

Dialectic of Tasyri' and Sharia Philosophy: Affirming the Relevance of Islamic Law Values in the Direction of Islamic Law Reform in Indonesia

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Abstract: This study offers a novel contribution by examining the integration of *Tasyri'* and *Sharia* philosophy within the framework of Islamic law reform in Indonesia. The originality of this research lies in its emphasis on how philosophical integration can reinforce the foundations of contemporary Islamic legislation in a pluralistic context. The primary focus is to explore how the fundamental values of Islamic law can be effectively applied within a modern legislative system that responds to the nation's social dynamics and constitutional demands. This integration is crucial for bridging the principles of *tasyri'* – as the normative basis for legal formation – with *sharia* as a comprehensive legal system that governs human life. This study employs a normative qualitative method, analyzing primary legal sources, positive law, and contemporary literature, with a focus on *maqasid al-shariah* and comparative analysis across legal schools. The results demonstrate that integrating *Tasyri'* and *Sharia* philosophy as both conceptual and normative foundations in Islamic law-making provides a comprehensive framework that bridges transcendent legal sources with the sociological realities of the *ummah*. This integration enables the application of Islamic law, which remains relevant to contemporary needs, while enriching national legislation with strong ethical and moral underpinnings. The main challenge lies in harmonizing classical texts with modern social realities to maintain the dynamism, adaptability, and contextual responsiveness of Islamic law. Therefore, the integration of *Tasyri'* and *Sharia* philosophy is not merely theoretical but also practical, supporting the development of national legislation rooted in Islamic values and responsive to the complexity of Indonesia's pluralistic society.

Keywords: *Philosophy of Tasyri', Philosophy of Sharia, Reform of Islamic Law*

Abstrak: Penelitian ini memberikan kontribusi baru dengan mengkaji integrasi *Tasyri'* dan filsafat *Syariah* dalam kerangka reformasi hukum Islam di Indonesia. Keaslian penelitian ini terletak pada penekanan pada bagaimana integrasi filosofis dapat memperkuat dasar-dasar legislasi Islam kontemporer dalam konteks pluralistik. Fokus utama adalah mengeksplorasi bagaimana nilai-nilai dasar hukum Islam dapat diterapkan secara efektif dalam sistem legislatif modern yang merespons dinamika sosial dan tuntutan konstitusional negara. Integrasi ini krusial untuk menjembatani prinsip-prinsip *tasyri'* – sebagai dasar normatif pembentukan hukum – dengan *syariah* sebagai sistem hukum komprehensif yang mengatur kehidupan manusia. Penelitian ini menggunakan metode kualitatif normatif, menganalisis sumber hukum primer, hukum positif, dan literatur kontemporer, dengan fokus pada *maqasid al-shariah* dan analisis komparatif antar mazhab hukum. Hasil penelitian menunjukkan bahwa mengintegrasikan *Tasyri'* dan filsafat *Syariah* sebagai landasan konseptual dan normatif dalam pembentukan

hukum Islam menyediakan kerangka kerja komprehensif yang menjembatani sumber-sumber hukum transenden dengan realitas sosiologis umat Islam. Integrasi ini memungkinkan penerapan hukum Islam yang tetap relevan dengan kebutuhan kontemporer, sambil memperkaya legislasi nasional dengan landasan etis dan moral yang kuat. Tantangan utama terletak pada harmonisasi teks-teks klasik dengan realitas sosial modern untuk mempertahankan dinamisme, adaptabilitas, dan responsivitas kontekstual hukum Islam. Oleh karena itu, integrasi Tasyri' dan filsafat Syariah bukan hanya teoretis tetapi juga praktis, mendukung pengembangan legislasi nasional yang berakar pada nilai-nilai Islam dan responsif terhadap kompleksitas masyarakat pluralistik Indonesia.

Kata kunci: *Filsafat Tasyri', Filsafat Syariah, Reformasi Hukum Islam*

INTRODUCTION

The reform of Islamic law in Indonesia has been a significant focus in recent decades, alongside the growing need to adapt Islamic law to the challenges of modernity and shifting social dynamics.¹ The urgency is based on the fact that Indonesia, which is the country with the largest Muslim population in the world, faces unique challenges in implementing Islamic law within a pluralistic national legal framework. It must be based on Sharia principles, and Islamic law must also be in harmony with the constitution and positive laws that apply in Indonesia.² Integrating Tasyri's and Sharia's philosophies becomes very relevant in this context. The Philosophy of Tashri', which focuses on the process of forming laws from the sources of sacred texts, and the Philosophy of Sharia, which emphasises the purpose of Islamic law (maqasid al-shariah), are the main cornerstones in the development of relevant and adaptive Islamic law.³

In the context of Islamic law reform, the question that always arises is how scholars in Indonesia can effectively apply the integration of Tasyri's and Sharia's philosophy. The philosophy of Tasyri provides a clear normative framework for determining law based on the Qur'an and Hadith, using the methods of *ijtihad* and *legal istinbat* that scholars have long practised. However, text-only approaches are often perceived as less responsive to complex and ever-changing social dynamics. To answer this challenge, integration with Sharia Philosophy is needed. This is achieved through an approach that considers *maqasid al-shariah*, with the primary purpose of deriving Islamic law, which encompasses the protection of religion, soul, intellect, descent, and property. The ability of Islamic law to integrate tasyri' philosophy and sharia philosophy will further demonstrate that it can address the challenges of the times and is the best law for all times, a logical consequence of the renewal of Islamic law.⁴

Sharia philosophy provides a broader perspective on understanding and applying Islamic law, taking into account the social context and purpose of the law itself. *Maqasid al-shariah*, as the primary foundation in Sharia Philosophy, allows Islamic law to be interpreted and applied to achieve the common good (*maslahah*) and social justice. In the

¹ Muji Mulia, "Pembaharuan Hukum Islam Di Indonesia (Analisis Historis Tentang Kompilasi Hukum Islam)," *Jurnal Ilmiah Islam Futura* 7, no. 1 (2018): 64–85.

² M Zainal Anwar, "Formalisasi Syariat Islam Di Indonesia: Pendekatan Pluralisme Politik Dalam Kebijakan Publik," *Millah: Journal of Religious Studies*, 2011.

³ Mohammad Hashim Kamali, *Shari'ah Law: An Introduction* (Simon and Schuster, 2008).

⁴ Muhammad Hasdin Has, "Kajian Filsafat Hukum Islam Dalam Al-Quran," *Journal Al-'Adl* 8, no. 2 (2015): 63.

context of the reform of Islamic law in Indonesia, Sharia Philosophy plays a vital role in ensuring that Islamic law remains relevant to the times without losing its essence, adhering to the teachings themselves. Because the nature of Sharia philosophy is an effort to understand the values of Islamic teachings, which are fundamental to be implemented in daily life. The development of Sharia philosophy is undoubtedly expected to change the behaviour of Muslims to be in line with the essential values of Islam.⁵ This raises further questions about balancing classical Islamic law principles and the need for legal reform in Indonesia's modern social context.

Some of the problems in the reform of Islamic law in Indonesia cannot be separated from the long history of interaction between Islamic law and customary law that existed before the arrival of Islam. Over time, this interaction became more complex with the introduction of colonial and post-independence national laws. In this situation, Islamic law must adapt to the various existing legal systems, while still maintaining its identity as a law derived from Islamic teachings.⁶ The major challenge faced in this regard is maintaining the integrity of Islamic law while meeting the demands of rapid social change and ensuring that Islamic law can be applied fairly and effectively in an increasingly diverse and complex society.

It is not limited only to the interaction of customary law. The reform of Islamic law in Indonesia is gaining increasing prominence and importance, particularly with the emergence of various contemporary issues that necessitate the reinterpretation and adaptation of Islamic law. Topics such as human rights, gender justice, and religious pluralism are becoming increasingly important in discussions about Islamic law.⁷ Muslim scholars and scholars in Indonesia face a wide range of challenges in formulating Islamic law that is not only relevant to religious teachings but also acceptable to the broader community, including those outside the Muslim community. In this case, the Philosophy of Tasyri' and the Philosophy of Sharia are essential to ensure harmony between the text and the context, but also to have another task of answering the fundamental question of how Islamic law can continue to evolve while maintaining the essence of its teachings.

Embedded in the continuous efforts to integrate the Tasyri and Sharia philosophy is the overall effort to formulate Islamic criminal law in Indonesia. Although Islamic criminal law has not been fully adopted in the national legal system, there have been continuous and persistent efforts to integrate Sharia principles into the applicable criminal law.⁸ In this case, the Philosophy of Sharia provides a normative basis for determining a crime from an Islamic perspective. At the same time, it ensures that applying the law does

⁵ Encum Sumirah and Pitrotussaadah Pitrotussaadah, "Perkembangan Filsafat Syariah," *Jurnal Perspektif* 5, no. 2 (2021): 204-17.

⁶ Zaelani Zaelani, "Hukum Islam Di Indonesia Pada Masa Penjajahan Belanda: Kebijakan Pemerintahan Kolonial, Teori Receptie in Complexu, Teori Receptie Dan Teori Teceptio a Contrario Atau Teori Receptio Exit," *KOMUNIKE: Jurnal Komunikasi Penyiaran Islam* 11, no. 1 (2019): 128-63.

⁷ Nasruddin Yusuf, Nur Azizah, and Faradila Hasan, "Feminism Analysis of Judges' Considerations for Post-Divorce Domestic Violence Victims in Medan and Banda Aceh Religious Courts," *Al-'Adalah* 20, no. 2 (2023): 283-308, <https://doi.org/10.24042/adalah.v20i2.16177>.

⁸ Rika Afrida Yanti, "Implementasi Hukum Pidana Islam Di Indonesia: Sebuah Upaya Politik Konstitusionalisme," *JURNAL AS-SAID* 2, no. 1 (2022): 47-56.

not contradict the values of humanity and justice.⁹ For example, in discussions about the death penalty, the Sharia Philosophy approach emphasises the importance of considering maqasid al-shariah, such as the protection of the soul, in determining when and how the death penalty can be applied.¹⁰

The study addresses a critical juncture in Indonesia, where fidelity to normative sources must keep pace with social change within a plural legal order. Its novelty lies in the design of an auditable, operational decision-making protocol that links text-based derivation to public-interest evaluation and subsequently to rule calibration for legislation and adjudication. This contribution goes beyond historical mapping and doctrinal exposition. It differs from Jaih Mubarak's historiographic surveys, which chart the emergence and growth of Islamic law, yet stop short of offering replicable evaluation indicators for contemporary policy design.¹¹ It also extends A. Djazuli's *usul fiqh* and legal-maxim expositions by translating doctrinal tools into a stepwise test that yields policy-relevant outputs.¹² It draws on Jasser Auda's systems-oriented maqasid thinking and advances it into a country-specific protocol with explicit indicators and decision rules tailored to Indonesia's regulatory context.¹³

Recent scholarship highlights the need for such operationalization now. Studies show that reforms channelled through Supreme Court Circulars in family law already lean toward maqasid-consistent reasoning. At the same time, debates on interfaith marriage reveal the need for transparent indicators and thresholds when balancing norms and rights.¹⁴ Work on legal pluralism in inheritance disputes further illustrates the frictions that require a structured bridge between doctrine and measurable public interest.¹⁵ A systemic maqasid framework for legal reform has also been proposed in recent Indonesian journals, pointing to a shift from descriptive appeals to actionable methodologies. By consolidating these insights into a single, auditable protocol, this article offers a practical approach to preserving doctrinal integrity while achieving social relevance across Indonesian family and criminal law.

There have been several previous studies on the reform of Islamic law in Indonesia, such as those written by Jaih Mubarak in *Philosophy of Islamic Law* and A. Djazuli in *Fiqh Siyasah*. However, the writings generally focus on normative and historical aspects without explicitly discussing the integration between Tasyri's Philosophy and Sharia Philosophy as an epistemological framework for reform. This research offers a different approach by placing the integration of the two philosophies as a conceptual foundation for understanding the direction of Islamic law reform, which is more systematic and

⁹ Ahmad Munir, "Tantangan Hukum Islam Di Abad Modern," *Mimbar* 18, no. 2 (2019): 165–79.

¹⁰ Mudzakir Mudzakir, "Hukum Islam Di Indonesia Dalam Perspektif Konstruksi Sosial Peter L. Berger," *Al-'Adalah* 11, no. 1 (2014): 155–70.

¹¹ Hasanudin Hasanudin, Jaih Mubarak, and Muhammad Al-Fayyad Maulana, "Progressiveness of Islamic Economic Law in Indonesia: The Murā'at Al-'Ilal Wa Al-Maṣāliḥ Approach," *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam* 7, no. 2 (2023): 1267–92, <https://doi.org/10.22373/sjhk.v7i2.17601>.

¹² H A Djazuli, *Kaidah-Kaidah Fikih* (Prenada Media, 2019).

¹³ Jasser Auda, *Membumikan Hukum Islam Melalui Maqasid Syari'ah* (Bandung: Mizan, 2015).

¹⁴ Mouez Khalfaoui, "Current Muslim Understandings of Classical Family Law in a Modern Secular Context: Germany as a Case Study," *Journal of Muslim Minority Affairs* 40, no. 1 (2020): 117–27, <https://doi.org/10.1080/13602004.2020.1741163>.

¹⁵ Brian Z Tamanaha, *Legal Pluralism Explained: History, Theory, Consequences* (Oxford University Press, 2021).

contextual. Thus, this study is essential in strengthening the philosophical foundation of Islamic law to address the dynamics of a plural and ever-evolving Indonesian society.

This study employs a qualitative normative design that treats authoritative texts as primary data and policy instruments as the field of application.¹⁶ The corpus comprises the Qur'an, Hadith, and classical *turath* in *usul fiqh* and *fiqh* across major schools together with Indonesian positive law, including statutes, the Compilation of Islamic Law, Supreme Court circulars, and relevant court decisions. At the same time, peer-reviewed articles and monographs provide secondary materials that are integrated when they refine theory, supply context, or present rival readings. Analysis proceeds through directed content analysis, utilizing a codebook that captures source, level of authority, protected interests, harm profiles, and rights impacts. This is followed by conceptual mapping, which aligns doctrinal propositions with constitutional principles and public interest indicators, organizing them into a matrix of conflict and convergence. Comparative reading then tests cross-school positions and cross-regime consistency between doctrine and regulation. A legal hermeneutic interpretation clarifies the language, historical setting, and social context before applying a goal-oriented test to weigh the alternatives. Verification employs triangulation across primary texts, positive law, and contemporary scholarship, incorporating negative case searches and expert review, and culminates in explicit decision rules and safeguards that are replicable and auditable, ensuring reform remains contextual while core values are preserved.

DISCUSSION

Indonesian Challenges in the Discourse on Islamic Law Reform

Renewal is developing and adapting existing principles to reflect changing conditions and needs. In the context of Islamic law in Indonesia, the reform of Islamic law refers to the adaptation of sharia teachings to the social, cultural, and legal realities that have developed in modern society. The reform of Islamic law involves re-applying Islamic teachings in a relevant and adaptive manner, ensuring that the fundamental principles of Sharia are maintained while addressing new challenges. This process consists in revising regulations and applying the principles of Maqasid al-Shariah, which emphasizes the public interest and justice, to ensure that Islamic law remains effective and meets the needs of Indonesia's dynamic society.¹⁷

In the context of Islamic law reform in Indonesia, various complex challenges, both internal and external, exist. One of the biggest challenges is ensuring that Islamic law remains relevant in an ever-changing social context without sacrificing the integrity and authenticity of Islamic teachings.¹⁸ Because if there are too many. On the one hand, there

¹⁶ Lauren Gatti and Paula McAvoy, "Theorizing to Cases: A Methodological Approach to Qualitative Normative Cases," *Educational Theory* 74, no. 3 (2024): 350–57, <https://doi.org/10.1111/edth.12611>.

¹⁷ Nasruddin Yusuf et al., "Examining the Basis of Maqashid Sharia in Renewal of Islamic Law in Indonesia," *Petita: Jurnal Kajian Ilmu Hukum Dan Syariah* 9, no. 1 (2024): 357–75, <https://doi.org/10.22373/petita.v9i1.258>.

¹⁸ Manal Hendawi et al., "The Development of Islamic Education Curriculum from the Quranic Perspective," *Ar-Fachruddin: Journal of Islamic Education* 1, no. 2 (2024): 93–123, <https://doi.org/10.7401/hms52091>.

are concerns that too many adjustments or compromises to sacred texts could result in the loss of the fundamental values of Islam that have been the foundation of law for centuries. On the other hand, in the absence of significant reforms, Islamic law risks becoming irrelevant to the dynamic realities of modern society. The differences among Muslim intellectuals that cause tensions and conflicts, such as those in madhhab fiqh, which is rooted in the orientation of Islamic law, are manifestations of the space of movement, dynamism, and universality of Islamic legal thought.¹⁹

The first challenge stems from the social and cultural diversity prevalent in Indonesia.²⁰ As a country with more than 300 ethnic groups and various customary law traditions, legal pluralism is a reality that must be faced in the application of Islamic law. Customary law in different regions often has distinct provisions or conflicts with Islamic law, particularly in matters related to family rights, property ownership, and other civil matters. For example, in some cultures in Indonesia, the rules regarding inheritance distribution can differ from those of Islamic law, where customary law sometimes grants more rights to the eldest son as the family's successor.²¹ This creates a situation where Islamic law must be adapted and harmonized with customary law, including in regions where Muslims are a minority, to ensure that it can be accepted and applied effectively within the broader social and legal context.²²

Additionally, the presence of a national legal system that incorporates Western legal principles introduces an extra layer of complexity to the application of Islamic law. Since the Dutch colonial era, Indonesia has inherited a legal system heavily influenced by Dutch law and, after independence, by more modern principles of international law. As a result, Islamic law in Indonesia often has to deal with legal standards based on secular principles, especially in criminal and civil matters. For example, the national criminal law, as set out in the Criminal Code (KUHP), essentially adopts Western legal principles, which sometimes conflict with Islamic law principles.²³ This requires careful adjustments so that Islamic law can be applied without conflicting with applicable national law.

Another challenge that has hindered significant Islamic law reform efforts is the rapid pace of economic and political developments, which affects the public's perception of the law. Globalisation and modernisation have brought new values, often at odds with traditional Islamic teachings. For example, in the economic field, the application of Islamic law in Islamic banking and finance faces significant challenges in adapting to a global financial system dominated by the principles of capitalism. Although considerable progress has been made in the development of Islamic banking in Indonesia, challenges remain in integrating sharia principles, such as the prohibition of *riba* (interest), with a global economic system that relies heavily on interest as a primary financial instrument.²⁴

¹⁹ Munir, "Tantangan Hukum Islam Di Abad Modern."

²⁰ Christian Siregar, "Fenomena Pluralisme Dan Toleransi Beragama Di Indonesia," *Ilmu Ushuluddin* 4, no. 1 (2017): 27.

²¹ C. Geertz, *Local Knowledge: Further Essays in Interpretive Anthropology* (New York: Basic Books, 1983).

²² Nasruddin Yusuf, Ridwan Jamal, and Nik Abdul Rahim Nik Abdul Ghani, "Sadd Al-Dzari'ah's Strategy in Maintaining Social Integrity and Sharia of Muslim Minorities amid Religious Plurality in North Sulawesi," *International Journal of Syariah and Law* 1, no. 1 June (2025): 41–58.

²³ D. S. Lev, *Legal Evolution and Political Authority in Indonesia: Selected Essays* (Leiden: KITLV Press, 2000).

²⁴ M. S. Antonio, *Bank Syariah: Dari Teori Ke Praktik* (Jakarta: Gema Insani Press., 2001).

In the political realm, challenges also arise from power dynamics and legislation. In a democratic context, such as Indonesia, the application of Islamic law is often the subject of intense political debate.²⁵ Legislation related to Islamic law, such as the passage of the Law on Sharia Banking or Religious Courts, is often influenced by political dynamics and the interests of various groups. In addition, the decentralisation policy enacted after the 1998 reforms has given greater authority to local governments, sometimes resulting in different interpretations and applications of Islamic law between regions. A clear example is the application of Islamic sharia in Aceh, which has special autonomy, allowing Islamic law to be applied more strictly than in other regions of Indonesia.²⁶

It is also crucial to acknowledge the challenges posed by shifting gender roles and family structures. In modern society, the role of women in the family and society has undergone significant changes. On the one hand, Islamic law has clear rules regarding the rights and obligations of husband and wife; however, applying these rules is often impossible due to the existing social reality.²⁷ Women in Indonesia are increasingly participating in the world of work and education, which demands adjustments in Islamic family law, especially regarding women's rights in divorce, maintenance, and inheritance.²⁸ These adjustments must be made carefully to ensure that they do not infringe upon the rights guaranteed by Islamic law, while also taking into account the needs and aspirations of modern women.

Other challenges include the resistance of some groups in society who reject the reform of Islamic law. There are some scholars and conservative groups who view any form of reform or reinterpretation of Islamic law as a form of deviation from the original teachings of Islam. They argue that classical texts should be applied literally to Islamic law without any adjustment to the modern context. While seeking to maintain the purity of Islamic teachings, this approach is often impractical in applying the law in a rapidly changing society. Furthermore, this rigid view can hinder efforts to make Islamic law more inclusive and relevant to contemporary challenges.²⁹

To address these challenges, more flexible and contextual approaches have been needed. One of the approaches used by several Islamic scholars and intellectuals in Indonesia is the maqasid al-shariah approach, which emphasises the primary goal of sharia: achieving the common good and justice. With this approach, Islamic law can be applied by taking into account Indonesia's unique social, cultural, and economic context. For example, in financial matters, the application of zakat and waqf laws has been adjusted to support broader social programs, such as economic empowerment of the poor

²⁵ Greg Barton, Ihsan Yilmaz, and Nicholas Morieson, "Authoritarianism, Democracy, Islamic Movements and Contestations of Islamic Religious Ideas in Indonesia," *Religions* 12, no. 8 (2021): 641, <https://doi.org/10.3390/rel12080641>.

²⁶ M. R. Feener, *Sharia and Social Engineering: The Implementation of Islamic Law in Contemporary Aceh, Indonesia* (Oxford: Oxford University Press., 2013).

²⁷ Rosdalina Bukido and Siti Aminah, "Is Islamic Family Law Fair for Women Not Working After Divorce?," *Antmind Review: Journal of Sharia and Legal Ethics* 1, no. 2 (2024): 51–59, <https://doi.org/10.63077/9ngvb155>.

²⁸ Susan Blackburn, *Women and the State in Modern Indonesia* (Cambridge University Press, 2004).

²⁹ Ratno Lukito, *Tradisi Hukum Indonesia*, vol. 1 (the institute for migrant rights press, 2012).

Dialectic of Tasyri' and Sharia Philosophy: Affirming the Relevance of Islamic Law Values in the Direction of Islamic Law Reform in Indonesia

and public infrastructure development.³⁰ This approach enables Islamic law to remain relevant and effective in addressing the needs of modern society. Here are five main challenges in reforming Islamic law in Indonesia:

Table 1. Identify Key Challenges in Islamic Law Reform in Indonesia

Yes	Challenge	Description	Example
1	The Relevance of Islamic Law in the Modern Context	Keeping Islamic law relevant in a society that continues to evolve without sacrificing the integrity of teachings.	The concern that too much compromise could eliminate the fundamental values of Islam, risking irrelevance without renewal.
2	Social and Cultural Diversity	Legal pluralism arises from ethnic diversity and customary law traditions often different from or contrary to Islamic law.	The rules for dividing inheritance in some cultures in Indonesia differ from Islamic law, such as granting more rights to the eldest son.
3	The Influence of the National Legal System	The interaction between Islamic law and the national legal system, which is heavily influenced by Western law, adds to the complexity of its application.	National criminal laws (KUHP), which adopt Western law principles, sometimes conflict with Islamic law principles.
4	Economic and Political Development	Global economic and political shifts are impacting people's perceptions of Islamic law and presenting new challenges.	Challenges in implementing Islamic banking amid a global financial system that depends on interest (riba).
5	Resistance to Renewal	Rejection from conservatives who see any form of reform as a threat to the purity of Islamic teachings.	Rejection of the adjustment of Islamic family law regarding women's rights in divorce, alimony, and inheritance according to modern reality.

The table above clearly outlines the five main challenges in the reform of Islamic law in Indonesia, so to overcome these challenges, various approaches can be applied, such as using Maqasid al-Shariah to balance between text and context, harmonising customary law with Islamic law, and integrating Sharia principles with modern economic and political systems. In addition, it is also essential to adapt the law to changing gender roles, improve education and socialisation to reduce resistance to reform, and adopt a more flexible and relevant approach to existing social challenges. These approaches are expected to make Islamic law in Indonesia more responsive to the dynamics of modern society, while preserving the essence of Islamic teachings.

Discourse on the Integration of Tasyri' and Sharia Philosophy in Indonesia

³⁰ Amelia Fauzia, *Faith and the State: A History of Islamic Philanthropy in Indonesia*, vol. 1 (Brill, 2013).

Dialectic of Tasyri' and Sharia Philosophy: Affirming the Relevance of Islamic Law Values in the Direction of Islamic Law Reform in Indonesia

One of the crucial efforts to face the challenge of reforming Islamic law is to utilise the instruments of Islamic legal philosophy. This approach provides a theoretical framework that enables the adaptation of Sharia principles to contemporary contexts while preserving the integrity of Islamic teachings. The philosophy of Islamic law, which includes an in-depth study of the principles and objectives of sharia, guides the interpretation and application of the law in a relevant manner, which always contains discussions of the philosophy of tasyri' and the philosophy of sharia. The philosophy of Tasyri plays a role in the understanding and development of Islamic law, as outlined in Sharia texts. In contrast, the philosophy of Sharia emphasises basic Sharia goals such as benefit and justice.

Tasyri's Philosophy and Sharia Philosophy, including Islamic Philosophy of Law, are part of philosophy in the form of an attempt to think radically to the root of a problem and deep into its roots, even beyond existing physical limits, which is often referred to as metaphysical. When combined into the philosophy of Islamic law, it is interpreted as giving a rule, principle, or mabda', the rules of control of the people who follow the Islamic religion. These rules can be found in verses of the Qur'an, Hadith, the opinions of the companions and tabi'in, ijma' ulama, and the fatwas of religious institutions. The term hikmah at-tasyri also interprets the philosophy of Islamic law.³¹

Furthermore, the discussion of the philosophy of Islamic law is known as the discussion of the Philosophy of Tasyri' and Sharia. Although they look the same but are different, Filsafat Tasyri' is a philosophy that emits Islamic law or strengthens it and maintains it or it can also be called a philosophy that talks about the essence and purpose of establishing Islamic law which is divided into five discussions, namely *Da'aim al-Ahkam* (the basics of Islamic law), *Mabadi' al-Ahkam* (Islamic law principles), *Ushul al-Ahkam* (the principles of Islamic law) or *Mashadir al-Ahkam* (sources of Islamic law), *Maqashid al-Ahkam* (the purposes of Islamic law), *Qawaid al-Ahkam* (the rules of Islamic law). It also discusses the five main elements (al-kulliyyat al-khams) that must be preserved and realised: Religion, Soul, Reason, Descent, and Property. At the same time, sharia philosophy is a philosophy that discusses Islamic law materials, such as worship, muamalah, jinayah, uqubah, and so on, including also talking about the essence and secrets of Islamic law, which has four main languages: *Asrar al-Ahkam* (secrets of Islamic law), *Khashaish al-Ahkam* (characteristics of Islamic law), *Mahasin al-Ahkam* (the virtues of Islamic law), *Thawabi' al-Ahkam* (characteristics of Islamic law).³²

The discussion of tasyri and sharia philosophy is a profound and crucial discourse in the context of Islamic law reform. The philosophy of tasyri, which focuses on rational thinking and legislation methodology, plays a vital role in formulating laws that are adaptive to social dynamics and the development of the times.³³ On the other hand, Sharia

³¹ Jaenal Aripin and Azharudin Latif, "Filsafat Hukum Islam: Tasyri' dan Syariat," Jakarta: UIN Jakarta Press. Cet 1 (2006): 11.

³² Sirajuddin, "Filsafat Tasyri' Dan Filsafat Syariah," *At-Ta'lim* 2, no. 2 (2023): 1, <https://medium.com/@arifwicaksanaa/pengertian-use-case-a7e576e1b6bf>.

³³ Muhammad Fuad Zain and Ahmad Zayyadi, "Measuring Islamic Legal Philosophy and Islamic Law: A Study of Differences, Typologies, and Objects of Study," *El-Aqwal : Journal of Sharia and Comparative Law* 2, no. 1 (2023): 1-12, <https://doi.org/10.24090/el-aqwal.v2i1.7472>.

Dialectic of Tasyri' and Sharia Philosophy: Affirming the Relevance of Islamic Law Values in the Direction of Islamic Law Reform in Indonesia

philosophy emphasises the ultimate goal of Islamic law (maqasid al-shariah), which includes the protection of religion, soul, intellect, descent, and property.³⁴ This ensures that any changes or adaptations of the law remain rooted in the principles of justice, welfare, and the public good. In legal reform, integrating rational tasyri' and normative sharia philosophy is indispensable to producing a temporally relevant law, in line with sharia's universal essence and purpose. This is where the urgency of integrating the two lies.³⁵

Therefore, integrating Tasyri's philosophy and Sharia's Philosophy in the reform of Islamic law in Indonesia plays a vital role. The philosophy of Tasyri provides a normative framework based on classical Islamic texts, such as the Qur'an and the Hadith, which serve as the primary basis for the formation of Islamic law. This philosophy serves as a guide to ensure that the resulting laws adhere to the fundamental teachings of Islam.³⁶ For example, in family law, the Tasyri' Philosophy ensures that the law is formulated based on Qur'an verses that regulate the rights and obligations of husband and wife, inheritance rights, and the protection of children.

However, in practice, this text-only approach is often considered inadequate in addressing the challenges of modernity faced by Muslims in Indonesia. The legal texts used as the primary reference in the Tasyri' Philosophy come from a socio-historical context that is very different from the current conditions. As a result, laws that are based solely on textual approaches can be less responsive to dynamic social change. This is where Sharia Philosophy becomes very relevant. By emphasising maqasid al-shariah or Sharia goals, Sharia philosophy offers greater flexibility and adaptability in the reform of Islamic law.³⁷

Maqasid al-shariah, the core of Sharia Philosophy, identifies five main objectives of Islamic law: protecting religion, soul, intellect, descent, and property. By focusing on these goals, Sharia Philosophy ensures that Islamic law does not simply follow the text but is also relevant to evolving social needs and conditions.³⁸ For example, in the reform of Islamic family law in Indonesia, the principles of maqasid al-shariah are used to reinterpret classical texts governing divorce, women's rights, and children's rights. For example, in divorce law, although classical texts give the husband the right to divorce his wife, Sharia Philosophy emphasises that the purpose of divorce should be to achieve justice and protect all parties involved. Therefore, divorce law in Indonesia has been regulated to ensure that the rights of women and children are protected, in line with the protection goals identified in maqasid al-shariah.

This integration is also evident in Indonesian Islamic criminal law. Although its implementation in Indonesia has not been fully adopted, there have been significant

³⁴ Yusuf et al., "Examining the Basis of Maqashid Sharia in Renewal of Islamic Law in Indonesia."

³⁵ Mohammad Fadel, "The True, the Good and the Reasonable: The Theological and Ethical Roots of Public Reason in Islamic Law," *Canadian Journal of Law & Jurisprudence* 21, no. 1 (2008): 5-69.

³⁶ Yuliani, "Nilai Islam Dalam Tradisi Begawe Pada Masyarakat Suku Sasak Di Desa Sisik Lombok Tengah," *Dharmasmrati: Jurnal Ilmu Agama & Kebudayaan* 23, no. 2 (2023): 44-48.

³⁷ Nawawi M Anwar, "Pemikiran Muhammad Syahrur Tentang Kewarisan Dan Kontribusinya Terhadap Pembaharuan Hukum Islam Di Indonesia" (Uin Raden Intan Lampung, 2023).

³⁸ Yusuf et al., "Examining the Basis of Maqashid Sharia in Renewal of Islamic Law in Indonesia."

efforts to integrate sharia principles into the national legal system. The philosophy of Tasyri provides normative guidance on the types of crimes and punishments recognised in Islam, such as hudud for serious offences. However, in practice, Sharia Philosophy emphasises that the primary purpose of punishment is to protect society and prevent harm, which allows for flexibility in determining the form of punishment that suits the social context (Mudzakkir, 2020). For example, in the case of the death penalty, Sharia Philosophy emphasises the importance of considering maqasid al-shariah, such as the protection of the soul, before deciding whether the death penalty can be applied.

While this integration has yielded positive results in many aspects, the study also found some significant challenges in its implementation. One of the biggest challenges is ensuring that the resulting laws remain faithful to the basic teachings of Islam while remaining relevant to the modern social context. On the one hand, there is pressure to maintain the integrity of the classical Islamic texts that form the basis of the law; on the other hand, there is an urgent need to adapt the law to the changing needs of society.³⁹

This integration effort has yielded positive results in many aspects, one of which is maintaining the resulting law's fidelity to the basic teachings of Islam while remaining relevant to the evolving modern social context. On the one hand, there is a strong commitment to maintaining the integrity of classical Islamic texts, which serve as the legal basis for preserving the identity and fundamental values of Islamic teachings. However, there is an urgent initiative to adapt the law to the changing needs of society so that Islamic law can continue to serve as a relevant and responsive guide to contemporary social dynamics. It has always been an effort to integrate classical Islamic law with the needs of modern society.⁴⁰

In Indonesia, the integration effort is somewhat more complex than in other countries, due to the country's pluralistic legal system, which encompasses customary law, national law, and Islamic law, adding a layer of complexity to the process of reforming Islamic law. Scholars and policymakers in Indonesia must continue to collaborate to strike a balance between upholding the essence of Islamic teachings and ensuring that Islamic law can be applied effectively in an increasingly diverse and dynamic society. This is especially important considering that Indonesia is the country with the largest Muslim population in the world, where Islamic law plays a significant role in people's lives. Therefore, the integration effort in the case of the renewal of Islamic Law in Indonesia is not just seeking formal legal legitimacy, but is always directed at how much Islamic law can contribute its values in the context of progress, order, peace, and prosperity in the life of the nation and state.⁴¹

Scholars in Indonesia recognize that successful integration between Tasyri' Philosophy and Sharia Philosophy will enable Islamic law in Indonesia to evolve into a

³⁹ Fazlur Rahman, *Islam & Modernity: Transformation of an Intellectual Tradition*, vol. 15 (University of Chicago Press, 2024).

⁴⁰ Wael B Hallaq, "Chapter One Can The Shari'a Be Restored?," *Islamic Law and the Challenges of Modernity*, 2004, 21.

⁴¹ Ni'matul Huda, "Pelebagaan Hukum Islam Untuk Masa Depan Bangsa Indonesia Yang Pluralistik," *Unisia* 30, no. 65 (2007): 251-63, <https://doi.org/10.20885/unisia.vol30.iss65.art4>.

legal system that is not only grounded in religious teachings but also relevant and responsive to contemporary challenges. In this regard, the Philosophy of Tasyri ensures that the foundations of the law remain firmly rooted in the teachings of Islam. At the same time, the Philosophy of Sharia provides room for the adaptation and innovation necessary to answer the needs of modern society. The Philosophy of Tasyri and the Philosophy of Sharia are essential steps in reforming Islamic law in Indonesia, ensuring that Islamic law remains relevant and effective in addressing the challenges of the times. By combining the normative power of the Tasyri' Philosophy with the flexibility and focus on the goals of the Sharia Philosophy, Islamic law in Indonesia can continue to evolve into a legal system that is fair, relevant, and adaptable to the ever-changing social dynamics.

Proper education and socialisation are also essential in overcoming resistance to Islamic law reform. The religious education curriculum in schools and Islamic boarding schools needs to emphasise the importance of understanding the context in applying Islamic law. In this way, the public will be more open to ideas of reform. It will be able to understand that legal adjustments are not a form of deviation, but rather part of an effort to make Islamic law more in line with contemporary needs and requirements.⁴² Socialisation must also be done through the mass media and public discussion forums to increase awareness and understanding of the importance of Islamic law reform in Indonesia. Ultimately, the application of Islamic law in Indonesia must strike a balance between upholding the integrity of Islamic teachings and addressing the needs of modern society. The existing challenges show that Islamic law cannot be applied rigidly and statically, but must be adaptive and contextual. With an inclusive, flexible, and purpose-driven approach to Sharia, Islamic law can continue to evolve and play a vital role in the increasingly complex and pluralistic lives of Indonesian society.

An Analysis of Maqasid as an Operational Bridge for Reform in Indonesia

In the context of Islamic law reform in Indonesia, Maqasid al-Shariah theory plays a crucial role as a tool of analysis and guidance in adapting Islamic law to the needs of modern society. This theory is relevant in ensuring that Islamic law remains faithful to the fundamental principles of classical texts, such as the Qur'an and Hadith, while also allowing for necessary innovation and adaptation in dynamic social and cultural contexts. The integration between Tasyri's Philosophy and Sharia Philosophy, through the Maqasid al-Shariah approach, is key in this reform effort.⁴³ In the Sharia maqashid. Tasyri's philosophy serves as a normative foundation for the formation of Islamic law, emphasizing adherence to sacred texts and providing a solid basis for inviolable legal authority. Through this philosophy, every attempt at reform must be ensured to remain rooted in the basic teachings of Islam. In contrast, Sharia Philosophy offers a more flexible approach by emphasising the importance of Sharia goals, or maqasid, beyond mere adherence to the text. This philosophy focuses on achieving social justice, protecting the

⁴² Azyumardi Azra, *Jaringan Ulama Timur Tengah* (Prenada Media, 2013).

⁴³ Ah Soni Irawan, "Maqa Shid Al-Shari Ah Jasser Auda Sebagai Kajian Alternatif Terhadap Permasalahan Kontemporer," *The Indonesian Journal of Islamic Law and Civil Law* 3, no. 1 (2022): 39–55.

soul, intellect, property, heredity, and religion. Thus, Sharia Philosophy allows for legal adjustments that are more relevant to social and cultural conditions in Indonesia.

The theory of Maqasid al-Shariah then became a bridge between the Philosophy of Tasyri' and the Philosophy of Sharia. However, the broader objectives of Sharia do not contradict normative theories of Islamic law, allowing for a holistic evaluation of Islamic law itself. Maqasid al-Shariah, therefore, serves not only as a tool to assess whether the resulting law is based on the teachings of Islam but also to ensure that the law achieves social justice and the common good. In Indonesia, the application of Maqasid al-Shariah has allowed Islamic law to remain relevant and responsive to the challenges of modernity. For example, in the economic field, the implementation of maqasid has encouraged the development of Islamic banking, which not only adheres to Sharia principles, such as the prohibition of usury, but also ensures that Islamic financial products contribute to social justice and a more equitable distribution of wealth.⁴⁴

Maqasid is treated as a working bridge that links text-based derivation and purpose-oriented reasoning, allowing doctrinal authority and public interest to move in tandem. Secondly, within the normative strand associated with tasyri philosophy, legal propositions are drawn from primary sources, which have clear levels of authority and rules that guide their application. Thirdly, within the purpose-oriented strand associated with Sharia philosophy, goals such as the protection of religious life, intellect, lineage, and property are translated into measurable indicators and acceptance thresholds. Moreover, the bridge operates through safeguards and review tests so innovation remains accountable. In contrast to approaches that place text and purpose in opposition, this framework treats them as mutually constraining and mutually clarifying. Accordingly, doctrinal integrity is preserved while calibrated adaptation becomes possible in a plural Indonesian setting.

In finance, Islamic banking initiatives have been guided by the prohibition of riba, while advancing financial inclusion and risk-sharing for communities. Secondly, in family law, reforms on maintenance, divorce, and inheritance have encouraged calibrated solutions that secure fairness for women and children while remaining within recognised principles. Moreover, decentralized regulation has required alignment between local initiatives and national standards, with Aceh often cited as a distinctive jurisdiction that necessitates careful coordination.⁴⁵ In contrast, criminal law is closely tied to the national code, which necessitates harmonisation when religiously inspired proposals are considered. Finally, education, legal literacy, and participatory policy making help lower resistance and make maqasid-based reforms workable for courts, legislators, and the public.

The application of Maqasid al-Shariah in Indonesia as a bridge between Tasyri's philosophy and Sharia's philosophy has excellent potential to harmonise Sharia principles with the needs of modern society. This approach enables the adaptation of Islamic law to

⁴⁴ Antonio, *Bank Syariah: Dari Teori Ke Praktik*.

⁴⁵ Erlan Wijatmoko, Armaidy Armawi, and Teuku Faisal Fathani, "Legal Effectiveness in Promoting Development Policies: A Case Study of North Aceh Indonesia," *Heliyon* 9, no. 11 (2023), <https://doi.org/10.1016/j.heliyon.2023.e21280>.

remain relevant in the face of social, cultural, and economic changes, while preserving the core values of Islamic teachings. By emphasising the main goals of sharia, such as the public good and justice, Maqasid al-Shariah offers a flexible framework for adaptation without sacrificing the integrity of existing teachings. Thus, managing the application of Maqasid al-Shariah requires special attention to maintain a balance between innovation and adherence to basic Sharia principles.⁴⁶ To address this, workable solutions include the development of an inclusive and participatory legal framework that involves various stakeholders, including scholars, academics, and the broader society, in the legal reform process. Constructive and sustained dialogue can ensure that legal adjustments remain within the framework of authentic Islamic teachings while meeting the contextual needs of modern society.

Legal adjustments in the context of Islamic Law Reform must consider all social and global changes in gender roles and family structures. Family law reform, for example, could involve revising inheritance laws that give women and children fairer rights from unregistered marriages, while respecting sharia principles. In addition, integration with international legal standards must be carried out carefully, ensuring that the reforms not only conform to global principles but also maintain the identity of Islamic law. Implementing the maqasid approach can be achieved through social programs such as economic empowerment, legal education, and reform of the justice system, thereby supporting the community's welfare more effectively. Through these measures, Islamic law can function well in modern contexts, meeting the needs of society while maintaining fundamental Sharia principles.

Legal innovations based on Maqasid al-Shariah must be continuously developed to face this challenge. Education and socialisation of maqasid must also be improved so that scholars, legal scholars, and policymakers can more effectively apply Islamic law relevant to the local context while being responsive to global dynamics. This education is crucial in supporting legal reform and ensuring that future generations have a deep understanding of Sharia, thereby bridging the gap between modern needs and relevant Islamic principles.⁴⁷ Ultimately, the analysis of the suitability of Maqasid al-Shariah Theory in the reform of Islamic law in Indonesia reveals that this approach effectively bridges the gap between the normative Tasyri Philosophy and the adaptive Sharia Philosophy. By combining the two philosophies through the maqasid approach, Islamic law in Indonesia can continue to develop into a legal system that is relevant, inclusive, and adaptive to the challenges of the times. Although challenges remain, especially in maintaining a balance between innovation and orthodoxy, Maqasid al-Shariah provides a robust framework to ensure that Islamic law remains faithful to its fundamental principles while adapting to the needs of modern society.

Suppose Maqasid al-Shariah can bridge the philosophy of tasyri' and the philosophy of sharia. In that case, Indonesia has significant potential to become a model

⁴⁶ Rafiullah Sheikh and Khalid Hussain, "Reimagining Islamic Banking in the Light of Maqasid Shariah," *Qualitative Research in Financial Markets*, 2024, <https://doi.org/10.1108/QRFM-04-2024-0108>.

⁴⁷ Azra, *Jaringan Ulama Timur Tengah*.

for other Muslim countries in terms of reforming Islamic law based on maqasid. The resulting legal system will not only be relevant in the local context but can also contribute to the global discourse on the application of Sharia in the 21st century. Given that Indonesia is the country with the largest Muslim population in the world, it bears an important responsibility in leading adaptive and inclusive Islamic law innovations. The challenges in this process can only be overcome through an integrative and comprehensive approach, which combines the strengths of tasyri' philosophy, sharia philosophy, and maqasid al-shariah. This approach will ensure that Islamic law reform is not only based on Sharia texts but also in harmony with the fundamental objectives of Sharia, thus making a meaningful contribution to the sustainable and globally relevant development of Islamic law.

CONCLUSION

In conclusion, reforming Islamic law in Indonesia through integrating Tasyri' Philosophy, Sharia Philosophy, and Maqasid al-Shariah Theory shows great potential in creating a legal system relevant to the modern context. The philosophy of Tasyri provides a solid normative foundation, ensuring that the laws applied remain faithful to religious texts. However, the limitations of this textual approach can be balanced by Sharia Philosophy, which offers flexibility and focuses on broader Sharia objectives such as social justice, welfare, and the common good. In this case, the Maqasid al-Shariah theory serves as a bridge uniting these two philosophies, enabling a more holistic assessment of Islamic law and ensuring that the resulting legislation is not only grounded in Islamic teachings but also responsive to societal needs.

More practically, this integrative approach offers a conceptual and methodological framework that can guide lawmakers, judges, and legal scholars in formulating and interpreting laws that align with both Islamic values and Indonesia's pluralistic legal system. It offers a practical solution to the central problem of how Islamic law can be applied effectively within a modern state without losing its normative essence. Nevertheless, this renewal process is not without challenges. On the one hand, conservative concerns arise that emphasizing Sharia goals could open space for overly flexible interpretations that deviate from original teachings. On the other hand, difficulties appear in adapting Islamic law to sectors such as economics and criminal law, where discrepancies exist between Sharia principles and modern or international standards. Yet, these challenges can be mitigated through enhanced education on Maqasid al-Shariah and greater public understanding of the importance of contextual reform.

Overall, the integration of Tasyri's Philosophy and Sharia Philosophy, grounded in Maqasid al-Shariah, provides both a theoretical foundation and a practical pathway for Islamic law reform in Indonesia. This approach ensures that Islamic law remains faithful to its divine principles while adapting to social changes. Thus, Indonesia has the potential to become a model for other Muslim countries in developing Islamic law that is adaptive, inclusive, and contextually grounded, reaffirming its strategic role as the world's largest Muslim-majority nation in leading Islamic legal innovation in the 21st century.

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