


# Nusantara 1

## Artikel Galleys HK-Vol2.6-463.pdf

 Check - No Repository 35

 New Test

 Konsorsium PTS Batch 2

---

### Document Details

Submission ID

trn:oid::1:3384724231

Submission Date

Oct 24, 2025, 4:19 PM GMT+7

Download Date

Oct 24, 2025, 4:20 PM GMT+7

File Name

Artikel\_Galleys\_HK-Vol2.6-463.pdf

File Size

527.0 KB

12 Pages





7,680 Words

42,506 Characters




# 10% Overall Similarity

The combined total of all matches, including overlapping sources, for each database.

## Match Groups

-  **26 Not Cited or Quoted** 4%  
Matches with neither in-text citation nor quotation marks
-  **0 Missing Quotations** 0%  
Matches that are still very similar to source material
-  **52 Missing Citation** 6%  
Matches that have quotation marks, but no in-text citation
-  **0 Cited and Quoted** 0%  
Matches with in-text citation present, but no quotation marks

## Top Sources

- 8%  Internet sources
- 5%  Publications
- 2%  Submitted works (Student Papers)

### Match Groups

- **26 Not Cited or Quoted** 4%  
Matches with neither in-text citation nor quotation marks
- **0 Missing Quotations** 0%  
Matches that are still very similar to source material
- **52 Missing Citation** 6%  
Matches that have quotation marks, but no in-text citation
- **0 Cited and Quoted** 0%  
Matches with in-text citation present, but no quotation marks

### Top Sources

- 8% Internet sources
- 5% Publications
- 2% Submitted works (Student Papers)

### Top Sources

The sources with the highest number of matches within the submission. Overlapping sources will not be displayed.

1	Internet	jurnalhafasy.com	2%
2	Internet	repository.ubharajaya.ac.id	<1%
3	Internet	ejournal.ipinternasional.com	<1%
4	Internet	journal.iainlangsa.ac.id	<1%
5	Internet	jimf-bi.org	<1%
6	Internet	journals.fasya.uinib.org	<1%
7	Publication	Arilana Nur Izi, Hakimuddin Salim. "Transformation of Muslim Family Education i...	<1%
8	Internet	repository.essex.ac.uk	<1%
9	Publication	Yuliatin Yuliatin, Ghina Nabilah Effendi, Muhammad Sibawaihi, Diah Dwi Santri, H...	<1%
10	Internet	ejournal.unuja.ac.id	<1%

11	Internet	hts.org.za	<1%
12	Internet	123dok.com	<1%
13	Internet	journal.kurasinstitute.com	<1%
14	Internet	jurnal.uinsyahada.ac.id	<1%
15	Publication	Eka Radityo, Fradhana Putra Disantara, Geraldha Islami Putra Disantara. "ISLAM...	<1%
16	Publication	AbdulGafar O. Fahm. "Ethical Foundations and Guidelines in Islāmic Psychology", ...	<1%
17	Publication	Firza Nada Aulia, Ahmad Yusam Thobroni, Annisa Ilmi Safira. "A Thematic Analysi...	<1%
18	Publication	Tasya Hadi Syahputri, Muhammad Anwar Fathoni. "Community-Based Empower...	<1%
19	Internet	international.appihi.or.id	<1%
20	Internet	www.jurnal.staiannawawi.com	<1%
21	Internet	bajangjournal.com	<1%
22	Publication	Efa Rodiah Nur, Fathul Mu'in. "Exploring the Flexibility of Islamic Law in Facing Gl...	<1%
23	Internet	ijospl.org	<1%
24	Internet	mafiadoc.com	<1%

25	Internet	tind-customer-undl.s3.amazonaws.com	<1%
26	Internet	www.muwatta.com	<1%
27	Publication	Bambang Tri Bawono, Moh. Nurul Huda, Ahmad Hadi Prayitno, Moh. Aris Siswa...	<1%
28	Publication	Edib Smolo, Muhammad Omer Rafique. "Islamic Green Finance - Towards Ethical ...	<1%
29	Publication	Nur Ainna Ramli, Fauzias Mat Nor, Muhammad Ridhwan Ab. Aziz, Syahidawati Sh...	<1%
30	Internet	e-jurnal.lppmunsera.org	<1%
31	Internet	journal.iaincurup.ac.id	<1%
32	Internet	journal.shafiyah.org	<1%
33	Internet	repository.uinjkt.ac.id	<1%
34	Publication	Mardhatillah Ali, Abnan Pancasilawati, Mursyid. "Analysis of the Circular Letter f...	<1%
35	Publication	Moh Dahlan, Mohammad Reevany Bustami, Makmur, Siti Mas'ulah. "THE ISLAMI...	<1%
36	Internet	jurnal.unissula.ac.id	<1%
37	Publication	Ahmad Kholil, Muhammad Zuardi, Amrin, Juryatina. "Optimizing Islamic Financi...	<1%
38	Publication	Jaenal Aripin. "Hajj Fund Investment: A Comparative Contemporary Fiqh Study on...	<1%

P-ISSN : 0000-0000

Vol.2 .No. 6, October 2025

E-ISSN : 3031-6782

DOI: <https://doi.org/10.61942/jhk.v2i6.463>Available : <https://jurnalhafasy.com/index.php/jhk>

## National Law: Sharia Law as an Instrument for Protecting Human Rights (HAM) in Islam

Abdul Saman Nst

Sekolah Tinggi Agama Islam Negeri Mandailing Natal

Received: September 20, 2025

Revised: September 27, 2025

Accepted: October 17, 2025

Published: October 24, 2025

Corresponding Author:

Author Name\*: Abdul Saman

Nst

Email\*:

[abdulsaman1962@gmail.com](mailto:abdulsaman1962@gmail.com)

**Abstract:** Human Rights (HAM) are fundamental rights inherent in every individual since birth without distinction of ethnicity, religion, race, or social status. The principle of universality and justice in human rights has long been part of Islamic teachings through sharia law (*al-syariah al-islamiyyah*). Sharia not only regulates aspects of religious rituals, but also includes a comprehensive legal system that guarantees human welfare and dignity. The main objective of sharia law is realized in the concept of *maqāṣid al-syarī'ah*, which includes protection of religion (*ḥifz al-dīn*), soul (*ḥifz al-nafs*), reason (*ḥifz al-'aql*), descendants (*ḥifz al-nasl*), and property (*ḥifz al-māl*). These five principles represent the essence of human rights in Islam, showing the harmony between Islamic values and modern human rights principles as stated in the Universal Declaration of Human Rights (UDHR) 1948. This research uses a literature review method, examining primary and secondary sources related to Sharia law and human rights. The results indicate that Sharia law serves as a normative, moral, and social instrument in protecting basic human rights and has strong relevance to contemporary human rights principles. However, implementation challenges arise from differences in Sharia interpretations, partial application, and a lack of integration between the values of Sharia's objectives and national law. Therefore, a harmonious approach is needed that integrates Islamic values of justice and welfare with the positive legal system to strengthen comprehensive human rights protection.

**Keywords:** sharia law, human rights (HAM), *maqasid sharia*, justice, protection, law.

### INTRODUCTION

Human Rights (HAM) are fundamental rights inherent in every individual from birth, regardless of ethnicity, race, religion, or social status. Human rights are universal, inalienable, and serve as the foundation for building a just, dignified, and prosperous society. Globally, human rights have been widely recognized through various international instruments, such as the 1948 Universal Declaration of Human Rights (UDHR). However, long before this declaration, Islam had laid a solid foundation for the principles of respect, protection, and fulfillment of human rights through sharia law. Sharia law (*al-syarī'ah al-islāmiyyah*) functions not only as a set of rules for religious worship and rituals, but also as a comprehensive legal system that regulates all aspects of life, including relationships between individuals, society, and even humanity's

relationship with Allah SWT. Sharia is primarily intended to achieve public welfare (*maqasid syariah*), which encompasses the protection of religion (*ḥifz al-dīn*), life (*ḥifz al-nafs*), reason (*ḥifz al-'aql*), descendants (*ḥifz al-nasl*), and property (*ḥifz al-māl*). These five principles of protection constitute the essence of human rights from an Islamic perspective, demonstrating that human rights principles have been an integral part of Islamic values long before modern international recognition<sup>1</sup>.

The protection of human rights in Islam can also be traced back to the primary sources of Islamic teachings, namely the Qur'an and the Sunnah. Numerous verses in the Qur'an emphasize the importance of justice, equality, religious freedom, and the prohibition of oppression and discrimination. Similarly, the example of the Prophet

<sup>1</sup> Nasution, Ahmad. *Hak Asasi Manusia Dalam Perspektif Islam*. Jakarta: Prenada Media, 2021, Hlm. 45.

P-ISSN : 0000-0000

E-ISSN : 3031-6782

Available : <https://jurnalhafasy.com/index.php/jhk>

Vol.2 .No. 6, October 2025

DOI: <https://doi.org/10.61942/jhk.v2i6.463>

Muhammad (peace be upon him) demonstrates how he upheld justice, protected the weak, upheld the dignity of women, and respected the rights of non-Muslims in Medina society. Thus, Islam has a strong historical and normative legacy as an instrument for protecting human rights. However, in contemporary reality, views have emerged that consider Sharia law to be in conflict with modern concepts of human rights. This assumption largely arises from misunderstandings, partial implementation, or distortion of Sharia values in political and legal practices in various Muslim countries. Therefore, an in-depth study is essential to understand how Sharia law can truly serve as an instrument for protecting human rights, while also addressing modern challenges related to freedom, gender equality, democracy, and other civil rights.

Sharia law has an important role as an instrument for protecting Human Rights (HAM) in Islam, because its principles are rooted in the values of justice, humanity and a balance between rights and obligations. Sharia stipulates protection for five fundamental aspects known as al-dharuriyat al-khamsah, namely protection of religion (hifz al-din), soul (hifz al-nafs), reason (hifz al-'aql), descendants (hifz al-nasl), and property (hifz al-mal). This principle shows that the main goal of Sharia is not only to enforce the law, but also to ensure human dignity and welfare. Thus, Sharia becomes a moral and legal basis that balances individual rights with social interests. In the modern context, the application of Sharia law which is oriented towards maqasid al-syariah can strengthen respect for human rights and avoid discriminatory practices that are not in accordance with universal Islamic values<sup>2</sup>.

Sharia law is a set of rules and principles derived from the Qur'an, the Sunnah (hadith) of the Prophet Muhammad (peace be upon him), Ijma' (consensus of scholars), and Qiyas (legal analogy) that regulate all aspects of human life, both worship and transactions. In the modern context, sharia is understood not

only as ritual law, but also as a legal framework that guarantees justice, welfare, and the protection of individual and collective rights. Theoretically, sharia law serves as a guideline for achieving justice, welfare, and the welfare of the people, with the basic principle of maqashid sharia (protecting religion, life, mind, descendants, and property). Thus, sharia law is not only a normative rule, but also reflects moral, social, and spiritual values in the life of Muslim society.

In general, the research gap in the study of National Law: Sharia Law as an Instrument for Human Rights Protection in Islam lies in the lack of conceptual integration between national legal principles and the maqasid of sharia in the implementation of human rights protection. Most previous studies only highlight the normative and theoretical aspects of sharia law as a value system, without discussing how the principles of justice, welfare, and human equality can be operationalized within the framework of national positive law. Furthermore, there is a gap in understanding how sharia law can function not only as a religious legal system but also as a moral foundation that strengthens the implementation of human rights in Indonesia. Therefore, further research is needed to comprehensively examine the synchronization between national law and sharia law in the context of human rights protection, in order to create a balance between religious and constitutional values within the national legal system<sup>3</sup>.

Based on this description, this study is relevant in revealing that Sharia law, with its maqasid sharia principles and textual basis, is truly aligned with efforts to protect universal human rights. Sharia law is not merely a religious normative system, but also an ethical, social, and legal instrument capable of safeguarding human dignity in accordance with the nature of its creation.

## METHODOLOGY

<sup>2</sup> Abdullah, Ahmad. *Maqasid Al-Syariah Dan Hak Asasi Manusia Dalam Konteks Modernitas Islam*. Jakarta: Prenadamedia Group, 2021, Hlm. 45.

<sup>3</sup> Azhari, M. *Hukum Islam Dan Hak Asasi Manusia Di Indonesia: Harmonisasi Antara Nilai Religius Dan Konstitusional*. Jakarta: Rajawali Press, Hlm. 2021, 45.

P-ISSN : 0000-0000

E-ISSN : 3031-6782

Vol.2 .No. 6, October 2025

DOI: <https://doi.org/10.61942/jhk.v2i6.463>Available : <https://jurnalhafasy.com/index.php/jhk>

This research utilizes a literature review. The literature method is a data collection technique used in social research to explore historical data and conceptual information relevant to the research topic. Literature studies aim to obtain a strong theoretical foundation through the review of books, journals, and other scientific sources related to the research problem. Therefore, this research utilizes a library research approach, a series of scientific activities focused on searching, collecting, and analyzing data from various relevant social literature to strengthen research arguments and findings<sup>4</sup>. According to Abdul Rahman Sholeh, library research is research that utilizes methods to obtain information by utilizing library facilities such as books, magazines, documents, historical records, or pure library research related to the research object.

Literature study is a data collection technique conducted by examining various written sources such as books, literature, notes, and reports related to the research problem. This study is a crucial stage after the researcher has determined the topic, as it is at this stage that the researcher collects and examines relevant theories and previous research findings to strengthen the conceptual basis of the research. This process involves extensive information searches from various library sources, including scientific books, journals, magazines, theses, dissertations, and online sources such as the internet and newspapers, all of which aim to enrich understanding and strengthen the theoretical framework of the research<sup>5</sup>.

## RESULT AND DISCUSSION

### Definition of Sharia Law and Human Rights from an Islamic Perspective

Sharia law is a set of divine rules revealed by Allah SWT through the Qur'an and the Sunnah of the Prophet Muhammad (peace be upon him). These laws govern all aspects of human life, including relationships

with Allah (ḥablun minallāh), fellow human beings (ḥablun minannās), and the environment. Sharia encompasses the principles of faith, worship, social interactions, criminal conduct, and morals. In the classical sense, Sharia is not merely law in the sense of formal regulations, but rather a way of life that guides humans to achieve their goals in accordance with God's will. Sharia is a comprehensive, flexible, and universal legal system designed to achieve justice, welfare, and happiness for humanity.

The principles of Sharia govern not only rituals and worship but also encompass social, economic, and political dimensions, aimed at maintaining a balance in human life in accordance with divine values. Meanwhile, Al-Maududi emphasized that sharia is God's law which functions as a normative guideline in organizing human life so that it is in line with maqasid al-syariah, namely the main goal of Islamic law in protecting religion, soul, mind, offspring and property<sup>6</sup>.

Definition of Human Rights (HAM) in Islamic Perspective. In Islam, human rights are understood as fundamental rights inherent in every human being since birth as a gift from Allah SWT, not the result of a gift from the state or human consensus. Human rights in Islam are sourced from revelation (the Qur'an and Sunnah) and are permanent (tsābit), universal, and apply to all humanity regardless of ethnicity, race, religion, or nation. Human rights in Islam are known as ḥuqūq al-insān (الإنسان حقوق) whose scope is in line with the maqasid sharia, namely protecting religion (ḥifz al-dīn), soul (ḥifz al-nafs), intellect (ḥifz al-'aql), descendants (ḥifz al-nasl), and property (ḥifz al-māl). According to Abdul Wahhab Khallaf, basic human rights in Islam are not the product of an agreement, but originate from God and must be respected by all parties. The Medina Charter, drafted by the Prophet Muhammad in 622 CE, is concrete evidence of Islam's recognition of the basic rights of citizens regardless of religion or

<sup>4</sup> Burhan Bungin, *Metodologi Penelitian Sosial: Format-Format Kuantitatif Dan Kualitatif*. Jakarta: Kencana Prenada Media Group, 2011, Hlm. 123

<sup>5</sup> Nazir, M. *Metode Penelitian*. Jakarta: Ghalia Indonesia, 2022, Hlm. 112.

<sup>6</sup> Yusuf Al-Qaradawi, *Maqasid Al-Syari'Ah Al-Islamiyyah Wa Makarimuha*, Kairo: Dar Al-Syuruq, 2021, Hlm. 45

P-ISSN : 0000-0000

E-ISSN : 3031-6782

Available : <https://jurnalhafasy.com/index.php/jhk>

Vol.2 .No. 6, October 2025

DOI: <https://doi.org/10.61942/jhk.v2i6.463>

ethnicity. This document became the world's first written constitution, affirming the principles of justice, equal rights, and religious freedom for all residents of Medina, both Muslims and non-Muslims. The charter harmoniously organizes the socio-political life of society by guaranteeing the protection of life, property, and the freedom to practice one's beliefs. Thus, the Medina Charter became the historical foundation for the implementation of human rights values in Islam, which uphold humanity and social justice<sup>7</sup>.

The Relationship Between Sharia Law and Human Rights. Sharia law and human rights, from an Islamic perspective, are integrally related. Sharia serves as a normative umbrella that provides guarantees and limits to ensure that human rights are implemented in accordance with the principles of justice and responsibility. Western human rights typically emphasize individual freedom, while Islamic human rights emphasize the balance between rights and obligations, placing freedom within the framework of Sharia. Sharia guarantees human rights while maintaining the public interest (maslahah 'āmmah). Muhammad Hashim Kamali explains that Islam not only guarantees individual rights but also safeguards the interests of the wider community, so rights and obligations must go hand in hand<sup>8</sup>.

The Universal Islamic Declaration of Human Rights (1981) and the Cairo Declaration on Human Rights in Islam (1990) are concrete evidence of the Islamic world's efforts to harmonize Sharia with the concept of global human rights. The definitions of Sharia law and human rights from an Islamic perspective demonstrate their close relationship. Sharia law serves as the normative foundation, while human rights in Islam represent the implementation of Sharia values in maintaining human dignity. Islam recognizes human rights as a gift from God

that must be respected, guarded and implemented in a balance between rights and obligations, for the sake of realizing justice and the benefit of humanity.

### Maqasid al-Shari'ah as the Basis for Human Rights Protection

Understanding Maqasid al-Shari'ah and the Goals of Islamic Law for the Benefit of the Community. Etymologically, the term maqasid comes from the words qaṣada–yaqṣidu–qaṣdan, which mean "to intend, aim, or desire something," while al-shari'ah means the straight path or the laws of God established for humanity. Thus, maqasid al-shari'ah is terminologically defined as the goals, purposes, and wisdom to be achieved through the establishment of Islamic laws. Scholars of ushul fiqh explain that maqasid is the philosophical dimension of sharia, namely the secret and purpose behind the provisions of God's law. Imam al-Syātibī in his work al-Muwāfaqāt emphasized that all laws in Islamic sharia are oriented towards realizing maslahah (goodness and benefit) for humans, both in this world and in the hereafter<sup>9</sup>.

The aim of Islamic law is for the benefit of the Ummah. The main aim of Islamic law is to create benefits and prevent damage (dar'ul mafāsīd). In Islam, law (syariah) was revealed by Allah SWT through the Al-Qur'an and As-Sunnah as a guide to human life so that they can achieve happiness in this world and the hereafter. The main aim of Islamic law is to create benefit (maslahah) for mankind, while preventing damage (mafsadah). In Islam, law (syariah) was revealed by Allah SWT through the Al-Qur'an and As-Sunnah as a guide to human life so that they can achieve happiness in this world and the hereafter. The main aim of Islamic law is to create benefit (maslahah) for mankind, while preventing damage (mafsadah). Benefit (al-maslahah) means everything that brings benefits, goodness and prosperity to humans,

<sup>7</sup> Hidayat, A. *The Medina Charter And Its Relevance To Modern Human Rights Principles*. Jakarta: Pustaka Ilmiah Press, 2022, Hlm. 62.

<sup>8</sup> Muhammad Hashim Kamali, *Human Rights In Islam: A Framework For Justice And Human Dignity* Kuala Lumpur: Ilmiah Publishers, 2022, Hlm. 60.

<sup>9</sup> Rahman, A. *The Concept Of Maqasid Al-Shariah In Islamic Jurisprudence*. Jakarta: Pustaka Ilmiah, 2023, Hlm. 88.

P-ISSN : 0000-0000

E-ISSN : 3031-6782

Available : <https://jurnalhafasy.com/index.php/jhk>

Vol.2 .No. 6, October 2025

DOI: <https://doi.org/10.61942/jhk.v2i6.463>

both individuals and society. Islamic law not only regulates worship, but also muamalah, economics, politics, social and culture, so that the ultimate goal is the creation of a just, prosperous, harmonious and dignified life.

Maqasid al-Syariah is a philosophical objective of Islamic law whose orientation is not just formal rules, but to realize the overall benefit of humanity, worldly and spiritual. The aim of Islamic law is to realize rahmatan lil 'alamin by protecting and developing the benefit of humanity in all aspects of life. By protecting religion, soul, reason, lineage and property, Islamic law exists not to limit human freedom, but as a guide to happiness in the world and safety in the afterlife.

Five Principles of Protection (al-Dharuriyyat al-Khams). In Maqasid al-Syariah, there are five basic needs known as al-Dharuriyyat al-Khams or five fundamental protections. These five aspects include protection of religion (hifz al-din), soul (hifz al-nafs), reason (hifz al-'aql), descendants (hifz al-nasl), and property (hifz al-mal). All of these aspects are the main objectives in establishing Islamic law to realize *maslahah* (benefit) and prevent *mafsadah* (damage) in human life. This principle emphasizes that every sharia rule has a moral and social orientation which aims to maintain balance and the survival of humanity in a just and harmonious manner<sup>10</sup>. The following five fundamental protections are outlined as follows:

1) **Hifz al-Din (Protection of religion).** Religious protection aims to ensure that the beliefs, worship and beliefs of Muslims are maintained. This includes: The obligation to fulfill the pillars of faith and Islam. The prohibition of apostasy, polytheism, and acts that undermine the faith. The implementation of laws to maintain the purity of religion, such as the obligation of prayer, zakat, fasting, and the pilgrimage for those who are able. The goal is to ensure the continuity

of religion as a guide for human life and prevent deviations from the faith.

2) **Hifz al-Nafs (Protection of the Soul)** Protecting the soul means safeguarding human life from life-threatening threats. Islamic law prohibits unjust killing (QS. al-Maidah [5]: 32). The laws of qisas and diyat are implemented to safeguard life. The obligation to fulfill basic needs (food, drink, health) so that humans can live decently. The goal is to maintain human dignity, guarantee the right to life, and realize social security.

3) **Hifz al-'Aql (Protection of the Mind)** Islam honors the mind as a means of thinking and distinguishing truth from error. Protection of the mind is realized through the prohibition of consuming alcohol, drugs, or anything that damages consciousness. The command to seek knowledge to develop reason and knowledge. The prohibition of spreading ignorance and misleading thoughts. The goal is to maintain a healthy mind so that it can be used to understand sharia, build knowledge, and maintain a dignified life.

4) **Hifz al-Nasl (Protection of Offspring)** Islamic law ensures that offspring remain pure, pure, and honorable. This protection includes: The prescription of marriage to regulate the relationship between men and women. The prohibition of adultery, homosexuality, and acts that damage family honor. Rules on inheritance, lineage, and children's rights ensure the proper protection of offspring. The goal is to ensure the continuation of legitimate generations, maintain family honor, and create a stable social order.

5) **Hifz al-Mal (Protection of Property).** Islam mandates that property be used lawfully and beneficially. Protection of property is achieved through: The prohibition of theft, corruption, usury, gharar, and fraud. The

<sup>10</sup> Hasyim, M. *Ecocide In Maqashid Shariah Review*. Jurnal Ekonomi Dan Sosial Islam, 2024. 15(2), 123-145.

P-ISSN : 0000-0000

E-ISSN : 3031-6782

Available : <https://jurnalhafasy.com/index.php/jhk>

Vol.2 .No. 6, October 2025

DOI: <https://doi.org/10.61942/jhk.v2i6.463>

obligation of zakat, infaq, and sadaqah to purify wealth and help others. Rules on fair transactions to prevent exploitation. The goal is to guarantee legitimate ownership rights, maintain equitable distribution of wealth, and prevent economic damage.

The five principles of protection (al-Dharuriyyat al-Khams) constitute the main foundation of Islamic law. If these five elements are maintained, justice, prosperity, and security will be created in society. However, if ignored, moral, social, and spiritual decay will ensue, destroying human life.

Relevance to Modern Human Rights Principles. From a modern legal perspective, human rights (HAM) are viewed as universal rights regulated internationally through the 1948 Universal Declaration of Human Rights (UDHR) by the United Nations (UN), and nationally guaranteed in Articles 28A–28J of the 1945 Constitution and Law Number 39 of 1999 concerning Human Rights. The modern concept of human rights emphasizes the principle of universality, namely the rights inherent in every human being without exception; egalitarianism, namely equality without discrimination; and the state's obligation to protect these rights. The principle of justice is the primary foundation of the modern human rights system, which demands social justice, equality before the law, and protection from all forms of discrimination. These values have strong relevance to the concept of human rights in Islam, which also upholds justice and humanity (Fauzi, 2022)<sup>11</sup>.

In Islam, justice is a primary commandment (QS. An-Nisa: 58; QS. Al-Maidah: 8). The Principle of Freedom (Freedom & Liberty) Modern human rights guarantee freedom of opinion, association, and religion. Islam also grants the right to freely choose one's faith without coercion (QS. Al-

Baqarah: 256 "Laa ikraaha fid-deen"). The Principle of the Right to Life (Right to Life). Modern human rights emphasize the right to life, prohibiting slavery, torture, and arbitrary killing. Islam affirms that killing one person without justification is the same as killing all of humanity (QS. Al-Maidah: 32). The Principle of Equality (Equality & Non-Discrimination) Modern human rights reject discrimination based on race, religion, skin color, or social status. Islam affirms that human dignity is measured by piety, not race or social standing (QS. Al-Hujurat: 13).

The relevance of human rights to modern principles demonstrates the universal meeting point between international law, national law, and Islamic values. Modern human rights emphasize justice, freedom, equality, and the right to life, all of which are fundamental principles in Islamic teachings and the Pancasila philosophy. Therefore, human rights are not a foreign concept, but have long been inherent in religious teachings and human values.

Each Maqasid Has a Corresponding Element in International Human Rights Articles. Maqasid al-Shariah, or the objectives of Islamic law, are fundamentally aligned with the principles of human rights (HAM) as outlined in the 1948 Universal Declaration of Human Rights (UDHR). Each element of the maqasid has a counterpart in articles in international human rights instruments, demonstrating that Islam not only regulates spiritual and religious aspects but also guarantees the fundamental human right to live with dignity. The intersection between the maqasid of sharia and international human rights lies in their commitment to protecting human dignity, freedom, justice, and well-being. Although derived from different traditions and legal systems, both embody the same universal values in guaranteeing humanity. Therefore, the maqasid of sharia can be viewed as an Islamic instrument that supports and strengthens the implementation

<sup>11</sup> Ahmad Fauzi, *Human Rights And Islamic Justice In Contemporary Perspective*. Jakarta: Prenada Media, 2022, Hlm. 78.

P-ISSN : 0000-0000

E-ISSN : 3031-6782

Available : <https://jurnalhafasy.com/index.php/jhk>

Vol.2 .No. 6, October 2025

DOI: <https://doi.org/10.61942/jhk.v2i6.463>

of international human rights, particularly in Muslim societies<sup>12</sup>.

Each maqasid of sharia has an equivalent to articles in international human rights instruments, particularly in the 1948 Universal Declaration of Human Rights (UDHR). For example, protection of religion (hifz al-din) is in line with religious freedom as regulated in Article 18 of the UDHR; protection of the soul (hifz al-nafs) is in line with the right to life in Article 3; protection of reason (hifz al-'aql) is related to the right to education and freedom of thought in Article 26; protection of offspring (hifz al-nasl) is related to the right to form a family in Article 16; and protection of property (hifz al-mal) is in line with the right to ownership in Article 17. This equivalence shows that maqasid of sharia and international human rights have the same spirit in maintaining human dignity, justice, and welfare universally.

### Forms of Human Rights Protection in Sharia

Human rights protection in Sharia is rooted in the principle of maqasid sharia, which guarantees the continuation of human life with dignity. Islam not only recognizes basic human rights but also provides protection mechanisms through legal, moral, and social regulations. Therefore, Sharia can be understood as an instrument for human rights protection that aligns with the values of justice, freedom, and the welfare of the people, including:

**Civil and Political Rights.** Civil and political rights from an Islamic perspective encompass basic principles that guarantee human freedom and dignity. First, the right to life is a fundamental right that is absolutely protected, with a strict prohibition against killing without a sharia-compliant reason as a form of respect for human values. Second, Islam guarantees freedom of expression as long as it is within ethical limits and does not

harm the public interest, so that this freedom can be used to uphold truth and justice. Third, the right to elect leaders is realized through the mechanism of shura (deliberation), a participatory system that emphasizes justice, responsibility, and community involvement in political decision-making. Thus, civil and political rights in Islam are oriented towards a balance between individual freedom and social welfare<sup>13</sup>.

**Economic and Social Rights.** In the economic and social spheres, Islam establishes principles aimed at creating justice and shared prosperity. First, the right to own property is recognized as a legitimate individual right, but its use must still take into account social interests and not create inequality. Second, the obligation of zakat serves as an instrument of economic equality to reduce the gap between the rich and the poor and strengthen social solidarity. Third, the prohibition against usury and all forms of economic exploitation is established to maintain fairness in transactions and prevent oppression of the weak. Thus, the Islamic economic system emphasizes a balance between individual rights and social responsibilities in order to achieve the welfare of the community<sup>14</sup>.

**Rights of Women and Children.** In Islam, the rights of women and children are given a crucial position as a form of protection for human dignity. Women are guaranteed the right to education and participation in social life while upholding moral values and honor. Education for women is considered a primary means of improving personal and family well-being. Furthermore, children receive full protection from all forms of violence, neglect, and exploitation, as they are a trust from God who must be safeguarded and guided toward maturity with noble character. These principles affirm that Islam places women and children

<sup>12</sup> Rahim Nobahar, *Islam And The Foundations Of Human Rights*. Teheran: Negah-E Mo'aser Publication, 2023, Hlm. 221.

<sup>13</sup> Sulaiman, Muhammad. *Civil And Political Rights In Islam*. Jakarta: Pustaka Ilmiah, 2024, Hlm. 173.

<sup>14</sup> Hafidz, Dzarín Gifarian Khaulani. *Contrasting Capitalist And Sharia Economic Systems: A Comparative Inquiry Into Core Economic Values*, *Journal Of Economic Studies* 8, No. 1 (2024), Hlm. 98-103.

P-ISSN : 0000-0000

E-ISSN : 3031-6782

Available : <https://jurnalhafasy.com/index.php/jhk>

Vol.2 .No. 6, October 2025

DOI: <https://doi.org/10.61942/jhk.v2i6.463>

as legal subjects with fundamental rights that must be respected and protected<sup>15</sup>.

**The Right to Justice.** The right to justice in Islam is a fundamental principle that guarantees every individual equal treatment before the law without discrimination. A fair trial is the primary foundation for upholding the truth and protecting the rights of the people from all forms of injustice. Islam also strictly prohibits corruption, bribery, and fraud, as these practices undermine social order, erode public trust, and hinder the creation of shared prosperity. Therefore, justice from an Islamic perspective is not only legal but also moral and social, demanding integrity, honesty, and responsibility from every individual, especially those holding public trust<sup>16</sup>.

### Comparison with the Universal Declaration of Human Rights

Sharia law and the Universal Declaration of Human Rights (UDHR) both emphasize the importance of protecting human dignity, but they have fundamental differences in their philosophical foundations. The UDHR, established in 1948 under the auspices of the United Nations, is a product of Western secular thought that emphasizes individual freedom without direct ties to religious values. Meanwhile, Sharia law is derived from God's revelation through the Qur'an and Hadith, with the aim of realizing the maqasid al-sharia, which includes the protection of religion, life, intellect, offspring, and property. Despite their differing paradigms, both are aligned in guaranteeing the right to life, the right to education, freedom of religion, and protection from discrimination. However, differences arise in the limits of freedom; in the UDHR, individual freedom is limited by positive law, while in Sharia, it is limited by moral values and religious provisions<sup>17</sup>.

<sup>15</sup> Fadhilah Rahmanita, "Civil War In Yemen: Do Women And Children Have Human Rights Protection?", *SASI* 30, No. 1 (2024): 15.

<sup>16</sup> Barazangi, N. H. (2024). *Adalah: Divine Justice In Shia Islam*. Islamic Studies Journal, 45(2), 2024, Hlm. 123-145.

<sup>17</sup> Hamid, Muhammad, *Human Rights And Islamic Law*. Jakarta: Pustaka Ilmu, 2019. Hlm. 335.

Similar Values. Both recognize the rights to life, liberty, and security. Differences in Human Rights Approaches. Western Human Rights: Based on secularism, Islamic Human Rights: Based on God's revelation and morals. Potential for Integration: Efforts to synergize universal values with Sharia principles. A comparison between Sharia law and the Universal Declaration of Human Rights (UDHR) shows that: Similarities: Both emphasize the protection of human rights such as the right to life, family rights, the right to education, and socio-economic rights. Differences: The UDHR focuses on individual freedom within a secular framework, while Sharia focuses on the balance between rights and obligations within a divine framework.

Implications: Sharia law can be seen as a complementary alternative to the UDHR, with an emphasis on the balance between rights and obligations, as well as moral responsibility.

### Challenges to Human Rights Implementation in the Modern Era

The implementation of human rights (HAM) in the modern era faces various complex challenges that are intensified by technological advances, geopolitical changes, and socio-economic dynamics. First, technological advances such as artificial intelligence (AI) and big data algorithms pose new risks to privacy, freedom of expression, and mass surveillance hence the need to update human rights systems established in the past to be relevant in the digital age. Second, the international framework for human rights protection often faces obstacles such as a lack of national enforcement, polarizing politics, and limited budgets, which impact the effectiveness of global human rights institutions. Third, socio-economic challenges such as inequality, structural discrimination, and protracted conflict also hinder the equitable realization of human rights in many countries despite the normative recognition of these rights globally. Thus, although the foundation of human rights is normatively solid, the challenges of implementation on the ground require synergy between national

P-ISSN : 0000-0000

E-ISSN : 3031-6782

Available : <https://jurnalhafasy.com/index.php/jhk>

Vol.2 .No. 6, October 2025

DOI: <https://doi.org/10.61942/jhk.v2i6.463>

regulations, international frameworks, and adaptation to technological developments and new societal conditions (Iswahyudi, 2025). Broadly speaking, the challenges to human rights implementation in the modern era can be outlined as follows:

#### Differences in Sharia Interpretation.

Differences in interpretation of Sharia law are natural and influenced by various factors, such as differences in social context, cultural background, schools of thought, and the interpretive methods (manhaj al-ijtihad) used by scholars. Although derived from the same texts, namely the Qur'an and Sunnah, interpretations can differ according to the conditions and needs of society at any given time and place. This reflects the dynamic nature of Islamic law, which is able to adapt to changing times without abandoning its fundamental values. These differences in interpretation also demonstrate the breadth of Sharia's application, as long as it is based on the principle of the maqasid of Sharia, which aims to achieve justice and welfare<sup>18</sup>.

The challenge of implementing human rights in the modern era, in the context of differing interpretations of Sharia, lies in harmonizing the universal principles of human rights with the diverse interpretations of Sharia. The lack of a single consensus on the interpretation of Sharia has resulted in diverse implementations of human rights in the Islamic world, sometimes progressive, sometimes conservative. Therefore, dialogue between schools of thought, the maqāsid al-sharī'ah approach (the goal of sharia for the benefit), and the involvement of academics and international institutions are the keys to finding common ground between sharia and human rights.

**Variation in Schools of Thought and Culture.** The diversity of schools of thought and culture within the Islamic world is one factor influencing the understanding and application of Sharia law and values in various regions. The differences in Islamic jurisprudence (fiqh), such as Hanafi, Maliki,

Shafi'i, and Hanbali, reflect the diversity of interpretations of the sources of Islamic law, adapted to the social, geographical, and historical contexts of each society. Furthermore, local cultural factors contribute to religious practice, allowing Islam to emerge in a dynamic and adaptive form, adapting to local traditions without abandoning its fundamental principles. This diversity, on the one hand, enriches the intellectual heritage of Islam, but on the other hand, can give rise to differing views that require a dialogical and tolerant approach to maintain the unity of the community. Therefore, understanding the diversity of schools of thought and culture is crucial to ensure that the application of Sharia remains contextual and harmonious with universal Islamic values<sup>19</sup>.

The challenge of implementing human rights in the modern era, particularly in the context of religious and cultural diversity, lies in the inconsistency between universal human rights standards and local interpretations of religion and culture. Differences in religious interpretations (sectarianism) and cultural plurality can be sources of resistance to human rights, but they can also be a strength if harmonized through cross-cultural dialogue and thought. The key to resolving this is a contextual approach that maintains basic human rights principles while adapting them to local values, preventing conflict and instead fostering mutually reinforcing common ground.

#### Political Issues and Positive Law.

Political issues and positive law in the modern era demonstrate the close relationship between political power and the process of law formation and implementation in a country. In practice, positive law is often influenced by political interests, which can affect the objectivity and fairness of its enforcement. Phenomena such as government intervention in the judiciary, the drafting of politically charged laws, and legislative corruption represent significant challenges to the rule of law. On the other hand, positive law should be

<sup>18</sup> Suliswanto, M. S. W., Mahyudi, M., & Barom, M. N. (2025). *A Maqasid-Based Welfare Index In Indonesia: An Empirical Investigation*. *Journal Of Islamic Monetary Economics And Finance*, 11(1), 119–146

<sup>19</sup> M. Samsul Hady, "Religious Moderation From Manuscripts Heritage To Living Practice," *Religions And Society*, 2025, Hlm. 112–114.

P-ISSN : 0000-0000

E-ISSN : 3031-6782

Available : <https://jurnalhafasy.com/index.php/jhk>

Vol.2 .No. 6, October 2025

DOI: <https://doi.org/10.61942/jhk.v2i6.463>

an instrument of justice that favors the public interest, not a tool for legitimizing power. Therefore, the integrity, transparency, and independence of legal institutions are key factors in maintaining a balance between political interests and the principle of justice<sup>20</sup>.

The implementation of human rights in the modern era faces serious challenges in both politics and positive law. Politics often uses human rights as a tool for self-interest, while positive law faces obstacles in regulatory synchronization and weak law enforcement. Therefore, synergy between genuine political will, a consistent legal system, and public participation is necessary to create a climate of respect for human rights that is just and sustainable.

**A State That Separates Religion from Law.** A state that separates religion from law is known as a secular system, where religious matters are not used as a basis for the formation or implementation of state law. In this system, law is based on human rationality and social norms, not on the teachings of a particular religion. The primary purpose of this separation is to maintain state neutrality by not favoring any particular religion and to guarantee religious freedom for all citizens. However, the implementation of secularism often sparks debate, especially in countries with a religious majority, as it is perceived to displace moral and spiritual values from public life. On the other hand, this system is also considered effective in creating an inclusive and democratic government, where laws are made based on social agreement, not religious dogma<sup>21</sup>.

The implementation of human rights in the modern era in a secular state faces serious challenges due to the lack of a basis in transcendent values (religion). This gives rise to moral relativism, politicization, and conflict

with society's religious culture. Therefore, the solution offered is to prioritize dialogue between the universal values of human rights and the moral and spiritual values of society to create a balance between individual freedom and social responsibility.

**Stigma and Misunderstanding.** Stigma and misunderstanding regarding Human Rights (HAM) remain significant obstacles to their implementation in the modern era. Many people view human rights as a Western concept that conflicts with local cultural values or religious teachings, even though, in essence, human rights principles align with universal humanitarian values such as justice, freedom, and human dignity. This misunderstanding is often exploited by certain parties to reject the implementation of human rights, particularly on sensitive issues such as freedom of expression, gender equality, and minority rights. As a result, social polarization and resistance to human rights-based policies occur. Therefore, an educational approach and cross-cultural dialogue are needed to correct perceptions and strengthen the understanding that human rights are not a threat to local values, but rather a means to uphold universal humanity<sup>22</sup>.

The challenge of implementing human rights in the modern era is not only weak law enforcement, but also social stigma and societal misunderstandings that narrow the meaning of human rights. For this, what is needed is: Comprehensive human rights education, strengthening social literacy, cooperation between the state, civil society, and religious/cultural figures, so that human rights can be implemented in accordance with universal values while also being in harmony with local wisdom.

**Negative and Positive Images of Sharia in the International Media.** The image of Sharia in the international media presents two opposing sides. Some media

<sup>20</sup> Ramadhani, *Positive Law And Public Interest: Principles Of Justice*, Jakarta: Pustaka Hukum, 2025, Hlm. 123.

<sup>21</sup> Ridwan, *Sistem Negara Sekuler Dan Implikasinya Terhadap Kebebasan Beragama* (Jakarta: Pustaka Ilmu, 2025), Hlm. 432.

<sup>22</sup> Kusuma Wijayanti, *Assessing Inclusive Education In Elementary Schools: Insight From The Merdeka Curriculum*, *Al-Ishlah: Jurnal Pendidikan* 17, No. 2 (Juni 2025): 2540.

P-ISSN : 0000-0000

E-ISSN : 3031-6782

Vol.2 .No. 6, October 2025

DOI: <https://doi.org/10.61942/jhk.v2i6.463>Available : <https://jurnalhafasy.com/index.php/jhk>

outlets tend to highlight the negative aspects, portraying Sharia as harsh, intolerant, and contrary to human rights values, particularly in the context of the application of Islamic criminal law. However, on the other hand, there are also reports that highlight the positive aspects of Sharia as a legal system that emphasizes social justice, economic transparency, and the welfare of the community, particularly through Islamic finance and the halal economy. Therefore, the global perception of Sharia is highly dependent on the media's perspective and the context of its implementation in each country<sup>23</sup>.

The implementation of human rights in the modern era within the context of Sharia faces serious challenges due to the negative image created by the international media. However, at the same time, there are opportunities to present a positive image of Sharia as a legal system that respects human rights, upholds justice, and maintains social balance. With an educational approach, cultural diplomacy, and the use of alternative media, the positive image of sharia can be strengthened so that it is not always perceived as being in conflict with modern human rights.

## CONCLUSION

Sharia law plays a fundamental role as an instrument for protecting human rights in Islam because it is derived from the revelation of Allah SWT, which emphasizes justice, balance, and the welfare of the community. Through the concept of maqasid al-sharia which encompasses the protection of religion, life, intellect, descendants, and property Sharia comprehensively guarantees basic human rights. These principles align with universal human rights values, which affirm religious freedom, the right to life, the right to education, family rights, and property rights. Unlike Western concepts of human rights, which focus on individual freedom, Sharia law

emphasizes a balance between rights and obligations, as well as the interests of individuals and society. Thus, Sharia law is not only a religious legal system but also a moral and social system capable of upholding human dignity, justice, and welfare. Therefore, Sharia law is relevant as a basis for strengthening human rights protection in the context of national and global law.

The implementation of human rights (HAM) in the modern era faces multidimensional challenges involving social, political, legal, and cultural aspects. This complexity is exacerbated by differing interpretations of sharia, the diversity of schools of thought and culture, political intervention in positive law, and the influence of a secular system that separates religious values from state law. Furthermore, stigma and public misunderstanding of human rights, as well as the negative image of sharia in the international media, also weaken efforts to harmonize Islamic values and universal human rights principles. To address this, a dialogical approach, contextual human rights education, and cultural diplomacy that emphasizes the harmony between sharia and universal humanitarian values are needed. In this way, human rights can be implemented fairly, inclusively, and in accordance with the dynamics of modern society.

Thus, Sharia law is the primary and effective instrument in guaranteeing and protecting human rights, because: It is universal and comprehensive: it covers spiritual, social, political, economic, and cultural aspects. It guarantees social justice: it rejects oppression, discrimination, and injustice. It is based on God's revelation: so that human rights have strong legitimacy, not dependent on political change or the interests of power. It is oriented towards the welfare of the people: the ultimate goal is prosperity, justice, and peace in living together. Therefore, it can be emphasized that the correct and comprehensive implementation of Sharia law is one of the most solid ways to uphold and protect human rights. Sharia not only regulates the relationship between humans and God, but also emphasizes the importance of maintaining the dignity, honor,

<sup>23</sup> Fauzan, M. N. Media Representations Of Islam And Muslims In Global Contexts: A Systematic Literature Review. *International Journal On Perceptive And Cognitive Computing*, 2025, 13(1), 67-83.



P-ISSN : 0000-0000

E-ISSN : 3031-6782

Available : <https://jurnalhafasy.com/index.php/jhk>

Vol.2 .No. 6, October 2025

DOI: <https://doi.org/10.61942/jhk.v2i6.463>

and basic rights of every individual, so that a just, peaceful, and prosperous society can be created.

## REFERENCE

- Al-Faruqi, M. I. *Universal Human Rights And Islamic Jurisprudence: Bridging The Gap*. International Journal Of Islamic Thought. 2(2), (2021), 166-170.
- Al-Faruqi, Ismail R. *Human Rights In The Framework Of Islamic Ethics*. Journal Of Islamic Studies And Civilization. 8(2), (2020), 118-134
- Arifin, Z. 2023 . *Analisis Yuridis Komparatif Kebijakan Legislatif Dalam Pembaruan Hukum Mengenai Tindak Pidana Korupsi*. Jurnal Legislasi Indonesia. 20 (1), (2023), 87-98.
- Al-Qaradawi, Yusuf. *Fiqh Al-Jihad*. Cairo: Maktabah Wahbah. (2021)
- Aswandi, B. *Politik Hukum Ham Di Indonesia*. Jurnal Ilmu Hukum. Vol. 12(2),(2020),123-135.
- Boyd, David. *Climate Change And Human Rights*. Nairobi: Un Environment Programme. (2024).
- Badruzaman, Dkk. *Kompilasi Hukum Perikatan*. Bandung: PT. Citra Aditya Bakti.(2021).
- Oxford: Oxford University
- Donnelly, Jack. *Universal Human Rights In Theory And Practice*. Ithaca: Cornell: University Press.(2020).
- Freeman, Marsha. *Gender And Human Rights In Global Perspective*. Oxford : Oxford University Press.(2023).
- Gill, Linda. *Rights And Human Rights*. London: Routledge.(2022).
- Hassan, Nur Aisyah. *Islamic Human Rights And The Modern State*. Journal Of Contemporary Islamic Studies.10 (3), (2024), 112-122.
- Hefner, Robert W. 2021. *Sharia, Politics, And Society In Indonesia: Between Transformation And Continuity*. Brill.(2021).
- Komnas Ham RI. 2020. *Laporan Tahunan Ham*. Jakarta: Komnas HAM. (2020).
- Lestari, Dina. *Transformasi Kebijakan Ham Di Era Digitalisasi*. Yogyakarta: Deepublish. (2024).
- Marks, Stephen P. *Human Rights In Contemporary World*. Cambridge : Cambridge University Press.(2021).
- Mahmood, Farida. 2022. *The Compatibility Of Islamic Law And Universal Human Rights*. International Journal Of Islamic Thought. 12 (2). (2022), 87-97.
- Nurdin, Hasan. *HAM Dalam Perspektif Islam Dan Barat*. Jakarta: Prenadamedia Group. (2023).
- Ohchr (*Office Of The High Commissioner For Human Rights*). 2021. *Combating Discrimination And Stigma: A Human Rights Perspective*. United Nations.(2021).
- Rahman, Zainal. *Penegakan Ham Di Indonesia Pasca Reformasi*. Jakarta: Rajawali Pers.(2021).
- Rahman, A. *Human Rights In Islamic Perspective: A Reinterpretation Of Shariah Principles*. Journal Of Islamic Studies.6 (2), (2020), 58-72.
- Rahman, Zulkifli. *Al-Ijtihad: Journal Of Islamic Law And Human Rights*. Vol. 9 (1), (2021), 221-229.
- Suharto, Bambang. *Hak Asasi Manusia Dan Negara Hukum Di Indonesia*. Yogyakarta: Pustaka Pelajar.(2022).
- Suryana, Ahmad. 2023. *Jurnal Al-Manhaj: Kajian Hukum Islam Dan HAM*. 7 (1), (2023), 98-102.
- Undang-Undang Nomor 39 Tahun 1999 Tentang HAM.
- Universal Declaration Of Human Rights (UDHR) 1948*.
- Undang-Undang No. 39 Tahun 1999 Tentang Hak Asasi Manusia Di Indonesia, Relevan Dengan Prinsip Syariah.
- Undang Nomor 30 Tahun 1999 Tentang Arbitrase dan Alternatif Penyelesaian Sengketa.
- Yusuf Al-Qaradawi. *Fiqh Al-Maqāsid: Al-Mabādi' Wa Al-Qawā'Id*, Kairo: Dār Al-Syurūq. (2021)