

## **Implementation of *Maqāṣid Sharī'ah* in Reform of Case Management of Violence against Women and Children**

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### **Abstract:**

This study aims to reflect on the values of *maqāṣid sharī'ah* in management patterns of violence cases against women and children. This is based on arguments about case management which until now has not been able to completely resolve violence against women and children in Indonesia. The presence of *maqāṣid sharī'ah* in the management pattern of violence against women and children is expected to hold strong legitimacy to formulate a management pattern that is integrated with the basis and values of Islamic law goals. This step is a form of embodiment to resolve violence cases against women and children through *maqāṣid sharī'ah*-based case management to reflect the resolution of violence cases through integrated steps to realize solutive *fiqh* for the matter. In an academic purview, this study uses a literature review involving primary and secondary data observed with in-depth analysis. The findings in this study indicate that *maqāṣid sharī'ah* has implications for the realization of protection for women and children through case management reforms.

**Keywords:** violence; Islamic law; gender.

### **Introduction**

Violence is prevalent in both developed and developing countries, including Indonesia. Data on recent violence cases indicate that violence cases have increased intensively. To cope with these cases, the government has always commanded the best protection for the interests of victims, even though in reality this problem has not received much attention. This condition is worsened by the differences between institutions that are concerned with the protection of women and children such as the Regional Technical Implementation Unit for Women and Children Protection (henceforth referred to as UPTD PPA in Bahasa), Non-Governmental Organizations (NGOs), as well as law enforcement officials such as the Police, Prosecutors and Courts. The existence of those gaps in the resolution of violence cases against women and children is mainly caused by differences in perceptions

between service providers and law enforcement officials as well as a lack of understanding of ethics and a sense of sensitivity towards violence cases against women and children.<sup>1</sup>

In principle, the state has a legal obligation to protect society, including the rights of women and children as victims of violence.<sup>2</sup> Ideological constitution and a violence-free state become a common goal both society and the state expect to reach.<sup>3</sup> That is, no one is justified when he or she deprives women and children of their rights.<sup>4</sup> Therefore, violence against women and children is deemed to be a violation of human rights and human dignity.<sup>5</sup> One of the big obstacles that hinder the resolution of violence cases against women and children in Indonesia is the lack of integration between government agencies that handle this type of violence cases,<sup>6</sup> impeding the victims from reporting violence against them due to embarrassment, insufficient evidence, lack of support, lengthy process, and intimidation.<sup>7</sup> This condition certainly requires strategic steps to manage violence cases through an integrated mechanism between the relations of victims, perpetrators, society, and the government.<sup>8</sup>

Data from the Ministry of Women's Empowerment and Child Protection reported that violence against children, especially related to sexual violence, increased significantly every year.; the data from the Online Information System and Children (PPA Symphony) showed that the number of child abuse cases in 2022 reached 16,106.<sup>9</sup> Meanwhile, the Ministry of Women's Empowerment and

<sup>1</sup> Admin, "Peningkatan Kapasitas Manajemen Kasus Kekerasan Terhadap Perempuan Dan Anak," *Bppkpd.Com*, Oct 13, 2020, <https://www.bppkpd.com/bimtek-manajemen-kasus-kekerasan-terhadap-perempuan-dan-anak/>.

<sup>2</sup> Alfitri, "Protecting Women from Domestic Violence: Islam, Family Law, and the State in Indonesia," *Ahkam: Jurnal Ilmu Syariah* 27, no. 2 (2020), <https://doi.org/10.36712/sdi.v27i2.9408>.

<sup>3</sup> See Sylvia Walby, "Violence and Society: Introduction to an Emerging Field of Sociology," *Current Sociology* 61, no. 2 (2012), <https://doi.org/10.1177/0011392112456478>. for more information

<sup>4</sup> Ahmad Muhtadi Anshor & Muhammad Ngizzul Muttaqin, "The Implementation of Gender-Responsive Fiqh: A Study of Model Application of Women-Friendly and Child Care Village in Post-Covid-19 Pandemic," *Justicia Islamica: Jurnal Kajian Hukum Dan Sosial* 19, no. 1 (2022), <https://doi.org/10.21154/justicia.v19i1.3705>.

<sup>5</sup> Linda M. Williams, "Understanding Child Abuse and Violence Against Women: A Life Course Perspective," *Journal of Interpersonal Violence* 18, no. 4 (2016), <https://doi.org/10.1177/088626050225084>.

<sup>6</sup> Andi Mardana, "Kasus Kekerasan Terhadap Perempuan Dan Anak Di Indonesia," *Womanindonesia.Co.Id*, January 6, 2022, <https://www.womanindonesia.co.id/kekerasan-terhadap-perempuan-dan-anak/>.

<sup>7</sup> Rizky Kurniawan Pratama, "Tentang Alasan Korban Kekerasan Seksual Enggan Melapor Hingga Peningkatan Kasus," *Timesindonesia.Co.Id*, December 12, 2021, <https://timesindonesia.co.id/peristiwa-daerah/386785/tentang-alasan-korban-kekerasan-seksual-enggan-melapor-hingga-peningkatan-kasus>.

<sup>8</sup> Sania Mashabi, "Begini Strategi Pemerintah Untuk Tekan Kasus Kekerasan Terhadap Perempuan...", *Nasional.Kompas.Com*, March 09, 2021, <https://nasional.kompas.com/read/2021/03/09/21412751/begini-strategi-pemerintah-untuk-tekan-kasus-kekerasan-terhadap-perempuan>.

<sup>9</sup> Nafilah Sri Sagita K, "RI Darurat Kekerasan Seks Anak, KemenPPPA Beberkan Datanya," *Health.Detik.Com*, Jan 28, 2023, <https://health.detik.com/berita-detikhealth/d-6538669/ri-darurat-kekerasan-seks-anak-kemenpppa-beberkan-datanya>.



Child Protection reported there were 11,266 cases of violence against women in 2022.<sup>10</sup>

Those aforementioned data are of course a common concern. Research conducted by Rahmi and Siregar implies that attempts to recover cases of violence against women and children have a positive impact on victims, namely through independent empowerment steps in making decisions to continue showing existence in social life.<sup>11</sup> Research by Backes, et al. states that the management of domestic violence cases is carried out by providing strong evidence in the form of video recordings. In addition, video-recorded evidence is prepared to formulate a case strategy to further carry out relevant and on-target legal steps.<sup>12</sup> Chakraborty's research, et al. states that an increase in violence against women and children could be controlled through economic growth, education, and increased integrity of the legal apparatus.<sup>13</sup>

Those studies confirm that in handling and overcoming violence cases, we need a specific strategy, namely through case management. This attempt is appropriately strategic when Indonesia is still facing and struggling hard to get out of the confines of violence against women and children. Through this foundation, case management is a form of reflection on the construction of empowerment and justice in the discourse of Islamic law studies through the value of *maqāṣid sharī'ah*. Therefore, this study is deemed necessary to reaffirm the position of Islamic law (*fiqh*) in providing solutions to societal problems (solutive *fiqh*).<sup>14</sup> To provide relevant studies, this present study has provided some research questions as follows: 1) What is the pattern of case management of violence against women and children based on *maqāṣid sharī'ah*?, 2) How is the implementation of management pattern of violence cases against women and children based on *maqashid syari'ah* in solving violence cases in Indonesia? To answer the research questions, this study uses the literary method to collect primary and secondary data on various cases of violence against women and children in Indonesia.<sup>15</sup> Further investigation was also carried out through studies and literature on *maqāṣid sharī'ah* as a basis for analysis.<sup>16</sup>

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<sup>10</sup> Ashri Fadill, "11 Ribu Perempuan Alami Kekerasan Sepanjang 2022, Hampir Setengahnya Korban KDRT," *Www.Tribunnews.Com*, Jan 26, 2023, <https://www.tribunnews.com/nasional/2023/01/26/11-ribu-perempuan-alami-kekerasan-sepanjang-2022-hampir-setengahnya-korban-kdrt>.

<sup>11</sup> Atikah Rahmi & Hotma Siregar, "Community-Based Recovery for Sexual Violence Victims: The Case of Hapsari," *Ahkam: Jurnal Ilmu Syariah* 20, no. 1 (2020), <https://doi.org/10.15408/ajis.v20i1.13520>.

<sup>12</sup> Bethany Backes, Anna Wasim, Leila Wood, "Prosecutorial Use of Victim Video Statements in Domestic Violence Cases," *Crime & Delinquency* 68, no. 9 (2021), <https://doi.org/10.1177/00111287211047540>.

<sup>13</sup> Chandrima Chakraborty, Soma Pal, & Dioyaman Pal, "Violence against Scheduled Caste Women: The Case of Rape across States in India," *Journal of Asian and African Studies*, 2023, <https://doi.org/10.1177/002190962211496>.

<sup>14</sup> For the basic concept of solution fiqh, see Jasser Auda, *Maqasid Al-Shariah as Philosophy of Islamic Law: A Systems Approach* (London: the International Institut of Islamic Thought, 2007).

<sup>15</sup> Robert Bogdan & Steven J Taylor, *Introducton to Qualitative Research Methods: A Phenomenological Approach to the Social Sciences* (New York: John Wiley & Sons, 2000).

<sup>16</sup> Reema Safadi & Valerie Swigart, *Qualitative Methods in Researching Violence Against Women* (New York: SAGE Publications Ltd, 2017), <https://doi.org/10.4135/9781526411549>.

Through the content analysis method,<sup>17</sup> it is hoped that the findings in this study will be able to provide a direction for the progressive management of violence cases against women and children through the epistemological basis of *maqāshid shari'ah*.

### ***Maqāshid shari'ah*: Attempts to Actualize Equality and Justice**

The acceleration of *maqāshid shari'ah* in contemporary *ijtihad* reflects the elasticity of Islamic law (*fiqh*).<sup>18</sup> This can be seen in the journey of intellectual treasures in the study of Islamic law which notes that there are various legal views on several cases among Muslims. Legal decisions in various cases focus on considerations of goodness and benefit. This foundation is based on the decisions made by the Prophet Muhammad based on considerations of goodness and benefit.<sup>19</sup> In this case, the substantial analysis model of the objectives of Islamic law (*maqāshid shari'ah*) takes the values of *maqāshid shari'ah* into consideration.<sup>20</sup> The discourse on the *maqāshid shari'ah* study appears institutionally mazhabiya under various dynamics of Islamic legal ideas. In the study of *uṣūl al-fiqh*, it was noted that there was a study on the topic of classifying the embodiment of benefit (*maqāshid shari'ah*).<sup>21</sup> Although in its process, this discourse has gone through some debates and problems related to discussions about the authority to determine Islamic law.<sup>22</sup> Humans have limitations in fulfilling the requirements as a legal subject of *mukallaf* and restrictions in discussing the ability of the mind to find the aims and objectives of establishing Islamic law (*maqāshid shari'ah*).<sup>23</sup>

In this case, the absolute authority of God in establishing Islamic law has a very central position as set out in the text of the Qur'an, although in reality various texts and other histories also explicitly emphasize the existence of some authority possessed by the *mujtahid* to establish Islamic law. The position of the *mujtahid* in formulating Islamic law in the contemporary era has very strong authority when it faces the problems and reality of the need for interpretation of religion that holds various orientations and dimensions in contemporary life and society.<sup>24</sup> In other words, the development of society requires religion to display two orientations for its adherents, namely orientation of the temporary world and orientation of the

<sup>17</sup> Ernest W. Burgess, *Research Methods in Sociology* (New York: New York Philosophical Library, 1998).

<sup>18</sup> Abdurrahman Ba Bakr, *Dirasat Tathbiqiyyah Haula Falsafah Al-Maqashid Fi as-Syari'ah Al-Islamiyah* (Beirut: Dar al-Fikr, 2007), 18.

<sup>19</sup> Al-Yubi, *Maqashid Al-Syari'ah Al-Islamiyah Wa Alaqatuha Di Al-Adillah Al-Syar'iah* (Riyadh: Dar al-Hijrah, 1998), 10.

<sup>20</sup> Iffatin Nur, Syahrul Adam, M. Ngizzul Muttaqien, "Maqasid Al-Shari'at: The Main Reference and Ethical Spiritual Foundation for the Dynamization Process of Islamic Law," *Ahkam: Jurnal Ilmu Syariah* 20, no. 2 (2020), <https://doi.org/10.15408/ajis.v20i2.18333>.

<sup>21</sup> Abdul Wahab al-Jundi, *Ahammiyah Al-Maqashid Fi Al-Syariah Al-Islamiyyah* (Kairo: Dar al-Arabi, 2000), 14.

<sup>22</sup> See Ahmad Raisuni, *Nazariyyat Al-Maqashid 'inda Al-Imam Al-Syathibi* (Beirut: Al-Muassasah al-Jami'iyyah li al-Dirasat wa al-Nasyr wa al-Tauzi', 1995). for more information

<sup>23</sup> See Husain Hamid Hisan, *Nazariyat Al-Maslahah Fi Al-Fiqh Al-Islam* (Beirut: Dar al-Nahdhah al-'Arobiyyah, 2010). for more information

<sup>24</sup> See Ahmad Hafidh, *Meretas Nalar Syariah (Konfigurasi Pergulatan Akal Dalam Pengkajian Hukum Islam)* (Yogyakarta: Teras, 2011). for more information



hereafter. In this case, when religion has an interaction with the development of civilization in contemporary human reality, it is necessary to have a resistant perspective to show the primordial nature of religion as the eternal law of *hukm al-ilahy* and the demands of religion to show compatible nature with the ever-changing space and time (*ṣālih li kulli zamān wa makān*).<sup>25</sup>

As a theological religion, the position of Islamic law is the value of the legal system and teachings that are divine or *ilahiyah*, transcendent, and absolute. Islamic law has sociological characteristics as the embodiment of cultural phenomena and social reality in human life. In social reality, Islamic law is not only a collection of universal doctrines but also laws that can adapt and participate in social institutions influenced by the situation and dynamics of space and time.<sup>26</sup> Therefore the relationship between religion and the phenomenon of modernity over social reality is a medium to reformulate Islamic law to present the values and objectives of Islamic law (*maqāṣid sharī'ah*).<sup>27</sup> The presence of the *maqāṣid sharī'ah* concept in the discourse on Islamic law studies can present Islamic legal products which can accommodate the challenges of the times and respond to various dynamics regarding inequality, injustice, and oppression.<sup>28</sup> At a practical level, the concept of *maqāṣid sharī'ah* has a strong human element. The concept of the intention behind the creation of human beings and the intention behind *maqāṣid sharī'ah* then develops into rationality in *ijtihād*.<sup>29</sup> The implication of this concept is the expansion of *maqāṣid sharī'ah* namely from *maqashid al-khams* (the five) to be universal human values. The use of *maqāṣid sharī'ah* as a method in the context of legal discussion is developed in accordance with the objectives of Islamic law.<sup>30</sup>

The presence of *maqashid shari'ah* need not be doubted as it is rooted in the textual injunctions of the Qur'an and Sunnah, but it looks primarily at general philosophy, and the purpose of these injunctions often goes beyond the specifics formulations of its text. The focus is not so much on the words and sentences of the text as on the suggested and upheld purposes and objectives. Compared to the legal theory of its source, namely *uṣūl al-fiqh*, *maqāṣid sharī'ah* is not enfolded with methodological techniques and literalist reading of texts. Thereof, *maqashid shari'ah* integrates a level of versatility and understanding into the reading of shari'ah which is in many ways unique and transcends changes in time and circumstances. The existence of important doctrines of *uṣūl al-fiqh* such as general consensus (*ijmā'*), analogical reasoning (*qiyās*), and even *ijtihād* seem to be burdened with difficult conditions, conditions that may not be in harmony with the current socio-political

<sup>25</sup> Muhammad Ngizzul Muttaqin & Iffatin Nur, "Fiqh Jalan Tengah (Mempertemukan Maqashid Syari'ah, Hukum, Dan Realitas Sosial)," *Zawiyah: Jurnal Pemikiran Islam* 5, no. 2 (2019), <https://doi.org/10.31332/zjpi.v5i2.1509>.

<sup>26</sup> Emilia Justyna Powell, "Islamic Law States and the International Court of Justice," *Journal of Peace Research* 50, no. 2 (2013), <https://doi.org/10.1177/002234331247027>.

<sup>27</sup> Mukti Tabrani, "Maqashid Revitalization in Global Era: Istidlal Study from Text to Context," *Al-Ihkam: Jurnal Hukum Dan Pranata Sosial* 13, no. 2 (2018).

<sup>28</sup> Abdullah Ahmed Na'im, *Toward an Islamic Reformation: Civil Liberties, Human Right, and International Law* (New York: Syracuse University Press, 2006).

<sup>29</sup> Ahmad Raisuni, *Nazariyyat Al-Maqashid 'inda Al-Imam Al-Syathibi*.

<sup>30</sup> Muhammad Aminuddin Shofi, Sahrul Hidayatullah, & Abdul Hamid, "Multidimensional Paradigm of Maqasid Sharia in the Book of 'Nahwa Taf'ili Maqashid Sharia' by Jamaluddin Athiyah," *Jurnal Lektur Keagamaan* 20, no. 2 (2022): 530, <https://doi.org/10.31291/jlka.v20i2.1085>.

climate prevailing in Muslim countries at present time. Meanwhile, *maqashid* has become the focus of attention because it tends to provide wider access. Naturally, *maqāshid sharī'ah* means understanding the outlines of shari'ah purposes which are adequate in providing insight and theoretical framework for various Islamic legal doctrines (*fiqh*).<sup>31</sup>

In the contemporary context, the *maqāshid sharī'ah* development through the principle of *al-khamsah* leads to the interpretation of welfare and empowerment. The embodiment of environmental protection (*hifz al-bi'ah*) and human dignity protection (*hifz al-'irz*) is an effort to actualize prosperity and empowerment. In the context of women and children, human dignity protection (*hifz al-'irz*) denotes clear evidence of the seriousness of the *uṣūl al-fiqh* method to protect them. Furthermore, to protect women and children, the *maqāshid sharī'ah* development through *hifz al-'irz* can be implemented.<sup>32</sup> The authority of *maqāshid sharī'ah* in the study of Islamic law (*fiqh*) has a strong urgency because there are various *ijtihād* patterns of contemporary jurists (*fuqahā'*) in viewing various symptoms and problems of the ummah in this contemporary era. The current products of *ijtihād* place more emphasis on problem-solving based on the embodiment of justice and prosperity compared to legal products which contain aspects of difficulty and discrimination. More than that, *maqāshid sharī'ah* occupies a position as a method and approach in *uṣūl al-fiqh* discourse. This shift in the pattern of *ijtihād* in Islamic law (*fiqh*) seems to emphasize that the authority of Islamic law (*fiqh*) must be built on the basis of the universal value of justice in human life.<sup>33</sup>

### Case Management Reform in Solving Social Problems

Case management is an attempt to manage the process of handling cases systematically which includes assessment, planning, service implementation, monitoring, and evaluation steps. Case management helps people to coordinate across various sectors and levels of government. Case management also has dimensions of client relationships through ongoing service delivery. In addition, case management is also interpreted as a form of service that links assistance from agencies and institutions to psychosocial, medical, and practical service support for every individual who needs service.<sup>34</sup> Case management is a step taken by the government to provide service effectiveness. Services in this case are intended to facilitate society to encounter any problems and issues. Through services that have

<sup>31</sup> Mohammad Hashim Kamali, "Maqasid Al Shariah: The Objectives of Islamic Law," *Islam101.Net*, 2022, <https://islam101.net/index.php/shariah/141-maqasidalshariah>.

<sup>32</sup> Muhammad Ngizzul Muttaqin, Iffatin Nur, & Ahmad Muhtadi Anshor, "Social Media Fiqh: Social Media Use Intensity and Family Harmony in Tulungagung Regency," *The Journal of Society and Media* 6, no. 1 (2022), <https://doi.org/10.26740/jsm.v6n1.p207-231>.

<sup>33</sup> Muhammad Ngizzul Muttaqin & Iffatin Nur, "Menelusuri Jejak Maqashid Syari'ah Dalam Istimbath Hukum Imam Hambali," *Ahkam: Jurnal Hukum Islam* 7, no. 1 (2019), <https://doi.org/10.21274/ahkam.2019.7.1.143-168>.

<sup>34</sup> Sarah Farahdita Tamimi & Sahadi Humaedi, "Manajemen Kasus Tindak Kekerasan Anak Di Pusat Pelayanan Terpadu Pemberdayaan Perempuan Dan Anak P2TP2A Provinsi DKI Jakarta," *Prosiding Penelitian Dan Pengabdian Kepada Masyarakat* 4, no. 1 (2017): 116, <https://doi.org/10.24198/jppm.v4i1.14220>.



integration and relationships between local governments and the central government, it is hoped that it will be a solution to the various dynamics and turmoil that exist in society. The collaboration of government relations from the regional to the central level as well as relations with the community is the most important aspect to jointly resolve violence cases against women and children. This foundation is the main step to formulate case management of violence against women and children in Indonesia.<sup>35</sup>

Violence case management has undergone many transformations or changes because it aims to provide effective and efficient public services based on the values of the best interests of society. Transformation of public services which implement values and commitments in laws and regulations and supervision aims to realize public services which are integrated into community relations with the aim of obtaining protection from the government.<sup>36</sup> Case management efforts in the public service transformation system are based on the embodiment of legal certainty which guarantees every community's need through applicable laws in public services and endeavor to provide the best possible service to the community. This is performed to help the community to face any problems and issues.<sup>37</sup> Violence case management has undergone many transformations or changes because it aims to provide effective and efficient public services based on the values of the best interests of society. Transformation of public services which implement values and commitments in laws and regulations and supervision aims to realize public services which are integrated into community relations with the aim of obtaining protection from the government. Case management efforts in the public service transformation system are based on the embodiment of legal certainty which guarantees every community's need through applicable laws in public services and endeavor to provide the best possible service to the community. This is performed to help the community to face problems and issues. Case management carried out by the government is applied through a variety of resource services that can facilitate every problem existing in the community. In case management planning, the government carries out various forms of socialization and understanding of the people who need assistance. Services that focus on education and counseling forms are closely related to various problems related to matters that physically and non-physically threaten the existence of society. Furthermore, to guarantee the needs of the community, plans carried out by the government are realized through case management with a service process to fulfill every need and demand of the community.<sup>38</sup>

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<sup>35</sup> Editorial Team, "Pelatihan Manajemen Kasus Bagi UPTD, Strategi Intervensi Kekerasan Fisik Dan Psikis Terhadap Perempuan & Anak," *Dp3a.Sulselprov.Go.Id/*, January 27, 2021, <http://dp3a.sulselprov.go.id/news-151--pelatihan-manajemen-kasus-bagi-uptd--strategi-intervensi-kekerasan-fisik-dan-psikis-terhadap-perempuan---anak.html>.

<sup>36</sup> Trisapto Wahyudi Agung Nugroho, "Analysis Of E-Government To Public Services In The Ministry Of Law And Human Rights," *Jurnal Ilmiah Kebijakan Hukum* 10, no. 3 (2016), <https://doi.org/10.30641/kebijakan.2016.V10.279-296>.

<sup>37</sup> Editorial Team, "DP3AP2KB Tingkatkan Perhatian Terhadap Perempuan Dan Anak Melalui Manajemen Kasus," *Diskominfo.Bandaacehkota.Go.Id*, November 21, 2022, <https://diskominfo.bandaacehkota.go.id/2022/11/21/dp3ap2kb-tingkatkan-perhatian-terhadap-perempuan-dan-anak-melalui-manajemen-kasus/>.

<sup>38</sup> Echa Wahyudi, "Cegah Kekerasan Terhadap Perempuan Dan Anak, DPPPA-KB Pesibar Terapkan Pola Manajemen Kasus," *Kupastuntas.Co*, October, 18, 2022,

Especially in the case management of violence against women and children, a pattern of public services that integrates service professionalism and the interests of the victims is the most important step in resolving cases of violence against women and children. Furthermore, violence case management services are implemented through identification processes, assessment processes, preparation of intervention plans, implementation of interventions, case reviews, and evaluations. It is expected that this process will be able to provide integrated control of violence cases against women and children sustainably.<sup>39</sup> Service through mentoring and guidance as well as providing legal certainty to victims is one of the government's case management efforts to provide services in line with previous plans. Therefore, the case management of violence is considered to be an appropriate approach to respond to all the complexities of the problem of protecting women and children. It is expected that through case management, the handling of violence cases and patterns of protection for women and children can be performed effectively, comprehensively, and sustainably. Therefore, the implementation of case management of violence against women and children is also expected to be able to combine efforts in preventing violence cases from all levels. This step is an attempt to embody safety, equality, and justice for women and children as great assets of the state to lead to a dignified and equal life.<sup>40</sup>

In its implementation, the pattern of case management integrates regional and central government. In addition, case management also involves various related institutions and ministries for service effectiveness. However, in its practice, improvements to the reporting system, services, complaints, and accurate reporting data are still needed. Equally important is how complaints of violence cases against women and children can be responded to and handled by various stakeholders who must protect women and children, both from the aspect of law enforcement and victim assistance. Therefore, service centers at every unit and level of government are a breakthrough in transforming the management of violence cases against women and children.<sup>41</sup>

### Implementation of *Maqāṣid sharī'ah* in Reform of Cases Management of Violence against Women and Children

The problem of violence and exploitation of women and children in today's situation of course becomes a common concern for society, the state, and the world.

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<https://kupastuntas.co/2022/10/18/cegah-kekerasan-terhadap-perempuan-dan-anak-dpppa-kb-pesibar-terapkan-pola-manajemen-kasus>.

<sup>39</sup> Editorial Team, "Manajemen Kasus Untuk Minimalisir Kasus Kekerasan," *Dkp3a.Kaltimprov.Go.Id*, February 18, 2020, <https://dkp3a.kaltimprov.go.id/2020/02/18/manajemen-kasus-untuk-minimalisir-kasus-kekerasan/>.

<sup>40</sup> Tim Humas, "Pelatihan Manajemen Kasus Kekerasan Terhadap Perempuan Dan Anak Tahun 2022," *Pesisirbaratkab.Go.Id*, October 18, 2022, <https://pesisirbaratkab.go.id/berita/pelatihan-manajemen-kasus-kekerasan-terhadap-perempuan-dan-anak-tahun-2022>.

<sup>41</sup> Admin, "DPPPA Kalsel Gelar Pelatihan Manajemen Dan Penanganan Kasus Kekerasan Terhadap Perempuan Dan Anak," *Diskominfomc.Kalselprov.Go.Id*, 2022, <https://diskominfomc.kalselprov.go.id/2022/05/19/dpppa-kalsel-gelar-pelatihan-manajemen-dan-penanganan-kasus-kekerasan-terhadap-perempuan-dan-anak/>.



The Indonesian government has taken steps to face these problems through the central government to the regional governments to jointly resolve cases of violence and exploitation of women and children. The central and regional governments are formulating case management as a form of the right approach to resolve cases of violence and exploitation of women and children in Indonesia.<sup>42</sup>

Case management of violence against women and children is intended to serve as the right approach to responding to the complex issues of violence against women and children in Indonesia. The presence of case management of violence and exploitation of women and children brings about integration and unified coordination of protection services for women and children. This is in accordance with Law Number 23 of 2014 concerning Regional Government which states that child protection is not only the authority of the central government alone but also a form of authority of provincial regional governments and district/city regional governments. The implication of this rule is the establishment of *UPTD PPA* as a service center for victims of violence at the provincial and district/city levels.<sup>43</sup>

The urgency of *UPTD PPA* is to carry out operational technical in regional areas to provide services for victims of violence, discrimination, special protection, and other problems. In its services, the *UPTD PPA* provides services that serve as a form of public complaints, case management, counseling service for the victims, mediation, temporary shelters, and assistance to the victims. The presence of the *UPTD PPA* is a manifestation of Government Regulation Number 59 of 2019 concerning the Coordination of Child Protection which attempts to carry out cross-sectoral alignment in handling violence cases. The harmonization of the handling of cases of violence is expected to grow harmony between the central government and the regional government to foster a sense of justice and equality for the community.<sup>44</sup>

The vulnerability of women and children as objects of violence seems unresolved. Various aspects such as legal, economic, and social aspects of society do not support the resolution of this problem, and they still position women and children at the bottom level.<sup>45</sup> Therefore, case management efforts to realize the protection of women and children is one of the systematic and strategic steps to construct protection arrangements for the welfare of women and children.<sup>46</sup> A new

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<sup>42</sup> See Neelam Tyagi, "Gender Violence, Gender Justice and Gender-Based Laws: An Analysis of Pattern and Policies in India and Indonesia," *Brawijaya Law Journal : Journal of Legal Studies (BLJ)* 7, no. 2 (2020), <https://doi.org/10.21776/ub.blj.2020.007.02.01>. for more information

<sup>43</sup> Mohamad Farhan Zhuhria, "UPTD PPA Diperlukan Untuk Beri Perlindungan Bagi Perempuan Dan Anak," *Mediaindonesia.Com*, January 21, 2022, <https://mediaindonesia.com/humaniora/465987/uptd-ppa-diperlukan-untuk-beri-perlindungan-bagi-perempuan-dan-anak>.

<sup>44</sup> Editorial Team, "Menteri PPPA: Tata Kelola Baru, UPTD PPA Jadi Tempat Pertama Penanganan Kasus Kekerasan," *Kompas.Com*, March 13, 2022, <https://nasional.kompas.com/read/2022/03/13/18480681/menteri-pppa-tata-kelola-baru-uptd-ppa-jadi-tempat-pertama-penanganan-kasus>.

<sup>45</sup> Lindsey P. Battaglia, Irene Tung, & Alison E. Hipwell, "Timing of Violence Exposure and Girls' Temperament Stability From Childhood to Adolescence," *Journal of Interpersonal Violence*, 2023, <https://doi.org/10.1177/088626052311562>.

<sup>46</sup> Tim Penyusun, *Modul Pelatihan Manajemen Kasus Bagi Lembaga Penyedia Layanan Perlindungan Perempuan Dan Anak* (Jakarta: Kementerian Pemberdayaan Perempuan dan Perlindungan Anak, 2019).

concept regarding the case management of violence against women and children is carried out through the "One Stop System" or One Stop Service. This strategy is designed to provide the best service for the victims concerned.<sup>47</sup>

Case management efforts of violence against women and children are carried out through various stages, namely: First, assessment is the step considered as an effort to identify and understand psychosocial situations to find out the problems they face. Second, planning has the main objective of formulating the development of effective service delivery to the community. This stage is implemented by compiling and developing services as a whole with problem identification patterns obtained from the assessment stage, resulting in a formulation arrangement in problem priorities which are finally used to develop appropriate planning patterns. In terms of case management of violence, planning is carried out in a professional manner to contribute to the handling of the cases on an appropriate and directed basis. Third, implementation (implementation) is performed in order to guarantee the needs of violence victims on the basis of planning. This implementation phase is carried out by providing services needed by victims of violence to ensure that their rights are protected. Fourth, monitoring is performed to supervise the planning and implementation process. This monitoring process is performed by reading the results of reports from each implementation. Fifth, assistance or evaluation of progress in handling these cases is carried out through a success identification pattern.<sup>48</sup>

Case management efforts of violence with the various stages mentioned above are concrete steps to reformulate the appropriate pattern of resolution of violence cases. Furthermore, the complexity of this violence problem needs strategic steps to provide a resolution pattern. More than that, the epistemological basis through a relevant approach is an attempt to integrate management patterns and the right epistemological basis. The integrated management pattern with the basic values of Islamic law (*maqāṣid sharī'ah*) is an idea of how the management pattern has strategic steps which lead to the realization of benefit for humanity.<sup>49</sup>

The position of *maqāṣid sharī'ah* in case management patterns is implemented in several aspects, including: 1) empowerment and protection of women and children as a manifestation of soul protection (*hifz al-nafs*), 2) recovery of psychosocial trauma for violence victims as a manifestation of protecting the mind (*hifz al-'aql*), 3) recovery of the victim's name as a manifestation of the protection of human dignity (*hifz al-'irz*). The construction of *maqāṣid sharī'ah* is a strategic step in

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<sup>47</sup> Editorial Team, "Layanan UPTD PPA Diperluas Fasilitas Perempuan-Anak Korban Kekerasan," *Antaranews.Com*, April 26, 2022, <https://www.antaraneews.com/berita/2846033/layanan-uptd-ppa-diperluas-fasilitas-perempuan-anak-korban-kekerasan>.

<sup>48</sup> Sarah Farahdita Tamimi & Sahadi Humaedi, "Manajemen Kasus Tindak Kekerasan Anak Di Pusat Pelayanan Terpadu Pemberdayaan Perempuan Dan Anak P2TP2A Provinsi DKI Jakarta.", 119-120.

<sup>49</sup> Ilyya Muhsin, Sukron Ma'mun, Wardah Nuroniayah, "Sexual Violence in an Islamic Higher Education Institution of Indonesian: A Maqasid Al-Shariah and Foucauldian Perspective," *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam* 5, no. 1 (2021), <https://doi.org/10.22373/sjhk.v5i1.9144>.



the epistemological foundation of case management patterns. This epistemological foundation is the basic value for realizing various interests in efforts to protect women and children as violence victims. The embodiment of human values and women's and children's dignity is a step toward transforming case management. Furthermore, *maqāshid sharī'ah* is a universal value in the study of Islamic law which can be implemented in every social setting,<sup>50</sup> in this case, as the basis for transforming the case management of violence.

The strategic steps in managing violence cases against women and children are a form of embodiment of the concept of *maqāshid sharī'ah*. *Maqāshid sharī'ah* is implemented in the values of case management of violence against women and children. This case management has a preventive and curative objective. Preventive measures based on *maqāshid sharī'ah* are implemented through outreach programs from the government and related institutions regarding efforts to prevent violence against women and children. While in the curative aspect, *maqāshid sharī'ah* is implemented in handling violence cases against women and children.

*Maqāshid sharī'ah* in a practical context can be applied in the form of policies based on the benefit aspect. The value of *maqāshid sharī'ah* exists as a basic essence in providing protection and justice for women and children. Furthermore, case management of violence against women and children is applied to the government's steps and strategies for handling and preventing violence against women and children through a structured method based on *maqāshid sharī'ah* values. This argument seems to emphasize that *maqāshid sharī'ah* values are the essence of the study of Islamic law which can be used in decision-making and problem-solving in the context of society and the state. The presence of *maqāshid sharī'ah* as the energy of policy becomes an effort to realize the goals of Islamic law. Especially in the humanitarian context, efforts to protect humanitarian interests are undeniable. The priority of justice, equality, and welfare are steps and strategies to implement *maqāshid sharī'ah* in contemporary society.<sup>51</sup>

The acceleration of *maqāshid sharī'ah* in contemporary *ijtihād*<sup>92</sup> develops as a value approach and social indicator. In the contemporary context, social indicators through *maqāshid sharī'ah* are intended to provide human development through the values of Islamic legal philosophy. This is intended to formulate *maqāshid sharī'ah* as a legal basis in various complex traditions in the contemporary era. This step is understood as a universal form of *maqāshid sharī'ah* which is not only oriented towards individual life, but also community development through strategic steps from the community itself as well as from government institutions.<sup>52</sup> The value shift of *maqashid shari'ah* in the study of Islamic law towards social indicators is passed through by a juridical interpretation of the various steps of the *mujtahid* and the

<sup>50</sup> Zaprulkhan, "Maqasid Al-Shariah in the Contemporary Islamic Legal Discourse: Prespective of Jasser Auda," *Walisongo: Jurnal Penelitian Sosial Keagamaan* 26, no. 2 (2018), <https://doi.org/10.21580/ws.26.2.3231>.

<sup>51</sup> Juwaini Saleh, Nurullah Amri, Mustafa Kamal, Afrizal Abdullah, & Masrizal Mukhtar, "Marriage Guidance Towards Family Resilience in Aceh: A Study of Islamic Law Philosophy," *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam* 6, no. 2 (2022), <https://doi.org/10.22373/sjhk.v6i2.12448>.

<sup>52</sup> Deri Wanto, Rahmad Hidayat, & R. Repelita, "Maqasid Shariah's Change as Theory: From Classical to Cotemporary Maqasid Shariah," *Al Istinbath: Jurnal Hukum Islam* 6, no. 2 (2021): 428, <https://doi.org/10.29240/jhi.v6i2.3122>.

government to provide life education to the community. This is important to perceive, considering that Islamic law is the result of interaction between *mujtahid* and the environment which of course has characteristics. This reality of course becomes a concern in the discourse on Islamic law studies to present social values as a form of product of Islamic legal thought to be further applied as juridical values and social indicators.<sup>53</sup>

The implementation of *maqāṣid shari'ah* as the case management of violence basis is a form of embodiment of an effective pattern of case management. Case management of violence against women and children is needed to take anticipatory and appropriate handling steps. The implication of the pattern of case management of violence against women and children based on *maqāṣid shari'ah* is a form of prevention and handling violence cases. Prevention in this case is carried out through advocacy and outreach policies as well as appropriate law enforcement patterns. The concept of *maqāṣid shari'ah* provides an epistemological basis for the prevention of negative tendencies (*dar'u mafāsīd*). This rule indicates that *maqāṣid shari'ah* is operationally an essential value of Islamic law that can be applied flexibly in solving problems in society.<sup>54</sup> Moreover, it also shows that the elasticity of Islamic law through *maqāṣid shari'ah* can be applied in the realm of policy-making and implementation on the basis of justice and welfare for the society. Meanwhile, efforts to deal with cases through management transformation are carried out through service patterns with empowerment standards to actualize proper legal enforcement and assistance as well as appropriate social rehabilitation to realize the main principles of *maqāṣid shari'ah* to create an ideal and just society.

## Conclusion

Based on the complexity of the violence problems against women and children, the case management approach is expected to provide the coordination and integration of service patterns needed by victims and their families. This transformation of case management services is intended to create comprehensive, competent, effective, and efficient services which are then applied together as a form of strategy for women and children protection. Moreover, It is intended to guarantee the protection of women and children through accurate and appropriate services. The pattern of case management of violence against women and children based on *maqāṣid shari'ah* is applied through strategic steps for prevention, protection, and recovery for victims. This pattern is implemented through an integrated management transformation between the central and regional governments. In addition, case management transformation efforts have an emphasis on the pattern of embodiment of *maqāṣid shari'ah* values as a basis for protection for violence victims. In the Indonesian context, this pattern has an

<sup>53</sup> Badruddin Badruddin & Aditya Prastian Supriyadi, "Dinamika Hukum Islam Indonesia: Reaktualisasi Norma Islam Dalam Menalarkan Hukum Positif Merespon Sosio-Kultural Era Kontemporer," *De Jure: Jurnal Hukum Dan Syariah* 14, no. 1 (2022): 143, <https://doi.org/10.18860/j-fsh.v14i1.15512>.

<sup>54</sup> Iffatin Nur, M Ngizzul Muttaqin, Ali Abdul Wakhid, "Reformulasi Al-Qawā'id Al-Uṣūliyyah Al-Tashrī'iyah Dalam Pengembangan Fiqih Kontemporer," *Analisis: Jurnal Studi Keislaman* 20, no. 1 (2020), <https://doi.org/10.24042/ajsk.v20i1.6573>.



urgency in preventing violence against women and children. All these strategic steps through the transformation of violence case management are preventive and serve as a resolution of violence cases through human values in *maqāshid sharī'ah*.

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