



Beyond Administrative Formality: Marriage Registration as a *Maqāṣid*-Based Legal Protection in Indonesia

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DOI: [10.21154/syakhsiiyyah.v8i1.12840](https://doi.org/10.21154/syakhsiiyyah.v8i1.12840)

Received: 17 December 2025

Revised: 20 May 2026

Accepted: 02 June 2026

Abstract: This study analyzes the application of *maqāṣid al-sharīah* in marriage registration policies in Indonesia, aiming to bridge the tension between the validity of marriage under *fiqh* and the administrative obligations under positive law. The focus of the study is on the social and legal implications of the practice of *nikah sirri* on the protection of women's and children's rights within Muslim families. The study employs a legal-normative method with a conceptual and statutory approach. The analysis examines the doctrine of *maqāṣid al-sharīah* developed by al-Ghazali, al-Shatibi, and Jasser Auda, and relates it to marriage regulations in Indonesia. Data were analyzed qualitatively through a normative interpretation of the objectives of Islamic law and national law. The results indicate that marriage registration serves not only as an administrative procedure but also as a *shar'īyyah* instrument that protects religion, life, intellect, lineage, and property. This study contributes to strengthening the normative legitimacy of the obligation to register marriages while supporting the enhancement of legal certainty, justice, and the public interest for Muslim families in Indonesia.

Keywords: Marriage Registration; Secret Marriage; Public Interest.

Abstrak: Penelitian ini bertujuan untuk menganalisis penerapan *maqāṣid al-sharīah* dalam kebijakan pendaftaran pernikahan di Indonesia sebagai upaya untuk menjembatani ketegangan antara keabsahan pernikahan menurut *fiqh* dan kewajiban administratif berdasarkan hukum positif. Fokus penelitian ini adalah pada implikasi sosial dan hukum dari praktik *nikah sirri* terhadap perlindungan hak-hak perempuan dan anak dalam keluarga Muslim. Penelitian ini menggunakan metode hukum-normatif dengan pendekatan konseptual dan yuridis. Analisis ini mengkaji doktrin *maqāṣid al-sharīah* yang dikembangkan oleh al-Ghazali, al-Shatibi, dan Jasser Auda, serta mengaitkannya dengan peraturan perkawinan di Indonesia. Data dianalisis secara kualitatif melalui interpretasi normatif terhadap tujuan hukum Islam dan hukum nasional. Hasil penelitian menunjukkan bahwa pendaftaran pernikahan tidak hanya berfungsi sebagai prosedur administratif, tetapi juga sebagai instrumen *shar'īyyah* yang melindungi agama, jiwa, akal, keturunan, dan harta benda. Penelitian ini berkontribusi dalam memperkuat legitimasi normatif kewajiban mendaftarkan pernikahan sekaligus mendukung peningkatan kepastian hukum, keadilan, dan kepentingan umum bagi keluarga Muslim di Indonesia.

Kata Kunci: Pencatatan Perkawinan; Nikah Sirri; Kemaslahatan.



Introduction

Marriage in Islam occupies a fundamental position as a religious as well as a social institution. It not only regulates personal relationships between men and women, but also serves as the basis for the formation of families and the order of society. The conception of marriage as *mīthāqan ghalīzan* affirms that the bond encompasses moral, legal, and social dimensions that demand guarantees of honor, the sustainability of offspring, and the maintenance of social order.¹ Therefore, the regulation of marriage in Islam does not stop at mere ritual requirements; it also includes mechanisms to ensure clarity of legal status and the protection of the rights of the parties involved.²

In Indonesia, a country with a pluralistic legal system, marriage arrangements are at the intersection of religious norms and positive law. Law Number 1 of 1974 concerning Marriage emphasizes that, in addition to being valid under religious law, every marriage must also be registered with the state to ensure legal certainty.³ This provision is further strengthened by the Compilation of Islamic Law (KHI), which explicitly recognizes marriage registration as a means of legal order in the implementation of Islamic family law in Indonesia.⁴

However, in social practice, the obligation to register marriages is often at odds with the classical fiqh understanding, which emphasizes the validity of marriage in terms of fulfilling principles and conditions, without requiring administrative registration. This tension gave rise to the phenomenon of *nikah sirri*, which is often considered legal both socially and religiously but lacks legal force in the national legal system.⁵ This condition creates a gap between the legality of religion and the legality of the state, which has a direct impact on the weak legal protection of the rights of women and children.⁶

Various previous studies have discussed issues related to marriage registration and marriage *sirri*, both from the perspective of positive law and normative fiqh. Kuni Qoneta, for example, highlights that marriage registration serves as legal protection for women and children from the perspective of *maqāṣid*

¹ Abū Hāmid al-Ghazālī, *Al-Mustasfā Min 'Ilm al-Uṣūl* (Dār al-Kutub al-'Ilmiyyah, 1997); Al Farabi, "The State Penghulu vs The Non-State Penghulu: The Validity and Implementing Authorities of Indonesian Marriage," *Justicia Islamica* 17, no. 2 (2020): 343–64, <https://doi.org/10.21154/justicia.v17i2.2180>.

² Wahbah al-Zuhaylī, *Al-Fiqh al-Islāmī Wa Adillatuhu*, vol. 7 (Dār al-Fikr, 1985); Mariadi Mariadi, "Marriage Registration Procedures and Its Legal Impacts," *International Journal of Sharia Studies* 1, no. 1 (2023), <https://doi.org/10.61810/ijss.v1i1.4>.

³ Law No. 1 of 1974 Concerning Marriage; Della Agnesia Purba et al., "Society in Public Service: Challenges Service Recording Marriage in Indonesia," *JAKPP (Jurnal Analisis Kebijakan & Pelayanan Publik)*, March 29, 2025, 35–49, <https://doi.org/10.31947/jakpp.v11i1.37232>.

⁴ Compilation of Islamic Law (1991).

⁵ Nurul Irfan, "Nikah Sirri Dan Dampaknya Terhadap Perempuan," *Al-Ahwal: Jurnal Hukum Keluarga Islam* 10, no. 2 (2017).

⁶ Asep Saefuddin Jahar, *Hukum Keluarga Islam Di Indonesia* (Kencana, 2016); Andre Afrilian et al., "Eksistensi Hukum Pencatatan Perkawinan Dalam Reformasi Hukum Keluarga Di Dunia Islam," *Al-Syakhsyiyah: Journal of Law and Family Studies* 6, no. 1 (2024), <https://doi.org/10.21154/syakhsyiyah.v6i1.6337>.

al-Syātibī.⁷ Sehabudin, through the maqāṣid approach, reveals the harmony between fiqh and the Marriage Law in the context of the modern state.⁸ On the other hand, Fitria Romadloni is more focused on analyzing social problems related to marriage registration among Indonesian Muslims, without systematically integrating this discussion into the maqāṣid framework.⁹

However, existing studies still tend to use maqāṣid as a form of normative legitimacy for established regulations, without formulating it as an epistemological framework capable of argumentatively bridging the differences between classical jurisprudence and state law. In other words, previous studies have tended more toward an affirmative approach than constructive analysis. This article takes a different perspective by framing maqāṣid al-sharī'ah as an integrative paradigm through the systemic approach developed by Jasser Auda, so that marriage registration is understood not only as a mere administrative obligation but also as part of efforts to reconstruct Islamic family law in the context of the modern state of law.

Thus, this article occupies a strategic position in the current research map as a step towards strengthening the maqāṣid approach, which moves beyond the normative-legitimative towards an argumentative-transformative approach. This is realized through efforts to conceptually integrate classical maqāṣid theories (al-Ghazālī and al-Syātibī), reformulations of Ibn 'Āshūr's thought, and contemporary systemic approaches in analyzing marriage registration policies in Indonesia. Thus, the research gap this article fills lies in the lack of optimal development of maqāṣid al-sharī'ah as a teleological and systemic framework for analysis. This approach serves to overcome the tension between classical jurisprudence and positive law, while offering a formulation of normative legitimacy for the obligation to register marriages based on an argumentative-transformational approach, rather than solely relying on a normative-legitimative approach.

From the perspective of *maqāṣid al-sharī'ah*, marriage registration cannot be understood solely as an administrative procedure, but rather as an instrument of protection for the main purposes of the Shari'ah.¹⁰ In particular, the recording is closely related to efforts to maintain *ḥifẓ al-nasl* (protection of posterity), *ḥifẓ al-'ird*

⁷ Sehabudin, "Harmony of Law and Religion: A Maqāṣid Ash-Sharī'ah Analysis of Marriage Registration According to the Fiqh and Law No. 1 / 1974," *Quru': Journal of Family Law and Culture* 2, no. 1 (2024): 120–44, <https://doi.org/10.59698/quru.v2i1.180>.

⁸ Kuni Qoneta, "Pencatatan Perkawinan Sebagai Perlindungan Hukum Terhadap Perempuan dan Anak Perspektif Maqasid Syari'ah al Syatibi," *Jurnal Hukum Ekonomi Syariah* 7, no. 1 (2025): 160–71.

⁹ Fitria Romadloni, "Pencatatan Perkawinan Dalam Perspektif Maqasid Syariah," *Opinia De Journal* 3, no. 2 (2023): 48–62.

¹⁰ Wani Maulidia Alsa Hutri Rahayu Binti Mihardi, "Jaminan Perlindungan Hukum Dalam Pencatatan Perkawinan (Perspektif Maqasid Asy-Syar'iyah)," *Jurnal Ilmiah Ahwal Syakhshiyah* 4, no. 1 (2022): 1–24, <https://doi.org/https://doi.org/10.33474/jas.v4i1.15388>; Cisilia Maiyori and Muhammad Ahalla Tsauro, "The Dynamics of Marriage Registration Implementation in the Multiethnic Muslim Community in Pekanbaru City, Riau," *Afkaruna: Indonesian Interdisciplinary Journal of Islamic Studies* 21, no. 2 (2025): 371–86, <https://doi.org/10.18196/afkaruna.v21i2.29323>.

(protection of honor), and *ḥifẓ al-māl* (protection of property).¹¹ The unclear status of marriage due to the absence of registration has the potential to cause various forms of *social maḥsadah*, especially for women and children who are in vulnerable positions in legal and social structures.¹²

In the tradition of Islamic legal thought, *maqāṣid al-sharī'ah* is understood as the main purpose of establishing laws to realize benefits and prevent damage. Al-Ghazālī asserts that all sharia law is directed to maintain the five basic principles of human life (*al-ḍarūriyyāt al-khams*). *At the same time, al-Syāṭibī emphasizes that these benefits are rational, universal, and contextual.*¹³ In the development of thought in the contemporary era, Ibn 'Āsyūr and Jasser Auda expanded the scope of *maqāṣid* into a more dynamic value system that was able to adapt to various social changes.¹⁴

Within this framework, the state can be positioned as *wālī al-amr* who has the authority to establish legal policies to realize the public interest, as is the rule of *taṣarruf al-imām 'alā al-ra'iyyah manūṭ bi al-maṣlaḥah*.¹⁵ Therefore, the state's obligation to register marriages is not necessarily contrary to the principles of sharia, but can be understood as *wasīlah* to realize the goals of sharia in the context of the modern state of law.¹⁶

Based on this description, this article aims to analyze the marriage registration policy in Indonesia through the perspective of *maqāṣid al-sharī'ah*, treating it as an instrument for protecting the benefits and legal certainty within the institution of the Muslim family. The scholarly contribution of this article lies in its attempt to strengthen the *maqāṣid* approach as a conceptual bridge between religious norms and state law, as well as in offering a normative framework more oriented towards substantive justice and the protection of vulnerable groups in the practice of marriage.¹⁷

Method

This study employs a qualitative approach using the normative legal research method, which focuses on law as a set of written norms (law in books).¹⁸ This approach was chosen because the study does not aim to measure phenomena

¹¹ Abū Ishāq al-Syāṭibī, *Al-Muwāfaqāt Fi Uṣūl al-Syarī'ah*, vol. 2 (Dār al-Ma'rifah, n.d.); Ibrahim Ibn Al-Shatibi, *The Reconciliation of the Fundamentals of Islamic Law: Al-Muwafaqat Fi Usul al-Shari'a*, trans. Imran Ahsan Khan Nyazee (Garnet Publishing, 2012).

¹² Irfan, "Nikah Sirri Dan Dampaknya Terhadap Perempuan," 160–62; Fithra Hawani Jannah and Sukiati, "Digital Transformation in Marriage Administration: Evaluating the Implementation of SIMKAH at KUA Medan Barat," *Al-Risalah Jurnal Ilmu Syariah dan Hukum* 25, no. 1 (2025): 153–68, <https://doi.org/10.24252/al-risalah.vi.55635>.

¹³ al-Ghazālī, *Al-Mustasfā Min 'Ilm al-Uṣūl*.

¹⁴ Muḥammad al-Ṭāhir Ibn 'Āshūr, *Maqāṣid Al-Syarī'ah al-Islāmiyyah* (Dār al-Nafā'is, 2001).

¹⁵ Ahmad al-Raysūnī, *Naẓariyyat Al-Maqāṣid 'inda al-Imām al-Syāṭibī* (International Institute of Islamic Thought, 1992).

¹⁶ al-Zuhaylī, *Al-Fiqh al-Islāmī Wa Adillatuhu*, vol. 7.

¹⁷ Jasser Auda, *Maqasid Al-Shariah as Philosophy of Islamic Law: A Systems Approach* (International Institute of Islamic Thought, 2008).

¹⁸ Peter Mahmud Marzuki, *Penelitian Hukum* (Jakarta: Kencana, 2017).

statistically, but rather to understand and analyze legal concepts and the normative values contained in *maqāṣid al-sharīah* and marriage regulations in Indonesia. This study analyzes Islamic legal rules and positive law regarding the obligation to register marriages and their relevance to the objectives of sharia.¹⁹ Given the conceptual, prescriptive, and normative nature of the issues, this study does not employ an empirical-sociological approach. Instead, it emphasizes a systematic interpretation of legal norms and the development of coherent legal arguments.²⁰ Within its methodological framework, this study combines a conceptual approach and a statutory approach. The conceptual approach is used to reconstruct the theory of *maqāṣid al-sharīah* based on the thought of classical and contemporary scholars such as al-Ghazālī, al-Shātībī, Ibn ‘Āshūr, and Jasser Auda,²¹ while the legal approach is used to examine various regulations regarding marriage in Indonesia,²² particularly Law No. 1 of 1974 on Marriage, the Compilation of Islamic Law, and other implementing regulations.

Unlike previous studies, which generally treat *maqāṣid al-sharīah* as the basis for the normative legitimacy of state regulations, this study employs *maqāṣid* as a teleological analytical tool to evaluate legal objectives. The analysis is conducted through three main stages. First, the identification of the Sharia objectives (*tahdīd al-maqṣad*) of the obligation to register marriages by relating them to the five fundamental objectives of Sharia (*al-ḍarūriyyāt al-khams*), namely *ḥifẓ al-dīn*, *ḥifẓ al-nafs*, *ḥifẓ al-‘aql*, *ḥifẓ al-nasl*, and *ḥifẓ al-māl*. This stage aims to ensure that the analysis does not stop at the regulation's textual aspects but also examines the protective orientation of the values it contains. Second, the study re-examines, in greater depth, the relationship between marriage registration norms and the protection of the five primary objectives of Sharia to strengthen the normative argument. Third, this study employs a systems-based evaluation developed by Jasser Auda, which views marriage registration as part of a modern legal system integrated with social, administrative, and human rights protection. From this perspective, *maqāṣid* is not understood in isolation but rather as a multidimensional concept that connects religious norms with the state's legal system.²³

This study relies entirely on secondary data obtained through a literature review.²⁴ Primary legal materials include legislation on marriage in Indonesia. In contrast, secondary legal materials include classical *fiqh* literature, contemporary

¹⁹ Soerjono Soekanto, *Penelitian Hukum Normatif: Suatu Tinjauan Singkat* (Jakarta: Raja Grafindo Persada, 2007).

²⁰ Johnny Ibrahim, *Teori Dan Metodologi Penelitian Hukum Normatif* (Surabaya: Bayumedia Publishing, 2006).

²¹ al-Ghazālī, *Al-Mustasfā Min ‘Ilm al-Uṣūl*.

²² Erni Sulhati Roudho Siregar and Uswatun Hasanah, "Problematika Nikah Siri Di Indonesia (Tinjauan Hukum Islam Dan Hukum Nasional)," *Demokrasi: Jurnal Riset Ilmu Hukum, Sosial Dan Politik* 3, no. 1 (2026): 40–51, <https://doi.org/10.62383/demokrasi.v3i1.1507>.

²³ Mohammad Hashim Kamali, *Principles of Islamic Jurisprudence* (Islamic Texts Society, 2003); Jasser Auda, *Membumikan Hukum Islam Melalui Maqasid Syariah* (Bandung: Mizan, 2015).

²⁴ Qoneta, "Pencatatan Perkawinan Sebagai Perlindungan Hukum Terhadap Perempuan Dan Anak Perspektif Maqasid Syari'ah al Syatibi."

works on *maqāṣid al-sharīah*, and scholarly articles on marriage registration, *nikah siri*, and Islamic family law.²⁵ Tertiary legal materials, such as legal dictionaries, Islamic encyclopedias, and bibliographic indexes, were used to strengthen conceptual understanding.²⁶ The data collection process was conducted systematically through literature review, critical reading, and the documentation of content relevant to the research theme. Data analysis was performed using conceptual and normative-prescriptive methods.²⁷ Conceptual analysis was used to elaborate on and systematize the concept of *maqāṣid al-sharīah* and relate it to the issue of marriage registration.

In contrast, the normative-prescriptive method was used to evaluate applicable legal norms and construct arguments regarding the function of marriage registration as a means of realizing public interest and legal certainty. Since it does not use field data, this study does not involve empirical subjects or sampling techniques. The validity of the research is maintained through the consistency of legal reasoning, the accuracy of the application of the *maqāṣid al-sharīah* theory, and the use of authoritative academic sources.²⁸

Marriage Registration in the Perspective of Maqāṣidi and Positive Law

Maqāṣid al-sharīah is understood as a theoretical framework that affirms that Islamic law was established with the primary purpose of realizing benefits and preventing harm in human life. In depth, the concept of *maqāṣid* is not confined solely to the textual dimension of legal norms. Still, it focuses on achieving the substantive goals behind each set of legal provisions. From the perspective of the classical formulation, Abū Ḥāmid al-Ghazālī emphasizes that the main purpose of the Shari'ah is to protect the five fundamental principles of life: religion, soul, intellect, descent, and property. These principles are known as *al-ḍarūriyyāt al-khams*.²⁹ This framework provides an analytical basis for reviewing any policy or legal decision on the extent to which it supports the protection of these five fundamental elements.

A more systematic development was carried out by Abū Ishāq al-Syāṭibī, who classified the *maslahat* into three main levels: *ḍarūriyyāt*, *ḥājīyyāt*, and *taḥsīniyyāt*.³⁰ Through an inductive approach to the whole of *Nash*, *al-Syāṭibī formulated maqāṣid*

²⁵ David Wildan and Dini Syamarina, "Understanding the Contemporary Social Construction of Sirri Marriages in Indonesia: An Analysis of Islamic Family Law Perspectives," *Legitima Jurnal Hujum Keluarga* 07, no. 1 (2024): 127–46, <https://doi.org/https://doi.org/10.33367/legitima.v3i1.6203>.

²⁶ Soerjono Soekanto and Sri Mamudji, *Penelitian Hukum Normatif: Suatu Tinjauan Singkat* (Jakarta: Raja Grafindo Persada, 2015).

²⁷ Abu Hamid Al-Ghazali, *Al-Mustasfa min 'Ilm al-Usul* (Dar al-Kutub al-'Ilmiyyah, 1997).

²⁸ Auda, *Maqasid Al-Shariah as Philosophy of Islamic Law: A Systems Approach*.

²⁹ Al-Ghazali, *Al-Mustasfa min 'Ilm al-Usul*.

³⁰ Tenggo Subangun Harahap, "Perkawinan Di Bawah Tangan Ditinjau Dari Perspektif Maqasid Syari'Ah," in *Al-Syakhshiyah*, vol. 5, preprint, 2023, <https://doi.org/https://doi.org/10.30863/as-hki.v5i1.3359>; Andika Mubarok and Tri Wahyu Hidayati, "Pencatatan Pernikahan Di Indonesia Ditinjau Dari Maqashid Syariah Jasser Auda," *Adhki: Journal of Islamic Family Law* 4, no. 2 (2023): 157–70, <https://doi.org/10.37876/adhki.v4i2.128>.

as a method for understanding the rationality of Islamic law.³¹ In the context of public policy, this classification has an important role in determining whether a regulation is a primary need that must be implemented to prevent social damage. The relevance of *maqāṣid* in the modern context is increasingly brought to light through the views of Ibn 'Āshūr, who broadened the scope of the goals of the Shari'ah by emphasizing the values of justice, freedom, and social order.³² This perspective offers greater opportunity to legitimize state policies, provided they focus on protecting and fulfilling the public interest. Jasser Auda develops a more practical, contemporary approach through the systems approach, making *maqāṣid* a multidimensional framework for assessing the effectiveness of law in the context of social reality.³³ In this view, law is not only measured by its formal conformity to the text alone, but also judged by the extent of its impact on substantive justice and the protection of rights.

Based on this framework, marriage registration can be studied as an important instrument in maintaining *ḥifẓ al-nasl* (clarity and legitimacy of descent), *ḥifẓ al-māl* (protection of economic rights), and *ḥifẓ al-nafs* (safeguarding of dignity and ensuring legal security).³⁴ Uncertainty in marital status caused by the absence of registration has the potential to result in *mafsadah*,³⁵ such as the loss of protection for the rights of women and children. This aligns with issues often raised in the study of contemporary Islamic family law.³⁶

In this study, *maqāṣid al-sharīah* is not interpreted as a stand-alone theoretical concept but is applied as an analytical framework to evaluate the rationality and legitimacy of the obligation to register marriage in the Indonesian legal system. This approach allows for synergy between the principles of classical jurisprudence and the need for modern regulations to ensure legal certainty and support the benefits of Muslim families.

In the treasures of classical fiqh, the validity of marriage is determined by the fulfillment of its conditions and requirements, namely the existence of a prospective husband and wife, guardians, two witnesses, and *ijab* and *kabul*. The *fuqahā'* agree that administrative registration is not included among the legal requirements of

³¹ Abu Ishaq Al-Shatibi, *Al-Muwafaqat fi Usul al-Shari'ah* (Dar al-Kutub al-'Ilmiyyah, 2004).

³² Muhammad Al-Tahir Ibn. Ibn Ashur, *Reatise on Maqasid Al-Shariah* (Iiit, 2006).

³³ Auda, *Maqasid Al-Shariah as Philosophy of Islamic Law: A Systems Approach*.

³⁴ Nofialdi Nofialdi et al., "The Ambiguity of Using the Statement of Absolute Responsibility Based on Minister of Home Affairs Regulation Number 109 of 2019: Study in Dharmasraya Regency, West Sumatra Province, Indonesia," *Al-Risalah: Forum Kajian Hukum Dan Sosial Kemasyarakatan* 23, no. 1 (2023): 108–20, <https://doi.org/10.30631/alrisalah.v23i1.1358>.

³⁵ Muhammad Romli Muar, "Pencatatan Perkawinan Dalam Multi Perspektif," *Maqashid: Jurnal Hukum Islam* 4, no. 1 (2021): 31–42, <https://doi.org/https://doi.org/10.35897/maqashid.v4i1.617>; Indra Krestianto, *Optimization Of Marriage Registration To Realize Legal Certainty And Civil Rights Protection | Jurnal Impresi Indonesia*, June 6, 2025, <https://jii.rivierapublishing.id/index.php/jii/article/view/6534>.

³⁶ Qoneta, "Pencatatan Perkawinan Sebagai Perlindungan Hukum Terhadap Perempuan Dan Anak Perspektif Maqosid Syari'ah al Syatibi"; Lathifah Munawaroh et al., "Disharmony in Sirri Marriage Registration Regulations on Family Cards: A Study of Ministry of Home Affairs Regulation No. 9/2016," *Fiat Justisia: Jurnal Ilmu Hukum* 17, no. 1 (2023): 91–106, <https://doi.org/10.25041/fiatjustisia.v17no1.2851>.

marriage because, in the early days of Islam, the state administrative system as it is known today had not yet developed.³⁷ However, the absence of an obligation to record in classical jurisprudence does not necessarily negate the importance of legal documentation.

The principle of substantive recording has been known in Islam through the order to record *mu'āmalah* transactions as stated in Q.S. al-Baqarah [2]: 282. This verse shows that legal documentation is a preventive mechanism to avoid disputes and injustices. Therefore, several contemporary scholars view marriage registration as a form of *qiyās awlā*, a priority analogy to the recording of debts and receivables, which actually has narrower social implications than marriage.

In the modern context, marriage registration is an indispensable requirement of the national legal system.³⁸ In Indonesia, the obligation to register marriage is regulated in Law Number 1 of 1974 concerning Marriage and its implementing regulations. This regulation emphasizes that registration serves to ensure legal certainty and protect citizens' civil rights.³⁹

The dialectic between classical jurisprudence and positive law often raises normative tensions, particularly regarding the practice of serial marriage. Some people view nikah as religiously legal, even though it does not have the force of state law. However, from the perspective of *maqāṣid al-sharīah*, the practice has the potential to cause mafsadat because it weakens the protection of women and children.⁴⁰ In this case, the state serves as *wālī al-amr*, with the authority to set administrative policies for the public good. The principle of *taṣarruf al-imām 'alā al-ra'iyah manūṭ bi al-maṣlahah* is the basis for the legitimacy of *shar'i* for the obligation to register marriages.⁴¹ Thus, positive law is not presented as an antithesis to sharia, but rather as an implementational instrument of sharia's goals within the context of statehood.

The Reconstruction of Marriage Registration as an Instrument for the Protection of Rights from the Perspective of Maqāṣid al-Sharīah

Maqāṣid al-sharī'ah provides a comprehensive analytical framework for assessing family law policies, including marriage registration. From the *perspective*

³⁷ Wael B. Hallaq, "The Logic of Legal Reform in Modern Islamic Law," *Islamic Law and Society* 13, no. 2 (2006): 195–97.

³⁸ Oky Deviany Burhamzah, "Nikah Siri Dalam Perspektif Hukum Perkawinan Nasional," *University of Bengkulu Law Journal* 1, no. 1 (2017): 29–44, <https://doi.org/10.33369/ubelaj.v1i1.1326>; Mustafid Mustafid et al., "Alternative Legal Strategies and Ninik Mamak Authority: Dual Administration of Malay Marriage in Koto Kampar Hulu, Riau," *Journal of Islamic Law* 5, no. 1 (2024): 1–18, <https://doi.org/10.24260/jil.v5i1.1972>.

³⁹ Law No. 1 of 1974 Concerning Marriage; Imron Rosyadi and Aisyah Kahar, "Analysis of Legal Certainty Aspects in Indonesian Marriage Registration Rule," *Jurnal Hukum dan Peradilan* 12, no. 3 (2023): 469–88, <https://doi.org/10.25216/jhp.12.3.2023.469-488>.

⁴⁰ Irfan, "Nikah Sirri Dan Dampaknya Terhadap Perempuan"; Iqbal Subhan Nugraha and Abdul Aziz, "The Reorientation of Marriage Registration in the Compilation of Islamic Law: Shifting from Administrative Formality to Legal Obligation," *AJIS: Academic Journal of Islamic Studies*, November 5, 2025, 399–426, <https://doi.org/10.29240/ajis.v10i2.12623>.

⁴¹ Kamali, *Principles of Islamic Jurisprudence*.

of *ḥifẓ al-dīn*, the registration of marriage reflects a social order that upholds religious values.⁴² This order supports the creation of a stable and dignified family life.

In the dimension of *ḥifẓ al-nafs*, the registration of marriage serves as a means of protecting the human soul and dignity. Without formal registration, access to legal protection is limited, especially for women and children in situations of family conflict.⁴³ Therefore, recording has a preventive function in preventing social mafsatta. The aspect of *ḥifẓ al-'aql* is reflected in efforts to build public legal awareness. Marriage registration encourages rationality and social responsibility and affirms that marriage is not just a private affair but a public institution with far-reaching legal implications.⁴⁴ In the context of *ḥifẓ al-nasl*, marriage registration plays an important role in maintaining clarity of the child's nasab and rights. A marriage certificate is legal proof of a child's civil status, including inheritance rights and identity protection.⁴⁵ This aligns with the purpose of sharia, which is to ensure the sustainability of offspring.

Meanwhile, *the ḥifẓ al-māl* dimension is reflected in the protection of family joint ownership and economic rights. Marriage registration provides a clear legal basis for managing joint property and distributing inheritance, thus preventing future economic conflicts.⁴⁶ In the development of contemporary Islamic family law, marriage registration is increasingly understood not only as a state administrative procedure, but also as an integral part of the legal protection mechanism aligned with the goals of sharia. From the perspective of *maqāṣid al-sharī'ah*, this policy can be analyzed in greater depth, as the law is seen as a tool to realize benefits and prevent social harm. In this framework, the state's role in regulating the registration system is not an interference with the sanctity of the marriage contract, but rather an institutional responsibility to ensure that the contract has clear legal force and can be enforced in the event of future disputes. This approach shows that there is a synergy between Islamic law and state administration in maintaining the stability of family institutions while protecting vulnerable parties in domestic relations. This view aligns with the study of modern Islamic family law, which considers marriage registration an important instrument for ensuring legal protection and certainty in today's society.⁴⁷

⁴² Al-Shatibi, *Al-Muwafaqat fi Usul al-Shari'ah*.

⁴³ Jahar, *Hukum Keluarga Islam Di Indonesia*; Iman Jauhari et al., "Legal analysis of unregistered marriage viewed from ulama's perspective in aceh province," *Petita: Jurnal kajian ilmu hukum dan syariah* 8, no. 2 (2023): 175–88, <https://doi.org/10.22373/petita.v8i2.196>.

⁴⁴ Wael B. Hallaq, *An Introduction to Islamic Law* (Cambridge University Press, 2009).

⁴⁵ Mohammad Hashim Kamali, "Law and Society: The Interplay of Revelation and Reason," *Journal of Law and Religion* 24, no. 1 (2008): 9–12.

⁴⁶ Muhammad al-Tahir Ibn Ashur, *Maqasid Al-Shari'ah al-Islamiyyah* (Dar al-Salam, 2004).

⁴⁷ Muhammad Aziz and Athoillah Islamy, "Memahami Pencatatan Perkawinan Di Indonesia Dalam Paradigma Hukum Islam Kontemporer," *Islamitsch Familierecht Journal* 3, no. 02 (2022): 94–113, <https://doi.org/10.32923/ifj.v3i02.2776>.

The systemic approach introduced by Jasser Auda, through the concept of *maqāsid al-sharī'ah* as the philosophical and methodological foundation of Islamic law, provides a comprehensive and contextually relevant analytical framework for various aspects of modern law, including public policies such as marriage registration. In this perspective, law is seen not only as a set of normative rules, but as a system composed of interrelated elements, with the main goal of achieving benefits (*maslahah*) and reducing kemafsadan (*mafsadah*). This is achieved through various system characteristics, such as cognitive traits, interconnectedness, wholeness, openness, multidimensionality, and goal focus. As explained in *Maqasid al-Shariah as Philosophy of Islamic Law: A Systems Approach*, this approach emphasizes that the success of a legal system is judged by the extent to which it realizes the law's main purpose. The characteristics of these systems then serve as a critical analytical tool for evaluating the structure, function, and impact of legal policies in the modern social order.⁴⁸

The analysis of *maqāsid* underscores that the absence of marriage registration often has multidimensional impacts that cannot be overcome solely through the normative validity of the marriage contract. In the context of social practice, the absence of formal legal evidence of a marriage can lead to a range of problems, including difficulties proving marital status, limited access to public services, and weak legal protection of family economic rights. This situation creates a *mafsadah* that is not only individual, but also structural, given its influence on social stability and the effectiveness of the family legal system as a whole. Therefore, based on the perspective of *maqāsid*, efforts to prevent social harm should be given equal attention to the recognition of religious aspects in marriage. In this case, marriage registration serves as an essential preventive instrument to ensure that the goals of family law can be concretely realized in the social life order.⁴⁹

In the realm of marriage registration policy, systemic approaches can be strengthened by highlighting the concrete impact on the policy formulation and implementation process. For example, classical normative answers often view marriage registration as a mere administrative formality, ignoring the functional relationship between legally valid registration, the provision of family civil rights protections, and its effect on the fulfillment of children's rights. In contrast, the systemic approach shifts the focus to the linkages of registration policies and the protection of the civil rights of spouses and children, as each component of the system exerts a significant influence on the holistic goals of family law. The protection of women is one of the most significant arguments for the importance of registering marriages. Studies have revealed that women who are in a marriage bond without official records tend to be in a more vulnerable legal position,

⁴⁸ Jasser Auda, *Maqasid Al-Shariah as Philosophy of Islamic Law: A Systems Approach* (International Institute of Islamic Thought, 2008).

⁴⁹ Mubarok and Hidayati, "Pencatatan Pernikahan Di Indonesia Ditinjau Dari Maqashid Syariah Jasser Auda."

especially when faced with situations such as divorce, neglect, or conflicts over alimony. The absence of official documents often leaves proof of marital status to the testimony or confession of the other party, which, in many cases, is not easy to obtain. As a result, women often have difficulty demanding fundamental rights, such as the right to alimony, the division of common property, and legal protection from domestic violence.

From the perspective of *maqāṣid al-sharī'ah*, this condition is clearly contrary to the principles of the protection of the soul (*hifz al-nafs*), respect for human dignity, and social justice, which are the main goals of the Shari'a. Thus, marriage registration must be interpreted as more than just an administrative procedure. It is a substantive instrument that comprehensively protects women's rights and ensures justice across various aspects of their lives.⁵⁰

Empirical research finds that the lack of formal marriage documents often undermines the certainty of family members' civil and social rights. Within the framework of a systemic approach, this reflects a failure to achieve the ultimate goals of comprehensive well-being, including the principles of protecting posterity (*hifz al-nasl*), preserving property (*hifz al-maal*), and protecting religion (*hifz al-din*). Jasser Auda's system-based analysis explores this context in the dynamics of the modern Islamic legal system. Jasser Auda's system approach strengthens this argument by viewing Islamic law as an open system closely related to social, economic, and institutional dynamics. In this framework, law is not judged solely by a single formality, but rather through the interaction among the elements that constitute the system's main purpose. This interconnectedness and multidimensionality emphasize that marriage registration cannot be separated from civil rights protection, the effectiveness of religious justice mechanisms, and the state's ability to ensure equal legal justice. This approach shifts the analysis from the narrow issue of legitimacy or illegitimacy to a deeper focus on the extent to which a rule can deliver real benefits to society.⁵¹ The results of the study show that marriage registration is not limited to being treated as an administrative procedure, but is an integral component of the renewal of the classical Islamic legal paradigm regarding the validity of marriage and the legal consequences borne by the parties involved.⁵²

The application of systemic approaches is highly relevant and supported by findings from broader public policy studies in the systems thinking literature. The

⁵⁰ A. Sultan Sulfiān, "The Urgency of Marriage Registration in the Perspective of Indonesian Marriage Law and Islamic Law," *Jurnal Al-Dustur* 6, no. 1 (2023): 72–90, <https://doi.org/10.30863/aldustur.v6i1.4224>.

⁵¹ M. Noor Harisudin and Muhammad Choriri, "On the Legal Sanction against Marriage Registration Violation in Southeast Asia Countries: A Jasser Auda's Maqasid Al-Shariah Perspective," *Samarah* 5, no. 1 (2021): 471–95, <https://doi.org/10.22373/sjhk.v5i1.9159>.

⁵² Andika Mubarak Budiyanto, "Pencatatan Pernikahan Perspektif Maqasid Syariah Jasser Auda," *An-Natiq Jurnal Kajian Islam Interdisipliner* 3, no. 2 (2023): 143–52, <https://doi.org/http://dx.doi.org/an-natiq.v3i2.17771>; Arifki Budia Warman et al., "Reforming Marriage Registration Policies in Malaysia and Indonesia," *BESTUUR* 11, no. 1 (August) (2023): 61, <https://doi.org/10.20961/bestuur.v11i1.66320>.

literature shows that applying systems thinking to public policy formulation opens opportunities to identify nonlinear relationships among legal, social, and institutional variables and to examine policy impacts across sectors. Systematic studies reveal that this approach can address the challenges of complexity and uncertainty inherent in the policy-making process. In addition, this approach clarifies the importance of coordination between sharia units, administrations, and state institutions so that policies can optimally achieve the ultimate goal: the fulfillment of civil rights and the effective and sustainable improvement of family welfare.⁵³

Furthermore, applying a systemic approach to public policy formulation shows that the law's effectiveness depends heavily on the level of coordination among the institutions involved. In the context of marriage registration, the success of policy implementation is not only determined by the existence of established legal norms, but also by effective synergy between religious institutions, population administration, and the judicial system. The lack of coordination among these institutions risks policies that appear normatively sound but fail to provide concrete protection at the community level. Therefore, the approach put forward by Jasser Auda is particularly relevant, as it offers an evaluation framework that not only analyzes legal texts but also considers the dynamics of implementation and policy impact holistically. From the perspective of *maqāṣid al-sharī'ah* and through the application of the Jasser Auda system approach, marriage registration cannot be reduced solely to a formalistic administrative process. Instead, marriage registration should be seen as an essential instrument in Islamic family law reform. This instrument aims to ensure legal certainty, protect individual civil rights, and support family welfare in an ongoing manner. This understanding confirms that Islamic law has an adaptive nature, enabling it to respond to the complexity of modern society's challenges while maintaining a normative orientation towards social benefit and justice.

Thus, if the systemic approach proposed by Jasser Auda is explicitly applied to the analysis of marriage registration policies, it not only provides a holistic conceptual foundation but also allows for the drafting of more comprehensive evaluation benchmarks. These benchmarks can be used to assess the extent to which policy implementation effectively attends to the relationship among legal objectives, institutional roles, and existing social dynamics. This approach has a significant impact on policy formulation, making it more inclusive and responsive to current demands, while ensuring that marriage registration regulations not only serve as normative rules but also systematically support the achievement of benefits within the framework of Islamic law.⁵⁴

⁵³ Nici Zimmermann, "Implementation of Systems Thinking in Public Policy : A Systematic Review," *MPDPI*, 2023, 1–21, <https://doi.org/https://doi.org/10.3390/systems11020064>.

⁵⁴ Jasser Auda, *Maqasid Al-Shariah as Philosophy of Islamic Law: A Systems Approach*.

The Integration of Maqāṣid al-Sharī'ah and the Modern Legal System in Marriage Registration

Maqāṣid al-Sharī'ah provides a comprehensive analytical framework for assessing family law policies, including marriage registration. From the *perspective of ḥifẓ al-dīn*, the registration of marriage reflects a social order that upholds religious values.⁵⁵ This order supports the creation of a stable and dignified family life.

In the dimension of *ḥifẓ al-nafs*, the registration of marriage serves as a means of protection for the human soul and dignity. Without formal registration, access to legal protection is limited, especially for women and children in situations of family conflict.⁵⁶ Therefore, recording has a preventive function in preventing social mafsatta. The aspect of *ḥifẓ al-'aql* is reflected in efforts to build public legal awareness. Marriage registration encourages rationality and social responsibility and affirms that marriage is not just a private affair but a public institution with far-reaching legal implications.⁵⁷ In the context of *ḥifẓ al-nasl*, marriage registration plays an important role in maintaining clarity of the child's nasab and rights. A marriage certificate is legal proof of a child's civil status, including inheritance rights and identity protection.⁵⁸ This aligns with the purpose of sharia, which is to ensure the sustainability of offspring.

Meanwhile, *the ḥifẓ al-māl* dimension is reflected in the protection of family joint ownership and economic rights. Marriage registration provides a clear legal basis for managing joint property and distributing inheritance, thus preventing future economic conflicts.⁵⁹ In the development of contemporary Islamic family law, marriage registration is increasingly understood not only as a state administrative procedure, but also as an integral part of the legal protection mechanism aligned with the goals of sharia. From the perspective of maqāṣid al-sharī'ah, this policy can be analyzed in greater depth, as the law is seen as a tool to realize benefits and prevent social harm. In this framework, the state's role in regulating the registration system is not an interference with the sanctity of the marriage contract, but rather an institutional responsibility to ensure that the contract has clear legal force and can be enforced in the event of future disputes. This approach shows that there is a synergy between Islamic law and state administration in maintaining the stability of family institutions while protecting vulnerable parties in domestic relations. This view aligns with the study of modern Islamic family law, which considers marriage

⁵⁵ Al-Shatibi, *Al-Muwafaqat fi Usul al-Sharī'ah*.

⁵⁶ Jahar, *Hukum Keluarga Islam Di Indonesia*; Ade Manansyah and Misbahul Huda, "Kewajiban Pencatatan Perkawinan Pasca Lahirnya Peraturan Presiden No. 96 Tahun 2018," *Ascarya: Journal of Islamic Science, Culture, and Social Studies* 2, no. 1 (2022): 56–64, <https://doi.org/10.53754/iscs.v2i1.349>.

⁵⁷ Hallaq, *An Introduction to Islamic Law*.

⁵⁸ Kamali, "Law and Society: The Interplay of Revelation and Reason."

⁵⁹ Ibn Ashur, *Maqasid Al-Sharī'ah al-Islamiyyah*.

registration an important instrument for ensuring legal protection and certainty in today's society.⁶⁰

The systemic approach introduced by Jasser Auda, through the concept of *maqāṣid al-sharī'ah* as the philosophical and methodological foundation of Islamic law, provides a comprehensive and contextually relevant analytical framework for various aspects of modern law, including public policies such as marriage registration. In this perspective, law is seen not only as a set of normative rules, but as a system composed of interrelated elements, with the main goal of achieving benefits (*maslahah*) and reducing kemafsadan (*mafsadah*). This is achieved through various system characteristics, such as cognitive traits, interconnectedness, wholeness, openness, multidimensionality, and goal focus. As Auda explains, this approach emphasizes that the success of a legal system is judged by the extent to which it realizes the law's main purpose. The characteristics of these systems then serve as a critical analytical tool for evaluating the structure, function, and impact of legal policies in the modern social order.⁶¹

The analysis of *maqāṣid* underscores that the absence of marriage registration often has multidimensional impacts that cannot be overcome solely through the normative validity of the marriage contract. In the context of social practice, the absence of formal legal evidence of a marriage can lead to a range of problems, including difficulties proving marital status, limited access to public services, and weak legal protection of family economic rights. This situation creates a mafsadah that is not only individual, but also structural, given its influence on social stability and the effectiveness of the family legal system as a whole. Therefore, based on the perspective of *maqāṣid*, efforts to prevent social harm should be given equal attention to the recognition of religious aspects in marriage. In this case, marriage registration serves as an essential preventive instrument to ensure that the goals of family law can be concretely realized in the social life order.⁶²

In the realm of marriage registration policy, systemic approaches can be strengthened by highlighting the concrete impact on the policy formulation and implementation process. For example, classical normative answers often view marriage registration as a mere administrative formality, ignoring the functional relationship between legally valid registration, the provision of family civil rights protections, and its effect on the fulfillment of children's rights. In contrast, the systemic approach shifts the focus to the linkages of registration policies and the protection of the civil rights of spouses and children, as each component of the system exerts a significant influence on the holistic goals of family law. The

⁶⁰ Aziz and Islamy, "Memahami Pencatatan Perkawinan Di Indonesia Dalam Paradigma Hukum Islam Kontemporer."

⁶¹ Jasser Auda, *Maqasid Al-Shariah as Philosophy of Islamic Law: A Systems Approach*.

⁶² Mubarok and Hidayati, "Pencatatan Pernikahan Di Indonesia Ditinjau Dari Maqashid Syariah Jasser Auda"; Mu'tashim Billah, "The Maslahah of State Policy in Responding to Unregistered Marriage: Inclusion of Unregistered Marriage on The Family Card," *Ulul Albab: Jurnal Studi Dan Penelitian Hukum Islam* 6, no. 2 (2024): 136–51, <https://doi.org/10.30659/jua.v6i2.31138>.

protection of women is one of the most significant arguments for the importance of registering marriages. Studies have revealed that women who are in a marriage bond without official records tend to be in a more vulnerable legal position, especially when faced with situations such as divorce, neglect, or conflicts over alimony. The absence of official documents often leaves proof of marital status to the testimony or confession of the other party, which, in many cases, is not easy to obtain. As a result, women often have difficulty demanding fundamental rights, such as the right to alimony, the division of common property, and legal protection from domestic violence.

From the perspective of *maqāṣid al-sharīah*, this condition is clearly contrary to the principles of the protection of the soul (*ḥifẓ al-nafs*), respect for human dignity, and social justice, which are the main goals of the Shari'a. Thus, marriage registration must be interpreted as more than just an administrative procedure. It is a substantive instrument that comprehensively protects women's rights and ensures justice across various aspects of their lives.⁶³ The findings of this reconstruction are described in Table 1 below:

Table 1. Maqāṣid-Based Integrative Legal Model of Marriage Registration

	The maqāṣidi principle	The modern legal system	Forms of integration	Legal Implications
Legal status protection	<i>Hifẓ al-nasl</i> (protection of lineage)	Legal identity and civil registration	Marriage registration serves as a legal tool to clarify lineage, family relationships, and the status of children.	It reduces disputes over lineage and enhances legal certainty for children and families.
Legal certainty and order	<i>Hifẓ al-nizām</i> (protection of social order)	Rule of law and public administration	The state requires marriages to be registered through the kua/dukcapil as a form of legal governance.	The establishment of administrative order and the legal legitimacy of marriage
Protection of women's rights	<i>Ḥifẓ al-'ird and al-'adālah</i> (honor and justice)	Human rights and gender protection	The marriage certificate serves as the basis for protecting rights regarding maintenance, inheritance, divorce, and custody.	Strengthening women's legal standing within the family
Child Rights Protection	<i>Maṣlahah al-tifl</i> (the best)	Child protection system	A child's legal status can be determined	Ensuring children's access to education,

⁶³ Sulfian, "The Urgency of Marriage Registration in the Perspective of Indonesian Marriage Law and Islamic Law."

	interests of the child)		through official marriage documents.	healthcare, and civil identity
The transformation of fiqh into positive law	<i>Tahqīq al-maṣlahah</i>	Codification of national law	of Sharia values are incorporated into the marriage law and the compilation of islamic law.	Establishing a model of “legalized Islamic family law” in Indonesia
Modernization of Sharia Administration	<i>Sadd al-dharī’ah</i> (prevention of harm)	Digital governance and modern bureaucracy	Digitization of marriage registration through the SIMKAH system and integration with population data	Preventing data falsification, illegal polygamy, and unregistered marriages
State Legitimacy of Sharia	<i>Ṭā’at ulī al-amr</i> in the public interest	State authority and constitutionalism	The state is authorized to regulate administrative procedures for marriage.	Strengthening the harmonization between islamic law and state law
Prevention of Social Conflict	<i>Dar’ al-mafāsīd</i> (preventing harm)	Dispute resolution and evidentiary law	Marriage certificates serve as authentic evidence in family disputes	Reducing The Incidence Of Legal Conflicts Related To Marriage
The Integration of Religiosity and Legality	Sharia as a substantive value	Modern legal formalism	Religious validity is maintained, but reinforced by state registration	This gives rise to dual legitimacy: valid under religious law and valid under state law
Progressive Family Law Model	<i>Maqāṣid-based legal reform</i>	Responsive law and socio-legal approach	Marriage registration is understood not merely as an administrative formality, but as an instrument of social protection.	Shifting the paradigm from formalities toward the public good

Source: Authors, 2026

The Maqāṣid-Based Integrative Legal Model of Marriage Registration positions marriage registration as an integrative instrument that bridges the values of maqāṣid al-sharīah with the modern legal system in contemporary Indonesian family law. From this perspective, marriage registration is not merely understood as a formal administrative procedure, but as a *wasilah shar’iyyah* aimed at realizing the public interest (*maṣlahah ‘āmmah*). This integration is reflected in efforts to

protect the lineage (*ḥifẓ al-nasl*), protect the rights of women and children, and create legal certainty in family life. The state, through the Marriage Law, the Compilation of Islamic Law, and the civil registration system, helps strengthen the realization of Sharia objectives in modern society.⁶⁴ Thus, state legality and religious legitimacy operate simultaneously to ensure the validity of marriage under both religious norms and constitutional-legal standards.

This model also demonstrates that the modernization of Islamic family law in Indonesia does not signify the secularization of Sharia, but rather the transformation of Sharia values into a modern legal framework responsive to social needs. Principles such as *dar' al-mafāsīd*, *taḥqīq al-maṣlaḥah*, and *sadd al-dharā'ih* are realized through mandatory marriage registration, the digitization of marriage administration, and the strengthening of the legal evidentiary function through marriage certificates.⁶⁵ Within this framework, marriage registration serves as a preventive measure against unregistered marriages, disputes over lineage, the neglect of women's and children's rights, and other family law conflicts. Therefore, integrating *maqāṣid al-sharīah* with the modern legal system produces a progressive family law model that prioritizes the protection of rights, social order, and substantive justice, serving as the primary orientation of Islamic family law reform in Indonesia.⁶⁶

Empirical findings indicate that the absence of official marriage documents often undermines the certainty of family members' civil and social rights. Within a systemic framework, this situation reflects a failure to achieve the primary objectives of Sharia fully, particularly the protection of lineage (*ḥifẓ al-nasl*), property (*ḥifẓ al-māl*), and religion (*ḥifẓ al-dīn*). The systemic approach developed by Jasser Auda reinforces this argument by viewing Islamic law as an open system closely intertwined with social, economic, and institutional dynamics.⁶⁷ From this perspective, law is not merely evaluated on the basis of normative formalities but through the interactions among elements that support the achievement of the legal system's primary objectives. This approach shifts the analysis from a focus on mere legality or illegality toward an assessment of the extent to which a regulation can deliver tangible benefits to society.

The application of a systemic approach is highly relevant to public policy formulation because it can identify nonlinear relationships among legal, social, and institutional factors while addressing the challenges of complexity in the policy-making process. In the context of marriage registration, the effectiveness of the law is determined not only by the existence of legal norms but also by coordination among religious institutions, civil registration authorities, and the judicial system. A

⁶⁴ Harisudin and Choriri, "On the Legal Sanction against Marriage Registration Violation in Southeast Asia Countries: A Jasser Auda's Maqasid Al-Shariah Perspective."

⁶⁵ Budiyanto, "Pencatatan Pernikahan Perspektif Maqasid Syariah Jasser Auda."

⁶⁶ Zimmermann, "Implementation of Systems Thinking in Public Policy : A Systematic Review."

⁶⁷ Jasser Auda, *Maqasid Al-Shariah as Philosophy of Islamic Law: A Systems Approach*.

lack of inter-agency synergy risks producing policies that are normatively sound but weak in implementation and concrete protection at the community level. Therefore, Jasser Auda's systemic approach offers a more comprehensive evaluation framework, as it examines legal texts and considers the dynamics of implementation and the holistic impacts of policies.

From the perspective of *maqāṣid al-sharīah*, marriage registration cannot be reduced to a mere formalistic administrative process but must be understood as a crucial instrument of Islamic family law reform. This instrument aims to ensure legal certainty, protect individual civil rights, and support sustainable family well-being. This understanding underscores that Islamic law possesses an adaptive character, enabling it to respond to the complexities of modern society without losing its normative orientation toward the public interest and social justice. Thus, integrating a systemic approach with *maqāṣid al-sharīah* provides a stronger conceptual foundation for developing marriage registration regulations that are inclusive, responsive, and oriented toward the comprehensive protection of public rights.

This means that applying the systemic approach developed by Jasser Auda to the analysis of marriage registration policies enables the formulation of more comprehensive evaluation indicators to assess the relationship among legal objectives, institutional roles, and evolving social dynamics. This approach makes a significant contribution to the formulation of Islamic family law policies that are more adaptive to the needs of the times while remaining grounded in the principles of *maqāṣid al-sharīah*. Thus, marriage registration regulations serve not only as normative administrative rules but also as systemic instruments that support the achievement of justice, the protection of rights, and the public good within the framework of contemporary Islamic family law in Indonesia.

Conclusion

This study concludes that the obligation to register marriage in Indonesia possesses a strong foundation within the framework of *maqāṣid al-sharīah*. Marriage registration should not be understood merely as an administrative requirement, but rather as a *wasīlah shar'īyyah* that serves to realize the fundamental objectives of Islamic law, including the protection of religion, life and dignity, intellect, lineage, and property. In this regard, marriage registration functions as a legal instrument that promotes public welfare and ensures legal certainty for Muslim families within both Islamic and national legal systems. The findings further demonstrate that the relationship between classical fiqh and positive law need not be framed in dichotomous terms. Through a teleological and systemic maqāṣid approach, marriage registration can be interpreted as a contextual manifestation of sharia values within the modern state. Positive law, therefore, acts not as a contradiction to fiqh, but as an institutional mechanism to

safeguard the rights of women and children and to prevent the social harms associated with unregistered marriages.

Theoretically, this study contributes to strengthening *maqāsid al-sharīah* as a transformative analytical paradigm in contemporary Islamic family law. By integrating the classical formulations of Al-Ghazali and Al-Shatibi with the modern perspectives of Ibn Ashur and Jasser Auda, the study offers an epistemological framework that links religious norms to state regulation. In practice, the findings have important implications for policymakers, religious court judges, and future reforms of adaptive, justice-oriented Islamic family law in Indonesia.

Generative AI Usage Statement

In preparing this manuscript, Wahyu Nur Cholis and Mowafg Abraham Masuwd used generative artificial intelligence (AI) tools solely for limited editorial purposes, specifically for grammar correction, language refinement, and transliteration adjustments. The use of AI was intended to enhance the clarity, coherence, and linguistic consistency of the manuscript in accordance with academic writing standards. The generative AI tools were not used to generate research findings, conduct data analysis, formulate arguments, or develop the main scholarly content of the study. All ideas, interpretations, discussions, and conclusions presented in this manuscript are entirely the intellectual responsibility of the authors. Every AI-assisted output was carefully reviewed, verified, and revised by the authors to ensure accuracy and contextual appropriateness. The authors disclose this information as part of their commitment to transparency, academic integrity, and ethical scholarly publication practices regarding the limited use of AI-assisted technologies in academic writing.

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