

Optimization of Government Policies in Guaranteeing Women's and Children's Rights: An Analysis of Legal Effectiveness Theory and Maqāṣid al-Sharī'ah

Azizah Khairiyah*, Ahmad Fauzi**

Master of Sharia Studies, Concentration in Islamic Family Law

Faculty of Sharia and Law, Sunan Kalijaga State Islamic University, Yogyakarta

24203012074@student.uin-suka.ac.id*, 24203012076@student.uin-suka.ac.id**

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ABSTRACT

This study examines the gap between comprehensive regulations for protecting women and children in Indonesia and their limited effectiveness in practice. Although legal frameworks are well established, their implementation remains inconsistent. Previous studies have largely emphasized normative or theological dimensions, resulting in limited integration of legal effectiveness with ethical principles derived from *Maqāṣid al-Syarī'ah*. This research aims to evaluate government policy implementation by combining *Legal Effectiveness Theory* with *Maqāṣid al-Syarī'ah* to assess both regulatory performance and ethical orientation. This research employs a qualitative method and a normative juridical approach, supported by a literature review. Data were collected from legislation, academic works, and relevant prior studies. The analysis applies descriptive, analytical, and comparative techniques to identify discrepancies between legal provisions and their application. The findings reveal that implementation remains suboptimal despite the availability of comprehensive regulations. Weak coordination among institutions is the primary constraint, accompanied by limited resources, inadequate facilities, and low public awareness of legal rights. In addition, persistent patriarchal norms continue to influence policy outcomes and hinder protection efforts. In conclusion, improving policy effectiveness requires an integrative approach that connects legal structure, social conditions, and ethical values. The incorporation of *Maqāṣid al-Syarī'ah*, particularly in safeguarding life, intellect, lineage, and dignity, strengthens the moral direction of public policy. This study contributes to the development of a more coherent and equitable framework for protecting women and children in Indonesia.

Keywords: Legal Effectiveness; Women and Children; *Maqāṣid Al-Syarī'ah*; Public Policy; Legal Protection

A. INTRODUCTION

In a constitutional state that adheres to the rule of law, government policies must uphold both procedural legality and substantive justice, particularly in protecting the rights of women and children.¹ This includes not only the elimination of violence and exploitation but also the fulfillment of affirmative rights such as access to justice, health services, education, and economic empowerment. Furthermore, women and children must have equal rights to legal aid, education, health services, and social security as guaranteed by the constitution. The constitution and various national laws, including the PKDRT Law and the TPKS Law, require the state to protect children. This commitment is also supported by international agreements such as CEDAW and the UN Convention on the Rights of the Child. In Islamic principles, this protection effort aligns with the concept of *maqāṣid al-syarī'ah*. This is done to protect the soul, mind, offspring, and honor of each individual, as the essence of human benefit.

The reality in society indicates that the implementation of policies concerning the protection of women and children has not yet operated effectively due to weak inter-agency coordination, limited institutional resources, low levels of public legal awareness, and the persistence of patriarchal cultural structures that continue to obstruct legal protection efforts. Although the existing regulations are normatively very good, their implementation is still far from expectations.² Violence against women and children remains widespread. This demonstrates that existing regulations are insufficient to address the root causes of the problem.³ The limited number of law enforcement officers, low gender sensitivity in the case-handling process, and minimal coordination among institutions are the main obstacles to the law's effectiveness.⁴ In addition, inequality in access to legal, health, and social protection services is still felt significantly, especially by women and children who are in vulnerable economic and geographical conditions.⁵ Field realities also demonstrate the strong influence of legal culture and social structures in determining the success of policies. Social practices

¹ Anna Oriolo, "The Rule of Law, Transnational Crimes, and The Human Rights-Based Approach in the European Union: The Court of Justice as Ultimate Guardian of The 'Good' Laws," *Dalam Solidarity And Rule of Law*, Vol. 9, Ed. oleh Teresa Russo Dkk., European Union And Its Neighbours in a Globalized World (Springer International Publishing, 2023), https://doi.org/10.1007/978-3-031-29227-9_11.

² Indar Ismail Jamaluddin and Anis Ribcalia Septiana, "Implementation of The Policy on Protecting Women and Children from Violence After the Earthquake, Tsunami, and Liquefaction in Palu City," *Kne Social Sciences* 10, no. 18 (2025): 558–78.

³ Catherine Maternowska, et al., "The Global Politics of the Age–Gender Divide in Violence Against Women and Children," *Global Public Health* 16, no. 3 (2021): 354–65.

⁴ Helen H. Yu, "Gender Differences: Male Officers' Perception Toward Women's Occupational Barriers in Federal Law Enforcement," *Dalam Global Encyclopedia Of Public Administration, Public Policy, And Governance* (Springer, 2023).

⁵ Sukirman, et al., "Child and Women Protection Strategy in South Papua: Analysis of Challenges and Solutions," *The Juris* 8, No. 2 (2024): 427–34, <https://doi.org/10.56301/Juris.V8i2.1368>.

such as the normalization of domestic violence, child marriage, and the stigmatization of victims often contradict the spirit of legal protection advocated by the state.⁶ In this context, the law often gives way to deeply rooted cultural values, so policies lose their binding power.

The impact of the gap between regulation and implementation is far-reaching. Women and children who experience violence or rights violations often face profound psychological, physical, and social consequences, including trauma, stigma, inability to access education or health services, and economic loss.⁷ At the institutional level, suboptimal policy implementation erodes public trust in state institutions and the justice system, resulting in many cases going unreported or being resolved outside the formal system. Gender inequality and violations of children's rights can hinder human resource development and slow socioeconomic growth, as the potential of future generations is not fully developed due to their rights not being met or protected.⁸

Several previous studies have been conducted. Research by Nazifah Hanafiah.⁹ This phenomenon explains that incorporating the values of *maqasid sharia* can accelerate the transformation of family law to be more just and responsive to the dynamics of social needs, especially in mitigating issues faced by women and children. This approach balances legal and moral dimensions while addressing social challenges, including the strength of patriarchal culture. Study by Muhammad Rusdi bin Muhammadiyah and Rahmad Safitri.¹⁰ Research shows that judges tend to impose prison sentences because they are considered to better ensure the child's development without causing prolonged trauma. This approach is in line with the principle of prioritizing the interests of child victims, especially in recovering from mental trauma and ensuring their basic rights are met. Research conducted by Indah Dewi Megasari.¹¹ This research, conducted by Safrida Ramadhania, strengthens the argument that *maqāṣid al-syarī'ah* is a key pillar for realizing equitable, discrimination-free child

⁶ Kimia Ghomeshi, et al., *Uprooting Our Beliefs: Examining Social Norms Contributing to Violence Against Women and Girls, Including Child Marriage*, 2020.

⁷ Ogochukwu Okpokwasili, "Gender-Based Violence: A Barrier To Achieving Human Rights And Sustainable Development Goals in Nigeria," *Jassd-Journal of African Studies and Sustainable Development* 5, no. 2 (2024).

⁸ Faturhman, et al., "The Impact of Early Marriage on Minors and Its Legal Problems," *Politika Progresif: Journal of Law, Politics and Humanities* 1, no. 1 (2024): 26–40.

⁹ Nazifah Hanafiah, "The Relevance of *Maqāṣid Al-Syarī'ah* in the Policy of Protecting Women and Children in Family Law in Indonesia," *Integrated Education Journal* 1, no. 2 (2024): 112–25.

¹⁰ Muhammad Rusdi Bin Muhammadiyah and Rahmad Safitri, "Restorative Justice and Child Protection In Sharia Law: A Maṣlaḥah-Based Analysis From Langsa Sharia Court: Restorative Justice and Child Protection in Sharia Law: A Maṣlaḥah-Based Analysis from the Langsa Sharia Court," *Al-Jinayah: Journal of Islamic Criminal Law* 11, no. 1 (2025): 1–25.

¹¹ Indah Dewi Megasari, "Gender Equality in the Protection of Children's Rights from the Perspective of Maqashid Sharia," *Indonesian Journal of Islamic Jurisprudence, Economic and Legal Theory* 2, no. 3 (2024): 1577–85.

protection. This study positions this concept as a foundation for inclusive changes to family law. The ultimate goal is to strengthen the principle of gender equality so that it becomes an integral part of the formulation and implementation of Islamic law today.¹² This research emphasizes the importance of renewing Islamic jurisprudence (fiqh) thought based on the maqasid sharia (the principles of Islamic law). This effort is being made to ensure that Islam's message, as a universal blessing, is felt concretely through the enforcement of justice. The goal is to ensure that every human being receives equal rights, so that the noble values of religion are truly realized in protecting humanity from discrimination. Research by Irfansyah Lubis and Tri Reni Novita.¹³ This research shows that Indonesia has a sufficient legal basis to protect children from sexual violence, but its implementation remains weak. The main problems faced are weak institutional coordination, limited rehabilitation services, and social challenges such as patriarchal culture and fragile family conditions. These complexities can only be resolved through a comprehensive approach, namely by increasing law enforcement capacity, providing adequate recovery services, and consistently conducting public outreach.

Although there have been many studies on women's and children's rights from the perspective of maqasid al-syari'ah, most remain abstract and have not addressed practical policy implementation. Not many have examined how the government actually implements these policies. Previous research, such as the work of Nazifah Hanafiah and Irfansyah Lubis, has emphasized legal reform, gender justice, and child protection but has not integrated the theory of legal effectiveness into public policy analysis. Departing from this urgency, this research attempts to bridge the gap between theory and practice by analyzing how to optimize government policy instruments in the field. By combining Legal Effectiveness Theory and maqasid sharia principles, this research aims to develop more comprehensive and practical protection regulations for women and children in Indonesia.

The novelty of this research is different because it uses two perspectives at once, the Theory of Legal Effectiveness and the *maqāṣid al-syarī'ah*, as tools to test how well policies for protecting women and children are implemented. Unlike previous studies that were often partial, this research adopts a multidisciplinary approach that combines positive law with Islamic moral and spiritual values, thereby assessing not only the formal aspects but also the substance of justice and welfare for vulnerable groups. This research examines the relevance of government policy towards protecting

¹² Safrida Ramadhania, "Maqasid Sharia and Equal Rights of Women," *MLIJo: Maliki Law and Islamic Journal* 1, no. 1 (2025): 1-9.

¹³ Irfansyah Lubis and Tri Reni Novita, "A Legal Analysis of Legal Protection for Victims of Sexual Crimes Against Minors: Case Study Number 663/Pid. Sus/2024/PN. Mdn," *Al-Zayn: Journal of Social Sciences & Law* 3, no. 3 (2025): 1689-98.

the rights of women and children based on the principles of justice and benefit in *maqāṣid al-syarī'ah*. Furthermore, this research aims to create a new model that integrates state law with Islamic values. The goal is to make the existing protection system more caring, humane, and appropriate to current conditions.

B. RESEARCH METHODS

Methodologically, this study employs library research as the primary research design with a qualitative orientation. This approach was selected because the research examines legal concepts, policy frameworks, and ethical principles related to the protection of women and children through an in-depth analysis of relevant literature and legal documents. Library research in this study is used not only to collect secondary data but also to construct analytical arguments, identify gaps in prior studies, and develop a conceptual framework that integrates Legal Effectiveness Theory and *maqāṣid al-syarī'ah*. This research applies juridical-normative and conceptual approaches as analytical instruments. The juridical-normative approach is used to examine statutory regulations governing the protection of women and children. In contrast, the conceptual approach is employed to analyze the relationship between legal effectiveness and the values of *maqāṣid al-syarī'ah* within the implementation of public policy.

The data sources for this research include primary and secondary legal materials. Specifically, primary legal materials consist of the 1945 Constitution and sectoral legal instruments, such as the Child Protection Law and the TPKS Law, which serve as the main juridical basis. Furthermore, this research also references various derivative regulations governing protection policies for women and children. Secondary sources are obtained from scientific literature, including Sinta-indexed journals (2020-2025), academic books, research findings, institutional reports, and scientific articles that discuss the effectiveness of legal policies and the *maqāṣid al-syarī'ah*.

Data analysis proceeded through three stages. First, a descriptive-analytical approach was employed to systematically describe the content of each legal document and theoretical source. Second, qualitative comparison was conducted between the empirical findings on policy implementation and the normative standards derived from both Legal Effectiveness Theory and *maqāṣid al-syarī'ah*. Third, an integrative synthesis was performed to construct a conceptual model for policy optimization. Through a descriptive-analytical lens, this study clarifies legal frameworks and theories concerning the protection of women and children, subsequently evaluating their significance and application within Indonesian policy. Using Legal Effectiveness Theory and *maqāṣid al-syarī'ah* as comparative analytical frameworks, this research examines how policy implementation aligns with or deviates from the normative

standards derived from each perspective. This process aims to develop a more optimal and integrated policy framework to protect women and children.

C. RESULTS AND DISCUSSION

1. Analysis of the Legal Framework for the Protection of Women and Children in Indonesia

Within Indonesia's constitutional and legislative framework, a comprehensive normative foundation for the protection of women and children has been provided. As the supreme law of the land, the 1945 Constitution serves as the foundational source for all sectoral legislation. It enshrines essential principles concerning human rights, social equality, and the protection of vulnerable groups, including women and children.¹⁴ From the constitutional level to positive law, various laws have been drafted to regulate the rights, sanctions, and remedies for victims of violence and violations of the rights of women and children. The Child Protection Law, specifically the amendment from Law No. 23 of 2002 to Law No. 35 of 2014, serves as the primary basis for regulating children's rights, state and community responsibilities, protection mechanisms, and sanctions for violations.¹⁵ This regulation clarifies the definition of children and their basic rights, such as education, health, and safety. It also emphasizes the obligations of parents and the state to prevent, rehabilitate, and return children to society. The strengthening of norms in the 2014 amendment to the law provides more detailed legal instruments for preventive and repressive protection against child rights violations, including reporting mechanisms, recovery services, and the role of intervention institutions.¹⁶

The TPKS Law (Law No. 12/2022) is a specific legal regulation to address various forms of sexual violence. Its primary focus is on providing concrete protection for women and children. The TPKS Law complements general criminal provisions (such as the Criminal Code) with more specific definitions, victim protection measures, and sanctions that consider victims' recovery needs. Beyond primary legislation, the protection of women and children is further shaped by the Marriage Law (as amended by Law No. 16/2019), civil registration mandates, and various regional ordinances. The approval of CEDAW and the Convention on the Rights of the Child provides the basis for Indonesia to align domestic policies with

¹⁴ Chairul Fahmi and Muhammad Siddiq Armia, "Protecting Indigenous Collective Land Property in Indonesia Under International Human Rights Norms," *JSEHR* 6 (2022): 1.

¹⁵ Ahmad Jamaludin, "Legal Protection for Child Victims of Sexual Violence," *JCIC: Journal of CIC, Social Research and Consulting Institute* 3, no. 2 (2021): 1-10.

¹⁶ Siti Fitrotun, "Child Protection in Law Number 35 of 2014 from the Perspective of Hadhanah Fiqh," *Istidal: Journal of Islamic Law Studies* 9, No. 1 (2022): 83-97.

universal humanitarian protection parameters.¹⁷ This legal framework can be assessed based on the extent to which it reflects gender justice and equality. Normatively, various regulations recognize basic rights, prohibit exploitation, and provide mechanisms for redress for victims.¹⁸ Efforts have also been made to ensure equal protection for boys and girls and to incorporate a gender perspective into legal policies. However, in practice, there are still challenges with consistency and integration across norms.

- a. There is still overlap and tension between regulations, for example, between provisions on child protection norms and marriage dispensation policies in the Marriage Law, which creates room for broad interpretation and the potential for weakening protection.¹⁹
- b. Harmonization between national laws and regional regulations is not always consistent; some regional regulations can strengthen protection, but at the local level, cultural or implementation norms sometimes weaken the effectiveness of national norms.²⁰
- c. The aspect of gender mainstreaming in policy formulation has not always been fully internalized, so that policies that appear neutral actually have different implications for women and children.²¹

Inter-agency coordination remains weak, resulting in a lack of integrated prevention, response, and rehabilitation efforts. This impact is evident in fragmented responses, such as complicated reporting processes, limited access to remedies, and suboptimal oversight of regional policies. Furthermore, limited human resources also hamper the effective implementation of the law.²² For example, untrained child protection workers and officers, uneven distribution of psychosocial and medical rehabilitation services, and low legal awareness in society

¹⁷ Failin, et al., "Protection of Children's Rights and Women's Rights as Part of Human Rights in Indonesia Through Ratification of International Regulations," *JCH (Jurnal Cendekia Hukum)* 7, no. 2 (2022): 312–28.

¹⁸ Ashwini Kumar Sahu and Laxmikanta Das, "Victim Jurisprudence and Victim Compensation Scheme: Socio-Legal Analysis," *Nujs J. Regul. Stud.* 8 (2023): 51.

¹⁹ Ahmad Muqaffi, et al., "Examining the Problems of Marriage Dispensation in Efforts to Prevent Child Marriage Following the Revision of the Marriage Law," *Journal of Islamic and Law Studies* 5, no. 3 (2022), <https://doi.org/10.18592/jils.v5i3.5914>.

²⁰ Miasiratni, "The Role of Regional Regulations in Protecting the Rights of Indigenous Peoples in Indonesia," *Journal of Global Legal Review* 2, no. 2 (2024): 65–70.

²¹ Fabian Nathaniel Putra Adya, et al., "Transforming Education through Gender Mainstreaming: Improving Access and Equity," *Journal of Feminism and Gender Studies* 5, no. 1 (2025): 85–93, <https://doi.org/10.19184/jfjgs.v5i1.48586>.

²² Gunawan Widjaja and Handojo Dhanudibroto, "Coordination Between Government Agencies and The Effectiveness of Welfare Policies," *Sibatik Journal: Scientific Journal of Social, Economic, Cultural, Technology, and Education* 4, no. 7 (2025): 1323–32.

are influenced by patriarchal cultural norms.²³ All these factors lead to suboptimal legal effectiveness, with regulations formally present but not fully realizing substantive protections in practice. To improve the integration and accommodation of principles of justice and gender equality, several steps are needed:

- a. Harmonization of regulations (eliminating contradictions between national and local provisions).
- b. Strengthening cross-sector coordination mechanisms with clear SOPs.
- c. Increasing the capacity of law enforcement and protection service providers.
- d. Integration of gender perspectives and children's rights in budget and program planning.

Public education and rights literacy are also crucial for changing social norms that disadvantage women and children, ensuring that legal implementation gains cultural support. In summary, Indonesia's legal framework places the protection of women and children at a central normative level through the constitution and a series of sectoral laws. However, key challenges lie in regulatory consistency, harmonization of implementation, and the capacity to translate legal provisions into effective protection within the community.

2. Implementation and Effectiveness of Government Policy from the Perspective of Legal Effectiveness Theory

The success of the protection of women and children is not only determined by the availability of comprehensive legal instruments, but more so by the extent to which the efficiency of the operationalization of these laws can be realized in social reality. According to Soerjono Soekanto's Legal Effectiveness Theory, the successful application of law is contingent upon five pivotal elements: the legal substance, the structure of law enforcement, available facilities and infrastructure, the community, and the prevailing legal culture.²⁴ Although Indonesia already has many laws to protect women and children, including regulations such as the Child Protection Law and provisions regarding marriage age limits, the practical implementation of these policies is still hampered by complex systemic obstacles.

From a legal perspective, coordination between law enforcement and government agencies remains weak, often resulting in a lack of integration in case handling. Furthermore, facilities and infrastructure are unevenly distributed, particularly between urban and rural areas, including limited victim assistance and facilities. Social factors also influence the effectiveness of these policies, including

²³ Nuzha Allasad Alhuzail and Ibrahim Mahajne, "Balancing Acts: The Intricate Role of Child Protection Officers in Empowering Bedouin Girls for Gender Equality in Patriarchal Families," *Journal of Ethnic & Cultural Diversity in Social Work* 35, no. 3 (2025): 1–12.

²⁴ S. Soekanto, *Factors Influencing Law Enforcement* (Rajawali, 1983), <https://books.google.co.id/books?id=BK2aHAAACAAJ>.

low public legal awareness, strong patriarchal cultural norms, and traditional views that place women as submissive and undemanding.²⁵ Legal culture or social values are the most fundamental determinants. In many communities, traditional values and conservative religious interpretations often justify discriminatory practices against women and children.²⁶

Table 1. Inhibiting Factors and Solutions Based on Legal Effectiveness Theory (Soerjono Soekanto)

No.	Factors in Soekanto's Theory	Factors Inhibiting Effectiveness
1.	Legal Substance	Overlapping regulations, weak sanctions, and unclear implementing rules.
2.	Law Enforcement Structure/ Apparatus	Weak coordination among institutions, differing perspectives in case handling, and limited human resource capacity.
3.	Facilities and infrastructure	Limited safe houses, counselors, rehabilitation centers, and uneven service distribution.
4.	Society (Legal Awareness)	Low legal literacy, strong patriarchal culture, social stigma, and low reporting rates.
5.	Legal Culture (Legal Culture)	Dominance of traditional values and conservative religious interpretations over formal legal norms

Reflecting on the provided data through Soerjono Soekanto's Legal Effectiveness Theory, it is evident that while the protection of women and children in Indonesia rests on a robust normative basis, its actual success remains constrained by social, cultural, and structural complexities. Efforts to improve legal effectiveness should focus on harmonizing regulations, strengthening institutional capacity, equalizing access to service facilities, and enhancing public awareness and legal culture. Combining state regulations with local cultural values is believed to make the law easier to enforce. This also helps ensure that what is written in the law aligns with the realities of society.

3. Integration of *Maqāshid Al-Syari'Ah* in Women and Children Protection Policies

Incorporating *maqashid al-syari'ah* into policies protecting women and children demonstrates a harmonious synergy between religious ethics and contemporary national legal frameworks.²⁷ This approach focuses not only on the

²⁵ Setyani Hilda Emilia and Anissa Susiyanti, "The Role of Law in Dealing With the Cultural Influence of Patriarchal Society," *Scientific Journal of Educational Vehicle* 10, no. 24 (2024): 671-81.

²⁶ Sugeng Dwi Harianto, "Religion and Social Change: Promoting Gender Equality in the Context of Religion and Contemporary Society," *Pendas: Scientific Journal of Elementary Education* 10, no. 02 (2025): 282-308.

²⁷ Syamsiah Nur, et al., "Harmonization of Islamic Law and Marriage Law in Indonesia: A Study of the Minimum Age of Marriage," *Al-Mizan Journal* 12, no. 1 (2025): 33-51, <https://doi.org/10.54621/jiam.v12i1.1029>.

legal-formal aspects but also emphasizes the primary objectives of law, namely to provide welfare (maslahah), justice (justice), and social welfare (social welfare). The maqasid al-syari'ah framework in Islamic law serves as a philosophical framework that guides state policy in consistently protecting human rights without compromising religious values.²⁸

Research data was analyzed utilizing a combination of qualitative-comparative and descriptive-analytical methods. The latter focuses on detailing legal frameworks and theories concerning the protection of women and children, followed by an evaluation of their practical implications within the Indonesian policy landscape. Although the legal framework is quite comprehensive, its effectiveness is still limited by limited political commitment, limited understanding among officials, and low public awareness. Therefore, maqashid needs to be understood as a substantive approach that balances legal certainty, benefit, and justice.²⁹ Within the maqāṣid al-syarī'ah framework, it serves not only as a normative basis but also as an ethical and practical framework for formulating humanist public policies.³⁰ This approach strengthens the moral legitimacy of national law and simultaneously revives the spirit of social justice, which is the main objective of Islamic law and the state constitution.

Table 2. The Relationship Between the Principles of *Maqāṣid Al-Syarī'Ah* and Regulations on the Protection of Women and Children in Indonesia

No.	The Principle of <i>Maqāṣid Al-Syarī'Ah</i>	Main Meaning and Purpose	Relevance to the Protection of Women and Children	Implementation in National Regulations	Challenges and Critical Notes
1.	<i>Hifẓ al-Dīn</i> (Protection of Religion)	Maintaining moral, ethical, and spiritual values as the foundation of social life	Strengthening children's moral and ethical education and affirming respect for the dignity of women	Law No. 20 of 2003 concerning the National Education System; Law No. 35 of 2014 concerning Child Protection	Implementati on tends to be normative and formalistic and has not yet fully influenced changes in social values that prevent

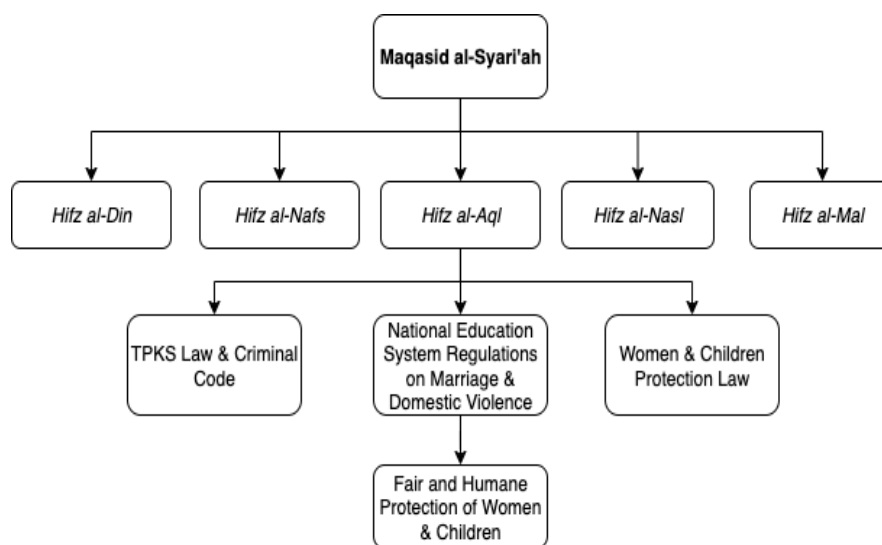
²⁸ Noor Syifa Amaliah Azizah and Shalihah Shalihah, "Maqāṣid al-Syarī'ah and Legal Pluralism: Normative Analysis of The Principle of Justice in A Multicultural Society," *Journal Of Islamic And Law Studies* 9, no. 2 (2025): 119-26.

²⁹ Isman, et al., "Maqāṣid al-Syarī'ah and Harmonizing Law in Indonesia: Impact for SDGs Global Context," In *Artificial Intelligence (AI) and Customer Social Responsibility (CSR)* (Springer, 2024).

³⁰ Abdul Rahman Ramadhan, "Implementation of *Maqāṣid al-Syarī'ah* as a Guideline for Formulating Islamic Economic Transformation: Implementasi Maqashid Syari'ah sebagai Pedoman Perumusan Transformasi Ekonomi Syariah," *Articles, Al-Muamalah: Journal of Islamic Economics, Philanthropy and Sharia Banking* 1, no. 2 (2024): 338-57, <https://journal.syamilahpublishing.com/muamalah/article/view/313>.

					discrimination
2.	<i>Hifz al-Nafs</i> (Protection of the Soul)	Guaranteeing the safety, security, and right to life of every human being	Protection of women and children from physical, psychological, and sexual violence	Law No. 12 of 2022 concerning Criminal Acts of Sexual Violence; Criminal Code; Child Protection Law	Weak victim rehabilitation mechanisms and suboptimal coordination between law enforcement agencies
3.	<i>Hifz al-'Aql</i> (Protection of Reason)	Ensuring access to education, mental health, and the development of intellectual potential	Prevention of child exploitation and fulfillment of the right to education and psychological development	Law No. 35 of 2014 concerning Child Protection	Lack of psychosocial support services and low legal literacy at the community level
4.	<i>Hifz al-Nasl</i> (Protection of Offspring)	Maintaining the sustainability, honor, and quality of generations	Prevention of child marriage and protection from sexual exploitation	Law No. 16 of 2019 (Amendment to Law No. 1 of 1974 concerning Marriage); TPKS Law	The strength of patriarchal customary and cultural norms remains an obstacle to policy implementation.
5.	<i>Hifz al-Māl</i> (Protection of Property)	Ensuring economic welfare and protection of property rights	Protection of the economic rights of women and children from neglect and economic exploitation	Law No. 23 of 2004 concerning the Elimination of Domestic Violence; Law No. 13 of 2003 concerning Manpower	Gender-based economic inequality and limited access for women and children to economic justice

Diagram 1. Integration of *Maqāṣid Al-Syari'ah* and Women and Children Protection Policies in Indonesia



Data analysis in this study utilized a combination of qualitative-comparative and descriptive-analytical methods. The latter is employed to detail legal frameworks and theories on the protection of women and children, and to evaluate their substantive meaning within the Indonesian policy landscape. This approach emphasizes that law is not only about regulatory certainty but also about bringing real benefits and justice. However, its success depends heavily on the government's commitment, particularly regarding budget allocation and regulatory oversight. Furthermore, the capacity and awareness of law enforcement officials who understand the values of maqasid are crucial to ensuring that policy implementation is truly oriented toward the public interest.³¹ Furthermore, community participation is crucial to breaking the chain of cultural discrimination and building stronger social awareness. This shared awareness is crucial so that the protection of women and children does not remain merely a legal theory, but is truly put into practice and becomes part of society's values. Therefore, implementing the maqasid al-syari'ah (objectives of sharia) in the context of contemporary policy not only strengthens the moral legitimacy of the national legal system but also builds a bridge between Islamic spiritual values and universal principles of social justice. This approach is expected to lead to a more effective, humane, and relevant legal protection system that meets the needs of Indonesian society today.

³¹ Amanda Paula Widuleh, et al., "Integrating the Principle of Financial-Based Justice in Traffic Fine Regulations: A Study of Maqasid Syari'ah in the Metro City District Court," *Al Huquq: Journal of Indonesian Islamic Economic Law* 6, no. 2 (2025): 133–55.

4. Conceptual Model of Optimizing Protection Policy Based on Synergy of *Legal Effectiveness Theory and Maqāṣid al-Syarī'ah*

Regulations protecting women and children in Indonesia play a crucial role in accelerating the realization of social justice and the harmonization of gender roles in society. These policies serve as strategic instruments to guarantee equal rights for all citizens under the law. Even though Indonesia already has strong legal instruments, including the Domestic Violence Law and the TPKS Law, empirical evidence shows that implementing these regulations in practice remains a major challenge. There is a clear discrepancy between the normative expectations of these regulations and the reality of their practical implementation. The phenomenon of gender-based violence, unequal access to justice, and a strong patriarchal culture are key challenges to law enforcement.³²

In this context, a conceptual model is needed that integrates legal effectiveness with Islamic moral values. The combination of Soerjono Soekanto's sociological theory of law and the values of justice in the *Maqāṣid al-Syarī'ah* is well-suited as a basis for improving policies in Indonesia. This method strengthens the ethical and social foundations of protecting women and children, resulting in more targeted and equitable policies. This approach assesses the extent to which the law can influence behavior, protect vulnerable groups, and realize substantive justice, not merely existing as written norms. The *maqasid sharia* values are clearly visible in this policy. For example, the prohibition of violence aims to protect life (*Ḥifẓ al-Nafs*), empowering women to protect their minds and property rights (*Ḥifẓ al-'Aql and Ḥifẓ al-Māl*), and preventing early marriage to protect offspring (*Ḥifẓ al-Nasl*).

Table 3. Integrative Conceptualization of Legal Effectiveness Theory and *Maqāṣid al-Syarī'ah*

No.	Factor (Soerjono Soekanto)	Relevant Values of <i>Maqāṣid Al-Syarī'Ah</i>	Integration in Protection Policy	Optimizatin Goals
1.	Legal Substance	<i>Ḥifẓ al-Dīn</i> (Protection of moral values and faith)	Formulation of regulations based on moral values, human rights, and principles of social welfare	Ensuring ethical legitimacy, substantive justice, and social acceptability of policies
2.	Law Enforcement Officers	<i>Ḥifẓ al-Nafs</i> (Protection of rationality and common sense)	Training for law enforcement officers based on gender sensitivity and the values of <i>maqasid al-syarī'ah</i>	Realizing the professionalism of officers who are humanistic, objective, and just.

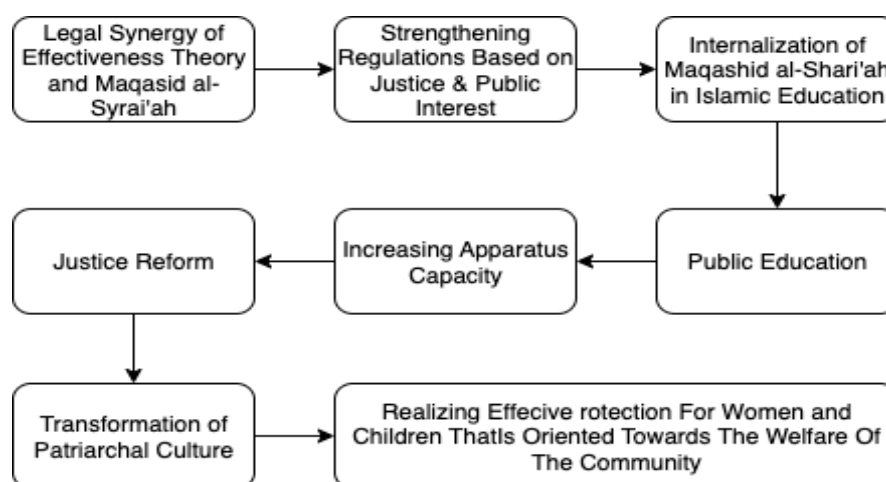
³² Rahma Mentari, "Achieving Justice: Legal Protection for Female Victims of Domestic Violence in the Indonesian Criminal Justice System," *SPECTRUM: Journal of Gender and Children Studies* 4, no. 1 (2024): 32–45.

3.	Facilities and infrastructure	<i>Hifz</i> (Protection of life and safety)	<i>al-'Aql</i>	Strengthening safe houses, victim support services, and integrated protection systems	Increase the sense of security, recovery, and comprehensive protection for victims.
4.	Public	<i>Hifz</i> (Protection of descendants)	<i>al-Nasl</i>	Public education and increased legal literacy to prevent gender-based and child violence	Building collective legal awareness that is gender-just and protection-oriented
5.	Legal Culture	<i>Hifz</i> (Protection of honor and dignity)	<i>al-Māl</i>	Social campaigns and cultural approaches to transform patriarchal norms	Realizing a dignified, inclusive, and just legal culture

Improving the effectiveness of policies to protect women and children requires legal, institutional, and socio-cultural reforms. Regulatory harmonization and clearer implementing rules are needed to strengthen legal certainty and policy enforcement. In addition, stronger coordination among government institutions and law enforcement agencies is essential to create an integrated protection system supported by trained personnel and adequate facilities.

Efforts should also focus on expanding access to protection services, including safe houses, counseling, and digital complaint mechanisms. At the social level, legal education and public awareness campaigns are important to reduce stigma and increase community participation in reporting violence cases. Furthermore, integrating maqāṣid al-syarī'ah values can strengthen ethical and humanitarian approaches in protecting women and children. The integration of these two approaches produces a conceptual model oriented toward strengthening regulations, increasing institutional capacity, and internalizing the values of justice and the public interest into the national legal system.

Diagram 2. Strategic Recommendations for Regulatory Strengthening Model



This model demonstrates that the synergy between legal effectiveness and the *Maqāṣid al-Syarī'ah* (objectives of sharia) must be realized through systematic steps: improving regulations, strengthening institutional capacity, and establishing a just and beneficial legal culture. Combining the Theory of *Legal Effectiveness* with the *Maqāṣid al-Syarī'ah* creates a comprehensive framework for improving policies to protect women and children. Legal success cannot be separated from moral and spiritual values, as the law's primary goal is to achieve societal well-being. The transformation of protection policies to be more humane, just, and sustainable can be accelerated by strengthening regulations that prioritize victims' interests. This step requires increasing the capacity of law enforcement officers and incorporating *Maqāṣid al-Syarī'ah* values into state regulations and the public education curriculum. This approach ultimately realizes the synergy between law enforcement and the humanization of the law, namely, making the law a means of protecting human dignity rather than merely enforcing formal rules.

D. CONCLUSION

This study highlights a legal anomaly in which the completeness of juridical substance has not guaranteed the efficacy of protection in the field. This phenomenon proves that strengthening regulations without improving aspects of legal structure and culture will create gaps in the protection of women and children. Its success is heavily influenced by implementation factors, including strengthening institutional functions and adapting to social dynamics and cultural constructs. Even though legal instruments have been normatively fulfilled, sharp empirical discrepancies hinder the internalization of justice values. These systemic obstacles include low synergy between agencies, limited supporting infrastructure, and sociocultural constraints such as weak

public legal literacy and the still deeply rooted hegemony of patriarchal culture. The integration of *Legal Effectiveness Theory with the maqāṣid al-syarī'ah* paradigm offers a comprehensive analytical knife, because it not only reviews formal-legalistic aspects, but also sociological and philosophical-theological dimensions, because it not only assesses the formal applicability of the law but also measures the extent to which policies can provide benefits, justice, and substantive protection for vulnerable groups. These findings emphasize that policy strengthening needs to focus on harmonizing regulations, increasing the capacity of law enforcement officers, providing equitable facilities, and transforming legal culture through education and a values-based approach. Thus, the protection system developed will not only be legalistic but also oriented towards sustainable humanitarian values and social justice.

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