



Solution to Inheritance Rights for Children in Pregnant Marriages: A *Maqāṣid al-Sharī'ah* Approach

Rahma Amir¹, Abdillah², Marilang¹, Muh. Rasywan Syarif¹, Nidaul Islam²

¹Universitas Islam Negeri Alauddin Makassar, Indonesia

²Institut Agama Islam Negeri Parepare, Indonesia

Email: rahma.amir@uin-alauddin.ac.id

Abstract

This research aims to analyse the inheritance rights of children born from marriages involving pregnant women from the perspective of *maqāṣid al-sharī'ah*. The study is a literature-based investigation focusing on the inheritance rights of children born from such marriages within the framework of *maqāṣid al-Sharī'ah*. The subjects of the research are children born from marriages of pregnant women and how their inheritance rights are treated under Islamic law. The data sources consist of primary data from library sources and secondary data including Islamic legal literature, fiqh texts, and academic journals. Data collection techniques encompass document studies, while data analysis is conducted using a descriptive-analytical method through the *maqāṣid al-Sharī'ah* approach to understand the relevance of justice and the protection of children's rights in this context. The findings indicate that *maqāṣid al-Sharī'ah* offers a fair solution for regulating children's inheritance rights, emphasising the principles of protecting life and lineage. These findings demonstrate a harmony between the principles of *maqāṣid* and the need for safeguarding children's rights in the context of unconventional marriages. The originality of this research lies in its approach, which integrates *maqāṣid sharī'ah* with contemporary issues concerning inheritance rights, a topic that has not been extensively addressed in previous literature. The implications of this research suggest the necessity for adjustments in inheritance law practices to ensure better protection for children, as well as encouraging policymakers to consider a *maqāṣid al-sharī'ah* approach in formulating more inclusive and just legal policies.

Keywords: Inheritance Rights, Marriage of Pregnant Women, *Maqāṣid al-Sharī'ah*, Legitimacy of Children, *Hadhanah*.

Abstrak

Penelitian ini bertujuan untuk menganalisis hak waris anak yang lahir dari perkawinan dengan perempuan hamil ditinjau dari perspektif maqāṣid al-sharī'ah. Penelitian ini merupakan kajian kepustakaan yang berfokus pada hak waris anak yang lahir dari perkawinan tersebut dalam kerangka maqāṣid al-sharī'ah. Subjek penelitian ini adalah anak-anak yang lahir dari perkawinan perempuan hamil serta bagaimana hak waris mereka diperlakukan dalam hukum Islam. Sumber data terdiri atas data primer yang berasal dari bahan kepustakaan dan data sekunder berupa literatur hukum Islam, kitab-kitab fikih, serta jurnal akademik. Teknik pengumpulan data dilakukan melalui studi dokumen, sedangkan analisis data menggunakan metode deskriptif-analitis dengan pendekatan maqāṣid al-sharī'ah untuk memahami relevansi keadilan dan perlindungan hak anak dalam konteks tersebut. Hasil penelitian menunjukkan bahwa maqāṣid al-sharī'ah menawarkan solusi yang adil dalam pengaturan hak waris anak dengan menekankan prinsip perlindungan jiwa dan keturunan. Temuan ini menunjukkan adanya keselarasan antara prinsip-prinsip maqāṣid dan kebutuhan untuk melindungi hak-hak anak dalam konteks perkawinan yang tidak konvensional. Orisinalitas penelitian ini terletak pada pendekatannya yang mengintegrasikan maqāṣid al-sharī'ah dengan persoalan kontemporer terkait hak waris, suatu topik yang belum banyak dibahas dalam literatur sebelumnya. Implikasi penelitian ini menunjukkan perlunya penyesuaian dalam praktik hukum waris guna menjamin perlindungan yang lebih baik bagi anak, serta mendorong para pembuat kebijakan untuk mempertimbangkan pendekatan maqāṣid al-sharī'ah dalam merumuskan kebijakan hukum yang lebih inklusif dan berkeadilan.

Kata kunci: *Hak Waris, Perkawinan Perempuan Hamil, Maqāṣid al-Sharī'ah, Status Keabsahan Anak, Hadhanah.*

Introduction

The marriage of pregnant women before the birth of a child often creates confusion regarding the status of the child and their rights, particularly in terms of inheritance.¹ This situation raises concerns within Muslim communities due to the lack of clarity surrounding the rights of children born from such marriages.² For instance, in several cases, children born from the marriage of a pregnant woman face

¹ Neng Eri Sofiana and Muhammad Ismail Sunni, "The Application of Article 53 of KHI (Islamic Law Compilation) Regarding Pregnant Marriage in Lottery Marriage," *Jurnal Ilmiah Al-Syir'ah* 19, no. 1 (2021), p. 122.

² Efrinaldi et al., "Revealing the Enforcement of Mbasuh Dusun Tradition for Pregnant Women Outside of Marriage in Indonesia," *Al-Istinbath : Jurnal Hukum Islam* 8, no. 2 (2023), p. 617–44.

legal challenges in obtaining inheritance, potentially leading to injustices.³ This necessitates a clearer legal review within Islam to protect the rights of children.⁴

In various Muslim countries, children born from the marriages of pregnant women experience discrimination regarding their legitimacy and inheritance rights.⁵ This situation creates specific problems, especially as society holds differing views regarding the rights of children in these cases.⁶ For example, in Indonesia⁷ and Malaysia⁸, several cases in religious courts demonstrate the differing opinions among scholars and judges in addressing the inheritance rights of such children.⁹ In many cases, this uncertainty results in the loss of rights that should be protected for these children.¹⁰

Islamic legal literature has extensively discussed inheritance rights; however, the status of children born from the marriages of pregnant women has not been deeply explored,¹¹ particularly from the perspective of *maqāshid al-sharī'ah*.¹² According to Ibn Qayyim al-Jawziyyah,¹³ Islam emphasises the protection of children without questioning the circumstances of the marriage,¹⁴ which is supported

³ Binarsa and Khoiruddin Nasution, "Application of the Compilation of Islamic Law Article 53 Concerning Marriage to Pregnant Woman and Renewal of Marriage in Mlati District in Maqasid of Sharia Perspective," *Millah: Journal of Religious Studies* 20, no. 2 (2021), p. 327–54.

⁴ Muhammad Afif Laurensius Arliman S, "Protection Of Children's Rights Of The Islamic And Constitutional Law Perspective Of The Republic Of Indonesia," *Internasional Conference on Humanity, Law and Sharia (ICHLaSh)*, no. 17 (2018), p. 135–40.

⁵ Samani Sam'ani et al., "Pragmatism of Polygamous Family In Muslim Society: Beyond Islamic Law," *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam* 7, no. 1 (2023): 321–40.; Iftitah Utami, "The Role Of Women In The Family Against The Distribution Of Inheritance In The City Of Palembang," *Nurani: Jurnal Kajian Syari'ah Dan Masyarakat* 20, no. 1 (2020), p. 37–48.

⁶ Siti Aminah and Arif Sugitanata, "Genealogy and Reform of Islamic Family Law: Study of Islamic Marriage Law Products in Malaysia," *JIL: Journal of Islamic Law* 3, no. 1 (2022), p. 94–110.

⁷ Abdul Syatar et al., "Interfaith Marriage Phenomenon in Indonesia from the Perspective of Sadd Al-Ẓarī'ah and Fatḥ Al-Ẓarī'ah," *FITRAH: Jurnal Kajian Ilmu-Ilmu Keislaman* 9, no. 1 (2023), p. 19–38.

⁸ Muhammad Al-Ghazalli Abdol Malek, Mohd Al Adib Samuri, and Muhammad Nazir Alias, "Child Marriage in Malaysia: Reforming Law through the Siyasa Al Shar'iyya Framework," *Samarah* 7, no. 1 (2023), p. 58–83.

⁹ Shella Oetharry Gunawan and Syamsul Bahri, "Impacts of Early Childhood Marriage in Indonesia Viewed from Child Protection Laws Perspectives," *El-Usrah: Jurnal Hukum Keluarga* 6, no. 2 (2023), p. 362–80.

¹⁰ Syariful Alam, "Reconstruction of Marriage Zonation in Islamic Law Perspective," *Legality: Jurnal Ilmiah Hukum* 27, no. 2 (2019): p. 161.

¹¹ Muhammad Saleh et al., "Interfaith Marriage in the Perspective of Islamic Jurisprudence and Compilation of Islamic Law," *Journal of Family Law and Islamic Court* 1, no. 2 (2022), p. 1–18.

¹² Mukti Tabrani, "Maqāshid Revitalization in Global Era: Istidlāl Study from Text to Context," *AL-IHKAM: Jurnal Hukum & Pranata Sosial* 13, no. 2 (2018), p. 310.

¹³ Abū 'Abdullāh Muḥammad bin Abū Bakr bin Ayyūb Ibnu Qayyim Al-Jauziyyah, *Ilām Al-Muwaqqi'in 'an Rabb Al-Ālamīn*, IV (Riyadh: Dār Ibnu al-Jauzī, 200), p. 321.

¹⁴ Muhamad Izazi Nurjaman and Doli Witro, "The Relevance of the Theory of Legal Change According to Ibnu Qayyim Al-Jauziyyah in Legal Products by Fatwa DSN-MUI Indonesia," *El-Mashlahah* 11, no. 2 (2021), p. 167–86.

by al-Shafi'i's view on the legitimacy of children in the marriages of pregnant women.¹⁵ Additionally, research by Wahbah al-Zuhayli¹⁶ highlights that inheritance laws should consider the welfare of children and families as a whole.¹⁷ This fact indicates that literature related to this topic still requires further development.

Previous studies on children's inheritance rights in Islamic law tend to focus on legitimate marriages without specifically considering the context of pregnant women's marriages. Although some studies have addressed the status of children in unconventional marriages, the aspect of *maqāṣid al-sharī'ah* in protecting their inheritance rights has not been extensively elaborated.¹⁸ This research fills that gap by providing a comprehensive analysis of children's inheritance rights in the context of marriages involving pregnant women from the perspective of *maqāṣid al-sharī'ah*, representing a new approach to understanding justice and welfare within Islamic law.¹⁹

This study aims to analyse the inheritance rights of children in marriages involving pregnant women from the perspective of *maqāṣid al-sharī'ah* in order to find a fair legal solution based on principles of welfare. This study also seeks to clarify the legal status of these children in the eyes of Islamic law, enabling society to understand how Islam provides fair rights for children in this situation. Thus, this research is expected to make a significant contribution to the development of more inclusive and relevant Islamic inheritance law.

This research argues that *maqāṣid al-sharī'ah*, which emphasises the protection of lineage rights and social justice, should serve as the primary foundation for determining the inheritance rights of children in marriages involving pregnant women. This is based on the principle of child protection (*hifẓ al-nasl*) as taught in *maqāṣid al-sharī'ah*, where every child has an equal right to protection and their rights without discrimination. In al-Gazali's view, *maqāṣid al-sharī'ah* ensures the welfare of individuals and society as a whole, including the inheritance rights of

¹⁵ Muhammad Rizal and Abdul Halem Bahri, "Imam Al-Shafi'i's Thought About Human Obligations and Rights in Islamic Law," *Mazahibuna: Jurnal Perbandingan Mazhab* 4, no. 1 (2022), p. 49–70.

¹⁶ Wahbahal Zuhaili, *Al Fiqih Al Islami Wa Adillatuhu* (Beirut: Dar Al Fikr, 2008).

¹⁷ Halimah Basri et al., "Inheritance Rights of Women in Makassar Society: A Study of Living Qur'an and Its Implications for Islamic Law," *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam* 6, no. 2 (2022), p. 24–42.

¹⁸ Sonny Judiasih and Efa Laela Fakhriah, "Inheritance Law System: Considering the Pluralism of Customary Law in Indonesia Sonny Dewi Judiasih * and Efa Laela Fakhriah **," *PADJADJARAN Jurnal Ilmu Hukum* 5, no. 2 (2018), p. 315–30; Siti Musawwamah et al., "Resistance to Child Marriage Prevention in Indonesia and Malaysia," *AHKAM: Jurnal Ilmu Syariah* 23, no. 1 (2023).

¹⁹ Mursyid Djawas et al., "The Legal Position of Children of Incest (A Study of Madhhab Scholars and Compilation of Islamic Law)," *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam* 6, no. 1 (2022): 139; Mursyid Djawas et al., "The Construction of Islamic Inheritance Law: A Comparative Study of the Islamic Jurisprudence and the Compilation of Islamic Law," *JURIS (Jurnal Ilmiah Syariah)* 21, no. 2 (2022), p. 207–19.

children born in unconventional marriage situations. In conclusion, *maqāṣid al-sharī'ah* provides an ethical and legal framework for protecting children's inheritance rights in this context in accordance with the principles of Islamic justice.²⁰

This research employs a qualitative approach focusing on the inheritance rights of children born from marriages involving pregnant women from the perspective of *maqāṣid al-sharī'ah*. The subjects of the research are children born from the marriages of pregnant women and how their inheritance rights are treated under Islamic law. The unit of analysis includes Islamic legal documents, scholarly fatwas, and religious court decisions related to this issue. Data sources consist of primary library sources and secondary data in the form of Islamic legal literature, fiqh texts, and academic journals. Data collection techniques encompass document studies, while data analysis is performed using a descriptive-analytical method through the *maqāṣid al-sharī'ah* approach to understand the relevance of justice and the protection of children's rights in this context.

The Position of Children in Pregnant Women's Marriages According to Islamic Law

Children born from the marriages of pregnant women retain legitimate inheritance rights according to the principles of *maqāṣid al-sharī'ah*, which are based on the protection of lineage (*hifẓ al-nasl*).²¹ Islamic law prioritizes the protection of children, regardless of the conditions of their parents' marriage, ensuring that these children do not lose their rights, including their inheritance rights.²² Data from various religious courts and *fiqh* literature indicate that children from marriages involving pregnant women often obtain their rights based on interpretations by scholars referring to *maqāṣid al-sharī'ah*.²³

²⁰ Mutiara Fahmi et al., "Islamic Jurisprudence and Local Wisdom in the Humanitarian Protection of Rohingya Refugees by Acehese Figures," *El-Mashlahah* 14, no. 2 (2024): 323–42; Hotnidah Nasution and Ahmad Rifqi Muchtar, "Negotiating Islamic Law: The Practice of Inheritance Distribution in Polygamous Marriages in Indonesian Islamic Courts," *Al-Manahij: Jurnal Kajian Hukum Islam*, 2024, p. 125–44.

²¹ Fauzan, "Alternatives to Criminal Conviction in a Comparative Analysis of Positive Law and Islamic Criminal Law," *Al-Istinbath: Jurnal Hukum Islam* 7, no. 1 (2022), p. 183–202; Mursyid Djawas Mursyid Djawas and Muhammad Yahya Muhammad Yahya, "Status Talak Bagi Wanita Haidh (Analisis Pendapat Ibnu Qayyim Al-Jauziyyah)," *SAMARAH: Jurnal Hukum Keluarga Dan Hukum Islam* 1, no. 1 (2017); Mursyid Djawas et al., "The Alimony Obligation of a Civil Servant and Non-Civil Servant Father towards Children Post-Divorce (The Study on Aceh Syar'iyah Court Decision Study of 2019)," *El-Ussrah: Jurnal Hukum Keluarga* 6, no. 1 (2023), p. 91.

²² Ampuan Situmeang et al., "The Roles of the Office of Religious Affairs Relating to the Dispensation for the Marriage of Underage Children (Case Study Ampar District, Batam City)," *Journal of Law and Policy Transformation* 7, no. 1 (2022), p. 54–66.

²³ Faishal Agil Al Munawar, "'Abd Al-Majīd Al-Najjār's Perspective on Maqāṣid Al-Sharī'ah," *Juris: Jurnal Ilmiah Syariah* 20, no. 2 (2021), p. 209–23; Muslim Zainuddin et al., "Protection of Women and Children in the Perspective of Legal Pluralism: A Study in Aceh and West Nusa Tenggara," *Samarah* 8, no. 3 (2024), p. 1948–73.

Religious courts in several regions hold different interpretations regarding the legal status of children born from the marriages of pregnant women, particularly concerning legitimacy and inheritance rights.²⁴ In some cases, these children are viewed as legitimate based on the recognition of their parents' marriage, while in other cases, their inheritance rights depend on the validity of the marriage at the time of pregnancy.²⁵ Nevertheless, the majority of findings support the conclusion that *maqāshid al-sharī'ah* provides a robust foundation for the fair protection of these children's rights.

Maqāshid al-sharī'ah plays a vital role in clarifying the legal rights of children within the context of marriages involving pregnant women.²⁶ The principles of *maqāshid al-sharī'ah* emphasise the protection of lineage and social justice, meaning that children should not be discriminated against based on their parents' marital status.²⁷ From this perspective, Islamic law seeks to ensure the rights of these children through a more ethical approach that considers the welfare of the community.²⁸ Although variations exist in the implementation of laws in religious courts, the *maqāshid al-sharī'ah* approach provides consistent guidance in protecting children's inheritance rights. Interpretational differences are more common at the local court level, which still refers to traditional *fiqh*; however, *maqāshid al-sharī'ah* offers broader and more relevant solutions within the current social and legal contexts. This approach ensures that every child receives their inheritance rights, unaffected by the status of their parents' marriage at the time of pregnancy.

The social impact is significant, particularly in reducing the social stigma attached to children born from the marriages of pregnant women.²⁹ With the recognition of the legitimate legal inheritance rights of these children, society can understand that a child's status in Islamic law focuses more on justice and the protection of lineage.³⁰ This fosters a more inclusive social environment where children's rights are acknowledged, irrespective of their parents' marital conditions.

²⁴ Mojgan Janighorban et al., "Barriers to Vulnerable Adolescent Girls' Access to Sexual and Reproductive Health," *BMC Public Health* 22, no. 1 (2022), p. 1–16.

²⁵ Sofiana and Sunni, "The Application of Article 53 of KHI (Islamic Law Compilation) Regarding Pregnant Marriage in Lottery Marriage."

²⁶ Abd. Rasyid Sidiq, Rusli Rusli, and Syahabuddin Syahabuddin, "Gender Analysis of Marriage Guardians in the Compilation of Islamic Law," *International Journal of Contemporary Islamic Law and Society* 3, no. 1 (2021), p. 1–14.

²⁷ Mohamad Abdun Nasir, "Negotiating Muslim Interfaith Marriage in Indonesia : Integration and Conflict in Islamic Law," *Mazahib: Jurnal Pemikiran Hukum Islam* 21, no. 2 (2022), p. 155–86.

²⁸ Sri Astuti et al., "Sexual Deviation of Animals Between Law and Sharia ; a Comparative Analysis," *Mazahibuna: Jurnal Perbandingan Mazhab* 3, no. 2 (2021), p. 118–29.

²⁹ Efrinaldi et al., "Revealing the Enforcement of Mbasuh Dusun Tradition for Pregnant Women Outside of Marriage in Indonesia."

³⁰ Sam'ani et al., "Pragmatism of Polygamous Family In Muslim Society: Beyond Islamic Law"; Ikhwanuddin Harahap, Fatahuddin Aziz Siregar, and Erie Hariyanto, "Understanding The Rise of Childfree Marriage: Avoiding Toxic Family, Being Happy and Well Without Children Despite Contradiction With Maqashid Al-Sharia," *Al-Istinbath: Jurnal Hukum Islam* 10, no. 1 (2025), p. 303–29.

Additionally, the social impact encompasses improvements within the legal system, making it more responsive to the needs of these children.³¹ Religious courts and other legal authorities are expected to apply the *maqāṣid al-sharī'ah* approach in cases related to marriages involving pregnant women, ensuring that children's inheritance rights are recognized fairly and equitably. Consequently, the Islamic legal system can become more adaptive to the evolving social dynamics within modern Muslim societies.

The legitimacy of children in Islamic law is still recognized, even if they are born from the marriages of pregnant women. According to *fiqh*, a child born after marriage is considered legitimate as long as that marriage is recognized. Several scholars, such as Imam al-Shafi'i,³² assert that children born from such marriages maintain their legitimate status and are entitled to inheritance rights. This view aligns with the principles of *maqāṣid al-sharī'ah*, which place a strong emphasis on the protection of lineage as a critical aspect of Islam.³³

Scholarly opinions regarding the rights of children in marriages that occur during pregnancy vary considerably; however, the majority agree that such children possess legitimate inheritance rights.³⁴ For instance, Imam Malik emphasizes that children born from the marriages of pregnant women are still recognized as legitimate, as the primary purpose of the marriage is to safeguard the child and prevent scandal.³⁵ This perspective reinforces the notion that Islam takes children's rights seriously, particularly in complex situations like this.

In *fiqh*, children's rights within marriages involving pregnant women are regulated with consideration for *maqāṣid al-sharī'ah*, especially in safeguarding lineage and inheritance rights. *Fiqh* texts, such as al-Mughni by Ibn Qudamah,³⁶ explain that children born from such marriages should not be discriminated against in their inheritance rights. *Fiqh* provides a solution by recognising these children as legitimate as long as the marriage occurs before their birth, demonstrating that Islamic law is flexible and capable of adapting to changing social circumstances. The views of scholars and *fiqh* regarding children's rights in marriages involving pregnant women lead to comprehensive protection for these children, with a focus

³¹ Sinta Pomahiya, Nur M. Kasim, and Dolot Alhasni Bakung, "Legal Consequences of Marriage During Iddah Period Based on Compilation Islamic Law," *Estudiante Law Journal* 4, no. 2 (2022), p. 708–19.

³² Abu Ishaq Al-Shairazi, *Al-Muhazzab Fi Fiqh Al-Imam Al-Shafi'i* (Dar al-Kutub al-'Ilmiyyah, n.d.), p. 454.

³³ Toha Andiko, Zurifah Nurdin, and Ahmed Abdul Malik, "Reactualization of Wali Mujbir in the Modern Era: Maqasid Sharia Analysis of Imam Shafi'i's Concept Regarding Wali's Ijbar Right," *Al-Risalah: Forum Kajian Hukum Dan Sosial Kemasyarakatan* 23, no. 2 (2023), p. 274–91.

³⁴ Hani Sholihah, Nani Nani Widiawati2, and Mohd Khairul Nazif Bin Hj. Awang Damit, "Reinterpretation of Justice in Islamic Inheritance Rights Based on Gender," *Al-'Adalah* 21, no. 1 (2024), p. 101.

³⁵ Sohaib Mukhtar, "Islamic Law and Trademark Protection," *Malaysian Journal of Syariah and Law* 6, no. 1 (2018), p. 1–28.

³⁶ Ibnu Qudamah Al-Maqdisi, *Al-Mughni Juz 7* (Mesir: al-Manar, n.d.), p 116.

on *maqāṣid al-sharī'ah*.³⁷ *Maqāṣid al-sharī'ah* guarantees that every child, irrespective of their parents' marital status, possesses equal rights regarding inheritance and legitimacy. This affirms that Islam is a religion that emphasizes justice and welfare in all aspects of life, including the regulation of children's rights.

Analysis of Inheritance Rights of Children Born from Pregnant Women's Marriages

Children born from the marriages of pregnant women have inheritance rights recognized under Islamic law based on the principles of *maqāṣid al-sharī'ah*.³⁸ These findings indicate that despite the circumstances of pregnancy occurring before marriage, the rights of the child must not be overlooked, and the protection of their inheritance rights remains a priority.³⁹ The results of this research are supported by the views of scholars and decisions from religious courts that clarify that a child's legitimate status can be acknowledged as long as the marriage occurred before the birth.

There are differing opinions among religious authorities and scholars regarding the inheritance status of children born from extramarital relationships or marriages that occur during pregnancy.⁴⁰ Some scholars argue that these children do not have the full inheritance rights of legitimate children, while others advocate that inheritance rights should still be granted to protect the interests of the child. This reveals the dynamics in the interpretation of Islamic law concerning the legitimacy of children and their rights in such contexts.⁴¹

The principles of *maqāṣid al-sharī'ah* play a crucial role in ensuring that the rights of children are protected, irrespective of their parents' marital circumstances.⁴² The protection of lineage (*hifẓ al-nasl*) within *maqāṣid al-sharī'ah* emphasizes that

³⁷ Achmad Musyahid, "Diskursus Maslahat Mursalah Di Era Milenial; Tinjauan Filosofis Terhadap Konsep Maslahat Imam Malik," *Mazahibuna: Jurnal Perbandingan Mazhab* 1, no. 2 (2019), p. 134–45.

³⁸ Andiko, Nurdin, and Malik, "Reactualization of Wali Mujbir in the Modern Era: Maqasid Sharia Analysis of Imam Shafi'i's Concept Regarding Wali's Ijbar Right."

³⁹ Anton Afrizal Candra et al., "Analysis of Article 53 Islamic Law Compilation About Kawin Hamil," *International Halal Conference & Exhibition IHCE-2019*, no. 1 (2019), p. 64–75; Misran Ramli et al., "Unveiling Illegal Marriages in Aceh: Examining the Role of Unofficial Qadi," *El-Mashlahah* 14, no. 2 (2024), p. 409–30.

⁴⁰ Ipendang and Syamsul Darlis, "Passampo Siri' in the Bugis Marriage Practices in East Kolaka, Indonesia: A Sociological Perspective of Islamic Law," *Samarah* 6, no. 2 (2022), p. 873–89.

⁴¹ Fajri M Kasim et al., "The Protection of Women and Children Post-Divorce in Sharia Courts in Aceh: A Sociological Perspective," *AHKAM: Jurnal Ilmu Syariah* 22, no. 2 (2022).

⁴² Abdul Syatar et al., "The Development of Fatwas Basen on Local Wisdom to the National Level: A Case Study of Panaik Money Fatwa," *El-Mashlahah* 13, no. 2 (2023), p. 133–50; Sri Astuti A. Samad and Munawwarah Munawwarah, "Adat Pernikahan Dan Nilai-Nilai Islami Dalam Masyarakat Aceh Menurut Hukum Islam," *El-USRAH: Jurnal Hukum Keluarga* 3, no. 2 (2020), p. 289.

children should not be discriminated against due to situations beyond their control.⁴³ Consequently, the legitimacy of a child, particularly concerning inheritance rights, must be prioritized in legal decisions aimed at social justice. Furthermore, the variation in views among scholars reflects differing interpretations of *fiqh* and *maqāṣid al-sharī'ah* in cases involving children born from extramarital relationships or pregnancies before marriage.⁴⁴ Although there are differences in practical application, the principles of *maqāṣid al-sharī'ah* provide a comprehensive framework to support the granting of inheritance rights to children in these cases. This indicates that *fiqh* can evolve and adapt to social realities through *maqāṣid al-sharī'ah*.⁴⁵

The emergence of a more inclusive understanding of children's rights within Muslim society, especially in cases of pregnant women's marriages, underscores the importance of affirming children's inheritance rights, providing legal clarity that can mitigate social stigma against children born from such circumstances.⁴⁶ With clear guidance from *maqāṣid al-sharī'ah*, society is expected to better understand that Islamic law aims to protect the interests of all children fairly.⁴⁷ There is a broader impact on legal reforms and practices in religious courts, which must become more sensitive to protecting the inheritance rights of children born from marriages during pregnancy. The existence of more inclusive regulations will strengthen children's rights and prevent discrimination that may arise from social stigma or rigid legal interpretations. Socially, the findings of this research support the creation of a fairer and more inclusive society for these children.

In Islamic law, recognition of a child is generally established through legitimate marriage, including marriages that occur during a mother's pregnancy. Children born from such marriages are considered legitimate and are entitled to inheritance rights like other children. This view is supported by scholars such as Imam al-Shafi'i,⁴⁸ who asserts that marriages occurring before birth provide full legal legitimacy to the child, including concerning inheritance rights.

⁴³ Abidin Nurdin et al., "Tujuan Hukum Islam Untuk Kemaslahatan Manusia: Penerapan Kaidah Fiqhiyah Dalam Bidang Ekonomi Dan Hukum Keluarga," *El-Ussrah: Jurnal Hukum Keluarga* 5, no. 1 (2022), p. 41.

⁴⁴ Syandri, Iskandar, and Sulaiman Kadir, "The Post-Marriage Grave Pilgrimage Tradition: A Case Study of Manisa Village, Baranti Sub-District, Sidrap District, South Sulawesi," *Bustanul Fuqaha: Jurnal Bidang Hukum Islam* 1, no. 3 (2020), p. 272–93.

⁴⁵ Ali Abubakar et al., "The Postponement of the Implementation of Inheritance Distribution in The Seunuddon Community, North Aceh In The Lens Of 'Urf Theory and Legal Pluralism," *El-Ussrah: Jurnal Hukum Keluarga* 6, no. 2 (2023), p. 411.

⁴⁶ Pomahiya, M. Kasim, and Alhasni Bakung, "Legal Consequences of Marriage During Iddah Period Based on Compilation Islamic Law."

⁴⁷ Abdurrahman Kasdi, "Maqasyid Syari'ah Perspektif Pemikiran Imam Syatibi Dalam Kitab Al-Muwafaqat," *Yudisia: Jurnal Pemikiran Hukum Dan Hukum Islam* 5, no. 1 (2014): p. 63.

⁴⁸ Maulida Inayah, "Al-Shāfi'ī's Perspective about the Eclipse Prayer at Forbidden Times for Praying," *Al-Hilal: Journal of Islamic Astronomy* 5, no. 2 (2023), p. 207–22.

The inheritance rights of children born from the marriages of pregnant women are governed by *Sharī'ah* principles, particularly those emphasizing the protection of lineage and justice.⁴⁹ *Sharī'ah* seeks to ensure that children do not become victims of situations beyond their control, such as premarital pregnancies, by guaranteeing them legitimate inheritance rights. This regulation is crucial in maintaining social and familial stability within the framework of Islamic law. The provisions for inheritance in Islam generally grant full inheritance rights to children born from legitimate marriages.⁵⁰ However, in the case of children born from extramarital relationships, there are variations in scholarly interpretation regarding their inheritance rights. Scholars such as Imam Abu Hanifah tend to restrict the inheritance rights of children from extramarital relationships, while other scholars emphasize the importance of protecting children's rights regardless of their parents' marital status, in accordance with the principles of *maqāṣid al-sharī'ah*.⁵¹

The perspectives of scholars regarding the inheritance rights of children in various conditions, including those born from marriages during pregnancy, demonstrate the dynamics in the interpretation of *fiqh*. While some traditional scholars may hold restrictive views on children's rights in certain situations, *maqāṣid al-sharī'ah* offers a more inclusive and equitable perspective. Therefore, modern Islamic law tends to move towards a fairer and more responsive approach in granting inheritance rights to all children, including those born from more complex relationships.⁵²

The *Maqāṣid al-Sharīah* Perspective on Protecting Children's Inheritance Rights

Maqāṣid al-sharīah pays close attention to the protection of children's rights, particularly concerning inheritance rights.⁵³ These principles emphasize the importance of safeguarding individual rights, including those of children, to ensure fair legal protection. For instance, *maqāṣid al-sharīah* encompasses the protection of property (*hiḏ al-māl*),⁵⁴ which is directly related to children's inheritance rights, including those of children born from the marriages of pregnant women. *Maqāṣid*

⁴⁹ Irawaty, "Inheritance Laws in Indonesia," *Hayula: Indonesian Journal of Multidisciplinary Islamic Studies* 1, no. 2 (2017), p. 209–28.

⁵⁰ Lego Katjoko et al., "Islamic Court's Approach to Land Dispute in Inheritance Cases," *Ahkam: Jurnal Ilmu Syariah* 21, no. 2 (2021), p. 213–38.

⁵¹ Kasdi, "Maqasyid Syari'ah Perspektif Pemikiran Imam Syatibi Dalam Kitab Al-Muwafaqat."

⁵² Arbanur Rasyid, Rayendriani Fahmei Lubis, and Idris Saleh, "Contestation of Customary Law and Islamic Law in Inheritance Distribution: A Sociology of Islamic Law Perspective," *Al-Ahkam* 34, no. 2 (2024), p. 419–48; Mohammad Takdir et al., "The Takharrūj Method as an Islamic Legal Solution for Customary Inheritance Practices among Muslim Communities in Pakamban Laok, Sumenep, Indonesia," *JIL: Journal of Islamic Law* 4, no. 1 (February 28, 2023), p. 104–22.

⁵³ Candra et al., "Analysis of Article 53 Islamic Law Compilation About Kawin Hamil."

⁵⁴ Kasdi, "Maqasyid Syari'ah Perspektif Pemikiran Imam Syatibi Dalam Kitab Al-Muwafaqat."

al-sharīah plays a vital role in ensuring that children's inheritance rights are upheld, even when their parents' marriage circumstances are not ideal, such as in the case of women who are pregnant before marriage. The *maqāṣid* principles, especially regarding the preservation of lineage (*hiḏz al-nasl*),⁵⁵ guarantee that children are not socially or legally penalized for situations beyond their control. Thus, *maqāṣid al-sharīah* serves as a foundational framework for the fair recognition of children's rights.

Maqāṣid al-sharīah,⁵⁶ with its focus on justice and public interest, provides a robust legal framework for protecting children's rights. The protection of inheritance rights is part of the obligation to safeguard property and lineage within *maqāṣid*. For example, some scholars assert that children born from the marriages of pregnant women possess legitimate inheritance rights, provided the marriage occurs before birth, aiming to shield the child from legal injustice.⁵⁷

The principles of *Maqāṣid al-sharīah* not only guarantee children's inheritance rights but also act as an instrument of justice in addressing various complex legal situations. Through a *maqāṣid* approach, the primary focus is on the common good and fairness for all parties, including children. In the context of children from marriages of pregnant women, *maqāṣid* provides a clear foundation for protecting their rights while avoiding stigma and discrimination.

Maqāṣid al-sharīah is crucial for ensuring justice for children, particularly in cases of marriages involving pregnant women. This principle underscores that children should be treated fairly, irrespective of their parents' circumstances prior to marriage. For instance, *maqāṣid al-sharīah* highlights the need to protect children from all forms of injustice, including matters of inheritance, by granting them the same rights as children born from conventional marriages. In addition to justice, *maqāṣid al-sharīah* also prioritizes the welfare of children, especially in securing their rights in matters of inheritance. Protecting lineage is a primary objective of *maqāṣid*, which signifies that every child, without exception, is entitled to their fundamental rights, including inheritance rights. Therefore, *maqāṣid al-sharīah* provides a legal basis that supports granting inheritance rights to children born from the marriages of pregnant women to protect their best interests.⁵⁸

Maqāṣid al-sharīah places the protection of life (*hiḏz al-naḏs*) as one of the foremost priorities in Islamic law. In the context of children's inheritance rights from

⁵⁵ Fauzan, "Alternatives to Criminal Conviction in a Comparative Analysis of Positive Law and Islamic Criminal Law."

⁵⁶ Abu Ishaq Al-Syatibi, *Al-Muwafaqat Fi Ushul Al-Syari'ah Juz II* (Kairo: Maktabah al-Taufiqiyah, 2003), p. 11.

⁵⁷ Nurunnisa Nurunnisa et al., "Implications of Annulment of Marriage on the Distribution of Joint Assets According to the Compilation of Islamic Law and National Law," *Syariah: Jurnal Hukum Dan Pemikiran* 23, no. 1 (2023), p. 1–23.

⁵⁸ Taufiqurohman Taufiqurohman and Nelli Fauziah, "The Evaluation of Maqāṣid Asy-Syarī'ah on Discourses of the Islamic Family Law," *El-Usrah: Jurnal Hukum Keluarga* 6, no. 1 (2023), p. 81.

marriages of pregnant women, *maqāshid* ensures that these children are not only protected physically but also legally, including their inheritance rights. The protection of life encompasses all aspects of existence, including social and economic security, as reflected in children's inheritance rights. Alongside the protection of life, *maqāshid al-sharīah* also emphasizes the safeguarding of lineage (*hifẓ al-nasl*), which is highly relevant in the context of children's inheritance rights. *Maqāshid* ensures that lineage is protected from legal or social injustice arising from the parents' marital circumstances. Thus, children born from the marriages of pregnant women maintain the same inheritance rights as those born from marriages that occurred prior to pregnancy, in accordance with the principle of justice within *maqāshid al-sharīah*.⁵⁹

In Islam, the protection of lineage is not merely a matter of legal recognition but also includes economic and social rights such as inheritance. Children born from marriages of pregnant women have full inheritance rights according to *maqāshid al-sharīah*,⁶⁰ which prioritizes justice and public interest. Scholars agree that children should not be discriminated against based on their parents' marital status, thereby guaranteeing their inheritance rights through the principle of *hifẓ al-nasl*.⁶¹

maqāshid al-sharīah ensures that children's rights, particularly regarding inheritance, are protected regardless of their parents' marital situation. In the case of marriages involving pregnant women, *maqāshid al-sharīah* continues to emphasize justice for the child through the principles of *hifẓ al-nafs* and *hifẓ al-nasl*, safeguarding their life and lineage. Therefore, *maqāshid al-sharīah* is relevant in addressing various legal challenges concerning children's inheritance rights while providing solutions rooted in public interest and justice.

Conclusion

This research finds that the principles of *maqāshid al-sharīah* play a crucial role in protecting children's rights, particularly inheritance rights, for children born from the marriages of pregnant women. The principles of *hifẓ al-nafs* (protection of life) and *hifẓ al-nasl* (protection of lineage) serve as the main foundations for ensuring justice and the welfare of these children. The findings indicate that *maqāshid al-sharīah* provides a fair and flexible legal framework, ensuring that children are not disadvantaged due to their parents' marital status, both socially and legally. Their inheritance rights remain acknowledged, in line with *maqāshid's* objectives that

⁵⁹ Rifka Mustafida et al., "The Implementation of Maqashid Shariah in Zakat Institution: Comparison Between Indonesia and Malaysia," *Jurnal Ekonomi Dan Bisnis Islam (Journal of Islamic Economics and Business)* 6, no. 2 (2020): p. 317; La Gursi et al., "Islamic Legal Perspective on Data of Child Victims of Sexual Violence: A Case Study of the Indonesia's Court," *De Jure: Jurnal Hukum Dan Syar'iah* 16, no. 2 (2024), p. 456–79.

⁶⁰ Muiyasaroh and Herlina, "Toll Road Development and Environmental Change: A Maqashidi Study at Indralaya – Muara Enim," *Millah: Journal of Religious Studies* 21, no. 3 (2022), p. 821–62.

⁶¹ Roslina Roslina et al., "Reinterpreting Islamic Inheritance: Supreme Court Jurisprudence and Gender Justice in Indonesia," *Jurnal Ilmiah Peuradeun* 13, no. 3 (2025), p. 2339–64.

emphasise public interest and justice. The primary strength of this research lies in its comprehensive *maqāṣid al-sharīah* approach to analyzing children's inheritance rights in the context of marriages involving pregnant women. This approach offers a new, more flexible, and inclusive perspective compared to more conventional *fiqh* interpretations. Furthermore, the study successfully delves deeper into the relevance of *maqāṣid al-sharīah* in the context of child protection, which is crucial for maintaining justice and welfare within the Islamic legal system. The research also makes a significant contribution to understanding how Islamic law can be adapted to address contemporary issues related to the status and rights of children. However, there are several limitations to consider. One of the main limitations is the restricted empirical data used, leading the research to focus predominantly on normative analysis. Additionally, the study lacks exploration of the varying views among *fiqh* schools concerning the application of children's inheritance rights in the context of marriages involving pregnant women. Moreover, the research places a theoretical emphasis on *maqāṣid al-sharīah* principles, necessitating further studies to test the application of these principles in concrete cases and across different jurisdictions.

Acknowledgements

The authors would like to acknowledge and express their deepest gratitude to the Indonesia Endowment Fund for Education (LPDP) for the scholarship grant and support provided for this research.

References

Journals and Books

- A. Samad, Sri Astuti, and Munawwarah Munawwarah. "Adat Pernikahan Dan Nilai-Nilai Islami Dalam Masyarakat Aceh Menurut Hukum Islam." *El-USRAH: Jurnal Hukum Keluarga* 3, no. 2 (2020). <https://doi.org/10.22373/ujhk.v3i2.7716>.
- Abubakar, Ali, Gamal Achyar, Husnul Khatimah, and Sri Astuti A. Samad. "The Postponement of the Implementation of Inheritance Distribution in The Seunuddon Community, North Aceh In The Lens Of 'Urf Theory and Legal Pluralism." *El-USrah: Jurnal Hukum Keluarga* 6, no. 2 (2023). <https://doi.org/10.22373/ujhk.v6i2.10207>.
- Al-Jauziyyah, Abū 'Abdullāh Muḥammad bin Abū Bakr bin Ayyūb Ibnu Qayyim. *Ilām Al-Muwaqqi'īn 'an Rabb Al-Ālamīn*. IV. Riyadh: Dār Ibnu al-Jauzī, 2001.
- Al-Maqdisi, Ibnu Qudamah. *Al-Mughni Juz 7*. Mesir: al-Manar, n.d.
- Al-Shairazi, Abu Ishaq. *Al-Muhazzab Fi Fiqh Al-Imam Al-Shafi'i*. Dar al-Kutub al-'Ilmiyyah, n.d.
- Al-Syatibi, Abu Ishaq. *Al-Muwafaqat Fi Ushul Al-Syari'ah Juz II*. Kairo: Maktabah al-Taufiqiyah, 2003.
- Alam, Syariful. "Reconstruction of Marriage Zonation in Islamic Law Perspective."

- Legality: Jurnal Ilmiah Hukum* 27, no. 2 (2019).
<https://doi.org/10.22219/jihl.v27i2.10154>.
- Aminah, Siti, and Arif Sugitanata. "Genealogy and Reform of Islamic Family Law: Study of Islamic Marriage Law Products in Malaysia." *JIL: Journal of Islamic Law* 3, no. 1 (2022). <https://doi.org/10.24260/jil.v3i1.556>.
- Andiko, Toha, Zurifah Nurdin, and Ahmed Abdul Malik. "Reactualization of Wali Mujbir in the Modern Era: Maqasid Sharia Analysis of Imam Shafi'i's Concept Regarding Wali's Ijbar Right." *Al-Risalah: Forum Kajian Hukum Dan Sosial Kemasyarakatan* 23, no. 2 (2023).
<https://doi.org/10.30631/alrisalah.v23i2.1403>.
- Astuti, Sri, Ana Darwis, Abdul Wahid Haddade, and Andi Muhammad Akmal. "Sexual Deviation of Animals Between Law and Sharia; a Comparative Analysis." *Mazahibuna: Jurnal Perbandingan Mazhab* 3, no. 2 (2021).
<https://doi.org/10.24252/mh.v3i2.22017>.
- Basri, Halimah, Andi Miswar, Hamka Hasan, Mustaqim Pabbajah, and Subehan Khalik. "Inheritance Rights of Women in Makassar Society: A Study of Living Qur'an and Its Implications for Islamic Law." *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam* 6, no. 2 (2022).
<https://doi.org/10.22373/sjhc.v6i2.13882>.
- Binarsa, and Khoiruddin Nasution. "Application of the Compilation of Islamic Law Article 53 Concerning Marriage to Pregnant Woman and Renewal of Marriage in Mlati District in Maqasid of Sharia Perspective." *Millah: Journal of Religious Studies* 20, no. 2 (2021).
<https://doi.org/10.20885/millah.vol20.iss2.art6>.
- Candra, Anton Afrizal, Law Faculty, Universitas Islam Riau, Pregnant Marriage, and I Introduction. "Analysis of Article 53 Islamic Law Compilation About Kawin Hamil." *International Halal Conference & Exhibition IHCE-2019*, no. 1 (2019).
- Djawas, Mursyid, Gamal Achyar, Nusyirwan Bustanul Arifin, Masri Reza, and Baharuddin Umar Yakub. "The Legal Position of Children of Incest (A Study of Madhhab Scholars and Compilation of Islamic Law)." *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam* 6, no. 1 (2022).
<https://doi.org/10.22373/sjhc.v6i1.11904>.
- Djawas, Mursyid, Nahara Eriyanti, Anita Yulia, and Faisal Fauzan. "The Alimony Obligation of a Civil Servant and Non-Civil Servant Father towards Children Post-Divorce (The Study on Aceh Syar'iyah Court Decision Study of 2019)." *El-Usrah: Jurnal Hukum Keluarga* 6, no. 1 (2023).
<https://doi.org/10.22373/ujhk.v6i1.9493>.
- Djawas, Mursyid, Khairuddin Hasballah, Soraya Devy, Muntasir A Kadir, and Yusufriadi Abda. "The Construction of Islamic Inheritance Law: A Comparative Study of the Islamic Jurisprudence and the Compilation of Islamic Law." *JURIS (Jurnal Ilmiah Syariah)* 21, no. 2 (2022).
<https://doi.org/https://dx.doi.org/10.31958/juris.v21i2.7495>.

- Efrinaldi, Jayusman, Fatimah, Rimanto, and Miti Yarmunida. "Revealing the Enforcement of Mbasuh Dusun Tradition for Pregnant Women Outside of Marriage in Indonesia." *Al-Istinbath: Jurnal Hukum Islam* 8, no. 2 (2023). <https://doi.org/10.29240/jhi.v8i2.8437>.
- Fahmi, Mutiara, Mursyid Djawas, Dedy Sumardi, and Asmaul Husna. "Islamic Jurisprudence and Local Wisdom in the Humanitarian Protection of Rohingya Refugees by Acehese Figures." *El-Mashlahah* 14, no. 2 (2024). <https://doi.org/10.23971/el-mashlahah.v14i2.8958>.
- Fauzan. "Alternatives to Criminal Conviction in a Comparative Analysis of Positive Law and Islamic Criminal Law." *Al-Istinbath: Jurnal Hukum Islam* 7, no. 1 (2022). <https://doi.org/10.29240/jhi.v7i1.4308>.
- Gunawan, Shella Oetharry, and Syamsul Bahri. "Impacts of Early Childhood Marriage in Indonesia Viewed from Child Protection Laws Perspectives." *El-Usrah: Jurnal Hukum Keluarga* 6, no. 2 (2023). <https://doi.org/10.22373/ujhk.v6i2.20262>.
- Gurusi, La, Muh Sutri Mansyah, Kirsty Lee, Yety Purnamasari, and Subhan Alfajar. "Islamic Legal Perspective on Data of Child Victims of Sexual Violence: A Case Study of the Indonesia's Court." *De Jure: Jurnal Hukum Dan Syar'iah* 16, no. 2 (2024). <https://doi.org/10.18860/j-fsh.v16i2.28358>.
- Harahap, Ikhwanuddin, Fatahuddin Aziz Siregar, and Erie Hariyanto. "Understanding The Rise of Childfree Marriage: Avoiding Toxic Family, Being Happy and Well Without Children Despite Contradiction With Maqashid Al-Sharia." *Al-Istinbath: Jurnal Hukum Islam* 10, no. 1 (2025). <https://doi.org/10.29240/jhi.v10i1.9984>.
- Inayah, Maulida. "Al-Shāfi'ī's Perspective about the Eclipse Prayer at Forbidden Times for Praying." *Al-Hilal: Journal of Islamic Astronomy* 5, no. 2 (2023). <https://doi.org/10.21580/al-hilal.2023.5.2.18497>.
- Ipandang, and Syamsul Darlis. "Passampo Siri' in the Bugis Marriage Practies in East Kolaka, Indonesia: A Sociological Perspective of Islamic Law." *Samarah* 6, no. 2 (2022). <https://doi.org/10.22373/sjkh.v6i2.12874>.
- Irawaty. "Inheritance Laws in Indonesia." *Hayula: Indonesian Journal of Multidisciplinary Islamic Studies* 1, no. 2 (2017). <https://doi.org/10.21009/hayula.001.2.05>.
- Janighorban, Mojgan, Zahra Boroumandfar, Razieh Pourkazemi, and Firoozeh Mostafavi. "Barriers to Vulnerable Adolescent Girls' Access to Sexual and Reproductive Health." *BMC Public Health* 22, no. 1 (2022). <https://doi.org/10.1186/s12889-022-14687-4>.
- Judiasih, Sonny, and Efa Laela Fakhriah. "Inheritance Law System: Considering the Pluralism of Customary Law in Indonesia Sonny Dewi Judiasih * and Efa Laela Fakhriah **." *PADJADJARAN Jurnal Ilmu Hukum* 5, no. 2 (2018). <https://doi.org/10.22304/pjih.v5n2.a6>.
- Karjoko, Lego, Abdul Kadir Jaelani, Hilaire Tegnan, Henning Glaser, and Muhammad Jihadul Hayat. "Islamic Court's Approach to Land Dispute in

- Inheritance Cases.” *Ahkam: Jurnal Ilmu Syariah* 21, no. 2 (2021). <https://doi.org/10.15408/ajis.v21i2.21864>.
- Kasdi, Abdurrahman. “Maqasyid Syari’ah Perspektif Pemikiran Imam Syatibi Dalam Kitab Al-Muwafaqat.” *Yudisia: Jurnal Pemikiran Hukum Dan Hukum Islam* 5, no. 1 (2014). <https://doi.org/10.21043/yudisia.v5i1.693>.
- Kasim, Fajri M, Abidin Nurdin, Salman Abdul Muthalib, Samsinar Syarifuddin, and Munawwarah Samad. “The Protection of Women and Children Post-Divorce in Sharia Courts in Aceh: A Sociological Perspective.” *AHKAM: Jurnal Ilmu Syariah* 22, no. 2 (2022). <https://doi.org/10.15408/ajis.v22i2.28747>.
- Laurensius Arliman S, Muhammad Afif. “Protection Of Children’s Rights Of The Islamic And Constitutional Law Perspective Of The Republic Of Indonesia.” *Internasional Conference on Humanity, Law and Sharia (ICHLaSh)*, no. 17 (2018).
- Malek, Muhammad Al-Ghazalli Abdol, Mohd Al Adib Samuri, and Muhammad Nazir Alias. “Child Marriage in Malaysia: Reforming Law through the Siyasa Al Shar’iyya Framework.” *Samarah* 7, no. 1 (2023). <https://doi.org/10.22373/sjhc.v7i1.16011>.
- Mukhtar, Sohaib. “Islamic Law and Trademark Protection.” *Malaysian Journal of Syariah and Law* 6, no. 1 (2018). <https://doi.org/10.33102/mjisl.vol6no1.56>.
- Munawar, Faishal Agil Al. “Abd Al-Majīd Al-Najjār’s Perspective on Maqāsid Al-Sharī’ah.” *Juris: Jurnal Ilmiah Syariah* 20, no. 2 (2021). <https://doi.org/10.31958/juris.v20i2.4281>.
- Mursyid Djawas, Mursyid Djawas, and Muhammad Yahya Muhammad Yahya. “Status Talak Bagi Wanita Haidh (Analisis Pendapat Ibnu Qayyim Al-Jauziyyah).” *SAMARAH: Jurnal Hukum Keluarga Dan Hukum Islam* 1, no. 1 (2017). <https://doi.org/10.22373/sjhc.v1i1.1557>.
- Musawwamah, Siti, Muhammad Taufiq, Erie Hariyanto, Umi Supraptiningsih, and Maimun Maimun. “Resistance to Child Marriage Prevention in Indonesia and Malaysia.” *AHKAM: Jurnal Ilmu Syariah* 23, no. 1 (2023). <https://doi.org/10.15408/ajis.v23i1.32014>.
- Mustafida, Rifka, Zahra Nabila Kurnia, Najim Nur Fauziah, Nur Shazni Binti Subri, and Farihah Amirah Binti Ahmad Faiz. “The Implementation of Maqashid Shariah in Zakat Institution: Comparison Between Indonesia and Malaysia.” *Jurnal Ekonomi Dan Bisnis Islam (Journal of Islamic Economics and Business)* 6, no. 2 (2020). <https://doi.org/10.20473/jebis.v6i2.23532>.
- Musyahid, Achmad. “Diskursus Maslahat Mursalah Di Era Milenial; Tinjauan Filosofis Terhadap Konsep Maslahat Imam Malik.” *Mazahibuna: Jurnal Perbandingan Mazhab* 1, no. 2 (2019). <https://doi.org/10.24252/MH.V1I2.10625>.
- Muyasaroh, and Herlina. “Toll Road Development and Environmental Change: A Maqashidi Study at Indralaya – Muara Enim.” *Millah: Journal of Religious Studies* 21, no. 3 (2022). <https://doi.org/10.20885/millah.vol21.iss3.art8>.
- Nasir, Mohamad Abdun. “Negotiating Muslim Interfaith Marriage in Indonesia :

- Integration and Conflict in Islamic Law.” *Mazahib: Jurnal Pemikiran Hukum Islam* 21, no. 2 (2022). <https://doi.org/10.21093/mj.v21i2.5436>.
- Nasution, Hotnidah, and Ahmad Rifqi Muchtar. “Negotiating Islamic Law: The Practice of Inheritance Distribution in Polygamous Marriages in Indonesian Islamic Courts.” *Al-Manahij: Jurnal Kajian Hukum Islam*, 2024. <https://doi.org/10.24090/mnh.v18i1.10921>.
- Nurdin, Abidin, Bustami Usman, Fauzan Samad, and Makmunzir Mukhtar. “Tujuan Hukum Islam Untuk Kemaslahatan Manusia: Penerapan Kaidah Fiqhiyah Dalam Bidang Ekonomi Dan Hukum Keluarga.” *El-Ussrah: Jurnal Hukum Keluarga* 5, no. 1 (2022). <https://doi.org/10.22373/ujhk.v5i1.14665>.
- Nurjaman, Muhamad Izazi, and Doli Witro. “The Relevance of the Theory of Legal Change According to Ibnu Qayyim Al-Jauziyyah in Legal Products by Fatwa DSN-MUI Indonesia.” *El-Mashlahah* 11, no. 2 (2021). <https://doi.org/10.23971/elma.v11i2.3181>.
- Nurunnisa, Nurunnisa, Rahmida Erliyani, Gilang Fitri Hermawan, and Yehia Mohamed Mostafa Abdelhadi. “Implications of Annulment of Marriage on the Distribution of Joint Assets According to the Compilation of Islamic Law and National Law.” *Syariah: Jurnal Hukum Dan Pemikiran* 23, no. 1 (2023). <https://doi.org/10.18592/sjhp.v23i1.9523>.
- Pomahiya, Sintia, Nur M. Kasim, and Dolot Alhasni Bakung. “Legal Consequences of Marriage During Iddah Period Based on Compilation Islamic Law.” *Estudiante Law Journal* 4, no. 2 (2022). <https://doi.org/10.33756/eslaj.v4i2.18848>.
- Ramli, Misran, Syarifah Rahmatillah, Abidin Nurdin, and Nurul Auliana. “Unveiling Illegal Marriages in Aceh: Examining the Role of Unofficial Qadi.” *El-Mashlahah* 14, no. 2 (2024). <https://doi.org/10.23971/el-mashlahah.v14i2.8887>.
- Rasyid, Arbanur, Rayendriani Fahmei Lubis, and Idris Saleh. “Contestation of Customary Law and Islamic Law in Inheritance Distribution: A Sociology of Islamic Law Perspective.” *Al-Ahkam* 34, no. 2 (2024). <https://doi.org/10.21580/ahkam.2024.34.2.20843>.
- Rizal, Muhammad, and Abdul Halem Bahri. “Imam Al-Shafi’i’s Thought About Human Obligations and Rights in Islamic Law.” *Mazahibuna: Jurnal Perbandingan Mazhab* 4, no. 1 (2022). <https://doi.org/10.24252/mh.vi.25461>.
- Roslina, Roslina, Syahrizal Abbas, Ilyas Ismail, and Iman Jauhari. “Reinterpreting Islamic Inheritance: Supreme Court Jurisprudence and Gender Justice in Indonesia.” *Jurnal Ilmiah Peuradeun* 13, no. 3 (2025). <https://doi.org/10.26811/peuradeun.v13i3.1593>.
- Saleh, Muhammad, Sufiati St, Risnawati Basri, A Satrianingsih, and Asia Hamzah. “Interfaith Marriage in the Perspective of Islamic Jurisprudence and Compilation of Islamic Law.” *Journal of Family Law and Islamic Court* 1, no. 2 (2022). <https://doi.org/10.26618/jflic.v1i2.10106>.
- Sam’ani, Samani, Rokhmadi Rokhmadi, Nasihun Amin, Ahmad Zaini, and Suprijati

- Sarib. "Pragmatism of Polygamous Family In Muslim Society: Beyond Islamic Law." *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam* 7, no. 1 (2023). <https://doi.org/10.22373/sjhc.v7i1.15874>.
- Sholihah, Hani, Nani Nani Widiawati², and Mohd Khairul Nazif Bin Hj. Awang Damit. "Reinterpretation of Justice in Islamic Inheritance Rights Based on Gender." *Al-'Adalah* 21, no. 1 (2024). <https://doi.org/10.24042/adalah.v21i1.21256>.
- Sidiq, Abd. Rasyid, Rusli Rusli, and Syahabuddin Syahabuddin. "Gender Analysis of Marriage Guardians in the Compilation of Islamic Law." *International Journal of Contemporary Islamic Law and Society* 3, no. 1 (2021). <https://doi.org/10.24239/ijcils.vol3.iss1.24>.
- Situmeang, Ampuan, Yudhi Priyo Amboro, Universitas Internasional Batam, and Universitas Internasional Batam. "The Roles of the Office of Religious Affairs Relating to the Dispensation for the Marriage of Underage Children (Case Study Ampar District, Batam City)." *Journal of Law and Policy Transformation* 7, no. 1 (2022).
- Sofiana, Neng Eri, and Muhammad Ismail Sunni. "The Application of Article 53 of KHI (Islamic Law Compilation) Regarding Pregnant Marriage in Lottery Marriage." *Jurnal Ilmiah Al-Syir'ah* 19, no. 1 (2021). <https://doi.org/10.30984/jis.v19i1.1453>.
- Syandri, Iskandar, and Sulaiman Kadir. "The Post-Marriage Grave Pilgrimage Tradition: A Case Study of Manisa Village, Baranti Sub-District, Sidrap District, South Sulawesi." *Bustanul Fuqaha: Jurnal Bidang Hukum Islam* 1, no. 3 (2020). <https://doi.org/10.36701/bustanul.v3i1.159>.
- Syatar, Abdul, Muammar Bakry, M Ali Rusdi Bedong, Baso Pallawagau, Iain Parepare, and Iain Kendari. "The Development of Fatwas Basen on Local Wisdom to the National Level: A Case Study of Panaik Money Fatwa." *El-Mashlahah* 13, no. 2 (2023). <https://doi.org/10.23971/el-mashlahah.v13i2.7373>.
- Syatar, Abdul, Muhammad Fazlurrahman Syarif, Harwis Alimuddin, Universitas Islam, Negeri Alauddin, College Islamic, Institut Agama, and Islam Negeri. "Interfaith Marriage Phenomenon in Indonesia from the Perspective of Sadd Al-Žarī'ah and Fath Al-Žarī'ah." *FITRAH: Jurnal Kajian Ilmu-Ilmu Keislaman* 9, no. 1 (2023). <https://doi.org/10.24952/fitrah.v9i1.6800>.
- Tabrani, Mukti. "Maqāshid Revitalization in Global Era: Istidlāl Study from Text to Context." *AL-IHKAM: Jurnal Hukum & Pranata Sosial* 13, no. 2 (2018). <https://doi.org/10.19105/al-ihkam.v13i2.1814>.
- Takdir, Mohammad, Fajrul Munir, Ali Ludhfi, Muliyanzah Muliyanzah, and Zainol Muttaqin. "The Takharrūj Method as an Islamic Legal Solution for Customary Inheritance Practices among Muslim Communities in Pakamban Laok, Sumenep, Indonesia." *JIL: Journal of Islamic Law* 4, no. 1 (February 28, 2023). <https://doi.org/10.24260/jil.v4i1.1044>.
- Taufiqurohman, Taufiqurohman, and Nelli Fauziah. "The Evaluation of Maqāshid

- Asy-Syarī'ah on Discourses of the Islamic Family Law.” *El-Usrah: Jurnal Hukum Keluarga* 6, no. 1 (2023). <https://doi.org/10.22373/ujhk.v6i1.13035>.
- Utami, Iftitah. “The Role Of Women In The Family Against The Distribution Of Inheritance In The City Of Palembang.” *Nurani: Jurnal Kajian Syari'ah Dan Masyarakat* 20, no. 1 (2020). <https://doi.org/10.19109/nurani.v20i1.4366>.
- Zainuddin, Muslim, Mukhsin Nyak Umar, Dedy Sumardi, Mansari, and Zakki Fuad Khalil. “Protection of Women and Children in the Perspective of Legal Pluralism: A Study in Aceh and West Nusa Tenggara.” *Samarah* 8, no. 3 (2024). <https://doi.org/https://doi.org/10.22373/sjhk.v8i3.22203>.
- Zuhaildi, Wahbahal. *Al Fiqih Al Islami Wa Adillatuhu*. Beirut: Dar Al Fikr, 2008.