945 Constitution, Indonesia has a constitutional responsibility to balance its religious identity with the pluralistic character that is characteristic of the nation <sup>3</sup>. This dynamic creates an interesting discourse between classical Islamic legal traditions, particularly in the field of jinayat (Islamic criminal law), and contemporary needs in the formation of national criminal regulations that are responsive to the diversity of society.

This complexity becomes even more apparent when analyzing two fundamental aspects of Islamic criminal law that are directly relevant to the Indonesian criminal justice system, namely qiṣāṣ (retributive justice for crimes against life) and jarīmah al-sariqah (the crime of theft) <sup>4</sup>. These two aspects are an integral part of maqāṣid al-syarī'ah, which aims to protect life (ḥifẓ al-naḥs) and property (ḥifẓ al-māl). but its application in the context of Indonesian criminal law faces a dilemma between the religious aspirations of the majority of the population and the principles of a modern state based on the rule of law that prioritizes due process of law and the protection of human rights <sup>5</sup>.

Statistical data from the Central Statistics Agency shows that murder and theft are the two categories of crime that consistently dominate crime reports in Indonesia, with theft accounting for 40% of all reported crimes, while crimes against life account for 12% <sup>6</sup>. This phenomenon highlights the urgency of developing a criminal law approach that is not only effective in preventing and eradicating crime but also capable of accommodating the values of justice rooted in the Islamic legal tradition that is alive in society.

---

<sup>1</sup> iNews. "Indonesia Jadi Negara dengan Populasi Muslim Terbesar di Dunia Tahun 2025." Accessed March 4, 2025. <https://sragen.inews.id/read/565112/indonesia-jadi-negara-dengan-populasi-muslim-terbesar-di-dunia-tahun-2025>

<sup>2</sup> Ummi Najipah et al., *PENERAPAN HUKUM ISLAM DALAM PERATURAN PERUNDANG-UNDANGAN DI INDONESIA*, 8 (2024), <https://doi.org/doi.org/10.3783/causa.v2i9.2461>.

<sup>3</sup> Ashfiya Nur Atqiya et al., "Harmonisasi Hukum Islam dan Pancasila Dalam Menangani Kasus Terorisme di Indonesia," *Majelis: Jurnal Hukum Indonesia* 1, no. 3 (November 2024): 85–98, <https://doi.org/10.62383/majelis.v1i3.322>.

<sup>4</sup> Bryant Jonathan Salomon Situmorang et al., *RELEVANSI PENERAPAN QISAS DALAM SISTEM HUKUM PIDANA NASIONAL INDONESIA*, n.d.; Raka Indra Pratama, Ade Mahmud, and Chepi Ali Firman Zakaria, "Kebijakan Kriminal Terhadap Tindak Pidana Perzinahan Berdasarkan Hukum Pidana Positif dan Hukum Pidana Islam," *Al-Jinayah Jurnal Hukum Pidana Islam* 8, no. 1 (June 2022): 27–37, <https://doi.org/10.15642/aj.2022.8.1.27-37>.

<sup>5</sup> Muhammad Afriza Rifandy et al., "Pencurian Dalam Presfektif Hukum Pidana Islam," *Demokrasi: Jurnal Riset Ilmu Hukum, Sosial dan Politik* 1, no. 3 (May 2024): 83–91, <https://doi.org/10.62383/demokrasi.v1i3.255>.

<sup>6</sup> Badan Pusat Statistik, *Statistik Kriminal 2024*, publikasi resmi, 11 Desember 2024, diakses 18 September 2025, <https://www.bps.go.id/id/publication/2024/12/12/13317138a55b2f7096589536/statistik-kriminal-2024.html>.

In the context of national regulations, the current Criminal Code (KUHP) still uses a retributive punishment paradigm with the main sanctions being imprisonment and fines for crimes of murder (Articles 338-350) and theft (Articles 362-367), without providing space for a restorative approach that emphasizes the restoration of social relations and compensation in line with the principle of al- maqāṣid <sup>7</sup>. This condition raises a fundamental question: how can the concept of maqāṣid al-syarī'ah according to Ibn 'Āsyūr's theological perspective be integrated into the Indonesian criminal law system, particularly in the handling of qīṣāṣ and theft, without sacrificing the principles of pluralism and procedural justice that form the foundation of a democratic state based on the rule of law ?

Academic discourse on the integration of Islamic values into Indonesia's criminal law system has grown rapidly, especially in the reform era, which has provided greater space for religious expression in the public sphere. This transformation is increasingly important given the contemporary social dynamics that demand a legal system that is not only normative but also substantive in realizing justice and the welfare of society <sup>8</sup>. Recent research shows that maqāṣid al-syarī'ah as an Islamic legal paradigm has evolved from merely a branch of Uṣūl al-Fiqh into a separate discipline with a distinct methodology and epistemology, thus opening up new opportunities for the development of a more adaptive and contextual contemporary Islamic law <sup>9</sup>.

Indonesia's uniqueness in developing maqāṣid al-syarī'ah lies in its ability to create a harmonious model of legal pluralism, in which maqāṣid values are not formally imposed but are organically integrated into various national legislative products <sup>10</sup>. This phenomenon is not merely contextual adaptation, but rather a representation of an epistemological revolution that creates a new paradigm in understanding the dialectical relationship between Islamic law and national criminal law. This characteristic emphasizes the importance of a contextual and hermeneutic approach in understanding the implementation of maqāṣid al-syarī'ah in Indonesia's diverse criminal law system.

Muḥammad al-Ṭāhir Ibn 'Āsyūr's (1879-1973) thoughts on maqāṣid al-syarī'ah offer a comprehensive and contextual theological approach <sup>11</sup>, which is highly relevant to

---

<sup>7</sup> Kementerian Hukum dan Hak Asasi Manusia Republik Indonesia, *Transformasi Sistem Peradilan Pidana Indonesia: Keadilan Restoratif dalam KUHP Tahun 2023*, diakses 18 September 2025, <https://marineews.mahkamahagung.go.id/artikel/transformasi-sistem-peradilan-pidana-indonesia-melalui-OyM>.

<sup>8</sup> Rona Apriana Fajarwati, *Akomodasi Nilai-Nilai Hukum Islam dalam Undang-Undang Nomor 1 Tahun 2023 Tentang Kitab Undang-Undang Hukum Pidana (KUHP)* (Disertasi, Universitas Indonesia, 2023), diakses 18 September 2025, [https://repository.uinjkt.ac.id/dspace/bitstream/123456789/78377/1/RONA%20APRIANA%20FAJARWATI\\_SPs.pdf](https://repository.uinjkt.ac.id/dspace/bitstream/123456789/78377/1/RONA%20APRIANA%20FAJARWATI_SPs.pdf).

<sup>9</sup> Fatimawali Fatimawali, Zainal Abidin, and Gani Jumat, *Teori Maqashid Al-Syari'ah Modern: Perspektif Jasser Auda*, 2024.

<sup>10</sup> Tarmizi Tahir and Syeikh Hasan Abdel Hamid, "Maqasid Al-Syari'ah Transformation in Law Implementation for Humanity," *International Journal Ihya' 'Ulum al-Din* 26, no. 1 (June 2024): 119–31, <https://doi.org/10.21580/ihya.26.1.20248>.

<sup>11</sup> Husni Fauzan, "Pemikiran Maqashid Syariah Al-Tahir Ibn Asyur," *al-Mawarid Jurnal Syariah dan Hukum (JSYH)* 5, no. 1 (July 2023): 101–14, <https://doi.org/10.20885/mawarid.vol5.iss1.art7>.

Indonesia's condition as a Muslim country with a pluralistic legal system. As a reformist figure who earned the nickname "al-ustādh al-thānī ba'd al-Shāṭibī" (the second teacher after al-Shāṭibī), Ibn 'Āsyūr not only reformulated al-Shāṭibī's thinking, but also made methodological contributions so that the concept of maqāshid sharia became more applicable and functional in facing contemporary challenges<sup>12</sup>. Ibn 'Āsyūr's approach, which emphasizes universality, flexibility, and collective ijtihād as the foundation of legal interpretation, provides a solid theoretical framework for building a bridge between Islamic values and modern criminal law principles.

What distinguishes Ibn 'Āsyūr's thinking is his decolonial and transformative approach to the maqāshid discourse, in which he introduces the concept of the universality of Islamic law that provides flexibility in legal interpretation in accordance with developments and local contexts<sup>13</sup>. In the context of qiṣāṣ and theft, Ibn 'Āsyūr's approach emphasizes the importance of understanding the wisdom and purpose behind legal rules, so that their implementation can be adapted to prevailing social, cultural, and legal conditions without losing the essence of justice and benefit that is the spirit of sharia<sup>14</sup>.

However, this integration process faces various complex challenges that require in-depth analysis. Previous studies have focused more on the theoretical aspects of maqāshid al-sharī'ah or its implementation in specific fields such as family law and Islamic economics, while in-depth studies on the integration of maqāshid in criminal law, particularly qiṣāṣ and theft in the Indonesian context, are still limited<sup>15</sup>. This research gap covers several important dimensions: first, the lack of in-depth theological analysis in the study of criminal law integration, particularly Ibn 'Āsyūr's contextual and adaptive approach; second, the limitation of comprehensive integration models for a holistic criminal law system; third, the lack of a multi-perspective approach that combines theological, juridical, and sociological dimensions in a coherent analytical framework.

Furthermore, contextual analysis in Indonesia in relation to the integration of Ibn 'Āsyūr's maqāshid perspective in the handling of qiṣāṣ and theft has not been specifically and deeply researched, even though the diversity of culture, religion, and legal traditions in Indonesia requires a more contextual and particular analysis. This limitation is also evident in the lack of concrete implementable solutions, where most studies are

---

<sup>12</sup> Nur Rofiq and M Zidny Nafi Hasbi, "A New Paradigm In Economy About Maqashid Al-Sharia Theory: Reformulation Of Ibn-Asyur," *PAMALI: Pattimura Magister Law Review* 2, no. 1 (March 2022): 77, <https://doi.org/10.47268/pamali.v2i1.817>.

<sup>13</sup> Fauzan, "Pemikiran Maqashid Syariah Al-Tahir Ibn Asyur."

<sup>14</sup> Umi Hidayati and Athoillah Islamy, "TEKSTUALISME DAN KONTEKSTUALISME PENAFSIRAN KONTEMPORER (STUDI ANALISIS KOMPARATIF PENAFSIRAN IBN 'ASYUR DAN MUHAMMAD SYAHRUR TERHADAP AL-MA'IDAH AYAT 38)," *AL-WAJID: JURNAL ILMU AL-QURAN DAN TAFSIR* 4, no. 2 (December 2024), <https://doi.org/10.30863/alwajid.v4i2.5701>; Abdul Rohman, Eni Zulaiha, and Wildan Taufiq, "Analisis Tafsir Maqāshidī Muḥammad Tāḥir bin 'Āsyūr Pada Ayat Qiṣāṣ," *Al-Dzikra: Jurnal Studi Ilmu al-Qur'an dan al-Hadits* 17, no. 1 (June 2023): 1–22, <https://doi.org/10.24042/al-dzikra.v17i1.13195>.

<sup>15</sup> Moh. Thamsir, Hasbi Umar, dan Robi'atul Adawiyah, "Maqashid al-Shariah sebagai Landasan Humanis dalam Reformasi Sistem Hukum Pidana," *Journal of Innovation Research and Knowledge* 4, no. 8 (Januari 2025): 5721–5728, <https://www.bajangjournal.com/index.php/JIRK/article/view/9393>

descriptive-analytical in nature without offering applicable models that can be applied in the practice of criminal law enforcement. In fact, the urgency of integrating Islamic values into Indonesian criminal law requires practical guidance that can be used by law enforcement officials, policymakers, and judicial practitioners<sup>16</sup>.

To address these challenges and fill the research gap, this study aims to analyze and construct a model for integrating *maqāṣid al-syarī'ah* into the Indonesian criminal law system through Ibn 'Āsyūr's theological approach, with a specific focus on the handling of *qīṣāṣ* and theft. The specific objectives of the study include: identifying and analyzing the concept of *maqāṣid al-syarī'ah* according to Ibn 'Āsyūr and its relevance to the handling of criminal acts of murder and theft; mapping and evaluating the implementation of the principle of *maqāṣid* in Indonesian criminal legislation governing *qīṣāṣ* and theft; analyzing the factors that support and hinder the integration process; and formulating a theoretical and practical model of integration that can be applied in the development of Indonesian criminal law.

This research presents original contributions that distinguish it from previous studies in the fields of *maqāṣid* and *uṣūl al-fiqh*. First, it offers a renewed reading of the *maqāṣid* framework by emphasizing the *tathbīq al-maqāṣid* (applied *maqāṣid*) in contemporary contexts, rather than remaining at a purely theoretical level as seen in much of the existing literature. Through this approach, the study provides a more operational and context-responsive analytical framework for the development of Islamic law in the modern era.

Second, the research deepens the understanding of the *maqāṣid* structure by systematically integrating *al-maqāṣid al-āmmah*, *al-maqāṣid al-khāṣṣah*, and *al-maqāṣid al-juz'iyah*. This multilayered integration—rarely explored comprehensively in prior studies—produces a more holistic conceptual model that can be effectively applied across various Islamic scientific disciplines.

Third, the study introduces a comprehensive methodological approach by examining the textual foundations, methodological principles, and practical applications of *maqāṣid* through critical analysis of the Qur'an, the Sunnah, as well as the insights of both classical and contemporary scholars. This triangulated method yields a more precise understanding of *maqāṣid* as a dynamic framework for *ijtihād* that responds to evolving societal needs.

Fourth, the research formulates a renewed articulation of *maqāṣid* as a functional instrument for the development of law and public policy, rather than merely an abstract theory. By highlighting the operative role of *maqāṣid* in legislation, education, and socio-governance, the study opens new avenues for integrating *maqāṣid* into contemporary policy discourse.

---

<sup>16</sup> Moh. Thamsir, Hasbi Umar, dan Robi'atul Adawiyah, "Maqashid al-Shariah sebagai Landasan Humanis dalam Reformasi Sistem Hukum Pidana," *Journal of Innovation Research and Knowledge* 4, no. 8 (Januari 2025): 5721–5728, <https://www.bajangjournal.com/index.php/JIRK/article/view/9393>

Taken together, these innovations not only enrich the scholarly literature on maqāṣid but also offer an analytical model that can serve as a foundation for developing Islamic legal thought that is more contextual, adaptive, and solution-oriented.

The practical contribution of this research lies in offering concrete solutions for harmonizing Islamic law and Indonesian criminal law in the handling of qiṣās and theft, which has been a challenge in developing a national criminal justice system that is responsive to the religious values of the majority of the population while maintaining the principles of procedural justice and the protection of human rights. The contemporary relevance of this research is increasingly important given the social and legal dynamics in Indonesia, which are paying more attention to Sharia values in the development of legislation, especially in the era of reform and democratization that provides greater space for public participation in the legislative process <sup>17</sup>.

Thus, the main question to be answered in this study is: how can Ibn 'Āsyūr's model of maqāṣid al-syarī'ah integration be implemented in the Indonesian criminal law system for the effective and sustainable handling of qiṣās and theft, while maintaining the harmony of legal pluralism and social justice that characterizes the Indonesian nation. This study is expected to fill the gaps in Islamic law and Indonesian criminal law literature, while also making a significant contribution to the development of a more humanistic, fair, and responsive criminal justice system that addresses the aspirations of Indonesian Muslims within the framework of a democratic and socially just state based on the rule of law.

### **Research Methodology**

This study uses a normative legal method with a qualitative approach enriched by comparative and theological analysis. The multidisciplinary approach integrates the perspectives of Islamic law, positive criminal law, and theological studies to analyze the integration of maqāṣid al-syarī'ah in the Indonesian criminal law system. The analytical descriptive research method is used with hermeneutic interpretation techniques to understand Ibn 'Āsyūr's thinking in a contemporary context.

Primary data sources include Ibn 'Āsyūr's main work "Maqāṣid al-Sharī'ah al-Islāmiyyah", the Indonesian Criminal Code, the 1945 Constitution, the Qur'an, and the Hadith. Secondary data consists of accredited journals, legal reference books, BPS crime statistics, and relevant court decisions. Data was collected through in-depth literature studies and content analysis of legal and theological texts.

The analysis was conducted in five systematic stages: conceptual exploration of Ibn 'Āsyūr's maqāṣid, evaluation of the Indonesian criminal law system, comparative analysis of qiṣās and theft in Islamic law versus the Criminal Code, construction of an integration model, and theoretical validation. The analysis techniques used hermeneutics for text interpretation, comparative analysis for convergence identification, juridical-

---

<sup>17</sup> Erlina Nur Azizah, Nida Handayani, and Fariha Azkia Hanum, *Transformasi Pusat Parlemen Indonesia: Mendorong Partisipasi Masyarakat dalam Proses Legislasi*, 8 (2024).

normative s for constitutional conformity, and sociological-contextual s for implementation relevance in Indonesia's pluralistic society.

The theoretical framework uses Ibn 'Āsyūr's concept of maqāsid, which emphasizes universality, flexibility, and collective ijtihād, the theory of legal pluralism to understand the coexistence of legal systems, and the theory of restorative justice as a conceptual bridge. Validity is maintained through triangulation of data sources and methodological consistency, while reliability is ensured through systematic documentation and transparency of interpretation.

## Discussion

### The concept of maqāsid al-syarī'ah according to ibn 'āsyūr in the context of qisās and theft

Muḥammad al-Ṭāhir Ibn 'Āsyūr (1879–1973) was one of the leading Islamic thinkers of the 20th century from Tunisia who made important contributions in the fields of uṣūl al-fiqh and maqāsid al-syarī'ah, particularly in developing a theological framework that can be applied to the current context. As a graduate of Zaytuna University who later became Sheikh al-Azhar of Tunisia, Ibn 'Āsyūr combined traditional knowledge with progressive thinking that allowed Islamic law to adapt to changing times without losing its spiritual meaning<sup>18</sup>. The uniqueness of his thinking lies in his ability to harmonize the rigidity of the text and the flexibility of the context in understanding the objectives of Sharia, thereby creating a new paradigm that is highly relevant to the challenges of integrating Islamic law into diverse national criminal justice systems such as Indonesia's.

In his magnum opus "Maqāsid al-Sharī'ah al-Islāmiyyah," Ibn 'Āsyūr developed a broader concept of maqāsid than al-Shāḥibī's classical formulation by emphasizing universal and contextual aspects that allow for cross-cultural and legal system application. Ibn 'Āsyūr states, "Maqāsid al-syarī'ah is a dynamic ethical framework that must be understood in the context of the common good, which can be adapted according to the conditions of time and place, without losing the essence of divine justice which is the spirit of sharia" (Ibn 'Āsyūr, 2011, p. 47). This paradigm is very important in the context of qisās and theft because it provides a theological basis for understanding that the protection of life (ḥifẓ al-nafs) and property (ḥifẓ al-māl) are not merely ritual obligations, but are social obligations that must be realized through legal rules that are in accordance with the context of civilization and the prevailing legal system.

In the context of qisās, Ibn 'Āsyūr interprets the protection of life (ḥifẓ al-nafs) comprehensively, covering not only physical aspects, but also psychological, social, and spiritual aspects of human life. He explains, "The protection of life in maqāsid sharia includes efforts to create a social environment conducive to a dignified life, where everyone feels safe from the threat of violence and can optimally develop their human

---

<sup>18</sup> Hassan Suleimān, Alwi Alatas, and Saheed Abdullah Busari, "EXAMINING THE REFORMIST THOUGHTS OF AL-TAHIR IBN 'ASHUR," *Malaysian Journal of Syariah and Law* 12, no. 2 (August 2024): 272–81, <https://doi.org/10.33102/mjssl.vol12no2.467>.

potential" (Ibn 'Āsyūr, 2011, p. 83). This understanding paves the way for the development of a criminal justice system that focuses not only on retribution but also on crime prevention, offender rehabilitation, and the restoration of social relations damaged by criminal acts of murder. This concept is highly relevant to the global trend of restorative justice, which emphasizes the repair of social damage and the reintegration of offenders into society <sup>19</sup>.

Meanwhile, in the context of theft, Ibn 'Āsyūr's thinking on the protection of property (ḥifẓ al-māl) has undergone a significant expansion in meaning, from simply prohibiting the taking of other people's property to a broad framework for creating a fair economic system. Ibn 'Āsyūr states, "The protection of property in maqāṣid sharia does not only focus on punishment for perpetrators of theft, but more fundamentally on the creation of a socio-economic structure that reduces inequality and provides fair opportunities for everyone to enjoy a decent life" (Ibn 'Āsyūr, 2011, p. 91). This view shifts the paradigm of criminal law from purely punitive to restorative, where the legal system not only punishes thieves but also attempts to address the socio-economic root causes of crime <sup>20</sup>.

The theological dimension of Ibn 'Āsyūr's thinking on qiṣāṣ and theft is based on tawhid, which combines vertical (relationship with Allah) and horizontal (relationship between humans) aspects in one system <sup>21</sup>. In his view, qiṣāṣ is not only a permissible mechanism of revenge, but also a tool of restorative justice that aims to restore the cosmic and social balance that has been disrupted by murder. Ibn 'Āsyūr explains, "Qiṣāṣ in the perspective of maqāṣid syariah is a manifestation of divine justice that gives the victim's family the choice to determine the form of settlement that is most appropriate to social conditions and provides a sense of true justice" (Ibn 'Āsyūr, 2011, p. 156). This concept provides great flexibility in the implementation of criminal law, where sanctions can be adjusted to the social, cultural, and economic conditions of the community, so that justice is not only formal-procedural but also substantive-contextual <sup>22</sup>.

Furthermore, Ibn 'Āsyūr developed the concept of collective ijtihād in the application of maqāṣid, which is highly relevant to the challenges of integrating Islamic law into Indonesia's national legal system. He emphasized that the application of maqāṣid in the context of qiṣāṣ and theft must involve various stakeholders, including scholars, judges, policymakers, and the wider community, so that legal decisions are not only valid according to sharia, but also socially acceptable and practically effective. Ibn 'Āsyūr stated, "Ijtihād in maqāṣid syariah must be collective and inclusive, involving all

<sup>19</sup> Arpandi Karjono, Parningotan Malau, and Ciptono Ciptono, "Penerapan Keadilan Restoratif Justice Dalam Hukum Pidana Berbasis Kearifan Lokal," *JURNAL USM LAW REVIEW* 7, no. 2 (July 2024): 1035–50, <https://doi.org/10.26623/julr.v7i2.9571>.

<sup>20</sup> Rizky Fauzi, Watni Marpaung, and Nurul Huda Prasetya, "Restorative Justice Concept in Islam & Its Implementation in National Criminal Law from Islamic Legal Philosophy," *JURNAL AKTA* 12, no. 1 (February 2025): 49, <https://doi.org/10.30659/akta.v12i1.43727>.

<sup>21</sup> Ibn Ashur, *Original Edition Translated from the Arabic and Annotated by Mohamed El-Tahir El-Mesawi Abridged by Alison Lake*, n.d.

<sup>22</sup> Fauzi, Marpaung, and Prasetya, "Restorative Justice Concept in Islam & Its Implementation in National Criminal Law from Islamic Legal Philosophy."

interested parties to ensure that the application of the law truly achieves the benefits and justice that are at the core of shariah" (Ibn 'Āsyūr, 2011, p. 201). This approach is very much in line with the pluralistic and democratic character of Indonesian society, where legal decision-making requires broad consensus and consideration of various social, cultural, and political perspectives <sup>23</sup>.

### **The Indonesian criminal justice system in handling murder and theft**

The Indonesian criminal law system in handling the crimes of murder and theft has undergone a complex development process from the colonial era to the reform era, reflecting ongoing social, political, and justice paradigm changes. The current Criminal Code (KUHP) is a legacy of the 1918 *Wetboek van Strafrecht voor Nederlandsch-Indië* <sup>24</sup>. The KUHP regulates the crime of murder in Articles 338 to 350 with a maximum penalty of 15 years to life imprisonment, while the crime of theft is regulated in Articles 362 to 367 with a maximum penalty of 5 years imprisonment or a fine <sup>25</sup>. This legal system reflects a retributive paradigm that emphasizes proportionate punishment for perpetrators without providing adequate space for a restorative approach, which focuses more on restoring social relationships and providing compensation to victims or their families.

Data from the Central Statistics Agency shows that during the 2019-2023 period, homicide cases fluctuated with an average of 2,847 cases per year, while theft cases were much higher, with an average of 127,432 cases per year <sup>26</sup>. This makes theft the criminal offense with the highest incidence rate in Indonesia. These figures show that an approach based solely on punishment has not been effective in preventing crime, so there needs to be a more comprehensive reformulation that incorporates elements of prevention, restoration, and rehabilitation in accordance with the principles of *maqāṣid syariah*, which emphasize benefit and the prevention of harm <sup>27</sup>.

In criminal justice practice, handling murder cases presents various challenges such as evidence, sentencing, and protecting the rights of victims and their families. Supreme Court jurisprudence on murder cases shows the dynamics of decisions

---

<sup>23</sup> Fradhana Putra Disantara, "Konsep Pluralisme Hukum Khas Indonesia sebagai Strategi Menghadapi Era Modernisasi Hukum," *Al-Adalah: Jurnal Hukum dan Politik Islam* 6, no. 1 (June 2021): 1–36, <https://doi.org/10.35673/ajmpi.v6i1.1129>.

<sup>24</sup> Bunyana Sholihin, "Supremasi Hukum Pidana di Indonesia," *Unisia* 31, no. 69 (July 2008): 262–72, <https://doi.org/10.20885/unisia.vol31.iss69.art6>.

<sup>25</sup> Besse Muqita Rijal Mentari, "Saksi Pidana Pembunuhan dalam Kitab Undang-Undang Hukum Pidana dengan Hukum Islam," *Al-Ishlah: Jurnal Ilmiah Hukum* 23, no. 1 (May 2020): 1–38, <https://doi.org/10.56087/aijih.v23i1.33>; Rusmiati Rusmiati, Syahrizal Syahrizal, and Mohd. Din, "Konsep Pencurian Dalam Kitab Undang-Undang Hukum Pidana dan Hukum Pidana Islam," *Syiah Kuala Law Journal* 1, no. 1 (November 2018): 339–52, <https://doi.org/10.24815/sklj.v1i1.12318>.

<sup>26</sup> Central Statistics Agency, *Criminal Statistics 2024* (Jakarta: BPS, 2024), <https://www.bps.go.id/id/publication/2024/12/12/13317138a55b2f7096589536/statistik-kriminal-2024.html>.

<sup>27</sup> Roby Satya Nugraha et al., "The Transformation of Indonesia's Criminal Law System: Comprehensive Comparison between the Old and New Penal Codes," *Reformasi Hukum* 29, no. 1 (April 2025): 1–21, <https://doi.org/10.46257/jrh.v29i1.1169>.

influenced by changes in legal paradigms, the emotional motives of the defendant, and socioeconomic background. The Ferdy Sambo case is an example, where the death penalty was changed to life imprisonment, sparking debate and differences of opinion among judges<sup>28</sup>. This situation creates legal uncertainty and a sense of injustice, especially for the victims' families who expect a fair and proportionate resolution. This contrasts with the concept of qiṣāṣ in Islamic law, which gives the victim's family the right to choose the most appropriate resolution, whether through retribution (qiṣāṣ), compensation (diyat), or forgiveness ('afw)<sup>29</sup>.

In handling theft, the challenge is even greater due to the high crime rate and the limitations of the judicial system. Recent data shows that the national police's case resolution rate is around 51.2%, while a number of cases remain unresolved due to limited evidence, difficulties in apprehending perpetrators, and an excessive burden on the judicial system<sup>30</sup>. This shows the need for a more effective alternative approach, such as out-of-court settlements with an emphasis on compensation and the socio-economic rehabilitation of perpetrators, in accordance with the principle of ḥifẓ al-māl in maqāshid sharia, which focuses not only on punishment but also on prevention and recovery to better suit the context.

The challenge of integrating maqāshid values into Indonesia's criminal law system is further complicated by the plurality of society and the state's commitment to the principle of a democratic state based on the rule of law<sup>31</sup>. The Muslim majority in Indonesia wants a legal system that takes religious values into account, including the principle of restorative justice in qiṣāṣ and the comprehensive handling of theft. However, on the other hand, Indonesia, as a country with the motto of unity in diversity, must ensure that criminal law is non-discriminatory and protects all citizens regardless of religion, ethnicity, or social background<sup>32</sup>. This opens up an important discourse on how to integrate the universal values of maqāshid syariah, which emphasize justice, benefit, and human rights, into an inclusive and pluralistic national legal framework.

---

<sup>28</sup> Aulia Adelia Wulandari and Rahtami Susanti, *PUTUSAN PENJATUHAN PIDANA SEUMUR HIDUP DALAM KASUS PEMBUNUHAN BERENCANA DENGAN TERDAKWA FERDY SAMBO DITINJAU DARI PERSPEKTIF TEORI KEADILAN*, 8, no. 1 (2025).

<sup>29</sup> ST. Halimang, Ridhwan, dan Sakdiah, "Justice and Qiṣāṣ in Islamic Law: The Views of Muslim Scholars and Intellectuals at Makassar City, South Sulawesi," *Samarah: Jurnal Hukum Keluarga dan Hukum Islam* 9, no. 1 (Maret 2025): 617–638, DOI: 10.22373/sjhk.v9i1.26164.

<sup>30</sup> Kapolri Jenderal Listyo Sigit Prabowo, "Kejahatan di Indonesia Selama 2024 Capai 325.150 Kasus," *Tribatanews Jatim*, 30 Desember 2024, <https://tribatanews.jatim.polri.go.id/31/12/2024/kapolri-kejahatan-di-indonesia-selama-2024-capai-325-150-kasus/>; CNBC Indonesia, "Masyarakat Adukan 500.000 Kejahatan ke Polri, Kasus Selesai 51%," 1 Juli 2025, <https://www.cnbcindonesia.com/research/20250701094556-128-645157/masyarakat-adukan-500000-kejahatan-ke-polri-kasus-selesai-51>.

<sup>31</sup> Jauhari Jauhari, "PENERAPAN PRINSIP MAQASHID SYARIAH DALAM PERUNDANG-UNDANGAN DI INDONESIA," *Karimiyah* 4, no. 1 (June 2024): 1–14, <https://doi.org/10.59623/karimiyah.v4i1.49>.

<sup>32</sup> Situmorang et al., *RELEVANSI PENERAPAN Qiṣāṣ DALAM SISTEM HUKUM PIDANA NASIONAL INDONESIA*.

The reform of Indonesian criminal law through the enactment of a new Criminal Code provides a strategic opportunity to accommodate the values of maqāṣid<sup>33</sup>. The draft Criminal Code introduces various innovations such as the recognition of laws that exist in society, mechanisms for dispute resolution outside of court, and the strengthening of a restorative approach in several criminal acts<sup>34</sup>. Although it does not explicitly use the language of maqāṣid syariah, the substance of this reform is in line with the principles of flexibility, contextuality, and a focus on public interest. This provides an opportunity to develop an integration model that harmonizes Islamic values with the principles of human rights and universal social justice.

### **Comparative analysis of qīṣāṣ in islamic law and the handling of murder in the indonesian criminal code**

A comparison between the concept of qīṣāṣ in Islamic law and the handling of murder according to the Indonesian Criminal Code reveals fundamental differences in philosophical approaches, while highlighting possible points of convergence that could form the basis for integration.

Qīṣāṣ, which is based on Q.S. Al-Baqarah verses 178-179, affirms the principle of restorative justice that gives the victim's family the authority to choose the most appropriate solution for the circumstances, as well as providing genuine moral and material satisfaction (Ibn 'Āsyūr, 2011, p. 158). This system does not only emphasize punishment for the perpetrator, but also focuses on restoring social balance and the healing process for all affected parties.

In contrast, Articles 338-350 of the Criminal Code adopt a state-centered prosecution system, in which the state holds a monopoly on determining sanctions without providing significant space for the participation of victims or their families in the justice process<sup>35</sup>.

The application of qīṣāṣ in Islamic law is very complex and considers various social, economic, and psychological factors in order to determine the most appropriate solution. Ibn 'Āsyūr explains three settlement options: literal qīṣāṣ (retaliation), diyat (compensation/damages), and 'afw (forgiveness), with the victim's family having the freedom to choose the most appropriate option so as to provide optimal justice (Ibn 'Āsyūr, 2011, p. 162). This flexibility allows for a more humane and context-appropriate approach, especially in cases where the execution of the punishment does not have a significant impact on the victim or the community. Several studies show that in the practice of the qīṣāṣ system, the families of victims in various communities tend to choose settlement through diyat or al-'afw as a form of forgiveness and compensation

---

<sup>33</sup> Rangga Abdi Ramadhan, Athifatul Wafiroh, and Cecep Soleh Kurniawan, "Penerapan Hukuman Mati di Indonesia perspektif Maqasid al-Shari'ah," *Ma'mal: Jurnal Laboratorium Syariah dan Hukum* 5, no. 1 (February 2024): 27–49, <https://doi.org/10.15642/mal.v5i1.198>.

<sup>34</sup> Nugraha et al., "The Transformation of Indonesia's Criminal Law System."

<sup>35</sup> Adeleida Jennifer, *TINJAUAN YURIDIS TERHADAP TINDAK PIDANA PEMBUNUHAN (STUDI KASUS PEMBUNUHAN YANG DILAKUKAN DI DESA SENDUK, KECAMATAN TOMBARIRI, MINAHASA)*, 16, no. 1 (2025).

rather than the literal implementation of qiṣāṣ. This indicates a tendency for society to choose a restorative justice approach that prioritizes reconciliation and social welfare <sup>36</sup>.

Unlike qiṣāṣ, the Indonesian Criminal Code system tends to be rigid and does not accommodate victim-centered justice. The Criminal Code imposes a fixed sentencing system, in which judges have limited discretion in determining sanctions based on a range stipulated by law, without explicitly considering the wishes of the victim or their family in the process of determining justice. Although there are mechanisms for reconciliation and compensation in criminal procedure law, these are more of a mitigating factor in sentencing and do not change the fundamental character of the system, which is still state-oriented <sup>37</sup>. This condition often leads to secondary victimization, where the victim's family feels that they have not received true justice because their involvement is meaningless in the sentencing process.

From a crime prevention perspective, qiṣāṣ, according to Ibn 'Āsyūr, emphasizes deterrence that is both individual and communal. He states, "The publicity of qiṣāṣ is not merely to create fear, but to build social awareness of the sanctity of life and collective responsibility in maintaining public safety" (Ibn 'Āsyūr, 2011, p. 167). This concept is in line with the theory of restorative justice, which emphasizes the reintegration of offenders into society through meaningful accountability and corrective actions that can restore social damage. Comparative studies have shown that judicial systems that allow for victim participation and restorative processes tend to have lower recidivism rates than systems that are purely punitive <sup>38</sup>.

From an economic perspective, qiṣāṣ offers advantages in terms of cost-effectiveness and social utility. The diyat system provides direct compensation to the victim's family, thereby providing reparative justice as well as practical support to overcome the economic burden caused by the loss of a breadwinner. Meanwhile, the detention system in the Criminal Code creates a double burden: the state must bear the cost of detaining perpetrators (an average of Rp 20,000 per day per prisoner) while the victims' families do not receive adequate compensation <sup>39</sup>. Cost-benefit analysis shows that integrating the diyat mechanism into the Criminal Code could result in significant savings for the state budget and better outcomes for victims.

However, the implementation of qiṣāṣ in Indonesia faces major constitutional and practical challenges, particularly in relation to the principle of equal protection clause

---

<sup>36</sup> Akhmad Sulaiman, *Objektifikasi Qiṣāṣ dan Diyat: Sebuah Tawaran Pembaharuan KUHP*, 3 (2018).

<sup>37</sup> Anang Riyan Ramadianto, Milda Istiqomah, and Nurini Aprilianda, "Victim Impact Statement as a Model of Victim-Centered Justice in Child Sexual Abuse Cases," *Jurnal Hukum IUS QUIA IUSTUM* 32, no. 2 (August 2025): 337–60, <https://doi.org/10.20885/iustum.vol32.iss2.art4>.

<sup>38</sup> Reni Aryani and Hudi Yusuf, *PRAKTIK KEADILAN RESTORATIF DAN EFEKTIVITASNYA DALAM MENGURANGI RESIDIVISME*, no. 6 (2024).

<sup>39</sup> Lukman Hakim Lubis, "Pelaksanaan Pembinaan Narapidana di Lembaga Perasyarakatan Kelas IIA Pancur Batu Yang Overcrowded," *Locus: Jurnal Konsep Ilmu Hukum* 1, no. 1 (December 2021): 20–29, <https://doi.org/10.56128/jkih.v1i1.14>.

and the right to due process in accordance with the 1945 Constitution<sup>40</sup>. The main criticism concerns the potential for inequality in the application of justice, when victims' families with different socio-economic strengths receive varying compensation<sup>41</sup>. To overcome this challenge, a reformulation of *qisās* is needed that integrates the principle of equal justice under the law with a flexible restorative approach, thereby creating a system that is both contextually appropriate and constitutionally compliant.

### **Comparative analysis of the concept of theft in islamic law and the indonesian criminal code**

A comparison of the concept of theft in Islamic law and the Indonesian Criminal Code reveals fundamental paradigmatic differences in understanding the nature of crimes against property and the appropriate response to them. In Islamic law, theft (*sariqah*) is not only considered a violation of individual property rights, but also a disturbance to the socio-economic balance that can shake the stability of the community and the judicial system as a whole. Ibn 'Āsyūr explains that theft, according to the *maqāsid syariah* perspective, is a manifestation of structural injustice in the distribution of wealth and opportunities, so that its handling must be holistic, focusing not only on punishment but also on improving the underlying social conditions (Ibn 'Āsyūr, 2011, p. 194). This paradigm shifts the focus from individual responsibility alone to collective social responsibility in creating conditions conducive to economic justice.

Within the framework of Islamic law, theft that is punishable by *hudud* has very specific and strict criteria, including the minimum value of the stolen goods (*niṣāb*), the security of the place of storage (*ḥirz*), the full intent and mental capacity of the perpetrator, and the absence of an emergency situation that could justify the act. Ibn 'Āsyūr asserts that the complexity of these criteria shows that Sharia does not intend to facilitate the application of sanctions, but to ensure that punishment is only given for cases that truly threaten social order and cannot be resolved by other means (Ibn 'Āsyūr, 2011, p. 198). This approach is very different from the Indonesian Criminal Code, which regulates theft in Articles 362-367 with relatively simple criteria and does not consider the socio-economic conditions that motivate theft<sup>42</sup>.

Empirical studies show that a punishment-only approach tends to be less effective in reducing crime rates and often results in high recidivism rates. Data from the Directorate General of Corrections projects that the recidivism rate for criminal offenses in Indonesia will be 24% in 2023, indicating that the custodial punishment system has

---

<sup>40</sup> ST. Halimang, Ridhwan, Sakdiah, and Bikinkan, "Justice and *Qisās* in Islamic Law: The Views of Muslim Scholars and Intellectuals at Makassar City, South Sulawesi," *Samarah: Jurnal Hukum Keluarga dan Hukum Islam* 9, no. 1 (March 2025): 617–630, <http://jurnal.ar-raniry.ac.id/index.php/samarah/article/download/26164/10560>.

<sup>41</sup> Nadya Oktaviani Rahma Namira Khaulani, *Meninjau Nilai Keadilan yang Terkandung dalam Jarimah Qisās dan Diyat*, Zenodo, December 5, 2023, <https://doi.org/10.5281/ZENODO.10262028>.

<sup>42</sup> Muhammad Adnan Lutfi et al., "Studi Perbandingan Tentang Penetapan Sanksi Pidana Pencurian Berdasarkan Hukum Pidana Positif Indonesia dan Hukum Pidana Islam," *Borobudur Law and Society Journal* 1, no. 1 (January 2022): 20–30, <https://doi.org/10.31603/6537>.

not achieved its goals of rehabilitation and prevention<sup>43</sup>. In contrast, comparative studies show that countries that adopt a restorative justice approach to crime have significantly lower recidivism rates (averaging 25–40%) and higher levels of satisfaction from both victims and perpetrators with the judicial process<sup>44</sup>.

The aspect of economic justice in handling theft reveals a profound philosophical difference between Islamic law and the Indonesian Criminal Code. According to Ibn 'Āsyūr, theft is often a symptom of social inequality and the absence of adequate social safety nets, so that handling theft requires comprehensive social intervention to address the root causes of crime. He states that Islam requires society and the state to ensure that every individual has their basic needs met, and failure to fulfill this obligation can be a mitigating factor in the handling of theft (Ibn 'Āsyūr, 2011, p. 205). This principle is in line with the constitutional mandate in Article 27 paragraph (2) of the 1945 Constitution, which guarantees the right to work and a decent livelihood, although its implementation in the Indonesian criminal justice system still needs improvement<sup>45</sup>.

In the context of restorative justice, Islamic law places strong emphasis on compensation and rehabilitation of perpetrators as an alternative to physical punishment. The concept of ta'zīr allows judges to impose the most appropriate sanctions according to the circumstances of the case, including community service, compensation for victims, and rehabilitation programs to address the factors that led to the crime. Ibn 'Āsyūr states that the flexibility of ta'zīr allows for more effective individual justice in achieving the goals of crime prevention and social harmony (Ibn 'Āsyūr, 2011, p. 212). This approach is in line with global trends towards therapeutic jurisprudence and problem-solving courts that address the underlying issues that drive criminal behavior.

The implementation of the maqāsid principle in handling theft also contains important elements of prevention through socio-economic empowerment and the strengthening of social safety nets. Research shows that the majority of thefts in Indonesia are committed by individuals from disadvantaged socio-economic backgrounds, indicating a strong correlation between poverty and crime<sup>46</sup>. Ibn 'Āsyūr's emphasis on collective responsibility in creating socio-economic justice is in line with Indonesia's commitment to social justice as reflected in the fifth principle of Pancasila. The integration of this principle into the criminal justice system can be done through the

---

<sup>43</sup> Nabila Maulidiya, Indi Ulya Kamalin, and Jelita Yupiter, *EXPLORATION OF RESTORATIVE JUSTICE APPROACH TO REDUCE RECIDIVISM: A CRITICAL ANALYSIS OF ITS EFFECTIVENESS IN THE INDONESIAN CRIMINAL JUSTICE SYSTEM*, n.d.; Nurul Rahmati, *POLA PEMBINAAN TERHADAP RESIDIVIS SEBAGAI UPAYA PENCEGAHAN PENGULANGAN TINDAK PIDANA PENCURIAN (Studi Penelitian Di Lembaga Pemasarakatan Kelas IIB Lhoksukon)*, 2025.

<sup>44</sup> Lucia Sandoval and Carlos Velasquez, *Restorative Justice in Criminal Law: Assessing Its Role in Reducing Recidivism Rates*, n.d.

<sup>45</sup> Nasimah Hussin, "REVISITING ISLAMIC PUNISHMENT AND ITS IMPLEMENTATION IN THE CONTEMPORARY WORLD," . . November, 2018.

<sup>46</sup> Wulan Khoiru Nisa et al., "Pengaruh Tingkat Kemiskinan terhadap Tingkat Tindak Kriminalitas di Indonesia Tahun 2022," *Jurnal Akuntansi, Manajemen, dan Perencanaan Kebijakan* 1, no. 3 (March 2024): 1–9, <https://doi.org/10.47134/jampk.v1i3.220>.

development of diversion programs, community-based corrections, and the strengthening of the social welfare system to address the root causes of property crime.

### **Model of maqāṣid al-syarī'ah integration in Indonesian criminal law: a comprehensive framework**

Based on an in-depth study of Maqāṣid al-Syarī'ah according to Ibn 'Āsyūr and the Indonesian criminal law system in handling *qisās* and theft, this study proposes a comprehensive and applicable integration model. This model aims to bridge the gap between the religious aspirations of the majority of Indonesia's population and the constitutional commitment to the principles of a democratic and pluralistic state based on the rule of law. Three main pillars form the foundation of this model: the universality of justice values that transcend religious boundaries, flexibility in implementation that takes into account specific socio-cultural contexts, and participatory governance that involves various stakeholders in legal decision-making<sup>47</sup>.

The first pillar is the development of a legal framework that adopts the universal principle of maqāṣid without using exclusive religious terminology. In the realm of homicide, this model emphasizes victim-centered justice mechanisms. Practices include establishing mandatory victim impact statement procedures, expanding victim-offender mediation programs, and developing adequate compensation schemes for the families of murder victims. This approach is not only in line with the principle of *qisās*, which gives agency to the victims' families, but also aligns with international best practices regarding victims' rights and restorative justice.

The second pillar proposes reformulating the handling of theft by integrating socioeconomic considerations into the criminal justice process. Here, special courts for property crimes are developed that have the resources to conduct a comprehensive socio-economic assessment of perpetrators and impose sanctions that address the root causes of criminal behavior. Ibn 'Āsyūr's ideas on collective responsibility and the creation of fair socio-economic conditions can be realized through, among other things, the provision of community-based alternatives to imprisonment, the strengthening of restitution programs, and the strengthening of social security systems for vulnerable groups. This approach has the potential to reduce incarceration rates, lower recidivism, and provide better outcomes for both victims and perpetrators.

The third pillar emphasizes the importance of collaborative governance mechanisms that ensure the meaningful participation of religious leaders, legal practitioners, civil society organizations, and community representatives in the process of legal reform and implementation. The establishment of an Interfaith Legal Advisory Council was initiated as an institution that provides policy input that accommodates religious values while maintaining inclusive and nondiscriminatory implementation. This

---

<sup>47</sup> Mariah Darus @ Mat Junus et al., "Ethical Governance through Maqasid Shariah Perspective: A Conceptual Framework," *International Journal of Academic Research in Business and Social Sciences* 14, no. 10 (October 2024): Pages 920-932, <https://doi.org/10.6007/IJARBS/v14-i10/23148>.

council acts as a mediator between religious aspirations and constitutional demands, facilitating constructive and continuous dialogue.

The implementation of this model requires comprehensive legal reform. First, amendments to criminal procedure law to accommodate a victim-centered approach, including the obligation to submit impact statements, the expansion of plea bargaining mechanisms that take into account the preferences of victims, and the establishment of adequate victim compensation funds. Second, the development of sentencing guidelines specifically for property crimes that take into account socioeconomic factors, with an emphasis on restitution and rehabilitation rather than imprisonment. Third, the provision of training for judges, prosecutors, and legal practitioners on the principles of restorative justice and the implementation of a victim-oriented approach.

The importance of strengthening institutional capacity is also recognized as key to successful implementation. The Indonesian criminal justice system is currently limited in its ability to handle complex cases that require a multidisciplinary approach. Therefore, it is necessary to establish special units in prosecutor's offices and courts equipped with social workers, psychologists, and community liaisons to conduct comprehensive assessments and formulate appropriate sentencing recommendations. Investment in human resource development and institutional capacity is essential to ensure that the integration of maqāsid principles can be implemented effectively and sustainably.

This model also underscores the importance of regular monitoring and evaluation mechanisms to measure the effectiveness of victim-centered approaches, the impact of restorative justice programs on recidivism rates, and the level of satisfaction of various stakeholders with the outcomes of justice. Ibn 'Āsyūr's emphasis on continuous ijtihād and the adaptation of legal principles to changing conditions is particularly relevant, given that the legal system must be responsive to empirical evidence about what is and is not effective in achieving the goals of justice and social harmony<sup>48</sup>.

### **Theoretical and practical implications of integrating maqāsid into Indonesian criminal law**

The implementation of the model of integrating the principles of Maqāsid al-Syarī'ah into the Indonesian criminal law system has far-reaching implications, both in theory and in practice, with the potential to fundamentally change the way Indonesia approaches the criminal justice system. This model also positions Indonesia as an example for Muslim-majority countries that implement democratic systems of government. From a theoretical perspective, this integration represents a paradigm shift from a purely secular legal system to an inclusive legal pluralism that is capable of accommodating religious values without sacrificing democratic principles and constitutional commitments to equality and human rights. Ibn 'Āsyūr's conceptualization of maqāsid as a universal ethical framework that transcends specific religious traditions provides a strong theoretical foundation for this integration, proving that Islamic legal

---

<sup>48</sup> Haitham M Altaany et al., "Social Legislation and Its Role in Enhancing Social Development," *Journal of Ecohumanism* 3, no. 8 (January 2025), <https://doi.org/10.62754/joe.v3i8.5727>.

principles can synergize with modern governance if contextualized and implemented appropriately<sup>49</sup>.

The most significant theoretical implication is the development of a new jurisprudential framework that can serve as a model for other pluralistic societies facing similar challenges in balancing religious values with secular governance. Indonesia's experience in integrating the principle of maqāshid contributes significantly to the global discourse on legal pluralism, religious accommodation in secular states, and the development of an inclusive justice system that is responsive to population diversity. Academic institutions and legal scholars around the world increasingly recognize Indonesia as an important case study in managing religious diversity in a modern state system, and the successful integration of the maqāshid principle will further strengthen Indonesia's position in legal diplomacy and global intellectual contributions.

From a practical perspective, the application of this integration model can improve the effectiveness of Indonesia's criminal justice system in achieving key objectives such as crime prevention, victim protection, and offender rehabilitation. Evidence from jurisdictions that have implemented a restorative justice approach shows increased victim satisfaction, a decrease in recidivism rates, and more efficient use of judicial resources<sup>50</sup>. In the Indonesian context, where the criminal justice system faces challenges such as prison overcrowding, high recidivism rates, and limited resources for comprehensive offender rehabilitation, the integration of maqāshid principles can provide practical solutions that are both effective and cost-efficient.

Additional economic aspects must also be carefully considered. The system of imprisonment for property offenders creates a significant fiscal burden for the Indonesian government, with some studies estimating costs reaching tens of billions of rupiah per year for prisoners convicted of theft. The use of alternative punishments such as restitution, community service, and rehabilitation programs can provide significant cost efficiencies and allow the diversion of funds to crime prevention programs, victim services, and community development. Ibn 'Āsyūr's emphasis on socio-economic empowerment and addressing the root causes of crime is particularly relevant, given that investment in education, job training, and social security is more effective in the long term than reactive punishment<sup>51</sup>.

The social impact of this integration model is also crucial in the context of social cohesion. Indonesia's strength as a pluralistic society depends heavily on its ability to accommodate diverse values and perspectives within a framework of shared governance

---

<sup>49</sup> Lifia Lifia and Aunur Rofiq, "MAQASHID SHARIA THINKING PERSPECTIVE OF IBNU ASSYUR IN THE DEVELOPMENT OF SHARIA BANKING," *Journal of Management and Informatics* 2, no. 1 (February 2023): 01–17, <https://doi.org/10.51903/jmi.v2i1.151>.

<sup>50</sup> Aryani and Yusuf, *PRAKTIK KEADILAN RESTORATIF DAN EFEKTIVITASNYA DALAM MENGURANGI RESIDIVISME*.

<sup>51</sup> Hendrizal, Muhammad Joni, Kasim Hijrat, Joni Indra Wandu, dan Nora Afrita, "Investasi Pendidikan dalam Meningkatkan Kesejahteraan Ekonomi Masyarakat," *Elkahfi: Jurnal Pendidikan dan Ekonomi* Islam 5, no.1(2024): 34 50, <https://ejournal.mannawasalwa.ac.id/index.php/elkahfi/article/download/232/128>.

<sup>52</sup>. Successful integration of the maqāṣid principle can strengthen social cohesion by demonstrating that religious values can be respected without diminishing the rights of minority groups or democratic principles. Conversely, failure to balance these interests can exacerbate social tensions and threaten Indonesia's tradition of tolerance and inclusiveness <sup>53</sup>.

In international relations, the implementation of this integration model also brings significant benefits, particularly in the context of Indonesia's role in the Organization of Islamic Cooperation (OIC) and in diplomatic relations with Muslim-majority countries and Western democracies. The success of this model can position Indonesia as a bridge between Islamic and Western legal traditions, enhance its credibility as a mediator of international disputes, and make it attractive as a partner in global development initiatives <sup>54</sup>. However, implementation must be managed carefully to avoid perceptions of excessive Islamization that could damage relations with non-Muslim countries or cause concern among domestic minority communities.

The challenges of implementing this integration model need to be assessed realistically and anticipated as early as possible. Constitutional challenges are the most critical, particularly those related to the article on equal protection of the law in the 1945 Constitution, which requires equal treatment under the law regardless of religion. Criticism may arise that the application of Islamic law principles, even in a universal formulation, has the potential to cause discrimination or the perception of favoritism towards a particular religion. The implementation strategy must emphasize the universal nature of the maqāṣid principle and demonstrate clear benefits for all citizens regardless of religious background <sup>55</sup>.

Capacity building is also a major challenge that requires sustained investment over many years <sup>56</sup>. The legal education curriculum in Indonesia is currently limited in its introduction to comparative legal systems, restorative justice principles, or victim-centered approaches. Comprehensive reforms are needed in law school curricula, continuing education programs for legal practitioners and judges, and the development of new specializations in criminal justice administration. Investment in human resource development is key to the success and sustainability of long-term reform <sup>57</sup>.

---

<sup>52</sup> Disantara, "Konsep Pluralisme Hukum Khas Indonesia sebagai Strategi Menghadapi Era Modernisasi Hukum."

<sup>53</sup> Sidiq Siadio, "KEADILAN DAN MAQASID AL-SYARIAH: MENGATASI REFORMASI HUKUM DAN KEADILAN SOSIAL," *Jurnal Hukum Islam* 7, no. 1 (2023).

<sup>54</sup> Annisa Karimah, *KEBIJAKAN INDONESIA MENJADI MEDIATOR DALAM MENENGAHI KONFLIK ARAB SAUDI-IRAN DALAM KASUS EKSEKUSI MATI NIMR AL-NIMR*, n.d.

<sup>55</sup> Jauhari, "PENERAPAN PRINSIP MAQASHID SYARIAH DALAM PERUNDANG-UNDANGAN DI INDONESIA."

<sup>56</sup> Deassy J A Hehanussa et al., *A Critical Review of Restorative Justice Policy in the Indonesian Criminal Justice System Post Law No. 1 of 2023 Concerning the Criminal Code*, no. 1 (2023).

<sup>57</sup> Maulidi Hilal, Arif Purnomo, dan Sandy Arief, "Transforming Human Resources: The Key to Revolutionizing Indonesian Legal Reform and Justice System Efficiency," *Jurnal Legislasi & Legal Reform* 5, no. 3 (2024): 210-230, <https://doi.org/10.15294/jllr.v5i3.16495>.

## **Conclusion**

This study has thoroughly examined the possibility of integrating maqāṣid al-syarī'ah into the Indonesian criminal law system through Ibn 'Āsyūr's theological approach, with a focus on the handling of qisās and theft. The results of the analysis show that Ibn 'Āsyūr's thinking on maqāṣid as a dynamic, universal, and contextual ethical framework provides a solid foundation for developing an integration model that harmonizes Islamic values with modern criminal law principles without reducing Indonesia's commitment to pluralism, democracy, and the protection of human rights. Ibn 'Āsyūr's approach, which emphasizes flexibility of interpretation, universality of justice, and the importance of collective ijtihād, is highly relevant to Indonesia's diverse society and democratic governance.

The main finding is that the integration of maqāṣid in Indonesian criminal law is currently still fragmentary and implicit, not yet reaching a systematic and comprehensive level that can optimize the synergy between Islamic legal principles and the modern criminal justice approach. In handling murder cases, the criminal law system is still very state-centered and punishment-oriented, so that the space for a victim-centered approach in accordance with the principle of qisās is still limited. Similarly, in handling theft, the dominant approach is still reactionary and does not sufficiently take into account the socioeconomic factors underlying property crime, even though Ibn 'Āsyūr's interpretation of ḥifẓ al-māl emphasizes the importance of a holistic approach that reveals the roots of economic injustice.

A comparative analysis between the basic principles of qisās and the Islamic approach to property crime shows significant compatibility with global trends in international criminal law, particularly those leading to restorative justice, victim-centered approaches, and an emphasis on the social factors that influence crime. Empirical data from countries that have adopted restorative justice programs show better results in victim satisfaction, reduced recidivism, and cost efficiency compared to punishment-only approaches. This shows that the integration of maqāṣid principles is not only theologically sound, but also practically useful and in line with global best practices in criminal law reform.

The proposed integration model focuses on three core elements: universal acceptance of principles of justice that transcend religious boundaries, flexible implementation that accommodates diverse socio-cultural contexts, and participatory governance that involves various stakeholders in policy development and implementation. This model deliberately avoids exclusive religious terminology but retains the substantial content of the maqāṣid principle, thereby attracting broad support from Indonesian society without sacrificing the theological integrity of Islamic legal tradition. The implementation strategy focuses on practical reforms that can be applied within the existing constitutional framework, such as expanding victims' rights, establishing special courts for property crimes, and strengthening restorative justice mechanisms.

The successful implementation of this integration model will not only have an impact at the national level, but also a global impact. As a democracy with the largest Muslim population in the world, Indonesia's experience in integrating Islamic legal principles and democratic governance can serve as an important example for other Muslim-majority countries facing similar challenges. This success will strengthen Indonesia's position in the global Islamic community while enhancing its reputation as a successful example of democratic pluralism. Conversely, failure or problematic implementation could damage Indonesia's reputation and weaken the enthusiasm of other countries seeking to adopt a similar approach.

To achieve effective and sustainable integration, this study recommends several strategic steps. First, comprehensive legal education reform by incorporating comparative law studies, restorative justice principles, and victim-oriented approaches into law school curricula and continuing education programs for legal practitioners. Second, piloting a victim-oriented approach in several selected regions to test its effectiveness and identify challenges before adopting it nationally. Third, establishing an interfaith legal advisory mechanism that facilitates ongoing dialogue between religious communities, legal professionals, and policymakers in developing policies related to religious values.

Fourth, significant investment in institutional capacity building, including training programs for judges and prosecutors, the establishment of specialized units within the criminal justice system, and the provision of adequate victim services programs to support the implementation of a victim-oriented approach. Fifth, a robust monitoring and evaluation system to track progress, identify problems, and facilitate continuous improvement during the implementation process. Ibn 'Āsyūr's emphasis on continuous *ijtihād* and the adaptation of legal principles to social change is particularly relevant, given that legal systems need to be responsive to changing social conditions and empirical evidence about the effectiveness of various methods.

This study acknowledges several limitations that define its scope and point toward important future research directions. By focusing exclusively on *qiṣāṣ* and theft, this research does not address other critical criminal domains where *maqāsid* integration is equally urgent. Narcotics offenses, which involve the protection of intellect (*ḥifẓ al-'aql*), require frameworks that distinguish between users needing rehabilitation and traffickers requiring punishment. Sexual violence cases present complex challenges in applying the protection of dignity and lineage (*ḥifẓ al-nasl*) while ensuring victim-centered and trauma-informed justice. Corruption represents systemic violations of property protection (*ḥifẓ al-māl*) affecting entire communities and warrants analysis focusing on institutional accountability and asset recovery. Future research should develop crime-specific integration models for these areas, examining how Ibn 'Āsyūr's adaptive *maqāsid* methodology can inform evidence-based policy reforms across diverse criminal contexts.

The normative-doctrinal methodology employed in this study, while appropriate for theoretical framework development, lacks primary field research with key stakeholders. Direct engagement with judges, prosecutors, victims, and offenders would

provide invaluable insights into implementation barriers, cultural sensitivities, and practical challenges that textual analysis cannot fully capture. Future studies should employ mixed-methods approaches combining doctrinal analysis with qualitative fieldwork to understand judicial receptivity to victim participation mechanisms, stakeholder experiences with mediation processes, community perceptions of maqāṣid-informed justice, and bureaucratic resistance patterns within legal institutions. Additionally, while this study references experiences from Malaysia, Tunisia, Morocco, and Turkey, systematic comparative case studies are needed to identify transferable best practices and context-specific adaptations relevant to Indonesia's unique constitutional and social landscape.

Furthermore, given the recent enactment of the new Criminal Code, longitudinal empirical assessment of restorative justice outcomes remains premature. This study's integration model is based on theoretical analysis and comparative evidence, but robust evaluation requires tracking implementation over extended periods to measure recidivism rates, victim satisfaction levels, cost-effectiveness, public trust in the justice system, and constitutional challenges that may emerge. Future research should establish baseline data and conduct periodic impact evaluations using rigorous quasi-experimental designs, comparing outcomes in districts implementing maqāṣid-informed reforms against those maintaining traditional approaches. Moreover, deeper political economy analysis is needed to understand the power dynamics, institutional interests, and ideological conflicts that will shape implementation success, including legislative coalition-building strategies, civil society roles, media discourse framing, and inter-agency coordination challenges.

Despite these limitations, this study makes significant contributions by developing a theoretically rigorous and operationally specific framework for integrating maqāṣid al-syarī'ah into Indonesian criminal law through Ibn 'Āsyūr's universal and adaptive theological approach. The proposed integration model offers policymakers, legal practitioners, and scholars a practical roadmap for criminal justice reform that honors Indonesia's Islamic heritage while safeguarding its pluralistic constitutional character. Future research building on this foundation can transform maqāṣid scholarship from aspirational philosophy into evidence-based policy science, ultimately contributing to a justice system that is more humane, effective, and responsive to the diverse needs of Indonesian society.

Finally, this study emphasizes that the integration of maqāṣid al-syarī'ah into Indonesian criminal law is not merely an academic study or political project, but an opportunity to create a criminal justice system that is more just, effective, and responsive to the needs of all citizens. Ibn 'Āsyūr's vision of maqāṣid as a universal ethical framework that can guide the development of a just society is the roadmap for this transformation. Successful implementation depends on the ongoing commitment of various stakeholders and their willingness to participate in honest, inclusive, and evidence-based dialogue on effective and ineffective practices in achieving justice. With proper implementation, Indonesia can become a global model of how religious values

can be integrated with modern democratic governance to create a system that is faithful to spiritual traditions while effective in facing contemporary challenges.

The contribution of this research to the scientific world lies not only in its theoretical analysis, but also in its practical roadmap to guide policymakers, legal practitioners, and civil society organizations in their efforts to reform the criminal justice system in a contextually appropriate and universally principled manner. By adopting this integration model, Indonesia has the potential to develop a more humane, effective, and responsive criminal justice system for its diverse society, while strengthening its position as a leader in the global discourse on democracy, pluralism, and justice in a Muslim-majority society.

---

## References

- Adnan Lutfi, Muhammad, Yulia Kurniaty, Basri Basri, and Johny Krisnan. "Studi Perbandingan Tentang Penetapan Sanksi Pidana Pencurian Berdasarkan Hukum Pidana Positif Indonesia dan Hukum Pidana Islam." *Borobudur Law and Society Journal* 1, no. 1 (January 2022): 20–30. <https://doi.org/10.31603/6537>.
- Altaany, Haitham M, Ahmed Mohi Khalaf Sakr, Osama Abdelbary, and Raba'a T Abadel. "Social Legislation and Its Role in Enhancing Social Development." *Journal of Ecohumanism* 3, no. 8 (January 2025). <https://doi.org/10.62754/joe.v3i8.5727>.
- Aryani, Reni, and Hudi Yusuf. *PRAKTIK KEADILAN RESTORATIF DAN EFEKTIVITASNYA DALAM MENGURANGI RESIDIVISME*. no. 6 (2024).
- Ashfiya Nur Atqiya, Ahmad Muhamad Mustain Nasoha, Dista Suryana Putri, Rindi Rahayu, and Teuku Ardhan Wardhana. "Harmonisasi Hukum Islam dan Pancasila Dalam Menangani Kasus Terorisme di Indonesia." *Majelis: Jurnal Hukum Indonesia* 1, no. 3 (November 2024): 85–98. <https://doi.org/10.62383/majelis.v1i3.322>.
- Ashur, Ibn. *Original Edition Translated from the Arabic and Annotated by Mohamed El-Tahir El-Mesawi Abridged by Alison Lake*. n.d.
- Azizah, Erlina Nur, Nida Handayani, and Farriha Azkia Hanum. *Transformasi Pusat Parlemen Indonesia: Mendorong Partisipasi Masyarakat dalam Proses Legislasi*. 8 (2024).
- Disantara, Fradhana Putra. "Konsep Pluralisme Hukum Khas Indonesia sebagai Strategi Menghadapi Era Modernisasi Hukum." *Al-Adalah: Jurnal Hukum dan Politik Islam* 6, no. 1 (June 2021): 1–36. <https://doi.org/10.35673/ajmpi.v6i1.1129>.
- Fatimawali, Fatimawali, Zainal Abidin, and Gani Jumat. *Teori Maqashid Al-Syari'ah Modern: Perspektif Jasser Auda*. 2024.

- Fauzan, Husni. "Pemikiran Maqashid Syariah Al-Tahir Ibn Asyur." *al-Mawarid Jurnal Syariah dan Hukum (JSYH)* 5, no. 1 (July 2023): 101–14. <https://doi.org/10.20885/mawarid.vol5.iss1.art7>.
- Fauzi, Rizky, Watni Marpaung, and Nurul Huda Prasetya. "Restorative Justice Concept in Islam & Its Implementation in National Criminal Law from Islamic Legal Philosophy." *JURNAL AKTA* 12, no. 1 (February 2025): 49. <https://doi.org/10.30659/akta.v12i1.43727>.
- Hehanussa, Deassy J A, Kukun Abdul Syakur Munawar, Muh Fadli Faisal Rasyid, Arianti A Ogotan, and Arief Fahmi Lubis. *A Critical Review of Restorative Justice Policy in the Indonesian Criminal Justice System Post Law No. 1 of 2023 Concerning the Criminal Code*. no. 1 (2023).
- Hidayati, Umi, and Athoillah Islamy. "TEKSTUALISME DAN KONTEKSTUALISME PENAFSIRAN KONTEMPORER (STUDI ANALISIS KOMPARATIF PENAFSIRAN IBN 'ASYUR DAN MUHAMMAD SYAHRUR TERHADAP AL-MA'IDAH AYAT 38)." *AL-WAJID: JURNAL ILMU AL-QURAN DAN TAFSIR* 4, no. 2 (December 2024). <https://doi.org/10.30863/alwajid.v4i2.5701>.
- Hussin, Nasimah. "REVISITING ISLAMIC PUNISHMENT AND ITS IMPLEMENTATION IN THE CONTEMPORARY WORLD." . . *November*, 2018.
- Jauhari, Jauhari. "PENERAPAN PRINSIP MAQASHID SYARIAH DALAM PERUNDANG-UNDANGAN DI INDONESIA." *Karimiyah* 4, no. 1 (June 2024): 1–14. <https://doi.org/10.59623/karimiyah.v4i1.49>.
- Jennifer, Adeleida. *TINJAUAN YURIDIS TERHADAP TINDAK PIDANA PEMBUNUHAN (STUDI KASUS PEMBUNUHAN YANG DILAKUKAN DI DESA SENDUK, KECAMATAN TOMBARIRI, MINAHASA)*. 16, no. 1 (2025).
- Junus, Mariah Darus @ Mat, Nur Khairina Muhamad Husin, Noor Hanis Zainol Abidin, Nur Rusydina Khadzali, and Marfunizah Ma'dan. "Ethical Governance through Maqasid Shariah Perspective: A Conceptual Framework." *International Journal of Academic Research in Business and Social Sciences* 14, no. 10 (October 2024): Pages 920-932. <https://doi.org/10.6007/IJARBS/v14-i10/23148>.
- Karimah, Annisa. *KEBIJAKAN INDONESIA MENJADI MEDIATOR DALAM MENENGAHI KONFLIK ARAB SAUDI-IRAN DALAM KASUS EKSEKUSI MATI NIMR AL-NIMR*. n.d.
- Karjono, Arpandi, Parningotan Malau, and Ciptono Ciptono. "Penerapan Keadilan Restoratif Justice Dalam Hukum Pidana Berbasis Kearifan Lokal." *JURNAL USM LAW REVIEW* 7, no. 2 (July 2024): 1035–50. <https://doi.org/10.26623/julr.v7i2.9571>.
- Lifia Lifia and Aunur Rofiq. "MAQASHID SHARIA THINKING PERSPECTIVE OF IBNU ASSYUR IN THE DEVELOPMENT OF SHARIA BANKING." *Journal of Management and Informatics* 2, no. 1 (February 2023): 01–17. <https://doi.org/10.51903/jmi.v2i1.151>.

- Lubis, Lukman Hakim. "Pelaksanaan Pembinaan Narapidana di Lembaga Perasyarakatan Kelas IIA Pancur Batu Yang Overcrowded." *Locus: Jurnal Konsep Ilmu Hukum* 1, no. 1 (December 2021): 20–29. <https://doi.org/10.56128/jkih.v1i1.14>.
- Maulidiya, Nabila, Indi Ulya Kamalin, and Jelita Yupitasari. *EXPLORATION OF RESTORATIVE JUSTICE APPROACH TO REDUCE RECIDIVISM: A CRITICAL ANALYSIS OF ITS EFFECTIVENESS IN THE INDONESIAN CRIMINAL JUSTICE SYSTEM*. n.d.
- Mentari, Besse Muqita Rijal. "Saksi Pidana Pembunuhan dalam Kitab Undang-Undang Hukum Pidana dengan Hukum Islam." *Al-Ishlah: Jurnal Ilmiah Hukum* 23, no. 1 (May 2020): 1–38. <https://doi.org/10.56087/aijih.v23i1.33>.
- Muhammad Afriza Rifandy, Muhammad Defri, Syaifullah Syaifullah, and Surya Sukti. "Pencurian Dalam Prespektif Hukum Pidana Islam." *Demokrasi: Jurnal Riset Ilmu Hukum, Sosial dan Politik* 1, no. 3 (May 2024): 83–91. <https://doi.org/10.62383/demokrasi.v1i3.255>.
- Najipah, Umami, Siti Aisyah, Naura Muthia Khasyi, Wilanda Juliani Tami, and T Dela Safitri. *PENERAPAN HUKUM ISLAM DALAM PERATURAN PERUNDANG-UNDANGAN DI INDONESIA*. 8 (2024). <https://doi.org/doi.org/10.3783/causa.v2i9.2461>.
- Namira Khaulani, Nadya Oktaviani Rahma. *Meninjau Nilai Keadilan yang Terkandung dalam Jarimah Qiṣāṣ dan Diyat*. Zenodo, December 5, 2023. <https://doi.org/10.5281/ZENODO.10262028>.
- Nisa, Wulan Khoiru, Vivi Irawan Simanjuntak, Sri Kartika, and Arif Fadila. "Pengaruh Tingkat Kemiskinan terhadap Tingkat Tindak Kriminalitas di Indonesia Tahun 2022." *Jurnal Akuntansi, Manajemen, dan Perencanaan Kebijakan* 1, no. 3 (March 2024): 1–9. <https://doi.org/10.47134/jampk.v1i3.220>.
- Nugraha, Roby Satya, Edi Rohaedi, Nandang Kusnadi, and Abid Abid. "The Transformation of Indonesia's Criminal Law System: Comprehensive Comparison between the Old and New Penal Codes." *Reformasi Hukum* 29, no. 1 (April 2025): 1–21. <https://doi.org/10.46257/jrh.v29i1.1169>.
- Pratama, Raka Indra, Ade Mahmud, and Chepi Ali Firman Zakaria. "Kebijakan Kriminal Terhadap Tindak Pidana Perzinahan Berdasarkan Hukum Pidana Positif dan Hukum Pidana Islam." *Al-Jinayah Jurnal Hukum Pidana Islam* 8, no. 1 (June 2022): 27–37. <https://doi.org/10.15642/aj.2022.8.1.27-37>.
- Rahmati, Nurul. *POLA PEMBINAAN TERHADAP RESIDIVIS SEBAGAI UPAYA PENCEGAHAN PENGULANGAN TINDAK PIDANA PENCURIAN (Studi Penelitian Di Lembaga Pemasyarakatan Kelas IIB Lhoksukon)*. 2025.
- Ramadhan, Rangga Abdi, Athifatul Wafiroh, and Cecep Soleh Kurniawan. "Penerapan Hukuman Mati di Indonesia perspektif Maqasid al-Shari'ah." *Ma'mal: Jurnal Laboratorium Syariah dan Hukum* 5, no. 1 (February 2024): 27–49. <https://doi.org/10.15642/mal.v5i1.198>.

- Ramadianto, Anang Riyan, Milda Istiqomah, and Nurini Aprilianda. "Victim Impact Statement as a Model of Victim-Centered Justice in Child Sexual Abuse Cases." *Jurnal Hukum IUS QUIA IUSTUM* 32, no. 2 (August 2025): 337–60. <https://doi.org/10.20885/iustum.vol32.iss2.art4>.
- Rofiq, Nur, and M Zidny Nafi Hasbi. "A New Paradigm In Economy About Maqashid Al-Sharia Theory: Reformulation Of Ibn-Asyur." *PAMALI: Pattimura Magister Law Review* 2, no. 1 (March 2022): 77. <https://doi.org/10.47268/pamali.v2i1.817>.
- Rohman, Abdul, Eni Zulaiha, and Wildan Taufiq. "Analisis Tafsir Maqāṣidī Muḥammad Ṭāḥir bin 'Āsyūr Pada Ayat Qiṣās." *Al-Dzikra: Jurnal Studi Ilmu al-Qur'an dan al-Hadits* 17, no. 1 (June 2023): 1–22. <https://doi.org/10.24042/al-dzikra.v17i1.13195>.
- Rusmiati, Rusmiati, Syahrizal Syahrizal, and Mohd. Din. "Konsep Pencurian Dalam Kitab Undang-Undang Hukum Pidana dan Hukum Pidana Islam." *Syiah Kuala Law Journal* 1, no. 1 (November 2018): 339–52. <https://doi.org/10.24815/sklj.v1i1.12318>.
- Sandoval, Lucia, and Carlos Velasquez. *Restorative Justice in Criminal Law: Assessing Its Role in Reducing Recidivism Rates*. n.d.
- Sholihin, Bunyana. "Supremasi Hukum Pidana di Indonesia." *Unisia* 31, no. 69 (July 2008): 262–72. <https://doi.org/10.20885/unisia.vol31.iss69.art6>.
- Siadio, Sidiq. "KEADILAN DAN MAQASID AL-SYARIAH: MENGATASI REFORMASI HUKUM DAN KEADILAN SOSIAL." *Jurnal Hukum Islam* 7, no. 1 (2023).
- Situmorang, Bryant Jonathan Salomon, Bagas Syaputra, Kelvin Awwaludin, and Reva Dharmawan. *RELEVANSI PENERAPAN QISAS DALAM SISTEM HUKUM PIDANA NASIONAL INDONESIA*. n.d.
- Sulaiman, Akhmad. *Objektifikasi Qiṣās dan Diyat: Sebuah Tawaran Pembaharuan KUHP*. 3 (2018).
- Suleimān, Hassan, Alwi Alatas, and Saheed Abdullah Busari. "EXAMINING THE REFORMIST THOUGHTS OF AL-TAHIR IBN 'ASHUR." *Malaysian Journal of Syariah and Law* 12, no. 2 (August 2024): 272–81. <https://doi.org/10.33102/mjssl.vol12no2.467>.
- Tahir, Tarmizi, and Syekh Hasan Abdel Hamid. "Maqasid Al-Syari'ah Transformation in Law Implementation for Humanity." *International Journal Ihya' 'Ulum al-Din* 26, no. 1 (June 2024): 119–31. <https://doi.org/10.21580/ihya.26.1.20248>.
- Wulandari, Aulia Adelia, and Rahtami Susanti. *PUTUSAN PENJATUHAN PIDANA SEUMUR HIDUP DALAM KASUS PEMBUNUHAN BERENCANA DENGAN TERDAKWA FERDY SAMBO DITINJAU DARI PERSPEKTIF TEORI KEADILAN*. 8, no. 1 (2025).