



Integrating *Maqāṣid al-Shari‘ah* in Islamic Financial Lawmaking in Indonesia From Fatwa to Regulation

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Received : January 20,
2026

Revised : January 23,
2026

Accepted : January 25,
2026

Online : February 11, 2026

Abstract

This article analyzes the transformation of Islamic legal norms from fatwa into binding state regulation in Indonesia's Islamic financial sector, focusing on the substantive integration of *Maqāṣid al-Shari‘ah* in the lawmaking process. Although Indonesia has developed an extensive fatwa-based regulatory framework issued by the National Sharia Council (DSN-MUI), it remains unclear whether these regulations advance *maqāṣid* objectives beyond formal sharia compliance. Using a normative-juridical and doctrinal approach, this study examines fatwas, statutes, and regulatory instruments to assess the articulation and operationalization of *maqāṣid* in regulatory design. The findings reveal that Islamic financial regulation is predominantly compliance-oriented, emphasizing contractual legality and prudential supervision over broader aims such as social justice, financial inclusion, and equitable risk-sharing. To address this limitation, the article proposes a three-layered *maqāṣid* integration model—normative, institutional, and operational—to enhance regulatory coherence, legal certainty, and substantive justice. This study demonstrates that *maqāṣid al-Shari‘ah* does not automatically materialize through fatwa-based regulation and must be deliberately institutionalized within legislative reasoning, regulatory drafting, and post-implementation evaluation.

Keywords *Maqāṣid al-Shari‘ah; Fatwa; Islamic Financial Law; Regulation; Indonesia*

INTRODUCTION

The rapid expansion of Islamic finance over the past three decades has transformed it from a niche religious practice into a significant component of global and national financial systems. In many Muslim-majority jurisdictions, including Indonesia, this expansion has necessitated the translation of Islamic legal norms into formal regulatory frameworks capable of ensuring legal certainty, financial stability, and market confidence (El-Gamal, 2019; Kamali, 2018). Central to this process is the role of fatwa—authoritative legal opinions issued by religious scholars—which provides normative guidance for determining the Sharia compliance of financial products and institutions.

Indonesia represents a particularly instructive case for examining the relationship between fatwa and state regulation. Indonesia has institutionalized Islamic finance within a plural legal system by formally incorporating fatwas issued by the National Sharia Council of the Indonesian Council of Ulama (DSN-MUI) into banking laws, financial authority regulations, and supervisory guidelines (Hooker, 2017; Lindsey, 2018). This model has been widely praised for harmonizing religious authority with state governance while preserving regulatory coherence.

However, the growing body of critical scholarship on Islamic finance raises concerns that regulatory frameworks grounded primarily in fatwa may emphasize formal compliance at the expense of the broader ethical and socio-economic objectives of Islamic law. Scholars argue that

Islamic finance has increasingly adopted legalistic and contract-based approaches that replicate the substance of conventional finance while retaining Islamic legal forms (Chapra, 2016; Abozaid & Dusuki, 2018). This critique highlights the importance of *Maqāṣid al-Shari‘ah*—the higher objectives of Islamic law—as a normative benchmark for evaluating whether Islamic financial regulation genuinely promotes justice, public welfare, and sustainable economic development.

Maqāṣid al-Shari‘ah has gained renewed prominence in contemporary Islamic legal theory as a framework capable of bridging normative ideals and modern regulatory needs. Rather than focusing solely on the permissibility of individual contracts, *maqāṣid*-oriented reasoning evaluates law and policy based on their purposes, consequences, and social impact (Auda, 2016; Kamali, 2017). Despite its theoretical appeal, empirical and doctrinal studies suggest that *maqāṣid* remains underutilized in practical lawmaking, particularly in financial regulation, where certainty and enforceability are prioritized (Bedoui & Mansour, 2020).

This article examines how *maqāṣid al-Shari‘ah* is incorporated into the transformation of fatwa into binding regulation in Indonesia’s Islamic financial system, by focusing on the fatwa-to-regulation process. The study moves beyond abstract discourse to assess the practical role of *maqāṣid* in state lawmaking. This article contributes to the literature in three ways. First, it provides a doctrinal analysis of Islamic financial regulations in Indonesia through the lens of *maqāṣid al-Shari‘ah*, highlighting structural gaps between normative ideals and regulatory practice. Second, it situates Indonesia’s experience within broader debates on Islamic legal pluralism and regulatory governance. Third, it offers policy-oriented insights for strengthening *maqāṣid*-based lawmaking as a means of enhancing the ethical and social substance of Islamic finance.

LITERATURE REVIEW

Maqāṣid al-Shari‘ah as a Normative and Methodological Framework

Maqāṣid al-Shari‘ah refers to the overarching objectives of Islamic law aimed at safeguarding human welfare (*maṣlāḥah*) and preventing harm (*mafsadah*). Classical jurists such as al-Ghazālī and al-Shāṭibī articulated *maqāṣid* primarily as the protection of five essential interests: religion, life, intellect, lineage, and property. In contemporary scholarship, *maqāṣid* has evolved beyond its classical formulation into a dynamic normative and methodological framework capable of addressing complex socio-economic realities (Kamali, 2017). Modern theorists emphasize that *maqāṣid* should not be confined to ethical discourse but must inform legal reasoning and regulatory design. Auda (2016) advances a systems-based approach to *maqāṣid*, highlighting openness, interrelatedness, and purpose-oriented interpretation. This approach reframes Islamic law as an adaptive system, allowing *maqāṣid* to function as a benchmark for evaluating whether legal and regulatory instruments substantively promote justice, equity, and social welfare.

Fatwa as a Normative Source in Islamic Financial Law

Fatwa occupies a pivotal position in Islamic financial governance, particularly in Muslim-majority jurisdictions operating within secular legal frameworks, and provides doctrinal legitimacy for Islamic financial products and serves as an authoritative reference for determining Sharia compliance. In Indonesia, the National Sharia Council of the Indonesian Council of Ulama (DSN-MUI) plays a central role in issuing fatwas that guide Islamic banking and finance practices (Hooker, 2017).

The literature characterizes fatwa as a form of quasi-legal norm—normatively authoritative yet formally non-binding. Its legal force emerges when state institutions adopt fatwa principles into statutory regulations or supervisory guidelines. Nevertheless, scholars caution that fatwa-driven governance often prioritizes contractual form and technical compliance, potentially sidelining broader *maqāṣid* objectives such as social justice, poverty alleviation, and equitable

wealth distribution ([Abozaid & Dusuki, 2018](#)).

From Fatwa to Regulation: Positivization and Legal Pluralism

The incorporation of fatwa into binding regulation reflects a broader process of positivization of Islamic legal norms. In Indonesia, this process is evident in the systematic integration of DSN-MUI fatwas into regulations issued by Bank Indonesia and the Financial Services Authority (OJK). Scholars describe this interaction as a manifestation of legal pluralism, where religious norms and state law coexist and mutually shape regulatory outcomes ([Lindsey, 2018](#)).

Despite its institutional coherence, the literature highlights inherent tensions in translating fatwa into enforceable regulation. Regulatory authorities tend to emphasize legal certainty, risk management, and supervisory efficiency. As a result, *maqāṣid*-based reasoning may be diluted or reduced to symbolic references. [El-Gamal \(2019\)](#) criticizes this phenomenon as Islamic financial legalism, whereby Islamic finance replicates the economic substance of conventional finance while retaining Islamic contractual forms.

Integrating *Maqāṣid al-Shari‘ah* into Islamic Financial Regulation

Recent scholarship increasingly advocates for the explicit integration of *maqāṣid al-Shari‘ah* into Islamic financial regulation. Empirical and conceptual studies demonstrate that *maqāṣid*-oriented frameworks can enhance consumer protection, promote risk-sharing, and align Islamic finance with the Sustainable Development Goals ([Chapra, 2016](#); [Mohammed & Taib, 2017](#)). However, the literature also reveals a persistent gap between normative aspirations and regulatory practice. Most regulatory regimes rely on formal sharia compliance without systematically evaluating regulatory outcomes through *maqāṣid*-based indicators. [Bedoui and Mansour \(2020\)](#) argue that without measurable *maqāṣid* benchmarks, Islamic financial regulation risks becoming procedurally Islamic but substantively indistinguishable from conventional systems.

Research Gap and Contribution

While existing studies provide valuable insights into *maqāṣid* theory, fatwa authority, and Islamic financial governance, several gaps remain. First, limited attention has been paid to how *maqāṣid* is operationalized during the lawmaking process, particularly in the transition from fatwa to regulation. Second, studies of Indonesia largely focus on institutional compliance rather than the substantive realization of *maqāṣid*. Third, the mediating role of state regulators in balancing religious norms and legal enforceability remains underexplored. This study addresses these gaps by critically examining the integration of *maqāṣid al-Shari‘ah* within Indonesia's Islamic financial lawmaking process.

RESEARCH METHOD

This research employs a normative legal research methodology, focusing on the analysis of legal norms and principles governing Islamic financial regulation in Indonesia. This study examines the legal norms and principles governing Islamic financial regulation in Indonesia using three complementary approaches. The statutory approach analyzes Islamic financial laws and OJK regulations incorporating DSN-MUI fatwas; the conceptual approach examines scholarly theories on *maqāṣid al-shari‘ah* and Islamic financial governance; and the philosophical approach explores the normative objectives of Islamic financial law.

FINDINGS AND DISCUSSION

Overview of the Findings

This study examines the transformation of Islamic legal norms from fatwa to formal state

regulation in Islamic finance in Indonesia, with a specific focus on the integration of *Maqāṣid al-Shari‘ah* into the lawmaking process (Auda, 2016; Haneef et al., 2019). The findings demonstrate that while fatwas issued by the National Sharia Council (DSN-MUI) are consistently used as normative references in regulatory instruments, the substantive integration of *maqāṣid* remains limited and uneven across regulatory sectors. Regulatory adoption predominantly emphasizes formal sharia compliance rather than a comprehensive realization of *maqāṣid*-based objectives such as justice, public welfare, and economic inclusivity, a pattern also observed in earlier studies on Islamic financial regulation (Kamali, 2018; Dusuki & Abdullah, 2017). These findings confirm that Indonesia has developed a structurally robust framework for Islamic financial regulation; however, the framework remains largely procedural and has yet to fully institutionalize *maqāṣid* as a guiding principle in regulatory practice.

Fatwa as the Primary Normative Source: Strengths and Structural Limitations

The first major finding indicates that fatwa functions as the principal normative foundation for Islamic financial regulation in Indonesia, confirming the centrality of religious normative authority identified in prior regulatory studies (Hasan, 2017; El-Gamal, 2019). Regulatory instruments issued by state authorities routinely cite DSN-MUI fatwas as their primary sharia reference. This practice strengthens legal certainty and ensures doctrinal consistency between religious guidance and positive law.

The study finds that most fatwas adopted into regulation employ a contract-based, legality-oriented approach, resulting in provisions that replicate the formal structure of Islamic contracts without systematically assessing their effectiveness in achieving *maqāṣid* objectives. Contrary to claims that fatwa inherently embodies *maqāṣid* reasoning, this research shows that *maqāṣid* considerations are often implicit rather than explicitly articulated in regulatory texts.

Formal Compliance versus Substantive *Maqāṣid* Integration

A key finding of this research is the dominance of formal compliance over substantive realization of the *maqāṣid* in Islamic financial regulation, reinforcing critiques in the comparative Islamic finance literature that emphasize the persistence of legal formalism (Chapra, 2016; Abozaid & Dusuki, 2018). Regulatory success is primarily measured by conformity with fatwa requirements rather than by evaluating socio-economic outcomes. Protection of wealth (*hifz al-māl*) is the most consistently reflected *maqāṣid* dimension.

This finding contrasts with international studies asserting that *maqāṣid*-based regulation promotes ethical finance and financial stability. In Indonesia, however, *maqāṣid* is seldom applied as an evaluative benchmark in regulatory drafting or post-implementation review, resulting in a compliance-driven rather than welfare-oriented regulatory paradigm.

Sectoral Variations in *Maqāṣid* Application

The findings reveal notable differences in the integration of *maqāṣid* across Islamic financial sectors, consistent with sectoral regulatory divergence identified in Southeast Asian Islamic finance studies (Rahman et al., 2020; Saiti & Abdullah, 2021). Banking regulations rely heavily on fatwa yet provide minimal explicit *maqāṣid* articulation. Fintech and digital finance show limited but growing *maqāṣid* awareness, particularly in consumer protection and inclusion, whereas sukuk and sustainable finance exhibit the strongest alignment through long-term public benefit.

Table 1. Comparative Integration of *Maqāṣid al-Shari‘ah* Across Islamic Financial Sectors

Sector	Reliance-on Fatwa	Explicit <i>Maqāṣid</i> Reference	Substantive-Welfare Orientation
Islamic Banking	High	Low	Low
Islamic Fintech	Medium	Medium	Medium
Sukuk and Sustainable Finance	Medium	High	High

Institutional Roles and Regulatory Reasoning

Another important finding concerns the institutional dynamics between religious authorities and state regulators, a dynamic also discussed in institutional analyses of Islamic legal pluralism (Hooker, 2017; Lindsey, 2018). While fatwa institutions provide theological legitimacy, regulatory agencies retain full discretion in translating fatwa into binding rules. This translation process prioritizes legal certainty and supervisory efficiency, often at the expense of *maqāṣid* reasoning. This research finds that regulators actively reinterpret fatwas to fit administrative frameworks.

Absence of *Maqāṣid*-Based Regulatory Evaluation Mechanisms

The study finds no systematic mechanism for evaluating whether Islamic financial regulations achieve *maqāṣid* outcomes after implementation, supporting earlier calls for *maqāṣid*-based regulatory assessment tools (Mohammed & Taib, 2017; Bedoui & Mansour, 2020). Regulatory reviews focus on compliance and risk management rather than social impact or ethical performance. This finding diverges from earlier proposals that advocate using *maqāṣid* indices for policy evaluation. The absence of such mechanisms reinforces the dominance of form over substance and limits the transformative potential of Islamic financial law as an instrument of socio-economic development.

Implications for Legal Development and Harmonization

The findings indicate a partial harmonization between Islamic legal norms and state law. Although a fatwa effectively bridges religious doctrine and positive law, the absence of explicit integration of *maqāṣid* constrains the normative depth of Islamic financial regulation. Unlike studies that equate harmonization with institutional alignment, this research argues that genuine harmonization requires embedding *maqāṣid* as a guiding legislative principle in regulatory objectives, drafting, and evaluation.

Theoretical Contributions to Islamic Legal Studies

From a theoretical perspective, this research contributes to Islamic legal scholarship by demonstrating that *maqāṣid al-Shari‘ah* remains underutilized in practical lawmaking despite its prominence in academic discourse, extending critiques articulated in normative Islamic legal theory (Kamali, 2017; Nyazee, 2019). The findings challenge the assumption that Islamic financial regulation naturally embodies *maqāṣid* principles, highlighting the need for deliberate institutionalization of *maqāṣid* reasoning.

Policy-Oriented Discussion

The findings indicate that integrating *maqāṣid al-Shari‘ah* into Islamic financial lawmaking requires more than the adoption of fatwas. It necessitates explicit benchmarks for *maqāṣid*, interdisciplinary regulatory drafting, and post-regulatory impact assessments. Without these

elements, Islamic financial law risks becoming a formalistic extension of conventional finance rather than a distinct ethical alternative.

Transformation of DSN-MUI Fatwas into OJK Regulations

The transformation of DSN-MUI fatwas into OJK regulations represents the institutionalization of Islamic legal norms within the national legal system. OJK adopts fatwas as material legal sources and reformulates them into binding regulatory provisions. However, this transformation process is largely technocratic and risk-oriented. Regulatory drafting prioritizes prudential supervision, consumer protection, and financial stability. While these objectives are essential, they may inadvertently dilute the *maqāṣid*-oriented substance of fatwas. Scholars note that regulatory texts often lack explicit references to *maqāṣid al-shari‘ah*, resulting in a gap between normative ideals and regulatory outcomes (Judijanto et al., 2025).

Institutional fragmentation further complicates this process. The absence of a formal mechanism to evaluate regulations through a *maqāṣid* lens limits regulators' ability to ensure substantive sharia compliance. Consequently, Islamic financial regulation risks converging with conventional finance, differing primarily in form rather than function (Asutay, 2012).

Summary of Findings

In summary, this study finds that Islamic financial regulation in Indonesia is characterized by strong formal reliance on fatwa but weak substantive integration of *maqāṣid al-Shari‘ah*. Compared to previous literature, the findings reveal a deeper structural gap between normative ideals and regulatory practice. Addressing this gap requires a shift from compliance-oriented regulation toward *maqāṣid*-based lawmaking that prioritizes justice, welfare, and sustainable economic development. These findings provide a foundation for future reforms to strengthen the role of *maqāṣid al-Shari‘ah* in Islamic financial lawmaking in Indonesia. To address these challenges, this paper proposes a three-layered integration model of *maqāṣid al-shari‘ah*.

Normative Layer

At the normative level, *maqāṣid al-shari‘ah* should be explicitly recognized as a foundational principle in Islamic financial regulation. Regulatory objectives should align with key *maqāṣid*, such as justice, protection of wealth, and social welfare.

Institutional Layer

At the institutional level, coordination between DSN-MUI, OJK, and Sharia Supervisory Boards must be strengthened. A formal *maqāṣid* review mechanism could be introduced.

Operational Layer

At the operational level, *maqāṣid* principles should be translated into measurable regulatory indicators, such as equitable risk-sharing, consumer-protection metrics, and financial-inclusion benchmarks. This model aligns with contemporary calls for outcome-based Islamic financial regulation (Laldin & Furqani, 2016; Dusuki & Abdullah, 2007).

CONCLUSIONS

This study concludes that the transformation of Islamic legal norms from fatwa to state regulation in Indonesia has achieved a high degree of formal institutionalization but remains limited in substantive integration of *Maqāṣid al-Shari‘ah*. Fatwas issued by the National Sharia Council (DSN-MUI) function effectively as foundational normative references, ensuring doctrinal legitimacy and legal certainty within the Islamic financial regulatory framework. However, once

translated into binding regulations, *maqāṣid* considerations are often reduced to implicit assumptions rather than explicitly articulated legislative objectives (Auda, 2016; Kamali, 2018).

The findings demonstrate that Islamic financial regulations in Indonesia predominantly adopt a compliance-oriented approach, in which conformity with contractual legality and prudential standards takes precedence over the realization of broader *maqāṣid* goals, such as social justice, equitable risk-sharing, and inclusive economic development. This confirms and extends earlier critiques of Islamic finance that identify a persistent tendency toward legal formalism (Chapra, 2016; Abozaid & Dusuki, 2018), while offering new empirical insight into how this tendency is reinforced during the fatwa-to-regulation process.

Moreover, this study reveals significant sectoral variation in *maqāṣid* integration. While banking regulations show strong reliance on fatwa with minimal *maqāṣid* articulation, emerging sectors such as Islamic fintech and sustainable sukuk display greater openness to *maqāṣid*-based objectives, particularly in relation to consumer protection and long-term public welfare (Rahman et al., 2020; Saiti & Abdullah, 2021). This variation suggests that the integration of *maqāṣid* is influenced not only by doctrinal considerations but also by regulatory innovation and policy priorities. The proposed integration model offers a normative and institutional pathway to strengthen the realization of Islamic legal objectives in financial regulation.

Theoretically, this study challenges the assumption that Islamic financial regulation inherently reflects *maqāṣid al-Shari'ah*, showing that *maqāṣid* must be intentionally institutionalized in regulatory design, drafting, and evaluation to achieve substantive realization beyond symbolic compliance. From a policy perspective, it calls for regulators to adopt *maqāṣid* as an explicit legislative principle rather than a peripheral ethical reference.

LIMITATIONS & FURTHER RESEARCH

Further Research

Building on the findings of this study, several avenues for further research can be identified. First, future studies may conduct empirical assessments of the realization of *maqāṣid* by examining the socio-economic impacts of specific Islamic financial regulations, such as their effects on financial inclusion and consumer welfare. Such research would complement the normative analysis presented here and respond to calls for measurable *maqāṣid*-based evaluation tools (Mohammed & Taib, 2017; Bedoui & Mansour, 2020).

Second, comparative research across jurisdictions—particularly between Indonesia and other Islamic finance hubs such as Malaysia or the Gulf Cooperation Council (GCC) countries—would provide valuable insights into how different regulatory models institutionalize *maqāṣid al-Shari'ah* within state law. Comparative findings could inform regulatory reform by identifying best practices and transferable policy frameworks (El-Gamal, 2019; Haneef et al., 2019).

Third, future research may explore the role of regulatory actors, including sharia supervisory boards, legislators, and financial authorities, in shaping *maqāṣid*-oriented lawmaking. Institutional ethnography or qualitative interviews could reveal how *maqāṣid* reasoning is negotiated, constrained, or transformed within bureaucratic processes (Hooker, 2017; Lindsey, 2018).

Finally, further doctrinal research is needed to develop operational benchmarks for the *maqāṣid* that can be integrated into regulatory impact assessments and post-implementation reviews. Such benchmarks would strengthen Islamic financial law's capacity to function not merely as a system of permissible transactions but as a normative framework for ethical and sustainable economic governance (Kamali, 2017; Nyazee, 2019).

Limitations

This study is subject to several limitations that should be acknowledged when interpreting its findings. First, the research adopts a normative-juridical approach focused on legal texts, fatwas, and regulatory instruments. As a result, the analysis emphasizes doctrinal coherence and regulatory design rather than empirical measurement of socio-economic outcomes. While this approach is appropriate for examining the integration of *Maqāṣid al-Shari‘ah* at the lawmaking level, it limits the ability to assess the actual impact of regulations on market behavior, consumer welfare, and financial inclusion (Chapra, 2016; Mohammed & Taib, 2017).

Second, the study relies primarily on publicly available regulations and fatwas, without incorporating interviews or internal policy documents from regulatory authorities or sharia boards. Consequently, the findings may not fully capture informal decision-making processes, political considerations, or institutional constraints that shape the application of *maqāṣid* reasoning in practice (Hooker, 2017; Lindsey, 2018).

Third, although this research identifies sectoral variations in *maqāṣid* integration, it does not provide a quantitative comparison across sectors using standardized *maqāṣid* indices. The absence of such metrics limits the precision with which levels of *maqāṣid* realization can be compared and suggests the need for mixed-method approaches in future studies (Bedoui & Mansour, 2020).

Finally, this study is context-specific to Indonesia's legal and institutional framework. While the findings offer insights relevant to other jurisdictions with similar models of Islamic financial regulation, caution should be exercised in generalizing the conclusions beyond comparable legal systems without further comparative analysis (Haneef et al., 2019). Although this study has advanced understanding of how *maqāṣid al-shari‘ah* informs the transition from fatwa to formal regulation within Indonesian Islamic finance, further research should identify the gaps in our knowledge that follow from our findings.

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